



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

April 22, 2009

Jason Harman  
5938 Tappan Lane  
Salisbury, MD 21801

RE: PLUS review – 2009-03-04; Halltown East

Dear Mr. Harman:

Thank you for meeting with State agency planners on March 25, 2009 to discuss the proposed plans for the Halltown East project to be located on the north side of Delaware Route 8, just east of Wheat Drive.

According to the information received, you are seeking a rezoning of 4 acres from AR to BN for an unknown commercial use. It is noted that this review is for the rezoning of the property only. This rezoning appears to be inconsistent with the Kent County Comprehensive Plan and a comprehensive plan amendment may be required. Should the County be compelled to consider a comprehensive plan amendment for this rezoning, then they are directed to contact our office. If the rezoning is ultimately approved, the owner may be required to bring the site plan through the PLUS process for State comments.

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.

This proposal is located in Investment Level 4 according to the *Strategies for State Policies and Spending*, and is outside of the designated growth area in the Kent County certified comprehensive plan. **The comments in this letter are technical, and are not**

**intended to suggest that the State supports this development proposal. This letter does not in any way suggest or imply that you may receive or may be entitled to permits or other approvals necessary to construct the development you indicate or any subdivision thereof on these lands.**

This office has received the following comments from State agencies:

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

This project represents a major land development that will result in an unknown commercial development in an Investment Level 4 area according to the *2004 Strategies for State Policies and Spending*. 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. These areas are comprised of prime agricultural lands and environmentally sensitive wetlands and wildlife habitats, which should be, and in many cases have been preserved.

From a fiscal responsibility perspective, development of this site is likewise inappropriate. The cost of providing services to commercial development in rural areas is an inefficient and wasteful use of the State's fiscal resources. The project as proposed is where the State has no plans to invest in infrastructure upgrades or additional services. The commercial businesses in this area will need access to such services and infrastructure as police and transportation. To provide some examples, the State government funds 100% of road maintenance and drainage improvements for the transportation system, 100% paratransit services, and 100% of the cost of police protection in the unincorporated portion of Kent County where this development is proposed. Over the longer term, the unseen negative ramifications of this development will become even more evident as the community matures and the cost of maintaining infrastructure and providing services increases.

Because the development is inconsistent with the Strategies for State Policies and Spending, the State is opposed to this proposed rezoning.

Please note the following procedural items related to this application:

- This PLUS review is for the rezoning application only.
- This rezoning appears to be inconsistent with Kent County's adopted and certified comprehensive plan.
- A comprehensive plan amendment may be required. Comprehensive plan amendments must be reviewed through the PLUS process. If the County would like

to submit a comprehensive plan amendment for review, they are directed to contact our office for information regarding the procedures for doing so.

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

This parcel is in a Level 4 Investment Area. The Division of Historical & Cultural Affairs does not support any type of development project, construction activity, or the rezoning or any kind, in a Level 4 Area.

Delaware has a strong agricultural and rural heritage, and many historic or cultural resources exist in these areas, such as architectural or archaeological sites. By intruding on these areas or lands, it could affect the historic context of Delaware's agricultural and rural heritage, and the historic architectural resources that are historically associated with Delaware's agricultural and rural heritage. In addition, it could also affect potential prehistoric or historic archaeological sites that have not been discovered, studied, or evaluated at this time and for the important information they can provide about Delaware's history or prehistory. If you have any questions, or would like to discuss this information, please contact Terrence Burns at (302) 736-7404.

**Department of Transportation – Contact: Bill Brockenbrough 760-2109**

Jason Harman seeks to have a 4.9035-acre parcel (Tax Parcel WD-00-090.00-01-01.07-000) rezoned from AR to BN for an undetermined commercial use. The land is located just east of Marydel, on the north side of Delaware Route 8. It includes a 60-foot wide strip connecting to Wheat Drive, but the Route 8 frontage is about 500 feet east of Wheat Drive.

Because this land is located in a Level 4 Area, development of it as proposed is inconsistent with the *Strategies for State Policies and Spending*. As part of our commitment to support the *Strategies*, DelDOT refrains from participating in the cost of any road improvements needed to support this development and is opposed to any road improvements that will substantially increase the transportation system capacity in this area. DelDOT will only support taking the steps necessary to preserve the existing transportation infrastructure and make whatever safety and drainage related improvements are deemed appropriate and necessary. The intent is to preserve the open space, agricultural lands, natural habitats and forestlands that are typically found in Level 4 Areas while avoiding the creation of isolated development areas that cannot be served effectively or efficiently by public transportation, emergency responders, and other public services.

DelDOT strongly supports new development in and around existing towns and municipalities and in areas designated as growth zones in approved Comprehensive Plans. They encourage the use of transfer of development rights where this growth management tool is available.

If this development is approved, notwithstanding inconsistencies with the relevant plans and policies, DelDOT will provide technical review and comment

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

## **Investment Level 4 Policy Statement**

This project is proposed for an Investment Level 4 area as defined by the *Strategies for State Policies and Spending* and is also located outside of a designated growth area in the relevant municipal and County certified comprehensive plans. According to the *Strategies*, this project is inappropriate in this location. In Investment Level 4 areas, the State's investments and policies, from DNREC's perspective, should retain the rural landscape and preserve open spaces and farmlands. Open space investments should emphasize the protection of critical natural habitat and wildlife to support a diversity of species, and the protection of present and future water supplies. Open space investments should also provide for recreational activities, while helping to define growth areas. Additional State investments in water and wastewater systems should be limited to existing or imminent public health, safety or environmental risks only, with little provision for additional capacity to accommodate further development.

With continued development in Investment Level 4 areas, the State will have a difficult, if not impossible, time attaining water quality (e.g., TMDLs) and air quality (e.g., non-attainment areas for ozone and fine particulates) goals. Present and future investments in green infrastructure will be threatened. DNREC strongly supports new development in and around existing towns and municipalities and in areas designated as growth zones in certified Comprehensive Plans. DNREC encourages the use of transfer of development rights where this growth management tool is available.

This particular development certainly compromises the integrity of the State Strategies and the preservation goals inherent in many of DNREC's programs. Of particular concern is the increase in impervious cover and tax ditch rights-of-way. While mitigating measures such as conservation design, central wastewater systems instead of individual on-site septic systems, and other best management practices may help mitigate impacts from this project, not doing the project at all is the best avenue for avoiding negative impacts. As such, this project will receive no financial, technical or other support of any kind from DNREC. Any required permits or other authorizations for this project shall be considered in light of the project's conflict with our State growth strategies.

## **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 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.** The parcel is partially within the Harrington Beaverdam Tax Ditch with an established tax ditch watershed boundary. A change to the Harrington Beaverdam Tax Ditch court order will be required if the parcel is designed to outlet to the tax ditch.

*Sediment/Stormwater and Drainage comments provided by James Sullivan - (302) 739-9921, [James.Sullivan@state.de.us](mailto:James.Sullivan@state.de.us)*

## **Water Resources**

**Water Supply.** The project information sheets state that individual on-site well(s) will be used to provide water for the proposed project. DNREC records indicate that the project is not located in an area where public water service is available. 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 current Regulations Governing the Construction and Use of Wells. A well construction permit must be obtained prior to constructing each and every well(s).

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](mailto:Ricardo.Rios@state.de.us)*

## **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](mailto:Krystal.Stanley@state.de.us)*

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

The State Fire Marshal's Office has no comments on this rezoning. If the rezoning is approved, they will comment on future site plans.

**Department of Agriculture - Contact: Scott Blaier 739-4811**

The Department of Agriculture is opposed to development in areas designated as Investment Level 4 under the *Strategies for State Policies and Spending*. The *Strategies* do not support isolated development of these areas. The intent of this plan is to preserve the agricultural lands, forestlands, recreational uses, and open spaces that are preferred uses in Level 4 areas. The Department of Agriculture opposes development which conflicts with the preferred land uses, making it more difficult for agriculture and forestry to succeed, and increases the cost to the public for services and facilities.

More importantly, the Department of Agriculture opposes this project because it negatively impacts those land uses that are the backbone of Delaware's resource industries - agriculture, forestry, horticulture - and the related industries they support. The crucial economic, environmental and open space benefits of agriculture and forestry are compromised by such development. We oppose the creation of isolated development areas that are inefficient in terms of the full range of public facilities and services funded with public dollars. Public investments in areas such as this are best directed to agricultural and forestry preservation.

The Delaware Department of Agriculture supports growth which expands and builds on existing urban areas and growth zones in approved State, county and local plans. Where additional land preservation can occur through the use of transfer of development rights, and other land use measures, we will support these efforts and work with developers to implement these measures. If this project is approved we will work with the developers to minimize impacts to the agricultural and forestry industries.

*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

*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 regarding this project.

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

Ensuring that new residential and commercial development incorporates pedestrian- and bicycle-friendly features allows people to travel by foot or by bicycle and promotes physical activity as part of daily routines. Regular physical activity offers a number of health benefits, including maintenance of weight and prevention of heart disease, type 2 diabetes and other chronic diseases.<sup>1</sup> Research shows that incorporating physical activity into daily routines has the potential to be a more effective and sustainable public health strategy than structured exercise programs.<sup>2</sup> This is particularly important considering about 65% of adult Delawareans are either overweight or obese.<sup>3</sup> This current obesity crisis is also affecting children. Approximately 37% of Delaware's children are overweight or obese<sup>4</sup>, which places them at risk for a range of health consequences that

include abnormal cholesterol, high blood pressure, type 2 diabetes, asthma, depression and anxiety.<sup>1</sup>

In Delaware, as in other states across the nation, certain patterns of land use can act as a barrier to physical activity and healthy eating for children and adults alike. Examples of such barriers include neighborhoods constructed without sidewalks or parks and shopping centers with full-service grocery stores situated too far from residential areas to allow for walking or biking between them.

This proposed development is in a Level 4 area. Developing in such an area is inconsistent with the *Strategies for State Policies and Spending*. DPH is committed to the *Strategies* and therefore, does not support development in the proposed area.

DPH supports new development in and around existing towns and municipalities where compact and mixed land use patterns facilitate physical activity and healthy living.

<sup>1</sup> Nemours Health and Prevention Services (2005). *Delaware Children's Health Chartbook*, Newark, DE.

<sup>2</sup> Active Living by Design. *Transportation Fact Sheet*. Retrieved May 17, 2007, from [http://www.activelivingbydesign.org/fileadmin/template/documents/factsheets/Transportation\\_Factsheet.pdf](http://www.activelivingbydesign.org/fileadmin/template/documents/factsheets/Transportation_Factsheet.pdf).

<sup>3</sup> Delaware Health and Social Services (2008), *Division of Public Health, Behavioral Risk Factor Surveillance System (BRFSS), 1990-2007*.

<sup>4</sup> Nemours Health and Prevention Services (2007). *2006 Delaware Survey of Children's Health Descriptive Statistics Summary, Volume 1*.

### **Delaware State Housing Authority – Contact Valerie Miller 739-4263**

No comments were received regarding this project.

### **Department of Education – Contact: John Marinucci 735-4055**

DOE recognizes that this development project is in Level 4 of the *State Strategies for Policies and Spending* and as such, DOE does not support projects located in level 4.

This proposed project is in the Capital 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.**

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 black ink and is positioned to the right of the word "Sincerely,".

Constance C. Holland, AICP  
Director

CC: Kent County