



**STATE OF DELAWARE  
EXECUTIVE DEPARTMENT  
OFFICE OF MANAGEMENT AND BUDGET  
STATE PLANNING COORDINATION**

April 13, 2006

Mr. Rusty Penawell  
John O'Connell Engineering  
3233 Jessica Drive  
Middletown, DE 19709

RE: PLUS review – PLUS 2006-03-01; Kriss Industrial Park

Dear Mr. Penawell:

Thank you for meeting with State agency planners on March 22, 2006 to discuss the proposed plans for the Kriss Industrial Park project to be located on US Route 13, approximately ½ mile south of Route 42 near Cheswold.

According to the information received, you are seeking rezoning of 6.4429 +/- acres from IL to BG for a proposed mixed use business park, including four buildings totaling approximately 36,000 square feet. This PLUS review is for both the rezoning application and the comprehensive plan amendment that will be required should Levy Court choose to rezone this property.

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 Kent 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.

## **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.***

### **State Strategies/Project Location**

This rezoning is located in Investment Levels 1 and 2 according to the *State Strategies for Policies and Spending*. This site is also located in the Kent County Growth Zone. Investment Levels 1 and 2 reflect 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. State investments will support growth in these areas. Our office has no objections to the proposed rezoning of this parcel in accordance with the relevant County codes and ordinances.

### **Street Design and Transportation**

- Route 13 is classified as a minor arterial road. DeIDOT's policy is to require dedication of sufficient land to provide a minimum right-of-way width of 40 feet from the centerline on collector and minor arterial roads. For divided highways, such as Route 13, this distance is measured from the inside edge of the travelway. Therefore they will require right-of-way dedication along the frontage to provide any additional width needed from this project.
- The plan for the park should include a 15-foot wide permanent easement across the frontage of the site for a future shared use path.
- The entrance to the Goller property, immediately north of the subject land, was designed to serve both that property and this one. Accordingly, DeIDOT may require that the park's entrance be reconfigured to tie into that of the Goller property. Having said that, they are aware that owner of the land on the east side of Route 13 across from both properties is attempting to develop a shopping center there. If their plan advances, they would expect to install a traffic signal to serve that shopping center somewhere near the Kriss and Goller property frontages. The location(s) of the Kriss and Goller entrances would have to be coordinated with that of the shopping center entrance.

### **Natural and Cultural Resources**

- Statewide Wetland Mapping Project (SWMP) maps indicate the presence of palustrine wetlands on this parcel. These wetlands provide water quality benefits, attenuate flooding and provide important habitat for plants and wildlife. A 100-foot vegetated buffer should be implemented from the edge of the wetland complex.
  
- The Drainage Program is aware of existing drainage concerns to the east of this area. The Drainage Program requests that the engineer take precautions 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. The Drainage Program requests that the engineer check existing downstream ditches and pipes for function and blockages prior to the start of construction. Please notify downstream landowners if there will be a change in the volume of water released on them.
  
- DNREC has never surveyed this property; therefore, it is unknown if there are any state-rare or federally listed plants, animals or natural communities at this project site. This site does contain forested wetlands which typically harbor an array of plant and animal species. It is recommended that the forested wetlands be preserved and have an upland buffer of at least 100 feet in width to protect the function and integrity of the wetlands. Forested buffers also serve as habitat for many terrestrial species that are dependent on aquatic and wetlands habitats for a portion of their annual life cycle.
  
- A greater effort to preserve the forest on this property should be made and DNREC recommends several site plan changes. First of all, trees function in flood abatement and control and should not be removed to create a stormwater management pond. DNREC recommends that the pond be moved to a non-forested portion of the property or an alternative method of stormwater be considered. Secondly, trees will have to be removed to accommodate the building in the extreme west of the parcel. If feasible, this building should be moved to the east between the two other 10,000 square-foot buildings or omitted from the site plan

The following are a complete list of comments received by State agencies:

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

This PLUS review includes both a comprehensive plan amendment and a rezoning request. The rezoning of this property is at the discretion of Kent County Levy Court. Should the Levy Court ultimately choose to grant this rezoning request, the comprehensive plan amendment must be adopted prior to or concurrently with the zoning change. This rezoning is located in Investment Levels 1 and 2 according to the *State Strategies for Policies and Spending*. This site is also located in the Kent County Growth Zone. Investment Levels 1 and 2 reflect 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. State investments will support growth in these areas. Our office has no objections to the proposed rezoning of this parcel in accordance with the relevant County codes and ordinances.

Our office would like to note that we particularly support the concept of an industrial park to provide much needed space for economic development and job creation in Kent County. We also request that the applicants and the County consider the sensitive environmental features of the site as described by DNREC in this letter when designing the site plan.

**Division of Historic and Cultural Affairs – Contact: Alice Guerrant 739-5685**

The Division of Historic and Cultural Affairs has no objection to this rezoning. Nothing is known within this parcel. Beers Atlas of 1868 shows the D. Boggs House immediately adjacent to this parcel on the north. There is only a low potential for prehistoric or historic-period archaeological sites on this parcel.

While the site of the Boggs House has been destroyed, small, rural, family cemeteries often are found in relation to historic farm complexes, such as the Boggs house, usually a good distance behind or to the side of the house. The developer should be aware of Delaware's Unmarked Human Remains Act of 1987, which governs the discovery and disposition of such remains. The unexpected discovery of unmarked human remains during construction can result in significant delays while the process is carried out. They will be happy to discuss these issues with the developer; the contact person for this program is Faye Stocum, 302-736-7400.

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

- 1) US Route 13 is classified as a minor arterial road. DeIDOT's policy is to require dedication of sufficient land to provide a minimum right-of-way width of 40 feet from the centerline on collector and minor arterial roads. For divided highways, such as Route 13, this distance is measured from the inside edge of the travelway. Therefore they will require right-of-way dedication along the frontage to provide any additional width needed from this project.
- 2) The plan for the park should include a 15-foot wide permanent easement across the frontage of the site for a future shared use path.
- 3) DeIDOT does not recommend that the County require a traffic impact study for this rezoning.
- 4) The entrance to the Goller property, immediately north of the subject land, was designed to serve both that property and this one. Accordingly, DeIDOT may require that the park's entrance be reconfigured to tie into that of the Goller property. Having said that, they are aware that owner of the land on the east side of Route 13 across from both properties is attempting to develop a shopping center there. If their plan advances, they would expect to install a traffic signal to serve that shopping center somewhere near the Kriss and Goller property frontages. The location(s) of the Kriss and Goller entrances would have to be coordinated with that of the shopping center entrance.
- 5) The developer's site engineer should contact Mr. Brad Herb, our project manager for Kent County, regarding our specific requirements for access. He may be reached at (302) 266-9600.

**The Department of Natural Resources and Environmental Control – Contact: Kevin Coyle 739-9071**

**General Comment**

DNREC has no objection to the proposed rezoning. Their comments are offered as if the property were to be developed.

**Wetlands**

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

These wetlands provide water quality benefits, attenuate flooding and provide important habitat for plants and wildlife. A 100-foot vegetated buffer should be implemented from the edge of the wetland complex. The developer should 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.

### **Wetland Regulations**

PLUS application materials indicate that wetlands have been delineated (presumably a field delineation). This delineation should be verified by the Army Corps of Engineers through the Jurisdictional Determination process. Please note that impacts to palustrine wetlands are regulated by the Army Corps of Engineers through Section 404 of the Clean Water Act. In situations where the applicant believes that the delineated wetlands on their parcel are nonjurisdictional isolated wetlands, the Corps must be contacted to make the final jurisdictional assessment. They can be reached by phone at 736-9763.

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) 739-9943 to schedule a meeting.

### **Water Supply**

The project information sheets state that water will be provided to the project by a commercial on-site well. DNREC records indicate that the project is located within the public water service area granted to Tidewater Utilities under Certificate of Public Convenience and Necessity PSC-1190. Information on CPCNs and the application process can be obtained by contacting 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 wells.

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 302-739-9944.

### **Sediment and Erosion Control/Stormwater Management**

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 by Kent County.
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. There are known restrictions on the east side of route 13, the engineer is encouraged to take care in designing ponds that are out falling to a down stream culverts.
2. Access to the proposed stormwater facility must be provided for periodic maintenance. This access should be at least 12 feet wide to leading to the facility and around the facility's perimeter.
3. It is recommended that the stormwater management areas be incorporated into the overall landscape plan to enhance water quality and to make the stormwater facility an attractive community amenity.
4. A letter of no objection to re-recording will be provided once the detailed Sediment and Stormwater Management plan has been re-approved.
5. Proper drainage of developed lots and active open space should be considered in the development of the grading plan for this subdivision.
6. Based on the site characteristics, a pre-application meeting is suggested to discuss stormwater management and drainage for this site.

**Drainage**

The Drainage Program is aware of existing drainage concerns to the east of this area. The Drainage Program requests that the engineer take precautions 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. The Drainage Program requests that the engineer check existing downstream ditches and pipes for function and

blockages prior to the start of construction. Please notify downstream landowners if there will be a change in the volume of water released on them.

### **Rare Species and Forested Wetlands**

DNREC has never surveyed this property; therefore, it is unknown if there are any state-rare or federally listed plants, animals or natural communities at this project site. This site does contain forested wetlands which typically harbor an array of plant and animal species. It is recommended that the forested wetlands be preserved and have an upland buffer of at least 100 feet in width to protect the function and integrity of the wetlands. Forested buffers also serve as habitat for many terrestrial species that are dependent on aquatic and wetlands habitats for a portion of their annual life cycle.

### **Forest Preservation**

A greater effort to preserve the forest on this property should be made and they recommend several site plan changes. First of all, trees function in flood abatement and control and should not be removed to create a stormwater management pond. DNREC recommends that the pond be moved to a non-forested portion of the property or an alternative method of stormwater be considered. Secondly, trees will have to be removed to accommodate the building in the extreme west of the parcel. If feasible, this building should be moved to the east between the two other 10,000 square-foot buildings or omitted from the site plan.

To reduce impacts to nesting birds and other wildlife species that may utilize trees for breeding, we recommend that trees not be cleared from April 1st to July 31st.

### **Underground Storage Tanks**

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

Cheswold Land, Inc., Facility # 1-000317, Project # K8607035

Larry's Mobil Homes, Facility # 1-000399, Project # K8807047

Dover Acura, Facility # 1-000137, Project # K9911245

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 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 with nitrile rubber gaskets in the contaminated areas.

**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:**

- Since the structures of the complex are proposed to be served by individual on-site wells (No Central or Public Water System within 1000' of property), set back and separation requirements will apply.

b. **Fire Protection Features:**

- For commercial buildings greater than 5000 Sq.ft., a fire alarm signaling system which is monitored off-site is required
- For commercial buildings greater than 10,000 Sq.ft. Class B (2-hour rated) fire barriers are required to subdivide buildings into areas of 10,000 Sq.ft. 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 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.

- The use of speed bumps or other methods of traffic speed reduction must be in accordance with Department of Transportation requirements.
- The local Fire Chief, prior to any submission to our Agency, shall approve in writing the use of gates that limit fire department access into and out of the development or property.

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](http://www.delawarestatefiremarshal.com), technical services link, plan review, applications or brochures.

**Department of Agriculture - Contact: Milton Melendez 698-4500**

The Delaware Department of Agriculture has no objections to the Kriss Industrial Park application. The *Strategies for State Policies and Spending* encourages responsible development in areas within a Level 2 area. Finally, the Department encourages the developer to work with Kent County Planning and Zoning to meet any wetland and forest mitigation requirements

**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.

**Department of Education – Contact: John Marinucci 739-4658**

The Department of Education has no objections or comments regarding the rezoning plan as submitted.

**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: Kent County  
Town of Cheswold