

C O R R E C T E D R E S O L U T I O N

WHEREAS, the Prince George's County Planning Board has reviewed A-9961 requesting rezoning from the R-T Zone to the C-S-C Zone in accordance with Subtitle 27 of the Prince George's County Code; and

WHEREAS, after consideration of the evidence presented at the public hearing on October 7, 2004, the Prince George's County Planning Board finds:

- A. **Field Inspection:** The subject property, 7521 Marlboro Pike, is located on the south side of Marlboro Pike approximately 590 feet west of Forestville Road. The property consists of 1.37 acres of land. The property is rectangularly shaped and improved with a two-story frame house, two sheds and a garage all in deteriorating condition. It has 180 feet of frontage on Marlboro Pike and approximately 270 feet of frontage on Pinevale Avenue.

The property is surrounded by the following uses:

- North: Across Marlboro Pike, an insurance office, a bank, and a gas station in the C-O and C-S-C- Zones respectively.
- East A mini-shopping mall with small retail and service uses in the C-S-C Zone
- South: Single-family residential properties in the R-55 Zone
- Southeast: Single-family residential properties in the R-55 Zone.
- West: A vacant land, a parking lot, and a meeting hall in the C-S-C Zone

- B. **Neighborhood and Surrounding Uses:** The Planning Board accepts the neighborhood as defined by the applicant, which includes the following boundaries:

- North: *[Marlboro Road] Walker Mill Road
- East: *[Forestville Road] Capital Beltway (I-95)
- South: *[Pennsylvania Avenue] Pennsylvania Avenue
- West: *[Donnell Drive] Silver Hill Road

These boundaries include a much broader area than those defined by staff.

*Denotes correction
 [Brackets] denotes deletion
Underlining denotes addition

- C. **History:** The 1986 approved sectional map amendment (SMA) for Suitland District

Heights and vicinity rezoned the property from the R-R Zone to R-T Zone.

- D. **Master Plan Recommendation:** The 1986 master plan for Suitland District Heights and vicinity recommends the property for Low-Urban residential use. The master plan recommends Low-Urban residential density for the property. The intent of the master plan is to discourage commercial strip development along this section of Marlboro Pike and to protect the existing single-family detached residences in the immediate area. An illustrative scheme for proposed residential development (which includes the subject site) along Marlboro Pike is shown on page 99 of the master plan.

The 2002 General Plan places the property in the Developed Tier. The vision for the Developed 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.

- E. **Request:** The applicant requests rezoning of the subject property from the R-T (Townhouses) Zone to C-S-C (Retail-Commercial). No specific information has been provided regarding the intended development of the property.
- F. **Zoning Requirements: Section 27-157(a) of the Zoning Ordinance provides that no application shall be granted without the applicant proving that either:**
- (A) **There has been a substantial change in the character of the neighborhood;**
or
 - (B) **Either**
 - (i) **There was a mistake in the original zoning for property which has never been the subject of an adopted Sectional Map Amendment, or**
 - (ii) **There was a mistake in the current Sectional Map Amendment and such mistake occurred not more than six years prior to the filing of an application for the proposed zoning map amendment providing, however, that for those properties for which the current Sectional Map Amendment has been adopted prior to 1990 such mistake shall have occurred not more than 10 years prior to the filing of an application for the proposed zoning map amendment.**

- H. The applicant contends that there has been a substantial change in the character of the neighborhood since the enactment of the current sectional map amendment in 1986.

As evidence of change in the character of the neighborhood, the applicant cites two rezoning cases, which, the applicant argues, are responsible for the decline in the availability of commercial property in the neighborhood. The two cases are:

1. The 1992 rezoning of the 5.2-acre property, at the south side of Marlboro Pike at its intersection with Forest Drive, from C-O to the R-18C Zone

(A-9864-C). The applicant argues that this rezoning resulted in a significant decrease in the amount of commercial space.

2. The 1993 rezoning of the 1.73-acre property, at the north side of Marlboro Pike at its intersection with Sidney Road, from C-O to the R-18C Zone (A-9879-C).

The applicant also cited, as further evidence of change, the 1990 rezoning from R-T to C-S-C, of the .57-acre property located on the east side of Boons Lane, approximately 300 feet north of Marlboro Pike (A-9816). The applicant indicated that the primary justification for this zone was to “square-off” the boundaries of the adjoining C-S-C zoned properties between the rezoned property and Marlboro Pike. The applicant reasoned “although this rezoning case did not contribute to the reduced availability of commercially zoned property in the planning neighborhood, this rezoning nevertheless is evidence that the neighborhood has changed substantially since 1986.”

The applicant also refers to the 1997 approval of a special exception to allow an expansion of an existing nursing home (SE-4259) on a 3-acre property in a C-O Zone as a second factor that is evidence of change in the character of the neighborhood. The applicant noted that the special exception property, which is located approximately 550 feet northwest of the subject site across Marlboro Pike, was rezoned from the R-R Zone to the C-O Zone during the 1986 sectional map amendment and yet, still maintains its residential nature.

The increasing presence of churches in the neighborhood is also another factor cited by the applicant as further evidence of substantial change in the neighborhood. The applicant noted that over 50 percent of the 215, 000 square feet of commercial retail space at the Forest Hill Plaza Shopping Center, located in the northeast quadrant of the intersection of Marlboro Pike and Forestville Road, has been converted to noncommercial, religious use.

The applicant argues that this trend has resulted in the loss of a considerable amount of commercial retail space, particularly on the east side of the Marlboro Pike corridor where the subject property is located.

Finally, the applicant indicated that notwithstanding the intent of the 1986 master plan, none of the residential properties along Marlboro Pike that were placed in the R-T zone were developed with town houses. Moreover, with the enactment of CB-55-1996 that prohibited the expansion of R-T zoning throughout the county and required approval of special exception for townhouses in certain high-density residential zones, the number of townhouses developed has been substantially reduced. The applicant noted that all of the properties along Marlboro Pike that were rezoned to R-T in 1986 are developed with single-family detached dwellings, and that the master plan’s intent for the higher density townhouse development to serve as a buffer between Marlboro Pike and the existing single-family dwellings to the south has not materialized. The applicant argues that, as it is the case for the other properties along Marlboro Pike, it is unlikely that the subject property could be successfully developed with townhouses. Moreover, given the nature of the property, which is wedged between two C-S-C zoned properties, it is almost impossible to develop the subject property with a quality residential development.

The applicant concludes that the cumulative effect of the loss of commercial properties to medium-density residential properties, the loss of commercial shopping center space to religious uses, and the loss of commercial office property to residential nursing care use have substantially changed the commercial character of the neighborhood.

- I. **Conformance with the Purposes of the R-T and C-S-C Zones:** The purposes of the R-T Zone are contained in **Section 27-433(a)(1) and (2)** of the Zoning Ordinance:
1. **The general purpose of the R-T Zone is to provide for attractive communities with a variety of dwelling types designed to efficiently utilize available land area, public utilities, and public facilities.**
 2. **The specific purposes of the R-T Zone are:**
 - (A) **To provide the maximum possible amount of freedom in the grouping, layout, and design of townhouses and other attached dwellings.**
 - (B) **To encourage variety in the design and mix of dwelling unit types, and in site design.**
 - (C) **To protect or enhance (where feasible) important or distinguishing natural features of the site through innovative site layout and green area design.**
 - (D) **To avoid the monotony of similarly designed or sited rows of attached dwellings commonly known as "row houses," by encouraging variety in the number of dwelling units per building group and the relationship between building groups and parking.**
 - (E) **To provide the maximum possible amount of visible open space for the development.**
 - (F) **To provide recreational and other community facilities which are normally associated with less dense zoning categories and are easily accessible to all residents.**
 - (G) **To permit the greatest possible amount of freedom in the type of ownership of attached dwelling unit development.**
 - (H) **To prevent detrimental effects on the use or development of adjacent properties and the neighborhood.**
 - (I) **To promote the health, safety, and welfare of the present and future inhabitants of the County.**

The purposes of the C-S-C Zone (Commercial Shopping Center) are contained in **Section 27-454(a)(1)** 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.**
- (D) For the C-S-C Zone to take the place of C-1, C-2, C-C, and C-G Zones.**

The Planning Board believes the C-S-C Zone is most appropriate for the subject property. The property is sandwiched between C-S-C Zoned properties along a major arterial. It is unlikely that such a small property would yield an attractive townhouse development in accordance with the purposes of the R-T Zone. The Board accepts the neighborhood defined by the applicant and, based on testimony and applicant's exhibits 1A, 1B and 2, is persuaded that a substantial change has occurred. Exhibits 1A and 1B illustrate rezonings that have occurred that established a trend of uses that were not anticipated by the 1986 master plan. The most notable changes include the large concentration of churches occupying commercial space and a nursing home located across Marlboro Pike from the subject property. Exhibit 2 is a Zoning Hearing Examiner decision (A-9958) that illustrates how several small changes in a neighborhood can cumulatively rise to the level of a substantial change in the character of the neighborhood.

The Planning Board further recommends that any development of the property be subject to Detailed Site Plan review in accordance with Part 3 Subdivision 9 of the Zoning Ordinance. Particular attention shall be paid to landscaping, fencing and buffering between residential uses.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to Subtitle 27 of the Prince George's County Code, the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission adopted the findings contained herein and recommends to the District Council for Prince George's County, Maryland that the above-noted application be APPROVED, subject to the following conditions:

1. Prior to the issuance of any permits, the applicant, his heirs, successors or assignees shall submit a detailed site plan for review and approval by the Planning Board or its designee in accordance with Part 3 Subdivision 9 of the Zoning Ordinance. The site plan review shall focus on the proposed landscaping, fencing, and buffering as well as the siting of any proposed building, paving and on-site parking, especially between the internal portion of the site and the existing residential uses.
2. All future development applications on this site shall include a Phase I and/or Phase II Noise Study as appropriate, show the locations of the 65dBA Ldn noise contour

(mitigated or unmitigated) and show that all state noise standards have been met for interior areas.

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This is to certify that the foregoing is a true and correct copy of the action taken by the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Vaughns, seconded by Commissioner Squire, with Commissioners Vaughns, Squire and Hewlett voting in favor of the motion, Commissioner Harley opposing the motion and with Commissioner Eley absent at its regular meeting held on Thursday, October 21, 2004, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 18th day of November 2004.

Trudye Morgan Johnson
Executive Director

By Frances J. Guertin
Planning Board Administrator

TMJ:FJG:JJ:rmk

(Revised 8/9/01)