



# Kent County

## Department of Planning Services Division of Planning

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### STAFF RECOMMENDATION REPORT November 1, 2018

<b>Ordinance</b>	:	LC18-13
<b>Application</b>	:	CZ-18-07
<b>Applicant / Owner</b>	:	RO-Z Camden 113, LLC c/o Bob Aerenson 2213 Concord Pike. Wilmington, DE 19803
<b>Present Comprehensive Plan Designation</b>	:	Medium Density Residential
<b>Proposed Comprehensive Plan Designation</b>	:	Highway Commercial
<b>Present Zoning District</b>	:	RS1 (Single Family Residential)
<b>Proposed Zoning District</b>	:	BG (General Business)
<b>Relation to Growth Zone</b>	:	Inside
<b>Area and Location</b>	:	1.16 +/- acres (Area of Petition: <b>0.22 +/- acre</b> ) east of South DuPont Hwy. (US Rt. 13) between POW/MIA Parkway and South Taylor Dr., northeast of the Camden
<b>Kent County Property Identification Numbers</b>	:	ED-00-085.20-01-08.00.00-000

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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**:

- The property is currently zoned BG and RS1 within the Growth Zone, with adjoining parcels north and south of the subject property zoned BG. The property bordering the subject property to the south is zoned BG for its entire depth while the subject property is zoned BG in the front and RS1 in the rear. It is unlikely that the subject property would support residential development or the rear portion that is zoned RS1 since it is less than 100' in depth and the front is zoned BG.
- The Kent County Comprehensive Plan currently incorporates the front portion of the property for Highway Commercial, with the rear 100' of the property slated for "Medium Density Residential".
- The applicant is proposing that the .22 acres (of the 1.2 acre parcel) which adjoin the applicants BG zoned neighboring parcel to the south, be rezoned to BG in order to better market the property for Commercial development.
- Business uses for this property will be compatible with the business uses that are located nearby.
- The Delaware Department of Transportation has noted that Traffic Impact Studies (TIS) are warranted for developments generating more than 500 vehicle trip ends per day, or 50 vehicle trip ends per hour in any hour of the day. If the County approves this rezoning, they will revisit the need for a TIS when a subdivision or land development is approved.
- 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, but the character of the area has changed in a manner that was unexpected at the time the zoning was contemplated in this area. The adjacent property to the immediate south of the subject property is zoned BG for its entire 450' depth while the subject property is zoned BG for the first 250' of depth while the remaining < 100' is zoned RS1. The property immediately to the north of the subject property is similarly zoned BG for the first 250' of depth and RS1 for the remaining , 100' of depth, however there are no "residential" principal structures in the RS1 section of either the subject property or the neighboring property to the north.

Recent commercial development along this section of South DuPont Highway has evolved from single purpose commercial (small business) utilization to larger

mixed use structures housing either multiple tenants or larger business footprints. Typically these larger commercial spaces need to provide greater parking capacity adjacent to the highway, which requires a greater setback for the commercial structures.

- 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 partially conform to the 2018 Comprehensive plan. The front of the property is zoned BG, while the remaining property is designated for medium density residential uses; however it is in the Growth Zone which Kent County Code Chap. 205-397.2 A. (1) states “encompasses an area that Kent County has determined new development should be encouraged”. It would stand to reason that new development would be more likely with the proposed change of zoning for the rear of the subject property from RS1 to BG. In addition, this parcel has been identified within a Commercial Area in the 2018 Comprehensive Plan where new Commercial Development has been deemed to be appropriate.

- 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.*

The proposed re-zoning for its current use will not require additional public facilities since the property is currently serviced by KCSDD#1 and has access to public water supply.

While the property is being aggregated for potential Commercial development, there is adequate public water and sewer service available. Any new project would need to be reviewed by the Kent Conservation District for storm water impact and by the State Fire Marshall for fire suppression service. Additionally any new project would need to be reviewed by DelDOT given the proximity to the terminus of the POW Parkway (formerly known as the “West Dover Connector”).

- 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 other business properties to the west of the subject site, and the proposed rezoning would be consistent with the BG zoning of the neighboring properties. The sole single family dwelling to the north of the subject property is 180’ from the north property line of the subject

property and would not be adversely affected by the commercial development of the site.

## **II. BACKGROUND INFORMATION:**

- The site (currently vacant) was previously occupied by a commercial building which housed an antique shop. The previous principal structure and associated accessory structures were demolished in September of 2018. The property owner is currently proposing the creation of a larger commercial parcel utilizing the property adjacent to the south in conjunction with the development of the subject property. The re-zoned area would complete the BG zoning for the two adjacent parcels in their entirety along Rt. 13.
- The subject site is located within the Growth-Zone Overlay District.
- The character of the surrounding area is primarily BG with RS1 to the east of the commercial strip along South DuPont Highway. To the west is commercial development along South DuPont Highway, and to the south BG commercial development extends to Lebanon Road.
- There have been previous rezoning applications in the surrounding area:
  - CZ-17-09 (2-00-08520-01-0900-00001 3.5215 Acres rezoned from IG to BG. Approved 7/18/2017)
  - CZ-08-03 (7-00-09408-02-3600-00001 .59014 Acres rezoned from RMH to BG. Denied 1/29/2008)
  - Z-82-46 (7-00-08520-01-0300-00001 .50 acres rezoned from RMH to BG. Approved 12/28/1982)
- The application was not required to go through the **PLUS** process. The parcel is part of an area that has been designated as a commercial area in the current Comprehensive Plan.

## **III. AGENCY COMMENTS:**

### **A. Reviewing Agency: Delaware Department of Transportation**

**Contact: T. William Brockenbrough, Jr.**

1. DelDOT recommends that “this rezoning application be considered without a TIS and that the need for a TIS be evaluated when a subdivision or land development plan is approved.”

### **B. Reviewing Agency: Kent County Department of Public Works**

**Contact: Brian L. Hall**

1. Property is “legally” located in KCSDD1, Isaacs Branch area.
2. Property is “technically” served by an existing, gravity main located at the rear of the site.
3. This gravity main is situated in a Kent County sewer easement area.

4. Proposal must proceed in accordance with all applicable requirements of the Kent County Code, specifically Chapters 128 & 180.

**Comment:**

1. The Engineering Division grants “Conditional Approval”.

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 – Zoning and Location Map

Exhibit B – Comprehensive Plan Map

Exhibit C – Plot Plan

Exhibit D – Commercial Area

Support facilities request response from DelDOT dated July 19, 2018

Ordinance LC-18-13