



# Kent County

## Department of Planning Services Division of Planning

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### STAFF RECOMMENDATION REPORT May 4, 2017

<b>Application Number</b>	:	CS-17-03
<b>Site Plan Title</b>	:	Wilson, George E. Jr. Trustee
<b>Present Zoning District</b>	:	IG (General Industrial) & AC (Agricultural Conservation)
<b>Present Use</b>	:	Agricultural & Residential
<b>Proposed Use</b>	:	Same with Telecommunications Tower
<b>Location</b>	:	222.84± acres on the east side of Hurd Rd. (Co. Rd. 326), approximately 370' south of Dutch Neck Rd. (Co. Rd. 83), and on the south side of Dutch Neck Rd. (Co. Rd. 83), approximately 459' east of Hurd Rd. (Co. Rd. 326), east of Smyrna

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#### **I. STAFF RECOMMENDATION:**

The staff recommends **APPROVAL** based on the information submitted as the application demonstrates compliance with the conditions for approval as outlined in §205-360 Tower, broadcasting and telecommunications (conditions attached to this report).

Based on the historical value of the existing home and farm industry related compound, Staff recommends the approval of the proposed stealth tower, as the proposed windmill structure does appear to fit into character and minimize impact on this historical resource. Although this site is independently owned, it is recognized as a historical asset to Kent County and the approval of a telecommunications tower appearing as a windmill does appear to fit into the farm annex existing on the subject site.

The staff offers additional requirements, as follows:

#### **A. Code Requirements:**

1. Add signature line on Landscape plan for Landscape Architect with corresponding signature.
2. The final plan must be approved within 18 months of preliminary plan approval and construction shall commence within 18 months of final plan approval.
3. An engineer's report accompanied this submission. After reviewing the report, the information requested in section §205-360.B.(2)(d) must be provided prior to final approval. This requires that a copy of the NEPA Review be submitted.
4. Also from that report, items §205-360.B.(2)(b)[6][a], §205-360.B.(2)(b)[6][c], §205-360.B.(2)(b)[6][g], and §205-360.B.(2)(b)[6][h] §205-360.B.(2)(b)[6][i] were not included. The applicant has stated that these items cannot be determined without a physical examination of towers in the area. Since the closest tower is over a mile away and does not appear to affect the coverage area based on the information provided, the staff is comfortable in these items being excluded from the report.

## **II. ADEQUATE PUBLIC FACILITIES ORDINANCE**

The Emergency Medical Services, School, and Central Water Service are not applicable to this application because those standards only apply to residential subdivision and land development.

With respect to the Roads element of the Adequate Public Facilities Ordinance, staff has determined that road capacity exists to serve the proposed development. The Ordinance provides that if a proposed land development meets any one of the following criteria, a Traffic Impact Study shall be conducted:

- a. The proposal exceeds the projected average daily traffic warrants provided in DelDOT's "Rules and Regulations for Subdivision Streets" as amended;
- b. The proposal is projected to generate more than fifty (50) peak hour trips, excluding traffic passing by the subject property, unless the project is located in a DelDOT Special Study Area or District as designated by mutual agreement between Kent County and DelDOT;
- c. The area of influence of the subject property includes roadway segments and intersections currently operating below the level of service D; or
- d. The proposed development causes the total number of dwelling units within the Traffic Analysis Zone (TAZ) to exceed the projected totals set forth in the Dover/Kent County MPO Transportation Improvement Plan.

Paragraph (d) deals with increasing the number of dwelling units within the TAZ. This application will not add any dwelling units to the TAZ and this paragraph is not applicable to this application.

Given that this use is projected to generate approximately one trip in and one trip out per month, this project will not exceed the projected average daily traffic warrants provided in DelDOT's Rules and Regulations for Subdivision Streets (as

amended) nor will the project generate more than 50 peak hour trips. Therefore, no traffic impact study will be required.

### **III. BACKGROUND INFORMATION:**

- The property is zoned AC (Agricultural Conservation) and IG (General Industrial). The Kent County Comprehensive Plan recommends that the subject property be utilized for low density residential and industrial purposes. These zoning districts provide for a telecommunications tower as a conditional use upon approval by the Levy Court through the Conditional Use/Site Plan process. If approved, this plan will comply with the Comprehensive Plan and both applicable zoning district requirements.
- The 222.84± acres subject site is currently improved by a single-family dwelling and several farm industry buildings. The character of the surrounding area is predominately agricultural where large acreage farms have both agricultural buildings and homes. There are some individual residential lots fronting along the county road in the immediate vicinity.
- The applicant met with a member of the Planning Staff in a pre-application meeting to review this land use application. The conditions, which must be met as part of the Conditional Use/Site Plan approval process, were discussed. The plan meets these minimal requirements.
- An engineering report was submitted by the applicant as required by §205-390 (attached). Staff reviewed this report and has made comments on it in section I above.
- The Levy Court may add any necessary conditions to protect the health, safety, and welfare of the citizens of Kent County.
- This site will be accessed from an existing access road serving the home and existing buildings off of Hurd Rd.
- The subject site is a 60 foot by 40 foot fenced compound (2,400 square feet). The compound will be surrounded by a 6 foot tall chain link fence topped with barbed wire. Within the compound will be a 165 foot windmill tower, a cable bridge, and a 10 ft. by 20 ft. concrete pad with equipment.
- The existing compound within the subject site, including the home and structures within the surrounding area, has been listed as a cultural resource on the National Register of Historic Places. The applicant is advised to contact the Delaware State Historic Preservation Office to discuss the proposed tower and compound prior to any excavation and/or construction.
- There has been one previous land use application on the subject site to rezone the area surrounding the home and farm industry related buildings from AC to IG under application Z-74-62. There have been no other requests in the surrounding area similar to this request.

## **VI. AGENCY COMMENTS:**

### **A. DNREC, Division of Fish & Wildlife – Contact: Kate Fleming, Wildlife Biologist/Environmental Review Coordinator**

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.

### **B. 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. Land disturbing activities in excess of 5,000 square feet are regulated under the Delaware Sediment and Stormwater Regulations. A 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. A completed application and fee for a standard Plan are due at the time of plan submittal to the Kent Conservation District.

#### **Comments:**

1. The Kent Conversation District has no objection to the proposed conditional use of the above referenced property.
2. The site will require at a minimum a standard plan. Please contact me at the above referenced phone number for details.

### **C. Delaware Department of Transportation – Contact: Joshua J. Schwartz**

#### **Comments:**

1. The property frontage requires 30' of Right-Of-Way from the centerline of the road along Hurd Road.
2. The security gate placement shall be a minimum of 50' off the edge of the travel lanes to allow vehicles navigate without backing onto Hurd Road.

### **D. KENT COUNTY – Department of Public Works, Division of Engineering – Contact: Brian L. Hall, Engineering Project Manager II**

#### **Requirement & Source:**

1. N/A

**Comment:**

1. The Engineering Division grants “Approval with No Objection to Recordation.”

**E. DNREC, Division of Air Quality – Contact: Ronald A. Amirikian, Planning Branch Manager**

Based on air quality projections, the inclusion of a Telecommunications Tower in the location of the abovementioned project is not forecasted to have a significant impact on Kent County’s air quality levels. 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. This includes generating mixed-use developments that are walkable, bikeable, and livable to lessen dependence on vehicular travel. DAQ has no additional commentary on this application at this time.

**VII. OWNER/DEVELOPER:**

The owner/developer 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. Final approval of the plan must occur within 18 months from the date of preliminary plan approval. Failure to obtain final approval shall nullify the plan. Once the plan receives final approval, construction in accordance with the plan must occur within 18 months of final approval or the plan shall be deemed null and void. Letters of “No Objection to Final Approval” from the following agencies will be required prior to final approval:

2. DelDOT, Division of Highways
3. Kent Conservation District
4. Office of the State Fire Marshal

This recommendation was made without the benefit of public testimony and is based on the information presented when the application was received by the Department of Planning Services. The Regional Planning Commission shall give considerable weight to public testimony received during public hearing in considering its recommendation to Levy Court in this matter.

**ENC: Data Sheet**

Exhibit A – Location and Zoning Map

Exhibit B – Plot Plan (Cropped)

Exhibit C – Elevation View of Windmill

Preliminary Site Plan

Engineer’s Report dtd. 10/26/16

Engineer’s Report dtd. 3/20/17

FCC Radio Station Authorization & Licensing info dtd. 11/29/06

Proposed Coverage Map submitted with application  
Eco-Site Inventory info within 5 miles submitted with application  
RF Emissions Compliance Report dtd. 11/29/16  
TOWAIR Determination Results dtd. 11/4/16  
§205-360 Tower, broadcasting and telecommunications