



September 26, 2017

C 859-2

Ms. Constance C. Holland
Director
Office of State Planning Coordination
122 Martin Luther King Boulevard, South
Third Floor
Dover, DE 19901

Dear Ms. Holland:

**SUBJECT: 3701 CONCORD PIKE
PLUS REVIEW 2017-08-07
NEW CASTLE COUNTY APPLICATION NO. 2017-0377-S/Z**

We offer the following in response to your letter of September 21, 2017 as follows below in bold print.

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.
Understood.

Code Requirements/Agency Permitting Requirements
Department of Transportation

- The site access on Concord Pike and Prospect Avenue must be designed and rebuilt in accordance with DelDOT's Development Coordination Manual (formerly the Standards and Regulations for Subdivision Streets and State Highway Access), which is available at <http://www.deldot.gov/information/business/subdivisions/changes/index.html>. **We will meet with DelDOT to discuss existing entrances as any revisions to the existing entrance on Concord Pike will have a negative impact on the movement of vehicles within the property.**

- Per Section 2.2.2.1 of the Development Coordination Manual, Traffic Impact Studies (TIS) are warranted for developments generating more than 500 vehicle trip ends per day or 50 vehicle trip ends per hour in any hour of the day. The proposed development does not meet those warrants and a TIS is not required by DelDOT. It does not appear to meet New Castle County's TIS warrants either. **We agree that a TIS is not warranted.**
- Pursuant to Section P.3 of the Manual, DelDOT may require a Pre-Submittal Meeting before plans are submitted for review for any development generating 200 or more trips per day or requiring work to be done in the right-of-way. DelDOT does not presently anticipate the need for a Pre-Submittal Meeting. **Understood**
- Section P.5 of the Manual addresses fees that are assessed for the review of development proposals. DelDOT anticipates collecting the Initial Stage Fee when the record plan is submitted for review and the Construction Stage Fee when construction plans are submitted for review. **Understood**
- Reflective of the right-of-way dedications discussed below, right-of-way monuments should be placed along the site's frontage on both Concord Pike and Prospect Avenue in accordance with Section 3.2.4.2. of the Manual, to provide a permanent reference for re-establishing the right-of-way and property corners along frontage roads. Due to the right-of-way dedication, show and note the property corners markers that will need to be installed. **We will meet with DelDOT to discuss right-of-way as any dedication will have a negative impact on the existing buildings.**
- As necessary, in accordance with Section 3.2.5 and Figure 3.2.5-a of the Manual, DelDOT will require dedication of right-of-way along the site's frontage on both Concord Pike and Prospect Avenue. By this regulation, this dedication is to provide a minimum of 30 feet of right-of-way from the outer edge of the outside travel lane on Concord Pike and from the centerline on Prospect Avenue. The following right-of-way dedication note is required, "An X-foot wide right-of-way is hereby dedicated to the State of Delaware, as per this plat." DelDOT anticipates making an exception in these regards to address the existing corner commercial building (3701 Concord Pike). The applicant's engineer should contact DelDOT's Subdivision Review Coordinator for New Castle County, Ms. Erin Osborne, to discuss the details of this exception. Ms. Osborne may be reached at (302) 760-2128. **We will meet with DelDOT to discuss an exception for dedicating right-of-way due to the negative impact on the existing buildings.**

- In accordance with Section 3.2.5.1.2 of the Manual, DeIDOT will require the establishment of a 15-foot wide permanent easement across the property frontage on Concord Pike. 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.**" DeIDOT anticipates making an exception in this regard to address the existing corner commercial building (3701 Concord Pike). The applicant's engineer should contact DeIDOT's Subdivision Review Coordinator for New Castle County, Ms. Erin Osborne, to discuss the details of this exception. Ms. Osborne may be reached at (302) 760-2128. **We will meet with DeIDOT to discuss the exception for the permanent easement due to the negative impact on the existing buildings.**

- In accordance with Section 3.4 of the Manual, a record plan shall be prepared prior to issuing "Letter of No Objection". The following information will be required and should be submitted through DeIDOT's PDCA Plan Submittal Process for the "Letter of No Objection" review:
 - o Initial Stage Fee Calculation Form
 - o Initial Stage Review Fee
 - o Gate-Keeping Checklist-Site Plan
 - o Design Checklist - Record Plan
 - o Sight Distance Spreadsheet
 - o Owners and Engineers' name and e-mail address
 - o Record Plan
 - o Conceptual Entrance Plan
 - o Submission of the Area-Wide Study Fee (if applicable)**We understand the requirements**

- Per Section 3.4.2 of the Manual, the record plan submission should also include a turning template for the largest vehicle that would use the entrance to verify that such vehicles can safely enter and exit. See also Sections 5.2.3 and 5.2.6 of the Manual. **We will work with DeIDOT to provide the appropriate information.**

- Referring to Section 3.4.2.1 of the Development Coordination Manual, the Record Plan should depict all existing entrances and within 450 feet of the existing entrance on Concord Pike and within 300 feet of the proposed entrance on Prospect Avenue. **We will work with DeIDOT to provide the appropriate information.**

- As per the Delaware Strategies for State Policies and Spending, this development is in Investment Level 1. Referring to Section 3.5.4.2.A of the Manual, developments in Level I and 2 Areas are required to install a sidewalk or Shared Use Path. If a physical impossibility exists, a fee in lieu of construction is required but DelDOT see no such impossibility in this instance. The sidewalk shown on the Exploratory plan appears to meet this requirement. **Agreed.**
- Referring to Section 4.3 of the Manual, an entrance plan shall be prepared prior to issuing entrance approval. The following information will be required for Entrance Plan review: **We will meet with DelDOT to discuss existing entrances and any adjustment to those entrances.**
 - o Construction Stage Fee Calculation Form
 - o Construction Review Fee
 - o Gate-Keeping Checklist - Entrance Plan
 - o Design Checklist - Entrance Plan
 - o Auxiliary Lane Spreadsheet
 - o Entrance Plan
 - o Pipe/Angle Spreadsheet (If applicable)
 - o SWM Report and Calculations (If applicable)
- In accordance with Section 5.2.5.6 of the Manual, a separate turning template plan shall be provided to verify vehicles can safely enter and exit the site entrances. As per Section 5.2.3 of the Manual, the entrances shall be designed for the largest vehicle using the entrance. **We will meet with DelDOT to discuss this request.**
- In accordance with Section 5.2.9 of the Manual, the Auxiliary Lane Worksheet should be used to determine whether auxiliary lanes are warranted at the site entrances and how long those lanes should be. The worksheet can be found at http://www.deldot.gov/information/business/subdivisions/auxiliary_lane_worksheet.xls. **We will meet with DelDOT to discuss the request.**
- In accordance with Section 5.4 of the Manual, sight distance triangles are required and shall be established in accordance with American Association of State Highway and Transportation Officials (AASHTO) standards. A spreadsheet has been developed to assist with this task. It can be found at <http://www.deldot.gov/information/business/subdivisions/Intersection-Sight-Distance.xls> **We will work with DelDOT to discuss the request.**

- In accordance with Section 5.14 of the Manual, all existing utilities must be shown on the plan and a utility relocation plan will be required for any utilities that need to be relocated. **Understood.**

**Department of Natural Resources and Environmental Control – Contact Michael
Tholstrup 735-3352**

Executive Summary.

The new alignment and redevelopment of this parcel will create opportunities to preserve natural resources while reducing the environmental impact on-site. As discussed at the PLUS meeting, DNREC are encouraged to see your plan to increase open space and improving pedestrian access. DNREC further recommend using green (nature-based) infrastructure, pervious pavement, as well as bike racks. **Comment understood.**

The State of Delaware is threatened by climate change and has a goal of reducing greenhouse gas emissions by 30 percent by 2030. Appropriate development and re-development that provides access to public transportation, opportunities to walk and bike to shopping and recreation, and that employs energy efficient building standards are among key strategies to meet these goals.

DNREC encourage the use of high performance building standards and consideration of alternative energy sources to promote clean sustainable energy and reduce greenhouse gas emissions. This could mean taking advantage of solar and geothermal systems, and/or including infrastructure for electric vehicle charging stations (funding assistance may be found at www.de.gov/cleantransportation). DNREC further recommend an abundant use of native vegetation and shade trees throughout the landscape to absorb carbon dioxide, protect water quality and provide relief to customers and residents on hot days. **Comment understood.**

The following pages provide information about applicable regulations and detailed recommendations associated with this project, from various DNREC Divisions. DNREC would like to be a partner in creating appropriate development that protects and highlights the environment as a natural amenity of the landscape. The Department has resources and expertise that are available to help make this a reality, often at no expense to the landowner.

Water Quality: TMDLs.

- The project is located in the greater Piedmont drainage area, specifically within the Shellpot Creek watershed. In the Shellpot Creek watershed, post-development nitrogen and phosphorus loading must be capped at the pre-development or baseline loading rate (or a 0 percent post-development increase in nitrogen & phosphorus for stream

segments above Rt. 13) to meet the required Total Maximum Daily Load (TMDL) for each nutrient. Moreover, bacteria must be reduced by 78 percent to meet the required TMDL. The State of Delaware has developed the specific TMDL pollutant reduction targets for nutrients, and bacteria under the auspices of Section 303(d) of the Federal Clean Water Act. A TMDL is the maximum level of pollution allowed for a given pollutant below which a "water quality limited waterbody" can assimilate and still meet State water quality standards (*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 specific required nutrient and bacterial requirements for the various stream segments watershed and background information can be retrieved here: <http://www.dnrec.delaware.gov/lswc/wa/Pages/WatershedAssessmentTMDLs.aspx>
Comment understood.

- A nutrient management plan is required under the *Delaware Nutrient Management Law (3 Del. C., Chapter 22)* for all persons or entities who apply nutrients to lands or areas of open space in excess of 10 acres; the area of open space may exceed this 10 acre threshold. Please contact the Delaware Nutrient Management Program at (302) 739-4811 for further information concerning compliance requirements, or view additional information here: <http://dda.delaware.gov/nutrients/index.shtml> **As disturbance is less than 1 acre and the impervious coverage increase is limited, this plan will comply with a Standard Plan Application.**

Water Supply.

- 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. **No underground construction.**
- 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 four weeks to process, which allows the necessary time for technical review and advertising. **No wells; project has public water.**
- 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: M&E Auto Service Center located within 1,000 feet of the proposed project. Should you have any questions concerning these comments, please contact Rick Rios, at (302) 739-9944. **Comment understood.**

Sediment and Erosion Control/Stormwater Management

- 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 pre-application meeting to discuss the sediment and erosion control and stormwater management components of the plan. 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. **Comment understood and Erosion & Sediment Control will be addressed on the construction plans.**

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: **Comment understood.**

Table 1: Potential Regulatory Requirements	
Regulation	Requirements
7 DE Admin. Code 1102 – Permits	<ul style="list-style-type: none"> • This regulation establishes air quality analysis, control technology, permitting, and public and EPA notice/comment requirements for large stationary sources of air pollutants.
7 DE Admin. Code 1106 - Particulate Emissions from Construction and Materials Handling	<ul style="list-style-type: none"> • Use dust suppressants and measures to prevent transport of dust off-site from material stockpile, material movement and use of unpaved roads. • Use covers on trucks that transport material to and from site to prevent visible emissions.

Regulation	Requirements
7 DE Admin. Code 1125 - Requirements for Preconstruction Review	<ul style="list-style-type: none"> Facilities should consult with the Division of Air Quality, Engineering and Compliance Branch early in the process if preconstruction permits. Under 7 DE Administrative Code 1125 may be triggered.
7 DE Admin. Code 1141 - Limiting Emissions of Volatile Organic Compounds from Consumer and Commercial Products	<ul style="list-style-type: none"> Use structural/ paint coatings that are low in Volatile Organic Compounds. Use covers on paint containers when paint containers are not in use.
7 DE Admin. Code 1144 - Control of Stationary Generator Emissions	<ul style="list-style-type: none"> Ensure that emissions of nitrogen oxides (NO_x), non-methane hydrocarbons (NMHC), particulate matter (PM), sulfur dioxide (SO₂), carbon monoxide (CO), and carbon dioxide (CO₂) from emergency generators meet the emissions limits established. (See section 3.2). Maintain recordkeeping and reporting requirements .
7 DE Admin. Code 1145 - Excessive Idling of Heavy Duty Vehicles	<ul style="list-style-type: none"> Restrict idling time for trucks and buses having a gross vehicle weight of over 8,500 pounds to no more than three minutes.

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

Recycling.

- Delaware Law (7 Del. C. §6053) and Regulations (7 Del. Admin. C. §1305) specify that the 'commercial sector' shall participate in a comprehensive recycling program. As such, all those involved with the planning of new development should give consideration to space for collection of recyclables that would be typically generated. For example, space for a recycling dumpster should be provided adjacent to each trash dumpster. For more information or assistance related to recycling requirements, benefits, tools, and assistance, please call (302) 739-9403. **Comment understood.**

Tank Management.

- 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 Adm in. Code 1351*, State of Delaware Regulations Governing Underground Storage Tank Systems (UST Regulations) is required. **Understood**
- The following Leaking Underground Storage Tank project is located within a quarter mile of the proposed project area: **Understood**
 - NAPA Auto Parts Avenue Facility ID: 3-001489, Project: N9207194, (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: **Understood**
 - The Department's 24-hour Release Hot Line (800) 662-8802; and
 - The DNREC Tank Management Section (302) 395-2500.
- When contamination is encountered, PVC pipe materials should be replaced with ductile steel and nitrile rubber gaskets in the contaminated areas. **Understood**
- If any aboveground storage tanks (ASTs) less than 12,500 gallons are installed, they must be registered with the Tank Management Section. If any ASTs greater than 12,500 gallons are installed, they are also subject to installation approval by DNREC. **Understood.**
- For more information, please visit online:
http://www.dnrec.delaware.gov/tanks/Pages/default.aspx or contact Ross D. Elliott at (302) 395-2500 or *Ross.Elliott@state.de.us*

State Historic Preservation Office - Contact Terrence Burns 736-7404

- There are no known archaeological sites or National Register listed property on this parcel. Therefore, prior to any demolition or ground-disturbing activities, the developer should hire an archaeological consultant, to examine the parcel for archaeological resources and plan to avoid those sites or areas. **Understood.**

- If there is federal involvement, 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 the following: www.achp.gov. **Understood**

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

- The applicant should expect a requirement that all PLUS and Technical Advisory Committee (TAC) comments be addressed prior to submitting plans for review. **Understood.**
- Please be advised that as of August 1, 2015, all new plan submittals and re-submittals, including major, minor and commercial plans, shall now be uploaded via the PDCA (Planning Development Coordination Application) with any review fee paid online via credit card or electronic check. Guidance on how to do this is available on our website at <http://www.deldot.gov/Business/subdivisions/index.shtml>. **Understood**

- Please be advised that the Standard General Notes have been updated and posted to the DelDOT website. Please begin using the new versions and look for the revision date of July 18, 2017. The notes can be found at <http://www.deldot.gov/Business/subdivisions/index.shtml>. **Understood**

Department of Natural Resources and Environmental Control – Contact

Michael Tholstrup 735-3352

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 Shellpot Creek watershed. DNREC strongly encourage the applicant to reduce nutrient and bacterial pollutants through voluntary implementation of the following recommended best management practices:
 - Maintain as much of the existing open space as possible; DNREC further suggests additional native tree and native herbaceous planting, wherever possible. **Understood.**
 - Use pervious paving materials instead of conventional paving materials (e.g., asphalt or concrete) to help reduce the amount of water and pollutant runoff draining to adjoining streams and wetlands. Pervious pavers are especially recommended for commercial areas designated for parking. **Understood.**
 - Consider the installation of a rain gardens and green-technology stormwater management structures as best management practices to mitigate or reduce nutrient and bacterial pollutant runoff impacts via runoff or discharge from impervious surfaces. **Understood.**
 - 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 resulting from the conversion of individual or combined land parcels to a changed land use; thus providing applicants and governmental entities with quantitative information about the project's impact(s) on baseline water quality. DNREC strongly encourages the applicant/developer use this protocol to design and implement the most effective best management practices. Please contact John Martin of the Division of Watershed Stewardship for more information on the protocol, at (302) 739-9939. **Understood.**

Additional information on air quality.

- New homes and businesses may emit, or cause to be emitted, additional air contaminants into Delaware's air, which will negatively impact public health, safety and welfare. These negative impacts are attributable to: **Understood**
 - Emissions that form ozone and fine particulate matter;
 - The emission of greenhouse gases which are associated with climate change, and
 - The emission of air toxics.
- DNREC encourages sustainable growth practices that: **Understood**
 - Control sprawl;
 - Encourage growth on previously developed sites and denser communities while at the same time protect our diminishing land base;
 - Encourage sustainable development and smart growth scenarios including green infrastructure and shade for parking areas to reduce heat island impacts.
 - Encourage the expansion of Delaware's statewide alternative fueling network with electric vehicle and CNG charging/fueling.
 - Demonstrate that communities can achieve the qualities of privacy, community, and contact with nature without degrading the natural environment or generating unacceptable environmental costs in terms of congestion, use of natural resources, or pollution.
- Should the developer have any questions or concerns, the DNREC Division of Air Quality (DAQ) point of contact is Lauren DeVore, and she may be reached at (302) 739- 9437 or lauren.devore@state.de.us. The applicant is encouraged to contact DAQ to discuss the emission mitigation measures that will be incorporated into the Miller Creek project. DNREC looks forward to working together with you on this project to achieve our shared air quality, healthy community and quality of life goals. **Understood.**

Additional information on recycling and reducing water use.

- Materials and resources utilized for new development should be considered, including regionally available recycled content (i.e. carpet, concrete, countertops, furniture, siding, etc.), rapidly renewable material and certified woods. **Understood**
- Construction Waste Management should include policies which promote efficient material use and recycling of project debris). **Understood.**
- Stormwater Design- Rainwater catchment (usage for landscape watering, toilets)*see water efficiency. **Understood.**

C 859-2
Ms. Constance C. Holland
September 26, 2017
Page Thirteen

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. **Understood.**

If you should have any questions concerning our responses, please contact my office.

Very truly yours,



Ted C. Williams, P.E., FACEC
President

cc: Marco Boyce
Richard Gropper
John Tracey