



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

December 19, 2005

Jos. B. Hicks
33 Keen-Wik Road
Selbyville, De 19975

RE: PLUS review – PLUS 2005-10-02; Hicks/Griswold Property

Dear Mr. Hicks:

Thank you for meeting with State agency planners on November 22, 2005 to discuss the proposed plans for the Hicks/Griswold property located at 33124 Lighthouse Road.

According to the information received, you are seeking a rezoning from residential to commercial for a retail outlet.

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 Sussex 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

- The proposed rezoning is located in an Investment Level 3 area according to the *2004 Strategies for State Policies and Spending* and within the Environmentally Sensitive Developing Area according to the 2003 Sussex County Comprehensive Plan. In these areas, State policies support long term development activities that are consistent with relevant comprehensive plans and sensitive to the environment.

Street Design and Transportation

- Right-of way dedication will be required along the frontage of Route 54.

Natural and Cultural Resources

- The project site is entirely within an excellent recharge area. The portion of new development on the site should not exceed 50% impervious cover.
- The current well is classified as Domestic; however the proposed use is Public/Miscellaneous Public. This well would need to be reclassified to its proposed use by having a licensed well contractor apply for a permit.

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

Office of State Planning Coordination – Contact: Ann Marie Townshend 302-739-3090

The proposed rezoning is located in an Investment Level 3 area according to the *2004 Strategies for State Policies and Spending* and within the Environmentally Sensitive Developing Area according to the 2003 Sussex County Comprehensive Plan. In these areas, State policies support long term development activities that are consistent with relevant comprehensive plans and sensitive to the environment. The Office of State Planning Coordination notes that the C-1 zoning requested is consistent with Table 12 on page 25 of the Sussex County Comprehensive Plan; however, we also note that there is no contiguous commercial zoning and the rezoning would be for the sole benefit for the property owner. The County may want to consider the impact that this will have on contiguous properties that are currently residential.

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

This parcel contains a mid-20th-c. historic house (S-8121), and there are several other historic houses of the same date in the row here. There is only a low potential for a historic-period archaeological site here, but there is a medium potential for prehistoric-period sites in the rear of the parcel.

The owners informed us that the house had been extensively remodeled recently, and have sent photos documenting the current appearance of the house. The alterations clearly make the house no longer eligible for the National Register of Historic Places. Because the owners are planning to use the house as it is and the only alteration to the soils will be the addition of a gravel parking lot in the front, this project will have no effect on any potential sites and no visual effect on the nearby historic houses.

Department of Transportation – Contact: Bill Brockenbrough 760-2109

- 1) Route 54 is classified as a major collector road. 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 DelDOT will require right-of-way dedication along the frontage to provide any additional width needed from this project.
- 2) DelDOT regulates access on the basis of traffic generated by the use of a parcel, not the parcel's zoning. Retail commercial uses vary widely in the amount and types of traffic they generate, and if this property is rezoned to C-1, the use could change from what is now proposed. While Mr. Hicks' present use of the property is apparently not causing a problem, DelDOT will evaluate the situation if the use of the property changes and could require changes to the access, including limiting access along Route 54 and requiring that some or all movements be made by way of Dickerson Road. That could mean requiring the tenant to improve Dickerson Road between Route 54 and West Line Road.
- 3) If the County approves this rezoning, the developer's site engineer should contact Mr. John Fiori, the Subdivision Manager for Sussex County, regarding their specific requirements for access. He may be reached at (302) 760-2260.

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

Soils

Based on the soil survey mapping update, Ingleside and Runclint were mapped on subject parcel. These soils are well-drained to excessively well-drained soils that have few to moderate limitations for development.

Impervious Cover

Based on the information submitted, it is not clear how much impervious cover will be generated by this project. Since the applicant is planning to change the land use from residential to commercial, it is highly likely that significantly more impervious cover will be generated. Since the creation of large amount of additional surface imperviousness is responsible for large increases in contaminant-laden runoff draining into streams and waterways, the applicant is strongly urged to be proactive and pursue both natural and constructed Best Management Practices (BMPs) to reduce such likely future impacts. Reducing the amount of impervious surfaces by planting more trees and/or the use of pervious paving surfaces (“pavers”) in lieu of asphalt or concrete, are examples of ways to reduce such impacts. Research has consistently shown that once a watershed exceeds a threshold of 10 percent imperviousness, water and habitat quality irreversibly decline.

ERES Waters

This project is located adjacent to receiving waters of Little Assawoman Bay 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 5.6 of Delaware’s “Surface Water Quality Standards” (as amended July 11, 2004), 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 5.6.3.5 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

Total Maximum Daily Loads (TMDLs) for nitrogen and phosphorus have been promulgated through regulation for the Little Assawoman Bay watershed. 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 required by federal law, states are charged with developing and implementing standards to support these desired use goals. This project is located in the low reduction area requiring a 40 percent reduction in both nitrogen and phosphorus. Currently, we request that in order to verify your project’s compliance with specified TMDL loading rates, a full nutrient budget be calculated. Please contact Lyle Jones of Watershed Section at 739-4590 for the acceptable protocol. It should be noted that because the submitted application omitted pertinent information (i.e., conceptual lot layout and the post-development project imperviousness) necessary for calculating this parcel’s post-development nutrient loading, the Watershed Assessment Section was unable to make a preliminary assessment of the actual nutrient loading impacts.

Water Resource Protection Areas

The DNREC Water Supply Section has determined that it falls entirely within an excellent recharge area (see following map and attached map). Excellent recharge areas near-surface areas within which precipitation infiltrates the land surface to the unconfined aquifer at a more rapid rate than other areas.

The DNREC Water Supply Section recommends that the portion of the new development within the wellhead protection area not exceed 50% impervious cover. Further, some allowance for augmenting ground-water recharge should be considered if the impervious cover exceeds 20% but is less than 50% of that portion of the parcel within this area. The purpose of an impervious cover threshold is to minimize loss of recharge (and associated increases in storm water) and protect the quality and quantity of ground water and surface water supplies.

This site does not list the impervious cover of the current site or any proposed changes to the impervious cover. If any changes are made the above threshold limits should be taken into account.

For more information refer to the Final: [Source Water Protection Guidance Manual for the Local Governments of Delaware](#):

http://www.wr.udel.edu/publications/SWAPP/swapp_manual_final/swapp_guidance_manual_final.pdf

and

Ground-Water Recharge Design Methodology:

http://www.wr.udel.edu/publications/SWAPP/swapp_manual_final/swapp_guidance_manual_supp_1_final.pdf

In addition, activities that include the storage or disposal of hazardous substances may be prohibited or otherwise regulated by other state regulations. For more information on activities that are regulated please refer to the

http://www.wr.udel.edu/swaphome/phase2/Publications/Existing%20Authorities%2002_02.pdf.

Map of Hicks Griswold Property PLUS 2005-10-02, with excellent recharge in green with affected parcels outlined in light blue.



Water Supply

The project information sheets state that an existing individual on-site well (180500-W) will be used to provide water for the proposed project. The current use of this well is for Domestic purposes; however, the proposed use is for Public/Miscellaneous Public. This well would have to be re-classified to its proposed use by having a licensed well

contractor apply for a permit. The Division of Water Resources will consider applications for the construction and/or re-classification of on-site wells provided the well(s) can be/are constructed and located in compliance with all requirements of the Regulations Governing the Construction and Use of Wells. In this case, a minimum isolation distance of 150 feet is required between the well and any potential source of contamination, such as a septic tank and sewage disposal area. 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

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 as well as construction inspection will be coordinated through Sussex Conservation District. Contact Sussex Conservation District at (302) 856-7219 for details regarding submittal requirements and fees.

A Notice of Intent (NOI) for Stormwater Discharges Associated with Construction Activity must be submitted to DNREC Division of Soil and Water Conservation along with the \$195 NOI fee prior to plan approval.

Applying practices to mimic the pre-development hydrology on the site, promote recharge, maximize the use of existing natural features on the site, and limit the reliance on structural stormwater components, such as maintaining open spaces, should be considered in the overall design of the project as a stormwater management technique. Green Technology BMPs must be given first consideration for stormwater quality management. Each stormwater management facility should have an adequate outlet for release of stormwater.

It is strongly recommended that you contact the reviewing agency to schedule a preliminary meeting to discuss the sediment and erosion control and stormwater management components of the plan. The site topography, soils mapping, pre- and post-development runoff, and proposed method(s) and location(s) of stormwater management should be brought to the meeting for discussion.

Drainage

Though this project is within a tax ditch area it is not involved with tax ditch rights-of-way.

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):

- **The DE State Fire Marshal's Office has no objection to the rezoning of the property.**
- **A permit is required from our office for the occupancy change from single family to business.**
 - 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 SqFt, a fire alarm signaling system which is monitored off-site is required
 - For commercial buildings greater than 10,000 SqFt Class B (2-hour rated) fire barriers are required to subdivide buildings into areas of 10,000 SqFt. 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 Lighthouse Road or Dickerson 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)
- 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, technical services link, plan review, applications or brochures.

Department of Agriculture - Contact: Milton Melendez 698-4500

Neither the Delaware Department of Agriculture nor The Delaware Forest Service has any objections to the Hicks Griswold application. The site is located on a long-range designated controlled development area. The *Strategies for State Policies and Spending* encourages environmentally responsible development in areas within a Investment Level 3 area. We request that you consider limiting impervious cover as much as possible when designing this site. This site is a part of a “good recharge” area. The State of Delaware has mapped all ground water potential recharge areas. A “good” rating is the second highest rating and designates an area as having important groundwater recharge qualities. Maintaining pervious cover in “Excellent” and “Good” recharge areas is crucial for the overall environmental health of our state and extremely important to efforts which ensure a safe drinking water supply for future generations. Retention of pervious cover to ensure an adequate future water supply is also important for the future viability of agriculture in the First State. The loss of every acre of land designated as “excellent” and “good” recharge areas adversely impacts the future prospects for agriculture in Delaware.

Right Tree for the Right Place

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

Native Landscapes

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

Tree Mitigation

The Delaware Forest Service encourages the developer to implement a tree mitigation program to replace trees at a 1:1 ratio within the site and throughout the community. This will help to meet the community's forestry goals and objectives and reduce the environmental impacts to the surrounding natural resources. To learn more, please contact our offices at (302) 349-5754.

Public Service Commission - Contact: Andrea Maucher 739-4247

If water services are needed for this project, it is within the certificated area for Artesian Water.

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.

Sussex County – Contact: Richard Kautz 302-855-7878

The application appears to be to the sole benefit of one property owner and to the detriment of adjacent residential properties because there are no contiguous commercially zoned properties and the Comprehensive Plan does not clearly anticipate commercial zoning in this area.

Per page 15 of the Comprehensive Plan, "any increased density by rezoning should only be permitted with proper environmental safeguards." Because this project is situated in an Environmentally Sensitive Development Area, the required report should include how this requirement and the PLUS comments have been addressed and how the plan has been revised accordingly. In particular, mitigating impact on the excellent recharge area should be addressed.

The Sussex County Engineer Comments:

The proposed property is within the South Coastal Area Planning Study (SCAPS) boundary, West Fenwick Planning Area. The SCAPS report allocated 5.12 EDUs based on 1.28 acres; this corresponds to 15,360 square feet of retail space. Any retail proposal should be limited to this amount of space. The Sussex County Engineering Department will object to any use of the property, which exceeds this density. The Sussex County Engineering Department currently has no schedule to provide service to this parcel.

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".

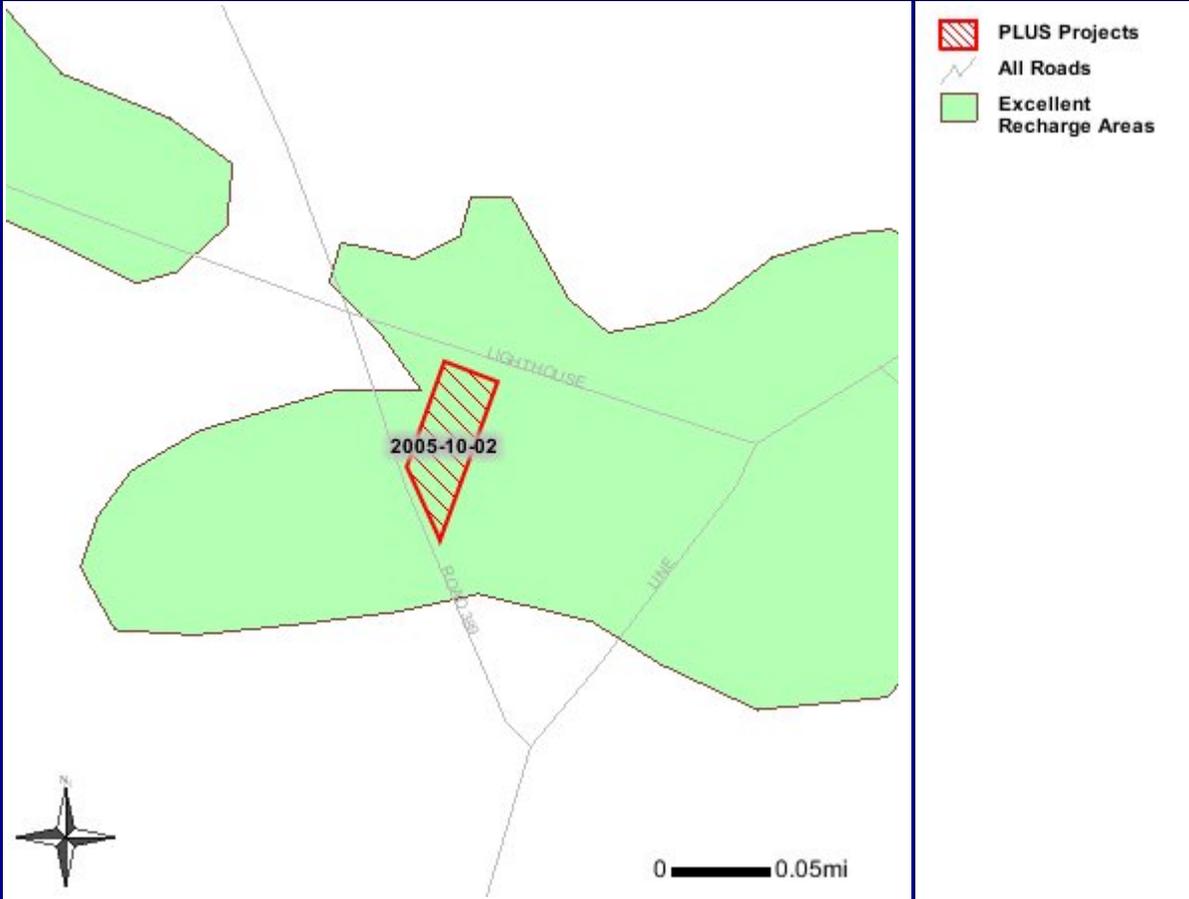
Constance C. Holland, AICP
Director

CC: Sussex County



Hicks Griswold Property

2005-10-02



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

