

Kent County



Department of Planning Services Division of Planning

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STAFF RECOMMENDATION REPORT February 1, 2018

Application Number	:	CS-18-02
Site Plan Title	:	Diamond State Engineering
Present Zoning District	:	BG (General Business District)
Present Use	:	Engineering Office and Contracting
Proposed Use	:	Same with Storage Building
Property Identification Number	:	NM-00-094.00-02-43.00-00001
Area and Location	:	2.70± acres on east side of Peachtree Run (Co. Rd. 105) approx. 450' north of Lochmeath Way, southeast of Camden

I. STAFF RECOMMENDATION:

The staff recommends **CONDITIONAL APPROVAL** based on the information submitted as the application demonstrates compliance Kent County Code.

A. Code Requirements:

1. A final plan must be approved with 18 months of preliminary plan approval and construction must commence within 18 months of final plan approval.

B. Recommendations:

1. The applicant wishes to continue use of a septic system to serve the business. The Public Works office has waived the requirement to connect to central sewer. There is a concern that the existing septic is covered by the gravel parking/storage area in the rear of the building. Prior to final approval, the application must provide approval from DNREC that this septic is still functioning adequately to serve this use. If this system would fail during this review or at any point in the future, the

staff recommends and the Department of Public Works is requiring that the site be connected to central sewer.

II. WAIVER REQUEST

The applicant is requesting a waiver from §187-60 that requires sidewalks be installed along arterial and collector roadway frontage of a property by the owner or applicant of the property whenever such property is the subject of a subdivision or land development proposal which requires Regional Planning Commission or Levy Court approval. This would also require continuous pedestrian access from the frontage sidewalk to existing and proposed buildings on the premises.

§187-80 states:

“Where, in the case of a particular proposed subdivision, it can be shown that strict compliance with the requirements of this chapter would result in extraordinary hardship to the applicant because of unusual topography or other conditions which are not self-imposed or that these conditions would result in inhibiting the achievement of the objectives of these regulations, the Commission may modify or waive the requirements so that substantial justice may be done and the public interest secured; provided, however, that such variance, modification or waiver will not have the effect of nullifying the intent and purpose of this chapter or be contrary to the goals and objectives of the Comprehensive Plan for the County.”

The staff has reviewed this request and recommends **denial**. The goal of the Code is to provide pedestrian access in areas of high traffic to safely move them between businesses and residences and approving a waiver from this requirement would result in inhibiting the achievement of the objectives of these regulations. Peachtree Run is a heavily traveled roadway that currently has no pedestrian improvements. As this project and others along the roadway begin to re-develop, we could begin to see a connected network that would be able to move people from the homes to the north to the business to the south and west. Since the properties on the west side of Peachtree Run developed before this was a requirement, this is an ideal opportunity to have a sidewalk installed on this side of the roadway. With this being the first redevelopment in the area, it is of the utmost importance to start the process of installing this sidewalk because without it we will never obtain a comprehensive network in this area. The RPC should decide if they think a full sidewalk along Peachtree Run is important and, if so, should consider denying this request. There is no extraordinary hardship due to unusual topography or other conditions that block this sidewalk from being installed.

III. 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 DeIDOT's "Rules and Regulations for Subdivision Streets" as amended;
- b. The proposal is projected to generate more than more than fifty (50) peak hour trips, excluding traffic passing by the subject property, unless the project is located in a DeIDOT Special Study Area or District as designated by mutual agreement between Kent County and DeIDOT;
- 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.

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 the peak hour trips will be no more than 40 trips. This would not require a Traffic Impact Study to be completed.

The ordinance provides that the area of influence shall extend beyond the site entrance to include additional intersections to the extent that the total projected peak hour site traffic exceeds 5% of the AADT on collector roads. Peachtree Run is considered a major collector road. DeIDOT states that the 2016 AADT for this section of Peachtree Run is 4,567. Because the peak hour trips do not exceed five percent (5%) of the AADT (228.35), the area of influence does not extend beyond the site entrance.

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

IV. BACKGROUND INFORMATION:

- The Kent County Comprehensive Plan recommends that the subject property should be utilized for highway commercial purposes. The property is zoned BG (General Business). This zoning district provides for a contractor's locations with outdoor storage as a conditional use for approval by the Levy Court through the Conditional Use / Site Plan process. If approved, this plan will comply with the 2007 Comprehensive Plan and the BG zoning district requirements.
- The conditions of this use are as follows:
 - (1) Storage of all vehicles and construction equipment shall be behind the building setback line.
 - (2) All fabricating shall be enclosed within a building.

(3) All outdoor storage visible from access streets and adjacent properties shall be screened from view.

(4) Off-street parking shall be provided in accordance with Article XVII, Parking.

(5) All requirements, regulations and recommendations submitted by any agency member of the Development Advisory Committee shall be satisfied.

- The 2.70± acre subject site is currently improved with a 4,850 sq. ft. building with a 1,500 sq. ft. attached shop, parking area, and fenced storage area. This is used as the applicant's office, outdoor storage, and contractor's location which is considered legal non-conforming.
- The applicant is proposing a 6,000 sq. ft. storage building. This will require the demolition of a mobile unit/wooden shed structure that is on the site and a relocation of the fencing around their storage yard.
- The character of the surrounding area is both commercial and residential in nature. To the north and east is residential zoning with homes existing to the north and a partially built residential development to the east. Across Peachtree Run, to the west, there are existing auto sales businesses and to the south is a commercial building.
- The applicant and engineer met with members 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.
- Variances were granted for this project from the following provisions:
 - Elimination of the required parking islands in both the existing and proposed parking lot.
 - Elimination of the required parking buffer along the southern property line.
 - Elimination of the required 15' planted screening buffer along the front property line.
 - Elimination of the condition requiring all outdoor storage to be screened from adjacent properties.
 - Elimination of the condition prohibiting outdoor storage within the required setback area.
- A general layout of the proposed landscaping is provided for the site that meets the requirements of §187-79(D). This requires the planting of 10 trees around the site.
- The plan indicates that they will utilize an on-site well and septic to serve the site, but the applicant doesn't plan to hook the new building into either service.
- A grading plan was provided showing the proposed changes to the site.
- Prior to final plan approval, all outside agency requirements must be met.
- The Levy Court may add any necessary conditions to protect the health, safety, and welfare of the citizens of Kent County.

VI. AGENCY COMMENTS:

A. DELAWARE HEALTH AND SOCIAL SERVICES – Division of Public Health, Office of Engineering

The applicant proposes an on-site well. A commercial plumbing review will be required before a plumbing permit can be issued. Please contact Bill Milliken at (302) 741-8646 for further information.

**B. KENT COUNTY, DELAWARE DEVELOPMENT ADVISORY COMMITTEE
Kent County Department of Public Works, Engineering Division**

Requirement & Source:

1. Property is “legally” located in KCSDD1, Tidbury Branch Area.
2. Please contact this Office to determine the “financial” and “technical” feasibilities of obtaining Kent County sewer.

Comment:

1. The Engineering Division grants “Conditional Approval”.

C. KENT CONSERVATION DISTRICT

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 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.
2. 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.
3. 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.
4. 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 (bio-retention, infiltration, filter strips and bio swales) must be considered prior to the use of traditional Stormwater methods (wet or dry facilities).

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.
6. Proper drainage of developed lots and active open space should be considered in the development of the grading plan for this subdivision.

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:

1. DelDOT, Division of Highways
2. Kent Conservation District
3. Office of the State Fire Marshal
4. Office of Public Drinking Water
5. DNREC Septic Approval

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
APFO Compliance letter dtd. 12/18/17
Waiver Request dtd. 12/13/17
Letter from Department of Public Works dtd. 3/3/17
Preliminary Site Plan