



STATE OF DELAWARE
EXECUTIVE DEPARTMENT
OFFICE OF
STATE PLANNING COORDINATION

October 8, 2004

Mr. Randy E. Duplechain, P.E.
Davis, Bowen & Friedel
23 North Walnut Street
Milford, DE 19963

RE: PLUS review – PLUS 2004-09-08; Middletown Auto Mall

Dear Mr. Duplechain:

Thank you for meeting with State agency planners on September 22, 2004 to discuss the proposed plans for the Middletown Auto Mall project to be located on Middletown Warwick Road with in the Town of Middletown.

According to the information received, you are seeking a rezoning from MI to C-3 proposes to develop an 83.25-acre auto mall, a 47.01-acre business park, and a 38.18-acre shopping center on a 240.57-acre parcel.

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 the Town of Middletown is the governing authority over this land, the developers will need to comply with any and all regulations/restrictions set forth by the Town.

This office has received the following comments from State agencies:

Office of State Planning Coordination – Contact: Herb Inden 577-5188

This proposal is located within the Town of Middletown, in an area classified as Investment Level 2 in the Strategies for State Policies and Spending. In Investment Level 2, the State policies encourage well-planned orderly growth and infill development. Our office has no objections to the proposed development of this project in accordance with the relevant City codes and ordinances. We are encouraged to see that the developer is working with DeIDOT (see DeIDOT's comments below) in an effort to master plan

road improvements for the entire area. This seems to be a more practical and proactive approach than performing individual Traffic Impact Studies (TIS) given our knowledge of what could develop in this area.

We also note that since the projected use of this property is as an auto mall we encourage the Town and developer to pay particular attention to the design of this project and recommend using some of the principles found in the State's new publication, *Better Models for Development in Delaware*. It is particularly important for the Town and developer to incorporate the concepts included in the Westown Master Plan wherever possible. This will help assure compatibility with surrounding uses and the interconnections that facilitate pedestrian mobility.

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

Adjacent to the proposed project, located to the west, are two properties listed in the National Register of Historic Places. These two properties are listed in the Register because of their historic significance associated with agriculture. Because the development will diminish the agricultural context and introduce visual barriers, it will adversely affect, physically and visually, the properties' historic significance and their listing in the Register. There are other National Register listed properties and a potential historic district in this area, all of which will be affected and their agricultural context diminished by this development. With that said, if the development occurs, we suggest that landscaping be provided along the project's western and northern boundaries in order to help lessen the visual effects the development will create. The visual buffers will also prevent the development from becoming a backdrop for the properties when one is viewing them from Route 301. There is also a high probability for prehistoric and historic archaeological sites within the project area.

Department of Transportation – Contact: Bill Brockenbrough 760-2109

- 1) This project is included in Westown, a master planning concept encompassing several parcels on the west side of Middletown. In this effort, DelDOT has been working with the Town of Middletown and the developers of these parcels to design and build the transportation infrastructure using a comprehensive approach that allows development to occur along with the infrastructure.
- 2) DelDOT is evaluating this proposal to determine how it can best be accommodated as part of the Westown Master Plan. Access to US Route 301, Industrial Drive and the existing shopping center to the north of the site are under discussion.
- 3) DelDOT recommends that bicycle and pedestrian paths be made part of the design to be consistent with the Master Plan, which anticipates significant interconnections throughout Westown.

- 4) It is expected that this developer will be contributing to the cost of off-site traffic improvements as a signatory to a Recoupment Agreement that assigns a specific contribution amount. This is in lieu of the standard DelDOT rules and regulations with respect to the land development process, which would have required a traffic impact study for each individual development.

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

Soils

According to the soil survey update, the following soils were mapped in the immediate vicinity of the proposed construction:

Well drained- Sassafras, Reybold-Sassafras complex & Reybold-Hambrook complex

Poorly drained (hydric) - Fallsington

Wetlands

Statewide Wetland Mapping Project (SWMP) maps indicate the presence of palustrine riparian wetlands on this site.

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.

Because there is strong evidence that federally regulated wetlands exist on site, **a 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 Corps of Engineers through the Jurisdictional Determination 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.

It is important to note that both DNREC and Army Corps of Engineers discourage allowing lot lines to contain wetlands to minimize potential cumulative impacts resulting from unauthorized and/or illegal activities and disturbances that can be caused by homeowners.

Vegetated buffers of no less than 100 feet should be employed from the edge of the wetland complex and other waterbodies on site.

It should also be noted that this parcel contains sensitive headwater riparian wetlands associated with a headwater tributary to the Appoquinimink River. Headwater riparian wetlands and their associated streams are important for the protection of water quality and the maintenance/integrity of the ecological functions throughout the length of the stream, including the floodplain system downstream. Since headwater streams are a major avenue for nutrient-laden stormwater and sediment runoff, their protection deserves the highest priority. **In recognition of this concern, the Department strongly recommends that the applicant preserve the existing natural forested buffer adjacent to the Appoquinimink River in its entirety.**

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 to those watersheds or subwatersheds on the basis of recognized water quality impairments. In the Appoquinimink subwatershed, the primary source of water quality impairment is associated with nutrient runoff from agricultural and/or residential development. In order to mitigate the aforementioned impairments, a TMDL reduction level of 40 percent will be required for both nitrogen and phosphorus.

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 (739-4590) in the Department’s Watershed Assessment Section for further information regarding the acceptable protocol for calculating a nutrient budget.

The developer is encouraged to employ BMPs (or other pollution control strategies) such as stormwater management and riparian buffers to mitigate any potential nutrient runoff into an adjoining streams or watercourse.

Water Supply

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.

Water Resource Protection Areas

The entire parcel is located in an excellent recharge area (see map). According to the State law that created the Source Water Protection Program, county and municipal governments will be required to enact ordinances to protect Water Resource Protection Areas. The following language has been excerpted from the draft Source Water Protection Guidance Manual for Local Governments, Supplement 1 - Ground-Water Recharge Design Methodology. While the language is currently draft and the local ordinances are not yet in place, the developer may find the language useful in modifying the site plan to protect the excellent recharge area.

Water Resource Protection Areas (WRPAs) are defined as (1) surface water areas such as floodplains, limestone aquifers, and reservoir watersheds, (2) wellhead areas, or (3) excellent recharge areas. The purpose of an impervious cover threshold is to minimize loss of recharge and protect the quality and quantity of ground and surface water supplies in WRPAs.

New development in WRPAs may exceed the 20 % impervious cover threshold, but be no more than 50 % impervious, provided the applicant submits an environmental assessment report recommending a climatic water budget and facilities to augment recharge. The environmental assessment must document that post-development recharge will be no less than predevelopment recharge when computed on an annual basis.

Commonly, the applicant offsets the loss of recharge due to impervious cover by constructing recharge basins that convey relatively pure rooftop runoff for infiltration to ground water.

The Department recommends the following (ranked in order of preference):

- 1) Preserve WRPA's as open space and parks by acquisition or conservation easement.
- 2) Limit impervious cover of new development to 20 % by right within WRPA's.
- 3) Allow impervious cover of new development to exceed 20% within WRPA's (but no more than 50% impervious) provided the applicant develops recharge facilities that directly infiltrate rooftop runoff.
- 4) Allow impervious cover of new development to exceed 20% within WRPA's (but no more than 50% impervious) provided the applicant develops recharge facilities that infiltrate stormwater runoff from forested and/or grassed surfaces with pretreatment.

Stormwater Management

The sediment and stormwater plan for this project will be reviewed by the Town of Middletown's consulting engineer, KCI Technologies, Inc. Contact Todd Frey, P.E., at (302) 731-9176 to determine what information is necessary to be submitted for review. Due to the significant amount of impervious cover that is proposed for the site, It is encouraged that you use of practices that promote recharge of stormwater such as infiltration, bioretention, biofiltration, filter strips, and open swales to mitigate the huge increase in stormwater volume that could potentially be released from this site. The amount of impervious coverage on the site should be minimized as much as possible. An existing stormwater management pond is proposed to be enlarged to serve part of this site. The new pond configuration must meet the construction and safety standards of Pond Code 378. Enlargement of the pond will need to be phased so that its stormwater function for the existing developed area will continue as construction progresses. A shared maintenance agreement will need to be established for maintenance of the stormwater management facility.

Revegetation/Landscaping

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. DNREC further recommends the use of native plants and their Botanist, Bill McAvoy can be contacted at (302) 653-2880 to assist you in developing a plant list.

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.

Air Permits

There is the potential that air permits would be required if the facility is equipped w/ a solvent degreaser. In the near future, a Source Category permit may be required for an auto body paint spray booth should one be installed.

Site Investigation and Restoration

There are 2 SIRB sites located within a 1-mile radius of the proposed site:

1. Middletown Landfill: A Site Inspection (SI) was completed by SIRB in 1989. Surface water samples from Deep Creek revealed trace levels of volatile organics and the pesticide, endosulfan sulfate. Elevated levels of metals were detected in the surface water, on-site soil, and sediment samples. A Facility Evaluation (FE) was completed by SIRB in 1994. Subsurface soil samples contained pesticides, PCBs, heavy metals, PAHs, and other semi-volatile organics. All these concentrations were below soil RBCs, except for Arochlor 1248. Sediment samples collected from Deep Creek contained pesticides, heavy metals, and semi-volatile organics, and elevated PAH concentrations. At the time, human health risk was limited due to the swampy conditions of the area and limited access; therefore, remedial action was not taken, and No Further Action (NFA) was granted. SIRB does not foresee any adverse effects to impact the Middletown Auto Mall; however, if any stained or odorous soil is found, SIRB should be notified.

2. Middletown Sewer Plant Dump: A Preliminary Assessment (PA) was completed by SIRB in 1989 when 2 unmarked 55-gallon drums were found in Deep Creek. A Site Inspection performed by DNREC in 1989 revealed the following: trichloroethene was found in a public supply well; PAHs and bis(2-ethylhexyl) phthalate were detected in on-site soil and sediment samples; surface water samples of Deep Creek revealed cyanide and the pesticide endosulfan. Lead and arsenic were found at levels of toxicological concern in on-site soil samples. No remedial action was taken for this site. SIRB does not foresee any adverse effects of this site to impact the Middletown Auto Mall; however, if any stained or odorous soil is encountered during construction, SIRB should be notified.

State Fire Marshal's Office – Contact: John Rossiter 323-5365

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 1500 gpm for 2-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 (Storage/Industrial/Mercantile) 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 Middletown-Warwick Rd 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.

Public Service Commission - Contact: Andrea Maucher 739-4247

The PSC confirmed that water is provided to this site by the Town of Middletown through an agreement with Artesian Water, Inc.

Any expansion of natural gas or installation of a closed propane system must fall within Pipeline Safety guidelines. Contact: Malak Michael at (302) 739-4247.

Delaware Emergency Management Agency – Contact Don Knox 659-3362

Due to the potential for a large number of customers to frequent the auto mall and retail establishments, an impact to public safety is foreseen by implementation of this project. The developer should notify the police, fire service, and emergency medical response organization serving the Town of Middletown, to keep them apprised of all development activities.

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

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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 printed name and title.

Constance C. Holland, AICP
Director

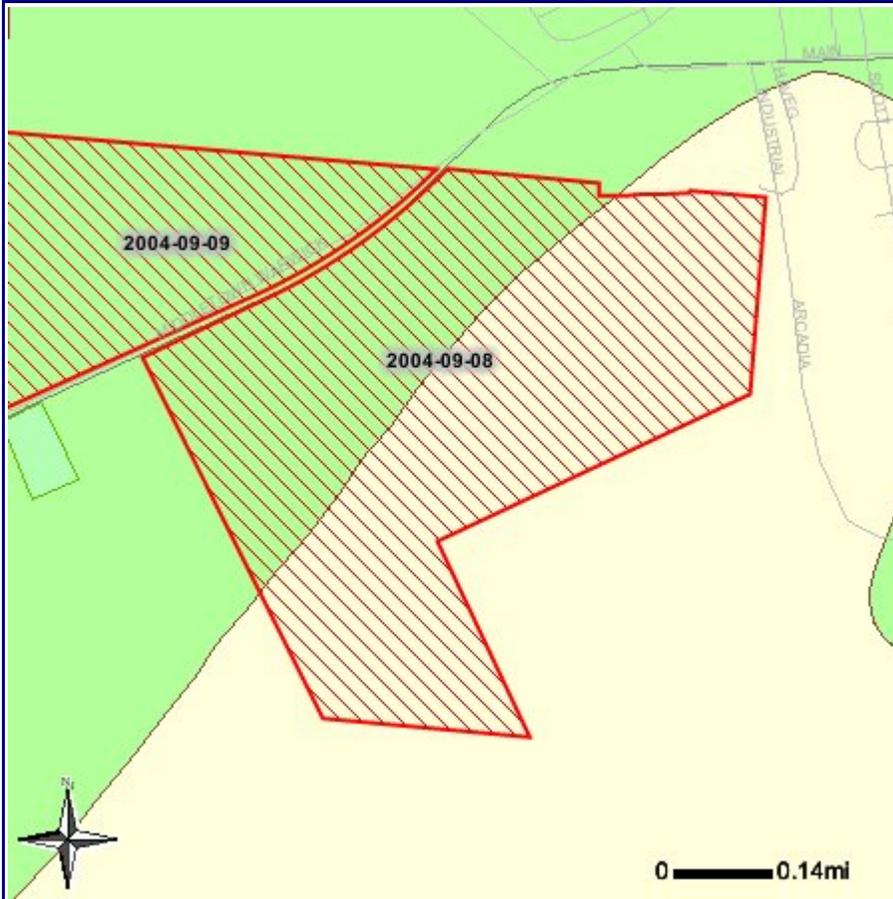
CC: Town of Middletown

Attachment: DNREC map



Middletown Auto Mall

2004-09-08



- PLUS Projects
- All Roads
- Major Roads
- Excellent Recharge Areas
- Towns

This map was produced by the Delaware Department of Natural Resources and Environmental Control.

