



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

January 18, 2013

Mr. Colin Kraucunas  
Duffield Associates, Inc.  
5400 Limestone Road  
Wilmington, DE 19808

RE: PLUS review – 2012-12-01; Mill Creek Fire Company

Dear Mr. Kraucunas:

Thank you for meeting with State agency planners on December 19, 2012 to discuss the proposed plans for the Mill Creek Fire Station addition. According to the information received, you are seeking to add a mezzanine space to the new fire house currently under construction.

Please note that changes to the plan, other than those suggested in this letter, could result in additional comments from the State. Additionally, these comments reflect only issues that are the responsibility of the agencies represented at the meeting. **The developers will also need to comply with any Federal, State and local regulations regarding this property. We also note that as New Castle County is the governing authority over this land, the developers will need to comply with any and all regulations/restrictions set forth by the County.**

**Strategies for State Policies and Spending**

This project is located in Investment Level 1 according to the *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.

**Code Requirements/Agency Permitting Requirements**

State Historic Preservation Office – Contact Terrence Burns 736-7404

- There are no known historic or cultural resources, such as an archeological site or National Register listed property on this parcel. However, if there is going to be any development or construction project of any kind, on this parcel, the developer should definitely be aware of Delaware's Unmarked Human Burials and Human Skeletal Remains Law, which is outlined in Chapter 54 of Title 7 of the Delaware Code.

- Abandoned or unmarked family cemeteries are very common in the State of Delaware. They are usually in rural or open space areas, and sometimes near or within the boundary of an historic farm site. Even a marked cemetery can frequently have unmarked graves or burials outside of the known boundary line or limit. Disturbing unmarked graves or burials triggers the Delaware's Unmarked Human Burials and Human Skeletal Remains Law (Delaware Code Title 7, Chapter 54), and such remains or discoveries can result in substantial delays while the procedures required under this law are carried out. If there is a discovery of any unmarked graves, burials or a cemetery, it is very costly to have them archaeologically excavated and the burials moved. The Division of Historical & Cultural Affairs recommends that owners and/or developers have a qualified archaeological consultant investigate their project area, to the full extent, to see if there is any unmarked cemetery, graves, or burial sites. In the event of such a discovery, the Division of Historical & Cultural Affairs also recommends that the plans be re-drawn to leave the full extent of the cemeteries or any burials on its own parcel or in the open space area of the development, with the responsibility for its maintenance lying with the landowner association or development. If you need or would like to read more information in reference to unmarked human remains, burials or cemeteries, please go to the following websites for additional information: [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 potential historic or cultural resources, such as a potential archaeological site, 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](http://www.achp.gov).

Department of Transportation – Contact Bill Brockenbrough 760-2109

- In accordance with Sections 3.3 and 6.3 of the Standards and Regulations for Subdivision Streets and State Highway Access, for any commercial development that requires a record plan, a developer must submit their land development plan to obtain a Letter of No Objection, then submit an entrance plan for review and approval and use the approved entrance plan to obtain a commercial entrance permit. The fire company has done these things for the plan now under construction.
- DelDOT does not expect the proposed mezzanine to change the station's traffic volumes or most aspects of the entrance plan. However, because the floor area will change and that number is shown on both the land development plan and the entrance plan, DelDOT will require the fire company to submit both plans and obtain new approvals. Because of the nature of the change, they anticipate waiving the plan review fees.

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

**TMDLs**

- 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. 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.
- The project is located in the greater Christina River Basin, specifically within the Red Clay Creek watershed. In the Red Clay Creek 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 88.94% 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](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. Our records indicate that the project is

located within the public water service area granted to Artesian Water Company under Certificate of Public Convenience and Necessity 85-WS-03.

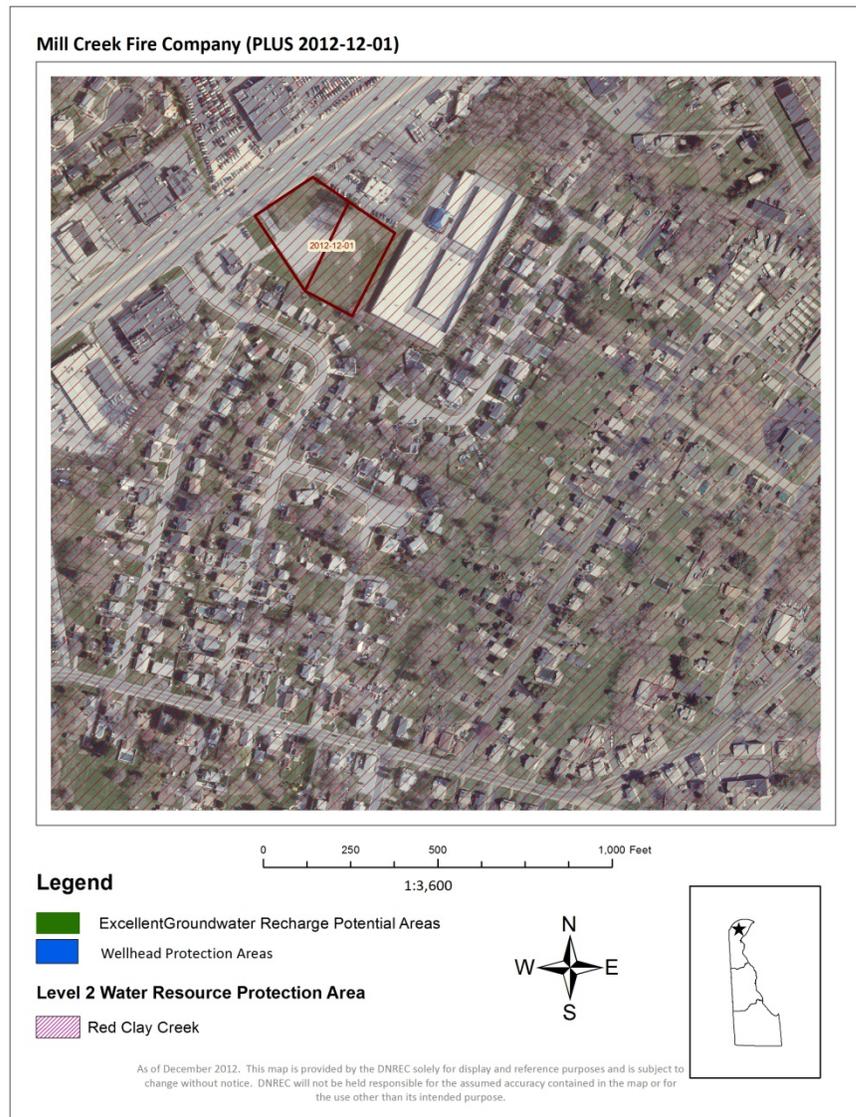
- Should dewatering points be needed during any phase of construction, a dewatering well construction permit must be obtained from the Water Supply Section prior to construction of the well points. In addition, a water allocation permit will be needed if the pumping rate will exceed 50,000 gallons per day at any time during operation.
- All well permit applications must be prepared and signed by licensed water well contractors, and only licensed well drillers may construct the wells. Please factor in the necessary time for processing the well permit applications into the construction schedule. Dewatering well permit applications typically take approximately four weeks to process, which allows the necessary time for technical review and advertising.
- Potential Contamination Sources exist in the area, and any well permit applications will undergo a detailed review that may increase turnaround time and may require site specific conditions/recommendations. In this case, there is an Underground Storage Tank associated with Kirkwood Mobil located within 1000 feet of the proposed project.

#### **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 public drinking water supply intakes. Land use or land activity within these areas has the potential to influence water quality or quantity to the public drinking water system.

DNREC recommends referring to NCC Unified Development Code for regulations regarding development in these areas.



### Sediment and Stormwater Program

- Contact the New Castle County Dept. of Land Use Engineering Section to determine if a revision is needed to the sediment and stormwater plan. 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.
- The following confirmed leaking underground storage tank (LUST) projects are located within a quarter mile from the proposed project area:
  - Calloway Property, Facility: 3-002057, Project: N0004041 (Inactive)
  - Emsley Property, Facility: 3-002114, Project: N0011143 (Inactive)
  - Marian Taylor Residence, Facility: 3-002538, Project: N1101011 (Inactive)
  - Robert Kirkwood U S Army Reserve, Facility: 3-001076, Project: N9101013 (Inactive)
  - Farrand Village Apts., Facility: 3-001451, Projects:
    - N0112114 (ACTIVE)
    - N8511030 (Inactive)
    - N9605089 (Inactive)
    - N9702021 (Inactive)
  - Getty Service Station 086, Facility: 3-000406, Project:
    - N9204099 (Inactive)
    - N8703044 (Inactive)
  - Dunlinden Citgo, Facility: 3-000364, Project:
    - N8706077 KINGS KIRKWOOD CONOCO (MOBIL)(Inactive)
    - N9502057 Kings-Andy's Citgo (Inactive)
    - N0608087 (Inactive)
    - N0708080 (Inactive)
  - Navy Marine Reserve Center, Facility: 3-001372, Project: N9212302 (Inactive)
  - Millcreek Fire Company, Facility: 3-001233, Project:
    - N9411256 (Inactive)
    - N9411251 (CROSS-REFERENCED)
  - Bell Atlantic 91670 Marshallton, Facility: 3-000492, Project: N8812074 (Inactive)
  - Lovozzo Property, Facility: 3-002096, Project: N0009124 (Inactive)
  - Brandywine Chrysler Plymouth, Facility: 3-000054, Project: N9205148 (Inactive)
  - Kirkwood Mobil (THREE J'S TIRE INC., EAST), Facility: 3-000257, Project: N8806019 (ACTIVE)
  - Jiffy Lube Store #312, Facility: 3-000027, Project: N9902028 (Inactive)
  - MAA Real Estate LLC (SUNOCO KIRKWOOD HWY.- SAC TIRE), Facility: 3-000417, Project:
    - N9112314 (Inactive)
    - N0005067 (Inactive)
  - SMO #412 (KIRKWOOD TEXACO), Facility: 3-000383, Projects:

- N9209222 (ACTIVE)
- N0005068 (Inactive)
- N0707066 (Inactive)
- N0801016 (Inactive)
- N1001010 (Inactive)
- N1111149 (Inactive)
- N1201003(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 Section by calling 302-395-2500.

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

- Although BUILDING plans had been submitted and approved for this location, they reflected a project where the mezzanine was incidental, approximately 300 sq. ft. The revised proposal shows a mezzanine that is in excess of 1000 sq. ft. **Therefore, revised plans need to be submitted** in order to verify that criteria outlined in the Life Safety Code, specifically components in the Means of Egress, are adequately addressed. For instance, with the increase in the mezzanine's dimensions, the stairs from it may need to be relocated or an additional set of stairs may need to be added in order to satisfy the limitations for dead-ends and common paths of travel.

**Recommendations/Additional Information**

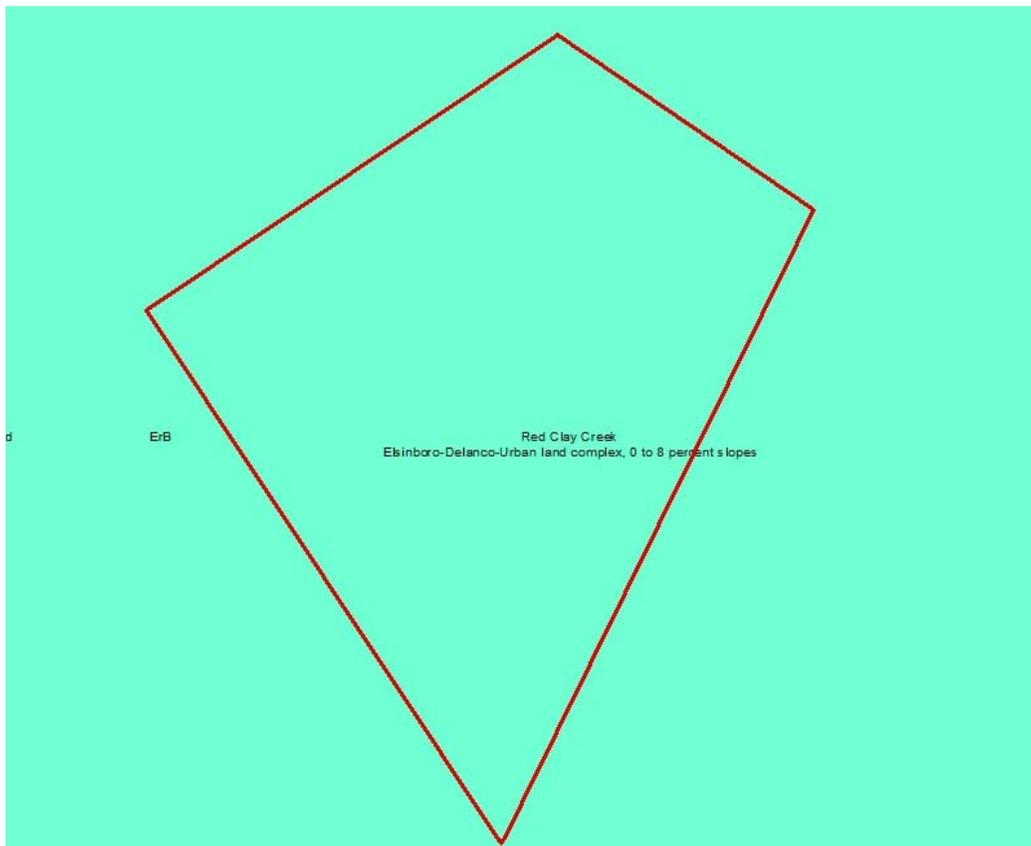
This section includes a list of site specific suggestions that are intended to enhance the project. These suggestions have been generated by the State Agencies based on their expertise and subject area knowledge. **These suggestions do not represent State code requirements.** They are offered here in order to provide proactive ideas to help the applicant enhance the site design, and it is hoped (**but in no way required**) that the applicant will open a dialogue with the relevant agencies to discuss how these suggestions can benefit the project.

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

**Soils Assessment**

- Based on the soil survey update, the Elsinboro-Urban land complex (ErB; 0-8% slopes) soil mapping unit was mapped in the immediate vicinity of the proposed project. This

soil mapping unit consists of lands that have subjected to extensive cutting and filling actions in order to accommodate roads, parking lots, and buildings. Soils in this mapping unit occur on higher landscape positions (terraces or benches) above the floodplain; consequently, they are generally well drained.



### **Additional information on TMDLs and water quality**

- The applicant is urged to reduce nutrient and bacterial pollutants through voluntary commitment to the implementation of the following recommended BMPs:
  - 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 project will create additional impervious surface that will increase the probability for increased pollutant load runoff to adjoining streams and wetlands, we

- encourage the use of pervious paving materials (if adding or replacing asphalt and concrete) to mitigate these impacts.
- Use of rain gardens, and green-technology storm water management structures (in lieu of open-water management structures) as BMPs to reduce nutrient pollutant impacts.
  - 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 loading (e.g., nitrogen and phosphorus) 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.

**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.

**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

