



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

Zoning Map Amendment Petition No. A-9982

Application	General Data
Project Name: Townes of Brandywine Location: North side of Accokeek Road approximately 700 feet west of Branch Avenue Applicant/Address: KB Brandywine Land, LC 2139 Blue Knob Terrace Silver Spring, Maryland 20906	Date Accepted: 6/5/06
	Planning Board Action Limit: N/A
	Plan Acreage: 30.3
	Zone: R-R
	Dwelling Units: 180
	Square Footage: NA
	Planning Area: 85A
	Tier: Developing
	Council District: 09
	Municipality: N/A
	200-Scale Base Map: 218SE07

Purpose of Application	Notice Dates
Rezoning from R-R to R-T (Metropolitan Dwelling Units)	Adjoining Property Owners Previous Parties of Record Registered Associations: (CB-12-2003) 3/7/06
	Sign(s) Posted on Site and Notice of Hearing Mailed: N/A

Staff Recommendation		Staff Reviewer: Laxmi Srinivas	
APPROVAL	APPROVAL WITH CONDITIONS	DISAPPROVAL	DISCUSSION
		X	

May 23, 2007

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: Laxmi Srinivas, Senior Planner

SUBJECT: **Zoning Application No. A-9982**

REQUEST: Rezoning from the R-R Zone to the R-T Zone

RECOMMENDATION: **Disapproval of the requested recommendation that the application should be amended to request the R-M Zone.**

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, irregularly shaped parcel is located on the north side of Accokeek Road and the south side of Brandywine Road, approximately 700 feet west of Branch Avenue (MD 5) in Brandywine, Maryland. The subject property consists of 30.3 acres and is zoned R-R (Rural Residential). It includes Parcels A and B, Parcel 103 and Lots 26 to 33 and is currently undeveloped. The subject property has approximately 800 feet of frontage on Accokeek Road and approximately 300 feet of frontage on Brandywine Road.

B. Development Data Summary:

	EXISTING	PROPOSED
Zone(s)	R-R	R-T
Use(s)	Vacant	Townhouses
Acreage	30.3 acres	30.3 acres
Lots	3 parcels, 8 lots	180 lots

C. Neighborhood and Surrounding Uses:

The subject property is located in a neighborhood defined by the following boundaries:

- Floral Park Road and Brandywine Road on the north
- Accokeek Road on the south
- Branch Avenue on the east
- Danville Road on the west

The property is surrounded by the following Uses:

North—	Brandywine Road and detached single-family residential in the R-R Zone. Properties across Brandywine Road are vacant and zoned C-O.
South—	Detached single-family residential in the R-R Zone and Accokeek Road. Detached single-family residential zoned R-R is across from Accokeek Road. The Master Plan designates Accokeek Road as a historic road.
East—	Detached single-family residential in the R-R Zone. The J.E. Hunt Residence (85-A-17) is a historic property located on the eastern side of the subject property at the intersection of Accokeek Road, MD 5 and Brandywine Road.
West—	Detached single-family residential in the R-R Zone. The proposed right-of-way for the relocated Accokeek Road, identified in the Master Plan as C-527 is along the west side of the property.

D. History:

The subject properties were rezoned from R-A (Residential-Agriculture) to R-R (Rural Residential) through the 1993 Subregion V Master Plan and SMA. On Page 220 of the SMA, it is noted that the

R-R Zone is recommended as a holding or “base density” zone for this area prior to individual applications for comprehensive design zones.

E. Master Plan and General Plan Recommendations:

Master Plan

The 1993 Subregion V Master Plan Land Use Recommendations

The 1993 Approved Subregion V Master Plan and SMA recommends medium suburban land use at up to approximately 6.7 dwelling units per acre for the subject property. The subject property is in the Brandywine community. The Master Plan states that the Brandywine community is a suburban living area and a primary location for housing in Subregion V. The development policies for suburban living areas include very small lot single-family detached, zero-lot line or attached units.

On Page 220 of the Sectional Map Amendment (SMA), it is noted that the R-R Zone is recommended as a holding or “base density” zone for this area prior to individual applications for comprehensive design zones.

The full implementation of the Master Plan land use recommendations depend on the use of comprehensive design zone or other flexible planned development techniques.

The intersections of MD 5 with Accokeek Road (MD 373) and Brandywine Road are planned to be closed permanently. The master plan transportation element recommends a new collector road (C-527) constructed along the west side of the subject property as part of the comprehensively planned improvements.

General Plan

The subject property is located in 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. It is located to the north of the possible future center identified in the Brandywine Area.

F. Request:

The applicant is proposing to rezone the subject property from the R-R Zone to the R-T Zone to develop a new type of dwelling unit defined as a “Metropolitan Unit.” The allowable maximum density of Metropolitan Units in the R-T Zone is six dwelling units per acre. The applicant is proposing a maximum of six dwelling units per acre. However, in order to obtain the proposed rezoning, the applicant must prove that either a mistake occurred in placing the property in the R-R Zone or there has been a substantial change in the character of the neighborhood.

G. Zoning Requirements:

Section 27-157. Map Amendment Approval

(a). Change/Mistaking Rule

(1) 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:

“The zoning classification of R-R (Rural Residential) approved for the subject property by the District Council through the Subregion V Master Plan and Sectional Map Amendment constitutes a mistake pursuant to Section 27-157 (a)(B)(i).

“It was a mistake for the Sectional Map Amendment to have placed the subject property in the Rural Residential (R-R) zone rather than into a Euclidian zone, such as R-55 and R-80 which would have allowed the medium density residential development envisioned by the Master Plan of 4.2 to 6.7 dwelling units per acre as a matter of right. Instead the Council decided to place the subject property into the R-R as a “holding zone” thereby requiring an applicant to file either a Comprehensive Design Zone application or a Zoning Map Amendment application to achieve the desired Master Plan density.

“At the time the Master Plan was adopted, it would not have been appropriate to zone the property R-T. In 1993, the R-T zone allowed for dwelling units densities of between 8 to 12 dwelling units per acre. However, following the adoption of the Subregion V Master Plan and SMA, the District Council passed CB-55-1996 which prohibited any rezoning to R-T, reduced the maximum yield for existing zoned properties to six dwelling units per acre and restricted the percentage of townhouses in comprehensive design zones.

“CB-33-2005 reversed the moratorium on rezoning to R-T if the applicant desires to develop a new type of dwelling unit defined as a “Metropolitan Unit”. The allowable maximum density of Metropolitan Units in the R-T zone is six dwelling units per acre. Currently, R-T zoning would also fulfill the goals and conditions of the 1993 Master Plan and SMA as to density and character of residential development for the subject property.”

Staff's Analysis:

I. Referral Comments:

1. The Subdivision Section (memorandum dated December 1, 2006) states that the proposal consists of three parcels, Parcel 103, Parcel 102 and Parcel 83 and 8 lots, Lots 26-33, known

as Littleworth. In order to develop the site in the R-T Zone a new Preliminary Plan of Subdivision pursuant to Section 24-107 of the Subdivision Regulations is required.

2. The Washington Suburban Sanitary Commission (memorandum dated August 3, 2006) states that the impacts from this rezoning this property for the water supply and sewer systems would not be significant.
3. The Transportation Planning Trails Section (memorandum dated October 30, 2006) states that the *Approved Subregion V Master Plan* recommends a master plan trail along planned collector C-527. The Section has recommended an eight-foot wide, asphalt master plan trail along the subject site's entire frontage of C-527. A condition of approval has been added to require the same.
4. The Transportation Planning Section (memorandum dated September 6, 2006) states that the proposed rezoning could have an impact of 85 to 95 additional trips depending on the peak hour. The MD 5 frontage improvements along the roadways must be in accordance with DPW&T guidelines. If the subject property were to be developed according to the proposed rezoning, a traffic study considering the nearby intersections would be required. The site is adjacent to the existing Accokeek Road (MD 373). The Master Plan recommendations would relocate this facility to the south, leaving the existing Accokeek Road and Brandywine Road as local roadways. The Plan also recommends C-527 as a collector facility on a new alignment. Any development plans for this site should provide dedication for future roadways.

The Transportation Planning Section has stated that considering the capacity issues in the MD 5 corridor stated in the Master Plan, an intensification of zoning at this time could worsen the situation described in the Master Plan. The Section has also stated that the adequacy of transportation facilities is not an issue pertaining to the change or mistake finding required for a Euclidean Zone. This issue is addressed during the subdivision process.

5. The Environmental Planning Section (memorandum dated July 31, 2006) states that the site consists of streams and wetlands associated with Piscataway Creek in the Potomac River watershed. The site is mostly wooded and there are no rare, threatened, or endangered species found to occur in the vicinity of this property. The principal soils on the site are in the Beltsville and Leonardtown series. The site is in the Developing Tier of the General Plan. According to the Countywide Green Infrastructure Plan, the stream valley along the western boundary is a regulated area and the remainder is an evaluation area. An Environmental Information package will be required at the time of the Preliminary Plan application. The site is subject to the requirements of the Woodland Conservation Ordinance because the entire site is more than 40,000 square feet in area and contains more than 10,000 square feet of woodland. Conditions of approval have been added to require all the woodland conservation on-site and provide landscape buffers along Accokeek Road to meet the requirements of the Design Guidelines and Standards for Scenic and Historic Roads. Conditions of approval have been added to require the same.
6. The Department of Parks and Recreation (memorandum dated October 17, 2006) states that the proposal was reviewed for compliance with the General Plan and Master Plan and the existing conditions in the vicinity of the proposed development as it pertains to recreational facilities. The addition of residential units on the subject property increases the demand for

on-site recreational facilities and the need for public parkland and public recreational facilities. The Section has required that the applicant demonstrate that the recreational needs of the new residents shall be met by the provisions of outdoor recreational facilities, fees or donations. A condition of approval has been added to require the same.

7. The Historic Preservation and Public Facilities Planning Section (memorandum dated July 25, 2006) states that the subject development will not be an unreasonable burden on available public facilities. The section has also concluded that the existing fire and police services are adequate. The proposed residential development is subject to the school facilities surcharge fees established by County Council bill CB-31-2003. Compliance with the requirements of CB-31-2003 will be reviewed during the subdivision review process for the subject proposal.
8. The Historic Preservation Section (memorandum dated October 20, 2006) states that the adjacent property to the east is the J.E. Hunt Residence (Historic Resource #85A-017). The J.E. Hunt Residence was identified as a Historic Resource in the 1981 Historic Site and Districts Plan. If the site is evaluated for potential designation as a Historic Site, the proposal will be subject to the bufferyard requirements for historic sites of the Prince George's County Landscape Manual. The proposed development must also address the views to and from the Historic Resource in order to minimize the potential visual impact of the development. Conditions of approval have been added to require the same.
9. The Urban Design Review Section (memorandum dated November 28, 2006) has no comments.
10. The State Highway Administration (memorandum dated January 31, 2007) states that the intersections of MD 5 with Accokeek Road (MD 373) and Brandywine Road are planned to be closed permanently. The master plan transportation element recommends a new collector road (C-527) constructed along the west side of the subject property as part of the comprehensively planned improvements. This connection is considered a temporary measure until a more suitable connection is made between Accokeek Road (MD 373) and Brandywine Road. The applicant has shown an 80-foot-wide right-of-way on the western portion of the property as a possible dedication for this alignment. The proposed dedication runs along a wetland. The State Highway Administration has no objections to the rezoning of this property. However, it has objection to the dedication of right-of-way in areas designated as environmentally sensitive. The applicant has proffered a condition to address the State Highway Administration's concerns in a letter dated February 27, 2007. Additional conditions of approval have also been added to address the State Highway Administration's concerns.
11. The Community Planning Division (memorandum dated August 21, 2006) states that the proposal is consistent with the 2002 General Plan for the Developing Tier and the recommendations of the 1993 Approved Subregion Master Plan and SMA for medium-suburban residential land use. The 1993 Approved Subregion V Master Plan and SMA recommend medium suburban land use at up to approximately 6.7 dwelling units per acre for the subject property. The subject property is in the Brandywine community. The Master Plan states that the Brandywine community is a suburban living area and a primary location for housing in Subregion V. The Development policies for suburban living areas include very small lot single-family detached, zero-lot line or attached units. The proposed townhouse development conforms to the building types and density anticipated by the

Master Plan for this area. At present, the choice of zones available to implement the recommendations of the master plan for this area is not as limited as in 1993. The density and the standards for the R-T Zone comply with the land use and density recommendations of the Master Plan for medium-suburban residential land use.

The memorandum from the Community Planning Division states that:

“DETERMINATIONS

- This application is not inconsistent with the 2002 General Plan Development Pattern policies for the Developing Tier.
- This application conforms to the recommendation of the 1993 *Approved Subregion V Master Plan and SMA* for medium-suburban residential land use.
- The Master Plan proposal for a new collector road (C-527) is not addressed by this application.

“BACKGROUND

Location: North side of Accokeek Road (MD 373) west of Branch Avenue (MD5)

Size: 30.3 acres

Existing Uses: Undeveloped property

Proposal: Rezoning from the R-R Zone to the R-T Zone

“GENERAL PLAN, MASTER PLAN AND SMA

2002 General Plan: This application is located in 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. It is located just to the north of the possible future Center identified in the Brandywine Area.

Master Plan: 1993 *Subregion V Master Plan*

Planning Area/
Community: PA 85A / Brandywine

Land Use: Medium-suburban residential land use at up to 5.7 dwelling units per acre

Environmental The Natural Features and Environmental Facilities Map indicate this property was wooded in 1990. A natural reserve area is located on the northern part of the property.

Historic Resources:	A historic resource, the J. E. Hunt Residence (85A-17), is located on the property adjoining to the east.
Transportation:	A new collector road (C-527) is proposed along the west side of this property. Accokeek Road (MD 373) is an existing road that will provide local access along the south side of the property.
Public Facilities:	No master plan public facilities are proposed on or adjacent to this property.
Parks & Trails:	A hiker/biker trail is proposed along collector road C-627 on the west side of this property.
SMA/Zoning:	The 1993 <i>Subregion V SMA</i> classified this property in the R-R Zone.

“PLANNING ISSUES

“The 1993 Subregion V Master Plan Land Use Recommendations

“The property subject to this application is in the Brandywine community and, although not specifically shown in the illustration on page 79, it should be considered as a part of the South Village area and the Pleasant Springs neighborhood. The Brandywine community also contains the Brandywine Special Treatment Area (BSSA), which is located across Accokeek Road (MD 373) to the south of the subject property. The BSSA contains more detailed recommendations for a coordinated, planned community, including a broad mix of private and public land uses, which were taken into account for land use recommendations on surrounding properties.

“The Brandywine community is a Suburban Living Area and a primary location for housing in Subregion V (Plan, p. 50). The property subject to this application is recommended for medium-suburban residential land use at up to approximately 6.7 dwelling units per acre (Plan, p. 48). Development policies for Suburban Living Areas that apply to this application include:

“Medium- and High-Suburban and Low-Urban densities (4.5 to 12du/ac) are planned only within or adjacent to activity centers or as a transition use adjacent to employment. Building styles include very small lot single-family detached, zero-lot line, plex or attached units.” (Plan, p. 50)

“Staff Comment: The attached residential (townhouse) development proposed by this application conforms to the building types and density anticipated by the master plan for this area.

“The 1993 Subregion V Master Plan Transportation Recommendations

“The master plan transportation element recommends a new collector road (C-527) constructed along the west side of the subject property as part of the comprehensively planned improvement of MD 5 (F-9) and US 301 (F-10) to freeway status and the local circulation system for the Brandywine community. The relevance to this proposal to the

subject property is the planned closing of the current intersection of Accokeek Road (MD 373) at Branch Avenue (MD 5) and the need to route local traffic north to a planned new interchange on MD 5, approximately 1,000 feet to the north at proposed road A-63.

“Staff Comment: The status of ongoing plans and proposals for these transportation improvements needs to be addressed by the Transportation Planning Section of the Countywide Planning Division.

“The 1993 Subregion V SMA

“The 1993 Subregion V SMA policies state that “full implementation of Master Plan land use recommendations in many areas depend on the use of comprehensive design zone (CDZ) or other flexible planned development techniques.” (Plan, p. 191) Under SMA regulations, a CDZ may not be approved without an application and a recommendation from the Planning Board. In the interim, a “base density” zone is applied to the SMA zoning map that allows for an acceptable level of alternative development or, if the owner chooses, an application for the zoning techniques suggested by the master plan, or other zones that might be appropriate. A table in the Plan text (p. 191) indicates that the R-R Zone is the appropriate “base density” conventional zoning category for medium-suburban residential land use recommendations. The table further indicates that that an application for the R-M Comprehensive Design Zone would conform to the density recommendations of the plan for the subject property.

“Staff Comment: As noted by this applicant (Statement of Justification, pp. 7-8), there have been unanticipated changes to the zoning ordinance regarding the density and the standards for the R-T Zone, which bring it in line with the land use and density recommendations of this master plan for medium-suburban residential land use. As such, the choice of zones available to implement the recommendations of the master plan for this area is not as limited as in 1993.”

J. Conclusions:

The current R-R Zone classification for the subject property in the Approved Subregion V Master Plan and SMA is a mistake according to the above Section 27-157 (a)(1)(B) of the Zoning Ordinance. The R-R Zone classification restricted the available options to achieve the density requirements of the Master Plan. At the time that the Master Plan was adopted and soon after, there were restrictions to rezoning properties to the R-T (Townhouse) Zone. However, at present, the choices of zones available to implement the recommendations of the Master Plan are not as limited as in 1993. Therefore, the applicant is proposing to rezone the subject property to the R-T Zone.

The proposed rezoning to the R-T Zone will fulfill the density recommendations of approximately 6.7 dwelling units per acre of the Master Plan. The density and the standards for the R-T Zone comply with the land use and density recommendations of the Master Plan for medium-suburban residential land use.

Staff therefore recommends APPROVAL of the subject rezoning application A-9982 for rezoning the subject property from the R-R Zone to the R-T Zone with the following conditions:

1. The proposed townhouse development shall consist of one-family attached metropolitan

dwelling units with a maximum density of six dwelling units per acre.

2. The Master Plan future 80-foot-wide Collector shall be aligned on the Preliminary Plan of Subdivision to avoid impacting regulated environmental features to the extent practicable. Any unavoidable impacts will be detailed in a variation request for impacts to the expanded buffer and/or wetlands, submitted at the time of Preliminary Plan of Subdivision application. The applicant shall work with the State Highway Administration to locate the dedication for the 80-foot-wide collector in a mutually acceptable location during the Preliminary Plan stage.
3. If portions of Accokeek Road are to be closed as part of the Master Plan improvements, the applicant shall show alternative access points at the Preliminary Plan of Subdivision stage.
4. The Preliminary Plan of Subdivision application and the Detailed Site Plan application shall include recreational facilities (public and private) for the recreational needs of the proposed development.
5. The Preliminary Plan of Subdivision application and the Detailed Site Plan application shall include the location and details for an eight-foot wide, asphalt master plan trail along the property's frontage along C-527.
6. The Preliminary Plan of Subdivision application and the Detailed Site Plan application shall address views to and from the J.E. Hunt Residence Historic Resource Site to minimize potential visual impact of the development. The Detailed Site Plan application shall address bufferyard requirements for the Historic Resource according to the requirements of the *Landscape Manual*.
7. The Tree Conservation Plans shall show all woodland conservation required by the Woodland Conservation Ordinance on-site.
8. A 40-foot-wide buffer of preserved or planted vegetation adjacent to Accokeek Road shall be shown on the final plats as a scenic easement and the following note shall be placed on the plats:

“Scenic easements described on this plat are areas where the installation of structures and the removal of vegetation are prohibited without prior written consent from the M-NCPPC Planning Director or designee. The removal of hazardous trees, limbs, branches, or trunks is permitted.”