



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

October 26, 2006

Bret Martine
Studio JAED
20 E. Division Street
Dover, DE 19901

RE: PLUS review – PLUS 2006-09-14; Milford School District – Hastings Farm site

Dear Mr. Martine:

Thank you for meeting with State agency planners on October 3, 2006 to discuss the feasibility of a school site on a 30 acre portion of a 303 acre farm located along Tub Mill Pond Road near Route 1 in Kent County north of Milford.

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.

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

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

This proposed school site is located Investment Level 4 according to the *Strategies for State Policies and Spending*. The site is located inside of the Kent County Growth Zone. 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 generally not

supported in Investment Level 4. These areas are typically comprised of prime agricultural lands and environmentally sensitive wetlands and wildlife habitats, which should be, and in many cases have been preserved.

This is an unusual parcel as it relates to the *State Strategies*. It is rare that parcels inside of the Kent County growth zone are designated as Level 4. The reason for the Level 4 designation in this case is most likely due to the remoteness of this parcel from current development activity, and the environmental features on and near the parcel associated with the Murderkill River. As development pressures increase and conditions change we expect to reevaluate this area as part of the upcoming Kent County Comprehensive Plan (due for review in 2007), and subsequently through the 2009 update of the *State Strategies*.

At the PLUS meeting it was determined that the parcel information on the application was incomplete. The proposed school site was identified at the meeting to be on a portion of parcel MD00.151.00-01-08.00, located on the southwest corner of what is known as "The Hastings Farm" along Tub Mill Pond Road. This portion of the site would allow school construction to occur independently of the development project, and is free of the environmental constraints found on the northern portion of the property. Please note that many of the comments from the other agencies found below are related to the parcel indicated in your application (MD00-141.00-01-24.00). That parcel contains numerous environmental features associated with the Murderkill River.

This site may be viable for school construction in the future, but only in conjunction with the future development of this area. Road improvements and utility extensions necessary to support school construction would most likely be costly, unless they are combined with improvements needed for the development of the subdivisions in the area. As you will see from DeDOT's comments below, access to State Route 1 in the area is of particular concern. Currently the area is very rural, has no public utilities, and an inadequate road network that is unsuitable for a new school. If the school district wants to continue to consider this site for new school construction in the future, it is recommended that the District and the owner work closely with Kent County and the site developer. **The State does not support this site for new school construction at this time.**

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

The Division of Historical and Cultural Affairs is not in favor of using this parcel in Level 4 as a school site. While nothing is known in the area proposed, Beers Atlas of 1868 shows the Dr. N. I. Cooler House and a school house on Tub Mill Pond Rd in this general area. The school is noted as the Postles School on the 1918 USGS 15' Cedar

Creek topographic map. There is only a low potential for prehistoric sites here, but there are probably archaeological remains associated with the Cooler House and/or the school. There are a number of historic properties nearby.

Small, rural, family cemeteries often are found in relation to historic farm complexes, such as the Cooler House, usually a good distance behind or to the side of the house. The district is aware of Delaware's Unmarked Human Remains Act of 1987, which governs the discovery and disposition of such remains. The unexpected discovery of unmarked human remains during construction can result in significant delays while the process is carried out, and the district may want to hire an archaeological consultant to check for the possibility of a cemetery here. The DHCA would have to have a copy of any archaeological report done for this purpose. They will be happy to discuss these issues with the developer; the contact person for this program is Faye Stocum, 302-736-7400.

If the district does select this site, we request that there be sufficient landscaping to block any adverse visual and noise effects on the adjacent properties. The DHCA would like the opportunity to examine the area for any archaeological sites, to learn something about their location, nature, and extent prior to any ground-disturbing activities.

Department of Transportation – Contact: Bill Brockenbrough 760-2109

- 1) Presently a traffic impact study is under review for the Hastings Farm, but the study and DelDOT's response to it is complicated by the larger issue of access in the Route 1 corridor. The study as currently submitted, assumes a signal at the intersection of Route 1 and Tub Mill Pond Road. DelDOT has already told the developer and their engineer that a signal will not be provided there and that they should be planning for grade-separated access, meaning the construction of a bridge and ramps, if they wish to develop their site approximately as proposed. The study also assumes a realignment of Frederica Road south to intersect Tub Mill Pond Road rather than Route 1. While DelDOT can see some benefit to such a realignment in concept, the specific proposal they have seen intersected Tub Mill Pond Road too close to Route 1.
- 2) Apart from the above concerns mentioned in Comment 1, the US Route 113 North South Study is evaluating alternative alignments for a new limited access highway from north of Milford to the Maryland line. The Milford Orange alignment would eliminate the Hastings Farm's frontage on Route 1 and most of its frontage on Frederica Road. Access to Frederica Road would still be possible but only in the immediate vicinity of the Glenhurst development. More information on the US Route 113 North South Study is

available at www.deldot.gov.

- 3) Route 1, Frederica Road and Tub Mill Pond Road are respectively classified as a principal arterial road, a minor arterial road and a local road. DelDOT's policy is to require dedication of sufficient land to provide minimum right-of-way widths of 50, 40 and 30 feet from the centerline on these classes of road, respectively. Therefore we would require right-of-way dedication along the frontages to provide any additional width needed from this project.
- 4) DelDOT would also require a 15-foot wide permanent easement across the frontages of the Hastings Farm for a shared use path.
- 5) If this site is selected, the District's site engineer should contact the project manager for Kent County, Mr. Brad Herb, regarding specific requirements for access. Mr. Herb may be reached at (302) 266-9600.

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

Investment Level 4 Policy Statement

This project is proposed for an Investment 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 Investment 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 Investment 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. DNREC encourages the use of transfer of development rights where this growth management tool is available.

This particular development certainly compromises the integrity of the State Strategies and the preservation goals inherent in many of DNREC's programs. Of particular concern are the potential impacts to all three layers of green infrastructure (natural resource and recreation priorities, forest, and cropland), increase in impervious cover, and the project's location near two Groundwater Management Zones. 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 our State growth strategies.

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.

Recommendation for Feasibility

Based on the Kent County soil survey, well-drained (Sassafras) and poorly-drained (Tidal Marsh and Swamp) soils were mapped on subject parcel. Statewide Wetland Mapping

(SWMP) maps indicate that tidally-influenced wetlands (Estuarine emergent) comprise a significant part of the far western portion of this parcel, and bound most of the parcel's northern boundary. Tidally-influenced wetlands are subject to more stringent State regulatory requirements than accorded their nontidal counterparts.

Because this parcel borders a relatively large area of sensitive wetlands and/or waters of the greater Murderkill watershed, development is strongly discouraged.

Water Resource Protection Areas

The DNREC Water Supply Section has determined that the site does not fall within any delineated wellhead protection areas or areas of excellent ground-water recharge. The PLUS project does border on two active Ground-water Management Zones (GMZ; see following map).

For more information:

Source Water Protection Guidance Manual for the Local Governments of Delaware
http://www.wr.udel.edu/publications/SWAPP/swapp_manual_final/swapp_guidance_manual_final.pdf

Map of Milford School District (PLUS 2006-09-14) The proposed site is outlined in light blue. The Ground-water Management Zones are shown in orange hatches.



Water Supply

The project information sheets state that water will be provided to the project by central private water system. 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 04-CPCN-17. 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

It may be possible to achieve a stormwater quantity management waiver for this project if it can be demonstrated that a non-erosive conveyance to tidal water exists. If the planned stormwater management facilities for the school site will be shared with the adjoining proposed private development, a shared maintenance agreement must be developed for stormwater management facilities. Maintenance of stormwater facilities serving a state project may not be the sole responsibility of a private entity.

Drainage

The Drainage Program requests the engineer take precautions 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 Program requests the engineer check existing ditches and pipes for function and blockages prior to the construction. Notify downstream landowners of the change in volume of water released on them.

Rare Species

DNREC has records of the following State-rare species associated with the forest and wetland areas of this parcel:

Strix varia (Barred Owl), *Taxodium distichum* (bald cypress community), *Lycaena hyllus* (bronze copper), and *Carex lacustris* (lake-bank sedge).

The forested riparian area also contains freshwater tidal scrub-shrub wetlands. Tidal shrub wetlands are transitional between emergent wetlands and forested wetlands and possess many important wetland values and functions, as well as providing important habitat for an array of wildlife species. Specific hydrologic, edaphic, and topographical conditions must be in place in order for tidal shrub wetlands to develop. If these conditions are disturbed or changed in anyway from construction activities, the potential exists for community structure and plant species composition to shift in an unfavorable direction. Disturbance such as soil runoff from construction activities would be detrimental to this wetland type. Therefore, a buffer of at least 300 feet is recommended, which would prevent sedimentation, as well as maintain the overall ecological integrity of the wetland.

Recommendation:

- 1. DNREC is especially concerned about cumulative impacts in this area as there are numerous proposed or on-going developments that have resulted or will result in forest and wetland loss. They strongly encourage the applicant to limit construction to the non-forested portion of this parcel. In addition to minimizing impacts to wildlife species (some of which are rare) that depend on these habitat types, forests and wetland areas are excellent 'outdoor classrooms' for school curriculum.**

State Resource Areas/Natural Areas

All of the forested/riparian lands on the site are a part of the Murderkill River Natural Area and State Resource Area. The Burton-Derrickson Tract of the Murderkill River Nature Preserve is to the north and immediately adjacent to the property. The Office of Nature Preserves strongly urges the applicant to maintain the integrity of the Nature Preserve to the north and not disturb any of the forested/riparian lands on the site, thereby providing an appropriate buffer to the Murderkill River and subsequently to the Nature Preserve to the north.

State Fire Marshal's Office – Contact: Duane Fox 856-5298

This Agency has no objection to the feasibility request. The information provided below shall be considered when plans are being designed.

This document is informational only, and does 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 feasibility request. The information provided below shall be considered when plans are being designed.

- a. **Fire Protection Water Requirements:**
 - Since the structures of the complex are proposed to be served by individual on-site wells (No Central or Public Water System within 1000' of property), set back and separation requirements will apply.
 - **A fire pump and water supply tank shall be required on this site for the sprinkler system.**

- b. **Fire Protection Features:**
 - For commercial buildings greater than 5000 sq. ft., a fire alarm signaling system which is monitored off-site is required
 - For commercial buildings greater than 10,000 sq.ft. Class B (2-hour rated) fire barriers are required to subdivide buildings into areas of 10,000 or less
 - **Buildings that cannot be separated shall be provided with an automatic sprinkler system.**
 - Buildings greater than 10,000 sq.ft., 3-stories or more, over 35 feet, or classified as High Hazard, are required to meet fire lane marking requirements

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 Tub Mill Pond 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.

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)
- 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: Scott Blaier 698-4500

The proposed school site is currently in an area designated as Investment Level 4 under the *Strategies for State Policies and Spending*. The *Strategies* do not support this type of isolated development in this area. The intent of this plan is to preserve the agricultural lands, forestlands, recreational uses, and open spaces that are preferred uses in Level 4 areas. The Department of Agriculture opposes development which conflicts with the preferred land uses, making it more difficult for agriculture and forestry to succeed, and increases the cost to the public for services and facilities.

More importantly, the Department of Agriculture opposes this project because it negatively impacts those land uses that are the backbone of Delaware's resource industries - agriculture, forestry, horticulture - and the related industries they support. Often new residents of developments like this one, with little understanding or appreciation for modern agriculture and forestry, find their own lifestyles in direct conflict with the demands of these industries. Often these conflicts result in compromised health and safety; one example being decreased highway safety with farm equipment and cars competing on rural roads. The crucial economic, environmental and open space benefits of agriculture and forestry are compromised by such development. We oppose the creation of isolated development areas that are inefficient in terms of the full range of public facilities and services funded with public dollars. Public investments in areas such as this are best directed to agricultural and forestry preservation.

The Delaware Department of Agriculture supports growth which expands and builds on existing urban areas and growth zones in approved State, county and local plans. Where additional land preservation can occur through the use of transfer of development rights, and other land use measures, we will support these efforts and work with developers to implement these measures.

Although the Department is opposed to the School District developing this land for a school at this time, it also recognizes that the land is currently located within Kent County's growth area, and may be assigned a more favorable Investment Level when the *Strategies for State Policies and Spending* are revised in the future. Therefore, the Department does not object to the school acquiring the land now as part of its long-term plans, as long as the land's short-term use is consistent with the current *Strategies for State Policies and Spending*.

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.

Department of Education – Contact: John Marinucci 739-4658

1. The DOE supports locating school facilities on parcels with existing or reasonable access to civil infrastructure to include but not limited to:
 - Roads, pedestrian walkways and shared use paths
 - Waste water/sewerage and domestic water
 - Electric, and telecommunications
 - Storm water drainage and conveyance

The PLUS application indicated that the potential school site would be served by private central water and central wastewater utilities. In the absence of specified or identified utilities provider, the DOE expresses concern that the school district would become responsible for onsite well and wastewater facilities or be required to bear the cost to connect to public systems which may include utility rights of way acquisition as well as the cost to run the utility infrastructure..

2. The DOE supports the State Strategies for Policies and Spending. When considering school facility locations, the DOE considers proximity and access to basic support services as a high priority.

The school location under consideration appears to be in investment level 4. As a result basic support service levels will reflect a commensurate level of service associated with investment level 4.

3. The DOE supports locating school facilities strategically within the geographic region and/or community the facility is intended to serve in order to:
 - Encourage non-student pedestrian access to the school facility in an effort to reduce vehicle miles traveled to the extent practical
 - Encourage student pedestrian access to the school facility, in order to contain the school's life-cycle operating costs associated with student transportation, as practicable
 - Create education campuses by co-locating educational facilities and services in an effort to reduce life-cycle costs as a result of the co-located schools sharing common spaces, facilities and services.

The school location under consideration appears to be strategically located geographically within the community it is intended to serve.

4. Because this site is in investment level 4, and as a result of the aforementioned, the DOE *does not* recommend the continued consideration of this site for development as a school site in the immediate future. However, it is understood that this site may become viable as critical infrastructure is put in place as the sub-division that this school site is associated with is developed. As such, the DOE supports the potential donation of land within associated sub-division(s) for a future school site with school construction contingent upon the investment level and infrastructure availability.

The comments in this letter are offered as advisory comments to help the school district determine the feasibility of this property for a school site. If the district chooses to move forward with this site, the Budget Office, the Department of Education, and the State Planning Office would need to approve this location. In addition, the site plan for the proposed school would need to be reviewed through the Preliminary Land Use Service (PLUS).

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: City of Milford
Kent County