



STATE OF DELAWARE  
EXECUTIVE DEPARTMENT  
OFFICE OF STATE PLANNING COORDINATION

March 24, 2014

Zachary Crouch  
Davis, Bowen & Fridel, Inc.  
23 North Walnut Street  
Milford, DE 19963

RE: PLUS review 2014-02-02; Truitt Jefferson Tract

Dear Zach:

Thank you for meeting with State agency planners on February 26, 2014 to discuss this project. As submitted Loblolly, LLC, seek to develop 88 quadruplex dwellings (22 buildings) on a 7.75-acre assemblage of parcels (Tax Parcel 2-35-14.91-31.00, 32.00, 39.01, 41.00 and 42.00) located on the southeast corner of Mulberry Street (Sussex Road 197) and Willow Street in the Town of Milton.

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 town.

**Strategies for State Policies and Spending**

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

The State encourages the developer to make this development fit with the character of the surrounding town. It is our hope that this development would be walkable and bikable from the other areas of the town.

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

### **State Historic Preservation Office – Contact Terrence Burns 736-7404**

- This parcel is adjacent to the Milton Historic District (S-1110), which is listed in the National Register of Historic Places. We request that sufficient landscaping be included to block the view of and noise from this development from the properties along Union Street. The developer should also be aware of the Delaware 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 would like to know more information that pertains to unmarked human remains or cemeteries, please check 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).

Therefore, 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. Furthermore, any preconstruction activities without adherence to these stipulations may jeopardize the issuance of any permit or funds. 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**

- DelDOT estimates that the subject development would generate 576 vehicle trip ends per day and 54 vehicle trip ends per hour. On that basis, the Traffic Impact Study (TIS) warrants in Section 2.3.1 of the Standards and Regulations for Subdivision Streets and State Highway Access are met. However, because all access would be by way of Willow Street, which is a Town-maintained street, the development is outside our jurisdiction. DelDOT would support a Town requirement for a TIS if they require one but we have no requirement in this regard.
- As a matter of information, those warrants are 400 vehicle trip ends per day or 50 vehicle trip ends per hour, but Section 2.3.2 provides that for developments generating less than 2,000 vehicle trip ends per day and less than 200 vehicle trip ends per hour, DelDOT may accept an Area Wide Study Fee of \$10 per daily trip in lieu of a TIS. As necessary, the applicant may have their engineer contact Mr. Troy Brestel of this office to obtain a scope of work for a TIS. Mr. Brestel may be reached at (302) 760-2167.
- As necessary, in accordance with Section 3.6.5 and Figure 3-3 of the Standards and Regulations for Subdivision Streets and State Highway Access, DelDOT will require dedication of right-of-way along the site's frontage on Mulberry Street to provide a minimum of 30 feet of right-of-way from the road centerline. The right-of-way dedication note has been revised to the following, "**An X-foot wide right-of-way is hereby dedicated to the State of Delaware, as per this plat.**"
- In accordance with Section 3.6.5 of the Standards and Regulations for Subdivision Streets and State Highway Access, DelDOT will require the establishment of a 15-foot wide permanent easement across the property frontage on Mulberry Street. The location of the easement shall be outside the limits of the ultimate right-of-way. The easement area can be used as part of the open space calculation for the site. The following note is required,

**“A 15-foot wide permanent easement is hereby established to the State of Delaware, as per this plat.”**

- Referring to Section 1.4 of the Standards and Regulations for Subdivision Streets and State Highway Access, if the Town requires a Letter of No Objection from DelDOT, the Initial Stage review fee shall be assessed to this project.
- In accordance with Section 3.4 of the Standards and Regulations for Subdivision Streets and State Highway Access, a site plan shall be prepared prior to issuing “Letter of No Objection,” if the Town requires one for this project. The following information will be required for the “Letter of No Objection” review:

Copy of the Initial Stage Fee Calculation Form

Copy of the Initial Stage Review Fee

Gate-Keeping Checklist – Site Plan

Design Checklist – Record Plan\*

Owners and Engineer’s name and e-mail address

Three (3) paper sets of the Record Plan

Conceptual Entrance Plan

CD with a pdf of the Site Plan

\*For the design checklist for the site plan, please refer to the Standards and Regulations for Subdivision Streets and State Highway Access, Appendix D, Plan Review Checklist, pages D-2 and D-3.

**Department of Natural Resources and Environmental Control – Contact Bahareh Van Boekhold 735-3495**

#### **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.

### **Water Supply.**

- The project information sheets state water will be provided to the project by The Town of Milton via a public water system. DNREC records indicate that the project is located within the public water service area granted to The Town of Milton under Certificate of Public Convenience and Necessity 91-CPCN-08.

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.

### **Sediment and Stormwater Program.**

- A detailed sediment and stormwater plan will be required prior to any land disturbing activity taking place on 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 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.

### **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.

There is one SIRS site within a ½ miles radius of the property in question:

- Former Milton Riverfront Site (DE-1517) is located 0.42 miles south-east, of the project property. The Site is a formerly used as a poultry processing plant beginning in 1960. Later the Gibbs Paint Company used the property for storage. The Emergency Response team discovered sixty 55 gallon drums while responding to a complaint in October 2003.

The drums were removed in January 2004. A Brownfield Investigation was conducted in 2012 and a 2,000 gallon heating fuel tank was removed from the site. The Site is currently being investigated. An Environmental Covenant that restricts the land use to industrial or commercial will be issued for the site

**Tank Management.**

- 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:
  - Milton Manufacturing, Facility: 5-000792, Project: S9301010 (Inactive)
  - Former Medical Office, Facility: 5-001068, Project: S1201007 (Inactive)
  - Youngs Funeral Home, Facility: 5-001022, Project: S0609106 (Inactive)
  - HO Brittingham Elementary School, Facility: 5-000336, Project: S9107132, S9907146 (Inactive)
  
- No environmental impacts are anticipated; however, 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

**Air Quality**

- The applicant shall comply with all applicable Delaware air quality regulations. Please note that the following regulations in Table 1 – Potential Regulatory Requirements may apply to your project:

<b>Table 1: Potential Regulatory Requirements</b>	
<b>Regulation</b>	<b>Requirements</b>

<b>7 DE Admin. Code 1106</b> – Particulate Emissions from Construction and Materials Handling	<ul style="list-style-type: none"> <li>• Use dust suppressants and measures to prevent transport of dust off-site from material stockpile, material movement and use of unpaved roads.</li> <li>• Use covers on trucks that transport material to and from site to prevent visible emissions.</li> </ul>
<b>7 DE Admin. Code 1113</b> – Open Burning	<ul style="list-style-type: none"> <li>• Prohibit open burns statewide during the Ozone Season from May 1-Sept. 30 each year.</li> <li>• Prohibit the burning of land clearing debris.</li> <li>• Prohibit the burning of trash or building materials/debris.</li> </ul>
<b>7 DE Admin. Code 1135</b> – Conformity of General Federal Actions to the State Implementation Plan	<ul style="list-style-type: none"> <li>• Require, for any “federal action,” a conformity determination for each pollutant where the total of direct and indirect emissions would equal or exceed any of the de minimus levels (See Section 3.2.1)</li> </ul>
<b>7 DE Admin. Code 1141</b> – Limiting Emissions of Volatile Organic Compounds from Consumer and Commercial Products	<ul style="list-style-type: none"> <li>• Use structural/ paint coatings that are low in Volatile Organic Compounds.</li> <li>• Use covers on paint containers when paint containers are not in use.</li> </ul>
<b>7 DE Admin. Code 1144</b> – Control of Stationary Generator Emissions	<ul style="list-style-type: none"> <li>• Ensure that emissions of nitrogen oxides (NO<sub>x</sub>), non-methane hydrocarbons (NMHC), particulate matter (PM), sulfur dioxide (SO<sub>2</sub>), carbon monoxide (CO), and carbon dioxide (CO<sub>2</sub>) from emergency generators meet the emissions limits established. (See section 3.2).</li> <li>• Maintain recordkeeping and reporting requirements.</li> </ul>
<b>7 DE Admin. Code 1145</b> – Excessive Idling of Heavy Duty Vehicles	<ul style="list-style-type: none"> <li>• Restrict idling time for trucks and buses having a gross vehicle weight of over 8,500 pounds to no more than three minutes.</li> </ul>

For a complete listing of all Delaware applicable regulations, please look at our website: <http://www.awm.delaware.gov/AQM/Pages/AirRegulations.aspx>.

#### Soils Assessment.

- Based on soils survey mapping update, the following soil mapping units (Figure 1) were mapped in subject parcel(s):
  - 1) Ingleside(IgA) - well drained
  - 2) Ingleside-Urban land complex (IuB) - Well-drained soils that have been extensively modified by filling and grading practices.



Figure 1: NRCS soil mapping update in the immediate vicinity of the proposed project

**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 multi-family residential site, 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 multi-family residential structures will require automatic sprinkler protection installed.
- Residential Use buildings not greater than 10,000 sqft and not more than 4-stories in height are permitted to be sprinkler protected using a “residential” sprinkler arrangement, commonly known as a “13-R” type sprinkler system.
- Show Fire Department Connection location (Must be within 300 feet of fire hydrant), and detail as shown in the DSFPR.
- Where required, 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.
- No parking permitted in the vicinity of fire hydrants.

**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.

Department of Transportation – Contact Bill Brockenbrough 760-2109

- Because the proposed development would generate more than 200 vehicle trips per day, the developer should expect a Pre-Submittal Meeting to be required before of plans are submitted for review. Guidance on what will be covered at this meeting and how to prepare for is located at [http://www.deldot.gov/information/business/subdivisions/Pre-Submittal\\_Meeting\\_Requirements.doc](http://www.deldot.gov/information/business/subdivisions/Pre-Submittal_Meeting_Requirements.doc). The form needed to request this meeting is available at [http://www.deldot.gov/information/business/subdivisions/Meeting\\_Request\\_Form.doc](http://www.deldot.gov/information/business/subdivisions/Meeting_Request_Form.doc).
- The developer should expect a requirement that a note be added concerning the maintenance responsibility of the sidewalk on Mulberry Street, “The sidewalk shall be the responsibility of the developer, the property owners or both within this development. The State assumes no responsibility for the future maintenance of the sidewalk.”
- There is an existing crosswalk on Mulberry Street, near the south end of the property’s frontage, serving the H.O. Brittingham Elementary School. We recommend that a path connecting to the development’s internal sidewalks be provided.
- The concept plan shows a pedestrian path leading south out of the parking lot to Clifton Street. The 20-foot right-of-way in which this path would be built already exists and is an extension of Reed Street, an existing alley that runs from Clifton Street to Broad Street. We recommend that instead of the proposed path, consideration be given to extending Reed Street north to connect to the parking lot. Doing so would provide for pedestrian access in much the same way that the path would, but would also provide a secondary access for service, delivery and emergency vehicles.

Department of Natural Resources and Environmental Control – Contact Bahareh Van Boekhold 735-3495

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

- In response to concerns about the need for reducing nonpoint source nutrient (nitrogen and phosphorus) and bacterial pollutants to levels sufficient to meet the TMDL reduction requirements prescribed for waters of the greater Broadkill River Basin, a multifaceted and comprehensive process known as a Pollution Control Strategy (PCS) was developed. Specifically, a PCS is a combination of best management practices and control technologies that reduce nutrient and bacterial pollutant runoff loading in waters of a given watershed to level(s) consistent with the TMDL(s) reduction levels specified for that watershed. The PCS for the Broadkill River watershed consists of recommendations from the following three areas: agriculture, stormwater, and wastewater. Although the Pollution Control Strategy (PCS) has been established for the Broadkill watershed,

realization of the TMDL load reduction requirements are hampered by the fact that PCSs' strategies are entirely voluntary in nature. Additional information about Broadkill River PCS can be reviewed in the follow web link: <http://www.dnrec.delaware.gov/swc/wa/Pages/WatershedManagementPlans.aspx>

DNREC strongly encourages the applicant reduce nutrient and bacterial pollutants through voluntary implementation of the following recommended BMPs:

- Applicant should calculate post-construction surface imperviousness with all forms of created surface imperviousness (e.g., rooftops, driveways, parking lots, sidewalks, roads, and open-water storm water management structures) included in the calculation.
- The applicant's intention to use an open-water management structure(s) and a parking area(s) to meet open-space requirements is strongly discouraged and not considered an acceptable best management practice.
- Since this project will create additional impervious surface that will increase the probability for increased pollutant load runoff impacts to adjoining streams and wetlands, we strongly encourage the use of pervious paving materials (instead of conventional asphalt and concrete) to mitigate such 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. Please contact Lara Allison at 739-9939 for further information about rain gardens.
- 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 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 John Martin or Jen Walls at 302-739-9939 for more information on the protocol.

**Additional information on hazardous waste sites.**

- DNREC's Site Investigation and Restoration Section (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 TMS. If any ASTs greater than 12,500 gallons are installed, they are also subject to installation approval by the TMS.

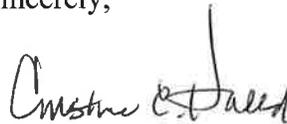
Delaware State Fire Marshall's Office – Contact Duane Fox 739-4394

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](http://www.statefiremarshal.delaware.gov) technical services link, plan review, applications or brochures.

**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: Town of Milton