

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

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Case No. CBA-916-A [S-615]

PETITION OF FOUNDATION FOR ADVANCED EDUCATION IN THE SCIENCES

OPINION OF THE BOARD
(Opinion Adopted July 14, 2021)
(Effective Date of Opinion: July 30, 2021)

Case No. CBA-916-A [S-615] is an application by the Foundation for Advanced Education in the Sciences for a major modification of its special exception for a private club. The Board of Appeals originally granted Case No. CBA-916 to The Public Health Service Club and The Foundation for Advanced Education in the Sciences on May 12, 1960. The Board granted Case No. S-615, as a modification to Case No. CBA-916, to The Foundation for Advanced Education in the Sciences, Inc., on August 2, 1978. The Board granted subsequent modifications on September 27, 1985, to permit construction of a small powder room, October 14, 1988, to permit leasing of 20 parking spaces to Suburban Hospital, March 2, 2004, to change the lessee of the parking spaces to the National Institutes of Health (NIH), and March 18, 2013, to increase the number of leased parking spaces to 25. Following a September 23, 2020, referral by the Board of Appeals, the Hearing Examiner for Montgomery County held a public hearing on the application on May 7, 2021, closed the record in the case ten (10) days later, and on June 23, 2021, issued a Report and Recommendation recommending approval of the modification request with conditions.

The subject property contains approximately 1.61 acres located at 9101 Old Georgetown Road, Bethesda, Maryland, in the R-60 Zone.

Decision of the Board: Special Exception Modification **GRANTED** with conditions.

Due to COVID-19, the Board of Appeals considered the Hearing Examiner's Report and Recommendation at a remote Worksession held on July 14, 2021, using Microsoft Teams. Patrick O'Neil, Esquire, participated in support of the requested modification. The Board finds that the record compiled by the Hearing Examiner is thorough and exhaustive, and that the Report and Recommendation contains clear and

detailed conditions of approval. Accordingly, the Board adopts the Report and Recommendation and grants the requested major modification with the following conditions:

1. The Private Club and Service Organization special exception use is granted to the Foundation for Advanced Education in the Sciences, Inc. ("FAES" or the "Applicant") only and does not run with the land.
2. The Private Club and Service Organization is limited to the following:
 - a. a maximum total gross floor area of 9,264 square feet;
 - b. a maximum capacity of 145 participants and staff on-site at any one time;
 - c. the sale of alcohol to members and guests is permitted (subject to liquor license); and
 - d. rental of the facilities for private parties, social events, and exhibitions shall only be available to FAES members or guests who are sponsored by FAES members.
3. Hours of operation for the Subject Special Exception Amendment use will be limited as follows:
 - a. Catering/ special event services shall be conducted within the established hours of operation and in a manner that respects the surrounding residential community.
 - b. Sunday through Thursday
 - i. Indoor activities must conclude by 11:00 PM, noting that typical operations are from 9:00 AM to 9:00 PM;
 - ii. Outdoor activities and alcoholic beverage service must conclude by 9:00 PM;
 - iii. Premises and parking lot vacated by 11:00 PM;
 - c. Weekend Operations (Friday and Saturday):
 - i. Indoor activities must conclude by 12:00 AM/ midnight;
 - ii. Outdoor activities and alcoholic beverage service must be stopped by 11:00 PM; and
 - iii. Premises and parking lot vacated by 1:00 AM;
4. Traffic flow into the Site will be conducted to minimize vehicle queuing on the adjacent public street(s).
5. Parking:
 - a. The Applicant must provide at least 24 vehicle parking spaces and a maximum of 51 vehicle parking spaces on-site, including 2 motorcycle parking spaces.
 - b. The Applicant must provide 2 short-term bicycle parking spaces on-site in compliance with the Montgomery County Bicycle Parking Design Guidelines.
 - c. Members and guests shall not park on nearby public streets.
 - d. Prior to the issuance of any use and occupancy certificate for the proposed building addition on the Site, the Applicant must discontinue the practice of reserving 25 vehicular parking spaces for NIH employees by extinguishing the shared parking agreement.

6. Landscaping and Screening

Site landscaping and perimeter screening must be provided in accordance with the Special Exception Landscape Plan.

7. Lighting

a. All on-site exterior area lighting must be in accordance with the latest IESNA outdoor lighting recommendations (Model Lighting Ordinance-MLO: June 15, 2011, or as superseded).

b. All on-site down-lights must have full cut-off or BUG-equivalent fixtures.

c. Deflectors will be installed on all fixtures to prevent excess illumination and glare.

d. Illumination levels generated from on-site lighting must not exceed 0.1 footcandles (fc) at the lot line, excluding areas impacted by street lights within the right-of-way.

8. The Applicant must comply with all tree-protection and tree-save measures shown on the approved Tree Save Plan. Tree-save measures not specified on the Tree Save Plan may be required by the M-NCPPC Forest Conservation Inspection Staff.

9. Within the first planting season following the release of the first Sediment and Erosion Control Permit from the Montgomery County Department of Permitting Services for the Subject Property, or as directed by the M-NCPPC Forest Conservation Inspection Staff, the Applicant must install the required mitigation plantings consisting of native canopy trees, with a minimum size of 3 caliper inches as shown on the Tree Save Plan. Adjustments to the planting locations of these trees is permitted with the approval of the M-NCPPC Forest Conservation Inspection Staff.

a. All trees credited towards mitigation requirements must be at least five (5) feet away from any structures, stormwater management facilities, PIEs, PUEs, ROWs, utility lines, and/or their associated easements.

b. The Applicant must submit financial surety, in a form approved by the M-NCPPC Office of General Counsel, to the Montgomery County Planning Department for the mitigation plantings required per the approved Tree Save Plan. The financial surety must be provided for a period of 5 years which may be reduced to 3 years upon request by the Applicant and approval by M-NCPPC Forest Conservation Inspector.

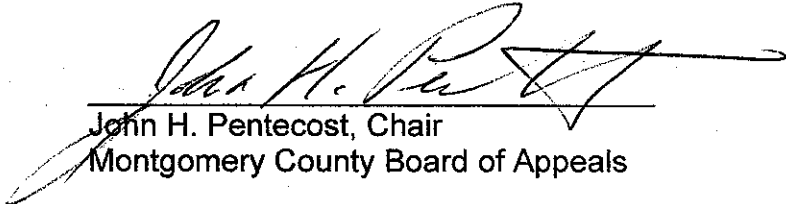
10. Prior to any demolition, clearing, grading or construction for this development Application, the Applicant must submit a Maintenance and Management Agreement ("MMA") in a form approved by the M-NCPPC Office of General Counsel. The MMA is required for all forest planting areas and landscape plantings credited toward meeting the requirements of the Tree Save Plan. The time period for the MMA will adhere to the requirements in place when the MMA is approved.

11. The Applicant must schedule the required site inspections by M-NCPPC Forest Conservation Inspection Staff per Section 22A.00.01.10 of the Forest Conservation Regulations.

12. The Applicant must obtain approval of a Preliminary Plan of Subdivision per Chapter 50 of the Montgomery County Code after the final decision of the Board of Appeals on the Subject Application.

On a motion by John H. Pentecost, Chair, seconded by Bruce Goldensohn, Vice Chair, with Mary Gonzales, Richard Melnick, and Caryn Hines in agreement, the Board adopted the following Resolution:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland that the opinion stated above is adopted as the Resolution required by law as its decision on the above-entitled petition.


John H. Pentecost, Chair
Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 30th day of July, 2021.


Barbara Jay
Executive Director

NOTE:

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book. Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure. It is each party's responsibility to participate in the Circuit Court action to protect their respective interests. In short, as a party you have a right to protect your interests in this matter by participating in the Circuit Court proceedings, and this right is unaffected by any participation by the County.