



Note: Staff reports can be accessed at <http://mncppc.iqm2.com/Citizens/Default.aspx>.

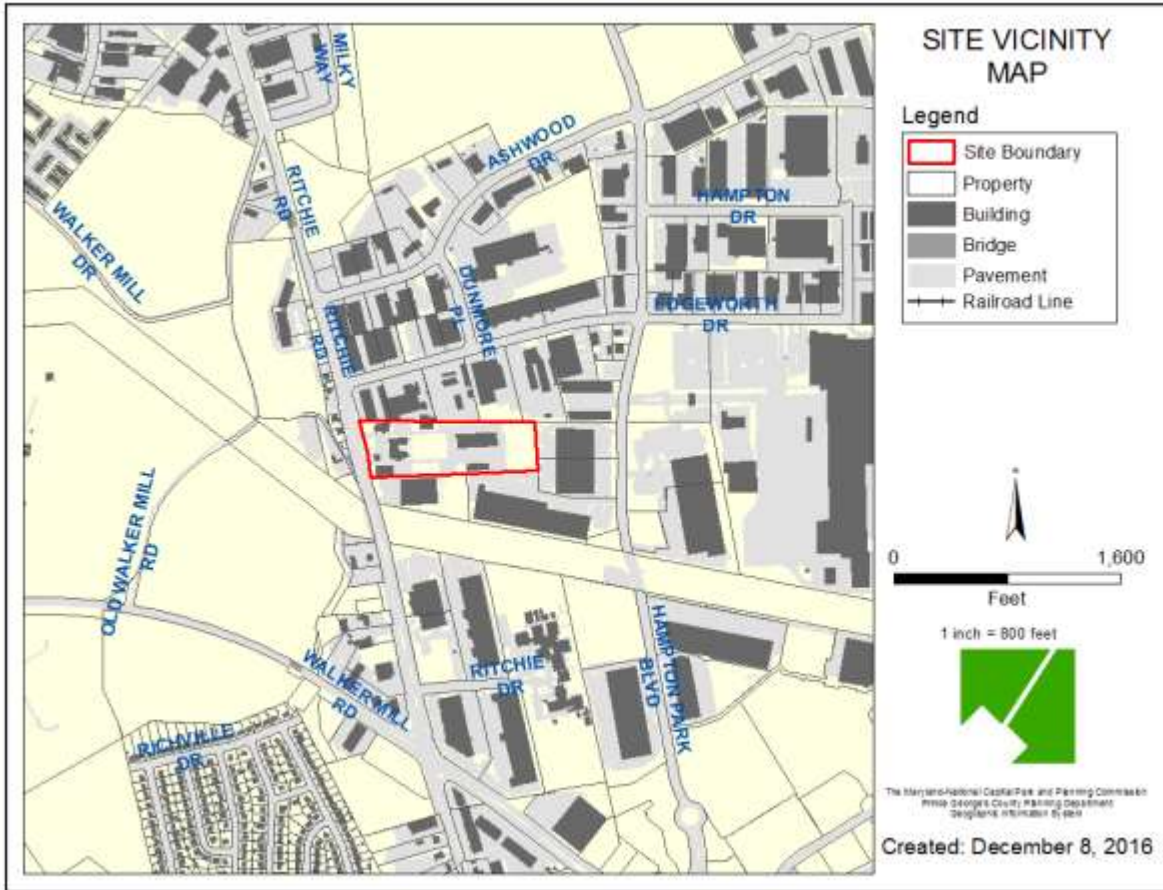
Zoning Map Amendment

A-10037

Application	General Data	
Project Name: American Rescue Workers Location: East side of Ritchie Road approximately 2,200 feet north of the intersection of Walker Mill Road and Ritchie Road. Applicant/Address: American Rescue Workers, Inc. 716 Ritchie Road Capitol Heights, MD 20743 Property Owner: American Rescue Workers, Inc. 716 Ritchie Road Capitol Heights, MD 20743	Planning Board Hearing Date:	04/20/17
	Staff Report Date:	04/04/17
	Date Accepted:	01/09/17
	Planning Board Action Limit:	N/A
	Plan Acreage:	10.602 ac.
	Zone:	R-R
	Gross Floor Area:	95,000 sf.
	Lots:	0
	Parcels:	1
	Planning Area:	75A
	Council District:	06
	Election District	13
	Municipality:	N/A
	200-Scale Base Map:	201SE08

Purpose of Application	Notice Dates	
Rezone property from the R-R zoning district to the I-2 zoning district. .	Informational Mailing	01/29/16
	Acceptance Mailing:	01/05/17
	Sign Posting Deadline:	N/A

Staff Recommendation		Staff Reviewer: Christina Pompa Phone Number: 301-780-2222 E-mail: Christina.pompa@ppd.mncppc.org	
APPROVAL (of the I-1 Zone)	APPROVAL WITH CONDITIONS	DISAPPROVAL (of the I-2 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

FROM: Christina Pompa, Acting Planning Supervisor, Zoning Section, Development Review
Division

SUBJECT: **Zoning Map Amendment Application No. A-10037**
American Rescue Workers

REQUEST: **Rezone property from the R-R zoning district to the I-2 zoning district**

RECOMMENDATION: **DISAPPROVAL of the I-2 Zone**
APPROVAL of the I-1 Zone

NOTE:

The Planning Board has scheduled this application to be reviewed on the agenda date of April 20, 2017. 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 10.602-acre site is located on the east side of Ritchie Road, approximately 2,200 feet north of the intersection of Ritchie Road and Walker Mill Road. The site is comprised of one parcel of land. The applicant is a nonprofit religious organization that provides treatment to men suffering from alcohol and/or drug addiction through a combination of work rehabilitation and religious services. The facility includes a single-family residence; a church; a three-story building containing administrative offices, eight dormitory-style living quarters, a communal kitchen, and apartments for employees and staff; a thrift store; an accessory warehouse; and a garage.

- B. **History:** The 2010 *Approved Subregion 4 Master Plan and Sectional Map Amendment* (Subregion Master Plan and SMA) affirmed the subject property as the R-R (Rural Residential) zoning district. Historical zoning decisions related to the property include the following:

SE-2650	On November 16, 1972, the District Council approved Special Exception SE-2650 for an eleemosynary and philanthropic institution in the R-R zoning district on the subject property.
1986 SMA	On March 4, 1986, the subject property was rezoned from R-R to I-1 with the District Council's adoption of County Council Resolution CR-25-1986, which was the Sectional Map Amendment that followed the approval of the Suitland-District Heights and Vicinity Master Plan on December 3, 1985.
Revisory Petition	In early 1986, the property owner filed a revisory petition with the District Council requesting the subject property be retained in the R-R zoning district. On June 24, 1986, the District Council adopted CR-73-1986, which revised and amended the Sectional Map Amendment to change the I-1 Zone to R-R on the subject property.
Zoning Bill	On October 20, 1987, the District Council adopted County Council Bill CB-108-1987 for the purposes of permitting the Adult Rehabilitation use in the I-2 zoning district.
2010 SMA	On June 1, 2010, the District Council adopted County Council Resolution CR-49-2010 to approve with amendments the Subregion 4 Master Plan and SMA, which affirmed the zoning of the subject property as R-R.

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

Plan Prince George's 2035 Approved General Plan

This site is located within an Employment Area on the *Plan Prince George's 2035 Approved General Plan* Growth Policy Map. These areas are described as commanding the highest concentrations of economic activity in four targeted industry clusters—healthcare and life sciences; business services; information, communication, and electronics; and the Federal Government (page 106). Land-Use Policy 3.2 recommends that preliminary master plans and rezoning requests are reviewed to ensure that proposed development is consistent with the Growth Policy Map and the Center Classification System (page 112).

2010 Approved Subregion 4 Master Plan and Sectional Map Amendment

The subject property is part of the Hampton Park industrial area as identified in the 2010

Subregion 4 Master Plan and SMA. It is an isolated R-R Zone within an entire area surrounded by I-1 (Light Industrial) zone properties. The Subregion 4 Master Plan designates the subject property in the Industrial land use classification as the property was designated in the 1985 Suitland-District Heights and Vicinity Master Plan. The 1986 Suitland-District Heights and Vicinity Sectional Map Amendment rezoned the property from the R-R Zone to the I-1 Zone. The I-1 Zone was changed back to the R-R Zone through revisory petition per County Council Resolution CR-73-1986. The Subregion 4 Master Plan retained the R-R Zone. Research of the Subregion 4 joint public hearing transcript did not find an oral or written testimony for a rezoning of the subject property.

Application to change the zone to industrial is consistent with the master plan land-use recommendation, however, the intensity of the industrial at this location makes a great difference in terms of compatibility with the surrounding development in the I-1 Zone. Potential future introduction of other heavy industrial uses permitted in I-2 Zone, beyond the existing I-1uses, may be incompatible with the surrounding uses and other uses permitted in the I-1 Zone.

- D. **Request:** The applicant is requesting rezoning of the subject property from the R-R zoning district to the I-2 zoning district.
- E. **Neighborhood and Surrounding Uses:** The subject property is located in the Hampton Park/Steeplechase 95 Industrial Area defined by the following boundaries:

North— Central Avenue (MD 214)

East— Capital Beltway (I-495/95)

South— Walker Mill Road

West— Western Branch of the Patuxent River

The vast majority of land within this neighborhood is zoned I-1 and is being used for industrial purposes. The approximate area of the neighborhood is 736 acres. Of that, approximately 38 acres is zoned M-X-T, 12.5 acres is zoned C-S-C, 23 acres is zoned M-U-I, 18 acres is zoned R-O-S, and 10.6 acres is zoned R-R (subject property). The remainder of the neighborhood, approximately 634 acres or 86 percent of the land area in the neighborhood, is zoned I-1.

The property is surrounded by the following uses:

North— Industrial uses in the I-1 zoning district

East— Industrial uses in the I-1 zoning district

South— Industrial uses in the I-1 zoning district and a powerline easement

West— Industrial uses in the I-1 zoning district, privately held vacant land, and a powerline easement

- 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 affirming the zoning of the subject property as the R-R Zone rather than rezoning it to I-2 during the 2010 Subregion 4 Master Plan and SMA was a mistake. The applicant contends in their original statement of justification dated January 9, 2017, that the District Council failed to consider two existing facts about the subject property, the result of which was the mistake in not rezoning the property to I-2.

First, in 1987—the year after the revisory petition was granted—a new use was added to the Zoning Ordinance through the adoption of County Council Bill CB-108-1987, an “Adult Rehabilitation Center.” This use was and remains a permitted use by right in the I-2 zoning district. Section 27-107.01(a)(7.2) of the Zoning Ordinance defines and Adult Rehabilitation Center as:

An establishment, owned and operated by a bona fide nonprofit organization within the County, that provides on-site support for a service population, and also provides facilities for the refurbishing and resale of donated goods to the public by the resident service population.

The use on the subject property at the time of the approval of the 2010 Subregion 4 Master Plan and SMA was consistent with this definition. The applicant contends that the District Council erred by failing to understand that rezoning the subject property to the I-2 Zone, a zone which would be far more compatible with the other properties in this defined neighborhood, as described in the SMA, could be accomplished without creating a nonconforming use.

Second, at some point between approval of the 1986 revisory petition and approval of the 2010 SMA, Lot 1, Block D was developed within the I-1 Zone and has since been used without any significant adverse impact to the use on the subject property. The applicant also contends that the District Council erred by failing to consider that the concern regarding the impact of any future development on Lot 1 upon the subject property was no longer a matter of concern, and no longer a basis for retaining the zone upon the property.

The applicant further argues that if the District Council had not relied on erroneous assumptions, it would have rezoned the property to I-2. The I-2 Zone would have been most appropriate because the zone promotes the goals of the master plan/SMA and avoids the creation of a nonconforming use. The master plan acknowledged the industrial nature of the neighborhood by placing the Hampton Park Industrial Center in the

Industrial land-use classification. The area is described in the master plan as a healthy industrial area that should remain primarily industrial. Because the current use on the subject property is only permitted in the I-2 zoning district, the most appropriate way to protect the existing use on the subject property and the industrial land in the neighborhood is to rezone the property to I-2.

The applicant submitted a Supplemental Statement of Justification (SOJ) on March 3, 2017 that outlines policy reasons why the I-1 Zone may be appropriate for the subject property. The supplemental information states “[the District Council] could have rezoned the Subject Property to the I-1 Zone, which would have been justifiable for the reasons discussed herein.... While it is true that a rezoning of the Subject Property to the I-2 Zone would avoid the creation of a nonconforming use, there is countervailing public policy to justify a rezoning of the Subject Property to the I-1 Zone. The zoning map for the Subject Property and the surrounding areas illustrates that the Subject Property is surrounded by a virtual sea of land in the I-1 Zone, within the area bounded by Central Avenue to the north, Ritchie Road to the west and south, and the Capital Beltway to the east....”

The Supplemental Statement of Justification goes on to make the following points supporting rezoning the subject property to I-1:

1. The Hampton Park/Steeplechase 95 Industrial Area is highly desirable to industrial uses.
2. Subregion 4 provides excellent access to local, regional, and national markets.
3. The District of Columbia Government has limited or eliminated industrial uses within its borders, pushing industrial demand into Subregion 4.
4. Policy 4 on page 124 of the Subregion 4 Master Plan calls for rezoning blighted, vacant, or underutilized properties adjacent to existing industrial areas to expand the local industrial base and reduce inconsistent development patterns. Rezoning the subject property to I-1 would be consistent with the Master Plan policy regarding industrial properties, as well as being more consistent with the zoning of the properties surrounding the Subject Property.

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.

Staff believes that in the absence of a request for rezoning to industrial zoning filed by the applicant during the 2010 Subregion 4 Master Plan SMA process, the District Council relied on the last request by the applicant, which was the revisory petition filed in 1986 to retain the property in the R-R zoning district. The existing use on the property was protected through the Special Exception (SE-2650), which runs with the land, so there was no urgent or compelling reason for the District Council to rezone the property as part of the 2010 SMA.

Staff does not agree with the applicant's assertion that the District Council must review 15 years of Zoning Ordinance text amendments to determine the best zone for the property according to the existing use. SMAs provide for the systematic review of land use and zoning and how they conform to the principles of orderly comprehensive land use planning, staged development as reflected in approved public plans and policies, and planned public facilities. SMAs zone property to bring existing individual uses or future desired uses on properties into conformance with the overall master plan vision for use classifications across neighborhoods. They do not ensure an existing use is a permitted use according to the Zoning Ordinance use table. In this case, the only use permitted by right in the Zoning Ordinance that matches the existing American Rescue Workers use, is a use that is permitted in the I-2 Zone, a zone that permits heavy industrial uses by right or by special exception that are out of character with over 95 percent of the zoning and land use in the defined neighborhood. While it is preferable not to create nonconforming uses through the approval of a sectional map amendment, nonconforming uses have historically been created in the County through this process when a master plan vision for an area seeks to move land use in a new or different direction.

Staff does agree that a mistake was made, but staff believes the mistake was not rezoning the American Rescue Workers property to I-1 during the 2010 Subregion 4 Master Plan and SMA. The District Council made the correct decision in 1986 when it originally rezoned the property to I-1 consistent to the master plan vision and zoning for the overall Hampton Park/Steeplechase 95 Industrial Area. The applicant in its Supplemental Statement of Justification (SSOJ) makes two strong points that should be heavily weighted. First, the SSOJ references page 124 of the 2010 Subregion 4 Master Plan which states, "Rezone blighted, vacant, or underutilized properties adjacent to existing industrial areas to expand the local industrial base and reduce inconsistent development patterns." The existing eleemosynary use on the American Rescue Workers property does represent an underutilization of the property from that which could be achieved under the I-1 Zone. Second, the District of Columbia's decision to limit or eliminate industrial uses within its borders, has pushed demand for industrially zoned land east into Prince George's County and the Hampton Park/Steeplechase 95 Industrial Area is well positioned to accommodate the demand.

G. **Conformance with the Purposes of the I-1 Zone:** The purposes of the I-1 Zone are contained in Section 27-469(a)(1) of the Zoning Ordinance and are as follows:

- (A) **To attract a variety of labor-intensive light industrial uses;**
- (B) **To apply site development standards which will result in an attractive, conventional light industrial environment;**
- (C) **To create a distinct light industrial character, setting it apart from both the more intense Industrial Zones and the high-traffic-generating Commercial Zones; and**
- (D) **To provide for a land use mix which is designed to sustain a light industrial character.**

If the proposed rezoning to the I-1 Zone were approved, the subject property could be developed in a manner recommended by the master plan and consistent with the large majority of the I-1 zoned property in the neighborhood. The I-2 Zone permits by right or by special exception a number of heavy industrial uses that may not be compatible with surrounding uses in the neighborhood or other uses permitted in the I-1 Zone.

CONCLUSION

The 2010 *Approved Subregion 4 Master Plan and Sectional Map Amendment* envisioned the 700-acre plus Hampton Park/Steeplechase 95 Industrial Area as remaining primarily industrial and protecting the industrial sites given the excellent location, vibrant health, and the possibility of competing uses. Staff believes the applicant has met its burden of proof in showing a mistake in the comprehensive rezoning. However, staff disagrees with the applicant's conclusion that the I-2 Zone is the proper zone to remedy the mistake, finding the I-1 Zone, more appropriate.

RECOMMENDATION

Staff recommends DISAPPROVAL of the I-2 Zone and APPROVAL of Zoning Map Amendment Application No. A-10037 for the I-1 Zone.