



January 23, 2006

Amanda Jones  
Morris & Ritchie Associates, Inc.  
18 Boulden Circle, Ste. 36  
New Castle, DE 19720

RE: PLUS review – PLUS 2005-12-01; Autumn Glen

Dear Ms. Jones:

Thank you for meeting with State agency planners on December 28, 2005 to discuss the proposed plans for the Autumn Glen project to be located on the easterly side of Carpenters Bridge Road, across from Roesville Road, southwest of Frederica. An earlier version of this project was reviewed as a portion of the Tuscany Estates proposal (PLUS 2005-01-07). Unless specifically noted in this letter, the comments for Tuscany Estates found in our letter dated February 15, 2005 that are relevant to this parcel are still in effect.

According to the information received, you are seeking site plan approval for 327 residential units on 140 acres in a Level 3 area.

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 located in Investment Level 3 according to the 2004 State Strategies for Policies and Spending. This site is also located in the Kent County Growth Zone. Investment Level 3 reflects areas where growth is anticipated by local, county, and state plans in the longer term future, or areas that may have environmental or other constraints to development. Both of these criteria apply to the subject parcel. Our office has no objections to the proposed development of this project in accordance with the County codes and ordinances, provided that the design of the development takes into considerations the environmental and other design changes expressed in this letter and in our initial response to the Tuscany Estates proposal (PLUS 2005-01-07).

### **Natural and Cultural Resources**

- This site has been identified for its exceptional ecological and natural resource values by DNREC. It is listed as part of a State Resource Area, is in the Murderkill River Natural Area (qualifying it as a State Natural Heritage Site) and contains land listed on Delaware's Natural Area Inventory. These designations are reserved for the highest quality and most important natural lands remaining in Delaware. The site is also adjacent to the Murderkill River, which has been designated as an impaired waterway under the Total Maximum Daily Loads (TMDL) program. The applicant and the County should take extra care when developing this site. Here are some specific recommendations:
  - In order to protect water quality, a minimum 100 foot buffer should be provided along the Murderkill River, the unnamed tributary, and wetland areas. Natural vegetation in this buffer should be left undisturbed, and any open areas should be planted with trees, herbaceous plants, and no-mow grasses.
  - Due to the site's exceptional value it is recommended that the buffer be increased to 300 feet adjacent to the Murderkill River, the unnamed tributary, and wetland areas. While 100 feet is considered sufficient to address water quality concerns, the 300 foot buffer will preserve an important habitat corridor that will benefit the valuable flora and fauna on the site and in the surrounding river ecosystem.

- Preserve all of the existing trees along the Murderkill River and along the unnamed tributary. It appears that this can largely be accomplished within the 300 foot buffer areas described above.
- The Office of Nature Preserves has stated that they cannot support this development for the following reasons:
  - It borders a Natural Area
  - The bottom portion of the site is located in a State Resource Area
  - It borders the Murderkill River Nature Preserve - Hopkins Tract
  - Stormwater management facilities should not be located directly above the Nature Preserve
  - A vegetated buffer should be established in the SRA, to provide a buffer to the Nature Preserve; therefore, houses and roads should not be permitted in the SRA

The following are a complete list of comments received by State agencies:

**Office of State Planning Coordination – Contact: David Edgell 739-3090**

This project is located in Investment Level 3 according to the 2004 State Strategies for Policies and Spending. This site is also located in the Kent County Growth Zone. Investment Level 3 reflects areas where growth is anticipated by local, county, and state plans in the longer term future, or areas that may have environmental or other constraints to development. Both of these criteria apply to the subject parcel. This property is on the periphery of the Kent County Growth Zone, and it is adjacent to the Murderkill River. State investments will support growth in these areas, but please be advised that the State may have other priorities in the near term future. It is also apparent through the review of the site and its location in relation to the Murderkill River corridor that there are some significant environmental issues associated with this development project. Our office has no objections to the proposed development of this project in accordance with the County codes and ordinances, provided that the design of the development takes into considerations the environmental and other design changes expressed in our letter and in our initial response to the Tuscany Estates proposal (PLUS 2005-01-07).

**Division of Historic and Cultural Affairs – Contact: Alice Guerrant 739-5685**

This project has the potential to effect historic resources. One known archeological site (K00769) is located outside the tree line on the southwest corner of the parcel. Additionally the southern boundary of the property, along the Murderkill River has high

potential for prehistoric settlement and surviving archeological deposits. Should burials be encountered, marked and unmarked human remains, are protected by Delaware law. Please refer to the following sections of the Delaware State Code: (1) Title 11 Sub-Chapter 1340, titled "Desecration of Burial Places"; and (2) Title 7 Chapter 54, known as the "Delaware Unmarked Human Remains Act". For more information about these laws and the implications for the project, contact Craig Lukesic or Faye Stocum of this office at 302-736-7400. The Division provides a list of qualified consultants on our web site at <http://www.state.de.us/shpo/PDF/Consultants.pdf>.

**Department of Transportation – Contact: Bill Brockenbrough 760-2109**

This project replaces a previous proposal for the same land that was reviewed through the PLUS process earlier this year as part of the 815-lot Tuscany Estates development. It is being reviewed through PLUS now because it was not included when the Tuscany Estates plan was previously submitted to Kent County.

The Tuscany Estates plan was reviewed at a PLUS meeting on January 26, 2005, and the comments from that meeting were collected in your February 15, 2005, letter to the developer's engineer. To the extent that they have not been addressed, our comments as contained in that letter remain valid. We have one new comment:

The traffic impacts of Tuscany Estates and Roesville Estates (another project by the same developer) were evaluated in a traffic impact study (TIS) earlier this year. Enclosed is a copy of an October 25, 2005, letter from our consultant, McCormick Taylor, commenting on that TIS. The TIS only evaluated the impact of 1,293 dwellings, whereas 1,374 dwellings are now proposed. McCormick Taylor has re-examined the TIS, and has evaluated additional calculations from the developer's engineer. They have found that the traffic from those 81 additional dwellings would not change the recommendations contained in the enclosed letter.

**The Department of Natural Resources and Environmental Control – Contact: Kevin Coyle 739-9071**

**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.

### **Nature Preserves**

The Office of Nature Preserves cannot support this development because

- It borders a Natural Area
- The bottom portion of the site is located in a State Resource Area
- It borders the Murderkill River Nature Preserve - Hopkins Tract
- Stormwater management facilities should not be located directly above the Nature Preserve
- A vegetated buffer should be established in the SRA, to provide a buffer to the Nature Preserve; therefore, houses and roads should not be permitted in the SRA

### **Soils**

Based on the Kent County soil survey Sassafras, Rumford, Woodstown, and Swamp were mapped in the immediate vicinity of the proposed project. Sassafras and Rumford are well-drained upland soils that, generally, have few limitations for development. Woodstown is a moderately well-drained soil of low-lying uplands that has moderate limitations for development. Swamp is a very poorly-drained wetland associated (hydic) floodplain soil that has the highest severity level for development.

### **Wetlands and Water Bodies**

Statewide Wetland Mapping Project (SWMP) maps indicate the presence of palustrine tidal wetlands along the Murderkill River. Impacts to wetlands should be avoided to the

maximum extent practical. Wetlands provide water quality benefits, attenuate flooding and provide important habitat for plants and wildlife. Vegetated no-mow buffers of no less than 100 feet should be employed from the edge of the wetland complex. Although the developer does not anticipate impacts to wetlands; please note, that impacts to Palustrine wetlands are regulated by the Army Corps of Engineers through Section 404 of the Clean Water Act. In situations where the applicant believes that the delineated wetlands on their parcel are nonjurisdictional isolated wetlands, the Corps must be contacted to make the final jurisdictional assessment. They can be reached by phone at 736-9763.

In addition, individual 404 permits and certain Nationwide Permits from the Army Corps of Engineers also require 401 Water Quality Certification from the DNREC Wetland and Subaqueous Land Section and Coastal Zone Federal Consistency Certification from the DNREC Division of Soil and Water Conservation, Delaware Coastal Programs Section. Each of these certifications represents a separate permitting process.

Because there is strong evidence that federally regulated wetlands exist on site, a wetland field delineation, in accordance with the methodology established by the Corps of Engineers Wetlands Delineation Manual, (Technical Report Y-87-1) should be conducted. Once complete, this delineation should be verified Corps of Engineers through the Jurisdictional Determination process.

To find out more about permitting requirements, the applicant is encouraged to attend a Joint Permit Process Meeting. These meetings are held monthly and are attended by federal and state resource agencies responsible for wetland permitting. Contact Denise Rawding at (302) 739-9943 to schedule a meeting.

This project is located directly adjacent to a tributary of the Murderkill River – greatly increasing the probability of harmful impacts to surface and groundwater quality to all waters within the Murderkill River watershed - making it more difficult for the State to achieve future required TMDL nutrient reductions. It should also be noted that harmful impacts to water quality result in the deterioration in the ecological function of a stream along its entire length, including the floodplain system further downstream. In recognition of the impacts to water and habitat quality and the necessity to protect it for long-term sustainable use, the Watershed Assessment Section strongly urges the applicant to consider the preserving the existing naturally-forested buffer in its entirety and increasing the buffer width (where applicable) to a minimum 100-foot width.

## **Impervious Cover**

Research has consistently shown that once a watershed exceeds a threshold of 10 percent imperviousness, water and habitat quality irreversibly decline. Based on analyses of 2002 aerial photography by the University of Delaware, the Murderkill watershed, at that time, had about 8.1 percent impervious cover. Although this data is almost 4 years old and likely an underestimate - it illustrates the importance of a proactive strategy to mitigate for predictable and likely cumulative environmental impacts. Since the amount of imperviousness generated by this project (reported as 29%, but likely to be higher) above the desirable watershed threshold of 10 percent, the applicant is strongly advised to pursue best management practices (BMPs) that mitigate or reduce some of the most likely adverse impacts. Reducing the amount of surface imperviousness through the use of pervious paving materials (“pervious pavers”) in lieu of asphalt or concrete in conjunction with an increase in forest cover via preservation or additional tree plantings – are examples of practical BMPs that could easily be implemented to reduce surface imperviousness.

## **TMDLs**

With the adoption of Total Maximum Daily Loads (TMDLs) as a “nutrient-runoff-mitigation strategy” for reducing nutrients in the Murderkill River watershed, reduction of nitrogen and phosphorus loading will be mandatory. A TMDL is the maximum level of pollution allowed for a given pollutant below which a “water quality limited water body” can assimilate and still meet water quality standards to the extent necessary to support use goals such as, swimming, fishing, drinking water and shell fish harvesting. Nutrient reductions prescribed under TMDLs are assigned to those watersheds or basins on the basis of recognized water quality impairments.

In the Murderkill watershed, the primary source of water quality impairment is associated with nutrient runoff from agricultural and/or residential development. In order to mitigate for the aforementioned impairments, a post-development TMDL reduction level of 50 and 30 percent will be required for nitrogen and phosphorus, respectively. Compliance with the post-development TMDL nutrient loading reduction requirements will be assessed via nutrient budget protocol – a computer-based model that quantifies post-development nutrient loading under a variety of land use scenarios in combination with a variety (or absence) of BMP types and intensities. This post-development loading rate is then compared with the pre-development loading rate as a means to assess whether the project meets the acceptable TMDL reduction levels. We suggest that the applicant verify their project’s compliance with the specified TMDL loading rates by obtaining the nutrient budget protocol and running the model themselves. Please contact Lyle Jones of Watershed Section at 739-9939 for the acceptable model protocol.

### **Water Resource Protection Areas**

The DNREC Water Supply Section has determined that a section on the western edge of the property falls within an area of excellent groundwater recharge (see following map and attached map).

The proposed development would change the total impervious cover from approximately 0% to approximately 29% in proposed development area. The proposed development area impacts the excellent recharge area. The numbers were provided by the developer on the PLUS application.

The western edge of the parcel is proposed to be single family home lots and some open space. If possible, the amount of open space in this area should be increased to decrease the amount of excellent recharge area that is impacted by development. Currently the larger open space areas are located away from the excellent recharge areas. This should be changed.

DNREC Water Supply Section recommends that that portion of the new development within the excellent recharge area not exceed 20% impervious cover. Further, some allowance for augmenting ground-water recharge should be considered if the impervious cover exceeds 20% but is less than 50% of that portion of the parcel within this area.

For more information refer to the Final Source Water Protection Guidance Manual for the Local Governments of Delaware

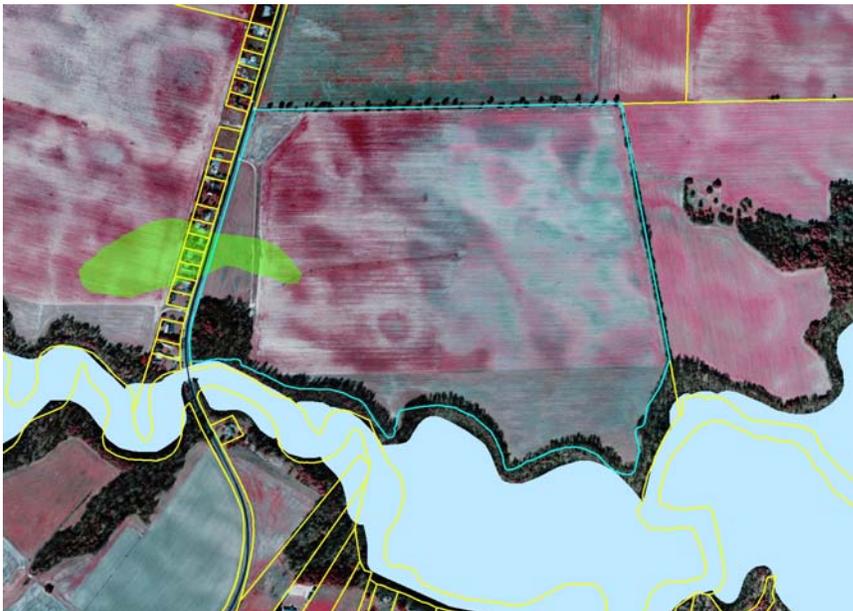
<http://www.wr.udel.edu/swaphome/phase2/SWPguidancemanual.html>

and

Ground-Water Recharge Design Methodology

[http://www.wr.udel.edu/swaphome/phase2/Publications/swapp\\_manual\\_final/swapp\\_guidance\\_manual\\_supp\\_1\\_2005\\_05\\_02.pdf](http://www.wr.udel.edu/swaphome/phase2/Publications/swapp_manual_final/swapp_guidance_manual_supp_1_2005_05_02.pdf).

**Autumn Glen (PLUS 2005-12-01) with excellent recharge in green and affected parcels outlined in light blue**



**Water Supply**

The project information sheets state that Tidewater Utilities will be used to provide water for the proposed project. Our records indicate that the project is located within the public water service area granted to Artesian Water Company under Certificate of Public Convenience and Necessity number 04-CPCN-17. It is recommended that the developer contact Artesian Water Company to determine the availability of public water. Any questions concerning CPCNs should be directed to the Public Service Commission at 302-739-4247. 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 well(s).

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.

### **Sediment and Erosion Control/Stormwater Management**

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 Kent Conservation District. Contact Sussex Conservation District at (302) 856-7219 for details regarding submittal requirements and fees.

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.

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. Green Technology BMPs must be given first consideration for stormwater quality management. Each stormwater management facility should have an adequate outlet for release of stormwater.

It is strongly recommended that you contact the reviewing agency to schedule a preliminary 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.

### **Drainage**

The Drainage Program requests that the engineer take precautions to ensure the project does not hinder any off site drainage upstream of the project. The Drainage Program encourages the elevation of rear yards to direct water towards the streets where storm

drains are accessible for maintenance. The Drainage Program recognizes the need for catch basins in rear yards in certain cases. Catch basins placed in rear yards will need to be clear of obstructions and be accessible for maintenance. Decks, sheds, fences, and kennels should not be placed along the storm drain or near the catch basin. Deed restrictions or easements recorded on the deed, should be placed on the property to ensure maintenance access.

This project is within the Murderkill River Watershed, a designated critical area, with a promulgated Total Maximum Daily Load (TMDL). Preserve existing riparian buffers to aid in the reduction of nutrients, sediment, and other pollutants. For the further enhancement of water quality in the Murderkill watershed, the Drainage Program encourages additional widths of vegetated buffers and other water quality measures on this project. Please explore the use of a created wetland to filter excess nutrients in stormwater runoff from this site before releasing stormwater into the Murderkill River.

### **Floodplains**

Portions of the site appear to be in a 100-year floodplain.

### **Open Space**

To achieve maximum buffering potential for the Murderkill River; areas set aside for stormwater management and passive open space along the southern portion of the parcel should be reforested or planted with meadow-type grasses. This habitat improvement is particularly important as this parcel is within the Murderkill watershed; a watershed which has already experienced degraded water quality. 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.

Buffering of adjacent areas from the view, noise, and odor of agriculture is another concern which relates to visual open space and quality of life. It is recommended that trees be installed within the agricultural buffer to separate agricultural uses from less intense residential uses.

The developer is strongly encouraged to place areas containing forest and/or wetlands into a permanent conservation easement or other permanent protection mechanism. Conservation areas should be demarked to avoid infringement by homeowners.

### **Nuisance Waterfowl**

Stormwater management ponds that remain in the site plan may attract waterfowl like resident Canada geese and mute swans. High concentrations of waterfowl in ponds create water-quality problems, leave droppings on lawn and paved areas and can become aggressive during the nesting season. Short manicured lawns around ponds provide an attractive habitat for these species. We recommend native plantings of tall grasses, wildflowers, shrubs, and trees at the edge and within a buffer area (50 feet) around the perimeter. Waterfowl do not feel safe when they can not see the surrounding area for possible predators. These plantings should be completed as soon as possible as it is easier to deter geese when there are only a few than it is to remove them once they become plentiful. The Division of Fish and Wildlife does not provide goose control services, and if problems arise, residents or the home-owners association will have to accept the burden of dealing with these species (e.g., permit applications, costs, securing services of certified wildlife professionals). Solutions can be costly and labor intensive; however, with proper landscaping, monitoring, and other techniques, geese problems can be minimized.

### **Solid Waste**

Each Delaware household generates approximately 3,600 pounds of solid waste per year. On average, each new house constructed generates an additional 10,000 pounds of construction waste. Due to Delaware's present rate of growth and the impact that growth will have on the state's existing landfill capacity, the applicant is requested to be aware of the impact this project will have on the State's limited landfill resources and, to the extent possible, take steps to minimize the amount of construction waste associated with this development.

### **Air Quality**

Once complete, vehicle emissions associated with this project are estimated to be 25.1 tons (50,191.1 pounds) per year of VOC (volatile organic compounds), 20.8 tons (41,554.8 pounds) per year of NO<sub>x</sub> (nitrogen oxides), 15.3 tons (30,659.9 pounds) per year of SO<sub>2</sub> (sulfur dioxide), 1.4 ton (2,729.3 pounds) per year of fine particulates and 2,099.2 tons (4,198,420.5 pounds) per year of CO<sub>2</sub> (carbon dioxide).

Emissions from area sources associated with this project are estimated to be 10.1 tons (20,244.3 pounds) per year of VOC (volatile organic compounds), 1.1 ton (2,227.5 pounds) per year of NO<sub>x</sub> (nitrogen oxides), 0.9 ton (1,848.5 pounds) per year of SO<sub>2</sub> (sulfur dioxide), 1.2 ton (2,385.4 pounds) per year of fine particulates and 41.0 tons (82,066.1 pounds) per year of CO<sub>2</sub> (carbon dioxide).

Emissions from electrical power generation associated with this project are estimated to be 4.0 tons (8,023.4 pounds) per year of NOx (nitrogen oxides), 14.0 tons (27,907.5 pounds) per year of SO2 (sulfur dioxide) and 2,058.2 tons (4,116,354.5 pounds) per year of CO2 (carbon dioxide).

	VOC	NOx	SO <sub>2</sub>	PM <sub>2.5</sub>	CO <sub>2</sub>
Mobile	25.1	20.8	15.3	1.4	2099.2
Residential	10.1	1.1	0.9	1.2	41.0
Electrical Power		4.0	14.0		2058.2
TOTAL	35.2	25.9	30.2	2.6	4198.4

For this project the electrical usage via electric power plant generation alone totaled to produce an additional 4.0 tons of nitrogen oxides per year and 14.0 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. We highly recommend this project development and other residential proposals increase the energy efficiency of their homes. They also

recommend that the home builders offer geothermal and photo voltaic energy options. Applicable vehicles should use retrofitted diesel engines during construction.

The development should provide tie-ins to the nearest bike paths, links to mass transit, and fund a lawnmower exchange program for their new occupants.

**State Fire Marshal's Office – Contact: John Rossiter 739-4394**

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 Carpenters Bridge Road 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 our website: [www.delawarestatefiremarshal.com](http://www.delawarestatefiremarshal.com), technical services link, plan review, applications or brochures.

**Department of Agriculture - Contact: Milton Melendez 698-4500**

The Delaware Department of Agriculture has no objections to the Autumn Glen application. The site is located in a long-range designated development area. The *Strategies for State Policies and Spending* encourages environmentally responsible development in areas within a Growth Level 3 Zone. This site is a part of an “excellent recharge” area. DNREC has mapped all ground water potential recharge areas. An “excellent recharge” rating is the highest rating and designates an area as having important groundwater recharge qualities. Maintaining pervious cover in “Excellent” and “Good” recharge areas is crucial for the overall environmental health of our state and extremely important to efforts which ensure a safe drinking water supply for future generations. Retention of pervious cover to ensure an adequate future water supply is also important for the future viability of agriculture in the First State. The loss of every acre of land designated as “excellent” and “good” recharge areas adversely impacts the future prospects for agriculture in Delaware. DDA strongly encourages the developer to initiate environmentally sensitive design protocols which reduce impervious cover.

The project location shares its eastern most boundary with the Murderkill River Estate Agricultural District. The following 50 and 300 foot restriction will apply to Autumn Glen application.

Please see Delaware Code Title 3, Chapter 9, Subchapter II, Section 910.

**§ 910. Agricultural use protections.**

(a) Normal agricultural uses and activities conducted in a lawful manner are preferred and priority uses and activities in Agricultural Preservation Districts. In order to establish and maintain a preference and priority for such normal agricultural uses and activities and avert and negate complaints arising from normal noise, dust, manure and other odors, the use of agricultural chemicals and nighttime farm operations, land use adjacent to Agricultural Preservation Districts shall be subject to the following restrictions:

- (1) For any new subdivision development located in whole or in part within 300 feet of the boundary of an Agricultural Preservation District, the owner of the development shall provide in the deed restrictions and any leases or agreements of sale for any residential lot or dwelling unit the following notice:

This property is located in the vicinity of an established Agricultural Preservation District in which normal agricultural uses and activities have been afforded the highest priority use status. It can be anticipated that such agricultural uses and activities may now or in the future involve noise, dust, manure and other odors, the use of agricultural chemicals and nighttime farm operations. The use and enjoyment of this property is expressly conditioned on acceptance of any annoyance or inconvenience which may result from such normal agricultural uses and activities."

- (2) For any new subdivision development located in whole or in part within 50 feet of the boundary of an Agricultural Preservation District, no improvement requiring an occupancy approval shall be constructed within 50 feet of the boundary of the Agricultural Preservation District.

(b) Normal agricultural uses and activities conducted in accordance with good husbandry and best management practices in Agricultural Preservation

Districts shall be deemed protected actions and not subject to any claim or complaint of nuisance, including any such claims under any existing or future county or municipal code or ordinance. In the event a formal complaint alleging nuisance related to normal agricultural uses and activities is filed against an owner of lands located in an Agricultural Preservation District, such owner, upon prevailing in any such action, shall be entitled to recover reasonably incurred costs and expenses related to the defense of any such action, including reasonable attorney's fees (68 Del. Laws, c. 118, § 2.).

The Delaware Forest Service supports the comments provided by the Department of Agriculture and has no new comments at this time. The Delaware Forest Service refers the applicant to comments made in January of 2005 for the planned subdivision of Tuscany Estates.

**Public Service Commission - Contact: Andrea Maucher 739-4247**

Any expansion of natural gas or installation of a closed propane system must fall within Pipeline Safety guidelines. Contact: Malak Michael at (302) 739-4247.

**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,



Constance C. Holland, AICP

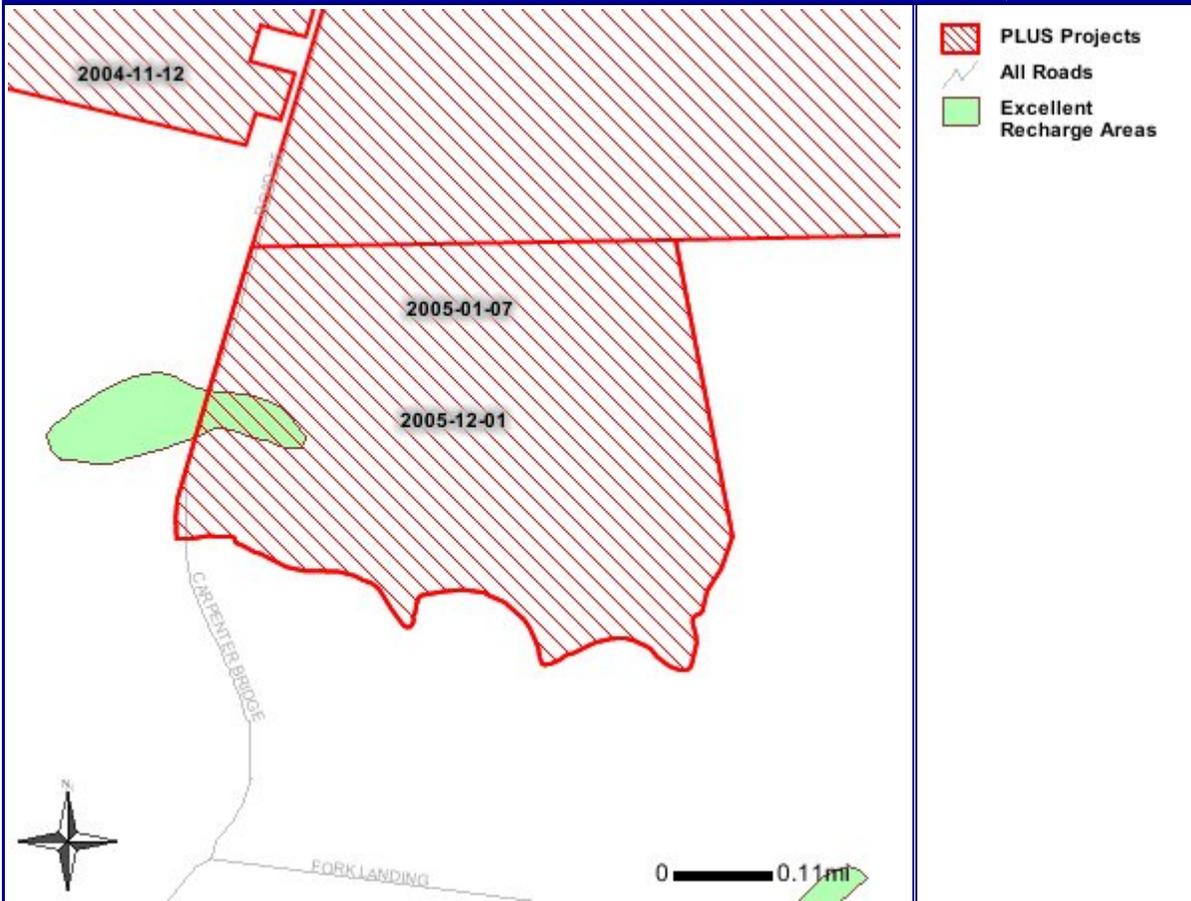
Director

CC: Kent County  
Attachment



# Autumn Glen

2005-12-01



This map was produced by the Delaware Department of Natural Resources and Environmental Control.

