

# Kent County

## Department of Planning Services Division of Planning

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### STAFF RECOMMENDATION REPORT November 1, 2018

<b>Ordinance</b>	:	LC18-14
<b>Application</b>	:	CZ-18-08 Eastern Woodland Holdings, LLC
<b>Present Zoning &amp; Comprehensive Plan Map Designation</b>	:	AC (Agricultural Conservation) Low Density Residential
<b>Proposed Zoning &amp; Comprehensive Plan Map Designation</b>	:	IG (General Industrial) Industrial
<b>Relation to Growth Zone</b>	:	Outside
<b>Area and Location</b>	:	125.16± acres ( <b>Area of Petition 18.322± acres</b> ) located on the east side of Horsepond Rd. approx. 1,700' southeast of Lafferty Ln, adjacent to Dover

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#### I. STAFF RECOMMENDATION:

Based on the information presented, the Kent County Code, and the Comprehensive Plan, Staff recommends a **Modified Approval** to 10 acres 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 site has been split zoned AC (Agricultural Conservation) and IG (General Industrial) since the inception of zoning within the County. In 2003, a 15.5528± acre portion of the property was rezoned from AC to IG. This petition is for the rezoning of an additional 18.322± acres from AC to IG. The 2018 Comprehensive Plan designates this area as an Employment Center and given this designation, City of Dover and County staff recommend a reduction of the IG zoning to 10 acres by eliminating the easterly 8.322± acres. It is anticipated that an additional zoning category more suited to taking advantage of the future Joint Use Agreement with DAFB or annexation into the City of Dover would be more appropriate pending ratification of this agreement.

- The area of petition is 18.322± acres located in the southwestern corner of the property and will be accessed from Horsepond Road via an entrance from Parcel ED-05-078.00-01-07.00-000 which is in the City of Dover. Staff recommends reducing this zoning by eliminating the easterly portion of the requested area, keeping the 10 acres more closely parallel with Horsepond Road (See Exhibit E).
- The property surrounding the Area of Petition is primarily industrial along Horsepond Road and agricultural to the east. There is a limited area of residential sites along the western side of Horsepond Road and within the City of Dover. One 2-acre residential site is landlocked and completely surrounded by the subject property.
- The 2018 Comprehensive Plan designates this parcel as Industrial and Low-Density Residential. However, based upon the existing land uses in the area and the availability of existing infrastructure, the 2018 Comprehensive Plan also designates this area as a future Employment Center. Employment Centers are located in areas where infrastructure - particularly highway access and public sewer - exists or is planned and are intended for uses that create jobs. Offices of all types and industrial development are the types of uses contemplated: The proposed entrance to the Area of Petition is approximately 1 mile from the Little Creek Exit of Delaware Route 1, and although not part of Kent County's Sewer District, the adjacent properties within the City of Dover are all Municipal Contract Users.
- The area of petition is impacted by AICUZ noise contours being split between the 65 and 70 decibel noise contours. Given these impacts, certain interior noise level reductions may be required under the provisions of Section 205-397.1 for any new construction that may be contemplated.
- DelDOT has determined that no Traffic Impact Study will be required at this time; however, a TIS may be required at time of 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. However, the character of the neighborhood has changed to a sufficient degree that the Zoning Map should be changed. The adjacent uses along Horsepond Road are predominantly industrial and commercial, and carry appropriate zoning for these uses. With the addition of the AICUZ regulations, as well as Kent County's supporting regulations found at §205-397.1, this property – although it could continue to be tilled – would not be suitable for any residential development.

- 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 IG zoning classification does not conform to the Land Use Map of the 2018 Comprehensive Plan, but this site has been identified as a future Employment Center on Map 7C which targets this land for non-residential zoning. This designation was based on the site's close proximity to Delaware Route 1 and the City of Dover Sewer District, along with the industrial character of the surrounding area. Employment Centers are contemplated for office and industrial uses that create jobs.

- 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.*

Transportation facilities, water and sewerage systems, storm drainage systems, schools, and fire suppression facilities adequate to serve the proposed use are in existence or are proposed for construction. The infrastructure in the area is within the City of Dover jurisdiction and the applicant may pursue annexation to obtain these services. If the rezoning is approved, any application will be reviewed by State agencies for comments and recommendations regarding construction or improvement of the facilities listed above.

- 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 among the use of the property as reclassified and surrounding land uses which would promote the health, safety and welfare of present and future residents of the County. Any use in the proposed district would be most suitable in an area of other industrial/commercial type uses where there is very little likelihood for future residential development.

## **II. BACKGROUND INFORMATION:**

- The total subject site is 125.16± acres. 15.5528± acres of the site are utilized by a Concrete, Asphalt, and Wood Recycling Facility, which was approved in 2009 as a Conditional Use with Site Plan (CS-09-03). The remaining 109.6072± acres are unimproved agricultural land.
- The site is outside the Growth Zone Overlay District and is bounded on the north by lands within the City of Dover. Adjacent lands west of the property include 9.1± acres zoned IG, 1.3± acres zoned BG, 3.1± acres zoned AC, and 4 parcels within the City of Dover. Adjacent lands south of the property include 88.1 ± acres zoned AC and 1 parcel within the City of Dover. The eastern property line abuts 168.9± acres zoned AC.

- There has been one previous rezoning application on the subject site. CZ-03-13 approved the rezoning of 15.5528± acres from AC (Agricultural Conservation) to IG (General Industrial).
  
- There have been several similar rezoning requests in the surrounding area:
  - Z-72-52 on a site west of and adjacent to the subject site along Horsepond Road approved the rezoning of 12.19 acres from AC and IL to IG. This parcel was later annexed into the City of Dover.
  - Z-85-45 on a site south of the subject site located off of Horsepond Road and along Starlifter Avenue approved the rezoning of 115.741 acres from AC to IG. This parcel was later annexed into the City of Dover.
  - Z-94-06 on a site west of and adjacent to the subject site along Horsepond Road approved the rezoning of 3.18 acres from AC to IL; Z-12-01 later rezoned the same property from IL to IG.
  
- 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, ENGINEERING DIVISION Brian L. Hall, Engineering Project Manager II**

##### **Requirement & Source:**

1. N/A

##### **Comment:**

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

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 LC18-14  
Data Sheet  
Exhibit A – Location and Zoning map  
Exhibit B – Comprehensive Plan Map  
Exhibit C – Plot Plan  
Exhibit D – Employment Zone Layer  
Exhibit E – Staff Recommendation  
Support Facilities Report