



# FAIRFAX COUNTY

**APPLICATION ACCEPTED:** February 9, 2005  
**PLANNING COMMISSION:** October 26, 2005  
**BOARD OF SUPERVISORS:** not scheduled

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V I R G I N I A

**October 12, 2005**

**STAFF REPORT**

**APPLICATION SE 2005-PR-006**

**PROVIDENCE DISTRICT**

**APPLICANT:** Robert C. Cole and Mary Alice Cole

**ZONING:** R-1, HC

**PARCEL:** 40-3 ((1)) 99

**ACREAGE:** 2.2 acres

**FAR:** 0.04

**PLAN MAP:** Residential; 12-16 du/ac & 1-2 du/ac

**SE CATEGORY:** Category 5, Use 19: Plant Nursery

**PROPOSAL:** Special Exception for an existing plant nursery with ancillary retail sales

**STAFF RECOMMENDATION:**

Staff recommends that SE 2005-PR-006 be approved subject to the proposed development conditions in Appendix 1

Staff recommends that the transitional screening and barrier requirements be modified along the western, southern and portions of the eastern property lines and waived on the northern boundary.

Staff recommends that Additional Standard #4 for Plant Nurseries [Par. 4 of Sect. 9-517] be modified to establish the use on less than 5 acres.

Staff recommends that Additional Standard #5 for Plant Nurseries [Par. 5 of Sect. 9-517] be modified to allow buildings to be located closer than 100 feet to a property line abutting a residential district.\

Staff recommends that Additional Standard #9 for Plant Nurseries [Par. 9 of Sect. 9-517] be modified to allow parking as shown on the SE Plat and as conditioned.

Staff recommends approval of a modification of the trail requirement, in favor of that shown on the SE Plat.

Staff recommends approval of a waiver of dedication and frontage improvements on Chestnut Street on Parcel 99 only, in favor of that shown on the SE Plat.

It should be noted that it is not the intent of staff to recommend that the Board, in adopting any conditions, relieve the applicant/owner from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

It should be further noted that the content of this report reflects the analysis and recommendations of staff; it does not reflect the position of the Board of Supervisors.

For information, contact the Zoning Evaluation Division, Department of Planning and Zoning, 12055 Government Center Parkway, Suite 801, Fairfax, Virginia 22035-5505, (703) 324-1290 TTY 711 (Virginia Relay Center).



**A GLOSSARY OF TERMS FREQUENTLY  
USED IN STAFF REPORTS WILL BE  
FOUND AT THE BACK OF THIS REPORT**

**DESCRIPTION OF THE APPLICATION**

**Proposal:** Plant Nursery (Sam's Farm) with ancillary sales of nursery related items

It should be noted that the site under review, Sam's Farm, encompasses both the residentially zoned Parcel 99 and the adjacent commercially zoned property, Tax Map 40-3 ((1)) 102. Because a plant nursery is a by-right use in the C-8 District, the Special Exception cannot legally cover the commercial site; however the property functions as a whole and therefore staff's evaluation is of the entire site, with note taken where appropriate of the differences in zoning and legal status.

**Acreage:** 2.2 acres

**FAR:** 0.04

**Hours:** 8:00 am to 7:00 pm, (seven days a week)

**Employees:** 4 employees (typical)

**Waivers and Modifications Requested:**

- Modification of the transitional screening and barrier requirements along the western, southern and portions of the eastern property lines and waiver of the transitional screening requirements on the northern boundary
- Waiver of the barrier requirement
- Modification of Additional Standards for Plant Nurseries #4, lot area, to allow the establishment of the use on less than 5 acres
- Modification of Additional Standards for Plant Nurseries #5 to allow buildings to be located closer than 100 feet from a property line abutting a residential district.
- Modification of Additional Standards for Plant Nurseries #9, parking, in favor of that shown on the SE Plat
- Modification of the trail requirement, in favor of that shown on the SE Plat.
- Waiver of dedication and frontage improvements on Chestnut Street, in favor of that shown on the SE Plat. *(supported by staff on the Parcel 99 frontage only)*

## LOCATION AND CHARACTER

### Site Description:

The 2.2 acre application site is located on the southwest side of Leesburg Pike (Rt. 7), just east of its intersection with Interstate 66 and just west of the City of Falls Church. The parcel, along with the adjacent commercially zoned Parcel 102 (zoned C-8 and HC), is currently developed with a plant nursery known as Sam's Farm. Existing access to the site is provided via one entrance on Rt. 7 and two entrances on Chestnut Street; all three of these entrances are located on Parcel 102.

The existing buildings are generally located in the northern portion of the site, closer to Rt. 7. The buildings on Parcel 99 (subject to the SE) include two storage buildings, a greenhouse, and a former residence currently in use as office and retail sales. Additionally, a greenhouse with an attached shadehouse is located on Parcel 102. The southwestern end of the site is characterized by mature forest with little to no understory. In addition to the access, all of the parking is located on Parcel 102.

No changes are proposed to the existing structures or other elements of this site with this application, except that the access point onto Rt. 7 is proposed to be closed.

### Surrounding Area Description:

	Use	Zoning	Plan
<b>Northeast</b>	George Mason High School	R-1, HC	Public Facilities, Governmental, and Institutional
<b>Southeast</b>	Vacant Parking / Office Single Family Detached Residential	C-8, HC R-4, HC	Office Residential, 8-12 du/ac
<b>Southwest</b>	Single Family Detached Residential	R-1, HC	Residential, 1-2 du/ac
<b>Northwest</b>	Single Family Detached Residential	R-1, HC	Residential, 12-16 du/ac

## BACKGROUND

### Site History:

The applicant maintains that the site was originally used for a plant nursery beginning in the early 1960s. Its existence and operation prior to the 1978 Zoning Ordinance would confer upon it the status of a legally non-conforming use, were it to continue to be operated in accordance with the definition of a plant nursery in effect at that time.

On October 25, 2001, a Notice of Violation was issued to Robert C. Cole and Mary Alice Cole, for operating a retail sales establishment on the site, a use which is not allowed in the R-1 District. At the same time, a Notice of Violation was issued on adjacent Parcel 102 for operating a plant nursery without site plan approval or issuance of a Non-residential Use Permit (Non-RUP). The applicant filed appeals of both notices, stating that the use was a plant nursery that had been in operation since prior to the 1978 Ordinance, and therefore that the use on both parcels were legally non-conforming. Staff took the position, however, that the plant nursery had not been legally established through site plan approval and issuance of a Non-RUP. Further, aerial photographs from 1978 showed only two dwellings on the property.

On April 23, 2002, the Board of Zoning Appeals reversed the Zoning Administrator's determination (the Notice of Violation) for Parcel 99, but stated that man-made objects could not be sold on Parcel 99. The BZA also reversed the Zoning Administrator's determination for Parcel 102 in its entirety.

To allow man-made objects to be sold legally on Parcel 99, the applicant has filed this Special Exception to establish a plant nursery on the site.

#### **COMPREHENSIVE PLAN PROVISIONS** (See Appendix 4)

<b>Plan Area</b>	Area II
<b>Planning District:</b>	McLean; West Falls Church Transit Station Area Land Unit H
<b>Plan Map:</b>	Residential, 12-16 du/ac & 1-2 du/ac
<b>Plan Text:</b>	

The Fairfax County Comprehensive Plan, Area II, McLean Planning District as amended through December 5, 2004, West Falls Church Transit Station Area, Land Unit H, page 85, states:

“Recommendations Outside of the Transit Development Area

Surrey Lodge and Areas North of Shreve Road, West of Route 7, and South of Dale Drive (Land Unit H)

The area contains mostly single-family detached homes, strip retail use including fast food and nursery operations, office use and underutilized parcels. The area has good visibility and access from Route 7. Since proximity to the Metro station is good, that portion of the area west of Chestnut Street is planned for residential use at 12-16 dwelling units per acre. The parcels along Route 7 to the east and the parcel immediately west of Chestnut Street, Tax Map 40-3((1))102, are planned for commercial uses, including office and retail uses as shown on the Plan Map, and should provide screening next to residential areas.”

## ANALYSIS

### Special Exception (SE) Plat (Copy at front of staff report)

**Title of SE Plat:** Cole Property  
**Prepared By:** Walter L. Phillips, Inc.  
**Original and Revision Dates:** June 9, 2004, as revised through September 16, 2005

### Description of Plat

The SE Plat consists of one sheet, showing the following information:

**Commercial Portion of Site / SE Area:** As noted in the following description, the SE Plat shows both the residentially zoned portion of the site (subject to the Special Exception) and the commercially zoned portion of the site. This analysis discusses the site as a whole; location in the respective zoning districts is noted.

**Structures:** The SE Plat shows the following existing structures, all to be retained with this application:

#### *Parcel 99 (SE Area)*

- Main retail building ( former residential structure), located at the eastern end of the site adjacent to Rt. 7; 2,400 square feet in area, two stories, 25 feet in height, with porch and patio on the front, deck on the rear. Used for retail sales, accessory retail sales (including seasonal and dried flower sales), and office
- Wood garage / storage shed, located behind the main building, adjacent to the parking area (Parcel 102); 400 square feet in area, 12 feet in height, with an at-grade patio to the rear. Used for storage.
- Storage building, located along the northern property line, 1,400 square feet in area, two stories, 20 feet in height. Used for storage.
- Greenhouse, located in the middle of the site (west of Parcel 102); 1,500 square feet in area, 15 feet in height. Used for plant storage, not display

#### *Parcel 102 (Not in SE Area)*

- Wood shade house, located on the northern edge of the site, adjacent to Rt. 7. No height or area provided, used for retail sales (plants and accessory retail sales)
- Greenhouse, located directly to the rear of the shade house (attached). No height or area provided. Use: retail sales (plants and accessory retail sales)
- *Note:* No use restrictions would be imposed by this SE on the uses or items for sale in Parcel 102.

**Uses:**

The area in approximately the eastern third of the SE Area, in and around the main building and adjacent to Route 7, is shown to be used for plant display and accessory retail display and sales (accessory retail includes such items as garden accents, statuary, and water garden items, as defined by the development conditions and listed in Exhibit 1 of the conditions). Additional restriction is placed on the area between the main building and Route 7, stating that this area shall be used for sale of plants and display only of "man made" retail items.

A graphic showing the floor plate of the main building indicates that, in the months of February through October, no more than 20% of the floor area would be utilized for seasonal sales or artificial/dried flowers, and that in the months of November through January, this area would be limited to 50%.

The area behind the display and sales area is shown as a "growing / storage area." Although the public is allowed in this area, no accessory retail sales will be allowed (plants could be sold from this area).

A small area below the "growing/storage area" and wrapping around the rear of Parcel 102 is labeled as "Plants, pots and accessory retail sales area."

The rear of the site is labeled as "growing area /arboretum." This area may contain display gardens, but no storage of stock (plants or man made items) or sales display shall occur in this area.

No landscape contracting is proposed on the site; nor are any festivals proposed.

**Transitional Screening and Barriers:**

Transitional Screening 3 (50 feet wide) and Barrier E, F or G (six-foot high barrier) are required between single-family residential uses/zoning and plant nurseries (to the northeast, northwest, and southeast of the SE property).

No transitional screening or barrier is provided along the northeast, the Route 7 frontage. A 6 foot wide screening area is shown to be installed along a portion of the northwestern boundary (extending approximately 280 feet back from Route 7). An existing 6 foot tall wood fence is shown along a portion of the northwestern boundary (beginning approximately 170 feet back from Route 7, and continuing for approximately 250 feet, along the boundary of the only adjacent parcel on the northwestern boundary not owned by the applicants). No transitional screening or barrier is provided along the common boundary with Parcel 102, though chain link fencing and a narrow planting area is provided along the Chestnut Street frontage of Parcel 102. No barrier is shown around the rear of the site. No transitional screening is shown in this area, either, although the area is characterized by mature trees with little to no understory, and the SE

Plat shows that this rear portion of the site will be maintained in a park-like manner, with no storage or sales located in this area.

**Access and Parking:** As noted earlier, all of the access to and parking for the plant nursery is on Parcel 102, and not within the SE Area. This issue will be discussed in the later analyses. Existing access includes two entrances on Chestnut Street and one on Rt. 7. The SE Plat shows that the entrance onto Rt. 7 will be closed.

The existing parking area is not paved, but is gravel. The applicant intends to request a waiver of the dustless surface requirement for this parking lot at the time of site plan approval, should such be required. The SE Plat shows that (approximately) 30 un-stripped parking spaces are located on Parcel 102. Parking tabulations, according to the requirements of Sect. 9-517, indicate a requirement of 59 spaces.

**Stormwater Management:** No stormwater management facilities currently exist on the site, as development of the site pre-dates such requirements. No new impervious surface is proposed by the applicant and therefore no new SWM facilities are shown on the SE Plat. Should SWM controls be required at the time of site plan approval, such facilities would need to be placed on the commercially zoned portion of the nursery or an SEA may be required.

#### **Land Use Analysis (See Appendix 4)**

This site is split-planned for residential use at 12-16 du./ac (adjacent to Rt. 7) and 1-2 du./ac (rear of the site). Additional language for the Land Unit indicates that the adjacent commercial areas should provide screening next to residential areas. At staff's request, the applicant committed to plant a small screening area along the northern boundary, in addition to maintaining the wooden fence adjacent to the one residential parcel to the north that is not owned by the applicants. As stated, by determination of the BZA, this is a legal use as existing today with the exception of the location of the storage and sale of man-made objects (on Parcel 99). The applicant is not proposing to increase the buildings or parking over what is existing today.

As noted, additional screening was requested along the western property boundary (adjacent to existing residences). The applicant has revised the SE Plat to show a 6 foot wide landscaping strip along the western boundary.

Additionally, staff was concerned about the proliferation of accessory retail sales in front of the main building on Parcel 99, directly adjacent to Route 7. The applicant has revised the Plat to label that area to be used for sales of plants and "display only" of accessory retail items, but staff is still concerned that large numbers of man-made items may be "displayed" for sale in this front yard. The additional standards for plant nurseries require that no sales or storage of accessory retail items occur in any minimum required front yard; Staff has therefore proposed a development condition requiring such, which will eliminate

the area of concern as a sales/storage area. Display gardens and such could still be allowed in this area.

Because all parking for and access to this Special Exception use is provided on the associated commercial parcel, which is not controlled by the SE application, staff has proposed a development condition that would require the applicant to file a single site plan for the entire site (both Parcels 99 and 102). This would allow the requested SE to control its own parking and access.

### **Transportation Analysis** (See Appendix 6)

In response to staff's request, the applicant has revised the SE Plat to show the existing entrance onto Rt. 7 to be closed. The following issues have also been raised:

#### *Chestnut Street:*

Chestnut Street adjacent to the parking area is very narrow with no walking areas for pedestrians. The applicant should commit to dedicate right-of-way to 25 feet from center line (as opposed to the existing 20 feet) of Chestnut Street, and to provide frontage improvements to include curb gutter and sidewalk with the face of curb at 14 feet from centerline along the Parcel 102 frontage. The two entrances on Chestnut Street should be improved to current PFM design standards. Staff has proposed development conditions requiring these items. Staff does not object to the waiver of frontage improvements on Parcel 99, as that area is beyond the entrances to the site.

#### *Comprehensive Plan Street Network:*

The adopted Comprehensive Plan calls for a local collector street to be constructed parallel to Leesburg Pike, generally through the southern third of the site. When constructed, this public street will consolidate parcel access along Leesburg Pike in lieu of a service drive. The applicant should be aware that dedication and construction of this roadway through the site will be a concern at such time as the site is redeveloped, or should the current use be expanded.

### **Environmental Analysis** (See Appendix 5)

Proposed development conditions control the storage and application of fertilizers and pesticides. With the imposition of staff's proposed development conditions, this application raises no environmental issues.

**ZONING ORDINANCE PROVISIONS** (See Appendix 7)**Bulk Regulations and Other Standards**

<b>Bulk Standards (R-1)</b>		
<b>Standard</b>	<b>Required</b>	<b>Provided</b>
Lot Size	36,000 square feet	2.2 acres
Lot Width	150 feet	220 feet
Building Height	60 feet	25 feet
Front Yard	50° ABP, not less than 40 feet (40 feet)	45 feet
Side Yard	45° ABP, not less than 20 feet (20 feet)	20 feet
Rear Yard	45° ABP, not less than 25 feet (25 feet)	240 feet
FAR	0.15	0.04
Parking Spaces (per 9-517)	59 spaces	30 spaces <sup>1</sup>
<b>Transitional Screening &amp; Barrier</b>		
North (R-1)	50 ft	none (waiver requested)
West (R-1)	50 ft	6 feet (modification requested)
South (R-1)	50 ft	Modification to use existing vegetation
West (C-8) West (R-4)	none 50 ft	None Modification to use existing vegetation

<sup>1</sup> The applicant has requested a modification of Additional Standard #9 (Parking) of 9-517.

**WAIVERS AND MODIFICATIONS**

- *Modification of the transitional screening and barrier requirements along the western, southern and portions of the eastern property lines and waiver of the transitional screening requirements on the northern boundary*
- *Waiver of the barrier requirement*
- *Modification of the trail requirement, in favor of that shown on the SE Plat.*
- *Waiver of dedication and frontage improvements on Chestnut Street, in favor of that shown on the SE Plat. (supported by staff on the Parcel 99 frontage only)*

As stated, by determination of the BZA, this is a legal use as existing today with the exception of the location of the storage and sale of man-made objects (on Parcel 99). The applicant is not proposing to increase the buildings or parking over what is existing

today. Mature tree cover, albeit with little understory vegetation, is located in the rear of the site and all existing vegetation on the site is proposed to be retained.

The applicant has proposed to add a narrow (six feet wide) landscape strip along the western property boundary in an area where no barrier or screening currently exists. The remainder of the SE area, where adjacent to residential, is not proposed for any intensification, with the exception of the northern boundary. As the northern boundary is the Route 7 frontage and across from a high school, additional screening in this area would not serve to buffer residents. Staff has further limited the location of the accessory retail sales through what is shown on the Plat and conditions (specifically, prohibiting storage and sales in any minimum required front yard). With these conditions and the additional screening, staff believes this use will be very close to what is currently allowed by-right. The imposition of the Plat and conditions will further limit the uses on the site. Because this use could continue to operate under the existing conditions, with only minimal modifications (the relocation of the man-made items), staff believes that the requested modifications to respect existing conditions are appropriate, with the proposed limitations found in the Plat and the conditions.

## **OTHER ZONING ORDINANCE REQUIREMENTS**

### **Sect. 9-006 General (Special Exception) Standards**

In addition to the specific standards set forth hereinafter with regard to particular special exception uses, all such uses shall satisfy the following general standards:

1. *The proposed use at the specified location shall be in harmony with the adopted comprehensive plan.*

With the implementation of the proposed development conditions, staff believes that the proposed plant nursery will be in harmony with the adopted comprehensive plan.

2. *The proposed use shall be in harmony with the general purpose and intent of the applicable zoning district regulations.*

With the proposed development conditions, the proposed use will be in harmony with the general purpose and intent of the applicable zoning district regulations, with the exception of transitional screening and barriers, for which the applicant is seeking modifications.

3. *The proposed use shall be such that it will be harmonious with and will not adversely affect the use or development of neighboring properties in accordance with the applicable zoning district regulations and the adopted comprehensive plan. The location, size and height of buildings, structures, walls and fences, and the nature and extent of screening, buffering and landscaping shall be such that the use will not hinder or discourage the*

*appropriate development and use of adjacent or nearby land and/or buildings or impair the value thereof.*

Staff has proposed development conditions which improve the existing conditions (some additional screening, road improvements, closing access on Rt. 7). The imposition of the SE will serve to limit the use to what is existing today as shown on the SE Plat.

4. *The proposed use shall be such that pedestrian and vehicular traffic associated with such use will not be hazardous or conflict with the existing and anticipated traffic in the neighborhood.*

The existing plant nursery is served by entrances directly onto Route 7 and Chestnut Street. At staff's request, the applicant has revised the SE Plat to close the entrance onto Rt. 7. Additionally, staff has proposed conditions requiring significant off-site improvements to Chestnut Street. With the imposition of these conditions, and given that no additional development beyond what is there today is proposed (or would be allowed under the SE) staff is of the opinion that the traffic situation in the area will be improved.

5. *In addition to the standards which may be set forth in this Article for a particular category or use, the Board shall require landscaping and screening in accordance with the provisions of Article 13.*

As noted, staff supports the requested modifications of transitional screening and barrier, with the imposition of the proposed development conditions.

6. *Open space shall be provided in an amount equivalent to that specified for the zoning district in which the proposed use is located.*

The R-1 zoning district does not have an open space requirement for this use. The applicant will be protecting all of the mature trees on the site, and a majority of the site is pervious surface.

7. *Adequate utility, drainage, parking, loading and other necessary facilities to serve the proposed use shall be provided. Parking and loading requirements shall be in accordance with the provisions of Article 11.*

Utility and drainage requirements will be reviewed at the time of site plan, required by staff's proposed conditions. At that time, the applicant will also be required to meet the parking and loading requirements, as defined in the proposed development conditions, and as set forth in Article 11. The requested reduction in parking (from the requirements set forth in the Additional Standards) is discussed later in this report. As noted, the parking for SE Use is located on Parcel 102, technically "off-site" of the SE. Staff has therefore proposed a condition that a single site plan for both parcels be filed. Without imposition of this condition, no site plan would be required as no

physical changes are being proposed to the site; without a site plan on the entire site, parking and access are not provided by the SE property.

8. *Signs shall be regulated by the provisions of Article 12; however, the Board may impose more strict requirements for a given use than those set forth in this Ordinance.*

The applicant has not requested signage in excess of that allowed by Article 12.

### **Sect. 9-503 Standards for all Category 5 Uses**

In addition to the general standards set forth in Sect. 006 above, all Category 5 special exception uses shall satisfy the following standards:

1. *Except as qualified in the following Sections, all uses shall comply with the lot size and bulk regulations of the zoning district in which located.*

The lot size and bulk regulations of the R-1 District have been satisfied.

2. *All uses shall comply with the performance standards specified for the zoning district in which located.*

Staff proposes a development condition which would require the use to comply with the performance standards specified for the R-1 District.

3. *Before establishment, all uses, including modifications or alterations to existing uses, shall be subject to the provisions of Article 17, Site Plans.*

Staff proposes a standard development condition, which specifies that the special exception use is subject to the provisions of Article 17, Site Plans, as may be determined by the Director, DPWES. Additionally, staff has proposed a condition requiring the applicant file a site plan for both the subject parcel and adjacent Parcel 102, which is part of the use.

### **Sect. 9-517 Additional Standards for Plant Nurseries**

1. *As stated in the definition, a plant nursery shall be an establishment designed 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. A plant nursery shall be compatible with the adjacent residential or industrial area and shall not include the sale of a wide range of products normally associated with a hardware, building supply or craft store. However, if deemed appropriate, the Board may allow the retail sales of related items as an accessory use, in accordance with the following:*

- A. *The type of accessory retail items to be sold shall be reviewed and approved by the Board and may include landscaping materials such as railroad ties, landscaping timbers, wall stones and pavers; pots/planters; garden accents such as statuary, birdhouses, birdfeeders, birdbaths, decorative plan hangers, arbors and trellises; water gardens, water plants, fish and other water garden animals; watering cans and sprinklers; gardening gloves, aprons and hats; gardening and horticulture books and publications; wheelbarrows; garden carts; firewood; non-powered hand tools commonly associated with gardening and landscaping; hoses and hose reels; and other similar items. Additionally, artificial/dried plants and flowers and seasonal/holiday decorations may be sold, provided that, during the months of February through October, the gross floor area devoted to the sale of such items shall not exceed twenty (20) percent, and during the months of November through January, the gross floor area devoted to the sale of such items shall not exceed fifty (50) percent, of the total gross floor area designated on the special exception plat for the sale of all retail items. However, 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; hot tubs, spas or pools; barbecue grills; propane fuel; foodstuffs (except in conjunction with an approved special event or festival); or clothing.*
- B. *The area and extent of all indoor and outdoor areas used for accessory retail sales shall be designated on the special exception plat and shall be clearly subordinate to the plant nursery use. The Board may condition the location, size and extent of any areas or structures used for the retail sale of accessory items, to include a requirement for such sales areas to be within a fully enclosed structure. For nurseries which sell artificial/dried plants and flowers and seasonal/holiday decorations in accordance with Par. 1A above, the floor area devoted to such sales shall be limited to one (1) fully enclosed structure. The location of the areas within such enclosed structure devoted to the sale of such retail items shall be designated by the applicant on the special exception plat. Through such designation, the applicant shall demonstrate compliance with the gross floor area limitations for such sales. Any change in the specific location of such retail items within the approved designated structure may be administratively approved in accordance with Par. 4 of Sect. 004 above.*

The applicant has provided a requested list of ancillary retail items to be permitted to be sold. This list can be found as Exhibit 1 to the development conditions.

Standard 1A also allows the sale of artificial and dried plants and flowers and seasonal/holiday decorations, provided that the floor area of such sales does not exceed 50% in the winter months and 20% the rest of the year. The applicant has provided illustrations on the SE Plat showing areas within the main building for the sale of artificial and dried flowers and seasonal holiday items. These illustrations show that artificial and dried flowers and seasonal holiday items will be confined to the main retail building. In addition, the illustration shows that year round, these items will not occupy more than 20% of the total sales area, and in the winter months, they will occupy not more

than 50% of the total sales area, meeting the percentage limitations of the Ordinance. It should be noted that no restrictions exist on any retail sales on the companion parcel, 102, which is zoned C-8. With the illustrations in the SE Plat and the proposed development conditions, including the list of accessory retail uses, as revised by staff, Standard 1A is satisfied.

With regard to Standard 1B, the applicant has shown specific areas on the SE Plat for the sale of accessory retail items. Standard 1B also requires that the sale of artificial and dried plants and flowers and seasonal/holiday decorations be limited to one enclosed structure, which, in this case, is the main building as shown on the SE Plat. Staff believes that Standard 1B has been satisfied.

2. *Landscape contracting services utilizing nursery stock grown on the property and those accessory retail items permitted to be sold by the Board may be allowed as an accessory use to the plant nursery when clearly subordinate to the plant nursery use. Structures, equipment, vehicle storage and other areas dedicated to the landscape contracting services shall be delineated on the special exception plat. In residential districts, the area and amount of such structures, equipment, vehicle storage and other areas dedicated to landscaping services shall be consistent with the residential character of the area and shall not adversely impact neighboring properties.*

No landscape services are proposed; a development conditions prohibits landscaping services.

3. *The Board may approve the holding of special events, festivals or classes as an accessory use to a plant nursery. The Board may impose conditions on such activities, to include, but not be limited to, the type of allowable activities, the number of events, festivals or classes, the time of year for such events, festivals or classes, the area of the site devoted to such activities, the use of lighting and/or public address systems, and to ensure that adequate parking is available to accommodate special event, festival or class participants.*

No festivals or classes have been proposed or would be allowed; a development condition prohibits festivals or classes.

4. *In the R-A through R-4 Districts, no plant nursery shall be established except on a lot which has a minimum lot area of five (5) acres and has frontage on an arterial street as defined in the adopted comprehensive plan.*

The proposed SE Area is 2.2 acres, but as noted, most of the use has been deemed to be an established use, therefore a modification of this standard is appropriate; Rt. 7 is an arterial street.

5. *In the R-A through R-4 Districts, no building or structure used for or in connection with such use shall be located closer than 100 feet to any lot line which abuts an R district.*

The applicant has requested a waiver of this standard. Existing buildings are located as close as 20 feet to the property line. Staff believes a waiver is

appropriate because no new buildings are proposed which would be in violation of this standard.

6. *In the R-A through R-4 Districts, no off-street parking or loading space shall be located closer than fifty (50) feet to any lot line which abuts an R district.*

The SE Plat shows no parking within the actual SE area, therefore this standard does not apply.

7. *Plant nurseries shall be subject to the regulations of the zoning district in which located. In addition, in the R-A through R-4 Districts, the Board shall review the amount of plant nursery lot devoted to accessory uses such as retail sales of items and landscape contracting services as set forth in Paragraphs 1A and 2 above, and shall determine that such accessory uses are clearly subordinate in purpose, area and extent to the principal use of growing and/or maintaining nursery stock and the retail sales of nursery stock and items designed solely to maintain and preserve the life and health of such stock. The Board may impose such conditions and restrictions as it may deem necessary to assure that the use will be compatible with the adjacent residential area. In particular, the Board may impose conditions on the following:*

- A. *Location, size, height and use of structures*

Staff recommends that standard development conditions restricting the location, size, height and use of the structures to that shown on the SE Plat be imposed.

- B. *Location and number of commercial vehicles.*

No parking is shown within the SE Area; no landscape contracting is proposed or allowed. Parking will be provided on adjacent Parcel 102 under a single site plan (with staff's proposed development conditions).

- C. *Lighting and hours of operation*

Staff recommends that development conditions which restrict lighting (to comply with Article 14, reduce lighting after hours, and limit decorative lighting to the holidays) and limit the hours of operation (8 am to 7 pm), be imposed.

- D. *Location and type of nursery stock, materials and other items stored, displayed or offered for sale outside, provided, however, that no such storage, parking of equipment or vehicles used for landscape contracting services, display, or sales area shall be located in any minimum required yard.*

No storage or parking of equipment is located on site. The location of nursery stock and storage of other materials is shown on the SE Plat. Staff has proposed a development condition prohibiting the sales or storage of any accessory retail items for sale in the minimum required front yard.

8. *In the R-A through R-4 Districts, notwithstanding the provisions of Sect. 9-003, the Board may vary, modify or waive the provisions of Paragraphs 4, 5 and 6 above and the provisions of Article 13 for a plant nursery which is accessory to a single family detached dwelling, provided the dwelling is the domicile of the nursery operator.*

This standard does not apply.

9. *The off-street parking requirement shall be based on one (1) space per 200 square feet of net floor area for the first 1000 square feet, plus six (6) spaces per each additional 1000 square feet; plus one (1) space per 500 square feet of outdoor sales/display area to include greenhouses used for the sales/display of plant materials; plus one (1) space per employee and company/commercial vehicle and sufficient space for the parking of any related equipment for landscape contracting services as an accessory component. However, the Board, in its review of a plant nursery, may modify this parking requirement, based on the specific characteristics of the plant nursery use, such as the size and scale and/or the types of accessory uses, when the applicant has demonstrated that fewer parking spaces than those required above will adequately serve the plant nursery and all accessory uses. All off-street parking areas, including aisles and driveways shall be constructed and maintained with a dustless surface in accordance with the provisions of the Public Facilities Manual, unless a modification or waiver of the dustless surface requirement is approved by the Director.*

The SE Plat indicates that, based on this Paragraph, the applicant would be required to provide 59 parking spaces. The SE Plat shows 30 spaces, located on Parcel 102 (not within the SE Area). In response, the applicant has justified the lesser number of spaces by citing the number of actual items (plants) that can be stored in the greenhouses, and open sales areas. The applicant is not proposing to add additional building or parking areas to the site. Staff has reviewed the applicant's information, and supports the requested modification of the additional standard, but only with the imposition of the proposed development condition that would require a single site plan be filed on the entire nursery, both parcels 99 and 102.

### **Summary of Zoning Ordinance Provisions**

With the implementation of the proposed development conditions, staff believes that all applicable standards have been satisfied.

## **CONCLUSIONS AND RECOMMENDATIONS**

### **Staff Conclusions**

As stated, by determination of the BZA, the plant nursery proposed is a legal use as existing today, with the exception of the location of the storage and sale of man-made objects (on Parcel 99). The applicant is not proposing to increase the buildings or parking over what is existing today. All existing vegetation on the site is proposed to be retained. The applicant has proposed some improvements to the site – including closing the entrance onto Rt. 7 and providing a small area

of additional screening along the western border. Staff has proposed additional conditions relating to improvements to Chestnut Street and limitations on sales areas along Route 7 as well. Finally, the limitations of the SE will be beneficial to surrounding residents by providing a unified control mechanism on the use. Therefore, staff concludes that the subject application is in harmony with the Comprehensive Plan and in conformance with the applicable Zoning Ordinance provisions with the implementation of the Proposed Development Conditions contained in Appendix 1 of the Staff Report.

### **Staff Recommendations**

Staff recommends that SE 2005-PR-006 be approved subject to the proposed development conditions in Appendix 1

Staff recommends that the transitional screening and barrier requirements be modified along the western, southern and portions of the eastern property lines and waived on the northern boundary.

Staff recommends that Additional Standard #4 for Plant Nurseries [Par. 4 of Sect. 9-517] be modified to establish the use on less than 5 acres.

Staff recommends that Additional Standard #5 for Plant Nurseries [Par. 5 of Sect. 9-517] be modified to allow buildings to be located closer than 100 feet to a property line abutting a residential district.

Staff recommends that Additional Standard #9 for Plant Nurseries [Par. 9 of Sect. 9-517] be modified to allow parking as shown on the SE Plat and as conditioned.

Staff recommends approval of a modification of the trail requirement, in favor of that shown on the SE Plat.

Staff recommends approval of a waiver of dedication and frontage improvements on Chestnut Street on Parcel 99 only, in favor of that shown on the SE Plat.

It should be noted that it is not the intent of staff to recommend that the Board, in adopting any conditions, relieve the applicant/owner from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

It should be further noted that the content of this report reflects the analysis and recommendations of staff; it does not reflect the position of the Planning Commission.

## **APPENDICES**

1. Proposed Development Conditions
2. Affidavit
3. Statement of Justification
4. Plan Citations and Land Use Analysis
5. Environmental Analysis
6. Transportation Analysis
7. Applicable Zoning Ordinance Provisions Checklist
8. Glossary of Terms

**DEVELOPMENT CONDITIONS****SE 2005-PR-006****October 12, 2005**

If it is the intent of the Board of Supervisors to approve SE 2005-PR-006 located at 7129 Leesburg Pike, Tax Map 40-3 ((1)) 99, to allow a plant nursery, pursuant to Sect. 3-104 of the Fairfax County Zoning Ordinance, the staff recommends that the Board condition the approval by requiring conformance with the following development conditions:

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 "Cole Property" prepared by Walter L. Phillips, Inc., consisting of one sheet dated June 9, 2004, as revised through September 16, 2005, 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.
4. Non-residential Use Permits (Non-RUP) shall be obtained for all buildings on Parcel 99.
5. Prior to the issuance of any Non-RUP, a single site plan shall be filed for the plant nursery on both the subject property (Tax Map Parcel 40-3 ((1)) 99) and on the adjacent parcel (Tax Map 40-3 ((1)) 102).

**Transportation and Parking:**

6. Prior to the issuance of the first Non-RUP for the site, the existing entrance onto Rt. 7 on Parcel 102 shall be closed; no access shall be provided to the site from Rt. 7.
7. Prior to site plan approval or upon demand (whichever occurs first), right-of-way measuring 25 feet from centerline of Chestnut Street shall be dedicated to the Board of Supervisors in fee simple.
8. Frontage improvements including curb, gutter and sidewalk shall be constructed along the Chestnut Street frontage of Parcel 102 to 14 feet from centerline.

9. The two entrances to Chestnut Street on Parcel 102 shall be constructed in accordance with PFM standards, as approved by DPWES.
10. Parking shall be provided as shown on the SE Plat. Should a waiver of dustless surface requirements not be approved at site plan, the parking area shall be paved.

**Environment:**

11. (a) All new and replacement light fixtures shall comply with the provisions of Part 9 of Article 14 of the Zoning Ordinance, which shall not preclude replacement bulbs in existing fixtures. There shall be no up-lighting used. Lighting for the site shall be limited after hours to levels necessary for safety and security on the site.  
  
(b) Strings of lights may be used to illuminate that portion of the site designated for seasonal festivities (sales) twice per year: once around Halloween for the sale of pumpkins and once around Christmas for the sale of Christmas trees and wreaths. Use of these lights shall not exceed two months combined. These lights shall be turned off no later than one-half (1/2) hour after closing (by 7:30 pm).
12. No loudspeakers shall be used on the site.
13. The area shown on the SE Plat along the northern boundary as "proposed landscaped area" shall be planted with the intent of screening the adjacent residential parcels, and all screening materials shall be installed in such a manner as not to disturb or damage those existing trees located on the periphery of the property, as determined in coordination with the Urban Forest Management.
14. Stormwater Management/Best Management Practices (SWM/BMPs) shall be provided as determined by DPWES at the time of site plan approval. If SWM/BMPs required by DPWES are not in substantial conformance with the SE Plat, a Special Exception Amendment (SEA) may be required.
15. 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 with concrete slab floors, and shall be completely protected from the weather.

**Uses:**

16. 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.

17. Sales of accessory retail items shall be allowed in accordance with Exhibit 1 attached to these conditions, and/or 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).
18. Accessory retail items shall only be sold within the main retail building and those areas so labeled on the SE Plat, except that no sales or storage of such items shall occur in any minimum front yard. Artificial/dried plants and flowers and seasonal/holiday decorations shall only be sold within those areas of the main retail building shown on the SE Plat, subject to the seasonal limitations shown.
19. No landscape contracting operations shall be conducted from the site; no contracting vehicles or equipment shall be stored on-site.
20. No festivals or classes shall be held on the site.
21. The hours of operation shall be limited to 8:00 am to 7:00 pm, seven days a week. In addition, no heavy equipment shall be operated on the site prior to noon on Sunday.

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 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.

List of Accessory Retail Items: SE 2005-PR-006  
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, sod staples, bulk and packaged gravel, sand and stone, landscaping boulders
- Pots/planters such as plant containers, grow pots, hanging baskets, window planters, hayrack and moss planters, coconut liners, plant baskets, saucers, outdoor urns, outdoor vases, barrels for planting , pot feet
- Live topiaries and topiary forms; live bonsai plants and bonsai accessories
- 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, floating gazing globes, garden flags, windsocks, spinners, pedestals, sundials, garden stepping stones, weather vanes, garden plaques, garden benches, outdoor fountains; weather vanes; outdoor wind chimes and garden bells; outdoor suncatchers; outdoor thermometers, cold frames; outdoor plant hooks, hangers, and racks
- Plant stakes and supports; tree stakes; plant markers; plant wire; twist tie and twine; burlap; frost blankets; landscape and weed blocker fabric
- Water gardens and accessories 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, instructional gardening videos and DVDs
- 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 and hose accessories, hose reels, hose nozzles, hose guides and fittings, dripper hoses; watering implements including watering cans, bottles, and misters; automatic watering systems and devices including timers
- Artificial/dried plants and flowers, limited to those areas and percentage of floor area as shown on 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 the SE Plat
- Materials for plant propagation, maintenance and preservation, including bulk and packaged soils, fertilizers, soil additives, pesticides, fungicides, and herbicides

- 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, wilt proof, 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, seed germination trays; rooting hormone; grow light kits and supplies, plant chemicals and soil additives including soil moist and dry water