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July 16, 2010

Mr. Brad Shockley
New Castle County
Department of Land Use
87 Reads Way
New Castle, DE 19720

RE: Project No. 7693.CF (Duffield Associates)
New Castle County App. No. 2010-0156
Exploratory Rezoning Plan
Piendak Red Lion (now called 2504 Red Lion Road)
New Castle County, Delaware

Dear Mr. Shockley:

Duffield Associates, Inc. (Duffield Associates) received your Exploratory Report, dated May 25, 2010, for the above-referenced project. We also received the comment letter from the Office of State Planning Coordination, dated June 21, 2010, regarding the Preliminary Land Use Service (PLUS) review of the project. The PLUS Meeting was held on May 26, 2010, and was attended by Mr. Antoni Sekowski of your office.

Based on the written comments and verbal discussions, it appears that changes to the plan will be required prior to approvals. Specifically, the Delaware Department of Transportation (DelDOT) indicated that additional right-of-way dedication was required and that one (1) of the proposed entrances was unlikely to be approved.

Therefore, we have revised the Exploratory Plan to reflect these proposed changes and have enclosed a revised Exploratory Plan submission for your review. Please let us know when this revised plan may be scheduled for a Planning Board Public Hearing and for a concurrent Board of Adjustment application. The requested variances are enumerated in Note 17 on Sheet 1 of the enclosed plan. The following submission items are enclosed:

- Check for \$750 Resubmission Fee;
- Exploratory Minor Land Development Plan w/Rezoning – Rev. 1; and
- Traffic Data.

We have addressed comments from the above-referenced letters as follows:

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New Castle County Department of Land Use (NCCDLU) Exploratory Report

Planning

1. *The proposed rezoning from NC6.5 to CR may be considered inappropriate at this time.*

In consideration that the northern adjacent property is zoned CR and the other properties at the intersection of Howell School and Red Lion Roads are zoned CR, it is our opinion that the requested rezoning is appropriate and we will be prepared to address the suitability of the rezoning at the joint Department and Planning Board Public Hearing.

2. *As a rezoning, verify that the project complies with the minimum site area of five (5) acres (refer to Section 40.04.110.B and Table 40.04.110.A of the NCCC).*

Based on the New Castle County, Delaware Official Zoning Map, last revised October 01, 2001, the adjacent existing CR zoning area is approximately 4.8 acres. The proposed rezoning of this project will therefore result in the total CR zoning area to be greater than the minimum site area of five (5) acres in compliance with the referenced code.

3. *In addition to the variances listed in Note No. 17, a variance will be required from the minimum lot area of one (1) acre. Also, it appears that several landscaping-related variances may be required for this project and such variances should be determined prior to proceeding to the Board of Adjustment.*

Variances from the minimum lot area and street bufferyard opacity have been added to the list of requested variances. With the revised plan, a code-compliant 0.5 opacity (20-foot bufferyard with solid wall) is proposed along the residential property to the south.

4. *The wetland report refers to a "small tributary" to Dragon Creek. Specify if this feature would be considered an intermittent or perennial stream and provide a riparian buffer area (RBA) as may be required;*

The referenced "small tributary" is shown on the plan, located on the Mariners Watch Maintenance Corp. parcel with an associated drainage easement. The centerline of the stream is more than 100 feet from the property. Therefore, no RBA is required on the subject property.

5. *Note that Table 40.22.612 of the NCCC requires a 22' access aisle for one-way traffic adjacent to perpendicular parking spaces. The parking aisle along the western property line must be revised.*

The parking configuration has been revised based on other comments, with a 24-foot access aisle.

Standard Plan Comments

1. *Add the application number to the plan;*

The application number has been added to the plan in Site Data, Note 1.

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2. *Submit a landscape/lighting plan. Complete Note No. 13.*

A Landscape/Lighting Plan will be submitted with the Record Plan after any variances have been approved.

3. *Submit a LDIA information sheet to initiate the LDIA process. Complete Note No. 14.*

A LDIA information sheet is enclosed to initiate the LDIA process. Note No. 14 will be completed upon recordation of the LDIA.

4. *Provide certification of approval from the water supplier.*

A water certification will be provided with the Record Plan submission.

5. *Provide certification of approval from the Fire Marshal.*

A copy of the Record Plan will be provided to the Fire Marshal for approval. Based on our preliminary conversation with the Office of the State Fire Marshal, it is our understanding that fire lane markings will not be required for this building.

6. *Provide certification of approval from DelDOT.*

We have initiated conversations with DelDOT. A Letter of No Objection will be provided prior to plan recordation.

7. *Please note that Table 40.31.390 of the NCCC outlines time limits for expiration of plan.*

Noted.

Engineering

The Engineering Section within the Department of Land Use has reviewed the exploratory plan submission and grants conditional approval with the understanding the applicant is proceeding at their own risk. Also, in the event the Record Plan submission fails to fully comply with all applicable requirements the submission will be deemed incomplete. Finally, a cover letter must be provided with the re-submission of this project that describes, in detail, how each comment was addressed.

As no exceptions were taken to the Exploratory Plan submission, there are no comments to be addressed with this re-submission.

Historic

The historic preservation section has reviewed the exploratory Minor Land Development plan with Rezoning for "Piendak Red Lion" (application 2010-0156). The plan calls for the demolition of a ca. 1865 frame house. The house is part of the historic setting of the National

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Register-listed Correl's Farm and Lawn Supply, located to the immediate northeast. The house is also part of the historic crossroads community of Kirkwood. Pursuant to Chapter 40.15.110.A of the New Castle County Code, the property may be considered historically significant under criterion J or M. Therefore, this application must be reviewed by the Historic Review Board.

A separate demolition permit for the building will be submitted by the project developer.

Transportation

Based on information contained in this application and staff evaluation, the Transportation Section has determined that it requires a Preliminary Traffic Analysis (PTA). This requirement is in accordance with Chapter 40, Articles 11 and 31 of the New Castle County Code. Attached is the preliminary Fact Sheet for subject Traffic Analysis Zone (TAZ) 185.

The Applicant is responsible for providing the following traffic data:

1. *Approximate vehicle trips per day during the week and on the weekend, and the a.m. and p.m. peak hour trips generated by the proposed development.*

Trip generation information for weekday, weekend, and peak hours is enclosed. Per DelDOT's verbal comments at the PLUS Hearing, trips were computed based on "Specialty Retail" Average Rates. The results are less than the TIS volume warrants of 400 vehicles per day (vpd) or 50 vehicles per hour (vph).

2. *Road conditions and access geometry including roadway surface, horizontal, and vertical alignment conditions associated with the ingress and egress locations to the adjoining roadway.*

An Entrance Plan will be submitted to DelDOT for review. The roadway and shoulder surface is bituminous concrete pavement. The horizontal alignment of intersections is shown on the Exploratory Plan. Based on the survey information, existing shoulder slope is approximately -4%. The entrance slope will be designed with the Entrance Plan but is anticipated to be approximately -0.5%.

3. *Accident data for the last three years for the roadways with ingress and egress locations, within the Area of Influence.*

DelDOT accident data is enclosed.

4. *Existing peak hour Level of Service (LOS) at intersections within the Area of Influence, if available.*

No recent LOS information was available from DelDOT. NCCDLU provided the most recent LOS information for nearby intersections. The most recent LOS for SR71 and Howell School Road was A/A in 1991. The most recent LOS for SR71 and Kirkwood-St. Georges Road was A/A and B/C (for WB Kirkwood-St. Georges) in 2001.

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5. *Previously recorded transportation notes or restrictions.*

None identified. Some DeIDOT easements exist on the adjoining property and are identified on the plan.

6. *All other County Code requirements.*

None identified. Please contact us if additional information is necessary.

Per County Code Section 40.21.162 the Plan should build frontage sidewalk along Route 71. DeIDOT may want easements for future cross access with the adjacent parcels.

The revised plan now includes sidewalk across the Route 71 frontage.

Mapping

The street name of Red Lion Road Needs to be added to the plan. The street name states Delaware State Route 71. Property addresses assigned for every 20' for store frontage. Property addresses assigned: 2504, 2506, 2508, 2510, 2512 Red Lion Road, Bear, DE 19701.

The street name of Red Lion Road has been added to the plan. Addresses for store frontage will be referenced on building permits once the building configuration is finalized. The general property address noted on the Record Plan will remain 2504 Red Lion Road.

PLUS Code Requirements/Agency Permitting Requirements

State Historic Preservation Office

It is important that the developer be aware of the Delaware Unmarked Human Remains Act of 1987 the developer may want to consider hiring an archaeological consultant to examine the parcel for archaeological sites, including a cemetery or unmarked human remains.

It is our understanding that a large portion of the site has been previously disturbed by previous development, such as installation of the currently failing septic system. As previously noted, a separate demolition permit for the building will be submitted by the project developer.

Department of Transportation

The site access must be designed in accordance with DeIDOT's Standards and Regulations for Subdivision Streets and State Highway Access.

Noted.

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As proposed, the subject development would meet DelDOT's volume warrants for a traffic impact study (TIS). Based on the estimated daily traffic volume shown on the PLUS application, 842 vehicles per day...

As discussed at the PLUS Hearing, the traffic volume shown on the PLUS application was based on rates for large shopping centers. Per DelDOT's recommendations, a more accurate estimate for this 4,025-square-foot retail building may be based on rates for Specialty Retail centers. The enclosed traffic data includes calculation based on these rates, for a total trip generation of 178 vpd or 28 vph. As previously noted, these results are less than the TIS volume warrants of 400 vpd or 50 vph.

Delaware Route 71 is classified as a Collector, which per Section 3.6.5 of DelDOT's Standards and Regulations requires an 80-foot right-of-way (40-feet from centerline of right-of-way)...

A right-of-way dedication of 40 feet from centerline is proposed on the revised plan.

Preliminary calculations indicate that a right turn lane is warranted at the site entrance in accordance with Section 5.2.2.1 of the Standards and Regulations.

The revised trip generation calculations indicate that turn lanes are not warranted.

Department of Natural Resources and Environmental Control

TMDLs. *Although a TMDL has not been developed for the C&D Canal watershed to date, the TMDL developed for the Red Lion Creek will apply to the entirety of the project area.*

Since this project proposes removal of an identified failing septic system and conversion of a residential site to a commercial site, it is anticipated that nitrogen, phosphorous, and bacteria TMDL will be reduced.

Water Supply. *Should dewatering points be needed...All well permit applications must...*

Noted. No dewatering permits or well permits are currently anticipated.

Sediment and Stormwater Program. *A detailed sediment and stormwater plan will be required prior to any land disturbing activity taking place on the site.*

A detailed sediment and stormwater plan will be submitted to NCCDLU Engineering Section for review prior to development.

Hazardous Waste Sites. *If it is determined by the Department...*

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

- *2440 Red Lion Road Site (DE-1449) is adjacent to the north portion of the project area.*
- *The site is a certified Brownfields. The site is currently being investigated.*

Should a release or imminent threat of a release of hazardous substances be discovered...

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Noted. The owner is aware of the investigation being performed on the adjacent site.

Tank Management Branch. If a release of a Regulated Substance occurs...

There are is one LUST project located within a quarter mile of the rezoning site:

- *H & R Auto Repair Inc, Facility: 3-001826, Project: N0502018, N0709094*

Per the UST Regulations: Part E, § 1. Reporting Requirements...

- *When contamination is encountered...*
- *If any aboveground storage tanks (ASTs)...*
- *Should the municipality anticipate being more restrictive...*

Noted. No USTs or ASTs are anticipated.

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 copy of the Record Plan with the required information will be provided to the Fire Marshal for approval.

PLUS Recommendations/Additional Information

State Historic Preservation Office

- *There does not appear to be any known historic or cultural resources... However, there is a late 19th-century commercial building (N-5025) next to this parcel... there is a possibility that there could be potential archaeological sites on this parcel that have not been discovered...*
- *The developer should also provide some landscaping along the borders of the parcel...*
- *If there is any federal involvement with the project...*

Noted. As previously noted, a separate demolition permit for the building will be submitted by the project developer. Landscaping is proposed to screen the parcel from the adjacent residential property. No federal involvement is anticipated.

Department of Transportation

- *DelDOT recommends that the developer's engineer contact... Mr. Joshua Schwartz...*
- *It appears that the site's trip generation was estimated by...*
- *According to the plan submitted, the developer also owns the adjoining parcel (Tax Parcel No. 12-018.00-014) to the north...*

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- *Due to the volume of traffic on Delaware Route 71, the entrance construction for this development would warrant Level II construction inspection...*

Noted. Duffield Associates has contacted Mr. Joshua Schwartz. As previously noted, trip generation has been recalculated. The adjoining parcel owner information was listed incorrectly on the plan. Tax Parcel No. 12-018.00-014 is owned by Kirkwood Enterprises, LLC. Duffield Associates will work with DelDOT to obtain an approved Entrance Plan and required construction inspections.

Department of Natural Resources and Environmental Control

- *Hazardous Waste Sites: SIRB strongly recommends that the land owner perform environmental due diligence of the property by performing a Phase I Assessment...*

A Phase I Assessment has been performed for the site.

- *Additional information on TMDLs. A Pollution Control Strategy (PCS) is...*

Noted. Open space is maximized to the extent possible. Rain gardens and filter strips are the proposed methods of stormwater quality management for the site.

Delaware State Fire Marshal's Office

- *Preliminary meetings with fire protection specialists are encouraged...*

We have already contacted the local State Fire Marshal's Office regarding the requirements for this project.

Division of Public Health

To help facilitate active living... The Division of Public Health recommends the following...

Sidewalk is now provided along the road frontage. Shoulders along Red Lion Road are wide enough for bicycle traffic, and a bike rack is proposed for the site. A connecting path between the site and adjacent commercial retail is proposed.

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.

A copy of this letter is being provided to the Office of State Planning Coordination.

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Please do not hesitate to call us if you have additional questions.

Very truly yours,

DUFFIELD ASSOCIATES, INC.



Colin M. Kraucunas, P.E., LEED AP
Project Engineer

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cc: Richard Piendak – Red Lion Kirkwood Partners, LLC (w/attachments)
Constance C. Holland, AICP – Office of State Planning Coordination (w/o attachments)