



MONTGOMERY COUNTY PLANNING DEPARTMENT
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB
10/13/08
Item #

MEMORANDUM

DATE: September 26, 2008

TO: Montgomery County Planning Board

VIA: Rose Krasnow, Chief, Development Review Division *RK*
Ralph Wilson, Zoning Supervisor *RW*

FROM: Carlton W. Gilbert, Planner Coordinator *CWG*
(301) 495-4576

SUBJECT: **Special Exception Modification No. CBA-2684-C: German School**, applicant, - request a special exception modification to an existing private educational institution; RE-2 Zone.

MASTER PLAN: 2002 Adopted and Approved Potomac Subregion Master Plan

FILING DATE: May 23, 2008

PUBLIC HEARING: October 20, 2008

STAFF RECOMMENDATION: APPROVAL with the following conditions:

1. All evidence, testimony and exhibits of record are binding on the petitioner;
2. School operations, including the summer school program, are limited to 650 students and 102 employees.
3. The total enrollment of the summer program is limited to 450 students, ages 3 to 15 years and 50 employees.
4. The school must implement a traffic management program as described in the submitted Transportation Management Plan (TMP)

SUMMARY OF APPLICATION

Site Size and Location:	The property's address is 8617 Chateau Drive, Potomac, Maryland. The site is 16.93 acres and is generally bounded by Democracy Boulevard to the north, Cabin John Creek to the east, Bradley Boulevard to the south, and River Road to the west. The area surrounding the subject site contains a vacant parcel, single-family residential homes, and a private educational institution and church (Our Lady of Mercy).
Zone and Use:	The site is zoned RE-2 and a private educational institution (German School) is currently operating under a special exception that was granted in 1969 (Case No. 2684).
Proposed Use:	The applicant is seeking approval of several modifications to the existing special exception for the private educational facility to include a new science and classroom building and other physical changes to the campus as discussed in the project summary below. In addition, the applicant is seeking certain modifications to the operational schedule, including the introduction of a summer program. The applicant is not requesting an increase in its enrollment limit established under the existing special exception.
Master Plan Consistency:	The project is consistent with the goals and objectives of the 2002 Potomac Subregion Master Plan.
Traffic Impact:	The project will not have any substantial impact on traffic in the area.
Further Action on Application:	The proposal will require approval by the Board of Appeals.

Project Summary

Special Exception application CBA-2684-C is a request by the German School of Washington D.C. to modify the existing special exception to permit: (1) relocation of the existing multi-purpose activity court to the north side of the site; (2) construction of a new science and classroom building on the site of the current multi-purpose court; (3) additional lights on the side of the new building and light bollards around the new building; (4) additional landscape materials; (5) a new entrance sign; (6) replacement of

existing security gates at each entrance drive; (7) a new prefabricated playhouse; (8) additional windows in the elementary school building west side; and (9) operation of a summer school program. The school is not requesting an increase in the 650 student enrollment limit established under the existing special exception.

The applicant currently operates a private educational institution on the site that consists of 16.93 acres of land known as Parcel A, part of Block 1, in the Kendale subdivision. The subject property is located in the RE-2 Zone and is accessed from Chateau Drive. Chateau Drive is off Kentsdale Drive, which intersects with Bradley Boulevard approximately 1,200 feet to the south.

The existing school operates from late August to June each year and the hours of operation are from 8:15 a.m. to 4:45 p.m., Monday through Friday. School operations include after school and weekend activities. School operations are limited to 650 students, including enrollment in the summer program, and 102 employees. The applicant is not requesting an increase in enrollment or number of employees, established under the existing special exception.

With the recommended conditions, the proposed modifications to the German School satisfy all applicable special exception requirements and regulations as specified in the Montgomery County Zoning Ordinance. The applicant, in this case, has met the burden of proof by demonstrating that the proposed modifications would be operated without any detriment to the neighborhood and would not be adverse to the public interest. The proposed use is consistent with the recommendations of the 2002 Potomac Subregion Master Plan

Neighborhood Description

The neighborhood within which the subject property is located is generally bounded by Democracy Boulevard to the north, Cabin John Creek to the east, Bradley Boulevard to the south and River Road to the west. The area surrounding the property includes an undeveloped 10-acre public school property that is owned by the Board of Education. The properties to the south and west of the school and along Chateau Drive are in the RE-2 zone and contain single-family detached houses. The area east of the property is zoned R-200 and contains single-family detached homes. Our Lady of Mercy Catholic School and Church are located southeast of the subject property near the intersection of Kentsdale Drive and Bradley Boulevard.

Zoning History

The German School is currently operating under a special exception that was originally granted in 1969. The school moved into the school buildings in 1975 and began operations. The maximum number of students permitted on the premises of the school at any one time is 650 according to the existing special exception. The Board of Appeals (BOA) granted a modification to the special exception in April 1992 (CBA 2684-A), and on April 22, 1994 (Case No. CBA-2684-B). In 1994, the BOA approved a

special exception modification request to permit the redesign of the building and other facilities initially approved by the BOA in 1992, including a bus bay, a 14-space parking lot and a gymnasium, to accomplish the consolidation of the kindergarten, elementary school, and high school. To date, the special exception, as modified, is operated by the German School Washington, D.C.

PROPOSED MODIFICATIONS

New science and classroom building

The school proposes to construct a new science and classroom building to facilitate modern teaching techniques. As shown on the attached site plan, the proposed new building will be located on the existing multi-purpose activity court. The L-shaped building consists of two stories and would be screened from view from neighboring properties. The proposed building would not exceed 35 feet in height and would be setback approximately 112 feet from the adjoining vacant lot to the north and approximately 340 feet from the adjoining lots (single-family detached homes) to the east. Existing knolls, berms, and trees would shield the view of the new building from the north and from the east. The topography of the remainder of the school site would shield the view of the new building from the south, and the existing main school building would shield the view of the new building from the west. According to the applicant, there would be lights on the side of the new building and light bollards around the new building. These lights, however, would not be readily visible from neighboring properties because the building would be shielded from view.

Construction of the new science and classroom building will require a relocation of the existing multi-purpose activity court. The reconfigured multi-purpose activity court would be located on the north side of the site, approximately 350 feet away from the closest residential uses to the east and approximately 42 feet from the vacant lot to the north.

New Entrance Sign and Security Gates

The school proposes to install a new entrance sign and new security gates. The school currently does not have an entrance sign along its driveways to identify the location of the school for users of the facility. The school proposes to install an entrance sign at its upper driveway entrance on Chateau Drive. The new sign would be a ground mounted entrance sign with a brick base that would measure approximately 36 square feet in area and be approximately 4 feet in height. Additionally, the applicant proposes to install new security gates at both the upper and lower driveway entrances.

Playground Features

The school proposes to install a wooden playhouse to the south of the new science building as shown on the attached site plan. The playhouse would measure approximately 12 feet by 24 feet and approximately 15 feet high. The new playhouse would be located approximately 413 feet from the nearest residential property.

According to the applicant, the existing elementary school building lacks a sufficient number of windows on the west side of its lower level to satisfy requirements imposed by German regulations applicable to educational institutions. The school proposes to install new windows on the west side of the existing building.

Operational Schedule

The school proposes to modify its operational schedule, including the introduction of a summer school program. Enrollment for the summer program would not exceed 450 students. Thus, the summer program would operate well below the enrollment limit established under the existing special exception (650 students).

As previously noted, the original special exception was granted in 1969. Since that time, however, operations have evolved and staff finds that the Board of Appeals original grant did not cover all aspects of the school's operations. Accordingly, the applicant provided a detailed description of the school's current operations in the application to cover the evolutionary changes. Attached is a chart summarizing the school's operations for the 2007/2008 school year.

In reviewing the chart, staff finds that the school presently operates regular classes from late August through approximately the third week of June. Classes currently begin at 8:10 a.m., Monday through Friday. Currently, classes end at either 12:35 p.m. or 3:05 p.m. for students up to and including grade nine and end at 4:45 p.m. for grades ten through thirteen. There is a small aftercare program until approximately 4:45 p.m. for children in nursery school through 4th grade. 5th through 9th graders may engage in extracurricular activities until around 4:45 p.m. 10th through 13th graders may remain on campus for extracurricular activities until as late as 6:00 p.m.

Currently, approximately 250 students arrive at the school in eight school buses. Students in the top two grade levels are permitted to drive to school. Presently, approximately 35 students drive to the school and the remaining students are transported in carpools or by their parents, guardians, or other students. Approximately 80 staff members drive to the school. However, several staff members are not on the campus every day and others arrive at varying times and are on the site for only part of the day.

In addition to classes, the school includes evening and weekend student activities that consist of meetings, classes, theater, music and art productions. Furthermore, the school hosts a limited number of athletic competitions with other schools that may take place 2 or 3 times per week.

According to the applicant, the faculty and support personnel vary from year to year. There are a total of 102 staff members. Based on the chart, there are 71 teachers, 2 librarians, 9 office staff, 4 maintenance staff, 6 cleaning staff, and 10 bus drivers. Several of the teachers teach only one or two classes per week and, therefore, are not

on the site every day or at the same time. The highest number of employees present at the school at any given time is 60.

Summer Program

The school proposes to operate a summer school program that would include the following activities: German language courses; sports activities; music, dance, art, science, creative writing, journalism, and other academic programs. Enrollment for the summer program would include up to 450 students, aged three to fifteen years, with a maximum of 50 faculty/staff members. The summer program would be conducted for approximately six weeks in the summer, from 8:00 a.m. to 3:00 p.m., with aftercare available until approximately 5:00 p.m.

ANALYSIS

Master Plan

The site for this special exception is covered by the Approved and Adopted Potomac Subregion Master Plan, dated 2002.

The Potomac area, in general, consists of primarily older, well-established residential communities, with minor and regional commercial activities. The surrounding neighborhood is a well-established single-family community with educational and religious institutions within the Potomac Subregion Area.

Staff believes that the proposed modifications are compatible with surrounding uses and consistent with the recommendations of the Potomac Subregion Master Plan.

Transportation

Transportation Planning staff recommends the following transportation requirements as conditions for approval of this application:

1. The student enrollment of the summer program proposed under the special exception application CBA-2684-C should be limited to 450.
2. The School implements a comprehensive traffic management program as described in the submitted Transportation Management Plan (TMP)

The School is not subject to the Local Area Transportation Review or Policy Area Transportation Review, since the School is not increasing the student enrollment or the number of faculty/employees. The traffic associated with the proposed summer program would be less than the traffic impacts of the daily operations of the school during the typical school year. There is no change to the existing access points and the internal traffic circulation.

The German School submitted a TMP as a part of the subject special exception application to promote safe and efficient transportation operations on the School campus and adjacent public streets. The TMP is also designed to reduce the School's transportation impacts on the campus and adjacent neighborhood. The TMP includes transportation management elements to manage the flow of traffic at the School's points of access and to ensure that queuing and circulation of vehicles on campus is conducted in an organized and efficient manner that supports the School's operations.

The TMP describes a comprehensive traffic management program which includes designation of a staff person as School Transportation Coordinator who will implement the traffic management elements associated with carpooling, bus transportation, parking enforcement, and vehicle limitations.

Staff has reviewed the TMP and finds that the proposed traffic management elements are reasonable to handle the projected school traffic associated with operation of the School's daily programs during the school year and the proposed summer program in a safe and efficient manner.

Environment

The Environmental Staff recommends approval of the special exception for the German School. The school property is subject to a previously approved final forest conservation plan. The forest conservation plan was originally approved on May 14, 1997 and amended in May 2008. On May 12, 2008, Environmental Planning staff approved an amendment to the approved plan to address restoration of existing Category I Easement areas, which had been subjected to a number of encroachments.

The revised plan includes restoration plantings of 32 trees and over 300 native ferns. Additionally, the plan provides a permanent split-rail fence with forest conservation signs to delineate and protect portions of the conservation easement areas from future encroachments.

The approved forest conservation plan takes into consideration future expansion, and any forest removal associated with the current plan is incorporated into the earlier approvals. The current plan has no impact on the conservation easements and does not generate any additional planting requirements. It is not necessary for the Planning Board to act on a forest conservation plan associated with this special exception. The applicant submitted a revised forest conservation plan on September 16, 2008. This

plan identifies the location of the proposed new building, the limits of disturbance, and measures to protect trees outside the limits of disturbance.

Community Concerns - Staff has not received any comments from the community.

59-G-1.2.1 Standard for evaluation.

A special exception must not be granted absent the findings required by this 59-G-1. 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 characteristics of a private educational institution include: (1) buildings and structures, as well as outdoor areas for children to play; (2) early and long hours of operation; (3) traffic to and from the site by staff and students; (4) deliveries of supplies and trash pick-up, (5) drop-off and pick-up areas for students who attend the school or summer camp; and (6) noise from children playing in the play areas.

In reviewing the application, staff finds that the inherent characteristics of size, scale and scope associated with the proposed application are minimal and not likely to result in any unacceptable noise, traffic disruption, or environmental impacts at the proposed location. Adequate parking is available for the employees and students under the existing special exception. Views of the new building and playhouse will be screened from adjacent neighbors by existing topography and trees. Sufficient landscaping is proposed in order to maintain the general character of the neighborhood. There are no non-inherent adverse affects associated with the application.

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 use is allowed by special exception in the RE-2 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.

With the recommended conditions, staff finds that the requested modifications satisfy the standards and requirements prescribed in 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 proposed modifications are consistent with the recommendations of the Potomac Subregion 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 use will be in harmony with the general character of the surrounding residential neighborhood considering population density, design, scale and bulk of the proposed new structures. The scale and height of the new two-story building (height 35 feet) and new one-story playhouse (maximum height 15') would be in harmony with the single family homes in the neighborhood. The new science and classroom building would be located 112 feet from the north property line which adjoins an undeveloped site. The new playhouse would be located 352 feet from the north property line. The new building would be located 340 feet from the nearest residential property. The new playhouse would be located 413 feet from the nearest residential property. Existing berms and trees would shield the view of the new building and playhouse from the east and the north. The topography of the remainder of the school site would shield the view of the new building and playhouse from the south, and the existing main school building would shield the view of the new building and playhouse from the west.

- (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.

Staff finds the use will not be detrimental to the use, peaceful enjoyment, economic value or development of surrounding properties or the general neighborhood.

- (6) Will cause no objectionable noise, vibrations, fumes, odors, dust, illumination, glare, or physical activity at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.

The use will not cause any objectionable adverse effects. The special exception will add additional site lighting to the property in the form of bollard down lights and wall mounted lights which will be directed at the new building. The proposed lighting will be buffered from the adjoining properties by landscaping.

- (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 German School has operated at its current location under a special exception since 1969. Staff finds that modification of the existing facility would not increase the number of special exceptions in the neighborhood, or the intensity or scope of the special exception uses to an extent that alters the residential nature of the area.

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

The proposed modifications are designed in a way that will not have any adverse effect on residents, visitors, or workers in the area at the subject site.

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

- (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 adequacy of public facilities must be determined by the Board of Appeals 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.
- (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.

A preliminary plan of subdivision is not required. The subject site is adequately served by public facilities. The property is adequately served by public water and sanitary sewer service operated by the Washington Suburban Sanitary Commission (WSSC). Transportation Planning staff concludes that the school is not subject to the LATR/PAMR requirements since the school does not propose to increase the student enrollment.

59-G-1.23 General Development Standards

- (a) Development Standards. The special exception is subject to the development standards of the applicable zone where the special exception is located, except when the standard is specified in Section G-1.23 or in Section G-2.

The proposed new building and playhouse have been located and designed to comply with the standards of the RE-2 Zone and to comply with the requirements of Sections G-1.23 and G-2. Staff finds that the proposed modification would comply with all development standards as shown in the following table:

Development Standard Table

	<u>Required</u>	<u>Proposed</u>
Minimum lot area	2 acres	16.93 acres
Maximum lot coverage (.59-C-1.328)	184,395 sq. ft. (25% of lot area)	117,752 sq. ft. (16% of lot area)
Off-street parking	152 spaces	172 spaces
Minimum lot width (59-C-1.322) at street line at building line	25 feet 150 feet	578 feet 810 feet
Maximum building height	50 feet	35 feet
Minimum setbacks (59-C-1-323) Front Side	50 feet 17 feet	250 feet 112 feet

- (b) **Parking Requirements.** Special exceptions are subject to all relevant requirements of Section 59-E.

The use is in compliance with the requirements of Section 59-E for parking requirements since the existing parking facilities were approved as part of the existing special exception and the number of parking spaces, students and employees will not change under the modification to the special exception. Section 59-E-3.7 requires for educational institutions, private: one parking space per employee, plus sufficient off-street parking space for loading and unloading space and student parking. 102 employees, 35 student drivers and 15 visitor/loading spaces are anticipated for a total of 152 spaces required. 172 spaces are provided. Of the parking spaces provided, 5 are required to be handicap accessible. Six handicap or accessible parking spaces are provided.

- (c) **Minimum Frontage.** *Not applicable*

- (d) **Forest conservation.** If a special exception is subject to Chapter 22A, the Board must consider the preliminary forest conservation plan required by that Chapter when approving the special exception application and must not

approve a special exception that conflicts with the preliminary forest conservation plan.

A forest conservation easement has been established on the site under the existing special exception. Some trees outside of the conservation area will be removed, but new trees will be planted outside of the conservation area in the area of the new facilities to replace them. The current plan has no impact on the conservation easements and does not generate any additional planting requirements. Therefore, it is not necessary for the Board to act on a forest conservation plan.

- (e) **Water quality plan.** *A stormwater management concept plan has been approved by Montgomery County. (See attached letter)*
- (f) **Signs.** *The special exception modification includes a new entrance sign. The new sign would be a ground mounted entrance sign located on the north side of the school entrance drive to identify the school. The display of the sign must comply with Section 59-F.*
- (g) **Building compatibility in residential zones.** *The new building, playhouse and new windows on the existing elementary school building under the special exception modification would relate well to the surrounding area single-family home appearance. The scale and height of the new two-story building and one-story playhouse would be in harmony with the single-family homes in the neighborhood. The new windows on the existing elementary school building would match the existing windows.*
- (h) **Lighting in residential zones.** *All outdoor lighting must be located, shielded, landscaped, or otherwise buffered so that no direct light intrudes into adjacent residential properties.*

The special exception modification will add additional site lighting to the property in the form of bollard down-lights and wall-mounted lights which will be directed at the new building. The new building will be screened from surrounding properties by the existing building, a knoll, berms, other topographical features and plantings. No new lighting would be added with the new playhouse. The rest of the site lighting is controlled under the existing special exception. The new site lighting will not directly impact the adjoining properties, will be buffered from the adjoining properties by landscaping and a County permit for the installation of the lights will be obtained by the school.

Sec. 59-G-2.19. Educational institution, private.

- (a) **Generally.** *A lot, tract or parcel of land may be allowed to be used for a private educational institution if 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 application will not constitute a nuisance to the surrounding neighborhood. Please see Section 59-G-1.2.1 (3) through Section 59-G-1.2.1 (6) and Section 59-G-1.23 (g) for further staff discussion with respect to compatibility with surrounding uses.

- (2) except for buildings and additions completed, or for which a building permit has been obtained before (date of adoption [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 institution will be located on a lot, tract, or parcel of land of 2 acres or less, in either an undeveloped area or an area 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 existing school site is over 16 acres. The new building would be similar to the existing buildings which the Board of Appeals has found to be compatible with the surrounding neighborhood and which comply with the existing special exception. In addition, the new building will be built into a hillside which, to the extent that it is not completely blocked from view to adjoining properties by topography and plantings, will reduce its apparent height and bulk. The playhouse would be comparable in scale to the existing buildings and the residential character of the surrounding community. The new playhouse will be screened from adjoining properties by the existing topography and landscape plantings. Therefore, the modification to the special exception would be compliant with the architectural requirements.

- (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

As stated in Section 59-G-1.21(a)(7), the modification to the special exception would not significantly change the existing special exception for the operation of the school and would not adversely affect the existing single-family neighborhood. There would be no significant change in the use either as to type or intensity.

The new building would be screened from abutting properties and would not change the present character of the surrounding residential community. The new building and playhouse are smaller in scale than the existing main building and would be hidden from view from adjoining properties by

landscaping, grades of the existing ground, a knoll and other existing School buildings. The new windows on the existing elementary school building are hidden from view by an existing berm, retaining walls, and landscaping. Therefore, the modification would not affect adversely the present character or future development of the neighborhood or residential community.

(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 increased traffic on residential streets;
 - b) Proximity to arterial roads and major highways;
 - c) Provision of measures for Transportation Demand Management as defined in Section 42A-21 of the Montgomery County Code;
 - 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
2. Noise or type of physical activity;
3. Character, percentage, and density of existing development and zoning in the community;
4. Topography of the land to be used for the special exception; and
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.

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, solid fences and walls.

The existing special exception established the density of the student population at 650 students which is 38.4 students per acre (16.9 acres). This density is less than ½ the density of 87 students per acre permitted without special finding under Section 59-G-2.19(a)(4)a.5. The density of the summer program (450 students) would be 26.6 students per acre.

Traffic patterns are discussed in the traffic report submitted with the special exception application. The report demonstrates that school generated traffic would not have an adverse effect on the neighborhood. The report includes recommendations for improvements to the on-site traffic patterns which will be implemented if the special exception modification is granted. The noise and type of physical activity generated by the School would not be changed under the proposed modification to the special exception.

The character, percentage, and density of existing development and zoning in the community would not be adversely affected by the modification to the special exception as the number of students would not increase. The topography of the site would not be materially altered by the modification to the special exception for the new windows on the existing elementary school building, new building, playhouse and activity court. The proposed new windows, building and playhouse have been placed in locations to minimize their visibility from surrounding properties. All the outdoor sports and recreational facilities are buffered from the adjoining properties by landscape materials. The plant materials are located so as to buffer activities associated with the facilities. Because the outdoor sports and recreational facilities are buffered from the adjoining properties, they would not constitute an intrusion into the adjoining residential properties. The modified multi-purpose activity court would be located on the north side of the site, 350 feet away from the closest residential uses to the east of the site.

- (b) If a Private Educational Institution operates or allows its facilities by lease or other arrangement to be used 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 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 expected car trips generated by the regular academic program and the after

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

The proposed summer program would be a continuation of the school's educational program into the summer months and would not represent a summer day camp. Thus, G-2.19(b) does not apply to this application. The summer program would not have an adverse effect on the surrounding neighborhood. Traffic patterns are discussed in the traffic report submitted with the special exception. The recommendations in the Traffic Management Plan (TMP) to modify on-site traffic flow and special event parking would be implemented under the special exception modification. The TMP implementation would improve internal circulation and minimize the impact on Chateau Drive. The School-generated traffic volumes would not change as a result of the modification. There would be no adverse effect on the neighborhood due to the volume of traffic on neighborhood streets based on the traffic analysis.

(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.
- (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, whether such programs include students or non-students of the school. The Board may establish a limit on the number of participants and frequency of events for authorized programs.

(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 provided a site plan of development along with the special exception modification request. As such, staff has reviewed the site plan in accordance with applicable development review standards of the Zoning Ordinance and has found that the special exception complies with said standards. Please refer to Section 59-G-1.23 above for further discussion.

- (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.

The applicant has been made aware of this provision.

- (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.

Not applicable.

- (f) Nonconforming uses. Nothing in this chapter shall prevent any existing private educational institution which obtained a special exception prior to the effective date of this chapter, from continuing its use to the full extent authorized under the resolution granting the respective special exception, subject, however, to division 59-G-4 of this chapter.

Not applicable.

- (g) Public Buildings.

- (1) A special exception is not required for any private educational institution that is located in a building or on premises that have been used for a public school or that are owned or leased by Montgomery County.

Not applicable.

- (2) However, site plan review under Division 59-D-3 is required for:
- (i) construction of a private educational institution on vacant land owned or leased by Montgomery County; or
 - (ii) any cumulative increase that is greater than 15% or 7,500 square feet, whichever is less, in the gross floor area, as it existed on February 1, 2000, of a private educational institution located in a building that has been used for a public school or that is owned or leased by Montgomery County. Site plan review is not required for:
 - (i) an increase in floor area of a private educational institution located in a building that has been used for a public school or that is owned or leased by Montgomery County if a request for review under mandatory referral was submitted to the Planning Board on or before February 1, 2000, or
 - (ii) any portable classroom used by a private educational institution that is located on property owned or leased by Montgomery County and that is in place for less than one year.

Not applicable.

- (h) Applications filed before May 6, 2002. Any application filed before May 6, 2002 for a private educational institution special exception or modification of a private educational institutional special exception must comply with the requirements of Article 59-G and Article 59-E in effect at the time the special exception was filed.

Not applicable.

Conclusion

Staff recommends approval of Special Exception modification CBA-2684-C, subject to the conditions found at the beginning of the technical staff report. The proposed modifications to the existing special exception would not have an adverse affect on the neighborhood, and would comply with the requirements of the Zoning Ordinance.