**MEMORANDUM:**

DATE: October 14, 2005

TO: Montgomery County Board of Appeals

VIA: Rose Krasnow, Chief, Development Review Division *RK*
Carlton W. Gilbert, Zoning Supervisor, Development Review Division *CW*

FROM: Elsabett Tesfaye, Senior Planner, Development Review Division *ET*
(301) 495-1301

SUBJECT: **Special Exception S-2593: Danette D. Sloan**—Special Exception for a Home Occupation (Major) to increase the number of clients in an existing Beauty Salon located on Lot 1 Block 4 Foxhall Subdivision at 13124 Foxhall Road, Silver Spring

Danette D Sloan, applicant
17,436.00 Square feet (.40 acre), R-90 Zone.
The 1989 Master Plan for the Communities of Kensington and Wheaton

FILING DATE: October 28, 2003

PLANNING BOARD October 20, 2005
PUBLIC HEARING: October 21, 2005

RECOMMENDATION: Approval with the following conditions:

1. The Total floor area for the major home occupation is limited to 500 square feet of area in the ground floor of the dwelling.
2. The Home Occupation Beauty Salon shall be limited to a maximum of 32 clients per week and a maximum of 8 clients per day with a maximum of two nonresident staff.
3. Appointment shall be staggered so that no more than three clients shall be present at the subject beauty salon at any given time.

4. Days and Hours of operation for the beauty salon shall be Wednesday 10:00 a.m. to 5:00 p.m., Thursday and Friday 10:00 a.m. to 6:00 p.m. and Saturday 8:30 a.m. to 2:00 p.m.
5. The beauty salon's clients shall be seen by appointment only and listed in an appointment book, which must be available for inspection upon request by appropriate county officials.
6. There must be no sign except as required by state or county regulation.
7. No stock in trade or commodities shall be sold on the premises.
8. The applicant shall develop and implement a formal parking strategy to assure that the employees and customers are parking in legally permitted areas along Kayson Street and Foxhall Drive. The strategy should include monitoring where customers park their vehicles and informing them if they are parking illegally. If this monitoring is not effective, the applicant shall formally request the Montgomery County Department of Public Works (DPWT) to install additional signing and marking as appropriate along Foxhall Drive.
9. Twenty-one 3½ feet tall evergreen hedges shall be planted on either side of the driveway, as shown on the site/landscape plan.
10. The applicant shall submit a revised statement of operation that includes a detailed inventory of equipments and facilities in the beauty salon.

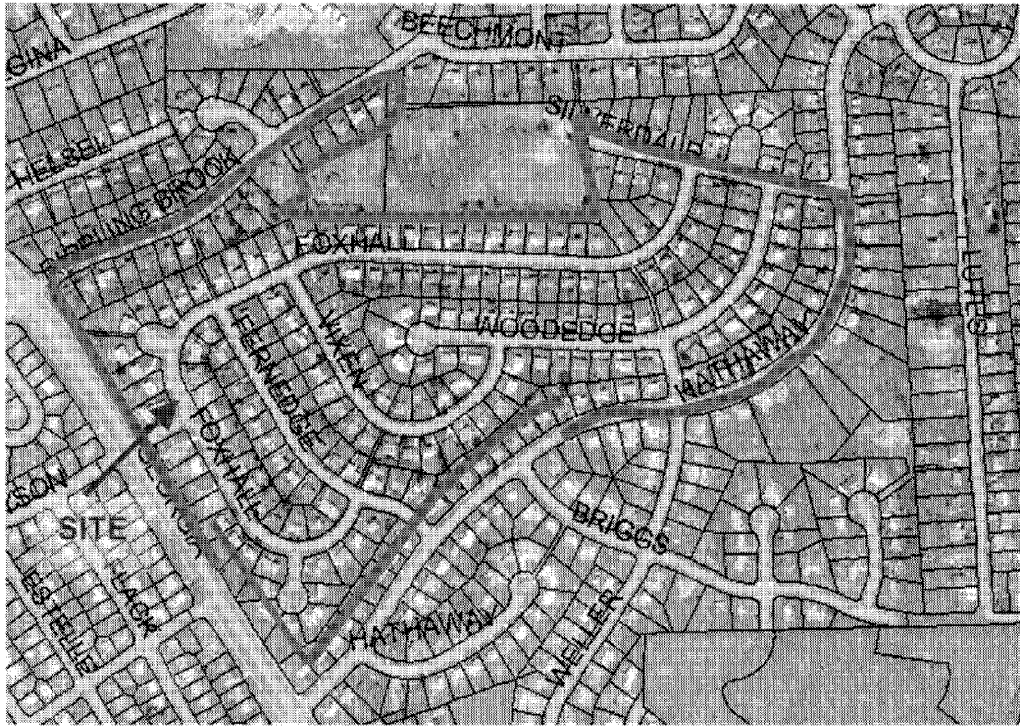
FINDINGS

A. PROJECT SUMMARY

The applicant, Mrs. Danette Sloan, is currently operating a beauty salon under a Home occupation Certification No. 208259 issued in 2000 authorizing no more than 20 clients visit in a week and no more than one non resident employee within a 24-hour period as permitted pursuant to Section 59-A-6.1. The applicant now is proposing to increase the number of employees to a minimum of 37 and a maximum of 50 clients per week or 8 to 13 clients per day. The applicant also proposes two nonresident employees. The subject property is located in the R-90 Zone, which permits the proposed special exception.

B. Neighborhood Description

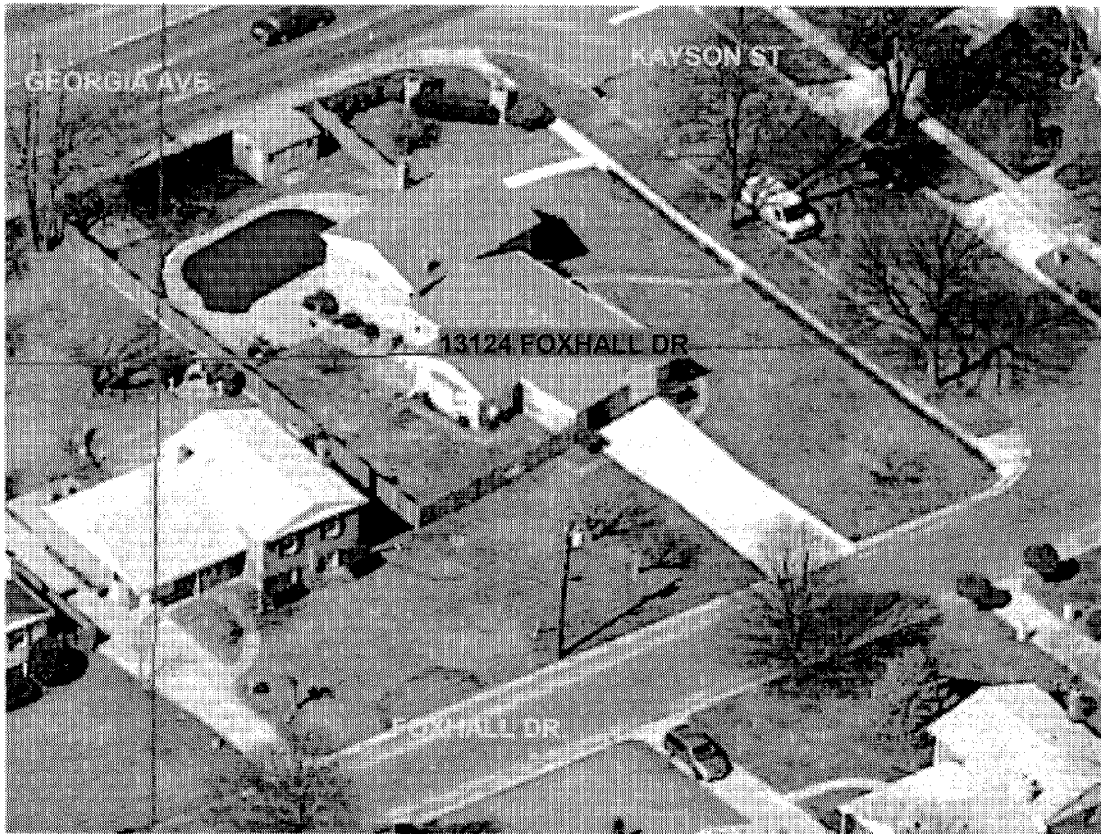
The neighborhood in which the subject site is located is generally defined by Rippling Brook Dr. to the north, Georgia Avenue (MD 97) to the west, Hathaway Drive to the to the south, and Georgian Forest Park and Silverdale Dr to the east. The immediate neighborhood is predominantly residential in the R-90 Zone.



The subject property is surrounded by streets on three sides (Georgia Avenue to the west; Foxhall Drive to the east; and Kayson Street to the north) and abuts a single-family dwelling to the south in the R-90 Zone. The area across Georgia Avenue (Just outside of the neighborhood boundary, as defined by staff) is developed with single-family detached dwellings in the R-60 Zone.

C. Site Description

The property is identified as Block 4 Lot 1 within Foxhall Subdivision, at 13124 Foxhall Drive, Silver Spring. It is generally rectangular and is a corner lot that is bounded by streets on three sides. It comprises approximately 17,436 square feet (.40 acre) of land area. The property is improved with a 2,473 square foot, two-story, split-level brick structure. The south (rear) and west (Georgia Avenue) yards are enclosed with a six-foot-high board and board fence. The west yard contains a swimming pool and a shed. The property has three street frontages: approximately 116 feet on Foxhall Drive, approximately 152 feet on Kayson Street (front) and approximately 116 feet on Georgia Avenue. Vehicular access to the property is from Foxhall Road via a 20-foot-wide, 52-foot long driveway that connects to the garage entrance of the house. The property is also accessed from Kayson Street (north) by way of steps leading to the front entrance to the house and through a three-foot wide concrete walkway leading to the swimming pool on the west side of the property. Another walkway is also connected to the driveway on the east front yard and leads to the south side (rear) of the house.



D. Land Use and Zoning History: A record Plat (No. 6312) for The Foxhall Subdivision was recorded in the land records of Montgomery County, Maryland in 1960. The existing structure was built on the subject property in 1968. The 1989 Master Plan for the Communities of Kensington and Wheaton recommends that the subject property be retained in the R-90 Zone. A certificate for a Home occupation (Beauty Salon) use on the property was issued in September of 2000.

E. Elements of Proposal

The hours and days of operation for the subject beauty salon are Wednesday 10:00 a.m. to 5:00 p.m., Thursday and Friday 10:00 a.m. to 6:00 p.m. and Saturday 8:30 a.m. to 2:00 p.m. The applicant and two non-resident employees will operate the beauty salon. Clients are seen by appointment only. No sign is proposed for the subject beauty salon.

F. ANALYSIS

Master Plan:

Upon reviewing the proposal for Master Plan consistency, the Community Based Planning Division has offered the following comments:

The proposed special exception for a beauty salon at 13124 Foxhall Drive is located in the 1989 Master Plan for the Communities of Kensington and Wheaton. The Master Plan does not have any specific comments for this location or for this use. The proposed use is generally consistent with the goals and objectives of the Master Plan.

Protection and stabilization of the current residential character of the existing residential areas is among the master plan's goals and objectives (Page 28) for land use and zoning for the Master Plan area as a whole. Another objective of the Plan is to preserve the identity and integrity of residential areas along major highway corridors through the Green Corridor policy. In this regard, the Master Plan states that petitions "for home occupations and non-residential medical practitioners should be reviewed with care to avoid undermining the residential fabric of the community, especially with regard to their cumulative effect." However, this statement is more specifically directed to land uses and special exceptions located directly on major highway corridors with frontage along streets, such as Georgia Avenue. Since the proposed special exception does not have direct access from Georgia Avenue, this comment is not directly applicable to this proposal. The proposed special exception would not negatively impact the Green Corridor policy of the Master Plan. If it complies with all other applicable requirements and guidelines for compatibility with the adjoining residential area, the proposed use would be consistent with the goals and objectives of the Master Plan.

Transportation

Transportation Planning Staff has offered the following comments:

Vehicular Site Access

Vehicular access to the driveway and garage serving this existing single-family detached unit is from Foxhall Drive via Kayson Street and Georgia Avenue (MD 97).

One of the comments in the neighbors' letters expressed concern regarding the adequacy of the sight distance to turn into and from Kayson Street at Georgia Avenue. Park and Planning staff does not find that the community identification sign and the petitioner's rear fence (i.e., required to enclose their swimming pool) in the southeastern corner of this intersection unreasonably hinders the ability to turn into and out of Kayson Street.

Master-Planned Roadways and Bikeways

According to the *Master Plan for the Communities of Kensington-Wheaton* and the *Countywide Bikeways Functional Master Plan*, the roadways and bikeways are designated as follows:

1. Georgia Avenue (MD 97) is classified as a six-lane divided major highway, M-8, with a 120-foot right-of-way and an existing Class I bikeway. The Countywide Bikeways Functional Master Plan designates a shared use path, SP-29, along Georgia Avenue north of the Glenmont Metrorail Station.
2. Hathaway Drive is classified as a primary residential street with a 70-foot right-of-way and an existing Class II or III bikeway.
3. Rippling Brook Drive is classified as a primary residential street, P-14, with a 70-foot right-of-way.

Foxhall Drive and Kayson Street are residential streets not listed in the master plan.

The *Master Plan for the Communities of Kensington-Wheaton*, adopted in 1989, predates the County's stated policy objective of implementing an exclusive busway along Georgia Avenue between the Glenmont Metro-rail station and Olney. This transitway concept is included in other affected master plan amendments including Aspen Hill (in 1994), Glenmont Transit Area (in 1997) and Olney (in 2005). Preliminary conceptual plans indicate that the current master planned right-of-way of 120 feet along the subject property frontage would not accommodate the preferred busway design. The Georgia Avenue Busway is not currently the subject of any project planning activity, although the County Executive and County Council president included the project as one of the County's priorities for new project planning study starts in their joint November 2004 transmittal to the State delegation.

Pedestrian Facilities

Sidewalks exist along Georgia Avenue and Kayson Street, but do not exist along Foxhall Drive. The pedestrian access to the beauty salon within this residential property is from a paved path off the driveway from Foxhall Drive. Two lead-in sidewalks exist from Kayson Street where one leads to a gate at perimeter fence enclosing a swimming pool. Customers were able to enter through this gate and around the rear of the house to the beauty salon entrance. Pathways connect the driveway. The proposed major home occupation will not change the existing pedestrian facilities.

Parking

On-street parking is a particular concern expressed in letters written by neighbors. The number of legally available parking spaces is compared below with the parking demand in the worst-case scenario:

1. Legally-Available On-Street

Under Montgomery County Code Sections 31-17 and 31-20, on-street parking is prohibited within 35 feet of an intersection. Along Kayson Street, the distance between existing "No Parking" signs would permit four vehicles to legally park. "No Parking" signs were installed along Kayson Street by DPWT to prohibit on-street parking near the intersections with Georgia Avenue and Foxhall Drive.

Similarly along Foxhall Drive, on-street parking is prohibited 35 feet away from intersection without a stop sign as at Foxhall Drive. The public is permitted to park on a public street, such as Foxhall Drive, in front of private residences and is not limited to visitors to that particular residence. However, motorists may not park their vehicles within 5 feet of a private driveway, unless permitted by the land owner/occupant. Similar to Kayson Street, the petitioner may have to formally request DPWT to install a "No Parking" sign along Foxhall Drive if motorists regularly park within 35 feet of the intersection with Kayson Street.

2. Available Parking Supply

If customer and employee on-street parking was restricted to only along the petitioner's property frontage and the parking spaces were delineated with pavement markings, a maximum number of legally, available on-street parking spaces is as follows:

- a. Four parking spaces along Kayson Street.
- b. Four parking spaces along Foxhall Drive where three vehicles can park south of the driveway and one vehicle can park between the driveway and the intersection with Kayson Street.

Including the off-street parking in the garage (i.e., used by petitioner) and on the driveway, the employees and clients would have a maximum of 14 on and off street parking spaces. However, the existing on-street parking spaces that are not delineated may reduce on-street capacity. The table below summarizes the number of legally permitted parking spaces for 1) the estimated "reasonable" number without

delineated pavement marking, assuming that the first motorists park in the middle of two potential spaces and 2) the "maximum" number if delineated with pavement markings:

Legally-Permitted Parking	Number of Parked Vehicle	
	Reasonable	Maximum
Off-Street – Garage	2	2
Off-Street-Driveway	3	4
Subtotal- Off-Street	5	6
On-Street – Kayson Street	3	4
On-Street – Foxhall Drive	3	4
Subtotal – On-Street	6	8
Total – On & Off-Street	11	14

3. Parking Demand for the Worst-Case Scenario

The demand for parking spaces in the worst-case scenario is estimated as follows:

Vehicle Owner	Estimated Demand for the Worst-Case Scenario
Petitioner	Estimated to be 2-car family
Employees	Proffered as 2 non-resident employees
Customers	Maximum of 9 based on a) up to 3 workers and b) up to 3 customers per worker (i.e., 1 waiting or arriving, 1 being served, and 1 leaving)
Other Visitor	Estimated to be 1 at any time
Total	Estimated maximum of 14

Transportation Planning staff concludes that sufficient parking exists on or adjacent to the site, with operational concerns addressed by the recommended condition.

Adequate Public Transportation Facilities Review

This existing single-family detached unit is located on a recorded plat as Lot 1, Block 4. The proposed hours of operation on Wednesdays, Thursdays, and Fridays are as follows:

1. Start at 10:00 a.m., after the weekday morning peak period from 6:30 to 9:30 a.m.

2. Close at 5:00 on Wednesdays and at 6:00 p.m. on Thursdays and Fridays, within the weekday evening peak period from 4:00 to 7:00 p.m.

The beauty salon is closed on Mondays, Tuesdays, and Sundays. On Saturdays, the weekend hours of operations are from 8:30 a.m. to 2:00 p.m.

Besides the one peak-hour vehicular trip generated by this existing single-family detached unit, the petitioner is proposing two non-resident employees and up to 13 appointments with clients in a day. The 13 appointments would probably be scheduled through out the day and, only in the worst-case scenario, would nine appointments be clustered within the same hour.

1. By starting at 10:00 a.m., the additional trips generated by employees and clients would not generate any peak-hour vehicular trips within the weekday morning peak period.
2. Employees and customers would generate up to 14 peak-hour vehicular trips within the weekday evening peak period in the worst-case scenario.

A traffic study is not required to satisfy LATR because the total peak-hour vehicular trips generated by the single-family-detached unit and major home occupation is fewer than 30 peak-hour trips within the weekday morning and evening peak periods. Under the *FY 2005 Annual Growth Policy*, Policy Area Transportation Review is no longer considered in the APF review for all policy areas including the Kensington/Wheaton Hill Policy Area.

Transportation Planning staff recommends the following condition in addition to the operational limitations proffered by the applicant as part of the APF test for transportation requirements related to the granting this Board of Appeals case:

Develop and implement a formal parking strategy to assure that the employees and customers are parking in legally permitted areas along Kayson Street and Foxhall Drive. The strategy should include monitoring where customers park their vehicles and informing them if they are parking illegally. If this monitoring is not effective, formally request the Montgomery County Department of Public Works (DPWT) to install additional signing and marking as appropriate along Foxhall Drive.

With the recommendation above, Transportation Planning staff finds that the proposed special exception use satisfies the Local Area Transportation Review (LATR) test and will have no adverse effect on area roadway conditions or nearby pedestrian facilities.

Environment

There are no environmental issues or concerns associated with the subject proposal. No environmentally sensitive areas are located on the property.

G Development Standards

The subject property is located in the R-90 Zone which permits the proposed special exception. The proposal conforms to all applicable current development standards of the R-90 Zone. The following table summarizes the relevant development standards for the R-90 Zone that are applicable to the proposed special exception request:

Current Development Standard	Required/Allowed	Proposed
Minimum Lot Area	9,000 SF	17, 436 SF
Minimum Lot width: ▪ @ Front building line ▪ @ Street line	75 ft 25 ft	110ft 106ft
Minimum Building Setback: Front Yards Georgia Av. Kyson St. Foxhall Rear	30 ft 30 30 25	45ft 40 40 25
Maximum Building Coverage Including accessory building	30%	10.67%

H. Community Concerns

There is a strong opposition to the subject application from the community. A large number of people from the community and some visitors have written letters in opposition to the application. Major concerns identified by the community include:

1. Traffic and parking activities (parking spill over, traffic congestion, illegal on-street parking and U-terns, etc.) on the two neighborhood streets (Kayson Street and Foxhall Drive) adjacent to the subject site creating hazardous situation both on the streets and in the neighborhood.
2. A presence of a commercial type use in a residential neighborhood setting a precedent and negatively impacting the value of property in the area.



One neighbor proposed three conditions of approval under which the applicant's proposal would be permitted. The recommended conditions by the neighbor call for the installation and use of a new walkway to access the beauty shop from Foxhall Drive, removal of existing walkways on Kayson Street and additional planting of hedges along the property's Kayson Street frontage.

Two people who are customers of the applicant have written in support of the application noting that clients of both the subject beauty salon and the beauty salon across the street park their cars along Kayson Street. The letters also note the availability of adequate on and off site parking spaces to accommodate the parking needs of both home occupations and that a combination of sufficient setbacks from Georgia Avenue and parking restrictions closer to the entrance into the neighborhood would allow a safe access to the neighborhood.

A representative of the Foxhall Citizen's Association has written a letter indicating an interest to testify on behalf of the association, at the board of appeals hearing, in opposition to the application.

In reviewing and analyzing the applicant's proposal staff has taken into consideration and carefully evaluated the concerns voiced by the community and issues that were raised in their numerous letters.

I. 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 elsewhere 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.

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, lighting, noise, traffic, and the environment

The inherent, generic physical and operational characteristics associated with a home occupation for a beauty salon include the proposed building, the parking facility, lighting, vehicular trips to and from the site by the clientele, nonresident employees and residents (including the operator of the salon) of the building. The Transportation Planning staff finds that the proposed special exception use satisfies the Local Area Transportation Review test and will have no adverse effect on nearby roadway conditions or pedestrian facilities.

Adequate off-street parking is provided, in the driveway on the west side of the property to serve both the primary residence and the subject home occupation. Moreover, although the parking need of the use for the most part to be accommodated on site, there is ample on-street parking in the immediate area along both Kayson Street and Foxhall Road. There are no parking restrictions on either street.

The non-inherent effects concerning the proposed use include the hours of operation, number of parking spaces, traffic on and around the site and the, location and size of the driveway. To ensure that potential spill over of parking or traffic congestion on the adjoining streets are substantially minimized, staff recommends that the maximum number of clients visiting the subject hair salon be limited to maximum of 32 per week and 8 per day (based on a four-day work week). Moreover, staff recommends that no more than three clients may be in the beauty salon at any given time. The Transportation Planning staff has also recommended that the applicant should develop and implement a formal parking strategy to ensure that the employees and customers are parking in legally permitted areas along Kayson Street and Foxhall Drive. There are no inherent impacts associated with the subject proposal that warrant denial.

- J. **Specific Special Exception Requirements: Section 59-G-2.29. Home occupation, specifies that the use of a dwelling for a major home occupation,**

including a professional or home health practitioner's office that is not in accordance with Sections 59-A-3.4 and 59-A-6.1, may be allowed, subject to the following provisions:

- (a) **The use must be clearly subordinate to the use of the dwelling for residential purposes. The amount of floor area used for the major home occupation must not exceed 33 percent or 1,500 square feet, whichever is less, of the total floor area of the dwelling unit and any existing accessory building on the same lot or parcel. Any enlargement of the total floor area resulting from construction completed on or after the date of application for the special exception or within 18 months immediately preceding the application must be excluded from the total floor area on which this calculation is based.**

The applicant indicated that 500 square feet of floor area is dedicated for the proposed use, which is well below the maximum requirement. A hand drawn floor plan is submitted with the application. However, the floor plan is not legible enough to be considered documentary evidence.

- (b) **The use must be conducted within the dwelling unit or any existing accessory building and not in any open yard area of the lot or parcel on which the dwelling is located. Exterior storage of goods or equipment is not permitted. No separate detached building may be constructed on the lot or parcel for the express purpose of specifically operating the home occupation. No more than one existing accessory building may be used for this purpose. The use may, however, involve off-site activities such as sales, client contact and other matters related to the home occupation.**

There is no evidence to suggest noncompliance with this requirement.

- (c) **The Board may grant a special exception for a major home occupation on the same property as a registered home occupation, if it finds that both together can be operated in accordance with the provisions of this section and Section 59-G-1.2, title "Conditions for Granting." The Board must not grant a special exception for more than one major home occupation on the same property or approve such a use if the property is also approved for a different special exception in accordance with this Division 59-G-2.**

The applicant is currently operating a registered home occupation for a beauty Salon. The current application is for continuance of the existing use with a larger number of clientele.

- (d) **The home occupation office must be conducted only by members of the family, as defined in Section 59-A-2.1, residing in the dwelling and a**

maximum of 2 nonresident employees or associates to be determined by the Board, taking into account the impact on neighboring residences of the resultant parking and traffic. The Board may allow more than 2 nonresident employees for a health practitioner's practice; however, no nonresident health practitioner is allowed. In any case where customers, clients or patients visit the dwelling, there must be no more than 2 resident operators of the home occupation or 2 resident health practitioners or other professionals practicing in the dwelling; abuse of this exemption may lead to revocation of the Certificate of Registration.

The beauty salon will be operated at the residence of the applicant and owner of the salon. In addition to the applicant, the beauty salon will have two nonresident employees, a manicurist, and a shampoo person.

- (e) **Clients, customers, patients or other visitors in connection with the home occupation must visit by appointment only. The Board may specify the hours during which they may visit and may limit the number of clients, customers, patients, or other visitors during those periods. An indoor waiting room must be provided. In the case of a home health practitioner, as defined in Section 59-A-2.1, emergency patients may visit outside the specified hours or without appointment; abuse of this exemption may lead to revocation of the special exception.**

The applicant's statement indicates that the salon will be opened four days a week and provides the following days and hours of operation:

Wednesday:	10:00 a.m. to 5:00 p.m.
Thursday and Friday:	10:00 a.m. to 6:00 p.m.
Saturday:	8:30 a.m. to 2:00 p.m.

The statement further stated that all clients visit the beauty salon by appointment only.

- (f) **No equipment or process that creates noise, vibration, glare, fumes, odors or electrical or electronic interference detectable at or beyond the lot line is allowed as part of the special exception activity, nor is it allowed to involve use, storage or disposal of:**

- (1) **A quantity of a petroleum product sufficient to require a special license or permit from the fire marshal; or**
- (2) **Any material defined as hazardous or required to have a special handling license by the Montgomery County Code, as amended, or the Annotated Code of Maryland, as amended, except that disposal of medical waste must be regulated as provided in Maryland State Laws and Regulations.**

(g) The only allowable equipment or facilities are those needed for:

- (1) Domestic or household purposes;**
- (2) General office purposes, such as but not limited to a personal computer, calculator, word processor, or typewriter; or**
- (3) Art or handicraft equipment, such as but not limited to a handloom, spinning wheel, kiln, or woodworking tools.**
- (4) In the case of a home health practitioner, as defined in Section 59-A-2.1, medical equipment may also be used, subject to the provisions of Paragraph (f), above.**

The applicant currently is operating a beauty salon for 20 clients per week, 5 clients per day under Home Occupation Certificate No. 208259. In view of this, it can be safely assumed that the current operation meets the requirements under both (f) and (g) and the proposed increase in the number of clients is not likely to result in noncompliance with these requirements. The equipments used are those that are customarily associated with low intensity hair salons. However, the applicant shall submit a revised statement of operation that includes a more detail inventory of equipments and facilities in the beauty salon.

(h) The sale of goods on the premises is prohibited, except for:

- (1) The products of dressmaking, hand-weaving, block-printing, the making of jewelry, pottery or musical instruments by hand, or similar arts or handicrafts performed by a resident of the dwelling; or**
- (2) No more than 5 sales per month of items customarily ordered for delivery to customers at off-site locations.**

The applicant's proposal doesn't include sale of goods on the premises. However, the applicant needs to provide a statement indicating that the use will be in compliance with this requirement.

(i) Display or storage of goods is prohibited except for:

- (1) Such handmade items as are enumerated in paragraph (h)(1) above; or**
- (2) Samples of merchandise that may be ordered by customers to whom it will be delivered at off-site locations, or merchandise awaiting such delivery.**

The storage of equipment or merchandise for collection by employees who will use or deliver it at off-site locations is prohibited.

Not applicable.

- (j) Except as provided in Paragraph (2), off-street parking must be provided on-site in accordance with the relevant provisions of Article 59-E, as follows:
- (1) For a home health practitioner, the Board may require the number of spaces specified in Section 59-E-3.7 for "office, medical practitioner." Alternatively, and for any other use encompassed by this Section 59-G-2.29, there must be one parking space for each nonresident employee or associate plus one parking space for every client or customer allowed by the conditions of the special exception to visit in any one-hour period. These spaces must be in addition to the number of spaces required for the residential use of the property.
 - (2) In determining the necessary amount of on-site parking, the Board may take into account the availability of on-street parking spaces, but on-street parking must not be allowed in connection with the home occupation or professional office if it will have an adverse impact on neighboring residences.
 - (3) Screening must be provided in accordance with Section 59-E-2.83. The required spaces must be located in the side or rear yard, except that the Board may approve parking in a driveway traversing the front yard if it finds that there is inadequate space for the parking or necessary screening in the side or rear yard, and the front-yard driveway can be screened in accordance with Section 59-E-2.83. If an applicant can establish, to the satisfaction of the Board, that a front- yard parking area was constructed prior to February 5, 1990, in order to satisfy the parking requirements for a residential professional office as a permitted use, the Board may waive the requirement for side or rear yard parking if it finds that such action will not have an adverse impact on neighboring residences.

There is available off-street parking for six vehicles (two garage spaces), on the driveway located on the east side of the property. The Transportation Planning staff estimates that approximately seven parking spaces would be permitted along Kayson Street and Foxhall drive fronting the subject property. In view of this, it appears that there is adequate on and off-street parking to accommodate the parking needs of the beauty Salon, based on the proposed maximum of 13 clients per day. However, given the concern voiced by the community regarding adverse parking and traffic impacts on Kayson street and Foxhall Drive, it is essential that the applicant implement a formal parking strategy in a manner that would address the neighbors' concern and

substantially reduces the need for on street parking by the salon's clientele. The Transportation Planning staff has recommends the following condition:

Develop and implement a formal parking strategy to assure that the employees and customers are parking in legally permitted areas along Kayson Street and Foxhall Drive. The strategy should include monitoring where customers park their vehicles and informing them if they are parking illegally. If this monitoring is not effective, formally request the Montgomery County Department of Public Works (DPWT) to install additional signing and marking as appropriate along Foxhall Drive.



In addition to this condition, staff recommends that a reduction in the number of proposed number of clientele, i.e., reducing the number of clients from the requested maximum of 50 clients per week and up to 13 clients per day to a maximum of 32 per week and no more than 8 clients per day, staff also recommends that the applicant staggered the customers appointment so that no more than 3 customer will be in the salon at any given time.

The applicant shall provide a revised statement that includes a formal parking strategy and operational schedule detailing estimated daily arrival and departure time of clients.

- (k) **In the Residential One-Family Zones regulated by Section 59-C-1.3 and in recorded residential subdivisions in the Agricultural Zones regulated by Division 59-C-9, any commercial vehicle that is parked or garaged on-site in connection with the home occupation must comply with the regulations for commercial vehicles in section 59-C-1.31, title "Land Uses." In the Townhouse and Multiple-Family Zones regulated by Sections 59-C-1.7 and 59-C-2.3, respectively, one commercial vehicle may be parked on-site in connection with the home occupation if parked in a garage.**

There is no commercial vehicle associated with the subject home occupation.

- (l) **The Board may restrict deliveries by truck in volume and frequency and may limit them to deliveries by public or private services that also deliver to private homes.**

The use does not require large and frequent delivery services.

- (m) **Reserved.**

- (n) **A special exception for a major home occupation is granted for a two-year period and the special exception may be renewed if it is operated in compliance with the findings and conditions of the Board in the initial grant and satisfies the compliance procedures specified by Section 59-G-1.3. The public hearing on the renewal may be waived by the Hearing Examiner if the inspection of the premises indicates that the special exception is in compliance with the conditions established by the Board of Appeals and the parties entitled to notice are given an opportunity to request a hearing and fail to do so.**

The applicant shall so note.

- (o) **In those zones where a professional office for a resident of a dwelling was permitted by right prior to February 5, 1990, and if a use-and-occupancy permit for the professional office was issued prior to February 5, 1990, the office may be continued as a nonconforming use, as provided in Division 59-G-4. (See Section 59-C-1.31, 59-C-2.3 or 59-C-9.3.)**

Not applicable.

K. General Conditions: Section 59-G-1.21.

- (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 located in the R-90 Zone which permits the proposed special exception use.

- (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 proposed special exception satisfies the development standards for the use. To ensure stability and the balance of land use in the residential neighborhood is maintained in a manner that the residential character of the immediate neighborhood is not compromised, and to minimize potential negative traffic and parking activities, staff has recommended the following conditions:

1. The maximum number of clients visiting the subject hair salon must be limited to maximum of 32 clients per week and 8 clients per day (based on a four-day work week).
 2. No more than three clients may be in the beauty salon at any given time.
 3. The applicant should develop and implement a formal parking strategy to assure that the employees and customers are parking in legally permitted areas along Kayson Street and Foxhall Drive.
- (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.**

There are no major Master Plan concerns that are associated with this application. As noted, 1989 Master Plan for the Communities of Kensington and Wheaton does not have any specific guidance for the subject location or the proposed use. The Community Based Planning Division has indicated that if it complies with all other applicable requirements and guidelines for compatibility with the adjoining residential area, the proposed use would be consistent with the goals and objectives of the Master Plan.

- (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.**
- (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.**

With the recommended conditions, the proposed use will be in harmony with the character of the residential neighborhood. Furthermore, there is no indication that the proposed development would be detrimental to the use, peaceful enjoyment, economic value or development of adjacent properties or the general neighborhood, provided that the applicant complies with all of the conditions of approval of this application. The proposal does not include new construction or exterior modification to the existing dwelling.

Adequate on site parking accommodation is provided to serve both the primary residence and the subject beauty salon. The transportation planning analysis that was based on the maximum proposed number of clients has not found any potential traffic or parking impact on the immediate neighborhood related to the proposed increase. Regardless, to further ensure a possibility of potential negative impact from traffic and parking conditions on and around the property, staff recommends a maximum of 32 clients per week, 8 clients per day with two nonresident staff. As noted, staff also recommends that the maximum number of clients at the beauty salon in any given time must not exceed three.

The applicant proposes to continue a use that was established nearly five years ago in the existing residence. The subject property and the property directly across the subject site on Kayson Street are the only two properties located in the block between Georgia Avenue and Foxhall Drive on Kyson Street. The property across the street, 3001 Kayson Street, was also the subject of special exception S-1385 for a beauty shop that was approved in 1987 for a maximum of 15 clients a week with five on site parking spaces and



As noted, several residents of the immediate neighborhood have voiced opposition to the proposed increase in the number the beauty salon's client's expressing concerns about parking and traffic congestion on Kayson and Foxhall Drive. However; site inspection by staff (on a Wednesday after noon and Thursday late morning), the Transportation Planning staff's analysis of parking and traffic conditions on and near the subject site, and observation by the Department of Permit Services (DPS) staff, did not find traffic or parking condition that would constitute a nuisance.

- (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.**

It is unlikely that the use would cause objectionable noise, vibrations, fumes, odors, dust, illumination, glare, or physical activity at the subject site. The

applicant is providing additional planting (21, 3.00 ft to 31/2 feet tall evergreen hedges) on either side of the driveway to ensure adequate screening of the driveway, and to maintain the residential character and aesthetical appeal of the property.

- (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 closest special exception use, another beauty salon (S-1385 approved in 1987), is located across Kayson Street, directly opposite the subject property. There is also a day care facility for up to 12 children (SE-98-3 approved in 1998) about a block from the subject property, at 13224 Faxhall Drive. Another special exception for a Home Occupation for beauty salon: (S-1433, approved in 1987) located at 5 Foxhall Court, about a block south of the subject property, at the end of a cul-de-sac, however, the special exception in this particular case does not appear to be active. The special exception for home occupation (a beauty salon) that is currently active at 3001 Keyson Street (across the subject site) has a maximum limit of up to 15 clients per week and no more than two clients at any given time can be at the shop. As indicated, there is on site parking spaces for five cars (as approved in S-1385). With the recommended conditions, the proposed special exception, in conjunction with these special exceptions, will not increase the number, intensity or scope of special exception uses sufficiently to affect the area adversely or alter the predominantly residential and institutional 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.**

With the recommended conditions, the proposed use will not adversely affect the health, safety, security, morals or welfare of 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.

- (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 be adequately served by existing public facilities the use as proposed is not likely to reduce the safety of vehicular or pedestrian traffic.

- (b) Nothing in this Article relieves an applicant from complying with all requirements to obtain a building permit or any other approval required by law. The Board's finding of any facts regarding public facilities does not bind any other agency or department, which approves or licenses the project.

The applicant shall so note.

- (c) The applicant for a special exception has the burden of proof to show that the proposed use satisfies all applicable general and specific standards under this Article. This burden includes the burden of going forward with the evidence, and the burden of persuasion on all questions of fact.

The applicant shall so note.

Conclusion

Based on the foregoing analysis, staff recommends approval of Special Exception S-2593 subject to the conditions found at the beginning of the technical staff report.