



STATE OF DELAWARE
EXECUTIVE DEPARTMENT
OFFICE OF
STATE PLANNING COORDINATION

June 20, 2005

Mr. Lawrence E. Roy
McGinnis Commercial Real Estate Co.
555 E. Loockerman St.
Dover, DE 19901

RE: PLUS review – PLUS 2005-05-11; Simon Property

Dear Mr. Roy,

Thank you for meeting with State agency planners on June 1, 2005 to discuss the proposed plans for the Simon property located on 1.5 acres at 5301-5303 North Dupont Highway in Kent County.

According to the information received, you are seeking a re-zoning from I-G to B-G to construct a 10,000 square foot shopping center in the Level 1 area.

These comments reflect only issues that are the responsibility of the agencies represented at the PLUS review meeting. Please note that changes to the plan, other than those suggested in this letter, could result in additional comments from the State. The developers must comply with any Federal, State and local regulations regarding this property. Specifically, the City of Seaford is the governing authority over this land and the developers will need to comply with any and all regulations/restrictions set forth by the County.

Executive Summary

This section includes some site-specific highlights from the agency comments found in this letter and 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.***

Project Location

- This project is located in Investment Level 1 according to the *Strategies for State Policies and Spending* and is located in the Kent County Growth Zone. Investment Level 1 areas 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.

The Office of State Planning Coordination has no objections to the proposed rezoning of this parcel at the discretion of the Kent County Levy Court.

Roads & Streets

- Right-of-way dedication will be required along the Route 13 frontage of the property.
- The developer should provide cross access easements to the neighboring commercial properties near the back of the parcel and determine the existence of such easements from those properties. The developer should build those connections where easements have been established or can be obtained.

Natural/Cultural Resources

- Potential contamination sources exist in the area, and if an on-site well is needed, any permit application will undergo a more detailed review and may require site-specific recommendations.
- The site falls almost entirely within an excellent recharge area (see map). Design recommendations for addressing this are contained in the “Water Resource Protection Areas” section of this letter.

This office has received the following comments from State agencies:

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

This project is located in Investment Level 1 according to the *Strategies for State Policies and Spending*. This site is also located in the Kent County Growth Zone. Investment Level 1 areas 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 rezoning of this parcel at the discretion of the Kent County Levy Court.

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

SHPO has no objection to this rezoning and requests an opportunity to record the buildings on the parcel (K-3151) when the owner is ready to develop the property. While there is potential for historic and prehistoric archaeological sites here, previous changes to the property, including the Superfund remediation, have very likely disturbed the integrity of the area.

Department of Transportation – Contact Bill Brockenbrough 760-2109

The applicant, Chanjuan Chen, seeks to develop a five-store, 10,000 square foot strip shopping center on a 1.4-acre parcel (Tax Parcel LC-46.02-1-36). The parcel is located on southbound US Route 13 near Cheswold between Delaware Route 42 and Twin Oaks Drive, in the Central Delaware Business Park. Presently, the parcel is in residential use. It is zoned I-G and would need to be rezoned to B-G for the proposed center to be built.

- 1) Route 13 is classified as a principal arterial highway. Right-of-way widths on Delaware highways vary but DelDOT’s policy is to require dedication of sufficient land to provide a minimum right-of-way width of 50 feet from the inside edge of the travelway on divided highways. Therefore right-of-way

dedication is required along the frontage to provide any additional width needed from this project.

- 2) Presently there are commercial uses on either side of the subject parcel, a bakery outlet to the south and a construction equipment dealer to the north. DelDOT requests that the developer provide cross access easements to both of these properties near the back of the subject parcel and determine the existence or availability of similar easements from those properties. Where such easements have been established or can be obtained, the developer should build those connections.
- 3) The developer's site engineer should contact the project manager for Kent County, Mr. Brad Herb, regarding our specific requirements for access. Mr. Herb may be reached at (302) 266-9600.

The Department of Natural Resources and Environmental Control

Contact Kevin Coyle 739-3091

Soils

According to the Kent County soil survey, Sassafras was mapped in the immediate vicinity of the proposed construction. Sassafras is a well-drained upland soil that has few limitations for development.

TMDLs

Total Maximum Daily Loads (TMDLs) pollution runoff mitigation strategies to reduce nutrient loading have not yet been developed for most of the tributaries or subwatersheds of the Delaware Bay watershed. TMDLs for the Leipsic subwatershed, of which this parcel is part, are scheduled for completion in December 2005.

Until 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 the degradative impacts associated with development.

Water Supply

The Division of Water Resources will consider applications for the construction of on-site wells provided they can be constructed and located in compliance with all requirements of the regulations governing their construction and use. A well construction permit must be obtained prior to construction. Well permit applications must be prepared and signed by licensed water well contractors, and only licensed well drillers may construct the wells. Potential contamination sources exist in the area and any permit applications will undergo a more detailed review and may require site-specific recommendations. In this case, the Chem-Solv, Inc. Superfund site is within 250 feet of the site, the Shore Stop #56 is within approximately 760 feet, and Bills Service Center is within approximately 860 feet.

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 water allocation permit will be needed if the pumping rate will exceed 50,000 gallons per day at any time during operation. Dewatering well permit applications typically take approximately four weeks to process. Questions concerning these comments can be directed to Rick Rios, (302)739-3665.

Water Resource Protection Areas

The site falls almost entirely within an excellent recharge area (see map). According to State law, county and municipal governments are required to enact ordinances to protect Water Resource Protection Areas. The text below has been excerpted from the Source Water Protection Guidance Manual for Local Governments, Supplement 1 - Ground-Water Recharge Design Methodology. While local ordinances are not yet in place, the developer may find this wording useful in modifying the site plan to protect the wellhead protection area.

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

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

Applicants commonly offset the loss of recharge due to impervious cover by constructing recharge basins that convey relatively pure rooftop runoff for infiltration to ground water. The DNREC recommends the following measures, ranked in order of preference:

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

More information can be found at:

[Source Water Protection Guidance Manual for the Local Governments of Delaware at
http://www.wr.udel.edu/swaphome/phase2/Manual/SwappManual.pdf](http://www.wr.udel.edu/swaphome/phase2/Manual/SwappManual.pdf)

Ground-Water Recharge Design Methodology at

http://www.wr.udel.edu/swaphome/phase2/Manual/SwappManual_supplement_1.pdf.

The site is entirely within the Ground Water Management Zone (GMZ) for Chem-Solv. The GMZ Memorandum of Understanding for the Chem-Solv site restricts any new wells within the GMZ. The answer to Question 18 in the PLUS application does not make it clear where the water for the Simon Property development will originate. There should be no restriction if the water is provided by the Cheswold Water community system. If an on-site well is proposed, the well permit can only be issued after a review by DNREC Divisions of Water Resources and Air and Waste Management.

Sediment and Erosion Control/Stormwater Management

A detailed sediment and stormwater plan will be required prior to any land disturbing activity taking place on the site. The plan review and approval and construction inspection will be coordinated through Kent Conservation District. Contact Jared Adkins, Program Manager, (302) 741-2600, ext. 3, for details regarding submittal requirements and fees.

Drainage

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.

Rare Species

DNREC has not surveyed this parcel and there are no records of state-rare or federally listed plants, animals or natural communities on or adjacent to the site. The application states that there are known rare species on the site.

Site Investigation and Restoration

There are 3 SIRB sites located within 1/2 mile of the project: Chem-Solv (De-0063), Grigco Waste Oil Recycling Co (DE-0124), and Pee Wee's Truck Stop (DE-1047).

Chem-Solv, adjacent to the west, was a small distillation facility that recycled waste solvents. In 1984, an explosion and fire destroyed the entire facility. The site was placed on the EPA's National Priorities List (NPL) in 1990. Groundwater in the Columbia Formation water table aquifer remains contaminated with VOCs, primarily trichloroethylene (TCE), benzene, and manganese at levels that pose an unacceptable risk to human health. Therefore SIRB recommends that any private wells be installed to the deeper, confining aquifer, rather than the shallow Columbia Aquifer. If existing wells are to be used, SIRB recommends the water be tested for the contaminants of concern before occupancy.

Pee Wee's Truck Stop is a former gas station/truck stop where BTEX contamination was found in the soil and groundwater. The level of BTEX was low enough that SIRB required no further action and does not foresee any negative impacts for the proposed project.

Grigco Waste Oil Recycling Co. is located to the north of the project site. The facility operated without RCRA generator or storage permits and a site investigation was performed in 1986. EPA recommended no further action under the Preliminary Assessment/Site Investigation program due to low levels of contaminants found and ongoing NPDES investigations at the time. SIRB does not foresee any negative impacts for the proposed project.

For property located near state and federal Superfund sites, prospective purchasers should make sure that "all appropriate inquiry" has been performed regarding prior ownership and use as defined by the EPA. This pertains to requirements necessary to establish the innocent landowner defense under CERCLA, in addition to providing Superfund liability limitations for bona-fide prospective purchasers and contiguous property owners. Prospective purchasers may want to enter into a prospective purchaser's agreement with DNREC. Interested parties should contact Kathy Stiller-Banning, manager of DNREC's Site Investigation and Restoration Branch, (302) 395-2600, for additional information.

Underground Storage Tanks

There are four inactive and one active LUST site(s) located near the proposed project:

Roy's Electric, Facility # 1-000231, Project # K9510233

Cheswold Land, Inc., Facility # 1-000317, Project # K9611185

Shore Stop Cheswold, Facility # 1-000149, Project # K9010095

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

Cheswold Mobil Station, Facility # 1-000183, Project # K8808263 (XREF AKA Royal Farms Facility # 1-000716)

No environmental impact is expected from the above LUST sites. Should underground storage tanks or petroleum contaminated soil be discovered during construction, the Tank Management Branch must be notified as soon as possible. While changes to construction specifications are not expected as a result of unanticipated petroleum contamination, PVC pipe would need to be replaced by ductile steel in all contaminated areas.

Mobility Enhancement

DNREC recommends that sidewalks be built to connect adjacent properties. A complete system of sidewalks will facilitate safe, convenient off-road access for visitors to the restaurant. A bike rack should be provided to encourage non-motorized forms of travel.

State Fire Marshal's Office – Contact Duane Fox 856-5298

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):

- 1) 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 of fire hydrants and sprinkler systems.

2) 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

3) 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 North 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.

4) Gas Piping and System Information

- Provide type of fuel proposed, and show size and location of bulk containers on plan.

5) 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)
- Townhouse 2-hr separation wall details shall be shown on site plans
- 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 www.delawarestatefiremarshal.com, technical services link, plan review, applications or brochures.

Department of Agriculture - Contact Mark Davis 739-4811

The Delaware Department of Agriculture has no objections to this project at this time.

Right Tree for the Right Place

The Department of Agriculture encourages the developer to use the “Right Tree for the Right Place” concept in any design considerations. This concept outlines the proper placement of trees to increase property value and reduce heating and cooling costs by an average of 20 to 35 dollars per month. A landscape design that uses this approach reduces maintenance costs to property owners and ensures a lasting forest resource.

Native Landscapes

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

Tree Preservation

The Department of Agriculture encourages the developer to implement tree preservation activities to ensure the health and vigor of the resource. Trees are affected by compaction of soils during the construction process; guidelines established by the International

Society of Arboriculture (ISA) serve to lessen this impact and provide increase value to the site.

Tree Mitigation

The Forest Service encourages the developer to implement tree mitigation at a 1:1 ratio within the site to replace trees lost in construction.

Public Service Commission - Contact Andrea Maucher 739-4247

For both water and wastewater the PLUS is Application notes "individual on-site." If public water becomes necessary, the project is within a Tidewater Utility Inc. service territory. If public sewer becomes necessary, the project is within the Kent County Sanitary Sewer District. Any expansion of natural gas or installation of a closed propane system must comply with Federal Pipeline Safety guidelines.

Delaware Emergency Management Agency – Contact Don Knox 659-3362

No 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 to keep them apprised of all development activities.

Following receipt of this letter and upon filing of an application with the local jurisdiction, the applicant shall provide to the local jurisdiction and the Office of 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,



Constance C. Holland, AICP

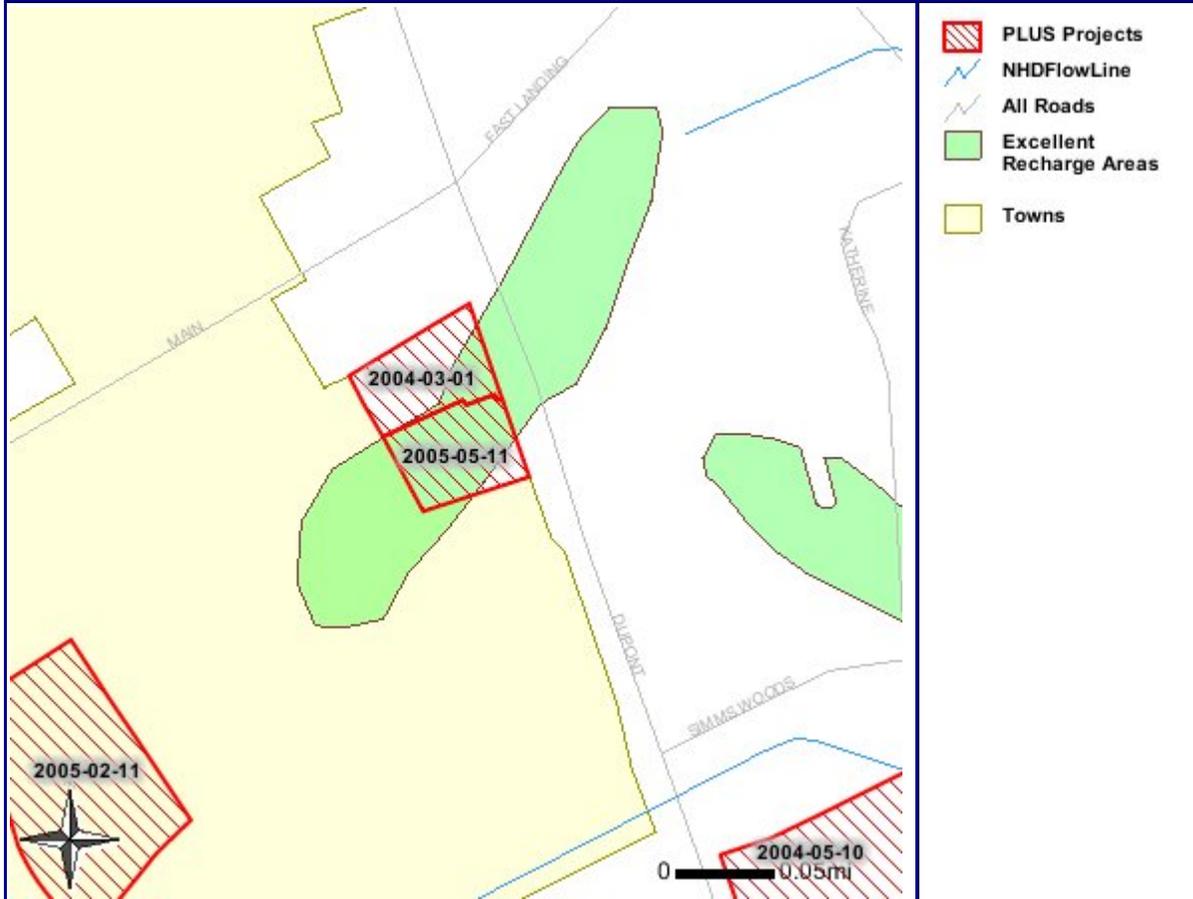
Director

CC: Sussex County



Simon Property

2005-05-11



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

