



MONTGOMERY COUNTY PLANNING DEPARTMENT
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB
Item 6-13
Date: 2/4/10

DATE: January 22, 2010

TO: Montgomery County Board of Appeals
VIA: Rose Krasnow, Chief, Development Review Division
Ralph Wilson, Zoning Supervisor, Development Review Division
FROM: Elsabet Tefsaye, Planner Coordinator (301) 495-1301

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SUBJECT: Special Exception S-2749: Vincent E Lufsey-Out Door Storage Facility in the RC zone and a request for a waiver from the driveway width requirement of Section 59-E-2.41(b), located at 23320 and 23330 Ridge Road, Germantown

FILING DATE: April 10, 2009
PLANNING BOARD HEARING: February 4, 2010
PUBLIC HEARING: February 12, 2010

Staff Recommendations:

With the recommended conditions, the proposal satisfies all applicable standards and requirements for approval of a special exception for an outdoor storage facility. The Petitioner has met the burden of proof by showing that the proposed use would be operated without detriment to the neighborhood and would not adversely affect the public interest. The proposed use has been operating at the same location since 1995, as a registered home occupation special exception, without any negative impact on the surrounding neighborhood. The proposed use is consistent with the recommendations of the *Approved and Adopted 1994 Clarksburg Master Plan*.

Staff recommends approval of special exception S-2749 and waiver of the 20-foot driveway width requirement, subject to the following conditions:

1. The landscape plan must be revised to incorporate the supplemental planting for additional perimeter screening for review and approval by Planning Board staff before a decision on the case is made by the Board of Appeals.
2. Each of the two existing driveways must be widened from the existing 10 feet to a minimum of 12 feet.

S-2749

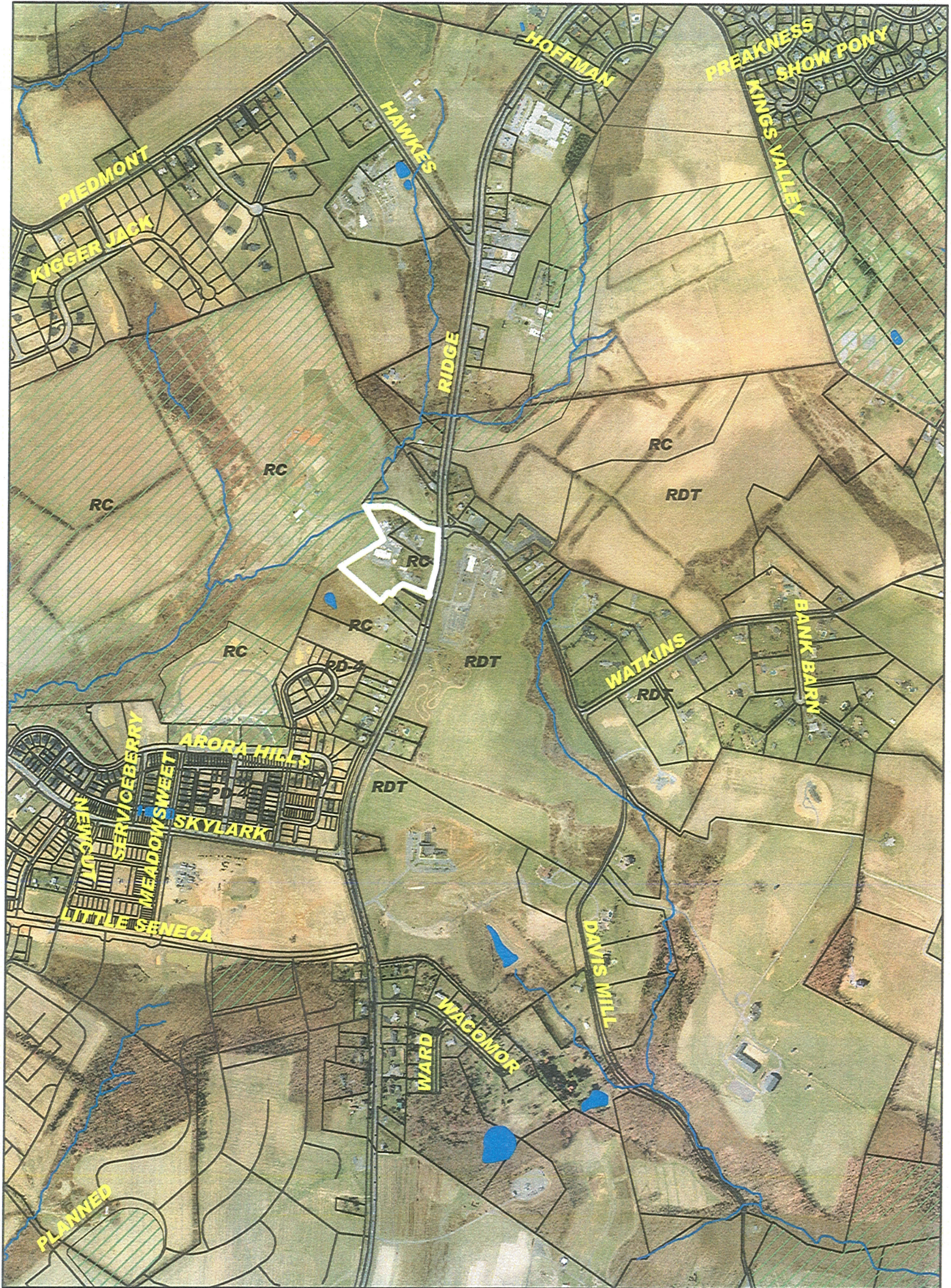


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ATTACHMENTS:

- Site Plan
- Referral Comments
- Letter from the Community

I. APPLICATION SUMMARY

Petitioner	Vincent E. Lufsey
Location	23320 and 23330 Ridge Road, on the west side of the Road and at the southwest corner of its intersection with Davis Mill Road, in Germantown
Site Size	8.02 acres
Current Zone	RC
Master Plan	1994 Clarksburg Master Plan
Proposed Use	Outdoor storage facility
Floor Area	9,728 sf
Onsite Parking	52 spaces

II. STATEMENT OF THE CASE



The special exception Petitioner, Vincent E. Lufsey, has submitted a petition for a special exception to continue the current use of the property as an outdoor storage facility for rental portable toilets. The business has been in operation on the property under a registered Home Occupation (No. 330) since 1995.

The proposal also includes construction of a 4,050 square-foot trailer garage. The site plan provides a total of 52 parking spaces, 12 of which are contained within one of the on-site buildings.

III. PROPERTY DESCRIPTION

The subject property is located on the west side of Ridge Road immediately southwest of the intersection of Ridge Road and Davis Mill Road at 23320 and 23330 Ridge Road (MD 27) in Germantown. The special exception site is comprised of two parcels—Parcels P-95 and P-71. The site is improved with residential dwellings (one on each parcel), a repair shop, a garage/barn, an office, a storage shed, a parking area, and an outdoor storage area. The site is zoned R-C.

IV. SURROUNDING AREA

The area surrounding the subject property consists of a mixture of uses including agricultural, residential, commercial, and institutional uses. Staff agrees with the Petitioner's description of the surrounding area:

The Property is located within the Clarksburg Master Plan Area, Approved and Adopted in April 1994 (the "Master Plan"), and is located along the west side of Ridge Road (MD 27), an arterial highway, immediately south of a small commercial area. This commercial area includes a filling station and convenience store, located at Cedar Grove, along Ridge Road between Davis Mill Road and Hawkes Road. Single-family detached dwellings, with frontage on Ridge Road, are located to the south of the Property. To the west the Property abuts the Ovid Hazen Wells Park. An access service drive from Ridge Road to the Park borders the Property on the north, with the commercial uses further north on the western side of Ridge Road. A retail nursery and farm supply business (special exception S-2390/2391) is located to the east across Ridge Road from the Property immediately south of Davis Mill Road, with single-family homes further to the north also on the east side of Ridge Road. The Christ Lutheran Church and Upper Seneca Baptist Church are both located on the north side of Davis Mill Road east of Ridge Road. The surrounding area, thus, is a mix of agricultural, residential, commercial/business, and institutional uses.

V. PLANNING AND ZONING HISTORY

The 1958 County-Wide Comprehensive Zoning placed the property in the R-R Zone. The area was rezoned to R-C (Rural Cluster) with the adoption of the 1980 comprehensive rezoning of the area for Agriculture Preservation. The 1994 Clarksburg Master Plan and the subsequent Sectional Map Amendment confirmed the R-C zoning of the property.

VI. MASTER PLAN

Use of the site for outdoor storage purposes is consistent with the recommendations of the *1994 Clarksburg Master Plan. & Hyattstown Special Study area*. Community Based Planning staff has recommended that extra plantings around the perimeter of the property be added to screen the use. The full comments of Community Based Planning are attached.

VII. COMMUNITY COMMENTS

In response to staff's inquiry about community outreach, the Petitioner indicated that a presentation on the proposed use was made to a subcommittee of the Clarksburg Citizens Association. The Petitioner submitted a letter from the association and signed by Kathie Hulley in support of the application. Staff has not received any direct comments from the community either in support or in opposition to the proposal.

VIII. TRANSPORTATION

Transportation Planning staff has indicated that the proposed outdoor storage facility will not adversely affect area pedestrian accessibility and will not adversely affect the transportation network in the immediate area. Since the proposed outdoor storage facility will not generate 30 or more peak-hour trips during the weekday morning and evening peak periods—the use generates only 18 weekday morning pick-hour trip and 15 weekday evening peak hour trip—a traffic study

is not required and, therefore, the subject petition passes the Local Area Transportation Review (LATR) requirements of the APF test.

The site is located within the Clarksburg Policy Area where 10% of new trips must be mitigated as part of the PAMR requirements according to the Growth Policy. The proposed outdoor storage facility would generate a maximum of five new trips, which under the 10% rule, amounts to less than one trip. Since the PAMR requirement is less than one trip, no action under the PAMR provision is required.

Transportation Planning staff has also offered the following comments:

Two driveway access points to the site exist on Ridge Road (MD 27). The driveways are both ten feet wide. According to Montgomery County's Context Sensitive Road Design Standards, the width of a commercial driveway must be a minimum of 12 feet wide and a maximum of 35 feet wide (MCDOT Standard No. 302-01). Staff recommends that the Petitioner widen the two existing driveways from the existing 10 feet to a minimum 12 feet. Staff finds that since there is no continuous commercial traffic activity on these driveways, the 12-foot-width is adequate to provide safe access to the site. Since the site is accessed from a State Road (MD 27) the recommended driveway width is subject to approval by SHA. Due to the location of the site in a rural area without existing sidewalks, no pedestrian facilities are needed for this use.

IX. ENVIRONMENT

In its December 31, 2009 memorandum, Environmental Planning staff provided the following Environmental Inventory of the site:

A Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) for the 8.02-acre site was approved by Environmental Planning staff on October 22, 2008. There is a second order stream that crosses the subject property along the far northwest corner, and the associated stream valley buffer occupies a small segment of that corner of the property. Steep slopes are found in the northwest corner and along a portion of the northern property line. There are no forests, wetlands or streams on-site. However, there is a stream located in the Ovid Hazen Wells Park directly off-site in the northwest corner of the property and a portion of the associated stream buffer extends onto the Petitioner's property. This property is not located within a Special Protection Area.

The topography of the property is for the most part relatively shallow, with the high point located at the western edge of the property where the current barn structure is located. The site gently falls off to the north, east and south. However, to the west and northwest of the high point the topography falls off approximately 50 feet to the stream channel. There are steep slopes on the northwest portion of the site and immediately adjacent to the western property line on the Ovid Hazen Wells Park.

The subject site drains to a second order stream within the Little Seneca Creek watershed designated as Use IV-P waters. The upper Little Seneca Creek within the Ovid Hazen Wells Park is classified as being in excellent condition in the 1998 version of the Department of Environmental Protection's County Stream Protection Strategy (CSPS).

The property is subject to the Montgomery County Forest Conservation Law and Preliminary Forest Conservation Plan (PFCP) and is being reviewed by the Planning Board for compliance with these laws. Because the property is located within the Agricultural and Resource land use category, it is required to meet its forest planting requirements on the subject property. Consequently, it was determined that, in this particular case, 20 percent of the subject property must be afforested for a total planting requirement of 1.6 acres. The Petitioner has proposed to meet the afforestation requirement on-site by planting two separate areas, (one 0.78 acres and the other 0.82 acres) and placing both into Category I Forest Conservation Easements (FCE).

Environmental Planning staff recommends approval of the proposed PFCP with conditions that include requiring the Petitioner to re-grade the steep slope, remove the unconsolidated fill, and provide conditioned soils to make the area acceptable for planting trees that will result in a vigorous forest.

Although not required at this stage of review, a stormwater management concept was approved with conditions by the Department of Permitting Services on September 24, 2009. The stormwater management concept consists of on-site channel protection measures and on-site and on-site water control via the use of Environmental Site Design (ESD).

X. LANDSCAPE AND DESIGN

Site Plan staff found the landscaping and lighting concept proposed for the subject site to be appropriate for this type of development and setting. The preservation of existing trees and additional perimeter screening will help buffer neighbors from the maintenance and storage areas. The lighting will not have any negative impacts on adjacent properties or rights-of-way.

XI. GENERAL DEVELOPMENT STANDARDS (§ 59-G-1.23)

- a. **Development Standards-59-G-1.23 (a): 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.**

The following table summarizes the relevant development standards for the R-C zone that are applicable to the proposed special exception request:

Development Standard	Required	Proposed/Existing
Minimum Lot Area: 59-C-42 59-G.54.3(a)	5.0 ac 8.0 ac	8.02 ac
Minimum Lot width: §59-C-43 <ul style="list-style-type: none"> • at front building line • at street line 	300 300	527± 527±
Yard Requirement for a main building: §59-C-44 <ul style="list-style-type: none"> • From street • Side Yards: One side Some of both sides • Rear 	50 ft 20 ft 40 ft 35 ft	50 ft 50 160 ft± 82ft±
Yard Requirement for an accessory Building §59-C-45		

<ul style="list-style-type: none"> • From Street Line • From a rear lot line • From a side lot line 	80 ft 10 ft 50 ft 20 ft*	104 ft 25 ft 24.5 ft 24.5 ft
Maximum Lot coverage §59-C-46	10%	6.8%
Maximum Building Height§59-C-47	50	28.8 ft Existing

*§59-G-54.3(b) specifies that the minimum setback from any property line must be 50 feet, except that the minimum setback may be reduced to 20 feet for structures that existed as of January 1, 1995, and if the site abuts land classified in the Rural Cluster Zone that is not developed under the cluster option of the Rural Cluster Zone. Based on information provided by the Petitioner the existing Barn structure, which is set back 24.5 feet from the property line was placed on the property prior January 1, 1995.

- b. **Parking Requirements—59-G-1.23 (b): Special exceptions are subject to all relevant requirements of Article 59-E.**

Section 59-E-3.7—Parking requirements

Outdoor storage§59-G.54.3(f)

One and one-half parking spaces must be provided on-site for each 1,000 square feet of total floor area and sufficient area provided for loading and unloading of trucks.

Based on information provided on the site plan, development on the site excluding the two dwellings, accounts for a total of 17,000 square feet of floor area. Twenty-six parking spaces are required and a total of 52 spaces, including four spaces for the two residential uses and 2 handicap spaces, are provided.

- c. **Forest Conservation-59-G-23 (d): 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 site is subject to Chapter 22A Montgomery County Forest Conservation Law. Preliminary forest conservation plan recommendations are reviewed by the Planning Board as a regulatory item, separate from the Board’s review of the special exception application. Environmental Planning staff is recommending approval of the PFCP, with conditions.

- (d). **Signs (59-G-1.23(f)): The display of a sign must comply with Article 59-F.**

No sign is depicted on the special exception site plan. All signs placed on the property must meet the requirements of Section 59-F-4.2 (a) in terms of number, location and size and Section 59-F-4.1 (e) regarding illumination.

- (e) **Building compatibility in residential zones (59-G-1.23(g)): 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 sitting, 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.**

Existing structures on the property include two residential dwellings, a shop, a barn office, a storage shed, and other metal, brick buildings. The scale, bulk, height, materials, and textures of these buildings are generally consistent with the residential and agricultural nature of the area.

e. **Lighting in residential zones —59-G-23(h): All outdoor lighting must be located, shielded, landscaped, or otherwise buffered so that no direct light intrudes into an adjacent residential property. The following lighting standards must be met unless the Board requires different standards for a recreational facility or to improve public safety:**

- (1) **Luminaires must incorporate a glare and spill light control device to minimize glare and light trespass.**
- (2) **Lighting levels along the side and rear lot lines must not exceed 0.1 foot candles.**

The lighting plan adequately and efficiently provides a safe vehicular and pedestrian environment. The proposed lighting will not cause glare on adjoining properties, nor will it exceed the 0.1 foot-candle standard at the side and rear property lines. A photometric study submitted with the application shows that the proposed modification satisfies this requirement.

XII. STANDARD FOR EVALUATION (59-G-1.2.1)

A special exception must not be granted without the findings required by this Article. In making these findings, the Board of Appeals, Hearing Examiner, or District Council, as the case may be, must consider the inherent and non-inherent adverse effects of the use on nearby properties and the general neighborhood at the proposed location, irrespective of adverse effects the use might have if established elsewhere in the zone. Inherent adverse effects are the physical and operational characteristics necessarily associated with the particular use, regardless of its physical size or scale of operations. 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. Non-inherent adverse effects, alone or in conjunction with inherent adverse effects, are a sufficient basis to deny a special exception.

As established in previous special exception cases, seven criteria are used to identify the physical and operational characteristics of a use. Those criteria are size, scale, scope, lighting, noise, traffic, and the environment. What must be determined is whether these effects are acceptable or would create adverse impacts sufficient to result in denial. The inherent, generic physical and operational characteristics associated with an outdoor storage facility include (1) large buildings, including garages, storage sheds, repair shops, and offices (2) large outdoor storage areas and outdoor parking for trucks and trailers (3) driveways and parking lots (4) lighting, (5) vehicular trips to and from the site by employees, visitors, residents, delivery, and trash pick-up.

The scale of existing and proposed buildings, the number of access points, the internal vehicular circulation system, onsite parking areas, garages, sheds, large outdoor storage areas shown on the site plan are operational characteristics typically associated with an outdoor storage area. There are no non-inherent characteristics associated with the application. The proposed outdoor storage

facility is consistent with all applicable standards of the R-C zone and satisfies all applicable requirements for an outdoor storage special exception. Based on the traffic analysis, the vehicular and pedestrian movement surrounding the site and on the adjacent Ridge Road would be safe, adequate, and efficient. The lighting concept as depicted on the lighting plan is appropriate for the proposed use at the subject location.

With the recommended conditions of approval, the inherent and non-inherent impacts associated with the proposed use do not rise to a level sufficient to warrant a denial of the application.

XIII. GENERAL CONDITIONS (59-G-1.21)

(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.

The proposed use is permitted by special exception in the R-C 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.

With staff's recommended conditions of approval, the proposal satisfies the specific special exception standards and requirements of Section 59.G-2.54.3 for grant of an outdoor storage facility.

(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 a special exception must be consistent with any recommendation in a 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.

There are no general plan or master plan concerns associated with this application. The existing and proposed development and use on the property is in keeping with the master plan designation of the area for low density residential development. Moreover, the character of the adjacent Cedar Grove Historic District would be maintained and would not be negatively impacted with the proposed use which has been operating from the subject property for the nearly 15 years.

(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 Board or Hearing Examiner must consider whether the public facilities and services will be adequate to serve the

proposed development under the Growth Policy standards in effect when the special exception application was submitted.

With the recommended conditions, the proposed modification will be in harmony with the general character of the neighborhood and not adversely affect surrounding properties or the general neighborhood. The outdoor storage use, along with all existing improvements, has been at the same location for 15 years. The only notable change to the existing condition would be the proposed addition of the 4,050 square-foot storage garage, which would be located in a clearing on the property substantially distanced from adjoining residential dwellings.

The proposed reclassification of the existing use from a registered home occupation to an outdoor storage facility would not intensify activities nor bring about change in the nature and character of the site or the immediate neighborhood. The existing use has been served by adequate facilities throughout its existence; the proposed reclassification of the special exception from a major home occupation to outdoor storage would not intensify the level of services for the existing public facilities.

- (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 proposed use would not be detrimental to the use, peaceful enjoyment, economic value or development of adjacent properties or the general neighborhood. The existing use has been operated on the property for several years and with the exception of the proposed future addition of a trailer storage garage, no significant expansion of the current operation or intensity in the activities is proposed. Given the fact that no change is proposed in the operation of the facility, it is unlikely that the special exception would generate a level of traffic that would raise concern for congestion on the streets. Additionally, the combined effect of Forest Conservation requirements, staff recommended additional planting along the perimeter; and the topography of the property, would ensure that the low density, rural nature of the immediate neighborhood will be maintained.

- (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 proposed use is not expected to cause any objectionable noise, vibrations, fumes, odors, dust, illumination, glare, or physical activity at the subject site. The portable toilets are stored to the rear of the property and are not visible from Ridge Road. Existing vegetation screens most of the property from adjacent land uses and will be supplemented with additional landscaping and an eight-foot fence to ensure that the use is effectively screened from neighboring properties. The proposed storage building will be used to store toilet facilities completely out of sight.

The use will be adequately screened from the views of neighboring properties, with minimal lighting and glare, and no significant traffic impact.

- (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 proposed special exception will not, when evaluated in conjunction with existing special exceptions in the 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. A farm supply, sales, storage and service establishment is located on the large, RDT zoned parcel of property located directly across the street. This use was approved in 1999 by Special Exception S-2390 and S-2391. The existing outdoor storage use on the subject property and the special exception use across Ridge Road have co-existed in the area for over a decade without causing any notable impact on the neighborhood and area roads. Both special exception uses sit on large expanses of lands, improved with one and two stories farm buildings and residential dwellings with a notable presence of vegetation and natural terrain that allows them to blend with the rural and agricultural character of the surrounding 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.**

The proposed special exception will not adversely affect the health, safety, security, morals or welfare of residents, visitors or workers in the area. The proposed special exception will result in further improving existing landscaping, trees and vegetation, via Forest Conservation requirements and recommended plantings, and will enhance the aesthetic appeal of the neighborhood.

- (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.**

(A) If the special exception use requires approval of a preliminary plan of subdivision, the Planning Board must determine the adequacy of public facilities in its subdivision review. In that case, approval of a preliminary plan of subdivision must be a condition of granting the special exception.

(B) If the special exception does not require approval of a preliminary plan of subdivision, the Board of Appeals must determine the adequacy of public facilities when it considers the special exception application. The Board must consider whether the available public facilities and services will be adequate to serve the proposed development under the Growth Policy standards in effect when the application was submitted.

The site plan showed a future storage garage on the property. The Petitioner has since indicated that there was no immediate need or plan for this structure to be

built and that the proposed operation could function and be approved without it. Subdivision staff determined that a record plat would not be required until such time as a building permit application was filed. This site will be subject to subdivision (preliminary plan and record plat) before any building permit may be issued.

The proposed use will be adequately served by existing public facilities. It is currently served and will continue to be served by two existing septic systems and wells.

The Local Area Transportation Review (LATR) Guidelines require that a traffic study be performed if the use generates 30 or more peak hour trips. The proposed outdoor storage facility is expected to generate only 18 weekday morning peak-hour trip and 15 weekday evening peak hour trip; therefore, a traffic study is not needed to satisfy LATR requirements. Since the proposed facility will generate less than five peak-hour trips during the weekday morning and evening peak-periods, it is not required to satisfy Policy Area Mobility Review (PAMR) for the Clarksburg Policy Area. The proposed use should not negatively impact the safety of vehicular or pedestrian traffic.

- (b) Nothing in this Article relieves a Petitioner from complying with all requirements to obtain a building permit or any other approval required by law. The Board's finding of any facts regarding public facilities does not bind any other agency or department, which approves or licenses the project.**

No finding is required.

- (c) The Petitioner for a special exception has the burden of proof to show that the proposed use satisfies all applicable general and specific standards under this Article. This burden includes the burden of going forward with the evidence, and the burden of persuasion on all questions of fact.**

The Petitioner has met the burden of proof under Sections 59-G-2.54.3 "Out Door Storage" and 59-G-2.1(a): "General Conditions".

XIV. STANDARDS AND REQUIREMENTS (59-G-2):

Pursuant to Section 59-G-2.54.3, a special exception may be granted for housing and related facilities for senior adults or persons with disabilities, subject to the following provisions:

A special exception may be granted for an outdoor storage use, including portable toilet storage, subject to the following requirements:

- (a) The minimum area of the property must be 8 acres.**

The subject property comprises 8.02 acres of land and therefore, satisfies this requirement.

- (b) The minimum setback from any property line must be 50 feet, except that the minimum setback may be reduced to 20 feet for structures that existed as of**

January 1, 1995, and if the site abuts land classified in the Rural Cluster Zone that is not developed under the cluster option of the Rural Cluster Zone.

All buildings on the property meet or exceed this requirement. The existing barn building that is located adjacent to the Ovid Hazen Wells Park is set back 24.5 feet from the property line. The Petitioner has indicated that the barn was erected before January 1, 1995 and therefore, is in compliance with the setback requirement of the zone.

- (c) **The property must front on and have direct access to a road built to primary or higher standards.**

The property fronts on Ridge Road (MD 27) and has direct access to the Rod via two access points.

- (d) **Screening that prevents visual impact of the use to adjoining and confronting properties must be provided for all parking areas and all exterior areas devoted to on-site operations and the storage of inventory and equipment except where the use abuts or confronts commercially or industrially zoned property.**

The buildings and other improvements on the property are substantially distanced and separated from the nearest residential uses. Moreover, existing and proposed screening and buffering in the form of landscaping, fences, forest conservation easement and stream buffer, topography and recommended supplemental perimeter planting ensure that the subject property and activities thereon are adequately screened and buffered from adjoining and confronting properties.

- (e) **The Board may regulate hours of operation, numbers of vehicles and personnel employed, and other on-site operations, including minor repairs to equipment and vehicles used in the operation of the business, so as to prevent adverse impact on adjoining uses.**

The subject facility has 19 full-time and one part time employee. One of the employees resides on the property. Based on information provided in the land use report, the breakdown of the employees and their responsibilities are as follows:

Employees	
Owner/operator (Petitioner)	1
Office personnel	3 (2 full time 1 part-time).
Shop employees (repair and maintenance)	3
Delivery Drivers	3
Route Drivers	10

Days and times of Operation	
Office employees	8 am – 4 pm, Monday through Friday
Shop employees	7 am – 3:30 pm, Monday through Friday
Delivery Drivers	In: 4 am-6 am. Out: 7 am. Return: 4 pm (infrequently by 6pm), Monday through Friday. On rare occasion an emergency delivery is requested and made.
Route Drivers	In: 4 am-6 am. Out: 7 am. Return: 4 pm (infrequently by 6pm), Monday through Friday

The Petitioner has further stated that from April through October the use operates with limited hours on weekends. Organizations and local governments either do not want, or are not permitted to leave, portable toilets at locations from Friday to Monday, and consequently, the portable toilets are rented for delivery early on Saturday with pick up after the event on Sunday. Staff has no objection to either the hours of operation or the number of staff in view of the fact that there has been no negative impact resulting from the established operational practice during the past several years. Moreover, the Transportation analysis of the special exception request indicates that there is no transportation or traffic related impact on the road near the subject property nor is there any negative impact on the circulation pattern on and near the property.

- (f) **One and one-half parking spaces must be provided on-site for each 1,000 square feet of total floor area and sufficient area provided for loading and unloading of trucks.**

Based on information provided on the proposed special exception site plan, development on the site, excluding the two dwellings, accounts to 17,000 square feet of floor area:

17, 000 SF @1.5 sp/ 1000 square feet	=25.5=26
2 dwellings @ 2 sp/1 dwelling unit	=4
Total no. spaces required:	=30
Total no. spaces provided	=52 including 2 handicap spaces.

The application satisfies the parking requirement and sufficient area is provided for loading and unloading trucks.

XV. SECTION 59-E-4.5 WAIVER-PARKING STANDARDS

Pursuant to Section 59-E-2.41(b) Driveways for one-way movements shall be at least 10 feet in width to allow safe and expeditious movement of vehicles Entrance and exit driveways shall be separately provided wherever possible. If entrance and exit driveways are combined, the combined driveways shall be not less than 20 feet in width.

The subject site is accessed from two existing access points along the property's frontage on Ridge Road (MD 27). The existing driveways are both ten feet wide and have served the property and the existing use for a number of years. However, the driveways, which are used for two-way movements do not meet the required 20-foot width requirement of Section 59-E-2.41(b). The petitioner is requesting a waiver of the required 20-foot driveway width.

Section 59-E-4.5 the Zoning Ordinance provides that [t]he Director, Planning Board, or Board of Appeals may waive any requirement in this article not necessary to accomplish the objectives in Section 59-E-4.2 and in conjunction with reductions may adopt reasonable requirements above the minimum standards. Any request for a waiver under this Section must be referred to all adjoining property owners and affected citizen associations for comment before a decision on the requested waiver.

The applicant has provided the following justification addressing each of the four objectives in Section 59-E-4.2 and demonstrating that the objectives are accomplished per required provisions of Section 59-E-4.3.

Section 59-E-4.2: Objectives of Parking Facility Plan

- (a) **The protection of the health, safety and welfare of those who use any adjoining land or public road that abuts a parking facility. Such protection shall include, but not be limited to, the reasonable control of noise, glare or reflection from automobiles, automobile lights, parking lot lighting and automobile fumes by use of perimeter landscaping, planting, walls, fences or other natural features or improvements.**

The health, safety, and welfare of those using the adjacent land are protected. The existing two driveways do not abut adjacent property. The northern driveway is completely surrounded by the subject property, and the southern driveway is located 60 to 67 feet from the property to the south, with trees intervening. Therefore, there is sufficient distance and screening in place to prevent, noise, glare, reflection. In addition, the adjacent property to the south includes an asphalt driveway and parking area along its northern property line.

- (b) **The safety of pedestrians and motorists within a parking facility.**

There is a separate walk for pedestrians near the house and pedestrians will likely not walk from MD 27 up the driveway to the front door. The driveway will only be used by vehicles.

- (c) **The optimum safe circulation of traffic within the parking facility and the proper location of entrances and exits to public roads so as to reduce or prevent traffic congestion.**

Both driveways points of access exist at present and have for a number of years. The technical staff has recommended that the width of the southern driveway conforms to the minimum standard for a commercial driveway, which is 12 feet, sufficient to accommodate trucks that utilize the site. The northern drive way will remain in use.

The amount of traffic utilize the driveway is very low and is highly directional, i.e. employees arrive in the morning, some leave in trucks immediately and return in the afternoon, and all depart in the late afternoon.

Attachments

Attachments



MONTGOMERY COUNTY PLANNING DEPARTMENT
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

January 6, 2010

MEMORANDUM:

TO: Elsabett Tesfaye
Development Review Division

VIA: Shahriar Etemadi, Supervisor
Transportation Planning Division *[Signature]*

FROM: Ki H. Kim, Planner/Coordinator
Transportation Planning *[Signature]*

SUBJECT: Special Exception Application No. S-2749
Outdoor Storage Facility at 23320 and 23330 Ridge Road
Clarksburg

This memorandum is Transportation Planning staff's Adequate Public Facilities (APF) review of the subject special exception petition. The subject special exception is for an outdoor storage facility located at 23320 and 23330 Ridge Road (MD 27), Clarksburg.

RECOMMENDATION

Based on our review of the site plan and the traffic statements submitted by the applicant, staff recommends the following condition to approve the subject special exception application.

1. The applicant shall widen two existing driveways from ten-foot-wide to a minimum twelve-foot-wide subject to the Maryland State Highway Administration (SHA) approval.

DISCUSSION

Local Area Transportation Review

Based on information submitted by the applicant, the proposed outdoor storage facility would generate a maximum of eighteen peak-hour trips during the weekday morning (6:30 a.m. to 9:30 a.m.) and fifteen peak-hour trips during the weekday evening (4:00 p.m. to 7:00 p.m.) peak periods, respectively. Therefore, no traffic study is required to satisfy the Local Area Transportation Review test.

Policy Area Transportation Review

The site is located within the Clarksburg Policy Area where 10% of new trips must be mitigated as part of the PAMR requirements according to the Growth Policy. Based on information submitted by the applicant, the proposed outdoor storage facility would generate a maximum of five new trips, which 10% of the new trips would be less than one trip. Since the PAMR requirement is less than one trip, no action under the PAMR provision is required.

Site Access and Vehicular/Pedestrian Circulation

Two access points to the site exist on Ridge Road (MD 189). The existing driveways are both ten feet wide. According to the Montgomery County's Context Sensitive Road Design Standards, the width of commercial driveway is 12 feet minimum to 35 feet maximum (MCDOT Standard No. 302-01). Staff recommends that the applicant widen two existing driveways from the existing 10 feet to a minimum 12 feet. Staff finds that since there is no continuous commercial traffic activity on this driveway, the 12-foot-wide driveways from Ridge Road (MD 27) are adequate to provide safe access to the site. The revised driveways, however, should be reviewed and approved by the SHA. Due to its location in a rural area without existing sidewalks, no pedestrian facilities are needed for this use.

Summary

Transportation Planning staff concludes that the granting of the requested Special Exception to allow the proposed outdoor storage facility on the site with the roadway improvement condition as recommended in this memorandum would not have an adverse effect on the nearby road system.

KK:tc

INTEROFFICE MEMORANDUM

To: Elsabett Tesfaye
Coordinator
Development Review Division

From: Joshua Sloan
Coordinator
Development Review Division

Via: Robert Kronenberg, Supervisor
Development Review Division

Subject: S-2749, Special Exception for Lufsey Outdoor Storage

Date: 1/22/2010

RECOMMENDATION OF SITE PLAN SECTION STAFF

Landscaping & Lighting

The landscaping and lighting concept proposed for the subject site is appropriate for this type of development and setting. The preservation of existing trees and additional perimeter screening will help buffer neighbors from the maintenance and storage areas. The lighting will not have any negative impacts on adjacent properties or rights-of-way.

Recommendation

Site Plan Staff recommends approval of Special Exception S-2749.

JCS



MONTGOMERY COUNTY PLANNING DEPARTMENT
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

December 16, 2009

MEMORANDUM

To: Elsabett Tesfaye
Development Review Division

From: Sue Edwards, Team Leader, I-270 Area (301-495-4518) *SUE*
Katherine Holt, Senior Planner *KH*
Vision Division

Subject: Comments for Outdoor Storage Facility
Special Exception: S-2749
Zone: RC

RECOMMENDATION

This proposal conforms to the 1994 Clarksburg Master Plan and Hyattstown Special Study Area in Montgomery County; staff recommends the approval of the special exception.

SUMMARY

The Outdoor Storage Facility is located at 23330 Ridge Road in the Rural Cluster (RC) zone. The applicant proposed the construction of a trailer garage to house portable toilet trailers.

COMMUNITY INPUT

The Clarksburg Civic Association was informed of this special exception by the applicant. Based on a letter from Ms. Kathie Hulley, the community did not express any objections to the proposal especially since the community was not aware that this business existed so close to MD 27. There have been no responses from neighboring property owners.

MASTER PLAN COMPLIANCE

Clarksburg Master Plan and Hyattstown Special Study Area (June 1994)

The following are excerpts from the master plan where it relates to the special exception.

Ridge Road Transition Area (900 acres) p. 72-74

This area includes about 900 acres and is located along Ridge Road adjoining the Damascus Planning Area. An important feature of the area is the 294-acre Ovid Hazen Wells Park. The park provides a logical "edge" to more dense development to the south in the Newcut Road Neighborhood of Clarksburg and marks the beginning of the

transition into Damascus.

The Cedar Grove Historic District is located along Ridge Road. Its future character will be affected by any widening to Ridge Road (now planned to be a four-lane facility). This Plan proposes low density, residential development for the area surrounding Cedar Grove, which will help to assure its rural setting.

Plan Objectives:

- **Designate a land use pattern which helps differentiate the more developed portions of Damascus from Clarksburg, thereby fostering a greater sense of community identity for each.**

This area is designated for low density residential development in accord with its location at the edge of the Study Area and its proximity to the Agricultural Reserve (see Figure 28, page 72). A low density pattern will also help to create an attractive setting for the Cedar Grove Historic District.

- **Propose a land use pattern which provides a suitable setting for the Cedar Grove Historic District.**

This Plan recognizes and encourages the preservation of Cedar Grove's collection of historic buildings and its rural setting. The Plan:

- Designates the area around the district as low density to encourage an attractive rural setting.
- Recommends linkages between the district and Ovid Hazen Wells Park where the historic Oliver Watkins House is located.
- Encourage the maintenance of existing trees and major landscaping features in the historic district, while also planting new street trees in an informal pattern (not rigidly spaced, leaving room for view of historically or architecturally significant houses, and maintaining the rural character of the town).

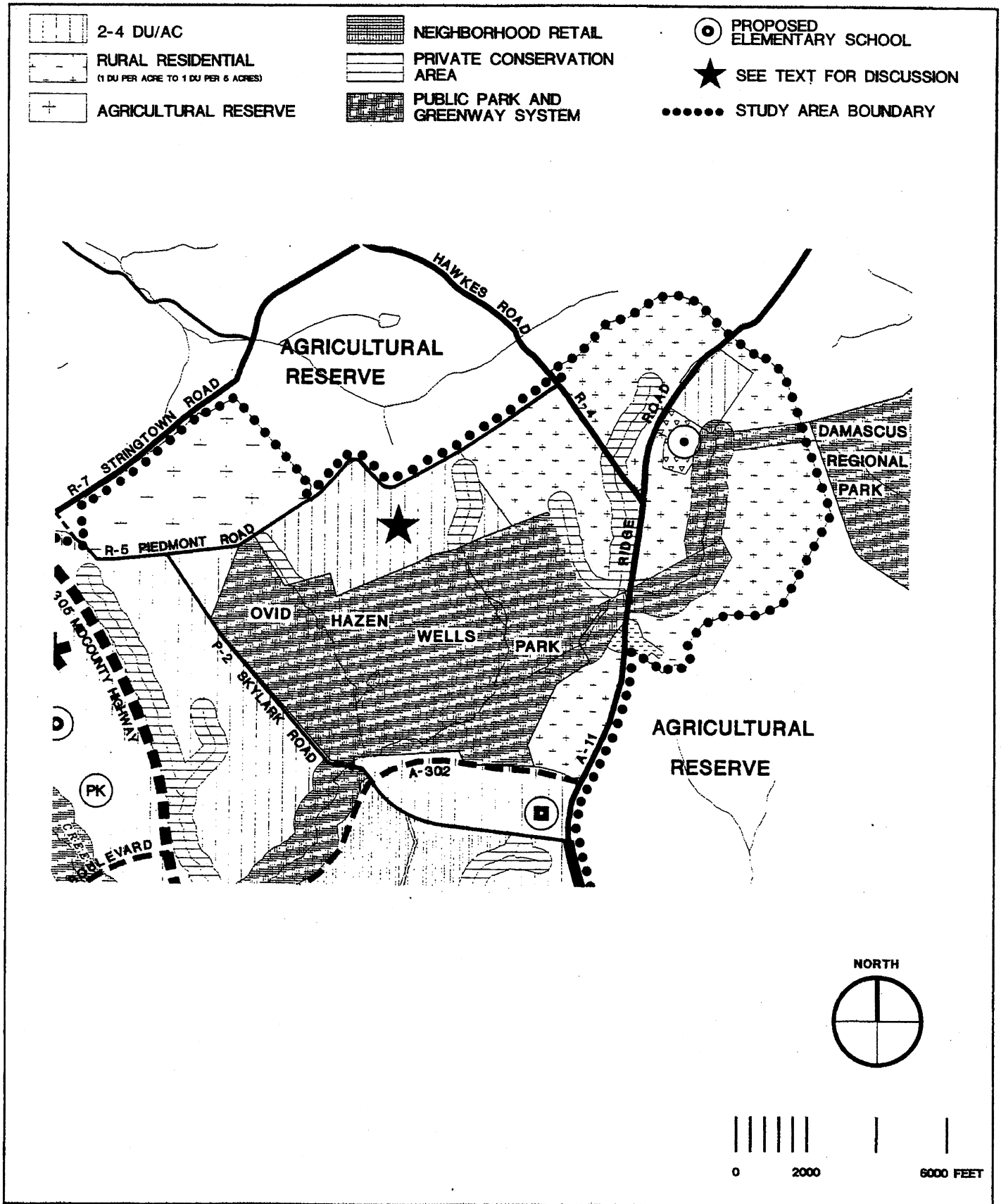
Zoning Recommendations p. 105

- To create a suitable transition from other communities (Damascus/Germantown) to Clarksburg.
- Recommend residential zones that will facilitate provisions of detached units (R-200 and R-90).
- Recommend large lot zoning as transition to neighboring rural and agricultural areas (5-acre and 2-acre lots).

Based on staff's review, the proposed special exception conforms to the master plan. Staff supports extra plantings around the perimeter of the property to screen the current use on the site.

Ridge Road Transition Area

Figure 28





MONTGOMERY COUNTY PLANNING DEPARTMENT
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB
Item #
February 4, 2010

MEMORANDUM

TO: Montgomery County Planning Board

VIA: Mark Pfefferle, Acting Chief, Environmental Planning

FROM: Doug Johnsen, Planner Coordinator, Environmental Planning

DATE: December 31, 2009

REVIEW TYPE: Preliminary Forest Conservation Plan for
Special Exception S-2749 Lufsey Property

LOCATION: 23320 and 23330 Ridge Road, Germantown, MD

APPLICANT: Vincent E. Lufsey

RECOMMENDATION

Staff recommends approval of the Preliminary Forest Conservation Plan (PFCP) for the above referenced special exception, subject to the following conditions:

1. Applicant to record a Category I conservation easement over all environmental/stream valley buffer areas and all planted and retained forests within six (6) months after Hearing Examiner's approval of the special exception.
2. Applicant to obtain approval of the Final Forest Conservation plan prior to recordation of the Category I Forest Conservation Easements.
3. Applicant to begin afforestation within two growing seasons after approval of the Final Forest Conservation Plan.
4. Applicant to install permanent Category I Forest Conservation Easement signage along the perimeter of the forest conservation easements.
5. Applicant is to re-grade all man-made steep slopes within the proposed Category I Forest Conservation Easement to no steeper than a 3:1 gradient, remove unconsolidated fill material, and provide top soil prior to installing afforestation planting material.
6. Applicant must provide Environmental Planning staff a soil analysis report for the afforestation areas prior to scheduling the pre-planting meeting and must amend the soils if they are unsuitable for tree planting before the trees are planted.

BACKGROUND

The 8.02-acre property consists of two unplatted parcels P 95 and P 71 located at 23320 Ridge Road and 23330 Ridge Road respectively, on the west side of Ridge Road at the intersection of Ridge Road and Davis Mill Road. The property is zoned Rural Cluster (RC). The subject property is bounded on the east by Ridge Road with a horticultural/farm supply store located across Ridge Road; on the south by two single-family detached residential dwellings; on the west by Ovid Hazen Wells Recreational Park; and on the north by an access drive to Ovid Hazen Wells Park with commercial uses further north. It is located within the area covered by the Agricultural Resource and Open Space (AROS) Functional Master Plan.

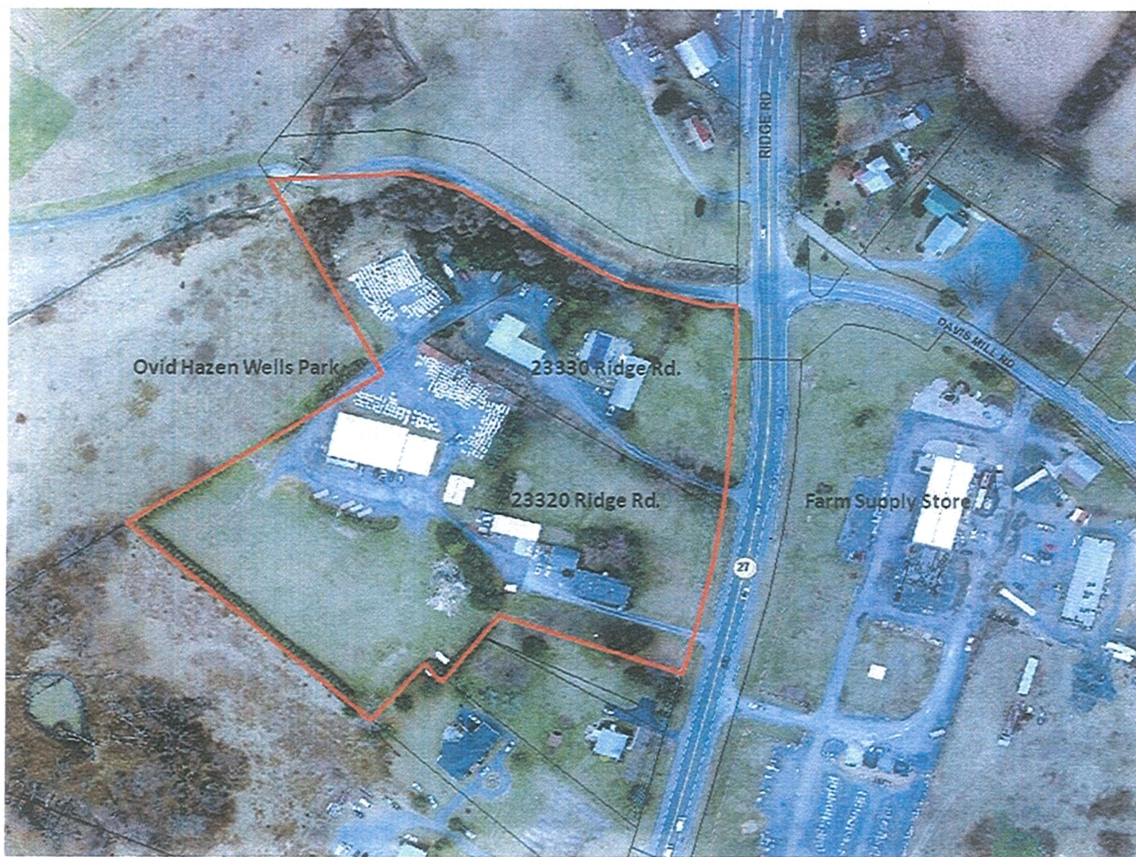


Exhibit 1: Vicinity Map

Since 1995 the property has been used as a registered home occupation that maintains and leases portable toilet facilities and mobile restroom trailers. The applicant is seeking a special exception to convert what is currently a home occupation into an outdoor storage facility authorized by Section 59-G-2.54.3 of the Montgomery County Zoning Ordinance. The applicant

Lufsey Property PFCP
S-2749

is also proposing to construct an additional building to store mobile restroom trailers.

Environmental Inventory

A Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) for the 8.02-acre site was approved by Environmental Planning staff on October 22, 2008. There is a second order stream that crosses the subject property along the far northwest corner, and the associated stream valley buffer occupies a small segment of that corner of the property. Steep slopes are found in the northwest corner and along a portion of the northern property line. There are no forests, wetlands or streams on-site. However, there is a stream located in the Ovid Hazen Wells Park directly off-site in the northwest corner of the property and a portion of the associated stream buffer extends onto the applicant's property. This property is not located within a Special Protection Area.

The topography of the property is for the most part relatively shallow, with the high point located at the western edge of the property where the current barn structure is located. The site gently falls off to the north, east and south. However, to the west and northwest of the high point the topography falls off approximately 50 feet to the stream channel. There are steep slopes on the northwest portion of the site and immediately adjacent to the western property line on the Ovid Hazen Wells Park.

The subject site drains to a second order stream within the Little Seneca Creek watershed designated as Use IV-P waters. The upper Little Seneca Creek within the Ovid Hazen Wells Park is classified as being in excellent condition in the 1998 version of the Department of Environmental Protection's County Stream Protection Strategy (CSPS).

Forest Conservation

The project site has no existing forest but the proposed special exception requires the submission and approval of a forest conservation plan. The underlying zone for this property is rural cluster (RC) and identified as being within the Agricultural and Resource Area land use category for forest conservation purposes.

Properties within the Agricultural and Resource land use category are required to meet their forest planting requirements on the subject property. More specifically under section 22A-12(f):

"Any site developed in an agricultural and resource area....must include a minimum amount of forest on-site as part of meeting its total forest conservation requirement.....if the existing forest is less than the minimum required retention, all existing forest must be retained and on-site afforestation up to the minimum standard must be provided.

Under Chapter 22A-12(f)(2)(D) of the County code the minimum amount of forest to be provided onsite equals the afforestation threshold as determined in the Forest Conservation worksheet:

“If a site covered by this subsection is unforested, on-site afforestation must equal the applicable afforestation threshold.”

In this particular case 20 percent of the subject submit must be afforested for a total planting requirement of 1.6 acres. The applicant has proposed to meet the afforestation requirement on-site by planting two separate areas, (one 0.78 acres and the other 0.82 acres) and placing both into Category I Forest Conservation Easements (FCE).



Exhibit 2: Location of Proposed Forest Conservation Easements

Afforestation Area 1, 0.78 acres, is located at the southwest corner of the project site. It borders and abuts portions of a residential lot to the south and Ovid Hazen Wells Park to the west. This area is outside of any stream buffers and contains no steep slopes.

Afforestation Area 2, 0.82 acres, is located in the northwest portion of the site where the majority of the steep slopes, the stream and the entire stream valley buffer are found. This is the highest

priority area for planting. The steep slopes range from approximately 46% to 50% slopes or 1:2 gradient. This area is currently in very poor condition being comprised of primarily unconsolidated rubble fill with large boulders. The vegetative material currently is comprised of Thistle, Japanese Honeysuckle, Virginia Creeper, Sumac, Black Cherry and some Eastern Red Cedar. In its current condition this area is unacceptable for planting because of the unconsolidated nature of the area, lack of soil and steep slopes. The applicant has proposed to rehabilitate this area by removing the rubble fill, feathering the slopes to an acceptable 3:1 gradient, installing top soil to replace the rubble fill and then afforesting with native plant material.

Staff is requesting a Planning Board conditions that will require the applicant to re-grade the steep slope, remove the unconsolidated fill, and provide conditioned soils to make the area acceptable for planting a trees that will result in a vigorous forest.

Staff is also requesting time frames for the recordation of the Category I forest conservation easements, for the approval of the final forest conservation plan and for the planting of the afforestation requirement. The project exists as two unplatted parcels. The owner currently intends to construct a large trailer storage building on this property at some point in the future. At that time the property will then come under subdivision review and will be platted. However, there is no guarantee, or timeframe, that the applicant will submit a subdivision plan. If no time frames are established then there is no guarantee that the final forest conservation plan, the recording of the Category I forest conservation easements or the planting of the afforestation requirement will be performed anytime within the foreseeable future.

CONCLUSION

Staff recommends approval of the Preliminary Forest Conservation Plan (PFCP) for the above referenced special exception, subject to the above conditions.

Tesfaye, Elsabet

From: Whipple, Scott
Sent: Friday, April 24, 2009 11:24 AM
To: Tesfaye, Elsabet
Cc: Youla, Sandra; Silver, Joshua
Subject: Board of Appeals Petition No. S-2749

Thank you for the opportunity to comment on the above referenced Board of Appeals petition, at 23330 Ridge Road in Germantown. The subject property is immediately adjacent to the Cedar Grove Master Plan Historic District (#14/27), as well as the Oliver Watkins Farm (#13/3), an individually listed site in the Master Plan. The Historic Preservation Section is concerned that this proposal could have an adverse impact on the adjacent historic resources.

Should the special exception be allowed, the HP section would recommend the development of conditions of approval providing for the sensitive design and screening of the facility to mitigate any adverse effects the facility may have on historic resources.

Feel free to contact me if you would like additional information.

Scott Whipple, Supervisor
Historic Preservation Section
Montgomery County Planning Department | M-NCPPC
301-563-3404 | scott.whipple@mncppc-mc.org | <http://www.montgomeryplanning.org/historic/>

CHEN, WALSH, TECLER & MCCABE, L.L.P.

ATTORNEYS AT LAW

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SUITE 300

ROCKVILLE, MARYLAND 20850

(301) 279-9500

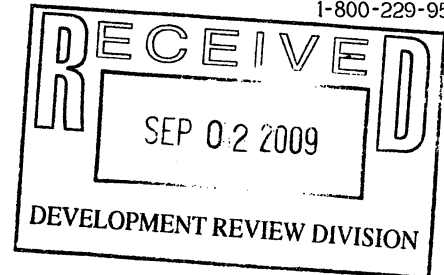
FAX: (301) 294-5195

August 31, 2009

*ALSO ADMITTED IN THE
DISTRICT OF COLUMBIA

1-800-229-9510

JOHN BURGESS WALSH, JR.
WILLIAM JAMES CHEN, JR.*
KENNETH B. TECLER*
JOHN F. MCCABE, JR.*



Elsabett Tesfaye, Planner Coordinator-Zoning
Montgomery County Department of Planning
Development Review
8787 Georgia Avenue
Silver Spring, Maryland 20910

Re: Special Exception Case No. S-2749,
Petition of Vincent E. Lufsey

Dear Ms. Tesfaye:

This letter is transmitted to report to you the communications that have occurred between my client, Vincent E. Lufsey, and the Clarksburg Civic Association.

We have been in contact with the Clarksburg Civic Association since, at least, the filing of the Zoning Text Amendment (ZTA 07-16) which created the outdoor storage special exception which, as you know, is the type of special exception that is involved in the above-referenced proceeding. A complete set of the special exception documents was sent to the Clarksburg Civic Association by me pursuant to a transmittal letter dated May 8, 2009. More recently, Mr. Lufsey, Philip Perrine, and I attended a meeting of a committee of the Clarksburg Civic Association on Monday, August 17, 2009, and made a presentation describing the proposed special exception. I also enclose herewith a copy of a letter that I have received from the Clarksburg Civic Association directed to the Montgomery County Planning Board which supports approval of the requested special exception.

Naturally, if you have any questions or concerns with regard to these communications please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "William J. Chen, Jr.", written over a horizontal line.

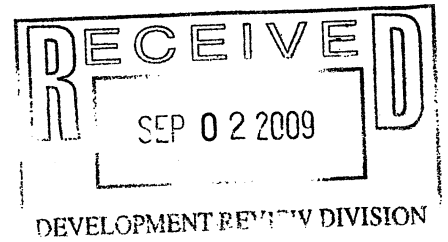
William J. Chen, Jr.

WJC:mml

Enclosure

cc: Vincent Lufsey
Philip Perrine, AICP, P.E.
Kathy Hulley, Clarksburg Civic Association
Office of Zoning and Administrative Hearings

cCa



Clarksburg Civic Association
P.O. Box 325
Clarksburg, Maryland 20871-0325

An old town with new ideas

Montgomery County Planning Commission
8787 Georgia Avenue
Silver Spring, MD 20910

Special Exception Case No. S-2749
Gene's Johns

The Clarksburg Civic Association has been informed at each stage of this special exception.

This business has been in operation for many years. There are not many people who even know that Gene's Johns stores portajohns so close to Routes 27. This is a testament to the care and consideration in which Mr. Lufsey conducts his business.

Mr. Lufsey and his attorney presented the latest plans to our planning committee and there were no objections expressed.

We hope that the application will be completed and approved as soon as possible.

Kathie Hulley