



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

February 7, 2012

Mr. Thomas Prusak
Landmark JCM
100 Commons Blvd., Ste. 301
New Castle, DE 19720

RE: PLUS review – 2012-01-04; Vantage Point at Hockessin

Dear Mr. Prusak:

Thank you for meeting with State agency planners on January 25, 2012 to discuss the proposed plans for the Vantage Point at Hockessin project to be located on Limestone Road in Hockessin.

According to the information received, you are seeking site plan approval through New Castle County for a 228,036 sq. ft. independent/assisted living 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 Levels 1 and 2 according to the 2010 *Strategies for State Policies and Spending*. 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. 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 a couple of known cultural and historic resources on the parcel. They are 19th-century houses, the David Chambers House (N1107), and the Samuel Dennison House (N-1090), which was determined eligible for the National Register of Historic Places. There is also another known cultural and historic resource nearby, and it is an Archeological Site (N-10278, 7NC-A-015). The Pomeroy and Beers Atlas of 1868 shows that both of these houses existed on this parcel at that time, and the USGS Topo Map of 1904 indicated this as well. 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

- 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

- From the information supplied in the PLUS application, the proposed facility would generate 538 vehicle trip ends per day. Therefore it would meet DelDOT's average daily traffic warrant (400 trips per day) for requiring a Traffic Impact Study (TIS), as found in Section 2.3.1 of DelDOT's Standards and Regulations for Subdivision Streets and State Highway Access. However, because it would generate fewer than 2,000 vehicle trip ends per day, DelDOT could accept payment of an Area-Wide Study Fee of \$10 per daily trip, i.e. \$5,380, in lieu of a TIS. See Section 2.3.2 of the Standards and Regulations. Preliminarily, we see no reason to require a TIS if the developer is willing to pay the fee. Payment of the fee would not exempt the developer from having to prepare a Traffic Operational Analysis (TOA) if DelDOT determines that one is needed in reviewing the land development plan. If the applicant determines that they would prefer to prepare a TIS, they should contact Mr. Troy Brestel of this office at (302) 760-2167 to request a scoping meeting. Payment of the Area-Wide Study Fee would be due at plan submission along with the Initial Stage Review Fee.

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

TMDL

- Total Maximum Daily Loads (TMDLs) for nitrogen and phosphorus have been promulgated through regulation for the Christina River watershed. 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.
- TMDLs are required by federal law (Section 303(d) of the 1972 Clean Water Act), and the states are charged with developing and implementing specific land use practices that support these desired use goals. The project is located in the greater Piedmont drainage, specifically within the Christina River watershed. In the Christina River watershed, post-development nitrogen and phosphorus loading must be capped at the pre-development or baseline loading rate (or a 0% post-construction increase in N & P in Delaware's portion of the Christina River Basin) to meet the required TMDL for each nutrient. Moreover, bacteria must be reduced by 86.41% to meet the required TMDL. The specific required

nutrient and bacterial requirements and background information is in the report entitled “*Christina River Basin High-Flow TMDL*” by the EPA. This report can be retrieved from the following web link:
http://www.epa.gov/reg3wapd/tmdl/pa_tmdl/ChristinaMeetingTMDL/index.htm

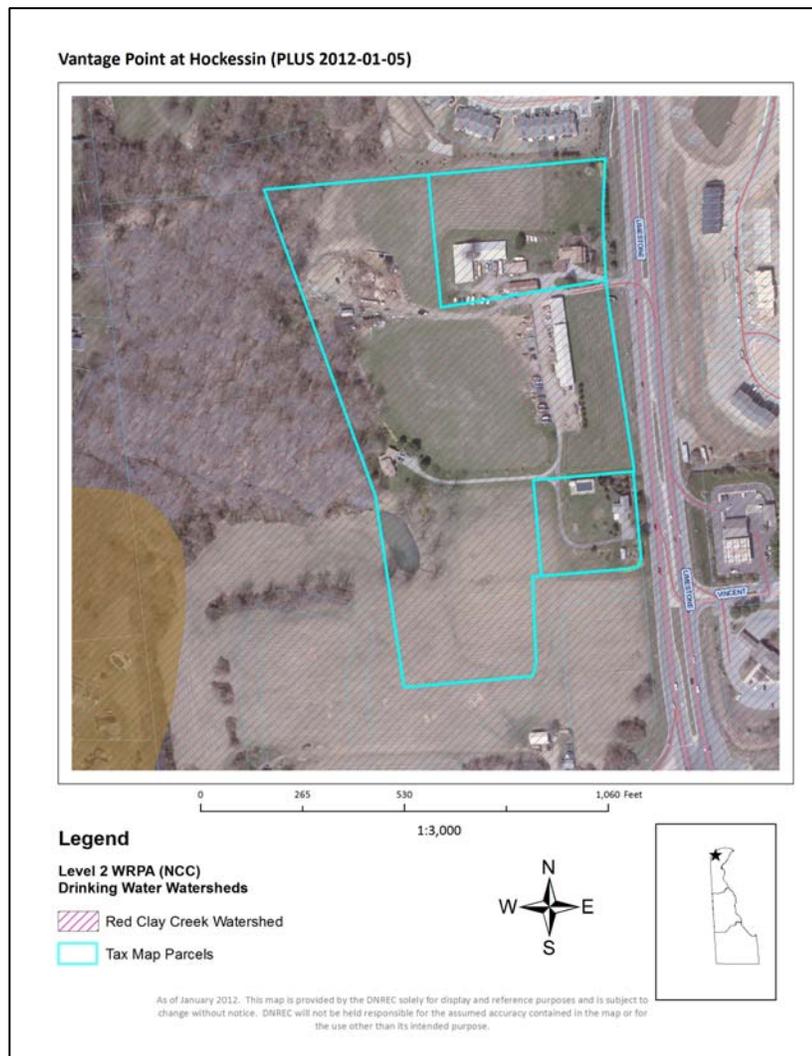
Water Supply

- The project information sheets state water will be provided to the project by Artesian Water Company via a 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.

Water Resource Protection Areas

- The DNREC Ground-Water Protection Branch (GPB) has determined that it does not fall within any wellhead protection or excellent groundwater recharge potential areas. However, the parcel falls entirely within the Red Clay Creek Drinking Water Watershed. This area is a Level 2 Source Water Protection Area for New Castle County (see map).

Level 2 Source Water Protection Areas are the delineated watershed upstream from a surface water intake that supplies water to a drinking water system. Land Use or Land Activity within this area has the potential to influence water quality or quantity to the system.



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:
 - Naudain Property, Facility: 3-002065, Project: N0004048 (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 1000 gpm for 1-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 Healthcare and multi-family 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
 - 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 Delaware State Fire Prevention Regulation
 - **Contact the Office of Long Term Care Resident Protection of the Department of Health and Social Services to see if licensure is required. If it is, additional fire protection features may be applicable.**
- **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. This means that the access road from Limestone Road must be constructed so fire department apparatus may negotiate it.
 - 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.

State Historic Preservation Office – Contact Terrence Burns 736-7404

- The developer should also consider putting a buffer or sufficient landscape barrier between proposed development and the historic houses (the David Chambers House and Samuel Dennison House), in order to block any noise or visual effects that may affect them in adverse way.

Department of Transportation – Contact Bill Brockenbrough 760-2109

- DelDOT understands that the applicant has scheduled a field meeting with the Subdivision Engineer, Mr. Marc Cote´, and one of the DelDOT project engineers, Mr. Joshua Schwartz, to discuss the plan.

As discussed at the PLUS meeting, this is not a new project. A plan for a very similar proposal for this site was previously approved. However, for economic reasons, construction of it never began and the approval expired. If the applicant wishes to appeal the need for a TIS or payment of the Area Wide Study Fee, they should raise that issue with Mr. Cote´ and Mr. Schwartz.

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 Christina River watershed has not been formally completed to date. In absence of a current PCS, the

applicant is strongly urged to reduce nutrient and bacterial pollutants through voluntary commitment to the implementation of the following recommended BMPs:

The applicant is encouraged to have a U.S. Army Corps of Engineers (USACE)-approved wetlands delineation conducted from the onset. According to information provided in the PLUS application, a wetlands delineation has been completed, but to date has not been approved by the USACE nor has it been submitted to DNREC.

- Based on a review of existing buffer research by Castelle et al. (Castelle, A. J., A. W. Johnson and C. Conolly. 1994. *Wetland and Stream Buffer Requirements – A Review*. J. Environ. Qual. 23: 878-882.), an adequately sized buffer that effectively protects wetlands and streams, in most circumstances, is about 100 feet in width. In recognition of this research and the need to protect water quality, the Watershed Assessment Section recommends that the applicant maintain/establish a minimum 100-foot upland buffer (planted in native vegetation) from all water bodies (including ditches) and wetlands.
- Maximize the amount and/or preservation of passive wooded open space. DNREC further recommends additional planting of native trees or shrubs wherever possible.
- The applicant should calculate post-construction surface imperviousness with all forms of created (or constructed) surface imperviousness (e.g., rooftops, driveways, parking lots, sidewalks, open-water storm water management structures, and roads) included in the calculation. DNREC recommends that the applicant implement best management practices (BMPs) that reduce or mitigate some of its most likely adverse impacts. Reducing the amount of surface imperviousness via the application/use of pervious paving materials (“pervious pavers”) in lieu of asphalt or concrete in conjunction with an increase in forest cover preservation (or establishment of additional forest cover acreage) are some examples of practical BMPs that could easily be implemented to help reduce surface imperviousness.
- DNREC recommends the use of rain gardens, and green-technology storm water management structures (in lieu of open-water management structures) as BMPs to mitigate or reduce nutrient and bacterial pollutant impacts via runoff from impervious surfaces.
- 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. DNREC encourages 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.

Additional information on hazardous substances

- There is one SIRS site within a ½ miles radius of the proposed project. Old Limestone Road Garage (DE-1190) is located 0.12 miles north of the proposed project. The Site entered the Voluntary Clean-up Program (VCP) in 2000, because it was within a Water Resource Protection Area and there were concerns of contamination. After a Phase I audit in 2000 a Phase II was conducted to examine for the presence of contamination. A Feasibility Evaluation of the Water Resource Protection Area was completed in 2001 followed by a Facility Evaluation later the same year. The Site was given a No Further Action designation in 2004.
- 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 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). 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, technical services link, plan review, applications or brochures.

Delaware State Housing Authority – Contact Karen Horton 739-4263

- The Delaware State Housing Authority supports the proposal for a 228,036 square foot assisted living and independent living facility near Hockessin which will include 91 units of independent living and 94 units of assisted living. According to the *State Strategies Map*, the proposal is located in Investment Level 1 and 2 areas. The elderly is the fastest growing segment of Delaware's population and both assisted and independent housing is needed to meet this demand. They recommend that some of the units be set aside for low- and moderate-income persons.

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