



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

April 15, 2008

Gary Cuppels
ECI, Inc.
P.O. Box 820
Rehoboth Beach, DE 19971

RE: PLUS review – 2008-03-05; Whispering Breeze

Dear Mr .Cuppels:

Thank you for meeting with State agency planners on March 26, 2008 to discuss the proposed plans for the Whispering Breeze project to be located on Route 113 within the Town of Georgetown.

According to the information received, you are seeking a site plan review through the City of Georgetown for a single and multi-family residential (over 55) RPC with a commercial area located along the Route 113 corridor. Specifically, you are planning 317 residential units and 80,750 sq. ft. of commercial.

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 the Town of Georgetown is the governing authority over this land, the developers will need to comply with any and all regulations/restrictions set forth by the Town.

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

The proposed project is located within an Investment Level 2 and 3 as defined by State Strategies for Policy and Spending and within the incorporated limits of the Town of Georgetown off Southbound US 113 near the intersection of US 113 and Arrow Safety Road.

Street Design and Transportation

- DelDOT is interested in working with the Town and the developer to address existing traffic issues at this location, as it has been identified as a location that meets their warrants for a signal. Toward that end, DelDOT will work with the developer to get a signal installed as an interim traffic control measure. However, the plan will need to show a reservation area for the future grade-separated intersection, which will ultimately replace the at-grade intersection.
- The proposed development would warrant a traffic impact study.
- DelDOT will require the developer to provide a 10-foot wide shared-use path in a 15-foot wide permanent easement along the property frontage on Parker Road.
- DelDOT anticipates requiring the developer to improve Parker Road to meet local road standards from East Trap Pond Road (Sussex Road 62) to the south limit of the site frontage. These standards include 11-foot wide travel lanes and 5-foot wide shoulders.
- Cross-access easements should be provided to the Exantus parcel and the Georgetown Villas parcel (respectively Tax Parcels 1-35-19.00-59.04 and 63.00) and the Short parcel (Tax Parcel 1-35-19.00-36.00) to the south.

Natural and Cultural Resources

- Based on the Statewide Wetland Mapping Project (SWMP) maps, palustrine forested wetlands were mapped over much of subject parcel. 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).
- DNREC program staff respectfully requests the opportunity to survey the project site to provide the applicant with necessary information regarding habitat and rare species.
- The site plan should be redesigned so that larger, connected areas of forested habitat remain. This would entail omitting some lots/infrastructure. Habitat

connectively is especially important in a developed landscape so that wildlife can travel from area to area when dispersing or foraging for resources.

- Stormwater ponds that will require tree clearing should be reconsidered. Unless there is some engineering need to place them within the forest, they should be relocated. There are also alternative methods that may be feasible that do not require tree removal. This should be discussed with the district engineer (or entity that certifies stormwater plan).

This office has received the following comments from State agencies:

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

The proposed project is located within an Investment Level 2 and 3 as defined by State Strategies for Policy and Spending and within the incorporated limits of the Town of Georgetown off Southbound US 113 near the intersection of US 113 and Arrow Safety Road. The Office of State Planning and Coordination offer the following comments to assist the applicant as the proposed project moves forward:

- The Developer and Town of Georgetown should work with this office to correct any inaccurate representations of the Town's Boundary identified through the survey of this property.
- The Developer should work closely with Del-Dot to address those concerns raised by the community and Del-Dot to support the efforts necessary to establish dedicated right-of-way for the preservation of the US 113 Corridor to allow for future construction of needed improvements.
- The Developer should work closely with DNREC and the Storm-Water / Drainage Section to address concerns related to potential flooding, ditching and wetland issues that may arise from the development of this site.

State Historic Preservation Office (SHPO) – Contact: Terrence Burns 739-5685

No comments received.

Department of Transportation – Contact: Bill Brockenbrough 760-2109

- 1) The US 113 North/South Study's Recommended Preferred Alternative for the Georgetown Area (the Refined On-Alignment Alternative) includes a grade separation at Arrow Safety Road that, as designed, would preclude any access to this site from US Route 113. DelDOT recognizes that First State Motors presently has its access by easement through the subject land but they will not permit additional access at this point or elsewhere along their Route 113 frontage without a long-term plan to address our planned road construction.

DelDOT is interested in working with the Town and the developer to address existing traffic issues at this location, as it has been identified as a location that meets their warrants for a signal. Toward that end, DelDOT will work with the developer to get a signal installed as an interim traffic control measure.

However, the plan will need to show a reservation area for the future grade-separated intersection, which will ultimately replace the at-grade intersection. DelDOT has some ideas as to how that might be accomplished. If the developer is interested in working with us in this regard, or if they wish to proceed with their access on Parker Road, they may contact Mr. Monroe Hite, the manager of the US 113 North/South Study, to obtain the available information on the design of the grade separation presently under consideration. Mr. Hite may be reached at (302) 760-2120.

- 2) The proposed development would warrant a traffic impact study. When the land use is sufficiently certain, the developer's traffic engineer should contact Mr. Troy Brestel of this office to arrange a scoping meeting. Mr. Brestel may be reached at (302) 760-2 167. DelDOT anticipates having detailed comments regarding the site access and off-site improvements when they have reviewed the completed study.
- 3) The relevant segments of Route 113 and Parker Road are classified as a principal arterial road and a local road, respectively. DelDOT's policy is to require dedication of sufficient land to provide a minimum right-of-way width of 50 feet from the centerline (or on divided highways from the inside edge of the travelway) on principal arterial roads and 30 feet from the centerline on local roads, respectively. Therefore DelDOT will require right-of-way dedication along the frontage to provide any additional width needed from this project.
- 4) DelDOT will require the developer to provide a 10-foot wide shared-use path in a 15-foot wide permanent easement along the property frontage on Parker Road.
- 5) Without prejudging the results of the traffic impact study, DelDOT anticipates requiring the developer to improve Parker Road to meet local road standards from East Trap Pond Road (Sussex Road 62) to the south limit of the site frontage. These standards include 11-foot wide travel lanes and 5-foot wide shoulders.
- 6) Cross-access easements should be provided to the Exantus parcel and the Georgetown Villas parcel (respectively Tax Parcels 1-35-19.00-59.04 and 63.00) and the Short parcel (Tax Parcel 1-35-19.00-36.00) to the south. It may be possible to extend proposed cul-de-sacs as stub streets to the Georgetown Villas and Short parcels, but a new stub street would be needed to connect to the Exantus parcel and if the highway commercial area remains on the revised plan, a cross access easement should be provided from it to the commercial portion of the Georgetown Villas parcel.

- 7) The developer's site engineer should contact the DelDOT 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

Based on the Sussex County soil survey update, Hammonton, Hurlock, and Mullica were mapped on subject parcel. Hammonton is a moderately well-drained soil of low-lying uplands that has moderate limitations for development. Hurlock is poorly-drained wetland associated (hydric) soil that has severe limitations for development. Mullica is a very poorly-drained wetland associated (hydric) soil that has severe limitations for development. Approximately 80% of the mapped soils on this parcel are mapped as Hurlock and Mullica; these soils, as mentioned previously, have severe limitations and should be avoided.

Wetlands

Based on the Statewide Wetland Mapping Project (SWMP) maps, palustrine forested wetlands were mapped over much of subject parcel.

The applicant is responsible for determining whether any State-regulated wetlands (regulated pursuant to 7 Del.C., Chapter 66 and the Wetlands Regulations) are present on the property. This determination can only be made by contacting the Division of Water Resources' Wetlands and Subaqueous Lands Section at 302/739-9943 and consulting the State's official wetland regulatory maps, which depict the extent of State jurisdiction.

The area regulated by State law may be very different from the area under federal authority. No activity may take place in State-regulated wetlands without a permit from DNREC's Wetlands Section.

In addition, most perennial streams and ditches and many intermittent streams and ditches are regulated pursuant to the Subaqueous Lands Act (7 Del.C., Chapter 72) and the Regulations Governing the Use of Subaqueous Lands. Ponds which are connected to other waters are also regulated, while isolated ponds are not. Any work in regulated streams, ditches or ponds requires a permit from the Wetlands and Subaqueous Lands Section. An on-site jurisdictional determination is recommended in order to determine whether any regulated watercourses exist on the property. Contact the Wetlands and Subaqueous Lands Section at 302/739-9943 to schedule an on-site visit. Such appointments can usually be scheduled within 2 to 3 weeks.

The applicant should also be reminded that they must avoid construction/filling activities in those areas containing wetlands or wetland associated hydric soils as they are subject to regulatory jurisdiction under Section 404 provisions of the Clean Water Act. A site-specific field wetlands delineation using the methodology described in the 1987 United States Army Corps of Engineers (USACE, or "the Corps") manual is the only acceptable basis for making a jurisdictional wetland determination for nontidal wetlands in Delaware. The applicant is forewarned that the Corps views the use of the National Wetlands Inventory (NWI) mapping or the Statewide Wetlands Mapping Project (SWMP) mapping as an unacceptable substitute for a field-based jurisdictional wetland delineation (i.e., 1987 USACE manual). To ensure compliance with said Corps regulatory requirements, it is strongly recommended that a field wetlands delineation using the above-referenced methodology be performed on this parcel before commencing any construction activities. It is further recommended that the Corps be given the opportunity to officially approve the completed delineation. In circumstances where the applicant or applicant's consultant delineates what they believe are nonjurisdictional isolated (SWANCC) wetlands, the Corps must be contacted to evaluate and assess the jurisdictional validity of such a delineation. The final jurisdictional authority for making isolated wetlands determinations rests with the Corps; they can be reached by phone at 736-9763.

Impacts to Palustrine wetlands are regulated by 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. (Castelle, A. J., A. W. Johnson and C. Conolly. 1994. *Wetland and Stream Buffer Requirements – A Review*. J. Environ. Qual. 23: 878-882), 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).

As mentioned previously, most of the soil mapping units on this parcel are poorly to very poorly-drained hydric Hurlock and Mullica soils. Hydric soils typically have a seasonal high water table at or near the soil surface (within one-foot of soil surface or less). Building in such soils is likely to leave prospective residents of this and adjoining properties susceptible to future flooding problems from groundwater-driven surface water ponding, especially during extended periods of high-intensity rainfall events such as tropical storms/hurricanes or “nor’easters.” This is in addition to increased flooding probabilities from surface water runoff emanating from future created forms of structural imperviousness (roof tops, roads, sidewalks, and stormwater management structures).

Based on the Chapter 99, Section 16A of the Sussex County Code (paraphrased), lands compromised by improper drainage or flooding potential pose significant threats to the safety and general welfare of future residents and, therefore, shall not be developed. Since soils mapped as Hurlock and Mullica fit the criterion for improper drainage or high flooding potentials, they should be avoided. The Watershed Assessment Section believes permitting development on such soils would be inconsistent with the above-stated regulatory guidelines in the Sussex County Code.

Impervious Cover

The applicant estimates this project’s post-construction surface imperviousness to reach about 28 percent. However, given the scope and density of this project (i.e., as viewed from the conceptual project layout) this estimate appears to be a significant underestimate. When calculating surface imperviousness, it is important to include all

forms of constructed surface imperviousness (i.e., rooftops, sidewalks, open-water stormwater management structures/ponds, and roads) in the calculation for surface imperviousness; this will ensure a realistic assessment of this project's likely post-construction environmental impacts. Therefore, surface imperviousness should be recalculated with all of the above-mentioned forms of constructed surface imperviousness included. Failure to do so will significantly understate this project's true environmental impacts.

Studies have shown a strong relationship between increases in impervious cover to decreases in a watershed's overall water quality. It is strongly recommended that the applicant implement best management practices (BMPs) that reduce or mitigate some of its most likely adverse impacts. Reducing the amount of surface imperviousness through the use of pervious paving materials ("pervious pavers") in lieu of asphalt or concrete in conjunction with an increase in forest cover preservation or additional tree plantings are some examples of practical BMPs that could easily be implemented to help reduce surface imperviousness.

ERES Waters

This project is located adjacent to receiving waters of the Inland Bays designated as waters having Exceptional Recreational or Ecological Significance (ERES). ERES waters are recognized as special assets of the State, and shall be protected and/ or restored, to the maximum extent practicable, to their natural condition. Provisions in Section 5.6 of Delaware's "Surface Water Quality Standards" (as amended July 11, 2004) specify that all designated ERES waters and receiving tributaries develop a "pollution control strategy" to reduce non-point sources of pollutants through implementation of Best Management Practices (BMPs). Best Management Practices as defined in subsection 5.6.3.5 of this section, expressly authorizes the Department to provide standards for controlling the addition of pollutants and reducing them to the greatest degree achievable and, where practicable, implementation of a standard requiring no discharge of pollutants.

TMDLs

Total Maximum Daily Loads (TMDLs) for nitrogen and phosphorus have been promulgated through regulation for the Inland Bays 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. This project is located in the high nutrient reduction area requiring an 85 percent reduction in nitrogen and a 65 percent reduction in phosphorus. Additionally, a 40 percent reduction in bacteria will also be required.

Compliance with TMDLs through the PCS

As stated above, TMDLs for nitrogen and phosphorus have been promulgated through regulation for the Inland Bays Watershed. The TMDL calls for an 85 percent reduction in nitrogen and a 65 percent reduction in phosphorus from baseline conditions.

Additionally, a 40 percent reduction in bacteria will also be required from baseline conditions. A Pollution Control Strategy (PCS) will provide the regulatory framework for achieving them. Additional nutrient reductions may be possible through the implementation of Best Management Practices such as wider vegetated buffers along watercourses (and wetlands), increasing passive, wooded open space which helps reduce surface imperviousness (i.e., pervious pavers), and the use of green-technology stormwater management technologies.

The Department has developed an assessment tool to evaluate how your proposed development may reduce nutrients to meet the TMDL requirements. Contact Lyle Jones at 302-739-9939 for more information on the assessment tool.

Water Supply

The information provided indicates that Georgetown Public Works will provide water to the proposed project(s) via a public water system. Our files reflect that Georgetown Public Works 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. Since an on-site public well(s) be needed, it (they) must be located at least 150 feet from the outermost boundaries of the project(s). The Division of Water Resources will consider applications for the construction of on-site wells provided the wells can be constructed and located in compliance with all requirements of the Regulations Governing the Construction and Use of Wells. A well construction permit must be obtained prior to constructing any well(s).

Should dewatering points be needed during any phase of construction, a dewatering well construction permit must be obtained from the Water Supply Section prior to construction of the well points. In addition, a water allocation permit will be needed if the pumping rate will exceed 50,000 gallons per day at any time during operation.

All well permit applications must be prepared and signed by licensed water well contractors, and only licensed well drillers may construct the wells. Please factor in the necessary time for processing the well permit applications into the construction schedule. Dewatering well permit applications typically take approximately four weeks to process, which allows the necessary time for technical review and advertising.

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

Sediment and Erosion Control/Stormwater Management

A detailed sediment and stormwater plan will be required prior to any land disturbing activity taking place on the site. Contact the reviewing agency to schedule a pre-application meeting to discuss the sediment and erosion control and stormwater management components of the plan as soon as practicable. 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 Jessica Watson at the Sussex Conservation District at (302) 856-2105 for details regarding submittal requirements and fees.

Because of the parcel's location in an impaired watershed and the amount of impervious surface, green technology BMPs and low impact development practices should be considered a priority to reduce stormwater flow and to meet water quality goals.

The Sediment and Stormwater Management Program ensures sediment and erosion control plans and stormwater plans comply with local land use ordinances and policies, including the siting of stormwater management facilities. However, we do not support placement in resource protection areas or the removal of trees for the sole purpose of placement of a stormwater management facility/practice.

Drainage

- This project is located within the McGee Tax Ditch, which has established tax ditch rights-of-way. The Drainage Program conducted a review of the Tax Ditch rights-of-way for this project and the results were submitted to Benjamin Miller of ECI. A copy of the review findings is included at the end of these comments. The placement of permanent obstructions within tax ditch rights-of-way is prohibited. Any change to the location of the tax ditch, or the existing tax ditch rights-of-way, will require a change to the McGee Tax Ditch court order. Please contact Brooks Cahall of the Drainage Program to resolve the issues with the tax ditch. It is recommended that Brooks Cahall be included in the pre-application meeting with the Sussex Conservation District to discuss drainage, stormwater management, tax ditch maintenance, and the release of stormwater into 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.

- 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.

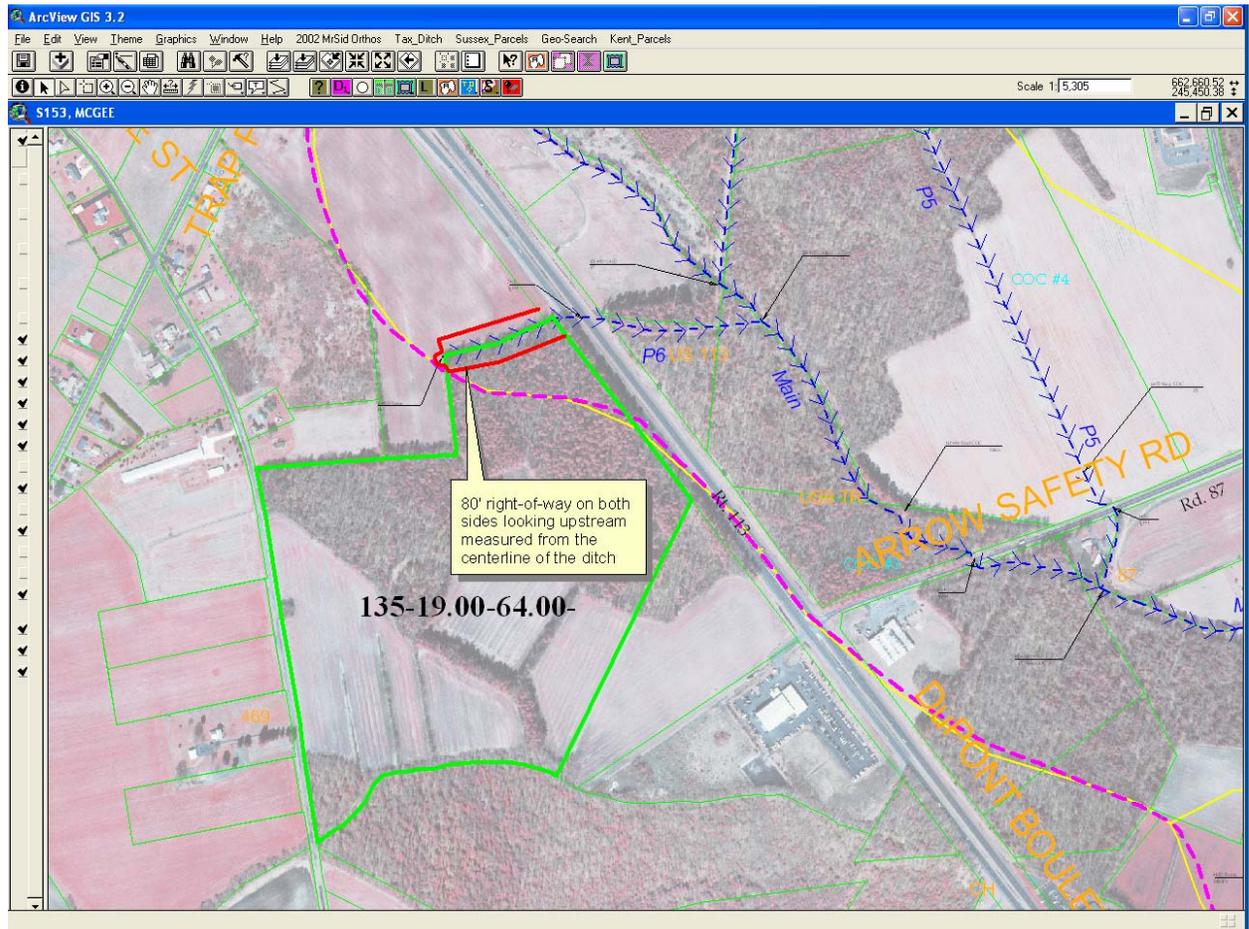
- **Results of Tax Ditch Right-of-Way Review**

Parcel # 135-19.00-64.00

Inquiry # 975

- This parcel is located in the McGee Tax Ditch watershed and is affected by Prong 6 with an 80-foot right-of-way on both sides looking upstream measured from the centerline of the ditch.

- See following map.



Rare Species

DNREC has never surveyed this property; therefore, it is unknown if there are State-rare or federally listed plants, animals or natural communities at this project site. They do have records of *Psuedotriton montanus* (mud salamander) in the vicinity and it could occur within the project area. This State-rare amphibian typically inhabits muddy wetland areas adjacent to small streams and wooded swamps. This species is very secretive, and can be difficult to find. Surveys should be conducted to determine if this species is present and a plan drafted to avoid impacts. A list of certified herpetologists is available upon request.

Site Visit Request

DNREC program staff respectfully requests the opportunity to survey the project site to provide the applicant with necessary information regarding habitat and rare species. A

survey of the project site will also give staff an opportunity to document the biodiversity of the property and add to the State database. Surveys are conducted at no cost or liability to the landowner/developer. Please note that our program staff are the most qualified to utilize rare species survey methods and have decades of experience. Please contact Edna Stetzar, Environmental Review Coordinator, at (302) 653-2883, if the landowner/developer is interested in making sure the project minimizes impacts to wildlife habitat and rare species.

Forest and Wetland Habitat Preservation

The forest block within the project area was identified as key wildlife habitat in the State's Wildlife Action Plan (Please see our program website <http://www.dnrec.state.de.us/nhp> which contains a link to the Delaware Wildlife Action Plan). According to the application, this project proposes to initially clear at least 50% of the existing forested area. Does this figure include probable additional clearing by homeowners for sheds, play areas, dog kennels, swimming pools, etc.? Also, the remaining forest will be highly fragmented into small, disconnected areas behind lots, on corners, and around infrastructure. This type of forest is not functional in terms of wildlife habitat. There are several other projects in the general area in addition to this one that will result in forest loss and fragmentation.

Cumulative forest and wildlife habitat loss throughout the State is of utmost concern to the Division of Fish and Wildlife which is responsible for conserving and managing the State's wildlife (see www.fw.delaware.gov and the Delaware Code, Title 7). Because of an overall lack of habitat protection, we have to rely on applicants and/or the entity that approves the project (i.e. counties and municipalities) to consider implementing measures that will aide in habitat loss reduction.

Recommendations:

1. DNREC encourages the landowner/applicant to consider preservation and there are incentive-based programs for wildlife management available to private landowners through them. Please contact the office if the landowner(s) is interested in more information.

If preservation is not going to be considered:

2. The site plan should be redesigned so that larger, connected areas of forested habitat remain. This would entail omitting some lots/infrastructure. Habitat connectively is especially important in a developed landscape so that wildlife can

travel from area to area when dispersing or foraging for resources. This project is poorly designed in terms of maintaining travel connections or providing any habitat for species displaced by this project.

3. Stormwater ponds that will require tree clearing should be reconsidered. Unless there is some engineering need to place them within the forest, they should be relocated. There are also alternative methods that may be feasible that do not require tree removal. This should be discussed with the district engineer (or entity that certifies stormwater plan).
4. If trees are still going to be cleared despite our objections, we recommend clearing not occur April 1st to July 31st to reduce impacts to nesting birds and other wildlife species that utilize forests for breeding. This clearing recommendation would only protect those species during one breeding season; because once trees are cleared the result is an overall loss of habitat.

Plant Rescue

Since woodlands and wetlands are to be destroyed, filled, or disturbed, DNREC recommends that the developer/landowner contact the Delaware Native Plant Society to initiate a plant rescue. Selected plants from the site of disturbance will be collected by Society members and transplanted to the Society's nursery. Plants will then be used in restoration projects and/or sold at the Society's annual native plant sale. This can be done at no expense or liability to the developer/landowner. Please contact Lynn Redding at (302) 736-7726, (lynn_redding@ml.com) or William A. McAvoy at (302) 653-2880, (william.mcavoy@state.de.us).

Nuisance Waterfowl

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.

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 and/or size of the ponds, proper landscaping, monitoring, and other techniques, geese problems can be minimized.

Recommendation:

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. The vegetation also blocks the ability to easily move between land and water.

At this time, DNREC does 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.

Underground Storage Tanks

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

First State Chevrolet/Olds Facility # 5-000222, Project # S9105084

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 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 24.3 tons (48,656.2 pounds) per year of VOC (volatile organic compounds), 20.1 tons (40,284.0 pounds) per year of NOx (nitrogen oxides), 14.9 tons (29,722.3 pounds) per year of SO2 (sulfur dioxide), 1.3 ton (2,645.8 pounds) per year of fine particulates and 2,035.0 tons (4,070,028.5 pounds) per year of CO2 (carbon dioxide)

Emissions from area sources associated with this project are estimated to be 9.8 tons (19,625.3 pounds) per year of VOC (volatile organic compounds), 1.1 ton (2,159.4 pounds) per year of NOx (nitrogen oxides), 0.9 ton (1,792.0 pounds) per year of SO2 (sulfur dioxide), 1.2 ton (2,312.5 pounds) per year of fine particulates and 39.8 tons (79,556.4 pounds) per year of CO2 (carbon dioxide)

Emissions from electrical power generation associated with this project are estimated to be 3.9 tons (7,778.0 pounds) per year of NOx (nitrogen oxides), 13.5 tons (27,054.0 pounds) per year of SO2 (sulfur dioxide) and 786.8 tons (3,990,472.1 pounds) per year of CO2 (carbon dioxide).

	VOC	NO _x	SO ₂	PM _{2.5}	CO ₂
Mobile	24.3	20.1	14.9	1.3	2035.0
Residential	9.8	1.1	0.9	1.2	39.8
Electrical Power		3.9	13.5		786.8
TOTAL	34.1	25.1	29.3	2.5	2861.6

For this project the electrical usage via electric power plant generation alone totaled to produce an additional 1.5 tons of nitrogen oxides per year and 5.3 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.

We 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

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 1500 gpm for 2-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 Mercantile 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 sqft aggregate will require automatic sprinkler protection installed.
 - Buildings greater than 10,000 sqft, 3-stories or more, over 35 feet, or classified as High Hazard, are required to meet fire lane marking requirements.
 - For townhouse buildings, provide a section / detail and the UL design number of the 2-hour fire rated separation wall on the Site plan
 - 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 the main thoroughfares 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)
- Townhouse 2-hr separation wall details shall be shown on site plans
- 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

Department of Agriculture - Contact: Scott Blaier 739-4811

The Delaware Department of Agriculture has no objections to the proposed project. It is located within the Town of Georgetown, and the *Strategies for State Policies and Spending* encourages environmentally responsible development in Investment Level 2 and 3 areas.

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
Leyland Cypress

Ash Trees
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 Division of Public Health- Health Promotion Bureau- contact Michelle Eichinger (302) 744-1011

This proposed development is in a Level 2 area. Developing in such an area is consistent with the *Strategies for State Policies and Spending*. DPH is committed to the *Strategies* and therefore, does support development in the proposed area.

DPH supports new development in and around existing towns and municipalities where compact and mixed land use patterns facilitate physical activity.

Delaware State Housing Authority – Contact Vicki Powers 739-4263

This proposal is for a rezoning of 96.5 acres from HC & UR-3 to HC & UR-1 with RPC for 80,750 sq. feet of commercial and 317 residential units located on Route 113 south at Arrow Road, within the Town of Georgetown. 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 inside growth zones, where residents will have proximity to services, markets, and employment opportunities such as Investment Level 1 and 2 areas outlined in the State Strategies Map. According to the most recent real estate data collected by DSHA, the median home price in Sussex County is \$279,000. However, families earning respectively 100% of Sussex County's median income only qualify for mortgages of \$173,056, thus creating an affordability gap of \$105,944. 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 Indian River School District boundaries. DOE offers the following comments on behalf of the Indian River School District.

1. The plan indicated Tot-Lot(s) would be a part of the project design. DOE recommends that playgrounds be designed, constructed and maintained in accordance with ASTM Designation F-1487 and CPSC PUB-325 in order to reduce the risk of injury to playground users.
2. Using the DOE standard formula, this development will generate an estimated 159 students, however this PLUS application indicates that the residential development will be an age restricted active adult community. The following school district enrollment information is tendered in the event the developer modifies the current plans.
3. DOE records indicate that the Indian River School Districts' *elementary schools are at or beyond 100% of current capacity* based on September 30, 2007 elementary enrollment.
4. DOE records indicate that the Indian River School Districts' *secondary schools are not at or beyond 100% of current capacity* based on September 30, 2007 secondary enrollment.
5. In multiple correspondences from the Indian River School District administration, the district asserts that while the Indian River High Schools have capacity, the Indian River Middle Schools' student population exceeds student capacity.

Sussex County – Contact: Richard Kautz 855-7878

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 developer should make sure there is an adequate buffer of at least 25 feet from the edge of the site to any stormwater management pond.

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: Town of Georgetown