

BEFORE THE COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THE MARYLAND-
WASHINGTON REGIONAL DISTRICT IN
MONTGOMERY COUNTY, MARYLAND
Office of Zoning and Administrative Hearings
100 Maryland Avenue, Room 200
Rockville, Maryland 20850
(240) 777-6660

IN THE MATTER OF:

NORMANY FARMS JOINT VENTURE,

Applicant

Phil Perrine
Stephen Petersen
Farid Srour

For the Application

Jody Kline, Esquire

Attorney for the Applicant

Martin Klauber, People's Counsel

In Support of the Application

Before: Françoise M. Carrier, Hearing Examiner

Zoning Application No. G-820

HEARING EXAMINER'S REPORT AND RECOMMENDATION

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I. SUMMARY

The present application seeks to rezone the property on which the Normandie Farm Restaurant is located, consisting of 6.5 acres of land on Falls Road in Potomac, south of the Falls Road Golf Course and north of Democracy Boulevard. The Normandie Farm Restaurant has operated at this location since 1931 and proposes to expand on site. The subject property was recommended for the Country Inn Zone in the *2002 Potomac Subregion Master Plan*, and the owners of the restaurant now seek reclassification to that zone.

The evidence establishes that the proposed Development Plan would accomplish the purposes of the zone, be consistent with its standards, substantially comply with the Master Plan, and serve the public interest. Accordingly, the Hearing Examiner recommends approval of the subject application.

II. STATEMENT OF THE CASE

Application No. G-820, filed on February 9, 2004 by Applicant Normandy Farms Joint Venture, requests reclassification from the RE-2/TDR Zone (Residential, one-family, two-acre minimum lot size) to the Country Inn Zone of 6.5 acres of land located at 10701 Falls Road in Potomac, Maryland, in the 10th Election District. The property is identified as Parcel 180 on Tax Map FP43 has been the home of the Normandie Farm Restaurant for over 70 years.

Technical Staff of the Maryland-National Capital Park and Planning Commission ("MNCPPC") reviewed the application and, in a report dated December 9, 2005, recommended *approval*. The Montgomery County Planning Board ("Planning Board") considered the application on December 15, 2005 and recommended *approval* by a vote of 4 to 0. A public hearing was originally scheduled for September 10, 2004, but was postponed several times to allow the Applicant to refine its plans and to secure a necessary zoning text amendment. The public hearing was finally held on December 19, 2005, at which time testimony and evidence were presented in support of the application. No opposition was presented at the hearing, although the record

contains one letter in opposition. The record was held open briefly to receive supplemental submissions from the Applicant and Technical Staff, and closed on December 28, 2005.

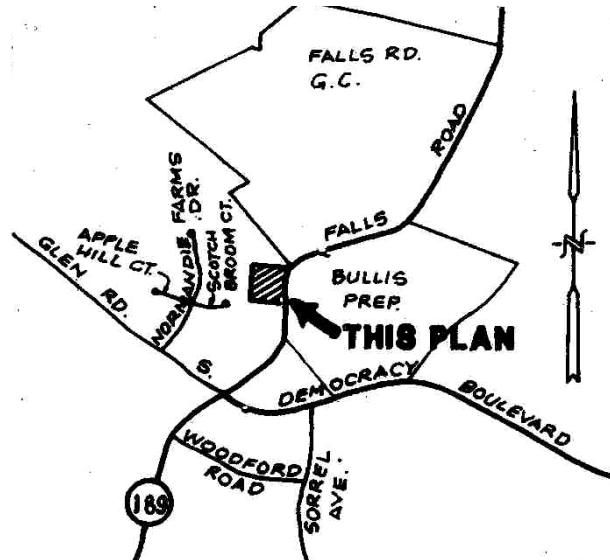
III. FINDINGS OF FACT

For the convenience of the reader, the findings of fact are grouped by subject matter. Where there are conflicts in the evidence, these conflicts are resolved under the preponderance of the evidence test.

A. Subject Property

The subject property consists of approximately 6.5 acres of land located at 10710 Falls Road in Potomac, on the northwest side of a curve in the road, slightly south of the Falls Road Golf Course and north of Democracy Boulevard. The property is classified under the RE-2/TDR Zone and is roughly rectangular in shape, with approximately 500 feet of frontage along Falls Road and an average depth of 600 feet (the northern boundary line extends back from Falls Road approximately 670 feet, and southern boundary line extends back about 575 feet). The property is developed with a large, one-story, brick and siding restaurant, a two-story administrative building, a storage shed attached to the side of the restaurant, large parking areas and a small slate patio. The property is gently to moderately sloping. Natural features include a forested area in the western part of the property measuring 0.71 acres; a spring in the southwestern corner of the property that flows through a stone and concrete enclosure; a very small area of wetlands in the southwestern corner of the property; large areas of grass; and scattered trees, including some specimen trees as well as ornamental trees, shrubs and perennials.

To the east, the site abuts Falls Road. To the north, it abuts the Manor Care Nursing Home in the RE-2/TDR Zone, which is located on land that was once part of the subject property. The site abuts single-family homes classified under the RE-2/TDR Zone to the west, and to the south it abuts a single-family lot in the RE-2 Zone. The general shape and location of the subject property are shown on the map that follows (excerpted from Ex. 51(a)).



B. Surrounding Area

The surrounding area must be identified in a floating zone case so that compatibility can be evaluated properly. The “surrounding area” is defined less rigidly in connection with a floating zone application than in evaluating a Euclidean zone application. 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 described the surrounding area as generally bounded by Democracy Boulevard to the south, Glen Road to the west and north and Stapleton Hall Road to the east. The Applicant's land planner, Phil Perrine, suggested that the surrounding area described by Technical Staff was overly broad. Mr. Perrine opined that for purposes of analyzing the effects of the proposed rezoning, the surrounding area should extend from the Bullis School on the east, to the Potomac Tennis Club on the north, Normandy Farms Drive on the west and Democracy Boulevard on the south. The Hearing Examiner agrees with Mr. Perrine that Staff's suggested surrounding area is too large. Both Stapleford Hall Drive and the portion of Glen Drive that runs in a north/south direction are too far away from the subject site to have any likelihood of significant impacts from the proposed development. Accordingly, the Hearing Examiner designates

as the surrounding area for this case the area suggested by Mr. Perrine, to include uses on both sides of Normandy Farms Drive.

The surrounding area contains a nursing home, a tennis club, a private school with substantial acreage, and single-family detached homes on large lots, roughly one to three acres each. The subject site' relationship to surrounding uses may be seen on the vicinity map below.

Vicinity Map, Ex. 5



C. Zoning and Land Use History

The Normandie Farm Restaurant has been located on the subject property since 1931, predating zoning in the County. The property was classified under the R-A (Agricultural Residential) Zone in the 1958 County-wide comprehensive rezoning. The R-A Zone was redesignated the RE-2 Zone by text amendment in 1973, and the subject property's zoning has remained the same since then, having been reconfirmed by Sectional Map Amendments G-247 (1980), G-565 (1987) and G-800 (2002).

The Board of Appeals approved a special exception for a restaurant on the site in 1959 (BA-749), which allowed the restaurant to be expanded (it was operating prior to the special exception as a legal, non-conforming use and, therefore, could not expand). The special exception was modified twice in the next two years. The first modification was to permit the construction of a two-story accessory building with an office and dressing rooms (BA-956, 1960), and the second was to permit the construction of a new kitchen, with expansion and remodeling of the dining area (BA-1175, 1961). In 1970, an additional special exception was granted to permit the operation of an antique shop in an existing building to the rear of the restaurant.

The property was sold in 1982. The original special exception and the two restaurant modifications were transferred to the new owners. The antique shop special exception, which had been abandoned, was revoked. An additional modification in 1986 removed from the special exception area nine acres at the north end of the site, which were not being used for the special exception. This reduced the acreage to its current size. The nine acres were later sold, and they currently house the Manor Care Nursing Home.

The subject site was designated as a TDR receiving area in 1982, as part of a larger, 41-acre parcel. The 15.5 acres then subject to the special exception, however, were excluded from the density transfer provision.¹

D. Proposed Development

The Applicant, Normandy Farms Joint Venture,² proposes to expand the restaurant by building a second building, about the same size as the first and in a similar architectural style, immediately to the west of the existing restaurant. The two buildings would share a kitchen, and would be connected by an enclosed breezeway. The Applicant intends to use the new building primarily for special events such as weddings and bar mitzvahs, which currently can be accommodated only by closing the restaurant. The expansion plan would include demolishing the two-story administrative building, removing a small part of the existing restaurant to make room for the breezeway, and making significant changes to the parking and on-site circulation. The total building square footage on the site currently is 14,272 square feet, of which approximately 1,979 square feet are to be demolished. The new construction would bring the total building square footage up to approximately 24,400 square feet, for a net addition of about 10,200 square feet.

¹ Both the Staff Report and Applicant's counsel suggest that the Normandie Farm Restaurant is a legal, non-conforming use. This appears, however, not to be the case. Restaurants were, indeed, deleted from the Zoning Ordinance as a permitted special exception in residential zones in 1967. See Board of Appeals Resolution in Case No. 749, dated March 27, 1980. The legislation contained a savings clause, however, which is codified in Section 59-G-2.57. That section provides, in pertinent part, that any restaurant in the RE-2 Zone lawfully existing on March 3, 1967 "is a conforming use and may be continued, structurally altered, reconstructed or repaired so long as it remains an otherwise lawful use as previously permitted. Any alterations or reconstruction that results in an expansion of the existing floor area must be approved by special exception by the Board [of Appeals.]" Code § 59-G-2.57. Accordingly, it appears that the restaurant might have sought the desired expansion through modification of its special exception, rather than through rezoning. The Applicant's representative at the hearing, Farid Srour, testified that the Applicant sought this rezoning to avoid the possibility of losing the special exception due to abandonment, if ever they have to close down for more than six months to rebuild, for instance if there were a fire. The Hearing Examiner considers it unlikely that the Board of Appeals would deem a special exception to have been abandoned if it were closed for renovations or reconstruction. Nonetheless, the Hearing Examiner is not aware of any legal provision or administrative practice that prohibits a rezoning application from receiving favorable consideration simply because the Applicant might have achieved its goals another way.

² The joint venture name uses a different spelling of "Normandy" than the restaurant name.

The site would retain its two existing access points onto Falls Road, but the southern entrance would be brought up to state standards with a 30-foot width (the northern entrance already satisfies state standards). At the same time, the parking areas would be improved to provide clearer drive aisles, sidewalks and gathering spaces, patron drop-off and pick-up areas, and a separate loading and employee parking area. The parking areas would be reconfigured to remove pavement that currently is within the stream valley buffer, and to create wider setbacks.

The drawings below compare the existing site conditions with the proposed development. The first is an artist's rendering of the Natural Resources Inventory/Forest Stand Delineation and the second is an artist's rendering of the Land Use Plan.

**Natural Resources Inventory/Forest Stand Delineation
Showing Current Conditions, Ex.47**



Artist's Rendering of Land Use Plan, Ex. 48, graphics only³



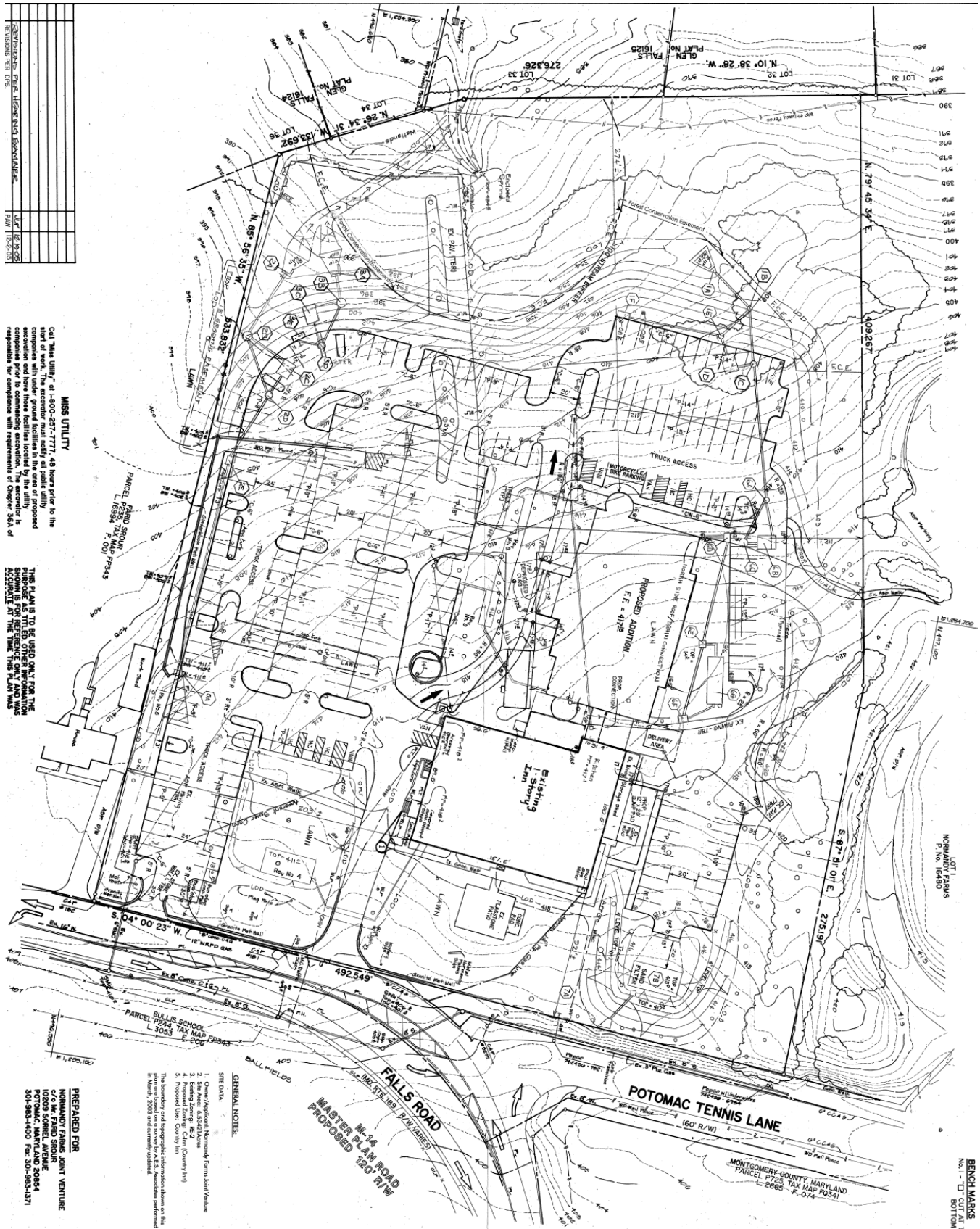
³ The rendering pictured above was not based on the final Land Use Plan, which was revised after the hearing to make two textual changes, but the graphics are the same.

E. Development Plan

Pursuant to Code § 59-D-1.11, development under the Country Inn Zone is permitted only in accordance with a development plan that is approved by the District Council when the property is reclassified to the Country Inn Zone. This development plan must contain several elements, including a land use plan showing site access, proposed buildings and structures, parking areas, land to be dedicated to public use, and land intended for common or quasi-public use but not intended to be in public ownership. Code §59-D-1.3. The Development Plan is binding on the Applicant except where particular elements are identified as illustrative or conceptual. The Development Plan is subject to site plan review by the Planning Board, and changes in details may be made at that time. The principal specifications on the Development Plan – those that the District Council considers in evaluating compatibility and compliance with the zone, for example – may not be changed without further application to the Council to amend the Development Plan.

The principal component of the Development Plan in this case is the Land Use Plan, Exhibit 51(a), which shows access points and the approximate locations of existing and proposed buildings, structures and parking areas. No dedications are proposed. Due to the nature of the use, no land is intended for common or quasi-public use. Additional elements of the Development Plan have been submitted through other exhibits, including a vicinity map (Ex. 5), a Natural Resources Inventory/Forest Stand Delineation (“NRI/FSD,” Ex. 6 and color rendering Ex. 47), and a preliminary forest conservation plan (Ex. 33(a)). The Land Use Plan is reproduced below and on the following two pages.

Land Use Plan Graphics, from Ex. 51(a)



Land Use Plan Tables, from Ex. 51(a)

LAND USE & DEVELOPMENT STANDARDS:**GENERAL NOTES:**

<u>Element</u>	<u>Permitted / Required</u>	<u>Requested for Approval</u>
Net Lot Area	2 Acres Minimum	6.53421 Acres
Proposed Use	Sec. 59-C-4.39	Country Inn
Building Coverage	10% Maximum	9%±
Building Height		
Main Building	2.5 Stories except for existing buildings and additions thereto	1 Story / Not to exceed 35 feet
Accessory Buildings	2 Stories except for existing buildings and additions thereto	N/A
Building Setbacks		
From Any Street	50 feet Minimum*	92 feet (existing)
Any Other Lot Line	75 feet Minimum**	112' North Side 203' South Side 274' Rear
Green Area	50% Minimum	57.4%
Parking	259 Spaces 4882 sf (ex) + 4815 sf(prop) @ 25 spaces/1000 sf plus 1050 sf (ex. outside) @ 15 spaces/1000 sf	261 Spaces
Parking Setbacks		
From Any Street	25 feet***	32 feet (20 feet Existing)
Any Other Lot Line	50 feet***	20 feet (17 feet Existing)

SITE DATA:

1. Owner/Applicant: Normandy Farms Joint Venture
2. Site Area: 6.53421 Acres
3. Existing Zoning: RE-2
4. Proposed Zoning: C-Inn (Country Inn)
5. Proposed Use: Country Inn

The boundary and topographic information shown on this plan are based on a survey by A.E.S. Associates performed in March, 2003 and currently updated.

* Except that the District Council May approve a setback less than 50 feet for any building existing on the site at the time of reclassification to the County Inn Zone, and for any addition or improvement to an existing building shown on the Development Plan.

** Except that the District Council May approve a setback less than 75 feet for any building existing on the site at the time of reclassification to the County Inn Zone, and for any modification to an existing building shown on the Development Plan.

*** Except that the District Council May approve a setback less than 25 feet or 50 feet for any parking facility existing on the site at the time of reclassification to the County Inn Zone, and for any modification to an existing parking facility shown on the Development Plan.

DEVELOPMENT PROGRAM:

The Inn is an existing use; addition to be completed in one phase

RELATIONSHIP TO CIP:

None Required

NOTE:

Exact locations of site features shown are illustrative. Exact building footprints will be determined at the time of site plan review.

F. Master Plan

The subject property lies within the area covered by the 2002 Potomac Subregion Master Plan (the “Master Plan”). Technical Staff reports that the Master Plan’s recommendations “allowed for a modestly sized country inn to be developed in a way compatible with the existing restaurant and the general character of the surrounding area.” Community-Based Planning Memorandum, attached to Staff Report, at 1. Specifically, the Master Plan recommends that the site be rezoned to the Country Inn Zone, and that allowable density not exceed size of the the existing restaurant by more than 10,000 square feet. See Master Plan at 52. The Master Plan’s land use and design guidelines further recommend that the inn complement the existing restaurant and emphasize an attractive rural setting, with generous setbacks from lot lines and green, park-like edges along the site perimeter.

Technical Staff found that the restaurant building proposed on the Land Use Plan is “sensitively located” to the rear of the existing restaurant, on the side facing the nursing home, with a setback of 280 feet to the nearest single-family detached lots. Staff notes that the net increase in square footage would be “approximately” 10,000 square feet, the parking setback on the west side of the site would be increased, and all parking would be removed from the 100-foot stream valley buffer. Staff concludes that the proposed rezoning and Development Plan conform to the Master Plan. See Community-Based Planning Memo at 2.

The Applicants’ land planner, Mr. Perrine, similarly opined that the Development Plan conforms to the Master Plan’s specific recommendations.

G. Environmental Issues and Storm Water Management

Environmental Planning Staff reports that the Preliminary Forest Conservation Plan meets the basic parameters of the forest conservation law and the Planning Board’s Environmental Guidelines, and recommends approval of the application. See Environmental Planning memorandum attached to Staff Report, at 2. The Preliminary Forest Conservation Plan, Exhibit

33(a), provides for 0.60 acres of planting on site, per county forest conservation requirements. The new plantings would reforest parts of the stream valley buffer that are currently covered by pavement or grass, as well as adding additional trees near the stream valley buffer and in the northwest corner of the site. The Preliminary Forest Conservation Plan also provides for a Category I Forest Conservation Easement that incorporates the stream valley buffer, wetlands, and potential planting locations on the property.

Technical Staff notes that the subject property contains 105 specimen and significant trees, some of which are in the stream buffer. The Applicant has stated an intent to preserve most of the large trees on the property, in keeping with the purpose of the zone. Staff suggests that the details of how this would be accomplished should be established in a tree save plan to be submitted during site plan review.

Storm water management facilities proposed for the subject site would provide quality control through a system of underground storage pipes, which would transmit run-off to biofilters before discharging it from the property. Quantity control would be accomplished by conveying run-off to an existing, off-site storm water management pond that has been sized to accommodate capacity from the subject property. See Environmental Planning Memo at 2.

H. Public Facilities

Under the County's Adequate Public Facilities Ordinance ("APFO," Code §50-35(k)), an assessment must be made as to whether the transportation infrastructure, area schools, water and sewage facilities, and police, fire and health services will be adequate to support a proposed development, and in turn, whether the proposed development would adversely affect these public facilities. Both the Planning Board and the Council have roles to play in this assessment process. The Planning Board reviews the adequacy of public facilities at subdivision, under parameters that the County Council sets each year in the Annual Growth Policy ("AGP") and biennially in the two-

year AGP Policy Element.⁴ While the final test under the APFO is carried out at subdivision review, the District Council must first make its own evaluation as to the adequacy of public facilities in a rezoning case, because the Council has primary responsibility to determine whether the reclassification would be compatible with the surrounding area and would serve the public interest. The Council's evaluation of public facilities at the zoning stage is particularly important because of the discretionary nature of the Council's review, and the fact that the Council's review is much broader at the zoning stage than what is available to the Planning Board at subdivision, a process designed to more intensively examine the "nuts and bolts" of a development. The District Council is charged at the zoning stage with determining whether the proposed development would have an adverse impact on public facilities and, if so, whether that impact would be mitigated by improvements reasonably probable of fruition in the foreseeable future.

1. Transportation

Under the 2003-05 AGP Policy Element, which remains in effect, subdivision applications are subject to only one transportation test, Local Area Transportation Review ("LATR").⁵ The Planning Board recognizes its LATR Guidelines as the standard to be used by applicants in the preparation of reports to the Hearing Examiner for zoning cases. LATR Guidelines at 1. LATR involves a traffic study intended to evaluate whether a proposed development would result in unacceptable congestion at nearby intersections during the peak hours of the morning and evening peak periods (6:30 to 9:30 a.m. and 4:00 to 7:00 p.m.).

The Applicants performed a traffic study as required in this case, taking into account existing roads, programmed roads and available or programmed mass transportation, as well as existing traffic, traffic anticipated from nearby development that is approved but unbuilt

⁴ See 2003-05 *Annual Growth Policy – Policy Element, Resolution No. 15-375*, adopted October 28, 2003, which remains in effect. The Hearing Examiner hereby takes official notice of the 2003-05 AGP Policy Element.

⁵ See 2003-05 AGP Policy Element at 6-7; *Local Area Transportation Review Guidelines Approved and Adopted July 2004* ("LATR Guidelines") at 1. The Hearing Examiner hereby takes official notice of the LATR Guidelines.

("background" traffic), and trips expected to be generated by the proposed development. Traffic generation anticipated from the expanded restaurant was extrapolated from traffic counts taken at the site driveways in September 2004 and September 2005, by increasing those counts by 70 percent to reflect the size of the expansion. Existing traffic counts at the two roadway intersections that were studied – Falls Road at Bells Mill Road and at Democracy Boulevard – were based on counts conducted in September 2005. No data was collected for the morning peak period, because Normandie Farms is not open for breakfast and, therefore, there are no patron trips during the morning peak period.

The traffic study found, and Technical Staff agrees, that critical lane volumes at the two site driveways and the two Falls Road intersections studied are all below the standard for the planning area of 1,475, and would increase only slightly with background traffic (an expansion of the Bullis School) and the proposed project, remaining well below 1,475. Both Staff and the Applicant's transportation planner, Stephen Petersen, conclude that the proposed development would have no adverse impact on the local road network.

Mr. Petersen opined that the circulation pattern shown on the proposed Development Plan would be much better than the current condition. The new plan would allow the facility to draw visitors farther into the site, away from the entrances, and would provide a good circulation pattern to get into the parking spaces. Staff and Mr. Petersen also note that there are no sidewalks in the immediate area of the site, and limited pedestrian activity. Technical Staff found that with the lead-in sidewalks and pedestrian paths shown on the Land Use Plan, the bikeway and pedestrian circulation system would be adequate.

Mr. Petersen testified, in response to questions from the Hearing Examiner, that both of the site entrances, with the proposed improvements, would have adequate sight distances. He stated that based on his observations, the northern site entrance provides safe conditions for motorists turning into the site from Falls Road, for two reasons: (1) there is extra pavement in the roadway where the driveway intersects it, due to an intersection the Potomac Tennis Drive, which

runs to the north from Falls Road; and (2) the degree of the curve and signage posting the curve for 25 miles per hour result in motorists slowing down on the curve (although not necessarily to the posted speed limit).

2. Other Public Facilities

The subject property is served by public water and sewer. Police and fire service is assumed to be adequate absent specific evidence to the contrary, which does not exist here. The proposed use of the property is non-residential in nature, with no impact on the public school.

I. Community Participation

The record contains one letter regarding the subject application, from Sandra Forman, a member of the nearby Potomac Tennis Club. See Ex. 29. Ms. Forman provided photographs showing what she describes as terrible problems with trash and disarray on the hill abutting the subject site, on the side of the golf course. She states that when she raised this issue with the owner of Normandie Farms, he told her it was the County's responsibility. Moving to the subject property itself, Ms. Forman contends that the stone wall near the curb in front of the restaurant is falling apart and never repaired, and that grass clippings are not cleaned up after the grass is mowed. She further states that roof of the original building "is loaded with unsightly vents, outlets" and other structures, wrinkled curtains or shades hang in the windows, many spots are unpainted, a light in front leans and needs repair, an outside patio is piled up with dirty chairs, and "the back of the place is dirty and slovenly." Ex. 29. Ms. Forman suggests that Normandie Farm should not be permitted to expand its business until it can take better care of its property.

If Ms. Forman had raised her concerns about property upkeep with the Department of Permitting Services, some enforcement action might have been taken under the terms of the special exception, assuming that her descriptions are accurate. In the context of a rezoning application, however, Ms. Forman's concerns are not directly relevant, as they do not affect whether the subject application complies with the relevant statutory requirements. Moreover, the Hearing

Examiner does not consider the concerns raised in this single letter serious enough to outweigh the substantial evidence of record indicating that the proposed rezoning would be in the public interest.

The only other community participation in the case was the appearance at the hearing of a reporter from the Gazette newspaper, who was under the impression that the West Montgomery Civic Association had expressed opposition to the rezoning. No such opposition is reflected in the record of this case. Applicant's counsel, Jody Kline, stated during the hearing that the West Montgomery Civic Association has expressed concern to him about accessory uses that are permitted in the Country Inn Zone, such as a blacksmith. Mr. Kline stated that he has explained that the operation proposed in this case is limited to a restaurant, with no accessory uses. Mr. Kline suggested, and the Hearing Examiner agrees, that adding any accessory use to the site would require a development plan amendment approved by the District Council.

IV. SUMMARY OF HEARING

A. Applicant's Case in Chief

1. Stephen G. Petersen, traffic planner. Tr. at 19-30.

Mr. Petersen was designated an expert in traffic engineering and transportation planning. Mr. Petersen testified that he prepared a traffic study for this case based on traffic counts taken at the site driveways in September 2004 and September 2005, and traffic counts taken at the intersections of Falls Road with Democracy Boulevard and Bells Mill Road in September 2005. Mr. Petersen remarked that the counts they conducted at Falls Road and Democracy Boulevard in the Fall of 2005 were lower than counts his firm took at the same locations two years earlier, in another case. Mr. Petersen noted that he has reviewed average daily traffic figures for Falls Road going back a number of years, and the volume runs at about 17,000 vehicles per day. He postulated that with its signalized intersections controlling traffic flow, that's all the road can handle.

Mr. Petersen stated that to estimate traffic generation for the expanded restaurant, his team took their traffic counts from the existing site driveways and expanded them by about 70

percent to reflect the size of the proposed addition. They then assigned those trips to the two Falls Road intersections and determined that with the additional trips, both intersections would continue to operate below the applicable CLV threshold of 1,475. Mr. Petersen opined that the circulation pattern shown on the proposed Development Plan would be much better than the current condition. The new plan would allow the facility to draw visitors farther into the site, away from the entrances, and would provide a good circulation pattern to get into the parking spaces. Mr. Petersen acknowledged that the northern driveway is on the edge of a curve, but stated that the driveway has good sight distances in both directions. He noted that the curve is posted for 25 miles per hour ("MPH"), and although vehicles don't slow all the way down to 25 MPH, the curve is just sharp enough to make people slow down. As a result, he assessed the sight distances based on a travel speed of 35 MPH, which is 10 MPH over the posted speed limit. Mr. Petersen also stated that based on his observations, vehicles can safely slow down in the curve to enter the Normandie Farm site, because there is additional pavement along the curve due to a side street (Potomac Tennis Lane) that runs adjacent to the curve.

Mr. Petersen further noted that in connection with the Board of Appeals' fairly recent approval of an expansion plan, the Bullis School, located across the street from the subject site, was required to dedicate land on its side of Falls Road to soften the curve. The dedication would allow the curve to be rebuilt to a 45-MPH design speed, ten MPH higher than the posted speed limit on most of Falls Road, which is 35 MPH. The change would put the entrance to Normandie Farm on a flatter part of the curve with better sight distance. There is no guarantee, however, that the State Highway Administration will actually implement this improvement. The Bullis School was required to provide the land, but the State would have to pay for the reconstruction.

2. Phil Perrine, land planner. Tr. at 31-54.

Mr. Perrine was designated an expert in land planning. He described the location of the subject property and its surroundings. He also described the property, a tract of about 6.5 acres with an existing one-story, brick and siding restaurant, a storage shed north of the main building,

another building west of the restaurant, a flagstone patio in front of the restaurant, two driveways, and approximately 151 parking spaces, including parking that extends all the way to the western side of the property, which slopes down to a little spring. The existing building has about 14,271 square feet, with 5,617 square feet of patron area. Mr. Perrine observed that the property slopes in the rear, and has approximately .71 acres of forest.

Mr. Perrine opined that the surrounding area affected by the proposed rezoning would include Bullis School to the east. He disagreed with Technical Staff's suggestion that the surrounding area goes beyond Bullis School to Stapleford Hall Road, which he considers a bit removed. Mr. Perrine opined that the surrounding area should extend to Normandy Farm Drive on the west, the Potomac Tennis Club to the north and Democracy Boulevard to the south.

Mr. Perrine reviewed the zoning and land use history of the subject property, including the existing special exception.

Turning to the Master Plan, Mr. Perrine noted that it recommends the Country Inn Zone for this property, with a specific recommendation for up to an additional 10,000 square feet of new building area. The Master Plan suggests that there be generous setbacks, that the building and storm water pond be configured to emphasize a rural setting, that any reforestation reinforce the rural setting, and that the building be located and designed to protect trees, provide for softer surfaces in the parking area and create a green, park-like edge around the property.

Mr. Perrine stated that the proposed development anticipates demolishing a small, two-story administrative building and a small part of the existing restaurant building. Deducting that square footage from the total currently on site, Mr. Perrine testified that the proposed development would result in a net addition of 10,192 square feet of space, just slightly above the level recommended in the Master Plan.⁶ The existing kitchen would serve both buildings, with a

⁶ The existing 14,271 square feet of building would be diminished by demolishing 1,979 square feet of building, leaving 12,292 square feet of existing space. Proposed new construction would add about 12,172 square feet, for a total square footage of about 24,464 square feet, a net increase of approximately 10,192.

connection to the new building for staff. The new building would be used primarily for special events, rather than general restaurant use, and would have a separate drop-off area for guests.

Mr. Perrine opined that the location proposed for the new building is consistent with the Master Plan's objectives. The new building would be west of the existing building, so the view of it from Falls Road would be obscured by the existing building. Thus, Mr. Perrine believes there would be no sense of increased mass or density from Falls Road. He noted that size of the proposed operation would require 259 parking spaces, and the proposed Development Plan provides for 261. The southern driveway entrance would be revised to provide for an entry/exit with a 30-foot radius, in compliance with state requirements for access (the northern access point already complies with the relevant standards). It would also be moved a bit to the north, to accommodate more planting along the southern edge of the property. In addition, the parking that currently occupies the southwestern corner of the site would be removed and that area would be reforested. The Development Plan would benefit the stream that runs through that part of the site, as it would remove all paved areas within the stream valley buffer, and some paved areas near it. Regarding forest conservation, Mr. Perrine stated that .61 acres of the existing .71 acres of forest would be retained, and an additional .47 acres of trees would be planted within and to the north of the stream valley buffer, and in the parking areas.⁷ The net result would be 1.11 acres of forestation, which is slightly above the required 1.08 acres.

Mr. Perrine stated that storm water management would be accomplished through surface sand filters and underground facilities to filter the water and discharge it back into the stream, west of the property. Water quantity control would be provided via grates that would direct water into an underground pipe system and from there to an existing storm water pond downstream. Noting that he is a professional engineer as well as a planner, Mr. Perrine opined that no waivers of storm water management standards would be necessary.

⁷ The preliminary forest conservation plan, Exhibit 33(a), shows 0.69 acres of forest retention and 0.60 acres of planting. These small differences are immaterial at the zoning stage.

Mr. Perrine next addressed the purpose clause for the Country Inn Zone, which permits country inns in rural locations, provided that they are compatible with and would not adversely affect the rural character of the surrounding area. Mr. Perrine noted that the Master Plan considered the subject site an appropriate location for the Country Inn Zone. He observed that the restaurant has been operating on this site since 1931, and that its architectural style and setting reflect a rustic French countryside character. He noted that the surrounding area has considerable open space, with a golf course, Bullis School and residences to the south on large lots. Mr. Perrine observed that the new building would be in keeping with the existing building style, and that this very use lends a lot of rural character to the area. He opined that the proposed development would enhance the sense of rural character along Falls Road, so it conforms to that part of the purpose clause.

Another element of the purpose clause is the preservation of significant trees. Mr. Perrine noted, in this regard, that the existing tree stand on the west side of the property would be enhanced. He stated that residents to the west of the site have expressed satisfaction with the increase in buffering that would result. Mr. Perrine acknowledged that more limited buffering is shown between the site and a residential building immediately to the south, along Falls Road, with only a single line of trees between the two properties. He stated that this residence is owned by one of the Applicants, who has requested additional plantings along that property line. Moreover, the Land Use Plan shows a relocation of the parking in that area, pulling it back off the property line by 20 feet and adding more green area (currently, some of the parking is within 18 inches of the southern property line).

Turning to the exterior site design, Mr. Perrine stated that the Land Use Plan shows a new pergola just west of the existing building, as an attractive feature along the entry path. Parking in the western and southern parts of the site would be for guests, with parking for trucks and employees at the north end of the site.

Mr. Perrine opined that the Development Plan supports positive findings with regard to each of the development plan findings under § 59-D-1.61. He stated that the proposed use

- ◆ complies with the use and density recommended in the master plan;
- ◆ complies with the purpose and standards of the zone;
- ◆ provides a maximum of safety, convenience, amenity and compatibility, with a parking lot that provides for safe and efficient movement and is enriched with more amenities and green spaces, and additional buffering for homes to the west;
- ◆ provides for an improved pedestrian and vehicular circulation system with sidewalks, a wider southern access drive, a loading area and employee parking area totally separate from patron parking and a pedestrian drop-off spot;
- ◆ achieves preservation of trees and natural features by preserving most of the existing forest and replacing trees to be removed by planting new trees within the stream valley buffer, where they will have a higher environmental utility; and
- ◆ would provide storm water management in compliance with county standards.

Mr. Perrine concluded by opining that the requested rezoning would be in the public interest.

2. Farid Srour, Applicant's representative. Tr. at 55-56.

Mr. Srour testified that the Applicant seeks the present rezoning because the owners are worried that if they have to close the restaurant at some point, for instance if there is a fire, the restaurant could be closed for more than six months, which is not allowed for a special exception. He noted that the expansion is desirable because with the current facilities, the restaurant has to be

closed to accommodate a special event like a wedding or a bar mitzvah. The new facilities would allow the Normandie Inn to respond better to the needs of the community.

B. Community Participation. Tr. at 56-59.

The only person attending the hearing from the community was Peggy Vaughn, a reporter with the Potomac Gazette. Ms. Vaughn asked whether any opposition to the subject petition had been voiced by the public or civic federations. She stated that she had been told the West Montgomery Civic Association was concerned about some of the uses that are permitted in the Country Inn Zone, like a blacksmith. The Hearing Examiner informed her that the only opposition reflected in the record is in a letter from a community member, Sandra Forman, who is concerned about trash on a hill abutting the subject property, overlooking the golf course, and about inadequate maintenance in some of the back areas of the property. See Ex. 29.

Applicant's counsel, Jody Kline, interjected that the Applicant has met twice with the chair of the zoning committee for the West Montgomery Civic Association regarding a concern about accessory uses, and has discussed the matter with the association's counsel, explaining that the operation proposed in this case is limited to a restaurant, with no accessory uses. Mr. Kline stated, and the Hearing Examiner agreed, that adding any accessory use to the site would require a development plan amendment approved by the County Council.

C. People's Counsel. Tr. at 60-62.

The People's Counsel, Martin Klauber, offered a closing statement recommending approval of the proposed rezoning. He noted that Master Plan rarely gets as specific as the recommendation for this property, which specifically refers to a 10,000-square-foot expansion. Mr. Klauber opined that the reason for this specificity is that the operation of the Normandie Farm Restaurant at this location, since 1931, has provided the basic character of this area. It was treated in a very special way in the Master Plan because it is a very special site. Mr. Klauber suggested

that with the proposed rezoning, the zoning for this property would finally reflect the basic use of this property for the last 75 years – a country inn.

Mr. Klauber added that the scrutiny given to the proposed expansion of the Normandie Farm Restaurant, which has operated in the public interest of Montgomery County since 1931, should also be applied to the expansion of uses going on at the nearby Bolger Center, which is a very similar facility, so that the community has an opportunity to express its concerns.

V. ZONING ISSUES

Zoning involves two basic types of classifications: Euclidean zones and floating zones. The term “Euclidean” zoning arose from the seminal United States Supreme Court case upholding the land use authority of local governments, *Village of Euclid v. Ambler Realty Co.*, 272 U.S. 365 (1926). Euclidean zoning divides the territory of a local jurisdiction into zoning districts with set boundaries and specific regulations governing aspects of land development such as permitted uses, lot sizes, setbacks, and building height. In the State of Maryland, a property owner seeking to reclassify his or her property from one Euclidean zone to another bears a heavy burden to prove either a change in circumstances or a mistake in the original zoning. See *Stratakis v. Beauchamp*, 268 Md. 643, 652-53 (1973).

A floating zone is a more flexible device that allows a legislative body to establish a district for a particular type of use, with land use regulations specific to that use, without attaching that district to particular pieces of property. Individual property owners may seek to have property reclassified to a floating zone by demonstrating that the proposed location is appropriate for the zone, *i.e.*, it satisfies the purpose clause and requirements for the zone, the development would be compatible with the surrounding area, and it would serve the public interest.

The Country Inn Zone is a floating zone with specifications for elements such as building setbacks, parking setbacks and screening, building height and green area. Compliance with these specifications must be shown on a development plan submitted with the application for rezoning. Pursuant to Code §59-D-1.11, development under the Country Inn Zone is

permitted only in accordance with a development plan that is approved by the District Council when the property is reclassified to the Country Inn Zone. Accordingly, the evaluation of zoning issues must begin with the development plan.

A. The Development Plan

Before approving a development plan, the District Council must make five specific findings set forth in Code § 59-D-1.61. These findings relate to consistency with the master plan and the requirements of the zone, compatibility with surrounding development, circulation and access, preservation of natural features, and perpetual maintenance of common areas. The required findings are set forth below in the order in which they appear in the Zoning Code, together with the grounds for the Hearing Examiner's conclusion that the evidence in this case supports an affirmative conclusion for each of the required findings.

- (a) ***That the zone applied for is in substantial compliance with the use and density indicated by the master plan or sector plan, and that it does not conflict with the general plan, the county capital improvements program or other applicable county plans and policies.***

The Master Plan makes unusually specific recommendations for the subject property, and the proposed Development Plan substantially complies with them. The Applicants seek the Country Inn Zone, as recommended in the Master Plan. The total square footage proposed is slightly greater than the 10,000-square-foot limit recommended in the Master Plan, on the order of two percent. A two-percent overage can be considered de minimus, as it would not have a noticeable effect on the size of the structures. The Development Plan also substantially complies with the Master Plan's land use and design guidelines, which recommend that the inn complement the existing restaurant and emphasize an attractive rural setting, with generous setbacks from lot lines, trees and soft surfaces in the parking areas and green, park-like edges along the site perimeter. The proposed new building is intended to be in a style similar to that of the existing restaurant. It would be largely obscured from view from Fall Road because of its location west of the existing restaurant building, and would be set back a

significant distance from all of the site boundaries. Moreover, the parking areas would have more trees and green elements, and their relocation away from the stream valley would enhance the rural character of the setting.

Based on the Land Use Plan, Exhibit 51(a), and a color rendering of it, Exhibit 48,⁸ the “green, park-like edges” objective would be achieved very well on the north, east and west boundaries, where there would be significant green-area setbacks between pavement and boundary lines. The Land Use Plan shows the nearest parking area more than 100 feet from the northern boundary line, with grassy areas, trees and bushes between the two. On the west side of the site, the Land Use Plan shows a setback ranging from approximately 120 to 200 feet, with substantial forest cover in the setback.⁹ The eastern boundary line, along Falls Road, would retain its existing lawns, which are at least 90 feet deep along the entire frontage except the southeast corner, near the southern entrance. The only edge that would not fully comply with the Master Plan guidelines is the southern boundary, where parking areas would sit 20 feet from the property line. Twenty feet can hardly be described as “generous”, but it is much larger than the current southern setback, which ranges from about 12 to 15 feet near Falls Road and gets narrower near the rear of the property, dropping down to less than two feet in some places. A uniform 20-foot setback would improve current conditions and leave room for at least a modest amount of green space.¹⁰

The Hearing Examiner agrees with Technical Staff that on the whole, the proposed Development Plan would be in substantial compliance with the Master Plan. As discussed in Part III.H. above, the proposed development would not conflict with the AGP, nor is there any evidence of a conflict with any other applicable county plan or policy.

⁸ The color rendering was not based on the final Land Use Plan, which was revised after the hearing to make two textual changes. The graphics, however, are the same as shown on the final Land Use Plan.

⁹ These setback figures are not stated on the plan, but are given as measured by the Hearing Examiner.

¹⁰ Mr. Perrine indicated that additional plantings have been requested along the southern property line by the current owner of the adjacent property, Farid Srour, who attended the hearing as a representative of the Applicant.

- (b) ***That the proposed development would comply with the purposes, standards, and regulations of the zone as set forth in article 59-C, would provide for the maximum safety, convenience, and amenity of the residents of the development and would be compatible with adjacent development.***

1. Purposes of the Zone

The purpose clause of the Country Inn Zone is quoted below, with key elements in bold:

This zone is intended to be used for the purpose of **permitting country inns at appropriate rural locations. It is primarily intended that country inns be located in existing structures, but this does not preclude such uses being located in new structures where appropriate.** Since this zone permits commercial uses in a rural location, approval of this zone shall be based upon certain restrictions not imposed upon other uses in rural areas nor upon restaurants and inns in commercial areas. Construction and development of a country inn zoned site must **ensure that the proposed uses permitted in this zone will be compatible with and will not adversely affect the rural character of the surrounding area.** In addition, it is the purpose of this zone to **preserve and maintain significant trees.** Development shall be in conformance with a development plan submitted in accordance with the provisions of division 59-D-1 and approved as being consistent with the purposes of this section. The use of this category at any location is not an indication that the surrounding area is other than rural, that its character is altered by the granting of this zoning category or the presence of the country inn, or that any other change in zoning is appropriate because of this change.

Code § 59-C-4.390 (emphasis added).

The present application proposes a substantial expansion to a country inn/restaurant that has operated at this location for more than 70 years. While the surrounding area may fairly be characterized as semi-rural, there is substantial open space on the grounds of the nearby golf course and the Bullis School, and the nearby homes are on large lots, approximately one to three acres in size. The large lots and significant open space in the vicinity lend an open, rural character to the area. Moreover, as stated by Mr. Perrine and Mr. Klauber, the architectural style and setting of the Normandie Farm Restaurant have contributed, in large measure, to the rural character of the surrounding area, and would continue to do so with the proposed expansion.

The proposed development would provide for the preservation and renovation of an existing structure that has been in its present use for more than 70 years, and permit the construction of a new structure of a compatible style and scale, preserving the rustic, French country character of the architecture. It would also involve enhancements to the natural green space on the property, increasing perimeter buffers and improving environmental conditions in the stream valley buffer. The development would preserve the significant trees in the stream valley buffer, as shown on the preliminary forest conservation plan, and the Applicant has expressed an intention to save most of the large trees on the site, with the details to be worked out during site plan review.

The intensity of the use would increase, but the nature of the activity would be the same. Moreover, the increased setbacks and buffering would mitigate much of the impact from increased levels of activity, particularly to the west of the site, where most of the nearby residences are located.

With regard to traffic conditions, the evidence indicates that the expanded operation would generate a noticeably greater number of vehicle trips, estimated in the traffic study as a 70 percent increase. This would not be enough, however, to cause the site driveways or the closest intersections to reach unacceptable levels of congestion. Thus, the evidence supports a conclusion that the proposed development would not be incompatible with the surrounding area due to traffic impacts.

For all of the above reasons, the Hearing Examiner agrees with Technical Staff that the continued use of the property for a country inn, its reclassification to the Country Inn Zone, and implementation of the proposed Development Plan would be compatible with and would not adversely affect the rural character of the area; in fact, the proposed development would enhance the rural character that the Normandie Farm Restaurant lends to the surrounding area.

Based on the preponderance of the evidence, the Hearing Examiner concludes that the proposed Development Plan would comply with the purposes of the Country Inn Zone.

2. Standards and Regulations of the Zone

As shown in the table below, the proposed development would satisfy the standards and regulations of the Country Inn Zone, provided that the District Council exercises its discretion to approve a reduced parking facility setback on the southern side of the site.

Element	Permitted/Required	Proposed
Net Lot Area	2 acre minimum	6.5 acres
Proposed Use	As permitted in Code § 59-C-4.39 (country inn; caretaker dwellings; up to 12 guest rooms in main building; cable communication system; public utilities and telecommunication facilities by special exception; antique shops, handicrafts and art sales; saddlery; transitory use; blacksmith	Country Inn
Building Coverage	10% maximum	Approx. 9%
Building Height Main Building	2.5 stories except for existing buildings and additions	1 story/Not to exceed 35 feet ¹¹
Accessory Building	2 stories except for existing buildings and additions	1 story ¹²
Building Setbacks From any street From other lot lines	50 feet minimum* 75 feet minimum**	92 ft. (existing) 112 ft. (north) 203 ft. (south) 274 ft. (rear)
Green Area	50% minimum	57.41%
Parking	259 spaces, based on proposed square footages	261 spaces
Parking Setbacks From any street From other lot lines	25 feet minimum *** 50 feet minimum ***	32 ft. 20 ft.

* The District Council may approve a setback less than 50 feet for any building existing on the site at the time of reclassification to the Country Inn Zone, and for any addition or improvement to an existing building shown on the Development Plan.

** The District Council may approve a setback less than 75 feet for any building existing on the site at the time of reclassification to the Country Inn Zone, and for any addition or improvement to an existing building shown on the Development Plan.

***The District Council may approve a reduced setback for any parking facility existing on the site at the time of reclassification to the Country Inn Zone, and for any modification to an existing parking facility shown on the Development Plan.

¹¹ The Applicant added "Not to exceed 35 feet" at the request of the Planning Board.

¹² The submitted Land Planning Report lists "1 story" next to accessory building, apparently under the expectation that the new building would be considered an accessory structure. Ex. 50 at 7. Technical Staff states that the new structure would be considered an addition to the existing building, rather than an accessory structure, because of the breezeway planned to connect the two. Supplemental Staff Report, Ex. 52, at 2. Either way, the height limitation would not be exceeded.

The Applicant requests approval for parking along most of the southern property line with a 20-foot setback, which is significantly less than the 50 feet normally required. The District Council is explicitly authorized to approve a parking setback of less than 50 feet from a lot line, for parking that is shown on the Development Plan for the site. Written evidence suggests that the Applicant intends to use pole lighting for the parking areas, with cut-off features to prevent light spillage onto adjacent properties. Moreover, implementation of the Development Plan would result in moving the parking farther away from the southern boundary line than its current location, creating room for at least a modest amount of landscaping and leading to an improvement over current conditions. Under these circumstances, the Hearing Examiner recommends approval of the Development Plan, including the proposed parking setbacks.

3. Maximum safety, convenience and amenity of residents

Because the proposed development is non-residential in nature, the maximum safety, convenience and amenity of residents is not a factor for consideration.

4. Compatibility

As described in more detail earlier in this section, the Hearing Examiner concludes that the proposed development would be compatible with adjacent development.

(c) That the proposed internal vehicular and pedestrian circulation systems and points of external access are safe, adequate, and efficient.

The evidence supports a finding that the proposed internal vehicular and pedestrian circulation systems and points of external access would be safe, adequate, and efficient, and would represent an improvement over current conditions. The southern entrance drive would be expanded to 30 feet to meet state standards, and would move a few feet farther north to increase the southern setback. Expert testimony indicated that the two access points would have adequate sight distances, and that the extra pavement along the curve, the

sharpness of the curve and the posted speed limit decrease all make it safe for cars to turn into the site at the northern entrance, which sits in the middle of a curve in Falls Road. Parking would be improved with clearer drive aisles, sidewalks and gathering spaces, patron drop-off/pick-up areas, and a separate area for loading and employee parking. Pedestrian circulation would be improved by lead-in walks from Falls Road and pathways on-site.

- (d) *That by its design, by minimizing grading and by other means, the proposed development would tend to prevent erosion of the soil and to preserve natural vegetation and other natural features of the site. Any applicable requirements for forest conservation under Chapter 22A and for water resource protection under Chapter 19 also must be satisfied. The district council may require more detailed findings on these matters by the planning board at the time of site plan approval as provided in division 59-D-3.***

The proposed Development Plan would preserve much of the existing vegetation and natural features of the site. As shown on the preliminary forest conservation plan, the proposed development would preserve 0.69 acres of the total 0.71 acres of forest on site, including all of the existing trees in the stream valley buffer. The preliminary forest conservation plan also shows new tree plantings in the portions of the stream valley buffer that are currently covered with pavement or grass, and along in the northwest corner of the site. Moreover, the Applicant has stated an intention to preserve many of the significant trees outside the stream valley buffer. Forest conservation requirements would be satisfied on site. Storm water management facilities would control run-off, prevent erosion and improve environmental conditions around the spring in the southwest corner of the site.

- (e) *That any documents showing the ownership and method of assuring perpetual maintenance of any areas intended to be used for recreational or other common or quasi-public purposes are adequate and sufficient.***

This finding is not applicable to the proposed use.

B. Public Interest

The applicant must show that the proposed reclassification bears sufficient relationship to the public interest to justify its approval. The State Zoning Enabling Act applicable to Montgomery County requires that all zoning power must be exercised:

“. . . with the purposes of guiding and accomplishing a coordinated, comprehensive, adjusted, and systematic development of the regional district, . . . and [for] the protection and promotion of the health, safety, morals, comfort, and welfare of the inhabitants of the regional district.”
[*Regional District Act*, Maryland-National Capital Park and Planning Commission Article (Art. 28), Md. Code Ann., § 7-110].

When evaluating the public interest, the District Council normally considers master plan conformity, the recommendations of the Planning Board and Technical Staff, and any adverse impact on public facilities. As discussed in Part V.A. above, the Hearing Examiner agrees with the Planning Board and Technical Staff that the subject application would be in substantial compliance with the *2002 Potomac Subregion Master Plan*. The Hearing Examiner also agrees with the Planning Board that the Country Inn Zone is an appropriate zone for the subject property.

The preponderance of the evidence indicates that the proposed development would be adequately served by and would not adversely affect public facilities in the area.

VI. CONCLUSIONS

Based on the foregoing analysis and after a thorough review of the entire record, I reach the conclusions specified below.

A. Development Plan

1. The requested reclassification to the Country Inn Zone is in substantial compliance with the Master Plan.
2. The Development Plan complies with the purposes, standards, and regulations of the Country Inn Zone, with the reduced parking setback that the District Council is authorized to

approve, and provides for a form of development that will be compatible with adjacent land uses

3. The Development Plan proposes internal vehicular and pedestrian circulation systems and points of external access that will be safe, adequate and efficient.

4. By its design, which minimizes grading by preserving and enhancing the stream valley buffer, and by stream valley reforestation and the installation of improved storm water management facilities, the proposed development will tend to prevent erosion of the soil and preserve natural vegetation and other natural features of the site. The application will comply with forest conservation requirements under Chapter 22A and requirements for water resource protection under Chapter 19.

5. No areas are intended to be used for recreational or other common or quasi-public purposes.

B. Zoning Request

Application of the Country Inn Zone at the proposed location based on the present application is proper for the comprehensive and systematic development of the County because the proposed development, as shown on the submitted Development Plan:

1. Will serve the public interest;
2. Will be in substantial compliance with the applicable master plan; and
3. Will fully satisfy the purposes, standards and regulations of the zone.

VII. RECOMMENDATION

I, therefore, recommend that Zoning Application No. G-820, requesting reclassification from the RE-2/TDR Zone to the Country Inn Zone of 6.5 acres of land located at 10701 Falls Road in Potomac, Maryland, in the 10th Election District, be approved in the amount requested and the Development Plan approved, subject to the specifications of the Land Use Plan, Exhibit 51(a), which forms its central component, provided that the Applicant submits to the Hearing Examiner for

certification a reproducible original and three copies of the Land Use Plan approved by the District Council within 10 days of approval, in accordance with § 59-D-1.64 of the Zoning Ordinance.

Dated: February 13, 2006

Respectfully submitted,

Françoise M. Carrier
Hearing Examiner