



Department of Land Use

**Department of Land Use Revised Exploratory Plan Report**

To: Jim Lober – Apex Engineering, Inc.  
Date - November 3, 2008  
Application Number - 2008-0275-S  
Name of Project - Barley Mill Plaza  
Description - Proposed 2,846,000 sq. ft. mixed use development  
Type of Plan - Major Land Development Plan  
Date - June 19, 2008

**Project Review Team -**

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**Status of Review - Unacceptable** – The following items will need to be addressed with a revised exploratory plan submittal and required fees:

**Planning:**

Plan Submittal Complete: October 3, 2008  
Plan Review Complete by Planning: October 29, 2008  
Number of Days to Complete Review: 17

1. As previously noted, the applicant must demonstrate compliance with Section 40.03.318 of the NCCC for the proposed mixed use development. The provided response letter is inadequate in demonstrating compliance with the mixed use provisions. The applicant provides no discussion concerning the Department's request to demonstrate compliance with Section 40.03.318C of the County Code, for residential outdoor areas. Future plan submittals must specifically outline how all of the Department's comments are being addressed;
2. In accordance with Section 08.130B6 of the County Code, submit the exploratory plan to TAC members for review and comment. Provide documentation that the plans have been distributed to TAC members;

3. As previously noted, the site capacity calculations and open space requirements must be met exclusive of the S zoned parcel. Revise your area breakdown note 6 to exclude the 3.9155 acre S zoned parcel;
4. The proposed high intensity recreation use (movie theater) is not listed as one of the required land use categories or uses of mixed use development, as outlined in Section 40.03.318 of the County Code. Additionally, the use is prohibited in the OR zoning district by Table 40.03.110 of the County Code. The applicant may maintain the use on the plan, pending proposed Ordinance 08-096, which would allow a high intensity recreation use in the OR zoning district with a Special Use approval. The proposed ordinance would need to be adopted by County Council and the applicant would need to obtain a Special Use approved by the Board of Adjustment prior to plan recordation;
5. It has been noted that the applicant no longer intends to utilize the density bonus as outlined in Section 08.130.B.6.g of the redevelopment ordinance;
6. There are several locations where paving is still proposed within the Riparian Buffer Area (RBA). Locations include but are not limited to the easterly side of the entrance on sheet 2 and the northerly end of sheet 5. The proposed fenced play area of the daycare center should be located outside of the RBA. Please revise the plan to remove proposed RBA encroachments. Additionally, the applicant must demonstrate that improvements outside of the RBA can be constructed without disturbing the RBA. If the applicant intends to pursue this additional RBA disturbance, a RPATAC recommendation and Board of Adjustment approval would be required;
7. The following comment has not been adequately addressed from the Departments previous review letter. The applicant must clearly label all streams and locate the top of stream banks in order to verify the accuracy of the RBA delineation. Several areas of the RBA appear more extensive than what is currently shown. As you are aware, a nondelineated floodstudy will be required for this project. This study may result in an RBA which is more extensive than what is currently shown;
8. The revised plan proposes to disturb wetlands in the easterly portion of the site. The Army Corps of Engineers (USACE) must determine if the wetlands are jurisdictional or nonjurisdictional. If it is determined that the wetlands are regulated by the USACE, the applicant must obtain permits for disturbance, prior to plan recordation. If it is determined that the wetlands are nonjurisdictional, the applicant must proceed to RPATAC and the NCC Board of Adjustment. If the variance request is denied, the plan will need to be revised accordingly. Contact DNREC to determine if a subaqueous permit will be required for the current proposal;
9. The applicant must obtain Exploratory Stage approval from the Department of Special Services prior to the plan advancing to the Record Stage;

10. Note that Table 40.08.130.B (as submitted) must be revised. The following comments relate directly to issues associated with the proposed percentage(s) of improvement:
- a) In accordance with Section 08.130.B.6.e of the NCCC, improvements toward further code compliance shall be made with emphasis on improved landscaping and buffers particularly around parking lots. It appears that the current landscaping within parking facilities is noncompliant with respect to planting standards (no shrubs). The applicant may propose a partial credit for providing full compliance. As previously noted, the applicant should identify other landscaping deficiencies. At a minimum, the Department will require 100% compliance with all perimeter opacity/bufferyards;
  - b) It has been noted that the applicant has proposed a credit for RBA reforestation. The applicant should also propose a restoration credit for removing paving structures from the RBA;
  - c) The applicant may propose a credit for providing sidewalk for the perimeter of the site;
  - d) Please note that 46 spaces are required for the existing parking on site. The site is currently in compliance, a percentage for improvement should not be proposed;
  - e) The applicant must provide a rationale for the proposed credit for multistory construction. As you are aware, many of the existing building are already multistory. Additionally, the proposed GFA and site acreage necessitates multistory garages. The applicant would need to demonstrate that this proposal results in a reduction in the current or realistic permissible paving for the site;
  - f) In order to ensure a minimum 400% aggregate improvement, additional areas of improvement must be explored, as outlined above. Provide a revised Table 40.08.130 for review. Once finalized, the Record Plan must contain notes outlining the proposed improvements to the site. The plan should indicate that it is being proposed as a redevelopment plan;
11. The purpose note should clearly state that they are removing 1,012,149 GFA of buildings and proposing 2,846,000 GFA of mixed use buildings and 1,221,981 GFA of parking garages. Additionally, verify that the daycare GFA is included in the total GFA;
12. The parking rationale should be revised to state "hotel" instead of "total". Please indicate if the hotel will contain a restaurants or conference rooms. Provide revised parking calculations if necessary. The shared use parking table will need to be revised to reflect 1,056 spaces for the weekday retail calculation. This will result in a total of 7,614 required parking spaces;

13. As previously noted, the proposed dead end parking facility located at the daycare center has been found unacceptable. The provided parking, without circulation, does not meet the limited use standards, as outlined in Section 40.03.309 of the County Code. In addition to a safe circulation pattern being required, parking facilities shall function independently and physically separate from the general parking and circulation pattern of the other stores and businesses. The daycare requires 33 spaces. As previously requested, demonstrate compliance with Section 40.03.309 1-6 of the NCCC for the proposed daycare;
14. Demonstrate compliance with Section 40.04.110C for proposed building height;
15. Provide a rationale for the proposed loading bays. The current amount of proposed bays and locations appear inadequate to serve all uses and buildings. Additionally, proposed loading bays located between buildings shall be a minimum depth of 60 feet. The current design overlaps pedestrian access and prevents the ability to adequately screen. Please contact this office to discuss appropriate locations for additional loading bays;
16. Provide a rationale concerning the proposed location of handicapped parking. The current proposal provides no handicapped spaces within the parking facilities located along Route 141. Additionally, the parking garages only contain 5 of the required 18 spaces. The Record Plan will need to label depressed curbing for handicapped access to sidewalks;
17. A detailed phasing plan will need to be provided for this project at the Record Stage. The plan will need to demonstrate that the requirements of Section 40.03.318 of the NCCC for mixed use development will be provided as each phase of project proceeds. Additionally, the applicant must demonstrate adequate parking will be provided with each phase of the project;
18. Please note that the Record Plan version should not contain existing improvements or topography;
19. Provide detailed floor plans of the proposed parking garages at the Record Stage;
20. Show proposed trash receptacles and screening on the Record Plan;
21. As previously requested, identify if any specimen trees exist on this parcel and demonstrate their protection. This comment will need to be addressed at the Exploratory Stage;
22. Your floodplain note will need to reference the nondelineated floodstudy;
23. Revise the plan to remove note 23;

24. The GFA of the parking garages should be provided on each building. Provide residential GFA on each building;
25. The current format of the plan is difficult to interpret. Proposed buildings should not be bisected by plan sheets. Plan notes should not overlap plan details. Additionally, plan sheets should not overlap. Where feasible, buildings and parking should be allocated by potential phases for each sheet;
26. As previously discussed, the Department requests the applicant to provide one plan sheet which includes the overall development. The sheet will be used for review purposes only and may exceed 24"X36". It appears that a 1"=100' scale may be appropriate. It should not include topography or existing improvements;

**Engineering:**

1. Date Received by Engineering Section: October 3, 2008  
Date Completed by Engineering Section: October 29, 2008  
Number of Review Days: 17
2. Upon review of your response letter date September 29, 2008 some of the significant review comments from my review letter dates June 19, 2008 were not discussed nor addressed. The following comments need to be clarified within the next submission to demonstrate feasibility. The Engineering Section will expect that the applicant will provide justification for the location of the BMP's with respect to layout and resources :
  - a. In accordance with Section 10.3.4.4 of the Delaware Sediment and Stormwater Regulations, demonstrate successful management of any increase in stormwater runoff volume from the pre- development land use conditions. Successful management of increased stormwater volume shall include but not limited to; recharge, infiltration, and re-use, where soils and site conditions are applicable. For any increase in volume that cannot be recharged, infiltrated, or re-used, volume management may be achieved by modifying the release rate for the increase in volume so as not to increase the flood elevation for all storms up to and including the 100-year return period.
    - i. As stated in your responses, if the infiltration potential of this site is poor than the approach would be to utilize extended detention via underground systems to maximize peak rate control and storage volume. This proposal does not meet the intent of the previously stated comment. The design shall investigate the potential of other types of Stormwater Practices to achieve volume management pursuant to code. For example, Green Roofs, Rain Watering Harvesting / Rain Barrels, planter boxes, etc.

- b. Investigate the ability of passive infiltration or infiltration practices in areas that have good infiltration potential pursuant to Section 40.22.210 of the UDC. In accordance with the Engineering Exploratory Checklist, Item I, field testing should be performed and submitted to New Castle County to demonstrate feasibility of any proposed Green Technology Best Management Practices with regard to the infiltration capacity in the soil and location of the seasonal high groundwater elevation.
      - i. Discuss the timetable and locations of testing.
    - c. All stormwater practices shall drain to a point of adequate discharge in accordance with NCC Drainage Code Section 12.04.001. Provide an assessment of the receiving conveyance systems according to this code section to document the nature and extent of impact. At a minimum provide a stability and capacity assessment of the downstream channel for the design storm events to determine the adequacy of the existing channel to accommodate stormwater flows at present. This in concert with engineering information that demonstrates control of peak flow rates and runoff volume management will be reviewed to assess compliance with this objective. Examine the implementation of a stream restoration to address these issues.
      - i. Upon a site visit on October 24, 2008 it is clear that in some areas of the site the potential for adequate conveyance in the streams are not available. For example, the stream cross section is lost, erosion issues, debris clogging the stream, degraded weir in the stream, etc.
- 3. The Engineering Section has concern of the placement of the large Stormwater BMP's around the perimeter of the parcel. The response letter states "our intent for stormwater management for this project is to employ green technology BMP's throughout the site to treat the runoff as locally as possible". The locations identified are not treating the runoff at the source. Notably the large internal or "core" area of the site does not propose any water quality treatment for such large areas of impervious cover. The Department would recommend the investigation of Green Roofs, planter boxes, Bioretention areas, etc. in these areas to meet code.
- 4. Pursuant to Table 40.10.210 of the UDC the disturbance associated with the construction of the entrance road off of Lancaster Pike is not permitted within the RBA. Revise the location of entrance road in this area to eliminate this conflict.
- 5. Finally, the RBA may change in some areas of the site based upon the results of the Non-delineated Flood Study currently underway.

**Historic:**

The historic preservation section has reviewed the exploratory major land development plan for Barley Mill Plaza (application 20080275). Though most of the structures on the site are fewer than fifty years old, the site may be considered historically significant in

the near future. Further, Building 34 was constructed ca. 1950. The submitted plan indicates that this structure will be retained.

The application has been conditionally approved by the Historic Preservation Section. Prior to the release of any demolition permits, the applicant should submit a site plan showing current (as of April 7, 2008) conditions to the Historic Preservation Section. Staff will document the site with Cultural Resource Survey forms and photographs.

#### **Transportation:**

The Traffic Operational Analysis (TOA) scoped May 27 is on hold, pending agreement between the Applicant and DeIDOT on an area traffic study. Such a study might also include the nearby Greenville Center Plan (2008-0272-S).

As discussed during the Pre-Exploratory meeting, the Plan now proposes bike parking and frontage sidewalk. The Plan should also make the other requested transportation improvements. Those include future vehicular cross-access with the adjacent shopping center and DART bus access with proper stop facilities (including the Route 48 stop).

#### **Standard Approvals and Comments before Recordation**

1. Please note that approval from DeIDOT will be required;
2. Please note that approval from the Office of the State Fire Marshal will be required;
3. Please note that a Landscape Plan and Lighting Plan must be reviewed and approved prior to plan recordation;
4. Provide certification from the water supplier in accordance with Section 40.05.310 of the NCCC;
5. Provide street names and/or postal addresses in accordance with U.S. Postal Service policy. Submit a copy of the plan to the Department of Police (Communications) for review of street names. Additionally, submit a copy of the plan to the Department of Land Use, Mapping Section for review of postal addresses. Written approval from those agencies, referencing the latest plan revision date, must be received prior to record plan approval;
6. Performance Surety must be provided in accordance with Chapter 40, Division 31.800 of the NCCC and current Department of Land Use policy. Initiate the Land Development Improvement Agreement by submitting the Land Development Improvement Agreement Information Sheet based either on the Formula Method or

the Cost estimate Method, to this office. The LDIA must be recorded prior to plan recordation;

7. Submit a copy of the maintenance declaration and a copy of the plan to the Law Department and to this department for review and approval. When approved and recorded, reference its instrument number on the plan.
8. Submit the executed and notarized maintenance organization compliance and disclosure affidavit required by Section 40.27.140H of the County Code.
9. The owner/developer must provide certification to the Department of Land Use from the Secretary of the Department of Education that the school district(s) serving the site has adequate capacity of the proposed development.
10. Add the following note to the plan:

Prior to issuance of any certificate of occupancy for any lot or unit shown on this plan, the owner/developer shall provide a certification from the Secretary of the Department of Education that the Voluntary School Assessment for that lot or unit has been paid.

11. Please note that Table 40.31.390 of the NCCC outlines time limits for expiration of plan;

CC: Steve Lewis  
Michael J. Bennett  
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