



Kent County

Department of Planning Services Division of Planning

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STAFF RECOMMENDATION REPORT March 2, 2017

Ordinance	:	LC17-04
Application	:	CZ-17-03 Sharp Energy, Inc.
Present Zoning & Comprehensive Plan Map Designation	:	IL(Limited Industrial) Industrial
Proposed Zoning & Comprehensive Plan Map Designation	:	BG (General Business) Highway Commercial
Area and Location	:	1.0838± acres located on west side of North Dupont Hwy. (US Rt. 13), approx. 950 ft. south of Twin Oaks Dr., southeast of Cheswold

I. STAFF RECOMMENDATION:

Based on the information presented, the Kent County Code, and the Comprehensive Plan, staff recommends **approval** of the request to amend the Zoning Map and Comprehensive Plan Future Land Use Map. The following are the findings of fact for staff's recommendation of **approval**:

- Kent County Comprehensive Plan 2007
There is one parcel under consideration for rezoning. This parcel is to the north and west of existing commercial areas that are zoned BG (General Business). The Kent County Comprehensive Plan (2007) Commercial Areas Map 2-3 identifies this area as having the potential for an additional 5-10 acres of Highway Commercial. As described in the 2007 Comprehensive Plan, Highway Commercial development should "create a sense of place and destination for existing and new neighborhoods while complementing the existing commercial development in the adjacent towns." Highway Commercial is considered more intense than BN (Neighborhood Business) and is intended to be located in proximity to roadways classified as principal arterials and collectors. Uses for Highway Commercial can include: wholesale and retail services, restaurants, specialty shops,

services, grocery, personal and business services, civic uses, office space and large shopping centers.

- Surrounding area

The subject site is surrounded by both BG and IG zoning, with properties located to the west being used for industrial storage. There are BG zoned properties to the north and south that are active commercial uses. To the east, across Rt. 13 is vacant commercial ground that is part of the Wal-Mart developed area. The character of the surrounding area has been transitioning from Industrial to Commercial along the Rt. 13 corridor. The property is in the Growth Zone.

- DelDOT has determined that no Traffic Impact Study will be required.
- The proposed re-zoning does meet the conditions for approval of a zoning change under Section 205-408 B of Kent County Code:

A. *There was a mistake in the Zoning Map, or the character of the neighborhood has changed to such an extent that the Zoning Map should be changed.*

There was no mistake in the Zoning Map. This area was originally planned as an industrial area along Rt. 13, but rezoning requests over the last 20 years have seen a trend of this area north of Dover and south of Cheswold transitioning to commercial uses. Over this time there have been 13 approved rezonings to a commercial designation in the surrounding area. This shows a pattern of the Levy Court agreeing with property owners that the changing character of this corridor is appropriate.

B. *The new zoning classification conforms to the Comprehensive Plan for Kent County in relation to land use, number of dwelling units or type and intensity of nonresidential buildings and location.*

The proposed BG zoning district does conform to the Comprehensive Plan. Properties to the north and south of the subject site along Rt. 13 have been identified as part of an additional 5-10 acres of recommended highway commercial. The request of 1.0838 acres ± for the subject site falls within the recommendation of the 2007 Comprehensive Plan.

C. *Transportation facilities, water and sewerage systems, storm drainage systems, schools and fire suppression facilities adequate to serve the proposed use are either in existence or programmed for construction.*

Many of these facilities are available for the subject site, including central water and sewer service. Any proposed changes would need to be reviewed by the Kent Conservation District for drainage facilities and the State Fire Marshal for compatibility with fire protection. There do appear to be facilities proposed or existing that is adequate to serve this use.

- D. *There is compatibility between the uses of the property as reclassified and the surrounding land uses, so as to promote the health, safety and welfare of present and future residents of the county.*

There would be compatibility between the uses of the property as reclassified and the surrounding land uses that would promote the health, safety, and welfare of present and future residents of the county. There are commercial properties located around the site and the remaining industrially zoned properties in the area would not be a detriment to any use that could occur on the subject site.

II. BACKGROUND INFORMATION:

- The site is currently being used as a fenced parking and storage area.
- The character of the surrounding area is commercial and industrial in nature. There are active commercial uses in all directions, including a car wash, a Wal-Mart, an office and storage area for the applicant, and a storage building. The two industrial properties to the rear are also indoor storage uses.
- The application was exempted from the **PLUS** process as the request lies within an area recommended for additional Highway Commercial zoning by the Comprehensive Plan.
- There have been no previous rezoning applications on the subject site, but there have been 13 in the surrounding area similar to this request. These are described as follows:
 1. Z-96-07 David Barnes rezoned 2.6 acres of IL to BG. This area is now part of the Wal-Mart development.
 2. Z-00-09 Rodney and Marie Harmic rezoned 0.326 acres of IG to BG. This lot is on the southwest corner of Rt. 13 and Rt. 42. It is currently a restaurant.
 3. Z-01-05 Crossroads Christian Church rezoned 5.4 acres of IG to BG. This parcel is located on the west side of Rt. 13 approx. 1,100 feet south of the subject site and is part of the church property.
 4. CZ-03-08 Wayne and Saralee George rezoned 0.918 acres from IL to BG. This is the property immediately to the south of the subject site and is currently the office for Sharp Energy.
 5. CZ-04-08 Mark Babbitt rezoned 1.6 acres from IG to BG. This parcel is on the west side of Rt. 13 approx. 300 feet south of Rt. 42 and is currently improved with a thrift store and outdoor storage area.
 6. CZ-04-11 Cheswold Village Properties rezoned 28.35 acres from IL to BG. This is the property that is currently the location of Wal-Mart on the east side of Rt. 13.
 7. CZ-05-01 David B. Gearhart rezoned 1 acre from IG to BG. This property is 50' north of the subject site and is currently improved with a carwash.
 8. CZ-06-13 William M. and C. Lynn Kriss rezoned 6.44 acres from IL to BG. This property is immediately to the west of the subject site and is improved with a storage building.
 9. CZ-06-22 Kirti P. Joshi rezoned 4.39 acres of IG to BG. This property is located on the east side of Rt. 13 approx. 2000' south of the subject site and is currently unimproved.
 10. CZ-07-11 Carl Kaplan and Tolano Anderson rezoned 0.8 acres from RS1 to BG. This property is on the east side of Rt. 13 approx. 2500' south of the subject site.

- It currently has not been developed commercially and still has a single family dwelling.
11. CZ-08-10 Meyer & Meyer, Inc. rezoned 0.29 acres from RMH to BG. This made the entire lot BG and allowed the owner to submit a site plan for a commercial center that has been approved but not yet constructed. The lot is located on the west side of Rt. 13, approx. 2300' south of the subject site.
 12. CZ-12-03 Frank Czerwinski rezoned 0.565 acres from IG to BG. This property is on the southeast corner of Rt. 13 and Rt. 42. It is currently improved with a Tire Sales business.
 13. CZ-16-03 Lillian R. Heritage Trust rezoned 2.1 acres from IG to BG. The property is located approx. 1500' feet south of the subject site and is currently improved with a single family dwelling.

III. AGENCY COMMENTS:

A. KENT COUNTY DEPARTMENT OF PUBLIC WORKS –

Requirement & Source:

1. Kent County Sanitary Sewer (SS) service is both legally and technically available to this property.
2. Proposal must proceed in accordance with all applicable requirements of the Kent County Code, Chapters 128 & 180.
3. Depiction of all SS easement, right-of-way and dedication areas. (Existing and Proposed)

Comment:

The Engineering Division grants “Conditional Approval”.

B. KENT CONSERVATION DISTRICT –

Requirements:

1. The Kent Conversation District has no objection to the proposed rezoning of the above referenced property.

Comments:

1. If at any time expansion or earth disturbing activity (clearing, grubbing tree clearing etc.) takes place and exceeds 5000 square feet a detailed Sediment and Stormwater management Control plan must be submitted and approved to the Kent Conversation District.

C. STATE OF DELAWARE, DNREC, Division of Air Quality

Based on air quality projections, the requested zoning change of the abovementioned tax parcel is not forecasted to have a significant impact on Kent County’s air quality levels. DAQ encourages land use decisions that take into consideration Delaware’s Air Quality including those that promote sustainable development, smart growth and include offsets to

development where applicable. The DAQ has no additional commentary on this application at this time

D. STATE OF DELAWARE, DNREC, Delaware Division of Fish and Wildlife –

A review of our database indicates that there are currently no records of state-rare or federally listed plants, animals or natural communities at this project site.

This recommendation is offered without the benefit of public testimony and is based on the information presented when the application was received by the Department of Planning Services. The Regional Planning Commission shall give considerable weight to public testimony received during public hearing in considering its recommendation to Levy Court in this matter.

ENC: Data Sheet

Exhibit A – Location and Zoning map

Exhibit B – Comprehensive Plan Map

Exhibit C – Plot Plan

Ordinance LC17-04

Comment Letter from DE Health and Social Services, Division of Public Health dtd. 2/1/17