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From: Salvatore Dragone [sdragone@rubensteinpartners.com]
Sent: Monday, November 30, 2009 9:21 AM
To: EP, RegComments
Subject: Proposed 25 Pa. Code Chapter 102 Rulemaking Comments

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To Whom It May Concern:

DEP Environmental Quality Board
Rachel Carson State Office Building
400 Market Street, 16th Floor
Harrisburg, PA 17101-2301

DEC - 7 REC'D

INDEPENDENT REGULATORY
REVIEW COMMISSION

Thank you for the opportunity to offer the following comments on the proposed 25 PA Code Chapter 102 rulemaking.

TRC Valley Creek Development, L.L.C., is an affiliate of The Rubenstein Company, a commercial real estate owner, developer and operator based in Philadelphia, PA which has focused on commercial real estate investments in Pennsylvania since the mid 1960's. As Director of Property Management at Rubenstein it has been brought to my attention that the Pennsylvania Department of Environmental Protection (PaDEP) is currently considering revisions to regulations which govern erosion and sediment pollution control and storm water in the form of proposed 25 PA Code Chapter 102. Some of the provisions included in the proposed code appear particularly onerous to us and we believe will dramatically impact property values across Pennsylvania and specifically our current project, the Valley Creek Corporate Center; a 1.7 million sf planned commercial development in Chester County. A few of our specific concerns are discussed below.

The proposed institution of a rigid, **150 foot buffer** on each side of Exceptional Value Waters would have the unintended consequence of hindering good land planning. By limiting the layout options available to create environmentally sound and fiscally practical sites, designers and builders may be forced to search for green field sites well away from the existing utility and transportation infrastructures.

The building community is continually identifying **new technology** to help improve the quality of storm water runoff. These creative techniques are especially helpful in the urban areas where lawn and landscape areas are, for the most part, non-existent. Rather than eliminate the ability to redevelop these eyesores because of large, rigid buffers, allow developers/builders to use a combination of a variety of BMP's which achieve the common goal of improved water quality. This is truly smart, green development that creates a win-win solution.

The proposed requirement that **20% of existing impervious areas be considered meadow** is particularly onerous to brownfields sites. Existing sites can't easily be retrofitted to handle storm water management facilities, so costs are exponentially higher. As a result, these proposed regulations will not only scare away developers but also make it financially impossible for them to present "smart growth" in urban areas. This issue would be much better handled at a local level where applicants can work with municipal officials to find creative solutions to managing storm water runoff and protecting the environment while preserving yield.

The **dramatic increase in application fees** by 1,000% seems unfair and unjustified. This excessiveness comes at a time when projects are under significant financial stress. We are all desperately trying to reduce costs by changing the way we arrive at solutions. This proposed change might actually exceed the cost of the design for small projects.

These are certainly challenging times for all of us. While we support DEP's goal of protecting our environment, we certainly hope they will support the need for economic vitality. Permit extension requirements which mandate the implementation of current regulations for projects already fully approved and under construction and rigid riparian buffers certainly make it difficult for businesses to be successful. These new requirements will have a serious ripple effect across every industry and will result in greater and continued stress on the citizens and governments of Pennsylvania. I hope that you would consider alternative methods to achieve a common goal for all.

Very truly yours,

Salvatore Dragone
Director of Property Management
Rubenstein Partners, LP
Manager: Valley Creek Corporate Center – Exton PA

cc: State Senators Casey & Specter

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