



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

December 21, 2007

Dev Sitaram
Karins & Associates
17 Polly Drummond Center
Newark, DE 19711

RE: PLUS 2007-10-07; Bayberry Town Center

Dear Mr. Sitaram:

Thank you for meeting with State agency planners on November 28, 2007 to discuss the proposed plans for the Bayberry Town Center project to be located on the north side of Boyd's Corner Road, east of Jamison Corner Road.

According to the information received, you are seeking a rezoning from S to CR for a 558, 844 sq. ft. multi-use facility with office, retail, recreational and restaurants.

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 New Castle 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 project is located in Investment Level 2 according to the Strategies for State Policies and Spending. This site is also located in the New Castle County Community Redevelopment Area. Investment Level 2 areas and the County's Community Redevelopment areas reflect areas where growth is anticipated by county and State plans in the near term future. This development also will bring needed non-residential development to this area that will include employment opportunities, as part of a masterplanned community. Our office has no objections to the proposed development of this project in accordance with the relevant County codes and ordinances.

Street Design and Transportation

- The number and location of the proposed access points, and the needed right-of-way along Route 896 will be subject to further review as part of the plan approval process.
- The geometry of the proposed realignment of Jamison Corner Road will also be subject to further review. On the exploratory sketch plan included with the PLUS application, the reverse curves appear to be too sharp.
- DelDOT recommends that the developer consider adding traffic calming and additional on-street parking on the streets (actually commercial driveways) north, south and west of the proposed athletic fields.

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

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

This project is located in Investment Level 2 according to the Strategies for State Policies and Spending. This site is also located in the New Castle County Community Redevelopment Area. Investment Level 2 areas and the County's Community Redevelopment areas reflect areas where growth is anticipated by county and State plans in the near term future. This development also will bring needed non-residential development to this area that will include employment opportunities, as part of a

masterplanned community. Our office has no objections to the proposed development of this project in accordance with the relevant County codes and ordinances.

Division of Historical and Cultural Affairs – Contact: Terrance Burns 739-5685

In reference to this parcel/property (project area), the State Historic Preservation Office of Division of Historical & Cultural Affairs would like to mention and recommend the following:

There does not appear to be any type of historic Archaeological site or National Register property/site on or within this parcel/property (project area), but there is a 19th-century house with scattered outbuildings (N-5184) nearby.

Historic houses, farmsteads, or agricultural complexes which have scattered outbuildings associated with it, such as this one (N-5184), are sometimes or often associated with small, rural or family cemeteries, and they are sometimes or often nearby. Small, rural, or family cemeteries are usually located a good distance behind or to the side of the house.

In addition, this parcel/property (project area) is still in a vicinity where the nature and historic context of the vicinity, area, environment or land cover is primarily agriculture, a portion of forest, a portion of wetlands/wet-woods, and there is a possibility that there could probably be potential archaeological resources on or within parcel/property (project area), or nearby. These archaeological resources could probably be prehistoric-period or historic-period because of the combination of various soil types on the parcel/property (project area), and the nature and historic context of vicinity, area, environment and land cover.

If any archaeological resources were to ever be found or located, 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. Delaware's Unmarked Human Remains Act of 1987 can be found in Title 7, Chapter 53 and Chapter 53 of the Delaware Code.

Finally, the State Historic Preservation Office-Division of Historic & Cultural Affairs recommends that prior to any demolition or ground-disturbing activities, or before any construction proceeds the developer may want to hire an archaeological consultant to check or examine this parcel/property (project area) for the possibility of any archaeological resources here such as a cemetery, burial ground, or unmarked human remains. If you (the developer) would like to discuss this information or

recommendation in further detail, contact Mr. Terence Burns at State Historic Preservation Office of Division of Historic & Cultural Affairs at (302) 736-7400 ext.25.

Department of Transportation – Contact: Bill Brockenbrough 760-2109

- 1) DelDOT appreciates the developer's willingness to work with them thus far, particularly with regard to the land development plan design and the site access.
- 2) The subject development and a proposed residential development immediately east of it, are presently the subjects of an ongoing traffic operational analysis. DelDOT will comment to New Castle County on the need for off-site improvements to support this development and the appropriateness of a proposed traffic impact study waiver when we have reviewed the completed analysis.
- 3) The number and location of the proposed access points, and the needed right-of-way along Route 896 will be subject to further review as part of the plan approval process.
- 4) The geometry of the proposed realignment of Jamison Corner Road will also be subject to further review. On the exploratory sketch plan included with the PLUS application, the reverse curves appear to be too sharp.
- 5) DelDOT recommends that the developer consider adding traffic calming and additional on-street parking on the streets (actually commercial driveways) north, south and west of the proposed athletic fields.
- 6) The Developer's site engineer should contact the DelDOT Subdivision Manager for southern New Castle County, Mr. Pao Lin, regarding specific requirements for access and off-site improvements. Mr. Lin may be reached at (302) 760-2157.

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

DNREC appreciates your conscientious effort to develop an open space master-planned community. A letter from the Office of State Planning Coordination, dated July 16, 2004, regarding the Preliminary Land Use Service (PLUS) review of the Bayberry Town Center on June 30, 2004, further acknowledges that the various components of the Village of Bayberry, if developed together, would advance the goals of the Livable Delaware initiative (Conserve Farmland, Open Space and Scenic Resources; Build Livable Communities; and Reduce the Impact of the Car). DNREC also notes that this

coordinated approach to development, characterized by the project, presents more opportunity for environmental stewardship than a piecemeal, large lot, one-parcel-at-a-time approach. We look forward to working with you as this project moves forward.

Soils

Based on the New Castle County soil survey, Matapeake and Woodstown were mapped on the proposed project's combined parcel land area. Matapeake is a well-drained upland soil that, generally, has few limitations for development. Woodstown is a moderately well-drained soil of low-lying uplands that has moderate limitations for development.

According to the Statewide Wetland Mapping Project (SWMP) mapping, no wetlands were mapped over the combined parcel land area.

Impervious Cover

Based on a review of the PLUS application form, post-construction surface imperviousness was projected to reach 72 percent. However, it was unclear from the submitted site plan whether all forms of constructed surface imperviousness (i.e., rooftop, sidewalks, roads, and stormwater management structure) were comprehensively assessed or included in the calculated estimate for surface imperviousness. Excluding any form of constructed surface imperviousness will understate this project's actual environmental impacts. This calculation should be reviewed and recalculated if necessary.

Studies have shown a strong relationship between increases in impervious cover to decreases in a watershed's overall water quality. It is strongly recommended 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.

TMDLs

Total Maximum Daily Loads (TMDLs) for nitrogen and phosphorus have been promulgated through regulation for the Appoquinimink 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 Appoquinimink watershed, a post-development TMDL reduction level of 60 percent will be required for both nitrogen and phosphorus. Additionally, an 8% reduction in bacteria will also be required.

TMDL Compliance through the Pollution Control Strategy (PCS)

As stated above, Total Maximum Daily Loads (TMDLs) for nitrogen and phosphorus have been promulgated through regulation for the Appoquinimink Watershed. The TMDL calls for a 60% reduction for nitrogen and phosphorus from baseline conditions. Additionally, an 8% reduction in bacteria will also be required. The Department developed an assessment tool to evaluate how your proposed development may reduce nutrients to meet the TMDL requirements. Additional reductions may be possible through the implementation of Best Management Practices as, reducing surface imperviousness, 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 Artesian Water Company via a central public system. DNREC records indicate that part (tax map numbers 13-013.00-002, 13-013.00-067, & 13-013.00-072) of the project is located within the public water service area granted to Artesian Water Company under Certificate of Public Convenience and Necessity (CPCN) 94-CPCN-01, 94-CPCN-20 & 05-CPCN-03 respectively. Our files also reflect that Artesian Water Company does not currently hold a CPCN to provide public water to the other part (tax map number 13-013.00-227) of the project. 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. Public and 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 plan will be required prior to any land disturbing activity taking place on the site. Contact the reviewing agency to schedule a pre-application meeting to discuss the sediment and erosion control and stormwater management components of the plan as soon as practicable. 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. The plan review and approval as well as construction inspection will be coordinated through the New Castle County Department of Land Use, Engineering Section. Contact the Department of Land Use at (302) 395-5470 for details regarding submittal requirements and fees.

Because of the parcel's location in an impaired watershed and the amount of impervious surface, consider incorporating more green technology BMPs and low impact development practices to reduce stormwater flow and to meet water quality goals.

The Sediment and Stormwater Management Program ensures sediment and erosion control plans and stormwater plans comply with local land use ordinances and policies, including the siting of stormwater management facilities. However, we do not support placement in resource protection areas or the removal of trees for the sole purpose of placement of a stormwater management facility/practice.

Nuisance Geese

Wet ponds created for stormwater management purposes may attract resident Canada geese and mute swans that will create a nuisance for community residents. High concentrations of waterfowl in ponds create water-quality problems, leave droppings on lawn and paved areas and can become aggressive during the nesting season. Short manicured lawns around ponds provide an attractive habitat for these species. DRNEC recommends native plantings, including tall grasses, wildflowers, shrubs, and trees at the

edge and within an adequate buffer (15-30 feet in width) around the ponds. When the view of the surrounding area from the pond is blocked, geese can't scan for predators and are less likely to reside and nest in the area of the pond.

At this time, DNREC does not recommend using monofilament grids due to the potential for birds and other wildlife to become entangled if the grids are not properly installed and maintained. In addition, the on-going maintenance (removing entangled trash, etc.) may become a burden to the homeowners association or land manager.

The Division of Fish and Wildlife does not provide goose control services, and if problems arise, residents or the home-owners association will have to accept the burden of dealing with these species (e.g., permit applications, costs, securing services of certified wildlife professionals). Solutions can be costly and labor intensive; however, with a reduction in the number of ponds, proper landscaping, monitoring, and other techniques, geese problems can be minimized.

Underground Storage Tanks

There are no LUST site(s) located near the proposed project. 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 Rudd 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):

- 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 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 sqft, 3-stories or more, over 35 feet, or classified as High Hazard, are required to meet fire lane marking requirements. This includes the prohibition of parking between the building and all primary fire lanes.
- For townhouse buildings, provide a section / detail and the UL design number of the 2-hour fire rated separation wall on the Site plan
- 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 the main thoroughfares 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)
- Townhouse 2-hr separation wall details shall be shown on site plans
- 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.statefiremarshal.delaware.gov, 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 project. The *Strategies for State Policies and Spending* encourages environmentally responsible development in Investment Level 2 areas.

Right Tree for the Right Place

The Delaware Department of Agriculture Forest Service encourages the developer to use the “Right Tree for the Right Place” for any design considerations. This concept allows for the proper placement of trees to increase property values in upwards of 25% of appraised value and will reduce heating and cooling costs on average by 20 to 35 dollars per month. In addition, a landscape design that encompasses this approach will avoid future maintenance cost to the property owner and ensure a lasting forest resource.

Native Landscapes

The Delaware Department of Agriculture and the Delaware Forest Service encourages the developer to use native trees and shrubs to buffer the property from the adjacent land-use activities near this site. A properly designed forested buffer can create wildlife habitat corridors and improve air quality to the area by removing six to eight tons of carbon dioxide annually and will clean our rivers and creeks of storm-water run-off pollutants. To learn more about acceptable native trees and how to avoid plants considered invasive to our local landscapes, please contact the Delaware Department of Agriculture Plant Industry Section at (302) 698-4500.

Public Service Commission - Contact: Andrea Maucher 739-4247

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

Department of Education – Contact: John Marinucci 735-4055

This proposed development is in the Appoquinimink School District. This is a rezoning request with a multi-use commercial site plan submission. This rezoning and site plan request is commercial in nature and as such DOE has no comments.

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: New Castle County