



# Kent County

## Department of Planning Services Division of Planning

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### STAFF RECOMMENDATION REPORT July 6, 2017

<b>Ordinance</b>	:	LC17-07
<b>Application</b>	:	CZ-17-04 Valladares, Jessica
<b>Present Zoning &amp; Comprehensive Plan Map Designation</b>	:	IG(General Industrial) Industrial
<b>Proposed Zoning &amp; Comprehensive Plan Map Designation</b>	:	BG (General Business) Highway Commercial
<b>Area and Location</b>	:	Area of Petition: 0.23± acres on the east side of N DuPont Hwy (U.S. Rt. 13), 356ft± north of the intersection with Fast Landing Road (Co. Rd. 14), east 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**:

- The proposed rezoning is located on the east side of N. DuPont Highway (U.S. Route 13) north of the City of Dover and east of the Town of Cheswold, and neighbors existing commercial uses along the road corridor.
- 0.54± acres of the subject parcel is currently zoned BG, while 0.23± acres is zoned IG. Due to the current size and configuration of the IG zoned portion of the parcel, the subject area is not able to be utilized for an individual use separate from the automobile sales establishment on the BG portion of the parcel.
- 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. The subject area, which has recently been consolidated with the neighboring parcel to the south, was rezoned from BG to IG in 1980 (Z-80-34). Since this application, the subject area has changed uses over the years and has subsequently been utilized concurrently with the BG parcel to the south. Originally planned as an industrial area of the Route 13 corridor, rezoning requests over the past 20 years have reflected the change in the neighborhood to a commercial area. Based on the existing uses in the immediate vicinity, the proposed change in zoning would not only be appropriate with the surrounding area, but would provide for contiguous zoning on the subject parcel and parcels to the north.

- 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 2008 Kent County Comprehensive Plan. Parcels to the north and south along the Route 13 corridor have been identified as part of an area where additional highway commercial zoning is recommended. The request for 0.23± acres falls under the recommendation of the 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 are 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 a compatibility between the uses of the property as reclassified and surrounding land uses that would promote the health, safety, and welfare of present and future residents of the county. The subject site is surrounded by commercially zoned properties along the Rt. 13 corridor and the continued use of the entire site for automobile sales and service would not be a detriment to the current and future residents of the county. Furthermore, approving the zoning request would providing for the entire site to be utilized for uses provided for in the BG zoning district and would eliminate a split-zoning.

## **II. BACKGROUND INFORMATION:**

- The site is currently being used as an automobile sales and service establishment. The majority of the parcel is zoned BG, however the area of petition is zoned IG. Automobile sales and service is a permitted use with conditions in the BG zoning district, but is not a permitted in the IG zoning district.
- The character of the surrounding area is commercial and residential in nature along the Route 13 corridor. A Royal Farms gas station is located to the south of the subject site and is surrounded by vacant farmland to the north. Single family dwellings and vacant commercial parcels are located along southbound Route 13, to the west of the property.
- 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.
- The subject site was a part of application Z-80-34, in which Edward D & Ann D. Mast rezoned the property BG to IG.
- There have been eight applications in the surrounding area similar to this request. These are described as follows:
  1. CZ-12-03 Frank Czerwinski rezoned 0.565± acres of IG to BG. This property is located at the southeast corner of the intersection of Fast Landing Road and N. DuPont Highway.
  2. CZ-07-17 Robert E. Pierce, Senior rezoned 0.34± acres from AR to BG. This lot is located approx. 1,200 feet north of the subject site and is currently operating as Pierce Fence.
  3. CZ-04-08 Mark Babbitt rezoned 1.6± acres of IG to BG. This rezoning is located approx. 730 feet south of the subject site and is currently utilized as a thrift store.
  4. Z-02-12 H.R. Phillips purchased the area as listed in #8 from Kenneth W. Clendaniel, and rezoned 1.06 acres of IG to BG. This area is located at the northeast corner of the intersection of Fast Landing Road and N. DuPont Highway, and a portion of which is a Royal Farms site directly adjacent to the subject site.
  5. Z-02-11 Cloverfield Farms Dairy, Inc. rezoned 1.0± acre of RS1 to BG on what is now a portion of the Royal Farms site. The original parcel was located on the north side of Fast Landing Road. This request was a modified approval, leaving one remaining acre of RS1 on the site.
  6. Z-00-09 Rodney L. & Marie D. Harmic rezoned 0.3244± acres of IG to BG. This area is located on the southwest corner of the intersection of Main Street and N DuPont Highway, approx. 475 feet southwest of the subject site.
  7. Z-91-14 H.R. Phillips, Inc. rezoned 0.642± acres of BG to IG. This area was later rezoned back to BG, as listed in #4.
  8. Z-80-31 Kenneth W. Clendaniel rezoned 0.696± acres of BG to IG. This area was later rezoned back to BG, as listed in #4.

## **III. AGENCY COMMENTS:**

### **A. 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.

## **B. DELAWARE DIVISION OF PUBLIC HEALTH**

**Contact: William J. Milliken, Jr.**

These applications do not state if public water will be supplied. These projects may require the owner to obtain a *Certificate to Construct* from the Office of Engineering.

In order to obtain a Certificate to Construct, plans and specifications must be prepared by a registered Delaware professional engineer. Plans for the system, including water mains or extensions thereto, storage facilities, treatment works, and all related appurtenances, must be approved by the Office of Engineering prior to construction. A Certificate to Operate will be issued after all applicable requirements are met. Please contact Bill Milliken or Doug Lodge, PE, at (302) 741-8646 for further information.

## **C. KENT CONSERVATION DISTRICT**

**Contact: David C. Cahill**

**The reasons and conditions applied to this project and their sources are itemized below:**

**Source:** 2014 Delaware Sediment and Stormwater Regulations

**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.

## **D. KENT COUNTY DEVELOPMENT ADVISORY COMMITTEE**

**Kent County Department of Public Works, Engineering Division**

**Contact: Brian L. Hall**

**Requirement & Source**

1. Property is "legally" located in KCSDD1.
2. There is "technical", sewer service available to the property in the form of a gravity main and service lateral.
3. As this proposal proceeds, it must comply with all applicable requirements of the Kent County Code, specifically Chapters 128 and 180.
4. Depiction of all SS easement, right of way, and dedication areas.

**Comment:**

1. The Engineering Division grants "conditional approval".
- 2.

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

Ordinance LC17-07