

09/07/06

MEMORANDUM: SPECIAL EXCEPTION

DATE: August 21, 2006

TO: Montgomery County Planning Board

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

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

RE: Taiwan Culture Center, Inc.; Tai L. Huang, Chairman and
President

SUBJECT: Special Exception Petition No. S-2668 for the operation of a
Community-Based Service Organization located at 7509
Needwood Road, Derwood, MD 20885

FILING DATE: March 31, 2005
ZONE: R-200
MASTER PLAN: Upper Rock Creek Area Master Plan
PUBLIC HEARING: September 15, 2006

RECOMMENDATION

I. APPROVAL with conditions:

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

3. Screen the driveway entrance with a fence at a minimum height of 6 feet along the eastern side of the lot to screen the proposed driveway entrance from the adjacent property.
4. Install a turnaround area for vehicles parked in the last spaces of the parking facility.
5. Relocate the proposed storm drain onto the subject property so that it is not longer within a forest conservation easement on an adjacent property.
6. The petitioner to limit the use to 20 people maximum on site at any point in time.
7. The petitioner to limit the use to two (2) volunteer employees on site at any point in time.
8. Regular weekday activities are limited to the hours between 10:00 a.m. and 3:00 p.m. Monday through Friday.
9. Special Activities are limited as follows:
 - a. Weekday movies limited to one day per week. In the summer June-August, movies shall end before 8:00 p.m. At other times of the year, the movies shall end before 3:30 p.m. (before the peak hours of traffic).
 - b. Saturday Seminar functions limited to the hours between 2:00 p.m. and 5:30 p.m.
 - c. Sunday Seminar functions limited to the hours between 1:00 p.m. and 5:00 p.m.
 - d. Open House functions to be limited to one (1) Saturday in January limited to the hours between 10:00 a.m. to 2:00 p.m., and one (1) Saturday in August limited to the hours between 2:00 p.m. to 6:00 p.m.
10. Automobile parking – Limit all functions to automobiles, light trucks or vans to be parked on site only (no on-street parking allowed for the special exception use). All parking must be in the parking spaces shown on the certified development plan.

- II. **APPROVAL of the waiver request for proposed parking facility side-yard setback.**
- III. **DENIAL of the waiver request for proposed side yard screening of the proposed parking facility. (See condition No. 3) The applicant has agreed to install a 6-foot high fence to screen the driveway from the adjacent property.**

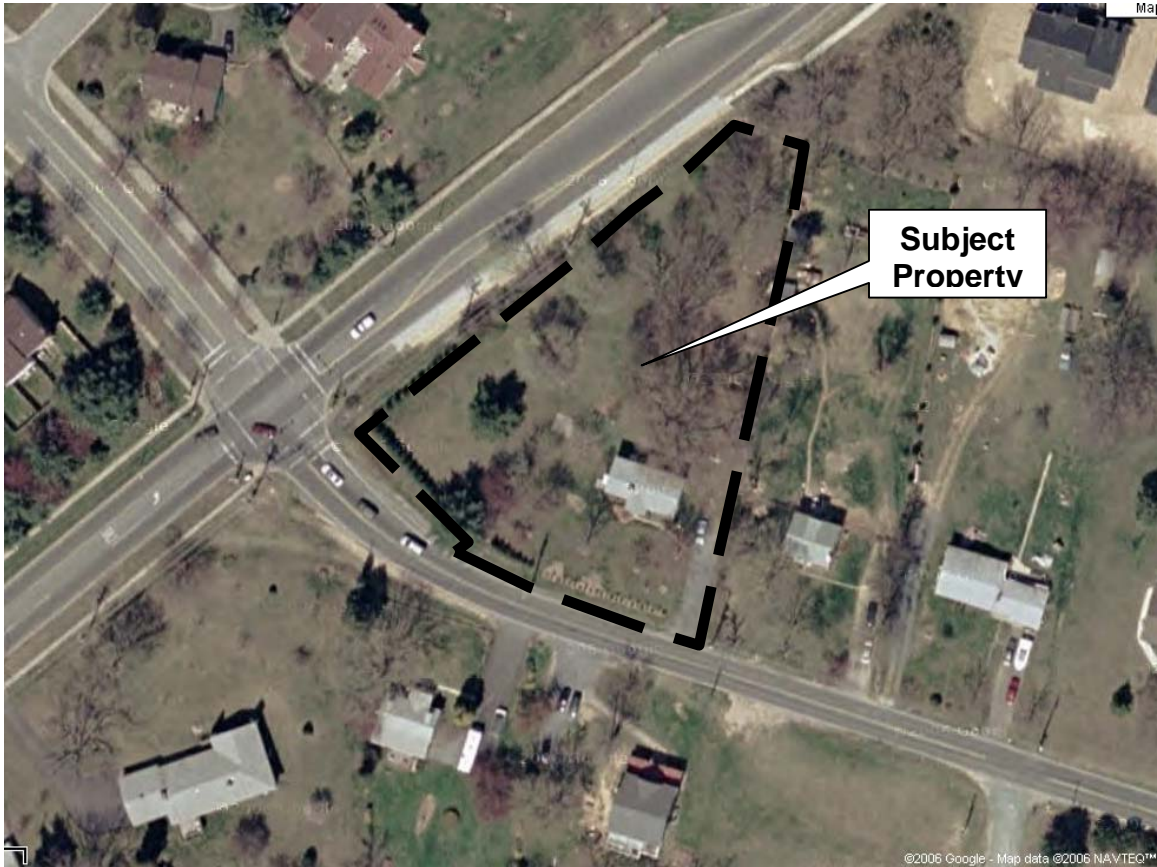
PROJECT SUMMARY

The petitioner requests approval for a Community Based Service Organization special exception. The property is located at 7509 Needwood Road, Derwood, MD 20885, and it is zoned R-200. The application does not contain any new building construction.

Taiwan Culture Center, Inc.

Taiwan Culture Center, Inc promotes international cultural exchange and cultural, educational, and charitable affairs involving Taiwanese Americans and others. The Center has existed without County approval since January 10, 2004. The Center's proposed activities on the property include regular weekday hours of operation between the hours of 10:00 a.m. and 3:00 p.m. Monday through Friday. There will be up to two (2) volunteers on site at any one time to monitor the Center's library materials. The volunteers may also prepare specialty meals in the kitchen. The petitioner will limit the use to 20 people maximum on site at any point in time. Computers are on site for the use of visitors, and there are only a few other regularly planned activities at the Center. Panel and guest speakers and visitors come to the Center, and occasionally, a small-scale "get together" will occur during regular hours of operation. There will be weekday movie showings limited to one day per week. In the summer June-August, movies shall end before 8:00 p.m. At other times of the year, the movies shall end before 3:30 p.m. (before the peak hours of traffic). The Center will also host small seminars, on Saturdays and Sundays, and there will be two (2) weekend open house functions per year.

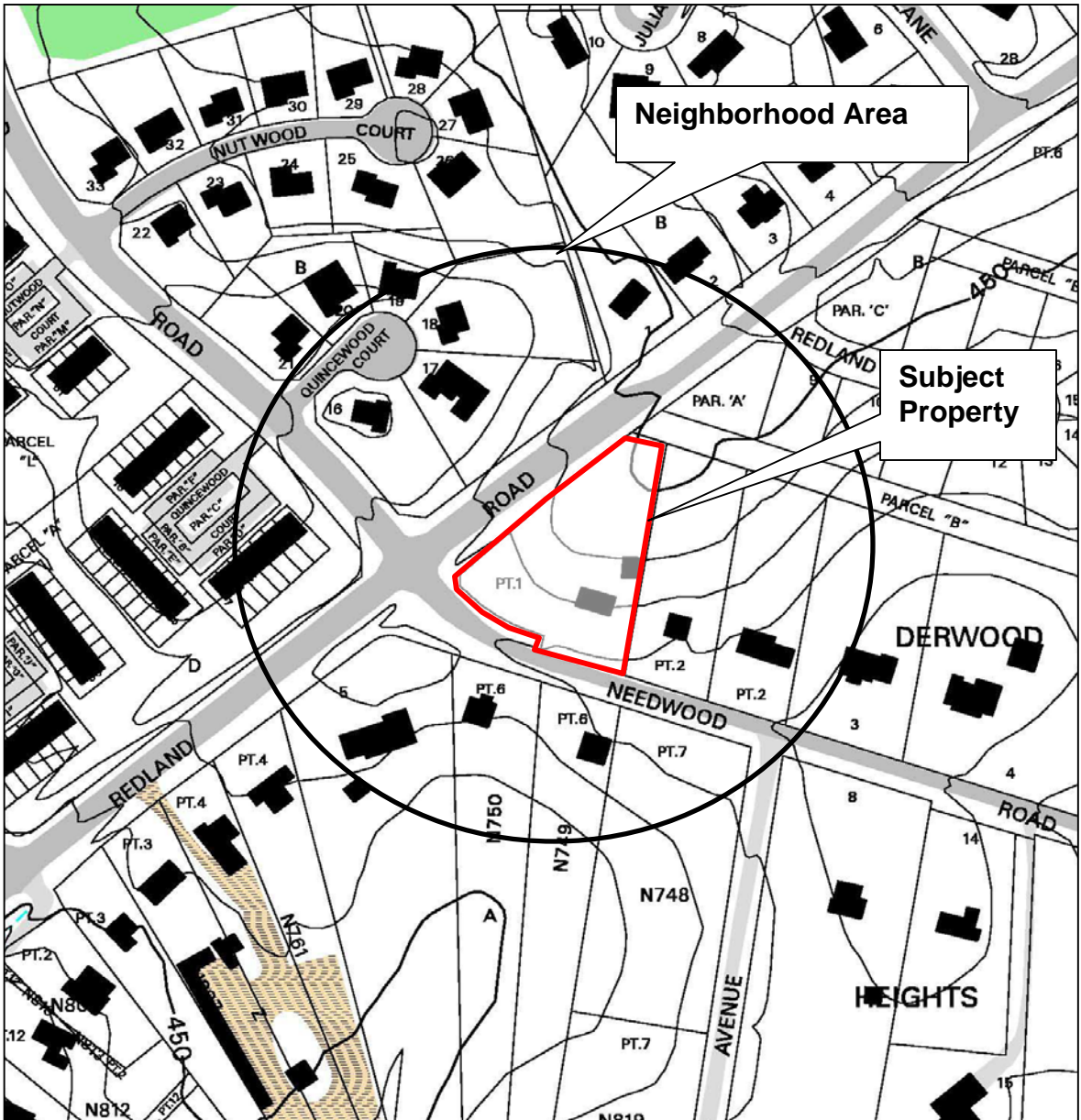
Figure 1. Subject Property



Property Description

The subject property consists of approximately 1.46 acres and is identified as P1, Block B, Derwood Heights Subdivision. It is located at 7509 Needwood Road and is situated at the corner of Needwood Road and Redland Road. The Property is improved with a small one-story structure containing approximately 1,098 square feet, and a sixteen-space parking facility. The property is completely surrounded by landscaping, internal to the site. There are other large trees on the property. The topography of the property is such that it slopes downward approximately 15 feet from Needwood Road towards the northeast corner of the property (the location of the existing sixteen-space parking facility). The sixteen-space parking facility is accessed via a driveway located at the southeast corner of the subject property. The driveway is 43 feet wide at the entrance and narrows down to a 22-foot wide driveway approaching the sixteen-space parking facility. The sixteen-space parking facility is not easily visible from Needwood Road. A second small parking area exists in front of the home. The petitioner proposes to use this small area as a location for two van-accessible parking spaces for persons with disabilities.

Map 2. Neighborhood Area Map



ELEMENTS OF THE PROPOSAL

Proposed Modification to the Service Organization Special Exception

Through the proposed Service Organization Special Exception, the Taiwan Culture Center seeks approval and express authorization of their establishment. The proposal is designed to keep the building and grounds of the subject property as they exist, while providing culture center functions. The Center houses a library,

ADDITIONAL REVIEW REQUIREMENTS

No construction or disturbance to the property is proposed, therefore, in my opinion no other reviews are needed before the application can be forwarded to the Hearing Examiner's office. Environmental Planning staff has approved the forest conservation exemption request sought by the applicant because the special exception application will not result in any clearing of existing forest or trees. The property has a stormwater management waiver from MCDPS.

COMMUNITY ISSUES

Planning staff has not received any letters raising concerns from neighborhood residents.

ANALYSIS

Master Plan (Source: Community Based Planning Division)

This portion of Derwood is in the Upper Rock Creek Planning Area and is in the area covered by the 2004 Upper Rock Creek Area Master Plan. The Plan makes no specific recommendations for the Center's property or for this portion of the planning area. The low intensity uses proposed for the Center, which include occasional seminars and open houses as well as monthly movie screenings for this special exception, are in keeping with a primary objective of the Master Plan: maintaining the residential wedge character of this portion of Montgomery County. Use of an existing structure with limited external alteration contributes as well to retaining existing residential character.

Development Standards

The proposed use meets the Development Standards for the R-200 Zone and Section 59-G-2.42. The following table summarizes the Property development standards for the proposed use and development:

Table 1. Comparison of Development Standards; R-200 Zone and Section 59-G-2.42 Private Clubs and Service Organizations

Item	Required/ Allowed	Provided
<u>Minimum Lot Area</u> (Twice the minimum required in the zone (20,000 sq. ft.) per Section 59-G-2.42)	40,000 sq. ft.	63,597 sq. ft. (1.46 acres)
<u>Minimum Yard Requirements for Main Building</u> <u>Section 59-C-1.6</u> Street- Needwood Road Redland Road Side- Rear-	25 ft. 25 ft. 20 ft. 20 ft.	69 ft. 157 ft. 36 ft. Approximately 240 ft.
<u>Maximum Building Height</u> Section 59-C-1.6	35 ft.	One story (less than 35 ft.)
<u>Maximum Building Coverage</u> (15% up to a maximum building coverage, including accessory buildings, of 20,000 sq. ft. per Section 59-G-2.42 (b))	15%	1.72 %
<u>Minimum Green Area</u> (Per Section 59-G-2.42(c))	50% (31,799 sq. ft.)	81% (51,513 sq. ft.)
<u>Minimum Frontage on Needwood Road</u> (Twice the minimum 100 ft. required per Section 59-G-2.42 (d))	200 ft.	More than 300 ft.

Transportation

Transportation planning staff supports approval of this petition. A traffic study is not required to satisfy Local Area Transportation Review because the proposed special exception use generates fewer than 30 peak-hour vehicular trips within the weekday morning and evening peak periods. (Source: Transportation Planning memo - ATTACHED).

Parking and Loading

The applicant proposes to improve the existing parking facility. The result is a sixteen space parking facility that is more than adequate for their entire proposal. The parking facility will be screened and shaded.

Table 2. Parking Facility Standards

Item	Required by the Zoning Ordinance	Proposed for Approval
Yard Requirements for Parking and Loading Facility Front <i>Needwood Road</i> <i>Redland Road</i> Rear- Side-	<i>Applicable front and rear yard requirements of the Zone and twice the side yard requirement of the Zone</i> 25ft. 25 ft. 20 ft. 40 ft. (<u>2 x 20'</u>)	Approximately 300 ft. Approximately 45 ft. 50 ft. *3 ft.
Screening & Shading Section 59-E-2.83	6 ft. high	0 ft. ** Facility is shaded by trees
<u>Parking</u> (2.5 spaces per 1000 g.f.a. per Section 59-G-2.42(e))	2 spaces	16 spaces plus two van accessible spaces for a total of 18 spaces (parking spaces already exist)

*Staff notes that the required parking facility side setback is not met by the proposal. Special exception uses in residential zones are required to provide for each parking and loading facility, including each exit and entrance driveway, a setback at a distance not less than the applicable building front and rear yard and twice the building side yard required in the zone. The petitioner has not proposed

to move the existing parking facility to meet the required side setback. Given that this is an existing driveway that is not currently causing objections from the neighbors, staff believes that there is no need to enforce the required side yard setback for the parking facility.

******Staff notes that the property is screened on three sides internally. But along the eastern property boundary the screening is provided by plants and trees that are located on the adjacent property. The applicant has requested a waiver of the screening requirement on the eastern property boundary for the driveway. The area in question has few plants within it. Staff believes that there is a need to provide additional screening on the east side of the driveway and entrance. The applicant will provide this screening with a board on board 6-foot high fence. Vegetation would be difficult to provide in the narrow strip of green space.

The proposed parking meets most, but not all, of the parking facilities plan objectives of Section 59-E-4.2. Staff recommends that the applicant install a fence to screen the driveway from the property to the east of the subject property:

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

A parking facility plan shall accomplish the following objectives:

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

The adjacent property to the east is not reasonably protected from automobile glare, automobile lights, and automobile fumes. The applicant can achieve effective screening if they plant vegetation or install a fence of at least 6-feet in height along the east side of the driveway leading to the parking facility.

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

Pedestrians and motorists will be able to safely maneuver onto the site. Parking spaces will be improved to provide safe and efficient

loading areas. The applicant should install a turn around area at the end of the parking facility to ensure safety of motorists.

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

The objective will be met by allowing vehicles to enter the site only from Needwood Road at the present driveway location.

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

Exterior residential lighting will be provided on the building that will be residential in appearance.

Environmental Analysis

The applicant has been granted an exemption for Forest Conservation Requirements of Chapter 22A. The topography of the Property is such that it slopes downward from Needwood Road towards the northeast towards the existing parking facility.

Compatibility

Visual and noise impacts from the use will be minimal due to the existing trees and plants and the recommended 6-foot high fence that would effectively screen the driveway. The proposal will be in harmony with the general character of the neighborhood considering population density, design, scale, bulk of any new structures, intensity and character of activity, traffic and parking conditions, and number of similar uses (Note: part of the General Conditions). The height and bulk of the proposed structures, and the manner in which they are situated, will be compatible with adjacent properties and uses. The building is a single-story residential structure. No changes to the structure are proposed, and the applicant will limit the use to the maximum occupancy of the building. Very little of the structure will be visible from the adjacent properties or the road because the existing plants and trees that surround the property will effectively screen the use.

The parking structure has existed without neighborhood complaints about its use. The applicant is not proposing any increase in the size of the parking facility, but improving the existing facility with striping to better manage parking operations. The intensity of use is not increasing in the parking facility.

Inherent and Non-inherent Effects

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

“Inherent adverse effects are the physical and operational characteristics necessarily associated with the particular use, regardless of its physical size or scale of operations. Inherent adverse effects alone are not a sufficient basis for denial of a special exception.”

“Non-inherent adverse effects are physical and operational characteristics not necessarily associated with the particular use, or adverse effects created by unusual characteristics of the site. Non-inherent adverse effects, alone or in conjunction with inherent adverse effects, are a sufficient basis to deny a special exception.”

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

No additions are proposed to the building. The proposed lighting is residential in style. It is attached to the building and consistent with lighting on adjacent residences. To date, the use has not generated any complaints from adjacent uses. Given the topographical conditions and tree screening, lighting and noise from the building will not impact adjoining properties.

The parking facility is located at the rear of the property, and because of the topography and location, its impact on nearby residential streets is limited. The driveway should be screened in order for the use to not have inherent adverse effects on the adjacent property to the southeast. As for any non-inherent adverse effects, staff concludes that there are no non-inherent adverse effects associated with this application that warrant denial.

Compliance with the 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 subject proposed use is allowed by 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 use does comply with all of the specific standards and requirements for a Community Based Service Organization pursuant to Section 59-G-2.19 of the zoning ordinance.

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

The Plan recommends R-200 zoning for the Property, and a Community Based Service Organization is allowed by special exception in the zone. The proposed use is consistent with the land use and zoning recommendations in the adopted Upper Rock Creek Area Master Plan.

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

The surrounding neighborhood is predominantly residential in character. The requested special exception use is within the existing building, and the intensity and character of the use will be in harmony with the general character of the neighborhood. This use has existed without causing objectionable characteristics. The applicant should install six-foot high screening along the driveway in order to ensure that the traffic will not cause objectionable fumes, noise, or light to spill onto adjacent property.

Parking will be consistent with the design, density, size, scale and scope of the existing improvements on the subject property. The manner in which the building is situated is similar to the existing improvements and adjacent structures and uses. The site is well landscaped. Vegetation and recommended fencing will screen light and noise from adjoining properties.

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

The proposed use will not be detrimental to other property in the general neighborhood and will not adversely effect the peaceful enjoyment, character or future development of the general neighborhood.

- (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.

Based on the description of Taiwan Culture Center activities, the proposed use will not have objectionable characteristics. The proposed primary use will be limited to the indoors, and

the proposal will limit parking to the parking facility and the van-accessible spaces. The parking facility is located at the rear of the property, and because of the topography and location, its impact on nearby residential streets is limited. The driveway should be screened in order for the use to not have objectionable effects on the adjacent property. Because of topography and vegetation, including large trees and landscaping, the use will not be readily visible from adjoining properties. The proposed lighting will not impact adjoining properties. This observation is from the plan submitted by the petitioner.

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

The application does not create an excessive concentration of special exceptions or other non-residential land uses in the neighboring one-family residential area. There are other special exceptions in the area (mostly accessory apartments). The addition of this proposal will not effect the area adversely.

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

The use has operated without causing these effects.

- (9) Will be served by adequate public services and facilities including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage and other public facilities.

The Property is served by public services.

- (i) If the special exception use requires approval of a preliminary plan of subdivision the adequacy of public

facilities must be determined by the Planning Board at the time of subdivision review. In that case, subdivision approval must be included as a condition of the special exception. If the special exception does not require approval of a preliminary plan of subdivision, the Board of Appeals must determine the adequacy of public facilities when the special exception is considered. The adequacy of public facilities review must include the Local Area Transportation Review and the Policy Area Transportation Review, as required in the applicable Annual Growth Policy.

The applicant is not required to analyze the impact of site-generated traffic on adjacent intersections.

- (ii) With regard to findings relating to public roads, the Board, the Hearing Examiner, or the District Council, as the case may be, must further determine that the proposal will not reduce the safety of vehicular or pedestrian traffic.

The applicant proposes no changes to the site that would remove sidewalks or impede vehicular traffic.

Compliance with the Specific Conditions of the Special Exception

Sec. 59-G-2.42. Private clubs and service organization.

A private club or service organization, including a community building, must meet the following standards:

- (a) Lot size: Twice the minimum required in the zone, up to a maximum of 3 acres.

The applicant has 63,597 sq. ft. of lot area, which is more than twice the minimum allowed (40,000 sq. ft.)(See Table 1).

- (b) Maximum building coverage: 15% up to a maximum building coverage, including accessory buildings, of 20,000 square feet.

The applicant is providing a maximum building coverage of 1.72 percent, which is under the 15 percent maximum building coverage allowed. (See Table 1).

(c) Green area: 50%

The applicant is providing 81 percent green area, which is more than the minimum green are requirement (See Table 1.).

(d) Frontage: Twice the minimum required in the zone.

The applicant is providing more than the minimum required frontage (See Table 1.)

(e) Parking: 2.5 spaces per each 1,000 square feet of floor area.

The applicant is providing 16 parking spaces, which is more than the minimum required (See Table 2.).

(Legislative History: Ord. No. 12-1, § 1; Ord. No. 14-47, § 1.)

CONCLUSION

Upon review of the applicant's petition for a Community Based Service Organization Special Exception in the R-200 Zone, staff recommends approval. The proposed use, as conditioned, will be in harmony with the general character of the neighborhood, considering population density, design, scale and bulk of any new structures, intensity and character of activity, traffic and parking conditions, and number of similar uses (Note: part of the General Conditions).

Attachments:

Special Exception Development Plan	Attachment 1
Photographs	Attachment 2
Environmental Planning Memo	Attachment 3
Community Base Planning Memo	Attachment 4
Transportation Planning Memo	Attachment 5