



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

January 25, 2012

Mr. Michael Kaszyski  
Duffield Associates, Inc.  
5400 Limestone Road  
Wilmington, De 19808

RE: PLUS review – 2011-12-03; Limestone Crossing

Dear Mr. Kaszyski:

Thank you for meeting with State agency planners on December 28, 2011 to discuss the proposed plans for the Limestone Crossing project to be located at 6280 Limestone Road near Hockessin.

According to the information received, you are seeking a rezoning from NC-21 to CR for a 6,960 sq. ft. retail infill 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 parcel is located in a Level 2 area according to the 2010 Strategies for State 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

- There are no known or identified cultural or historic resources, such as National Register-listed property, archeological sites or potential historic properties on this particular parcel. However, if there is going to be any type of construction activity or development project on this parcel, the developer should still be aware of the Delaware's Unmarked Human Burials and Human Skeletal Remains Law (outlined in Chapter 54 of Title 7 of the Delaware Code), which pertains to the discovery and disposition process of such remains. Furthermore, the unexpected discovery of unmarked human remains during construction can result in significant delays while the process is carried out.

In Delaware, abandoned or unmarked family cemeteries are very common, especially in settings such as historic farm sites, rural areas, or open space lands. Disturbing unmarked burials triggers Delaware's Unmarked Human Burials and Human Skeletal Remains Law 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. If you need any additional information in reference to this state law, please go to the following the websites for further details: [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 a cemetery, unmarked human remains, or potential archaeological sites.

- 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. 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).

Department of Transportation – Contact Bill Brockenbrough 760-2109

- In accordance with Section 8.6 of DelDOT's Standards and Regulations for Subdivision Streets and State Highway Access, because the proposed building would have its access through the adjoining properties to the north and south, the access to those properties will need to be re-evaluated.

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. 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 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 are two Underground Storage Tanks associated with Southwood Farms and MA Zeccola & Sons located within 1000 feet of the proposed project.

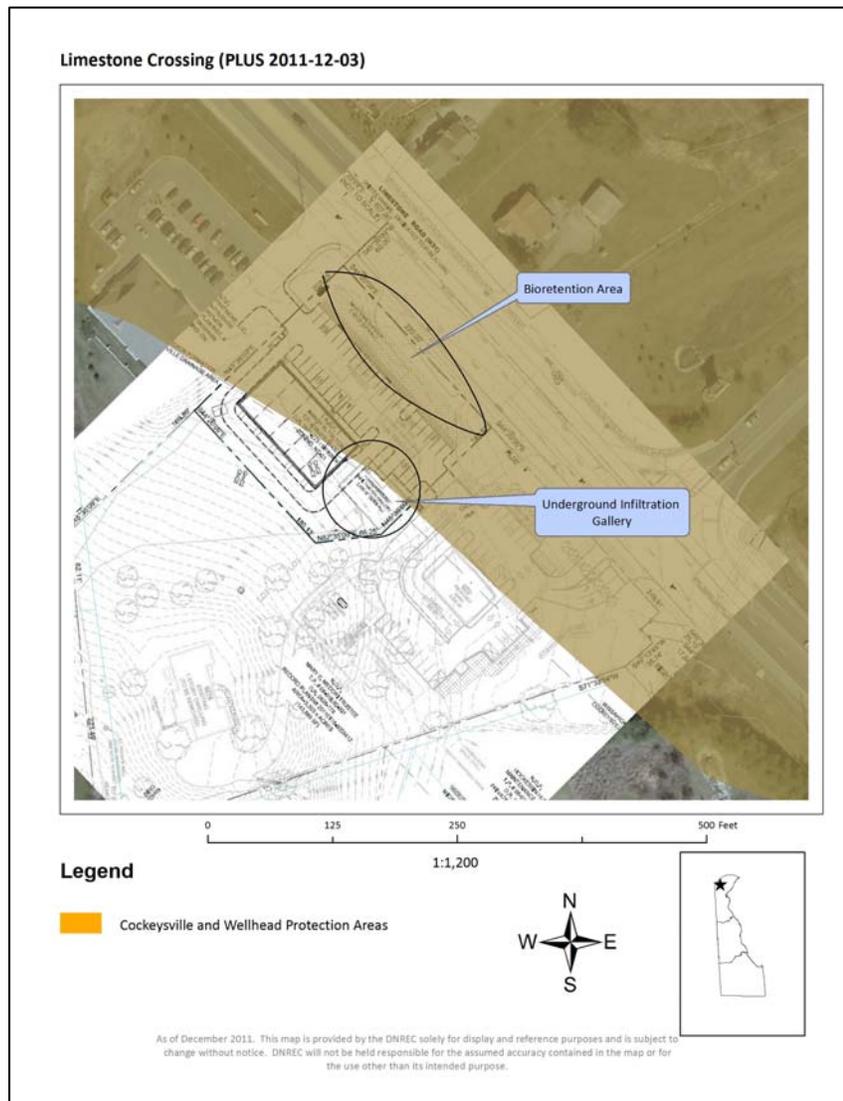
### **Water Resource Protection Areas**

- The DNREC Ground Water Protection Branch (GPB) has determined that the project does not fall within an area of excellent groundwater recharge potential. However, the parcel falls partially within the Cockeyville Formation Water Resource Protection Area and overlying a wellhead protection area for New Castle County. New Castle County's Unified Development Code (UDC) regulates these areas.

Wellhead protection areas are surface and subsurface areas surrounding a public water supply well where land use activities or impervious cover may adversely affect the quantity and quality of ground water moving toward such wells. In addition, Section 40.10.381 of the UDC requires a special on-site investigation to for projects in the Cockeyville Formation, to determine if infiltration could lead to increased erosion of the supporting rock.

The site plan submitted with the proposal indicates a bioretention area within these water resource protection areas. Bioretention areas are typically designed to reduce runoff and reduce nutrient loads. This bioretention area appears to capture runoff from the parking area. Some advanced treatment may be required to remove pollutants associated with parking lots (e.g. petroleum products).

In addition, because the wellhead protection area is an existing source of public drinking water and the excellent ground-water recharge area so readily affects the underlying aquifer, the storage of hazardous substances or wastes should not be allowed within these areas unless specific approval is obtained from the relevant state, federal, or local program.



### 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.

### **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) project is located within a quarter mile from the proposed project area:
  - Tweeds Tavern/Valley Road Park, Facility: 3-002313, Project: N0505049 (Inactive)
  - Southwood Farms, Facility: 3-000932, Project: N9103048 (Cross-referenced)
  - Delmarva Power & Light Co, Facility: 3-001449, Project: N9212273 (Inactive)
  - MA Zeccola & Sons, Facility: 3-001594, Project: N9504085 (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.

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

- DelDOT strongly recommends that the developer schedule a pre-submittal meeting with DelDOT's Subdivision Section before submitting plans for the subject development. A Meeting Request form and a list of Pre-Submittal Meeting Requirements can be found on-line at <http://www.deldot.gov/information/business/>.
- The trip generation, of 335 trips per day, stated in item 25 of the PLUS application appears to be based on the fitted curve equation for weekday trips given for Specialty Retail Centers (Land Use Code 814) in the Institute of Transportation Engineers' (ITE) Trip Generation report. DelDOT has two concerns in this regard. First, use of the equation is not appropriate for a development of the size proposed. Using the average rate, which is appropriate, would predict 308 trips per day.
- Second, the proposed development includes a 1,440 square foot restaurant with a drive-through window. DelDOT understands that a coffee and/or doughnut shop is a possible tenant. While some of the shopping centers studied in developing the rates and equations for Specialty Retail Centers reportedly did include restaurants, it is doubtful that any included a successful coffee shop or doughnut shop. ITE Land Use Code 937, Coffee/Donut Shop with Drive-Through Window, predicts 1,179 trips per day for a restaurant of this size. DelDOT will need to know more about the proposed restaurant to accurately predict its trip generation and properly evaluate the plan.
- If a coffee and/or doughnut shop or a fast food restaurant is planned, then in accordance with Section 2.3.1 of the Standards and Regulations, a Traffic Impact Study (TIS) will be warranted. In that case, in accordance with Section 2.5.1, the developer's engineer should contact Mr. Paul Hogge of this office to request a scoping meeting before beginning work on the TIS. Mr. Hogge may be reached at (302) 760-2124. There is a TIS Scoping Meeting Information Form included in Appendix O of the Standards and Regulations.

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

### **Additional information on hazardous substances**

- The Site Investigation and Remediation Section (SIRS) notes there are three SIRS sites found within a ½-mile radius of the proposed project:
  - Southwood Farms (DE-1306) is located adjacent to the proposed project. The Site was being monitored by the Tanks Management Section (TMS) from 1992 to 2002. The Site entered the SIRS program in 2003 because groundwater contamination was detected. A Remedial Investigation (RI) was completed in 2007. The Site has an Environmental Convent effective in 2008 and is currently going thru annual Operations and Maintenance (O&M) sampling.
  - Basher Lane (DE-1310) is located 0.31 miles north of the proposed project. The Site entered the SIRS program in 2003 as a Brownfield site. The Brownfield Investigation was completed in 2005 followed by an Interim Action Plan in 2006. The Site was given a Certificate of Completion of Remedy (COCR) in 2007.
  - DelDOT Tweeds Tavern (DE-1406) is located 0.30 miles north of the proposed project. Debris from an unofficial landfill was removed in 2007 as part of an Interim Remedial Action Plan. A Hydrogeologic Investigation was performed in 2007 to determine if any contamination existed. The Site is currently inactive.

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.

- 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.

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

- 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). SIRB should also be contacted as soon as possible at 302-395-2600 for further instructions.

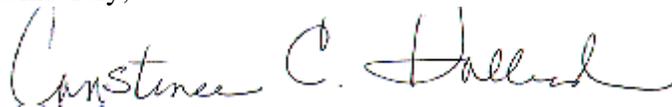
#### **Additional information on tank management**

- 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.

**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,

A handwritten signature in cursive script that reads "Constance C. Holland".

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

CC: New Castle County