

**DEVELOPMENT CONDITIONS**  
**As Approved by the Board of Supervisors**

**SEA 82-S-087-3**

**August 5, 2002**

If it is the intent of the Board of Supervisors to approve SEA 82-S-087-3 located at 12101 and 12039 Lee Highway, Tax Map 56-3 ((1)) 13 and 14, for a plant nursery, pursuant to Sect. 3-104 and 3-C04 of the Fairfax County Zoning Ordinance, the staff recommends that the Board condition the approval by requiring conformance with the following development conditions, which supersede any previously approved conditions (those conditions marked by an asterisk (\*) are essentially carried forward from previous approvals):

1. This Special Exception is granted for and runs with the land indicated in this application and is not transferable to other land. \*
2. This Special Exception is granted only for the purpose(s), structure(s) and/or use(s) indicated on the special exception plat approved with the application, as qualified by these development conditions. \*
3. This Special Exception is subject to the provisions of Article 17, Site Plans, as may be determined by the Director, Department of Public Works and Environmental Services (DPWES). Any plan submitted pursuant to this special exception shall be in substantial conformance with the approved Special Exception Plat entitled "Merrifield Garden Center" prepared by William H. Gordon Associates, Inc., consisting of four sheets dated February 2002, as revised through June 7, 2002, and these conditions. Minor modifications to the approved special exception may be permitted pursuant to Par. 4 of Sect. 9-004 of the Zoning Ordinance. \*

**Transportation**

4. Right-of-way along the frontage of Tax Map Parcel 56-3 ((1)) 14 shall be dedicated to the Board of Supervisors in fee simple as shown on the SE Plat at the time of the first site plan approval subsequent to this approval, or upon demand, whichever occurs first. No variance shall be required to allow the existing house to remain in the location shown on the SE Plat.
5. Dedication of public street right-of-way up to a width of 120 feet from the centerline of Route 29 (Lee Highway) along the entire site frontage (Tax Map 56-3 ((1)) 13 and 14) shall be provided to the Board of Supervisors in fee simple upon demand at such time as there is a road project for the planned improvements to Route 29, should such project require right-of-way beyond that already dedicated. All necessary temporary ancillary easements up to a width of fifteen (15) feet in addition to this dedications shall also be provided upon request, at no cost. \*
6. A contribution shall be made to the Fairfax Center Road Fund in accordance with fund guidelines based upon approximately 13,200 square feet (which is the total of approved but unbuilt space and proposed additional space) in accordance with the guidelines

adopted by the Board of Supervisors. Dedication of land area shall be creditable towards the fund as may be applicable under the guidelines. \*

7. Parking shall be provided as shown on the SE Plat. Parking spaces shall consist of 247 permanent, striped spaces and 166 seasonal overflow spaces. At no time shall there be less than 135 spaces available for customer and employee use, which may consist of a combination of permanent spaces and seasonal overflow spaces.
8. A maximum 50% of the area shown as seasonal overflow parking on Parcel 14 may be paved or otherwise surfaced with material other than grass or grasscrete/grass pavers. The remainder of the seasonal overflow parking on Parcel 14 may *only* be surfaced with grass or grasscrete/grass pavers. The applicant shall be responsible for applying for and receiving a waiver of dustless surface requirements for the overflow parking area.
9. No more than 25 commercial vehicles shall be parked on the site at any one time.
10. All vehicular access to the plant nursery shall be through Parcel 13; no customer or employee vehicles shall be permitted to enter or exit Merrifield Garden Center via Parcel 14. Posts and chains shall be installed and maintained on Parcel 14 to prevent such customer and employee vehicular access directly from and to Lee Highway to the east. However, the occupant(s) of the house on Parcel 14 (including others such as visitors and residential service and delivery vehicles) shall be permitted such access directly between Lee Highway to the east. Removable posts and chains shall also be installed and maintained between the parking area located on Parcel 14 and the parking area on Parcel 13 to allow customer access onto Parcel 14 to be limited to use only during times of peak patronage.

## Environment

11. The area delineated on the SE Plat as Environmental Quality Corridor (EQC) shall be strictly adhered to, and shall serve as the permanent limits of clearing and grading. Except as qualified in Condition #12, there shall be no disturbance within the EQC, no clearing or grading, and no removal of vegetation except for dead or dying or invasive vegetation as determined by the Urban Forestry Division. In no instance shall there be additional structures other than the existing bridge and boardwalk shown on the SE Plat located within the EQC. \*
12. That area shown on Sheet 3 of the SE Plat as "EQC Interpretive Area" may be developed as shown on the Plat. Areas shown therein to be restored (west side of the stream) shall be restored in coordination with and as approved by the Urban Forestry Division, including the removal of existing gravel and of the existing bridge crossing the stream. The use of driver-operated or large wheeled machines for this purpose shall not be permitted. The following uses shall be allowed in this area, as shown on the SE Plat: existing walkways, existing display gardens, existing boardwalk, plant storage. Plants stored in this area shall be placed by hand only (use of hand carts shall be allowed). No vehicles shall be utilized for plant placement or movement in this area. The only structures allowed in this area shall be the northerly existing bridge (shown to be retained) and the existing boardwalk.

13. Nothing shall be stored within that area of the EQC labeled as "Area 2" on the SE Plat. This area shall be stabilized with plantings as may be determined necessary by the Urban Forestry Division to prevent erosion and further degradation, but shall otherwise be allowed to revegetate naturally.\*
14. The existing mature, upland forest tree cover and canopy located in "Area 1" on the SE Plat shall be protected and maintained, as determined by the Urban Forestry Division, and this area shall be utilized only for the storage of plants; however, within the existing cul-de-sac, plant containers, trays, pallets, lumber used for display and/or protection of plant stock, and blocks utilized in the operation of the plant nursery may be stored. Clearing and grading activities within Area 1 shall be strictly limited to the removal of sub-canopy vegetative growth. No expansion or enlargement of the existing road crossing the EQC and vehicle turnaround area shall be permitted. No heavy equipment or heavy trucks shall be utilized within Area 1 other than on the existing turnaround area shown on the SE Plat. No chemical or hazardous materials shall be stored or utilized in this area.\*
15. If, during grading, site disturbance, and/or construction, the Health Department determines that a health risk exists on site due to the presence of asbestos, all construction personnel shall immediately be alerted to this risk and appropriate construction techniques shall be undertaken in the affected area(s), as determined necessary to minimize this risk, in coordination with the Health Department. Such techniques may include, but are not necessarily limited to, dust suppression measures during all blasting and/or drilling activities, covered transport of removed materials, and appropriate disposal of all removed materials. \*
16. If additional free-standing lights (other than the eleven (11) light poles shown on the SE Plat which have been previously approved) are provided, they shall be in accordance with the following:
  - A. The combined height of the light standards and pole fixtures shall not exceed twelve feet.
  - B. The lights shall be of a low intensity design which focuses the light directly onto the site.
  - C. Shields shall be installed as necessary to prevent the light from projecting beyond the site. \*
17. Stormwater Management Best Management Practices (SWM/BMPs) to meet Water Supply Protection Overlay District (WSPOD) standards shall be provided as determined by DPWES. \*
18. Broadcast application of chemical pesticides and/or fertilizers shall not be permitted on-site. The applicant may hand-fertilize and/or hand-spray the individual plants on a remedial basis for pests and disease to maintain or restore the health and appearance of the plant material. \*
19. As determined necessary by DPWES, measures shall be taken to ensure the safe use, storage, and handling of any chemicals including fertilizers, pesticides, and herbicides utilized, stored, and/or sold on site. All chemicals (including fertilizers, pesticides, and

herbicides) shall be contained in storage shed(s) or other buildings, completely protected from the weather and shall be placed on concrete slab floors. \*

20. Outside storage areas and/or structures for the storage of bulk (loose, unpackaged) materials such as soil, manure, peat moss, humus, mulches, etc., shall be kept covered or located within the areas which drain to the existing SWM/BMP pond, or which are confined by erosion and sedimentation measures to the satisfaction of DPWES to prevent any adverse impacts on water quality, shall be located as shown on the SE Plat, and shall be screened to minimize the view of stockpiled materials from adjacent residential properties. \*

## Uses

21. The plant nursery shall operate primarily for the propagation, cultivation, growing, and/or maintenance of nursery stock for gardens, grounds, yards, and indoor use, such as trees, plants, shrubs, sod, seeds and vines, and the retail sales of such nursery stock and of items designed solely to maintain and preserve the life and health of nursery stock such as soil, mulch, plant food/nutrients, fertilizers, herbicides and insecticides. \*
22. Accessory retail items shall be allowed in accordance with Exhibit 1 attached to these conditions, in those areas (1) as shown on the SE Plat and (2) as explained in the notes on the SE Plat and condition #23 below, and/or (3) as may be administratively approved pursuant to Par. 1B of Sect. 9-517. In no event shall items such as the following be sold: electric or gasoline powered tools; motorized equipment; sheds and outdoor storage containers; play houses or play sets; indoor furniture or outdoor lawn or patio furniture (except benches as included in Exhibit 1); hot tubs, spas or pools; barbecue grills; propane fuel; foodstuffs (except in conjunction with an approved special event or festival); or clothing (except gardening gloves, aprons, and hats as included in Exhibit 1).
23. The freestanding accessory retail nodes described in Note #31 on the SE Plat shall not be used for any dried or artificial flowers or any seasonal/holiday decorations, which shall only be located within the main building (1 and 1A) as shown on Sheet 4 of the SE Plat. The 20 freestanding accessory retail nodes shall be limited in area to twenty (20) square feet each, with a total of 400 square feet in aggregate, and shall be located only in those areas designated on the SE Plat as "Outdoor Sales Display" areas located adjacent to Buildings 3/C and Buildings 1/7. No freestanding accessory nodes shall be located in the Outdoor Sales Display area located adjacent to the stream on the western edge of the property.
24. The hours of operation shall be limited to 7:00 am to 9:00 pm Monday through Saturday, and 9:00 am to 7:00 pm Sunday. No heavy equipment shall be operated on the site prior to noon on Sunday. \*
25. As required by Sect. 9-517 of the Zoning Ordinance, all landscape contracting services provided from this site, including the related number of employees and commercial vehicles, shall remain accessory to the plant nursery. \*
26. Display gardens and plant storage may be located on Parcel 14, so long as they do not encroach upon the 50 foot required transitional screening area. Plant Storage may be located only within that area designated as "proposed display gardens and plant storage

areas." In no instance shall any sales occur from Parcel 14, and those areas used for plant storage shall be signed "Employees Only." Within the limits of clearing and grading on Parcel 14, display gardens and plant storage areas may include paths and plant storage beds, but these areas shall be surfaced only with dirt, wood chips, or other bio-degradable material and/or tipple stone (tipple stone shall not be placed within three feet of the trunks of existing trees). Selective clearing of understory growth, shrubs and vines may occur as approved by the Urban Forestry Division. Such clearing shall be only with the use of hand-carried or walk-behind machinery, in no instance shall driver-operated machinery be used. There shall be no removal of trees 3 inches in diameter or greater, except for the removal of dead, dying or hazardous vegetation as determined by the Urban Forestry Division. There shall be no motorized machinery, other than electric carts, used to move plants into, out of, or around within the plant storage areas on Parcel 14.

27. The shade structures shown on the SE Plat shall be limited to a height of 22 feet
28. The residential structure shown on Tax Map 56-3 ((1)) 14 shall be used only as a residence, and shall be occupied only by an employee(s) of the Merrifield Garden Center.
29. If the existing residential structure on Parcel 14 should be destroyed as a result of highway construction, damage, fire, or other act of God, or should it need to be moved to accommodate transportation improvements, it may be relocated or reconstructed without a Special Exception Amendment to another location on Parcel 14, so long as the new location (1) is not in any required yard, (2) does not encroach on the 50 foot transitional screening area, and (3) does not encroach on the limits of clearing and grading.
30. The Applicant may conduct on-site educational classes, including school field trips and other group instruction, provided that classes are related to the propagation of trees, plants and other plant nursery related topics. Said classes may occur during hours of operation and/or extend into evening hours, and may be offered on a year-round basis.
31. No festivals may be held on the site.
32. Prior to site plan approval for any additional construction, the applicant shall demonstrate, to the satisfaction of the Health Department, the adequacy of the proposed on-site sewage disposal system for the property for the additional construction and all prior development.

The above proposed conditions are staff recommendations and do not reflect the position of the Board of Supervisors unless and until adopted by that Board.

This approval, contingent on the above noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be himself responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Exception shall not be valid until this has been accomplished.

Pursuant to Section 9-015 of the Zoning Ordinance, this special exception shall automatically expire, without notice, twelve (12) months after the date of approval unless, at a minimum, the use has been established or construction has commenced and been diligently

prosecuted. The Board of Supervisors may grant additional time to establish the use or to commence construction if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the special exception. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.

## Merrifield Garden Center's Fair Oaks Location

List of Accessory Retail Items  
Pursuant to Paragraph 1 of Section 9-517 of the Zoning Ordinance

- Landscaping materials such as railroad ties, landscape timbers, wall stones, pavers, edging, drain pipe, spikes, rebar, straw, jute netting, erosion control cloth, tree stakes, tree wire, tree kote, tree wrap, sod staples, gravel, sand and stone
- Pots/planters such as plant containers, grow pots, hanging baskets, hayrack and moss planters, coconut lintars, baskets, saucers, urns, outdoor vases, pot feet
- Garden accents such as statuary, birdhouses, birdfeeders, bird seed, birdbaths, squirrel feeders and baffles, butterfly houses, decorative plant hangers, plant stands, arbors, trellises, gazing balls, pink flamingos, garden flags, windsocks, pedestals, sundials, wind chimes, fountains, garden stepping stones, weather vanes, garden plaques, garden benches, garden bridges
- Water gardens such as water plants, fish, snails and other water garden animals, pumps, filters, pipes, liners and pond forms, waterfalls, tubing and fittings, pond heaters and de-icers, fish food, aquatic pharmaceuticals and water quality products, submersible lights, pond statues
- Watering cans, sprinklers
- Gardening gloves, aprons, hats
- Gardening and horticulture books and publications
- Wheelbarrows, garden carts
- Firewood
- Non-powered hand tools commonly associated with gardening and landscaping such as shovels, rakes, hoes, mattocks, picks, pitchforks, spades, trowels, cultivators, aerators, weeders, pruners, hand saws, edgers, loppers, hedge shears, spreaders, sprayers, feeders
- Hoses, hose reels, hose nozzles, hose guides and fittings
- Artificial/dried plants and flowers (limited to those areas and percentage of floor area as shown on Sheet 4 of the SE Plat)
- Seasonal/holiday decorations such as live, cut, artificial and flocked trees, tree stands, live and artificial wreaths, swags, garland and roping, ornaments, candles and candleholders, vases and sconces, gourds, pumpkins, corn stalks, scarecrows, holiday prints, ribbons, lights, tinsel, nutcrackers, crèches, holiday theme trinkets and collectibles, stockings, holiday vases and bowls, and decorations associated with Christmas, Hanukkah, Easter, Passover, 4<sup>th</sup> of July, Halloween, Thanksgiving and other similar holidays and seasons (limited to those areas and percentage of floor area as shown on Sheet 4 of the SE Plat)
- Other gardening-related items, such as weed barrier fabric, burlap, shade cloth, garden chemicals, animal repellents and pest controls, bird/deer netting, plant markers, grow lights, mosquito magnets, ant-transpirants, leaf shiners, grafting wax, beneficial insects, tomato cages, plant stakes/supports, plant trays, plant sconces, hangers, brackets, and garden aides such as rain gauges, pH testers, moisture/light meters, core samplers, thermometers