



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

April 20, 2012

Mario J. Gangemi  
Duffield Associates, Inc.  
5400 Limestone Road  
Wilmington, DE 19808

RE: PLUS review – 2012-03-01; Waste Industries, Smyrna

Dear Mr. Gangemi:

Thank you for meeting with State agency planners on March 28, 2012 to discuss the proposed plans for the Waste Industries project to be located at 5145 and 5211 DuPont Highway.

According to the information received, you are seeking a rezoning of 33.4 acres through New Castle County from SR to I for the purpose of constructing a 18,400 ft. building to house offices and a maintenance shop to support a waste hauling facility. It is noted that according to the application, garbage is not stored at the facility and trucks will be parked each day in “clean” condition.

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**

The State is very supportive of job creation activities particularly if they are done in the appropriate location. This proposal is located in Investment Level 4 according to the 2010 *Strategies for State Policies and Spending*, and is within a Suburban Reserve area in the New Castle County certified comprehensive plan. These areas are generally comprised of prime agricultural lands and environmentally sensitive wetlands and wildlife habitats, which should be, and in many cases have been preserved. Investment Level 4 indicates where State investments will support agricultural preservation and the associated development that is supportive of the agriculture industry, natural resource protection, and the continuation of the rural nature of these

areas. New development activities not connected with the agriculture industry or not rural in nature are not supported by the State in Investment Level 4 areas.

This project represents a major land development that will result in 75 waste disposal truck parking spaces, room for up to another 100 vehicles, a 15,000 sq. ft. garage and maintenance shop and administrative building between Route 1 and Route 13 near Smyrna. After reviewing the site, the State feels this use would be better suited for an existing Industrial Site, away from existing residential areas.

In addition, rezoning this property would be inconsistent with the currently certified New Castle County comprehensive plan. If the County deems this rezoning appropriate, we would expect to the County bring a comprehensive plan amendment through the PLUS process.

**The comments in this letter are technical, and are not intended to suggest that the State supports this development proposal. This letter does not in any way suggest or imply that you may receive or may be entitled to permits or other approvals necessary to construct the development you indicate or any subdivision thereof on these lands.**

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

State Historic Preservation Office – Contact Terrence Burns 736-7404

- The Division of Historical & Cultural Affairs does not support, nor approve of any proposed development or construction project, or the rezoning of any kind in a Level 4 Area. Delaware is a state where there is a strong historic heritage and legacy, and intruding on these areas may affect the cultural or historic resources associated with its historic heritage or legacy. These cultural or historic resources may be architectural or archeological sites, or potential archeological sites, which have not been found or studied, but may contain important information about Delaware's history, such as cemetery, burial site or unmarked human remains. In addition, there are also a couple of known Archaeological Sites (N12879 7NC-J-191; N12898 7NC-L-204) on this parcel, and close by, but on the parcel, near the north side is an early 20th-century dwelling/agricultural complex (N11178). Furthermore, the USGS Topographic Map of 1931 also indicated that there was a dwelling very close to the same location of the 20th-century dwelling/agricultural complex (N11178). According to the Pomeroy and Beers Atlas of 1868 (an historic map), it also seems that there was some type of dwelling or structure on the parcel, and it is a possibility that there may be potential archaeological remains that may be associated with it as well. With this in mind, the developer should also be aware the Delaware's Unmarked Human Burials and Human Skeletal Remains Law, which is outlined in Chapter 54 of Title 7 of the Delaware Code. Therefore, prior to any demolition or ground-disturbing activities (such as development or construction 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](http://www.achp.gov).

Department of Transportation – Contact Bill Brockenbrough 760-2109

- The site access must be designed in accordance with DelDOT's Standards and Regulations for Subdivision Streets and State Highway Access. This manual is available on-line at [http://www.deldot.gov/information/pubs\\_forms/manuals/subdivisions/pdf/Subdivision\\_Manual\\_Revision\\_1\\_proposed\\_060110.pdf](http://www.deldot.gov/information/pubs_forms/manuals/subdivisions/pdf/Subdivision_Manual_Revision_1_proposed_060110.pdf).

On January 5, 2012, the developer met with DelDOT staff to discuss access. At that time, it was agreed that the optimal access design would be to allow all turning movements at the existing crossover serving their site, with the construction of an acceleration lane in the median. This arrangement, however, would require removal of the next crossover to the north, which DelDOT understands the applicant does not want to pursue. Therefore, DelDOT will restrict left turns out of the site and that movement will need to be made by way of U-turns at the Delaware Route 1 ramp intersection.

If the proposed rezoning is approved, the developer's site engineer should submit a site plan to the DelDOT Subdivision Manager for southern New Castle County, Mr. Pao Lin. Mr. Lin may be reached at (302) 760-2157.

- The PLUS application shows an average weekday trip generation of 400 trips per day. DelDOT understands from the January 5 meeting mentioned above that the site would have about 90 employees initially but that that number could double as the business grows. Section 2.3.1 of our Standards and Regulations states in part that a Traffic Impact Study may be required for developments generating 50 or more trips in any peak hour or 400 or more trips per day. DelDOT is of the understanding that New Castle County has

the same peak hour warrant. Therefore it is likely that a Traffic Impact Study (TIS) will be required. If a TIS is required, the developer should contact Mr. Troy Brestel of this office at (302) 760-2167 to schedule a scoping meeting.

- DelDOT Standards and Regulations also provide in Section 2.3.2 that DelDOT may accept payment of an Area Wide Study Fee, equal to \$10 per average daily trip generated, in lieu of a TIS. Therefore, if New Castle County does not require a TIS, the Area Wide Study Fee is an option to be considered.

Payment of the Area Wide Study Fee would not eliminate the developer's responsibility to complete a Traffic Operational Analysis (TOA) in accordance with Section 3.9 of the Standards and Regulations, if one is needed. DelDOT's threshold for considering requirement of a TOA is an average weekday trip generation of 200 trips per day. If New Castle County does not require a TIS, DelDOT recommends that the developer contact Mr. Lin to find out whether a TOA will be required and what it would entail before deciding whether to pay the Area Wide Study Fee.

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

This particular development certainly compromises the integrity of the State Strategies and the preservation goals inherent in many of DNREC's programs. While mitigating measures such as conservation design, central wastewater systems instead of individual on-site septic systems, and other best management practices may help mitigate impacts from this project, not doing the project at all is the best avenue for avoiding negative impacts. As such, this project will receive no financial, technical or other support of any kind from DNREC. Any required permits or other authorizations for this project shall be considered in light of the project's conflict with our State growth strategies.

**Wetlands**

- There are no State regulated wetlands or waterways. According to the Statewide Wetland Mapping Project (SWMP) mapping, palustrine wetlands (PEM1C, Pf9, and PFO1C7) were mapped in the immediate vicinity of the proposed project (Figure 1). The Army Corps of Engineers (COE) regulates wetlands and waters of the United States. Activities in federally regulated wetlands or waters of the US generally require a permit from the Corps of Engineers. For further information about the federal program, the Army Corps of Engineers may be contacted at (215) 656-6728 or (302) 736-9764.



## **Water Supply**

- The project information sheets state that individual on-site well(s) will be used to provide water for the proposed project. Our records indicate that the project is not located in an area where public water service is available. Should an on-site Industrial, Public/Miscellaneous Public well be needed, a minimum isolation distance of 150 feet is required between the well and any potential source of contamination, such as a septic tank and sewage disposal area, and it must also be located at least 150 feet from the outermost boundaries of the project. The Division of Water Resources will consider applications for the construction of on-site wells provided the wells can be constructed and located in compliance with all requirements of the current Regulations Governing the Construction and Use of Wells. A well construction permit must be obtained prior to constructing each and every well(s).
- 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.

## **Wellhead Protection Areas**

- If a public well is to be located on the site, the applicant will have to comply with New Castle County's wellhead protection regulations contained in the County's Unified Development Code (UDC).

## **Wastewater Treatment and Disposal**

- If an on-site septic system is to be utilized for wastewater treatment and disposal, the applicant will have to comply with the Department's Regulations Governing On-Site Wastewater Treatment and Disposal Systems.

## **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)

**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.
- There are no confirmed leaking underground storage tank (LUST) projects located within a quarter mile from the proposed project area.
- 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 Section 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 Features:**
  - All structures over 10,000 Sq. Ft. aggregate will require automatic sprinkler protection installed. Since there is no public water provider, a storage tank of ample size will need to be provided to supply the sprinkler system.
  - Buildings greater than 10,000 sqft, 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 Delaware State Fire Prevention Regulations
- **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 to the building 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 main 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 property.
- **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
  - Provide Lock Box Note (as detailed in DSFPR) if Building is to be sprinklered
  - Provide Road Names, even for County Roads

**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  
Town of Smyrna