



Home Builders Association
of Chester & Delaware Counties
1502 McDaniel Drive • West Chester, PA 19380
610-692-7733 • FAX: 610-692-974 • www.builderpa.com

MEMORANDUM

To: Dan Greig, District Manager
Chester County Conservation District

From: Mark S. Mitman

Date: April 17, 2008

Subj: District Fee Schedule

The Home Builders Association of Chester & Delaware Counties (“HBA”) recognizes that a revision to the Chester County Conservation District’s (“District”) fee schedule for Erosion and Sedimentation (“E&S”) Pollution Control Plan submissions has been overdue. The recent revision was needed not only to adjust for inflation, but also, to adequately empower the District to keep pace with the increased complexity of modern storm water & pollution control planning and maintain its high level of service.

The recently approved fee schedule, with an effective date of April 15, 2008, makes significant efforts towards increasing program revenues for the District. The HBA trusts such increases are reasonably proportional to the cost of administering the program. However, there are a few concerns the HBA has with the fee schedule and would like to highlight the following issues and propose the following remedies:

1. Designation of townhouse & condominium construction as “Residential Development” for the purposes of base fee calculation

Comments: In the new fee schedule, the residential development base fee is calculated as a function of the number of units contained in a project versus the actual disturbed acreage. Such a general reliance on the number of units within a given project is not a reliable indicator of the extent and/or complexity of earth disturbing activities. More problematic, however, is that the District has opted to include townhouses/condominiums in this method of calculating fees. Because these types of structures are built *up* and not *out*, they require significantly less earth moving activities per unit. In fact, calculating multi-unit housing based upon the number of units artificially and unnecessarily inflates the base fee. No other conservation district in our region includes townhouses/condominiums with single-family construction fees.

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Remedy: Place fee calculation for condominium construction within the “Industrial/Commercial/Institutional” schedule where fees are based upon disturbed acreage. And, adjust the calculation of townhouses within the “Residential” schedule so that one townhouse is equal to 0.25 residential units.

2. Re-submission fee(s) equal to 100% of the original fee

Comments: The fee remitted with the original E&S plan submission is for various District services including a pre-application meeting, the initial review, one re-submission, and site inspections during earth moving activities. If after the second review, the submission is still deficient, the applicant must pay 100% of the original fee with any subsequent re-submissions. The HBA recognizes that charging such a fee will most likely promote better initial applications and that, in principal, it is a reasonable way for the District to recapture costs associated with conducting multiple reviews. However, the HBA feels that the re-submission fee is unnecessarily high. If the original fee is designed to include payment for services other than reviews – that is to say, the pre-application meeting & site inspections – it would seem unreasonable to force the applicant to make duplicative payment for those services with each re-submission. Furthermore, if the original fee includes two reviews, it would seem unreasonable to charge the identical amount for each subsequent review. The applicant should only be responsible for the costs associated with the one extra review received with a re-submission. While other conservation districts have a re-submission fee in place, they are at significantly lesser percentages: Bucks at 20%; Montgomery at 25%; Lehigh at 15% or 30%; and, Delaware at 50%.

Remedy: Establish a fee for the second, and subsequent, re-submission at 40% of the original fee not to exceed \$5,000 per submission.

3. Tier II Fee Trigger – 25% of Total Disturbance Area

Comments: The District has implemented a “Tier II” fee of \$1,000 per application if the project site falls into any one of five categories. One of those categories is if the project’s earthmoving activities disturb 25-percent or more of the total disturbed area at any given time. The HBA recognizes that large-scale earth disturbance activities can result in added cost to the District. However, the

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use of a straight percentage is a relative trigger and may not adequately reflect the true costs experienced by the District. 25-percent of five acres poses a significantly lesser challenge to District inspectors than, for example, 24-percent of 75 acres. But, in this example, the smaller project would be subject to the additional \$1,000 Tier II fee while the larger project would not. In addition to the burden of paying an additional \$1,000 fee, attempting to disturb less than 25-percent at any one time on a smaller project could represent an impractical hardship.

Remedy: Adjust the requirement so that both 25-percent of the total disturbed area AND exceeding 10-acres of disturbance are necessary to trigger the Tier II fee.

4. Tier II Fee Trigger – 9% or greater slopes disturbed

Comments: The District has implemented a “Tier II” fee of \$1,000 per application if the project site falls into any one of five categories. One of those categories is if the project disturbs slopes of 9% or greater. Modern erosion and sedimentation pollution controls have demonstrated their effectiveness on slopes of up to 15%. And as such, when properly installed and maintained they ought to sufficiently protect against pollution events in cases where slopes of 9% to 15% are disturbed. As further evidence to this fact, most municipalities’ “steep slope” ordinances apply where slopes exceed 15%. Furthermore, because Chester County’s topography is comprised of rolling hills, imposition of Tier II fees would occur on a majority of development projects creating an undue financial hardship for small business.

Remedy: Apply the Tier II fee when 15% or greater slopes are disturbed or when major cuts/fills are proposed on slopes of 9% or greater.

Thank you for the opportunity to bring these concerns to your attention.

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