



October 26, 2006

Mr. John Barwick
Meridian Architects & Engineers
26412 Broadkill Road
Milton, DE 19968

RE: PLUS review – PLUS 2006-09-06; I.G. Burton

Dear Mr. Barwick:

Thank you for meeting with State agency planners on October 3, 2006 to discuss the proposed plans for the IG Burton project to be located on the northeast side of Tub Mill Pond Road near its intersection with Route 1.

According to the information received, you are seeking rezoning of 3.74 +/- acres from AC to BG for the expansion of an existing auto sales operation. 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 Levels 1 and 2 according to the *State Strategies for Policies and Spending*. This site is also located in the Kent County Growth Zone. Investment Levels 1 and 2 reflect 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

- Tub Mill Pond Road is classified as a local road. DelDOT's policy is to require dedication of sufficient land to provide a minimum right-of-way width of 30 feet from the centerline on local roads. Therefore we will require right-of-way dedication along the frontage. DelDOT would also request that the applicant work with DelDOT to make geometric improvements to Tub Mill Pond Road as part of their expansion plans. The applicant's site engineer should contact the manager for Kent County, Mr. Brad Herb, regarding specific requirements for access. Mr. Herb may be reached at (302) 266-9600.

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

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

According to the information received, you are seeking rezoning of 3.74 +/- acres from AC to BG for the expansion of an existing auto sales operation. 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.

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 Levels 1 and 2 according to the *State*

Strategies for Policies and Spending. This site is also located in the Kent County Growth Zone. Investment Levels 1 and 2 reflect 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 Historical and Cultural Affairs – Contact: Alice Guerrant 739-5685

Nothing is known within this parcel. There is a medium to high potential for prehistoric-period archaeological sites in the field next to the woods. There is only a low probability in the wooded area due to the wet soils. There are two historic properties within sight of this parcel, a late-19th-century agricultural complex (K-4809) and a historic church (K-4808) across the field on Tubmill Pond Rd.

I understand that Kent County will require a landscaped barrier between commercial and agricultural areas. This will block any adverse visual and noise effects on the nearby historic properties. The DHCA would appreciate an opportunity to check the area for any archaeological sites and learn something about their location, nature, and extent prior to any ground-disturbing activities.

Department of Transportation – Contact: Bill Brockenbrough 760-2109

DelDOT has already commented to Kent County that a traffic impact study need not be required for this rezoning.

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

Soils

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

Impervious Cover

Based on a review of the PLUS application, post-development surface imperviousness is estimated to be about 5 percent. However, given the scope and density of this project, said estimate is obviously an **underestimate**. The applicant should recognize that all forms of constructed surface imperviousness (i.e., rooftops, sidewalks, parking lots and roads) should be accounted for when calculating surface imperviousness, otherwise an inaccurate assessment of this project's environmental impacts is inevitable. It is strongly advised that this figure be recalculated to accurately reflect these concerns.

Since studies link increases in impervious cover to decreases in water quality, the applicant is strongly encouraged to pursue best management practices (BMPs) that can 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 preservation or additional tree plantings are some examples of practical BMPs that could easily be implemented to reduce surface imperviousness.

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 shell fish harvesting. Compliance with TMDL nutrient loading reduction requirements will ultimately be assessed via nutrient budget protocol, a computer-based model that quantifies post-development nutrient loading under a variety of land use scenarios in combination with a variety (or absence) of BMP types and intensities. This post-development loading rate is then compared with the pre-development loading rate as a means to assess whether the project meets the acceptable TMDL reduction levels. Although TMDLs have not yet been finalized for the Mispillion River watershed to date, the applicant should be made aware that they will be available in the near future (before December 2006), and may be applicable to this project given the large backlog of other projects pending County

review. It is strongly advised, therefore, that the applicant be proactive and employ best management practices (BMPs) and Best Available Technologies (BATs) as methodological mitigative strategies to reduce the likely degradative impacts associated with this development, and help ensure that this development meets imminent TMDL nutrient reduction targets. Examples of BMPs or BATs that should be used to significantly reduce nutrient loading from this project, include practices that prevent, mitigate or minimize created surface imperviousness, maintenance of recommended wetland buffer widths (100 feet), and the use of innovative “green-technology” stormwater methodologies rather than conventional open-water stormwater management structures. We suggest that the applicant periodically contact our office regarding the status of the nutrient budget protocol and obtain it as soon as possible. When it becomes available, we suggest that the applicant then verify their project’s compliance with the specified TMDL loading rates by running the model themselves. The contact person for obtaining and/or assistance with the nutrient budget protocol assistance is Lyle Jones at 739-9939.

Water Supply

The information provided indicates that The City of Milford will provide water to the proposed projects through a central public water system. Our files reflect that The City of Milford does not currently hold a certificate of public convenience and necessity (CPCN) to provide public water in these areas. They will need to file an application for a CPCN with the Public Service Commission, if they have not done so already. 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.

Sediment and Erosion Control/Stormwater Management

A detailed Sediment and Stormwater Management Plan must be approved by our office prior to any land disturbing activity (i.e. clearing, grading, filling, etc.) over 5000 square feet.

Drainage

The Drainage Program requests that the engineer take precautions 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. The Drainage Program requests that the engineer check existing ditches and pipes for function and blockages prior to the construction. Notify downstream landowners of the change in volume of water released on them. For questions or clarifications, please contact Jim Sullivan at 739-9921.

Rare Species

A review of the database indicates that there are currently no records of state-rare or federally listed plants, animals or natural communities at or adjacent to this project site. However, the following rare species occur in Tubmill Pond:

Carex mitchelliana (Mitchell's sedge), *Eleocharis equisetoides* (horse-tail spike-rush), *Juncus pelocarpus* (brown-fruited rush), *Rhynchospora alba* (white beak-rush), *Enneacanthus chaetodon* (blackbanded sunfish), *Notropis chalybaeus* (ironcolor shiner)

These species as well as other aquatic life within the pond could be detrimentally affected if the pond receives stormwater run-off from this site as indicated on the application (question #32). The Division of Fish and Wildlife is opposed to using any publicly-owned, State-managed pond as an outlet for stormwater. The pond could potentially receive excess nutrients and chemicals that would degrade water quality and could kill aquatic life. The State should not have to utilize staff and funding to resolve problems caused by private entities (with no benefit to the public overall) when it could have been avoided. We strongly suggest that the applicant find another outlet for the stormwater generated by this project during and after construction or utilize a method that will not result in stormwater inputs into Tubmill Pond.

Underground Storage Tanks

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

Milford Motors Toyota, Facility # 1-000006, Project # K9608149
Shore Stop # 61, Facility # 1-000218, Project # K9602035

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 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

The State Fire Marshal's Office has no objection to the re-zoning request. The information provided below shall be considered when plans are being designed.

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 or more, 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 Bay 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: Scott Blaier 698-4500

The Delaware Department of Agriculture has no objections to the proposed application. The *Strategies for State Policies and Spending* encourages environmentally responsible development in areas in Investment Levels 1 and 2.

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,



Constance C. Holland, AICP
Director

CC: Kent County
City of Milford