



# Kent County

## Department of Planning Services Division of Planning

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### STAFF RECOMMENDATION REPORT February 2, 2023

<b>Application Number</b>	:	SL-23-01
<b>Preliminary Plan Title</b>	:	Webber Farm
<b>Present Zoning District</b>	:	AC (Agricultural Conservation)
<b>Present Use</b>	:	Agriculture
<b>Proposed Use</b>	:	Residential Development
<b>Proposed Number of Lots</b>	:	203 Single-Family Detached
<b>Relation to Growth Zone</b>	:	Inside
<b>Area and Location</b>	:	Located on the north side of Roesville Rd. (Co. Rd. 387), 1,300' west of Carpenter Bridge Rd. (Co. Rd. 35), west of Frederica.

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

The staff recommends **CONDITIONAL APPROVAL** based on the information submitted as the application demonstrates compliance with the conditions for approval as outlined in the Code, as follows:

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

1. The final plan must meet all requirements of both Chapters 187 and 205 of the Kent County Code and all items in the final plan column of Appendix D of Chapter 187. This may include items that are not specifically outlined below. This plan needs to be recorded within 24 months of the date of preliminary approval.

2. In accordance with §187-43, it is required that a bond be filed for or deposited in escrow with the County or a letter of credit issued in a sum sufficient to insure completion of requirements such as buffers, landscaping, and/or open space improvements imposed by the Levy Court or Regional Planning Commission. Such surety bond or letter of credit shall be required prior to issuance of a certificate of occupancy. This surety will guarantee that, if the developer is not able to financially complete the project, the funds will be available to complete the amenities promised to the residents of the community.
3. Add the Kent County Planning Office file number SL-23-01 to the Title Block.
4. The development name must be approved by Kent County Division of GIS/911 Addressing
5. Add the following General Note:  
All purchasers shall permit the developer or his assigns temporary trespass upon the purchaser's lot or lots to complete grading, landscaping or other work as required by the approved plans or necessity.
6. The creation of a trash district is required in accordance with the provisions of §187-53(H). The applicant shall contact the Kent County Department of Public Works for information on this process. (Phone 302-744-2430)
7. §187-90.2.F.(1) requires that this project shall be served by a central water system that includes fire hydrants. Fire hydrant locations shall be accordance with the Delaware State Fire Protection Regulations.
8. In accordance with §187-60(H), sidewalk design and installation must comply with federal requirements of the Americans with Disabilities Act (ADA) and shall incorporate barrier-free access ramping at points of intersection with street crossings and at other locations so as to accommodate barrier-free pedestrian movement and access to buildings, parking areas, and other site amenities. All sidewalks shall be designed as an "accessible route" and shall conform to ANSI 117.1-1998 standards for handicapped accessibility. Provide typical curb ramp detail on the plan.
9. A school and transit bus stop shall be in accordance with §187-62.
10. Add the following notes regarding stormwater maintenance to the plan:  
Stormwater Maintenance District §187-90.4(D)(1-5):
  - 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.
11. Maintenance set aside areas must be provided for all stormwater management areas. Indicate the location of these areas on the plan.
  12. Excavated material from the proposed stormwater pond may not be used off-site without prior approval of a Conditional Use for a Borrow Pit. Place a note to this effect on the plan.
  13. Indicate the proposed size of the subdivision signs at the entrances. Note that the one main subdivision entrance sign shown on the plan will be limited to 32 square feet in area and a height of six feet above grade.
  14. All major subdivisions must have lighted entrances. Indicate the type of lighting for the subdivision entrances on the plan.
  15. Active recreational improvements must be constructed in a proportion equal to or greater than the proportion of residential dwelling units completed. A construction schedule for the completion of the approved active recreational improvements will be required prior to final plan approval.
  16. Add the following General Notes:
    - All required landscape buffers shall be planted prior to issuance of 50% of the Certificates of Occupancy by bonded phase and maintained by the applicant until all Certificates of Occupancy have been issued; provided, however, that no required landscape plantings should be conducted between May 15 and September 1. The landscape buffer area and any other landscape plan depicted on the record plan shall be maintained in perpetuity by the Homeowners' Association or Maintenance Corporation. These deed restrictions shall run with the land and may not be vacated by the Homeowners' Association or the Maintenance Corporation.
    - The construction/improvement of open space areas shall be completed in a proportion equal to or greater than the proportion of residential dwelling units completed, except that 100% of the recreation areas shall be completed prior to issuing building permits for the final 20% of the dwelling units proposed, unless a written agreement is in place between

the applicant and the Department. Building permits shall not be issued for dwelling units unless the requirements of this section are met.

17. Label and detail the 6-foot-tall opaque barrier required between the proposed development and the farmland to the northeast and west. Note that all plantings, if used for this barrier, must be at least 6 feet tall at the time of planting and be dense, durable, and continuous evergreen trees.
18. Add the following note to the Landscape Plan:  
Within one year of initial construction of all stormwater management facilities, wetland and landscape plantings shall be installed and permanent metallic signage shall be placed at the SWM detention area indicating “Water Quality Management Area – Do Not Mow”. Show the detail and location of the signage on the final plan.
19. The final plan submitted for recordation shall include a block for the review stamp from a representative of the Department of Transportation.
20. General Note 20 should be revised to state the following:  
A Homeowner’s Association shall be established for, but not limited to, all future maintenance and repairs of all open space areas, areas of active recreation, street trees, and the subdivision entrance signs. The developer shall be responsible until such time that a Homeowners’ Association or Maintenance Corporation assumes responsibility.
21. In accordance with §187-70, a copy of all Homeowners’ Association documents must be submitted for review by the Planning Department prior to consideration by the RPC for final approval, including the Articles of Incorporation for the Homeowners’ Association, Bylaws, and Maintenance Obligations Declaration documents.
22. The Homeowners’ Association shall be responsible for maintenance, insurance, taxes, fees, and other burdens customary to the ownership of real property and all improvements and constructions thereon, including but not limited to all recreation amenities, walkways, landscaping, and sanitary sewer and other utilities not owned by Kent County. In accordance with Section 187-70(E) the developer shall place \$300 per lot or unit within the subdivision in an interest-bearing account. All principal and interest that accrues in this account shall be turned over to the Homeowners’ Association as set forth below:
  - a. A deposit of \$300 shall be made to the escrow account with each initial real estate settlement and shall be verified prior to the issuance of building permits for construction of units beyond the initial 80% of the lots or units within the subdivision. The balance of the escrow account shall be reflected on the financial statement.

- b. The developer must demonstrate that the funds have been placed in an independent escrow account separate from the operating fund of the developer.
  - c. The escrow funds shall not be withdrawn by the developer or any person acting on behalf of the developer.
  - d. At the time governance of the Homeowners' Association is transferred to the residents, the escrow collected to date plus any interest shall be transferred to the association.
  - e. The balance of the maintenance escrow collected after transfer of association governance to the residents shall be provided to the Homeowners' Association prior to final inspection of the subdivision and/or release of any County-held surety bonds or letter of credit.
23. A lot consolidation shall be completed to combine parcels 34.00 and 33.01 prior to final plan approval.

**B. Recommendations:**

1. Kent County Code §187-56(C) states that subdivision and/or land development plans shall be designed in accordance with the design requirements and standards contained in this chapter, with the objective of achieving the most advantageous and efficient use of land resources and yielding high quality living environments. For this reason, Staff has the following recommendations:
  - a. It is recommended that the open spaces that are not utilized for active recreation be planted with a no maintenance perennial groundcover to reduce the mowing requirements for the future Homeowners' Association. The species of groundcover must be approved by the Planning Office prior to final approval of the subdivision.
2. Redesign lots 162 through 177 to eliminate the proposed open space and instead incorporating this area in the adjacent lots. Leaving the open space as designed may create unnecessary property line disputes.
3. Include a walking path in the area between lots 146, 147, 136, and 137 so that it is continuous to and from the 2.51 acre central active open space area.
4. The internal pedestrian walkways and open space areas shown on the plan should be clearly demarcated so that lot owners do not mistake these strips of land as private property. The Planning Staff recommends using split rail fencing to delineate the walking paths and open space area. The landscape plan should show a detail of the split rail fencing, along with detail and cross-section of the surface of the internal walkways to be approved by the Planning Office prior to final approval of the subdivision.

## **II. BACKGROUND INFORMATION:**

- The applicant is requesting approval of a 203-single family lot development.
- The Comprehensive Plan calls for low density residential uses in this area. The proposed plan is in conformance with the Comprehensive Plan.
- The subject site is 140.6± acres. The existing driveways, buildings, and associated features on parcel 34.00 will be removed as part of the site development. Parcel 33.01 is currently vacant.
- The site is located on the north side of Roesville Rd, west of Frederica.
- The character of the surrounding area is residential and agricultural in nature. The proposed project is south of Weatherstone subdivision and north of Roesville Estates subdivision, both are currently under construction.
- There has been one previous land use application on the subject site. There was a 213-lot subdivision approved on this property originally known as Dickinson Grove (SL-07-03). On July 10, 2008 a six month extension was granted for the preliminary plan to expire February 8, 2009. The preliminary plan expired and was not recorded.
- The site will be served by Kent County Sewer and Public Water (Artesian Utilities) with fire protection.
- A landscape plan has been provided showing the proposed active open space improvements, the required buffers, and tree plantings. Based upon the area of this project, the applicant is required to plant 237 trees. The applicant is proposing to plant 237 trees around the community. The active improvements shown include dog park, benches, gazebo, tot lot, and walking path.
- This application must comply with the standards of the Adequate Public Facilities Ordinance:
  - a. The project will be served with public water provided by Artesian Utilities. The water supplier will be required to provide sufficient capacity to meet State Fire Prevention Regulations. Fire hydrants will be provided with the State Fire Prevention Regulations.
  - b. The applicant submitted a letter stating that they will comply with the School and EMS sections of the ordinance by paying the relevant fee at the time of building permits.

- c. The fee required for the Lake Forest School District will be calculated at the final plan approval stage by multiplying the total student generation rate by the most recently established local school district share of total average cost per student for school construction as determined by DOE. A School Mitigation Agreement must be submitted prior to final plan approval and recorded along with this development.
- d. The EMS fee will be based upon the projected number of annual dispatch calls for the proposed development multiplied by the per capita EMS costs based upon the most recent reporting year.
- e. A Traffic Impact Study (T.I.S.) was prepared for this development in 2022, which requires a number of off-site roadway improvements to be completed. DeIDOT has several relevant and ongoing improvement projects within the study area. There is an active DeIDOT project to install a roundabout at the intersection of Midstate Rd. and Canterbury Rd. The proposed roundabout will increase the level of service needed for the proposed 203 lot single family subdivision.

### **III. AGENCY COMMENTS:**

The following County and State agencies have reviewed the preliminary plan prepared by Morris & Ritchie Associates, Inc. dated November 11, 2022, and have provided the following requirements, conditions and recommendations:

#### **A. KENT COUNTY PUBLIC WORKS, Contact: Brian Hall**

##### **Requirement:**

1. Adherence to the requirements of the accepted TFS & the Levy Court approved Preliminary Report/Resolutions.
2. Proposal must proceed in accordance with all applicable provisions of the Kent County Code, Chapter 128 (Fees) & Chapter 180 (Standards).
3. Depiction of all existing and proposed SS easement and ROW areas.
4. Aid In Construction (A-I-C) Fees apply to this proposal (for both on & off-site SS improvements).
5. Section 187-53(H)(4) requires that garbage collection districts be created in major subdivisions, unless not specifically required by the Commission.
6. Section 187-53(H)(1) requires that streetlight districts be created for any subdivision with over (50) lots and with a density of (2.5) units per acre or greater. Additionally, the subdivision entrance must be lighted.

**Comment:**

1. The Engineering Division grants “Conditional Approval”.

**B. DELAWARE DEPARTMENT OF TRANSPORTATION, Contact: Joshua J. Schwartz**

**Comments:**

1. A traffic Impact Study was completed through DelDOT November 2022. The developer shall schedule a pre-submittal meeting to discuss the proposed development.

**C. KENT CONSERVATION DISTRICT, Contact: Kate Owens**

**Requirements:**

1. A Stormwater Assessment Study must be submitted, and a pre-application meeting must occur prior to submitting a sediment and stormwater detailed plan application.
2. A detailed sediment and stormwater management plan must be reviewed and approved by Kent Conservation District prior to any land disturbance (i.e. clearing, grubbing, filling, grading, etc.). The review fee and a completed Application for a Detailed Plan are due at the time of plan submittal to the District’s office.
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.

**Comments:**

1. A new subdivision shall establish a stormwater maintenance district as a condition of approval. Fees for the district shall not be incurred until the subdivision is complete and the stormwater infrastructure approved by the Kent Conservation District.
2. A minimum 15-foot maintenance access easement from the roadway is required at each facility.
3. It is strongly recommended that all stormdrain pipes be designed in open space.
4. Soil investigations must be conducted to determine suitability of the soils to meet recommended embankment and permanent pool criteria, as necessary.



5. The minimum depth of permanent pool is 4-feet at a minimum 50% of the total surface area of a wet pond.
6. A letter of no objection to recordation will be provided upon approval of a Sediment and Stormwater Management Plan.

**D. DNREC, Contact: Dawn Budinger**

**Comments:**

1. Underground Storage Tank showing but listed as Out of Service.

**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. Kent County Department of Public Works
- E. Artesian Water / DHSS – Drinking Water
- F. Kent County Division of GIS / 911 Addressing

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  
DelDOT approved TIS dtd. 11/9/22  
APFO Summary Letter dtd. 08/24/22  
Subdivision Plan