

**DISTRICT COUNCIL FOR PRINCE GEORGE'S COUNTY, MARYLAND
OFFICE OF THE ZONING HEARING EXAMINER**

**SPECIAL EXCEPTION
4593**

DECISION

Application:	Private Club
Applicant:	Lake Chaney Ski Club, Inc.
Opposition:	None
Hearing Dates:	April 13 and May 25, 2011
Hearing Examiner:	Joyce B. Nichols
Disposition:	Approval with Condition

NATURE OF PROCEEDINGS

- (1) Special Exception 4593 is a request for permission to use approximately 62.43 acres of land in the O-S (Open Space) Zone, located on the east side of Brandywine Road (MD 381), north of Gibbons Church Road, Brandywine, Maryland, for a Private Club.
- (2) The Technical Staff recommended approval with conditions. (Exhibit 12) The Planning Board elected not to have a hearing on the Application, but in lieu thereof adopted the recommendation of the Technical Staff. (Exhibit 14).
- (3) Upon conclusion of the evidentiary hearings, the record was kept open for several documents, upon receipt of which the record was closed on September 6, 2011.

FINDINGS OF FACT

Subject Property

- (1) The subject property is irregularly shaped and consists of approximately 62.43 acres located on the eastern side of Brandywine Road (MD 381) north of Gibbons Church Road. The property contains a 25-acre lake (Lake Chaney) and a smaller pond, the remnants of Surface Mining and Wash Plant activity on the site years ago. The site has been used since 1999 for waterskiing pursuant to a lease agreement between the property owner and the Applicants. The site does not contain any permanent structures other than a shed and several short wooden docks. During the skiing season (April to October) the club utilizes a travel trailer as an office. Other structures on the site include boat lifts, tents, Port-a-Johns and storage containers, all of which can be (and occasionally are) disassembled and removed. The northern portion of the site contains a smaller body of water as well as a large open field. The periphery of the site is wooded. The site is accessed via a driveway from Brandywine Road.

Surrounding Uses

(2) The uses surrounding the subject property are:

- North:** Single-family residences, undeveloped land and agricultural fields in the O-S Zone.
- East & South:** A small vacant parcel and a Potomac Electric Power Company (PEPCO) power line right-of-way (ROW), both in the O-S Zone.
- West:** Across Brandywine Road is formerly mined, partially-reclaimed land in the O-S Zone on Eastern Lane.

Neighborhood

(3) The neighborhood is identified by the Technical Staff as bounded on the north by North Keys Road and Martin Road, on the east by Molly Berry Road and Baden-Naylor Road, and on the south and west by Brandywine Road.

(4) This neighborhood remains rural in character and is predominantly undeveloped. Several active and inactive sand and gravel mining areas are in the vicinity of the subject property. Several single-family residences are located approximately 1,000 feet to the north (as measured from the docks) along Lee Acres Drive.

(5) This neighborhood as proposed by the Applicant is much smaller in size but retains the characteristics of the larger neighborhood identified by the Technical Staff. The neighborhood as proposed by the Applicant is bounded on the north by North Keys Road, on the east by Gibbons Church Road, and on the south and west by Brandywine Road. (Exhibits 38(a) and (b))

(6) The Applicant's expert land planner, Mr. Francis Silberholtz, selected a smaller neighborhood due to the low-impact nature of the proposed use but concurs with the neighborhood identified by the Technical Staff as appropriate for a high-impact use on the subject property. (May 25, 2011 T. pgs. 23-24)

(7) The identification of the correct neighborhood is not pivotal in this Application as both neighborhoods are rural in character and primarily undeveloped. The neighborhood to be utilized is as prepared by the Technical Staff without consideration of the impact level of the proposed use.

Master Plan/Sectional Map Amendment

(8) The 2009 Approved Subregion 6 Master Plan and Sectional Map Amendment recommends a rural land use for the subject property.

(9) The 2009 Approved Subregion 6 Master Plan and Sectional Map Amendment retained the site in the O-S Zone. The site was mined pursuant to Special Exception S.E. 3667 which was approved in 1986.

(10) The 2002 Prince George's County Approved General Plan placed the subject property in the Rural Tier. The vision for the Rural Tier is the protection of large amounts of land for woodland, wildlife habitat, recreation and agriculture pursuits, and preservation of the rural character and vistas that now exist. This Application, for a private non-profit recreational use, is consistent with the Development Pattern policies for the Rural Tier.

Applicant's proposal

(11) The Applicant is seeking approval of a Special Exception for a Private Club with non-profit recreational facilities. The Applicant has, both as the Lake Chaney Ski Club and as the Eagle Lane Skiers, used the lake for a slalom and trick skiing course. The club members are all avid skiers, many compete in events sanctioned by the USA Water Ski Association. Club membership is limited to no more than 20 persons. Due to the small size of the lake, only one (1) towboat is able to use the lake at a time and according to the Applicant usually no more than 4-5 members are on the property at any given time. Maximum usage occurs no more than once a year during a one-day weekend tournament and consists of approximately 25-30 participants and spectators. The Applicant's proposed hours of operation are 5:00 PM to 7:00 PM Monday-Friday and 8:00 AM to 7:00 PM Saturday-Sunday. Club members are allocated 2-hour time slots with a maximum of three (3) members per slot. Personal watercraft ("jet skis") are not permitted on the lake.

LAW APPLICABLE

(1) A Private Club is permitted as a Special Exception in the O-S Zone by §27-441 in accordance with §27-317(a) and §27-359(a) of the Zoning Ordinance.

(2) Section 27-317(a) provides as follows:

(a) A Special Exception may be approved if:

(1) The proposed use and site plan are in harmony with the purpose of this Subtitle;

(2) The proposed use is in conformance with all the applicable requirements and regulations of this Subtitle;

(3) The proposed use will not substantially impair the integrity of any validly approved Master Plan or Functional Master Plan, or, in the absence of a Master Plan or Functional Master Plan, the General Plan;

(4) The proposed use will not adversely affect the health, safety, or welfare of residents or workers in the area;

(5) The proposed use will not be detrimental to the use or development of adjacent properties or the general neighborhood;

(6) The proposed site plan is in conformance with an approved Tree Conservation Plan; and

(7) The proposed site plan demonstrates the preservation and/or restoration of the regulated environmental features in a natural state to the fullest extent possible.

(3) Section 27-359 (a) provides as follows:

(a) A golf course, private club, community building, or other nonprofit recreational use may be permitted, when it is not publicly owned or operated. Concessions for serving food and refreshments to, and entertainment for, club members and guests, may also be permitted. This special exception does not apply to community swimming pools, golf driving ranges, or miniature golf courses.

(4) The Application must also satisfy the purposes of the O-S Zone, §27-425(a), which provides:

(1) The purposes of the O-S Zone are:

(A) To provide for low density and development intensity as indicated on the General or Area Master Plans; and

(B) To provide for areas which are to be devoted to uses which preserve the County's ecological balance and heritage, while providing for the appropriate use and enjoyment of natural resources.

(2) The use of the O-S Zone is intended to promote the economic use and conservation of agriculture, natural resources, residential estates, non-intensive recreational uses, and similar uses.

Burden of Proof

(5) The Court of Appeals of Maryland has frequently expressed the applicable standards for judicial review of the grant or denial of a Special Exception use. The Special Exception use is a part of the comprehensive zoning plan sharing the presumption that, as such, it is in the interest of the general welfare, and therefore, valid. The Special Exception use is a valid zoning mechanism that delegates to an administrative board a limited authority to allow enumerated uses which the legislature has determined to be permissible absent any fact or circumstance negating this presumption. The duties given the Board are to judge whether the neighboring properties in the general neighborhood would be adversely affected and whether the use in the particular case is in harmony with the general purpose and intent of the Plan.

The Applicant has the burden of adducing testimony which will show that his use meets the prescribed standards and requirements, he does not have the burden of establishing affirmatively that his proposed use would be a benefit to the community. If he shows to the satisfaction of the Board that the proposed use would be conducted without real detriment to the neighborhood and would not actually adversely affect the public interest, he has met his burden. The extent of any harm or disturbance to the neighboring area and uses is, of course, material. If the evidence makes the question of harm or disturbance or the question of the disruption of the harmony of the comprehensive plan of zoning fairly debatable, the matter is one for the Board to decide. But if there is no probative evidence of harm or disturbance in light of

the nature of the zone involved or of factors causing disharmony to the operation of the comprehensive plan, a denial of an application for a Special Exception use is arbitrary, capricious, and illegal. Turner v. Hammond, 270 Md. 41, 54-55, 310 A.2d 543, 550-51 (1973); Rockville Fuel & Feed Co. v. Board of Appeals of Gaithersburg, 257 Md. 183, 187-88, 262 A.2d 499, 502 (1970); Montgomery County v. Merlands Club, Inc., 202 Md. 279, 287, 96 A.2d 261, 264 (1953); Anderson v. Sawyer, 23 Md. App. 612, 617, 329 A.2d 716, 720 (1974). These standards dictate that if a requested Special Exception use is properly determined to have an adverse effect upon neighboring properties in the general area, it must be denied. Schultz v. Pritts, 291 Md. 1, 432 A.2d 1319, 1325 (1981). See also Mossberg V. Montgomery County, 107 Md. App. 1, 666 A.2d 1253 (1995).

(6) The appropriate standard to be used in determining whether a requested Special Exception use would have an adverse effect and, therefore, should be denied is whether there are facts and circumstances that show that the particular use proposed and the particular location proposed would have any adverse effects above and beyond those inherently associated with such a Special Exception use irrespective of its location within the zone. Turner v. Hammond, 270 Md. 41, 54-55, 310 A.2d 543, 550-51 (1973); Deen v. Baltimore Gas & Electric Co., 240 Md. 317, 330-31; 214 A.2d 146, 153 (1965); Anderson v. Sawyer, 23 Md. App. 612, 617-18, 329 A.2d 716, 720, 724 (1974). Schultz v. Pritts, 291 Md. 1, 432 A.2d 1319, 1331 (1981). See also Mossberg v. Montgomery County, 107 Md. App. 1, 666 A.2d 1253 (1995).

CONCLUSIONS OF LAW

(1) The general purposes of the Zoning Ordinance are contained in §27-102(a) and Special Exception 4593 is in harmony with these purposes as follows:

- (1) *To protect and promote the health, safety, morals, comfort, convenience, and welfare of the present and future inhabitants of the County;*

The Applicant is seeking approval of a Special Exception for a Private Club with non-profit recreational facilities. The Applicant has, both as the Lake Chaney Ski Club and as the Eagle Lake Skiers, used the lake for a slalom and trick skiing course. The club members are all avid skiers and many compete in events sanctioned by the USA Water Ski Association. Club membership is limited to no more than 20 persons. This Private Club/non-profit recreational use has existed since 1999 (albeit without the required Special Exception). The use, as proposed, will operate in a manner as to minimize impacts on the surrounding neighbors and the site itself. The Applicant limits their club membership to 20 and allocates time slots with a maximum of three (3) members per slot. The Lake is only open for use for two (2) hours each weekday evening; the majority of the skiing takes place during the weekend between the hours of 8:00 AM and 7:00 PM. The specifications for the maximum noise level produced by the Ski Nautique 196 ski boat used by the Applicant is 88dB which is below the 100dB noise level produced by an average lawn mower. The Applicant has agreed to continue to confine its activities to minimize the possibility that any noise emanating from the property may disturb adjoining property owners or users. The parking will continue to be located along the existing driveway well within the site.

- (2) *To implement the General Plan, Area Master Plans, and Functional Master Plans;*

The 2009 Approved Subregion 6 Master Plan and Sectional Map Amendment, (Planning Areas 77, 79, 82A, 82B, 85B, 86A, 86B, 87A and 87B) recommends a rural land use for this site. A Private Club is permitted in this Zone with an approved Special Exception. The property contains a 25-acre lake (Lake Chaney) and a smaller pond, the remnants of Surface Mining and Wash Plant activity on the site years ago. The use of this former mining site as a Private Club, a non-profit recreational use, is consistent with the planned land use pattern for Subregion 6, the list of post-mining uses recommended for sites located within the Primary Preservation Area (PPA), and will not impair the integrity of the approved Master Plan for the area.

- (3) *To promote the conservation, creation, and expansion of communities that will be developed with adequate public facilities and services;*

As this Special Exception Application is for a Private Club with non-profit recreational use, this Purpose does not apply.

- (4) *To guide the orderly growth and development of the County, while recognizing the needs of agriculture, housing, industry, and business;*

The use of this former mining site as a Private Club with non-profit recreational use, is consistent with the planned land use pattern for Subregion 6 and will not impair the integrity of the approved Master Plan for the area.

- (5) *To provide adequate light, air, and privacy;*

The site does not contain any permanent structures other than a shed and several short wooden docks. During the skiing season (April to October) the club utilizes a travel trailer as an office. A second trailer owned by a member, that was mentioned in the Technical Staff's Report, has been removed from the property. Other structures on the site include boatlifts, tents, Port-a-Johns and storage containers, all of which can be (and occasionally are) disassembled and removed. Neither variances from bulk regulations nor departures from design standards are needed.

- (6) *To promote the most beneficial relationship between the uses of land and buildings and protect landowners from adverse impacts of adjoining development;*

The use, as proposed, is planned to minimize impacts on the surrounding neighbors and the site itself. The Applicant limits their club membership to 20 and allocates time slots with a maximum of three (3) members per slot. The lake is only open for use for two (2) hours each weekday evening; the majority of the skiing takes place during the weekend between the hours of 8:00 AM and 7:00 PM. As noted previously, the specifications for the maximum noise level produced by the Ski Nautique 196 ski boat used by the Applicant is 88dB which is below the 100dB noise level produced by an average lawn mower. The Applicant has agreed to continue to confine its

activities to minimize the possibility that any noise emanating from the property may disturb adjoining property owners or users. The parking will continue to be located along the existing driveway well within the site.

(7) *To protect the County from fire, flood, panic, and other dangers;*

As this Special Exception Application is for a Private Club with non-profit recreational use, this purpose does not apply.

(8) *To provide sound, sanitary housing in a suitable and healthy living environment within the economic reach of all County residents;*

As this Special Exception Application is for a Private Club with non-profit recreational use, this purpose does not apply.

(9) *To encourage economic development activities that provide desirable employment and a broad, protected tax base;*

As this Special Exception Application is for a Private Club with non-profit recreational use, this purpose does not apply.

(10) *To prevent the overcrowding of land;*

The property contains a 25-acre lake (Lake Chaney) and a smaller pond, the remnants of surface mining and wash plant activity on the site years ago. The site has been used since 1999 for waterskiing pursuant to a lease agreement between the property owner and the Applicant. The site does not contain any permanent structures other than a shed and several short wooden docks. There are no new structures being proposed as part of this Application.

(11) *To lessen the danger and congestion of traffic on the streets, and to insure the continued usefulness of all elements of the transportation system for their planned functions;*

No new development or construction is proposed with this Application, and the existing use appears to be compatible with the surrounding neighborhood. The limits on hours of use and number of members show a commitment by the Applicant to minimize the impact of the use on adjacent properties and the general neighborhood. The amount of traffic generated by the use is negligible.

(12) *To insure the social and economic stability of all parts of the County;*

As this Special Exception Application is for a Private Club with non-profit recreational use, this Purpose does not apply.

- (13) *To protect against undue noise, and air and water pollution, and to encourage the preservation of stream valleys, steep slopes, lands of natural beauty, dense forests, scenic vistas, and other similar features;*

The proposed use of the Lake is limited to two (2) hours each weekday evening and during the weekend between the hours of 8:00 AM and 7:00 PM. The specifications for the maximum noise level produced by the Ski Nautique 196 ski boat used by the Applicant is 88dB which is below the 100dB noise level produced by an average lawn mower. The Applicant has agreed to continue to confine its activities to minimize the possibility that any noise emanating from the property may disturb adjoining property owners or users.

- (14) *To provide open space to protect scenic beauty and natural features of the County, as well as to provide recreational space; and*
- (15) *To protect and conserve the agricultural industry and natural resources.*

The property contains a 25-acre lake (Lake Chaney) and a smaller pond, the remnants of surface mining and wash plant activity on the site years ago. The continued use of this former mining site as a Private Club, a non-profit recreational use, is consistent with the planned land use patterns recommended by the 2009 Approved Subregion 6 Master Plan and Sectional Map Amendment, and is in keeping with the enunciated goals, policies and strategies. §27-317(a)(1)

(2) The specific purposes of the O-S Zone are provided in §27-425(a) and Special Exception 4593 is in harmony with these specific purposes as follows:

- (A) *To provide for low density and development intensity as indicated on the General or Area Master Plans; and*
- (B) *To provide for areas where are to be devoted to uses which preserve the County's ecological balance and heritage, while providing for the appropriate use and enjoyment of natural resources.*

As noted above, the property contains a 25-acre lake (Lake Chaney) and a smaller pond, the remnants of a Surface Mining and Wash Plant activity on the site years ago. The site has been used since 1999 for waterskiing pursuant to a lease agreement between the property owner and the Applicant. The site does not contain any permanent structures other than a shed and several short wooden docks. No new development or construction is proposed with this Application, and the existing use appears to be compatible with the existing neighborhood. The 2002 Prince George's County Approved General Plan placed the site in the Rural Tier. The vision for the Rural Tier is the protection of large amounts of land for woodland, wildlife habitat, recreation and agriculture pursuits, and preservation of the rural character and vistas that now exist. This Application, as a private non-profit recreational use, is consistent with the Development Pattern policies for the Rural Tier. The continued use of this former mining site as a Private Club, a non-profit recreational use, is

also consistent with the planned land use patterns recommended by the 2009 Approved Subregion 6 Master Plan and Sectional Map Amendment, and in keeping with its enunciated goals, policies and strategies. §27-317(a)(1)

(3) The primary purposes of the Zoning Ordinance are to protect the public health, safety and welfare; to promote the most beneficial relationship between the uses of land and buildings; and to protect landowners from adverse impacts of adjoining development. This Private Club/non-profit recreational use has existed since 1999 (albeit without the required Special Exception). The use, as proposed, is planned to minimize impacts on the surrounding neighbors and the site itself. The Applicant limits their club membership to 20 and allocates time slots with a maximum of three (3) members per slot. The lake is only open for use for two (2) hours each weekday evening and during the weekend between the hours of 8:00 AM and 7:00 PM. The Applicant has agreed to continue to confine its activities to minimize the possibility that any noise emanating from the property may disturb adjoining property owners or users. The parking will continue to be located along the existing driveway well within the site. The Approved Site and Landscape Plan, Exhibit 39, is in harmony with the purposes of Subtitle 27. §27-317(a)(1)

(4) The proposed use and Revised Site and Landscape Plan, Exhibit 39, are in conformance with all of the applicable requirements and regulations of the Zoning Ordinance. No variances, departures or waivers are required. §27-317(a)(2)

(5) The 2009 Approved Subregion 6 Master Plan and Sectional Map Amendment recommends a rural land use of the subject site. A Private Club is permitted in the O-S Zone with an approved Special Exception. The continued use of this site as a Private Club with a non-profit recreational use is consistent with the planned land use pattern and will not substantially impair the integrity of the approved Master Plan. §27-317(a)(3)

(6) The Private Club serves the needs of a group of citizen athletes in the region for their training and recreational enjoyment. The Applicant has been very careful to minimize the impacts through restricting access to the lake. It has been a compatible use in the community for some time and its continued operation will not adversely affect the health, safety or welfare of the residents or workers in the area. §27-317(a)(4)

(7) No new development is proposed in this Application and the existing use is compatible with the existing neighborhood. The limits on hours of use and number of members show a commitment by the Applicant to minimize the impact of the use on adjacent properties and the general neighborhood. The amount of traffic generated by the use is negligible. All of these factors suggest the proposed use will not be detrimental to the use or development of adjacent properties or the general neighborhood. §27-317(a)(5)

(8) The site was previously subject to an approved TCPII (TCPII/087/95) for the subject property which was approved in 1995 for the purpose of providing an off-site Woodland Conservation bank for a benefitting property. The previously approved TCPII for the benefitting property was revised to

provide all Woodland Conservation on site, and the off-site Woodland Conservation bank requirement on the subject property, which was secured with an individual Woodland Conservation Easement, was no longer required. As a result, a release of the recorded Woodland Conservation Easement was processed and recorded in the land records, leaving the subject property unencumbered. As a result, TCPII/087/95 was vacated.

The subject property is subject to the provisions of the Prince George's County Woodland and Wildlife Habitat Conservation Ordinance (WCO) because the gross tract area is greater than 40,000 square feet and there are more than 10,000 square feet of existing woodland. A simplified Forest Stand Delineation (FSD) was submitted with a request for a Numbered Letter of Exemption because the proposed activity in the Application for the Exemption stated that no existing woodland would be removed. After evaluation, a numbered Letter of Exemption for a Specific Activity (E-006-10) was issued on January 26, 2010, indicating the removal of no woodland on site.

Development applications that require the review of a Special Exception require the submittal of either a Tree Conservation Plan or a Standard Letter of Exemption that states that the property is not subject to the Woodland Conservation Ordinance (WCO). The subject Application is for a Special Exception and as such a Numbered Letter of Exemption for a specific activity is not sufficient to address how the property meets the requirements of the Woodland Conservation Ordinance (WCO).

Division 2 of Subtitle 25, the Woodland and Wildlife Habitat Conservation Ordinance, states in §25-119(b)(5)(A): "A Numbered Letter of Exemption shall not be issued for properties that are required to submit application as part of the land development process for the activity proposed." The Numbered Letter of Exemption previously issued for this site is not valid as part of a Special Exception application. A Type II Tree Conservation Plan is required for the site.

The Woodland Conservation threshold for this approximate 62.43 acre parcel in the O-S Zone would generally be 50 percent of the net tract area, or 31.22 acres. The requirement for the site would instead be based on the afforestation threshold which is 20 percent of the net tract, or 12.49 acres of Woodland Conservation because the subject property only contains 11.37 acres of existing woodlands on site. No clearing is proposed on the property under the Special Exception Site Plan, Exhibit 39, so no replacement would be required. Therefore, the TCP II needs to demonstrate how the afforestation threshold for the subject property of 12.49 acres is being satisfied. Because 11.37 acres of woodlands already exist, an additional 1.12 acres of woodland conservation is required to fulfill the woodland conservation for this site. The method with the highest priority for meeting the additional Woodland Conservation requirement is on-site afforestation because the property is located in the O-S Zone and the entire property is located within the Green Infrastructure Plan network. The 1.12 acres could be planted along the historic road or adjacent to any regulated environmental features shown on the Forest Stand Delineation (FSD) or TCP II that may exist, or may be achieved through natural regeneration on site.

In order to make this finding, a Type II Tree Conservation Plan must be submitted in conformance with the proposed Site Plan. Consequently, the Applicant must submit a TCP II plan for the subject property in conformance with the requirements of the Environmental Technical Manual, Part A. The TCP II shall demonstrate how the Woodland Conservation requirement of 12.29 acres has been provided on site. The TCP II will be considered as a new Application, and not as a revision to Type II Tree Conservation Plan TCPII/087/95. §27-317(a)(6)

(9) No disturbance to the regulated environmental features within the limits of the subject Application has been proposed. Once a TCP II is submitted in conformance with the recommendation contained in the report, a finding can be made that the regulated environmental features of the site have been fully preserved in a natural state. §27-317(a)(7)

(10) The proposed use is a non-profit recreational use which is a Private Club that is not publicly owned or operated and there are no concessions proposed. §27-359(a)

Parking and Loading

(11) Section 27-568 of the Zoning Ordinance requires the parking for Private Clubs to be determined by the uses comprising the Club. In the instant Application there are none of the commonly found constituent parts of a Private Club (e.g. eating and drinking establishment, offices, auditoriums, etc.). There is a boat ramp but it is not open to the public. The Club has limited the number of members in order to minimize the impact to the subject property and to the neighborhood. The Revised Site and Landscape Plan, Exhibit 39, provides 16 parking spaces, including one (1) handicapped parking space. These spaces are sufficient to meet the daily needs of the Club and for those few days where overflow parking is needed, the open grass field is able to amply provide additional temporary parking spaces.

Landscape Manual

(12) Section 27-328.02(a) of the Zoning Ordinance requires landscaping for Special Exceptions, “except for uses which do not require the construction, enlargement, or extension of a building...” This use does not have permanent buildings, per se, but does have numerous structures including a trailer which stays on the property for more than six months out of the year, and some structures which remain year round. The Application is relying on the existing woodland buffer which is found around the majority of the perimeter. The Revised Site and Landscape Plan, Exhibit 39, is in compliance with the requirements of the Landscape Manual.

Sign Regulations

(13) A small (28 feet by 32 feet or a 6.22-square foot) sign is shown along Brandywine Road (MD 381) at the entrance. The sign meets the size and appears to meet the setback requirement for a nonresidential use in a Residential Zone. The sign detail on the Revised Site and Landscape Plan, Exhibit 39, has been revised to show the height of the sign and the setback dimension.

(14) The instant Application meets the requirements and regulations for the O-S- Zone.

Historic Roads

(15) Brandywine Road runs along the southwestern boundary of the subject property. Brandywine Road (MD 381) was designated in the Subregion 6 Master Plan as a historic road. When a roadway is designated as historic, it is because it is located in its historic alignment and there is an expectation that historic features will be found along its length, although not on every property. Roadways are a linear element, and the intention of establishing a landscape bufferyard is to preserve or enhance the extent of the roadway and enhance the travel experience through the preservation, conservation or enhancement of the scenic qualities or historic features related to the roadway. In order to determine if there were historic or scenic characteristics that should be identified and preserved, an Inventory of Significant Visual Features for the viewshed adjacent to the right-of-way of Brandywine Road was requested and submitted. An evaluation of significant visual features in the right-of-way and along the site frontage on Brandywine Road was performed based on a visual inventory provided by the Applicant and the simplified forest stand submitted with the Application.

Adjacent to a historic road, a minimum of a 40-foot-wide evaluation area is generally considered, based on the “D” bufferyard which is required adjacent to a historic site in the Prince George’s County Landscape Manual. A 40-foot-wide scenic evaluation area has been delineated on the Revised Site and Landscape Plan, Exhibit 39.

The Revised Site and Landscape Plan shows that all existing trees along the road frontage will be preserved. The average width of the woodlands is 100 feet wide, except for one (1) small area where the width of the existing woodlands is reduced to only 20 feet, but the buffer intent is fulfilled by additional woodland located further back from the road. The retention of these woodlands as proposed is a recommended treatment for historic roads, and in keeping with the rural character of Brandywine Road in this section. The signage proposed for the Lake Chaney Ski Club is small in scale and also in keeping with the character of the Rural Tier and the historic road.

DISPOSITION

Special Exception 4593 is APPROVED subject to the following Condition:

1. The Site and Landscape Plan, Ex. 39, shall be revised to provide the dimensions of the handicapped parking spaces and to provide a Note to specify the hours of operation.

The Site and Landscape Plan is Exhibit 39