

November 21, 2023

Margo Reign, MBA  
Planning Commission, Chair  
City of New Castle  
220 Delaware Street  
New Castle, Delaware 19720

**RE: 427 West 7<sup>th</sup> Street - Site Plan**

Dear Chair Reign:

AECOM is in receipt of the following regarding a multi-family development with retail space on Tax Parcel 21-014.00-400 at the above-mentioned address:

- Site Plan prepared by MidAtlantic Engineering Partners, LLC, dated 02/15/22 (Sheets C-01 to C-15 and Sheets LT-01 to LT-03)
- Architectural Renderings (4 sheets)
- Design Standard Analysis dated 11/15/23 prepared by the applicant

The project proposes 152 apartment units, 2,928 square feet of retail space and 1,978 square feet of amenities on the above-referenced parcel located in the Downtown Gateway (DG) zone adjacent to The Garrison development. In review of the above, AECOM has the following comments:

**Background/Procedural/Administrative**

1. Per Section 230-21.1.B.(2) of the City's Zoning Ordinance, multi-family developments and/or mixed-use developments in the DG zone are permitted by special exception. Special exceptions are approved by the Board of Adjustment (BOA) following a review and recommendation by the Planning Commission. A link to the Zoning Ordinance can be found here: <https://ecode360.com/8875539#8875539>
2. The special exception application, which was accompanied by a concept plan, was considered by the Planning Commission on August 29, 2022. The Planning Commission found the subject application and plan consistent with the Comprehensive Plan and recommended that the applicant provide the following prior to proceeding to the BOA:
  - Submit plans to the Office of State Planning Preliminary Land Use Service (PLUS) and address PLUS comments.
  - Provide elevation and floodplain data specific to the proposed development for end-of century sea level rise projections as established in the 2018 Vulnerability Assessment.
  - Provide architectural plans demonstrating compliance and commitment to the DG zone design standards contained in section 230-21.1.G of the Zoning Ordinance.
  - Prepare a Traffic Impact Study for review by DelDOT and the City Engineer.

- Obtain comments from New Castle County regarding the proximity to the existing sewage pump station.
  - Obtain feedback from the City Attorney and/or City Council regarding the extinguishment of the easement on the property.
  - Obtain comments from the City Fire Marshal.
  - Provide additional information regarding the nature and purpose of the Non-Structural Retaining Wall.
  - Confirmation on the methodology used to measure Building Height.
  - Obtain feedback from the City and/or City Council regarding proposed Lots A and B.
  - Provide information regarding the nature of filling and wetlands impact.
3. The applicant provided written responses to the issues raised by the Planning Commission prior to the BOA Hearing (see attached, including PLUS comments and responses). The BOA determined the responses to be satisfactory for the purposes of the special exception. To the extent any of the issues are outstanding, they will be addressed in this review letter.
  4. The special exception and five (5) dimensional variances<sup>1</sup> were approved by the BOA on February 9, 2023 based on their December 22, 2023 Public Hearing. See attached BOA Notice of Decision.
  5. Implicit in the special exception process was the requirement that the applicant submit a site plan for Planning Commission approval in accordance with Section 230-46 of the Zoning Ordinance if the special exception was granted.
  6. Section 230-46.H of the Zoning Ordinance states:

*Upon receipt of the site plan, the Planning Commission shall review the site plan, soliciting comments from other departments, agencies, and officials as may be appropriate. The site plan shall be approved if it meets the requirements of this section, Attachment 2, other requirements of this chapter and all other federal, state, county and City regulations. Notice of approval or disapproval of the site plan shall be given in writing to the applicant.*

Per the above, prior to Planning Commission approval of the site plan, the applicant should demonstrate that they have submitted the appropriate plans, permit applications, etc., to other agencies as may be necessary and that the review and approval of the same are substantially complete.

7. Prior to the Planning Commission Chair signing the site plan, the applicant should provide evidence of approval of the following items by the following agencies:
 

• Site Access Permit	-	DeIDOT
• Sediment and Stormwater Plan	-	New Castle Conservation District
• Construction General Permit	-	DNREC
• Non-tidal Wetlands Permit	-	US Army Corps of Engineers
• Emergency Access Design	-	City Fire Marshal (City Building Official)

<sup>1</sup> The Planning Commission does not make recommendations regarding variances.

- Letter of Map Revision - FEMA and City Floodplain Administrator
  - Sanitary Sewer Plans - New Castle County
  - Water Plans - Municipal Services Commission
8. Section 230-46.N of the Zoning Ordinance prescribes the City Council's role after Planning Commission approval of a site plan. Generally, if no public improvements are proposed, which is the case with the subject site plan, the site plan must be approved by City Council by resolution. Once approved by resolution, the site plan must be recorded with the Recorder of Deeds for New Castle County.
9. As will be discussed below, the site plan also involves a subdivision that subdivides the parent parcel into a Parcel A, B and C, respectively.

## Technical

1. Section 230-46.E of the Zoning Ordinance provides the general criteria to be used by the Planning Commission in their considerations of site plans.
2. Notwithstanding Technical comment #3 below, in recognition of the variances granted by the BOA as described on page one the attached Notice of Decision, the site plan is consistent with the Zoning Ordinance requirements for the DG zone relative to parking, setbacks, building footprint and density. The site plan should specify the proposed building height and not refer to the architectural plans.
3. Clarifications/corrections should be made to the site plan for the following:
  - Minimum lot width is 25 feet, not 50 feet.
  - References to *building coverage* should be removed from the plan. DG zone requirements refer to *building footprint*.
  - The plan should be labelled as a Site Plan
  - Clarify the intent of the four (4) parking spaces in the northern corner of the parking area
4. The special exception was approved by the BOA with the following condition (see bottom of page 7 of BOA Notice of Decision):

*AECOM's review of the traffic data and confirming that the 7th Street and Washington Street intersection will continue to operate at a level of service D or better following build-out of the project. If this condition cannot be met, the applicant must submit a Traffic Impact Study for review by DelDOT as part of the Site Plan submission of the Planning Commission.*

AECOM did review and approve traffic information submitted by the applicant that demonstrated the subject intersection will continue to operate at a level of service D following build-out of the project.

5. The applicant and the Planning Commission should discuss the location, nature and extent of the proposed concrete retaining wall. More specifically, given the architectural design requirements of the DG zone, to the extent the retaining wall will be visible from the public right-of-way, should additional design treatment be provided?

6. Section 230-28.G.(2) of the Zoning Ordinance states:

*A minimum of 10% of the parking area shall be landscaped area. Internal landscaping shall include shade tree plantings and landscaping of traffic islands. At a minimum, one four-inch caliper shade tree must be provided for every five parking spaces in any off-street parking area. The design of parking area landscaping shall be subject to review and approval by the Planning Commission.*

The site plan includes a preliminary landscape plan (sheet LT-02) that appears to address the 10% requirement however it does not appear that the shade tree requirement is being met. Given the covered nature of the majority of the parking area, this should be discussed with the Planning Commission.

7. The applicant and the Planning Commission should discuss the Lighting Plans (sheets LT -01 to L-03) and the extent to which they are consistent with Section 230-21.1.G.(7) of the Zoning Ordinance relative to the DG zone and also consistent with the architectural renderings relative to building fixtures.
8. A 6-foot high wood shadowbox fence is indicated on the site plan and also shown on the architectural renderings. A detail of said fence should be provided on the site plan.
9. Section 230-21.1.G.(5) describes the *streetscape standards* for the DG zone. Although the subject parcel has minimal street frontage, the applicant should describe the site plan's consistency with these standards.
10. Section 230-21.1.G. (1) through (3) describes the architectural design standards for development in the DG zone. The applicant provided architectural renderings and responses to these standards (see attached). In the interest of time, this part of the submittal is currently under review and will be discussed at the Planning Commission meeting.
11. The subject parcel is located within the 100-year floodplain. While this issue was discussed in the applicant's submittal to the BOA, the applicant should confirm the nature of the fill operation and the resulting elevations of the ground floor and first floor living space relative to the 100-year floodplain elevation and the floodplain elevation in consideration of potential sea-level rise scenarios.
12. As discussed above, the site plan illustrates a subdivision of the parent parcel into three (3) parcels. The submittal and approval of the subdivision must occur

concurrently with the consideration of the site plan. The subject submittal does not include a formal subdivision plan.

13. As discussed above, City Council must approve the site plan by resolution after approval by the Planning Commission. In general, the City Council's role in the review and approval of site plans is perfunctory, relying heavily on the Planning Commission's review and approval. In this case, however, the City Council must decide three material matters as they relate to the site plan that are beyond the Planning Commission's jurisdiction. These are:

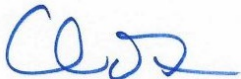
- Extinguishment of Cross-Access and Utility Easements (Instrument No. 20031119-0148260) across the subject parcel and the adjoining parcel that were created when the subject parcels were subdivided into separate lots in 2004. The instrument that created the easements also restricts the subject parcels from further subdivision for any purpose. The subject covenants on the parcels can only be amended by the City of New Castle (City Council).
- The provision of access to the existing County sewage pump station. The elevated/ramped access to the proposed building cuts off access to the pump station. Access to the pump station would now only be possible across the existing City-owned parcel (T.P. 21-014.00-399).
- One of the newly created lots illustrated on the site plan is proposed Parcel B. Said parcel has no frontage and appears to consist entirely of wetlands. City staff has concerns about the long-term disposition of the parcel as it relates to maintenance and tax collection. In addition, the definition of *Lot* in the Zoning Ordinance states, *For zoning purposes, as covered by this chapter, a lot ... shall have frontage on an improved public street ...* Proposed Parcel B does not have frontage on a public street.

The applicant and the Planning Commission should discuss if the applicant wishes to seek input from City Council prior to seeking final site plan approval from the Planning Commission or proceed to City Council at their own risk after receiving Planning Commission approval.

If you have any questions or need additional information, please let me know.

Sincerely,

**AECOM Technical Services, Inc.**



Christopher J. Rogers, AICP  
Principal Planner

Cc: Planning Commission  
Max B. Walton, Esq.  
Stephen Weathers, 9<sup>th</sup> Street Development Co.

**Board of Adjustment**  
**Notice of Decision**

**THE CITY OF NEW CASTLE  
BOARD OF ADJUSTMENT**

**NOTICE OF DECISION**

APPLICANT: Battery Fee Owner, LLC  
1007 N. Orange St., 4<sup>th</sup> Flr.  
Wilmington, DE 19801

BUILDING OWNER: Jaksn, LLC  
427 W. Seventh Street  
New Castle, DE 19720

NCC TAX PARCEL NO. 21-014.00-400  
PUBLIC HEARING DATE: December 22, 2022  
DATE OF DECISION: February 09, 2023

REQUESTED: Applicant requested a special exception under sections 230-21.1 B (2) and 230-57 B of the Zoning Code of the City of New Castle (the "Code") to allow a mixed use multi-family residential-commercial development at property zoned DG and known as 427 W. Seventh St., NCC Tax Parcel No. 21-014.00-400. In addition, Applicant requested the following five (5) dimensional variances:

- a variance from the maximum building footprint of 40,000 square feet to permit a project containing two (2) buildings with a combined building footprint of 52,273 square feet (§230-21.1.C(1)(a));
- a variance from the minimum area for a parking space of 9'x18' to permit a project containing 55 (24%) compact parking spaces each having an area of 8'x16' (§230-1.B);
- a variance from the required 237 shared parking spaces to permit a project containing 228 shared parking spaces (§230-28.A(15)(a));
- a variance from the required one (1) off-street loading space to permit a project containing no off-street loading spaces (§230-28.C); and
- a variance from the permitted residential density of 10 residential units per acre within a mixed use project to permit a mixed use project having 36 residential units per acre - 152 total residential units (§230-21.1.B(2))

Per Zoning Code section 230-21.1 B (2), the Board of Adjustment may grant a special exception in the Downtown Gateway (DG) zoning district zone for a mix of uses in a single building or group of buildings with first-floor nonresidential uses permitted in the DG zone and multifamily residential on the upper floors; provided residential density of upper floor residential uses shall not exceed 10 units per acre. To grant relief, the Board must find that the special exception is in harmony with the purpose and intent of the Zoning Code (the "Code") and will not adversely affect the public interest. In considering special exception applications, the Board

must consider the various factors listed in §230-57 B (2) of the Code including:

- a. The suitability of the property for the use desired, assuring itself that the proposal is consistent with the spirit, purpose and intent of the Code and, the City's Comprehensive Plan;
- b. Whether the proposed will substantially injure or detract for the use of neighboring property or from the character of the neighborhood and that the use of the adjacent property is adequately safeguarded;
- c. Whether the proposal will serve the best interests of the City, the convenience of the community, and benefit the public welfare;
- d. The effect of the proposal upon the public services and facilities, such as public water, sewers, police and fire protection, and public schools;
- e. The probable effects upon highway traffic and pedestrian movements, and assure adequate access and circulation arrangements in order to protect major roads from undue congestion and hazard; and
- f. The application of sound standards of subdivision and land development practice where applicable.

The Board may further prescribe conditions and safeguards as are necessary to assure that the intent of the Code is complied with. *See*, §230-57 B (2).

Mayor Michael J. Quaranta chaired the meeting. Present as Board members were Megan McClelland, Steven Zorrer, Robert Irwin and Dennis Anuszewski. Also present were City Planner Christopher Rogers, City Solicitor Daniel R. Losco, and City Code Official Jeffrey Bergstrom. Mayor Quaranta read into the record the official notice of the hearing. That notice was timely published in accordance with the law and a copy of the notice was admitted into the record.

John Tracey, Esq. represented the applicant before the Board. Also presenting testimony for the applicant were Robert Snowberger and David Rinnier of 9SCD LLC, and William Wendling, a civil engineer with MidAtlantice Engineering Partners.

Mr. Tracey described the subject property as being an irregularly shaped 4.13 acre parcel fronting W. Seventh Street. Currently, the property is largely paved with a 3,500 sq. ft. liquor store on site. Wetlands sit to the rear of the property which is otherwise bordered by The Garrison mixed use residential-commercial development and other industrial uses. The property is a "Brownfields" site with environmental contamination that has not yet been fully remediated. Mr. Tracey recited various sections of the City's Comprehensive Plan ("CP") stating that formerly industrial properties in the DG zone are envisioned to be redeveloped as a new pedestrian-oriented neighborhood district supporting the CP's goals of encouraging mixed



residential/retail/office uses, and incentivizing private investment in the City's remaining undeveloped parcels and brownfields harmoniously with nearby land uses. Mr. Tracey argued that the applicant's proposal is fully consistent with these goals.

Specifically, the applicant proposes a mixed-use project that retains the existing commercial use, a 3,000 sq. ft. liquor store on the first floor fronting W. Seventh Street, while incorporating two, 4-story 43' tall buildings containing 152 total apartments. Renderings offered for the record show first floor commercial, parking, and tenant amenity space, while the second, third and fourth floors would house 152 total apartments. The residential units include 3 studio apartments, 78 1-bedroom apartments, 64 2-bedroom apartments and seven 3-bedroom apartments. The applicant will be obligated to finish the environmental remedy under the Brownfields program that was begun but never completed.

Mr. Tracey noted that the proposed buildings are below the Code's 45 ft. height restriction. The property will be built up to a level that is 2 ft. above the projected end-of-century flood plain. No tidal wetlands will be disturbed and only ½ acre of non-tidal wetlands will be filled under an Army Corps of Engineers permit. The proposed development includes subdividing off certain wetlands which the applicant expects to donate to a preservation organization for long term stewardship and maintenance.

Addressing the specific considerations listed in §30-57 B (2) of the Code, Mr. Tracey presented a market study demonstrating a deficiency of 617 new residential units being available for rent in the area as evidence that the development would serve the best interest of the City, the convenience of the community and benefit the public welfare. He noted that the Planning Commission has reviewed the proposed plan and found the project to be consistent with the CP and the intent of the DG zone. He stated that the project would not substantially injure or detract from the use of neighboring property or the character of the neighborhood, but rather would improve the aesthetic of the City's gateway by improving a largely paved and unimproved parcel that currently contains only the existing liquor store. He argued that the applicant is unaware of any negative impacts to City services. Sewer and water are available to the site and the predominance of proposed studio and 1-bedroom apartments (81 units out of 152) will generate few new school children while providing significant school tax revenues. He supported this argument with a study from Long Island, New York on the impact of apartments on school districts. On the subject of traffic impact, Mr. Tracey conceded that no traffic impact study ("TIS") has been performed since the project meets the DelDOT Area Wide Study Fee standards. However, the applicant has conducted a traffic operational analysis of the 7<sup>th</sup> St. and Washington Ave. intersection consistent with DelDOT standards. The analysis concluded that the functionality of the intersection will remain the same.

Turning to the five (5) variances requested, Mr. Tracey noted that three (3) of them are

prompted by the CP's desire to encourage the mixed use aspect of the project favored by the CP and DG zoning. Without the retail-commercial component, these three (3) variances would not be required. The first variance seeks relief from the required one (1) off-street loading space to permit no off-street loading spaces. In response to a question from Mr. Anuszewski, Mr. Tracey stated that signs would be installed in front of the retail space that would allow parking for loading/unloading. Delivery times can be controlled so they are done when parking demand is at its lowest.

The second variance request seeks a 9 space reduction in the required 237 shared parking spaces to permit 228 shared parking spaces. Mr. Tracey submitted a Parking Analysis done by MidAtlantic Engineering Partners examining neighboring apartment communities. Based on this study, he argued that due to the large proportion of studio and 1-bedroom apartments proposed for the project, the site is probably over-parked at 237 spaces. Mr. Tracey reiterated that without the retail component of the project, this variance would not be required.

The third variance request seeks relief from the residential density limit of 10 residential units per acre within a mixed use project to permit a mixed use project having 36 residential units per acre. Mr. Tracey argued that this request is minimal in nature as evidenced by the fact that if the project were purely residential there would no residential density cap whatsoever under the Code.

The fourth variance seeks permission to reduce the minimum area for a parking space from 9'x18' to permit 55 compact parking spaces each having an area of 8'x16'. This would represent less than 25% of the total parking spaces available. While not driven by the mixed-use aspect of the project, Mr. Tracey stated that the City of Wilmington Code (§48-447) and New Castle County (§40.22.612) create the opportunity to have reduce-size parking spaces (Wilmington – 30% / New Castle County – 25%). The applicant incorporated the New Castle County model in their parking layout. He argued that the reduced-size accommodates sub-compact, compact, and most mid-size vehicles. The parking study included four apartment communities and revealed that 45%-55% of the vehicles parked there were sub-compact or compact, well in excess of 25% of vehicles in the proposed project that would fit in the reduce-size space. Mr. Tracey concluded that there would be no negative impact by incorporating reduce-size spaces into the project.

The final variance seeks relief from the maximum building footprint of 40,000 square feet to permit a project containing two (2) buildings with a combined building footprint of 52,273 square feet (§230-21.1.C (1) (a)). Mr. Tracey noted that most of the properties within the DG zoning classification could not accommodate 40,000 square foot buildings because they are all less than one acre. He submitted a list of tax parcels and their acreage to illustrate the point. For larger DG zoned parcels such as this one, Mr. Tracey argued that a reasonable interpretation of

the Code is that the 40,000 sq. ft. limitation applies on a per-building basis as opposed to a per-property basis. As written, the Code would appear to suggest that no single building can exceed 40,000 square feet as opposed to combined square footage of multiple buildings on one site. The larger properties in the DG zone, including the subject parcel, could easily accommodate much more than 40,000 square feet. If the limitation is imposed on larger properties, it would create heavily underutilized real estate. Mr. Tracey argued that 40,000 square feet makes sense from a per-building standpoint because it allows larger properties to be developed to take full advantage of their size. Separate from these arguments, Mr. Tracey mentioned the unique features of this property that justified expansion of the total building footprint including the fact that it is a Brownfield site requiring remediation; it is located in a flood plain and needs to be elevated above base flood elevations; and substantial and costly necessary construction features that must be incorporated into the property before any building can be constructed. Absent the ability to reclaim these expenses this project is not viable. He cited several Delaware Superior Court cases supporting the idea that such costs unique to this property support a finding of exceptional practical difficulty to justify the grant of a variance for additional square footage. Testimony from applicant representative Robert Snowberger indicated the additional square footage was necessary to build apartments that are competitive with other area apartment developments. He stated the The Garrison development was recently sold at a cost of \$265,000 per unit. Without a variance, the applicant would be limited to 117 units at a construction cost of approximately \$339,000 per unit. At that price, rental rates would not be market competitive. He added that the odd shape of the site with minimal road frontage on 7<sup>th</sup> Street combined with the 43' building height, create unique conditions involving non-typical construction costs, such as the need for custom trusses.

Mr. Tracey concluded his presentation by summarizing the legal standard relating to dimensional variances under the *Kwik Check* case, as it related to the balance of the harm between the impact to the public if the variances are approved vs. to the applicant if the variances are denied. The applicant does not believe that there is any significant negative impact to the public if approved. The benefits of the project include meeting the goals of the CP; fulfilling the obligation of remediation of the Brownfields; aesthetic improvements to the property, and bringing a desired mixed-use to the area.

Questioning from the Board ensued concerning the construction costs unique to this Brownfields property located in the flood plain and containing non-tidal wetlands; proposed amenities for residents at the project; and the impact of the requested reductions in parking space size and number.

City Planner Christopher Rogers of AECOM provided his recommendations to the Board concerning the instant application. He stated that in general he is in favor of the proposed development and in the granting of the special exception. He was concerned that his company

did not have sufficient time to fully vet the traffic data that was submitted by the applicant. The applicant averred that the intersection operates at an acceptable level of service (LOS) and will continue to so operate. Mr. Rogers explained that Level A is the best operating intersection, but the lowest acceptable LOS is D. The Applicant is stating that the intersection will continue to operate at an LOS of C.

Regarding the maximum building coverage, Mr. Rogers explained the intent of this requirement is to ensure that developments maintain a pedestrian-oriented scale. He stated that given the configuration of the lot, there is very little of the building that impacts the streetscape.

Mr. Rogers stated that he had no issues with the other requested variances. His only concern with the application as a whole is AEACOM's inability to fully vet the traffic data.

Mr. Rogers further indicated that the applicant had addressed the comments made by the PC at its August meeting. Specifically:

- The plan was submitted for PLUS review;
- The applicant has provided elevation and floodplain data showing the first floor will be 2' above the end of century flood plain elevation projections, with residences at 10' above projected sea level elevations;
- The applicant has provided architectural plans which will be further vetted by the PC during site plan review to confirm compliance to the DG design standards;
- The applicant has provided traffic data that has not yet been fully reviewed by AECOM, but that this could be done in short order. AECOM's review of the data will ensure that the intersection is operational at acceptable levels, and if it is not, then AECOM would recommend a full Traffic Impact Study be submitted to DelDOT.
- The Head of Operations for New Castle County Sewers has stated that they have many pump stations near residential communities and they do not typically need odor control devices at the pump stations.
- Mr. Rogers opined that a certain easement agreement in favor of the City was created ensure access from this property to an adjacent lot, but that with this development, the easement will no longer be needed. City Council can extinguish the easement.
- The applicant worked with City Fire Marshall Jeff Bergstrom in creating its site plan. This Plan will be vetted during the plan review process.
- The applicant has submitted photos of a riprap type wall structure proposed for the development that Mr. Rogers found to be satisfactory.

- The applicant has provided building height calculations and Mr. Rogers confirmed that the building will be less than the 45' maximum permitted.
- Mr. Losco noted the PC's concern regarding the tidal wetlands proposed to be subdivided from the main parcel. The concern is that it would be a land-locked parcel that would fall into neglect and could become a problem that the City would have to maintain. The applicant seeks to dedicate the lot to a conservation group for perpetual maintenance.
- The applicant has delineated the wetlands on the site. The Army Corps of Engineers has confirmed this delineation and they are on record with the amount of fill and disturbance that is necessary in order for this development to occur.

The floor was opened to public comment and several parties appeared both in support and in opposition to the application. Philip Gross expressed support for the project as originally presented to the PC, but voiced concerns over traffic congestion and evacuation routes, flooding issues from sea level rise, the lack of off-street loading space. He ultimately opined that the special exception should be rejected. Thomas Whitehead objected to the grant of any variances and suggested the Zoning Code should be strictly enforced. Alison Fuentes spoke in support of the project as it will improve the appearance of the property and provide her with a place where she can walk to work from her home. Paula Gambacorta, a neighboring property owner, spoke in favor of the project and its positive impact on property values. Brian DiSabatino also spoke in favor of the project and its developer noting that when the CP's vision agrees with a developer's, reasonable accommodations are appropriate to address the reality of marketplace and site unique constraints. The Mayor also read several letters into the record generally opposing any new development and questioning why the Board's hearing should be held during the holiday season. Mr. Tracey was given reasonable rebuttal time to address these objections, re-emphasizing points he had already made in his presentation. The Board then adjourned to its business meeting at 8:56 p.m. after a five minute recess.

During the business meeting discussion ensued among the Board as to the special exception and variances requested, with each Board member being given opportunity to address their thoughts on the matter. The general consensus was that the property was currently a contaminated eyesore and should be redeveloped in conformance with DG zoning and the CP; that traffic congestion was a concern but that AECCOM should be given time to evaluate the traffic data submitted; that the future maintenance of the tidal wetlands were a concern; and that the issue of extinguishing the existing easement was a matter for City Council to address.

The Special Exception: Mr. Irwin moved to approve the special exception to utilize the property as a mixed use multi-family residential-commercial development conditioned upon AECOM's review of the traffic data and confirming that the 7<sup>th</sup> Street and Washington Street intersection will continue to operate at a level of service D or better following build-out of the

project. If this condition cannot be met, the applicant must submit a Traffic Impact Study for review by DelDOT as part of the Site Plan submission of the Planning Commission. The motion was seconded by Mr. Anuszewski. **The motion passed unanimously.** The Board reasoned that the project is: (a) consistent with the CP and DG zoning; (b) similar and in harmony with other developments in the area; (c) is good for the City in that it aesthetically improves and remediates a Brownfields site; (d) unlikely to have negative impact on City services; and (e) conditioned upon the applicant's verified traffic data illustrating no worsening levels of service at the 7<sup>th</sup> St. and Washington St. intersection.

The Board then addressed the five (5) variance requests.

Variance 1: Mr. Anuszewski moved to approve the variance from the maximum building footprint of 40,000 square feet to permit a project containing two (2) buildings with a combined building footprint of 52,273 square feet. The motion was seconded by Mr. Irwin. **The motion passed unanimously.** The Board found exceptional practical difficulty in making reasonable, cost effective improvements to the property due to the unique challenges presented by the site in terms of the need to elevate it from the flood plain, remediate environmental contamination, and fill in non-tidal wetlands. The Board also found the request to be consistent with DG zoning and not injurious to surrounding uses.

Variance 2: A motion was made by Mr. Zorrer to approve variance 2, a variance from the minimum area for a parking space of 9'x18' to permit a project containing 55 (24%) compact parking spaces each having an area of 8'x16'. The motion was seconded by Mr. Irwin. **The motion passed unanimously.** The Board found exceptional practical difficulty in making reasonable, cost effective improvements to the property due to the unique challenges presented by the site in terms of its irregular shape and the fact that most modern autos, especially EV vehicles, tend to be smaller in size. The Board also found the request to be consistent with DG zoning and not injurious to surrounding uses or the community in general.

Variance 3: A motion was made by Mr. Irwin, seconded by Ms. McClelland to approve variance 3, a variance from the required 237 shared parking spaces to permit a project containing 228 shared parking spaces. **The motion passed unanimously.** The Board found exceptional practical difficulty in that the majority of apartments proposed are studio or one bedroom units generating fewer vehicles to park. A reduction of 9 spaces is minimal in nature and is only required to accommodate the commercial use of the property favored by the CP. The mixed use is encouraged by and consistent with DG zoning. It is consistent with, and would not harm, surrounding properties and uses.

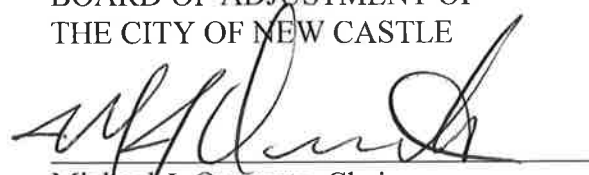
Variance 4: A motion was made by Mr. Irwin to approve a variance from the required one off-street loading space to permit a project containing no off-street loading spaces. The motion was amended by unanimous vote to include a condition that there be a prohibition of on-

street loading and unloading that would be enforceable as a condition of the Board and under the City Code. The amended motion was seconded by Mr. Zorrer. **The amended motion passed unanimously.** The Board found that the property does presents unique practical difficulties (Brownfields remediation, flood plain elevation requirements, wetlands filling as discussed above) that require a certain number of units to make the project economically viable. The Board found no negative impact to the community. The CP encourages mixed use developments in this area. Testimony indicated that the applicant will be able to manage on-site loading times for the single commercial tenant. The condition imposed guards against safety issues with street loading/unloading and related traffic congestion.

Variance 5: A motion to was made by Mr. Anuszewski to approve a variance from the permitted residential density of 10 residential units per acre within a mixed use project to permit a mixed use project having 36 residential units per acre - 152 total residential units. The motion was seconded by Mr. Irwin. **The motion passed by a vote of 3 to 2, Mr. Zoerer and Ms. McClelland voting in the negative.** A majority of the Board found that the unique character and nature of the property as described above presented the requisite exceptional practical difficulty. The evidence illustrated that the requested unit count was essential to building a viable project. Board members noted that the majority of the units will be 1-bedroom and studio apartments suggesting a lower population density than would be experienced with larger apartment units.

There being no further business to discuss, the meeting adjourned at 10:17 p.m.

BOARD OF ADJUSTMENT OF  
THE CITY OF NEW CASTLE

  
Michael J. Quaranta, Chairperson

NOTE: This decision is neither a building permit nor a Certificate of Occupancy. Appropriate permits must be obtained from the applicable governmental agencies prior to construction or establishment of any use on the property. This decision should be kept in a safe place with the property deed. This decision may be appealed to the Superior Court by any person aggrieved by it within 30 days of its filing in the Office of the Board of Adjustment.

**Applicant's Response to Planning  
Commission Recommendations to Board of  
Adjustment**





November 11<sup>th</sup>, 2022

City of New Castle Planning Commission  
c/o Mr. Christopher Rogers  
220 Delaware Street  
New Castle, DE 19720

**RE: 427 W. 7<sup>th</sup> Street - Information Requested at August 29, 2022 Planning Commission Meeting**

Dear Mr. Rogers,

Our team has worked diligently over the past two months to address the comments from the Planning Commission on August 29, 2022. Below details the progress made to date to address each comment in anticipation of the Zoning Board of Approvals hearing. A few of the comments require multiple response components and feedback from third-parties, and we will continually provide updates on those as received to ensure all comments are thoroughly addressed. Please let us know any questions on any of the information provided in this letter.

***1. Submit plans to PLUS and address PLUS comments.***

Response: Plans were submitted and reviewed by PLUS officials at the September 28<sup>th</sup> meeting. State Comments were received on November 7, 2022 and will be responded to prior to the scheduled Board of Adjustment hearing.

***2. Provide elevation and floodplain data specific to the proposed development for end-of-century sea level rise projections as established in the 2018 Vulnerability Assessment.***

Response: The property currently lies within 100-year flood zone 'AE' floodplain based on the FEMA National Flood Insurance Rate Map, #10003C0162K, with an effective date of February 4, 2015. The site elevation is currently between elevation 5.5' and elevation 9.5' and lies below the 100-year base flood elevation which ranges from elevation 9.0' on the south side to 10.0' on the north side of the site. For purposes of this project, we are assuming that elevation 10.0' is the current base flood elevation across the entire site.

According to the City of New Castle Vulnerability Assessment and Adaptation Plan prepared in March 2018, the year 2050 flood elevation is anticipated to be 2' higher than

the current base flood elevation. Conservative projections indicate that an end of century increase in sea level and flood elevations of 2 feet with worst case of 5 feet can be anticipated. Based on these projections, the year 2100 base flood elevation for the site is anticipated to be between 12.0' and 15.0'.

The proposed design calls for the entire site to be raised above the 100-year base flood elevation of 10.0' with the final ground floor level of the buildings at elevation 12.0'. This puts the ground floor 2.0' above the 100-year base flood elevation and is a major improvement from what currently exists on the site. Additionally, there will be no residential units on the ground floor level. The ground floor level will only be used for parking, amenity, and commercial space.

Please find attached FEMA Property Information Form and letter to New Castle City which were drafted in preparation for the submission to FEMA to remove the property from the flood plain. These documents are being held until after the Board of Adjustment hearing.

**3. *Provide architectural plans demonstrating compliance and commitment to the Downtown Gateway design standards contained in §230-21.1.G of the Zoning Ordinance.***

Response: Please find attached renderings which demonstrate compliance and commitment to the Downtown Gateway design standards. Specifically, the building was designed with a brick façade that blends the historic brick textures of New Castle with a modern glass storefront at the base that lends to an overall better pedestrian experience. The glass storefront is designed to the maximum of 75% of window openings to provide as much visibility as possible. In between the storefront system the vertical masonry piers includes a distinct 4' tall masonry base at ground level. The commercial entry is oriented to face West 7<sup>th</sup> Street with hanging canopies that help to accentuate the front façade. The windows along West 7<sup>th</sup> Street are designed to be appropriate to the architectural style, materials and details of the overall building and to the greatest extent possible align with the storefront below. The windows themselves incorporate vertical mullions, and include a horizontal articulation with window lintels above and a horizontal window sill below per the design guidelines.

Parking was intentionally located off of W. 7<sup>th</sup> Street and covered with a screen wall where necessary to conceal from walking pedestrians along the public right of way areas. All public sidewalks along W. 7<sup>th</sup> Street are to be 10' in width. All rooftop mechanical equipment and other appurtenances shall set back from the façade and be concealed by integrated parapets or screen walls wherever necessary to avoid site lines from public view. Service areas and loading locations will be located at the side of each building and visually screened from street and pedestrian right of ways.



**4. *Prepare a Traffic Impact Study for review by DelDOT and the City Engineer.***

Response: Based on conversation with DelDOT and confirmed in the PLUS meeting, DelDOT is requesting that the project contribute to the Area Wide Study Fee (AWSF) in lieu of the completion of a DelDOT Traffic Impact Study. We are in the process of preparing a technical memorandum submission to DelDOT including Trip Generation, site plan and other required information to allow the project to contribute to the AWSF.

Additionally, the Applicant has reached out to DelDOT to seek additional confirmation of DelDOT's rationale not to require a traffic study, a decision we understand is rooted on the project's limited impact on area traffic.

**5. *Obtain comments from New Castle County regarding the proximity to the existing sewage pump station.***

Response: Below is an email from New Castle County noting they do not believe the proximity of the pump station to the new buildings will be an issue. The email also notes that New Castle County has multiple pump stations on lots adjacent to residences without issue.

Additionally, per the land lease with New Castle County, the county is required to provide a landscaping screen along the northerly and westerly sides of the pump station. It is the intent of the Applicant to enforce this stipulation.

**From:** Yurcich, Regis <[Regis.Yurcich@newcastlede.gov](mailto:Regis.Yurcich@newcastlede.gov)>  
**Sent:** Tuesday, October 25, 2022 11:44 AM  
**To:** William F. Wendling <[wwendling@MidAtlanticEng.com](mailto:wwendling@MidAtlanticEng.com)>  
**Subject:** RE: [EXTERNAL] 427 West 7th Street - City of New Castle

William,

We need to have 24/7 access to the station for maintenance and full access to the gravity and forcemain piping. Access would include larger vehicles typically jet/vac trucks and/or a tri-axle tank trucks. I believe you are showing a sidewalk which we would have to cross. A fully loaded tank truck (6000g) could damage a sidewalk.

We have not had any odor complaints from that site, and it does not have long idle periods which could create septic conditions. However the closer the neighbors the greater the chances for complaints especially in the warmer weather. For safety, we continuously ventilate the station and the wetwell to the outside.

We always like to have a buffer – visual and distance for our stations but it doesn't happen all that often – we have a 182 pump stations with many in developments on a lot adjacent to residents. I don't believe the County has standing to require offsets in this case.

Please let me know if you need anything further.

Regis

**6. *Obtain feedback from the City Attorney and/or City Council regarding the extinguishment of the easement on the property.***

Response: Applicant has had multiple calls with the City Attorney and City Planner regarding the extinguishment of the easement. Prior to these calls, the Applicant fully worked through terms with the other party to the easement, the neighboring landowner, Clare Holdings LLC, whom also wishes to have the easement extinguished. The City Attorney vetted the extinguishment of the easement with all necessary parties, including the City Administrator, the City Planner, the City Engineer, the City Fire Marshal, and MSC. The only potential issue to arise was the applicant's ability to now subdivide the parcel which is discussed in item #10. There has been limited, if any, history provided that confirms there is a need for this easement to remain.

**7. *Obtain comments from the City Fire Marshal.***

Response: Prior to submitting to the Planning Commission, the Applicant received verbal approval from the City Fire Marshal on the site design. The Applicant is currently

awaiting an official letter from the City Fire Marshal to be delivered the week of 11/14. The letter will be sent along as soon as received.

**8. *Provide additional information regarding the nature and purpose of the Non-Structural Retaining Wall.***

Response: The base elevations on the site are below the floodplain elevation. The proposed development will raise the site between 2' and 6.5' so that the buildings' ground floor is above the floodplain. The current design concept is to use a reinforced concrete retaining wall system along the north, south, and west facing property lines where there is limited area due to the conditions along the perimeter. The east side of the property is faced by the Delaware River and wetlands. It is our intent to use a less structured retaining system in this area. For consideration during concept planning are a gabion wall system, un-reinforced concrete modular units or a Natural Stone wall system which can be used for shoreline applications. An example of each is included below:

**Gabion Wall System:**





**Unreinforced Concrete Modular Units:**



**Natural Stone Wall:**



**9. Confirmation on the methodology used to measure Building Height.**

Response: The height of the building is measured from base flood elevation.

***10. Obtain feedback from the City and/or City Council regarding proposed Lots A and B.***

Response: Applicant has received feedback from the City Attorney, City Planner and City Fire Marshall. The feedback from the City Attorney was that it is in the City's best interest to mitigate 'Proposed Lot A's' potential vulnerability to future ownership that could possibly elect to not perform upkeep or pay the taxes on the proposed parcel. The potential solution discussed was transferring ownership of 'Proposed Lot A' to a conservatory group or another group that would be responsible for the future upkeep and tax payments. Applicant is actively working to find a suitor to take ownership of this parcel based on the City's guidance.

***11. Provide information regarding the nature of filling and wetlands impact.***

Response: As stated previously, the base elevations on the site are currently below the floodplain elevation. The proposed development raises the site from the current elevation so that the buildings' ground floors are 2' above the base flood elevation. The site is currently between elevation 5.5' and elevation 9.5'. The proposed development raises the site to elevation 12' to achieve an effective design. The current design concept is to use retaining walls around the perimeter to raise the site. Clean structural fill material will be brought onto the site to support the buildings and parking.

There are 2 classifications of wetlands on the site. There are wetlands as defined within Section 404 of the Clean Water Act (CWA) and State Tidal Wetlands. The CWA establishes a program to regulate the discharge of dredged or fill material into waters of the United States, including wetlands. Activities in waters of the United States regulated under this program include fill for development. The site was designed to protect all State Tidal Wetlands and disturbance is limited to approximately 1/4 acre of Section 404 Wetlands which we believe will have minimal adverse impact. For most discharges that will have only minimal adverse effects, a general permit is typically pursued. General permits are issued on a nationwide, regional, or state basis for particular categories of activities. The general permit process allows certain activities to proceed with little or no delay, provided that the general or specific conditions for the general permit are met. Based on experience, we believe that the project design will meet the general and specific conditions for the permit.

Please find attached Wetland Delineation report prepared by Watershed Eco and Preliminary Jurisdictional Determination received from the U.S. Army Corps of Engineers.

Sincerely,



Stephen Weathers

cc: Daniel R. Losco, Esquire

## **PLUS Comments**





STATE OF DELAWARE  
EXECUTIVE DEPARTMENT  
OFFICE OF STATE PLANNING COORDINATION

October 24, 2022

William Wendling  
MidAtlantic Engineering Partners  
321 W. State Street  
Media, PA 19063

RE: PLUS review – 2022-09-10; The Battery

Dear Mr. Wendling:

Thank you for meeting with State agency planners on September 28, 2022 to discuss the proposed plans for The Battery. According to the information received, you are seeking review of a site plan for the development of a 152-unit apartment building with proposed space for retail and amenities on the ground floor and associated parking.

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 City of New Castle is the governing authority over this land, the developers will need to comply with any and all regulations/restrictions set forth by the City.**

**Strategies for State Policies and Spending**

This project is located in a Level 1 investment area, which is consistent with the 2020 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. Development in Level 1 is consistent with the 2020 Strategies for State Policies and Spending; therefore, the Office of State Planning Coordination has no objections to this site plan provided it meets the relevant codes and ordinances of the City of New Castle.

A portion of this property is located in an area that is “Out of Play” and thereby undevelopable due to the presence of protected tidal wetlands. This area is located towards the edge of the eastern property boundary and outside the limits of disturbance of the proposed site plan.

As this parcel contains environmental concerns or other constraints to development, the state requests that the applicant and the local jurisdiction work with state agencies to design the site with respect to those environmental features which will help create a more sustainable development.

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

Department of Transportation – Contact Stephen Bayer 302-760-4834

- Because the site fronts on Seventh Street, which is part of the Delaware Bayshore Byway and the Harriet Tubman Underground Railroad Byway, it is subject to outdoor advertising regulations found in Delaware State Code Title 17, Chapter 1, Sections 190-194 and Title 17, Chapter 11, Sections 1101-1120. Accordingly, the applicant should expect the following requirements:
  - No new billboards, variable message boards, or electronic changing message sign(s) anywhere on or off Seventh Street within 660 feet of the closest right-of-way edge.
  - No off-premises advertising on the property for others within 660 feet of the closest right-of-way edge of Seventh Street, e.g., displaying on-site the bank/financial institution funding the project or the contractor building the project.
- The site access on Seventh Street (NCR 378) must be designed in accordance with DelDOT's Development Coordination Manual, which is available at <http://www.deldot.gov/Business/subdivisions/index.shtml?dc=changes>.
- Pursuant to Section 1.3 of the Manual, a Pre-Submittal Meeting is required before plans are submitted for review. The form needed to request the meeting and guidance on what will be covered there and how to prepare for it is located at [https://www.deldot.gov/Business/subdivisions/pdfs/Meeting\\_Request\\_Form.pdf?08022017](https://www.deldot.gov/Business/subdivisions/pdfs/Meeting_Request_Form.pdf?08022017).
- Section 1.7 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.
- Per Section 2.2.2.1 of the 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. Using the 11th edition of the Institute of Transportation Engineers' Trip Generation Manual, DelDOT estimates that the subject development, consisting of 2,928 square feet retail shopping center and 152 multifamily housing units assumed to be low-rise with 3 floors of residential housing, would generate 1,839 vehicle

trip ends per day and estimates the weekday morning and evening peak hour trip ends at 104 and 147, respectively. Therefore, a TIS would normally be required.

- Section 2.2.2.2 of the Development Coordination Manual provides that for developments generating less than 2,000 vehicle trip ends per day and less than 200 vehicle trip ends per hour in any hour of the day, DelDOT may accept an Area Wide Study (AWS) Fee in lieu of the TIS if the local government does not require a TIS. The AWS Fee is calculated as \$10 per daily trip or, in this case, \$18,390. AWS Fees are used to fund traffic studies, not to build improvements.
- The purpose of a TIS, per DelDOT regulations, is to determine the offsite improvements for which the developer should be responsible to build or contribute toward. DelDOT anticipates requiring the developer to improve Seventh Street, within the limits of their frontage, to meet DelDOT's standards associated with its Functional Classification. Seventh Street is a Major Collector Road, for which the standard includes 12-foot lanes and 8-foot shoulders. Frontage, as defined in Section 1.8 of the Manual, includes the length of roadway perpendicular to lines created by the projection of the outside parcel corners to the roadway.
- Questions regarding the requirement to improve the site frontage should be directed to the New Castle County Review Coordinator, Mr. John Pietrobono. Mr. Pietrobono may be reached at is [john.pietrobono@delaware.gov](mailto:john.pietrobono@delaware.gov) or (302) 533-3966.
- 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. By this regulation, this dedication is to provide a minimum of 40 feet of right-of-way from the physical centerline of Seventh Street. The following right-of-way dedication note is required, **"An X-foot wide strip of right-of-way from the centerline is hereby dedicated in fee simple to the State of Delaware, acting by and through the Delaware Department of Transportation."**
- In accordance with Section 3.2.5.1.2 of the Manual, DelDOT will require the establishment of a 15-foot wide permanent easement across the property frontage. 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 dedicated in fee simple to the State of Delaware, acting by and through the Delaware Department of Transportation."**
- Referring to Section 3.4.2.1 of the Manual, the following items, among other things, are required on the Record Plan:

- A Traffic Generation Diagram. See Figure 3.4.2-a for the required format and content.
- Depiction of all existing entrances within 300 feet of the proposed entrance on Seventh Street.
- Notes identifying the type of off-site improvements, agreements (signal, letter) contributions and when the off-site improvements are warranted.
- Section 3.5.4.2 of the Manual addresses requirements for Shared Use Paths (SUP) and sidewalks. For projects in Level 1 and 2 Investment Areas, installation of paths or sidewalks along the frontage on State-maintained roads is required. DelDOT may require improvements to or rehabilitation of the existing sidewalks on Seventh Street as part of the plan review process.
- In accordance with Section 3.8 of the Manual, storm water facilities, excluding filter strips and bioswales, shall be located a minimum of 20 feet from the ultimate State right-of-way along Seventh Street.
- 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/Business/subdivisions/index.shtml>.
- 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/Business/subdivisions/index.shtml>.
- 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.

DART First State – Contact Jared Kauffman 302-576-6062

- In order to encourage the use of non-motorized travel, it is recommended to provide covered bicycle parking at the apartment buildings that do not require an additional cost beyond the base cost of renting an apartment unit. These could be placed in the ground floor parking area.

Department of Natural Resources and Environmental Control – Contact Clare Quinlan 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 regarding specific resources does not indicate that there are not additional constraints or environmental issues on site, nor does it indicate DNREC support of a project.

### **Concerns Identified Within the Development Footprint**

#### **Wetlands and Subaqueous Lands**

Maps from the Statewide Wetlands Mapping Project indicate the potential presence of tidal and non-tidal wetlands on the site. The application indicates that wetlands have been delineated. The applicant indicated at the September 28<sup>th</sup>, 2022 PLUS meeting that a preliminary Jurisdiction Determination has been completed. Per the Jurisdictional Determination, there is no direct disturbance proposed to tidal wetlands, however, about 12,000 square feet of disturbance is proposed to nontidal wetlands.

#### **Requirements:**

- Federal permits from the U.S. Army Corps of Engineers may be necessary if dredge or fill is proposed in non-tidal wetlands or streams. A delineation of waterways and wetlands may be required, to be completed by a qualified professional hired by the landowner. In certain cases, permits from the US Army Corps of Engineers may trigger additional certifications from DNREC (Coastal Zone Federal Consistency Certification and 401 Water Quality Certification). Work with the U.S. Army Corps of Engineers to determine the appropriate permitting requirements if federal permits are required.
- If the site design changes, note that state permits from the DNREC Wetlands and Subaqueous Lands Section may also be necessary if dredge or fill is proposed in tidal wetlands, streams, or State Subaqueous Lands.

Federal Contact: U.S. Army Corps of Engineers (Dover Office) at (267) 240-5278.

Website: <https://www.nap.usace.army.mil/Missions/Regulatory/Contacts/>

State Contact: DNREC Wetlands and Subaqueous Lands Section at (302) 739-9943.

Website: <https://dnrec.alpha.delaware.gov/water/wetlands-subaqueous/>

#### **Vegetated Buffer Zones**

Site plans do not appear to show a vegetated buffer along tidal or non-tidal wetlands. Vegetated buffer zones placed adjacent to waterways and wetlands help improve water quality by reducing



sediment and pollutants loads. They also provide valuable habitat and can help prevent encroachment of human activities into ecologically sensitive areas. Vegetated buffers are not equivalent to setbacks, as residential lots, walkways, and stormwater management facilities should not be contained within the vegetated buffer zone.

Requirements:

- The applicant must comply with minimum vegetated buffer widths as identified within county and municipal codes.

Contact: DNREC Wildlife Species Conservation & Research Program at (302) 735-3600.

Website: <https://dnrec.alpha.delaware.gov/fish-wildlife/contact-information/>

### **Special Flood Hazard Area**

According to the newest Flood Insurance Rate Maps (FIRM), nearly all 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 AE. 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. A portion of this site is also situated within the moderate risk floodplain, or 500-year floodplain (0.2% annual chance of flooding), identified as a shaded zone-X. Structures and features including retail space, the leasing office, maintenance and utility rooms, and parking areas are proposed at ground level within the floodplain.

Requirements:

- 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/>

Contact: DNREC Shoreline and Waterway Management Section at (302) 739-9921.

Website: <https://dnrec.alpha.delaware.gov/watershed-stewardship/waterways/floodplains/>

### **Stormwater Management**

This application proposes greater than 5000 square feet of land disturbing activities, therefore, this project will be subject to Delaware's *Sediment and Stormwater Regulations*.

Requirements:

- 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 New Castle 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://apps.dnrec.delaware.gov/enoi/>, 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: New Castle Conservation District at (302) 832-3100, Ext. 3.

Website: <https://www.newcastlecd.org/>

General stormwater contact: DNREC Sediment and Stormwater Program at (302) 739-9921.

E-mail: [DNREC.Stormwater@delaware.gov](mailto:DNREC.Stormwater@delaware.gov).

Website: <https://dnrec.alpha.delaware.gov/watershed-stewardship/sediment-stormwater/>

### **Hydrologic Soils Group**

Hydrologic Soil Group A/D soils (very poorly drained) have been identified in the southwestern portion of the site. These soil types are typically not conducive to utilizing infiltration stormwater Best Management Practices such as bioretention and infiltration basins, which must meet minimum infiltration requirements.

#### **Requirements:**

- Any stormwater Best Management Practices that propose the use of infiltration or natural recharge shall include a soils investigation.

Contact: DNREC Sediment and Stormwater Program at (302) 739-9921.

E-mail: [DNREC.Stormwater@delaware.gov](mailto:DNREC.Stormwater@delaware.gov).

Website: <https://dnrec.alpha.delaware.gov/watershed-stewardship/sediment-stormwater/>

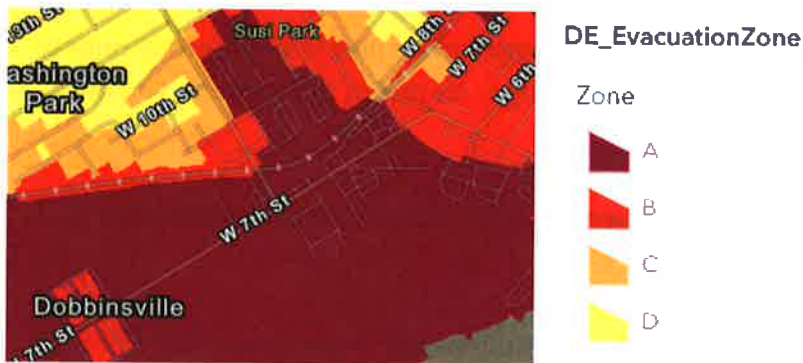
Delaware Emergency Management Agency – Contact Phillip Cane 302-659-2325

### **Proposed Project Parcel Flood Concern**

- This/These parcel(s) is/are located within an area of (**Minimal Flood Concern of 1000 years or greater/0.2% Flood Concern for 500 years/1% Flood Concern for 100 years**).

### **Parcel Status within County Evacuation Zone Location**

- The parcel(s) is located within New Castle County in Evacuation Zone A.



\*\*\*DEMA recommends and encourages the **County Evacuation Zone Location** to be made publicly available to businesses and patrons through signs, pamphlets, or other means.

State Historic Preservation Office – 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 reviewed the parcel in January when this project came in our office as a HUD project.
- Our office has no archaeological concerns from our review with low archaeological potential on the parcel.

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 is a cursory review. Please contact the City of New Castle's Fire Marshal Office for formal submission requirements.



### **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.
- Where a water distribution system is proposed for business occupancy 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 Sq. Ft., 3-stories or more, over 35 feet in height, or classified as High Hazard 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.
- Building shall comply with the Large Area Building requirements in DSFPR.
- Parking between the building and the fire lane shall comply with DSFPR.
- Provide standpipes as required by the 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. This means that the access road to the site must be constructed so fire department apparatus may negotiate it. If a "center island" is placed at an entrance road, it shall be arranged in such a manner that it will not adversely affect quick and unimpeded travel of fire apparatus into the site.
- 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 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)
- 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 Stephen Bayer 302-760-4834**

- The applicant should expect a requirement that any substation and/or wastewater facilities will be required to have access from an internal driveway with no direct access to Seventh Street.
- The applicant should expect a requirement that all PLUS and Technical Advisory Committee (TAC) comments be addressed prior to submitting plans for review.
- 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 dates of March 21, 2019 and March 16, 2022. The notes can be found at <https://www.deldot.gov/Business/subdivisions/>

Department of Natural Resources and Environmental Control – Contact Clare Quinlan 302-735-3480

### **Wetlands and Subaqueous Lands**

- Do not disturb wetland areas. Wetlands, both tidal and non-tidal, are a critical part of our natural environment. They reduce the impacts of flooding, absorb pollutants, and improve water quality. Wetlands provide habitat for animals and plants and many contain a wide diversity of life, supporting plants and animals that are found nowhere else.

Federal Contact: U.S. Army Corps of Engineers (Dover Office) at (267) 240-5278.

Website: <https://www.nap.usace.army.mil/Missions/Regulatory/Contacts/>

State Contact: DNREC Wetlands and Subaqueous Lands Section at (302) 739-9943.

Website: <https://dnrec.alpha.delaware.gov/water/wetlands-subaqueous/>

### **Vegetated Buffer Zones**

- Incorporate a 100-foot vegetated buffer zone from the edge of wetlands and all waterways to protect water quality and to provide an additional margin of safety for flooding.
- Vegetated buffer zones should be left undisturbed during construction and should be identified outside of the Limit of Disturbance on the engineering plans. In some instances, stormwater outfalls, conveyances, and emergency spillways may cross through these zones, and will require temporary disturbance during construction.
- Maintain vegetated buffer zones as either grasslands/meadows or forest. Buffer zones should be planted exclusively with native trees and plants. Native plants are well-suited to our climate and require limited maintenance. They also provide an increasingly important role in the survival of native birds and beneficial insects whose habitat is shrinking due to development and climate change.
- Grass cutting for vegetated buffer zones if maintained as meadow 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 Wildlife Species Conservation & Research Program at (302) 735-3600.  
Website: <https://dnrec.alpha.delaware.gov/fish-wildlife/contact-information/>

### **Sea Level Rise**

Most of this site is vulnerable to permanent inundation from sea level rise. By 2050, mean sea levels are projected to rise by 0.7 – 1.9 feet; by end of century sea levels are projected to increase by 1.7 – 5.0 feet. Roadways and buildings are proposed on land subject to inundation by sea level rise between 1 and 5 feet. In addition to permanent inundation, as mean sea levels rise, the frequency and severity of tidal flooding events is expected to increase.

- In areas within 5 feet of mean sea level, avoid construction of permanent structures and infrastructure. All infrastructure and structures on the site should incorporate the effects of sea level rise through the expected lifespan of the structures. This may include increasing freeboard of structures, ensuring that critical infrastructure is elevated to withstand future sea level rise, construction of flood control measures, and incorporating green infrastructure for flood control.

Contact: DNREC Climate and Sustainability Section at (302) 735-3480.  
Website: <https://dnrec.alpha.delaware.gov/coastal-programs/planning-training/adapting-to-sea-level-rise/>

### **Special Flood Hazard Area**

- Locate all structures outside of the floodplain. If this is not possible, the developer should consider designing structures to a higher standard to avoid potential future flood damage and loss.

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

### **Key Wildlife Habitat**

The mixed broadleaf freshwater tidal marsh on this property is mapped as a Key Wildlife Habitat in the Delaware Wildlife Action Plan because it is part of a large wetland complex that can support an array of plant and animal species across the landscape.

- Key Wildlife Habitat should be conserved to the maximum extent practicable and negative impacts should be minimized.
- In the interest of water quality and wildlife habitat, we recommend maintaining an upland buffer of at least 100 feet along rivers, streams, and wetlands. This recommendation is based on peer reviewed research that suggests that buffer values increase noticeably with widths of 100 feet or more.

Contact: DNREC Division of Fish and Wildlife, Species Conservation and Research Program at (302) 735-3600.

Website: <https://dnrec.alpha.delaware.gov/fish-wildlife/conservation/>

### **Stormwater Management**

- Where the site and soil conditions allow, integrate runoff reduction techniques including infiltration basins, bioretention (rain gardens), filter strips, and pavers to encourage on-site stormwater infiltration and reduce runoff.
- For improved stormwater management, preserve existing trees, wetlands, and passive open space.

Plan review agency contact: New Castle Conservation District at (302) 832-3100, Ext. 3.

Website: <https://www.newcastlecd.org/>

General stormwater contact: DNREC Sediment and Stormwater Program at (302) 739-9921.

E-mail: [DNREC.Stormwater@delaware.gov](mailto:DNREC.Stormwater@delaware.gov).

Website: <https://dnrec.alpha.delaware.gov/watershed-stewardship/sediment-stormwater/>

### **Drainage**

- All existing drainage 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 Subaqueous Lands Section prior to clearing and/or excavating ditch channels.
- All precautions should be taken to ensure the project does not hinder any off-site drainage upstream of the project or create any off-site drainage problems downstream by the release of on-site storm water.

Contact: DNREC Drainage Program at (302) 855-1930.

Website: <https://dnrec.alpha.delaware.gov/drainage-stormwater/>

### **Mosquitoes**

The project is expected to be impacted by mosquitoes due to its location near large expanses of wetlands. Mosquito control issues are increasing as developments infringe on wetland areas,

often leading to increased demands for mosquito control services beyond what DNREC has the resources to provide.

- If necessary, arrange for long-term mosquito control services through a private company licensed in this area of specialty. In some cases, the DNREC Mosquito Control Section may be able to provide these services free of charge.

Contact: DNREC Division of Fish and Wildlife, Mosquito Control Section at (302) 739-9917.

Website: <https://dnrec.alpha.delaware.gov/fish-wildlife/mosquito-control/>

### **Additional Sustainable Practices**

- Install electric vehicle (EV) charging stations for your residents. Increasingly, residents will expect EV charging. Installation costs can vary significantly depending on the parking and electricity distribution at a given location, so it is often easier and cheaper to plan for the installation at construction, rather than doing costly retrofits later. The DNREC Division of Climate, Coastal and Energy offers rebates of up to 90% of the cost of the charging station for commercial, multi-unit dwelling and other public properties. These programs address climate change goals of reducing greenhouse gas emissions and improving overall air quality (<https://dnrec.alpha.delaware.gov/climate-coastal-energy/clean-transportation/>).
- Use renewable energy infrastructure such as solar or geothermal to reduce energy costs and further reduce pollution created from offsite generation. Grant funds and incentives are available for Delmarva Power customers through the DNREC Green Energy Fund, which includes several funding types through the state's major electric utilities (<https://dnrec.alpha.delaware.gov/climate-coastal-energy/renewable/assistance/>).
- Include space for recycling dumpsters within the preliminary site design stage. These can be placed adjacent to trash dumpsters.
- Incorporate nonmotorized connectivity and install bicycle racks where feasible to help facilitate non-vehicular travel modes.
- Use efficient Energy Star rated products and materials in construction and redevelopment. Energy efficient appliances use less energy over time. This saves consumers and businesses money, while also helping to reduce pollution from power generation.



- Use structural paint coatings that are low in Volatile Organic Compounds to help protect air quality. Air pollution from new construction is generated through the use of maintenance equipment, paints, and consumer products like roof coatings and primers.
- Use recycled materials, such as reclaimed asphalt pavement, to reduce heat island effects on paved surfaces, prevent landfill waste, and lower material costs.

Contact: DNREC Division of Climate, Coastal & Energy at (302) 735-3480.

Website: <https://dnrec.alpha.delaware.gov/climate-coastal-energy/>

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

### Population

- The county has a population density of **1,321.50** per square mile based on the US 2020 Census report, an increase from 2010 at **1,241.00** persons per square mile.
- The specific census block(s) the project is located on has a total population of **290**, though, with development, this will undoubtedly change.
- The adjacent blocks aggregate brings the area to a total population of **877**.

### FEMA National Risk Index

- The FEMA National Risk Index is an online mapping application that identifies communities most at risk of 18 natural hazards: Avalanche, Coastal Flooding, Cold Wave, Drought, Earthquake, Hal, 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(s) is considered **very low** for overall natural hazard 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.
- Its community resilience is rated as **relatively high**. In contrast, its social vulnerability is rated as **relatively moderate**.

### Potential Parcel Solar Panel Capabilities

- Regarding energy use and consumption, the parcel utilizes **utility gas** as the predominant fuel for heating purposes.
- However, for electricity generation via solar panels, the parcels have an average photovoltaic power potential of **1452 kWh/kWp**. As such, should solar panels be utilized, we recommend an optimum tilt of the photovoltaic modules at approximately **35°**, which could provide a potential of **1757 kWh/m2**.

### Renewable Energy Commitment

- 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 where applicable and allowable, and the like.

### Delaware State Housing Authority - Contact Karen Horton 302-739-4263

- DSHA supports the site plan for a mixed-use development consisting of 152 multi-family units and retail space on 4 acres at 427 W. 7th Street in the City of New Castle. While market-rate, multi-family rental units offer a *more* affordable option to the many county residents experiencing housing insecurity.
- Due to the proposal's intensity, we recommend a site layout and design measures that are human-scaled and pedestrian-oriented to seamlessly connect the site with the adjacent historic downtown. This can be accomplished by incorporating attractive streetscapes, visually appealing façade treatments, and significant landscaping measures and hardscape.



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

- Preliminary meetings are encouraged prior to formal submittal. Please contact the City of New Castle's Fire Marshal Office to schedule.

**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,

A handwritten signature in black ink, appearing to read 'D Edgell', is written over the printed name.

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

# **Applicant's Response to PLUS Comments**

# MidAtlantic

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## Engineering Partners

December 19, 2022

Project #: 9SD-2101

State of Delaware, Executive Dept.  
Office of State Planning Coordination  
Haslet Armory  
122 Martin Luther King Jr. Blvd. South  
Dover, DE 19901

Attn: David L. Edgell, AICP

Re: 9<sup>th</sup> Street Development Company – 427 W. 7<sup>th</sup> Street  
City of New Castle, New Castle County, Delaware

Mr. Edgell,

In response to your letter dated October 24, 2022, we offer the following responses in bold, to the italicized comments.

### Code Requirements/Agency Permitting Requirements

#### Department of Transportation – Contact Stephen Bayer

*Because the site fronts of Seventh Street, which is part of the Delaware Bayshore Byway and the Harriet Tubman Underground Railroad Byway, it is subject to outdoor advertising regulations found in Delaware State Code Title 17, Chapter 1, Sections 190-194 and Title 17, Chapter 11, Sections 1101-1120. Accordingly, the applicant should expect the following requirements:*

- No new billboards, variable message boards, or electronic changing message sign anywhere on or off Seventh Street within 660 ft of the closest right-of-way edge.*  
**Response: No billboards, variable message boards, or electronic changing message signs are proposed on or off 7<sup>th</sup> Street as a part of this project.**
- No off-premises advertising on the property for others within 660 ft of the closest right-of-way edge of Seventh St, e.g. displaying on-site the bank/financial institution funding the project or the contractor building the project.*  
**Response: No off-premises advertising is anticipated.**
- The site access on Seventh Street (NCR 378) must be designed in accordance with DelDOT's Development Coordination Manual.*  
**Response: Site access on 7<sup>th</sup> Street will be designed in accordance with DelDOT's Development Coordination Manual.**
- Pursuant to Section 1.3 of the Manual, a Pre-Submittal Meeting is required before plans are submitted for review.*  
**Response: Noted.**

- *Section 1.7 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.*

**Response: Noted that a fee will be required for each stage.**

- *Per Section 2.2.2.1 of the 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. Using the 11<sup>th</sup> edition of the Institute of Transportation Engineer's Trip Generation Manual, DelDOT estimates that the subject development, consisting of 2,928 sq. ft. retail shopping center and 152 multifamily housing units assumed to be low-rise with 3 floors of residential housing, would generate 1,839 vehicle trip ends per day and estimates the weekday morning and evening peak hour trip ends at 104 and 147, respectively. Therefore, a TIS would normally be required.*

**Response: The above analysis is inaccurate as it does not include the existing trip generation from the retail space currently operating on the site. Per the current Traffic Planning and Design analysis the anticipated trip generation is 1,372 vehicle trips per day. Morning and evening peak hour trips end at 87 and 137 respectively.**

- *Section 2.2.2.2 of the Development Coordination Manual provides that for developments generating less than 2,000 vehicle trip ends per day and less than 200 vehicle trip ends per hour in any hour of the day, DelDOT may accept an Area Wide Study (AWS) Fee in lieu of the TIS if the local government does not require a TIS. The AWS Fee is calculated as \$10 per daily trip, or, in this case, \$18,390. AWS Fees are used to fund traffic studies, not to build improvements.*

**Response: Per initial discussions between DelDOT and the developer's team, the developer has expressed interest in pursuing payment of the Area Wide Study Fee in lieu of doing a TIS. We are currently scheduled for a pre-application meeting in January.**

- *The purpose of a TIS, per DelDOT regulations, is to determine the offsite improvements for which the developer should be responsible to build or contribute toward. DelDOT anticipates requiring the developer to improve Seventh St, within the limits of their frontage, to meet DelDOT's standards associated with its Functional Classification. Seventh Street is a Major Collector Road, for which the standard includes 12-foot lanes and 8-foot shoulders. Frontage, as defined in Section 1.8 of the Manual, includes the length of roadway perpendicular to lines created by the projection of the outside parcel corners to the roadway.*

**Response: The proposed site includes two sections of frontage. One portion is 130 LF and the other is 30 LF. There is an outparcel owned by other entities between the two frontages that restricts the ability to complete continuous site frontage improvements. The development will consider the information above through continued dialog with DelDOT.**

- *Questions regarding the requirement to improve the site frontage should be directed to the New Castle County Review Coordinator, Mr. John Pietrobono.*

**Response: Noted.**

- *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. By this regulation, this dedication is to provide a minimum of 40 ft of right-of-way from the physical centerline of Seventh St. The following right-of-way from the required, "An X-foot wide strip of right-of-way from the centerline is hereby dedicated in fee simple to the State of Delaware, acting by and through the Delaware Department of Transportation."*

**Response: The required ROW and note requirements are noted.**

- *In accordance with Section 3.2.5.1.2 of the Manual, DelDOT will require the establishment of a 15-foot-wide permanent easement across the property frontage. 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 dedicated in fee simple to the State of Delaware, acting by and through the Delaware Department of Transportation.”*

**Response: The required easement is noted.**

- *Referring to Section 3.4.2.1 of the Manual, the following items, among other things, are required on the Record Plan:*

- *A Traffic Generation Diagram. See Figure 3.4.2-a for the required format and content.*

**Response: Noted.**

- *Depiction of all existing entrances within 300 ft of the proposed entrance on Seventh Street.*

**Response: Will comply.**

- *Notes identifying the type of off-site improvements, agreements (signal, letter) contributions and when the off-site improvements are warranted.*

**Response: Noted.**

- *Section 3.5.4.2 of the Manual addresses requirements for Shared Use Paths (SUP) and sidewalks. For projects in Level 1 and 2 Investment Areas, installation of paths or sidewalks along the frontage on State-maintained roads is required. DelDOT may require improvements to or rehabilitation of the existing sidewalks on Seventh St as part of the plan review process.*

**Response: Noted.**

- *In accordance with Section 3.8 of the Manual, storm water facilities, excluding filter strips and bioswales, shall be located at a minimum of 20 feet from the ultimate State right-of-way along Seventh St.*

**Response: Noted.**

- *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.*

**Response: Noted.**

- *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.*

**Response: Sight distance triangles will be added per section 5.4.**

- *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.*

**Response: Noted.**

**DART First State – Contact Jared Kauffman**

- *In order to encourage the use of non-motorized travel, it is recommended to provide covered bicycle parking at the apartment buildings that do not require an additional cost beyond the base cost of renting an apartment unit. These could be placed in the ground floor parking area.*

**Response: It is anticipated that covered bicycle parking will be provided in future designs.**

**Department of Natural Resources and Environmental Control – Contact Clare Quinlan**

- *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 regarding specific resources does not indicate that there are not additional constraints or environmental issues on site, nor does it indicate DNREC support of a project.*

**Response: No response required.**

**Concerns Identified Within the Development Footprints****Wetlands and Subaqueous Lands**

*Maps from the Statewide Wetlands Mapping Project indicate the potential presence of tidal and non-tidal wetlands on the site. The application indicates that wetlands have been delineated. The applicant indicated at the September 28<sup>th</sup>, 2022, PLUS meeting that a preliminary Jurisdiction Determination has been completed. Per the Jurisdictional Determination, there is no direct disturbance proposed to tidal wetlands, however, about 12,000 sq. ft. of disturbance is proposed to nontidal wetlands.*

**Requirements:**

- *Federal permits from the U.S. Army Corps of Engineers may be necessary if dredge or fill is proposed in non-tidal wetlands or streams. A delineation of waterways and wetlands may be required, to be completed by a qualified professional hired by the landowner. In certain cases, permits from the US Army Corps of Engineers may trigger additional certifications from DNREC (Coastal Zone Federal Consistency Certification and 401 Water Quality Certification). Work with the US Army Corps of Engineers to determine the appropriate permitting requirements if federal permits are required.*

**Response: Wetlands have been identified and a Preliminary JD was issued. We anticipate the need for a general permit to address wetland disturbance.**

- *If the site design changes, note that the state permits from the DNREC Wetlands and Subaqueous Lands Section may also be necessary if dredge or fill is proposed in tidal wetlands, streams, or State Subaqueous Lands.*

**Response: Noted.**

**Vegetated Buffer Zones**

*Site plans do not appear to show a vegetated buffer along tidal or non-tidal wetlands. Vegetated buffer zones placed adjacent to waterways and wetlands help improve water quality by reducing sediment and pollutants loads. They also provide valuable habitat and can help prevent encroachment of human activities into ecologically sensitive areas. Vegetated buffers are not equivalent to setbacks, as residential lots, walkways, and stormwater management facilities should not be contained within the vegetated buffer zone.*

**Requirements:**

- *The applicant must comply with minimum vegetated buffer widths as identified within county and municipal codes.*

**Response:** Based on the City of New Castle code there are no minimum buffer requirements applicable to this site and the County has no jurisdiction on development of this land. After negotiations with DNRED, the required 50' setback from the wetlands was removed per the Amended Final Plan of Remedial Action. The current site contains pavement and improvements within 5' of existing wetlands.

**Special Flood Hazard Area**

According to the newest Flood Insurance Rate Maps (FIRM), nearly all 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 AE. 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. A portion of this site is also situated within the moderate risk floodplain, or 500-year floodplain (0.2% annual chance of flooding), identified as a shaded zone-X. Structures and features including retail space, the leasing office, maintenance and utility rooms, and parking areas are proposed at ground level within the floodplain.

**Requirements:**

- *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.*

**Response:** The most recent FIRM maps have been used to determine the boundary of the flood plain.

**Stormwater Management**

*This application proposes greater than 5000 sq. ft. of land disturbing activities, therefore, this project will be subject to Delaware's Sediment and Stormwater Regulations.*

**Requirements:**

- *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 New Castle Conservation District.*

**Response:** A Sediment and Stormwater Plan will be developed as a part of the submission.

- *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://apps.dnrec.delaware.gov/enoi/>), select Construction Stormwater General Permit) to the DNREC Division of Watershed Stewardship along with the \$195 fee).*

**Response:** NOI will be provided.

- *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.*

**Response:** A project application meeting will be scheduled prior to the completion of the stormwater design.



**Hydrologic Soils Group**

Hydrologic Soil Group A/D soils (very poorly drained) have been identified in the southwestern portion of the site. These soil types are typically not conducive to utilization infiltration stormwater Best Management Practices such as bioretention and infiltration basins, which must meet minimum infiltration requirements.

**Requirements:**

- Any stormwater Best Management Practices that propose the use of infiltration or natural recharge shall include a soils investigation.

**Response: Noted.**

**Delaware Emergency Management Agency – Contact Phillip Cane****Proposed Project Parcel Flood Concern**

- This/These parcel(s) is/are located within an area of (Minimal Flood Concern of 1000 years or greater/0.2% Flood Concern for 500 years/1% Flood Concern for 100 years).

**Response: Noted**

**Parcel Status within County Evacuation Zone Location**

- The parcel is located within New Castle County in Evacuation Zone A.

**Response: Noted.**

- DEMA recommends and encourages the County Evacuation Zone Location to be made publicly available to businesses and patrons through signs, pamphlets, or other means.

**Response: Noted.**

**State Historic Preservation Office – Contact Carlton Hall**

- There are no known archeological sites or known National Register-listed or eligible properties on the parcel.

**Response: Noted.**

- The Delaware SHPO reviewed the parcel in January when this project came in our office as a HUD project

**Response: Noted.**

- Our office has no archaeological concerns from our review with low archaeological potential on the parcel.

**Response: Noted.**

**Delaware State Fire Marshall's Office – Contact Duane Fox**

This document is for informational purposes only and does not constitute any type of approval from the City of New Castle. This is a cursory review. Please contact the City of New Castle's Fire Marshal Office for formal submission requirements.

**Response: We have been in contact with the City of New Castle Fire Marshal's office and will continue to do so throughout the design process.**

**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.

**Response: Noted.**

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

**Response: Fire protection will be provided.**

#### ***Fire Protection Features***

- *All structures over 10,000 sq. ft. aggregate will require automatic sprinkler protection installed*  
**Response: Noted.**
- *Buildings greater than 10,000 sq. ft., 3-stories or more, over 35 ft. in height, or classified as High Hazard are required to meet fire lane marking requirements.*  
**Response: Noted.**
- *Show Fire Department Connection location (must be within 300 feet of fire hydrant), and detail as shown in the DSFPR.*  
**Response: Noted.**
- *Show Fire Lanes and Sign Detail as shown in DSFPR.*  
**Response: Noted.**
- *Building shall comply with the Large Area Building requirements in DSFPR*  
**Response: Noted.**
- *Parking between the building and fire lane shall comply with DSFPR*  
**Response: Noted.**
- *Provide standpipes as required by the DSFPR*  
**Response: Noted.**

#### ***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 site must be constructed so fire department apparatus may negotiate it. If a “center island” is placed at an entrance road, it shall be arranged in such a manner that it will not adversely affect quick and unimpeded travel of fire apparatus into the site.*  
**Response: Noted.**
- *Any dead-end road more than 300 ft 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.*  
**Response: Noted.**
- *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.*  
**Response: Noted.**

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

**Response: Noted.**

- *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.*

**Response: Noted.**

#### ***Gas Piping and System Information***

- *Provide type of fuel proposed and show locations of bulk containers on plan.*

**Response: Noted.**

#### ***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 (include number of stories)*
- *Note indication 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)*
- *Provide Road Names, even for County Roads*

**Response: All required notes will be included.**

#### **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 are 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 Stephen Bayer**

- *The applicant should expect a requirement that any substation and/or wastewater facilities will be required to have access from an internal driveway with no direct access to Seventh St.*

**Response: Noted.**

- *The applicant should expect a requirement that all PLUS and Technical Advisory Committee (TAC) comments be addressed prior to submitting plans for review.*

**Response: Noted.**

- *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 dates of March 21, 2019 and March 16, 2022.*

**Response: Noted.**

**Department of Natural Resources and Environmental Control – Contact Clare Quinlan**

***Wetlands and Subaqueous Lands***

- *Do not disturb wetland areas. Wetlands, both tidal and non-tidal, are a critical part of our natural environment. They reduce the impacts of flooding, absorb pollutants, and improve water quality. Wetlands provide habitat for animals and plants, and many contain a wide diversity of life, supporting plants and animals that are found nowhere else.*

**Response: The current design anticipates filling approximately 12,000 SF of non-tidal wetlands which is acceptable based on Nationwide Permit program which allows for the loss of up to ½ acre of non-tidal wetlands.**

***Vegetated Buffer Zones***

- *Incorporate a 100-foot vegetated buffer zone from the edge of wetlands and all waterways to protect water quality and to provide an additional margin of safety for flooding.*

**Response: Based on the City of New Castle code there are no minimum buffer requirements applicable to this site and the County has no jurisdiction on development of this land. The current site contains pavement and improvements within 5' of existing wetlands.**

- *Vegetated buffer zones should be left undisturbed during construction and should be identified outside of the Limit of Disturbance on the engineering plans. In some instances, stormwater outfalls, conveyances, and emergency spillways may cross through these zones, and will require temporary disturbance during construction.*

**Response: The existing site currently consists of pavement within 5' of existing wetlands.**

- *Maintain vegetated buffer zones as either grasslands/meadows or forest. Buffer zones should be planted exclusively with native trees and plants. Native plants are well-suited to our climate and require limited maintenance. They also provide an increasingly important role in the survival of native birds and beneficial insects whose habitat is shrinking due to development and climate change.*

**Response: There are limited natural features on the site. A significant majority of the uplands within the site is occupied by existing improvements including pavement and buildings.**

- *Grass cutting for vegetated buffer zones if maintained as meadow should not occur between April 1<sup>st</sup> to July 31<sup>st</sup> to reduce impacts to nesting birds and other wildlife species that utilize meadows and grasslands for breeding habitat.*

**Response: Noted.**

### ***Sea Levels Rise***

*Most of the site is vulnerable to permanent inundation from sea level rise. By 2050, mean sea levels are projected to rise by 0.7-1.9 feet; by end of century sea levels are projected to increase by 1.7 – 5.0 ft. Roadways and buildings are proposed on land subjected to inundation by sea level rise between 1 and 5 feet. In addition to permanent inundation, as mean sea levels rise, the frequency and severity of tidal flooding events is expected to increase.*

- In areas within 5 feet of mean sea level, avoid construction of permanent structures and infrastructure. All infrastructure and structures on the site should incorporate the effects of sea level rise through the expected lifespan of the structures. This may include increasing freeboard of structures, ensuring that critical infrastructure is elevated to withstand future sea level rise, construction of flood control measures, and incorporating green infrastructure for flood control.*

**Response: The proposed FFE is set at 12 feet which is 2.0-3.0 feet above the current flood elevation. The proposed building will be at or above the 2050 projected sea rise elevation. There is no residential space proposed on the first floor and the design will consider construction of flood control measures. It is infeasible to raise the proposed buildings to be out of the projected maximum sea level rise until the surrounding area is raised. The site would have constrained access if the floor elevations were raised above the maximum end of century sea level elevation.**

### ***Special Flood Hazard Area***

*Locate all structures outside of the floodplain. If this is not possible, the developer should consider designing structures to a higher standard to avoid potential future flood damage and loss.*

**Response: Noted.**

### ***Key Wildlife Habitat***

*The mixed broadleaf freshwater tidal marsh on this property is mapped as a Key Wildlife Habitat in the Delaware Wildlife Action Plan because it is part of a large wetland complex that can support an array of plant and animal species across the landscape.*

- Key Wildlife Habitat should be conserved to the maximum extent practicable and negative impacts should be minimized.*

**Response: This is already a developed site and most of the proposed improvements will be on land that has already been disturbed.**

- In the interest of water quality and wildlife habitat, we recommend maintaining an upland buffer at least 100 feet along rivers, streams, and wetlands. This recommendation is based on peer reviewed research that suggest that buffer values increase noticeably with widths of 100 feet or more.*

**Response: Based on the City of New Castle code there are no minimum buffer requirements applicable to this site and the County has no jurisdiction on development of this land. The current site contains pavement and improvements within 5' of existing wetlands.**

### ***Stormwater Management***

- Where the site and soil conditions allow, integrate runoff reduction techniques including infiltration basins, bioretention (rain gardens), filter strips, and pavers to encourage on-site stormwater infiltration and reduce runoff.*

**Response: Noted.**

- *For improved stormwater management, preserve existing trees, wetlands, and passive open space.*

**Response:** There is no stormwater infrastructure currently on-site providing water quality/quantity control of existing pavement or buildings on the site currently. This design will capture and provide water quality measures for the proposed conditions thereby improving water discharge from the site.

#### ***Drainage***

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

**Response:** Noted.

- *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 Subaqueous Lands Section prior to clearing and/or excavating ditch channels.*

**Response:** Noted.

- *All precautions should be taken to ensure the project does not hinder any off-site drainage upstream of the project or create any off-site drainage problems downstream by the release of on-site storm water.*

**Response:** Noted.

#### ***Mosquitoes***

*The project is expected to be impacted by mosquitoes due to its location near large expanses of wetlands. Mosquito control issues are increasing as developments infringe on wetlands areas, often leading to increased demand for mosquito control services beyond what DNREC has the resources to provide.*

- *If necessary, arrange for a long-term mosquito control services through a private company licensed in this area of specialty. In some cases, the DNREC Mosquito Control Section may be able to provide these services free of charge.*

**Response:** Noted.

#### ***Additional Sustainable Practices***

- *Install electric vehicle (EV) charging stations for your residents. Increasingly, residents will expect EV charging. Installation costs can vary significantly depending on the parking and electricity distribution at a given location, so it is often easier and cheaper to plan for the installation at construction, rather than doing costly retrofits later. The DNREC Division of Climate, Coastal and Energy offers rebates of up to 90% of the cost of the charging station for commercial, multi-unit dwelling and other public properties. These programs address climate change goals of reducing greenhouse gas emissions and improving overall air quality.*

**Response:** The owner is considering providing electric vehicle charging stations.

- *Use renewable energy infrastructure such as solar or geothermal to reduce energy costs and further reduce pollution created from offsite generation. Grant funds and incentives are available for Delmarva Power customers through the DNREC Green Energy Fund, which includes several funding types through the state's major electric utilities.*

**Response:** The use of renewable energy infrastructure is anticipated for the proposed design.

- *Include space for recycling dumpsters within the preliminary site design stage. These can be placed adjacent to trash dumpsters.*

**Response: Recycling dumpsters will be included within the preliminary site design stage.**

- *Incorporate non-motorized connectivity and install bicycle racks where feasible to help facilitate non-vehicular travel modes.*

**Response: Bicycle parking is anticipated to be provided within the proposed design.**

- *Use efficient Energy Star rated products and materials in construction and redevelopment. Energy efficient appliances use less energy over time. This saves consumers and businesses money, while also helping to reduce pollution from power generation.*

**Response: Energy Star rated appliances and HVAC equipment are anticipated for the proposed design.**

- *Use structural paint coatings that are low in Volatile Organic Compounds to help protect air quality. Air pollution from new construction is generated through the use of maintenance equipment, paints, and consumer products like roof coatings and primers.*

**Response: It is anticipated that low VOC paint and coatings will be used wherever possible.**

- *Use recycled materials, such as reclaimed asphalt pavement, to reduce heat island effects on paved surfaces, prevent landfill waste, and lower material costs.*

**Response: It is anticipated that existing asphalt pavement will be reclaimed and re-used during construction. It is anticipated that existing parking lot base materials will also be reused wherever possible.**

#### **Delaware Emergency Management Agency – Contact Phillip Cane**

##### ***Population***

- *The county has a population density of 1,321.50 per sq. mile based on the US 2020 Census report, an increase from 2010 at 1,241.00 persons per sq. mile.*

**Response: Noted.**

- *The specific census blocks the project is located on has a total population of 290, though, with development, this will undoubtedly change.*

**Response: Noted.**

- *The adjacent blocks aggregate brings the area to a total population of 877.*

**Response: Noted.**

##### ***FEMA National Risk Index***

- *The FEMA National Risk Index is an online mapping application that identifies communities most at risk of 18 natural hazards: Avalanche, Coastal Flooding, Cold Wave, Drought, Earthquake, Hal, 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.*

**Response: Noted.**



- According to FEMA's National Risk Index, the parcel is considered **very low** for overall natural hazard risks.

**Response: Noted.**

- 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.

**Response: Noted.**

- Its community resilience is rated as **relatively high**. In contrast, its social vulnerability is rated as **relatively moderate**.

**Response: Noted.**

#### **Potential Parcel Solar Panel Capabilities**

- Regarding energy use and consumption, the parcel utilizes utility gas as the predominant fuel for heating purposes.

**Response: Noted.**

- However, for electricity generation via solar panels, the parcels have an average photovoltaic power potential of 1452 kWh/kWp. As such, should solar panels be utilized, we recommend an optimum tilt of the photovoltaic modules at approximately 35 degrees, which could provide a potential of 1757 kWh/m<sup>2</sup>.

**Response: Noted.**

#### **Renewable Energy Commitment**

- DEMA strongly encourages the use of renewable energies and high-efficiency appliances and utilities.

**Response: The project team is committed to exploring and utilizing renewable energy options where possible.**

- 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.

**Response: Noted.**

- Lastly, DEMA encourages the integration of modern and emerging technologies, such as the potential for electric vehicles in garages/parking lots, green roofs where applicable and allowable, and the like.

**Response: The project team is committed to integrating modern and emerging technologies where possible.**

**Delaware State Housing Authority – Contact Karen Horton**

- *DSHA supports the site plan for a mixed-use development consisting of 152 multi-family units and retail space on 4 acres at 427 W. 7<sup>th</sup> St. in the City of New Castle. While market-rate, multi-family rental units offer a more affordable option to the many county residents experiencing housing insecurity.*

**Response: Noted.**

- *Due to the proposal's intensity, we recommend a site layout and design measures that are human-scaled and pedestrian-oriented to seamlessly connect the site with the adjacent historic downtown. This can be accomplished by incorporating attractive streetscapes, visually appealing façade treatments, and significant landscaping measures and hardscapes.*

**Response: Noted.**

**Delaware State Fire Marshall's Office – Contact Duane Fox**

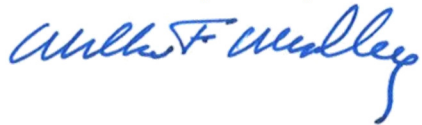
- *Preliminary meetings are encouraged prior to formal submittal. Please contact the City of New Castle's Fire Marshal Office to schedule.*

**Response: We will continue to coordinate and work with the City of New Castle's fire Marshall through the design process.**

Should you have any questions, please don't hesitate to contact me at (609) 910-4450 or via email [wwendling@midatlanticeng.com](mailto:wwendling@midatlanticeng.com).

Best Regards,

**MidAtlantic Engineering Partners, LLC.**



William Wendling, P.E.

# **Applicant's Submittal Regarding Architectural Design Standards**

## **G. DESIGN STANDARDS**

(1) To ensure that all new development in the Downtown Gateway District will be pedestrian in scale and walkable, all development in the district shall meet the following design standards.

(2) Building design standards. New construction shall meet the following requirements:

- (a) Building character. New development shall generally employ building types that are compatible to the existing architecture of the adjacent downtown area in their massing and external treatment.

The proposed building is in character and scale of adjacent downtown area buildings.

- (b) Building orientation and entrances.

[1] The front façade of buildings shall be oriented towards the street and sidewalk, with the primary entrance located in this front façade.

Primary entrance located in the front, street-facing facade.

[2] Buildings located on a corner lot shall be oriented to the primary street as determined by the City Codes Officer and orientation to both public streets is encouraged.

NA (not applicable)

[3] All primary building entrances shall be accentuated. Entrance accentuations may include recessed or protruding entrances and/or the use of canopies, porticos or overhangs.

Primary entrances will be provided with horizontal canopies overhead.

- (c) Windows.

[1] Windows should be appropriate to the architectural style, materials and detailing of the building. To the greatest extent possible, windows should be proportioned vertically.

Windows match the proposed architectural style. Single windows are oriented vertically.

- [2] The ground floor front façades of retail buildings shall include a minimum of 40% and a maximum of 75% of window with views provided through these windows into the business.

Windows to retail areas exceed 40%, but are less than 75% of the front facade retail area.

- [3] Upper story windows of front façades shall not be boarded or covered and façades shall include windows in the façade above the ground floor.

No boarded or covered windows are proposed.

- [4] Upper story windows should be aligned with windows and doors on the first floor.

Windows on the upper floors are aligned vertically with ground floor openings below.

- [5] Smoked, reflective, opaque or black glass in windows is prohibited.

None proposed.

(d) Roofs.

- [1] The following roof types are encouraged: gable, cross gable and flat roofs with a decorative cornice line or parapet.

Flat roof with parapet and decorative cornice proposed.

- [2] Flat roofs shall be prohibited on one-story buildings but are allowed on buildings of two stories or more, provided that all visibly exposed walls have an articulated cornice that projects horizontally from the vertical building wall plane.

Proposed building is four stories with cornice that projects from the vertical wall plane.

(e) Façade articulation.

- [1] Façades shall have horizontal articulation elements. At a minimum, façades shall have the following horizontal elements: window sills, window lintels, protruding horizontal courses on each floor of the building and cornices. See Table 3.

Facades have horizontal window sills and window / exterior lintels

- [2] Façades shall have a distinct base of at least 18 inches in height at ground level using materials that are different from the main façade such as stone, masonry or decorative concrete. See Table 3.

18" high ground-face block or cast stone water table course is provided at the ground level on the main facades.

- [3] Façades shall have vertical articulation at a maximum distance of every 30 feet of continuous façade. Vertical articulation shall be created through changes in plane or building material for a minimum of one foot wide and protruding a minimum of two inches. See Table 3.

The street facing facade parallel to W 7th Street is less than 30' (28'-2") wide, there is a vertical break, then the building is angled back.

- [4] The top level should be treated with a distinct outline with elements such as projecting parapet, cornice or other projection. See Table 3.

Flat roof with parapet and decorative cornice proposed.

- [5] To further articulate the building façade and increase architectural interest while facilitating all-weather comfort of pedestrians, continuous awnings (both permanent and retractable), canopies and building overhangs, including arcade structures with occupied space above, are strongly encouraged along the street frontages.

Horizontal canopies are proposed along the facade on W 7th Street.

- (3) Design standards for improvements to and reuse of existing buildings. The City Council expects that where an applicant is improving or changing an existing structure to accommodate a change in use, the applicant will attempt to integrate any of the following design standards that are relevant to the improvements being completed. The applicant shall illustrate how a

new use within an existing structure attempts to accommodate the following standards:

(a) Locate primary building entrances toward the street.

Primary entries face W 7th Street.

(b) Provide more than 25% transparent or translucent materials on each story below the roofline.

Transparent materials meet or exceed 25% of each facade.

(c) Locate parking to the side or rear of the principal building.

Parking is located along side, and to the rear of the retail space of the principal building.

(d) Utilize pedestrian scale façade articulation and changes in plane on all façades to distinguish each building story and imply regularly spaced storefronts between 20 feet to 40 feet.

Pedestrian scale facade articulation occurs along the primary street facing facade, with a vertical break occurring between 20-40 feet.

(4) Surface parking standard.

(a) General standards (in addition to the requirements of § 230-28).

[1] Vehicular access. Vehicular access to surface parking shall be from an alley or the secondary street frontage where possible.

Site frontage is such that access to parking will be from W 7th Street.

[2] Pedestrian access. Safe provisions for pedestrian access to and through a parking lot shall be required. Pedestrian walkways through the surface parking shall connect to sidewalks along public streets.

Surface parking is located adjacent to sidewalks that connect to public streets.

[3] Location of surface parking.

[a] All off-street parking spaces shall be located to the side or rear of the principal structure occupying a lot. No off-street parking shall be permitted in the front yard.



Surface level off-street parking provided to the rear and side of the principal structure and street facing retail space.

[b] Surface parking shall be set back five feet from the sidewalk.

Surface parking to be set back more than five feet from the 7th Street sidewalk.

[4] See § 230-28G for additional parking area standards for multifamily residential and nonresidential developments.

(b) Interconnected parking areas.

[1] Parking areas on abutting nonresidential lots shall be interconnected by access driveways wherever possible.

NA

[2] Each parking lot shall provide cross-access easements for its parking areas and access driveways guaranteeing access to adjacent lots. Interconnections shall be logically placed and easily identifiable to ensure convenient traffic flow.

NA

(c) The number of parking spaces shall be provided in accordance with § 230-28A(15), Parking and access, of the Zoning Ordinance.

Minimum parking standards will be met.

(5) Streetscape standards. All developments in the DG Districts shall be required to provide and maintain the following improvements along the entire length of all public streets on which they obtain frontage:

(a) Public sidewalks shall have a minimum unobstructed width of 10 feet in commercial areas.

Minimum 10' wide sidewalks to be provided in front of commercial spaces along W 7th Street.

[1] The Planning Commission may alter this if necessary if it is demonstrated that existing topographic conditions make this standard

not feasible. However, the unobstructed width of a sidewalk shall not be less than five feet.

- (b) Street shade trees shall be planted at a maximum spacing of 40 feet on center. Street shade trees may be planted in tree pits, a minimum of four feet wide and six feet long, or in a continuous tree lawn, a minimum of three feet in width, located between the curb and the sidewalk.

Minimum planting requirements will be met.

- (c) Pedestrian-oriented lighting at a maximum spacing of 50 feet or as recommended by the manufacturer to achieve adequate levels of sidewalk illumination.

Minimum lighting requirements will be met.

- (d) Benches and other street furniture at appropriate locations, subject to the review and recommendation of the Planning Commission and approval of City Council.

No tables or benches are proposed.

- (e) Bulbous stamped concrete paving to match brick borders in color, texture and size for properties at corner locations.

NA

- (6) Signage. Signage within the DG Districts shall conform to the requirements of § 230-37 and the following additional standards:

- (a) All signs in the DG Districts shall be pedestrian-oriented and not distract from the overall appearance of the building.

Surface mounted building name lettering proposed on face of retaining wall along W 7th Street.

- (b) All signs in the DG Districts shall be constructed of high-quality materials.

Lettering to be weather resistant metal/ alloy.

- (c) Lettering on awnings shall be limited to the vertical surface or edge.

NA

(d) Rooftop signs shall be prohibited.

No rooftop signage is proposed.

(7) Lighting.

(a) All building lighting shall be down lighting.

Down lighting will be provided.

(b) Lighting fixtures shall not exceed the height of the principal building on the site.

No fixtures above roof line are proposed.

(8) Screening.

(a) The purpose of a screen is to provide a visual barrier between unsightly or out-of-scale development features and the views from public streets and abutting properties.

(b) All rooftop mechanical equipment and other appurtenances shall be concealed by or integrated within the roof form or screened from view at ground level of nearby streets. The following, when above the roofline, require screening: stairwells, elevator shafts, air-conditioning units, large vents, heat pumps, mechanical equipment and parked vehicles (in the case of rooftop parking). The screening of mechanical equipment shall not be subject to the maximum height requirements if it is unoccupied.

Roof top equipment will be set back from parapet and/ or screened with metal screens.

(c) Service and loading areas, including dumpster, trash handling and recycling, outdoor storage, vehicle storage, loading docks and wall- or ground-mounted equipment, shall be located on the side or rear of the building and shall be visually screened from street and pedestrian ways with an opaque screen that may be composed of:

[1] A brick or stone wall.

[2] Wooden fence.

[3] Vinyl fence designed to look like wood.

[4] Planted vegetation, in which:

[a] All evergreen trees to be installed shall not be less than six feet in height at the time of planting and shall be of such species that expected height at maturity shall not be less than 15 feet.

[b] One hundred percent of required trees and at least 75% of required shrubs shall be evergreen species.

[c] Shrub plantings shall be a minimum of three feet high upon installation, with an expected height of at least six feet at maturity; no unobstructed openings wider than four feet will be permitted.

[5] Existing vegetation, if deemed suitable by the City Code Official, may be used in place of required landscaping.

[6] A combination of these elements, which will meet the purpose of the requirement.

Trash compactor rooms are at grade level inside the building exterior walls. Dumpster pad is located at the most remote portion of the site in the parking area.

(9) Outdoor dining.

(a) Outdoor furnishings are limited to tables, chairs and umbrellas.

(b) Planters, posts with ropes or other removable enclosures, as well as a reservation podium are encouraged and shall be used as a way of defining the area occupied by the cafe.

(c) Refuse facilities shall be provided.

(d) Advertising or promotional features shall be limited to umbrellas, menu signs, sandwich board signs and canopies.

(e) Outdoor dining can not impede pedestrian traffic flow. A minimum pathway of at least five feet free of obstacles shall be maintained.

(10) Fences. Chain link fence and strictly functional design fence is prohibited.

No chainlink fences are proposed.

(11) Ventilation equipment for restaurants, bars and taverns in buildings erected after the passage of this section shall be provided on the roof.

NA