



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

December 28, 2009

Peter DeMarie  
P.O. Box 181  
Bethany Beach, DE 19970

RE: PLUS review – 2009-11-01; DeMarie Properties

Dear Mr. DeMarie:

Thank you for meeting with State agency planners on November 25, 2009 to discuss the proposed plans for the DeMarie Property located on the east and west side of Sussex County Road 36 at the intersection of County Roads 36 and 363.

According to the information received, you are seeking approval for 85 townhouses and 40,000 sq. ft. of commercial shown on the plan as two restaurants.

Please note that changes to the plan, other than those suggested in this letter, could result in additional comments from the State and may require you to resubmit your project for review through the PLUS Process. 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 the applications states that you plan to annex into the Town of Ocean View. However, until it is annexed, Sussex 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.

### **Strategies for State Policies and Spending**

- This project is located within a Levels 3 & 4 according to the *Strategies for State Policies and Spending* and within the Environmentally Sensitive Developing Area according to the most recently certified Sussex County comprehensive plan. Investment Level 3 according to the *Strategies for State Policies and Spending*. Investment Level 3 reflects areas where growth is anticipated by local, county,

and state plans in the longer term future, or areas that may have environmental or other constraints to development. State investments will support growth in these areas, but please be advised that the State may have other priorities in the near term future.

### **Code Requirements/Agency permitting requirements**

- The applicant intends to annex into the Town of Ocean View, as the process moves forward the applicant will need to coordinate with the Town to complete the required Plan of Service for Annexation with the proper zoning as defined by local zoning regulations and aid the Town in the completion of any required Comprehensive Plan Amendments necessary to support the annexation.
- Because the State Historic Preservation Office has noted that at one time there were two home on or around this site, the developer should be aware of the Delaware Unmarked Human Remains Act of 1987, outlined in Chapter 54 of Title 7 of the Delaware Code, which pertains to the discovery and disposition of such remains.
- Based on an estimated week trip generation of 3,600 trips per day for the restaurants and 560 trips per day for the townhouses, the proposed development warrants a traffic impact study (TIS). DelDOT's Standards and Regulations for Subdivision Streets and State Highway Access contain several warrants for determining when a TIS should be required, including volume warrants of 50 peak hour trips and 400 trips per day. However, they also provide that if no other warrants are met, for developments generating less than 200 peak hour trips and 2,000 trips per day, the developer has the option of contributing toward a future area-wide study of \$5 per daily trip in lieu of doing a TIS.

Trip generation varies significantly from one commercial use to another and a TIS, if required, usually takes 6 to 12 months to be completed and reviewed, which it must be before we can issue our Letter of No Objection to the Town. Therefore, it is important for the developer to determine as early as possible the types of commercial use that they propose to develop. Mr. Troy Brestel of this office can provide technical assistance in determining whether a specific development plan would warrant a TIS or would be eligible to pay the area-wide study fee. If a TIS is warranted, the developer's traffic engineer should contact Mr. Brestel to establish a scope of work for the study. Mr. Brestel may be reached at (302) 760-2167.

- The section of Muddy Neck Road between Double Bridges Road and Beaver Dam Road (Sussex Road 368) is classified as a Local road. Double Bridges Road and the section of Muddy Neck Road east of it are classified as Major Collector roads. DelDOT's policy is to require dedication of sufficient land to provide a

minimum right-of-way width of 30 feet from the centerline on Local roads and 40 feet from the centerline on Major Collector roads. Therefore we will require right-of-way dedication along the site frontage to provide any additional width needed from this project.

- A 15-foot wide permanent easement will need to be established across the site frontage on both Muddy Neck Road and Double Bridges Road for a future 10-foot wide bicycle and pedestrian path. The location of the easement shall be outside the limits of the ultimate right-of-way for these roads. The easement area can be used as part of the open space calculation for the site. The notes will be required on the plan establishing the easement and assigning maintenance responsibility for the easement to the developer and their assigns, rather than the State.
- A 20-foot wide buffer will be required from the edge of the proposed storm water management ponds to the ultimate rights-of-way of Muddy Neck Road and Double Bridges Road.
- Metes and bounds and total areas will need to be shown for any drainage easements. A minimum 20-foot wide drainage easement must be provided for storm drainage systems, open or closed, that fall outside the existing right-of-way or the drainage/utility easement. These easements will need to be shown on the record plan rather than referred to by a note.
- Sight distance triangles will be required at the entrances and shall be established in accordance with the AASHTO standards. Please refer to the “Standards and Regulations for Subdivision Streets and State Highway Access” under Chapter 5; Design Elements, Section 5.4 – Sight Distance, page 5-28.
- The project is subject to regulation by the Inland Bays Pollution Control Strategies. . These regulations can be reviewed at <http://regulations.delaware.gov/documents/November2008c.pdf> and background information, guidance documents, and mapping tools can be retrieved from [http://www.dnrec.state.de.us/water2000/Sections/Watershed/ws/ib\\_pcs.htm](http://www.dnrec.state.de.us/water2000/Sections/Watershed/ws/ib_pcs.htm). The regulations address establishing a buffer zone sediment and stormwater controls for new development projects, and additional measures and standards for onsite wastewater treatment and disposal systems. Additionally, a map of water features identifies the specific primary and secondary water features that require buffers; this can be reviewed at <http://maps.dnrec.delaware.gov/inlandbayspcs93/> .

## **Positive Aspects of Plan**

- Per the Delaware State Housing Authority, this proposed subdivision is a residential planned community that features a variety of housing types and targets first-time homebuyers. While the prices of the units are not known at this time, we encourage the applicant to include prices that are affordable to low- and moderate-income households. For your informational purposes, according to the most recent real estate data collected by DSHA, the average home price in Sussex County is \$180,000. This price point is well within the reach of Sussex Countians who are making 100 percent of the median income. This proposal offers an excellent opportunity to target first-time homebuyers and provide housing to support the local workforce in an area that lacks affordable homes.

## **Recommendations/Additional Information**

- DPH supports new development in and around existing towns and municipalities where compact and mixed land use patterns facilitate physical activity. As a way to promote physical activity and access to healthy foods, we recommend that the following amenities be included in the DeMarie Properties:

### **Amenities to encourage active transportation**

- Ensure safe connectivity with sidewalks, crosswalks and walking/bicycling paths within the site. This includes connectivity between the residential and commercial locations and connectivity to the recreational amenities.
- Designate bike paths to supplement the sidewalks already so that residents can travel by foot or by bicycle to the site. In addition, install bike racks throughout the development in convenient and safe locations within the site, especially around the amenities for recreation.

### **Amenities to encourage recreation**

- The plan to include a community center and pool is to be commended. To support active and passive recreation for all ages, it is recommended to include other recreational amenities such as a playground, park benches, basketball/tennis courts, etc.

### **Increase opportunities for healthy eating**

- Designate an area for a community garden. Community gardens not only provide residents access to healthy nutrition, but they also provide opportunities for physical activity and community cohesiveness.<sup>5</sup>

- The unexpected discovery of unmarked human remains during construction can result in significant delays while the process is carried out. Therefore, prior to any demolition, construction, or ground-disturbing activities, the developer should consider hiring an archaeological consultant to examine the parcel for historic or cultural resources such as an archaeological site, cemetery or unmarked human remains. If you have any questions or concerns, please contact Terence Burns at 302-736-7404.
- Upland buffers between buildings and infrastructure should be at least 100 feet in width to adequately protect water quality and provide wildlife habitat.
- Install Delaware native plants, including tall grasses, wildflowers, shrubs, and trees at the edge of and within an adequate buffer (15-30 feet in width) around stormwater ponds to discourage nuisance geese.
- As the entire property is located within a 100-year flood zone and impervious cover will be intensive, please take precautions to minimize runoff to adjoining properties.
- Some very poorly drained soils with severe limitations for development are located within the site.
- Leave the delineated wellhead protection area as open space by moving the parking to another area on the site.
- It is strongly recommended that a field wetlands delineation be performed on this parcel before commencing any construction activities.
- The plan shows restaurant overflow parking accessible to only the west restaurant. If the two restaurants are developed and the overflow parking is intended to serve both restaurants, a vehicular connection should be provided to the parking lot of the east restaurant.
- DelDOT recognizes that the proposed street system would be built for Town, not State maintenance. Nonetheless, they recommend that the proposed roundabout be designed to FHWA standards. Please refer to the FHWA manual titled “Roundabouts: An Informational Guide”.
- Without prejudging the results of any TIS that may be required, DelDOT offers the following comments regarding off-site improvements:
  - The proposed site entrances will likely require right and left turn lanes and bike lanes on Muddy Neck Road and Double Bridges Road.

- The developer may be required to build or partially fund improvements at the intersection of Muddy Neck Road and Double Bridges Road, and possibly elsewhere. At the intersection of Muddy Neck Road and Double Bridges Road, these improvements might include the addition of turning lanes and the installation of a signal.
- If a left-turn lane is needed on Double Bridges Road approaching Muddy Neck Road, its length may affect the location of the proposed entrances on Double Bridges Road or the turning movements permitted there.
- DelDOT's standard typical sections for Local roads and Major Collector roads are 11-foot lanes and 5-foot shoulders and 12-foot lanes and 8-foot shoulders, respectively. Ordinarily, we require improvement of the road within the limits of the site frontage to at least match these typical sections. From aerial photography, however, Muddy Neck Road and most of the site's frontage on Double Bridges Road already have paved shoulders and may already meet these criteria.
- DelDOT recommends that the developer have their engineer contact the Subdivision Manager for the east part of Sussex County, Mr. John Fiori, for more detailed comments on the site plan as they develop it further. Mr. Fiori may be reached at (302) 760-2260.
- 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.

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

- DOE records indicate that the Indian River School Districts' *elementary schools are at or beyond 100% of current capacity* based on September 30, 2009 elementary enrollment. DOE records indicate that the Indian River School Districts' *secondary schools are at or beyond 100% of current capacity* based on September 30, 2009 secondary enrollment.

This development will create additional elementary and secondary student population growth which will further compound the existing shortage of space within the district. It is strongly recommended that the developer coordinate with the Indian River School District to address the additional student population likely to be generated by this development.

- The DOE strongly recommends that the developer coordinate bus stop ROW and shelters within the project design with the Indian River School District Transportation Department.

**Following receipt of this letter and upon filing of an application with the local jurisdiction, the applicant shall provide to the local jurisdiction and the Office of State Planning Coordination a written response to comments received as a result of the pre-application process, noting whether comments were incorporated into the project design or not and the reason therefore.**

Thank you for the opportunity to review this project. If you have any questions, please contact me at 302-739-3090.

Sincerely,



Constance C. Holland, AICP  
Director

CC: Town of Ocean View