



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

January 28, 2008

Mr. Scott Lobdell
Van Cleef Engineering Associates
630 Churchmans Road, Ste. 105
Newark, DE 19702

RE: PLUS review – 2007-12-04; Smyrna Gateway Shopping Center

Dear Mr. Lobdell:

Thank you for meeting with State agency planners on January 2, 2008 to discuss the proposed plans for Smyrna Gateway Shopping Center project to be located on the south side of the intersection of Carter Road and US. Route 13.

According to the information received, you are seeking site plan approval for a 70,897 square foot shopping center on 20.79 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 Smyrna 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 project is located in Investment Level 1 according to the *Strategies for State Policies and Spending*. This site is also located in the Town of Smyrna. Investment Level 1 reflects areas that are already developed in an urban or suburban fashion, where infrastructure is existing or readily available, and where future redevelopment or infill projects are expected and encouraged by State policy.

Street Design and Transportation

- DelDOT's policy is to require a dedication of 40 feet from the centerline on minor arterial highways, such as Route 13 in this area, and 30 feet from the centerline on local roads, such as the subject portion of Carter Road.
- DelDOT will require the developer to provide a 10-foot wide shared use path in a 15-foot wide permanent easement along the property frontage on Carter Road.

Natural and Cultural Resources

- This project is located within an area that has a history of drainage problems. Please schedule a pre-application meeting with Jared Adkins of the Kent Conservation District, Sediment and Stormwater Management Program as soon as possible.

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

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

This project is located in Investment Level 1 according to the *Strategies for State Policies and Spending*. This site is also located in the Town of Smyrna. Investment Level 1 reflects areas that are already developed in an urban or suburban fashion, where infrastructure is existing or readily available, and where future redevelopment or infill projects are expected and encouraged by State policy. Our office has no objections to the proposed development of this project in accordance with the relevant town codes and ordinances.

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

There appear to be no historic or cultural resource sites, no archaeological sites, and no listed national register properties on this parcel, but the developer should be aware that there are a few known historic and cultural resource sites nearby. One of the historic or cultural resources nearby was an early to mid 19th-century dwelling (K-3865). It was located on a dirt road off of Road 90, southeast of the junction, west of Road 137. It is not known if the dwelling is still there.

The developer should also be aware that this parcel/property is within the historic vicinity of Duck Creek Hundred. According to the historic Beers Atlas/Map of 1868, there is evidence on the atlas/map that indicates that the vicinity of Duck Hundred does have some historical areas. The developer should also be aware that it is a possibility that there could potentially be other historic or cultural resources on this parcel/property because of the historical background of the area or vicinity. These historic or cultural resources could be archaeological resources such as a cemetery, burial ground, unmarked human remains, or the parts or pieces of something demolished, destroyed, or ruined historically.

The State Historic Preservation Office of the Division of Historic & Cultural Affairs recommends that prior to or before any demolition, ground-disturbing activities or construction on this parcel/property that the developer review Chapters 53 and 54, in Title 7, of the Delaware State Code. Chapter 53 pertains to the discovery and disposition of “Conservation of Archaeological Resources In or On State Lands”. Chapter 54 pertains to the “Delaware Unmarked Human Remains Act of 1987,” which governs situations such as the discovery and disposition of unmarked human burials or skeletal remains. The unexpected discovery of unmarked human remains during construction can result in significant delays while the process is carried out.

The State Historic Preservation Office of the Division of Historic & Cultural Affairs also recommends that prior to or before any demolition, ground-disturbing activities, or construction that the developer should consider hiring an archaeological consultant to check or examine parcel/property thoroughly, and see if there is any evidence or indication of potential historic or cultural resources, or archaeological resources on it, such as a cemetery, burial ground, unmarked human remains, or the parts or pieces or something demolished, destroyed, or ruined historically. 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) DeIDOT's policy is to require a dedication of 40 feet from the centerline on minor arterial highways, such as Route 13 in this area, and 30 feet from the centerline on local roads, such as the subject portion of Carter Road. On divided highways, again such as Route 13, we measure that distance from the inside edge of the travelway, rather than from the actual centerline. Therefore the applicant should anticipate a requirement to dedicate any additional frontage needed to meet this standard.
- 2) DeIDOT will require the developer to provide a 10-foot wide shared use path in a 15-foot wide permanent easement along the property frontage on Carter Road.
- 3) Previously, a traffic impact study (TIS) was done for the subject land and other lands of the developer. That TIS assumed the development of 90,000 square feet of shopping center on lands of the developer in the general area of the subject site but had no plan associated with it. A second TIS has been scoped for a larger, more realistic buildout of the developer's commercial lands in this area. While DeIDOT will not require that that second TIS be completed prior to the issuance of approvals for the subject development, the knowledge that additional development is expected to follow will affect our review of this site.
- 4) As the developer's site engineer mentioned at the PLUS meeting, they have already contacted the project manager for Kent County, Mr. Brad Herb. Based on previous meetings and a review of the plan presented with the PLUS application, Mr. Herb offers the following comments:
 - a) Given the reduced development size, a signal at the entrance on the curve may not be warranted at this time. However, the Developer shall enter into an agreement with DeIDOT which would allow DeIDOT to restrict outbound left turns when the adjacent parcels located to the west of the site are developed. The Developer would construct a signal at the Bon Ayre access drive which would allow full turning movements. We would prefer to have the entrance shifted north of the curve to avoid a potential sight distance issue. This entrance may be required to move north of the curve if it is determined that additional westbound left-in turn lane queue storage is needed.
 - b) Preliminarily, the right-in from southbound US 13 will not be permitted. This is located near the beginning of taper for the eastbound Carter "free" right-turn lane, which serves a significant

amount of traffic. This would potentially create a bad weaving movement. The deceleration lane also looks too short.

- c) The right-in only access from eastbound Carter Road appears to be acceptable.

DelDOT asks that the developer and their engineer maintain coordination with Mr. Herb through the plan development process.

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

Soils

According to the Kent County soil survey update, Downer, Downer Urban Land complex, and Longmarsh were mapped on subject parcel. Downer and Downer Urban Land complex are well-drained upland soils that, generally, have few limitations for development. Longmarsh is a very poorly-drained wetland associated (hydric) floodplain soil that has severe limitations for development, and should be avoided.

Wetlands

According to the Statewide Wetland Mapping Project (SWMP) mapping, palustrine forested riparian wetlands bound much of the eastern boundary of subject parcel.

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 Corps 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 Management Program (DCMP) Section. Each of these certifications represents a separate permitting process. Please be advised that Nationwide permits have been suspended in Delaware and are pending further coordination with the Corps. Therefore, contrary to past practices, Coastal Zone Management approval can no longer 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.

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 estimated to reach 38 percent. However, given the projected scope and density of this project, this estimate appears to significantly understate the actual amount of created post-development surface imperviousness. The following are the reasons why the reported estimate is not reflective of the actual post-construction impacts:

- 1) Surface imperviousness was not assessed comprehensively, or did not include all created forms of surface imperviousness (e.g., rooftops, roads, sidewalks, ponds, and stormwater management structures) in the calculation for surface imperviousness. The finalized calculation for surface imperviousness should be recalculated with all of the above-mentioned forms of surface imperviousness included.
- 2) The total land area of the first and second building phases should not be combined when calculating surface imperviousness for the first phase. In other words, surface imperviousness should be calculated on the basis of the land area bounding the applicable phase (phase I), not the entire parcel. The finalized calculation for surface should reflect the concerns addressed here as well as the concerns listed under point #1.

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 Smyrna River 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 Smyrna River watershed, a post-development TMDL reduction level of 40% will be required for nitrogen and phosphorus. Additionally, a TMDL reduction level of 75% will be required for bacteria.

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 Smyrna River watershed. The TMDL calls for a 40% reduction in nitrogen and phosphorus, while a TMDL reduction of 75% will be required for bacteria; both nutrient and bacteria reductions must be from baseline conditions. The Department developed an assessment tool to evaluate how your proposed development may reduce nutrients and bacteria 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, 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 water will be provided to the project by the Town of Smyrna via a public water system. Our records indicate that the project is located within the public water service area granted to the Town of Smyrna under Certificate of Public Convenience and Necessity 91-CPCN-19.

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 over 5000 square feet. 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 at the Kent Conservation District at (302) 741-2600 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.

Drainage

This project is located within an area that has a history of drainage problems. Please schedule a pre-application meeting with Jared Adkins of the Kent Conservation District, Sediment and Stormwater Management Program as soon as possible.

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.

Underground Storage Tanks

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

Holly Hills Pump Station, Facility # 1-000672, Project # K9902041

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 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:**

- 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 Carter Rd. must be constructed so fire department apparatus may negotiate it. If a “center island” is placed at an entrance into the parking lot, it shall be arranged in such a manner that it will not adversely affect quick and unimpeded travel of fire apparatus.
- 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.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 development. The project is located within the Town of Smyrna, and the *Strategies for State Policies and Spending* encourages environmentally responsible development in Investment Level 1 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.

Do Not Plant List

Due to the high risk of mortality from insects and disease, the Delaware Forest Service does not recommend planting any of the following species:

Callery Pear
Leyland Cypress
Red Oak (except for Willow Oak)
Ash Trees

Please contact the Delaware Forest Service for more information at (302) 698-4500.

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 735-4055

This proposed project is in the Smyrna School District. This is a site plan review for commercial use. This site plan review is commercial in nature with no apparent impact on educational service delivery or infrastructure and, as such DOE has no objections or comments regarding this request.

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.

PLUS 2007-12-04

Page 13 of 13

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 black ink that reads "Constance C. Holland". The signature is written in a cursive style with a large initial 'C'.

Constance C. Holland, AICP
Director

CC: Town of Smyrna