

**DISTRICT COUNCIL FOR PRINCE GEORGE'S COUNTY, MARYLAND  
OFFICE OF THE ZONING HEARING EXAMINER**

**ZONING MAP AMENDMENT  
A-10054**

**DECISION**

Application:	C-S-C to R-80 Zone
Applicant:	Brian Callicott
Opposition:	None
Hearing Date:	July 10, 2019
Hearing Examiner:	Joyce B. Nichols
Recommendation:	Approval

**NATURE OF PROCEEDINGS**

- (1) A-10054 is a request to rezone approximately 24,164 square feet of land, in the C-S-C (Commercial Shopping Center) to the R-80 (One-Family Detached Residential) Zone, located on the north side of Church Street, approximately 260 feet west of its intersection with Water Street, also identified as 14520 Church Street, Upper Marlboro, Maryland.
- (2) The subject property is part of the environmental setting of "Content", County Historic Site 79-19-16, and National Register Historic Site reference #78003119. The subject property abuts the limit of the Town of Upper Marlboro National Register Historic District.
- (3) The Applicant is alleging five (5) mistakes in the 2013 Subregion VI Master Plan and Sectional Map Amendment. The Applicant asserts that the R-80 Zone is the zone most appropriate to correct these mistakes.
- (4) The Technical Staff recommended disapproval (Exhibit 12). The Planning Board did not schedule this Application for public hearing and in lieu thereof adopted the recommendation of the Technical Staff. (Exhibit 32)
- (5) The Town of Upper Marlboro supports the instant rezoning request (Exhibit 27) and the Prince George's County Historic Preservation Commission approved the request for the expansion of Environmental Setting for Content (Exhibit 26) to include the subject property.
- (6) No one appeared in opposition.
- (7) The record was closed July 22, 2019.

## FINDINGS OF FACT

### Subject Property

- (1) The subject property is roughly rectangular in shape and is located on the north side of Church Street, approximately 260 feet west of its intersection with Water Street. The property is abutted on two sides by public rights of way. Church Street abuts the subject property on the south and an unnamed alley abuts the property along the eastern property line.
- (2) The subject property is currently unimproved. It is an undeveloped grass field with a small area of brush in its northwest corner. The topography is flat with a minimal slope running from north to south.
- (3) The property is owned by the Applicant, Brian D. Callicott, and is zoned C-S-C. Mr. Callicott also owns, and resides in, the property abutting the western boundary of the subject property, located at 14518 Church Street, which is zoned R-80 and improved with a single-family home, Content.

### Zoning History

- (4) The site was designated within the Regional District as the R-80 Zone, with the surrounding area also being zoned R-80. The first Subregion VI Master Plan was adopted in 1973. The Master Plan was subsequently followed in 1977 by the Upper Marlboro Special Treatment Area Plan. On July 2, 1977, the Prince George's County District Council adopted a Sectional Map Amendment (SMA) for the areas covered by the Subregion VI and the Upper Marlboro Special Treatment Area Plan. This SMA placed the County Administration Building and the Courthouse complex within the C-S-C Zone.

The C-S-C zoning extended west to the western limits of the funeral home site on the north side of Main Street and then followed a straight line to the south to Church Street, which included the subject property. C-O (Commercial Office) zoning was placed on properties south of Church Street, south of the subject property. During this time, the subject property and "Content," commonly referred to as the historic home west of the subject site, were located on a single lot. Thus, the zoning line split-zoned the property on which the historic house was located. Today, the same zoning exists on the subject site and surrounding properties, as described above.

In 1986, two Preliminary Plans of Subdivision (PPS) applications were filed by the then owner of the land to create two lots, which separated the neighboring historic site to the east from the undeveloped portion of the property, which is the subject site.

Both PPS applications were initially disapproved by the Planning Board; however, a note on both record plats states, "The preliminary plan of subdivision was approved by Circuit Court action CAL-86-12679 on January 14, 1987."

The first PPS, 4-86100 (PGCPB Resolution No. 86-274), was disapproved by the Planning Board on July 10, 1986. By action of the Circuit Court, the PPS was approved, and the property was recorded as Lot 1 “Content” on July 13, 1987, in Plat Book NLP 133-90.

Subsequently, the owner attempted to obtain a building permit to construct an office building on the subject property. During the permit process, it was discovered that a portion of the property was zoned R-80. The subdivision line that was established by the owner was not consistent with the zoning line approved in 1977. As a result, the Maryland-National Capital Park and Planning Commission (M-NCPPC) would not approve the permit, so litigation ensued. While litigation was pending, the 1993 Subregion VI Master Plan and Sectional Map Amendment was updated. As part of the update, 0.14 acre of the property was rezoned from the R-80 Zone to the C-S-C Zone to amend the zoning to be consistent with the property lines. A note was placed within the SMA stating, “Given the current litigation on this property, the Commission’s Legal Department requires that a letter on this issue (Marks to Smith, November 3, 1993 RE: Lot One, Marlboro House, Upper Marlboro) be entered into the record.”

Subsequently, in 2002, the Prince George’s County General Plan (General Plan) divided the County into three different tiers; the Developed Tier, the Developing Tier, and the Rural Tier. More specifically, the General Plan placed the Town of Upper Marlboro in the Rural Tier. After establishment of the tier system, it was determined that Upper Marlboro, which was served by water and sewer, does not meet the criteria for Rural Tier designation. Subsequently, a moratorium on development requiring a connection to public water and/or sewer was put in place until the Subregion VI Master Plan and Sectional Map Amendment was updated.

In 2009, a new Master Plan for Subregion VI was approved (CR-62-2009). This Master Plan was appealed in the Circuit Court for Prince George’s County under the allegation of error that certain property owners who had sought zoning intensification, as part of the 2009 Subregion VI Master Plan and Sectional Map Amendment, failed to file affidavits as required by the Annotated Code of Maryland, disclosing whether or not they made contributions to the County Council members or the County Executive. The Circuit Court subsequently reversed the Master Plan and Sectional Map Amendment (Christmas Farm, LLC v. County Council of Prince George’s County, Maryland, sitting as the District Council, CAL 09-31402). In turn, the District Council adopted the 2013 Approved Subregion VI Master Plan and Sectional Map Amendment (CR-83-2013). One of the changes adopted in the Master Plan was to change tier designation of Upper Marlboro from the Rural Tier to the Developing Tier. The change was consistent with the recommendations of the 2008 Upper Marlboro Town Vision and Action Plan, which the Master Plan implements in its recommendation.

Ultimately, the 2009 Master Plan and Sectional Map Amendment (CR-62-2009), as well as the 2013 Subregion VI Master Plan and Sectional Map Amendment, retained the subject property in the C-S-C Zone and recommends mixed-use future land use on the subject property.

### Neighborhood and Surrounding Uses

(5) The neighborhood has the following boundaries:

<b>South &amp; East-</b>	Western Branch
<b>North-</b>	Schoolhouse Pond
<b>West-</b>	Trinity Lane/Old Marlboro Pike

(6) The surrounding uses are:

- Abutting to the north are the office buildings of the law firm of Wilson & Parlett (the old Marlboro funeral home) in the C-S-C Zone and of the law firm of Ronald Cooper (the old Haskell & Duley law office) on a split-zoned parcel between the C-O and C-S-C Zones. Both of these buildings front on Main Street.

Further to the north, across Main Street, are single-family residences, a small office building (the “Quonset Hut”), and a small mixed-use building (with the Marlboro Grill restaurant) in the R-80 and C-S-C Zones. Other uses to the north are single-family dwellings, the US Post office, and the vacant Old Marlboro Schoolhouse building.

- Across the unnamed alley to the east are the former offices of RDA Engineering company (now vacant) in the C-S-C Zone; further to the east are the Ledo’s Pizza building fronting Main Street, a parking lot at the corner of Main Street and Water Street and a 7-11 at the corner of Water Street and Church Street. Other uses beyond and to the east are law office buildings and the County Courthouse.
- Across Church Street to the south are the parish hall of Trinity Church in the R-80 Zone, and a gravel parking lot owned and operated by the Town of Upper Marlboro in the C-O Zone. Other uses on the south side of Church Street are single-family dwellings and Trinity Church in the R-80 Zone, and a Bank of America building at the corner of Water Street and Church Street in the C-O Zone.
- Abutting the subject property to the west is the County and National Register Historic site of “Content”, a single-family house dating from the 1780s, in the R-80 Zone. The subject property is a part of the Environmental Setting of “Content,” which is also owned by the Applicant.

(7) The neighborhood of the subject property has two separate and distinct characters; single-family residential development to the west, and retail and office uses to the east (with small-scale multifamily dwelling units on some upper floors). The subject property forms the boundary between the two neighborhood character areas, but the subject property's street frontage and the orientation and character of the immediately surrounding development indicates that the subject property is more a part of the residential character area than the commercial character area, the existing zoning notwithstanding.

### **Master Plan /General Plan**

(8) The Subregion VI Master Plan and Sectional Map Amendment (2013) is the applicable Master Plan and Sectional Map Amendment. The Master Plan's Future Land Use Map designates the subject property and land to the north, east, and south for "Mixed Use" land use. The land to the west is designated for "Residential Low" land use.

(9) The 2013 Sectional Map Amendment retained the subject property in the C-S-C Zone.

(10) The Growth Policy Map in the May, 2014 General Plan, places the subject property in the "Established Communities" category, and the Generalized Future Land Use Map designates the subject property for "Mixed Use" land use. The October 2002 General Plan had placed the site within the Rural Tier, though that classification was amended by the 2013 Subregion VI Master Plan to the Developing Tier.

(11) The subject property is not within a Priority Preservation Area.

### **Applicants Request**

(12) The Applicant requests that the subject property, part of the Environmental Setting for Content, be rezoned from the C-S-C to the R-80 Zone on the basis that a mistake or error was made in the retention of the C-S-C Zone on the subject property during the 2013 Subregion VI Sectional Map Amendment.

### **LAW APPLICABLE**

(1) The R-80 Zone is a conventional zone as defined in the Zoning Ordinance and may only be approved in accordance with the strictures of §27-157(a). This provision of law generally holds that no Application may be granted without the Applicant proving that there was a mistake in the original zoning or subsequent Sectional Map Amendment or that there has been a substantial change in the character of the neighborhood. §27-157, provides, in pertinent part, as follows:

(a) **Change/Mistake 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.

(b) **Conditional approval.**

- (1) When it approves a Zoning Map Amendment, the District Council may impose reasonable requirements and safeguards (in the form of conditions) which the Council finds are necessary to either:
  - (A) Protect surrounding properties from adverse effects which might accrue from the Zoning Map Amendment; or
  - (B) Further enhance the coordinated, harmonious, and systematic development of the Regional District.
- (2) In no case shall these conditions waive or lessen the requirements of, or prohibit uses allowed in, the approved zone.
- (3) All building plans shall list the conditions and shall show how the proposed development complies with them.
- (4) Conditions imposed by the District Council shall become a permanent part of the Zoning Map Amendment, and shall be binding for as long as the zone remains in effect on the property (unless amended by the Council).
- (5) If conditions are imposed, the applicant shall have ninety (90) days from the date of approval to accept or reject the rezoning as conditionally approved. He shall advise (in writing) the Council, accordingly. If the applicant accepts the conditions, the Council shall enter an order acknowledging the acceptance and approving the Map Amendment, at which time the Council's action shall be final. Failure to advise the Council shall be considered a rejection of the conditions. Rejection shall void the Map Amendment and revert the property to its prior zoning classification. The Council shall enter an order acknowledging the rejection, voiding its previous decision, and reverting the property to its prior zoning classification, at which time the Council's action shall be final.
- (6) All Zoning Map Amendments which are approved subject to conditions shall be shown on the Zoning Map with the letter "C" after the application number.

**Mistake**

- (2) There is a presumption of validity accorded comprehensive rezoning and the presumption is that at the time of its adoption the District Council considered all of the relevant facts and circumstances, then existing, concerning the land in question. Howard County v. Dorsey, 292 Md. 351, 438 A.2d 1339 (1982). Strong evidence of mistake is required to overcome the presumption. Pattey v. Board of County Commissioners for Worcester County, 271 Md. 352, 317 A. 2d 142 (1974); Clayman v. Prince George's County, 266 Md. 409 (1971) Mistake or error can be shown in one of two ways: (a) 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; or (b) a showing that events that have occurred since the comprehensive zoning 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. Dorsey, supra

### **Burden of Proof**

(3) The burden of proof in any zoning case shall be the Applicant's. (Prince George's County Code, Section 27-142(a)) Zoning cases are those matters designated to be heard before the Zoning Hearing Examiner by the Zoning Ordinance of Prince George's County. (Section 27-107.01(a)(266)). In an attempt to rezone its property, the Applicant has the burden of proving that the request will not be a real detriment to the public. Bowman, infra. Finally, sufficient evidence to "permit" a rezoning does not "require" a rezoning unless an Applicant is denied all reasonable use of the property. Valenzie v. Zoning Board, 270 Md. 479, 484, 312 A.2d 277 (1973); Messenger v. Board of County Commissioners, 259 Md. 693, 271 A.2d 166, 171 (1970).

(4) In People's Counsel for Baltimore County v. Prosser Co., 119 Md. App. 150,178-179, 704 A. 2d 483 (1998), the Court of Appeals more succinctly noted that "[i]n order to find legal mistake, there must be evidence that assumptions or premises relied on by the County Council were invalid... [and not just] the exercise of bad judgment based on complete and accurate information." Moreover, it is generally held that the existence of a mistake by the District Council in retaining the R-R zoning of the property in its adoption of the 2013 SMA does not mandate that it approve the instant request. Chesapeake Ranch Club v. Fulcher, 48 Md. App. 223, 426 A20 428(1981)

(5) In Rockville v. Henley, 268 MD 469, 473, 302 A.2d 45 (1973), the Court noted that in meeting its high burden of proving change the Applicant must show: what area reasonably constitutes the neighborhood; the changes that have occurred in that neighborhood since the comprehensive rezoning; and that these changes resulted in a change in the character of the neighborhood. Courts have upheld a finding of change in the character of the neighborhood when highway improvements were made (and not just proposed); when other rezoning had occurred nearby; and when lots contiguous to the subject property were rezoned to the requested zone at issue and considerable development had occurred. All changes must be considered cumulatively in determining whether Applicant has met its burden – not individually. Bowman Group v. Moser, 112 Md. App. 694, 678 A.2d 643 (1996) Finally "proof of change merely permits the legislative body to grant the rezoning; it does not compel it to do so." Henley, at 473.

## **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

### **Infeasibility for Office Development**

(1) Office development was proposed by the previous owner of the subject property between 1977 and 1993 and had gone so far as to have engineering prepared for an office building to be constructed along the northern edge of the subject property. The construction never occurred. The Upper Marlboro Town Action Plan<sup>1</sup> repeatedly stated that, "no commercial or office

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<sup>1</sup> M-NCP&PC, Upper Marlboro Town Action Plan, (September, 2009)

development has occurred within the town boundary since 1997”<sup>2</sup> (i.e. the completion of the Courthouse Walk townhouse-office condominiums on Water Street). This trend should have been recognized by the District Council as evidence of the infeasibility of commercial development at the subject property.

The 2013 Subregion VI Master Plan, in its discussion of Town Core Economic Development, specifies areas where new commercial development should occur:

“The vision and action plan identifies a number of sites in Upper Marlboro where efforts should be focused to attract new private development. Four key sites on Main Street have been identified as critical for filling in gaps that currently exist in the street wall and providing floor space for additional commercial uses, which in turn will generate more street activity for residents and businesses. These sites include (1) the existing surface lot on the corner of Water and Main Streets, (2) the surface parking lot adjacent to China Taste, (3) the front part of the surface parking lot adjacent to the volunteer fire department, and (4) the corner of the County Administration Building parking deck. A new mixed-use building is also recommended for Water Street near the courthouse. A new infill building in this location will help create a cohesive entryway to the town core and link the courthouse site with Main Street.”<sup>3</sup>

The subject property is not listed as one of the focused areas for new commercial development. In keeping with its recommendation for mixed-use land use for (what is presumably) the “Town Core” area, the Town Core Economic Development Section recognizes that townhouse or condominium (multi-family) dwellings should be considered as well, and identifies a location for such development: “New residential condominiums and townhouses should be developed along the Western Branch off a realigned and extended Judges Drive.”<sup>4</sup>

In fact, no recommendation at all is made for the development of the subject property in the context of the discussion of the Town Core. Given the very limited market appetite for new development as evidenced by the lack of new construction in Town for what is now more than twenty years, and the direction of the Master Plan to focus new development – whether commercial or denser residential – in areas of town other than the subject property, the retention of commercial zoning at the subject property did not reflect the then-existing facts that made that retention a mistake.

### **Effect of the Listing of “Content” and the Change in Regulations to Protect Historic Sites**

(2) Subsequent to the imposition of commercial zoning on the subject property in 1977, the historic listing of “Content” became effective with the adoption of Subtitle 29 (Preservation of Historic Resources) of the County Code in 1981. The ensuing preparation of plans for office development at the subject property were undertaken by the prior owner in 1989. The Applicant

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<sup>2</sup> Upper Marlboro Town Action Plan, p. 22, among others.

<sup>3</sup> M-NCP&PC, Approved Subregion VI Master Plan and Sectional Map Amendment (July, 2013), p. 194.

<sup>4</sup> Ibid.



notes that, “the designation of Content as an historic site and changes in development regulations... rendered the property too small for meaningful development...”<sup>5</sup>

It was after the preparation of those plans for office development in 1989 that the Landscape Manual was first adopted. The Manual at the time provided for a 50’ building setback and a 40’ landscaped yard abutting Historic Sites. These regulations would have required the removal of more than one-third of the proposed building footprint and approximately half of the proposed parking spaces from the 1989 plan for office development.

In 2010, the comprehensive amendment to the Landscape Manual increased the buffering requirement for properties abutting a Historic Site in the Developing or Rural Tiers even further, to a 60’ building setback and a 50’ landscaped yard. These additional regulations made the subject property even less appropriate for commercial development, and yet were not taken into account when the District Council retained the subject property’s commercial zoning in the 2013 Sectional Map Amendment thus constituting a mistake.

### **Lack of Consideration of the Master Plan Recommendations for Protection of Historic Sites**

(3) The Applicant notes in its Statement of Justification that protection of residential areas and historic properties was an important goal of the Master Plan and that the subject property is strategically located at a turn on Church Street that provides a dramatic view of Content.<sup>6</sup>

The 2013 Master Plan notes that, “...changes have impacted the town’s historic character to the degree that the overall architectural integrity of the town has been compromised. Upper Marlboro may no longer retain enough historic fabric to qualify as a local or National Register of Historic Places historic district. The community needs to look at other options to protect its remaining historic properties.”<sup>7</sup> Application of the R-80 Zone to the subject property would be one such option.

The Master Plan also includes a Policy to, “Maintain the integrity and character of Upper Marlboro’s historic neighborhoods and town core.”<sup>8</sup>

These recommendations of the Master Plan were clearly existing facts and conditions which made the Sectional Map Amendment’s retention of the existing commercial zoning a mistake.

### **Expansion of the Environmental Setting of Content to Include the Subject Property**

(4) Subsequent to the issuance of the Technical Staff Report (Exhibit 12) for the subject Application, the Historic Preservation Commission acted on May 21, 2019 to extend the Environmental Setting of Content to include the subject property. (Exhibit 26) While not an existing

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5 Statement of Justification, p. 14.

6 Ibid., p. 15.

7 Subregion VI Master Plan, pp. 197-8.

8 Ibid., p. 198.

condition at the time of the Sectional Map Amendment, the extension was then reasonably foreseeable for several reasons.

First, the ownership of the subject property was transferred in 2012 to the Applicant, who had separately purchased “Content” two years previously. As described in the Statement of Justification (Exhibit 4) and above, the previous owner of “Content” (J. J. and Manette Smith) had pursued the development of an office building on the subject property in the 1980s, without any constructed result. In 2007, the Smiths transferred the subject property to an entity known as Two Fours Investments, LLC; the intent of Two Fours Investments, LLC was likely for commercial development. In 2008, however, Two Fours Investments reconveyed the subject property back to the Smiths, who ultimately sold the subject property to the Applicant. So as of the time of the 2013 approval of the Sectional Map Amendment, the subject property was held in a single ownership with the “Content” parcel, and that new owner was not known to have a longstanding intent to commercially develop the subject property.

Second, the 2010 Historic Sites and Districts Plan specifically encourages the expansion of environmental settings to better preserve historic sites.

(5) With the expanded environmental setting, development on the subject property now requires the recommendation by the Historic Preservation Commission to issue a Historic Area Work Permit. To make such recommendation, Section 29-111(b) of the County Code requires that the Commission must find that:

- (1) *The proposal will not substantially alter the exterior features of the historic resource;*
- (2) *The proposal is compatible in character and nature with the historical, archaeological, architectural, or cultural features of the historic resource and is in harmony with the purpose and intent of this Subtitle;*
- (3) *The proposal will enhance or aid in the protection, preservation, and public or private utilization of the historic resource in a manner compatible with its historical, archaeological, architectural, or cultural value;*
- (4) *The proposal is necessary in order to remedy unsafe conditions or health hazards;*
- (5) *The proposal is necessary in order that the owner of the subject property not be deprived of reasonable use of the property or suffer undue hardship; or*
- (6) *In balancing the interests of the public in preserving the historic resource with the use and benefit of the alternative proposal, the general public welfare is better served by issuance of the permit.*

The applicable finding for new development is (2); this is a high standard for commercial development on such a small site to meet, particularly when, “currently, the view is of a grassed lawn leading to the home. If the Subject Property were developed, the view would be of a parking lot.”<sup>9</sup>

Were the existing fact of the new, consolidated ownership of “Content” and the subject property considered together with the reasonable likelihood of the expansion of the environmental setting of “Content,” the correct action would have been the rezoning of the subject property to the R-80 Zone which is common to the adjacent historic site and the residential district beyond.

### **Uncertain or Arbitrary Expansion of the Town Core of Upper Marlboro**

(6) The center of the 2013 Master Plan’s recommendations for the Upper Marlboro region is an area that is termed the “Town Core.” Interestingly, the limits of this area, which is central to the Plan’s land use recommendation, is not actually defined or described by the 2013 Master Plan. The concept of a “Town Core” was not new, however, to the 2013 Master Plan.

The 1993 Approved Master Plan and Sectional Map Amendment for Subregion VI Study Area (Planning Areas 79, 82A, 82B, 86A, 86B, 87A, 87B) contained extensive discussion and many recommendations for the revitalization of what it called both the “Town Center” and the “Town Core.” The 1993 Plan included an insert map which delineated a boundary for the western edge of the “Town Core” which excluded the subject property.

In 2009, M-NCPPC prepared the Upper Marlboro Town Action Plan, which also has extensive discussion of a “Town Core.” In this Plan, the core is described in opposition to the “historic and contemporary residential neighborhoods” with language that was adopted almost word-for-word by the 2013 Master Plan. But included in the 2009 Upper Marlboro Town Action Plan is a map which shows the subject property by shading as being a part of the residential neighborhoods and not the Town Core.

In the 2013 Master Plan, the concept of the “Town Core” is continued, but its delineation was absent. Its extent can now only be inferred by the Plan text’s land use recommendation: “A new land use designation of mixed use is recommended for the town core.” The Future Land Use Map which accompanies the Plan (Exhibit 29 includes a reproduction of which with the site area outlined) shows the extent of that Mixed-Use land use recommendation in pink.

Had an affirmative delineation of the Town Core been made, the precedents of the prior two Plans would have been carried forward graphically, or else a discussion would be present justifying the modification of the Town Core extent. Neither occurred.

The existing facts of the prior delineations of the Town Core and the lack of any discussion of its amendment support the conclusion that the Sectional Map Amendment’s retention of the existing commercial zoning was a mistake.

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<sup>9</sup> Statement of Justification, p. 16.

Had the facts associated with these five mistakes been considered, the District Council would have concluded that the existing C-S-C Zone is not appropriate for the subject property, and that given the subject property's location as part of – or at worst, abutting – a single-family residential neighborhood, and given its being a part of a County Historic Site, that the application of the R-80 Zone would be most appropriate.

(7) The Applicant believes so strongly in the preservation of Content and its Environmental Setting that he has proffered to resubdivide Lot One, Marlborough House (the subject property) and Lot 1, Content, into a single lot.

(8) The Applicant's Land Planning Analysis describes at length the compliance of the subject property, should it be rezoned to the R-80 Zone, with the general purposes of the Zoning Ordinance and with the specific purposes of the R-80 Zone. (Exhibit 29, p. 9-13)

(9) In conclusion, your Examiner finds that the approval of the subject Application would be in keeping with the Purposes of the Ordinance generally, of the R-80 Zone specifically, and would remedy the five mistakes which were made in the approval of the 2013 Subregion VI Sectional Map Amendment when the District Council failed to consider the feasibility of commercial development at the subject property and its own recommendations for preferential development at several other sites in the Town of Upper Marlboro; failed to consider the effect of new regulations which provide increased protection to abutting Historic Sites; failed to consider its own recommendations for the protection of Historic Sites; failed to anticipate the reasonable likelihood of the expansion of the Environmental Setting for Content; and, failed to consider the previous delineations of the extent of the Town Core in its land use recommendation and subsequent zoning action.

### **RECOMMENDATION**

APPROVAL of A-10054, subject to the following Condition:

1. The Applicant shall record a final plat of subdivision in accordance with Section 24-108(a)(3) of the Prince George's County Code to consolidate Lot One, Marlborough House (Plat Book NLP 137 Plat 54) and Lot 1, Content (Plat Book NLP 133 Plat 90) into a single lot.