

PGCPB No. 00-47

File No. A-6696-C, A-9730-C and A-9731-C/03

Prince George's County Zoning Map Amendment Application Nos. A-6696-C, A-9730-C and A-9731-C/03

Applicant: Lake Marlton L.P., Owner

Location: The subject property is located on the northwest side of Heathermore Boulevard, across from Great Gorge Way

Request: To amend the Official Plan of Marlton to allow 48 townhouses in lieu of apartments

R E S O L U T I O N

WHEREAS, the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission, at its regular meeting on April 13, 2000, considered an Amendment to the Official Plan of Marlton, Zoning Map Amendment No. A-6696-C, A-9730-C and A-9731-C/03, pursuant to Article 28, Annotated Code of Maryland, and Sections 27-178 and 27-158 of the Zoning Ordinance; and

WHEREAS, Zoning Map Amendment A-6696-C was approved in 1969 and A-9730-C and A-9731-C were approved in 1991 for a total of 431.5 acres; and

WHEREAS, the Technical Staff Report released April 6, 2000, recommended Approval, with conditions of said Amendment to the Official Plan; and

WHEREAS, after consideration of the Technical Staff Report and testimony at its regular meeting on April 13, 2000, the Prince George's County Planning Board agreed with the staff recommendation; and

WHEREAS, the Planning Board recommendation is based on the staff analysis and the following DETERMINATIONS:

The Official Plan for Marlton was approved as A-6696-C in 1969. At that time, the entire Marlton property was placed in the R-P-C Zone. The Zoning Ordinance in effect at that time allowed a maximum of eight dwelling units per acre for the entire R-P-C tract. With 1,157 residential acres and a maximum density of eight units per acre, the Zoning Ordinance permitted a maximum of 9,256 dwelling units in Marlton. That figure was ultimately limited to 6,192 by approval of the Official Plan.

Individual parcels within the R-P-C Zone were placed in subzoning categories. The subject parcel was placed in the R-10 subzone, which allowed the development of apartments with up to 44 dwelling units per acre. While individual properties were placed in subzones, no specific density was designated for each property. Rather, an overall density and capacity for each subzone was created. The R-10 subzone had a capacity of 1,805 dwelling units as set forth in Table 3 of the *Report on the Marlton Plan*, dated August 1, 1968.

The Official Plan was amended in 1990 (A-9730-C and A-9731-C) at which time the District Council allowed an additional 200 units. The total number of dwelling units allowed in Marlton

is now 6,392.

The latest figures developed by staff indicate that the number of approved dwellings, whether in the form of actually constructed units or as approved building lots, is 3,730. This leaves a remaining capacity in all of Marlton of 2,662.

2. The Official Plan includes a Detailed Development Plan@ which identifies specific uses for specific parcels. Where the Detailed Development Plan identifies such specific uses, other uses are not deemed to be in conformance with the Official Plan and are not permitted. The Detailed Development Plan, approved in 1969, designated the subject property for development with apartments. With this application, the applicant proposes to replace the apartment designation with up to 48 townhouses.
3. **Section 27-158(b) of the Prince George=s County Zoning Ordinance allows the Planning Board to amend the Marlton Official Plan under certain circumstances. Most of the criteria are procedural in nature. Section 27-158(b)(1)(C) allows amendments that do not involve**

Aa change in any zoning subcategory shown on the adopted Official Plan The proposed amended Official Plan shall not increase the density approved by the Official Plan and must be found to be compatible with the surrounding property including existing land in the R-P-C Zone.@

The test for Planning Board approval of an amendment to the Official Plan of Marlton is two-pronged. There must be no increase in density and the proposed change must be compatible with the surrounding land use types.

a. Density:

The applicant=s proposal to modify the Official Plan for Marlton to include townhouses on the subject parcel rather than apartments does not increase the density. In fact, it reduces overall density in the Marlton Town Center area.

The Official Plan of Marlton includes a mix of dwelling types and a cap of dwellings within each subzone. The capacities in each subzone were established at the time of the original approval in 1969 (A-6696-C), and revised in 1990 (A-9730-C and A-9731-C).

The District Council, in adopting the 1994 Sectional Map Amendment for Subregion VI, rezoned a portion of the properties in the R-10 Zone to R-30 Zone, specifically the area known today as the Marlton Town Center. The subject property was part of that rezoning. Since there was no R-30 Zone in Marlton in 1969, no dwelling unit cap was assigned to the R-30 Zone.

Staff believes that the originally approved density cap of 1,805 for the entire area of the originally classified R-10 subzone should still apply. To date, 232 dwelling units occupy the land originally zoned R-10. Therefore, the potential for 1,573 units remains in the area originally zoned R-10. The proposed 48 units fall well within this density cap.

b. Compatibility:

The Planning Board must also find that the proposed change is compatible with surrounding land uses. Development of the surrounding townhouses occurred under standards that were in effect in 1969, even though the development took place much later. If this amendment is approved, the applicant argues that the 1969 standards should apply.

Section 27-540(b)(1)(A) of the Zoning Ordinance reads:

AIn general, all requirements for density, lot frontages and sizes, green areas, the location and size of buildings and structures, signs, and off-street parking and loading areas shall be the same as specified for the zoning subcategories designated on the Official Plan and any other additional requirements specified in this Part or on the Official Plan for the R-P-C Zone. If the requirements of other zones are amended in this Subtitle after a property is placed in the R-P-C Zone, that property shall still only be developed in accordance with the approved Official Plan, unless the amendments specifically refer to the R-P-C Zone.@

Two applicable Council Bills have amended the Zoning Ordinance regarding townhouse development. CB-55-1996 established certain design standards and special exception criteria for townhouse development, and it reduced the maximum density for townhouses in the R-T Zone from eight to six dwelling units per acre. CB-56-1996 established design criteria and density requirements for townhouses in Comprehensive Design and Mixed Use Zones. CB-55-1996 also amended the R-30 Zone to allow townhouses by special exception only. Neither CB-55-1996 nor CB-56-1996 included mention of the R-P-C Zone. Therefore, standards in effect in 1969 should be applied to development proposals for land uses identified on the Detailed Development Plan of the Official Plan.

However, this is a new proposal to amend the Official Plan. The Planning Board has the authority to attach conditions to its approval, including the imposition of more current design standards for townhouses. This is the appropriate course of action.

While the applicant may argue that other townhouses in the area are developed at a density of 12 units per acre, given the shape and size of this property, compatible development may not be possible at 12 units per acre. Therefore, while the Planning Board approves the Official Plan amendment to allow townhouses, the approval is for *up to* 48 lots, and the applicant should be aware that compatibility issues and the requirements of CB-55-1996 and CB-56-1996 will be scrutinized at the time of preliminary plan and detailed site plan review. Ultimately, the number of lots may be reduced drastically. This approval should be construed simply as a change in the permitted dwelling unit type that will yield a lower density in accordance with the provisions of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED, that the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission, pursuant to Article 28, of the Annotated Code of Maryland and Sections 27-158 and 27-178 of the Zoning Ordinance for Prince George's County, Maryland, recommends to the County Council, sitting as the District Council for the Maryland-Washington Regional District in Prince George's County, Maryland, that Zoning Map Amendment Application No. A-6696-C, A-9730-C and A-9731-C/03 be APPROVED, subject to the following conditions:

1. Prior to signature approval of the Official Plan and the companion Preliminary Plat of Subdivision, the applicant, his heirs, successors and/or assigns shall supply the Development Review Division with data that can be used to revise and update Table 3 in the *Report on the Marlton Plan*, the originally approved zoning text.
2. The maximum number of dwelling units shall be 48 townhouses. This may be reduced at the time of Preliminary Plat and/or Detailed Site Plan approval after a further analysis of compatibility, including design issues and the intent of CB-55-1996 and CB-56-1996.

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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 Boone, seconded by Commissioner Brown, with Commissioners Boone, Brown, McNeill and Hewlett voting in favor of the motion, at its regular meeting held on Thursday, April 13, 2000, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 4th day of May 2000.

Trudye Morgan Johnson
Executive Director

By Frances J. Guertin
Planning Board Administrator

TMJ:FJG:JD:aj