



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

December 26, 2013

Mr. Glenn C. Mandalas, Esquire  
103 S. Bradford Street  
Dover, DE 19904

RE: PLUS review 2013-11-04; 5280 Wheatleys Pond Road

Dear Mr. Mandalas:

Thank you for meeting with State agency planners on November 27, 2013 to discuss the proposed rezoning of 1.027 acres located at 5280 Wheatleys Pond Road from RS1 to BG. According to the application received, there is currently a single family home on the lot that may be demolished but there are no plans to redevelop the lot at this time.

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.**

The State has no comments regarding the rezoning of this property. If the property is rezoned and redevelops, the applicant should contact the Office of State Planning Coordination to determine if the development of the property meets the threshold for a PLUS review.

The following comments have been received from State agencies regarding the development of this property; however, additional comments may be made once it is determined if the site will redevelop and a site plan is designed.

Office of State Planning Coordination – Contact David Edgell 302-739-3090

This proposed rezoning is located in an Investment Level 1 area according to the *Strategies for State Policies and Spending*. These are areas where new growth and development activities are anticipated. Our office has no position as it relates to the rezoning application. This rezoning is at the discretion of the Kent County Levy Court.

If the Levy Court is inclined to grant this rezoning request, a comprehensive plan amendment must also be approved before or concurrently with the rezoning application.

It is suggested that the applicant investigate utility services in the area that would be available to this property if it were to develop. It may be prudent to meet with the Town of Smyrna to discuss utilities and annexation.

### **Code Requirements/Agency Permitting Requirements**

Department of Transportation – Contact Bill Brockenbrough 760-2109

- Per Section 2.3.1 of the Standards and Regulations for Subdivision Streets and State Highway Access, Traffic Impact Studies (TIS) are warranted for developments generating more than 400 vehicle trip ends per day or 50 vehicle trip ends per hour. We will evaluate the need for a TIS when a specific proposal is presented for the redevelopment of the subject land.
- Similarly, if the new use of the site would generate more than 200 vehicle trip ends per day, a Traffic Operational Analysis may be required as part of the site plan review, in accordance with Section 2.14 (formerly 3.9) of the Standards and Regulations. If the developer performs a TIS, the work involved in a TOA would be included therein.
- The site entrances must be designed in accordance with DeIDOT's Standards and Regulations for Subdivision Streets and State Highway Access, which is available at

[http://www.deldot.gov/information/pubs\\_forms/manuals/subdivisions/pdf/Subdivision\\_Manual\\_Revision\\_1\\_proposed\\_060110.pdf](http://www.deldot.gov/information/pubs_forms/manuals/subdivisions/pdf/Subdivision_Manual_Revision_1_proposed_060110.pdf).

- In accordance with Sections 3.6.1 and 3.6.5 and Figures 3-2 and 3-3 of the Standards and Regulations for Subdivision Streets and State Highway Access, when a plan is filed to develop the land, DeIDOT will require dedication of right-of-way along the site's frontage on Wheatley's Pond Road, North Carter Road and Culbreth Street to provide minimums of 40, 40 and 25 feet of right-of-way from the road centerline, respectively. The right-of-way dedication note should read as follows, "**An X-foot wide right-of-way along \_\_\_\_\_ is hereby dedicated to the State of Delaware, as per this plat.**" A separate note should be provided for each street.
- Further in accordance with Sections 3.6.1 and 3.6.5 and Figures 3-2 and 3-3 of the Standards and Regulations for Subdivision Streets and State Highway Access, when a plan is filed to develop the land, DeIDOT will require the establishment of 15-foot, 15-foot and 10-foot wide permanent easements along the site's frontage on Wheatley's Pond Road, North Carter Road and Culbreth Street, respectively. The location of the easements shall be outside the limits of the ultimate right-of-way. The easement area can be used as

part of the open space calculation for the site. The following note is required, “**An X-foot wide permanent easement along \_\_\_\_\_ is hereby established, as per this plat.**” A separate note should be provided for each street.

Department of Natural Resources and Environmental Control: Contact Bahareh Van Boekhold  
302-735-3495

### **Water Supply**

- The project information sheets state water will be provided to the project by the Town of Smyrna via a central water system. Our records indicate that the project is located within the public water service area granted to the Town of Smyrna under Certificate of Public Convenience and Necessity 91-CPCN-19.
- 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.
- Potential Contamination Sources exist in the area, and any well permit applications will undergo a detailed review that may increase turnaround time and may require site specific conditions/recommendations. In this case, there is an Underground Storage Tank associated with Earl’s Mini Mart located within 1000 feet of the proposed project.

### **Water Resource Protection Area**

- The DNREC Water Supply Section, Ground-Water Protection Branch (GPB) has determined that the project falls entirely within a wellhead protection area for the Kent County (see map). The wellhead protection area protects a well owned by the Town of Smyrna.
- Wellhead protection areas are surface and subsurface areas surrounding a public water supply well where land use activities or impervious cover may adversely affect the quantity and quality of ground water moving toward such wells. Impervious cover prevents precipitation from infiltrating through the soil to the water table aquifer. Impervious cover refers to structures including but not limited to roads, sidewalks,

parking lots, and buildings. Any impervious cover within this wellhead protection area has the potential to have a negative affect the quality and quantity of drinking water available to consumers.

- In addition, because the project is located within a wellhead protection area and the wellhead is a source of public drinking water, 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.

### **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.
- There is one SIRS site found within a ½-mile radius of the proposed project. Metal Masters (Tyler Refrigeration) (DE-0043), is located 0.15 miles north-east of the proposed project property. Manufacturing waste such as paint, paint-related products and sludge were deposited into on-site lagoons between the years of 1952 and 1973. Between 1973 and 1975, the contents of the lagoons and associated soil was excavated, backfilled and re-vegetated. In December of 1977, the Environmental Protection Agency (EPA) conducted a survey of the City of Smyrna's water systems. Two wells down gradient of the Site showed elevated concentrations of TCE, suspected to be from Metal Masters. A Preliminary Assessment and Site Investigation (PA/SI) were conducted between 1982 and 1983. A follow-up Site Inspection was conducted in 1988. At that time no TCE was found in the area of the former lagoons, however TCA was found in shallow on-site monitoring wells and down gradient off site. Based on the information collected from the PA/SI and the follow-up, the Site was placed on the National Priorities List (NPL) in February of 1990. A Remedial Investigation was conducted in March of 1995. The Proposed Plan for no further other clean-up actions was issued in February of 1996 and a Record of Decision was signed in July 1996 and a Groundwater Management Zone (GMZ) was put in place as the remedy. The Site was removed from the NPL in March of 2004, and groundwater monitoring was ceased in July 2009. The Site is currently in the process of being closed and archived.

### **Tank Management.** 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.

- The following confirmed leaking underground storage tank (LUST) projects are located within a quarter mile from the proposed project area:
  - Earls Mini Market Clayton, Facility: 1-000113, Project: K8601001 (Inactive)
  - Metal Masters Foodservice, Facility: 1-000470, Project: K9507152 (Inactive)
  - Smyrna Dairy Market, Facility: 1-000122, Project: K9605105 (Inactive)
- No environmental impacts are 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

### **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 will evaluate the site access with regard to the specific use when a new use is proposed. Preliminarily, however, we are unlikely to permit left turn access in or out of any commercial development on this site except by way of Culbreth Street.
- Culbreth Street is part of the street network in the Spruance City. According to our records, a grid network of streets in Spruance City was recorded and dedicated to public use in 1882. Since then, that grid network has evolved. Some streets have been vacated; some have been built; some remain as rights-of-way, existing only on paper. Of the streets that have been built, the standards to which they have been built varies. Who maintains them also varies. Some have been accepted for maintenance by the Town of Smyrna; some have been accepted for maintenance by the State; some remain in private maintenance. To the best of our knowledge, Culbreth Street is a public street under private maintenance. We would be willing to accept it for maintenance if it were improved to meet State standards but have no funds budgeted for improving it to meet those standards.

- Presently, Culbreth Street is a relatively quiet residential street and we acknowledge that area residents may oppose commercial access there. However, given the site's limited road frontage and its proximity to two busy intersections on Wheatley's Pond Road, at North Carter Road and at Delaware Route 6, Culbreth Street may be the only place where a safe commercial access can be developed. We would recommend that the County consider this possibility in evaluating whether to rezone the subject land.
- Be advised that the standard general notes have been updated and posted to the DeIDOT website. Begin using the new versions and look for the revision date of June 28, 2013 for the Record/Site Plan and Construction Plan general notes. The Temporary Traffic Control Notes (TTCN) still have the revision date of August 14, 2012. The notes can be found at
  - [http://www.deldot.gov/information/business/subdivisions/DeIDOT\\_Development\\_Coordination\\_Plan\\_Sheet\\_Notes.doc](http://www.deldot.gov/information/business/subdivisions/DeIDOT_Development_Coordination_Plan_Sheet_Notes.doc)
- All PLUS comments should be addressed prior to submitting record, subdivision or entrance plans for review.
- On June 27, 2012, a letter was sent out explaining the changes in the way checks should be submitted to DeIDOT. A copy of the letter is available at <http://www.deldot.gov/information/business/subdivisions/PaymentProcedure.pdf>.
- The developer should anticipate additional comments once plans are submitted for review.

Department of Natural Resources and Environmental Control: Contact Bahareh Van Boekhold 302-735-3495

#### **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 TMS. If any ASTs greater than 12,500 gallons are installed, they are also subject to installation approval by the TMS.

#### **Additional information on hazardous waste sites**

- DNREC's Site Investigation and Restoration Section (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) and a Phase II or Facility Evaluation in accordance to Section 9105(c) (2) of

the Delaware Hazardous Substance Cleanup Act (HSCA) and the HSCA Guidance Section 2, part 2.3 (page 2-1). 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 by the county.
- 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). SIRS should also be contacted as soon as possible at 302-395-2600 for further instructions.

Again, if the rezoning is approved and the owner moves forward with redevelopment of the property, the owner should coordinate with the local jurisdiction and this office to determine if an additional PLUS review is required.

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: Kent County  
Town of Smyrna