



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB
Item # 8
09/19/02

MEMORANDUM

DATE: September 13, 2002
TO: Montgomery County Planning Board
VIA: John Carter, Chief, Community-Based Planning *JAC*
William Barron, Team Leader, Eastern County Team *CA for*
FROM: Joel A. Gallihue, AICP, Community-Based Planning *WRB*

REVIEW TYPE: Special Exception Modification
APPLYING FOR: Landscape Contractor
APPLICANT: Thao Thanh Bui
CASE NUMBER: CBA -1201-A

ZONE: RE-2C
LOCATION: 14911 Good Hope Road
MASTER PLAN: Cloverly master Plan

FILING DATE: November 30, 2001
PLANNING BOARD: September 19, 2002
PUBLIC HEARING: September 23, 2002

STAFF RECOMMENDATION: Approval of the proposed special exception with the following conditions:

1. All evidence, testimony, the site plan, dated September 13, 2002, and all exhibits of record shall bind the petitioners.
2. The hours of operation for the combined nursery and landscape contractor uses shall be 8 AM – 7:30 PM, Monday through Saturday, and 11 AM – 7 PM on Sundays. No deliveries may occur during non-business hours.
3. The total number of employees for the combined retail nursery and landscape contractor uses shall be limited to no more than five full-time employees and two part-time employees.
4. The retail nursery and landscaping contractor use is limited to seven (7) business vehicles and equipment consisting of the following:
 - a. Two (2) pick-ups trucks,
 - b. Two (2) trailers,
 - c. Two (2) forklifts, and

- d. One (1) mower.
5. The employees, customers or deliveries associated with the retail nursery and landscape contractor use are prohibited from any access to Murphy Lane. The vehicle gate in the fence on Murphy lane must be removed and replaced with a pedestrian gate by December 31, 2002.
6. The Petitioner shall install an opaque wooden screening fence on the Eastern property line in the vicinity of the adjacent residence as shown on the site plan dated September 13, 2002. No barbed wire may be placed on the fence.
7. Greenhouses, as identified on the site plan dated September 13, 2002, shall be uncovered at least 7 months out of the year.
8. The greenhouse that is adjacent to Murphy lane shall be removed by December 31, 2002.
9. Mulch, stone, wood or other loose landscaping material must be stored in the bins noted on the site plan dated September 13, 2002
10. Petitioner shall advise the Board of Appeals as to the date upon which all special exception conditions have been met but no later than December 31, 2002.

PROPOSAL DESCRIPTION

The petitioner requests a special exception modification to permit the addition of a Landscape Contractor use to the approved horticultural nursery and revise the special exception plan to include a shade structure and a perimeter fence.

Neighborhood Description – The Oak Springs area is identified in the Cloverly Master Plan as a suburban community. The area is generally residential with two houses per acre but also hosts agricultural and religious uses. North and South of the site are the Sequoia and Spring Oak Estates subdivisions. The Peachwood and Briggs Chaney Estates subdivisions lie across Good Hope Road.

Site Description – The subject property is approximately 5.9 acres in area and located on the south side of Good Hope Road, 300 feet south of Briggs Chaney Road. Public land abuts the property to the north, west and south. This land consists of 20.96 acres, 5.6 acres and 15.46 acres and respectively owned by Montgomery County Board of Education, the Maryland-National Capital Park and Planning Commission and Montgomery County. Four single family homes boarder the property to the east. Adjacent to the eastern property boundary

exists a private access easement named referred to as "Murphy Lane" which provides public road access to this subdivision.

The property is improved with a single family home, six greenhouses, a pole barn, a sales building with attached shade structure and a chain link fence along the entire perimeter of the property.

ZONING HISTORY

The original grant of the horticultural nursery and commercial greenhouse special exception in the R-R zone was given in 1962 to the previous owner of the property with the following conditions of approval:

- 1) The operation would be of a wholesale nature only, primarily to supply his [the petitioner's] needs;
- 2) No trucks would be stored on the premises;
- 3) No tools or other garden supplies would be sold.

In 1985, the Board granted a modification of the original special exception, reviewed by the Hearing Examiner, to delete the original conditions and replace them with the following:

1. Trucks used in the operation of the special exception use can be stored behind the greenhouses on the Property
2. The sale of plants, trees, shrubs, seeds, fertilizers, plant foods, hand tools, hand spraying and watering equipment and pesticides directly related to residential gardening shall be permitted; provided that such tools and equipment are not displayed outdoors.

Elements of the Proposal – The applicant summarizes the proposed modification as follows:

General

A special exception modification to existing horticultural nursery special exception is proposed. Petition includes request to revise the plan to show for a shade structure and fence and to permit landscape contractor use.

Personnel and Hours

The hours of operation for the combined nursery and landscape contractor uses shall be 8 AM – 7:30 PM, Monday through Saturday, and 11 AM – 7 PM on Sundays. No deliveries will occur during non-business hours. The total number of employees for the combined retail nursery and landscape contractor uses shall be limited to no more than five full-time employees and two part-time employees.

Shade Structure

A shade structure has been built attached to the existing cinder block sales building. This construction resulted in a zoning violation which led to the application. It is of wooden open construction and ten feet in height. The structure is intended to shade plants that do not thrive in direct sun.

Fence

The applicant has erected a 6' chain link fence along the entire perimeter of the property. The petition seeks to have the site plan amended to show this fence. A section of the fence, adjacent to Murphy Lane, included barbed wire. In discussions with staff the applicant agreed to revise the site plan to add an opaque wooden screening fence along Murphy lane. The applicant has removed the barbed wire from the fence.

Landscape Contractor

A landscape contractor use has been requested. Landscape contracting has operated out of the site since at least 1992. When the petitioner bought the property they continued this process and were cited for a zoning violation. The statement of operation proposes one truck, one mower, one trailer, one van and one forklift. The personnel would be shared between uses. There are five full time employees and two part time employees. In discussions with staff regarding the need to specify their fleet according to the use requirements for a landscape contractor, the applicant revised the total number of vehicles. Condition number four lists the vehicles, which are: Two (2) pick-ups trucks, two (2) trailers, two (2) forklifts, and one (1) mower.

Parking

Five customer parking spaces are provided in the front for the existing use. Seven parking spaces are required for business vehicles and equipment. Five full time and two part time employees are proposed, two of whom live in the residence on the site consequently five employee parking spaces must be provided. These are shown on the site plan dated September 13, 2002.

ANALYSIS

Master Plan –The subject property is covered by the 1997 Approved and Adopted Cloverly Master Plan. The Master Plan recommends the RE-2C Zone for the property and Landscaping Contractors are allowed by special exception in that zone. The existing land use plan in the Master Plan identifies the property as single family residential. The Master Plan also recommended an

environmental overlay district (special protection area), which has been implemented in the zoning ordinance. The Cloverly Master Plan identifies a general concern with special exceptions that the concentration of non-residential uses detracts from residential character. The plan recommends that when the Board of Appeals considers a special exception in this planning area that the following factors be given consideration:

1. Maintenance of a residential appearance, where feasible.
2. Compatibility with the scale and architecture of the adjoining neighborhood, consistent with the proposed use.
3. The impact of signs, lighting, and other physical features on surrounding residential communities.
4. Location of parking, loading, and other service areas to maintain residential appearances to the extent feasible.
5. Options for landscaping that minimizes the non-residential appearances of the site and the view from surrounding properties and roads.
6. When special exceptions are adjacent to each other or to commercial properties, review whether it is feasible and reasonable to consolidate driveways and connect parking areas.

This special exception was in existence when the master plan was developed.

Development Standards-

Table 1 – Conformance with Applicable Development Standards CBA-1201-A		
Development Standards – RE-2C	Requirement	Proposal
Front Yard Setback	50'	50'
Side Yard Setback	17'	50'
Sum of Both Sides	35'	100'
Rear Yard Setback	35'	200'
Use operations setback	50'	50'
Min Lot Area for Use	2 acres	5 acres
Min. Lot Area for Zone	2 acres	5 Acres
Lot Width @ Street	25'	310'
Lot Width @ Front Bldg Line	150'	370'
Building Height	50'	Shade structure 10'
Building Coverage	25%	7.3%, 15,995 sq. ft.
Parking	1 per business/ employee vehicle	14 vehicles
Parking Setback for use (operations)	50'	50'

Parking

The petitioner has represented that their fleet of business vehicles consists of: two pick-up trucks, two-trailers, two-forklifts and one mower. This representation is a clarification of the statement of operations, which lists one truck, one mower, one van and one forklift. Staff advised the applicant that Section 59-G-2.30(3) requires the Board to identify and specifically limit the number of motor vehicles and trailers for equipment and supplies. The petitioner then clarified their current fleet and staff developed condition number four based upon this representation.

The petitioner has represented that there will be up to a total of seven employees for both the proposed and existing uses. Condition number three has limited personnel to five full time and two part-time employees. Assuming all employees drive separate vehicles and are on-site with the entire fleet of business vehicles, space for 14 parking spaces would be needed. Per Section 59-G-2.30(3), it must be determined that adequate parking has been provided for the employees and business vehicles, however it is not necessary for this parking to be striped. Fourteen parking spaces have been identified on the site plan for business vehicle, equipment and employee parking in the paved area between the pole barn and the greenhouse. The plan also shows that the parking will meet the required 50' setback from adjacent properties. Staff concludes that adequate parking has been provided for employees and business vehicles.

The Site Plan shows that adjacent residential property to the west will be screened from the parking with an opaque board fence, six feet in height. The required parking falls below the 25-space threshold where a parking facility plan must be submitted. Staff finds the provisions for parking to be sufficient and in accordance with the dimensional requirements of the Zoning Ordinance.

The nursery has five parking spaces located in the front of the property for customers. Sec. 59-G2.30 (4)(iii) requires adequate parking in accord with the requirements of general retail sales under Article 49-E. This provision requires five parking spaces for every 1,000 gross leasable square feet but exempts all storage space that exceeds 35 percent of the total gross leasable area. The configuration of this site is a small sales office where product is sold and greenhouses and the shade structure where the products are stored until sold. The sales office is 802 square feet in area therefore staff finds the number of parking spaced provided to be adequate. Since there are less than six parking spaces required, the required parking will not trigger the parking facility requirements. Therefore it is acceptable that the parking spaces not conform to the dimensional requirements of the zoning ordinance, as is the case. Staff examined the spaces and found they are functional given the width of the travel-way.

Setback for Parking

As this application was filed before May 6, 2002, ZTA 02-1 does not apply. Therefore the parking setbacks are equal to the building setback of the RE-2C zoning requirements. The RE-2C zone requires a 50' front setback and 17' side setback¹. Also there is the use requirement for the landscape contractor that imposes a more stringent 50' setback. The customer parking area meets the required setbacks as shown on the site plan. The employee and business vehicle parking meets the 50' setback.

Screening of Parking

Section 59-E-2.83 also requires screening which the applicant can accomplish using existing vegetation and a proposed opaque screening fence where it is shown on the site plan. The requirement of shading of paved areas is met by landscaping and forestation on the site.

¹ The proposal can also meet the new requirements, which double the side yard setback.

Environmental

Staff recommends approval of the proposed modification provided the site is developed in accord with the proposed site plan, including the removal of specific impervious surfaces. The proposed special exception modification includes adding a landscape contractor use, expansion of an existing shade structure, and adding an existing fence.

Background

The 5.9-acre site, zoned RE-2C, lies within the Upper Paint Branch Special Protection Area (SPA). Forest lies along the southwestern and southern portions of the site, covering about 2.33 acres.

Water Quality Plan Requirement

The Montgomery County Department of Permitting Services (DPS) has determined that the Proposed special exception modification is required to prepare a water quality plan.

Impervious Surface Requirement

The proposed special exception modification is subject to the impervious surface restrictions and the provisions for landscape contractors and retail nurseries.

Since the horticultural nursery special exception has existed since 1962, the proposed modification is subject to Section 59-C-18.152(a)(1)(A) of the environmental overlay zone:

“ Any impervious surface lawfully existing pursuant to a building permit issued before July 1, 1997 that exceeds the 10 percent restriction may continue or be reconstructed under the development standards in effect when the building permit was issued.”

A November 1986 aerial photo shows all the buildings, greenhouse structures, parking areas, and driveways that currently exist on the site, except for one greenhouse structure in the middle of the site. The greenhouse structure was constructed by the time of a March 1992 aerial photo.

Staff estimates that the subject site had about 1.15 acres of impervious surfaces, or 19.5 percent site imperviousness, in 1997, at the time the applicant purchased the property. The applicant increased the impervious cover by 0.01 acre (or 589 square feet) when she constructed part of a shade structure in front of the existing office building shortly after she purchased the property. To conform to the overlay zone, the applicant must remove at least 0.01 acre (589 square feet) of existing impervious surface to offset the increase due to the constructed shade structure.

The proposed site plan shows that 0.14 acre of impervious surfaces will be removed. This reduction in site imperviousness is significantly more than the 0.01acre of impervious surface added due to the shade structure. Impervious surfaces to be removed include complete removal of a 0.04-acre greenhouse by the end of December 2002, permanent uncovering of a 0.04-acre greenhouse (already completed as of this staff memo) with plans to remove the frame structure at some time in the future, and conversion of a 0.06-acre gravel area in the center of the site to pervious area with wood chips and mulch (already completed as of this staff memo). In addition, the applicant uncovers two greenhouses for a portion of the year, thus allowing stormwater runoff to infiltrate into the earthen floors of these greenhouses during the time the structures are uncovered.

The proposed modification includes extending the existing shade structure. This extension is proposed in an area that was impervious before 1997. Therefore, this proposed extension does not need to be offset by removal of existing impervious surfaces on the site.

Organic Certification Requirement

Sections 59-C-18.152(b)(1) and (2) state:

“(1) The following special exception uses are allowed subject to the requirements of Article 59-G and specified in the environmental protection requirements:

Landscape contractor.¹

Retail nursery or garden center.¹

Wholesale nursery or greenhouse.¹

...

(2) The uses in Section (1), if validly existing on July 1, 1997, may be continued under the regulations in effect at the time the use was established. Any expansion requires compliance with the provisions of the overlay zone.”

“¹ If certified as an organic grower by the State of Maryland or another approved certifying body.”

The applicant has stated that no plants are grown on the site. All the plant material is purchased from other nurseries, and the subject site is used to temporarily store the plant materials before they are sold or installed on clients' sites. A letter from Anne Martin, the applicant's attorney, and countersigned by the director of the Maryland Organic Certification Program indicates that the organic certification provision does not apply to Good Hope Garden.

Forest Conservation Law Violation

The special exception modification, as proposed, was originally exempt from the requirements of the Forest Conservation Law. The application was for a modification to an existing special exception approved prior to July 1, 1991, it covered existing structures, and there was no proposed clearing of forest.

However, in January 2002, as part of a site visit, staff identified clearing of approximately between 0.4 and 0.5 acre of forest understory that had not been previously approved. This unapproved clearing violates the forest conservation law, and the forest conservation law exemption was nullified.

An administrative order for corrective action was issued by the Planning Director in February 2002. The corrective action includes submission of a natural resource inventory/forest stand delineation (NRI/FSD) and forest conservation plan (FCP) to replant understory, relocation of large piles of wood chips and mulch so that they do not adversely affect trees along the forest edge, and recording a Category I conservation easement on 1.64 acres of the forest. The conservation easement would be configured to cover the environmental buffer area associated with a stream on adjoining parkland.

It should be noted that the administrative order for corrective action is handled independently from the special exception review process. That is, the administrative order would apply to the property owner regardless of the outcome of the special exception modification application since the forest understory clearing was unauthorized.

The applicant has agreed to comply with all items in the administrative order. The wood chip and mulch piles have been moved away from the forest edge. A combined NRI/FSD and forest conservation plan has been submitted and conditionally approved. The applicant has agreed to record the conservation easement by the end of December 2002.

Transportation

Transportation Planning staff recommends the following as part of the transportation review related to approval this Special Exception Case modification as follows:

1. Limit the approved horticultural nursery and the proposed landscape contractor as specified in the applicant's "Statement in Support of Modification" to the following:

- a. Only incidental sales of seasonal items directly related to residential gardening customers on-site as previously granted for the horticultural nursery land use.
 - b. Up to five full-time and two part-time employees (with additional seasonal employees per current operations) where two employees reside and work on the site and the petitioner resides next-door. Therefore only four of the seven employees are expected to travel to and from the site during peak hour. This is fewer than five new peak-hour trips and considered to have a De Minimis impact for Policy Area Review.
 - c. An additional work truck for a total of two trucks. (The van is the personal vehicle of the petitioner.)
 - d. Hours of operation for the combined nursery and landscape contractor uses shall be 8 AM – 7:30 PM, Monday through Saturday, and 11 AM – 7 PM on Sundays. No deliveries may occur during non-business hours. Employees would be traveling to the site within the weekday morning peak period (6:30 a.m. to 9:30 a.m.) and evening peak period (4:00 a.m. to 7:00 p.m.).
2. Schedule deliveries to and from the site so they do not occur during the weekday morning and evening peak periods.

DISCUSSION

Site Location and Vehicular Access

The site is located on southeast side of Good Hope Road approximately 300 feet south of Briggs Chaney Road. Site access is from Good Hope Road.

Pedestrian Facilities

The proposed modification will not affect pedestrian access and safety; no changes are proposed.

Prior Regulatory Actions

The original petitioner, Mr. O'Keefe, was granted a special exception for the horticultural nursery in 1962 and modified in April, 1985 as Board of Appeals Case No. CBA-1201. In July 1997, the holder of the special exception was changed to Good Hope Garden. The current special exception holders were cited

for a violation of operating without a special exception approval as a landscape contractor.

Master Plan Road and Bikeway

The Cloverly Master Plan, the master plan designation of Good Hope Road is a two-lane primary residential street, P-12, with a 70-foot right-of-way and a planned Class II bikeway, PB-35.

Local Area Transportation Review

As stated in the Petitioners' Statement in Support or conditions of approval:

1. The two employees live in a leased house on site and work on the site.
2. The sale of plants, trees, and other items is directly related to residential gardening customers.
3. Including the petitioner, a maximum of five full-time and two part-time employees will staff the existing and proposed use.
4. Condition number three sets hours of operation to the following:
5. Adequate parking/storage is provided as shown on the site plan.

A traffic study is not needed to satisfy Local Area Transportation Review because the proposed land use on the site generates fewer than 50 peak-hour trips during the weekday morning and evening peak periods. Given the hours of operation, the traffic impact by site-generated traffic would be as follows:

1. The hours of operation start at 8:00 a.m. that is within the weekday morning peak period (6:30 to 9:30 a.m.). Four employees are now traveling and an occasional customer would be traveling to the site within the weekday morning peak period.
2. The hours of operation are within the weekday evening peak period (4:00 to 7:00 p.m.) for customers' and employees' vehicular trips.

Policy Area Review/Staging Ceiling Condition

Based on the *Annual Growth Policy* (AGP) staging ceiling capacity, the remaining capacity is a negative 49 jobs, as of August 1, 2002, in the Cloverly Policy Area. Policy Area Review is satisfied because the petition does not increase the number of employees. Conditions two and three are recommended to conform to the intent of Policy Area Review.

Inherent/Non-Inherent Adverse Effects- The inherent and non-inherent adverse effects of a special exception must be considered on nearby properties and the surrounding neighborhood at the proposed location, regardless of the adverse effects the use might have if established elsewhere in the RE-2C zone.

Section 59-G-1.2.1 of the Zoning Ordinance states

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 are 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 the inherent effects, are a sufficient basis to deny a special exception.

The inherent, generic physical and operational characteristics arising from the given use, in this case a landscape contractor include temporary storage of landscaping materials to be taken by crews to worksites, permanent storage of business vehicles and equipment, storage buildings and bins and an office. All of these activities must be arranged on the site in a logical manner, 50' or more from the property line. The site development plan for the proposal does identify where activities will occur on the site. Staff has identified non-inherent adverse effects with characteristics of the use relating to storage of landscape materials, vehicle parking, deliveries and a potential easement over a proposed residential lot.

A non-inherent adverse effect would occur if the temporary storage of landscaping materials were to occur in volumes out of scale with the residential character of the site. This issue is of particular concern with mulch and other ground cover materials that may be cheaper for the business to obtain in volume. The site plan clearly identifies the location of the mulch bins which meet the required 50' setback.

In a similar fashion proliferation of trucks and other vehicles can render a generic aspect of the use, business vehicles, non-inherent. This is particularly problematic when broken vehicles are being stored for parts or parking spaces are rented to other businesses. The zoning ordinance specifically requires that the number of vehicles be identified and limited by special exception. While this requirement does burden the petitioner with needing to seek a modification when they change their fleet it protects the residential character of the neighborhood from uncharacteristic groupings of business vehicles.

Deliveries of plants and landscaping materials can present a non-inherent adverse effect. While shipping and loading activities can occur in commercial and industrial areas with little impact, in a residential zone the timing and frequency can be of significant concern. In this case, the timing of deliveries has been limited by condition of approval to business hours. This serves to protect the residential neighborhood from disturbance during any evening or early morning hours and protects the traffic network from conflicts during peak hours.

A potential non-inherent adverse effect relates to a pattern of access over an adjacent easement, Murphy Lane. Currently the petitioners own and reside on an adjacent property which is party to the Murphy Lane private access easement. The business property is not party to this easement however there is currently a vehicular gate in the fence adjacent to Murphy Lane. Neighbors have complained of landscaping and delivery trucks accessing Murphy Lane. Therefore staff is recommending a condition of approval that the vehicular gate must be replaced with a pedestrian sized gate. This will permit the petitioner to go from her house to the business but will prevent vehicles from using Murphy Lane to access the business.

Staff concludes that there are no non-inherent adverse effects associated with this application that warrant denial. Staff finds that all of the physical and operational characteristics of the proposed use will be inherent in any potential adverse effect.

Community Concerns – Staff has heard strong opposition to the proposed modification from the adjacent property owner. As discussed above, a major concern of this person relates to the use of Murphy Lane by the business and its customers. The same adjacent property owner has raised concerns regarding the type and location of fencing and the operations of the existing and proposed use. The applicant has represented that their other neighbors have no problem with the use.

Compliance with General and Specific Special Exception Provisions- The staff has reviewed the petition for compliance with the applicable special exception provisions.

Conclusion – The staff finds that the special exception satisfies applicable special exception provisions for landscape contractor found in the Zoning Ordinance. Therefore we recommend approval.

Attachments

1. General and Specific Special Exception Provisions
2. Vicinity Map

3. September 13, 2002 Site Plan.
4. Letter regarding water quality plan.
5. Forest Conservation Law violation letter.
6. Letter regarding organic certification.
7. Forest Conservation Law violation corrective action.
8. 1985 Opinion.

**Attachment 1.
Montgomery County Zoning Ordinance
Compliance with Specific and General Special Exception Provisions**

59-G-1.21. General conditions.

(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 use Landscape Contractor is permissible in the RE-2C 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.

The proposed Landscape Contractor complies with the standards and requirements set forth in Division 59-G-2.

(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 special exception must be consistent with any recommendation in an approved and adopted 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.

The subject property is covered by the 1997 Cloverly Master Plan. Staff finds that the proposed location of the landscape contractor is consistent with the recommendations in the approved and adopted master plan.

(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.

Staff finds that the proposed use of a Landscape Contractor in harmony with the existing neighborhood given the limitations on scale and operations and considering the screening and limitations on access.

- (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 special exception use will not be detrimental to the use, peaceful enjoyment, economic value or development of surrounding properties or the general neighborhood, as conditioned.

- (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 will not cause objectionable noise, vibrations, fumes, odors, dust, illumination, glare and physical activity, given the use setback of 50' and the proposed opaque screening fence.

- (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 use when evaluated in conjunction with other existing and approved special exceptions in the area will not affect area adversely or alter its residential character.

- (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 cause any of these effects.

(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.

- (i) If the special exception use requires approval of a preliminary plan of subdivision the adequacy of public facilities must be determined by the Planning Board at the time of subdivision review. In that case, subdivision approval must be included as a condition of the special exception.

Subdivision approval is not required since the lots are recorded.

- (ii) With regard to findings relating to public roads, the Board, the Hearing Examiner, or the District Council, as the case may be, must further determine that the proposal will have no detrimental effect on the safety of vehicular or pedestrian traffic.

No change in access is proposed.

Sec. 59-G-2.30.00. Landscape Contractor.

This use may be allowed together with incidental buildings upon a finding by the Board of Appeals that the use will not constitute a nuisance because of traffic, noise, hours of operation, number of employees, or other factors. It is not uncommon for this use to be proposed in combination with a wholesale or retail horticultural nursery, or a mulch/compost manufacturing operation. If a combination of these uses is proposed, the Board opinion must specify which combination of uses is approved for the specified location.

A combination of uses is proposed.

- (1) The minimum area of the lot must be 2 acres if there are any on-site operations, including parking or loading of trucks or equipment.

The minimum lot area for the use of 2 acres is exceeded, as the property is five acres in area.

- (2) Areas for parking and loading of trucks and equipment as well as other on site operations must be located a minimum of 50 feet from any property line. Adequate screening and buffering to protect adjoining uses from noise, dust, odors, and other objectionable effects of operations must be provided for such

areas.

The 50-foot use setback is correctly depicted on the site development plan and all special exception activities are located outside of this setback.

(3) The number of motor vehicles and trailers for equipment and supplies operated in connection with the contracting business or parked on site must be limited by the Board so as to preclude an adverse impact on adjoining uses. Adequate parking must be provided on site for the total number of vehicles and trailers permitted.

A condition of approval implements this requirement.

(4) No sale of plant materials or garden supplies or equipment is permitted unless the contracting business is operated in conjunction with a retail or wholesale nursery or greenhouse.

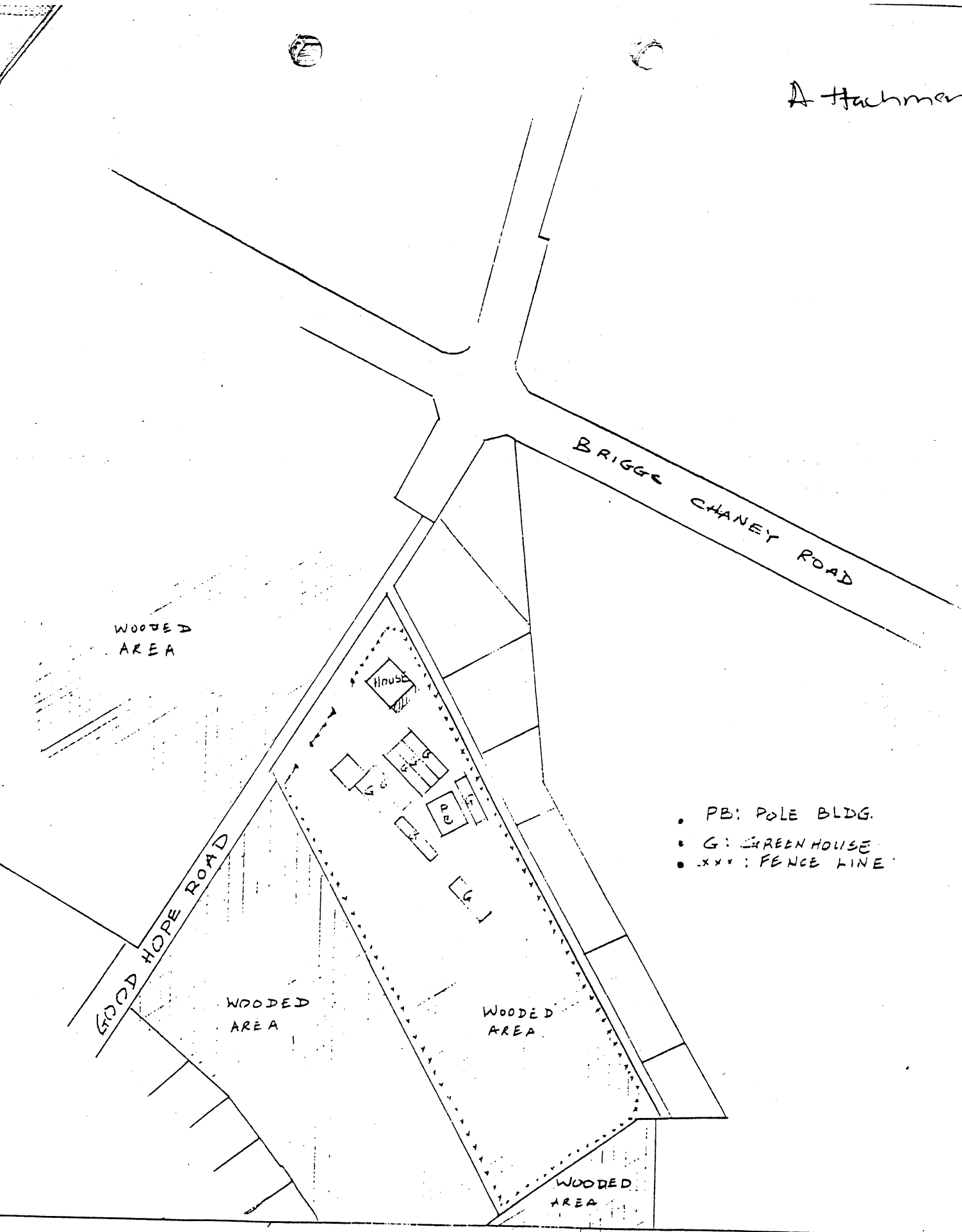
A combination of uses is proposed.

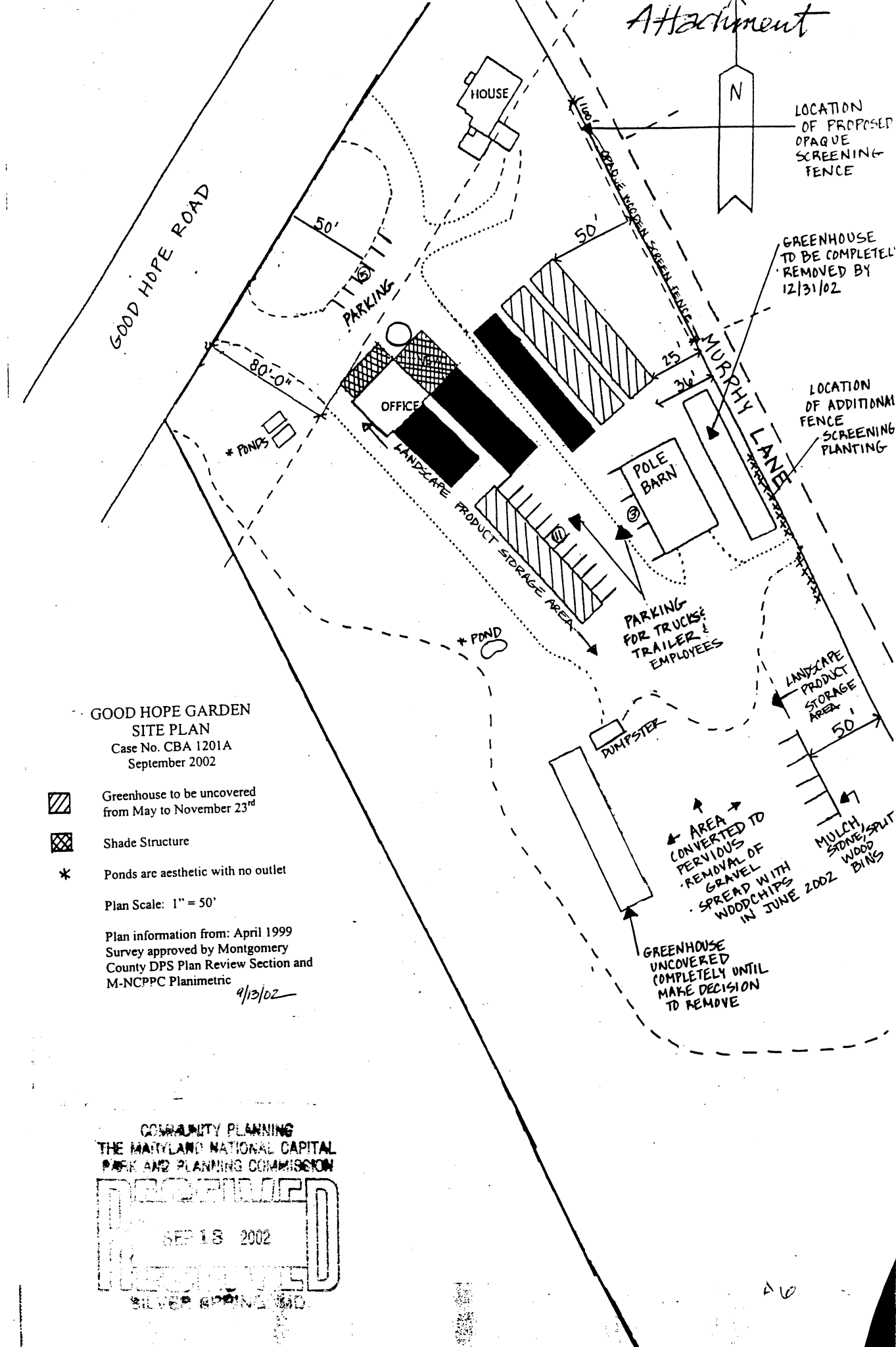
(5) The Board may regulate hours of operation and other on-site operations so as to prevent adverse impact on adjoining uses.

A condition of approval implements this requirement.



(6) In evaluating the compatibility of this special exception with surrounding land uses, the Board must consider that the impact of an agricultural special exception on surrounding land uses in the agricultural zones does not necessary need to be controlled as stringently as the impact of a special exception in the residential zones.

This use is not being developed in an agricultural zone.





**GOOD HOPE GARDEN
SITE PLAN**
Case No. CBA 1201A
September 2002

-  Greenhouse to be uncovered from May to November 23rd
-  Shade Structure
- * Ponds are aesthetic with no outlet

Plan Scale: 1" = 50'

Plan information from: April 1999
Survey approved by Montgomery
County DPS Plan Review Section and
M-NCPPC Planimetric

9/12/02

COMMUNITY PLANNING
THE MARYLAND NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

RECEIVED
SEP 18 2002
RECEIVED

SILVER SPRING, MD.

Attachment

LINOWES AND BLOCHER LLP

ATTORNEYS AT LAW

1010 Wayne Avenue, Tenth Floor
Silver Spring, MD 20910-5800
301.585.8500
Fax 301.485.9044
Website: www.linowes-law.com

May 30, 2002

Anne C. Martin
301.650.7027
acm@linowes-law.com

Via Facsimile: (240) 777-6339

Mr. Leo M. Galanko
Special Protection Area Coordinator
Department of Permitting Services
255 Hungerford Dr., Second Floor
Rockville, Maryland 20852

Re: Good Hope Garden, Special Exception Modification No. 1201A

Dear Mr. Galanko:

Pursuant to our conversation, please find attached a copy of the statement outlining the basis of the above-referenced special exception modification application submitted to the Montgomery County Board of Appeals. As we discussed, the applicant is requesting confirmation from you for M-NCPPC Environmental Planning Staff ("M-NCPPC Staff") that although the subject property is in a special protection area that is subject to the provisions of Chapter 19 of the Montgomery County Code, a water quality plan is not required for the modification request because there is no land disturbing activity proposed.

As explained in the attached statement, a portion of the modification request is to permit the continuance of a landscape contractor use with the existing nursery use; however this does not involve any new buildings, construction involving land disturbance, or business intensification. Although M-NCPPC Staff requested that the applicant remove minimal amounts of gravel surfaces and a greenhouse structure to create additional pervious area on the property as part of the special exception review process, you indicated that this area is only minimal and does not reach the level of land disturbing activity that would require a water quality plan for this modification request.

We would appreciate if you would confirm the above information by your signature below and return facsimile to my attention at (301) 495-9044. If you need any additional information or materials, please do not hesitate to call. Thank you for your assistance in this matter.

Attachment

LINOWES AND BLOCHER LLP

Mr. Leo M. Galanko

May 30, 2002

Page 2

Very truly yours,

LINOWES AND BLOCHER LLP

Anne C. Martin
Anne C. Martin

Attachment

ACKNOWLEDGED AND AGREED
TO THIS 26 DAY OF July 2002.

BY: *Leo M. Galanko*
Leo M. Galanko,
Special Protection Area Coordinator

cc: C. Robert Dalrymple, Esq.
Thao Thanh Bui

Attachment



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

February 20, 2002

Anne C. Martin
Linowes and Blocher, LLP
1010 Wayne Avenue, Tenth Floor
Silver Spring, Maryland 20910-5600

Re: Good Hope Garden, Inc.
14911 Good Hope Road
Silver Spring, MD.

Dear Ms. Martin:

This letter is in reference to clearing activities that have occurred in part of the forest on the Good Hope Garden, Inc. property. Ms. Candy Bunnag, of our Environmental Planning staff, had observed and noted during a site meeting on January 30th with you and your client, Ms. Thao Thanh Bui, that the understory of a portion of the forest on the western boundary of the subject property had been cleared. As Ms. Bunnag had stated to you and Ms. Bui subsequent to the site meeting, clearing or cutting of forest understory or any other part of a forest is a violation of Montgomery County's Forest Conservation Law (Montgomery County Code, Chapter 22A) if the clearing activity is not authorized by an approved forest conservation plan or exemption.

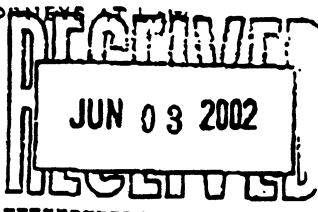
Staff's approximation indicates that 0.40 to 0.50 acre of forest understory was cleared. Our records indicate that a simplified natural resource inventory/forest stand delineation (NRI/FSD) and forest conservation plan exemption were approved for the property on October 15, 2001 (NRI/FSD #4-02127E). These approvals were based on a letter dated October 11, 2001, from you to Ms. Seekey Cacciatore, stating that the property owners were filing for a special exception modification which would not involve any "new construction and will not result in the clearing of existing forest or trees..." Since forest understory clearing *has* occurred, the simplified NRI/FSD and the exemption are no longer valid. There is no forest conservation plan or exemption that authorizes the clearing activity on the property.

Attachment

LINOWES AND BLOCHER LLP

1010 Wayne Avenue, Tenth Floor
 Silver Spring, MD 20910-5600
 301.591.8500
 Fax 301.435.9044
 Website: www.linowes-law.com

ATTORNEYS



JUN 03 2002

May 29, 2002

Anne C. Martin
 301.650.7027
 acm@linowes-law.com

Via Facsimile No. 410-841-5987

Ms. Valerie Frances, Director
 Maryland Organic Certification Program
 State of Maryland
 Department of Agriculture
 50 Harry S. Truman Parkway
 Annapolis, Maryland 21401

Re: Good Hope Garden: 14911 Good Hope Road, Silver Spring, Maryland (the "Property");
 Special Exception Modification No. 1201A -Organic Certification

Dear Ms. Frances:

This is to confirm our telephone discussion regarding the above-referenced special exception nursery use that is currently scheduled before the Planning Board of the Maryland-National Capital Park and Planning Commission ("Planning Board") on June 6, 2002 and the Montgomery County Board of Appeals ("Board of Appeals") on June 19, 2002 to obtain approval of the landscape contractor portion of the business. Because the Property is in Montgomery County's environmental overlay zone for the Upper Paint Branch special protection area, the landscape contractor and retail nursery garden center uses are only permitted if certified as an organic grower by the State of Maryland. I have attached Section 59-C-18.152(b) of the Montgomery County Code (the "Zoning Ordinance") explaining this requirement. However, because there are no nursery crops for this business that are organically cultivated and the business buys its' stock from outside nurseries, you explained that the organic certification requirement is inapplicable.

We would appreciate if you would confirm for the Planning Board and the Board of Appeals by signature in the space indicated below that the Maryland Organic Certification program is directed towards businesses which produce, process, distribute or retail plants handling organic products and therefore does not apply to the Good Hope Garden nursery and landscape contractor use as described above. Accordingly, no program classification exists for the subject business to apply for Organic Certification pursuant to Section 59-C-18.152(b) of the Zoning Ordinance.

A10

Attachment

12-2002 16:32

LINOWES & BLOCHER LLP

3015856350

P.03

LINOWES AND BLOCHER LLP

Ms. Valerie Francis
May 29, 2002
Page 2

Please return to my attention by facsimile at (301) 495-9044. Thank you for your assistance in this matter and please do not hesitate to contact me if additional information or clarification is needed.

Very truly yours,

LINOWES AND BLOCHER LLP

Anne C. Martin

Anne C. Martin

Attachment

cc: Ms. Thao Thanh Bui
C. Robert Dakrymple, Esquire

REVIEWED AND AGREED TO:

Valerie Francis

Valerie Francis, Director
Maryland Organic Certification Program

Date: 6/4/02

A 11

May 30th, 2002

Candy Bunnag
Environmental Planning
County-wide Planning Division
8787 Georgia Ave.
Silver Spring MD 20910

Subject: Good Hope Garden
Special Exception Modification No. 1201A

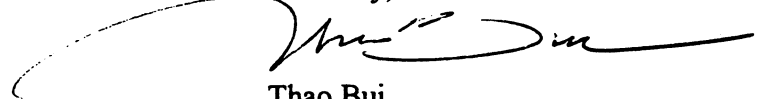
Dear Candy,

In response to your 02/20/02 letter for corrective action and pursuant to our discussion at meeting on May 14th, I propose the following actions and deadlines to comply with the standards of the Montgomery County.

1. Moving the wood chip pile away from adjacent trees, outside of the trees drip line. This action will be completed as soon as possible but no later than end of June, 2002.
2. Planting of 40 understory plants in the two areas. Half of the plants chosen (from the enclosed list that I proposed) will be installed during the fall of 2002, and the other half will be done by spring of 2003. This will give me time to clean up the other half of the refuse that is still left there from the previous owner prior to planting the rest of the understory. Most of the cleaning will be done by hand and the heavy refuse will be removed by small forklift. No native vegetation will be removed.
3. Record a Conservation Easement of approximately 1.64 acres of the forest that you had staked out on April 17th. Because of present financial constraints, I need until the end December 2002 to have it surveyed and recorded. Out of ten surveying companies that I have consulted, two of them had given me estimates of \$4,000 to prepare the easement and the rest had declined the work. Given the expense of the understory planting, I need to defer the surveying expense.
4. A drawing of the existing natural resource inventory and the proposed planting site of 13 trees and 27 shrubs will be submitted by June 15th. The trees will be 3/4" caliper size and shrubs at 18-24" height container grown.

The above proposal is in good faith and will resolve all issues raised in your 02/20/02. Thank you for your help and guidance.

Sincerely,



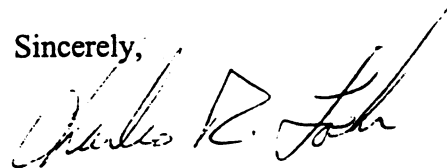
Thao Bui

It is staff's understanding that the understory clearing was done in conjunction with removing old barrels, metal pieces, and other trash from the forested area of the property. Although trash removal is certainly commendable and encouraged, the substantial removal of plants that make up the forest community should not have occurred. The forest understory removal is of particular concern on this property since it is located within the Upper Paint Branch Special Protection Area (SPA). The cleared area is near the Gum Springs Tributary (roughly within 200 feet of the stream), one of the main trout-spawning streams of the Paint Branch stream system.

Because of the violation and its location in an environmentally-sensitive watershed, and in accordance with Chapter 22A-17, I am issuing an administrative order requiring corrective action be undertaken by the property owners, Ngoc-Diep T. Vong and Thao Thanh Bui, as detailed in Attachment One to this letter.

If you have any questions, please contact Ms. Candy Bunnag at (301)-495-4543.

Sincerely,



Charles R. Loehr
Director of Park and Planning

Attachment One – Corrective Action

cc: Candy Bunnag
Michele Rosenfeld

ATTACHMENT ONE
CORRECTIVE ACTION FOR NOGC-DIEP T. VONG AND THAO THANH BUI
PARCEL P880
14911 GOOD HOPE ROAD
SILVER SPRING, MARYLAND 20905

1. The property owner shall submit a natural resource inventory/forest stand delineation (NRI/FSD). The NRI/FSD must include existing features on the subject property, the boundary of existing forest, the exact area of the forest understory clearing. At the request of the property owners, existing features such as the forest boundary and the understory clearing may be identified through a site walk with staff and then surveyed.
2. Property owners shall submit and implement a forest conservation plan (FCP). The FCP must include a restoration plan to replant the understory that was cleared. The exact amount and location of replanting is to be determined from the NRI/FSD. The restoration plan is to include proposed planting specifications, including plant species and stocking rates, and a specific schedule for implementation. The understory in adjacent existing understory will be used as a guide to determine the appropriate density of tree and shrub planting. Replanting must occur within the 2002 growing season. The FCP and NRI/FSD may be combined in one drawing.
3. Property owners shall move large piles of wood chips and mulch so that they are outside the critical root zone of trees at the edge of the forest.
4. Property owners shall record a Category I conservation easement over part or all of the forest on the property. At a minimum, the conservation easement must include the restored part of the forest, any environmental buffers on the property, and enough forest to meet the break-even point determined from the FCP worksheet. The condition of undisturbed forest on the property and any proposed uses as part of the FCP must be considered in determining the exact location and configuration of the conservation easement, in addition to the restoration area and the buffers.
5. No activities that disturb or clear any parts of the forest within the conservation easement created as part of this corrective action are allowed unless the activities are approved by M-NCPPC as part of a revised FCP.

Attachment

COUNTY BOARD OF APPEALS
FOR
MONTGOMERY COUNTY

STELLA B. WERNER COUNCIL OFFICE BUILDING
100 MARYLAND AVENUE
ROCKVILLE, MARYLAND 20850

Telephone
Area Code 301
279-1226

Case No. CBA-1201

PETITION OF GRANVILLE J. O'KEEFE
(Hearing held April 25, 1985
before the Hearing Examiner)

OPINION OF THE BOARD

On April 25, 1985, the Hearing Examiner for Montgomery County, Maryland, heard the above-entitled special exception review hearing pursuant to provisions of Section 59-A-4.125 of the Zoning Ordinance. Case No. CBA-1201 requested that the special exception originally granted March 27, 1962, for a Horticultural Nursery and Commercial Greenhouse, be amended to permit the retail sale of nursery stock in addition to the original wholesale exception.

The subject property contains 6.082 acres, Bealls Manor Subdivision, located at 14907 Good Hope Road, Silver Spring, Maryland.

The Board has carefully reviewed the Report and Recommendation of the Hearing Examiner dated May 17, 1985, and finds the Hearing Examiner's statement of the facts to be correct. The Board concurs in and adopts the Report and Recommendation of the Hearing Examiner, attached hereto, and the special exception shall be amended subject to the conditions set forth in the Recommendations of the Hearing Examiner.

The Board adopted the following Resolution:

BE IT RESOLVED by the County Board of Appeals for Montgomery County, Maryland, that the decision recommended by the Hearing Examiner be adopted as the decision of the Board on the above-entitled petition.

The foregoing Resolution was proposed by Doris Lipschitz, Chairman, and concurred in by Joseph E. O'Brien, Jr., Harry M. Leet, Thomas S. Israel and Howard Jenkins, Jr.

I do hereby certify that the foregoing Minutes were officially entered in the Minute Book of the County Board of Appeals this 12th day of June, 1985.

Irene H. Gurman
Irene H. Gurman
Clerk to the Board

NOTE: Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County in accordance with the Maryland Rules of Procedure.

~~EXHIBIT~~ A-15

BEFORE THE COUNTY BOARD OF APPEALS
FOR
MONTGOMERY COUNTY, MARYLAND

Office of the Hearing Examiner
Stella B. Werner Council Office Building
Rockville, Maryland 20850
279-1341

IN THE MATTER OF:
GRANVILLE J. O'KEEFE

Donald G. O'Keefe
William R. O'Keefe

Case No. CBA-1201

Supporting the Petition

William J Armstrong, III, Esquire
Attorney for the Petitioner

Before: Martin Klauber, Hearing Examiner

HEARING EXAMINER'S REPORT AND RECOMMENDATION

STATEMENT OF THE CASE

Counsel for the Petitioner, in his letter of January 29, 1985 (Exhibit No. 16), stated that:

"...The O'Keefe Nursery, located at 14907 Good Hope Road, Silver Spring,...applied for and received a special exception approximately twenty-five years ago. Said exception was granted on the condition that the 'operation would be of a wholesale nature only, primarily to supply his own needs'. The nursery has uninterruptedly, since that time sold retail nursery stock unaware that it was violating the special exception.

"Therefore, I am requesting that the special exception be amended...to permit the retail sale of nursery stock in addition to the original wholesale exception." (Emphasis added.)

Subsequently, in response to this letter the Board determined that the additional retail sales to the existing horticultural nursery special exception required the holding of a "review hearing."

Pursuant to Section 59-A-4.12 of the Zoning Ordinance, the Board on April 25, 1985, referred this matter to the Hearing Examiner and requested this Office to hold the public review hearing of this case and render a written report and recommendation concerning the issues involved in consideration of whether to grant the requested modification of this special exception (Exhibit No. 19).

This case was the subject of a public hearing conducted on April 25, 1985, at which evidence and testimony were presented in support of the requested modification and no opposition appeared. No correspondence in opposition to this requested change in the special exception has been received.

The record in this case was closed on April 29, 1985, the date of receipt of the letter from petitioner's counsel (Exhibit No. 18), containing information requested during the public hearing.

Based on my examination of the entire record, with due consideration given to the arguments, testimony, reports and exhibits offered before, during and after the public hearing of this case, I make the following findings in determinations.

BOARD OPINION OF MARCH 27, 1962

The Board's approval of the Horticultural Nursery and Commercial Greenhouse special exception on the subject property in 1962 contained the following three conditions:

- "1. The operation would be of a wholesale nature only, primarily to supply his [bi. E., the petitioner's] own needs.
2. No trucks would be stored on the premises.
3. No tools other than garden supplies would be sold."

Although the review hearing began with the petitioner's request to modify the first enumerated condition, the two remaining original conditions were also the subject of testimony and evidence from the representatives of the Petitioner concerning their present relevance and applicability.

Accordingly, as discussed below, each of the three original conditions imposed by the Board will be analyzed and considered based on the evidence and testimony submitted by the petitioner in this case.

CONDITION 1: THE OPERATION WOULD BE OF A WHOLESALE NATURE ONLY,
PRIMARYLY TO SUPPLY HIS OWN NEEDS

Mr. Armstrong in his letter of April 25 states that this condition "is confusing at best, and does not appear relevant in this case."

The Hearing Examiner concurs in this conclusion. This condition seems to indicate that the petitioner, in 1962, stated before the Board that the special exception would be limited to wholesale uses. However, with the addition of the phrase "primarily to supply his own needs, an aura of uncertainty arises as to the Board's intent. Additionally, questions arise concerning how to interpret this language pursuant to the operations now allowed by right in the Horticultural Nursery and Commercial Greenhouse special exception, Section 59-G-2.30 of the Zoning Ordinance.

Accordingly, based upon the foregoing considerations, I find and conclude that the Board should delete this condition as being no longer relevant or applicable to this special exception.

CONDITION 2: NO TRUCKS WOULD BE STORED ON THE PREMISES.

With reference to this condition, counsel for the petitioner states that:

"There have always been trucks used in the business, which have been stored on the premises. The Nursery wishes to continue to do so, and all such vehicles would be stored behind the greenhouses." (Emphasis added.)

To a very great extent, the continued storage of the vehicles on the site is of the same nature as the initial request which formed the basis of the Board's decision that a "review hearing" was appropriate. The storage of vehicles on the property, and the retail sales of nursery stock, are activities which have occurred during the entire period that this special exception has been in operation. The

Hearing Examiner notes that during this period no complaints have been received concerning the storage of such vehicles and as a consequence this extended practice should be officially sanctioned and recognized as one of the operating conditions of the special exception.

Accordingly, based on the foregoing considerations, I find and conclude that it is appropriate under the circumstances noted herein for the Board to allow the storage of vehicles, related to the special exception use, to take place behind the greenhouses existing on the subject property, as a condition of this special exception.

CONDITION 3: NO TOOLS OR OTHER GARDEN SUPPLIES WOULD BE SOLD

Counsel for the petitioner stated that:

"We would like the special exception to allow the sale of planting and gardening supplies, in addition to vegetable plant, flowers, perennial plants, topsoil, and mulch, all on both a retail and wholesale basis.

"This would be an appropriate use under the current provisions of the zoning ordinance. This use would not constitute a nuisance in regard to traffic, noise or other factors. In fact, this use would be totally consistent with the manner in which the Nursery has been operating for the past twenty-three years."

The prohibition against the sale of tools and other garden supplies as a condition of the original special exception in 1962, with the passage of time and the amendment of the Horticultural Nursery and Commercial Greenhouse special exception, is no longer an existing standard of the Zoning Ordinance.

Section 59-G-2.30, concerning what types of sales are allowed presently in this special exception use, reads in pertinent part as follows

"...Sale of plants, trees, shrubs, seeds, fertilizers, plant foods, handtools, handspraying and watering equipment, and pesticides directly related to residential gardening shall be permitted; provided, that such tools and equipment are not displayed outdoors..." (Emphasis added)

Under the circumstances presented in this case, there is no reason why this special exception use, which has for 23 years involved the sales of "retail

nursery stock, unaware that it was violating the special exception," should not be allowed to continue such use which is now recognized as an existing permitted activity of this special exception in the Zoning Ordinance.

Accordingly, based on the foregoing considerations, I find and conclude that it is appropriate for the Board to allow the petitioner to undertake those activities now permitted as of right in Section 59-G-2.30 of the Zoning Ordinance.

THE PUBLIC INTEREST

Mr. Armstrong stated that he has discussed this matter with the Maryland-National Capital Park and Planning Commission, the owner of park property which abuts the subject site, and they "have indicated that they have no problem with the proposed modification. To the best of my knowledge, none of the other adjoining landowners have shown any opposition to said modification."

The proposed modification allowing the storage of vehicles on the subject property would officially recognize a long standing practice which has not been a source of complaint. The requested modification in the types of retail activities that can occur pursuant to the special exception, beyond recognizing a long standing practice which has not been the source of complaint, also acknowledges the fact that the requested activities are now unlike 1962, are permitted activities as part of the Horticultural Nursery and Commercial Greenhouse special exception.

FINDINGS AND CONCLUSIONS

Based on the evidence of record and the arguments, reports and testimony advanced during and after the public hearing of this case, I make the following findings and conclusions:

1. The proposed modification of the conditions of this special exception will not be detrimental to the use, peaceful enjoyment or development of the surrounding area.
2. The proposed modifications of this special exception will not constitute a nuisance because of traffic, noise or other factors.

RECOMMENDATION AND CONDITIONS

I, therefore, recommend that Case No. CBA-1201, requesting the modification of certain of the conditions imposed in the originally granting of this special exception be GRANTED, that the three original conditions imposed by the Board in 1962 be DELETED and that this special exception, pursuant to Section 59-G-2.30 of the Zoning Ordinance, continue in operation based on the following conditions:

1. Trucks used in the operation of the special exception use can be stored behind the greenhouses on the subject property.
2. The sale of plants, trees, shrubs, seeds, fertilizers, plant foods, handtools, handspraying and watering equipment, and pesticides directly related to residential gardening shall be permitted; provided, that such tools and equipment are not displayed outdoors.

Dated: May 17, 1985

Respectfully submitted,


Martin Klauber
Hearing Examiner

MK:mmm