



**STATE OF DELAWARE
EXECUTIVE DEPARTMENT
OFFICE OF MANAGEMENT AND BUDGET
STATE PLANNING COORDINATION**

March 20, 2006

Mr. David Bruan
Bruan Engineering
429 South Governors Avenue
Dover, De 19904

RE: PLUS review – PLUS 2006-02-11; The Pointe at Jonathan's Landing

Dear Mr. Bruan:

Thank you for meeting with State agency planners on March 1, 2006 to discuss the proposed plans for the Pointe at Jonathan's Landing project to be located along Ponderosa Drive east of Jonathan's Landing.

According to the information received, you are seeking rezoning of 18.32 +/- acres site from AC to RM for multi-family condominium use. This PLUS review is for both the rezoning application and the comprehensive plan amendment that will be required should Levy Court choose to rezone this property. It was noted at the PLUS meeting that if this project moves forward at least 25 recorded and developable lots along Ponderosa Drive and Plaindealing Road would be eliminated.

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 rezoning is located in Investment Levels 2 and 3 according to the *State Strategies for Policies and Spending*. This site is also located in the Kent County Growth Zone. Investment Levels 2 and 3 reflects areas where growth is anticipated by local, county, and State plans in the near term future, or areas within growth zones that have environmental constraints.

Street Design and Transportation

- The condominium development should include a 15-foot wide permanent easement across the frontage of the site on Ponderosa Drive and Plaindealing Road for future shared use paths, and should include sidewalks on Nicklaus Lane.

Natural and Cultural Resources

- The State appreciates the generous offer from the developer to consider donating the wetland areas for permanent protection. Please contact Phil Carpenter in DNREC Fish and Wildlife at 739-9914 or Ron Vickers in Parks and Recreation at 739-9235. It has been suggested that you try to contact Phil first.
- Wetlands provide water quality benefits, attenuate flooding and provide important habitat for plants and wildlife. A 100-foot vegetated buffer should be implemented from the edge of the wetland complex. The developer should note that both DNREC and Army Corps of Engineers discourage allowing lot lines to contain wetlands to minimize potential cumulative impacts resulting from unauthorized and/or illegal activities and disturbances that can be caused by homeowners.
- The DNREC Water Supply Section has that it falls partially within an excellent ground-water recharge area (see attached map). The DNREC Water Supply Section recommends that the portion of the new development within the excellent

ground-water recharge area not exceed 20% impervious cover. 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. However, the development should not exceed 50% regardless. One would expect the impervious cover on the site to increase from the current 0% to something significantly higher once the proposed development is built out. Ideally, relocating any open space areas to the part of the parcel within the excellent ground-water recharge area would decrease the total impervious area. Augmenting the groundwater recharge with clean rooftop run-off systems are another alternative to maintaining the quality and quantity of water recharging the aquifer.

The following are a complete list of comments received by State agencies. Please note that most comments will relate to any future development of the property:

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

This PLUS review includes both a comprehensive plan amendment and a rezoning request. The rezoning of this property is at the discretion of Kent County Levy Court. Should the Levy Court ultimately choose to grant this rezoning request, the comprehensive plan amendment must be adopted prior to or concurrently with the zoning change. This rezoning is located in Investment Levels 2 and 3 according to the *State Strategies for Policies and Spending*. This site is also located in the Kent County Growth Zone. Investment Levels 2 and 3 reflects areas where growth is anticipated by local, county, and State plans in the near term future, or areas within growth zones that have environmental constraints. In this case, the site is located in close proximity to the St. Jones River. Our office encourages the applicant to design the project to minimize the environmental impact on the river. State investments will support growth in these areas. Our office has no objections to the proposed rezoning of this parcel in accordance with the relevant County codes and ordinances.

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

There is nothing known within this parcel. There are two historic agricultural complexes (K-3280 and K-3281) on Plaindealing Rd just southwest of the parcel. The area has already been substantially disturbed by golf course construction, destroying two known prehistoric-period archaeological sites elsewhere in the development.

The DHCA office requests that the development be landscaped on the southwest side to block the view of this area from the nearby historic properties.

Department of Transportation – Contact: Bill Brockenbrough 760-2109

- 1) The condominium development should include a 15-foot wide permanent easement across the frontage of the site on Ponderosa Drive and Plaindealing Road for future shared use paths, and should include sidewalks on Nicklaus Lane.
- 2) DelDOT does not recommend that the County require a traffic impact study for this rezoning. However, when a plan for the development of the property is presented, DelDOT may recommend that the County require the completion of a TIS prior to plan approval.
- 3) When a plan for the condominium development is proposed, the developer's site engineer should contact Mr. Brad Herb, the DelDOT project manager for Kent County, regarding our specific requirements for access. He may be reached at (302) 266-9600.

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

General Comment

DNREC has no objection to the proposed rezoning. Our comments are offered as if the property were to be developed.

Wetlands

The State appreciates the generous offer from the developer to consider donating the wetland areas for permanent protection. Please contact Phil Carpenter in DNREC Fish and Wildlife at 739-9914 or Ron Vickers in Parks and Recreation at 739-9235. It has been suggested that you try to contact Phil first.

Statewide Wetland Mapping Project (SWMP) maps indicate the presence of palustrine wetlands on this parcel.

These wetlands provide water quality benefits, attenuate flooding and provide important habitat for plants and wildlife. A 100-foot vegetated buffer should be implemented from the edge of the wetland complex. The developer should note that both DNREC and Army Corps of Engineers discourage allowing lot lines to contain wetlands to minimize potential cumulative impacts resulting from unauthorized and/or illegal activities and disturbances that can be caused by homeowners.

Because there is strong evidence that federally regulated wetlands exist on site, a field wetland 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. A State of Delaware Subaqueous Lands Jurisdictional Determination should also be conducted. Contact the DNREC Wetlands and Subaqueous Lands Section at (302) 739-9943.

If impacts are anticipated, please note that 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 Wetlands and Subaqueous Lands 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.

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.

Water Resource Protection Areas

The DNREC Water Supply Section has that it falls partially within an excellent ground-water recharge area (see attached map). Excellent Ground-Water Recharge Areas are those areas mapped by the Delaware Geological Survey where the first 20 feet of subsurface soils and geologic materials are exceptionally sandy. As such, these soils are able to transmit water very quickly from the land surface to the water table. Consequently, ground water in these areas may very readily be adversely affected by land use activities or impervious cover.

The DNREC Water Supply Section recommends that the portion of the new development within the excellent ground-water recharge area not exceed 20% impervious cover. 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. However, the development should not exceed 50% regardless. A water

balance calculation will be necessary to determine the quantity of clean water to be recharged via a recharge basin. The purpose of an impervious cover threshold is to minimize loss of recharge (and associated increases in storm water) and protect the quality and quantity of ground water and surface water supplies.

One would expect the impervious cover on the site to increase from the current 0% to something significantly higher once the proposed development is built out. Ideally, relocating any open space areas to the part of the parcel within the excellent ground-water recharge area would decrease the total impervious area. Augmenting the groundwater recharge with clean rooftop run-off systems are another alternative to maintaining the quality and quantity of water recharging the aquifer.

In addition, because the excellent ground water recharge area can so quickly affect the underlying aquifer if contaminants are spilled or discharged across the area, the storage of hazardous substances or wastes should not be allowed within the area unless specific approval is obtained from the relevant state, federal, or local program.

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.

For more information contact John Barndt at (302) 739-9945.

Water Supply

The project information sheets state that water will be provided to the project by a Central water system via an extension to an existing distribution system. DNREC and PSC records indicate that the project, except NM 105.00-01-04.00, is located within the public water service area granted to Tidewater Utilities under Certificate of Public Convenience and Necessity 96-CPCN-02. Any public water utility providing water to the site must obtain a certificate of public convenience and necessity (CPCN) from the Public Service Commission. Information on CPCNs and the application process can be obtained by contacting the Public Service Commission at 302-739-4247. 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.

Sediment and Erosion Control/Stormwater Management

A detailed Sediment and Stormwater Management Plan must be approved by the Kent Conservation District prior to any land disturbing activity (i.e. clearing, grading, filling, etc.) over 5000 square feet taking place on site.

Rare Species

A review of our database indicates that there are currently no records of state-rare or federally listed plants, animals or natural communities at this project site.

This project is just west of the St. Jones DNERR (Delaware National Estuarine Research Reserve) site and the Ted Harvey Fish and Wildlife Area. Questions regarding the Ted

Harvey Wildlife Area should be directed to Wayne Lehman, Regional Biologist, at 302-653-2079 and questions regarding the St. Jones DNERR site should be directed to Mark DelVecchio, Manager, 302-739-3436

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):

❖ *This Agency has no objection to the re-zoning request. The information provided below shall be considered when plans are being designed.*

a. **Fire Protection Water Requirements:**

- Water distribution system capable of delivering at least 1000 gpm for 1-hour duration, at 20-psi residual pressure is required. Fire hydrants with 800 feet spacing on centers.
- Where a water distribution system is proposed for (multi-family) sites, the infrastructure for fire protection water shall be provided, including the size of water mains for fire hydrants and sprinkler systems.

b. **Fire Protection Features:**

- All structures over 10,000 Sq. Ft. aggregate will require automatic sprinkler protection installed.
- Buildings greater than 10,000 sq.ft., 3-stories of more or over 35 feet, or classified as High Hazard, are required to meet fire lane marking requirements.
- Show Fire Department Connection location (Must be within 300 feet of fire hydrant), and detail as shown in the DSFPR.
- Show Fire Lanes and Sign Detail as shown in DSFPR

c. **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 Nicklaus Lane 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.

d. **Gas Piping and System Information**

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

e. 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”
- Proposed Use
- Alpha or Numerical Labels for each building/unit for sites with multiple buildings/units
- Square footage of each structure (Total of all Floors)
- National Fire Protection Association (NFPA) Construction Type
- Maximum Height of Buildings (including number of stories)
- Note indicating if building is to be sprinklered
- Name of Water Provider
- Letter from Water Provider approving the system layout
- Provide Lock Box Note (as detailed in DSFPR) if Building is to be sprinklered
- 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, 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 Pointe at Jonathan's Landing application. The *Strategies for State Policies and Spending* encourages environmentally responsible development in Investment Level 2 areas. This site is part of a “good recharge” area. DNREC has mapped all ground water potential recharge areas. A “good 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.

Right Tree for the Right Place

The Delaware Department of Agriculture Forest Service encourages the developer to use the “Right Tree for the Right Place” for any design considerations. This concept allows for the proper placement of trees to increase property values in upwards of 25% of appraised value and will reduce heating and cooling costs on average by 20 to 35 dollars per month. In addition, a landscape design that encompasses this approach will avoid future maintenance cost to the property owner and ensure a lasting forest resource.

Native Landscapes

The Department of Agriculture Forest Service encourages the developer to use native trees and shrubs to buffer the property from the adjacent land-use activities near this site. A properly designed forested buffer can create wildlife habitat corridors and improve air quality to the area by removing six to eight tons of carbon dioxide annually and clean our rivers and creeks of storm-water run-off pollutants. To learn more about acceptable native trees and how to avoid plants considered invasive to our local landscapes, please contact the Delaware Department of Agriculture Plant Industry Section at (302) 698-4500.

Public Service Commission - Contact: Andrea Maucher 739-4247

Tidewater will need to apply to the Commission for those portions of this project that are not in their certificated area.

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.

Delaware State Housing Authority – Contact Karen Horton 739-4263

This proposal is to rezone 18 acres from AC to RM to allow for future condominiums between Ponderosa Drive and Plaindealing Road near Magnolia. According to the State Strategies Map, the site is located in an Investment Level 2 area. While the prices of the units are not known at this time, we recommend that some of the units be set-aside for first-time homebuyers to ensure that working households have access to affordable

housing. For informational purposes, the most recent real estate data collected by DSHA indicates that the median home price in the Central Kent County area is \$237,000. However, families earning 100% of Kent County's median income only qualify for mortgages of \$188,000.

Department of Education – Contact: John Marinucci 739-4658

The Department of Education reserves comment until such time as a site plan is available for review.

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: Kent County