



**STATE OF DELAWARE
EXECUTIVE DEPARTMENT
OFFICE OF STATE PLANNING COORDINATION**

September 23, 2010

Mr. Ted Williams
100 W. Commons Blvd., Ste. 301
New Castle, DE 19720

RE: PLUS review – 2010-08-02; Milton & Hattie Kutz Home, Inc.

Dear Mr. Williams:

Thank you for meeting with State agency planners on August 25, 2010 to discuss the proposed plans for the Milton and Hattie Kutz home which is an expansion to the existed nursing home and assisted living facility located on River Road, approximately 1400 feet northeast of Lore Avenue in New Castle County.

According to the information received, you are seeking a rezoning of 11.03 acres from S to ST for a 67,000 sq. ft. expansion of the existing nursing home.

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 New Castle 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 in Investment Level 1 and 2 according to the *Strategies for State Policies and Spending*. This site is also located in the New Castle County growth zone. 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 or comments related specifically to the proposed rezoning of this parcel in accordance with the relevant county codes and ordinances. However, we would like to offer the following information regarding any future development of this property.

Code Requirements/Agency Permitting Requirements

State Historic Preservation Office – Contact Terrence Burns 736-7404

- There are no known cultural or historic resources such as an archaeological site or listed National Registered this parcel/property. However, there are a few known cultural or historic resources nearby, just east of the parcel, and they are as follows: the Sellers mansion, house and chauffeurs house (N09557.1, N09557.2, N09557.3), which are all early 20th-century dwellings or structures.

Although there are no known cultural or historic resources, it is still important that the developer 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. 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 or ground-disturbing activities, the developer may want to consider hiring an archaeological consultant to examine the parcel for archaeological sites, including a cemetery or unmarked human remains. Furthermore, if there is any federal involvement with the project, in the form of licenses, permits, or funds, the federal agency, often through its client, is responsible for complying with Section 106 of the National Historic Preservation Act (36 CFR 800) and must consider their project's effects on or in reference to historic or cultural resources.

Department of Transportation – Contact Bill Brockenbrough 760-2109

- The site access on River Road must be designed in accordance with DelDOT's Standards and Regulations for Subdivision Streets and State Highway Access. This manual is available on-line at [http://www.deldot.gov/information/pubs_forms/manuals/subdivisions/pdf/Subdivision M annual Revision 1 proposed 060110.pdf](http://www.deldot.gov/information/pubs_forms/manuals/subdivisions/pdf/Subdivision_Mannual_Revision_1_proposed_060110.pdf). DelDOT's understanding is that the existing nursing home access would see little increase in traffic and that most traffic associated with the assisted living facility would use Lodge Lane. On this basis, the proposed plan of leaving the nursing home entrance as it exists and improving only the intersection of River Road and Lodge Lane is acceptable.
- Normally, DelDOT would expect that the development's trip generation was estimated using the Institute of Transportation Engineers' (ITE) Trip Generation report. That report provides rates and equations based on studies of existing developments. As they understand the PLUS application, the Federation proposes a 66-bed assisted living facility and estimates the trip generation at 132 trips per day. Using the report, DelDOT estimates the trip generation to be 238 trips per day. As this number is central to the design of the site access, as detailed in Chapter 5 of the Standards and Regulations, agreement on this number will need to be established early in the entrance plan process.

- Related to the previous comment, traffic counts will need to be provided for the intersection of River Road and Lodge Lane. The requirement for traffic data is a standard requirement per Section 3.4.1.1 of the Standards and Regulations, but in most instances new counts are not necessary. They will be needed in this instance because Lodge Lane is an existing private street serving other land uses. The DelDOT Subdivision Manager for this area of New Castle County, Mr. Richard Woodhall, can provide further information on what will be required. He can be reached at (302) 760-2262.
- River Road is classified as a Collector, which per Section 3.6.5 of DelDOT's Standards and Regulations for Subdivision Streets and State Highway Access requires an 80-foot right-of-way (40-feet from centerline of right-of-way). Therefore, in accordance with the section just cited, additional right-of-way should be dedicated to public use in order to obtain the required rights-of-way along the entire property frontage. The right-of-way dedication notes should read as follows, "A 40' strip of right-of-way from the road centerline of River Road is hereby dedicated to public use as per this plat." DelDOT recognizes that this would apply only to the nursing home entrance because no other frontage remains.
- DelDOT anticipates that New Castle County will require a "Letter of No Objection" from the Department for this project. Per Section 3.4 of DelDOT's Standards and Regulations for Subdivision Streets and State Highway Access, the developer must submit **three (3) signed and sealed paper copies and one electronic (pdf) copy** of the **record plan**, with an Initial Stage Fee Calculation Form and the Initial Stage Fee. The review fee will be based on the number of lots within the subdivision. Please make all submissions to Mr. Richard Woodhall, Subdivision Manager. The entrance plan will not be reviewed until after the "Letter of No Objection" has been issued.
- As specified in Section 4.1 of DelDOT's Standards and Regulations for Subdivision Streets and State Highway Access, when the entrance construction plans are submitted for review, the developer must submit **two (2) paper copies and one electronic (pdf) copy** of the construction plans, one copy of the record plan, an Initial Stage Fee Calculation Form, a Construction Stage Fee Calculation Form, a Construction Stage Review Fee, an application for highway entrance permit and a signed and sealed commercial entrance design checklist for review and approval. Be advised that the Department will not review the entrance plan until it has signed off on the record plan. Please make all submissions to Mr. Richard Woodhall, Subdivision Manager.

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

- **Water Supply.** The project information sheets state water will be provided to the project by United Water DE via a public water system. Our records indicate that the project is located within the public water service area granted to United Water DE under Certificate of Public Convenience and Necessity 88-CPCN-03.

- 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.
- **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 project 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 New Castle County Department of Land Use Engineering Section. Contact the Department of Land Use at (302) 395-5470 for details regarding submittal requirements and fees (Delaware Code, Title 7, Chapter 40; Delaware Regulations, Administrative Code, Title 7, 5101).
- **Air Quality.** The applicant shall comply with all applicable Delaware air quality regulations. These regulations include:

Regulation 1106 - Particulate Emissions from Construction and Materials Handling

- Use dust suppressants and measures to prevent transport of dust off-site from material stockpile, material movement and use of unpaved roads.
- Use covers on trucks that transport material to and from site to prevent visible emissions.

Regulation 1113 - Open Burning

- Prohibits open burns statewide during the Ozone Season from May 1-Sept. 30 each year.
- Prohibits the burning of land clearing debris, trash or building materials/debris.

Regulation 1141 – Limiting Emissions of Volatile Organic Compounds From Consumer and Commercial Products

- Restricts the use of certain coatings and consumer products in typical architectural applications.

Regulation 1145 - Excessive Idling of Heavy Duty Vehicles

- Restricts idling time for trucks and buses having a gross vehicle weight of over 8,500 pounds to no more than three minutes.
- **Hazardous Waste Sites.** If it is determined by the Department that there was a release of a hazardous substance on the property in question, it is suggested that the guidelines and provisions of 7 Del.C. Chapter 91, Delaware Hazardous Substance Cleanup Act and the Delaware *Regulations Governing Hazardous Substance Cleanup* be followed.
- **Tank Management Branch.** If a release of a Regulated Substance occurs at the proposed project site, compliance of 7 Del.C. Chapter 60, 7 Del.C., Chapter 74 and DE Admin. Code 1351, State of Delaware *Regulations Governing Underground Storage Tank Systems* (the UST Regulations) is required.

There is one LUST project located within the boundaries of the project parcel:

- Kutz Nursing Home Inc, Facility: 3-000920, Project: N9603052 (Inactive)

There are two (2) LUST projects located within a quarter mile of the project parcel:

- Cambridge Apartments, Facility: 3-000954, Project: N8605023, N9209228 (Inactive)
- Governor House Condominium, Facility: 3-000946, Project: N9904074 (Inactive)
- Per the **UST Regulations: Part E, § 1. Reporting Requirements:**
 - “Any indication of a Release of a Regulated Substance that is discovered by any Person, including but not limited to environmental consultants, contractors, utility companies, financial institutions, real estate transfer companies, UST Owners or Operators, or Responsible Parties shall be reported within 24 hours to:
 - The Department’s 24-hour Release Hot Line by calling 800-662-8802; and
 - The DNREC, Tank Management Branch by calling 302-395-2500.”

Delaware State Fire Marshall’s Office – Contact Duane Fox 739-4394

- 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 1000 GPM for 1-hour duration, at 20-psi residual pressure is required. Fire hydrants with 800 feet spacing on centers.

- Where a water distribution system is proposed or extended for healthcare 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 from the main thoroughfare 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)
- 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

Recommendations/Additional Information

This section includes a list of site specific suggestions that are intended to enhance the project. These suggestions have been generated by the State Agencies based on their expertise and subject area knowledge. **These suggestions do not represent State code requirements.** They are offered here in order to provide proactive ideas to help the applicant enhance the site design, and it is hoped (**but in no way required**) that the applicant will open a dialogue with the relevant agencies to discuss how these suggestions can benefit the project.

State Historic Preservation Office – Contact Terrence Burns 736-7404

- The developer should also consider the idea of providing sufficient landscaping along the borders of the parcel in order to lessen the visual effects that are on the surrounding properties.

Department of Transportation – Contact Bill Brockenbrough 760-2109

- Along the north edge of the property there is a right-of-way designated Government Lane. DelDOT has several related comments regarding it:
 - The plan appears to show that previously this was a 40-foot right-of-way and that a previous plan for the facility proposed a 15-foot dedication. Government Lane is a local road, for which our standard right-of-way width is 60 feet. Therefore if for some reason the dedication did not occur we would only require a 10-foot dedication now. If it did occur, the word “proposed” should be removed from the plan note.
 - Currently Government Lane is paved only for about 135 feet east from River Road and serves only as a common driveway for three homes that front on River Road. DelDOT suggests that the Federation consider extending the pavement as an emergency access to the nursing home parking lot. If the access were gated both at the nursing home fence and, for security, at the end of the existing pavement, and is for emergency use only, we would allow an exception to

standard sections for local roads and streets such that a narrower section could be built.

- DelDOT would consider a petition to vacate the unbuilt portions of Government Lane. If the Federation would like to pursue that, they may contact Ms. Kathleen Enright in our Real Estate Section. Ms. Enright may be reached at (302) 760-2237.
- DelDOT recommends that the proposed access onto Lodge Lane be channelized, and possibly realigned. Exiting drivers turning right onto Lodge Lane should be directed to yield. Exiting drivers turning left onto Lodge Lane should be directed to stop and should have a perpendicular approach to the street.
- DelDOT appreciates the Federation's interest in preserving the stone walls at the intersection of River Road and Lodge Lane, a field meeting held on July 16, 2010 indicates that it is probable that the pillars will not be impacted. The Federation's site engineer should work with Mr. Woodhall in this regard during the entrance design. For purposes of the record plan, the note specifying that the walls will remain should be removed. Otherwise, if they find in the entrance plan process that they must be moved, a revised record plan might be necessary.
- DelDOT appreciates that the developer and their engineer have had a pre-submittal meeting with their Subdivision Engineer, Mr. Marc Cote'. Discussion points from that meeting are as follows:
 - River Road is a collector, but for geometric standards, local road standards will apply.
 - Sight distance from Lodge Lane is acceptable with the stone pillars in place.

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

- **Impervious Surfaces and Best Management Practices.** The applicant is strongly urged to reduce nutrient and bacterial pollutants through voluntary commitment to the implementation of the following recommended BMPs:
- DNREC suggests that the applicant maintain as much of the existing forest cover as possible. They further suggest additional native tree and native herbaceous planting wherever possible.
- DNREC strongly recommends that the applicant calculate post-construction surface imperviousness with all forms of created (or constructed) surface imperviousness (e.g., rooftops, driveways, parking lots, sidewalks, open-water storm water management structures, and roads) included in the calculation. 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 via the application/use of pervious paving materials (“pervious pavers”) in lieu of asphalt or concrete in conjunction with an increase in forest cover preservation (or establishment of additional forest cover acreage) – are examples of some practical BMPs that could easily be implemented to help reduce surface imperviousness.

- DNREC strongly recommends the use of rain gardens, and green-technology storm water management structures (in lieu of open-water management structures) as BMPs to mitigate or reduce nutrient and bacterial pollutant impacts via runoff from impervious surfaces.
- **More air quality information.** Measures may be taken to substantially reduce the air quality emissions and include:
 - **Construct only energy efficient buildings.** Energy Star qualified buildings are up to 30% more energy efficient. These savings come from building envelope upgrades, high performance windows, controlled air infiltration, upgraded heating and air conditioning systems, tight duct systems and upgraded water-heating equipment. Every percentage of increased energy efficiency translates into a percent reduction in pollution.
 - **Offer geothermal and/or photo voltaic energy options.** These systems can significantly reduce emissions from electrical generation, and from the use of oil or gas heating equipment.
 - **Provide tie-ins to the nearest bike paths and links to any nearby mass transport system.** For every vehicle trip that is replaced by someone using a sidewalk, bike path or mass transit can significantly reduce mobile source emissions.
- Additionally, the following measures will reduce emissions associated with the actual construction phase of the development:
 - **Use retrofitted diesel engines during construction.** This includes equipment that is on-site as well as equipment used to transport materials to and from site.
 - **Use pre-painted/pre-coated flooring, cabinets, fencing, etc.** These measures can significantly reduce the emission of VOCs from typical architectural coating operations.
 - **Plant low VOC emitting trees at residential units and in vegetative buffer areas.** Trees reduce emissions by trapping dust particles and by replenishing oxygen. Trees also reduce energy emissions by cooling during the summer and

by providing wind breaks in the winter, whereby reducing air conditioning needs by up to 30 percent and saving 20 to 50 percent on fuel costs.

- **More information on hazardous waste sites.** SIRB strongly recommends that the land owner perform environmental due diligence of the property by performing a Phase I Assessment in accordance to Section 9105(c) (2) of the Delaware Hazardous Substance Cleanup Act (HSCA). While this is not a requirement under HSCA, it is good business practice and failure to do so will prevent a person from being able to qualify for a potential affirmative defense under Section 9105(c) (2) of HSCA.

There are two SIRB site found within a ½-mile radius of the proposed project:

- Fox Point Park Phase I (DE-1001) is across the railroad tracks and I-495 to the east of the project area.
 - The site is a HSCA site. The remediation was completed in 1995. The site is currently a Delaware State Park and has operation and maintenance is performed regularly.
- Fox Point Park Phase II (DE-1011) is across the railroad tracks and I-495 to the east of the project area.
 - The site is a HSCA site. The remediation was completed in 2008. The site is currently a Delaware State Park and has operation and maintenance is performed regularly.

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.

- **More information on tank management.** When contamination is encountered, PVC pipe materials should be replaced with ductile steel and nitrile rubber gaskets in the contaminated areas.

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.

Should the County anticipate being more restrictive than Delaware's Regulations Governing Underground Storage Tank Systems or Delaware's Regulations Governing Aboveground Storage Tanks, please be aware that the County shall be responsible for enforcing the more restrictive rules.

Delaware Department of Agriculture – Contact Scott Blaier 698-4530

- The Delaware Department of Agriculture Forest Service encourages the school district to use the “Right Tree for the Right Place” for any design considerations. This concept allows for the proper placement of trees to reduce heating and cooling costs. In addition, a landscape design that encompasses this approach will avoid future maintenance cost to the property owner and ensure a lasting forest resource. To further support this concept the Delaware Forest Service does not recommend the planting of the following species due to the high risk of mortality from insects and disease:

Callery Pear

Ash Trees

Leyland Cypress

Red Oak (except for Willow Oak)

If you would like to learn more about the potential problems or impacts associated with these trees, please contact the Delaware Forest Service for more information at (302) 698-4500.

- 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.

Delaware State Fire Marshall’s Office – Contact Duane Fox 739-4394

- It is suggested that you coordinate with the local Fire Company (Brandywine Hundred) to address any access concerns they may have including, but not limited to their ability to navigate EMS vehicles under any canopy at any entrance.
- 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.
- Additionally, this being a Health Care occupancy, the Department of Health & Social Services, Office of Healthcare Facilities Licensing and Certification should be notified.

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".

Constance C. Holland, AICP
Director, Office of State Planning Coordination

CC: New Castle County