



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

June 16, 2011

**MEMORANDUM – Special Exception**

**TO:** Montgomery County Planning Board

**VIA:** Glenn Kreger, Acting Chief, Area 2 Planning Division *GK*  
Shahriar Etemadi, Planner Supervisor, I-270 Corridor Team  
Area 2 Planning Division

**FROM:** Carlton W. Gilbert, Planner Coordinator (301-495-4576) *CG*  
I-270 Corridor Team, Area 2 Planning Division

**SUBJECT:** **Board of Appeals No. S-2791 (Special Exception):** Nina Aks, D.M.D and Val Aks, applicant, - requests a special exception to permit the operation of a medical/dental clinic; R-200 Zone; located at 11406 Old Georgetown Road, Rockville, MD

**MASTER PLAN:** 1992 North Bethesda/Garrett Park Master Plan

**PUBLIC HEARING:** July 15, 2011

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**STAFF RECOMMENDATION: Deny the special exception for a medical/dental clinic, and associated parking waiver of the required parking setback.**

The applicant is the owner of a 23,642-square foot vacant property located at 11406 Old Georgetown Road. The applicant is requesting a special exception to construct a new 3,589-square foot medical/dental clinic that will accommodate up to four medical practitioners. An existing single-family dwelling will be demolished.

To obtain approval for a medical/dental clinic special exception, the applicant must satisfy the general zoning standards applicable to all special exceptions and specific requirements tailored specifically to a medical/dental clinic. Staff finds that the requested special exception does not comply with the specific standards set forth in Sections 59-G-1.2 and 59-G-2.14 of the Zoning Ordinance. While the application meets some of the technical requirements for a medical/dental clinic, the proposal is inconsistent with the 1992 North Bethesda/Garrett Park Master Plan as the plan discourages over concentration of commercial service or office-type special exception uses, such as a medical or dental clinic, in residential communities. Master Plan consistency is a general standard that every special exception must satisfy to be approved.

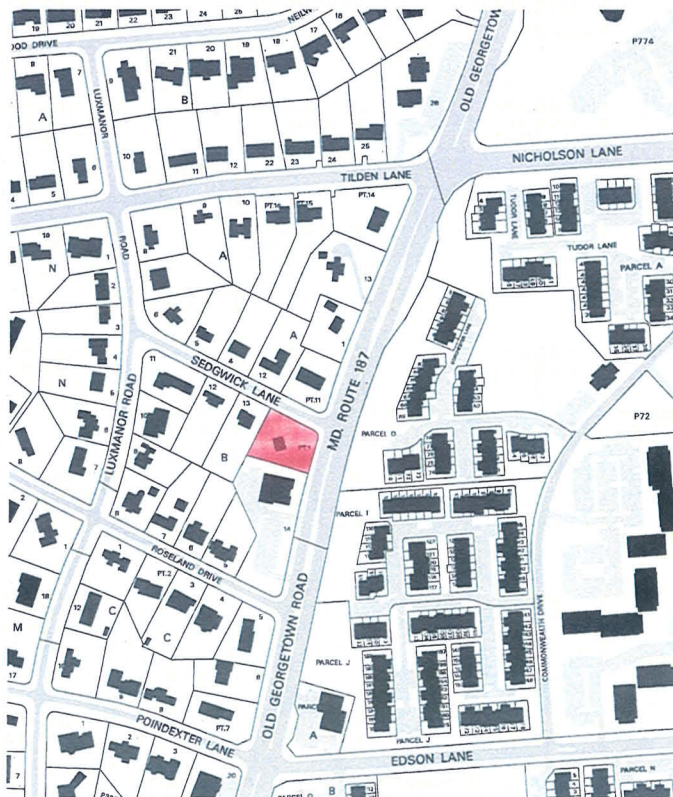
The medical/dental clinic use at the proposed location does not satisfy the specific special exception requirements of 59-G-2.14(b). The proposal does not comply with the primary road access requirement.

Furthermore, the size and scale of the physical building and the parking facility associated with the proposed medical/dental clinic could potentially alter the residential character of the neighborhood. The size and scale of the proposal will require the Board to recommend a waiver of the parking setback standard required by the ordinance. Staff does not recommend the waiver.

## SUMMARY OF APPLICATION

### Site Size and Location:

The property's address is 11406 Old Georgetown Road, Rockville, Maryland. The site is approximately 23,642 square feet in size. The site is generally bound by Tilden Lane to the north, Old Georgetown Road to the east, Poindexter Lane to the south and Luxmanor Road to the west. The majority of the area surrounding the property includes single-family residences and several non-residential uses. An existing medical office building at 11404 Old Georgetown Road is adjacent to the subject property and is operating under a special exception (Case No. CBA-2923) that was approved in 1971.



Zone and Use: The site is zoned R-200. Currently, a vacant one-story single-family dwelling is located on the site.

Proposed Use: The applicants are seeking approval of a special exception to permit the operation of medical/dental clinic that will accommodate no more than 4 medical/dental practitioners. The operations will be housed in a new 3,589 square foot two-story building with a walk-out cellar and 18 parking spaces. As part of this application, the applicant seeks a waiver from the standard parking facility setback requirement.

Master Plan Consistency: The project is not consistent with the goals and objectives of the 1992 North Bethesda/Garrett Park Master Plan.

Further Action on Application: The proposal will require approval by the Board of Appeals.

### **PROJECT SUMMARY**

The owners of the subject property, Dr. Nina Aks and Val Aks, propose to operate a medical/dental clinic for not more than four (4) practitioners at 11406 Old Georgetown Road. The existing single-family residential dwelling will be replaced with a new residential style building, containing 3,589 square feet of floor area. The proposed facility will consist of a two-story clinic and a walk-out cellar. According to the applicant, the first floor of the proposed clinic will be staffed with six (6) full-time employees, including two (2) dental practitioners, two (2) dental hygienists, a dental assistant and an office manager/receptionist. The second floor will be leasable space limited to not more than two (2) medical practitioners and five (5) or fewer full-time employees. Two (2) lab technicians will occupy the proposed lab space located in the cellar of the building.

The proposed medical/dental clinic will operate Monday through Friday between the hours of 8:00 a.m. to 6:00 p.m., and Saturday from 9:00 a.m. to 6:00 p.m. The proposed parking facility located in the side and rear yard of the property provides the required eighteen (18) total spaces. As part of this application, the applicant is requesting a parking waiver to reduce the parking setback along the southern property line. The reduction in the setback would allow the applicant to maintain the required 18 parking spaces for the proposed use and also provide for necessary turnaround space for vehicles. Without the parking waiver, approximately four (4) parking spaces would be eliminated from the proposed parking layout, thus reducing the total number of spaces to fourteen (14). A 14-space parking facility would result in a smaller building consisting of approximately 2,800 square feet.

Driveway access to Old Georgetown Road has been denied, therefore, the proposed facility and parking will be accessed from Sedgwick Lane. Sedgwick Lane is currently a paved 18-foot wide residential tertiary street. The applicant proposes to widen Sedgwick Lane to 26-feet from Old Georgetown Road to the proposed driveway in an effort to comply with primary road standards. The required upgrade of Sedgwick Lane would necessitate the removal of the existing cherry trees along Sedgwick Lane, which is a significant concern of neighborhood residents.

Additionally, the applicant is requesting to host a conference four times a year with an attendance of 10 dental practitioners, at which time the office will not take patients. Also, four times per year, the applicant will invite patients and subdivision residents to attend half-day educational classes, limited to 20 attendees. Furthermore, the applicant proposes to host the University of Pennsylvania graduates club two times per year. This event would occur after hours and generate at least 20 attendees.

### **Site Description**

The subject property is a corner lot located at the southwestern intersection of Old Georgetown Road and Sedgwick Lane with vehicular access to the property from Sedgwick Lane. The property is 23,642 square feet in size, and is in the R-200 zone. The legal description is Lot P1, Block B, located in the Luxmanor Subdivision. The rectangular shaped corner lot has a street frontage of 180 feet along Sedgwick Lane and 130 feet along Old Georgetown Road. The property slopes moderately from east to west away from Old Georgetown Road. The property is improved with an unoccupied one-family dwelling that was constructed in 1934.

The subject property contains several large trees and areas of overgrown vegetation. There are approximately four cherry trees located along the Sedgwick Lane frontage within the right-of-way. The street trees are consistent with other trees along Sedgwick Lane. There are no environmentally sensitive areas such as streams, floodplains, or wetlands areas on or near the subject property.

### **Neighborhood Description**

The neighborhood in which the subject property is located is generally defined by Tilden Lane to the north, Old Georgetown Road to the east, Luxmanor Road to the west, and Poindexter Lane to the south. The immediate neighborhood is predominantly residential, in the R-200 zone. The subject property abuts a single-family dwelling to the west. The adjacent property to the south is developed with a medical office building (Manar Medical Clinic). This is a special exception use (CBA-2923) that was approved by the Board of Appeals (BOA) in 1971. This medical building is served by a parking facility that provides parking for approximately 60 vehicles. Ingress and egress for that parking facility is via Old Georgetown Road.

The majority of the existing single-family residences located in the defined neighborhood consist of a mixture of older homes constructed in the early 1930's and newer homes. Across Sedgwick Lane to the north, an older home was recently demolished and replaced with a new single-family dwelling that is currently under construction. A townhouse subdivision developed under the PD-9 zoning is located immediately east of the subject property across Old Georgetown Road.

The neighborhood properties that are non-residential uses include: the Aish Jewish Learning Center located at the corner of Old Georgetown Road and Tilden Lane, a historic property (Josiah Henson Site) owned by the County located just north of Sedgwick Lane, and the Jewish Rockville Outreach Center located south of the subject property and north of Poindexter Lane. In addition to the Manar Medical office building, existing medical clinics are located at 11502 Old Georgetown Road across Tilden Lane to the north, and at 11210 Old Georgetown Road across Poindexter Lane to the south.

### **The Proposal**

As previously stated, the applicant is proposing a special exception use (medical/dental clinic) that will accommodate no more than 4 medical/dental practitioners plus staff. The clinic will be located in a new two-story building and off-street parking will be provided by an 18-space parking facility. The proposed building has been designed to fit into the sloping topography of the site with a walkout cellar on the lower level, along the building's west side adjacent to the parking facility. The total gross floor area (GFA) of the proposed building (upper two floors) consists of 3,589 square feet. According to the applicant, the lower level is a "cellar" and is not part of the GFA. The cellar will consist of laboratory space available for two (2) lab technicians.

As shown on the attached site plan, the medical/dental clinic will be accessed from the parking facility into the cellar entry hall where an elevator will be provided to take patients and staff to the first and second floors. The proposed residential style building will be setback 40.7 feet from the front property line along Sedgwick Lane and 40 feet from the property line along Old Georgetown Road. In addition to the required setbacks from the two roadways, the building will be setback 86.2 feet from the adjoining residential property to the west and 41.2 feet from the adjoining medical building to the south.

Vehicular access to the site will be provided by a driveway from Sedgwick Lane. The drive aisle will be constructed with an island at the driveway's intersection with Sedgwick Lane that will preclude left turns out, allowing only right turns toward Old Georgetown Road. The new building's main entrance will face Sedgwick Lane with a walkway and steps up to the first floor of the building. A secondary entrance along the east side of the building, facing Old Georgetown Road, will also provide a walkway and steps from the existing public sidewalk to the first floor of the building.

The office hours of operation will be Monday through Friday from 8:00 a.m. to 6:00 p.m. and Saturday from 9:00 a.m. to 6:00 p.m. This includes six (6) emergency visits per year, after hours or on Sunday. The applicant (Dr. Aks' first floor office), proposes to schedule no more than thirty (30) patients a day during the week and twenty-four (24) patients per Saturday. The applicant does not specify a maximum number of patients for the medical practitioners on the second floor, primarily because the second floor is not yet leased. Instead, the applicant states that the medical practitioners on the second floor will be required to limit the number of patients that can be scheduled based on the number of parking spaces allotted to the second floor after taking into account the combination of medical practitioners and staff occupying that floor. The applicant states that there will be a maximum number of thirteen (13) employees on-site at any given time.

Additionally, the applicant proposes to host small discussion groups for up to 10 dental practitioner colleagues in the conference room on the first floor of the proposed building. The conferences will occur four (4) times per year on Thursday, Friday and Saturday, at which time the office will not take patients.

On at least four (4) times per year, the applicant will invite patients and Luxmanor Subdivision residents to attend educational classes. These one-half day classes will be limited to approximately twenty (20) attendees. Furthermore, the applicant will host the University of Pennsylvania graduates club two (2) times per year at the proposed facility. This activity will occur after hours and generate approximately twenty (20) attendees.

Medical/dental supply deliveries will occur approximately one (1) time per month via an overnight courier service and dental prosthesis will be delivered no more than two (2) times per day, in addition to regular mail pick-up and delivery.

Medical waste will be stored within the facility in biohazard containers and picked up approximately two (2) times per week. Garbage collections and recycled office materials will be on a regular basis, in keeping with the residential area. According to the applicant, no deliveries or pick-ups will generate noxious odors or loud noises.

The applicant has prepared a landscape plan that provides for the planting of forty-one (41) trees and twenty-three (23) shrubs to provide a landscape buffer in order to shield the proposed structure and associated parking from the adjoining properties and Sedgwick Lane. The applicant also proposes to replace the existing fence along the common boundary line of the subject property and 4 Sedgwick Lane.

#### Parking and Parking Waiver

Parking for the proposed facility will be located in the side yard of the subject property. The number of parking spaces required for the proposed facility is calculated on the gross square footage of the building which totals 3,589 square feet.

Section 59-E-3.7 requires that a medical or dental clinic office provides five spaces per 1,000 square feet. Based on the square footage of the building, the applicant is required to provide 18 parking spaces.

Under Section 59-E-2.83, the required parking facility setbacks for special exception uses within residential neighborhoods require the parking facility to be setback 24 feet from the side yard of the residential home (4 Sedgwick Lane) and 30 feet from the adjacent medical building.

The applicant is requesting an 18-foot parking waiver to reduce the parking facility setback along a portion of the south property line that abuts the side yard of the Manar Medical Building. The requested waiver will result in a 12-foot setback from the adjacent property line. The applicant believes that the requested parking waiver is justified because the use abutting the subject property to the south is a non-residential use in a commercial office building.

Staff does not recommend a waiver of the parking setback. The setback provisions of Section 59-E-2.83 provide for greater setbacks for parking of special exception uses in a residential zone. The intent is to mitigate the potential impacts of a parking facility on adjacent and surrounding uses. Since the proposed parking facility would be adjacent to an existing parking facility for the Manar Medical building, staff is concerned that the proposal would create a bigger cluster of parking. Additionally, the parking plan does not provide sufficient turnaround space within the parking lot. Staff is concerned that the parking lot, as presently configured, would create an unsafe condition for pedestrian and vehicular traffic entering and leaving the parking lot from Sedgwick Lane. Furthermore, there is no on-street parking available along the Sedgwick Lane or Old Georgetown Road frontage.

### **Master Plan**

The proposed special exception is not consistent with the recommendations of the Approved and Adopted (1992) North Bethesda/Garrett Park Master Plan and does not meet Section 59-G- 1.21(3) and Section 59-G-1.21(7) of the Zoning Ordinance.

The proposed dental clinic is located within the 1992 North Bethesda/Garrett Park Master Plan. The Master Plan confirmed the R-200 (Single-family residential zone) for properties west of Old Georgetown Road, between Tilden Lane and Poindexter Lane. An objective of the Master Plan is to "protect and reinforce the integrity of existing residential neighborhoods" (p.33).

No specific recommendations are made in the Plan for the property that is the subject of the proposed special exception. The Master Plan highlights the property at the southwest quadrant at Poindexter Lane and Old Georgetown Road (Lots 4 and 5, Block D). It states that the property was subject to a rezoning request to the OM zone in 1988. The Plan confirmed the R-200 zone for this property (p.79).

Riley House/Uncle Tom's Cabin, (now called Josiah Henson Special Park), is located at 11420 Old Georgetown Road. The Master Plan highlights the historic property and notes that it is listed on the County's Master Plan for Historic Preservation. No other property is highlighted in the Master Plan along Old Georgetown Road, between Tilden Lane and Tuckerman Lane.

The Master Plan supports special exception "uses that contribute to the housing objectives of this Plan. In general, the Plan endorses meeting special population needs through provision of elderly housing and group homes that are compatible with nearby land uses" (p.38, Attachment 8). Special exceptions that contribute to service objectives of the Plan are supported, such as child daycare facilities and nursing homes. (p.38)

The Master Plan establishes several recommendations for special exceptions; identifies issues with large medical facilities; and creates green corridors for major corridors in the Plan area.

### Medical Clinic

The 1992 Master Plan identifies large medical facilities as an issue in North Bethesda. It states that "recent actions by the Montgomery County Council would now prohibit large medical complexes such as those previously allowed in North Bethesda-Garrett Park. Current regulations now limit medical clinics in residential zones to four doctors, while the cumulative effect provision allows consideration of whether there would be a negative impact from allowing an additional provider in a particular use category that already has several existing providers" (p.37). Since the adoption of the Plan, the standards for a medical and dental clinic have been modified to differentiate the intensity of use. The proposed special exception is limited to four medical practitioners.

### Special Exceptions

The Master Plan establishes several standards when reviewing special exceptions in North Bethesda with the goal to "protect residential areas, while also attempting to meet important social needs" (p.37-38 attached). The following summarizes the special exception standards in the Master Plan:

1. "Avoid excessive concentration of special exception and other nonresidential land uses (including dental clinics) along major highway corridors.

Because sites along these corridors have better visibility for business uses, they are more vulnerable to over-concentration of such uses. Of particular concern are office uses, which should be discouraged because they are better located in areas with commercial zoning. It is also important to minimize uses that degrade roadway safety and capacity by creating too many access points and conflicting turning movements.



2. Avoid over-concentration of commercial service or office-type special exception uses in residential communities.

These include funeral parlors, horticultural nurseries, veterinary clinics, medical or dental clinics, medical or professional offices, and philanthropic organizations. The Plan does not discourage home occupations that meet Zoning Ordinance criteria. The most vulnerable areas for over-concentration are near employment centers and along major highways.

3. Protect major highway corridors and residential communities from incompatible design of special exception uses.

In the design and review of special exceptions, the following guidelines should be followed, in addition to those stated for special exception uses in the Zoning Ordinance.

- a. Any modification or addition to an existing building to accommodate a special exception should be compatible with the architecture of the adjoining neighborhood and should not be significantly larger than nearby structures.
- b. Front yard parking should be avoided because of its commercial appearance; however, in situations where side or rear yard parking is not available, front yard parking should be allowed only if it can be comprehensively landscaped and screened.”

The proposed dental clinic is located along Old Georgetown Road (MD 187), which is classified as a major highway with a minimum right-of-way of 120 feet. There are several other approved special exceptions in the neighborhood, especially along Old Georgetown Road between Poindexter Lane and Tilden Lane.

There are 11 properties that front the western portion of Old Georgetown Road between Poindexter Lane and Tilden Lane. Three properties have approved special exceptions; two properties have special exceptions that are no longer in use; two properties have a public use; and another property is a religious/institutional use.

The proposed dental clinic would add a fourth special exception along this segment of Old Georgetown Road. This is contrary to the direction established in the Master Plan. A dental clinic is specifically identified in the Master Plan as a use that is not recommended as appropriate for a major corridor in the Plan area. Further, locating another special exception within this area, with three other approved special exceptions, does begin to change the character of the neighborhood along Old Georgetown Road.

### *Existing Special Exceptions*

At the southwestern intersection of Poindexter Lane and Old Georgetown Road is an approved medical and dental clinic (S-1887). Approved in 1992, the special exception is limited to 18 employees, including four practitioners, and 50 parking spaces. The property is 58,932 square feet, consisting of two parcels. There are two buildings associated with this special exception, each at 5,000 square feet.

Adjacent to the proposed special exception is another medical and dental clinic special exception (CBA-2923). Approved in 1971, the use is limited to 15 doctors with 50 parking spaces in a 12,030-square foot building. The property is 1.37 acres in size.

At the northwestern intersection of Old Georgetown Road and Tilden Lane is another special exception medical clinic (S-606). Approved in 1978, this use is limited to a maximum of nine physicians. The property is 1.57 acres in size.

### *Prior Special Exceptions*

There are two properties that are associated with prior special exceptions. The property located at the southwestern intersection of Tilden Lane and Old Georgetown Road was subject to special exceptions (S-1189) and (BAS 301), located at northwestern intersection of Poindexter Lane and Old Georgetown Road have been terminated.

### *Public and Institutional Use*

Josiah Henson Special Park, a facility owned by the Montgomery County Parks Department, consists of two properties located at 11420 and 11410 Old Georgetown Road. Aish Hatorah of Washington, a religious institution with Alef Bet Montessori School, is located at the southwest intersection of Tilden Lane and Old Georgetown Road. These are permitted uses in the R-200 zone.

### Green Corridors

Old Georgetown Road is identified in the Master Plan as a Green Corridor. The Green Corridors policy is intended to address "the visual effects of roadways and abutting properties. The Green Corridors policy is recommended to protect and enhance the residential character of the Planning Area" (p.250, Attachment 8).

The Master Plan recommends that the Board of Appeals adhere to the following guidelines for special exceptions:

- Require screening for parking, even when less than six parking spaces are involved.
- Retain green space, particularly when it provides trees that screen buildings.
- Screen existing buildings with plant material (p.251 attached)

The applicant's landscape plan illustrates several trees along the western and southern portion of the parking area as well as street trees along Sedgwick Lane.

## Special Exception Findings

Section 59-G.1.21 (3) of the Zoning Ordinance establishes the master plan findings for a special exception. This finding requires that the proposed use:

“Will be consistent with the general plan for the physical development of the District, including any master plan adopted by the Commission. Any decision to grant or deny a special exception must be consistent with any recommendation in a master plan regarding the appropriateness of a special exception at a particular location. If the Planning Board or the Board’s technical staff in its report on a special exception concludes that granting a particular special exception at a particular location would be inconsistent with the land use objectives of the applicable master plan, a decision to grant the special exception must include specific findings as to master plan consistency.”

As noted above, the Master Plan recommends that along major corridors, such as Old Georgetown Road, concentrations of special exceptions uses should be avoided. There are three approved special exception medical clinics, within close proximity to the proposed use. Adding another use that is specifically noted in the Master Plan will contribute towards concentrating medical special exceptions in the subject area.

Section 59-G.1.21 (7) of the Ordinance establishes the criteria for evaluating how a proposed special exception will alter a one-family residential area. It states that a Special Exception may be granted if the proposed use:

“Will not, when evaluated in conjunction with existing and approved special exceptions in any neighboring one-family residential area, increase the number, intensity, or scope of special exception uses sufficiently to affect the area adversely or alter the predominantly residential nature of the area. Special exception uses that are consistent with the recommendations of a master plan do not alter the nature of an area.”

The proposed special exception will increase the number and intensity of special exceptions in the area between Poindexter Lane and Tilden Lane within the residential neighborhood. Two medical special exceptions that are adjacent to each other, with all the elements that are inherent with the use, will alter the residential nature of the area.

## **Transportation**

The specific standards for a clinic in Section 59-G-2.14 of the Zoning Ordinance requires that the proposed medical/dental clinic use must provide access from a primary street, Area 2 transportation planning staff states the petitioner’s proposal to upgrade Sedgwick Lane (see page 22, b) along the property frontage to a primary residential road standard No. 2003.10, must include the following:

- a. Dedication of additional 10 feet of right-of-way along the Sedgwick Lane property frontage to provide for 35 feet from the centerline.

- b. Widening of the paved travelways from the existing 18 to 26 feet.
- c. Working with the Montgomery County Department of Transportation (MCDOT) to implement and install the necessary signs to prohibit parking on both sides of Sedgwick Lane along the property frontage.
- d. Providing a 5-foot wide sidewalk along the entire property frontage.
- e. The Petitioner must provide a 6-foot wide sidewalk along its frontage on Old Georgetown Road. The sidewalk must be located behind a 6-foot wide tree panel in accordance with the Road Code's standard for the major highways.

The proposed site is located in the southwest corner of the intersection of Old Georgetown Road (MD 187), and Sedgwick Lane. The vehicular access to the site is proposed from Sedgwick Lane. Access from Old Georgetown Road is not permitted by the Maryland State Highway Administration that restricts new curb cuts from major highways. The Petitioner proposes to upgrade Sedgwick Lane to a primary residential road standard No. 2003.10, as required by the Zoning Ordinance section 59-G-2.14 (b). The Zoning Ordinance in relation to allowing access to a site that is approved through special exception petition states that it must meet the following condition:

"The Property must front on and have direct access to a public street or roadway having more than one through travel lane in each direction; except that access to a corner lot may be from an adjoining primary street, constructed to primary standards, if the Board finds the access to be appropriate and not detrimental to the existing residential uses on the primary street."

The applicant has proposed to upgrade Sedgwick Lane to a Primary Residential street along the property frontage (per transportation staff recommendation) that includes two paved travel lanes with 26 feet of pavement width and sidewalk extending between the site's access point and Old Georgetown Road. (Staff recommends that the sidewalk be extended west to cover the entire frontage.) However, this does not make Sedgwick Lane into "a primary street." Reclassification of roadways can only be done by County Council action through a Master Plan amendment. The applicant has proposed to upgrade Sedgwick Lane to a primary street but only in terms of pavement width and partial sidewalk. If this section is proposed to be upgraded to a primary street, the applicant must dedicate an additional 10 feet right-of-way and it must be done for the entire distance along the property frontage, not just a portion of it.

The Petitioner should work with the Montgomery County Department of Transportation (MCDOT) to implement and install the necessary signs to prohibit parking on both sides of Sedgwick Lane along the property frontage.

## Vehicular and Pedestrian Circulation

According to the Approved and Adopted 1992 *North Bethesda/Garrett Park Master Plan*, Old Georgetown Road is designated as a six-lane divided major highway, M-4, with a 120-foot right-of-way and no bikeway.

A five-foot wide sidewalk with no green panel buffer exists along Old Georgetown Road. The Petitioner should upgrade the Old Georgetown Road frontage by widening the sidewalk to six feet and relocate the sidewalk behind a six-foot green panel in accordance with the Road Code's standard for the master-planned major highways.

Traffic destined to the site and traveling northbound on Old Georgetown Road is prohibited from turning left onto Sedgwick Lane (restricted by a No Left Turn sign). Due to this left turn movement prohibition, the travelers coming from the south basically have two options. One is that they must pass Sedgwick Lane and make a U-turn at the next signalized intersection at Tilden Lane and Nicholson Lane and then make a right turn movement onto Sedgwick Lane to reach the site, or take Luxmanor Road from Tuckerman Lane near the I-270 spur and travel through the neighborhood on the west side of Old Georgetown Road to reach Sedgwick Lane. The patrons may find other routes to reach their destination.

Staff is not able to quantify how many trips will be routed through the neighborhood streets to reach the site at the corner of Sedgwick Lane and Old Georgetown Road. However, it is possible that some of the traffic generated by the site will take the neighborhood streets on the west side of Old Georgetown Road to reach their destination. The nearby local residential streets on the west side of Old Georgetown Road within the Luxmanor neighborhood are substandard tertiary residential streets. The local tertiary residential streets typically have 50-foot rights-of-way, but have less than 20-feet of paved roadway and no sidewalks. With no sidewalks and the narrow paved roadways, students walking to the three nearby public schools or biking on these streets have no safe path to separate them from vehicles. The Montgomery County Department of Transportation (MCDOT) has attempted to slow down motorists by installing speed humps and small traffic circles along Luxmanor Road.

Other master/sector-planned designations in the vicinity of the site include Tilden Lane designated as a primary residential street, P-7, with 70-foot right-of-way according to the *North Bethesda/Garrett Park Master Plan*. Nicholson Lane is designated as an arterial, A-69, with a 90-foot right-of-way according to the 2010 Approved and Adopted White Flint Sector Plan.

A Class III bikeway is designated along both Tilden Lane and Nicholson Lane according to the *North Bethesda/Garrett Park Master Plan*.

## Adequate Public Facilities--LATR and PAMR

The Petitioner must satisfy the Policy Area Mobility Review (PAMR) test by mitigating five peak-hour trips. The Petitioner has the option to satisfy the PAMR requirement by either paying MCDOT \$11,300 PAMR trip (30% of 15 trips is 5 trips) for a total of \$56,500 or construct missing or substandard segments of sidewalks and/or bikeways off-site within the North Bethesda Policy Area according to the LATR/PAMR Guidelines.

The proposed dental office is not required to prepare a traffic study because it generates less than 30 peak hour trips and therefore is exempt from LATR test. However, the site is subject to PAMR mitigation requirement. The site is located within the North Bethesda Policy area with a 30% of site new trips mitigation requirement. This equates to 5 trips (30% of 15 trips is 5 trips) to be mitigated which can be done at the time of issuing the building permit. The Petitioner has the option of paying MCDOT \$11,300 per PAMR trip for a total of \$56,500 towards their PAMR mitigation or construct missing or substandard segments of sidewalks and/or bikeways off-site within the North Bethesda Policy Area, according to the LATR/PAMR Guidelines.

The Petitioner has proposed 3,589 square feet of a medical/dental clinic that would replace the existing single-family detached unit. According to the Institute of Transportation Engineers Trip Generation Manual, the site will generate eight peak hour trips in the weekday morning peak period (6:30 to 9:30 a.m.) and 15 trips in the evening peak period (4:00 to 7:00 p.m.).

Transit service includes Ride-On route 26 operating along Old Georgetown Road between the White Flint Metrorail Station and Montgomery Mall. Transit service is not available on Sedgwick Lane.

## **Environment**

There are no significant environmental concerns associated with this Special Exception request. Area 2 staff has offered the following comments:

The Forest Conservation Law does not apply to this site because the size of the lot is less than 40,000 square feet and no champion trees are being affected. The site does not contain any forest, wetlands, stream buffers, steep slopes, 100 year floodplains or significant habitats that would be regulated under the Environmental Guidelines.

There is no evidence that this use will generate noise in excess of levels permitted under the noise ordinance. The site is served by WSSC with public water and sewer connections. Removal of the existing cherry trees along Sedgwick Lane is a significant aesthetic concern. If the Special Exception is approved, the landscape plan for this site should address appropriate replacement of these trees.

## **Community Concerns**

Written correspondence has been received in opposition to the proposed medical/dental clinic special exception request. Attached are letters requesting that the Board recommend denial of the proposal.

On May 11, 2011, staff met with representatives from the Luxmanor Citizens Association and their attorney. The community is generally concerned that the proposed medical/dental clinic special exception is inconsistent with the Master Plan; that the proposed clinic creates an over-concentration of similar special exceptions that will adversely affect the area; that suitable office space is available in the adjacent special exception clinic and in the nearest commercial zone; that the road access requirement is not met, that the proposed clinic reduces the safety of vehicular and pedestrian traffic in the neighborhood, and; that the number of parking spaces is insufficient and that there is no basis for a setback waiver.

For these reasons, the residents generally believe that approval of the application and non-residential development of the site would destroy the character and peaceful enjoyment of the neighborhood.

A letter in support of the application was submitted by Delegate Kirill Reznick of the Maryland House of Delegates.

## **Inherent and Non-Inherent Adverse Effects**

Standard for Evaluation: Section 59-G-1.2.1 of the Zoning Ordinance specifies that a special exception must not be granted without the findings required by this Article. In making these findings, the Board of Appeals, Hearing Examiner or District Council, as the case may be, must consider the inherent and non-inherent adverse effects of the use on nearby properties and the general neighborhood at the proposed location, irrespective of adverse effects the use might have if established in the zone. Inherent adverse effects are the physical and operational characteristics necessarily associated with the particular use, regardless of its physical size or scale of operations. Inherent adverse effects alone are not a sufficient basis for denial of a special exception. Non-inherent adverse effects are physical and operational characteristics not necessarily associated with the particular use, or adverse effects created by unusual characteristics of the site. Non-inherent adverse effects, alone or in conjunction with inherent adverse effects, are a sufficient basis to deny a special exception.

Any analysis of inherent and non-inherent adverse effects must first establish what physical and operational characteristics are associated with a particular special exception. As established in previous special exception cases, seven criteria are used to identify the physical and operational characteristics of a use. Those criteria are size, scale, scope, light, noise, traffic and environment. Applying the above analysis to this case, staff finds:

*The inherent, generic physical and operational characteristics necessarily associated with a medical/dental clinic include: (1) a physical building, (2) the parking facility, (3) lighting, (4) vehicular trips to and from the site by staff and patients, (5) hours of operation, (6) delivery of supplies and trash pick-ups.*

*In this case, staff finds that the proposed use, if established at the proposed location, would exhibit non-inherent characteristics that would result in non-inherent effects on the surrounding neighborhood sufficient to recommend denial of this application. Staff identifies the following non-inherent effects in the instant case: physical size of the proposed building, the scope and intensity of the proposed use, the parking facility, and traffic on and around the site.*

*The applicant proposes to establish a two-story medical clinic that will provide office space for up to four practitioners. The proposed building consists of 3,589 square feet and will include a walk-out cellar. Although the front and left side elevations of the building will appear as two stories, the right elevation of the building will show three stories and a parking lot for a clinic. This side of the proposed building will face the adjacent neighbor located at 4 Sedgwick Lane. Although the new building will be a residential style, its primary use is office. Any medical clinic special exception located on the subject property will inherently have a building for the care of patients, and a parking area for clients and staff. However, it is possible to establish a clinic on this site that does not have a building that is larger than the typical residential home in the surrounding neighborhood. Because the parking requirement is based on square footage of the building, a smaller building in size and scale would provide for a reconfigured parking lot that would not need a parking waiver setback and would allow for vehicles to maneuver in and out of parking spaces safely.*

*Staff finds that the scope and intensity of the proposed use is not characteristic of a medical/dental clinic. In addition to the operational hours of the clinic, the applicant is proposing to hold conferences and education classes at the location. Additionally, the applicant is proposing to host the University of Pennsylvania graduates club. Although these conferences, meetings and classes would not occur daily, they could result in more trips to the site. The extent of such activities on the site increases in the scope and intensity of the proposed use and creates a non-inherent adverse effect on the neighborhood.*

*Staff finds that the proposed use does not front on and have direct access to a primary street as defined by the Zoning Ordinance. Sedgwick Lane is 18-feet wide and is not a primary street. The applicant proposes to widen Sedgwick Lane to 26 feet between Old Georgetown Road and its driveway to meet primary road standards. Staff finds that widening the street along only the frontage of the subject property does not make Sedgwick Lane a primary street.*

*In order to upgrade Sedgwick Lane to a primary residential street, the applicant must also dedicate an additional 10 feet of right-of-way along the Sedgwick Lane property frontage in order to meet the primary residential street standard of 35 feet from the centerline. The application of this standard would negatively impact the application, as proposed. The building and parking facility would not be in compliance with setback requirements.*



*Staff expects that the proposed use would produce a negligible impact on the area residential streets that primarily consist of 18-foot wide pavements. Sedgwick Lane traffic generated to the site and traveling northbound on Old Georgetown Road is prohibited from turning left onto Sedgwick Lane (restricted by a No Left Turn sign). Due to this left turn movement prohibition, the travelers coming from the south basically have two options. One is that they must pass Sedgwick Lane and make a U-turn at the next signalized intersection of Tilden Lane and Nicholson Lane and then making a right turn movement onto Sedgwick Lane to reach the site or; take Luxmanor Road from Tuckerman Lane near the I-270 spur and travel through the neighborhood on the west side of the Old Georgetown Road to reach Sedgwick Lane. This would represent a non-inherent adverse impact of the proposed use.*

## **General and Specific Special Exception Provisions**

### **59-G-1.21. General Conditions.**

(a) A special exception may be granted when the Board, the Hearing Examiner, or the District Council, as the case may be, finds from a preponderance of the evidence of record that the proposed use:

(1) Is a permissible special exception in the zone.

*The subject property is zoned R-200. A medical/dental clinic is an allowed special exception in the R-200 Zone.*

(2) Complies with the standards and requirements set forth for the use in Division 59-G-2. The fact that a proposed use complies with all specific standards and requirements to grant a special exception does not create a presumption that the use is compatible with nearby properties and, in itself, is not sufficient to require a special exception to be granted.

*Staff finds the proposed use meets some, but not all, of the applicable specific standards and requirements in Section 59-G-2.14, and that the use as proposed is not presumptively compatible with existing neighboring residential development and does not require the Board to recommend approval of the application.*

(3) Will be consistent with the general plan for the physical development of the District, including any master plan adopted by the Commission. Any decision to grant or deny a special exception must be consistent with any recommendation in a master plan regarding the appropriateness of a special exception at a particular location. If the Planning Board or the Board's technical staff in its report on a special exception concludes that granting a particular special exception at a particular location would be inconsistent with the land use objectives of the applicable master plan, a decision to grant the special exception must include specific findings as to master plan consistency.

*As previously discussed, staff finds that the use will be not be consistent with the recommendations of the 1992 North Bethesda/Garrett Park Master Plan. The Master Plan recommends that along major corridors, such as Old Georgetown Road, concentrations of special exceptions uses should be avoided. There are three approved special exception medical clinics, within the defined residential neighborhood. Adding another use that is specifically listed in the Master Plan as one of the uses where over-concentration should be avoided will contribute towards concentrating medical special exceptions in the subject area.*

- (4) Will be in harmony with the general character of the neighborhood considering population density, design, scale and bulk of any proposed new structures, intensity and character of activity, traffic and parking conditions and number of similar uses.

*The proposed new building and parking lot will not be in harmony with other buildings in the neighborhood and the use will not be in harmony with the general character of the surrounding neighborhood. Although the proposed two-story building will consist of a residential style, it will not be similar in size and character to the older existing single-family dwellings in the neighborhood. Additionally, the parking lot is not compatible and is not in conformance with parking setback requirements.*

- (5) Will not be detrimental to the use, peaceful enjoyment, economic value or development of surrounding properties or the general neighborhood at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.

*Approval of the proposed medical/dental clinic may present detrimental effects to the use and development of surrounding properties. The removal of existing cherry trees along Sedgwick Lane would disrupt the peaceful enjoyment and general character of the neighborhood.*

- (6) Will cause no objectionable noise, vibrations, fumes, odors, dust, illumination, glare, or physical activity at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.

*Operation of the medical/dental clinic (including the parking lot) will not cause any objectionable noise, vibrations, fumes, odors, dust, illumination, glare, or physical or activity at the site. Although the proposed use would generate considerable vehicular and foot traffic in and out of the building, the activities necessary to the operation of the use would all occur indoors.*

- (7) Will not, when evaluated in conjunction with existing and approved special exceptions in any neighboring one-family residential area, increase the number, intensity, or scope of special exception uses sufficiently to affect the area adversely or alter the predominantly residential nature of the area. Special exception uses that are consistent with the recommendations of a master or sector plan do not alter the nature of an area.

*The proposed special exception will increase the number and intensity of special exceptions in the area between Poindexter Lane and Tilden Lane within the residential neighborhood. Two medical special exceptions that are adjacent to each other, with all the elements that are inherent with the use, will alter the residential nature of the area.*

- (8) Will not adversely affect the health, safety, security, morals or general welfare of residents, visitors or workers in the area at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.

*There is no such evidence to support a finding that the medical/dental office use would have such an adverse effect on residents, visitors, or workers in the area. However, staff is concerned that the parking lot, as presently configured, would create an unsafe condition for pedestrian and vehicular traffic entering and leaving the parking lot from Sedgwick Lane.*

- (9) Will be served by adequate public services and facilities including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage and other public facilities.

(A) If the special exception use requires approval of a preliminary plan of subdivision, the Planning Board must determine the adequacy of public facilities in its subdivision review. In that case, approval of a preliminary plan of subdivision approval must be a condition of granting the special exception.

(B) If the special exception does not require approval of a preliminary plan of subdivision, the Board of Appeals must determine the adequacy of public facilities when it considers the special exception application. The Board must consider whether the available public facilities and services will be adequate to serve the proposed development under the Growth Policy standards in effect when the application was submitted.

(C) With regard to public roads, the Board or the Hearing Examiner must further find that the proposed development will not reduce the safety of vehicular or pedestrian traffic.

*Public water and sewer service and other common utilities are immediately available to the subject property along the frontage with Sedgwick Lane or Old Georgetown Road and already serve the existing residence on the subject property.*

*A preliminary plan of subdivision is not required for the proposed special exception use. As previously indicated, staff also finds that the requested use will satisfy the transportation-related requirements of the APF test, if 5 trips are mitigated.*

*As discussed in the transportation analysis, the proposed development will not reduce the safety of vehicular and pedestrian traffic.*

**59-G-1.23 General Development Standards**

- (a) **Development Standards.** The special exception is subject to the development standards of the applicable zone where the special exception is located, except when the standard is specified in Section G-1.23 or in Section G-2.

*The proposed new building has been designed to comply with the standards of the R-200 Zone and to comply with the requirements of Sections G-1.23 and G-2. Staff finds that the proposed modification would comply with all development standards as shown in the following table:*

**Development Standards Table**

	Required	Proposed
Minimum lot area	20,000	23,642 (.54 ac.)
Maximum lot coverage (59-C-1.32)	25%	10.2%
Minimum lot width at street line	100 feet	180 feet (Sedgwick Ln) 130 feet (Old Georgetown Rd)
Maximum building height	50 feet	36 feet avg.
Minimum setbacks (59-C-1-322)		
Front	40 feet	40.7 feet
Side	12 feet	86 feet
Minimum rear setback	30 feet	41 feet

- (b) **Parking requirements.** Special exceptions are subject to all relevant requirements of Section 59-E.

*The use is in compliance with Section 59-E for parking requirements. Section 59-E-3.7 requires the following for a medical/dental clinic: five (5) parking spaces per 1,000 square feet of gross floor area. Per the Zoning Ordinance, 18 parking spaces are required for 3,589 square feet of floor space. Of the parking spaces provided, one (1) space is required to be handicapped accessible.*

As discussed on pages 6-7 of this report, the applicant is requesting a parking waiver of the required parking setback standard. Staff does not recommend the waiver.

- (c) **Minimum frontage.**

*The minimum frontage required by Section 59-G-2.14 (100 feet) is met as the subject property has a total of 310 feet of frontage along two streets.*

- (d) **Forest conservation.** If a special exception is subject to Chapter 22A, the Board must consider the preliminary forest conservation plan required by that Chapter when approving the special exception application and must not approve a special exception that conflicts with the preliminary forest conservation plan.

*The proposed special exception is not subject to the Forest Conservation Law as defined in Chapter 22A of the Montgomery County Code. The Forest Conservation Law is not applicable because the subject property is less than 40,000 square feet in size and no champion trees are affected.*

- (e) **Water quality plan.**

*A water quality plan is not required for the proposed special exception. The subject property is not located within a designated Special Protection Area (SPA). However, a stormwater management concept plan must be approved by Montgomery County. To date, staff has not received a SWM concept approval letter from the Department of Permitting Services (DPS).*

- (f) **Signs.**

*The applicant is proposing one (1) free-standing sign that does not exceed two (2) square feet in area and three (3) square feet in height to identify the location of the applicant's dental clinic. The proposed sign will not be illuminated. Additionally, a non-illuminated wall sign that will not exceed two (2) square feet in area will be placed on the Old Georgetown Road façade no higher than five (5) feet above the ground.*

**(g) Building compatibility in residential zones.**

*The site in a residential zone and the proposed new building has been designed to be residential in appearance, scale, bulk, and height. Staff finds that the proposal is not compatible with the character of the neighborhood. Although the building is residential in appearance, it is an office use that includes an eighteen space parking lot adjacent to an existing residential use.*

**(h) Lighting in residential zones.** All outdoor lighting must be located, shielded, landscaped, or otherwise buffered so that no direct light intrudes into adjacent residential properties.

*The site is in a residential zone, and the lighting plan adequately and efficiently covers the main vehicular access to the site, as well as the parking, areas in order to create a safe vehicular and pedestrian environment. There is a residential property adjacent to the proposed special exception. Lighting from the subject property will be buffered by light standards on full cutoff fixtures to prevent light spillage onto the neighboring property and to minimize glare from the fixtures. Further, limited pole height, a timer and landscaping along the western property boundary will also limit any spillage of light onto the adjacent property. A photometric plan prepared for the project demonstrates that light levels along the side and rear lot lines will not exceed 0.1 footcandles.*

**Sec. 59-G-2.14. Clinic.**

A special exception may be approved for a medical or dental clinic in which no more than 4 medical practitioners are present at any one time, subject to the following standards:

- (a) Development standards as specified in the applicable zone and in Section G-1.23 except:
  - (1) Minimum frontage: 100 feet.

*The subject property has a total of 310 feet of frontage exceeding the minimum requirement of 100 feet of frontage.*

- (2) Minimum setback from adjoining lot: 40 feet.

*The proposed building will be setback 41.2 feet from the adjoining lot to the south and 86.2 feet from the adjoining lot to the west, thereby, exceeding the minimum setback requirement of 40 feet from the adjoining lots.*

- (b) The property must front on and have direct access to a public street or roadway having more than one through travel lane in each direction of travel; except that access to a corner lot may be from an adjoining primary street, constructed to primary standards, if the Board finds the access to be appropriate and not detrimental to existing residential uses on the primary street.

*The subject property is a corner lot that physically fronts onto Old Georgetown Road. Old Georgetown Road consists of three travel lanes in each direction, however, direct access from the subject property to Old Georgetown Road is not proposed. Since the subject property is a corner lot, direct access to Sedgwick Lane is proposed. As part of the special exception, Sedgwick Lane will be improved to primary road standards between Old Georgetown Road and the point of access to the subject property, with pavement widening from the existing 18 feet to 26 feet, new curb and gutter, and a new public sidewalk.*

*As proposed, staff finds the Sedgwick Lane access to be inappropriate and detrimental to existing residential uses located on Sedgwick Lane, which is not a primary street. Staff finds that the proposed widening of a portion of Sedgwick Lane to 26 feet, alone, does not satisfy the requirement that access to a corner lot may be from a primary street. Furthermore, in order to comply with the standard, the applicant must dedicate an additional 10 feet of right-of-way along the Sedgwick Lane property frontage, thus providing a 35-foot centerline which is a primary road standard. Establishment of a 35-foot centerline would negatively impact the proposal as the building and parking lot would no longer be in compliance with setback requirements.*

- (c) Office space suitable for the practice of the profession is unavailable in either the nearest commercial zone or the nearest medical clinic office building constructed according to a special exception grant.

*According to the applicant, suitable office space to accommodate the applicant's practice is unavailable at Old Georgetown Road. However, the Planning Department's research staff examined the availability of medical office space within a one-mile radius of the subject property located at 11406 Old Georgetown Road. Staff found 12 office buildings with medical uses representing 710,167 square feet within the one-mile radius. Three of the 12 medical office buildings are located along Old Georgetown Road. The Manar Medical Building is adjacent to the subject property. The attached table provides space and lease information on each of the 12 buildings.*

- (d) Additional medical practitioners, no more than four, may be present at any one time only if the presence of these additional practitioners will not generate additional patient related traffic. The additional practitioners are only allowed to:

- (1) assist a practitioner in a specific surgical or diagnostic procedure;  
or
- (2) perform administrative work related to the treatment of patients on site the same day.

A written record must be kept for inspection by County enforcement staff identifying the physicians on site, and their schedules of seeing patients and performing administrative work.

*The applicant will employ one part time general dentist to assist in her practice. Two dental hygienists, one dental assistant and an office manager/receptionist will assist in specific dental procedures and perform administrative duties. No more than two additional medical practitioners and up to 5 associated staff will occupy leased space on the building's second floor. The number of medical practitioners and staff will be limited by the number of available parking spaces attributed to the second floor after taking into account the number of patient visits per day and parking spaces utilized by the first floor and two (2) lab technicians.*

*A written record identifying the physicians on site, and their schedules of seeing patients and performing administrative work will be maintained by the office managers.*

- (e) The Board may limit hours of operation, number of practitioners and employees, and the number, character and extent of accessory services.

*The applicant states that the occupancy of the proposed dental clinic, by not more than four practitioners, is appropriate for the location of the proposed clinic. The accessory services proposed are limited to the laboratory services that will not increase the number of patients being treated at the proposed facility.*

- (f) Hours of operation for any accessory service that is part of the clinic, including a laboratory or pharmacy for use by patients of medical practitioners in the clinic, must be no earlier and no later than those of medical practitioners in the clinic.

*If approved, the laboratory will only operate during the same hours as the proposed dental clinic, Monday through Friday from 8:00 a.m. to 6:00 p.m. and Saturday from 9:00 a.m. to 6:00 p.m.*



## **CONCLUSION**

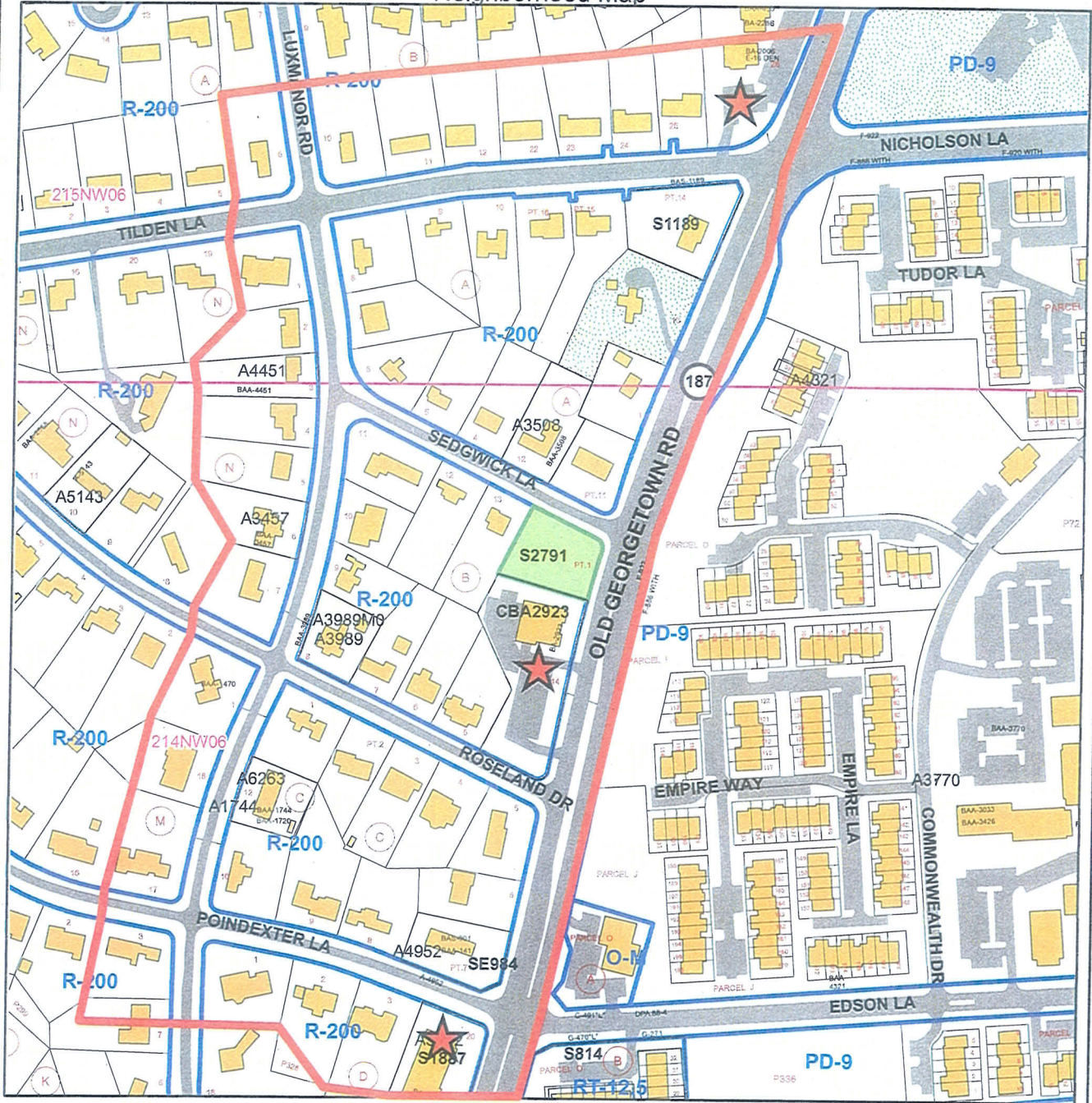
Based on the foregoing analysis, staff recommends denial of the application.

CG:ha: N:\\_AREA 2 Division\Gilbert, Carlton\S-2791 staff report.DOC

### **Attachments**

1. Neighborhood map
2. Aerial photograph
3. Site plan for special exception
4. Building elevations and floor plan
5. Landscape and lighting plan
6. Notice of hearing
7. Table of lease information for medical office buildings
8. Master Plan p. 37-38, and p. 250-251
9. Master Plan memo
10. Transportation planning memo
11. Environmental planning memo
12. Subdivision memo
13. Letters in opposition
14. Letter of approval

Neighborhood Map



LEGEND

- Proposed Special Exception
- Parcel
- Building
- Paved Area
- Lake and Pond
- Stream and River
- Existing Medical/Dental Office

1 inch = 300 feet  
Address: 11406 Old Georgetown Road, Rockville

NOTICE:

The planimetric, property, and topographic information shown on this map is based on copyrighted Map Products from the Montgomery County Department of Park and Planning of the Maryland-National Capital Park and Planning Commission, and may not be copied or reproduced without written permission from M-NPPC.

Property lines are compiled by adjusting the property lines to topography created from aerial photography and should not be interpreted as actual field surveys. Planimetric features were compiled from 1:14400 scale aerial photography using stereo photogrammetric methods.

This map is created from a variety of data sources, and may not reflect the most current conditions in any one location and may not be completely accurate or up to date. All map features are approximately within five feet of their true location. This map may not be the same as a map of the same area plotted at an earlier time as the data is continuously updated. Use of this map, other than for general planning purposes is not recommended.

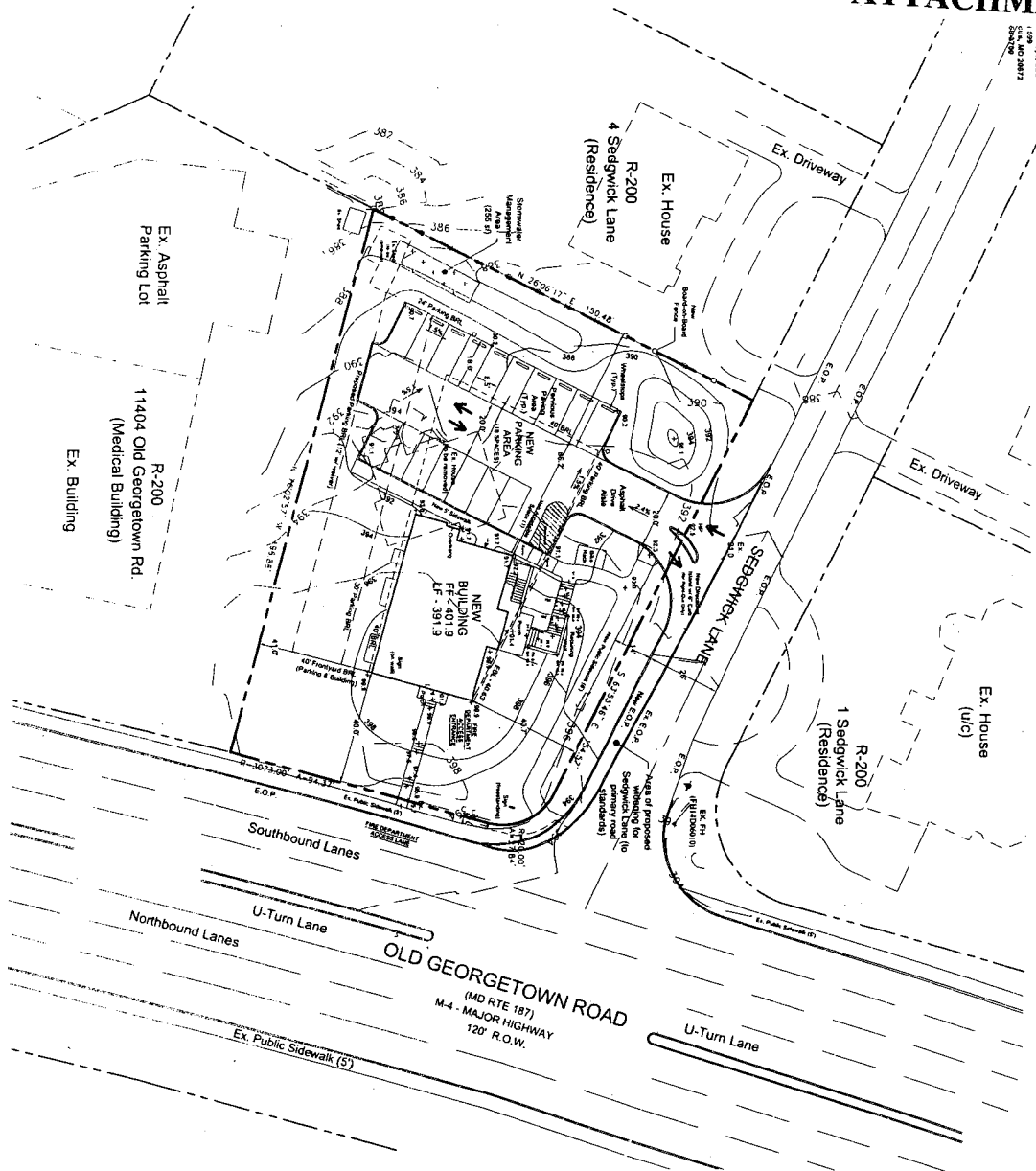
Key Map  
NTS



AERIAL PHOTOGRAPH



of a Topographic Survey by  
 1999  
 10/20/2017



**LEGEND**

	New Building
	Ex. Building
	Proposed Contour
	Existing Contour
	Proposed Parking
	Summer BMP

Parking Requirements	Office / 1,335	5spaces
Medical or dental clinic (see 29-C-1.7)	18	18
USE / CTA	Office / 1,335	5spaces
	(18.25' x 52' / 1,000 sq ft)	18
		18

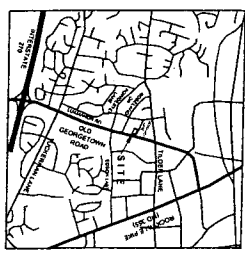
- NOTES:**
- Existing zoning: R-200
  - Area of property: 23,642 SF
  - Proposed use: Medical/Dental Clinic
  - Gross floor area (GFA) of proposed building (upper two floors): 3,589 SF
    - 1st floor is 2,995 SF
    - 2nd floor is 1,404 SF
  - Lower level is a "cellar" and is not part of the GFA.
  - Locator within the North Bethesda / Garrett Park Master Plan area.
  - Property is located within the Cabin John Watershed.
  - Locator on VSSC 200-scale grid sheet 214AW06.

**Project Data Table: Medical/Dental Clinic in R-200 Zone**

Development Standards	Required by 59-C-1.32	Required by 59-E	Required by 59-O-214	Provided
Area Requirement	30,000 SF	N/A	N/A	23,642 SF
Maximum Coverage	25%	N/A	N/A	24.1% (10.2%)
Minimum Front Setback (Old Georgetown Rd)	40'	N/A	40'	40'
Minimum Front Yard Setback	40.63' (EBL)*	N/A	40.63' (EBL)*	40.7'
Minimum Side Yard	Total 25', 12' minimum	N/A	40'	88.2'
Minimum Rear Yard	30'	N/A	40'	41.0'
Minimum Fronting	25'	N/A	100'	276'
Minimum Lot Width	100'	N/A	N/A	119'
Maximum Building Height	40' to roof peak	N/A	N/A	35' (ave. front grade to peak)
GFA - street parking	N/A	5 sp/1,000 SF GFA	N/A	5 sp/1,000 SF GFA (18 sp)
Parking - Front	N/A	40	N/A	40
Parking - Rear	N/A	30*	N/A	12**
Parking - Side	N/A	24* (twice the normal sideyard)	N/A	24
Screening of Parking Facility	N/A	6' Height	N/A	6' Landscape Screen / Fence
Screening of Parking Facility - Street R.O.W.	N/A	3' Height	N/A	3' Landscape Screen / Berm
Parking Lot Requirement	N/A	30% after 15 years	N/A	30% after 15 years
Parking Lot - Green Area	N/A	5%	N/A	8%

\* Established building line (EBL) determined from location of nearby houses along Sedgwick Lane. \*\* Newer required for parking setback along southern property line adjacent to existing medical building.

Prepared for:  
**NINA V. AKS, DMD & VAL AKS**  
 8428 Belle Ridge Terrace  
 Potosi, MD 20854  
 301-428-7126



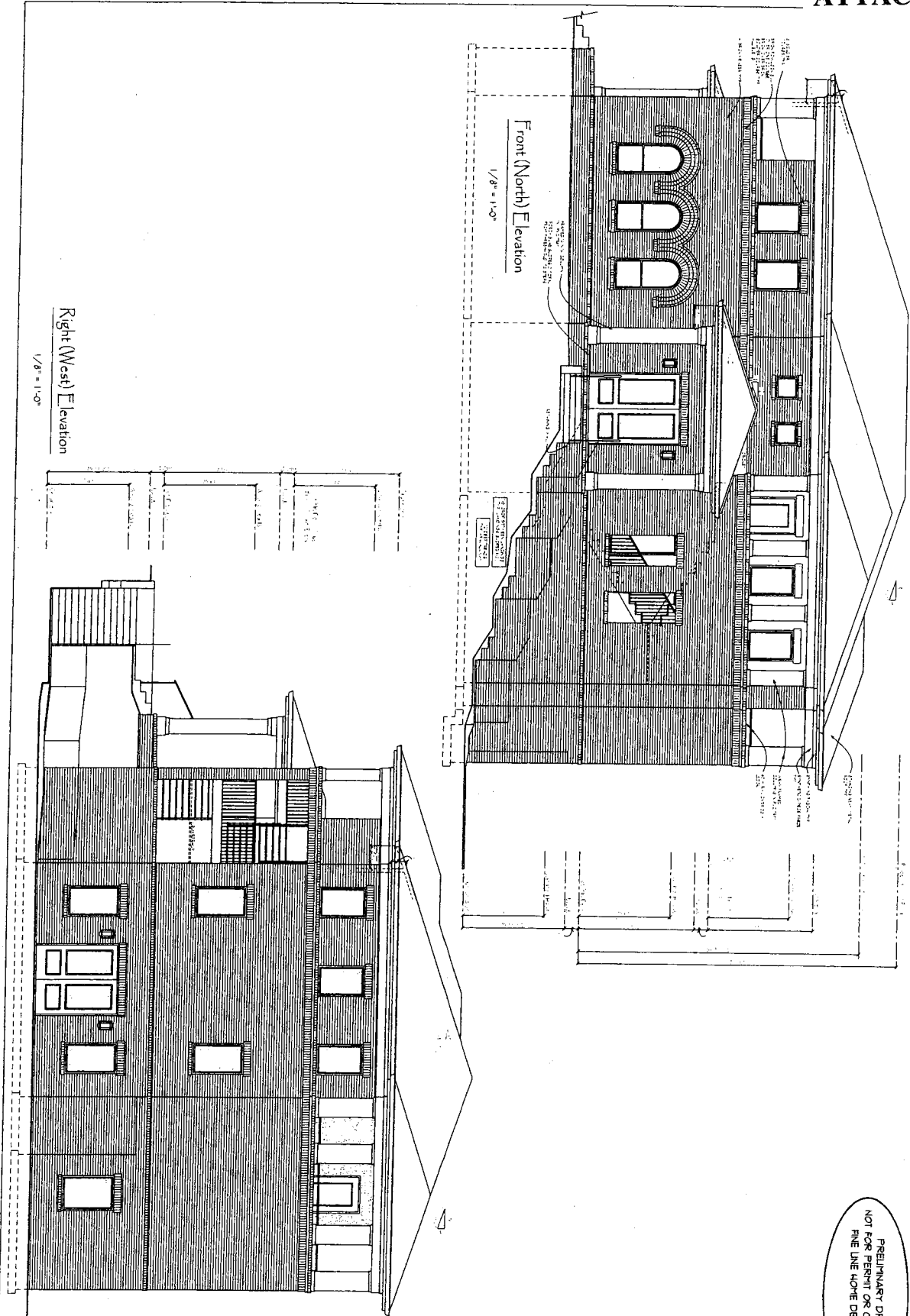
**SPECIAL EXCEPTION SITE PLAN**  
**11406 OLD GEORGETOWN ROAD**  
**(LOT P1, BLOCK B OF LUXMANOR)**  
 Montgomery County, Maryland

**B&A**  
 Benning & Associates, Inc.  
 Land Planning, Civil/Structural  
 9813 Shady Grove Court  
 Gaithersburg, MD 20877  
 (301)949-0240

date: 10/25/10  
 scale: 1" = 20'



Sheet 1 of 1  
 Revised 12/21



PRELIMINARY DRAWINGS -  
NOT FOR PERMIT OR CONSTRUCTION  
FINE LINE HOME DESIGN, LLC

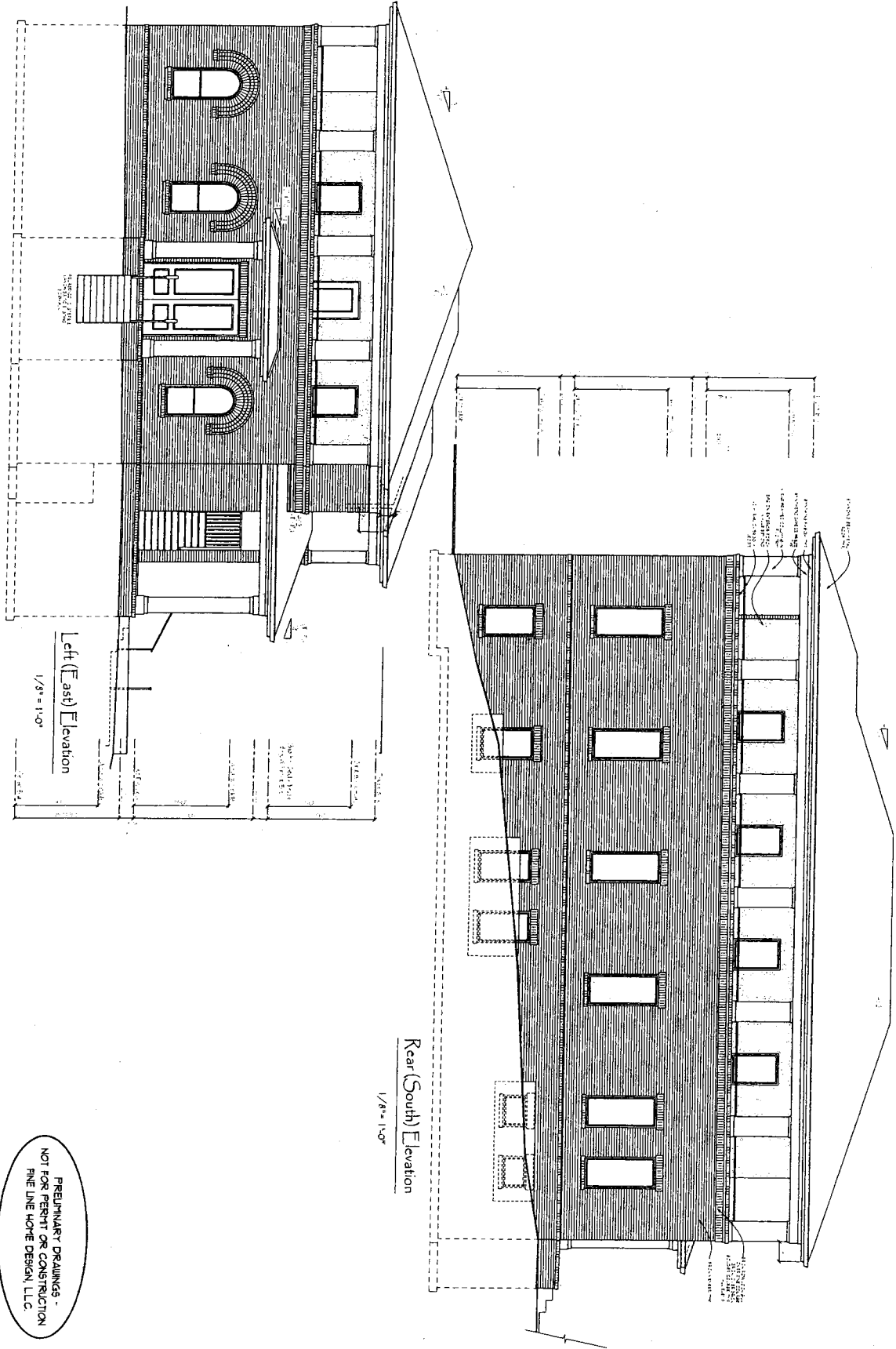
A-1

Proposed dental office for:  
**Nina and Val Aks**  
11404 Old Georgetown Rd., Rockville MD 20852  
MONTGOMERY COUNTY, MD.

•Front & Right•  
Elevations

DATE	REVISED
01/12	REVISIONS
02/12	REVISIONS
03/12	REVISIONS
04/12	REVISIONS
05/12	REVISIONS
06/12	REVISIONS
07/12	REVISIONS
08/12	REVISIONS
09/12	REVISIONS
10/12	REVISIONS
11/12	REVISIONS
12/12	REVISIONS

**NIMA**  
Custom Homes  
10075-10 Tyler Place Hyatt Park, Baltimore, MD 21244  
301-671-6253



PRELIMINARY DRAWINGS -  
NOT FOR PERMIT OR CONSTRUCTION  
FINE LINE HOME DESIGN, LLC

A-2

Proposed dental office for:  
**Nina and Val Aks**  
1150c Old Georgetown Rd., Rockville, MD 20852  
MONTGOMERY COUNTY, MD.

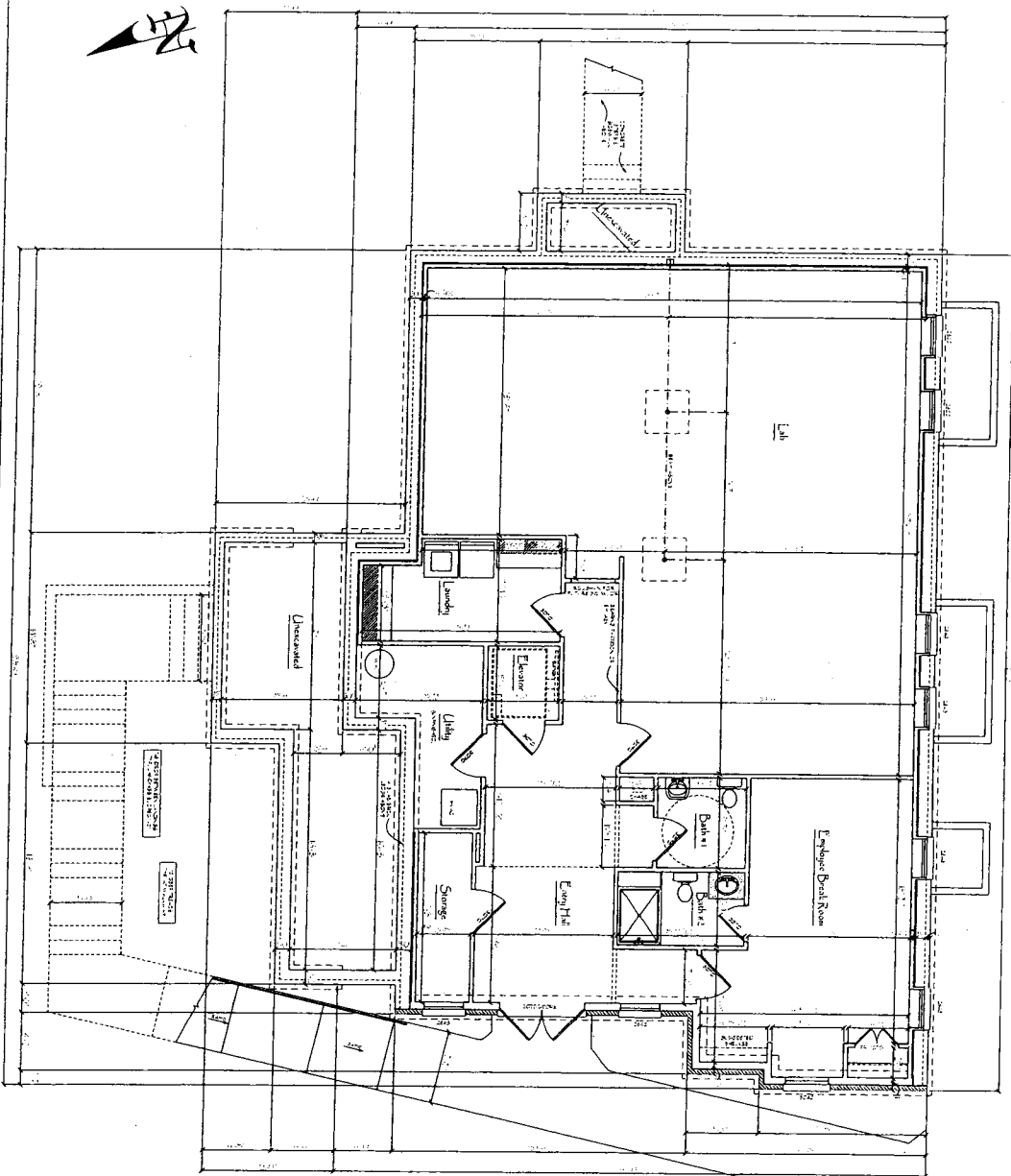
•Rear & Left•  
Elevations

DATE	REVISION
01/22/2020	REVISION 01/22/2020
02/10/2020	REVISION 02/10/2020
03/10/2020	REVISION 03/10/2020
04/10/2020	REVISION 04/10/2020
05/10/2020	REVISION 05/10/2020

17 years of experience

**NIMA**  
Custom Homes

10075-10 Tyler Place Hyatt Park, Gaithersburg, MD 20878  
301-431-8223



Cellar Floor Plan

1,993 sq. ft.  
95 units sq. ft.  
1/8" = 1'-0"

PRELIMINARY DRAWINGS -  
NOT FOR PERMIT OR CONSTRUCTION  
FINE LINE HOME DESIGN, LLC.

A-3

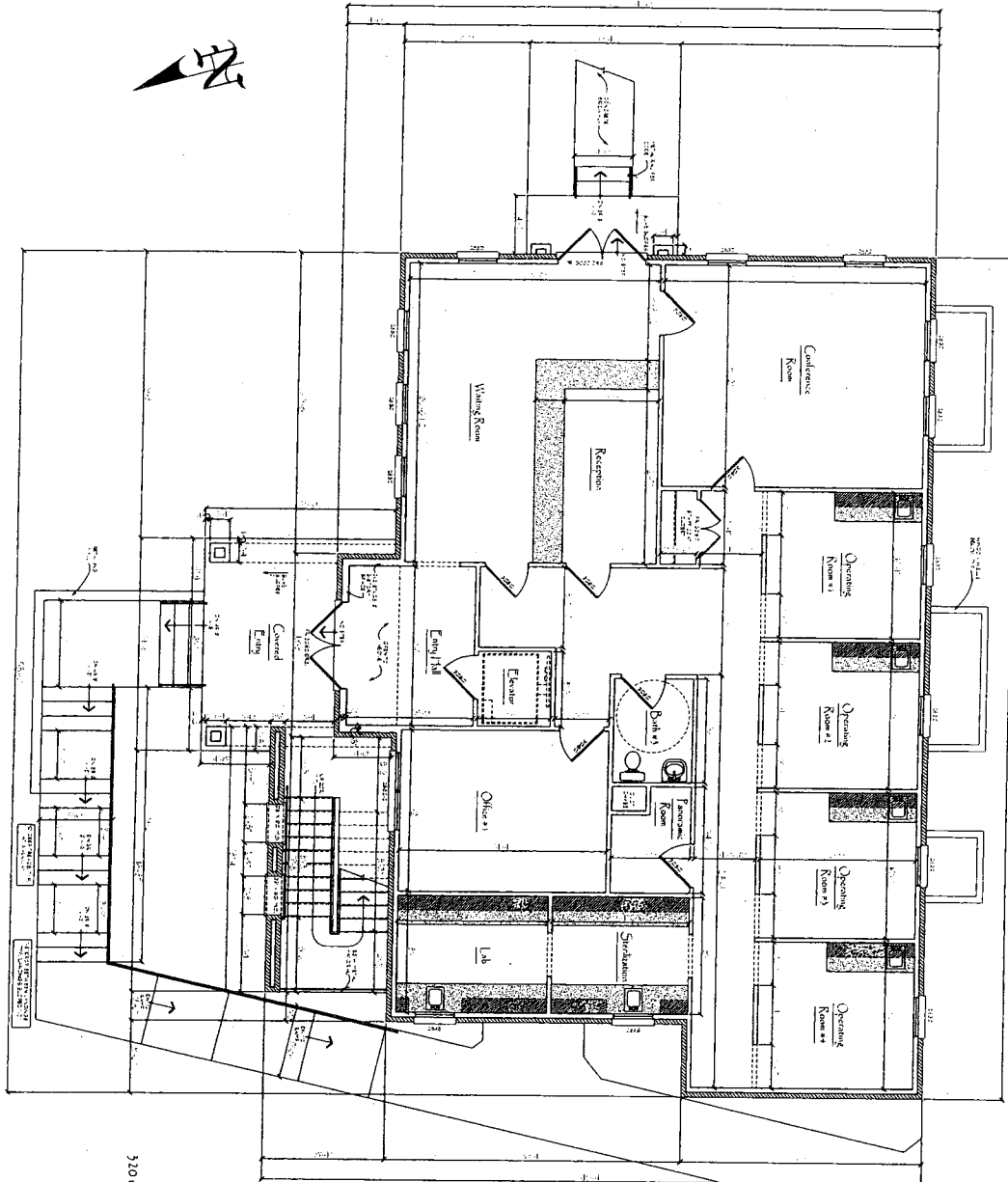
3477

Proposed dental office for:  
**Nina and Val Aks**  
11406 Old Georgetown Rd., Rockville MD 20852  
MONTGOMERY COUNTY, MD.

• Cellar Plan •

DATE	REVISION
08.20.13	REVISION 1 - FINISHES
08.20.13	REVISION 2 - FINISHES
08.20.13	REVISION 3 - FINISHES
08.20.13	REVISION 4 - FINISHES
08.20.13	REVISION 5 - FINISHES
08.20.13	REVISION 6 - FINISHES
08.20.13	REVISION 7 - FINISHES
08.20.13	REVISION 8 - FINISHES
08.20.13	REVISION 9 - FINISHES
08.20.13	REVISION 10 - FINISHES

Designed/constructed by  
**NIMA**  
Custom Homes  
10075-10 Tyler Place/Hyatt Park, Annapolis, MD 21754  
301-451-0253



**First Floor Plan**

1/8" = 1'-0"

2,093 finished sq. ft., including brick

310 unfinished sq. ft. @ porches & exterior steps

PRELIMINARY DRAWINGS -  
NOT FOR PERMIT OR CONSTRUCTION  
FINE LINE HOME DESIGN, LLC.

A-4

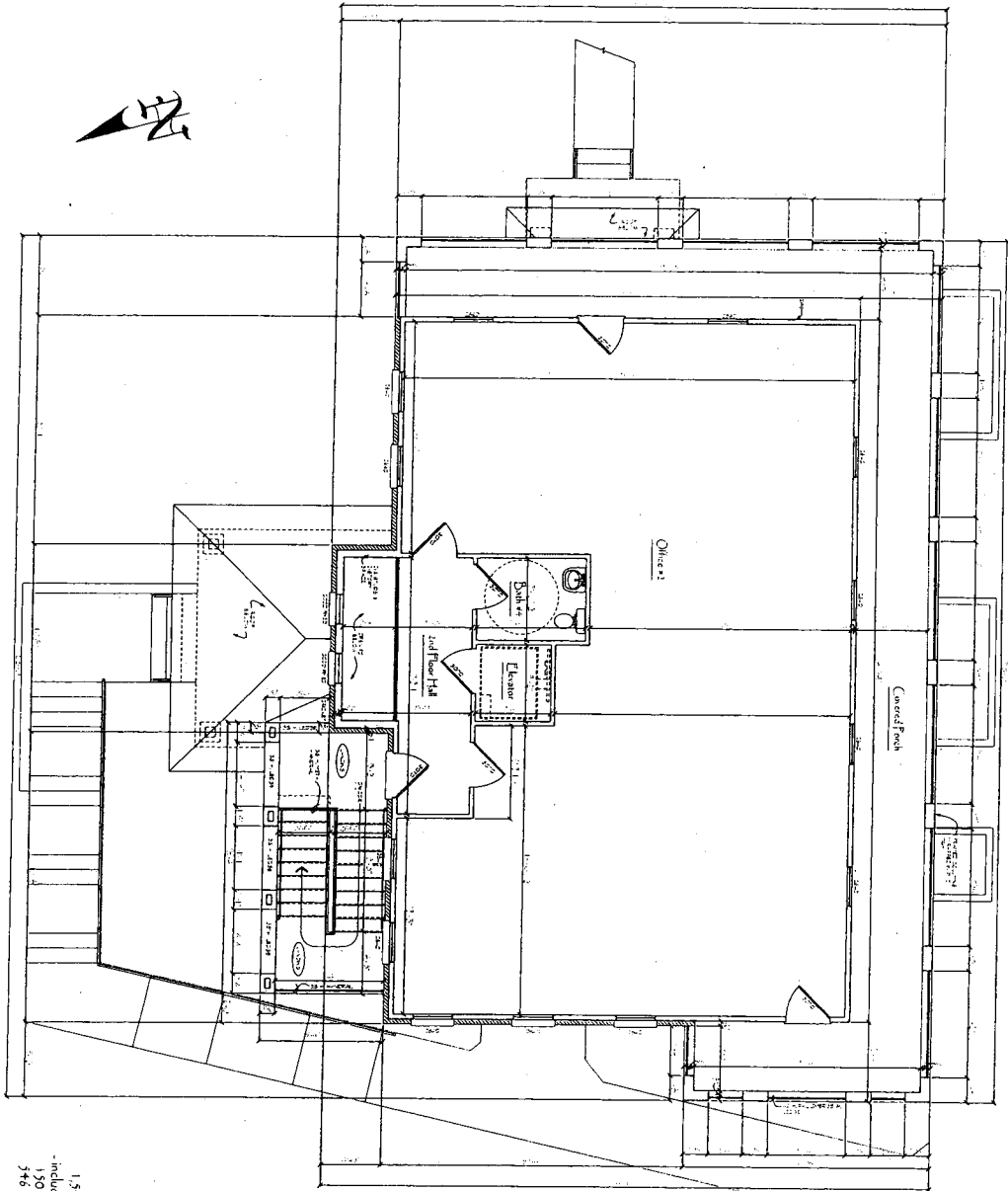
Proposed dental office for:  
**Nina and Val Aks**  
11406 Old Georgetown Rd., Rockville MD 20852  
MONTGOMERY COUNTY, MD.

**First Floor Plan**

NO. 1	DATE	DESCRIPTION
1	10/20/10	PRELIMINARY
2	11/15/10	REVISED PER COMMENTS
3	12/10/10	REVISED PER COMMENTS
4	01/15/11	REVISED PER COMMENTS
5	02/10/11	REVISED PER COMMENTS
6	03/10/11	REVISED PER COMMENTS
7	04/10/11	REVISED PER COMMENTS
8	05/10/11	REVISED PER COMMENTS
9	06/10/11	REVISED PER COMMENTS
10	07/10/11	REVISED PER COMMENTS
11	08/10/11	REVISED PER COMMENTS
12	09/10/11	REVISED PER COMMENTS
13	10/10/11	REVISED PER COMMENTS
14	11/10/11	REVISED PER COMMENTS
15	12/10/11	REVISED PER COMMENTS
16	01/10/12	REVISED PER COMMENTS
17	02/10/12	REVISED PER COMMENTS
18	03/10/12	REVISED PER COMMENTS
19	04/10/12	REVISED PER COMMENTS
20	05/10/12	REVISED PER COMMENTS
21	06/10/12	REVISED PER COMMENTS
22	07/10/12	REVISED PER COMMENTS
23	08/10/12	REVISED PER COMMENTS
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94	07/10/18	REVISED PER COMMENTS
95	08/10/18	REVISED PER COMMENTS
96	09/10/18	REVISED PER COMMENTS
97	10/10/18	REVISED PER COMMENTS
98	11/10/18	REVISED PER COMMENTS
99	12/10/18	REVISED PER COMMENTS
100	01/10/19	REVISED PER COMMENTS

Designed by  
**NIMA**  
Custom Homes  
10075-10 Tyler Place Hyatt Park, Germantown, MD 21544  
301-871-8253





Second Floor Plan

1/8" = 1'-0"

1,549 finished sq. ft., including brick  
 - includes 33 sq. ft. of double volume area -  
 130 unfinished sq. ft. @ exterior stairs  
 346 unfinished sq. ft. @ covered porch

PRELIMINARY DRAWINGS -  
 NOT FOR PERMIT OR CONSTRUCTION  
 RHE LINE HOME DESIGN, LLC

A-5

Proposed dental office for  
**Nina and Val Aks**  
 11146 Old Georgetown Rd., Rockville, MD 20852  
 MONTGOMERY COUNTY, MD

• Second Floor Plan

DATE	DESCRIPTION
11/10/2014	REVISIONS
11/10/2014	REVISIONS
11/10/2014	REVISIONS
11/10/2014	REVISIONS
11/10/2014	REVISIONS
11/10/2014	REVISIONS
11/10/2014	REVISIONS
11/10/2014	REVISIONS
11/10/2014	REVISIONS

Designed/constructed by  
**NIMA**  
 Custom Homes  
 10075-10 Tyler Place Pylet Park, Sparks, MD 21154  
 301-431-8553

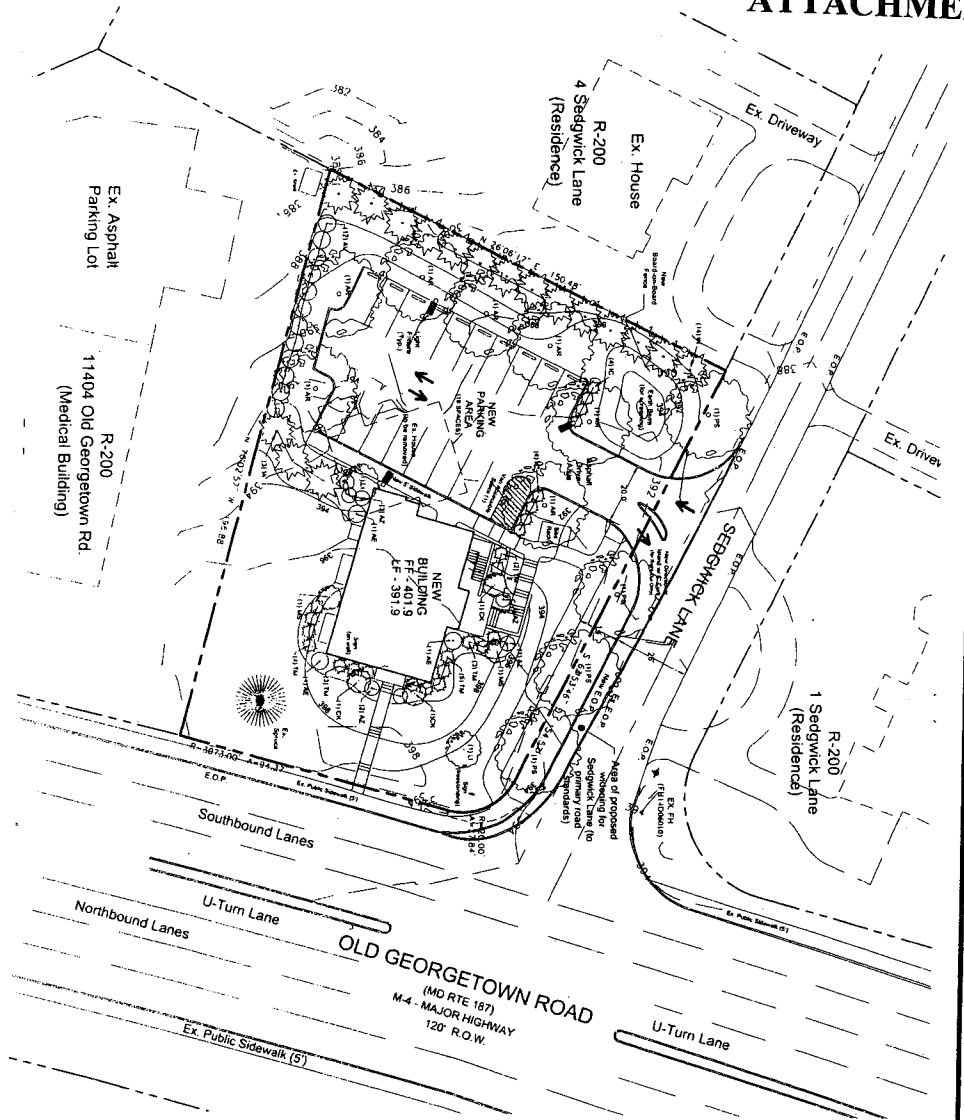
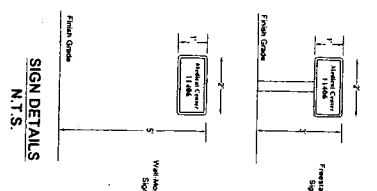
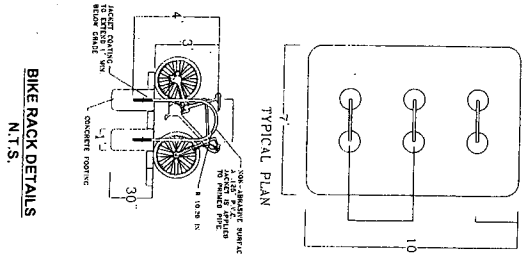
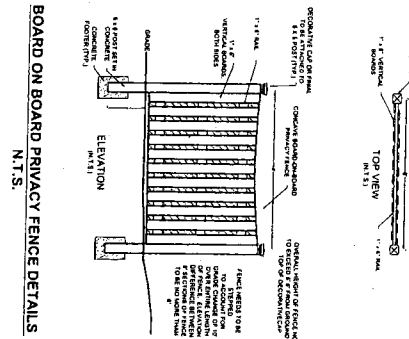
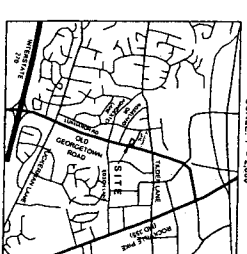


TABLE 41  
PLANT SCHEDULE - RECOMMENDED SPECIES LIST

NO.	QUANTITY	SIZE	SCIENTIFIC NAME	COMMON NAME	ORIGIN	COMMENTS
1	1	2-1/2" DB	ACER FRAXINUS (HYBRID 50%)	Red Maple	U.S.A.	ESB
2	1	2-1/2" DB	QUERCUS PRINCEPIUM	White Oak	U.S.A.	ESB
3	1	2-1/2" DB	QUERCUS FLETCHERII	White Oak	U.S.A.	ESB
4	1	2-1/2" DB	QUERCUS LAEVOGLOBOSA	White Oak	U.S.A.	ESB
5	1	2-1/2" DB	QUERCUS BICOLOR	White Oak	U.S.A.	ESB
6	1	2-1/2" DB	QUERCUS LAEVOGLOBOSA	White Oak	U.S.A.	ESB
7	1	2-1/2" DB	QUERCUS LAEVOGLOBOSA	White Oak	U.S.A.	ESB
8	1	2-1/2" DB	QUERCUS LAEVOGLOBOSA	White Oak	U.S.A.	ESB
9	1	2-1/2" DB	QUERCUS LAEVOGLOBOSA	White Oak	U.S.A.	ESB
10	1	2-1/2" DB	QUERCUS LAEVOGLOBOSA	White Oak	U.S.A.	ESB
11	1	2-1/2" DB	QUERCUS LAEVOGLOBOSA	White Oak	U.S.A.	ESB
12	1	2-1/2" DB	QUERCUS LAEVOGLOBOSA	White Oak	U.S.A.	ESB
13	1	2-1/2" DB	QUERCUS LAEVOGLOBOSA	White Oak	U.S.A.	ESB
14	1	2-1/2" DB	QUERCUS LAEVOGLOBOSA	White Oak	U.S.A.	ESB
15	1	2-1/2" DB	QUERCUS LAEVOGLOBOSA	White Oak	U.S.A.	ESB
16	1	2-1/2" DB	QUERCUS LAEVOGLOBOSA	White Oak	U.S.A.	ESB
17	1	2-1/2" DB	QUERCUS LAEVOGLOBOSA	White Oak	U.S.A.	ESB
18	1	2-1/2" DB	QUERCUS LAEVOGLOBOSA	White Oak	U.S.A.	ESB
19	1	2-1/2" DB	QUERCUS LAEVOGLOBOSA	White Oak	U.S.A.	ESB
20	1	2-1/2" DB	QUERCUS LAEVOGLOBOSA	White Oak	U.S.A.	ESB
21	1	2-1/2" DB	QUERCUS LAEVOGLOBOSA	White Oak	U.S.A.	ESB
22	1	2-1/2" DB	QUERCUS LAEVOGLOBOSA	White Oak	U.S.A.	ESB
23	1	2-1/2" DB	QUERCUS LAEVOGLOBOSA	White Oak	U.S.A.	ESB
24	1	2-1/2" DB	QUERCUS LAEVOGLOBOSA	White Oak	U.S.A.	ESB
25	1	2-1/2" DB	QUERCUS LAEVOGLOBOSA	White Oak	U.S.A.	ESB
26	1	2-1/2" DB	QUERCUS LAEVOGLOBOSA	White Oak	U.S.A.	ESB
27	1	2-1/2" DB	QUERCUS LAEVOGLOBOSA	White Oak	U.S.A.	ESB
28	1	2-1/2" DB	QUERCUS LAEVOGLOBOSA	White Oak	U.S.A.	ESB
29	1	2-1/2" DB	QUERCUS LAEVOGLOBOSA	White Oak	U.S.A.	ESB
30	1	2-1/2" DB	QUERCUS LAEVOGLOBOSA	White Oak	U.S.A.	ESB
31	1	2-1/2" DB	QUERCUS LAEVOGLOBOSA	White Oak	U.S.A.	ESB
32	1	2-1/2" DB	QUERCUS LAEVOGLOBOSA	White Oak	U.S.A.	ESB
33	1	2-1/2" DB	QUERCUS LAEVOGLOBOSA	White Oak	U.S.A.	ESB
34	1	2-1/2" DB	QUERCUS LAEVOGLOBOSA	White Oak	U.S.A.	ESB
35	1	2-1/2" DB	QUERCUS LAEVOGLOBOSA	White Oak	U.S.A.	ESB
36	1	2-1/2" DB	QUERCUS LAEVOGLOBOSA	White Oak	U.S.A.	ESB
37	1	2-1/2" DB	QUERCUS LAEVOGLOBOSA	White Oak	U.S.A.	ESB
38	1	2-1/2" DB	QUERCUS LAEVOGLOBOSA	White Oak	U.S.A.	ESB
39	1	2-1/2" DB	QUERCUS LAEVOGLOBOSA	White Oak	U.S.A.	ESB
40	1	2-1/2" DB	QUERCUS LAEVOGLOBOSA	White Oak	U.S.A.	ESB
41	1	2-1/2" DB	QUERCUS LAEVOGLOBOSA	White Oak	U.S.A.	ESB
42	1	2-1/2" DB	QUERCUS LAEVOGLOBOSA	White Oak	U.S.A.	ESB
43	1	2-1/2" DB	QUERCUS LAEVOGLOBOSA	White Oak	U.S.A.	ESB
44	1	2-1/2" DB	QUERCUS LAEVOGLOBOSA	White Oak	U.S.A.	ESB
45	1	2-1/2" DB	QUERCUS LAEVOGLOBOSA	White Oak	U.S.A.	ESB
46	1	2-1/2" DB	QUERCUS LAEVOGLOBOSA	White Oak	U.S.A.	ESB
47	1	2-1/2" DB	QUERCUS LAEVOGLOBOSA	White Oak	U.S.A.	ESB
48	1	2-1/2" DB	QUERCUS LAEVOGLOBOSA	White Oak	U.S.A.	ESB
49	1	2-1/2" DB	QUERCUS LAEVOGLOBOSA	White Oak	U.S.A.	ESB
50	1	2-1/2" DB	QUERCUS LAEVOGLOBOSA	White Oak	U.S.A.	ESB



Prepared for:  
NINA V. AKS, DMD  
& VAL AKS  
8428 Balls Bluffs Terrace  
Potomac MD 20854  
301-428-7128

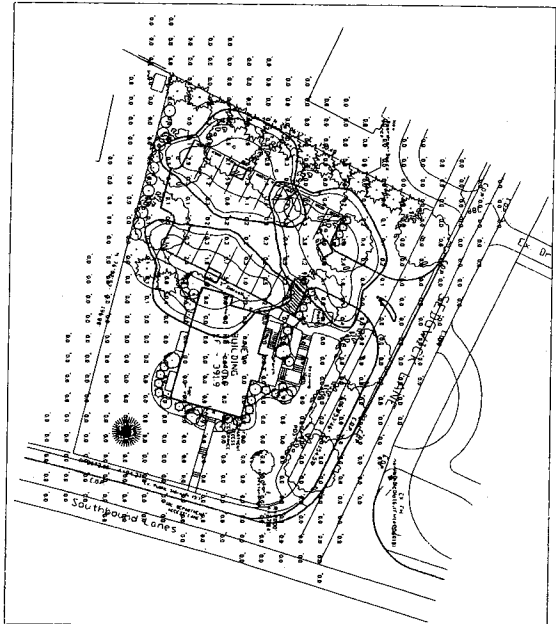


LANDSCAPE & LIGHTING PLAN  
11406 OLD GEORGETOWN ROAD  
(LOT P1, BLOCK B OF LUXMANOR)  
Montgomery County, Maryland

**B&A**  
Benning & Associates, Inc.  
Landscape Architecture  
8033 Shady Grove Court  
Guthrieburg, MD 20877  
(301) 428-7128

date: 10/25/10  
scale: 1" = 20'

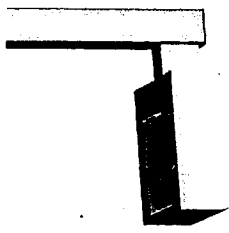
Sheet 1 of 2  
Project: 11406 Old Georgetown Road  
Date: 10/25/10



Photometric Plan  
1" = 30'

- ### Lighting Notes:
1. Somerset fixtures are 70-watt metal halide full cut-off luminaires.
  2. Height of pole mounted fixtures to be a maximum of 14'.
  3. Back shields to be installed on all pole-mounted Somerset fixtures adjacent to eastern boundary to prevent light trespass. Photometric levels shown on plan are without back shields.
  4. Somerset fixtures are manufactured and provided by Holophane.

Manufacturer: Engineering Society's requirement for Fixtures List Lighting per publication IES-20  
Standard Mount  
Minimum footcandle level: 20' min @ 20'1' maximum to maximum also  
Enhanced Safety / Security  
Minimum footcandle level: 30' min @ 20'1' maximum to maximum also



SOMERSET  
(Full Cut-Off)

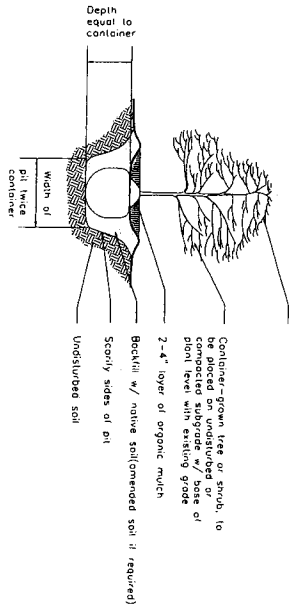
### LUMINAIRE SCHEDULE

Symbol	Qty	Column Number	Component	14' Pole	18' Pole	22' Pole	26' Pole	30' Pole
[Symbol]	5	SOMERSET	SOMERSET	1	1	1	1	1

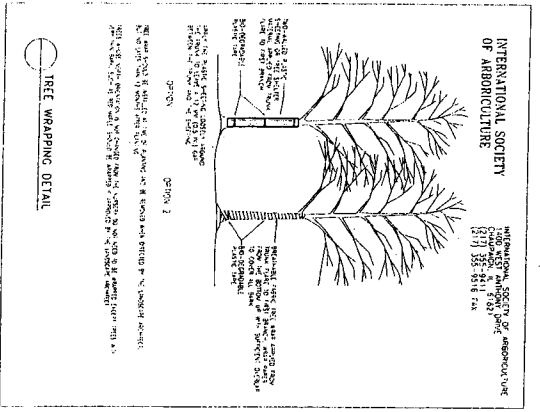
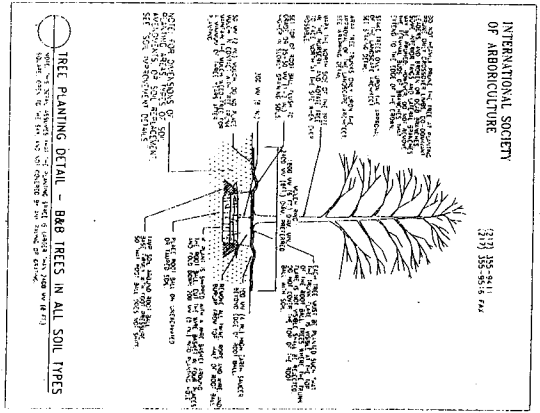
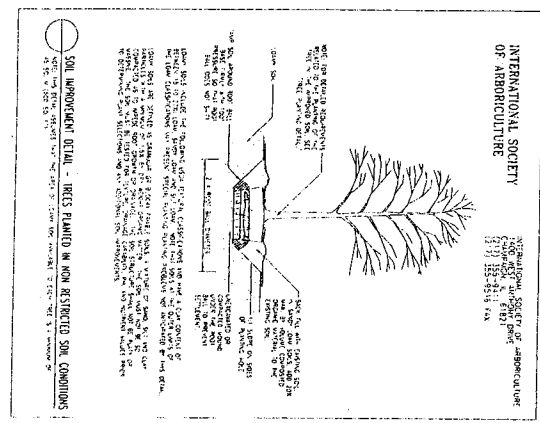
### STATISTICS

Component	Symbol	Qty	Column Number	14' Pole	18' Pole	22' Pole	26' Pole	30' Pole
Photometric Data		5	118	215	215	1427	1541	

Removing dead or damaged branches only



PLANTING DETAIL - SHRUB  
Container Grown



- ### GENERAL PLANTING NOTES:
1. Prior to any planting on the job, a pre-planting meeting with the LANDSCAPE & PC Designer must be arranged.
  2. The contractor shall follow and verify the existence of all utilities prior to any excavation work.
  3. The contractor shall conform to the guidelines established in the current American Standard for Specifications for Horticulture, published by the American Association of Nurserymen. Plants not conforming to the specifications for size, form, vigor, or color, or due to bark wounds, insects and disease should be replaced.
  4. All plants shall be the same relationship to finished grade as the plant's original grade.
  5. All plants shall be the same species or container grown as specified. Container grown stock that is root bound will not be acceptable.
  6. All plants shall be wrapped with an antidesiccant within 24 hours after planting.
  7. All plants shall be staked as per detail.
  8. All plants shall be watered thoroughly twice during the first 24-hour period after planting. All plants shall then be watered weekly or more often, if necessary, during the hot growing season.

LANDSCAPE & LIGHTING PLAN  
11406 OLD GEORGETOWN ROAD  
(LOT P1, BLOCK D OF LUXMANOR)  
Montgomery County, Maryland



Benning & Associates, Inc.  
Landscape & Lighting Consultants  
4913 Shady Grove Court  
Cathetersburg, MD 20877  
(301) 444-0240

date: 10/25/10  
scale:



Sheet 2 of 2  
DATE: 12/11/10

BOARD OF APPEALS  
for  
MONTGOMERY COUNTY  
(240) 777-6600

OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS  
Stella B. Werner Council Office Building  
100 Maryland Avenue, Room 200  
Rockville, Maryland 20850  
Phone: (240) 777-6660; Fax (240) 777-6665

NO RECEIVED 10/12  
JUN - 6 2011  
Planning Department

CASE NO. S-2791

PETITION OF NINA V. AKS, D.M.D., LLC AND NINA AND VAL AKS

NOTICE OF MOTION TO AMEND PETITION

Please take notice that Casey L. Moore, Attorney for the Petitioner, has submitted a letter dated May 2, 2011, which will be construed as a motion to amend the pending petition for a special exception pursuant to Section 59-A-4.24 of the Zoning Ordinance. The Petitioner seeks to amend the petition by submitting the following documents: (1) a Petitioner's Amended Statement in Support of Application, Statement of Operations and Request for Parking Waiver ("the statement of operations"), (2) a revised site plan, (3) a revised landscape and lighting plan, (4) revised elevations /floor plans, (5) a revised traffic statement dated April 25, 2011, (6) an amended land planning report dated April 29, 2011, (7) a letter from the Department of Permitting Services regarding the cellar dated March 14, 2011, (8) an existing Tree Plan, (9) Letter from the Fire Marshall approving the proposed Site Plan dated February 4, 2011 and (11) a revised stormwater management plan.

This matter is scheduled for public hearing before the Hearing Examiner on **Friday, July 15, 2011**, in the Second Floor Hearing Room, Stella B. Werner Council Office Building, 100 Maryland Avenue, Rockville, Maryland, at 9:30 a.m., or as soon thereafter as this matter can be heard.

The motion to amend the petition requests permission to change what the Petitioner is seeking in its special exception petition, or provide additional evidence. Granting the motion allows the Petitioner to make the requested changes to the petition and to provide additional evidence, but does not, in any way, approve the petition itself or express an opinion as to the merits of the petition or the proposed changes.

The Petitioner seeks a special exception pursuant to Section 59-G-2.14 (Clinic: Medical/Dental) of the Zoning Ordinance to permit operation of a Medical/Dental Clinic as follows:

1. Proposed Facility: Construction of a two floor small scale clinics with a walk out cellar that was reduced in size to 3,589 square feet. The first floor will be occupied by dentists, the second floor will be leasable space available to medical/dental practitioners and the cellar will be used as a laboratory.
2. Practitioners and Staff: No more than two dentists and four staff will occupy the first floor of the clinic at any one time. Two lab technicians will occupy the lab space in the cellar. The number of medical/dental practitioners, not exceeding two, and staff that will occupy the second floor will be limited to the number of available parking spaces for the second floor after considering the number of spaces devoted to patient visits per day.
3. Hours of operation: Monday through Friday 8 a.m. to 6 p.m. and Saturday from 9 a.m. to 6 p.m. Six emergency patient visits per year, after hours or on Sunday.

Continued

4. Four times a year the dentist will host a mini conference on a Thursday, Friday and Saturday with an attendance of 10 dental practitioners, at which time the office will not take patients.
5. Four times a year the dentist will invite patients and the subdivision residents to attend educational classes. These classes will be limited to 20 attendees. The classes will be held for half a day.
6. Two times a year the dentist will host the University of Pennsylvania graduates club. The activity will occur after hours and generate 20 attendees.
7. Parking: A proposed parking facility in the side and rear yard of the property reduced from 21 spaces to 18 spaces, one of which is handicap accessible.
8. Garbage and medical waste collections approximately two (2) times a week.

"The reduction in the setback will provide for turnaround area and approximately 1.5 parking spaces on both the east and west sides of the parking facility. The total waiver area is 795 square feet."

The Hearing Examiner will take the motion to amend under consideration for a period of ten days from the date of this notice, until June 13, 2011. Interested parties who object to permitting the Petitioner to change its special exception request or provide additional evidence are requested to so indicate in writing, no later than June 13, 2011. If no objection is received by that time, the motion will be considered granted. Additional notification will be provided; either at the public hearing or by mail, only if an objection is received.

Anyone desiring to represent a group or association at the hearing must submit a pre-hearing statement in writing, no later than ten days before the hearing, indicating the name of the group, the name of the person(s) giving testimony, approximately how long the testimony will take and a statement of the grounds for the group's position. The pre-hearing statement must specifically identify any expert witnesses and summarize their testimony, must be accompanied by any reports or documents intended to be introduced at the hearing and should be sent to the address listed above. An individual wishing to give testimony does not require a pre-hearing statement unless that individual is represented by counsel. In compliance with Maryland requirements regarding the practice of law, groups or associations must have counsel unless their witnesses are members of the group or association who will offer testimony in narrative form (*i.e.*, there is no need for an attorney to conduct a direct examination).

In addition to all other requirements, any party represented by counsel must submit electronic copies of their final plans, photographs, statements of operations, pre-hearing statements, and expert reports ten days before the hearing, unless they demonstrate that this requirement would create practical difficulties. Amended electronic copies must also be submitted of any plans, photographs, statements of operations or expert reports that are modified during or after the hearing. Electronic copies must be submitted on compact discs, in Microsoft WORD format for text documents, in PDF format for plans and other non-text documents, and in JPG or PDF format for photographs.

The entire file may be reviewed in the Office of Zoning and Administrative Hearings, Monday through Friday, between the hours of 8:30 a.m. and 4:00 p.m., prior to the date of the hearing.

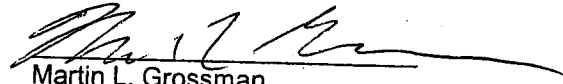
The subject property is Lot P1, Block B, Luxmanor Subdivision, located at 11406 Old Georgetown Road, Rockville, Maryland, 20852, in the R-200 Zone. Tax Account Number 04-00084577

If you need services to participate in a public hearing, please contact us as far in advance as possible by emailing us at [ozah@montgomerycountymd.gov](mailto:ozah@montgomerycountymd.gov). or by calling 240-777-6660 (TTY 240-777-7914) or this document is available in alternative format such as large print upon request, via the same phone numbers and email address.

Continued

Notices forwarded this 3rd day of June, 2011 to:

Norman G. Knopf  
Daniel Press  
Hal Quayle  
Rakesh Chopra  
James Caskey  
Nina Aks and Val Aks  
Stephen J. Orens, Esquire  
Casey Moore, Esquire  
Malcolm Spicer, Jr., Esquire, Associate County Attorney  
Jennifer Hughes, Acting Director, Department of Permitting Services  
Mark Pfefferle, Acting Chief, M-NCPPC  
Washington Suburban Sanitary Commission  
State Highway Administration  
County Board of Education  
Adjoining and Confronting Property Owners  
Local Civic Associations

  
Martin L. Grossman  
Director  
Office of Zoning and Administrative Hearing

MLG/dwm

## MEDICAL OFFICE BUILDINGS WITHIN 1-MILE RADIUS OF 11406 OLD GEORGETOWN RD

Building Address	Building Name	Building Class	City	Zip	Rentable Building Area
11210 Old Georgetown Rd	Old Georgetown Medical Bldg	B	Rockville	20852	17,700
11404 Old Georgetown Rd	Man-Ar Medical Center	C	Rockville	20852	11,861
11510 Old Georgetown Rd	Tilden Lane Medical Bldg	B	Rockville	20852	2,762
6000 Executive Blvd	Washington Science Center	A	Rockville	20852	124,388
6111 Exeuctive Blvd	Kaiser Permanente	C	Rockville	20852	31,892
5800-5952 Hubbard Dr	Georgetowne Park	B	Rockville	20852	67,000
6200-6288 Montrose Rd	Montrose Professional Park	B	Rockville	20852	33,600
5515 Randolph Rd	-	C	Rockville	20852	4,000
11119 Rockville Pike	White Flint Professional Bldg	C	Rockville	20852	46,800
11125 Rockville Pike	North Bethesda Medical Park	C	North Bethesda	20895	24,000
11200 Rockville Pike	CRI Bldg	A	Rockville	20852	185,000
11400 Rockville Pike	Rockwall 1	B	Rockville	20852	161,164
<b>Total</b>					<b>710,167</b>

Source: CoStar Real Property Database; ReferenceUSA Business Listing Database; Maryland Department of Assessment & Taxation

**D. MODERATELY PRICED DWELLING UNITS**

When consulting this Plan, it is important to note that on any given property, the residential densities and allowable types of dwelling units shown may be modified by the requirements of the Montgomery County Moderately Priced Dwelling Unit (MPDU) Ordinance. This ordinance is designed to ensure that new development includes some housing that is affordable by households of modest means. It applies to any residential development of fifty or more dwelling units that is constructed in any residential zone with a minimum lot size of a half-acre or less or in any planned development, mixed-use zone.

A portion of the units in any such development must be MPDU's. The prices of such units are controlled, and buyers or renters are subject to limitations on maximum income. The required number of MPDU's is based on the total number of dwelling units approved for the development. Effective in early 1989, the percentage ranges from 12.5 percent to 15 percent of the total number of dwelling units and is dependent on the level of density increase achieved on the site in question.

This density increase, or "MPDU bonus," is allowed as compensation for requiring some below-market-rate housing. The bonus may be no more than 22 percent above the normal density of the zone, according to the optional MPDU development standards in the zoning ordinance. In some zones, these standards also provide for smaller lot sizes and dwelling types than would be allowed otherwise. For example, the density of a subdivision in the R-200 Zone is normally 2 units per acre, the minimum lot size is 20,000 square feet, and only one-family, detached houses are permitted. In a subdivision developed according to MPDU standards, the maximum density may be as much as 2.44 units per acre, the lot size for a detached house may be as small as 6,000 square feet, and some units may be townhouses or other types of attached dwelling units.

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**E. SPECIAL EXCEPTIONS**

This Plan endorses guidelines for the location of special exception land uses in residential areas. Special exception uses, as identified in the Montgomery County Zoning Ordinance, may be approved by the Board of Appeals for single-family zones if they are found to meet the compatibility standards and general conditions set forth in the Ordinance. The Ordinance provides that special exceptions may be denied by the Board of Appeals where an excessive concentration exists in a particular residential area or where they are inconsistent with Master Plan recommendations.

Recent actions by the Montgomery County Council would now prohibit large medical complexes such as those previously allowed in North Bethesda-Garrett Park. Current regulations now limit medical clinics in residential zones to four doctors, while the cumulative effect provision allows consideration of whether there would be a negative impact from allowing an additional provider in a particular use category that already has several existing providers. Home occupations with no more than one employee are a permitted use in residential neighborhoods; more than one employee requires a special exception.

This Plan provides the following guidelines to protect residential areas, while also





attempting to meet important social needs.

1. Avoid excessive concentration of special exception and other nonresidential land uses along major highway corridors.

Because sites along these corridors have better visibility for business uses, they are more vulnerable to over-concentration of such uses. Of particular concern are office uses, which should be discouraged because they are better located in areas with commercial zoning. It is also important to minimize uses that degrade roadway safety and capacity by creating too many access points and conflicting turning movements.

2. Avoid over-concentration of commercial service or office-type special exception uses in residential communities.

These include funeral parlors, horticultural nurseries, veterinary clinics, medical or dental clinics, medical or professional offices, and philanthropic organizations. The Plan does not discourage home occupations that meet Zoning Ordinance criteria. The most vulnerable areas for over-concentration are near employment centers and along major highways.

3. Protect major highway corridors and residential communities from incompatible design of special exception uses.

In the design and review of special exceptions, the following guidelines should be followed, in addition to those stated for special exception uses in the Zoning Ordinance.

- a. Any modification or addition to an existing building to accommodate a special exception use should be compatible with the architecture of the adjoining neighborhood and should not be significantly larger than nearby structures.
- b. Front yard parking should be avoided because of its commercial appearance; however, in situations where side or rear yard parking is not available, front yard parking should be allowed only if it can be comprehensively landscaped and screened.

4. Support special exception uses that contribute to the housing objectives of this Plan.

In general, the Plan endorses meeting special population needs through provision of elderly housing and group homes that are compatible with nearby land uses.

5. Support special exception uses that contribute to the service objectives of the Plan.

The needs and objectives related to child day care and the elderly are discussed in the Community Facilities Chapter. In general, the Plan endorses provision of child day care, group homes, elder day care, and nursing homes.



### 8.3 GREENWAYS

Greenways are corridors of open space that link people, parks, and natural areas. The opportunity exists in North Bethesda-Garrett Park to delineate a network of such corridors. The proposed system includes bikeways and sidewalks and links natural areas, residential areas, commercial and employment centers, and public facilities. The system builds upon the stream valley park system, the recommendations of the 1978 Master Plan of Bikeways, existing streets, and existing rights-of-way to provide an interconnected system of greenways and trails within the planning area and connecting to a regional system.

The Rock Creek hiker-biker trail winds through the Rock Creek Regional Park on the eastern side of the planning area, and portions of the trail are within the planning area boundaries. The Waverly-Schulykill connector was recently completed, providing a trail access from the Town of Garrett Park and the Rock Creek hiker-biker trail. The Waverly-Schulykill connector also provides access to the MARC train station in Garrett Park.

The Montrose Parkway right-of-way is a linear greenway that connects a number of County parks, namely the Cabin John, Old Farm and Rock Creek stream valleys parks, as well as Matthew Henson State Park. This linear greenway would be a substantial addition to the County's open space. This Plan recommends that a significant portion of the right-of-way be preserved as a greenway.

The greenways system proposed by this Plan, which includes both bikeway and sidewalk recommendations, can be found in the Transportation chapter.

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### 8.4 GREEN CORRIDORS

To ensure the identity and integrity of residential areas along major roadways, and to strengthen community identity by creating attractive transportation corridors, the Plan proposes a Green Corridors policy that addresses the visual effects of roadways and abutting properties. The Green Corridors policy is recommended to protect and enhance the residential character of the Planning Area. The policy applies to the following roadways, which differ widely from one another in character:

- |                     |                     |
|---------------------|---------------------|
| Old Georgetown Road | Twinbrook Parkway   |
| Rockville Pike      | Parklawn Road       |
| Randolph Road       | Executive Boulevard |
| Montrose Road       | Strathmore Avenue   |
| Democracy Boulevard | Edson Lane          |
| Tuckerman Lane      | Grosvenor Lane      |

The following is the Green Corridors policy for the North Bethesda-Garrett Park Planning Area.

1. Maintain and enhance planting of vegetation along roadsides and in medians of major highway corridors.

Design guidelines include: placing a landscaped buffer between the curb and relocated sidewalks, placing trees in medians and along curbs, screening of front yard parking, and relocating utility poles to allow for optimum tree planting and sidewalks. Visibility for highway safety must also be considered. Protection and enhancement projects will require coordination between the Maryland State Highway Administration and the Montgomery County Department of Transportation, as well as local property owners and civic associations.

2. The Board of Appeals should require full adherence to the following guidelines for special exceptions in Green Corridors.

- Require screening for parking, even when less than six parking spaces are involved.
- Retain green space, particularly when it provides trees that screen buildings.
- Screen existing buildings with plant material.
- Additions to existing buildings should be compatible with the existing residential architecture and adjoining neighborhoods. Visibility of buildings to residents of nearby communities should be taken into account. Additions should be as unobtrusive as possible, and should be landscaped to provide screening.

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## **8.5 BILLBOARDS**

In 1986 the District Council enacted legislation that prohibits off-site commercial advertising within the County. Zoning Ordinance Text Amendment 86007 was enacted by the District Council on July 29, 1986.

Existing billboards in the planning area—for example, on Randolph Road—as well as in the rest of the County, are all illegal under the present Zoning Ordinance. These billboards pose significant urban design and enforcement problems. They violate Master Plan and Sector Plan objectives for attractive design and appropriate signage to identify businesses or to provide necessary directions for motorists. Billboards are a form of visual pollution; they are incompatible with the existing or planned character of development in Montgomery County, especially within highly developed down-County areas such as North Bethesda-Garrett Park. This Plan recommends enforcement of the 1986 billboard law to have existing billboards removed or phased out expeditiously.

June 9, 2011

**Memorandum**

To: Carlton Gilbert  
Montgomery County Planning Department

From: N’kosi Yearwood  
Montgomery County Planning Department

Re: Special Exception  
S-2791-Dental Clinic  
11406 Old Georgetown Road

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**Staff Recommendation: Denial**

The proposed special exception is not consistent with the recommendations of the Approved and Adopted (1992) North Bethesda Garrett Park Master Plan and does not meet Section 59-G- 1.21 (3) and Section 59-G-1.21 (7) of the Zoning Ordinance.

**Background**

Dr. Nina Aks and Val Aks propose to operate a dental clinic at 11406 Old Georgetown Road in North Bethesda. The property is located at the southwestern intersection of Old Georgetown Road and Sedgwick Lane with access to the property from Sedgwick Lane. The property is 23, 642 square feet in size, and is in the R-200 zone. The existing single-family residential dwelling will be replaced with a new building, approximately 3,700 square feet, which will accommodate the proposed clinic with 18 parking spaces.

**Master Plan Recommendations**

The proposed dental clinic is located within the 1992 North Bethesda/Garrett Park Master Plan. The Master Plan confirmed the R-200 (Single-family residential zone) for properties west of Old Georgetown Road, between Tilden Lane and Poindexter Lane. An objective of the Master Plan is to “protect and reinforce the integrity of existing residential neighborhoods” (p.33).

No specific recommendations are made in the Plan for the subject property of the proposed special exception. The Master Plan highlights the property at the southwest quadrant at Poindexter Lane and Old Georgetown Road (Lots 4 and 5, Block D). It states that the property was subject to a rezoning request to the OM zone in 1988. The Plan confirmed the R-200 zone for this property (p.79).

Riley House/Uncle Tom’s Cabin, (now called Josiah Henson Special Park), is located at 11420 Old Georgetown Road. The Master Plan highlights the historic property and notes that it is listed

on the County's Master Plan for Historic Preservation. No other property is highlighted in the Master Plan along Old Georgetown Road, between Tilden Lane and Tuckerman Lane.

The Master Plan supports special exception "...uses that contribute to the housing objectives of this Plan. In general, the Plan endorses meeting special population needs through provision of elderly housing and group homes that are compatible with nearby land uses" (p.38). Special exceptions that contribute to service objectives of the Plan are supported, such child daycare facilities and nursing homes. (p.38)

The Master Plan establishes several recommendations for special exceptions; identifies issues with large medical facilities; and creates green corridors for major corridors in the Plan area.

### Medical Clinic

The Master Plan identifies large medical facilities as an issue in North Bethesda. It states that "recent actions by the Montgomery County Council would now prohibit large medical complexes such as those previously allowed in North Bethesda-Garrett Park. Current regulations now limit medical clinics in residential zones to four doctors, while the cumulative effect provision allows consideration of whether there would be a negative impact from allowing an additional provider in a particular use category that already has several existing providers" (p.37). Since the adoption of the Plan, the standards for a medical and dental clinic have been modified. The proposed special exception is limited to four medical practitioners.

### Special Exceptions

The Master Plan establishes several standards when reviewing special exceptions in North Bethesda with the goal to "protect residential areas, while also attempting to meet important social needs" (p.37-38). The special exception standards are the following:

1. Avoid excessive concentration of special exception and other nonresidential land uses along major highway corridors.

Because sites along these corridors have better visibility for business uses, they are more vulnerable to over-concentration of such uses. Of particular concern are office uses, which should be discouraged because they are better located in areas with commercial zoning. It is also important to minimize uses that degrade roadway safety and capacity by creating too many access points and conflicting turning movements (p.38).

2. Avoid over-concentration of commercial service or office-type special exception uses in residential communities.

These include funeral parlors, horticultural nurseries, veterinary clinics, medical or dental clinics, medical or professional offices, and philanthropic organizations. The Plan does not discourage home occupations that meet Zoning Ordinance criteria. The most

vulnerable areas for over-concentration are near employment centers and along major highways.

3. Protect major highway corridors and residential communities from incompatible design of special exception uses.

In the design and review of special exceptions, the following guidelines should be followed, in addition to those stated for special exception uses in the Zoning Ordinance.

Any modification or addition to an existing building to accommodate a special exception should be compatible with the architecture of the adjoining neighborhood and should not be significantly larger than nearby structures. Front yard parking should be avoided because of its commercial appearance; however, in situations where side or rear parking is not available, front yard parking should be allowed only if it can be comprehensively landscaped and screened (p.38)

The proposed dental clinic is located along Old Georgetown Road (MD 187), which is a classified as a major highway with a minimum right-of-way of 120 feet. There are several other approved special exceptions in the neighborhood, especially along Old Georgetown Road between Poindexter Lane and Tilden Lane.

There are 11 properties that front the western portion of Old Georgetown Road between Poindexter Lane and Tilden Lane. Three properties have approved special exceptions; two properties have special exceptions that are no longer in use; and two properties have a public use and another property is a religious/institutional use.

The proposed dental clinic would add a fourth special exception along this segment of Old Georgetown Road. This is contrary to the direction established in the Master Plan. A dental clinic is specifically identified in the Master Plan as a use that is not recommended as appropriate for a major corridor in the Plan area. Further, locating another special exception within this area, with three other approved special exceptions, does begin to change the character of the neighborhood along Old Georgetown Road.

#### *Existing Special Exceptions*

At the south-western intersection of Poindexter Lane and Old Georgetown Road is an approved medical and dental clinic (S-1887). Approved in 1992, the special exception is limited to 18 employees, including four practitioners, and 50 parking spaces. The property is 58, 932 square feet property, consisting of two parcels. There are two buildings associated with this special exception, each at 5,000 square feet.

Adjacent to the proposed special exception is another medical and dental clinic special exception (CBA-2923). Approved in 1970, the use is limited to 15 doctors with 60 parking spaces in a 12,030 square foot building. The property is 1.37 acres in size.

At the northwestern intersection of Old Georgetown Road and Tilden Lane is another special exception medical clinic (S-606). Approved in 1978, this use is limited to a maximum of nine physicians. The property is 1.57 acres in size.

#### *Prior Special Exceptions*

There are two properties that are associated with prior special exceptions. The property located at the southwestern intersection of Tilden Lane and Old Georgetown Road was subject to a special exceptions (S-1189) and (BAS 301), located at northwestern intersection of Poindexter Lane and Old Georgetown Road have been terminated.

#### *Public and Institutional Use*

Josiah Henson Special Park, a facility owned by Montgomery County Parks Department, consists of two properties located at 11420 and 11410 Old Georgetown Road. Aish Hatorah of Washington, a religious institution with Alef Bet Montessori School, is located at the southwest intersection of Tilden Lane and Old Georgetown Road. These are permitted use in the R-200 zone.

#### Green Corridors

Old Georgetown Road is identified in the Master Plan as a Green Corridor. The Green Corridors policy is intended to address “the visual effects of roadways and abutting properties. The Green Corridors policy is recommended to protect and enhance the residential character of the Planning Area” (p.250).

The Master Plan recommends that the Board of Appeals adhere to the following guidelines for special exceptions:

- Require screening for parking, even when less than six parking spaces are involved.
- Retain green space, particularly when it provides trees that screen buildings.
- Screen existing buildings with plant material (p.251)

The applicant’s landscape plan illustrates several trees along the western and southern portion of the parking area as well as street trees along Sedwick Lane.

#### Special Exception Findings

Section 59-G.1.21 (3) of the Zoning Ordinance establishes the master plan findings for a special exception. This finding state:

Will be consistent with the general plan for the physical development of the District, including any master plan adopted by the Commission. Any decision to grant or deny a special exception must be consistent with any recommendation in a master plan regarding the appropriateness of a special exception at a particular location. If the Planning Board

or the Board's technical staff in its report on a special exception concludes that granting a particular special exception at a particular location would be inconsistent with the land use objectives of the applicable master plan, a decision to grant the special exception must include specific findings as to master plan consistency.

As noted above, the Master Plan recommends that along major corridors, such as Old Georgetown Road, concentrations of special exceptions uses should be avoided. There are three approved special exception medical clinics, within close proximity to the proposed use. Adding another use that is specifically noted in the Master Plan will contribute towards concentrating medical special exceptions in the subject area.

Section 59-G.1.21 (7) of the Ordinance establishes the criteria for evaluating how a proposed special exception will alter a one-family residential area. It states:

Will not, when evaluated in conjunction with existing and approved special exceptions in any neighboring one-family residential area, increase the number, intensity, or scope of special exception uses sufficiently to affect the area adversely or alter the predominantly residential nature of the area. Special exception uses that are consistent with the recommendations of a master plan do not alter the nature of an area.

The proposed special exception will increase the number and intensity of special exceptions in the area between Poindexter Lane and Tilden Lane within the residential neighborhood. Two medical special exceptions that are adjacent to each other, with all the elements that are inherent with the use, will alter the residential nature of the area.





June 16, 2011

**MEMORANDUM**

**TO:** Carlton Gilbert, Planner Coordinator  
Area 2 Division

**VIA:** Shahriar Etemadi, I-270 Corridor Supervisor  
Area 2 Division

**FROM:** Ed Axler, Transportation Planner Coordinator  
Area 2 Division

**SUBJECT:** Board of Appeals Case S-2791  
Nina and Val Aks' Medical/Dental Clinic  
11406 Old Georgetown Road, Rockville.  
North Bethesda Policy Area

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This memorandum is Area 2 transportation planning staff's Adequate Public Facilities (APF) review of the subject special exception case for a proposed medical/dental clinic at the corner of Old Georgetown Road and Sedgwick Lane in North Bethesda.

**RECOMMENDATIONS**

Area 2 transportation planning staff recommends the following conditions for this special exception case to meet its transportation-related requirements:

1. The Petitioner's proposal to upgrade Sedgwick Lane to a primary residential road standard No. 2003.10 along its property frontage must include the following:
  - a. Dedication of additional 10 feet of right-of-way along the Sedgwick Lane property frontage to provide for 35 feet from the centerline.
  - b. Widening of the paved travelways from existing 18 to 26 feet.
  - c. Working with the Montgomery County Department of Transportation (MCDOT) to implement and install the necessary signs to prohibit parking on both sides of Sedgwick Lane along the property frontage.

- d. Providing a 5-foot wide sidewalk along the entire property frontage.
2. The Petitioner must provide a 6-foot wide sidewalk along its frontage on Old Georgetown Road. The sidewalk must be located behind a 6-foot wide tree panel in accordance with the Road Code's standard for the major highways.
3. The Petitioner must satisfy the Policy Area Mobility Review (PAMR) test by mitigating five peak-hour trips. The Petitioner has the options to satisfy the PAMR requirement by either paying MCDOT \$11,300 PAMR trip (30% of 15 trips is 5 trips) for a total of \$56,500 or construct missing or substandard segments of sidewalks and/or bikeways off-site within the North Bethesda Policy Area according to the LATR/PAMR Guidelines.

## **DISCUSSION**

The proposed site is located in the southwest corner of the intersection of Old Georgetown Road (MD 187), and Sedgwick Lane. The vehicular access to the site is proposed from Sedgwick Lane. Access from Old Georgetown Road is not permitted by the Maryland State Highway Administration that restricts new curb cuts from major highways. The Petitioner proposes to upgrade Sedgwick Lane to a primary residential road standard No. 2003.10, as required by the zoning ordinance section 59 G 2.14(b). The Zoning Ordinance in relation to allowing access to a site that is approved through special exception petition states that it must meet the following condition:

"The Property must front on and have direct access to a public street or roadway having more than one through travel lane in each direction; except that access to a corner lot may be from an adjoining primary street, constructed to primary standards, if the Board finds the access to be appropriate and not detrimental to the existing residential uses on the primary street."

The applicant has proposed to upgrade Sedgwick Lane to a Primary Residential street along the property frontage that includes two paved travel lanes with 26 feet of pavement width and sidewalk extending between the site's access point and Georgia Avenue. Staff recommends that the sidewalk be extended west to cover the entire property frontage. However, this does not make Sedgwick Lane a Primary Residential street. Reclassification of roadways can only be done by County Council action through a master plan amendment. The petitioner has proposed to upgrade Sedgwick Lane to a primary street but only in terms of pavement width and partial sidewalk. If this section is proposed to be upgraded to a primary street, the petitioner must dedicate additional 10 feet of right of way and it must be done for the entire distance along the property frontage not just a portion of it.

The Petitioner should work with the Montgomery County Department of Transportation (MCDOT) to implement and install the necessary signs to prohibit parking on both sides of Sedgwick Lane along the property frontage.

Vehicular and Pedestrian Circulation:

According to the approved and adopted 1992 *North Bethesda/Garrett Park Master Plan*, *Old Georgetown Road* is designated as a six-lane divided major highway, M-4, with a 120-foot right-of-way and no bikeway.

A five-foot wide sidewalk with no green panel buffer exists along Old Georgetown Road. The Petitioner should upgrade the Old Georgetown Road frontage by widening the sidewalk to six feet and relocated the sidewalk behind a six-foot green panel in accordance with the Road Code's standard for the master-planned major highways.

Traffic destined to the site and traveling northbound on Old Georgetown Road is prohibited from turning left onto Sedgwick Lane (restricted by a No Left Turn Sign). Due to this left turn movement prohibition, the travelers coming from the south basically have two options. One is that they must pass the Sedgwick Lane and make a U-turn at the next signalized intersection at Tilden Lane and Nicholson Lane and then make a right turn movement onto Sedgwick Lane to reach the site, or; take Luxmanor Road from Tuckerman Lane near I-270 spur and travel through the neighborhood on the west side of the Old Georgetown Road to reach Sedgwick Lane. The patrons of the dental clinic may find other routes to reach their destination. Staff is not able to quantify how many trips will be routed through the neighborhood streets to reach the site at the corner of Sedgwick Lane and Old Georgetown Road. However, it is possible that some of the traffic generated by the site will take the neighborhood streets on the west side of Old Georgetown Road to reach their destination. The nearby local residential streets on the west side of Old Georgetown Road within the Luxmanor neighborhood are substandard tertiary residential streets. The local tertiary residential streets typically have 50-foot rights-of-way, but have less than 20-feet of paved roadway and no sidewalks. With no sidewalks and the narrow paved roadways, students walking to the three nearby public schools or biking on these streets have no safe path to separate them from vehicles. The Montgomery County Department of Transportation (MCDOT) has attempted to slow down motorists by installing speed humps and small traffic circles along Luxmanor Road.

Other master/sector-planned designations in the vicinity of the site include Tilden Lane designated as a primary residential street, P-7, with 70-foot right-of-way according to the *North Bethesda/Garrett Park Master Plan*. Nicholson Lane is designated as an arterial, A-69, with a 90-foot right-of-way according to the 2010 approved and adopted *White Flint Sector Plan*.

A Class III bikeway is designated along both Tilden Lane and Nicholson Lane according to the *North Bethesda/Garrett Park Master Plan*.

Adequate Public Facilities--LATR and PAMR:

The Petitioner has proposed a 3,589 square feet of a medical/dental clinic that would replace the existing single-family detached unit. According to the Institute of Transportation Engineers Trip Generation Manual, the site will generate eight peak hour trips in the weekday morning peak period (6:30 to 9:30 a.m.) and 15 trips in the evening peak period (4:00 to 7:00 p.m.).

The proposed dental office is not required to prepare a traffic study because it generates less than 30 peak hour trips and therefore is exempt from LATR test. However, the site is subject to PAMR mitigation requirement. The site is located within the North Bethesda Policy area with a 30% of site new trips mitigation requirement. This equates to 5 trips (30% of 15 trips is 5 trips) to be mitigated that can be done at the time of issuing the building permit. The Petitioner has the options of paying MCDOT \$11,300 per PAMR trip for a total of \$56,500 towards their PAMR mitigation or construct missing or substandard segments of sidewalks and/or bikeways off-site within the North Bethesda Policy Area, according to the LATR/PAMR Guidelines.

Transit service includes Ride-On route 26 operating along Old Georgetown Road between the White Flint Metrorail Station and Montgomery Mall. Transit service is not available on Sedgwick Lane.



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

**MEMORANDUM**

Date: June 10, 2011  
To: Carlton Gilbert  
Team 2 Division  
From: Steve Findley *SFH*  
Team 2 Division  
Subject: Board of Appeals Petition No. S-2791 (Medical Clinic)

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No significant environmental concerns are associated with this Special Exception request.

**Comments**

- Because the size of the lot is less than 40,000 square feet and no champion trees are being affected, the Forest Conservation Law does not apply to this site.
- The site does not contain any forest, wetlands, stream buffers, steep slopes, 100-year floodplains or significant habitats that would be regulated under the Environmental Guidelines.
- There is no evidence that this use will generate noise in excess of levels permitted under the noise ordinance.
- The site is served by WSSC with public water and sewer connections.
- Removal of the existing cherry trees along Sedgwick Lane is a significant aesthetic concern. If the Special Exception is approved, the landscape plan for this site should address appropriate replacement of these trees.



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

**(REVISED)**  
**MEMORANDUM**

Date: May 25, 2011

To: Carlton Gilbert  
Team 2 Division

From: Patrick Butler *P.B.*  
Team 2 Division

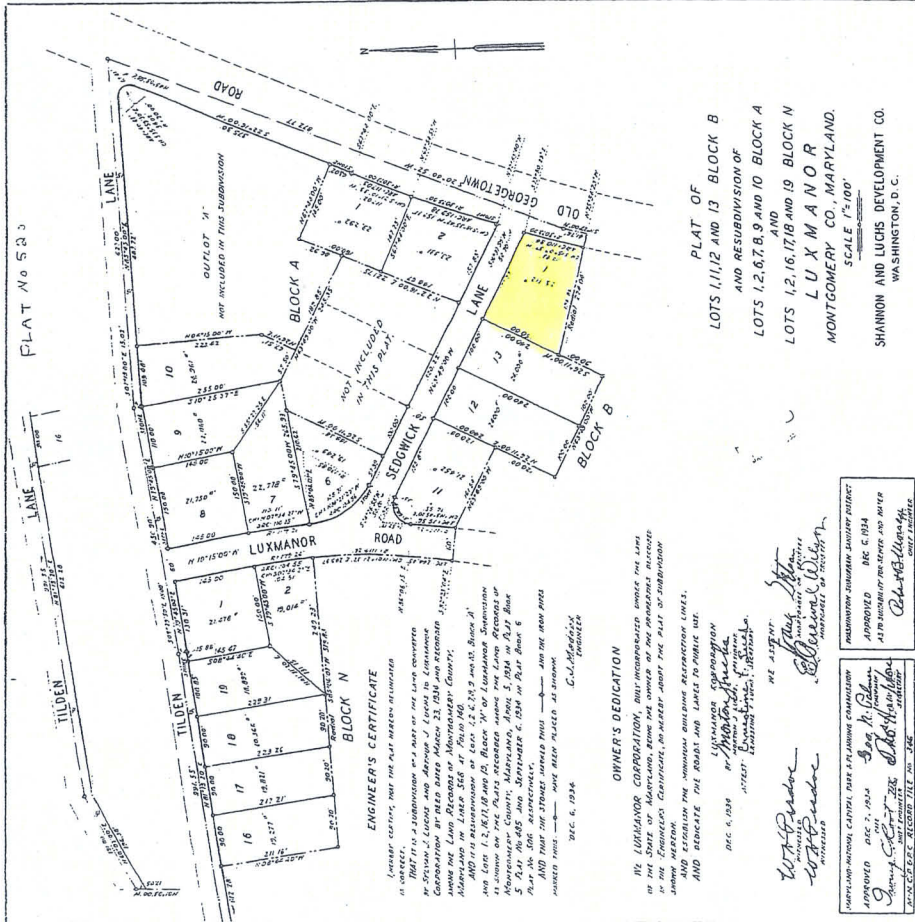
Subject: Board of Appeals Petition No. S-2791 (Medical Clinic)

This is a revision of the memo dated January 31, 2011. The Applicant has provided sufficient evidence to prove the Subject Property qualifies for an exception to platting in accordance with Section 50-9(c) *Public Taking* (see revised Applicant Justification Statement). Therefore, a preliminary plan and subsequent plat will not be required.

Original comments below:

The Subject Property was recorded as Lot 1, Block B, of the Luxmanor Subdivision in January of 1935 according to record plat 520 (attached). Lot 1 is listed as 23,712 square feet in size on plat 520. According to drawings submitted as part of S-2791, the Subject Property is listed as 23,642 square feet in size, and tax maps confirm that Lot 1 is now Part of Lot 1.

Please explain the small difference in size, and provide justification for not having to re-plat the Subject Property.



**ENGINEER'S CERTIFICATE**  
 I HEREBY CERTIFY, THAT THE PLAT HEREIN SHOWN IS A TRUE AND CORRECT COPY OF THE ORIGINAL PLAT AS DEPOSITED IN THE OFFICE OF THE CLERK OF THE DISTRICT OF COLUMBIA, AND THAT THE SAME IS IN ACCORDANCE WITH THE ACTS OF CONGRESS RELATIVE TO THE RECORDING OF PLATS IN THE DISTRICT OF COLUMBIA, AND THAT THE SAME IS IN ACCORDANCE WITH THE ACTS OF CONGRESS RELATIVE TO THE RECORDING OF PLATS IN THE DISTRICT OF COLUMBIA, AND THAT THE SAME IS IN ACCORDANCE WITH THE ACTS OF CONGRESS RELATIVE TO THE RECORDING OF PLATS IN THE DISTRICT OF COLUMBIA.

**OWNER'S DEDICATION**  
 WE, LUXMANOR CORPORATION, DO HEREBY DEDICATE TO THE STATE OF MARYLAND, THE ROADS AND LANS SHOWN ON THE PLAT OF SUBDIVISION OF LOTS 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 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996, 997, 998, 999, 1000.

PLAT OF  
 LOTS 1, 11, 12 AND 13 BLOCK B  
 AND RESUBDIVISION OF  
 LOTS 1, 2, 6, 7, 8, 9, AND 10 BLOCK A  
 AND  
 LOTS 1, 2, 16, 17, 18 AND 19 BLOCK N  
 LUXMANOR  
 MONTGOMERY CO., MARYLAND.  
 SCALE 1"=100'  
 SHANNON AND LUCHS DEVELOPMENT CO.  
 WASHINGTON, D. C.

**APPROVED** DEC 5, 1934  
 BY THE CLERK OF THE DISTRICT OF COLUMBIA  
 [Signature]  
 [Signature]  
 [Signature]  
 [Signature]  
 [Signature]

MARYLAND STATE ARCHIVES

LAW OFFICES OF

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WRITER'S DIRECT DIAL

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NORMAN G. KNOPF

June 6, 2011

Via Email and Regular Mail  
MCP-Chair@mncppc-mc.org

Françoise M. Carrier, Chair  
 and Members of the Board  
 Montgomery County Planning Board  
 8787 Georgia Avenue  
 Silver Spring, MD 20910

RE: **Petition of Nina V. Aks, D.M.D., LLC and Nina and Val Aks**  
**11406 Old Georgetown Road**  
**Medical/Dental Clinic Special Exception Application S-2791**

Dear Chair Carrier and Members of the Board:

Luxmanor Citizens Association and Luxmanor Is For Homes Not Clinics, an association comprised of adjacent, confronting and other nearby residents to the site, request that the Board recommend **DENIAL**. The reasons are summarized below and will be addressed in more detail at the public hearing.

**I. THE MEDICAL CLINIC SPECIAL EXCEPTION IS INCONSISTENT WITH THE MASTER PLAN. §59-G-1.21(a)(3).**

1. Seven of the eleven lots on the west side of Old Georgetown Road, from Tilden Lane to Poindexter Lane, are currently occupied by non-residential uses, including three medical/dental clinics. This will make it 8 out of 11.

2. The North Bethesda Garrett Park Master Plan states:

p.38 – “Avoid excessive concentration of special exceptions and other non-residential land uses along major corridors.”

p.38 – “Of particular concern are office uses, which should be discouraged because they are better located in areas with commercial zoning.”

p.38 – “Avoid overconcentration of...office-type special exception uses in residential communities. These include...medical or dental clinics.... The most vulnerable areas for over-concentration are near employment centers and along major highways.”



3. This area of Old Georgetown Road is extremely close to the White Flint Sector Plan area, literally diagonally across Old Georgetown Road from Tilden Lane. As a matter of good planning and public policy, such use should be in the Sector Plan area and not permitted to "leach" into neighboring residential communities.

## **II. OVERCONCENTRATION OF CLINIC SPECIAL EXCEPTIONS AFFECTING THE AREA ADVERSELY §59-G-1.21(a)(7).**

1. The clinic will be located adjacent to an existing clinic special exception with 15 practitioners and 60 parking spaces; one block north there is another clinic special exception, with 8 separate professional suites, and 50 parking spaces; and one block to the south, there is another clinic special exception with 4 offices and 63 parking spaces. Aesthetically yet another clinic special exception would adversely affect the character of the area as well as the aesthetics and traffic. (See also, §59-G-1.21(a)(4)).

## **III. SUITABLE OFFICE SPACE IS AVAILABLE PRECLUDING THE SPECIAL EXCEPTION. §59-G-2.14(c).**

1. The requirement that suitable office space is "unavailable in either the nearest commercial zone or nearest special exception medical clinic office building..." is not met.

2. Suitable space is available, for example, in the special exception adjacent clinic and the nearest commercial zone (White Flint Sector Plan area).

## **IV. ROAD ACCESS REQUIREMENT IS NOT MET §59-G-2.14(b).**

1. A clinic is required to have direct access from a street having more than one through travel lane in each direction. Where the property is located on the corner lot, access may be from such a wide street, via an adjoining primary street. The Aks site is on the corner of Old Georgetown Road and Sedgwick Lane.

2. Sedgwick Lane is not a primary street, but merely 18' wide. The applicant proposes to widen Sedgwick between Old Georgetown and its driveway to meet primary street standards. This does not make Sedgwick a primary street, as it remains substandard from the applicant's driveway to the next cross street, Luxmanor. Local streets within this area, with the exception of Tilden Lane, are below primary-street standards.

3. Making a segment of Sedgwick Lane a primary road requires the removal of cherry trees aligning the street.

4. The rest of Sedgwick Lane remains a substandard street, much like the other streets in the area. The streets have no sidewalks, are so narrow that when one car is parked there is no room for two-lane traffic.

**V. THE CLINIC REDUCES THE SAFETY OF VEHICULAR AND PEDESTRIAN TRAFFIC IN VIOLATION OF §59-G-1.21(a)(9)(C)**

1. The requirement that the clinic “will not reduce the safety of vehicular or pedestrian traffic” is not met.

2. There is no left turn from Old Georgetown Road into Sedgwick Lane for cars traveling north. Cars will travel further north to make a u-turn on Old Georgetown (an unsafe maneuver) or will cut through the Luxmanor community, such as on Luxmanor Road, to turn onto Sedgwick. As noted, Luxmanor streets are narrow and have no sidewalks. Children bike and walk in the streets to the nearby Luxmanor Elementary School; Orthodox Jews walk in the streets on Friday evening and Saturday to the Aish Center for religious services. As noted, one parked car prevents two-way traffic.

**VI. THE NUMBER OF PARKING SPACES IS INSUFFICIENT AND NO ROOM FOR ADDITIONAL SPACES**

1. The applicant proposes 18 parking spaces, 17 + 1 handicapped, requiring a setback waiver for 4 of those spaces. There is no basis for the setback waiver, other than too much development on the site.

2. Even assuming the waiver, the 18 spaces are woefully insufficient and will result in parking on the neighboring narrow streets creating safety and traffic activity concerns (§59-G-1.21(a)(4) & (5); §59-G-1.21(a)(9)(C).

Spaces	18 total (including 1 handicapped)
<u>First Floor</u>	
2 (cellar)	Laboratory Employees
2	First Floor Dentists
4	Patients in 4 operating rooms
4	Patients waiting
2	Dental hygienists
<u>2</u>	Additional Employees
14	Total First Floor and Lab – 14 of 18 spaces

Second Floor

2	Medical practitioners
<u>2</u>	Staff
18	

All Spaces Used; But:

- Insufficient parking for additional staff
- No parking for 2<sup>nd</sup> floor patients
- No parking spaces for emergency patients
- No parking spaces for deliveries
- Insufficient parking for approximately 20 person conferences proposed in application

3. Note: the clinic special exception at 11210 Old Georgetown (at the corner of Poindexter) provides for 4 practitioners and requires 50 parking spaces.

**VII. THE CLINIC WILL BE DETRIMENTAL TO THE USE AND PEACEFUL ENJOYMENT OF SURROUNDING PROPERTIES. §59-G-1.21(a)(5)**

1. The residents of the house on the opposite side of Sedgwick Lane, confronting this site, will no longer look at the single family house which will be torn down, but at the large building containing the clinic, its driveway and parking lot as well as will experience the noise of traffic and lights from the headlights.

2. The property adjoining the clinic, the Sedgwick Lane home behind the site, will similarly no longer look at the single family house which will be torn down, but at a large building containing the clinic with a view of its 18 parking spaces, adding to the existing view of the parking lot of the clinic adjacent to the Aks site. Although the Aks parking is to be "screened" by a fence and plantings, this does not screen the view from the second story of that home. Similarly, noise from the driveway and parking lot will be heard by the homeowner.

We respectfully request that the Board urge **DENIAL** in as strong terms as possible.

Sincerely yours,

Norman G. Knopf

cc: Dan Press  
Carlton Gilbert, MNCPPC-MC

-+June 8, 2011

Via Email and Regular Mail  
MCP-Chair@mncppc-mc.org

Françoise M. Carrier, Chair  
and Members of the Board  
Montgomery County Planning Board  
8787 Georgia Avenue  
Silver Spring, MD 20910

**RE: Petition of Nina V. Aks, D.M.D., LLC and Nina and Val Aks  
11406 Old Georgetown Road (aka 2 Sedgwick Lane)  
Medical/Dental Clinic Special Exception Application S-2791**

Dear Madam Chair and Members of the Board:

I am writing to express my strong opposition to the subject application and respectfully request, indeed urge, that the Board deny the application. I join my neighbors, the Luxmanor Citizens Association (LCA) which represents our community of 850 families, and the Luxmanor Is For Homes Not Clinics association – all of whom are unanimous in opposing the commercialization of the subject residential property, which is opposite my home of forty years at 3 Sedgwick Lane.

Only through the devious contrivance of the former owner to misrepresent residential property as commercially viable is the subject site – established and recorded for three quarters of a century as 2 Sedgwick Lane – now identified as 11406 Old Georgetown Road. The applicant should not be afforded any exceptional rights to use the site in a non-residential (commercial) manner, whether as a real estate asset leased to others or for contracting out dental lab services.

Upon learning of her plans two years ago in June 2009 and continuously since, Dr. Aks has been well informed of the neighborhood opposition to non-residential development of the site. I participated in three such meetings with her, and she was advised in writing of the unanimous vote of our community in opposing her plan, reference *Luxmanor Greensheet* February 2011. I visited her current office and appreciate her desire to move to larger facilities, but appropriate commercial space is plentiful nearby if she would like to relocate close to our community.

I am not a NIMBY. I did not oppose the Trinity church expansion nearby on Old Georgetown Road, and I supported, indeed participated in planning, the development and expansion of the Josiah Henson Special Park site which adjoins the rear and side of my property. However, I am strongly opposed to approving a precedent-setting application for non-residential development and use of the subject site with **sole** access on our narrow (18' wide) non-primary street within the **interior** of our neighborhood. I selected Luxmanor in 1972 as a tranquil residential refuge, convenient to commercial services as needed outside the neighborhood; we don't need or want a medical clinic or other commercial venture in our front yard. I guess this makes me a NIMFY.

Françoise M. Carrier, Chair  
Montgomery County Planning Board  
June 8, 2011

There exists a proliferation of non-residential uses in the neighborhood. Eleven of fifteen current (and resubdivided) lots on the west side of Old Georgetown Road, from Poindexter Lane to Tilden Lane, are currently occupied by non-residential uses, including three medical/dental clinics. Approval of the application will make it 12 of 15. Another view indicates clinics on the corners of three of four of these residential streets at Old Georgetown Road; approval will make it four of four. Approval of the application will exacerbate the already existing “overconcentration” by anyone’s definition. (See table below.) This area of Old Georgetown Road is extremely close to the White Flint Sector Plan area, literally diagonally across Old Georgetown Road from Tilden Lane. As a matter of good planning and public policy, such use should be confined to the Sector Plan area and not permitted to “bleed” into neighboring residential communities such as Luxmanor.

Careful reading of the application indicates that the planned sea of 18 parking spaces will be insufficient to support the clinic’s operations, and the applicants’ assertions notwithstanding, it reasonably can be deduced that employees and/or patients will invariably park on Sedgwick Lane, which is only 18’ wide without curbs. This will create a property and life safety hazard. Children ride bikes and walk in the streets to the nearby Luxmanor Elementary School; Orthodox Jews walk in the streets on Friday evening and Saturday to the nearby Aish Center for religious services, and adult health walkers use the streets daily. (See pix 1.) Parking on even one side of the street (at least partially on residents’ lawns) impedes required two-way traffic flow and blocks drivers’ view of pedestrians and bikers. Parking on both sides amplifies the danger to pedestrians and bikers and makes access by emergency vehicles impossible. (See pix 2.) The application selfishly illustrates fire truck parking on Old Georgetown Road to serve the clinic but ignores the requirement for fire and medical emergency vehicle access to the middle of the block of Sedgwick Lane.

Employee and patient traffic to/from the clinic will add to the existing risk to pedestrians and bikers on Sedgwick Lane, Luxmanor Road, Roseland Drive, and Poindexter Lane – all of which are narrow and have no sidewalks or curbs. Access to the site will, by traffic regulation, safety, and personal convenience, lead to additional traffic through our neighborhood. No left turn onto Sedgwick Lane from northbound Old Georgetown Road is permitted, and a “U” turn at Tilden Lane a bit farther north is extremely dangerous and the site of frequent accidents. The application proposes a “mountable island” to encourage drivers exiting the site to turn right toward Old Georgetown Road, but it would seem no more a deterrent to traffic turning left and flowing through our neighborhood than the “NO EXIT” sign at the clinic on Old Georgetown Road at Tilden Lane which is typically ignored. (See pix 3.)

The application asserts that the cherry trees, in the County’s right-of-way adjoining the site, are “hazardous” and require removal. Pardon the pun, but that strikes me as “overkill” and, further, requires County approval for their destruction. It seems the deadwood could be trimmed from the otherwise healthy trees to mitigate the hazard of falling limbs. The application initially claimed the trees were “unhealthy,” but maybe that didn’t present as dramatic a “justification” for their removal to suit the applicants’ purposes. Other cherry trees on Sedgwick Lane have been significantly trimmed, and they continue to survive quite well – blooming beautifully every spring – as those on the applicants’ site are expected to do for decades. Sedgwick’s cherry trees rival (or surpass) those in Kenwood and are a treasured community asset that must be preserved, not squandered!

Françoise M. Carrier, Chair  
 Montgomery County Planning Board  
 June 8, 2011

Along with my neighbor next door at 1 Sedgwick Lane we would no longer have a view of the lovely cherry trees and single family house, which would be torn down, but of the large building containing the clinic and its driveway and parking lot. We would experience (suffer) the loss of beautiful, healthy trees, noise of additional traffic and lights from the headlights of vehicles entering and leaving the site, and traffic and parking on our narrow street creating a hazardous environment for us and our neighbors.

Approval of the application and non-residential development of the site certainly would destroy the character of our quiet, peaceful neighborhood and diminish our enjoyment of the oasis we sought in Luxmanor. When turning into our narrow lane from the race track of Old Georgetown Road it's like entering another world, and we do not want that world shattered for commercial purposes. The application represents purely commercial exploitation of the residential site; Dr. Aks would be well served to utilize readily available commercial space or build an office in her home in Potomac.

Based on the foregoing and other reasons we strongly feel what is proposed for the site is abhorrent. We plead with the Board to exercise effective stewardship of this residential property and respectfully urge that the application be denied.

It would be appreciated if this letter could be read into the record of the subject application.

Sincerely,

Elery J. Caskey, Jr.  
 3 Sedgwick Lane  
 Rockville, MD 20852-3636

cc: Della Stolsworth, LCA  
 Dan Press, LHNC  
 Carlton Gilbert, MNCPPC-MC

**Old Georgetown Road (West side) Development Between Poindexter Lane and Tilden Lane**

11210 OGR – Clinic at Poindexter Lane	11406 OGR (formerly 2 Sedgwick Lane)
11212 OGR – Clinic at Poindexter Lane	1 Sedgwick Lane – Residence
11214 OGR – Clinic at Poindexter Lane	11410 OGR – Henson Special Park Expansion
6001 Poindexter Lane – Residence	11420 OGR – Henson Special Park
11304 OGR – Jewish ROC	11418 OGR – Aish Center
6000 Roseland Drive – Residence	11500 OGR – Clinic at Tilden Lane
11379 OGR – Manar Medical Clinic*	11510 OGR – Clinic at Tilden Lane
11404 OGR – Manar Medical Clinic*	

\* "Lot 14 Block B located at 11379 and 11404 OGR..." resubdivided as condition of SE-2923 in 1971.

Note: Manar Medical Clinic is, by extension, at the corner of OGR and Roseland Drive.

Françoise M. Carrier, Chair  
Montgomery County Planning Board  
June 8, 2011

Attachments:

Pix 1: Walkers and Bikers on Luxmanor Road at Sedgwick Lane



Pix 2: Parking in front of 3 and 4 Sedgwick Lane



Pix 3: OGR-Tilden Lane Clinic "No Exit" (Note sign on right)



## **MCP-CTRACK**

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**From:** Hal Quayle [hquayle@gmail.com]  
**Sent:** Thursday, June 09, 2011 12:02 PM  
**To:** MCP-Chair  
**Cc:** Gilbert, Carlton; Dan Press; Della Stolsworth  
**Subject:** Medical/Dental Clinic Special Exception Application S-2791  
**Attachments:** letter to board.doc

**RECEIVED**  
0535  
JUN 09 2011

OFFICE OF THE CHAIRMAN  
THE MARYLAND-NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION

Dear Madam Chair,

Please find attached a letter from my wife, Martha Z. Quayle and myself, Harold Quayle, Jr., giving reasons for our strong opposition to the granting of this Special Exception. We, at 4 Sedgwick Lane, are the adjacent property owners to the Application. That property, now called 11406 Old Georgetown Road, was 2 Sedgwick Lane from 1934 until several years into the 21st century.

We are also represented by statements that you will receive from Daniel S. Press, president of Luxmanor is for Homes Not Clinics (LHNC), to which we belong, Norman Knopf, Esq, the attorney for LHNC, and Della Stollsworth, president of Luxmanor Citizens Association (LCA), to which we also belong.

Thank you for your attention to this matter. I look forward to testifying before you at the hearing scheduled for June 30th on this Special Exception.

Harold Quayle, Jr.  
4 Sedgwick Lane  
Rockville, MD 20852



Via Email and Regular Mail  
MCP-Chair@mncppc-mc.org

Françoise M. Carrier, Chair  
and Members of the Board  
Montgomery County Planning Board  
8787 Georgia Avenue  
Silver Spring, MD 20910

**RE: Petition of Nina V. Aks, D.M.D., LLC and Nina and Val Aks  
11406 Old Georgetown Road (aka #2 Sedgwick Lane)  
Medical/Dental Clinic Special Exception Application S-2791**

Dear Madam Chair and Members of the Board:

We write to you as the adjoining property owners to the land parcel for which S-2791 is being sought. We wish to express in the strongest terms possible our vehement opposition to the Special Exception which, if granted, will transform a seventy-five year old quiet block of nine homes, numbered 1 through 9, into something never envisioned, we are quite certain, by anyone who ever called Sedgwick Lane home. We pray that our plea will not fall on deaf ears.

Everyone who has ever taken ownership of one of these nine houses has done so with the intent to make a home for themselves and their families. That is, until now. The applicant in S-2971 has purchased the property, not to create a home but to create financial gain for herself. She will destroy the house that has been a home for three-quarters of a century and replace it with a commercial structure in which she will be not only a dental practitioner but a landlord. She will be one-fourth dentist and three-fourths landlord. Her home will be elsewhere. Sedgwick Lane, indeed all of Luxmanor, will serve her only as a means of income.

For anyone to claim that this overwhelmingly unwelcome intrusion into our residential community does not change its residential character is to create a fantasy of the highest order.

Can this be called residential when we will see dozens of cars entering and leaving the property six days a week, from early morning until well after dark?

Can this be called residential when, even before the building is begun, the cacophony of chain saws will be heard removing two or three of the beautiful cherry trees that have lined this historic street since the years between the two World Wars?

Can this be called residential when hundreds of square feet of lawn are replaced with asphalt?

Can this be called residential when we will see traffic on our local streets far in excess of current volume?

The answer, of course, to all of these questions is a resounding NO.

The applicant claims that we, sharing their property line, will be shielded from the near constant moving about of cars and delivery vehicles by fencing and newly planted trees and bushes. We feel quite certain that no amount of fencing and planting will make us unaware of a busy commercial establishment just feet away from our dining room and kitchen windows, a commercial establishment that will house more than a dozen workers all day and receive several dozen patients during a normal work day. The dining room and kitchen are, of course, on our first floor. The applicant will not be building a fence that even pretends to block what we will be constantly aware of when we are on our second floor.

You, Madam Chair and Board Members, are a critical part of our defense against this great threat to the residential character of the beautiful neighborhood where we have made our home for forty-three years. The mission statement of the Maryland-National Capital Park and Planning Commission, as found on the Commission's website, begins with the following sentence:

*Throughout 80 plus years of service, The Maryland-National Capital Park and Planning Commission has endeavored to improve the quality of life for all of the citizens of the bi-county area it serves and of the communities in which these citizens live, work and raise their families.*

If Special Exception S-2791 is allowed we feel that our quality of life on Sedgwick Lane will be greatly diminished and we earnestly entreat you to recommend denial.

Sincerely yours

Harold Quayle, Jr.

Martha Z. Quayle

cc: Della Stolsworth, LCA  
Dan Press, LHNC  
Carlton Gilbert, MNCPPC-MC

LAW OFFICES OF  
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E-MAIL [KNOPF@KNOPF-BROWN.COM](mailto:KNOPF@KNOPF-BROWN.COM)  
WRITER'S DIRECT DIAL  
(301) 545-6104

NORMAN G. KNOPF

**MEMORANDUM**

TO: Carlton Gilbert (via email – [carlton.gilbert@mncppc-mc.org](mailto:carlton.gilbert@mncppc-mc.org))  
Montgomery County Planning Board

FROM: Norman G. Knopf

DATE: May 31, 2011

RE: **Dental Clinic – Old Georgetown Road**  
**Special Exception Number S-2791**  
**Dr. Nina Aks**

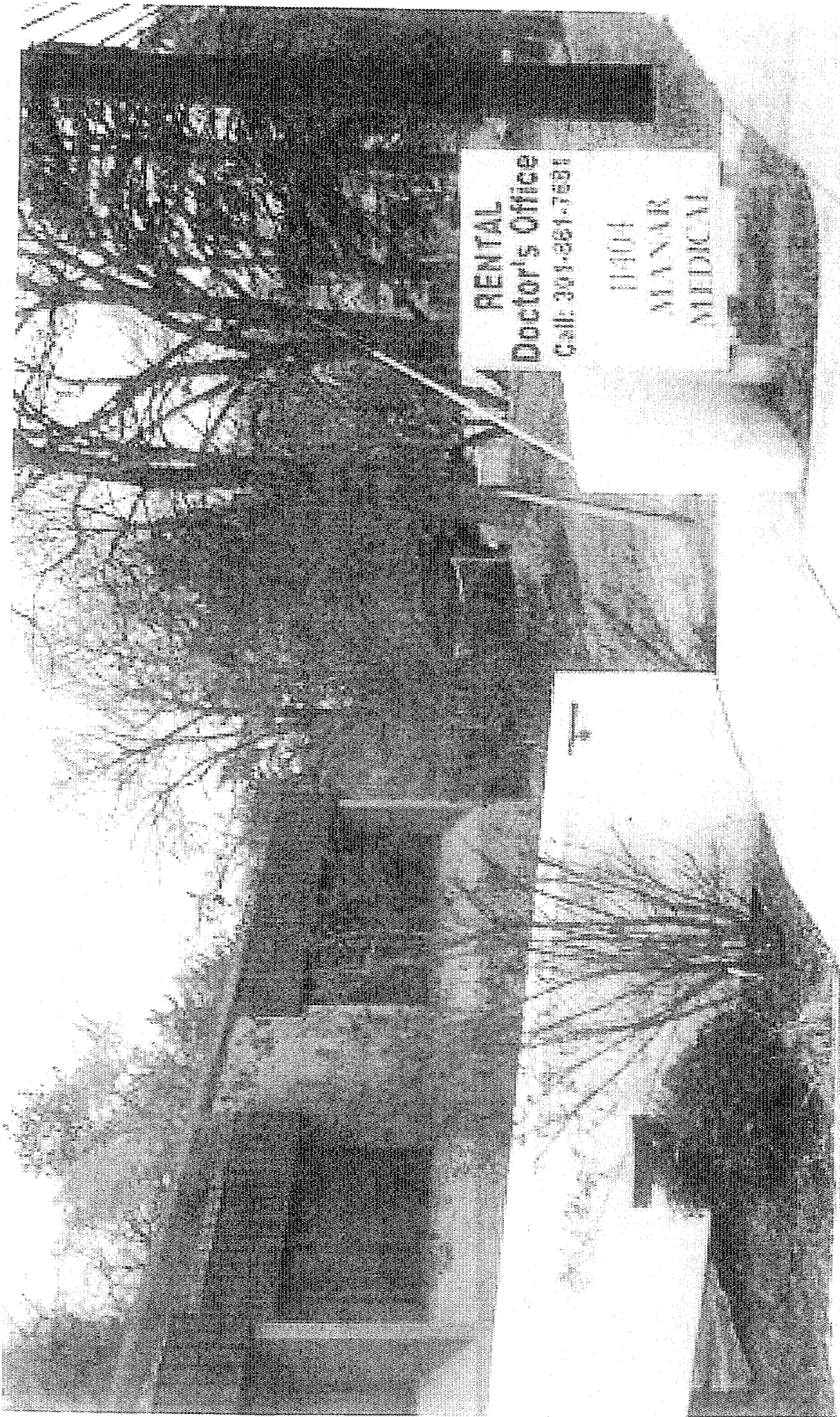
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At our meeting on May 11, 2011, the community representatives noted the numerous medical office buildings in the immediate vicinity with space available for dental offices for Dr. Aks. One of buildings mentioned was 11404 Old Georgetown Road, the Manar Medical Office Building. This building is adjacent to the proposed Aks special exception site.

Attached is a photo showing the "For Rent" sign for doctor's offices in the Manar Building at that location. Also attached is a photo of the directory in the Manar Building showing at least two empty doctors' offices and also showing many other offices are occupied by dentists. These photos were taken on May 14, 2011. We would appreciate your taking this information into consideration when preparing your report.

If you have any questions, please do not hesitate to call.

cc: Dan Press



RENTAL  
Doctor's Office  
Call: 301-261-7581

HACH  
MANAR  
MEDICAL



12/14/2011  
KAM

# MANAR MEDICAL

## THIS LEVEL

201 POTOMAC DENTAL CENTER  
ELENIR BERNARDES DDS -F- ASSOC

203 MARG HERTZMAN MD PSYCHIATRIST  
DAINA O'BRIEN PHD PSYCHOLOGIST

204 MARTIN G ABEL DDS  
SHANNON E ABEL DDS

206 JOHNS ENG MD PLASTIC SURGERY  
JOSEPH MICHAELS MD PLASTIC SURG

## LOWER LEVEL

101

102

103 DAVID EDDY PHD

104 BEHRENS & KISHTER PC ORAL SURG

105 DR SHERRY GOLDMAN PSYCHIATRY

106 MANAR MANAGEMENT 301 881 7681  
ARTH AND BIVAS

MAY 14, 2011

KIRILL REZNIK  
39th Legislative District  
Montgomery County

Health and Government  
Operations Committee



RECEIVED  
0492  
MAY 26 2011

OFFICE OF THE CHAIRMAN  
THE MARYLAND-NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION

Annapolis Office  
The Maryland House of Delegates  
6 Bladen Street, Room 225  
Annapolis, Maryland 21401  
301-858-3039 · 410-841-3039  
800-492-7122 Ext. 3039  
Fax 301-858-3126 · 410-841-3126  
Kirill.Reznik@house.state.md.us

District Office  
301-540-0054 · Fax 301-540-0911

THE MARYLAND HOUSE OF DELEGATES  
ANNAPOLIS, MARYLAND 21401

May 25, 2011

Françoise Carrier  
Chair of the Montgomery County Planning Board  
The Maryland-National Capital Park and Planning Commission  
8787 Georgia Ave.  
Silver Spring, MD 20910

Dear Ms. Carrier,

As an elected official in Montgomery County, it is important for me to promote development in our county that is to the benefit of our community. It is with this in mind that I would like to express my support for Special Exception Application S-2791 submitted by proposed property owners Dr. Nina V. Aks and Val Aks and lessee Dr. Nina V. Aks D.M.D. LLC. This Special Exception will allow the building and operating of a Medical/Dental Clinic for not more than four medical practitioners on land located at 11406 Old Georgetown Road, Rockville, Maryland 20852 in the R-200 Zone.

Dr. Aks currently operates a dental office in Germantown, which serves many of my constituents. The dental services provided by Dr. Aks are valued by my constituents and I believe a larger office space for Dr. Aks to work and train future dentists will only serve to provide additional benefit to our community. The applicants have shown their dedication to this project's success by working now for two years to gain approval for their clinic plans. In addition to the added excellent dental services that this facility will bring to the area, the proposal has the extra benefit of improving the gender equity of our business community. Currently all Special Exceptions along Old Georgetown Road are owned by men. If approved, this Special Exception will be the first one provided to a woman, especially one who has such an accomplished professional career.

I am proud to support Dr. Nina V. Aks in her effort to open a new dental/medical clinic and look forward to this Special Exception's approval.

Sincerely,

A handwritten signature in black ink, appearing to be "KR", written over a white background.

Del. Kirill Reznik