



Kent County

Department of Planning Services Division of Planning

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STAFF RECOMMENDATION REPORT June 1, 2017

Ordinance	:	LC17-14
Application	:	CZ-17-08 Jomak Properties, LLC
Present Zoning & Comprehensive Plan Map Designation	:	AC (Agricultural Conservation) Low Density Residential
Proposed Zoning & Comprehensive Plan Map Designation	:	BG (General Business) Highway Commercial
Area and Location	:	12.383± acres (Area of petition: 8.80± acres) on west side of S Dupont Hwy. (US Rt. 13) and east side of Collison Dr., 300± ft. north of Hopkins Cemetery Road (Co. Rd. 289), north of Harrington

I. STAFF RECOMMENDATION:

Based on the information presented, the Kent County Code, and the Comprehensive Plan, staff recommends **denial** 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:

- The proposed rezoning is located north of the City of Harrington, outside of the Growth Zone Overlay, in a location that begins a transition from commercial to a more rural area of the county. There are currently commercially zoned areas in and near Harrington that have not yet been developed, including a 2 acre parcel to the south of the subject site owned by the applicant. These undeveloped areas show that there is no pressing need for 8.8± additional acres of commercial zoning to serve the local community.
- The proposed re-zoning does not 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. The surrounding area is primarily zoned agricultural; however, there is an area of BG zoning at the corner of Rt. 13 and Hopkins Cemetery Rd. immediately to the south of the subject site. The character of the area has remained agricultural and residential in nature with all new commercial growth happening to the south closer to Harrington within the growth zone. The subject site is bordered by vacant, tilled farmland to the west and a residential dwelling to the north. With no change to the general character of the neighborhood, there does not appear to be a compelling reason for the zoning map to be changed. The RPC should consider the potential impact of expanding commercial uses to the north outside of the designated growth zone and if this would start a trend of undesirable growth in any area without access to support utilities.

- 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 not conform to the Comprehensive Plan. In the economic development chapter of the Plan, Chapter 6, there are three specific recommendations that do not support a rezoning request of this type:

3. Understanding that successful municipalities are imperative to the success of Kent County, support the economic development and re-development efforts of the towns including downtown revitalization efforts as well as redevelopment of existing underutilized shopping centers and hotels;

15. Focus economic development as a whole toward areas where infrastructure is existing or is planned for the immediate future;

16. Promote existing cities and towns in an effort to support the economic viability of the incorporated areas within the County that have access to existing infrastructure;

These recommendations do not support a large rezoning request outside of the town, where infrastructure is not planned and that will take away from development efforts within the existing downtowns. If this request is approved, the county is effectively allowing competition with the municipalities for new business and not supporting re-development efforts of vacant commercial properties that could be suited for a new commercial use.

The subject site and surrounding properties to the north, east, and west have been identified as low density residential in the Future Land Use (Map 2-2). Although there is existing commercial zoning to the south, those uses are 1 to 2 acres in size which could be argued fit better into a residential area. An 8.8 ± acre rezoning would be the largest area of commercial zoning north of Harrington and this size

commercial project would allow for an intensity of nonresidential structures that would not conform to the size of the surrounding nonresidential projects.

- 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.*

Most of the proposed utilities are not in place to support a commercial project of this size. DelDOT has stated that the use could generate up to 50 trips per hour or 500 trips in a day and could be considered having a major impact to the local roadways. The site will have no direct access to Rt. 13 and all traffic will need to go through the existing commercial entrance onto Hopkins Cemetery Rd. that has no shoulders or turning lanes.

The State planning office has stated in the PLUS comments that *“the State government funds 100% of road maintenance and drainage improvements for the transportation system, and 100% of the cost of police protection in the unincorporated portion of Kent County where this development is proposed. Over the longer term, the unseen negative ramifications of this development will become even more evident as the cost of maintaining infrastructure and providing services increases.”*

Central Sewer and Water will not be available to this site. A stormwater management area has been built on the site to accommodate the contractors business to the south, but may need to be expanded to accommodate any additional use on the site.

- 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 is little compatibility between the uses of the property as reclassified and the surrounding land uses, as the subject site is located within the vicinity of low-density residential and less-intensive commercial uses. Adjacent parcels east and west of the subject site are utilized as tilled farmland, while the parcels to the north and southwest are improved with single-family dwellings. If reclassified to commercial and developed as such, there will be an impact to the rural character of the surrounding area and possibly to the residential dwellings that closely border the site.

II. BACKGROUND INFORMATION:

- The property is currently vacant farmland. The character of the area is low-density residential in nature, with one commercial use (contractors establishment) immediately to the south and owned by the applicant. There is a vacant commercial “pad site” in front of the business. Single-family dwellings are located to the southwest and north of the subject property. Vacant farmland is to the west and to the east, across Rt. 13.

- If rezoned, the applicant may do any use allowed in the BG zoning district and any use discussed during the rezoning hearings is not binding.
- The application completed the PLUS process in March 2017. The Office of State Planning Coordination identifies the proposed rezoning as a Level 4 Investment area. New development activities and suburban development are not supported in Investment 4 Areas. Level 4 areas are comprised of prime agricultural lands and environmentally sensitive wetlands and wildlife habitats, which should be, and in many cases have been preserved.
- There has been one application in the surrounding area similar to this request. This was a request on the north side of Hopkins Cemetery Rd., immediately to the west of the subject site, also outside the growth zone and with no direct access to Rt. 13. Z-97-08 for R. Wayne and Brenda L. Collison was a request to rezone 5.0± acres of AC to BG. This request was Denied due to the fact that it was against the comprehensive plan and that there is other land zoned BG available in the area.

III. AGENCY COMMENTS:

A. STATE OF DELAWARE, DNREC, Delaware Division of Fish and Wildlife – Contact: Kate Fleming

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.

B. KENT COUNTY DEPARTMENT OF PUBLIC WORKS, Engineering Division Contact: Brian L. Hall

Recommendation:

1. Please contact the City of Harrington to determine the feasibility of central utilities (e.g. – water, sewer, ...).

Comment:

1. The Engineering Division grants “Approval With No Objection To Recordation”.

C. KENT CONSERVATION DISTRICT

Contact: David C. Cahill

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.

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 LC17-14
Support Facilities Report
PLUS Review and Response from applicant
Concept Plan