

Kent County



Department of Planning Services Division of Planning

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STAFF RECOMMENDATION REPORT September 6, 2018

Application Number : C-18-06 Rivera, Efrain
Present Zoning District : AR (Agricultural Residential)
Present Use : Residential
Proposed Use : Same with Home Based Contractors Establishment
(*Landscaping Business*)
Property Identification Number : LC-00-037.04-01-03.00-000

I. STAFF RECOMMENDATION:

The staff recommends **APPROVAL** based on the information submitted, as the application demonstrates compliance with conditions outlined in Section §205-397.7 (Home-based Contractor Establishments, No Outdoor Storage.)

A. Code Requirements

1. The subject property shall remain the primary residence of the home-based contractor business and shall remain the primary residence of the owner of the business for the entire length of time that the business exists on the subject property.
2. Approval of a home-based contractor establishment shall be location-specific and shall not be transferable to another location.
3. Approval of a home-based contractor establishment shall be applicant/owner-specific and shall not be transferred or conveyed to another person without reapproval.
4. Except for vehicles already permitted by the parking regulations of Chapter 205, Zoning, all other vehicles and construction equipment shall be stored within a building.
5. Retail sale of goods and products shall be prohibited on the premises.
6. The hours of operation shall be limited to 7:00 a.m. and 10:00 p.m. as set forth in Section §205.397.7. Home-based contractor establishments, no outdoor storage.
7. The applicant is proposing to use the existing 396 sq. ft. attached garage and 144 sq. ft. hallway for the business. The code does not identify the maximum size an attached

garage can be to be used for a home based contractors establish, but for detached structures it allows a structure to be no larger than 5% of the lot area which on this 0.69± acre parcel would be 1,500 square feet.

8. The required setbacks for a detached garage used for a home based contractor are 15 ft. from the sides and at least 30 ft. beyond the rear elevation of the home. The code does not consider setbacks for an attached garage used for this business. The home and attached garage are considered legal non-conforming in their location on the lot since they were built prior to 1972.

II. BACKGROUND INFORMATION:

- The property at 6253 N Dupont Hwy. is a 30,000 sq. ft. parcel in the AR (Agricultural Residential) district that is currently improved by a dwelling, driveway, and attached garage.
- The character of the surrounding area is mainly residential in nature with residential dwellings existing to the north, south, and west of the subject site. The property about 250 ft. to the north is the location of the DE State Troopers Assoc. The farm across Rt. 13 is zoned BG (General Business), but is currently only improved with a billboard. Also on that side of Rt. 13 is a mini-storage business that is located approx. 700 ft. to the south.
- The applicant submitted application HP-18-13 to go through the administrative process for approval of this business. He notified 14 adjacent property owners and received eight no objections and two objections. Since he received the objections, the applicant applied for a conditional use.
- The reasons the neighbors objected to the business are:
 - “No company like this should be allowed on a residential property. This will bring property value down. Also in the last two months Mr. Rivera has shown lack of respect towards neighboring by riding around his house, parking in the backyard, starting up at 5:00 to 6:00 AM in the morning including Saturday and Sunday. I would like to speak to the Board before any decision. Thank you, Ronald T. Sawyer”
 - “We object Mr. Rivera’s request to have a home based landscaping business on his residential property. We feel that he should find a business location to park his equipment, as most business owner do are required to do. We feel that making a exception for him will only decrease the property values we, as neighbors, strive to improve. Also, he makes a lot of noise early in the morning as he prepares his equipment for the day.” From Sadie Drive Maintenance Corp.
- The applicant has stated that he runs his landscape business at this location, which includes his truck, trailer, and lawn care equipment. The applicant is aware that all items used for the business must be stored within the garage or home.

III. AGENCY COMMENTS

A. DELDOT

1. DelDOT has no comments at this time.

B. KENT COUNTY DEPARTMENT OF PUBLIC WORKS

Requirement & Source:

1. If the proposed business includes additional water using fixtures, the additional sewer impact fee and related assessments may be warranted.
2. There is an existing, sewer gravity main located at both the rear and northern property lines. Please contact this office to confirm the exact locations, to insure no conflicts.

Comment:

1. If the above items are applicable, then the KCPWD grants conditional approval.
2. If the above items are not applicable, then the KCPWD grants approval (with no objection to recordation).

IV. OWNER:

The owner shall be aware of and be prepared to comply with all comments regarding this project stated in this report. All comments must be addressed prior to having the violation be cleared.

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- Plot Plan