



Kent County

Department of Planning Services Division of Planning

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STAFF RECOMMENDATION REPORT March 9, 2017

Application / Title	:	S-17-03 IG Burton New Chrysler Building
Present Zoning District	:	BG (General Business)
Present Use	:	Auto Dealership
Proposed Use	:	Auto Dealership with New Building
Relation to Growth Zone	:	Inside
Area and Location	:	6.51 \pm acres on the west side of Bay Road (DE Rt. 1), approx. 280 ft. south of the intersection with Williamsburg Drive, north of Milford

I. STAFF RECOMMENDATION:

The staff recommends **CONDITIONAL APPROVAL** of the proposed revisions to the site plan, based on the information submitted, as the application demonstrates compliance with the conditions for approval as outlined the Code:

A. Code Requirements:

1. The final plan must meet all requirements of both §187 and §205 of the Kent County Code and all items in the final plan column of Appendix D of §187. This may include items that are not specifically outlined in this report. This plan must gain final approval within **18 months** of the date of preliminary approval. Construction shall not commence and building permits shall not be issued until final plan approval is given. Furthermore, §187-41.C states that application for building permits must be made within 18 months of final approval. If no applications are received, the plan shall be considered invalid and a new application process will be required.
2. The file number in the data column and the landscape plan should read S-17-03.

Waiver Requests:

1. The applicant has submitted a waiver request from the requirements of §187-79(D), which requires a landscape buffer 30 feet in depth along arterial streets, and §187-74(C), which requires new trees to be planted at the rate of one tree per 5,000 square feet of site area for nonresidential development. This request is based on the fact that the proposed project is a redevelopment of the existing property with minimal changes to the pavement and curbing extents. The applicant has also stated in order to provide the required 30-foot landscaping buffer; existing parking would have to be removed.

Staff recommends **denial** of this waiver request, as the installation of the required buffer will provide contiguous landscaping that is similar to what is in front of the existing Chrysler building on the southern side of the parcel, along Bay Road. The applicant does have the opportunity to meet tree planting requirements, as referenced in recommendation #3 below.

2. The applicant has submitted a waiver request seeking to eliminate the required frontage sidewalk along Bay Road. This request is based on the lack of existing sidewalk connections that the subject site could connect to along Bay Road.

The staff recommends **denial** of this waiver request, as there is existing sidewalk along Bay Road in front of the existing IG Burton BMW and Mercedes dealership located to the south. As the Route 1 corridor in the Milford has developed over time, so has the need for a fully connected pedestrian network, as referenced in recommendation #2 below.

Recommendations:

1. The current Chrysler inventory parking extends onto the vacant parcel to the north. Staff recommends that the two parcels associated with the Chrysler dealership be combined prior to final plan approval.
2. Staff recommends extending the required sidewalk for the subject site to the northern parcels, along all IG Burton properties, establishing a full pedestrian network between dealerships (BMW, Mercedes, Chrysler, and Chevrolet) and inventory parking parcels.
3. The subject site was approved for a variance (A-97-17) from the required 50' buffer from all residential districts and for a variance from the required 50' landscaped buffer from lands zoned AC. The existing site is bordered by the Colony South subdivision to the west. As this buffer is not a requirement, it is recommended that a landscaping buffer be added along the west property line in order to screen the auto dealership from the residential development. Because of the approved variances on

the site, the installation of a buffer can count towards the tree planting requirements outlined in §187-74. Similarly, it is recommended all that outdoor lighting on the dealership be oriented away from the neighboring subdivision.

II. ADEQUATE PUBLIC FACILITIES ORDINANCE

A. APFO Compliance

This application must comply with the standards of the Adequate Public Facilities Ordinance, but only the roads section will apply to a non-residential site plan.

The proposal is for a nonresidential land development and the applicant has indicated that the project will not generate more than fifty (50) peak hour trips. The applicant has indicated that the peak hour generation has a net increase of 37 Saturday peak hour trips and 25 PM peak hour trips. This figure is less than 50 peak hour trips and would not require a Traffic Impact Study to be completed.

To ascertain whether the area of influence of this project extends beyond the site entrance(s) of the property, the following calculations were made: The AADT (Annual Average Daily Traffic) for North Dupont Hwy. is 43,394. This is classified as a principal arterial that calls for the above number to be multiplied by 1.10%. Doing so results in 427 trips. The maximum number of peak hour trips generated by this use is 10 trips. Since this trip count does not exceed the above calculated value, the area of influence for this application does not extend beyond the site entrance. No traffic impact study is required and levels of service are not examined for this application.

The proposed project is compliant with the Adequate Public Facilities Ordinance.

III. BACKGROUND INFORMATION:

- The property is zoned BG (General Business District). Automobile sales, rental, service, storage, or repair, but no auto salvage or junk is a permitted use within the BG Zoning District with the following conditions:
 1. The operation is conducted at least 20 feet from any adjacent property line.
 2. The minimum distance of any building from a residential district or residential property line shall be 50 feet.
 3. The minimum distance from access to any church, library, school, college, nursing home, hospital or similar use shall be 200 feet, measured along the same street line in the same block.
 4. Hydraulic hoists, pits and all lubricating, greasing, washing and repair facilities shall be entirely enclosed within buildings, in accordance with Delaware Department of Natural Resources and Environmental Control Regulation.
 5. A solid fence, wall or landscape screen, a minimum of six feet in height, shall be erected along all property lines separating the site from any lot zoned for

residential use.

6. Off-street parking shall be provided in accordance with requirements for manufacturing uses in Article **XVII**, Parking.
7. Any major repair or storage of equipment or materials or damaged vehicles shall be inside a completely enclosed building.

- The proposed plan is in conformance with the Comprehensive Plan which calls for highway commercial uses.
- The character of the surrounding area is a mix of commercial and residential in nature. IG Burton dealerships border the subject site to the north and south.
- The applicant is required to go through the Site Plan process with approval by the RPC as the site improvements exceed 5,000 sq. ft. of impervious surface coverage.
- Based on the size of the newly proposed building, a total of 59 parking spaces are required. The applicant has provided 66 parking spaces, meeting the parking requirement.
- A landscape plan has been provided for the proposed tree plantings in newly proposed parking areas; however, there are no proposed tree plantings to meet the requirements of §187-74(C) per the submitted waiver request.
- There is no new stormwater management facility proposed for this application. Final approval from the Kent Conservation District is required.

IV. AGENCY COMMENTS:

A. KENT COUNTY- Department of Public Works, Engineering Division –

Contact: Brian L. Hall, Engineering Project Manager II

Requirement & Source:

1. Kent County Sanitary Sewer (SS) service is both legally and technically available to this property.
2. Proposal must proceed in accordance with all applicable requirements of the Kent County Code, Chapters 128 & 180.
3. Depiction of all SS easement, right-of-way and dedication areas. (Existing and Proposed)

Comment:

1. The Engineering Division grants “Conditional Approval”.

B. DELAWARE DEPARTMENT OF TRANSPORTATION –

Contact: Joshua J. Schwartz

Comment:

1. The Right-Of-Way for the frontage Road shall meet the road classification map and current standards

2. There shall have a 15' permanent easement established beyond the dedicated Right-Of-Way line. If current Right-Of-Way exceeds the required standards for Right-Of-Way and permanent easements, then the additional easement is not required
3. The site is located in investment level 1. As such, a sidewalk or shared use path is required along the property's frontage.
4. Future access to the site will be modified under the SR 1 Corridor Capacity Preservation Program.

C. DNREC – Division of Fish and Wildlife – Species Conservation and Research Program –

A review of our database indicates that there are currently no records of state-rare or federally listed plants, animals or natural communities at this project site.

D. KENT CONSERVATION DISTRICT

Contact: David C. Cahill

The reasons and conditions applied to this project and their sources are itemized below:

Source: 2014 Delaware Sediment and Stormwater Regulations

Requirements:

1. A Stormwater assessment study must be submitted for approval prior to a full plan submittal.
2. Land disturbing activities in excess of 5,000 square feet are regulated under the Delaware Sediment and Stormwater Regulations. A detailed sediment and Stormwater management plan must be reviewed and approved by the Kent Conservation District prior to any land disturbing activity (i.e. clearing, grubbing, filling, grading, etc.) taking place. The review fee and a completed Application for a Detailed Plan are due at the time of plan submittal to the Kent Conservation District. Construction inspection fees based on developed area and Stormwater facility maintenance inspection fees based on the number of Stormwater facilities are due prior to the start of construction. Please refer to the fee schedule for those amounts.
3. The following notes must appear on the record plan:
 - The Kent Conservation District reserves the right to enter private property for purposes of periodic site inspection.
 - The Kent Conservation District reserves the right to add, modify, or delete any erosion or sediment control measure, as it deems necessary.
 - A clear statement of defined maintenance responsibility for Stormwater management facilities must be provided on the Record Plan.
4. Ease of maintenance must be considered as a site design component and a maintenance set aside area for disposal of sediments removed from the basins during the course of regular maintenance must be shown on the Record Plan for the subdivision.
5. All drainage ways and storm drain should be contained within drainage easements and clearly shown on the plan to be recorded by Kent County.

Comments:

1. Green Technologies (infiltration facilities, filter strips, bio-retention, and bio swales) must be considered.
2. The designer is encouraged to consider the conservation design approach and limit the amount of tree clearing required for the development of the site including the stormwater management facilities shown in the wooded areas.
3. Access to the proposed stormwater facility must be provided for periodic maintenance. This access should be at least 12 feet wide to leading to the facility and around the facility's perimeter.
4. It is recommended that the stormwater management areas be incorporated into the overall landscape plan to enhance water quality and to make the stormwater facility an attractive community amenity.
5. A letter of no objection to recordation will be provided once the detailed Sediment and Stormwater Management plan has been re-approved.

E. DNREC- DIVISION OF AIR QUALITY

The applicant shall comply with all applicable Delaware air quality regulations. Please note that the following regulations in Table 2 – Potential Regulatory Requirements may apply to your project:

Table 2: Potential Regulatory Requirements	
Regulation	Requirements
7 DE Admin. Code 1106 - Particulate Emissions from Construction and Materials Handling	<ul style="list-style-type: none"> • Use dust suppressants and measures to prevent transport of dust off-site from material stockpile, material movement and use of unpaved roads. • Use covers on trucks that transport material to and from site to prevent visible emissions.
7 DE Admin. Code 1141 – Limiting Emissions of Volatile Organic Compounds from Consumer and Commercial Products	<ul style="list-style-type: none"> • Use structural/ paint coatings that are low in Volatile Organic Compounds. • Use covers on paint containers when paint containers are not in use.
7 DE Admin. Code 1144 – Control of Stationary Generator Emissions	<ul style="list-style-type: none"> • Ensure that emissions of nitrogen oxides (NO_x), non-methane hydrocarbons (NMHC), particulate matter (PM), sulfur dioxide (SO₂), carbon monoxide (CO), and carbon dioxide (CO₂) from emergency generators meet the emissions limits established. (See section 3.2). • Maintain recordkeeping and reporting requirements.
7 DE Admin. Code 1145 – Excessive Idling of Heavy Duty Vehicles	<ul style="list-style-type: none"> • Restrict idling time for trucks and buses having a gross vehicle weight of over 8,500 pounds to no more than three minutes.

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

DAQ encourages developers and builders to consider all sustainable growth practices in their design, and we believe that the air quality impacts associated with the project should be completely considered. New businesses may emit, or cause to be emitted, additional air contaminants into Delaware's air, which will negatively impact public health, safety and welfare. These negative impacts are attributable to:

- Emissions that form ozone and fine particulate matter;
- The emission of greenhouse gases which are associated with climate change, and
- The emission of air toxics.

Air emissions generated from new businesses include emissions from the following activities:

- Area sources such as painting, maintenance equipment and the use of consumer products like roof coatings and roof primers.
- The generation of electricity, and
- All transportation activity.

Recommendations:

DAQ encourages sustainable growth practices that:

- Offset construction impacts when and where applicable.
- Offer environmentally-friendly solutions to construction, including the addition of shade trees in parking areas to reduce heat island impacts or low VOC emitting trees to clean the air of pollutants.
- Contribute to the quality of life of Delaware Residents and their health.

Native Delaware Tree Plantings

To offset the impact of dealership expansion, the applicant is encouraged to plant native trees. Trees can significantly reduce automobile emissions including those from pollutants such as nitrogen oxides (NOx), volatile organic compounds (VOCs), and the most harmful of all, particulate matter (PM) by trapping gases fumes and replenishing the oxygen into the ambient air. In addition, trees also reduce the effects of heat islands by helping to cool asphalt and pavement which also lessens the chances of ozone formation. They also have the added benefit of creating an urban tree canopy that provides shade for parking areas as well as reduces cooling costs.

Clean Fuel Measures:

This measure helps to reduce localized air pollution by supporting the use of clean diesel powered vehicles in transportation. The dealership is encouraged to consider the use of vehicles using clean fuels, technologies and controls to mitigate air quality impacts such as propane, CNG (compressed natural gas) or electric. Diesel engines can

result in incomplete combustion which releases carbon monoxide (CO) and particulate matter (PM) into the ambient air. Both CO and PM are criteria pollutants which have been shown to contribute to negative health impacts. In order to accommodate newer and cleaner vehicle technologies, the use of alternative fuels or electric charging infrastructure is encouraged. The nearest alternative fueling facility is located at IG Burton BMW at 509 Bay Road in Milford, Delaware offering Level 2 Electric Charging.

For a site map of local alternative fueling sites, please visit the Alternative Fuels Data Center website here: <http://www.afdc.energy.gov/locator/stations/>.

For more on the use and deployment of ZEVs (Zero Emission Vehicles) please see the following link: <http://www.afdc.energy.gov/laws/11084>

Facility Beautification:

Lastly, the applicant is encouraged to beautify the dealership expansion with landscaping that would not only make the dealership more attractive but also help to clean the air of any pollutants that could be emitted by neighboring sources. This would also reduce its impact on the surrounding community after undergoing the construction process while also incorporating a context-sensitive design that blends well with the surrounding area and existing land uses.

Should the applicant have any more questions or concerns, the DAQ point of contact is Lauren DeVore, and she may be reached at (302) 739-9437 or lauren.devore@state.de.us. The applicant is encouraged submit a plan to the DNREC DAQ which address the emission mitigation measures that will be incorporated into the IG Burton expansion project. DAQ encourages land use decisions that take into consideration Delaware's Air Quality including those that promote sustainable development, smart growth and include offsets to development where applicable. We look forward to working together with you on this project to achieve our shared air quality, healthy community and quality of life goals!

- V. **OWNER/DEVELOPER:** The owner shall be aware of and be prepared to comply with all comments regarding this project stated in this report. All comments must be addressed in the final plan prior to final approval. Letters of "No Objection to Final Approval" from the following agencies shall be required prior to final approval:
- A. DelDOT, Division of Highways
 - B. Kent Conservation District
 - C. Office of State Fire Marshal
 - D. Kent County Department of Public Works

- ENC: Data Sheet
Exhibit A – Location Map
Exhibit B – Plot Plan
Exhibit C – Architectural Rendering
Preliminary Site Plan
Delaware Division of Public Health Comments