

<b>IN RE: PETITIONS FOR SPECIAL HEARING</b>	*	BEFORE THE
<b>AND SPECIAL EXCEPTION</b>		
(Garrison Forest Road)	*	OFFICE OF ADMINISTRATIVE
4 <sup>th</sup> Election District		
2nd Council District	*	HEARINGS FOR
Irvine Natural Science Center, Inc.	*	BALTIMORE COUNTY
<i>Legal Owner</i>	*	
<b>Petitioner</b>	*	<b>Case No. 2020-0190-SPHX</b>
* * * * *		

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (“OAH”) for consideration of Petitions for Special Hearing and Special Exception filed on behalf of Irvine Natural Science Center, Inc., legal owner (“Petitioner”). The Special Hearing was filed under Baltimore County Zoning Regulations (“BCZR”) under Zoning Case No. 05-300-X to extend the special exception to adjacent parcels. The Special Exception in question falls under § 1A01.2.C.5 of the Baltimore County Zoning Regulations (“BCZR”) for a nature center school/camp providing programs of environmental studies and natural science to children and adults in an RC-2 zone on the properties known as Parcel 220 (11115 Garrison Forest Road), Parcel 253 Lot 4 Plat SM 70-54, and Parcel 253 Part of Lot 5 Plat SM 70-54

Due to the COVID-19 pandemic, a public WebEx hearing was conducted virtually in lieu of an in-person hearing. The Petition was properly advertised and posted. A site plan was marked and accepted into evidence as Petitioner’s Exhibit 1.

Substantive Zoning Advisory Committee (“ZAC”) comments were received from the Department of Planning (“DOP”) and from the Department of Environmental Protection and Sustainability Development Coordination (“DEPS”). They did not oppose the requested relief, subject to proposed conditions, which will be incorporated into the Order

Brooks Paternotte appeared on behalf of the petitioner, Irvine Natural Science Center, Inc. Jim Matis from Matis Warfield Consulting Engineers also appeared and was accepted as an expert in land use, engineering, and the BCZR. Drew Robinson, Esq. and Christopher Mudd, Esq. of Venable, LLP represented petitioner.

#### RECORD EVIDENCE

Because there were no community members opposing the requested relief counsel were allowed to proffer the following. Mr. Robinson explained that the petitioner has been operating the Irvine Natural Science Center on the “Special Hearing Area” of the site plan since that special exception “camp” use was approved in 2005. The parcels depicted as the “Special Exception Area” of the site plan total approximately 115.8 + 94.2 acres and are also zoned RC 2. These parcels have been acquired by Irvine in the intervening years, with the last parcel having been acquired in January 2020. The combined parcels will be just under 210 total acres. Mr. Robinson further explained that the old residence on tax parcel 220 will be razed, as will the surrounding accessory structures. A new gate house and driveway may be constructed in this area of the site at a future date. A pavilion and other camp related structures may also be constructed at some point, as depicted on the site plan (pavilion). Counsel further explained that the site will otherwise be left in its current natural state, which includes nature trails and a boardwalk trail through a wetlands area. The new special exception area will be used in the same manner and for the same purposes as the previously approved special hearing area. In sum, as counsel explained, this special hearing relief is for purposes of “housekeeping,” in order to legitimize and document the entire Irvine property.

#### SPECIAL HEARING / SPECIAL EXCEPTION

Under Maryland law, a special exception use enjoys a presumption that it is in the interest of the general welfare, and therefore, valid. *Schultz v. Pritts*, 291 Md. 1 (1981). The *Schultz* standard

was revisited in *Attar v. DMS Tollgate, LLC*, 451 Md. 272, (2017), where the court of appeals discussed the nature of the evidentiary presumption in special exception cases. The court again emphasized a special exception is properly denied only when there are facts and circumstances showing that the adverse impacts of the use at the particular location in question would be above and beyond those inherently associated with the special exception use. In the instant case, I find that the extension of the special hearing area to cover the depicted “special exception area” on the site plan would not be inherently more impactful in this location than elsewhere in the RC 2 zones. To the contrary, the relief sought here will combine these parcels to create over 200 acres of virtually undisturbed forest and fields, which is the quintessential purpose of this rural conservation zone. Finally, I find that the requested relief complies with all the factors of BCZR § 502.1 and can therefore be granted without causing harm to the public health, safety, or welfare.

THEREFORE, IT IS ORDERED this **2nd day of December, 2020**, by this Administrative Law Judge, that the Petition for Special Hearing filed under BCZR under Zoning Case No. 05-300-X to extend the special exception to adjacent parcels is hereby GRANTED.

IT IS FURTHER ORDERED that the Petition for Special Exception seeking relief § 1A01.2.C.5 of the Baltimore County Zoning Regulations (“BCZR”) to approve a nature center school/camp providing programs of environmental studies and natural science to children and adults in an RC-2 zone for the properties known as Parcel 220 (11115 Garrison Forest Road), Parcel 253 Lot 4 Plat SM 70-54, and Parcel 253 Part of Lot 5 Plat SM 70-54.is hereby GRANTED.

The relief granted herein shall be subject to the following:

- Petitioner may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioner is hereby made aware that proceeding at this time is at its own risk until 30 days from the date hereof, during which time an appeal can be filed by any party. If for whatever reason this Order is reversed, Petitioner would be required to return the subject property to its original condition.

- Prior to issuance of Permits, Petitioners must comply with ZAC comments submitted by DOP, a copy of which is attached hereto and made a part hereof.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

Signed \_\_\_\_\_  
PAUL M. MAYHEW  
Managing Administrative Law Judge  
for Baltimore County

PMM:dlm