



Note: Staff reports can be accessed at www.mncppc.org/pgco/planning/plan.htm.

Zoning Map Amendment

A-10015

Application	General Data
Project Name: Landover Park Location: South side of Old Landover Road, approximately 145 feet west of its intersection with Kilmer Street. Applicant/Address: Landover DK, LLC 4540 Forbes Blvd. Ste. 300 Lanham, MD 20706	Date Accepted: 10/15/2008
	Planning Board Action Limit: N/A
	Plan Acreage: 0.17
	Zone: R-R
	Dwelling Units: N/A
	Gross Floor Area: N/A
	Planning Area: 69
	Tier: Developed
	Council District: 05
	Municipality: N/A
	200-Scale Base Map: 204NE06

Purpose of Application	Notice Dates
Rezoning from the R-55 Zone to the C-S-C Zone.	Information Mailing: 07/18/2008
	Acceptance Mailing: 10/10/2008
	Sign Posting Deadline: N/A

Staff Recommendation		Staff Reviewer: Taslima Alam	
APPROVAL	APPROVAL WITH CONDITIONS	DISAPPROVAL	DISCUSSION
		X	

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

PRINCE GEORGE'S COUNTY PLANNING BOARD

December 22, 2008

TECHNICAL STAFF REPORT:

TO: The Prince George's County Planning Board
The Prince George's County District Council

VIA: Jimi Jones, Zoning Supervisor

FROM: Taslima Alam, Senior Planner

SUBJECT: **Zoning Map Amendment Application No. A-10015**

REQUEST: **Rezone property from the R-55 Zone to the C-S-C Zone for commercial uses.**

RECOMMENDATION: **DENIAL**

NOTE:

This application is on the agenda for the Planning Board to decide whether or not to schedule a public hearing. If the Planning Board decides to hear the application, it will be placed on a future agenda.

Any person may request the Planning Board to schedule a public hearing. The request may be made in writing prior to the agenda date or in person on the agenda date. All requests must specify the reasons for the public hearing. All parties will be notified of the Planning Board's decision.

You are encouraged to become a person of record in this application. The request must be made in writing and sent to the Office of the Zoning Hearing Examiner at the address indicated above. Questions about becoming a person of record should be directed to the Hearing Examiner at 301-952-3644. All other questions should be directed to the Development Review Division at 301-952-3530.

FINDINGS:

- A. **Location and Field Inspection:** The property is located along the south side of Old Landover Road, approximately 145 feet west of its intersection with Kilmer Street. The subject property consists of 0.17 acre of land in the One-Family Detached Residential (R-55) Zone. The property is part of the Landover Park Subdivision described as Lot 4, Block 8. This subject site had been improved with a single-family detached home for many years. Access to the property is from Old Landover Road.
- B. **History:** The subject site is part of the original area of incorporation into the Maryland-Washington Regional District in 1927. In 1949, the property was zoned R-55 per the first County Comprehensive Zoning Map. Both the 1983 *Bladensburg Defense Heights and Vicinity Sectional Map Amendment* (SMA) and the 1994 *Approved Master Plan and Sectional Map Amendment for Bladensburg-New Carrollton and Vicinity* (Planning Area 69) retained the subject site in the R-55 Zone. The 2002 *Prince George's County Approved General Plan* and the 1994 approved master plan and sectional map amendment govern the land use development in this area.
- C. **Master Plan Recommendations:**
- 2002 General Plan:** This application is not inconsistent with the 2002 General Plan Development Pattern policies for the Developed Tier. The vision for the Developed Tier is a network of sustainable, transit-supporting, mixed-use, pedestrian-oriented, medium- to high-density neighborhoods. The 2002 General Plan outlines a number of goals for the Developed Tier, three of which are of particular relevance to this application: strengthen existing neighborhoods, encourage appropriate infill, and encourage more intense, high-quality housing and economic development in centers and corridors.
- 1994 Approved Master Plan and Sectional Map Amendment for Bladensburg-New Carrollton and Vicinity:** The property is located in Planning Area 69. The master plan recommends medium suburban-density residential land use for the site, and retains the existing R-55 Zone to reflect the zoning and character of the properties located on the north and west sides of the site. The master plan cited that the area was over-commercialized and therefore, recommends “no additional land should be zoned for retail commercial purposes.” (p. 70)
- D. **Request:** This applicant is requesting to rezone the subject property from the one-family detached Residential (R-55) Zone to the Commercial Shopping Center (C-S-C) Zone for commercial development. The applicant believes that rezoning the subject property in conjunction with adjoining C-S-C zoned land will make it sufficiently large and of a regular shape to yield a commercial building site which will be compatible with surrounding commercial uses.
- E. **Neighborhood and Surrounding Uses:**

The subject property is located in a neighborhood defined by the following boundaries:

North— Annapolis Road/MD 450

South— Landover Road/MD 202

East— Cooper Lane

West— Baltimore-Washington Parkway (MD 295)

Planning principles typically consider neighborhoods as smaller units of a larger community. Major roads are normally accepted as logical boundaries to define neighborhoods. The applicant's defined neighborhood does not follow neighborhood boundaries established in the master plan (p. 42) referred to as "Neighborhood No. 12." The applicant believes that Neighborhoods 12 and 13 should constitute the appropriate neighborhood because the subject property is to be added to the adjoining commercial property in order to justify a developable commercial building site. Staff notes that Neighborhood 13 lies on the south side of Landover Road, which is the type of major thoroughfare that typically is used as a neighborhood boundary. It is staff's opinion that neighborhood boundaries should be based on the location of the subject property as it currently exists. This small, 0.17 acre lot is not large enough to justify redefining the neighborhood.

The neighborhood recommended by staff is the same neighborhood that was accepted at the time of Zoning Map Amendment (ZMA) A-9795-C, which was approved by the District Council on May 21, 1990. A-9795-C is located immediately adjacent to the subject site. This neighborhood is developed primarily with single-family detached residential dwellings. However, there is a heavy concentration of strip commercial land uses along both sides of Landover Road. These commercial uses vary from doctor's offices and shopping centers to multifamily developments which serve as transitions and buffers the single-family detached homes in the interior of the neighborhood. These neighborhood boundaries are consistent in the master plan's boundaries for Neighborhood 12.

The property is surrounded by the following uses:

North— Across Old Landover Road are single-family detached homes in the R-55 Zone.

South— Adjacent to the subject property is vacant land in the C-S-C Zone, west of the vacant land are medical offices in the Commercial Office (C-O) Zone.

East— Contiguous to the subject property is vacant land in the C-S-C Zone, and across Kilmer Street is the Landover Park Shopping Center in the C-S-C Zone.

West— Single-family detached homes in the R-55 Zone.

F. Zoning Requirements:

Section 27-157(a)(1) of the 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: The applicant claims that the requested zone is warranted because two mistakes were made when the District Council retained Lot 4 in the R-55 Zone in the approved sectional map amendment for Bladensburg-New Carrollton and vicinity. First, the District Council failed to recognize that the subject property is encompassed into a "village activity center," and therefore, should have been placed in the C-S-C Zone to facilitate commercial development with the adjoining C-S-C zoned properties. Second, the absolute ban to create additional retail space in the area unjustifiably distracted the District Council to consider any land to be rezoned for commercial development.

Mistake 1: The applicant contends that retaining the subject property in the R-55 Zone in the SMA was a mistake. In 1989 the District Council approved Zoning Map Amendment A-9795-C which rezoned adjoining Lots 2 and 3 and part of Lots 1, 27, 28, 29 and 30, Block 8 in the Landover Park Subdivision from C-O and R-55 Zones to the C-S-C Zone. At that time, it failed to recognize the "village activity center" of the 1980 master plan. The District Council was unaware that the village activity center was already 90 percent built, and that the central portion of the activity center remained undeveloped due to its marginal size and irregular shape.

Mistake 2: The applicant contends that "the 1994 master plan's total ban of additional retail commercial zoning unjustifiably distracted the District Council from considering rezoning that were unrelated to the commercial retail problems of Planning Area 69, but rather, would remedy practical problems in realizing desirable commercial development within the previously master planned activity center."

The applicant contends that the 1994 master plan recommends a ban against creating any additional commercial property in the planning area because there is an imbalance in retail space supply, and the excessive amount of space has resulted in high vacancies and low rent. To tackle this situation, the Plan states in page 70:

The ban on additional retail commercial zoning should be absolute; not even very small parcels should be rezoned.

The applicant believes that this ban was a mistake in that it short sighted and overlooked the true implication of such a position. It ignores the shopping needs of the community living within the geographical areas defined by the smaller neighborhood areas.

Staff's Analysis

Staff points out that 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. The courts have established that mistake or error can be shown in one of two ways:

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

Staff does not concur with the applicant's claims that mistakes were made. The District Council did not omit the subject property from the activity center by failing to zone it C-S-C. District

Council reviewed a retail market analysis that found an excess of retail commercial space. Clearly, the decision to retain residential zoning for the subject property was based on the market analysis.

In 1949, the County Comprehensive Zoning Map placed the site in the R-55 Zone. The subsequent master plans and sectional map amendments did not change the Comprehensive Zoning Map and kept the property to its original assigned zoning (R-55). At the time when adjacent Lots 2 and 3 and part of Lots 1, 27, 28, 29 and 30, Block 8 requested its zoning change, the subject property was not part of Zoning Map Amendment A-9795-C. The subject property, unlike all other properties along the west side of Lot 4 and north across Landover Road, was retained in the single-family residential zone. A ZMA was approved in May 1990 that rezoned part of Lot 1 and Lots 2 and 3 from the R-55 Zone to the C-S-C Zone. As the basis of this action, the District Council adopted the following as its findings:

- 1. The District Council finds that the approval of the C-S-C Zone for the subject property is in accordance with the Bladensburg-Defense Heights Master Plan since the Master Plan's Village Activity Center symbol encompasses the subject property.**
- 2. The District Council finds that the R-55 portion of the subject property was a mistake due to noise from the adjacent roadway and visual impacts of adjoining commercial development.**
- 3. The District Council concludes that there is no market for additional C-O zoning in the subject neighborhood. The District Council failed to foresee this trend when it zoned the property C-O/R-55 by the 1982 Sectional Map amendment.**

The District Council took the following facts into consideration:

- Bladensburg-Defense Heights master plan's recommendation for "Village Activity Center"
- The lack of market demand for the Commercial Office Zone
- Intense noise created by the busy intersection from the adjacent roadway to the R-55 portion of the lots
- The aesthetic impact of adjoining commercial development to the single-family lots

Staff believes that the District Council considered all of the relevant facts, evidence, and circumstances concerning the subject property and its surrounding properties at the time it rezoned the adjacent lots to the east and south of subject site. The applicant alleges that the District Council did not recognize the size and shape of the property that was 90 percent developed at the time that the bordering properties were rezoned. Clearly, the record for the previous rezoning contains exhibits that showed the size and shape of the properties. The size and shape simply was not a factor. There were no claims during the 1980 Master Plan for Bladensburg-Defense Heights and Vicinity or the 1994 master plan and SMA that the R-55 Zones were inappropriate for the subject site. If it was the goal of the master plan to have the subject property used for commercial activities, then the plan would have recommended it. The District Council, based on a review of a retail market analysis, found that the neighborhood was

over-commercialized and no additional land should be zoned for retail commercial purposes.

The referral reply memorandum from Sonja Ewing, Community Planning North Division, dated November 24, 2008, further confirms that the site retained its existing R-55 Zone to reflect the zoning and character of the property around the site (the properties north and west of the site R-55 Zone). The 1980 approved master plan for Bladensburg-Defense Heights and vicinity identifies the Landover Park-Cheverly Terrace commercial activity center (the location of the subject property). It also cited concern about the future commercial development in the area and proposed limiting future expansion. It states:

...with the exception of some small office commercial “fill-in” development along Landover Road, no expansion is proposed.

Overall, due to excess of commercial development over and above what is necessary to serve local residents and a judgment that such excess commercial development is not in the best interest of the planning area, little expansion of existing commercial areas is proposed. (p. 105)

The 1994 master plan specifically states that the area has an abundance of retail spaces, nearly “50 percent more retail space than population growth is anticipated by 2010” (p. 61). The plan maintained that there was excessive commercial zoning in Planning Area 69 and therefore, did not recommend an expansion of the boundaries of this activity center. Further, the plan recommended that all efforts go into the redevelopment of commercial sites into mixed-use centers, the revitalization of existing commercial uses where possible, and identification of opportunities for regional commercial uses to draw in additional customers from outside the planning area. The District Council took all of the existing facts into account before drawing a conclusion. Staff concurs with the applicant’s claim that the District Council did not consider the rezoning of this property to C-S-C in order to comply with the master plan recommendation which took a strong stand against any additional commercial rezoning.

The retail market analysis prepared as background for the 1994 master plan indicated an excess of nearly 700,000 sq. ft. of retail commercial space than was supportable by the population of the planning area at that time. The anticipated population growth would only demand an additional 6,000 sq. ft. of commercial space, thus there was no new demand for new commercial uses.

G. **Conformance with the Purposes of the C-S-C Zone:** The purposes of the C-S-C Zone are contained in Section 27-454(a)(1) of the Zoning Ordinance and are as follows:

- (A) **To provide locations for predominantly retail commercial shopping facilities;**
- (B) **To provide locations for compatible institutional, recreational and service uses;**
- (C) **To exclude uses incompatible with general retail shopping centers and institutions; and**
- (D) **For the C-S-C Zone to take the place of the C-1, C-2, C-C and C-G Zones.**

The subject property could conform to most of the above purposes. The proposed rezoning to the C-S-C Zone at this location, however, will allow uses that conflict with the 1994 master plan

recommendations which “ban” all retail commercial zoning in the area. Also, there is no evidence presented by the applicant demonstrating that C-S-C zoning and the activities allowed therein will be compatible with the adjoining land uses. However, if Lot 4 were to be zoned C-S-C, staff recommends a condition of approval to require the applicant to file a detailed site plan application to ensure compatibility with surrounding developments.

H. Referral Responses:

1. The Subdivision Section (memorandum dated June 12, 2008) states that there are no subdivision issues with the rezoning of the property to the C-S-C Zone. However, prior to any development exceeding 5,000 square feet of gross floor area, the applicant is required to file a preliminary plan of subdivision pursuant to Subtitle 24 of the Prince George’s County Code.
2. The City of Cheverly (letter from David Warrington, Town Administrator, dated November 12, 2008) states that the Mayor and Town Council supports the rezoning request and unanimously voted 5-0 on October 10, 2008.
3. The Transportation Planning Section (memorandum dated December 5, 2008) states that the proposed rezoning could have an impact of seven more trips during the AM peak hour and 27 more trips during the PM peak hour. It is further noted that that a component of travel associated with retail uses is pass-by (i.e. already on the adjacent roadway). Therefore, the subject site will generate a total of 18 additional peak-hour trips during the morning and afternoon (4 AM peak-hour trips plus 14 PM peak-hour trips equals 18 peak-hour trips).

Transportation Planning staff is aware that the adequacy or inadequacy of transportation facilities is not a central issue pertaining to the change or mistake finding required for a Euclidean rezoning. Based on the potential trip generation, the proposed rezoning would have a very small adverse impact on the existing transportation facilities in the area of the subject property, especially during the AM peak hours.

Staff further notes that the plan contains an overall urban design goal for new, infill, and redevelopment projects and streetscape improvements during design and development review. Because the master plan contains general recommendations for streetscapes in commercial areas, these guidelines should be followed for the subject property. Presently, the applicant wants to combine the subject lot with the adjacent lot for future commercial development. Since the subject property will be combined and developed commercially, it is subject to a design plan for a sidewalk along Old Landover Road. The adjoining commercial property that was rezoned to the C-S-C Zone by A-9795-C is subject to detailed site plan approval by the Planning Board and the District Council. If Lot 4 is rezoned, it will also be subject to DSP review. The transportation memorandum dated December 17, 2008, further recommends that at the time of site plan review, the applicant should comply with all the recommendations of the 1994 *Approved Master Plan and Sectional Map Amendment for Bladensburg-New Carrollton and Vicinity (Planning Area 69)*. The recommendations are as follows:

- The applicant’s development plan should contain the type of sidewalks and streetscapes that are recommended in the 1994 approved master plan and SMA, specifically the guidelines for commercial corridors that begin on page 113 of the master plan.

- With the concurrence of DPW&T, the applicant should construct a new bus stop along Old Landover Road at the location of the existing bus stop. The bus stop should be developed to current county standards and follow the urban design guidance provided on page 107 of the 1994 Bladensburg-New Carrollton and vicinity approved master plan and SMA.
 - All proposed sidewalks along Old Landover Road should be in conformance with the guidance provided on page 109 of the Approved master plan and SMA. The commercial streetscape should be well coordinated with the residential streetscape on Old Landover Road.
4. The Community Planning North Division (memorandum dated November 24, 2008) states that the proposal is consistent with the 2002 General Plan for the Developed Tier. This application does not conform to the land use recommendation of the 1994 *Approved Master Plan and Sectional Map Amendment for Bladensburg-New Carrollton and Vicinity (Planning Area 69)*. The approved master plan recommends medium suburban-density residential land use for the subject site, and retained the existing R-55 Zone to reflect the zoning and character of the property that surround the site (the north and west of the site is zoned R-55). Additionally, the master plan cited that the area is over-commercialized (p. 59) and therefore, recommended that “no additional land to be zoned for retail commercial purposes.” (p. 70)
 5. The Town of Cheverly supports the Zoning Map Amendment A-10015 from R-55 to C-S-C Zone.
 6. Historic preservation has no effect on the change in zoning.
 7. The Maryland State Highway Administration has no comments on this matter.

Conclusion:

In 1949, the first County Comprehensive Zoning Map zoned the property R-55. The subsequent master plans and SMA kept the property in the residential zone. The 2002 General Plan for Prince George’s County and the 1994 *Approved Master Plan and Sectional Map Amendment for Bladensburg-New Carrollton and Vicinity (Planning Area 69)* govern the land use development in this area. The 1994 master plan strongly bans any residential property to be converted to commercial uses for Planning Area 69 because it is over-commercialized. The plan recommends medium suburban-density residential use for the site and therefore, retained the existing R-55 Zone to reflect the zoning and character of the properties to the north and west of the site.

The applicant claims that the requested rezoning application is justifiable because mistakes were made by the District Council at the time the adjacent lots in the east and south were rezoned from C-O and R-55 to the C-S-C Zone. The applicant did not provide persuasive documentary evidence to illustrate the District Council’s error in keeping the property in its current zoning category. The District Council’s decision was based on the sound logical planning principles, a retail market analysis, and master plan recommendations. An activity center was recommended by the 1980 plan. However, it is the current 1994 master plan that is the relevant document. Furthermore, staff believes that additional commercial development on the subject property could create traffic concerns on Old Landover Road (a residential street). The existing R-55 Zone is the most compatible with the existing development which adjoins the

site from the west and all of the north side across Old Landover Road. For these reasons staff recommends DENIAL of Zoning Map Amendment A-10015.