



Kent County

Department of Planning Services Division of Planning

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STAFF RECOMMENDATION REPORT December 1, 2022

Ordinance	:	LC22-22
Application Number	:	CZ-22-09 Rob's Rides, LLC
Present Zoning / Comp Plan Map Designation	:	AC (Agricultural Conservation) / Low Density Residential
Proposed Zoning / Comp Plan Map Designation	:	BG (General Business) / Highway Commercial
Area and Location	:	Two parcels totaling 1.099 ± acres located west of Bay Road, approximately 996' southeast of Kaydedid Lane, and approximately 7,324' north of Old Cemetery Road, southeast of Frederica

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 meets 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 existing AC zoning is the original zoning for both parcels. The character of the neighborhood is currently a mix of agricultural, residential, commercial, and industrial. However, the development of the Kent County Regional Sports Complex in recent years, which is located just north of the subject site, brought forward the Master Plan concept for this area which recommends a transition to more highway commercial uses along this corridor of Bay Road. Since 2006, the Levy Court has approved the rezoning of 57.018 ± acres from AC to BG located in this Master Plan area. As such, the character of the neighborhood is transitioning to commercial.

- 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 Comprehensive Plan indicates that the subject parcels be utilized for low-density 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. Further, the South Frederica Master Plan envisions this area as a vibrant hub and sports tourism destination offering an abundance of businesses, support services, professional offices, dining experiences, and recreational opportunities. Specifically, the Master Plan designates the subject site for Support Services, which would allow indoor retail and service uses that complement existing development, in particular the existing sports complex. Based on the South Frederica Master Plan, the transitioning character of the surrounding area, and the availability of existing adequate infrastructure, the rezoning request is reasonable.

- 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: Bay Road is a principal arterial roadway designed to accommodate commercial traffic.

Water & Sewerage Systems: The subject site receives water from an onsite well and is located within the Kent County Sanitary Sewer District. Since both parcels are currently served by the District, if the rezoning is granted and a site plan required, then any additional improvements will require permits and approvals from Kent County Public Works during the site plan process.

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. Adjacent parcels to the north, west and south of the subject site are currently zoned BG (General Business). Additional highway commercial uses would complement and support the nature of the area along Bay Road, which is in close proximity to the Kent County Regional Sports Complex.

II. BACKGROUND INFORMATION:

- The subject site is located inside the Growth Zone Overlay District, and the 2018 Comprehensive Plan has designated it for future highway commercial use as part of the Commercial Area map (Map 7-C). Since the project is located within a Commercial Area in the Comprehensive Plan and in the Master Plan area, PLUS review is not required.
- The surrounding area is a mix of agricultural, residential, commercial and industrial uses. Adjacent parcels located to the north, west, and south of the subject site are zoned BG. In addition, there is also BG zoning located across Bay Road and to the southeast of the subject site, for a total of 59.18 ± acres of highway commercial zoning in the immediate vicinity. Further, there are 13.01 ± acres of (IL) Limited Industrial zoning located south of the subject site, and the 126 ± acre regional sports complex, DE Turf, is located approximately 932' north of the subject site. The remaining area is zoned AC (Agricultural Conservation).

- There have been seven (7) additional rezoning applications of a similar nature in the immediate vicinity:
 - Z-72-37 approved the rezoning of 0.99 acre located north of the subject site, from AC to BG in 1972
 - Z-91-25 denied the rezoning of 1 acre located southeast of the subject site, from AC/AR to BG in 1991
 - Z-95-04 denied the rezoning of 1 acre located north of the subject site, from AC to BG in 1995
 - CZ-06-16 approved the rezoning of 3.988 acres located north and west of the subject site, from AC to BG in 2006
 - CZ-08-08 approved the rezoning of 1 acre located north of the subject site, from AC to BG in 2008
 - CZ-12-04 approved the rezoning of 32.53 acres located west of the subject site, from AC to BG in 2012
 - CZ-17-07 approved the rezoning of 20.5 acres located southeast of the subject site, from AC to BG in 2017

III. AGENCY COMMENTS:

A. KENT COUNTY DEPARTMENT OF PUBLIC WORKS

Contact: Brian L. Hall, Engineering Project Manager II

Requirements:

1. Properties are “legally” located in Kent County Sewage Disposal District Number One (KCSDD1), Milford Neck Area.
2. “Technically”, these properties are served by existing, gravity sewer systems.
3. Depending on the more exact nature of the proposal as it possibly progresses, a (Re)TFS may be required.
4. Proposal must proceed in accordance with the applicable provisions of the Kent County Code, Chapter 128 (Fees) & Chapter 180 (Standards).

Comment:

1. The Engineering Division grants “Conditional Approval”.

B. DELAWARE DEPARTMENT OF TRANSPORTATION

Contact: Joshua J. Schwartz

Comment:

1. No comment on the zoning. At such time the property develops, a plan will need to be reviewed through DelDOT Subdivisions.

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 LC22-22
Data Sheet
Exhibit A – Location and Zoning Map

Exhibit B – Comprehensive Plan Map

Exhibit C – Rezoning Area

Support Facilities Response from DelDOT dtd. October 27, 2022

Supplemental Information submitted by The Malmberg Firm dtd. November 14, 2022