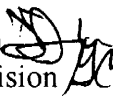




THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB
Item # 6
11/08/04

MEMORANDUM

DATE: November 5, 2004
TO: Montgomery County Planning Board
FROM: Dan Janousek, Zoning Analyst, Development Review Division
VIA: Carlton Gilbert, Zoning Supervisor, Development Review Division 

REVIEW TYPE: Special Exception Modification
APPLICANT: Federation of American Societies of Experimental Biology (FASEB)
APPLYING FOR: Modification to the existing private educational institution use
CASE NUMBERS: Board of Appeals No. S-862B
REVIEW BASIS: Chapter 59, Zoning Ordinance
ZONE: R-60
LOCATION: 9650 Rockville Pike, Bethesda; 11.21 acres
MASTER PLAN: Bethesda-Chevy Chase Planning Area

FILING DATE: June 18, 2004
PUBLIC HEARING: November 19, 2004

STAFF RECOMMENDATION

APPROVAL with conditions:

1. All evidence, testimony and exhibits of record shall bind the petitioners.
2. Approval of Variance Petition No. A-6008 by the Board of Appeals.
3. Conformance with Chapter 50 (Subdivision Regulations) of the County Code.
4. Compliance with Local Area Transportation Review requirements.
5. Compliance with Chapter 22A (Forest Conservation)

PROJECT SUMMARY

The applicant, Federation of American Societies of Experimental Biology (FASEB), has requested a modification to a special exception for a private educational institution located at 9650 Rockville Pike (MD 355), Bethesda. The property is in the R-60 Zone. The applicant seeks to develop two new phases, Phases 2 and 3 (see Table 1, pg. 5). During Phase 2, a 103,000 sq. ft. building will be constructed to replace an existing building. The new building will accommodate approximately 250 employees. During Phase 3, a 40,000 sq. ft. extension of the building and a 104-space extension of the existing parking garage will be constructed. The 40,000 sq. ft. extension will accommodate 120 additional employees, and the 104-space parking garage extension will accommodate 78 additional vehicles after the removal of some surface parking. This will bring the total number of employees to 700 employees, and parking spaces on the property to 512 spaces.

The proposed Phase 2 building and Phase 3 building expansion will require a 22' height variance. The parking structure will become an accessory structure once it is detached from the existing building; this requires a 1.92 ft. side yard variance for Phase 2. A 31.92 ft. side yard variance will be required for Phase 3. In total, the new buildings will accommodate the existing 330 employees on the site and approximately 370 new employees in the future for a total of 700 employees.

Recent Petition Amendment

On October 19, 2004, the applicant submitted an amendment to the current petition (Attachment 16) to allow leasing of a portion of the future office space on the property to the Montgomery County Department of Economic Development for a non-profit incubator. The applicant states there would be no change to any previously approved special exception or the number of employees permitted on site, and the request does not change the subject special exception modification.

Background

The applicant is described as an organization of independent member societies serving the interests of biomedical and life scientists, particularly those related to public policy issues. The organization currently consists of 21 member societies and represents over 60,000 life scientists. The applicant's headquarters has operated on the property since 1954. It was granted special exceptions both as scientific society, and when that category was eliminated from the Zoning Ordinance, as a private educational institution. The headquarters is for education and administration. The applicant states that no laboratory research is conducted on-site, nor is there major printing on-site. Occasionally, conferences of member societies, committees and boards occur on the site and no more than 100 participants will attend events and most of the attendees will not utilize on-site parking. In December of 2001, the applicant was granted special exception modification approval for Phase 1 development of a 50,000 sq. ft. building and 580 employees for the property (S-862-A). The building is standing and occupied and FASEB currently has approximately 330 employees who work on the property and 434 parking spaces.

Site Description

The subject property is located just south of the Capital Beltway on the west side of Rockville Pike, and north of AltaVista Road (Attachment 1). The property was formerly a residential estate and it is approximately 11.2 acres in size and irregular in shape. The property was recorded by plat of subdivision in September of 2002 (Attachment 3). A 25' PEPCO easement encumbers the entire length of the north side of the property. It is now improved by the recently constructed 50,000 sq. ft. building, a 4.5 story brick and stone administration building (approximately 103,000 sq. ft.), two smaller stone buildings, a single-story framed residence, and a storage garage. The estate-like setting has two primary entrances on Rockville Pike and a secondary limited use entrance on Alta Vista Terrace. The property's topographical conditions are such that it slopes downward towards Rockville Pike. The site is extensively landscaped with numerous trees, shrubs and plantings (Attachment 4).

Neighborhood Description

The subject property is in the R-60 zone. Single-family detached homes and multifamily apartments surround the property. The surrounding neighborhood is predominantly residential in character, zoned R-60 to the west, south and east. Single-family homes are located south and west of the property in the Maplewood Estates subdivision. Further to the west is the Maplewood Alta-Vista Park.. To the north, the property is adjacent to the Bethesda Hill Apartments and the Pooks Hill Towers, both in the R-H zone. The Pooks Hill Marriot and the Promenade Apartments are located in the H-M and R-H zones respectively and north of the property. The neighborhood across Rockville Pike, east of the subject property, are single family detached homes in the Locust Hill Estates subdivision in the R-60 Zone. There are approved special exceptions in the general neighborhood. One approved special exceptions is adjacent to the property located on Lot 1, Block A (BA-823).

Elements of the Proposal

Proposed Structures

During Phase 2, a 103,000 sq. ft. building (Attachment 6) will be constructed to replace an existing building. The new building will accommodate 250 employees. Its completion will provide space on the property for the 580 employees previously approved by the Board of Appeals (S-862-A). In the proposal, the new building will be both functionally and architecturally the same as the recently constructed Phase 1 building on Rockville Pike. The building will also be functionally the same as the one it is replacing. While it is five stories in height, the new Phase 2 building will be approximately eight feet lower than the height of the building it is replacing. The new building will be 12 feet higher than the Phase 1 building because it sits a higher grade. The five-story structure will be screened from view of adjoining properties by topography and natural features including many trees on the site. The existing atrium will connect the buildings and it will serve as the main entrance for the entire facility and connect the building visually.

During Phase 3, a 40,000 sq. ft. extension of the Phase 2 building will be constructed, and a 104-space extension of an existing parking garage will be constructed. The 40,000 sq. ft. proposal will accommodate 120 additional employees, and the parking garage extension will accommodate 78 additional vehicles. The utilization of the Phase 3 building will be functionally the same as the existing Phase 1 and proposed Phase 2 buildings, and likewise it will be architecturally the same as the existing buildings.

There are 434 existing parking spaces on the property currently, 217 parking spaces in the garage and 217 in various locations on the property. During Phase 3, a 104-space extension of the existing parking garage will be constructed for a final total of 512 parking spaces on the property. The applicant believes that this parking will be sufficient to accommodate the needs of the additional employees and visitors to the site, because employees work staggered hours and many telecommute, carpool or find transit alternatives. Both the Phase 3 building and parking garage extension will be screened from view of adjoining properties by topography and natural features. The approved and proposed development plans are listed in Table 1.

Building Variances

The proposed Phase 2 building and Phase 3 building expansion will require a 22' height variance. The parking structure will become an accessory structure once it is detached from the existing building; this requires a 1.92 ft. side yard variance for Phase 2. A 31.92 ft. side yard variance will be required for the 60-foot proposed expansion of the parking garage in Phase 3.

Proposed Use

Pursuant to a previous special exception approval, 580 employees are currently permitted to work on the property. In total, the existing and proposed buildings will accommodate the existing 330 employees on the site and approximately 370 new employees in the future for a total of 700 employees. As stated in the background, the headquarters is for education and administration. The applicant states that no laboratory research is conducted on-site, nor any other major production activities or printing on-site. Occasionally, conferences of member societies, committees and boards occur on the site. The applicant states that no more than 100 participants will attend events and most of the attendees are from outside the immediate area and will not utilize on-site parking.

Table 1 – FASEB Proposed Development Plans Phase 2 & 3

	Buildings	Parking	Employees
Existing Development	167,312 sq. ft.	217 – parking garage <u>217 – on-site¹</u> 434 total	580
Phase 2 Proposal	103,000 sq. ft. (Replaces Existing)	<i>No Change</i>	<i>No Change</i>
Phase 3 Proposal	40,000 sq. ft. extension of Phase 2 building	104 new spaces in extended parking garage (78 net total gain)	120
Total	207,312 sq. ft.	512	700

1. 18 spaces beneath the new 50,000 sq. ft.

ADDITIONAL REVIEW REQUIREMENTS

Environmental Issues

If the Board of Appeals approves the applicant’s petition, a detailed Final Tree Save Plan (FCP) will need to be submitted to M-NCPPC prior to DPS approval of the final storm water management (SWM) and sediment and erosion control plans or any clearing, grading or land use disturbance on the property. The final erosion and sediment control plans will be approved by the Department of Permitting Services (DPS), and they will be consistent with the approved Tree Save Plan (see attached Staff Report – Attachment 10).

COMMUNITY ISSUES

There have been no concerns raised by neighborhood residents. The Maplewood Citizen’s Association supports the proposal (Attachment 9).

ANALYSIS

Master Plan

The property is within the 1990 Bethesda-Chevy Chase Master Plan area. The proposed use is consistent with the Bethesda-Chevy Chase Master Plan in terms of the nature and the appropriateness of the use, and it will be compatible with other adjacent uses including the residences in the Maplewood Estates subdivision. The Bethesda-Chevy Chase Master Plan provides area-wide land use guidelines in order to address land use issues along major highways including special exceptions (pg 30). The area land use guidelines state that each parcel should be evaluated in the overall context of the Master Plan objectives and compatibility with the surrounding community in terms of the height and bulk of structures, buffering by vegetation, topography and visibility of the use, highway access and buffering, proximity to public or quasi-public uses, proximity to community services or transit, and the comparative density of nearby properties. These issues are stated as the rationale for each recommendation in the Master Plan as they relate to the "Planning Area" and compatibility with nearby properties.

The Bethesda-Chevy Chase Master Plan supports the continued existence of the R-60 zone for the subject property and surrounding neighborhood. The use is intended to serve the community and meets the Master Plan objectives. Private educational institutions are allowed by special exception in the R-60 Zone, and the Master Plan specifically recommends that FASEB should continue the existing use (Attachment 13) because it is considered a long-term, stable use that is viewed as a community resource. In accordance with the goal identified in the Master Plan, the expansions proposed in the special exception modification recognizes the importance of, and provides major support of biomedical resources in Montgomery County. As stated in previous FASEB cases, the applicant is an organization that serves over 60,000 biomedical and life scientists. Past and present members include Nobel Prize winners involved in the sciences.

Compatibility

The proposed development 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)

The height and bulk of the proposed structures, and the manner in which they are situated, is similar to the existing structures. The building designs will incorporate architectural design features to enhance their compatibility with the existing buildings on the property and reduce impacts to neighboring properties. The proposed buildings will have a reduced visibility compared to the existing building they are replacing. The height of the proposed buildings is approximately nine feet lower than that the existing building. Very little of the proposed structures will be visible from the adjacent properties, and the mass of the buildings is mitigated by diagonal elements and angles of the structures. The parking structure also uses elements to reduce its impact. The buildings and parking structure will be screened and buffered from the adjacent single-family detached residences because of the sloping terrain or topography of the site and the extensive landscaping. The buildings and the parking structure will be visible from the adjacent multi-family uses to the north. However, there is a significant amount of landscaped

buffer between the proposed use and the neighboring properties to the north, thereby effectively screening any light or noise from traffic or the buildings. Existing green space will continue to be maintained for the benefit of employees and the neighboring residents. The proposed use will not result in an excessive-concentration of special exception uses along major highway corridors. There is one adjacent special exception located to the south of the subject property.

Development Standards

The proposed use meets most of the Development Standards for the R-60 Zone. The subject lot was platted in 2002. The lot is approximately 11.21 acres in size and it is oddly shaped. The following table summarizes the property development standards for the proposed use and development:

Table 2. Comparison of Development Standards:

Item	Required/Allowed	Phase 2 Proposal	Phase 3 Proposal
Lot Area	6,000 sq. ft.	11.2 acres	11.2 acres
Yard Requirements for Main Building:			
Front- Rockville Pike	25 ft.	110.5 ft.	110.5 ft.
Side-	8 ft.	43.4 ft.	43.4 ft.
Rear-	20 ft.	417 ft.	417 ft.
Building Height	46 ft. – 4 in. Allowed ¹	57 ft. ^{2a}	57 ft. ²
Accessory Building Height	38 ft. ¹	30 ft. – 3 in.	30 ft. – 3 in.
Building Coverage	35%	13.8%	17.7%
Yard Requirements for Accessory Building (Parking Structure):			
Front- Rockville Pike	60 ft.	236 ft.	236 ft.
Rear-	69 ft. – 2 in.	147 ft. – 4 in.	147 ft. – 4 in.
Side-	54 ft. – 2 in. (Phase 2)	52 ft. - 3 in. ²	
	84 ft. – 2 in. (Phase 3)		52 ft. - 3 in. ²

1. Approved Case No. A-5599, December 8, 2001

2. Current Variance Request Case No. A-6008.

- a. Phase 2 building expansion will require a 22' height variance.
- b. The parking structure will become an accessory structure once it is detached from the existing building during Phase 2; this requires a 1.92 ft. side yard variance.
- c. A 31.92 ft. side yard variance will be required for Phase 3.

The proposed Phase 2 building and the Phase 3 building expansion will require a 22' height variance. The parking structure will become an accessory structure once it is detached from the existing building; this requires a 1.92 ft. side yard variance for Phase 2. A 31.92 ft. side yard variance will be required for Phase 3.

Transportation

Transportation Planning staff recommends the following conditions as part of the APF test for transportation requirements related to approval of this application. The application was reviewed under the FY 2004 Annual Growth Policy (AGP) since it was filed prior to July 1, 2004

- a. Limit the development to an expansion of existing office building to an additional 40,000 square feet of office use for a total of 207,312 square feet that includes a previously approved 50,000 square feet of office.
- b. Install three additional bus shelters along northbound Rockville Pike (MD 355) in the vicinity of the campus or other locations in the Bethesda-Chevy Chase area for a total of four shelters. One of the shelters was conditioned for the 50,000 square feet of new office building proposed in petition #S-862-A. Three new bus shelters are required to mitigate the additional one and two CLVs in the morning and evening peak hours, respectively, at the intersection of MD 355 and Cedar Lane resulting from the proposed new office buildings on campus. The bus stops on Rockville Pike and other nearby locations should conform to the requirements of the Montgomery County Department of Public Works and Transportation (DPWT).

A traffic study was submitted with this application. The proposed level of development will remain within the transportation system capacity constraints for the Bethesda-Chevy Chase area and Transportation staff concludes that that the proposal does not warrant improvements to the road system (Attachment 11). Staff recommends mitigation of CLVs added by the development to the Rockville Pike (MD 355) and Cedar Lane intersection, which is operating above the applicable congestion standards (1,650 Critical Lane Volume (CLV) established for the Bethesda-Chevy Chase policy area and 1,600 CLV established for the North Bethesda policy area). The proposal only adds between one and two CLVs to the intersection. The total future traffic scenario at this intersection will have 1,730 and 1,726 CLVs for the AM and PM peak hours respectively.

Staff recommends mitigation of the added CLVs by applying Local Area Transportation Review Guidelines, Methods to Reduce Local Area Transportation Review Impact, to mitigate the impact of site trips at the intersection of Rockville Pike and Cedar Lane. Mitigation can be accomplished by installing 3 additional bus shelters in the vicinity of the campus or other locations in the Bethesda-Chevy Chase area for a total of four shelters. One of the shelters was a condition of the approval of the 50,000 square feet of new office building proposed in petition S-862-A.

Policy Area Review/Staging Ceiling Analysis

The subject site is located in the Bethesda-Chevy Chase policy area, which has a remaining capacity of 57 jobs and 4,986 housing units as of June 30, 2004.

Transportation Management

As part of the previous special exception approval S-862-A, the applicant is required to implement the goals in their Transportation Management Plan (Attachment 15). The applicant is encouraged to implement its transportation management goals and to continue to encourage more use of telecommuting, carpooling, and public transportation.

Master Plan Transportation Recommendations

Rockville Pike is designated in the Bethesda-Chevy Chase Master plan as a major highway with an ultimate right of way of 120 ft. with 6-8 travel lanes. No future impact of road widening is anticipated.

Site Access, Parking and Circulation

The majority of traffic will enter the site at two locations on Rockville Pike and another limited use, card controlled entry from Alta Vista Terrace. The amount of traffic using the Alta Vista Terrace entrance is limited by a prior special exception approval that limits the distribution of access cards to a maximum of 80 employees. There is a limited access via an improved shared access driveway connection on the northwest side of the subject property with the Pooks Hill Towers property. The applicant proposes to improve internal vehicle circulation during Phase 2. This is achieved by creating a circular route via a new 26-space surface parking facility located between the parking garage and the Phase 2 building. Pedestrians have adequate sidewalk access to the property, and once on the property, pedestrians have internal sidewalks and wide drive aisles to ensure safe circulation.

During Phase 3, a 104-space extension of the existing parking garage will be constructed. The parking garage extension will accommodate 78 additional vehicles (104 less the spaces removed). In total, the new buildings will accommodate the existing 330 employees on the site and approximately 370 new employees in the future for a total of 700 employees. Approximately 512 parking spaces will be provided.

Table 2. Parking Facility Spaces and Setbacks:

Item	Required/Allowed	Proposed
Yard Requirements for Parking and Loading Facility Front- Rockville Pike Side- Rear-	Parking and Loading facilities for special exception uses in residential zones (59-E-2.83) requires each parking and loading facility, including each exit and entrance driveway, be setback at a distance not less than the applicable building front and rear yard and twice the building side yard required in the zone. 25 ft. 16 ft. (2 x 8') 20'	 27' 25' 30'
Screening and Shading	6 ft.	Significant screening and shading is provided higher than the required 6 ft.

Regarding Section 59-E-3.7, the applicants are proposing 512 parking spaces for 700 employees on the property. The proposed parking does meet the parking facilities plan objectives of Section 59-E-4.2 as follows:

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.

Adjacent properties are reasonably protected from automobile noise, glare, lights, parking lot lighting and automobile fumes because of the topography of the site (sloping towards Rockville Pike), and the extensive landscaping and trees that exist on the site.

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

Pedestrians and motorists will be able to access the building safely from the parking garage or the outdoor parking areas. There are sufficient drive aisle widths on the property, and sidewalks exist and are planned

- (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.

Motorists will be able to maneuver onto the site and exit the site safely. The existing gated entrance at the rear of the property will limit the number of vehicles that can enter and exit the property from Alta Vista Terrace.

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

The office will not typically operate after daylight hours. However, lighting is proposed for the parking areas, and it will be consistent with existing lighting on the property that is angled down to reduce glare while providing safety for pedestrians.

Environmental Analysis

The modification request has been granted an exemption for Forest Conservation Requirements of Chapter 22A. There are no wetlands or other environmentally sensitive areas that exist on the property. However, additional environmental analysis will be needed for this application as described in the attached staff memorandum (Attachment 10) as follows:

1. Submit a detailed Final Tree Save Plan (FCP) to M-NCPPC prior to the Montgomery County Department of Permitting Services (DPS) approval of the final storm water management (SWM) and Sediment and Erosion Control plans or any clearing, grading or land use disturbance on the property.
2. Final erosion and sediment control plans to be approved by the Department of Permitting Services (DPS), shall be consistent with the approved Tree Save Plan.

The applicant has an approved Natural Resource Inventory/Forest Stand Delineation (NRI/FSB) that was submitted with the application. The new Phase 2 building will be constructed over the location of an existing building, which will greatly reduce the potential impact on existing green areas. The future Phase-3-extension of the Phase 2 building, and the parking structure extension, will both take place over the existing parking, planting areas and drive aisles. A few large pine trees will be removed from these areas. In order to ensure the protection of specimen and significant trees, the development plan is subject to approval by M-NCPPC technical staff of a Final Tree Save Plan. Mitigation must be provided for all specimen trees if encroachment on the critical root zone is unavoidable.

Landscape and Lighting

The property has a sloping terrain is extensively landscaped with a wide variety of large trees, small trees, evergreens, shrubs, grass, and flowers. As stated previously, impacts to the landscaping should be minimal because all of the proposed development will take place in areas that are already covered with buildings or paved for parking or circulation. The proposed lighting is consistent with the existing lighting previously approved by the Board in case n. S-862-A (Attachment 8).

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 the private educational institution, the inherent adverse effects include the buildings that have an institutional design dictated by licensing and building code requirements, the parking and traffic associated with the movement of students, faculty and support staff people to and from the property, and in the case of most private educational institutions, playgrounds and athletic fields.

The applicant has noted that the existing use and the proposed modification does not share many of the characteristics of most educational institutions such as playgrounds and athletic fields or the traffic often associated with transporting students. As an organization, the applicant promotes education and administration for the biomedical and life science fields.

The additional buildings and parking garage expansion will be consistent with the size, scale and scope of the existing improvements, and the manner in which they are situated, is similar to the existing structures. The building will incorporate architectural design features to provide compatibility with the existing buildings on the property and to reduce impacts to neighboring properties. The proposed lighting for the building and the parking garage are consistent with the previously approved lighting, and given the topographical conditions, lighting from the parking garage and the buildings will not impact adjoining properties. The traffic impact on nearby residential streets is limited by the previous approval that limits vehicle entry

at the rear entrance. The additional impact of traffic generated by the proposal will not create an adverse impact on the adjacent roadway network. Vegetation screening will reduce traffic impacts on adjacent property. Staff concludes that there are no non-inherent adverse effects associated with this application that warrant denial.

Compliance with the Specific and General Conditions of the Special Exception

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

59-G-1.21 General conditions.

(a) A special exception may be granted when the Board, the Hearing Examiner, or the District Council, as the case may be, finds from a preponderance of the evidence of record that the proposed use:

(1) Is a permissible special exception in the zone.

The proposed private educational institution is allowed by special exception in the R-60 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 private educational institution 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 proposed use is consistent with the land use and zoning recommendations in the adopted 1990 Bethesda-Chevy Chase Master Plan. The Plan recommends R-60 zoning for the subject property, and private educational institutions are allowed by special exception in the zone. The Plan specifically recommends the applicant's continued use of

the subject property because it is considered a long-term, stable use that is viewed as a community resource. The Plan further recognizes that new development on the site may occur and that this will require a special exception modification to protect the setting of the use maintain compatibility with nearby properties.

- (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 general neighborhood includes properties in the area between Pooks Hill Road Linden Avenue and Elsmere Avenue and includes the Maplewood Estates subdivision. The general and surrounding neighborhood is predominantly residential in character, zoned R-60 to the west, south and east. The additional buildings and parking garage expansion will be consistent with the design, density, size, scale and scope of the existing improvements, and the manner in which they are situated, is similar to the existing structures. The building will incorporate architectural design features to enhance their compatibility with the existing buildings on the property and in the surrounding neighboring. The proposed lighting will not impact adjoining properties and very little of the proposed structures will be visible from the adjacent residences. The additional employees on the subject property will achieve a density of 63 persons per acre, below the "87 students per acre" referenced in the Zoning Ordinance (59-G-2.19). Internal circulation is provided, and vehicles will be able to enter, drop-off or pick-up, park and exit the site with little difficulty utilizing existing entrances and drive aisles. Traffic impact on nearby residential streets generated by the additional buildings is limited by the previous approval that limits vehicle entry at the rear entrance to 80 per hour. Vegetation screening will reduce traffic impacts on adjacent properties throughout.

- (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.

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 interior of the parking garage. Because of topography and vegetation, including large trees, and landscaping, the use will not be readily visible from adjoining properties.

- (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 modification is to a long-term stable use that has been a community resource since 1954, and it will not alter the nature of the area and it does not create an excessive concentration of special exception or other non-residential land uses in the neighboring one-family residential 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 use has operated in the area for many years 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 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.

No preliminary Plan is required for subject application.

- (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. Traffic reduction measures are in place at the rear entrance on Alta Vista Terrace that have and will continue to improve safety of vehicular and pedestrian traffic. The applicant's Transportation Management Plan considers overall safety considerations such as providing adequate sidewalks and direct access from the parking garage to the existing and proposed buildings.

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;

The proposed modification will not constitute a nuisance because of traffic, number of employees, noise, type of physical activity, or any other element. The additional buildings and parking garage will be consistent with the existing improvements. The building height will be higher than that allowed by the zone, but it will be lower than the existing building it is replacing, and because of topography, the buildings and parking garage will be screened from view from adjoining properties. No physical activity is associated with this use other than employees and visitors that will travel to the subject property. Traffic is limited onto the surrounding neighborhood by previous approvals, and there is no noise associated with the proposed use.

- (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 proposed buildings will incorporate architectural design features to enhance their compatibility with the existing buildings on the subject property and in the surrounding neighborhood. While the size and scale

of the new buildings are similar to the existing, the mass of the new buildings will be mitigated by diagonal elements and angles of the proposed structures.

- (2) 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 modification will not affect adversely or change the present character or future development of the surrounding neighborhood. The proposed structures will be constructed with minimal disturbance to the land, keeping within the constraints of the existing improvements, and they will be designed to be compatible with the existing buildings on the property.

- (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 applicant has submitted statements, site plans, architectural drawings, and elevations demonstrating that the modification will conform to the above sited development standards. Because of the topography of the site and natural vegetation screening, the subject property is designed to protect adjacent properties from noise and spill light. The applicant has taken previous measures to limit the traffic impact on residential streets in the neighborhood, and given the property's location near a major highway (Rockville Pike), access to the subject property is and will be adequately provided in the future. There are adequate drop-off and pick-up areas for programs and event and traffic cuing will be limited to the subject property. Internal circulation will be maintained.

- (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.

Not Applicable

(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.

No 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.

No 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 such a plan and staff finds it acceptable.

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

- (e) **Exemptions.** The requirements of Section G-2.19 do not apply to the use of any lot, lots or tract of land for any private educational institution, or parochial school, which is located in a building or on premises owned or leased by any church or religious organization, the government of the United States, the State of Maryland or any agency thereof, Montgomery County or any incorporated village or town within Montgomery County. This exemption does not apply to any private educational institution which received approval by the Board of Appeals to operate a private educational institution special exception in a building or on a lot, lots or tract of land that was not owned or leased by any church or religious organization at the time the Board of Appeal's decision was issued.

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

Upon review of the applicant's petition for special exception for a Private Educational Institution in the R-60 zone, staff recommends approval. The proposed development 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).