

## EXECUTIVE DEPARTMENT OFFICE OF STATE PLANNING COORDINATION

STATE OF DELAWARE

February 14, 2005

Robert W. Rosenberger 4450 Summit Bridge Road Middletown, DE 19709

RE: PLUS review – PLUS 2005-01-05; Simon's Corner Shopping Center

Dear Mr. Rosenberger:

Thank you for meeting with State agency planners on January 26, 2005 to discuss the proposed plans for the Simon's Corner Shopping Center to be located on Route 13 at the Route 1 exit south in Smyrna.

According to the information received, you are seeking site plan approval for a shopping center that will consist of 12 buildings and a total of approximately 320,000 square foot of commercial space. It is noted that possible uses include a WAWA, a bank, a pharmacy, retail establishments and restaurants.

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

## **Executive Summary**

The following section includes some site specific highlights from the agency comments found in this letter. This summary is provided for your convenience and reference. The full text of this letter represents the official state response to this project. *Our office notes that the applicants are responsible for reading and responding to this letter and all comments contained within it in their entirety.* 

• Due to the parcel's location in an Investment Level 1 area, our office has no objections to the development of this parcel in accordance with relevant local and state regulations.

• There is a medium to high probability for prehistoric and historic archaeological sites. If any artifacts are discovered during construction, please contact the SHPO office at 739-5685.

• Due to the fact that apartments and townhouses are planned adjacent to the site, it is recommended that the center be designed to provide safe pedestrian access between the rear of the center and the future residential areas.

• When the outparcel along Route 13 redevelops, DelDOT will require it to be accessed from the shopping center. It is anticipated that the Route 13 access will be closed.

• The driveway to the pad site north of the center roundabout is extremely close to the roundabout. It is recommended that the town reconsider the location of this entrance due to safety concerns.

• This parcel is adjacent to headwater riparian wetlands associated with Mill Creek. DNREC strongly recommends that the applicant preserve, in its entirety, the existing natural forested buffer adjacent to said Headwater riparian wetlands. A 100 foot vegetated buffer from all streams and ditches is also recommended.

The following is a complete text of the comments received by State agencies:

## Office of State Planning Coordination – Contact: David Edgell 739-3090

This project is located in Investment Level 1 in the 2004 State Strategies for Policies and Spending. This site is also located in the Town of Smyrna. Investment Level 1 reflects areas that are already developed in an urban or suburban fashion, where infrastructure is existing or readily available, and where future redevelopment or infill projects are expected and encouraged by State policy. Our office has no objections to the proposed development of this project in accordance with the relevant Town codes and ordinances.

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

Historic and topographic maps indicate a medium to high probability for prehistoric and historic archaeological sites. If any artifacts are discovered during construction, please contact the SHPO office at 739-5685.

#### **Department of Transportation – Contact: Bill Brockenbrough 760-2109**

- 1) A traffic impact study has been required for this project and is in progress. Del DOT anticipates offering detailed comments to the Town after they have received and reviewed the completed study.
- 2) Townhouses and apartments are proposed for some of the land immediately west of the subject shopping center. Because DelDOT expects that residents, especially children, from those developments are likely to seek pedestrian access to the rear of the shopping center, it is recommended that the center be designed to provide for safe access there. Signing, striping, sidewalks and lighting should be incorporated to reflect this need for safe routes to and from the center. From the developer's comments at the meeting, DelDOT understands that this concern is being addressed but they cannot tell how from the plan that was presented.
- 3) The proposed vehicular interconnections to the north, south and west are appreciated.
- 4) DelDOT has discussed access to this center or components of it with Mr. Wittig for several years and they appreciate that the design includes the concepts that have been discussed. Both the roundabouts and the vehicular access that is proposed have been part of that discussion. The number and location of the rightturn-only accesses along Route 13 will require further review as part of the TIS process. Similarly, while the placement of the main entrance opposite the Route 1 interchange ramps is logical, it was not accounted for in the Route 13 Access Study (still in draft form). Therefore the design of the main entrance will depend in large measure on the TIS and our review of it.
- 5) A total of five access points are shown on Route 13. From south to north, those are: 1) a signalized full-movement access leading to the south roundabout; 2) a right-turn in serving one of the pad sites; 3) a right-in/right-out leading to the center roundabout; 4) a right-in/right-out serving what may be an existing business; and 5) an unsignalized full-movement access leading to the north roundabout. The fourth access point is for an existing out-parcel. When the parcel redevelops or is otherwise connected to the proposed internal driveway, we anticipate requiring that its access on Route 13 be closed. Mr. Wittig's engineer should contact the project manager for Kent County, Mr. Brad Herb of Johnson, Mirmiran & Thompson, regarding specific requirements for access. Mr. Herb may be reached at (302) 266-9080.
- 6) The pad site just north of the center roundabout has an entrance onto the site driveway that is extremely close to that roundabout. It is recommended that the Town examine it carefully with regard to safety and sight distance.

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## <u>The Department of Natural Resources and Environmental Control – Contact:</u> <u>Kevin Coyle 739-3091</u>

#### Soils

According to the Kent County soil survey Sassafras, Fallsington, and Johnston were mapped in the immediate vicinity of the proposed construction. Sassafras is a welldrained upland soil that has few limitations for development. Fallsington is a poorlydrained wetland associated (hydric) soil that has severe limitations for development. Johnston is a very poorly-drained wetland associated (hydric) floodplain soil that has the highest severity level for development.

#### Wetlands

It is recommended that the Farm Services Agency of the USDA be contacted to assess whether the farmed wetlands on subject parcel meet the recognized criteria for classification as "prior converted wetlands." Prior converted wetlands are farmed wetlands that have drained or altered before December 23, 1985, and no longer meet the wetland criteria established under the 404 program. Such wetlands are considered exempt from regulatory protection provided that there is no proof of a continuous "fallow period" of five years or greater in that parcel's cropping history. Parcels converted after said date regardless of cropping history are considered jurisdictional by the Army Corps of Engineers (ACOE). The contact person for assessing a parcel's cropping history is Sally Griffin at the USDA – she can be reached at 678-4182.

The applicant is strongly encouraged to maintain a 100-foot minimum buffer width from the landward edge of all delineated wetlands and/or watercourses (including ditches). In cases where natural buffer vegetation has been removed or reduced by past development or farming activities, the developer is encouraged to restore/establish to said buffer width or greater with native herbaceous and/or woody vegetation.

Should the applicant decide to construct a pond(s) on subject parcel, the Department strongly recommends that the periphery of said pond(s) (including stormwater detention pond(s)) contain a 50-foot buffer of native woody and/or herbaceous vegetation. Vegetated buffer(s) are an important mitigative methodology that helps to remove excess nutrient runoff from overland flow while discouraging geese habitation. It is further recommended that all stormwater ponds be at least 100 feet from all delineated wetlands and/or watercourses.

It should also be noted that this parcel immediately adjacent to a headwater tributary containing sensitive headwater riparian wetlands associated with Mill Creek. 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

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the highest priority. In recognition of this concern, the Department strongly recommends that the applicant preserve, in its entirety, the existing natural forested buffer adjacent to said Headwater riparian wetlands. Efforts to maximize or expand the existing natural buffer width via planting of native woody or herbaceous vegetation beyond the recommended 100-foot buffer width, is also strongly recommended.

# TMDLs

Although Total Maximum Daily Loads (TMDLs) as a "pollution runoff mitigation strategy" to reduce nutrient loading have not yet been developed for most of the tributaries or subwatersheds of the Mill Creek subwatershed to date, work is continuing on their development. TMDLs for the Mill have not been developed to date, but may be available in the near future.

Therefore, until the specified TMDL reductions and pollution control strategies are adopted, it shall be incumbent upon the developer to employ best available technologies (BATS) and/or best management practices (BMPs) as "methodological mitigative strategies" to reduce degradative impacts associated with development.

# 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.

## Sediment and Erosion Control/Stormwater Management

Requirements:

1. Land disturbing activities in excess of 5,000 square feet are regulated under the Delaware Sediment and Stormwater Regulations. A detailed sediment and stormwater management plan must be reviewed and approved by the Kent Conservation District prior to any land disturbing activity (i.e. clearing, grubbing, filling, grading, etc.) taking place. The review fee and a completed Application for a Detailed Plan are due at the time of plan submittal to the Kent Conservation

District. Construction inspection fees based on developed area and stormwater facility maintenance inspection fees based on the number of stormwater facilities are due prior to the start of construction. Please refer to the fee schedule for those amounts.

- 2. The following notes must appear on the record plan:
  - The Kent Conservation District reserves the right to enter private property for purposes of periodic site inspection.
  - The Kent Conservation District reserves the right to add, modify, or delete any erosion or sediment control measure, as it deems necessary.
  - A clear statement of defined maintenance responsibility for stormwater management facilities must be provided on the Record Plan.
- 3. Ease of maintenance must be considered as a site design component and a maintenance set aside area for disposal of sediments removed from the basins during the course of regular maintenance must be shown on the Record Plan for the subdivision.
- 4. All drainage ways and storm drains should be contained within drainage easements and clearly shown on the plan to be recorded.
- 5. A soils investigation supporting the stormwater management facility design is required to determine impacts of the seasonal high groundwater level and soils for any basin design.

# Comments:

- 1. This plan will supersede a previous plan approved by the Kent Conservation District.
- 2. The previously completed drainage study will need to be updated to show the site revisions.
- 3. A letter of no objection to recordation will be provided once the detailed Sediment and Stormwater Management plan has been approved.
- 4. Based on the site characteristics, a pre-application meeting is suggested to discuss stormwater management and drainage for this site.

# Drainage

The Drainage Section is aware of an existing drainage problem downstream of this project.

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The Drainage Section requests that all precautions be taken to ensure the project does not hinder any off site drainage upstream of the project or create any off site drainage problems downstream by the release of on site storm water.

## **Nuisance Species**

The large stormwater management pond planned for the development, will likely attract waterfowl like resident Canada geese and mute swans. These species can quickly multiply and overwhelm the area. High concentrations of waterfowl in ponds create water-quality problems, leave droppings on lawn and paved areas and can become aggressive during the nesting season. Ponds that remain in the plan should be landscaped to deter nuisance species. Short manicured lawns around ponds provide an attractive habitat for these species. However, native plantings, including tall grasses, wildflowers, shrubs, and trees at the edge and within a buffer area around ponds, are not as attractive to geese because they do not feel as safe from predators and other disturbance when their view of the area is blocked. The Division of Fish and Wildlife does not provide goose control services, and if problems arise, the landowner or manager(s) will have to accept the burden of dealing with these species (e.g., permit applications, costs, securing services of certified wildlife professionals). Solutions can be costly and labor intensive; however, with, proper landscaping, monitoring, and other techniques, geese problems can be minimized.

## Recreation

It is recommended that pedestrian access be provided to Brookwood Crossing/Stone Gate development project to the west (reviewed under PLUS 04-02-03) as well as sidewalks and bike racks throughout the shopping center.

#### **Underground Storage Tanks**

There are two inactive LUST site(s) located near the proposed project:

Joe Malago, Inc., Facility # 1-000040 Project # K9103053 General Clothing, Inc., Facility # 1-000090, Project # K0305036

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. PLUS 2005-01-05 Simons Corner Shopping Center Page 8 of 11

## State Fire Marshal's Office - Contact: John Rossiter 739-4394

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 2hour duration, at 20-psi residual pressure is required. Fire hydrants with 800 feet spacing on centers.
- Where a water distribution system is proposed for (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 duPont Highway 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.

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## 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: <u>www.delawarestatefiremarshal.com</u>, technical services link, plan review, applications or brochures.

#### Department of Agriculture - Contact: Mark Davis 739-4811

#### Over All Comments

The Delaware Department of Agriculture and the Delaware Forest Service recognizes the Town of Smyrna as a Tree City USA Community. This national recognition rewards communities whom have invested time, energy and monies into enhancing their urban forest resources. The Forest Service encourages the developer to work closely with the town to achieve their long-term goals to grow their urban forest resources.

#### Right Tree for the Right Place

The Delaware Department of Agriculture Forest Service encourages the developer to use the "Right Tree for the Right Place" for any design considerations. This concept allows for the proper placement of trees to increase property values in upwards of 25% of appraised value and will reduce heating and cooling costs on average by 20 to 35 dollars per month. In addition, a landscape design that encompasses this approach will avoid future maintenance cost to the property owner and ensure a lasting forest resource. PLUS 2005-01-05 Simons Corner Shopping Center Page 10 of 11

#### Native Landscapes

The Department of Agriculture and the Delaware Forest Service encourages the developer to use native trees and shrubs to buffer the property from the adjacent land-use activities near this site. A properly designed forested buffer can create wildlife habitat corridors and improve air quality to the area by removing six to eight tons of carbon dioxide annually and clean our rivers and creeks of storm-water run-off pollutants. To learn more about acceptable native trees and how to avoid plants considered invasive to our local landscapes, please contact the Delaware Department of Agriculture Plant Industry Section at (302) 698-4500.

The Delaware Department of Agriculture Forest Service offers it assistants to the developer to implement these practices, please contact our office at (302) 698-4500.

#### 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. Contact: Malak Michael at (302) 739-4247.

If this project lies outside of the County's wastewater service area, the County must update the information it filed with the Commission during October 2004

#### **Delaware Emergency Management Agency – Contact: Don Knox 659-3362**

Due to a 320,000 s.f. shopping center being proposed, a significant 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 this portion of Kent County or the Town of Smyrna, to keep them apprised of all development activities.

Routes 1 and 13 are both coastal storm evacuation routes and this shopping center will be effected by traffic volume on these routes during a coastal storm event.

#### **Delaware Economic Development Office: Dorrie Moore**

The Delaware Economic Development Office supports this project as presented.

# 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,

C. Halled pristince

Constance C. Holland, AICP Director

CC: Town of Smyrna