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March 27, 2013

Delaware Office of State Planning  
122 Martin Luther King Jr. Blvd.  
South Haslet Armory, 3<sup>rd</sup> Floor  
Dover, DE 19901

Attn: Ms. Constance Holland, AICP

RE: PLUS Review – 2013-02-02  
Pleasant Valley Crossings  
Parcel No. 1102600011  
New Castle County, Delaware  
VCEA #12-01-NCC

Dear Ms. Holland:

We have received the PLUS comments from your office dated March 26, 2013 for the above referenced project and offer the following responses for your consideration.

### **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 archaeological site or National Register-listed property on this parcel. However, if any development project does proceed on this parcel, it is still important that the developer 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

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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: *Noted.*

[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. 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). *Noted.*

#### **Department of Transportation – Contact Bill Brockenbrough 760-2109**

- The proposed development appears to meet DelDOT's volume-based criteria, found in Section 2.3.2 of the Standards and Regulations for Subdivision Streets and State Highway Access, for recommending that a Traffic Impact Study (TIS) be required (400 vehicle trips per day or 50 vehicle trips per hour). However, given the project's location in the US Route 40 Corridor, the applicant may be able to obtain a waiver of that requirement based on their location in an area similar to a Transportation Improvement District. As New Castle County has a similar warrant for requiring TIS, with respect to the peak hour trip generation, we recommend that the applicant apply for a waiver of the County's requirement. If the County will waive their

requirement, DelDOT will likely waive theirs. If they will not, DelDOT will support the County in requiring one. ***It is our intent to request a traffic study waiver.***

- While the applicant proposes to use existing access points on US Route 40, the proposed development will add traffic to those access points. For that reason, DelDOT will require the applicant to obtain a Letter of No Objection and entrance plan approval. ***We will submit the plans to DelDOT to request a Letter of No Objection as required.***

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

#### **TMDLs**

- 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 Christina River Basin, specifically within the Christina River watershed. In the Christina River watershed, post-development nitrogen and phosphorus loading must be capped at the predevelopment 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 29-95% (depending on location) 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) ***Noted.***

- In response to concerns about the need for reducing nonpoint source nutrient (nitrogen and phosphorus) and bacterial pollutants to levels sufficient to meet the prescribed TMDL reduction requirements in Delaware’s portion of the Christina River Basin (includes the following sub-basins or watersheds: Brandywine Creek, White Clay Creek, Red Clay Creek & Christina River), a multifaceted and comprehensive process known as a Pollution Control Strategy (PCS) has been developed to facilitate such reductions. 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 Christina River watershed consists of 41 recommendations from the following four areas: stormwater, open space, wastewater, and agriculture. Additional information about Christina River PCS is available from the following web link: ***Noted.*** <http://www.dnrec.delaware.gov/swc/wa/Pages/ChristinaBasin.aspx>

#### **Water Supply**

- The project information sheets state water will be provided to the project by Artesian Water Company via a central 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. *No response required.*
- 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. *Noted.*
- 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. *Noted.*

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 a significant portion of the western side of project falls within a wellhead protection area for Artesian Water Company (Eastern States). In addition, a significant portion of the northern portion of the project falls within a Level 2 Source Water Protection Area (Christina River Basin) for New Castle County (see map). No excellent groundwater protection areas were identified. 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 public drinking water system. *We are working on a design which will have to be approved by RPATAC to provide a recharge balance on the site.*
- Wellhead protection areas are surface and subsurface areas surrounding a public water supply well where land use activities or impervious cover may adversely affect the quantity and quality of ground water moving toward such wells. *No reply required.*
- In addition, because the wellhead protection area is an existing source of public drinking water and the excellent ground-water recharge area so readily affects the underlying aquifer, the storage of hazardous substances or wastes should not be allowed within these areas unless specific approval is obtained from the relevant state, federal, or local program. *We do not anticipate the storage of hazardous substances or wastes on the site.*
- DNREC recommends referring to the New Castle County Unified Development Code for regulations regarding development in these areas. *We will comply with the relevant regulations.*

### **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) ***The plans will be submitted to New Castle County for a full plan review.***

### **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. ***Noted***
- There is one SIRS site and one salvage yard within a ½ miles radius of the property in question: ***Noted***
  - Betts Garage Salvage Yard is located adjacent to the east of the property. This property is currently not a SIRS site. However salvage yards are historically known to pose risk to human health and the environment. Based on the previous industrial use of the adjacent property, which may have involved the use of hazardous substances, SIRS recommends that a Phase I Environmental Site Assessment be performed prior to development.
  - Taylor Landfill (DE-0089) is located 0.04 miles to the north (across Pulaski Highway) of the property. A Preliminary Assessment was performed on the Site in 1989 with a Site Investigation soon after. The Site was turned over to the Solid and Hazardous Waste Section in February 1994 and deleted from the HSCA list of SIRS sites. The Site was closed and archived in February of 2012.

### **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 UST facility is currently registered and located within the project parcel: ***Noted.***
  - Royal Farms #160, Facility: 3-002551. No LUST projects are associated with this facility; however, it should be noted that approximately 50% of the project parcel

falls within the boundaries of the “AWC Eastern States” wellhead protection area (WHPA), so extra measures should be taken to ensure no impacts to groundwater are imposed on this parcel.

• The following confirmed leaking underground storage tanks (LUST) projects are located within a quarter mile of the project boundary: *Noted.*

- Kohl’s Department Store Newark, Facility: 3-002195, Project: N0207058 (Inactive)
- Glasgow Auto Body, Facility: 3-002516, Project: N1101005 (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: *Noted.*
  - 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): *The plan and application package submitted to the SFMO will be compliant with the below listed requirements.*

• **Fire Protection Water Requirements:**

- Water distribution system capable of delivering at least 1500 gpm for 2-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 Mercantile 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 square feet 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 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. Access roads 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**

**Department of Transportation – Contact Bill Brockenbrough 760-2109**

- DeIDOT reminds the applicant that the trip generation diagram for their entrance plan will need to include the intersection of US Route 40, Pleasant Valley Road and the Private Drive and will need to include traffic on the Private Drive associated with the existing Royal Farms convenience store. *The trip generation diagram has been updated.*

- DelDOT recommends that the applicant have their site engineer contact our Subdivision Manager for this part of New Castle County, Mr. Joshua Schwartz, to discuss the requirements with regard to site and entrance plans. While DelDOT has no further comments on the plan presented here, they may have some as development of the plan progresses. Mr. Schwartz may be reached at (302) 760-2768. *We will be in contact with Mr. Schwartz as the project progresses.*

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

**Soils Assessment**

- Based on soils survey mapping update, Nassawango (NsB) is the only mapping unit mapped by NRCS in the immediate vicinity of the proposed project. Nassawango is well-drained and has few limitations for development (See figure 1). *Noted.*

**Additional information on TMDLs and water quality**

- A Pollution Control Strategy (PCS) to achieve the required TMDL nutrient and bacterial load reduction requirements has been established for the Christina River watershed. The web link for the Christina PCS strategies is as follows: *We will be implementing various BMP's on site to manage the stormwater runoff and the associated TDMLs.*

<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:
- DNREC recommends that the applicant 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.
- Since this project that will likely generate large amounts of impervious cover, we advise - wherever practicable - the use of pervious paving materials (instead of conventional asphalt and concrete in roads and parking areas) as a BMP(s) to help reduce the impacts of surface runoff.
- DNREC also 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 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. DNREC strongly encourages the applicant/developer use this protocol to help them design and implement the most effective BMPs. Please contact the Watershed Assessment Section at 302-739-9939 for more information on the protocol.

#### **Additional information on hazardous waste sites**

- The 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.

*Noted.*

- 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. *Noted.*

#### **Additional information on tank management**

*Noted.*

- 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.
- Should the municipality anticipate being more restrictive than Delaware's Regulations Governing Underground Storage Tank Systems or Delaware's Regulations Governing Aboveground Storage Tanks, please be aware that the municipality shall be responsible for enforcing the more restrictive rules.

#### **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

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brochures. *A meeting will be scheduled as the project progresses through the design and approval process.*

Please feel free to contact me with any question regarding our responses above or the project in general.

Sincerely,

Scott Lobdell, P.E.