



STATE OF DELAWARE  
EXECUTIVE DEPARTMENT  
OFFICE OF  
STATE PLANNING COORDINATION

May 18, 2005

Mr. Brian Conlon, P.E.  
Project Manager  
Langan  
30 South 17<sup>th</sup> Street, Ste. 1500  
Philadelphia, PA 19103

RE: PLUS review – PLUS 2005-04-11; Lowe's of Seaford

Dear Mr. Conlon:

Thank you for meeting with State agency planners on April 27, 2005 to discuss the proposed plans for the Lowe's to be located on Route 13 and Herring Run Road within the City of Seaford. According to the information received, you are seeking site plan approval for a 219,038 sq. foot retail store on 27.4 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 the City of Seaford is the governing authority over this land, the developers will need to comply with any and all regulations/restrictions set forth by the City.

**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**

- The proposal is located within Investment Levels 1 and 2 according to the Strategies for State Policies and Spending and within the City of Seaford. State policies generally support development activities within Investment Levels 1 and 2.

### **Project Design and Transportation**

- The developer should use an architectural style that is appealing and in keeping with the character of Seaford. Several examples of attractive architecture for chain retailers (including a Lowe's) are available in our *Better Models for Development in Delaware* book.
- Additional large truck traffic on Bridgeville Highway moving past the two historic properties would introduce noise and, especially at the mill, possible structural damage from vibration. According to the Lowe's representative, however, that large delivery trucks will come down Rt. 13 and enter from the front, or else turn at Herring Run Rd. to access the side entrances. The State Historic Preservation Office urges them to maintain this pattern.
- DelDOT recommends that a cross access easements be provided to the remainder of the Lord property and the Towner property.
- Sidewalks should be provided along the Herring Run Road frontage and throughout the site for patrons and employees to walk between the various buildings.
- Because the proposal is located along a major transit route, the developer should include bus amenities such as a pad and possibly a shelter in their plans. The developer may contact Mr. David Dooley, a DTC service development planner, at (302) 577-3278, ext. 3464, to discuss what amenities would be most appropriate and where they should be located.

### **Natural and Cultural Resources**

- Given the environmentally sensitive nature of this watershed, the applicant should devote more effort to the implementation of innovative efforts or BMPs to reduce impervious cover. Using pervious materials in lieu of impervious paving surfaces (asphalt or concrete), can significantly reduce the amount of pollutant-laden surface runoff into wetlands and streams.

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

**Office of State Planning Coordination – Contact: Ann Marie Townshend 739-3090**

The Office of State Planning Coordination notes that the proposal is located within Investment Levels 1 and 2 according to the Strategies for State Policies and Spending and within the City of Seaford. State policies generally support development activities within Investment Levels 1 and 2.

We recommend that the site design incorporate bicycle and pedestrian connectivity both within the project among the different buildings and with the adjacent area.

We recommend that the developer use an architectural style that is appealing and in keeping with the character of Seaford. Several examples of attractive architecture for chain retailers are available in our *Better Models for Development in Delaware* book.

Whenever forested areas on the site will not be preserved, we suggest that you work with the Urban and Community Forest Program to develop a plan for forest mitigation on the site. For assistance with tree mitigation and landscape design on the site, please contact Bryan Hall, Urban Forester, of the Delaware Forest Service.

**State Historic Preservation Office (SHPO) – Contact: Alice Guerrant 739-5685**

The parcel as presented at the meeting does include a historic house (S-6271). Since this house will be demolished, the State Historic Preservation office requests the opportunity to document it before any demolition or construction activities take place. While other historic houses are nearby, they appear to be already screened from the development by existing trees. Beers Atlas of 1868 shows the J.H. Brown House somewhere in this vicinity.

There are areas of high potential for prehistoric archaeological sites as well. The SHPO would be happy to work with Lowe's to see if in fact there are any archaeological sites on this parcel and perhaps to recover some information from them before construction. Their primary concern with this development though is that it lies between two National Register-listed properties on Bridgeville Hwy, the Hearn & Rawlins Mill (S-213) and Lawrence (S-194). Additional large truck traffic on this road moving past these properties would introduce noise and, especially at the mill, possible structural damage from vibration. According to the Lowe's representative, however, that large delivery trucks will come down Rt. 13 and enter from the front, or else turn at Herring Run Rd. to access the side entrances. The State Historic Preservation Office urges them to maintain this pattern.

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

- 1) DelDOT recommends that a cross access easements be provided to the remainder of the Lord Property, which extends west to Bridgeville Highway along the north side of Herring Run Road, and also to the Tower Properties, which are a pair of out-parcels along the Route 13 frontage.
- 2) Bridgeville Highway is classified as a collector road and Herring Run Road is classified as a local road. Local roads in Delaware typically have right-of-way widths ranging from 33 to 50 feet. Collector roads generally have somewhat wider rights-of-way. DelDOT'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 roads and 30 feet from the centerline on local roads. Therefore, DelDOT will require right-of-way dedication to provide any additional width needed from this project.
- 3) A traffic impact study is in progress for the subject development. When it has been completed and reviewed, DelDOT will comment directly to the City regarding it. DelDOT would urge the City not to approve the plan for the project until they have the recommendations based on that study.
- 4) US Route 13 is subject to the Corridor Capacity Preservation Program, a legislatively mandated program through which DelDOT seeks to preserve the capacity of certain arterial highways by managing access along them. The developer's representatives have already met with us regarding access and the plan accompanying the PLUS form generally conforms to our mutual understanding for access.
- 5) Regarding the proposed signalized access on Herring Run Road, DelDOT recommends that entering vehicles be directed to the right, that is toward the local service road, preventing left turns directly toward the main store front.
- 6) The plan shows three storm water management infiltration basins (Basins A, B and C) along Route 13 and Herring Run Road. DelDOT will require a 20-foot minimum buffer between the ultimate right-of-way and the top of slopes of the basins. It is recommended that they be located further from the road. The runoff from the site must be managed and if the developers' engineer submits calculations, demonstrating to DelDOT satisfaction that the rate and volume of the post-development runoff would not exceed the rate and volume of the pre-development runoff, then discharge to the roadside ditch will be permitted.
- 7) DelDOT recommends that sidewalks be required along the Herring Run Road frontage and throughout the site for patrons and employees to walk between the various buildings.

- 8) Bicycle parking should be provided in safe, well-lit locations near the building entrances.
- 9) Bryan Street, a subdivision street that accesses Bridgeville Highway, ends at the property line behind the proposed strip retail center. No access is shown there and for most purposes, DelDOT agrees with that. However, consideration should be given to placing an emergency access gate at the end of the street in any fence set up around the perimeter of the site.
- 10) It is recommended that landscaping be provided in the parking lot to mitigate the heat island effect associated with a lot of the size proposed. The plan presented at the PLUS meeting addressed this concern.
- 11) The Delaware Transit Corporation (DTC) operates DART Bus Route 212, which provides service from Laurel to Georgetown by way of Seaford and Bridgeville. That service passes by the subject development on Route 13 seven times daily, Monday through Friday and could be useful to Lowe's Home Center employees. DelDOT recommends that the developer include bus amenities such as a pad and possibly a shelter in their plans. The developer may contact Mr. David Dooley, a DTC service development planner, at (302) 577-3278, ext. 3464, to discuss what amenities would be most appropriate and where they should be located.
- 12) The developer's site engineer should contact the DelDOT Subdivision Manager for Sussex County, Mr. John Fiori, regarding our requirements for access and drainage. 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 Sussex County soil survey Evesboro, Sassafra, and Fallsington were mapped in the immediate vicinity of the proposed construction. Evesboro is an excessively well-drained upland soil that has moderate limitations on account of its rapid permeability. Sassafra is a well-drained upland soil that, generally, has few limitations for development. Fallsington is poorly-drained wetland associated (hydric) soil that has severe limitations for development.

### **Wetlands**

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

Impacts to these wetlands are regulated by the Army Corps of Engineers through Section 404 of the Clean Water Act. In addition, individual 404 permits and certain Nationwide

Permits from the Army Corps of Engineers also require 401 Water Quality Certification from the DNREC Wetland and Subaqueous Land Section and Coastal Zone Federal Consistency Certification from the DNREC Division of Soil and Water Conservation, Delaware Coastal Programs Section. Each of these certifications represents a separate permitting process.

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

It is also 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. A 100-foot minimum isolation distance should be also be maintained from all stormwater ponds.

### **ERES Waters**

This project is located adjacent to environmentally sensitive receiving waters (Broad Creek & Nanticoke River) of the Chesapeake Bay Watershed; 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 Broad Creek and Nanticoke River drainages of the Chesapeake Bay Watershed, reduction of nitrogen and phosphorus loading will be obligatory. 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. In the Chesapeake Watershed, “target-rate-reductions” of 30 and 50 percent will be required for nitrogen and phosphorus, respectively.

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 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.”

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 performing this calculation.

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

## **Impervious Cover**

Given the environmentally sensitive nature of this watershed, the Department believes that the applicant should devote more effort to the implementation of innovative efforts or BMPs to reduce impervious cover. Using pervious materials in lieu of impervious paving surfaces (asphalt or concrete), can significantly reduce the amount of pollutant-laden surface runoff into wetlands and streams.

## **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. A zoning verification form will also need to accompany the application. 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**

1. Please submit a sediment control and stormwater management plan to the District for review. No construction (i.e. clearing, filling, grading, etc.) shall take place on-site until a sediment control and stormwater management plan has been approved by the Conservation District.
2. Please indicate on the sediment and stormwater management plan who shall be responsible for maintenance of the stormwater management facilities both during construction and after.
3. During the design of the sediment control and stormwater management plan, considerations should be made for maintenance (i.e. access, easements, etc.) of any structures or facilities.
4. During the design of the stormwater management facility please note that both stormwater quantity and quality must be addressed.
5. If a stormwater management pond is going to be utilized as a sediment trap/basin during construction it must be designed to accommodate 3600 cubic feet of storage per acre of contributing drainage area until project stabilization is complete.
6. Specify First Floor elevations for all lots.
7. All ponds are required to be constructed per pond code 378.
8. Please note that if the stormwater facilities will impact wetlands, a permit must be provided to the District prior to receiving approval.
9. The District will require an approval letter from DelDOT since you are tying into their storm drain system along Rt. 13.
10. Drainage problems exist in this area. You will need to demonstrate that there is an adequate outfall for stormwater.

11. Please contact the Conservation District when design of stormwater management facility is initiated, as we would like to work closely with you in its design.

### **Recreation**

It is recommended that sidewalks be built on this property. 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, parks, public mass transit stops, schools, stores, work, etc.

### **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. 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: Duane Fox 302-856-5298**

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. (Mercantile)
- 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. (Assembly)
- Where a water distribution system is proposed for the site, the infrastructure for fire protection water shall be provided, including the size of water mains for fire hydrants and sprinkler systems.

#### **a. 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 Herring Run Road 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)
  - 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](http://www.delawarestatefiremarshal.com), technical services link, plan review, applications or brochures.

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

The Delaware Forest Service has no objections to this site at this time; however, the Delaware Forest Service encourages the developer to contact them if they have any questions concerning tree selection and/or tree care.

**Public Service Commission - Contact: Andrea Maucher 739-4247**

The information provided indicates that the City of Seaford Water & Sewer will provide water to the proposed projects through a central public water system. PSC files reflect that City of Seaford Water & Sewer does not currently hold a certificate of public convenience and necessity (CPCN) to provide public water in these areas. They will need to file an application for a CPCN with the Public Service Commission, if they have not done so already. Information on CPCN requirements and applications can be obtained by contacting the Public Service Commission at 302-739-4247.

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 the project connects to public wastewater services from the city, and the project lies outside of the service territory established in October 2004, then the City must update the information it filed with the Commission.

**Delaware Economic Development Office – Contact Dorrie Moore 739-4271**

The Delaware Economic Development Office supports the Lowe's project in Seaford.

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

Due to the extent of commercial development being proposed, 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 City of Seaford, to keep them apprised of all development activities.

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**Sussex County – Contact: Richard Kautz 855-7878**

The Town should protect adjacent residential properties by requiring a landscaped visual and sound buffer between parking spaces and the town limits.

**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: City of Seaford