



*Note: Staff reports can be accessed at [www.mncppc.org/pgco/planning/plan.htm](http://www.mncppc.org/pgco/planning/plan.htm).*

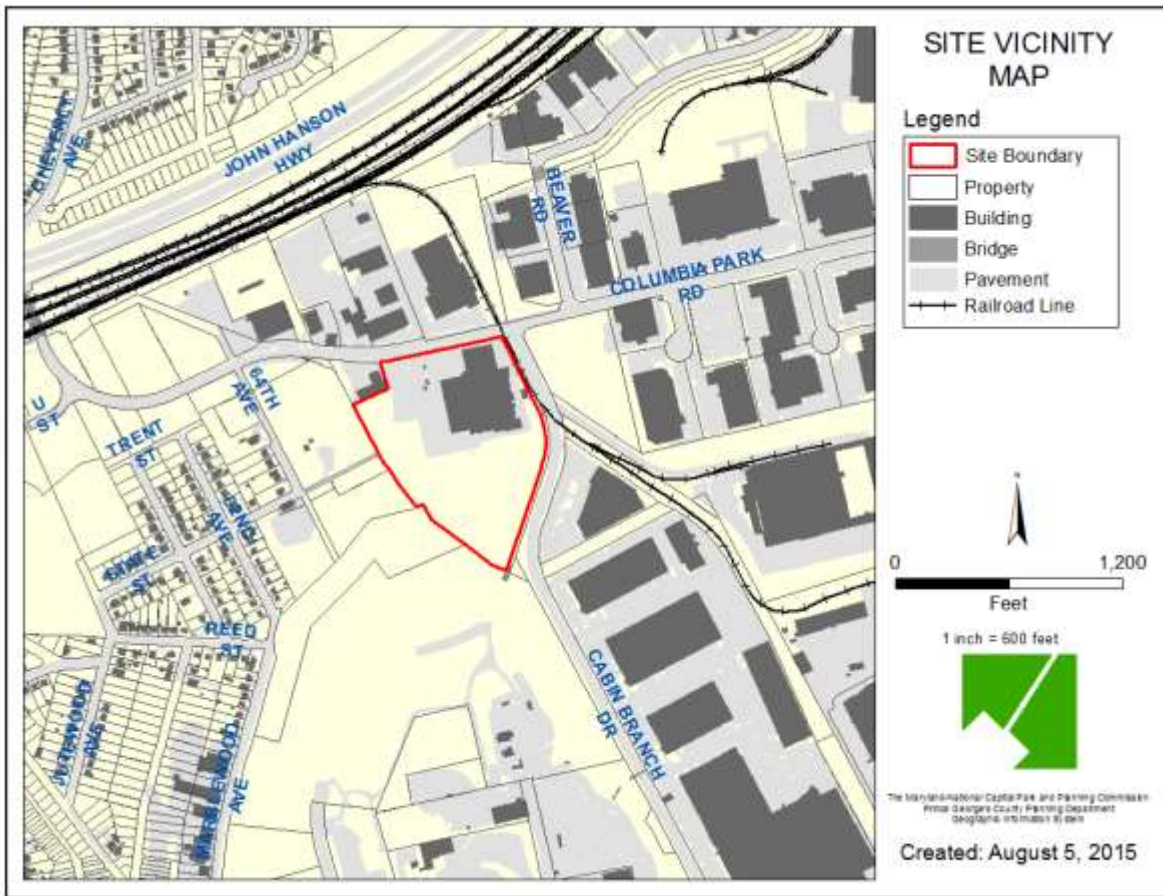
## Zoning Map Amendment

## A-10035

Application	General Data	
<b>Project Name:</b> Smithfield Properties  <b>Location:</b> On the southwest corner of the intersection of Columbia Park Road and Cabin Branch Road.  <b>Applicant/Address:</b> Liberty 5801 Columbia Park Road, LLC. 500 Chesterfield Parkway Malvern, PA 19355  Smithfield Farmland Corp f/k/a Gwaltney of Smithfield, LTD. 111 Commerce Street Smithfield, VA 23430  <b>Property Owner:</b> Same as above	Planning Board Hearing Date:	04/28/16
	Staff Report Date:	04/14/16
	Date Accepted:	01/11/16
	Planning Board Action Limit:	N/A
	Plan Acreage:	10.063
	Zone:	I-3
	Gross Floor Area:	N/A
	Lots:	N/A
	Parcels:	1
	Planning Area:	72
	Council District:	05
	Election District	18
	Municipality:	N/A
	200-Scale Base Map:	203NE05

Purpose of Application	Notice Dates	
Rezone property from the I-3 Zone to the I-2 Zone.	Informational Mailing	08/10/15
	Acceptance Mailing:	01/05/16
	Sign Posting Deadline:	N/A

<b>Staff Recommendation</b>		<b>Staff Reviewer:</b> Taslima Alam <b>Phone Number:</b> 301-952-4976 <b>E-mail:</b> Taslima.Alam@ppd.mncppc.org	
<b>APPROVAL</b>	<b>APPROVAL WITH CONDITIONS</b>	<b>DISAPPROVAL</b>	<b>DISCUSSION</b>
		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, Supervisor, Zoning Review Section, Development Review Division

FROM: Taslima Alam, Senior Planner, Zoning Review Section, Development Review Division

SUBJECT: **Zoning Map Amendment Application No. A-10035  
Smithfield Properties**

REQUEST: **Rezone property from the I-3 Zone to the I-2 Zone.**

RECOMMENDATION: **DISAPPROVAL**

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NOTE:

The Planning Board has scheduled this application to be reviewed on the agenda date of April 28, 2016. 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 17.9-acre site is located in the corner of the intersection of Columbia Park Road and Cabin Branch Road within an industrial use area. It consists of one legal parcel of land in the Planned Industrial/Employment Park (I-3) Zone. The site is improved with a vacant 132,000-square-foot, one-story, brick and frame building that was used as the Smithfield Ham processing plant and its supporting asphalt/concrete parking lot with 12 loading docks. The entire ham processing plant is separated from the adjacent properties by a chain-link fence. The site has an existing shed and a small security kiosk located along the west side of the parking lot. The site is partially wooded to the south. Access to the site is via a driveway entrance from Columbia Park Road.

The site is located within the Beaver Dam Creek watershed of the Anacostia River Basin. It is located within the Environmental Strategy Area 1 (formerly the Developed Tier) of the Regulated Environmental Protection Area Map, as designated by the *Plan Prince George's 2035 Approved General Plan* (Plan Prince George's 2035). The property has nontidal wetlands, streams, and 100-year floodplain. According to information obtained from the Maryland Department of Natural Resources, Natural Heritage Program, there are no rare, threatened, or endangered species found to occur on or in the vicinity of this property. No scenic or historic roads are affected by this proposal.

- B. **History:** The existing building on the property was constructed in 1963 and was used as the Smithfield Ham processing plant. The 2010 *Approved Subregion 4 Master Plan and Adopted Sectional Map Amendment* (Subregion 4 Master Plan and SMA) (Zoning Change LB4) reclassified the subject property at 5801 Columbia Park Road from the Heavy Industrial (I-2) zoning district to the I-3 Zone. This action resulted in the processing plant becoming a nonconforming use, since that use is not permitted in the I-3 Zone.

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

### **Plan Prince George's 2035 Approved General Plan**

Plan Prince Georges 2035 designates this area as a local transit center, which is one of its four local and suburban centers. The local transit center consists of small-scale mixed-use centers that are primarily residential areas (average 30 to 100 dwelling units/acre), well connected by transit, and a viable street grid offering local serving retail, with limited office uses.

The application is not consistent with the Plan Prince George's 2035 policies, which designate this area as a local transit center.

### **2010 Approved Subregion 4 Master Plan and Sectional Map Amendment**

The Subregion 4 Master Plan and SMA created goals and policies to preserve and expand industrial land use wherever possible along the northern and eastern perimeter of the subregion. At the same time, the plan also recommends buffering industrial land areas from other incompatible uses to protect residents, while maintaining the jobs and tax base that support residents of the subregion (page 51).

The application is consistent with the Subregion 4 Master Plan industrial land use recommendation. However, this application recommends an intensity with the I-2 Zone that is in conflict with the master plan's vision to develop transition and integration strategies for the industrial areas at or near General Plan centers where industrial uses could potentially come in conflict with transit-oriented developments (page 72).

The site is located in Living Area B. The Subregion 4 Master Plan and SMA (Zoning Change LB-4) reclassified the subject property from the I-2 zoning district to the I-3 Zone in order to not only create an appropriate development density transition between the I-2 zoning and single-family residential neighborhoods in the One-Family Detached Residential (R-55) Zone, but also to reduce the impact of high-intensity uses on the overall quality of life in the residential neighborhood. Subsequently, the District Council proposed an amendment to the adopted Subregion 4 Master Plan to reclassify the property to the Light Industrial/Development District Overlay (I-1/D-D-O) Zone under a proposed “Columbia Park District Development Overlay Zone” that would apply development standards and regulations regarding landscaping, screening, fencing, lighting, building intensity, and materials. “The new regulations are intended to ensure that new development and redevelopment in this area will result in an attractive, low-intensity functional light industrial area that provides a transition between residential and industrial areas in the northern part of the subregion” (page 8, Council Resolution CR-15-2010). Despite receiving testimony from several representatives for adjacent properties included in Zoning Change LB4 opposing these recommendations on the grounds that D-D-O or I-3 Zones would make the uses nonconforming, the District Council ultimately rejected this amendment. The District Council approved the Planning Board’s endorsed reclassification of the subject property and several adjacent properties in Zoning Change LB-4 in the I-3 Zone. Detailed explanations of staff’s rationale for the change is located on page 44 in the Discussion section of the master plan’s Digest of Public Testimony.

D. **Request:** The applicant is requesting rezoning of the subject property from the I-3 Zone to the I-2 Zone.

E. **Neighborhood and Surrounding Uses:**

Applicant’s defined neighborhood boundary:

<b>North—</b>	John Hanson Highway (US 50)
<b>East—</b>	The intersection of Columbia Park Road and Martin Luther King Jr. Highway (MD 704)
<b>South—</b>	The intersection of Martin Luther King Jr. Highway (MD 704) and Sheriff Road
<b>West—</b>	Addison Road

Staff’s defined neighborhood boundary:

<b>North—</b>	John Hanson Highway (US 50)
<b>South—</b>	Intersection of Sheriff Road and Marlwood Avenue
<b>East—</b>	Intersection of Columbia Park Road and Kentland Community Center Park to Martin Luther King Jr. Highway (MD 704).
<b>West—</b>	George M. Boyd Memorial Park to Marlwood Avenue south to Sheriff Road

The applicant extends the eastern boundary of the neighborhood to the intersection of Columbia Park Road and MD 704, thereby incorporating a large range of heavy industrially-zoned land,

which includes the Whole Foods Market Distribution Center, Pepsi Company, and the Maurice Electrical Supply Company, among others. The extended neighborhood contains heavy industrial along the east and west of Cabin Branch Drive and northeast of Sheriff Road. Staff believes that the extensive neighborhood defined by the applicant is too large and overemphasizes a heavy industrial nature east of Cabin Branch Drive at its intersection with Sheriff Road, which is immediately adjacent to the subject site. The Planning principles typically consider a neighborhood as a smaller unit of a large community. Significant natural features or major roads are normally accepted as legal boundaries to define a neighborhood. Staff's neighborhood contains a mix of various light industrial uses and park lands, which provide significant natural buffers between industrial uses and residential uses.

The property is surrounded by the following uses:

- North—** Columbia Park Road and across said road are mixed industrial uses (i.e. ABC Supply Company, Inc., Washington Winnelson (plumbing fixtures and supplies store), and the Washington Woodworking Company) all in the I-1 and I-3 Zones.
- East—** Cabin Branch Drive and across said roadway are the Lyone Bakery, the Whole Foods Market, and other uses in the I-1 and I-2 Zones.
- South—** Cabin Branch Drive and the Prince George's Business Park in the I-1 and I-2 Zones.
- West—** The Cabin Branch Stream and associated floodplain, Fanelli's Deli in the I-3 Zone, and the George M. Boyd Memorial Park, and beyond is the Englewood Subdivision 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 Subregion 4 SMA was a mistake. Their argument, as summarized from their statement of justification, is five-fold:

- **Mistake 1**—The District Council’s action was based on unsubstantiated assumptions by the Planning staff and the Planning Board that I-3 was an appropriate transition development density between heavy industrial (I-2) and single-family residential neighborhoods (R-55), while ignoring specific site conditions relating to the subject site.
- **Mistake 2**—The rezoning appears to contradict the many references in the Subregion 4 Master Plan recommending the preservation of industrial uses, including a specific reference to the subject property. The applicant points to the recommendation of the master plan that states, “Preserve and expand industrial land use wherever possible along the northern and eastern perimeter of the subregion. Action sites: I-295 frontage, I-295/US 50 and Metro triangle, Columbia Park Road, and Cabin Branch” (page 99). As evidence, the applicant believes that the master plan intended to identify the subject property and its use for preservation and expansion.
- **Mistake 3**—Although Smithfield Ham, the prior owner and operator of the processing plant located on the subject property, did not cease operation until the fall of 2013, the District Council relied on ill-informed guidance suggesting that, at the time of the master plan and SMA approval in June 2010, the processing facility was vacant. The master plan reference states, “Furthermore, the section south and east of the Cheverly Metro Station is currently vacant. It is zoned as industrial, but there is a residential section between it and the metro station. Rezoning should be considered in order to maximize the use around the metro station, since additional industrial development could be difficult there. Although, this area is categorized as a Type 5 (Healthy Industrial Area), it deserves further study because of its proximity to the metro station.”
- **Mistake 4**—The applicant is challenging as false the rationale used by staff to support the rezoning of the subject property which states, “Rezoning from I-2 to I-3 supports the goals, policies, and strategies of the General Plan and the Subregion 4 Master Plan to allow lighter intensity industrial uses adjacent to residential areas and at gateway locations.”
- **Mistake 5**—The applicant is contending that the distance between the subject site and the residential properties to the west of the site is significant and separated by a heavily vegetated floodplain that provides a permanent natural wooded buffer. A fact that, if highlighted before the Council, may have factored into the decision to rezone the subject property.

The applicant claims that the five mistakes listed above overcome the presumption of validity of the comprehensive rezoning and suggests that the property should be placed back in the I-2 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-2 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 instance, public benefits can be well justified in our opinion. The Subregion 4 Master Plan speaks to the need to lessen the potential impact of high-intensity uses for industrially-zoned properties where they adjoin residential properties. The site abuts residentially-zoned properties to the west and southwest. Based on the goals, policies, and recommendations mentioned in the master plan and staff's rationale provided in the Digest of Testimony, staff does not believe that the Council's action was based on an unsubstantiated assumption by Planning staff and Planning Board during the SMA process. Staff's comments in the Digest of Testimony for the initial joint public hearing point out a number of reasons for the Planning Board's recommendations. As mentioned before, there was concern about the impact of high-intensity uses and long-term visibility on the adjacent residential neighborhood. Moreover, reclassifying the subject property, along with other properties in the area, was not only to create an appropriate development density transition between the heavy industrial zoning and single-family development, but also to "respect and restore sites wetlands, floodplains and regulated areas as identified in the Green Infrastructures Plan and take advantage of the area's natural features to create buffers between industrial uses and existing and proposed residential communities" (page 45, Digest of Testimony).

The applicant claims that the Subregion 4 Master Plan recommends to "preserve and expand land use wherever possible"; however, the applicant did not mention that the master plan also sets a vision for industrial development, which reads "The existing industrial development in Subregion 4 along US 50 and I-495 will likely continue to thrive into the future. However, it will be important to develop transition and integration strategies for the industrial areas at or near the General Plan Centers. This is relevant at the Cheverly, Landover, and New Carrollton Metro centers, where industrial uses could potentially come into conflict with transit-oriented developments" (page 72) and, on page 83, the master plan further reads, "Develop mixed-use development within one-half mile of the General plan centers." It appears that the subject property is located within a quarter mile of the Cheverly Metro station. The master plan recommendation did not identify this property for preservation and expansion at the current intensity. The applicant additionally contends that the District Council relied on the misinformation that the Ham processing plant was vacant at the time of the master plan and SMA approval. While no evidence was provided by the applicant to support this fact, staff believes that, whether the property was functioning or not at the time of the SMA approval, it would not negate the master plan's vision in any way. All factors, including the heavy vegetative buffer located in the western portion of the property, were taken into consideration at the time of the comprehensive zoning process. Therefore, staff believes that reclassifying the subject property does not constitute a mistake on the part of the District Council. The District Council carefully considered all of the relevant facts and circumstances existing on the site and around the site, and concluded that I-3 zoning at this location is appropriate at this time. Doing so will reduce the adverse impact on the adjoining residential character of the surrounding properties to the west and southwest.



G. **Conformance with the Purposes of the I-2 Zone:** The purposes of the I-2 Zone are contained in Section 27-470(a)(1) of the Zoning Ordinance and are as follows:

- (A) **To accommodate a mix of intense industrial uses which require larger tracts of land;**
- (B) **To accommodate industrial uses that may impact adjoining properties, but are essential to the County's economic well-being; and**
- (C) **To apply site development standards which will generate an attractive, conventional heavy industrial environment.**

If the proposed rezoning to the I-2 Zone were approved, the subject property could be developed in a manner in direct contradiction to the recommendations of the Subregion 4 Master Plan. The I-2 Zone, because of the types of heavy industrial businesses it allows, has the potential to negatively affect the adjoining residential area.

H. **Referrals:**

**Town of Cheverly**—In a memorandum dated March 2, 2016, the Town Council of the Town of Cheverly voted unanimously to oppose A-10035.

## CONCLUSION

The 2010 Subregion 4 Master Plan and SMA created goals and policies to direct lighter industrial zoning adjacent to residential areas and to create an appropriate transition between land uses. Staff believes that the I-3 zoning was not a mistake in the comprehensive rezoning. The decision of the District Council to reclassify the subject property to the I-3 Zone was the appropriate zone to support the master plan's vision to both preserve industrial areas while protecting residents, maintaining the jobs and tax base that support residents of the subregion and, at the same time, develop transition and integration strategies for the industrial areas at or near General Plan centers where industrial uses could potentially come in conflict with transit-oriented development. Therefore, staff recommends DISAPPROVAL of Zoning Map Amendment Application No. A-10035 for the I-2 Zone.