

OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS
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CASE NO. CU 21-10

APPLICATION OF GABRIELA GUEORGUIEVA

**ORDER GRANTING APPLICANT'S REQUEST TO ABANDON
CONDITIONAL USE AND REVOKING CONDITIONAL USE**

A. Background

On October 25, 2021, the Hearing Examiner approved a conditional use application for a group day care (up to 12 persons) under Section 59.3.4.4.D. of the Montgomery County Zoning Ordinance filed by Gabriela Gueorguieva (Applicant). The subject property is located at 14731 Myer Terrace, Rockville, Maryland and is zoned R-90.

On September 11, 2023, the Office of Zoning and Administrative Hearings (OZAH) received a memorandum from the Montgomery County Department of Permitting Services (DPS) recommending that the conditional use be abandoned. Exhibit 21(a). The memorandum attached a letter from the Applicant advising that the business would be closed as of August 11, 2023 because she was selling the property. Exhibit 21(b). The Applicant included a copy of the sales contract and advised that closing was scheduled on August 7, 2023. Exhibit 21(c).

B. Governing Law

Section 59.7.3.1.L.7 of the Zoning Ordinance sets out the procedure for abandonment of conditional uses:

7. If DPS finds that a conditional use has been abandoned, DPS must forward written notice of its findings to the last recorded holder of the conditional use and to the property owner. The conditional use holder and property owner, within 60

days after the date of sending notice, must submit a written statement confirming the abandonment or challenging it and requesting that the use be continued.

- a. If the conditional use holder and the property owner acknowledge that the conditional use has been abandoned, DPS must notify the Board of Appeals or the Hearing Examiner, as appropriate. The Board of Appeals or Hearing Examiner must adopt and issue a written resolution finding the conditional use to have been abandoned and ordering it revoked.
- b. If either the conditional use holder or the property owner challenges the abandonment and requests that the conditional use be continued, DPS must notify the Board of Appeals or the Hearing Examiner, as appropriate, and the Board of Appeals or Hearing Examiner must convene a public show cause hearing to determine whether or not the conditional use was abandoned and whether it should be revoked.
- c. If neither the conditional use holder nor the property owner responds, DPS must notify the Board of Appeals or Hearing Examiner of its findings, and the Board of Appeals or Hearing Examiner, as appropriate must issue to the conditional use holder and the property owner an order to appear before them to show cause why the conditional use should not be revoked.
- d. If neither the conditional use holder nor the property owner appears before the Board of Appeals or Hearing Examiner, as appropriate, to show cause why the conditional use should not be revoked, the deciding body must revoke the conditional use approval.

C. Analysis

In this case, the conditional use holder and the property owner were the same at the time the request for abandonment was filed. Therefore, both acknowledge and are aware of the request as mandated by the Zoning Ordinance. The owner informs that she is closing business rather than continuing it under the new property owner after sale of the property. As she requests that the conditional use be abandoned, the criteria for abandonment without the need for a hearing are met.

D. Order

Based on the foregoing, it is this 13th day of September, 2023, it is hereby

ORDERED, that the Applicant's request to abandon the conditional use be, and hereby is,

granted, and it is further

ORDERED, that the conditional use be, and hereby is, revoked.

A handwritten signature in blue ink, appearing to read 'Lynn Robeson Hannan', is positioned above a horizontal line.

Lynn Robeson Hannan
Hearing Examiner

COPIES TO:

Gabriela Gueorguieva, Applicant
Victor Salazar, Department of Permitting Services
Robert Kronenberg, Montgomery County Planning Department