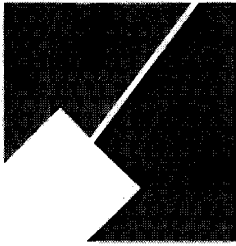


M-NCPPC



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 # 5 & 6

MEMORANDUM

DATE: October 22, 2004
TO: Montgomery County Planning Board
VIA: Carlton Gilbert, Zoning Supervisor *CA*
FROM: Judy Daniel, AICP, Rural Area Team Leader (301-495-4555)
Community-Based Planning Division

REVIEW TYPE: Special Exception & Forest Conservation Plan
APPLYING FOR: Child Day Care Facility / Seasonal Day Camp
APPLICANT: Calleva, Inc.
CASE NUMBERS: S-2608
REVIEW BASIS: Chapter 59, Zoning Ordinance
ZONE: Rural Density Transfer Zone
LOCATION: Martinsburg Road, Dickerson
MASTER PLAN: Preservation of Agricultural and Rural Open Space

FILING DATE: March 4, 2004

STAFF RECOMMENDATION: Approval with conditions

CONDITIONS FOR APPROVAL:

1. The applicant is bound by all submitted statements and plans as modified in this report and by these conditions.
2. Compliance with all general and specific conditions for the use in 59-G-1.2 and 59-G-2.13.1.
3. The number of participants on the site at any one time may not exceed 225 including children and staff.

4. Employees limited to a maximum of 5 full-time staff and 50 part-time and seasonal staff and counselors.
5. Children must be transported to the Calleva site by bus.
6. No more than 10 vehicles of part-time seasonal staff may be parked on the site during operating hours.
7. Compliance with Chapter 50 requirements.
8. Compliance with all M-NCPPC regulations regarding use of Local Parks.
9. Calleva, Inc. will maintain the shared gravel driveway from Martinsburg Road to the entrance to the Calleva property.
10. The total number of site-generated peak-hour trips must not exceed 30 during the weekday morning (6:30 a.m. to 9:30 a.m.) and evening (4:00 p.m. to 7:00 p.m.) peak periods.
11. Approval of a final forest conservation plan Approval of a final forest conservation plan by M-NCPPC Environmental Planning at the time of subdivision. This will include recordation of a modified Category I Forest Conservation easement to be used for long-term protection of the forest and the stream valley buffers.
12. Repair existing logging road to eliminate sedimentation.

BACKGROUND

The Petitioner is requesting approval to operate an outdoor recreation oriented childcare activities facility under the provisions for a Child Day Care Facility.

PROPOSAL DESCRIPTION

Neighborhood - The proposed use is located in the Agricultural Reserve in the far western portion of the county. The area is sparsely populated, with a mix of agricultural uses, open space, and scattered dwellings. Adjoining uses include an infrequently used gun club (for trap shooting) operating under approved special exception BA 1165, widely scattered dwellings, and the C&O Canal Parkland of the National Park Service (NPS). The site is separated from the adjoining National Park Service property by PEPCO transmission lines.

Site – The proposed use (to be called Calleva Farm) is located on a 165 acre property consisting of Parcels P645 and P 728 (Tax Maps BU 22 and BU 32) located off Martinsburg Road near it's intersection with White's Ferry Road in the Rural Density Transfer Zone. The only major existing structure on the site is a large barn. A new home, to be the dwelling of one of the program owners, is under construction. The land

is in forest, some cropland, and open pastures and fields. Access to the site is via a "pipestem" unpaved driveway shared by the trap shooting club and two dwellings.

A special exception for a Commercial Riding Stable on this property was reviewed in 1997, as Case #2277. That application proposed to use this site as an adjunct to a riding program at another site, where riding students would complete their training through trail rides and an overnight camping experience at this location. That case was approved by the Board of Appeals, but challenged in Circuit Court and the approval was overturned. The judge determined that the use did not fit the definition of a riding stable, a position shared by the Planning Board in their review of the case.

The petitioner estimates that approximately 60 acres of the property will remain available for agricultural use, devoted to crops. Approximately 20 acres will be devoted to pasture for horses that will also be periodically harvested for hay. Approximately 60 acres will remain in woodland.

Structures - Calleva proposes to operate with existing and new structures. Existing structures include a bank barn (with interior climbing wall), storage shed, and an outdoor seating area. Necessary equipment for activities is to be stored in the shed. The existing barn will include staff offices and bathrooms. The site will also include the home (currently under construction) of Calleva President, Alex Markoff.

Calleva proposes to add four small "dogtrot" style activity buildings along the east side of the activities area. These are two rooms joined by a common interlocking porch and a common roof overhead. Proposed activities for these structures (as noted on the site plan) include arts and crafts, photography, pottery, and painting.

Each room contains 242 square feet (11' x 22') for a total of 484 square feet of enclosed building area. The porch/deck area between the two rooms is 121 square feet of covered area and 60 square feet of open deck. In full, the length of the building is a total of 55 feet long and 11 feet wide. The height of the activity buildings will be less than 15 feet high (14' 9").

Other new structures will include an eventual riding stable (80 feet x 150 feet), a swimming pool, bathrooms both in the barn and in the bathhouse next to the pool, and a new maintenance building. All new buildings will be constructed with wood siding and tin roofs in keeping with the rustic atmosphere and rural location.

Proposed Activities - The Camp Calleva outdoor recreation program has been in operation since 1994 as a mobile program for children relying on the resources in the greater Washington area to explore and experience the outdoors. This program teaches children the about preserving the natural world in a challenging and fun atmosphere, where they work on group participation and individual stewardship. This application will allow Calleva to establish a "home" center for its activities, and expand some of their programs.

Calleva is owned and operated by the Markoff family; who have been involved in children's outdoor programs for many years. They began the Valley Mill Camp for Girls in Silver Spring in 1956, and the Valley Mill Camp West in Darnestown and Valley Mill Away (a sailing program on the Choptank River) in 1978. The directors of the Calleva program are brothers Nick, Alex, and Matt Markoff; who have many years experience introducing children to the outdoors.

Currently, as a mobile program, children are brought on buses to Darnestown Park as a central meeting point, and then taken to a variety of locations in the region to participate in different activities. This proposal will allow a base for activities on this property that is owned by the Markoff family and leased to the Calleva business entity. Through this special exception, Calleva wishes to evolve from an exclusively mobile program to a seasonal child day care program with a central "campus", while retaining the mobile operations. This base will also enable Calleva to offer additional summer activities programs, as well as new outdoor education and seasonal after school programs not possible with a mobile operation. The seasonal child day care programs being offered both on and off the Calleva Farm site will be varied, highly active, outdoor programs. Proposed programs include:

Summer Activities Program – There are two levels of the summer program, one for ages 9-17 and one for ages 6-9. This mobile operation operates in one-week sessions. The program operates from mid-June to mid-August.

Darnestown Local Park on Route 28 will continue to be used as the central meeting point for all children before they are transferred to their respective activity sites for this aspect of the Calleva programs. Use of the Local Park is limited to a) bus arrival, parking and departure, and 2) a brief organizational meeting, held in one of the Park's open shelters if weather requires, to explain to the children the program for the day.

Calleva has used Darnestown Local Park in this manner for the at least the last five years and the only "agreement" or permit which has been required for such use is a bus parking permit issued for each bus visiting the Park. The attached copy of Permit #96460 was issued for Calleva's 2004 season. Calleva is in discussion with Park authorities to reach an understanding about how new procedures now required for use of M-NCPPC managed parks will apply to Calleva's use of Darnestown Park. Calleva will abide by any procedures for local park use that is ultimately established by the Commission and enforced by the Parks Department.

At the beginning of the week, a "theme" for the weekly session is selected by the participants. Activity themes that will continue to be conducted off-site include kayaking, canoeing, sailing, rock climbing, caving, hiking, rafting, and related campouts. Calleva Farm activities will include a ropes course, some campouts, a climbing wall (in the barn), horseback riding, arts and crafts, and nature study. Some activities may be offered both on and off-site. Swimming is to be offered in the future, and a location for the future pool (50' x 80') is indicated on the site plan.

Children are grouped according to activity and ability in groups of 12, with a child/staff ratio of 6:1. After the buses bring all participants to the Darnestown Park "gathering site", each day begins with an all-participant "council" at the Darnestown Park, as allowed by an agreement with the M-NCPPC Parks Division. After the council, children board Calleva buses to reach the various locations for the particular activity they have chosen. Children may sign up for one activity for the entire week or a week offering different activities each day. Many children sign up for multiple weeks of one or mixed activities.

For the older children approximately 120 children are enrolled in every one-week session, participating in activities from 9AM to 4PM Monday through Friday. On Thursday the children go on an overnight campout in a setting related to the weekly theme of the activities chosen. The campout may be at the Calleva site or an off-site location related to the activity of the week.

Staffing for these programs vary, but approximately 20 counselors would be needed for a day with full participation of 120 (at 1 staff member for each 6 children). Most of those staff members would arrive at the site on the Calleva busses with the children. Some may drive, and Calleva estimates that up to seven personal vehicles for staff members may arrive daily in the summer. Additional counselors would staff the "off site" activities.

For the younger children approximately 50 children are enrolled for each one-week session. They will also meet from 9AM to 4PM daily, but primarily at the Calleva Farm site. There will be no overnight experience for this younger group. There will also be groups of 12 with a child/staff ration of 6:1. This group will also begin with a council at the Darnestown Park, proceed to the Calleva Farm, and return to the Park for a council before returning home on the buses. Some afternoon activities for this group may involve off-site locations before returning to Darnestown Park. Staff for this program would thus involve 8-9 counselors if the maximum of 50 children are enrolled.

School Sponsored Programs - Calleva works with area schools (public and private) to offer activity programs for students. These programs are designed specifically for the needs of each school and class group and generally operate from 7AM to 7PM Monday through Friday for children from age five through 12th grade in the fall and spring. There are occasional weekend programs offered, but not on a regular basis. Schools may choose single-day or multi-day programs. The schools would send groups of 60-100 children to experience Calleva's ropes course and/or one or more of the off-site activities. These programs occasionally offer an "overnight" experience at the Calleva grounds in a setting related to the program's theme.

The school related programs operate primarily in the "shoulder" months when school is in session – September, October, April, May. Although numbers may vary based on 1) the institution, 2) the age of the participant and 3) the program involved; generally Calleva seeks to maintain a ratio of one instructor per ten children (1:10) for these programs.

Transportation for the school programs may be provided by the participating school; but some schools do not have buses or their buses are committed to other school events. So the Calleva buses will often transport the school children to these programs.

Staff for the school year programs arrive at the property either as the bus drivers who have brought the children to Calleva from the participating schools or in a personal vehicle. It is anticipated that depending on the number of students participating in a program, anywhere from 6-10 staff members will be present, and 3-7 of those staff members will arrive by personal vehicle. The others will arrive on the busses either as drivers or as passengers accompanying the children and teachers.

School Sponsored After-School Outdoor Education Program – This program will be offered through area schools in the spring and fall (September – early November and April – June) for students from the 5th grade – 12th grade; from 3PM to 6PM Monday through Friday. It will not be offered in the winter months due to climate and limited afternoon light for outdoor activities. A maximum enrollment of 50-100 children is anticipated, with a child/staff ratio of 9:1, thus a maximum staffing level of 12.

Schools would offer this as an activity instead of after-school organized sports. The children will be able to participate in the variety of outdoor activities offered at the Calleva Farm and off-site. Participants would be bused from the sponsoring school to Calleva Farm or to an off-site activity. At the end of the session, they would be returned to Calleva Farm and then back to the school by bus. Some children would have their activity at the Calleva Farm.

It is anticipated that children brought to Calleva for the after school program will usually be transported by Calleva buses. Counselors for this program would generally arrive on the Calleva busses, although a few may arrive by personal vehicle. Calleva anticipates that no more than 4 counselor vehicles would arrive for the after school program.

Programs	Summer		Fall and Spring	
	Regular	Junior	School	After School
<i>Age of Participants</i>	Ages 9-17	Ages 6-9	Ages 5 – 18 K – 12 th grade	Ages 11-18 5 th to 12 th grade
<i>Dates of Operation</i>	June – August	June-August	Sept – Nov April – June	Sept – Nov April – June
<i>Hours of Operation</i>	9AM to 4PM Monday-Friday	9AM to 4PM Monday-Friday	7AM to 7PM Monday-Friday	3PM to 6PM Monday- Friday
<i>Transportation</i>	Bus from Darnestown to mixed sites	Bus from Darnestown to Calleva Farm	Bus from schools to mixed sites	Bus from schools to Calleva
<i>Children in Program</i>	120 children per day in weekly sessions	50 children per day in weekly sessions	60-100 per day in 1-2 day sessions	50-100 per day
<i>Overnight</i>	Thursday on or off site	No	Occasionally	No

Overlapping Groups – During the spring or fall, a school group and an after school group could occasionally use the Calleva property at the same time. The site provides ample room on the property to conduct simultaneous complementary programs for separate groups of children. For example a “school group” could be spending a day at Calleva on the ropes course, and an “after school” group could arrive in the afternoon for a hike as part of a “nature appreciation” program. In these cases, no more than 200 children would be on the property at any given time for a few hours, although full participation at that level is not expected on a regular basis.

Due to weather realities and limited daylight, no activities are to be conducted on the Calleva property from early November through March.

Seasonal On-Site Activity

Calleva offers an annual “Haunted Forest” for three weeks in October as a community Halloween activity that is a fundraiser for the Calleva programs, and to fund scholarships for Calleva programs. The event, open to all ages, has become a major Halloween attraction in the area. “Haunted Forest”, as a benefit performance activity, is governed by a permit issued by the Montgomery County Department of Permitting Services (DPS). A copy of the permit issued for the 2004 session of “Haunted Forest” is attached.

Because seasonal limited events such as “Haunted Forest” are now permitted by right with a DPS permit (Sec. 59-A-6.5) Benefit Performances), descriptions of that activity are not included in the Statement of Operations. The event is noted as a matter of information for the Board.

Equestrian Operation

Approximately 7-10 horses are kept at the site for equestrian activities. The equestrian element is well within the standards for an Equestrian Facility as a permitted use in the Rural Density Transfer Zone. There are no equestrian events held, the acreage is more than sufficient, it meets all setback requirements, no amplified noise is used, no arena lighting is used, and it is in compliance with the nutrient management, water quality, and soil conservation standards of the County and State. A copy of the approved Nutrient Management Plan is attached.

Other Off-Site Activities

Calleva also offers two-week off-site activities for older children as a part of their extended programs. The Calleva High Adventure Program offers 5-7 day trips to other parts of the country. These have included rock climbing in West Virginia, mountain climbing in Colorado, kayaking in Canada, and sailing in the Virgin Islands. The Potomac Challenge Race is an annual event for children 13-18 in good physical condition. This is a 5-day, 4-night competition between teams from several area camps down the Potomac River and C&O Canal combining biking, hiking, and paddling a stretch of the river each day, resting at campsites along the towpath each night.

Operations

Staff

The full-time Calleva staff consists of the two founding partners, one full-time office employee, and one full-time maintenance employee. There is also a summer maintenance employee, and up to 50 seasonal counselors who will work with both on-site and off-site activities as required.

Brothers Alex and Nick Markoff, along with their parents, were the founders of Calleva. Alex's title is president and Nick Markoff is secretary-treasurer of the corporation. A residence for Alex and his family is presently under construction on the subject property.

Summer Programs - Up to 50 counselors work during the high summer season including:

- 12 head instructors (at least 18 years old, preferably over 21),
- 12-15 counselors (age 17 or older),
- 12-15 junior counselors (age 16 or older), and
- Occasional counselors-in-training (age 15).

School Year Programs - For the school year programs (fall and spring), there will be a staff of 15-20 part-time adult (18 or older) counselors.

Certification

Calleva has applied for a day care license. Approval of this license, through the Maryland Department of Human Resources, is a condition of approval for the proposed use.

Calleva is already licensed as a Youth Camp by the Maryland State Department of Health, and all Calleva staff are certified in Basic First Aid and CPR through the Red Cross. All bus drivers must have a commercial driver's license through the state in which their license is issued. Instructors and activity heads for some activities are required to be certified by the organizations specific to the activity they direct including the American Mountain Guide Association, the American Canoe Association, the National Cave Rescue Committee, and the American Red Cross. In addition, to ensure the safety of the participating children Calleva provides their own certification for directors of other activities such as the ropes course, hiking, and environmental studies.

Transportation

Calleva currently maintains buses of various sizes to transport children including:

- 3 to carry up to 45 persons (school bus size)
- 9 to carry up to 16 persons (small connector bus size)

Calleva plans to eventually add up to two more large buses to service its programs. This will result in a total of 14: 5 large and 9 small buses. Storage for the buses is described in the following section.

For the summer program, there are multiple "pick up" locations in the area where both children and counselors board the buses to go to Darnestown Park for the opening council sessions and then to off-site activities or to the Calleva Farm site. Thus the buses are dispersed and a variable number would be driving to the Calleva Farm site on a daily basis, while the rest would go to the off-site activity locations. A few children who live in the Darnestown area may drop their children off at the Darnestown Park, but none would drop off their children at the Calleva Farm site.

For the fall and spring school and after school activities Calleva or school busses transport children directly from participating area schools to the Calleva Farm site and then to off-site locations if required. It is anticipated that these will usually, but not always, be Calleva buses.

Nick Markoff, the office employee, the maintenance employee, and the seasonal maintenance employee will drive to the site. The Calleva Director, Alex Markoff, will live on the Calleva Farm property. Most other staff (counselors) will arrive on the buses for the summer program; and most staff (counselors) will arrive on the buses for the school and after school programs, although up to 7 personal vehicles may bring staff to the site. The cumulative number of trips is anticipated to be well under 30 trips at morning or evening peak hours.

Environment – This 165-acre site is located in the far-western part of the County, less than a half-mile from the Potomac River. It has large sections of forest with several fields in active agriculture. There are several streams on the site flowing through steep forested stream valleys. The petitioner has stated his intent to comply with all required environmental regulations for the property. The Natural Resources Plan/Forest Stand Delineation has been approved.

Access and Parking

Access - Access to the site is along a 1,400 foot long gravel driveway leading from Martinsburg Road. This driveway is shared with two homes and the trap-shooting club that operates seasonally on weekends. The driveway entrance is at a curve in Martinsburg Road, located approximately 2000 feet from the intersection with White's Ferry Road. On the Calleva property, the driveway is to be expanded to provide a one-way loop access to the activity area for arriving buses.

There has been no joint maintenance agreement for the common driveway serving Calleva and other properties served by the roadway. With the proposed expansion of activities at the site, Calleva has agreed to maintain the driveway because it has the equipment to do so and because its use places a heavier burden on the roadway than the gun club or the residences served by the drive.

The petitioner will install a small directional sign at the driveway intersection of Martinsburg Road indicating the entrance for Calleva, the trap-shooting club and residences served by the road. Approximately 300 feet from the intersection with

Martinsburg Road, the main driveway proceeds northwards further into the Calleva property and the subsidiary driveway angles to the west. At that point, the Petitioner will install a small directional sign indicating the direction of the Calleva entrance.

Parking - Parking for up to 15 cars and 14 buses is to be provided in the two parking areas indicated on the submitted site plan. The main Calleva staff will park in the gravel area around the barn, where the staff office is located. Buses and counselor staff will park in the larger parking area near the entrance to the activities area.

Buses will arrive and circle around the driveway to the bus parking area, where they will circle and park positioned to leave without backing up. The Calleva buses will be stored on the site as noted below:

- (1) During the summer, no more than three buses will be parked on the grounds overnight. Designated staff would drive to the site in the morning to take the buses out for pickups. The rest of the vehicles are driven home by employee drivers, or are stored overnight at off-site locations.
- (2) During the "shoulder" seasons (April - June; September - October) and during the winter (November - March), all buses will be parked during the day and overnight on-site. Usually no more than five buses would be used each day for the shoulder month programs. The drivers will come to the site to get the buses when they are used. The buses are not used in the winter months.
- (3) When parked on the property, the buses will be parked in the graveled lot marked "Existing Unpaved Parking Areas" on the special exception site plan.
- (4) Any buses arriving from participating schools would also park in the designated bus parking area.

ANALYSIS

Master Plan

The Master Plan for the Preservation of Agricultural and Rural Open Space Master Plan is silent on special exceptions. The RDT Zone allows child day care facilities as a use permitted by special exception, and generally the biggest concern with day care facilities are noise and traffic. The staff believes that a child care facility offering this type of active use by children in this rural location would seem to be very compatible, particularly since the children arrive by bus, which limits traffic impact in the area. The use of rural open space for this type of low intensity, active use would seem to fit well with the intent of preserving open rural character.

Inherent and Non-Inherent Effects

Section 59-G-1.2.1 of the Zoning Ordinance (Standard for evaluation) provides that:

“A special exception must not be granted absent 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 the inherent effects, are a sufficient basis to deny a special exception.”

The inherent aspects of a day care or camp include various outdoor activities for children, occasional delivery of food and supplies, staff arrivals and departures, and buses transporting children. The inherent effects of these activities include noise from the children and vehicles. Staff believe that none of these inherent aspect will have any adverse effects on the neighborhood because the property is very large and the Calleva camp area is approximately 700 feet from the east property line, 900 feet from the south property line, and over 900 feet to the closest off-site home. The staff also concludes that there are no non-inherent adverse effects caused by the physical or operational characteristics of the camp on this site.

Traffic

Based on information submitted by the applicant, the Calleva operation would use a fleet of 14 buses as the primary means of transporting the students from the pick-up stations to the Calleva site and other off-site locations. While the statement of operation indicates that there would be a small number of students to be individually dropped off and picked up at the Darnestown Park “gathering site”, no children are to be dropped off at the Calleva site. From the information submitted, It appears that the total site-generated peak-hour trips would be less than 30 trips during the weekday morning (6:30 a.m. to 9:30 a.m.) and evening (4:00 p.m. to 7:00 p.m.) peak periods.

To ensure that the use does not exceed the threshold for Local Area Transportation Review, the staff recommends a condition of approval to specifically limit trips below the 30-trip in morning and evening threshold.

The staff finds that the existing entrance driveway from Martinsburg Road will be adequate to provide safe access to the site. Due to its location in this rural area no pedestrian facilities are anticipated or deemed necessary for this use.

Martinsburg Road is classified as an Exceptional Rustic Road with an 80' right-of-way. Rustic Road designation may not be used as cause to deny an otherwise allowed use, but it may be said that the limited additional traffic volume associated with the proposed

operation of the outdoor oriented child day care activities facility along the initial 2,000 feet of Martinsburg Road will not adversely impact its Exceptional Rustic Road classification.

Environmental

Forest Conservation - This application has an approved Natural Resource Inventory/Forest Stand Delineation (NRI/FSD, 4-04176). It indicates that there are 60.5 acres of existing forest, much of which is located within stream valley buffers. The forest is composed of primarily of mature hardwoods that are high priority for preservation.

A preliminary forest conservation plan has been approved for this site. The entire forest is to be preserved with a Category I conservation easement. No afforestation is required.

Although no forest will be disturbed as part of this application, the forest is an integral part of the use of this site. Scattered throughout the forest are elements of the adventure /team building program. This consists of ropes course elements, several mulched camp platforms, a meeting area, a tree-house and a network of trails connecting these features. In addition there is a seasonal event or "Haunted Forest" that takes place for several weeks each year within the forest (not an element of the special exception application). In order to ensure long-term protection of the forest, the applicant has modified the Category I Forest Conservation Easement to allow these uses to continue (See attachment). Elements of the new agreement include:

1. Limiting activity within the forest to the above-mentioned items.
2. Lining the trail and staging areas in order to define areas for foot traffic.
3. Stabilizing activity areas to prevent erosion.
4. Limiting the number of ropes-course items within the stream valley buffers and favoring the location of new or replacement items outside the buffers.
5. Stabilizing and reforesting activity areas if the associated item is relocated.
6. Protecting specimen trees.
7. Relocating activity areas in an environmentally sensitive way.

The attached language to be incorporated into the standard Category I conservation easement is being reviewed by legal staff. When this review is complete this agreement will be recorded for use with this property.

Water Quality

This property is located within the subwatersheds of two small tributaries flowing directly to the Potomac River. No data on stream water quality is available for this area, however the low impervious level and the high percentage of forest cover, particularly within the stream valleys suggest excellent habitat and water quality conditions within each subwatershed.

Stormwater Management

No site disturbance is indicated with this application therefore no stormwater management plan is required. However, there is an old existing logging road through the forest that crosses one of the streams. Although it has only occasional use, its configuration is such that it is in a continual state of erosion, causing significant sediment to flow directly into the stream, particularly after heavy rains. The applicant has agreed to repair this road to eliminate the erosion. This should be an element reviewed by the Department of Permitting Services at the time of subdivision.

Environmental Guidelines - The current impervious level for this site is less than 3% with no additional imperviousness proposed as part of this application. Stream buffer encroachment is limited to various elements of the above-mentioned features of the adventure/team-building program.

Noise - Based on the submitted information noise levels generated by this site should not measurably increase because of the proposed improvements.

Subdivision and Design Issues

When a building permit is requested for the activity buildings, subdivision review will be required as this is a commercial use.

Activities

The staff believes that the proposed recreational activities at Calleva are appropriate for a child oriented activity center in this rural location.

Zoning Requirements

Development Standards – The proposed use on this 165-acre property is allowed by special exception in the RDT Zone and it will meet all development standards for the zone.

Compliance with Specific and General Special Exception Provisions - The staff believes that the proposed use complies with the special exception requirements for the use.

A central issue that will be raised for a proposal of this nature is whether it fits within the definition of a Child Day Care Facility. Section 59-A-2.1 of the Zoning Ordinance defines this use as *“a dwelling or building in which child day care services are provided in accordance with all applicable state and county laws and regulations. For the purposes of this definition, a child is defined as a person whose age is 17 or under.”* And the specific definition of a child day care facility states that it is *“a dwelling where child daycare services are provided...”* or *“a building in which child day care services are provided for 13 or more children”*.

Certainly, technically, there is a building on the site where some activities will take place; and technically it is actually the responsibility of the Maryland Department of

Human Resources to determine whether a license for a Day Care Facility can be authorized for the Calleva programs.

But beyond the technical definitions, the staff believes that the proposed use more broadly falls under this definition based on earlier interpretations by the Board of Appeals in previous cases including Case S-2463 for Camp Bar-T Extension at Camp Wardeca, and Case S-2503 a summer day camp for Holton Arms School. Both of these were approved in 2002 under the provisions of 59-G-2.31.1 for a Child Day Care facility. The Bar-T Ranch Camp was originally approved in 1962 under the "Child Care Homes" use, but when reviewed and approved for a modification in 2002 as Case CBA-1202-A, it was reviewed under the succeeding category of "Child Day Care Facility."

With this legislative history, the staff believes the use complies with the definition for a child day care facility as legislatively interpreted by providing a seasonal child care facility and programmed activities. It functions much as a daycare held as an after-school or summer program at a (public or private) school. And it actually provides adjunct associated activities for a number of area public and private schools. The staff believes that there will be less impact from the proposed use in this rural location than in the residential areas where similar facilities are located. Also, the noise inherent from children in the midst of activities here will have less impact in this remote rural location (and perhaps the noise the children make will help keep deer away from surrounding cropland).

In addition, no conflict is anticipated between the operations of the Calleva operations and the occasional use of the trap-shooting club. The petitioner has had discussions with representatives of the gun club and determined that their activities typically take place on weekends, while Calleva activities are primarily held during weekdays. Further, the trap-shooting field is well-removed from the Calleva activities areas.

Citizen Concerns

The most extensive opposition to this use is from the Sugarloaf Citizens Association. To date no other notification of opposition has been received, although the staff anticipates that there will be additional speakers against the proposed use, as a different special exception on the property reviewed in 1997 (S-2277 for a commercial riding stable) had several speakers in opposition.

The nature of the opposition on the previous case related to the noise created by the use of the property for outdoor recreational activities by children, and the conflict between the proposed use – a commercial riding stable – and the actual use, a place for groups of children on horses to have an overnight trail ride experience.

The attorney for Sugarloaf sent an eleven-page letter outlining the nature of their opposition (attached). The nature of the opposition expressed in this letter is primarily based on philosophical legal issues rather than concern regarding the nature of the use. A brief summary of the elements of opposition expressed include:

1. The ability of the Board of Appeals to include a use of the nature proposed by Calleva as a day care facility.
2. The different state regulations governing a day care use and a youth camp use.
3. The history of other "day camp" types of uses authorized by the Board of Appeals under the "day care facility" use category.
4. The history of the denial of Special Exception petition S-2277.
5. The need for subdivision on the property.
6. The need for toilet facilities on the property.
7. The issue of overnight camping on the property.
8. The reliability of the traffic information submitted for the use.
9. The annual "Haunted Forest" seasonal use on the property.
10. The need for a text amendment to allow the proposed use if it can be approved by the County Council.

The staff respects the position of the opposition attorney, but the staff draws different basic philosophical conclusions from the background information and sources cited. In response to the major points extensively elucidated by the attorney for the Sugarloaf Citizens Association, the staff offers the following observations.

1. The letter correctly states that the task of defining whether this use can be approved as a day care facility is the task of the State Department of Human Resources (DHR), not the zoning ordinance. The proposed use must, as stated, meet all state and local requirements. The staff believes that if the DHR finds the proposed use qualifies as a day care facility, then it must be judged in the special exception petition on whether the nature of the day care facility as proposed in this location is appropriate. The staff does not think, as the letter implies, that it is the task of special exception review to make decisions for the State in matters that are the purview of the state. Thus, a condition of approval for this or any day care proposal is that it must have DHR approval of its license.
2. The letter states that the attorney "respectfully disagrees" with the Board of Appeals conclusions in the case of Bar-T, a day camp operating under the provisions for a day care facility. Yet the record of the Board of Appeals stands, and was not challenged, that under certain circumstances they have considered day "camp" uses under a broad interpretation of the day care facility use category.

The staff believes that this broad minded interpretation of the zoning regulations is useful and pragmatic, in that it considers the wider issue of the nature of caring for children, rather than the details of wording defining a "child care facility". The staff believes that the proposed use provides an excellent outdoor recreation oriented program providing all day care for children during the summer (as do other day care facilities), and adjunct school year programs and after school programs (as do other day care facilities).

3. The letter discusses the successful opposition in 1997 to the proposal for a commercial riding stable on this property. The staff agrees that the central legal issue in that case was the nature of a commercial riding stable vs. the nature of the proposed use on the property. In that instance the Planning Board did not support the proposed use because (as quoted from the Planning Board's recommendation of denial to the Board of Appeals) "*Applicants applying for special exceptions must apply for use categories that describe the predominant rather than the subordinate or ancillary use. In this case we believe camping is the predominant use...*".

The Circuit Court later reached substantially the same conclusion. The proposed use functioned primarily as a camping use, not as a commercial riding stables, as the horses were actually stabled elsewhere and brought to the site for trail rides.

Yet in this instance, the proposal is for childcare activities as the predominant use, not a subordinate use. The element of overnight "camping" is a subordinate use in this case.

4. The letter questions the ability to offer any sort of an overnight "camping" experience on the property due to the exclusion of "campgrounds" from the RDT Zone. That objection was also noted in the Planning Board's 1997 letter to the Board of Appeals.

The staff believes it will be useful to clarify the nature of the zoning ordinance discussion on the issue of "camping" in the Rural Density Transfer Zone, as there appears to be a degree of confusion about the actual wording. The use "camp" is not used in the zoning ordinance, it is the use "campground" that is not allowed in the RDT Zone, and is actually only allowed in the Rural Zone by Special Exception. In the zoning ordinance:

A "*campground*" is defined as "a lot, tract, or parcel of land upon which 2 or more *campsites* are located, established, or maintained and occupied by *camping units* for children or adults or both.

A "*campsite*" is defined as a "plot of ground within a *campground* intended for the exclusive occupation by a *camping unit* or units under the control of a camper."

And a "*camper unit*" is defined as a "tent or camping vehicle temporarily located on a campsite."

The staff believes that the intent of this language is to disallow a tent or recreational vehicle type of for-profit camping use, like "KOA" or similar uses. It is probably also intended to prevent overnight residential camps (youth camps), like Boy Scout or Girl Scout camps, church youth camps, or for-profit residential summer camps for children. The staff is not certain why the zoning ordinance specifically excluded this type of youth or child camp in the most rural areas of the county, but this clearly rural type of use is excluded in the Rural Density Transfer Zone.

However, the staff believes that this exclusion is for a campground that is the primary use of the property, not where occasional overnight experiences are an auxiliary element of an otherwise allowed use.

In the past the Board of Appeals has broadly interpreted the activity elements authorized for child day care facilities. As noted previously in this report, several day "camps" operate under special exception approval as "day care" facilities. Similarly, day care facility special exceptions have been approved for allowing overnight stays for children whose parents are unavoidably delayed by travel emergencies, or as a recreational element for their activities. Schools also have "sleepover" experiences as a part of their activities from time to time. Therefore, the staff believes that the proposed "overnight" experience that is occasionally a part of some Calleva programs does not fall within the intended ban on "campgrounds" in the zoning ordinance for the RDT Zone. This element is adjunct to the primary activity of building personal confidence and team working relationships in children through physical activities in the nurturing atmosphere of a rural setting.

Further, the ban on "campgrounds", if intended to fully reject recreational overnight experiences, is incompletely worded. "Camper units" are defined as "tents or camping vehicles" – but cabins are not included in the definition. Similarly camping without the use of a tent is not excluded. The type of "camper units" identified lend further weight to the logic that this campground ban was primarily intended for the large for-profit uses that bring in recreational vehicles and adult tent camping or extended stay overnight youth camps; not child or youth oriented rural recreational experiences with occasional overnights as part of a broader program of activities during the spring and fall.

5. The letter states that the use should have to go through subdivision since new structures are planned for the property. The staff agrees, and that is a condition for approval of the use.
6. The letter states concern with the proposed toilet facilities for the use. The staff again believes that it is responsibility of a different agency - the Department of

Permitting Services, Well and Septic Division, to determine the adequacy of the proposed toilet facilities for the proposed use. That is not a function of the special exception process. Again, the conditions of approval require compliance with those separately regulated requirements.

7. The letter disputes the traffic statement of the petitioner. The staff stands by its conclusion that the use as proposed will not exceed LATR requirements, and the staff has included a condition that limits the use to the 30-trip peak hour maximum. The staff also notes that the letter refers to the operations generating "*far more than thirty vehicle trips per day*", so a traffic study is needed. This is not correct, as the standard is thirty vehicle trips per hour.
8. The letter discusses traffic issues related to the "Haunted Forest" event. As noted in this report, this use is permitted separately by the county and is not a part of the special exception petition.
9. The letter propounds that the proposed use would be the "*largest employer and generator of traffic in the entire area, with the possible exception of the industrial use of the Mirant generating Station and Montgomery County's Resource Recovery Facility*".

First, the staff believes that White's Ferry, a bit further down White's Ferry Road, is probably a larger traffic generator. And the staff tends to believe that seasonal employees, most of whom arrive on buses and may or may not be going to the Calleva site; are not in the nature of full time employees who drive to and from work daily. The proposed use would only have 4-5 full time year-round employees, one of whom will live on the property. Many of the "employees" are seasonal teenage counselors in their first "summer job" and many of those are going on the buses to the off-site activities, not the Calleva Farm site.

10. The letter concludes, actually almost acknowledges, that this type of use should be allowed in one or more zones in the county; but concludes with the writer's belief that this can only be done through a zoning text amendment clearly allowing the use. The staff acknowledges that this would be a "cleaner" resolution of the issue, and the staff would certainly recommend support for such a text amendment to specifically allow for this type of use that the staff believes to be entirely appropriate for and supportive of the Agricultural Reserve.

Yet the staff believes, for the reasons stated, that the use can and should be approved under the current regulations – if it obtains the necessary authorizations and licenses from the Maryland Department of Human Resources and the Well and Septic Division of the Department of Permitting Services.

Conclusions

The staff believes that the Calleva proposal meets both the letter and spirit of the criteria for the use in the zone and the spirit of the intended uses for the Agricultural Reserve in the Master Plan. It is a low impact use, that keeps the land open and available for agriculture, and it provides open space by its nature. Approval of the use is recommended with the conditions noted at the beginning of this report.

The staff believes that the broad interpretation of the "day care facility" use that has been used in the past by the Board would be appropriate at this location. If the state authorizes a day care facility license, and the county approves the proposed septic facilities – the staff believes that the type of activities proposed would be entirely appropriate in this location. The staff believes that the element of "overnight" stays is an auxiliary function of the primary childcare, child activities functions, and is not excluded by the ban on "campgrounds" as defined in the zoning ordinance.

However, for this use to operate, it must obtain permits from state and county agencies for vital, crucial, defining elements of its operation – whether it is a day care facility and whether it provides adequate toilet facilities for the children who are there. While the type of uses proposed instinctively seem appropriate in this rural location; the nature of the operations are not "standard" for the use category requested. Since these elements – obtaining a day care license and obtaining approval of septic treatment facilities for the proposed uses - are very critical to the use, in this particular instance the Board may wish to consider deferring consideration of the merits of the use at this location until those permits have been obtained. If these issues were resolved before considering the merits of the particular child care facility at this location, the majority of the issues raised by the opposition would be resolved one way or another. This could ultimately save all parties a lot of time that might be spent on speculation regarding the decisions of these agencies that have the authority to determine what can be a "childcare facility" and what toilet facilities are appropriate and required.

The staff also welcomes the opportunity for the Board to consider the difference between a ban on "campgrounds" as defined in the Zoning Ordinance; and the ability to occasionally "campout" as an auxiliary occasional activity related to child oriented recreational activities.

Attachments