



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

February 22, 2012

Mr. Robert C. MacLeish
Lighthouse Construction Co.
859 Golf Links Lane, Ste. 1
Magnolia, DE 19962

RE: PLUS review – 2012-01-03; Dogfish Head Warehouse Project

Dear Mr. MacLeish:

Thank you for meeting with State agency planners on January 25, 2012 to discuss the proposed plans rezoning through the Town of Milton from R1 to LI for a 100,000 sq. ft. for the Dogfish Head Warehouse project on 39.54 acres located off Cave Neck Road and next to the existing Dogfish Head Craft Brewery.

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 the Town of Milton 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 according to the 2010 *Strategies for State Policies and Spending*. This site is also located in the Town of Milton. Investment Level 1 reflects areas that are already developed in an urban or suburban fashion, 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

State Historic Preservation Office – Contact Terrence Burns 736-7404

- There is a known cultural and historical resource on the property and a couple more nearby. The one that is on the parcel is an early to mid 20th-century brick manufactory (S-3502) toward the eastside, near Route 88. Nearby, along Cave Neck Road are a couple of early to mid 20th-century houses (S-3495, S-3499), agriculture complexes (S-3493, S-3498) and a button shop/factory (S-3492). In addition, just behind this parcel, towards the southwest side there is another early to mid 20th-century agriculture complex (S-3503). With this in mind, it is important that the developer be aware of Delaware's Unmarked Human Burials and Human Skeletal Remains Law.

Abandoned or unmarked family cemeteries are very common in the State of Delaware, and quite often they are usually on historic farm sites, rural areas or open space lands. Disturbing unmarked burials triggers Delaware's Unmarked Human Burials and Human Skeletal Remains Law (Title 7, Chapter 54 of the Delaware Code), and such remains or 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, 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 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 or would like more information, please go to the following websites:

www.history.delaware.gov/preservation/umhr.shtml and
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. Furthermore, 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 cultural 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

Department of Transportation – Contact Bill Brockenbrough 760-2109

- A pre-submittal meeting with the Department for this project was held on November 16, 2011. The site and entrance plans are currently being reviewed by the Department in accordance with Section 1.3.2 of DeIDOT's Standards and Regulations for Subdivision Streets and State Highway Access. The review of the preliminary plans is to be completed by February 15, 2012.
- Referring to Standards and Regulations for Subdivision Streets and State Highway Access, Appendix J – General Notes for Construction Plan, page J-7, the following note concerning the maintenance of the sidewalk/multi-modal path is required: “The sidewalk/multi modal path shall be the responsibility of the developer. The State assumes no responsibility for the future maintenance of the sidewalk/multi modal path.”
- Referring to Standards and Regulations for Subdivision Streets and State Highway Access, Chapter 3 – Site Plan Design, Section 3.4.1: Traffic Information, page 3-3, the traffic generation diagram needs to be revised to add the Saturday ADT, Saturday Peak, Sunday ADT and Sunday Peak volumes.
- Referring to the Standards and Regulations for Subdivision Streets and State Highway Access, Chapter 5; Design Elements, Figure 5-14 – Right Turn Lane Warrants (R>50'), page 5-20 and using a roadway AADT of 6,181, a posted speed limit of 45 mph and a right turn ADT of 89 trips, a deceleration lane is warranted.
- Referring to the Standards and Regulations for Subdivision Streets and State Highway Access, Chapter 5; Design Elements, Figure 5-26 – Length of Bypass Lanes for Two Lane Highway, page 5-26 and using a roadway AADT of 6,181, a posted speed limit of 45 mph and a left turn ADT of 89 trips, a bypass lane is warranted. However the entrance is directly across from SCR 89 (Front Street). Therefore, a left turn lane is required.
- Referring to the Standards and Regulations for Subdivision Streets and State Highway Access, Chapter 5; Design Elements, Figure 5-11 – Typical Entrance III, page 5-15, using the formula $L1 = W * S$, where L1 is the transition length, W is the shift from centerline and S is the posted speed limit, the correct transition length is 250'.

- Referring to the Standards and Regulations for Subdivision Streets and State Highway Access, Appendix J – Site plan general notes are required.

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

Wetlands

- A possible jurisdictional stream exists on the parcel that appears to not be subject to any construction activity proposed. However, if plans do require any impacts to the stream, the contractor should first contact the Wetlands and Subaqueous Lands Section (WSLS) for a jurisdictional determination. Second, there appears to be possible non-tidal wetlands on the parcel that may be impacted by construction. The contractor/developer should contact the US Army Corps of Engineers, Philadelphia Office, for further permitting requirements.

TMDLs

- The project is located in the greater Delaware River and Bay drainage, specifically within the Broadkill River watershed. In this watershed, the State of Delaware has developed specific Total Maximum Daily Load (TMDL) pollutant reduction targets for nitrogen, phosphorus, and bacteria (under the auspices of Section 303(d) of the Clean Water Act). 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 State water quality standards (e.g., dissolved oxygen, nutrients, and bacteria; State of Delaware Surface Water Quality Standards, as amended July 11, 2004) to the extent necessary to support use goals such as, swimming, fishing, drinking water and shell fish harvesting. The TMDL for the Broadkill River watershed calls for a 40 percent reduction in nitrogen and phosphorus from baseline conditions. The TMDL also calls for a 75 percent reduction in bacteria from baseline conditions.

A nutrient management plan is required under the *Delaware Nutrient Management law (3 Del. Chapter 22)* for all persons or entities who apply nutrients to lands or areas of open space in excess of 10 acres. This project’s open space may exceed this 10-acre threshold. Please contact the Delaware Nutrient Management Program at 739-4811 for further information concerning compliance requirements or view the following web link for additional information: <http://dda.delaware.gov/nutrients/index.shtml>.

Water Supply

- The information provided indicates that The Town of Milton will provide water to the proposed project via a public water system. DNREC records indicate that The Town of Milton does not currently hold a certificate of public convenience and necessity (CPCN) to provide public water in these areas. If The Town of Milton plans on annexing this

project to their municipality, then according to §203C, Subchapter II, Chapter 1, Title 26, Delaware Code, the municipality is required to give notice to the Public Service Commission when the annexation is complete. Information on CPCN requirements and applications can be obtained by contacting the Public Service Commission at 302-736-7547. 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.

- 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 do 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 a Groundwater Management Zone named: Former Draper King Cole Vegetable Cannery located within 1000' of the proposed project.

Sediment and Stormwater Program

- A detailed sediment and stormwater plan will be required prior to any land disturbing activity taking place on the site. A project application meeting is required for this 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 Sussex Conservation District. Contact Jessica Watson at the Sussex Conservation District at (302) 856-2105 for details regarding submittal requirements and fees. (Title 7, Delaware Code, Chapter 40 and Delaware Regulations, Title 7, Administrative Code, 5101)

Hazardous Waste Sites

- The proposed project is located on a Site Investigation and Restoration Section (SIRS) site. King Cole Cannery (DE-1252) is located on the same proposed project property. A

Preliminary Environmental Evaluation was performed on the Site in October 2001, and soon after entered the Voluntary Clean-up Program (VCP) in December the same year. The environmental concern at the site was the use of chemicals in the wastewater treatment areas and the use of staging areas for coal burning residuals. A Remedial Investigation followed by an Interim Action in both 2002 and 2003. The Final Plan for the Site required that a Groundwater Management Zone (dated January 2005) and an Environmental Covenant (dated March 2006) be established. The Site was given a Certificate of Completion of Remedy (COCR) in 2006. If you have any additional questions concerning the King Cole Cannery SIRS site, please contact Larry Jones, Project Manager, at 302-395-2600 or Lawrence.Jones@state.de.us.

- 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.
- 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

- 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 project area:

- Jensen Fred H & Sons Inc., Facility: 5-000592, Project: S9108182 (Inactive)
- Draper Canning Company Trucking, Facility: 5-000080, Project: S8906269, S9501021, S0111103, S0312105, S1003022 (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

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 Warehouse 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. are required to meet fire lane marking requirements.
 - Buildings exceeding 100,000 Sq. Ft. on a single floor area shall meet the requirements for “Large Area” buildings as specified in the Delaware State Fire Prevention Regulation including Emergency Voice/Alarm Communication system. Fire Command Station, Smoke Management system, and Standby Power, Light, and Emergency system.

- 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

Department of Agriculture – Contact Scott Blaier 698-4529

- The proposed project is adjacent to a property permanently protected through the State's Agricultural Lands Preservation Program (Madjarosy Expansion of the Sycamore Farms, Inc. District), (Parcel # 235-20.00-54.00). Therefore, the activities conducted on this preserved property are protected by the agricultural use protections outlined in **Title 3, Del. C., Chapter 9**. These protections effect adjoining developing properties. The 300 foot notification requirement affects **all new deeds** in a subdivision located in whole or part within 300 feet of an Agricultural District. Please take note of these restrictions as follows:

§ 910. Agricultural Use Protections.

(a) Normal agricultural uses and activities conducted in a lawful manner are preferred and priority uses and activities in Agricultural Preservation Districts. In order to establish and maintain a preference and priority for such normal agricultural uses and activities and avert and negate complaints arising from normal noise, dust, manure and other odors, the use of agricultural chemicals and nighttime farm operations, land use adjacent to Agricultural Preservation Districts shall be subject to the following restrictions:

(1) For any new subdivision development located in whole or in part within 300 feet of the boundary of an Agricultural Preservation District, the owner of the development shall provide in the deed restrictions and any leases or agreements of sale for any residential lot or dwelling unit the following notice:

This property is located in the vicinity of an established Agricultural Preservation District in which normal agricultural uses and activities have been afforded the highest priority use status. It can be anticipated that such agricultural uses and activities may now or in the future involve noise, dust, manure and other odors, the use of agricultural chemicals and nighttime farm operations. The use and enjoyment of this property is expressly conditioned on acceptance of any annoyance or inconvenience which may result from such normal agricultural uses and activities."

(2) For any new subdivision development located in whole or in part within 50 feet of the boundary of an Agricultural Preservation District, no improvement requiring an occupancy approval shall be constructed within 50 feet of the boundary of the Agricultural Preservation District.

(b) Normal agricultural uses and activities conducted in accordance with good husbandry and best management practices in Agricultural Preservation Districts shall be deemed protected actions and not subject to any claim or complaint of nuisance, including any such claims under any existing or future county or

municipal code or ordinance. In the event a formal complaint alleging nuisance related to normal agricultural uses and activities is filed against an owner of lands located in an Agricultural Preservation District, such owner, upon prevailing in any such action, shall be entitled to recover reasonably incurred costs and expenses related to the defense of any such action, including reasonable attorney's fees (68 Del. Laws, c. 118, § 2.).

- In addition, if any wells are to be installed, **Section 4.01(A)(2) of the Delaware Regulations Governing the Construction and Use of Wells** will apply. This regulation states:

(2) For any parcel, lot, or subdivision created or recorded within fifty (50) feet of, or within the boundaries of, an Agricultural Lands Preservation District (as defined in Title 3, Del. C., Chapter 9); all wells constructed on such parcels shall be located a minimum of fifty (50) feet from any boundary of the Agricultural Lands Preservation District. This requirement does not apply to parcels recorded prior to the implementation date of these Regulations. However, it is recommended that all wells be placed the maximum distance possible from lands which are or have been used for the production of crops which have been subjected to the application of land applied federally regulated chemicals.

Review of the plot plan submitted for this project suggests the developer is already aware of these restrictions.

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

- The access easement note should be revised to read as follows, "An ingress/egress easement (23,678.00 S.F.) of variable width is hereby established as per this plat."
- Please check to determine if any utilities will need to be relocated as part of this project.

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

Additional information on TMDLs

- 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. However, the PCS for the Broadkill watershed has not been formally completed to date. In the absence of a current PCS, the applicant is strongly urged to reduce nutrient and bacterial pollutants through the voluntary commitment to the implementation of the following recommended BMPs:
 - Maximize open space by maintaining tree cover on this parcel. DNREC further suggests additional native tree and native herbaceous planting wherever possible.
 - 100-foot upland buffers (planted with native vegetation) should be established from wetlands and/or water bodies
 - The applicant should calculate post-construction surface imperviousness with all forms of created surface imperviousness (e.g., rooftops, driveways, parking lots, sidewalks, open-water storm water management structures, and roads) included in the calculation.
 - Since this is a commercial project that will likely generate large amounts of impervious cover, the use of pervious paving materials (instead of conventional asphalt and concrete) as a BMP to reduce the impacts associated with surface imperviousness, wherever practicable, is encouraged.
 - Rain gardens and green-technology storm water management structures (in lieu of open-water management structures) should be utilized as BMPs to reduce nutrient pollutant impacts.
 - The applicant should voluntarily assess nutrient and bacterial pollutant loading at the preliminary project design phase. To this end, the Watershed Assessment Section has developed a methodology known as the “Nutrient Load Assessment protocol.” The protocol is a tool used to assess changes in nutrient (e.g., nitrogen and phosphorus) and bacterial loading that result from the conversion of individual or combined land parcels to a different land use(s), while providing applicants with quantitative information about their project’s impact(s) on baseline water quality. We strongly encourage the applicant/developer use this

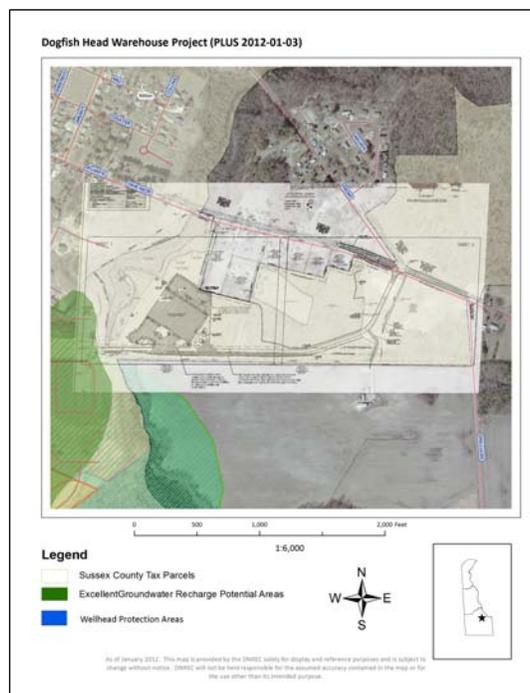
protocol to help them design and implement the most effective BMPs. Please contact Lyle Jones at 302-739-9939 for more information on the protocol.

Water Resource Protection Areas

- No areas of excellent groundwater recharge or existing wellhead protection areas were found. The applicant does not indicate whether or not new wells or a wastewater treatment system will be located on the site. The Groundwater Protection Branch understands that there is likelihood that public supply wells for the Town of Milton will be located on the site.

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. Impervious cover prevents precipitation from infiltrating through the soil to the water table aquifer. Impervious cover refers to structures including but not limited to roads, sidewalks, parking lots, and buildings. Any impervious cover within this wellhead protection area has the potential to have a negative affect the quality and quantity of drinking water available to the County.

- DNREC recommends leaving the wellhead protection area as open space.
- In addition, because the project is located within a wellhead protection area and the wellhead is a source of public drinking water, the storage of hazardous substances or wastes should not be allowed within the area unless specific approval is obtained from the relevant state, federal, or local program.



Drainage Program

- The Drainage Program requests the engineer take precautions to ensure the project does not hinder any off site drainage upstream of the project. The Drainage Program requests the engineer check existing downstream ditches and pipes for function and blockages prior to the construction.
- The Drainage Program recommends utilizing green technology BMPs to the fullest extent on the site.

Rare Species and Wildlife Habitat Impacts

- It is unclear how much forest removal is going to occur as the application states in question #20 that 10 acres will be removed, but in question #23 it states “existing woodlands/fields to remain”.
- The Division of Fish and Wildlife scientists have not surveyed this project area; therefore, they are unable to provide information pertaining to the existence of State-rare or federally listed plants, animals or natural communities at this project site. In the absence of site-specific information, we offer the following comments:
 - According to aerial photographs and our GIS database, the majority of the impacts are being proposed in a portion of the parcel that was recently/previously disturbed. Habitat that could potentially support species of concern is not likely to occur in this part of the parcel. DNREC recommends the following to minimize impacts to wildlife in general:
 1. Efforts should be made to minimize clearing along the tributary to the Broadkill River and leave at least a 100-foot buffer (can be wider) to protect water quality on-site and downstream as well as provide habitat for wildlife. Wildlife corridors are typically found adjacent to streams or wetlands and support the survival of many species by providing sources of food and water, providing protective cover from predators and shelter from harsh weather, and reconnecting isolated populations. Research studies show a great number of songbirds, game birds, small mammals, reptiles and amphibians, and other wildlife use corridors as a regular part of their life cycles.
 2. If the applicant would like assistance with drafting a list of Delaware native plant species for buffer planting efforts please contact our Division botanist, Bill McAvoy, at (302) 735-8668 or William.McAvoy@state.de.us.
 3. If tree removal is part of the plan, we recommend efforts be made to minimize a time of year when many birds and other wildlife are breeding and nesting. Many forest dependent bird species are most vulnerable from April 1st to July 31st.

Additional information on hazardous substances

- 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 TMS. If any ASTs greater than 12,500 gallons are installed, they are also subject to installation approval by the TMS.

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, technical services link, plan review, applications or brochures.

Department of Agriculture – Contact Scott Blaier 698-4529

- The Department notes that the developer has proposed a forested buffer on their plan. Please consider the following recommendations when considering the planting material used for the buffer.
- The Delaware Department of Agriculture Forest Service encourages the developer to use the “Right Tree for the Right Place” for any design considerations. This concept allows for the proper placement of trees to increase property values in upwards of 25% of appraised value and will reduce heating and cooling costs on average by 20 to 35 dollars

per month. In addition, a landscape design that encompasses this approach will avoid future maintenance cost to the property owner and ensure a lasting forest resource. To further support this concept the Delaware Forest Service does not recommend the planting of the following species due to the high risk of mortality from insects and disease:

Callery Pear

Leyland Cypress

Ash Trees

Red Oak (except for Willow Oak)

- If you would like to learn more about the potential problems or impacts associated with these trees, please contact the Delaware Forest Service for more information at (302) 698-4500.

Native Landscapes

- The Delaware Department of Agriculture and the Delaware Forest Service encourages the developer to use native trees and shrubs to buffer the property from the adjacent land-use activities near this site. A properly designed forested buffer can create wildlife habitat corridors and improve air quality to the area by removing six to eight tons of carbon dioxide annually and will clean our rivers and creeks of storm-water run-off pollutants. To learn more about acceptable native trees and how to avoid plants considered invasive to our local landscapes, please contact the Delaware Department of Agriculture Plant Industry Section at (302) 698-4500.

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: Win Abbott, Town Manger, Town of Milton
Lawrence Lank, Director of Planning and Codes