



*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 Petition No.

A-9979

Application	General Data
<b>Project Name:</b> Commerce Bank  <b>Location:</b> North side of Mulberry Street approximately 150 feet southeast of Baltimore Avenue, known as 14401 Baltimore Avenue  <b>Applicant/Address:</b> Commerce Bank 9000 Atrium Way Mt. Laurel, New Jersey 08054	Date Accepted: 2/21/06
	Planning Board Action Limit: N/A
	Plan Acreage: 0.689
	Zone: R-55, C-M
	Dwelling Units: N/A
	Square Footage: N/A
	Planning Area: 62
	Tier: Developing
	Council District: 01
	Municipality: N/A
	200-Scale Base Map: 219NE08

Purpose of Application	Notice Dates
Rezoning from R-55 and C-M to C-SC	Adjoining Property Owners Previous Parties of Record Registered Associations: 1/5/06 (CB-12-2003)
	Sign(s) Posted on Site and Notice of Hearing Mailed: N/A

Staff Recommendation		Staff Reviewer: Teri Bond	
APPROVAL	APPROVAL WITH CONDITIONS	DISAPPROVAL	DISCUSSION
	X		

May 5, 2006

**TECHNICAL STAFF REPORT:**

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

VIA: Jimi Jones, Acting Zoning Supervisor

FROM: Teri Bond, Planning Coordinator

SUBJECT: **Zoning Application No. A-9979 (Commerce Bank)**

REQUEST: Rezoning from the R-55 and C-M Zones to the C-S-C Zone

RECOMMENDATION: **APPROVAL; with conditions**

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**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.

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## FINDINGS:

- A. Location and Field Inspection:** The site consists of four lots, 4, 5, 6 and 7, which are located at the northeast corner of US 1 (Baltimore Avenue) and Mulberry Street. The site is currently used for an auto parts store. The store is located on the front lots (4–6) that are currently zoned C-M. Lot 7, which is zoned R-55, is used to provide parking for the store. The site is across US 1 from the Laurel Lakes shopping center that is in the City of Laurel and which has undergone major revitalization/redevelopment over the last several years.

**B. Development Data Summary:**

	EXISTING	PROPOSED
Zone(s)	C-M, R-55	C-S-C
Use(s)	Car parts store	Bank
Acreage	.689 acre	.689 acre
Lots	4 lots	4 lots

- C. History:** The 1990 sectional map amendment for Subregion I rezoned Lot 7 from the R-R to the R-55 Zone. The remaining lots were retained in the C-M Zone.
- D. Master Plan Recommendation:** The subject property is located in the master plan-identified Oakcrest strip commercial area. The master plan recommends Medium Suburban residential development (3.6-5.7 du/ac) for Lot 7 and commercial use for the remaining three lots. The plan map recommends that the entire site be placed within a commercial overlay zone. The master plan describes the purpose behind the overlay zone as “...to provide commercial zoning of a greater depth and to resolve commercial-residential interface problems ... for commercial strips....” An overlay zone was never created for this commercial area. A new master plan is currently being done for the area and special attention is being paid to promoting new commercial development and redevelopment on US 1.

This site is also located in the General Plan’s designated Baltimore Avenue (US 1) Corridor within the Developing Tier. The vision for the Developing Tier is to maintain a pattern of low- to moderate-density suburban residential communities, distinct commercial centers, and employment areas that are increasingly transit serviceable. The vision for corridors is mixed residential and nonresidential uses at moderate to high densities and intensities, with a strong emphasis on transit-oriented development. This development should occur at local centers and other appropriate nodes within one-quarter mile of major intersections or transit stops along the corridor. Development nodes and guidelines for development along the US 1 corridor are being created as part of the new Subregion I master plan currently underway.

Transit-oriented development is strongly advocated by the General Plan as a goal for the corridors. One of the main goals of transit-oriented development is to focus on reducing automobile dependency by increasing the potential for bicyclists and pedestrians. The General Plan states: “Retail uses selling large items (e.g., appliance stores) or high volumes (e.g., discount warehouse stores) or auto-related used do not generally promote transit ridership.”

- E. Request:** The applicant’s amended application proposes to rezone Lots 4, 5 and 6 from the C-M Zone to the C-S-C Zone and Lot 7, which fronts Mulberry Street, from R-55 to C-S-C. Specifically, the applicant states that the rezoning is necessary to develop the subject property with a branch of Commerce Bank.

- F. Neighborhood and Surrounding Uses:** The site is located within the South Laurel Community, Analysis Area #3, in the master plan which is bounded by the following:

**North**—Oak Street

**East**—Baltimore & Ohio Railroad right-of-way

**South**—Contee Road

**West**—US 1 (Baltimore Avenue)

The site is surrounded by the following uses:

**North**—Restaurant use and a single-family home.

**East**—Single-family home.

**South**—Across Mulberry Street are retail commercial uses.

**West**—Across US 1 is the Laurel Lakes shopping center with retail commercial uses.

The site is part of a larger commercial strip, which predominates the eastern side of US 1 located in Prince George's County. The properties are a blend of C-M and C-S-C zoning and are developed primarily in smaller service retail uses. The area to the east of the strip is residentially zoned, primarily R-R, and is developed with single-family homes.

**G. Zoning Requirements:**

1. 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.**

**G. Applicant's Position:**

“There was a mistake in zoning Lot 7 R-55 in the current Sectional Map Amendment for Sub-region I. At the time the Sectional Map Amendment was adopted, lot 7 should have been zoned C-M along with the balance of the property, Lots 4, 5, and 6, because Lot 7 was being used as a parking lot for an auto parts store. All the other commercial businesses on the Oakcrest commercial strip were accommodated during the adoption of the Sectional Map Amendment

except for two lots, one being Lot 7. Clearly, Lot 7 was mistakenly excluded from the C-M Zone given the nature of its use.

“The request to rezone the subject property is in compliance with the Approved Master Plan for Sub-region I that was adopted in March of 1990. The Master Plan recommendations at page 108 for the Oakcrest commercial strip proposes to provide commercial zoning of a greater depth and to resolve commercial-residential interface problems via the use of the overlay zone for commercial strips. Rezoning Lot 7 from R-55 to C-S-C and rezoning Lots 4, 5, & 6 from C-M to C-S-C will provide the same zoning for the entire property as well as provide greater depth for the proposed bank to operate. More importantly, the permanent boundary between commercial uses and residential uses in Oakcrest would be solidified.

“The Master Plan does state that ‘the boundary, as drawn [on the sectional map amendment], is explicitly intended to include all commercial activities, including parking.’ When the Sectional Map Amendment was drawn, Lot 7 was separated from the balance of the subject property and not zoned C-M. Again, this separation was a mistake as Lot 7 should have been accommodated with greater depth to include parking for the auto parts store, just as the other businesses along the Oakcrest strip were accommodated. If the entire property is rezoned and included in the C-S-C Zone, the intent of the Master Plan is still served as there will be a distinct line between the commercial use and the residential use immediately to the east of Lot 7.

“In addition to Lot 7 being mistakenly excluded from the balance of the property, there has been a substantial change in the character of the subject neighborhood. In fact, page 95 of the Master Plan for Sub-region I states that there has been new development interest as well as new construction along the Oakcrest strip because of the construction of the Laurel Lakes project across the street. The depth of the new construction along the Oakcrest strip was limited by the original zoning line. According to the Master Plan, the original zoning line created depth problems which resulted in a new series of zoning applications aimed at increasing the depth along the Oakcrest strip. Clearly, the new commercial construction along the Oakcrest strip indicates how there has been a substantial change in the character of the Oakcrest neighborhood. Laurel Lakes Shopping Center was built directly across the street from the subject property and the property adjoining the subject property to the north is zoned C-S-C. Rezoning the entire property to the C-S-C zone would provide a location for compatible institutional and service uses. If the property were to remain C-M and R-55, there may be future uses on the subject property which may be disruptive to the harmonious development, compactness & homogeneity of retail shopping areas such as Laurel Lakes across the street and the adjoining property to the north.

“Lastly, another mistake was made during the adoption of the Sectional Map Amendment. For instance, the Master Plan adopted by the District Council intended to create an overlay zone for the Oakcrest subdivision primarily to address the substantial change in the character of Oakcrest that had occurred. As stated above, the Oakcrest subdivision experienced increased commercial uses along Route 1 and the commercial uses had extended into the residential areas beyond Route 1. The overlay zone was proposed to remedy this situation; however, the overlay zone was never implemented. As a result of not implementing the overlay zone, commercial uses are continuing to encroach upon residentially zoned areas, specifically in the case of Lot 7. Clearly, this was not the intent of the Master Plan and failing to implement the overlay zone in 1990 because of the substantial change in the Oakcrest neighborhood.

“As indicated in the preceding paragraphs, there was a mistake in zoning Lot 7 R-55 instead of zoning it C-M in conjunction with Lots 4, 5 & 6 during the adoption of the Sectional Map Amendment. Also, there was a mistake in failing to implement the overlay zone to address the

substantial change and the commercial encroachment into residential areas. Lastly, there has been a substantial change in the character of the Oakcrest subdivision along Route 1. Therefore, the Applicant respectfully requests that Lots 4, 5, 6 & 7 be rezoned to C-S-C.”

**H. Staff’s Analysis:**

Staff concurs that the four lots were envisioned to remain commercial uses. It is clear from the master plan that the proposed overlay zone was intended to address compatible design as well as compatible uses. Staff agrees with the applicant that the overlay zone should have been approved with the adoption of the Subregion I SMA, or soon thereafter. The SMA was approved in 1990, over 15 years ago. Since that time the county has approved a new General Plan that designated US 1 a corridor, which is intended to result in more intensive transit-oriented development in key nodes along the corridor. Given the location of the Oakcrest commercial strip and the redevelopment across US 1, the need for an overlay zone to permit the master plan-identified commercial development is even more timely.

The community planner for this area also concurs with the applicant’s argument that the entire site should remain in commercial development and that Lot 7, which was not rezoned to a commercial zone, was recommended for commercial zoning: “On page 108, the master plan states: ‘The Plan both proposes to provide commercial zoning of a greater depth and to resolve commercial-residential interface problems via use of the overlay zone for commercial strips.... Those parcels appropriate for expansion of the commercial area via use of the overlay zone are identified on the Plan Map.’ Thus, the proposal conforms to the master plan’s land use recommendations.”

Staff does not concur with the applicant’s argument that there was a mistake made when Lot 7 was not rezoned to C-M. Staff believes that there was a conscious effort to not expand C-M uses into residential development, thus the recommendation of an overlay zone which could better address appropriate uses as well as compatible design. The proposed C-S-C Zone addresses these issues since it is a more appropriate zone than the C-M Zone as noted by the community planner: “One of the main goals of transit-oriented development is to focus on reducing automobile dependency by increasing the potential for bicyclists and pedestrians. The General Plan states: “Retail uses selling large items (e.g., appliance stores) or high volumes (e.g., discount warehouse stores) or auto-related uses do not generally promote transit ridership.” The C-M Zone allows for a higher probability that in the future other auto-oriented businesses will replace Interstate Auto Parts currently on the subject property, contradicting the General Plan’s goals for the corridor.”

Staff also cannot concur with the applicant’s argument that there has been a change in the character of the neighborhood because the Oakcrest strip commercial area has seen significant commercial development since the approval of the SMA. The master plan and SMA, which maintained and even slightly expanded the commercial zoning along US 1, envisioned this commercial development.

**I. Conformance with the Purposes of the C-S-C Zone:** The purposes of the C-S-C Zone are contained in 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. (b)**

The applicant's bank development proposal meets the purposes of the C-S-C Zone. Staff believes that the C-S-C Zone is more appropriate for the type of development envisioned in the General Plan-designated corridor than the existing C-M zoning on Lots 4, 5 and 6. Staff notes, however, that the approval of a Euclidean rezoning request merely approves the zone. A review of specific uses does not occur at this stage.

**J. Site Design:**

The design of the site is critical to the county's ability to create the transit-oriented development recommended in the General Plan. The placement and orientation of the future bank and its interface with the road should be more pedestrian oriented than vehicle oriented, as is most of the existing development along US 1. The site needs to be designed to encourage the community to walk or take transit to the site. As part of the current master planning process design guidelines will also be established to assist in the implementation of creating corridor-appropriate development. Consequently, a limited detailed site plan reviewed by the Planning Board or its designee to address the need for sensitive and high-quality design on this site would be appropriate and should be considered.

**CONCLUSION:**

Staff concurs with the applicant's argument that a mistake occurred in that an overlay zone was not approved with or subsequent to the adoption of the Subregion I SMA. It is recommended that this application be APPROVED with the following condition:

Prior to the issuance of a building permit, a limited detailed site plan should be approved by the Planning Board or its designee for development of the subject site to ensure corridor-appropriate and high-quality design that is sensitive to the abutting residential neighbors.