PETITION TO AMEND ZONING DISTRICT
Before The Dover City Council
July 12, 2004

Applicants/Owners	Robino-Bay Court Plaza, LLC c/o Marc Geffroy, Asset Manager Seneca Properties 4929 Bethesda Ave. Suite 200 Bethesda, MD 20814
Location:	Bay Court Plaza 650 Bay Road, Dover, DE
Size:	Area of Rezoning: 3.8 acres +/- for two potential separate lots
Present Zoning:	SC-2 Regional Shopping Center
Proposed Zoning:	C-4 Highway Commercial Zone

Uses Permitted:

Uses permitted in C-3 Service Commercial Zone: Service establishments including dry cleaning and laundry plants; Wholesale, storage, and warehousing establishments; Bowling alleys, and animal hospitals; Motor vehicle, boat or farm equipment sales or service; Motor vehicle service stations, subject to regulations; Manufacturing, assembling, converting, altering, finishing, cleaning or any other processing of products for sale on or off the premises, subject to restrictions; Newspaper and job printing; Mini-storage facilities.

In addition, the following C-4 Highway Commercial Uses may be permitted: Drive-in facilities designed primarily to provide goods and services to persons while they are in automobiles, including drive-in eating establishments; Motels and eating establishments; Outdoor recreational facilities; Auction establishments, and roadside vegetable markets; Theaters, club houses and places of worship; Establishments selling trailers, and memorial stones; Household moving firms and related storage facilities; Trucking terminals, including service, storage and repair; Building contractors with restrictions; Offices and retail establishments; Adult entertainment establishments, subject to the provisions stated in Article 5, Section 13;

The following uses are permitted, conditional upon the approval of the planning commission: Crematory

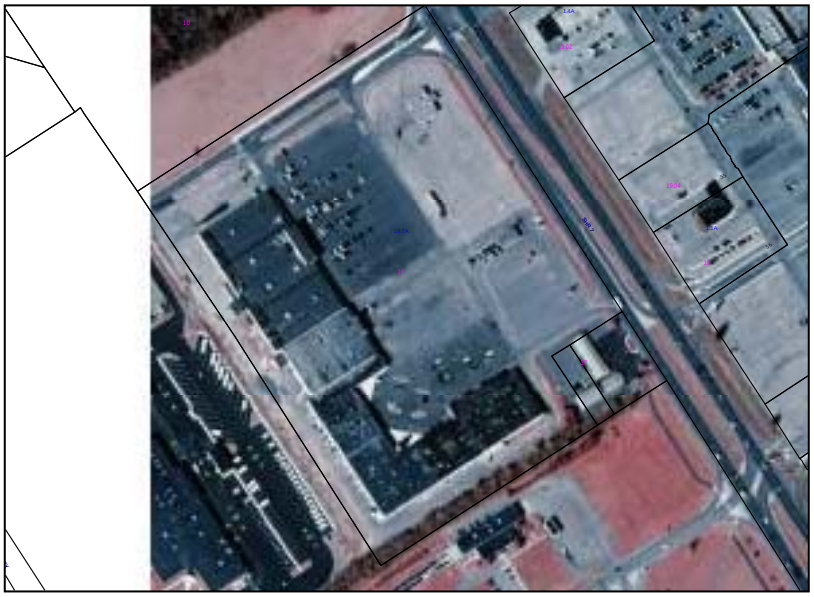
Present Use:	Former building sites of Bay Court Plaza, now paved areas
Proposed Use:	Convenience Store with gas pumps and another pad site
File Number:	Z-04-07

Findings and Recommendations of the Dover Planning Commission

This petition was considered at the June 21, 2004 meeting of the Planning Commission. The following members were present: Mr. Friedman, Mr. Nichols, Mrs. Young, Mr. Tolbert, Mr. Holt, Mr. Winsley, Mr. DiMondi, Mr. VonReider, and Col. Welsh.

The Planning Commission recommends that this request for rezoning from SC-2 to C-4 be approved. The motion for approval of the rezoning passed 9-0 of those members present.

Description of Property:



This is a 3.8 acre +/- parcel on the street front of Bay Court Plaza on Bay Road. The parcel is the approximate area or former Plaza pad sites. The buildings were demolished in the recent past. The 19.7 acre plaza currently has a single building with leased storefronts and a significant amount of parking to the front that extends to Bay Road. The amount of land to be rezoned is 700 feet long, from the north entrance to the south entrance, and depth ranging from 256 feet on the North of the subject parcel to 212 feet on the South as indicated on the attached Plan. The parcel to be rezoned will be subdivided for at least two developable sites.

Surrounding Land Uses:

The total area of the plaza is 19.7 acres used as commercial, primarily retail space. The properties to the North include small occupied and unoccupied retail outlets along Bay Road and a relatively significant portion consisting of 12.7 acres +/- with limited frontage directly behind. State of Delaware facilities are located immediately to the West and South. The Blue Hen Corporate Center is located across Route 13 to the East. The Zoning for all of the DelDOT properties is IO Institutional Office and the balance on the West side of Route 113 is C4 Highway Commercial. The Corporate Center is Zoned SC3 Larger Shopping Center.

Comprehensive Planning:

The Land Development Plan of the 2003 *Comprehensive Plan Update* shows this parcel as Commercial. Similar uses are allowed or anticipated on both sides of Bay Road and North. To the South is Institutional. There are a few parcels that are anticipated to remain residential within one quarter mile, but none adjacent to the site.

The proposed use and rezoning is **consistent** with the 2003 Comprehensive Plan Update. As such, the City of Dover need not request comments from the involved State departments through the Preliminary Land Use Services process. The Planning Commission and City Council will be required to act on the specific rezoning request.

Request for C4 (Commercial Professional Office Zone)
The types of permitted uses are outlined in Article 3 §26. The uses allowed by right and conditionally are:

Uses permitted in C-3 Service Commercial Zone: Service establishments including dry cleaning and laundry plants; Wholesale, storage, and warehousing establishments; Bowling alleys, and animal hospitals; Motor vehicle, boat or farm equipment sales or service; Motor vehicle service stations, subject to regulations; Manufacturing, assembling, converting, altering, finishing, cleaning or any other processing of products for sale on or off the premises, subject to restrictions; Newspaper and job printing; Mini-storage facilities.
In addition, the following C-4 Highway Commercial Uses may be permitted: Drive-in facilities designed primarily to provide goods and services to persons while they are in automobiles, including drive-in eating establishments; Motels and eating establishments; Outdoor recreational facilities; Auction establishments, and roadside vegetable markets; Theaters, club houses and places of worship; Establishments selling trailers, and memorial stones; Household moving firms and related storage facilities; Trucking terminals, including service, storage and repair; Building contractors with restrictions; Offices and retail establishments; Adult entertainment establishments, subject to the provisions stated in Article 5, Section 13;
The following uses are permitted, conditional upon the approval of the planning commission: Crematory

The proposal is for a convenience store with fueling capacity. The C4 Zoning is being requested because the current SC2 zone does not provide for fuel pumps as an allowable use.

The SC2 Zone requires 1 parking spot for every 300 Square feet of building area. The C4 Zone requires either 1 per 300 SF or 1 per employee, whichever is greater. The current plaza site plan as presented with this proposal indicates 354 parking spaces. Staff found the striped parking spaces on site did not match those that are on site now, and that there may be sufficient unstriped lot area to accommodate the necessary number of spaces. The number of spaces required by existing building area is 601 as calculated by building size. A new building will require additional parking spots.

RECOMMENDATION OF THE PLANNING STAFF:
The Planning Staff suggests that the rezoning from SC2 to C4 is appropriate.

The current distribution of land for the anticipated rezoning limits the potential area for parking spaces. The revised subdivision and rezoning boundaries may create a parcel that provides sufficient space to allow parking to conform to the Zoning Ordinance. Because the property is to be subdivided, the owner will be required to provide the parking required for the existing building on site or provide for access to parking on other the lots. A subdivision of the parcel will not be allowed without documentation that sufficient parking is available.

The frontage requirements for the SC2 Zone is that "(t)he frontage of the development shall be of sufficient width that safe and efficient access to the shopping center can be adequately spaced

from accesses to adjacent properties, according to standards set forth by the Delaware Department of Highways and Transportation." After the parcel is subdivided, the portions remaining with the existing plaza meet the requirement to provide adequate spacing for ingress and egress. Under these circumstances, it is unlikely that any additional entrances or exits from Route 113 would be appropriate or allowed.

Advisory Comments to the Applicant:

1) The applicant shall be aware that approval of the Rezoning does not represent Subdivision or Site Plan approval. A separate application process for Subdivision or Site Plan approval is required for the development of this property.

2) The development of this property will be subject to the provisions of City of Dover Land Subdivision Regulations and Zoning Code.

3) The project to be built in the rezoned parcel will be required to meet landscaping and parking requirements. The staff suggests that the existing lot be improved to meet the requirements for interior circulation. This will be important to define the access way to the rear of the newly created parcels.

Public Comments:

The application was represented by Greg Scott of Scott Engineering and Tom McKee.

The following individuals appeared and spoke in regards to the rezoning application:

- Michael Longwill, adjacent property owner of 600 Bay Road – He is concerned with overall impact of the rezoning regarding traffic and access especially how it might impact his property.
- Charles Gallop – He expressed concerns about the adjacent intersection and associated easement agreements, the traffic generation of the potential new use of the site, the parking space count for the shopping center, the amount of underground storage of gas for the proposed new use of the site, and accuracy of the site plan. He provided a handout document entitled "Traffic & Safety Concerns Associated with the Petition to Amend Zoning District of Bay Court Plaza" and a copy of the property boundary survey of the adjacent property owned by Mr. Longwill.

Agency Comments from DAC Report:

- Department of Public Works has no objections to the rezoning. They also noted the responsibility for utility (sewer and water) upgrades necessitated by redevelopment.
- The City Electric Department has no comment on the rezoning application.
- DelDOT has no objection to the rezoning. Their comments note that there will be no additional access to Route 113 for the rezoning area.
- Kent Conservation District has no specific objection to rezoning. They notes that a Sediment and Stormwater Management Plan is required for land disturbing activities over 5000 square feet and that the site may be eligible for a waiver of quanity management.

Attachments to the Report:

- **Development Advisory Committee Application Review Commentary (comment sheets) from the following:**
  Department of Public Works
  City Electric Department
  Delaware Department of Transportation
  Kent Conservation District

- **Traffic & Safety Concerns Associated with the Petition to Amend Zoning District of Bay Court Plaza (submitted by Charles Gallop and Michael Longwill at Planning Commission Public Hearing on June 21, 2004)**

CITY OF DOVER PUBLIC WORKS

CITY OF DOVER

DEVELOPMENT ADVISORY COMMITTEE

APPLICATION REVIEW COMMENTARY

APPLICANT D.A.C. MEETING DATE: June 10, 2004

==========

APPLICATION: **Lands of Robino-Baycourt Plaza, LLC: Rezoning from SC-2 to C-4**

FILE#: **Z-04-07** **REVIEWING AGENCY:** **City of Dover Public Works**

CONTACT PERSON: **Scott Koenig or Andrew Riggi** **PHONE#:** **736-7025**

==========

THE SUBJECT PROPOSAL HAS BEEN REVIEWED FOR CODE COMPLIANCE, PLAN CONFORMITY AND COMPLETENESS IN ACCORDANCE WITH THIS AGENCY'S AUTHORITY AND AREA OF EXPERTISE.

THE FOLLOWING ITEMS HAVE BEEN IDENTIFIED AS ELEMENTS WHICH NEED TO BE ADDRESSED BY THE APPLICANT:

CITY AND STATE CODE REQUIREMENTS:

1. Our office has no objection to the proposed rezoning.

RECOMMENDATIONS SUGGESTED AS CONDITIONS OF APPROVAL TO MEET CODE OBJECTIVES:

ADVISORY COMMENTS TO THE APPLICANT:

1. Sewer and water service to the proposed lot to be rezoned and subdivided in the future are private and in disrepair. The developer is responsible for extending or making upgrades to the utilities in order to support the redevelopment. At the time that the proposed lot is subdivided our office will require public utilities be provided to this newly created lot. This will require dedication of currently private sewer and water main. The current owner and/or developer will be required to make necessary improvements and/or upgrades to existing infrastructure prior to City acceptance and issuance of a building certificate of occupancy for to be proposed on this site.

IF YOU HAVE ANY QUESTIONS OR NEED TO DISCUSS ANY OF THE ABOVE COMMENTS, PLEASE CALL THE ABOVE CONTACT PERSON AND THE PLANNING DEPARTMENT AS SOON AS POSSIBLE.

CITY OF DOVER
DEVELOPMENT ADVISORY COMMITTEE MEETING
APPLICATION REVIEW COMMENTARY

JUNE 3, 2004 - 10:00 A.M. - CAUCUS ROOM

DOVER ELECTRIC

APPLICATION: LANDS OF ROBINO-BAYCOURT PLAZA, LLC

FILE NO.: Z-04-07 **REVIEWING AGENCY**: CITY OF DOVER ELECTRIC

CONTACT PERSON: STEPHEN A. ENSS **PHONE #:** 736-7091

THE SUBJECT PROPOSAL HAS BEEN REVIEWED FOR CODE COMPLIANCE, PLAN CONFORMITY AND COMPLETENESS IN ACCORDANCE WITH THIS AGENCY'S AUTHORITY AND AREA OF EXPERTISE.

THE FOLLOWING ITEMS HAVE BEEN IDENTIFIED AS ELEMENTS WHICH NEED TO BE ADDRESSED BY THE APPLICANT:

CITY & STATE CODE REQUIREMENTS:

The Electric Department has reviewed the application and has no comment.

RECOMMENDATIONS SUGGESTED FOR AS CONDITIONS OF APPROVAL TO MEET CODE OBJECTIVES:

ADVISORY COMMENTS TO THE APPLICANT:

If you should have any questions or need to discuss any of the above comments, please contact Stephen Enss at 736-7091 or contact the Planning Department at 736-7010 as soon as possible.

DEVELOPMENT ADVISORY COMMITTEE

APPLICATION REVIEW COMMENTARY

D.A.C. MEETING DATE: June 3, 2004

DELDOT

==========

APPLICATION: Lands of Robino-Baycourt Plaza, LLC: Rezoning

FILE#: Z-04-07 REVIEWING AGENCY: DelDOT

CONTACT PERSON: Richard A. Woodhall PHONE#: 760-2262

==========

THE SUBJECT PROPOSAL HAS BEEN REVIEWED FOR CODE COMPLIANCE, PLAN CONFORMITY AND COMPLETENESS IN ACCORDANCE WITH THIS AGENCY'S AUTHORITY AND AREA OF EXPERTISE.

THE FOLLOWING ITEMS HAVE BEEN IDENTIFIED AS ELEMENTS WHICH NEED TO BE ADDRESSED BY THE APPLICANT:

CITY & STATE CODE REQUIREMENTS:

No objection to the re-zoning

RECOMMENDATIONS SUGGESTED AS CONDITIONS OF APPROVAL TO MEET CODE OBJECTIVES:

ADVISORY COMMENTS TO THE APPLICANT:
NO ADDITIONAL ACCESS TO ROUTE 113

If you have any questions or need to discuss any of the above comments, please call the above contact person and the planning department as soon as possible.

CITY OF DOVER

KENT CONSERV DIST

DEVELOPMENT ADVISORY COMMITTEE
APPLICATION REVIEW COMMENTARY
D.A.C. MEETING DATE: June 3, 2004

APPLICATION: *Lands of Robino-Baycourt Plaza- Rezoning*

FILE #: *Z-04-07* **REVIEWING AGENCY:** *Kent Conservation District*

CONTACT PERSON: *Jared Adkins* **PHONE #:** *697-2600, ext. 3*

THE SUBJECT PROPOSAL HAS BEEN REVIEWED FOR CODE COMPLIANCE, PLAN CONFORMITY AND COMPLETENESS IN ACCORDANCE WITH THIS AGENCY'S AUTHORITY AND AREA OF EXPERTISE.

THE FOLLOWING ITEMS HAVE BEEN IDENTIFIED AS ELEMENTS WHICH NEED TO BE ADDRESSED BY THE APPLICANT:

CITY AND STATE CODE REQUIREMENTS:

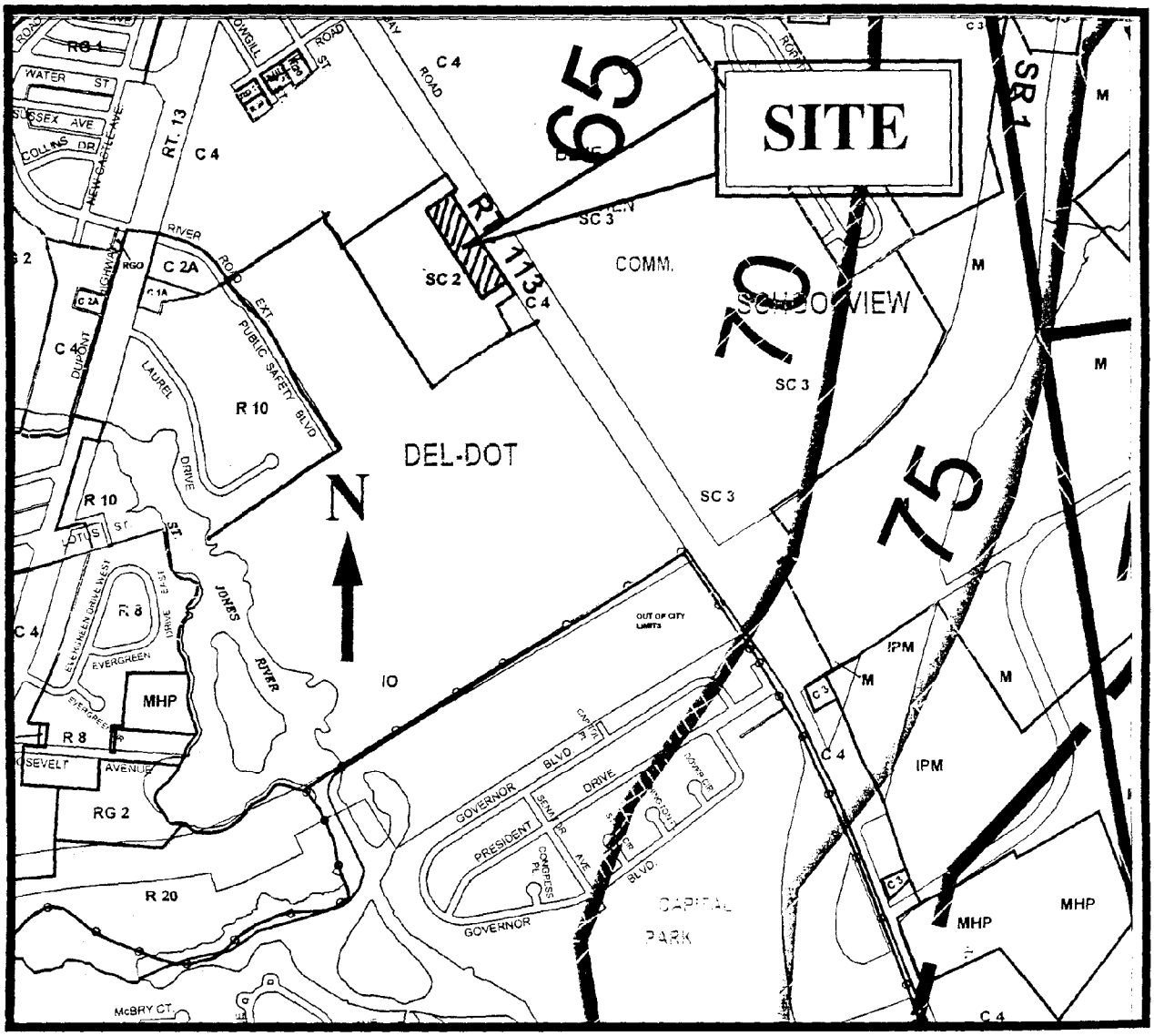
- *Kent Conservation District has no objection to rezoning this site.*

RECOMMENDATIONS SUGGESTED FOR AS CONDITIONS OF APPROVAL TO MEET CODE OBJECTIVES:

ADVISORY COMMENTS TO THE APPLICANT:

- *A Sediment and Stormwater Management Plan must be approved by our office prior to any land disturbing activity (i.e. clearing, grading, filling, etc.) over 5000 square feet.*
- *This site may be eligible for a waiver of stormwater quantity management if it can be demonstrated that the proposed development will generate less than a 10% increase in runoff. The project would still be required to meet stormwater quality management requirements. Water quality requirements could be met by a bio-retention areas located in a parking island, by sand filters or any other DNREC approved water quality practice.*

Department of Planning & Inspections



Applicant: Lands of Robino-Baycourt Plaza,LLC

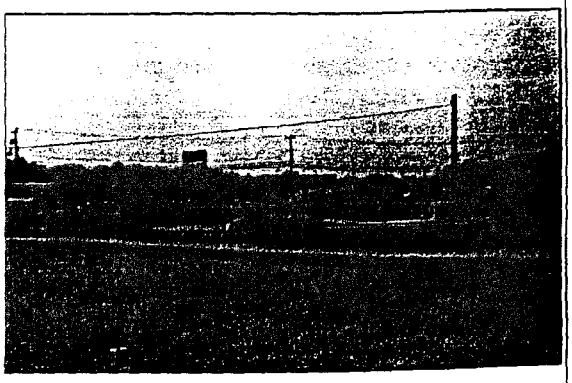
Owner: Robino-Baycourt Plaza, Inc.

Date: 6/21/04

Tax Parcel No. ED-05-077.00-01-16.00

Site Area: 3.4068 Acres

From: SC-2 **To:** C-4



TRAFFIC & SAFETY CONCERNS ASSOCIATED WITH THE PETITION TO AMEND ZONING DISTRICT OF BAY COURT PLAZA

650 Bay Road, Dover, DE

File Number 2-04-07

June 21st, 2004

Presented by

Michael Longwill, Tax Payer, Business Owner & Concerned Citizen
Phone: 302-559-4414

Public Hearing
Submittal 6/21/04
Z-04-07

1. The best interest of the Citizens of the State of Delaware and City of Dover and Kent County would best be served if both the public and adjacent property owners are provided access at the DelDot easement area and free use of the traffic light. Unless the traffic and safety issues are resolved for the 113 corridor at or around the Crossroad of Kent County Complex, Blue Henn Office Complex, SHE Holdings and Bay Court Plaza no rezoning should be permitted.

2. Per an initial meeting with DelDot and Becker Morgan; the safest, most logical access/egress to State Highway 113 for properties adjacent to the proposed rezone parcel is through the signalized drive at the DelDot easement.

3. The Easement area is owned by Bay Court Properties and the Easement is held by DelDot

4. The improvements to the easement area and signalized intersection were paid for by DelDot for the benefit of all the citizens of the State at a cost of approximately $250,000.

5. Bay Court has historically refused to provide access to adjacent property owners or the public even though that was likely the intent of the easement.

6. If the parcel was to be rezoned, without the use of the signaled entrance, traffic and public safety would be materially impacted.

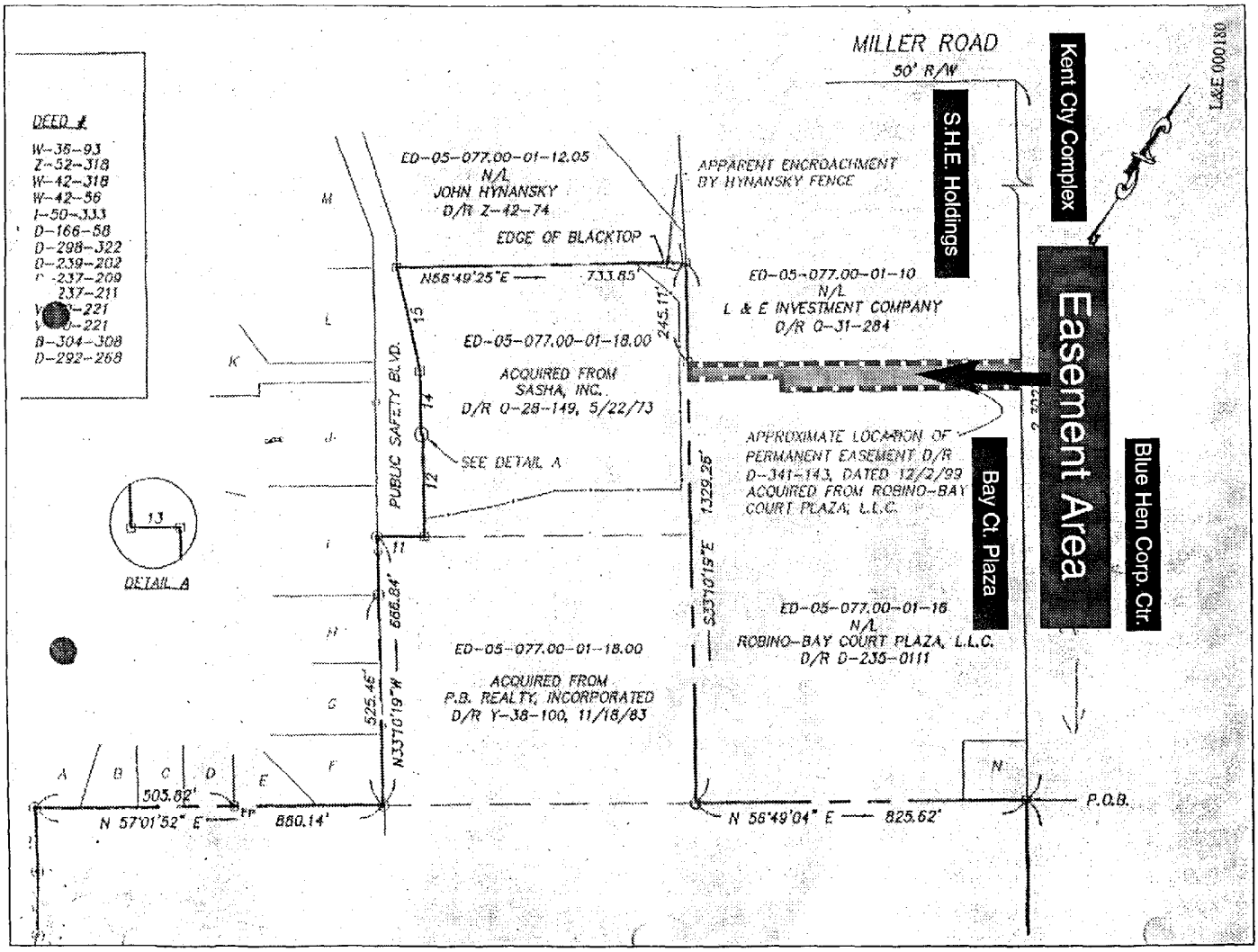
7. The easement is vague and indicates that it can be used for any State use and any use which does not interfere or is detrimental to the present of future use of the easement grantee (DeLDot).

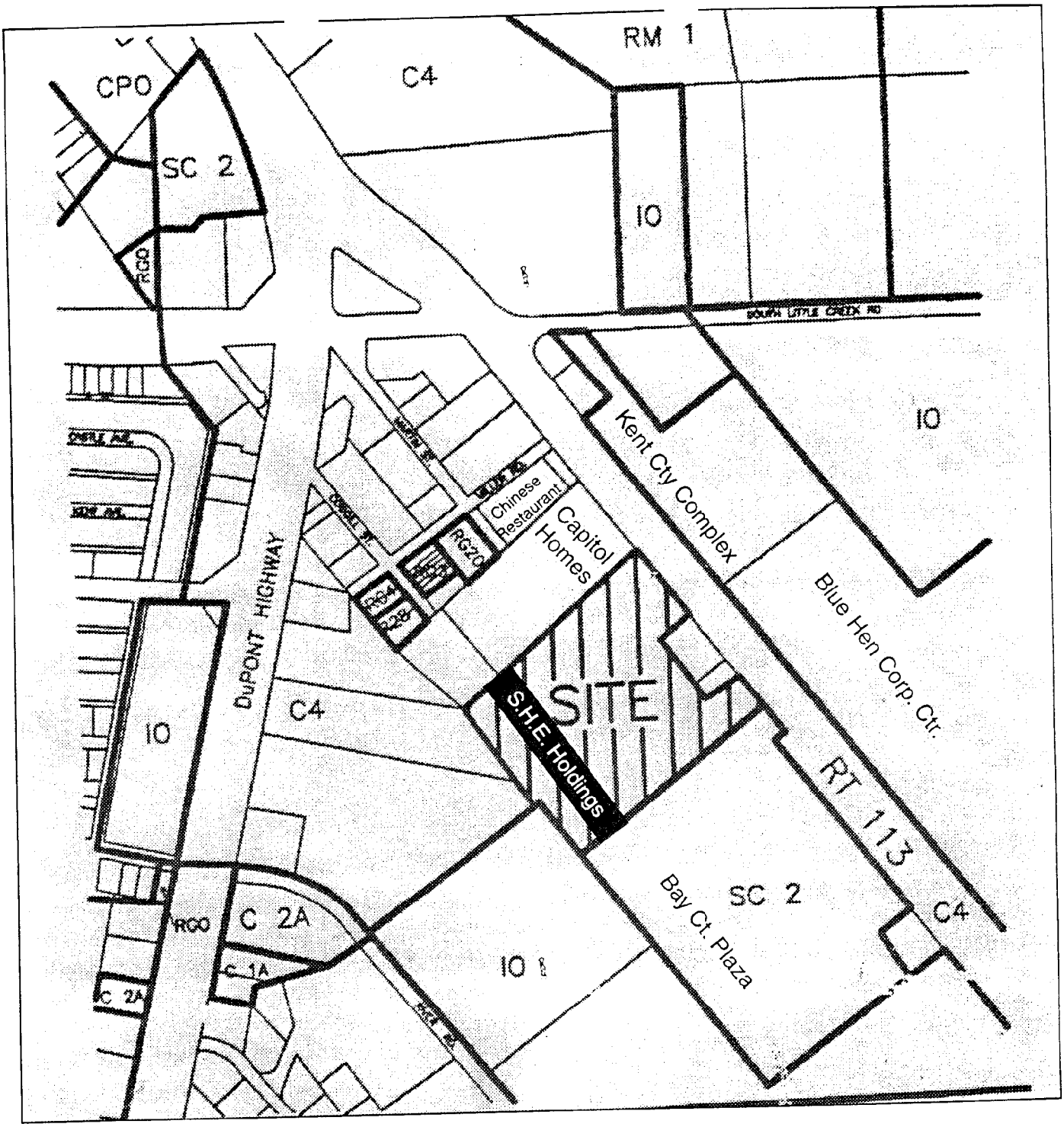
8. The rezoning and potential use of rezoned portion (associated use) may interfere with or be detrimental to the present or future use of the easement area by DelDot.

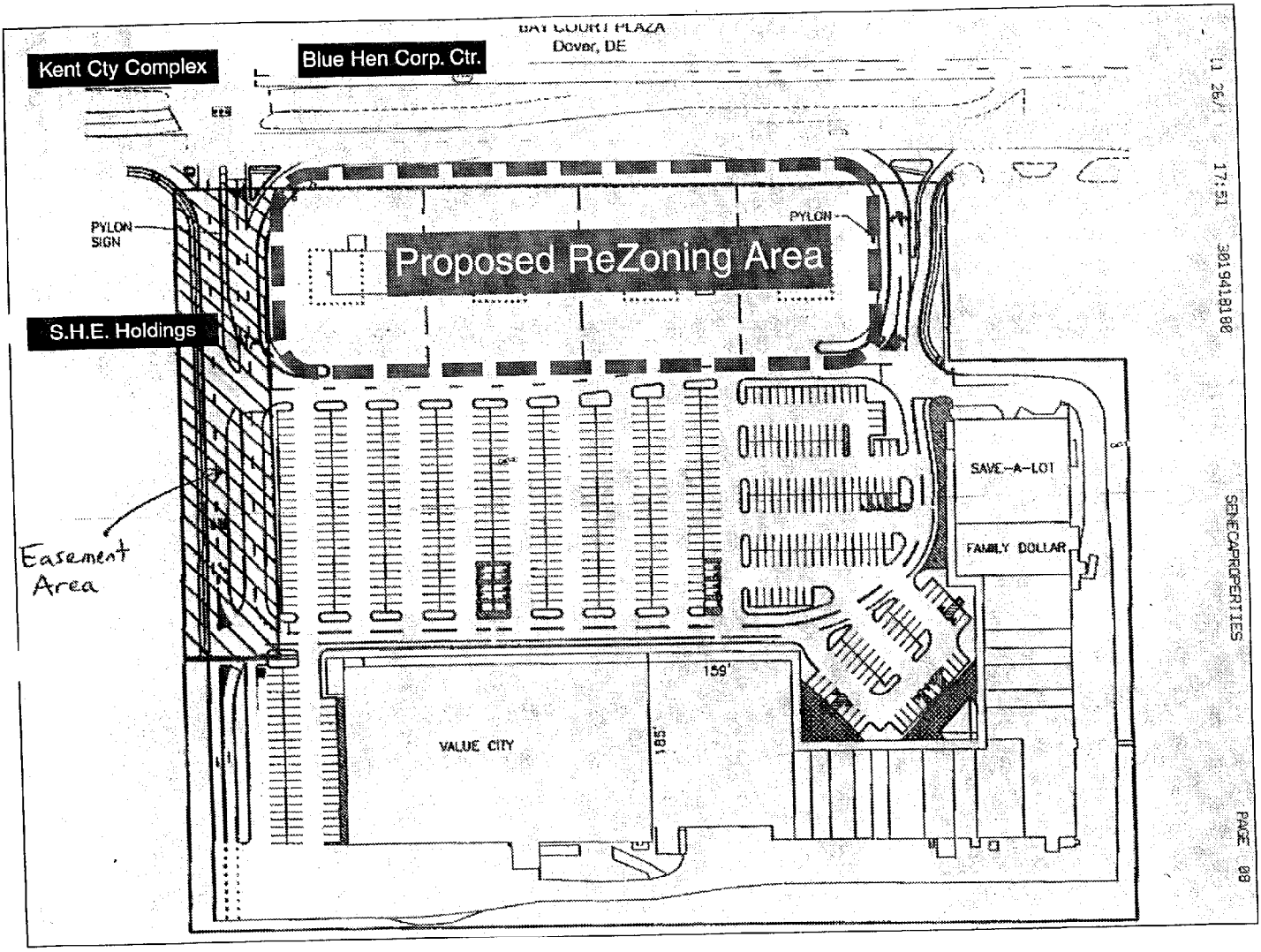
9. Past owners of L&E investments, the adjacent land owner, were not informed or contacted by anyone regarding the formation of the easement.

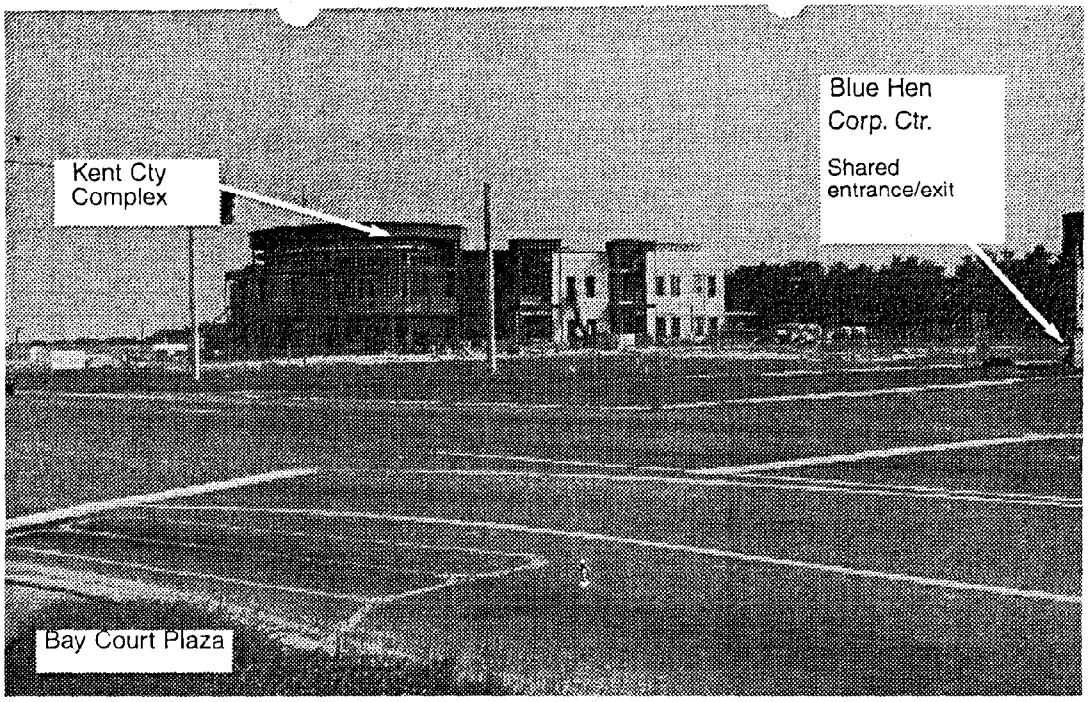
10. The S.H.E Holdings property is zoned C4 and the State and the City do not have any objections to its commercial use.

11. The Planning Board should not recommend the rezoning of this parcel as it is not in the best interest of the citizens of the City and the applicant can not show hardship.

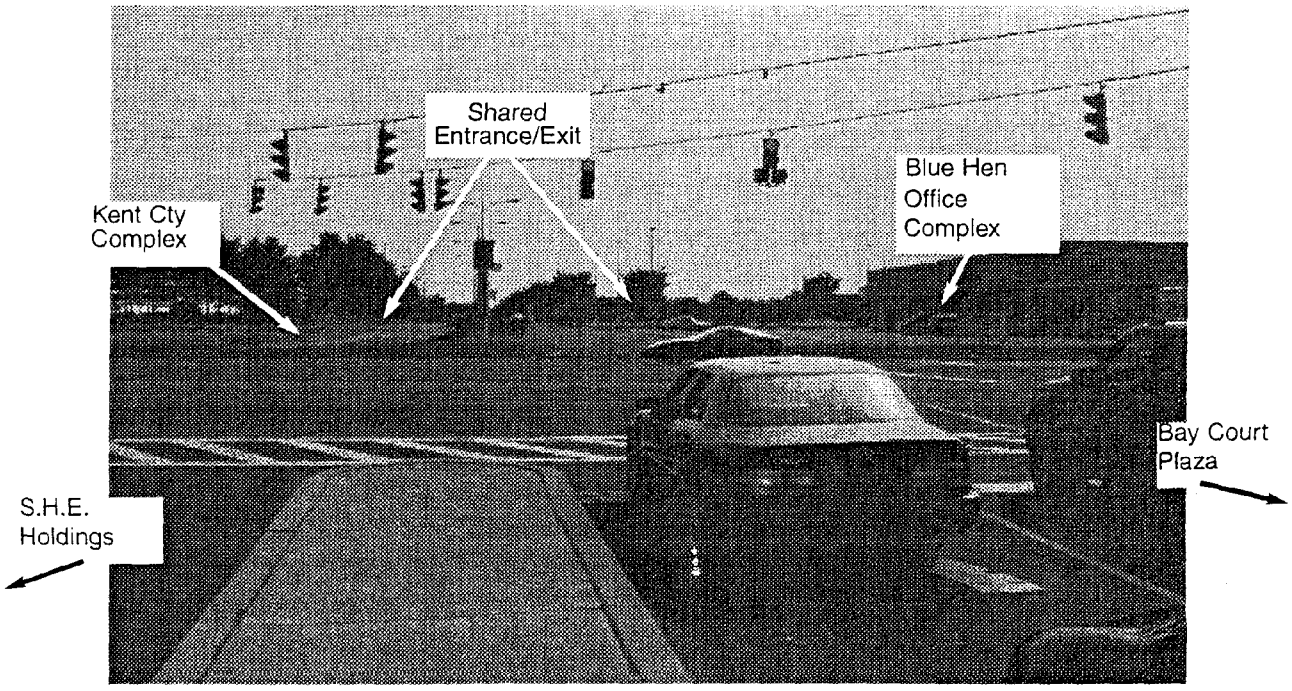

MILLER ROAD
50' R/W
Kent Cty Complex
S.H.E. Holdings
Easement Area
Bay Ct. Plaza
Blue Hen Corp. Ctr.
LAKE 00180
DEED #
W-36-93
Z-52-318
W-42-318
W-42-56
I-50-333
D-166-58
D-298-322
D-239-202
D-237-209
237-211
D-292-268
ED-05-077.00-01-12.05
N/L
JOHN HYNANSKY
D/R Z-42-74
EDGE OF BLACKTOP
N56°49'25"E
733.85
APPARENT ENCROACHMENT
BY HYNANSKY FENCE
ED-05-077.00-01-10
N/L
L & E INVESTMENT COMPANY
D/R O-31-284
245.11'
ED-05-077.00-01-18.00
ACQUIRED FROM
SASHA, INC.
D/R O-28-149, 5/22/73
SEE DETAIL A
PUBLIC SAFETY BLVD.
15
14
12
11
APPROXIMATE LOCATION OF
PERMANENT EASEMENT D/R
D-341-143, DATED 12/2/99
ACQUIRED FROM ROBINO-BAY
COURT PLAZA, L.L.C.
1329.28'
S33°10'15"E
ED-05-077.00-01-16
N/L
ROBINO-BAY COURT PLAZA, L.L.C.
D/R D-235-0111
DETAIL A
13
666.84'
N33°10'19"W
525.46'
ED-05-077.00-01-18.00
ACQUIRED FROM
P.B. REALTY, INCORPORATED
D/R Y-38-100, 11/18/83
A
B
C
D
E
F
505.62'
N 57°01'52" E
FP
880.14'
N 56°49'04" E
825.62'
P.O.B.
N


RM 1
C4
CPO
SC 2
10
RGO
SOUTH LITTLE CREEK RD
10
Kent Cty Complex
Blue Hen Corp. Ctr.
Chinese Restaurant
Capitol Homes
RG2O
SITE
S.H.E. Holdings
DuPONT HIGHWAY
C4
10
RT 113
SC 2
C4
Bay Ct. Plaza
RGO
C 2A
C 1A
C 2A
10

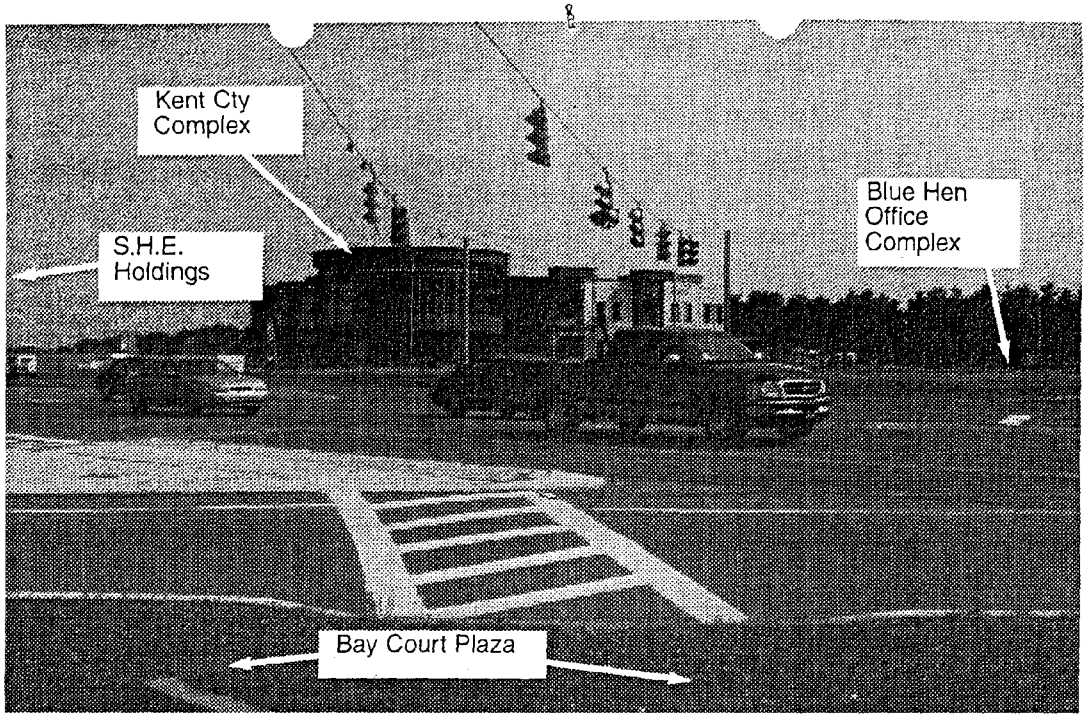

BAY COURT PLAZA
Dover, DE
Kent Cty Complex
Blue Hen Corp. Ctr.
PYLON SIGN
PYLON
Proposed ReZoning Area
S.H.E. Holdings
Easement Area
SAVE-A-LOT
FAMILY DOLLAR
VALUE CITY
159'
185'
11 29/ 17:51 3019418188 SENECAPROPERTIES PAGE 08



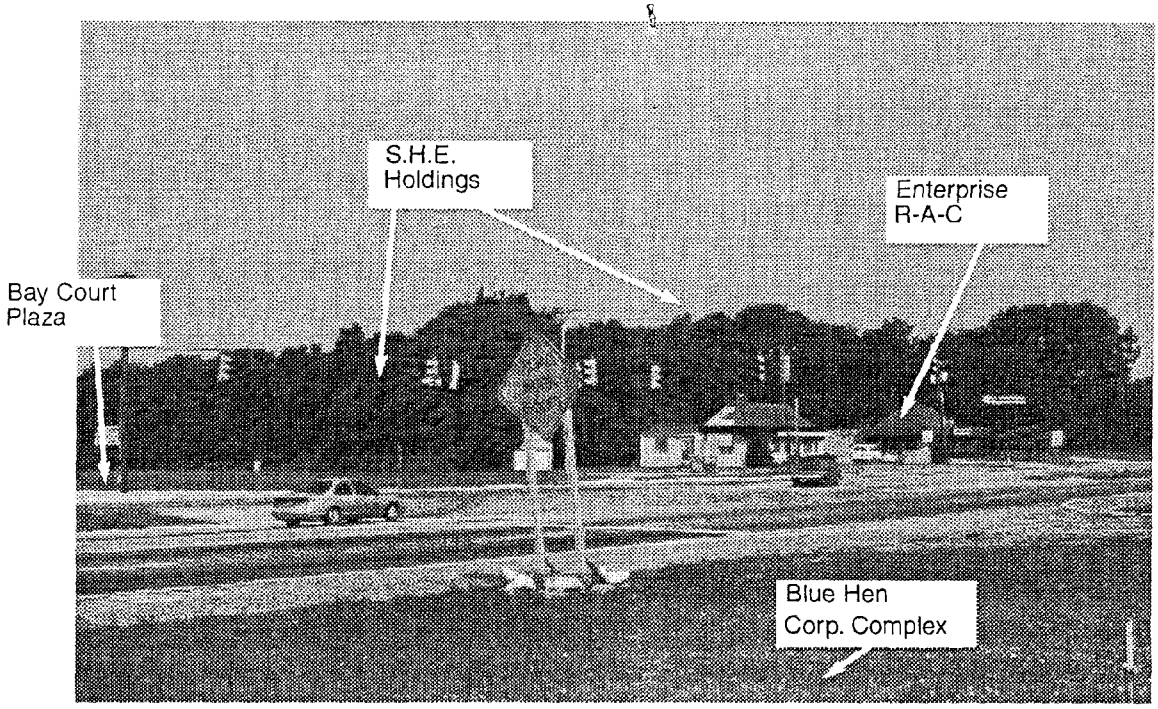
View of intersection from Bay Court Plaza and Kent Cty Complex.



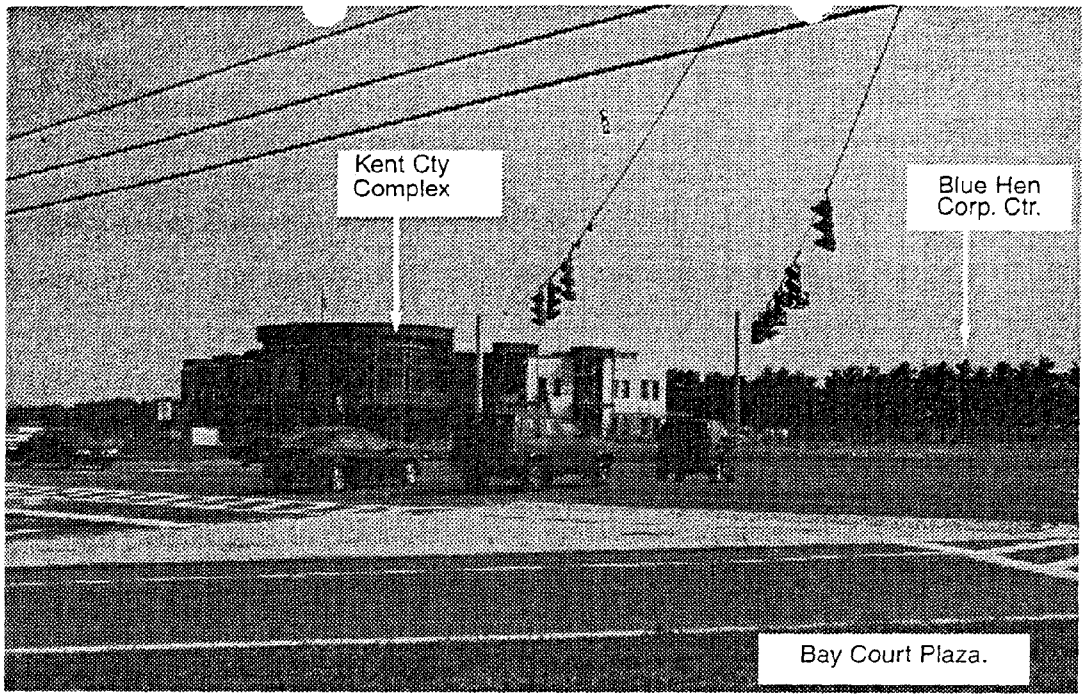
View of Exit out of DEL DOT easement



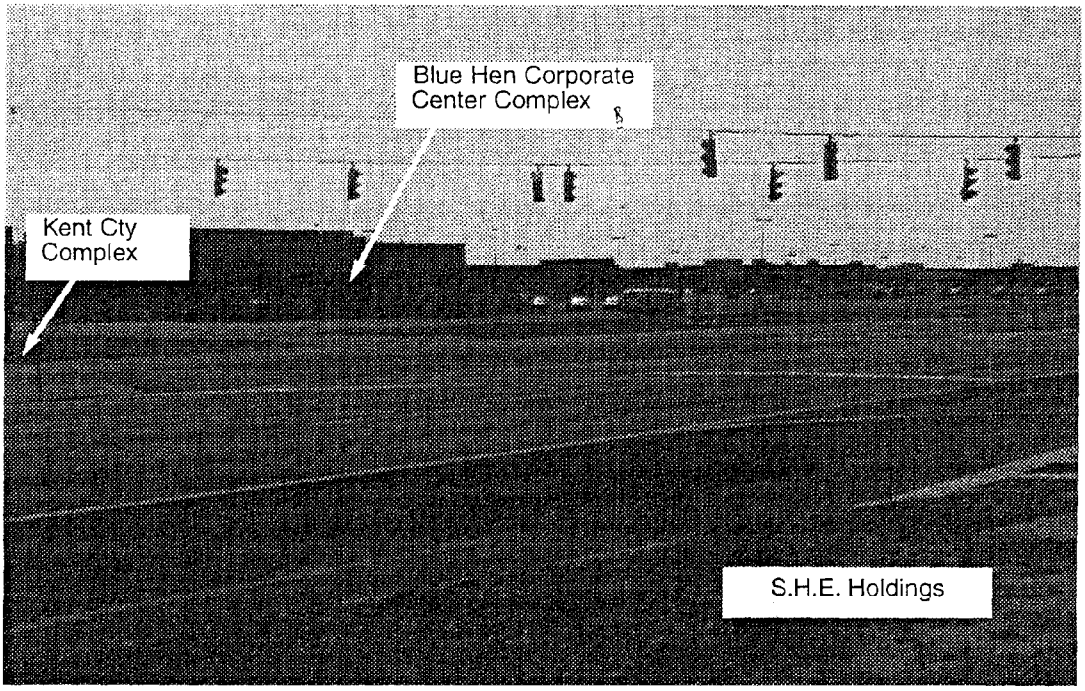
View of intersection from Bay Court Plaza.



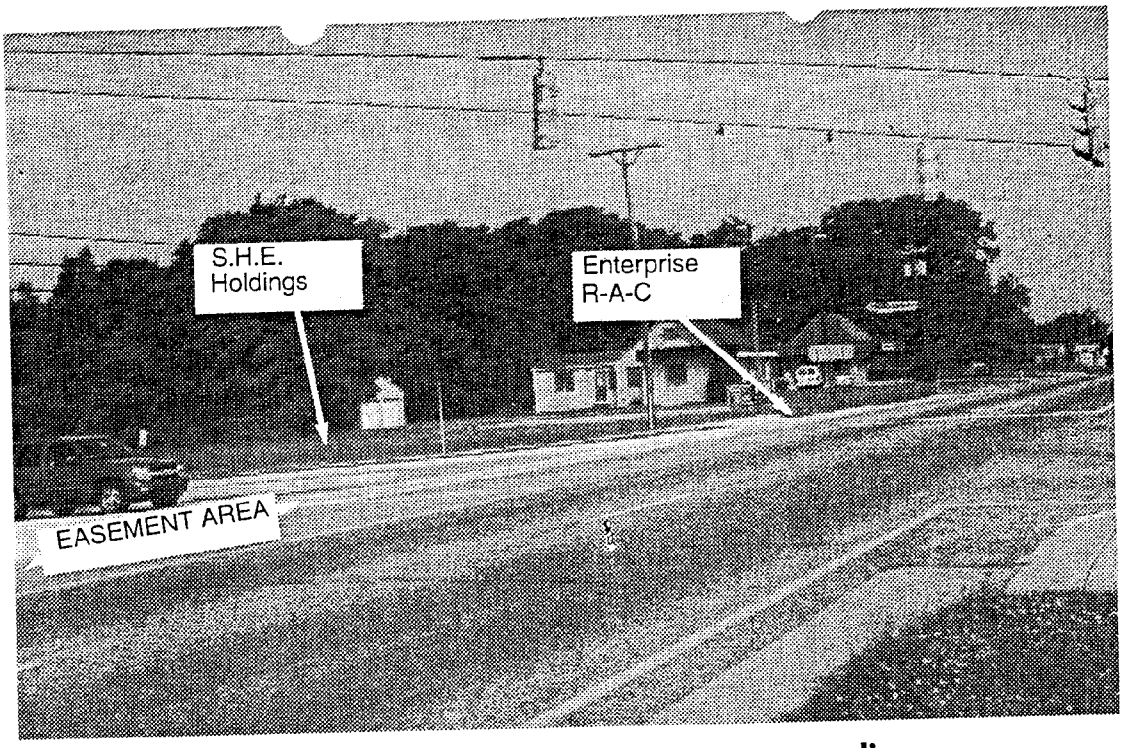
View of intersection from Blue Hen Corporate Center.



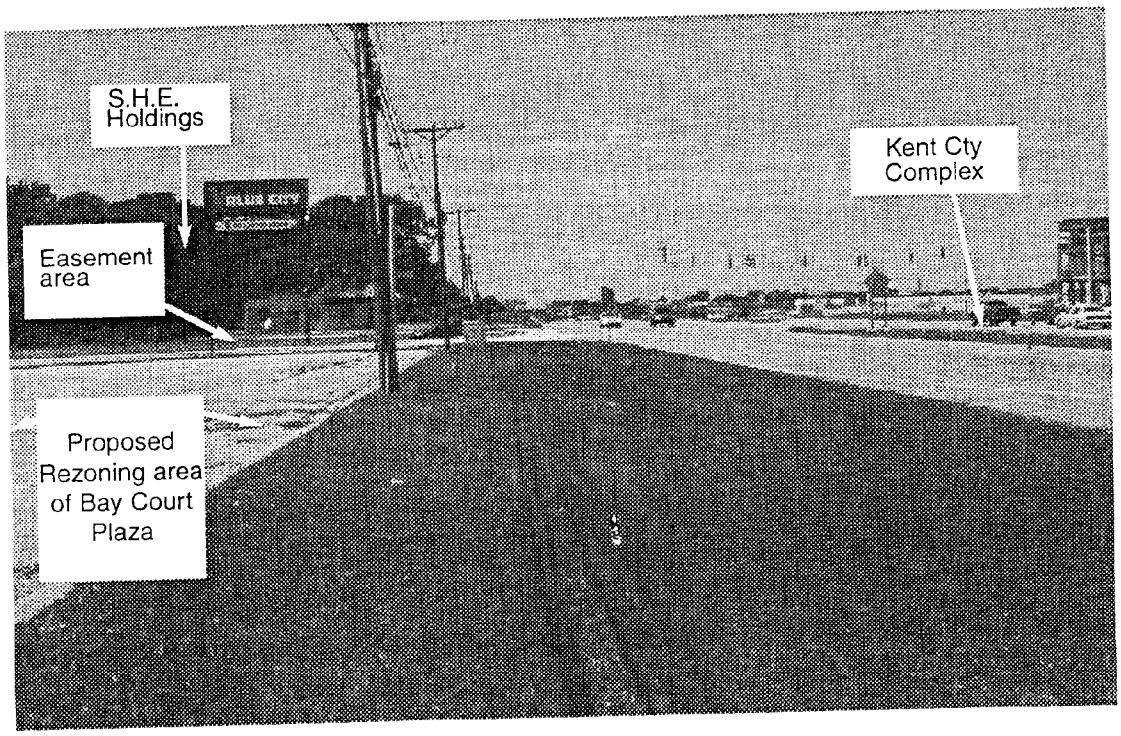
Cars existing easement area, turning North.
Also view of South turning lane.



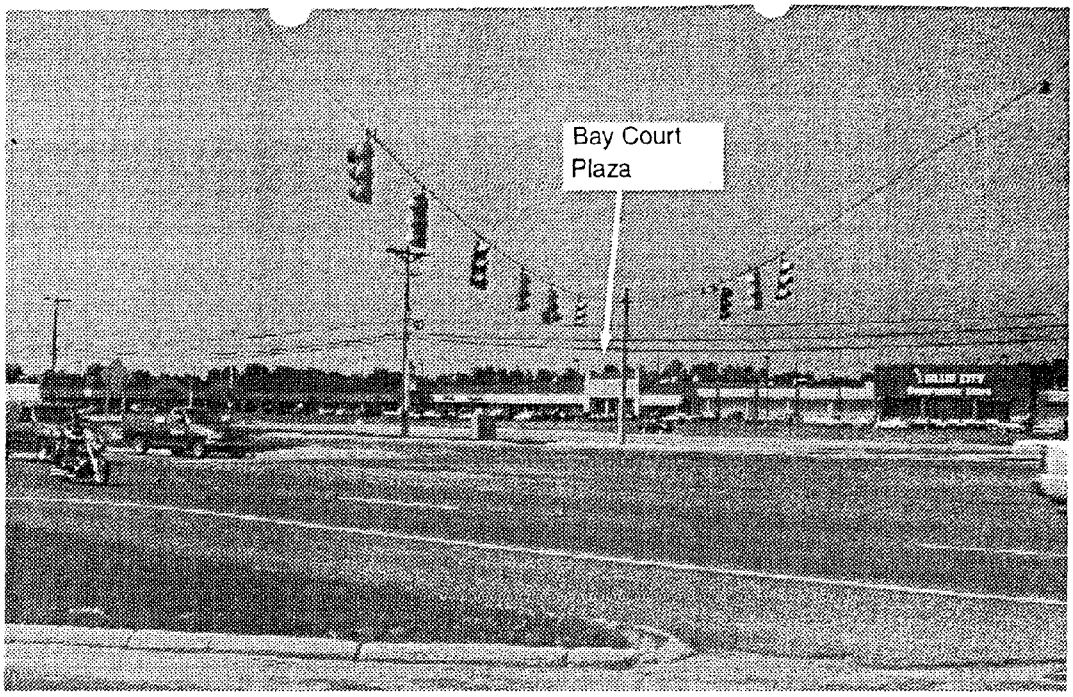
Righ turning lane in front of S.H.E. Holdings.



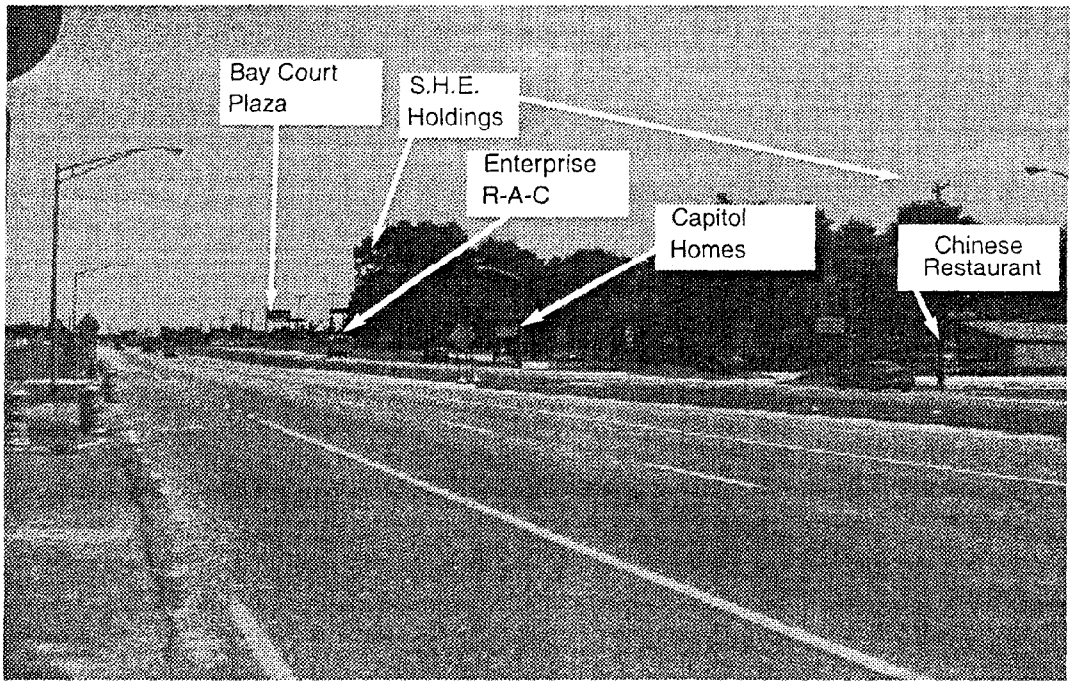
View of easement area intersection from Center median.



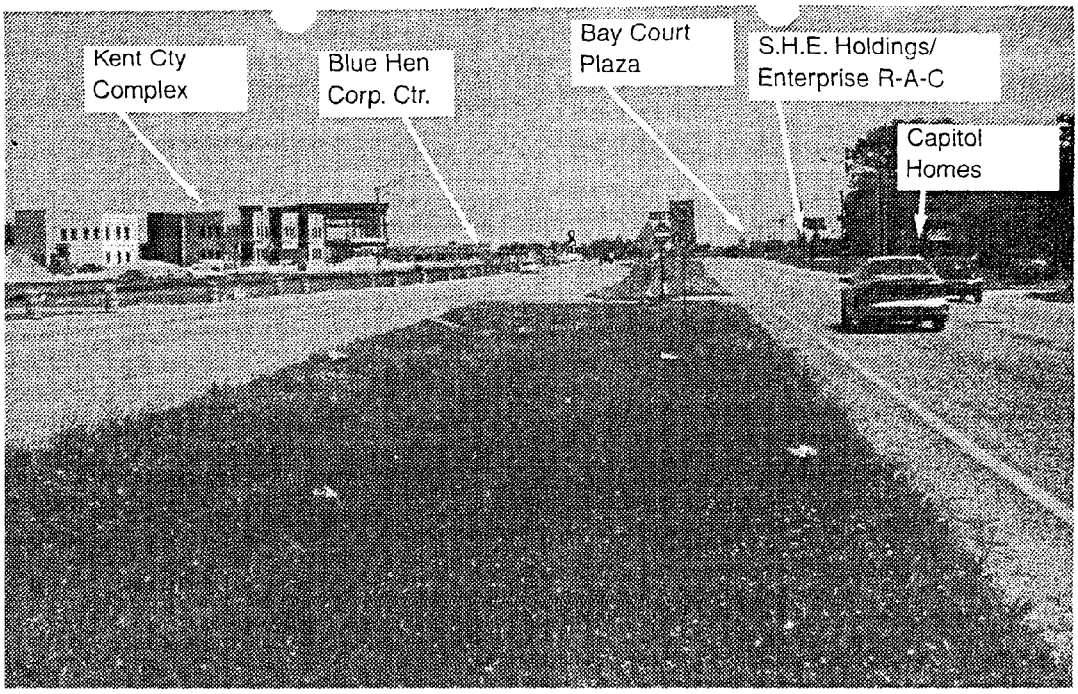
North view in front of proposed Rezoning area.



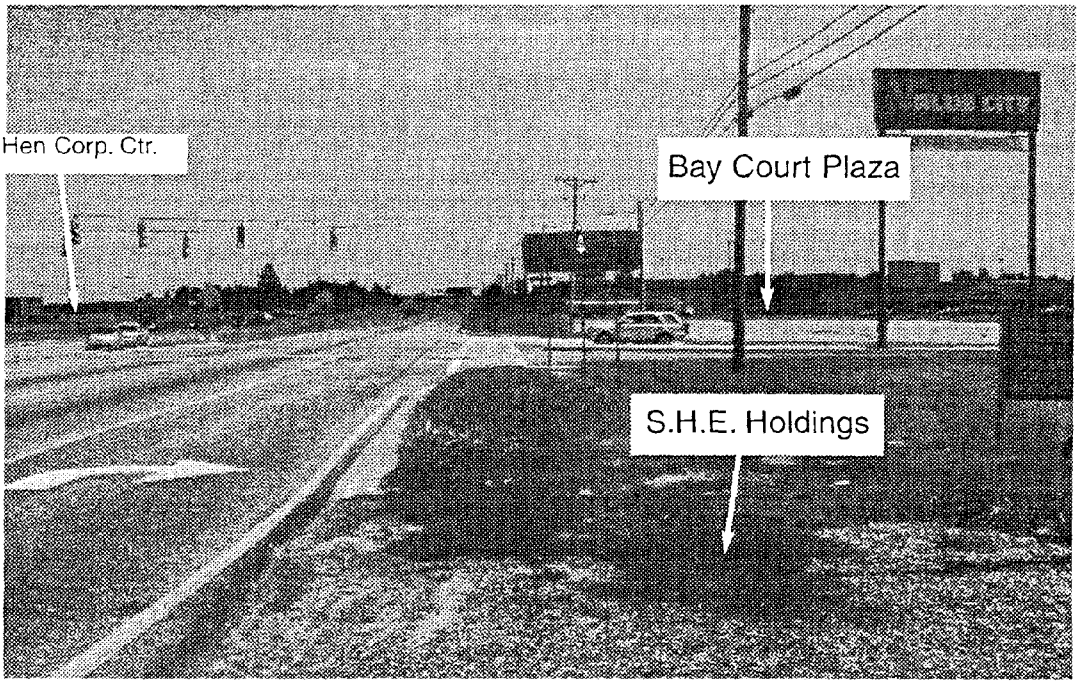
Right only exit from Blue Hen/Kent Cty complexes.



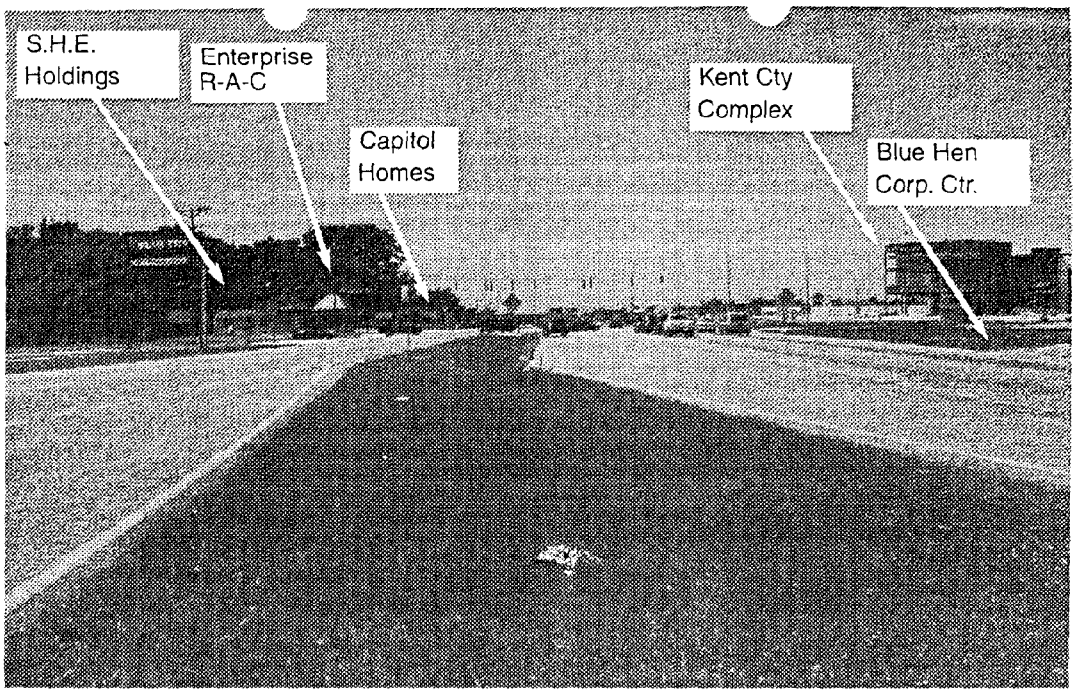
Southern view of Rte 113 from east side.



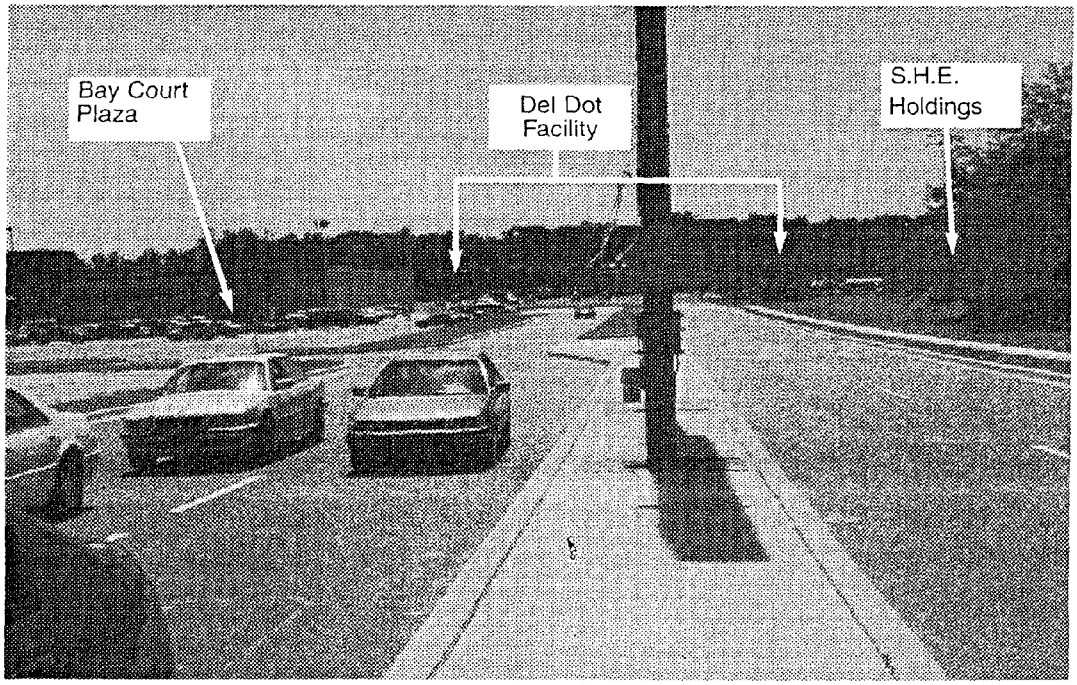
Southern view of Rte 113.



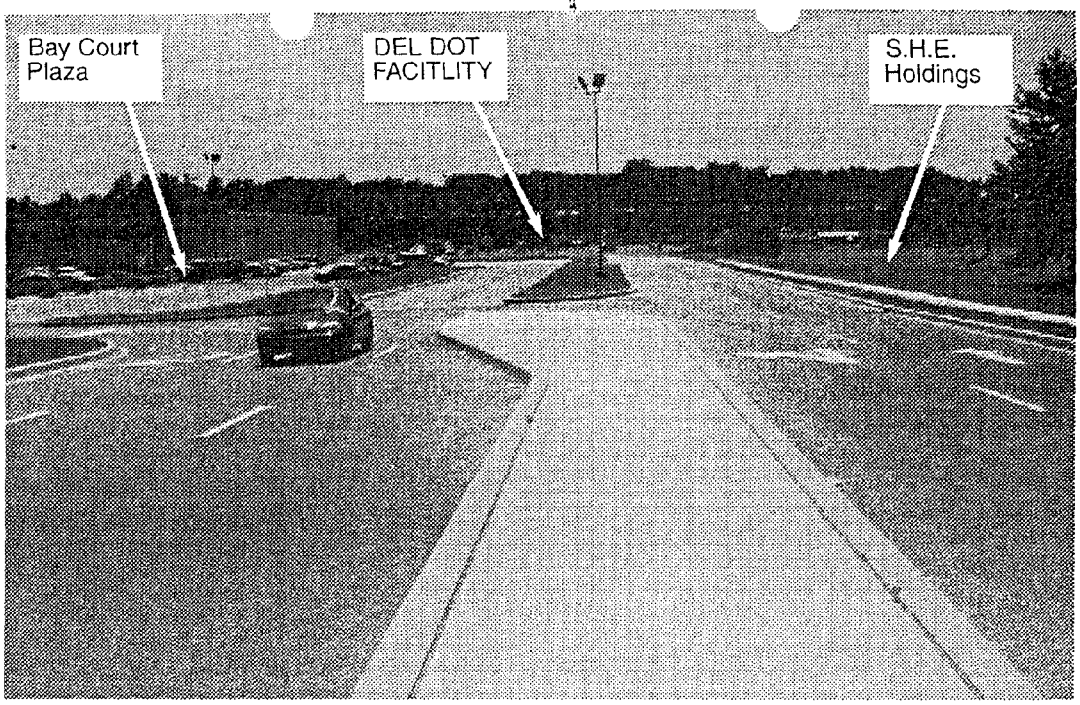
Right turning lane view in front of S.H.E. Holdings property.



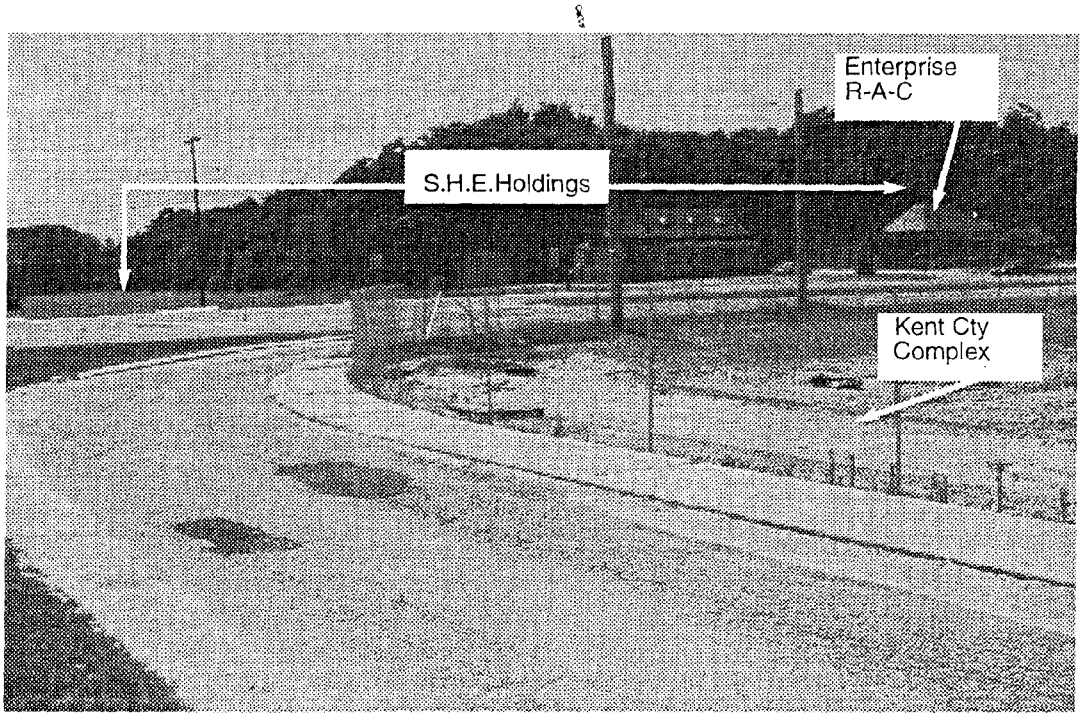
Northern view of intersection.



View of easement area.



VIEW OF EASEMENT AREA



North Bound ONLY exiting for cars from Kent County Complex & Blue Hen Corporate Ctr. complex.

BECKER MORGAN

ARCHITECTURE
ENGINEERING

PLANNING OUR
CLIENTS' SUCCESS

FORMERLY
BECKER MORGAN MOORE
CLOSE & RICHTER
AND
DIAMOND GROUP

738 SOUTH GOVERNORS AVE.
DOVER, DELAWARE 19904
302.734.7950
FAX 302.734.7965

ODESSA PROFESSIONAL PARK
SUITE 100, DUPONT PARKWAY
P.O. BOX 4000
ODESSA, DELAWARE 19730-4000
302.378.4000
FAX 302.378.1012

PORT EXCHANGE
SUITE 300
312 WEST MAIN ST.
SALISBURY, MARYLAND 21801
410.546.9100
FAX 410.546.5824

www.beckermorgan.com

Post-it® Fax Note 7671	Date 6/22/01	# of pages ▶ 1
To George Chabbot	From Brian Hollenbach	
Co./Dept.	Co. Becker Morgan	
Phone #	Phone #	
Fax # (302) 678-3693	Fax #	

June 21, 2001

Delaware Department of Transportation
Attention: Mr. Dave DuPlessis, P.E.
P.O. Box 778
Dover, Delaware 19903

RE: **June 20, 2001 Meeting**
LANDS OF L & E INVESTMENT COMPANY – (ED-05-77-10.00)
Dover, Delaware
2001/135.00

Dear Dave:

I am writing as a follow-up to our meeting on June 20, 2001. We discussed possible entrance locations from Route 113 onto the property between Bay Court Plaza and Capitol Homes.

I believe we had consensus that the safest access to the parcel for a commercial complex was to utilize the Bay Court Plaza signalized drive on the south and a new entrance on the north close to Capitol Mobile Homes. We are agreeable to providing an easement to Capitol Homes for their future access. DelDOT has an easement to utilize the existing Bay Court Plaza entrance to access the DelDOT facility west of Bay Court Plaza. The easement will need to be reviewed by the DelDOT legal department to determine whether DelDOT has the ability to allow joint access to adjacent parcels. Our interpretation of the language suggests that it provides for "any and all" to utilize the easement, which seems to provide for access to this parcel. We will await a decision from your legal department before we proceed.

In addition, we will attempt to service the small out-parcels on Route 113 and incorporate access from the internal roadway system.

If you have any questions or concerns, please contact me at your earliest convenience.

Sincerely,

BECKER MORGAN GROUP, INC.

Brian Hollenbach

Brian C. Hollenbach
Intern Engineer

BCH/rlh

Cc: Mr. Mike Longwill
Mr. Richard Woodhall

20011350dave-ltr.doc

734
796

011999020044
Tax Parcel No.ED-05-077.00-01-16.00-000

Prepared by:

STATE OF DELAWARE
DEPARTMENT OF TRANSPORTATION
REAL ESTATE SECTION
P.O. Box 778, Dover, DE 19903

D 00341 0143

PERMANENT EASEMENT AGREEMENT

This agreement made and entered into this _____ day of _____, 19__ by and between ROBINO-BAY COURT PLAZA, LLC, a Delaware limited liability corporation, hereinafter referred to as the GRANTOR, and The State of Delaware by and through the Department of Transportation, hereinafter referred to as GRANTEE.

WHEREAS, the GRANTOR is the owner of certain land located on the westerly side of US 113 (aka Bay Rd.), south of South Little Creek Rd., in the City of Dover, as shown and noted on plans for the State Project No.97-502-05 entitled *DTC Dover Transit Operations Facility* and also being part of an *Agreement* by and between the Delaware transit Corporation and Robino-Bay Court Plaza, LLC, dated June 18, 1999, both of which are hereby incorporated by reference and made a part hereof; and

WHEREAS, the GRANTEE is desirous of obtaining a permanent easement over, under and across GRANTOR's land described above;

NOW THEREFORE WITNESSETH that in consideration of ONE-----AND-----NO 00/100 Dollars $1.00) and other good and valuable consideration, the GRANTOR does by these presents grant, bargain, sell, convey and confirm unto the GRANTEE or its successors a Permanent Easement as more fully described on the plot annexed hereto, and made a part hereof, as Exhibit No. 1, for any and all highway related purposes including the right of GRANTEE to grant a public utility a franchise, permit or easement to install and maintain its facilities in, over or across said lands and premises;

FURTHER, GRANTEE and GRANTOR agree that the primary purpose of this easement agreement is to allow the free and uninterrupted ingress and egress of GRANTEE'S transit and paratransit buses and passenger vehicles from US 113 to GRANTOR'S adjoining facilities. A secondary use is to allow ingress and egress for GRANTEE'S District maintenance vehicles and equipment; however said use shall not occur during normal operating hours of GRANTOR'S shopping plaza, except during times of highway related maintenance emergencies;

DelDOT Real Estate

BM693:1

L&E 000178

FURTHER, GRANTOR shall not use the easement area in any way which will interfere with or be detrimental to the present or future use of the easement area by the GRANTEE; and,

FURTHER, should this easement ever be abandoned by the GRANTEE or by mutual agreement, then this easement shall terminate, be null and void and will no longer encumber said land and such action shall be evidenced by a recorded release of easement.

BEING over and through the lands conveyed to ROBINO-BAY COURT PLAZA, LLC, a Delaware limited liability corporation by Deed of Lucian K. Szczepanski bearing date the 1st day of October A.D., 1997, and recorded in the Office for the Recording of Deeds in and for Kent County in Deed Record 235, Page 111.

IN WITNESS WHEREOF, the parties have hereto set their hands and seals the day and year first above written.

Signed, sealed, and delivered in the presence of:

ROBINO-BAY COURT PLAZA, LLC

Witness

Manager (SEAL)

Witness

Manager (SEAL)

Witness

Manager (SEAL)

Witness

Manager (SEAL)

DELOOT REAL ESTATE

D 0341 0144

L&E 000179