

# Kent County



## Department of Planning Services Division of Planning

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### STAFF RECOMMENDATION REPORT January 3, 2019

<b>Application Number</b>	:	CS-19-01
<b>Site Plan Title</b>	:	Loganberry Village Community Propane Field
<b>Zoning District</b>	:	AR (Agricultural Residential)
<b>Present Use</b>	:	Passive Open Space
<b>Proposed Use</b>	:	Same with Public Utility (Underground Propane)
<b>Relation to Growth Zone</b>	:	Inside
<b>Area and Location</b>	:	20.086 ± acres (Easement Area 9,932 SF) centrally located within Loganberry Village Subdivision, surrounded by Currant Circle, approx. 240 ft. east of Barney Jenkins Road, east of Woodside
<b>Kent County Property Identification Number</b>	:	NM-00-111.02-10-97.00-000

#### **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 Office file number CS-19-01 to the Title Sheet and Title Block of the site plan.
2. Add a note to the plan indicating the estimated number of trips in and out of the subject area.

3. 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. Applicant must record a perpetual easement agreement which will transfer from the developer of Loganberry Village to any future homeowner's association at such time as the homeowner's association takes control of the property.
2. Prior to final plan approval, all outside agency requirements must be met.
3. 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.

Given that this use is projected to generate approximately two trips in and two trips out every thirty days, 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. WAIVER REQUEST:**

Section 187-80 states: Where 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 applicant has submitted a letter requesting a **waiver** of Kent County Code §187-78(B), which prohibits buildings, structures and paved surfaces constructed closer than 100' to a blue line stream. This waiver is necessary to accommodate a 12' wide paved access road to the proposed propane facility.

Due to Kent County's bulk utility standards requiring a liquid propane and/or natural gas substation to maintain a minimum 100' setback from parcel lines and a minimum 200' setback from residential dwelling setback lines, the proposed underground propane field is only permitted in one location on this site and has limited access. The access drive to this facility is further limited due to the adjacent wetlands, residential building lots, and stormwater management pond. The proposed location has the least impact to the existing conditions. However, approximately 2,406 square feet of the paved access drive encroaches into the 100' blue line stream buffer adjacent to lot 114, or at its greatest distance 12.8'.

The Planning Staff recommends that this waiver be granted **approval**.

### **IV. BACKGROUND INFORMATION:**

- The Kent County Comprehensive Plan recommends that the subject property be utilized for low-density residential purposes. The property is zoned AR (Agricultural Residential). This zoning district provides for Public Utilities as conditional uses for approval by the Levy Court through the Conditional Use / Site Plan process. This particular public utility is specifically proposed as a support service for the surrounding low-density residential community. If approved, this plan will comply with the 2018 Comprehensive Plan and the AR zoning district requirements.
- The 20.039 ± acre subject site is currently vacant, but is approved as passive open space for the future development of Loganberry Village, which will be comprised of 46

townhomes, 48 duplexes, and 59 single family residences. The character of the surrounding area is residential in nature.

- 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 Public Utilities and Uses are as follows:
  - 1) The use shall conform to such setback, screening, or other requirements as the Department of Planning Services, Division of Planning, shall deem necessary for the protection of neighboring and adjacent property.
  - 2) Any principal part of a tower, excluding guy cables, shall be set back from the street line or any other lot line of the lot on which it is located a distance of not less than the height of such tower, and any blinking or rotating light thereon shall be placed so as not to throw its light below the horizontal plane in which it is installed.
  - 3) Any storage of materials or trucks, maintenance and repair facilities and housing of repair crews shall be contained within a building.
  - 4) All requirements, regulations and recommendations submitted by any agency member of the Development Advisory Committee shall be satisfied
- The subject area will be accessed by a proposed 12' wide paved access road from an internal subdivision street, Currant Circle.
- The subject area includes a 52' x 54' fenced compound (2,808 square feet) centrally located within the passive open space of Loganberry Village. The proposed compound will include twelve 1,000 gallon underground propane tanks inside a 6' high chain link fence with two access gates. The area inside the fence will be stone.
- Both the access drive and compound will be surrounded by trees and bordered on the north and east by wetlands, all of which provide adequate buffering and screening from the residential building lots.
- Installation of the access drive would require approximately 7,796 square feet of tree clearing. However, the applicant is proposing a dedicated tree mitigation area of 9,516 square feet located within the same passive open space area.
- There have not been any previous land use applications on the subject site.
- The Levy Court may add any necessary conditions to protect the health, safety, and welfare of the citizens of Kent County.

**V. AGENCY COMMENTS:**

**A. KENT COUNTY DEPARTMENT OF PUBLIC WORKS**

**Contact:** Brian Hall, Engineering Project Manager II

**Requirements & Sources:**

1. Property/entire Subdivision is “legally” located in Kent County Sewage Disposal District Number One (KCSDD1), Double Run area.
2. “Technically”, this Subdivision will be served by sanitary sewer, gravity mains. In fact, there are some existing sanitary sewer mains already situated in this Subdivision, primarily located in the State/DelDOT R-O-W areas.
3. As this proposal progresses, adherence to all applicable requirements of the Kent County Code, specifically Chapters 128 & 180, the applicant accepted TFS, and the Levy Court approved Preliminary Report.
4. Does this proposal involve underground, propane piping extending to/from Community Field itself?

**Comment:**

1. The Engineering Division grants “Conditional Approval”.

**B. DELAWARE DEPARTMENT OF TRANSPORTATION**

**Contact:** Joshua J. Schwartz

**Comments:** Plans have been submitted to DelDOT and are currently being reviewed. The plans shall be designed in accordance with DelDOT’s Development Coordination Manual.

**VI. 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. DNREC Accidental Release Prevention Program

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  
Exhibit C – Plot Plan  
Waiver Request  
Preliminary Site Plan