

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

February 23, 2016

Mr. John Barwick  
Karins & Associates  
128 West Market St.  
Georgetown, DE 19947

RE: PLUS review 2016-01-02; Sealadel Business Park

Dear Mr. Barwick:

Thank you for meeting with State agency planners on January 27, 2016 to discuss the Sealadel Business Park project. According to the information received you are seeking review of a rezoning of 62.35 acres from AR-1 to CR-1 for the purpose of constructing a 25.44 acre commercial development.

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 the 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.**

**Strategies for State Policies and Spending**

This project represents land development that will result in substantial commercial square footage in an Investment Level 4 area according to the *2010 Strategies for State Policies and Spending*.

Investment 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 areas. 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 development in rural areas is an inefficient and wasteful use of the State's fiscal resources.

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

With that said, **the comments in this letter are technical, and are not intended to suggest that the State supports this development proposal. This letter does not in any way suggest or imply that you may receive or may be entitled to permits or other approvals necessary to build on this property, construct the development you indicate, or any subdivision thereof on these lands.**

### **Code Requirements/Agency Permitting Requirements**

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

- Per Section 2.2.2.1 of the Development Coordination 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. Using the rates and equations in the Institute of Transportation Engineers (ITE) Trip Generation Manual, DelDOT calculates that the self-storage, industrial condominium and warehousing portions of the development would respectively generate 121, 1,576 and 1,082 vehicle trip ends per day. On this basis, the subject development would meet these warrants.
  - DelDOT recommends that the applicant have their traffic engineer contact Mr. Troy Brestel of the DelDOT Planning Office to schedule a TIS scoping meeting. Mr. Brestel can be reached at (302) 760-2167.
  - The TIS done in 2008 for a development of the same name on some of the same land was for a significantly different development proposal and cannot be reused.
- The subject property is adjacent to US Route 13, and is therefore subject to the Department's Corridor Capacity Preservation Program (17 Del. C. Section 145). The main goal of the Program is to maintain the capacity of the existing highway. According to the Office of State Planning Coordination's *Strategies for State Policies and Spending* document, the property is located within a Level 4 Investment Area. In such areas, State policies will encourage the preservation of a rural lifestyle. According to the CCPP's policy,
  - “No new or expanded direct access to the corridor will be permitted in a Level 4 Investment Area. Access will be permitted to existing secondary roads. If alternative access is determined to be reasonable but degrades the operation or safety of an adjacent intersection, as determined by a traffic engineering study, then

direct access to the corridor may also be permitted by way of rights-in/rights-out access only.”

- While the proposed business park could necessitate improvements at the intersection of US Route 13 and Delaware Route 30, that is to be expected of a development large enough to warrant a TIS. Indeed the purpose of a TIS is to identify the need for such improvements. That need alone is not sufficient justification for a rights-in/rights-out access. The proposed Route 30 access is consistent with the Program but access on Route 13 would not be permitted. The Corridor Capacity Preservation Program policy can be viewed on Department’s website at [www.deldot.gov](http://www.deldot.gov). The manual is located under the Publications link.
- The site access on Delaware Route 30 must be designed in accordance with DelDOT’s Development Coordination Manual (formerly the Standards and Regulations for Subdivision Streets and State Highway Access), which is available at <http://www.deldot.gov/information/business/subdivisions/changes/index.shtml>.
- 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 US Route 13 and Delaware Route 30. 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 Development Coordination Manual, DelDOT will require dedication of right-of-way along the site’s frontage on US Route 13 and Delaware Route 30. By this regulation, this dedication is to provide a minimum of 30 feet of right-of-way from the outermost edge of the through lanes on US Route 13 and 40 feet of right-of-way from the centerline of Delaware Route 30. 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.**” Preliminarily, it appears that, with the proposed dedication along Silverside Road, this requirement is met.
- In accordance with Section 3.2.5.1.2 of the Development Coordination Manual, DelDOT will require the establishment of a 15-foot wide permanent easement across the property frontage on both US Route 13 and Delaware Route 30. 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 to the State of Delaware, as per this plat.**”
- Referring to Section 3.4.2 of the Development Coordination Manual, the Initial Stage review fee shall be assessed to this project.

- In accordance with Section 3.4 of the Development Coordination Manual, a record plan shall be prepared prior to issuing “Letter of No Objection”. The following information will be required for the “Letter of No Objection” review:
  - Initial Stage Fee Calculation Form
  - Initial Stage Review Fee
  - Gate-Keeping Checklist – Site Plan
  - Design Checklist - Record Plan
  - Sight Distance Spreadsheet
  - Owners and Engineers’ name and e-mail address
  - Record Plan
  - Conceptual Entrance Plan
  - Submission of the Area-Wide Study Fee (If applicable)
  
- Referring to Section 3.4.2.1 of the Development Coordination 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 proposed entrances.
  - Notes identifying the type of off-site improvements, agreements (signal, letter) contributions and when the off-site improvements are warranted.
  
- Section 3.5.4.2 of the Development Coordination Manual contains DelDOT’s requirements for the provision of Shared-Use Paths (SUP) and Sidewalks (SW). As noted in Section 3.5.4.2.A.2, SUP/SW construction is required for all projects requiring an Entrance Plan Approval, regardless of Investment Level Area if the project generates 2,000 Average Daily Trips or more.
  
- In accordance with Section 3.8 of the Development Coordination 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 US Route 13 and Delaware Route 30.
  
- Referring to Section 4.3 of the Development Coordination Manual, the Construction Stage review fee shall be assessed to this project.
  
- Referring to Section 4.3 of the Development Coordination Manual, an entrance plan shall be prepared prior to issuing entrance approval. The following information will be required for Entrance Plan review:
  - Construction Stage Fee Calculation Form
  - Construction Review Fee

- Gate-Keeping Checklist – Entrance Plan
  - Design Checklist - Entrance Plan
  - Auxiliary Lane Spreadsheet
  - Entrance Plan
  - Pipe/Angle Spreadsheet (If applicable)
  - SWM Report and Calculations (If applicable)
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- Section 5.2.2 of the Development Coordination Manual addresses the location of proposed commercial entrances and in part specifies that the minimum distance between the entrance radius and the property line shall be five feet. As shown on the exhibit accompanying the PLUS application, the radius for the entrance on Delaware Route 30 would extend past the east property line. It should be shifted west to provide the five-foot minimum separation.
  - In accordance with Section 5.2.5.6 of the Development Coordination Manual, Turning Movement Diagrams 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 Development Coordination 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/information/business/subdivisions/auxiliary\\_lane\\_worksheet.xls](http://www.deldot.gov/information/business/subdivisions/auxiliary_lane_worksheet.xls).
  - In accordance with Section 5.4 of the Development Coordination 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/information/business/subdivisions/Intersection-Sight-Distance.xls>.
  - In accordance with Section 5.14 of the Development Coordination 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.
  - 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.

**Department of Natural Resources and Environmental Control – Contact Michael Tholstrup 735-3352**

The Department envisions a Delaware that offers a healthy environment where people embrace a commitment to the protection, enhancement and enjoyment of the environment in their daily lives; where Delawareans' stewardship of natural resources ensures the sustainability of these resources for the appreciation and enjoyment of future generations; and where people recognize that a healthy environment and a strong economy support one another.

**Executive Summary.**

The proposed development will result in a diminished wetland forest block, increased impervious surface, and new sources of greenhouse gas emissions. Opportunities exist to preserve natural resources while reducing the environmental impact on-site.

DNREC recommends locating buildings and infrastructure away from the forest/wetland areas and taking steps to further preserve this forest. By reconfiguring the building layout to run parallel to the Tax Ditch at the eastern edge of the parcel, there may be an opportunity to leave more of the forest intact with the stormwater management located in the open space adjacent to the existing tree line. Maintaining the forest helps in meeting water quality standards and can aid in the overall reduction of greenhouse gasses present in our atmosphere. The presence of a wetland and the associated buffer recommendations in support of wildlife and water quality concerns, reinforce the need for preservation. Our scientists request the opportunity to survey the property to evaluate the habitat and determine the potential for rare species, and provide guidance on how best to protect it.

DNREC encourages high energy efficiency building standards (with consideration for alternative energy sources), and infrastructure for electric plug-in vehicles in the project's parking design. These considerations promote clean sustainable energy and reduce greenhouse gas emissions. DNREC further recommends an abundant use of native vegetation and shade trees throughout the landscape, as well as pervious pavement and green infrastructure, wherever practicable, to protect water quality.

The following pages provide information about applicable regulations and detailed recommendations associated with this project, from various DNREC Divisions. DNREC would like to be a partner in creating appropriate development that highlights the environment as a natural amenity of the landscape. The Department has resources and expertise that are available to help make this a reality, often at no expense to the landowner. Contact information for specific offices are listed below or you can contact Michael Tholstrup at (302) 735-3352.

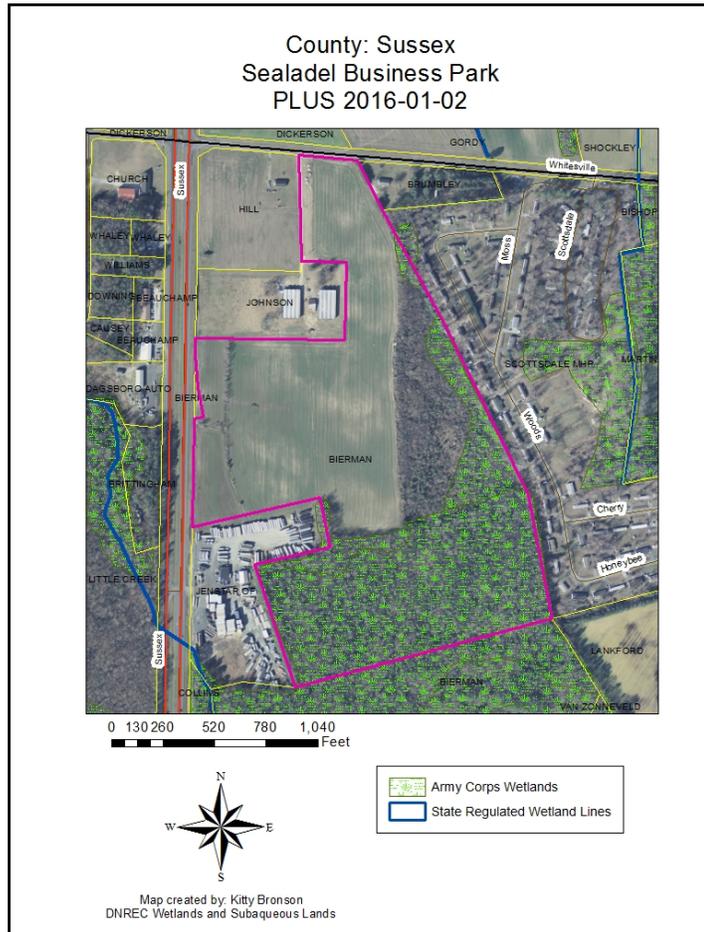
**Wetlands.**

- Waters of the U.S. regulated by the U.S. Army Corps of Engineers ARE likely to be located on this property based on a review of aerial photographs, SWMP maps, Soil Surveys and/or USGS topographic maps. According to our GIS SWMP maps, there are considerable wetlands regulated by the U.S. Army Corps of Engineers on this parcel. A

wetlands delineation should be done by a consultant to determine actual wetland borders for setbacks and Army Corps compliance.

Waters of the United States include the following: navigable waters of the United States; wetlands; tributaries to navigable waters of the United States, including adjacent wetlands and lakes and ponds; interstate waters and their tributaries, including adjacent wetlands; and all other waters of the United States not identified above, such as isolated wetlands, intermittent streams, and other waters that are not part of a tributary system to interstate waters or to navigable waters of the United States, where the use, degradation or destruction of these waters could affect interstate or foreign commerce.

The extent of Federal jurisdiction over Waters of the United States is determined by the U.S. Army Corps of Engineers and is based on site specific conditions. Therefore, an on-site inspection by an environmental consultant is recommended to determine if Waters of the U.S. are located on the property and the limits of Federal jurisdictional. The U.S. Army Corps of Engineers can be contacted at (215) 656-6728 or online at <http://www.nap.usace.army.mil/cenap-op/regulatory/regulatory.htm>.



### TMDLs.

- The project is located in the greater Chesapeake Bay drainage area. In this drainage area the EPA and the State of Delaware have developed specific Total Maximum Daily Load (TMDL) pollutant reduction targets for nutrients (e.g., 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 waterbody” 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 nutrients and sediment in the Chesapeake Bay drainage area have been recently revised and made more stringent by the EPA. The TMDL by EPA now requires a 60 percent reduction in nutrients (previously was 30 and 50 percent in N & P) and sediment from baseline conditions. The TMDL also calls for a 2 percent reduction in bacteria from baseline conditions.

The applicant should be made aware that EPA is requiring that the State of Delaware to develop a Watershed Implementation Plan (WIP) and 2-year progress milestones for purposes of accelerating efforts to improve and restore waters of the Chesapeake Bay. The WIP and milestones will identify specific pollution reduction practices and programs to reduce nitrogen, phosphorus, and sediment from a variety of sources in the Chesapeake Bay drainage area. The WIP is being developed by an Interagency Workgroup, made up of representatives from DNREC, the Department of Agriculture, DelDOT, Office of State Planning Coordination, and other local, state, and federal partners and stakeholder groups. Phase I and II WIPs are currently available for review at:

[http://www.wr.dnrec.delaware.gov/Information/Pages/Chesapeake\\_WIP.aspx](http://www.wr.dnrec.delaware.gov/Information/Pages/Chesapeake_WIP.aspx).

A nutrient management plan is required under the *Delaware Nutrient Management Law* (3 Del. Chapter 22) for all persons or entities who apply nutrients to lands or areas of open space in excess of 10 acres. This project's open space may exceed this 10-acre threshold. Please contact the Delaware Nutrient Management Program at (302) 739-4811 for further information concerning compliance requirements, or view the following web link for additional information: <http://dda.delaware.gov/nutrients/index.shtml>

### **Water Supply.**

- The project information sheets state that individual on-site well(s) will be used to provide water for the proposed project. DNREC records indicate that the project is located within the public water service area granted to Tidewater Utilities under Certificate of Public Convenience and Necessity 10-CPCN-15. DNREC recommends that the developer contact Tidewater Utilities to determine the availability of public water. Any public water utility providing water to the site must obtain a Certificate of Public Convenience and Necessity (CPCN) from the Public Service Commission. Information on CPCNs and the application process can be obtained by contacting the Public Service Commission at (302) 736-7500.

Should an on-site Public/Miscellaneous Public well be needed, a minimum isolation distance of 150 feet is required between the well and any potential source of contamination, such as a septic tank and sewage disposal area, stormwater management ponds, and it must also be located at least 150 ft. from the outermost boundaries of the project. The Division of Water Resources will consider applications for the construction of on-site wells provided the wells can be constructed and located in compliance with all requirements of the Regulations Governing the Construction and Use of Wells. A well construction permit must be obtained prior to constructing any wells.

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 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 a Large On-Site Septic System site associated with the Country Grove located within 1000 feet of the proposed project. Should you have any questions concerning these comments, please contact Rick Rios at (302) 739-9944.

#### **Sediment and Erosion Control/Stormwater Management.**

- A detailed sediment and stormwater plan will be required prior to any land disturbing activity taking place on the site. Contact the reviewing agency to schedule a pre-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 Sussex Conservation District. Contact the Sussex Conservation District at (302) 856-7219 for details regarding submittal requirements and fees.

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

- There are no known archaeological sites or National Register-listed property on this parcel. However, if any development or construction project proceeds, the developer should be aware of the Unmarked Human Burials and Human Skeletal Remains Law, which is 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 (7 Del. C. 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)

Therefore, prior to any demolition or ground-disturbing activities, the developer may want hire an archaeological consultant, to examine the parcel for archaeological resources, as well 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 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](http://www.achp.gov).

#### **Delaware State Fire Marshall's Office – Contact Duane Fox 739-4394**

- **Fire Protection Water Requirements:**
  - Since the structures of the complex are proposed to be served by individual on-site wells (No Central or Public Water System within 1000' of property), set back and separation requirements will apply.
- **Fire Protection Features:**
  - For mini-storage buildings greater than 10,000 sq. ft. Class B (2-hour rated) fire barriers are required to subdivide buildings into areas of 10,000 sq. ft. or less
  - Buildings greater than 10,000 sq. ft., 3-stories or more, over 35 feet, or classified as High Hazard, are required to meet fire lane marking requirements
- **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 site from DE Route 30 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.
- The local Fire Chief, prior to any submission to our Agency, shall approve in writing the use of gates that limit fire department access into and out of the development or property.

**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.**

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

Sincerely,



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

CC: Sussex County