

# Planning Land Use Subcommittee Comments

## Theme

### Subsection te Comment Received Commenter

2/9/2009 Anne Mundel, DWR

2/17/2009 John Gaadt, Gaadt Perspectives, LLC

### Comment

150' well separation distance from infiltration bmps taking runoff from impervious parking lot not listed in revised regulations. Sourcewater protection needs this to enforce their requirements

I don't have any substantive comments regarding the draft regulations other than to tell you I like the Resource Protection and Conveyance Event Criteria. I realize site design issues are not really part of the regulations (presumably more in the technical guidance manual and example stuff), but it would be nice to raise the issue of "conservation design" somewhere in the regulations

## Theme

### Guidance

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3.1.2 3/20/2009 John Garcia, Karins

Stormwater Impact Study 3/13/2009 Kevin McBride, MRA

### Comment

SIS- Why is traffic generation diagram needed at this point?

This is a new requirement that if done properly should have accurate topography which is not done early in the feasibility phase due to costs. General drainage patterns should be looked at in the planning but a SIS is overkill up front.

## Theme

### Process

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1.3.2 3/13/2009 Jared Adkins, KCD

1.3.2 3/13/2009 Kevin McBride, MRA

1.3.2.1 3/13/2009 Kevin McBride, MRA

1.3.2.1 3/13/2009 John Garcia, Karins

### Comment

Approved by who?

should follow TMDL & PCS grand fathering provision. Needs to be PLUS or DelDOT application not final plat. See above comment.

why not use the local sunset provision that render a plan void after a 5 year period.

Why are 2 years stipulated as the expiration date for older plans? I would recommend 3 years.

3.1.4	3/13/2009	Kevin McBride, MRA	"how stormwater runoff through and from the development will be treated and conveyed" - without a site plan this can not be effectively evaluated. treatment trains and BMP's can not be located or sized at this point. The engineers know what is available how to apply it will come later in the design process.
3.1.5	3/13/2009	Jared Adkins, KCD	Forcing the agencies and the owners to have an approved preliminary plan prior to submittal of a sediment and stormwater plan adds steps to the process and will lengthen the review process, especially if there are minor issues with the preliminary plan that can be addressed with the submittal of the sediment and stormwater plan.
3.1.5	3/13/2009	Sally Ford, Land Design	The Owner, at this point, is not in a position to agree on a stormwater plan concept without the zoning &/or county site plan approval in place.
3.1.6	3/13/2009	Kevin McBride, MRA	This review obviously will entail changes that will break or possibly severely alter the agreement with DNREC. There must be a clear understanding that local land use overrides any state constraints. Green technology is not like zoning with prescribed setbacks and standards. The SWM can be multi layered with BMP's in series and somewhat flexible in the methods applied.
3.1.7	3/13/2009	Kevin McBride, MRA	This rigid linear approach is not how planning is done. It is a series of loops and feedback conducted by a team of land planners and engineers with full knowledge of the various agencies requirements. Projects can not be designed by committee. Once a cohesive plan is prepared considering all requirements DNREC should review the plan as part of the PLUS process. If the consultant wishes to meet prior due to a complex project or the desire to advance the state of the art BMP's then a short meeting should ensue with DNREC or the district and the results documented in a short memorandum of understanding or meeting minutes. Why is this becoming so complicated.
5.1.9	3/18/2009	ACEC	DelDOT has a policy (perhaps unwritten) forbidding new discharges into their system. Will DNREC mediate such instances if a proposed discharge is the most logical way to accommodate a development?

Theme	Rationale	Comment	Commenter	Comment
3.1	3/13/2009	Sally Ford, Land Design		A Pre-App meeting, Conceptual Plan & Impact Study , are a waste of time and resources if the zoning is not yet approved, A Pre-App meeting, Conceptual Plan & Impact Study is a waste of time and resources if the site plan being presented is not acceptable to the County.

3.1.6 - 3.1.7	3/18/2009	ACEC	Holding a pre-application meeting before preliminary submittals to local land use approval agencies or prior to PLUS meetings does not seem justified. There are other aspects of development that many would consider more important than drainage (economic, traffic, etc.) so why make drainage the first hurdle?
3.2.2	3/13/2009	Kevin McBride, MRA	"...written justification of changes" - This is crazy. That is why you call it a concept plan. The resulting changes are part of a process and usually result in a better and more cost effective product in the end. This requirement I fear will be used to stall or kill a project and will result in consultants never able to assign a fixed fee for the scope of work. They will simply propose the cheapest safest BMP from the outset, never to improve upon it as design progresses.
5.1.9	3/13/2009	Kevin McBride, MRA	I fear that the state or a town will use this requirement to effectively shut down a project adjacent to a municipality until such time that the owner annexes and pays what is now becoming cost prohibitive annexation and impact fees for sewer and water. This does not even consider the fact that most incorporated municipalities have citizen groups that resist annexing property. That would render the land unusable.
General Comment	3/13/2009	Rich Collins, PGA	Section 3 puts the county's lawful land use powers in a secondary position. That is not constitutionally acceptable! Land use powers are delegated to the counties and municipalities. Stormwater is a permitting process, not an approval process.

Theme	Terminology		Comment
Subsection	Date Comment Received	Commenter	
3.1.4	3/13/2009	NCCDLU	"restoration or enhancement of natural areas such as riparian areas, wetlands, and forests, etc." - Is there a way to reword this to emphasize that generally avoidance would be the best technique when dealing with natural areas. Understandably, some resources will need to be restored. Perhaps "protection and/or avoidance of natural areas. etc. ' rather than " restoration and enhancement."
4.4.2.1	3/13/2009	Kevin McBride, MRA	Natural features needs a definition.
4.4.2.2	3/13/2009	Kevin McBride, MRA	This appears incomplete. However, I am only aware of tidal and subaqueous land regulated by the state. Are you thinking of recharge areas, well heads, forest areas and other SRA's? Please elaborate.