

**MONTGOMERY COUNTY ZONING ORDINANCE**

**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 modifications are allowed 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.

*The proposed modifications comply with the standards and requirements for a private educational institution under Section 59-G-2.19.*

(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 subject property is within the 2002 Potomac Subregion Master Plan area. The Master Plan supports the existing RE-2 zone for the property and the proposed modifications are allowed by special exception in that zone.*

(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 proposed uses will be in harmony with the general character of the surrounding neighborhood. The population density at full enrollment of 900 students will be 11.5 students per acre, well short of the zoning ordinance maximum of 87 students per acre. The proposed new structures are designed to have residential massing, to be compatible with existing structures, and to be screened or enhanced with supplemental*

*landscaping. The character of the activity has not had any adverse effect on the neighborhood since its inception in 1963. The School has grown in a gradual, planned fashion in harmony with adjacent uses. The existing summer camp programs and associated traffic have not had an adverse effect on the abutting residential neighborhood.*

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

*There is no evidence to suggest that the proposed modification will have any detrimental effects on the use, peaceful enjoyment, economic value, or development of surrounding properties.*

- (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.

*There is no evidence to suggest the existence of vibrations, fumes, odors or dust. Vibration or dust may be a temporary consequence of construction but neighboring residents are more than adequately insulated by ample setbacks from property lines. The submitted lighting plan and photometric study indicates zero illumination or glare at property lines. Staff finds that the proposed modification will not cause adverse effects with respect to any of these criteria.*

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

*The proposed modification will not increase the number, intensity, and scope of the approved special exceptions in the area. The intensity of use on the subject site will increase in a gradual fashion over the next 7-10 years but will not affect the area adversely or alter the predominantly low-density residential character of the surrounding 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.

*There is no evidence to suggest that the proposed special exception modification will cause any of 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.

*Adequacy of public facilities will be reviewed and determined during subdivision review.*

- 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.

*A preliminary plan of subdivision is required. Continuation of the School's existing summer camp program will not increase the number of weekday peak period trips generated by the site, thus Local Area Transportation Review is not required. The property is located in the Potomac Policy Area where Policy Area Review is not applicable.*

- 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.

*Transportation planning staff concludes that the proposed modification will not reduce the safety of vehicular or pedestrian traffic.*

- (b) Nothing in this Article relieves an applicant from complying with all requirements to obtain a building permit or any other approval required by law. The Board's finding of any facts regarding public facilities does not bind any other agency or department which approves or licenses the project.

*Not applicable.*

Sec. 59-G-2.19. Educational institutions, 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;

*Planning staff finds the proposed modification to be compatible with the environment and character of the surrounding neighborhood. The applicant has submitted a transportation management plan that includes a carpool system, bus transportation, staggered beginning and ending times of programs, traffic control measures to ensure efficient movement of cars onto and off campus and to preclude queuing of overflow cars on neighborhood streets. The maximum density at full enrollment of 900 students will be 11.5 students per acre, well short of the zoning ordinance maximum of 87 students per acre. Staff also finds the summer camp program to be compatible with the environment and surrounding neighborhood.*

- (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;

*Not applicable.*

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

*The private educational institution has been on the present site since 1963 without adversely affecting or changing the character or future development of the surrounding residential community. There is no evidence to suggest that the proposed modifications will do so.*

- (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.

*As stated above, the maximum density of students is very low. The applicant has submitted a transportation management plan that includes a carpool system, bus transportation, staggered beginning and ending times of programs, a one-way traffic flow through campus, traffic control measures to ensure efficient movement of cars onto and off campus and to preclude queuing of overflow cars on neighborhood streets. Staff finds drop-off and pick-up sites to be adequate.*

*The submitted campus site plan indicates that the school meets all required development standards for the RE-2 zone pertaining to minimum lot size and frontage, maximum building height and coverage.*

*With regard to topography, the grades and contours are appropriate for school activities and team sports.*

- 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 location of athletic fields will be unchanged. One practice field will be extended to the west. This will have no impact on residential properties, as the field is located in the north-central part of the campus, opposite the Falls Road Golf Course and approximately 400 feet from Falls Road. Ample setbacks, forest and landscape screening effectively insulate and buffer adjacent residential properties.*

- (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.

*Traffic management measures in place for summer programs include:*

*Staggered starting and ending times for different summer programs, to spread traffic arrivals and departures over time sufficiently to reduce on-campus traffic congestion and prevent off-campus traffic impacts;*

*Placement of drop-off points within the campus to ensure arriving traffic is split between the two Falls Road entrances;*

*Stationing of summer program personnel at each drop-off/pick-up point to facilitate the flow of traffic around those points;*

*Use of crossing guards at the Democracy Boulevard exit to facilitate egress of cars.*

*These measures have been successful to date. Measures to organize, stack and circulate vehicles on the campus during the summer sessions can accommodate a substantially larger enrollment without any adverse impact on intra-campus*

*circulation or off-site congestion. If traffic generated by an increased summer enrollment begins to approach the level that could cause off-campus back-ups or congestion, the School will implement one or more of the following traffic management measures:*

*Short-term measures*

*Station staff at key intersections on campus as needed to ensure that campus traffic flows smoothly and safely;*

*Monitor traffic flow at the Falls Road entrances and station traffic control personnel at either or both gates if traffic flow at the gates ever creates bottlenecks. If afternoon queue lengths threaten to back up onto Falls Road, staff will be stationed to direct excess traffic to bypass the queue;*

*Reposition pick-up/drop-off points deeper within the campus to reduce the possibility that queues could spill onto public roads.*

*Longer-term measures (implemented prior to the next summer)*

*Limit enrollment to the level that experience shows can be adequately managed with the above-described measures.*

*The fact that summer program traffic occurs outside the peak rush hours for commuting traffic makes it unlikely that any future growth in summer programs will adversely impact traffic levels at local intersections.*

*Campus parking areas are adequate, while the submitted lighting plan and photometric plan indicates that light spillage will not adversely affect neighboring properties. The expansive nature of the campus, ample setbacks, the forest areas, landscaping screening, and the preponderance of indoor activities all serve to mitigate the effects of the summer camp activities.*

*Staff finds that the proposed modification to the summer camp program will not adversely affect the surrounding neighborhood in terms of traffic, parking, noise, lighting, or the intensity, duration or frequency of activities.*

(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.*

*Not applicable.*

- (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.

*Not applicable.*

(d) Site plan.

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

*The applicant has submitted a very comprehensive set of campus plans including master plan concept and details, building plans and elevations, existing conditions, grading plans, preliminary storm water management plan, landscape plans, lighting plan and photometric study, an NRI/FSD, and forest conservation plans. Staff finds that these plans are more than sufficient to allow evaluation of the proposed modifications.*

- (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.

*Not applicable.*

- (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.

(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.*

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Mr. Thomas B. Fargules  
Handman  
The Bullis School  
10601 Falls Road  
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Dear Dr. Fargules

We were delighted to see your plans for The Bullis School. It is an extremely fine plan and we were so pleased to hear all about it from you and Mr. McCraight.

You are very good neighbors and we feel a pride in what you accomplish. On football evenings we hear the roar of the crowd and say "Go Bullis." A granddaughter - a senior at Stone Ridge, sometimes thinks otherwise.

You and I thank you for inviting us to your meeting. It was informative and we enjoyed it.

We wish you continued success with 900 chiefs and Indians

Sincerely  
Jean Cannon