



October 27, 2005

State of Delaware
Executive Department
Office of State Planning Coordination
ATTN.: Ms. Constance C. Holland, ACIP

PARKS VALLEY RD., SUITE
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RE: PLUS review - PLUS 2005-05-15
Dagsboro – Monogram (Wiley Branch Landing)
GMB File No. 2003165

SALISBURY
BALTIMORE
SEAFORD
LEWES
YORK

Dear Ms. Holland

The Wiley Branch community is located south of the juncture of Hudson Road (County Road 407) and Indian Town Road (County Road 408) in Sussex County, approximately 3.5 miles west of historic Millsboro, Delaware. The site is located within the AR-1 zoning district and is outside of the Environmentally Sensitive Development District Overlay Zone. The property consists of approximately 110 acres bisected by Hudson Road (66.74 acres on the west or development side and the remaining on the east side to be reserved for the wastewater treatment and disposal area). The site is mostly flat, agricultural land, approximately 80% of which is open, with the balance in tree cover. The northern and western edges of the community are bordered by the freshwater Tax Ditch known as Wiley Branch. The site is surrounded by wooded land zoned AR-1. The Preliminary Plat includes 135 single family lots as permitted under the current Sussex County Zoning Ordinance for the 66.74 acres available in the developed area of the property. The computation of total dwelling units allowed was done in accordance with Section 115-126 of the Sussex County Zoning Code.

IMES R. THOMAS, JR., PE
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The proposed subdivision has been designed using Sussex County's cluster housing ordinance which allows lot size to be reduced to 7,500 square feet while maintaining the site density requirements dictated by the underlying zoning district. The site's configuration will create a community plan that allows greater environmental protection through the use of expanded environmental buffers along Wiley Branch and the incorporation of quality open space that exceeds the State and County requirements.

GIE MARINER, JR., P
EL D. MCARTHUR, AI
JANE S. BAUER
HAEL G. KOBIN, PE
S C. HOAGESON, PE
HEN L. MARSH, PE
MAN
MAR 33181

A key feature of this project complimenting the open design, accessible open space, and natural rural setting of the community will be an attractive housing design that includes affordable/ working force housing. Monogram Building and Design is proposing that ten percent (10%) of the housing be targeted for affordable housing. Qualifying candidates would buy a home which would fall in the seventy percent (70%) to eighty percent (80%) market value range.

This product will not be distinguishable from the outside from any of the other products to be marketed in the community. Differences will be in the interior trim outs, appliances, and other optional features that may be offered to higher income applicants. These houses will have the same architecture and curb appeal as the rest of the community. However, the living areas, number of bedrooms, and basic features will be the same. Households that fall within sixty percent (60%) to eighty percent (80%) of the median income will be targeted. Monogram will place covenants and deed restrictions to restrict resale's so as to protect and preserve the affordable housing intent and target for working families. By intermixing the working force housing the development creates one community that is appealing to multiple income levels rather than separate communities segregated by income levels.

Listed below are our official responses to the Delaware State Planning Coordination PLUS review comments for the proposed plans for the Wiley Branch Landing project.

State Strategies/Project Location:

- 1 **Comment:** The State opposes this proposal for 135 residential units in an Investment Level 4 area according to the *2004 Strategies for State Policies and Spending*. This is also located in a Low Density area according to Sussex County's 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.

Response: Chapter 115 of the Sussex County Code, Article IV indicates that cluster development of residential structures is permitted within an AR-1 Agricultural Residential District. The county plan does not prohibit development under these regulations in a Level 4 area or in a Low Density area. The property consists of approximately 110 acres, the proposed 135 single family lots which is ten (10) less than the 145 lots permitted under the current Sussex County Zoning Ordinance (gross density of 1.23 units/acre). The computation of total dwelling units allowed was done in accordance with Section 115-126 of the Sussex County Zoning Code and is presented on the Cover Sheet of the attached plans. The site's configuration will create a community plan that allows greater environmental protection through the use of expanded environmental buffers along Wiley Branch and the incorporation of open space that exceeds the State and County requirements.

Natural/Cultural Resources:

- 1 **Comment:** Vegetated buffers of no less than 100 feet should be employed from the edge of the wetland complex on-site.

Response: A wetland field delineation has been performed and is in process of obtaining the verification through the Corps of Engineers Jurisdictional Determination process. This will be completed prior to final approval. The site plan indicates that Sussex Counties requirement of the 50 feet vegetated buffer separation between lot lines and wetland complexes has been maintained. The 100 feet of separation requested has been maintained in all but one of the delineated wetlands. In the southwest portion of the property, a wetlands is approximately 60 feet from the rear lot line of three proposed lots. When these wetlands areas have been surveyed and confirmed by the Corps of Engineers, it may be possible to reconfigure these lots to maximize this separation distance.

- 2 **Comment:** Some land on this parcel may be Federally-regulated farmed wetland. The applicant is strongly encouraged to contact the Farm Service Agency (FSA) of the USDA to assess whether any potential farmed wetlands meet recognized criteria for this classification.

Response: The Farm Service Agency (FSA) will be contacted prior to final approval.

Office of State Planning Coordination –Ann Marie Townshend :

- 1 **Comment:** From a fiscal responsibility perspective, development of this site is 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 300 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. 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. Because the development is inconsistent with the Strategies for State Policies and spending, the State is opposed to this proposed subdivision.

Response: This development will bring with it mid to high end homes as well as a mix of working class homes that provide the tax base to support their fair share of the State's existing and future infrastructure requirements.

State Historic Preservation Office –Alice Guerrant :

2. **Comment:** The State Historic Preservation Office opposes this development because it is located in the Level 4 area and because of the loss of the historic agricultural landscape in the area. Nothing of archeological or historical significance is known within this parcel. There is low potential for either prehistoric or historic-period archeological sites here. It seems to have been part of the Great Cypress Swamp and was too wet for long-term occupation historically. There are no historic properties with a direct view of this parcel. Therefore the adverse effect is limited to the loss of historic landscape.

Response: As noted nothing of historic or archeological significance is known to exist on or around the site.

Department of Transportation – Bill Brockenbrough:

- 1 **Comment:** This development is proposed for an area designated as Level 4 under the Strategies for State Policies and Spending. The type of development being proposed has been deemed inappropriate, for this area by the Strategies for State Policies and Spending. As part of our commitment to support the Strategies, DelDOT 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.

If this development proposal is approved, notwithstanding inconsistencies with the relevant plans and policies, DelDOT will provide technical review and comment as appropriate in order to fulfill our responsibilities with respect to safety and drainage.

Response: This developer will make whatever improvements to the existing DELDOT infrastructure as is needed to safely support the development. These improvements will be done under the direction and to the extent desired by DELDOT.

Department of Natural Resources and Environmental Control – Kevin Coyle:

- 1 **Comment:** Portions or all of the lands associated with this proposal are within the Livable Delaware green Infrastructure area established under Governor Minner's Executive Order #61 that represents a network of ecologically important natural resource lands of special state conservation

interest (Green Infrastructure). Voluntary stewardship by private landowners is essential to green infrastructure conservation in Delaware, since approximately 80% of the State's land base is in private hands. It is in that spirit of stewardship that the Department appeals to the landowner and development team to protect sensitive resources through an appropriate site design.

Additionally, because of the prevalence of very poorly-drained soils it is possible that some of the parcel is Federally regulated farmed wetland. It is recommended that the farm Services Agency of the USDA be contacted to assess whether farmed wetlands on the subject parcel meet recognized criteria for classification as "prior converted wetlands". Prior converted wetlands are farmed wetlands that have been drained or altered before December 23, 1985, and no longer meet the wetland criteria established under the 404 program. Such wetlands are considered exempt from regulatory protection, provided that there is no proof of a continuous "fallow period" of five years or greater in the parcel's cropping history. Parcels converted after said date, regardless of cropping history are considered jurisdictional by the Army Corps of Engineers. The USDA contact person for assessing a parcel's cropping history is Sally griffin (302/678-4182).

Response: The Farm Service Agency (FSA) will be contacted prior to final approval.

2. **Comment:** A minimum 100-foot buffer width from landward edge of all wetlands is recommended. In cases where natural buffer vegetation has been removed or reduced by past development or farming activities, the developer is encouraged to restore the previous buffer width or greater with native herbaceous and/or woody vegetation.

Response: A wetland field delineation has been performed and is in process of obtaining the verification through the Corps of Engineers Jurisdictional Determination process, this will be completed prior to final approval. The site plan indicates that Sussex Counties requirement of 50 feet vegetated buffer separation between lot lines and wetland complexes has been maintained. The 100 feet of separation requested has been maintained in all but one of the delineated wetlands. In the southwest portion of the property, a wetlands is approximately 60 feet from the rear lot line of three proposed lots. When these wetlands areas have been surveyed and confirmed by the Corps of Engineers, it may be possible to reconfigure these lots to maximize this separation distance.

Delaware State Housing Authority – Jimmy Atkins:

- 1 **Comment:** This proposal is located in the Level 4 area and outside the growth zone. As a general planning practice, DSHA encourages residential development 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 for Policies and Spending. The proposal is located in an area targeted for agricultural and natural resource protection, and therefore inconsistent with where the State has planned for new residential development.

Response: A key feature of this project is an attractive housing design that includes affordable/ working family housing that is not available in this area, thereby supplying the area with a much needed resource.

Department of Education – Nick Vacirca:

- 1 **Comment:** It is estimated that 135 dwelling units will generate 68 additional students for the Indian River School District. Sussex County does not have school concurrence legislation at this time and it is recommended that the developer submit a package to the school district for informational purposes.

Response: We will provide the package to the school district prior to final approval.

2. **Comment:** If the development is approved and built, use the following guidelines for school transportation planning. If there are homes more than ½ mile from the nearest public road, the developers should provide streets wide enough for large school buses to access and turn around without backing from the furthest areas within the development. Should there be no homes more than ½ mile from the nearest public road, provisions for appropriate pick-up and drop-off at the development entrance should be made. The developer should work closely with the school district transportation supervisor.

Response: Proposed streets are designed for bus access. If a pick-up and drop-off at the development entrance should be the preferred option, the area is available to add this. We will meet with the district transportation supervisor prior to final approval.

State Fire Marshal's Office – Duanne Fox:

- 1 **Comment:** At the time of formal submittal, the applicant shall provide; completed application, fee, and three (3) sets of plans depicting all requirements in accordance with the Delaware State Fire Prevention Regulations.

Preliminary meeting with fire protection specialists are encouraged prior to formal submittal. Please call for appointment. Applications and brochures can be downloaded from www.delawarestatefiremarshal.com technical services ling, plan review, applications or brochures.

Response: We will schedule a preliminary meeting as suggested to insure compliance with the regulations prior to the submittal of the formal application.

Department of Agriculture – Mark Davis:

- 1 **Comment:** The parcel is located adjacent to the 214-acre Kathryn Marie Mitchell Agricultural Preservation district and the 50-foot setback and 300-foot notification zone apply. The developer will be required to place deed notice §910 in every new recorded deed located within the development.

Response: These notices will be included as required.

2. **Right Tree for the Right Place Comment:** The developer is encouraged to employ the “Right Tree for the right Place” concept in any design considerations. This concept outlines the proper placement of trees to increase property value and reduce heating and cooling costs by an average of 20 to 35 dollars per month. A landscape design that uses this approach reduces maintenance costs to property owners and ensures a lasting forest resource.

Response: The landscape design will consider the “Right Tree for the right Place” concept, and incorporate these design considerations.

3. **Native Landscapes Comment:** The developer is encouraged to use native trees and shrubs in buffering the property from adjacent land-use activities. A properly designed forested buffer creates wildlife habitat corridors, cleans rivers and creeks of stormwater run-off pollutants, and improves air quality of the area by removing six to eight tons of carbon dioxide annually.

Response: Whenever possible, the landscape design will incorporate the use of native trees and shrubs in buffering the property from adjacent land-use activities.

4. **Tree Preservation Comment:** The developer is encouraged to employ tree preservation activities to ensure the health and vigor of the resource. Trees are affected by compaction of soils during the construction process; guidelines established by the International Society of Arboriculture serve to lessen this impact and provide increased value to the site.

Response: The current design does not infringe on any of the treed areas of the property. If the treed areas are to be infringed on, the guidelines established by the International Society of Arboriculture will be considered and implemented whenever possible.

5. **Tree Mitigation Comment:** Department notes the on-site wastewater system has been relocated and understands the challenges of its design and placement. It is acknowledged that tree removal will be necessary to this aspect of the development. The forest Service encourages the developer to implement tree mitigation at a 1:1 ratio within the site to replace trees lost in construction.

Response: The current on-site wastewater concept does not infringe on any of the treed areas of the property. If the treed areas are to be infringed on, tree mitigation will be practiced to the extent as is required.

Sussex County – Richard Kautz:

Comment: Because this project is an AR-1 Cluster subdivision, the developer must include in the application a plan for the management of all open space.

Response: The open space is to be managed by the Home Owners Association. During the construction phase of the project, the developer will maintain control of the open space until such time as there are a sufficient number of residents to take over control as a HOA.

2. **Comment:** Also, the developer must document for the Planning and Zoning Commission how the proposed development: provides for a total environmental and design which are superior to that which would be allowed under the standard lot option; preserves the natural environmental and historic or archeological resources; and, will not have and adverse effect on any items included under Ordinance Number 1152. These issues can be addressed by including in the application an explanation of how the developer plans to mitigate the issues raised by state agencies.

Response: The proposed plan provides for a superior development by providing useable open space that is accessible quickly and easily to every resident. A review of the site plan will show that nearly all of the lots are immediately adjacent to open space, often times along the entire length of a lot line. In addition to these quality of life benefits, the current site configuration will not require any tree removal and nothing of historic or archeological significance is known to exist on or around the site.

3. **Comment:** This summer Sussex County will be considering implementation of a Source Water Protection Program required by the State. Depending on the requirements adopted by the County Council this program might be affected. Any well location should insure that the wellhead protection area is entirely on site.

Response: Well head protection will be provided in accordance with all State and local requirements.

4. **Comment:** The proposed project is not within any Sussex County Sewer Planning Areas. The County has no schedule to extend service to this project. The project request is for 135 single-family residential lots on 110 acres resulting in a gross density of 1.23 units/acre. Due to the close proximity of the Wiley Branch Ditch the Sussex County Engineering Department recommends that the wastewater system be operated under a long-term contract with a capable wastewater utility that meets the TMDL limits for Inland Bays Waterways. 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 is required by the Sussex County Engineering Department.

Response: Sewer service to the project has been explored with Tidewater utilities which has provided a "willing and able to serve" letter. Atlantic Resources Management has evaluated the soil/groundwater characteristics of the designated area on the property and determined that it is suitable for incorporation of a large on-site sewage disposal system. Preliminary engineering has resulted in provision of a high quality effluent treatment system that can meet the TMDL limits for Inland Bays Waterways before disposal to a designated area to be located to the east of Hudson Road. The site will be separated from the community. A collection system meeting Sussex County Engineering Department's approval made up of 8-inch diameter gravity lines and a central pump station will convey domestic wastewater to the proposed wastewater treatment facility

Please inform us if any of these responses are unsatisfactory or if you have any additional questions.

Sincerely,



David Peek, P.E.
Project Manager
DP/mc

cc: Monogram Builders
Attn: Mr. Mark Clark & Ms. Kathy Schardt
Mr. Joe Conaway