



STATE OF DELAWARE  
EXECUTIVE DEPARTMENT  
OFFICE OF STATE PLANNING COORDINATION

April 20, 2018

Mr. Shahzad Ahmed  
20701 S. DuPont Highway  
Harrington, DE 19952

RE: PLUS review 2018-03-04; Friendly Auto Sales

Dear Shahzad:

Thank you for meeting with State agency planners on March 28, 2018 to discuss the Friendly Auto Sales project. According to the information received you are seeking a rezoning and comprehensive plan amendment of 1.2 acres from BN to BG along Rt. 13 in Kent 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 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.**

**Strategies for State Policies and Spending**

This application is located in a Level 4 area according to the *2015 Strategies for State Policies and Spending*. Investment Level 4 indicates areas where State investments will support agricultural preservation, natural resource protection, and the continuation of the rural nature of these areas. New development activities and suburban development are not supported in Investment Level 4 areas. These areas are comprised of prime agricultural lands and environmentally sensitive wetlands and wildlife habitats, which should be, and in many cases have been preserved.

From a fiscal responsibility perspective, development of this site is likewise inappropriate. The cost of providing services to development in rural areas is an inefficient and wasteful use of the State's fiscal resources. The project as proposed will bring a new commercial business to an area where the State has no plans to invest in infrastructure upgrades or additional services. The intended development will need access to services and infrastructure such as police, and

transportation. To provide some examples, the State government funds 100% of road maintenance and drainage improvements for the transportation system, and 100% of the cost of police protection in the unincorporated portion of Kent County where this development is proposed. Over the longer term, the unseen negative ramifications of this development will become even more evident as the cost of maintaining infrastructure and providing services increases.

Because the development is inconsistent with the *Strategies for State Policies and Spending*, the State is opposed to this rezoning.

**With that said, the comments in this letter are technical, and are not intended to suggest that the State supports this rezoning and comprehensive plan amendment. This letter does not in any way suggest or imply that you may receive or may be entitled to permits or other approvals necessary to build on this property, construct any development, or any subdivision thereof on these lands.**

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

#### **Department of Transportation – Contact Bill Brockenbrough 760-2109**

- The subject property fronts on a section of US Route 13 that is subject to DelDOT's Corridor Capacity Preservation Program. The Program was established in accordance with the provisions of Title 17, Section 145 of the Delaware Code. The main goal of the Program is to maintain the capacity of the existing highway by minimizing and consolidating the number of high-volume, direct driveway access points along the designated corridors of: US113, US13, SR1 and SR48. The Corridor Capacity Preservation Program policy can be viewed on Department's website at [https://www.deldot.gov/Publications/manuals/corr\\_cap/index.shtml](https://www.deldot.gov/Publications/manuals/corr_cap/index.shtml).

The subject parcel is in a Level 4 Investment Area with respect to the *Strategies for State Policies and Spending*. In such areas, DelDOT encourages the preservation of a rural lifestyle. Per Program policy, the DelDOT will only issue entrance permits for direct access to the corridor for proposed land uses that generate 100 vehicle trips per day or less per parcel, as determined by DelDOT. Using the Institute of Transportation Engineers' Trip Generation Manual, DelDOT estimates that the proposed used car lot should generate less than 100 vehicle trips per day. Therefore a rights-in/rights-out access point along Route 13 would be acceptable under the Program's policy.

- The site access on US Route 13 must be designed in accordance with DelDOT's Development Coordination Manual. A copy of the Manual is available at <http://www.deldot.gov/information/business/subdivisions/changes/index.shtml>. DelDOT will comment further when a plan is available but preliminarily DelDOT anticipates requiring the applicant to narrow the existing entrance.

- Per Section 2.2.2.1 of the Development Coordination Manual, Traffic Impact Studies (TIS) are warranted for developments generating more than 500 vehicle trip ends per day or 50 vehicle trip ends per hour in any hour of the day. If the County approves this rezoning, they will revisit the need for a TIS when a site plan is presented but, as noted above, they do not expect this use to generate that much traffic.

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

The Department of Natural Resources and Environmental Control did not submit comments regarding this application. If the development of this property requires permits from a DNREC section, please contact the DNREC regulatory agency directly.

**State Historic Preservation Office – Contact Carlton Hall 736-7404**

- The State Historic Preservation Office does not support development or rezoning in a Level 4 area, even with a minor project such as this.
- If development does proceed, please be aware of the Unmarked Human Burials and Human Remains Law.
- Abandoned or unmarked family cemeteries are very common in the State of Delaware. They are usually in rural or open space areas, and sometimes near or within the boundary of an 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 also 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 know more information pertaining to unmarked human remains or cemeteries, please go to the following websites for additional information: [www.history.delaware.gov/preservation/umhr.shtml](http://www.history.delaware.gov/preservation/umhr.shtml) and [www.history.delaware.gov/preservation/cemeteries.shtml](http://www.history.delaware.gov/preservation/cemeteries.shtml).

Therefore, prior to any demolition or ground-disturbing activities, the developer should hire an archaeological consultant, to examine the parcel for archaeological resources and

plan to avoid those sites or areas. 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](http://www.achp.gov).

**Delaware State Fire Marshall's Office – Contact Duane Fox 259-7037**

- The Office of the State Fire Marshal has no objection and submits no comments for projects that involve only zoning or rezoning issues. At the time of formal submittal (*change in Use*), the applicant shall provide completed application, fee, and three sets of plans depicting compliance with the Delaware State Fire Prevention Regulations.

**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: Kent County