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May 26, 2010

Constance C. Holland, AICP  
State of Delaware  
Planning and Coordination  
Haslet Armory – Third Floor  
122 William Penn Street  
Dover, DE 19901

RE: **PLUS 2010-04-01 Response Letter**  
**LAKELAND PARK, INC.**  
**Dover, Delaware**  
**2005082.01**

Dear Ms. Holland:

Below you will find the required responses to your PLUS comment letter, dated May 24, 2010, in reference to project Lakeland Park, Inc. located on the north and south side of Lakeland Avenue, just east of U.S. Route 113-A, south of Dover, Delaware. Each State comment is listed with the associated response in bold italics below.

**Strategies for State Policies and Spending**

This project is located within an Investment Level 1 and 2 according to the Strategies for State Policies and Spending. Investment Level 1 reflects areas that are already developed in an urban or suburban fashion, where infrastructure is existing or readily available, and where future redevelopment or infill projects are expected and encouraged by State policy. 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.

***Response: No response required.***

**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 Kent County Levy Court.

***Response: No response required.*** However, if the rezoning is approved, the following code requirements may be relevant to future development or redevelopment of this property:

**State Historic Preservation Office – Contact Terrence Burns 736-7404**

The developer should 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. The unexpected discovery of unmarked human remains during construction can result in significant delays while the process is carried out. Therefore, 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

***Response: Applicant will consider hiring an archaeological consultant for this project.***

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Department of Transportation – Contact Bill Brockenbrough 760-2109

As discussed in a December 16, 2009, letter to Kent County, the proposed rezoning could enable a development that would meet DelDOT's volume warrants for a traffic impact study (TIS), as contained in Section 2.3.1 of DelDOT's Standards and Regulations for Subdivision Streets and State Highway Access. However, as also discussed in that letter, we have determined to postpone any requirement of a TIS until a subdivision application is made for such a development.

*Response: An agreement was executed between the applicant and DelDOT to waive the required TIS for this rezoning application.*

Delaware State Housing Authority – Contact Karen Horton 739-4263

- According to Title 25, Section 7010 Del. C. landlords of manufactured home communities have the following requirements when there is an intended change in land use:
  - Provision of a 1-year termination or non-renewal notice to each affected tenant.
  - Provision of a relocation plan to each affected tenant. The Plan must be written in a straightforward and easily comprehensible manner and include the following:
    - The location, telephone number and contact person of other manufactured home communities, known to the landlord after reasonable effort, within a 25-mile radius of the manufactured home community where the change of land use is intended;
    - The location, telephone number and contact person of housing for tenants with disabilities and for older tenants, known to the landlord after reasonable effort, within a 25-mile radius of the manufactured home community where the change of land use is intended;
    - A listing, known to the landlord after reasonable effort, of government and community agencies available to assist tenants with disabilities and older tenants;
    - A basic description of relocation and abandonment procedures and requirements;
    - A preliminary indication of whether a tenant's manufactured home can or cannot be relocated; and,
    - A copy of this section of the Code.
  - Submission of the relocation plan to the Delaware Manufactured Home Relocation Authority.
  - The tenants should be notified of the Delaware Manufactured Home Relocation Trust Fund established for assisting manufactured homeowners who are tenants in a manufactured home community where the community owner intends to change the use of all or part of the land on which the community is located.

*Response: Applicant will follow requirements of Title 25, Section 7010 Del. C.*

**The Delaware State Fire Marshal's Office – Contact Duane Fox 739-4394****Fire Protection Water Requirements:**

- Water distribution system capable of delivering at least 1000 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 “Business Use” sites, the infrastructure for fire protection water shall be provided, including the size of water mains for fire hydrants and sprinkler systems.

**Fire Protection Features:**

- All structures over 10,000 Sq. Ft. aggregate will require automatic sprinkler protection installed.
- Buildings greater than 10,000 sqft, 3-stories or more, 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

**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 the main thoroughfares must be constructed so fire department apparatus may negotiate it.
- The use of speed bumps or other methods of traffic speed reduction must be in accordance with Department of Transportation requirements.

**Gas Piping and System Information:**

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

**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 the 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: Applicant will comply with Fire Marshal's requirements listed above during the site plan design stage.***



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Department of Natural Resources and Environmental Control – Contact Kevin Coyle 739-9071

#### **Sediment and Stormwater Program.**

A detailed sediment and stormwater plan will be required prior to any land disturbing activity taking place on the site. It is strongly recommended that the owner and consultant contact the Kent Conservation District to schedule a project application meeting to discuss the sediment and erosion control and stormwater management components of the plan. The site topography, soils mapping, pre- and post-development runoff, and proposed method(s) and location(s) of stormwater management should be brought to the meeting for discussion. The plan review and approval as well as construction inspection will be coordinated through the Kent Conservation District. Contact Jared Adkins, Program Manager, at the Kent Conservation District at (302) 741-2600, ext. 3 for details regarding submittal requirements and fees (Delaware Code, Title 7, Chapter 40; Delaware Regulations, Administrative Code, Title 7, 5101). *James Sullivan - (302) 739-9921, [James.Sullivan@state.de.us](mailto:James.Sullivan@state.de.us)*

***Response: A detailed sediment and stormwater management plan / report will be submitted to the Kent Conservation District for review during the site plan design stage.***

#### **Water Supply.**

- 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 the 7Eleven Store located within 1000' of the proposed project. *Ricardo Rios - (302) 739-9944, [Ricardo.Rios@state.de.us](mailto:Ricardo.Rios@state.de.us)*

***Response: Applicant will obtain a dewatering well construction permit should dewatering points be necessary. Applicant will follow all regulations regarding well permit applications.***

#### **Hazardous Waste Sites**

- There is one SIRB site found within a ½-mile radius of the proposed project:



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- Pugh Dump Site (DE-0227) located adjacent to the south-east portion of the project area.
- The site was issued a No Further Action designation in 1990.

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). SIRB should also be contacted as soon as possible at 302-395-2600 for further instructions. *Krystal Stanley - (302) 395-2644, [Krystal.Stanley@state.de.us](mailto:Krystal.Stanley@state.de.us)*

- If it is determined by the Department that there was a release of a hazardous substance on the property in question, it is suggested that the guidelines and provisions of 7 Del.C. Chapter 91, Delaware Hazardous Substance Cleanup Act and the *Delaware Regulations Governing Hazardous Substance Cleanup* be followed.

***Response: Applicant is aware that one SIRB site was found within a half mile of the project. Applicant will contact DNREC should any hazardous substances be discovered during construction.***

#### **Tank Management Branch.**

- If a release of a Regulated Substance occurs at the 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 Leaking Underground Storage Tank (LUST) projects are located within a quarter mile of the rezoning site:
  - Taylor Property (Inactive), Facility ID: 1-000533, Project: K9303045
  - Lakeside Dairy Market (Inactive), Facility ID: 1-000395, Project: K9105103, K9502055
  - Moores Lake Pump Station # 3 (Inactive), Facility ID: 1-000634, Project: K9811191
- The following AST facility is located within the rezoning project parcel:
  - Villabona Mobile Home Trailer Park Above Ground Storage Tanks, Facility: 6-000002. No petroleum release projects are associated with this facility; however, if additional information is required, please contact Erich Schuller at 302-395-2500.
- 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."
- 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 TMB. If any ASTs greater than 12,500 gallons are installed, they are also subject to installation approval by the TMB.
  - Should the municipality anticipate being more restrictive than Delaware's Regulations Governing Underground Storage Tank Systems or Delaware's Regulations Governing Aboveground Storage Tanks, please be aware that the municipality shall be responsible for enforcing the more restrictive rules.  
*Elizabeth Wolff - (302) 395-2500, [Elizabeth.Wolff@state.de.us](mailto:Elizabeth.Wolff@state.de.us)*

***Response: Applicant is aware that the above-referenced LUST projects and AST facility exist near the project. Applicant will contact DNREC should any contamination substances be discovered during construction. Applicant will follow all regulations regarding underground storage tanks.***

#### **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.

#### **State Historic Preservation Office – Contact Terrence Burns 736-7404**

- There does not appear to be any known historic or cultural resources, such as an archaeological site or listed National Registered property on this parcel (property). However, across the street, which is Pugh Avenue, at the end, near Isaac Branch, there is a known Archaeological Site (K-6650, 7K-C-405) and the Mount Vernon Mill Site (K-6651) nearby, just across Pugh Avenue near Isaac Branch.

According to the Pomeroy and Beers Atlas of 1868, which is a 19th-century historical map, it appears that there were two dwellings/structures marked G. Mills in the vicinity of the known Archaeological Site (K-6650, 7K-C-405) and the Mount Vernon Mill Site (K-6651), and the 1931 USGS Topographical Map (15 minutes) also indicated that there were dwellings/structures there as well. In addition, there is also a possibility that there may be archaeological sites associated with these dwellings/structures on this parcel or nearby.

- 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.

- The developer should also provide some landscaping along the borders of the parcel in order to lessen the visual effects on the surrounding properties

***Response: Applicant is aware of the known archaeological sites and the potential for other archaeological sites on or near the project. Applicant will consider the recommendation of landscaping improvements during the site plan design stage. Kent County will have jurisdiction over landscape plans.***

Department of Transportation- Contact Bill Brockenbrough 760-2109

One of the primary issues in the TIS mentioned above will be the location of traffic signals along South State Street (US Route 113A). Presently there are signals to the north at Webb's Lane and to the south at Delaware Route 10. Conceivably DeIDOT could one day have as many as three signals in between Webb's Lane and Route 10, one north of Moore's Lake and two south thereof. The first choice would be to signalize an existing intersection along the South State Street, such as Lakeland Avenue or Beechwood Avenue. However, from a signal spacing perspective, other locations may be superior. DeIDOT understands that the applicant owns or controls some of the frontage on South State Street between Lakeland Avenue and Moore's Lake. It is recommended that they retain that control and redevelop their lands in the area only after developing a comprehensive plan for their holdings that includes planning for access on South State Street.

***Response: Applicant will work with DeIDOT regarding the location of any future traffic signals that may be necessary as part of this project.***

Delaware State Housing Authority – Contact Karen Horton 739-4263

- The Delaware State Housing Authority (DSHA) is very concerned about the displacement of the tenants of the manufactured home community that would result. Manufactured housing is an affordable option for low- and extremely low-income persons and there are few housing options for them. In addition, it is highly unlikely that they will be able to move their home to another manufactured housing community as most only accept the placement of new homes. As a result, they could lose not only their home but any equity that may have accumulated in the home. Also, this community is in a Level 1 area and provides the residents with close proximity to services, jobs, and retail establishments.
- The DSHA encourages the community owners to meet with the Delaware State Housing Authority to discuss possible alternative, including the establishment of a resident-owned community, for this land that will avoid the displacement of the residents.

***Response: Applicant will consider recommendations by DSHA regarding the relocation of tenants affected by this proposed project.***



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Department of Natural Resources and Environmental Control – Contact Kevin Coyle 739-9071

**Hazardous Waste Sites**

- SIRB strongly recommends that the land owner perform environmental due diligence of the property by performing a Phase I Assessment in accordance to Section 9105(c) (2) of the Delaware Hazardous Substance Cleanup Act (HSCA). 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.

*Response: Applicant will consider recommendation by DNREC regarding a Phase I Assessment for this project during the site plan design stage.*

**Water Resource Protection Areas.**

- The DNREC Water Supply Section has reviewed the above referenced PLUS application and determined that a significant portion of the proposed rezoning falls within excellent ground-water recharge area. In addition, a wellhead protection area for Kent County lays within the project boundaries (See Map). This well is part of the Tidewater Utilities Lakeland Mobile Home Park public water system. Kent County does not have a Source Water Protection Ordinance in place at this time, as required by Delaware Code Title 7, Section 6082.

Excellent ground-water recharge potential areas are near-surface areas within which precipitation infiltrates the land surface to the unconfined aquifer at a more rapid rate than other areas

As noted on the map, the green areas are areas of excellent recharge. DNREC Water Supply Section recommends that that portion of the new development within the excellent ground-water recharge area not exceed 20% impervious cover. The purpose of an impervious cover threshold is to minimize loss of recharge (and associated increases in storm water) and protect the quality and quantity of ground water and surface water supplies (DNREC, 1999).

- The map also shows three public wells on or near the proposed site. Wellhead protection areas are surface and subsurface areas surrounding a public water supply well where the quantity and quality of ground water moving toward such wells may be adversely affected by land use activities. DNREC recommends that Parcels of land within one-hundred fifty feet of the well annulus be preserved in a natural condition with the exception of impervious surface limited to building and access associated with the well and distribution and treatment facilities and their maintenance.

Because the wellhead protection area the source of public drinking water, it is recommended that the storage of hazardous substances or wastes not be allowed within the area unless specific approval is obtained from the relevant state, federal, or local program.

***Response: Applicant will consider recommendation by DNREC regarding development in an excellent ground-water recharge area and a wellhead protection area for this project during the site plan design stage.***

#### **TMDLs.**

- The project is located in the greater Delaware River and Bay drainage, specifically within the St. Jones 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 water body” 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. The TMDL for the St. Jones River watershed calls for a 40 percent reduction in nitrogen and phosphorus from baseline conditions. The TMDL also calls for a 90 percent reduction in bacteria from baseline conditions.

A Pollution Control Strategy (PCS) is the regulatory directive requiring the implementation of various best management practices (BMPs) that help reduce transport of nutrient and bacterial pollutant runoff from all waters draining into a “greater” common watershed, with the ultimate objective of achieving the obligatory TMDL reduction requirements for that watershed. However, the PCS for the St. Jones watershed has not been formally completed to date. In absence of a current PCS, the applicant is strongly urged to reduce nutrient and bacterial pollutants through the voluntary commitment to the implementation of the following recommended BMPs:

- It is strongly recommended that a 100-foot upland buffer width be maintained from the water body and wetlands adjacent to the project’s southern boundary.
- We strongly recommend that the applicant calculate post-construction surface imperviousness with all forms of created surface imperviousness (e.g., rooftops, driveways, parking lots, sidewalks, open-water storm water management structures, and roads) included in the calculation. We further encourage the use of pervious paving materials (instead of conventional asphalt and concrete) to mitigate impacts from surface imperviousness.
- We strongly encourage the use of rain gardens, and green-technology storm water management structures (in lieu of open-water management structures) as BMPs to reduce nutrient pollutant impacts.
- The Department has also developed an assessment tool to evaluate how your proposed development may reduce nutrients and bacteria to help meet the TMDL requirements. Please contact Lyle Jones at 302-739-9939 for more information on the assessment tool.



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***Response: Applicant will consider recommendation by DNREC regarding the reduction of pollutants due to development for this project during the site plan design stage. Applicant will also consider recommendation of implementing BMPs.***

If you have any questions or require additional information, please contact me at (302) 734.7950.

Sincerely,

BECKER MORGAN GROUP, INC

A handwritten signature in black ink, appearing to read 'Gregory V. Moore', written over the typed name.

Gregory V. Moore, PE  
Vice President

RPH/rlh

CC: Andrew C. Strine, Lakeland Park, Inc.  
Sarah Keifer, Kent County

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