



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

September 16, 2011

Mr. Mark H. Davidson
Pennoni Associates
18072 Davidson Drive
Milton, DE 19968

RE: PLUS review –2011-08-01; Red Mill Office Park

Dear Mr. Davidson:

Thank you for meeting with State agency planners on August 24, 2011 to discuss the proposed plans for the Red Mill Office Park located on Delaware Route 1 between Best Lane and Pondview Drive.

According to the information received, you are seeking a rezoning of 1.13 acres of an existing business park from AR-1 to BG to allow for 3 proposed 2-story office buildings.

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 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 in Investment Level 1 according to the *Strategies for State Policies and Spending*. 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.

Code Requirements/Agency Permitting Requirements

State Historic Preservation Office – Contact Terrence Burns 736-7404

- There are no known historic properties on this parcel (property), however here is a known archaeological site (S-518, 7S-D-028) nearby. According to the Pomeroy and Beers Atlas of 1868 (an historic map), it seems that there was a dwelling or structure associated with a Jon. H. Paynter on the parcel and the USGS Topographic Map of 1918 also indicated that there was one. Although the actual structure is no longer there, it is a possibility that there might be potential archaeological remains associated with it as well. With this in mind, it is important that developer be aware of the Unmarked Human Burials and Human Skeletal Remains Law of 1987 (Delaware Code: Title 7, Chapter 54), which pertains to the discovery and disposition of such remains in the State of Delaware.
- Abandoned or unmarked family cemeteries are very common in Delaware. Especially on historic farm sites, rural areas, and open space lands. Disturbing unmarked burials triggers Delaware's Unmarked Human Burials and Human Skeletal Remains Law of 1987 (Delaware Code: Title 7, Chapter 54), and such discoveries can result in substantial delays while the procedures required under this law are carried out. The Division of Historical & Cultural Affairs recommends that owners and/or developers have a qualified archaeological consultant investigate their project area for the presence of such a cemetery. If one is discovered and delineated, it is very costly to have it archaeologically excavated and the burials moved. In the event of such a discovery, the Division of Historical & Cultural Affairs also recommends that the plans be re-drawn to leave the cemetery on its own parcel or in the open space area of the development, with the responsibility for its maintenance lying with a homeowners association or development. For further information, please see following websites at: www.history.delaware.gov/preservation/umhr.shtml and www.history.delaware.gov/preservation/cemeteries.shtml
- Prior to any demolition or ground-disturbing activities, the developer should consider hiring an archaeological consultant to examine the parcel for potential archaeological sites, a cemetery or unmarked human remains.
- 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 culture or historic resources. Owners and developers who may plan to apply for an Army Corps of Engineers permit or for federal funding, such as HUD or USDA grants, should be aware of the National Historic Preservation Act of 1966 (as amended). Regulations promulgated for Section 106 of this Act stipulate that no ground-disturbing or demolition activities should take place before the Corps or other involved federal agency determines the area of potential effect of the project undertaking. These stipulations are in place to allow for comment from the public,

the Delaware State Historic Preservation Office, and the Advisory Council for Historic Preservation about the project's effects on historic properties. Any preconstruction activities without adherence to these stipulations may jeopardize the issuance of a permit or receipt of funding if it is determined that such opportunity to comment has been foreclosed. For further information on Section 106 and the Advisory Council's role, please review the Advisory Council's website at www.achp.gov

Department of Transportation – Contact Bill Brockenbrough 760-2109

- Please refer to DelDOT's Standards and Regulations for Subdivision Streets and State Highway Access (February 15, 2010) for the design of the site entrance. The website for the Standards and Regulations is http://www.deldot.gov/information/pubs_forms/.
- Item 25 on the PLUS application shows that the site would generate 205 trips per day. Because the site would generate more than 200 trips per day, a Traffic Operational Analysis in accordance with Section 3.9 of the Standards and Regulations will be required.
- Referring to the Standards and Regulations, Figure 5-13, Right Turn Lane Warrants, a 450-foot long right turn lane is warranted on southbound Route 1 at Best Lane. Because the existing right turn lane is only 300-feet this lane will need to be rotomilled, overlaid and re-striped to 450-feet.
- As indicated on the DelDOT Meeting Request Form, available at <http://www.deldot.gov/information/business/>, because the site would generate 205 trips per day, a pre-submittal meeting is required. The purpose of such meetings, similar to PLUS meetings, is to identify problems with your plan so that they can be corrected before the plan enters our formal plan review process. Please complete and submit the form to request such a meeting.
- Best Lane was built centered in a 30-foot right-of-way, which was dedicated to public use and accepted for State maintenance. That width does not meet the current State standard of 50 feet, 25 feet on either side of the centerline. An additional 20' of right-of-way was subsequently dedicated to public use under Red Mill Village – Parcel A, and this information will need to be noted on the site plan. However, that subsequent dedication still left the right-of-way at only 15 feet wide south of the centerline. Accordingly, we will require an additional 10 feet of right-of-way to be dedicated along Best Lane and the following plan note, "An additional 10' of right-of-way is hereby dedicated to public use as per this plat."
- DelDOT will require that a 36" x 36" stop sign and a 16" wide white stop bar be provided at the proposed site entrance onto Best Lane.
- Verify if there is a previously recorded perpetual cross access easement between Lots 1

thru 6. If it does exist, show and note the easement along with the recorded Deed Book and/or Plot Book reference. If it does not exist then a perpetual cross access easement will need to be established on the site plan.

- Referring to the Standards and Regulations, Section 3.4.1, two (2) traffic generation diagrams will be required. The first diagram will be for the entrance and Best Lane and the second will be for Best Lane and Route 1. Also, refer to the 2010 Traffic Summary when determining the highway AADT. The website for the Traffic Summary is http://www.deldot.gov/information/pubs_forms/.
- In accordance with Section 9.2.1 of the Standards and Regulations, add the following note to the site plan, “This site shall have access from Best Lane and direct access from Route 1 will not be permitted.”
- Consistent with Appendix J in the Standards and Regulations, a note should be added on the plan indicating that the existing entrance along Best Lane for Lot 6 shall be removed, topsoiled, seeded, mulched and re-graded to assure positive drainage.
- Please refer to the Standards and Regulations, Appendix D – Plan Review Checklist, pages D-2 thru D-39, for the current checklists for all plan submittals. Use of these checklists is required.
- In accordance with Section 1.4 of the Standards and Regulations, an Initial Stage review fee will be assessed when a site plan is submitted to obtain a Letter of No Objection for this project.
- In accordance with Section 3.4 of the Standards and Regulations, when submitting a site plan to obtain a Letter of No Objection for this project, following information will be required:

Initial Stage Fee Calculation Form
Initial Stage Review Fee
Gate-Keeping Checklist – Site Plan
Design Checklist – Record Plan*
Owners and Engineer’s name and e-mail address
Three (3) paper sets of the Site/Record Plan
Conceptual Entrance Plan
CD with a pdf of the Site/Record Plan
Submission of the Area-Wide Study Fee (If applicable)

*For the design checklist for the site plan, please refer to the Standards and Regulations, Appendix D, Checklist for Subdivision Record Plan Approval.

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

TMDL

- The project is located in the greater Delaware River and Bay drainage, specifically within the Broadkill River watershed. In this watershed, the State of Delaware has developed specific Total Maximum Daily Load (TMDL) pollutant reduction targets for nitrogen, phosphorus, and bacteria (under the auspices of Section 303(d) of the Clean Water Act). 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. The TMDL for the Broadkill River watershed calls for a 40percent reduction in nitrogen and phosphorus from baseline conditions. The TMDL also calls for a 75 percent reduction in bacteria from baseline conditions.
- A nutrient management plan is required under the *Delaware Nutrient Management law (3 Del. Chapter 22)* for all persons or entities who apply nutrients to lands or areas of open space in excess of 10 acres. This project’s open space may exceed this 10-acre threshold. Please contact the Delaware Nutrient Management Program at 739-4811 for further information concerning compliance requirements or view the following web link for additional information: <http://dda.delaware.gov/nutrients/index.shtml>

Water Supply

- 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 83-W-15.
- 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.

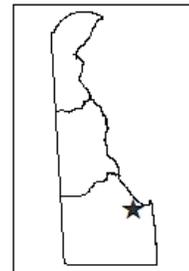
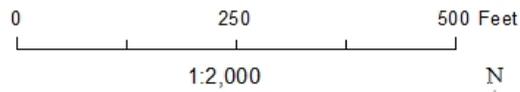
Water Resource Protection Areas

- The DNREC Water Supply Section Ground-Water Protection Branch (GPB) has determined that the project falls entirely within an excellent ground-water recharge potential area for Sussex County (see attached map).
- Excellent Ground-Water Recharge Areas are those areas mapped by the Delaware Geological Survey where the first 20 feet of subsurface soils and geologic materials are exceptionally sandy. These soils are able to transmit water very quickly from the land surface to the water table. This map category (excellent) is an indicator of how fast contaminants will move and how much water may become contaminated (Andres, 2004). Land use activities or impervious cover on areas of excellent ground-water recharge potential may adversely affect ground water in these areas.
- In addition, because the excellent ground water recharge area can readily affect the underlying aquifer if contaminants are spilled or discharged across the area, 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.
- SWAPP Recommends:
 - Reducing impervious cover

References

Andres, A. Scott, 2004, Ground-Water Recharge Potential Mapping in Kent and Sussex Counties, Delaware: Delaware Geological Survey Report of Investigations No. 66, p. 14.
<http://www.udel.edu/dgs/Publications/pubform.html#investigations>

Red Mill Office Park (PLUS 2011-08-01)



Legend

-  Excellent Ground-Water Recharge Potential Area
-  Project Area

As of August 2011. This map is provided by the DNREC solely for display and reference purposes and is subject to change without notice. DNREC will not be held responsible for the assumed accuracy contained in the map or for the use other than its intended purpose.

Sediment and Stormwater Program

- A detailed sediment and stormwater plan will be required prior to any land disturbing activity taking place on the site. A project application meeting is required for this 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 Sussex Conservation District. Contact Jessica Watson at the Sussex Conservation District at (302) 856-2105 for details regarding submittal requirements and fees. (Title 7, Delaware Code, Chapter 40 and Delaware Regulations, Title 7, Administrative Code, 5101)

Hazardous Waste Sites

- If it is determined by the Department that there was a release of a hazardous substance on the property in question and the Department requires remediation pursuant to the Hazardous Substance Cleanup Act, the provisions of 7 Del.C. Chapter 91, Delaware Hazardous Substance Cleanup Act and the Delaware *Regulations Governing Hazardous Substance Cleanup* shall be followed.

Tank Management Branch. Please be aware:

- 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 confirmed leaking underground storage tank (LUST) projects located within a quarter mile from the proposed area.
- No environmental impact is anticipated; however, 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

This Agency has no objection and submits no comments for projects that involve only zoning or rezoning issues. The information provided below shall be considered when plans are being designed.

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):

- Fire Protection Water Requirements:
 - Water distribution system capable of delivering at least 1000 gpm for 2-hour duration, at 20-psi residual pressure is required. Fire hydrants with 800 feet spacing on centers.
 - Where a water distribution system is proposed for a Business Office sites, the infrastructure for fire protection water shall be provided, including the size of water mains for fire hydrants and sprinkler systems.
- Fire Protection Features:
 - Buildings greater than 10,000 sqft, 3-stories or more, over 35 feet, or classified as High Hazard, are required to meet fire lane marking requirements. The Fire Lanes and Sign Detail as indicated in Delaware State Fire Prevention Regulations must be shown.
- 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.
 - 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.

- Gas Piping and System Information:
 - Provide type of fuel proposed, and show locations of bulk containers on plan.
- 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

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.

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.

Department of Transportation – Contact Bill Brockenbrough 760-2109

- DelDOT recommends that the parking spaces parallel to Delaware Route 1 be shifted as necessary and that curb cuts be provided to link the sidewalks planned along the west sides of the Buildings 1, 2 and 3 and the north side of Building 4. This would make walking between buildings easier for tenants who rent more than one building and for any tenants or visitors with business at more than one building.
- DelDOT recommends that a hard-surfaced path be provided from the sidewalk on the west side of Building 4 to Pondview Drive so that Pondview residents can walk to the proposed buildings.

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 Broadkill watershed has not been formally completed to date. In absence of a current PCS, the applicant is strongly urged to reduce nutrient and bacterial pollutants through the voluntary commitment to the implementation of the following recommended BMPs:
 - Maximize open space by establishing maintaining and/establishing additional tree cover on this parcel.
 - 100-foot upland buffers (planted with native vegetation) should be established from wetlands and/or water bodies
 - The applicant should calculate post-construction surface imperviousness with all forms of created surface imperviousness (e.g., rooftops, driveways, parking lots, sidewalks, open-water storm water management structures, and roads) included in the calculation.
 - Since this is a commercial project that will likely generate large amounts of impervious cover, the use of pervious paving materials (instead of conventional asphalt and concrete) as a BMP to reduce the impacts associated with surface imperviousness, wherever practicable, is encouraged.

- Rain gardens and green-technology storm water management structures (in lieu of open-water management structures) should be utilized as BMPs to reduce nutrient pollutant impacts.
- The applicant should 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 (e.g., nitrogen and phosphorus) and bacterial loading 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. We strongly encourage the applicant/developer use this protocol to help them design and implement the most effective BMPs. Please contact Lyle Jones at 302-739-9939 for more information on the protocol.

Additional information on hazardous substances

- SIRS strongly recommends that the land owner perform environmental due diligence of the property by performing a Phase I Environmental Site Assessment (**including a title search to identify environmental covenants**) 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.

Additional remediation may be required if the project property or site is re-zoned.

- 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.

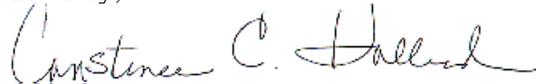
Additional information on tank management

- 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.

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: Sussex County