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September 11, 2006

Ms. Constance C. Holland, AICP - Director
Office of State Planning and Coordination
State of Delaware
540 DuPont Highway
Thomas Collins Building, Third Floor
Dover, DE 19901

RE: PLUS 2005-05-05
Bay Manor

Dear Ms. Holland:

We acknowledged the receipt of the PLUS comments from your office dated June 17, 2005 for the project referenced above. We judiciously reviewed these comments and appropriately incorporated many of these recommendations into our revised site plan. Our specific reply comments are as follows:

Office of State Planning and Coordination (OSPC)

The Developer has revised the layout which now proposes to develop 85 residential units on 47.55± acres of land located on the west side of SCR 233 (Reynolds Road) between SCR 234B (Draper Road) and SCR 235A (Williams Farm Road), within the Broadkill Hundred of Sussex County, Delaware. The property is presently zoned AR-1 and would be developed as 1.79 lot per acre which is less than the 2-lots per acre based on the Cluster Ordinance. This density allows for provision of 56% open space which addresses the concerns of preserving natural resources on-site.

It is recognized that this development is proposed within an area designated as Level 4 (area outside designated growth zones) according to the Strategies for State Policies and Spending which designate growth zones as those areas of the County having access to existing infrastructure and services required for development. The Sanitary Sewer and Water Services will be provided by Tidewater Utilities. This project will be developed according to Future Land Use map in the Comprehensive Plan, which supports projects that are being developed in rural areas under its current zoning. While the overall layout of this project may not be totally consistent with the Governor's Livable Delaware program, meeting Delaware's population housing needs most certainly is.

State Historic Preservation Office (SHPO)

Data received by email from SHPO 12/8/05 indicate that a pre-1868 R.H. Carey House located within or very close to this property could be affected by this development. In addressing SHPO concern, the dedicated 30-foot forested buffer around the perimeter of this development will adequately protect and screen the Farmstead (S-3382) located just south of this development.

Review of available data indicates low probability for prehistoric archeological and historic sites within the vicinity of this subject Property and as such no cultural resource study will be embarked upon by the developer.

Should any archaeological sites become evident within the vicinity of this property during construction activities, Anne McCleave will be contacted.

The developer does not anticipate any issues with regards to Section 106 of the National Historic Preservation Act.

Department of Transportation (DeIDOT)

No specific plan recommendation offered by DeIDOT.

As per DeIDOT's requirements and as part of the entrance plan approval, the developer of this project will design all off-site road plans in accordance with the States Local Roads design currently in place at this time. All construction documents will be submitted to DeIDOT for their review and approval. Prior to layout and design, DC Group will continue to consult with Mr. Fiori and the staff of DeIDOT to review the final road plans for this development.

Department of Natural Resources and Environmental Control (DNREC)

Per DNREC concerns, the site has been re-designed to remove all construction activities out of the existing wooded areas on site. This new layout will lessen the impact of this development on water quality. If trees are to be removed for life/safety concerns or for final stormwater design the addition of street trees throughout this subdivision will adequately mitigate any loss. Due to values associated with wooded lots in the marketplace, the developer has sacrificed the marketability of these lots by preserving a significant portion if not all of the existing upland woodlands in addition to providing the recommended 100-foot forested buffer from the edge of wetlands.

Soils

According to Sussex County Soil Survey for 1974 soils mapped within the vicinity of this property include the following:

- 1) Sassafras (SaA)
- 2) Rumford (RuA)
- 3) Woodstown (Wo)

Sassafras and Rumford are well-drained uplands soils that have few development constraints Woodstown is a moderately well-drained soil of low-lying uplands that has moderate limitations for development.

Soil reconnaissance report by Atlantic Resource Management and the approved soils feasibility by GTA, Inc., indicates that vast majority of onsite soils are well-drained and have the potential to support Wastewater Treatment and Disposal Systems.

The mapping of these soils types at this Property are depicted on the referenced Preliminary Plan. No specific plan recommendations regarding these on-site soils

Wetlands

The wetlands and waters of the United States boundaries were delineated in the field during the month of April 2005 by Kenneth W. Redinger in accordance with the 1987 Corps of Engineers delineation manual and associated federal and state regulatory documents. The delineated boundaries of these wetlands are depicted on our revised site plan. The presence of approximately 1.63 acres of forested palustrine wetlands was identified within this property.

A wetland delineation report has been submitted to the Philadelphia District U.S. Army Corps of Engineers (USACE) to obtain a jurisdictional determination on the wetland boundaries. We are currently waiting on letter, verifying the extent of these non-tidal wetlands on-site from USACE.

Wetlands provide water quality benefits by attenuating flooding and providing important habitat for plants and wildlife. Vegetated buffer will be employed from the edge of the wetland complex and other waterbodies on-site.

Revised site Plans show that there will not be direct impacts to wetlands or waters of the United States through construction activities and lot lines will not infringe on these sensitive resource areas. A 100-foot forested buffer is provided from the edge of all wetlands on-site.

TMDLs

The Property is located adjacent to receiving waters of the Delaware Bay Watershed. Since such receiving waters are a major avenue for nutrient-laden stormwater and sediment runoff, they are afforded the highest protection status by the State. TMDLs for the Broadkill River sub-watershed, to which this parcel belongs, are scheduled for completion in December of 2006.

In order to verify compliance of this proposed project with future TMDLs requirement, although not mandatory, a detailed nutrient budget analysis was prepared via DNREC's Nutrient Protocol to ascertain the site's post-development nutrient loading rate. The post-development loading rate of this development was compared to the prescribed loading rate of Inland Bays Low Reduction Area and final data are comparable to the mandated TMDL of Inland Bays Low Reduction Area. However, practicable best available technologies (BATs, BMPs) will be employed by the developer as mitigative strategies to reduce the degradative impacts that may be associated with this development.

Mitigating measures such as Context-sensitive design standards, central wastewater systems in place of individual on-site septic systems, stormwater treatment system, and preservation of all existing forest and additional planting of street trees would adequately protect sensitive headwaters and waterbodies within the vicinity of this site.

Water Supply

Public water to this Development will be provided by Tidewater Utilities Inc, which holds a certificate of public convenience and necessity (CPCN) to provide public water service to areas encompassing this development.

Should dewatering permit be needed during construction, the developer will obtain all necessary permit from the Water Supply Section prior to construction of well points.

Sediment and Erosion Control/ Storm Water Management

Stormwater structures are very effective techniques for providing channel protection and pollutant removal prior to entering the existing streams. Stormwater structures are very effective and widely used practices for stormwater management in developing areas. The popularity of stormwater structures can be attributed to their proven ability to attenuate runoffs from design storm events. Stormwater structures and wetlands are common practices for treating stormwater runoffs.

The fact that this site has both existing wetlands, with the land use cover (row crops) that presently exists indicates that the wetlands on site are serving as a water quality practice prior to the runoff leaving this site.

With the introduction of this project, permanently vegetated landscape, open areas, and additional stormwater system, the amount of pollutants and runoff leaving the site will be reduced significantly prior to entering the existing aquatic resource areas.

During the design of the stormwater management structures the designers and the developer will work with the Sussex Conservation District to achieve the best management practice for the development.

If the existing wetlands are to be used for stormwater discharge the designers will obtain all County, State and Federal permits prior to discharging.

As part of our preparation of site storm water and grading plans for approvals by Sussex County Engineering (SCE) and the Conservation District (SCED), all comment requirements will be addressed.

Forests

Recognizing the important role that forest plays in air and water quality, wildlife habitat, our site plan was revised to preserve all of existing forested resources on-site. Additional planting of street trees will be embarked upon to further increase the total acreage of forested resource on-site. Forested area on-site will be reserved as a community asset and managed appropriately. If existing trees need to be removed, precaution will be taken during clearing of trees to ensure contiguity of the remaining forest to the larger forest block

Open Space

Open Space is an area of land or water set aside, or reserved for use by residents of a development. It is a place to relax, to reconnect with the environment, and to recreate.

A broad variety of uses can provide open space benefits to communities. Open meadows, irrigated hay pastures, forested land, wetlands, and stormwater management areas are examples of open space. Open space provides many resources. Some areas are available for passive recreational pursuits, while other open space areas will be more limited in their use—primarily providing a green and “open” landscape view. Open space is often viewed as a native landscape that provide a visual relief from the developed landscape.

Open Space is viewed as an interconnected network of various types of lands and waters to be used for leisure, athletics, environmental protection, education, study, socialization, and solitude. Possible examples of open space are street rights-of-way, active and passive recreational areas, wetlands, woodlands, and stormwater management areas,

The preliminary subdivision plan shows a variety of open space that adds up to approximately 60% of the entire site area, inclusive of the wastewater treatment area. This open space is provided to the residents of this development for recreation, landscaping, stormwater management and for wastewater treatment area. Additional street forested areas are being established throughout the Site to create more recreational opportunities for residents. Passive recreation space in the form of improved landscape areas and related amenities is provided throughout the site and will provide opportunities for residents to engage in leisure activities. Enhancing the utility of these passive recreation spaces will be light shelters and park benches along walkways. These amenities will offer opportunities for residents to enjoy the site's landscape.

All areas not planned as landscape beds and/or meadow-type grasses, including existing forest and wetlands will be improved and maintained to provide open space and useable area for passive recreation.

Rare/ Threatened/Endangered Species

Per DNREC's recommendation, and prior to the beginning of construction on this project, the developer will consult with the U.S. Fish and Wildlife Service and Delaware Division of Fish and Wildlife, Nongame and Endangered Species Program to ensure that as much as possible forest resources onsite are preserved.

In maximizing the existing buffering capacity and wildlife habitat, 100-foot vegetated buffers will be employed from the edge of the forested wetland complex and other waterbodies on site. Our design plan includes the preservation of all of existing forest and additional planting of trees. All these measures will increase the overall wildlife habitat and adequately protect endangered species that may exist on-site.

Recreation

Refer to previous comments regarding open space.

Per DNREC recommendations, the use of a development trail network consisting of a series of well-connected pedestrian paths, bikeways and street sidewalks are provided with the sole purpose of meeting the recreational need for walking and biking and providing opportunities for residents of this development to engage in leisure activities.

Solid Waste

Per DNREC request, measures will be taken to minimize the amount of construction waste generated from this development and when possible, waste will be recycled. It should be noted that recycling in this part of Sussex County is voluntary. The varied construction waste generated by home builders, the number of future occupants, and their recycling habits will ultimately determine the total solid waste generation for this project. Per DNREC request, a

rough estimation of solid waste generation from this project's construction and occupancy resulted to 630 tons of waste per year. Approximately 171 tons/year per household of waste will be generated and an additional 459 tons/year will be generated due to construction activities (based on 4.4 pounds per square foot of floor space of an average house size of 2,196 square feet). Delaware existing landfills receive 2700 tons per day of waste, and it is anticipated that solid waste generated from this project will not have adverse impact on existing landfill capacity as the estimates given above only represent a worst-case scenario.

Delaware State Housing Authority (DSHA)

No specific plan change recommendations by DSHA. Refer to reply comments made to OSPC.

State Fire Marshal's Office (DSFMO)

No specific plan change recommendations by DSFMO. Per DSFMO comments, detailed plans will be submitted in accordance with Delaware State Fire Prevention Regulation (DSFPR) for Fire Marshal approval.

Department of Agriculture (DDA)

No specific plan change recommendations by DDA. Most environmentally sensitive issues have been thoroughly addressed and incorporated into our revised site plan. Refer to above comments.

Due to the presence of an Agricultural Preservation District within 300 feet from the subject property, DDA suggests a modified agricultural notice be included in each new deed generated by the proposed subdivision.

Pursuant to the 50-foot setback and 300-foot notification zone requirements, the following hybrid notice will be used:

"This property is located in the vicinity of an established Agricultural Preservation District and land used primarily for agricultural purposes on 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 or inconvenience which may result from such normal agricultural uses and activities."

Tree for the Right Place

Per DDA recommendations and as part of our preparation of landscape architectural plans for this project, appropriate native trees will be planted throughout the site to increase and enhance forest resource on-site.

Native Landscapes

Per DDA preferences, landscape architectural specification of plant species for this project will constitute Delaware natives or sturdier varieties of native trees and shrubs. A 30-foot vegetated forest buffer is provided on each side of the site to screen it from adjacent land-use activities.

Tree Preservation/ Mitigation

Street trees will be furnished throughout the site to increase the overall forest resource of on-site. These street trees will consist of Delaware natives or sturdier varieties. Our office will work with DDA to develop a tree preservation and maintenance program for this project. The benefits of street trees have been thoroughly documented. They play a prominent role in carbon sequestration, air pollution absorption, street traffic calming and asphalt life cycle extension, energy conservation, and provide intangible sociological benefits

Department of Education (DOE)

Per DOE recommendations, an information package will be submitted to the school district once our final plans have been approved by the County. Per DDE comments in regard to school bus and student accessibility, no dwelling unit for this development will be located more than one-half mile from the nearest off-site road.

Public Service Commission (PSC):

No specific plan change recommendations offered by PSC. Tidewater Utilities has initiated a certificate of public convenience and necessity (CPCN) with the appropriate agencies to provide public water and wastewater to this Development.

Delaware Emergency Management Agency (DEMA):

No specific site plan recommendations offered by DEMA. Per DEMA request, the developer will notify all emergency response agencies and organizations of the project status and apprise them of all relevant development activities.

Sussex County (SCE)

It is recognized that this project lies within areas designated as Level 4 according to the Strategies for State Policies and Spending, where State investments support agricultural preservation, natural resource protection, and continuation of rural nature of these areas. This project will be developed according to Future Land Use map in the Comprehensive Plan, which supports projects being developed in Level 4 areas under its current zoning. Per SCE recommendations and as part of our overall submittal to the County for approval, the developer will provide evidence that it has entered into a long-term agreement with Tidewater Utilities to provide wastewater services. Wastewater treatment area will be excluded from the overall provided open space and plan for the open space management can be found in the revised site plan.

This project will be developed according to the approved AR-1 Cluster Zoning Ordinance. The overall design concept provides approximately 56% of open space exclusive of wastewater treatment area. Conservatively, this abundance of open space allows for the preservation and protection of more natural and historic resources on-site.

Congruent with Sussex County comments, it should be noted that there are no areas with "excellent" recharge potential within the vicinity of this subject property. At this time neither the State nor the County has adopted development mitigation guidelines for "good and fair" recharge areas which characterize this site. Notwithstanding these limitations, recommendations were incorporated into our revised site plan to augment recharge throughout

this development by utilizing such measures as context-sensitive design standards, preservation of all woodland, community wastewater treatment facilities in lieu of individual OWTDS, stormwater treatment systems, provision of abundant open space, additional planting of street trees.

With these reply comments, I am forwarding copies of our revised plan for your reference. If there are any questions regarding this letter or about the revised plan, please do not hesitate to contact us at (302) 684-8030.

Respectfully Yours,

A handwritten signature in black ink, appearing to read 'Mark H. Davidson', with a large, sweeping flourish at the end.

Mark H. Davidson
Owner
Design Consultants Group, L.L.C.