



STATE OF DELAWARE
EXECUTIVE
DEPARTMENT
OFFICE OF STATE PLANNING COORDINATION

January 19, 2016

March 22, 2016 Response to PLUS Comments
Prepared By: Mark H. Davidson, Principal Land Planner

Mr. Mark Davidson
Pennoni Associates, Inc.
18072 Davidson Dr.
Milton, DE 19968

RE: PLUS review 2015-12-06; The Estates at Middle Creek

Name changed to Middle Creek Preserve as approved by Sussex County Addressing.

Dear Mark:

Thank you for meeting with State agency planners on December 16, 2015 to discuss the proposed plans for The Estates at Middle Creek project. According to the information received you are seeking review of a 314 unit subdivision on 146.96 acres in Sussex County.

Density = 2.14 Lots per Acre.

Please note that changes to the plan, other than those suggested in this letter, could result in additional comments from the State. Additionally, these comments reflect only issues that are the responsibility of the agencies represented at the meeting. **The developers will also need to comply with any Federal, State, and local regulations regarding this property. We also note that as Sussex County is the governing authority over this land, the developers will need to comply with any and all regulations/restrictions set forth by the County.**

The project is being planned to comply with all written Federal, State, and local regulations regarding the development of this property. The project is being planned in accordance with Sussex County Zoning Code Section 115-25 B. Minimum lot sizes, dimensions and open space for lots using a central sewer system as defined by § 115-194A: (1) Standard lot option: ** For lots located in the Environmentally Sensitive Development District,...the overlay ordinance for that district shall determine the minimum lot size; 115-194.3 C. (3) The maximum density shall be the allowable density of the underlying zoning district for developments using a central water and wastewater collection and treatment system. "Central sewer system" means centralized

treatment and disposal facilities as defined in § 115-194A. Within this Overlay District, clustering of single-family detached lots to a minimum lot size of 7,500 square feet is permitted in all residential zoning districts using a central water and sewer system; as well as the Subdivision Code Chapter 99.

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Strategies for State Policies and Spending

- This project is located in Investment Level 3 according to the *Strategies for State Policies and Spending*. Investment Level 3 reflects areas where growth is anticipated by local, county, and state plans in the longer term future, or areas that may have environmental or other constraints to development. State investments may support future growth in these areas, but please be advised that the State has other priorities for the near future. We encourage you to design the site with respect for the environmental features which are present.

The applicant has submitted an environmental assessment and public facility evaluation report and preliminary subdivision plan to the Director of Planning and Zoning. The preliminary subdivision and report addresses the following issues for the property to be developed and, where appropriate to the context, for the contiguous property. Information submitted by the applicant shall at a minimum contained the following:

- (a) Proposed drainage design and the effect on stormwater quality and quantity leaving the site, including methods for reducing the amount of phosphorous and nitrogen in the stormwater runoff and the control of any other pollutants such as petroleum hydrocarbons or metals.
- (b) Proposed method of providing potable and, where appropriate, irrigation water and the effect on public or private water systems and groundwater, including an estimate of average and peak demands.
- (c) Proposed means of wastewater treatment and disposal with an analysis of the effect on the quality of groundwater and surface waters, including alternative locations for on-site septic systems.
- (d) Analysis of the increase in traffic and the effect on the surrounding roadway system.
- (e) The presence of any endangered or threatened species listed on federal or state registers and proposed habitat protection areas.
- (f) The preservation and protection from loss of any tidal or nontidal wetlands on the site.
- (g) Provisions for open space as defined in § 115-4 and § 99-21
- (h) A description of provisions for public and private infrastructure.
- (i) Economic, recreational or other benefits.

(j) The presence of any historic or cultural resources that are listed on the National Register of Historic Places.

(k) An affirmation that the proposed application and proposed mitigation measures are in conformance with the current Sussex County Comprehensive Plan.

(l) Actions to be taken by the applicant to mitigate the detrimental impacts identified relevant to Subsection B(2)(a) through (k) above and the manner by which they are consistent with the Comprehensive Plan.

Code Requirements/Agency Permitting Requirements

Department of Transportation – Contact Bill Brockenbrough 760-2109

- Per Section 2.2.2.1 of the Development Coordination Manual, Traffic Impact Studies (TIS) are warranted for developments generating more than 500 vehicle trip ends per day or 50 vehicle trip ends per hour in any hour of the day. From the PLUS application, we see that the total daily trips are estimated at 3,010 vehicle trip ends per day. Based on that volume, this project would warrant a TIS and paying an Area-Wide Study Fee is not an option.

With that in mind, DelDOT met with the applicant's engineer on October 15, 2015, and established a scope of work for the TIS.

Pennoni will conduct a traffic analysis and prepare a Traffic Impact Study (TIS) documenting the effects of the Angola development on the adjacent roadway network. The TIS will conform to the DelDOT Scoping Meeting Letter from October 15, 2015 and with the current editions of the DelDOT Development Coordination Manual, the Traffic Design Manual, and the Road Design Manual.

Cases to be evaluated:

- 1- Existing year 2016,
- 2- Future year 2027 without development, and
- 3- Future year 2027 with development.

Intersections to be evaluated:

- 1- DE Route 24 / Angola Road (Sussex Road 277) - Signalized
- 2- DE Route 24 / Jolyns Way (Sussex Road 289) - Unsignalized
- 3- DE Route 24 / Camp Arrowhead Road (Sussex Road 279) - Signalized
- 4- DE Route 24 / Pinewater Road (Sussex Road 49) - Unsignalized
- 5- DE Route 24 / Hollymount Road (Sussex Road 48) - Unsignalized
- 6- Angola Road (Sussex Road 277) / Site Access/Angola by the Bay – Unsignalized

Weekday counts (Tuesday, Wednesday, or Thursday) will be performed during a time when schools are open and operating at a normal capacity from 7:00 AM to 9:00 AM and from 4:00 PM to 6:00 PM.

Saturday counts will be counted at a time when local area schools, as well as schools in the nearby metro areas of Philadelphia, Baltimore, and Washington D.C. are closed in June, July, or August from 10:00 AM to 3:00 PM. An Automatic Traffic Recorder (ATR) will be used to collect data for one (1) week at one location west of the site access driveway.

The counts will include pedestrians, heavy vehicles, right-turn on red, and account for additional queue vehicles in oversaturated conditions at signalized intersections.

The site access on Angola Road (Sussex Road 277) must be designed in accordance with DelDOT's Development Coordination Manual (formerly the Standards and Regulations for Subdivision Streets and State Highway Access), which is available at <http://www.deldot.gov/information/business/subdivisions/changes/index.shtml>.

- Section 3.2.4.2 of the Development Coordination Manual addresses the placement of right-of-way monuments (markers) along the roads on which a property fronts, in this case Angola Road. Monuments sufficient to re-establish the permanent rights-of-way after the dedication discussed below should be shown on the plan and provided in the field in accordance with this section.
- As necessary, in accordance with Section 3.2.5 and Figure 3.2.5-a of the Development Coordination Manual, DelDOT will require dedication of right-of-way along the site's frontage on Angola Road. By this regulation, this dedication is to provide a minimum of 30 feet of right-of-way from the road centerline on Angola Road. The following right-of-way dedication note is required, **"An X-foot wide right-of-way is hereby dedicated to the State of Delaware, as per this plat."**

A 5-foot right-of-way dedication has been shown on the preliminary subdivision plans.

- In accordance with Section 3.2.5.1.2 of the Development Coordination Manual, DelDOT will require the establishment of a 15-foot wide permanent easement across the property frontage on Angola Road. The location of the easement shall be outside the limits of the ultimate right-of-way. The easement area can be used as part of the open space calculation for the site. The following note is required, **"A 15-foot wide permanent easement is hereby established to the State of Delaware, as per this plat."**

A 15-foot wide permanent easement has been shown on the preliminary subdivision plans.

- Referring to Section 3.4.2 of the Development Coordination Manual, the Initial Stage review fee shall be assessed to this project.
- In accordance with Section 3.4 of the Development Coordination Manual, a record plan shall be prepared prior to issuing "Letter of No Objection". The following information will be required for the "Letter of No Objection" review:
 - Initial Stage Fee Calculation Form
 - Initial Stage Review Fee
 - Gate-Keeping Checklist – Site Plan
 - Design Checklist - Record Plan

- Sight Distance Spreadsheet
 - Owners and Engineers' name and e-mail address
 - Record Plan
 - Conceptual Entrance Plan
 - Submission of the Area-Wide Study Fee (If applicable)
- Referring to Section 3.4.1 of the Development Coordination Manual, because the proposed development would generate more than 200 vehicle trips per day, a Pre-Submittal Meeting is required before plans are submitted for review. The form needed to request this meeting is available http://www.delDOT.gov/information/business/subdivisions/Meeting_Request_Form.pdf.
 - Referring to Section 3.4.2.1 of the Development Coordination Manual, the following items, among other things, are required on the Record Plan:
 - A Traffic Generation Diagram. See Figure 3.4.2-a for the required format and content.
 - Depiction of all existing entrances within 600 feet of the proposed entrance.
 - Notes identifying the type of off-site improvements, agreements (signal, letter) contributions and when the off-site improvements are warranted.
 - Section 3.5 of the Development Coordination Manual provides DelDOT's requirements with regard to connectivity. The requirements in Sections 3.5.1 through 3.5.3 shall be followed for all development projects having access to state roads or proposing DelDOT maintained public road for subdivisions. Private or municipal streets should follow the local land use agency's requirements for connectivity.
 - Section 3.5.4.2 of the Development Coordination Manual addresses requirements for shared-use paths and sidewalks. According to that section, path/sidewalk construction shall be required for all projects requesting an Entrance Plan Approval (EPA) in all Investment Level Areas as defined by the State Strategies for Policies and Spending maps if the project generates 2,000 Average Daily Trips (ADT) or more.

Based on the proposed trip generation of 3,010 vehicle trip ends, we will require path construction along the Angola Road frontage, connecting to the sidewalk at the Bay Pines entrance.

- In accordance with Section 3.8 of the Development Coordination Manual, storm water facilities, excluding filter strips and bioswales, shall be located a minimum of 20 feet from the ultimate State right-of-way along Angola Road.
- Referring to Section 4.3 of the Development Coordination Manual, the Construction Stage review fee shall be assessed to this project.
- Referring to Section 4.3 of the Development Coordination Manual, an entrance plan shall be prepared prior to issuing entrance approval. The following information will be required for Entrance Plan review:

- Construction Stage Fee Calculation Form
 - Construction Review Fee
 - Gate-Keeping Checklist – Entrance Plan
 - Design Checklist - Entrance Plan
 - Auxiliary Lane Spreadsheet
 - Entrance Plan
 - Pipe/Angle Spreadsheet (If applicable)
 - SWM Report and Calculations (If applicable)
- In accordance with Section 5.2.5.6 of the Development Coordination Manual, Turning Movement Diagrams shall be provided to verify vehicles can safely enter and exit the site entrance. As per Section 5.2.3 of the Development Coordination Manual, the entrance shall be designed for the largest vehicle using the entrance.
 - In accordance with Section 5.2.9 of the Development Coordination Manual, the Auxiliary Lane Worksheet should be used to determine whether auxiliary lanes are warranted at the site entrance and how long those lanes should be. The worksheet can be found at http://www.deldot.gov/information/business/subdivisions/auxiliary_lane_worksheet.xls.
 - In accordance with Section 5.4 of the Development Coordination Manual, sight distance triangles are required and shall be established in accordance with American Association of State Highway and Transportation Officials (AASHTO) standards. A spreadsheet has been developed to assist with this task. It can be found at <http://www.deldot.gov/information/business/subdivisions/Intersection-Sight-Distance.xls>.
 - Section 7.7.2 of the Development Coordination Manual, addresses the need to provide 20-foot wide drainage easements for all storm drainage systems, open or closed, that fall outside the existing right-of-way or the drainage/utility easement. In accordance with this section, metes and bounds and total areas need to be shown for any drainage easements. The easements should be shown and noted on the record plan.

Improvements along the frontage of the subject property has already been discussed with DelDOT and all improvements will meet current minimum Del DOT criteria.

Department of Natural Resources and Environmental Control – Contact Michael Tholstrup 735-3352

The proposed development will result in loss of a valuable large forest block, increased impervious surface, and new sources of greenhouse gas emissions. Opportunities exist to preserve natural resources while reducing the environmental impact on-site and providing additional recreational amenities to homeowners.

The woodland portion of this parcel has retained its natural character and is within Delaware's Natural Areas Inventory. DNREC has specific concerns with the intended clearing/fragmentation of 51 of 97 forested acres, which are part of a larger block of contiguous forest. This forest has been mapped as key wildlife habitat in the Delaware Wildlife Action Plan (DEWAP) because it can support an array of plant and animal species.

DNREC recommends focusing development away from the forest/wetland resources and taking steps to further preserve an undeveloped forest block. Maintaining the forest also helps in the overall reduction of greenhouse gasses present in our atmosphere and can aid in meeting water quality standards. Furthermore, the presence of a wetland resource and the associated buffer recommendations in support of wildlife and water quality concerns, reinforce the need for preservation. Our scientists are very interested in surveying the property, to evaluate the habitat and determine the potential for rare species, and provide guidance on how best to protect it.

Pennoni performed a wetlands delineation for the subject site. The forested portions of the Site generally consisted of varying occurrences of the following plant species:

<u>Scientific Name</u>	<u>Common Name</u>	<u>Wetland Indicator Status</u>
<i>Pinus taeda</i>	Loblolly Pine	FAC
<i>Ilex opaca</i>	American Holly	FAC
<i>Acer rubrum</i>	Red Maple	FAC
<i>Quercus alba</i>	White Oak	FACU
<i>Prunus pensylvanica</i>	Fire Cherry	FACU
<i>Sassafras albidum</i>	Sassafras	FACU
<i>Juniperus virginiana</i>	Eastern Redcedar	FACU
<i>Liriodendron tulipifera</i>	Tuplip Tree	FACU
<i>Juglans Nigra</i>	Black Walnut	UPL
<i>Liquidambar styraciflua</i>	Sweetgum	FAC
<i>Quercus falcata</i>	Southern Red Oak	FACU
<i>Quercus rubra</i>	Northern Red Oak	FACU
<i>Quercus alba</i>	Eastern White Oak	FACU
<i>Quercus velutina</i>	Black Oak	-
<i>Carya cordiformis</i>	Bitternut Hickory	FAC
<i>Carya glabra</i>	Pignut Hickory	FAC
<i>Populus grandidentata</i>	Bigtooth Aspe	FACU
<i>Rhus copallinum</i>	Winged Suma	FACU
<i>Diospyros virginiana</i>	Persimmon	FAC
<i>Elaeagnus angustifolia</i>	Autumn Olive	FACU
<i>Smilax rotundifolia</i>	Common Greenbrier	FAC
<i>Monotropa uniflora</i>	Indian Pipe	FACU
<i>Gaultheria procumbens</i>	Eastern Teaberry	FACU
<i>Polystichum acrostichoides</i>	Christmas Fern	FACU
<i>Phytolacca americana</i>	Pokeweed	FACU
<i>Aralia spinosa</i>	Devils Walking Stick	FAC
<i>Setaria sp.</i>	Foxtail	FAC
<i>Vaccinium angustifolium</i>	Low bush blueberry	FAC
<i>Vaccinium corymbosum</i>	Highbush blueberry	FACW
<i>Clethra alnifolia</i>	Coastal Sweet Pepperbush	FACW
<i>Osmundastrum cinnamomeum</i>	Cinnamon Fern	FACW
<i>Onoclea sensibilis</i>	Sensitive Fern	FACW
<i>Lonicera japonica</i>	Japanese Honeysuckle	FAC
<i>Ampelopsis sp.</i>	Porcelain Berry	FAC
<i>Vitis sp.</i>	Wild Grape	FAC

DNREC has identified a wellhead protection area that is within this parcel, which naturally filters water and contaminants into the underlying water table aquifer. DNREC's recommendation, first offered during the December 16th, 2015, PLUS meeting, is to relocate the stormwater "wet pond" in order to avoid the wellhead protection area in the Southwestern area of the parcel.

The proposed wet pond will be lined thus eliminating the infiltration of water within the well protection area. The property is greater than 100-feet from the well that is associated with the well head protection area. Moreover the well is located approximately 1200 feet from the project boundary. According to the EPA...wet detention ponds are storm water control structures providing both retention and treatment of contaminated storm water runoff. Runoff from each rain event is detained and treated in the pond until it is displaced by runoff from the next storm. By capturing and retaining runoff during storm events, wet detention ponds control both storm water quantity and quality. The pond's natural physical, biological, and chemical processes then work to remove pollutants. Sedimentation processes remove particulates, organic matter, and metals, while dissolved metals and nutrients are removed through biological uptake. In general, a higher level of nutrient removal and better storm water quantity control can be achieved in wet detention ponds than can be achieved with other Best Management Practices (BMPs), such as infiltration systems.

The design of the subdivision will follow section 89-6 of Sussex County Code in regards to design within the well head protection area.

DNREC generally recommends high energy efficiency building standards (with consideration for alternative energy sources), and the use of green infrastructure, wherever practicable, to protect water quality, in all development. DNREC further recommends an abundant use of native vegetation and shade trees throughout the landscape.

As stated in the PLUS application, the style and market segment target for these homes are new and second homebuyers. DNREC anticipates that these potential homebuyers do not want to spend their time maintaining a large lot. This could translate into an incentive for smaller lot sizes, allowing the same number of units within a smaller developed footprint.

The following pages provide applicable regulations and detailed recommendations associated with this project, from various DNREC Divisions. They would like to be a partner in creating appropriate development that highlights the environment as a natural amenity of the landscape. The Department has resources and expertise that are available to help make this a reality, often at no expense to the landowner.

TMDLs

- The project is located in the low nutrient reduction zone of the greater Inland Bays watershed. In this watershed, Total Maximum Daily Load (TMDL) pollutant reduction targets have been developed by the State of Delaware (under the auspices of Section 303(d) of the 1972 Federal Clean Water Act) for nutrients (e.g., nitrogen, phosphorus), and bacteria. A TMDL is the maximum level of pollution allowed for a given pollutant below which a "water quality limited waterbody" can assimilate and still meet State water quality standards (e.g., dissolved oxygen, nutrients, and bacteria; *State of Delaware Surface Water Quality Standards, as amended July 11, 2004*) to the extent necessary to support use goals such as, swimming, fishing, drinking water and shell fish harvesting. The TMDL for the low reduction zone of the Inland Bays watershed calls for 40 percent reduction in nitrogen and phosphorus from baseline

conditions. The TMDL also calls for a 40 percent reduction (17 percent for marine waters) in bacteria from baseline conditions. Please view the following web link for further information on the regulatory requirements and technical analysis involved in the development of the specific TMDLs:

<http://www.dnrec.delaware.gov/swc/wa/Pages/WatershedAssessmentTMDLs.aspx>

The Inland Bays Pollution Control Strategy (PCS) and the accompanying regulations were finalized by order of the DNREC Secretary on October 2008. The PCS regulations can be reviewed at

<http://regulations.delaware.gov/documents/November2008c.pdf>.

Background information about the PCS with guidance documents and mapping tools can be retrieved from

http://www.dnrec.state.de.us/water2000/Sections/Watershed/ws/ib_pcs.htm.

A nutrient management plan is required under the *Delaware Nutrient Management Law (3 Del. Chapter 22)* for all persons or entities who apply nutrients to lands or areas of open space in excess of 10 acres. This project's open space may exceed this 10-acre threshold. Please contact the Delaware Nutrient Management Program, at (302) 739-4811 for further information concerning compliance requirements, or view the following web link for additional information:

<http://dda.delaware.gov/nutrients/index.shtml>

It is the stated goal of the project to provide in general, all Erosion & Sediment Control (ESC) and Stormwater Management (SWM) Best Management Practices (BMPs) which will comply with DNREC standards and specifications in accordance with current guidance documents and policies. Green Technologies and Pollution Control Strategies will be implemented to reduce nitrogen and phosphorus loads. As part of the stormwater management design, the DURMM analysis process assists with addressing TMDL's. In the event that open space exceeds 10-acres, a Nutrient Management Plan will be prepared.

Water Supply

- The project information sheets state water will be provided to the project by Tidewater Utilities via a public water system. Records indicate that the project is located within the public water service area granted to Tidewater Utilities under Certificate of Public Convenience and Necessity 83-W-15.

There is an existing water line located across the frontage of the project. The applicant has already been in contact with Tidewater and plans have been secured to extend a water distribution system within the project.

- Should dewatering points be needed during any phase of construction, a dewatering well construction permit must be obtained from the DNREC 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 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.

Source Water Protection.

- The DNREC Water Supply Section, Groundwater Protection Branch (GPB) has determined that the parcel falls partially within a wellhead protection areas for Sussex County (see map). The wellhead protection areas protect well owned by Tidewater Utilities Inc. (TUI) Meadows District.

Sussex County's Source Water Protection Ordinance meets only the minimum standards of protection. DNREC has in the past, and continues to encourage the County to revise their ordinance to strengthen the level of protection.

Wellhead protection areas are surface and subsurface areas surrounding a public water supply well where land use activities or impervious cover may adversely affect the quantity and quality of ground water moving toward such wells.

The site plan shows a "wet pond" for the management of stormwater with in the wellhead protection area (see map below). This type of stormwater facility intersects the water table aquifer and provides a direct pathway for contaminants, if present, to enter the aquifer. Stormwater run-off from roadways likely carry petroleum hydrocarbons, pesticides, other organic compounds, metals and other inorganic compounds associated with this land use (DNREC, 1999). Because this is a wellhead protection area, there exists the potential for these constituents to enter the aquifer and compromise water quality.

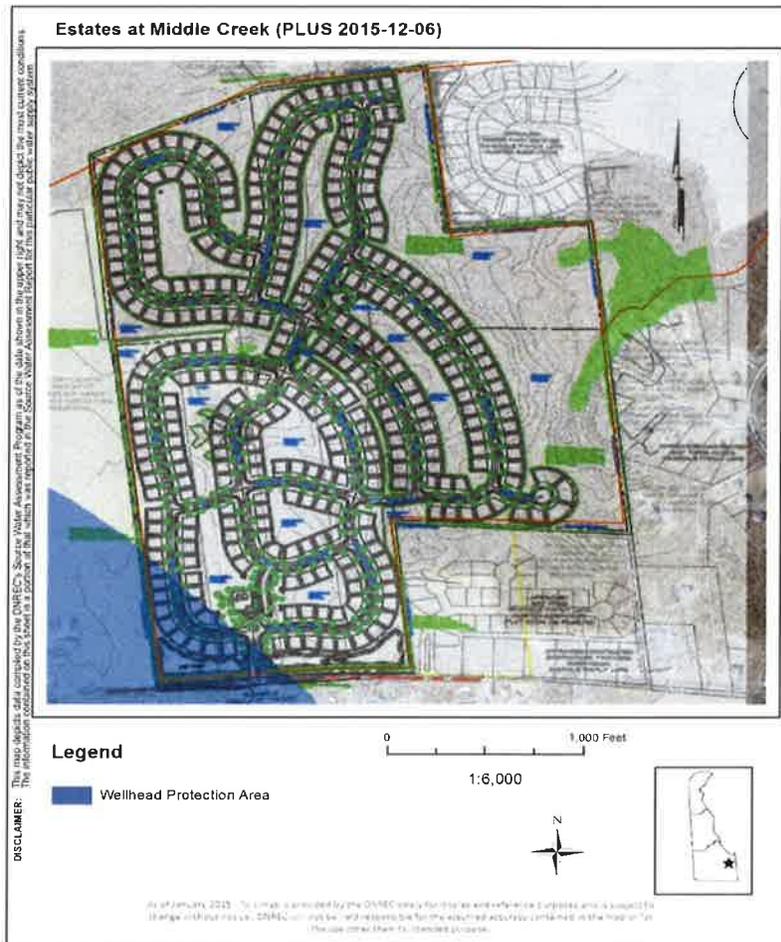
The DNREC GPB recommends moving the wet pond to an area outside the wellhead protection area. In addition, because the wellhead protection area is an existing source of public drinking water and the excellent ground-water recharge area so readily affects the underlying aquifer, the storage of hazardous substances or wastes should not be allowed within these areas unless specific approval is obtained from the relevant state, federal, or local program.

The proposed wet pond will be lined thus eliminating the infiltration of water within the well protection area. The property is greater than 100-feet from the well that is associated with the well head protection area. Moreover the well is located approximately 1200 feet from the project boundary. According to the EPA... wet detention ponds are storm water control structures providing both retention and treatment of contaminated storm water runoff. Runoff from each rain event is detained and treated in the pond until it is displaced by runoff from the next storm. By capturing and retaining runoff during storm events, wet detention ponds control both storm water quantity and quality. The pond's natural physical, biological, and chemical processes then work to remove pollutants. Sedimentation processes remove particulates, organic matter, and metals, while dissolved metals and nutrients are removed through biological uptake. In general, a higher level of nutrient removal and better storm water

quantity control can be achieved in wet detention ponds than can be achieved with other Best Management Practices (BMPs), such as infiltration systems. The design of the subdivision will follow section 89-6 of Sussex County Code in regards to design within the well head protection area.

Reference:

Delaware Department of Natural Resources and Environmental Control, 1999, The State of Delaware Source Water Assessment Plan: Dover, DE, p. 301.



Sediment and Stormwater Management.

- 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. 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 the Sussex Conservation District at (302) 856-7219 for details regarding submittal requirements and fees.

As stated above, it is the stated goal of the project to provide in general, all Erosion & Sediment Control (ESC) and Stormwater Management (SWM) Best Management

Practices (BMPs) which will comply with DNREC standards and specifications in accordance with current guidance documents and policies. Green Technologies and Pollution Control Strategies will be implemented to reduce nitrogen and phosphorus loads to their mandated levels.

Air Quality

- The applicant shall comply with all applicable Delaware air quality regulations. Please note that the following regulations in Table 1 – Potential Regulatory Requirements may apply:

Table 1: Potential Regulatory Requirements	
Regulation	Requirements
7 DE Admin. Code 1106 - Particulate Emissions from Construction and Materials Handling	<ul style="list-style-type: none"> • Use dust suppressants and measures to prevent transport of dust off-site from material stockpile, material movement and use of unpaved roads. • Use covers on trucks that transport material to and from site to prevent visible emissions.
7 DE Admin. Code 1113 – Open Burning	<ul style="list-style-type: none"> • Prohibit open burns statewide during the Ozone Season from May 1-Sept. 30 each year. • Prohibit the burning of land clearing debris. • Prohibit the burning of trash or building materials/debris.
7 DE Admin. Code 1135 – Conformity of General Federal Actions to the State Implementation Plan	<ul style="list-style-type: none"> • Require, for any “federal action,” a conformity determination for each pollutant where the total of direct and indirect emissions would equal or exceed any of the de minimus levels (See Section 3.2.1)
7 DE Admin. Code 1141 – Limiting Emissions of Volatile Organic Compounds from Consumer and Commercial Products	<ul style="list-style-type: none"> • Use structural/ paint coatings that are low in Volatile Organic Compounds. • Use covers on paint containers when paint containers are not in use.
7 DE Admin. Code 1144 – Control of Stationary Generator Emissions	<ul style="list-style-type: none"> • Ensure that emissions of nitrogen oxides (NO_x), non-methane hydrocarbons (NMHC), particulate matter (PM), sulfur dioxide (SO₂), carbon monoxide (CO), and carbon dioxide (CO₂) from emergency generators meet the emissions limits established. (See section 3.2). • Maintain ρεχορδκεεπινυ οωδ ρεπορινυ ρεθυρεμ εντι
7 ΔΕ Αδμ ιν. Χοδε 1145 – Excessive Idling of Heavy Duty Vehicles	<ul style="list-style-type: none"> • Restrict idling time for trucks and buses having a gross vehicle weight of over 8,500 pounds to no more than three minutes.

For a complete listing of all Delaware applicable regulations, please look at our website: <http://www.awm.delaware.gov/AQM/Pages/AirRegulations.aspx>.

Noted.

Tank Management

- No environmental impacts are anticipated; however, per the UST Regulations: Part E, § 1. Reporting Requirements:
 - Any indication of a Release of a Regulated Substance that is discovered by any Person, including but not limited to environmental consultants, contractors, utility companies, financial institutions, real estate transfer companies, UST Owners or Operators, or Responsible Parties shall be reported within 24 hours to:
 - The Department's 24-hour Release Hot Line by calling (800) 662-8802; and
 - The DNREC Tank Management Section by calling (302) 395-2500.

Noted.

State Historic Preservation Office – Contact Terrence Burns 736-7404

- This parcel contained a late 19th-c. to early 20th-c. farmstead (S03053), now demolished. There are probably archaeological resources associated with this property. In addition, part of the proposed development encompasses headwaters of a tributary to Angola Bay, and therefore the potential for prehistoric archaeological resources is high. Historic aerial photographs indicate a square area to the northeast of this farmstead that was allowed to grow up in trees. This could indicate the presence of a family cemetery.

Abandoned and unmarked family cemeteries are common on farms in Delaware. Burials have also been found associated with prehistoric-period archaeological sites. Disturbing unmarked burials triggers Delaware's Unmarked Human Burials and Human Skeletal Remains Law of 1987 (7 Del. Code Ch. 54). Such discoveries can result in substantial delays while the procedures required under this law are carried out. DHCA recommends that owners and/or developers have a qualified archaeological consultant investigate their project area for the presence of such a cemetery. If one is discovered and delineated, it is very costly to have it archaeologically excavated and the burials moved. DHCA recommends that in the event of such a discovery, the plans be redrawn to leave the cemetery on its own parcel or in the open space area of the development, with the responsibility for its maintenance lying with a homeowners association or development owner. (For further information, see <http://history.delaware.gov/preservation/umhr.shtml> and <http://history.delaware.gov/preservation/cemeteries.shtml>)

Owners and developers who may plan to apply for an Army Corps of Engineers permit or for federal funding, such as HUD or USDA grants, should be aware of the National Historic Preservation Act of 1966 (as amended). Regulations promulgated for Section 106 of this Act stipulate that no ground-disturbing or demolition activities should take place before the Corps or other involved federal agency determines the area of potential effect of the project undertaking. These stipulations are in place to allow for comment from the public, the Delaware State Historic Preservation Office, and the Advisory Council for Historic Preservation about the project's effects on historic properties. Any preconstruction activities without adherence to these stipulations may jeopardize the issuance of a permit or receipt of funding if it is determined that such opportunity to comment has been foreclosed. (For further information on Section 106 and the Advisory Council's role, please review the Advisory Council's website at: www.achp.gov)

Noted. In the event that federal funding or an Army Corps permit is required, this correspondence will be initiated.

Recommendations/Additional Information

This section includes a list of site specific suggestions that are intended to enhance the project. These suggestions have been generated by the State Agencies based on their expertise and subject area knowledge. **These suggestions do not represent State code requirements.** They are offered here in order to provide proactive ideas to help the applicant enhance the site design, and it is hoped (**but in no way required**) that the applicant will open a dialogue with the relevant agencies to discuss how the suggestions can benefit the project.

Department of Transportation – Contact Bill Brockenbrough 760-2109

- DelDOT recommends that the pool and clubhouse be located closer to the center of the development so that more residents will be likely to walk there. They concur with the comments from the Department of Natural Resources and Environmental Control (DNREC) that bicycle racks and a charging station for electric vehicles might be useful amenities to have for the residents at the pool and clubhouse.

We will consider it during final layout and discuss it with our client.

- The applicant should expect a requirement that any substation and/or wastewater facilities will be required to have access from the internal subdivision street with no direct access to Angola Road.

Noted.

- Section 3.2.4.1 of the Development Coordination Manual addresses the placement of right-of-way monuments (markers) along subdivision streets. DNREC recommend that monuments be furnished and placed along the proposed streets in accordance with this section.

Noted.

- Please be advised that as of August 1, 2015, all new plan submittals and re-submittals, including major, minor and commercial plans, shall now be uploaded via the PDCA (Planning Development Coordination Application) with any review fee paid online via credit card or electronic check. Guidance on how to do this is available on our website at <http://www.deldot.gov/information/business/subdivisions/>

Noted.

- Be advised that the Standard General Notes have been updated and posted to the DelDOT website. Please begin using the new versions and look for the revision date of July 31, 2015. The notes can be found at http://www.deldot.gov/information/business/subdivisions/DelDOT_Development_Coordination_Plan_Sheet_Notes.doc

Noted.

- Please check to determine whether any utilities will need to be relocated as part of this project.

http://www.deldot.gov/information/business/subdivisions/DeIDOT_Development_Coordination_Plan_Sheet_Notes.doc

Department of Natural Resources and Environmental Control – Michael Tholstrup 735-3352

Soils Assessment.

- Based on soils survey mapping update, Downer (DoA), Fort Mott-Henlopen complex (FhB), and Hurlock (HuA) soil mapping units were mapped in the immediate vicinity of the proposed construction. Downer and Fort Mott-Henlopen complex are well drained soil mapping units and have few to moderate limitations for development. Hurlock is a poorly-drained wetland associated (hydric) soil mapping unit that has severe limitations for development and should be avoided (Figure 1).

DNREC strongly discourages building on hydric soils because they are functionally important source of water storage (functions as a “natural sponge”); the loss of water storage through excavation, filling, or grading of intact native hydric soils increases the probability for more frequent and destructive flooding events. The probability of flooding is further compounded by increases in surface imperviousness as building density in the area increases over time. Moreover, destruction of hydric soils increases the amount of pollutant runoff (i.e., hydric soils sequester and detoxify pollutants) which contributes to lower observed water quality in regional waterbodies and wetlands.

DNREC strongly recommends the applicant contact a licensed (Delaware Class D) soil scientist to make a site specific assessment (i.e., soil survey mapping) of the soils on this site. A list of licensed soil scientists can be obtained from the DNREC Ground Water Discharges Branch, at 739-9947.

Noted.

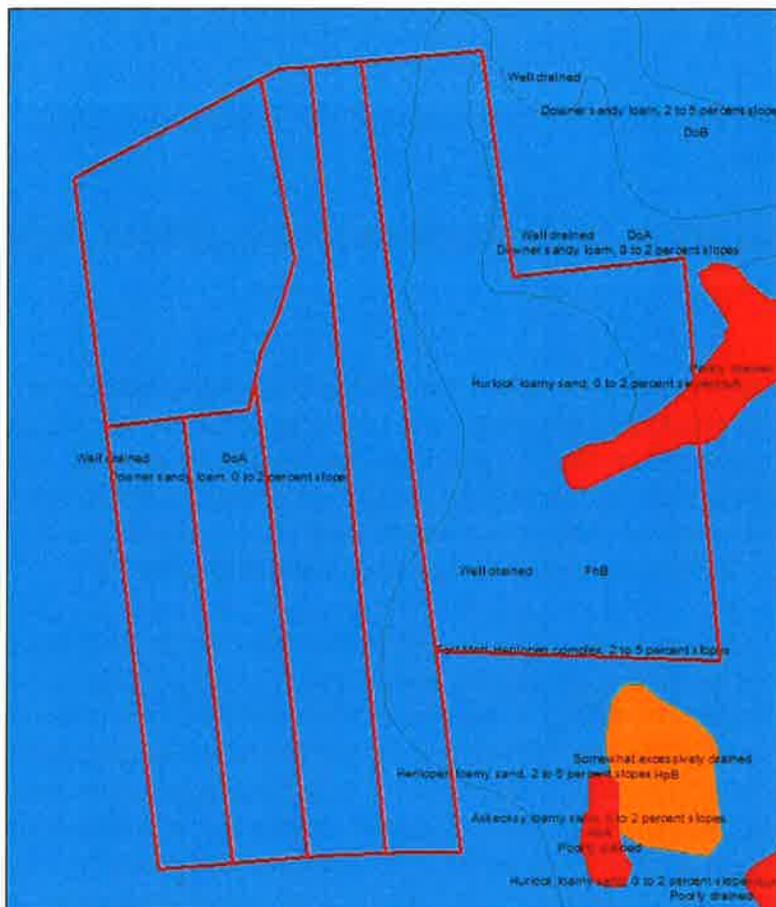
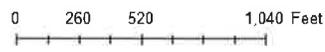


Figure 1: NRCS soil survey mapping update



Site Visit Request

- DNREC scientists have not surveyed the project area, but the forest within this project area has been in contiguous cover since at least 1937, and aerial and topographic signatures suggest that there is potential for the presence of rare species. In order to provide more informed comments, we request the opportunity to conduct a survey to evaluate habitat and determine the potential for species of conservation concern. Please note that our scientists have extensive knowledge of the flora and fauna of the state and the survey will be conducted at no expense to the landowner. Please contact Kate Fleming, at (302) 735-8658 or Kate.Fleming@state.de.us to schedule a site visit.

Noted. In the event that Section 7 Endangered Species Act coordination is required for use of federal funds or if a wetland/waters permits is required, we will submit the project for review and comment to the Species Conservation Program at DNREC.

State Natural Area

- The proposed project area occurs within Delaware's Natural Areas Inventory. State Natural Areas are composed of areas of land and/or water, whether in public or private ownership, which have retained or reestablished its natural character (although it need not be undisturbed), has unusual flora or fauna, or has biotic, geological, scenic or archaeological features of scientific or educational value. If you require further information about this area for your planning, please contact Eileen Butler, Natural Areas Program Manager, at (302) 739-9235.

Noted.

Forest Preservation/Key Wildlife Habitat

- The forest on this property is mapped as key wildlife habitat in the Delaware Wildlife Action Plan (DEWAP) because it is part of a large forest block that can support an array of plant and animal species.
- The site plan should be designed in a way that allows for preservation of as much of this wooded area as feasible. This would entail removing some lots from the forest and making efforts to minimize the amount of clearing needed for the footprint of homes and infrastructure. Because landowners will likely desire amenities such as dog kennels, swimming pools, sheds, play areas etc., mechanisms should also be put in place to reduce future clearing by landowners. Additionally, larger, connected areas of open space should be left intact rather than creating smaller, fragmented sections that are often placed throughout subdivisions. These small, disconnected areas behind lots, on corners, and in other irregular places are often underutilized and can become a maintenance problem. In general, larger, connected areas are more beneficial to wildlife and may be more useful to the residential community as well. Forest fragmentation separates wildlife populations, increases road mortality, and increases "edge effects" that leave many forest dwelling species vulnerable to predation and allows the infiltration of invasive species.
- Given the benefit of trees in erosion control and flood abatement, tree removal for stormwater management in particular should be minimized. This could include locating any stormwater management facilities on non-forested areas, limiting the size and number of ponds, or employing alternative methods that do not require tree removal. Options should be discussed with project engineers or with the appropriate Sediment and Stormwater Plan approval agency.
- To reduce impacts to nesting birds and other wildlife species that utilize forests for breeding, we recommend that clearing not occur April 1st to July 31st. This clearing recommendation would only protect those species during one breeding season, because once trees are cleared the result is an overall loss of habitat.

Noted.

Wetland buffers

- To protect the function and integrity of wetlands, a minimum 100-foot buffer should be left intact around their perimeter. This recommendation is based on peer reviewed scientific literature that shows an adequately-sized buffer which effectively protects wetlands and streams - in most circumstances - is about 100 feet in width. Upland buffers also serve as habitat for many terrestrial species that are dependent on aquatic and wetland habitats for a portion of their annual life cycle. Lot lines, roadways, and infrastructure should not be placed within this buffer zone. Buffers are an integral component of aquatic and wetland habitats, reducing the amount of sediments, pollutants, and other non-point source material that may affect the function and integrity of habitat, and the condition and survivability of aquatic organisms.

Buffers are applied to the wetlands located in and around the project site as required per code.

Additional information on TMDLs

- Compliance with the specified TMDL nutrient and bacterial reduction requirements specified for the Inland Bays watershed can be facilitated by adherence to the strategies and requirements described in the Inland Bays PCS, and the implementation of the following recommended BMPs, which would:
 - Preserve and/or maintain as much of the existing forested area as possible. We further suggest additional native tree, shrub and/or native herbaceous vegetation plantings, wherever possible.
 - Maintain a vegetated buffer of at least 100 feet from the adjoining wetlands and waterbodies. Based on a 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.), an adequately-sized buffer which effectively protects wetlands and streams, in most circumstances, is about 100 feet in width. In recognition of this research and the need to protect water quality, the DNREC Watershed Assessment Section recommends that the applicant maintain/establish the aforementioned 100-foot buffer width (planted in native vegetation) from all waterbodies (including ponds) and all non-tidal and tidal wetlands (i.e., a USACE approved field wetlands delineation for non-tidal wetlands and State approved wetlands delineation for tidal wetlands).
 - Ensure that wetlands and water quality are not impacted by having a site-specific evaluation/delineation of the soils on this site by a Licensed Class D soil scientist. A list of licensed soil scientists can be obtained from the DNREC Ground Water Discharges Branch, at (302) 739-9947.
 - Calculate post-construction surface imperviousness with all forms of created (or constructed) surface imperviousness (e.g., rooftops, driveways, parking lots, sidewalks, open-water storm water management structures, ponds, and roads) included in the calculation. Omission of any of the above-stated forms of surface

imperviousness will result in an underestimate of the actual post-development surface imperviousness and the associated environmental impacts.

- Employ green-technology storm water management and rain gardens (in lieu of open-water management structures) as BMPs to mitigate or reduce nutrient and bacterial pollutant runoff. Please contact Lara Allison at (302) 739-9939 for further information about the possibility of installing rain gardens on this parcel.
- Use pervious paving materials instead of conventional paving materials (e.g., asphalt or concrete) to help reduce the amount of water and pollutant runoff draining to adjoining streams and wetlands. Pervious pavers are especially recommended for areas designated for parking.
- Assess nutrient and bacterial pollutant loading at the preliminary project design phase. To this end, the Watershed Assessment Section has developed a methodology known as the “Nutrient Load Assessment protocol.” The protocol is a tool used to assess changes in nutrient loading (e.g., nitrogen and phosphorus) resulting from the conversion of individual or combined land parcels to a changed land use; thus providing applicants and governmental entities with quantitative information about the project’s impact(s) on baseline water quality. DNREC strongly encourages the applicant/developer use this protocol to help design and implement the most effective BMPs. Please contact John Martin or Jen Walls of the Division of Watershed Stewardship, at (302) 739-9939 for more information on the protocol.

Hazardous waste

- DNREC strongly recommends that the land owner perform environmental due diligence of the property by performing a Phase I Environmental Site Assessment (including a title search to identify environmental covenants) in accordance to Section 9105(c) (2) of the Delaware Hazardous Substance Cleanup Act (HSCA). While this is not a requirement under HSCA, it is good business practice and failure to do so will prevent a person from being able to qualify for a potential affirmative defense under Section 9105(c) (2) of HSCA.

Additional remediation may be required if the project property or site is re-zoned by the county.

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.

Noted.

Additional information on tank management

- When contamination is encountered, PVC pipe materials should be replaced with ductile steel and nitrile rubber gaskets in the contaminated areas.

If any aboveground storage tanks (ASTs) less than 12,500 gallons are installed, they must be registered with the DNREC Tank Management Section (TMS). If any ASTs greater than 12,500 gallons are installed, they are also subject to installation approval by the TMS.

Additional information on air quality

- DNREC encourages developers and builders to consider all sustainable growth practices in their design, but we believe, however, that the air quality impacts associated with the project should be completely considered. New homes may emit, or cause to be emitted, 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 new homes include emissions from the following activities:
 - Area sources such as painting, maintenance equipment and the use of consumer products like roof coatings and roof primers.
 - The generation of electricity needed to support the new homes, and
 - All transportation activity.

Based on the information provided, the three air emissions components (i.e., area, electric power generation, and mobile sources) for this project were quantified. Table 2 – Projected Air Quality Emissions represents the actual impact the Estates at Middle Creek project may have on air quality.

Table 2: Projected Air Quality Emissions for Estates at Middle Creek Project					
Emissions Attributable to Estates at Middle Creek Project (Tons per Year)	Volatile Organic Compounds (VOC)	Nitrogen Oxides (NOx)	Sulfur Dioxide (SO ₂)	Fine Particulate Matter (PM _{2.5})	Carbon Dioxide (CO ₂)
Area Source	9.7	1.1	0.9	1.1	39.4
Electric Power Generation	*	3.9	13.4	*	1976.4
Mobile Source	14.4	15.0	0.4	0.2	9280.3
Total Emissions	24.1	20	14.7	1.3	1151.2

(*) Indicates data is not available.

- Note that emissions associated with the actual construction of the road, 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.
- DNREC encourages sustainable growth practices that:
 - Control sprawl;
 - Preserve rural and forested areas;
 - Identify conflicting land use priorities;
 - Encourage growth on previously developed sites and denser communities while at the same time protect our diminishing land base;
 - Coordinate transportation, housing, environment, and climate protection plans with land use plans; and
 - Demonstrate that communities can achieve the qualities of privacy, community, and contact with nature without degrading the natural environment or generating unacceptable environmental costs in terms of congestion, use of natural resources, or pollution.

- Additional measures may be taken to substantially reduce the air emissions identified above. These measures include:
 - Constructing with only energy efficient products. Energy Star qualified products are up to 30 percent more energy efficient. 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 energy efficiency translates into a percent reduction in pollution. The Energy Star Program is an 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.
 - Constructing with high albedo, high solar reflectance materials. This includes roofing and hardscape. These materials help to reduce heat island impacts and, by extension, help to minimize the potential for localized ground-level ozone formation. These materials also help reduce demands on air conditioning systems and save on energy costs.
 - Providing shade for parking lot areas. Approaches may include architectural devices, vegetation, or solar panels. Providing shade for parking areas helps to reduce heat island impacts, and, by extension, helps to minimize the potential for localized ground-level ozone formation. Such measures can also have the additional benefit of channeling or infiltrating stormwater.
 - Encouraging the use of safe multimodal transportation. This measure can significantly reduce mobile source emissions. **For every vehicle trip that is replaced by the use of a sidewalk or bike path, 7 pounds of VOC and 11.5 pounds of NOx are reduced each year.**
 - Using retrofitted diesel engines during construction. This includes equipment that is 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 in vegetative buffer areas. Native trees reduce emissions by trapping dust particles and 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 project. The applicant should submit a plan to the DNREC Division of Air Quality (DAQ) which addresses the above listed measures, and that details all of the specific emission mitigation measures that will be incorporated into the Estates at Middle Creek project. The DAQ point of contact is Deanna Cuccinello and may be reached at (302) 739-9402 or Deanna.Morozowich@state.de.us.

Middle Creek Preserve residential subdivision being planned for this property will strive to integrate local community through environmental stewardship that will provide a lively family neighborhood. The belief is that such a project will generate a strong sense of belonging while also enabling a collective sense of place within the community. BDRP, LLC foresee a future where projects such as this allow communities to keep growing, each influencing its neighborhood. Through their efforts in development of the property, the vision is to inspire change in the way people live.

Following receipt of this letter and upon filing of an application with the local jurisdiction, 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.

Thank you for the opportunity to review this project. If you have any questions, please contact me at 302-739-3090.

Sincerely,

A handwritten signature in cursive script that reads "Constance C. Holland".

Constance C. Holland, AICP
Director, Office of State Planning Coordination

CC: Sussex County