

Department of Land Use Revised Exploratory Report

Date - July 23, 2008
Engineering Firm – Apex Engineering, Inc.
Application Number – 20080274
Name of Project – The Shops at Brandywine
Description - 527,000 s.f. mixed use development with 28,000 s.f. parking garage
Type of Plan - Major rezoning land development
Date of 1st Review- April 22, 2008

Project Review Team

Planner : Michael J. Bennett, 395-5436
Engineer : Eric Laramore, 395-5447
Historical: Christine Quinn, 395-5521
Transportation: John Janowski, 395-5426
Special Services: Dave Thurman, 395-5752

Status of Review – General Compliance for the public hearing- The Department will issue an additional review after the public hearing that will either find the plan acceptable to proceed to Preliminary after addressing all comments and/or studies or unacceptable, submit a revised exploratory plan to address all comments and/or studies.

County Board Hearing – Planning Board
Board of Adjustment

Planning

- 1.) The proposed rezoning from ST to CR may be considered inappropriate at this time. At the joint Department and Planning Board Public Hearing, the applicant should be prepared to address the plan's conformance with the Comprehensive Development Plan, impact upon the surrounding area and infrastructure, compatibility of land use intensity and scale of proposed development, character of the neighborhood, zoning, and use of nearby properties and the suitability of the property for the proposed use. Rezoning applications follow the procedure in Section 40.31.113 of the NCCC.
- 2.) The dwelling units have been increased from thirty-six to eighty-seven and have been located nearer the commercial center than as previously proposed. The plan integrates open pedestrian spaces, plaza-like features and walkways. This design,

subject to approval of the landscape plan with additional detail and specifications, meets the requirement for a mixed-use pedestrian precinct.

- 3.) Trash and loading facilities have reverted to fronting on Concord Pike. This may only be acceptable if it is entirely screened by a wall that matches the building it is serving and has architecturally complementary opaque gates (which should be incorporated in all instances within the development.) In our previous review we raised the concern that the development not turn its back on Concord Pike but relate to the corridor. The preference is to not have utilitarian features dominate on Concord Pike. Similarly, architectural details including roofs, cornices, fenestration, etc. will add visual interest not attainable by featureless blank walls. Concepts of such details should be submitted with the preliminary plan and included as part of the landscape plan.
- 4.) The intersection of Concord Pike and Naamans/Beaver Valley Road represents a highly visible gateway to New Castle County and Delaware. As such it should not be showcased by a parking lot at its southwest corner. While the building appears more substantial there remains parking at the corner. If parking circulation necessitates retention of that parking, it should be significantly screened with landscaping and a gently sloping berm.
- 5.) A minimum 100 foot scenic corridor buffer is required along Beaver Valley and Thompson Bridge Roads in accordance with Section 40.04.240 and the Brandywine Scenic Rivers and Highway Study. A variance from the Board of Adjustment must be granted prior to preliminary plan submission. Stormwater management areas may not be included within the required buffer width unless the required plant units can be planted within it. The minimum scenic corridor buffer width is 100 feet with six plant units per one hundred lineal feet.
- 6.) Provide GFA figures for the hotel and residential buildings. The hotel will be considered commercial GFA, not residential. Confirm the residential GFA is between twenty-five and fifty percent of the total.
- 7.) Prior to record plan approval, submit a copy of the Corps of Engineers permit for the proposed wetlands disturbance/crossing. Confirm whether DNREC requires a subaqueous permit across the stream.
- 8.) Non-permitted disturbances within the RBA have been removed from the plan. However, explain the purpose of the LOD well into the RBA at its northerly extent. At the easterly extent, the proposed buildings are very close to the RBA. The RBA may not be disturbed to construct activities not permitted within it. The wide boardwalk area adjacent to the southerly residential building is more extensive than a permitted trail within the RBA. It should be revised to remove any disturbance at that location.
- 9.) If this project is intended to be constructed in phases, it must be accomplished such that each phase meets the mixed use standards for required variety of uses including residential.
- 10.) Note that mixed use developments do not permit single use, pad site restaurants and that there must be a minimum of three different uses from at least two of the

following land use categories: Commercial Retail and Service, Office, Restaurant, Institutional Neighborhood, Public Service.

- 11.) Show required stacking for the bank. Although pad sites are not prohibited, they should be integrated into the development allowing safe pedestrian access and should have a design complementary to the rest of the development.
- 12.) The hotel appears to have prohibited dead end parking. Provide details of the garage parking layout. Note if there are other uses such as meeting rooms, restaurants, etc that generate additional parking.
- 13.) Where Rocky Run Parkway meets the proposed extension, the parking and loading access for the existing shopping center has been revised to retain circulation. However, as proposed it does not have the required minimum forty foot channeled entrance.
- 14.) Provide sidewalks around the perimeter of the site, on both sides of the Beaver Valley Rd. entrance and both sides of the easterly Rocky Run Blvd. entrance. Walks in front of loading spaces should match adjacent walks and not asphalt paving. For perimeter sidewalks, provide a five foot or wider landscape median between the walk and curb. Additional walks or revision may be further discussed when this plan is reviewed at a larger scale.
- 15.) Provide cross-walks throughout. For increased pedestrian safety, raised surfaces and different paving material and color should be used to significantly emphasize these locations.
- 16.) Bicycle racks should be distributed along the “main street” which should also include street trees and furnishings as with a typical main street.
- 17.) The park and ride location is subject to DART review. It may be more convenient for its users to take advantage of shopping opportunities if bus stop was closer to center of site rather than in the far corner of the parking lot.
- 18.) Confirm that loading facilities can be adequately accessed by vehicles intended to be served by them. Architecturally compatible gates should be used where appropriate so as not to impose a psychological barrier to pedestrians using the sidewalks.
- 19.) The CNA appears to follow southern property line but may extend onto subject site. Provide written confirmation of the delineation from DNREC.
- 20.) Submit a completed LDIA information sheet to initiate the performance surety process.
- 21.) If a complete preliminary plan submission is not made within twelve months of our original review of April 22, 2008, the application will be expired in accordance with Section 40.31.390 of the County Code.

Engineering

The Engineering Section has reviewed the revised exploratory submission and finds the plan acceptable to proceed to the public hearing. However, the following comments must be addressed prior to exploratory approval. A cover letter addressing each comment within this review letter must accompany any future submission of this application. The letter must describe the manner in which each comment was addressed. If the following items are not addressed as part of any future complete submission, the submission will be considered incomplete, automatically denied and returned.

1. Date Received by Engineering Section: 6/30/2008
Date Completed by Engineering Section: 7/15/2008
Number of Days in the Engineering Section: 10 Days
2. Clarify the manner in which the proposed stormwater design will meet the requirements of UDC Section 40.22.210; specifically subsection A.1.c regarding the implementation of Green Technology BMPs at the source of the contributing runoff to mimic or improve the pre-development hydrologic water balance. This site is located in the headwaters of the Brandywine Creek. Headwater tributaries are easily impacted by hydrologic changes caused through increased impervious land cover such as the type proposed in this application. The Engineering Section does applaud the proposed use of permeable pavements to help manage the runoff volume from adversely impacting the receiving watercourse, but besides mention of that practice in note #30 the exploratory plan does not clearly indicate a strategy or design intent for the proposed development to mitigate the potential impact to the receiving watercourse. This latest revision only shows what appear to be detention ponds and large squares in the parking areas, which is assumed to be underground detention facilities. The Engineering Section suggests maximizing the runoff volume management for this application, with the goal of managing the more frequent but less intense storm events, by utilizing disconnection through GTBMPs located at impervious sources, such as the use of landscape islands for stormwater management, and practices such as green roof management and/or rooftop rainwater harvesting for non-potable water usage.
3. Provide a revised stormwater narrative, specifically in regard to the required information in item I, discussing the significance of the type, function, location and size of the stormwater management areas shown on the exploratory plan. The information presented in the revised narrative must give more insight to the intent to comply with the associated stormwater regulations. For example, the use of the NCC County Soil Survey would reveal the types of soils on the site indicating any areas that may be conducive to infiltration in which an appropriate BMP would be specified on the plan and located in that area. The current plan gives no insight to the type or intended use of the stormwater areas shown.
4. Provide the following information in accordance with item J of the Department's Exploratory Plan checklist:

- a. Provide the description of all proposed stormwater facilities on the exploratory plan;
 - b. Identify all points of analysis on the exploratory plan; and
 - c. Clarify the information provided in the stormwater narrative regarding item J and the statement that no downstream constraints exist. The exploratory plan shows an existing culvert pipe on the plan, but no information regarding the size, condition or potential constraints that pipe may place on the future design has been provided.
5. The revised exploratory layout increases disturbance in the riparian buffer for the purpose of stormwater management. In accordance with Section 40.10.330 of the UDC, the intent of regulating the riparian buffer is to preserve and enhance the resource. The removal of riparian buffer to provide stormwater management does not meet that intent. It appears the cause of this encroachment is the design's failure to incorporate GTBMPs up and into the site layout. Maximizing the use of all available green space to combine with stormwater management which will help to reduce the need for large scale detention facilities along the periphery of the site. The stormwater design plan must be revised to minimize the disturbance to the riparian buffer associated with stormwater management.
6. The plan proposes an extension of Rocky Run Parkway through protected waters of the U.S. Be advised, the wetlands delineation must be verified by the Army Corps of Engineers (ACOE) to determine if the areas of wetlands proposed to be disturbed are jurisdictional and regulated by the ACOE. A permit for disturbance would need to be issued by the ACOE. DNREC's Division of Subaqueous Lands must also be contacted to verify the required permitting for the proposed crossing. Further, in accordance with Table 40.10.210 of the UDC, the proposed disturbance requires the submission and approval of an Environmental Impact Assessment Report, Section 40.10.410, 40.31.150 and 40.31.440; prior to preliminary plan approval.
7. In conjunction with the previous comment, clarify the method of providing stormwater management for the proposed Rocky Run Parkway. No stormwater management has been provided on the exploratory plan to serve the proposed road.
8. The previous record plan shows delineated wetlands, north of the existing Rocky Run Parkway, in the location of one of the proposed stormwater areas and a portion of the proposed driveway. Verify the existence of wetlands in this area. If wetlands do exist, the plan must be revised to address the resource accordingly. Further, identify the type of facility you propose in this location and address the concerns of feasibility in regard to the applicable regulations for stormwater in an existing wetland (Section 1.0.3.9 of the DSSR), the constructability of stormwater management facility in hydric soils, constraint of high groundwater and the necessary permitting requirements from State and Federal agencies.

9. Verify the swale shown on USGS quadrangle map for Wilmington North, running from north to south and from the riparian buffer up to Beaver Valley Road is not a drainageway to be protected under the provisions of UDC Table 40.10.010. The deciding factor, based on the UDC definition of a drainageway, is whether that swale drains 5 acres or more.
10. Clarify the ownership of the existing stormwater facility located on site and all parties associated with the 15' wide drainage easement shown on the previous record plan. Further, clarify the intent for these features in regard to their use within this application.
11. Clarify the design intent and future construction of the walkways shown traversing through the stormwater management facilities.

The following comments are to be addressed with the preliminary plan submission; subsequent to the exploratory approval:

12. Address the requirements of UDC Section 40.10.310.D regarding the existence of multiple non-delineated floodplains located on the parcel as identified by watercourses on sheet 3 of the NCC Soil Survey and a blue-line watercourse on the USGS Quadrangle for Wilmington North, NCC. Be advised, the existence of a non-delineated floodplain requires that an associated riparian buffer be placed around the floodplain. Furthermore, the encroachment through this watercourse for the purpose of creating the Rocky Run Parkway Extension requires the submission of an Environmental Impact Assessment Report in accordance with UDC 40.10.210. The EIA report shall address the implications regarding the effect on the floodplain and necessary mitigation.
13. Verify that the existing pond is capable of managing the stormwater runoff proposed by this application while remaining in compliance with the applicable regulations. Be advised, the existing facility shall be required to be in compliance with current safety regulations governed for stormwater ponds in accordance with Section 10.3.6 of the Delaware Sediment and Stormwater Regulations. In order to obtain exploratory approval, a written assessment of the facility shall be required listing all deficiencies with the facility and the proposed remedy to bring those deficiencies into compliance.
14. The previous record plan indicates that the prior use utilized on-site wastewater. Provide a note on the plan addressing the requirements of abandoning or removing the existing septic in accordance with the requirements enforced by DNREC.
15. A Notice of Intent for Stormwater Discharge shall be required for this application. Provide a copy of the Notice of Intent for Stormwater Discharge approval upon receipt from DNREC, prior to recordation.

16. Be advised, additional comments may be issued on this application due to future plan changes, additional or new information or based upon the level of exactness of the information submitted.

Historical

National Register eligible Eight Square School and barn associated with a previously removed house are shown to be removed. The plan must be reviewed by the HRB prior to preliminary plan submission.

Mapping

1. The Proposed Rocky Run Parkway Extension needs to be renamed due to the existing Rocky Run Parkway.
2. The interior connector street needs to be named. The Residential Units needs to have street name for addressing purposes.

Transportation

A Traffic Impact Study (TIS) was scoped 2/22/2007, and that scope needs update to reflect the current Plan. The Plan proposes to extend Rocky Run Parkway northwestward, from Route 202 to Route 92/Thompson Bridge Road. That extension would bypass the 202/92 intersection.

Since DelDOT classifies Thompson Bridge Road a Major Collector, they will want 80-foot wide right-of-way along the site. And since the recorded Parkway alignment runs *southwestward* from Route 202 (MF 13743), DelDOT may want an angled intersection where the Parkway Extension veers away.

The Plan also proposes closer to the 202/92 intersection, driveways that connect those roads. Since the driveways look narrow and could carry traffic between 202 and 92, DelDOT should approve their configuration. DelDOT may also want Signal Agreements, like the Beaver Valley Road intersections with the site access and Thompson Bridge Road.

The Plan proposes rezoning to Commercial Regional (CR), which requires transit facilities per County Code Section 40.02.225. The Plan proposes a 100-space park-and-ride area by the Beaver Valley Road/Thompson Bridge Road intersection, with a bus pulloff and shelter nearby. DART may also want a pulloff and shelter near the 202/Parkway intersection.

The Plan proposes various sidewalks including along 202, Beaver Valley Road, and the Parkway Extension. Per Section 40.21.162 the Plan should extend the Beaver Valley Road sidewalk westward to Thompson Bridge Road, serving future development to the west. Near the southeast site corner, the proposed sidewalk along the north-south driveway should be moved to the east side closer to activity.

Special Services

Capacity in the amount of 35,400 gpd is available regionally, however there may be significant local sewer improvements downstream necessary in order to handle the additional sewer capacity.

Standard Approvals and Comments before Recordation

Deldot
Fire Marshal
LDIA
ACOE permit/approval
Landscape/lighting plan
Water supply capacity certification
DNREC CNA confirmation
DNREC subaqueous permit
School district capacity certification
Developer's affidavit (Section 40.27.140G.)

c.c. Woodlawn Trustees, Inc.
Councilman Robert Weiner