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I. STATEMENT OF THE CASE

On October 9, 2020, the Audubon Naturalist Society (“Audubon” or “Applicant”) filed an application for an amendment of the existing special exception (CBA-2643) for a charitable and philanthropic institution. Exhibit 1. The Board of Appeals referred the above-captioned petition to OZAH for a major amendment to a special exception pursuant to 59-A-4.22 of the Zoning Ordinance (2004) as made applicable by Section 59-7.7.1.B.1 of the Zoning Ordinance (2014) for a public hearing and written recommendation. Exhibit 2. The application seeks to modify an existing special exception held by Audubon by adding a 24,485 square foot nature play space to “provide stimulating outdoor recreational opportunities while at the same time enhancing children’s social, emotional and cognitive development through the experience of outdoor learning.” Exhibit 47, p. 3.

The property is located at 8940 Jones Mill Road, in Chevy Chase, Maryland. Pursuant to Section 7.7.1.B.1 and Section 7.7.1.B.3.c of the Montgomery County Zoning Ordinance, this Special Exception modification will be reviewed under the standards and procedures of the zoning ordinance in effect prior to October 29, 2014.

On May 17, 2021, Planning Staff issued its report recommending approval of the application with conditions. Exhibit 47. On May 28, 2021, the Planning Board issued its report

affirming the findings and recommended conditions of Staff. Exhibit 48. Those conditions are as follows:

1. Hours of operation for the Subject Special Exception Amendment use will be limited as follows:
 - a. Academic Programming
 - i. Convene from 8:30AM to 2PM
 - ii. During weekdays only
 - iii. During the months of September through May
 - b. Summer Camp/Activities Programming
 - i. Convene from 9AM to 4PM
 - ii. During weekdays only
 - iii. Months of June through August
 - c. General Public Visitation
 - i. School Year Visitation – weekdays are permitted from dawn to 10AM and from 2PM to dusk, September through May.
 - ii. Summer Visitation – weekdays permitted from dawn to 8AM and from 4PM to dusk during the summer (June through August).
 - iii. Year-round visitation is permitted for the general public confined to the aforementioned hours.
 - iv. Weekend Visitation - Dawn to dusk year-round, unless reserved for special programming or closed due to weather related events.
2. No vehicles may queue within the public right-of-way on Jones Mill Road or Brierly Road while accessing the Site.
3. The Applicant must dedicate 70 feet of public right-of-way to achieve the full master-planned right-of-way width to the Montgomery County Department (MCDOT) of Transportation via deed or a form acceptable to MCDOT along the Site's Jones Mill Road frontages within sixty (60) days of approval of the Modification to Special Exception Amendment No. CBA-2643-A.
4. The Applicant must provide at least 18 vehicle parking spaces on-site. Members and guests shall not park on nearby public streets.

After one postponement, OZAH issued a Notice of Public Hearing on June 11, 2021, and the public hearing proceeded as scheduled on August 23, 2021. *See* Exhibit 46. The following individuals testified in support of the application: Lisa Alexander (on behalf of the Applicant), Alison Pearce (on behalf of the Applicant), Greg Hoffman (environmental engineer), and Nicole

White (traffic planner). There were no members of the general public that testified and the hearing was uncontested. The record does include correspondence from an adjoining property owner expressing concern regarding the application. Exhibit 19. The record was left open for ten (10) days following the conclusion of testimony for the inclusion of the transcript, the posting affidavit, and any other post hearing documents. T. 77.

After a thorough review of the record in this case, including all documents, testimony, and evidence offered, the Hearing Examiner **RECOMMENDS APPROVAL** of the requested major amendment to the special exception for a charitable and philanthropic institution, pursuant to Section 59-G-1.3(c) of the 2004 Zoning Ordinance, with the conditions included in Part IV of this Report, for the following reasons.

II. FACTUAL BACKGROUND

A. Prior History

Audubon applied for and obtained a special exception for an “eleemosynary and philanthropic institution” on September 2, 1969. Exhibit 6, p. 6. Minor modifications have been approved since 1969 to “implement modest elements of its ‘Woodend Master Plan’” including the installation of cattle grates and permanent monument signs, replacement of an existing six-foot chain link fence, an 8-foot high fence, and sections of a 10-foot high deer fence, and improvements to an existing nature trail to enhance wheelchair accessibility and restore an adjacent Clean Drinking Stream. *Id.* at 7.

B. The Subject Property

Technical Staff (“Staff”) provided the following description of the property:

The subject site (“Subject Property” or “Property”) is located at 8940 Jones Mill Road, approximately 1,700 feet north of the intersection with Jones Bridge Road. The Site consists of approximately 40.19 acres (1,750,983 square feet) and is bisected by Jones Mill Road, with Property on the east and west side of the

roadway. The Property has approximately 930 feet of frontage on Jones Mill Road and 1,270 feet of frontage on Brierly Road. Rock Creek abuts the Property along the eastern property line. To the northwest quadrant of the intersection of Jones Mill Road and Jones Bridge Road is the Manor Care Chevy Chase Healthcare Facility and to the southwest corner is the North Chevy Chase private swimming pool. The Property is within the area encompassed by the 1990 Bethesda – Chevy Chase Master Plan (Master Plan).

Exhibit 47, p. 4. The property is zoned R-90 and is currently improved with the historic “Woodend Mansion” comprised of offices, an estate garage, service buildings and undeveloped woodlands that are maintained as a wildlife sanctuary and associated surface parking lots to support the use of the property as the Audubon Naturalist Society of the Central Atlantic States (ANS). Exhibit 47, p. 4. Recognized under the current Zoning Ordinance as a Charitable and Philanthropic Institution, the special exception was originally approved on September 2, 1969, and has undergone multiple modifications and amendments since then including structural alterations, expanded parking areas, fencing, the addition of a preschool program, among other renovations and improvements. Exhibit 47, p. 6-7. The property is designated as a historic resource with National Trust for Historic Preservation, Maryland Inventory of Historic Properties, and Montgomery County Master Plan for Historic Preservation. *Id.* at 4. The property is located within the Lower Rock Creek watershed, a Use I watershed, and contains numerous mature trees onsite with three delineated forest stands for a total of 27.3-acres of forest. *Id.* at 5.

In terms of locating the nature play space and associated parking on the lot, Ms. Alexander, Audubon's Director, stated that the specific location was selected as:

“...down here separate from that is this tucked away nature play space so that we really could have multiple uses are happening at the sanctuary at one time without people crashing into each other. And the nature play space also has a nice alignment with our nature preschool. And with what we think of as a starting point. If you look at the driveway and how you enter, there is a gathering space that allows classes and teachers and our naturalists to get together, to gather, to begin their

experience in the nature play space and then to use it as an invitation to go farther into the woods.” T. 30.

Ms. Pearce, Audubon's Deputy Director of Programs, added:

“...that part of why the play space is sited where it is, is that that area was one of the most ecologically degraded areas of the sanctuary. It didn't qualify as forest because it didn't have enough tree is in good health and was really dominated by invasive shrubs like Asiatic Bush Honeysuckle. And so that seemed like a good place to build something like this. And so, we planned the stream and trail project along with the play space project so that we could take as much advantage of an area to improve and not be disturbing areas multiple times.” T. 52.

C. Surrounding Neighborhood

To determine the compatibility of the proposed use with the surrounding area, it is necessary to delineate the “surrounding neighborhood,” which is the area that will be most directly impacted by the proposed use. Once delineated, the Hearing Examiner must assess the character of the neighborhood and determine whether the impacts of the proposed conditional use will adversely affect that character.

Staff defines the neighborhood as generally bounded to north by the Capital Beltway/I-495, to the east by Rock Creek Park, to the south by Jones Bridge Road and to the West by Connecticut Avenue/MD-185. Exhibit 47, p. 6. The surrounding neighborhood is composed of single family detached houses in the R-90 Zone with one other special exception, the Manor Care Chevy Chase Health Care Facility (CBA-1516-D). *Id.* Staff advises that there are no known pending or proposed development projects currently planned for the surrounding neighborhood. *Id.* Figure 3, reproduced from page 6 of the Staff Report (Exhibit 47), outlines the staff-defined neighborhood in red. Audubon accepts Staff's delineation and described character of the neighborhood. Exhibit 6, p. 5.

The Hearing Examiner agrees and accepts the agreed upon delineation of the surrounding neighborhood and its characterization as predominantly single-family residential, albeit with the

subject property being a large and mostly unimproved and heavily forested lot with the institutional use of the existing special exception.



Figure 3 – Neighborhood and Surrounding Uses

D. Master Plan

The subject property is within the area encompassed by the 1990 Bethesda – Chevy Chase Master Plan (“Master Plan” or “Plan”). Staff advises that the Plan calls for the “...protection of Woodend as a historic resource and its environmental setting is recommended for Audubon Naturalist Society and Landon School...” Exhibit 47, p. 15. Staff further advises that the Plan’s recommendations for the Audubon property include the continuation of the existing use in an institutional form, or alternatively, development in accordance with its underlying R-90 density and emphasizing the importance of the historic designation of the Property. *Id.* (citing Master Plan, Table 1, page 34). Staff opined that the application “emphasizes the preservation of Audubon Naturalist Society in its unique form as a natural sanctuary” and will “retain the character of the property while providing more diverse opportunities and welcoming visitors who benefit from its

unique offerings.” Exhibit 47, p. 15. Staff also proffered that the Applicant proposes to commit up to 24 acres of land to be placed in a Category 1 (no disturbance) forest conservation easement, which also aligns and is consistent with the Master Plan’s recommendations for the subject property. *Id.*

E. Proposed Use & Operations

The application proposes to modify Special Exception CBA-2643-A, as amended numerous times since 1969, to add an outdoor nature play space with associated parking. The existing (and continuing) special exception holder, The Audubon Naturalist Society, is a charitable and philanthropic institution that serves as an environmental organization linking conservation activities with environmental education. Exhibit 47, p. 7. Most of the lot is unimproved and will remain a nature sanctuary in support of Audubon’s education and conservation mission. The proposed nature play space is located on the south side of the entrance drive from Jones Mill Road leading to the “Woodend” mansion which contains offices and other facilities for Audubon. *Id.* at 8. This primary activity area “contains various nodes of play encircling equipment to include: child scale entry tunnel, play deck, two playhouses, log scramble, a nest deck, log circle, twig tepees, nest swing, a parkour by Kompan, boulder balance, wood thrush, and an area for water play.” *Id.* at 9. Ms. Pearce, Audubon’s deputy director of programs, also described the addition of rustic chalkboards, art boards, log circles and stumps, and a water sluice, among other features of the play space. T. 44.

The proposed play area will also include an adjacent restroom and shade structure measuring 45 feet (L) by 20 feet (W) by 10 feet (H) with tables for sitting to accommodate eating, teaching and communal space for field trips and will be fully compliant with the American Disabilities Act (ADA) and accommodate persons with sensory disorders. *Id.* According to Staff,

“the materials, scale, and massing proposed for the equipment are consistent with early childhood educational recreational equipment further uniting the mission of ANS [Audubon Naturalist Society].” *Id.* The proposed parking area for the nature play space is located on the north side of the entrance drive and provides 18 parking spaces as well as bus parking to serve the use. *Id.* With respect to the siting of the proposed parking area, Ms. Pearce testified that:

“...the parking area was sited “in an area of old fields that really has not been restored. It's still dominated by European grasses and we also worked hard to avoid the existing trees. There is a black walnut tree in that area that the parking area bends away from. So, the design was really intended to preserve the existing natural and cultural resources as much as possible.” T. 48.

While the Woodend Nature Sanctuary is “open to visitors from dawn to dusk” year-round, the “Nature Play Space will not be open to the public when planned ANS-led programming is taking place in the space.” Exhibit 6, p. 12. The proposed nature play space “is intended to offer a greater variety of focused, intentional outdoor educational experiences and to deliver those experiences to a greater number of children, including those with disabilities.” Exhibit 6, p. 9. Ms. Alexander, Audubon's director, testified that:

“one of our hardest situations was now that many children with physical disabilities are mainstreamed into school classrooms, when field trips would come, kids would get off the bus, whether they had wheelchairs or walkers or were able-bodied. And the kids who were able-bodied had the chance to go into the woods, to go down to the pond, to dip their nets in, to collect apples. But the kids who were in wheelchairs, we had to take the patio of the mansion. And that did not feel like a fair deal for kids with disabilities.” T. 27-28.

Audubon notes that the nature play space will be “preliminarily host planned programming staffed by ANS naturalist-educators but will offer established hours for welcoming unaccompanied visitors” as Audubon facilities are free and open to the public throughout the year. *Id.* By agreement with Montgomery County Schools, Audubon runs field trips programs for school children, while also operating its own preschool and maintains its grounds as free and open to the

public. Exhibit 6, p. 7. Ms. Pearce stated that “programming generally is heaviest between 10 a.m. and 2 p.m.” T. 50. “Other school year programs typically include...Day-Off Day Camps for school-aged children during the school year when Montgomery County Public Schools are closed. [Audubon] also provides a free family “Walk in the Woods” program the first Saturday of each month.” *Id.* at 8. Ms. Alexander stated that:

“[Audubon has a] mission to connect people with the outdoors, even before the pandemic we were feeling this rising tide of kids connected to screens and missing those foundational experiences of being out in nature and having free play in nature, free play that we think is the essential ingredient to becoming a lifetime steward of the environment. If kids never get off their computers and never get to go mess around in the woods, or climb across rocks and a stream, or jump from stone to stone on a path through the woods, they are not going to learn the concepts of nature or the love of nature that we think is essential for protecting nature for the future. So, we envisioned the nature play space as a place where parents and teachers and caregivers could feel safe having their kids play in the woods.” T. 28.

In addition to the proposed nature play space, the Application proposes site modifications to the site including landscaping, parking, and stormwater management and updates to previously approved conditions of approval pertaining to Audubon's operations. Exhibit 47, p. 8.

1. Site Plan

Audubon's site plan is marked as Exhibit 8 and contained in the record. Exhibit 6(a), shown below, illustrates the location of the play space with proposed features, internal roadway circulation, and parking area contained within this application.

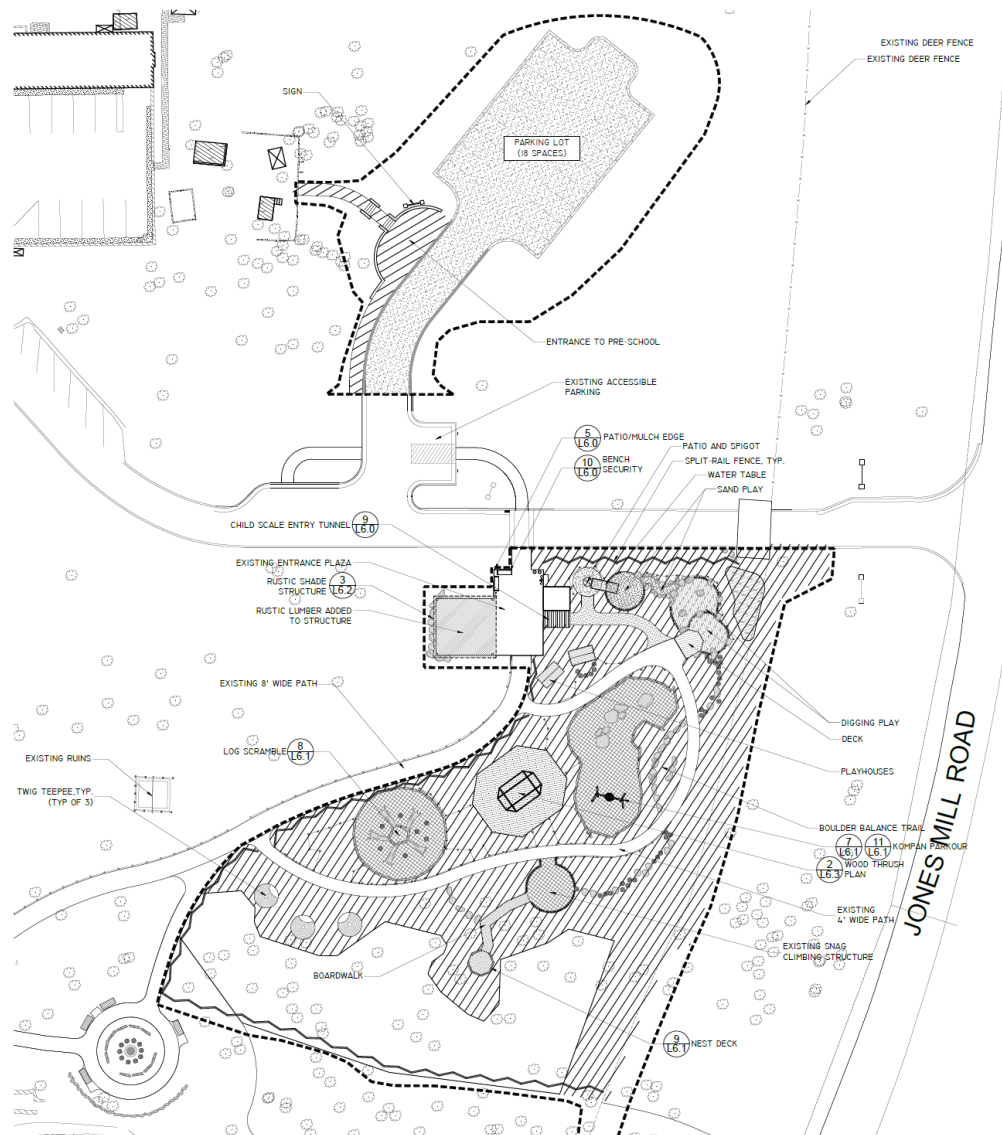


Exhibit 6(a)

Figure 4, reproduced from p. 8 of the Staff report shown below, shows the proposed nature play space and associated parking area shaded in grey as it relates to the remainder of the property outlined by the red-dashed perimeter. Figure 4 also illustrates the location of adjacent, adjoining, and nearby lots.

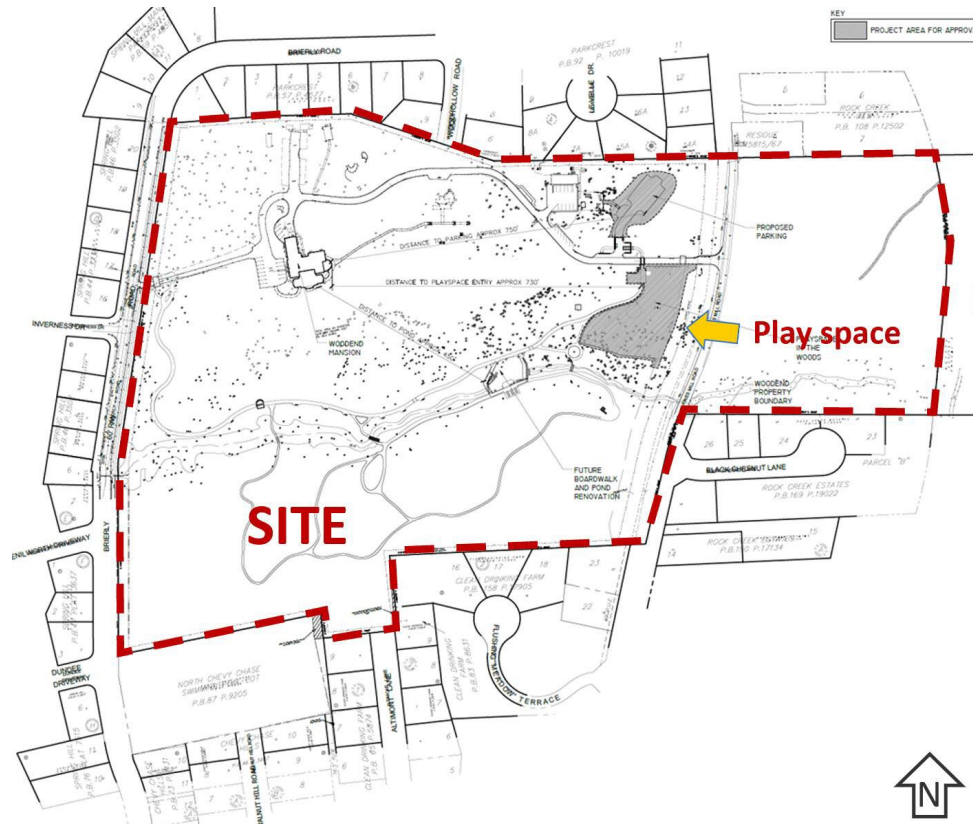


Figure 4 – Special Exception Amendment CBA-916-A

2. Signage

The application does not propose any new signage.

3. Access, Circulation, LATR, and Parking

a. Access & Circulation

Vehicular access to the property is provided via two gated entrances with the main entrance located on Jones Mill Road and a secondary driveway located on Brierly Road. Exhibit 47, p. 12. Along the property's Brierly Road frontage, there are four-foot-wide pedestrian sidewalks with a 3-foot lawn buffer running North and South. *Id.* Staff advises that there is a high-visibility crosswalk where the Rock Creek Park trail intersects with the property's Jones Mill Road driveway, with intermittent sidewalks along Jones Mill Road. *Id.*

According to Staff, no public transit routes operate on Brierly Road or Jones Mill Road within the vicinity of the Property, however, the WMATA J1 route providing service between Bethesda and Silver Spring operates along Jones Bridge Road, located approximately 0.3 miles from the property's main entrance.

b. Local Area Transportation Review (LATR)

According to Staff, the Applicant's traffic statement indicates that application of ITE Trip Generation methodology generates an estimated total of 30 peak hour person trips (18 vehicle trips) in the evening peak hour. Exhibit 47, p. 13. While below the peak hour minimum threshold of 50 peak hour trips that requires the completion of a transportation impact study, Audubon volunteered to conduct a study to demonstrate that there is adequate capacity on the adjacent roadway network. *Id.* Ms. White, Audubon's traffic engineer, testified that she advised Audubon that a traffic study was not needed and an exemption could be submitted. However, "Audubon wanted to be very responsive and proactive and look at a full traffic impact study." T. 73. Results from the traffic study concluded that "all study area intersections operate at an acceptable average delay of 80 seconds or less during both the AM and PM peak hours. Therefore, no mitigation is required." Exhibit 47, p. 13. The traffic report concluded that "the proposed after-school program at the ANS will have no adverse impact on the study area intersections. The intersections will all operate with acceptable delays per the M-NCPPC guidelines after construction of the site improvements and the implementation of the after-school program." Exhibit 14, p. 6. Staff advises that both Planning and MCDOT staff have reviewed the transportation impact study and concur with the conclusions of the report. Exhibit 47, p. 13. Table 4, reproduced and shown below, illustrates all study area intersections and their level of service. *Id.* at 15.

Table 4: Intersection Level of Service

Intersection	Congestion Standard	Existing		Background		Total Future	
		AM	PM	AM	PM	AM	PM
1. Jones Mill Road at Jones Bridge Road	80 Seconds	24.7	21.7	23.2	16.4	23.2	16.6
2. Brierly Road at Jones Bridge Road	80 Seconds	5.9	1.2	6.1	1.2	6.1	1.3
3. ANS Site Driveway at Jones Mill Road	80 Seconds	0.3	0.1	0.3	0.1	0.3	0.3
4. ANS Site Driveway at Brierly Road	80 Seconds	0.5	0.8	0.5	0.8	0.5	1.6
5. Beach Road at Jones Mill Road / Stoneybrook Drive	80 Seconds	6.2	7.9	6.6	8.1	6.6	8.1

Source: Symmetra Design Transportation Impact Study dated December 16, 2020

c. Pick-up/Drop-off & Parking

According to Staff, the property contains four existing parking facilities distributed throughout the 40-acre campus serving the Main Building, the Learning Garden, the Teal Center and the East Trailhead. Exhibit 47, p. 12. Under this application, the Applicant is proposing a new permeable parking area to accommodate up to 18 vehicles. Table 5, reproduced below, indicates the required and proposed parking spaces under this application. Exhibit 47, p. 17.

Table 5: General Development Parking Requirements- Division 59.6

Section	Parking	Required Spaces	Proposed
Sec. 59-G-2.21.(b) Sec. 59-E-3.2.(a)	Office use Employees on largest shift	2.7 spaces per 1,000 GSF 1 space or every 2 employees on the largest shift Total: 56	44 spaces (existing on-site) 18 new spaces proposed at the Natural Play Space Total: 62
Sec. 59-E-2.3.(a)	Bicycle Parking Requirement	1 for every 20 parking spaces. Total: 4	16 short-term spaces Total: 16

Figure 12 below, reproduced from the Staff Report, p. 12, shows the proposed nature play space and parking area shaded in grey.

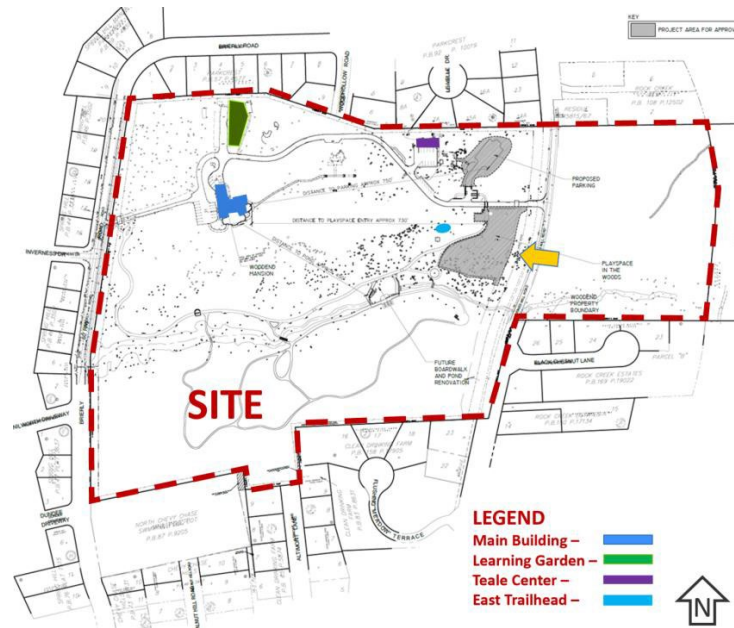


Figure 12 - Parking and Drop-Off/Pick-Up Facilities

4. Landscaping and Lighting

a. Landscape Plan

Audubon proposes “a rich combination of canopy trees (26), understory trees (62) shrubs (large – 93, medium – 91), perennial plantings and ground cover.” Exhibit 6, p. 12. Audubon further states that the nature play space area is screened “from both Jones Mill Road and residences to the north with species that will add character, color and teaching opportunities to the setting.” *Id.* Staff concluded that the proposed parking lot landscaping, tree canopy coverage and perimeter plantings all meet or exceed the landscaping required by the applicable sections of the Zoning Ordinance. Exhibit 47, p. 11. The Hearing Examiner notes that the property in general is densely wooded and will remain so under this Special Exception. *See* Exhibit 47, p. 4, Fig. 1. The Applicant submitted landscape plans showing extensive plantings throughout the property. *See* Exhibit 11-11(t).

b. Lighting

No lighting is proposed with this application. Exhibit 47, p. 16; Exhibit 6, p. 18; T. 32,53.

D. Environmental Issues

Audubon submitted a combined Stormwater Management Concept/Site Development Stormwater Management Plan. Based on review by the Department of Permitting Services Water Resources Division, the plan was deemed acceptable on January 8, 2020. Exhibit 47, p. 15. The plan proposes to meet required stormwater management goals via the use of a bioswale and micro bioretention. *Id.* at 11. Mr. Hoffman, Audubon's environmental engineer, testified that "Woodend is unique in that there is not a lot of development and not a lot of impervious cover there but there is a fair amount of topography" and described the stormwater management to be implemented includes two micro-bioretention areas, one on either side of the driveway, to treat the actual play space area and to treat the parking area. T. 66. Mr. Hoffman concluded that "both are sufficiently sized to handle the runoff created by the new construction areas." *Id.* Staff advised that a detailed review of stormwater management computations will occur at the time of the engineered sediment control plan review. Exhibit 47, p. 11. The Applicant submitted a Natural Resources Inventory/Forest Stand Delineation (NRI/FSD) which was approved on September 12, 2019. *See* Exhibits 10 & 10(a). The Applicant also submitted a Forest Conservation Plan (FCP 20200007) which was approved by MNCPPC on July 7, 2021. Exhibit 6, p. 17; *See* Exhibits 11-11(t); *See also* Exhibit 49.

E. Historic Preservation

According to Staff, the Master Plan emphasizes the historic designation of the entire property and its importance in the future use of the property. Exhibit 47, p. 11. The estate, known

as “Woodend,” is the work of architect John Russell Pope, built for the late Chester and Marion Wells in the eclectic classicism style, which is frequently recognized in a review of Montgomery County’s history. *Id.* The property was bequeathed to the Audubon Naturalist Society. Staff opined that Audubon’s mission is “consistent with the stewardship of the Site by not only protecting the natural features of the Property, but its man-made structures as well.” *Id.* Audubon states that they have coordinated with the staff of the Historic Preservation Commission (HPC) including briefing the HPC on implementation of Audubon’s Master Plan 2015-2065 and received HPC approval for the nature play space in May 2018. Exhibit 6, p. 17.

F. Community Response

Ms. Alexander testified that Audubon hosts community liaison meetings twice a year. T. 33. Staff advises that Audubon held a virtual meeting with adjoining and confronting neighbors on September 15, 2020. Exhibit 47, p. 22. Staff has not received any community correspondence as of the date of the Staff Report and concludes that Audubon has complied with all submission and noticing requirements. *Id.* The record contains one letter of concern from an adjacent neighbor (Exhibit 19) and several letters of support (Exhibits 20, 35, and 36).

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

A special exception is a zoning device that authorizes certain uses provided that pre-set legislative standards are met. Pre-set legislative standards are both specific and general. The special exception is also evaluated in a site-specific context because there may be locations where it is not appropriate. “The appropriate standard to be used in determining whether a requested special exception would have an adverse effect and, therefore, should be denied, is whether there are facts and circumstances that show that the particular use proposed at the particular location

proposed would have any adverse effects above and beyond those inherently associated with such a special exception.” *Montgomery County v. Butler*, 417 Md. 271, 275 (2010).

Weighing all the testimony and evidence of record under a “preponderance of the evidence” standard (see Code §59-G-1.21(a)), the Hearing Examiner concludes that the proposed special exception, with the conditions recommended at the end of this report, would satisfy all of the specific and general requirements for the use and does not present any adverse effects above and beyond those inherently associated with such a use.

A. Standard for Evaluation

The standard for evaluation prescribed in Code § 59-G-1.2.1 requires consideration of the inherent and non-inherent adverse effects of the proposed use, at the proposed location, on nearby properties and the general neighborhood. Inherent adverse effects are “the physical and operational characteristics necessarily associated with the particular use, regardless of its physical size or scale of operations.” Code § 59-G-1.2.1. 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.” *Id.* Non-inherent adverse effects, alone or in conjunction with inherent effects, are a sufficient basis to deny a special exception.

Staff have identified seven characteristics to consider in analyzing inherent and non-inherent effects: size, scale, scope, light, noise, traffic and environment. For this application, analysis of inherent and non-inherent adverse effects must establish what physical and operational characteristics are necessarily associated with the proposed modification to the existing philanthropic and charitable organization. Characteristics of the proposed use that are consistent with the characteristics thus identified will be considered inherent adverse effects. Physical and

operational characteristics of the proposed use that are not consistent with the characteristics thus identified, or adverse effects created by unusual site conditions, will be considered non-inherent adverse effects. The inherent and non-inherent effects thus identified must be analyzed in the context of the subject property and the general neighborhood to determine whether these effects are acceptable or would create adverse impacts sufficient to result in denial.

Staff have identified the following inherent physical and operational characteristics necessarily associated with a charitable and philanthropic institution with an operational focus on outdoor recreational opportunities and learning: (1) vehicular trips to and from the Property; (2) outdoor play areas; (3) noise generated by children; and (4) drop-off and pick up areas. Exhibit 47, p. 16.

Staff found that the proposed drop-off and pick-up area for children is adequate. Children “arrive by bus north of the entrance driveway, as well as [by] two accessible parking spaces previously approved by the Board of Appeals in 2019 as part of the minor modification for trail improvements.” Exhibit 47, p. 16. The proposed permeable parking area will also accommodate up to 18 vehicles for unaccompanied visitors and school field trips. *Id.* Four other parking areas will remain on site and are evenly distributed throughout the 40-acre campus serving the Main Building, the Learning Garden, the Teal Center and the East Trailhead. *Id.*

Staff further found the nature play space to be adequate and age-appropriate in design for children ages 3-12 and children with disabilities. Exhibit 47, p. 16. Staff opined that as the nature play place will be open to the public and maintain current operational hours with Audubon's other activities on site this will minimize impact to the surrounding neighborhood. *Id.* Staff found the structures and equipment to be installed modest in “size, height and function that is not incompatible with surrounding residential dwellings.” *Id.* In addition, no outdoor lighting is

proposed under this application, the permeable parking area is “buffered with generous landscaping from nearby properties,” and the nature play space is located approximately “650 feet from residential lot lines to the south, 400 feet from residential lots to the southeast and 350 feet from Audubon’s northern property line.” *Id.* Lastly, Staff concluded that the proposal will have no non-inherent effects at this location.

Conclusion: Based on the evidence in the record, the Hearing Examiner finds that the proposed modifications to the existing special exception use are inherent effects that are minimal in nature and do not create adverse impacts to the subject property or to adjacent properties sufficient to warrant denial of the application. The Hearing Examiner further finds that there no evidence in the record to indicate any non-inherent effects of the proposed modifications to the existing special exception.

B. General Standards

The general standards for a special exception are found in Section 59-G-1.21(a). The Technical Staff Report and the Petitioners’ written evidence and testimony provide sufficient evidence that the general standards would be satisfied in this case, as outlined below.

(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.

An “Eleemosynary and philanthropic organization” was a use permitted by special exception in the R-90 zone when Case No. CBA-2643 was originally approved in 1969 and remains a permitted special exception subject to the provisions of the pre-October 30, 2014 Zoning Ordinance. Exhibit 6, p. 21. The proposed use as a Charitable and Philanthropic Organization is permitted by special exception in the R-90 zone and remains a permitted special exception subject

to the provisions of the pre-October 30, 2014 Zoning Ordinance in accordance with the provisions of Section 59.7.7.B.1 of the current Montgomery County Zoning Ordinance. The use is defined by Section 59-A-2.1 of Zoning Ordinance.

Conclusion: The Hearing Examiner finds that the proposed modification to the existing Special Exception satisfies this standard as the entity is a private, tax-exempt organization whose primary function is to provide recreational, educational, conservation of natural resources. This use is permissible special exception in the R-90 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.

Conclusion: The proposed use as a Charitable and Philanthropic Organization complies with the standards and requirements set forth for the use in Code §59-G-2.21, as detailed in Part III.C of this report, below.

(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 special exception must be consistent with any recommendation in an approved and adopted 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.

Audubon states that Table 1 on page 34 of the Master Plan summarizes the Plan's recommendations for the subject property. Exhibit 6, p. 15. Audubon asserts that the Plan recommends continuation of the property in an institutional form [like Audubon] or, alternatively, development in accordance with its underlying R-90 density (resulting in 145 potential dwelling

units) and also cites the importance of the historic designation of the property. *Id.* at 16. Audubon avers that the proposed nature play space strengthens Audubon's ability to preserve "a large land area holding in the unique form of a natural sanctuary" and "maintain[s] that special character of the property while opening it up to a greater number and diversity of visitors who will benefit from that special character." *Id.* Audubon commits to placing 24 acres of land in a Category 1 (no disturbance) forest conservation easement, consistent with the Master Plan's recommendations for the property. *Id.*

Conclusion: The Hearing Examiner finds that the proposed use as a Charitable and Philanthropic Institution as modified under this application will be consistent with the Master Plan, as did Technical Staff and the Planning Board. The existing special exception is being modified to provide a nature play space for children and an associate permeable parking area, consistent with the Plan's goals of maintaining the lot for institutional use, preserving its historic designation, and complimenting conservation goals.

(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 modification adds an outdoor nature play space and associated parking area to the existing use. The lot is large in size and predominantly forested with various building to serve the existing use. The nominal addition of the play space is intended to enhance existing capacity for Audubon to facilitate children's programming including field trips from local schools. No permanent structures are being constructed as part of this application, the increased intensity of use is minimal, the character of activity is consistent with current operations, and the proposed parking along with existing parking areas alleviates the need to parking on public streets, the Hearing Examiner finds that this standard is satisfied.

Conclusion: Based on the evidence in this record and having no evidence to the contrary, the Hearing Examiner finds that modification to the existing special exception will be in harmony with the general character of this 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.

The subject lot is 40.19 acres and predominantly unimproved and forested land. Audubon facilities occupy a small portion of the lot and the proposed nature play space with associated parking likewise occupies only a small portion of the lot. Ms. Pearce testified that the closest residential lot line to the play space is 350 feet away. T. 59. "Between the play space and that lot line is all of that landscaping that we discussed. In addition to the existing mature vegetation, we will have 53 new trees and 254 new shrubs. So, I feel confident that it will be well screened." *Id.* Both the play space and parking area have been sited to minimize impacts to habitat and to residential neighbors with significant existing and proposed forested and vegetative buffers to mitigate sites, sounds, and disturbances. T. 52, 59.

Conclusion: The Hearing Examiner finds that this standard has been satisfied. Residential properties are not proximate to the play space and substantial vegetative buffers are proposed to screen the parking area from view. Based on this record, the Hearing Examiner finds that the proposed modifications will not be detrimental to the use, peaceful enjoyment, economic value or development of surrounding properties or the general neighborhood.

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

The subject lot is 40.19 acres and predominantly unimproved and forested land. Audubon facilities occupy a small portion of the lot and the proposed nature play space with associated

parking likewise occupies only a small portion of the lot. Audubon currently facilitates programs for children and operations will remain the same albeit with the proposed nature play space to augment programs with another feature to support education for visitors. The Applicant proposes substantial vegetative buffers to complement the existing heavily forested lot to help mitigate any noises or activity from emanating beyond the property. *See Exhibit 11-11(t)*. Due to the size of the lot, the location of the play space and parking area, existing and proposed vegetation, the lack of any lighting, noise, or mechanical elements, the Hearing finds that this standard is satisfied.

Conclusion: Based on this record, the Hearing Examiner finds that the proposed modifications to this special exception will cause no objectionable noise, vibrations, fumes, odors, dust, illumination, glare, or physical activity at the subject site.

(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 subject application proposes an outdoor play space and associated pervious paved parking area intended to provide an outdoor recreational space for visitors of Audubon. As the impact of the proposed modification is minor in nature, and the intent is merely to broaden the activities already available to visitors on site, any increase of intensity or scope will be minimal.

Conclusion: Based on this record, the Hearing Examiner finds that the underlying application will not 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.

(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.

Mr. Hoffman testified that the proposed nature play space and parking area will not adversely affect the health, safety, and welfare of visitors to the property, people working on the property, or the surrounding neighborhood. T. 67. Mr. Hoffman explained that prior to the implementation of the proposed modifications there was no stormwater management installed to mitigate stormwater runoff from this area, and "while some additional impervious cover as part of the project, overall there's going to be more stormwater management relevant to the development than there was before. So, I believe there will be both less runoff and cleaner runoff from the site than there was before the development." T. 68.

Conclusion: The evidence supports the conclusion that the proposed use would not adversely affect the health, safety, security, morals or general welfare of residents, visitors or workers in the area at the subject site. Of these, the factors most relevant to this application concern parking, traffic, noise, and environmental quality. The Hearing Examiner finds that the proposed nature play space and parking area, as conditioned, will satisfy this standard.

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

(i) If the special exception use requires approval of a preliminary plan of subdivision, the adequacy of public facilities must be determined by the Planning Board at the time of subdivision review. In that case, subdivision approval must be included as a condition of granting 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 Review, as required in the applicable Annual Growth Policy.

Audubon states that the closest police station is located 2.5 miles from the subject property at 4823 Rugby Avenue, Bethesda, Maryland; the closest fire station is located 1.8 miles from the

subject property at 8001 Connecticut Avenue, Chevy Chase, Maryland; the property is currently served by public sewer and water lines which are not at capacity; and the property is adequately served by existing public roads with “no relevant intersections experience[ing] delays in operation that are inconsistent with the County’s adequate public facilities ordinance standards.” Exhibit 6, p. 27. The Applicant further avers that DPS has reviewed and approved the applicant’s Final Stormwater Management Plan for the accessible trail previously approved on the site, and the nature play space proposed under this application will not require any additional grading while the pervious parking area will require a sediment control permit. *Id.* Mr. Hoffman testified that while public sewer and water currently serve the property, they are not intended to serve the area subject to this application, which is why composting toilets were previously approved and installed so that a sanitary sewer connection is not required. T. 67. Mr. Hoffman also stated that a water fountain is being installed as part of this application and that is connected to existing water lines on the property, so no additional sewer or water connections are required. *Id.*

Conclusion: The Hearing Examiner finds that the property and use will be served by adequate public services and facilities. The property and use are already served by adequate services and facilities and the proposed modifications do not overly burden these services and facilities and the changes proposed do not substantially increase the intensity of use or capacity of the property.

(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.

Applicant’s traffic statement indicates that application of ITE Trip Generation methodology generates an estimated total of 30 peak hour person trips (18 vehicle trips) in the evening peak hour. Exhibit 47, p. 13. Audubon’s traffic study concluded that “the proposed after-school program at the ANS will have no adverse impact on the study area intersections. The

intersections will all operate with acceptable delays per the M-NCPPC guidelines after construction of the site improvements and the implementation of the after-school program.”

Exhibit 14, p. 6. As the proposed nature play space and parking area are located significantly away from Jones Mill Road and protected by a forested buffer, sufficient parking is available on site to eliminate any need to park on public streets, and the existing driveway is sufficient and peak trips per hour are satisfactory to avoid queuing on public roads, the Hearing Examiner finds that this standard has been satisfied.

Conclusion: Based on this record, the Hearing Examiner finds that the proposed modification to this special exception will not reduce the safety of vehicular or pedestrian traffic.

C. Specific Standards

The specific standards for a Charitable and Philanthropic Organization are governed by the provisions of Section 59-G-2.21. The relevant provisions of this section and the Hearing Examiner's findings for each are as follows:

- (a) Development standard. A special exception may be granted for a charitable or philanthropic institution, subject to the following requirements:**

...

- (2) In the One-Family Residential Zones regulated by Section C-1.32, the development standards are those of the applicable zones except:**

- (i) Minimum side yard setback: twice the minimum required by Section C-1.32**

The minimum lot size for this use in the R-90 zone is 6,000 square feet. The subject property is approximately 40.19 acres (1,750,983 square feet) and therefore satisfies this requirement. The side setback requirement in the R-90 zone is 16 feet, and the current side setback is 270 feet, and therefore satisfies this requirement. The Hearing Examiner finds that this standard has been met.

(ii) Minimum frontage: twice the minimum required by Section C-1.32

Sixty (60) feet of property frontage is required under this application. The property enjoys approximately 930 feet of frontage on Jones Mill Road and 1270 feet of frontage of Brierly Road. Therefore, this standard has been satisfied.

(iii) Minimum green area: 50 percent in R-90 zones

As proposed, the special exception will provide 95% of green area consisting of additional canopy trees, understory trees, shrubs, ground cover, parking lot landscaping with tree canopy coverage and perimeter plantings. Exhibit 47, p. 21. Based on this record, the Hearing Examiner finds that this standard has been satisfied.

(iv) Maximum FAR: 0.25 for residential, recreational and environmental uses: 0.25 or 100,000 square feet, whichever is less, for office uses. Any charitable or philanthropic institution established by special exception before May 6, 2002 may expand to a 0.25 total area ratio.

The subject application proposes an outdoor play space and associated pervious paved parking area with no proposed permanent structures. Therefore, this standard does not apply.

(v) Maximum building height: 35 feet in R-90 zone.

The subject application proposes an outdoor play space and associated pervious paved parking area. Therefore, this standard does not apply.

(vi) The property must front on and have direct access to a public street or roadway having more than one through travel lane in each direction of travel. Access to a corner lot may be from an adjoining primary street, constructed to primary standards, if the Board finds this access to be appropriate and not detrimental to existing residential uses on that primary street. This requirement does not apply to any charitable or philanthropic institution facility that lawfully exists on May 6, 2002.

While not applicable to this application since the special exception has existed since 1969, the subject property complies with this standard as it has its main frontage along Jones Mill Road, which, according to Staff, is a minor arterial street with one travel-lane in each direction, and a secondary entrance on Brierly Road, a Secondary Residential Street, with one travel-lane in each direction. Exhibit 47, p. 18. Based on this record, the Hearing Examiner finds that this standard has been satisfied.

(vii) Outdoor recreational 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 facilities must be designed and sited to protect adjacent properties from noise, spill light, stray balls, odors, and other objectionable impacts by providing appropriate screening measures, such as sufficient setbacks, evergreen landscaping, solid fencing, and walls. The setback must not be less than twice the rear yard setback of the zone. This requirement does not apply to outdoor recreational facilities which lawfully exist on May 6, 2002.

The subject property exceeds 40 acres in size and the majority of the site is devoted to a nature sanctuary that is densely wooded with abundant and diverse species of flora and fauna. The Applicant proposes to locate the proposed nature play space several hundred feet from the closest adjacent residential dwelling. *See* Exhibit 6(a). The application proposes significant landscaping and screening of the proposed parking area and “substantial plantings of a wide variety of trees, shrubs and other plantings to properly screen the Nature Play Space and to protect adjacent properties from objectionable impacts that would create a nuisance to neighbors.” Exhibit 47, p. 18. Ms. Pearce testified that the closest residential lot line to the play space is 350 feet away. T. 59. “Between the play space and that lot line is all of that landscaping that we discussed. In addition to the existing mature vegetation, we will have 53 new trees and 254 new shrubs. So, I feel confident that

it will be well screened.” Id. Based on this record, the Hearing Examiner finds that, as conditioned, the outdoor recreational facility associated with this special exception will be adequately located, landscaped, and buffered such that noise, dust, or other objectionable impacts of a play area and associated parking area will not negatively impact adjacent residential properties. The Hearing Examiner finds that this standard is satisfied.

D. Development Standards

In addition to the general and specific special exception standards, special exception uses must also meet all requirements of the underlying zone, in this case, the R-90 Zone, as required by Section 59-G-1.23. These standards, along with the Hearing Examiner's findings on each standard, are set forth below:

a. Development Standards.

Special exceptions are subject to the development standards of the applicable zone where the special exception is located, except when the standard is specified in Section G-1.23 or in Section G-2 [for charitable and philanthropic institutions].

This application is governed by the development standards as specified in Sec. 59-G-2.21(a)(2) for charitable and philanthropic institutions. These standards are evaluated above in Section C. Audubon provides Table 1, shown below, as a summary of the development standards for this use in the R-90 zone. *See* Exhibit 6, p. 13-14. The Hearing Examiner finds that all development standards have been satisfied.

TABLE 1. Development Standards

Development Standard	Required	Provided
Lot (min.)		
Lot Area	9000 square feet	40.197 acres 1,750,981 SF
Lot width at front building line	75 ft.	970
Lot width at front lot line	25 ft.	980
Density (max. units/acre)	0.25 (or 100,000 SF, whichever is less) ³	Less than 0.25 FAR
Lot Coverage (max.)	30%	Less than 0.5%

Principal Building Setbacks (min.)		
Front	60 ft. ²	950
Side	16 ft. ¹	270
Sum of side yard setbacks	25 ft. ¹	1,060
Rear	25 ft.	335
Building Height (max.)	35 ft. ⁴	36'
Parking Requirements		
Employees (2.7 spaces per 1000 GSF)	36	60
Bicycle		
Short Term		16
Long Term		0
Parking Landscaping		
Adequate buffering but not less than twice the applicable rear yard setback ⁵	50 ft. ⁵	200 ft.
Green Space ⁶	50% ⁶	95%

¹ Per Section 59-G-2.21(a)(2)(i)

² Per Section 59-G-2.21(a)(2)(ii)

³ Per Section 59-G-2.21(a)(2)(iv)

⁴ Per Section 59-G-2.21(a)(2)(v)

⁵ Per Section 59-G-2.21(a)(2)(vii)

⁶ Per Section 59-G-1.22(a)(2)(iii)

b. Parking requirements.

Special exceptions are subject to all relevant requirements of Section 59-E 2.83 and 59-E 2.81 of the Zoning Ordinance.

The provisions of Section 59-E-2.83 state:

Parking and Loading facility standards apply to an off-street parking facility for a special exception use that is located in a one-family residential zone if 3 or more parking spaces are provided. These standards are intended to

mitigate potential adverse visual, noise, and environmental impacts of parking facilities on adjacent properties. In addition, these requirements improve the compatibility and attractiveness of parking facilities, promote pedestrian-friendly streets, and provide relief from unshaded paved areas. These provisions are as follows:

(a) Location. Parking facilities must be located to maintain a residential character and a pedestrian-friendly street orientation.

The proposed pervious parking area will be located on the north side of the driveway entrance from Jones Mill Road with substantial vegetation and canopy trees surrounding the entire perimeter of the parking area. *See* Exhibit 6(a). The Hearing Examiner finds that this standard is satisfied as the parking area will have no impact on the residential character of the community and will likewise have no impact on Jones Mill Road.

(b) Setbacks. Each parking and loading facility, including each entrance and exit driveway, must be set back a distance not less than the applicable building front and rear yard and twice the building side yard required in the zone.

All setbacks meet or exceed ordinance requirements under this application. The Hearing Examiner finds that this standard is satisfied.

(c) Screening. Each parking and loading facility, including driveway and dumpster areas, must be effectively screened from all abutting lots. Screening must be provided in a manner that is compatible with the area's residential character. Screening must be at least 6 feet high, and must consist of evergreen landscaping, a solid wood fence, a masonry wall, a berm, or a combination of them. Along all street rights-of-way, screening of any parking and loading facility must be at least 3 feet high and consist of evergreen landscaping, a solid wood fence, or masonry wall.

The Applicant proposes to screen the pervious parking area with heavy vegetation and canopy trees surrounding the entire perimeter of the parking area. *See* Exhibit 6(a). The Hearing Examiner finds that this standard is satisfied.

(d) Shading of paved areas. Trees must be planted and maintained throughout the parking facility to ensure that at least 30 percent of the

paved area, including driveways, are shaded. Shading must be calculated by using the area of the tree crown at 15 years after the parking facility is built.

The Applicant proposes to screen the pervious parking area with heavy vegetation and canopy trees surrounding the entire perimeter of the parking area. *See* Exhibit 6(a). The Hearing Examiner finds that this standard is satisfied.

(e) Compliance Requirement. For any cumulative enlargement of a surface parking facility that is greater than 50% of the total parking area approved before May 6, 2002, the entire off-street parking facility must be brought into conformance with this Section. An existing surface parking facility included as part of a special exception granted before May 6, 2001 is a conforming use.

This provision is not applicable to this application.

c. Minimum frontage.

This provision is not applicable to this application.

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

The Applicant submitted a Forest Conservation Plan (FCP) that was approved by MNCPPC on July 7, 2021. *See* Exhibits 11 – 11(t) and 49. Any approval of this application will be conditioned upon adherence to an approved FCP.

e. Water quality plan. If a special exception, approved by the Board, is inconsistent with an approved preliminary water quality plan, the applicant, before engaging in any land disturbance activities, must submit and secure approval of a revised water quality plan that the Planning Board and department find is consistent with the approved special exception. Any revised water quality plan must be filed as part of an application for the next development authorization review to be considered by the Planning Board, unless the Planning Department and the department find that the required revisions can be evaluated as part of the final water quality plan review.

Any approval of this application will be conditioned upon adherence to this provision.

f. Signs. The display of a sign must comply with Article 59-F.

No additional signs are proposed under this application.

g. Building compatibility in residential zones. Any structure that is constructed, reconstructed or altered under a special exception in a residential zone must be well related to the surrounding area in its siting, landscaping, scale, bulk, height, materials, and textures, and must have a residential appearance where appropriate. Large building elevations must be divided into distinct planes by wall offsets or architectural articulation to achieve compatible scale and massing.

No buildings are proposed under this application.

h. Lighting in residential zones.

No additional lighting is proposed under this application.

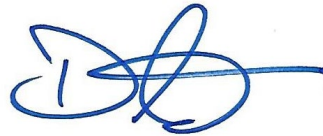
IV. Conclusion and Recommendation

Accordingly, based on the foregoing findings and conclusions and a thorough review of the entire record, I recommend that the requested modification to CBA-2643-A, which requests modification to the special exception (Charitable and Philanthropic Institution) held by The Audubon Naturalist Society located at 8940 Jones Mill Road, Chevy Chase, Maryland, in the R-90 Zone, be **GRANTED** subject to the following **CONDITIONS**:

1. Hours of operation for the Subject Special Exception Amendment use will be limited as follows:
 - a. Academic Programming
 - i. Convene from 8:30AM to 2PM
 - ii. During weekdays only
 - iii. During the months of September through May
 - b. Summer Camp/Activities Programming
 - i. Convene from 9AM to 4PM
 - ii. During weekdays only
 - iii. Months of June through August
 - c. General Public Visitation
 - i. School Year Visitation – weekdays are permitted from dawn to 10AM and from 2PM to dusk, September through May.

- ii. Summer Visitation – weekdays permitted from dawn to 8AM and from 4PM to dusk during the summer (June through August).
 - iii. Year-round visitation is permitted for the general public confined to the aforementioned hours.
 - iv. Weekend Visitation - Dawn to dusk year-round, unless reserved for special programming or closed due to weather related events.
- 2. No vehicles may queue within the public right-of-way on Jones Mill Road or Brierly Road while accessing the Site.
 - 3. The Applicant must dedicate 70 feet of public right-of-way to achieve the full master-planned right-of-way width to the Montgomery County Department (MCDOT) of Transportation via deed or a form acceptable to MCDOT along the Site's Jones Mill Road frontages within sixty (60) days of approval of the Modification to Special Exception Amendment No. CBA-2643-A.
 - 4. The Applicant must provide at least 18 vehicle parking spaces on-site. Members and guests shall not park on nearby public streets.

Issued this 30th day of September 2021.



Derek J. Baumgardner
Hearing Examiner