



April 13, 2006

Mr. Denis Hulme
Woodin & Associates
5177 West Woodmill Drive
Wilmington, DE 19808

RE: PLUS review – PLUS 2006-03-07; Allen Property

Dear Mr. Hulme:

Thank you for meeting with State agency planners on March 22, 2006 to discuss the proposed plans for the Allen Property project to be located on the South side of Route 301, north of Levels Road, near Middletown.

According to the information received, you are seeking a rezoning of 5.12 acres from SR to C-3 to permit you to use the current house as office space.

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 Middletown 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

- This project is located in Investment Level 2 according to the State Strategies for Policies and Spending, and as such the State supports development in this area.

Street Design and Transportation

- The traffic modeling for Westown master plan assumed that the subject property would remain in residential use. However, given the relatively small size of the parcel, DelDOT would not anticipate the rezoning and commercial development of it to have significant traffic impacts beyond the site access. In that regard, the best way to minimize those impacts would be to connect the subject property to the internal streets in the surrounding Kohl Property and to eliminate the subject property's direct access on Route 301.

Natural and Cultural Resources

- Mrs. Allen informed the applicants that Hedgelawn has already been documented by the University of Delaware. It is recommended that any outbuildings that will be demolished and/or plantings that will be removed be documented as well prior to any demolition activity. It is also recommend that the commercial and industrial development around Hedgelawn be placed away from the house as far as possible, and that it be screened from the house by landscaping. Since this property will be annexed into the Town of Middletown, it is recommended that Middletown consider this property's historic significance and protect it during the development process.
- Any additional buildings may change the impervious cover of the site. Ideally, relocating any open space areas to the part of the parcel within the excellent ground-water recharge area would decrease the total impervious area. Augmenting the groundwater recharge with clean rooftop run-off systems are another alternative to maintaining the quality and quantity of water recharging the aquifer.

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

Office of State Planning Coordination – Contact: Herb Inden 739-3090

As we understand the project you will be seeking to have the property annexed into the Town of Middletown and having it commercially zoned. Furthermore, we understand that your plans are to adaptively reuse the property, integrating it into the surrounding land under your control. We support the project as we understand it, especially as it will eliminate and enclave and maintain a historically significant building through adaptive reuse.

Looking at the Town's recently adopted comprehensive plan, it appears that the subject property is shown as residential in their future land use map. If this is the case, than the Town will have to follow the procedures for amending their comprehensive plan to allow for the commercial zoning of this property.

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

This rezoning is for a parcel containing Hedgelawn (N-118; the William B. Cochran House) and is entirely listed in the National Register of Historic Places. It is understood that the main house will be kept and adaptively re-used for offices. Some of the outbuildings seem to have been left out of this parcel when it was subdivided, but they are also included in the National Register listing. The farm's fields have now been zoned for commercial and industrial uses, and this property will be accessed from the rear or side through those developments. This will help protect the historic view of Hedgelawn from the road. In addition, the storm water from this property will be directed to the systems on the surrounding development. This will also help protect the historic landscape around the building.

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There are federal and state tax credits available for the rehabilitation of properties listed in the National Register. Because this will be an income-producing property, it would be eligible for both federal and state credits, which could allow the owner to recover up to

40% of the rehabilitation costs. If the plans change and the property remains in residential use, it would be eligible for a 20% credit under the state program. The Division of Historic and Cultural Affairs would be happy to discuss these issues with the new owner. The contact person for this program is Joan Larrivee, 302-736-7400.

Small, rural, family cemeteries often are found in relation to historic farm complexes, such as Hedgelawn, usually a good distance behind or to the side of the house. They do not expect any burials on this small parcel around the house, but the developer of the farmland around Hedgelawn should be aware of Delaware's Unmarked Human Remains Act of 1987, which governs the discovery and disposition of such remains. The unexpected discovery of unmarked human remains during construction can result in significant delays while the process is carried out. The DHCA will be happy to discuss these issues with the developer; the contact person for this program is Faye Stocum, 302-736-7400.

Department of Transportation – Contact: Bill Brockenbrough 760-2109

- 1) The proposed annexation would eliminate an enclave of land under County jurisdiction but surrounded by the Town. For that reason, DelDOT supports it as being consistent with their policy on municipal annexations.
- 2) The traffic modeling for Westown master plan assumed that the subject property would remain in residential use. However, given the relatively small size of the parcel, DelDOT would not anticipate the rezoning and commercial development of it to have significant traffic impacts beyond the site access. In that regard, the best way to minimize those impacts would be to connect the subject property to the internal streets in the surrounding Kohl Property and to eliminate the subject property's direct access on Route 301. They understand that substantially the same developer now has both the subject land and the surrounding Kohl Property under option, so the Town should be able to require such an arrangement. DelDOT recommends that they do so.
- 3) The Draft Environmental Impact Statement for DelDOT's project to improve US Route 301 includes one alternative that would impact the subject property. That alternative, known as the Yellow Alternative, is to widen the road on its existing alignment. It would involve taking a strip of right-of-way along the property frontage and relocating the fence located there. DelDOT's is to identify preferred alternative by the end of 2006. If the Yellow Alternative is selected, they will begin developing plans, and better defining those right-of-way impacts, then.

- 4) When a plan for the property is proposed, the developer's site engineer should contact Mr. Pao Lin, the Subdivision Manager for New Castle County, regarding the specific requirements for access if the proposed access is not through the Kohl Property. He may be reached at (302) 760-2157.

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

General Comment

DNREC has no objection to the proposed rezoning. Our comments are offered as if the property were to be developed.

Water Resource Protection Areas

The DNREC Water Supply Section has determined that it falls wholly within an excellent ground-water recharge area (see attached map). Excellent Ground-Water Recharge Areas are those areas mapped by the Delaware Geological Survey where the first 20 feet of subsurface soils and geologic materials are exceptionally sandy. As such, these soils are able to transmit water very quickly from the land surface to the water table. Consequently, ground water in these areas may very readily be adversely affected by land use activities or impervious cover.

The DNREC Water Supply Section recommends the new development within the excellent ground-water recharge area not exceed 20% impervious cover. 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. However, the development should not exceed 50% regardless. A water balance calculation will be necessary to determine the quantity of clean water to be recharged via a recharge basin. 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.

Any additional buildings may change the impervious cover of the site. Ideally, relocating any open space areas to the part of the parcel within the excellent ground-water recharge area would decrease the total impervious area. Augmenting the groundwater recharge with clean rooftop run-off systems are another alternative to maintaining the quality and quantity of water recharging the aquifer.

In addition, because the excellent ground water recharge area can so quickly affect the underlying aquifer if contaminants are spilled or discharged across the area, the storage of hazardous substances or wastes should not be allowed within the area unless specific approval is obtained from the relevant state, federal, or local program.

For more information refer to the Final Source Water Protection Guidance Manual for the Local Governments of Delaware

<http://www.wr.udel.edu/swaphome/phase2/SWPguidancemanual.html>

and

Ground-Water Recharge Design Methodology

http://www.wr.udel.edu/swaphome/phase2/Publications/swapp_manual_final/swapp_guidance_manual_supp_1_2005_05_02.pdf.

For more information contact John Barndt, Source Water Protection (302) 739-9945

Water Supply

The information provided indicates that the Town of Middletown will provide water to the proposed annexation project(s) through a central public water system. Our files reflect that the Town of Middletown does not currently hold a certificate of public convenience and necessity (CPCN) to provide public water in these areas. According to Senate Bill 135 that was signed on June 30, 2003, by Governor Minner, the municipality is required to give notice to the Public Service Commission when the annexation is complete. Information on CPCN requirements and applications can be obtained by contacting the Public Service Commission at (302) 739-4247.

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.

State Fire Marshal's Office – Contact: John Rossiter 323-5365

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):

❖ *This Agency has no objection to the re-zoning request. The information provided below shall be considered when plans are being designed.*

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)
- 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 or 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 Middletown-Warwick 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 Allen Property application. The *Strategies for State Policies and Spending* encourages responsible

development in areas within a Level 2 area. This site is part of an “excellent recharge” area. DNREC has mapped all ground water potential recharge areas. An “excellent recharge” rating is the 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.

In addition, the Department encourages the developer to preserve the many trees located within this site to preserve the historic character of this parcel. To achieve this the Department encourages the developer to consider the following:

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.

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: Town of Middletown
New Castle County