

Maryland-National Capital Park and Planning Commission
 Prince George's County Planning Department
 Development Review Division
 301-952-3530



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ZONING MAP AMENDMENT PETITION A-9953

Application	General Data
Project Name The Sealing Property Location South side of Muirkirk Road, approximately 730 feet west of Virginia Manor Road Applicant Manekin, L.L.C. 7061 Columbia Gateway Drive Columbia, Maryland 21046-2145	Date Accepted 4/25/01
	Planning Board Action Limit
	Tax Map & Grid 09 C-4
	Plan Acreage 22.89 Acres
	Zone R-R
	Dwelling Units
	Square Footage
	Planning Area 60
	Council District 01
	Municipality
	200-Scale Base Map 216NE6

Purpose of Application			Notice Dates	
Rezoning from Rural Residential (R-R) to Planned Industrial/Employment Park (I-3)			Adjoining Property Owners (CB-15-1998)5/2/2001	
			Previous Parties of Record (CB-13-1997)N/A	
			Sign(s) Posted on SiteN/A	
			Variance(s): Adjoining Property OwnersN/A	
Staff Recommendation			Staff ReviewerCatherine H. Wallace	
APPROVAL	APPROVAL WITH CONDITIONS	DISAPPROVAL	DISCUSSION	
	X			

December 3, 2001

TECHNICAL STAFF REPORT:

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

VIA: Arie Stouten, Zoning Supervisor

FROM: Catherine H. Wallace, Planner Coordinator

SUBJECT: **Zoning Application No. A-9953**

REQUEST: **R-R Zone to the I-3 Zone**

RECOMMENDATION: **Approval, with conditions**

NOTE:

This application is on the agenda for the Planning Board to decide whether or not to schedule a public hearing. 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 sent to the Office of the Zoning Hearing Examiner at the address indicated above. 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 site is a 23-acre tract of land located south of Muirkirk Road, approximately 730 feet west of its intersection with Virginia Manor Road. Parcel B, which measures 17.5 acres, extends between two branches of Indian Creek and is surrounded by a WSSC conservation easement. It is undeveloped and appears to have been used for farming or grazing. Parcel A, about 5.4 acres in size, lies beyond the western tributary and is developed with an unoccupied farmhouse connected to the rest of the site by a driveway.

The site is surrounded by the following uses:

North ● Across Muirkirk Road (a one-lane road) lie scattered residences and small farms in the R-R Zone.

East ● Employment development in the I-3 Zone

South ● WSSC Stormwater Management facility in the O-S Zone

West ● Undeveloped land in the R-R Zone, part of the Konterra land holdings

- B. History: The site is part of a larger 40-acre tract, the balance of which was placed in the I-3 Zone at the time of the Subregion I Sectional Map Amendment (SMA). The applicant had also sought I-3 Zoning for this tract during the SMA, but the current R-R Zoning was retained.
- C. Master Plan Recommendation: The 1990 *Master Plan for Subregion I* recommends single-family residential development at low suburban density for the site. The plan also notes the presence of floodplain or floodplain soils on part of the property.
- D. Request: R-R Zone to the I-3 Zone
- E. Neighborhood and Surrounding Uses: The following boundaries separate the neighborhood of the subject site from surrounding areas:

North ● Van Dusen and Contee Roads

East ● US 1

South ● Indian Creek

West ● -95

This neighborhood is identical to the one proposed by the applicant, except for the southern boundary, for which the applicant suggests Powder Mill Road. Although Powder Mill Road is a significant boundary, Indian Creek effectively separates the newer employment parks and sparsely developed low-density residential areas, which characterize most of the neighborhood, from the older, more densely developed industrial and residential areas such as Beltsville Heights. The eastern half of the neighborhood is

characterized by employment development in the south and is sparsely developed in the north. The western half of the neighborhood is largely undeveloped except for scattered residential uses.

F. Zoning Requirements: Change/Mistaking Findings: [27-157(a)]

Section 27-157(a) of the 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 and such mistake occurred not more than six years prior to the filing of an application for the proposed zoning map amendment providing, however, that for those properties for which the current Sectional Map Amendment has been adopted prior to 1990 such mistake shall have occurred not more than 10 years prior to the filing of an application for the proposed zoning map amendment.**

G. Applicant's Position: The applicant provides two basic arguments to support a theory of change in the character of the neighborhood. First, the applicant's statement of justification proposes that the availability of land suitable for employment needs has been dramatically reduced in both the neighborhood and the Subregion I planning area, since the approval of the Subregion I Master Plan and SMA. Secondly, it is argued that a change has occurred in the neighborhood with the August 2001 rezoning of seven acres of land on the north side of Virginia Manor Road from the R-R to the I-1 Zone (A-9944, Errigo).

In support of the employment acreage reduction argument, the applicant has provided data on the absorption of land suitable for employment uses. First the applicant provided a list of parcels in Subregion I, entitled, "Commercial Zoned Properties," which lists parcels in the I-1, I-3 and E-1-A Zones in Subregion I by group, zone, acreage, owner and use. This is a list compiled by the contract purchaser in an effort to find suitable sites for employment development in the area.

A more formal search was carried out later by Geigerich and Associates, which used tax assessor records to list properties within the two employment areas identified on the Master Plan as oriented to the I-95 corridor. This includes Employment Area 1 in the southwest quadrant of I-95 and MD 198 and Employment Area 5 located west of US 1 and east of I-95. The subject site is located adjacent to Employment Area 5. The Geigerich study compiled data on the acreage, zone, land use, and date of development for the parcels in each employment area. The Geigerich data show that far less developable acreage exists in these employment areas than was assumed by the master plan. In Employment Area 5, only 80

acres divided among 25 parcels remain available for development. In Employment Area 1, only 43 acres remain available, with only two parcels containing any significant acreage. The data also show a dramatic increase in the rate of industrial land absorption in the last half of the 1990s as compared to the first half.

The applicant points out that among the acreage no longer available for employment use is the 103-acre HIG tract located in the northern portion of the neighborhood. This site was recently approved for a planned retirement community via Special Exception 4391. Finally the applicant cites the recent rezoning to the I-1 Zone of a seven-acre tract of land near Virginia Manor Court in Application A-9944.

The applicant's Statement of Justification points out that the changing economic trends could justify a legal basis for mistake as well. This argument has not been considered by staff due to the prohibition of rezonings based on mistake occurring more than six years prior to the filing of an application.

- H. Staff's Analysis: Maryland courts have held that changing conditions, including economic conditions, can constitute a change in the character of the neighborhood.

Steve Fisher, Area Planner for Subregion I, in a memorandum dated November 30, 2001, agrees with the applicant that there has been a significant reduction in the inventory of industrial land in the subregion since the last SMA. Mr. Fisher specifically notes that land zoned or proposed for industrial uses in Employment Areas 2 and 8 are no longer available or feasible for industrial development.

Perhaps the most significant change in industrial inventory, however, has occurred in the neighborhood itself with the approval of SE-4391 for a planned retirement community. The approval of this special exception application on I-3 Zoned land removes about half of the acreage available for employment development in Employment Area 5.

Typically, a change in the character of the neighborhood brought about by approval of development of a residential character would not constitute the type of change relevant for a consideration of a request to rezone land from a residential to an industrial zone. Furthermore, development signaling a change in the character of the neighborhood to a particular land use tends to create a reduction in inventory of land suitable for an opposite or different character. So, for example, a rezoning to the I-1 Zone could be used to justify change of an industrial nature, while at the same time reducing the inventory of residential or commercial zoning.

However, in this instance, the approval of residential development on the HIG property is part of a larger reduction in industrial inventory in many areas of the subregion. Moreover, as Mr. Fisher points out in his earlier memorandum of May 17, 2001, the subject property was one of several which would have been considered for employment uses or industrial zoning, but for the restrictions imposed by the transportation holding capacity for the subregion. The special exception approval for the HIG property, along with other reductions in industrial land inventory, have clearly created a change in transportation

capacity, a changing condition, which justifies the consideration of the I-3 Zone on properties in the vicinity of the subject site.

- I. Planning Issues: Steve Fisher indicates that the subject property would have been considered for the I-3 Zone at the time of the Subregion I Master Plan and SMA if transportation capacity had not been an issue. The reduction in industrial zoning inventory now provides some additional transportation holding capacities. The rezoning of the property to the I-3 Zone is also consistent with guidelines found in the Master Plan for employment areas.

The Master Plan, at page 113, provides the following employment objectives:

- ■To maintain and expand existing employment areas where appropriate, while gradually removing them from, and stopping their intrusion into, areas not appropriate for employment uses.●

The proposed rezoning will allow the expansion of an existing employment center at an appropriate location. Development in accordance with the requirements of the I-3 Zone will extend the park-like setting of the adjoining Park Place development and access will be provided by a widened Muirkirk Road. The detailed site plan review requirements and requirements for open space, a park-like setting, architectural compatibility, and limitations on some less desirable uses or features of industrial areas will ensure compatibility with surrounding development.

- ■To develop employment areas in accordance with the principals of good architectural and site design, with emphasis on the industrial park approach at suitable locations.●

The I-3 Zone with its requirement for detailed site plan review was specifically created to encourage the development of employment parks.

- ■To capitalize on those available sites that are highly accessible and provide exposure to regional traffic.
- ■To capitalize upon the location of Subregion I in the Washington-Baltimore corridor and its proximity to the major routes of I-95, US 1, the Baltimore-Washington Parkway, the proposed Kenilworth Avenue extended, and the proposed Intercounty Connector.●

The rezoning will allow the county to capitalize on a relatively large site adjoining existing office park development and near regional highway facilities. Improvements to Ammendale and Virginia Manor Roads have been fully funded and are under construction. These improvements will provide better access to I-95.

In addition, the proposed rezoning meets the Master Plan guidelines found on p. 127:

- 9. New, expanded or redeveloped employment areas should be park-like in nature, with landscaping and well-sited structures, and served by well-designed internal circulation systems.

- 10. Employment areas should be separated from living areas by the use of appropriate buffering, designed and placed to minimize sight (including lighting and signing), sound, and dust.●

The above guidelines should be addressed as part of the site plan review process, since residential development is located north of Muirkirk Road. Every effort should be made to create an attractive park-like vista between the employment uses and Muirkirk Road.

Steve Fisher has pointed out the following with regard to compatibility of the proposed rezoning with adjacent residentially zoned areas.

- At present, the eastern tributary of Indian Creek is used as the dividing line between the I-3 and the R-R Zones. The subject property is immediately adjacent to existing I-3 zoning and development. Aside from the transportation holding capacity issue, I do not see any issues that would arise from extending the I-3 zoning westward as long as it ends at a logical and definable boundary. In this case, the western tributary of Indian Creek would provide such a boundary. Any extension beyond that would raise an issue; said issue being that industrial development would protrude into an area planned for single-family residential use. For purposes of insuring that residential and industrial development are properly separated from each other, it is suggested that the I-3 zone not be extended beyond the western tributary of Indian Creek.●

The applicant indicates that although they wish to rezone the entire site including that portion west of the western tributary, this portion of the property (Parcel A) will be used for open space and additional buffering of the employment development on Parcel B from future residential development to the west. This is an appropriate use of that portion of the site, however, care must be exercised not to permit the open space of Parcel A to be used to justify a less than park-like setting on Parcel B, which is the parcel having the most impact on the residences north of Muirkirk Road. If the entire property is to be rezoned, it is recommended that this open space (Parcel A) be in addition to the 25 percent green area required for the balance of the site (Parcel B).

- J. Conformance with the Purposes of the Zone Requested: The purposes of the I-3 Zone are set forth in Section 27-471(a) of the Zoning Ordinance.

(1) The purposes of the I-3 Zone are:

- A) To provide increased and enhanced employment opportunities for the residents of the county and areas for industries, research facilities, and offices which have common characteristics with respect to site requirements, desired amenities, compatibility of operations, general functional classifications, and access;**

The rezoning of the subject property will further this purpose of the I-3 Zone, in that it makes available increased and enhanced employment opportunities for county residents adjacent to existing employment areas with common characteristics.

- (B) To provide for a mixture of industrial, research, office, and in certain instances specific retail commercial uses (along with compatible institutional,**

recreational, and service uses) in a manner which will retain the dominant industrial/employment character of the area, while also providing for the enhanced viability of the zone by providing for the location of certain retail commercial uses on the periphery of the area, specifically when the periphery fronts on, and is adjacent to, arterial roadways;

The site will be subject to the regulations of the I-3 Zone which will encourage office and research uses while minimizing other types of industrial uses such as warehousing or distribution. It is not located on an arterial roadway and would therefore not be conducive to retail commercial uses.

- (C) To permit uses which, when compared to the uses permitted in other Industrial Zones, will minimize detrimental effects on uses of adjacent land, especially where adjacent land is being used commercially; and**

The regulations of the I-3 Zone will require limitations on uses such as warehousing and distribution, and will minimize the adverse effects associated with the location of parking areas, loading areas and lighting on adjacent land uses.

- (D) To provide development standards which assure the compatibility of proposed land uses with surrounding land uses, maximize open space so as to create a park-like setting, and improve the overall quality of industrial/employment areas in Prince George's County.**

The regulations of the I-3 Zone require approval of a detailed site plan which must address issues such as access, the location of parking and loading areas, lighting, green areas and so forth. Architectural review is required only if it is recommended as part of the zoning process. Due to the proposed location of employment uses adjoining residential development across Muirkirk Road, and to provide for an appropriate continuation of the development of the adjoining employment park, it is recommended that architectural review be required as part of the detailed site plan review process. It is also important to retain an open park-like setting on the subject property especially as it adjoins residentially zoned land. For this reason, Parcel A shall be retained in open space and Parcel B will contain at least 25 percent of green area.

K. Specific requirements of the I-3 Zone

There are several requirements of the I-3 Zone which are appropriately addressed at the time of site plan review. Two specific requirements of the zone deserve mention, however, at the zoning phase of the development process.

Section 27-471(h) Required access.

- (1) Each Planned Industrial/Employment Park (including each property in separate ownership) shall have frontage on, and direct vehicular access to, a street having a right-of-way width of at least seventy (70) feet.**

As noted before, Muirkirk Road in this location is little more than a one-lane road. The development of this property in accordance with the I-3 Zone will require right-of way dedication and substantial improvements to Muirkirk Road.

Section 27-471(i) Minimum area for the development.

- (1) The minimum area for the development of any Planned Industrial/Employment Park shall be twenty-five (25) gross acres.**
- (2) If the area is less than twenty-five (25) acres but not less than fifteen (15) acres, the property may be classified in the I-3 Zone when the property adjoins property in the C-O Zone, provided that the area of the combined properties is at least twenty-five (25) gross acres.**
- (3) If the area is less than twenty-five (25) acres, the property may be classified in the I-3 Zone when the property adjoins property in the I-3 or E-I-A Zone, provided that the area of the combined properties is at least twenty-five (25) gross acres.**
- (4) If the area is less than twenty-five (25) acres, and the land was classified in the I-3 Zone prior to October 31, 1977, or upon approval of a Sectional Map Amendment, it may be developed in accordance with this Part, provided the owner of record does not own abutting undeveloped land in the I-3, E-I-A, or C-O Zone that could be used to comply with the provisions of paragraph (1), (2), or (3), above.**

The subject property conforms to the requirements of this section under subsections (3). The site adjoins property also in the I-3 Zone and developed with the Park Place employment park.

CONCLUSION:

The applicant has provided evidence of the change in the character of the neighborhood which warrants consideration of the I-3 Zone. The requested I-3 Zone at this location is consistent with the Master Plan goal of developing employment parks in the I-95 Corridor, and is an appropriate continuation of the adjoining employment park development. With the requirements for site plan review and restrictions on less desirable industrial uses in the I-3 Zone, the requested zone is appropriate in this location. Additional open space and green area requirements and a condition for architectural review will ensure compatibility with the adjoining residential area and existing employment uses.

It is therefore recommended that zoning map amendment application A-9953 be APPROVED subject to the following conditions:

1. Detailed site plan review shall include architectural review to ensure compatibility with residential development north of Muirkirk Road and the adjoining employment park.
2. Parcel A shall be retained in open space.
3. The detailed site plan for Parcel B shall show a minimum of 25 percent green area.