

Kent County



Department of Planning Services

Division of Planning

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STAFF RECOMMENDATION REPORT

October 5, 2017

Application Number / Name	:	CS-17-09 / Jomak Mini Storage
Present Zoning District	:	BG (General Business)
Present Use	:	Agricultural
Proposed Use	:	Mini Storage
Size and Location	:	8.0253± 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

1. STAFF RECOMMENDATION:

The staff recommends **CONDITIONAL APPROVAL** based on the information submitted as the application demonstrates compliance with the conditions for approval as outlined in §205-316 Mini-warehouses (conditions attached to this report).

The staff offers additional requirements and recommendations, as follows:

A. Code Requirements:

1. Add the Kent County Planning Services file number CS-17-09 to the title block of the site plan.
2. The final plan must meet all requirements of both §187 and §205 of the Kent County Code and all items in the final plan column of Appendix D of §187. This may include items that are not specifically outlined in this report. This plan must gain final approval within **18 months** of the date of preliminary approval. Construction shall not commence and building permits shall not be issued until final plan approval is given. Furthermore, §187-41.C states that application for building permits must be made within 18 months of final approval. If no applications are received, the plan shall be considered invalid and a new application process will be required.

2. **WAIVER REQUESTS**

The applicant is requesting waivers from the following:

A. **§187-60.A Sidewalks**

“Sidewalks shall be installed along arterial and collector roadway frontage of a property by the owner or applicant of the property whenever such property is the subject of a subdivision or land development proposal which requires Regional Planning Commission or Levy Court approval.”

The subject site is located along Rt. 13., which is classified as a Principal Arterial by DelDOT’s Functional Classification of Delaware Roads (2016). Based on this classification, the installation of sidewalks is required to accommodate this and future development in the area. It is true that no sidewalks exist adjacent to the property currently, but the adjoining property to the south is zoned BG and would be required to construct the sidewalk. Additionally, there are upcoming rezoning requests to the north and south wherein, when developed, would also be required to build this infrastructure. With the changing character of this area from residential/agricultural to commercial it is prudent that this property be required to provide the sidewalk so that all future site plans also install them to ensure we get the connected pedestrian network that is the goal of the Code. Approximately 1,200 ft. south of the subject site two adjacent site plan applications were submitted in 2007 and 2013. Both of these projects installed the required sidewalk in order to beginning the process of providing this resource. We have attached an exhibit showing these details. Approving this request would invalidate the precedent previously set by the Commission. Therefore, staff recommends **denial** of this request.

B. **§187-74.D Tree Planting Requirements in Nonwoodlands**

“Outside the growth zone. For nonwoodland portions of development tracts, new trees shall be planted at a rate of one tree per 5,000 square feet of lot area for residential land development and one tree per 3,000 square feet of site area for nonresidential land development.”

The parking area would be constructed in the southeastern portion of the property and will include the required landscaping. The site also will provide the required roadway and residential property buffers. However, the applicant is seeking a waiver from §187-74, requesting a full waiver from the required 117 trees to be planted within the subject site.

As the subject site currently only has a stormwater area, the layout of the site does not have any physical limitations to providing the required additional tree plantings. The applicant

has chosen to design the site in a manner that precludes the planting of the required trees, so the hardship is entirely self-imposed. The current design does allow for possible areas for additional tree plantings. In the 75' front setback additional plantings can be placed to provide further buffering from the county road and the agricultural use across the roadway. Additionally there is area around the stormwater management facility to plant trees or bushes. Coordinating with the Conservation District to determine where and what could be planted around this facility will be necessary. In fact, this portion of the lot would be the best place on the property to plant trees, because of the following:

- 1) Residential private road shares this property line and producing a tree lined road could be a benefit to protect the residents that use it.
- 2) There are existing residential homes along Hopkins Cemetary Rd. to the southwest of the site, with the closest home being about 400 ft. away. Currently there is no planting buffer on this side of the property. Using these required trees to buffer the commercial use from these residences would be an appropriate use of these required plantings.

Given these factors, the staff recommends **denial** of the relief from the tree planting requirement.

3. ADEQUATE PUBLIC FACILITIES ORDINANCE

The Emergency Medical Services, School, and Central Water Service are not applicable to this application because those standards only apply to residential subdivision and land development.

With respect to the Roads element of the Adequate Public Facilities Ordinance, staff has determined that road capacity exists to serve the proposed development. The Ordinance provides that if a proposed land development meets any one of the following criteria, a Traffic Impact Study shall be conducted:

- a. The proposal exceeds the projected average daily traffic warrants provided in DelDOT's "Rules and Regulations for Subdivision Streets" as amended;
- b. The proposal is projected to generate more than more than fifty (50) peak hour trips, excluding traffic passing by the subject property, unless the project is located in a DelDOT Special Study Area or District as designated by mutual agreement between Kent County and DelDOT;
- c. The area of influence of the subject property includes roadway segments and intersections currently operating below the level of service D; or
- d. The proposed development causes the total number of dwelling units within the Traffic Analysis Zone (TAZ) to exceed the projected totals set forth in the Dover/Kent County MPO Transportation Improvement Plan.

Paragraph (d) deals with increasing the number of dwelling units within the TAZ. This application will not add any dwelling units to the TAZ and this paragraph is not applicable to this application.

The proposal is for a nonresidential land development and the applicant has indicated that the project will not generate more than fifty (50) peak hour trips. The applicant has indicated the Average Daily Traffic (ADT) will be no more than 120 daily trips and 12 peak hour trips. This would not require a Traffic Impact Study to be completed.

The ordinance provides that the area of influence shall extend beyond the site entrance to include additional intersections to the extent that the total projected peak hour site traffic exceeds 10% of the AADT on local roads. Hopkins Cemetery Rd. is considered a local road. DelDOT states that the 2016 AADT for this section is 1,126. Because the peak hour trips do not exceed one percent (10%) of the AADT (112.6), the area of influence does not extend beyond the site entrance.

The proposed project is compliant with the Adequate Public Facilities Ordinance.

4. BACKGROUND INFORMATION:

- The Kent County Comprehensive Plan recommends that the subject property be utilized for highway commercial purposes. The property is zoned BG (General Business District). This zoning district provides for mini-warehouses as a conditional use upon approval by the Levy Court through the Conditional Use/Site Plan process. If approved, this plan will comply with the Comprehensive Plan and the BG zoning district requirements.
- The subject site is currently being farmed but also contains the stormwater management area for the existing business to the south. The character of the surrounding area is a mix of residential, agricultural, and commercial uses. The business to the south is a contractor's establishment and there is a retail store on the south side of Hopkins Cemetery Rd. Immediately to the north and southwest are existing residential dwellings. To the east and west are active farms.
- The applicant met with a member of the Planning Staff in a pre-application meeting to review this land use application. The conditions which must be met as part of the Conditional Use/Site Plan approval process were discussed. The plan meets these minimal requirements minus the waiver requests discussed above.
- The Levy Court may add any necessary conditions to protect the health, safety, and welfare of the citizens of Kent County.
- The subject site will have 27 one-story mini-warehouse buildings with 64,800 total square feet.

5. AGENCY COMMENTS

A. 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.

B. KENT COUNTY, Kent County Department of Public Works, Engineering Division -

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

6. OWNER/DEVELOPER:

The owner/developer shall be aware of and be prepared to comply with all comments regarding this project stated in this report. All comments must be addressed in the final plan prior to final approval. Final approval of the plan must occur within 18 months from the date of preliminary plan approval. Failure to obtain final approval shall nullify the plan. Once the plan receives final approval, construction in accordance with the plan must occur within 18 months of final approval or the plan shall be deemed null and void. Letters of “No Objection to Final Approval” from the following agencies will be required prior to final approval:

1. DelDOT, Division of Highways
2. Kent Conservation District
3. Office of the State Fire Marshal

This recommendation was made 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
Conditions of Mini-Warehouses
Waiver Request and APFO letter dtd. 8/21/17
Staff Exhibit showing projects and sidewalk in area
Preliminary Site Plan