



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

September 16, 2011

Mr. Mark Ziegler  
McBride & Ziegler  
2607 Eastburn Center  
Newark, DE 19711

RE: PLUS review – 2011-08-05; Hockessin Crossing II

Dear Mr. Ziegler:

Thank you for meeting with State agency planners on August 24, 2011 to discuss the proposed plans for the Hockessin Crossing II project to be located at 127 Valley Road in New Castle County.

According to the information received, you are seeking a rezoning of 1.6248 acres from NC21 to CR for a commercial retail and mini warehouse facility.

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 2 according to the *State Strategies for Policies and Spending*. Investment Level 2 reflects areas where growth is anticipated by local, county, and State plans in the near term future. State investments will support growth in these areas.

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

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

- It seems that there are or a couple of known historic resources on this parcel (property), and they seem to be 20th-century structures or dwellings (N10251, N10252), which were probably built during the 1920s or 1930s. Although these historic resources are probably early 20-th century dwellings, it is still important that developer be aware of the Unmarked Human Burials and Human Skeletal Remains Law of 1987 (Delaware Code: Title 7, Chapter 54), which pertains to the discovery and disposition of such remains in the State of Delaware.

Abandoned or unmarked family cemeteries are very common in Delaware. Especially on historic farm sites, rural areas, and open space lands. Disturbing unmarked burials triggers Delaware's Unmarked Human Burials and Human Skeletal Remains Law of 1987 (Delaware Code: Title 7, Chapter 54), and such discoveries can result in substantial delays while the procedures required under this law are carried out. The Division of Historical & Cultural Affairs recommends that owners and/or developers have a qualified archaeological consultant investigate their project area for the presence of such a cemetery. If one is discovered and delineated, it is very costly to have it archaeologically excavated and the burials moved. In the event of such a discovery, the Division of Historical & Cultural Affairs also recommends that the plans be re-drawn to leave the cemetery on its own parcel or in the open space area of the development, with the responsibility for its maintenance lying with a homeowners association or development. For further information, please see following websites at:

[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)

- Prior to any demolition or ground-disturbing activities, the developer should consider hiring an archaeological consultant to examine the parcel for archaeological sites, such as 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 culture 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. Any preconstruction

activities without adherence to these stipulations may jeopardize the issuance of a permit or receipt of funding if it is determined that such opportunity to comment has been foreclosed. For further information on Section 106 and the Advisory Council's role, please review the Advisory Council's website at [www.achp.gov](http://www.achp.gov)

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

- From the information on the PLUS application, the proposed development meets DelDOT's volume warrants for a Traffic Impact Study (TIS), 400 trip ends per day, or 50 trip ends in the peak hour. Those warrants can be found in Section 2.3 of DelDOT's Standards and Regulations for Subdivision Streets and State Highway Access. However, we recognize that there is already a building on the site and we see that the proposed trip generation does not include any sort of credit for elimination of the existing uses. While we would want to see some analysis in that regard, preliminarily we believe a TIS may not be necessary for this plan.
- With that said, we still anticipate requiring a Traffic Operational Analysis (TOA), in accordance with Section 3.9 of the Standards and Regulations to assess the adequacy of the site entrance on Valley Road. Depending on the results of the TOA, improvements could be required at that entrance.

**Department of Natural Resources and Environmental Control – Contact Kevin Coyle 739-9071**

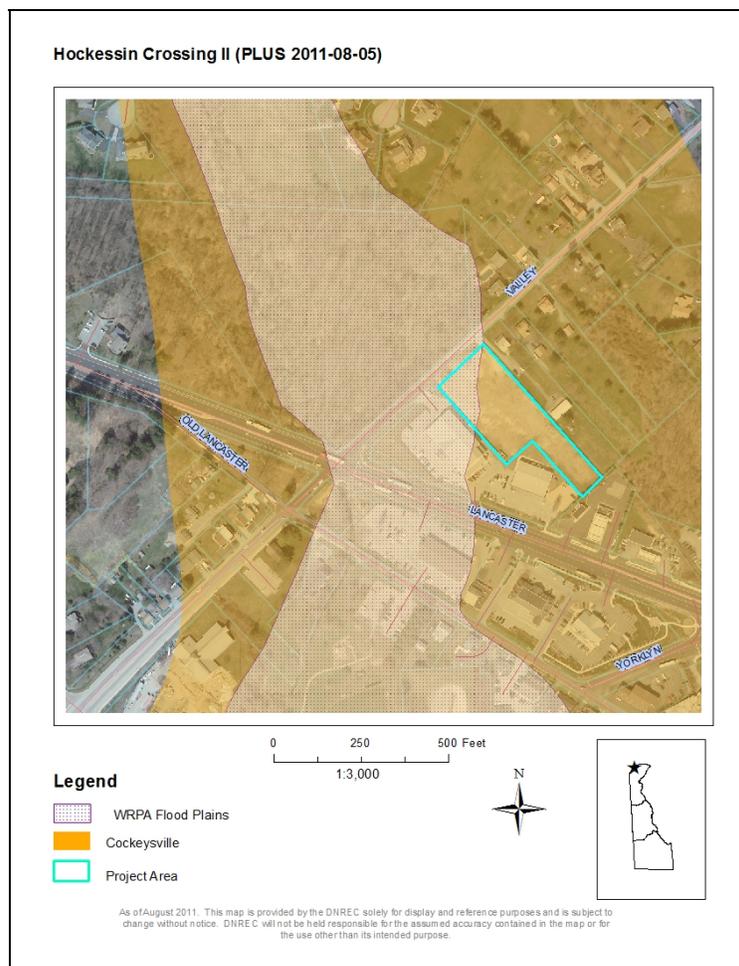
Water Supply

- The project information sheets state water will be provided to the project by Artesian Water Company via an existing public water system. Our 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 85-WS-03.
- 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 typically 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 an Underground Storage Tank

associated with Jopson Petroleum t/a Hockessin Gulf located within 1000 feet of the proposed project.

### Water Resource Protection Areas

- The DNREC Ground-Water Protection Branch (GPB) has determined that the project falls entirely within Water Resource Protection areas for New Castle County (NCC). These areas are defined as the Cockeyville Formation and Flood Plains (see map).
- GPB recommends referring to NCC Unified Development Code for regulations regarding development in these areas.



### Sediment and Stormwater Program

- A sediment and stormwater plan will be required for 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 possible. 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. (Title 7, Delaware Code, Chapter 40 and Delaware Regulations, Title 7, Administrative Code, 5101)

#### Hazardous Waste Sites

- If it is determined by the Department that there was a release of a hazardous substance on the property in question and the Department requires remediation pursuant to the Hazardous Substance Cleanup Act, the provisions of 7 Del.C. Chapter 91, Delaware Hazardous Substance Cleanup Act and the Delaware *Regulations Governing Hazardous Substance Cleanup* shall be followed.
- The proposed project includes an environmental covenant executed pursuant to 7 Del. C. Chapter 79, Subchapter II, Uniform Environmental Covenants Act. It shall be binding upon the Owner and all assigns and successors in interest, including any Transferee, and shall run with the land, pursuant to 7 Del. C. Section 7910(a), subject to amendment or termination as set forth herein. The term “Transferee,” as used in this Environmental Covenant, shall mean any future owner of any interest in the Property or any portion thereof, including, but not limited to, owners of an interest in fee simple, mortgagees, easement holders, and/or lessees. It may be enforced pursuant to 7 Del. C. Section 7916. Failure to timely enforce compliance with this Environmental Covenant or the use limitations contained herein by any party shall not bar subsequent enforcement by such party and shall not be deemed a waiver of the party’s right to take action to enforce any non-compliance. Nothing in this Environmental Covenant shall restrict the Secretary of DNREC from exercising any authority under applicable law. There shall be no interference with this environmental covenant, such as any land disturbing activities, without the prior written approval of the Department.

#### Tank Management Branch: Please be aware:

- If a release of a Regulated Substance occurs at the proposed project site, compliance of 7 Del.C. Chapter 60, 7 Del.C., Chapter 74 and DE Admin. Code 1351, State of Delaware *Regulations Governing Underground Storage Tank Systems* (the UST Regulations) is required.
- The following confirmed leaking underground storage tank (LUST) projects are located within a quarter mile from the proposed area:
  - Casual Market Place, Facility: 3-001988, Project: N9904082 (Inactive)
  - Hockessin Exxon #25351, Facility: 3-000321, Projects:
    - N8401004 (Inactive)

- N9508194 (Inactive)
  - N0508070 (Inactive)
  - N0610114 (Active)
  - Cumberland Farms #0715, Facility: 3-000301, Projects:
    - N0606061 (Inactive)
    - N9106118 (Active)
  - Hockessin Fire Company, Facility: 3-002090, Project: N0111112 (Inactive)
  - Hockessin Auto Service Center, Facility: 3-000431, Projects:
    - N9106123 (Inactive)
    - N9502041 (Inactive)
    - N9907124 (Inactive)
    - N0409097 (Inactive)
  - Hockessin Texaco, Facility: 3-000264, Project: N9304066 (Inactive)
  - Jo Brian Lang Residence, Facility: 3-002248, Project: N0308051 (Inactive)
  - Fedele Dalle Molle, Facility: 3-002066, Project: N0002032 (Inactive)
- Per the **UST Regulations: Part E, § 1. Reporting Requirements:**
    - “Any indication of a Release of a Regulated Substance that is discovered by any Person, including but not limited to environmental consultants, contractors, utility companies, financial institutions, real estate transfer companies, UST Owners or Operators, or Responsible Parties shall be reported within 24 hours to:
      - The Department’s 24-hour Release Hot Line by calling 800-662-8802; and
      - The DNREC, Tank Management Branch by calling 302-395-2500.”

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

This Agency has no objection to the re-zoning request. The information provided below shall be considered when plans are being designed.

At the time of formal submittal, the applicant shall provide; completed application, fee, and three sets of plans depicting the following in accordance with the Delaware State Fire Prevention Regulation (DSFPR):

**Fire Protection Water Requirements:**

- Water distribution system capable of delivering at least 1500 gpm for 2-hour duration, at 20-psi residual pressure is required. Fire hydrants with 800 feet spacing on centers.
- Where a water distribution system is proposed for Storage/Mercantile sites, the infrastructure for fire protection water shall be provided, including the size of water mains for fire hydrants and sprinkler systems.

#### Fire Protection Features:

- All structures over 10,000 Sq. Ft. aggregate will require automatic sprinkler protection installed.
- 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
- Show Fire Department Connection location (Must be within 300 feet of fire hydrant), and detail as shown in the DSFPR.
- Show Fire Lanes and Sign Detail as shown in DSFPR

#### 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.
- Fire department access shall be provided in such a manner so that fire apparatus will be able to locate within 100 ft. of the front door.
- 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.

#### Gas Piping and System Information:

- Provide type of fuel proposed, and show locations of bulk containers on plan.

#### Required Notes:

- Provide a note on the final plans submitted for review to read “ All fire lanes, fire hydrants, and fire department connections shall be marked in accordance with the Delaware State Fire Prevention Regulations”
- Proposed Use
- Alpha or Numerical Labels for each building/unit for sites with multiple buildings/units

- Square footage of each structure (Total of all Floors)
- National Fire Protection Association (NFPA) Construction Type
- Maximum Height of Buildings (including number of stories)
- Note indicating if building is to be sprinklered
- Name of Water Provider
- Letter from Water Provider approving the system layout
- Provide Lock Box Note (as detailed in DSFPR) if Building is to be sprinklered
- Provide Road Names, even for County Roads

### **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.

### **Department of Natural Resources and Environmental Control – Contact Kevin Coyle 739-9071**

Additional information on hazardous substances

- There is one SIRS sites found within a ½-mile radius of the proposed project.
- Hockessin Groundwater (DE-1317) is located adjacent to the western portion of the proposed project site. The Hockessin GW investigation targeted nine businesses within a 32 acre area of suburban retail stores and services that may use PCE and/or produce PCE as a waste product. The Site was part of a state wide sampling report for select public water systems in 2002. A Preliminary Assessment (PA) was completed in 2005. Currently, selected monitoring wells are sampled quarterly by Artesian Water Company.

SIRS strongly recommends that the land owner perform environmental due diligence of the property by performing a Phase I Environmental Site Assessment (**including a title search to identify environmental covenants**) in accordance to Section 9105(c) (2) of

the Delaware Hazardous Substance Cleanup Act (HSCA). While this is not a requirement under HSCA, it is good business practice and failure to do so will prevent a person from being able to qualify for a potential affirmative defense under Section 9105(c) (2) of HSCA.

Additional remediation may be required if the project property or site is re-zoned.

- Should a release or imminent threat of a release of hazardous substances be discovered during the course of development (e.g., contaminated water or soil), construction activities should be discontinued immediately and DNREC should be notified at the 24-hour emergency number (800-662-8802). SIRS should also be contacted as soon as possible at 302-395-2600 for further instructions.

Additional information on tank management

- When contamination is encountered, PVC pipe materials should be replaced with ductile steel and nitrile rubber gaskets in the contaminated areas.
- 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.

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

- 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](http://www.statefiremarshal.delaware.gov), technical services link, plan review, applications or brochures.

**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: New Castle County