

**MEMORANDUM**

May 3, 2010

TO: Planning, Housing, and Economic Development Committee  
FROM: Marlene Michaelson, Senior Legislative Analyst *MM*  
SUBJECT: Sectional Map Amendment for the Germantown Employment Area Plan

The Council approved the Sector Plan for the Germantown Employment Area on September 22, 2009. Attached is the application for the Germantown Sector Plan Sectional Map Amendment (SMA) submitted by the Planning Board (© 1 to 9). The SMA implements recommendations of the recently Approved and Adopted Germantown Sector Plan by putting into effect zoning changes recommended in the Sector Plan. In addition, it makes slight adjustments to zoning boundaries to complete the transition from hand-drawn to digital zoning maps.

The total area within the SMA is approximately 2,629 acres, of which approximately 832 acres are proposed for new zoning classifications (including 18 acres proposed for corrective technical adjustments). The SMA proposes to reconfirm the remaining acreage with existing zoning. The SMA recommended rezonings are listed on © 4 to 5.

A public hearing on the Sectional Map Amendment was held on March 16, 2010. The Council received testimony from several property owners who supported the SMA as submitted and generally supported the use of the Transit Mixed-Use (TMX) zone with its provision for the purchase of building lot termination (BLT) easements. The Council also received testimony on issues other than the zoning recommendations in the SMA (e.g., the alignment of Cider Press Place). These issues are not before the Council at this time and are therefore not addressed in this memorandum. Corrective technical adjustments described on © 7 to 8 are also not addressed, and Staff recommends approval of all technical adjustments.

**Councilmembers should remember that consideration of an SMA is subject to the ex parte rule and, therefore, the Council may only consider information that is part of the public record. Staff recommends against allowing any member of the audience, other than Staff, to participate in the worksession discussion, since their comments would not be a part of the official record.**

**Technical Zoning Correction**

Planning Department staff noted a technical mistake in the SMA that was submitted to the Council. A property located at the southwest corner of MD355 and Gunner's Branch Road in the Fox Chapel

District is split between two pages (Zoning Sheets) in the SMA with a very small corner on a separate page (see © 11). This corner was accidentally shown as R-200 instead of the RT-12.5 zoning on the rest of the property. Planning Department staff recommend correcting this by changing the map to indicate that this small corner is RT-12.5. Staff concurs.

### **North Village 270 Limited Partnership Property**

The North Village 270 Limited Partnership (Lerner Enterprises) property is rezoned in the SMA from the Town Sector (TS) zone to the Transit Mixed Use (TMX-2) zone, consistent with the Sector Plan recommendations. The property owner supported this request, but was concerned that the rezoning did not include the loop of Crystal Rock Drive, which is on the property and kept in the TS zone. They hope to relocate the unbuilt loop road to the south and want to make sure they can develop under a single zone. They have requested that the SMA rezone all of the property to TMX-2, including: (1) the current location of the unbuilt Crystal Rock Drive loop; and (2) the area where they propose to relocate the Crystal Rock Drive loop.

Planning Department Staff and Council Staff both support this request.

### **Zoning for Montgomery College**

The Sector Plan recommended I-3 zoning for Montgomery College, but noted that the Life Sciences Center (LSC) zone might also be appropriate for the site and that this issue should be considered once the Council finalized amendments to the LSC zone. The Sector Plan comments on this issue are as follows:

The existing combination of I-3 and R-60 zoning on the College property will probably not serve the College's goals to partner with private biotechnology, medical, and/or technology businesses that may help support the College's mission. This Sector Plan recommends rezoning the entire property to the I-3 zone (for development under the standard or optional method), which appears to provide the greatest flexibility to meet the College's needs. Current revisions being considered for the Life Science Center (LSC) zone could also make this zone appropriate for the College property. Once the zone is amended, additional analysis should determine whether the I-3 or LSC zone would better serve the College's needs. If this determination is made after the Sectional Map Amendment, and rezoning is advised, a government-sponsored Local Map Amendment may be appropriate.

The Council took action on the LSC zone last week and, after evaluating the amendments to the zone, the College believes it is preferable to the I-3 zone. Although the LSC zone requires a minimum amount of life sciences uses and limits general office space, the College believes that these requirements are consistent with their plans for the campus. The SMA as submitted shows the College property as I-3. Staff supports their request to change the zoning designation to LSC.

### **Seneca Meadows/Wegmans**

The Sector Plan recommended rezoning a portion of the Seneca Meadows area from I-3 to Transit Mixed-Use (TMX-2) to allow a mix of uses at the Corridor Cities Transit (CCT) station, and the SMA

implements that recommendation. The sole issue before the Committee at this time is whether the TMX zone is the appropriate zone for this site; however, most of the testimony focused on whether the Council should allow a Wegmans grocery store at this location. (The Council received approximately 130 letters on this issue, split fairly evenly between those who support or oppose having a Wegmans at this location.) The property owner supports the TMX zoning.

The Committee specifically considered comments regarding Wegmans during its review of the Sector Plan and concluded that master plans should not recommend for or against **specific** land uses or companies, but needed to focus on the zoning and overall land uses that would be allowed. The Committee and Council determined that TMX was the correct zone for a property adjacent to a CCT station and supported the Planning Board recommendation for TMX-2 zoning at this location.

The testimony has not provided any new information that leads Staff to recommend that the Committee reconsider the zoning. Even if the Committee now believes that a large grocery store should not be permitted near transit, the preferred solution would be to amend the TMX zone, rather than not apply it at this location. Staff supports the TMX zoning.

### **Farsaii Property**

The Council received testimony from Stan Abrams on behalf of Dr. Farsaii, who owns a home next to the new fire station on Boland Farm road in Germantown. He currently has a medical practice in his home. Due to the impact of the fire station on his home, he has requested a rezoning to commercial transition (CT) or commercial office (CO) zoning. Although there are 5 homes that are adjacent to the fire station, his is clearly the most impacted (see maps on © 12 and 13).

Staff has concerns with his request for CT or CO zoning. It does not appear that this property would meet the requirements for the CT zone, and the CO zones could allow a more intense development than is appropriate. The CT zone requires that the property be located between a **high-intensity commercial development** and a one-family residential area. A fire station would not meet the zoning ordinance definition of a high-intensity commercial use. While the CO zone does not have a similar requirement, it can allow heights of 97 feet, unless the master plan specifically states that this height is inappropriate for this site. Both zones allow uses that may be inappropriate for this location, such as banks or general offices. If this property redevelops as a more intense commercial use, it could have a significantly greater impact on the adjacent neighbors than the fire station. Although Mr. Abrams has suggested that the rezoning would allow a commercial business to use the existing home, once rezoned, there would be no way to prevent the property owner from demolishing the existing house and building to the limits of the zone.

Staff believes a better approach for this property would be a new special exception that recognizes the proximity to the fire station while also protecting the adjacent neighbors from an inappropriate commercial use. The Board of Appeals has already determined that the site is appropriate for a special exception and the review of a new application, could consider compatibility of the special exception with the adjoining residences. In Staff's opinion, this is the best way to ensure that the use maintains a residential appearance. The owner could apply for one of the following special exceptions:

- a medical clinic for 4 or less practitioners; or
- a medical practitioners' office for use of other than a resident of the building.

PA 5-12-09  
Germantown SP



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

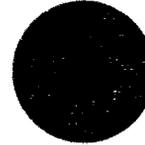
MM  
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SBF  
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JZ

OFFICE OF THE CHAIRMAN

February 4, 2010

The Honorable Nancy Floreen  
President  
Montgomery County Council  
Stella B. Werner Council Office Building  
100 Maryland Avenue  
Rockville, Maryland 20850

054101



2010 FEB -5 AM 11:40

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MONTGOMERY COUNTY  
COUNCIL

Dear Ms. Floreen:

On September 22, 2009, the District Council approved the Sector Plan for the Germantown Employment Area and The Maryland-National Capital Park and Planning Commission adopted the Sector Plan on October 22, 2009.

At its regular meeting on January 28, 2010, the Montgomery County Planning Board approved filing the Sectional Map Amendment (SMA) for the Germantown Sector Plan. This SMA implements the zoning recommendations of the *Approved and Adopted Sector Plan for the Germantown Employment Area: An Amendment to the Germantown Master Plan*.

The Planning Board included a zoning correction (shown as Area 33) to a property reconfirmed by this SMA. This correction re-draws the C-4 zoning line on a single parcel with C-4 and R-60/TDR zoning. This correction is necessary to accurately show the amount of C-4 property associated with the Cider Barrel.

Transmitted herewith are three copies of the Germantown Sector Plan Sectional Map Amendment for filing in accordance with Article 59-H of the Montgomery County Zoning Ordinance.

We look forward to working with you to complete this project.

Sincerely,

Royce Hanson  
Chairman

RH:se:ha  
Attachments

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COUNCIL

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APPLICATION NUMBER: \_\_\_\_\_

DATE FILED: \_\_\_\_\_

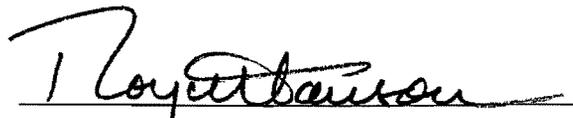
HEARING DATE: \_\_\_\_\_

APPLICATION FOR A SECTIONAL MAP AMENDMENT TO AMEND THE "ZONING MAP FOR THE MARYLAND-WASHINGTON REGIONAL DISTRICT IN MONTGOMERY COUNTY, MARYLAND" FILED IN ACCORDANCE WITH ARTICLE 59-H OF THE MONTGOMERY COUNTY ZONING ORDINANCE FOR MONTGOMERY COUNTY, MARYLAND

The Maryland-National Capital Park and Planning Commission makes application with the County Council sitting as the District Council, for that portion of the Maryland-Washington Regional District within Montgomery County for a Sectional Map Amendment to implement the *Approved and Adopted Sector Plan for the Germantown Employment Area: An Amendment to the Germantown Master Plan*.

The Sector Plan for the Germantown Employment Area was approved by the County Council sitting as the District Council on September 22, 2009 and adopted by The Maryland-National Capital Park and Planning Commission on October 21, 2009. The Germantown Sector Plan is in Planning Area 19 and Election Districts 2 and 9.

The proposed classifications are contained in one volume keyed to the Zoning Atlas. Requested changes in zoning classification are on the overlays to the existing zoning pages. The total area within the boundaries of the Germantown Sector Plan is approximately 2,629. Of that, approximately 832 acres are proposed for a change in zoning classification. The remaining 1,797 acres are proposed to be reconfirmed in the existing zoning classification.



Royce Hanson, Chairman  
Montgomery County Planning Board



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

January 13, 2010

**MEMORANDUM**

**TO:** Montgomery County Planning Board

**VIA:** Glenn Kreger, Acting Chief *GK*  
Vision Division

**FROM:** Sue Edwards, Team Leader, North Central Transit Corridor (301-495-4518)  
Vision Division *SEL*

**SUBJECT:** Application to File with the County Council a Sectional Map Amendment for the *Approved and Adopted Sector Plan for the Germantown Employment Area: An Amendment to the Germantown Master Plan*

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**STAFF RECOMMENDATION:** Approval to file with the County Council a Sectional Map Amendment for the September 2009 Approved and Adopted Sector Plan for the Germantown Employment Area to implement the recommendations of the Plan.

**BACKGROUND**

On September 22, 2009, the County Council sitting as the District Council approved the *Sector Plan for the Germantown Employment Area: An Amendment to the Germantown Master Plan* by Resolution 16-1126. On October 22, 2009, the full Commission adopted and approved the Sector Plan for the Germantown Employment Area by M-NCPPC Resolution 09-21.

Once a master or sector plan is approved and adopted, a Sectional Map Amendment (SMA) is filed with the District Council. Sec. 59-H-3.2 requires that:

*Within 5 days after accepting for filing an application for a sectional map amendment, the District Council or its designee must transmit a copy of the application to the Department and the Planning Board.*

*The Planning Board must submit a written recommendation to the County Council, sitting as the District Council, or its designee, which will incorporate it in the application file, and as part of the record on the application.*

The District Council is required to hold a public hearing on all applications for sectional map amendments.

There are no pending zoning cases within the boundaries of the proposed Germantown Sector Plan Sectional Map Amendment.

## CONTENTS OF THE SECTIONAL MAP AMENDMENT

This SMA is underway concurrent with a three-year project to convert hand-drawn zoning maps to GIS-based digital maps. In completing the SMA, Planning staff verified the existing zoning, zoning case histories, record plats, and dedication of property for public use for all properties within the Sector Plan boundary.

The SMA for the Germantown Employment Area Sector Plan will contain: (1) the existing zoning sheets; (2) the proposed zoning on a transparent sheet; (3) the index of properties to be rezoned; and (4) any corrective amendments.

Listed below are areas within the 2009 Sector Plan where zoning changes are recommended. Approximately 4,072.832 acres covering approximately 500 properties are affected by this SMA. The proposed SMA covers the following areas illustrated by the Index Map (Attachment A).

Existing zoning for all other areas is (approximately 1,797.4,798.06 acres) reconfirmed by this SMA.

### Areas Covered by the Proposed SMA

SMA Property Designation	WSSC Grid Reference	Approximate Acreage	Existing Zoning	Proposed Zoning
Gateway District (see Note 1)				
Area 1	226 NW 13	40.55	R-H, R-30, PD-9, C-T	RMX-1
Town Center District				
Area 2	226 NW 13	19.58	C-T, O-M, R-200, R-H	TMX-2
Area 3	226 NW 13	1.02	R-200	TMX-2
Area 4	226 NW 13 227 NW 13	8.93	R-200, C-3, O-M	TMX-2
Area 5	227 NW 13	10.12	RMX-2	RMX-2C
Area 6	227 NW 13	20.44	C-3, C-5, C-O, T-S	TMX-2
Area 7	227 NW 13	3.81	C-3, R-30	TMX-2
Area 8	227 NW 13	16.14	C-2, C-3	RMX-2C
Area 9	227 NW 13	25.76	T-S	TMX-2
Area 10	227 NW 13	4.16	T-S	TMX-2
Area 11	227 NW 13	3.72	T-S	TMX-2
Area 12	227 NW 13	13.79	T-S	TMX-2
Area 13	227 NW 13	18.15	T-S	TMX-2
Area 14	227 NW 13	6.49	T-S	TMX-2
Area 15	227 NW 13 227 NW 12	5.42	T-S	TMX-2
Area 16	227 NW 13 227 NW 12	8.50	T-S	TMX-2
Area 17	227 NW 13 227 NW 12	6.92	I-1	TMX-2

SMA Property Designation	WSSC Grid Reference	Approximate Acreage	Existing Zoning	Proposed Zoning
<b>Cloverleaf District</b>				
Area 18	228 NW 13 228 NW 12	44.94	T-S, I-1, I-3	TMX-2
Area 19	228 NW 13 228 NW 12	108.50	T-S, I-1, I-3	TMX-2
Area 20	228 NW 13	25.39	I-3	TMX-2
<b>North End District</b>				
Area 21	228 NW 13 228 NW 13	19.48	I-3, T-S	TMX-2
Area 22	229 NW 13	<del>2.23</del> 3.56	I-3	TMX-2
Area 23	229 NW 13	43.20	T-S	TMX-2
Area 24	229 NW 13	54.63	T-S	TMX-2
Area 25	229 NW 13 229 NW 12	46.88	I-3	TMX-2
<b>Seneca Meadows District</b>				
Area 26	229 NW 12 228 NW 12	39.94	I-3	TMX-2
Area 27	229 NW 12 228 NW 12	8.81	I-3	TMX-2
Area 28	228 NW 12	15.20	I-3	TMX-2
<b>Montgomery College District (see Notes 2 and 3)</b>				
Area 29	228 NW 12 227 NW 12 227 NW 11	139.78	R-60, R-60/TDR	I-3
Area 33	228 NW 12	0.48	C-4	R-60/TDR
<b>Fox Chapel District</b>				
Area 30	227 NW 11	39.42	R-200, R-90, R-30, C-1	RMX-2C/TDR
Area 31	227 NW 11	8.38	RT-12.5	RT-15
Area 32	226 NW 11	3.04	R-90	C-1
TOTAL ACRES		813.32 815.13		

Note 1 concerning the Rolling Hills property (Gateway District)

While researching zoning case files as part of the digital map conversion process during this SMA, staff discovered that Local Map Amendment F-942 to PD-9 for this property approved in June 1975 was not correctly applied. The 1990 SMA (G-652 in February 1990) reconfirmed the zoning of the previous SMA, F-939 (September 1974), of R-H, PD-9, R-30 and C-T.

Planning staff believes the Planning Board and Council considered all relevant information in making zoning decisions and only brings this to the Board's attention for informational purposes.

Note 2 concerning the Montgomery College property

The 2009 Sector Plan states that:

*The existing combination of I-3 and R-60 zoning on the College property will probably not serve the College's goals to partner with private biotechnology, medical, and/or technology businesses that may help support the College's mission. This Sector Plan recommends rezoning the entire property to the I-3 zone (for development under standard or optional method) which appears to provide the greatest flexibility to meet the College's needs. Current revisions being considered for the Life Science Center (LSC) zone could also make this zone appropriate for the College property. Once the zone is amended, additional analysis should determine whether the I-3 or LSC zone would better serve the College's needs. If this determination is made after the Sectional Map Amendment, and rezoning is advised, a government sponsored Local Map Amendment may be appropriate. (Council Resolution 16-1126, page 24.)*

Note 3 concerning the Cider Barrel property

The Planning Board included a zoning correction (shown as Area 33) to a property reconfirmed by this SMA. This correction re-draws the C-4 zoning line on a single parcel with C-4 and R-60/TDR zoning. This correction is necessary to accurately show the amount of C-4 property associated with the Cider Barrel.

Council staff completed revisions to the LSC zone in December 2009; the revised zone has been distributed to Montgomery College facility planning staff and to representatives of Holy Cross Hospital who have applied to use a portion of the Montgomery College site for a hospital and medical office complex. Further discussion of the LSC zone at the Planning, Housing and Economic Development Committee (PHED) has been scheduled for January 28, 2009.

Councilmember Knapp has introduced ZTA 09-10 to remove the Special Exception requirement for hospital use in the I-3 zone. The Planning Board opposed this ZTA in testimony at the public hearing on November 10, 2009. The PHED Committee review of ZTA 09-10 has not been scheduled.

**AREAS AFFECTED BY THE SMA**

The proposed SMA covers the following districts:

- Gateway – comprehensive rezoning of the Rolling Hills property from multiple zones (R-H, R-30, PD-9, and C-T) depicted in the 1990 SMA to RMX-1
- Town Center – comprehensive rezoning of designated properties from T-S and I-3 to TMX-2. The SMA also changes zoning for designated properties with single use zones (C-2, C-O, C-T, R-200) to mixed use zones such as RMX-2C and TMX-2
- Cloverleaf – zoning change for properties zoned I-1 and I-3 to TMX-2
- West End – comprehensive rezoning of properties designated I-3 and T-S to TMX-2

- Seneca Meadows – comprehensive rezoning of properties adjacent to the future Corridor Cities Transitway (CCT) station from I-3 to TMX-2
- Montgomery College – zoning change to College-owned properties from R-60 and R-60/TDR to I-3
- Fox Chapel – rezoning of split zoned or single purpose zones to RMX-2C. Area 32 contains three properties along MD 355 where zoning would change from R-90 to C-1

## CORRECTIVE MAP AMENDMENTS

This SMA also makes slight adjustments to zoning boundaries on some properties within the Sector Plan boundaries to complete the transition from hand-drawn zoning maps to digital maps. Corrective map amendments also make a few changes to correct prior mapping errors found while preparing the SMA in accordance with Sec. 59-H-2.6 (d) (1-2):

(d) *A sectional map amendment may be filed:*

*(1) to implement zoning changes that are recommended by a comprehensive plan or functional plan study for one or more tracts of land or a section of the Maryland-Washington Regional District within the county; or*

*(2) for the purpose of correcting existing zoning boundaries to enable the District Council to correct inaccurate depictions of zoning boundary lines on an adopted zoning map that are known or become apparent as the result of technical information.*

Corrections to zoning boundaries or mistakes found in these zoning sheets for the 1989 Germantown Master Plan that are outside the 2009 Sector Plan boundaries (1990 Germantown Sectional Map Amendment) will be made in the County-wide comprehensive map amendment forthcoming in 2010-2011.

Corrective map amendments affect five properties and impact approximately 18 acres.

Corrective Map Designation	WSSC Grid Reference	Approximate Acreage	Zoning Mapped	Corrected Zoning
C-1	227 NW 12	1.85	I-1	R-200
C-2	229 NW 12	5.68	I-3	R-30
C-3	228 NW 12	0.19	R-60/TDR	C-4
C-4	227 NW 12	7.87	R & D	I-3
C-5	227 NW 12	2.03	R & D	I-3
<b>TOTAL ACRES</b>		<b>17.62</b>		

Corrective map designation C-1 replaces the mapped I-1 designation with R-200 as directed by the 1990 Germantown Master Plan SMA, G-652. The C-2 corrective map amendment places the R-30 designation as contained in Local Map Amendment G-759. Map designation C-3 resolves split zoning of a parcel under one owner. Map designations C-4 and C-5 place the I-3 zone on these properties as reconfirmed in the 1990 Germantown Master Plan SMA.

## **CONCLUSION**

The Germantown Sector Plan SMA is unusually complex due to the large number of affected properties. Approximately 200 of the affected properties are individual residences or condominium associations which did not participate in or follow the Sector Plan development and review. Planning staff, with assistance from the Legal Department, will prepare a list of Frequently Asked Questions (FAQs) to be attached to the Notice to Property Owners/Interested Parties.

Approval of the Sectional Map Amendment will contribute towards implementing the vision and recommendations of the 2009 Adopted and Approved Sector Plan for the Germantown Employment Area. Staff recommends approval of the request to file the Sectional Map Amendment.

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Attachment A: Map Index to the Sectional Map Amendment for the Sector Plan for the Germantown Employment Area





April 29, 2010

**Memorandum**

To: Marlene Michaelson, Senior Legislative Analyst  
Montgomery County Council Staff

Via: Glenn Kreger, Chief  
Community Based Planning Division

From: Karen Kumm Morris, Master Planner  
Urban Design and Historic Preservation Division

Subject: **Germantown Sectional Map Amendment – Minor Zoning Map Correction**

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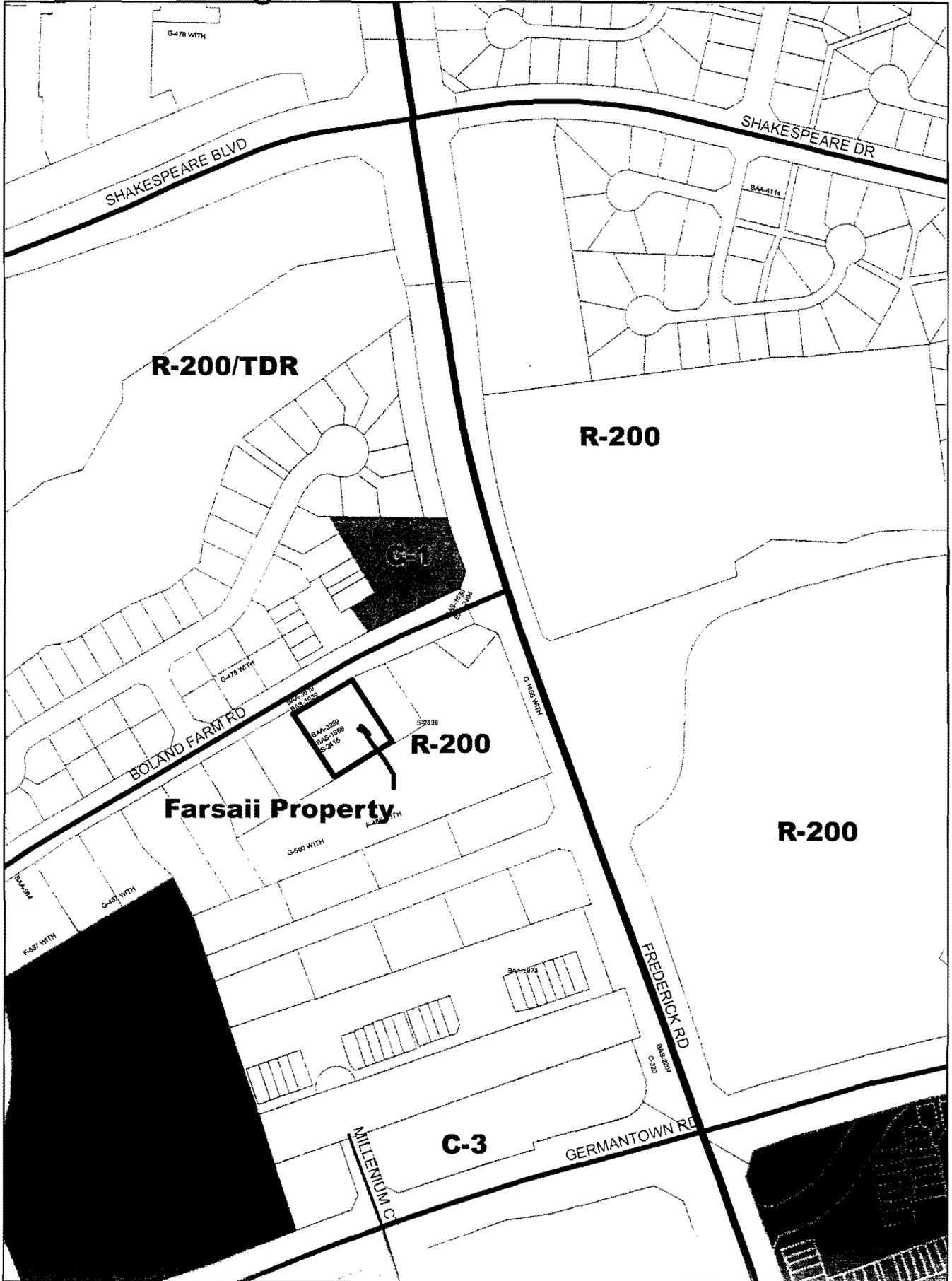
Property	Lot 5, Block 1
Tax Map No.	FU 122
Zoning Sheet No.	227NW11
Zoning	RT-12.5

The 2009 Germantown Sector Plan's Sectional Map Amendment (SMA) that was transmitted to the County Council on March 12, 2010 requires a minor map correction to show the proper zoning as the RT-12.5 Zone. The property is located at the southwest corner of MD 355 and Gunner's Branch Road in the Fox Chapel District of Germantown. The transmitted SMA shows the residential property incorrectly with R-200 zoning. The adjoining Zoning Sheet, FU 121, shows the property correctly with RT-12.5 zoning.

Please see the attached Zoning Sheet FU122 that highlights the property and the required correction. The County Council's resolution should reflect this correction.

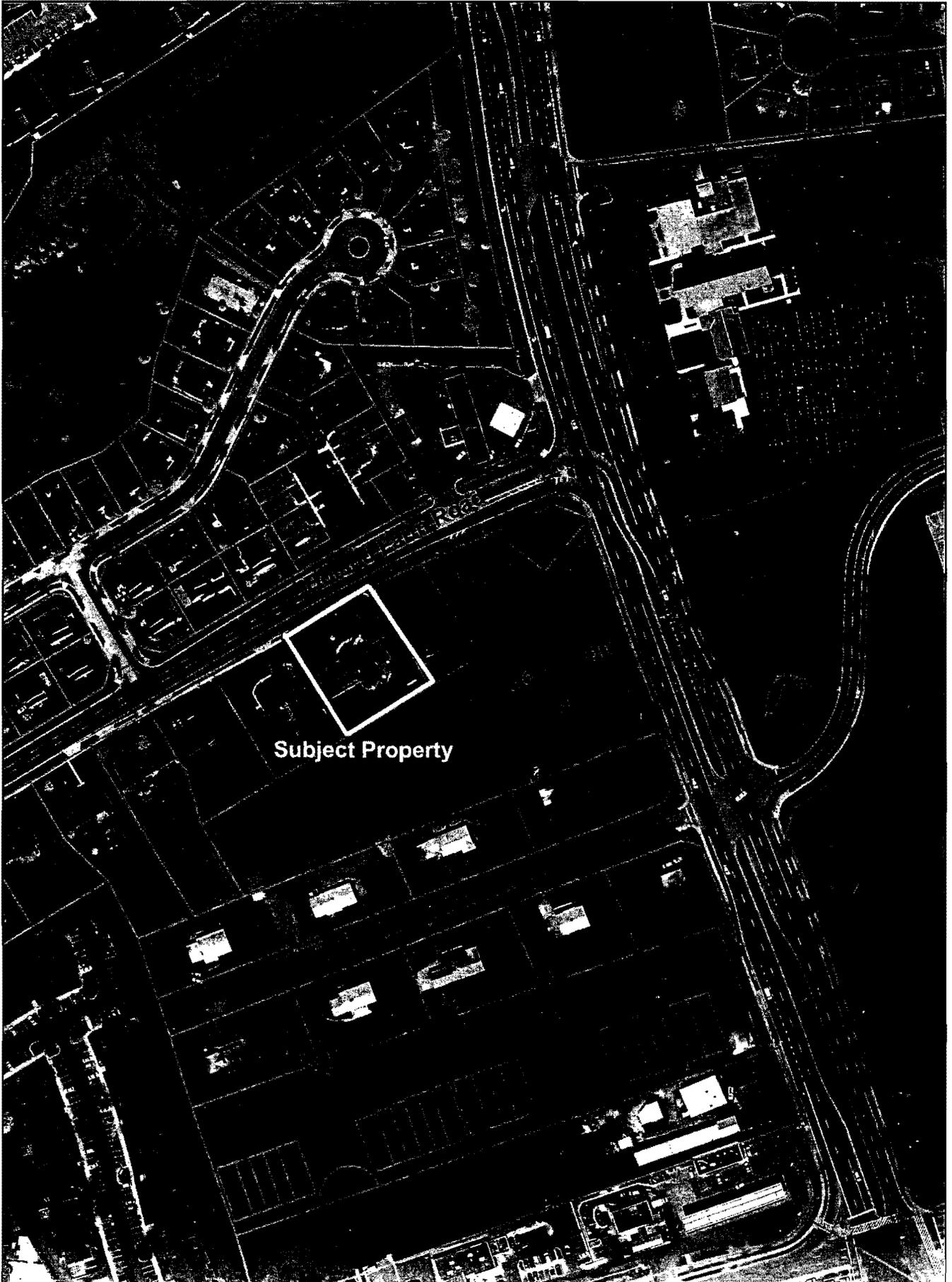


# Farsai Zoning



Not to Scale

# Farsaii Property



Subject Property

