



Georgetown Professional Offices, Local Map Amendment H-118

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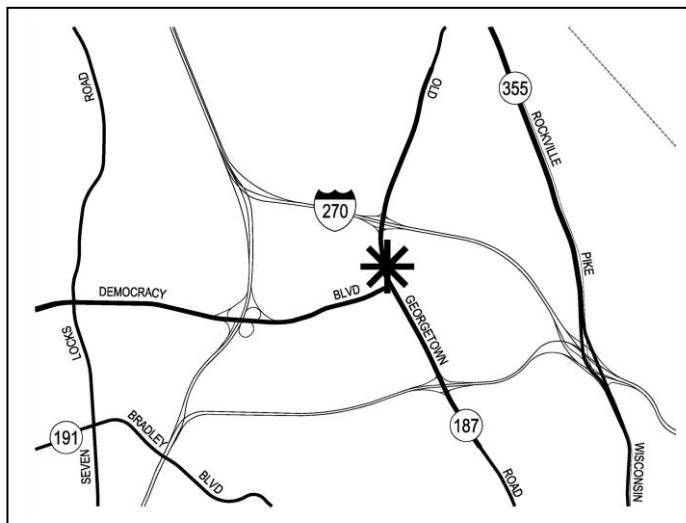
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Completed: 12-23-16

Description

- Request to rezone 1.03 acres from the R-60 Zone to the EOFF-0.5, H-35 Zone;
- Located at 6300 Democracy Boulevard, Bethesda;
- 1992 *North Bethesda/Garrett Park Master Plan*;
- Applicant: Georgetown Professional Association, LTD Partnership;
- Filing Date: September 28, 2016;
- Public Hearing by the Hearing Examiner: January 20, 2017.



Summary

- Staff recommends approval of the Local Map Amendment and the associated Floating Zone Plan with the proposed binding elements.
- No expansion or modification of the buildings are proposed. This request is only to broaden the type of office uses allowed in the existing buildings.
- If the Local Map Amendment is approved, the Applicant must revoke the existing special exception (S-664) and a site plan will be required.
- The Application satisfies the requirements for approval under Chapter 59, the Montgomery County Zoning Ordinance.

STAFF RECOMMENDATION

Staff recommends approval of Local Map Amendment H-118 and the associated Floating Zone Plan with the following binding elements:

- Uses are limited to:
 1. Medical and Dental Clinics
 2. Offices, excluding businesses that regularly use commercial vehicles such as painters and home improvement contractors.
- Vehicular access to Bells Mill Road is prohibited.

At the time of site plan, the Applicant must address the following:

1. Provide a five-foot wide lead in sidewalk from the existing sidewalk located in the Democracy Boulevard rights-of-way.
2. Provide a minimum of three bicycle parking spaces, subject to the design requirements of Section 6.2.6. Bicycle Parking Design Standards.
3. Provide a handrail for the steps along the existing pedestrian access path from Bells Mill Road.
4. Provide landscaping as shown on the landscaping plan.

PROJECT DESCRIPTION

Site Description

The 1.03-acre Property is located on the south side of Democracy Boulevard, approximately 800 feet west of the intersection of Democracy Boulevard and Old Georgetown Road in Bethesda within the R-60 Zone. The Property is a through-lot, bounded by Democracy Boulevard to the north, Bells Mill Road to the south, Davis Public Library to the west, and a residential townhouse community to the east. Walter Johnson High School confronts the Property across Democracy Boulevard.

The Property is improved with the 12,855-square foot Georgetown Professional Medical Clinic¹, which consists of individual office suites organized into a townhouse configuration, and an associated surface parking lot. A bicycle rack is located in the southeast corner of the parking lot. The south side of the Property, close to Bells Mills Road, contains an open space area with three benches, a picnic table, and trash receptacles. A planting bed with white pine trees separates the parking lot from the townhouse development on the abutting property to the east. Three signs along the Property's frontage on Democracy Boulevard identify the office park as the Democracy Medical Center. Two of the signs are freestanding and the third is a low brick monument sign.

Two driveways from Democracy Boulevard provide access to the Property. The driveways are signed for a one-way circulation pattern with cars entering the Property from the western driveway and exiting the Property from the eastern driveway. A pedestrian connection is available from Bells Mill Road, but vehicular access is only available from Democracy Boulevard.



Figure 1: Vicinity Map

¹ The Applicant's land use report identifies the development as the Georgetown Professional Medical Clinic, but signage on the Property identifies the office suites as the Democracy Medical Center (Figure 3).



Figure 2: Aerial View of Property (Property outlined in red)



Figure 3: View from Democracy Boulevard (facing northwest)



Figure 4: Open space on south side of Property (facing Bells Mill Road)

Neighborhood Description

The staff-defined Neighborhood is generally bound by Sinnott Drive and Winnepeg Road to the south, Old Georgetown Road to the east, Democracy Boulevard to the north, and Mayfield Drive to the west. The Neighborhood is predominantly residential with detached houses and townhouses in the R-60 Zone. A townhouse development abuts the Property to the east. The east side of the Property abuts the rear yards of five townhouses. Davis Public Library abuts the Property to the west.

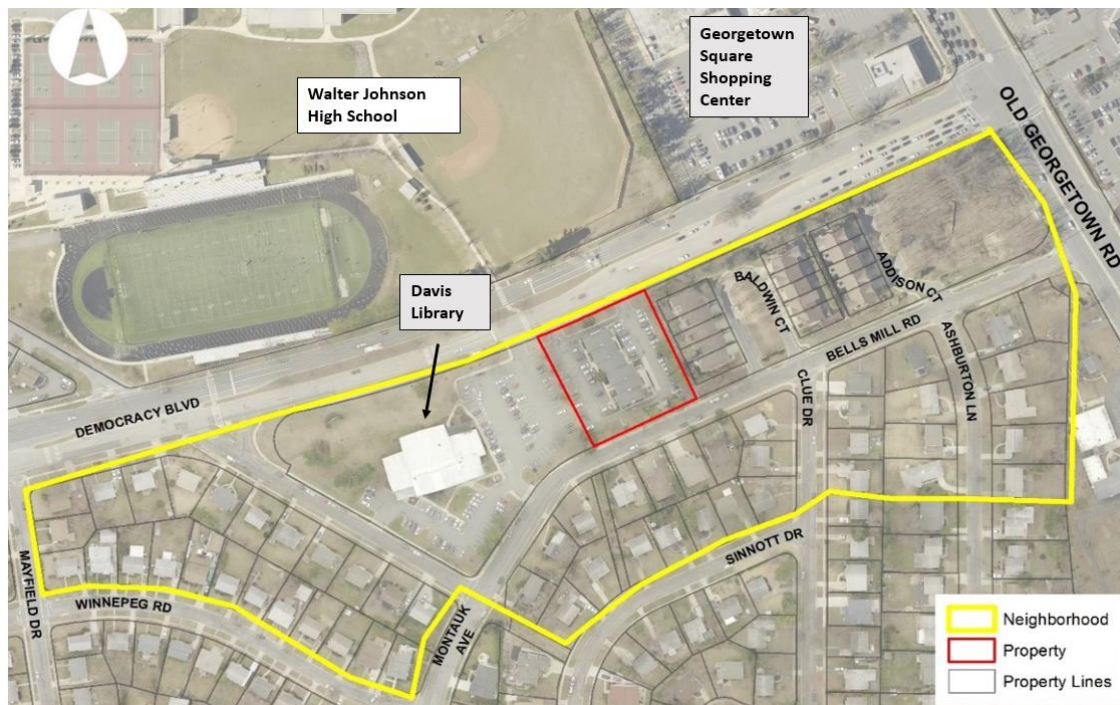


Figure 5: Staff Defined Neighborhood

Zoning History

The Board of Appeals granted a Special Exception (S-664) for a medical clinic with up to 18 physicians on the Property on March 7, 1979 (Attachment 1). The approval included the following conditions (among others):

1. Hours of operation shall be limited to 7:00 a.m. until 7:00 p.m. on weekdays, 7:00 a.m. until 1:00 p.m. on Saturdays, and other hours for emergencies only.
2. Access to Bells Mill Road shall not be permitted.
3. Petitioner shall not operate a pharmacy or laboratory on the premises.

The 1992 *North Bethesda/Garrett Park Master Plan* most recently confirmed the Property's R-60 zoning.

Proposal

The Applicant plans to retain the existing buildings on the Property, which consist of office suites organized into a townhouse configuration. The existing Special Exception restricts use of the office complex to medical practitioners, but the Applicant is requesting the Employment Floating Zone (EOFF-0.5, H-35) to allow other types of businesses to lease office space. The Applicant states that changes in health care delivery and the flux in the health care industry has resulted in fewer medical practitioners seeking individual practice space. Instead, medical practitioners are more likely to associate with large medical practices, or with one of the many "emergency clinic" operations that are being established in the County. As a result of these changes, the Georgetown Professional Medical Clinic has vacancies for the first time since its inception in 1980. The Applicant asserts that the vacancies are not due to the location or condition of the buildings, but rather to the marketplace dynamics for medical office space. For that reason, the Applicant wishes to change the zoning of the Property from residential (R-60, in which the clinic exists by special exception) to the EOFF Zone to allow the flexibility to rent vacant space to other types of office users.

No changes to the buildings are proposed, but Staff worked with the Applicant to make minor improvements to the Property, including the addition of a lead-in sidewalk, parking lot islands, and supplemental landscaping (Attachment 3). These improvements will be implemented through site plan approval.

The Applicant indicated to Staff that there was neighborhood concern about potential office users that would generate regular truck traffic, such as contractors. To address this concern and limit the uses that would otherwise be allowed in the EOFF Zone, the Applicant originally proposed the following binding element:

Pursuant to the provisions of Section 59.5.4.3.B ("Land Uses"), the applicant establishes the following binding element and voluntarily restricts uses to be allowed on the property so that within the "Office" category (Section 59.3.5.8.B), the only uses permitted will be offices for any member of a recognized profession such as, but not limited to, doctors, lawyers, architects, accountants, engineers, and veterinarians.

However, Staff recommended modifying the proposed binding element because it potentially excluded office users that would otherwise be appropriate for this Property such as non-profits, consultants, and web developers. Staff worked with the Applicant to make the binding element more inclusive and consistent with the 2014 Zoning Ordinance, while excluding businesses that generate truck traffic that could be disruptive to neighbors. The revised Floating Zone plan includes the following binding element:

Pursuant to the provisions of Section 59.5.4.3.B ("Land Uses"), the Applicant voluntarily restricts uses to be allowed on the Property to:

1. Medical and Dental Clinics; and
2. Offices, excluding businesses that regularly use commercial vehicles such as painters and home improvement contractors.

In addition, to protect the neighborhood from cut-through traffic, Staff worked with the Applicant to carry forward one of the conditions of approval from special exception (S-664) as a binding element that prohibits vehicular access from Bells Mill Road.

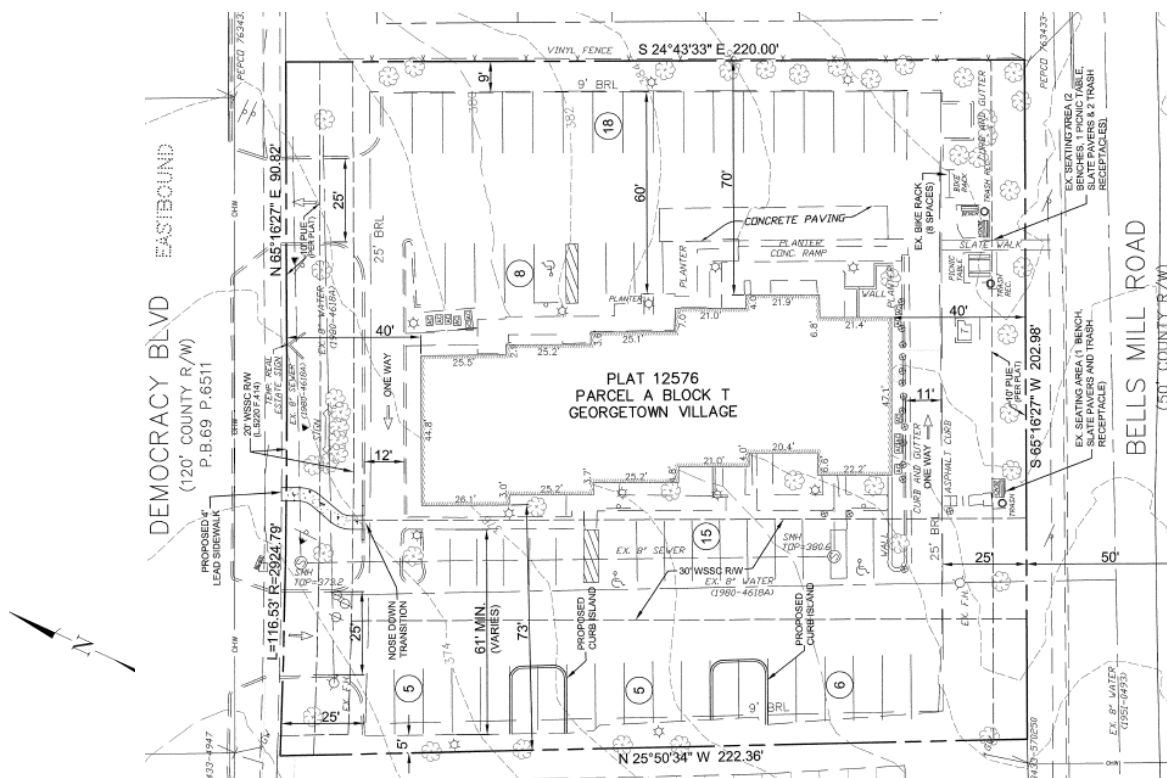


Figure 6: Floating Zone Plan

ANALYSIS

Master Plan

The Property falls within the boundary of the 1992 *North Bethesda/Garrett Park Master Plan*. At the time of the Master Plan, the Property was already developed with the medical office park. The Master Plan did not recommend any changes and therefore confirmed continued use of the Property for medical offices.

The Master Plan designates Democracy Boulevard as a Green Corridor (pg. 250). The Green Corridors policy addresses the visual effects of roadways and abutting properties to protect and enhance the residential character of the Planning Area. The section of Democracy Boulevard near the Property is lined with a mix of residential, institutional, and commercial uses. The existing townhouse style office park on the Property has a residential appearance that blends well with the neighboring townhouse community to the east. The Property's planting bed facing Democracy Boulevard contains several mature trees and an attractive planting bed with ornamental trees, shrubs and seasonal flowers. The Property contributes to the existing Green Corridor on this section of Democracy Boulevard.

Transportation

Site Location and Vehicular Access Points

The Property is located on the south side of Democracy Boulevard between Old Georgetown Road and Bells Mill Road with frontage on both Democracy Boulevard and Bells Mill Road. There is an existing ten-foot wide public use easement along the Property's frontage on each road.

The Applicant proposes to utilize existing vehicular access from two curb cuts on Democracy Boulevard, which is a County-maintained road. The existing one-way circulation pattern from west to east is adequate for the proposed change in land use.

Master-Planned Roadways

In accordance with the 1992 *North Bethesda/Garrett Park Master Plan*, the Democracy Boulevard (M-5) segment fronting the property is designated as a six-lane divided major highway, with a recommended 120-foot wide right-of-way. Bells Mill Road is not listed in the Master Plan, but currently functions as a tertiary residential street with a 50-foot right-of-way.

Master-Planned Bikeways and Bicycle Parking

A Class 1 master-planned bikeway (SP-2) is recommended in the *North Bethesda/Garrett Park Master Plan*. The 2005 *Countywide Bikeways Functional Master Plan* recommends the same shared-use path on the north side of Democracy Boulevard, between Gainsborough Road and Old Georgetown Road.

Available Public Transit Service

Metrobus routes J2 and J3 operate along Democracy Boulevard, between the Westfield Montgomery Mall Transit Center and the Silver Spring Metrorail Station on weekdays and weekends, with half-hour headways.

Pedestrian Facilities

There are existing five-foot wide sidewalks along the site frontages of Democracy Boulevard and Bells Mill Road, and the proposed change in land uses does not affect the existing sidewalks. Staff recommends that the Applicant construct a lead-in sidewalk that will connect to the existing sidewalk on Democracy Boulevard. The Applicant should also install a handrail on the steps on the path between the building and the sidewalk along Bell Mill Road to improve accessibility for pedestrians. Just northwest of the Property, a crosswalk provides a marked pedestrian route across Democracy Boulevard close to the Metrobus stops.

Transportation Adequate Public Facility Analysis

For Local Area Transportation Review (LATR), the existing 12,855-square-foot medical clinic generates 31 peak-hour trips within the weekday morning peak period (6:30 to 9:30 a.m.), and 46 peak-hour trips within the evening peak period (4:00 and 7:00 p.m.).

Non-medical office uses that replace existing medical or dental tenants will reduce the number of peak-hour trips to and from the Property because trip-generation rates for general office use are lower than the rates for medical office/clinic use.

Based on the results of recent traffic studies prepared for nearby developments, the critical lane volume (CLV) values at the nearest intersections are shown in the table below for the following traffic conditions:

- Existing: The current traffic condition with traffic counts collected on October 2015.
- Background: The existing condition plus the trips generated from approved but un-built nearby developments.
- Total: The background condition plus the additional site-generated trips based on proposed change in land use.

| Studied Intersection | Traffic Condition | | | | | |
|--|-------------------|-------|------------|-------|-------|-------|
| | Existing | | Background | | Total | |
| | AM | PM | AM | PM | AM | PM |
| Democracy Boulevard at Old Georgetown Road | 1,277 | 1,371 | 1,342 | 1,488 | 1,342 | 1,488 |
| Democracy Boulevard at Rockledge Drive | 703 | 645 | 710 | 676 | 710 | 676 |

The proposal will not create unacceptable intersection congestion levels, as it will not generate traffic that exceeds the North Bethesda Policy Area CLV standard (1,550), therefore, no LATR mitigation is required.

For the Policy Area Review, the Property is located in the North Bethesda Policy Area. Although this policy area has inadequate transit capacity, the Applicant will not be required to make any Transportation Policy Area Review (TPAR) mitigation payment because the application will not increase the square footage of the existing building.

Environment

Environmental Guidelines

There are no forests, wetlands, or other environmental features on the Property.

Forest Conservation

This application is not subject to a forest conservation plan.

Community Outreach

The Applicant has complied with the required notification signage. Staff has not received any correspondence about this Application.

FINDINGS

Section 7.2.1.E.2.

For a Floating zone application, the District Council must find that the floating zone plan will:

Section 7.2.1.E.2.a. substantially conform with the recommendations of the applicable master plan, general plan, and other applicable County plans;

As discussed on page 8 of this report, the Floating Zone Plan substantially conforms with the recommendations of the *North Bethesda/Garrett Park Master Plan*.

Section 7.2.1.E.2.b. further the public interest;

Approval of this Local Map Amendment furthers the public interest by prolonging the viability of an existing development that is already well integrated into the community, and keep it economically viable now and into the future. The utility and function of the building will be preserved with minimal costs and without the impacts associated with new construction.

Section 7.2.1.E.2.c. satisfy the intent and standards of the proposed zone and, to the extent the Hearing Examiner finds it necessary to ensure compatibility, meet other applicable requirements of this Chapter;

Section 5.1.2. Intent Statement

The intent of the Floating zones is to:

A. Implement comprehensive planning objectives by:

- 1. furthering the goals of the general plan, applicable master plan, and functional master plans;*

2. *ensuring that the proposed uses are in balance with and supported by the existing and planned infrastructure in the general plan, applicable master plan, functional master plan staging, and applicable public facilities requirements; and*
3. *allowing design flexibility to integrate development into circulation networks, land use patterns, and natural features within and connected to the property; and*

As discussed on page 8 of this report, the proposed Floating Zone and use of the Property is consistent with the objectives of the *North Bethesda/Garrett Park Master Plan*. The proposed use of the Property for offices is supported by the existing infrastructure and public facilities. Replacing some or all of the existing medical or dental tenants with other types of offices will reduce traffic to and from the Property. The existing office park is well integrated into the existing circulation network and land use pattern.

B. Encourage the appropriate use of land by:

1. *providing flexible applicability to respond to changing economic, demographic, and planning trends that occur between comprehensive District or Sectional Map Amendments;*
2. *allowing various uses, building types, and densities as determined by a property's size and base zone to serve a diverse and evolving population; and*
3. *ensuring that development satisfies basic sustainability requirements, including open space standards and environmental protection and mitigation; and*

This Application responds to current trends in the medical industry that compel medical practitioners to join larger practices or emergency clinics instead of establishing individual practices. This trend has led to vacancies in smaller medical office spaces such as those in the Georgetown Professional Medical Clinic. Permitting other types of users to occupy this office space allows the existing development to evolve with the changing demand for office space.

The Property has an existing, attractive open space that satisfies all the requirements for amenity open space under Section 6.3.7. The Applicant plans to add six native shade trees and five native ornamental trees along the west and east sides of the Property to enhance the tree canopy and improve the landscape buffers.

C. Ensure protection of established neighborhoods by:

1. *establishing compatible relationships between new development and existing neighborhoods through limits on applicability, density, and uses;*
2. *providing development standards and general compatibility standards to protect the character of adjacent neighborhoods; and*
3. *allowing design flexibility to provide mitigation of any negative impacts found to be caused by the new use.*

The compatibility of the existing development with the surrounding neighborhood was established by the special exception approval process and the Property has maintained that compatibility during the medical clinic's thirty plus years of operation on the Property. The height, density, and setbacks of the established building will remain the same under the proposed Floating Zone, so the building's existing relationship with the neighborhood will remain the same. Supplemental landscaping will be added to enhance compatibility, and negative impacts to the neighborhood will be minimized by restrictions on the types of office users allowed to rent space in the building.

Section 5.1.3. Applicability

If a Floating Zone is not recommended in a master plan, as is the case with this Application, the maximum allowed density for an Employment Floating Zone is based on the existing zone and on the size of the tract as stated in Section 5.4.5. The table in Section 5.4.5 indicates that the maximum allowed density for an Employment Floating Zone on a 1.04-acre property currently zoned R-60 is 1.25 FAR. The Applicant requests a maximum density of 0.5 FAR.

When requesting an Employment Floating Zone for a property with a Residential base zone, the property must front on a nonresidential street or must confront or abut a property that is in a Commercial/Residential, Employment, or Industrial Zone; and the application must satisfy a minimum of 2 prerequisites for each of the categories under Section 5.1.3.D. The Property is a through lot with frontage on Democracy Boulevard and Bells Mill Road. This segment of Democracy Boulevard is classified as a major highway, so the Property fronts on a nonresidential street. The Application satisfies at least two prerequisites for each of the required categories under Section 5.1.3.D:

- Transit and Infrastructure

1. *At least 75% of the site is within ¼ mile of a Level 3, ½ mile of a Level 2, or ¾ mile of a Level 1 transit station/stop.*

The Property is within ¼ mile of the Master Planned bus rapid transit (BRT) station at Democracy Boulevard and Rockledge Drive, which is a level two station.

2. *The site is served by existing water and sewer infrastructure that will not require either an upgrade to the service line or installation of a pump station due to the proposed development.*

The Property is served by existing water and sewer infrastructure, and the proposed zoning change will not put additional pressure on the infrastructure.

3. *All signalized intersections within ¼ mile of the site boundary are operating below the applicable congestion standard.*

Two signalized intersections are located within ¼ mile of the Property, Democracy Boulevard and Old Georgetown Road (MD187), and Rockledge Drive and Old Georgetown Road. Both intersections operate within the congestion standard of 1,550 for the North Bethesda Policy Area.

- Vicinity and Facilities

1. *The site is adjacent to a route that provides access to an existing or master-planned school within ½ mile.*

Walter Johnson High School is located directly across the street from the Property on Democracy Boulevard.

2. *The site is adjacent to a pedestrian route that provides access to an existing grocery store or County-permitted farmer's market within ¼ mile.*

Giant Food is located in the Wildwood Shopping Center, within ¼ mile of the Property.

- Environment and Resources

1. *The limits of disturbance for the development will not overlap any stream, floodplain, wetland, or environmental buffer or any slopes greater than 25% or slopes greater than 15% where erodible soils are present.*

The Property does not contain any stream, floodplain, wetland, environmental buffers, or any slopes greater than 25% or slopes greater than 15% where erodible soils are present.

2. *The site does not contain any forest or, if forest is present, the limits of disturbance for the development will not reduce the forest cover to less than an area of 10,000 square feet and width of 35 feet at any point.*

The Property does not contain any forest.

Section 5.4.2. Purpose

The purpose of the Employment Floating zones is to:

- A. *allow development of commercial centers and communities, at a range of densities and heights flexible enough to respond to various settings.*
- B. *allow limited residential development and flexibility in uses for a site; and*
- C. *provide development that is compatible with adjacent development.*

The proposed EOFF Zone would allow flexibility in the types of office users allowed, helping to ensure the viability of the existing office park that is already well integrated into the community and compatible with the adjacent development.

Section 5.4.3. Land Uses

The EOFF Zone allows the same uses allowed in the Euclidean EOF Zone. Medical and Dental Clinics and Offices are permitted uses in the EOF Zone. Under Section 5.4.3.B, “ An applicant may voluntarily prohibit specific uses or establish binding elements that restrict specific uses to support the necessary findings of approval under Section 7.2.1.” As discussed on page 7 of this report, the Applicant proposes a binding element to limit uses to support the compatibility findings under Section 7.2.1.

Section 5.4.4. Building Types Allowed

The EOFF Zone allows any building type. The existing development on the Property consists of general buildings arranged in a townhouse configuration that the Applicant plans to retain.

Section 5.4.5. Development Standards

| | Required / Allowed | Proposed/ Existing | |
|---|---------------------------------------|-----------------------|---|
| Lot Size | n/a | 1.04 acres | |
| Density | 0.5 FAR | 0.28 FAR | |
| Setbacks | | | |
| Front (Democracy Blvd.) | Established by floating zone plan | 40' | |
| Side | | 70' | |
| Rear (Bells Mill Rd.) | | 40' | |
| Height | | 35' ¹ | |
| Amenity Open Space | 10% or 4,522 SF | 10.9% or 4,949 SF | |
| Parking (Medical/ Dental Clinics) | | | |
| Vehicle spaces (Section 6.2.4.B) | Min | Max | 57 ² |
| | 13 | 52 | |
| Bicycle spaces (Section 6.2.4.C) | 3 (85% long term) | | 3 long-term, 8 short-term ³ |
| Parking lot landscaping (Section 6.2.9) | | | |
| Tree canopy | 25% or 5,723 SF | | 29.5% or 6,745 SF |
| Landscaped area | 5% or 1,145 SF | | 5.44% or 1,245 SF |
| Perimeter planting (required on northern and eastern side of parking lot) | 10' | | 25' (north) 9' (east) ⁴ |
| Screening (Division 6.5) | Not required per Section 6.5.3.A.4 | | n/a |
| Public Benefits | Not required | | n/a ⁵ |

¹ The height satisfies the compatibility standards under Section 4.1.8.B. The maximum height of the proposed zone (35') is the same as the maximum height for a detached house in the R-60 Zone.

² Per Section 6.2.3.H.2.b, the Applicant indicates that all parking spaces in excess of the maximum will not be reserved and will be made available to the public.

³ The Floating Zone Plan indicates that long term spaces will be provided in an existing storage room inside the building. The 8 existing short-term bicycle parking spaces do not meet the design requirements under Section 6.2.6.B.

⁴ The existing perimeter planting area is only nine feet wide and the Applicant will need to request a parking waiver under Section 6.2.1. at the time of site plan review.

⁵ The Application included public benefits based on the existing development, but public benefits are not required because the development is less than 1 FAR.

Section 7.2.1.E.2.d. be compatible with existing and approved adjacent development;

The compatibility of the existing buildings and site design with the adjacent development was established by the approval of the original special exception. No change is proposed to the existing buildings. Landscape improvements will enhance compatibility with the surrounding neighborhood. The replacement of medical offices with other types of offices will have negligible, if any, impact on the

adjacent residential community. Further, traffic to and from the site will be reduced to the extent that non-medical offices replace medical offices.

Section 7.2.1.E.2.e. generate traffic that does not exceed the critical lane volume or volume/ capacity ratio standard as applicable under the Planning Board's LATR Guidelines, or, if traffic exceeds the applicable standard, that the applicant demonstrate an ability to mitigate such adverse impacts; and

As discussed on page 9 of this report, this Application will not result in additional traffic, and the existing traffic does not exceed the applicable critical lane volume under the Planning Board's LATR Guidelines.

Section 7.2.1.E.2.f. when applying a non-Residential Floating zone to a property previously under a Residential Detached zone, not adversely affect the character of the surrounding neighborhood.

The Applicant is requesting to apply a non-Residential Floating Zone (EOFF) to a property classified as R-60, a Residential Detached Zone. However, the Property is already used for medical offices through a special exception approval. The conversion of medical to non-medical offices will not adversely affect the character of the Property or the surrounding neighborhood. The residential style architecture of the existing buildings will be retained as will the buffers between the use and the surrounding residential properties, ensuring that character will remain intact. Further, supplemental landscaping will be added to enhance the buffer between this Property and the adjacent townhouse community.

CONCLUSION

The proposed EOFF Zone complies with the standards and requirements for approval of a local map amendment. The proposed zone and use are consistent with the goals and recommendations of the 1992 *North Bethesda/Garrett Park Master Plan*, are in the public interest, and they will not alter the character of the surrounding neighborhood. Staff recommends approval of the Local Map Amendment and the associated Floating Zone Plan with the proposed binding elements.

ATTACHMENTS

1. Board of Appeals Resolution for Special Exception S-664
2. Floating Zone Plan
3. Landscape Plan

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ATTACHMENT 1

COUNTY BOARD OF APPEALS
For
MONTGOMERY COUNTY

Case No. S-664

PETITION OF GEORGETOWN PROFESSIONAL ASSOCIATES
(Hearing held January 18, 1979)

OPINION OF THE BOARD

This proceeding arises on the petition filed for a special exception pursuant to Section 59-G-2.14 of the Zoning Ordinance (Chap. 59, Mont. Co. Code 1977, as amended) to permit construction and operation of a medical clinic for up to 18 physicians. The subject property consists of 1.03 acres, located in the 6400 block on the south side of Democracy Boulevard, Bethesda, Maryland, in an R-60 Zone.

Decision of the Board: Special exception granted,
as conditioned herein.

Petitioner's Proposal

Petitioner proposes to construct a medical clinic for up to 18 physicians, having six separate townhouse units to be separated into two suites (one over the other) with each suite having a separate entrance. Six units are expected to contain approximately 1,000 square feet of floor space, and six other units are expected to contain approximately 1,100 square feet of floor space.

Petitioner is also requesting permission to sell the units as condominiums if desired. Because of the uncertainty of the project at this time, the exact number of physicians is not known. Notwithstanding this, the parking lot is designed to accommodate 61 vehicles.

Hours of operation of the medical clinic would vary according to each physician's schedule but will be restricted to 7:00 a.m. to 7:00 p.m. on weekdays, and until 1:00 p.m. on Saturdays, except for emergencies.

Description of the Property

The subject property is presently zoned R-60, containing 1.03 acres, and is partially wooded on the southwest side which rises slightly in elevation from the road frontage. The site has 206.82 feet of frontage on Democracy Boulevard and 203.00 feet of frontage on the north side of Bells Mill Road.

In 1969 the Board of Appeals granted a special exception in Case No. 2705 to the Girl Scout Council to construct an eleemosynary and philanthropic institution with 32 employees. This special exception was never implemented. In 1973, the subject property was denied C-T Zoning by the District Council.

Surrounding the property are the following uses: to the north, across Democracy Boulevard, a six-lane highway, are athletic fields for Walter Johnson High School which fronts on Rock Spring Drive; northeast of the subject site, located at the corner of Democracy Boulevard and Old Georgetown Road, is a ten-acre shopping center which is zoned C-1. East of the subject property are approximately two acres of mostly vacant R-60 zoned property which has two dwellings fronting on Bells Mill Road near the intersection with Old Georgetown Road. South of the subject property are single-family residences in the Marymount Subdivision which are zoned R-60. Adjoining the property on the west side, situated at the Bells Mill Road-Democracy Boulevard intersection, is the Davis Library.

Report of the Maryland-National
Capital Park and Planning Commission

The technical staff of the Maryland-National Capital Park and Planning Commission (MNCPPC) reviewed the subject petition and found that the proposed special exception meets all the technical requirements of the Zoning Ordinance concerning site plan and building location. The staff recommended approval subject to the conditions that: (1) the final landscaping and lighting plan shall be reviewed and approved by the technical staff; (2) the site plan shall conform to barrier-free access for the elderly and handicapped; and (3) the site plan shall provide space for bicycle and motorcycle parking.

Witnesses for the Petitioner

Testifying on behalf of the petitioner was Lowell Baier, the principal in this project. Mr. Baier, an attorney and mortgage banker, stated that he has had many years of experience in constructing and financing similar facilities and believes that this particular facility is needed and would accommodate the citizens in the community.

Wilfrid Worland, architect, testified as to the architectural design of the project. He stated that the buildings would be of colonial design and would be compatible with the surrounding neighborhood. He further stated that the proposed design of the project would appear to be townhouses and would not overpower the other buildings in the area.

Kenneth den Outer, engineer and land planner, testified that the subject proposal met all of the requirements in the Zoning Ordinance as to design and site plan. He further testified at length concerning a need for the subject facility. The question of need will be dealt with in greater detail elsewhere in this Opinion.

Robert A Morris, traffic engineer, testified that based on his traffic studies of other similar uses and on traffic counts near the subject property, it was his opinion that traffic arriving at and departing from the subject property would not adversely affect the surrounding neighborhood. He testified that the majority of the traffic would exit onto Democracy Boulevard, a main arterial highway. He also stated that having a second entrance from the rear of the property onto Bells Mill Road, which has been proposed by the petitioner, would not adversely affect traffic onto that street. The MNCPPC Development Review and Community Plans-West Divisions also recommended that a second exit be allowed onto Bells Mill Road, concluding that by using Bells Mill Road west intersecting with Democracy Boulevard the access to westbound Democracy Boulevard would be safer than promoting U-turns on eastbound Democracy Boulevard in order to go west from the site.

The MNCPPC did not find that traffic emanating from the subject property would adversely affect the neighborhood.

Opposition Testimony

A number of citizens have written letters, signed petitions and appeared at the public hearing in opposition. Many citizens were concerned as to the need for construction of an additional medical clinic in the area. They contend that there are at least five other medical clinics within a short distance of the subject property, as well as other available commercial office sources. Others testified that the access onto Bells Mill Road from the subject property would be detrimental to the use and enjoyment of their properties. They felt that the traffic leaving the subject property via Bells Mill Road would aggravate a bad situation created by traffic leaving the Davis Library which is adjacent to the subject property. Some neighbors felt that the parking on the site would be insufficient to accommodate the number of cars using the facility and would cause a parking problem on adjacent residential streets. Still others felt that construction of the proposed facility would be a commercial encroachment into the residential community.

Need

A most difficult issue in this case is the question of need. In addition to the Board making findings under the general

provisions (Section 59-G-1.21) and the particular requirements of a special exception for a medical clinic (Section 59-G-2.14), Section 59-G-1.24 of the Zoning Ordinance requires that the Board make a finding "... from a preponderance of the evidence of record that for the public convenience and service a need exists for the proposed use for service to the population in the general neighborhood considering the present availability of such uses to that neighborhood."

The opposition contended that there is simply no need for the proposed medical clinic because there are numerous medical facilities in the area.

The petitioner offered testimony of Kenneth den Outer concerning need for the subject facility. Mr. den Outer presented a graphical study of all medical clinics in the surrounding area which concluded that the amount of space available for doctors is very limited, and thus there is a need for additional medical facilities in the area.

Another related issue before the Board is whether the "need" is for the convenience of the doctors or for the convenience of the general public. The Board finds that in considering "need" the need should be both for the benefit of doctors and for the general public.

The Board finds that even though there are other medical facilities available construction of this facility would still fulfill an additional need in the immediate area.

Findings of the Board

The Board has considered all evidence of record and the testimony presented at the hearing, and finds that the petitioner has met all of the previously cited requirements of the Zoning Ordinance pertinent to the grant of a special exception for a medical clinic. The Board finds that the building would be constructed in accordance with development standards and requirements in the Zoning Ordinance. The Board further finds that the operation of the subject facility would not be detrimental to the use and enjoyment of the surrounding properties provided that the access onto Bells Mill Road is not permitted. The Board believes that there is an existing need for an additional medical clinic and that the plans for the proposed facility are compatible with the surrounding residential uses. The Board is persuaded that this type of use will be a good transitional use between the intense commercial uses in the vicinity and the residential uses immediately adjoining the subject property. It is therefore the decision of the Board that the requested special exception for a medical clinic be granted,

subject to the following conditions:

1. Hours of operation shall be limited to 7:00 a.m. until 7:00 p.m. on weekdays, 7:00 a.m. until 1:00 p.m. on Saturdays, and other hours for emergencies only.
2. Access to Bells Mill Road shall not be permitted.
3. Final landscaping and lighting plans shall be submitted to the technical staff of the MNCPPC for approval.
4. Site plan shall provide barrier-free access for the elderly and handicapped.
5. Site plan shall provide space for bicycle and motorcycle parking.
6. Petitioner may offer the property for sale as condominium units. Upon offering the units as condominiums, petitioner shall prepare a statement that the council of co-owners shall be subject to the terms and conditions of the special exception. Each individual unit owner shall sign a statement binding himself to the terms and conditions of the special exception.
7. Petitioner shall be bound by all testimony, evidence and exhibits in the record.
8. Petitioner shall not operate a pharmacy or laboratory on the premises.

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. Sheldon P. Schuman, and concurred in by Mrs. Marjorie H. Sonnenfeldt, Chairman, Mrs. Shirley S. Lynne, and Mr. Joseph E. O'Brien, Jr. Mrs. Doris Lipschitz was necessarily absent for part of the hearing and did not participate in the foregoing Resolution.

I do hereby certify that the foregoing Minutes were officially entered in the Minute Book of the County Board of Appeals this 7th day of March, 1979.


Clerk to the Board

NOTE: See Section 59-A-4.53 of the Zoning Ordinance regarding the twelve-months' period within which the right granted by the Board must be exercised.

See Section 59-A-3.2 of the Zoning Ordinance regarding use and occupancy permit.

Any decision by the County Board of Appeals may, within thirty days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County in accordance with the Maryland Rules of Procedure.

ATTACHMENT 2

