



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

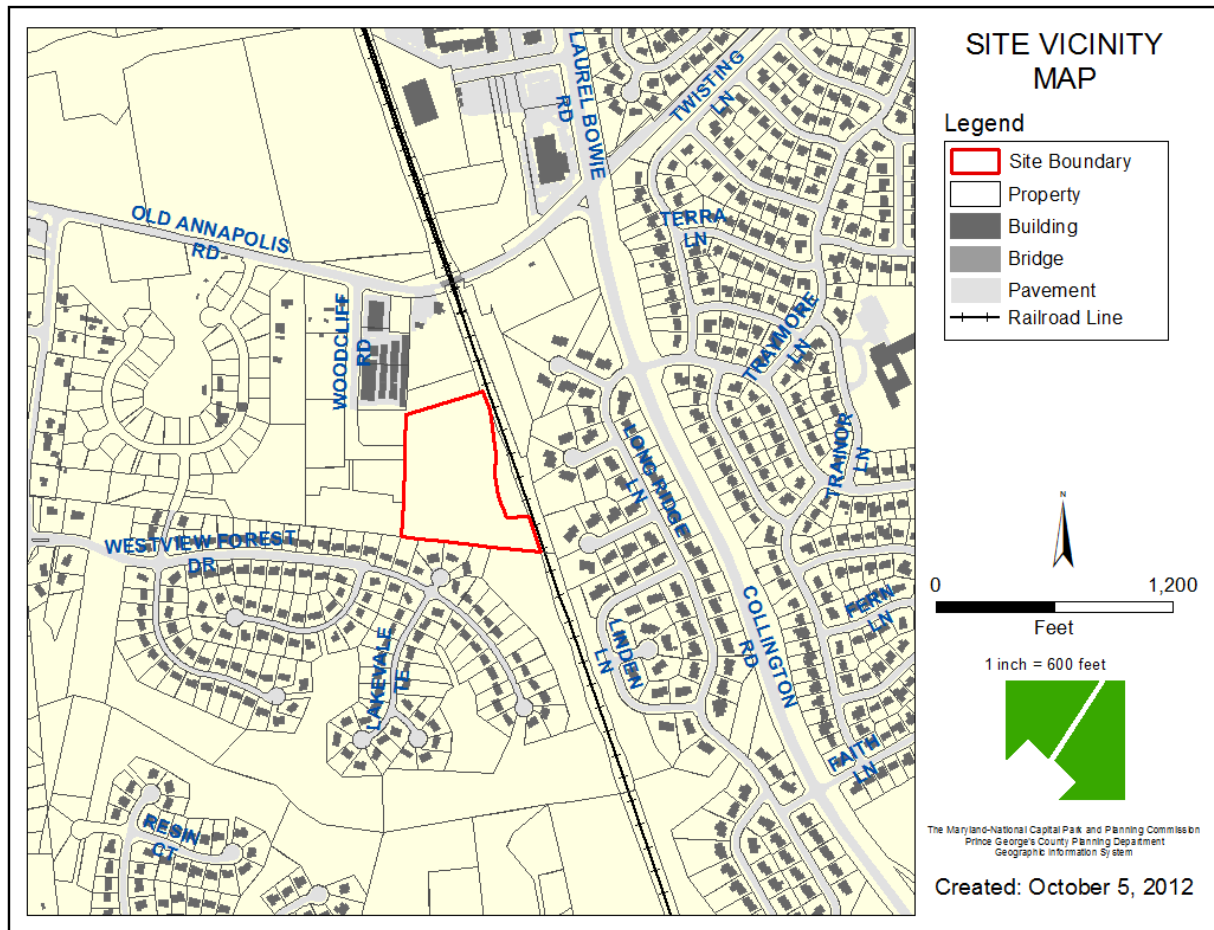
Zoning Map Amendment

A-10029

Application	General Data	
Project Name: Santos, LLC Location: The eastern terminus of Woodcliff Court, approximately 1,100 feet southeast of Annapolis Road. Applicant/Address: Santos, LLC 5711 Woodcliff Road Bowie, MD 20715 Property Owner: Same as applicant	Planning Board Hearing Date:	02/14/13
	Staff Report Date:	01/29/13
	Date Accepted:	11/21/12
	Planning Board Action Limit:	N/A
	Plan Acreage:	7.88
	Zone:	R-R
	Gross Floor Area:	N/A
	Lots:	N/A
	Parcels:	1
	Planning Area:	71B
	Tier:	Developing
	Council District:	06
	Election District	07
	Municipality:	Bowie
	200-Scale Base Map:	208NE12

Purpose of Application	Notice Dates	
Rezone property from the R-R Zone to the C-M Zone.	Informational Mailing	10/18/12
	Acceptance Mailing:	11/13/12
	Sign Posting Deadline:	N/A

Staff Recommendation		Staff Reviewer: Tom Lockard Phone Number: 301-952-3411 E-mail: Thomas.Lockard@ppd.mncppc.org	
APPROVAL	APPROVAL WITH CONDITIONS	DISAPPROVAL	DISCUSSION
		X	



January 29, 2013

TECHNICAL STAFF REPORT:

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

VIA: Jimi Jones, Zoning Supervisor, Development Review Division

FROM: Tom Lockard, Planner Coordinator, Zoning Section, Development Review Division

SUBJECT: **Zoning Map Amendment Application No. A-10029
Santos. LLC**

REQUEST: **Rezone property from the R-R Zone to the C-M Zone.**

RECOMMENDATION: **DENIAL**

NOTE:

The Planning Board has scheduled this application to be reviewed on the agenda date of February 14, 2013. 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 addressed to the Prince George's County Office of the Zoning Hearing Examiner, County Administration Building, Room 2184, 14741 Governor Oden Bowie Drive, Upper Marlboro, MD 20772. 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 subject 7.88-acre site is located at the eastern terminus of Woodcliff Court, approximately 1,100 feet southeast of Annapolis Road. The subject property consists of a tax parcel (Parcel 13, Map 46, Grid E-2) and is classified in the Rural Residential (R-R) Zone. It is undeveloped and predominantly wooded. A portion of the eastern boundary of the property abuts the Popes Creek railroad tracks and wetlands associated with the Collington Branch; the remainder surrounds a long, narrow parcel of land (Parcel 114) which, in turn, abuts the railroad tracks. A large stormwater management facility is located in the southwest corner of the site.
- B. **History:** The 2006 *Approved Plan Master Plan for Bowie and Vicinity and SMA for Planning Areas 71A, 71B & 74B* (Bowie Master Plan and SMA) classified the subject site in the R-R Zone. The property has not been the subject of any previous zoning or subdivision applications.

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

2002 Prince George's County Approved General Plan—This application is located in the Developing Tier. The vision for the Developing Tier is to maintain a pattern of low- to moderate-density suburban residential communities, distinct commercial centers, and employment areas that are increasingly transit serviceable.

2006 Approved Bowie and Vicinity Master Plan and Sectional Map Amendment—The property is located in Planning Area 71B. The application does not conform to the Bowie Master Plan and SMA because it is not consistent with the residential low-density development recommendations of the plan.

Preliminary versions of the master plan and SMA recommended the rezoning of Parcel 13 from the R-R Zone to the Miscellaneous Commercial (C-M) Zone. The plan recommended the property be developed for a commercial use integrated with the existing commercial development along Woodcliff Road. It also recommended that a 100-foot buffer be provided between the C-M-zoned parcels and the existing Westview neighborhood to the south. The land use plan showed a striped land use pattern to indicate that this area was recommended to be part of a mixed-use activity center.

The District Council ultimately disagreed with the proposed zoning change and consequently retained Parcel 13 in the R-R Zone, excluding it from the West Bowie Village Mixed-Use Activity Center (County Council Resolution CR-1-2006, Amendment 8). The Council specifically addressed their reasoning for the change as being to:

Protect the quality of life in the Westview Forest residential neighborhood by limiting commercial development in that portion of West Bowie Village located in the southwestern quadrant of old MD 450 and the Pope's Creek railroad tracks.
(Master Plan, p.26)

The master plan and SMA did place Parcel 5 (to the north) and Parcel 114 (to the east) within the West Bowie Village Mixed-Use Activity Center and rezoned those two properties to the C-M Zone.

- D. **Request:** The applicant is requesting rezoning of the subject property from the R-R Zone to the Miscellaneous Commercial (C-M) Zone.

E. **Neighborhood and Surrounding Uses:**

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

North— Old Annapolis Road
East— Popes Creek railroad tracks
South— Westview Forest Drive
West— Church Road

The applicant's proposed neighborhood boundaries are more confined, ending at the residential subdivisions to the west and the south. While staff recognizes that those two subdivisions were not within the confines of the master plan's West Bowie Village, the same can be said of the subject property as well. Considering it was the site's proximity to the residential subdivision to the south which led the District Council to retain it in a residential zone, it is appropriate to include the surrounding residential area in the subject neighborhood. The neighborhood contains a mix of uses with the commercial uses along Woodcliff Road and Woodcliff Court being the core, surrounded by single-family residences to the south and west.

The property is surrounded by the following uses:

North— An undeveloped parcel (Parcel 5) in the C-M Zone.
East— The Popes Creek railroad tracks, Collington Branch, and an undeveloped parcel (Parcel 114) in the C-M Zone.
South— Single-family residences in the R-R Zone.
West— A commercial park consisting of two-story buildings housing a variety of uses in the C-M 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

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

Mistake: The applicant contends that retaining the subject property in the R-R Zone in the 2006 Bowie Master Plan and SMA was a mistake. Their contention is that the assumptions or premises relied upon by the District Council at the time of the master plan and SMA were invalid or have proven erroneous over time. The applicant points to two distinct mistakes.

1. The District Council, by retaining the subject property in the R-R Zone, failed to recognize that they were precluding the development of Parcel 114, since subdivision regulations do not permit a private street or easement across residential land (the subject property) to serve commercial development (on Parcel 114).
2. The District Council, by retaining the site in the R-R Zone, failed to recognize that they were creating an inhospitable development scenario whereby single-family residences would be located between an intensive commercial area (to the west) and the railroad tracks (to the east). Although the master plan recommends that the West Bowie Village area be developed in a mix of uses including residential, retail, office, and recreation, it is unreasonable to think that the "New Urbanism" model envisioned by the plan would be implemented in any foreseeable future given that the commercial buildings to the northwest are only three to seven years in age.

Staff's Analysis

Change: Regardless of which neighborhood is considered (the applicant's or staff's); there has been no substantial change to its character since the last comprehensive zoning of the area in 2006.

Mistake: 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. 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.

The Bowie Master Plan and SMA recommends residential development for the subject property. The master plan and SMA which was transmitted to the District Council recommended commercial uses as part of a mixed-use center in the West Bowie Village. When the District Council approved the master plan, it contained specific reasoning for their decision to retain the residential zoning. In short, the District Council considered commercial uses for the site and concluded that commercial uses at this location were inappropriate because of the residential character of the surrounding properties.

The applicant's first argument, that the District Council erred by failing to recognize they were precluding the development of Parcel 114 is not persuasive. The master plan and SMA process is

not designed to provide an assurance of access to every piece of property within the study area. That is a function of the subdivision process. There is currently no access easement or right-of-way secured across the subject property to serve Parcel 114. The applicant presumes that the only possible access to Parcel 114 would be a private street or easement across the subject property. Staff can just as easily presume that if and when the subject property is subdivided for development, the resulting lot(s) will be served via an extension of Woodcliff Court, a public street. This same public street could also provide access to Parcel 114, since there is no preclusion from doing so, further presuming that access would be allowed across the wetlands along the eastern portion of the site.

Regarding the applicant's second argument (i.e., that the District Council failed to recognize the inhospitable environment for residences that would be created), staff fails to find mistake in the comprehensive rezoning. The District Council chose to follow the recommendation of the master plan and restrict new commercial development because of concerns with potential impacts on the residences to the south. The applicant correctly points out that the Council could have retained a portion of the site in the residential zone and rezoned the remainder to commercial. However, they chose to retain the entirety of the site in the R-R Zone. The applicant also presumes that only single-family residences would be built on the subject property. A review of the table of uses for the residential zones reveals that literally dozens of nonresidential uses are permitted in that zone, either by right or by special exception. Again, staff can easily presume that some of those uses would be appropriate for this location.

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

- (A) **To provide locations for miscellaneous commercial uses which may be disruptive to the harmonious development, compactness, and homogeneity of retail shopping areas;**
- (B) **To provide these locations, where possible, on nonresidential streets; and**
- (C) **To provide concentrations of these uses which are relatively far apart.**

If the proposed rezoning were approved, the subject property would conform to most of the above purposes. However, a condition of approval would need to be added to require the applicant to file a detailed site plan application to ensure compatibility with the surrounding residential development to the south, including the provision of a 100-foot bufferyard.

- H. **City of Bowie:** The City of Bowie is in support of this application. The subject property was among the parcels included in a 2011 City annexation that encompassed over 123 acres. Prior to the annexation, the City entered into an agreement with numerous property owners in the Woodcliff Road area including the applicant. The recorded Annexation Agreement (Liber 32205, Folio 513) expressly addresses the Santos property specifically:

- F. **The City represents that it favors the rezoning of the Santos Property from the R-R Zone to the C-M Zone either through a piecemeal rezoning application by Santos LLC of said property or rezoning through a future sectional map amendment. The City consent in this subparagraph is limited to five 5 years or until the initiation of the next Bowie and Vicinity Master Plan and Sectional Map Amendment, whichever is the last to occur.**

CONCLUSION

The 2006 *Approved Bowie and Vicinity Master Plan and Sectional Map Amendment* recommends residential, low-density land uses for the subject property. The sectional map amendment, relying on the recommendation, retained the site in the R-R Zone. This is not a case where we must question whether the applicant's property was overlooked during the comprehensive rezoning. The District Council specifically considered this site for commercial uses as part of a mixed-use center, but ultimately chose to retain the residential zoning due to the character of the surrounding neighborhood to the south. That is their prerogative. Staff, finding neither substantial change to the character of the neighborhood or mistake in the comprehensive rezoning, recommends DENIAL of Zoning Map Amendment No. A-10029.