



STATE OF DELAWARE
EXECUTIVE DEPARTMENT
OFFICE OF
STATE PLANNING COORDINATION

July 9, 2004

Ms. Christina Toras, Esquire
Pierce Hardy Limited Partnership
1019 Route 519
Eighty Four, PA 15330

RE: PLUS review – PLUS 2004-06-13; 84 Lumber Company

Dear Ms. Toras:

Thank you for meeting with State agency planners on June 23, 2004 to discuss the proposed plans for the 84 Lumber project to be located on Route 26, near Clarksville.

According to the information received, you are seeking a conditional use to expand the existing 84 Lumber facility with 41,400 sq. ft. of storage space, 4,560 sq. ft. of retail and 2,400 sq. ft. of office space on 23.10 acres.

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 this proposal is in Investment Levels 3 and 4 areas according to the draft 2004 Strategies for State Policies and Spending. The State Strategies document has been endorsed by the Cabinet Committee on State Planning Issues and is currently awaiting final approval by Governor Minner. We also note that this is in the Environmentally Sensitive Developing Area according to the 2003 Sussex County Comprehensive Plan.

The Office of State Planning Coordination has no objection to this conditional use application, as it is an expansion of an existing operation. However we note that the parcel is impacted by a variety of environmental concerns, as referenced in DNREC's comments. We support DNREC's recommendation that a wetland delineation be performed to ensure that the proposed expansion does not impact wetlands on the site. We also support the State agency comments stated below and ask that they be considered as the project moves forward.

State Historic Preservation Office (SHPO) – Contact: Anne McCleave 739-5685

There is a high probability for prehistoric archeological sites in the wooded area and there are potential historic resources along Route 26. It is recommended that the proposed buildings, especially those that can be viewed from the street, be compatible in massing and size to the existing buildings that surround the property.

Department of Transportation – Contact: Bill Brockenbrough 760-2109

On May 5, 2004, DelDOT informed Sussex County that a traffic impact study would not be required for this conditional use application. That remains their position.

The proposed development would, among other things, provide more space for arriving trucks to queue on the site. Trucks parking on the Route 26 right-of-way and in nearby parking lots are a significant problem for area residents and businesses. The proposed conditional use application, if approved, would address this issue.

The developer's engineer has already met with DelDOT regarding access to the property and DelDOT is agreeable to the design shown on the concept plan presented. It is recommended that the developer's engineer continue to coordinate with the DelDOT Subdivision Manager for Sussex County, Mr. John Fiori, regarding our more detailed requirements for the design of the site entrance. 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, the following soils were found in the immediate vicinity of the proposed construction and grouped on the basis of drainage class:

Somewhat well drained- Ingleside

Moderately well drained- Pepperbox & Hammonton

Somewhat poorly drained (potentially hydric) – Klej

Poorly drained (**hydric**) – Hurlock
Very poorly drained (**hydric**) - Mullica

Ingleside is a somewhat well-drained upland soil that has few limitations for development. Pepperbox and Hammonton are moderately well-drained upland soils that have moderate limitations for development. Klej is a transitional soil that contains both hydric (indicative of wetlands) and non-hydric (upland) soil components; development limitations range from moderate to severe depending on the site-specific water table occurrence. Hurlock is a poorly-drained drained wetland associated (hydric) soil that has severe limitations for development. Mullica is a very poorly-drained wetland associated (hydric) soil that has severe limitations for development.

Wetlands

This property is transected by two drainage ditches which flow to Clarksville Branch, a tributary of Buckwater Creek and Pepper Creek. State wetland maps also indicate the presence of an approximately 0.2 acre Palustrine Forested wetland near the center of the property. Because there is strong evidence that federally regulated wetlands exist on site, **wetland delineation, in accordance with the methodology established by the Corps of Engineers Wetlands Delineation Manual, (Technical Report Y-87-1) should be conducted. Once complete, this delineation should be verified by the Corps of Engineers through the Jurisdictional Determination process. The applicant is strongly encouraged to avoid any construction activities which may impact this sensitive area and to maintain a forested buffer of no less than 100' from all waterbodies, including this wetland.**

Activities which may impact the forested wetlands on this parcel are regulated by the Impacts to Palustrine wetlands are regulated by the Army Corps of Engineers through Section 404 of the Clean Water Act. In addition, individual 404 permits and certain Nationwide Permits from the Army Corps of Engineers also require 401 Water Quality Certification from the DNREC Wetland and Subaqueous Land Section and Coastal Zone Federal Consistency Certification from the DNREC Division of Soil and Water Conservation, Delaware Coastal Programs Section. Each of these certifications represents a separate permitting process.

To find out more about permitting requirements, the applicant is encouraged to attend a Joint Permit Process Meeting. These meetings are held monthly and are attended by federal and state resource agencies responsible for wetland permitting. Contact Denise Rawding at (302) 739-4691 to schedule a meeting.

Drainage

The tax ditch right-of-way (ROW) is 25 feet from top edge of ditch. (see attached map) Piped section needs DNREC's Division of Soil & Water Conservation review for size and type to meet tax ditch standards.

The detention pond shown on the site plan needs to be resized/adjusted in order to be out of tax ditch ROW. Detention pond interface with tax ditch needs review from Division of Soil & Water Conservation to insure tax ditch standards are met.

Any new fence constructed over the ditch (proposed to be piped) would constitute a permanent obstruction to tax ditch ROW maintenance. Need some sort of work around for equipment to pass through during periods of work.

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.

In recognition of the need to make further reductions in subsurface wastewater nutrient discharges (mainly nitrogen) to meet the existing TMDL mandate, the Department is currently pursuing efforts to implement more stringent onsite wastewater performance standards for all systems sited within the Inland Bays watershed. Although these standards are still pending development, they are expected to be codified into regulations in the near future. Therefore, until these regulations are fully promulgated, the Department strongly recommends the applicant implement the "best available technologies" (BATs) to pretreat or reduce all "end of pipe" nitrogen discharges to a level that meets or exceeds the 10 mg/l Federal drinking water standard.

Water Supply

The project information sheets state that individual on-site wells will be used to provide water for the proposed project. Our records indicate that the project is not located in an area where public water service is available. 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.

Should you have any questions concerning these comments, please contact Rick Rios at 302-739-3665.

Stormwater Management

Stormwater management is an integral part of the site development infrastructure. The planning and design for stormwater management should begin early. The applicant is encouraged to contact the Sussex Conservation District as soon in the planning process as possible in order to receive their preliminary comments. Contact Jessica Watson at (302) 856-7219.

Habitat

The proposed project lies within five miles of a known Delmarva fox squirrel (*Sciurus niger cinereus*) population at the Assawoman Wildlife Area. Delmarva fox squirrels were listed as federally endangered in 1967 and are protected by the Endangered Species Act. They generally inhabit mature forests with open understories and wet woodlands, but can be opportunistic in their habitat choice. The proposed project area contains potential habitat for Delmarva fox squirrels and the following is required:

- Contact Trevor Clark (410-573-4527) of the US Fish and Wildlife Service for proper procedures prior to beginning work. A conference with the Service is required for any projects that will directly or indirectly impact habitat within 5 miles of the Assawoman Wildlife Area fox squirrel locations;

AND/OR

- Contact Trevor Clark (410-573-4527) of the US Fish and Wildlife Service for proper procedures prior to beginning work. Have surveys conducted to determine if Delmarva fox squirrels are present. In accordance with Delaware's fox squirrel site survey procedures, surveys must be conducted by a State approved fox squirrel surveyor two times between September and May: once in the fall, and again between March 15 and May 30. A list of qualified surveyors is available upon request. Please note that surveys may confirm the presence of fox squirrels but cannot confirm absence.

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:**

- Since the structures of the complex are proposed to be served by individual on-site wells (No Central Water System), set back and separation requirements will apply.

b. **Fire Protection Features:**

- For commercial buildings greater than 5000 SqFt, a fire alarm signaling system which is monitored off-site is required
- For commercial buildings greater than 10,000 SqFt Class B (2-hour rated) fire barriers are required to subdivide buildings into areas of 10,000 SqFt. or less
- Buildings greater than 10,000 sq.ft., 3-stories or more or over 35 feet, or classified as High Hazard, are required to meet fire lane marking requirements

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 SR-26 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)
- 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. Please contact Duane Fox at 302-856-5298 for more information.

Department of Agriculture - Contact: Mark Davis 739-4811

A forested buffer is required between the proposed expansion 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: Malak Michael 739-4247

A portion of parcel 198 falls within a Tidewater certified area. If the developer decides to use public water for this site, an application will need to be filed for Tidewater to service the remaining portions.

Delaware Emergency Management Agency – Contact: Kevin Kille 659-3362

Be aware that this area is within the expected inundation zone of a hurricane or major coastal storm should one strike.

Sussex County – Contact Richard Kautz 855-7878

The application for the Conditional Use must be accompanied by the Report required by the Environmentally Sensitive Development District overlay. The report should specifically address how the development will mitigate any negative impact on the site's forest and wetland areas.

The site plan should show how the anticipated residential development could be accomplished for the remaining 40 acres of the property.

The County Engineering Department states that: "This project is within the Beaver Dam Planning Area. The Sussex County Engineering Department has no schedule to provide service to this area." For questions regarding these comments, contact Chris Calio, Sussex County Engineering Department at (302) 855-7839.

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".

Constance C. Holland, AICP
Director

CC: Sussex County