

Vickers Charles R. (DNREC)

From: Rich Julian [Rich@Eastern-States.net]
Sent: Tuesday, May 02, 2006 1:08 PM
To: Vickers Charles R. (DNREC)
Subject: Proposed Natural Area- Tax Parcel 11-035.00-004
Attachments: Nat.Area Opposition.doc

Mr. Vickers,

We spoke briefly yesterday regarding a parcel of land Kang Development LLC., owns and is finalizing development plans on. The property is on the north side of Old County Road, in New Castle County, appx. 280 feet east of the Maryland line. The land appears as a proposed Natural Resource Area, and a State Resource Area.

Attached are our comments for the record. I am also mailing a copy of the attached letter, with the mentioned enclosures. Please feel free to contact me at (302)995-2259 ext. 25 with any comments, or if you need anything further.

Sincerely,
Richard Julian, Jr.
Kang Development, LLC.

Received

MAY 05 2006

Division of Parks & Recreation
Directors Office

Kang Development, LLC.
818 First State Blvd., Wilmington, DE 19804
Phone: (302)-995-6945
Fax: (302)-995-6650

May 2, 2006

Mr. Ron Vickers
Land Preservation Chief
DNREC Division of Parks and Recreation
89 Kings Highway
Dover, DE 19901

received

MAY 05 2006

Division of Parks & Recreation
Dover Office

RE: Proposed State Resource Area Maps

Dear Mr. Vickers:

I represent Kang Development, LLC., the fee simple owner of a 110.19 acre parcel located on the north side of Old County Road, approximately 280 feet east of the Maryland state line, in New Castle County, tax parcel 11-035.00-004.

While reviewing the proposed State Resource Area Maps on May 1, 2006, I realized that our parcel appeared to be slated as a proposed future "Natural Resource Area", as well as a proposed "State Resource Area". We spoke on the afternoon of May 1, 2006, and you informed me a public hearing was being held that evening in Dover in order to give the public an opportunity to comment on the proposed State Resource Areas. Unfortunately, without prior direct notice regarding the meeting date, I was unaware of the public hearing until the day of the hearing, and had a scheduling conflict that prevented me from attending. However, you stated comments would be accepted by mail and by e-mail until May 5, 2006. Kang Development, LLC. will consider the following our official comments regarding our property in relation to the proposed State Resource Areas.

On behalf of Kang Development LLC., I would like convey to the DNREC and the Open Space Council that we are adamantly opposed to our property, tax parcel 11-035.00-004 being designated as a "Natural Resource Area", or a "State Resource Area". This objection is based upon a multitude of reasons that I will expand upon below.

Our first and primary objection is based upon the fact that the parcel has been in the New Castle County Land use process since 2003, and is nearing completion of final approvals for "The Estates at Long Branch" a 70 unit, single family detached subdivision. We have invested over three year in the subdivision process. We have also invested in excess \$2,500,000.00 in engineering, surveys, inventories, studies, and land acquisition. We have acted in good faith throughout the process, and have invested significant resources based upon the existing land use regulations. The land is zoned "Suburban", which permits residential development in moderate densities.

We understand that the designation of our property to a "Natural Resource Area" or "State Resource Area" will not immediately affect the regulations surrounding the use or enjoyment of the property, per se. We also understand any changes regarding land use regulations will be completed at the county level, in accordance with a comprehensive plan, some time in the future. However, we would like to list some technical reasons as to why we do not think the site would be suitable for a "Natural Resource Area" or "State Resource Area", regardless of future development.

Our understanding is that criteria used to nominate sites is based upon many different factors, such as "natural character", "unusual flora or fauna", and "biotic, geological, scenic, or architectural features of scientific or educational value". We are curious as to which characteristics were found on, or assumed to be present on our site. We would assume these characteristics are based upon data extrapolation, because we are unaware of any governmental or quasi-governmental agencies conducting studies on the property. However, we have conducted a few environmental and historical studies on the site as part of the required major subdivision plan submissions to the New Castle County Department of Land Use. The results of these studies are a matter of public record, but I will touch upon a few key studies which are environmentally related, below.

At first glance, it appears the property is naturally forested with mature trees. However, we conducted a professional forest stand delineation of the property in 2003, and found that of the 110.19 acres on the property, only 11 acres are mature forest. This data has been accepted by New Castle County's Land Use Department, and is a matter of public

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record. Our research had found that the former owners of the property had planted fir, pine, and Christmas trees on the site for agricultural purposes. The former owners lived in New York City, and never took the opportunity to harvest the trees on the site. According to the Department of Agriculture, the northern New Castle County market for pine or spruce is not sustainable (see attached letter from New Castle County Forester). The site was sold for development without the trees being harvested. I have enclosed an aerial photograph of our property from the 1970 Soil Survey of New Castle County. It clearly shows the majority of the farm was not forested prior to the agriculturally planted trees. I have enclosed a letter from the New Castle County Forester stating the forest stand is not natural. I have also enclosed a letter from the former owners' daughter, on behalf of the owners', stating the trees were being grown for commercial purposes.

Within the forest stand delineation, no rare plant species were seen or identified. However, Russian Olive Trees, an invasive species, were identified on the northern portion of the site. We intend to remove the invasive species in accordance with the New Castle County landscape plan requirements, as part of the development plan. Our landscape plan for the site has been submitted to New Castle County, and is a matter of public record.

With respect to any threatened or endangered species, I have attached pages from a Phase I Bog Turtle Survey that we conducted in 2005. The study indicates no Bog Turtle habitat was present on site. To my knowledge, this would be the only likely, federally listed threatened or endangered species present on the property. There have been no reports of Bald Eagles in the immediate area, eliminating the other remotely possible federally listed threatened or endangered species.

With respect to archeologically or historically significant sites on the property, none have been identified on the property, even after a thorough review and site visit conducted by the New Castle County Historic Preservation Section. A dilapidated farm house is present in the middle of the property. I have attached two letters from the New Castle County Historic Preservation Section. One letter states there were "few character defining features" that remained, but requested that further historic documentation. We engaged

Division of Planning & Zoning

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the University of Delaware to survey and document the residence. New Castle County accepted the documentation, as well as the premise that the house was not historically significant, and granted permission to obtain a demolition permit (see enclosed letter).

As far as to the scenic features on the property, we offer the following comments. First, high voltage electric transmission lines exist on the property- 16.48 of the 110.19 acres are in permanent easement, due to the presence of the obtrusive electric lines. Secondly, the property's proximity to a road, relative proximity to multiple residential areas, and limited visibility from the road, have made it an ideal illegal trash dump facility. Despite our efforts to block access to the property, post no-trespassing signs, and threaten to prosecute illegal dumping, loads of junk continue to be illegally dumped on our property. New Castle County's Land Use Department noticed the presence of trash and debris on the site, and has included in our subdivision comments (within public record) that the trash will need to be removed. We feel the dumping cannot be stopped without a 24 hour guard, or some type of developmental activity on the site. Lastly, again the lack of activity on the site has made it ideal for illegal hunting (be it trespassing or hunting out of season), as well as trespassing by all-terrain vehicles. A few neighbors in the area, including the farmer to the west in Maryland, the resident to the south on Old County Road, and residents to the east in Shelley Farms, have commented or complained about the noise and nuisance created by hunting and All-Terrain Vehicles illegally using the property. These factors all cause us to question the appropriateness of the site for a "Natural Area" or "State Resource Area". We do however feel our proposed development will reduce or eliminate the illegal trespassing, while protecting site resources. Our proposed development plan will feature nearly 63% open space, will contain 50 foot minimum buffers from wetlands and floodplain, and will contain 100 foot minimum buffers from streams and watercourses.

For the reasons stated above, Kang Development, LLC., would like to note for the public record that we are opposed to any potential or future designation of our property as a "State Resource Area", or "Natural Resource Area", despite the perceived zero impact it will have on our ability to finalize the site for development. If the Department of Parks and Recreation, or the Open Space Committee feels that it is appropriate to designate our

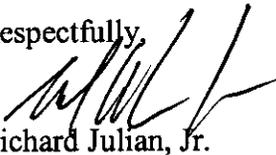
Division of Parks and Recreation

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Received

property as proposed resource or natural areas for a defined tangible reason, as defined by 7 Del. Code Chapter 73 and/or Chapter 75, we request that this reason or justification be provided to us in writing. Otherwise, we respectfully request that Kang Development, LLC.'s property, also known as New Castle County tax parcel 11-035.00-004, be removed from consideration as a proposed "State Resource Area", and/or a proposed "Natural Resource Area".

Respectfully,



Richard Julian, Jr.
Kang Development Company, LLC.

Received

MAY 05 2006

Division of Parks & Recreation
Education Office

Cc: Larry Tarabicos, Esq.
Steven W. Bomberger



STATE OF DELAWARE
DEPARTMENT OF AGRICULTURE
2920 SOUTH DUPONT HIGHWAY
DOVER, DELAWARE 19901

MICHAEL T. SCUSE
SECRETARY
HARRY D. BROCKLEY
DEPUTY SECRETARY

TELEPHONE (302) 698-4500
DE ONLY (800) 282-8685
FAX (302) 687-6267

June 11, 2003

Received

Francis R. Julian
702 First State Boulevard
Wilmington, DE 19804-3553

MAY 05 2006

Division of Parks & Recreation
Director's Office

Dear Mr. Julian,

It is my determination that the 20-acre portion of the Kang property that we briefly walked on the 9th is likely a reforestation or afforestation project installed some 30 years ago. This stand definitely is not natural as most of it is Norway spruce. The stand may have some commercial value. The stand probably has an average diameter of less than 12 inches, which would put it at best a small sawtimber stand.

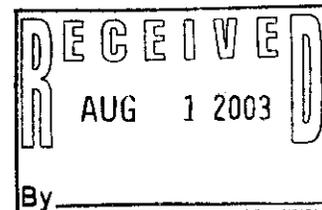
Usually, pines less than 10 inches in diameter are considered pulpwood. However, Northern New Castle County has no sustainable market for pine or spruce. It may be difficult to find someone to take the logs unless they are felled during the development process and yarded to a central location. There may be such a buyer that will make a deal. Please find enclosed the Delaware Wood Industry Directory. In it you will find buyers by product and species.

If you need any further assistance, please do not hesitate to call. (302) 653-6505

Sincerely,

A handwritten signature in cursive script that reads "Henry D. Poole".

Henry D. Poole
New Castle County Forester



ANNE KANG
145 4TH AVE, 18P
NEW YORK, NY 10003

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Division of Parks & Recreation
Director's Office

January 17, 2003

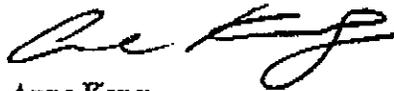
Landmark Engineering Inc.
100 W. Commons Blvd., Suite 301
New Castle, DE 19720

Attention: F. Thomas Prusak

Dear Mr. Prusak,

Please be advised that the fir, pine and Christmas trees on my parents farm in Delaware were planted and are being grown for commercial purposes.

Very truly yours,



Anne Kang
(on behalf of Chul Hi and Kyu Sun Kang)

1970 SOIL SURVEY

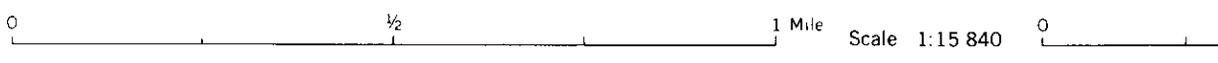
NEW CASTLE COUNTY, DELAWARE - SHEET NUMBER

**PROPERTY
LOCATION**



CENTRAL COUNTY MAP

DIVISION OF AGRICULTURE



JCMOECI

James C. McCulley IV, Environmental Consultants, Inc.

BOG TURTLE HABITAT (PHASE 1) SURVEY REPORT

PROJECT and SITE INFORMATION

Received

MAY 05 2016

This Phase 1 survey was conducted on behalf of:

Eastern States Development Company, Inc.
200 Continental Drive
Suite 109
Newark, DE 19713

Division of Parks & Recreation
Directors Office

The Phase 1 survey was conducted on the following project/property:

Kang Property
300 block of Old County Rd.
Newark, De 19702
Pencader Hundred
New Castle County

Minor Watershed: unnamed tributary to Long Branch
Major Watershed: Chesapeake Bay

Project Area / Property – Size and Extent

The 107.6 +/- acre project area (Tax Parcel # 11-035.00-004) is bordered by private properties to the north and west, Shelly Farms residential subdivision to the east, and Old County Road to the south (see maps in appendix).

Current Land Use and Setting

The subject property consisted mainly of young woodland areas with saplings and dense scrub/shrub vegetation. Scrub/shrub and old field areas were located along the maintained power line easement along the western boundary. A small man-made pond was located in the southwestern portion, and a drainage ditch maintained by New Castle County Natural Resources Conservation District was located in the southeastern portion of the property. An abandoned building was located in the central portion of

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Wetland 10

This wetland consisted of an emergent wetland located in the southwestern corner of the property in the power line easement. A portion of this wetland contained palustrine forested and scrub/shrub wetlands.

Vegetation

Typical dominant vegetation within the emergent wetlands included the following vegetation: Softrush (*Juncus effuses*), Cinnamon Fern (*Osmunda cinnamomea*), and Sensitive Fern (*Onoclea sensibilis*).

Typical dominant vegetation occurring within the scrub/shrub wetland included the following vegetation: Buttonbush (*Cephalanthus occidentalis*), Arrowwood (*Viburnum dentatum*), Highbush Blueberry (*Vaccinium corymbosum*), Winterberry (*Ilex verticillata*), Persimmon (*Diospyros virginiana*), and Elderberry (*Sambucus canadensis*). Typical dominant sapling and seedling tree species included: Pin Oak (*Quercus palustris*), Southern Red Oak (*Quercus falcata*), Red Maple (*Acer rubrum*), and Sweet Gum (*Liquidambar styraciflua*).

Typical dominant vegetation occurring within the palustrine forested wetlands included the following vegetation: Southern Red Oak (*Quercus falcata*), Willow Oak (*Quercus phellos*), Pin Oak (*Quercus palustris*), River Birch (*Betula nigra*), Sweet Gum (*Liquidambar styraciflua*), Red Maple (*acer rubrum*), and Tupelo (*Nyssa sylvatica*). Typical dominant species occurring in the understory included: Pepperbush (*Clethra alnifolia*), Sweetbay, Magnolia (*Magnolia grandiflora*), Arrowwood (*Viburnum dentatum*), and Highbush Blueberry (*Vaccinium corymbosum*).

Conclusion

A phase 1 bog turtle survey was conducted on February 17, 2005 on behalf of Eastern States Development Company, Inc. The entire 107.6 acre project area was surveyed and ten (10) wetland areas were present within the site. Historically, wetland 6 may have been potential bog turtle habitat, but due to canopy shading and an increased number of woodland species in the under story, this wetland is no longer suitable habitat for bog turtles. Therefore, it is in the opinion of JCMECI that none of the wetlands on the site contain potential bog turtle habitat.



Department of Land Use

April 14, 2005

Mr. Richard Julian
Eastern States Development
Christiana Executive Campus
200 Continental Drive, Suite 109
Newark, DE 19713

Re: Kang Farm documentation

Dear Mr. Julian,

The historic preservation section has received the requested documentation of the Kang Farm (Department of Land Use application no. 2003-0935), prepared by the University of Delaware's Center for Historic Architecture and Design. We are satisfied with the quality and content of the documentation, and we do not anticipate any delay in the issuance of a demolition permit when application is made.

Thank you for your cooperation in this matter. The materials provided are a skillfully prepared addition to the body of knowledge about our County's history.

Sincerely,

Christine V. Quinn
Historic Preservation Planner

cc: Rebecca Sheppard, CHAD

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MAY 05 2005

Division of Parks & Recreation
Director's Office

APR 15 2005

EASTERN STATES GROUP

HISTORIC PRESERVATION SECTION

interoffice memorandum

to: *stave faux*
 from: *christine quinn*
 subject: *20030935*
 date: *9/8/03*
 cc:

The historic preservation section has found the "Exploratory Sketch: Major Land Development Plan for Kang Farm" (20030935) to be acceptable, conditional upon documentation of the historic structure on the site, as outlined below. Tax records date the house to ca. 1850, and a residence belonging to "A Titter" appears on the 1868 Beers map of the state. The structure currently on the site is in poor structural condition, and few character-defining features remain. In fact, all windows and doors have been removed, along with most interior detailing. Therefore, as a condition of approval of this plan, we request that a minimal level of documentation be performed on the structure prior to its demolition. Although a demolition permit application has not been submitted to the Department of Land Use at this time, it is advantageous to give the applicant as much advance notice as possible. A separate memo outlining the requested documentation will be sent to the applicant shortly.

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Division of Parks & Recreation
 Director's Office