



JENNIFER M. GRANHOLM
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
SOUTHEAST MICHIGAN DISTRICT OFFICE



STEVEN E. CHESTER
DIRECTOR

August 19, 2008

CERTIFIED MAIL

Mr. Michael Malik
Grande Pointe Development, L.L.C.
2211 Woodward Avenue
Detroit, MI 48201

Dear Mr. Malik:

SUBJECT: DEQ File Number 07-74-0161-P, Grande Pointe Development
T2N, R16E, Section 16, Clay Township, St. Clair County

The Land and Water Management Division (LWMD), Department of Environmental Quality (DEQ), has reached a decision on your application for permit submitted under the regulatory authority of Part 301, Inland Lakes and Streams, Part 303, Wetlands Protection, and Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA). The DEQ cannot permit your proposed project and your application is hereby denied.

The purpose of the project, as shown in your application, is to construct a 348 residential cluster housing development, excavate and dredge 36 acres of open water, install 38,700 liner feet of steel bulkhead, and 11,900 linear feet of riprap bulkhead, construct docks and install pilings, along with multiple other items listed in the DEQ's May 1, 2008, public notice.

After due consideration of the permit application, site conditions, and other pertinent materials, the LWMD finds that the proposed project will have significant adverse impacts on the natural resources associated with St. Clair River.

The LWMD believes that feasible and prudent alternatives exist which would lessen or eliminate the negative impacts of the project as proposed. As an alternative, we suggest that you consider an alternative design that eliminates the proposed bridge and associated approaches, reduces the number of residential units, and relocates the proposed roads closer to the proposed canal, all within the area of wetland impact #18. This area is the largest wetland impact associated with your proposal and the DEQ believes that there are feasible and prudent alternatives available to reduce wetland loss. In addition, the DEQ recommends eliminating the large dredge channel parallel to the shoreline of residential units 24 through 27. These lots can be provided access to navigable waters within the North Channel of the St. Clair River through the construction of longer docks or a similar alternative. The DEQ is willing to consider permitting a development that minimizes impacts to wetlands by incorporating alternatives such as these.

Furthermore, the wetland mitigation proposal within your application does not meet the requirements of Part 303 of the NREPA to offset the proposed wetland losses. Specifically, the



wetland restoration section proposes enhancement of an area already identified as regulated wetland as opposed to restoration of upland that was once wetland. Rule 281.925(5) states "... wetland restoration means the re-establishment of wetland characteristics and functions at a site where they have ceased to exist through the replacement of wetland hydrology, vegetation, or soils." In addition, the wetland creation and wetland preservation proposals do not add up to provide the acreage necessary to meet the wetland mitigation requirements of Part 303.

Based upon the foregoing findings, your application is denied.

You have the right to appeal this denial by filing a petition for a formal administrative hearing. To preserve your right to an administrative hearing, a petition or written request must be filed within 60 days from the date of this letter. To request a hearing, please submit the necessary documents to: Office of Administrative Hearings, Michigan Department of Environmental Quality, P.O. Box 30473, Lansing Michigan 48909-7973.

During the administrative hearing process, the Office of Administrative Hearings (OAH) provides the parties an opportunity to meet informally to attempt to resolve the matter before a formal hearing is held. If a resolution is not reached during informal discussions and the case is not dismissed for other reasons, an administrative hearing will be scheduled. The OAH will conduct the hearing and submit a Proposal for Decision to the Director of the DEQ. The Director then makes a final DEQ decision regarding the application.

If you would like to discuss project alternatives and plan modifications prior to filing a Petition for Contested Case, contact me by mail or telephone. Our discussions may continue during the informal review process after a Petition for Contested Case is filed, but your formal appeal must be filed within the 60 day deadline.

If you have any questions regarding this matter, please contact this office.

Sincerely,

David R. Dortman
Environmental Quality Analyst
Land and Water Management Division
586-753-3864

cc: Mr. Walter Gauthier, USACE
Clay Township Clerk
Mr. Timothy Stoepker, Dickinson Wright, PLLC
Mr. Stu Kogge, JFNew
Mr. James Milne, DEQ