



STATE OF DELAWARE
EXECUTIVE DEPARTMENT
OFFICE OF STATE PLANNING COORDINATION

November 27, 2017

Mr. Gregg V. Moore, P.E.
Becker Morgan Group
309 South Governors Avenue
Dover, DE 19904

RE: PLUS review 2017-10-02; R. & W. Cricket Medical

Dear Gregg:

Thank you for meeting with State agency planners on October 25, 2017 to discuss the proposed plans for the R. & W. Cricket Medical project. According to the information received you are seeking review of a rezoning of 18.32 acres from AR-1 to CR-1 along Rt. 9 in Sussex County.

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 3 according to the *Strategies for State Policies and Spending*. Investment Level 3 reflects areas where growth is anticipated by local, county, and state plans in the longer term future, or areas that may have environmental or other constraints to development. State investments may support future growth in these areas, but please be advised that the State has other priorities for the near future. We encourage you to design the site with respect for the environmental features which are present.

Code Requirements/Agency Permitting Requirements

Department of Transportation – Contact Bill Brockenbrough 760-2109

- Because the site fronts on US Route 9, which is part of the Federal Aid Primary Road System, it is subject to outdoor advertising regulations found in CFR 23 §131 and 17 Del. C. §1101-1120. Further, Route 9 is part of the Delaware Bayshore Byway. Accordingly, the applicant should expect the following requirements:
 - No new billboards, variable message boards, or electronic message signs anywhere on or off Route 9 within 660 feet of any closest right-of-way edge.
 - No off-premises advertising on the property for others within 660 feet of US Route 9, e.g., displaying on-site the bank/financial institution funding the project or the contractor building the project.
 - Along the byway route of US Route 9, i.e. from Delaware Route 1 to Delaware Route 5, the applicant would not be permitted to advertise or direct information (including directions) about themselves on other private property – i.e. no off-site advertisement or direction, on private property within 660 feet of the right-of-way.
- The site access must be designed in accordance with DelDOT's Development Coordination Manual, which is available at <http://www.deldot.gov/Business/subdivisions/index.shtml?dc=changes>.
- Pursuant to Section P.3 of the Manual, a Pre-Submittal Meeting is required before plans are submitted for review if the proposed development will generate more than 200 vehicle trip ends per day. The form needed to request the meeting and guidance on what will be covered there and how to prepare for it is located at https://www.deldot.gov/Business/subdivisions/pdfs/Meeting_Request_Form.pdf?08022017
- Section 1.2.1 of the Manual provides DelDOT's policy on the location of entrances. Preliminarily, per Section 5.2.2 of the Manual, DelDOT will require that any access to the site be on Hudson Road, adequately distant from US Route 9.
- Per Section 2.2.2.1 of the Manual, DelDOT recommends that the proposed rezoning be evaluated without a Traffic Impact Study (TIS). When a specific land development plan is proposed, DelDOT will evaluate the need for a TIS.
- As per the Delaware Strategies for State Policies and Spending, this development is in Investment Level 3. Referring to Section 3.5.4.2.A of the Manual, developments in Level 3 and 4 Areas are required to install a sidewalk or Shared Use Path if the project abuts to an existing facility. If the project does not abut an existing facility, it is at the

Subdivision Engineer's discretion. Because there is an existing shared use path that terminates on the opposite side of Hudson Road and another such path planned on the opposite side of Route 9, DelDOT anticipates requiring a Shared Use Path along the site frontage on both roads.

- Because the proposed development is to be constructed in the proximity of a road with a functional classification of principal arterial, freeway or interstate, specifically US Route 9, the developer will be required to perform a noise analysis in accordance with DelDOT's Noise Policy, found in Section 3.6 of the Manual and may be required to provide noise abatement based on that analysis. There is an exception for commercial uses and DelDOT acknowledges the site's proposed commercial zoning but recognizing that commercial zoning allows for non-commercial uses, DelDOT will not make such an exception without knowing the use of the parcel.

Department of Natural Resources and Environmental Control – Contact Michael Tholstrup 735-3352

Executive Summary

Development of this parcel will result in increased impervious surface and new sources of greenhouse gas emissions. Opportunities exist to preserve natural resources while reducing the environmental impact on-site. As discussed at the PLUS meeting, the Department recommends reducing the environmental impact on-site through appropriate application of the Pollution Control Strategies to protect these resources and the overall health of the community. Including waste reduction and resource conservation measures will also improve long term regional sustainability.

The State of Delaware is threatened by climate change and has a goal of reducing greenhouse gas emissions by 30 percent by 2030. Appropriate future development that provides access to public transportation, opportunities to walk and bike to shopping and recreation, and that employs energy efficient building standards are among key strategies to meet these goals. We encourage the use of high performance building standards and consideration of alternative energy sources to promote clean sustainable energy and reduce greenhouse gas emissions. This could mean siting the buildings to take advantage of solar and geothermal systems, and/or including infrastructure for electric vehicle charging stations (funding assistance may be found at www.de.gov/cleantransportation). We further recommend an abundant use of native vegetation and shade trees throughout the landscape, as well as green infrastructure, where practicable, to absorb carbon dioxide, protect water quality and provide relief to residents on hot days.

The following pages provide information about applicable regulations and detailed recommendations associated with future development of this parcel, from various DNREC Divisions. We would like to be a partner in creating appropriate development that protects and

highlights the environment as a natural amenity of the landscape. The Department has resources and expertise that are available to help make this a reality, often at no expense to the landowner.

Water Quality: TMDLs

- The parcel is located in the greater Delaware River and Bay drainage area, 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 waterbody” 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. Upon future development of the parcel, the TMDL for the Broadkill River watershed calls for a 40 percent 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.C., 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 (302) 739-4811 for further information concerning compliance requirements, or view additional information here: <http://dda.delaware.gov/nutrients/index.shtml>

State Historic Preservation Office – Contact Terrence Burns 736-7404

- There is a known archaeological site (S00559, 7S-F-004) and cemetery (S12540) on the parcel, and another archaeological site (S04897, 7S-F-156) in the vicinity. With this in mind, the developer should be aware of the Unmarked Human Burials and Human Skeletal Remains Law.

Prior to demolition or ground-disturbing activities, the developer should hire an archaeological consultant, to delineate the cemetery and examine the parcel for other archaeological resources, to avoid those sites or areas. There should also be sufficient landscaping between the cemetery and the development, to block adverse noise or visual effects.

Abandoned or unmarked family cemeteries are very common in the State of Delaware. They are usually in rural or open space areas, within or near the boundary, of a historic farm site. Even a marked cemetery can frequently have unmarked graves or burials outside of the known boundary line or limit. Disturbing unmarked graves or burials triggers the Delaware’s Unmarked Human Burials and Human Skeletal Remains Law (Del. C. Title 7, Ch. 54), and such remains or discoveries can result in substantial delays

while the procedures required under this law are carried out. If there is a discovery of any unmarked graves, burials or a cemetery, it is very costly to have them archaeologically excavated and the burials moved. The Division of Historical & Cultural Affairs recommends that owners and/or developers have a qualified archaeological consultant investigate their project area, to the full extent, to see if there is any unmarked cemetery, graves, or burial sites. In the event of such a discovery, the Division of Historical & Cultural Affairs also recommends that the plans be re-drawn to leave the full extent of the cemeteries or any burials on its own parcel or in the open space area of the development, with the responsibility for its maintenance lying with the landowner association or development. If you would like to see more information, please review the following websites: www.history.delaware.gov/preservation/umhr.shtml and www.history.delaware.gov/preservation/cemeteries.shtml.

- If there is federal involvement, 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 cultural 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. Furthermore, any preconstruction activities without adherence to these stipulations may jeopardize the issuance of any permit or funds. If you need further information or additional details pertaining to the Section 106 process and the Advisory Council's role; please review the Advisory Council's website at the following: www.achp.gov.

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 the suggestions can benefit the project.

Department of Transportation – Contact Bill Brockenbrough 760-2109

- The applicant should expect a requirement that any substation and/or wastewater facilities will be required to have access from an internal driveway with no direct access to Route 9 or Hudson Road.

- The applicant should expect a requirement that all PLUS and Technical Advisory Committee (TAC) comments be addressed prior to submitting plans for review.
- Please be advised that as of August 1, 2015, all new plan submittals and re-submittals, including major, minor and commercial plans, shall now be uploaded via the PDCA (Planning Development Coordination Application) with any review fee paid online via credit card or electronic check. Guidance on how to do this is available on our website at <http://www.deldot.gov/Business/subdivisions/index.shtml>.
- Please be advised that the Standard General Notes have been updated and posted to the DelDOT website. Please begin using the new versions and look for the revision date of October 11, 2017. The notes can be found at <http://www.deldot.gov/Business/subdivisions/index.shtml>

Department of Natural Resources and Environmental Control – Michael Tholstrup 735-3352

Additional information on TMDLs and water quality

- In response to concerns about the need for reducing nonpoint source nutrient (nitrogen and phosphorus) and bacterial pollutants to levels sufficient to meet the TMDL reduction requirements prescribed for waters of the greater Broadkill River watershed, a multifaceted and comprehensive process known as a pollution control strategy (PCS) was developed. Specifically, a PCS is a combination of best management practices and control technologies that reduce nutrient and bacterial pollutant runoff loading in waters of a given watershed to level(s) consistent with the TMDL(s) reduction levels specified for that watershed. The PCS for the Broadkill River watershed consists of recommendations from the following three areas: agriculture, stormwater, and wastewater. Additional information about the Broadkill River PCS can be reviewed here: <http://www.dnrec.delaware.gov/swc/wa/Pages/WatershedManagementPlans.aspx>

In further support of the PCS, the applicant is also strongly urged to reduce nutrient and bacterial pollutants, upon development of the parcel, through voluntary commitment to the implementation of the following recommended best management practices:

- Maintain as much of the existing open space as possible in this parcel. We further suggest additional native tree, shrub and/or native herbaceous vegetation plantings in available open space, wherever possible.
- Employ green-technology storm water management and a rain gardens, in lieu of open-water management structures, as best management practices to mitigate or reduce nutrient and bacterial pollutant runoff. If open-water stormwater management is selected (and approved) for use, the ponds should be limited, in number and size, to the area necessary to serve the management of stormwater.

Open-water stormwater ponds are problematic because they attract nuisance geese and help create conditions conducive for growth of nuisance algae (via nutrients from goose waste and nutrient runoff from residential development) while further contributing to the degradation of overall water quality in the watershed.

- Use pervious paving materials instead of conventional paving materials to help reduce the amount of water and pollutant runoff draining to adjoining streams and wetlands.
- 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) resulting from the conversion of individual or combined land parcels to a changed land use; thus providing applicants and governmental entities with quantitative information about the project’s impact(s) on baseline water quality. We strongly encourage the applicant/developer use this protocol to design and implement the most effective best management practices. Please contact John Martin at of the Division of Watershed Stewardship, at (302) 739-9939 for more information on the protocol.

Information on air quality

- DAQ encourages sustainable growth practices that:
 - Control sprawl;
 - Preserve rural and forested areas; Identify conflicting land use priorities;
 - Encourage growth on previously developed sites and denser communities while at the same time protect our diminishing land base;
 - Encourage sustainable development and smart growth scenarios including green infrastructure and shade for parking areas to reduce heat island impacts.
 - Encourage the expansion of Delaware’s statewide alternative fueling network with electric vehicle and CNG charging/fueling.
 - Demonstrate that communities can achieve the qualities of privacy, community, and contact with nature without degrading the natural environment or generating unacceptable environmental costs in terms of congestion, use of natural resources, or pollution.
- Should the developer have any more questions or concerns, the DNREC Division of Air Quality point of contact is Lauren DeVore, and she may be reached at (302) 739-9437 or lauren.devore@state.de.us. The applicant is encouraged to contact DAQ to discuss any emission mitigation measures that will be incorporated into the eventual R & W Medical LLC development. We look forward to working together with you on this project to achieve our shared air quality, healthy community and quality of life goals!

Information on recycling and reducing water use

- Materials and resources utilized for new development should be considered, including regionally available recycled content (i.e. carpet, concrete, countertops, furniture, siding, etc.), rapidly renewable material and certified woods.
- Construction Waste Management should include policies which promote efficient material use and recycling of project debris).
- Employ systems and appliances that increase water efficiency and reduce water use.
 - Low-flow and high-efficiency items
 - Waterless urinals
 - graywater recycling systems
 - Rainwater catchment

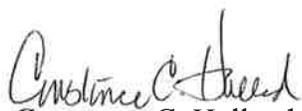
Delaware State Fire Marshall's Office – Contact John Rudd 739-4394

- The facility may be required to be licensed by the Department of Health and Social Services (DHSS), specifically the Office of Health Facilities Licensing & Certification (OHFLC). Additionally, the Center for Medicare and Medicaid Services (CMS) may impose additional requirements if applicable. Suggest that you contact Corrina Getchell of OHFLC for additional information at (302) 283-7220.

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: Sussex County