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March 1, 2007

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Ms. Constance C. Holland, AICP
Director
State Planning Coordination
122 William Penn Street, Third Floor
Dover, DE 19901

RE: Susan Beach Estates
PLUS 2006-08-02

Dear Ms. Holland:

Thank you for allowing us to present the Susan Beach Estates project at the August 30, 2006 PLUS meeting. No revisions to the plans are proposed as a result of the State's comment letter however we have considered the comments of the various agencies and offer the following responses, listed by agency:

Office of State Planning Coordination

While our client recognizes the State's position on this project, it is located in a developing area with significant housing demand and our client intends to move forward with the project.

Division of Historical and Cultural Affairs

The developer has expressed that they intend to note and preserve archeological evidence uncovered at the site during construction and will follow the appropriate County and State regulations concerning said evidence. The noted archeological report was completed under the guidance and regulation of the Division and the Division issued approval of the study and allowed a previous subdivision application for this parcel to move forward. The current application replaces the previous subdivision proposal. Field reconnaissance and report documents noted no evidence of historical or archeological artifacts and found no evidence of human burials in the tax parcel called the Ellis Family Cemetery. The Division's records should reflect these findings. Should the Division be unable to locate the records they may contact my office and we will attempt to provide copies of the findings and response letter(s). Please note that the Ellis Family Cemetery is not part of this application and is its own tax parcel. Provisions to allow family members and descendants of those interred, if any, have been made by a note on the plans requiring access through the proposed private streets.

Department of Transportation

The Department of Transportation's position on the project is duly noted and we look forward to working with them on the review of the technical documents and permit application.

The Department of Natural Resources and Environmental Control

The Department's position on the project is understood, however the development of this property is consistent with its zoning, provides significantly lower intensity than what is permitted by County regulations and takes steps to provide consideration for natural resources. The project is proposed to be designed in compliance with all applicable County and State regulations.

Soils:

The soils are in fact limiting for development and the site plan considers these restrictions. The site will utilize a public sanitary sewer system thus eliminating the 41 septic systems proposed by the previous application for this parcel. Wet ponds are proposed for storm water management to take advantage of the high groundwater while providing effective conveyance of runoff from the site. All stormwater management will be designed in compliance with State regulations.

Wetlands:

A wetland delineation has been performed for the site. Wetland areas were limited to agricultural drainage ditches, a small borrow pit, and isolated wooded wetlands at the properties northwest corner. The developer intends to have the USACE perform a jurisdictional assessment if and when they resume such work. Wetland regulations, some of which are expected to impact this property, are under review and the Corps has yet to issue a ruling on the matter. No wetlands are proposed on any lots and the wooded wetland areas in the northeast corner which are clearly the only remaining naturally occurring wetlands, are contained within open space.

Impervious Cover:

As noted in the comment letter we believe that the impervious cover proposed is reasonable. Please note that the community amenities such as sidewalks and recreation areas add to the impervious cover but are offset by the benefit to the community. The proposed development is anticipated to be far below any County or State rules on percent impervious cover and the stormwater management design will be in accordance with County and State regulations. Please note that per the Department's previous comments under soils, this site is poorly suited for infiltration and as such no infiltration facilities are proposed.

TMDL's

The Department's concerns and comments about future regulation are noted. This project proposed to utilize best management practices to reduce stormwater pollutants and will utilize a public sewer system. This project will eliminate the 41 septic systems proposed by the previous application for the site. The project will be designed in accordance with County and State regulations.

Water Supply:

As noted this project intends to utilize a public water distribution system provided by Tidewater Utilities, Inc. The stated regulatory requirements and noted and the designs will follow State regulations.

Sediment and Erosion Control/Stormwater Management;

The project will be designed in accordance with State regulations and the required NOI will be filed. Green technology BMPs will be considered however due to the site's limiting soil conditions and high groundwater table little reliance on infiltration facilities is anticipated. Our office looks forward to meeting with the Sussex Conservation District to conduct a preliminary meeting on the proposed facilities.

Open Space:

The Departments comments will be taken under consideration when it is time to plan the open space groundcover and plantings. The proposed open space will be permanent and under the control of the homeowners association once the work is complete.

Rare Species:

No rare species have been identified to date but the developer will consider preservations measures should they be found to exist on the site. Existing forested areas that will be in open space areas are expected to be maintained as such.

Forest preservation:

It is our opinion that the range of tree removal noted on the application is realistic and that in reality the amount is not likely to be higher. Our estimate was based on an anticipated removal rate and included allowances for the noted items with its range of acreage. Please note that wooded lots bring a premium to developers and as such significant trees are expected to be preserved where practical. The lots shown on the Preliminary Plan are not proposed for revision. No wetlands are proposed to be included within any lots.

Nuisance Waterfowl:

The problems associated with nuisance waterfowl are appreciated and noted at many areas in the state. The developer does intend to use large open wet ponds for stormwater management due to hydrologic and topographic limitations. The homeowners association will have the ultimate responsibility for maintaining the facilities. When the planting and landscaping plans are developed the Department's recommendations will be considered.

Air Quality:

The developer intends to comply with State regulations with respect to air quality during construction. We also agree and encourage the homebuilders upon the site to utilize the most energy efficient construction methods practical and to choose efficient equipment. This plan is a subdivision plan and as such does not regulate the methods and means of home construction besides restricting the siting of mobile homes on the property.

State Fire Marshal's Office

We intend to comply with the State Fire Code when designing the final subdivision and will make the required submission to the Office of State Fire Marshal for review and approval. As noted, this site proposes a public water system and as such will have fire hydrants within the community.

Department of Agriculture

The required County buffers to agricultural and timber land have been provided along with a note stating that this property is adjacent to lands subject to agricultural activities. We agree with the Department's statement of the importance of maintaining pervious cover in excellent and good recharge areas but wish to note that this site is poorly suited for recharge as evidenced by the old agricultural drainage ditches dug through the site many years ago. This project proposes a density for below that permitted by County ordinances in fact nearly half of what is permitted under County law. Significant areas are proposed to be maintained as permanent open space and it is our hope that the homeowners become good stewards of their lots and of the open space. The Department's tree planting recommendations will be considered during the landscaping phase of the project.

Public Service Commission

This project proposes public water and sewer. Should a vendor be chosen to provide community wide natural gas we expect that they will abide by local and State regulations.

Delaware State Housing Authority

The Authority's preference for development in designated growth districts is noted. The area surrounding this proposed development is a rapidly developing one and continues to demonstrate significant demand for single family housing.

Department of Education

We note the Department's concerns. Provisions for bus stops can be provided within the community. Likely locations would be the open space parking lots or playground areas. The siting of bus shelters will be considered during final design of the subdivision.

Sussex County

A wetlands delineation has been performed for the site. Wetland areas were limited to agricultural drainage ditches, a small borrow pit, and isolated wooded wetlands at the properties northwest corner. The developer intends to have the USACE perform a jurisdictional assessment if and when they resume such work. Wetland regulations, some of which are expected to impact this property, are under review and the Corps has yet to issue a ruling on the matter. No wetlands are proposed on any lots and the wooded wetland in the northeast corner which is clearly the only naturally occurring wetland is contained within open space.

The stormwater ponds at the front of the site are sited as such due to topographic and groundwater concerns. The site has generally poor drainage in its existing state with the front of the site being lower than the areas to the west. High groundwater elevations have also been noted at the front of the site both by field observations and by DNREC's comments in the PLUS comment letter (see DNREC section of this response). The site also has very limited slope along the front of the property making positive drainage swales or ditches problematic. These three physical features point toward wet ponds being practical stormwater management features for the front of this site. The developer intends to well landscape the rear of the lots and to make the ponds aesthetically pleasing and a beneficial part of the community's open space.

The County's comment about easements is duly noted. A tax ditch does exist on the northwest corner of the site along the northern property boundary. Provisions for an easement are included in the site plan by the inclusion of open space along this property line. The developer is working with the local district and the State to revise the limits of this tax ditch easement and the actual easement lines will be depicted on the construction drawings for review by the County and Sussex Conservations District and will also be depicted and described on the Final Plan.

The Sussex County Engineer's comments note a "private" wastewater system. The project proposes to utilize the public sewer system proposed by Tidewater Utilities, Inc. The system is proposed to be wholly owned and operated by the public utility, no disposal or treatment facilities are proposed for this property.

We are thankful for the efforts of the various agencies, their concerns are taken into account and will be considered as the project moves forward to final approval.

Should you have any questions or require additional information please feel free to contact me.

Sincerely,



Andrew C. Hayes, P.E.

Cc: Mr. Lawrence Lank, Sussex County Planning & Zoning
Mr. James Fuqua, Fuqua & Yori, P.A.
Mr. C. Larry McKinley