



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

May 15, 2007

Mr. Mark Davidson
Design Consultants Group, LLC
18072 Davidson Drive
Milton, DE 19968

RE: PLUS review – PLUS 2007-04-04; Selbyville Towne Village

Dear Mr. Davidson:

Thank you for meeting with State agency planners on April 25, 2007 to discuss the proposed plans for the Selbyville Towne Village project to be located on the southwest corner of Delaware Route 54 and Hudson road, within the Town of Selbyville.

According to the information received, you are seeking a rezoning to general commercial for a 30 acre professional plaza to 16,370 square feet of medical/professional office space, 22,630 square feet of medical office space, 72,040 square feet of retail space in two buildings, a 14,564 square foot pharmacy, two sit-down restaurants totaling 19,624 square feet and two pad sites.

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 Selbyville 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 project is located within a Level 2 area according to the Strategies for State Policies and Spending and within the Town of Selbyville.

The Office of State Planning and Coordination (OSPC) have no objection to the proposed project. The OSPC would ask that you work with the various state agencies and the Town of Selbyville to address any concerns raised through this process or through the town process.

Street Design and Transportation

- Delaware Route 54 and Hudson Road south of Route 54 are major collector roads. 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 they will require right-of-way dedication along the frontage to provide any additional width needed from this project.

Natural and Cultural Resources

- Due to the level of impervious surface that will be created as a result of this project, there is potential for downstream impacts from stormwater runoff. The design must include an adequate level of management to prevent impacts to downstream areas. As such, a downstream analysis may be required for this project. It is strongly recommended that you contact Sussex Conservation District to schedule a pre-application 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.
- This project is partially within Bunting Tax Ditch, which has existing tax ditch rights-of-way. The tax ditch easement widths shown on the plat are inconsistent with the widths of the existing tax ditch rights-of-way. Please contact the Drainage Program in Georgetown at (302) 855-1930 as soon as possible to

request a review of the tax ditch and to discuss the release of stormwater into the tax ditch.

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

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

This project is located within a Level 2 area according to the Strategies for State Policies and Spending and within the Town of Selbyville.

The Office of State Planning and Coordination (OSPC) have no objection to the proposed project. The OSPC would ask that you work with the various state agencies and the Town of Selbyville to address any concerns raised through this process or through the town process.

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

There is nothing known in this parcel. Historic maps and photographs show nothing in this area until the early 20th century. At that point, a farmstead appears on Fenwick Rd near the wooded area and another small house on Hudson Rd near the southeast corner of the parcel. The soils are quite wet, so there is only a very low potential for prehistoric archaeological sites here. Given the dates of the historic occupation and the soils, there is only a low potential for an unmarked family cemetery in the area. There are a number of early 20th-c. Farmsteads along all three roads around the parcel.

If the project will require a Corps permit, the developer will have to consult with this office and may be required to do some archaeological survey. The DHCA will be happy to help him through this process.

They request that the developer include sufficient landscaping to protect the nearby historic properties as much as possible from the visual and noise intrusion of this commercial development.

Department of Transportation – Contact: Bill Brockenbrough 760-2109

Selbyville Towne Village, LLC, seeks to develop a mix of commercial uses on 30 acres of a 90.90-acre parcel (Tax Parcel 5-33-17.00-170.00). The commercial uses would be 16,370 square feet of medical/professional office space, 22,630 square feet of medical office space, 72,040 square feet of retail space in two buildings, a 14,564 square foot pharmacy, two sit-down restaurants totaling 19,624 square feet and two pad sites. These uses, and the plan on which they are shown, vary somewhat from the plan that

accompanied the PLUS application. Both the larger parcel and the 30 acres within it are located on the southwest corner of Delaware Route 54 and Hudson Road (Sussex Road 387). The land is zoned R-4 in the Town of Selbyville and a rezoning to GC would be needed to permit the proposed development.

DelDOT is not opposed to the proposed rezoning. Their specific comments, which follow, pertain to the proposed site plan.

- 1) Delaware Route 54 and Hudson Road south of Route 54 are major collector roads. 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 they will require right-of-way dedication along the frontage to provide any additional width needed from this project.
- 2) In September 2006, a traffic impact study (TIS) was scoped for the development of the entire 90.90-acre parcel under the name Dunn Property, now Selbyville Town Village. At that time, 167 single-family detached houses and a different mix of commercial development was proposed. The revised plan (134 single-family detached houses and the mix of commercial uses listed above) still warrants a TIS and they expect to require off-site improvements based on that study. Without prejudging the results of that study, the developer should anticipate a requirement to improve part of Hudson Road to meet DelDOT's collector road standards. Those standards include 12-foot lanes and 8-foot shoulders.
- 3) The plan for Selbyville Town Village shows stub rights-of-way that would allow for the future extension of the cul-de-sac streets to connect to the adjoining parcels. While Selbyville Town Village is not the focus of this review, DelDOT wishes to express their support for this aspect of that plan.
- 4) DelDOT offers the following comments on the overall plan, including Selbyville Town Village:
 - a) The right-in, right-out entrance on Route 54 may not be acceptable as designed. Generally DelDOT only approves such access with a median barrier because without it some drivers will make illegal left turns, which are especially hazardous because other drivers are not expecting them. We recommend that the developer's site engineer work with the developer's traffic engineer to determine whether installation of a median or the creation of a full access at this location would be more appropriate and then design accordingly.

- b) While the plan does not show it, the application mentions a sidewalk or bicycle path “5 Ft Wide along roads as per DelDot”. Typically, they require a 10-foot shared use path in a 15-foot wide easement. Whatever facility is provided, whether a sidewalk or a path, it should be designed to go around the proposed pump station on Route 54. They also recommend that sidewalks be provided throughout both the residential and commercial developments to encourage walking and provide safe paths for pedestrians.
- c) As proposed, 85 percent of the developed site’s surface area would be impervious. For this reason, they recommend that special efforts be made to create landscaping, and to use materials, that retain water.
- d) The developer’s site engineer should contact the DelDOT Subdivision Manager for Sussex County, Mr. John Fiori, regarding the three items above and other specific requirements for access and off-site improvements that he might have. Mr. Fiori may be reached at (302) 760-2260.

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

Soils

Based on the Sussex County soil survey update, Hammonton, Askecksy, Hurlock, and Mullica were mapped in the immediate vicinity of the proposed construction.

Hammonton is a moderately well-drained soil of low-lying uplands that has moderate limitations for development. Askecksy, Hurlock, and Mullica are poorly to very poorly-drained wetland associated (hydric) soils that have severe limitations for development. Approximately 90% of the mapped soils on subject parcel contain Askecksy, Hurlock, and/or Mullica soil mapping units. These soils are considered unsuitable for development and should be avoided.

As mentioned previously, a significant portion of the mapped soils on subject parcel are poorly to very poorly-drained (hydric) Askecksy, Hurlock, and Mullica soils (estimated 90% of the parcel’s land area). Hydric soils typically have a seasonal high water table at or near the soil surface (within one-foot of soil surface or less). Building in such soils is likely to leave prospective residents of this and adjoining properties susceptible to future flooding problems from groundwater-driven surface water ponding, especially during extended periods of high-intensity rainfall events such as tropical storms/hurricanes or “nor’easters.” This is in addition to increased flooding probabilities from surface water

runoff emanating from future created forms of structural imperviousness (roof tops, roads, and sidewalks).

Based on the Chapter 99, Section 16A of the Sussex County code (paraphrased), lands compromised by improper drainage or flooding potential pose significant threats to the safety and general welfare of future residents and, therefore, shall not be developed. Since most of the parcel's mapped soils (e.g., Askecksy, Hurlock, and Mullica) fit the criterion for improper drainage or high flooding potential, permitting development on such soils would violate said provision of the Sussex County code. The Watershed Assessment Section strongly supports the County's regulatory efforts to restrict development in flood-prone areas, and hopes the County will choose to enforce them.

Wetlands

According to the Statewide Wetland Mapping Project (SWMP) mapping, palustrine scrub-shrub wetlands were mapped over much of the forested portion of the parcel. Wetlands provide water quality benefits, attenuate flooding and provide important habitat for plants and wildlife. PLUS materials indicate that non-tidal wetlands were delineated (presumably a field delineation) and the developer anticipates wetland impacts related to pond construction.

Wetland Permitting Information

Impacts to palustrine wetlands are regulated by the U. S. Army Corps of Engineers (USACE, or "the Corps") through Section 404 of the Clean Water Act. 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. The wetland delineation should be verified by the Corps through the Jurisdictional Determination process.

Please be advised that the new Nationwide Permits from the Corps became effective March 19, 2007. The Delaware Coastal Management Program (DCMP) has not completed their Federal Consistency review of the new permits; therefore, contrary to past practices, Coastal Zone Management approval cannot be assumed. Individual certifications must be granted from the DCMP office for each project intending to utilize a Nationwide Permit. For more information on the Federal Consistency process, please contact the DCMP office at 302.739.9283.

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. The developer should note that both DNREC and the Corps discourage allowing buildings and associated infrastructure to contain wetlands to minimize potential cumulative impacts.

Impervious Cover

Studies have consistently shown a strong relationship between increases in surface imperviousness and subsequent declines in a watershed's water quality. It is strongly recommended, therefore, that the applicant implement best management practices (BMPs) that reduce or mitigate some of its 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 help reduce surface imperviousness.

Based on information provided by the applicant in the PLUS application, post-development surface imperviousness was estimated at about 85 percent for this project. However, given the scope and density of this project this projection is still likely an underestimate. The use of stormwater management areas and/or wetlands as open space artificially lowers this project's calculated amount of surface imperviousness, ultimately leading to a significant underestimate of its actual environmental impacts. Therefore, the parcel's calculated amount of surface imperviousness should use as its basis a calculated open space figure that reflects the omission of all delineated wetlands (i.e., USACE-approved) and stormwater management areas. Additionally, all created forms of constructed surface imperviousness (i.e., rooftops, sidewalks, and roads) should be comprehensively accounted for and included in the calculation for surface imperviousness. It was not clear from the information submitted whether this was done or not. In summary, the finalized calculation for surface imperviousness should address or correct all of the above-mentioned concerns so that an accurate assessment of this project's impacts can be made.

ERES Waters

This project is located adjacent to receiving waters of the Assawoman watershed. Such waters are 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). 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 achievable and, where practicable, implementation of a standard requiring no discharge of pollutants.

TMDLs

Total Maximum Daily Loads (TMDLs) for bacteria have been promulgated through regulation for the Assawoman 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 Assawoman watershed, “target-rate-nutrient reductions” of 40% will be required for bacteria.

TMDL Compliance through the Pollution Control Strategy (PCS)

As mentioned previously, the TMDL calls for a 40 percent reduction in bacteria. 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, and the use of green-technology stormwater management treatment trains. Contact Lyle Jones at 302-739-9939 for more information on the assessment tool.

Water Supply

The project information sheets state water will be provided to the project by The Town of Selbyville via a public water system. DNREC records indicate that the project is located within the public water service area granted to The Town of Selbyville under Certificate of Public Convenience and Necessity 05-CPCN-37.

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

- DNREC commend the use of conservation design methods.
- Due to the level of impervious surface that will be created as a result of this project, there is potential for downstream impacts from stormwater runoff. The design must include an adequate level of management to prevent impacts to downstream areas. As such, a downstream analysis may be required for this project. It is strongly recommended that you contact Sussex Conservation District to schedule a pre-application 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

1. This project is partially within Bunting Tax Ditch, which has existing tax ditch rights-of-way. The tax ditch easement widths shown on the plat are inconsistent with the widths of the existing tax ditch rights-of-way. Please contact the Drainage Program in Georgetown at (302) 855-1930 as soon as possible to request a review of the tax ditch and to discuss the release of stormwater into the tax ditch.
2. The Drainage Program requests 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 the engineer check existing downstream ditches and pipes for function and blockages prior to the construction. Notify downstream landowners of the change in volume of water released on them.

3. Have all drainage easements recorded on deeds and place restrictions on obstructions within the easements to ensure access for periodic maintenance or future re-construction. Future property owners may not be aware of a drainage easement on their property if the easement is only on the record plan. However, by recording the drainage easement on the deed, the second owner, and any subsequent owner of the property, will be fully aware of the drainage easement on their property.

Rare Species

DNREC has never surveyed this parcel; therefore, it is unknown if there are state-rare or federally listed plants, animals or natural communities at this project site. According to aerial photographs there are forested wetlands on this parcel that could support an array of plant and wildlife species. However, according to the site plan, this portion of the parcel is not going to be utilized for this project. They encourage the landowner to consider maintaining this area as forested open space in the future. Many incentive-based programs for wildlife management are available to private landowners through the agency. Please contact our office (302) 653-2883 if the landowner(s) is interested in more information.

Underground Storage Tanks

There is one inactive LUST site(s) located near the proposed project:

Warrington Airport, Facility # 5-000843, Project # S9705081

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: 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):

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, 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 the location of the Fire Department Connection to the sprinkler and/or standpipe system(s) (it must be within 300 feet of fire hydrant), and detail of the Fire Department Connection as shown in the Delaware State Fire Prevention Regulations.
- Show Fire Lanes and Sign Detail as shown in Delaware State Fire Prevention Regulations.

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 buildings from Lighthouse Road (State Rte 54) and from Hudson Road (County Rd. 387) must be constructed so fire department apparatus may negotiate it.
- Primary fire lanes, typically hose located on the sides of the buildings where main entrances are located, are to be at least 10 feet from the building and no parking is permitted between the building and the fire lane. Additionally, the canopy/front vestibule shown on both the proposed Medical buildings is part of the building overall "footprint" and therefore is not excluded from the fire lane requirements.
- 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.
- 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 buildings are to be sprinklered
 - Name of Water Provider
 - Letter from Water Provider approving the system layout
 - Provide Lock Box Note (as detailed in DSFPR) for Buildings being 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 development application. The project is located within the Town of Selbyville, and the *Strategies for State Policies and Spending* encourages environmentally responsible development in Investment Level 2 areas.

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 proposed development is within the Indian River School District. This is a commercial/industrial development with no apparent impact on educational infrastructure, capacity or demand. The DOE has no objections or comments regarding this commercial/industrial development proposal.

Sussex County – Contact: Richard Kautz 855-7878

The layout should ensure that any DelDOT multi-purpose trail or similar path along Route 54 provide a way around the proposed pump station.

The Sussex County Engineer Comments:

The proposed project is within the Town of Selbyville. The Sussex County Engineering Department has no comments regarding the proposed Selbyville Towne Village/ Professional Plaza.

For questions regarding these comments, contact Rob Davis, Sussex County Engineering Department at (302) 855-1299.

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 Selbyville