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April 23, 2007

Constance C. Holland, AICP  
Director, Office of State Planning Coordination  
122 William Penn Street  
Haslett Armory, Suite 302  
Dover, DE 19901

Re: PLUS review – PLUS 2007-01-08; Stopyra Lands

Dear Ms. Holland:

I am writing in response to your PLUS comment letter dated February 21, 2007 regarding the above matter. This will constitute the applicant's written response in accordance with Title 29, Section 9204(d) of the Delaware Code.

At the outset, please note that the total site includes approximately 171 acres of land, not 54 acres as your letter seems to imply. Please also note that rather than responding to your letter's executive summary and the complete list of comments, this letter will respond only to the formal comments.

- **Office of State Planning Coordination Comments**

The site is actually composed primarily of a Level 2 area lands pursuant to the Strategies For State Policies And Spending update approved by Executive Order #69 on September 23, 2004 ("Strategies"). Level 2 areas are those which are targeted for commercial and higher density residential growth. In fact the area that the proposed development plan shows as being improved with a commercial shopping center is in such an area. Therefore, that component of the project is in full conformance with the recommendations of the State.

The residential component of the site is proposed for medium density residential development, which is very much in keeping with the Strategies' Level 2 and 3 designations of that portion of the site. The proposed development plan calls for more than 40 acres of open space, particularly focused along the White Clay Creek corridor. In addition, the 10,000 square foot lot residential development proposed is completely consistent with the abutting residential subdivisions of Chapel Hill, Creek Bend, and Ridgewood Glen.

We have been in contact with the City of Newark Planning Department, particularly its director Roy Lopata, since last November. The City has indicated that it will apply for the *de minimis* modification to the Adjacent Area Plan component in its 2003 Comprehensive Development Plan in order to modify the commercial designation for the property from "light" to "auto oriented," in order to provide for Comprehensive Development Plan consistency. The commercial development proposed is consistent with the commercial nature of the Kirkwood Highway/Possum Park Road intersection, which is currently occupied by fast-food restaurants and commercial retail establishments. Higher-intensity development is also appropriate at this site since the area already has thousands of acres of active and passive parks and open space.

- **Division of Historical and Cultural Affairs**

We appreciate the historical background information, and recognize the need to sensitively review the site before development commences. The comment regarding "nearby historic houses" is a bit puzzling, however, since there was no indication at the PLUS meeting that there were any historic houses within the direct vicinity of the site. The only historic properties mentioned at the PLUS meeting was a home located on Old Possum Park Road, which is of course already impacted by the directly adjacent Holy Angels Church, school, and sports complex, as well as the Wendy's fast food restaurant and real estate offices. Regardless, appropriate landscaping will be put in place in accordance with the requirements of the Newark City Code.

- **Department of Transportation**

- 1) It is correct that a .5 +/- acre parcel located along Kirkwood Highway (a/k/a Old Capitol Trail) is owned by a private individual. We are in the process of attempting to acquire this parcel, but will exclude it if those efforts are not successful.
- 2) We will be pleased to discuss the necessary and appropriate right-of-way dedications in the context of the traffic impact study, any necessary road improvements resulting therefrom, and the overall development impact picture.
- 3) A traffic impact study will be required at the subdivision development plan stage of the process in accordance with the Newark City Code.
- 4) a) A second street connection across the stream will be evaluated and implemented if feasible.  
b) We have reviewed the subdivision plan for the abutting Chapel Hill development, and do not find any stub street connection to the site. A stub street does exist in the abutting Creek Bend subdivision, and the Newark

Planning Department has requested that we interconnect the Stopyra residential community with the existing Creek Bend development. We intend to comply with the City's request.

- c) A bike/ped connection between the residential and commercial projects will be added.
- 5)
  - a) Lighting issues will be addressed, but matters of that great detail go beyond the scope of the development plan. Bike racks will be provided in the shopping center.
  - b) As mentioned at the PLUS meeting, the truck access issue will be revised in the next iteration of the Development Plan.
  - c) Pedestrian crosswalks will be demarcated in the shopping center.
  - d) Discouraging cut-through traffic between Possum Park Road and Kirkwood Highway will be evaluated in the context of the overall parking lot configuration modifications that will be affected based on b) and c) above.
- 6) Pedestrian traffic from the other side of Possum Park Road will be taken into account in the site access location decision, to the extent that it is permissible given the parameters of the flow needs for the shopping center and under the DelDOT Standards And Regulations For Access To State Highways.
- 7) We will contact Mr. Lin to further discuss entrance location issues.

- **The Department of Natural Resources and Environmental Control**

- **Office of Nature Preserves.**

It is difficult to respond to this "comment", which appears to be more of a political and personal statement by Ms. Butler of DNREC. The PLUS process is intended to be an opportunity for State agencies to comment, not to proselytize. The City of Newark's development code is what it is and the criticism of the Plan based upon a matter over which the applicant has no control seems both inappropriate and unfair.

We strongly object to the adversarial nature of the Office of Nature Preserves' PLUS comments. A formal complaint has been submitted to the DNREC Office of Nature Preserves by legal counsel in this regard. The fact of the matter is that there are over 4,000 acres of State, County and City parks and open space in the area, making it one of the most parkland and natural resource rich locations in all of Northern New Castle County.

**Soils.**

We will take these recommendations into account. Many of the points raised will need to be addressed under the Newark City Code.

**Fish and Wildlife.**

DNREC again improperly states that it is "opposed" to the project rather than making comment on it is supposed to only make recommendations. The plan is only in the concept stage. DNREC is jumping the gun.

The requirements of the Newark City Code will be complied with. DNREC has no jurisdiction to comment on forest matters. Jurisdiction over forests and woodlands has been exclusively granted to the Department of Agriculture under Title 3, § 1011, and the Department of Agriculture has no forest related comments.

**Rare Species.**

No response requested.

**Bog Turtle.**

Once again, we will comply with all applicable Newark City Code requirements, as well as all federal and state laws.

**Unique Wetlands type.**

No response is requested.

**Forest Loss.**

See prior response regarding forests under "Fish and Wildlife" above. Only the Department of Agriculture has jurisdiction over such issues, and they have no such comments. All applicable Newark City Code, federal and state laws will be complied with.

**Wetland Buffer.**

All applicable Newark City Code, federal and state laws with respect to wetland protection will be complied with.

**Sediment and Stormwater.**

We will comply with the Delaware Sediment and Stormwater Regulations. We will submit the documents necessary to comply with the National Pollutant Discharge Elimination System ("NPDES") under the federal Clean Water Act.

**Water.**

We will check on the issue of Newark city water service availability. We will also comply with all applicable legal requirements if dewatering is needed during the course of construction. No well permits are anticipated to be needed since the property will be serviced by public water.

**Impervious Services and BMPs.**

All Newark City Code, federal and state laws will be followed. The comments that go beyond the legal requirements will be taken into account and adopted where appropriate.

**TMDL reduction requirements.**

This project will not discharge pollutants into the White Clay Creek.

**TMDL compliance through the PCS.**

See TMDL comment above.

**Site Investigation and Restoration Branch.**

No response requested.

**Air Quality.**

No response requested.

**State Fire Marshal's Office.**

The Fire Marshal's comments will be incorporated into the Plan as required by law.

**Department of Agriculture.**

We will take the comments into account when preparing the landscaping plan for the site.

**Public Service Commission.**

No response requested.

**Delaware State Housing Authority.**

No response requested.

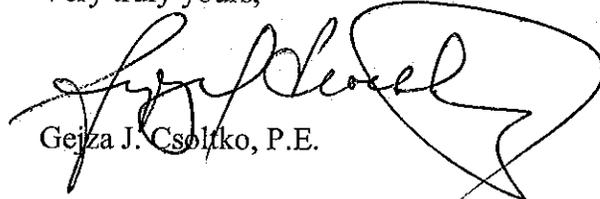
**Department of Education.**

We will communicate with the Christina School District during the development plan stage of the approval process.

Constance C. Holland  
April 23, 2007  
Page 6

The application for annexation has already been filed with the City of Newark.  
We believe this letter fully addresses the PLUS comments.

Very truly yours,

A handwritten signature in black ink, appearing to read "Gejza J. Csoltko". The signature is fluid and cursive, with a large, sweeping flourish at the end that loops back towards the middle of the name.

Gejza J. Csoltko, P.E.

cc: Mr. Frank E. Acierno  
City of Newark Planning Department  
Richard L. Abbott, Esquire