



Note: Staff reports can be accessed at <http://mncppc.igm2.com/Citizens/Default.aspx>.

Zoning Map Amendment

A-10050

Application	General Data	
Project Name: Bowman Property Location: Approximately 120 feet east of the intersection of Prince George's Avenue and US 1 (Baltimore Avenue). Applicant/Address: Roma S. Bowman Living Trust, et al; and Marsha J. Bowman Living Trust 4420 Greenwood Road Beltsville, MD 20705-2713 Property Owner: Same as Applicant	Planning Board Hearing Date:	06/06/19
	Staff Report Date:	05/21/19
	Date Accepted:	04/02/19
	Planning Board Action Limit:	N/A
	Plan Acreage:	33,502 sq. ft.
	Zone:	R-10
	Gross Floor Area:	N/A
	Lots:	4
	Parcels:	0
	Planning Area:	61
	Council District:	01
	Election District:	01
	Municipality:	N/A
	200-Scale Base Map:	214NE05

Purpose of Application	Notice Dates	
Rezone property from the R-10 Zone to the C-S-C Zone.	Informational Mailing:	07/19/18
	Acceptance Mailing:	03/14/19
	Sign Posting Deadline:	05/07/19

Staff Recommendation		Staff Reviewer: Ras Tafari Cannady II Phone Number: 301-925-3411 Email: Ras.Cannady@ppd.mncppc.org	
APPROVAL	APPROVAL WITH CONDITIONS	DISAPPROVAL	DISCUSSION
		X	

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: Sherri Conner, Supervisor, Subdivision and Zoning Section
Development Review Division

FROM: Ras Tafari Cannady II, Senior Planner, Subdivision and Zoning Section
Development Review Division

SUBJECT: **Zoning Map Amendment A-10050**
Bowman Property

REQUEST: **Rezone property from the R-10 Zone to the C-S-C Zone.**

RECOMMENDATION: **DISAPPROVAL**

NOTE:

The Planning Board has scheduled this application to be reviewed on the agenda date of June 6, 2019. 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 Zoning Hearing Examiner at 301-952-3644. All other questions should be directed to the Development Review Division at 301-952-3530.

FINDINGS

1. **Location and Field Inspection:** The subject site comprises three lots known as Lots 21, 22, and 23, within Block 23, of Beltsville, Section 2, recorded in Plat Book LIB A-62 in December 1930. Lots 21–23 are located on the south side of Prince George’s Avenue, addressed as 4935 and 4937 Prince George’s Avenue, approximately 110 feet west of its intersection with US 1 (Baltimore Avenue).

Lot 21 is improved with a 3,103-square-foot, 36-foot-high, two-story, nine-unit, brick multifamily dwelling with basement. Lot 22 is improved with a 1,151-square-foot, 28-foot-high, two-story, frame and siding building, in addition to a 621-square-foot, 16-foot-high, one-story, brick and block building. Lot 23 has a concrete pad with gravel pavement.

According to the applicant’s statement of justification (SOJ), the nine-unit multifamily dwelling on Lot 21 was originally constructed in 1892 as a church with associated parsonage, and later converted in the mid-1960s to a nine-unit multifamily dwelling. The parsonage, located just southeast of the old church, is currently vacant. The applicant states that “numerous improvements would be required to bring this older building into conformance with minimum building code requirements. The cost of the improvements would far exceed the value of the structure itself and without these improvements a residential lease permit cannot be obtained from the county. As a result, the structure is currently unused and will remain vacant. Both the existing church building constructed in 1892 and the parsonage constructed in 1900 are already documented on a Maryland Inventory of Historic Properties Form (MIHP) on file with the Prince George’s Planning Department’s Historic Preservation Section.” Staff has confirmed that the church is registered in the MIHP under file 61-006A, and the ancillary parsonage is registered under file 61-006B.

2. **History:** The site was originally designated within the Regional District as Rural Residential (R-R) zoned property. On July 19, 1961, Lots 21 through 23 were rezoned to the Multifamily High Density Residential (R-10) Zone through the Prince George’s County District Council’s approval of Zoning Map Amendment A-3970.

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

General Plan

The *Plan Prince George’s 2035 Approved General Plan* (Plan 2035) designates the subject property in the Established Community Growth Policy Area. The vision for the Established Communities area is context-sensitive infill and low- to medium-density development. Plan 2035 recommends maintaining and enhancing existing public services (police and fire/EMS), facilities (such as libraries, schools, parks, and open space), and infrastructure in these areas (such as sidewalks) to ensure that the needs of existing residents are met (page 20).

Master Plan

The 2010 *Approved Master Plan and Sectional Map Amendment for Subregion I (Planning Areas 60, 61, 62, and 64)* (2010 Master Plan and SMA), retained the subject property in the R-10 Zone and recommends commercial mixed-use land uses on the subject property.

4. **Request:** The applicant is requesting rezoning of the subject property from the R-10 Zone to the Commercial Shopping Center (C-S-C) Zone.

Note: The applicant's requested rezoning includes Lot 5, Block 23 (Tax ID 0005975), zoned R-R, which is located south of the subject lots, along Harford Avenue. The analysis provided herein has been modified to only include Lots 21–23, Block 23, due to an administrative correction of the zoning map for Lot 5, dated May 1, 2019 (Rowe and Dodgshon to Checkley). This correction shows that the designation of Lot 5 is within the C-S-C Zone. Therefore, the request to rezone Lot 5 is not necessary. A description of the reclassification is provided in greater detail within staff's analysis of Section 27-157(a)(1)(B)(ii) of the Prince George's County Zoning Ordinance.

5. **Neighborhood and Surrounding Uses:** The neighborhood is bounded to the north by Odell Road, to the west by Rhode Island Avenue, to the east by US 1, and to the west by Rhode Island Avenue. The property is surrounded by the following uses:

North— Automotive sales and service uses in the Commercial Miscellaneous (C-M) Zone.

West— Single-family detached dwellings in the R-R Zone.

South— Single-family detached dwellings in the R-R Zone. Beyond Harford Avenue is a shopping center in the C-S-C Zone containing restaurants, beauty services, nail salons, a food and beverage store, and a stand-alone pharmacy.

East— Commercial buildings in the C-S-C Zone, fronting on US 1, containing a barber shop, sporting goods store, commercial office uses, and auto parts store. Beyond US 1 are CSX Railroad tracks and industrial uses in the Heavy Industrial Zone.

6. **Zoning Requirements:** Section 27-157(a)(1) provides that no zoning map amendment application shall be granted without the applicant proving that either:

(A) There has been a substantial change in the character of the neighborhood; or

In the applicant's SOJ submitted April 2, 2019 (Shipley to Conner), incorporated herein by reference, the applicant does not argue that there has been a substantial enough change in the character of the neighborhood to justify the requested zoning change.

(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

The applicant does not put forth an argument of mistake in the original zoning for the property.

(ii) There was a mistake in the current Sectional Map Amendment.

The applicant contends that retaining the subject property in the R-R and R-10 Zones in the 2010 Master Plan and SMA was a mistake by the District Council. The contention is that the assumptions or premises relied upon by the District Council, at the time of the master plan and SMA approval, were invalid or have proven erroneous. The applicant points to six distinct mistakes:

Mistake 1: A clerical error occurred when zoning maps for the County were not updated to reflect the change from R-R to C-S-C for Lot 5, Block 23, in the 1990 *Approved Master Plan and Sectional Map Amendment for Subregion I (Planning Areas 60, 61, and 62)* (1990 Master Plan and SMA). The 2010 Master Plan and SMA mistakenly retained the R-R Zoning for Lot 5, Block 23.

Mistake 2: Lots 21–23 retained R-10 zoning pursuant to County Council Resolution CR-58-2010. The lots front along Prince George’s Avenue, a recorded 50-foot-wide public right-of-way. The north side of Prince George’s Avenue contains heavy automotive-related uses in the C-M Zone.

Mistake 3: The District Council should have recognized that the Bowman Property is not suitable for residential uses and is not suitable for the higher-density residential uses that the R-10 Zone allows.

Mistake 4: The District Council mistakenly relied upon “assumptions” by Planning staff that R-10/R-R designations should be retained by the subject property. The recommendations ignored specific site conditions and the incompatibility of neighboring uses, as they relate to the subject property.

Mistake 5: Adequate land area does not exist within either zone that would allow the property to be developed in accordance with existing underlying zoning designations, due to current parking and setback requirements.

Mistake 6: Rezoning the subject property would create an opportunity for the site to be redeveloped with a new infill commercial use that would be far more compatible with adjacent high-impact automotive-related uses and improve the streetscape along US 1 and Prince George’s Avenue.

As noted in the request section, the applicant’s requested rezoning includes Lot 5, Block-23, zoned R-R. This analysis has been modified to only include Lots 21–23 due to an administrative correction of the zoning map for Lot 5, dated May 1, 2019 (Rowe and Dodgshon to Checkley). During the review of the subject application, staff identified an error in the 2010 Master Plan and SMA regarding Lot 5, Block 23. The 2010 Master Plan and SMA reflected the property as being within the R-R Zone, however, Lot 5 was reclassified from the R-R Zone to C-S-C Zone by the 1990 Master Plan and SMA, Zoning Change B9-15. The zoning change was not carried forward into zoning maps after the 1990 Master Plan and SMA and the 2010 Master Plan and SMA incorrectly reflected the lot in the R-R Zone, whereas all other zoning changes in B9-15 were made on the zoning maps and carried forward in the 2010 Master Plan and SMA. The administrative correction revised the official zoning map to show Lot 5 within the C-S-C Zone and, therefore, it is not necessary to include Lot 5 in the request for rezoning.

Staff finds the retention of the subject property in the R-10 Zone was intended. There was no mistake made by the District Council in its approval of the 2010 Master Plan and SMA. The following is staff’s collective analysis of the mistakes stated by the applicant:

Mistake: Staff finds that, pursuant to Section 27-157(a)(1)(B)(ii) of the Zoning Ordinance, there was not a mistake made in the 2010 Master Plan and SMA for the properties located at 4935 and 4937 Prince George’s Avenue.

Map 13, Approved Future Land Use for Subregion 1, within the 2010 Master Plan and SMA, designates a large number of properties north of Powder Mill Road and west of US 1 in the “Mixed Use Commercial” land use category, consistent with master plan recommendations for redevelopment of Focus Area 1 (US 1 from the Beltsville Agricultural Research Center to Quimby Avenue) as a “main street.” Strategies include “encourage mixed-use development in the area on the west side of US 1, north of Powder Mill Road” and “ensure that new mixed-use development is integrated with—and protects, enhances and complements—surrounding residential neighborhoods” (page 21). The concurrent SMA’s approach to mixed-use zoning is explained on page 159 of the SMA:

This plan identifies areas for mixed-use zoning. Applications for a mixed-use zone may be filed for evaluation and approval based only on the concepts and guidelines contained in the text of this document. Approval should be given for those applications that meet the intent, concepts and guidelines of the future land use plan (see Map 13 on following page). Subtitle 27A (the new mixed-use zone) of the County Code shall not be permitted to be utilized in Subregion 1.

The M-X-T (Mixed-Use Transportation Oriented) Zone serves as an adequate zoning technique to implement the recommendations of the master plan for higher intensity, mixed-use development concentrated in and around the Konterra Town Center and at some neighborhood-serving mixed-use activity centers designated by the master plan. To be most effective, it is recommended that the land use recommendations of the master plan be viewed comprehensively, and that review of site plan applications in the M-X-T Zone be flexible. Rather than requiring a mix of uses for each application, there should be a concentrated effort to ensure that the Konterra Town Center and the US 1 Corridor develop with the cohesive, horizontal and vertical mix of uses described by the master plan as a whole.

Plans in the County identify future land use in order to set the vision for each area, to be delivered through a long-range plan. It is neither possible nor practical to rezone all properties at the time a plan is adopted. The preferred, stated, zoning approach for the mixed-use areas of the US 1 Corridor (including the subject property) was for individual applicants to apply for reclassification to the M-X-T Zone (see Subtitle 27, Part 3, Division 2, Subdivision 4, of the Prince George’s County Code), where rezoning and subsequent development proposals could be evaluated “based only on the concepts and guidelines contained in the text of” the 2010 Master Plan and SMA, but also “comprehensively” and utilizing “flexible” review of site plans, so that the corridor develops “with the cohesive, horizontal and vertical mix of uses described by the master plan as a whole” (page 159).

Pursuant to this policy, while the 2010 SMA rezoned 404.74 acres within Subregion 1 to the M-X-T Zone, no properties along US 1 were reclassified M-X-T.

Accordingly, the decision to retain the subject properties in the R-10 Zone was intentional, in keeping with the SMA's policy supporting piecemeal, market-responsive (rather than comprehensive), mixed-use zoning along the US 1 Corridor, and not a mistake.

Therefore, it is not possible to conclude that a mistake was made in the SMA in retaining the R-10 Zone for the subject property.

In order for a mistake to be a legally justifiable basis for rezoning, there must have been a basic and actual mistake by the legislative body, in this case the District Council. Staff finds that, pursuant to Section 27-157(a)(1)(B), there was not a mistake in the 2010 Master Plan and SMA.

7. **Compliance with Section 27-143(c)(1)(C):** The applicant's SOJ lays out a sound argument as to how the approval of the rezoning request from R-10 to C-S-C will not be detrimental to public health, safety, and welfare, as required in accordance with Section 27-143(c)(1)(C) of the Zoning Ordinance. The applicant sets the framework that, if the C-S-C zoning was granted, the high impact automotive uses across Prince George's Avenue would be buffered and will correct an "existing incompatible zoning situation that has left the Bowman Property no longer suitable for residential purposes."

Furthermore, the applicant has stated that "The approval of the application will provide a single commercial use of benefit to the neighborhood such as a medical supply store, wellness center, etc. with much more adequate setbacks and access to Prince George's Avenue, and for the first time, access to Harford Avenue to serve a portion of the community without congesting the intersection of Prince George's Avenue and US Route 1. There would be further opportunity for screen planting and attractive fencing between the subject Property and single-family homes on Harford Avenue.

"In addition, the review process inherent in the Prince George's County Zoning Ordinance and environmental regulations provides for a high level of planning and design oversight thus promoting and protecting the public health, safety, and welfare. Approval of the subject Zoning Map Amendment is therefore in harmony with Section 27-143(c)(1)(C) and Section 27-102(a)(1) of the Zoning Ordinance for the purpose of protecting and promoting the health, safety, morals, comfort, convenience, and welfare of the present and future inhabitants of the County."

8. **Referral Comments:** Referral memorandum comments directly related to the request to rezone the property were included in the body of this technical staff report. Referral memorandums were received by the following divisions, all are included as back-up to this technical staff report and incorporated by reference herein:

- a. Maryland State Highway Administration, dated April 3, 2019 (Woodroffe to Cannady II)
- b. Transportation Planning Section, dated April 19, 2019 (Masog to Cannady II)
- c. Special Projects Section, dated April 22, 2019 (Ryan to Cannady II)
- d. Community Planning Section, dated May 3, 2019 (Dodgshon to Cannady II)

CONCLUSION

Pursuant to Section 27-157(a)(1)(B) of the Zoning Ordinance, there was not a mistake made in the 2010 *Approved Master Plan and Sectional Map Amendment for Subregion 1 (Planning Areas 60, 61, 62, and 64)* on properties known as Lots 21–23, Block 23. These properties have been zoned Multi-Family High-Density Residential (R-10) since 1961. The comprehensive reclassification of properties designated for mixed-use commercial future land uses along the US 1 Corridor was not recommended during the 2010 SMA, which instead recommended project-by-project rezoning to the Mixed Use-Transportation Oriented (M-X-T) Zone for these areas; consequently, there was no mistake in retaining the properties in the R-10 Zone.

Finding neither substantial change to the character of the neighborhood, nor mistake in the comprehensive rezoning, staff recommends DISAPPROVAL of Zoning Map Amendment A-10050, Bowman Property.