



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

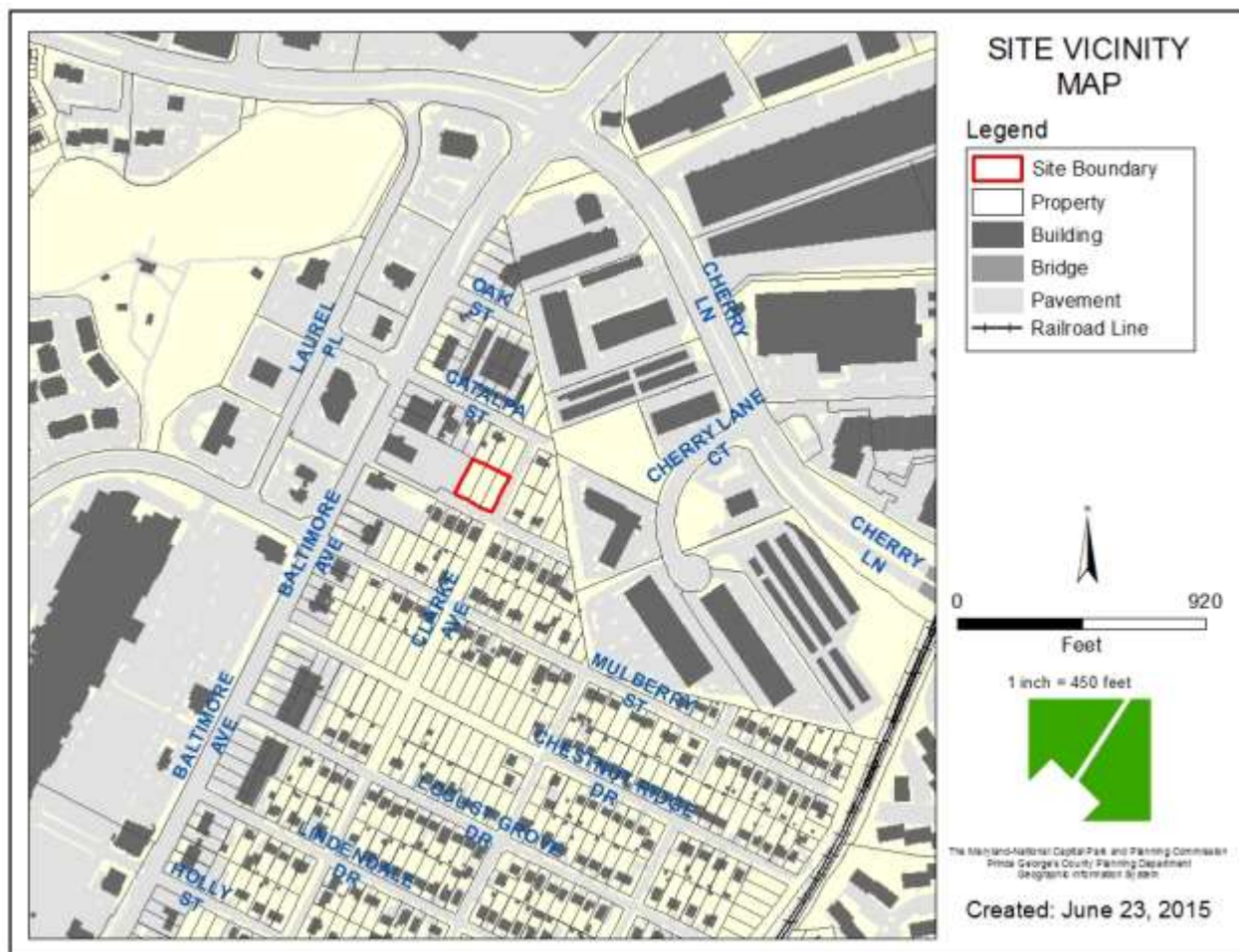
Zoning Map Amendment

A-10030

Application	General Data	
Project Name: Oakcrest, Lots 11-13 Location: The northwest quadrant of the intersection of Magnolia Street and Clarke Avenue, approximately 320 feet east of Baltimore Avenue (US 1). Applicant/Address: Nazario Family, LLC 14405 Maryland Avenue Beltsville, MD 20705 Property Owner: Same as Applicant	Planning Board Hearing Date:	10/15/15
	Staff Report Date:	09/30/15
	Date Accepted:	06/23/15
	Planning Board Action Limit:	N/A
	Plan Acreage:	0.51
	Zone:	R-55
	Gross Floor Area:	N/A
	Lots:	3
	Parcels:	N/A
	Planning Area:	62
	Council District:	01
	Election District	10
	Municipality:	N/A
	200-Scale Base Map:	219NE08

Purpose of Application	Notice Dates	
Zoning map amendment to rezone property from the R-55 Zone to the C-S-C Zone.	Informational Mailing	09/05/13
	Acceptance Mailing:	05/13/15
	Sign Posting Deadline:	N/A

Staff Recommendation		Staff Reviewer: Tom Lockard Phone Number: 301-952-3410 E-mail: Thomas.Lockard@ppd.mncppc.org	
APPROVAL	APPROVAL WITH CONDITIONS	DISAPPROVAL	DISCUSSION
		X	



THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

PRINCE GEORGE'S COUNTY PLANNING BOARD

TECHNICAL STAFF REPORT:

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

VIA: Jimi Jones, Zoning Supervisor, Zoning Review Section, Development Review Division

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

SUBJECT: **Zoning Map Amendment Application No. A-10030
Oakcrest, Lots 11-13**

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

RECOMMENDATION: **DENIAL**

NOTE:

The Planning Board has scheduled this application to be reviewed on the agenda date of October 15, 2015. 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 0.518-acre site is located at the northwest quadrant of the intersection of Magnolia Street and Clarke Avenue, approximately 320 feet east of Baltimore Avenue (US 1). The applicant erroneously refers to the site as Lots 11–13, Block 3, of the Oak Crest Subdivision. The longtime lotting pattern for the area was changed through a lot line adjustment (Final Plat 5-14093) approved by the Planning Board on September 25, 2014, via PGCPB Resolution 14-96. The new final plat was recorded in Liber/Folio 241@92 on February 5, 2105. The new plat changed the former Lot 21 into Lots 22 and 23, with Lot 11 becoming the easterly portion of new Lot 23. Therefore, the correct citation for the subject property would be Part of Lot 23 and Lots 12–13, Block 3, of the Oak Crest Subdivision. The application will have to be amended to reflect this prior to final disposition.

The subject property is undeveloped and heavily wooded. To the west of the subject site, Magnolia Street is barricaded, precluding access to US 1 from the subject property along Magnolia Street.

- B. **History:** The 2010 *Approved Subregion 1 Master Plan and Sectional Map Amendment* (Subregion 1 Master Plan and SMA) retained the subject property in the One-Family Detached Residential (R-55) Zone. The site has been the subject, in part, of several previous development applications:

- A-9908—** The site (as Lots 11–13) was part of Zoning Map Amendment A-9908, which sought rezoning from the R-55 Zone to the Commercial Shopping Center (C-S-C) Zone. While the Prince George’s County District Council ultimately rezoned the lots to the west (Lots 7–10) on April 24, 1996, they denied the request for Lots 11–13.
- 5-14093—** On September 25, 2014, the Planning Board approved a lot line adjustment via Final Plat 5-14093 which created Lots 22 and 23 and made Lot 11 part of Lot 23. At the same time, a shared access easement was created from Baltimore Avenue (US 1) serving both Lots 22 and 23.
- DSP-14016—** On November 3, 2014, the Planning Director approved a detailed site plan for an urgent care facility on Lot 22. Lot 23 is included on the DSP to provide for half of the shared access easement and for stormwater management facilities. No development is proposed on the portion previously known as Lot 11.

- 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. In

Section IV: Elements, Land Use (page 116), Policy 9 states the following which further supports the recommendation to retain the existing residential zoning for this property:

Policy 9 Limit the expansion of new commercial zoning outside of the Regional Transit Districts and Local Centers to encourage reinvestment and growth in designated center and in existing commercial areas.

2010 Approved Subregion 1 Master Plan and Sectional Map Amendment

The Subregion 1 Master Plan and SMA created goals and policies to enhance, but not to expand, existing commercial uses along the Baltimore Avenue (US 1) corridor, supported by additional residential uses.

The site is located in Focus Area 4 (US 1 Academy Lane to Cherry Lane) where the plan recommended new mixed-use development in designated locations to complement and enhance the surrounding residential neighborhood. For this particular location north of Magnolia Street, it recommended a mix of new medium-density residential and office land uses for the existing C-S-C-zoned property fronting US 1. The plan recognized that there is an adequate amount of commercial zoning along US 1 and that expansion into residential areas negatively impacts the abutting neighborhoods.

- D. **Request:** The applicant is requesting rezoning of the subject property from the R-55 Zone to the C-S-C Zone.
- E. **Neighborhood and Surrounding Uses:** The subject property is located in a neighborhood defined by the following boundaries:

North— Cherry Lane

East— CSX railroad tracks

South— Maple Street

West— Baltimore Avenue (US 1)

The neighborhood contains a mix of uses with commercial and light industrial uses predominating along US 1 and Cherry Lane. As one travels north, the residences become less prevalent as the neighborhood narrows. In fact, residences just to the north of the subject property are classified in the Light Industrial (I-1) Zone rather than a residential zone. To the east and south of the commercial and light industrial development are single-family residences continuing to the railroad tracks.

The property is surrounded by the following uses:

North— Single-family residences along Clark Avenue in the I-1 Zone.

East— Single-family residence along Clarke Avenue in the R-55 Zone.

South— Single-family residences across Magnolia Street in the R-55 Zone.

West— The site of the former Bay and Surf Restaurant, now demolished, in the C-S-C 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 retaining the subject property in the R-55 Zone in the 2010 Subregion 1 Master Plan and SMA was a mistake. Their contention is that the District Council, at the time of the master plan and SMA, failed to take into account then existing facts when it retained the site in the R-55 Zone. They feel that the District Council should have recognized that the subject property is an anomaly; the only lots in the neighborhood north of Magnolia Street and west of Clarke Street remaining in a residential zone. The master plan makes a recommendation that the northern section of Focus Area 4 be developed (in large part) as a mixed-use development of retail, office, and residential uses. Despite this, the Council chose to not rezone properties to Euclidean commercial zones (with the exception of a single lot on Holly Street), relying instead on the floating mixed-use zones (such as the M-X-T Zone) to implement the recommendation. The applicant notes that, although the Mixed Use–Transportation Oriented (M-X-T Zone) may be an appropriate vehicle for larger properties, it is not appropriate for this small site.

Staff'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: 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 Subregion 1 Master Plan and SMA recommends a mixed-use development for the subject property and many of the other adjacent properties. That being said, the master plan and SMA did not expect this half-acre site to be a stand-alone mixed-use development. Because of the existing

lotting and land ownership patterns, it is necessary that a larger collection of properties come in together. While this delays the plan recommendation from coming to fruition, it does not constitute a mistake on the part of the District Council. The District Council considered the proper use for the site and concluded that commercial uses at this location were inappropriate at this time. Until a comprehensive mixed-use development plan is put forward, the Council decided to leave this site, and all of the other lots in Focus Area 4 (with the exception of one), in their existing zoning classification. Doing so protects the residential character of the surrounding properties to the east and south.

The District Council chose to follow the recommendation of the master plan and restrict new commercial development along Baltimore Avenue (US 1) because of concerns with potential impacts on the residences to the east. If the applicant believes that residences are not viable on this property, staff would point out that there are many nonresidential uses that are permitted in the R-55 Zone, either by-right or by special exception. Staff assumes that some of those uses would be appropriate for this location.

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) 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.**

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 and east.

CONCLUSION

The 2010 *Approved Subregion 1 Master Plan and Sectional Map Amendment* created goals and policies to enhance, but not to expand, existing commercial uses along the Baltimore Avenue (US 1) corridor, supported by additional residential uses. The District Council considered this site for inclusion in a mixed-use center, but ultimately chose to retain the residential zoning due to the character of the surrounding neighborhood to the south and east. 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 Application No. A-10030.