



Major Special Use Permit Report

Meeting Date: January 18, 2011

Reference Name	Clean Green Headquarters (M1000002)	Jurisdiction	City
Request	A major special use permit for construction of a single story 12,000 square foot building for use as a recycling center		
Site Characteristics	Tier	Suburban	
	Zoning District	Industrial (I)	
	Overlays	None	
	Site Acreage	4.68 acres	
Applicant	Clean Green – Mr. Tim Wilkinson	Submittal Date	September 7, 2010
Location	126 Stone Park Court, west of Angier Avenue, the railroad, and Wrenn Road, at the northwest corner of the intersection of Stone Park Court and Wrenn Road		
PINs	0840-03-31-9202		
Recommendation	Staff	Staff will make a recommendation following the hearing.	
	Development Review Board	Recommendation for approval of the site plan, subject to corrections and verification, on November 19, 2010	

A. Summary

Tim Wilkinson, on behalf of Clean Green and Cherokee Borden Properties, LLC, requests a Major Special Use Permit to construct and operate a 12,000 square foot Recycling Center building (with an additional 4,000 square foot covered storage and containment area, and a 1,000 square foot Outdoor Storage Area) at 126 Stone Park Court. The applicant has represented that used automotive oil filters and oil, antifreeze, and waste vegetable oils are to be collected and recycled. Uses would not be limited to these items unless additional conditions on the use are applied.

The project site is in an Industrial (I) zoning district. Industrial and Light Industrial zoning is adjacent to the project parcel to the west, south, and southeast (see the Context Map in Attachment #1). Adjacent land to the north (vacant, RR) and east (Railroad right-of-way over 100 foot wide, RS-20) is residentially zoned. The residential uses nearest to the project parcel are off the

southeast corner of the site, at 1103 Wrenn Road (approximately 175 feet from the project parcel property line) diagonally across Wrenn Road, and at 1104 Wrenn Road (approximately 215 feet from the project parcel property line) across Stone Park Court and the Stone Road right-of-way from the site. The house at 1103 Wrenn Road was built in 1932 (according to Durham County Tax Administration Records), and is zoned IL. The house at 1104 Wrenn Road was built in 1955 (according to Durham County Tax Administration Records), and is zoned RR.

The corresponding site plan (case D10000128 – see Attachment #9) received a recommendation of approval, subject to corrections and verification, from the Development Review Board (DRB) on November 19, 2010.

B. Summary of Issues

- Recycling Centers are only be permitted in Industrial (I) and Light Industrial (IL) districts, via a Major Special Use Permit granted by the Governing Body (per UDO Section 5.1.2 Use Table, under “Waste Related Services – Recycling Centers”).
- The site is proposed in an Industrial (I) zoned district, but is adjacent to residential districts to the north and east, and a residential use in an IL district to the southeast. Future land use designation for the land around the site, including parcels currently zoned Residential, is primarily Industrial (see The *Comprehensive Plan* Future Land Use Map in Attachment #6). See the Staff Analysis and Conclusions for the Compatibility and Consistency with Policy Review Factors on pages 9 and 10 of this report.
- There are concerns regarding the environmental impacts and effect on adjacent property with the proposed use that are not fully mitigated through UDO requirements. Many of these concerns could be addressed by conditions placed on the use permit that utilize related sections of the UDO. Proposed conditions are made with the concerns they are intended to address in the Staff Analysis and Conclusions for the Effect on Adjacent Property Review Factor on pages 7 and 8 of this report, and are also provided below:
 - Staff recommends that, as a condition of approval, measures to control all odors emanating from the site be required through a condition of the Major Special Use Permit and clearly documented, and that significant odor from the recycling center not be detectable off-site.
 - Staff recommends that, as a condition of approval the Major Special Use Permit, a spill prevention and countermeasures plan be required for this use, as provided in UDO Section 5.4.3T.5 (see Attachment #7).
 - Staff recommends that, as a condition of approval of the Major Special Use Permit, an Emergency Contingency Plan shall be

submitted, reviewed and approved as provided in UDO Section 8.7.2G (see Attachment #8)

- Staff also recommends that, as a condition of approval of the Major Special Use Permit, any and all outdoor storage only occur in areas that drain to the proposed containment area.

C. Section 3.9.8: Criteria for Approval

1. Section 3.9.8A General Findings

Applications for major special use permits shall be approved only if the Governing Body finds that the use as proposed, or the use as proposed with conditions, is:

1. In harmony with the area and not substantially injurious to the value of properties in the general vicinity;
2. In conformance with all special requirements applicable to the use;
3. Will not adversely affect the health or safety of the public; and
4. Will adequately address the review factors identified below.

2. Section 3.9.8B Review Factors

Section 3.9.8B requires consideration of the review factors shown below:

a. Circulation - Number and location of access points to the property and the proposed structures and uses, with particular reference to automotive, bicycle, mass transit and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.

Staff analysis and conclusion. The site plan (Attachment #9 – Sheet C100) shows one access drive connecting to Stone Park Court. This drive is proposed to be located directly across from the existing intersection of Stone Road and Stone Park Court. The access drive is proposed to be gated, with the Ordinance-required number of stacking spaces serving the un-manned gate provided.

There is existing public sidewalk along the site's Stone Park Court frontage. New public sidewalk is being proposed along the Wrenn Road frontage. The public sidewalk is shown connected to the internal site pedestrian circulation. Transit service is provided within one-quarter of a mile of the site via DATA Route #2, at the intersection of Wrenn Road and Angier Avenue. Four bicycle parking spaces are provided. Fire Plan Review requirements for hydrant location, hose-pull length, and fire apparatus access have been met on site plan review. Staff concludes that, based on site plan review, Ordinance requirements for circulation factors are being met.

b. Parking and Loading - Location of off-street parking and loading areas.

Staff analysis and conclusion. The vehicle parking area is shown on the south side (front) of the building by the applicant in the site plan. Parking calculations are provided in the Development Summary table, found on the Cover, Existing Conditions, and Site Plan sheets (Sheets C000, C001, and C100) of the site plan (see Attachment #9). The proposed use is “Waste Related”, per the site plan “Development Summary”. The following table outlines the UDO vehicle parking requirements (per Section 10.3.1A.1 Table) and compares them to what the applicant is proposing:

Proposed Use	Proposed Floor Area of Use	UDO Minimum Parking Rate	Spaces Required	Spaces Proposed
Waste Related Service	12,000sf Enclosed Floor Area	1 space/500sf	24	
	plus 5000sf Outside Storage	Plus 1 space/5,000sf	1	
		Total Spaces	25	28

The maximum number of parking spaces allowed by Ordinance equals 175% of the minimum number required (per Section 10.3.1A.2). The 28 spaces proposed on the site plan equals 112% of the minimum required number of vehicle parking spaces, which is within the Ordinance allowable maximum.

The site plan shows four bicycle parking spaces provided on the south side of the building, near the main entrance. The loading area in the site plan, located on the east side of the building, is separate from the parking areas, and is screened from off-site view by landscape plantings and buffers.

The proposed motor vehicle parking and loading area meets Ordinance requirements, while the bicycle parking exceeds the Ordinance requirement of two spaces.

c. Service Entrances and Areas - Locations of refuse and service areas with particular reference to ingress and egress of service vehicles.

Staff analysis and conclusion. The waste handling facility is shown on the east side of the building, adjacent to the loading area. Access is from the east. Access, layout and enclosures have been reviewed by Solid Waste Management. The proposed facilities meet UDO Utility and Trash Handling requirements found in Section 7.6.

d. Lighting - Locations of exterior lighting with reference to glare, traffic safety, economic effect and compatibility with other property in the area.

Staff analysis and conclusion. In the site plan, the applicant is proposing 10 pole mounted lights in the outdoor storage yard and parking areas, and three “wall pack” fixture units at the entrances. The details for the pole lights (see Details 8 and 9 on Sheet C800 of the Site Plan in Attachment #9) specify the pole light heights to be 30 feet, the maximum allowable under UDO Section 7.4.3D for the full cut-off fixtures proposed. Required notes establishing acceptable minimum and maximum exterior lighting levels within the site, and maximum lighting levels allowable at the property lines (per UDO Section 7.4) are provided on the cover site plan cover sheet (Sheet C000 of the Site Plan in Attachment #9).

e. Signs - Appropriateness of signs considering location, color, height, size, and design within the context of other property in the area.

Staff analysis and conclusion. A monument sign is proposed. It is shown on the site plan to the east of the drive entrance, and is located outside the sight distance triangle. The actual design of the sign would be reviewed through a separate permit approval process per UDO Section 3.10 and Article 11.

f. Utilities - Location and availability of utilities.

Staff analysis and conclusion. Water and sewer connections are proposed in Sheet C400 of the site plan to be made to existing utility mains located in the existing Stone Park Court right-of-way.

g. Open Spaces - Location of required yards and other open spaces and preservation of existing trees and other natural features.

Staff analysis and conclusion. There is no UDO open space requirement for the Industrial (I) zoning district. The required street, side and rear yards are maintained in this proposal. Almost all of the trees on the site are pines. Some of the pines, especially along the perimeter, are large (18 inches diameter at breast height, aka “dbh”). Most of these are shown to be preserved within natural project boundary buffers and preserved tree coverage areas. One specimen tree (as defined by UDO Section 8.3.3C), a 40 inch dbh oak, located on the west side of the property toward the front of the site is shown included in one of the preserved tree coverage areas. The proposal meets Ordinance requirements for yard setbacks and the identification and preservation of specimen trees.

h. Environmental Protection - Preservation of tree cover, Durham Inventory Sites, floodplain, stream buffers, wetlands, steep slopes, open space and other natural features, and protection of water quality.

Staff analysis and conclusion. The site is in the Suburban Tier, and as such, requires Tree Coverage areas (UDO Sec. 8.3.1). The tree coverage requirement

is proposed to be met using preserved trees. The following table represents the amount of tree coverage required and provided:

Parcel Area	Tree Coverage Required	Tree Coverage Provided
203,680.8 sf	Preserved: 10% or 20,369 sf	Preserved: 10.05% / 20,474 sf

The site straddles the ridge between the Cape Fear and Neuse River basins, but is not within a protected watershed overlay district. There are no floodplains, wetlands, steep slopes, or Durham Natural Inventory Sites present on the site.

i. Screening, Buffering and Landscaping - Installation of screening, buffering, fencing and landscaping where necessary to protect adjacent property.

Staff analysis and conclusion. Project boundary buffers are required by UDO Section 9.4 (Suburban Tier), and provided as shown in the following table:

Project Boundary Buffers		
Project Boundary	Minimum Required	Proposed
Northeast – adjacent to railroad right-of-way	Railroad right-of-way over 60 ft wide - No buffer required	40% opacity / 25-foot: Natural Buffer
East – along Wrenn Road frontage	Mixed requirements, per zoning and adjacent uses: North End: No buffer required due to railroad right-of-way South End: 70% opacity / 40-foot width I : IL (Res. Use)	80% opacity / 50-foot Constructed Buffer 80% Opacity / 50-foot Constructed Buffer
South – Along Stone Park Court frontage	20% opacity / 10-foot width I : I (Vacant)	20% opacity / 10-foot Constructed Buffer
West	40% opacity / 20-foot width I : I	40% opacity / 25-foot Natural Buffer
North	80% opacity / 50-foot width I : RS-20 (Vacant)	80% opacity / 50-foot Natural Buffer

The proposed project boundary buffers and other landscaping is shown on Sheet C200 of the site plan (see Attachment #9). Screening is required and proposed for the waste handling facilities per Ordinance requirements. The loading is

shown on the site plan to be screened from the street by the waste handling screening and by the proposed internal Vehicle Use Area (VUA) and south project boundary buffer plantings. Screening of the loading area from views from adjacent property is shown to be achieved via the project boundary buffers. Street trees are required and proposed along the Wrenn Road and Stone Park Court frontages.

An eight-foot high chain link and barbed wire fence encloses the facility. The fence along the street frontage is set at least 50 feet back off of the right-of-way, so the proposed fence height along the frontage is allowed per UDO Section 9.9.1A.

Proposed screening, buffering, fencing and landscaping meets or exceeds UDO requirements.

j. Effect on Adjacent Property- Effects of the proposed use on nearby properties, including, but not limited to, the effects of noise, odor, lighting, and traffic.

Staff analysis and conclusion. The site is bounded by vacant industrial property to the south, developed industrial property to the west, vacant residential property to the north, and railroad right-of-way in excess of 100 feet to the east. Property zoned IL, but developed with residential uses is adjacent to the sites' southeast corner.

Staff recognizes that uses of this nature raise concerns regarding potential impacts on adjacent property from odors. The applicant has stated that processing of materials to be recycled will occur within the building, "with the proper ventilation and code requirements per OSHA and EPA" (see pages 4 and 7 of the Application, the responses to Finding 3 and Review Factor 10 – Effect on Adjacent Property, in Attachment #5A). What is not stated is how odors arising from air vented by the building or from the proposed outdoor storage will be controlled.

Staff therefore recommends that, as a condition of approval, measures to control all odors emanating from the site be required through a condition of the Major Special Use Permit and clearly documented, and that significant odor from the recycling center not be detectable off-site.

Staff also recognizes that uses of this nature raise concerns regarding potential impacts from leaks and discharges of potentially hazardous materials. Some of the UDO-required review and safeguard processes do not apply to this application. The proposed use emphasizes the handling of many of the same materials (motor oil, antifreezes; see page 1, under "Planned use for the facility", of Attachment #5B) as a Vehicle Service use, but is not subject to the Limited Use Standards for Vehicle Service uses UDO Sec. 5.4.3T.

Staff therefore recommends that, as a condition of approval the Major Special Use Permit, a spill prevention and countermeasures plan be required for this use, as provided in UDO Section 5.4.3T.5 (see Attachment #7).

The site is not in a protected watershed overlay district, so the proposed use is not subject to the Watershed Protection Overlay Requirements and Standards for hazardous materials found in UDO Sections 4.11.4, and 8.7.2G.

Staff therefore recommends that, as a condition of approval of the Major Special Use Permit, an Emergency Contingency Plan shall be submitted, reviewed and approved as provided in UDO Section 8.7.2G (see Attachment #8)

Staff also recommends that, as a condition of approval of the Major Special Use Permit, any and all outdoor storage only occur in areas that drain to the proposed containment area.

The City Transportation Department’s proposed traffic generation designation is shown to be significantly lower than the load anticipated if the site were fully utilized under the Industrial designation (see table below). Existing roadway capacities are sufficient to handle the expected traffic volume.

Affected Segments	Angier Avenue	Ellis Road
Roadway Capacity (LOS D) (ADT)	14,600	14,600
Latest Traffic Volume (AADT)	6,900	10,000
Traffic Generated by Present Designation (average 24 hour)	*238	
Traffic Generated by Proposed Designation (average 24 hour)	**43	
Committed Transportation Elements		

Source of LOS Capacity: FDOT Generalized Level of Service Volume Table 4-1 (2002);
 Angier Avenue: 2-lane major city/county roadway with left-turn lanes
 Ellis Road: 2-lane major city/county roadway with left-turn lanes
 Source of Latest Traffic Volume: 2009 NCDOT traffic count map
 *Assumption (Max Use of Existing Zone) – 4.6 acres of light industrial
 **Assumption (Max Use of Proposed Zoning) – 4,000 sf manufacturing and 8,000 sf warehouse (per proposed site plan).

No indication of expected noise levels associated with the proposed recycling processes has been made by the applicant. The noise level associated with reverse osmosis reclamation of anti-freeze and processing of used motor oil and waste cooking oils is unknown. Crushing used oil filters will have some level of associated noise, as would truck movement on the site. However, the site is in industrial zoned district, is adjacent to an active, truck related industrial use, and to an active railroad right-of-way. Normal levels of industrial related noise would be appropriate by the use in this district. Noise levels are regulated by the City of Durham Code of Ordinances in Chapter 26, Article II – Noise. These standards will apply to this site.

k. Compatibility - The level of general compatibility with nearby properties and impacted neighborhoods, including but not limited to the appropriateness of the scale, design, and use in relationship to other properties.

Staff analysis and conclusion. The site is in an Industrial (I) zoned district. Similar zoning surrounds the site to the west and south, and Light Industrial (IL) zoning is present to the east and southeast (which contains existing residential use). Residential zoning is adjacent to the site to the north and east, but the land is vacant to the north, and, although residentially zoned, a large rail road right-of-way is adjacent to the east side of the property.

The proposed development disturbs less than 50% of the site, and preserves forest vegetation on the remaining portions of the site. The proposed building size and mass, and the building and parking location is consistent with the existing neighboring development to the west. The western development also has a Waste Related use (Waste Industries, MSUP case M97-5), outdoor storage and truck parking. Natural vegetation protected in required project boundary buffers screen the site from the adjacent vacant residential district to the north. Natural and planted vegetation in required project boundary buffers also screen the site from the residential use to the southeast.

The north and south adjacent parcels are vacant. The residentially zoned land to the north is a part of a larger area of similarly zoned land, which includes previously rural single family homes, that separates the industrial district containing the proposed development from a larger industrial district to the north. This residentially zoned land to the north of the project site is in the County jurisdiction. The vacant land to the south is included with the project parcel and the adjacent western property in the Industrial zoned district, under City jurisdiction. To the south and east of the south-adjacent parcel, the surrounding land is primarily Residentially zoned, or Light Industrially zoned, much of which is vacant or in residential use. This land is in the County, forming a City Jurisdiction island of Industrial zoned land consisting of the project site, and the west and south adjacent parcels.

The proposed use and development is compatible with the current zoning, and most of the current development and uses in the area.

I. Consistency with Policy – Consistency with the *Durham Comprehensive Plan* and applicable development tier guidelines, overlay purposes, and zoning district intent statements in Article 4, Zoning Districts.

Section 4.3.6 Industrial District Intent Statement: The I District is established in order to provide sites for activities which involve major transportation terminals, and manufacturing facilities that have a greater impact on the surrounding area than industries found in the IL District. It is the intent of this district to provide an environment for industries that is unencumbered by nearby residential development.

The I District is used to implement the Comprehensive Plan within those areas shown as the Rural, Suburban or Urban Tiers.

Staff analysis and conclusion. The *Comprehensive Plan* Future Land Use Map shows the project site as Industrial (see Attachment #6). The area south of the site, while currently zoned residential, is also anticipated to be developed as industrial in the Comprehensive plan, connecting the industrial zoned island discussed earlier in the Compatibility Review Factor with industrial zoned areas to the north and south. The use is allowed in the Industrial district with approval of a Major Special Use Permit, so is consistent with the Comprehensive Plan.

Other Factors - Any other review factors which the approving authority considers to be appropriate to the property in question.

Staff analysis and conclusion. No additional factors have been identified at this time.

C. Notification

Staff certifies that newspaper advertisements, letters to property owners within 600 feet of the site and the posting of a sign on the property has been carried out in accordance with Section 3.2.5 of the UDO. In addition, the following neighborhood organizations were mailed notices:

- Partners Against Crime- District 1
- Partners Against Crime- District 4
- Northeast Creek Streamwatch
- Fayetteville Street Planning Group
- Unity in the Community for Progress
- Inter-Neighborhood Council (INC)
- Friends of Durham
- Center of the Region Enterprise (CORE)

D. Staff Contact

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E. Attachments

1. Context/vicinity map
2. Aerial photo
3. Durham GIS 1-inch = 100-feet scale aerial photo – 2005
4. Application signature page
5. Application (Attachment 5A) and supporting documents (attachment 5B)
6. *Comprehensive Plan* Future Land Use Context/vicinity map
7. UDO Section 5.3.4T – Limited Use Standard for Vehicle Service
8. UDO Section 8.7.2G.1 – Watershed Protection Overlay Standard
9. Site plan reductions #D01000128