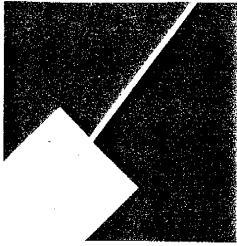


M-NCPPC



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

8787 Georgia Avenue
Silver Spring, Maryland 20910-3760
301-495-4500, www.mncppc.org

MCPB
Item #2&3
7/29/2004

MEMORANDUM: SPECIAL EXCEPTION

TO: Montgomery County Planning Board
VIA: Carlton Gilbert, Zoning Supervisor, Development Review
Division
John Carter, Chief, Community-Based Planning Division *JJC*
Khalid Afzal, Team Leader, Georgia Avenue Corridor *KA*

FROM: Nkosi Yearwood, Community-Based Planning Division *N.Y.*

SUBJECT 1: Special Exception (S-2604): Winchester School-Mary
Rhim; 17320 Georgia Avenue, Olney; 1.97 acres, R-200
zone and Olney Planning Area.

SUBJECT 2: Preliminary Forest Conservation Plan: Winchester School-
Mary Rhim; 17320 Georgia Avenue, Olney; 1.97 acres,
R-200 zone and Olney Planning Area.

FILING DATE: January 29, 2004
PUBLIC HEARING: September 8, 2004 before the Hearing Examiner

This combined staff report provides recommendations on the Preliminary Forest Conservation Plan and the Special Exception for the Winchester School (S-2604) at 17320 Georgia Avenue, Olney.

SUBJECT 1: STAFF RECOMMENDATION: Special Exception

Staff recommends DENIAL of the special exception for the following reasons:

Compatibility

The proposed project, in terms of its overall size, is not compatible with the surrounding single-family character of the existing neighborhood pursuant to general condition finding of Section 59-G-1.21 (a) (4) of the Zoning Ordinance.

Forest Conservation Law

The proposed development is not consistent with the primary objective of the Forest Conservation Law, Section 22 A-12 (b) and the general development standard in the Ordinance, Section 59-G-1.23 (d).

Number of students (density)

The number of students proposed for site exceeds the threshold established in the Ordinance without providing any justification as required, (Section 59-G-2.19 (4)(a)(5) regarding students per acre greater than 87. The proposed development is also not in conformance with the Section 59-G-2.19 (4)(a)(4) regarding character of existing development.

Non-inherent elements

The proposed project has three non-inherent adverse impacts, which are “physical and operational characteristics not necessarily associated with the particular use...”(Section 59-G-1.21): 1) limited play area for the number of students; 2) geographical limitations of where students could live; and 3) a single driveway for all buses, student drop-off and pick, and staff arrival and departure. These adverse impacts have not been mitigated.

SUBJECT 2: STAFF RECOMMENDATION: Preliminary Forest Conservation Plan

Staff recommends DENIAL of the preliminary forest conservation plan for the following reasons:

- 1) The proposed development is not effective in protecting priority forest and specimen trees.
- 2) The submitted preliminary Forest Conservation Plan does not meet Forest Conservation Regulation Requirements.

Proposal Description

Ms. Mary Rhim, the operator of the Winchester School, proposes a private educational institution for a maximum of 175 students in grades one through six on the subject property. Enrollment is anticipated to begin with 30 students initially until the school reaches its capacity in the sixth year of operation. The school’s academic school year will last 10 months with a summer program between July and August. A new one-story addition, approximately 20,000 square feet, will be added to an existing single-family residential dwelling. The existing driveway will be redesigned to create a right-in, right-out, as well as employee and visitor parking will be provided on site. New landscaping and a new board-on-board fence will be provided on the property.

Site Description

The site for the private school (Parcels 171, 172 and 173) is approximately 2.02 acres in the R-200 zone. These parcels create an "L" shape property with an existing single-family dwelling and a detached garage on parcel 172. An asphalt driveway provides access to the property from Georgia Avenue. The site contains existing specimen and significant trees are on parcel 171 and 172. Parcel 171, which is west of parcel 172, is approximately one acre and is undeveloped with existing trees and underbrush throughout the parcel. Parcel 173 is approximately 585 square feet. It fronts Georgia Avenue and abuts parcel 172. The site has approximately 125 feet of frontage along Georgia Avenue and depth of approximately 412 feet. This site is located on the west side of Georgia Avenue. There are no streams, wetlands and stream valley buffers on the property.

Neighborhood Description

Single-family residential uses are the primary land uses that surround the subject site. There are three vacant parcels immediately west of the subject property, which are each approximately two acres in size. Rock Hill Lane, a private gravel driveway immediately south of the subject site, provides access to a single-family dwelling adjacent to the vacant properties to the west. Future access to the undeveloped parcels could occur from Rock Hill Lane, Singer Glen Drive or Monitor Drive, which are existing roads.

Residential properties to the north are in the Williamsburg Village subdivision in the R-200 Zone. Similarly, single-family residential properties to the south and west of subject site are in the R-200 zone. East of the subject site, across Georgia Avenue, are residential uses in the Hallowell subdivision, in the RE-2/TDR Zone (residential, one-family/transferable development rights).

The general neighborhood of the subject property can be defined as the area between Old Baltimore Road, Blossom View Drive, and Hines Road. This area is primarily zoned R-200 (Single-family Residential) with detached dwellings as the principal land use. Georgia Avenue, a six-lane highway, bisects the Olney Planning Area providing north-south travel movement. East of Georgia Avenue, the neighborhood can be defined as the area between Old Baltimore Road, Menden Farm Drive and Prince Phillip Drive. The principal land use in this area is residential with single-family detached dwellings and townhouses.

A horticultural nursery and commercial greenhouse, located two properties to the north is an approved special exception (BAS-1224) within the existing neighborhood. Other approved special exceptions in the surrounding area include: a home occupation (BAS-1717) at 17049 Old Baltimore Road; Children's World, a child daycare center (BAS-1182) at 16910 Georgia Avenue; and Bell Atlantic/Verizon building (S-735), close to the intersection of Georgia Avenue and Sligo Inn Drive.

Elements of Proposal

The applicant proposes to construct an addition to the existing single-family dwelling to develop a private educational institution. The following are elements of the proposed use:

Enrollment

- Maximum enrollment of 175 students in grades one (1) through six (6) with 15 staff members

Building

- The existing single-family detached dwelling will be retained with a new addition of approximately 20,000 square feet

Hours of Operation

- Hours of operation: 7:00 a.m. to 6:00 p.m.
- Classes will begin at 8:15 a.m. and end at 3:00 p.m.
- After school program will start at 3:00 p.m. and end at 6:00 p.m.

Recreation

- A maximum of 30 children will be outside at any one time during regular school hours (8:15 a.m.- 3:00 p.m.), except during lunch period (12:20 p.m.-12:45 p.m.)
- Lunch period: 45 to 50 students will be outside at any one time
- After school: children will be rotated between outdoor activities and indoor play options

After School Program

- After school hours are 3- 6:00 p.m.
- Approximately 25% of students will depart between 3:00 p.m. and 5:15 p.m. via three buses with the remaining children departing by 6:00 p.m.

Summer Program

- Summer program will be between July and August
- The maximum number of students will be 175 and the hours of operation remains the same as during the academic year.

Transportation

- Two-thirds of students from the south of the proposed school's location will be bused during A.M. and P.M. peak hours.
- One-third of students from the north will arrive and depart via automobiles.
- A Transportation Management Plan (TMP) will manage transportation operations for the use.
- During summer session, buses will take students to swimming and other off-site recreational activities.

BACKGROUND

The applicant currently operates a full day kindergarten and first grade (S-753) at 3223 Bel Pre Road in Silver Spring for a maximum of 95 students. The number of students has been reduced from 180 to 175, a right-in, right-out driveway had been developed and parking area has been redesigned since the petition has been filed.

ADDITIONAL REVIEW REQUIREMENTS

If the Board of Appeals approves the applicant's petition, this project will return to the Planning Board for a preliminary plan of subdivision. Dedication of 75 feet from Georgia Avenue, entrance design to meet MD State Highway Administration (SHA) requirements, inclusion of Class I shared-use path and expanded tree panel are some of the issues for preliminary plan review.

ANALYSIS

The proposed project size, its impact on the environment and incompatibility with the surrounding neighborhood are the main issues for this special exception:

Project size and compatibility

The proposed size of the private school, approximately 20,000 square feet including the basement, will be the largest building in the surrounding neighborhood. The building's size is especially significant since it is on less than 2 acres. Residential buildings in the surrounding neighborhood vary in size from approximately 1,500 to more than 2,800 square feet. When compared with a similar use in the surrounding area, a child daycare center (Children's World) at 16910 Georgia Avenue is approximately 6,500 square feet in size located on a site that is 2.7 acres.

Density

The proposed maximum number of 175 students exceeds the density threshold established for private schools in the Ordinance. The Ordinance establishes that private schools are allowed to develop up to 87 students per acre without additional justification. Densities greater than 87 students per acre are allowed for several reasons, including program of instruction, special characteristics of students, provided the increase in density will not adversely affect adjacent properties and surrounding streets

As proposed, the density of school is 89 students per acre. The applicant has not provided any justification for exceeding the 87 students per acre threshold. Staff believes that density is too high for the 1.97 acre. The excessive density on a small site results in a site plan that has high impervious area and has limited play area or open space for 175 students.

Transportation

The applicant's Transportation Management Plan (TMP) assumes that two-thirds of students will travel to the site from south of the site, while one-third of students will travel from the north. This Plan does not resolve the issue of additional new trips through the intersection of Georgia Avenue and Old Baltimore Road. The proposal does not address how it will maintain that north-south split in trip generation in the future, if more development occurs in the area-north of the site.

Transportation Planning staff has informed the applicant that 100 percent busing is required for this proposal in order not to create an adverse impact at Georgia Avenue and Old Baltimore Road. In lieu of 100 percent busing, transportation staff has recommended a modified busing program with road improvements (*see attached Transportation memo*).

Forest Conservation

The proposed project will remove a significant number of existing specimen and significant trees. There are several specimen and significant trees on Parcel 172 and 171. Significant trees are (24" to 30" diameter at breast height (dbh) and specimen trees are (30" or larger). Environmental Planning staff has recommended denial of the applicant's petition because the submitted preliminary Forest Conservation Plan does not meet the requirements of the Forest Conservation Law. The proposal is not effective in protecting priority forest and specimen trees. Also, the proposal does not meet the Forest Conservation Law requirements.

Alternatives Considered

The applicant has not provided staff with any alternatives that begin to address the issues discussed with this report. Other alternative approaches to the applicant's petition are: 1) the number of students could be reduced to a lower number; 2) the overall size and scope of proposal could be smaller to increase the compatibility with the neighboring properties. A smaller building and parking area would also preserve more of the existing forest. The applicant could also try to purchase adjoining vacant parcels to increase the land area for the use.

Master Plan

The subject property is located within the Olney Planning Area. The Approved and Adopted 1980 Olney Master Plan supports the existing R-200 zone for the subject property (p.32). A private educational institution is allowed by special exception in that zone. No specific land use recommendation is made in the Master Plan for the subject site. The 1980 Master Plan is currently being updated, but that revision is not complete.

The proposed use will adhere to the Master Plan recommendation that "residences between Hines and Norbeck Road should be setback a minimum of 100 feet from

Georgia Avenue to provide a noise barrier for new housing. The setback will also maintain the low-density character of Georgia Avenue outside the Olney Town Center and sharpen the contrast between higher intensity uses in the Olney Town Center and the adjacent rural areas” (p.40).

The Master Plan also indicates that “residences should not have direct driveway access to Georgia Avenue; instead, access should be confined to a small number of intersections with Georgia Avenue.” (p.40) The subject property, other properties along Rock Hill Lane, and two individual parcels to the immediate north are the only parcels that have driveway access via Georgia Avenue. These parcels were not developed as part of the Williamsburg Village and Cherry Wood subdivisions.

Development Standards

The proposed use meets the development standards for the R-200 zone. The table below details the development standards for the proposed development:

Winchester School	Required	Proposed
Lot Area	20,000 sq. ft	1.97 acres (net area after dedication)-86,033 sq.ft
Building Height -existing dwelling -new addition	50 feet	23 feet 18 feet
Setback -Front -Side -Both sides -Rear	40 feet 12 feet 25 feet 30 feet	115 feet 23 feet 78 feet 95 feet
Building Coverage	25 %	15%
Parking -1 space per employee	23 spaces	25 spaces

Landscape and Lighting

A variety of landscaping, including evergreen and shade trees, and a board-on-board fence is proposed for this use. A six-foot high board-on-board fence is proposed for the western property line, as well as portions of the northern and southern property lines. Evergreen and shade trees are proposed for the western, northern and southern sections of parcel 171. Some existing Tulip Poplar trees will be retained along the southern property line parallel to Rock Hill Lane. Shade trees are proposed for the driveway and within the parking area. These shade trees adhere to the Ordinance requirements, Section 59-E-2.83 (d) for shade parking areas. The proposed fence and evergreen and shade trees assist in screening the proposed use from neighboring properties.

Light bollards are proposed for the walkway leading to the entrance of the existing dwelling and along the driveway. Freestanding light poles provide safety and security lighting for the parking area. In addition to the light bollards and pole lights, motion sensor lights are proposed for the building. Based on the submitted photometric lighting plan, lights will not spill onto the adjacent dwelling to the north, vacant property to the west and private the driveway.

Subdivision

A preliminary plan of subdivision is required to record the unrecorded lots. At the time of subdivision, the applicant must dedicate 75 feet from Georgia Avenue's centerline in accordance with the 1980 Olney Master Plan that recommends a 150 feet right-of-way. Other issues will include: safe sight distance to the entrance, an 8-foot shared-use path and expanded tree panel.

Inherent/Non-inherent Characteristics

Inherent and non-inherent adverse effects of a special exception use must be considered on nearby properties and the general neighborhood at the proposed location. Section 59-G-1.2.1 of the Zoning Ordinance 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 the inherent effects, are a sufficient basis to deny a special exception."

Inherent effects

Typical activities of a private educational institution include the following: parking facilities for staff and students, if they are eligible to drive; exterior lighting for security purposes; and play area or athletic fields for onsite athletic activities.

Special events, such as Back-to School nights, are anticipated as well as specialized summer programs for students attending the school. The anticipated hours of operation are generally between 7:30 a.m. to 3:00 p.m. From an operation perspective, students arrive and depart at a specific hour with teachers doing likewise. Generally, buses, private automobiles, or a combination transport students to and from the school. Outdoor activity is limited to students playing at specific times of the day or after school. If the property is large enough for an athletic field, school and inter-scholastic sports, such as soccer or field hockey, could take place on the field.

These inherent elements are present with the applicant's petition including the arrival and departure of students, modes of transportation, and parking for staff and visitors.

Non-inherent effects

Section 59-G-1.21 of the Zoning Ordinance notes that "non-inherent adverse effects are physical and operational characteristics not necessarily associated with the particular use..." There are three non-inherent characteristics with the applicant's petition: limited geographical locations of students, undersized play area, and limited ingress and egress to the site.

The applicant's amended statement of operation states that two-thirds of student will live south of the site while one-third will live to the north. This element is a non-inherent operational characteristic since it is not necessarily associated with this use.

The proposed passive and open play area is limited given the size of the student population. Children, approximately six to 12 years old need larger areas than the passive and open play areas proposed on the site.

Only one access point into and out of the property is a non-inherent adverse affect since all of the ingress and egress for the school comes from one entrance. In the event that an accident occurs at the entrance or along the driveway, circulation and exiting the site would be difficult. The non-inherent adverse effects have not been mitigated and they are a sufficient basis to deny this petition.

When reviewing inherent and non-inherent adverse effects, seven physical operating effects are considered: size, scale, scope, light, noise, traffic, and environment. Every special exception has some or all of these effects in varying degrees.

Size and Scale

The primary physical characteristic of a private school is the size and scale of the facility. The applicant proposes a new addition of approximately 20,000 square feet, while retaining the existing two-level dwelling, which is approximately 3,400 square feet, including the basement on less than two acres. The new building creates the largest building in the neighborhood, including both sides of Georgia Avenue. The size has not been mitigated by such measures as increasing the size of the lot and increasing the setbacks.

Scope

The extent of activity on the site is intense. The students per acre at 89 demonstrate this intensity. A private school of the proposed size is expected to have a larger site and not constrained as subject property.

Traffic

The applicant's Transportation Management Plan (TMP) proposes busing two-thirds of students residing in southern neighborhoods, while the remaining students from northern neighborhoods arrive via automobiles. This geographical assumption is flawed because there is no way to know where the students will live. Transportation Planning staff notes that only 100 percent busing, regardless of geographical location of students, could mitigate site generated trips.

Noise

The level of noise anticipated from the proposed use will primarily emanate from students playing as well as from arrival and departure of buses. Buses will not park overnight or during the day on the property. Outdoor play will occur during the day with a maximum of 30 students with up to 50 students during lunch. The applicant has not submitted a noise analysis for the proposed use.

Lighting

The proposed lighting plan will provide for safety and security for the large parking area as well as the driveway and walkways. Based on submitted photometric plan, no off-site light will spill onto neighboring properties. Further, the proposed fence and landscape will assist in reducing off-site illumination from nearby properties.

Environment

As proposed, the private educational institution will have an adverse impact on the environment. Further, this petition is not consistent with the Forest Conservation Law that requires the protection of high priority forest, including specimen and significant trees.

Environment

Environmental Planning staff has reviewed the applicant's petition and recommends denial because the proposal is not consistent with the Forest Conservation Law provision of protecting priority forest and specimen trees. The proposed forest easement area, which will also serve as a play area, will not be consistent with the requirement of the Forest Conservation Law.

The Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) indicates .96 acres of high priority forest containing 33 significant and specimen trees on the subject property. The proposed development will clear .68 acres of high priority forest. Environmental Planning staff indicates that the development proposal should be altered to protect the high priority forest and specimen trees.

Stormwater Management

The Department of Permitting Services (DPS) has not approved the applicant's conceptual stormwater management plan. If the Board of Appeals approves this petition, all stormwater management issues must be approved by DPS.

Forest Conservation

The submitted Preliminary Forest Conservation Plan (FCP) does not meet the requirements of the Forest Conservation Law. This Plan indicates removal of .68 acres of high priority forest and retention of .28 acres of forest in a Category II Conservation Easement. Environmental Planning Staff is of the position that proposed forest conservation area cannot be credited for retention because the area will be selectively cleared and mulched for a play area.

To qualify as retention, forested areas must maintain the definition of forest and be protected by a Category I Conservation Easement. Category II Conservation Easement, with associated uses, is not eligible to be credited as forest retention area. Staff believes that proposed play area in the easement will cause sufficient wear, compaction and continuous fill through replenishment of mulch to threaten the viability of the specimen and significant trees. (*See attachment for Environmental Planning Forest Conservation Report*)

Water Quality

This site is in Cherrywood Manor tributary of the Upper Rock watershed. Maryland Department of Environment (MDE) classifies Upper Rock Creek north of Muncaster Mill Road as a Use III watershed. The *Countywide Stream Protection Strategy* (CSPS) designates this subwatershed as a Watershed Protection Area-special. This designation is applied to all subwatersheds currently assessed as supporting excellent or good stream conditions. There are no streams on the subject property (*see Environmental Planning Memo for more details*).

Transportation

Transportation Planning has reviewed the applicant's proposal and recommends approval subject to several conditions, including 100 percent busing and to identify potential off-site student pick-up and drop-off locations.

Access

Georgia Avenue, a four-lane highway, provides the only entrance and exit to this site. The existing driveway will be widened to accommodate a right-in, right-out driveway. A driveway of approximately 22 feet will provide access to the rear parking area, including the drop-off and pick-up area and visitor parking. This segment of Georgia Avenue has a median with sidewalks and lawn panel on both sides of the street.

Local Area Transportation Review

The applicant has submitted a traffic study since the school will generate more than 50 total peak-hour trips during morning and afternoon peak periods. Transportation Planning staff disagrees with assumed future student population distribution and the associated busing program. The traffic study assumes that 66 percent of the student population will reside in southern neighborhoods from the property, and the remaining students will live in northern neighborhoods. Students from the south will arrive via buses and northern residing students will arrive via automobiles heading south-bound on Georgia Avenue. Transportation notes that changes in assumed student geographical location, such as an increase in the number of student from the south, could affect on-site queuing, vehicle circulation and Critical Lane Volumes (CLV) at Georgia Avenue and Old Baltimore Road intersection during peak periods (*see Transportation Memo for more details*).

Parking Standards

The proposed use meets the parking requirements for a private educational institution, Section 59-E-3.7 of the Zoning Ordinance. The parking standards state that: "One parking space for each employee, including teachers and administrators, plus sufficient off-street parking space for the safe and convenient loading and unloading of students, plus additional facilities for all student parking." Twenty-five parking spaces are provided onsite, including two handicapped spaces and 18 parking spaces for staff. There are three spaces for bus parking. No student parking is provided because students are not eligible to drive. Twenty-three spaces are required for the proposed use.

Transportation Management Plan

The applicant has submitted a Transportation Management Plan (TMP) that describes how transportation will be managed for the proposed use. Elements of the TMP include: a minimum of one staff member will act as school transportation coordinator; busing approximately two-thirds of student population or 116 children in a maximum of three buses; one-third of students living north of the school will travel via automobiles; and the school will promote carpooling of students (*see attachment for Transportation Management Plan*). Associated with the TMP, the applicant has submitted bus and automobile queuing plans that illustrates three buses and 20 cars on the property.

A key assumption in the applicant's TMP is that most of the students attending the school will arrive from the south. Enforcing that only one-third of the student population comes from northern neighborhood will be difficult. The TMP does not take into consideration that students could come from northern, western and eastern neighborhoods. The TMP also fails to list drop-off and pick-up locations and alternative arrangements for late arriving students.

Community Concerns

Letters in support of the applicant's petition are from parents who have or had students at existing child daycare center. These letters note the educational benefits students receive from the existing center. Letters in opposition are from immediate neighborhoods, the Greater Olney Civic Association, and the Cherrywood Homeowners Association who raise traffic and safety issues, appropriateness of the subject site for the school, and the intensity of the proposal.

Compliance with the Specific and General Conditions of the Special Exception

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

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 proposed private educational institution is a permitted special exception in the R-200 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 project does not comply with all of specific standards for a private education institution, including Section 59-G-2.19(a)(1), Section 59-G-2.19(a)(3), and Section 59-G-2.19(a)(4).a.5

(3) Will be consistent with the general plan for the physical development of the District, including any master plan thereof adopted by the Commission. Any decision to grant or deny special

exception must be consistent with an recommendation in an approved and adopted 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 the 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 Approved and Adopted 1980 Olney Master Plan recommends R-200 zoning for the subject property. The proposed use will be consistent with the Plan's recommendation that properties between Norbeck Road and Hines Road maintain a 100 feet setback from Georgia Avenue. The Plan made no specific land use recommendations for the subject site.

- (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.

General Neighborhood: *The general neighborhood for the proposed use consists of properties located in an area between Old Baltimore Road, Blossom View Drive and Hines Road. This area is primarily zoned R-200 (Single-family Residential) with detached dwellings as the principal land use. The neighborhood across Georgia Avenue, east of the subject property, consists of the area between Old Baltimore Road, Menden Farm Drive and Prince Phillip Drive. This area is zoned RE-2/TDR (residential, one-family/transferable development rights).*

Population Density: *180 students and 15 staff is excessive given the general character of the neighborhood. Most of the neighborhood consists of single-family dwellings that are much smaller in population density and scale than the proposed use. Any new structure, such as a residential dwelling, will not approach the population density of the proposed use. The population's intensity is demonstrated by the 89 students per acre, which requires special findings in accordance with Section 59-G-2.19 (4) a.5*

Design, scale and bulk of proposed new structures: *The overall scale of the proposal is not consistent with the surrounding residential neighborhood. The addition has a footprint of 20,000 square feet, including a basement.*

Intensity and character of activity: *Outdoor play activities can occur at any time during regular school hours (8:15 a.m. to 3:00 p.m.) for a maximum of 30 students. During lunch period (12:20 p.m. -12:45 p.m.), the maximum number of students outdoors increases to 50. The school will have periodic special events, such as Back to School night, as well as teacher-parent meetings and specialized instruction for students. These activities will occur during the 10-month academic year as well as the summer period of July and August.*

The majority of students will arrive via buses; therefore, there are specific areas for bus drop-off and pick-up. Most of the play area will take place along the northern property line, adjacent to the single-family dwelling to the north. This area is limited and will have an adverse impact on the neighboring property.

Traffic and parking conditions: *Student drop-off and pick-up traffic will occur with buses and private automobiles. The applicant's TMP assumes that 2/3 of students from southern neighborhoods while 1/3 will arrive from the northern areas. Enforcement of this idea is limited and it does not address the situation where more students arrive from the north and south. The driveway can accommodate a queue length of 20 cars and three parked buses, based on the applicant's assumed geographical distribution of students. If the location of students changes then the amount of stacking and queuing will change.*

Number of similar uses: *The only other similar use to the proposed private school is the existing child daycare center at 16910 Georgia Avenue, less than half a mile from the subject site. The existing child daycare center is a smaller facility, approximately 6,500 square feet for a maximum of 120 students on 2.7 acres. This equates to 44 students per acre, which is smaller than the 89 students per acre for the proposed private school.*

Considering the factors noted above, staff concludes that the use will not 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 development of the vacant property, immediately to the west, could have a detrimental impact on property since the proposed parking area extends to the rear and side yard of vacant parcel.

Similarly, the dwelling to the north will have a parking area in its back yard. The applicant has proposed a fence and additional landscaping to screen the parking area from adjacent dwellings.

The general neighborhood will change because the size of the proposal is larger than existing uses.

- (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.

Outdoor play from students will occur through the day, not exceeding 30 students, and no more than 50 during lunch period. The amount of noise emanating from student play will impact the residential dwelling to the north. The applicant has not submitted a noise analysis to determine the impact of the proposed use.

Buses will emit some fumes during morning and afternoon drop-off and pick-up. No food preparation occurs onsite; therefore, objectionable odors are not present..

- (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 proposed use will increase the number of special exceptions in the existing neighborhood. The propose use will increase the scope and intensity of special exceptions to alter the predominantly residential nature of the area. The other special exception in the immediate area is a horticultural nursery and commercial greenhouse (BAS-1224).

- (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 on any adverse effects the use might have if established elsewhere in the zone.

Georgia Avenue is a major highway providing access for all surrounding residents. The proposed right-in, right-out driveway addresses safety for visitors, students and employees to the site. The applicant has not submitted a sight distance analysis or turning movement at the driveway entrance as part of the special

exception. The preliminary plan information indicated there is enough sight distance from the entrance.

- (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 subject site is served by public water and sewer services. Georgia Avenue, a four lane Maryland State Highway, provides the only entrance and exit to the site. The applicant proposes an underground stormwater management facility to address runoff. DPS has not approved the concept stormwater plan. Olney Elementary School is north of the property and the Sandy Spring fire station #40 is approximately 3,000 feet south of the property.

- (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.

A preliminary plan is required for the applicant's petition. At that time, the Planning Board will determine the adequacy of public facilities.

- (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 have no detrimental effect on the safety of vehicular or pedestrian traffic.

The proposed right-in, right out improves the safety of vehicular traffic from Georgia Avenue onto the property. The expanded shared-use path and lawn panel improves pedestrian traffic. Since the applicant has not submitted a sight distance for the special exception petition, staff cannot determine if there is enough sight distance from the entrance.

Section 59-G-2.19 Private Educational Institutions

- (a) **Generally.** A lot, tract or parcel of land may be allowed to be used for a private educational institution of the board finds that:

- (1) the private educational institutional use will not constitute a

nuisance because of traffic, number of students, noise, type of physical activity, or any other element which is incompatible with the environment and character of the surrounding neighborhood:

The proposed project is not compatible with the existing character of the surrounding neighborhood. The physical activity and number of students proposed reflect incompatibility with the proposal. Traffic to and from the use could create an adverse impact since the applicant assumes a north-south residential location of students may change in the future. Based on the incompatibility to the surrounding neighborhood, the petition should be denied.

- (2) except for buildings and additions completed, or for which a building permit has been obtained before (April 2, 2002), the private educational institution must be in a building architecturally compatible with other buildings in the surrounding neighborhood, and, if the private educational institutional will be located on a lot, tract, or parcel of land of 2 acres, in either an undeveloped area or an acre substantially developed with single-family homes, the exterior architecture of the building must be similar to a single-family home design, and at least comparable to any existing homes in the immediate neighborhood;

The exterior architecture proposed private school has large windows with brick and stone on the elevations. Three elevations of the existing stone residential dwelling will be retained.

- (3) the private educational institution will not, in and of itself or in combination with other existing uses, affect adversely or change the present character or future development of the surrounding residential community; and

The proposed project begins to change the existing residential with the number of students proposed, scale of the building, large parking area that abut two residential dwellings and a undeveloped parcel. Staff concludes that this is sufficient basis to deny the applicant's petition.

- (4) the private educational institution must conform with the following standards in addition to the general development standards as specified in Section G-1.23:
 - a. **Density**-The allowable number of pupils per acre permitted to occupy the premises at any one time must be specified by the Board considering the following factors:

1. Traffic patterns, including:

- a) Impact of increase traffic on residential streets;

Old Baltimore Road and Georgia Avenue will have additional traffic, if the assumed student residential distribution changes. To avoid adversely impacting this intersection, transportation staff has recommended 100 percent busing for the proposal.

- b) Proximity to arterial roads and major highways;

The proposed use fronts onto Georgia Avenue, a major highway.

- c) Provision of measures for Transportation Demand Management as defined in Section 42A-21 of the Montgomery County Code;

The applicant has developed a Transportation Management that aims to address transportation management issues of the proposal.

- d) Adequacy of drop-off and pick-up areas for all programs and events, including on-site stacking space and traffic control to effectively deter queues of waiting vehicles from spilling over onto adjacent streets; and

The submitted TMP states that the driveway can accommodate 20 cars and three buses at one time. However, that is based on the north-south geographical assumption of where students live. If the locations of students change then the stacking and queuing will also change. The applicant has not provided staff with an alternative.

The parking area is not large enough to accommodate parent-teacher meeting for all 175 students. The TMP proposes to have no more than 30 parents or one class per parent-

teacher meeting, and the use of a remote site to shuttle parents to the school.

2. Noise or type of physical activity;

The physical activity for the use is intense given the limited land area and the surrounding area.

3. Character, percentage, and density of existing development and zoning in the community;

The character of the residential community includes primarily single-family dwellings developed under the R-200 zoned land. This zone requires a minimum of 20,000 square feet per lot. The density of existing development constitutes the size of a family.

4. Topography of the land to be used for the special exception; and

The subject site is mostly flat with a slight slope along the Georgia Avenue frontage.

5. Density greater than 87 pupils per acre may be permitted only if the Board finds that (i) the program of instruction, special characteristics of students, or other circumstances justify reduced space and facility requirements; (ii) the additional density will not adversely affect adjacent properties; (iii) additional traffic generated by the additional density will not adversely affect the surrounding streets.

The proposed project density is 89 students per acre. This density is high given the subject site and surrounding neighborhood. Moreover, it adversely affects adjacent properties and surrounding streets. The applicant has not provided any justification for the increased density.

- b. **Buffer-** All outdoor sports and recreation facilities must be located, landscaped or otherwise buffered so that the activities associated with the facilities will not constitute an intrusion into adjacent residential properties. The facility must be designed and sited to protect adjacent properties from noise, spill light, stray balls and other objectionable impacts by

providing appropriate screening measures, such as sufficient setbacks, evergreen landscaping and solid fences and walls.

No outdoor sports or recreation facilities, such as a soccer field, are planned for the subject use. Evergreen and shade trees as well as a board-on-board fence are proposed to screen the adjacent residential properties. If children are playing sports in the active and passive play area, it is possible that balls may enter the adjacent property.

- (b) If a Private Educational Institution operates or allows its facilities by lease or other arrangement to be use for: (i) tutoring and college entrance exam preparatory courses, (ii) art education programs, (iii) artistic performances, (iv) indoor and outdoor recreation programs, or (v) summer day camps, the Board must find, in addition to the other required findings for the grant of a Private Education Institution special exception, that the activities in a combination with other activities of the institution, will not have an adverse effect on the surrounding neighborhood due to traffic, noise, lighting, or parking, or the intensity, frequency, or duration of activities. In evaluating traffic impacts on the community, the Board must take into consideration the total cumulative number of summer programs, whether or not the traffic exceeds the capacity of the road. A transportation management plan that identifies measures for reducing demand for road capacity must be approved by the Board.

The applicant's amended statement of operation does not indicate if the facility will be leased. A summer program is proposed for the months of July and August with special events.

The Board may limit the number of participants and frequency of events authorized in this section.

- (c) Programs Existing before April 22, 2002.
- (1) Where previously approved by the Board, a private educational institution may continue the operation of (i) tutoring and college entrance exam preparatory courses, (ii) art education programs, (iii) artistic performances, (iv) indoor and outdoor recreation programs, or (v) summer day camps, whether such programs include students or non-students of the school, if the number of participants and frequency of events for programs authorized in 59-G-2.19 (b) are established in the Board's approval.

This provision is not applicable to the subject petition.

- (2) Where not previously approved by the Board, such programs may continue until April 22, 2004. Before April 22, 2004, the underlying special exception must be modified to operate such programs include students or non-students of the school. The Board may established a limit on the number of participants and frequency of events for authorized programs.

This provision is not applicable to the subject petition.

(d) **Site Plan**

- (1) In addition to submitting such other information as may be required, an applicant shall submit with his application a site plan of proposed development. Such plan shall show the size and shape of the subject property, the location thereon of all buildings and structures, the area devoted to parking and recreation facilities, all access roads and drives, the topography and existing major vegetation features, the proposed grading, landscaping and screening plans and such other features necessary for the evaluation of the plan.

The applicant has submitted a site and landscape plan that illustrates the size and shape of the property, areas devoted to parking, and landscaping and screening for the use.

- (2) No special exception, building permit or certificate of occupancy shall be granted or issued except in accordance with a site plan of development approved by the board. In reviewing a proposed site plan of development the board may condition its approval thereof on such amendments to the plan as shall be determined necessary by the board to assure a compatible development which will have no adverse effect on the surrounding community, and which will meet all requirements of this chapter. Any departure from a site plan of development as finally approved by the board shall be cause for revocation of the special exception, building permit or certificate of occupancy, in the manner provided by law.

- (e) **Exemptions.** The requirements of Section G-2.19 do not apply to the use of any lot, lots or tract of land for any private educational institution, or parochial school, which is located in a building or on

premises owned or leased by any church or religious organization, the government of the United States, the State of Maryland or any agency thereof, Montgomery County or any incorporated village or town within Montgomery County. This exemption does not apply to any private educational institution which received approval by the Board of Appeals to operate a private educational institution special exception in a building or on a lot, lots or tract of land that was not owned or leased by any church or religious organization at the time the Board of Appeal's decision was issued.

This provision does not apply to applicant because it is not a church or religious organization.

Conclusion

Upon review of the applicant's petition, staff recommends denial. As proposed, the project is not compatible with the surrounding residential neighborhood. The project is also not consistent with the primary object of the Forest Conservation Law to retain existing forest and trees. Further, the non-inherent adverse impacts, including limited play area and geographical limitations of where students live also justify denial of the applicant's petition.

Attachments

Location Map	A-1
Zoning Map	A-2
Site Plan	A-3
Building Floor Plan	A-4
Building Elevations	A-5
Landscape Plan	A-6
Lighting Plan	A-7
Environmental Planning Memo	A-8
Preliminary Forest Conservation Plan	A-9
Transportation Planning Memo	A-10
Transportation Management Plan	A-11
Queuing and stacking plan	A-12
Letters in Opposition	A-13
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