

STATE OF DELAWARE  
DEPARTMENT OF NATURAL RESOURCES  
AND ENVIRONMENTAL CONTROL

OFFICE OF THE  
SECRETARY

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November 26, 2008

Mr. Robert C. Wheatley, Chair  
Sussex County Planning and Zoning Commission  
2 The Circle  
Georgetown DE 19947

Dear Mr. Wheatley:

Members of DNREC's Planners Technical Advisory Committee took the opportunity to review Sussex County's proposed Superior Design ordinance. PTAC includes department staff from all divisions who regularly review development projects for the Preliminary Land Use Service (PLUS).

We appreciate the significance of the County's approach to promoting environmentally sensitive design by identifying lands that should be preserved, then locating home sites, then laying out roads and trails and, finally, locating lot lines.

We respectfully offer the following observations and suggestions for your ordinance:

- Section 115-25 F. (3) (a): Please consider revising underlined language to reference this as a Preliminary Cluster Plan that provides for preservation (or protection) of the environment (or natural resources) in the design.
- Section 115-25 F. (3) (a) (1): Please include identified Natural Areas and habitat that supports a state-rare or federally listed species in your list of "sensitive environmental features."
- Section 115-25 F. (3) (a) (3) (D): Will the dedicated open space be maintained for public recreation or as a nature preserve in perpetuity? This should be stated in the ordinance to prevent the dedicated land from being developed/redeveloped at a later time.
- Section 115-25 F. (3) (a) (3) (E): The trail system should meet the Americans with Disabilities Act (ADA) standards. If such areas do not currently exist adjacent to the site, please give forethought to possible future trail links. By

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providing easements/access points to adjacent properties, trail systems could be expanded and connected as those neighboring properties are developed.

- Section 115-25 F. (3)(a)(4): Buffer widths should be at least 100 feet in width for all wetlands but especially for sensitive wetlands (such as coastal plain ponds, sea level fens, Atlantic White Cedar Wetlands, Bald Cypress Wetlands, and interdunal swales) or wetlands that provide habitat for rare species. Most of these are mapped as Key Wildlife Habitat in the Delaware Wildlife Action Plan (this document can be viewed via the DNREC website at <http://www.dnrec.state.de.us/nhp>).
- To minimize the use of invasive species, language should be included that requests the use of native species where feasible and limits the use of invasive species (a list of species considered invasive in Delaware can be found on the DNREC-Division of Fish and Wildlife, Natural Heritage and Endangered Species Program, [www.dnrec.state.de.us/fw/nonnative%20plants03.pdf](http://www.dnrec.state.de.us/fw/nonnative%20plants03.pdf).)
- The proposed ordinance specifies “a minimum of 25 feet permanent setback must be maintained around the outer boundaries of all wetlands and recreational ponds.” Does this include stormwater ponds? Stormwater ponds may also be considered recreational, since many developments use them as a marketing attraction/feature/amenity.
- We recommend keeping lot lines out of the setback. During periods of wet weather, the wetland may expand into the lot, rendering the lot too wet for normal residential activities. The result is an increase in drainage calls from frustrated property owners unable to maintain their property as they desire.
- Section 115-25 F. (3) (a) (5): The County should clearly define a “natural pond” in the last sentence of section 5.
- A stormwater pond should be utilized after all other green technology management practices are exhausted. Incorporate stormwater detention and retention areas into the landscape. Precautions need to be taken to ensure waterfowl do not add to the nutrient load of the stormwater discharge.
- Section 115-25 F. (3) (a) (6): The phrase, “to the greatest extent possible,” is vague. This could be better defined by limiting the number (as a percentage) of healthy mature trees that can be removed from the site.
- Section 115-25 F. (3) (a) (8): Consider adding the location of stormwater management areas to this sequence (after identifying lands that should be preserved and before locating home sites).

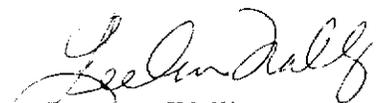
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- Section 115-25 F. (3) (a) (8) (C): It should be clear that the road systems should also avoid those important features mapped in the first step (A)
- Section 115-25 F. (3) (a) (9): Sidewalks should connect to any sidewalk networks on adjacent properties.

Even though DNREC offers several suggestions for improvement, the overall intent of this ordinance is commendable. At the County Council meeting when the ordinance was introduced, Council members questioned how the County would identify the "sensitive environmental features" specified in the proposed measure. "Sensitive environmental features" are our specialty! The ones you mention in the proposed ordinance are mapped as GIS layers, as are several others.

Once again, we offer our assistance as you improve upon and implement this ordinance. We only have focused on environmentally sensitive design.

Sincerely,



Lee Ann Walling  
Chief of Planning

Cc: David Baker  
Connie Holland  
Lawrence Lank