



**STATE OF DELAWARE
EXECUTIVE DEPARTMENT
OFFICE OF STATE PLANNING COORDINATION**

February 14, 2014

Mr. Charles Greaves
26285 Broadkill Rd.
Milton, DE 19968

RE: PLUS review 2014-01-03; Greaves Property

Dear Mr. Greaves:

Thank you for submitting this Preliminary Land Use Service (PLUS) application for review. According to the information received you are seeking rezoning of 0.44 acres from Residential to Commercial. No site plan or proposed development was included with this rezoning.

Please note that changes to the application could result in additional comments from the State. Additionally, these comments reflect only issues that are the responsibility of the agencies given opportunity to comment on this application. **Any development will need to comply with all applicable 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.**

This rezoning represents commercial rezoning that may result in new commercial use(s) in an Investment Level 4 area according to the *Strategies for State Policies and Spending*. This location is also located within a low density area in Sussex County's certified comprehensive plan. Level 4 indicates where State investments will support agricultural preservation, natural resource protection, and the continuation of the rural nature of these areas. New development activities and suburban development are not supported in Investment Level 4. These areas are comprised of prime agricultural lands and environmentally sensitive wetlands and wildlife habitats, which should be, and in many cases have been preserved.

From a fiscal responsibility perspective, development of this site is likewise inappropriate. The cost of providing services to commercial development in rural areas is an inefficient and wasteful use of the State's fiscal resources. The location is in an area where the State has no plans to invest in infrastructure upgrades or additional services at this time. To provide some examples, the State government funds 100% of road maintenance and drainage improvements for the transportation system, 100% of paratransit services, and 100% of the cost of police protection in the unincorporated portion of Sussex County where this development is proposed.

While we understand there are no additional buildings planned at this time, a rezoning would allow future development of this land as permitted in the Sussex County zoning code for the proposed designation.

Because the development is inconsistent with the *Strategies for State Policies and Spending*, the State is opposed to this proposed rezoning.

If the County determines the rezoning of this property to be appropriate the Office of State Planning Coordination offers the following comments from the State agencies:

Department of Transportation – Contact Bill Brockenbrough 760-2109

- If the proposed rezoning is approved, then in accordance with Section 8.6 of the Standards and Regulations for Subdivision Streets and State Highway Access, the applicant will need to file an Entrance Permit application. This application is available online at http://www.deldot.gov/information/business/subdivisions/Permit_Application.docx?070113 and can be submitted to either DeIDOT's Subdivision Section in Dover or DeIDOT's South District Public Works Section in Georgetown. Because the property shares access with an existing business and their combined traffic volumes appear to be fewer than 200 vehicles per day, it appears that the applicant will be eligible for an expedited approval process outlined at http://www.deldot.gov/information/business/subdivisions/Ex_Commercial_Project_Process_199_ADT_or_Less.pdf?09-24-2013.

For more information on the commercial entrance approval process, the applicant may contact the DeIDOT Subdivision Manager for this part of Sussex County, Mr. John Fiori. He may be reached at (302) 760-2260.

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

- There are no known cultural or historic resources, such as a National Register-listed property or an archaeological site, on this parcel. However, there is a known agricultural complex (S-3334) near the parcel, which may have been built during the early 20th century. According to the Pomeroy and Beers Atlas of 1868 (which is a 19th-century historic map), there was a dwelling either on or very close to this parcel associated with J. T. Conwell; there may be archaeological resources associated with this dwelling. Furthermore, the USGS Topographic Map of 1918 indicated a dwelling there as well. With this in mind, the developer should be aware of Delaware's Unmarked Human Burials and Human Skeletal Remains Law, which is outlined in Chapter 54 of Title 7 of the Delaware Code.

Abandoned or unmarked family cemeteries are very common in the State of Delaware. They are usually in rural or open space areas, and sometimes near or within the boundary of an 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 (Delaware Code Title 7, Chapter 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 that pertains to unmarked human remains or cemeteries, please check the following websites for additional information: www.history.delaware.gov/preservation/umhr.shtml and www.history.delaware.gov/preservation/cemeteries.shtml.

Prior to any demolition or ground-disturbing activities, the developer should consider hiring an archaeological consultant to examine the parcel for potential historic or cultural resources, such as a potential archaeological site, a cemetery or unmarked human remains. Furthermore, 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 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 www.achp.gov.

Thank you for the opportunity to review this project. If you have any questions, please contact me at 302-739-3090.

Sincerely,

A handwritten signature in cursive script that reads "Constance C. Holland".

Constance C. Holland, AICP
Director, Office of State Planning Coordination