



STATE OF DELAWARE
EXECUTIVE DEPARTMENT
OFFICE OF
STATE PLANNING COORDINATION

July 15, 2004

Mr. Timothy Willard
Fuqua & Yori
28 the Circle
Georgetown, DE 19947

RE: PLUS review – PLUS 2004-06-05; Paul Kase, a/k/a Delaware Realty

Dear Mr. Willard:

Thank you for meeting with State agency planners on June 30, 2004 to discuss the proposed plans for the Delaware Realty project to be located on Plantation and Shady Road in Sussex County.

According to the information received, you are seeking a conditional use or a rezoning from AR-1 to B-1 for the purpose of building 6,000 square foot of commercial space warehouse space.

Please note that changes to the plan, other than those suggested in this letter, could result in additional comments from the State. Additionally, these comments reflect only issues that are the responsibility of the agencies represented at the meeting. The developers will also need to comply with any Federal, State and local regulations regarding this property. We also note that as Sussex County is the governing authority over this land, the developers will need to comply with any and all regulations/restrictions set forth by the County.

This office has received the following comments from State agencies:

Office of State Planning Coordination – Contact: Ann Marie Townshend 739-3090

The Office of State Planning Coordination notes that the draft 2004 *Strategies for State Policies and Spending* indicates that this area will be in the “Investment Level 2” designation, where the State policies support orderly and well-planned growth. We also note that this project is in the “Environmentally Sensitive Development District”

according to the Sussex County Comprehensive Plan. For these reasons, the Office of State Planning Coordination supports this location for development.

We would encourage the developer to reassess the design of the project using concepts presented in our publication *Better Models for Development in Delaware*. Specifically, we recommend that the site be designed for accessibility by pedestrians and cyclists. We recommend using a style of architecture that is in keeping with the character of the area. We also recommend attractive landscaping for the site.

We note DelDOT's request that the project proceed as a conditional use request rather than a request for commercial zoning. We also note comments by DNREC and the Public Service Commission regarding the availability of public water and recommend that the developer consider hooking up to public water.

Department of Transportation – Contact: Bill Brockenbrough 760-2109

DelDOT would prefer that the developer obtain a conditional use approval, rather than a rezoning. A conditional use approval provides some certainty that the land will not be developed with another use that would generate more traffic.

On April 5, 2004, DelDOT wrote to Sussex County regarding the need for a traffic impact study (TIS) in relation to Mr. Kase's rezoning application. A copy of that letter is enclosed. As discussed in that letter, DelDOT would ordinarily recommend that the County require a TIS for such an application on Sussex Road 275. However, DelDOT intends to make localized improvements to Plantation Road for operations and safety in the relatively near future. We have determined that the dedication of rights-of-way for those improvements would at least equal the public benefit derived from the TIS. In their April letter, DelDOT noted that they had not determined what those rights-of-way would be. While DelDOT has not done significantly more engineering in that regard, they have determined, preliminarily that no more than about 50 feet from the existing centerline of Plantation Road would be needed. If Mr. Kase were to dedicate sufficient lands to provide that 50-foot strip, DelDOT would not recommend that the County require a TIS.

The site plan should include sidewalks, on both Plantation Road and Shady Road, and a bicycle-safe entrance (5-foot bicycle lane). It is also recommend that bicycle racks or lockers be provided near the building entrances, as Plantation Road is a popular route for bicyclists who might choose to use the office services.

DelDOT supports the comment from Sussex County Planner Richard Kautz that additional landscaping should be provided, beyond that shown on the plan that was presented.

The applicant's engineer should contact the DelDOT Subdivision Manager for Sussex County, Mr. John Fiori, regarding their requirements for the design of the site entrances. Mr. Fiori may be reached at (302) 760-2260.

The Department of Natural Resources and Environmental Control – Contact: Kevin Coyle 739-3091

Soils

According to the soil survey update, Downer was mapped in the immediate vicinity of the proposed construction. Downer is a well-drained upland soil that has few limitations for development.

Although most of the soils on subject parcel are well drained, they have limitations associated with rapidly permeable sandy surface and subsurface horizons. Such soils are conducive to nutrient leaching via groundwater or surface runoff into the surrounding watershed. In soils containing shallow water tables or found in close proximity to waterbodies, these impacts are greatly intensified.

ERES Waters

This project is located adjacent to receiving waters of Inland Bays designated as waters having Exceptional Recreational or Ecological Significance (ERES). ERES waters are recognized as special assets of the State, and shall be protected and/ or restored, to the maximum extent practicable, to their natural condition. Provisions in Section 11.5 of Delaware's "Surface Water Quality Standards" (as amended August 11, 1999), specify that all designated ERES waters and receiving tributaries develop a "pollution control strategy" to reduce non-point sources of nutrient runoff through implementation of Best Management Practices (BMPs). Best Management Practices as defined in subsection 11.5(e) of this section, expressly authorizes the Department to provide standards for controlling the addition of pollutants and reducing them to the greatest degree practicable, or where attainable, a standard requiring no discharge of pollutants.

TMDLs

With the adoption of Total Maximum Daily Loads (TMDLs) as a "nutrient-runoff-mitigation strategy" for reducing nutrients in the Inland Bays Watershed, reduction of nitrogen and phosphorus loading will be mandatory. A TMDL is the maximum level of pollution allowed for a given pollutant below which a "water quality limited water body" can assimilate and still meet water quality standards to the extent necessary to support use goals such as, swimming, fishing, drinking water and shell fish harvesting. Although TMDLs are authorized under federal code, states are charged with developing and implementing standards to support those desired use goals. The Jurisdictional authority for attaining these use goals will fall under the auspices of Section 11.5 of the State of

Delaware's Surface Water Quality Standards (as amended August 11, 1999), and will be achieved via nutrient reductions referred to as "pollution control strategies."

Nutrient reductions prescribed under TMDLs are assigned on basis of water quality concerns – that is, the those regions deemed to be of greatest environmental concern will require correspondingly higher levels of nutrient reduction than those regions deemed less environmentally sensitive. In this watershed, these regions are demarcated as high and low reduction zones. The high reduction zone corresponds to the western portion of the watershed, and requires a reduction of nitrogen and phosphorus by 85 and 65 percent, respectively. The low reduction zone corresponds to the eastern portion of the watershed, and requires a reduction of nitrogen and phosphorus by 40 percent. This project is proposed within the low nutrient reduction zone.

In order for the applicant to verify compliance with the TMDL mandate, a full nutrient accounting process known as nutrient budget should be prepared. The developer/consultant should contact Lyle Jones in the Department's Watershed Assessment Section for further information regarding the acceptable protocol for calculating a nutrient budget. He can be reached as 739-4590.

Water Supply

The project information sheets state that an individual on-site well will be used to provide water for the proposed project. Our records indicate that the project is located within the public water service area granted to Tidewater Utilities under Certificate of Public Convenience and Necessity number 83-W-15. The Water Supply Section recommends that the developer contact Tidewater Utilities to determine the availability of public water. Any questions concerning CPCNs should be directed to the Public Service Commission at 302-739-4247. The Division of Water Resources will consider applications for the construction of on-site wells provided the wells can be constructed and located in compliance with all requirements of the Regulations Governing the Construction and Use of Wells. A well construction permit must be obtained prior to constructing any well(s).

Should dewatering points be needed during any phase of construction, a dewatering well construction permit must be obtained from the Water Supply Section prior to construction of the well points. In addition, a water allocation permit will be needed if the pumping rate will exceed 50,000 gallons per day at any time during operation.

All well permit applications must be prepared and signed by licensed water well contractors, and only licensed well drillers may construct the wells. Please factor in the necessary time for processing the well permit applications into the construction schedule. Dewatering well permit applications typically take approximately four weeks to process, which allows the necessary time for technical review and advertising.

Stormwater Management

Review and approval of the sediment and stormwater plan for this project will be handled by Sussex Conservation District. Contact Jessica Watson, Program Manager, at (302) 856-7219 to schedule a pre-application meeting as soon as possible.

Recreation

It is recommended that sidewalks be built along Shady and Beaver Dam Roads. A complete system of sidewalks will: 1) fulfill the recreation need for walking and biking facilities 2) provide opportunities for neighbors to interact in the community and 3) facilitate safe, convenient off-road access to neighboring communities, public mass transit stops, schools, stores, work, etc.

Underground Storage Tanks

There are no LUST sites located near the proposed project. However, should any underground storage tank or petroleum contaminated soil be discovered during construction, the Tank Management Branch must be notified as soon as possible. It is not anticipated that any construction specifications would be need to be changed due to petroleum contamination. However, should any unanticipated contamination be encountered and PVC pipe is being utilized, it will need to be changed to ductile steel in the contaminated areas.

State Fire Marshal's Office – Contact: Kevin McSweeney 739-3696

These comments are intended for informational use only and do not constitute any type of approval from the Delaware State Fire Marshal's Office. At the time of formal submittal, the applicant shall provide; completed application, fee, and three sets of plans depicting the following in accordance with the Delaware State Fire Prevention Regulation (DSFPR):

- a. **Fire Protection Water Requirements:**
 - Water distribution system capable of delivering at least 1000 gpm for 1-hour duration, at 20-psi residual pressure is required. Fire hydrants with 800 feet spacing on centers.
 - Where a water distribution system is proposed for (business/educational/assembly/healthcare/multi-family) sites, the infrastructure for fire protection water shall be provided, including the size of water mains for fire hydrants and sprinkler systems.
- b. **Fire Protection Features:**
 - All structures over 10,000 Sq. Ft. aggregate will require automatic sprinkler protection installed.

- Buildings greater than 10,000 sq.ft., 3-stories of more or over 35 feet, or classified as High Hazard, are required to meet fire lane marking requirements.
- Show Fire Department Connection location (Must be within 300 feet of fire hydrant), and detail as shown in the DSFPR.
- Show Fire Lanes and Sign Detail as shown in DSFPR

c. **Accessibility:**

- All premises which the fire department may be called upon to protect in case of fire, and which are not readily accessible from public roads, shall be provided with suitable gates and access roads, and fire lanes so that all buildings on the premises are accessible to fire apparatus. This means that the access road to the subdivision from Shady Road must be constructed so fire department apparatus may negotiate it.
- Fire department access shall be provided in such a manner so that fire apparatus will be able to locate within 100 ft. of the front door.
- Any dead end road more than 300 feet in length shall be provided with a turn-around or cul-de-sac arranged such that fire apparatus will be able to turn around by making not more than one backing maneuver. The minimum paved radius of the cul-de-sac shall be 38 feet. The dimensions of the cul-de-sac or turn-around shall be shown on the final plans. Also, please be advised that parking is prohibited in the cul-de-sac or turn around.
- If the use of speed bumps or other methods of traffic speed reduction must be in accordance with Department of Transportation requirements.

d. **Gas Piping and System Information**

- Provide type of fuel proposed, and show locations of bulk containers on plan.

e. Required **Notes:**

- Provide a note on the final plans submitted for review to read “ All fire lanes, fire hydrants, and fire department connections shall be marked in accordance with the Delaware State Fire Prevention Regulations”
- Proposed Use
- Alpha or Numerical Labels for each building/unit for sites with multiple buildings/units
- Square footage of each structure (Total of all Floors)
- National Fire Protection Association (NFPA) Construction Type
- Maximum Height of Buildings (including number of stories)
- Note indicating if building is to be sprinklered
- Name of Water Provider
- Letter from Water Provider approving the system layout
- Provide Lock Box Note (as detailed in DSFPR) if Building is to be sprinklered

- Provide Road Names, even for County Roads

Preliminary meetings with fire protection specialists are encouraged prior to formal submittal. Please call for appointment. Applications and brochures can be downloaded from our website: www.delawarestatefiremarshal.com, technical services link, plan review, applications or brochures.

Department of Agriculture - Contact: Mark Davis 739-4811

A forested buffer is required between the proposed commercial use and all adjacent properties in active agricultural use. In addition, a forest buffer should be maintained for those pre-existing residential properties and along all streams, wetlands, and river that border the proposed subdivision.

The developer should consider a diverse landscape plan that uses Delaware native tree and shrub species and encourages the “Right Tree for the Right Place” concept.

Public Service Commission - Contact: Andrea Maucher 739-4247

This property is in a certificated area for Tidewater Utilities, Inc.; however, the application notes individual on-site well. In the future, should the applicant need a new well(s) and a water main has been located within 200 feet of the property, the well permit may be denied and the applicant will have to hook into Tidewater’s system.

Any expansion of natural gas or installation of a closed propane system must fall within Pipeline Safety guidelines.

Sussex County – Contact: Rick Kautz 855-7878

The conditional use application to Sussex County should show additional landscaping and design amenities to 1) block car lights from glaring onto adjacent property and 2) return water to the good aquifer recharge area.

The County Engineering Department states: The project proposes to redevelop two existing single-family parcels into an office of 6000 square foot, which will result in an estimated 6.0 Equivalent Dwelling Units (EDUs) for a density of approximately 10 EDUs per acre. The planning study assumption for the each parcel is 1.0 EDU, reflecting a single family dwelling in an AR district. The project is within the West Rehoboth Expansion area for central sewer and connection to the sewer system is mandatory if approved. The project exceeds system assumptions for capacity, but no additional lines will become deficient. Each parcel is served with a 6-inch lateral located along Plantations Road, which is not adequate for sewer service. It should be anticipated that installation of an 8-inch lateral will be required. The connection point must be approved by the Sussex County Engineering Department. For questions regarding these comments, contact Rob Davis, Sussex County Engineering Department at (302) 855-7820.

PLUS 2004-06-05

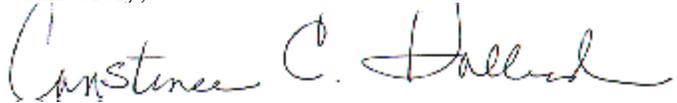
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Following receipt of this letter and upon filing of an application with the local jurisdiction, the applicant shall provide to the local jurisdiction and the Office of State Planning Coordination a written response to comments received as a result of the pre-application process, noting whether comments were incorporated into the project design or not and the reason therefore.

Thank you for the opportunity to review this project. If you have any questions, please contact me at 302-739-3090.

Sincerely,

A handwritten signature in cursive script that reads "Constance C. Holland". The signature is written in black ink and is positioned above the typed name and title.

Constance C. Holland, AICP

Director

CC: Sussex County