



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

October 19, 2010

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

RE: PLUS review – 2010-09-02; East Main Street Hotel

Dear Mr. Lobdell:

Thank you for meeting with State agency planners on September 22, 2010 to discuss the proposed plans for the East Main Street Hotel to be located at 121 East Main Street in New Castle County

According to the information received, you are seeking a rezoning of 4.28 acres from NC15 to CN for a 15,390 sq. ft. hotel.

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 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 2 according to the *State Strategies for Policies and Spending*. 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 in accordance with the relevant county codes and ordinances.

Code Requirements/Agency Permitting Requirements

State Historic Preservation Office – Contact Terrence Burns 736-7404

- There are no known cultural or historic resources on this parcel (property). However, there is a known property listed in the National Register of Historic Places, the John Lewden House (N00197), towards the northeast side right next to this parcel. According to the Pomeroy and Beers Atlas of 1868, which is a 19th-century historical map, this property was associated with J & J Lewden at that time. In addition, this parcel is on the road into the Christiana Historic District (N01475), which is also listed in the National Register. With this in mind, it is 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.
- 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. Also, 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 any known or potential historic or cultural resources

Department of Transportation – Contact Bill Brockenbrough 760-2109

- The site access and subdivision streets 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_Manual_Revision_1_proposed_060110.pdf.
- As proposed, the subject development would meet DelDOT's volume warrants for a traffic impact study (TIS), as contained in Section 2.3.1 of DelDOT's Standards and Regulations for Subdivision Streets and State Highway Access. We believe it would also meet New Castle County's warrants for such a study. Because of its location within the Churchmans Crossing area, the development may qualify for a TIS waiver. If the developer would like to proceed with the TIS, they should contact Mr. Troy Brestel of the DelDOT Development Coordination Section to arrange for a scoping meeting. Mr. Brestel may be reached at (302) 760-2167. If the developer would like to pursue a waiver, they should contact Mr. John Janowski at the New Castle County Department of Land Use. Mr. Janowski may be reached at (302) 395-5426.

- In accordance with Section 5.2 of DeIDOT's Standards and Regulations for Subdivision Streets and State Highway Access, DeIDOT anticipates requiring improvements along the site frontage. Preliminarily, those improvements would include separate left and right turn lanes at the site entrance. Those improvements could, in turn, require the dedication of rights-of-way to public use. DeIDOT recommends that the developer's site engineer contact the DeIDOT Subdivision Manager for northeastern New Castle County, Mr. Richard Woodhall, to discuss these requirements further. Mr. Woodhall may be reached at (302) 760-2262.
- DeIDOT anticipates that New Castle County will require a "Letter of No Objection" from the Department for this project. Per Section 3.4 of DeIDOT'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. 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 DeIDOT'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 Artesian Water Company via a public water system. DNREC records indicate that the project is located within the public water service area granted to Artesian Water Company under Certificate of Public Convenience and Necessity 85-WS-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.

TMDLs.

- Total Maximum Daily Loads (TMDLs) for nitrogen and phosphorus have been promulgated through regulation for the Christina 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 State water quality standards (e.g., dissolved oxygen, nutrients, and bacteria; *State of Delaware Surface Water Quality Standards, as amended July 11, 2004*) to the extent necessary to support use goals such as, swimming, fishing, drinking water and shell fish harvesting.

TMDLs are required by federal law (Section 303(d) of the 1972 Clean Water Act), and the states are charged with developing and implementing standards to support these desired use goals. The project is located in the greater Piedmont drainage, specifically within the Christina River watershed. In the Christina River watershed, post-development nitrogen and phosphorus loading must be capped at the pre-development or baseline loading rate (or a 0% post-construction increase in N & P in Delaware’s portion of the Christina River Basin) to meet the required TMDL for each nutrient. Moreover, bacteria must be reduced by 80.3% to meet the required TMDL. The specific required nutrient and bacterial requirements and background information is in the report entitled “*Christina River Basin High-Flow TMDL*” by the EPA. This report can be retrieved from the following weblink:

http://www.epa.gov/reg3wapd/tmdl/pa_tmdl/ChristinaMeetingTMDL/index.htm

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 New Castle County Dept. of Land Use Engineering Section. Contact Dept. 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.

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 are no LUST projects located within a quarter mile of the project boundary.
- 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.”

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.

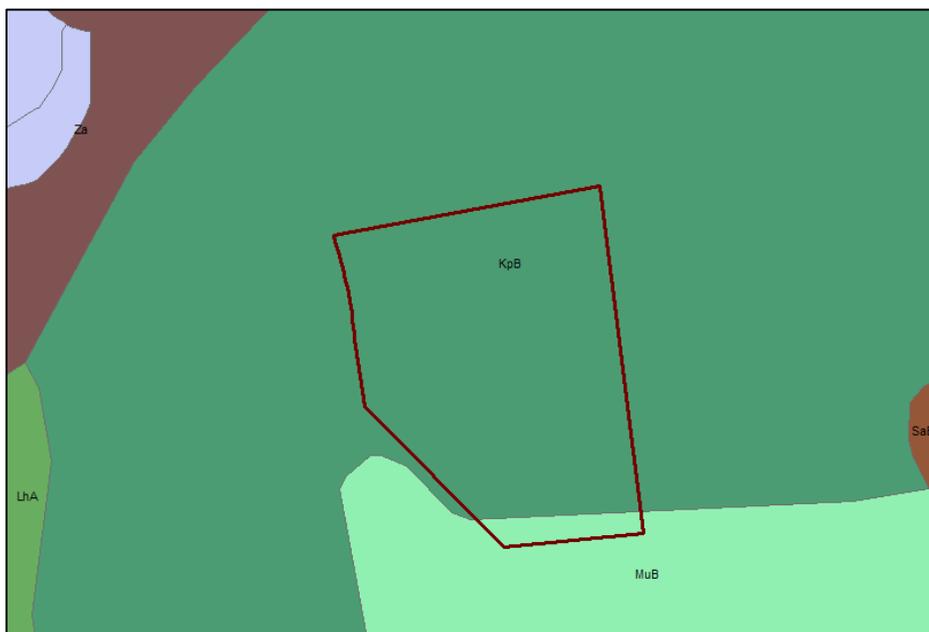
State Historic Preservation Office – Contact Terrence Burns 736-7404

- Because of the significance of the John Lewden House and the Christiana Historic District, the developer should consider providing sufficient landscaping along the borders of the parcel to block any adverse visual and noise effects on these properties.

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

Additional information on TMDLs.

- A pollution control strategy (PCS) is the regulatory directive requiring the implementation of various best management practices (BMPs) that help reduce transport of nutrient and bacterial pollutant runoff from all waters draining into a “greater” common watershed, with the ultimate objective of achieving the obligatory TMDL reduction requirements for that watershed. However, the PCS for the Christina River watershed has not been formally completed to date. In absence of a finalized PCS, the applicant is strongly urged to reduce nutrient and bacterial pollutants through voluntary commitment to the implementation of the following recommended BMPs:
 - Maintain the recommended 100-foot buffer width from all delineated wetlands (USACOE approved wetland delineations) and water bodies. According to information presented in the PLUS application, a USACE-approved wetlands delineation had been conducted; however, no evidence of this approval was provided in the applicant’s PLUS application submittal.
 - Avoid construction activities in the Mullica soil mapping unit (MuB; Figure 1). Mullica is a hydric soil mapping unit associated with wetlands - hydric soil mapping units are critically important for filtering and/or reducing nutrient pollutant runoff. Moreover, hydric soils have severe limitations for development because of the



presence of a seasonal high water table.

Figure 1: NRCS soil mapping in the immediate vicinity of the proposed project

- Maximize the amount and/or preservation of passive wooded open space.
- 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.
- Use pervious paving materials (instead of conventional asphalt and concrete) as a BMP to reduce the impacts associated with surface imperviousness, wherever practicable.
- Use rain gardens and green-technology storm water management structures (in lieu of open-water management structures) as Best Management Practices to mitigate or reduce nutrient and bacterial pollutant impacts via runoff from impervious surfaces.
- Voluntarily assess nutrient and bacterial pollutant loading at the preliminary project design phase. To this end, the Watershed Assessment Section has developed a methodology known as the “Nutrient Load Assessment protocol.” The protocol is a tool used to assess changes in nutrient loading (e.g., nitrogen and phosphorus) that result from the conversion of individual or combined land parcels to a different land use(s), while providing applicants with quantitative information about their project’s impact(s) on baseline water quality. The applicant/developer should use this protocol to help design and implement the most effective BMPs. Please contact Lyle Jones at 302-739-9939 for more information on the protocol.

Additional 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 used 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 on the list below 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.

This is a partial list, and there are additional things that can be done to reduce the impact of the development on air quality. The applicant is advised to contact DNREC Air Quality Management Section for measures that may be incorporated into the East Main Street Hotel project.

Additional Tank Management Branch information.

- 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 local government 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 local government shall be responsible for enforcing the more restrictive rules.

- 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

Leyland Cypress

Ash Trees

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.

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.

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, Office of State Planning Coordination

CC: New Castle County

