

Resolution No.: 17-654
Introduced: January 22, 2013
Adopted: January 22, 2013

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION
OF THE MARYLAND-WASHINGTON REGIONAL DISTRICT
IN MONTGOMERY COUNTY**

By: District Council

SUBJECT: APPLICATION NO. G-913 FOR AMENDMENT TO THE ZONING ORDINANCE MAP, Stuart R. Barr, Esquire and Steven A. Robins, Esquire, Attorneys for Applicant, 4311 Montgomery Avenue, LLC, OPINION AND RESOLUTION ON APPLICATION; Tax Account No. 07-03457071

OPINION

Local Map Amendment (LMA) Application No. G-913 was filed on July 9, 2012, to rezone 8,550 square feet of land known as Lot 26, Block 5 in the West Chevy Chase Heights Subdivision of Bethesda, from the R-60 Zone to the C-T (commercial-transitional) Zone. The property is located at 4705 West Virginia Avenue, just east of Wisconsin Avenue (MD 355) in Bethesda. The land is owned by the Applicant, 4311 Montgomery Avenue, LLC.

The application was filed under the Optional Method authorized by Zoning Ordinance §59-H-2.5, which permits binding limitations with respect to land use, density and development standards or staging. Applicant proposes to use the existing two-story single-family building for a commercial office use. The proposal is set forth in a revised Schematic Development Plan (SDP), Exhibit 39(a), which contains an illustrative diagram and a specification of five binding elements, as well as other information regarding the development. The binding elements are included in a Declaration of Covenants, which was executed prior to the closing of the record. Exhibit 39(c).

Technical Staff of the Maryland-National Capital Park and Planning Commission (M-NCPPC) reviewed the plans, and in a report dated October 19, 2012, recommended approval (Exhibit 30). The Montgomery County Planning Board considered the revised application on November 1, 2012, and unanimously voted to recommend approval, as set forth in a memorandum dated November 7, 2012. Exhibit 32. The Planning Board agreed with its Technical Staff that the application satisfied all of the criteria for reclassification to the C-T Zone. In doing so, the Planning Board also supported deleting a binding element regarding phasing and adding a note to the effect that the parking layout on the SDP is for illustrative

purposes only and may be revised at site plan review. Applicant agreed to these changes, and they are reflected in the revised SDP (Exhibit 39(a)).

A public hearing was duly noticed and convened, as scheduled, on November 16, 2012, at which time the Applicant presented testimony from four witnesses in support of the application. There were no opposition witnesses, and no community concerns have been raised in this case. The record remained open until November 26, 2012, to allow Applicant time to file a revised SDP and executed covenants consistent with the recommendations of the Planning Board. Applicant subsequently asked that the record be reopened to allow minor corrections in the SDP and covenants. Exhibit 39. The Hearing Examiner issued an Order on December 3, 2012, granting Applicant's request and reopening the record to receive the corrected filings. Exhibit 40. The record was closed again on the same day, December 3, 2012, since there were no substantive changes made to the documents.

The Hearing Examiner's Report and Recommendation was filed on December 28, 2012. The Hearing Examiner recommended approval on grounds that the proposed rezoning would be consistent with the purpose and regulations of the C-T Zone, compatible with surrounding development and in the public interest. After a careful review of the entire record, the District Council finds that the application does meet the standards required for approval of the requested rezoning for the reasons set forth by the Hearing Examiner. To avoid unnecessary detail in this Resolution, the Hearing Examiner's Report and Recommendation is incorporated herein by reference and his findings and conclusions are hereby adopted.

The Property, Surrounding Area and Zoning History

The subject property is located at 4705 West Virginia Avenue, on the north side of the street, approximately 200 feet east of Wisconsin Avenue (MD 355). It is in the East Bethesda Transition Area of the 1994 Bethesda CBD Sector Plan, which recommends the C-T zone for the subject site. Technical Staff described the property and its immediate neighbors as follows (Exhibit 30, pp. 2-3):

. . . The site, Lot 26, is 8,550 square feet in size and rectangular in shape, measuring approximately 90 feet wide and 94 feet deep, with about 90 feet of street frontage along West Virginia Avenue. The property is relatively flat. The adjacent property to the west of the subject site is used as a parking lot for nearby commercial uses in the CBD-1 zone. Further west are commercial properties also zoned CBD-1. Immediately north of the subject site is a building that is residential in character but used as office space in the C-T zone. The adjacent property to the east is zoned R-60 and contains a one-family detached residential dwelling unit. South of the subject site across West Virginia Avenue is a parking lot, Lot 44, which is owned and operated by Montgomery County. The Bethesda metro station is approximately 1600 feet away.

The site in its present condition is displayed in an “NRI/Existing Conditions” plan (Exhibit 15(a)). It shows paved areas in the front for on-site parking of up to five cars.

The surrounding area must be identified in a floating zone case so that compatibility can be evaluated properly. In general, the definition of the surrounding area takes into account those areas that would be most directly affected by the proposed development. In the present case, Technical Staff recommends designating the surrounding area as generally defined by Wisconsin Avenue to the west, Highland Avenue to the north, Maryland Avenue to the east, and Chase Avenue on the south. The Applicant agreed with this definition. Tr. 40. The Hearing Examiner also accepted Technical Staff’s surrounding area definition, as does the District Council.

Technical Staff described existing development within the surrounding area as follows (Exhibit 30, p. 4):

. . . This area is appropriate for determining whether the proposed zone will be compatible with surrounding uses because it uses Wisconsin Avenue, which is a major arterial roadway, as a clear demarcation between more dense development to the west of the roadway and less dense development on the east. The boundary also captures surrounding properties that may be affected by the rezoning. . . .

The area to the east of the defined neighborhood is residential in character, made up of a mix of older one-family homes as well as more recently redeveloped lots containing single-family homes zoned R-60. A commercial property zoned C-T is directly north of the subject property. The parking lots on the west and south of the subject property are zoned CBD-1, and further west across Wisconsin Avenue is the Bethesda Central Business District.

Technical Staff also provided the following zoning history of the subject site (Exhibit 31):¹

1. 1954 - Countywide Comprehensive Zoning confirmed R-60 Zone
2. 1958 – Countywide Comprehensive Zoning confirmed R-60 Zone
3. F-736 - Adopted 8/25/72 reconfirmed R-60 Zone
4. G-20 - Bethesda CBD adopted 12/6/77 reconfirmed R-60 Zone
5. G-666 - Bethesda Chevy Chase Map Plan adopted 6/26/90 reconfirmed R-60 Zone
6. G-711 - Bethesda CBD Sector Plan, adopted 10/11/94 reconfirmed R-60 zone
(Plan recommended C-T Zone for subject property)
7. G-853 - Woodmont Triangle Amendment to Bethesda CBD Sector Plan, adopted 7/17/06 reconfirmed R-60 zone (Woodmont Triangle Amendment affected 7 acres, SMA rezoned affected area but reconfirmed existing zoning of subject property)

The significant point of the zoning history is that the controlling Sector Plan recommends the subject site for the C-T Zone.

¹ The Hearing Examiner corrected a typographical error in the numbering of the zoning history list in Exhibit 31.

Proposed Development and Binding Elements

The Applicant seeks to rezone the property located at 4705 West Virginia Avenue, Bethesda, Maryland from the R-60 Zone to the C-T (Commercial Transitional) Zone so it can use the existing two-story, single-family building for a commercial office use. According to Mimi Kress, Applicant's managing member, if the rezoning request is granted, the use will be a combination of a showroom on the main level, similar to a model home look, and offices for the company. Applicant is not planning any changes to the structure or further development of the property after the rezoning is granted. Tr. 13-17.

Pursuant to Code § 59-H-2.52, the Applicant in this case has chosen to follow the "optional method" of application. The optional method requires submission of a schematic development plan (SDP) that specifies which elements of the plan are illustrative and which are binding, *i.e.*, elements to which the Applicant consents to be legally bound. Those elements designated by the Applicant as binding on the SDP must be set forth in a Declaration of Covenants to be filed in the County land records if and when the rezoning is approved. The Applicant's final SDP (Exhibit 39(a)), which was revised to incorporate changes recommended by the Planning Board, sets forth five binding elements:

BINDING ELEMENTS

- 1) DEVELOPMENT AND USE SHALL BE LIMITED TO 4,275 SQUARE FEET FLOOR AREA OF DEVELOPMENT, WITH ASSOCIATED SIGNAGE, PARKING, LANDSCAPING, LIGHTING AND INFRASTRUCTURE IMPROVEMENTS.
- 2) THE FOLLOWING HEIGHT LIMITATION SHALL APPLY TO THE DEVELOPMENT: UP TO 24 FEET FOR THE BUILDING.
- 3) THE FOLLOWING MINIMUM BUILDING SETBACKS SHALL APPLY:
 - A) FROM WEST VIRGINIA AVENUE: 10 FEET
 - B) FROM ALL OTHER LOT LINES: 15 FEET
- 4) THE FOLLOWING GREEN AREA REQUIREMENT SHALL APPLY: MINIMUM 10%
- 5) THE PROPERTY INCLUDING OPEN SPACE, WILL BE SUBJECT TO SITE PLAN REVIEW. GENERAL BUILDING, OPEN SPACE, PARKING LOCATIONS, LANDSCAPING/LIGHTING, AND NUMBER OF PARKING SPACES TO BE DETERMINED AT SITE PLAN. THE PARKING LAYOUT IS FOR ILLUSTRATIVE PURPOSES ONLY AND WILL BE REVISED AT SITE PLAN TO IMPROVE RESIDENTIAL SCALE, BUFFERING AND COMPATIBILITY.

Applicant has also filed an executed copy of the Declaration of Covenants in the record of this case as Exhibit 39(c), and it contains the specified binding elements, as required. The legal effect of the covenants is to obligate any future owner of the property to comply with the binding elements specified on the SDP. Thus, the optional method allows an applicant to specify elements of its proposal that the community, reviewing agencies and the District Council can rely on as legally binding commitments. Illustrative elements of the SDP may be changed during site plan review, but the binding elements cannot be changed without a separate application to the District Council for a schematic development plan amendment.

The District Council finds that the proposed Binding Elements will achieve the desired end of keeping the setbacks, scale and size of the structure compatible with other properties in

the immediate area, while according the Planning Board sufficient flexibility to adjust parking, open spaces, landscaping and lighting at site plan review.

The graphic portion (*i.e.*, site layout) of the final SDP (Exhibit 39(a)), is illustrative (except as specified in the binding elements). The site layout shows the existing structure and parking area, as well as surrounding green space. In addition to the five binding elements listed above, the SDP also contains General Notes, Tables of Existing and Proposed Site and Zoning Data, a Parking Tabulation and an illustration of the proposed Green Area.

Standard for Review

A floating zone, such as the C-T Zone, is a flexible device. Individual property owners may seek to have property reclassified to a floating zone by demonstrating to the Council that the proposed development will be consistent with the purpose and regulations of the proposed zone and compatible with the surrounding development, as required by the case law, *Aubinoe v. Lewis*, 250 Md. 645, 244 A.2d 879 (1967). The Council must also find that the rezoning will be in the public interest as part of the coordinated and systematic development of the regional district, as required by the Maryland Land Use Article, Code Ann. § 21-101(a)(4)(i) (2012):²

(i) planning, zoning, or subdivision control powers in the regional district [must be exercised to:]

(1) guide and accomplish a coordinated, comprehensive, adjusted, and systematic development of the regional district;

(2) coordinate and adjust the development of the regional district with public and private development of other parts of the State and of the District of Columbia; and

(3) protect and promote the public health, safety, and welfare.

The C-T Zone contains a post-zoning review process that generally delegates to the Planning Board the details of site specific issues such as building location, stormwater control, vehicular and pedestrian routes, landscaping and screening. We turn now to the three areas of Council review discussed above – the purposes and requirements of the applicable zone, compatibility with land uses in the surrounding area and relationship to the public interest.

Purpose and Requirements of the Zone

The purpose clause for the C-T Zone, Zoning Ordinance §59-C-4.301, provides:

² Effective October 1, 2012, the Regional District Act, Article 28, Md. Code Ann., was re-codified, without a change in substance, into a new “Land Use Article.” Section § 21-101(a)(4)(i) of the Land Use Article contains the rough equivalent of the previous language in Article 28, Md. Code Ann., § 7-110.

The purpose of the C-T zone is to provide sites for low-intensity commercial buildings which, singly or in groups, will provide an appropriate transition between one-family residential areas and high-intensity commercial development. The C-T zone is intended to constitute a margin of limited width at the border between a commercial area and a one-family residential area. For that reason, the C-T zone can only be applied:

(a) In areas designated for the C-T zone on adopted and approved master or sector plans; or

(b) On property so located that it is between and adjoining or separated only by a street, highway, or utility right-of-way from both of the following uses:

(1) Existing or proposed one-family residential uses; and

(2) Existing high-intensity commercial uses. As used herein, the term "high-intensity commercial use" refers to any commercial or central business district development with an existing height that is greater than 40 feet. The term "high-intensity commercial use" does not include development in the C-1 zone.

The fact that an application complies with all specific requirements and purposes set forth herein shall not be deemed to create a presumption that the application is, in fact, compatible with surrounding land uses, and, in itself, shall not be sufficient to require the granting of an application.

Applicant's land planner, Bill Landfair, testified that the proposed development will comply with the purpose clause of the C-T Zone because the site has a low intensity commercial building that will provide an appropriate transition between one-family residential areas and high-intensity commercial development. This proposal also meets the first alternative specified in the Code, in that the subject site is designated as being suitable for the C-T Zone in the relevant Sector Plan. Tr. 44. Technical Staff reached the same conclusion for the same reasons. Exhibit 30, p. 8.

The Planning Board also found that "The application will comply with the purposes, standards and regulations of the C-T zone." Exhibit 32, p. 1.

Based on this record, the District Council concludes that the proposed development will serve precisely the goal articulated in the C-T Zone's purpose clause. The existing structure will indisputably serve as a "*low-intensity commercial building*," and the District Council finds that it will "*provide an appropriate transition between one-family residential areas and high-intensity commercial development*." Moreover, the subject site has been designated for the C-T Zone in the Bethesda CBD Sector Plan.

The regulations of the C-T Zone are provided in Zoning Ordinance §§59-C-4.302 to 4.309. Most of the development standards for the C-T Zone were set forth in a Table on the revised SDP (Exhibit 39(a)), which is reproduced on page 12 of the Hearing Examiner's report.

A similar table is contained on page 10 of the Technical Staff report (Exhibit 30). As stated by Technical Staff, "The application and associated schematic development plan satisfy the development standards of the C-T zone, . . ."

Mr. Landfair also opined that the building as constructed complies with the development standards and regulations of the C-T zone, including lot coverage, building height, floor area, setbacks and green area. The binding elements reflected on the schematic development plan are also consistent with the zone's regulations. Tr. 45.

Based on the entire record, the District Council agrees with the Hearing Examiner's finding that the proposed development meets the purposes and requirements of the C-T Zone, and that the proposed development's binding elements will permit the Planning Board flexibility to approve a design at site plan review which will meet all applicable standards.

Compatibility

An application for a floating zone reclassification must be evaluated for compatibility with land uses in the surrounding area. Applicant's land planner, Bill Landfair, testified that the proposed development and the use will be compatible with existing and proposed adjacent and surrounding land uses. He stated that the existing building is residential in scale and character, and will make a fine transitional use for this neighborhood. Tr. 47-48. Curt Schreffler, Applicant's civil engineer, testified that the schematic development plan fits the existing building on the lot, and Applicant's transportation planner, Craig Hedberg, testified that the proposed use will be in harmony with the general character of the existing neighborhood as to traffic and parking.

Technical Staff also concluded that "The proposal is compatible with adjacent development in the surrounding area with regards to the use and building location," although Staff suggested that the on-site parking be further reviewed at site plan and that additional screening and landscaping be considered at that time.

The Planning Board stated (Exhibit 32, p. 1):

The development as reflected on the Schematic Development Plan and further refined by the binding elements will be compatible with the surrounding area. . . . The Board also agreed with Chair Carrier's recommendation that the applicant add a note to the Schematic Development Plan identifying that the parking layout is for illustrative purposes only and will be revised at site plan to improve residential scale, buffering and compatibility.

Based on this record, the District Council agrees with the findings made by Technical Staff, the Planning Board and the Hearing Examiner that the proposed reclassification to the C-T Zone and the proposed development would be compatible with development in the surrounding area. The Planning Board will further evaluate compatibility at site plan review, and may adjust the non-binding portions of the SDP to further ensure compatibility.

Public Interest

As mentioned above, Maryland law requires that zoning powers be exercised in the public interest. Factors which are usually considered in determining the public interest include Master Plan or Sector Plan conformity, the recommendations of the Planning Board and its staff, any adverse impact on public facilities or the environment, and positive factors such as provision of affordable housing or providing a buffer for an existing residential area.

1. Master Plan Conformity, Technical Staff and the Planning Board:

The subject site is located within the “East Bethesda Transition Area” of the Bethesda CBD Sector Plan, approved and adopted in 1994. Recommended zoning for the East Bethesda Transition Area is depicted in Figure 4.28 on page 111 of the Sector Plan. It specifically recommends the C-T Zone for this site. Technical Staff provided a very thorough discussion of the Sector Plan’s application to this case in their report (Exhibit 30, pp. 10-14). Staff’s conclusion is that “the subject property can be rezoned to the C-T zone in accordance with the Master Plan recommendations.” Exhibit 30, p. 14. The Planning Board agreed, stating, “The Planning Board finds that the rezoning application is consistent with the Sector Plan for the Bethesda Central Business District (CBD).” Exhibit 32, p. 1.

The Sector Plan’s recommended use for the site is “Office: Low Density,” as indicated in a “Future Land Use” Chart (Figure 4.27) on page 110 of the Sector Plan. The instant proposal clearly satisfies both the zoning and the use recommendations of the Sector Plan. As stated by Technical Staff (Exhibit 30, p. 11):

This proposal to rezone the subject site from the R-60 to the C-T zone will contribute to the stability of land uses by confirming future office use on the site. The applicant improved the property when they replaced an underutilized parking area with the existing residential structure. The 4,062 square foot structure provides a strong street presence and an opportunity to meet the needs of a small business and continue as a stable use in the transition area. . . . The applicant is not providing housing but the proposed use as an office in a one family house serves as an adequate transition to low-density housing. Transitions like this building will add to the aesthetic appeal of West Virginia Avenue as one drives eastward to reach one family homes in the neighborhood.

Staff also mentions that the existing designation of the site as Lot 26 of Block 5 resulted from the May 26, 2004 combination of former Lots 18, 19 and 20 to create the existing Lot 26. Exhibit 30, p. 12. The Sector Plan refers to the old lot designations in stating, “Applications for C-T zoning on these lots will be considered to be in accordance with the Sector Plan for individual parcels.” Sector Plan, p. 109. Technical Staff also suggests that, at site plan review, the Applicant should be required to plant street trees along the site’s West Virginia Avenue street frontage in order to “satisfy the intent of the Urban Design Guidelines of the Sector Plan.” Exhibit 30, p. 13.

Technical Staff and the Planning Board found that the proposed development, as limited by the binding elements, is appropriate and consistent with the Sector Plan. Exhibits 30 and 32. The Hearing Examiner agreed. Based on this record, the District Council also finds that the proposed rezoning and SDP are consistent with the Bethesda CBD Sector Plan, approved and adopted in 1994.

2. Public Facilities and the Environment:

Zoning Ordinance §59-H-2.4(f) requires Applicant to produce “[s]ufficient information to demonstrate a reasonable probability that available public facilities and services will be adequate to serve the proposed development under the Growth Policy standards in effect when the application is submitted.” Technical Staff reports that the property is adequately served by public water and sewer. Exhibit 30, p. 14. School capacity is not an issue in this case since no residential buildings are proposed.

The adequacy of transportation facilities was the subject of both expert testimony and analysis by Technical Staff. Under County law in effect at the time this application was filed, there were two aspects to the analysis of transportation facilities, local area transportation review (LATR) and policy area mobility review (PAMR). The local area transportation review looks at the number of peak-hour trips that will impact intersections surrounding the subject site. If the site will generate a net of more than 29 peak-hour trips, then the intersections are subject to analysis under the critical lane volume (CLV) standard that has been adopted for that policy area. The critical lane volume standard for this area is 1,800 critical lane movements. Tr. 50-57.

Craig Hedberg testified as an expert in traffic engineering and transportation planning. His transportation analysis evaluated the net peak-hour trip generation of the proposed use. Mr. Hedberg’s analysis is contained in Exhibit 26. Table A of the exhibit uses trip generation rates for the Bethesda CBD in accordance with Technical Staff’s LATR/PAMR Guidelines. The Table indicates that the new use will generate 8 trips in each peak hour, but after taking credit for the displaced single-family unit, there would be a net increase of 7 peak-hour trips in the a.m., and 7 peak-hour trips in the p.m. That is well below the 29 trip standard, and therefore the subject application would not have to file a full local area transportation review analysis of intersectional impacts. Tr. 50-52.

Mr. Hedberg and Technical Staff also agreed that appropriate analysis of PAMR’s application to this case yields a requirement for Applicant to pay the County’s PAMR fee for one excess trip in the morning. Tr. 52-53 and Attachment D to the Technical Staff report (Exhibit 30). These figures will be evaluated again at site plan review, probably under new “transportation policy area review” (TPAR) regulations. TPAR is scheduled to replace PAMR beginning January 1, 2013, but the evaluation at the rezoning stage is judged by when the application was filed. Mr. Hedberg feels that this application will be compliant whether or not TPAR is applied, instead of PAMR, to determine adequate public facilities for this project. Tr. 53-58.

Under Zoning Ordinance §59-E-3.2, an office of this size would ordinarily require 11 parking spaces, as recognized in the Parking Tabulation on the SDP; however, the property is

within the Bethesda Parking Lot District, and under Zoning Ordinance §59-C-4.307(b), this site may use public parking facilities to satisfy its parking space requirements under §59-E-3. Although the SDP presently calls for five parking spaces on site, the binding elements specify that the number and location of parking spaces on site will be determined at site plan review. Ample public parking is available in the surrounding area.

Mr. Hedberg also testified that the proposed site access and circulation systems are safe, adequate and efficient, from a transportation planning standpoint, for both pedestrian and vehicular traffic. There will be a lead-in sidewalk from the public right of way up to the front of the site, and there will be handicapped access from one of the parking lots as well. Tr. 58-60. There is no contrary evidence in the record.

Based on this record, the District Council finds that Applicant has demonstrated a reasonable probability that available public facilities and services will be adequate to serve the proposed development.

As to the environment, Applicant filed a Natural Resource Inventory/Existing Conditions Plan (NRI/ECP) for the site (Exhibit 35), and it was approved by Technical Staff on July 9, 2012, along with Forest Conservation Exemption No. 420121946. According to Mr. Schreffler, the existing stormwater management on the site consists of a dry well in the right rear corner of the property. When the building was constructed, stormwater management and sediment control were approved and permitted by the Department of Permitting Services. These approvals are contained in Exhibit 14. Tr. 23. No new construction is proposed, and subdivision is not required, but there will be site plan review by the Planning Board. Tr. 24-25.

Technical Staff noted that “There are no environmental features of concern on this proposal” (Exhibit 30, p. 15), as evidenced by Environmental Planning Staff’s memorandum recommending approval, appended to the Technical Staff report as Attachment E.

Based on this record, the District Council finds that no environmental issues have been raised that would affect approval of this application.

3. Other factors:

Technical Staff noted that the primary structure is already in place, and there will be no additional demands on public utilities or further adverse environmental impacts. Given the proposal’s compliance with the Sector Plan, Technical Staff found the application to be in the public interest. The Hearing Examiner notes that the proposed low density office use will provide a transitional buffer for the nearby residential community, and that would be in the public interest as well.

In sum, the District Council finds that the proposed use will not adversely affect surrounding development, will be consistent with the goals of the Sector Plan, will provide a transitional buffer for the community and will not adversely affect public facilities or the environment. The District Council therefore concludes that its approval would be in the public interest and appropriate for the comprehensive and systematic development of the County.

Conclusion

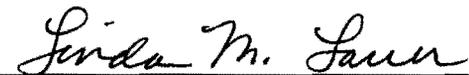
Based on the foregoing analysis and the Hearing Examiner's report, which is incorporated herein, and after a thorough review of the entire record, the District Council concludes that the application satisfies the requirements of the C-T Zone and its purpose clause; that the application proposes a form of development that would be compatible with land uses in the surrounding area; and that the requested reclassification to the C-T Zone bears sufficient relationship to the public interest to justify its approval. For these reasons and because approval of the instant zoning application will aid in the accomplishment of a coordinated, comprehensive, adjusted, and systematic development of the Maryland-Washington Regional District, the application will be approved in the manner set forth below.

Action

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District located in Montgomery County, Maryland approves the following resolution:

Zoning Application No. G-913, requesting reclassification of 8,550 square feet of land described as Lot 26, Block 5 in the West Chevy Chase Heights Subdivision of Bethesda, and located at 4705 West Virginia Ave, in Montgomery County's 7th Election District, is hereby **approved** in the amount requested, subject to the specifications and requirements of the Schematic Development Plan, Exhibit 39(a); provided that the Applicant submits to the Hearing Examiner for certification a reproducible original and three copies of the Schematic Development Plan within 10 days of approval, in accordance with §59-D-1.64 of the Zoning Ordinance; and that the Declaration of Covenants (Exhibit 39(c)) is filed in the County land records in accordance with §59-H-2.54 of the Zoning Ordinance and proof thereof is submitted to the Hearing Examiner within the same timeframe.

This is a correct copy of Council action.



Linda M. Lauer, Clerk of the Council