



9400 Old Georgetown Road, Special Exception, S-2875

Kathleen A. Reilly, AICP, Coordinator, Area 1, kathy.reilly@montgomeryplanning.org, 301 495-4614

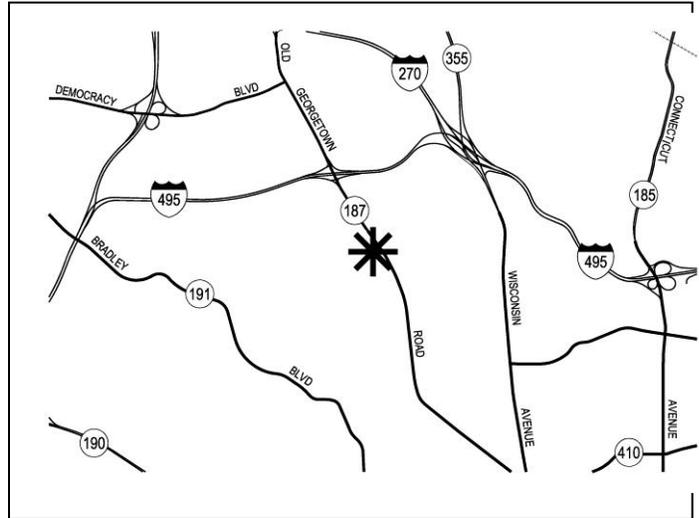
CA Elza Hisel-McCoy, Supervisor, Area 1, elza.hisel-mccoy@montgomeryplanning.org, 301 495-2115

PAK Robert Kronenberg, Chief, Area 1, robert.kronenberg@montgomeryplanning.org (301) 495- 2187

Staff Report Date: 9/19/14

Description

- Address: 9400 Old Georgetown Road
- Zone: R-60
- Size: 18,400 square feet
- Master Plan: Bethesda-Chevy Chase (1990)
- Request: for a non-residential professional office use on site
- Applicant: Faik and Lauren Tugberk
- Public Hearing is scheduled for 10/24/14 at the Hearing Examiner’s Office



Summary

- Staff recommends Approval of Special Exception S-2874 for a non-residential professional office subject to the conditions contained on page 2 of the staff report.
- Staff is also recommending approval of the requested waiver from Section E-2.83 (b) of the Zoning Ordinance for front and side yard setbacks of parking facility located in a residential zone.

RECOMMENDATION

Staff recommends approval of Special Exception S-2875, subject to the following conditions:

1. The special exception use is limited to 2,200 square feet of non-residential professional office space as shown on the site plan.
2. The special exception use is limited to the hours of 9:00 AM – 6:00 PM, Monday – Friday, with a maximum of eleven employees.
3. Prior to issuance of a use and occupancy permit, the applicant will need to submit a signage plan to the County's Sign Review Board for review and approval.
4. Prior to issuance of use and occupancy permit for the non-residential professional office, the applicant must extinguish the existing special exception (CBA 1749) on the subject site with the Board of Appeals.
5. Prior to the Hearing Examiner's hearing, the applicant must revise the submitted landscape plan to show the onsite bamboo removal area beginning from the southern lot line along MD 187 and extending approximately 100 feet into the site along this lot line. The revised landscape plan must be reviewed and approved by Planning Staff prior to approval of the subject special exception application by the Hearing Examiner.
6. The applicant must remove the onsite bamboo every three months, as needed, to allow appropriate room for the proposed landscape plantings to mature and continue to thrive in perpetuity without interference or excessive shading from the bamboo.
7. The plantings shown on the submitted landscape plans must be installed by the applicant within the first spring planting season after approval of Special Exception (S-2875) by the Hearing Examiner.

History of Special Exception on Property

On April 22, 1965 the Board of Appeals approved Special Exception (CBA 1749) for a non-residential medical practitioner's office on the subject site. This approval allowed no more than two doctors on site and required that 50% of the building be devoted to residential use and parking for eight cars. A copy of the Board of Appeals resolution is included as Attachment A.

According to the submitted statement from the applicant's attorney, the property was purchased 14 years ago by the applicant who began operating the non-residential professional office (his architectural practice). In 2013, a Department of Permitting Services (DPS) inspector informed the applicant that special exception CBA 1749 needed to be updated to comply with the existing use on the property. DPS did not issue a violation to the applicant.

In March 2014, the applicant filed a modification to CBA 1749 requesting an architect's office on the subject site. On April 2, 2014, the Hearing Examiner stated that the applicant could not file an amendment to the existing special exception as the provisions for an architect's office are quite different than those granted for the non-residential medical practitioner's office. Furthermore, the Hearing Examiner stated the applicant could withdraw their previously submitted application or resubmit a new special exception under Section 59-G-2.38 for a non-residential professional office use. A copy of the Hearing Examiner's email referring this information is included in Attachment B.

On May 30, 2014, the applicant submitted the subject application under Sect. 59-G-2.38 of the Zoning Ordinance requesting a non-residential professional office on the site. A recommended condition of

approval is included for the applicant to extinguish the existing special exception CBA 1749, if the subject application is approved by the Hearing Examiner.

Project Description

The applicant, an architect, is requesting a special exception for an, non-residential professional office, to be located in the existing one family detached dwelling unit located on Old Georgetown Road (MD 187). The existing two-story structure comprises 5,300 square feet. The proposed use will consist of 2,200 square feet of office space on the ground floor; 1,900 square feet in the basement for storage of files including a break/lunch room consisting of 400 square feet. The remaining 1,200 square feet on the second floor is devoted to a two bedroom residential use, which is not part of this application but is noted for informational purposes.

There will be 11 eleven employees associated with this use and the hours of operation are Monday through Friday, 9:00 a.m. to 6:00 p.m. According to the applicant's statement, there are no more than 9 cars parked on site at any one time and several employees use public transportation. Most client meetings are held off site. Trash is picked up once a week and package deliveries are made roughly twice a week to the site.

On-site parking for this use will be provided in the existing parking area adjacent to the driveway in front of the house and in the parking pad located on Singleton Drive. The front parking area can accommodate 6 vehicles and the parking pad can accommodate 1 vehicle.

The applicant is proposing to plant one eastern red cedar tree along the northern property line and 8 American holly trees along the a portion of the southern property line. The applicant is proposing to locate a free standing sign along the site's frontage on MD 187, near the existing driveway. Details of the sign were not provided in the submission. However, the applicant has noted his intention to submit a signage plan to the County Sign Board for approval. Finally, the applicant has requested a waiver of Section E-2.83 (b) of the Zoning Ordinance for front and side yard setbacks of a parking facility for special exception uses located in residential zones.

Site Description

The site is located on the west side of MD 187 at its intersection with Spruce Tree Lane. The property is zoned R-60, rectangular in shape and contains approximately 18,400 square feet of land. The site is a through lot, and has 80 feet of frontage on MD 187 and 80 feet of frontage on Singleton Drive. According to Section 59-A-2.1 of the Zoning Ordinance, a *through lot is defined as an interior lot, fronting on 2 parallel or approximately parallel streets*. Because of its unique location between two parallel roadways, the subject site is deemed a through lot; thus the site has two front yards and no rear yard.

The site is developed with a one family detached dwelling unit and an attached two car carport. The dwelling contains approximately 5,300 square feet in all, and is approximately 25 feet in height. An existing residential use consisting of 1,200 square feet is located in the second floor of the one family structure and is not included in this special exception application, but is noted for reference purposes.

The property slopes up gradually from MD 187 and then levels out across the site. The property contains extensive trees and shrubs. A 6 foot high board-on-board wooden fence is located along portions of the northern and southern property lines, and a 4 foot high wire fence located along a portion of the southern property line. The property also contains extensive bamboo plantings in excess of 20 feet high located adjacent to all on-site fences along both the northern and southern property lines.

Primary vehicular access to the site is provided by an existing asphalt driveway along MD 187 and secondary vehicular access is provided by a driveway located off of Singleton Drive. The driveway located off of MD 187 widens once on site and expands to a width of 34 feet to serve as the onsite parking area. This parking area can accommodate 6 vehicles. A path of brick pavers leads from the parking area to the front of the property. The attached carport can accommodate 2 vehicles.

A parking pad for one vehicle is located off of Singleton Drive, the secondary vehicular access point. A gravel path leads from this parking pad along the northern lot line to the front yard parking area. The path also leads to a rear set of stairs that leads up one flight to the second floor residential unit. There are sidewalks along both MD 187 and Singleton Drive adjacent to the site, which connect to the surrounding neighborhood.

Lighting onsite includes three fixtures: a soffit-mounted flood light above the carport entrance, a low-volt pathway light, approximately 24 inches high, adjacent to the gravel pathway in the rear yard, and a 60 watt modern style globe light approximately 5 feet high located adjacent to the MD 187 access point to the site.

Neighborhood Description

The neighborhood in which the subject property is located is defined by Beech Avenue to the north, Alta Vista Road to the south, properties along Singleton Drive on the west, and on the east properties along MD 187. The surrounding properties are zoned R-60 and many are developed as one-family residential uses. Attachment C contains a Zoning Map. However, there are several approved special exceptions in the area which include the following:

- BAS 92, for an eleemosynary and philanthropic institution use (the YMCA of Greater Metropolitan Washington) approved on 6/7/62;
- S 1282 for a non-residential professional office use approved on 7/3/66;

- S-529 for a medical and dental clinic approved on 8/4/77;
- CBA 2202 approved for a medical office building on 6/6/87; and
- BAS 1446 for non-residential professional office use approved on 11/25/87.

Neighborhood Map
 (Neighborhood outlined in blue, site outlined in red)



Master Plan

The subject application for a non-residential professional office is located on along MD 187 on a 18,400 square foot lot that is zoned R-60. The R-60 Zone is a residential zone devoted to one-family dwelling units. MD 187 is described within the Bethesda-Chevy Master Plan (1990) as an important major highway, and acts as a link for commuters and as a gateway to various residential communities including downtown Bethesda.

MD 187 also hosts a number of existing special exceptions which have allowed for the introduction of commercial and service uses within this residential area. As many of these uses are located within former dwelling units, the corridor appears to be residential in nature. However the abundance and concentration of institutional and professional offices (i.e. special exception uses) has led to a loss of the residential character desired by the Plan along MD 187. To prevent further loss, the Plan recommended that many types of additional special exceptions be discouraged and that future requests for these uses be evaluated by the Board of Appeals.

The Plan, however, acknowledged and reconfirmed the subject property, in addition to several other sites, as being suitable for non-residential professional offices (page. 59). The Plan recognized that the

previously approved non-residential medical practitioner office (CBA-1749) was community serving in nature and therefore desirable. The applicant is requesting, a different type of special exception use, non-residential professional office, for this site. The applicant has been operating non-residential professional office on this site, since 2000 and has had no adverse impact to the surrounding area. The application is not proposing any physical and operational changes to the property which would further alter the one-family character and feel along the MD 187 roadway.

Additionally, the Plan recommended a number of design and landscape guidelines in an effort to maintain quality of character, appearance and to address traffic concerns along the corridor. These included a number of strategies for special exceptions which addressed physical appearance of the structure, business hours and access. The applicant has successfully addressed these concerns by maintaining the overall residential appearance of the proposed use, by no increase in existing access points or adding or altering the existing one-family structure, by increasing supplemental screening on site and by limiting weekday hours of operation.

Staff notes that the Plan reconfirmed the R-60 Zone on this site and recommended the appropriateness of a “community-serving” special exception use in this location. The applicant provides architectural services for residential and commercial property owners in the Bethesda community and will continue to offer these services under this subject special exception. Staff believes that the proposed use is in line with the vision and overall theme of community services uses noted within the Master Plan as it continues to be an appropriate use for this site and therefore, recommends approval of the subject application.

Transportation

Vehicular Access and Parking

The site is located on the west side of MD 187 between Beech Avenue and Spruce Tree Avenue, with primary access provided via a curb cut along MD 187. A secondary access point is provided on Singleton Drive. This secondary access point consists of a residential driveway apron and concrete parking area that can accommodate one vehicle. MD 187 is classified as a Major Highway with a 100 foot right-of-way, with three travel lanes in each direction. Singleton Drive is classified as a primary roadway a 60 foot right-of-way, with one travel lane in each direction. The application proposes maintaining the following existing parking spaces that will be associated with the proposed use, the six on-site parking spaces accessed via MD 187 and the one parking space accessed via Singleton Drive. On-street parking is prohibited along MD 187. Based on the existing on-site parking, no adverse impacts will result from the proposed non-residential professional office.

Pedestrian and Transit Service

Sidewalks exist along both MD 187 and Singleton Drive with widths that vary from four to five feet. These sidewalks are part of a continuous network that connects the site with the surrounding neighborhood and the greater region via MD 187. Transit service is available from a bus shelter along the site’s frontage on MD 187 and is located approximately 600 feet north of the site (in the southbound direction) and directly opposite the site’s frontage (in the northbound direction). Specific transit routes within walking distance to the site include:

1. Metrobus routes: J2 and J3
2. Ride-On route: 70

Master-Planned Roads and Bikeways

The Approved and Adopted 1990 Bethesda Chevy Chase Master Plan and 2005 Countywide Bikeway Functional Master Plan makes the following recommendations:

1. MD 187 is designated as Major Highway M-4, with an ultimate right-of-way of 120-feet, between the Capital Beltway (I-495) and Bethesda Central Business District sector plan boundary. There are no specific bikeway recommendations for either MD 187 or Singleton Drive.

Local Area Transportation Review (LATR)

The requested special exception proposes a maximum staff of eleven employees operating during the hours of 9:00 AM – 6:00 PM, Monday through Friday. The proposed use will generate vehicular trips during the weekday morning (6:30 to 9:30 a.m.) and evening (4:00 to 7:00 p.m.) peak periods. The subject special exception petition is not required to submit a full LATR traffic study because the site will generate fewer than 30 vehicular trips. As a result of this exemption, the petitioner submitted a traffic statement that summarized his petition for a 2,200 square foot non-residential professional office and one residential apartment. Based on the LATR trip generation rate, the proposed use would generate two fewer morning peak-hour trips and three fewer evening peak-hour trips than the previously approved medical office use (Table 1). As a result of the minimal increase in site generated traffic during the morning peak-hour, staff finds that the traffic generated by the proposed special exception use would not adversely impact the existing traffic conditions.

**TABLE 1
SUMMARY OF SITE TRIP GENERATION
PROPOSED NON-RESIDENTIAL PROFESSIONAL OFFICE**

	AM Peak Hour			PM Peak Hour		
	In	Out	Total	In	Out	Total
Previous Special Exception						
Residential Apartment ¹ (1 DU)	0	1	1	1	0	1
Medical Office ² (2,200 SF)	4	1	5	2	6	8
Total Existing	4	2	6	3	6	9
Subject Special Exception						
Residential Apartment ¹ (1 DU)	0	1	1	1	0	1
Professional Office ¹ (2,200 SF)	3	0	3	1	4	5
Total Proposed	3	1	4	2	4	6
Net Increase/ Decrease	-1	-1	-2	-1	-2	-3

¹ January 2013 LATR/ TPAR Guidelines

² ITE Trip Generation Manual, 9th Edition: Land Use Code: 720 (Medical-Dental Office Building)

Transportation Policy Area Review (TPAR)

New developments within the Bethesda Chevy Chase Policy Area must satisfy the TPAR test by making a one-time payment equal to 25% of the general district impact tax. The proposed special exception use is not subject to the TPAR payment because it will not increase the building square footage and will generate fewer trips than the previously approved medical office use on the site. As a result, the proposed development satisfies Adequate Public Facility (APF) requirements and does not necessitate further transportation analysis.

Environment

Forest Conservation

The Forest Conservation Law does not apply to the special exception, since it is on a property less than 40,000 square feet; it is not subject to a previously approved forest conservation plan; and there are no champion trees on or near the subject property. The forest conservation non-applicability confirmation from was approved on April 11, 2014 and is included in Attachment C.

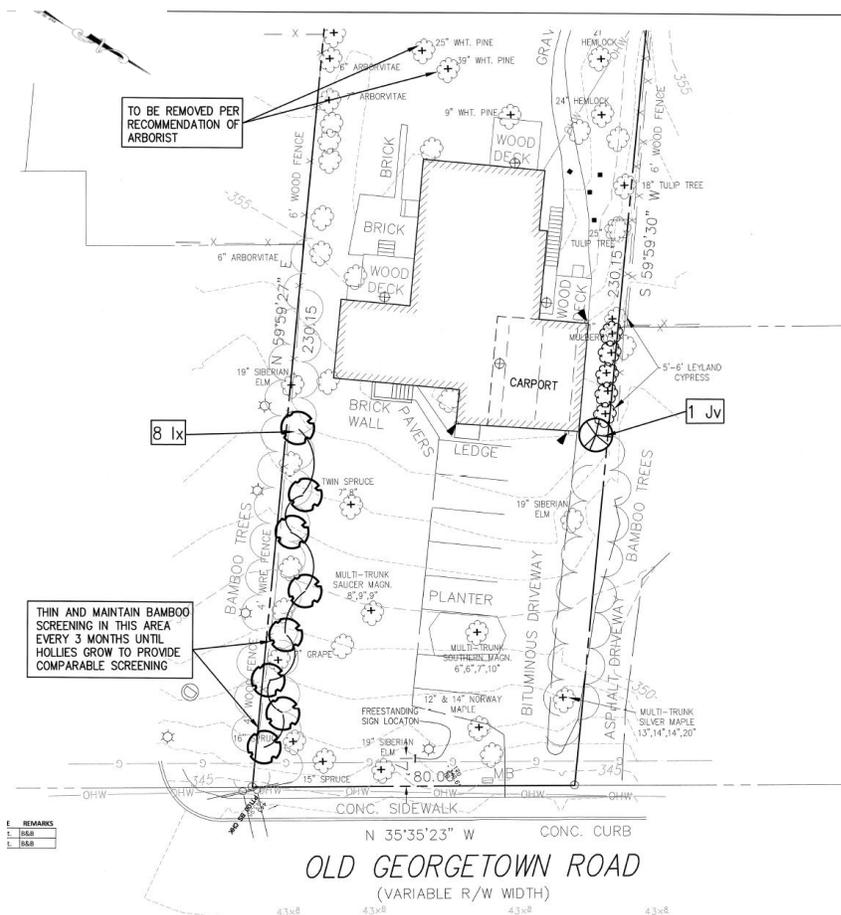
Landscape Plan

The property contains a number of significant and specimen sized trees. A landscape plan was submitted which showed the largest tree onsite as a 39" white pine located at the rear of the property. This tree has an area of substantial decay at its base. Staff expressed concerns to the applicant that the tree may be hazardous. In response to staff, the applicant obtained the services of an arborist to evaluate the tree. The arborist submitted a report which recommended removal of the 39" tree and also removal of the adjacent, leaning 26" white pine tree. A note has been added to the landscape plan noting the removal of the two trees.

The site also has stands of invasive bamboo along the northern and southern property lines that extend into the neighboring properties. Removal of the bamboo was also discussed with the applicant. The applicant was concerned over the removal of screening that the bamboo provides and stated that neighbors would prefer that the existing bamboo screening remain.

Staff acknowledges that removal of bamboo along any property line has a limited effect if the bamboo is not also removed from the neighboring property. Due to the aggressive growth of bamboo, sprouting and regrowth will continue to occur within a notable radius of an existing bamboo colony. Furthermore, as stated by the applicant, there is often a general reluctance to completely remove bamboo as there would be typically little or no screening remaining on the property as bamboo usually overruns and displaces other types of vegetation, and it may take years for new evergreen tree plantings to be established.

After discussions with staff, the applicant agreed to remove portions of the bamboo along the southern property line and to supplement the landscaping in this location. The applicant submitted a revised landscape plan which shows the installation of at least eight American Holly evergreen trees along the southern property line and one Virginia Cedar tree another evergreen tree, along the northern property line near the carport. The species of American Holly and Virginia Cedar are native trees which produce berries that are a significant food source for birds, while bamboo does not provide any food source for native wildlife. The revised Landscape Plan is shown on the next page.



Proposed Landscape Plan

The applicant also agreed to perform regular maintenance for the new plantings that will focus on removal of bamboo growing in the general areas within and surrounding the new plantings. The revised landscape plan also noted the removal of the bamboo along a small portion of the southern property line. However, the area depicted for bamboo removal on the landscape plan does not accurately encompass the needed maintenance area. Staff recommends that the area for the bamboo removal begin at the property’s southern line along MD 187 and continue into the site for at least 100 feet along this lot line.

Under the maintenance program proposed by the applicant, new plantings will mature and will replace the bamboo while the screening effect between the adjacent properties is preserved. To ensure that the proposed native screen planting areas do not become re-invaded by the bamboo, the maintenance will need to continue in perpetuity unless the bamboo is independently removed from the neighboring property to the south. Staff has recommended conditions of approval to ensure that the required plantings and ongoing maintenance are performed. Additionally, the submitted landscape plan will need to be revised to include show the initial onsite bamboo removal area increased from the southern lot line along MD 187 and extending approximately 100 feet into the site along this lot line.

A stormwater management concept plan is not required for the proposed use as there will be no disturbance to the site under this application.

Community Concerns

Staff has not received any comments regarding the proposed non-residential professional use.

Inherent and Non-Inherent Adverse Effects

The Zoning Ordinance specifies a standard of review for evaluating compliance with general and specific conditions that requires an analysis of inherent and non-inherent adverse effects. The first step in analyzing the inherent and non-inherent adverse effects of a special exception or modification is to define the boundaries of the surrounding neighborhood. Analysis of inherent and non-inherent adverse effects considers size, scale, scope, light, noise, traffic and environment. Every special exception has some or all of these effects in varying degrees. What must be determined during the course of review is whether these effects are acceptable or would create adverse impacts sufficient to result in denial. To that end, inherent adverse effects associated with the use must be determined. In addition, non-inherent effects must be determined as these effects may, by themselves, or in conjunction with inherent effects, form a sufficient basis to deny a special exception.

The inherent, generic physical and operational characteristics necessarily associated with a non-residential profession or include: (1) vehicular trips to and from the site; (2) noise from additional vehicles onsite; (3) illumination associated with the use; and (4) deliveries of mail and small parcels to the site. Staff finds that the size, scale, and scope of the proposed use is minimal and is not likely to result in any unacceptable noise, traffic, illumination or environmental impacts. Vehicular trips to and from the site as well deliveries would be less than those activities associated with the approved special exception, a medical office, for the site. There are no non-inherent adverse effects associated with this use.

General and Specific Special Exception Provisions

The application, as conditioned by staff, satisfies all of the general and specific requirements for a non-residential professional office use found in Sections 59-G-1.21 and 59-G-2.38 of the Zoning Ordinance.

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-60. A non-residential office is allowed by special exception in the R-60 Zone. The Bethesda Chevy Chase Master plan recommends such a use in the R-60 Zone on this property.

(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.

The requested use satisfies the standards and requirements prescribed in Section 59-G-2.38 of the Zoning Ordinance.

- (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.

The use will be consistent with the recommendations of the Approved and Adopted Bethesda-Chevy Chase Master Plan (1990) which recommended the site for a non-residential professional office use.

- (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.

Under the subject application, there is no increase in density, design, scale, bulk, parking conditions, or intensity and character of activity. Nor are any new structures proposed. Traffic generated by this use will be less than the previously approved special exception (a non-residential medical practitioner's office) in this location. The proposed use will be in general harmony with the character of the surrounding neighborhood when considering the above cited factors.

- (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.

A special exception has existed on the subject property since 1965 without adverse effects to the surrounding properties. Although CBA 1749 is non-operational, the proposed use, a non-residential professional office will be less intense use than the previous approval in terms of activity and operations. Thus the proposed use will not be detrimental to the use, peaceful enjoyment, economic value or development of surrounding properties or the general 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.

The proposed use will not cause objectionable noise, vibrations, fumes, odors, or dust at the subject site. Physical activities will be limited to the internal building with routine office deliveries for mail or packages, the existing illumination will not be increased under this application and is designed to minimize glare.

- (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 special exception will not increase the number, intensity or scope of special exception uses sufficiently to affect the area adversely. The requested special exception replaces an approved but non-operational special exception. Thus it is not increasing the number of special exceptions in the area. It appears that the site will not be converted to residential use in the near future, given its history as a special exception site. However, under this application, the site will maintain its residential appearance through the existing and supplemental onsite landscaping. When evaluated with the number of special exceptions, the decrease of intensity of the proposed use over the previously approved special exception, and continued residential appearance of the subject site, the predominately residential nature of the surrounding area will not be adversely affected if the requested use is approved.

- (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 evidence to support a finding that the non-residential professional office use would have an adverse effect on residents, visitors, or workers in the area.

- (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.

- (i) If the special exception use requires approval of a preliminary plan of subdivision the adequacy of public facilities must be determined by the Planning Board at the time of subdivision review. In that case, subdivision approval must be included as a condition of the special exception. If the special exception does not require approval of a preliminary plan of subdivision, the adequacy of public facilities must be determined by the Board of Appeals when the special exception is considered. The adequacy of public facilities review must include the Local Area Transportation Review and the Policy Area Transportation Review, as required in the applicable Annual Growth Policy.

The subject property will not proceed through the subdivision process as it is subdivided lot recorded in the county lands. Staff has indicated that there is no adverse impact on utilities or other public facilities, particularly traffic.

- (ii) With regard to findings relating to public roads, the Board, the Hearing Examiner, or the District Council, as the case may be, must further determine that the proposal will not reduce the safety of vehicular or pedestrian traffic.

The proposed use will not have an adverse effect on the transportation network within the immediate local area. The site will be served by public water and sewer, and the necessary police and fire rescue services are adequate.

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 special exception use satisfies the development standards of the R-60 Zone as shown in the following table:

Development Standards for the R-60 Zone

Development Standards	Min/Max Required	Proposed
Lot Area	6,000 sq ft	18,400 sq ft
Lot width at street line	25 ft	80 ft
Minimum lot width at front building line	60 ft	80ft
Building Setbacks		
- front MD 187 Singleton Drive	25 ft 25 ft	88 ft 72 ft
- side	8/18 ft	8/18 ft
- rear	20 ft	NA*
Maximum Building Height	35 ft	25± ft
Maximum Building coverage	35%	28 %
Maximum Green Area	10% (600 square feet)	65% (12,050 square feet)

* The subject site has two front yards; no rear yard.

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

Section 59-E-3.7 of the Zoning Ordinance, entitled Schedule of Requirements, states that “...2.5 parking spaces for each 1,000 square feet of gross floor area used by all other professionals” is required for a non-residential professional office. The gross floor area calculation shall exclude storage area, and the attic, and cellar areas of the building if not occupied by professional personnel.”

The non-residential professional office will consist of 2,600 gross square feet, which includes 2,200 square feet for office uses and 400 square feet for a break room. Based on this parking requirement the proposed use will need 7 parking spaces. The submitted site plan shows 6 parking spaces in a parking area adjacent to the driveway and one parking space at the rear

of the site along Singleton Drive; for a total of 7 parking spaces. Thus, the proposed special exception satisfies the parking requirement of Section 59-E-3.7 for a non-residential professional office.

Additionally, the site contains a residential rental apartment, which is not part of the submitted application. This residential unit requires 2 parking spaces. The existing carport contains 2 parking spaces which can satisfy the residential parking requirement for the rental unit.

Waiver of Parking Facility Setbacks

Section 59-E.2.83 (b) of the Zoning Ordinance entitled *Parking and Loading Facilities for special exceptions uses in residential zones* states that any off street parking facility in a residential zone must satisfy the following setback standard:

(b) **Setbacks.** Each parking and loading facility, including each entrance and exit driveway, must be set back a distance not less than the applicable building front and rear yard and twice the building side yard required in the zone.

The front yard setback for the existing parking facility along MD 187 is approximately 13 feet from this roadway. A front yard setback of 25 feet is required in the R-60 Zone. This side yard setback for this parking facility is approximately 8 feet and 38 feet from the northern and southern property lines, respectively. The side yard setback in the R-60 Zone is a minimum of 8 feet for one side yard and a minimum of 18 feet combined for both side yards. The applicant has requested a twofold waiver from the front yard setback standard and from the side yard setback, along the northern property line, setback standard.

Section 59-E-4.5 of the Zoning Ordinance, states that “when approving an application, the Director, Planning Board, Board of Appeals, or Hearing Examiner may waive any requirement in this Article not necessary to accomplish the objectives in Sect. 59-E-4.2. entitled “Parking Facilities Plan Objectives”.

The parking facility has been in existence since the approval of CBA 1749, in 1965. Over time, trees and shrubs have grown along the front yard and both side yards to sufficiently screen the view of this parking facility from MD 187 and from adjacent uses. The property to the south is developed as a special exception use with a parking facility abutting the landscaped front and side yards of the subject site.

The residentially zoned property abutting the site’s northern line appears to be developed as residential use as its driveway shares a curb cut with the subject site. However, that driveway leads to a rear yard that is completely paved for parking and there is minimal landscaping on the abutting property. To require removal of the subject’s site parking facility to accommodate the front and side yard building setbacks of the R-60 zone would significantly change the residential appearance this use has maintained over 35+ years as well as the residential appearance and character of the MD 187 roadway. Removal of the parking facility would also eliminate existing mature

and healthy landscaping on site that serve as screening and contributes to the site's green area.

The objectives of Section 59-E-4.2 are:

- (a) The protection of the health, safety and welfare of those who use any adjoining land or public road that abuts a parking facility. Such protection shall include, but shall not be limited to, the reasonable control of noise, glare or reflection from automobiles, automobile lights, parking lot lighting and automobile fumes by use of perimeter landscaping, planting, walls, fences or other natural features or improvements.
- (b) The safety of pedestrians and motorists within a parking facility.
- (c) The optimum safe circulation of traffic within the parking facility and the proper location of entrances and exits to public roads so as to reduce or prevent traffic congestion.
- (d) The provision of appropriate lighting, if the parking is to be used after dark.

The submitted application including the requested waiver meet the objectives of Section 59-E-4.2 through the provision of additional landscaping, limited hours of operations for the proposed use by controlling automobile noise and glare and parking lot lighting, ensuring safety of pedestrian and motorists through defined parking spaces and walkways, location of entrances and exits that are sited to reduce traffic congestion and provide safe circulation and lighting levels that provide appropriate lighting after dark within the parking area. Thus, based on the above stated reasons, a waiver of the front and side yard setbacks for the parking facility is warranted.

(c) Minimum frontage.

The subject site has frontage on two streets MD 187 and Singleton Drive. The minimum frontage in the R - 60 Zone is 60 feet. The subject site will have frontage of approximately 80 feet along both MD 187-and Singleton Drive; thus satisfying this requirement.

- (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 Chapter 22A Forest Conservation Law as the application is located on property less than 40,000 square feet in size, is not subject to a previously approved forest conservation plan and there are no champion trees near or on the site.

(e) Water quality plan.

A water quality plan is not required for the proposed special exception.

(f) Signs. The display of a sign must comply with Article 59-F.

Prior to obtaining a use and occupancy permit for the special exception, the applicant will need to provide a signage plan to the County's Sign Review Board for review and approval. A condition of approval is recommended to satisfy this requirement.

(g) Building compatibility in residential zones. Any structure that is constructed, reconstructed or altered under a special exception in a residential zone must be well related to the surrounding area in its siting, landscaping, scale, bulk, height, materials, and textures, and must have a residential appearance where appropriate. Large building elevations must be divided into distinct planes by wall offsets or architectural articulation to achieve compatible scale and massing.

The proposed use will not alter the existing single-family residential structure. This structure will continue to have a residential appearance and there is no change proposed in relation to scale, bulk, height, and building materials. The applicant has proposed additional landscaping in the form of native trees along portion of both the northern and southern lot lines. This additional landscaping will supplement the existing landscaping and will continue to provide a residential appearance for the proposed special exception use.

(h) Lighting in residential zones. All outdoor lighting must be located, shielded, landscaped, or otherwise buffered so that no direct light intrudes into an adjacent residential property. The following lighting standards must be met unless the Board requires different standards for a recreational facility or to improve public safety:

(1) Luminaires must incorporate a glare and spill light control device to minimize glare and light trespass.

(2) Lighting levels along the side and rear lot lines must not exceed 0.1 foot candles.

The property is located in a residential zone. Currently, the following three outdoor light sources are found on the property: a soffit-mounted flood light above the carport entrance, a pathway light adjacent to the rear gravel pathway, and a 60 watt modern style globe lighting standard located adjacent to the MD 187 access point to the site. The applicant provided a lighting plan for the proposed use. The lighting plan depicts a few spots along both side lot lines that exceed 0.1 foot candles. However, those higher foot candles of 0.2 and 0.3 are the result of spill over light levels from lighting standards on the adjacent properties. As submitted, the lighting plan demonstrates that the onsite existing lighting fixtures are located so as to not create direct light intrusions into the adjacent properties. Thus, the existing lighting achieves the required standards and does not exceed this standard.

Sec. 59-G-2.38 - Offices, professional, nonresidential.

(a) An existing single-family structure may be used for professional office purposes by any member or members of a recognized profession, such as a doctor, lawyer, architect, accountant, engineer, or veterinarian, but not including the following:

- (1) a medical, dental, or veterinarian clinic;
- (2) an in-patient treatment facility; or
- (3) a general business office, such as an insurance company office, a trade association, a manufacturing company, an investment company, a bank, or a real estate company.

The applicant, an architect, has satisfied criterion (a) as he will be operating his professional practice within an existing single family structure.

(b) The property must satisfy one of the following criteria:

- (1) be located in a central business district that is designated as being suitable for the transit station-residential (TS-R) zone on an approved and adopted sector plan;
- (2) be designated as suitable for a nonresidential professional office in the R-60 zone on an approved and adopted master or sector plan and located along a highway with an existing right-of-way width of at least 90 feet or along a portion of an arterial road designated as a boundary of a Central Business District;
- (3) be located in the R-90 zone and:
 - (A) designated as historic in the Master Plan for Historic Preservation;
 - (B) located along a highway with an existing right-of-way of at least 120 feet; and
 - (C) contain a structure formerly used for nonresidential purposes; or
- (4) be located in the R-200 zone and abut a fire station, police station, ambulance squad, or rescue squad on more than 1 lot line.

The property satisfies criteria (b)(2). According to the Bethesda Chevy Chase Master Plan (1990), this property is zoned R-60 and is designated as suitable for a non-residential professional office, it is located along a highway MD 187, which has an ultimate right-of-way of 120 feet in width.

(c) The Board must find that the property:

- (1) will not constitute a nuisance because of traffic or physical activity;
- (2) will not affect adversely the use and development of adjacent property;
- (3) will have at least 25 percent of the lot area devoted to green area.

Based on the applicant's submitted traffic statement, vehicular trips to and from this site will be less than trips generated by the previously approved non-residential medical practitioner's office. Thus, the property will not constitute a nuisance due to traffic or physical activity associated with the proposed special exception use. The adjacent properties north and south of the site are zoned R-60 but are developed as special exception uses. The subject site has operated under an approved special exception (CBA 1749) since

1965 without adversely affecting the use or development of these adjacent properties which were approved after CBA 1749. The proposed use will be less intensity in terms of the activity and hours of operation than the previously approved special exception and as a result will not adversely impact the existing or future development of the adjacent properties. The proposed use can satisfy the minimum 25% green area requirement as 65% or approximately 12,050 square feet of the lot will be devoted to green area.

(d) The Board may allow for other than a building designated as historic in the Master Plan of Historic Preservation, the exterior of the premises to be changed, altered, or modified, provided the single-family character and the basic residential appearance of the building are retained. A historic area work permit must be obtained before any work may be done to alter the exterior features of a historic structure.

Not applicable. The existing one family dwelling unit is not designated as an historic building in the Master Plan of Historic Preservation.

Conclusion

Based on the foregoing analysis, staff recommends approval of the application subject to the conditions found at the beginning of the technical staff report.

Attachments

- A. Board of Appeals Opinion CBA 1749
- B. Hearing Examiner's email
- C. Zoning Map
- D. Staff memos

Case No. 1749

PETITION OF DR. STANLEY A RADVAN-ZIEMNOWICZ
(Hearing held April 22, 1965)

OPINION OF THE BOARD

This proceeding is on a petition for a special exception under Section 104-29(r) of the Zoning Ordinance (Chap. 104, Mont. Co. Code 1960, as amended) to permit the use of a medical practitioner's office for not more than two doctors. The subject property is situated on Lot 1, Stephen's Addition to Alta Vista, at 9400 Old Georgetown Road, Bethesda 14, Maryland, in an R-60 zone.

The Petitioner is a medical practitioner and seeks a special exception in order to permit the use of subject property for his practice and that of another doctor. Petitioner testified that there is no suitable office space available in the nearest commercial area.

Testimony revealed that the patients will be seen by appointment only, and tentatively the hours will be between 9 a.m. and 6 p.m., six days a week. No equipment used will interfere with electrical appliances in the area.

The Petitioner stated there will be no exterior changes made. A utility room will be converted into an office room. There will be a sign which will meet all specifications and will not exceed two square feet in size. At least 50 percent of the floor space of the building will be devoted to residential use.

The Board finds that the proposed use will not affect adversely the health and safety of residents or workers in the area, nor will the use constitute a nuisance because of noise, traffic or physical activity, and that such use will not affect adversely the use and development of neighboring properties and the general neighborhood.

Accordingly, the special exception is granted to the Petitioner only with the following conditions:

1. Parking facilities be increased for eight (8) cars.
2. Screening in accordance with the requirements of the Zoning Ordinance.

The Board adopted the following Resolution:

"Be it Resolved by the County Board of Appeals for Montgomery County, Maryland, that the opinion stated above be adopted as the resolution required by law as its decision on the above-entitled petition."

The foregoing Resolution was proposed by Mr. Bernard D. Gladhill, and concurred in by Mrs. Elaine Lady, Vice Chairman, Messrs. Walter Bucher and William C. Birely. Mr. Henry J. Noyes, Chairman, was necessarily absent from the hearing in this case and did not participate in this decision.

I do hereby certify that the foregoing Minutes were officially entered upon the Minute Book of the County Board of Appeals this 4th day of May, 1965.

NOTE: Please see Section 104-24(c) of the Ordinance regarding the 12-months' period within which the right granted by the Board must be exercised.

Salter H. Kyte
Clerk to the Board

This opinion sent to all persons who received notice of the hearing.

Reilly, Kathy

From: Kronenberg, Robert
Sent: Thursday, April 03, 2014 3:27 PM
To: Reilly, Kathy
Subject: Fwd: Case No. CBA-1749-A: Petition of Faik and Lauren Tugberk (9400 Old Georgetown Road, Bethesda)

See Marty's letter.

Sent from my iPhone

Begin forwarded message:

From: "Pfefferle, Mark" <mark.pfefferle@montgomeryplanning.org>
Date: April 2, 2014, 3:09:38 PM EDT
To: "Kronenberg, Robert" <robert.kronenberg@montgomeryplanning.org>
Subject: FW: Case No. CBA-1749-A: Petition of Faik and Lauren Tugberk (9400 Old Georgetown Road, Bethesda)

FYI, this will probably be coming to you sometime in the near future.

Mark

From: Grossman, Martin [<mailto:Martin.Grossman@montgomerycountymd.gov>]
Sent: Wednesday, April 02, 2014 2:19 PM
To: Dishopolsky, Heather - HXD
Cc: Robeson, Lynn; Behanna-Moseley, Sara; Forbes, Ellen; Freeman, Katherine; Pfefferle, Mark
Subject: RE: Case No. CBA-1749-A: Petition of Faik and Lauren Tugberk (9400 Old Georgetown Road, Bethesda)

Dear Ms. Dishopolsky:

This is in response to your e-mail of March 25, 2014, regarding the appropriate way to apply to change a special exception from one which permits a medical practitioner's office to one which permits an architect's office.

I should preface my remarks with the cautionary note that the type of special exception you mentioned (a nonresident professional office) would have to be approved by the Board of Appeals, after a hearing before the assigned Hearing Examiner. Thus, a ruling on any issue in the special exception case, including the proper method of application, would have to be made by the Board of Appeals, following a hearing at which all parties would have the opportunity for input on the issue. This matter is not currently before me as the assigned Hearing Examiner, but rather in my administrative role as Director of the Office of Zoning and Administrative Hearings. Also, to avoid any concerns about *ex parte* contacts, your e-mail and this response will be made part of the record in this case (CBA-1749-A) and in any other special exception application you may file seeking this relief.

Having said that (and subject to any subsequent formal rulings in the case), I am writing in an effort to reduce the risk of your pursuing a modification application that may be improvidently filed. I do not recall any other case in which a modification petition was approved (or for that matter even filed) that sought to change the type of special exception, as distinguished from seeking to change the conditions of a special exception of the same type that had been previously approved.

Although you state that your client has been operating an architect's office on the site for 14 years, the special exception approved in 1965 was for a medical practitioner's office pursuant to the 1960 Zoning Ordinance, §104-29(r). I looked up that provision, and it appears to be the direct predecessor of §59-G-2.36 (medical practitioner's office) under the current Zoning Ordinance. The provisions of both the old §104-29(r) and the current §59-G-2.36 are quite different from the provisions of Zoning Ordinance §59-G-2.38, which is what must be satisfied to obtain professional office special exception allowing an architect's practice.

It therefore appears to me that it will not be possible to merely modify the conditions of the existing special exception to accommodate an architect's office. You should consider whether it is in your interest to withdraw the present modification petition and re-file as a new special exception petition, presumably under §59-G-2.38. I make no representation as to whether you would qualify for such a special exception, as that would have to be determined by any assigned Hearing Examiner and the Board of Appeals. I do not know whether the Board of Appeals can apply the filing fee you paid in CBA-1749-A to a new special exception filing, or at least refund all or a portion of that fee. You should consult with Katherine Freeman about that. I suggest that if you elect to file for a new special exception petition, you should also consult with Ms. Freeman about voluntarily abandoning the existing medical practitioner's special exception.

Sincerely,

Martin L. Grossman, Director
Office of Zoning and Administrative Hearings

cc: Katherine Freeman, Executive Director
Board of Appeals
Mark Pfefferle, Chief, Development Applications and Regulatory Coordination
M-NCPPC Technical Staff
Case File, CBA 1749-A
Case File, any subsequent special exception petition regarding this site

From: Dlhopsky, Heather - HXD [<mailto:HDlhopsky@linowes-law.com>]
Sent: Tuesday, March 25, 2014 10:35 AM
To: Forbes, Ellen
Subject: Case No. CBA-1749-A: Petition of Faik and Lauren Tugberk (9400 Old Georgetown Road, Bethesda)

Ms. Forbes,

Following up on our phone call a few minutes ago, we filed the above-referenced Special Exception Modification with the Board of Appeals just over a week ago, for the conversion of a

medical practitioner's office special exception use to a nonresidential professional office special exception use for existing improvements located at 9400 Old Georgetown Road in Bethesda, Maryland. The Petitioner purchased the property approximately 14 years ago and began operating the current nonresidential professional office (for an architects' office) believing this to be a permitted use of the property. The Petitioner was not aware until recently that the approved Special Exception must be updated from that of a medical practitioner's office use in order to reflect the current nonresidential professional office use on the property, and thus we filed the Special Exception Modification reflecting an update in the use. As described in much greater detail in the materials submitted with the Modification, the proposed Special Exception Modification does not entail any physical or operational changes to the property and will not change the intensity of the use, and the application is solely for the purpose of updating the use of the existing improvements on the property from a medical practitioner's office to a nonresidential professional office.

When we filed the Special Exception Modification, Katherine Freeman notified us that because the Modification proposes to change the use category from a medical practitioner's office to a nonresidential professional office, she did not think that the change could be made as a Modification and that instead a new Special Exception would have to be filed, but she indicated that ultimately the Hearing Examiner's Office will make such a determination regarding processing. We believe that we filed all of the materials with the Modification that would be required whether it is processed as a Modification or as a new Special Exception, but we understand that the filing fee would be higher if the application is considered a new Special Exception, and also Ms. Freeman indicated that because a new application number would be assigned, the property would need to be re-posted and new notices sent reflecting the new application number.

In order to resolve the question up front and to make sure that, if any new notices or postings are required to be made they can be done timely in order to avoid slippage of our assigned hearing date, I wanted to contact the Hearing Examiner's Office now to discuss and resolve this question.

Please let me know your thoughts, or if you would like additional information.

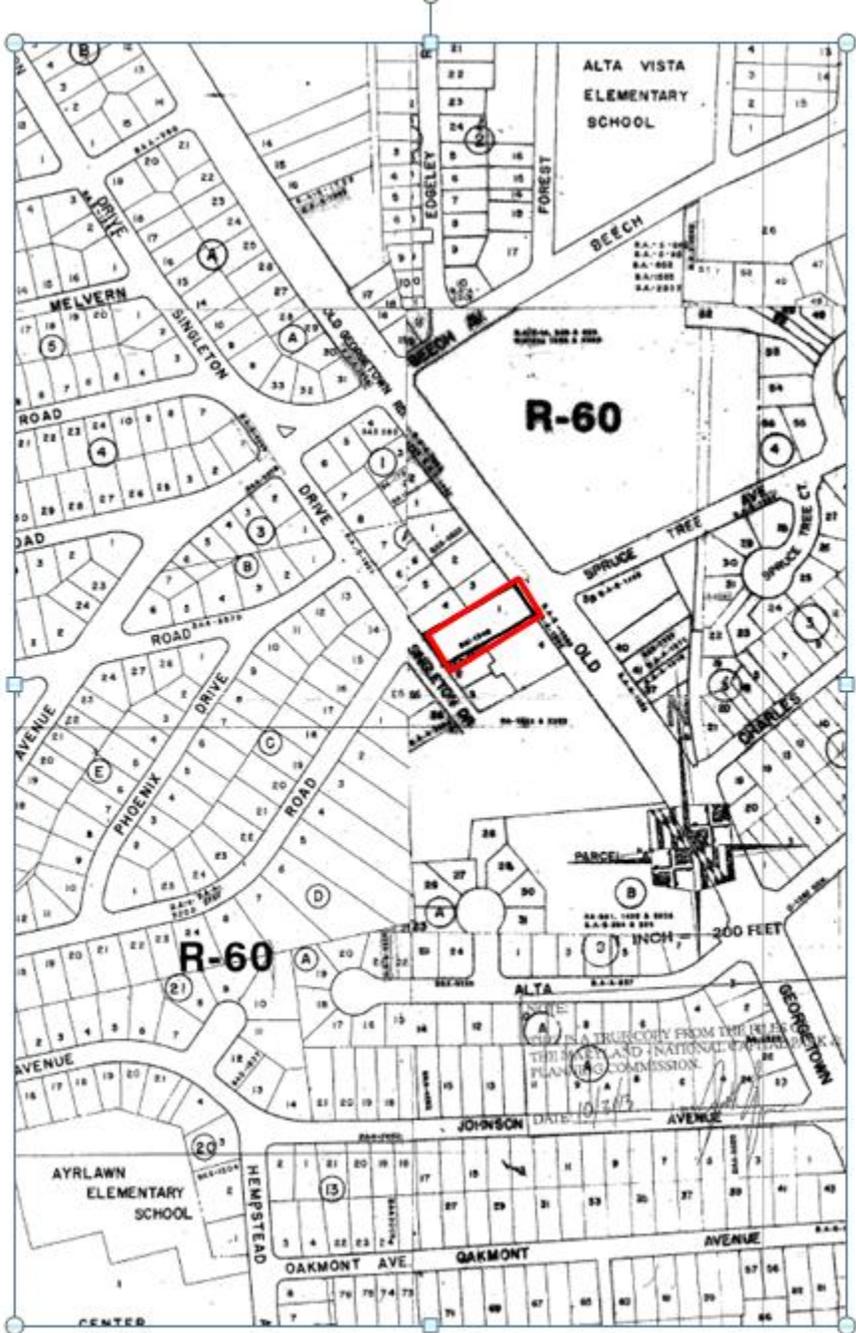
Thank you.

Heather

Heather Dlhopsky
Linowes and Blocher LLP
7200 Wisconsin Avenue, Suite 800
Bethesda, MD 20814-4842
(301) 961-5270 (direct phone)
(301) 654-0504 (switchboard)
(301) 654-2801 (fax)
hdlhopsky@linowes-law.com
www.linowes-law.com

This electronic message transmission contains information from the law firm of Linowes and Blocher LLP which may be confidential or privileged. If you are not the intended recipient of this message, be aware that any disclosure, copying, distribution or use of the contents of this information is prohibited. If you have received this electronic transmission in error, please notify the sender at the phone number listed above, immediately, and delete the communication from any computer or network system. Although this e-mail (including attachments) is believed to be free of any virus or other defect that might negatively affect any computer system into which it is received and opened, it is the responsibility of the recipient to ensure that it is virus free, and no responsibility is accepted by the sender for any loss or damage arising in any way in the event that such a virus or defect exists. Thank you.

Internal Revenue Service Circular 230 Disclosure: As provided for in Treasury regulations, advice (if any) relating to federal taxes that is contained in this communication (including attachments) is not intended or written to be used, and cannot be used, for the purpose of (1) avoiding penalties under the Internal Revenue Code or (2) promoting, marketing or recommending to another party any plan or arrangement addressed herein.



MEMORANDUM

DATE: August 27, 2014
TO: Kathy Reilly
VIA:

FROM: Melissa Williams, Area One Division
REVIEW TYPE: Special Exception for
CASE NUMBER: No. SE- 2875
ZONE: R-60
LOCATION: 9400 Old Georgetown Road
MASTER PLAN: Bethesda-Chevy Chase Master Plan

Master Plan Conformance

9400 Old Georgetown Road is a .42 acre parcel that is zoned for R-60 development. This is a residential zone typically restricted to single-family dwelling units. Old Georgetown Road is described within the Bethesda-Chevy Master Plan as an important major highway, acts as a link for commuters and a gateway to various residential communities including downtown Bethesda. It is also host to a number of existing Special Exceptions which have allowed for the introduction of commercial and service uses within the residential area. As many of these uses are located within former dwelling units, the corridor appears to be residential in nature. However the abundance and concentration of institutional and professional offices (i.e. special exception uses) has led to a loss of the residential character desired by the Plan. To prevent further loss, the Plan recommended that many types of additional special exceptions be discouraged and that future request for these uses be evaluated by the Board of Appeals.

The Plan, however, acknowledged and reconfirmed 9400 Old Georgetown Road, in addition to several other sites, as being suitable for non-residential professional offices (page. 59). The Plan recognized that the original non-residential medical practitioner office was community serving in nature and therefore desirable. The applicant is recommending a different type of special exception for this site which has been home to a non-residential professional office since 2000 and has had no adverse impact to the surrounding area. The applicant is not proposing any physical and operational changes to the property which would further alter the single-character feel of Old Georgetown Road only asking for a different special exception, one better suited to the current services being provided.

Staff supports the application and notes in its decision that the R-60 Zone allows for the type of Special Exception (59-C-1.31) requested by the applicant and that the Plan reconfirmed the appropriateness of a “community-serving” special exception in this location.

Additionally, the Plan recommended a number of design and landscape guidelines in an effort to maintain quality of character, appearance and to address traffic concerns along the corridor. These included a number of strategies for special exceptions, most of which addressed physical appearance of the structure, business hours and access. The applicant has successfully addressed

these issues including lighting, screening and buffering from adjacent properties and architectural compatibility.

The applicant's proposed non-residential professional office is permitted as a special exception within the R-60 zone and is a use not expressly restricted by the Master Plan. Staff believes that this use is in line with the vision and overall theme of community services uses noted within the Bethesda-Chevy Chase Master Plan.

Recommendation

Staff believes that the non-residential professional office is and continues to be an appropriate use for 9400 Old Georgetown Road and recommends approval of the application.



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

MEMORANDUM

Date: August 28, 2014
To: Kathy Reilly, Area One
From: Marco Fuster, Area One
Subject: Board of Appeals Petition No. S-2875

Environmental Review for Non-Residential Professional Office
9400 Old Georgetown Road

Forest Conservation

The forest conservation law does not apply to the special exception, since it is on a property less than 40,000 square feet, that is not subject to a previously approved forest conservation plan, and there are no champion trees on or near the subject property. The non-applicability confirmation form was previously signed by Staff on April 11, 2014 and was included in the submission packet as Exhibit "O".

Landscape Plan and Features

The property contains a number of significant and specimen sized trees. The largest tree is a 39" white pine located at the rear of the property. However, the tree has an area of substantial decay at the base. Staff had expressed concerns to the applicant that the tree may be hazardous. In response, the applicant obtained the services of ISA Certified Arborist to evaluate the tree; refer the arborist's tree risk analysis report (Exhibit "W"). The arborist recommends the removal of the 39" tree and also the removal of the adjacent, leaning 26" white pine tree. A note was subsequently added to the landscape plans calling for the removal of the two trees.

The site also has stands of invasive bamboo along the sides that extend into the neighboring properties. Staff had discussed removal of the bamboo with the applicant. The applicant was concerned over the removal of the screening that the bamboo provides, and stated that neighbors would prefer that the existing screening remain.

Staff acknowledges that removal of bamboo on one side of a property line has a limited effect if the bamboo is not also removed from the neighboring property. Due to the aggressive growth of bamboo, sprouting and regrowth will continue to occur within a notable radius of an existing bamboo colony. Furthermore, as in this case there is often a general reluctance to completely remove bamboo since there would typically be little or no screening remaining (since bamboo usually overruns and displaces other types of vegetation) and it may take some years for new evergreen tree plantings to establish.

After discussion with staff, the applicant agreed to remove portions of the bamboo on their side of the property and install at least nine evergreen trees that include American holly and Virginia cedar (both are native trees producing berries that are a significant food source for birds, while bamboo does not provide a food source for our native wildlife). The applicant agreed to perform regular maintenance for the new plantings that will focus on removal of bamboo growing in the general areas within and surrounding the new plantings. Under the active maintenance program the new plantings will mature, and replace the bamboo while preserving the screening effect between the adjacent properties.

To ensure that the native screen planting areas do not become re-invaded by the bamboo, the maintenance will need to continue in perpetuity (assuming the bamboo is not independently removed from the neighboring property). A condition of approval is recommended to ensure that the required plantings and ongoing maintenance is performed. Refer also to the landscape plans Exhibit "V" (which need further revision to address the conditions).

Recommended Conditions:

1. The initial onsite bamboo removal and planting installations as specified on the landscape plans must be performed within the first spring planting season after approval of the Special Exception.
2. The subsequent onsite bamboo removal must occur every three months, as needed to allow appropriate room for the landscape plantings to mature and continue to thrive in perpetuity without interference or excessive shading from the bamboo.

July 30, 2014

MEMORANDUM

TO: Kathy Reilly, Planner Coordinator
Area 1 Planning Division

FROM: Matthew Folden, Planner Coordinator
Area 1 Planning Division

SUBJECT: Non-Residential Professional Office
Board of Appeals Petition No. S-2875
9400 Old Georgetown Road
Bethesda Chevy Chase Policy Area

This memorandum summarizes the Transportation Adequate Public Facilities (APF) review of the subject Board of Appeals petition. The Petitioner is requesting special exception approval to continue operating a non-residential professional office within an existing single family dwelling unit at 9400 Old Georgetown Road in Bethesda, a special exception use within the existing R-60 zone. The requested special exception proposes a maximum staff of eleven employees operating Monday through Friday 9:00 AM – 6:00 PM.

RECOMMENDATIONS

Staff finds that the requested special exception satisfies the Local Area Transportation Review and Transportation Policy Area Review (LATR/TPAR) tests and will have no adverse traffic impact on existing area roadway conditions or pedestrian facilities, as proposed. As a result, staff recommends approval of the special exception application and offers the following conditions and comments:

1. The Petitioner must limit the special exception use to 2,200 square feet of non-residential professional office space and one residential apartment, as shown on the site plan and analyzed in the traffic statement.
2. The special exception use is limited to the hours of 9:00 AM – 6:00 PM, Monday – Friday, with a maximum of eleven employees.

DISCUSSION

Vehicular Access and Parking

The site is located on the west side of Old Georgetown Road (MD 187), between Beech Avenue and Spruce Tree Avenue, with primary access provided via a curb cut along Old Georgetown Road. A secondary access point is provided on Singleton Drive, the site's rear frontage. This secondary access point consists of a residential driveway apron and concrete parking area that can accommodate one vehicle. Old Georgetown Road is classified as a Major Highway (100' right-of-way) along the site frontage that measures approximately 82-feet wide with three travel lanes in each direction. Singleton

Drive is classified as a Primary Roadway (60' right-of-way) that measures approximately 36-feet wide with one travel lane in each direction. The application proposes maintaining the existing eight on-site parking spaces accessed via the Old Georgetown Road entrance. For the record, on-street parking is prohibited along the site's Old Georgetown Road. Based on the amount of on-site parking, staff finds that no adverse impacts will result from the proposed non-residential professional office.

Pedestrian and Transit Service

The site frontage on Old Georgetown Road and Singleton Drive both have existing sidewalks that vary in width from four-to-five feet. These sidewalks are part of a continuous network that connects the site with the surrounding neighborhood and the greater region via Old Georgetown Road. Transit service is available from a bus shelter along the site's Old Georgetown Road frontage, located approximately 600-feet north of the site (in the southbound direction) and directly opposite the site frontage (in the northbound direction). Specific transit routes within walking distance to the site include:

1. Metrobus routes: J2 and J3
2. Ride-On route: 70

Master-Planned Roads and Bikeways

The *Approved and Adopted 1990 Bethesda Chevy Chase Master Plan* and *2005 Countywide Bikeway Functional Master Plan* makes the following recommendations:

1. Old Georgetown Road (MD 187) is designated as Major Highway M-4, with an ultimate right-of-way of 120-feet, between the Capital Beltway (I-495) and Bethesda Central Business District sector plan boundary. There are no specific bikeway recommendations for either Old Georgetown Road or Singleton Drive.

Local Area Transportation Review (LATR)

The proposed use will generate vehicular trips during the weekday morning (6:30 to 9:30 a.m.) and evening (4:00 to 7:00 p.m.) peak periods. The subject special exception petition is not required to submit a full LATR traffic study because the site will generate fewer than 30 vehicular trips. As a result of this exemption, the petitioner submitted a traffic statement that summarized his petition for a 2,200 square foot non-residential professional office and one residential apartment. Based on the LATR trip generation rate, the proposed use would generate two fewer morning peak-hour trips and three fewer evening peak-hour trips than the previously approved medical office use (Table 1). As a result of the minimal increase in site generated traffic during the morning peak-hour, staff finds that the traffic generated by the proposed special exception use would not adversely impact the existing traffic conditions.

**TABLE 1
SUMMARY OF SITE TRIP GENERATION
PROPOSED NON-RESIDENTIAL PROFESSIONAL OFFICE**

	AM Peak Hour			PM Peak Hour		
	In	Out	Total	In	Out	Total
Previous Special Exception						
Residential Apartment ¹ (1 DU)	0	1	1	1	0	1
Medical Office ² (2,200 SF)	4	1	5	2	6	8
Total Existing	4	2	6	3	6	9
Subject Special Exception						
Residential Apartment ¹ (1 DU)	0	1	1	1	0	1
Professional Office ¹ (2,200 SF)	3	0	3	1	4	5
Total Proposed	3	1	4	2	4	6
Net Increase/ Decrease						
	-1	-1	-2	-1	-2	-3

¹ January 2013 LATR/ TPAR Guidelines

² ITE Trip Generation Manual, 9th Edition: Land Use Code: 720 (Medical-Dental Office Building)

Transportation Policy Area Review (TPAR)

New developments within the Bethesda Chevy Chase Policy Area must satisfy the Transportation Policy Area Review (TPAR) test by making a one-time payment equal to 25% of the general district impact tax. The proposed special exception use, however, is not subject to this TPAR payment because it will not increase the building square footage and will generate fewer trips than the previously approved medical office space (permitted by special exception in 1965). As a result, the proposed development satisfies Adequate Public Facility (APF) requirements and does not necessitate further transportation analysis.

Martin O'Malley, *Governor*
Anthony G. Brown, *Lt. Governor*



James T. Smith, Jr., *Secretary*
Melinda B. Peters, *Administrator*

MARYLAND DEPARTMENT OF TRANSPORTATION

July 31, 2014

RE: Montgomery County
 MD 187
 9400 Old Georgetown Road
 SHA Tracking No. 14APMO023XX
 County No. S-2875
 Mile Point: 2.09

Ms. Kathy Reilly
Maryland-National Capital Park & Planning Commission
Planning Department
8787 Georgia Ave.
Silver Spring, Maryland

Dear Ms. Reilly:

Thank you for the opportunity to review the site plan for 9400 Old Georgetown Road in Montgomery County associated with zoning Special Exemption Case # S-2875. The State Highway Administration (SHA) review is complete and we are pleased to respond.

The access point does not meet current SHA standards and must be reconstructed. Please address the following comments in a point-by-point response:

Access Management Division (AMD) Comments:

1. Please show all existing features. The waterline, underground fiber optic line, inlet, and concrete driveway apron are missing from the plans.
2. The Access Management Division Plan Review Checklist needs to be utilized in drafting the SHA improvement plans. The checklist can be accessed at www.roads.maryland.gov by selecting the Business Center drop down menu and Permits and Miss Utility Information, Access Permits, Commercial/Industrial/Residential Subdivision Access Permit, Plan Submittal Checklist. Please include a copy of the completed checklist with your next submittal. The checklist can also be accessed directly at <http://www.roads.maryland.gov/ohd2/Plan-check-list.pdf>
3. The existing shared use entrance must be upgraded to one SHA MD 630.01 across both properties.
4. For Maryland Standards (construction and temporary traffic control, please place the following note on the first sheet of the plan set:

The following standards (construction and temporary traffic control) are required for this project (list them out as shown below):

- a. MD-xxx.xxx – Name of standard
- b. MD-xxx.xxx – Name of standard

For all standards referred to on the plans the contractor must go to the Book of Standards which will have the most current version. The Book of Standards can be accessed at: <http://apps.roads.maryland.gov/businesswithsha/bizStdsSpecs/desManualStdPub/publicationsonline/ohd/bookstd/index.asp>

My telephone number/toll-free number is _____

Maryland Relay Service for Impaired Hearing or Speech 1.800.735.2258 Statewide Toll Free
Street Address: 707 North Calvert Street • Baltimore, Maryland 21202 • Phone 410.545.0300 • www.roads.maryland.gov

Ms. Kathy Reilly
SHA Tracking No.: 14APMO023XX
Page 2
July 31, 2014

All items are to be constructed in accordance with the current version of the referenced standard at the time of construction.

Further plan submittals should reflect the above comments. Please submit 2 sets of revised plans, a CD containing the plans and supporting documentation in PDF format, as well as a point by point response, to reflect the comments noted above directly to Mr. Steven Foster attention of Mr. Wesley Beasley. Please reference the SHA tracking number on future submissions. Please keep in mind that you can view the reviewer and project status via SHA Access Management Division web page at <http://www.roads.maryland.gov/pages/amd.aspx>. If you have any questions, or require additional information, please contact Mr. Beasley at 410-545-5664, by using our toll free number in Maryland only at 1-800-876-4742 (x5664) or via email at wbeasley@sha.state.md.us.

Sincerely,



for Steven D. Foster, Chief/ Development Manager
Access Management Division

SDF/SMC/WMB

cc: Ms. Lisa Choplin, SHA – Innovative Contracting Division
Ms. Heather Dhopolsky, Linowes and Blocher, LLP., 7200 Wisconsin, Suite 800, Bethesda, Maryland 20814
Mr. Martin Grossman, Montgomery County - Board of Appeals – Office of Zoning and Administrative Hearings, Stella B. Werner Council Office Building, 100 Maryland Avenue, Rm. 200, Rockville, Maryland, 20850
Mr. Matthew Folden, Montgomery County – Planning Department, 8787 Georgia Avenue, Silver Spring, Maryland, 20910
Mr. Charles Frederick, Montgomery County Council - Board of Appeals, 100 Maryland Avenue, Rockville, Maryland, 20850
Ms. Diane Jones, Montgomery County - Department of Permitting Services, diane.jones@montgomerycountymd.gov
Mr. Chris L. Kabatt, Wells & Associates - Principal Associate, clkabatt@mjwells.com
Mr. William Landfair, VIK A, Inc. - 20251 Century Boulevard, Suite 400, Germantown, Maryland, 20874 landfair@vika.com
Mr. Mark McKenzie, SHA – Access Management Division
Mr. Scott Newill, SHA – Access Management Division
Mr. Mark Pfefferle, M-NCPPC – Environmental Planning, Mark.Pfefferle@mncppc-mc.org
Ms. Kathy Reilly, M-NCPPC – Planning Department, kathy.reilly@montgomeryplanning.org
Mr. Faik Tugberk, Owner – 6740 Brigadoon Drive, Bethesda, Maryland, 20817