



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

ZONING MAP AMENDMENT PETITION NO. 9958

| Application | General Data |
|---|---------------------------------|
| Project Name Osborne Shopping Center Location Northwest side of US 301, 700± feet northeast of Osborne Road and northeast side of Osborne Road, 550± feet northwest of US 301. Applicant/Address Osborne Joint Venture 14440 Old Mill Road Upper Marlboro, MD 20772 Correspondent William E. Knight Knight, Manzi, Nussbaum & La Placa 14440 Old Mill Road Upper Marlboro, MD 20722 | Date Accepted 12/24/02 |
| | Planning Board Action Limit N/A |
| | Plan Acreage 9.21 |
| | Zone R-A |
| | Dwelling Units N/A |
| | Square Footage N/A |
| | Planning Area 82A |
| | Council District 09 |
| | Municipality N/A |
| | 200-Scale Base Map 210SE11 |

| Purpose of Application | | | Notice Dates | |
|----------------------------|-----------------------------|-------------|--|----------|
| Rezoning from R-A to C-S-C | | | Adjoining Property Owners (CB-15-1998) | 12/27/02 |
| | | | Previous Parties of Record (CB-13-1997) | N/A |
| | | | Sign(s) Posted on Site | N/A |
| | | | Variance(s): Adjoining Property Owners | N/A |
| Staff Recommendation | | | Staff Reviewer: Tom Lockard | |
| APPROVAL | APPROVAL WITH CONDITIONS | DISAPPROVAL | DISCUSSION | |
| | | X | | |

February 20, 2003

TECHNICAL STAFF REPORT:

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

VIA: Arie Stouten, Zoning Supervisor

FROM: Tom Lockard, Senior Planner

SUBJECT: **Zoning Map Amendment Application No. 9958**

REQUEST: **Rezoning from the R-A Zone to the C-S-C Zone**

RECOMMENDATION: **DENIAL**

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 property is located on the northwest side of US 301, 700± feet northeast of Osborne Road and on the northeast side of Osborne Road, 550± feet northwest of US 301. It is an L-shaped property that wraps around the existing Osborne Shopping Center. The property consists of 9.21 acres of land and is undeveloped. It has 180 feet of frontage on US 301 and approximately 100 feet of frontage on Osborne Road.

B. Development Data Summary:

| | EXISTING | PROPOSED |
|------------------|-------------|------------|
| Zone(s) | R-A | C-S-C |
| Acreage | 9.21 | 9.21 |
| Use(s) | Undeveloped | Commercial |
| Density/ DU | 0.5 | N/A |
| Minimum Lot Area | 87,120 | N/A |

- C. History:** The property was retained in the R-A Zone in the approved 1994 *Sectional Map Amendment (SMA) for Subregion VI*.

- D. Master Plan Recommendation:** The 1993 *Approved Master Plan for Subregion VI* places the property in the Queensland community and recommends the property for residential development at rural density (single-family detached homes on lots of two acres). In the Living Area Section (page 91) under Specific Community Recommendations, the master plan recommends the following:

“Queensland contains extensive tracts of land in farming or estate use, similar in many ways to the Rural Planning Area east of US 301. It is largely zoned R-A for single-family homes on two acres and presents a good opportunity for eventual development in accordance with the goals, concepts and objectives stipulated in the General Plan. Many of the estates have equestrian related activity....

The Plan supports retention of the Queensland Community in rural-residential use, consistent with the objective to retain the existing established character of rural areas within the Subregion VI Study Area. Therefore, with the exception of committed subdivisions at Queensland and Maryvale (Low Suburban, R-R and Estate, R-E densities) it is recommended that the community remain in two-acre (R-A) Zoning.”

The master plan does contain one recommendation regarding the expansion of commercial areas along highway corridors:

- “3. Rezone from residential to a commercial category, where either a compatible long standing commercial use occupies the site, or where a limited extension of an existing commercially zoned property is appropriate.”

This recommendation was implemented in the subsequent SMA for one property in the Queensland Community, as 1.67 acres was reclassified from the R-A Zone to the C-M Zone (Change D-4). However, unlike the subject property, that property was recommended for Service-Commercial land use in the master plan. The subject property was not identified as an appropriate location for commercial extension.

The master plan shows US 301 as a freeway in this area. As part of the upgrade, the plan proposes a new grade-separated interchange for US 301, Croom Road and Osborne Road. Part of this interchange impacts the subject property where it fronts on Osborne Road. There is no timetable for construction of these improvements.

- E. Request:** The applicant requests a rezoning of the property from the R-A (Residential-Agricultural) Zone to the C-S-C (Commercial Shopping Center) Zone.
- F. Neighborhood and Surrounding Uses:** Staff defines the following neighborhood boundaries for the subject application:

North: Pennsylvania Avenue (MD 4)

East: Old Crain Highway

South: US 301

West: South Osborne Road

The site is surrounded by the following uses:

North: Single-family home in the R-A Zone

East: Undeveloped land in the R-A Zone

South: Existing Osborne Shopping Center in the C-S-C Zone

West: Strip Commercial uses along US 301 in the C-S-C Zone

The surrounding neighborhood is characterized by low-density, single-family residential developments, farmland and undeveloped woodland. Two R-R and R-E-zoned subdivisions are found in the neighborhood (Queensland to the northeast and Maryvale to the northwest.) Commercial uses are found at both quadrants of the intersection of Osborne Road and US 301.

- G. Zoning Requirements:** *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.

Applicant's Position: Because the Sectional Map Amendment (SMA) for Subregion VI was approved in 1994, the applicant is precluded from presenting a mistake argument. Therefore, the applicant must show there has been a substantial change in the character of the neighborhood since that time. The applicant claims:

“The subject property was initially part of a residential subdivision known as Lots 9–14, Block H of the Maryvale Subdivision. That subdivision has been abandoned in that the development was impractical since the access to the site was considered dangerous because of its proximity to the existing shopping center access. The property is separated (from adjoining properties) by a large ravine to the (north)east. The subdivided property across the ravine has also been abandoned and is currently being developed as a church site.

“In addition, a proposed road known as C-615 will further isolate the subject property from the residential uses to the north and east. The resulting area of the abandoned subdivision with limited access should logically become part of the Osborne Shopping Center.

“In summary, the change brought about by the abandonment of the old subdivision, the proposed construction of C-615 and the construction of the adjacent church has changed the character of the neighborhood as envisioned in the SMA.”

Staff's Analysis: The “changes” relied upon by the applicant are changes to maps and plans, not actual physical changes to the character of the neighborhood. Although it is certainly true that the subdivision plat for this site has been abandoned, a property may go through dozens of different plats and site plans before ultimately developing. Similarly, the fact that the adjoining property to the northeast is developing as a church site rather than residentially does not constitute a “substantial change to the character of the neighborhood” since a church is a permitted use expected in the R-A Zone, either outright or through the grant of a special exception. The proposed construction of C-615 and planned changes to the intersections of US 301, Croom Road and Osborne Road are clearly discussed in the master plan text. They remain planned but unbuilt improvements with no timetable for construction. None of these “paper changes” have yet to change the character of the neighborhood in any manner whatsoever, much less substantially.

H. Conformance with the Purposes of the R-A and C-S-C Zones: The purposes of the R-A Zone are contained in *Section 27-426 (a)* of the Zoning Ordinance:

- (A) To provide for large-lot one-family detached residential subdivisions, while encouraging the retention of agriculture as a primary land use;**
- (B) To encourage the preservation of trees and open spaces; and**
- (C) To prevent soil erosion and stream valley flooding.**

The purposes of the C-S-C Zone are contained in *Section 27-454 (a)* of the Zoning Ordinance:

- (A) To provide locations for predominantly retail commercial shopping facilities;**

- (B) To provide locations for compatible institutional, recreational and service uses;
- (C) To exclude uses incompatible with general retail shopping centers and institutions;
and
- (D) For the C-S-C Zone to take the place of the C-1, C-2, C-C and C-G Zones.

The subject property can readily conform to the purposes of either zone. However, the proposed C-S-C Zone at this location conflicts with the 1993 *Approved Master Plan for Subregion VI* recommendation for residential development at a rural density. The existing R-A zoning of the subject property is in conformance with the master plan's recommendations.

CONCLUSION:

The applicant's argument of change is based upon changes to subdivision plats and transportation improvements still years, if not decades, away. The development of a permitted use in the zone (a church) does not amount to a substantial change in the character of the neighborhood. The applicant's change arguments are not persuasive, and they are precluded from arguing mistake in the SMA. Therefore, it is recommended that this application be DENIED.