



# Kent County

## Department of Planning Services Division of Planning

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### STAFF RECOMMENDATION REPORT March 1, 2018

<b>Application Number</b>	:	SL-18-01
<b>Preliminary Plan Title</b>	:	Copper Run
<b>Present Zoning District</b>	:	RM (Multi-Family Residential)
<b>Present Use</b>	:	Vacant
<b>Proposed Use</b>	:	Residential Development (Subdivision)
<b>Proposed Number of Units</b>	:	105 Units (27 Single-Family Detached, 78 Townhouse)
<b>Relation to Growth Zone</b>	:	Inside
<b>Area and Location</b>	:	Located on the northeast side of McKee Road (Co. Rd. 156), approximately 717ft+ north of Fork Branch Road (Co. Rd. 153), north of the City of Dover

#### **I. BACKGROUND INFORMATION:**

The subject site received approval for 204 apartments over eight buildings in January 2013 (application S-13-03); however, that application has since expired. The applicant has revised the plans to a major subdivision with a total of 105 units with 27 single-family detached dwellings and 72 townhomes. The revised plan, SL-16-01, was approved in February of 2016; however, the plan expired in August of 2017. The applicant and the engineer met with the staff members to discuss the plan and the requirements for preliminary plan approval.

#### **A. Waiver Requests**

- The applicant seeks a waiver from §187-60.C to eliminate sidewalk along the east side of Bridget Lane at the entrance of the subdivision. The Planning

Staff Recommends that this request be **approved**. The applicant proposes additional landscaping along the east side of Bridget Lane to screen the Delmarva Power substation at the entry of the subdivision. This waiver was approved previously by the Regional Planning Commission during the application process for the previous subdivision plan.

- The applicant has requested a waiver from Section §187-53.I(4), Utility Infrastructure Bulk Standards. The code requires that any stormwater management pond be located 100 feet from any residential setback line and 30 feet from any property line. The current layout of Fieldstone Village places the proposed stormwater ponds 75 feet from the rear yard setback line of the residential lots within that site. The Planning Staff recommends that this request be **approved**, as the site allows for a minimal desirable location of stormwater ponds. The applicant proposes a significant tree screen buffer and a fence. The proposed stormwater management pond meets the 30 foot setback from the property line.
- The applicant is requesting a waiver from Section §187-58J(1) & (2), Private Streets. This section states a private street shall serve no more than 10 lots and that the gross density for the subdivision shall not exceed one dwelling unit per two acres. The applicant is proposing to utilize Bridget Lane, a private street, to access all 105 lots. The density of the proposed subdivision exceeds one dwelling unit per acre at 4.84 dwelling units per acre. Staff recommends the **denial** of the proposed waiver, as it fails to meet the standards of approval for a waiver as outlined in §187-80. The Kent County Code states that the requirements of Chapter 187 can be waived when an extraordinary hardship to the applicant due to unusual topography or other conditions which are not self-imposed or that the conditions would result in inhibiting the achievement of the objectives of these regulations. Because there are a number of maintenance concerns in regards to private roads, particularly for a project of this size and density, waiving of the private street requirement would nullify the objectives outlined in the code for major subdivisions.

#### **B. Existing Zoning and Comprehensive Plan Recommendation:**

The subject site is zoned RM (Multi-Family Residential) and located within the Growth-Zone Overlay. The Comprehensive Plan designates the parcel for high-density residential use. The property was reclassified from Industrial and Medium Density Residential as part of application CZ-12-05, which was approved by Levy Court in August of 2012. The proposed subdivision is permitted by right in the RM zoning district and is in compliance with the current Comprehensive Plan designation.

#### **C. Existing and Surrounding Land Use:**

The area surrounding the proposed Copper Run subdivision is a mix of medium density residential, industrial, and commercial. Fieldstone Village, which is zoned

RMH (Residential Manufactured Home), borders the subject site to the northeast, while parcels zoned IG (General Industrial) border the property to the southeast. The BG (General Business) zone extends along Route 13, beyond Fieldstone Village and parcels to the west of the railroad corridor are zoned AR (Agricultural Residential.)

#### **D. Woodland Preservation & Tree Density Plan**

The plan submission was accompanied by a Woodland Preservation & Tree Density Plan. Based on the requirements of §187-73, the applicant is required to preserve 40% of the existing woodlands on the property and is required to plant 85 trees (one tree per 10,000 square feet of lot area for residential land development inside the Growth-Zone.) The applicant is proposing to preserve 41.5% of the existing woodlands on the property and plant 93 trees, in compliance with §187-73 and §187-74.

The plan includes 0.758 acres reserved for active open space improved with walking path, benches and a “play lawn” area with picnic tables in the centralized area of the subdivision. grading plan was also submitted, which reflects the proposed topography of the development, wetlands delineation, and the proposed stormwater management for the site.

#### **E. Adequate Public Facilities:**

- The site is located off Fork Branch Road, which is classified as a Major Collector. The site has been granted a waiver of the Traffic Impact Study requirement due to the fact that the proposed increase in traffic will be less than 5% of all intersections surrounding the site. The site will also be contributing to upgrades of the northbound turn lane on U.S. Route 13 at the Fork Branch intersection, as recommended by DelDOT.
- The project will be served by a public water system operated by Tidewater Utilities, Inc.
- The site is located within the Capital School District. The applicant agrees to pay mitigation measures if needed as calculated by Kent County Planning.
- The proposed plan has been reviewed by the Delaware State Fire Marshal. The plan satisfies fire lane and hydrant needs.
- The applicant agrees to pay mitigation measure for Emergency Medical Services as calculated by Kent County

**II. AGENCY COMMENTS:** The following County and State agencies have reviewed the preliminary plan prepared by Larson Engineering Group, Inc. dated December 20157 and have provided the following requirements, conditions and recommendations:

#### **A. KENT COUNTY DEPARTMENT OF PLANNING SERVICES, DIVISION OF PLANNING:**

The Planning Staff recommends conditional approval of this project provided that the final plan incorporates the following:

**Code Requirements:**

1. The plan must include special features at the entrance, such as a sign and/or landscaping.
2. Active Recreation Requirements §187-66
  - Item (A) states “The purpose of this section is to ensure that active recreation areas are provided as an integral design element within residential developments and that such facilities are of an adequate scale in relation to the size of the residential development and provide residents with a variety of active recreational pursuits.”
  - Item (C) provides various illustrations and examples of types of recreational facilities.
  - Item (D)(1) states that “Recreation areas shall be accessible within the development and arranged in a manner that affords reasonable access to all residents within the development.”
  - Therefore, the proposed play field and tables are insufficient. The areas shown behind lots 54-57 and lot 62 do not satisfy the purpose and intent of the code provisions. Staff suggests improved walking trails, playgrounds, and / or other items similar to those found in §187-66(C).
15. Stormwater Maintenance District §187-90.4(D)(1-5)
  - For residential and mixed-use (residential and nonresidential” subdivision and land development applications, inclusion within the stormwater maintenance district shall be automatic as a condition for preliminary plan approval and shall be memorialized on the final and/or record plan.
  - Perpetual easements granting the district access for the inspection and maintenance of stormwater infrastructure shall be shown on the record plan. A separate recorded easement agreement in a form determined by Kent County shall also be required.
  - The district shall not assume responsibility for the stormwater facilities and infrastructure until the subdivision or land development, or phase thereof, is substantially complete and the Kent Conservation District has provided final approval of construction.
  - Fees shall not be assessed to property owners until the district assumes responsibility for maintenance. Once the district assumes responsibility, the units within the subdivision or land development, or phase thereof, shall be subject to annual billing.

**Recommendations:**

1. Provide an opaque landscape buffer along the southwest property line which borders the railroad in order to provide screening from the railway corridor.
2. The staff recommends the stormwater features on the proposed plan be relocated from the existing wooded area to another location on the property in order to promote minimal clearing of the woodlands. Existing woodlands provide a natural stormwater management benefit and therefore should be maintained in addition to the stormwater features required by Kent Conservation District.
3. Staff recommends the extension of alleyways behind the proposed townhomes to provide alley-access for residents instead of having the parking location along the streets. The inclusion of alleyways may provide safer maneuverability and less congestion for residents travelling in the subdivision, as well as provide attractive aesthetics.
4. In accordance with the requirements outlined in the Postal Operations Manual, it is the policy of the U. S. Postal Service that mail delivery to all new developments is centralized delivery, most often using cluster box units (CBU). Provide a proposed location for cluster mailbox units (CBU) on the plan in accordance with these U.S. Postal Service requirements.

**B. KENT COUNTY PUBLIC WORKS**

**Requirement & Source:**

- Adherence to the requirements of the accepted TFS, the Levy Court approved Preliminary Report, and applicable sections of the Kent County Code, specifically Chapters 128 and 180.
- Depiction of all SS easement, right-of-way, and dedication areas.
- If the roads are private, then they must be designed, constructed, etc...., in accordance with the applicable provisions of the Kent County Code, Chapter 187.

**Comment:**

- The Engineering Division grants “Conditional Approval”.

**C. DELAWARE DIVISION OF PUBLIC HEALTH**

This application states that public water is supplied by Tidewater Utilities, Inc. This project requires the owner to obtain a Certificate to Construct from the Office of Engineering.

In order to obtain a Certificate to Construct, plans and specifications must be prepared by a registered Delaware professional engineer. Plans for the system, including water mains or extensions thereto, storage facilities, treatment works,

and all related appurtenances, must be approved by the Office of Engineering prior to construction. A Certificate of Operate will be issued after all applicable requirements are met. Please contact Bill Milliken or Doug Lodge, PD, at (302) 741-8640 for further information.

**D. KENT CONSERVATION DISTRICT**

The reasons and conditions applied to this project and their sources are itemized below: Detailed Stormwater Plan will need to be submitted for review.

Source: 2014 Delaware Sediment and Stormwater Regulations

**Requirements:**

1. A Stormwater Assessment Study (SAS) 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.
5. 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.
6. 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.

**III. 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 will be required prior to final approval:

- A. DelDOT, Division of Highways
- B. Kent Conservation District
- C. Office of State Fire Marshal
- D. KC Department of Public Works

This recommendation is offered without the benefit of public testimony and is based on the information presented when the application was received by the Department of Planning Services.

ENC: Data Sheet  
Exhibit A – Location Map  
Letter Addressing Private Road Waiver from Engineer  
Subdivision Plan