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May 12, 2008

Ms. Constance Holland
State of Delaware
Office of State Planning
122 William Penn Street
Haslett Armory
Suite 302
Dover, DE 19901

RE: PLUS review – PLUS #2004-05-10 – Cheswold Village

Dear Ms. Holland:

As requested and as part of the Conditional Use Site Plan Review, the following is in response to the comments generated from the **PLUS** review in June 2004:

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

This project is located in Investment Level 2 and 3 according to the June 3 version of the 2004 State Strategies for Policies and Spending, which has been approved by the Cabinet Committee for State Planning Issues. 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 this case, Investment Level 3 reflects the numerous environmental constraints on the eastern portion of the property that were discussed at the meeting. As long as the wetlands and wooded area are properly protected as was discussed at the meeting in the second phase of development, our office has no objections to the development of this project in accordance with the relevant county codes and ordinances.

Response: *The wetlands and wooded areas have been protected as much as possible.*

State Historic Preservation Office (SHPO) – Contact: Anne McCleave 302-739-5685

Anne McCleave noted that she had an opportunity to drive by the site and it appears that there is an old structure on the site, located in the trees next to US 13 and next to the trailer that is on the property. If this structure is on the subject property and will be demolished, SHPO would like to photograph the building before its demolition. Please contact Anne at 302-739-5685 to set up a time she could visit the property with the Kent County Preservation Planner to photographically document the building. In addition, there is a high probability for prehistoric archaeological sites in the wooded and wetland areas. The developers should keep these sites in mind when they start thinking about the future development that will take place behind the proposed retail buildings.

Response: SHPO was granted permission to access and photograph the structure as requested. No additional concerns were noted. The structure was razed in December 2007. The wooded areas alluded to in the last two sentences do not affect the current proposed development.

Department of Transportation – Contact: Bill Brockenbrough 302-760-2109

Access is proposed at two locations on Route 13 and one location on Simms Woods Road. Of the two access points on Route 13, the south one would be limited to right turns in only and would serve the shopping center. The north one would be for a subdivision street that would run through both the shopping center and the townhouses to the Simms Woods Road access.

Presently the land is divided between commercial, industrial and residential (BG, IL and AC) zoning districts, with about four acres along Route 13 being zoned for commercial use, in Kent County. The developer intends to seek rezonings to establish 35.6 acres of retail commercial use and 53.66 acres of residential use. Only 120 townhouses are proposed for the residential acreage because about 60 percent of that acreage is in wetlands.

Response: No townhomes are proposed with this project. That property is owned by others.

A traffic impact study (TIS) is required for this project and was scoped on March 25, 2004. As results of the TIS, we anticipate requiring off-site improvements along Route 13 and Simms Woods Road and a signal agreement for the intersection of Route 13 and Simms Woods Road.

The plan shows the south entrance on Route 13 as being a rights-in and rights-out. However, at the TIS scoping meeting for this project, we stated that the south entrance will be rights-in only. Also at that meeting, we stated that the north entrance is to be rights-in, rights-out and lefts-in only. The proposed lefts-out movement will not be permitted.

Response: *Subsequent review by DELDOT now allows both a right in right out at the south entrance and full movement at the signalized intersection.*

DelDOT recognizes that the developer desires a signal at the site entrance and that they may not be building the townhouses or the connection to Simms Woods Road for some time. As scoped, the TIS is to assume that there will be no left turns out of the site entrance and that the townhouses and the connection to Simms Woods Road will be built. Therefore the TIS should be expanded to address two additional scenarios, both without the Simms Woods Road connection: one with the left turn out of the north site entrance permitted and one with that movement prohibited.

Response: *This has been adequately addressed in a subsequent Traffic Study Update.*

DelDOT understands that the north entrance road would serve the proposed townhouses and would be dedicated to public use. It is noted that until the town houses are developed that road would serve only as access to the shopping center. Therefore, while DelDOT would recommend that it be built to State standards, they would not be willing to accept it for State maintenance until the townhouses are developed. Even then, if the townhouses were developed as rental or condominium units DelDOT would not be willing to accept it. DelDOT regulations require that for State maintenance of their streets a development must have a minimum of five “separate single family property owners having fee simple title to their dwelling unit.”

Response: *No comment. The road is being designed to DELDOT standards.*

There should be only one access off of the north entrance road to serve Pad Sites A and B.

Response: *Revised as requested.*

When the areas marked as Future Development are developed, DelDOT will require interconnections between the proposed development and adjacent properties.

Response: *No comment necessary.*

The developer’s engineer should coordinate with the Subdivision Manager, Mr. George Shaw, regarding the comments above and more generally regarding DelDOT requirements for access and subdivision street plans. Mr. Shaw may be reached at (302) 760-2261.

**The Department of Natural Resources and Environmental Control –
Contact: Kevin Coyle 302-739-3091**

Soils

According to the Kent County soil survey, the following soils were mapped in the immediate vicinity of the proposed construction:

Well drained – Sassafras

Moderately well drained – Woodstown

Poorly drained (**hydric**) – Fallsington

Sassafras is a well-drained upland soil that has few limitations for development.

Woodstown is a moderately well-drained soil of low-lying uplands that has moderate limitations for development. Fallsington is a poorly-drained wetland associated (hydric) soil that has severe limitations for development.

Wetlands

Statewide Wetland Mapping Project (SWMP) maps indicate the presence of extensive Palustrine forested wetlands in and adjacent to the project site. Because there is strong evidence that federally regulated wetlands exist on site, **a wetland delineation, in accordance with the methodology established by the Corps of Engineers Wetlands Delineation Manual, (Technical Report Y-87-1) should be conducted. Once complete, this delineation should be verified Corps of Engineers through the Jurisdictional Determination process.**

Information provided indicates that wetland fills of up to 5,000 square feet are planned. Impacts to wetlands should be avoided. The footprint of buildings and parking lots can be easily modified to eliminate these impacts. Further, DNREC recommends no less than a 100' buffer from all watercourses and wetlands. Buffers provide important water quality benefits, as well as contributing to air quality improvement and wildlife habitat. Project plans should be modified to provide adequate buffers from sensitive resources. Project plans indicate that development is planned in the future on the western portion of the parcel. It should be noted that the rest of this property has severe limitations for development due to the extent and location of wetlands.

Impacts to Palustrine wetlands are regulated by the Army Corps of Engineers through Section 404 of the Clean Water Act. In addition, individual 404 permits and certain Nationwide Permits from the Army Corps of Engineers also require 401 Water Quality Certification from the DNREC Wetland and Subaqueous Land Section and Coastal Zone Federal Consistency Certification from the DNREC Division of Soil and Water Conservation, Delaware Coastal Programs Section. Each of these certifications represents a separate permitting process.

To find out more about permitting requirements, the applicant is encouraged to attend a Joint Permit Process Meeting. These meetings are held monthly and are attended by federal and state resource agencies responsible for wetland permitting. Contact Denise Rawding at (302) 739-4691 to schedule a meeting.

It is also recommended that the Farm Services Agency of the USDA be contacted to assess whether the farmed wetlands on subject parcel meet the recognized criteria for classification as “prior converted wetlands.” Prior converted wetlands are farmed wetlands that have drained or altered before December 23, 1985, and no longer meet the wetland criteria established under the 404 program. Such wetlands are considered exempt from regulatory protection provided that there is no proof of a continuous “fallow period” of five years or greater in that parcel’s cropping history. Parcels converted after said date regardless of cropping history are considered jurisdictional by the Army Corps of Engineers (ACOE). The contact person for assessing a parcel’s cropping history is Sally Griffin at the USDA – she can be reached at 678-4182.

Response: *The development was issued a permit to disturb approximately 0.05 acres of wetlands and Waters of the U.S. on October 18, 2007.*

TMDLs

Although Total Maximum Daily Loads (TMDLs) as a “pollution runoff mitigation strategy” to reduce nutrient loading have not yet been developed for most of the tributaries or sub watersheds of the Delaware Bay watershed to date, work is continuing on their development. TMDLs for the Leipsic sub watershed, of which this parcel is part, are scheduled for completion in December 2006.

Therefore, until the specified TMDL reductions and pollution control strategies are adopted, it shall be incumbent upon the developer to employ best available technologies (BATS) and/or best management practices (BMPs) as “methodological mitigative strategies” to reduce degradative impacts associated with development.

Response: *Water quality measures are being provided with the SWM facility in the form of wet storage and extended detention.*

Stormwater Management

The applicant is encouraged to contact Jared Adkins, Kent Conservation District stormwater program, at (302) 697-2600 as soon as possible for a pre-application meeting. The use of “Green Technology” stormwater practices is encouraged as well, and DNREC is available to provide technical assistance for this project. Contact DNREC Sediment and Stormwater at (302) 739-4411.

Response: *Contact has been made as requested.*

Drainage

The Drainage Section has knowledge of existing drainage complaints and concerns in the area along Simms Woods Road. The Drainage Section does not have a clear understanding where the on site storm water will be released off site. The Drainage Section does ask that all precautions be taken to ensure the project does not hinder any off site drainage upstream of the project or create any off site drainage problems downstream by the release of on site storm water.

Please contact Bob Enright at 739-4411 to schedule a preliminary meeting.

Response: The project will reduce the required design storm flows and will not adversely impact downstream or upstream properties in any way. The proposed design diverts all storm water from the impervious areas of the site to a stormwater management facility, which attenuates runoff from the site and discharges it into a small stream

Habitat

Based on review of topographic maps and aerial photographs, and because we have not visited the site previously, our staff botanist requests the opportunity to survey the forested and wetland resources which could potentially be impacted by the project. His observations would allow us to make more informed comments on this project. Please contact Bill McAvoy at (302) 653-2880 to set up a site visit.

We also strongly encourage the preservation of upland, riparian, and wetland forests on these parcels. Forests provide environmental services that benefit humans directly such as water quality protection (erosion control and sediment, nutrient, biological and toxics removal), climate moderation, aesthetic value and recreational opportunities. In addition, forests provide habitat for many species of plants and animals. Forest fragmentation resulting from development separates wildlife populations, increases road mortality, and increases “edge effects” that leave many forest dwelling species, particularly songbirds, vulnerable to predation. We would gladly assist the landowner(s) in evaluating these parcels for wildlife habitat. Many new incentive-based programs for wildlife management are available to private landowners through our agency. Please contact our office if the landowner(s) is interested in more information

We request that no invasive species be used in the revegetation of disturbed areas. A list of species considered invasive in Delaware can be found on the DNHP web site, <www.dnrec.state.de.us/fw/invasive.htm>. We further recommend the use of native plants and our botanist, Bill McAvoy can be contacted at (302) 653-2880 to assist you in developing a plant list.

Response: The project meets Kent County requirements for tree preservation. No invasive species are being proposed for planting.

Recreation

We recommend that sidewalks be built to connect neighboring parcels. A complete system of sidewalks will: 1) fulfill the recreation need for walking and biking facilities 2) provide opportunities for neighbors to interact in the community and 3) facilitate safe, convenient off-road access for neighboring communities to safely access this store while reducing the number of daily car trips.

Response: *On site sidewalks are proposed along the proposed road and along Route 13 along the Lot 1 frontage.*

Underground Storage Tanks

There are three inactive LUST sites located near the proposed project:

Cheswold Land, Inc, Facility # 1-000317, Project #'s K8607035, K8703016, K9611185
Larry's Homes of Dover, Facility # 1-000399, Project # K8807047
Dover Acura, Facility # 1-000137, Project # K9911245

No environmental impact is expected from the above inactive/active LUST site(s). However, should any underground storage tank or petroleum contaminated soil be discovered during construction, the Tank Management Branch must be notified as soon as possible. It is not anticipated that any construction specifications would be need to be changed due to petroleum contamination. However, should any unanticipated contamination be encountered and PVC pipe is being utilized, it will need to be changed to ductile steel in the contaminated areas.

Response: *No comment necessary.*

State Fire Marshal's Office – Contact: Kevin McSweeney 302-739-3696

These comments are intended for informational use only and do not constitute any type of approval from the Delaware State Fire Marshal's Office. 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):

a. **Fire Protection Water Requirements:**

- Water distribution system capable of delivering at least 1500 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 (Storage/Industrial/Mercantile) sites, the infrastructure for fire protection

water shall be provided, including the size of water mains for fire hydrants and sprinkler systems.

- Storage tank and fire pump may be required for this project.

Response: *Tidewater Utilities is providing adequate water supply per Fire Marshal requirements. A 10" water main will be run from Rte 42 south to the site along the east shoulder of Rte. 13.*

b. **Fire Protection Features:**

- All structures over 10,000 Sq. Ft. aggregate will require automatic sprinkler protection installed.
- Buildings greater than 10,000 sq.ft., 3-stories or more or over 35 feet, or classified as High Hazard, are required to meet fire lane marking requirements.
- Show Fire Department Connection location (Must be within 300 feet of fire hydrant), and detail as shown in the DSFPR.
- Show Fire Lanes and Sign Detail as shown in DSFPR

Response: *Will comply.*

c. **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. This means that the access road to the subdivision from duPont Hwy must be constructed so fire department apparatus may negotiate it.
- 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.
- Any dead end road more than 300 feet in length shall be provided with a turn-around or cul-de-sac arranged such that fire apparatus will be able to turn around by making not more than one backing maneuver. The minimum paved radius of the cul-de-sac shall be 38 feet. The dimensions of the cul-de-sac or turn-around shall be shown on the final plans. Also, please be advised that parking is prohibited in the cul-de-sac or turn around.
- If the use of speed bumps or other methods of traffic speed reduction must be in accordance with Department of Transportation requirements.

Response: *Adequate access is provided on the public road system and through the shopping centers.*

d. **Gas Piping and System Information:**

- Provide type of fuel proposed, and show locations of bulk containers on plan.

Response: *No gas or fuel system or bulk containers are proposed.*

e. **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

Response: *Will add notes where applicable to final construction drawings.*

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.delawarestatefiremarshal.com, technical services link, plan review, applications or brochures.

Department of Agriculture - Contact: Mark Davis 302-739-4811

A forested buffer is required between the proposed subdivision and all adjacent properties in active agricultural use. In addition, a forest buffer should be maintained for those pre-existing residential properties and along all streams, wetlands, and river that border the proposed subdivision.

The developer should consider a diverse landscape plan that uses Delaware native tree and shrub species and encourages the “Right Tree for the Right Place” concept.

Response: *No agriculture exists on adjoining properties. Adjacent properties are duly screened with fencing and landscape plantings per County Code.*

Delaware Emergency Management Agency – Contact Kevin Kille 659-3362

Because of the size of the commercial buildings and the potential for needed police support, the developer should meet with the emergency management agencies to inform them of the proposed development.

PLUS – Cheswold Village (2004-05-10)

June 18, 2004

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Response: *Emergency Management will be notified as requested.*

Please do not hesitate to contact our office should you have any questions on this letter.

Sincerely:

Frederick Ward Associates, Inc.

A handwritten signature in black ink, appearing to read 'S. J. Gorski', with a stylized flourish at the end.

Stephen J. Gorski, P.E.
Associate

CC: Kris Connelly, Kent County