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

February 25, 2008

Thomas Bartosiewicz
Meridian Engineers
26412 Broadkill Road
Milton, DE 19968

RE: PLUS review – 2008-01-07; Ingram Village

Dear Mr. Bartosiewicz:

Thank you for meeting with State agency planners on January 30, 2008 to discuss the proposed plans for the Ingram Village project to be located on Sussex County Road 213 near Ellendale.

According to the information received, you are seeking site plan approval for 399 residential units on 102 acres. It is also noted that you propose to annex into the Town of Ellendale. The annexation process is separate from the PLUS process and you should contact the Town regarding possible annexation.

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 until annexed, Sussex County is the governing authority over this land. You will need to comply with any and all regulations/restrictions set forth by the County. If this property is annexed, you will then fall under the regulations/restrictions of the Town of Ellendale.

## 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 office recognizes that the proposed project is located within an Investment Level One (1) as defined by the Delaware Strategies for State Policy and Spending. In addition a portion of the parcel is located within the Town boundaries of the Town of Ellendale and the remaining portion of the parcel is in a future annexation area for the Town of Ellendale. This office encourages the developer to explore the option of annexing the parcel into the Town of Ellendale to avoid the conflict that may arise when the development is under multiple zoning regulations for new development. Annexation would eliminate this concern while allowing the project to obtain sewer through the East New Market Sanitary Sewer District.

### Street Design and Transportation

- DelDOT is pleased to see the proposed connection to Washington Avenue. The developer should anticipate a recommendation that the Town have the developer build the connection to downtown Ellendale as part of the first phase of the development. Because the streets in both existing Ellendale and the proposed development are straight and at least initially there will be a significant length of street with no development along it, DelDOT would recommend that the plan include traffic calming to keep speeds acceptably low.

### Natural and Cultural Resources

- In recognition the need to protect water quality, the Watershed Assessment Section recommends that the applicant maintain/establish a minimum 100-foot upland buffer (planted in native vegetation) from the landward edge of all wetlands and water bodies (including all ditches).

- Limit impervious cover in the excellent ground water recharge potential area to less than 20%

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

**Office of State Planning Coordination – Contact: Bryan Hall 739-3090**

This office recognizes that the proposed project is located within an Investment Level One (1) as defined by the Delaware Strategies for State Policy and Spending. In addition a portion of the parcel is located within the Town boundaries of the Town of Ellendale and the remaining portion of the parcel is in a future annexation area for the Town of Ellendale. This office encourages the developer to explore the option of annexing the parcel into the Town of Ellendale to avoid the conflict that may arise when the development is under multiple zoning regulations for new development.

Annexation would eliminate this concern while allowing the project to obtain sewer through the East New Market Sanitary Sewer District. Finally, this office encourages the developer to work with the community, County and State when developing this site; although it is a level one, the placement of a large number of low cost housing units in an area with minimal services may result in unexpected costs and challenges for the developer and the support agencies.

**Division of Historical and Cultural Affairs – Contact: Terrance Burns 739-5685**

At this time, there is no indication of a known historic and cultural resource, archaeological site, or national register listed property on this property.

According to the Beers Atlas of 1868, this project area appears to be within the area or vicinity of Cedar Creek Hundred, and there is a variety of historical attributes or aspects within the area or vicinity of Cedar Creek Hundred.

Since this project area is in a location where there are some historical attributes or aspects, it is also an indication that it is a possibility that there could probably be potential historic and cultural resources or potential archaeological resources on or within this project area. The potential historic and cultural resources or potential archaeological resources could a cemetery, burial ground, unmarked human remains, or some other type of hidden contents or remains, which has historical attributes or aspects.

Prior to any type of ground-disturbing activities, demolition, or construction, the developer show review Chapters 53 and 54, in Title 7, of the Delaware State Code. Chapter 53 pertains to the discovery and disposition of “Conservation of Archaeological Resources In or On State Lands”. Chapter 54 pertains to the “Delaware Unmarked Human Remains Act of 1987”, such as the discovery and disposition of Unmarked

Human Burials or Skeletal Remains". The unexpected discovery of unmarked human remains during construction can result in significant delays while the process is carried out.

Also prior to any type of ground-disturbing activities, demolition, or construction, the developer may want to hire an archaeological consultant to check and examine the project area thoroughly. The purpose for this is to make sure that there is no indication or evidence of a potential historic and cultural resource or potential archaeological resource such as a cemetery, burial ground, unmarked human remains, or some other type of hidden contents or remains, which has historical attributes or aspects.

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

1) A traffic impact study is in progress for this development. DelDOT anticipates having detailed comments regarding the site access and off-site improvements when they have reviewed the completed study.

2) DelDOT is pleased to see the proposed connection to Washington Avenue. The developer should anticipate a recommendation that the Town have the developer build the connection to downtown Ellendale as part of the first phase of the development. Because the streets in both existing Ellendale and the proposed development are straight and at least initially there will be a significant length of street with no development along it, DelDOT would recommend that the plan include traffic calming to keep speeds acceptably low.

3) DelDOT is pleased to see the placement of open space as a buffer between the proposed homes and the Norfolk Southern railroad tracks. They recommend that a berm and a fence, or perhaps a noise wall, be provided within that space to shield the homes from train noise and to keep children and pets off of the tracks. DelDOT especially recommends that the proposed pond at the south end of the track frontage be located elsewhere because open water carries sound rather than absorbing it.

4) The developer's site engineer should maintain contact with the Subdivision Manager for western Sussex County, Mr. Derek Sapp, to determine specific requirements for access and off-site improvements. Mr. Sapp may be reached at (302) 760-4803.

**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.

**Soils**

According to the Sussex County soil survey, Rosedale, Rockawalkin, and Mullica were mapped on subject parcel. Rosedale is a well-drained upland soil that, generally, has few limitations for development. Rockawalkin is a moderately well-drained soil of low-lying uplands that has moderate limitations for development. Mullica is a very poorly-drained wetland associated (hydric) soil that has severe limitations for development.

**Wetlands**

Based on the Statewide Wetlands Mapping Project (SWMP) mapping, palustrine wetlands were mapped on the far southern portion of subject parcel. The mapped wetlands closely mirror the mapped occurrence of the hydric (Mullica) soils.

Impacts to Palustrine wetlands are regulated by the U.S. Army Corps of Engineers (USACE, or "the Corps") through Section 404 of the Clean Water Act. In addition,

individual 404 permits and certain Nationwide Permits from the Corps 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 Management Program (DCMP) Section. Each of these certifications represents a separate permitting process. Please be advised that Nationwide Permits have been suspended in Delaware and are pending further coordination with the Corps. Therefore, contrary to past practices, Coastal Zone Management approval can no longer be assumed. Individual certifications must be granted from the DCMP office for each project intending to utilize a Nationwide Permit. For more information on the Federal Consistency process, please contact the DCMP office at 302.739.9283. 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.

Based on a review of existing buffer research by Castelle et al. (1994), an adequately-sized buffer that effectively protects wetlands and streams, in most circumstances, is about 100 feet in width. In recognition of this research and the need to protect water quality, the Watershed Assessment Section recommends that the applicant maintain/establish a minimum 100-foot upland buffer (planted in native vegetation) from the landward edge of all wetlands and water bodies (including all ditches).

**Impervious Cover**

The applicant did not indicate the amount of constructed surface imperviousness projected for this project in the PLUS application form. This figure is an important variable to gauge environmental impacts from water and pollutant runoff. The applicant should be made aware that all forms of constructed surface imperviousness (i.e., rooftops, sidewalks, roads and stormwater management structures) should be included in the impervious surface calculation; otherwise, an inaccurate assessment of this project's true environmental impacts will result.

Since residential development significantly increases the amount of impervious cover, leading to large volumes of contaminant-laden runoff which ultimately drain into streams or waterways, the applicant is strongly urged to pursue both natural and constructed Best Management Practices (BMPs) to reduce such impacts. Reducing the amount of impervious surfaces by retaining/planting more trees and/or the use of pervious paving surfaces ("pavers") in lieu of asphalt or concrete are examples of ways to reduce such impacts.

**TMDLs**

Total Maximum Daily Loads (TMDLs) for nitrogen and phosphorus have been promulgated through regulation for the Cedar Creek watershed. 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. Although TMDLs are required by federal law, states are charged with developing and implementing standards to support these desired use goals. In the Cedar Creek watershed, "target-rate-nutrient reductions" of 45 percent will be required for nitrogen and phosphorus. Additionally, "target-rate-reductions" of 96 percent will be required for bacteria.

**TMDL Compliance through the PCS**

As indicated above, Total Maximum Daily Loads (TMDLs) for nitrogen and phosphorus have been proposed for the Cedar Creek watershed. The TMDL calls for a 45 percent reduction in nitrogen and phosphorus from baseline conditions. The TMDL also calls for a 96 percent reduction in bacteria from baseline conditions. A Pollution Control Strategy (PCS) will be used as a regulatory framework to ensure that these nutrient reduction targets are attained. The Department has developed an assessment tool to evaluate how your proposed development may reduce nutrients to meet the TMDL requirements. Additional nutrient reductions may be possible through the implementation of BMPs such as increasing the amount of passive, wooded open space (planted with native woody and herbaceous vegetation), increased buffer widths from wetlands and water bodies, use of pervious paving materials to reduce surface imperviousness, and the deployment of green-technology stormwater management treatment technologies. Contact Lyle Jones at 302-739-9939 for more information on the assessment tool.

**Water Supply**

The information provided indicates that the Town of Ellendale will provide well water to the proposed projects through a public water system. Our files reflect that the Town of Ellendale does not currently hold a Certificate of Public Convenience and Necessity (CPCN) to provide public water in these areas. They will need to file an application for a CPCN with the Public Service Commission, if they have not done so already. Information on CPCN requirements and applications 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.

Potential Contamination Sources exist in the area, and any well permit applications will undergo a detailed review that may increase turnaround time and may require site specific conditions/recommendations. In this case, there is a Large On-Site Septic System associated with the Kent-Sussex De-Tox Center located within 1000 feet of the proposed project, towards the southern part of the property.

Should you have any questions concerning these comments, please contact Rick Rios at 302-739-9944.

**Water Resource Protection Areas**

The Water Supply Section, Ground Water Protection Branch, has determined that the southwest corner of the proposed development falls within an excellent ground-water recharge area. The review did not find any wellhead protection areas (see following map and 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. These soils are able to transmit water very quickly from the land surface to the water table. This map category (excellent) is an indicator of how fast contaminants will move and how much water may become contaminated (Andres, 2004). Land use activities or impervious cover on areas of excellent ground-water recharge potential may adversely affect ground water in these areas.

DNREC Water Supply Section recommends that that portion of the new development within the excellent ground-water recharge area not exceed 20% impervious cover (Kauffman, 2005). 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.

Ground Water Protection Branch recommends:

- Limit impervious cover in the excellent ground water recharge potential area to less than 20%

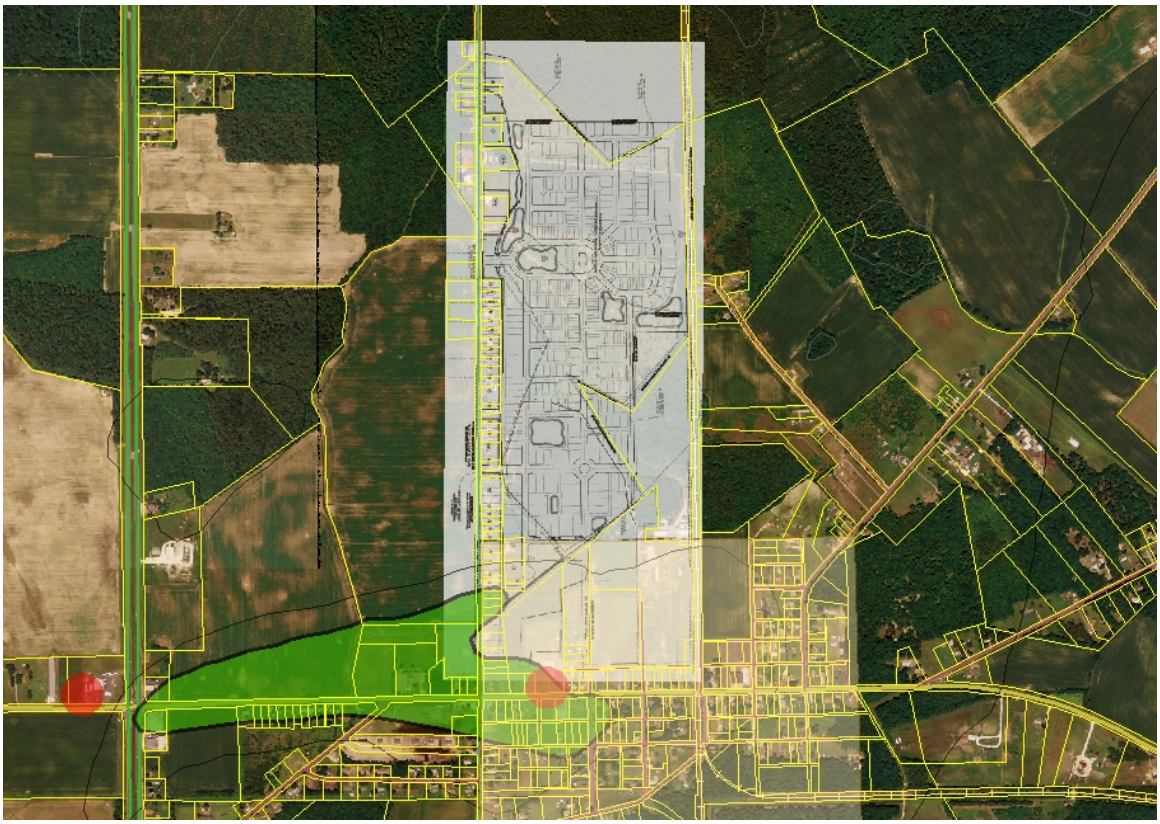
In addition, because the excellent ground water recharge area can so quickly affect the underlying aquifer if contaminants are spilled or discharged across the area, the storage of hazardous substances or wastes should not be allowed within the area unless specific approval is obtained from the relevant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

References

Andres, A. Scott, 2004, Ground-Water Recharge Potential Mapping in Kent and Sussex Counties, Delaware: Delaware Geological Survey Report of Investigations No. 66, p. 14.
http://www.udel.edu/dgs/Publications/pubform.html#nvestigations

Kauffman, G.J., Wozniak, S.L., and Vonck, K.J., 2005, Delaware Ground-Water Recharge Design Manual: Newark, DE, Water Resources Agency, University of Delaware, p. 31.
http://www.wr.udel.edu/swaphome/Publications/SWPguidancemanual.html

**Ingram Village (PLUS 2008-01-07)** the excellent ground-water recharge potential area is shown in green. The parcel is outlined in blue.



**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. Contact the reviewing agency 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. The plan review and approval as well as construction inspection will be coordinated through the Sussex Conservation District. Contact the Sussex Conservation District at (302) 856-7219 for details regarding submittal requirements and fees.

**Drainage**

- This project is located within the School House Tax Ditch, which has established tax ditch rights-of-way. The submitted preliminary subdivision plan depicts the relocation of the School House Tax Ditch Main. A Tax Ditch right-of-way review was conducted for this project and the results were submitted to Kelly Pierson, and are included at the end of these comments. Any change to the location of the tax ditch or the existing tax ditch rights-of-way will require a change to the School House Tax Ditch court order. Please continue to work with Brooks Cahall of the Drainage Program to resolve the issues with the tax ditch.

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

- The Drainage Program encourages the elevation of rear yards to direct water towards the streets and alleyways where storm drains and swales are accessible for maintenance. However, the Drainage Program recognizes the need for catch basins in yards in certain cases. Therefore, catch basins and swales placed in rear and side yards will need to be clear of obstructions and be accessible for maintenance. Decks, sheds, fences, pools, and kennels can hinder drainage patterns as well as future maintenance to the storm drain, catch basin, or swale. Deed restrictions, along with drainage easements recorded on deeds, should ensure adequate future maintenance access.

- An increase of the side yard setback to 15 feet may be needed on all properties with a drainage easement on the side. The increase will allow room for equipment to utilize the entire easement and maneuver free of obstructions if the drainage conveyance requires periodic maintenance or future re-construction. The side yard setback would only increase on the side with the drainage easement.

- All catch basins in rear or side yards should have a 10-foot drainage easement around them on all sides. Place restrictions on fences, sheds, and other structures within the easement to prevent obstructions from being place next to the catch basin. Record the easement on the deed.

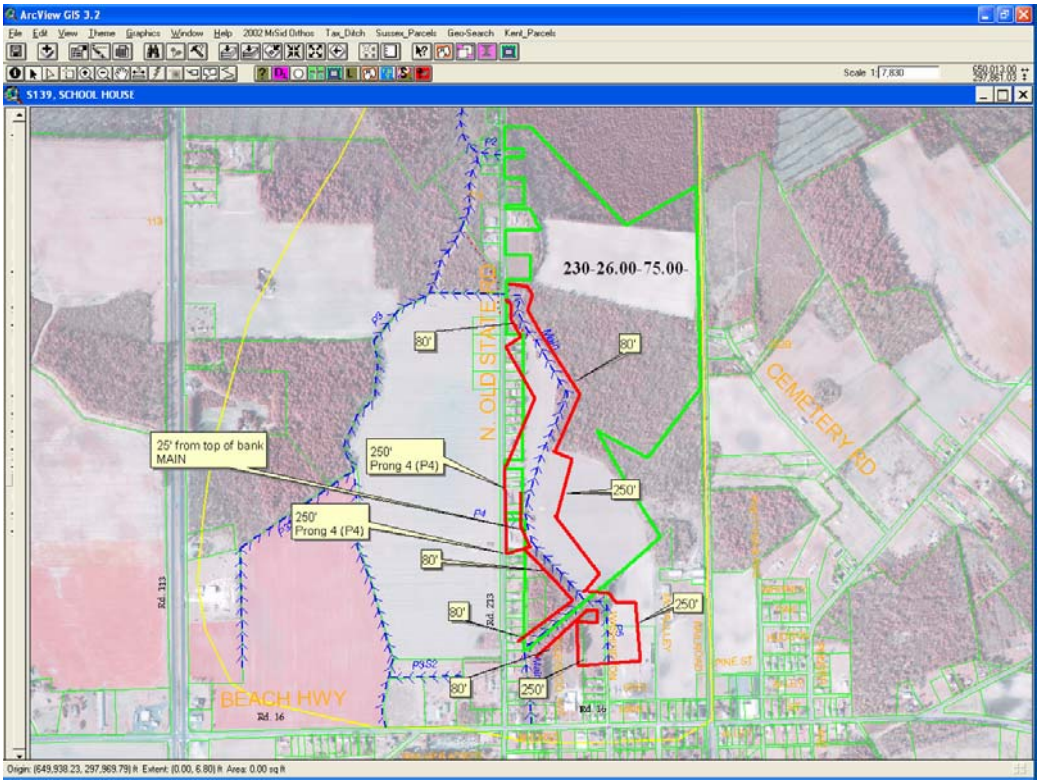
- Have all drainage easements recorded on deeds and place restrictions on obstructions within the easements to ensure access for periodic maintenance or future re-construction. Future property owners may not be aware of a drainage easement on their property if the easement is only on the record plan. However, by recording the drainage easement on the deed, the second owner, and any subsequent owner of the property, will be fully aware of the drainage easement on their property.

Tax Ditch rights-of-way for Parcel # 230-26.00-75.00 were researched (Inquiry #1418). The information is as follows:

This parcel is located in the School House Tax Ditch watershed and is affected by the following rights-of-way:

| SCHOOL HOUSE TAX DITCH | LEFT | RIGHT |
|---|---|---|
| Main | 80’<br>250’ | 25’*<br>80’<br>250’ |
| Prong 4 (P4) | 250’ | 250’ |
| Prong 5 (P5) | 250’ | 250’ |

Please note that the above rights-of-way are measured from the centerline of the ditch, with the exception of the ones noted with an asterisk, which are measured from top of the ditch bank. The designation of Left and Right side are based upon looking upstream.




**Rare Species**

DNREC has never surveyed this property; therefore, it is unknown if State-rare or federally listed plants, animals or natural communities would be impacted by this project. It should be noted that the forest on this property was cleared just since 2002. Because this forest block was present on 1937 aerial photographs, it was at least 65 years old. If the applicant is interested in any habitat restoration efforts, our program botanist, Bill McAvoy could assist in drafting a plan that includes native plant species that would benefit local species.

**Nuisance Waterfowl**

There are numerous ponds being proposed. Wet ponds created for stormwater management purposes may attract resident Canada geese and mute swans that will create a nuisance for community residents. 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. DNREC recommends native plantings, including tall grasses, wildflowers, shrubs, and trees at the edge and within an adequate buffer (15-30 feet in width) around the ponds. When the view of the surrounding area from the pond is blocked, geese can't scan for predators and are less likely to reside and nest in the area of the pond.

At this time, they do not recommend using monofilament grids due to the potential for birds and other wildlife to become entangled if the grids are not properly installed and maintained. In addition, the on-going maintenance (removing entangled trash, etc.) may become a burden to the homeowners association or land manager.

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 a reduction in the number of ponds, proper landscaping, monitoring, and other techniques, geese problems can be minimized.

**Underground Storage Tanks**

There is one inactive and one active LUST site(s) located near the proposed project:

Kent Sussex De-Tox, Facility # 5-000789, Project # S8112003
Ellendale Market, Facility # 5-000103, Project # S9112289

No environmental impact is expected from the above inactive/active LUST site(s). However, should any underground storage tank or petroleum contaminated soil be discovered during construction, the Tank Management Branch must be notified as soon as possible. It is not anticipated that any construction specifications would need to be changed due to petroleum contamination. However, should any unanticipated contamination be encountered and PVC pipe is being utilized, it will need to be changed to ductile steel with nitrile rubber gaskets in the contaminated areas.

**Air Quality**

Once complete, vehicle emissions associated with this project are estimated to be 30.6 tons (61,242.3 pounds) per year of VOC (volatile organic compounds), 25.4 tons (50,704.5 pounds) per year of NOx (nitrogen oxides), 18.7 tons (37,410.7 pounds) per

year of SO2 (sulfur dioxide), 1.7 ton (3,330.2 pounds) per year of fine particulates and 2,561.4 tons (5,122,843.4 pounds) per year of CO2 (carbon dioxide).

Emissions from area sources associated with this project are estimated to be 12.4 tons (24,701.8 pounds) per year of VOC (volatile organic compounds), 1.4 ton (2,717.9 pounds) per year of NOx (nitrogen oxides), 1.1 ton (2,255.5 pounds) per year of SO2 (sulfur dioxide), 1.5 ton (2,910.6 pounds) per year of fine particulates and 50.1 tons (100,135.6 pounds) per year of CO2 (carbon dioxide).

Emissions from electrical power generation associated with this project are estimated to be 4.9 tons (9,790.0 pounds) per year of NOx (nitrogen oxides), 17.0 tons (34,052.3 pounds) per year of SO2 (sulfur dioxide) and 2,511.4 tons (5,022,707.8 pounds) per year of CO2 (carbon dioxide).

| | VOC | NOx | $SO_2$ | $PM_{2.5}$ | $CO_2$ |
|---|---|---|---|---|---|
| Mobile | 30.6 | 25.4 | 18.7 | 1.7 | 2561.4 |
| Residential | 12.4 | 1.4 | 1.1 | 1.5 | 50.1 |
| Electrical Power | | 4.9 | 17.0 | | 2511.4 |
| TOTAL | 43.0 | 31.7 | 36.8 | 3.2 | 5122.9 |

For this project the electrical usage via electric power plant generation alone totaled to produce an additional 4.9 tons of nitrogen oxides per year and 17.0 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 DNREC Energy Office 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. They 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: Duane Fox 856-5298**

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**:
   - 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 townhouse type dwelling sites, the infrastructure for fire protection water shall be provided, including the size of water mains.

b. **Fire Protection Features:**
   - For townhouse buildings, provide a section / detail and the UL design number of the 2-hour fire rated separation wall on the Site plan

**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 the main thoroughfare must be

constructed so fire department apparatus may negotiate it. . If a "center island" is placed at an entrance into the subdivision, it shall be arranged in such a manner that it will not adversely affect quick and unimpeded travel of fire apparatus into the subdivision.

- 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.
-

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"
- Proposed Use
- Square footage of each structure (Total of all Floors)
- National Fire Protection Association (NFPA) Construction Type
- Maximum Height of Buildings (including number of stories)
- Name of Water Provider
- Letter from Water Provider approving the system layout
- Townhouse 2-hr separation wall details shall be shown on site plans
- Provide Road Names, even for County Roads

**Department of Agriculture - Contact: Scott Blaier 698-4500**

The Delaware Department of Agriculture has no objections to the proposed subdivision. The *Strategies for State Policies and Spending* encourages environmentally responsible development in Investment Level 2 and 3 areas, and the applicant is seeking annexation into the Town of Ellendale.

The proposed development is adjacent to a property permanently preserved through the State's Agricultural Lands Preservation Program (Housman Tracts District, (Parcel # 2-30-27.00-6.00). Therefore, the activities conducted on this preserved property will be protected by the agricultural use protections outlined in Title 3, Del. C., Chapter 9. These protections effect adjoining developing properties. The 300 foot notification requirement affects **all new deeds** in a subdivision located in whole or part within 300 feet of an Agricultural District. Please take note of these restrictions as follows:

> **§ 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.).
>
> In addition, if any wells are to be installed, Section 4.01(A) (2) of the Delaware Regulations Governing the Construction and Use of Wells will apply. This regulation states:
>
> (2) For any parcel, lot, or subdivision created or recorded within fifty (50) feet of, or within the boundaries of, an Agricultural Lands Preservation District (as defined in Title 3, Del. C., Chapter 9); all wells constructed on such parcels shall be located a minimum of fifty (50) feet from any boundary of the Agricultural Lands Preservation District. This requirement does not apply to parcels recorded prior to the implementation date of these Regulations. However, it is recommended that all wells be placed the maximum distance possible from lands which are or have been used for the production of crops which have been subjected to the application of land applied federally regulated chemicals.

This northern tip of this site overlaps with the State's Green Infrastructure Investment Strategy Plan. The natural areas layer is present. This designation identifies areas of the state that contain inherently valuable resources, as discussed in Governor Minner's Executive Order Number 61. Areas such as these should be preserved as such, and not developed for residential use.

*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. To further support this concept the Delaware Forest Service does not recommend the planting of the following species due to the high risk of mortality from insects and disease:

| | |
|---|---|
| Callery Pear | Ash Trees |
| Leyland Cypress | Red Oak (except for Willow Oak) |

If you would like to learn more about the potential problems or impacts associated with these trees, please contact the Delaware Forest Service for more information at (302) 698-4500.

*Native Landscapes*

The Delaware Department of Agriculture and the Delaware 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 will 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**

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 Vicki Powers 739-4263**

The proposal is for a site plan review for 399 residential units on 102 acres, located on North Old State Road near Ellendale. According to the *State Strategies Map*, the proposal is located in an Investment Level 2 area. As a general planning practice, DSHA encourages residential development in these areas where residents will have proximity to

services, markets, and employment opportunities. DSHA supports the fact that this proposal targets first-time homebuyers. According to the most recent real estate data collected by DSHA, the average home price in Sussex County is $280,000. However, families earning respectively 100% of Sussex County's median income only qualify for mortgages of $164,791, thus creating an affordability gap of $115,209. The provision of units within reach of families earning at least 100% of Sussex County's median income will ensure housing that is affordable to first-time homebuyers.

**Department of Education – Contact: John Marinucci 735-4055**

This proposed development is within the Milford School District. DOE offers the following comments on behalf of the Milford School District.

1. Using the DOE standard formula, this development will generate an estimated 200 students.
2. DOE records indicate that the Milford School Districts' *elementary schools* ***are at or beyond*** *100% of current capacity* based on September 30, 2007 elementary enrollment.
3. DOE records indicate that the Milford School Districts' *secondary schools are* ***not at or beyond*** *100% of current capacity* based on September 30, 2007 secondary enrollment.
4. The Milford School District has communicated to the DOE the district's lack of capacity at all grade levels given the number of planned and recorded residential sub divisions within district boundaries.
5. This development will create significant additional elementary and secondary student population growth which will further compound the existing shortage of space experienced by the Milford School District.
6. The developer is strongly encouraged to contact the Milford School District Administration to address the issue of school over-crowding that this development will exacerbate.
7. DOE requests developer work with the Milford School District transportation department to establish developer supplied bus stop shelter ROW and shelter structures, interspersed throughout the development as determined and recommended by the school district.

**Sussex County – Richard Kautz 855-7878**

No comment about the project. If annexed, this site will be entirely within the town limits and does not directly impact County services or properties outside the town limits.

The town is encouraged to avoid the creation of new enclaves when annexing, to eliminate existing enclaves during its negotiation of the annexation agreement, and to notify the Sussex County Planning Department when the annexation becomes effective.

The Sussex County Engineer Comments:

The project is within the boundary of the Ellendale Sanitary Sewer District and connection to the sewer system is mandatory. The project is within planning study and design assumptions for sewer service.

Sussex County requires design and construction of the collection and transmission system to meet Sussex County Engineering Department's requirements and procedures. The Sussex County Engineer must approve the connection point. A sewer concept plan must be submitted for review and approval prior to any sewer construction. A checklist for preparing sewer concept plans was handed out at the meeting. Conformity to the Ellendale Technical Memorandum and the approved concept plan will be required.

One time system connection charges will apply. Please contact Ms. Blair Lutz at 302 855-7801 for additional information on charges.

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,

Constance C. Holland

Constance C. Holland, AICP
Director

CC: Town of Ellendale
Sussex County