

Docket Item #14-A&B
MASTER PLAN AMENDMENT #2004-0001 (A)
REZONING #2004-0002 (B)
BEASLEY SQUARE (HARAMBEE)

Planning Commission Meeting
December 7, 2004

ISSUE:

MPA #2004-0001 Consideration of a request for an amendment to the Old Town Small Area Plan chapter of the City's Master Plan to change the land use designation of the subject property from CD Commercial Downtown to CRMU/L Commercial Residential Mixed Use (Low).

REZ #2004-0002 Consideration of a request for a zoning amendment to change the zoning designation of the subject property from CD Commercial Downtown to CRMU/L Commercial Residential Mixed Use (Low), with proffers.

APPLICANT: Harambee Community and Economic Development Corporation
by Jonathan Rak, Attorney

LOCATION: 1323 Duke Street

MPA #2004-0001
REZ #2004-0002
Beasley Square(Harambee)

SITE GRAPHIC
AVAILABLE IN THE PLANNING AND ZONING OFFICE

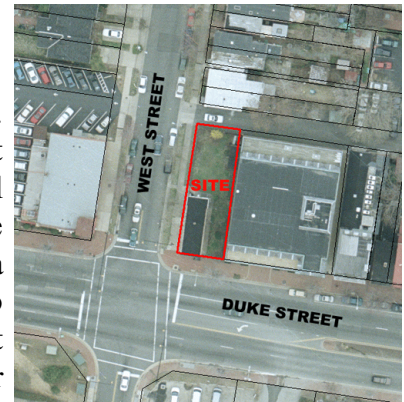
STAFF RECOMMENDATION

Staff recommends **approval** of the master plan amendment, pursuant to the attached resolution.

Staff recommends **approval** of the rezoning request for a map amendment.

I. BACKGROUND

The applicant, requests approval to change the zoning of a 3,500 sq. ft. parcel of land at the northeast corner of Duke Street and West Street from CD Commercial Downtown to CRMU/L Commercial Residential Mixed Use (Low) with a proffer to the proposed site plan and use. The applicant also requests approval to amend the Old Town Small Area Plan to redesignate the property from CD Commercial Downtown to CRMU/L Commercial Residential Mixed Use (Low). The amendment requests are associated with a proposal to construct an 8-unit senior affordable housing facility for the site as discussed in the accompanying DSUP #2004-0015 staff report.



Site Aerial

A. Land Parcel

The 3,500 sq.ft. site has 35 ft. of frontage on Duke Street, 100 ft. of frontage on West Street, and a lot area of 3,500 sq. ft. It is also served by an alley, which runs from West Street to Payne Street and abuts the north line of the property. The site is improved with a 1,450 sq. ft., two story principal building and a 290 sq. ft., two story outbuilding.



Site Photo

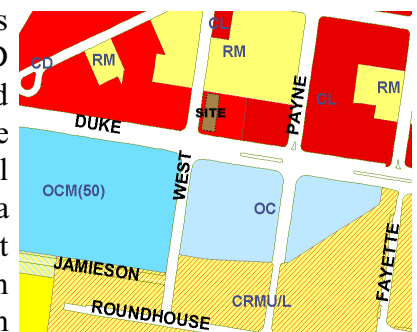
B. Land Use Context

Uses surrounding the site are mixed and include residential, commercial, and institutional uses. A large office building is directly adjacent to the east, and additional office uses predominate along Duke Street to the east and the west. Across Duke Street to the south, there are additional office uses, as well as the Fannon properties, a car rental agency and the Old Town Village residential townhouse and condominium development. Immediately to the west of the site is the Shiloh Baptist Church, and it occupies a large portion of the commercial property across Duke Street at 1400 Duke Street. To the north, there are residential townhouses along West Street.



Surrounding Uses

In addition to the uses in the area, the zoning is also mixed. Properties to the west, including the Shiloh Baptist Church property, are zoned CD Commercial Downtown. The adjacent property to the east is also zoned CD, but beyond that is a large area of CL/Commercial Low zoning. The townhouses to the north are zoned RM/Townhouse. There are additional areas of RB residential zoning nearby. Across the street, there are a variety of commercial and residential zoning areas: the 1400 Duke Street building and the area to the west of it are zoned OCM (150); the Fannon properties are zoned OC. The large area that includes the Old Town Village townhouses and condominiums is zoned CRMU/L.



Zoning Map

II. STAFF ANALYSIS

A. Comparison of the Existing and Proposed Zoning:

The applicant is requesting a change to the land use designation and zoning for the subject property from CD Commercial Downtown to CRMU/L Commercial Residential Mixed Use (Low) in order to construct a building addition and to create a housing option for the elderly with the creation of affordable units. Staff finds the proposed rezoning supportable because:

- the development rights in both zones are balanced: what is being gained in CRMU/L comes with a relinquishment of development rights in CD;
- what would likely be developed or is permitted on the site under CD zoning is not as desirable as the proposed use, and could have a greater impact on the neighbors than the proposed building; and
- the CD zone lacks the flexibility necessary to achieve affordable housing options.

Balance of development rights in each zone.

The proposed CRMU/L zone is actually more restrictive than the CD zone in terms of *land uses* and *FAR (volume of building permitted)*, but it is requested in this case because it is less restrictive in terms of *density/units per acre*. The height would remain the current zone and proposed zone. The size or volume of the building permitted within the current CD zoning (2.5 FAR) is less than the proposed CRMU-L zone (1.5 FAR). Therefore, two elements of compatibility (height and building volume) of the proposed zone will be equal or less than the current and adjoining zoning.

By rezoning the property to CRMU/L, the applicant will be relinquishing some flexibility in terms of allowable land use and will be restricted to a smaller building than would be possible with CD zoning, in exchange for additional flexibility in terms of the number of dwelling units allowed. The CRMU/L zone is also less restrictive in terms of building setbacks, but that is consistent with the development pattern in the neighborhood, where most buildings are constructed to the property line. While the proposed CRMU-L zone does not have a limit on density, the applicant has proffered to the proposed development plan.

A comparison of the two zones is presented in the following table:

COMPARISON OF CD AND CRMU/L ZONES		
Regulation	CD Zone	CRMU/L Zone
Permitted Uses	16 categories of residential, commercial and institutional uses.	10 categories of residential and commercial uses.
Special Uses	27 categories of residential, commercial and institutional uses.	14 categories of residential, commercial and institutional uses.
Lot Area	Nonresidential: N/A SFR, 2FR, TH: 1,452 sf./du Multifamily: 1,245 sf./du; 800 sf. / du w/ SUP	All uses: N/A
Lot Frontage	Nonresidential: N/A SFR, 2FR: 25' Townhouses: 18' Multifamily: 50'	All uses: N/A
Front Yard	0'	0'
Side Yards	Nonresidential: N/A SFR, 2FR, TH: 5' Multifamily: 25'	All uses: N/A
Open space:	Nonresidential: N/A Residential: 40%	Nonresidential: N/A Residential: 40%
Floor Area Ratio (FAR)	Nonresidential: 1.5; 2.5 w/ SUP SFR, 2FR, TH: 1.5 Multifamily: 1.25	Nonresidential: 0.75 Residential: 1.0, 1.5 w/ SUP Mixed Use: 1.0, 1.5 w/ SUP
Accessory Apartments	Up to 4; 1 parking space (on- or off-site) required per unit	Up to 2; 1.3 on-site parking spaces req'd per 1-bdrm; 1.75 per 2-bdrm

Comparing the existing CD zoning with the proposed CRMU/L zoning without taking the applicant's proposal into consideration, the development rights that would be gained with the rezoning balance well with those that would be given up. The CRMU/L zone is less restrictive in terms of allowable residential density, but the actual impact of potentially higher densities is offset by more restrictive FARs. If the applicant's proposal is taken into consideration, then the applicant is increasing the number of units that can be provided on the site, but is building with a lower FAR and with a less intensive use in terms of parking need. Since the rezoning will be governed by a proffer, the applicant will actually be giving up all flexibility and building volume in exchange for the increased number of units.

Other potential uses of the property under CD zoning.

Were the property with its CD zoning to be sold to a for-profit developer, there are three likely development scenarios that would occur.

Commercial use.

A building of the exact size as the one proposed by Harambee could be built without a rezoning or master plan amendment, and without a requirement to supply any parking or open space under the CD zone, if the property is used for commercial use. The prospect is likely because the CD zone allows the building to be used for offices, for any type of retail establishment, or for personal services uses, such as hair salons, dry cleaners, or repair businesses. There are several office buildings in the area along Duke Street, of varying sizes. By eliminating the open space requirement and eliminating the parking requirement, the developer would have added flexibility which would make it easier to work around the existing building. The building could be expanded under CD to include more structure to the east as well as additional building to the rear. With an SUP, a 2.5 FAR would be possible.

Commercial ground floor use, with apartments upstairs.

Another option would be similar to the commercial use described above, but with apartments on the second floor of the existing building, and possibly the second and third floor of the new building addition next door. Under this scenario, the building could be expanded as above, but, again, no open space would be required. Parking at a ratio of one space per apartment would be required and could be provided on-site or off-site.

Two residential townhouses, with building additions, required parking and open space.

The existing building could be converted to a residence, and a second dwelling, a three to four story townhouse, could be constructed on the east half of the property. Under this option, the applicant would be required to subdivide the property, to provide parking and to preserve 40% of each site as open space (the parking spaces count as open space in the existing CD zone).

Although the two-townhouse option would create a less intense use than the one proposed, either of the two commercial scenarios would be more intense and would create greater negative impacts for the neighborhood. The Harambee proposal also provides much greater public benefit, with its provision of affordable housing for the elderly. With a commercial alternative there is potential for either a high turnover retail use, or a dense office building which could mean much more activity at and near the site in the future than would be the case with eight elderly apartments.

In addition, the commercial options are likely to create significant parking problems for the area. The site is exempted from providing parking for commercial uses because it is located in the Central Business District, but that does not mean that commercial uses as a practical matter would not generate parking demand. Under the parking requirements applicable outside the CBD, a 5,250 sq.

ft. office building (1.5 FAR) would generate a need for 9 parking spaces and a 5,250 sq. ft. retail building would need 21 spaces. A building with commercial uses on the ground floor and commercial apartments above could need up to 16 spaces. Increasing the FAR to 2.5 via an SUP would create a need for 15 spaces for an office use, up to 26 spaces for a retail building with commercial apartments, and 33 spaces for a retail building. By comparison, the proposed 8-unit home for the elderly requires two parking spaces, though the applicant has committed to providing one space per unit (8 spaces), with 3 on-site and the remainder on the adjoining surface parking lot.

CD Zoning lacks the flexibility necessary for affordable housing.

The CD zone provides for a relatively high FAR for both residential and commercial uses, allowing large buildings. It also allows for apartment buildings, homes for the elderly and congregate housing. However, the lot size requirements, which translate into an allowable number of units per acre, are very low. Thus, the ability to provide for multi-family uses, congregate housing and other forms of multiple unit housing forms, while listed, is allowed in theory only, unless the applicant has a large piece of land and envisions a very large building, which would probably not be well received. While at one time, this anomaly may not have produced a problem, with the high price of land, the resulting narrowing of land options, and the increasing need for affordable housing, it creates, as a practical matter, a disincentive for property owners and developers who wish to pursue affordable housing in Old Town. The applicant has found a property that is available, and proposed a development that uses the land with a scale of building and a design that is suitable to the neighborhood.

It will be difficult if not impossible to achieve affordable housing on this site without a rezoning. Comparing the two zones and their development potentials shows a balance between the zones, in terms of development rights, and also shows that the proposed zone is likely to bring less impacts from development on this site than the existing one.

B. Compatibility of Proposed Proffered Zoning with Surrounding Uses and Development Pattern.

This application is for a Master Plan amendment and rezoning, but it also includes a proffer, thus restricting the future use of the site to the specific development described. Thus, the full range of uses and development permitted by the CRMU/L zone are not actually the issue here. Rather, it is the proposed development and the number of units. Only the development and use proposed can be built if the Harambee applications are approved. Staff has analyzed the actual development proposal as part of its zoning analysis.

The staff report for DSUP #2004-0015 describes the development proposal in detail, and, as discussed in that report, staff finds the proposal to be consistent and compatible with both the uses and the development scale of the surrounding area. Staff believes that it will be compatible with the mass and scale of the surrounding area and to the community in general, and that its potential impacts, if any, will be minimal.

The subject property is located in an area that includes a wide range of uses and zones. There are very dense commercial and hotel developments to the west along Duke Street; there are lower density residential areas to the immediate north, and in the Southwest Quadrant neighborhood to the south. Additional development along Duke Street can be anticipated in the future. This particular area of the City along Duke Street is a true mixed use area, where commercial and residential uses exist side by side and acts as a transition between Old Town to the east and north and the newer development areas to the south and west. The subject property is important to the area and is located at the first corner entrance to the Old and Historic Alexandria District.

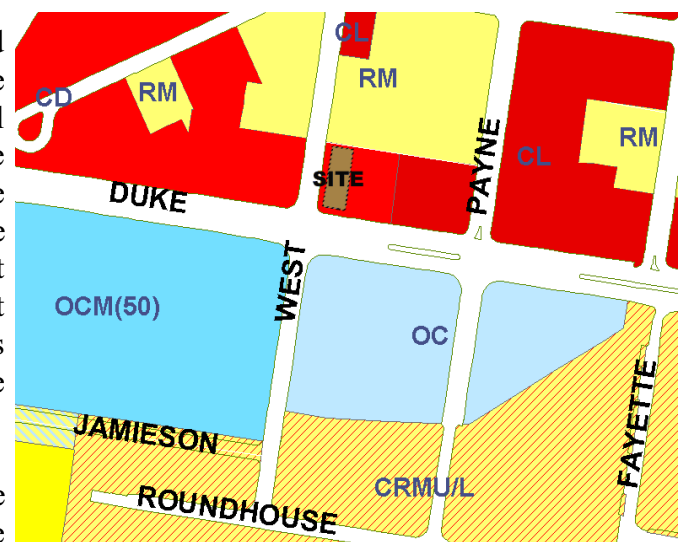
Staff finds both the proposed use and the proposed zone to be suitable for this particular location. The proposed 8-unit residential building is appropriate because it provides a suitable transition between the lower density residential to the north and the commercial and higher density residential uses to the south, across Duke Street. The zone, CRMU/L, has been used in the past in this area to provide flexibility for new development. When the Old Town Village development approached the City several years ago, and the Master Plan amendment and rezoning for residential townhouses and condominiums were supported in this transitional area. The proposed residential building is not dissimilar in that it too seeks the flexibility of the CRMU/L zone.

C. Spot Zoning Issue

The rezoning requested here would map the corner property at Duke and West Streets as CRMU/L with proffers. Because the adjacent properties do not have CRMU/L zoning, some opponents to the proposal claim that it is an example of illegal spot zoning. Illegal spot zoning occurs when a single piece of land is zoned differently from the uniform zone(s) surrounding it, coupled with an effort to single out a piece of land and treat it differently from others, contrary to announced planning policies of the City and for the economic benefit of the owner. Spot zoning confers special benefits to an individual at the expense of the public generally. The current proposal is not an example of spot zoning.

Under Virginia law, courts have not found rezonings similar to this application to constitute illegal spot zoning. Giving deference to local legislative bodies, courts have upheld the rezoning of individual properties, as long as the zoning does not confer a private benefit at the expense of public policies. Rezonings are not common in Alexandria, and staff does not support rezoning unless the proposed rezoning is consistent with established City policies and there is a clear public benefit.

In this case, although the properties abutting the subject property are not zoned CRMU/L, they are not zoned uniformly. The land to the west along



Zoning Map

Duke Street is zoned CD as is the parcel to the immediate east. The land to the north is zoned RM. To the east, beyond the adjacent office building, the area is zoned CL. The abutting properties across Duke Street include both OCM (50) land to the southwest and OC property to the southeast. Significantly, there is a large residential townhouse and multi-family area of CRMU/L zoned property to the south and the east (Old Town Village). The CRMU/L area is quite proximate to the subject property, and, because of the land area involved, one of the most predominant zones in the immediate area.

More importantly, the Harambee property is not being singled out for special treatment contrary to announced public policies of the City. On the contrary, providing affordable housing and retaining elderly residents are clear priorities of the City, expressly articulated in City Council's recently adopted 2004-2015 Strategic Plan. Council has for the last two years discussed affordable housing as a goal of the City. It has created a Housing Corporation to assist these efforts, has increased the developer provision of affordable housing and has directed staff to evaluate the current affordable housing policies all in an effort to implement the goals of the Strategic Plan.

In addition to the affordable housing issue, there are other significant public benefits from the proposed development. The design and materials of the proposed building are appropriate for this prominent entrance to the Historic District. It will enhance the area with its highly detailed design, carefully arranged on the site to match the surrounding buildings and uses. And the applicant has worked with the City to achieve as much open space and parking for the site as is physically and reasonably possible. Mindful of the important history of the site, the applicant will participate in archeology investigations, and memorialize the site with interpretative signage. The proposal, in staff's view, fully conforms to the City's public policies.

D. Staff Recommendation

The Harambee proposal will provide affordable residences for the elderly of the City in a portion of the City that contains a mixture of uses and zones and provides a transition among neighborhoods. The proposed zone and Master Plan designation provide flexibility, allowing more affordable housing than would otherwise be permitted. The proposal, provides significant public benefits, is restricted by a proffer, and will not harm the surrounding area. For these reasons, staff recommends that the Master Plan amendment and rezoning be approved, subject to a proffer that restricts the development to the applicant's specific development proposal.

III. STAFF RECOMMENDATION:

Staff recommends **approval** of the proposed rezoning of the site from CD-Commercial Downtown to CRMU-L-Commercial Residential Mixed Use-Low with the proffer to the development site plan, limiting the use to senior affordable housing and all applicable special use permit conditions.

STAFF: Eileen Fogarty, Director, Department of Planning and Zoning
Jeffrey Farner, Development Division Chief, Department of Planning and Zoning
David Sundland, Urban Planner III

RESOLUTION NO. MPA 2004-0001

WHEREAS, under the Provisions of Section 9.05 of the City Charter, the Planning Commission may adopt amendments to the Master Plan of the City of Alexandria and submit to the City Council such revisions in said plans as changing conditions may make necessary; and

WHEREAS, an application for amendment to the Old Town Small Area Plan chapter of the 1992 Master Plan was filed with the Department of Planning and Zoning for changes in the land use designations to the parcel at 1323 Duke Street; and

WHEREAS, the Department of Planning and Zoning has analyzed the proposed revision and presented its recommendations to the Planning Commission; and

WHEREAS, a duly advertised public hearing on the proposed amendment was held on December 7, 2004, with all public testimony and written comment considered; and

WHEREAS, the Planning Commission finds that:

1. The proposed amendment is generally consistent with the overall goals and objectives of the 1992 Master Plan and with the specific goals and objectives set forth in the Old Town Small Area Plan chapter of the 1992 Master Plan; and
2. The proposed amendment reflects the Planning Commission's long-range recommendations for the general development of the Old Town Small Area Plan; and provides a transition among neighborhoods in this mixed use neighborhood.
3. Based on the foregoing findings and all other facts and circumstances of which the Planning Commission may properly take notice in making and adopting a master plan for the City of Alexandria, adoption of the amendment to the Old Town Small Area Plan chapter of the 1992 Master Plan will, in accordance with present and probable future needs and resources, best promote the health, safety, morals, order, convenience, prosperity and general welfare of the residents of the City;

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Alexandria that:

1. The following amendment is hereby adopted in its entirety as an amendment to the Old Town Small Area Plan chapter of the 1992 Master Plan of the City of Alexandria, Virginia in accordance with Section 9.05 of the Charter of the City of Alexandria, Virginia:

Change the designation of parcels at 1323 Duke Street from Commercial Downtown to Commercial Residential Mixed Use (Low)

MPA #2004-0001
REZ #2004-0002
Beasley Square(Harambee)

2. This resolution shall be signed by the Chairman of the Planning Commission and attested by its secretary, and a true copy of this resolution forwarded and certified to the City Council.

ADOPTED the 7th day of December, 2004.

Eric Wagner, Chairman
Alexandria Planning Commission

ATTEST: _____
Eileen P. Fogarty, Secretary

MPA #2004-0001
REZ #2004-0002
Beasley Square(Harambee)

**REPORT ATTACHMENTS
AVAILABLE IN PLANNING AND ZONING**