



STATE OF DELAWARE  
EXECUTIVE DEPARTMENT  
OFFICE OF  
STATE PLANNING COORDINATION

May 16, 2005

Mr. Randy Duplechain  
Davis, Bowen & Friedel  
23 N. Walnut Street  
Milford, DE 19963

RE: PLUS review – PLUS 2005-04-13; Home Depot of Millville

Dear Mr. DuPlechain:

Thank you for meeting with State agency planners on April 27, 2005 to discuss the proposed plans for the Home Depot to be located on Route 17, between Burbage Road and Atlantic Avenue, near Millville. According to the information received, you are seeking site plan approval for a 133,000 square foot retail store on 14.95 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 Town of Millville 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.*

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

- The proposal is located within Investment Levels 2 according to the Strategies for State Policies and Spending and within the Town of Millville. State policies generally support development activities within Investment Level 2. We note that the Town of Ocean View has expressed several concerns regarding this development, and we ask that the developer and the Town of Millville work with the Town of Ocean View to address their concerns

### **Project Design and Transportation**

- The developer should use an architectural style that is appealing and in keeping with the character of Millville. Several examples of attractive architecture for chain retailers are available in our *Better Models for Development in Delaware* book. Especially since this proposal is for an area where there has not been a lot of large scale commercial development, we believe that there is an opportunity to use a design that will build upon the character of the area and set the tone for future development.
- The developer should be required to enter into signal agreements with DelDOT regarding the following intersections:
  - i) Route 26 and Windmill Road
  - ii) Route 17 and Burbage Road
  - iii) Route 17 and the site entrance
  - iv) Windmill Road and Burbage Road/Pine Grove Lane
- Sidewalks, crosswalks and shoulders should be provided on the site driveway and the entire length of the Doves Landing frontage on Route 17, including the frontage of the parcel just north of the store.
- Internal to the site, sidewalks should be provided along both sides of the east-west street, and along at least one side of the north-south driveway. Further, a bicycle and pedestrian connection should be provided directly from Route 17 to the front of the store. Bicycle parking should be provided in a safe, well-lit location near an employee entrance to the store.

### **Natural and Cultural Resources**

- 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.

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 2 according to the Strategies for State Policies and Spending and within the Town of Millville. State policies generally support development activities within Investment Level 2. We note that the Town of Ocean View has expressed several concerns regarding this development, and we ask that the developer and the Town of Millville work with the Town of Ocean View to address their concerns

We recommend that the developer use an architectural style that is appealing and in keeping with the character of Millville. Several examples of attractive architecture for chain retailers are available in our *Better Models for Development in Delaware* book. Especially since this proposal is for an area where there has not been a lot of large scale commercial development, we believe that there is an opportunity to use a design that will build upon the character of the area and set the tone for future development.

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

One historic house is within this parcel (S-2452). It is adjacent to two other historic houses. The Beers Atlas of 1868 shows the J. Steel House somewhere in this vicinity.

The parcel has medium potential for prehistoric archaeological sites. If the project requires an Army Corps of Engineers permit because of changes to one or more tax ditches, this will require that Home Depot consult with our office under Section 106 of the National Historic Preservation Act of 1966 (as amended). Depending on the area encompassed by the Corps permit, this may require Home Depot to 1) hire an archaeologist to locate and mitigate any damage to significant archaeological sites prior to construction and 2) hire an architectural historian to examine the house, determine its significance, and possibly to document it.

The SHPO will be happy to help Home Depot through this process. If the house is outside the permit area, they would like an opportunity to document it before any demolition activities take place. They also request that Home Depot include appropriate landscaping to screen the view of this development from the neighboring historic houses.

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

- 2) Route 17 is classified as a collector road. The plan shows Route 17 as having a 60-foot wide right-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. Therefore they will require right-of-way dedication to provide any additional width needed from this project. If the 60-foot figure is correct and the road is centered in the right-of-way, that would be an additional ten feet.

- 3) A traffic impact study (TIS) was done for Doves Landing in 2003. On March 12, 2004, DelDOT commented to the Town on that TIS. The recommendations provided there addressed the whole development, which included a 147,500 square foot shopping center but not specifically a home improvement superstore. Of the recommendations in that letter, DelDOT suggests that the following requirements are applicable to the proposed store.
  - a) The developer should be required to enter into signal agreements with DelDOT regarding the following intersections:
    - i) Route 26 and Windmill Road
    - ii) Route 17 and Burbage Road
    - iii) Route 17 and the site entrance
    - iv) Windmill Road and Burbage Road/Pine Grove Lane

The agreements would obligate the developer to fund all costs of installing traffic signals at the subject intersections. DelDOT has sought and will continue to seek similar agreements with other developers for these intersections. When a signal is installed the costs will be shared between all of the developers who have entered agreements for that intersection. The costs would include pedestrian signals and crosswalks, at DelDOT's discretion, and all costs associated with coordinating these signals with other existing and proposed signals. DelDOT will also be considering the use of roundabouts at these locations and the agreements should provide the option of assessing the developer for part of the costs for a roundabout instead of the cost of a signal.

- b) To accommodate pedestrians and bicyclists, sidewalks, crosswalks and shoulders should be provided on the site driveway and the entire length of the Doves Landing frontage on Route 17, including the frontage of the parcel just north of the store. Internal to the site, sidewalks should be provided along both sides of the east-west street, and along at least one side of the north-south driveway. Further, a bicycle and pedestrian connection should be provided directly from Route 17 to the front of the store. Bicycle parking should be provided in a safe, well-lit location near an employee entrance to the store.
    - c) The developer should be required to provide for pedestrian and vehicular connections between the residential and commercial components of this development. The proposed site driveway appears to be adequate in that regard.
- 4) DelDOT recommends that landscaping be provided in the parking lot to mitigate the heat island effect associated with a lot of the size proposed.

- 5) At the PLUS meeting, the Fire Marshal's Office indicated that it would be to the developer's advantage to have the east-west street under DelDOT maintenance. DelDOT generally does not accept streets for maintenance if they are within an incorporated municipality for maintenance. DelDOT does not streets for maintenance if they serve less than five lots. Presently the street is unacceptable in both regards.
- 6) The developer's site engineer should contact the DelDOT Subdivision Manager for Sussex County, Mr. John Fiori, regarding their 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 soil survey update Klej, Hurlock, and Mullica-Berryland complex were mapped on subject parcel. Klej is a transitional soil between well-drained uplands and poorly-drained wetlands and may or may not contain wetland associated (hydric) soils. Hurlock is poorly-drained wetland associated (**hydric**) soil that severe limitations for development. Mullica-Berryland complex is a very poorly-drained wetland associated (**hydric**) soil that has the highest severity level for development.

**Wetlands**

Statewide Wetland Mapping Project (SWMP) maps indicate the presence of, palustrine open water and palustrine emergent 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.

A State of Delaware Subaqueous Lands Act Jurisdictional Determination should be obtained before any work commences in any of the drainage ditches. Any work in streams may require a State of Delaware Subaqueous Lands Permit in addition to federal wetlands permits. 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 maintained from all stormwater ponds.**

### **ERES Waters**

This project is located adjacent to receiving waters of Inland Bays designated as waters having Exceptional Recreational or Ecological Significance (ERES). ERES waters are recognized as special assets of the State, and shall be protected and/or restored, to the maximum extent practicable, to their natural condition. Provisions in Section 11.5 of Delaware’s “Surface Water Quality Standards” (as amended August 11, 1999), specify that all designated ERES waters and receiving tributaries develop a “pollution control strategy” to reduce non-point sources of nutrient runoff through implementation of Best Management Practices (BMPs). Best Management Practices as defined in subsection 11.5(e) of this section, expressly authorizes the Department to provide standards for controlling the addition of pollutants and reducing them to the greatest degree practicable, or where attainable, a standard requiring no discharge of pollutants.

### **TMDLs**

With the adoption of Total Maximum Daily Loads (TMDLs) as a “nutrient-runoff-mitigation strategy” for reducing nutrients in the Inland Bays Watershed, reduction of nitrogen and phosphorus loading will be mandatory. A TMDL is the maximum level of pollution allowed for a given pollutant below which a “water quality limited water body” can assimilate and still meet water quality standards to the extent necessary to support use goals such as, swimming, fishing, drinking water and shell fish harvesting. Although TMDLs are authorized under federal code, states are charged with developing and implementing standards to support those desired use goals. The Jurisdictional authority for attaining these use goals will fall under the auspices of Section 11.5 of the State of Delaware’s Surface Water Quality Standards (as amended August 11, 1999), and will be achieved via nutrient reductions referred to as “pollution control strategies.”

Nutrient reductions prescribed under TMDLs are assigned on basis of water quality concerns – that is, the those regions deemed to be of greatest environmental concern will require correspondingly higher levels of nutrient reduction than those regions deemed less environmentally sensitive. In this watershed, these regions are demarcated as high and low reduction zones. The high reduction zone corresponds to the western portion of the watershed, and requires a reduction of nitrogen and phosphorus by 85 and 65 percent, respectively. The low reduction zone corresponds to the eastern portion of the watershed, and requires a reduction of nitrogen and phosphorus by 40 percent. **This project is proposed within the low nutrient reduction zone. Based on preliminary calculations, this parcel as it is presently designed will not meet current TMDL reduction requirements.**

**In order for the applicant to verify compliance with the TMDL mandate, a full nutrient accounting process known as nutrient budget should be prepared. The developer/consultant should contact Lyle Jones in the Department's Watershed Assessment Section for further information regarding the acceptable protocol for calculating a nutrient budget. He can be reached as 739-4590.**

### **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. 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. Due to the proximity to sensitive areas, the Conservation District will require reinforced and super silt fence to adequately protect wetland areas during the construction of the site.
10. Please get in touch with DNREC Drainage section to determine if you are located within a tax ditch watershed.
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.

### **Nuisance Waterfowl**

The stormwater management ponds in the site plan may attract waterfowl like resident Canada geese and mute swans. 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. Short manicured grasses around ponds provide an attractive habitat for these species. We recommend native plantings of tall grasses, wildflowers, shrubs, and trees at the edge and within a buffer area around the perimeter. Waterfowl do not feel safe when they can not see the surrounding area for possible predators. These plantings should be completed as soon as possible as it is easier to deter geese when there are only a few than it is to remove them once they become plentiful. The Division of Fish and Wildlife does not provide goose control services, and if problems arise, property managers or owners 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 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/Above-ground 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.

At the PLUS meeting, there was some discussion about an above-ground storage tank for propane. It is recommended that you contact the Tank Management Branch at (302) 395-2500 regarding above-ground storage tank regulations.

### **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.
- 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 Roxana 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 Department of Agriculture and the Delaware Forest Service has no objections to this site at this time; however, the developer is encouraged to contact DFS concerning tree selection since the DFS encourages “The Right Tree for the Right Place”.

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

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

The Delaware Economic Development Office (DEDO) supports the Home Depot project of Millville.

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

Due to the 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 this portion of Sussex County, to keep them apprised of all development activities. This area could experience possible flooding from a category 3 or greater hurricane. Routes 26 and 113 are coastal storm evacuation routes and this project will be affected by traffic volume on these routes during a coastal storm event.

**Town of Ocean View – Contact: Kathy Roth 539-9797**

The Town of Ocean View does not oppose this store, but they have noted the following concerns:

1. Police/Security – who will provide the security for this store to ensure that it is not a burden for the Ocean View Police Department? Ocean View is already troubled by the many requests for service from the Millville area and they want to emphatically state that the Ocean View Department should not be expected to provide police protection to this or any other new facility.
2. Traffic – This store will generate an enormous amount of traffic. The Council and Mayor want assurance that realistic steps will be taken to minimize the impact of this traffic on the property owners of Ocean View.

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

The site is to be entirely within the town limits and does not directly impact County services or properties outside the town limits. However, the Town should protect adjacent residential property by requiring landscaping between parking spaces and adjacent lots.

The Sussex County Engineer Comments:

The proposed project is within the boundaries of the Millville Expansion of the Bethany Beach Sanitary Sewer District. The proposal is to construct a 133,000 sq. ft. building on 14.95 acres. A sewer concept plan must be submitted to the Sussex County Engineering Department for approval prior to any sewer construction. All costs associated with extending sewer service will be the sole responsibility of the developer.

**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.**

PLUS 2005-04-13

May 16, 2005

Page 13 of 13

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 Millville  
Town of Ocean View  
Sussex County