



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

February 10, 2006

Greg Moore
Becker Morgan Group
309 S. Governors Avenue
Dover, De 19904

RE: PLUS review – PLUS 2006-01-01; Big Oak Commercial

Dear Mr. Moore:

Thank you for meeting with State agency planners on January 25, 2006 to discuss the proposed plans for the Big Oak Commercial project to be located southwest of the intersection of Brenford Road and Route 13.

According to the information received, you are seeking rezoning of 7.5 acres of the 19.5 acre site from AC to BN for an unknown commercial use. This PLUS review is for both the rezoning application and the comprehensive plan amendment that will be required should Levy Court choose to rezone this property.

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

Executive Summary

The following section includes some site specific highlights from the agency comments found in this letter. This summary is provided for your convenience and reference. The

full text of this letter represents the official state response to this project. ***Our office notes that the applicants are responsible for reading and responding to this letter and all comments contained within it in their entirety.***

State Strategies/Project Location

- This rezoning is located in Investment Level 2 according to the *State Strategies for Policies and Spending*. This site is also located in the Kent County Growth Zone. Investment Level 2 reflects areas where growth is anticipated by local, county, and State plans in the near term future. State investments will support growth in these areas. Our office has no objections to the proposed rezoning of this parcel in accordance with the relevant County codes and ordinances.

Street Design and Transportation

- DelDOT has been working with developers in the Brenford Road area, including the applicant, to develop and implement plans for the improvement of Brenford Road, including the intersection of US Route 13 and Brenford Road. DelDOT will be relying on the applicant to provide right-of-way and funding for some of those improvements. More information on those improvements is available from our Subdivision Engineer, Mr. Marc Cote'. He may be reached at (302) 760-2165.
- DelDOT anticipates requiring that the development of this parcel include a connector road, providing the Wick parcel (Tax Parcel DC-00-028.00-01-25.00-00001) with access to and from Brenford Road. The Subdivision Section has discussed this requirement with the developer before.
- Normally, DelDOT would recommend that the County require a traffic impact study (TIS) for a commercial rezoning of the size proposed. In this case, however, several studies have already analyzed the intersections that would be most affected by the development of the subject lands and plans are under development for their improvement. Therefore, while they may require some capacity analyses as the plans are further developed, they do not see a need for a TIS for this rezoning. If a plan is presented for the development of a shopping center, office complex or similar commercial use involving an assemblage of this parcel and others, they will evaluate the need for a TIS at that time.

The following are a complete list of comments received by State agencies. It should be noted that although this meeting was specifically targeted towards the rezoning because no site plan has been completed, many of the following comments relate to restrictions for any future building on this site.

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

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

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

Nothing is known on this parcel. Beers Atlas of 1868 shows the J. K. Johns Tenant House on or very close to this parcel. There is a small area of medium potential for prehistoric-period archaeological sites, while the rest of the parcel has low potential. The J. K. Johns House (K-3860) is across Brenford Rd. and to the west of this parcel, although it may have been demolished recently as part of the development of that area.

The DHCA would appreciate an opportunity to check this parcel to see if there are in fact any archaeological sites on it and to learn something about their location, nature, and extent prior to any ground-disturbing activities.

Department of Transportation – Contact: Bill Brockenbrough 760-2109

- 1) DelDOT has been working with developers in the Brenford Road area, including the applicant, to develop and implement plans for the improvement of Brenford Road, including the intersection of US Route 13 and Brenford Road. DelDOT will be relying on the applicant to provide right-of-way and funding for some of those improvements. More information on those improvements is available from our Subdivision Engineer, Mr. Marc Cote'. He may be reached at (302) 760-2165.
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- 4) If the proposed rezoning is approved, the developer's site engineer should contact our project manager for Kent County, Mr. Brad Herb, regarding our specific requirements for access and road improvements. Mr. Herb may be reached at (302) 266-9600.

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

Soils

According to the Kent County soil survey, Sassafras was the only soil type mapped on subject parcel. Sassafras is a well-drained upland soil that, generally, has few limitations for development.

Impervious Cover

Research has consistently shown that once a watershed exceeds a threshold of 10 percent imperviousness, water and habitat quality irreversibly decline. Based on analyses of 2002 aerial photography by the University of Delaware, the Leipsic River and Smyrna River watersheds, at that time, had about 5.1 and 9.5 percent impervious cover, respectively. Although this data is almost 4 years old and likely an underestimate, it illustrates the importance of a proactive strategy to mitigate for predictable and likely cumulative environmental impacts. Since the amount of imperviousness generated by this project is likely to be significantly above the desirable watershed threshold of 10 percent in both watersheds, the applicant is strongly advised to pursue best management practices (BMPs) that mitigate or reduce some of the most likely adverse impacts. Reducing the amount of surface imperviousness through the use of pervious paving materials (“pervious pavers”) in lieu of asphalt or concrete in conjunction with an increase in forest cover via additional tree plantings are examples of practical BMPs that could easily be implemented to help reduce surface imperviousness.

The applicant should be made aware that all forms of constructed surface imperviousness (i.e., rooftops, sidewalks and roads) should be included in the impervious surface cover calculations upon the completion of the finalized design plans; otherwise, an inaccurate assessment of this project's true environmental impacts will be made.

TMDLs

A Total Maximum Daily Load (TMDL) is the maximum level of pollution for which a water quality limited water body can assimilate without compromising use and recreational goals such as swimming, fishing, drinking water, and shellfish harvesting. Although TMDLs as a "pollution runoff mitigation strategy" to reduce nutrient loading have not yet been developed for the Smyrna and Leipsic River watersheds to date, work is continuing on their development and they should be completed by December 2006. Therefore, until the 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 degradative impacts that might be associated with this project. Reducing imperviousness, planting/preservation of trees, maintaining a 100-foot upland buffer widths between lot parcel lines and wetlands and streams (if applicable), and the use of "green technology" stormwater management techniques are some examples of proactive mitigative strategies that will help reduce excessive nutrient runoff from this development and its impacts on water quality, while ensuring State compliance with imminent Federal TMDL regulatory requirements.

Water Supply

The project information sheets state water will be provided to the project by Tidewater Utilities via a central water system. Records indicate that the project is located within the public water service area granted to Tidewater Utilities under Certificate of Public Convenience and Necessity PSC-1464.

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.

Nuisance Waterfowl

If stormwater management ponds are planned they 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. DNREC recommends 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.

Underground Storage Tanks

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

Willis Oldsmobile GMC Inc., Facility # 1-000031

Paradise Florist, Facility # 1-000538, Project # K8603019

No environmental impact is expected from the above inactive/active LUST site(s). However, should any underground storage tank or petroleum contaminated soil be discovered during construction, the Tank Management Branch must be notified as soon as possible. It is not anticipated that any construction specifications would be need to be changed due to petroleum contamination. However, should any unanticipated contamination be encountered and PVC pipe is being utilized, it will need to be changed to ductile steel with nitrile rubber gaskets in the contaminated areas

State Fire Marshal's Office – Contact: John Rossiter 739-4394

These comments are intended for informational use only and do not constitute any type of approval from the Delaware State Fire Marshal's Office. At the time of formal submittal, the applicant shall provide; completed application, fee, and three sets of plans depicting

the following in accordance with the Delaware State Fire Prevention Regulation (DSFPR):

- a. **Fire Protection Water Requirements:**
 - 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 and Business)
 - 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.

- 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 Brendford 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, technical services link, plan review, applications or brochures

Department of Agriculture - Contact: Milton Melendez 698-4500

The Delaware Department of Agriculture has no objections to the Big Oak Commercial application. The site is located on a controlled development area. The *Strategies for State Policies and Spending* encourages environmentally responsible development in areas within a Growth Level 2 Zone.

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.

Public Service Commission - Contact: Andrea Maucher 739-4247

Any expansion of natural gas or installation of a closed propane system must fall within Pipeline Safety guidelines. Contact: Malak Michael at (302) 739-4247.

Department of Education – Contact: John Marinucci 739-4658

The Department of Education has not objections to this rezoning request.

Following receipt of this letter and upon filing of an application with the local jurisdiction, the applicant shall provide to the local jurisdiction and the Office of State Planning Coordination a written response to comments received as a result of the pre-application process, noting whether comments were incorporated into the project design or not and the reason therefore.

Thank you for the opportunity to review this project. If you have any questions, please contact me at 302-739-3090.

Sincerely,

A handwritten signature in cursive script that reads "Constance C. Holland".

Constance C. Holland, AICP
Director

CC: Kent County
Town of Smyrna