

COUNTY ADMINISTRATOR
220 NORTH MAIN STREET, P.O. BOX 8645
ANN ARBOR, MICHIGAN 48107-8645
(734) 222-6850
FAX (734) 222-6715

TO: Wes Prater, Chair
Board of Commissioners

THROUGH: Robert E. Guenzel
County Administrator

FROM: Anthony VanDerworp, Director
Department of Planning and Environment

DATE: August 28, 2006

RE: Resolution in support of Ann Arbor Township's request that the Michigan Department of Environmental Quality (MDEQ) deny a permit for wastewater discharge for the Proposed Colt Farms Development.

BOARD ACTION REQUESTED

It is requested that the Washtenaw County Board of Commissioners consider approval of the attached Resolution requesting that the MDEQ deny a permit for wastewater discharge from a private community of 1,000 manufactured units and 323 single family residential units in Ann Arbor Township.

BACKGROUND

The State of Michigan allows for the application for a permit to discharge wastewater from housing communities. Colt Farms Incorporated has petitioned the MDEQ (Permit # MI 0057163) to issue a wastewater discharge permit from a private community wastewater facility for a 1,323 unit development, called Colt Farms, to be located in the NE ¼ of the SE 1/4 , Section 6 of Ann Arbor Township. Under the proposed permit, treated wastewater would be discharged into the Welch Drain, part of the Huron River Watershed. In response to this petition, Ann Arbor Township has requested support in having the MDEQ deny the permit for this private community wastewater system.

DISCUSSION

After review and consideration of the proposed wastewater treatment facility for the 1,323 unit development in Ann Arbor Township, Washtenaw County's Department of Planning and Environment agrees with and supports Ann Arbor Township's efforts in having the MDEQ deny the permit.

The proposal is inconsistent with *A Comprehensive Plan for Washtenaw County (County Plan)*, particularly with respect to the following land use and water/sewer

provisions:

1. Chapter 3: Landscapes (Land Use) Element Goal - *"Promote an efficient pattern of development that maintains our sense of place, preserves our natural resources and reduces the effects of sprawl."* This proposal is outside the township's planned residential area and would promote sprawl if developed at a high density.
2. Chapter 4: Agriculture (Objective 3) – *Encourage and support planning and zoning tools, along with state and federal policies that promote the viability of the County's and region's agriculture sector.* The location of the proposed development is located in an area designated for agriculture preservation due to its high quality soil and location outside the urbanized area.
3. Chapter 11: Sewer and Water Services (Recommendation 2.1) – Encourage all centralized sewage systems to coordinate efforts to *address reducing critical pollutant loading to the County's rivers and streams.* The proposed development will allow additional discharge to the Huron River which will lower the water quality as it relates to phosphorus in the Huron River watershed. The Huron River is already restricted in the amount of phosphorus that can be discharged through a Total Maximum Daily Load (TMDL) standard.
4. Chapter 11: Sewer and Water Services (Recommendation 1.5) – Encourage the *proper operation and maintenance of community systems through municipal control* or through binding legal agreements, special assessments districts, or other permanent operation and maintenance agreement. The proposed development is seeking a permit for wastewater discharge for a private treatment system rather than locating in areas where there are municipally controlled services.

Both the County Plan and Ann Arbor Township General Development Plan have included this area in Agricultural Preservation Overlay areas. This development would be contrary to these community-based policies which are designed to create and maintain socially and economically viable communities.

Additionally, seventeen communities in Washtenaw County and Wayne County have been working to reduce phosphorus levels in the Huron River since 1994, principally at local expense. This wastewater treatment facility would increase phosphorus levels, impairing the efforts of the communities. Issuing an NPDES Permit for this facility would increase the phosphorus levels in the Huron River, and accordingly, would not comply with Act 451, R 323.1098, Antidegradation; Rule 98 (2) which states: "For all waters, the level of water quality necessary to protect existing uses shall be maintained and protected. Where designated uses of the water body are not attained, there shall be no lowering of the water quality with respect to the pollutant or pollutants that are causing the nonattainment; . . ." Any additional phosphorus loading should not be considered without a clear policy or procedure for evaluation of the effect of such discharge on the already impaired uses of the Huron River.

As the proposed development is inconsistent with the Ann Arbor Township General Development Plan, the County Plan, and creates adverse impacts on the environment through the exacerbation of already elevated levels of phosphorus in the middle Huron River watershed, the proposed development does not provide social and/or economic benefits to the community, and accordingly, the permit should be denied.

IMPACT ON PERSONNEL

No impacts are indicated for this resolution.

IMPACT ON BUDGET

No impacts are indicated for this resolution.

IMPACT ON DIRECT COSTS

No impacts are indicated for this resolution.

IMPACT ON OTHER COUNTY DEPARTMENTS OR OUTSIDE AGENCIES

No impacts are indicated for this resolution.

CONFORMITY TO COUNTY POLICIES

This is in conformance with County Policies.

ATTACHMENTS/APPENDICES

Proposed Resolution

Preparer: Brett Lenart, Planning Services Supervisor

A RESOLUTION TO PETITION THE MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY TO DENY A PERMIT FOR THE COLT FARMS DEVELOPMENT WASTEWATER TREATMENT FACILITY

Washtenaw County Board of Commissioners

September 6, 2006

WHEREAS, the Washtenaw County Board of Commissioners supports the recommendations of County Land Use Policies in *A Comprehensive Plan for Washtenaw County* and its goals to protect water quality and natural resources, contain sprawling development patterns, and enhance quality of life for its residents; and

WHEREAS, Colt Farms Incorporated has applied to the Michigan Department of Environmental Quality for a permit to build and operate a private wastewater treatment facility for the Colt Farms Development in Ann Arbor Township; and

WHEREAS, seventeen communities in Washtenaw County and Wayne County have been working to reduce phosphorus levels in the Huron River since 1994, principally at local expense. This wastewater treatment facility would increase phosphorus levels, impairing the efforts of the communities; and

WHEREAS, under State Act 451, R 323.1098, Antidegradation; Rule 98 (2) states: "For all waters, the level of water quality necessary to protect existing uses shall be maintained and protected. Where designated uses of the water body are not attained, there shall be no lowering of the water quality with respect to the pollutant or pollutants that are causing the nonattainment;" and

WHEREAS, the amount of phosphorus that can be discharged to the Huron River is restricted through a Total Maximum Daily Load (TMDL) and a new discharge that will add any phosphorus should not be considered without a clear policy or procedure for evaluating the effect of such discharge on the already impaired uses of the Huron River; and

WHEREAS, the Governor's Land Use Leadership Council recommends against sprawl into undeveloped lands. Infrastructure projects like this one are known drivers of sprawling development into rural areas; and

WHEREAS, the Ann Arbor Township General Development Plan designates the proposed area as Agricultural Production and is in the Agricultural Preservation Overlay District to encourage the long term agricultural use of the property; and

WHEREAS, this land use approach is also supported by the Washtenaw County Comprehensive Plan, which designates the property for rural residential development and also in the County's Agricultural Preservation Overlay Area to avoid overburdening existing infrastructure, encourage the long term viability of agricultural operations, and avoid damage to the natural environment; and

NOW THEREFORE BE IT RESOLVED that the Washtenaw County Board of Commissioners, for the reasons above, and in accordance with County Land Use Policies, concludes that the proposed development will adversely impact the social and economic viability of Washtenaw County and urges the Michigan Department of Environmental Quality to deny the permit for the Colt Farms Development Wastewater Treatment Facility in Section 6 of Ann Arbor Township.

BE IT FURTHER RESOLVED that the Board of Commissioners directs the County Clerk to forward copies of this resolution to the Michigan Department of Environmental Quality and Ann Arbor Township