



MONTGOMERY COUNTY PLANNING DEPARTMENT  
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB  
Item #  
7/29/10

July 19, 2010

MEMORANDUM

TO: Montgomery County Planning Board

FROM: Damon B. Orobona, Senior Analyst *DAMON*

VIA: Rose G. Krasnow, Chief of Development Review *RK*

SUBJECT: Request to File Application for Corrective Map Amendment

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RECOMMENDATION: *File Corrective Map Application with District Council.*

A corrective map amendment is a process that amends the adopted zoning maps of the County by correcting technical errors and inaccurate boundary depictions on the maps. A corrective map amendment can apply to one specific property or many different properties. The Council has final action on a corrective map application; the Commission generally initiates the application process.

In the matter before the Board, the owners of a property located at 19330 Liberty Mill Road in Germantown (subject property) are requesting the Commission file a corrective map amendment to rezone the property from the R-T 6 Zone to the R-200 Zone. The amendment will correct a technical mapping error and is necessary to allow the owners to continue an approved special exception currently in operation on the property. The amendment will also avoid any potential compliance issues should the owners transfer the property in the future.

The 16,552 square foot subject property is known as Parcel P159 on Tax Map EU41 (tax account number 02-0027726). A non-resident medical practitioner's office is operating out of a one-story single-family home on the site, which is permitted by special exception under R-200 zoning.

Prior to 2004, the subject property and the adjoining 1.84 acre property to the southwest were both zoned R-200. In 2004, the Council approved local map amendment G-811, which rezoned the 1.84 acre adjoining site from the R-200 Zone to the R-T 6 Zone and allowed an 11-unit townhouse project to be developed. The subject property was not included as part of the G-811 application and was not depicted on the associated schematic development plan as part of the adjacent townhouse project. Nevertheless, the subject property

was inadvertently included with the G-811 site when the zoning maps were changed to reflect Council approval of the R-T 6 Zone.

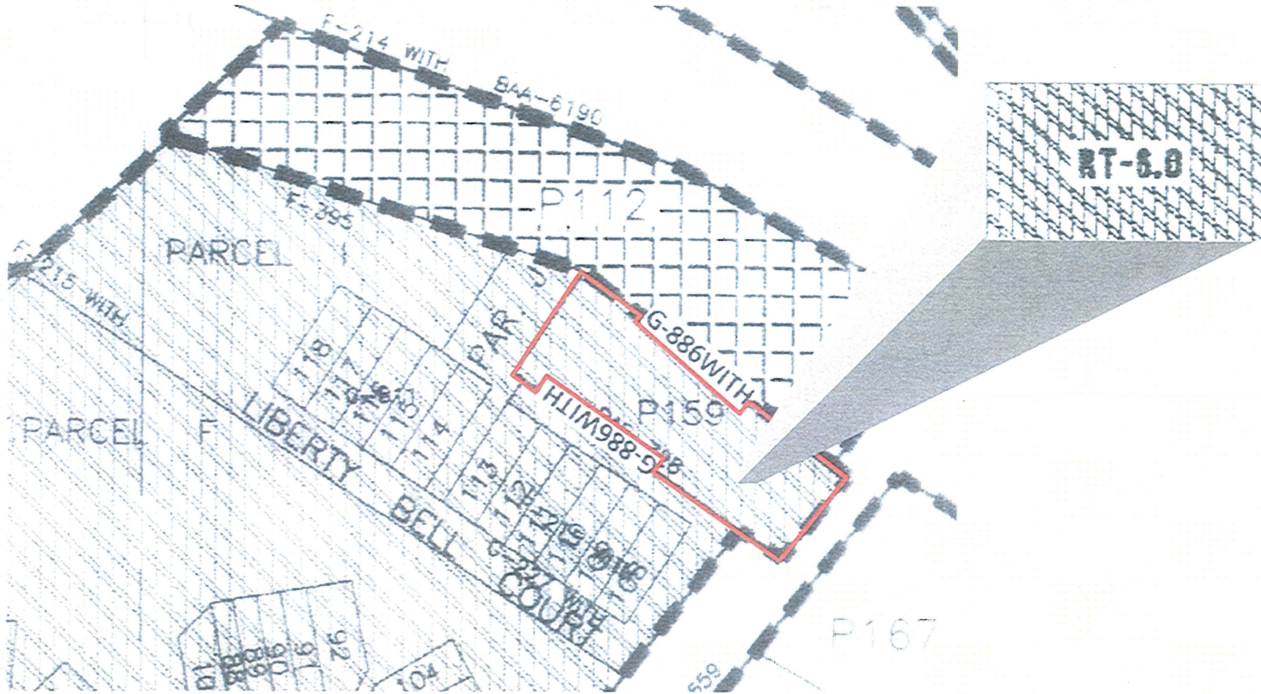
Staff recommends the Board now submit a corrective map amendment on behalf of the property owners to request that the Council rezone the subject property from the R-T 6 Zone to the proper R-200 zoning classification. The R-200 Zone is necessary for the property owners to validly operate the approved special exception on the property, since a non-resident medical practitioner is not permitted even by special exception under the R-T 6 zoning that is currently reflected on the property. Further, placing the property back in its proper category will avoid any potential compliance problems if the property changes ownership.

Maps depicting the existing and proposed zoning adjustment are attached, followed by a statement on behalf of the property owners, and the G-811 schematic development plan that demonstrates the subject property was not intended to be included with the 2004 local map amendment.

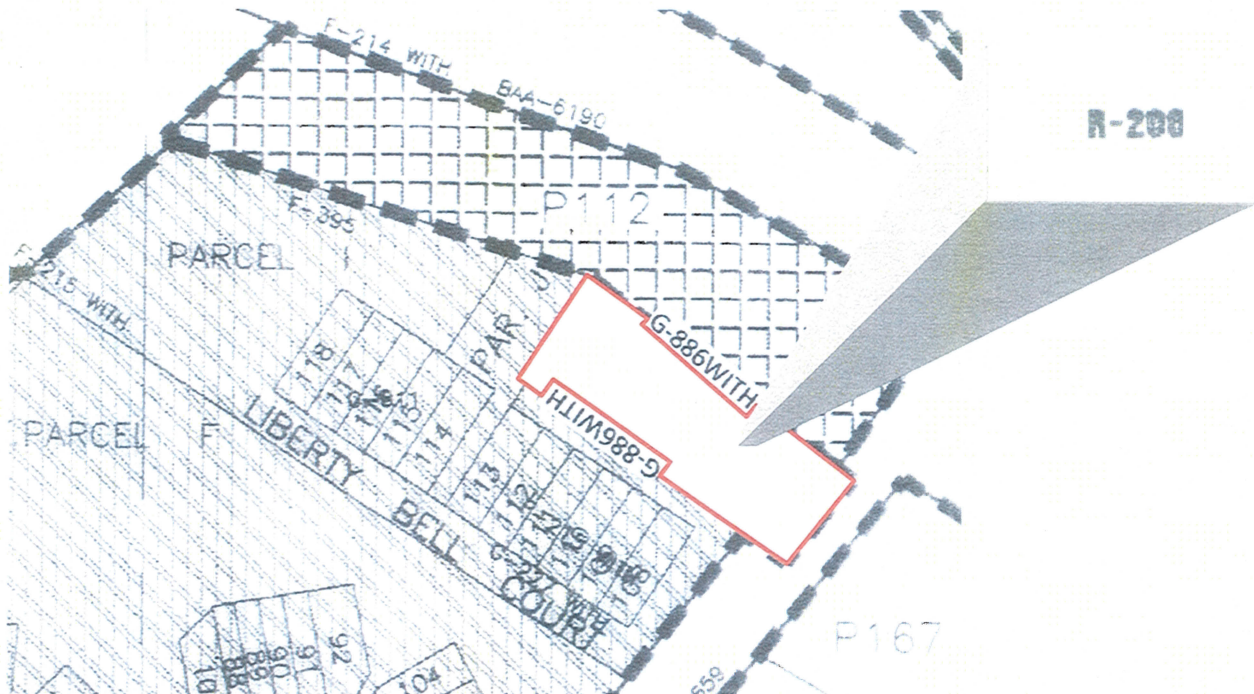
**Attachments:**

1. Existing and proposed zoning maps
2. Statement of property owner
3. G-811 schematic development plan

Existing Zoning Map



Proposed Zoning Adjustment



**LINOWES**  
**AND BLOCHER LLP**  
ATTORNEYS AT LAW

May 26, 2010

**Anne C. Martin**  
301.961.5127  
amartin@linowes-law.com

*Via Email Delivery*

Mr. Damon B. Orobona  
Senior Zoning Analyst  
The Maryland-National Capital  
Park & Planning Commission  
8787 Georgia Avenue  
Silver Spring, Maryland 20910

Re: Request for Corrective Map Amendment  
19330 Liberty Mill Road, Germantown (the "Property")

Dear Mr. Orobona:

On behalf of Curtis and Carol Benesh, the owners of the above-referenced Property (the "Owners"), we respectfully request that the Planning Commission submit an application for a corrective map amendment for the Property to the Montgomery County Council, sitting as the District Council, in accordance with Section 59-H-10.2 of the Montgomery County Code (the "Zoning Ordinance").

As indicated in the record of Local Map Amendment Case No. G-886 and discussed with the Planning Board at the hearing on that case on February 18, 2010 (which case has since been withdrawn), the Property appears to have been inadvertently reclassified from the R-200 zone to RT-6 zone in 2004 with the adjoining townhouse development. Since the Owners did not approve the reclassification to the RT-6 zone, nor was the Property reclassified pursuant to an approved Sectional Map Amendment or Local Map Amendment by the District Council, a corrective map amendment is necessary to correct the Zoning Map for this Property. Further, since the current non-resident dental office use on the Property is approved pursuant to a special exception granted by the Board of Appeals in 1980 and modified in 1985 for that use in the R-200 zone (Special Exception No. S-728A, the "Special Exception"), and the use is not permitted by right in the RT-6 zone, the corrective map amendment is necessary to avoid any conflicts with the Special Exception and to enable the Owners to sell the Property in the future without zoning compliance conflicts.

Thank you for your assistance in this matter. Please let us know if you need any further

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Mr. Damon B. Orobona

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information to process the requested corrective map amendment.

Very truly yours,

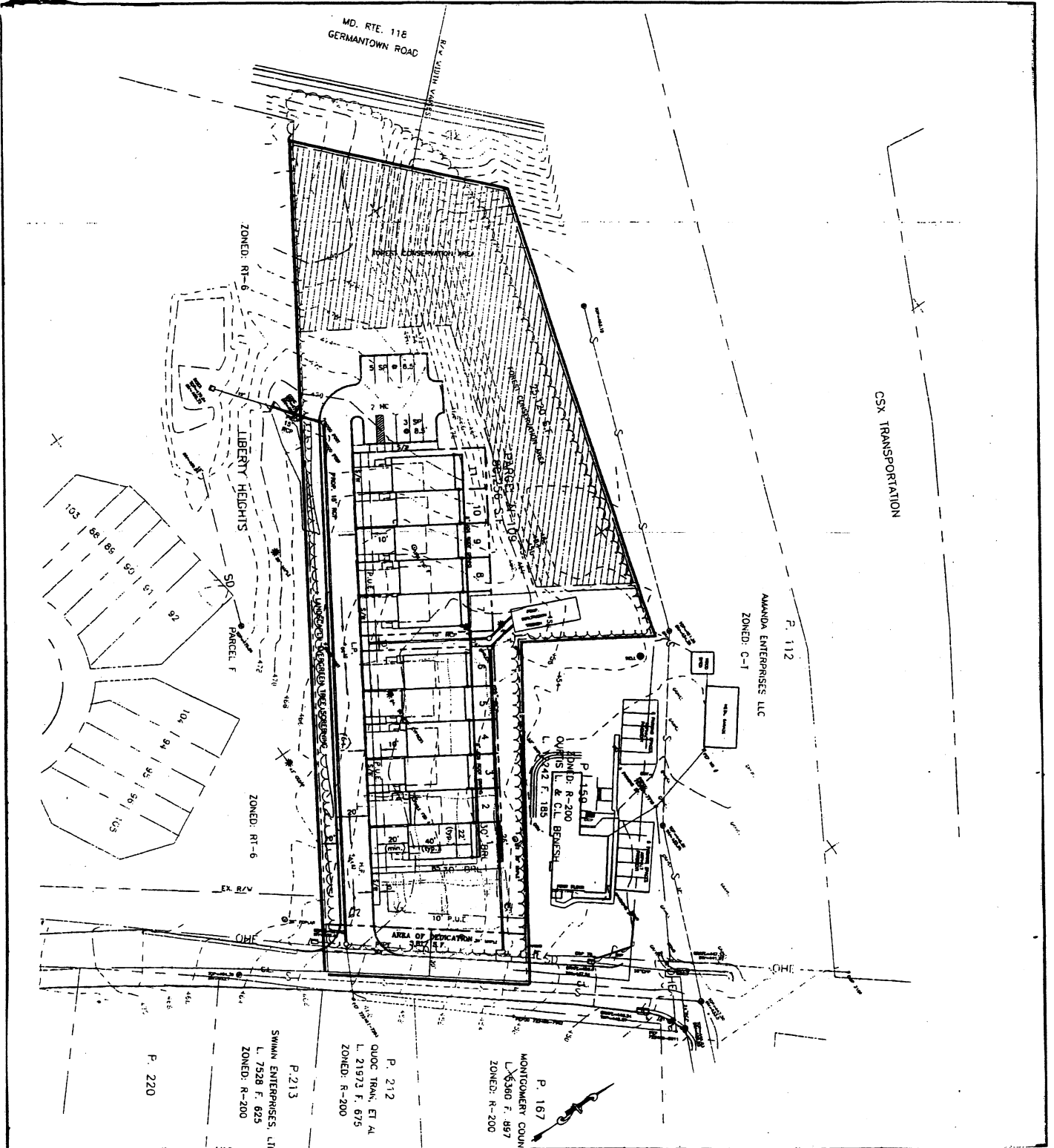
LINOWES AND BLOCHER LLP

  
Anne C. Martin

cc: Curtis and Carol Benesh.

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G-811



2004 SCHEMATIC DEVELOPMENT PLAN  
 LOCAL MAP AMENDMENT G-811  
 LIBERTY HEIGHTS  
 2nd ELECTION DISTRICT  
 MONTGOMERY COUNTY, MARYLAND