

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



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

ZONING MAP AMENDMENT

A-9990

Application	General Data
Project Name: BRANDYWINE CROSSING PHASE II Location: Eastern Side of US 301 at the Intersection with Matapeake Business Dr.; at the NW Corner Of Timothy Branch Dr and Matapeake Business Dr. Applicant/Address: FCD- DEVELOPMENT, LLC. 7920 Norfolk Avenue Suite 800 Bethesda, Maryland 20814	Date Accepted: 3/27/2007
	Planning Board Action Limit: N/A
	Plan Acreage: 30.35
	Zone: I-1, I-3
	Dwelling Units: N/A
	Square Footage: 266,000
	Planning Area: 85A
	Tier: Developing
	Council District: 9
	Municipality: N/A
	200-Scale Base Map: 220SE07

Purpose of Application	Notice Dates
Rezoning from I-1 and I-3 to C-S-C for Development of Approximately 266,000 square feet of Commercial, Retail and Office.	Adjoining Property Owners Previous Parties of Record Registered Associations: 2/5/2007 (CB-12-2003)
	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		

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION
PRINCE GEORGE'S COUNTY PLANNING BOARD
STAFF REPORT

July 12, 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 A-9990**

REQUEST: Rezoning from the I-1 (Light-Industrial) and I-3 (Planned Industrial Park) Zones to the C-S-C (Commercial Shopping Center) 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 30.35-acre site is located along the east side of Crain Highway (US 301) and the northwest corner of Matapeake Business Drive and Timothy Branch Drive. Access to the property is from three access points along Matapeake Business Drive and four access points along Timothy Branch Drive.

The subject site consists of ten lots with nine single-family detached dwellings in the I-3 Zone and three parcels and one outlot in the I-1 Zone. The I-1 portion of property is at present vacant and was previously used as a truck trailer storage facility.

- B. **History:** The 1978 Brandywine-Mattawoman Sectional Map Amendment (SMA) rezoned the subject site from the R-R (Rural Residential) Zone to the E-I-A (Employment-Industrial-Area) Zone.

In 1985, the site was rezoned with conditions through Zoning Map Amendment A-9502-C from the E-I-A Zone to the I-1 and I-3 Zones.

The 1993 Subregion V SMA retained the I-1 and I-3 zoning for the subject property.

In 1982, the District Council approved a Special Exception SE-3272 for excavation of sand and gravel on the subject property.

A Preliminary Plan of Subdivision 4-91030 was approved by the Planning Board on August 1, 1991 (PGCPB No. 91-256) for subdividing a 170.5-acre parcel into 19 lots and three parcels for the Brandywine 301 Industrial Park.

Preliminary Plan of Subdivision 4-97124 was approved by the Planning Board on April 16, 1998 (PGCPB No.98-48) for minor changes to 4-91030.

The District Council recently approved a Zoning Map Amendment A-9980-C (Zoning Ordinance No. 16-2006) on September 18, 2006, for rezoning 52.78 acres of land to the south of the subject property from the I-1 and I-3 Zones to the C-S-C Zone.

- C. **Master Plan Recommendations:**

2002 General Plan: The subject site is in the Developing Tier. The vision for the Developing Tier includes distinct commercial centers, compact, higher-intensity mixed-uses in centers and corridors and community focal points in planned commercial centers. The property is also designated as a community center in a corridor with limited access. The General Plan defines community centers as areas with a concentration of activities, services and land uses that serve as focal points for the immediate neighborhoods. The General Plan also shows the subject site located within the Brandywine Community Center. A mix of residential, employment and retail uses are recommended for the Brandywine Center in the General Plan.

1993 Subregion V Approved Master Plan and SMA: The property is located in Planning Area 85 A. The master plan recommended employment-industrial type uses for the subject property and envisioned that the neighborhood would include employment-office, light manufacturing/business and commercial uses. The Master Plan designated the area as appropriate for a Neighborhood Activity Center and Community Activity Center. The Activity Centers were intended to serve as social and economic focal points and form key elements in the overall

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development pattern. The master plan map also designated the property as part of Employment Area C (Brandywine/Mattawoman Industrial Area). Employment Area C is a large, light and heavy industrial land use park that has direct access to MD 5 (F-9), a freeway, US 301 (A-64) an arterial road, and railroad access. The subject property is also identified as the Brandywine Special Study area in the Master Plan.

- D. **Request:** This applicant is requesting a rezoning of the subject property from the I-1 and I-3 Zones to the C-S-C Zone for development of approximately 266,000 square feet of commercial, retail and office uses. The proposed uses include a 73,000 square foot [department store](#), a 70,000-square-foot cinema, a 24,000-square-foot health club and 14,000 square feet of office.

E. **Neighborhood and Surrounding Uses:**

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

- Brandywine Road, MD 381 on the north
- Cedarville Road on the south
- Railroad right-of-way on the east
- US 301/MD 5 on the west

The property is surrounded by the following uses:

- | | |
|---------|---|
| North - | Vacant property in the I-1 and I-3 Zones. The I-1 zoned property was previously used as a truck trailer storage facility. |
| South - | Timothy Branch Drive and vacant property in the C-S-C Zone across from Timothy Branch Drive. This property to the south was recently rezoned to the C-S-C Zone from the I-1 and I-3 Zones (A-9980). The property will be developed with a 500,000-square-foot integrated shopping center. |
| East - | Matapeake Business Drive and vacant land in the I-1 Zone across from Matapeake Business Drive |
| West - | US 301 and vacant property in the E-I-A Zone across from US 301 |

F. **Referral Comments:**

1. The Urban Design Review Section (memorandum dated June 4, 2007) has no comments.
2. The Department of Public Works and Transportation (memorandum dated April 10, 2007) states that all improvements within the public rights-of-way must be in accordance with DPW&T standards and specifications.
3. The Historic Preservation Section (memorandum dated March 29, 2007) states that the proposed rezoning has no effect on historic resources.
4. The Transportation Planning Trails Section (memorandum dated May 23, 2007) states that there are no master plan trail issues that impact the site. The Section suggests planning for connections from the nearby Villages of Timothy Branch development.
5. The Washington Suburban Sanitary Commission (memorandum dated April 25, 2007)

states that the rezoning will not impact the water and sewer systems.

~~6. The Transportation Planning Trails Section (memorandum dated October 30, 2006) states that the 1993 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.~~

~~76.~~ The Historic Preservation and Public Facilities Planning Section (memorandum dated April 19, 2007) states that the fire services are adequate but the existing ladder truck service is not within the travel time guidelines. If a ladder truck is assigned to Brandywine, Company 40, the project will be within the recommended travel time. The existing police services are adequate.

~~87.~~ The Subdivision Section (memorandum dated May 25, 2007) states that the subject property has two Preliminary Plan of Subdivision approvals and a Special Exception approval. The Preliminary Plan of Subdivision 4-97124 has several conditions of approval regarding compliance with the Tree Conservation Ordinance. The compliance with the previous conditions of approval will be addressed during subsequent stages of review (Subdivision and Site Plan reviews).

~~98.~~ The Transportation Planning Section (memorandum dated ~~September 6, 2006~~ May 4, 2007) states that the proposed rezoning would add retail uses and would result in an increase in outbound trips in the morning and inbound trips in the evening. The rezoning will worsen vehicle travel in the peak directions. US 301/MD 5 in this area has been planned to become a limited access highway to serve a high percentage of commuters. The retail uses proposed by the subject rezoning will not be easily accessed from the highway. There is a severe deficiency in the transportation network in this area. A more comprehensive review of the master plan roadway network and the impact of all vacant land in this area must be done prior to any consideration of rezoning. Conditions of approval of the Preliminary Plan 4-97124 regarding contributions towards a Brandywine Road Club and access to the remainder of Longs Subdivision must be addressed. The access points to the site from US 301/MD 5 must be reviewed for consistency with Master Plan recommendations.

The Transportation Planning Section concludes that the proposed rezoning is not consistent with the Master Plan. The proposed uses could lower the level of service anticipated in the Master Plan. A condition of approval to further enhance the coordinated, harmonious and systematic development of the Regional District is suggested. A comprehensive review of the Master Plan roadway network and the impact of all vacant zoned land is also suggested.

The previous condition of approval regarding contributions toward the road club and access points for the Longs Subdivision will be addressed during subsequent stages of review (subdivision and site plan reviews).

A comprehensive review of the master plan roadway network and the impact of all vacant land will be addressed during the future update to the Subregion V Master Plan.

~~409.~~ The Environmental Planning Section (memorandum dated April 26, 2007) states that there are nontidal wetlands on the property. US 301 is a source of traffic-generated noise. The soils on this property are in the Beltsville and Leonardtown soil series. Marlboro clay

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does not occur on this site. There are no rare, threatened, or endangered species in the vicinity of this property. The subject property is located in the Mattawoman Creek watershed of the Potomac River Basin and in the Developing Tier of the General Plan. According to the approved Countywide Green Infrastructure Plan, the site contains no regulated areas, evaluation areas or network gaps.

The Section states that the Zoning Map Amendment A-9502, which removes the subject property from the E-I-A Zone to the I-1 Zone had several conditions of approval for a high standard development on the subject property. Several conditions of approval of the Preliminary Plan of Subdivision 4-97124 addressed compliance with the Tree Conservation Ordinance and required the filing of a Detailed Site Plan application for all development on the subject property. The compliance with the previous conditions of approval will be addressed during subsequent stages of review (Subdivision and Site Plan reviews).

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140. The Community Planning Division (memorandum dated June 7, 2007) states that the subject rezoning application is consistent with the 2002 General Plan development pattern policies for the Developing Tier. However, it is not consistent with the planning objectives for a possible future Center in that it lacks connections to the surrounding neighborhoods and any components of transit-oriented design.

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The rezoning does not conform to the employment-industrial land use recommendations in the 1993 Approved Subregion V Master Plan and SMA.

The subject property is in Master Plan Employment Area C—Brandywine/Mattawoman Industrial area. Although there has been little employment development in this area since the Subregion V Master Plan was approved in 1993, there is still a valid presumption that industrial and office uses that produce employment can reduce commute times for current and future residents.

The subject rezoning will increase the amount of land for commercial development and decrease the land available for employment. The proposed rezoning does not promote transit-oriented development but changes the land use at this location from employment to retail. The C-S-C Zone is not a mixed-use zoning category. Unlike other mixed-use zoning categories available at this time in Prince George's County, the C-S-C Zone does not include a requirement for site plan review or allow residential uses. Development policies in the recent master plans and the 2002 General Plan promote mixed-use developments.

The current Planning Department work program includes a project to update the Subregion V Master Plan and the future Master Plan may recommend mixed-use development for this area. Therefore, the subject rezoning application may be premature.

The memorandum from the Community Planning Division states that:

DETERMINATIONS

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This application is not inconsistent with the 2002 General Plan Development Pattern policies for the Developing Tier but it is inconsistent with planning objectives for a possible future Center in that it lacks connections to the surrounding neighborhoods and any components of transit-oriented design.

The application does not conform to the employment-industrial land use recommendations in the 1993 *Approved Subregion V Master Plan and SMA*.

The current Planning Department work program includes a project to update the Subregion V Master Plan; it is anticipated that this project will be formally initiated within the next three to four months and will be completed within 18 months thereafter, as required by the Zoning Ordinance.

BACKGROUND

Location: East side of US 301/MD 5, east of its intersection with Chadds Ford Drive in Brandywine

Size: 30.35 acres

Existing Uses: Nine one-family dwellings and a storage yard for tractor trailers

Proposal: Rezone land from the I-1 Zone, Light Industrial, (21.60 acres) and I-3 Zone, Planned Employment Park, (8.67 acres) to the C-S-C Zone to accommodate development of a 266,000±square-foot commercial shopping center

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. This application is also in the area identified as a possible future center for Brandywine. The policy for centers is to promote development of mixed residential and nonresidential uses at moderate to high densities and intensities in context with surrounding neighborhoods and with a strong emphasis on transit-oriented design.

Master Plan: 1993 *Subregion V Master Plan*
Planning Area/Community: PA 85A/Brandywine

Land Use: Employment-Industrial

Environmental: The Natural Features and Environmental Facilities Map indicates that the majority of the site north and west of Matapeake Business Drive was not wooded in 1990.

Historic Resources: None identified

Transportation: F-9—MD 5. Upgrade this designated freeway to provide a 200-300 foot right-of-way for six-to eight-lanes, and a future HOV or rail transit facility from the US 301/MD 5 interchange to the Capital Beltway. Improvements are needed to serve regional traffic as well as traffic generated within Subregion V. The Statewide Commuter Assistance Study recommended further study of transit alternatives as a result of the finding that access controls on MD 5 improve traffic flow conditions but do not fully eliminate congestion. (Plan, page 119)

I-500—Matapeake Drive. An industrial road to serve industrial properties between the Timothy Branch and F-9 south of A-55...would extend from A-63 to F-9, with right out access at F-9. This road should be constructed as adjacent properties are developed. (Plan, page 127)

I-504—Long's Subdivision Access Road. Construction of an industrial roadway from I-500 westward is needed to serve the industrially zoned properties within the Long's Subdivision. At the time that access controls are implemented along US 301, this access road will be needed to serve any potential industrial development in this existing residential subdivision. This roadway should be constructed at the time that the properties within Long's Subdivision are redeveloped as industrial, or at the time that access controls along US 301 are implemented. (Plan, page 127)

Public Facilities: No public facilities, aside from roads, are identified.

Parks & Trails: No parks or trails are identified at this location.

SMA/Zoning: The 1993 Subregion V SMA classified this property in the I-1 and I-3 Zones.

PLANNING ISSUES

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"The proposed use is located in Master Plan Employment Area C—Brandywine/Mattawoman Industrial Area. Employment Area C is a large, light and heavy industrial land use park which has direct access to regional highway and railroad systems...The landowners, the county, and the State should not squander the opportunity to achieve development of regional significance... Every effort should be made to ensure that only high image development takes place along the regional highway corridor." (Plan text, page 81) There has been little employment development in Employment Area C since the Subregion V Master Plan was approved in 1993. Regardless, it is still a valid presumption that industrial and office land uses that create employment can reduce commute times for current and future residents of the area and is a valid long-term land use policy in this area. The existing I-1 and I-3 Zones are specifically intended to provide locations for high-image industrial park and office land uses. The proposed commercial land use does not conform to the master plan recommendation for employment land use at this location.

Comment [wi1]:

Comment [wi2R1]:

A commercial rezoning (application A-9980) from the I-1 and I-3 Zones to the C-S-C Zone was recently approved just to the south of this property, increasing the amount of land for commercial development and decreasing the amount for employment.

The master plan recommends community-oriented retail and business development on the west side of MD 5/US 301, as opposed to the east side of MD 5/US 301, closer to and as part of the residential community development in the Brandywine Special Study Area (BSSA—Plan text, pages 79-88). Some of the land recommended for commercial development in this area has been zoned for commercial land use and is under development (Brandywine Village/Chadds Ford); additional land north of the BSSA remains to be rezoned for commercial land use and development that would be consistent with the master plan.

The proposed commercial land uses are not inconsistent with the range of uses in the possible future community center identified in the 2002 General Plan in the Brandywine area. However, the policy for centers is to promote development of mixed residential and nonresidential uses at moderate-to high-densities and intensities in context with surrounding neighborhoods and with a strong emphasis on transit-oriented design. In this regard, future development plans should set aside an area for a future transit station to serve commuters and propose a pedestrian component that provides sidewalks for persons living or working in adjoining areas.

Development policies in recent master plans throughout Prince George's County have promulgated mixed-use development at locations supported by the land use policies in the 2002 General Plan. The recent approval of C-S-C zoning on a parcel abutting the subject property to the south provides for a type of development (retail) not heretofore contemplated in the master plan for that location. Deferring, as the applicant suggests in statement of justification (page 11), to the 2002 General Plan for guidance: "promote the development of mixed residential and nonresidential uses at moderate to high densities and intensities in context with surrounding neighborhoods and with a strong emphasis on transit-oriented design" changes the desired land use type at this location from employment to retail. However, the 2002 General Plan states that the land use policy for future centers is "mixed-use" and "transit-oriented" development. The C-S-C Zone is not a mixed-use zoning category. Automobile-oriented development in the C-S-C Zone is neither "mixed-use" nor "transit-oriented." Unlike all the other mixed-use zoning categories available at this time in Prince George's County, the C-S-C Zone does not include a requirement for site plan review nor does it allow residential land uses. Therefore, it is unlikely that the community characteristics sought to be implemented by the land use policies of the 2002 General Plan for Centers will be achieved.

The current Planning Department work program includes a project to update the Subregion V Master Plan; it is anticipated that this project will be formally initiated in the 1st Quarter of FY 2008 and will be completed within 18 months thereafter, as required by the Zoning Ordinance. The future master plan for this area could recommend that the subject parcel be developed as a mixed-use (residential-commercial-employment) development. This would be in keeping with the 2002 General Plan land use policies for the possible future center in this area. If such a plan were in place, then it would be clear that a prerequisite to developing this site would be a transit-oriented design with pedestrian routes and connections to adjoining commercial and residential neighborhoods.

Implementing the master plan's land use recommendation for employment development fulfills the long-range planning objective of reducing the traffic congestion and air pollution. Providing for employment development, closer to where people live, will continue to be a key component of future land use plans, although it will be more challenging to identify suitable areas as land becomes more scarce. In view of the fact that a master plan update will be underway in the 1st Quarter of FY 2008, departing from the planned pattern of development, at this time, may be premature."

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G. **Zoning Requirements:**

1. **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.**

Applicant's Position: The applicant contends that retaining the zoning classification of I-1 and I-3 on the property was a mistake in the 1993 Subregion V Approved Master Plan and SMA. The District Council's retention of the subject property in the industrial zones was based on a mistaken belief that the industrial zones were the best zones to achieve the Subregion's employment goals. The uses permitted in the I-1 and I-3 Zones were unlikely to balance the bedroom community, adjust commuter travel patterns and bolster the county tax base as suggested by the Master Plan. The Master Plan underestimated the population increases and demographic trend along the US 301 corridor. The anticipated development never occurred. The population changes and the change in demographic trend were recognized by the 2002 General Plan that designated the site for mixed use development.

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The applicant also states that there is a sufficient evidence of change to support the rezoning. The rapid and extensive development along US 301/MD 5 corridors makes this area a prime location for commercial uses. The property's high visibility would make it an ideal site for retail uses.

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The C-S-C Zone would permit flexibility of design and use of the property without limiting the property to industry oriented employment. The rezoning would achieve the county's goals for employment, make productive use of undeveloped land and build the envisioned Brandywine Center. The C-S-C Zone would be more suitable to achieve the recommendations of the Master Plan and Sector Plan.

The applicant has cited several court cases to support the change/mistake criteria for the subject rezoning and also cited the findings made in the District Council and Zoning Hearing Examiner's approval of the recent rezoning case A-9980 ~~(see attached applicant's justification)~~. A-9980 rezoned properties in the I-1 and I-3 on the south side of the subject property to the C-S-C Zone.

The applicant has also submitted a market study prepared for the Zoning Map Amendment application A-9980 by Dr. Stephen S. Fuller entitled "Economic Trends and Market Opportunities in Prince George's County and their relationship to the Zoning of Subject Properties" dated June 13, 2006 ~~(attached)~~ and February 25, 2007, in support of the subject rezoning application.

Staff Comment: The Community Planning Division states that the subject rezoning application is consistent with the 2002 General Plan development pattern policies for the Developing Tier. However, it is not consistent with the planning objectives for a possible future center in that it lacks connections to the surrounding neighborhoods and any components of transit-oriented design.

The rezoning does not conform to the employment-industrial land use recommendations in the 1993 Approved Subregion V Master Plan and SMA.

The subject property is in Master Plan Employment Area C—Brandywine/Mattawoman Industrial area. Although there has been little employment development in this area since the Subregion V Master Plan was approved in 1993, there is still a valid presumption that industrial and office uses that produce employment can reduce commute times for current and future residents.

The subject rezoning will increase the amount of land for commercial development and decrease the land available for employment. The proposed rezoning does not promote transit-oriented development but changes the land use at this location from employment to retail. The C-S-C Zone is not a mixed-use zoning category. Unlike other mixed-use zoning categories available at this

time in Prince George's County, the C-S-C Zone does not include a requirement for site plan review or allow residential uses. Development policies in the recent master plans and the 2002 General Plan promote mixed-use developments.

Staff agrees with the applicant that the anticipated development in this area never occurred. There is a change in population and demographic trend in the subject area. The C-S-C Zone would permit flexibility of design and use of the property without limiting the property to industry oriented employment. The range of uses permitted in the C-S-C Zone would also achieve the county's goals for employment.

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Staff concurs with the Community Planning Division's comments that the C-S-C Zone is not a mixed-use zone. However, the C-S-C provides more flexibility than the existing industrial zones for providing a range of uses. A condition of approval has also been added to require the applicant to file a Detailed Site Plan application for the proposed development. Therefore, some of the Community Planning Division's concerns can be addressed during subsequent stages of review (Preliminary Plan and Site Plan reviews).

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The applicant contends that retaining the zoning classification of I-1 and I-3 on the property was a mistake in the 1993 Subregion V Approved Master Plan and SMA. The basic test considered in a contention of mistake is whether the legislative body made a basic and actual mistake when it adopted a comprehensive zoning map placing the property in its present zoning classification. Mistake or error can be shown in one of the two ways:

- A showing that at the time of the comprehensive rezoning, the District Council failed to take into account then existing facts or reasonably foreseeable projects or trends;
- A showing that events that have occurred since the comprehensive zoning that have proven that the District Council's initial premises were incorrect.

The mistake must have occurred in the rezoning and not in the Master Plan.

During the review of A-9980 for rezoning the adjacent property to south from the I-1 and I-3 Zones to the C-S-C Zone, the Zoning Hearing Examiner made the following findings:

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- The Subregion V Master Plan retained the industrial zoning for the site despite staff's analyses that predicted industrial uses would fail to materialize within the Planning Area and that there would be an increasing need for retail uses along the MD5/US 301 corridor. In 1988, staff prepared a retail market study that predicted that Subregion V was experiencing a growth in housing, population and employment that would increase consumer demand for goods and services. Staff also prepared an analysis of the industrial land use trends and projections. The analysis stated that Planning Area 85A experienced little or no industrial development and that the majority of the planning areas would have a surplus of zoned land with the exception of Planning Areas 81A and 83.
- At least 15 years have elapsed since the adoption of the Subregion V Master Plan and Sectional Map Amendment.
- Hindsight indicates that these were mistakes since the property has not attracted any industrial uses. A mistake in a zoning action may be the failure to see that a certain zoning classification was not desirable. At the time of the comprehensive rezoning, the District Council failed to take into account then existing facts or reasonably foreseeable

projects or trends. Therefore, there was a mistake in the current Master Plan and Sectional Map Amendment.

- There is no substantial change in the neighborhood. Some cumulative changes that may be indicative of substantial change in the character of the neighborhood are road upgrades, prior rezonings, new and modified infrastructures, and new development. A substantial change cannot be something anticipated at the time of the adoption of the Master Plan and SMA. There is nothing in the record that indicates that all the new development in the area was not anticipated at the time of the Master Plan and SMA.

Staff concurs with the Zoning Hearing Examiner's findings. In as much as the subject property was placed in its current zone based on the same premises as the adjacent property that was recently rezoned based on a mistake, it is reasonable to conclude that the same mistake that placed the adjacent property in the I-1 and I-3 Zones applies to the subject property.

Based on the above, staff is recommending approval of the rezoning of the subject property from the I-1 and I-3 Zones to the C-S-C Zone.

H. **Conformance with the Purposes of the C-S-C Zone:** The purposes of the C-S-C Zone are contained in Section 27-454(a)(1) of the Zoning Ordinance and are as follows:

- (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.**

With the proposed rezoning, the subject property would conform to most of the above purposes. A condition of approval has been added to require the applicant to file a Detailed Site Plan application to ensure compatibility with the surrounding industrially zoned properties, conformance with the purposes of the C-S-C Zone and compliance with all applicable previous conditions of approval.

CONCLUSION

Staff has concluded that there was a mistake in the current Master Plan and Sectional Map Amendment. Therefore, staff recommends APPROVAL of the subject rezoning application for rezoning the subject property from the I-1 and I-3 Zones to the C-S-C Zone with the following condition:

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The applicant shall file a Detailed Site Plan application to ensure compatibility with the surrounding industrially zoned properties, conformance with the purposes of the C-S-C Zone and compliance with all applicable previous conditions of approval.