



STATE OF DELAWARE
EXECUTIVE DEPARTMENT
OFFICE OF
STATE PLANNING COORDINATION

July 15, 2004

Mr. Paul Westhelle
DC Group
18072 Davidson Drive
Milton, De 19968

RE: PLUS review – PLUS 2004-06-21; Riverside

Dear Mr. Westhelle:

Thank you for meeting with State agency planners on June 23, 2004 to discuss the proposed plans for the Riverside Plaza project to be located at the corner of Routes 24 & 5, near Oak Orchard in Sussex County.

According to the information received, you are seeking a conditional use to build 120 multi-family units and 137,500 square foot of commercial on 21.7 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 the project area is located in the Investment Level 2 area of the 2004 draft *Strategies for State Policies and Spending*. The State Strategies document has been endorsed by the Cabinet Committee on State Planning Issues and is awaiting final approval by Governor Minner. In Investment Level 2 areas, State policies generally 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. Because it is consistent with the State Strategies and the Sussex County Comprehensive Plan, the Office of State Planning Coordination does not object to this development.

We encourage the developer to reassess the design of the project, using the concepts presented in our new publication *Better Models for Development in Delaware*. We encourage you to explore potential bicycle and pedestrian connections to the adjacent developed properties, as well as to the undeveloped properties and portions of this site. In particular, we would recommend that the developer pursue a bicycle and/or pedestrian connection to the Boys and Girls Club site. We would also encourage a more seamless transition between commercial and residential uses on the site.

While we do not object to this project, we are concerned about the impact it may have on the Nanticoke Indian Museum and other National Register properties mentioned in the comments by the State Historic Preservation Office (SHPO). We support SHPO's comment that landscape buffers be included in the project, and we urge you to work with SHPO and the Nanticoke Indian Association as this project moves forward.

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

The proposed development is located next to the Nanticoke Indian Museum, which is listed in the National Register of Historic Places under the Nanticoke Indian Community Thematic Resources Nomination. This nomination listed a number of properties in the National Register, which include “properties that illustrate the different socially-adaptive strategies adopted by members of the [Nanticoke] community in adjusting to the racially restrictive context of the nineteenth and early-twentieth centuries as well as . . . the degree of economic and material assimilation into the broader culture which had occurred by the early-twentieth century” (Nanticoke Indian Community Thematic Resources nomination, 1979).

In addition to the museum, two other listed properties are located to the west of the proposed development, one on either side of Route 24. Also, two properties that are located on the north side of Rt. 24 (identified in our records as S-9830 and 9831) are not currently listed in the Register but have been found to be eligible for listing in the National Register under the Thematic Resources nomination. These properties are located just west of the Rt. 24 and Rt. 5 intersection and directly north of the proposed project.

It is strongly recommend that the applicants contact the Nanticoke Indian Community and inform them of this project and the future development of the adjacent lots, identified as lots 1-4 on the preliminary site plan. The contact information is:

Nanticoke Indian Association
Mr. James T. Norwood, Chief
Rt. 4, Box 107B

Millsboro, DE 19966
302-945-3400

It is also recommend that landscaping be required along the northern and western edges of the development to lessen the visual effects the development would have on the National Register properties and those found to be eligible for listing in the Register. Lastly, if there is any federal involvement with the project, in the form of permits, licenses, or funds, the federal agency must comply with Section 106 of the National Historic Preservation Act (36 CFR 800).

Department of Transportation – Contact: Bill Brockenbrough 760-2109

- 1) DelDOT plans to improve Delaware Route 24, beginning just west of Oak Orchard Road and ending just east of Banks Road (Sussex Road 298), to a typical section of two 12-foot through lanes, a 14-foot center left-turn lane, two 8-foot paved shoulders, two 3-foot grass buffers and two 5-foot sidewalks. While this improvement has not yet been designed and its construction is planned to begin between 2008 and 2010, DelDOT is presently trying to acquire sites for stormwater management. Four points are relevant in this regard:
 - a) Mr. Reed's property is one of the locations that DelDOT has identified as such a site and DelDOT has been discussing this matter with his representatives since late in 2003. DelDOT expects to determine by December 2004 whether shared use of the ponds proposed for the residential section will be feasible or exclusive DelDOT facilities in the commercial section will be necessary. DelDOT expects to determine by September 2005 how much of the property they will need to acquire.
 - b) DelDOT has requested that the County approve no development on this site, either the proposed residential section or the proposed commercial section, until this issue has been resolved.
 - c) Presently the management of our Route 24 project is in transition from Ms. Maureen Mauger to Mr. Thad McIlvaine. Ms. Mauger may be reached at (302) 760-2123. Mr. McIlvaine may be reached at (302) 760-2349.
 - d) At a meeting in March 2004, Ms. Mauger requested certain information from Mr. Reed's site engineer, the DC Group, but only some of it has been received. We ask that Mr. Reed have the DC Group contact Mr. McIlvaine in this regard.
- 2) On May 12, 2004, DelDOT received a Service Level Evaluation Request from Sussex County regarding the conditional use application for the proposed condominiums. On June 22, 2004, DelDOT responded to the County that they

- did not recommend that a traffic impact study (TIS) be required for this conditional use application. However, DelDOT does anticipate requiring a TIS for the development of the commercial lots along Route 24.
- 3) At the June PLUS meeting, the DC Group mentioned that the Boys and Girls Club on Route 5 was interested in sharing a combined entrance with this property. It is recommended that this option be done. Combining their entrances would not trigger a requirement for a traffic impact study with regard to the residential component of the proposed development.
 - 4) The location of the proposed future entrance on Route 24 appears to conflict with the approved entrance to the Royal Farms convenience store on the opposite side of the road. The proposed entrance should be positioned opposite the approved one.
 - 5) DelDOT appreciates the cross-access easement proposed for a connection to the William H. Davis parcel to the west. They agree with the recommendation from Sussex County Planner Richard Kautz that the paving in that easement should be extended to the property line so that it is clear to residents of the subject project that the connection is planned. A note on the Record Plan will be required to identify the location of the cross-access easement and any requirement regarding its future maintenance.
 - 6) The applicant's engineer should contact our Subdivision Manager for Sussex County, Mr. John Fiori, regarding our 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, the following soils were found in the immediate vicinity of the proposed construction and grouped on the basis of drainage class:

Well Drained – Downer & Fort Mott
Moderately well drained- Pepperbox

Fort Mott and Downer are well-drained soils that have, generally, few limitations for development. Pepperbox is a moderately well-drained soil of low-lying uplands that has moderate limitations for development.

Although most of the soils on subject parcel are fairly 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.

Also, the Department strongly recommends that the periphery of the proposed pond contain a 50-foot buffer of native woody and/or herbaceous vegetation. This buffer will serve to reduce nutrient runoff into the pond and reduce the problems associated with nuisance geese.

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 87-WR-04. It is recommended 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.

Potential Contamination Sources do exist in the area, and any well permit applications will undergo a detailed review that may increase turnaround time and may require site specific conditions/recommendations.

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.

Revegetation

It is requested that no invasive species be used in the revegetation of disturbed areas. A list of species considered invasive in Delaware can be found on the DNHP web site, <www.dnrec.state.de.us/fw/invasive.htm>. It is further recommended that you use native plants and the DNREC botanist, Bill McAvoy can be contacted at (302) 653-2880 to assist you in developing a plant list.

Recreation

The 3.6 acres of open space is dedicated to storm water/passive recreation. It is recommended that active recreation opportunities be provided.

The Division of Parks and Recreation conducted a telephone survey of Delaware residents to gather information on outdoor recreation patterns and preferences as well as other information on their landscape perception. These findings are the foundation of the 2003-2008 Statewide Comprehensive Outdoor Recreation Plan (SCORP) providing guidance for investments in needed outdoor recreation facilities. The high and moderate facility needs in Eastern Sussex County are listed below. Consideration should be given to incorporate some of these recreation opportunities into the project.

High Priorities include walking or jogging paths, Bike paths, and fishing areas

Moderate Priorities include picnic areas, skate facilities, canoe and kayak access, hiking trails, swimming pools, playgrounds, soccer fields, tennis courts, power boats access and baseball/softball fields

It is recommended that sidewalks be built fronting every residence. 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 is one inactive LUST sites located near the proposed project:

Wagner Property, Facility # 5-000849, Project # S9701008

No environmental impact is expected from the above inactive/active LUST site(s). 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 SR-24 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. 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 subdivision 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

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

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

Routes 5 and 24 are Coastal Storm Evacuation Routes and the development will add additional traffic to these routes in the event of a coastal storm. Police, firefighters, and emergency medical response organizations serving the Oak orchard area should be notified and kept apprised of all intentions and development activities on this property.

Department of Education – Contact: Nick Vacirca 739-4658

120 houses could generate an estimated 60 additional students for the Indian River School District.

Sussex County does not have school concurrence legislation at this time; however, it is recommended that the developer submit a package to the school district for informational purposes.

If the development is approved and build, please use the following information for school transportation planning. If there are homes more than 1/2 mile from the nearest public road (outside the development), developers should plan wide enough streets so that large school buses can access and turn around (without backing) from the furthest areas within the development while picking up and dropping off students. Should there not be any sites more than 1/2 mile from the nearest public road, provisions for appropriate pick-up and drop-off at the development entrance should be included. The developer should work closely with the school district transportation supervisor.

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 sites "good" aquifer recharge areas.

The site plan should address the following:

- A. According to the developer's representatives, the parking areas will have knee high shrubs to screen headlights from all adjacent property.
- B. The proposed access from Route 24 will be aligned opposite the approved access to the Royal Farms entrance.
- C. The "30' Cross-access Easement" will provide for direct access to the contiguous property shown as "n/f William H.Davis.

The County Engineer states that "The project is in an Environmentally Sensitive Developing Area (ESDA), and is in the North Coastal Planning Area. The proposed project exceeds standard planning and system design assumptions of 4.0 EDUs per acre of the ESDA. Sussex County does not believe they can serve this development proposal from the existing Oak Orchard system. The Sussex County Engineering Department would be concerned with the system's design and maintenance. Sussex County requires design and construction of the sewer collection and transmission system to meet Sussex County sewer standards and specifications. If and when Sussex County provides sewer service, it is required that the treatment system be abandoned and a direct connection made to the County system at the developer's and or homeowners association expense." For questions regarding these comments, contact Rob Davis, Sussex County Engineering Department at (302) 855-7820.

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