

**OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS
for**

**MONTGOMERY COUNTY
Stella B. Werner Council Office Building
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Rockville, Maryland 20850**

<https://www.montgomerycountymd.gov/ozah/index.html>

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BOARD OF APPEALS CASE NO. S-862-C

**PETITION TO MODIFY SPECIAL EXCEPTION TO
ROCHAMBEAU, THE FRENCH INTERNATIONAL SCHOOL**

**ORDER REMANDING PETITION TO THE PLANNING STAFF
FOR ADDITIONAL REVIEW**

**NOTICE OF APPLICATION FOR A WAIVER
OF REQUIRED SETBACK**

Filed on August 18, 2018, with the Board of Appeals, the Petitioner in this case seeks a major modification to a special exception for a private educational institution, pursuant to 59.G.2.19 of the 2004 Zoning Ordinance. A Resolution from the Board of Appeals, effective April 20, 2018, referred this petition to OZAH for a public hearing and written recommendation.

The subject property is located at 9650 Rockville Pike, Bethesda, Maryland 20814, and is further described as Lot 1 N710 (Tax Account Number 07-03382328). The property is zoned R-60, Residential Detached.

REMAND

The Hearing Examiner conducted a public hearing in this matter on January 22, 2021 and January 25, 2021. Upon review of the evidence submitted the Hearing Examiner determined to remand the case for more information and review by Planning Staff. 1/25/21 T. 228. The remand is to address compatibility and safety issues raised by Maplewood residents at the public hearing. **Nothing in this remand order is intended to preclude alternative resolutions or agreements between the parties.** Additional information and issues to be studied on remand include the following:

Information

1. What are the physical attributes of streets in the Maplewood neighborhood, particularly those on the shuttle/parent vehicle routes proposed by the school? Include road width, current maintenance, proposed maintenance, and whether curb, gutter, and sidewalks exist on each route, and whether parking is permitted on one or both sides of the street.

2. What are the physical attributes of the buses that will be travelling through the neighborhood, including length and width from mirror to mirror?
3. Provide a queuing analysis for the eastbound approach on Alta Vista to the intersection of Rockville Pike as described by Ms. Umhofer. Will traffic be able to enter/exit the neighborhood?
4. Provide a queuing analysis during parent drop-off at the Forest Road campus at Montgomery Drive and Beech Drive as described by Mr. Myers.
5. What is the total daily (not just peak hour) number of vehicles trips (one trip is to the site and one is out of the site) related to the Forest Road and the Rockville Pike campuses, including buses and personal vehicles, that will travel on residential streets in the Maplewood neighborhood?
6. Will non-shuttle buses assigned to the northbound external bus routes have to travel through the neighborhood to proceed north? If so, how many?
7. Is there a possibility of using the HOC easement for egress for northbound traffic to Pooks Hill Road? How realistic is that possibility? Is there a time frame for determining this?
8. Provide detailed information on the proposed outdoor activities during the academic year, summer camps and Saturday classes. How long will students be outside and how many students will be outside at one time.
9. Provide objective, quantifiable analysis of the noise levels generated by FIS' use of the play areas at the Rockville Pike campus at all abutting property lines during (1) the academic year (including extra-curricular activities, after school activities and before and after care), summer camp, and Saturday classes. Base the noise analysis on the maximum children permitted outside at one time.
10. Provide objective, quantifiable analysis of the noise levels generated by buses, during the three departure periods: in the morning, at 3:00 p.m., and at 5:30 p.m. on abutting property lines.
11. Does the existing wooden fence at Mr. Seid's property line attenuate noise levels?
12. Provide objective, quantifiable analysis of the noise levels from cars stacking at the closest point to Mr. Seid's property line.
13. Provide a calendar of all school programs (academic, summer camp, and Saturday classes) during the calendar year.
14. List all special events, including times, frequency, dates (if known) and projected

attendance. If any will be outside, provide objective, quantifiable analysis of noise levels generated by these events at abutting property lines.

15. Will overflow parking be required at any of the special events? If so, provide details of the proposed arrangement for overflow.
16. Revise the lighting plan to show that lighting at the perimeter will meet the special exception requirements.
17. Provide information on whether FIS will be able to retain the wooden fence abutting his property under the Forest Conservation Easement.
18. What is the maintenance of invasive species required by the Forest Conservation Easement? Would the Applicant agree to a condition of approval extending maintenance of the invasive species beyond what is required by the Forest Conservation Easement?
19. Provide information on how FIS will prevent existing storm drainage from flowing onto abutting properties.
20. Provide specifics on how the trip mitigation program will be enforced including whether and how actual traffic can be tracked to ensure the caps are exceeded.
21. Clarify the definition of “nearby” as used in the TMP (T. 178).

Analysis

1. Is there a means to avoid or minimize using residential streets in the Maplewood neighborhood for school related traffic, including traffic from the Forest Road and Rockville Pike campuses?
 - a. Can traffic for both schools, including shuttles, be routed south to Cedar Lane and north on Old Georgetown Road?
 - b. Does the HOC access remain a viable option? When would this be known?
 - c. Should a modification to the special exception for Forest Road be considered in conjunction with this modification to better coordinate and analyze the traffic impact of both operations?
 - d. What would be the impact of keeping the Alta Vista Terrace entrance?
2. Is the coordinated operation of two special exceptions on either side of a residential neighborhood that must utilize neighborhood streets to operate a non-inherent physical and operational characteristic?
3. Does the current traffic circulation plan focus westbound and northbound traffic and trips between campus on neighborhood streets, particularly Alta Vista?

4. Analyze the safety impact of school-related traffic (including academic year activities, extracurricular activities, before and after care, summer camps, and Saturday classes) on existing neighborhood streets, including pedestrian safety and vehicular safety. As traffic will occur on Saturdays, specifically address parking and pedestrian traffic at the Maplewood Park and community center and the Bethesda Trolley Trail during the week and on weekends while community activities are occurring there. Can two buses pass each other on the routes utilized by the school if vehicles are parked on both sides? What is the clearance? Is there room for pedestrians to walk? Are there measures to ensure safe pedestrian crossings?
5. Analyze the impact of school related traffic on the existing condition of neighborhood streets, which are currently patched. Will the traffic exacerbate or accelerate the current conditions?
6. With the input from the community, provide an analysis and recommendation of who should comprise the liaison committee.
7. Will buses be able to make a right turn from southbound Rockville Pike onto Alta Vista safely given the conditions described by Ms. Umhofer?
8. Is there an enforceable method to prevent school-related private vehicles from performing U-Turns on residential streets to return to Rockville Pike? Would Cedar Lane better accommodate these turns?
9. Is there an enforceable method to prevent school-related traffic from speeding on residential streets?
10. Review whether headlights from the circular drive will shine into Mr. Seid's property. Provide an analysis of whether anything can be done to minimize the impact on his property.
11. Is there more precise language limiting sports activities than using the term "competitive" to include in a condition of approval?
12. Is there more precise language to clarify that the school will be subject to trip caps imposed by LATR during the summer camps and Saturday classes?
13. Should the maximum enrollment be reduced to address issues raised at the public hearings?
14. If not, should the maximum enrollment be phased in based on compliance with conditions of approval to ensure that the trip caps and conditional on the special exception are enforced?
15. Can Staff clarify what is meant by the term "restore" in Condition No. 15 of the Staff Report? Does it mean release of the bonds?

16. Provide the justification required for the parking setback waiver.
17. Is it possible to add a condition providing that delivery and waste trucks should not use residential streets?
18. Should the Master Plan language on page 63 (relating to cut-through traffic) be interpreted to exclude the impact of traffic between the two schools, given that it was designed to limit the traffic using the residential streets?
19. Should the proposed TMP include traffic from the Forest Road campus?
20. Review and make a recommendation on whether elementary school students should be dropped off at the Rockville Pike campus rather than the Forest Road campus, as suggested by Mr. Myers (T. 184).

NOTICE OF REQUESTED WAIVER OF PARKING SETBACK

The Petitioner seeks a waiver of the parking setback required for special exceptions in the R-60 Zone. According to the Applicant (Exhibit 84, outlining eliminated):

Under Section 59-C-1.323(b)(2) of the pre-October, 2014 Zoning Ordinance [the 2004 Zoning Ordinance), the rear yard setback in the R-60 zone is twenty (20) feet.

A proposed drive lane on the subject property, which is deemed to be a part of a “parking facility,” must be located, for reasons explained during the public hearings, within 16.33 of the property line of an adjacent lot located at 9605 Alta Vista Terrace.

When a parking facility is a component of a special exception in a residential zone, under Section 59-E-2.83(b) the parking facility must be setback the same distance as a principal structure on the property or, in this case, twenty (20) feet.

In addition, under Section 59-E-2.83(b)(2), when parking on a special exception site exceeds 200 parking spaces (The Rochambeau proposal anticipates 281 spaces on the site), the setback requirement is increased by ten (10) feet, in this case to thirty (30) feet.

Because the required setback for this driveway features [sic] 30 feet but there is only 16.33 feet of clearance between the drive lane and the closest property, a parking waiver of 13.67 feet is required can be granted under the provisions of Section 59-3-4.5 (“Waiver – Parking Standards”).

Remand Order and Notice issued this 22nd day of February 2021.



Lynn Robeson Hannan
Hearing Examiner

COPIES TO:

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David Brown, Esquire

Attorney for Maplewood Citizens Association

Parties of Record

Allen Myers

Becky Umhofer

Carl Wilkerson

David Seid

Matthew Folden, MNCPPC

Charles Frederick, Esquire, Associate County Attorney

Department of Permitting Services Greg Nichols, Manager, SPES at DPS

Michael Coveyou, Director, Finance Department

Abutting and Confronting Property Owners

(or a condominium's council of unit owners or renters, if applicable) Civic, Renters' and Homeowners' Associations within a half mile of the site and Any Municipality within a half mile of the site