



# Kent County

## Department of Planning Services Division of Planning

SARAH E. KEIFER, AICP  
Director of Planning Services

Phone: 302/744-2471  
FAX: 302/736-2128

### STAFF RECOMMENDATION REPORT July 6, 2017

<b>Ordinance</b>	:	LC17-15
<b>Application</b>	:	CZ-17-09 Rojan Investments
<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>	:	3.77± acres on east side of S Dupont Hwy. (US Rt. 13) across from the terminus of POW/MIA Pkwy, north of Camden

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#### 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 bordered on the north, south and west by existing commercial properties 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 BG zoning along Rt. 13 and by residential zoning to the east and southeast. The BG zoned properties to the north and south are active commercial uses. To the west, across Rt. 13, is vacant commercial ground that has been purchased by DelDOT to be used as part of the POW/MIA Parkway that is currently under construction. To the north of that site is the Rodney Village shopping center and to the south is Brecknock County Park. To the east are parcels zoned RMH (Residential Manufactured Home) and RS1 (Single Family Residential), but these areas have been purchased by DNREC and cannot be developed. The character of the surrounding area has not changed since zoning was established because the area is original commercial zoning 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 a non-residential area along Rt. 13 and this was the lone property to be zoned industrially (possibly due to a previous existing use). Many of these commercial properties were improved with a home, but over the years these homes have changed to match their commercial zoning and have businesses like retail stores or restaurants. This shows a pattern of increased commercial demand in this corridor meaning that changing the zoning map 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, south, and west 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 3.7 acres  $\pm$  for the subject site falls within the recommendation of the 2007 Comprehensive Plan, since no other commercial rezonings have occurred in this area.

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 use would need to be reviewed by the Kent Conservation District for drainage facilities and the State Fire Marshal for

compatibility with fire protection. The entrance design and location would need to be reviewed by the Department of Transportation. 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 residentially zoned properties in the area cannot be developed due to the fact they are owned by the State and are part of an active waterway.

## **II. BACKGROUND INFORMATION:**

- The site is currently improved with a vacant building.
- 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 or in the surrounding area similar to this request.
- A Support Facilities Request Form Response was returned from DeIDOT (see attached). It states that no TIS is required for the rezoning request, but may be when a land development plan is proposed.

## **III. AGENCY COMMENTS:**

### **A. KENT COUNTY DEPARTMENT OF PUBLIC WORKS –**

#### **Requirement & Source:**

1. Property is “legally” located in KCSDD1, Isaacs Branch Area.
2. There is existing, “technical” service 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”.

**B. STATE OF DELAWARE, DNREC, Delaware Division of Fish and Wildlife, Species Conservation and Research Program –**

Note that the proposed project is adjacent to Moores Lake, owned and managed by the Division of Fish and Wildlife (DFW), DNREC. If new activities are proposed, measures to protect water quality should be implemented (e.g. containing sediment during construction, implementing stormwater management measures that improve stormwater prior to discharge). Additionally, if new activities are proposed, please coordinate with the DFW Species Conservation and Research Program for further guidance.

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 LC17-09  
Service Level Evaluation Request dtd. 6/1/17