



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

November 17, 2006

Jessica Nichols
Meridian Architects & Engineers
26412 Broadkill Road
Milton, DE 19968

RE: PLUS review – PLUS 2006-10-07; Laurel Commercial Property

Dear Ms. Nichols:

Thank you for meeting with State agency planners on October 25, 2006 to discuss the proposed plans for the Laurel Commercial Property project to be located near the intersection of DE Route 13 and SCR 468 (Discount Land Road) in Laurel.

According to the information received, you are seeking site plan approval through the City of Laurel for a 93,600 square foot commercial office and retail building on 16.65 acres.

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 the Town of Laurel 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 rezoning is located in Investment Level 2 according to the *State Strategies for Policies and Spending*. This site is also located within the Town of Laurel. 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 Town codes and ordinances.

Street Design and Transportation

- A traffic impact study (TIS) will be required for this development. The scope was set in October 2006. When DelDOT receives the completed TIS they will review it and send recommendations to the Town regarding off-site improvements that should be required of the developer. DelDOT requests that the Town withhold plan approvals pending receipt of those recommendations.
- Route 13 is a principal arterial highway and Discount Land Road is a local road. 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 principal arterial roads (or from the centerline if the road is not divided) and 30 feet from the centerline on local roads. Therefore DelDOT will require right-of-way dedication along the frontage to provide any additional width needed from this project.
- Route 13 is one of four roads that are subject to DelDOT's Corridor Capacity Preservation Program (CCPP). The CCPP seeks to maintain the through capacity certain arterial highways through the management of access along them.
- There is a much larger development, known as Discovery, proposed to the northeast of the subject land. While the TIS is still in progress for that development, DelDOT has identified that they would need to widen Discount Land Road from Route 13 to their site access. Depending on the relative speed at which the subject development and Discovery progress, DelDOT may require the developer of this project to improve a portion of Discount Land Road consistent with what will be required of Discovery, or to contribute a fair share to Discovery's road improvement costs.

Natural and Cultural Resources

- Based on Statewide Wetland Mapping Project (SWMP) mapping, palustrine forested wetlands were mapped in the extreme northern portion of subject parcel(s). Wetlands provide water quality benefits, attenuate flooding and provide important habitat for plants and wildlife. The developer should maintain a 100-foot vegetated buffer from the wetlands. There should not be any buildings or associated infrastructure within the buffer.
- Based on information provided in the PLUS application, post-development surface imperviousness is estimated to be at least 66.9 percent. The Watershed Assessment Section strongly believes that this is excessive and should be reduced.
- 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. It is recommended that trees not be removed April 1st to July 31st to minimize impacts to nesting birds and other wildlife species that utilize trees for breeding.

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

Office of State Planning Coordination – Contact: Bryan Hall 739-3090

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

Nothing is known within this parcel. There is a medium potential for a prehistoric-period archaeological site adjacent to the woods in the northwest of the parcel. Beers Atlas of 1868 shows the Horsey & Moore House in the extreme southern corner of the parcel. This site may very well have been destroyed by the construction of Rt. 13.

Small, rural, family cemeteries often are found in relation to historic farm complexes, such as the Horsey & Moore House, usually a good distance behind or to the side of the house. The developer 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, and the developer may want to hire an archaeological consultant to check for the possibility of a cemetery here. The DHCA would have to have a copy of any archaeological report done for this purpose. They will be happy to discuss these issues with the developer; the contact person for this program is Faye Stocum, 302-736-7400.

The DHCA would appreciate the opportunity to examine the area for a possible prehistoric-period archaeological site, to learn something about its location, nature, and extent prior to any ground-disturbing activities.

Department of Transportation – Contact: Bill Brockenbrough 760-2109

- 1) A traffic impact study (TIS) will be required for this development. The scope was set in October 2006. When DelDOT receives the completed TIS they will review it and send recommendations to the Town regarding off-site improvements that should be required of the developer. DelDOT requests that the Town withhold plan approvals pending receipt of those recommendations.
- 2) Route 13 is a principal arterial highway and Discount Land Road is a local road. 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 principal arterial roads (or from the centerline if the road is not divided) and 30 feet from the centerline on local roads. Therefore DelDOT will require right-of-way dedication along the frontage to provide any additional width needed from this project.
- 3) Route 13 is one of four roads that are subject to DelDOT's Corridor Capacity Preservation Program (CCPP). The CCPP seeks to maintain the through capacity certain arterial highways through the management of access along them.

The developer's site engineer has already contacted DelDOT's project manager for the CCPP, Mr. Charles Altevogt to determine how the CCPP might affect their project. DelDOT appreciates the effort in that regard. DelDOT recommends that they maintain that contact as the plan development process continues.

- 4) DelDOT is pleased to see that there appears to be a stub driveway proposed for a future connection to the Wilgus & Johnson, LLC property (Tax Parcel 2-32-6.00-38.00). They recommend that one also be provided for a future connection to the Charles E. and Carol F. James property (Tax Parcel 2-32-12.00-63.02).
- 5) There is a much larger development, known as Discovery, proposed to the northeast of the subject land. While the TIS is still in progress for that development, DelDOT has identified that they would need to widen Discount Land Road from Route 13 to their site access. Depending on the relative speed at which the subject development and Discovery progress, DelDOT may require the developer of this project to improve a portion of Discount Land Road consistent with what will be required of Discovery, or to contribute a fair share to Discovery's road improvement costs.
- 6) The Delaware Transit Corporation (DTC, operating as DART First State) presently provides service to the Laurel area through its Route 212, which runs six round trips daily, Monday through Friday, between Laurel and Georgetown by way of Seaford and Bridgeville. Accordingly we ask that the developer provide an 8-foot by 8-foot concrete bus stop pad, pedestrian access from the road to the retail area, and sidewalks along Discount Land Road. These improvements would need to be coordinated with the improvements mentioned in item 5 above. The developer's site engineer should contact Ms. Lisa Collins, a DTC Service Development Planner, regarding the location and design of these improvements. Ms. Collins may be reached at (302) 576-6067.
- 7) The developer's site engineer should contact the DelDOT Subdivision Manager for Sussex County, Mr. John Fiori, regarding specific requirements for road improvements and access. Mr. Fiori may be reached at (302) 760-2157.

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

Soils

According to the Sussex County soil survey update, Pepperbox-Rosedale complex and Hurlock were mapped on subject parcel. Pepperbox-Rosedale complex is a moderately well to well-drained soil that has moderate limitations for development. Hurlock is a poorly-drained wetland associated (hydric) soil that has severe limitations for development.

Wetlands

Based on Statewide Wetland Mapping Project (SWMP) mapping, palustrine forested wetlands were mapped in the extreme northern portion of subject parcel(s). Wetlands provide water quality benefits, attenuate flooding and provide important habitat for plants and wildlife. The developer should maintain a 100-foot vegetated buffer from the wetlands. There should not be any buildings or associated infrastructure within the buffer.

Impacts to Palustrine wetlands are regulated by the Army Corps of Engineers through Section 404 of the Clean Water Act. In situations where the applicant believes that the delineated wetlands on their parcel are nonjurisdictional isolated wetlands, the Corps must be contacted to make the final jurisdictional assessment. They can be reached by phone at 736-9763.

In addition, individual 404 permits and certain Nationwide Permits from the Army Corps of Engineers also require 401 Water Quality Certification from the DNREC Wetland and Subaqueous Land Section and Coastal Zone Federal Consistency Certification from the DNREC Division of Soil and Water Conservation, Delaware Coastal Programs Section. Each of these certifications represents a separate permitting process.

Because there is strong evidence that federally regulated wetlands exist on site, a wetland field delineation, in accordance with the methodology established by the Corps of Engineers Wetlands Delineation Manual, (Technical Report Y-87-1) should be conducted. Once complete, this delineation should be verified Corps of Engineers through the Jurisdictional Determination process.

To find out more about permitting requirements, the applicant is encouraged to attend a Joint Permit Process Meeting. These meetings are held monthly and are attended by federal and state resource agencies responsible for wetland permitting. Contact Denise Rawding at (302) 739-9943 to schedule a meeting.

Impervious Cover

Based on information provided in the PLUS application, post-development surface imperviousness is estimated to be at least 66.9 percent. The Watershed Assessment Section strongly believes that this is excessive and should be reduced. Studies link increases in impervious cover to decreases in water quality, therefore, 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.

ERES Waters

This project is located adjacent to receiving waters of the greater Nanticoke River 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 pollutants through implementation of Best Management Practices (BMPs). Moreover, provisions defined in subsection 5.6.3.5 of same section, specially authorize the Department to mandate BMPs to meet standards for controlling the addition of pollutants and reducing them to the greatest degree achievable and, where practicable, implementation of a standard requiring no discharge of pollutants.

TMDLs

Total Maximum Daily Loads (TMDLs) for nitrogen and phosphorus have been promulgated through regulation for the Deep Creek 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. In the greater Nanticoke watershed, "target-rate-nutrient reductions" of 30 and 50 percent will be required for nitrogen and phosphorus, respectively.

TMDL Compliance through the Pollution Control Strategy (PCS)

As indicated above, Total Maximum Daily loads (TMDLs) for nitrogen and phosphorus have been proposed for the Deep Creek watershed. The TMDL calls for a 30 and 50% reduction in nitrogen and phosphorus from baseline conditions. A pollution control strategy will be used as a regulatory framework to ensure that these nutrient reduction targets are attained. The Department has developed an assessment tool to evaluate how your proposed development may reduce nutrients to meet the TMDL requirements. Additional nutrient reductions may be possible through the implementation of Best Management Practices such as wider vegetated buffers along watercourses, increasing

passive, wooded open space, using enhanced nutrient removal wastewater technologies, and the use of stormwater management treatment trains. Contact Lyle Jones at 302-739-9939 for more information on the assessment tool.

Water Supply

The information provided indicates that The Town of Laurel will provide water to the proposed projects through a central public water system. DNREC files reflect that The Town of Laurel 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 an on-site public well be needed, it must be located at least 150 feet from the outermost boundaries of the project. The Division of Water Resources will consider applications for the construction of on-site wells provided the wells can be constructed and located in compliance with all requirements of the Regulations Governing the Construction and Use of Wells. 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.

Potential Contamination Sources exist in the area, and any well permit applications will undergo a detailed review that may increase turnaround time and may require site specific conditions/recommendations. In this case, there is an Underground Storage Tank called Laurel Save within 1000 feet of the proposed project.

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 the Sussex Conservation District. Contact the 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 the 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

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.

The Drainage Program does not support the removal of trees for the creation of stormwater management areas.

For questions or clarifications, please contact Jim Sullivan at (302) 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. It is recommended that trees not be removed April 1st to July 31st to minimize impacts to nesting birds and other wildlife species that utilize trees for breeding.

Salvage Yards

Two salvage yards were found within a half mile radius of the proposed site. They are the Sussex and White's Auto salvage yards. Since they are not Site Investigation and Restoration Branch (SIRB) sites, we currently have no information on them. However, prior to any redevelopment of these properties, the potential developer/developers must get in touch with DNREC-SIRB so as to evaluate them for contaminants of potential concern. Regarding the proposed site, DNREC recommends a limited assessment of soil and groundwater media to ensure that the site has not been impacted.

State Fire Marshal's Office – Contact: Duane Fox 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):

- 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 Discountland Road and Sussex Hwy 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 2. The parcel(s) are also to be annexed into the Town of Laurel.

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 the DDA offices at (302) 349-5754.

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

This property is located within the Laurel School District boundaries. This rezoning application is expected to have minimal, if any impact on education, as such the DOE has no comments or objections.

Sussex County – Contact: Richard Kautz 855-7878

No comment. The site is to be entirely within the town limits and does not directly impact County services or properties outside the town limits. The town is encouraged to avoid the creation of new enclaves and to eliminate existing enclaves during its negotiation of the annexation agreement.

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: Town of Laurel