



Kent County

Department of Planning Services Division of Planning

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STAFF RECOMMENDATION REPORT September 7, 2017

Ordinance	:	LC17-16
Application	:	CZ-17-10 Callaway, Paul R.
Present Zoning & Comprehensive Plan Map Designation	:	AC (Agricultural Conservation) Low Density Residential
Proposed Zoning & Comprehensive Plan Map Designation	:	BG (General Business) Highway Commercial
Relation to Growth Zone	:	Inside
Area and Location	:	2.5± acres on the west side of S. DuPont Hwy. (US Rt. 13) and on the east side of Raughley Hill Rd. (Co. Rd. 405), approx. 305' south of Hopkins Cemetery Rd. (Co. Rd. 289), north of Harrington

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 and on the southeast 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 fronts along Rt. 13 and Raughley Hill Rd. and is surrounded with a mixture of commercial, residential and agricultural uses. Properties to the north and south, while commercially zoned, do appear to be predominantly vacant, with a majority of existing commercial development to the south. Properties northwest of the subject area, as well as the adjacent property southwest of the subject site, are zoned AC with a mixture of residential housing styles. Properties east and west are agricultural in nature. The character of the area has changed from primarily agricultural to incorporate some residential. However, despite the number of similar rezoning requests in this area, it does not appear that the commercial development has altered significantly. Since the adoption of the 2007 Commercial Areas Map 2-3, a total of 1.4 acres has been rezoned from BN (Neighborhood Commercial) to BG along the Rt. 13 corridor. The property is located inside of the Growth Zone.

- DeIDOT has determined that no Traffic Impact Study will be required at this time; however, due to the subject site's location along Rt. 13, a TIS may be required at time of subdivision or land development.
- The proposed rezoning 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 agricultural and residential area along Rt. 13, with the integration of some commercial based on its proximity to the City of Harrington and existing residential properties. However, the proposed rezoning request is a continuation of commercial zoning both north and south of the subject site. 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 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 2.5 acres \pm for the subject site falls within the recommendation of the 2007 Comprehensive Plan, since minimal commercial rezonings have occurred in this area since the adoption of this 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.*

While the subject site is located inside of the Growth Zone, County sewer is not available in this area. Any proposed use would need to be approved by DNREC for the establishment of appropriate utility services until such time as County sewer and central water become available in this area. Any proposed use must also be reviewed by 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 are adequate to serve this rezoning request.

- 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 are removed from the Rt. 13 corridor.

II. BACKGROUND INFORMATION:

- The subject site is currently unimproved.
- 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, and there have been several requests in the surrounding area similar to this:
 - CZ-17-08, on a site north of the subject site, north of Hopkins Cemetery Rd. along Rt. 13, approved for the rezoning of 8.8 acres from AC to BG.
 - Z-97-08, on a site northwest of the subject site along Hopkins Cemetery Rd., denied the rezoning of 5 acres from AC to BG.
 - Z-96-14, on a site south of the subject site, approved the rezoning of 1.65 acres from AC to BG.
 - Z-79-20, on a site south of the subject site, granted a modified approval on a rezoning request for 1.27 acres from AC to BG.
 - Z-73-17, on the same site as referenced above, approved the rezoning of 2.3 acres from AC to BG.
 - Z-98-09, on a site south of the subject site, approved the rezoning of .57 acres from AC to BG.
 - Z-90-28, on a site south of the subject site, approved the rezoning of 2.04 acres from AC to BG.
 - Z-92-26, on a site south of the subject site, approved the rezoning of 4.7 acres from AC to BG.

- Z-02-14, on a site south of the subject site, approved the rezoning of 2.4528 acres from AR to BG.
- Z-90-19, on a site south of the subject site, approved the rezoning of 1.78 acres from AC/AR to BG.
- CZ-16-02, on a site south of the subject site, approved the rezoning of 1.4 acres from BN to BG
- A Support Facilities Request Form Response was returned from DelDOT (see attached). It states that no TIS is required for the rezoning request, but may be required when a land development plan is proposed.

III. AGENCY COMMENTS:

A. KENT COUNTY DEPARTMENT OF PUBLIC WORKS – Brian L. Hall, Engineering Project Manager II

Requirement & Source:

1. N/A

Comment:

1. The Engineering Division grants “Approval with No Objection to Recordation”.

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

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
Exhibit D – Commercial Area Map 2-3
Ordinance LC17-16
Service Level Evaluation Request dtd. 8/10/17