

February 3, 2010

Ms. Constance C. Holland, AICP
State Planning Director
Office of State Planning Coordination
122 William Penn Street, Suite 302
Haslet Building, Third Floor
Dover, Delaware 19901

Re: Del Pointe – Phase 1
Preliminary Site Plan
DBF# 818C007

Dear Ms. Holland,

This letter is in response to comments received from the office of State Planning Coordination dated, June 17, 2009. We offer the following item-by-item response narrative for your review.

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

According to the Strategies for State Policies and Spending, this parcel is located within a Level 4 area. However, this parcel is within the future growth and annexation area for the Town of Millsboro and since the PLUS meeting has been annexed into the Town. Therefore, the State has no objections to the development of this parcel, provided you comply with all local ordinances and codes relating to the development of this property.

- **The developer will comply with all local ordinances and codes relating to the development of this property.**

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

The role of the Division of Historical & Cultural Affairs in the Preliminary Land Use Service (PLUS) process is to provide information on the development's impacts to historic properties and archaeological sites and is an advocate for their protection. In addition, all of the information is according to the reference and resource materials at the State Historic Preservation Office, which is the central research repository of the Division of Historical and Cultural Affairs. Preserving Delaware's heritage and showcasing the historic legacy of our state are the guiding principles of our agency, and through active historic preservation efforts, the Division is committed to enhancing Delaware's quality of life by helping people connect with

those aspects of our past that have made this state what it is today.

In accordance with the Preliminary Land Use Service (PLUS) outlined in Chapter 92 of Title 29 of the Delaware Code, here are the following observations:

As the developer is aware, this parcel is in a Level 4 Investment Area. Although this project site is within the proposed growth area of the Town of Millsboro, the Division of Historical & Cultural Affairs does not support, and is not in favor of any type of development in a Level 4 Area.

Delaware has a strong agricultural and rural heritage, and often there are historic resources such as buildings or archaeological sites in these areas. Intruding on these areas may affect the historic context as well as any resources historically associated with Delaware's rural heritage. Many historic-period or prehistoric-period archaeological sites have not been found or are not yet studied, but may contain important information about Delaware's history.

There are at least four historic properties in this project area and another nearby. The four are as follows: Mid to late 19th-century agricultural complex (S-4684); mid to late 19th-century dwelling complex (S-4685); and an archaeological site southwest of Mirey Branch (S-6960, 7S-F-48). The historic property near the project site is an early 20th-century dwelling located south of the Road 432 and Route 113 intersection. According to the Pomeroy and Beers Atlas of 1868, there were two dwellings in this project area, one associated with a Wm. Spicer and the other with the P. Marvel Estate. In addition, the USGS Topographic Map of 1918 shows these dwellings in this project area.

Since there were dwellings in this project area, there may be archaeological resources associated with these dwellings, especially the possibility of a cemetery with unmarked human remains. The developer should be aware of the Delaware Unmarked Human Remains Act of 1987, outlined in Chapter 54 of Title 7 of the Delaware Code, which pertains to the discovery and disposition of such remains. The unexpected discovery of unmarked human remains during construction can result in significant delays while the process is carried out.

- **The subject property has been annexed in the Corporate Limits of the Town of Millsboro and is no longer in a Level 4 Investment Area. The developer has also completed a Phase 1 Environmental I Site Assessment which included Historical Topographic Map reports of the area which can be provided if needed. If unmarked human remains are discovered on this site during construction we will contact your department.**

Finally, prior to any demolition or ground-disturbing activities, the developer may want to consider hiring an archaeological consultant to examine the project area to see if there are archaeological sites or a cemetery there. In addition, if there any other visual effect on the nearby property, you may want to ask for landscaping to block the view of the new development from the historic property

- **The developer would like to thank you for the historical information pertaining to this site. If prehistoric archeological sites are discovered during construction we will contact your department.**

Department of Transportation – Contact: Bill Brockenbrough 760-2109

- 1) *Within DelDOT, this project is being reviewed by a Rapid Response Team that was established in support of Governor Markell's emphasis on promoting economic development. The Team will continue to review future phases.*
- 2) *The subject development will require the relocation of portions of Avenue of Honor and Bethesda Road (Sussex Road 326, the replacement for the relocated portion to be named Western Hanover Road). DelDOT is working closely with the applicants' engineer to assure that these relocations are done properly but can be done without undue delay if the Town approves this development.*
- 3) *A traffic analysis done for Phase 1 shows that the proposed road network will be adequate to support the proposed development under most conditions but variable message boards and traffic operations personnel will be needed to direct traffic at the intersection of US Route 113, Rich Road (Sussex Road 329) and East Piney Grove Road (also Sussex Road 329), and possibly also at the intersection of Route 113 and Avenue of Honor, on Saturdays during the racing season. Because the racing season includes only seven Saturdays and DelDOT anticipates significant additional road improvements to follow with Phase 2 of the Del Pointe development within a very few years, they consider this situation acceptable. If the racing season was to be significantly expanded or Phase 2 was significantly changed or delayed, DelDOT would re-evaluate the need for further transportation improvements to support Phase 1.*

- **We have now received DelDOT approval for Phase 1 of this project including road relocations.**

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

Fish and Wildlife

Rare Species/Natural Communities. *DNREC field scientists have not surveyed this project area; therefore, we are unable to provide information pertaining to the existence of state-rare or federally listed plants, animals or natural communities at this project site. In the absence of site-specific information, they offer the following comments:*

DNREC recognizes that this project is an integral part of a much larger master plan and have concerns regarding potential impacts to rare species that occur along or within Sheep Pen Ditch, Mirey Branch and Cow Bridge Branch. State-rare Atlantic white cedar wetlands have been documented along Sheep Pen Ditch and parts of Cow Bridge Branch. These unique wetlands typically grow under unique conditions which are often 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. If these conditions are disturbed or changed in any way from development activities, the potential exists for community structure and plant species composition to shift in an unfavorable direction.

*Of particular concern is the potential for stormwater run-off generated by such a large development to ultimately flow towards or impact the Doe Bridge Nature Preserve (DBNP). DBNP is an area of approximately 314 acres along Cow Bridge Branch that has a large tract of intact forest. Surveys are on-going; however, initial surveys have revealed a unique array of vegetation communities. These communities support 26 species of rare plants. Additionally, twelve species of rare animals were discovered at DBNP, including a visual observation of a federally endangered Delmarva fox squirrel (*Sciurus niger cinereus*) and actual documentation of Chermock's mulberry wing (*Poanes massasoit chermocki*), a butterfly that has been found at only one other site in the world.*

- **The approved Phase 1 Sediment and Stormwater plan incorporates run-off control which closely mimics pre-development conditions. This should minimize any impacts on waters and natural communities downstream from this site.**

Nuisance Waterfowl. *Wet stormwater ponds, especially the large pond in the center of the track, may attract resident Canada geese and mute swans. High concentrations of waterfowl in ponds create water-quality problems, leave droppings on lawn and paved areas and can become aggressive during the nesting season. Short manicured lawns around ponds provide an attractive habitat for these species.*

Exclusion is one of the most effective methods at deterring geese. In a setting such as this project, completely fencing the pond at the edge (even one foot high) may be feasible. Even though geese can fly over the fence, if they constantly have to fly between land and water the area is less desirable. If fencing is not a desired option, we recommend native plantings, including tall grasses, wildflowers, shrubs, and trees at the edge and within an adequate buffer (15-30 feet in width) around the ponds. When the view of the surrounding area from the pond is blocked, geese can't scan for predators and are less likely to reside and nest in the area of the pond. The vegetation also blocks the ability to easily move between land and water.

At this time, DNREC does not recommend using monofilament grids due to the potential for birds and other wildlife to become entangled if the grids are not properly installed and maintained. In addition, the on-going maintenance (removing entangled trash, etc.) may become a burden to the homeowners association or land manager.

The Division of Fish and Wildlife does not provide goose control services; if problems arise, land owners or managers 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. Edna Stetzar - (302) 653-2880, Edna.Stetzar@state.de.us

- **The developer acknowledges the potential problems that waterfowl may cause and will work with Envirotech Environmental Consulting or similar company to establish the best means of controlling the problem. The suggested low-lying fence is possible at the site and will be looked at as one of the means of deterring undesirable waterfowl from overtaking the pond.**

Soil and Water

Sediment and Stormwater Program. Please continue to work with the Sussex Conservation District in addressing the comments from their review of your submitted sediment and stormwater management plans.

- **We have received approval for Phase 1 Sediment and Stormwater Plans.**

Drainage Program. The Drainage Program requests 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 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.

Sediment/Stormwater and Drainage comments provided by James Sullivan - (302) 739-9921, James.Sullivan@state.de.us

- **We have performed an off-site downstream analysis which is included in the approved Sediment and Stormwater Management Report.**

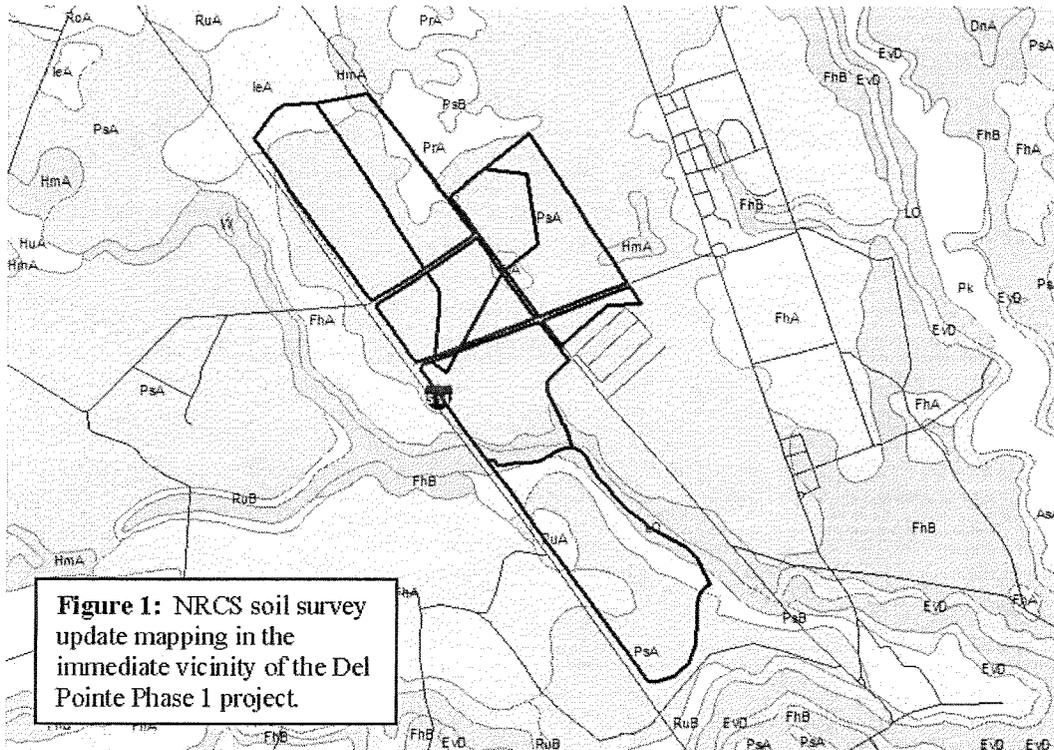
Flood Management. No comment on Phase I. We do want to make the applicant aware that a portion of this property is located in a Special Flood Hazard area. A base flood elevation will need to be established for the tip of Mirey Branch that is still labeled Zone A. Gregory Williams - (302) 739-9921, Gregory.Williams@state.de.us.

- **We are aware of a Special Flood Hazard area on the property and will address the flood zone at the appropriate stage of development.**

Water Resources

Soils Assessment. Based on the NRCS soil survey update, Ingleside (IeA), Fort-Mott Henlopen complex (FhA & FhB), Pepperbox-Rosedale complex (PsA & PsB), Pepperbox-Rockawalkin complex (PrA), Fallsington (FhB), and Longmarsh (LO) were mapped in the immediate vicinity

of the proposed construction. Ingleside and Fort Mott-Henlopen complex are well-drained upland soils that, generally, have few limitations for development. Pepperbox-Rosedale complex are moderately to well-drained soils that have few to moderate limitations for development. Pepperbox-Rockawalkin complex are moderately to somewhat poorly-drained soils that have moderate to severe limitations for development. Fallsington and Longmarsh are poorly to very poorly-drained wetland associated (hydric) soils that have severe limitations for development and should be avoided.



- **The developer is aware of the soils survey mapping for this site. We have also performed site specific soils investigations which are published in the approved Sediment and Stormwater Management Report for Phase 1.**

Wetlands. *Based on the Statewide Wetland Mapping Project (SWMP) maps, palustrine scrub-shrub/forested riparian wetlands (PSS3/FO1C7) were mapped in the immediate vicinity of the proposed project (Figure 2).*

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.

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.

- **The developer acknowledges the importance of wetlands to the environment and has already performed a wetlands delineation on the site. No wetlands impacts are proposed in the Phase 1 development plan. In future phases of the development, the developer anticipates little to no disturbance of existing wetlands on the property. At some point it may be possible to bridge Mirey Branch to connect the southeast portion of the property to the rest of the property. At such time, the developer will work closely with SCD and DNREC to insure minimum, if any, wetland disturbance and to insure compliance with all State and Federal regulations.**

***Impervious Surfaces and Best Management Practices.** The applicant estimates this project's post-construction surface imperviousness to reach about 25 percent. Studies have shown a strong relationship between increases in impervious cover to decreases in a watershed's overall water quality. It is strongly recommended that the applicant implement best management practices (BMPs) that reduce or mitigate some of 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.*

- **The developer has incorporated Green Technology BMPs in the approved Sediment and Stormwater Management plan for Phase 1 of this site.**

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

support these desired use goals. This project is located in a high nutrient reduction area requiring an 85 and 65 percent reduction in nitrogen and phosphorus, respectively. Additionally, a 40 percent reduction in bacteria is also required.

The adopted Inland Bays Pollution Control Strategy regulation was published in the Delaware Register of Regulations on November 1, 2008 and is now an enforceable regulatory directive. A Pollution Control Strategy (PCS) is an implementation strategy that identifies the actions necessary to systematically reduce the pollutant loading to a given water body, and meet the TMDL reduction requirements specified for that water body. These regulations can be reviewed at <http://regulations.delaware.gov/documents/November2008c.pdf> and background information, guidance documents, and mapping tools can be retrieved from http://www.dnrec.state.de.us/water2000/Sections/Watershed/ws/ib_pcs.htm. The regulations address establishing a buffer zone sediment and stormwater controls for new development projects, and additional measures and standards for onsite wastewater treatment and disposal systems.

The regulations require that buffers of a specified width be established for State-regulated wetlands, tidal waters, primary and secondary water features. The width may be reduced when combined with advanced sediment and stormwater controls and upon the creation of a development-wide nutrient management plan. Buffers must be placed in common open space and be clearly demarcated, designated and recorded on final plans or plat. Buffers must be maintained in perpetuity and must have boundary signs or markers or distinctive vegetation identifying the upland edge of the buffer.

The regulations also require that permanent sediment and stormwater management plans be designed and implemented to include design criteria to further reduce nutrient contributions. Compliance with this provision can be through any of the options below.

- *For properties with water features:*
 1. *Implement standard width buffers*
 2. *Implement reduced width buffers in conjunction with advanced stormwater controls and a development-wide nutrient management plan.*
- *For properties without water features or those utilizing a reduced-width buffer, select from the following advanced stormwater control methods:*
 1. *Reduce nutrients by the TMDL percentage*
 2. *Reduce nutrients to irreducible concentration levels*
 3. *Implement three practices within a treatment train*
 4. *Establish 30% of the project parcels as forest in common open space.*

At a meeting with the Sussex Conservation District and DNREC's Sediment and Stormwater Program staff, T.P. One, LLC consultants indicated that they will likely go through the nutrient reduction calculations for this initial phase, mainly due to some uncertainty in locating some proposed features for the next phase. Based upon that decision, the proposed development will need 50-foot buffers from State-regulated wetlands or the mean high water waterline of all tidal waters and any other primary water features and 30-foot buffers from the ordinary high water

mark of all secondary water features. In addition, as a result of utilizing the reduced-width buffers, a certified nutrient consultant must develop a development-wide nutrient management plan which must be implemented by a certified nutrient handler.

The proposed project will connect to Millsboro's central sewer system and therefore, the onsite treatment and disposal system requirements of the Inland Bays Pollution Control Strategy do not apply.

Additional nutrient reductions may be possible through the implementation of best management practices such as wider vegetated buffers along watercourses and wetlands, increasing passive, wooded open space, and use of pervious paving materials to reduce surface imperviousness (i.e., pervious pavers).

T.P. One, LLC's consultants may want to contact Lyle Jones at 302-739-9939 to discuss using Nutrient Budget Protocol, which is an assessment tool to help evaluate whether the proposed project will meet TMDL nutrient reduction requirements in this high nutrient reduction area. The nutrient assessment tool can be used on a voluntary basis in addition to the series calculations needed for stormwater best management practices in order to allow consultants to quickly assess the effects of various pollutant reducing practices on the proposed project site and may therefore allow a more informed decision on the affect of this project on the nutrient load of the Inland Bays.

Soils, wetlands, subaqueous lands and TMDL comments provided by John Martin, Watershed Assessment Section, (302) 739-9939, John.Martin@state.de.us

- **We have incorporated Green Technology BMPs which achieve compliance with TMDL regulations and have been reviewed by DNREC prior to Sediment and Stormwater plan approval by Sussex Conservation District.**

Water Supply. *The information provided indicates that the Town of Millsboro will provide water to the proposed projects through a public water system. Our files reflect that the Town of Millsboro does not currently hold a Certificate of Public Convenience and Necessity (CPCN) to provide public water in these areas. They will need to file an application for a CPCN with the Public Service Commission, if they have not done so already. Information on CPCN requirements and applications can be obtained by contacting the Public Service Commission at 302-736-7547. Should an on-site 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, and at least 150 feet from the outermost boundaries of the project. The Division of Water Resources will consider applications for the construction of on-site wells provided the wells can be constructed and located in compliance with all requirements of the Regulations Governing the Construction and Use of Wells. A well construction permit must be obtained prior to constructing any wells.*

- **The developer will work with the town and acquire all permits required for water supply and will submit all plans to DHSS.**

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.

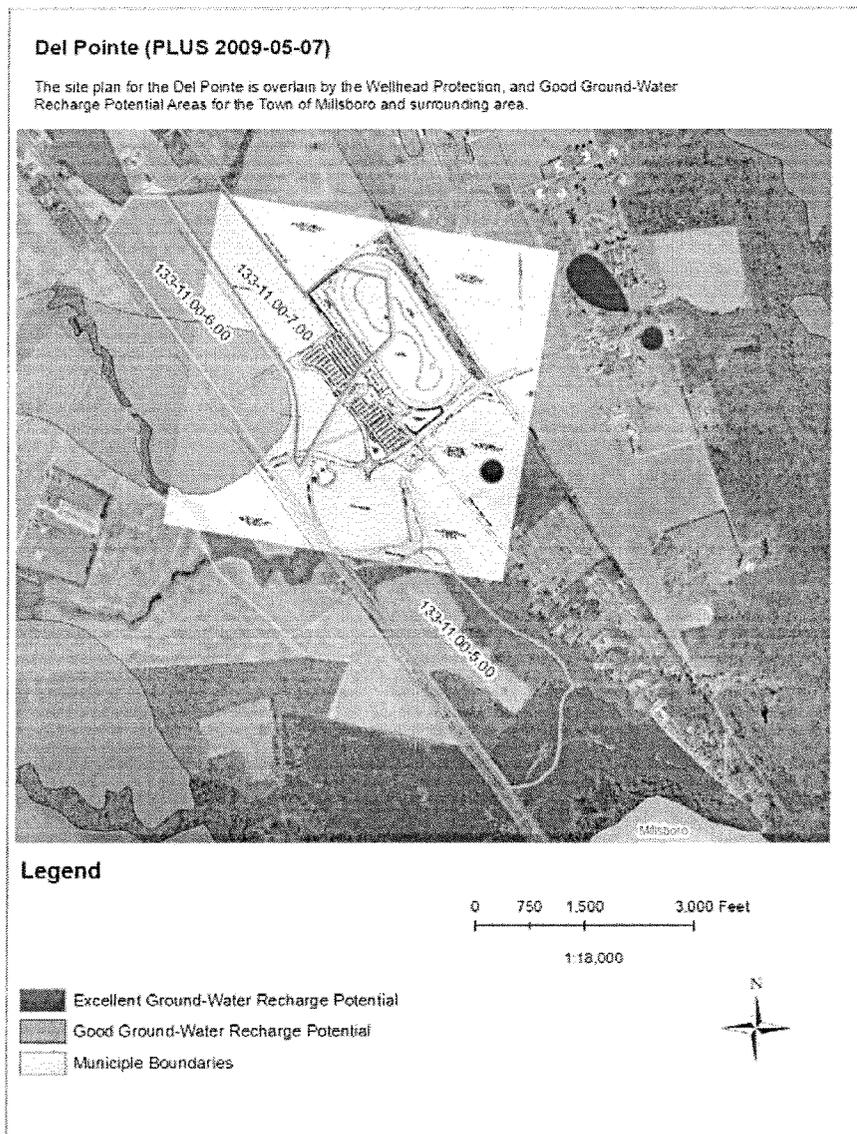
- **The developer acknowledges that a dewatering well construction permit must be obtained should dewatering be needed. The developer also acknowledges that a water allocation permit may be required should the site exceed the above mentioned pumping rate.**

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. Ricardo Rios -(302) 739-9944, Ricardo.Rios@state.de.us

- **The developer acknowledges that all well permit applications must be prepared and signed by licensed water well constructors and only licensed well drillers may construct the wells. The developer also acknowledges the recommendation to schedule these events accordingly.**

Water Resource Protection Areas. *The DNREC Water Supply Section, Ground-Water Protection Branch (GPB) has determined that the parcel falls within a good ground-water recharge area for Sussex County (see map). There is no proposed development within the good ground-water recharge area.*

The area is proposed for annexation and consideration by the Town of Millsboro. Good ground-water recharge potential areas are protected under the Town's ordinance §210-23.C. (3) (a). The ordinance limits impervious cover to no greater than 50% and has restrictions on land use and land activities.



Anne Mundel - (302) 739-9945, Anne.Mundel@state.de.us

- **The developer acknowledges the presence of a good groundwater recharge area within the site that is not being impacted by this phase of development.**

Air and Waste

Hazardous Waste Sites. DNREC's Site Investigation and Restoration Branch (SIRB) has reviewed the proposed project. No 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

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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.

Krystal Stanley - (302) 395-2644, Krystal.Stanley@state.de.us

- **The developer acknowledges the above mentioned comments and will contact the department if any hazardous waste is encountered. The developer has completed a Phase 1 Environmental Site Assessment and the Assessment found no indications of hazardous waste or contaminated soils on the site.**

Tank Management Branch. *There are no LUST sites located within a quarter mile from the proposed project.*

No environmental impact is anticipated; however, should any underground storage tanks or petroleum contaminated soil be discovered by any person during construction, the DNREC-TMB at (302) 395-2500 and the DNREC Emergency Response Hotline at (800) 662-8802 must be notified within 24 hours.

Should any contamination be encountered, PVC pipe materials will have to be replaced with ductile steel and nitrile rubber gaskets in the contaminated areas.

Also, please note that if any aboveground storage tanks (ASTs) less than 12,500 gallons are installed, they must be registered with the TMB. If any ASTs greater than 12,500 gallons are installed, they are also subject to installation approval by the TMB. Elizabeth Wolff - (302) 395-2500, Elizabeth.Wolff@state.de.us

- **The developer acknowledges the above mentioned comments and will contact the department if any underground tanks are encountered.**

State Fire Marshal's Office – Contact: Duane Fox 856-5298

These comments are intended for informational use only and do not constitute any type of approval from the Delaware State Fire Marshal's Office. At the time of formal submittal, the applicant shall provide; completed application, fee, and three sets of plans depicting the following in accordance with the Delaware State Fire Prevention Regulation (DSFPR):

a. Fire Protection Water Requirements:

- *Water distribution system capable of delivering at least 1000 gpm for 1hour duration, at 20-psi residual pressure is required. Fire hydrants with 800 feet spacing on centers.*

- *Where a water distribution system is proposed for assembly sites, the infrastructure for fire protection water shall be provided, including the size of water mains for fire hydrants and sprinkler systems.*

b. Fire Protection Features:

- *All structures over 10,000 sq. ft. aggregate will require automatic sprinkler protection installed.*
- *Buildings greater than 10,000 sq.ft., 3-stories or more, over 35 feet, or classified as High Hazard, are required to meet fire lane marking requirements.*
- *Show Fire Department Connection location (Must be within 300 feet of fire hydrant), and detail as shown in the DSFPR.*
- *Show Fire Lanes and Sign Detail as shown in DSFPR.*

c. Accessibility:

- *All premises, which the fire department may be called upon to protect in case of fire, and which are not readily accessible from public roads, shall be provided with suitable gates and access roads, and fire lanes so that all buildings on the premises are accessible to fire apparatus. This means that the access road to the subdivision from the main thoroughfares must be constructed so fire department apparatus may negotiate it.*
- *Fire department access shall be provided in such a manner so that fire apparatus will be able to locate within 100 ft. of the front door.*
- *Any dead end road more than 300 feet in length shall be provided with a turn-around or cul-de-sac arranged such that fire apparatus will be able to turn around by making not more than one backing maneuver. The minimum paved radius of the cul-de-sac shall be 38 feet. The dimensions of the cul-de-sac or turn-around shall be shown on the final plans. Also, please be advised that parking is prohibited in the cul-de-sac or turn around.*
- *The use of speed bumps or other methods of traffic speed reduction must be in accordance with Department of Transportation requirements.*
- *The local Fire Chief, prior to any submission to our Agency, shall approve in writing the use of gates that limit fire department access into and out of the development or property.*

d. Gas Piping and System Information

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

e. Required Notes:

- *Provide a note on the final plans submitted for review to read “ All fire lanes, fire hydrants, and fire department connections shall be marked in accordance with the Delaware State Fire Prevention Regulations”.*
- *Proposed Use.*
- *Alpha or Numerical Labels for each building/unit for sites with multiple buildings/units.*
- *Square footage of each structure (Total of all Floors).*
- *National Fire Protection Association (NFPA) Construction Type.*
- *Maximum Height of Buildings (including number of stories).*
- *Note indicating if building is to be sprinklered.*
- *Name of Water Provider.*
- *Letter from Water Provider approving the system layout.*
- *Provide Lock Box Note (as detailed in DSFPR) if Building is to be sprinklered.*
- *Provide Road Names, even for County Roads.*

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.statefiremarshal.delaware.gov technical services link, plan review, applications or brochures.

➤ **We have received Fire Marshal approval for Phase 1 of this project.**

Department of Agriculture - Contact: Scott Blaier 739-4811

The Department of Agriculture is generally opposed to development in areas designated as Investment Level 4 under the Strategies for State Policies and Spending. However, this project is located within the proposed growth area in Millsboro’s updated comprehensive plan. In addition, the applicant is working with the Town of Millsboro to annex the project into town after their comprehensive plan has been certified by the state. Based on those continuing efforts, the Department offers no objections to the project, and offers the following comments.

The Department urges the developer to support the local agricultural economy to the fullest extent possible when purchasing items like feed, bedding, and horse related services. In addition, the Department encourages the developer to consider new agricultural business opportunities such as establishing a farmer’s market. Please contact Mark Davis or Kelli Steele (302) 698-4500 to find out how the Department can help.

The Department’s Nutrient Management Section offers the comments below. If you have any questions on the nutrient management comments, please contact Bill Rohrer at (302) 698-4555.

1. *The proposed operation should have an animal waste management plan or nutrient management plan as required by law. The purpose of the law is to ensure proper storage, handling and use of manure to prevent contamination to nearby public water.*
 2. *In general, for commercial horse race tracks in Delaware, the nutrient management topics of interest include: a). adequate storage of manure, b). an acceptable system for horse wash down sites and waste water management, and c). storm-water runoff control for areas where horses are stalled and move around within the site.*
 3. *The proposed site should consider confined animal feeding operation (CAFO) permit coverage, as many other commercial horse tracks have pursued.*
- **We anticipate the construction of a one-mile harness racing track at the project. The benefits to Delaware's agriculture community from horse racing have been well documented in the 2004 Delaware Equine Industry Study conducted by the Department of Agriculture. The developer intends to make every effort to have the project benefit Delaware agriculture and will be contacting Mark Davis and/or Kelli Steele to discuss this. We will contact Bill Rohrer to discuss our animal waste management plan.**

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) 698-4500.

- **The developer acknowledges the above comments and will comply with all state and**

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local rules and regulations pertaining to agriculture. We have also incorporated the “Right Tree for the Right Place” in the required buffers per the Town’s ordinance.

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 developer is aware of this requirement and thanks you for the contact information.**

Delaware Economic Development Office – Contact: Jeff Stone 672-6849

No comments were received regarding this project.

- **We are surprised and disappointed that DEDO did not think to comment on this project considering its potential significant impact on the local, County and State economy. We would be interested in DEDO’s perspective on the project’s potential to create jobs and its impact on Delaware’s economy.**

Delaware Division of Public Health- Health Promotion Bureau- Contact: Michelle Eichinger (302) 744-1011

No comments were received regarding this project.

Delaware State Housing Authority – Contact Valerie Miller 739-4263

No comments were received regarding this project.

Department of Education – Contact: John Marinucci 735-4055

This proposed project is in the Indian River School District. This project is in relatively close proximity to the Sussex Central High School. As such, the Department of Education appreciates the landscaped berm buffer depicted on the Eastern parcel boundary along the railroad tracks. This rezoning and site plan review is commercial in nature with no apparent impact on educational service delivery or infrastructure and, as such DOE has no further comments regarding this request.

- **In consideration of Sussex Central High School’s proximity, we have designed the berm to be 7-15 feet high with landscaping facing the school property as well as on top of the berm. There will also be a security fence surrounding the track and security cameras in multiple locations to help secure the property and deter students from attempting to enter the property.**

Ms. Constance C. Holland, AICP
State Planning Director
February 3, 2010
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The above comments serve as an official response from Davis, Bowen & Friedel, Inc. On behalf of our client, we thank you for your review and comments on this project. If you should have any questions or concerns please contact me at (302) 424-1441.

Sincerely,

A handwritten signature in black ink, appearing to read 'W. Zachary Crouch', with a long horizontal flourish extending to the right.

W. Zachary Crouch, P.E.
Principal

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cc: Linda Johnson, Town of Millsboro Development Coordinator