



Riverbend Residential Development Comprehensive Plan Amendment and Rezoning Request Report and Analysis

A. Introduction to Comprehensive Plan Amendment and Zoning Request

On April 30, 2001, Parkway Gravel submitted a request to have their property annexed into, and become a part of, the City of New Castle. On May 4, 2001, the property was officially annexed into the City of New Castle and 70.82 acres were zoned Industrial Office Park (IOP). The initial intent was to utilize the property for an 8-building, 450,000 s.f. industrial/office park complex.

In August 2005, Parkway Gravel submitted a request for rezoning the 70.82 acres to Residential (R3) in order to develop the IOP site for residential uses (210 units). The letter of request stated that there has been an increase in demand for residential uses over industrial uses in New Castle. Since residential uses would not be permitted by right in an industrial zone, a rezoning request is being sought for Parcel 1003100003, from IOP to R-3 (higher-density residential).

The Technical Review Committee has analyzed the consistency of the proposed rezoning with the New Castle Comprehensive Plan, the suitability of the proposed zone for the site, and the impact of the proposed change in future use upon the surrounding neighborhood. In order for the rezoning to be approved, the Comprehensive Plan must first be amended to permit residential use on the site.

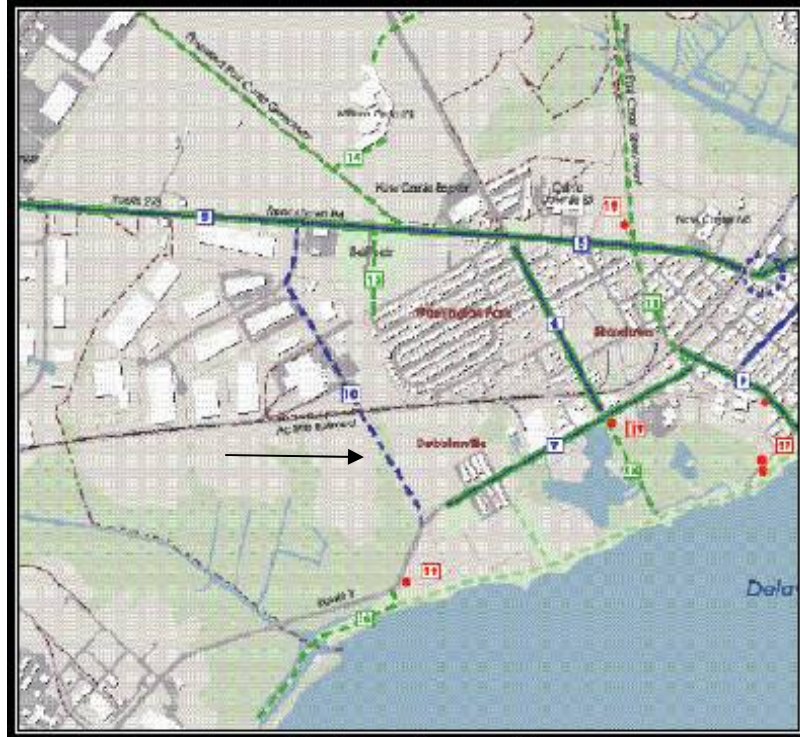
B. Project Background

Owner:	Parkway Gravel, Inc. 4048 New Castle Avenue New Castle, DE 19720-1455
Location:	West side of Delaware Route 9 – River Road South of Delaware Route 7 Parcel 1003100003
Acreage:	70.82 acres zoned IOP in a parcel of 146.37 acres
Existing Zoning:	70.82 acres IOP and 75.55 acres Open Space & Recreational (OS&R)
Proposed Zoning:	R3 for IOP portion only (70.82 acres)

- Existing Use: Vacant - There is a small piece of forested land in the northwestern-most corner of the site, according to the 2002 Land Use/Land Cover (Data compiled by: EarthData International of Maryland, 2003). This comprises approximately 3.7 acres of the site.
- The entire site is within a Coastal Zone. None of the site is within a Critical Natural Area. The entire site is located within the Army Creek Watershed.
- Adjacent Uses: Immediately north of the site is the railroad, and north of that is the Center Point Business Park which is zoned Industrial (I). The property to the east is largely vacant, owned by the Trustees of New Castle Commons, and zoned OS&R. There is a ball field on that site. Directly west of the site, there is a 38-acre park owned by the State (Army Creek). Additional area west of Army Creek is industrially zoned land in New Castle County. The Delaware River is directly south of the site. The county is currently considering several proposals for new and expanded industrial development along Rt. 9 and Grantham Lane.
- Proposed Use: Riverbend - 210 unit age-restricted (55+ years) community
131 single family detached homes
79 townhouses
- PLUS Review: Since the requested zoning designation was not consistent with the Comprehensive Plan, the project was subject to review through the PLUS process. The applicant met with the State Planning Office on 10/26/05 to discuss the project, and a formal written review was received from the State on 11/14/05. The applicant prepared a response to the State's review on 12/5/05. Copies of all correspondence are attached to this report.
- Comprehensive Plan: The Comprehensive Plan, Map 2b. Suggested Land Use indicates that the suggested use for a portion of the parcel is open space. (See page 28 (<http://www.newcastlecity.net/pdf/CompPlan.pdf>)). Most of this area is currently zoned OS & R, and is land generally found within the 100-year floodplain or designated as a wetland with the National Wetlands Inventory. The upland portion of the site is not indicated with a suggested use. In addition, the site is not listed in the matrix of vacant land parcels and suggested uses (pgs. 26-27 of the Comprehensive Plan). At the time of annexation, the parcel was clearly planned for industrial use.

The Transportation Plan shows a new road connecting Rt. 273 and Rt. 9 through the Parkway Gravel site and Center Point. The Riverbend project proposes the elimination of this road.

Figure 1 New Castle Transportation Plan, Riverbend area.



C. Zoning Code Requirements and Development Potential

Provisions of the Zoning Code

The property owners have requested R3 zoning for 70.82 acres of the site. Such a proposal would be subject to the following provisions of the zoning code. Please read the full text of Section 230-18 to understand all of its provisions.

Section 230-18 Residential District, R-3 - “This district is intended to permit the widest range of residential density and dwelling type while preserving the amenities of the higher restricted residential districts. A portion of the undeveloped area of the City is encompassed by this district with the expectation that the *Planned Development* provisions of this chapter will be utilized when these areas are developed.”

The following District Regulations apply to conventional development in the R-3 zoning district:

	Minimum Lot Size				Maximum Building Height				Minimum Yards			
	Lot			S.F./ Family	Height		%	Length	Depth	Side		
	Area	Width	Depth		Stories	Ft (k)				Front	One	Both
SF Detached	6,000	50	100	6,000	2.5	35	35	N/A	20	5	15	25
SF Semi-detached	3,000	25	100	3,000	2.5	35	40	N/A	20	7.5	N/A	25
SF Attached	2,000	20	100	2,000	2.5	35	40	150'	20	N/A	N/A	25
2-Family Detached	6,000	50	100	3,000	2.5	35	40	N/A	20	5	15	25
2-Family Semi-Detached	4,000	35	100	2,000	2.5	35	40	N/A	20	10	N/A	25
2-Family Attached	3,500	30	100	1,750	2.5	35	50	150'	20	N/A	N/A	25
Multiple Dwelling	8,000	70	100	1,700	6	65	50	4 height *	[b]	[b]	[b]	[b]
Non-residential	6,000	50	100	N/A	3	45	50	N/A	20	[a]	[a]	25
Planned Development	N/A	N/A	N/A	4,000	6	65	30	4 height *	N/A	N/A	N/A	N/A

The ordinance expresses the intention that undeveloped parcels in the R3 zone use the Planned Development option provided in the zoning ordinance. The planned development option can also be used in the R1 and R2 zoning districts. The only difference between the three zones when using the Planned Development option is the density of development (square feet per family).

Section 230-39 Planned Development - “The purpose of these provisions is to permit and encourage, under appropriate design control, diversification and flexibility in the type, location and size of site for residential buildings, in order to make the most advantageous use of the terrain, to facilitate the protection and preservation of scenic beauty, to foster the creation of common open spaces, to avoid monotony and so that there may be a broad range of choice as to the kinds of housing accommodations available within neighborhoods. In applying these provisions, no development shall be permitted which would be inconsistent with the intent and purposes of this chapter or contrary to the city's General Comprehensive Plan.”

A. Within any residence district or combination of residence districts, in the case of land capable of subdivision under the applicable district regulations, the Planning Commission may authorize deviation from the district regulations relating to lot size, lot area per family, lot width, lot depth, front, rear and side yard requirements and may allow any one or a combination of the types of residential structure permitted by this chapter within the city, provided that all of the requirements contained in Subsections B and C are fulfilled.

Other provisions of particular significance in this section, as applied to the proposed development, are shown below. Please read the full text of Section 230-39 if you are interested in all of the provisions.

B. Requirements in order to permit deviation from district regulations in case of planned development:...

(3) The development plan shall be processed under and conform to Chapter 213, Subdivision of Land, subject to such additional requirements and safeguards as may be called for in this chapter or as the Planning Commission may deem appropriate in order to fulfill the intent of this chapter and city's General Comprehensive Plan.

(4) In the event that the land covered by the development plan is in excess of 40 acres, at the periphery of the planned development within a band of 100 feet, no departure from the district regulations may be permitted. [Amended 7-9-1996 by Ord. No. 375]

(5) Within the boundaries covered by the planned development, the average land area per family calculated in accordance with Subsection C shall be no less than the minimum required for the district. Where the planned development lies within more than one residence district, the minimum average land area required shall be prorated according to the percentage of land in each district. Where the planned development also includes land within an OS&R District, the minimum average land area per family shall be considered the same as for the abutting land in the planned development with a residential classification.

(6) In the event that the land covered by the development plan is in excess of 40 acres, within the boundaries of the planned development the distance between any two separate principal buildings shall be no less than the height of the taller or the distance which would be required under the district regulations for like buildings, whichever is greater. [Amended 7-9-1996 by Ord. No. 375]

C. Determination of average land area per family. The average land area per family shall be determined by dividing the total area within the planned development by the number of dwelling units to be provided subject to the exclusions and adjustments set forth in Subsection C(1), (2) and (3) below.

(1) The following shall be excluded from calculation in determining the average land area per family:

- (a) Streets and street rights-of-way, public or private.
- (b) Sites for nonresidential uses other than open space, scenic or recreational use....

(3) In determining the average land area per family, any land dedicated to and accepted by the City of New Castle or other public agency for recreational use or enjoyment by the general public shall be included in the calculation as though it were twice its actual acreage.

Development Potential

Using the Planned Development option, there are three alternatives for calculating parcel size when determining the development potential (i.e., developable area) at the Riverbend site. The developer’s engineer advises that approximately 10 acres of the site is utilized for rights-of-way, in the currently proposed plan. Depending upon the area determined to be “the total area within the planned development”, the three scenarios are:

- 146 acres (entire parcel) minus 10 acres = **136 acres**
- 71 acres (IOP portion only) minus 10 acres = **61 acres**
- 48 acres (approximate acreage outside of 100-year floodplain) minus 10 acres = **38 acres**

The table below shows the number of units permitted under R1, R2 and R3 zoning using the square footage per family standards for each respective zoning district.

	Development Potential		
Planned Development	136 acres	61 acres	38 acres
R-1 Residential (7,500 s.f per family)	790 units	354 units	220 units
R-2 Residential (4,000 s.f per family)	1,481 units	664 units	413 units
R-3 Residential (4,000 s.f per family)	1,481 units	664 units	413 units

Recommendation

The zoning district which most closely resembles development of the type and intensity proposed by the developer is R1 with the Planned Development option.

D. Comprehensive Plan Land Use

Issue

State law requires that the zoning of a property be consistent with the adopted Comprehensive Plan. While the planned use for this site has been industrial. Prior to the rezoning of the site, its designation on the Suggested Land Use Plan should be changed to residential.

Recommendation

In order to recommend residential zoning on this parcel the Planning Commission should first recommend an amendment to the Comprehensive Plan in which Map 2b (the Suggested Land Use Map) is updated to reflect a proposed land use of residential for the developable portion of Parcel 1003100003. In addition, the matrix of available land parcels and suggested uses should be updated to include Parcel 1003100003.

E. Comprehensive Plan Connector Road

Issue

The subdivision regulations provide that roads shown on the Comprehensive Plan are to be incorporated into subdivisions and site plans as property develops. During the annexation in 2002, the City required Parkway Gravel to work with the adjacent property owner to provide a through-road from Rt. 9 to Johnson Way in the Center Point Business Park, which would then connect to Rt. 273 at the light. This is shown in the Comprehensive Plan. The road would provide a much needed connection between the two state roads and provide a more direct route for the trucks from both industrial parks. This would result in an overall reduction in the impact on Washington Street.

Construction of the connector road would require a new at-grade rail crossing. While state law generally prohibits the creation of new at-grade rail crossings, it is allowed to relocate an existing crossing. David Campbell with DelDOT has confirmed that the rail crossing for the connector road was anticipated when crossings in other parts of the state were closed. The provisions for an at-grade crossing on the Riverbend site were discussed with representatives of Norfolk Southern and by Secretary Hayward. DelDOT staff is researching their records to determine if a formal approval was ever granted.

The annexation agreement provided that the intersection onto Rt. 9 would permit westbound turns only, if approved by DelDOT. When DelDOT approved the recently constructed entrance onto Rt. 9, there was no restriction placed on turning movements.

In the PLUS process, DelDOT recommended that an emergency access be provided across the railroad tracks and into Johnson Way. This would provide ready access to the Riverbend site in the event of an emergency should Rt. 9 ever be flooded or an incident blocks the main entrance road.

Applicant's Response

Parkway Gravel has been unable to secure the cooperation of the owner of the key lot in the development of a connection into Johnson Way. In addition, State law prohibits the creation of additional at-grade crossing of the railroad. The developers now propose that the access road for Riverbend be developed as a private road serving only the residential community. In effect, they are requesting that the connector road be removed at this location from the Comprehensive Plan.

Analysis

There is continuing pressure from residents of the City for the development of an alternative connection between Rt. 9 and Rt. 273. The alignment proposed in the Comprehensive Plan is the only reasonable option for this connection within the City of New Castle. If constructed, the route is likely to attract through traffic, not just traffic from the industrial park and the Parkway Gravel property. It is worthy to note that it would be possible to construct the through route without promoting through traffic within Riverbend.

Recommendation

The Technical Committee recommends no change to the adopted Transportation Plan. The access road to Riverbend within the alignment shown on the Comprehensive Plan should be built as a public road suitable to carry both the residential traffic from Riverbend and the heavier traffic likely to be attracted by the through route. The intersection with Rt. 9 should be a full “T” intersection and should be evaluated for a traffic light when the through connection is built. The entrance to Riverbend from the connector road should be constructed as a “T” intersection. At the time of the subdivision, all the right-of-way needed for the connector shall be dedicated to public use. The Planning Commission and City Council will determine at that time whether construction of the road all the way to the railroad is appropriate, if emergency access only is sufficient, or whether the rail crossing will be permitted at all. If the adjacent property owner is unwilling to cooperate, the City may chose to use its power of condemnation to secure the necessary right-of-way.

E. Police

Issue

Any residential development will require local police services not only for traffic enforcement, but also crime investigation, noise, nuisance complaints, etc. The New Castle Police Department has already indicated that a residential development of this nature would increase the need for additional police services and vehicles. Residents of age-restricted communities are especially vulnerable to crimes relating to fraud, identity theft and scams in addition to an increased risk for unaccompanied deaths. If private streets are permitted within the Riverbend development, the Police Department cannot enforce speeding laws or address other traffic violations. The City Police would be able to provide some police presence and to issue violations for activities that fall within the “private property” confines of the law (e.g. DUI, careless driving).

Applicant’s Response

The Homeowner’s Association is expected to retain a private security service.

Analysis

A private security firm would not be able to address complaints of a criminal nature or issue traffic citations. While private security can act as a liaison between homeowners and the local police, they are not able to handle reports, warrants, and investigatory issues.

Recommendation

Since no internal traffic enforcement will be in place within the Riverbend development, traffic calming measures such as bulbouts, center islands, lateral shifts, diverters, forced turn lanes, median barriers, realigned intersections, roundabouts, speed bumps, textured pavement, etc. should be incorporated into the overall street design. The use of traffic calming techniques must be balanced with the need to accommodate emergency response vehicles.

F. Traffic

Issue

Any new development will generate additional traffic. Existing traffic levels along Rt. 9, especially in the morning and evening peak hours, are a continuing cause for concern in the city. In addition, a recent DelDOT study of “cut through” traffic on summer Fridays confirmed that there is a measurable increase in traffic traveling from Rt. 273 to Rt. 9 at the beginning of the summer weekends.

Applicant's Response

The proposed development of an age-restricted community (55+) will result in less traffic than the industrial development previously approved. In addition, age-restricted communities generate less traffic than similar open-age residential communities.

Landmark Engineering completed a traffic comparison on 1/3/06. The firm looked at traffic generated by a 450,000-s.f. flex warehouse space (previously approved) vs. an age-restricted community consisting of 131 single-family detached homes and 79 townhomes. Calculations showed that the proposed age-restricted community will generate 68% less trips on a daily basis, 87% less trips during the A.M. peak hour and 82% less trips during the P.M. peak hour than the previously proposed industrial development. (Source: 7th Edition Trip Generation Manual. Institute of Transportation Engineers (ITE), December 2003).

Analysis

The Technical Review Committee concurs with the basic conclusion of the trip generation analysis provided by the Applicant, namely, that the proposed use of the site for an age-restricted residential development will generate considerably less traffic and less peak hour traffic than the previously approved industrial development.

However, a recently released study prepared for the Delaware Transportation Center and DelDOT suggests that the trip generation rates for age-restricted communities in Delaware are higher than the rates developed by ITE. The University of Delaware's Center of Applied Demography and Survey Research estimates that age-restricted communities generate 33% less trips on a daily basis and 67% less during peak times than open-age communities of a similar development type.

Recommendation

The actual impact of traffic from any proposed development on the nearby road system should be evaluated at the time of subdivision or site plan review with a comprehensive traffic impact study developed based upon a specific development proposal, the road network in place, and the projected build-out schedule. At the time of preliminary subdivision plan review the applicant must demonstrate that DelDOT has approved the entrance design for the proposed use.

The subdivision standards for roads and rights-of-way apply to all roads regardless of ownership. Any agreement with the city regarding the private roads should require the establishment of escrow funds or another appropriate finance mechanism to assure that the private roads are adequately maintained. Such funding should provide for both annual operating activities like snow removal, pot hole repair, and sign maintenance as well as longer term asset management activities like resurfacing and reconstruction.

G. Floodplains:

Issue

The Federal Emergency Management Administration (FEMA) Flood Insurance Rate Map (FIRM Map, Panel 165 of 450 for New Castle County) dated October 6, 2000, shows the proposed development is located in Zone AE with a Base Flood Elevation of 10 feet. Approximately 70% of the entire parcel is located within a 100-year floodplain.

Applicant's Response

According to the Wetland and Floodplain Delineation diagram prepared by Greenstone Engineering on 12/28/05, there are 26 lots that are partially in the floodplain, and 9 lots that are entirely in the floodplain. The houses on the lots in the easternmost development cluster will be elevated using fill. The developer has agreed to comply with the city of New Castle's Floodplain Management Plan, which typically takes place during the subdivision process.

Recommendation

The Technical Review Committee recommends that no houses be located in the current boundaries of the 100-year floodplain. All roads and streets within the development must be elevated to above the 100-year flood level. Any portion of lots located within the 100-year floodplain should be subject to deed restriction prohibiting construction or fill in the 100-year flood plain.

H. Wetlands:

Issue

According to the National Wetlands Inventory (NWI), there are approximately 82 acres of wetlands on the site. This is 56% of the entire site. The wetlands found on the site are classified as "E2EM5Pd" based on the following indicators:

- Estuarine
- Intertidal
- Emergent
- Narrow-leaved persistent vegetation
- Irregularly flooded
- Seasonably flooded / well-drained

In the PLUS comment letter DNREC recommended that a 100 foot wide buffer be provided for all wetlands.

Applicant's Response

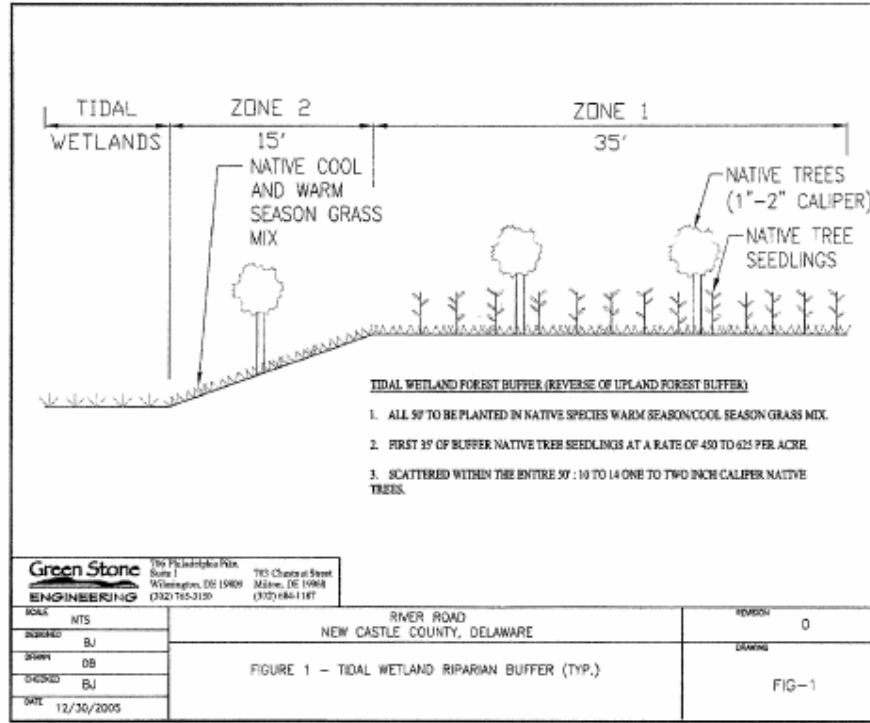
All proposed roads, lots and amenities will be outside of the existing wetlands. The developer proposed to provide riparian buffers with an average width of 50 feet for all lands adjacent to the tidal wetlands. In some areas the buffer width would be reduced to as little as 20 feet but the total area of the buffer would be equal in size to the acreage of a 50 foot buffer. This buffer is consistent with the water quality goals of DNREC. The developer has agreed to meet with the Joint Permit Processing Committee at the appropriate time early in the subdivision design process.

Analysis

The State of Delaware is reviewing various types of buffer requirements for tidal and nontidal wetlands. Bruce Jones, the developer's engineer, serves on a DNREC committee reviewing riparian (river and stream bank) buffers intended to improve water quality. Other agencies within DNREC are considering wetland buffers to provide both water quality improvements and habitat protection. Current legislation does not contain specific requirements for wetland and stream buffers, but legislation is currently being reviewed (House Bill 653) which will be based closely on the 1973 Wetlands Act and establish defined wetlands buffer requirements. These buffers vary in width depending upon the function and value of the specific wetlands area. The widest proposed buffers will range up to 300 feet for Class 1 wetlands, up to 100 feet for Class 2 wetlands, etc. Other states have specified buffers for wetlands. Maryland requires a 100 foot wide undisturbed buffer for all tidal wetlands and a 25 foot buffer for nontidal wetlands.

Recommendation

The Technical Committee recommends that a buffer with a minimum width throughout of 50 feet be provided for all tidal wetlands adjacent to the site, if such a buffer is acceptable to DNREC in lieu of the 100 foot buffer requested at the PLUS meeting. This buffer should be located outside all lots and beyond all pedestrian paths except those necessary to cross the buffer for access to the river walk. The first 50 landward of the buffer shall be landscaped as shown in the detail provided by the developer.



I. Rare, Threatened, and Endangered Species

Issue

During the PLUS process DNREC identified the potential for rare plants in the wetlands along Army Creek. There are records of Regal fritillary (butterfly) in the vicinity and it may occur at this site because it inhabits marshes and wet meadows.

Applicant's Response

The Developer contacted the State and they were familiar with the proposed subdivision site. They stated that the rare species was of interest, but was not known to exist anywhere in the State and thought it unlikely that this species be present at the site.

Analysis

KCI contacted Christopher Herkscher of DNREC on 1/3/06. He looked at aerial photos of the site and drove by the site. He determined that it is highly unlikely a population of Regal Fritillary is extant on the site.

Recommendation

No further action is necessary.

J. Utilities:

Issue

The City of New Castle's Municipal Service Commission (MSC) is currently conducting two studies for electrical and water service, respectively. Although the analysis is not complete, it is clear that the recent growth in the City has taken place on the side with the least capacity to absorb new demands. If the Parkway Gravel site is rezoned to permit R3 development, the utilities should be sized to service the potential demand, and both water and electrical service must be looped. MSC presumes the loop would go under the railroad track and tie into the service in Center Point Business Park. At present, MSC has utility easements in the public roads within Center Point, but not across the private property adjoining the railroad.

MSC currently has a water allocation of 1.6 million gallons per day (mgd), which is sufficient to serve the existing city demand plus a full-build out of the R3 zoning. MSC operates two good wells that provide the necessary water flow. If one well is taken out of service for maintenance, the remaining well does not have capacity to meet all the city needs. MCS has an interconnection with the Artesian Water Company and an agreement for short term use of up to one mgd.

There are an existing 12-inch water main in Center Point, an 8-inch line in Dobbinsville, and a 12-inch line to 9th and Washington. Looping the system servicing the Parkway Gravel site is necessary in order to provide appropriate service, flow and quality. Currently the last hydrant is on Clymer.

An additional question is how the utility easements would be addressed if the internal streets in Riverbend are private streets. Currently, MSC has standards for utility construction only within public rights-of-way. Regardless of the ownership of the road, MSC will require that the utilities be located inside the right-of-way but outside the paved travel surface. Care must be taken with the location of landscaping and the placement of shrubbery in order to assure that the utilities will be accessible for maintenance.

If the internal subdivision roads are constructed as private roads, street light maintenance and the associated electrical service would be the responsibility of the Homeowners Association.

Applicant's Response

The Developer has agreed to loop both the electric and water supply systems at one location from Johnson's Way in the Center Point Industrial Park to Rt. 9, and has identified the location of the new electric and water lines. They also agreed to provide fire hydrant and blow-off at the terminal end of the internal Riverbend water supply main.

Recommendation

MSC would prefer that the developer provide two points for looping the utilities for water and electric: (1) Johnson's Way or (2) between the 800 and 1000 Buildings at Center Point Business Park. If there is to be only one connection point, MSC would recommend the latter. Currently, no engineering has been completed for either option – all discussions have been conceptual up to this point. The completion of the engineering work will occur in the subdivision phase, at which point a final recommendation will be made.

Since the roads would be privately maintained, the City should assure that an adequate funding mechanism is in place. The City Solicitor should review and approve the private maintenance association documents. The subdivision standards for roads and rights-of-way apply to all roads regardless of ownership.

K. Noise

Issue

In the PLUS review, the State noted that some of the proposed lots would be in close proximity to the railroad and nearby industrial buildings in Dobbinsville. Landscaped buffers should be included in the site plan which would help to absorb noise from either of these uses.

Applicant's Response

The Developer agreed to provide a landscaped buffer at least 75 feet wide as recommended. A schematic diagram was presented to illustrate the landscape buffer which would be used.

Analysis

The State of Delaware establishes maximum noise levels for Class A land uses (residential areas fall into this class) as the 24-hour equivalent A-weighted sound level (dBA) which exceeds 65 dBA from 7 am to 10 pm and 55 dBA from 10 pm to 7am. This is the same as a Day-Night noise level (Ldn) of 65 Ldn, [since Ldn is a 24-hour energy average of the A-weighted sound pressure level, with the levels during the period from 10 pm to 7 am increased by 10 dBA prior to averaging].

Using the Federal Transit Administration guidelines (Chapter 5, Table 5-7) for determining existing noise levels for areas surrounding a railroad line, any proposed residential areas without buffering should be at least 120 feet from railroad line so as not to exceed 65 Ldn, assuming the railroad line is a main line railroad corridor typically carrying 5-10 trains per day at speeds of 30-40 mph. Buffer widths can be reduced if berms and landscaping are provided as specified by DelDOT.

Recommendation

The 75 foot wide landscaped buffer and berm could be adequate to provide noise screening and a visual barrier from the railroad. However, the schematic design provided by the developer should be modified. Specifically, each berm should be 10 feet high, with sides at a 2:1 slope. The top of the

berm should be at least 6 feet wide. No trees should be located at the top of the berm. Leyland Cypress (or a similar evergreen) should be planted at the bottom of the slopes on the side which faces the residential development.

L. Pedestrian Connectivity and Site Design

Issue

The PLUS review indicated several measures (a sidewalk proposed along the emergency access road and a pedestrian connection to the river walk) to be included in the site design of Riverbend which would enhance pedestrian connectivity to the River and to other points outside of the development.

The small size and isolation of the site does not lend itself to neighborhood retail or commercial uses unless a connector road is built. The residents of the 210-unit development could not sustain any neighborhood commercial uses within the site unless a connector road is built. If a connector road is built, through traffic may stop to patronize the businesses located at the entrance to the project.

Applicant's Response

The Developer agreed to provide a pedestrian walkway that connects the Riverbend site with the existing City of New Castle river walk. The pedestrian walkway will extend from the site along the Riverbend entrance road and then along Rt 9 on the north side of the road to Dobbinsville. From there, they can walk through Dobbinsville to 6th Street and then use the existing river walk access trail to the River.

Recommendation

In order for the residents to take full advantage of these natural areas, pedestrian connections should be incorporated into the overall Riverbend site plan. In addition to the connection to Dobbinsville, the developer should work with DelDOT to provide a pedestrian connection to the west along Rt. 9 and connecting into the river walk across the open space area that Parkway Gravel recently donated to the City.

M. Historic and Cultural Resources

Issue

In the PLUS review, the State stated that the parcel has a known prehistoric-period archaeological site (north of the right-of-way, N-14022) within it, and there may be others. This is a repetition of a similar comment received from the State Office of Planning Coordination during the annexation review in 2001.

Applicant's Response

The County hired a consultant to perform a Phase I and Phase II archeological survey when the County upgraded the sanitary sewer line that passes through a portion of the site. The surveys indicated a small number of pre-historic artifacts found in the survey area located in the westernmost

portion of the Riverbend site. The Phase II data indicate that the survey area does not contain “in-situ archeological deposits, and that the deposits which are located in the sanitary sewer right-of-way evidence a limited range of site activities, with no research value beyond that which has been addressed in the completed Phase I/II investigations”. The report goes on to state that the archeological deposits found at the site are “not significant” and “not National Register-eligible”.

Analysis

A careful reading of the Phase I and 2 Archeological surveys reinforces the potential for a significant archeological site on the Parkway Gravel property. The February 2001 study prepared for New Castle County examined only the area within the 50 foot right-of-way for the proposed sewer line. Attachment 1 to the developer’s TAC Response shows that sewer alignment. The picture below shows the sewer alignment in green.

While the Phase 1 study determined that the portions of the site located *within the right-of-way* are not significant and not eligible for nomination to the National Register of Historic Places, it goes on to recommend “that the untested portions of the site located north of and adjacent to the R.O.W. be temporarily fenced-off during construction, so as to *avoid damage to a ‘potentially’ significant resource.*” (*Emphasis added*)



The document Summary goes on to say in part:

“The Phase I survey of the proposed Dobbinsville Sewer Interceptor resulted in the location of a prehistoric archeological site (7NC-E-150)... At the very least, the recovered data indicated temporary and perhaps seasonal specialized procurement

activities and in fact may represent a micro-band base camp similar to the Red Lion Site (7NC-E-33) which is located in a similar setting.”

Recommendation

A Phase I archeological review of the site, and, where appropriate, a Phase II archeological review should be prepared. The archeological review of the Dobbinsville site should be completed prior to the submission of the preliminary subdivision plan.

N. Industrial Uses

Issue

The Delaware Economic Development Office strongly opposes the rezoning of industrial property to residential within the City of New Castle. The State of Delaware has only a few properties that are zoned industrial that are above 80 acres.

Applicant's Response

The property contains approximately 48 acres of usable wetlands and is situated in a transitional zone between industrial lands and residential communities within the City of New Castle.

Analysis

There are approximately 135 acres of undeveloped industrially-zoned land (with utilities) in the City of New Castle. This could accommodate approximately 2.6 million s.f. of potential warehouse space. If 70.82 acres are rezoned from industrial to residential, the City will have sufficient industrial development potential to satisfy the foreseeable future demand for industrial uses.

O. Fiscal Impacts

Issue

Generally residential development is a land use pattern that demands public services at greater rate than the taxes collected will cover. Industrial development by contrast is generally expected to have a positive fiscal impact.

Applicant's Response

The Developer has estimated revenues for the City of New Castle stemming from the Riverbend development to be approximately \$2,650,000. The Developer volunteered to make a one-time donation to the City of \$2,500 to \$3,000 per unit, with the payment of these contributions at permitting of the individual unit or at time of occupancy. If desired by the City, the Developer has agreed to pay these fees in a lump sum – at the time all approvals are in place and the project can go forward commencing construction. They, in turn, will collect fees from each unit as permits are obtained to pay back the advance payment to the City.

Parkway Gravel submitted the following table showing anticipated revenues from the project.

PROJECTED REVENUES FOR CITY OF NEW CASTLE		
	Riverbend Residential Development	Eastpoint Industrial Development
Property Tax	\$252,000.00 per year	\$176,175.00 per year
Electric*	\$302,000.00 per year	\$427,000.00 per year
Water **	\$84,000.00 per year	\$90,000.00 per year
Transfer Tax ***	\$1,200,000.00 lump sum	\$0
Transfer Tax after first (4) years ****	\$60,000.00 per year	\$0
Voluntary Contribution*****	\$525,000.00 lump sum	\$0
Building Permit Fees	\$227,000.00 lump sum	\$135,000.00
Notes:		
* electric revenues are based on av'g \$120.00 per month per household (Riverbend)		
** water revenues are based on an av'g of \$400.00 per year per household (Riverbend)		
*** transfer tax is based on selling homes for an aggregate value of \$80,000,000.00		
**** based on an annual turnover rate of 5% after first four years		
***** based on a payment of \$2,500.00 per home		

Analysis

The information for industrial development in the developer's report on potential city revenues is drawn directly from the original fiscal impact note prepared for the annexation study, dated February 20, 2002. These estimates do not reflect increases in rates, fees, or property values in the intervening four years.

The revenues for residential development are based upon the projected value of the units to be built, at the time of sale, sometime in the future. The transfer tax estimate in the most recent submission is \$1.2 million based upon a total housing value of \$80 million, an average unit value of \$380,000. In the December submission, the transfer tax estimate was \$1.05 million, based upon a total housing value of \$70 million, an average unit value of 330,000.

To be meaningful, the comparison between the industrial and residential use of the site should be made in constant dollars, with consistent land values and with the projected build-out dates specified. As importantly, the fiscal analysis submitted by the developer should contain an estimate of potential costs of both projects to the city.

The level of public services required to support industrial development is generally lower than for residential development. Time and resources do not permit preparation of a thorough fiscal note for this report by the technical committee. To be meaningful the fiscal note should separate the city

costs from grants and donations, and then allocate the costs as operating or capital expenses. An effort should be made to determine what portion of various services support residential, commercial and industrial uses; and then to allocate those costs by person, household, or square foot. With this information in hand it would be possible to more realistically evaluate the fiscal impact of the proposed rezoning upon the city's finances.

Recommendation

If the fiscal impact of the proposed development is considered a key consideration in this rezoning request, either the City or the developer should prepare profession and detailed fiscal impact note using constant dollars and a detailed analysis of the pattern of city expenses.

P. Additional Recommendations

The existing Declaration of Restrictions from 2002 (at the time of annexation) will need to be modified to incorporate any conditions for approval recommended by the Planning Commission including the recommendations contained in this report.

The modified draft of the Declaration of Restrictions should be reviewed by the Planning Commission and forwarded to City Council as part of the Planning Commission's recommendation to City Council.

Any future development of the site would be subject to the appropriate provisions of the zoning ordinance, subdivision regulations, and other state and local regulation.

Q. Credits

This report was prepared on behalf of the Technical Review Committee which met twice to review the comprehensive plan amendment and rezoning request. Summaries of the meeting of the Technical Committee are available.

The committee members were:

- David Athey, PE, URS, City Engineer
- Jeff Bergstrom, City Code Enforcement Officer
- Lt. Adam Brams, New Castle Police Department
- Jay Guyer, Municipal Services Commission
- Ryan Jaeger, Municipal Services Commission
- Chip Patterson, Municipal Services Commission
- Jacquelyn Seneschal, AICP, KCI Technologies, City Planner
- Bill Simpson, Goodwill Fire Company
- Tom Spicer, Municipal Services Commission

Prepared by:

Any errors are my own and should not be attributed to other members of the Technical Review Committee.

Jacquelyn Magness Seneschal, AICP
January 13, 2006

Attachments:

1. Rezoning request dated August 31, 2005
2. PLUS review letter dated November 14, 2005
3. Applicant's response to PLUS dated December 5, 2005
4. Trip Generation prepared by Landmark Engineering, dated January 3, 2005
5. Projected revenue for City if New Castle, prepared by Donald Isken, undated
6. Applicant's TAC response and 3 attachments, undated