



Kent County

Department of Planning Services Division of Planning

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STAFF RECOMMENDATION REPORT June 7, 2018

Ordinance	:	LC18-06
Application	:	CZ-18-03 Smith/Packett Med-Com, LLC
Present Zoning & Comprehensive Plan Map Designation	:	BN (Neighborhood Business) Neighborhood Commercial
Proposed Zoning & Comprehensive Plan Map Designation	:	RM (Multi-Family Residential) High Density Residential
Area and Location	:	3.0 ± acres located on the northern side of E. Lebanon Rd. (DE Rt. 10), across from the intersection with Sorghum Mill Road (Co. Rd. 26), approximately 1,600' south of the entrance to Planters Run subdivision (N. Planters Ln.) , west of Dover
Tax Parcel Number	:	NM-00-086.00-01-31.00-000

I. STAFF RECOMMENDATION:

Based on the information presented, 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:

- The 3.0± acre unimproved subject property is currently zoned BN (Business Neighborhood) and the applicant is seeking to rezone the land to RM (Multi-Family Residential). If rezoned, the applicant plans to combine and develop this parcel together with the adjacent 4.4± acres that is zoned RM and bounds the subject site to the north. The subject site is bounded on the west by a narrow 40'± strip of open space for Grand Oaks subdivision, which separates it from the single family residential lots, all of which are zoned RS-1. The subject site is bounded on the east by open space for Planters Run

subdivision, which separates it from the single family residential lots, all of which are zoned RS-1.

- The Kent County Comprehensive Plan designates most of the surrounding area as Medium Density Residential.
- The Department of Transportation recommended that the proposed rezoning be considered without a TIS and evaluate the need for a TIS when a subdivision or land development plan is proposed.
- 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. The BN zoning application on this property was done in conjunction with the parcel to the north which was rezoned to RM in 2004. This area was originally planned with commercial uses along the Rt. 10 frontage and high density residential apartments to the rear. Prior to this, both parcels were zoned RS1 (Single Family Residential). This proposed rezoning request is a continuation of high density residential zoning on the parcel to the north that will be consolidated into one parcel and developed.

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 RM zoning district does not conform to the Comprehensive Plan, but the request for RM does conform with the parcel to the north and a residential zoning district will be better suited between existing developments than commercial zoning.

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 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 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 residential properties surrounding the site and the remaining commercial and industrial zoned properties in the area are located across the Rt. 10 corridor to the south.

II. **BACKGROUND INFORMATION:**

- The character of the surrounding area is predominantly medium density residential in nature, consisting of several residential subdivisions, including Planters Run, Grand Oaks, Windswept, and Pennwood located north of E. Lebanon Road. Twelve Oaks and Tidbury Manor are also located between S. State Street and the subject site, south of E. Lebanon Road. There are approximately 18.9 acres zoned IG (General Industrial) located directly across E. Lebanon Road from the subject site, contiguous to approximately 21.6 acres zoned BG (General Business), which is improved with a church and the Gateway South Shopping Center.
- There was one previous rezoning application on the subject site, CZ-04-13, which was approved and rezoned the property from RS-1 to BN. The same request also included a rezoning of the contiguous 4.4± acre parcel to the north of the subject site from RS1 to RM.

III. **AGENCY COMMENTS:**

A. **KENT COUNTY, DELAWARE DEVELOPMENT ADVISORY COMMITTEE** **Kent County Department of Public Works, Engineering Division** **Contact: Brian L. Hall**

Requirement:

1. Property is “legally” located in KCSDD1, Isaacs Branch area.
2. “Technically”, there are existing gravity mains in the vicinity of the proposal. It appears the proposal may be served by a gravity, sanitary sewer (SS) system.
3. Proposal must proceed in accordance with all applicable requirements of the Kent County Code, specifically Chapters 128 & 180.
4. Depiction of all SS easement, right-of-way and dedication areas.

Comment:

The Engineering Division grants “Conditional Approval”.

B. DNREC DIVISION OF FISH & WILDLIFE

Species Conservation and Research Program

Contact: Kate Fleming, Wildlife Biologist/Environmental Review Coordinator

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.

C. DELAWARE DEPARTMENT OF TRANSPORTATION

Contact: Joshua J. Schwartz

Comment:

1. DelDOT, Subdivision has no comments at this time.

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: Ordinance LC18-06

Data Sheet

Exhibit A – Location and Zoning map

Exhibit B – Comprehensive Plan Map

Exhibit C – Plot Plan

Support Facilities Report

PLUS Response Letter