

# MORRIS & RITCHIE ASSOCIATES, INC.

ENGINEERS, ARCHITECTS, PLANNERS, SURVEYORS,  
AND LANDSCAPE ARCHITECTS

0.F.C. REVIEW  
MGM



2009 MAR 18

AM 11 37

Date: March 17, 2009

Constance C. Holland, AICP  
Director  
Office of State Planning Coordination  
122 William Penn Street, Suite 302  
Dover, DE 19901

Re: Response Letter  
PLUS 2009-02-02  
Phillip's Hill Farms

Dear Ms. Holland,

On behalf of our client, Mr. Bernard DiSabatino of Ross Point Associates, LLC and developer for the proposed Phillip's Hill Farms subdivision in Sussex County, we hereby submit this response letter in regards to the PLUS review comments. Our responses are in **bold** as follows.

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

*This project represents a major land development that will result in 390 residential units in an Investment Level 4 area according to the 2004 Strategies for State Policies and Spending, and is within the Low Density area according to the Sussex County certified comprehensive plan. Investment Level 4 indicates where State investments will support agricultural preservation, natural resource protection, and the continuation of the rural nature of these areas. New development activities and suburban development are not supported in Investment Level 4 areas. These areas are comprised of prime agricultural lands and environmentally sensitive wetlands and wildlife habitats, which should be and in many cases have been preserved.*

*From a fiscal responsibility perspective, development of this site is likewise inappropriate. The cost of providing services to development in rural areas is an inefficient and wasteful use of the State's fiscal resources. The project as proposed is likely to bring more than 900 new residents to an area where the State has no plans to invest in infrastructure upgrades or additional services. These residents will need access to such services and infrastructure as schools, police, and transportation. To provide some examples, the State government funds 100% of road maintenance and drainage improvements for the transportation system, 100% of school transportation and paratransit services, up to 80% of school construction costs, and about 90% of the cost of police protection in the unincorporated portion of Sussex County where this development is proposed. Over the longer term, the unseen negative ramifications of this development will become even more evident as the community matures and the cost of maintaining infrastructure and providing services increases.*

18 Boulden Circle, Suite 36, New Castle, DE 19720 (302) 326-2200 Fax: (302) 326-2399

Abingdon, MD  
(410) 515-9000

◆ Annapolis Junction, MD  
(410) 792-9792

◆ Towson, MD  
(410) 821-1690

◆ New Castle, DE  
(302) 326-2200

◆ Georgetown, DE  
(302) 855-5734

*Because the development is inconsistent with the Strategies for State Policies and Spending, the State is opposed to this proposed subdivision.*

- **The applicant is aware of the Office of State Planning's concerns. The project will comply with the requirements as set forth in Chapter 99 and 115 of the Sussex County Code.**

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

*Ross Point Associates, LLC proposes to develop 390 single-family detached houses on a 260.09-acre assemblage of parcels (Tax Parcels 2-32-20.00-32.00 and 33.00). The land is located on both sides of Phillips Hill Road (Sussex Road 472) and the west sides of Scott Land Road (Sussex Road 434) and Womach Road (Sussex Road 438). The land is zoned AR-I and development under the County's cluster development option is proposed.*

*Because this land is located in a Level 4 Area, development of it as proposed is inconsistent with the Strategies for State Policies and Spending. As part of our commitment to support the Strategies, DeIDOT refrains from participating in the cost of any road improvements needed to support this development and is opposed to any road improvements that will substantially increase the transportation system capacity in this area. DeIDOT will only support taking the steps necessary to preserve the existing transportation infrastructure and make whatever safety and drainage related improvements are deemed appropriate and necessary. The intent is to preserve the open space, agricultural lands, natural habitats and forestlands that are typically found in Level 4 Areas while avoiding the creation of isolated development areas that cannot be served effectively or efficiently by public transportation, emergency responders, and other public services.*

*DeIDOT strongly supports new development in and around existing towns and municipalities and in areas designated as growth zones in approved Comprehensive Plans. We encourage the use of transfer of development rights where this growth management tool is available.*

*If this development is approved, notwithstanding inconsistencies with the relevant plans and policies, DeIDOT will provide technical review and comments.*

- **The applicant is aware of the Department of Transportation's concerns. The project will comply with the requirements as set forth in Chapter 99 and 115 of the Sussex County Code.**

**The Department of Natural Resources and Environmental Control — Contact:  
Kevin Coyle 739-9071**

*Plans for this parcel have been submitted several times through PLUS, and DNREC is unaware of any responses from the developer to State comments. The responses are required, and they would help DNREC and other agencies know explicitly if their suggestions are being incorporated into successive versions of this project. Because reviewing projects requires a great deal of staff time from many different programs, DNREC requests a response to our comments and specific questions, as required by Delaware Code Title 29, Chapter 92:*

*Following the pre-application review process and upon filing of an application with the local jurisdictions, 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.*

## ***Fish and Wildlife***

### **Rare Species**

*DNREC has never surveyed this site; therefore, it is unknown if there are State-rare or federally listed plants, animals or natural communities at this project site. There is a fairly extensive Atlantic White Cedar wetland community just downstream that could be impacted by run-off from this development. Atlantic white cedar communities typically grow under unique conditions which are refugia for rare species. This wetland type is sensitive to sedimentation and changes in water quality, especially pH. The hydrological regime is a major determinant of the resulting biota in this system and adequate upland buffers are essential to the persistence of this State-rare community.*

*Recommendation: Upland buffers between Raccoon Branch (and associated wetlands) and lots/infrastructure should be at least 100 feet in width. This buffer is needed to protect a State-rare community that occurs downstream as well as provide wildlife habitat. Forested areas along water courses are utilized by wildlife for resting, foraging and breeding and as a travel corridor.*

- **The buffers adjacent to the streams and non-tidal wetlands vary. In many locations the buffer to the stream is greater than 100 feet. A self imposed minimum buffer of 50 feet has been held from the non-tidal wetland limit.**

### **Forest Preservation**

*The site plan appears to have a larger footprint than the last PLUS application (2008-09-14) yet, forest loss is estimated to be less (56.93 acres instead of 120.1 acres). For both PLUS projects, the project area is the same (260 acres) and the amount of units are the (390), yet the amount of forest that exists on-site is estimated to be 11.41 instead of the previous figure of 138.50. Forest loss estimates used for the current site plan appear to be incorrect and*

*clarification of how the figures were obtained would be useful. Also, it is indicated that a waste water treatment facility will be used; however, the location of this facility is not depicted on the site plan. Will this facility result in additional forest loss not included in the overall estimate? Are there other amenities or site features that are not depicted on the site plan that will result in additional forest loss?*

*Although there has been some level of harvest in the past, this forest does provide habitat for wildlife and if left intact will mature. Cumulative forest loss throughout the State is of utmost concern to the Division of Fish and Wildlife, which is responsible for conserving land managing the State's wildlife (see [www.fw.delaware.gov](http://www.fw.delaware.gov) and the Delaware Code, Title 7). Because of an overall lack of forest protection, we have to rely on landowners/developers and/or the entity that approves projects (i.e. counties and municipalities) to consider implementing recommendations that will aide in reducing forest loss.*

*Recommendations:*

*Preservation of the forest is an option. There are incentive based programs for wildlife management available to private landowners through our agency. Please contact Shelley Tovell at (302) 735-3605 if the landowners(s) are interested in more information. Also, our botanist, Bill McAvoy (302-653-2880) can assist the applicant in developing a plant list for wildlife habitat restoration efforts on this site if desired.*

*If preservation of existing forest resources is not going to be considered, the DNREC offers the following recommendations:*

- 1. Consideration should be made for downsizing this development or revising the site plan to reduce the footprint of the project that occurs within the forest. Concentrating most, if not all, of the lots in the non-forested area would be preferred.*
  - 2. Stormwater management options that do not involve tree clearing should be explored and implemented if deemed feasible by the district engineer or entity that approves the stormwater and erosion plan.*
  - 3. DNREC recommends that trees not be cleared from April 1st to July 31st to minimize impacts to birds and other wildlife that utilize forests for breeding. This recommendation would only protect those species for one breeding season; once trees are cleared the result is an overall loss of habitat.*
- As you are aware, this site was previously timbered in years past. The re-planted trees currently found on-site will be utilized to the greatest extent possible post development. Re-planting of these trees is contemplated for perimeter buffers, and open space areas. The developer is aware of DNREC's recommendations above and will strive to reduce tree clearing to the greatest extent possible. All tree clearing will be conducted in accordance with Chapters 99 and 115 of the Sussex County Code. Updated acreages for tree clearing have been shown on the preliminary plan.**

**Additionally, wastewater treatment will be provided by Tidewater Utilities, Inc. at an off-site location.**

### **Nuisance Geese**

*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 manicure lawns around ponds provide an attractive habitat for these species.*

*Fountains are proposed in two of the stormwater ponds. Fountains, although aesthetically pleasing, are not considered effective at deterring geese. 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 proper landscaping, monitoring, and other techniques, geese problems can be minimized.*

*Recommendation:*

- 1. DNREC recommends plantings of native species of 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 congregate and nest in the area of the pond.*

*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.*

- The applicant is aware of potential nuisance geese problems associated with stormwater management ponds and will endeavor to provide practicable solutions to them as needed.**

### ***Soil and Water***

#### **Sediment and Stormwater Program**

*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 BMP's 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 plan comply with local land us ordinances and policies including the siting of stormwater management facilities. However, we do not support placement in resource protection areas or removal of trees for the sole purpose of placement of a stormwater management facility/practice.*

- **Sediment Control and Stormwater Management for the project will be designed in accordance with the prevailing codes regulating such facilities. The appropriate green technology BMP's will be utilized to the greatest extent possible. Additionally "series" treatment will be implemented where possible to provide pre-treatment of stormwater flows prior to reaching a stormwater management pond.**

### **Drainage**

*The Drainage Program recommends the creation of a maintenance plan for the waterways within this subdivision. The Drainage Program recommends a maintenance area of dedicated open space be set aside for mechanized maintenance, and possible spoil placement, if the waterway requires periodic maintenance or future re-construction. Identify maintenance access points and spoil disposal areas on the sediment and stormwater plans.*

*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 onsite 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.*

*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 aware of the drainage easement on their property.*

*Preserve existing riparian buffers on this site to aid in the reduction of nutrients, sediment, and other pollutants entering Pepper Branch. This site will drain into Records Pond, which has existing water quality problems. Please explore methods to filter excess nutrients in stormwater runoff from this site before releasing stormwater into the Records Pond watershed.*

- **Sediment Control and Stormwater Management for the project will be designed in accordance with the prevailing codes regulating such facilities. The appropriate green technology BMP's will be utilized to the greatest extent possible. Additionally "series" treatment will be implemented where possible to provide pre-treatment of stormwater flows prior to reaching a stormwater management pond.**

### **Flood Management**

*This proposed subdivision currently is not located within a Special Flood Hazard Area. However, Pepper Branch has never had a detailed flood study done to establish Base Flood Elevations. This project is proposing to remove 120 acres of forest, which could have some impact on the floodplain for Pepper Branch as this proposed subdivision is located at the very top of the watershed. I would suggest measures be taken to mitigate any negative impact to downstream residents.*

- **Sediment Control and Stormwater Management for the project will be designed in accordance with the prevailing codes regulating such facilities. As required, proposed conditions release rates will not exceed existing conditions release rates.**

### **Water Resources**

#### **Soils Assessment**

*According to the NRCS soil survey update, Hambrook (HmA), Rockawalkin (RkA), Hurlock (HuA), Longmarsh (LO), and Puckum (Pk) were mapped in the immediate vicinity of the proposed construction (See figure 1). Hambrook and Rockawalkin are moderately well-drained upland soils that have moderate limitations for development. Hurlock is a poorly-drained wetland associated (hydric) soil that has severe limitations for development. Longmarsh and Puckum are very poorly-drained wetland associated (hydric) floodplain soils that have severe limitations for development and should be avoided. Approximately 20% of the mapped soils are Longmarsh, Puckum, and Hurlock.*

*A significant portion of this parcel contains poorly-drained wetland associated (hydric) soils which have a seasonal high water table occurring 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 or constructed forms of structural imperviousness (e.g., rooftops, roads, sidewalks, and stormwater management structures).*

- **The developer is aware of the in-situ soils types. The engineering characteristics of these soils will be incorporated into the design of the project. The developer will**

**construct the project in accordance with all prevailing rules and regulations governing such activities.**

### Wetlands

*Based on Statewide Wetlands Mapping Project (SWMP) mapping, palustrine forested scrub-shrub riparian wetlands (PFOI/553C7) and palustrine forested wetlands (PFO1E7) bisect or bound the central and southern portions of the proposed project area (See figure 2).*

*Outside of the two road crossings of Pepper Branch, it looks like the project is not in subaqueous lands. There is a small blue line tributary shown on the 7.5 Minute USGS Quadrangle map on the south part of the project (north of a larger tributary) that may be impacted by the development. The concept plan does not show the tributary and because it is a jurisdictional stream under State regulations, it should be checked. Additionally, the developer should anticipate applying for a subaqueous lands permit from the Wetlands and Subaqueous Lands office and having to mitigate for the stream crossings, unless they do clear span crossings. Examples of mitigation include obtaining conservation easements for the wetlands and stream corridors on the property and/or doing some kind of stream/wetland restoration approvable by this office. There are also non-tidal wetlands on the property that need to be checked by the Army Corps of Engineers.*

*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. Please 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.*

*For waterfront communities, applicants should depict any proposed plans to provide water access for residents of the community. Centralized community structures such as small residential marinas, boat ramps or community fishing piers are preferred over individual docks and piers at individual waterfront lots. Should individual docks be preferred, application must be made by each waterfront property owner after the sale of the lot, and permit decisions will be made by the Department on a case by case basis. However, in making representations to prospective buyers, please be advised that the Department is required to consider cumulative impacts and avoidance*

*measures when reviewing applications, so there is no guarantee that all, or even any, of the waterfront property owners will be granted such permits. Permits for speculative construction will not be issued to developers to construct individual waterfront docks and piers prior to the sale of the lot(s) in question. Permits may be granted to developers who propose centralized community structures prior to the sale of any lots.*

*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 Federal 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 (IJSACE, 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 making such delineations. 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.*

*As noted previously, the palustrine headwater water riparian wetlands bisect the central and southern portions of subject parcel. Headwater riparian wetlands serve to protect water quality which helps maintain the ecological integrity and functions throughout the length of the stream, including the floodplain system and/or water bodies further downstream. Since headwater riparian wetlands serve as natural buffers that protect the water and habitat quality of streams from sediment and nutrient-laden runoff, their protection deserves the highest priority. Therefore, the Watershed Assessment Section strongly recommends that a 100-foot upland buffer be maintained or established from the stream and headwater riparian wetlands associated with the Raccoon Branch tax ditch. A literature 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) has documented consensus among researchers that a 100-foot upland buffer is the minimum buffer width necessary, under most circumstances, to protect water quality.*

*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. Soils mapped as Hurlock, Puckum, and Longmarsh fit the criterion for improper drainage or high flooding potential, and should be avoided. The Watershed Assessment Section believes permitting development on such soils would be inconsistent with abovementioned regulatory guidelines in the Sussex County Code.*

- **As shown on the preliminary plan, a wetland delineation was completed for the subject parcels and the results of which were utilized for the revised Phillip's Hill Farms plan. Lot lines are not proposed to encroach into wetland areas. Additionally a self imposed 50 foot non-tidal wetland buffer has been incorporated into the plan. In many instances the distance between lot lines and the wetlands will significantly exceed this minimum distance.**

### **Impervious Surfaces and Best Management Practices**

*The applicant estimates this project's post-construction surface imperviousness to reach only 19 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. According to the TR-55 methodology for determining impervious cover, given the average lot size of 7,669 square feet (.17 acres), impervious cover is more likely to be between 38 and 65 percent. When calculating surface imperviousness, it is important to include all forms of constructed surface imperviousness, such as all paved surfaces including rooftops, sidewalks, driveways, and roads; open-water stormwater management structures and/or ponds; and community wastewater systems. This will ensure a realistic assessment of this project's likely post-construction environmental impacts. Surface imperviousness should be recalculated to include all of the above-mentioned forms of surface imperviousness in the finalized calculation for surface imperviousness. Failure to do so will significantly understate this project's true environmental impacts. Therefore, the calculation for surface imperviousness should be corrected and/or recalculated to reflect all the above-mentioned concerns.*

*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 (BMP5) that reduce or mitigate some of this project's 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.*

- **Impervious coverage for the project will be in accordance with Chapters 99 and 115 of the Sussex County Code. Updated impervious values have been shown on the preliminary plan.**

### **TMDLs**

*Total Maximum Daily Loads (TMDLs) for nitrogen and phosphorus have been promulgated through regulation for the Broad Creek watershed. A TMDL is the maximum level of pollution allowed for a given pollutant below which a "water quality limited water body" can assimilate and still meet water quality standards to the extent necessary to support use goals such as, swimming, fishing, drinking water and shell fish harvesting. Although TMDLs are required by*

*federal law, states are charged with developing and implementing standards to support these desired use goals. In the Broad Creek watershed, "target-rate-nutrient reductions" of 30 and 50 percent will be required for nitrogen and phosphorus, respectively. Additionally, "target-rate-reductions" of 2 percent will be required for bacteria.*

*As indicated above, TMDLs for nitrogen and phosphorus have been proposed for the Broad Creek watershed. The TMDL calls for a 30 and 50 percent reduction in nitrogen and phosphorus from baseline conditions. The TMDL also calls for a 2 percent reduction in bacteria. A Pollution Control Strategy (PCS) will be used as a regulatory framework to ensure that these nutrient reduction targets are attained. The Department has developed an assessment tool to evaluate how your proposed development may reduce nutrients to meet the TMDL requirements. Additional nutrient reductions may be possible through the implementation of BMPs such as wider vegetated buffers along watercourses/wetlands, increasing the amount of passive, wooded open space, use of pervious paving materials to reduce surface imperviousness, and deployment of green-technology stormwater management treatment technologies. Contact Lyle Jones at 302- 739-9939 for more information on the assessment tool.*

- **The developer acknowledges the benefit of TMDL reduction. All stormwater management/BMP facilities will be designed in accordance with the prevailing requirements as promulgated by the Sussex Conservation District (SCD) and the State of Delaware.**

### **Water Allocation**

*The project information sheets state that public water will be provided to the project by a new on-site well. Our records indicate that the project site is not located in an area where public water service is available. Any public water utility providing water to the site must obtain a Certificate of Public Convenience and necessity (CPCN) from the Public Service Commission. Information on CPCN's and the application process can be obtained by contacting the Public Service Commission at 302-736-7547. Information regarding the project site does not include a location of the proposed new well, therefore, should an on-site public/miscellaneous public well be needed, a minimum isolation distance of 150 feet is required between the well and any potential source of contamination, such as a septic tank and sewage disposal area, furthermore, the well 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 located and constructed in compliance with all requirements of the Regulations Governing the Construction and Use of Wells. A well construction permit must be obtained prior to constructing any wells.*

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

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

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

- **The developer will work with Tidewater Utilities Inc. to ensure that all required certificates for water supply, permits for dewatering practices and applications for well-drilling are obtained from the appropriate agencies. Additionally, the location of the public well will conform to setback standards as required.**

### **Water Supply**

*The DNREC Ground Water Protection Branch (GPB) has determined that the project falls partially within an excellent ground-water recharge potential area for Sussex County (see following map and attached map). No wellhead protection areas were found. This project was previously reviewed as Ross Point Farm PLUS 2006-08-10, as Phillips Farm PLUS 2007-06-04 and as Phillips Farm PLUS 2008-09-14. The developer has not responded to any of these previous comments.*

1. *PLUS 2007-06-04 showed a "Waste Disposal Area" in the excellent ground-water potential area. PLUS 2008-09-14 indicated that an onsite wastewater treatment system would be on site.*

*The Ground Water Protection Branch asks:*

- *Where is the Waste Disposal Area located?*
  - *Is there a system design?*
  - *Has a Letter of Intent been sent to DNREC?*
2. *Excellent ground-water recharge potential areas are those areas mapped by the Delaware Geological Survey where the first 20 feet of subsurface soils and geologic materials are exceptionally sandy. These soils are able to transmit water very quickly from the land surface to the water table. This map category is an "indicator of how fast contaminants will move and how much water may become contaminated" (Andres, 2004, pg 1). Land use activities or impervious cover on areas of excellent groundwater recharge potential may adversely affect the quality and quantity of ground water in these areas.*

**Sussex County Ordinance No. 1979 §89-7. A. (1) does not impose additional**

*limitation upon land development, provided the impervious cover within the excellent recharge area is 35% or less.*

***Sussex County Ordinance No. 1979 §89-7. A. (2) allows impervious cover greater than 35% but no more than 60% of the within the portion of the tax parcel provided the applicant provides an environmental assessment report to insure that post-development recharge quantity meet or exceed the pre-development recharge quality.***

*The developer on the PLUS application states that the proposed development would change the impervious cover from 0% to approximately 19.08%. This percentage quantifies the impervious cover of the entire parcel and not the percentage within the excellent ground-water recharge potential area. Based on an ArcMap application calculation, the percentage of impervious cover within the excellent ground-water recharge potential area dedicated to roadways is approximately 19%.*

*An ArcMap application calculation determined that the area of the development within the excellent ground-water recharge potential area is approximately 23 acres. There is approximately 4 acres dedicated to streets. Based on this calculation, the percentage of impervious cover dedicated to streets is 19% within the excellent recharge area. If the streets alone were 19%, it would appear that the impervious cover within the recharge area exceeds the amount reported on the application.*

*This amount of impervious cover (between 38% and 65%) requires an Environmental Assessment including a climate budge to document post=development recharge is greater than or equal to pre-development (Sussex County Ordinance No. 1979, Sec. 89-7 (2))*

*GPB recommends:*

- Environmental Assessment including a climate budge to document that post-development recharge is greater than or equal to pre-development (Sussex County Ordinance No. 1979, Sec. 89-7 (2))*
- Move open space into this area to reduce the amount of impervious cover to below 35%.*

- 3. The PLUS application indicates that a new well will be drilled on site but the location is not shown on the site plan.*

*GPB states the well must comply with the Delaware Regulations Governing the Construction and Use of Wells to include, but not limited to:*

#### ***SECTION 4 – WELL CONSTRUCTION STANDARDS***

***4.01 Siting Criteria, J. All public water wells within a housing development, subdivision, or strip development recorded on or after the implementation date of these***

*Regulations shall be located at least one hundred fifty (150) feet within the subdivision or development's outermost property lines.*

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

- **The estimated percent imperviousness as submitted to PLUS for this review was based on the entire project acreage. The portion of the proposed subdivision that overlays the excellent recharge area is slated for mainly 80' wide single family lots. After considering only the excellent recharge area, an impervious value of 29.8% was determined, well below the allowable 35% limit. Impervious coverage for this project will be in accordance with Sussex County land development and zoning standards.**
- **Additionally, the location of any public water wells will be in accordance with all applicable standards.**
- **The applicant will contract Tidewater Utilities Inc. to provide both the centralized water and the offsite sewage disposal system for this project.**

## *Air and Waste*

### *Air Quality*

*Housing developments may unnecessarily emit, or cause to be emitted, significant amounts of air contaminants into Delaware's air, which will negatively impact public health, safety and welfare. These negative impacts are attributable to:*

- *Emissions that form ozone and fine particulate matter; two pollutants relative to which Delaware currently violates federal health-based air quality standards,*
- *The emission of greenhouse gases which are associated with climate change, and*
- *The emission of air toxics.*

*Air emissions generated from housing developments include emissions from:*

- *Area sources like painting, lawn and garden equipment and the use of consumer products like roof coatings and roof primers.*
- *The generation of electricity needed to support the homes in your development, and*

- *Car and truck activity associated with the homes in your new development.*

*These three air emissions components (i.e., area, electric power generation, and mobile sources) are quantified below, based on a per household/residential unit emission factor that was developed using 2002 Delaware data. These emissions in the table represent the actual impact the Phillips Hill Farm development may have.*

*Emissions Attributable to Phillips Hill Farm Subdivision (Tons per Year)  
 (\*) Indicates data is not available.*

*Note that emissions associated with the actual construction of the subdivision, including automobile and truck traffic from working in, or delivering products to the site, as well as site preparation, earth moving activities, road paving and other miscellaneous air emissions, are not reflected in the table above.*

*Recommendations:*

*The applicant shall comply with all applicable Delaware air quality regulations. These regulations include:*

	<i>Vol atile Organic Compounds (VOC)</i>	<i>N itrogen Oxides (NOx)</i>	<i>S ulfur Dioxide (SO2)</i>	<i>Fin e Particulate Matter (PM2.5)</i>	<i>C arbon Dioxide (CO2)</i>
<i>Direct Residential</i>	<i>12.1</i>	<i>.3</i>	<i>.1</i>	<i>1.4</i>	<i>8.9</i>
<i>Electrical Power Generation</i>	<i>ND</i> *	<i>.8</i>	<i>6.6</i>	<i>ND</i> *	<i>,454.7</i>
<i>Mobile</i>	<i>29.9</i>	<i>4.8</i>	<i>8.3</i>	<i>1.6</i>	<i>,503.6</i>
<i>Total</i>	<i>42.0</i>	<i>0.9</i>	<i>6.0</i>	<i>3.0</i>	<i>,007.2</i>

*Additional measures may be taken to substantially reduce the air emissions identified above. These measures include:*

- *Constructing only energy efficient homes. Energy Star qualified homes are up to 30% more energy efficient than typical homes. These savings come from building envelope upgrades, high performance windows, controlled air infiltration, upgraded heating and air conditioning systems, tight duct systems and upgraded water-heating equipment. Every percentage of increased energy efficiency translates into a percent reduction in pollution. The Energy Star Program is excellent way to save on energy costs and reduce air pollution.*

- *Offering geothermal and/or photo voltaic energy options. These systems can significantly reduce emissions from electrical generation, and from the use of oil or gas heating equipment.*
- *Providing tie-ins to the nearest bike paths and links to any nearby mass transport system. These measures can significantly reduce mobile source emissions.*
- *Funding a lawnmower exchange program. New lawn and garden equipment emits significantly less than equipment as little as 7 years old, and may significantly reduce emissions from this new development. The builder could fund such a program for the new occupants.*

*Additionally, the following measures will reduce emissions associated with the actual construction phase of the development:*

<p><i>Regulation 6 - Particulate Emissions from Construction and Materials Handling</i></p>	<p><i>Using dust suppressants and measures to prevent transport of dust off-site from material stockpile, material movement and use of unpaved roads.</i></p> <ul style="list-style-type: none"> <li>• <i>Using covers on trucks that transport material to and from site to prevent visible emissions.</i></li> </ul>
<p><i>Regulation 1113— Open Burning</i></p>	<ul style="list-style-type: none"> <li>• <i>Prohibiting open burns statewide during the Ozone Season from May 1-Sept. 30 each year.</i></li> <li>• <i>Prohibiting the burning of land clearing debris.</i></li> <li>• <i>Prohibiting the burning of trash or building materials/debris.</i></li> </ul>
<p><i>Regulation 1145— Excessive Idling of Heavy Duty Vehicles</i></p>	<ul style="list-style-type: none"> <li>• <i>Restricting idling time for trucks and buses having a gross vehicle weight of over 8,500 pounds to no more than three minutes.</i></li> </ul>

- *Using retrofitted diesel engines during construction. This includes equipment that are on-site as well as equipment used to transport materials to and from site.*
- *Using pre-painted/pre-coated flooring, cabinets, fencing, etc. These measures can significantly reduce the emission of VOCs from typical architectural coating operations.*
- *Planting trees at residential units and in vegetative buffer areas. Trees reduce emissions by trapping dust particles and by replenishing oxygen. Trees also reduce energy emissions by cooling during the summer and by providing wind breaks in the winter, whereby reducing air conditioning needs by up to 30 percent and saving 20 to 50 percent on fuel costs.*

*This is a partial list, and there are additional things that can be done to reduce the impact of the development on air quality. The applicant should submit a plan to the DNREC Air Quality Management Section which address the above listed measures, and that details all of the specific emission mitigation measures that will be incorporated into the Phillips Hill Farm development. Air Quality Management Section points of contact are Phil Wheeler and Deanna Morozowich, and they may be reached at (302) 739-9402.*

- **The applicant is aware of the need to reduce emissions from electric power generation through the reduction of electric usage by the consumer.**

### **Hazardous Waste Sites**

*No Site Investigation and Restoration Branch (SIRB) sites or salvage yards were found within a 1/2 –mile radius of the proposed development. However, based on the previous agricultural use of the proposed project site, which may have involved the use of pesticides and herbicides, SIRB recommends that a Phase I Environmental Site Assessment be performed prior to development. In addition, should a release or imminent threat of a release of hazardous substances be discovered during the course of development (e.g., contaminated water or soil), construction activities should be discontinued immediately and DNREC should be notified at the 24-hour emergency number (800-662-8802). SIRB should also be contacted as soon as possible at 302-395-2600 for further instructions.*

- **A Phase I Environmental Site Assessment was performed by Atlantic Hydrologic, Inc. on December 13, 2006. “No evidence of uncontrolled hazardous substances and/or petroleum products was observed at the project site during the walking reconnaissance”. However, the applicant will follow all rules and procedures should any hazardous substances be discovered during construction.**

### **State Fire Marshall’s Office**

*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:**

*Where a water distribution system is proposed for single-family dwellings it shall be capable of delivering at least 500 gpm for 1-hour duration, at 20-psi residual pressure. Fire hydrants with 1000 feet spacing on centers are required. The infrastructure for fire protection water shall be provided, including the size of water mains.*

b. **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 Womach Road 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 turnaround 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.*

c. *Gas Pipeline and System Information:*

*Provide type of fuel proposed, and show locations of bulk containers on plan.*

d. *Required Notes:*

*Provide a note on the final plans submitted for review to read "All fire lanes, fire hydrants, and fire department connections shall be marked in accordance with the Delaware State Fire Prevention Regulations"*

- Name of Water Supplier*
- Proposed Use*
- National Fire Protection Association (NFPA) Construction Type*
- Maximum Height of Buildings (including number of stories)*
- Provide Road Names, even for County Roads*

*Preliminary meetings with fire protection specialists are encouraged prior to formal submittal. Please call for appointment. Applications and brochures can be downloaded from our website: [www.delawarestatefiremarshal.com](http://www.delawarestatefiremarshal.com), technical services link, plan review, applications or brochures.*

- **The applicant is aware of the Fire Marshall's standards for water distribution systems and will work with Tidewater Utilities to ensure that they are met. Furthermore, all applicable structures will be accessible per the Fire Marshall's geometric road layout standards. Additionally, all required notes will be added to the final record plats.**

**Department of Agriculture - Contact: Scott Blaier 739-4811**

*The proposed development is in an area designated as Investment Level 4 under the Strategies for State Policies and Spending. The Strategies do not support this type of isolated development in this area. The intent of this plan is to preserve the agricultural lands, forestlands, recreational uses, and open spaces that are preferred uses in Level 4 areas. The Department of Agriculture opposes development which conflicts with the preferred land uses, making it more difficult for agriculture and forestry to succeed, and increases the cost to the public for services and facilities.*

*More importantly, the Department of Agriculture opposes this project because it negatively impacts those land uses that are the backbone of Delaware's resource industries - agriculture, forestry, horticulture - and the related industries they support. Often new residents of developments like this one, with little understanding or appreciation for modern agriculture and forestry, find their own lifestyles in direct conflict with the demands of these industries. Often these conflicts result in compromised health and safety; one example being decreased highway safety with farm equipment and cars competing on rural roads. The crucial economic, environmental and open space benefits of agriculture and forestry are compromised by such development. We oppose the creation of isolated development areas that are inefficient in terms of the full range of public facilities and services funded with public dollars. Public investments in areas such as this are best directed to agricultural and forestry preservation.*

*The proposed development is adjacent to a property currently enrolled in the State's Agricultural Lands Preservation Program (Grays Branch Agricultural District, (Parcel # 2.32-15.00-55.00). Therefore, the activities conducted on this preserved property will be protected by the agricultural use protections outlined in Title 3, Del. C., Chapter 9. These protections effect adjoining developing properties. The 300 foot notification requirement affects all new deeds in a subdivision located in whole or part within 300 feet of an Agricultural District. Please take note of these restrictions as follows:*

*§ 910. Agricultural use protections.*

*(a) Normal agricultural uses and activities conducted in a lawful manner are preferred and priority uses and activities in Agricultural Preservation Districts. In order to establish and maintain a preference and priority for such normal agricultural uses and activities and avert and negate complaints arising from normal noise, dust, manure and other odors, the use of agricultural chemicals and nighttime farm operations, land use adjacent to Agricultural Preservation Districts shall be subject to the following restrictions:*

*(1) For any new subdivision development located in whole or in part within 300 feet of the boundary of an Agricultural Preservation District, the owner of the development shall provide in the deed restrictions and any leases or agreements of sale for any residential lot or dwelling unit the following notice:*

*This property is located in the vicinity of an established Agricultural Preservation District in which normal agricultural uses and activities have been afforded the highest priority use status. It can be anticipated that such agricultural uses and activities may now or in the future involve noise, dust, manure and other odors, the use of agricultural chemicals and nighttime farm operations. The use and enjoyment of this property is expressly conditioned on acceptance of any annoyance or inconvenience which may result from such normal agricultural uses and activities.'*

*(2) For any new subdivision development located in whole or in part within 50 feet of the boundary of an Agricultural Preservation District, no improvement requiring an occupancy approval shall be constructed within 50 feet of the boundary of the Agricultural Preservation District.*

*(b) Normal agricultural uses and activities conducted in accordance with good husbandry and best management practices in Agricultural Preservation Districts shall be deemed protected actions and not subject to any claim or complaint of nuisance, including any such claims under any existing or future county or municipal code or ordinance. In the event a formal complaint alleging nuisance related to normal agricultural uses and activities is filed against an owner of lands located in an Agricultural Preservation District, such owner, upon prevailing in any such action, shall be entitled to recover reasonably incurred costs and expenses related to the defense of any such action, including reasonable attorneys fees (68 Del. Laws, c. 118, § 2.).*

*In addition, if any wells are to be installed, Section 4.01(A)(2) of the Delaware Regulations Governing the Construction and Use of Wells will apply. This regulation states:*

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

*Section 1. Chapter 99, Code of Sussex Section 99-6 may apply to this subdivision. The applicant should verify the applicability of this provision with Sussex County. This Section of the Code states:*

*G. Agricultural Use Protections.*

*(1) Normal agricultural uses and activities conducted in a lawful manner are preferred. In order to establish and maintain a preference and priority for such normal agricultural uses and activities and avert and negate complaints arising from normal*

*noise, dust, manure and other odors, the use of agricultural chemicals and nighttime farm operations, land uses adjacent to land used primarily for agricultural purposes shall be subject to the following restrictions:*

*(a) For any new subdivision development located in whole or in part within three hundred (300) feet of the boundary of land used primarily for agricultural purposes, the owner of the development shall provide in the deed restrictions and any leases or agreements of sale for any residential lot or dwelling unit the following notice:*

*“This property is located in the vicinity of 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 of any annoyance or inconvenience which may result from such normal agricultural uses and activities.”*

*(b) For any new subdivision development located in whole or in part within fifty (50) feet of the boundary of land used primarily for agricultural purposes no improvement requiring and occupancy approval for a residential type use shall be constructed within fifty (50) feet of the boundary of land used primarily for agricultural purposes.*

*This site overlaps with the State’s Green Infrastructure Investment Strategy Plan. Both the Forest and Natural Areas layers are present on the site. This designation indicates the land has valuable agricultural and environmental characteristics which are discussed in Governor Minner’s Executive Order Number 61. They should be preserved as such, and not developed for residential or other incompatible uses.*

*The Delaware Department of Agriculture supports growth which expands and builds on existing urban areas and growth zones in approved State, county and local plans. Where additional land preservation can occur through the use of transfer of development rights, and other land use measures, we will support these efforts and work with developers to implement these measures. If this project is approved we will work with the developers to minimize impacts to the agricultural and forestry industries.*

#### *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.*

*Do Not Plant List*

*Due to the high risk of mortality from insects and disease, the Delaware Forest Service does not recommend planting any of the following species:*

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

*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) 698-450*

- **The applicant is aware that the adjacent property under the Agricultural Lands Preservation Program and will make the proper annotations on all deeds for lots within 300 feet of this parcel.**
- **As part of the final landscape design, the proper tree species will be selected that fit the spatial and environmental parameters of their chosen locations.**
- **Plants and trees deemed invasive by the Sussex County Code, Sussex Conservation District or other jurisdictional agency, will not be used.**
- **A comprehensive landscape plan in accordance with the Sussex County Code will be completed as part of this subdivision project. Where applicable, native plant species will be given greater consideration over their non-native counterparts.**

**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.*

- **The comment regarding natural and propane gas pipeline systems is noted. The applicant will endeavor to comply with all safety guidelines and permit requirements.**

**Delaware Division of Public Health- Health Promotion Bureau- contact Michelle Eichinacr (302) 744-1011**

*Ensuring that new residential and commercial development incorporates pedestrian- and bicycle-friendly features allows people to travel by foot or by bicycle and promotes physical activity as part of daily routines. Regular physical activity offers a number of health benefits, including maintenance of weight and prevention of heart disease, type 2 diabetes and other chronic diseases.<sup>1</sup> Research shows that incorporating physical activity into daily routines has the potential to be a more effective and sustainable public health strategy than structured exercise programs.<sup>2</sup> This is particularly important considering about 65% of adult Delawareans are either overweight or obese. This current obesity crisis is also affecting children. Approximately 37% of Delaware's children are overweight or obese, which places them at risk for a range of health consequences that include abnormal cholesterol, high blood pressure, type 2 diabetes, asthma, depression and anxiety.<sup>1</sup>*

*In Delaware, as in other states across the nation, certain patterns of land use can act as a barrier to physical activity and healthy eating for children and adults alike. Examples of such barriers include neighborhoods constructed without sidewalks or parks and shopping centers with full-service grocery stores situated too far from residential areas to allow for walking or biking between them.*

*This proposed development is in a Level 4 area. Developing in such an area is inconsistent with the Strategies for State Policies and Spending. DPH is committed to the Strategies and therefore, does not 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.*

- **As mentioned previously, this project proposes an extensive network of walking trails that will be linked to a system of sidewalks along all streets and will be universally accessible per ADA standards. Additionally, a clubhouse with swimming pool and tennis courts is proposed.**

**Delaware State Housing Authority — Contact Vicki Powers 739-4263**

*This proposal is for a site plan review of 390 residential units on 260 acres located west of Scott Land Road and Womach Road, east of Laurel. According to the State Strategies Map, the proposal is located in an Investment Level 4 area. As a general planning practice, DSHA encourages residential development only in areas 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. Since, the proposal is located in an area targeted for agricultural and natural resource protection, and therefore inconsistent with where the State would like to see new residential development, DSHA does not support this proposal.*

- **The applicant is aware of the DSHA concerns. The project will comply with the requirements as set forth in Chapter 99 and 115 of the Sussex County Code.**

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

*DOE recognizes that his development project is in Level 4 of the State Strategies for Policies and Spending and as such, DOE does not support the approval of this project. This proposed development is within the Laurel School District. DOE offers the following comments on behalf of the Laurel School District.*

1. *Using the DOE standard formula, this development will generate an estimated 195 students, when this project was reviewed in June of 2007, the estimated student generation was 190.*
  2. *DOE records indicate that the Laurel School District's elementary schools are at or beyond 100% of current capacity based on September 30, 2008 elementary enrollment.*
  3. *DOE records indicate that the Laurel School District's secondary schools are at or beyond 100% of current capacity based on September 30, 2008 secondary enrollment.*
  4. *As noted in 2007, the Laurel School District does NOT have adequate student capacity to accommodate the additional students likely to be generated from this development given the number of planned and recorded residential subdivisions within district boundaries. This development is identified as an active adult age 55+ community. Unless the development is age restricted by deed covenant, this development, in conjunction with other planned developments will cause significant burden to the Laurel School District.*
  5. *As noted in 2007, failing a 55+ age restriction deed covenant, the DOE request that the developer contact the Laurel School District Administration to address the issue of school over-crowding that this development has the potential to cause.*
  6. *As noted in 2007, failing a 55+ age restriction deed covenant, the DOE request developer work with the Laurel School District Transportation Department to establish developer supplied bus stop shelter ROW and shelter structures, interspersed throughout the development as determined and recommended by the local school district.*
- **As an entirely age-restricted subdivision, this project will not generate any new students for the Laurel School District. It will however, become a source of tax revenue for the District.**

**Sussex County — Contact: Richard Kautz 855-7878**

*PLUS refer to earlier PLUS comments for 2006-08-10, 2007-06-04 and 2008-09-14.*

*Depending on when the current application was submitted, new ordinances pertaining to forest buffer may apply.*

*The Sussex County Engineer Comments:*

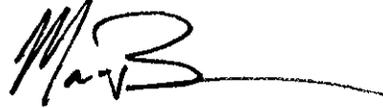
*The project proposes to develop using a private central community wastewater system. We recommend that the wastewater system be operated under a long-term contract with a capable wastewater utility. In addition, we recommend they have a wastewater utility provider prior to approving the project. Sussex County requires design and construction of the collection and transmission system to meet Sussex County sewer standards and specifications. A review and approval of the treatment and disposal system by the Sussex County Engineering Department is also required and plan review fees may apply. Disposal fields should not be counted as open space. Wastewater disposal fields should be clearly identified on recorded plots.*

*The proposed project is in the Western Sussex Planning Area # 5, but is not in an area where Sussex County expects to provide sewer service in the foreseeable future. If Sussex County ever provides sewer service and the project has a CPCN, it is recommended that the treatment system be abandoned and a direct connection made to the County system at the developers and/or owners expense. If Sussex County ever provides sewer service and the project does not have a CPCN, it is required that the treatment system be abandoned and a direct connection made to the County system at the developers and/or owners expense.*

- **The final plat and final landscape plan will provide details of how and when the required forested buffers will be planted as necessary.**
- **Tidewater Utilities Inc. will provide both the centralized water and sewage disposal systems for this project. All prevailing rules and regulations will be followed for the construction and management of such facilities.**

Should you have any questions or comments regarding these responses to the PLUS review comments for Phillip's Hills Farms, please feel free to contact us. We look forward to working with your office and the other review agencies on this project.

Very Truly Yours,  
MORRIS & RITCHIE ASSOCIATES, INC.



Marco K. Boyce, RLA, ASLA  
Landscape Architect

Cc: Mr. Bernard DiSabatino – Ross Point Associates, LLC  
Mr. Lawrence Lank – Sussex County  
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