

DEVELOPMENT CONDITIONS

SE 2003-SP-035

May 8, 2006

If it is the intent of the Board of Supervisors to approve SE 2003-SP-035 located at 9401 Burke Road, Tax Map 78-4 ((1)) 17A, 17B and 17C, for a plant nursery and uses in a floodplain, pursuant to Sect. 3-104, 3-204 and 2-904 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 (Sheets 1-3) "Burke Nursery" and (Sheets 4-6) "Conceptual BMP/RPA Restoration Plan, Burke Nursery and Garden Center" prepared by (Sheets 1-3) GDN Engineering, Inc., and (Sheets 4-6) Williamsburg Environmental Group, Inc. consisting of six sheets dated (Sheets 1-2) September 26, 2005, (Sheet 3) August 24, 2005, (Sheet 4) April 20, 2005 as revised through December 15, 2005, and (Sheets 5-6) April 20, 2005, as revised through February 1, 2006, 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. A copy of these special exception conditions shall be posted in a conspicuous place, and made available to the public and all departments of the County of Fairfax during hours of operation.

Transportation

5. Irrespective of that shown on the SE Plat, right-of-way measuring to 45 feet from centerline along the Burke Road frontage shall be dedicated to the Board of Supervisors in fee simple (including that area shown on the SE Plat for right-of-way reservation) at the time of the first site plan approval or upon demand, whichever occurs first.
6. That area shown on the SE Plat as "proposed 15' reservation for future right-of-way" may be utilized by the applicant as shown on the SE Plat, subject to a license agreement approved by the County Attorney and executed concurrently with the dedication, until such time as that area is needed for road improvements. At that time, those parking spaces shown along the Burke Road frontage within the "reservation area" shall be relocated, as noted on the SE Plat.

7. Turn lanes, as shown on the detail on Sheet 3 of the SE Plat, shall be provided by striping within the existing pavement of Burke Road, subject to approval by the Virginia Department of Transportation (VDOT). Irrespective of that shown on the diagram, right turns may be allowed at the southern entrance.
8. The southern entrance shall be signed to prohibit left turns into and out of the site.
9. A right turn lane shall be provided into the northern entrance. Should the existing right turn lane be determined to be insufficient by VDOT, it shall be improved to VDOT standards.
10. Parking shall be provided as shown on the SE Plat. A minimum of 102 parking spaces shall be provided to PFM standards.
11. No more than 12 commercial vehicles shall be parked on the site at any one time. All such vehicles shall be parked in that area designated as "landscape contracting vehicle storage area."
12. In lieu of construction of the stream valley trail as shown on the Comprehensive Plan, funds shall be contributed to the Springfield Trails Fund in an amount equivalent to the cost of said trail (as determined by DPWES) prior to site plan approval.

Environment

13. Transitional Screening and Barriers shall be provided as shown on the SE Plat, except that the existing barrier along the southern boundary may remain in the current location (along the property boundary) until such time as the adjoining property owner requests that the barrier be relocated, at which time said barrier shall be relocated to the position shown on the SE Plat, and that area between the barrier and the property line shall be planted as directed by Urban Forest Management (UFM). Existing vegetation located along these boundaries shall be preserved and incorporated into the screening, as approved by UFM.
14. There shall be no additional disturbance, beyond that shown on the SE Plat, within the floodplain and/or the combined RPA/EQC, to include no clearing or grading, and no removal of vegetation except for dead or dying or invasive vegetation as determined by Urban Forest Management, and no structures shall be located in those areas. Those water quality improvements shown in the RPA Exception (#8450-WRPA-001-2, Sheets 4-6 of the SE Plat), shall be implemented prior to the issuance of a Non-RUP, including reforestation, installation of biofilters, and removal / relocation of those structures shown to be removed / relocated on the SE Plat.
15. Restoration of the RPA, as shown in the RPA Exception, shall be coordinated with and approved by Urban Forest Management and DPWES.
16. The gravel path/road shown on the SE Plat for removal shall be removed prior to issuance of a Non-RUP. When the gravel areas shown on the SE Plat and RPA Exception for removal are removed, methods shall be utilized to minimize land and vegetation disturbance as determined by UFM, and the grade of the land shall not be altered unless so directed by DPWES.

17. Those areas of pavement surrounding the “plant display boxes” in the southeastern portion of the site shall be replaced with pervious pavers or other pervious surface such as gravel, prior to issuance of a Non-RUP, in coordination with and as approved by DPWES.
18. Prior to the issuance of a Non-RUP, all junked cars, scrap metal, and any other items not expressly permitted on the site by these conditions shall be removed.
19. Prior to site plan approval, the applicant shall demonstrate compliance with § 404 of the Clean Water Act which is administered by the Corps of Engineers and/or the Virginia Department of Environmental Quality.
20. Any new or replacement lighting shall be in accordance with the provisions of Article 14 of the Zoning Ordinance, which shall not preclude the replacement of bulbs in existing fixtures.
21. No loudspeakers, other than during the Fall Festival as noted below, shall be allowed.
22. No propane sales shall occur on the site; existing propane tanks shall be removed prior to issuance of a Non-RUP.
23. The existing gas tanks and pumps shall be removed, prior to issuance of a Non-RUP.
24. Stormwater Management Best Management Practices (SWM/BMPs) shall be provided as determined by DPWES. Those biofilters and other water quality measures shown in the RPA Exception (Sheets 4-6 of the SE Plat) shall be installed prior to issuance of a Non-RUP.
25. 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.
26. 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 located outside of the floodplain, and shall be placed on concrete slab floors inside storage shed(s) or other buildings, completely protected from the weather.
27. 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 a BMP facility, 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.
28. The proposed development, including fill, shall not increase the water surface elevation above the 100-year flood level upstream and downstream, as calculated in

accordance with the provisions of the Public Facilities Manual, and as approved by DPWES.

29. Adequate floodproofing, as defined in the Public Facilities Manual, shall be provided for all structures other than Buildings 1 and 2 (as identified on the SE Plat). New construction on Buildings 1A and 2A is not exempt from this requirement.
30. When as-built floor elevations are required by federal regulations or the Virginia Uniform Statewide Building Code for any structure, such elevations shall be submitted to the County on a standard Federal Emergency Management Agency (FEMA) Elevation Certificate prior to approval of the final inspection; the Elevation Certificate shall show compliance with the approved special exception. If any building is being floodproofed, then a FEMA Floodproofing Certificate shall be completed in addition to the Elevation Certificate.

Uses

31. 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.
32. 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, to be sold only in those outdoor areas so labeled on the SE Plat and within the main retail building and greenhouse. 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 the fall festival); or clothing (except gardening gloves, aprons, and hats as included in Exhibit 1).
33. No storage of items that are not related to nursery operations, accessory landscape contracting services, or the Fall Festival or are permitted for sale on the site shall be allowed.

Festival / Classes

34. On-site educational classes may be provided, 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 only during the hours of operation, and may be offered on a year-round basis. This shall not prohibit field trip type visits to the Fall Festival.
35. A Fall Festival may be held on the site during the month of October only, subject to the restrictions included in these conditions (including the waiver of dustless surface for overflow parking or provision of off-site parking required below). No other festivals may be held on the site.

36. Set-up for the Fall Festival may be begin no earlier than two week prior to the beginning of the festival (no earlier than September 17th). Tear down shall be complete no later than two weeks following the end of the festival (no later than November 15th).
37. Any waste produced by animals on-site as part of the Fall Festival shall be collected and disposed of off-site or composted in an area located outside of the floodplain/RPA/EQC.
38. The Fall Festival shall not open sooner than 9 am nor close later than 9 pm.
39. (a) On-site parking during the Fall Festival may only occur in the permanent parking areas shown on the SE Plat, or in those areas designated on the SE Plat as "overflow parking for fall festival."

(b) The applicant shall be responsible for applying for and receiving a waiver of dustless surface requirements for the overflow parking areas designated for the Fall Festival. Should a waiver of dustless surface requirement for the overflow parking areas be denied, the applicant may not hold the Fall Festival until and unless acceptable off-site parking agreements are in place to accommodate a similar number of vehicles as would be accommodated in those areas, as approved by DPWES, and copies of said agreements are provided to the Zoning Administrator.
40. Loudspeakers at the Fall Festival shall be provided only to project live or recorded music, not to exceed 55 dBA at the property lines. Compliance with this condition shall be demonstrated by the applicant prior to the opening of the festival. There shall be no announcements over loudspeakers.
41. Any additional lighting provided for the Fall Festival shall be shut off no later than 9:30 pm each night (except for security lighting). Any such lights shall be shielded and directed so as to not shine off site.
42. Tents may be allowed during the Fall Festival only, and only subject to all necessary permits. No tents shall be erected in areas shown for preservation or reforestation.

Other

43. The hours of operation shall be limited to 7:00 am to 6:00 pm January through March, and 7:00 am to 9:00 pm April through December. No heavy equipment shall be operated on the site prior to noon on Sunday.
44. All signage shall be in conformance with Article 12. The applicant shall demonstrate that no illegal or non-permitted signage is on-site prior to site plan approval.
45. Building Permits and Non-Residential Use Permits shall be obtained for all buildings on the property.

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, eighteen (18) months after the date of approval unless, at a minimum, the use has been established through the issuance of a Non-Residential Use Permit. 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.

Burke Nursery and Garden Center (SE 2003-SP-035)

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 lintners, 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
- 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, 4th 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