



STATE OF DELAWARE
EXECUTIVE DEPARTMENT
OFFICE OF MANAGEMENT AND BUDGET
Budget Development, Planning and Administration
State Planning Coordination

March 25, 2009

David Braun
Braun Engineering & Surveying
429 South Governors Avenue
Dover, DE 19904

RE: PLUS review – 2009-02-04; Wick Commercial

Dear Mr. Braun:

Thank you for meeting with State agency planners on February 25, 2009 to discuss the proposed plans for the project Wick Commercial project to be located on the west side of U.S. 13, approximately 1, 070 sq. ft. south of Brenford Road.

According to the information received, you are seeking a rezoning of 40 acres from AC to BG for an unknown commercial use.

Please note that this PLUS review was for the rezoning of the property only. At the meeting, it was noted that there is a 300,000 sq. ft commercial shopping center planned for the site. If this is the case, an additional PLUS review will be required to review the site plan for this parcel. 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

- This rezoning is located in Investment Level 2 according to the *Strategies for State Policies and Spending*. This site is also located in the Kent Growth Zone. Investment Level 2 reflects areas where growth is anticipated by local, county, and State plans in the near term future. State investments will support growth in these areas.
- It appears that this rezoning is inconsistent with the recently adopted Kent County Comprehensive Plan. Should the Levy Court be compelled to approve this rezoning, a comprehensive plan amendment will be required. **Please be advised that our office is currently reviewing the procedures for approving county comprehensive plan amendments. Contact our office for more information and guidance on the proper procedures when and if the Levy Court would like to proceed with such an amendment.**

Natural and Cultural Resources

- Because a portion of the parcel falls within the 150-foot radius of two public wells (see map), the impervious cover in this portion of the wellhead protection area should be limited to the buildings, treatment facilities, and access ways associated with the maintenance of the well.

This office has received the following comments from State agencies:

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

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During the PLUS meeting it was revealed that the applicant and DelDOT have been working together on the review of a TIS that anticipates a 300,000 square foot shopping center on this site. It appears that this TIS represents a theoretical “worst case scenario” for planning purposes rather than an actual development proposal. Please be advised that this PLUS review is for the rezoning only. Any land development on this site that exceeds the thresholds in Del. C. will require another PLUS review.

State Historic Preservation Office (SHPO) – Contact: Terrence Burns 739-5685

No comments received for this project.

Department of Transportation – Contact: Bill Brockenbrough 760-2109

Fred Wick, proposes to have a 40.1315-acre parcel (Tax Parcel DC-00-28.00-1-25.00-000) rezoned from AC to BG to make it more marketable to possible commercial tenants. No site plan has been developed and no tenants are known. The land is located on the west side of US Route 13 about 1100 feet south of Brenford Road (Kent Road 42). In addition to the Route 13 frontage, the property would have access to Brenford Road by an easement through the Big Oak Commons property. There is also a stub street in the Willowwood subdivision that could be used for local access.

- 1) A traffic impact study (TIS) was submitted with regard to the subject rezoning proposal on October 15, 2008. That study assumed the development of a 300,000 square foot shopping center. The DelDOT review of the study is nearly complete and they expect to issue comments to the County within the next month. DelDOT met with the applicant's engineer on January 13, 2009, and shared a draft of those comments but they are still working to determine how best to improve the intersection of Route 13, Brenford Road and Big Oak Road, the entrance to the Big Oak Commons development on Brenford Road and the block in between.
- 2) To summarize the results of the review of the TIS, in most cases the intersections studied can be improved to maintain level of service D or better even with the development of a 300,000 square foot shopping center on the subject land. However, the developer and the County should be aware that the TIS and the DelDOT review of it represent a "worst-case scenario." It seems entirely possible to DelDOT that something generating less traffic than a 300,000 square foot shopping center could be built on the subject land. If the proposed development is substantially different, they would encourage the developer to come back to them during the record plan process with a new study, reflecting their actual impact.
- 3) In the TIS, no traffic was assigned to the stub street in Willowwood that adjoins this property or to the street in the Big Oak subdivision that would connect to the Big Oak Commons service road. Generally, DelDOT encourages such connections to provide local access. Depending on the use of the subject land, however, it may be necessary to install traffic calming along one or both of these streets, limit the connections to bicycles and pedestrians only, or prohibit them entirely. DelDOT will address this matter further when a site plan is presented for review.

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

Soil and Water

Sediment and Stormwater Program. 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 at the Kent Conservation District 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 potential amount of impervious surface, green technology BMPs and low impact development practices should be considered a priority to reduce stormwater flow and to meet water quality goals.

Drainage Program. There have been problems with drainage to the south and east of the proposed rezoning.

Sediment/stormwater and drainage comments provided by James Sullivan - (302) 739-9921, James.Sullivan@state.de.us

Water Resources

Water Allocation. The project information sheets state water will be provided to the project by Tidewater Utilities via a public water system. Our records indicate that the project is located within the public water service area granted to Tidewater Utilities under Certificate of Public Convenience and Necessity PSC-1464.

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. *Ricardo Rios - (302) 739-9944, Ricardo.Rios@state.de.us*

Water Supply. The Water Supply Section, Ground Water Protection Branch has determined that the southern portion of the proposed development falls within a wellhead protection area for the Pinnacle Rehabilitation and Ridgewood Manor (see map). Wellhead protection areas are surface and subsurface areas surrounding a public water supply well where land use activities or impervious cover may adversely affect the quantity and quality of ground water moving toward such wells. The application does not indicate the amount of impervious cover within the proposed development.

DNREC Water Supply Section recommends that the portion of the new development within the wellhead protection area not exceed 20% impervious cover (DNREC, 2005). Allowance for augmenting ground-water recharge need be implemented if the impervious cover exceeds 20% but is less than 50% of that portion of the parcel within the wellhead protection area from the edge of the 150-foot radius to the outer edge of delineated wellhead protection area. However, the development should not exceed 50%. A water balance calculation is necessary to determine the quantity of clean water to be recharged via a recharge basin (Kaufmann, 2005). The purpose of an impervious cover threshold is to minimize loss of recharge (and associated increases in stormwater) and protect the quality and quantity of ground water and surface water supplies.

Ground Water Protection Branch recommends:

- Reduce impervious cover to 20% or less. The development cannot exceed 50%. If it falls within the 20 to 50% range there must be an environmental assessment report including a climate budget, documenting post-development is equal to or greater than predevelopment recharge when calculated on an annual basis.
- Relocate any open space areas to the part of the parcel within the wellhead protection area.
- Direct run off from the impervious surface away from the wellhead protection area.
- Augment ground-water recharge with clean rooftop run-off systems
- A water balance calculation will be necessary to determine the quantity of clean water to be recharged via a recharge basin (DNREC, 2005; Supplement 1).
- Because a portion of the parcel falls within the 150-foot radius of two public wells (see map), the impervious cover in this portion of the wellhead protection area should be limited to the buildings, treatment facilities, and access ways associated with the maintenance of the well.

NOTE. These recommendations are consistent with Kent County's Ordinance LC07-36

- In addition, because the wellhead protection area the source of public drinking water, the storage of hazardous substances or wastes should not be allowed within the area unless specific approval is obtained from the relevant state, federal, or local program. *Anne Mundel - (302) 739-9945, Anne.Mundel@state.de.us*

References

Delaware Department of Natural Resources and Environmental Control, 2005, Source Water Protection Guidance Manual for the Local Governments of Delaware, p. 144.

<http://www.wr.udel.edu/swaphome/Publications/SWPguidancemanual.html>

Kauffman, G.J., Wozniak, S.L., and Vonck, K.J., 2005, Delaware Ground-Water Recharge Design Manual: Newark, DE, Water Resources Agency, University of Delaware, p. 31.

<http://www.wr.udel.edu/swaphome/Publications/SWPguidancemanual.html>

Map of Wick Commercial (PLUS 2009-02-04)

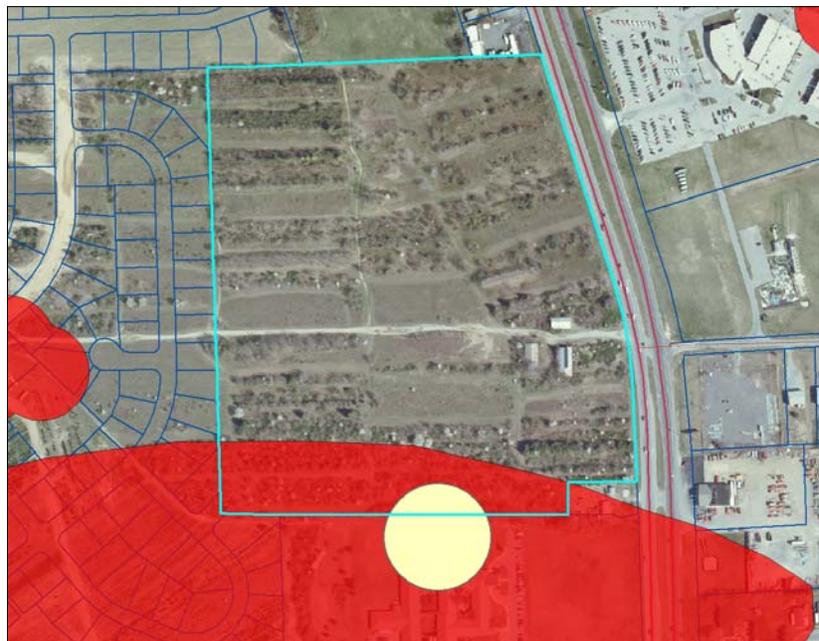
The parcel under review is highlighted in blue. The wellhead protection area is shown in red. The yellow inset indicates the portion of the wellhead protection area that should be free of impervious surface that does not support the use and maintenance of the well.

Air and Waste

Hazardous Waste Sites.

DNREC's Site

Investigation and Restoration Branch (SIRB) has reviewed the proposed project. No SIRB sites or salvage yards were found within a ½-mile radius of the proposed development. However, based on the previous agricultural use of the proposed project site, which may have involved the use of pesticides and herbicides, SIRB recommends that a Phase I Environmental Site Assessment be performed prior to development. In addition, should a release or imminent threat of a release of hazardous substances be discovered during the course of development (e.g., contaminated water or soil), construction activities should be discontinued immediately and DNREC should be notified at the 24-hour emergency number (800-662-8802). SIRB should also be



contacted as soon as possible at 302-395-2600 for further instructions. *Krystal Stanley* - (302) 395-2644, Krystal.Stanley@state.de.us

Tank Management Branch. The Delaware Department of Natural Resources and Environmental Control-Tank Management Branch (TMB) appreciates the opportunity to comment on the proposed development. There are three (3) inactive LUST sites located within a quarter mile of proposed rezoning location.

Name: Paradise Nursery (Inactive)

Facility ID: 1-000538

Project: K8603019

Name: Williams Service Incorporated (Inactive)

Facility ID: 1-000230

Project: K9405100

Name: Willis Chevrolet Inc (Inactive)

Facility ID: 1-000031

Project: K9103053

Should any underground storage tanks or petroleum contaminated soil be discovered by any person during construction, the DNREC-TMB at (302) 395-2500 and the DNREC Emergency Response Hotline at (800) 662-8802 must be notified within 24 hours.

Should any contamination be encountered, PVC pipe materials will have to be replaced with ductile steel and nitrile rubber gaskets in the contaminated areas.

Also, please note that if any aboveground storage tanks (ASTs) less than 12,500 gallons are installed, they must be registered with the TMB. If any ASTs greater than 12,500 gallons are installed, they are also subject to installation approval by the TMB. *Elizabeth Wolff* - (302) 395-2500, Elizabeth.Wolff@state.de.us

State Fire Marshal's Office – Contact: Duane Fox 856-5298

This Agency has no objection to the re-zoning request. The information provided below shall be considered when plans are being designed.

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:**

- If a water distribution system is proposed it shall be capable of delivering the minimum flow established in the State Fire Prevention Regulations.

b. **Fire Protection Features:**

- All structures over 10,000 sq.ft. aggregate will require automatic sprinkler protection installed.
- Show Fire Department Connection location (Must be within 300 feet of fire hydrant), and detail as shown in the DSFPR
- 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 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.
- 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
- Square footage of each structure (Total of all Floors)

- National Fire Protection Association (NFPA) Construction Type
- Maximum Height of Buildings (including number of stories)
- Name of Water Provider
- Letter from Water Provider approving the system layout
- 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 739-4811

The Delaware Department of Agriculture has no objections to the proposed rezoning request. 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.

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.

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.

Delaware Economic Development Office – Contact: Jeff Stone 672-6849

No comments received for this project.

Delaware Division of Public Health- Health Promotion Bureau- Contact: Michelle Eichinger (302) 744-1011

The Division of Public Health had no comments regarding this project.

Delaware State Housing Authority – Contact Vicki Powers 739-4263

Because this is a commercial application, the Delaware State Housing has no comments regarding this application.

Department of Education – Contact: John Marinucci 735-4055

This proposed project is in the Smyrna School District. This rezoning request is commercial in nature with no apparent impact on educational service delivery or infrastructure and, as such DOE has no further 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. As a reminder, this PLUS review is for the rezoning of the parcel from AC to BG. Once a site plan is developed, it will be required to go through the PLUS process for State comments.

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: Kent County