STATE OF DELAWARE
OFFICE OF MANAGEMENT AND BUDGET
OFFICE OF STATE PLANNING COORDINATION

August 21, 2024

Tiffany Gaston
1392 Wheatleys Pond Road
Smyrna, DE 19977

RE: PLUS review – 2024-07-01; Mother Nurture Composting Services

Dear Ms. Gaston:

Thank you for meeting with State agency planners on July 24th to discuss Mother Nurture Composting Services. According to the information received, you are seeking review of a proposed comprehensive plan amendment to change the future land-use designation on your 4-acre property from Low-Density Residential to Industrial and the associated rezoning of AC (Agricultural Conservation) to I (Industrial) so the land can be used to collect household organic waste from the community to create compost.

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 Kent 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

The proposed rezoning from AC (Agricultural Conservation) to I (Industrial) can't proceed without the associated Kent County comprehensive plan amendment to change the future land-use designation from Low-Density Residential to Industrial. The property is located in unincorporated Kent County outside of the Growth Zone and is within a Level 4 investment area according to the 2020 Strategies for State Policies and Spending.

In general, the Office of State Planning Coordination (OSPC) does not support development in Level 4 areas. This project, however, is a unique case as it supports agriculture. Investment Level 4 indicates where State investments will support agricultural preservation, natural resource protection, and the continuation of the rural nature of these areas. These areas are comprised of prime agricultural lands and environmentally sensitive wetlands and wildlife habitats, which should be, and in many cases have been preserved. As per the State Strategies,

"Investment Level 4 Areas may be the location for certain uses that because of their specific requirements are not appropriate for location elsewhere." Also, "the State's investments and policies should retain the rural landscape, preserve open spaces and farmlands, support farmland-related industries, and establish defined edges to more concentrated development (Page 33, 2020 State Strategies).

In unique circumstances, on a case-by-case basis, OSPC does not object to low-impact land uses in Level 4 areas, if they are consistent with local government comprehensive plans, master plans, or other planning studies, and represent minimal impacts to environmental resources, surrounding land uses, and long-term infrastructure investments. Because the proposed use is low impact and promotes community agriculture, OSPC has no objections to this amendment and associated rezoning, provided it meets the relevant codes and ordinances of Kent County. If future industrial development is proposed on this site, it's possible that an additional PLUS review will be needed.

Code Requirements/Agency Permitting Requirements

Department of Transportation (DelDOT) – Contact Stephen Bayer 302-760-4834

- DelDOT has no comments on the proposed rezoning. DelDOT notes that should the property be developed in the future all relevant reviews and approvals will still be necessary.

Department of Natural Resources and Environmental Control (DNREC) – Contact Beth Krumrine 302-735-3480

Disclaimer Clause: Staff from the Delaware Department of Natural Resources and Environmental Control (DNREC) reviewed the project submitted for PLUS review. The absence of comments does not indicate that there are not additional constraints, nor does it indicate DNREC support of a project, code, or ordinance.

Requirements Identified Within the Development Footprint:

Waste and Hazardous Substances

- While working directly with the Division of Waste and Hazardous Substances as part of the DNREC Regulatory Advisory Service, the applicant was provided the necessary information on the regulatory requirements for those programs. For additional information please contact the Compliance and Permitting Section at 302-739-9403.

Contact: Division of Waste and Hazardous Substances Compliance and Permitting Section at (302) 739-9403.
Website: https://dnrec.delaware.gov/waste-hazardous/management/training/

Industrial Stormwater
Before beginning industrial operation, all individual industrial sites will be required to obtain permit coverage under Delaware's Industrial Stormwater Regulations. Any unpermitted, stormwater discharge affected by industrial activities is considered to be an illicit discharge, a violation of the National Pollutant Discharge Elimination System and the Clean Water Act. Industrial Stormwater Regulations can be found by visiting the DNREC Commercial and Government Services website at: https://dnrec.delaware.gov/water/commercial-government/npdes/industrial-stormwater/.

- A Notice of Intent form or No Exposure form must be submitted and directed to the DNREC Commercial and Government Services Section. Both forms can be found at https://dnrec.delaware.gov/water/commercial-government/npdes/industrial-stormwater/
- The provided North American Industry Classification System (NAICS) code of 325315 corresponds to the Standard Industrial Classification (SIC) code of 2875 – Fertilizers, Mixing Only. This SIC code is regulated under Delaware's Industrial Stormwater Regulations, so the site must seek authorization to discharge.

- A Stormwater Plan is required. The Stormwater Plan can be created by either working with a consultant or utilizing the Stormwater Plan template found at https://documents.dnrec.delaware.gov/Water/NPDES/Stormwater-Plan-Template.pdf

Contact: DNREC Commercial and Government Services Section at (302) 739-9946.
Email: DNREC_ISW@delaware.gov
Website: https://dnrec.delaware.gov/water/commercial-government/npdes/industrial-stormwater/

Stormwater Management
The project proposes greater than 5,000 square feet of land disturbing activities and will be subject to Delaware's *Sediment and Stormwater Regulations*.

- A Sediment and Stormwater Plan must be developed, then approved by the appropriate plan review agency prior to any land disturbing activity taking place on the site. For this project, the plan review agency is the Kent Conservation District.

- Additionally, to address federal requirements, construction activities that exceed 1.0 acre of land disturbance require Construction General Permit coverage through submittal of an electronic Notice of Intent for Stormwater Discharges Associated with Construction Activity. This form must be submitted electronically (https://enoi.dnrec.delaware.gov/, select Construction Stormwater General Permit) to the DNREC Division of Watershed Stewardship, along with the $195 fee.

- Schedule a project application meeting with the appropriate plan review agency prior to moving forward with the stormwater and site design. As part of this process, you must submit a Stormwater Assessment Study.

Plan review agency contact: Kent Conservation District at (302) 608-5370.
Website: http://kentcd.org/
General Stormwater contact: DNREC Sediment and Stormwater Program at (302) 739-9921.
E-mail: DNREC.Stormwater@delaware.gov.
Website: https://dnrec.delaware.gov/watershed-stewardship/sediment-stormwater/

Tax Ditches
The Main Prong of the Mt. Friendship Tax Ditch lies on the southern property boundary of the site. Tax ditches are man-made channels created to move normal water flow off agricultural lands. These channels have associated tax ditch Rights-of-Way (ROW) that are utilized for access as well as sediment and debris disposal during maintenance. Tax ditch ROWs vary by channel size and location. The Main Prong of the Mt. Friendship Tax Ditch has a 35-foot to Centerline (CL) ROW extending into the property.

- Contact the DNREC Drainage Program to discuss the on-site tax ditch ROWs prior to the project application meeting with the appropriate plan review agency for construction stormwater management.

- Any drainage outfall structures associated with a stormwater plan that impacts the Tax Ditch and/or the right-of-way shall be reviewed and approved by the Tax Ditch Program.

- Permanent obstructions including, but not limited to, stormwater management facilities, buildings, sheds, streets, wells, and septic systems are not allowed within the tax ditch ROWs.

- All precautions should be taken to ensure the project does not hinder any off-site drainage upstream or create any off-site drainage problems downstream due to increases in stormwater.

Contact: DNREC Drainage Program at (302) 855-1930.
Website: https://dnrec.delaware.gov/drainage-stormwater/
Tax Ditch Mapper: https://de.gov/taxditchmap
Tax Ditch guidelines: https://documents.dnrec.delaware.gov/swc/Drainage/Documents/Tax-Ditch-Land-Development-Guidelines.pdf

Special Flood Hazard Area
According to the newest Flood Insurance Rate Maps (FIRM), the southeast portion of this parcel is situated within a Special Flood Hazard Area, specifically within the mapped 100-year floodplain (1% annual chance of flooding). The Special Flood Hazard Area identified on the site lies within Zone A. In lands contained within the 100-year floodplain, the National Flood Insurance Program's floodplain management regulations must be enforced through the local floodplain ordinance, which can have higher standards.

- The applicant must comply with the local floodplain ordinance and regulations applicable to development or construction within the 100-year floodplain. In determining the boundary of the floodplain, use the most recent FIRM maps available, which can be found at https://floodplanning.dnrec.delaware.gov/

- The proposed activity is considered to be development according to FEMA standards. The applicant should contact Kent County Planning for further instructions on obtaining a floodplain permit.

Contact: DNREC Shoreline and Waterway Management Section at (302) 739-9921.
Website: https://dnrec.delaware.gov/watershed-stewardship/waterways/floodplains/

Floodplain Permit Contact: Kent County Planning at (302) 744-2471.
Website: https://www.kentcountyde.gov/My-Government/Departments/Planning

Air Quality and Odors
Composting facilities have the potential to emit odors that may impact neighbors and air quality. According to the regulations:

- The applicant must control odorous emissions, as well as particulate emissions from materials handling operations, so as not to cause a condition of air pollution.

- No person shall cause or allow stockpiling or other storage of material or transport to or from a storage facility in such a manner as may cause a condition of air pollution.

For more information, consult the regulations for the Control of Odorous Air Contaminants (7 DE Admin. Code 1119) at:
https://regulations.delaware.gov/AdminCode/title7/1000/1100/1119.shtml

and the regulations for Particulate Emissions from Construction and Materials Handling (7 DE Admin. Code 1106) at:
https://regulations.delaware.gov/AdminCode/title7/1000/1100/1106.shtml.

Contact: DNREC Division of Air Quality at (302) 739-9402.
Website: https://dnrec.delaware.gov/air/permitting/area-sources/

Coastal Zone Federal Consistency

- The application states that, at this time, it is unknown if federal permits will be required for the project. If the project does require a federal permit(s), it's best to contact DNREC's Federal Consistency Program at DNREC_FederalConsistency@delaware.gov.

- The application states that the company will be applying for grants, but does not specify which. Applications for grants directly from the federal government (as opposed to state or private grants) will likely require a Coastal Zone Management Federal Consistency review.

Contact: Delaware Coastal Programs at (302) 739-9283.
Website: https://dnrec.delaware.gov/coastal-programs/coastal-management/federal-consistency/
Email: DNREC_FederalConsistency@delaware.gov

Delaware Department of Agriculture (DDA) – Contact Milton Melendez 302-698-4500

- No Delaware Department of Agriculture code or regulations apply to this PLUS project.

Delaware Emergency Management Agency (DEMA) – Contact Phillip Cane 302-659-2325

Proposed Project Parcel Flood Concern

- The majority of this parcel is located within an area of **Minimal Flood Concern of 1,000 years or greater**. However, the southeastern portion of the property is within the 100-year floodplain, identified as Special Flood Hazard Area Flood Zone A.

Parcel Status within County Evacuation Zone Location

- The parcel is not yet located within a Kent County Evacuation Zone.

Parcel Status within the 10-mile Emergency Planning Zone (EPZ) for the Salem Nuclear Power Plant

- The parcel **is not** located within the 10-mile EPZ for the Salem Nuclear Power Plant.

State Historic Preservation Office (SHPO) – Contact Carlton Hall 302-736-7400

- There are no known archaeological sites or known National Register-listed or eligible properties on the parcel. The Delaware SHPO does not support or recommend development in Level 4 areas. Due to the limited nature of the proposed project, there

is minimal potential to impact archaeological resources. No archaeological survey is recommended.

Delaware State Fire Marshall's Office – Contact Duane Fox 302-739-4394
This document is for information purposes only and does not constitute any type of approval from the Delaware State Fire Marshal's Office.

- This Agency has no objection for projects that involve only zoning or rezoning issues.

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 (DNREC) – Contact Beth Krumrine 302-735-3480

Industrial Stormwater

- Recommended Best Management Practices for the facility can be found on the Environmental Protection Agency's website at https://www.epa.gov/npdes/industrial-stormwater-fact-sheet-series and are listed on a sector-by-sector basis.

- The sector that most appropriately corresponds with the proposed project is Sector C: Chemical and Allied Products Manufacturing and Refining. https://www.epa.gov/sites/default/files/2015-10/documents/sector_c_chemical.pdf.

Please be aware that the Best Management Practices for Sector C are inclusive of many practices beyond composting; please only select from those which apply, such as keeping compost piles out of drainage pathways and diverting stormwater with the use of vegetated swales and/or berms.

Contact: DNREC Commercial and Government Services Section at (302) 739-9946.
Email: DNREC_ISW@delaware.gov
Website: https://dnrec.delaware.gov/water/commercial-government/npdes/industrial-stormwater/

Tax Ditches

- All existing ditches on the property should be evaluated for function and cleaned, if needed, prior to the construction of the project.

- Environmental permits or exemptions may be required by the County Conservation District (Standard Plan), the DNREC Sediment and Stormwater Program (eNOI/NOT), Army Corp of Engineers, and/or DNREC Wetlands and Waterways Section prior to clearing and/or excavating ditch channels.

Contact: DNREC Drainage Program at (302) 855-1930.
Website: https://dnrec.delaware.gov/drainage-stormwater/
Tax Ditch Mapper: https://de.gov/taxditchmap
Tax Ditch guidelines: https://documents.dnrec.delaware.gov/swc/Drainage/Documents/Tax-Ditch-Land-Development-Guidelines.pdf

Sustainable Practices

- The property is currently zoned AC (Agricultural Conservation), but the application proposes to rezone to I (Industrial). While DNREC reviewers have no objections to this change, it is recommended to consider future impacts of formalizing the zoning to Industrial. Future unforeseeable uses may be incompatible with the character of this area, currently low density residential and agriculture. This change could also impact neighboring properties in the future.

- Preserve trees, wetlands and passive open space. Consider also planting native trees on both sides of the property line to provide a buffer between compost piles and neighboring properties. Native trees improve air, water, and soil quality. Planting and nurturing trees is also a nature-based solution to reducing the greenhouse gases that drive climate change. In addition, native trees have an increasingly important role in the survival of native birds and beneficial insects whose habitat is shrinking due to development and climate change.

- For added water quality buffering, consider planting select areas with meadow comprised of native species. Mowing in these areas should not occur between April 1st to July 31st to reduce impacts to nesting birds and other wildlife species that utilize meadows and grasslands for breeding habitat.

Contact: DNREC Division of Climate, Coastal & Energy at (302) 735-3480.
Website: https://dnrec.delaware.gov/climate-coastal-energy/

Delaware Emergency Management Agency (DEMA) – Contact Phillip Cane 302-659-2325

Population

- The county has a population density of 310.20 persons per square mile based on the US 2020 Census report; an increase from 2010 at 271.30 persons per square mile. The specific census block(s) the project is located on has a total population of 188 persons, though, with development, this will undoubtedly change. The 12 adjacent blocks aggregated bring the area to a total population of 853 persons.

FEMA National Risk Index

- The FEMA National Risk Index is an online mapping application that identifies communities most at risk to 18 natural hazards: Avalanche, Coastal Flooding, Cold Wave, Drought, Earthquake, Hail, Heat Wave, Hurricane, Ice Storm, Landslide, Lightning, Riverine Flooding, Strong Wind, Tornado, Tsunami, Volcanic Activity, Wildfire, and Winter Weather. The FEMA National Risk Index is calculated by multiplying the Expected Annual Loss times the Social Vulnerability and dividing that by the Community Resilience.

Expected Annual Loss
× Social Vulnerability
÷ Community Resilience
= Risk Index

- According to FEMA's National Risk Index, the parcel **is** considered **relatively moderate** for overall natural hazards risks.

- Community Resilience is a consequence reduction risk component and a community risk factor that represents the ability of a community to prepare for anticipated natural hazards, adapt to changing conditions and withstand/recover rapidly from disruptions. Social Vulnerability is a consequence-enhancing risk factor that represents the susceptibility of social groups to the adverse impacts of natural hazards.

- Both its community resilience and social vulnerability are rated at **relatively high**.

Renewable Energy Commitment

- Regarding energy use and consumption, the census tract utilizes **electricity** as the predominant fuel type for heating purposes.

- DEMA strongly encourages the use of renewable energies and high-efficiency appliances and utilities. Regarding utilities, DEMA suggests incorporating 90% series furnaces/HVAC systems; the closer to 99%, the better, as well as A/C units of 20 Seer or greater. DEMA recommends using tankless water heaters, and battery backup systems for sump pumps

to reduce potential water damage from power failure. Lastly, DEMA encourages the integration of modern and emerging technologies, such as the potential for electric vehicles in garages/parking lots, green roofs or solar panels where applicable and allowable, and the like.

- Lastly, in reference to the flood zone, DEMA typically doesn't recommend construction within a floodzone. As this is being used for composting, the concern or consideration involves coordinating with the appropriate agencies/county to ensure all concerns are addressed. The goal should be to reduce the potential contamination of flood waters should the area experience a 100-year flood event.

Delaware State Fire Marshall's Office – Contact Duane Fox 302-739-4394

The information provided below is for possible plan submittal.

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 1,500 gpm for 2-hour duration, at 20-psi residual pressure is required. Fire hydrants with 800 feet spacing on centers. (Industrial)

- Where a water distribution system is proposed for the site, the infrastructure for fire protection water shall be provided, including the size of water mains for fire hydrants and sprinkler systems.

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. This means that the access road to the subdivision from Wheatley's Pond Rd must be constructed so fire department apparatus may negotiate it.

- Any dead-end road more than 300 feet in length shall be provided with a turn-around or cul-de-sac arranged such that fire apparatus will be able to turn around by making not more than one backing maneuver. The minimum paved radius of the cul-de-sac shall be 38 feet. The dimensions of the cul-de-sac or turn-around shall be shown on the final plans. Also, please be advised that parking is prohibited in the cul-de-sac or turn around.

- The use of speed bumps or other methods of traffic speed reduction must be in accordance with Department of Transportation requirements.

- The use of open bridge or covered bridge shall be designed to DelDOT standards and accessible by all fire department apparatus.

- 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

- 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

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, 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,

David L. Edgell, AICP
Director, Office of State Planning Coordination