

APPENDICES

- **Excerpt from the Montgomery County Zoning Ordinance (Chapter 59 of the Montgomery County Code), as it existed on and subsequent to May 6, 2002, *without staff annotation***
- **Development and Parking Standards Table (per submission received 1/10/06) – *indicates compliance with requirements***
- **Vicinity Map**
- **Zoning Map**
- **Aerial Photo**
- **Plat**
- **Tax Map**
- **Site Plan (per submission received 1/10/2006)**
- **Landscape Plan (per submission received 1/10/06)**
- **Site Distance Evaluation (per submission received 1/10/06) (not yet approved by DPWT)**
- **Community-Based Planning Memo (dated 1/4/2006)**
- **Memo from Environmental Staff (dated 1/9/2006)**
- **Letter from DPS re: Storm Water Concept (dated 5/27/2005)**
- **Memo from Transportation Staff (dated 1/9/2006)**
- **Memo from Research and Technology Staff (1/12/2006)**

APPENDIX: EXCERPT FROM THE MONTGOMERY COUNTY ZONING ORDINANCE (CHAPTER 59 OF THE MONTGOMERY COUNTY CODE), as it existed on and subsequent to May 6, 2002, *without staff annotation*

ARTICLE 59-G. SPECIAL EXCEPTIONS, VARIANCES, AND NONCONFORMING USES.

DIVISION 59-G-1. SPECIAL EXCEPTIONS – AUTHORITY AND PROCEDURE.

Sec. 59-G-1.2. Conditions for granting.

59-G-1.2.1 Standard for evaluation.

A special exception must not be granted without the findings required by this Article. In making these findings, the Board of Appeals, Hearing Examiner, or District Council, as the case may be, must consider the inherent and non-inherent adverse effects of the use on nearby properties and the general neighborhood at the proposed location, irrespective of adverse effects the use might have if established elsewhere in the zone. Inherent adverse effects are the physical and operational characteristics necessarily associated with the particular use, regardless of its physical size or scale of operations. Inherent adverse effects alone are not a sufficient basis for denial of a special exception. Non-inherent adverse effects are physical and operational characteristics not necessarily associated with the particular use, or adverse effects created by unusual characteristics of the site. Non-inherent adverse effects, alone or in conjunction with inherent adverse effects, are a sufficient basis to deny a special exception.

The inherent characteristics of a hotel include a building to house guests, rooms to house guests, guests, various lengths of guest stays, services and employees to support guests, deliveries and pickups associated with the operation of the hotel, high on-site activity levels throughout the day for vehicles and people, a sufficient level of outdoor lighting, a noise level associated with a business with much all-day activity. Non-inherent characteristics include scale, type of clientele, and types of amenities and services, as well as features unique to the site. The only non-inherent characteristic of this application is its location on a site that was once contaminated due to the nearby, recently demolished International Fabricare Institute, a dry-cleaning operation, but the site has been remediated and is safe for use, according to the Maryland Department of the Environment. Therefore, staff finds no inherent or non-inherent adverse effects associated with the use sufficient to warrant a recommendation of denial.

59-G-1.21. General conditions.

A special exception may be granted when the Board, the Hearing Examiner, or the District Council, as the case may be, finds from a preponderance of the evidence of record that the proposed use:

- (1) Is a permissible special exception in the zone.

A hotel is an allowable special exception use in the I-1 zone, and the U.S. 29/Cherry Hill Road Employment Area Overlay Zone does not prohibit the use.

- (2) Complies with the standards and requirements set forth for the use in Division 59-G-2. The fact that a proposed use complies with all specific standards and requirements to grant a special exception does not create a presumption that the use is compatible with nearby properties and, in itself, is not sufficient to require a special exception to be granted.

The use so complies and will be compatible with nearby properties.

- (3) Will be consistent with the general plan for the physical development of the District, including any master plan adopted by the Commission. Any decision to grant or deny a special exception must be consistent with any recommendation in a master plan regarding the appropriateness of a special exception at a particular location. If the Planning Board or the Board's technical staff in its report on a special exception concludes that granting a particular special exception at a particular location would be inconsistent with the land use objectives of the applicable master plan, a decision to grant the special exception must include specific findings as to master plan consistency.

The use is consistent with the master plan (see Appendix).

- (4) Will be in harmony with the general character of the neighborhood considering population density, design, scale and bulk of any proposed new structures, intensity and character of activity, traffic and parking conditions and number of similar uses.

The use will be in harmony with the general character of the neighborhood.

- (5) Will not be detrimental to the use, peaceful enjoyment, economic value or development of surrounding properties or the general neighborhood at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.

The use will not be detrimental as described above.

- (6) Will cause no objectionable noise, vibrations, fumes, odors, dust, illumination, glare, or physical activity at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.

The use will cause no such effects.

- (7) Will not, when evaluated in conjunction with existing and approved special exceptions in any neighboring one-family residential area, increase the number, intensity, or scope of special exception uses sufficiently to affect the area adversely or alter the predominantly residential nature of the area. Special exception uses that are consistent with the recommendations of a master or sector plan do not alter the nature of an area.

The addition of this use will adversely affect the area. The area is not residential.

- (8) Will not adversely affect the health, safety, security, morals or general welfare of residents, visitors or workers in the area at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.

The site has been remediated, and the use will not adversely so affect residents, visitors, or workers.

- (9) Will be served by adequate public services and facilities including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage and other public facilities.
- (i) If the special exception use requires approval of a preliminary plan of subdivision the adequacy of public facilities must be determined by the Planning Board at the time of subdivision review. In that case, subdivision approval must be included as a condition of the special exception. If the special exception does not require approval of a preliminary plan of subdivision, the adequacy of public facilities must be determined by the Board of Appeals when the special exception is considered. The adequacy of public facilities review must include the Local Area Transportation Review and the Policy Area Transportation Review, as required in the applicable Annual Growth Policy.
- (ii) With regard to findings relating to public roads, the Board, the Hearing Examiner, or the District Council, as the case may be, must further determine that the proposal will not reduce the safety of vehicular or pedestrian traffic.

The use is served by adequate public facilities and will not reduce the safety of vehicular or pedestrian traffic. Staff has noted in the staff report that proof of ingress/egress easements must be provided, that the northern drive aisle must align and be 20 feet wide, per requirements of the Fire Marshal, that a site plan amendment for the adjoining property may be necessary to achieve such alignment, and that additional handicapped ramps may be necessary.

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

The applicant must so note.

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

The applicant must so note and must provide additions to the record as discussed and described in the staff report and conditions of approval.

DIVISION 59-G-2. SPECIAL EXCEPTIONS—STANDARDS AND REQUIREMENTS.

The uses listed in this Division, as shown on the index table below, may be allowed as special exceptions in any zone where they are so indicated, as provided in this Article, subject to the standards and requirements in this Division and the general conditions specified in Section 59-G-1.21.

Sec. 59-G-2.33. Hotels and motels.

A hotel, motel or inn may be allowed; provided, that all the requirements imposed in the zone are met; and provided further, that special conditions, such as for additional fencing and/or planting or other landscaping, additional setback from property lines, location and arrangement of lighting and other reasonable requirements deemed necessary to safeguard the general community interest and welfare may be invoked by the board as requisites to the grant of special exception. An apartment hotel lawfully existing prior to April 26, 1966, may be allowed to increase the number of its guest rooms to more than 20 percent, but not above 45 percent of its total dwelling units in accordance with the requirements of this chapter, including those standards of this section which may reasonably be applied to an existing facility. Such an apartment-hotel is not required to maintain any guest rooms.

(Legislative History: Ord. No. 9-71, § 5; Ord. No. 10-20, § 4.)

Cross reference-Hostels, rooming houses, etc., § 54-5 et seq.

All applicable requirements of the I-1 zone and the Cherry Hill Overlay Zone are met. See table next page. Landscaping and screening is sufficient. A revised lighting and photometric analysis is required for light fixtures that are the same as those used on the adjoining WesTech Village Corner, and a finding must be made as to adequacy and sufficiency to safeguard the general community interest and welfare. This has been handled as a condition of approval. The proposal was brought to the Development Review Committee for comments, and as a result of the DRC's input, an additional revise plan was submitted that staff received on 1/10/06. The plan is suitable and compatible, as discussed in the staff report. The proposal will also undergo site plan review, and it has been staff's objective to ensure that the plan approved by the Board of Appeals is in its final form as possible so that the likelihood of changes at time of site plan review is minimized.

S-2656

TABLE OF DEVELOPMENT/PARKING STANDARDS

(Indicates Compliance with Requirements)

SUBJECT PROPERTY: LOT 39, MONTGOMERY INDUSTRIAL PARK
PLAT NO. 23171

LOT AREA: 73,779 SQ. FT. OR 1.69374 AC.

ZONING CLASSIFICATION: I-1 – US 29/CHERRY HILL ROAD EMPLOYMENT
OVERLAY ZONE

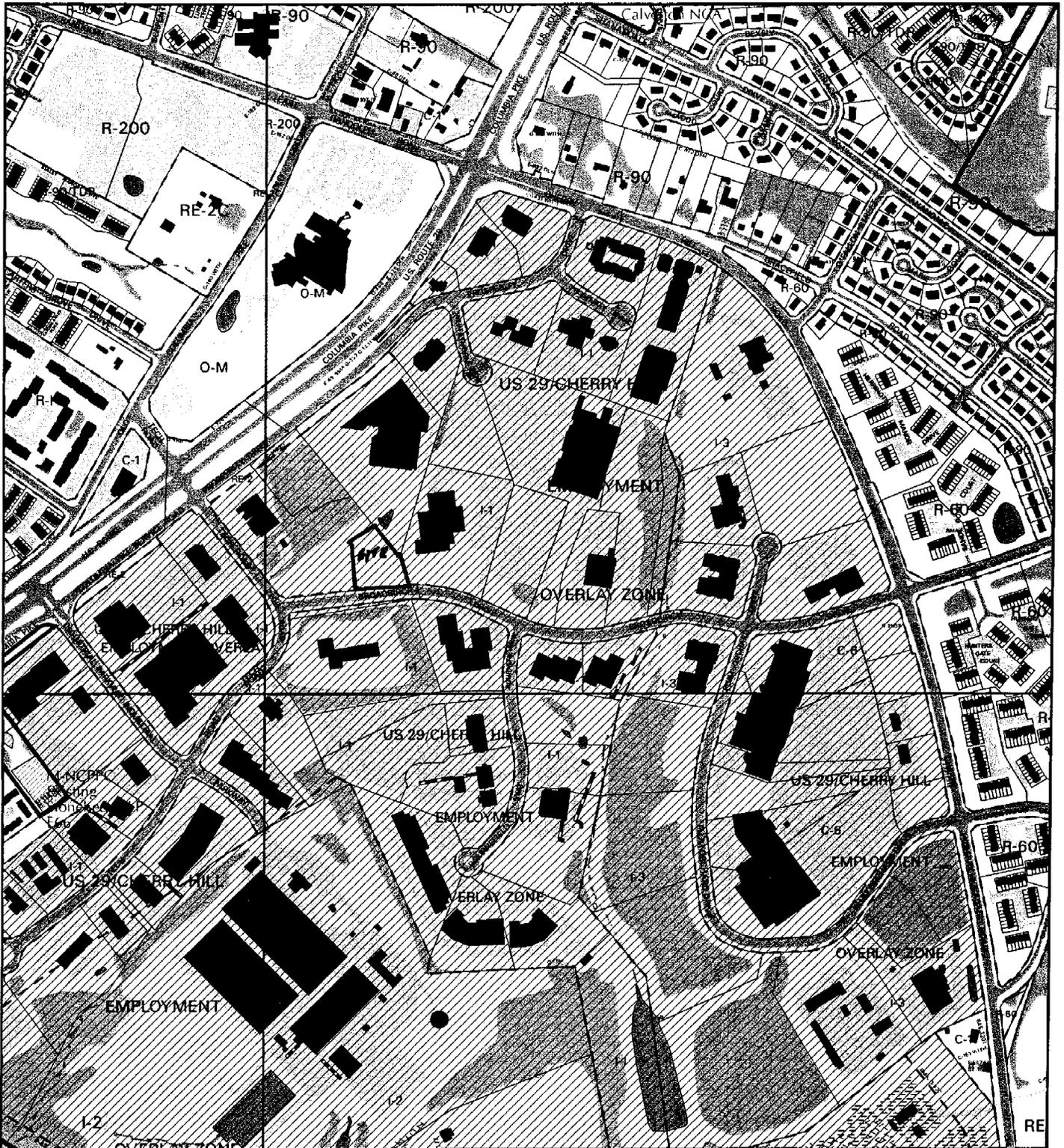
TAX ACCOUNT NUMBER: 05-03484837

PROPERTY ADDRESS: 2200 BROADBIRCH DRIVE
SILVER SPRING, MARYLAND 20904

PROPOSED USE: HOTEL (104 ROOMS) = 67,850 S.F.

DEVELOPMENT/PARKING STANDARDS

	<u>REQUIRED/ALLOWED</u>	<u>PROPOSED</u>
TRACT AREA	No Minimum	73,779 S.F. Or 1.69374 AC.
BUILDING SETBACK REQUIREMENTS		
ADJACENT TO ADJOINING I-10' OR 10' IF PROVIDED 59-C-5.33(b)(2)&(3)		10' (REAR) Min. 36' (SIDE - WES) Min. 64' (SIDE - EAS)
ADJACENT TO STREET R/W 59-C-5.33(a)(1)	10'	76'
MAXIMUM BUILDING HEIGHT 59-C-5.41(b)	120' OR 10 STORIES IN ACCORDANCE WITH 59-D-3 REVIEW	Max. 55 ¹ / ₄ Stories
BUILDING AREA	N/A	0.92 FAR or 67,850 S.F.
PARKING SETBACK REQUIREMENTS		
GENERAL 59-E-2.72	4' LANDSCAPE STRIP	4'



Map compiled on January 17, 2006 at 10:58 AM | Site located on base sheet no - 216NE03

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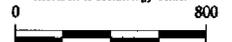
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Key Map



Research & Technology Center



1 inch = 800 feet
1 : 9600

