

## Department of Land Use Exploratory Sketch Plan Review Report

Date – November 14, 2011

Application Number – 2011-0618(S)

Project Title – **CVS Pharmacy; New Castle Avenue**

Consulting Engineer – Matthew T. Allen, Bohler Engineering

Legal Property Owners – John C. Dixon, Jerome & Diana Fisher, and  
Ronald C. Palimere, Mandarin Management Systems, Inc.

Equitable Owner – Jim Martin, JEM X, LLC

Description – Proposal to construct a 13,281 square foot pharmacy with drive-thru lanes and reconfigure existing car wash stacking lanes on 2.07 acres

Type and Stage of Plan – Exploratory Sketch Minor Land Development Plan Review

Prior Reviews – This is the initial review.

Project Review Team – Planner, Steven Faux at 395-5437  
Engineer, Doug Hokuf at 395-5448  
Historic Preservation, Christine Quinn at 395-5521  
Transportation, John Janowski at 395-5426  
Special Services, David Thurman at 395-5752

Status of Review – Not Approved – The Department of Land Use has reviewed the above referenced plan and identified the issues explained below. Approval of the Exploratory Sketch Plan is contingent upon securing all of the necessary variances acknowledged by the Applicant and noted below. In the event the variances are granted, the Construction Plans should be submitted to the Engineering Section.

Timeframe – Pursuant to Section 31.390 of the UDC, the Record Plan submission must be made within three years from the date of this Review Report (by November 14, 2014) or the Application will be expired. However, the plan must first achieve Construction Plan approval and Exploratory Sketch Plan approval prior to the submission of the Record Plan.

### Planning comments:

1. A “Wetlands Delineation Report” or a “Report of the Nonexistence of Wetlands” is required and was supposed to accompany the initial submission of this project. The statement in the cover letter that a Wetlands Report is not necessary because the property is located in flood zone ‘x’ is not correct. The Report must be submitted to the Department prior to the submission of the Application for variances. Change note 30 to reference the Wetlands Report and its findings.
2. Among the Limited Use standards for the proposed drive-in facility is Section 3.316.D. which states “*The circulation design must accommodate on site an additional four vehicles for stacking that may be within parking aisles.*” The Exploratory Sketch Plan depicts four additional cars although the final two cars would actually be in the queue directly behind the ones numbered 13 and 14 (not where they are shown on the plan) and they would be blocking the internal intersection, rather than “within parking aisles”. Either the drive-in facility must be redesigned or a variance for relief of some of the stacking requirements must be obtained.
3. This plan does not comply with many provisions of the Unified Development Code and Note 31 lists a number of variances that the Applicant intends to seek. The list of variances in the note is too vaguely phrased and will need to be much more specific. If the variances are granted, change note 31 to reference the Application number and date of the Board of Adjustment’s decision along with an enumerated list of the variances. The following are the UDC provisions with which the plan does not comply:
  - a. *Table 10.010; WRPA 50% Protection Level:* The entire site is located within a Class C Wellhead Water Resource Protection Area and is subject to a 50% protection level which means that, per Section 10.110 B., at least half of the site must remain “undisturbed”. The whole property is proposed to be disturbed. In order for a variance to be sought for relief of this requirement, an Environmental Impact Assessment Report must be prepared and submitted to the Engineering Section with a request to have the Application placed on the agenda of a Water Resource Protection Area Technical Advisory Committee meeting to obtain their recommendation.
  - b. *Table 4.110 A.; Landscape Surface Ratio:* A commercial retail land use in the CN zoning district requires 45% of the site to be open (not covered by buildings or impervious surfaces). The plan proposes 27.7% open area.
  - c. *Table 4.110 B.; Street Yard Paving Setback:* The proposed parking lots and vehicular circulation aisles are required to be set back at least 40 feet from the existing and future street right-of-way lines. The plan proposes parking as close as 22.7 feet from the New Castle Avenue right-of-way line and 9.6 feet from the Landers Lane future right-of-way reservation line.

- d. *Table 4.110 B.; Other Yard Paving Setback:* The proposed paving that will serve as vehicular circulation for use by both the CVS and car wash sites straddling the existing common lot line need not comply with the 10 foot paving setback requirement provided an easement is established for such common use. However, any proposed pavement that is not used for common access needs to either be 10 feet from the lot line or a variance must be obtained. The plan does not indicate the limits of joint usage / cross access easement and must do so.
  - e. *Table 4.111 A.; Street Bufferyard:* Along Landers Lane, a 0.3 opacity bufferyard is required between the proposed parking lot and the reservation line for the future right-of-way. In order to achieve a 0.3 opacity bufferyard, a minimum 15 feet of landscaping must be provided although the plan only proposes a 9.6 foot-wide buffer. The provided width would constitute less than a 0.1 opacity bufferyard.
  - f. *Table 4.111 B.; Adjoining Property Bufferyard:* Abutting the neighboring NC6.5 zoned school, a 0.2 opacity bufferyard is required while only enough width along the northwestern side of the site for a 0.1 opacity bufferyard is proposed. Per Table 23.140 of the UDC, a minimum 15 feet of width is necessary to achieve a 0.2 opacity bufferyard; only a 10.9 foot buffer is proposed.
4. Note 30 on the plan lists a number of variances that “will be requested” including several for the car wash parcel. Although this plan does propose the reconfiguration of various features on the car wash site and the expansion of its stacking queue onto the CVS parcel, the plan is not required to improve the nonconforming situations on that parcel as long as the reconfiguration does not cause any situation to be made more nonconforming. Based on the design of the site depicted on microfilm number 4695, the proposed plan will not render anything more nonconforming; therefore, variances are not required to be sought for the car wash site.
5. The four proposed parking spaces abutting the existing car wash building do not comply with the dimensional requirements of Figure 22.612 of the UDC. They are each much wider than required but much shorter in depth. According to the way angled spaces are measured, the proposed spaces are only ten feet deep and need to be increased to 18 feet.
6. The ten foot wide swath of land abutting the Landers Lane right-of-way line labeled “10’ DelDot Easement” was partially referred to on the previously recorded plan for the site, microfilm number 4695, as “5.00’ Reserved for Future R.O.W.” Whether that land is to be “Dedicated”, “Reserved”, or an “Easement” is to be determined and approved by DelDot. For this issue and the proposed entrances, obtain a Letter of No Objection from DelDot. In note 32, omit the sentences explaining the rationale for the easement in lieu of the dedication of additional right-of-way. Also omit the references to this plan being a Redevelopment Plan since it does not qualify as such.

7. On the existing lot line proposed to be eliminated by this plan, add a parcel hook and the phrase: "Lot Line Extinguished by this Plan".
8. Add the bearings and distances of the south and east property lines of the car wash parcel.
9. Omit all of the proposed signs from the plan. The issue of signs will be addressed separately from the Minor Land Development Plan review process. However, it is observed that at least two of the signs shown are within the sign setbacks and would likely need to either be moved or need to obtain variances.
10. On the car wash parcel, one label cites the square footage of the car wash building as 1,648 square feet and another notes it as 1,690. Please correct the discrepancy.
11. There are two existing car wash "car ports" and one proposed pharmacy drive-through "canopy". These features constitute "building coverage" but they are not "gross floor area". Indicate their square footage and account for them in the building coverage category of the "Site Area Breakdown" Tables in note 16 with a footnote differentiating between the GFA and the features considered buildings but not GFA.
12. There are a number of apparently extraneous lines and symbols appearing on the plan which are neither labeled nor represented in the legend. Please expand the legend to include all line weights, abbreviations, shading patterns, and symbols used on the plan view at the same scale as on the plan. In order to avoid confusion, it may be preferable to present this plan as a two sheet plan with the first sheet depicting only the ultimate proposed conditions and the second sheet showing the proposed conditions overlaid upon the existing conditions.
13. There is only one Certification of Ownership on the plan. The Record Plan must have Certifications of Ownership endorsed by all property owners of all three existing parcels.
14. The Professional Engineer's seal affixed to the Title Block of the plan is from the State of Maryland. The engineer who signs and seals the Certification of Accuracy must be registered in the State of Delaware. Also, General Note number 1 states that the plan is based on a field survey by Control Point Associates, Inc. If the plan will reference such a survey, the engineer or surveyor responsible for that survey must also endorse the Record Plan.
15. Change the proposed concrete island with the bike rack at the northern corner of the building to be a landscaped island and relocate the bike rack to a different concrete surfaced area not blocking pedestrian ways.
16. Although the land to the northwest of the site is the same parcel as the land to the south, label that adjoining land with its owner, parcel number, and zoning district.

17. In the Title Block, identify the plan type as a “Minor Land Development Plan”.
18. Note number 5 is the purpose note. Please highlight that note with bold text and/or highlight it by outlining it with a box.
19. In note 6, omit the second line. Simply indicate the existing zoning of the site.
20. In note 10, omit the indication of the existing parking spaces to be demolished.
21. In note 11, correct the existing sewer flows; there are not two existing dwellings and there is an existing (albeit vacant) retail store. For the proposed sewer flows, cite the formula used to determine the flow generation figure and indicate the peak flows.
22. Note 13 states that there are precautionary steep slopes on the site. None are depicted and, based on the topography shown, there does not appear to be any regulated steep slopes. If precautionary steep slopes do exist, graphically show them and redesign the site to render them 25% undisturbed.
23. In the Tables of note 16, add columns for the acreage and percentage of each land use coverage category.
24. In note 17 regarding the Class C Wellhead Water Resource Protection Area, elaborate to explain the impervious surface coverage, the approval of the Environmental Impact Assessment Report that will have authorized the site to exceed 20% coverage, the variance which will have been granted for the site to be developed beyond 50% land disturbance activity (presuming it is granted), etc. If the variance is granted and the site is permitted to exceed 20% impervious surface cover, a Groundwater Monitoring Program will have to be established including the recordation of a Water Monitoring Agreement. Reference all of these items.
25. An “Access Easement” is labeled where it was established by microfilm number 4695. Show it more clearly and indicate that it is eliminated by this plan since this plan consolidates the two parcels it was established to jointly serve.
26. Submit a Cross Access Easement Agreement to the Departments of Land Use and Law for the shared access between the car wash site and the CVS site and add a reference note for it to the Record Plan. That document must be recorded prior to Record Plan approval.

**Engineering comments:**

Date received: 10/21/11  
Date complete: 11/2/11  
Review time: 8-days

The Engineering Section has reviewed the exploratory submission and has conditionally approved the application pursuant to the satisfactory completion of the following comments. A cover letter addressing each comment within this review letter must accompany any resubmission of this project. The letter must describe the manner in which each comment was addressed:

1. Be sure that all future documents, required to be sealed, are done so with a Delaware registered seal.
2. Work with the Department of Special Services to determine the fee amount for the Non-residential Stormwater Management Facility Maintenance Fund in accordance with the New Castle County Code Section 40.27.240. Once the fee has been determined the following note shall be placed on the record plan:

The Owner/Developer shall pay, to New Castle County, funds for Long Term Stormwater Maintenance and Inspection Fund pursuant to Section 40.27.240 of the County Code. The funds shall be used for the costs associated with inspections. An amount of \$XXXX shall be funded prior to receiving the first Certificate of Occupancy. The Department of Land Use shall withhold the issuance of any Certificate of Occupancy until satisfactory written proof that the funds have been paid to New Castle County is furnished in accordance with the requirements.

3. Easements shall be established for access, inspection and maintenance of the all stormwater facilities in accordance with the New Castle County Code Section 12.05.006.B.6. the following note may be provided in lieu of specific easements for each stormwater management facility:

“A stormwater management access easement in favor of New Castle County, its agents and assigns is hereby created on, over, under and across the entire area of all stormwater management facilities including, stormwater conveyance systems, basins, and all components thereof, identified on the plan and all watercourses for the purpose of inspecting, evaluating and maintaining the stormwater management facilities and watercourses. The easement shall extend 10' from the outer edges of each such stormwater management facility. A general access easement is hereby created over and across the property shown on this Plan granting New Castle County, its agents and assigns the right, privilege and authority to enter upon and travel across the property to each stormwater management facility. The easements herein created shall be for pedestrian, vehicular and equipment use. If New Castle County, its agents or assigns determines that maintenance is required to a stormwater management facility, New Castle County shall provide notice of the required maintenance and the time frame in which such maintenance shall be completed to the property owner or responsible party. No notice shall be required where New Castle County performs maintenance where there is

imminent threat to life, health or property. In the event New Castle County elects to maintain the stormwater management facilities, all expenses shall be assessed jointly and severally against the owners of the property shown on this Plan.”

4. The area breakdown in the site data column shall include the area for storm water management, in acres, in accordance with Chapter 40, Appendix 1, Item 22 of the New Castle County Code.
5. In accordance with Chapter 40, Appendix 1, Item 43 of the New Castle County Code, each storm water management practice shall have its area provided in acres on the plan.
6. The pre-bulk plan shall be revised to only depict those actions necessary to access and secure the perimeter of the site; all other proposed features shall be expunged from the plan view. Furthermore, all erosion and sediment control features are to be labeled in accordance with the Delaware Erosion and Sediment Control Handbook (e.g. SCE, IP-1, IP-2, etc.).
7. In accordance with the submission checklist report requirements item A.2, the receiving watershed shall be identified and delineated on the USGS quad map.
8. None of the required data, as outlined in the submission checklist report requirements items B.1, B.2 and B.3, regarding the site soils, could be found within the report; the report shall be revised accordingly.
9. To satisfy checklist submission report requirements item C, visit the EPA website at <http://www.epa.gov/reg3wapd/tmdl/303d.htm> to determine if there are any pollutants or stressors listed for this application’s watershed.
10. Water quality treatment is required for all areas changing use, even the building. This evaluation is to be done on a square-foot by square-foot basis. Any area currently pervious, building or paved that will be a different land cover in the post-developed is required to be treated for quality. The water quality event is defined in the Delaware Sediment and Storm water Regulations Section 10.3.5.2, this same formula is to be utilized for all applications, including redevelopment.
11. It is not understood where the WQv provided values came from for facilities A and B on page 8, where the volumes are added, as neither volume is consistent with those computed earlier in the report. Be sure as the WQv is recalculated, in accordance with DNREC regulations, that these values are also accurately carried through the report.
12. Contrary to the statement made in the Soils portion of the narrative, soil testing is required particularly as an underground recharge facility is proposed. Furthermore, two bio-retention cells and underground storage facility are also

being proposed and if soil conditions warrant both should be designed to provide additional volume reduction benefits in accordance with the New Castle County Code 40.22.210.A.1.a.i.

13. Infiltration testing shall be provided in accordance with the Delaware Sediment and Stormwater Regulations Section 10.3.15 and DNREC Memorandum dated 5/29/96.
14. If the underground systems are to be StormTech, the following comments are applicable:
  - a. Provide certification from StormTech that verifies their review and approval of this application as it specifically relates to the function and capacity of their product.
  - b. Provide a copy of the geotechnical soil evaluation that establishes the depth of stone bedding required beneath the StormTech chambers to support the proposed use over the system.
  - c. In accordance with the easement requirements for storm water management in Section 12.05.006.B.6.e, no utilities can be within ten-feet of the StormTech chamber system, the construction plans shall demonstrate compliance.
15. Demonstrate compliance with the New Castle County Code Section 40.10.380.B&C regarding impervious cover within a WRPA by declaring the percentage of impervious area proposed in a note on the record plan.
16. If the area of impervious cover within the WRPA is greater than 20% than the application shall demonstrate compliance with the New Castle County Code Section 40.10.384.

**Historic comments:**

The Historic Preservation Section is not aware of any historic resources that would be impacted by this plan.

**Transportation comments:**

The existing bus stop along Landers Lane in front of parcel 10-051.30-0374 consists on nothing more than a sign and almost nowhere for bus passengers to stand. If required by DART or DelDot, the bus stop may warrant improvement as a component of this plan. It is recommended that the developer propose a bus stop meeting DART's standards.



**Special Services comments:**

1. For any existing easement shown on the plan, provide the recording information (i.e., deed number, record plan, or microfilm/instrument number) which established the easement along with the width and type of easement.
2. The current plan submittal is requesting sanitary sewer capacity of 98 gallons per day. However, the standard design rate for a commercial retail use is typically anticipated to be 0.1 multiplied by the proposed square footage of the building. Based on this rate, the proposed CVS would require 1,328 gallons per day. Either adjust the figure to be consistent with the County's prescribed formula or submit water records for similar pharmacies in order to justify the lesser sewage flow figure.

**Mapping Section comments:**

Property address for Proposed CVS is 8 Landers Lane, New Castle, DE 19720.

**Additional approvals and items required prior to recordation:**

Engineering Section approval, Special Services approval, Fire Marshal approval, DelDot Letter of No Objection, Board of Adjustment approval of variances, Water Management Agreement, DNREC's "Notice of Intent" form, Cross Access Easement Agreement, Landscape Plan, Lighting Plan, Water Capacity Certification, Two Record Plan mylars, Review and Recording Fees

CC: John C. Dixon  
Jerome & Diana Fisher  
Jim Martin, JEM X, LLC  
Ronald C. Palimere, Mandarin Management Systems, Inc.