

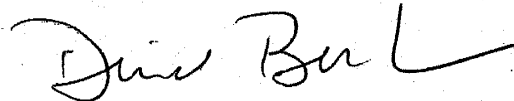
b. Staff Flex hours

- i. Two (2) staff members, maximum, present between the hours of 5:30 a.m. to 7:00 a.m., Monday through Friday.
  - ii. Four (4) staff members, maximum, present between the hours of 5:30 p.m. to 7:00 p.m., Monday through Friday.
  - iii. Two (2) staff members, maximum, present between the hours of 7:00 p.m. to 9:00 p.m., Monday through Friday.
  - iv. Two (2) staff members, maximum, present between the hours of 10:00 a.m. to 4:00 p.m., Saturday and Sunday.
  - v. No staff members allowed at any other time out side of Primary and Flex Staff hours.
5. Parking area landscape screening must be maintained. In the event that landscape screening is removed from an adjacent property, that when in place effectively screened the petitioner's parking area, screening must be replaced on the petitioner's property by modification to the approved special exception.
6. Petitioner to obtain designation on the *Master Plan for Historic Preservation* before approval of the subject petition by the Board of Appeals. If designated, Historic Preservation Commission approval is required for a Historic Area Work Permit for any exterior changes to the building and/or property.
7. Environmental Planning staff supports approval of this petition with the following conditions:
- a. Prepare a Tree Save Plan and submit to M-NCPPC Environmental Planning staff prior to issuance of sediment and erosion control permits. This plan must be prepared by an ISA certified arborist and demonstrate full compliance with the requirements of Forest Conservation Law Section 22A-12.
  - b. The Plan shall make every effort to preserve two-thirds of the critical root zone of the 36" caliper Sycamore tree.

PS4

8. Transportation staff supports approval of this petition as it meets the adequate public facilities test for transportation requirements with the following conditions:
  - a. Limit the facility to 2,802 square feet of non-residential office space use.
  - b. Provide one (1) designated ADA accessible parking space with appropriate signage.

Sincerely,

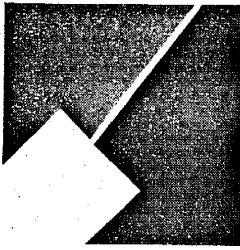


Derick P. Berlage  
Chairman

DB:DJ

Enclosure

cc: Françoise Carrier  
Martin Klauber, People's Counsel  
Jody S. Kline  
Dean Brenneman  
Katherine Freeman c/o Montgomery County Board of Appeals

**MEMORANDUM: SPECIAL EXCEPTION**

**DATE:** October 20, 2005

**TO:** Montgomery County Planning Board

**VIA:** Rose Krasnow , Chief, Development Review Division  
Carlton Gilbert, Zoning Supervisor, Development Review Division

**FROM:** Dan Janousek , Zoning Analyst *DJ*  
(301) 495-4564

**SUBJECT:** Board of Appeals case no. S-2651, Non-Residential Professional Office, 7025 Mac Arthur Boulevard, Bethesda  
2,802 sq. ft. of gross floor area

**PETITIONER:** Brenneman and Pagenstecher, Inc.

**ZONE:** R-90

**MASTER PLAN:** Bethesda-Chevy Chase

**FILING DATE:** June 2, 2005

**HEARING EXAMINER (PUBLIC HEARING):** November 4, 2005

**RECOMMENDATION****APPROVAL with conditions:**

1. The petitioner is bound by all submitted statements and plans as modified in this report and by these conditions.
2. Compliance with the general and specific conditions for the use in Section 59-G-1.2 and 59-G-2.42 of the Zoning Ordinance.

EXHIBIT NO. 9APPLICATION NO. 1

3. The petitioner to limit the use to seven (7) employees.
4. Primary hours of business operation from 7:00 a.m. to 5:30 p.m. daily, Monday through Friday. Extended office hours until 7:00 p.m., limited to two evenings per week. A maximum of four (4) staff members present at any time outside of primary office hours.
5. Parking area landscape screening must be maintained. In the event that landscape screening is removed from an adjacent property, that when in place effectively screened the petitioner's parking area, screening must be replaced on the petitioner's property by modification to the approved special exception.
6. Historic Preservation Commission approval is required for a Historic Area Work Permit for any exterior changes to the building and/or property.
7. Environmental Planning staff supports approval of this petition with the following conditions:
  - a. Prepare a Tree Save Plan and submit to M-NCPPC Environmental Planning staff prior to issuance of sediment and erosion control permits. This plan must be prepared by an ISA certified arborist and demonstrate full compliance with the requirements of Forest Conservation Law Section 22A-12.
  - b. The Plan shall make every effort to preserve two-thirds of the critical root zone of the 36" caliper Sycamore tree.
8. Transportation staff supports approval of this petition as it meets the adequate public facilities test for transportation requirements with the following conditions:
  - a. Limit the facility to 2,802 square feet of non-residential office space use.
  - b. Provide one (1) designated ADA accessible parking space with appropriate signage.

## **PROJECT DESCRIPTION**

### **Summary and Location**

The Petitioner, Brenneman and Pagenstecher, Inc., is requesting approval for a non-residential and professional office use located at 7025 Mac Arthur Boulevard, Bethesda, MD. The Petitioner seeks the approval to use the historic structure exclusively for a professional office. The subject property is at the northeast corner of Walhonding Road and Mac Arthur Boulevard in the Glen Echo Heights Subdivision. It is near the Potomac River and the Chesapeake and Ohio Canal National Park.

## Background

The main dwelling on the subject property is known as the Sycamore Store (the building). The building is a historic 1-1/2 story framed commercial structure that was constructed in 1916 near the Chesapeake and Ohio Canal and the Potomac River. The building served as a neighborhood grocery outlet, and it also housed a storekeeper and his family. The building was enlarged in 1925 and again in the 1930's. The Sycamore Store ceased operations in 1995, and the storekeeper and his wife moved away in January 2004.

The petitioner seeks approval at this time because of a recently passed a zoning text amendment. The Montgomery County Council passed Ordinance No. 15-48 on April 12, 2005, for the purpose of allowing a nonresidential professional office by special exception in the R-90 Zone, and to make technical, stylistic, and conforming changes throughout the nonresidential office special exception section of the Zoning Ordinance (Section 59-G-2.38.). The petitioners maintain that the proposed use meets the new conforming criteria for a non-residential professional office special exception that were recently approved by the County Council, and specifically the following three conforming criteria elements cited in Section 59-G-2.38 of the Zoning Ordinance:

1. The property must be designated as historic in the Master Plan for Historic Preservation,
2. The property must be located along a highway with an existing right of way of at least 120 feet.
3. The property must contain a structure formerly used for non-residential purposes.

The subject petition does not meet all of the required elements as stated in Section 59-G-2.38. The subject property has not been designated as historic on the Master Plan of Historic Preservation as of the date of this memorandum. However, the Petitioner has initiated action to preserve the Sycamore Store by designation on the *Master Plan for Historic Preservation*. The Montgomery County Historic Preservation Commission and the Montgomery County Planning Board have both recommended unanimously that this resource be so designated. Staff recommends that historic designation be obtained before the issuance of building permits or occupancy permits for the proposed special exception.

The property is located along a Mac Arthur Boulevard (A-300), which is designated as a major arterial roadway in the Bethesda-Chevy Chase Master Plan. Mac Arthur Boulevard is not a "highway" as required by the Zoning Ordinance. MacArthur Boulevard does have a "variable" right-of-way width at approximately 150 feet at the location of the subject property.

The petition meets the third major conforming criteria outlined above, as the property contains a structure formerly used for non-residential purposes.

## **Neighborhood Description**

The property is surrounded mostly by residential uses in the R-90 Zone in the Glen Echo Heights subdivision. There are no special exceptions in the general neighborhood area. The neighborhood area includes a parking facility for recreational purposes associated with the Potomac River and the Chesapeake and Ohio Canal National Park. Nearby is the Mohican Association swimming pool.

## **Property Description**

The property is a corner lot at the intersection of Mac Arthur Boulevard and Walhonding Road. The 6,873 square foot property is known as Part of Lot 32, Block 2, Glen Echo Heights Subdivision. The main structure on the lot is the 1-1/2 story building, which is within two feet of both front property lines along Mac Arthur Boulevard and Walhonding Road. There is strong evidence to suggest that the main structure was built as a residence in 1916 and afterward, converted to a store in around 1919. It is a historic framed commercial structure that is 2,802 sq. ft. in size. The property has frontage on Mac Arthur Boulevard, which sits atop the *Washington Aqueduct*, a large buried conduit that supplies approximately 300 million gallons of drinking water per day to the District of Columbia and Northern Virginia. A small accessory garage faces Walhonding Road on the northeast side of the property. There is a severe grade differential, sloping upward over 25 feet from Mac Arthur Boulevard to the rear of the property.

## **Elements of the Proposal**

The petitioner proposes to renovate the building and improve the site for office use. The following is a comprehensive list of items from the proposed development plan (see Attachments 3 and 5):

- Remove a small, detached garage from the property
- Provide gravel parking spaces for six (6) standard vehicles
- Provide one (1) paved van-accessible parking space for persons with disabilities
- Provide building access for persons with disabilities
- Enclose the existing screened-in porch
- Install new Landscaping and lighting
- Improve existing retaining walls
- Construct a new retaining wall
- Construct exterior stairs from the existing rear balcony
- Preserve the "Sycamore Store" sign along Mac Arthur Boulevard and install ground level lighting on the Mac Arthur Boulevard side of the building to light the sign and the wall of the building
- Erect one additional business occupant sign
- In ground light fixtures are proposed that will be installed to illuminate the wall along MacArthur Boulevard. Lighting will not operate between the hours of 9:00 p.m. and 7:00 a.m. daily.

Figure 1. Subject Property with Topography



The existing detached garage will be demolished to allow space for gravel parking facility and a van accessible parking space with access to Walhonding Road. The proposed amount of parking (7 spaces) is in compliance with Section 59-E-3.7, which requires 2.5 parking spaces for each 1000 square feet of gross floor area for office uses. The van-accessible space will provide access to a flagstone sidewalk that leads to an entrance at the northeast side of the building. Signage is proposed for the van-accessible parking space.

Improvements to the existing retaining wall are proposed, and a new stone-veneer block retaining wall will be located in the rear yard and extending in front of the parking area. The retaining walls are approximately 2 to 3.5 feet in height. Garbage collection will be similar to residential collection.

### *Primary and Extended Hours of Business Operation*

Primary hours of business operation from 7:00 a.m. to 5:30 p.m. daily, Monday through Friday. Extended office hours until 7:00 p.m., limited to two evenings per week. A maximum of four (4) staff members present at any time outside of primary office hours. Details of the staff's flex-schedule are attached and described in the Amended Petitioner's statement of operations, dated October 7, 2005 (Attachment 12). The petitioner expects to

### *Business Vehicles, Trucks and Vans*

No trucks or vans utilized by field personnel, nor any business vehicles displaying business signage, will be parked overnight on the subject property. The petitioner has leased space at other locations in Montgomery County for vehicles and trucks. Staff associated with the firm's construction operation work at a separate contracting office in Orange, Virginia.

### *Staff Meetings*

The petitioner hosts lunch meetings on alternating Wednesdays, from 12:00 p.m. to 1:30 p.m. with up to 10 staff people in attendance. The petitioner also holds a meeting for all employees from 3:30-5:30 p.m. on alternating Wednesdays. The petitioner proposes ridesharing, off-site shuttles, or other alternative means of transportation to limit parking congestion during these meetings.

## **ADDITIONAL REVIEW REQUIREMENTS**

The petitioner proposes construction improvements and will eventually have to apply for building permits, and if the property is raised to a protective and historic status within the *Master Plan for Historic Preservation*, a Historic Area Work Permit will be required before any construction or alteration to the building can begin. The petitioner has consulted with Historic Preservation technical staff to ensure that the development plan maintains a balance between the current needs of the owner and the historic nature of the site. Given the amount of development proposed in the subject application, no further review requirements will be required of the Planning Board.

## **COMMUNITY ISSUES**

Planning staff is aware of opposition to the proposal. The opposition is concerned about the nature and potential long-term neighborhood impacts of the special exception in terms of traffic impacts of a commercial nature. Local civic or neighborhood associations have not issued concerns. Staff will address these issues in the following analysis.



## ANALYSIS

### Master Plan

The property is within the 1990 Bethesda-Chevy Chase Master Plan area. The proposed use is consistent with the Bethesda-Chevy Chase Master Plan in terms of the nature and the appropriateness of the use, and it will be compatible with other nearby uses. The Master Plan recognizes that *"special exception uses may be compatible if they meet the standards and requirements, as well as the general conditions set forth in the zoning ordinance"* (page 31). The Master Plan recommends avoiding large concentrations of special exceptions in residential areas, particularly commercial special exceptions that could result in an *"over concentration of commercial service or office-type special exception uses in residential communities"* (page 31). There are no other special exceptions in the general neighborhood area. The proposed professional office use will not result in an over-concentration of special exception uses in a residential area. The Master Plan also recommends guidelines for the design and review of special exceptions to protect major highway corridors and residential communities (Page 31). The proposal adheres to the recommended special exception policy in the Master Plan by maintaining the residential style of architecture.

The proposal does not meet all of the recommendations in the Master Plan; The Master Plan recommends that parking be located in areas other than front yards to avoid a commercial appearance in a residential neighborhood. The proposed parking facility is in the front yard along Walhonding Road. However, because the topography, the proposed front yard parking will not create commercial appearance in such a way that would create an adverse affect on the neighboring properties if constructed.

### Compliance with Development Standards

Staff finds that the proposal complies with the relevant development standards of the Zoning Ordinance. Special exceptions are normally subject to the development standards of the applicable zone where the special exception is located, except when the standard is specified in Section G-1.23 or in Section G-2. In the subject case, the Green Area requirement is contained in Sec. 59-G-2.38, and it is specified at a minimum 25 percent green area. The petitioner proposes 41.5 percent green area. The petitioner is not proposing an increase in the building's footprint. Normal setback and other development standards do not apply to the building or property because the subject building is a legal nonconforming use (Source: Montgomery County Department of Permitting Services).

### Parking Requirements

Special exceptions are subject to all relevant requirements of Article 59-E. The proposed parking facility will be adequate for the proposal. The petitioner proposes six gravel parking spaces and one paved van-accessible space for persons with disabilities, for a total of seven parking spaces as required by the Zoning Ordinance. The parking facility

will be gravel to keep the historic nature of the property in place. The petitioner also proposes to erect one additional business occupant sign. The display of a sign must comply with Article 59-F.

Staff notes that the required parking facility front and rear setbacks are not met by the proposal. Special exception uses in residential zones are required to provide parking facilities within each zone's normal front and rear yard set back requirements for main dwellings and twice the side yard requirements. The petitioner requests that the Board of Appeals grant a waiver of the normal parking standards, pursuant to Section 59-E-4.5 of the Zoning Ordinance, for the parking area at the proposed location.

**Table 2. Parking Facility Standards**

Item	Required/Allowed	Proposed
<b>Yard Requirements for Parking and Loading Facility</b> <i>Section 59-E-2.83</i> Front- Walhonding Road Side- Rear-	25 ft. 16 ft. (2 x 8') 20 ft.	*0 ft. *63 ft. *1 ft.
<b>Screening &amp; Shading</b> <i>Section 59-E-2.83</i>  Side Yard Street Right of Way	6 ft. in height 3 ft. in height	*None Provided On Site None Provided
<b>Parking</b> <i>(2.5 spaces per 1000 gfa)</i> <i>(Per Section 59-G-2.42(e))</i>	7,005 spaces (2,802 square feet @ 2.5 spaces /1,000 sq. ft. gfa)	6 automobile spaces 1 van accessible space

\*The Board of Appeals may waive any requirements in Article 59-E that are not necessary to accomplish the objectives of Section 59-E-4.2.

The petitioner proposes a one-foot rear-yard setback distance for the parking facility, and a zero-foot front-yard setback for the parking facility that do not meet the requirements of Section 59-E-2.83(b) of the Zoning Ordinance. The normal requirement for the rear-yard setback is twenty (20) feet. The normal requirement for the front yard setback is twenty-five (25) feet. Staff supports the petitioner's proposal and believes that the proposed improvements are sufficient for the requested use and there is no need to enforce the required front and rear yard setbacks to accomplish all of the stated goals of Section 59-E-4.2. The at-grade difference of the parking facility and the nearby house will minimize the noise, glare, fumes and light that will emanate from the parking facility. The parking facility will not encroach into the roadway because a wide grass apron is proposed that

will extend beyond the edge of the parking facility. The parking facility will have a sufficient side yard setback at a little over sixty (60) feet.

Staff finds that the proposal will provide screening requirement because the location of the proposed parking facility is at a grade much lower than adjacent properties to minimize impacts from vehicles. A large tree exists on the subject property that will help to screen the parking facility from the adjacent property. The normal requirement for front yard screening of a special exception parking facility is three (3) feet. Screening is not provided on the development plan in this area. Likewise, in the rear yard area, the petitioner does not propose additional screening other than that which already exists.

Regarding Section 59-E-2.2 and the size and arrangement of parking spaces, the petitioner's proposal will adequately provide parking for seven vehicles. However, the six standard vehicle parking spaces will not be striped, or marked, so as to provide for orderly and safe loading. Given the small size of the proposed parking facility, this requirement can be waived without creating problems.

#### *Parking Facility Plan Objectives*

The proposed parking does meet the parking facilities plan objectives of Section 59-E-4.2 (Staff Comments in **Bold Letters**):

Sec. 59-E-4.2. Parking facilities plan objectives.

A parking facility plan shall accomplish the following objectives:

- (a) The protection of the health, safety and welfare of those who use any adjoining land or public road that abuts a parking facility. Such protection shall include, but shall not be limited to, the reasonable control of noise, glare or reflection from automobiles, automobile lights, parking lot lighting and automobile fumes by use of perimeter landscaping, planting, walls, fences or other natural features or improvements.

**Adjacent properties are reasonably protected from automobile nuisances by tree screening and the topography of the neighborhood.**

- (b) The safety of pedestrians and motorists within a parking facility.

**Pedestrians and motorists will be able to safely maneuver onto the site from Walhonding Road, park, enter the buildings, and then exit the site safely onto Walhonding Road. A single van accessible parking space for persons with disabilities will be provided to ensure safe and efficient loading areas.**

- (c) The optimum safe circulation of traffic within the parking facility and the proper location of entrances and exits to public roads so as to reduce or prevent traffic congestion.

The objective will be met by allowing vehicles to enter the site only from Walhonding Road.

- (d) The provision of appropriate lighting, if the parking is to be used after dark.

Appropriate lighting residential lighting will be provided for the parking facility and driveway.

### **Compatibility**

The petition is limited to the proposed use, and the proposed development plan and use will be in harmony with the general character of the neighborhood considering population density, design, scale and bulk of any new structures, intensity and character of activity, traffic and parking conditions, and number of similar uses (Note: part of the General Conditions). The height and bulk of the building, and the manner in which it is situated, will be compatible with adjacent properties and uses. The building is located at a sufficient and safe distance from the adjacent roadways.

Visual and noise impacts from the use will be minimal due to the location on Mac Arthur Boulevard, which is a major arterial roadway. The grade change between the subject property and neighboring properties will limit impacts to the neighborhood. The petitioner has attempted to limit the use and to keep the historic setting intact as much as possible by preserving the residential appearance of the structure and developing a gravel parking area.

### **Adequacy of Public Facilities, Transportation and Environment**

Transportation planning staff supports approval of this petition as it meets the adequate public facilities test for transportation requirements with the following conditions:

1. Limit the facility to 2,802 square feet of non-residential office space use.
2. Provide one (1) designated ADA accessible parking space with appropriate signage.

Transportation planning staff finds that the proposed special exception use satisfies the Local Area Transportation Review test and will have no adverse effect on nearby roadway conditions or pedestrian facilities.

A traffic study is not required to satisfy Local Area Transportation Review, because the site would generate fewer than 30 total peak-hour trips during the morning and evening peak periods. Therefore, the petitioner is not required to analyze the impact of site-generated traffic on adjacent intersections. The additional vehicle trips resulting from delivery services, client, and staff meetings, are not anticipated to generate sufficient peak hour trips so as to affect local roadway traffic patterns.

The petitioner's Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) has been approved and the property has been granted an exemption from the Forest Conservation Requirements of Chapter 22A because there is no clearing of existing forest or trees proposed. The parking facility will encroach into the critical root zone of a 36-inch sycamore tree. A detailed Tree Save Plan is required for the purpose of protecting this large tree located in the rear yard. The proposal will satisfy the Montgomery County requirements for stormwater management. No substantial increase in pervious areas is proposed, and there should be no objectionable fumes, noise or odors resulting from the proposed use. Dust is not expected to be problematic.

### **Historic Preservation**

Historic preservation staff has reviewed the subject petition and they are in support of the petition.

### **Inherent and Non-inherent Effects**

*What are inherent and non-inherent effects?*

Inherent and non-inherent adverse effects of a special exception on nearby properties and the general neighborhood must be considered pursuant to Section 59-G-1.2.1 of the zoning ordinance which states:

*"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."*

Seven points, or physical operating effects should be considered when reviewing for inherent and non-inherent adverse effects. These relate to the size, scale, scope, light, noise, traffic and environment. Since all of these elements are in every special exception to some varying degree, it must be determined whether or not adverse impacts will be created by these elements.

### *Inherent and Non-inherent effects of the subject petition*

In the case of the subject non-residential office proposal, the inherent adverse effects include the building, vehicle activity and lighting associated with the parking, traffic and movement of people and goods also associated with the proposed office. The proposal

to enclose the existing screened in porch will be consistent with the location, size and scale of the existing building. The enclosure is small, and it will not result in an increase in the overall existing footprint of the building. The building already has architectural design features to provide compatibility with the existing buildings in the general neighborhood area. The proposal to light the building and the parking facility with standard residential fixtures is consistent with residential lighting in the general neighborhood area. The lighting will not spill directly onto neighboring properties as shown on the petitioner's plan from residential lighting fixtures installed on the building. Given the topographical conditions and tree screening on the property, lighting and noise from the building and the parking facility is reduced and it should not have an adverse impact on adjoining properties. The traffic impact on nearby residential streets will be limited, with vehicles entering the property from Walhonding Road at location close to a Mac Arthur Boulevard, which is a major arterial roadway. The impact of traffic generated by the proposal will not create an adverse impact on the adjacent roadway network and it will generate fewer than 30 peak hour trips during the morning and evening peak hour traffic periods. The petitioner expects approximately two visits per week from clients, and random visits from employees. The petitioner's employees typically will drive to and from the office in their own automobiles, company vans and company pickup trucks for short visits. These short visits by employees and the limited visits by clients will not create adverse impacts to the neighborhood.

As for any non-inherent adverse effects, staff concludes that there are no non-inherent adverse effects associated with this application.

## **Compliance with the General and Specific Conditions of the Special Exception**

### **General Conditions:**

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

##### **59-G-1.2.1 Standard for granting.**

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.

**59-G-1.21 General conditions.**

(a) 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.

**The subject proposed use is allowed by special exception in the R-90 Zone.**

(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 proposed use does comply with all of the specific standards and requirements for a non-residential professional office pursuant to Section 59-G-2.38 of the zoning ordinance.**

(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 proposed use is consistent with guidelines in the adopted 1990 Bethesda-Chevy Chase Master Plan for the location of special exception land uses in residential zones (Page 31). There are no other approved special exceptions in the general neighborhood thus, the proposed special exception will not create an excessive concentration of special exceptions in the general neighborhood.**

(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 general and surrounding neighborhood is predominantly residential in character with R-90 zoning. The petitioner expects approximately two visits per week from clients, and random visits from employees. These short visits by employees and the limited visits by clients will not create adverse impacts to the neighborhood. The petitioner's employees typically will drive to and from the office in their own automobiles, company vans and company pickup trucks for short visits. The building area will be consistent and in harmony with the design, density, size, scale and scope of the existing improvements on the property. The site will be well landscaped. Vegetation will screen the building and parking, and topography will reduce impacts from light and noise, onto adjoining properties. The required tree save plan will help protect the existing 36-inch wide sycamore tree on the site.

- (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 proposed use will not be detrimental to other property in the general neighborhood and will not adversely effect the peaceful enjoyment, character or future development of the general neighborhood. The location, which is adjacent to a major arterial roadway, will allow employees and patrons of the office to come and go without disrupting the general neighborhood.

- (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 proposed primary use will be limited to the indoors, and the proposal will limit parking to the parking facility. Because of topography and vegetation, the use will not be readily visible from adjoining properties. The proposal includes up-lighting for the wall of the building along Mac Arthur Boulevard. Staff finds that the up-lighting itself, may illuminate the side of the building but it will not create an adverse impact on the general neighborhood area.

- (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 effect 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 proposed use is consistent with the Master Plan's guidelines for the location of special exception land uses in residential zones (Page 31). This special exception use will not alter the nature of the area and it does not create an excessive concentration of special exception or other non-residential land uses in the area. The architectural changes proposed are minor, and the development plan improvements are mainly limited to the new parking area and new lighting. The Master Plan discourages front yard parking. The Master Plan discourages front yard parking for special exceptions along major roads. Front yard parking is proposed, but this parking is in the location of the existing parking on Walhonding Road, and the topography will effectively hide the parking from the general neighborhood area. The parking lot will also be gravel, which accents the historic nature of the building and site.

- (8) Will not adversely 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 proposed use will generate only minor impacts to the neighborhood, and it will not adversely the health, safety, security, morals or general welfare of residents, visitors or workers in the area at the subject site.

- (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.

**The Property is served by public services.**

- (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 Board of Appeals must determine the adequacy of public facilities 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.

No preliminary Plan is required for the subject application. The Board of Appeals must determine the adequacy of public facilities when the special exception is considered. M-NCPPC Transportation Planning staff determined that a traffic study is not required to satisfy Local Area Transportation Review, because the site would generate fewer than 30 total peak-hour trips during the morning and evening peak periods. Therefore, the petitioner is not required to analyze the impact of site-generated traffic on adjacent intersections.

- (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 petitioner proposes no changes to the site that would remove sidewalks or impede vehicular traffic.

**Specific Conditions: (Staff Comments in Bold Letters)**

Sec. 59-G-2.38. Offices, professional, nonresidential.

An existing single-family structure may be used for professional office purposes by any member or members of a recognized profession, such as a doctor, lawyer, architect, accountant, engineer, veterinarian, but not including the following:

- (a) a medical, dental or veterinarian clinic
- (b) an in-patient treatment facility
- (c) a general business office, such as an insurance company office, a trade association, a manufacturing company, an investment company, a bank or a real estate company.

The petitioner proposes an architects office. The proposal is viewed as a nonresident professional office (Source: Montgomery Department of Permitting Services).

The property must be:

- (a) located in a central business district that is designated as being suitable for the transit station-residential (TS-R) zone on an approved and adopted sector plan;
- (b) designated as suitable for a nonresidential professional office in the R-60 zone on an approved and adopted master or sector plan and located along a highway with an existing right-of-way width of at least 90 feet or along a

portion of an arterial road designated as a boundary of a Central Business District; or

- (c) located in the R-90 zone and:
  - (1) designated as historic in the Master Plan for Historic Preservation;
  - (2) located along a highway with an existing right-of-way of at least 120 feet; and
  - (3) contained a structure formerly used for nonresidential purposes.

The Petitioner has initiated action to preserve the Sycamore Store by designation on the *Master Plan for Historic Preservation*. The Montgomery County Historic Preservation Commission and the Montgomery County Planning Board have both recommended unanimously that this resource be so designated. Staff recommends that historic designation be obtained before the issuance of building permits or occupancy permits for the proposed special exception.

The subject property is located in the R-90 Zone along a major arterial roadway (Mac Arthur Boulevard) with an existing right of way of 150 feet at the location of the proposed use. The building on the site was formerly used for nonresidential purposes.

The Board must find that the property:

- (a) will not constitute a nuisance because of traffic or physical activity;
- (b) will not affect adversely the use and development of adjacent property;
- (c) will have at least 25 percent of the lot area devoted to green area.

The exterior of the property will be altered by the addition of new parking spaces and a new retaining wall. These property alterations will not constitute a nuisance or change to the character or the basic residential appearance of the building or adversely affect the use and development of adjacent property. A Historic area work permit for any site changes will be required if the property is ultimately designated by the County as historic in the Master Plan of Historic Preservation. The development plan indicates that more than 25% green area will be provided (see Analysis).

The Board may allow for other than a building designated as historic in the Master Plan of Historic Preservation, the exterior of the premises to be changed, altered or modified provided the single-family character and the basic residential appearance of the building are retained. A historic area work permit must be obtained before any work may be done to alter the exterior features of an historic structure.

(Legislative History: Ord. No. 8-83, § 2; Ord. No. 9-37, § 1; Ord. No. 10-32, § 18; Ord. No. 13-76, §1; Ord. No. 14-47, § 1; Ord. No. 15-48, § 2.)

## **CONCLUSION**

Upon review of the petitioner's petition for a non-residential professional office in the R-90 zone, staff recommends approval. The proposed use will be in harmony with the general character of the neighborhood, considering population density, design, scale and bulk of any new structures, intensity and character of activity, traffic and parking conditions, and number of similar uses (Note: part of the General Conditions).

### **Attachments:**

Location	Attachment 1
Zoning Map	Attachment 2
Development Plan	Attachment 3
General Neighborhood Area	Attachment 4
Landscape Plan	Attachment 5
Elevations	Attachment 6
Historic Preservation Division Memorandum	Attachment 7
Aerial Photos	Attachment 8
Environmental Division Memorandum	Attachment 9
Transportation Division Memorandum	Attachment 10
Development Review Division Memorandum	Attachment 11
Amended Petitioner's Statement of Operations	Attachment 12
Letter from Susan Scala-Demby to Jody S. Kline dated March 25, 2005.	Attachment 13