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May 16, 2006

Constance C. Holland, AICP
Director
State Planning Coordination
540 S. DuPont Highway
Third Floor, Suite 7
Dover, DE 19901

Transmitted by e-mail: Dorothy.Morris@state.de.us

RE: PLUS Review Comments; 2005-09-09
Pepper Creek Point

Dear Ms. Holland:

Thank you for your October 17, 2005 letter regarding the above referenced project. On behalf of the applicant, Paradise Property, LLC, we offer the following responses to the comments that were generated during the September 28, 2005 PLUS meeting and as outlined in your letter. A current, revised copy of the Preliminary Subdivision Plan for the proposed development is enclosed. This layout has been revised to address issues raised through the PLUS review. Most significantly, the plan reflects the applicant's intent to connect to an offsite wastewater treatment and disposal system, thereby preserving the majority of the forested area on the property.

Office of State Planning Coordination: As indicated in the introduction, the extent of preserved forested areas has increased significantly given the intent to treat and dispose of wastewater at an offsite location. Also, the original design has been adjusted to increase the effectiveness of the buffer area along the wetlands adjacent to Pepper Creek.

Division of Historical and Cultural Affairs: The applicant will work with the DHCA to address their concerns in a manner that minimizes impacts to the proposed development schedule. All aspects of the permitting process will be completed as necessary.

Department of Transportation:

1. The potential impacts of the North-South study were discussed with DELDOT. As of December 2005, no impacts to the subject property were proposed. The applicant would prefer to be

- notified by the Department directly if changes to the North-South Study would result in an impact to this parcel.
2. Right-of-way shall be given to the State along Piney Neck road in order to facilitate the Department's request.
 3. The requirement for a multi-modal path along the Piney Neck Road frontage does not appear to be necessary. Sidewalks and walking trails are provided within the project, and shall interconnect with adjacent parcels. Upon development of adjacent lands, a meaningful multi-modal transportation system will exist via these interconnections. However, the applicant is open to providing the requested easement along Piney Neck Road for future construction of a path.
 4. A stub street has been provided for the property to the west. However, the property to the east is owned by Sussex County and, to the best of our knowledge, is not contemplated for development warranting a stub street.
 5. The applicant intends to comply with requirements of DeIDOT, and it is assumed that these will be consistent with those of neighboring properties approved for development.
 6. Mr. Fiori will be contacted regarding entrance review and approval.

Department of Natural Resources and Environmental Control:

Soils

The soils on the site were noted by DNREC as having variable limitations for development. The site is proposed to be served by a central wastewater system therefore; the variable soil limitation will not adversely affect the development of the parcel. Detailed soils testing and analysis by licensed professionals will be provided in accordance with DNREC requirements in the event wastewater treatment and disposal are contemplated onsite.

Wetlands/Wetland Buffers

The applicant has retained the services of Environmental Resources, Inc. to delineate the wetlands and to process any wetland impacts proposed. All wetland and/or wetland buffer impacts shall be properly permitted in accordance with existing regulations.

ERES Waters/TMDLs/Wastewater & TMDL Compliance through the PCS

The applicant intends to develop the site in accordance with existing regulations. Because the site has access to a tidal discharge (Pepper Creek), the site qualifies for a waiver from storm water quantity. Based on that condition, it is likely that low impact development techniques can be used to provide Best Management Practices (BMPs) that are in accordance with the goals of the TMDL/Pollution Control Strategy for the Inland Bays. All applicable regulations shall be adhered to in the final design of the project.

Impervious cover

The applicant intends to comply with any existing regulations regarding impervious cover, including the stormwater management regulations as amended April 2005.

Water Resource Protection Areas

The applicant intends to develop the site in accordance with existing regulations. Attempts will be made to limit the impervious cover in the "Excellent recharge area".

Water Supply

At this time it appears likely that the site will be served by a private central utility company via an offsite distribution system. If necessary, however, any proposed wells will be sited in accordance with existing regulations.

Sediment and Erosion Control/Stormwater Management

The sediment and erosion control plan shall be completed in accordance with Sussex Conservation District criteria. It appears as though the site does meet the criteria for a waiver from quantity discharge because of the tidal outfall. The applicant would like to provide the following responses to the site specific comments:

1. A note indicating that a CCR shall be required shall be included in the sequence of construction.
2. A phasing plan shall be included in the Erosion and Sediment Control Plan.
3. If any wet ponds are specified on the final plans, they shall meet these criteria.
4. Any known off-site runoff shall be accommodated in the final design.
5. The site shall comply with the new storm water management regulations.
6. As this site qualifies for a quantity waiver, green technology BMPs will be a probable and feasible approach. A preliminary meeting will be scheduled upon approval of the Preliminary Subdivision Plan.

Drainage

Adequate access for storm water management facilities shall be provided on the final plans. Any maintenance easement shown on the Final Subdivision Plan shall include a prohibition against constructing structures within the easement.

Rare Species

The applicant has received letters from both the DNREC Natural Heritage & Endangered Species program and the US Fish & Wildlife Service, that indicate there are no records of any rare or endangered species on site, therefore no mitigation measures are proposed.

Forest Preservation

The revised plan includes the preservation of a significant amount of additional forest cover. During final design any available measures will be taken to minimize further impacts.

Nuisance Waterfowl

The applicant shall develop the site in accordance with existing regulations.

Recreation

The plan as revised includes walking trails, fishing areas, picnic areas, boating access, a swimming pool, tennis court, basketball court and other amenities. Sidewalk is proposed for both sides of the road, and it is to tie in to the walking trails on the project. Additional open space has been preserved along Pepper Creek and the forested areas on the eastern portion of the site.

Solid Waste

The applicant shall develop the site in accordance with existing regulations.

Air Quality

The applicant shall develop the site in accordance with existing regulations.

State Fire Marshall's Office: Fire protection features and accessibility shall be designed in accordance with the State Fire Prevention regulations. All required notes and specific comments indicated will be addressed on the final construction drawings to be submitted for the project.

Department of Agriculture: The applicant acknowledges the concerns of the Department of Agriculture and will be make attempts to address these issues during preparation of the final construction drawings.

Public Service Commission: Upon completion of negotiations with the utility companies certified to provide water and wastewater services, CPCN's shall be applied for.

Delaware State Housing Authority: The applicant shall develop the site in accordance with existing regulations.

Sussex County: The subdivision plan has been revised as previously indicated. The revised plan presents a more environmentally sensitive design than the first submittal. The Environmentally Sensitive Development Area report was submitted to the County shortly after the PLUS meeting last fall.

Sussex County Engineering Office

The applicant acknowledges that the County has stated a preference to connect the project to Sussex County's central wastewater treatment and disposal system instead of a private utility company. If the County is in a position to commit to a schedule for provision of adequate EDUs, this request will be considered. If the County is unable to commit to a schedule, the utility company engaged to provide offsite treatment and disposal shall complete the design and construction in accordance with all applicable regulations.

Again, the applicant would like to take the opportunity to thank the Office of State Planning Coordination for their questions, comments and concerns. If there are any other questions, comments or concerns, please feel free to contact me at 302-855-0810.

Thank you very much.

Sincerely,

Kenneth R. Christenbury, P.E.
President
Axiom Engineering, L.L.C.

Enclosure

Cc: Gene Bayard, Wilson, Halbrook & Bayard
Jeffrey Franz, Paradise Property, LLC
Bruce Panczner, Paradise Property, LLC

