

# Kent County



## Department of Planning Services Division of Planning

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### STAFF RECOMMENDATION REPORT September 6, 2018

<b>Application Number</b>	:	CS-18-06
<b>Site Plan Title</b>	:	Calvert Mechanical Systems, Inc.
<b>Present Zoning District</b>	:	BG (General Business)
<b>Present Use</b>	:	Residential
<b>Proposed Use</b>	:	Contractors Establishment / Outdoor Storage
<b>Relation to Growth Zone</b>	:	Inside
<b>Area and Location</b>	:	0.5631 ± acre fronting N. Dupont Hwy. (US Route 13) and Hatchery Rd. (Co. Rd. 154) north of Dover directly across the divided highway from Salt Creek Dr. (the entrance to Fieldstone Village shopping center), approx. 40' west of Liberto Ln.
<b>Kent County Property Identification Number</b>	:	LC-00-047.03-01-18.00-00001

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

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

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

1. Add the Kent County Planning Services file number CS-18-06 to the Title Block of the site plan.
2. 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 may not commence until final approval is given.

**B. Recommendations:**

1. Prior to final plan approval, all outside agency requirements must be met.
2. The Levy Court may add any necessary conditions to protect the health, safety, and welfare of the citizens of Kent County.

**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 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.

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 6. 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 1% of the AADT on arterial roads and 10% on local roads. North Dupont Highway is classified as a minor arterial road. DelDOT states that the 2017 AADT for this section of North DuPont Highway is 37,036. Hatchery Road is classified as a local road. DelDOT states that the

2018 AADT for this section of Hatchery Road is 1,123. Because the peak hour trips do not exceed one percent (1%) of the AADT for North DuPont Highway or ten percent (10%) of the AADT for Hatchery Road, the area of influence does not extend beyond the site entrance.

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

### **III. 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 Contractor Establishments and Outdoor Storage as conditional uses 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 0.5631 ± acre subject site is currently vacant. The most recent use of the property was residential. The applicant has stated that the original intent was to retrofit the residential structure to meet their needs. However, a large oil leak / spill in the basement resulted in the demolition of the structure and an environmental clean-up of the site as required by DNREC.
- The character of the surrounding area is both commercial and residential in nature. There are 18 parcels located in the strip between North DuPont Highway and Hatchery Road all of which are commercially zoned. Across Dupont Highway in both directions are commercial uses. Across Hatchery Road to the northwest are 4 industrial parcels. Across Hatchery Road and northeast of the subject site are residential uses, including the subdivisions of Sabarto East and Delshire, separated by 22.41 ± acres of residentially zoned property.
- The 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. The conditions of approval for a Contractor's Establishment / Outdoor Storage 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 subject site fronts on both North DuPont Highway and Hatchery Road. The required front setback for a **principal** structure within the BG (General Business) zoning district is 75' if abutting a major roadway (N. DuPont Highway) and 60' if fronting a local road (Hatchery Road). The required front setback for an **accessory** structure is 70' from the right-of-way.
  - **75' Front Setback from North DuPont Highway (principal structure):** Pursuant to §205-23(C)(9), if the average front yard setback of structures located on either side of a lot differs from the minimum setback required, the setback shall approximate the average setback of the adjoining structures, or if only one of the abutting lots is improved, the setback shall be the average of the minimum required setback in the district and the setback of the adjoining structure. The adjacent parcel to the north is improved and has a legal nonconforming setback of 27'. The adjacent parcel to the south is unimproved. This allows the front setback from North DuPont Highway to be reduced from 75' to 51' on the subject site.
  - **60' Front Setback from Hatchery Road (principal structure):** The applicant was granted a variance (A-18-16) in August 2018 to allow a reduction of the required principal structure setback of 60' from a front property line to 50' for the construction of the proposed commercial building.
  - **70' Front Setback from Hatchery Road (accessory structure):** The applicant was granted a variance (A-18-16) in August 2018 to allow a reduction in the required accessory structure setback of 70' from a front property line in order to legalize the existing residential garage located 9.9 feet from Hatchery Road and enable that garage to be utilized for commercial purposes.
- One additional variance application (A-73-48) was approved on the subject site in August 1973 to enable the construction of a residential garage and swimming pool within 10 feet of the front property line (Hatchery Road).
- A general layout of the proposed landscaping is provided for the site that meets Kent County Code §187-74(C), which requires the planting of 1 tree per 5,000 square feet of site area of nonresidential development. The applicant is proposing to plant the required 5 trees around the site, and will also plant 2 additional trees and 13 shrubs in the required buffer area along North DuPont Highway. Kent County Code §205-224(B) requires interior plantings in parking areas with 10 or more spaces. Since the site is only proposing 7 parking spaces, the applicant is proposing no interior / parking island plantings.

#### **IV. AGENCY COMMENTS:**

- A. KENT COUNTY DEPARTMENT OF PUBLIC WORKS**  
**Contact:** Brian Hall, Engineering Project Manager II

**Requirements & Sources:**

1. Property is “legally” located in KCSDD1, Dyke Branch area.
2. “Technically”, there is an existing gravity service lateral to the property located on Hatchery Road.
3. Adherence to all applicable requirements of the Kent County Code, specifically Chapters 128 and 180.
4. In fact, it appears there would be additional impact fees due and related assessments applicable.

**Comment:**

1. The Engineering Division grants “Conditional Approval”.

**B. DELAWARE DEPARTMENT OF TRANSPORTATION**

**Contact:** Stephen Wright, P.E., Engineering Program Manager I

**Comments:** The owner / consultant has made a hardship case for allowing a limited commercial entrance off of US Rt. 13 for Parcel # 4-00-04703-01-1800-00001. DelDOT Development Coordination is willing to accept a right-in only entrance off of Rt. 13 for Calvert Mechanical, as long as the Hatchery Road access is established as required by DelDOT regulations and the proposed access points are submitted and reviewed for conformity with DelDOT Standards and Regulations.

**Contact:** Joshua J. Schwartz

**Comments:**

- 1) The North DuPont Highway entrance shall be narrowed.
- 2) Plans shall be submitted to DelDOT subdivisions for review. The entrances shall be designed in accordance with the DelDOT Development Coordination Manual.

**C. DNREC Division of Climate, Coastal & Energy**

**Contact:** Michael Tholstrup, Climate Adaptation & Sustainable Communities Planner

Please see attached Certification of Completion of Remedy (records of a Site Investigation and Restoration Section) for adjacent parcel 4-00-04703-01-1700-00001, Paul’s Antiques, submitted by DNREC as comments for this application.

**V. 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. Kent County Department of Public Works

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  
Certification of Completion of Remedy (adjacent parcel, Paul’s Antiques)  
Site Investigation & Restoration (adjacent parcel, Paul’s Antiques)  
Preliminary Site Plan and Landscape Plan