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November 6, 2008

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**RE: PLUS REVIEW-PLUS 2008-09-06
NEW HORIZONS COMMUNITY
ECI PROJECT NO. 07-094**

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Dear Ms. Holland:

Thank you for your review of our PLUS submittal and the coordinated agency comments. Our responses appear below. Before addressing each comment individually, we wish to briefly note the purpose of this project and the steps we have taken to advance the project to its current state.

Our client, Diamond State Community Land Trust, after a nationwide search and extensive financial analysis, chose Delaware, and specifically the Dorothy West parcel in Sussex County, to be the nationwide showcase for its affordable housing program. This program will combine a low fee, long-term lease on the underlying land with manufactured housing to provide homes for low income families within the County. To be economically feasible the cost of the land has to be kept as low as possible. It is precisely for this reason that the Dorothy West parcel was chosen.

This parcel's location within a Level 4 Area makes it affordable and in accordance with our client's pro forma criteria. Recognizing early in the design that the project would generate the standard Level 4 comments, we met with Sussex County Planning and Zoning, State representatives, and the Delaware State Housing Authority, and explained how this project balanced the needs of Level 4 protection with the need for low income housing within the County. And while we respect the review comments, we believe they represent an inflexible adherence to planning boundaries that elevates current political theory over the needs of low income families. The planning boundaries are man-made, and they can, and should, be amended whenever it becomes apparent they do not serve the needs of a community. We request that, because of the desperate need for housing for low income families in this area, you work with us to make this project a success.

Following are our responses to the PLUS comments.

OFFICE OF STATE PLANNING COORDINATION

We acknowledge the project is within the Investment Level 4 area. For the economic reasons stated above we believe this to be an appropriate development within this area. The plan seeks to implement the intent of the Community Design Element of the Sussex County Comprehensive Plan with a cluster style development in a rural area, with extensive open space and habitat areas.

Our client understands the State of Delaware's position concerning infrastructure development within the Level 4 area and is prepared to fully fund the necessary infrastructure improvements. This is a small development that will not have a dramatic impact on State-provided services. Whether or not the residents will have to drive 30 minutes or more for employment is debatable, as it is anticipated that a majority of the homeowners will be employed in the nearby agricultural industry. But even if some do work in a nearby town or community, the choice to live in a rural environment and commute to work should be theirs to make.

The State services listed in your letter are not charity; they are paid for out of property and State income taxes. The families that will live within this community have paid, and will continue to pay, their fair share of both and have every right to those services, regardless of where they live. It is certainly a one-sided argument to focus only on the cost of services that people living together as a community incur without also acknowledging the social benefits, increase in tax revenue, and appreciation in land value that home ownership brings to a community.

STATE HISTORIC PRESERVATION OFFICE

Although no comments were received from the State Historic Preservation Office, we wish to point out that a Cultural Resources Investigation was performed by Dr. Edward Otter and that the plan respects and protects those resources reported by Dr. Otter. Specifically, the West Cemetery will remain undisturbed by the project. If desired, a copy of the report, dated January 25, 2008 will be made available.

DEPARTMENT OF TRANSPORTATION

As stated above, our client will fully fund any necessary road improvements associated with this project, thereby relieving DelDOT of any responsibility other than technical review.

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

The following responses are in the same paragraph order as that contained in the PLUS review comment letter.

Investment Level 4

We appreciate DNREC's recognition of this project's commitment to serve the needs of low income families. The development is in conformity with current County zoning modified by the GR/RPC overlay which will allow a cluster development and thereby reduce both the infrastructure costs and impacts on existing forested areas. The plan provides for open space, forested buffers, and significant retention of existing forested areas.

This project is appropriate for this location. As stated above, it is precisely due to its location that makes this project economically viable as low income housing. Rather than being counterproductive, this project will provide an opportunity for home ownership, with the

associated benefits of community enrichment and stability, to families that otherwise would have no chance to become a stakeholder within their community.

According to Title 7, it would be the hunter on State lands that would be in violation of this law if his/her firearm were discharged within the safety zone, not the homeowner within this development.

The developer is seeking no water or wastewater infrastructure investment from the State.

We respectfully request the plan be judged based upon its technical merits and adherence to Best Management Practices and current DNREC design criteria concerning water, wastewater and stormwater management without bias as to its location.

Green Infrastructure

From its inception, this project has been designed to provide affordable housing for low income families while maintaining and protecting the rural environment in which the land is located. By using the cluster option we have been able to provide large open areas suitable for a community garden while decreasing the amount of impervious cover and land disturbance associated with the development. In addition, even though a preliminary soils investigation indicated the soils have the capacity to serve 50 lots for onsite wastewater disposal, we are currently in discussions with Tidewater Utilities to accept the wastewater from this site for treatment and disposal at their recently approved Trussum Pond regional treatment facility. With wastewater going to an offsite facility, the 5 acres of wastewater disposal area will be left undisturbed and in its natural state. If this site were served by a regional facility, an increase in density would be allowed by the Sussex County Code. However, our client has chosen to maintain the low density development as shown on the PLUS submittal plan. We offer this as proof of our client's goodwill and intention to limit this project to a size commensurate with the existing rural surroundings.

Soils

As explained above, we are currently in negotiations with Tidewater to accept wastewater from this site. If these negotiations are successful then no onsite treatment or disposal will be required. If, however, due to cost or delay in availability, offsite treatment is not feasible then the project will provide its own community treatment and disposal system.

A preliminary soils investigation for community wastewater disposal was performed by ARM, Inc. and submitted to DNREC on 8-28-08. The soils will support a development of 50 single family homes. Wet season monitoring wells are currently being monitored.

Wetlands

A field delineation of the wetlands was performed by JCM Environmental in August, 2008. Waters of the US (a ditched and straightened channel) were found along the eastern property line. These waters drain northerly into palustrine forested wetlands in the northern portion of the property which drain northwesterly into the Hitch Pond Branch.

The ditch was verified not to be a Tax Ditch by the DNREC Division of Water and Soil Conservation. The ditch does appear as a blue line stream on the 1992 USGS Trap Pond

Quadrangle, therefore a 50-foot buffer was established from the ordinary high water line in accordance with Sussex County Code 115-193. The ditch and wetlands were field surveyed and are shown on the plan.

As the plan indicates, no fill or other construction activity will occur within the designated wetlands. The wetlands are not being disturbed and therefore no federal permits will be required.

The USDA Web Soil Survey indicates the site is underlain with Hurlock loamy sand (HuA), Pepperbox loamy sand (PpB), Klej loamy sand (KsA), and Pepperbox-Rosedale Complex (PsA). The Pepperbox loamy sand consists of moderately well-drained soils on the uplands. The Pepperbox-Rosedale complex consists of well-drained sandy soils on uplands. The Hurlock and Klej series are poorly drained and considered hydric by the USDA Natural Resources Conservation Service. The hydric soils occur within the wetlands and will therefore not be disturbed or constructed upon. As the plan indicates, construction will occur on the moderately well-drained upland areas. Since the uplands are not prone to flooding, do not have improper drainage, or steep slopes, or adverse earth formations or adverse topography we do not agree with the overly broad interpretation of Sussex County Code 99-16A by Mr. Coyle.

Impervious Cover

The percentage of impervious cover reported on the plan pertains to the proposed infrastructure improvements (roads, sidewalks, etc), as is customary for preliminary plans submitted to Sussex County Planning and Zoning. It is understood that the impervious cover due to house construction is included in the SCS Unit Hydrograph modeling.

These homes will have dimensions of approximately 24-feet by 56-feet. The total roof and driveway area will add approximately 2.1 acres to the reported 6.58 acres of impervious area, giving a total impervious area of 8.68 acres, or 19.3 percent of the total area, not 40 percent as stated by Mr. Coyle.

ERES Waters

We understand the need for restoration of the Nanticoke and will implement Best Available Technologies and Best Management Practices to the fullest extent possible on this project.

TMDL's

It is our intent to use treatment trains consisting of grassed filter strips, bioswales, and stormwater detention to address the TMDL issue on this site. In addition, we will be removing at least one septic tank with the demolition of the existing farmhouse, and the removal of several acres from previous agricultural production will significantly reduce nitrogen, phosphorus and sediment loads. There will be no point source discharge other than treated stormwater from the stormwater ponds. And we are currently negotiating with Tidewater Utilities to accept the wastewater from the project and thereby eliminate any onsite disposal.

Water Supply

We are currently in negotiation with Tidewater Utilities for management of the water supply for this project. We anticipate a community well within the project. All buffers, applications, and permits will be provided and obtained.

Sediment and Erosion Control/Stormwater Management

The development of this project will include detailed development of a stormwater management and erosion and sediment control plan. The erosion and sediment control plan will minimize runoff of nutrients and sediment into surrounding waters through the use of grassed filter strips, bioswales, and detention ponds.

The developer will contact the Sussex County Conservation District and schedule a pre-application meeting to discuss the sediment and erosion control measures necessary to address stormwater management for this project. A Notice of Intent will be filed with DNREC in accordance with applicable Delaware State Law. The ponds will be designed in accordance with Pond Code 378.

During construction activities, a Certified Construction Reviewer will be assigned to this project.

Drainage

The stormwater management facilities will be designed in accordance with current Sussex Conservation District criteria. Post-development stormwater peak discharges will not exceed Pre-Development discharges for the design storms. Any known downstream drainage problems will be resolved with SCD. All necessary easements will be shown on the record plan. No lot will be within a buffer. A selective clearing plan will be developed to prevent unnecessary tree removal.

Rare Species

We appreciate Mr. Coxe's field inspection and report.

Forest Preservation

We are currently in negotiations with Tidewater Utilities to treat and dispose of wastewater from this site at their Trussum Pond facility. If these negotiations are successful an additional 5 acres of existing forest will be preserved, bringing the total forested area preserved to 20 acres, or 52 percent of the total existing forested area.

Regardless of the final outcome of these negotiations, a selective lot clearing plan will be produced in order to prevent the unnecessary removal of trees. This selective clearing plan, along with the forested buffers shown, will help maintain a considerable portion of the existing trees.

It should be noted that of the 15 acres of forest currently shown to remain, approximately 10 acres are contiguous within the development. In addition, a forested buffer will remain along the entire border with Trap Pond State Park.

Nuisance Waterfowl

Tall grasses and other plantings will be utilized around the stormwater ponds to reduce their attractiveness to nuisance waterfowl.

Trap Pond State Park

Our plan will require the clearing of approximately 24 acres. Through the use of selective clearing and offsite wastewater disposal this will be reduced to 19 acres. While this clearing will cause the loss of some habitat, we do not agree with Mr. Coyle's comment that this will cause "...long-term decline in species population". There will be 15 to 20 acres of contiguous forest left onsite, and the boundary with Trap Pond State Park will have a continuous forested buffer.

We believe the clearing for this project compares favorably with the State approved clearing within Trap Pond State Park. An inspection of the most recent aerial photograph of Trap Pond State Park shows the following approximate clearing areas:

Septic Disposal Field:	3.9 acres
Overflow Parking (east side of pond):	1.1 acres
Main Parking Area (west side of pond):	9.3 acres
Boat Ramp:	0.7 acres
Pavilion:	0.5 acres
Roadways:	<u>5.2 acres</u>
Total Clearing by State within Park:	20.7 acres

On the basis of total acres cleared, the clearing for our project is similar in scope to that approved by the State for improvements within Trap Pond State Park.

Following are our comments to Items 1 through 5 on Pages 14 and 15.

1. Our plan preserves a significant portion of contiguous forested area. This, along with Best Management Practices to be incorporated during design, will help protect the Natural Areas on this site.
2. During design, we will work with DNREC to incorporate fire breaks where feasible within the site.
3. The responsibility for maintaining a safety zone lies with the owner of the land upon which hunting activity occurs, not the adjoining neighbor.
4. We look forward to working with the Division of Parks and Recreation to plan pedestrian access to the park. The community center near the northwest corner of the project will provide a natural trail head for a pedestrian path. We do not believe a fence along the eastern boundary is necessary. We believe the forested buffer, perennial stream and stormwater detention pond will inhibit access to the park in that area.
5. The stormwater management facility will use a treatment train of grassed filter strips, bioswales and detention ponds to provide quality treatment of the stormwater runoff. There will be forested buffers of 50 to 100 feet upland of the field identified wetlands. The stormwater discharge will meet current DNREC requirements for both quality and quantity. Native plant species from the current DNREC wetlands planting list will be used around the detention pond.

Site Investigation and Restoration

Due to the parcel's historic use as a homestead the client does not believe a Phase I Environmental Site Assessment is necessary.

Air Quality

Construction activities associated with this project will comply with DNREC regulations concerning transportation and use of construction materials.

The project, as designed, is meant to facilitate compliance with applicable Energy Star guidelines. Typically, the dwellings that will be made a part of this project, by virtue of current market conditions, will be expected to meet or exceed applicable Energy Star compliance for appliances, heating and air conditioning systems, insulation and other factors that directly impact power requirements and/or energy requirements to support the residences.

STATE FIRE MARSHAL'S OFFICE

This project will comply with all State Fire Marshal regulations. The project will obtain all necessary permits to comply with the regulations, including but not limited to: Fire Protection Water Requirements, Fire Protection Features, Accessibility, Gas Piping and System Information and Required Notes. The engineer of record will conduct a preliminary meeting with the State Fire Marshal's Office prior to formal plan submittal.

DELAWARE DEPARTMENT OF AGRICULTURE

We find the characterization of the potential residents of this site as ones with "...little understanding or appreciation for modern agriculture and forestry" to be both prejudiced and unfounded. The majority of homeowners in this project will be Sussex County residents that have been displaced from their former homes and which have, and will continue to have, a community agricultural interest. And since the agricultural industry relies on inexpensive labor drawn from the low income labor pool we do not understand the Department's antagonism to our client's desire to provide homes for these laborers.

This development will not interfere with agricultural activities currently existing within the area and may provide an additional labor pool. We see no compromises in health or safety; the one example given by Mr. Blaier has no basis in fact and seems to imply that Wooten Road was built for farm equipment, when in fact it is a DelDOT highway constructed for automobiles.

The developer is seeking no State investment in the infrastructure for this site.

The preliminary plan, when submitted to Sussex County, will have the appropriate notes.

The plan shows a 30-foot forested buffer as required in the regulations. The tree plantings will be coordinated with DDA for species and spacing. A disclaimer will be added, where appropriate, to notify home owners of the protections listed in the Delaware Code for subdivisions bordering agricultural preservation districts.

With regard to the "right tree for the right place", it is the intention of the developer to preserve woodlands where possible, and to provide reforestation of the project, in a comprehensive

manner that addresses the overall needs of the project and approach a common sense resolution of landscape plantings. The development, as planned, positively addresses tree preservation.

PUBLIC SERVICE COMMISSION

The appropriate guidelines will be used if natural gas service is provided to this community.

DELAWARE DIVISION OF PUBLIC HEALTH

The plan includes interconnected sidewalks leading to a community center with recreation facilities. We also intend to work with the Division of Parks and Recreation to provide pedestrian paths to Trap Pond State Park.

DELAWARE STATE HOUSING AUTHORITY

We appreciate the Department's support of this project and recognition that this plan provides homes for low income families and supports its community agricultural business plan.

SUSSEX COUNTY

Contrary to the comment made by Mr. Kautz, this project will benefit numerous individuals. Low income families will enjoy the benefits of home ownership and employers will have access to a labor pool with agricultural experience.

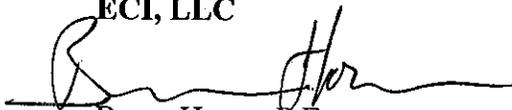
The plan as proposed is specifically designed to integrate the proposed project into the existing terrain and surrounding landscape. This is accomplished by the minimization of grading, lessening of impacts on standing woodlands by use of the cluster ordinance, and the development of a plan that strives to maintain some of the original agricultural pursuits that were associated with this property. The plan continues the rural theme of the site in general, and allows for significant open-space and recreational opportunities.

With regard to the Sussex County Engineering comments, the central community system, whether built onsite or pumped offsite to the Trussum Pond facility, will be managed by Tidewater Utilities. All collection and transmission systems will be designed in accordance with current Sussex County design criteria.

The newly adopted road standards will be used in the design of this project.

We wish to thank each reviewer for their careful consideration of the merits of this project and look forward to working with each department for the successful implementation of this plan.

Sincerely,
ECI, LLC



Bruce Horne, P.E.
Director of Operations