

MCPB  
Item # 3  
1/27/05**MEMORANDUM: SPECIAL EXCEPTION**

**DATE:** January 21, 2005

**TO:** Montgomery County Planning Board

**VIA:** Rose Krasnow, Development Review Chief *Rd K*  
Carlton Gilbert, Zoning Supervisor *CG*

**FROM:** Joel A. Gallihue, AICP (301) 495-2119 *JAG*  
Development Review

**SUBJECT:** Special Exception No. S-2626: Private Educational Institution for persons with disabilities up to seventy-five students at 21515 Zion Road in the Brookville vicinity.

**ZONE:** RDT

**MASTER PLAN:** Olney Master Plan, Approved and Adopted June 1980

**FILING DATE:** October 1, 2004

**PUBLIC HEARING:** February 7, 2005

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**STAFF RECOMMENDATION: APPROVAL** with the following conditions:

1. All evidence, testimony and exhibits of record shall bind the petitioners including the Special Exception Site Plan prepared by Macris, Hendricks & Glascock, dated January 17, 2005.
2. No more than seventy-five students between the ages of two and twenty-one and no more than forty-eight staff are permitted.
3. The hours for educational activities are restricted to 9:30 a.m. through 4:00 p.m. Monday through Friday.
4. Future development of this site may not increase the current level of impervious surface.
5. Prior to transfer of the property from the State of Maryland to the Applicant, the applicant shall submit a resource management plan, which

includes elements that address water quality to M-NCPPC Environmental Staff and obtain approval.

**Project Summary** - The applicants, Community Services for Autistic Adults and Children (CSAAC), are requesting special exception approval to continue a Private Educational Institution (PEI) use at an existing facility that is currently owned by the State of Maryland. CSAAC currently leases the site from the state of Maryland and seeks to own the property. In order to own the property, CSAAC must obtain a special exception. The use would serve students referred by local public schools or Medicaid and be limited to seventy-five students.<sup>1</sup> The use would be located at 21515 Zion Road in the Brookville Vicinity. This site is in the Olney area and in the RDT Zone, located on the east side of Zion Road. The property is improved with four existing primary structures, which will remain for the requested use. Additional parking was recently installed by through coordination with Department of Housing and Community Affairs. This occurred prior to submission of the special exception.<sup>2</sup> A playground and natural surface trail are proposed.

**Site and Neighborhood Description** - The site is located on the east side of Zion Road and the complex is set back from the road approximately 1,600 feet with access via a pipe stem driveway. The north of the site is Sundown Road and Gregg Road. The site is located in an area of agricultural and open space land uses and partially surrounded by parkland. Some lots with residential use abut the pipe stem driveway. The subject of the petition is Parcel A, of Plat Book 157, Plat 17876, a property that is approximately 9.73 acres or 424,075 square feet in area with four buildings containing a total floor area of approximately 33,140 sq. ft.

The site was a Nike missile control facility utilized by the federal government in the sixties and seventies. Changes in defense technology and/or force allocation rendered that use unnecessary and the site was surplus. Typically, the federal government seeks to document a public benefit in the transfer of surplus public land. This objective is typically implemented through conditions in the deed, as is the case. The property was transferred to the American Foundation for Autistic Children or AFAC in the seventies with conditions that the property be operated as a school for the developmentally disabled. (Probably a special exception was necessary if permitted at all, but was not obtained and now that the property is back in public ownership, current operations are legal.) AFAC was hampered by lack of capital and obtained state assistance and operational funds from Abe Pollin, a business owner and philanthropist in the area. These funds appear to have further encumbered the use of the site to a school for autistic children. AFAC operations eventually terminated and the property defaulted to Mr. Pollin. Mr. Pollin coordinated with the State to find a similar user. This led to state ownership and brought CSAAC and Montgomery County into the process. Also, property maintenance had lapsed prior to CSAAC's occupancy and Montgomery County's Department of Housing and Community

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1 The CSAAC website (<http://www.csaac.org/>) provides programmatic information about the non-profit organization and summary information about Autism, a developmental disability.

2 Staff concludes this is a preexisting improvement to the publicly owned land.

Affairs intervened to make necessary repairs. CSAAC currently leases the site from the state but is under a sales contract, which requires successful resolution of ZTA 03-07, allowing this use in the RDT zone, and finally this special exception.

### **Elements of the Proposal -**

The private education institution facility will serve up to 75 disabled students (between ages 2 to 21) on weekdays from 9:30 a.m. to 4:00 p.m. There will be up to 48 staff at any one time. The statement of operations does not anticipate any future modification to increase operations and no expansion would be permitted given the 75 student cap limitation of the RDT zone. Any adjustments to the site would require a modification of the special exception.

The proposed school operates as an extension of the public school system. While it is operated by a non-profit organization, either a local school system or Medicaid refers students to this school. The applicant has informed the staff that autism is expressed in a range of severity. This is a relevant fact to distinguishing the operations of this school from other private education institutions. Because of the range of severity of the developmental disability, educational programs must be customized almost to the individual. This is highlighted in the first pages of the applicant's submission when various types of programs are discussed. The first land use implication is that students do not necessarily all stay the same period of time and trips are more distributed than typical for school uses. The second land use implication is that student to teacher ratios are difficult to generalize and much higher than typical. As noted in the environmental analysis on page 5, the property is over the impervious surface cap for uses in the Patuxent Master Plan, prohibiting any additional surface area. The transportation analysis on page 5 finds facilities are adequate for the operations as represented. For these reasons staff is recommending the number of teachers simply be capped at forty-eight as proposed and that the site be limited to the existing level of impervious surface.

### Structures

The existing structures have received interior modifications to prepare the facility for operation under state ownership in partnership with Montgomery County Department of Housing and Community Affairs. No new buildings or additions are proposed. Only new playground equipment is proposed. Structures include:

#### Activity Building and Classrooms

This two-story structure is the largest w/ a floor area of approximately 1,900 sq. ft. in area over two stories.

#### Office Buildings

Three residential buildings from the previous operation are proposed as offices. They range in floor area from over 5, 000 sq. ft. to one that is over 10, 000 sq. ft. space. Residential occupancy is not proposed.

### Outbuildings

An existing guard building, pump building and picnic structure are also shown on the plan. The property will remain on well water so the pump house will continue to be used. The picnic shelter remains in use. No use is specified for the guardhouse, which is an artifact of the past military use of the property. The current yard requirements are not met by this accessory building. The side yard setback for an accessory building located on an interior lot is fifteen feet and this building appears to be twelve feet. Since no use is proposed it can probably remain as a legal non-conformity since nothing has been built and the use has not changed. Alternatively the building may be removed or moved at some future time. If so, the applicant should consult with the Board of Appeals to ensure the special exception plan is kept up-to-date, as with any other change the applicant may consider.

### Parking

Vehicular access will be from an existing driveway entrance on Zion Road. Since no new construction is proposed, no facility plan is required. One parking space is required per employee. Since no new construction is proposed, no facility plan is required. The proposed and conditioned number of employees is forty-eight. At least fifty-one spaces are provided. The parking lot is screened from abutting lots with existing trees. It provides thirty percent shade,<sup>3</sup> as recommended by Environmental staff. Since there are the use is in an agricultural zone, no specific landscaping of parking is required.

### Lighting

Five existing and nine new (20') pole lights are proposed. The proposed lighting is for area lighting around parking and buildings. Wall mounted fixtures are not incorporated into the submitted photometric plan. Cut sheets on the lighting plan indicate shielded and directed lighting. Given the central situation of existing buildings, lighting is away from abutting lots. The photometric plan indicates that lighting levels will consistent with the standards for lighting levels in residential zones, which, while not applicable are a useful guide considering the proximity of residential uses to the south of the property.

### Sign

No sign is proposed. Sign regulations (Sec. 59-F-4.2) permit one freestanding sign. The sign may be forty square feet in area and no taller than ten feet in height. The sign must be set back from the property line and may not be lighted.

### Outdoor Play Area

A playground is proposed, subject to availability of funding. The location is depicted on the development plan adjacent and north of the office buildings. This location faces parkland and setback from the property line. The location is away from internal traffic circulation and a fence prevents students from leaving the property and getting onto public roads.

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<sup>3</sup> Not by zoning requirement, as this is in an agricultural zone.

## ANALYSIS

**Master Plan** - There are no master plan issues associated with this modification application. The Olney Master Plan supports the existing RDT zoning and allows special exceptions, such as the proposed use, in the zone. This location, somewhat removed from residential uses, is appropriate and the weekday hours, enclosed play area, and site design further enhance compatibility of the use at this site.

**Transportation** - The Transportation Planning staff recommends the following condition as part of the Adequate Public Facilities (APF) test for transportation requirements related to this special exception:

*Limit the petition to an enrollment of 75 students and a staff of 48.*

The proposed private education institution will generate fewer than thirty trips during both the morning (7:00-9:00 a.m.) and evening (4:00-6:00 p.m.) peak periods. Under the Local Area Transportation Review (LATR) Guidelines, this use has a *De minimis* impact on local area traffic; therefore, a traffic study is not required to satisfy LATR requirements.

Zion Road as planned as rustic road with a 70-foot right-of-way the required right-of-way was dedicated in 1989. Transportation staff finds that access, circulation, and parking for the private education institution are adequate.

**Environmental** –Upon review of the NRI/FSD, staff finds this project is exempt from the forest conservation regulations. However, the applicant will be responsible for submitting a tree save plan for review and approval prior to the release of sediment and erosion control or building permit, as appropriate.

Staff evaluated the proposal and determined that shade trees should be incorporated into the proposal to balance the fact that the existing facility exceeds the recommended impervious surface cap. The parking lot is screened from abutting lots with existing trees. It is shaded, thirty percent,<sup>4</sup> as recommended by Environmental staff. The shade produced by these trees will reduce thermal load on the asphalt surface, which will reduce in-turn run-off water temperature and improve water quality. Similarly, staff has asked the applicant to designate low mow areas, where the septic reserve easements are situated to reduce run-off in the primary management area. The applicant revised the landscape plan to include this recommendation. To ensure proper maintenance of shade trees and low mow areas a condition has been recommended for a water quality management plan. This will encourage a commitment by the property owner to sensitive use of their land in the

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<sup>4</sup> Not by zoning requirement, as this is in an agricultural zone.

Primary Management Area.

**Development Standards-** The special exception modification is in compliance with the development standards for the RDT Zone. Conformance to relevant development is summarized in Table 1 on the following page.

<b>Table 1 – Conformance with Applicable Development Standards S-2626</b>		
<b>Development Standard</b>	<b>Requirement</b>	<b>Proposal</b>
Front Yard Setback	50'	51'
Side Yard Setback	20'	87'
Sum of Both Sides	40'	170'
Rear Yard Setback	35'	48'
Lot Area	40,000 sq. ft. <sup>5</sup>	9.73 ac.
Lot Width @ Street	25'	Appx 105'
Lot Width @ Front Bldg Line	125	Appx. 630'
Building Height	50'	2 story (≈20 ft.)
Building Coverage	10% or 42,384 sq.ft.	5.3% or 22,370 sq. ft.
Parking	1/employee = 48	51

**Inherent/Non-Inherent Adverse Effects-** The inherent and non-inherent adverse effects of a special exception must be considered on nearby properties and the surrounding neighborhood at the proposed location, regardless of the adverse effects the use might have if established elsewhere in the R-90 zone. Section 59-G-1.2.1 of the Zoning Ordinance 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 are 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.*

<sup>5</sup> The applicant references a two-acre minimum lot size from the ZTA but it appears this language was not incorporated. 59-C-9.42 sets the minimum net lot area for the zone at 40,000 sq. ft. but it is questionable if this lot could subdivide, given the specific conditions of the quit-claim deed.

Analysis of inherent and non-inherent adverse effects considers size, scale, scope, light, noise, traffic and environment. It is understood that every special exception has some or all of these effect in varying degrees. What must be determined during the course of review is whether these effects are acceptable or will create adverse impacts sufficient to result in a denial. To that end, inherent adverse effects associated with the use must be determined. In the case of a private education institution, the inherent adverse effects include areas for outdoor play and parking facilities. They include arrival and departure of students either by bus or by private vehicle. Boarding of students could be the inherent adverse effect of unloading and loading at the start and end of terms.

From an operational perspective, there are inherent daily operations and traffic associated with transporting students and staff. A non-inherent adverse effect could occur in a private institution that has no bussing.

Outdoor recreation is typical and a potential inherent adverse effect but evening athletics, requiring lighting could present a non-inherent adverse effect.

The proposed special exception is probably lower in impact than most private education institutions with respect to daily traffic associated with transporting students. The proposed outdoor activities are similarly lower in impact. The applicant is able to meet setbacks and is providing fencing and screening of existing vegetation. Staff concludes that there are no non-inherent adverse effects associated with this application that warrant denial.

**Compliance with General and Specific Special Exception Provisions** - Staff has reviewed the application for compliance with all applicable special exception provisions and finds the following:

**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 proposal is for the PEI use to occupy an existing facility. A similar use has operated at this for most of the past thirty years and this current school is operating today as a use on public land. Approval of the special exception as proposed would allow up to 75 students but at a very low density of students per acre as noted below.*

- (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;

*This provision is not applicable because the buildings existed before the date the provision was adopted and the property exceeds two acres in area.*

- (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 surrounding community is of an agriculture/open space land use, which permits residences. The proposal is for the PEI use to occupy an existing facility. A similar use has operated at this for most of the past thirty years and this current school is operating today as a use on public land. Approval of the special exception as proposed would allow up to 75 students but at a very low density as noted below. Should the applicant propose to divide the property, a modification of the special exception plan would be required, affording an opportunity to reconfirm that this standard has been met. While the Olney Master Plan designated land in this vicinity for Agricultural and Park land use, this complex and school existed at the time.<sup>6</sup> Staff concludes that approval of this special exception use would have no impact on the present character or future development of the surrounding 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:

*ZTA 03-07, effective, 7/21/03, allowed a very narrowly defined type of private educational institution use in the Rural Density Transfer Zone. The Agricultural zones use table (Sec. 59-C-9.3) includes a footnote (Note 13) which limits each PEI use in the RDT to no more than 75 students and the minimum lot size in the zone is 40,000 sq. ft. This allows a maximum density of 75 students per acre or less, no matter how large the property.*

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<sup>6</sup> The Olney Master Plan was approved and adopted in June of 1980. The quit-claim deed transferring the property to the preceding operator is dated January 2, 1975.



*In this case, 75 students are proposed for 9.73 acres yielding a density of approximately eight students per acre.*

1. Traffic patterns, including:

a. Impact of increased traffic on residential streets;

*Access is to Zion Road via an existing entrance, which is adequate. The submitted traffic statement indicates that there is a small amount of traffic generated during peak hours and that activity levels are spread over the entire day, minimizing impact. Staff finds this action will not have an adverse affect on the transportation system.*

b. Proximity to arterial roads and major highways;

*Zion Road is designated as a rustic road with a 70-foot right-of-way and provides connections to MD 108, MD 650 and MD 97. A location on an arterial or major highway may be desirable for some private education institutions. This site suits the program needs of CSAAC, but more importantly, it is appropriately located given the low density of students, the bussing, and the broad distribution of trips throughout the day.*

c. Provision of measures for Transportation Demand Management as defined in Section 42A-21 of the Montgomery County Code;

*The Board has considered Transportation Demand Management Plans for other private education institution special exceptions where there are high activity levels during peak hours and limited bussing. Such a situation may arise where a private school has longer student hours and a uniform start and stop for all students. This instance is quite the opposite with distributed arrival and departures, low density and extensive bussing. Consequently, staff does not recommend Transportation Demand Management. If the applicant decided to change the school programming from what is currently represented, a modification of the special exception would be necessary to revisit this provision.*

- 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

*Adequate queuing, circulation, loading exists as depicted by the site plan. Staff finds that there is little or not chance queues of waiting vehicles spilling onto Zion Road.*

2. Noise or type of physical activity

*Anticipated noises include vehicular access to the site, property maintenance machinery as needed and outdoor play. Nearly all of this noise would occur during the day on weekdays between the hours of 8:30 AM and 6:00 PM. These activities are consistent in nature and within the time appropriate for daytime noise levels as defined by Chapter 31B of the County Code. Little or no noise is anticipated in the evening or weekends as it described as occasional meetings inside. Given these operations and the size and design of the site staff finds the noise and activities appropriate.*

3. Character, percentage, and density of existing development and zoning in the community;

*The character of existing development is agricultural, open space and parkland with some residences. The permitted density is one dwelling unit per twenty-five acres.*

4. Topography of the land to be used for the special exception; and

*The topography is sloped.*

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 noted above, this provision is not permitted under the RDT zoning.*

- 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.

*Surrounding properties are zoned RDT, which is an agricultural zone. A hard surface recreational area and a picnic shelter are indicated on the plan. The entire facility is screened on all sides by existing mature vegetation. The entire facility is also fenced with an existing chain link fence.<sup>7</sup> The recreational facilities are in closest proximity to the adjacent properties to the north and west. These properties consist of M-NCPPC parkland and vacant property. One adjacent property has a residential use but it is located on the opposite side of the property from the proposed outdoor recreation. The size, location, and design of the site, including proposed lighting protects adjacent properties from the objectionable impacts noted above.*

- (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.

*No such programming is proposed. Summer programming is discussed in the application but it does not appear to vary in nature from the regular educational program of CSAAC in that it would still be education for autistic children. If CSAAC*

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<sup>7</sup> The applicant's representative has confirmed that the existing fence would not require any tree removal for any future maintenance because the chain link design can be positioned in and around trees.

were to propose any such programs listed above for reasons outside of their core mission in the future, a modification of the special exception would be necessary. This would allow the Board of Appeals to make this special finding and to reconfirm that the limitations on this use by the RDT zone are still met.

**(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.

*A site plan Prepared by Macris, Hendricks & Glascock, P.A. dated September 9, 2004, and revised through January 17, 2005 has been submitted. The plan includes such features.*

(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.

*Staff recommends approval of this application subject to conditions, including a specific condition referring to the submitted site plan.*

- (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. Although the State of Maryland Department of Mental Health and Hygiene currently owns the property the application states that sale to CSAAC is pending, contingent upon approval of the special exception.*

- (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 since there was no prior private educational institution special exception approval obtained for this site.*

(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 as the property is owned by the State of Maryland and proposed to be owned by CSAAC, a private non-profit organization.*

- (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

*Not applicable since the property is not owned or leased by Montgomery County.*

- (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 since the property is not owned or leased by Montgomery County.*

- (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 since the application was filed after May 6, 2002.*

## **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 use is allowed in the RDT zone per a zoning text amendment numbered ZTA 03 – 07.8*

- (2) Complies with the standards and requirements set forth for the use in division 59-G-2.

*The use complies with these standards.*

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8 (1) the site was previously used to provide educational services to persons with disabilities, (2) no more than 75 students are enrolled at any one time, (3) enrolled students are not boarded, and (4) improvements exist on the property (as of July 21, 2003) to accommodate the school's educational programs. A residence may be provided on site for use by a caretaker. Educational services to persons without disabilities are limited to enrichment activities related to providing educational services to persons with disabilities.

- (3) Will be consistent with the general plan for the physical development of the district, including any master plan or portion thereof adopted by the Commission.

*The Olney Master Plan covers the subject property. Staff finds that the proposed special exception is consistent with the recommendations in the approved and adopted 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 neighborhood when considering these criteria.*

- (5) Will not be detrimental to the use, peaceful enjoyment, economic value or development of surrounding properties or the general neighborhood; and will cause no objectionable noise, vibrations, fumes, odors, dust, glare or physical activity.

*The use will not have a detrimental effect for any of these reasons.*

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

*The proposed use when evaluated in conjunction with other existing and approved special exceptions in the area will not affect area adversely or alter its residential character.*

- (7) Will not adversely affect the health, safety, security, morals or general welfare of residents, visitors or workers in the area;

*The use will not adversely affect the safety of area residents.*

- (8) 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. If the special

exception use requires approval of a preliminary plan of subdivision in accordance with chapter 50 of this Code, title "Subdivision of Land," the adequacy of public facilities will be determined by the Planning Board at the time of subdivision approval. In that case, the Board of Appeals must include such Planning Board approval as a condition of the grant of the special exception.

*The use is adequately served by relevant facilities including public safety services<sup>9</sup>, storm drainage, and transportation. No approval of a subdivision is required therefore the Board must make an adequate facilities finding upon approval of the special exception. Staff finds facilities adequate.*

### **COMMUNITY CONCERNS**

Staff is aware of no letters of concern and notes that the official notice references adjoining and confronting property owners, applicable Home Owner Associations, and applicable Civic Associations.

### **CONCLUSIONS**

Upon reviewing the petition and visiting the subject property, staff recommends approval of the special exception modification application subject to the conditions found on page 1 of this report.

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<sup>9</sup> Sandy Spring Station 40, Sandy Spring Vol. Fire Dept. Station 4 and 4<sup>th</sup> District of Police.