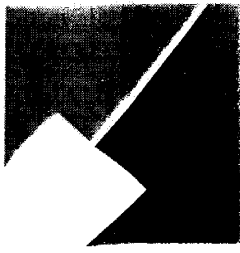


M-NCPPC



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

8787 Georgia Avenue
Silver Spring, Maryland 20910-3760
301-495-4500, www.mncppc.org

MCPB
Item #4
06/16/05

MEMORANDUM:

DATE: June 9, 2005

TO: Montgomery County Planning Board

VIA: Rose Krasnow, Chief, Development Review Division *RK*
Carlton Gilbert, Zoning Supervisor, Development Review Division *CW*

FROM: Dan Janousek, AICP, Senior Planner, Development Review Division
(301) 495-4564 *DJ*

SUBJECT: **Special Exception Modification**
Board of Appeals Case Number S-2070-A; Johnson Family Properties, LLC, for a Retail and Wholesale Nursery and Garden Center located at 12311 Darnestown Road, Gaithersburg.

ZONE: R-200
LOCATION: 12311 Darnestown Road, Gaithersburg; 13.99 gross acres with 5.77 acres proposed for special exception use
MASTER PLAN: Gaithersburg and Vicinity Master Plan
FILING DATE: December 17, 2004
PUBLIC HEARING: June 27, 2005

STAFF RECOMMENDATION

APPROVAL with conditions:

1. All evidence, testimony and exhibits of record shall bind the petitioners.
2. Conformance with Chapter 50 (Subdivision Regulations) of the County Code.
3. Compliance with Local Area Transportation Review requirements.

- a. Total development under this special exception is limited to 24,700 square feet of retail nursery building.
 - b. The applicant shall provide a separate southbound right-turn lane from Riffle Ford Road onto Darnestown Road (MD 28).
4. Compliance with Chapter 22A (Forest Conservation)
 5. Compliance with the conditions of the Montgomery County Department of Permitting Services (DPS) letter of May 20, 2005 approving the project's Stormwater Management Concept Request
 6. The applicant will have to comply with Chapter 31b of the Montgomery County Noise Control Ordinance.
 7. Petitioner must obtain approval by Montgomery County for the construction of the proposed service driveway connection.
 8. Lighting on the west side of the property in the parking facility, closest to the adjacent residential dwellings, will remain on only until 9 p.m. on weekdays, at which time the lights will be activated by motion sensors. The new lighting will be no taller than the 18-foot lighting that exists on the site currently.
 9. The hours of operation will be from 7:00 a.m. to 8:00 p.m. Monday through Friday; 8:00 a.m. to 8:00 p.m. Saturday; and 8:00 a.m. to 7:00 p.m. Sunday.
 10. Delivery traffic will not occur before 6:00 a.m. or after 7:00 p.m. on any day.
 11. Trash pickups are limited to the hours of 8:00 a.m. to 6:00 p.m. Monday through Saturday.

PROJECT SUMMARY

The petitioner, Johnson Family Properties LLC, seeks to relocate and expand their entire existing nursery and garden center business located on a three-acre commercially zoned site at 12201 Darnestown Road, to and adjacent 13.99-acre residentially zoned property at 12311 Darnestown Road. The new location is owned by the Johnson's and located 400 feet west of the existing site located at the intersection of Darnestown Road and Quince Orchard Road. The petitioner has requested a modification to a special exception to allow the construction of new buildings, parking, and an increase to the number of hours of operation and the number of employees on the new relocation site.

Site Description / Background

The subject property is located at 12311 Darnestown Road, Gaithersburg, in the R-200 Zone. It is a 13.99-acre tract of land set between residential uses to the north and west and commercial uses to the east. The property was once part of larger tracts of land that were subdivided for residential use. It is the current location of special exception number S-2070, a wholesale/retail nursery and garden center.

In 1994, a special exception was approved for the subject property for the construction of a building and a greenhouse and the operation of a nursery and a garden center. The Johnson's utilize the subject property in conjunction with their existing nursery business at the corner of Darnestown Road and Quince Orchard Road. A storage building was constructed on the subject property, but a planned greenhouse was never built and the retail operation remained at the corner location. The submitted application is intended to modify the existing special exception to allow the entire garden center to be relocated from its existing site to the subject property.

The property's topographical conditions are such that it slopes downward towards the northwest corner of the property. There are some wooded areas located on the property, but it is mostly covered with grass. The land is recorded on Plat No. 22583. Easements are recorded on the plat for stormwater management.

Neighborhood Description

The surrounding neighborhood is mixed in character with single-family homes in the R-200 Zone to the north and west and commercial shopping in the C-1 Zone to the east. The general neighborhood includes properties in the area of Copen Meadow Drive to the west, including Copen Meadow Court, McDonald Chapel Drive to the north, Quince Orchard Road and the C-1 Properties to the east, and properties along Darnestown Road across from the subject property including Quince Orchard High School.

Elements of the Proposal

Proposed Structures

The petitioner intends to utilize 5.77 acres of the subject 13.99-acre subject property for the special exception use (see Figure 1). The petitioner intends to demolish the existing building on the subject property to construct five (5) new greenhouses for a total of 31,538 square feet of retail use. A 4,500 square-foot storage building, and a 31,195 square foot covered-walkway outdoor-display area will also be constructed. In total there will be 67,233 square feet of proposed retail and storage uses that will accommodate 55 employees. The five greenhouses will be functionally the same and connected together. The current plans indicate that the nearest existing single-family residence will be approximately 200 feet away from the nearest new greenhouse and approximately 120 feet from the nearest new covered-walkway outdoor-display area. The main entrance will front on Darnestown Road and the entrance will connect the buildings visually. There are 167 parking spaces proposed with landscaping and lighting.

Table 1 – Johnson Nursery Proposed Development Plan

Proposed Uses	Area
Greenhouse #1	5,437 sq. ft.
Greenhouse #2	9,086 sq. ft.
Greenhouse #3	5,385 sq. ft.
Greenhouse #4	5,423 sq. ft.
Greenhouse #5	6,207 sq. ft.
Total Greenhouses	31,538 sq. ft.
Storage Building	4,500 sq. ft.
Outdoor Display Area	31,195 sq. ft.
Total Area of proposed uses	67,233 sq. ft.

Proposed Use

The proposed operations on the subject site will be similar to the existing florist and garden center operations at the intersection of Darnestown Road and Quince Orchard Road where the petitioner has operated since 1961. The petitioner intends to sell plants, garden supplies, landscaping, and floral materials such as mulch, sand, gravel and pre-composted compost. No general hardware or power equipment will be sold. The petitioner also intends to conduct a gardening wholesale operation on site. On-site materials will be irrigated, and there are no fertilizers, pesticides or herbicides stored or

used on site other than those for sales. The wholesale operations are limited to selling plants and supplies to landscapers at discounted prices. The petitioner does not promote wholesale operations to landscapers.

Parking

The applicant proposes 167 parking spaces at 5 spaces per 1000 square feet of gross floor area for the 31,538 square feet of retail uses in the greenhouses and 1.5 spaces per 1000 square feet of gross floor area for the 4,500 square feet of storage uses.

ADDITIONAL REVIEW REQUIREMENTS

Off-site improvements

The applicant will need to obtain permits for the construction of a new driveway connection to the Safeway site to allow traffic access to the traffic signal on Darnestown Road. Staff's recommendation is predicated on having this connection.

COMMUNITY ISSUES

There have been many concerns raised by neighborhood residents. The petitioner corresponded frequently with the Orchard Hills Homeowners Association and the Willow Ridge Community Association. Residents are concerned about traffic safety, noise, lights, building locations, parking, insecticide and fertilizer runoff and smells. The petitioner's re-assessment of their original proposal, which was to develop the entire 13.99-acre property, resulted in a reduction of the size of the project to the current 5.77-acre proposal by changing the location, number and size of the buildings, walkways and operations area. The petitioner moved the loading dock to an area behind the greenhouses closer to the existing commercial buildings to the east. The warehouse/storage building was moved, and the petitioner completely deleted a large mulch pile that was originally proposed. The number of employees was reduced from 70 to no more than 55 employees on the property at one time.

ANALYSIS

Master Plan

The property is within the 1985 Gaithersburg Vicinity Master Plan area, Smokey Glen Study Area (amended 1990), which confirmed R-200 zoning for the subject property. The subject proposal intends to utilize a small 5.77-acre portion of the 13.99 acres of undeveloped R-200 located zoned land in the Smokey Glen Study Area adjacent to Darnestown Road (MD Route 28), and it will not disturb any environmentally sensitive areas. The property was at one time part of larger tracts of land owned by the Johnson's. The Master Plan emphasized the environmentally sensitive nature of the Smokey Glen area in general, but it did not recommend low-density cluster development (RE-2C) for the subject property. Much of area is now single-family housing as recommended by the Master Plan. The Master Plan does not give guidance on the location of special exceptions in this area.

Compatibility

The proposed development will be in harmony with the general character of the neighborhood considering population density, design, scale and bulk of any new structures, intensity and character of activity, traffic and parking conditions, and number of similar uses. (Note: part of the General Conditions)

The proposed use will be compatible with other adjacent uses and residences in nearby subdivisions. The buildings and parking facility will be screened and buffered from the adjacent single-family detached residences because of the extensive landscaping. The covered outdoor walkways on the west side are approximately 120 feet from the nearest single-family home and should not become a noise or light problem for the adjacent residences.

The storage building, greenhouses and the parking facility will be visible from the adjacent single-family uses to the west and north. However, the building and greenhouse designs will incorporate architectural design features to enhance their compatibility with and reduce impacts to neighboring properties. There is a significant distance between the proposed greenhouses and the single-family homes (approximately 210 feet). This distance should minimize any noise or light from the greenhouses. There is a significant amount of landscaped buffer and an 8-foot high wood fence between the proposed use and the neighboring properties to the west, thereby effectively screening light and noise emanating from traffic or use of the buildings from the neighboring properties to the west.

A significant amount of existing green space will continue to be maintained on the subject 13.99-acre property. This green space will adequately separate the proposed storage/warehouse building from the properties to the north/northwest. A significant amount of landscaped buffering and an 8-foot high wood fence are also proposed on the north side of the site, effectively screening light and noise.

The parking facility also uses elements to reduce its impact. The parking facility is significantly landscaped both internally and externally with evergreen and ornamental trees, and it will be approximately 36 feet from the nearest side yard. All lighting will be directed away from homes. Lighting on the west side of the property, closest to the adjacent residential dwellings, will remain on until 9 p.m. on weekdays, at which time the lights will be activated only by motion sensors. Lighting is currently in place on the property for the existing garden center use. The new lighting will be no taller than the existing lighting. Noise and lighting impacts in the area also come from the adjacent roadway, which has been widened in recent years. The applicant will have to comply with Chapter 31b of the Montgomery County Code). Under the ordinance, the noise is limited to 65 dBA (Decibel-A-Weighted), daytime, and 55 dBA, nighttime, at the receiving adjacent property lines.

The use should be compatible in terms of the hours of operation, which will be from 7:00 a.m. to 8:00 p.m. Monday through Friday; 8:00 a.m. to 8:00 p.m. Saturday; and 8:00 a.m. to 7:00 p.m. Sunday. These hours will not conflict with the adjoining Safeway store hours, which are from 6:00 a.m. to 12:00 a.m. (midnight). The petitioner expects 5-7 large truck deliveries per weekday during the peak Spring selling season. Delivery traffic will not occur until after 6:00 a.m. or after 7:00 p.m. on any day. All traffic will be screened from the nearby residential uses. Trash pickups are limited to the hours of 8:00 a.m. to 6:00 p.m. Monday through Saturday. Employees will drive and take public transportation to work.

There is one other special exception in the neighborhood. It is a gas station (Case No. BA2740). The gas station is adjacent to the subject site. The applicant proposes to connect the subject site to the adjacent grocery store parking facility via a new driveway. The driveway will be constructed behind the gas station. The gas station operations will not be adversely affected by the driveway improvement in terms of traffic, noise or lighting.

Development Standards

The proposed use meets the Development Standards for the R-200 Zone and Section 59-G-2.30 and 59-G-2.30.0 of the Zoning Ordinance. The following table summarizes the required/allowed development standards and the to those proposed:

Table 2. Comparison of Development Standards:

Item	Required/Allowed R-200 Zone Section 59-G-2.30 Section 59-G-2.30.0	Proposal
Lot Area	20,000 sq. ft. 2-acre minimum*	251,341 sq. ft. 5.77 acres
Yard Requirements for Main Building:		
Front-	50 ft.*	210 ft.
Side- Rear-	12 ft. (25 ft. combined) 30 ft.	140 ft. 480 ft.
Building Height	50 ft.	Approximately 30 ft.
Building Coverage	25%	Significantly less than 25%

*Required by 59-G-2.30 and 59-G-2.30.0 – Specific Conditions for Nursery, horticulture, retail and wholesale

Transportation

Transportation staff recommends the following conditions as part of the APF test related to approval of the subject special exception application Compliance with Local Area Transportation Review requirements.

- a. Total development under this special exception is limited to 24,700 square feet of retail nursery building.
- b. The applicant shall provide a separate southbound right-turn lane from Riffle Ford Road onto Darnestown Road (MD 28).

Transportation Planning staff recommends no additional conditions required to support approval and concludes that the granting of the requested Special Exception to allow the proposed nursery on the site next to the existing Quince Orchard Marketplace shopping center with the roadway improvement condition as recommended in this memorandum would not have an adverse effect on the nearby road system. (Source: Transportation Division Technical Staff).

Parking

Parking and Loading facilities for special exception uses in residential zones (59-E-2.83) require each parking and loading facility, including each exit and entrance driveway to be setback at a distance not less than the applicable building front and rear yard setback and twice the building side yard setback required in the zone. For parking facilities between 150 and 199 spaces, the required side and rear parking facility setbacks must increase by 5 feet.

Table 2. Parking Facility Spaces and Setbacks:

Item	Required/Allowed	Proposed
<u>Yard Requirements</u>		
Front- Darnestown Road	40 feet	47 feet from curb'
Side-	29 feet (Twice the side yard plus 5 feet for number of spaces between 150 and 199)	36 feet
Rear-	35 feet (30 feet plus 5 feet for number of spaces between 150 and 199)	Over 500 feet
Screening and Shading	6 ft. high landscaping required for perimeter adjacent to residential uses and 30% landscape coverage required for internal parking facility.	Significant screening over 6 feet will be provided and the parking facility has more than 30% coverage.

Sec. 59-E-4.2. Parking facilities plan objectives.

A parking facility plan shall accomplish the following objectives:

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

Adjacent properties are reasonably protected from automobile noise, glare, lights, parking lot lighting and automobile fumes because of the distance of the parking from adjacent uses and the extensive perimeter landscaping and trees that are proposed on the site.

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

Pedestrians and motorists will be able to access the building safely from the parking garage or the outdoor parking areas. There are sufficient drive aisle widths on the property, and sidewalks exist and are planned

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

Motorists will be able to maneuver onto the site and exit the site safely.

- (d) The provision of appropriate lighting, if the parking is to be used after dark.

Lighting is proposed for the parking areas, and it will be consistent with existing lighting on the property that is angled down to reduce glare.

Site Access and Circulation

The majority of traffic will enter the site at an existing right in/right out entrance location on Darnestown Road. The applicant proposes to improve internal vehicle circulation by connecting the subject site to the Quince Orchard Marketplace (Safeway) site behind the gas station.

Figure 2.

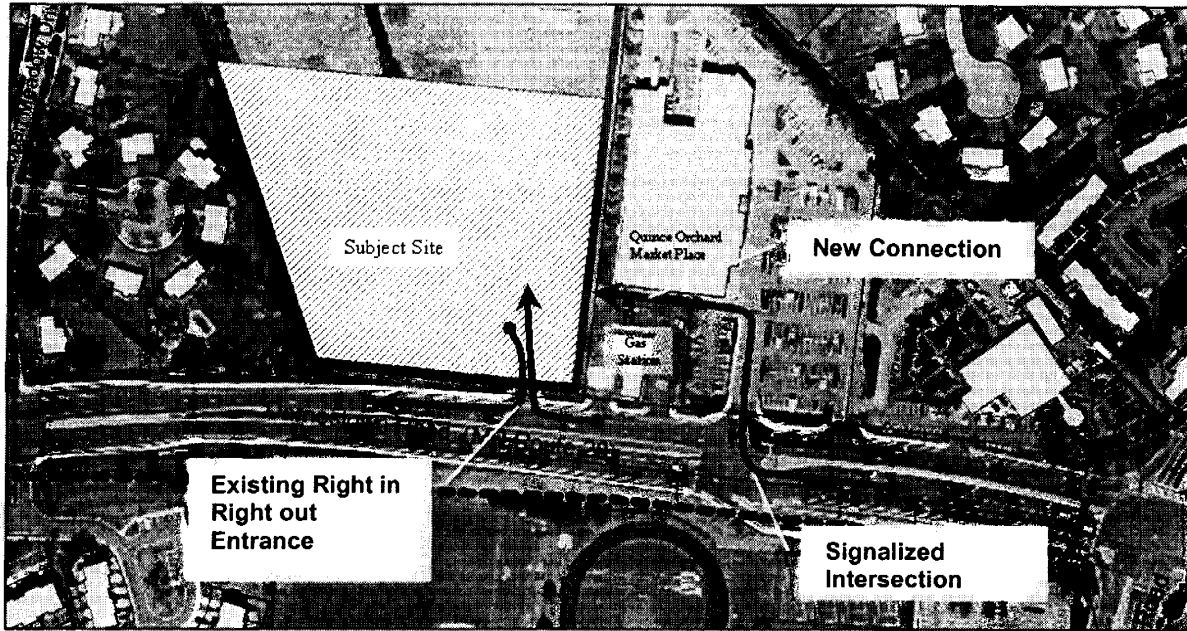
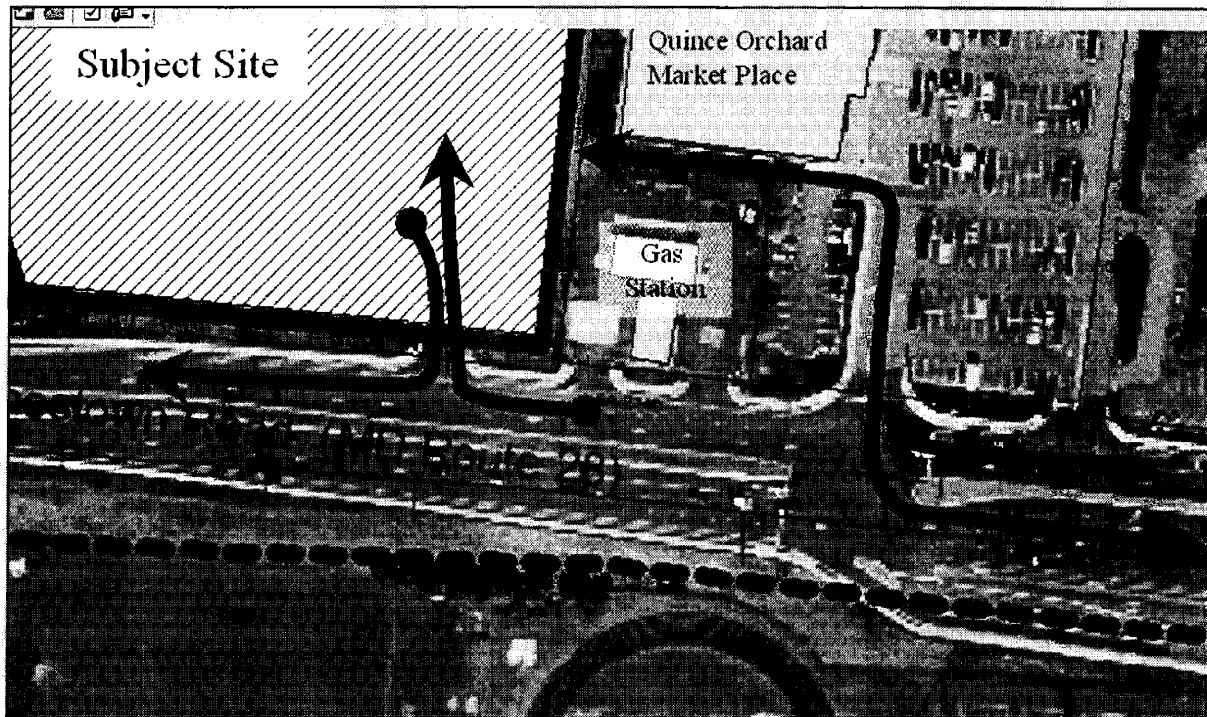


Figure 3.



This improvement will allow additional traffic to enter the site from a nearby traffic signal at the Safeway location, which is across from Quince Orchard High School. This improvement will also allow all traffic that wished to head east on Darnestown Road from the subject site to have direct access to the east-bound Darnestown Road travel lanes without having to exit to the west to doing a u-turn west. Pedestrians have adequate access to the property, and internal walkways and wide drive aisles will accommodate pedestrians safely

Regarding Section 59-E-3.7, the applicants are proposing 167 parking spaces for 55 employees and customers on the property. The proposed parking does meet the parking facilities plan objectives of Section 59-E-4.2 as follows:

Environmental Analysis

The petitioner has an approved Natural Resource Inventory/Forest Stand Delineation (NRI/FSB) and a Forest Conservation Plan. The site is not located within a special protection area. The proposal is consistent with the approved Tree Save Plan, and there are no wetlands or other environmentally sensitive areas that exist on the property (Source: Environmental Planning Division Technical Staff).

Inherent and Non-inherent Effects

Inherent and non-inherent adverse effects of a special exception on nearby properties and the general neighborhood must be considered pursuant to Section 59-G-1.2.1 of the zoning ordinance which 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 not necessarily associated with the particular use, or adverse effects created by unusual characteristics of the site. Non-inherent adverse effects, alone or in conjunction with inherent adverse effects, are a sufficient basis to deny a special exception.”

It is recommended that seven points, or physical operating effects, be considered when reviewing for inherent and non-inherent adverse effects. These relate to the size, scale, scope, light, noise, traffic and environment. Since all of these elements are in every special exception to some varying degree, it must be determined whether or not adverse impacts will be created by these elements. In the case of the subject nursery and garden center, the inherent adverse effects include the proposed buildings, parking, and traffic generated by the movement of customers, workers and the delivery personnel to and from the property.

The proposal will minimize the inherent characteristics of the use. The building will incorporate architectural design features to reduce impacts on neighboring properties. The main buildings are set back over 200 feet from the adjacent residential properties. This distance is sufficient to be compatible with the buildings in the neighborhood. Lighting and noise from the parking facility and the building will not impact adjoining properties. The proposed lighting for the building and the parking facility are consistent with the lighting currently existing on the property for the currently approved special exception. The proposed covered walkways will have interior lighting and exterior lighting. Lighting on the main buildings is consistent with heights of residential uses. Pole lighting on the west and north sides of the development has limited hours of operation (until 9 p.m. seven days a week – then activated by motion sensors). Vegetation screening and the wood fence will reduce traffic light and noise impacts on adjacent property from the parking facility.

The additional impact of traffic generated by the proposal will not create an adverse impact on the adjacent roadway network. As shown in the attached table, all intersections analyzed, except during the weekday PM peak hour at MD 28 and Riffle Ford Road, are currently operating at acceptable CLVs (below 1,450 – 1,525) and this acceptable level will continue for the total future development condition (the existing traffic plus traffic from the site) during the weekday AM and PM peak hours and the Saturday mid-day. In order to mitigate unacceptable congestion level at the MD 28/Riffle Ford Road intersection during the weekday PM peak hour, the applicant proffered to construct a separate southbound right-turn lane on Riffle Ford Road.

Although the square foot size of the building is larger than other residential buildings in the adjacent R-200 Zone, the proposed use is a significant distance from the residences, within the height limits of the R-200 Zone, and the proposed landscaped buffer and fence will screen the proposed use. The manner in which the proposed buildings are situated will reduce the impact on nearby residences. The loading dock is on the east side of the site.

Staff concludes that there are no non-inherent adverse effects associated with this application that warrant denial.

Compliance with the General Conditions of the Special Exception

Sec. 59-G-1.2. Conditions for granting.

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 proposed nursery retail/wholesale use is allowed by special exception in the R-200 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 use does comply with all of the specific standards and requirements for a nursery pursuant to both Section 59-G-2.30 and 59-G-2.30.0 of the zoning ordinance.

- (3) Will be consistent with the general plan for the physical development of the District, including any master plan adopted by the Commission. Any decision to grant or deny a special exception must be consistent with any recommendation in a master plan regarding the appropriateness of a special exception at a particular location. If the Planning Board or the Board's technical staff in its report on a special exception concludes that granting a particular special exception at a particular location would be inconsistent with the land use objectives of the applicable master plan, a decision to grant the special exception must include specific findings as to master plan consistency.

The property is within the 1985 Gaithersburg Vicinity Master Plan area, Smokey Glen Study Area (amended 1990), which confirmed R-200 zoning for the subject property. The subject proposal intends to utilize a small 5.77-acre portion of the 13.99 acres of undeveloped R-200 zoned land in the Smokey Glen Study Area adjacent to Darnestown Road (MD Route 28), and it will not disturb any environmentally sensitive areas.

- (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 general and surrounding neighborhood is predominantly residential in character and zoned R-200 to the north and west. The buildings will incorporate architectural design features to enhance their compatibility with the existing buildings within the surrounding neighborhood. The proposed lighting will not impact adjoining properties. The proposed structures will be a sufficient distance from the adjacent residences to reduce noise and light impact. The buildings and parking facility will be screened and

buffered from the adjacent single-family detached residences because of the extensive landscaping and fencing

A significant amount of landscape buffering, an 8-foot high wood fence, and distance also separate the proposed storage building from properties to the north/ northwest of the proposed use. The covered outdoor walkways on the west side are approximately 120 feet from the nearest single-family home. A significant amount of existing green space will be retained. The parking facility also uses elements to reduce its impact. The parking facility is significantly landscaped both internally and externally with evergreen and ornamental trees, and it will be approximately 36 feet from the nearest side yard.

Internal circulation is provided, and vehicles will be able to enter, drop-off or pick-up, park and exit the site with little difficulty utilizing existing and proposed entrances and drive aisles. Traffic impact on nearby residential streets generated by the additional buildings is limited. Vegetation screening will reduce traffic impacts on adjacent properties throughout.

- (5) *Will not be detrimental to the use, peaceful enjoyment, economic value or development of surrounding properties or the general neighborhood at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.*

The proposed use will not be detrimental to other property in the general neighborhood and will not adversely effect the peaceful enjoyment, character or future development of the general neighborhood.

- (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 have objectionable characteristics. The proposed primary use will be limited to the greenhouses and covered walkways, and the proposal will limit parking to the parking facility. Because of existing vegetation, including trees, and landscaping, the use will not adversely affect adjoining properties. All lighting will be directed away from homes. Lighting on the west side of the property, closest to the adjacent residential dwellings, will remain on until 9 p.m. on weekdays, at which time the lights will be activated by motion sensors. Lighting is currently in place on the property for the existing garden center use. The new lighting will be no taller than the existing lighting.

The use should be compatible in terms of the hours of operation, which will be from 7:00 a.m. to 8:00 p.m. Monday through Friday; 8:00 a.m. to 8:00 p.m. Saturday; and 8:00 a.m. to 7:00 p.m. Sunday. Delivery traffic will not before after 6:00 a.m. or after 7:00 p.m. on any day. All traffic will be screened from the nearby residential uses. Trash pick ups are limited to the hours of 8:00 a.m. to 6:00 p.m. Monday through Saturday.

- (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 special exception will not alter the nature of the area and it does not create an excessive concentration of special exception or other non-residential land uses in the neighboring one-family residential area.

- (8) Will not adversely affect the health, safety, security, morals or general welfare of residents, visitors or workers in the area at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.

The use has limited hours of operation and has operated in the area for many years without causing 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.

The property is served by public services.

(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. If the special exception does not require approval of a preliminary plan of subdivision, the Board of Appeals must determine the adequacy of public facilities when the special exception is considered. The adequacy of public facilities review must include the Local Area Transportation Review and the Policy Area Transportation Review, as required in the applicable Annual Growth Policy.

No preliminary Plan is required for subject application.

- (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 not reduce the safety of vehicular or pedestrian traffic.

The applicant proposes no changes to the site that would remove sidewalks or impede vehicular traffic. The applicant has provided turning radii studies that show sufficient turn radii for vehicles including large trucks.

Compliance with the Specific and General Conditions of the Special Exception

The petitioner will be required to comply with the specific conditions of the following sections of the Zoning Ordinance since they are applying for both a retail and a wholesale nursery:

Sec. 59-G-2.30. Nursery, horticultural retail.

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 horticultural nursery, a landscape contractor, or a mulch/compost manufacturing operation. If a combination of these uses is proposed, the Board's opinion must specify which combination of uses is approved for the specified location.

The petitioner has presented an application and development plan for a combination retail and wholesale nursery that will limit sales of goods to items listed below. Staff is recommending that the Board limit the operation hours and the number of employees to that proposed by the petitioner. The petitioner has adequate access, setbacks, and parking. The petitioner agrees to comply with the following items that conditional approval is based upon to ensure compatibility with the surrounding uses:

(1) The sale of the following materials and equipment directly related to residential gardening is allowed:

- (i) Plants, trees, shrubs, seeds, and bulbs, whether or not grown or produced on site;
- (ii) Fertilizers, plant foods, and pesticides; and
- (iii) Hand tools, hand spraying, and watering equipment.

(2) The incidental sale of seasonal items may also be allowed.

(3) The following restrictions on operations apply:

- (i) Tools and equipment for sale must not be displayed outdoors.

- (ii) The sale of general hardware or power equipment is not allowed.
- (iii) The board (Board of Appeals) may limit hours of operation and number of employees to prevent adverse impact on adjoining uses.
- (iv) The manufacture of mulch, other than by composting of plant material, is not allowed.

(4) Location and development standards are as follows:

- (i) The minimum area of the lot is 2 acres.
- (ii) The minimum building setback from any property line is 50 feet.
- (iii) Adequate parking must be provided on site in accordance with the requirements for general retail sales under Article 59-E.
- (iv) The property must front on and have direct access to a public road built to primary or higher standards, with the possible exception of properties in the Rural, Rural Cluster, and Rural Density Transfer zones. In the Rural, Rural Cluster, and Rural Density Transfer zones, frontage on and access to a public road built to primary or higher standard is not required if the Board makes the following findings:
 - Road access will be safe and adequate for the anticipated traffic to be generated; and
 - The use at this location will not be an intrusion into an established residential neighborhood.

These requirements apply only to petitions filed on or after March 25, 1986. A nursery or commercial greenhouse special exception for which a petition was filed with the Board prior to March 25, 1986, is a conforming use and may be amended in accordance with the modification provision of Section 59-G-1.3(c).

(5) Any retail nursery or garden center established as a permitted use before October 22, 1985, and any retail nursery established pursuant to a building permit application filed before October 22, 1985, is not required to obtain a special exception, except for any future expansion or diversification beyond the scope of paragraphs (1) and (2). (Legislative History: Ord. No. 10-69, § 9; Ord. No. 13-31, § 5; Ord. No. 13-35, § 1; Ord. No. 13-107, § 3; Ord. No. 13-112, § 1; Ord. No. 14-36, § 1; Ord. No. 14-49, § 1.)

Sec. 59-G-2.30.0. Nursery, horticultural - wholesale.

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 retail horticultural nursery, a landscape contractor, or a mulch/compost manufacturing operation. If a combination of these uses is proposed, the Board's opinion must specify which combination of uses is approved for the specified location.

The petitioner has shown presented an application and development plan for a combination retail and wholesale nursery that will limit sales of goods to items listed below. Staff is recommended that the Board limit the of operation hours and the number of employees to that proposed by the petitioner and The petitioner has

adequate access, setbacks, screening and parking. The petitioner is in compliance with the following items that conditional approval is based on to ensure its compatibility with the surrounding uses:

- (1) Plants, trees, shrubs, seeds, and bulbs may be grown or produced and sold on a wholesale basis.
- (2) Fertilizers, plant foods, and pesticides must not be produced but may be stocked and sold on a wholesale basis.
- (3) The following activities are not allowed unless the Board has also approved a retail nursery or garden center under Section 50-G-2.30 (1):
 - (i) The sale or storage of any equipment other than equipment needed in the operation of the nursery or greenhouse.
 - (ii) The retail sale of plant materials or garden supplies or equipment.
- (4) The minimum area of the lot is 2 acres.
- (5) The minimum building setback from any property line is 50 feet.
- (6) Parking must be provided on site in accordance with the requirements for an industrial or manufacturing establishment or warehouse in Article 59-E.
- (7) Adequate screening and buffering must be provided for all parking areas and other on-site operations having a potentially adverse impact on adjoining residential or agricultural uses.
- (8) 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 necessarily need to be controlled as stringently as the impact of a special exception in the residential zones.

CONCLUSION

Upon review of the applicant's petition for special exception, staff recommends approval. The proposed development will be in harmony with the general character of the neighborhood considering population density, design, scale and bulk of any new structures, intensity and character of activity, traffic and parking conditions, and number of similar uses (Note: part of the General Conditions).

Attachments

1. Transportation Division Technical Staff Memo dated May 23, 2005Community
2. Community Based Planning Division Technical Staff Memo dated June 8, 2005
3. Environmental Division Technical Staff Memo dated June 7, 2005
4. Neighborhood
5. Development plan
6. Landscape Plan
7. Elevations
8. Photos
9. Zoning Map
10. Letters