

# Delaware's elite battle developer

## Barley Mill project would bring high-rises, jobs and traffic to Greenville

BY CHAD LIVENGOOD AND MAUREEN MILFORD • THE NEWS JOURNAL • AUGUST 22, 2010

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Delaware's Chateau Country and surrounding neighborhoods have long been home to people who have excelled in their careers, were born to wealth, or both.

The small-town feel reflects a culture of country elegance shaped for a century by the du Pont family. Rarely is there open conflict here.

But today, thousands of homeowners from Brandywine Hundred to Hockessin are battling a Pennsylvania developer to preserve the character of a community unique on the East Coast.

Proposals by Stoltz Real Estate Partners to create a massive shopping center, office and residential complex at the intersection of Del. 141 and Lancaster Pike and a 12-story condominium tower on Kennett Pike in Greenville will forever alter the feel of the community, residents say.

Frustrated by what they consider an apathetic response from state and county officials, residents have formed a grass-roots organization called Citizens for [Responsible](#) Growth (CRG) -- and they hope to raise millions to fight the development in court.

Citizens claim the developer is pushing the boundaries of New Castle County's development code with a tower in an existing Greenville shopping center. And they argue the Delaware Department of Transportation is being unreasonably lenient on Stoltz by allowing it to move forward with a 2.8 million-square-foot project at Barley Mill Plaza office complex -- without ordering a traffic impact study.

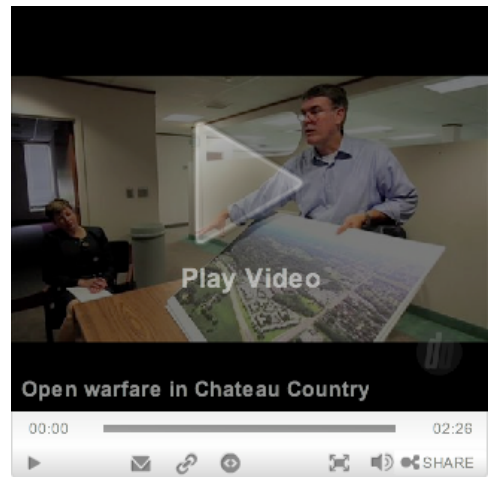
New Castle County politicians and Gov. Jack Markell's administration are caught between their desire to create jobs while appeasing some of

Delaware's most influential citizens -- many of whom write checks that fuel their campaigns.

Keith Stoltz, chief executive of the Stoltz organization, declined to be interviewed for this [story](#). But in a written statement, he noted that elsewhere in Delaware and around America, multimillion-dollar investments such as those proposed by his company "would be sought after and welcomed."

Stoltz also insisted the project plans were drafted in compliance with the law, and he made it clear that the company is moving forward with the projects.

"It is unfortunate that questions about the Barley Mill and Greenville Center projects have turned into attacks



### Open warfare in Chateau Country (02:25)

Chateau country residents feel their way of life will erode under proposed development. (08/20/10)

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Stoltz Managing Director Brad Coburn explains the developer's proposed redevelopment of the Barley Mill Plaza office complex as Stoltz attorney Pam Scott looks on last month. Stoltz paid

against our company by a few select residents," Stoltz said.

It is shocking to Delaware's elite that a developer would not consider a compromise. This crowd, which traditionally has handled disagreements quietly out of public view, contends the developer is rigidly inflexible.

"It's definitely, 'In your face, you can't stop me,'" said Gaspare Cappello, a [banking](#) retiree who would be able to see the 12-story tower from the front porch of his Greenville home.

David Amado of Westover Hills, who is conductor of the Delaware Symphony, explained the controversy this way: "The fuss is not that we're not getting our way. It's that we're not being heard. This is too big a project to be ignored."

Mark Chura, executive [director](#) of Delaware Greenways, a statewide conservation group, said developers as well as state and county governments must put projects into the context of an area's history and traditions.

"This development proposal will set the tone for what Greenville will look like for the next 50 to 100 years," Chura said. "The feel of the place, that's what is at stake here."

The feel was heavily influenced by the wealthy du Pont family, which built refined country houses and spectacular gardens in the narrow band of Appalachian Piedmont that runs through northern Delaware.

After Stoltz announced the projects two years ago, the citizens group took an active role in trying to influence the size and scope of the developments. CRG paid consultants \$30,000 to develop an alternative proposal that would cut available space at Barley Mill Plaza to 1.5 million square feet.

Stoltz paid it no mind.

At a public meeting in which the crowd spilled into the hallway, Stoltz attorney Pam Scott explained to the county planning board that she and other company officials had not read the proposal.

Board member Victor Udo wanted to know why, noting that more than 200 people had showed up to express opposing views.

"Because it's not [CRG's] place to design how my client should use their property," Scott said. "Just like it's not my client's place to dictate to them how their property should be designed."

Udo pressed Scott further: "Why is your client not willing to at least see what the community suggests?"

Scott replied: "My client has had several conversations with them, and we don't see the world the same way they do."

In one simple sentence, Scott, the spouse of New Castle County Council President Paul Clark, crystallized the issue separating citizens and the developer.

While residents view Greenville and Chateau Country as a special place whose heritage must be respected, Stoltz insists the projects should move forward based on whether they meet the requirements of the land-use code -- not how popular they might be among residents.

"We're playing by the rules that exist, not the rules that people want to exist," said Stoltz managing director Brad Coburn.

## Legal battle brewing

Although the citizens know they have an arduous battle ahead, they insist they'll fight to the end.

Lawyers for the community group argue that New Castle County's land-use department is processing Stoltz's application to build the residential high-rise in Greenville using a code meant for enlarging a structure -- not building a new one.

County code says new buildings can be constructed on this type of site if the existing structure is deemed "to be a hazard or unsafe." The existing building houses a Wells Fargo Advisors office and is not deemed hazardous, said Richard Beck, a land-use attorney and member of CRG.

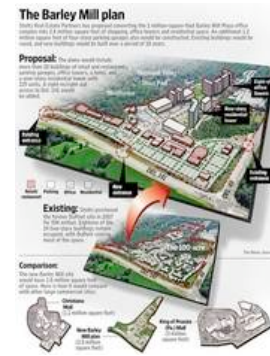
CRG in March sent a memo to County Executive Chris Coons, questioning the legality of the Greenville project.

"CRG came in and said this is what we have prepared in anticipation of suing you," Coons said. The county executive, who is running for U.S. Senate, would not answer specific questions about the issues CRG has raised at Greenville Center, citing advice from counsel.

On the Barley Mill project, Coons said he understands the concerns of citizens about traffic congestion. But he insisted his hands are tied by a Delaware Supreme Court ruling upholding a county law that does not require a full traffic impact study for redevelopment projects like the office park formerly owned by DuPont.

Redevelopment projects are defined as properties that will be enhanced by new construction meeting modern code. Because Stoltz plans to raze the 24 existing buildings at Barley Mill and put up new structures, it qualifies for redevelopment, said Dave Culver, general manager of the county's Land Use

DuPont Co. \$94 million for the parcel of prime real estate at Del. 141 and Lancaster Pike. Hear Coburn talk about the project at [delawareonline.com/video](#). (The News Journal/SUCHAT PEDERSON)



Citizens for Responsible Growth held a June 25 fundraiser at Twin Lakes Farm. The group floated an 8-foot-wide green helium balloon 180 feet in the air to represent the height of a building Stoltz proposes to build a half-mile away in the Greenville Center shopping complex. CRG seeks 10,000 residents to pledge \$100 a year for three years toward a \$3 million legal fund to fight Stoltz's projects. (Jim Graham photo)



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Patty Hobbs founded Citizens for Responsible Growth in response to Stoltz's projects. Twin Lakes Farm, her du Pont family estate, is a half-mile from the site of a proposed 12-story tower in Greenville. (The News Journal/GINGER WALL)



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An aerial view of the Barley Mill Plaza complex and Del. 141 headed north to the Kennett Pike interchange in Greenville. (The News Journal/ROBERT CRAIG)



Department.

Instead, DeIDOT is requiring a traffic operational analysis, which is a broader study of area roads. Critics say it lacks the legal teeth to require road improvements, a charge DeIDOT acknowledges because the agency can only make recommendations for improvements near redevelopment sites.

Secretary of Transportation Carolann Wicks said her agency's role is secondary to the local government's, explaining that the county will determine whether the developer -- or taxpayers -- will be required to make road improvements.

Beck said this passing of the buck "is where the community is getting whipsawed."

It's incredulous to citizens that state and county officials acknowledge there will be a significant increase in traffic if Stoltz builds what he has proposed at Barley Mill, but all in government say there's nothing they can do about it because of the state court ruling.

"For us to simply ignore the law invites lawsuits," Coons said.

The county executive insisted he is trying to forge a compromise between the community and Stoltz, who once called Greenville home.

"I have conveyed my strong desire to reach a fair balance that takes into account legitimate community concerns, like traffic, quality of life, while still respecting the rights of property owners," Coons said.

Lifelong residents of Chateau Country say statements of that nature sound hollow. They contend Coons is trying to distance himself from the controversy while ramping up his campaign for the U.S. Senate seat long held by Joe Biden.

"I don't think he cares," said Patty Hobbs, founder of CRG and a member of the du Pont family. "Why do we have to raise money to fight the county?"

### 'Somebody's got to step up'

Coons isn't the only politician in the crosshairs.

"The fact that our elected officials don't pick up the ball is really disheartening," Amado said. "Somebody's got to step up."

Council President Clark is an adamant supporter of the redevelopment code, explaining that it is an effective tool for deterring urban sprawl.

Because of his wife's involvement in many development projects around the county, Clark said, he stays out of most land-use debates. But residents say that is disingenuous.

Clark recuses himself when votes are taken on land-use decisions affecting his wife's clients, the citizens acknowledge. However, he remains in the president's chair and can guide the discussion up to the point where votes are taken. That's powerful steering toward the side of his spouse's clients, residents claim.

"None of this stuff passes the smell test to me," said John Danzeisen, president of the Kennett Pike Association.

And should Coons defeat Rep. Mike Castle for the Senate seat in November, Clark automatically would succeed Coons as county executive.

Clark would then have to defend how the county has processed development proposals championed by his wife, raising "the conflict of interest level even further," Danzeisen added.

Not a problem, Clark said. He could easily divorce himself from all land-use planning issues involving his wife.

"For the most part, I wouldn't have anything to do with that," Clark said, explaining that land-use issues are a minor function of county government.

"That's a flawed perspective," said County Councilman Bob Weiner. "Land-use decisions are more than just a cog in the wheel. The main business of county government is the land use decision-making process."

Weiner notes that the Land Use Department has been plagued by corruption in the past, and contends that there have been "irregularities" in how the county has handled Stoltz's projects.

Gov. Markell also has been drawn into the battle of Chateau Country, where his family lives.

Markell said the state's evaluation of traffic issues will be "an open process, which would be driven by hard facts."

"What I said to [CRG] is that I understand where they're coming from," Markell said. "I also made it clear that the state's involvement is a matter that is consistent with the law."



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Jeff Ezell, 55, moved into a home in the Westover Hills neighborhood behind Barley Mill Plaza three years ago. He says Stoltz's plans to build up to nine-story tall buildings behind his property "is not a selling point. If I had known anything about them ... I certainly would not have [moved here]," he said. (The News Journal FRED COMEGYS)



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Patty Hobbs founded Citizens for Responsible Growth in response to Stoltz's projects. Twin Lakes Farm, her du Pont family estate, is a half-mile from the site of a proposed 12-story tower in Greenville. (The News Journal/GINGER WALL)

### The Greenville area

The two Stoltz Realty development proposals are located in the heart of former and current du Pont properties and land.



- 1: Westover Hills, West Park, Westhaven
- 2: DuPont Experimental Station
- 3: Eugene du Pont Institute (former du Pont estate)
- 4: Powder Mill Square (Stoltz property)
- 5: Christ Church (once a church for du Pont family members)
- 6: Eleutherian Mills (original du Pont family home)
- 7: Hagley Museum (former du Pont powder mills)
- 8: Inn at Montchanin (owned by du Pont family)
- 9: Applecross (former home of Wilhelmina du Pont Ross)
- 10: Wilmington Country Club (land bought from Henry du Pont)
- 11: Twin Lakes Brewery (du Pont estate)



David Amado says residents' concerns are "not being heard."



Land-use attorney Richard Beck says the county has bent development code rules for Stoltz projects.

But the promise of millions of dollars in new tax revenue, job growth and other economic benefits cannot be ignored by the first-term Democratic governor, who is eager to steer the state out of the recession.

"I think it's generally a good thing to have these kinds of [investments](#), where the infrastructure already exists," Markell said.

### From DuPont to developers

When Bruce Kallos moved into his Westover Hills home in 1981, not much was left of the old Henry Belin du Pont Flying Field at Del. 141 and Lancaster Pike.

The antique glass-enclosed control tower was one of the last vestiges of the historic, grass-runway airport where Charles Lindbergh landed his Spirit of St. Louis in 1927 to cheering crowds.

By 1979, the DuPont company had embarked on a real estate venture with its Barley Mill office complex, but the chemical giant negotiated with neighbors to make it acceptable to the community, Kallos said.

"DuPont's been a fine neighbor," he said.

That era ended in 2007, when the office complex got caught in DuPont's efforts to transform itself for the fast-changing global marketplace. DuPont, which had jettisoned prime real estate in downtown Wilmington, put the 24-building suburban campus up for sale in anticipation of building new structures at its neighboring Chestnut Run Plaza.

The roughly 1 million-square-foot Barley Mill Plaza sold quickly for \$94 million to Stoltz Real Estate [Fund II](#), which bought the office park through an affiliate called Barley Mill LLC. The company declined to divulge details of its investment funds.

Beck said if Stoltz can gain county approval of its current plans at Barley Mill Plaza with minimal traffic improvements, it will exponentially increase the value of the land. With that added value, Stoltz could flip it to another buyer at a handsome profit, Beck said, without ever building anything.

Stoltz declined to divulge details of its investment funds, but insisted that it would build the projects over the next decade.

In March 2008, Stoltz unveiled a \$525 million redevelopment for Barley Mill that utilized nearly every available inch of the site as office space, retail and apartments. Today, the T-shaped redevelopment of Barley Mill Plaza calls for 2.8 million square feet of construction, consisting of 25 percent retail space, 25 percent residential and 50 percent office.

Shops and restaurants would hug Del. 141, with offices and parking lots along Lancaster Pike. On the backside of the development, bordering the neighborhoods of Westover Hills, West Park and Westhaven, would be eight-story office towers and parking garages.

CRG proposed building height limits of six stories, or 85 feet, whichever is greater.

The exploratory plan was approved by the Land Use Department, and the developer has submitted plans to County Council for final approval. Stoltz attorney Scott said as long as the plan meets code requirements, County Council would have no discretion to reject the project.

"It's disgraceful that they can put up a building that we're going to live in the shadow of," said Bill Vaughn, whose Westover Hills home backs up the Barley Mill Plaza site.

Added Vaughn's wife, Ginny: "I really think they have the attitude of, 'So what? This is what you're going to get.' "

Because of the du Pont influence, Kennett Pike has retained a rural flavor, unlike other major thoroughfares in northern Delaware.

While Concord Pike, Kirkwood Highway and U.S. 13 are lined with retail and offices, the pace of development on Kennett Pike has been slow and limited, according to Delaware historian Barbara Benson.

One reason is that Pierre S. du Pont of Longwood Gardens actually bought Kennett Pike, now a national scenic byway. When he transferred the road to the state in 1920, du Pont put deed restrictions on it to prohibit advertising signs.

Stoltz's Greenville Center project calls for tearing down the existing two-story Wells Fargo Advisors building that is tucked at the back of the shopping center bordering the Greenville Manor neighborhood. In its place, Stoltz would construct a 12-story residential, office and retail tower, a two-story retail section and a seven-story parking deck.

The nearby [post office](#), which is in a separate free-standing structure, would be relocated to a new building in the parking lot at the corner of Buck Road and Kennett Pike.

The existing post office building would be converted into additional retail space, with additions on each end of the building.



### IF YOU GO

Citizens for Responsible Growth is planning a community forum on Stoltz's projects at 5:30 p.m. Sept. 23 at A.I. du Pont High School, 3130 Kennett Pike, Greenville.

### ON THE WEB

New Castle County  
DelDOT  
Stoltz Management Corporation  
Citizens for Responsible Growth in New Castle County

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Those plans have passed the initial exploratory and then preliminary stages of the land-use approval process. The only step the developers have left is record plan approval, Scott said.

Once the land-use department gives final approval, County Council must approve it under Delaware's "by-right" development laws, Scott said. Because no rezoning is involved, council has no discretion to deny the project, she said.

"If the plans meet all the code requirements, they have to approve it," Scott said. "The only option they have is to send technical questions to land use."

### **Shifting blame**

Based on e-mails and interviews, it appears DeIDOT would prefer to shift the community's focus away from the agency's role.

In April, state Rep. Deborah Hudson sent an e-mail to DeIDOT Secretary Wicks claiming Danzeisen, a CRG leader, was being untruthful with neighbors at a Centreville Civic Association meeting about the type of traffic study the agency was requiring at Barley Mill Plaza.

"Some things he said about [DeIDOT] were just lies," Hudson wrote to Wicks and Alan Levin, the state economic development director. "It was just terrifying for me to hear."

Hudson, R-Greenville, has attended CRG events, including a June fundraiser where she expressed concern about Stoltz's projects.

Asked in an interview about what "lies" Danzeisen was spreading, Hudson said "people were saying that the state is not doing a traffic impact study" at Barley Mill Plaza. In fact, DeIDOT is not doing a traffic impact study.

Danzeisen said Hudson apparently "misunderstood" what he said, "and way overreacted in my opinion."

But that e-mail from Hudson appears to have triggered internal concern at DeIDOT about public perception of the agency's role in approving the development projects.

DeIDOT spokesman Mike Williams suggested in internal e-mails that the agency shape its message to stress that DeIDOT's involvement comes after the county gives initial approval to a project.

"This is the same story we hear constantly about unwanted development," Williams wrote in a May 6 e-mail to Brett Taylor, director of policy and communications for DeIDOT. "But the residents opposed to it never seem to notice in time to stop it at the source -- county or municipal officials."

Taylor agreed. "But the misinformation is leveled at us and we need to shift the focus over to the county while reiterating our role," he replied in an e-mail obtained by The News Journal.

### **The du Pont influence**

Less than a mile from the bustle of Greenville's shopping area, behind a stone wall, is a peaceful resting place for generations of du Ponts.

The graveyard, which is just above the family's original home along the Brandywine, is a testament to the grand vision of its patriarch: Pierre du Pont de Nemours. During the voyage from France to America in 1799, du Pont dreamed of a kingdom called Pontiana, a physiocratic state based on the theory of economics that wealth was derived from the land.

In some ways, the du Ponts achieved a Pontiana in northern Delaware, according to Delaware historian Carol Hoffecker.

Greenville has "Pontiana aspects of it," Hoffecker said.

Those first du Ponts "never would have imagined" a building towering over the rolling countryside, said Hobbs, the CRG founder and du Pont family member who lives on the Twin Lakes Farms estate in Greenville.

Added her husband, Andy: "Henry du Pont [of Winterthur], if he had been alive today, he'd be marching up and down the road against this."

Kai Lassen, a du Pont family member who lives on an estate near the proposed developments, said both projects will "change the character of the place, no question."

"I think they've been able to skillfully use various aspects [of the regulations] to create a patchwork quilt that has the appearance of being in compliance," Lassen said of Stoltz.

There was a time in the mid-20th century, when the du Ponts still ran the chemical company, that the family could have killed an unpopular project in its cradle. The family's hand can be seen in almost every aspect of the development pattern of modern Delaware, from the creation of U.S. 13 to Rehoboth Beach to the building of Rodney Square in Wilmington to post-World War II growth of Brandywine Hundred.

But, today, it's not as certain the family can exert its sway.

"We feel lost," Patty Hobbs said.

### **Protections sought**

Stoltz's Greenville projects shows how vulnerable communities are to high-density development throughout the state, opponents say.

"If it happens here, maybe it happens in someone else's backyard," said Ian McConnel, a deputy attorney general who lives in the Westhaven neighborhood that borders Barley Mill Plaza.

To Chura, of Delaware Greenways, there's a disconnect between the New Castle County code and historic development patterns created over hundreds of years.

Heritage can be recognized with a "hometown overlay" provision that allows unincorporated areas the opportunity to create guidelines that preserve the qualities identified with the community, Chura said. Centreville and Hockessin have gone through the overlay process.

"There are certain property rights that can't be ignored, but there needs a recognition of the historic growth and development in this area (Greenville)," Chura said.

Going forward, Beck suggests the Greenville area look at getting a hometown overlay designation. In that case, a design review architectural committee works with the builder-developer to design projects that are compatible with the community, Beck said.

Until then, residents are worried that they may get stuck with high-rises looming over bucolic neighborhoods.

Said Patty Hobbs: "How could one [developer] come and destroy this whole area? It's hard to believe."

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