



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

March 22, 2010

Mr. James Lober
Apex Engineering
27 W. Market Street
Newport, DE 19804

RE: PLUS review – 2010-02-04; 504 Pulaski Highway

Dear Mr. Lober:

Thank you for meeting with State agency planners on February 24, 2010 to discuss the proposed plans for the 504 Pulaski Highway project located at 504 Pulaski Highway, on the southern side of Route 40 at the intersection with Appleby Road.

According to the information received, you are seeking a rezoning of 5.43 acres from NC-21 to CR for a 19,600 sq. ft. automotive sales and repair center.

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 New Castle 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 is located in Investment Level 1 and 2 according to the *Strategies for State Policies and Spending*. Investment Level 1 reflects areas that are already developed in an urban or suburban fashion. Investment Level 2 reflects areas in and around area where grow existing or is expected in the near future. These areas are where infrastructure is existing or readily available, and where future redevelopment or infill projects are expected and encouraged by State policy.

Code Requirements/Agency Permitting Requirements

- The PLUS application shows an estimated weekday trip generation of 12 trips per day for the proposed dealership. DelDOT suggests that this statement may be in error. The 8th edition of the Institute of Transportation Engineers (ITE) Trip Generation report includes no data on used car sales. The data ITE provides on new car sales, would suggest a trip generation of 653 vehicle trips per weekday, of which 40 would be during the morning peak hour and 61 would be during the evening peak hour. From the discussion at the PLUS meeting, that does not seem accurate for the proposed development, but 12 trips per day still seems low.

According to Section 2.3 of DelDOT's Standards and Regulations for Subdivision Streets and State Highway Access, a development generating more than 400 daily trips or more than 50 peak hour trips warrants a traffic impact study (TIS). New Castle County has the same peak hour warrant in their regulations. Because the development is in the Route 40 corridor, it may be eligible for a waiver of the requirement for a TIS if the volume warrants are met. To obtain the waiver, the developer would need to begin by contacting the New Castle County Department of Land Use, but the developer should first be sure that the warrants are met. As discussed at the PLUS meeting, we ask that the developer obtain traffic counts from comparable facilities to show us how much traffic their facility is likely to generate.

- DelDOT is pleased to see the proposed sidepath. According to Section 3.6.5 of DelDOT's Standards and Regulations for Subdivision Streets and State Highway Access, a 15-foot wide easement, centered on the path, should be provided to allow for public use and State maintenance of the path. A wider easement may be needed at the west end of the path to allow for future construction and maintenance of a stream crossing there.
- 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 project application meeting to discuss the sediment and erosion control and stormwater management components of the plan as soon as practicable. 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 New Castle County Department of Land Use, Engineering Section. Contact the Department of Land Use at (302) 395-5470 for details regarding submittal requirements and fees. *Sediment/Stormwater and Drainage comments provided by James Sullivan - (302) 739-9921, James.Sullivan@state.de.us*

- Based on Statewide Wetland Mapping Project (SWMP) maps, no wetlands were mapped in the immediate vicinity of the project. However, the presence of hydric Othello (OtA) soils suggests that some unmapped wetlands (or wetland conditions) may be present..

The applicant is responsible for determining whether any State-regulated wetlands (regulated pursuant to 7 Del.C. Chapter 66 and the Wetlands Regulations) are present on the property. This determination can only be made by contacting the Division of Water Resources' Wetlands and Subaqueous Lands Section at 302/739-9943 and consulting the State's official wetland regulatory maps, which depict the extent of State jurisdiction. The area regulated by State law may be very different from the area under federal authority. No activity may take place in State-regulated wetlands without a permit from DNREC's Wetlands Section.

- Most perennial streams and ditches and many intermittent streams and ditches are regulated pursuant to the Subaqueous Lands Act (7 Del.C. Chapter 72) and the Regulations Governing the Use of Subaqueous Lands. Ponds which are connected to other waters are also regulated, while isolated ponds are not. Any work in regulated streams, ditches or ponds requires a permit from the Wetlands and Subaqueous Lands Section. An on-site jurisdictional determination is recommended in order to determine whether any regulated watercourses exist on the property. Please contact the Wetlands and Subaqueous Lands Section at 302/739-9943 to schedule an on-site visit. Such appointments can usually be scheduled within 2 to 3 weeks.
- The applicant should also be reminded that they must avoid construction/filling activities in those areas containing wetlands or wetland associated hydric soils as they are subject to regulatory jurisdiction under Federal 404 provisions of the Clean Water Act. A site-specific field wetlands delineation using the methodology described in the 1987 United States Army Corps of Engineers (USACE or "the Corps") manual is the acceptable basis for making a jurisdictional wetland determination for nontidal wetlands in Delaware. The final jurisdictional authority for making isolated wetlands determinations rests with the Corps; they can be reached by phone at 736-9763.
- 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, and it must also be located at least 150 feet 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.

- It is important that the developer be aware of the Delaware Unmarked Human Remains Act of 1987, outlined in Chapter 54 of Title 7 of the Delaware Code, which pertains to the discovery and disposition of such remains. The unexpected discovery of unmarked human remains during construction can result in significant delays while the process is carried out.
- Preliminary meetings with fire protection specialists are encouraged prior to formal submittal. Please call for appointment. Applications and brochures can be downloaded from our website: www.statefiremarshal.delaware.gov, technical services link, plan review, applications or brochures. Some of the requirements include:
 - Water distribution system capable of delivering at least 1500 gpm for 2-hour duration, at 20-psi residual pressure shall be required along with Fire hydrants with 800 feet spacing on centers.
 - All structures over 10,000 Sq. Ft. aggregate will require automatic sprinkler protection and meet fire lane marking requirements.
 - 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 so that all buildings on the premises are accessible to fire apparatus. This means that the access from US Route 40 must be constructed so fire department apparatus may negotiate it.

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 these suggestions can benefit the project.

DeIDOT

- The response to item 42 on the PLUS application indicates that the land immediately east of the subject parcel is zoned CR and could be developed. DeIDOT recommends that the developer provide a cross-access easement to that parcel and provide for a future connection in their design of the site. It is not essential that they build this connection, but they should identify an acceptable location and design their site so that the owner of the adjacent property can build and use the connection without undue disruption to Price Toyota. Any terms and conditions the applicant would like to place on the use of the easement should be agreed upon with New Castle County and recorded on the plan.

- If the rezoning is approved, DelDOT recommends that the developer have their engineer contact our Subdivision Manager for the east part of northern New Castle County, Mr. Richard Woodhall, for more detailed comments on the site plan as they develop it further. Mr. Woodhall may be reached at (302) 760-2262.

State Historic Preservation Office

- According to our observations and evaluation, there are no known historic or cultural resources in this project area, such as archaeological sites or National Register-Listed property on or near this proposed project site.

However, since Delaware has a strong agricultural and rural heritage, there is a possibility that could be a historic-period or prehistoric-period archaeological site historically associated with Delaware's agricultural or rural heritage, which have not been found, but may contain important information about Delaware's history.

- In addition, prior to any demolition or ground-disturbing activities, the developer may want to consider hiring an archaeological consultant to examine the parcel for archaeological sites, including a cemetery or unmarked human remains. If you have any questions or concerns, please contact Terence Burns at 302-736-7404.

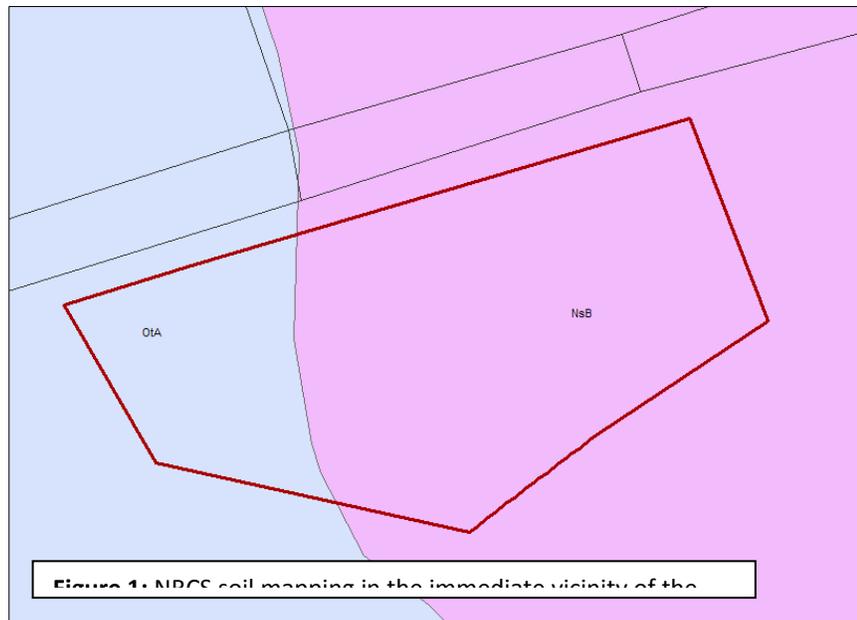
DNREC

Soil and Water – Contact Gregory Williams (302) 739-9921, Gregory.Williams@state.de.us

- **Drainage Program.** The Drainage Program is not aware of any drainage concerns associated with this site.
- **Flood Management.** This parcel is not located within a FEMA designated Special Flood Hazard Area. We would suggest the flood study that was done by APEX engineering be submitted to FEMA to revise the Flood Insurance Rate Map (FIRM). If this study meets FEMA's guidelines, revising the FIRM will help the County to better manage development in this area and mitigate potential flood risk to buildings and property owners.

Water Resources – Contact: John Martin, Watershed Assessment Section, (302) 739-9939, John.Martin@state.de.us

- **Soils Assessment.** According to the New Castle County soil survey update, Nassawango (NsB) and Othello (OtA) were mapped in the immediate vicinity of the proposed construction. Nassawango is a well-drained upland soil that, generally, has few limitations for development. Othello is a poorly-drained wetland associated (hydric) soil that has severe limitations for development and should be avoided.



- **Wetlands (cont'd from Requirements section)**

When designing a project on a site with regulated watercourses, any extensive piping, filling or burying of streams or ditches in excess of the minimum needed for road crossings should be avoided. Where road crossings are necessary, bridge spans which avoid significant impacts to stream banks and channels should be used wherever possible. Where placement of culverts is unavoidable, culvert designs which utilize multiple barrels at different elevations to preserve a low flow channel are usually preferred. Contact the Wetlands and Subaqueous Lands Section for further information regarding preferred designs.

- **TMDLs.** Total Maximum Daily Loads (TMDLs) for nitrogen and phosphorus have been promulgated through regulation for the Red Lion Creek watershed. No TMDL has developed to date for the C&D canal. A TMDL is the maximum level of pollution allowed for a given pollutant below which a “water quality limited water body” can assimilate and still meet water quality standards to the extent necessary to support use goals such as, swimming, fishing, drinking water and shell fish harvesting. Although TMDLs are required by federal law, states are charged with developing and implementing standards to support these desired use goals. In the Red Lion Creek watershed, a post-development TMDL reduction level of 40 percent will be required for both nitrogen and phosphorus. Additionally, a 38% reduction in bacteria will also be required.

A Pollution Control Strategy (PCS) is the regulatory directive requiring the implementation of various best management practices (BMPs) that help reduce transport of nutrient and bacterial pollutant runoff from all waters draining into a “greater” common watershed, with the ultimate objective of achieving the obligatory TMDL reduction requirements for that watershed. In essence, achieving these TMDL nutrient and bacterial reductions will ensure that a water body meets the water quality criteria (e.g., nutrient, bacteria levels and dissolved oxygen concentrations) and goals (e.g., fishable, swimmable, drinking water, etc.) in the State Water Quality Standards. However, the PCS for the Red Lion Creek watershed has not been formally completed to date. In absence of a current PCS, the applicant is strongly encouraged to be proactive and voluntarily commit to the implementation of the following recommended BMPs to reduce nutrient and bacterial pollutants:

- 1) Maintain 100-foot buffers from all delineated wetlands (i.e., State and Federally-regulated wetlands)
- 2) Maximize the amount of passive wooded open space (i.e., reducing the amount of forest cover removal), or increase forest cover establishment
- 3) Employ the use of pervious paving materials instead of asphalt or concrete to reduce surface imperviousness, wherever practicable
- 4) Utilize green-technology stormwater management technologies in lieu of open-water stormwater management structures

The Department has also developed an assessment tool to evaluate how your proposed development may reduce nutrients and bacteria to help meet the TMDL requirements. Please contact Lyle Jones at 302-739-9939 for more information on the assessment tool.

- **Water Supply.** The project information sheets state that public water will be provided to the project by an unnamed Water Utility. DNREC records indicate that the project is located within the public water service area granted to Artesian Water Company under Certificate of Public Convenience and Necessity (CPCN) 85-WS-03. DNREC recommends that the developer contact Artesian Water Company to determine the availability of public water. Any public water utility providing water to the site must obtain a CPCN from the Public Service Commission. Information on CPCNs and the application process can be obtained by contacting the Public Service Commission at 302-739-4247.

Air and Waste – Contact: Elizabeth Wolff - (302) 395-2500, Elizabeth.Wolff@state.de.us

- **Tank Management Branch.** There is one inactive LUST site located within a quarter mile of the proposed development.

Name: Dealers Service (Inactive)

Facility ID: 3-001095

Project: N9102029

No environmental impact is anticipated; however, should any underground storage tanks or petroleum contaminated soil be discovered by any person during construction, the DNREC-TMB and the DNREC Emergency Response Hotline must be notified within 24 hours at (302) 395-2500 and (800) 662-8802, respectively.

Should any contamination be encountered, PVC pipe materials would have to be replaced with ductile steel and nitrile rubber gaskets in the contaminated areas.

Also, please note that if any aboveground storage tanks (ASTs) less than 12,500 gallons are installed, they must be registered with the TMB. If any ASTs greater than 12,500 gallons are installed, they are also subject to installation approval by the TMB.

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, Ofc of State Planning Coordination

CC: New Castle County