

Kent County



Department of Planning Services Division of Planning

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STAFF RECOMMENDATION REPORT September 5, 2019

Application Number	:	CS-19-04 Rose Industries
Present Zoning District	:	BG (General Business)
Relation to Growth Zone	:	Inside
Present Use	:	Vacant
Proposed Use	:	Contractors Establishment/Outside Storage (Maintenance Shop/Yard with Office)
Area and Location	:	8.1 +/- acres west of South DuPont Highway (Route 13) between Plymouth Road and Andrews Lake Road, north of Felton.
Property Identification Number	:	SM-00-129.01-01-60.00-00001

I. STAFF RECOMMENDATION:

The staff recommends **APPROVAL** based on the information submitted, as the application demonstrates compliance with conditions outlined in Section §205-282 (Contractor Establishments/Outside Storage).

A. Conditions of this use shall be as follows:

1. Storage of all vehicles and construction equipment shall be behind the building setback line.
2. All fabricating shall be enclosed within a building.
3. All outdoor storage visible from access streets and adjacent properties shall be screened from view.
4. Off-street parking shall be provided in accordance with Article XVII, Parking.
5. All requirements, regulations and recommendations submitted by any agency member of the Development Advisory Committee shall be satisfied.

6. The reviewing body may impose any appropriate or more stringent conditions it deems necessary to protect the health, safety and welfare of the neighborhood

B. Requirements:

1. The existing sign frame cannot be used for “off-premise” advertising. Signage must comply with Chap. 206-236.
2. To use on-site septic a waiver must be provided from the Kent County Public Works Department as specified in Chap. 187-53 D (3).
3. If the fence around the storage area is to have barb wire, it must comply with Chap. 205-35 B. (1) and must be 6’ tall (not 5’).

II. WAIVER REQUEST:

The client submitted a waiver request on 8/16/2019 asking that the required installation of a sidewalk from the proposed frontage sidewalk to the proposed building be waived. Staff recommends **denial** of the waiver request for the following reasons:

- Chapter 187-60 of the Kent County Code establishes design criteria for residential and non-residential sidewalks.
 - Chap. 187-60 A: “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.”
 - Chap. 187-60 B: “In nonresidential land developments, sidewalks shall be constructed along private access from the frontage sidewalk required in Chap. 187-60A above, to existing and proposed buildings on the premises. Sidewalks shall be designed and situated so as to provide pedestrian linkages from parking lots to building entrances and between buildings and groups of buildings on the premises.”
- Chapter 187-80 of the Kent County Code defines “unusual conditions” that would allow for the granting of a waiver specifically referencing “unusual topography or other conditions which are not self-imposed or that these conditions would result in inhibiting the achievement of the objectives of these regulations”.
 - The subject property is a vacant relatively flat site that does not exhibit “unusual topography”.
 - The sidewalk at the front of the property should be connected by a sidewalk to the principal structure in order to provide safe pedestrian access other than walking in the driveway or across the lawn.
 - Granting a waiver would have the effect of nullifying the intent and purpose of this chapter and would be contrary to the goals and objectives of the Comprehensive Plan for the County.

III. 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 peak hour trips will be 13 trips. This would not require a Traffic Impact Study to be completed.

Chapter 187-90.2 F (3) (f) states that the "Area of influence shall extend beyond the site entrance if the projected peak hour site traffic exceeds "One percent of the annual average daily traffic on the intersecting road if it is an arterial road". The intersecting road (DuPont Highway Rt. 13) has a road segment AADT of 34,678, and 1% of that AADT would be 35, so the projected peak hour trips of 13 would be less than 1% of the AADT (35).

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

IV. BACKGROUND INFORMATION:

- The 8.1± acre site is currently vacant, and was previously occupied by a drive in movie facility. The site consisted of an outdoor movie screen and projection building, a ticket booth at the entrance to the property and parking isles to accommodate vehicles facing the movie screen. A "Roller Rink" on the property was demolished in 2016. The applicants are aware of and are willing to meet the requirements listed above.
- There have been no previous land use applications on the subject property.

- There have been seven similar requests in the nearby area:
 - **CS-96-02** approved accessory outdoor storage for “Seafood City”, a restaurant.
 - **CS-97-08** approved an auction facility south of the subject site, known as Delaware Auto Exchange.
 - **C-98-03** approved a winery behind and south of the subject site which also operates as a wedding venue known as “Pizzadili Winery”.
 - **CS-02-11** approved a self-storage facility on S. DuPont Highway south of the subject property known as “Central Park Storage”.
 - **CS-03-15** approved a contractors establishment on the east side of S. DuPont Highway south of the subject site known as “J&J Building Materials”.
 - **CS-04-13** approved a contractors establishment on the east side of S. DuPont Highway known as “MKJ Enterprises”.
 - **CS-15-03** approved conditional use with site plan immediately south of the subject site for expansion of the “Central Park Storage” facility referenced above (**CS-02-11**).

V. **AGENCY COMMENTS**

A. **DELDOT**

1. The developer and engineer should schedule a meeting with DelDOT to begin the plan review process.

B. **PUBLIC WORKS**

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

VI. **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 in the final plan prior to final approval. Letters of “No Objection to Final Approval” from the following agencies will be required prior to final approval:

- A. DelDOT, Division of Highways
- B. Kent Conservation District
- C. Office of State Fire Marshal
- D. DNREC, All applicable divisions

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
Waiver Request Letter dated 8/16/19
Preliminary Site Plan