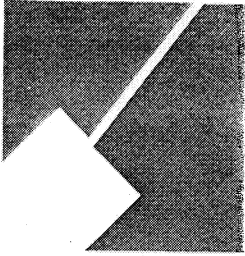


M-NCPPC



MONTGOMERY COUNTY DEPARTMENT OF PARK & PLANNING

THE MARYLAND-NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION

8787 Georgia Avenue  
Silver Spring, Maryland 20910-3760

MCPB

Item # 12

Date: 07/03/03

**MEMORANDUM: SPECIAL EXCEPTION**

**DATE:** June 27, 2003

**TO:** Montgomery County Planning Board

**VIA:** John A. Carter, Chief, Community-Based Planning *JAC*

**FROM:** Joel A. Gallihue, AICP *JAG*  
Bill Barron, Team Leader, Eastern County Team *BB*

**SUBJECT:** **S-2577: Toler Funeral Home** – by Al Toler, 900 E. Randolph Road, 3.35 acres in area, R-90 Zone, White Oak Master Plan

**PUBLIC HEARING:** July 9, 2003

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**RECOMMENDATION**      **Denial**

**PROJECT SUMMARY**

Al Toler, doing business as Toler Funeral Home, proposes a Funeral Home and Undertaking Establishment at 900 E. Randolph Road. The site is 3.35 acres in area. An existing 2,630 sq. ft. home at the northeast corner of East Randolph Road and Fairland Road would be renovated for this purpose. Renovations include reconstruction of the interior and the addition of both a portico in the front and a rear five-car garage and service area. No residential quarters are proposed. Access would be relocated east of the existing entrance on Fairland Road. One parking area (19 spaces) is proposed on the East Randolph Road side of the house and another parking area (six spaces) to the rear of the house. Additional paved area is proposed for access to the portico and a service entrance to a proposed five-car garage structure in the rear. The service entrance would provide access for the hearse, limousines, lead car and removal vehicle. The application stipulates that the facility will have no on-site chapel. The activities that would occur on-site would be meetings to initiate funeral arrangements, casket showroom and sales, receiving and preparing the deceased, "first viewing" by family and conveyance of deceased to off-site service and burial or cremation. Proposed hours of operation would be 9:30-4:00 PM and 7:00-9:00 PM Monday through Friday and 9:00 AM – 9:00 PM on weekends. The proposal indicates that the funeral director, office manager and embalmer could also work other hours.

## **Neighborhood Description**

Single-family detached residential homes abut the property on all sides and confront on the South side of Randolph Road as well as on the West side of Fairland Road.

Adjacent land uses are all residential in either the R-90 or RE-1 zones and developed with single-family homes. The Paint Branch Farms subdivision is north and west of the property on Fairland Road and in the RE-1 zone. East of the property is the Bea Kay Acres subdivision which is in the R-90 zone. South of the subject site is the Colesville Gardens subdivision in the R-90 zone. The majority of these homes were built approximately forty years ago and the neighborhoods have remained stable. Infill construction is occurring; the nearest examples are on Burkhart Street.

South and west of the site of the historic Colesville (Smithville) Colored School (Historic Site #33/24), which was historically a school for African-Americans prior to integration. The site was later used by Montgomery County Department of Education as a bus depot and maintenance yard and is now under contract with a private entity that plans to convert the site into a museum.

Randolph Manor (S-2554) was recently approved to permit a senior housing use at 601 East Randolph Road in the R-90 zone. To the west of the site at the corner of Monocacy and East Randolph Road a proposed daycare center at 13401 Clifton Court was denied (BAS 1426). The subject site was previously permitted for a riding stable under S-534 in 1978.

## **Site Description**

The site is a prominent corner lot in the northeast corner of the intersection of East Randolph and Fairland Roads in the Colesville area of Silver Spring, MD. Access would be relocated east of the existing entrance on Fairland Road. The property is 3.35 acres in area and approximately triangular in shape. East Randolph Road and Fairland Road form two front sides of the property. Adjacent lots in the Bea-Kay Acres subdivision form the rear side.

The property slopes downward from the road frontage to the rear side, which is wooded, and the location of floodplain. The existing landscaping consists of glades and lawns that were previously used to pasture a horse.

The existing 2,630 sq. ft. house includes a garage at the front and in the rear. A stable and utility shed are located to the north and east of the house. A driveway leads to the front garage and splits towards East Randolph where there is additional parking. The driveway leads to a Fairland Road access close to the intersection of East Randolph and Fairland Road.

## **Project Description and Elements of Proposal**

The petition proposes renovations including reconstruction of the interior and the addition of both a portico in the front and a rear five-car garage. No residential quarters are proposed. The floor area would be increased from 2,630 sq. ft. to approximately

4,000 sq. ft. The application stipulates that the facility will have no on-site chapel. The activities that would occur on the first floor would be meetings to initiate funeral arrangements, day-to-day business activities, and "first viewing" visits by family. The petitioner has represented that first viewings would be limited to immediate family, differentiating the event from a wake. There are two rooms designated for viewings. There is also a casket showroom on this floor. Activities such as, receiving and preparing the deceased, conveyance of deceased to off-site service and burial or cremation would all occur or be staged from the lower level of the facility. No processions are proposed from this site.

Proposed hours of operation would be 9:30-4:00 PM and 7:00-9:00 PM Monday through Friday and 9:00 AM – 9:00 PM on weekends. The proposal indicates that the funeral director, office manager and embalmer could also work other hours.

Six employees are proposed: Owner/Funeral Director, Office Manager/Receptionist, one Embalmer and Three Drivers.

#### Parking

One parking area was proposed on the Fairland Road side of the house and another parking area on the East Randolph Road side of the house. The Fairland Road parking was eliminated in the most recent revised site plan for the special exception. Additional paved area is proposed for access to a service entrance to a proposed five-car garage structure in the rear. The service entrance would provide access for the hearse, limousines, lead car and removal vehicle.

### **ADDITIONAL REVIEW REQUIREMENTS**

A preliminary Plan of Subdivision is required for this property subsequent to consideration of the special exception.

### **ISSUES**

#### *Incompatible with surrounding neighborhood*

- **Applicant Position:**

The petition notes that the subject property is located along the edge of an established residential community. It is stated that the design of the redeveloped building and new garage will be of a scale and bulk that is consistent with other residential structures within the adjacent community. The stipulation that funerals will be conducted off-site is credited with lessening the intensity, character and scope of activity, traffic and parking conditions. It is noted that there are no similar uses within the immediate vicinity.

- **Community Position:**

In attached letters and also in meetings with staff and the applicant, many concerns have been expressed in this application. The concerns may be summarized as follows:

1. A business use would not be incompatible with the neighborhood. The specific use, in close proximity to dwellings, is fundamentally unacceptable to some residents.
2. Addition of a portico in front of the building, parking in the front yard, and a five-car garage in rear will not be in character with neighborhood. Surrounding buildings are single-family residences with no more than two car garages.
3. Stormwater management has been a problem in the area. Additional impervious surfaces will add to the problem.
4. There is no need for a funeral home when two exist within approximately a three-mile radius and the Master Plan does not indicate any additional need for such a facility.
5. Use will produce an increase in traffic that will be out of character with the neighborhood. Traffic will be substantially greater than a single family home and access is too close to the intersection of Fairland and East Randolph roads.

**Staff Recommendation:**

Staff believes that because the subject property is located within an established residential community beyond an area of transition from business to residential, it is a particularly inappropriate location. A business use at this prominent location would detract from the established residential character. The Master Plan also discourages special exception uses along major transportation corridors like Randolph Road. The scale and bulk of the redeveloped building and new garage will not be consistent with other residential structures within the adjacent community. The proposed new components are not at all typical of the neighborhood.

The operations of this business are represented to be less intense because funerals will be conducted off-site. For this same reason, traffic may be lower than expected for a full service funeral parlor. Despite the limited scope of activity, the character of the use and parking conditions remain incompatible. The floor plans indicate two public viewing rooms. The applicant explains that these are used for "first viewing," where the immediate family may confirm that preparations have been satisfactory. The parking requirements call for one space for every 25 square feet of viewing space. Despite the stipulated limitations on scope, the key regulatory parameter, "area of viewing rooms," is still significant, requiring twenty-seven parking spaces. Despite the asserted limitations on scope the petitioner has not proffered to reduce viewing space and proposes more than the minimum of parking space

The proposed off-peak operations may lessen the impact on the traffic network and avoid the need for a traffic study, but they increase the likelihood of operations when homeowners are most likely to be present, especially on weekends.

The applicant has noted that there are no similar uses within the immediate vicinity. Citizens have responded that there is no need for a funeral home when two exist within approximately a three-mile radius.

*Does not meet the access provisions of the use.*

Sec. 59-G-2.23. b. 6 requires frontage upon and access to a street or roadway having more than one through travel lane in each direction of travel. Access to Fairland Road is proposed. This road has only one through travel lane in each direction.

- *Applicant Position:*

The applicant notes the first part of this requirement is met by frontage on East Randolph Road. The applicant presents an argument that because the term "access" is not modified by an adjective like the word "direct" the requirement is open to interpretation. In their attached letter, examples from the C-3 zone are presented where access can be met with a frontage road.

- *Community Position:*

Members of the community have identified this provision and questioned why the application was permitted to be filed when a use requirement is not being met.

- *Staff Recommendation:*

Staff agrees that the first provision of this requirement is met by frontage on East Randolph Road. Access to East Randolph Road is not proposed, and staff considers such an option potentially difficult, considering the median and proximity to the intersection with Fairland Road. Staff does not agree that Fairland Road meets this requirement. The text of the ordinance may be interpreted plainly to accomplish a logical objective. The applicants proposed alternative interpretation renders the provision redundant. If the intent was to have access that eventually connects to a road with two lanes of travel in both directions then any legal lot<sup>1</sup> would by definition, meet this objective. If this had been the goal, the District Council would never have included this provision for the use.

*Does not have an approved Natural Resource Inventory*

Staff has not yet received a Natural Resource Inventory (NRI) revised according to an approved Floodplain Delineation Study. On June 6, 2003, the applicant requested a short continuance, in part to facilitate the submission of a revised NRI. While a Floodplain Delineation Study was submitted to the Department of Permitting Services (DPS), according to the attached review by DPS staff, the applicant must submit additional information before their Floodplain Delineation Study may be approved. The Floodplain Delineation Study must be incorporated into the NRI in order for staff to be able to evaluate environmental constraints on development that are imposed by the existence of floodplain. Staff continues to recommend denial for the reasons listed in the June 4, 2003 memorandum.

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<sup>1</sup> In Sec. 59-A-2.1. The definitions of a lot requires principal frontage on a public street or public way.

- *Applicant Position:*

The applicant initially learned there might be floodplain on the property on March 31, 2003 when the Conceptual Stormwater Management Plan was rejected by the Department of Permitting services and a condition of acceptance was submission of a Floodplain Delineation Study. The applicant did not respond immediately because an approved Stormwater Management Plan is not required for special exception approval. When Environmental staff advised the applicant that the Natural Resource Inventory (NRI) must be revised according to an approved Floodplain Delineation Study, the applicant began the Floodplain Delineation Study.

- *Community Position:*

Floodplain issues have been a general concern in the area for some time. Many citizens have expressed concern that increased impervious surface will exacerbate existing problems. Many citizens have expressed disappointment that the continuance resulted on a Planning Board hearing date the day before a legal holiday. Many feel they must either cancel or delay family plans to attend the hearing or miss the hearing and not have their comments in the record.

- *Staff Recommendation:*

The Floodplain Delineation Study must be incorporated into the NRI in order for staff to be able to evaluate environmental constraints on development that are imposed by the existence of floodplain. Staff regrets the difficult schedule, however it was necessary to meet the July 9<sup>th</sup> Board of Appeals public hearing date. Other available options were in the fall. At the writing of the staff report, Staff is not yet received a Natural Resource Inventory (NRI) revised according to an approved Floodplain Delineation Study. Given the recommendation of denial based upon compatibility and the fact that a second postponement would effect the schedules of many people, staff felt there was no longer any value in waiting for this technical matter to be resolved.

**Master Plan**

The application does not conform to the White Oak Master Plan. Community-Based Planning Staff recommends DENIAL of the special exception request.

This special exception is situated in the northeastern part of Colesville community in the White Oak Master Plan area. The Master Plan describes Colesville as being mostly low-density, single-family detached residential in nature with a scattering of townhouses tucked throughout.

By being located on a relatively large 3.35-acre parcel at the corner of Fairland and East Randolph Roads, the Toler Funeral Home would be situated in a prominent location in the Tamarack Triangle neighborhood. Staff believes converting this property from a residential to commercial use that also involves adding an extensive driveway and a total of 25 parking spaces to the site will have an adverse impact on the residential neighborhood.

The Master Plan offers several specific recommendations that are relevant to this proposal:

1. *“Require new requests for special exception uses along major transportation corridors and in residential communities to be compatible with their surroundings. Front yard setbacks should be maintained.”*

Incompatible components in sharp contrast to the smaller adjacent homes include the exterior façade of the structure; the parking areas in front yards and the large paved pad area adjacent to the garage.

2. *“Avoid front yard parking because of its commercial appearance. Side and rear parking should be screened from view of surrounding neighborhoods.”*

A parking area in the front yard would extend for about 180 feet along East Randolph Road, creating a commercial appearance for the site. The other front yard of this corner lot would also be paved and have a large portico. High elevation and limitations on the existing buffer prevent effective screening adjacent properties from rear parking.

3. *“Require new buildings or any modification or additions to existing buildings to be compatible with the character and scale of the adjoining neighborhood.”*

The existing 2,630 square-foot residence that would be nearly doubled in size and architectural treatment of the new windows and the scale of the portico addition to the front of the residence transform the structure from being residential to a more commercial appearance. The proposed Toler Funeral Home location is on a prominent site at a point beyond a transition between commercial and residential uses, and would interrupt the established character of this neighborhood.

4. *“Avoid placing large impervious areas in the Paint Branch watershed due to its environmental sensitivity”.*

The amount of impervious area will be greatly increased on the site. Proposed circulation and parking areas for the funeral home use will total approximately 24,500 square feet of impervious area, compared with the approximately 3,400 square feet of parking and driveway that currently exist on the site.

## Development Standards

The application conforms to the Development Standards in the Zoning Ordinance. The following table summarizes the conformance with the Development Standards in the Zoning Ordinance (e.g. lot area, setbacks, parking, and green space).

### Comparison of Development Standards:

Item	Required/Allowed	Proposed
Lot Area	9,000 sq. ft	145,926 (3.35 acres)
Building Setback		
- Fairland Road	53.7 ft. <sup>2</sup>	64.56 ft.
- East Randolph Road	30 ft.	100 ft/
- Side	8' (Sum 25')	230 ft.
Building Height	35'	13.1 ft.
Maximum Coverage	30%	2.7%
Parking Requirements	27 (see below)	30

### Parking

One space is required for each 25 gross sq.ft. public rooms (Chapel, main viewing parlor, visitation rooms, and any flexible space that can be used as viewing rooms when necessary, such as family rooms), plus one parking space for each employee on the major shift, and one parking space for each vehicle used in connection with the business. The public rooms that meet this definition cover an area of 527 sq.ft. which requires 21 parking spaces. Up to six employees may work at any one time and there are five business vehicles. (parked in garage). The site plan for the special exception indicates 19 parking spaces (including two handicap) on the Randolph Road side of the property. Six are shown in the rear and there are five spaces in the garage.

### Transportation

The proposed application does not meet the transportation standards. Since access to the Special Exception use is proposed off the two-lane Fairland Road, the application does not conform to Sec. 59-G-2.23 (b)(6) of the Montgomery County Zoning Ordinance, which requires that the site have frontage upon and access to a street or roadway having more than one through travel lane in each direction of travel.

The site is located within the northeast quadrant of the intersection of East Randolph Road and Fairland Road/Octagon Lane, which is traffic signal controlled. Currently, the property is developed with a single-family home, and has full-access to Fairland Road approximately 100 feet from East Randolph Road.

East Randolph Road is a six-lane divided major highway to the west of Fairland Road and a five-lane arterial (with two travel lanes in each direction and a center two-way left turn lane) to the east of Fairland Road. Fairland Road is a two-lane roadway to the north of East Randolph Road. In the vicinity of the site, both East Randolph Road and Fairland Road have four-foot sidewalks. The section of East Randolph Road to the west

<sup>2</sup> On Fairland Road, this property is subject to the established building line requirements of 59-A-5.33 which are more restrictive than the standard 30' setback for the R-90 zone. Since this is a corner lot, the established building line is required for both front yards.



of Fairland Road has an eight-foot wide Class I bikeway to its north side. Metro and Ride-On bus routes serve East Randolph Road.

According to the 1997 Approved and Adopted White Oak Master Plan, East Randolph Road is designated as an east-west Major Highway (M-75), with a right-of-way of 120-feet between New Hampshire Avenue (MD 650) and Fairland Road. The roadway is designated as an Arterial (A-98) to the east of Fairland Road, with a right-of-way of 80-feet. East Randolph Road is currently built to Master Plan cross-section, and has a Class I bikeway (EB-5) to the west of Fairland Road. Sidewalks are also provided along the roadway. Fairland Road is designated as an Arterial (A-75), with an 80-foot right-of-way, four lanes, and a Class II bikeway (EB-6) in the Master Plan. Sidewalks are provided on both sides of Fairland Road near East Randolph Road. Fairland Road is not currently built to the Master Plan cross-section.

The proposed Special Exception use will retain and convert the existing single-family dwelling on the site to a funeral home, with no on-site chapel. The transportation submission calculates that the use (without a discount for the existing residential use on site) will generate no more than five peak-hour trips during the weekday morning (6:30 a.m. – 9:30 a.m.) and evening (4:00 p.m. – 7:00 p.m.) peak periods, respectively. Since weekday peak-period site-generated trips are fewer than 50 total peak-hour trips, a traffic study is not required for the proposed use (to analyze congestion levels at nearby intersections and to satisfy LATR).

Based on the FY 03 Annual Growth Policy (AGP) transportation staging ceilings, there is capacity available for 3,339 additional jobs (as of May 31, 2003) in the Fairland/White Oak Policy Area.

### **Environmental Analysis**

The proposed application does not meet the environmental requirements and guidelines. Environmental Planning Staff recommends deferral or denial of this request because the submission lacks information necessary to determine if the site plan complies with the Environmental Guidelines. The Department of Permitting Services (DPS) has denied the Stormwater Management Concept Plan. Although such approval is not necessarily required the time a special exception is considered, in this instance the denial creates two outstanding issues for the special exception. These are that the NRI/FSD is no longer valid and the submitted Forest Conservation Plan cannot be approved.

### **NRI/FSD**

DPS has required that a floodplain study must be conducted to delineate floodplain on the site because the drainage basin exceeds thirty acres. The Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) must then be updated to reflect the floodplain. The special exception petition was submitted with an approved NRI/FSD. This was completed prior to the request by DPS to delineate floodplain. For this reason the original NRI/FSD is invalid. It is not possible to determine with the original NRI/FSD if proposed development will encroach upon any floodplain.

### **Landscaping and Lighting**

The proposed landscaping and lighting is adequate, safe and efficient. The submitted Lighting Distribution Plan indicates fifteen new light fixtures with reflectors on posts. A cut sheet for the proposed unit indicates that the bulb is shielded to prevent glare.

### **Inherent and Non-inherent Effects**

The non-inherent adverse effects, alone and in conjunction with the inherent adverse effects, are sufficient to justify denial of this application.

The inherent effects are the **(generic)** effects generally associated with the use. Non-inherent effects are the **(particular)** physical and operational characteristics not generally associated with the use, or effects created by unusual characteristics of the site.

Receiving, preparing and conveying the deceased are inherent to any funeral parlor. Hours when the facility is open to the public for business operations, consultations with the families of the deceased, and wakes would also be associated with any such facility. The presented hours of operation and number of employees do not seem to be unusual.

The scale of the building and parking are non-inherent adverse effects out of character with the neighborhood. In this case the building is located close to the road at a prominent location in the Tamarack Triangle neighborhood. Consequently the out-of-scale portico and surrounding pavement are out of context. The desire to redevelop the existing structure, the shape of the lot and environmental constraints limit any potential for a building in the center of the lot, which would minimize the effect of scale. A five-car garage/loading area is atypically large for this neighborhood. While it is in the rear, it is at a high elevation in relation to the Bea-Kay subdivision and framed by a large area of pavement and parking, clearly signaling a non-residential use. The location of the loading area adjacent to existing residences is a non-inherent adverse effect that has not been mitigated.

### **CONCLUSION**

The proposed Funeral Home would be located at a prominent location a residential neighborhood. This project is incompatible with the surrounding neighborhood. The proposal also does not meet the access requirements for the use. Further environmental review is necessary to ensure proposed development will not impact floodplain. The staff recommends denial of this application.

#### **Attachments:**

General and Specific Special Exception Provisions

Referral Memorandums

Location Map/Vicinity Map

Zoning Map

Site Plan

Pre Hearing Statement of Applicant and selected photographs

Letter dated May 19, 2003 from Applicant's Representative discussing access requirement for use.

Amendment to Application

**Note – Letters from citizens will be included in a supplemental packet.**

## Attachment 1.

### Montgomery County Zoning Ordinance

### Compliance with Specific and General Special Exception Provisions

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#### Sec. 59-G-2.23. Funeral parlor or undertaking establishment.

A funeral parlor or undertaking establishment may be allowed if the Board finds:

- (a) The use is devoted to services typical to funeral parlor and undertaking establishment operations; however, the cremation of remains is expressly prohibited. A funeral parlor may include a dwelling or sleeping facilities either as a separate building or a portion of the main building to be occupied by the owner or an employee of the establishment.
- (b) The property and building must conform to the following:
  - 1.) Minimum lot area, for single-family residential zones: 2 acres; for all other zones: 1 ½ acres.  
*The lot exceeds this requirement.*
  - 2.) Minimum side yard setback, 50 feet each side.  
*The lot exceeds this requirement.*
  - 3.) Minimum rear yard setback, 50 feet.  
*The lot exceeds this requirement.*
  - 4.) Public water and sewer are available and must be used for the operation of the facilities, except in an Agricultural Zone. Where public water and sewer are not available, no chemicals may be used in burial preparation.  
*Public water and sewer are available and will be used.*
  - 5.) The grounds and exterior of all buildings must be kept and maintained in conformity with the prevailing standards of the community.  
*Staff has identified a concern that the proposed portico is out of scale with the existing neighborhood.*
  - 6.) Frontage upon and access to a street or roadway having more than one through travel lane in each direction of travel.  
*Access to Fairland Road is proposed. This road has only one through travel lane in each direction. The site has frontage on East Randolph Road which does have more than one through travel lane in each direction however access is not proposed, and would be difficult considering the median. The applicant has represented that this requirement is met because Fairland Road closely accesses East Randolph and could be considered a frontage road.*

**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 is permissible in the R-90 zone*

(2) Complies with the standards and requirements set forth for the use in division 59-G-2.

*The proposal does not comply with the access requirement for the use.*

(3) Will be consistent with the general plan for the physical development of the district, including any master plan or portion thereof adopted by the Commission.

*The use has been found to be inconsistent with the recommendations of the White Oak 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.

*The proposal is incompatible given some of these considerations. The scale of the structure, character of the activity and expanse of paved area would represent a notable shift from the stable current one-family residential form to one that is mixed with business. This would not be harmonious.*

(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 prominence of the location would clearly indicate the above referenced shift in neighborhood form to residents, potential homebuyers and other visitors to the neighborhood. The uncertainties related to the impact of development on floodplain prevent staff from being certain that the proposal. For these reasons, this location is more detrimental to the use, peaceful enjoyment, economic value or development of surrounding properties or the general neighborhood than many other sites in the R-90 zone.*

- (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 use will not create noise inconsistent with other residential. Fumes, odors and dust are not anticipated. Problems with illumination and glare are not anticipated. Potentially objectionable physical activity may be caused by the position of the service entrance facing the rear yards of residences. After hours transportation of the deceased may create some objectionable activity in this location. The petitioner has apprised staff that such ambulances would not be used on site and the operations would be not be noticeable.*

- (7) Will not, when evaluated in conjunction with existing and approved special exceptions in the neighboring one-family residential area, increase the number, intensity or scope of special exception uses sufficiently to affect the area adversely or alter its predominantly residential nature. Special exception uses in accord with the recommendations of a master or sector plan are deemed not to alter the nature of an area.

A riding stable was approved for this site under under S-534 in 1978. A daycare center was denied at 13401 Clifton Court (BAS-1426). S-2554 permitted a senior housing facility at 601 East Randolph Road

The proposed special exception, when evaluated in conjunction with these other cases this proposal will not affect the area adversely or alter the residential character of the neighborhood.

- (8) Will not adversely affect the health, safety, security, morals or general welfare of residents, visitors or workers in the area;

*The use will not adversely affect the safety of area residents.*

- (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.

*Public water and sewer serve the site. The site has access to public roads. Storm drainage may be inadequate and a storm water management concept plan has not been approved by DPS. Staff cannot confirm at this time that there will be adequate stormwater management facilities. The use does not require public school services. Police and Fire protection service is available.*

- (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.

*Approval of a preliminary plan of subdivision is required.*

- (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.

Staff has reviewed vehicular and pedestrian circulation plans for the site and has determined that the proposal will have no detrimental effect.

#### **59-G-1.24. Need**

Staff has reviewed the proof of need statement for the proposed funeral home at 900 East Randolph Road at the corner of East Randolph and Fairland Roads to determine if the applicant's report complied with the Montgomery County Zoning Ordinance (59-G-1.24). This section requires an applicant to prove neighborhood need when seeking a special exception for a funeral home use<sup>3</sup>.

The applicant submitted a Pre-Hearing statement, which asserts the following:

"That for the public convenience the need exists for the proposed use to serve existing population concentrations, particularly in the White Oak Master Plan area. The White Oak master plan area comprises 6,890 acres of land (10.7 sq. miles) with a population as stated in the 1997 master plan of 32,000 persons (p.5 of master plan). Presently only two (2) other funeral homes exist in the Master Plan Area:

Hines-Rinaldi Funeral Home  
11800 New Hampshire Avenue  
Silver Spring, Maryland

and

Pope Funeral Home  
11315 Lockwood Drive

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<sup>3</sup> Montgomery County Zoning Ordinance (59-G1.24) states, "... special exceptions may only be granted when the board, the hearing examiner or the district council, as the case may be, finds from a preponderance of evidence of record that, for the public convenience and service, a need exists for the proposed use for service to the population in the general neighborhood, considering the present availability of such uses to that neighborhood."

Silver Spring, Maryland.

Both of these funeral homes are located several miles to the south of the proposed location.”

Typically, applicants submit a needs analysis for uses that are covered by this provision. Most of these consist of market analysis that present industry-wide data or historical sales trends at the County level to approximate likely sales potential at the local level. No such information has been submitted.

The proposed Funeral Home would be located in a residential neighborhood. The nearest commercial area, in this general neighborhood is at the intersection of New Hampshire Avenue and East Randolph Road. The Hines-Rinaldi Funeral Home is located approximately two miles south of this commercial area. The Pope Funeral Home is located further south on New Hampshire Avenue approximately at Lockwood Drive. The next closest facility is Collins Funeral Home at West University and Dennis, which is over five miles away. Within a seven-mile radius are Barber Funeral Home in Laytonsville and Rapp Funeral Services in Downtown Silver Spring.

The petition stipulates a limited service proposal, which would not include an on-site chapel. The business would work with clients to make arrangements for services off-site. Existing full service facilities can also make such arrangements but a new competing exclusive service may increase public convenience and is a distinguishing factor of this proposal.

A limited service funeral home in this general neighborhood would provide service in a neighborhood where existing services are located at least two miles away. Given the this condition a case can be made that for the public convenience and service, a need exists for the proposed use for service to the population in the general neighborhood. The proposed funeral home will satisfy the need requirement of “public convenience and service” as defined by the Montgomery County Zoning Ordinance.





THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

June 25, 2003

## MEMORANDUM

**TO:** Joel Gallihue, Zoning Analyst, Community-Based Planning

**VIA:** William Barron, Community-Based Planning, Eastern County Team 

**FROM:** Calvin Nelson, Jr., Community-Based Planning, Eastern County Team 

**SUBJECT:** S-2577 Toler Funeral Home

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### Staff Recommendation:

**DENIAL** on the basis that the proposed funeral home use will not be compatible with the surrounding neighborhood.

### Master Plan

The 1997 Approved and Adopted Master Plan for White Oak does not specifically address the subject property but does offer the following guideline for special exceptions in the master plan area.

“Evaluate new requests for special exception uses and their impact on the character and nature of the residential neighborhoods in which they are proposed.”

*While the subject site is located just about 2,000 feet east of the commercial establishments along New Hampshire Avenue, the special exception site is important in that it represents the western edge of the Tamarack Triangle neighborhood. The proposed funeral home use would introduce a commercial operation into the Tamarack Triangle residential neighborhood and have an adverse impact on the neighborhood's existing residential character.*

In addition, the White Oak Master Plan offers the following four recommendations for special exceptions:

1. “Require new requests for special exception uses along major transportation corridors and in residential communities to be compatible with their surroundings. Front yard setbacks should be maintained.”



*The existing residence and grounds, as modified by the proposed special exception, will not be compatible with the residences in the surrounding neighborhood. Although the one-story height of the structure will be retained, the exterior façade of the structure will be redesigned to convey a more commercial appearance, most notably with the addition of a 22'x26' portico which will be added to the front entrance. Plans for the proposed funeral home also show a parking area for 19 vehicles along East Randolph Road; a five-car garage added to the lower level at the rear of the existing dwelling; a large paved pad area adjacent to the garage; and 6 parking spaces in the rear yard area. This is in sharp contrast to the smaller adjacent homes on Bea-Kay Drive that are generally one-story ranch style homes on 12,000 square-foot lots that have walk-out basements and carports or garages.*

2. "Avoid front yard parking because of its commercial appearance. Side and rear parking should be screened from view of surrounding neighborhoods."

*The subject property is on a corner lot that essentially has two front yards. Nineteen parking spaces, including two spaces for the handicapped, are proposed south of the residence along East Randolph Road. The parking area would extend for about 180 feet along East Randolph Road, creating a commercial appearance for the site. As noted above, the Master Plan discourages front yard parking.<sup>1</sup> A 20-foot wide driveway would also extend around to the rear of the proposed funeral home where there are six parking spaces, a parking pad, and a five-car garage. Although there are some trees along the rear boundary of the property, there is not enough of an existing buffer to screen these new site features from the rear yards of the adjacent properties.*

3. "Require new buildings or any modification or additions to existing buildings to be compatible with the character and scale of the adjoining neighborhood."

*The special exception proposes to locate a funeral home business in an existing 2,630 square-foot residence that would be expanded to approximately 4,000 square feet. The 3.35-acre parcel is located adjacent to the Bea-Kay Acres subdivision to the east, and situated on the western edge of Tamarack Triangle, a R-90 zoned residential neighborhood bounded by Fairland Road, East Randolph Road, and the Paint Branch Stream Valley Park. Staff finds that the architectural treatment of the new windows and the scale of the portico addition to the front of the residence transform the structure from being residential to more commercial-like in appearance, a departure from the residential character of the rest of the neighborhood.*

*The area of East Randolph Road between the main stem of Hollywood Branch and the Fairland Road/Octagon Lane intersection represents a transition between commercial and residential uses. Prior to Hollywood Branch the businesses such as McDonald's and a gas station begin the shift to residential. Within the transition and on the south*

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<sup>1</sup> S-1426, a proposal for a daycare center at 13401 Clifton Road was denied in part because of front yard parking. This would have been located west of the proposed funeral home and closer to the commercial area.

*side of East Randolph Road is the site of Randolph Manor, an approved senior housing special exception, and the historic Colesville (Smithville) Colored School. Both sites fit as transitional elements. The senior housing is a special exception, yet it is residential. The historic school holds potential as a cultural site in the neighborhood. The proposed Toler Funeral Home location is on a prominent site at a point beyond the transition, and would interrupt the established character of this neighborhood.*

4. "Avoid placing large impervious areas in the Paint Branch watershed due to its environmental sensitivity".

*The subject property is located in the Hollywood Branch portion of the Paint Branch watershed. A stormwater management quality facility will be provided near the end of the parking area facing East Randolph Road. The amount of impervious area will be greatly increased on the site. Proposed circulation and parking areas for the funeral home use will total approximately 24,500 square feet of impervious area, compared with the approximately 3,400 square feet of parking and driveway that currently exist on the site.*

## Summary

This special exception is situated in the northeastern part of Colesville community in the White Oak Master Plan area. The Master Plan describes Colesville as being mostly low-density, single-family detached residential in nature with a scattering of townhouses tucked throughout.

By being located on a relatively large 3.35-acre parcel at the corner of Fairland and East Randolph Roads, the Toler Funeral Home would be situated in a prominent location in the Tamarack Triangle neighborhood. Staff believes converting this property from a residential to commercial use that also involves adding an extensive driveway and a total of 25 parking spaces to the site will have an adverse impact on the residential neighborhood. Community-Based Planning Staff therefore recommends **DENIAL** of the special exception request.



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

## MEMORANDUM

DATE: June 25, 2003

TO: Joel Gallihue, Community Based Planning Division

VIA: Mary Dolan, Environmental Planning Division (M)

FROM: Marion Clark, Environmental Planning Division (M)

SUBJECT: Special Exception request No. S-2577  
Al Toler Funeral Home

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### Recommendation

Environmental Planning staff recommends **defferal/denial** of this request for the following reasons:

This submission lacks information necessary to determine if the site plan complies with the *Environmental Guidelines*. Floodplain delineation and analysis of stormwater management control, required by the Department of Permitting Services, may prevent this plan from complying with the *Environmental Guidelines*.

Typically, a detailed floodplain study is required at time of preliminary plan approval. However, given the potential implications of a floodplain delineation and associated constraints of stream buffer application on the viability of the special exception use and/or site design, staff believes that the burden of proof should fall on the applicant to produce a 100 year floodplain delineation prior to approval of any special exception of this property.

Implications of the floodplain delineation and stormwater management plan approval on the special exception plan may include the following:

- 1) Application of the environmental buffer corresponding to the floodplain required by the *Environmental Guidelines* may be shown to conflict with the proposed site plan, requiring changes to grading, and relocation or removal of the proposed driveway.
- 2) Accurate delineation of the floodplain and backwater may result in changes to the size, type or location of the SWM facility.

Site plan alterations for the purpose of environmental buffer protection and stormwater management may trigger coordination with other issues without the benefit of an additional site plan review prior to permit issuance.

### **Discussion**

The submitted Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) is incomplete. Approval of the NRI/FSD is dependent on verification of the floodplain required by the Department of Permitting Services (DPS) and usually provided, following consideration of the special exception request, at Preliminary Plan approval. Since the floodplain information was not provided by the applicant and will impose additional environmental constraints on development, approval of the NRI/FSD has been repealed. Review of the Preliminary Forest Conservation Plan is dependent on an accurate and complete NRI/FSD. Therefore, the Preliminary Forest Conservation Plan has not been approved.

### **Stormwater Management**

This site is a triangular piece of land bounded by East Randolph Road to the southwest, Fairland Road to the northwest and a former streambed along the east property line. The stream was piped under both roads on each end of the site. The pipe under East Randolph Road on the south leads to an outfall draining along the backyards of properties that face Burkhart Street. The owners of these properties report the discharge of large volumes of rapidly moving drainage from this outfall resulting in considerable erosion to streambanks and backyards (see attachment 1). In addition, the community reports flooding along this tributary when the volume of water is too large to enter the Hollywood Branch mainstem located a short distance downstream.

DPS denied a previously submitted Stormwater Management Concept Plan for this site because the applicant did not provide adequate calculations for 10 and 100 year storm events (see attachment 2). These calculations are critical to determine the most effective method of holding and releasing stormwater for the protection of the properties along Berkhart and Anderson Streets, other properties downstream, for the healthy functioning of the stream system and for improved water quality. DPS also asked for a floodplain study. The study will show the limits of the floodplain on site and is required when the drainage basin is greater than thirty acres. (see attachment 3 for recent DPS review of Floodplain Study)

### **Environmental Guidelines**

The depression on site that was formerly a stream no longer has stream characteristics and has been piped under roads on both ends of the drainage way. It did not appear as a stream on the NRI/FSD. The stream and channels drain an area greater than 30 acres in size so a floodplain study must be provided. Once the floodplain has been delineated on the NRI/FSD, a stream valley buffer corresponding with the floodplain is required by the *Environmental Guidelines*. The driveway and parking shown on the plan may encroach into the environmental buffer with the potential that the use cannot be accommodated on the area remaining available for development.

The site of this application is located just south of, but not within the Paint Branch Special Protection Area, therefore a Water Quality Plan is not required.

### **Water Quality**

This site is located in the Hollywood Branch tributary of the Paint Branch watershed. Paint Branch is classified as a Use III watershed by the Maryland Department of the Environment. A Use III classification means that the waters are capable of supporting self-sustaining trout populations, an indication of the highest water quality. The *Countywide Stream Protection Strategy* (CSPS) rates stream quality and habitat conditions in Hollywood Branch subwatershed as fair. The CSPS classifies this subwatershed as a Watershed Restoration Area noting that historically there are riparian buffer, uncontrolled stormwater runoff and sediment deposition impairments.

The Department of Environmental Protection is currently conducting a watershed study of the Lower Paint Branch watershed to assess and identify stormwater management and stream restoration opportunities. Preliminary stream assessment data indicates that Hollywood Branch exhibits poor lateral stream stability and high erosion potential. These preliminary results conclude that stream reaches within Hollywood Branch have been identified to be some of the most degraded stream reaches in the Lower Paint Branch watershed. These findings are reinforced by the erosion complaints DEP has received in recent years from residents residing along Hollywood Branch.

#### **Forest Conservation**

This application has an approved Natural Resource Inventory/Forest Stand Delineation (NRI/FSD). However, this approval is contingent on information required by DPS that has not been provided. The approval has been repealed and the application considered incomplete. A Preliminary Forest Conservation Plan (FCP) has been submitted, but not approved.

#### **Dust and Air Quality**

There should be no objectionable fumes, dust, or odors resulting from the proposed use.

#### **Noise**

This use is not considered to be a point or mobile source of noise. The Montgomery County *Staff Guidelines for the Consideration of Transportation Noise Impacts in Land Use Planning and Development* are not applicable. The Department of Environmental Protection administers the Montgomery County Code Chapter 31B Noise Control and may require a noise study to test noise disturbance and determine mitigation if needed at a later time.