

RESOLUTION

WHEREAS, the Prince George's County Planning Board has reviewed Zoning Map Amendment A-10033, Virginia Linen, requesting to rezone property from the I-3 Zone to the I-1 Zone in accordance with Subtitle 27 of the Prince George's County Code; and

WHEREAS, after consideration of the evidence presented at the public hearing on February 11, 2016, the Prince George's County Planning Board finds:

- A. **Location and Field Inspection:** The subject 5.56-acre site is located at the southeast quadrant of the intersection of Sheriff Road and Glen Willow Drive. It is a combination of two adjoining lots, Lot 2 and 3, Virginia Linen Service, which is recorded in Plat Book 209, Plat No. 37.

Lot 2 of the subject property is developed with a 36,000-square-foot one-story concrete building, with an exterior loading dock, surface parking, a one-story shed, and several external fuel storage tanks. The site is accessed via two driveways from the south side of Sheriff Road. The existing use is a laundry plant for a large uniform and linen service. Lot 3 is undeveloped and wooded. The eastern portion of Lot 3 contains portions of the Cabin Branch stream.

- B. **History:** The 2010 *Approved Subregion 4 Master Plan and Sectional Map Amendment* (Zoning Change LB21) reclassified the subject property from the I-1 (Light Industrial) zoning district to the I-3 (Planned Industrial/Employment Park) Zone. This action resulted in the laundry plant becoming a nonconforming use, since that use is not permitted in the I-3 Zone.

The existing building on the property was constructed in 1969. Since that time the site has been the subject, in part, of several applications:

- V-152-99—** On October 20, 1999, The Board of Zoning Appeals approved a variance from the 25-foot building setback requirements for the existing building along Glen Willow Drive.
- AC-99049—** The Planning Director approved Alternative Compliance Application AC-99049 on November 22, 1999. The alternative compliance application was for relief from the landscape yard requirements of Section 4.2 of the 2010 *Prince George's County Landscape Manual* along Sheriff Road. On March 18, 2005, a revision to the Alternative Compliance (AC) was denied by the Planning Director in conjunction with Permit No. 42023-2004-SGU.
- DDS-555—** On March 9, 2006, the Planning Board approved a departure from design standards (DDS) the required bufferyard along the southern property line, where the plant adjoins the Glen Willow apartment complex.

C. **General Plan and Master Plan Recommendations:**

Plan Prince George's 2035 Approved General Plan

This site is located within the Established Communities policy area. The *Plan Prince George's 2035 Approved General Plan* (Plan Prince George's 2035) recommends maintaining and enhancing existing public services (police and fire/EMS), facilities (such as libraries and schools), and infrastructure in these areas (such as sidewalks) to ensure that the needs of the existing residents are met.

The Plan Prince George's 2035 land use goal is to direct future growth toward transit-oriented mixed-use centers in order to expand the commercial tax base, to capitalize on existing and planned infrastructure investments, and to preserve agricultural and environmental resources.

2010 Approved Subregion 4 Master Plan and Sectional Map Amendment

The 2010 *Approved Subregion 4 Master Plan and Sectional Map Amendment* (Subregion 4 SMA) created goals and policies to preserve and expand industrial land use wherever possible along the northern and eastern perimeter of the subregion, while at the same time recommending the reassignment of industrial land use parcels adjacent to single-family detached and attached residential areas if the industrial land use is disadvantageous, blighted, or under-utilized.

The site is located in Living Area B. The Subregion 4 Master Plan recommends both the transitioning of this area to Residential Medium land uses, while preserving industrial areas buffered from other incompatible uses to protect residents while maintaining jobs and tax base that support the residents of the Subregion. However, the plan does not make specific recommendations for the reclassification of the non-residential uses along the southern side of Sheriff Road.

The Proposed Sectional Map Amendment recommended the subject property be rezoned from the I-1 (Light-Industrial) Zone to the I-4 (Limited Industrial) Zone in order to direct lighter industrial zoning adjacent to residential areas and to create an appropriate transition between land uses. However, upon receiving testimony from an adjoining property owner whose land was also recommended for the I-4 Zone, the staff, Planning Board, and District Council changed the zoning to the I-3 (Planned Industrial Park) Zone, reasoning that the I-3 Zone would allow for greater flexibility for the property owners. In fact, placing the site in the I-3 Zone had the effect of rendering the laundry plant a nonconforming use, since such uses are not permitted in that zone.

- D. **Request:** The applicant is requesting rezoning of the subject property from the I-3 Zone to the I-1 Zone.
- E. **Neighborhood and Surrounding Uses:** The subject property is located in a neighborhood defined by the following boundaries:

North— Sheriff Road, including the industrially-zoned properties on the north side.

**East &
South—** Martin Luther King, Jr. Highway (MD 704)
West— Addison Road

The applicant extends the northern boundary of the neighborhood to US 50/MD 202, thereby incorporating a large swath of industrially-zoned land which includes the Prince George's Business Center, Maryland 50 Industrial Park and the Cabin Branch Industrial Center, among others. Staff believes the expansive neighborhood defined by the applicant overemphasizes the industrial nature of the area while minimizing the residential character of the area south of Sheriff Road. It was this relationship between industrial and residential uses which resulted in the property being down-zoned in the last comprehensive rezoning. The neighborhood contains a mix of uses with commercial and light and heavy industrial uses predominating along the north side of Sheriff Road, and to the east along the south side of Sheriff Road. West of the subject property, south of Sheriff Road is residential in character, as is the area south to MD 704 and west to Addison Road.

The property is surrounded by the following uses:

North— A concrete recycling and disposal plant in the I-3 Zone.
East— Vacant land in the I-3 Zone.
South— A multifamily complex in the R-18 Zone and the Booker T Homes Park (M-NCPPC) in the R-O-S Zone.
West— The Cedar Heights Community Center in the R-55 Zone.

F. **Zoning Requirements:** Section 27-157(a)(1) of the Prince George's County Zoning Ordinance provides that no application shall be granted without the applicant proving that either:

- (A) **There has been a substantial change in the character of the neighborhood; or**
- (B) **Either:**
 - (i) **There was a mistake in the original zoning for property which has never been the subject of an adopted Sectional Map Amendment, or**
 - (ii) **There was a mistake in the current Sectional Map Amendment.**

Applicant's Position

Change: The applicant does not put forth an argument of change to the character of the neighborhood.

Mistake: The applicant contends that rezoning the subject property to the I-3 Zone in the 2010 Subregion 4 SMA was a mistake. Their argument, as summarized from their statement of justification, is five-fold:

Mistake #1: The Council's action was based on an incomplete factual predicate regarding the nature of the existing use on the Subject Property. The Council was not presented with facts that the rezoning would create a non-conforming use.

Mistake #2: The Council's action was based on an incomplete factual predicate regarding the ability to develop the Subject Property within the I-3 Zone which is generally limited to contiguous areas of land containing 25 acres or more.

Mistake #3: The Council's action was premised on a misapprehension that the current use on the site would be in keeping with the purposes of the I-3 Zone.

Mistake #4: The Council's action was partially premised on the Subject Property's proximity to the residentially zoned property which is a mistake because the Master Plan clearly states that the recommendation to "reassign industrial land use parcels" is based not on proximity to residentially zoned property but rather on those parcels being "disadvantageous, blighted or underutilized." (p. 99) (Subregion 4 Master Plan).

Mistake #5: The Council's action directly violates the recommendation of the Master Plan which states "Encourage development that supports a healthy economy and provides a variety of living wage jobs" (p. 106) (Subregion 4 Master Plan)

The applicant contends that the cumulative impact of these five mistakes overcomes the presumption of validity of the comprehensive rezoning and suggests that the property should be placed back in the I-1 Zone.

Planning Board's Analysis

Change: There has been no substantial change to the character of the neighborhood since the last comprehensive zoning of the area in 2010.

Mistake: There is a strong presumption of validity accorded a comprehensive rezoning. The presumption is that, at the time of its adoption of the comprehensive rezoning, the District Council considered all of the relevant facts and circumstances then existing concerning the subject property. Mistake or error can be shown in one of two ways:

1. A showing at the time of the comprehensive rezoning, that the District Council failed to take into account then existing facts or reasonably foreseeable projects or trends; or
2. A showing of events that have occurred since the comprehensive zoning have proven that the District Council's initial premises were incorrect.

By reclassifying the property from the I-1 Zone to the less intensive I-3 Zone, the District Council created a nonconforming use. While this practice would generally be precluded by **Section 27-223(g)(2)** of the Zoning Ordinance, such actions are permitted if there is a significant public benefit to be served by the zoning based on facts peculiar to the subject property and the immediate neighborhood. In this case, the Subregion 4 Master Plan speaks to the need to lessen the potential impacts for industrially-zoned properties where they adjoin residential properties. The site abuts residentially-zoned properties to the west and the south (a community center and an apartment complex, respectively).

The 2010 Subregion 4 Master Plan speaks to the need to protect residential areas from industrial uses which are disadvantageous, blighted or underutilized. The subject use is none of these things. The building is well maintained and the site is generously landscaped. The site is not visible from the apartments to the south due to a change in topography and the existence of a wide wooded buffer. All vehicular access is from Sheriff Road, with no access from Glen Willow Drive. The applicant has worked with, and gained the support of, several of the community groups in the area. There were no parties in opposition at the hearing, despite both the posting of signs and the mailing of notices to all parties of record. While the Planning Board is cognizant of and abides by the rules prohibiting zoning by plebiscite, the Planning Board feels this lack of opposition is not indicative of a neighborhood seeking protection from an undesirable industrial neighbor. The Planning Board also notes that the burden of proof for a rezoning within the same use category is less onerous.

Based on the foregoing, the Planning Board believes that the District Council's decision to downzone the subject property from the I-1 Zone to the I-3 Zone constitutes a mistake in the 2010 *Approved Subregion 4 Master Plan and Sectional Map Amendment*. The District Council failed to fully comprehend that the long-compatible use of the site as a laundry plant did not meet any of the Master Plan's suggested criteria for downzoning of industrial properties, rather, the District Council should have followed the Master Plan's recommendations to preserve appropriate industrial areas and thereby maintaining jobs and tax base that support the residents of the Subregion. The Planning Board believes that the property should be placed back in the I-1 Zone to remedy this mistake. The Planning Board cannot find justification for the I-4 Zone as suggested by staff, or for an approach which would split the zoning of the two lots between the I-1 and I-4 Zones.

G. **Conformance with the Purposes of the I-1 Zone:** The purposes of the I-1 Zone are contained in Section 27-469 of the Zoning Ordinance and are as follows:

- (A) To attract a variety of labor-intensive light industrial uses;
- (B) To apply site development standards which will result in an attractive, conventional light industrial environment;
- (C) To create a distinct light industrial character, setting it apart from both the more intense Industrial Zones and the high-traffic-generating Commercial Zones; and

(D) To provide for a land use mix which is designed to sustain a light industrial character.

If the proposed rezoning to the I-1 Zone were approved, the subject property would continue to be operated in a manner consistent with the recommendations of the master plan. The I-1 Zone development standards would ensure that future expansion of the use or new uses on the site could continue to be a good neighbor to the adjoining residential area.

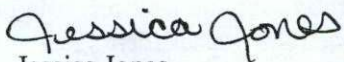
NOW, THEREFORE, BE IT RESOLVED, that pursuant to Subtitle 27 of the Prince George's County Code, the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission adopted the findings contained herein and recommends APPROVAL of the above noted application to the District Council for Prince George's County, Maryland.

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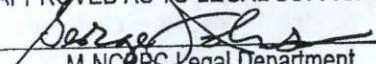
This is to certify that the foregoing is a true and correct copy of the action taken by the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Washington, seconded by Commissioner Bailey, with Commissioners Washington, Bailey, Shoaff, Geraldo and Hewlett voting in favor of the motion at its regular meeting held on Thursday, February 11, 2016, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 3rd day of March, 2016.

Patricia Colihan Barney
Executive Director

By 
Jessica Jones
Planning Board Administrator

PCB:JJ:TL:ydw

APPROVED AS TO LEGAL SUFFICIENCY

M-NCPPC Legal Department
Date 2/18/16