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May 7, 2010

Constance C. Holland, AICP, Director
Delaware Office of State Planning
& Coordination
540 S. DuPont Highway
Dover, DE 19901

RE: PLUS review- 2010-03-06; J.G. Townsend, Jr. & Co.

Please accept the following as the response of J.G. Townsend, Jr. & Co. to the PLUS review letter of April 19, 2010.

Thank you for meeting with State agency planners on March 24, 2010 to discuss the proposed plans for the J.G. Townsend property located on the North side of County road 274, 900 feet west of Route 1.

According to the information received, you are seeking a rezoning from AR-1 and B-1 to CR-1. It is our understanding that you intend to sell the property once it is rezoned and that, at this time, no development is planned on this site.

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.**

You may be certain that a copy of your letter will be delivered to the developer of this property, if and when the property is sold.

Strategies for State Policies and Spending

This project is located in Investment Levels 2 and 3 according to the *Strategies for State Policies and Spending*. Investment Level 2 reflects areas where growth is anticipated by local county, and State plans in the near term future. 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 will support growth in these areas; however, Level 3 investments may not be our first priority.

Code Requirements/Agency Permitting Requirements

There are no State code requirements that are the responsibility of the applicant related to this rezoning request. The rezoning of this property is at the discretion of the Sussex County Council.

The following requirements may be relevant to future development or redevelopment of this property.

- There is a known late 1900-century to early 20-century house (S-1011) along with outbuildings on this parcel however, since Delaware has a strong agricultural and rural heritage, there is still the potential or perhaps a possibility that there may be other historical or cultural resources such as an archaeological site on this parcel as well. With this in mind, it is important that the developer be aware of the Delaware Unmarked Human Remains Act of 1987, outlined in Chapter 54 of Title 7 of the Delaware Code, which pertains to the discovery and disposition of such remains. In addition, the unexpected discovery of unmarked human remains during construction can result in significant delays while the process is carried out. Prior to any demolition or ground-disturbing activities, the developer may want to consider hiring an archaeological consultant to examine the parcel for archaeological sites, including 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 or in reference to historic or cultural resources. If you have any questions or concerns in reference to these comments, please contact Mr. Terence Burns at (302)736-7404.
- *Attached is a copy of a portion of Beers Atlas showing the location of the subject property. It does not appear that any 19th Century home was on this property. We have examined USDA aerial photos taken in 1954 and 1968, neither of which show an early 20th Century home. We spoke to the former owner of the property, Earl Warrington, who confirmed that there was no such home on this property, but the home that the State Historic Preservation Office may have identified was to the south on County road 274 on property owned by other persons.*

- 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. *Ricardo Rios-* (302) 739-9944, Ricardo.Rios@sate.de.us.
- *The comments of the Water Supply Section will be delivered to the developer of this property, if and when it is sold.*

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.

The State offers no suggestions regarding the rezoning request. The following suggestions may be relevant to future development or redevelopment of this property:

DelDOT

- In a February 3, 2010, letter to the Office of State Planning Coordination, Eugene Bayard, Esq., representing the applicant explains their rationale for seeking the rezoning. Briefly, they believe the land is now better suited for commercial use than for agriculture so they seek to have it rezoned for commercial use so they can sell it for that use and buy more agricultural land elsewhere. In that letter he mentions a planned local road, extending Airport Road north to Delaware Route 24, which he refers to as a “relief route.” With one exception, his description of what has occurred with regard to the road is accurate. The exception is that construction of the road would likely have a greater effect on the B-1 lands than he suggests. The house would likely have to be taken and the barn and retail shop may no longer be usable.
- Even subtracting the right of way for the planned local road, the subject land would still measure about ten acres and any likely commercial use of it would typically warrant a traffic impact study TIS). DelDOT’s agreement with Sussex County regarding rezoning applications would allow them to require that a TIS be completed for this application before the applicant can file their application with the County. While the County has not

asked them yet, DelDOT does not anticipate requiring a TIS for this application. Their reasoning is that previous studies have already identified the general capacity and Level of Service issues in the immediate area. The dedication and construction of their portion of the planned local road would be the primary recommendation resulting from a TIS done now. A future study, done for a specific development proposal on the land could result in further recommendations and we reserve the right to require such a study when that proposal is identified. Absent such a proposal we see no value in having a TIS done now.

- *We enclose a survey commissioned by J.G. Townsend, Jr. & co. to show the impact of the donation of right of way on the property and the resultant parcels created. .95 acres will be right of way. .86 acres will be south of the road to be created and remaining for cultivation will be no more than 8.47 acres, the westerly portion of which will be difficult to farm. I enclose a duplicate of the survey for the Department of Transportation's use.*

State Historic Preservation Office

- The developer should also provide some landscaping along the borders of the parcel in order to lessen the visual effects on the surrounding properties. There is a high probability for historic archaeological sites on the subject property.
- *Again, we will provide a copy of the PLUS comments to the developer, if and when the property is sold.*
- **Water Resource Protection Areas.** The DNREC Water Supply Section, Ground-Water Protection Branch (GPB) has determined that the parcel falls within two wellhead protection areas that overlie an excellent ground-water recharge potential areas for Sussex County (see map). The wellhead protection areas protect wells owned by Tidewater Utilities Lewes-Rehoboth District and the City of Rehoboth. Because the wellhead protection area is an existing source of public drinking water and the excellent ground-water recharge area so readily affects the underlying aquifer, the storage of hazardous substances or wastes should not be allowed within these areas unless specific approval is obtained from the relevant state, federal, or local program once the parcel is developed.
- *Again, we will provide a copy of the PLUS comments to the developer, if and when the property is sold. (J.G. Townsend, Jr. Co. notes that it conveyed to the City of Rehoboth the well site shown on the map attached to the PLUS report)*

Sussex County Engineering

The parcel is located within a planning area of the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District (WRE) and adjoins the existing sewer district boundary. The parcel could be annexed into the sewer district following completion of certain administrative procedures. Connection to the sewer system is mandatory.

Planning study assumptions have allocated 4.0 EDU per acre of sewer capacity. Sewer capacity downstream of potential connection points is limited and the developer may be required to undertake or participate in upgrades at their expense.

Any proposed development will require a developer installed collection system in accordance with Sussex County standard requirements and procedures. In addition, it will be the developer's responsibility to install infrastructure from an approved connection point. The Sussex County Engineer must approve the connection point.

The Sussex County Engineering Department requires that a Sewer Concept Plan be submitted for review and approval prior to requesting annexation to the WRE. Attached is a checklist for preparing conceptual plans. Also, attached is the County's policy and steps for extending sewer district boundaries. All costs associated with extending sewer service will be the sole responsibility of the developer. One-time system connection charges will apply. Please contact Mrs. Christine Fletcher at 302-854-5086 for additional information on charges.

Again, we will provide a copy of the PLUS comments to the developer, if and when the property is sold.

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.

Please let me know if you have any questions.

Sincerely,

Wilson, Halbrook & Bayard

By: _____

Eugene H. Bayard

EHB:phc

CC: Lawrence Lank, Director

Sussex County Planning & Zoning Commission