



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

January 4, 2008

Mr. Michael Riemann
Becker Morgan Group
309 South Governors Avenue
Dover, DE 19904

RE: PLUS review – 2007-11-03; Farmington Hot Mix Production Facility

Dear Mr. Riemann:

Thank you for meeting with State agency planners on December 5, 2007 to discuss the proposed plans for the Farmington Hot Mix Production Facility to be located west of Route 13 in Farmington.

According to the information received, you are seeking a site plan review through Kent County for a 1,920 sq. ft. hot mix production facility.

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

- Although this site is in Investment Level 4, The *State Strategies* do recognize that lands in Investment Level 4 may be appropriate locations for “certain uses that because of their specific requirements are not appropriate for location elsewhere.” This proposed hot mix production facility meets the criteria envisioned in the *Strategies*. It is appropriate for the County to consider locating this type of facility in Investment Level 4. It will be up to the County through their conditional use process to determine whether this land use is appropriate at this specific location.

Street Design and Transportation

- DelDOT has serious concerns about the additional truck traffic that the proposed plant would add to this location. Of particular concern to them is the short distance available for trucks exiting the site and seeking to weave across southbound Route 13 to make a u-turn at the Nine Foot Road (Kent Road 62) crossover. A traffic signal at the site entrance would help in this regard but no signal is planned, one is not likely to be warranted, and installation of one would be inconsistent with DelDOT’s Corridor Capacity Preservation Program. For these reasons, DelDOT suggests that the applicant consider another site for this plant.

Natural and Cultural Resources

- In recognition of research and the need to protect water quality, the Watershed Assessment Section recommends that the applicant maintain/establish a minimum 100-foot upland buffer (planted in native vegetation) from the landward edge of all wetlands and water bodies (including all ditches).

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

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

This site is located in Investment Level 4 according to the *Strategies for State Policies and Spending*. This site is located outside of the Kent County Growth Zone. Investment Level 4 indicates where State investments will support agricultural preservation, natural resource protection, and the continuation of the rural nature of these areas. New development activities and suburban development are not supported in Investment Level 4. The *Strategies* do recognize that lands in Investment Level 4 may be appropriate locations for “certain uses that because of their specific requirements are not appropriate for location elsewhere.” This proposed hot mix production facility meets the criteria envisioned in the *Strategies*. It is appropriate for the County to consider locating this type of facility in Investment Level 4. It will be up to the County through their conditional use process to determine whether this land use is appropriate at this specific location.

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:

1. This parcel/property (project area) is in a Level-4 area. The State Historic Preservation Office of the Division of Historical & Cultural Affairs is not in favor of any type of zoning change, construction, building project, or development in a Level-4 area. Level-4 areas are vicinities that are environmentally sensitive areas. The nature and historic context of this environmentally sensitive area 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, 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, and the nature and historic context of vicinity, area, environment and land cover
2. If any archaeological resources are 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.

3. 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 for the possibility of any archaeological resources here such as a cemetery, burial ground, or unmarked human remains. If you 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 has serious concerns about the additional truck traffic that the proposed plant would add to this location. Of particular concern to them is the short distance available for trucks exiting the site and seeking to weave across southbound Route 13 to make a u-turn at the Nine Foot Road (Kent Road 62) crossover. A traffic signal at the site entrance would help in this regard but no signal is planned, one is not likely to be warranted, and installation of one would be inconsistent with DelDOT’s Corridor Capacity Preservation Program. For these reasons, DelDOT suggests that the applicant consider another site for this plant.
- 2) If the rezoning is approved, the developer’s site engineer should contact the DelDOT project manager for Kent County, Mr. Brad Herb, regarding specific requirements for access and off-site improvements. Mr. Herb may be reached at (302) 266-9600.

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

Soils

According to the Kent County soil survey update, Woodstown and Fallsington were mapped on subject parcel. Woodstown is a moderately well-drained upland soil that has moderate limitations for development. Fallsington is a poorly-drained wetland associated (hydric) soil that has severe limitations for development.

An estimated 90-95% of the soils mapped on subject parcel are Fallsington (hydric). 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, sidewalks, and stormwater management structures).

Wetlands

Based on the Statewide Wetland Mapping Project (SWMP) maps, no wetlands were mapped on subject parcel. However, it is likely that some unmapped wetlands may be found along and within the ditches that bisect this parcel. Therefore, it is strongly recommended that a site-specific field wetlands delineation be conducted using the methodology described in the 1987 United States Army Corps of Engineers (USACE) manual.

Based on a review of existing buffer research by Castelle et al. (1994), an adequately-sized buffer that effectively protects wetlands and streams, in most circumstances, is about 100-foot in width. In recognition of this research and the need to protect water quality, the Watershed Assessment Section recommends that the applicant maintain/establish a minimum 100-foot upland buffer (planted in native vegetation) from the landward edge of all wetlands and water bodies (including all ditches).

Impervious Cover

Based on a review of the PLUS application form, post-construction surface imperviousness was projected to reach 31 percent. However, given the projected scope and density of this project this estimate appears to significantly understate post-construction surface imperviousness. When calculating surface imperviousness, it is important to consider all created forms of constructed surface imperviousness (i.e., rooftops, sidewalks, roads, and stormwater management ponds) in the calculation for surface imperviousness; otherwise, an inaccurate assessment of this project’s environmental impacts will result. Surface imperviousness should be recalculated with all of the above-mentioned forms of constructed surface imperviousness included.

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.

ERES Waters

This project is located adjacent to receiving waters of the greater Nanticoke watershed, and designated as having waters of 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 Nanticoke 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. Additionally, "target-rate-reductions" of 2 percent will be required for bacteria.

TMDL compliance through the PCS

As indicated above, Total Maximum Daily Loads (TMDLs) for nitrogen and phosphorus have been proposed for the Nanticoke watershed. The TMDL calls for a 30 and 50 percent reduction in nitrogen and phosphorus from baseline conditions. The TMDL also calls for a 2 percent reduction in bacteria. A Pollution Control Strategy (PCS) 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 BMPs such as wider vegetated buffers along watercourses/wetlands, increasing the amount of passive, wooded open space, connection to a central sewer (if available), use of pervious paving materials to reduce surface imperviousness, and the deployment of green-technology stormwater management treatment technologies. Contact Lyle Jones at 302-739-9939 for more information on the assessment tool.

Water Supply

The project information sheets state that water will be provided to the project by an individual on-site well. DNREC records indicate that the project site is not located in an area where public water service is available. If this well develops a problem that causes it to be abandoned, then a new on-site public/miscellaneous public well will be needed; a minimum isolation distance of 150 feet is required between the well and any potential source of contamination, such as a septic tank and sewage disposal area. The Division of Water Resources will consider applications for the construction of on-site wells provided the wells can be located and constructed 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.

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 Kent Conservation District. Contact Jared Adkins, Program Manager, at (302) 741-2600, ext. 3, 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.

Drainage

The Drainage Program office in Georgetown received a request for a review of the tax ditch rights-of-way on the property. The review was conducted, and a letter and map showing the locations and widths of the existing tax ditch rights-of-way were sent to Wesley Gordy with Becker Morgan Group.

- Existing tax ditch rights-of-way should be free from permanent obstructions, including landscape buffers, to allow for routine maintenance and periodic reconstruction. Routine maintenance primarily consists of mowing ditch bank vegetation and the removal of small blockages. Periodic tax ditch reconstruction involves the removal of sediment from the ditch bottom to reestablish the original design grade. The removed sediment, referred to as spoil, is typically disposed of by spreading within the tax ditch right-of-way.
- With the proposed development to the north of this project, and the amount of tax ditches on this property, the Drainage Program recommends that the developer schedule a pre-application meeting with the Kent Conservation District Sediment and Stormwater Program as soon as possible and include Bob Enright of the Drainage Program, and Elaine Webb of the DNREC Sediment and Stormwater Program.
- 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 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.
- 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.

Air Permit/Regulatory Advisory Service (RAS)

The Regulatory Advisory Service (RAS) is comprised of representatives from each division within the Department of Natural Resources and Environmental Control. This service can help you with environmental permits and other requirements and regulations that may apply to your new or expanding business. Please contact Gail Henderson at 739-9909 to schedule a meeting.

State Fire Marshal's Office – Contact: Duane Fox 739-4394

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:**
 - Since the structures of the complex are proposed to be served by individual on-site wells (No Central or Public Water System within 1000' of property), set back and separation requirements will apply.
- b. **Fire Protection Features:**
 - For commercial buildings greater than 5000 sq.ft., a fire alarm signaling system, monitored off-site, is required
 - For commercial buildings greater than 10,000 sq.ft. Class B (2-hour rated) fire barriers are required to subdivide buildings into areas of 10,000 sq.ft. or less
 - Buildings or structures 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
- 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 US Route 13 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)
 - 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

Although the proposed project is located in an area designated as Investment Level 4 under the *Strategies for State Policies and Spending*, this particular land use is compatible with the State Strategies. In addition, the parcel is already zoned IG and is adjacent to a similar land use, namely a waste transfer station. Therefore, the Department has no objections to the county granting a conditional use permit for this facility.

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. Please feel free to contact the Delaware Forest Serve at (302) 698-4500 for more information.

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.

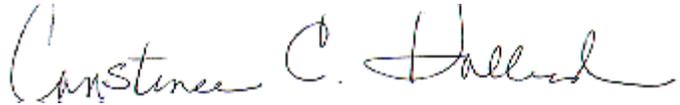
Department of Education – Contact: John Marinucci 735-4055

This proposed development is in the Woodbridge School District. This is a site plan review for commercial uses. This rezoning 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,

A handwritten signature in cursive script that reads "Constance C. Holland". The signature is written in dark ink and is positioned above the printed name and title.

Constance C. Holland, AICP
Director

CC: Kent County
Town of Farmington