

COMMUNITY & ENVIRONMENTAL DEFENSE SERVICES

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August 1, 2008

Honorable Wilson H. Parran, President
Board of County Commissioners
175 Main Street
Prince Frederick, Maryland 20678

Dear Commissioner Parran:

We are helping the Apple Way Civic Association with concerns regarding the Shoppes @ Apple Greene project. I know from your May 20th letter to Association president Lisa Yankanich that you and Commissioners Clark, Kelly, Shaw, and Stinnett have a long history with this project. However, the Association recently learned of a rather serious issue of which you probably were not aware. The Association would deeply appreciate an opportunity to meet with you to discuss an amendment to county law that would protect Apple Greene and other County residents from this issue as well as the substantial threat it poses to public health and quality of life.

The Shoppes @ Apple Greene will rely upon an experimental wastewater treatment technology known as drip-irrigation. Portions of the drip-irrigation system will be within 30-feet of where Apple Greene children play and 75-feet from homes in Apple Greene. There are only two existing drip-irrigation systems in Maryland, both of which are in Calvert County. These experimental systems serve the Calvert Gateway (Town) Center in Dunkirk and the Marley Run subdivision in Huntingtown.

At both existing locations partially treated wastewater has risen to the surface of the ground. At one of the two locations saturation of the soil surface with wastewater has persisted for a period of months, possibly longer. Both facilities have exhibited a number of State discharge permit violations since they came into operation. Documentation supporting these statements is provided below.

Suffice to say, Apple Greene residents are very deeply troubled by the prospect of sewage-saturated fields lying within 30 feet of their backyards. They would like to see a far greater separation distance. At Calvert Gateway and Marley Run the nearest home is more than 700 feet from the drip-irrigation fields.

Apple Greene residents are also concerned about the sewage holding pond shown on current plans for the Shoppes @ Apple Greene. The pond would hold up to 60 days of sewage flow. This uncovered pond would be just 60 feet from yards where children play and within view of many Apple Greene residents. Of course, Apple Greene residents would like the sewage pond moved much further away.

Last Wednesday I met with Planning Commission Administrator David Humphreys. The primary purpose of the meeting was to discuss the following question posed in a letter I sent to Mr. Humphreys on July 21st:

Would the Planning Commission, or any other unit of the Calvert County government, have the authority to require more reasonable setbacks between the wastewater treatment system and residential property lines?

Mr. Humphreys answer to this question was no.

This letter to you was prompted by the apparent lack of County authority to require reasonable separation distances between homes and drip-irrigation fields/holding ponds. It is for this reason that we ask the Board of County Commissioners to amend County law to establish the necessary authority. Of course, we also request that the amendment be worded so it applies to the Shoppes @ Apple Greene. For example, if a grandfathering provision is included in the amendment it should apply to any wastewater treatment system which has not become vested under State law. The Association's attorney, J. Carroll Holzer, suggests that any exemption should only apply if a building or grading permit has been issued *and* significant, visible construction has commenced.

Following is additional background on why we believe it is inappropriate to allow portions of a wastewater treatment system to be built so close to homes.

The Shoppes @ Apple Green wastewater treatment system will consist of the following components:

- a belowground treatment plant including clarifiers, denitrification, recirculating filters, and aeration;
- an underground equalization tank;
- an aboveground holding pond to retain up to 60-days of sewage flow
- a control building;
- a drip-irrigation system to release the treated effluent into the soil; and
- of course a system of belowground sewers.

It is the holding pond and the drip-irrigation fields which are of greatest concern to Apple Greene residents. Again, portions of these two system components will be just 30 feet from the edge of yards where children play and 75 feet from the homes in which they live. A figure showing the close proximity of treatment system components to homes can be viewed at: <http://ceds.org/ag.html>, which is a webpage where we've posted various documents regarding the concerns of Apple Greene residents. The figure is labeled *Sewage field 30-ft from yard where children play & 75-ft from homes* and is the last item under the heading *Shoppes@Apple Greene Sewage Plant*.

To put the proximity of these treatment system components to homes in context I point to the two other similar systems in Calvert County. The nearest home to the Calvert Gateway treatment facility is 700-feet distant. The Marley Run system is 800-feet from the closest home. Again, the similar treatment system proposed for the Shoppes @ Apple Greene will be a mere 75-feet from the nearest home; just one-tenth the setback at Calvert Gateway and Marley Run.

One might assume that there would be little cause for concern about having a drip-irrigation field close to a yard or home. In fact, the drip-irrigation areas were described as appearing to be nothing more than grass fields during the February 7th Board of Appeals hearing on the Shoppes @ Apple Greene special exception.

If only drip-irrigation fields were so innocuous.

Several documents illustrate why these sewage fields are far from benign. These documents are posted on the *Preserving Quality of Life in Apple Greene* webpage at: <http://ceds.org/ag.html>. After reaching the webpage scroll down to: *Existing Sewage Plants Similar to Shoppes@Apple Greene Plant*, then click on the following:

- *Gateway permit violation notices* shows that discharge permit violations began shortly after this plant opened in 2006 and persisted to at least June 2007;
- *Gateway irrigation field ponding reported to state* is a photo taken a month ago showing that the irrigation field was saturated, which is a very serious permit violation as well as a cause for concern regarding plant performance, water quality, and public health;
- *Marley Run Complaint & Consent Order* shows that this treatment facility has had serious problems since it first opened in 2001 and that these problems persisted to at least 2007. The next item shows these problems persist to today;
- *Marley Run sewage discharge reported to state* shows poorly treated sewage discharging in June, 2008 from the drip-irrigation field, which is a very serious permit violation as well as a cause for concern regarding plant performance, water quality, and public health.

Obviously, these problems at the two similar, existing treatment facilities in Calvert County are a cause for considerable concern on the part of the Apple Greene residents who live near the drip-irrigation fields and other treatment systems components proposed for the Shoppes @ Apple Greene.

Additionally, a number of other Apple Greene homes are near the proposed treatment plant and holding pond. The sewage holding pond will be but 60 feet away from the nearest backyard and 155-feet from the nearest home (see *Sewage pond 60-ft from residential property & 155-ft from homes* on the webpage).

The second item under *Existing Sewage Plants Similar to Shoppes@Apple Greene Plant* is *Gateway holding pond photo*. This is a June, 2008 photo of a nearly identical sewage pond. Of course, the numerous nearby residents are not happy about the prospect of seeing a green, scum-covered sewage pond from their homes. Other Apple Greene residents are disturbed by the prospect of seeing the sewage pond as they drive past it on the proposed connector road.

The preceding shows there are many reasons why Apple Greene residents feel the Board of County Commissioners should require more reasonable setbacks by quickly amending County law.

Finally, I'd like to present the position of Apple Greene residents on a question which has come up in the context of the Shoppes @ Apple Greene treatment facility:

Why didn't Apple Greene residents testify at the February 7th Board of Appeals hearing on the treatment plant?

The answer is quite simple:

Apple Greene residents were not informed that there would be a wastewater treatment plant within 30 feet of their property.

The public notice mailed in January was only received by two of twelve Apple Greene residents owning property next to the site. Many other adjoining residents were not on the *Affected Property Owners List* prepared by the applicant.

The notice received by just the two residents described a project site far removed from their homes. The location of the project site given in the notice was 10100 Ward Road. The CVS pharmacy address is 10095 Ward Road, which is more than 1,000-feet from Apple Greene homes at the intersection of MD 4 and Ward Road. So the two residents who did receive the notice thought the treatment facility was to be built at a considerable distance from their homes.

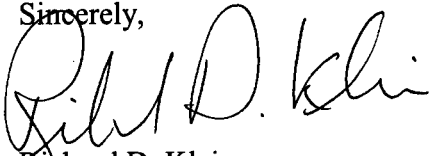
Rest assured that had the notice accurately described the treatment plant location **AND** been sent to all adjoining owners, they would have attended the February 7th hearing in the same

numbers which have turned out for the last four meetings held by the Civic Association - 50 to 100 residents.

Ironically, during the February 7th hearing a Board of Appeals member asked the applicant if they had ensured that Apple Greene residents were aware of the treatment plant. I guess the Board member was curious why the only citizen present at the hearing did not live in Apple Greene and was in support of putting a treatment plant 30-feet from someone else's backyard. The applicant's representative told the Board that they had spoken with Apple Greene residents. The Civic Association cannot find a single Apple Greene resident who recalls speaking with any representative of the applicant about the treatment plant prior to the February 7th hearing.

I will call in the next day or two to schedule a time when Association representatives and I can meet with you. In the meantime I can be reached at 410-654-3021 or Rklein@ceds.org.

Sincerely,



Richard D. Klein

cc: Ms. Lisa Yankanich, Apple Greene Civic Association
Honorable Gerald W. Clark , Vice President - Board of Calvert County Commissioners
Honorable Linda L. Kelley, Board of Calvert County Commissioners
Honorable Susan Shaw, Board of Calvert County Commissioners
Honorable Barbara A. Stinnett, Board of Calvert County Commissioners
Mr. Gregory A. Bowen, Department of Planning & Zoning
Mr. Paul McFaden, Calvert County Office of Environmental Health
Mr. J. Carroll Holzer, Holzer & Lee
Mr. Edward B. Howlin, Jr.