

June 1, 2018

Sussex County Administrative Building  
Planning and Zoning Department  
2 The Circle  
Georgetown, Delaware 19947

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Attn: Ms. Janelle Cornwell, AICP  
Planning and Zoning Director

RE: **Pallots Corner (CU 2130)**  
Response to PLUS Review-2018-04-09  
Tax Map No.: 1-34-13.00-72.00 & 72.01  
DBF #1998D006

Dear Ms. Cornwell:

We have read and reviewed the comments provided during the PLUS Review of the Project on April 25, 2018 and received from the Office of State Planning dated May 22, 2018. We offer the following item-by-item response narrative for your review:

**Strategies for State Policies and Spending**

*This project is located in Investment Level 3 according to the Strategies for State Policies and Spending. 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 may support future growth in these areas, but please be advised that the State has other priorities for the near future. We encourage you to design the site with respect for the environmental features which are present.*

**We recognize that the project is located in an Investment Level 3. The proposed land use and density are consistent with adjacent parcels. The parcel is located within the County's Environmentally Sensitive Developing District Overlay Zone (ESDDOZ).**

**Code Requirements/Agency Permitting Requirements**

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

- *The site access on Cedar Neck Road must be designed in accordance with DelDOT's Development Coordination Manual, which is available at <http://www.deldot.gov/Business/subdivisions/index.shtml?dc=changes>.*
- *Pursuant to Section P.3 of the Manual, a Pre-Submittal Meeting is required before plans are submitted for review.*

- *Section P.5 of the Manual addresses fees that are assessed for the review of development proposals. DelDOT anticipates collecting the Initial Stage Fee when the record plan is submitted for review and the Construction Stage Fee when construction plans are submitted for review.*
- *Per Section 2.2.2.1 of the 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. Treating the subject development as 20 townhouses (Land Use Code 220), DelDOT calculates that the development would generate 110 vehicle trip ends per day, 10 in the morning peak hour of Cedar Neck Road and 14 in the evening peak hour of Cedar Neck Road. Therefore, the proposed development does not meet those warrants.*

*Per Section 2.3 of the Manual, DelDOT may require a Traffic Operational Analysis (TOA) for a development that generates 200 or more vehicle trip ends per day if it identifies a potential problem in the operation of the site access, such that information obtainable through a TOA is needed to properly review the plan and determine what access to permit. These warrants are not met either.*

- *Section 3.2.4.2 of the Manual addresses the placement of right-of-way monuments (markers) along the roads on which a property fronts, in this case Cedar Neck Road and Fred Hudson Road. Monuments sufficient to re-establish the permanent rights-of-way after the dedication discussed below should be shown on the plan and provided in the field in accordance with this section.*
- *As necessary, in accordance with Section 3.2.5 and Figure 3.2.5-a of the Manual, DelDOT will require dedication of right-of-way along the site's frontage on Cedar Neck Road and Fred Hudson Road. By this regulation, this dedication is to provide a minimum of 40 feet of right-of-way from the physical centerline of each road. The following right-of-way dedication note is required, "**An X-foot wide right-of-way is hereby dedicated to the State of Delaware, as per this plat.**"*
- *In accordance with Section 3.2.5.1.1 of the Manual, if this development is proposing a neighborhood sign/structure, then a permanent easement shall be established to accommodate it. The easement shall be located outside of any existing and/or proposed right-of-way. It will also need to be verified that the sign/structure does not pose a sight distance and/or safety hazard*
- *In accordance with Section 3.2.5.1.2 of the Manual, DelDOT will require the establishment of a 15-foot wide permanent easement across the property frontage on Cedar Neck Road and Fred Hudson Road. The location of the easement shall be outside the limits of the ultimate right-of-way. The easement area can be used as part of the open*

*space calculation for the site. The following note is required, "A 15-foot wide permanent easement is hereby established for the State of Delaware, as per this plat."*

- *In accordance with Section 3.4 of the Manual, a record plan shall be prepared prior to issuing "Letter of No Objection". The record plan submittal shall include the items listed on the Critical Items for Acceptance: Record Plan document available on the DelDOT website at <https://www.deldot.gov/Business/subdivisions/pdfs/Critical-Items-Record-Subdivision.pdf?09222017>.*
- *Referring to Section 3.4.2.1 of the Manual, the following items, among other things, are required on the Record Plan:*
  - *A Traffic Generation Diagram. See Figure 3.4.2-a for the required format and content.*
  - *Depiction of all existing entrances within 300 feet of the site entrance.*
  - *Notes identifying the type of any off-site improvements, agreements (signal, letter) contributions and when the off-site improvements are warranted.*
- *Section 3.5 of the Manual provides DelDOT's requirements with regard to connectivity. The requirements in Sections 3.5.1 through 3.5.3 shall be followed for all development projects having access to state roads or proposing DelDOT maintained public roads for subdivisions.*
- *Section 3.5.4.2 of the Development Coordination Manual addresses requirements for shared-use paths and sidewalks. Referring to Section 3.5.4.2.A of the Manual, developments in Level 3 and 4 Areas are required to install a sidewalk or Shared Use Path if the project abuts to an existing facility; otherwise it is at DelDOT's discretion. Because this part of the County appears to be developing rapidly, DelDOT anticipates requiring a sidewalk along the development frontage on both Cedar Neck Road and Fred Hudson Road. The plan presented addresses this requirement.*
- *Referring to Section 3.5.5 of the Manual, existing and proposed transit stops and associated facilities as required by the Delaware Transit Corporation (DTC) or DelDOT shall be shown on the Record Plan.*
- *In accordance with Section 3.8 of the Manual, storm water facilities, excluding filter strips and bioswales, shall be located a minimum of 20 feet from the ultimate State right-of-way along Cedar Neck Road and Fred Hudson Road.*
- *Referring to Section 4.3 of the Manual, an entrance plan shall be prepared prior to issuing entrance approval. The entrance plan submittal shall include the items listed on*

*the Critical Items for Acceptance: Entrance/Construction/Subdivision Set Plan document available on the DeLDOT website at*

*[https://www.deldot.gov/Business/subdivisions/pdfs/Critical-Items\\_Entrance\\_Construction\\_Subdivision.pdf?09222017](https://www.deldot.gov/Business/subdivisions/pdfs/Critical-Items_Entrance_Construction_Subdivision.pdf?09222017).*

- *In accordance with Section 5.2.5.6 of the Manual, a separate turning template plan shall be provided to verify vehicles can safely enter and exit the site entrance. As per Section 5.2.3 of the Manual, the entrance shall be designed for the largest vehicle using the entrance.*
- *In accordance with Section 5.2.9 of the Manual, the Auxiliary Lane Worksheet should be used to determine whether auxiliary lanes are warranted at the site entrance and how long those lanes should be. The worksheet can be found at <http://www.deldot.gov/Business/subdivisions/index.shtml>.*
- *In accordance with Section 5.4 of the Manual, sight distance triangles are required and shall be established in accordance with American Association of State Highway and Transportation Officials (AASHTO) standards. A spreadsheet has been developed to assist with this task. It can be found at <http://www.deldot.gov/Business/subdivisions/index.shtml>.*
- *In accordance with Section 5.14 of the Manual, all existing utilities must be shown on the plan and a utility relocation plan will be required for any utilities that need to be relocated.*
- *Because the proposed development would not have State-maintained streets, Section 6.4.3 of the Manual, which pertains to the inspection and acceptance of commercial entrances, applies. Construction inspection responsibilities shall be in accordance with Figure 6.4.3-a. DeLDOT's preliminary reading of this figure is that the project requires Level I inspection and that a construction inspection agreement will not be needed.*
- *Section 7.7.2 of the Manual addresses the need to provide 20-foot wide drainage easements for all storm drainage systems, open or closed, that fall outside the existing right-of-way or the drainage/utility easement. In accordance with this section, metes and bounds and total areas need to be shown for any drainage easements. The easements should be shown and noted on the record plan.*

**DBF is familiar with DeLDOT's manuals and submission procedures and will submit the project to DeLDOT with the appropriate items.**

**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**

- *There are no known archaeological sites or known National Register-listed or eligible properties on the parcel. If any project or development proceeds, the developer should be aware of the Unmarked Human Burials and Human Skeletal Remains Law. Prior to any demolition or ground-disturbing activities, the developer should hire an archaeological consultant to examine the parcel for archaeological resources, including unmarked human burials or human skeletal remains, to avoid those sites or areas.*

*Abandoned or unmarked family cemeteries are very common in the State of Delaware. They are usually in rural or open space areas, within or near the boundary, of a 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 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).*

**It is unlikely that any unmarked graves or cemeteries exist on this site as it has been used as single family residential since before 1992. However, care will be taken during excavation activities to alert the state if there is a discovery of unmarked graves.**

- *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)*

**No federal permits are anticipated to be required for the current scope of this project.**

#### **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 the suggestions can benefit the project.*

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

- *The applicant should expect a requirement that any substation and/or wastewater facilities will be required to have access from an internal driveway with no direct access to Cedar Neck Road or Fred Hudson Road.*
- *The applicant should expect a requirement that all PLUS and Technical Advisory Committee (TAC) comments be addressed prior to submitting plans for review.*
- *Please be advised that as of August 1, 2015, all new plan submittals and re-submittals, including major, minor and commercial plans, shall now be uploaded via the PDCA (Planning Development Coordination Application) with any review fee paid online via credit card or electronic check. Guidance on how to do this is available on our website at <http://www.deldot.gov/Business/subdivisions/index.shtml>.*
- *Please be advised that the Standard General Notes have been updated and posted to the DelDOT website. Please begin using the new versions and look for the revision date of*

*December 8, 2017. The notes can be found at  
<http://www.deldot.gov/Business/subdivisions/index.shtml>.*

**DBF thanks DelDOT for providing the above information.**

**Sussex County – Contact Rob Davis 855-1299**

- The project is within the boundary of the Sussex County Unified Sanitary Sewer District, Cedar Neck area and connection to the sewer system is mandatory. Sewer design capacity was based on residentially zoned parcels. The proposed project exceeds sewer system design and planning study assumptions and sewer capacity cannot be assumed. More information is needed to make a capacity determination. The developer may be required to undertake or participate in downstream sewer upgrades to accommodate the proposed use. A “Use of Existing Infrastructure Agreement” may be required.*
- Each of the two parcels is served with a 6-inch lateral along their eastern property line. 6-inch laterals are not adequate for the proposed use and upgrades are required. Sussex County requires design and construction of the collection and transmission system to meet Sussex County Engineering Department’s requirements and procedures. The Sussex County Engineer must approve the connection point. A sewer concept plan must be submitted for review and approval prior to any sewer construction. Attached is a checklist for preparing sewer concept plans. One-time system connection charges and annual front footage and service charges will apply. Please contact Ms. Denise Burns at 302 854-5014 for additional information on charges.*

**DBF has submitted a Sewer Concept Plan and has received comments from Sussex County, which have been addressed and resubmitted.**

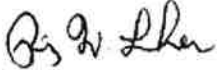
*In addition to the comments above our office has received a letter from Brandy Nauman, Sussex County Housing Coordinator & Fair Housing Compliance Officer. A copy of that letter is enclosed with this letter.*

**The developer has been made aware of Sussex County’s “Affordable Housing Support Policy” and will contact the Community Development & Housing Department if they wish to pursue those opportunities.**

Ms. Janelle Cornwell  
Sussex County Planning and Zoning  
June 1, 2018  
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On behalf of the Developer, we thank the Office of State Planning and other State Departments for their comments. If Sussex County has any questions or requires additional information, please do not hesitate to contact me at (302) 424-1441, or via e-mail at [rwl@dbfinc.com](mailto:rwl@dbfinc.com).

Respectfully Submitted,  
*Davis, Bowen & Friedel, Inc.*



Ring W. Lardner, P.E.  
Principal

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Cc: Constance C. Holland, AICP, Office of State Planning  
Josh Mastrangelo, The Evergreene Companies, LLC  
James Fuqua, Jr., Fuqua, Willard, Stevens & Schab, P.A.