

Kent County

Department of Planning Services Division of Planning

SARAH E. KEIFER, AICP
Director of Planning Services

Phone: 302/744-2471
FAX: 302/736-2128

KRISTOPHER S. CONNELLY, AICP
Assistant Director of Planning Services

STAFF RECOMMENDATION REPORT June 2, 2022

Ordinance	:	LC22-13
Application Number	:	CZ-22-05 Shrihari, LLC
Present Zoning / Comp Plan Map Designation	:	AR (Agricultural Residential) & BG (General Business) / Low Density Residential & Highway Commercial
Proposed Zoning / Comp Plan Map Designation	:	BG (General Business) / Highway Commercial
Relation to Growth Zone	:	Outside
Area and Location	:	1.1 ± acres (Area of Petition 0.59 ± acre) located on the north side of Halltown Road approximately 107 ft. west of Pearsons Corner Road and approximately 262 ft. east of Hartly Road, east of Hartly and west of Dover

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 proposed rezoning does meet the conditions for approval of a zoning change under Kent County Code Section 205-408(B):

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 original zoning of the entire parcel was AR. In 1973, two applications were approved that rezoned 0.6 ± acre from AR to BG, leaving 0.59 ± acre of original AR zoning. The character of the neighborhood is predominantly a mixture of highway commercial and general industrial uses centered around the intersection of Halltown Road/Forrest Avenue and Pearsons Corner Road, with surrounding low-density residential and agricultural zoning. Since 1972, eight applications for rezoning in the immediate vicinity have been approved, resulting in 15.799 ± acres of additional BG zoning which has ultimately changed the character of the neighborhood.

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 Future Land Use Map (7-B) of the 2018 Kent County Comprehensive Plan indicates that the subject site be utilized for low-density residential purposes. However, the Land Use Strategy Map (7-C) reflects a long term development strategy where specific mixed use, higher density, commercial, industrial, and employment center development could be supported, provided it is in keeping with the character of the area and adequate infrastructure is in place or planned to serve it. Map 7-C recommends Neighborhood Commercial use for the subject site. The Land Use Chapter of the Comprehensive Plan states the following:

Rezoning applications in keeping with the descriptions of these areas would be considered compliant with the Comprehensive Plan and should be supported. While the Regional Planning Commission and Levy Court should use Map 7-C as a guide in evaluating applications for rezoning, the standards included in the Zoning Ordinance regarding compatibility with surrounding land uses and availability of infrastructure remain in effect and should have equal weight in rezoning property.

Based on the existing split-zoning of the parcel as well as the character of the surrounding area, the rezoning request is reasonable. Adjacent parcels located to the north, south, east and west of the subject site are zoned BG. In addition, the parcels encompassing the remaining three corners of the intersection of Halltown Road/Forrest Avenue and Pearsons Corner Road are also zoned BG, for a total of approximately 17.59 ± acres of highway commercial use in the immediate vicinity. Interspersed with the existing BG zoning are approximately 7.1 ± acres of general industrial zoning and uses.

- 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: Halltown Road/Forrest Avenue is an arterial roadway designed to accommodate commercial traffic. Pearsons Corner Road is a minor collector.

Water & Sewerage Systems: Tidewater offers central water service to the parcels located on the northern side of Halltown Road/Forrest Avenue. The subject site is not located within the Kent County Sanitary Sewer District, and utilizes an existing onsite septic system.

Storm Drainage Systems & Fire Suppression Facilities: Any new project would need to be reviewed by the Kent Conservation District for stormwater impact and by the State Fire Marshall for fire suppression service.

- 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. The southeastern corner of the parcel is currently zoned for highway commercial use, and this rezoning, if approved, would eliminate the split-zoning of the site. Additional highway commercial uses would complement and support the nature of the area along Forrest Avenue/Halltown Road, which is predominantly commercial and industrial.

Further, the Delaware Office of State Planning Coordination concurred with Kent County's determination that Map 7-C in the Comprehensive Plan designates the area as a future "Neighborhood Commercial" use, and therefore the proposed rezoning is consistent with the goals of the plan and is a

unique circumstance that will not set a precedent for surrounding properties. Based on this determination, no PLUS review was required for the project.

II. BACKGROUND INFORMATION:

- The subject site is approximately 1.1 ± acre total, with a petition area consisting of 0.59 ± acre. The southeastern corner of the parcel consisting of approximately 0.51 ± acre is zoned BG (General Business). The site is currently improved with a vacant commercial building that was assessed in 2009 as being 3,280 sq. ft. in area.
- The subject site is located outside the Growth-Zone Overlay District.
- The character of the surrounding area is predominantly commercial and industrial in nature in the immediate vicinity of the intersection of Halltown Road/Forrest Avenue and Pearsons Corner Road, with approximately 17.59 ± acres of highway commercial zoning and uses, and approximately 7.1 ± acres of industrial zoning and uses. The subject site is adjacent to 0.11 ± acre of AR zoning to the east, and shares a boundary approximately 33' in length with a 2.6 ± acre parcel zoned AR to the north. Otherwise, the parcel is surrounded by BG zoning. The parcel fronts Halltown Road and a vacant adjacent parcel, approximately 0.26 ± acre, to the east is under the same ownership as the subject site, connecting the subject site to Pearsons Corner Road.
- There have been six (6) similar rezoning applications in the immediate vicinity:
 - Z-76-04 approved the rezoning of 0.79 acre located west of the subject site, from AR to BG in 1976
 - Z-91-18 approved the rezoning of 0.399 acre located northeast of the subject site, from AR to BG in 1991
 - Z-91-19 approved the rezoning of 1.0 acre located northeast of the subject site, from AR to BG in 1991
 - Z-99-23 approved the rezoning of 4.99 acres located south of the subject site, from AR to BG in 1999
 - CZ-04-05 approved the rezoning of 3.12 acres located east of the subject site, from IG to BG in 2004
 - CZ-22-02 approved the rezoning of 4.9 acres located southeast of the subject site, from AR to BG in 2022

III. AGENCY COMMENTS:

A. KENT COUNTY DEPARTMENT OF PUBLIC WORKS

Contact: Brian L. Hall, Engineering Project Manager II

Requirement:

1. Kent County sanitary sewer is currently not “legally” and not “technically” available.

Comment:

1. The Engineering Division grants “Approval” (with No Objection to Recordation), based on the above/prior Requirement.

B. DELAWARE DEPARTMENT OF TRANSPORTATION

Contact: Joshua J. Schwartz

Comment:

1. No comment to the rezoning request.
2. DeIDOT issued a Letter of No Impact on April 20, 2022 for this tax parcel.

IV. OWNER/APPLICANT:

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 LC22-13
Data Sheet
Exhibit A – Location and Zoning Map
Exhibit B – Comprehensive Plan Map
Exhibit C – Rezoning Area
Exhibit D – Rezoning Area
Support Facilities Request Response from DeIDOT
PLUS responses (dated May 23, 2022)

INTRODUCED BY: Eric L. Buckson
DATE INTRODUCED: September 14, 2021
PUBLIC HEARING DATE: June 28, 2022
PUBLIC HEARING TIME: 7:00 P.M.
ADOPTION DATE: _____
EFFECTIVE DATE: Upon Adoption

ORDINANCE LC22-13

An Ordinance to amend the Comprehensive Plan Map Designation and the Official Zoning Map of Kent County, Delaware pursuant to the provisions of Kent County Code, Vol. II, Chapter 205 Zoning, Article III, Section 205-8 and Section 205-9, and Article XXVIII (changes and amendments) effective December 01, 2000, as amended.

WHEREAS, on the 11th day of April, 2022 an application was filed by property owners of record known as Shrihari, LLC., for rezoning of Tax Parcel; WD-00-074.00-01-13.00/000; which application has been designated as Application No. CZ-22-05 and,

WHEREAS, a Public Hearing will be scheduled before the Regional Planning Commission and

WHEREAS, a Business Meeting will be scheduled before the Regional Planning Commission beginning and

WHEREAS, a Public Hearing will be scheduled before the Levy Court.

NOW, THEREFORE, THE LEVY COURT OF KENT COUNTY, DELAWARE, HEREBY ORDAINS:

Section 1. The Comprehensive Plan Map for Kent County, Delaware is hereby amended by revising the land use designation for Tax Parcel; WD-00-074.00-01-13.00/000; from Low Density Residential & Highway Commercial to Highway Commercial. The referenced Tax Parcel forms the area of 1.0 Acres +/- of land (Area of Petition: 0.59 +/- Acres) located on the north side of Halltown Rd. approximately 107 ft. west of Pearsons Corner Rd and approximately 262 ft. east of Hartly Rd., east of Hartly and west of Dover.

Section 2. That the Official Zoning Map of Kent County, Delaware is hereby amended by rezoning Tax Parcel; WD-00-074.00-01-13.00/000; from AR (Agricultural Residential) & BG (Business General) to BG (Business General). The referenced Tax Parcel forms the area of 1.0 Acres +/- of land (Area of Petition: 0.59 +/- Acres) located on the north side of Halltown Rd. approximately 107 ft. west of Pearsons Corner Rd and approximately 262 ft. east of Hartly Rd., east of Hartly and west of Dover.

Section 3. The provisions of this Ordinance are severable and if any of its provisions or any sentence, clause, or paragraph or the application thereof to any person or circumstance shall be held unconstitutional or violative of the Laws of the State of Delaware by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions which can be given effect without the invalid provision or application.

ADOPTED BY THE LEVY COURT
OF KENT COUNTY, DELAWARE

President, Kent County Levy Court
This _____ Day of June 2022

ATTEST: _____
Clerk of the Peace

Synopsis: This ordinance revises the Comprehensive Plan Map land use designation, and the Official Zoning Map for Tax Parcel; WD-00-074.00-01-13.00/000; for Commercial development.

Kent County



Department of Planning Services

Division of Planning

SARAH E. KEIFER, AICP
Director of Planning Services

KRISTOPHER S. CONNELLY, AICP
Assistant Director of Planning Services

Phone: 302/744-2471
FAX: 302/736-2128

DATA SHEET FOR ZONING MAP AMENDMENT

Regional Planning Commission Public Hearing of: **Thursday, June 2, 2022**

Regional Planning Commission Business Meeting of: **Thursday, June 9, 2022**

Levy Court Public Hearing of: **Tuesday, June 28, 2022**

Ordinance #	:	LC22-13
Application # and Name	:	CZ-22-05 Shrihari, LLC
Applicant / Owner	:	Shrihari, LLC 1799 Windswept Circle Dover, DE 19901
Additional Contact	:	Charles Rodriguez 46 S. State Street Dover, DE 19901
Present Zoning / Comp Plan Map Designation	:	AR (Agricultural Residential) & BG (Business General) / Low Density Residential & Highway Commercial
Proposed Zoning / Comp Plan Map Designation	:	BG (Business General) / Highway Commercial
Relation to Growth Zone	:	Outside
Levy Court District	:	2 nd - Hall
School District	:	Capital
Fire District	:	Hartly
Area and Location	:	1.0 ± acre (Area of Petition 0.59 ± acre) located on the north side of Halltown Road approximately 107 ft. west of Pearsons Corner Road and approximately 262 ft. east of Hartly Road, east of Hartly and west of Dover
Kent County Property Identification Number	:	WD-00-074.00-01-13.00-000



Kent County Levy Court

LOCATION AND ZONING MAP Exhibit A

Application: CZ-22-05
Shrihari, LLC

APPLICANT/OWNER:
Shrihari, LLC

**PRESENT COMPREHENSIVE PLAN
MAP DESIGNATION:**
Low Density Residential & Highway
Commercial

**PROPOSED COMPREHENSIVE
PLAN MAP DESIGNATION:**
Highway Commercial

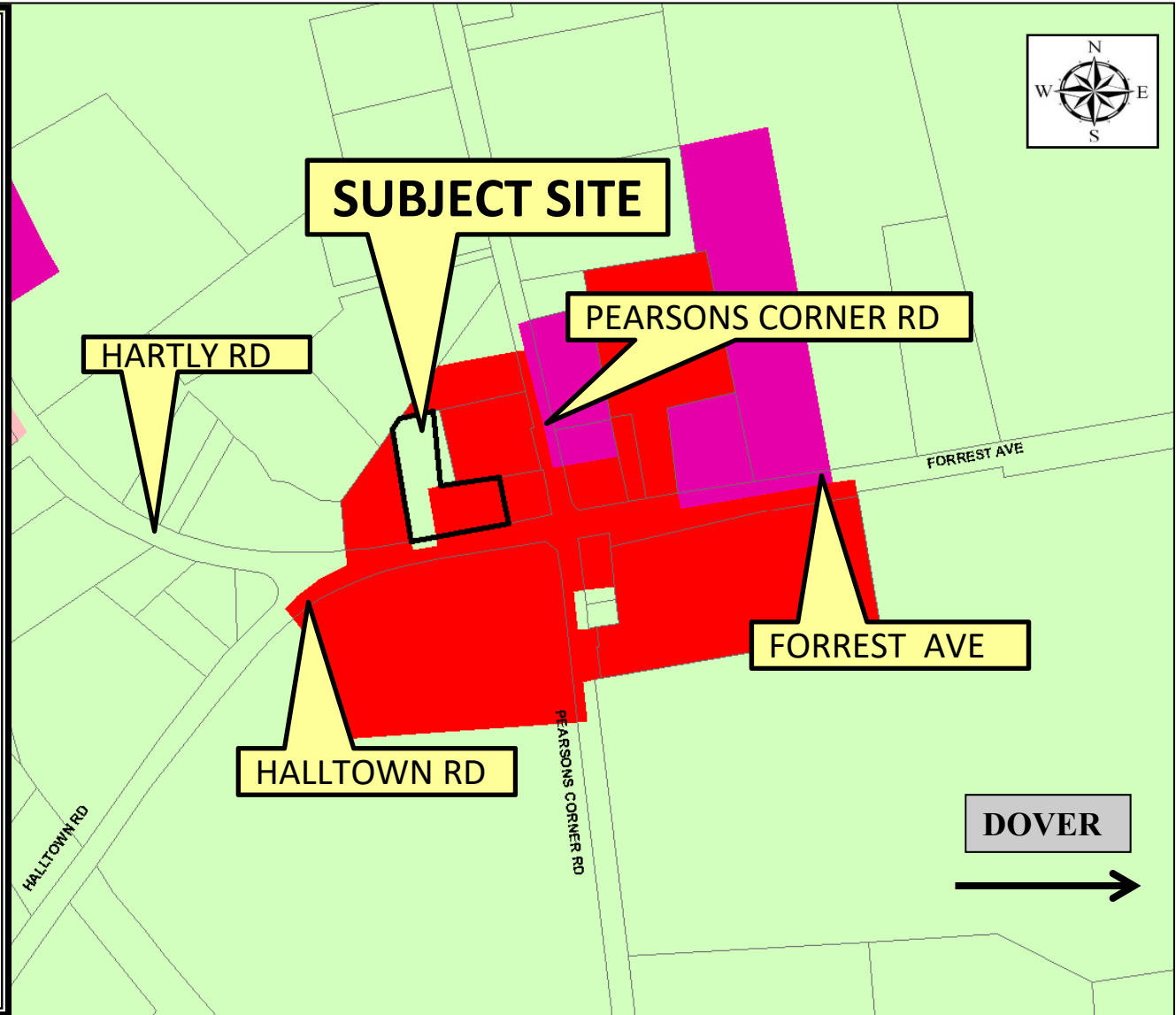
PRESENT ZONING DISTRICT:
AR (Agricultural Residential) &
BG (Business General)

PROPOSED ZONING DISTRICT:
BG (Business General)

LEVY COURT DISTRICT:
2nd - Hall

TAX MAP NO:
WD-00-074.00-01-13.00-000

LOCATION:
1.0 ± acre (Area of Petition 0.59 ± acre)
located on the north side of Halltown
Road approximately 107 ft. west of
Pearsons Corner Road and approximately
262 ft. east of Hartly Road, and west of
Dover





Kent County Levy Court

COMPREHENSIVE PLAN Exhibit B

Application: CZ-22-05
Shrihari, LLC

APPLICANT/OWNER:

Shrihari, LLC

**PRESENT COMPREHENSIVE PLAN
MAP DESIGNATION:**

Low Density Residential & Highway
Commercial

**PROPOSED COMPREHENSIVE
PLAN MAP DESIGNATION:**

Highway Commercial

PRESENT ZONING DISTRICT:

AR (Agricultural Residential) &
BG (Business General)

PROPOSED ZONING DISTRICT:

BG (Business General)

LEVY COURT DISTRICT:

2nd - Hall

TAX MAP NO:

WD-00-074.00-01-13.00-000

LOCATION:

1.0 ± acre (Area of Petition 0.59 ± acre)
located on the north side of Halltown
Road approximately 107 ft. west of
Pearsons Corner Road and approximately
262 ft. east of Hartly Road, and west of
Dover

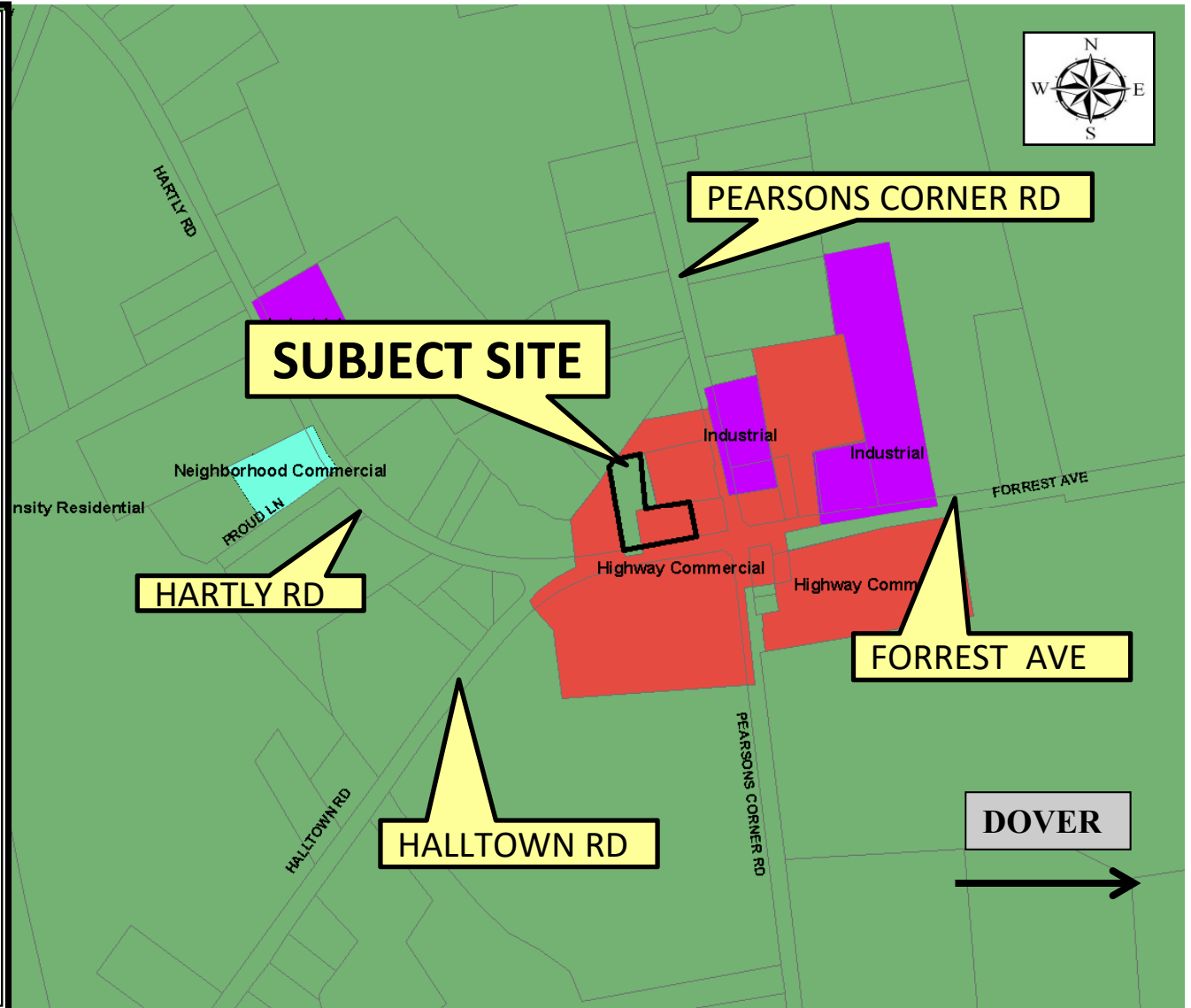
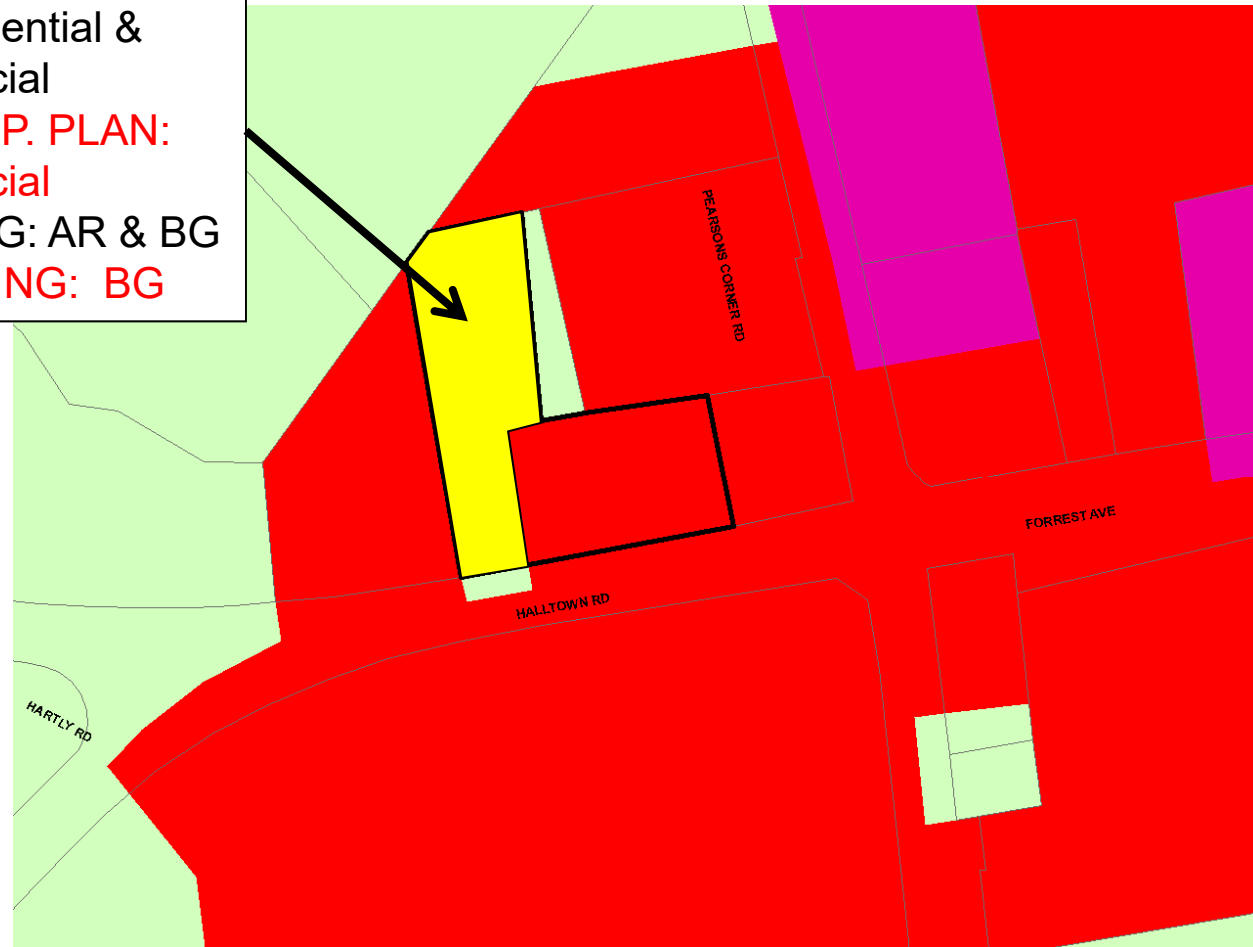


Exhibit C

Application: CZ-22-05
Shrihari, LLC

PRESENT COMP. PLAN:
Low Density Residential &
Highway Commercial
PROPOSED COMP. PLAN:
Highway Commercial
PRESENT ZONING: AR & BG
PROPOSED ZONING: BG

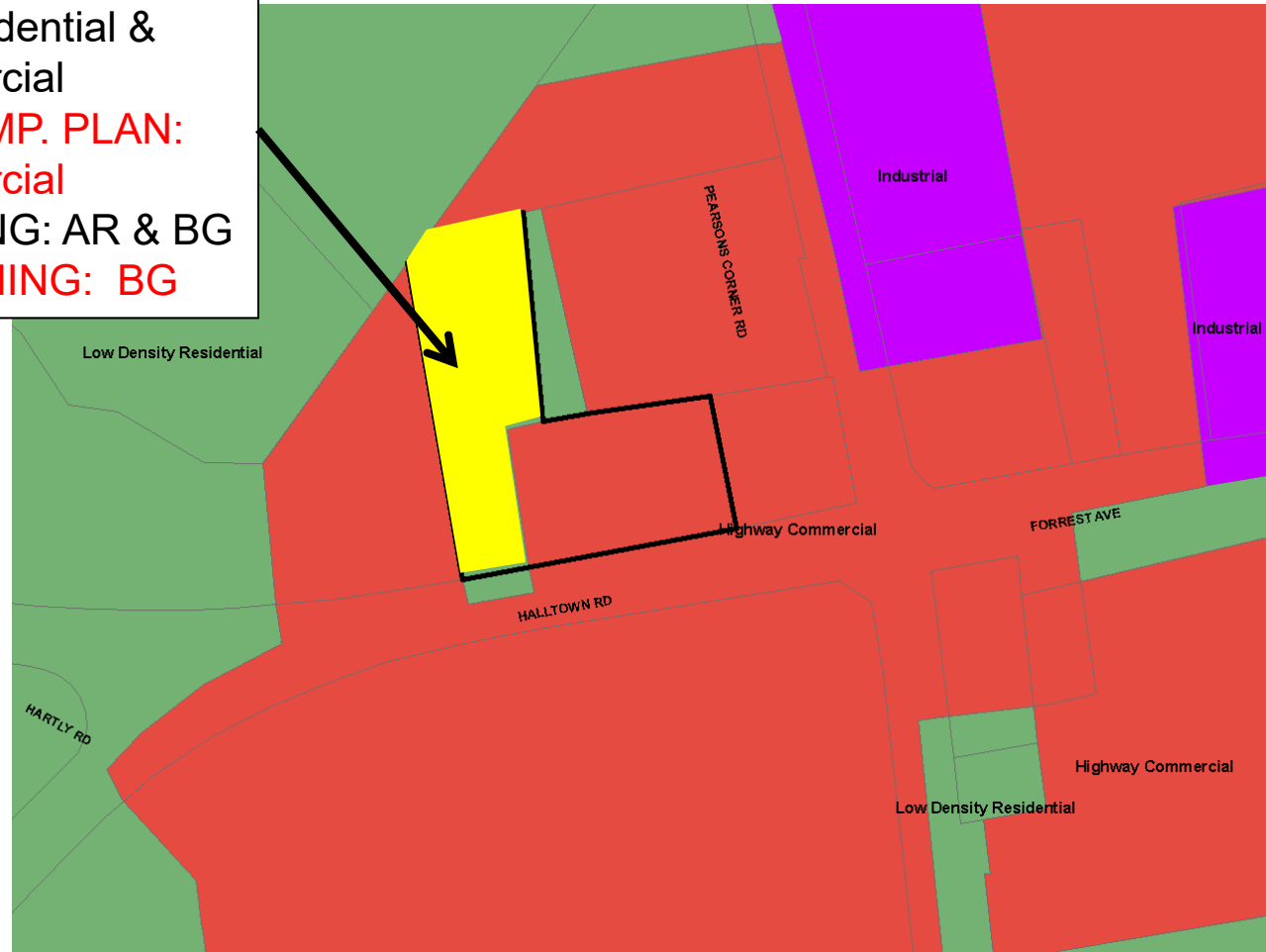


REZONING AREA

Exhibit D

Application: CZ-22-05
Shrihari, LLC

PRESENT COMP. PLAN:
Low Density Residential &
Highway Commercial
PROPOSED COMP. PLAN:
Highway Commercial
PRESENT ZONING: AR & BG
PROPOSED ZONING: BG



REZONING AREA



STATE OF DELAWARE
DEPARTMENT OF TRANSPORTATION
800 BAY ROAD
P.O. BOX 778
DOVER, DELAWARE 19903

NICOLE MAJESKI
SECRETARY

May 18, 2022

Mr. Kris Connelly
Planner, Kent County Department of Planning Services
Kent County Complex
555 Bay Road
Dover, DE 19901

Dear Mr. Connelly:

The Department has completed its review of a Service Level Evaluation Request for the **Dinish Patel Shrihari, LLC** rezoning application, which we received on April 21, 2022. This application is for an approximately 1.00-acre parcel (Tax Parcel: 9-00-07400-01-1300-000). The subject land is located on the north side of Halltown Road (Kent Road 50) approximately 120 feet west of the intersection with Pearsons Corner Road (Kent Road 101). The subject land is currently split-zoned as AR (Agriculture Residential) and BG (General Business) with a proposed zoning of BG (General Business) for the entire parcel for a used car dealership.

Per the 2019 Delaware Vehicle Volume Summary, the annual average daily traffic volume along the segment of Halltown Road, which is from Forest Avenue (Kent Road 51) to Slaughter Station Road (Kent Road 182), is 7,979 vehicles per day.

Our volume-based criteria for requiring a traffic impact study (TIS), addressed in Section 2.2.2.1 of the Development Coordination Manual, are that a development generates more than 500 trips per day or 50 trips during a weekly peak hour. While it seems that the above criteria could be met, we presently cannot predict the site's trip generation with enough accuracy to make a TIS useful. Thus, we recommend 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 proposed.

Mr. Kris Connelly

Page 2 of 2

May 18, 2022

Please contact Ms. Annamaria Fumato at Annamaria.Fumato@delaware.gov if you have questions concerning this correspondence.

Sincerely,



Claudy Joinville
Project Engineer
Development Coordination

CJ:afm

CC: Dinish Patel Shrihari, LLC, Applicant
Michele Green, Kent County Department of Planning Services
David Edgell, State Planning Coordinator, Cabinet Committee on State Planning Issues
Todd Sammons, Assistant Director, Development Coordination
Erin Osborne, Central District Public Works Manager, Central District
T. William Brockenbrough, Jr., County Coordinator, Development Coordination
Olayiwola Okesola, Kent County Review Coordinator, Development Coordination
Joshua Schwartz, Kent County Subdivision Manager, Development Coordination
Ryan Schroder, Kent County Subdivision Manager, Development Coordination
Jeff Steward, Central District Project Reviewer, Maintenance & Operations
Annamaria Fumato, Project Engineer, Development Coordination