



STATE OF DELAWARE
EXECUTIVE DEPARTMENT
OFFICE OF
STATE PLANNING COORDINATION

July 20, 2005

Ms. Jessica Nichols
Meridian Architects and Engineers
26412 Broadkill Road
Milton, DE 19968

RE: PLUS 2005-06-17, Landlock Acres

Dear Ms. Nichols,

Thank you for meeting with State agency planners on July 6, 2005 to discuss the proposed plans for the Landlock Acres project to be located on SR9, east of Gravel Hill Road in Sussex County. According to the information received, you are seeking to construct 214 residential units in the Level 4 area.

This proposal is located in Investment Level 4 according to the *Strategies for State Policies and Spending*, and is outside of a designated growth area in the relevant certified county and municipal comprehensive plans. **The comments in this letter are technical, and are not intended to suggest that the State supports this development proposal. This letter does not in any way suggest or imply that you may receive or may be entitled to permits or other approvals necessary to construct the development you indicate or any subdivision thereof on these lands.**

Please note that changes to the plan, other than those suggested in this letter, could result in additional comments from the State. Additionally, these comments reflect only issues that are the responsibility of the agencies represented at the meeting. The developers will also need to comply with any Federal, State and local regulations regarding this property. We also note that as Kent County is the governing authority over this land, the developers will need to comply with any and all regulations/restrictions set forth by the County.

Executive Summary

The following section includes some site specific highlights from the agency comments found in this letter. This summary is provided for your convenience and reference. The full text of this letter represents the official state response to this project. **Our office notes that the applicants are responsible for reading and responding to this letter and all comments contained within it in their entirety.**

State Strategies/Project Location

- This project is proposed for an Investment Level 4 area according to the 2004 *Strategies for State Policies and Spending*. This project is also located outside of a designated growth area in relevant municipal and county certified Comprehensive Plans. Investment Level 4 indicates where State investments will support agricultural preservation, natural resource protection, and the continuation of the rural nature of these areas. New development activities and suburban development are not supported in Investment Level 4 areas.

Natural and Cultural Resources

- This project impacts layers of the Livable Delaware Green Infrastructure area established under Governor Minner's Executive Order #61.
- As proposed, the development would include the removal of 95 acres of 133 acres of forest on-site.

Office of State Planning Coordination – Contact Ann Marie Townshend 739-3090

This project represents a major land development that will result in 214 residential units in an Investment Level 4 area according to the 2004 *Strategies for State Policies and Spending*. This project is also located outside of a designated growth area in relevant municipal and county certified comprehensive plans. Investment Level 4 indicates where State investments will support agricultural preservation, natural resource protection, and the continuation of the rural nature of these areas. New development activities and suburban development are not supported in Investment Level 4 areas. These areas are comprised of prime agricultural lands and environmentally sensitive wetlands and wildlife habitats, which should be, and in many cases have been preserved.

From a fiscal responsibility perspective, development of this site is likewise inappropriate. The cost of providing services to development in rural areas is an inefficient and wasteful use of the State's fiscal resources. The project as proposed is likely to bring more than 530 new residents to an area where the State has no plans to invest in infrastructure upgrades or additional services. These residents will need access to such services and infrastructure as schools, police, and transportation. To provide some examples, the State government funds 100% of road maintenance and drainage improvements for the transportation system, 100% of school transportation and paratransit services, up to 80% of school construction costs, and about 90% of the cost of police protection in the unincorporated portion of Sussex County where this development is proposed. Over the longer term, the unseen negative ramifications of this development will become even more evident as the community matures and the cost of maintaining infrastructure and providing services increases. Because the development is inconsistent with the *Strategies for State Policies and Spending*, the State is opposed to this proposed subdivision.

State Historic Preservation Office – Contact Alice Guerrant 739-5685

SHPO opposes this development in the Level 4 area. Development will have an adverse effect on the historic agricultural landscape, in this case through the loss of a woods lot, and will have adverse effects on adjacent historic properties through the loss of setting

and the introduction of noise and visual effects. There is a low potential for historic-period archaeological sites and areas of high and medium potential for prehistoric-period archaeological sites.

If development proceeds, SHPO requests the opportunity to check for archaeological sites to learn something about their character before any construction takes place. SHPO recommends appropriate landscaping around the development to block the view from any remaining historic houses in the area.

Department of Transportation – Contact Bill Brockenbrough 760-2109

Landlock, LLC seeks to develop 214 single-family detached houses on an approximately 132-acre parcel (Tax Parcel 1-35-11.00-66.00). The subject land is located on the north side of US Route 9 about 925 feet east of Gravel Hill Road (Delaware Route 30). The land is zoned AR-1 in Sussex County and it would be developed under the County's cluster development ordinance.

This development is proposed for an area designated as Level 4 under the *Strategies for State Policies and Spending*. The *Strategies for State Policies and Spending* have deemed the type of development being proposed inappropriate for this area. As part of its commitment to support the *Strategies*, DelDOT refrains from participating in the cost of any road improvements needed to support this development and is opposed to any road improvements that will substantially increase the transportation system capacity in this area. DelDOT will only support taking the steps necessary to preserve the existing transportation infrastructure and make whatever safety and drainage related improvements are deemed appropriate and necessary. The intent is to preserve the open space, agricultural lands, natural habitats and forestlands that are typically found in Level 4 areas while avoiding the creation of isolated development areas that cannot be served effectively or efficiently by public transportation, emergency responders, and other public services.

DelDOT strongly supports new development in and around existing towns and municipalities and in areas designated as growth zones in approved Comprehensive Plans. DelDOT encourages the use of transfer of development rights where this growth management tool is available. If this development proposal is approved, notwithstanding inconsistencies with the relevant plans and policies, DelDOT will provide technical review and comments.

The Department of Natural Resources and Environmental Control

Contact Kevin Coyle 739-9071

Investment Level 4 Policy Statement

This project is proposed for a Level 4 area as defined by the *Strategies for State Policies and Spending* and is also located outside of a designated growth area in the relevant municipal and county certified comprehensive plans. According to the *Strategies* this project is inappropriate in this location. In Level 4 areas, the State's investments and policies, from DNREC's perspective, should retain the rural landscape and preserve open

spaces and farmlands. Open space investments should emphasize the protection of critical natural habitat and wildlife to support a diversity of species, and the protection of present and future water supplies. Open space investments should also provide for recreational activities, while helping to define growth areas. Additional state investments in water and wastewater systems should be limited to existing or imminent public health, safety or environmental risks only, with little provision for additional capacity to accommodate further development.

With continued development in Level 4 areas, the State will have a difficult, if not impossible, time attaining water quality (e.g., TMDLs) and air quality (e.g., non-attainment areas for ozone and fine particulates) goals. Present and future investments in green infrastructure, as defined in Governor Minner's Executive Order No. 61, will be threatened. DNREC strongly supports new development in and around existing towns and municipalities and in areas designated as growth zones in certified Comprehensive Plans. The use of transfer of development rights is encouraged where this growth management tool is available.

This particular development certainly compromises the integrity of the *Strategies* and the preservation goals inherent in many of DNREC's programs. Of particular concern are: the project impacts two out of three layers of the Green Infrastructure map (cropland and forest), and loss/fragmentation of 95 out of 133 acres of forest. While mitigating measures such as conservation design, central wastewater systems instead of individual on-site septic systems, and other best management practices may help mitigate impacts from this project, not doing the project at all is the best avenue for avoiding negative impacts. As such, this project will receive no financial, technical or other support of any kind from DNREC. Any required permits or other authorizations for this project shall be considered in light of the project's conflict with the *Strategies for State Policies and Spending*.

Green Infrastructure

Portions or all of the lands associated with this proposal are within the Livable Delaware Green Infrastructure area established under Governor Minner's Executive Order #61 that represents a network of ecologically important natural resource lands of special state conservation interest. Green infrastructure is defined as Delaware's natural life support system of parks and preserves, woodlands and wildlife areas, wetlands and waterways, productive agricultural and forest land, greenways, cultural, historic and recreational sites and other natural areas all with conservation value. Preserving Delaware's Green Infrastructure network will support and enhance biodiversity and functional ecosystems, protect native plant and animal species, improve air and water quality, prevent flooding, lessen the disruption to natural landscapes, provide opportunities for profitable farming and forestry enterprises, limit invasive species, and foster ecotourism.

Voluntary stewardship by private landowners is essential to green infrastructure conservation in Delaware, since approximately 80 percent of the State's land base is in private hands. It is in that spirit of stewardship that the Department appeals to the

landowner and development team to protect sensitive resources through an appropriate site design.

Waterbodies

The parcel is bisected by a blue line stream - Round Pole Branch. Vegetated buffers comprised of native trees, shrubs or no-mow grasses, of no less than 100 feet should be employed from the edge of the stream to mitigate negative impacts. Although impacts are not anticipated, please note that streams are regulated by the Subaqueous Land Section from DNREC Division of Water Resources and the Army Corps of Engineers.

Water Supply

Should an on-site public well be needed, it must be located at least 150 feet from the outermost boundaries of the project. The Division of Water Resources will consider applications for the construction of on-site wells provided the wells can be constructed and located in compliance with all requirements of the Regulations Governing the Construction and Use of Wells. A well construction permit must be obtained prior to constructing any wells.

Should dewatering points be needed during any phase of construction, a dewatering well construction permit must be obtained from the Water Supply Section prior to construction of the well points. In addition, a water allocation permit will be needed if the pumping rate will exceed 50,000 gallons per day at any time during operation. All well permit applications must be prepared and signed by licensed water well contractors, and only licensed well drillers may construct the wells. Please factor in the necessary time for processing the well permit applications into the construction schedule. Dewatering well permit applications typically take approximately four weeks to process, which allows the necessary time for technical review and advertising. Should you have any questions concerning these comments, please contact Rick Rios at (302)739-9944.

Wetlands

According to the Sussex County soil survey, a small mapping unit (Fallsington) of wetland associated (hydric) soils was mapped on this parcel. Statewide Wetland Mapping Project (SWMP) maps indicate the presence of palustrine scub-shrub wetlands on this parcel.

The applicant should be reminded that they must avoid construction/filling activities in those areas containing wetlands or wetland associated hydric soils as they are subject to regulatory provisions under the Federal 404 Clean Water Act governing jurisdictional wetlands. Therefore, it is highly recommended that an Army Corps of Engineers approved field wetlands delineation be conducted before commencing any site development or construction on subject site. Furthermore, parcel lot lines should not contain any delineated wetlands. The applicant should be cautioned that an isolated wetlands jurisdictional assessment must be made by the ACOE, not a privately-paid wetlands consultant. The applicant or applicant's consultant should contact the ACOE for a final jurisdictional decision on such wetlands.

A minimum 100-foot upland buffer (containing either indigenous or planted native species) should be maintained between lot parcel lot lines and wetlands/ waterbodies (including ditches). Increasing the buffer beyond the recommended minimum is strongly encouraged.

Total Maximum Daily Loads (TMDLs)

The Watershed Assessment Section considers development in Level 4 areas or areas outside of designated growth zones, as scattered poorly-planned uncontrolled growth that threaten Delaware's quality of life and its environment. Of particular concern is how this uncontrolled growth is likely to increase nutrient runoff and hamper the State's ability to meet the nutrient reductions prescribed under the federally mandated Total Maximum Daily Load (TMDL) load program. Given these concerns and objections for building in Level 4 areas, the following comments are not intended to be construed as tacit approval for this project but rather demonstrate what the Section believes are minimally acceptable regulatory guidelines and/or recommendations to mitigate some of the expected environmental impacts

The applicant's plan to remove large amounts of forested acreage (reported as 94.9 acres, but appears to be more) to accommodate said development is excessive. It is strongly recommended that the applicant consider preserving a more forested acreage than they are currently proposing. Research has consistently shown that the clearing or subdividing a larger continuous forest into smaller fragments or blocks (fragmentation) – such as proposed in this project – usually results in substantial degradation of water and habitat quality within a given watershed.

This project is immediately adjacent to a sensitive head water riparian area which could potentially impact surface and groundwater quality and thus make it more difficult to achieve the future required TMDL reductions in the Broadkill subwatershed

The inclusion of stormwater management and/or wastewater treatment areas in open space calculations may underestimate nutrient loading rates. In order to verify compliance, a full nutrient accounting process known as nutrient budget should be prepared by the applicant. Lyle Jones, Watershed Assessment Section can be contacted at (302) 739-4590 for further information regarding acceptable protocol for calculating a nutrient budget.

Although TMDLs for the Broadkill watershed are not scheduled for completion until 2006, it is still possible that they may be legally applicable to this project. Given the project's scale along with the relative absence of proposed on-the-ground environmental safeguards (BMPs) reduces the possibility of meeting any future TMDL requirements.

Impervious Cover

The applicant should reduce imperviousness to the greatest degree practicable. Use of pervious paving materials in lieu of asphalt or concrete and planting trees, are examples of practical ways the applicant could help reduce surface imperviousness on this parcel.

Research has consistently shown that once a watershed exceeds a threshold of 10 percent imperviousness, water and habitat quality irreversibly decline.

Sediment and Erosion Control/Stormwater Management

1. A detailed sediment and stormwater plan will be required prior to any land disturbing activity taking place on the site. The plan review and approval as well as construction inspection will be coordinated through Sussex Conservation District. Contact Jessica Watson, Program Manager, at (302) 856-7219 for details regarding submittal requirements and fees.

2. It is strongly recommended that you contact Sussex Conservation District to schedule a pre-application meeting to discuss the sediment and erosion control and stormwater management components of the plan. The site topography, soils mapping, pre and post development runoff, and proposed method(s) and location(s) of stormwater management should be brought to the meeting for discussion.

3. A Notice of Intent (NOI) for Stormwater Discharges Associated with Construction Activity must be submitted to DNREC Division of Soil and Water Conservation along with the \$195 NOI fee prior to plan approval.

4. Applying practices to mimic the pre development hydrology on the site, promote recharge, maximize the use of existing natural features on the site, and limit the reliance on structural stormwater components, such as maintaining open spaces, should be considered in the overall design of the project as a stormwater management technique.

5. Each stormwater management facility should have an adequate outlet for release of stormwater. Any drainage conveyed onto this site from neighboring properties must be adequately conveyed through the site to the discharge point without interruption.

6. Clearly address how Stormwater Quality and Quantity Treatment will be provided. If this project is eligible for a Quantity Waiver, please make the request in the stormwater narrative citing the specific regulation.

7. Please indicate on the sediment and stormwater management plan who shall be responsible for maintenance of the stormwater management facilities both during construction and after. During the design of the sediment control and stormwater management plan, considerations should be made for maintenance (i.e. access, easements, etc.) of any structures or facilities.

8. If a stormwater management pond is going to be utilized as a sediment trap/basin during construction it must be designed to accommodate 3600 cubic feet of storage per acre of contributing drainage area until project stabilization is complete.

9. All ponds are required to be constructed per pond code 378.

10. Please note that if the stormwater facilities will impact wetlands, a permit must be provided to the District prior to receiving approval. Please address.

11. A Certified Construction Reviewer (CCR) is required for this project.

12. The District will require a phased plan and sequence of construction for this project. DNREC regulations require no more than 20 acres to be disturbed at more time. Please address.

13. Under the DNREC Health and Safety Memo of 2000, all wet ponds are required to have an open space depth of 3 feet or more that comprises 50-75 percent of the area of the pond.

14. Consideration should be made for any adjacent properties during the design of this project, including drainage and erosion/sediment control.

15. Please demonstrate that you have an adequate outfall for this project.

Drainage

The Drainage Section requests all existing ditches on the property be checked for function and cleaned if needed prior to the construction of homes. Wetland permits may be required before cleaning ditches. The Drainage Section requests that all precautions be taken to ensure the project does not hinder any off site drainage upstream of the project or create any off site drainage problems downstream by the release of on site storm water.

The Drainage Section strongly recommends any drainage conveyance between two parcels within a subdivision be dedicated as a drainage easement and such easement be designated as passive open space, not owned by individual landowners. The easement should be of sufficient width to allow for future drainage maintenance as described below.

- Along an open ditch or swale, the Drainage Section recommends a maintenance equipment zone of 25 feet measured from the top of bank on the maintenance side, and a 10-foot setback zone measured from top of bank on the non-maintenance side. These zones should be maintained as buffers to aid in the reduction of sediment and nutrients entering into the drainage conveyance. Grasses, forbs and sedges planted within these zones should be native species, selected for their height, ease of maintenance, erosion control, and nutrient uptake capabilities. Trees and shrubs planted within the maintenance zone should be native species spaced to allow for drainage maintenance at maturity. Trees should not be planted within 5 feet of the top of ditch to avoid future blockages from roots.
- Along a stormwater pipe the Drainage Section recommends a maintenance equipment zone of 15 feet on each side of the pipe as measured from the pipe

centerline. This zone should be maintained as buffers to aid in the reduction of sediment and nutrients entering into the drainage conveyance. Grasses, forbs and sedges planted within these zones should be native species selected for their height, ease of maintenance, erosion control, and nutrient uptake capabilities. Trees and shrubs planted within the maintenance zone should be spaced to allow for drainage maintenance at maturity.

The Drainage Section recommends any drainage/utility easement owned by an individual landowner should not have structures, decks, buildings, sheds, kennels, fences or trees within the drainage easement to allow for future drainage maintenance.

Forests

According to 2002 aerial photos forested areas exist on this parcel; site plans show that lot lines will contain portions of the forest. PLUS materials indicate that 94.9 acres will be removed for development. Large contiguous stretches of forest like this not only provide important water and air quality benefits, but provide important habitat for many wildlife species that depend on interior forest. Clearing portions of the forest within the parcel may reduce the habitat value of the entire forest stretch.

According to aerial photographs, the forest on this property is primarily pine, which typically does not harbor the number of rare species as a mixed deciduous forest or old growth. However, forest fragmentation caused by the current site plan greatly diminishes the value of this forest to a host of plant and animal species rather they are rare or not. Consideration should be given to minimizing the amount of clearing needed for the footprint of homes and infrastructure. In addition, given the benefit of trees in erosion control and flood abatement, it doesn't make sense to clear trees for a stormwater management pond. An alternate method of stormwater management should be employed and the space dedicated as 'open space'. This will create a larger, continuous area of forest. Larger, connected areas of forest are more beneficial to wildlife than small, fragmented areas like those currently in the site plan.

Therefore, the developer is strongly encouraged to preserve, and where possible, enhance forested resources on site, particularly mature trees. This includes removing lot lines and infrastructure (such as storm water management ponds) from forested areas to the extent possible and minimizing any clearing activities. There are numerous opportunities on this site to improve the extent and function of forested buffers, particularly along the western edge of the parcel. The developer should seriously consider placing this forest into a permanent conservation easement or other binding protection. These areas should be clearly marked and delineated so that residents understand their importance and so that homeowner activities do not infringe upon these areas.

Open Space

To maximize the existing buffering capacity and wildlife habitat on site, it is recommended that lot lines and other infrastructure (such as storm water management ponds) be pulled out of the forest and that areas of community open space be designated along the forested/riparian areas. Doing so will preserve and expand the existing buffers

on site and its value for birds and wildlife and it will create recreational opportunities for residents.

In areas set aside for passive open space, the developer is encouraged to consider establishment of additional forested areas or meadow-type grasses. Once established, these ecosystems provide increased water infiltration into groundwater, decreased run-off into surface water, air quality improvements, and require much less maintenance than traditional turf grass, an important consideration if a homeowners association will take over responsibility for maintenance of community open spaces.

Open space containing forest and/or wetlands should be placed into a permanent conservation easement or other permanent protection mechanism. Conservation areas should also be demarked to avoid infringement by homeowners.

Air Quality

Once complete, vehicle emissions associated with this project are estimated to be 16.4 tons (32,846.8 pounds) per year of VOC (volatile organic compounds), 13.6 tons (27,194.9 pounds) per year of NOx (nitrogen oxides), 10.0 tons (20,064.9 pounds) per year of SO2 (sulfur dioxide), 0.9 ton (1,786.1 pounds) per year of fine particulates and 1,373.8 tons (2,747,590.2 pounds) per year of CO2 (carbon dioxide).

Emissions from area sources associated with this project are estimated to be 6.6 tons (13,248.6 pounds) per year of VOC (volatile organic compounds), 0.7 ton (1,457.7 pounds) per year of NOx (nitrogen oxides), 0.6 ton (1,209.7 pounds) per year of SO2 (sulfur dioxide), 0.8 ton (1,561.1 pounds) per year of fine particulates and 26.9 tons (53,706.8 pounds) per year of CO2 (carbon dioxide).

Emissions from electrical power generation associated with this project are estimated to be 2.6 tons (5,250.8 pounds) per year of NOx (nitrogen oxides), 9.1 tons (18,263.6 pounds) per year of SO2 (sulfur dioxide) and 1,346.9 tons (2,693,883.4 pounds) per year of CO2 (carbon dioxide).

	VOC	NOx	SO ₂	PM _{2.5}	CO ₂
Mobile	16.4	13.6	10.0	0.9	1373.8
Residential	6.6	0.7	0.6	0.8	26.9
Electrical Power		2.6	9.1		1346.9
TOTAL	23.0	16.9	19.7	1.7	2747.6

For this project the electrical usage via electric power plant generation alone totaled to produce an additional 2.6 tons of nitrogen oxides per year and 9.1 tons of sulfur dioxide per year. A significant method to mitigate this impact would be to require the builder to construct Energy Star qualified homes. Every percentage of increased energy efficiency translates into a percent reduction in pollution. Quoting from their webpage, <http://www.energystar.gov/>:

“ENERGY STAR qualified homes are independently verified to be at least 30% more energy efficient than homes built to the 1993 national Model Energy Code or 15% more efficient than state energy code, whichever is more rigorous. These savings are based on heating, cooling, and hot water energy use and are typically achieved through a combination of:

- building envelope upgrades,
- high performance windows,
- controlled air infiltration,
- upgraded heating and air conditioning systems,
- tight duct systems and
- upgraded water-heating equipment.”

The energy office in DNREC is in the process of training builders in making their structures more energy efficient. The Energy Star Program is excellent way to save on energy costs and reduce air pollution. DNREC recommends this project development and other residential proposals increase the energy efficiency of their homes.

State Fire Marshal’s Office – Contact Duane Fox 739-5298

These comments are intended for informational use only and do not constitute any type of approval from the Delaware State Fire Marshal’s Office. At the time of formal submittal, the applicant shall provide; completed application, fee, and three sets of plans depicting the following in accordance with the Delaware State Fire Prevention Regulation (DSFPR):

a. **Fire Protection Water Requirements:**

- Where a water distribution system is proposed for single family dwellings it shall be capable of delivering at least 500 gpm for 1-hour duration, at 20-psi residual pressure. Fire hydrants with 1000 feet spacing on centers are required.
- The infrastructure for fire protection water shall be provided, including the size of water mains.

b. **Accessibility:**

- All premises which the fire department may be called upon to protect in case of fire, and which are not readily accessible from public roads, shall be provided with suitable gates and access roads, and fire lanes so that all buildings on the premises are accessible to fire apparatus. This means that the access road to the subdivision from Georgetown Lewes Highway must be constructed so fire department apparatus may negotiate it.
- Fire department access shall be provided in such a manner so that fire apparatus will be able to locate within 100 ft. of the front door.
- Any dead end road more than 300 feet in length shall be provided with a turn-around or cul-de-sac arranged such that fire apparatus will be able to turn around by making not more than one backing maneuver. The minimum paved radius of the cul-de-sac shall be 38 feet. The dimensions of the cul-de-sac or turn-around shall be shown on the final plans. Also, please be advised that

parking is prohibited in the cul-de-sac or turn around.

- The use of speed bumps or other methods of traffic speed reduction must be in accordance with Department of Transportation requirements.
- The local Fire Chief, prior to any submission to our Agency, shall approve in writing the use of gates that limit fire department access into and out of the development or property.

c. Gas Piping and System Information:

- Provide type of fuel proposed, and show locations of bulk containers on plan.

d. Required Notes:

- Provide a note on the final plans submitted for review to read “ All fire lanes, fire hydrants, and fire department connections shall be marked in accordance with the Delaware State Fire Prevention Regulations”
- Name of Water Supplier
- Proposed Use
- National Fire Protection Association (NFPA) Construction Type
- Maximum Height of Buildings (including number of stories)
- Provide Road Names, even for County Roads

Preliminary meetings with fire protection specialists are encouraged prior to formal submittal. Please call for appointment. Applications and brochures can be downloaded from www.delawarestatefiremarshal.com.

Department of Agriculture - Contact Milton Melendez 698-4500

The Delaware Department of Agriculture opposes the Landlock Acres application due to the project's proximity to properties that have high agricultural value. The Department of Agriculture encourages the use of this property to be consistent with that of the surrounding agricultural parcels. The project is also located in a designated Level 4 area, on which the State of Delaware promotes agricultural and natural resource preservation.

The Delaware Forest Service in cooperation with the Office of State Planning recognizes that this proposed development falls within a Level 4 area. As defined, a Level 4 area is one least likely to receive any state monies to support the need infrastructure to sustain this proposed community. The Delaware Forest Service reserves the right to comment on this development at this time. The Delaware Forest Service encourages the developer to seek other use for this site that is supportive of the agriculture resources found in and around this site. The Delaware Forest Service offers its assistance to develop these new uses, to learn more please contact the offices at (302) 349-5754.

Public Service Commission - Contact Andrea Maucher 739-4247

For both water and wastewater, the project is not within a certificated area, and the application notes “central (community system).” Should the developer seek water service from a public utility, the utility will need to apply to the Commission for a Certificate of Public Convenience and Necessity (CPCN). Additional requirements apply if the water service provider has not previously been awarded a CPCN by the Commission. Should the developer seek wastewater services from a non-governmental entity, and there would be 50 or more customers served, the provider will need to apply to the Commission for a

Certificate of Public Convenience and Necessity (CPCN). Additional requirements may apply if the provider has not previously been awarded a CPCN by the Commission. Any expansion of natural gas or installation of a closed propane system must fall within Pipeline Safety guidelines.

Delaware State Housing Authority – Contact Jimmy Adkins 739-4263

This proposal is to develop 214 units on 132 acres located on the north side of US Route 9, east of Gravel Hill Road and adjacent to Round Pole Branch. According to the *Strategies for State Policies and Spending*, the proposal is located in a Level 4 area and outside the growth zone. As a general planning practice, DSHA encourages residential development in areas where residents will have proximity to services, markets, and employment opportunities such as Level 1 and 2 areas outlined in the *Strategies*. The proposal is located in an area targeted for agricultural and natural resource protection, and therefore inconsistent with where the State would like to see new residential development.

Sussex County - Contact Richard Kautz

Because this project is an AR-1 Cluster subdivision, the developer must include in the application a plan for the management of all open space. Also, the developer must document for the Planning and Zoning Commission how the proposed development: provides for a total environment and design which are superior to that which would be allowed under the standard lot option; preserves the natural environment and historic or archeological resources; and, will not have an adverse effect on any of the items included under Ordinance Number 1152 (County Code 99-9C). These issues can be addressed by including in the application an explanation of how the developer plans to mitigate the issues raised by the State agencies.

This fiscal year Sussex County will be considering implementation of a Source Water Protection Program required by the State. Depending on the requirements adopted by the County Council this project might be affected. Any well location should insure that the wellhead protection area is entirely on site.

The project proposes to develop using a private central community wastewater system. Sussex County recommends that the wastewater system be operated under a long-term contract with a capable wastewater utility. In addition, they recommend they have a wastewater utility provider prior to approving the project. The proposed project is located outside of the Inland Bays Planning area where Sussex County expects to provide sewer service. Sussex County requires design and construction of the collection and transmission system to meet Sussex County sewer standards and specifications. A review and approval of the treatment and disposal system by the Sussex County Engineering Department is also required and plan review fees may apply. Disposal fields should not be counted as open space. Wastewater disposal fields should be clearly identified on recorded plots.

If Sussex County ever provides sewer service, it is required that the treatment system be abandoned and a direct connection made to the County system at the developers and/or

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homeowners association expense. For questions regarding these comments, contact Rob Davis, Sussex County Engineering Department at (302) 855-7820.

Following receipt of this letter and upon filing of an application with the local jurisdiction, the applicant shall provide to the local jurisdiction and the Office of State Planning Coordination a written response to comments received as a result of the pre-application process, noting whether comments were incorporated into the project design or not and the reason therefore.

Thank you for the opportunity to review this project. If you have any questions, please contact me at 302-739-3090.

Sincerely,

A handwritten signature in cursive script that reads "Constance C. Holland".

Constance C. Holland, AICP
Director

CC: Sussex County