



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

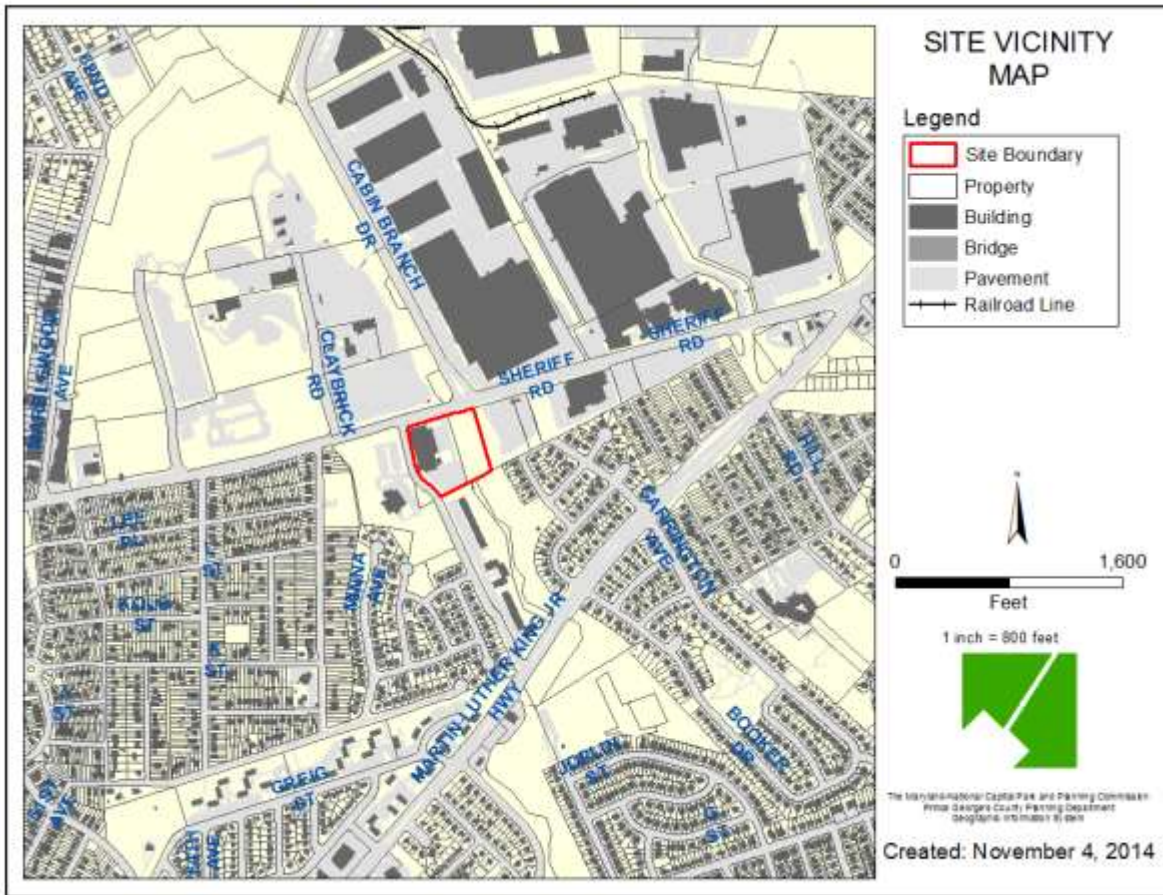
Zoning Map Amendment

A-10033

Application	General Data	
Project Name: Virginia Linen Location: South side of Sheriff Road at its intersection with Cabin Branch Drive. Applicant/Address: Virginia Linen Service of Maryland, Inc. P.O. Box 869 Petersburg, VA 23804 Property Owner: Virginia Linen Service of Maryland, Inc. P.O. Box 869 Petersburg, VA 23804	Planning Board Hearing Date:	12/17/15
	Staff Report Date:	12/02/15
	Date Accepted:	10/16/15
	Planning Board Action Limit:	N/A
	Plan Acreage:	5.59 acres
	Zone:	I-3
	Gross Floor Area:	N/A.
	Lots:	2
	Parcels:	N/A
	Planning Area:	72
	Council District:	05
	Election District	14
	Municipality:	N/A
	200-Scale Base Map:	202NE06

Purpose of Application	Notice Dates	
Rezone property from the I-3 Zone to the I-1 Zone. .	Informational Mailing	05/11/15
	Acceptance Mailing:	10/14/15
	Sign Posting Deadline:	N/A

Staff Recommendation		Staff Reviewer: Tom Lockard Phone Number: 301-952-3410 E-mail: Thomas.Lockard@ppd.mncppc.org	
APPROVAL (of the I-4 Zone)	APPROVAL WITH CONDITIONS	DISAPPROVAL (of the I-1 Zone)	DISCUSSION
X		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-10033**
Virginia Linen

REQUEST: **Rezone property from the I-3 Zone to the I-1 Zone.**

RECOMMENDATION: **DISAPPROVAL of the I-1 Zone,**
APPROVAL of the I-4 Zone

NOTE:

The Planning Board has scheduled this application to be reviewed on the agenda date of December 17, 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 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.

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 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). It is the only such industrially-zoned property on the south side of Sheriff Road. In this instance, the public benefit to restricting the type and amount of industrial development can be justified, in our opinion. While that same section of the County Code requires the Planning Board to identify the properties on which nonconforming uses are being created, the failure to do so, or the failure to provide a written justification, does not invalidate later District Council action in the approval of the Sectional Map Amendment.

The creation of the nonconforming use is not a mistake on the part of the District Council, nor is the assignment of the I-3 Zone to a property less than 25 acres in area, which **Section 27-471(i)(4)** clearly allows as part of a Sectional Map Amendment. However, we do agree a mistake was made. What the District Council failed to fully consider, in our view, is that the I-4 Zone (as originally recommended) was the zone which could accomplish both the vision of the Subregion 4 Master Plan and the needs of the property owner. The I-4 Zone allows for the laundry plant as a permitted use, and allows for the limited intensity of development envisioned by the master plan with a lower FAR and increased green area and setback requirements. While we would not go so far as to describe the existing use on the property as being "disadvantageous, blighted or underutilized" we will not second-guess the District Council's decision that a less intensive industrial zone was appropriate for the properties along the south side of Sheriff Road. We do disagree with the choice of the I-3 Zone as the appropriate zoning category and conclude that the District Council should have placed the property in the I-4 Zone in accordance with the original recommendation of the 2010 Approved Subregion 4 SMA.

- G. **Conformance with the Purposes of the I-4 Zone:** The purposes of the I-4 Zone are contained in Section 27-472(a)(1) of the Zoning Ordinance and are as follows:

(A) **To provide for limited industrial and commercial development;**

- (B) To provide for uses limiting employee and patron occupancy levels and floor area ratios; and**
- (C) To provide development standards which assure limited intensity industrial development and the compatibility of proposed land uses with surrounding existing and proposed land uses those proposed in the Master Plan) and zoning.**

If the proposed rezoning to the I-4 Zone were approved, the subject property could be developed in a manner recommended by the master plan. The I-4 Zone, with its limited FAR, wider setbacks from residentially-zoned properties and 25 percent green area requirement would ensure that future expansion of the use could continue to be a good neighbor to the adjoining residential area.

CONCLUSION

The 2010 *Approved Subregion 4 Master Plan and Sectional Map Amendment* created goals and policies to direct lighter industrial zoning adjacent to residential areas and to create an appropriate transition between land uses.. The District Council considered the I-3 Zone the appropriate zone to allow for this. We believe the applicant has met their burden of proof in showing a mistake in the comprehensive rezoning. However, we disagree with the applicant's conclusion that the I-1 Zone is the proper zone to remedy the mistake, finding the I-4 Zone, as originally proposed in the SMA, more appropriate. Therefore, staff recommends APPROVAL of Zoning Map Amendment Application No. A-10033 for the I-4 Zone.