



County of Fairfax, Virginia

June 10, 2008

STAFF REPORT

SPECIAL PERMIT AMENDMENT APPLICATION NO. SPA 2006-PR-038

PROVIDENCE DISTRICT

APPLICANT/OWNER: Merrifield Garden Center Corporation

STREET ADDRESS: 8132 Lee Highway

TAX MAP REFERENCE: 49-2 ((1)) 26C

LOT SIZE: 3.02 acres

ZONING DISTRICT: C-8 and HC

ZONING ORDINANCE PROVISIONS: 8-914

SPECIAL PERMIT PROPOSAL: To amend SP 2006-PR-038 previously approved for error in building location to permit modification of development conditions.

A copy of the BZA's Resolution setting forth this decision will be mailed within five (5) days after the decision becomes final.

The approval of this application does not interfere with, abrogate or annul any easements, covenants, or other agreements between parties, as they may apply to the property subject to the application.

For additional information, call Zoning Evaluation Division, Department of Planning and Zoning at 703-324-1280, 12055 Government Center Parkway, Suite 801, Fairfax, Virginia 22035. **Board of Zoning Appeals' meetings are held in the Board Room, Ground Level, Government Center Building, 12000 Government Center Parkway, Fairfax, Virginia 22035-5505.**

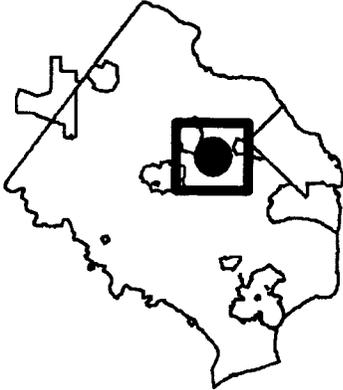


Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 7 days advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

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Deborah Hedrick

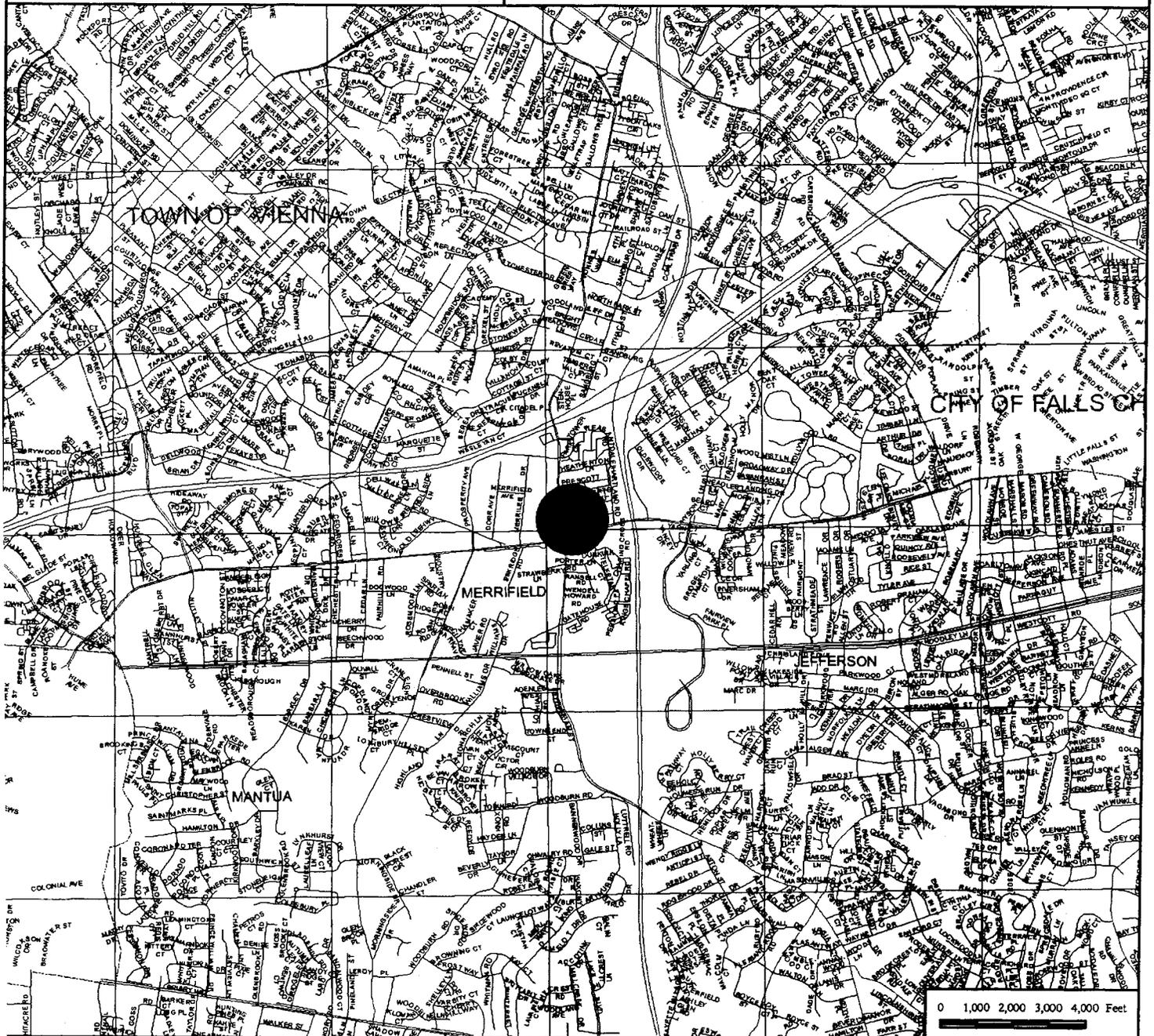
Special Permit Amendment

SPA 2006-PR-038



Applicant: MERRIFIELD GARDEN CENTER CORPORATION
Accepted: 03/20/2008
Proposed: AMEND SP 2006-PR-038 PREVIOUSLY APPROVED FOR ERROR IN BUILDING LOCATION TO PERMIT MODIFICATION OF DEVELOPMENT CONDITIONS

Area: 3.02 AC OF LAND; DISTRICT - PROVIDENCE
Zoning Dist Sect: 08-0914
Art 8 Group and Use: 9-13
Located: 8132 LEE HIGHWAY
Zoning: C- 8
Overlay Dist: HC
Map Ref Num: 049-2- /01/ /0026C

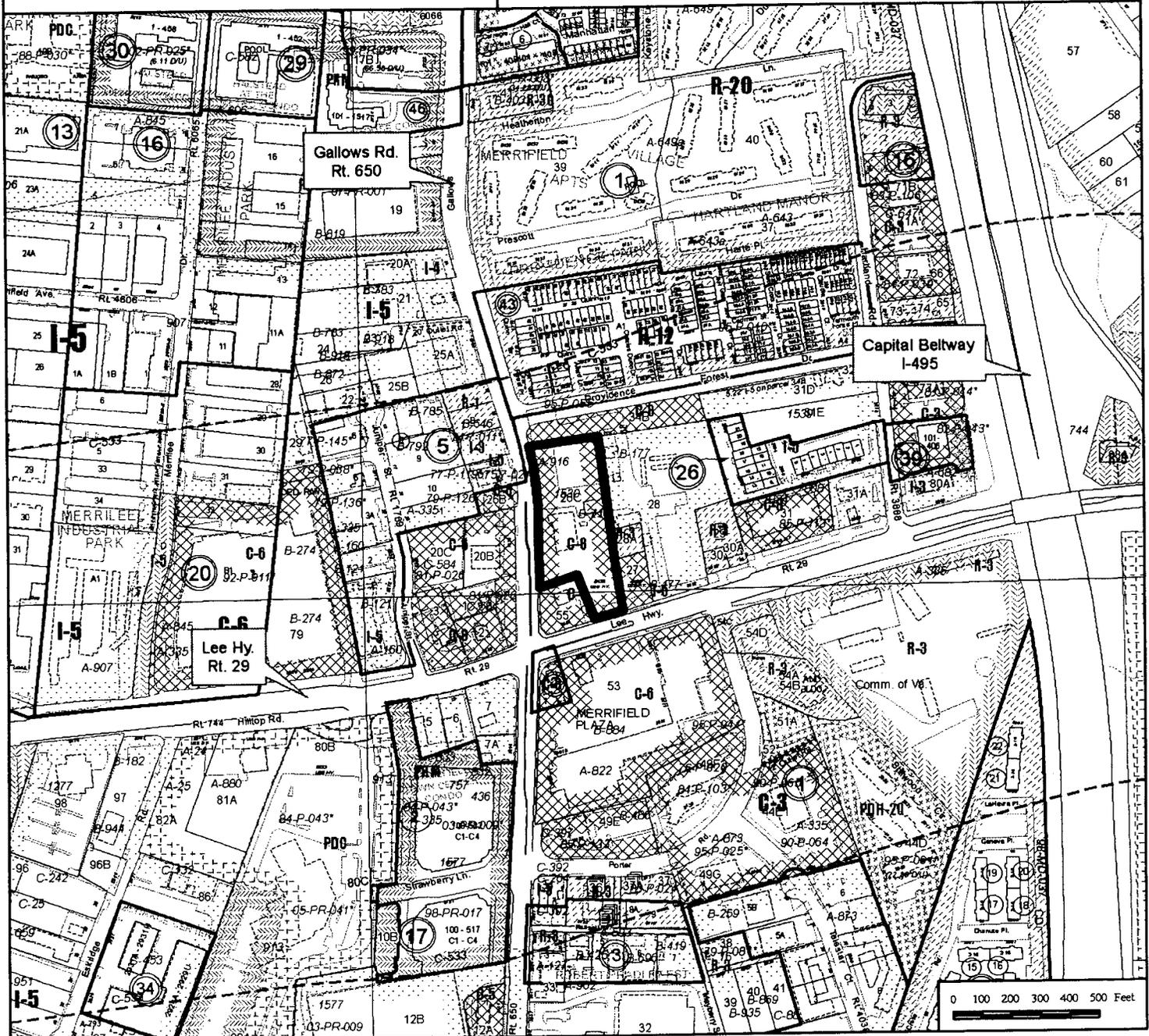
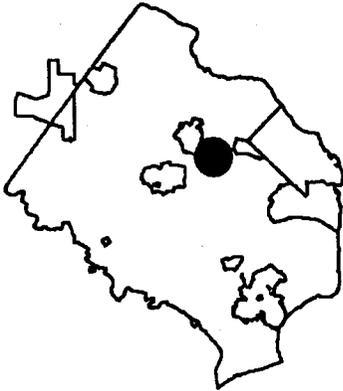


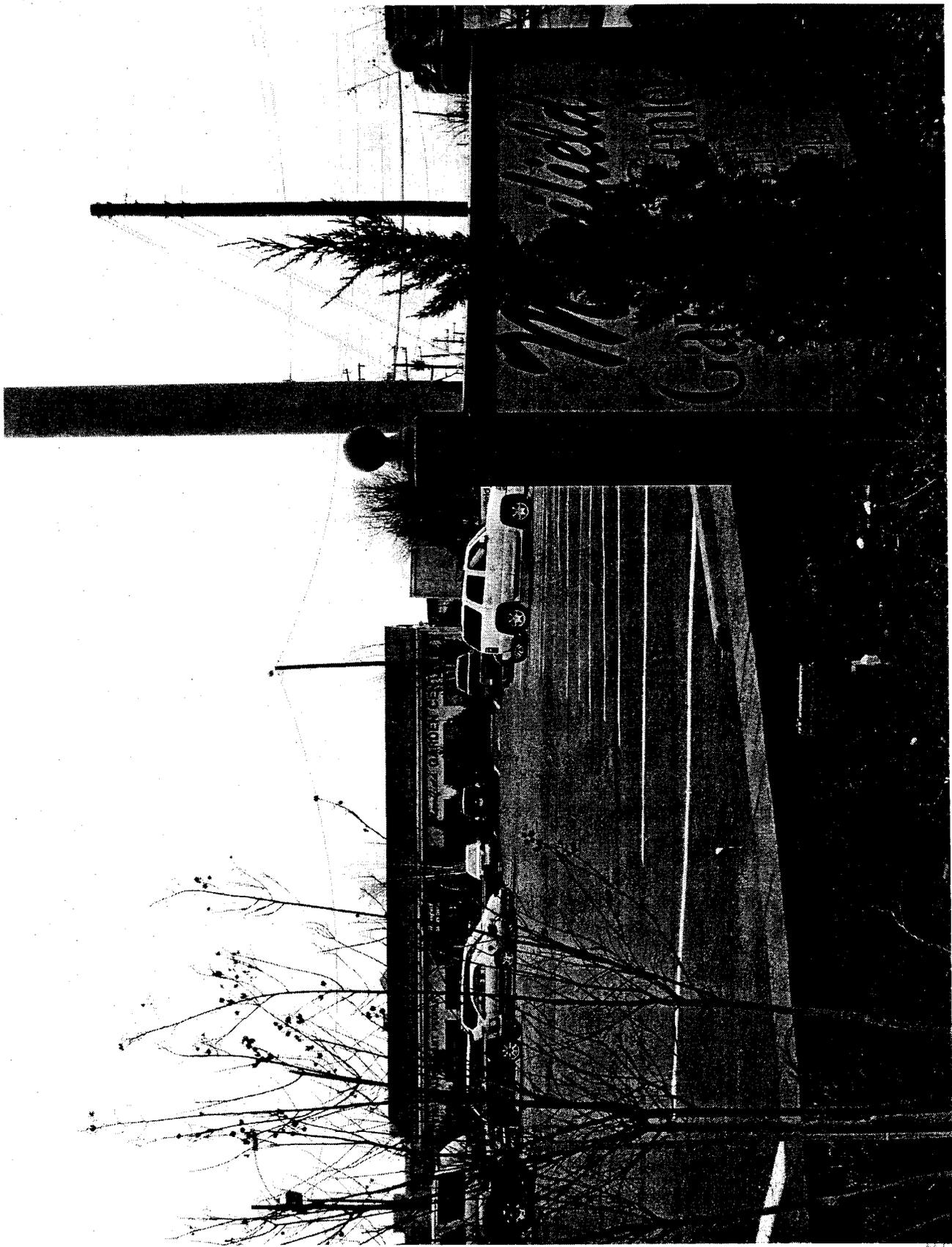
Special Permit Amendment

SPA 2006-PR-038

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Accepted: 03/20/2008
Proposed: AMEND SP 2006-PR-038 PREVIOUSLY APPROVED FOR ERROR IN BUILDING LOCATION TO PERMIT MODIFICATION OF DEVELOPMENT CONDITIONS

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Art 8 Group and Use: 9-13
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Zoning: C-8
Overlay Dist: HC
Map Ref Num: 049-2- /01/ /0026C

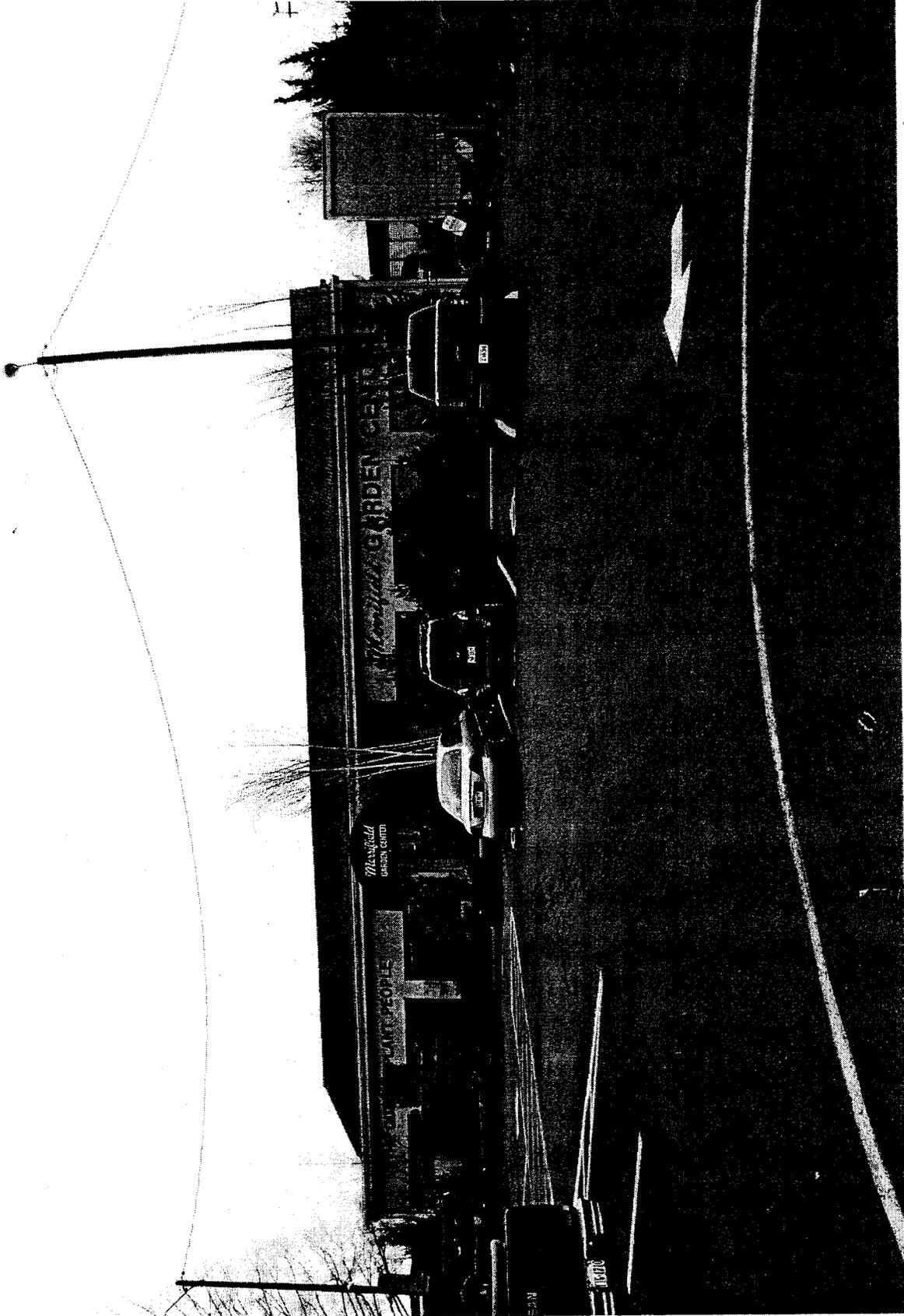




View of Subject Building Looking Southeast

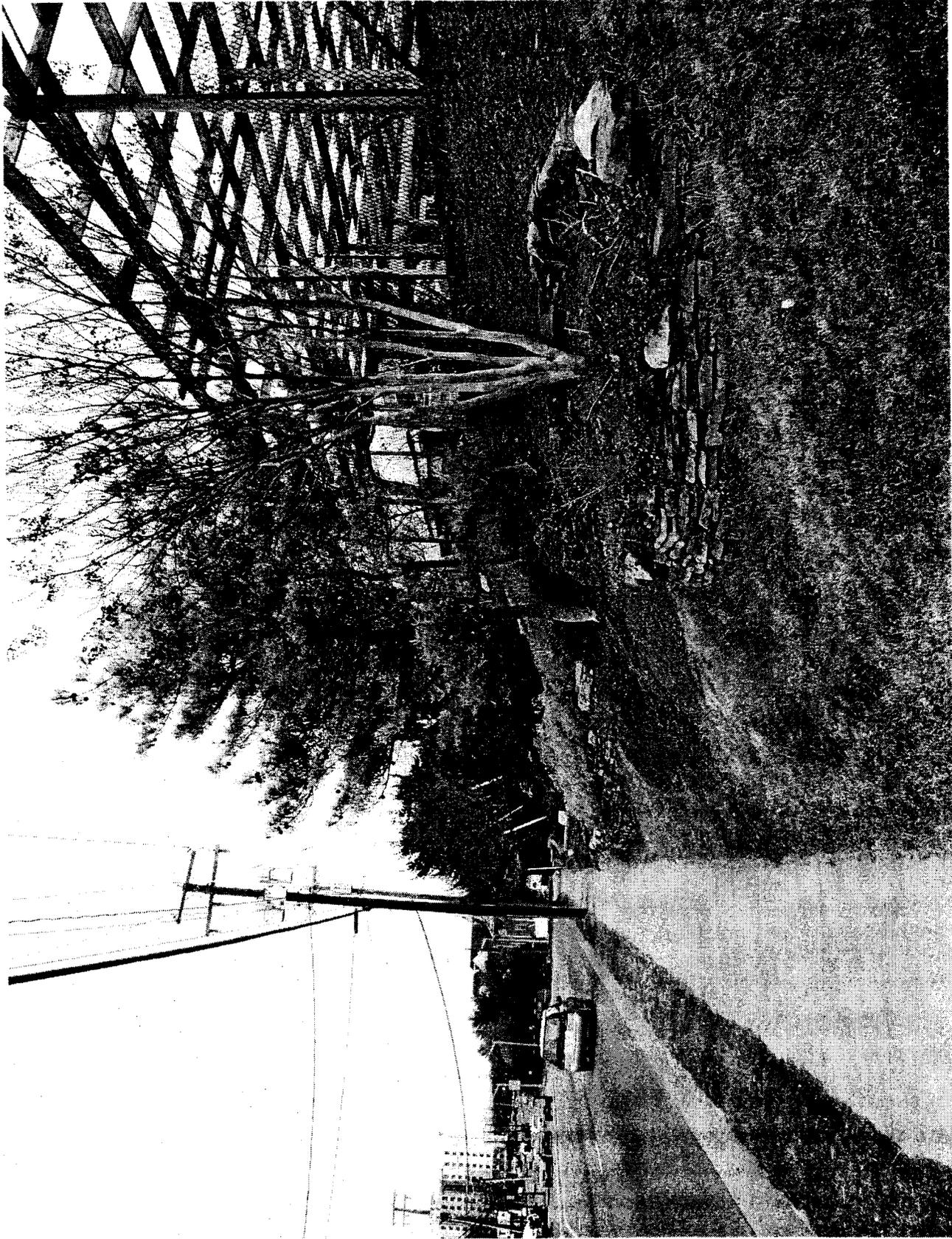
2/20/08

PL
Department of Planning & Zoning
FEB 26 2008
Zoning Evaluation Division



View of Subject Building Looking South

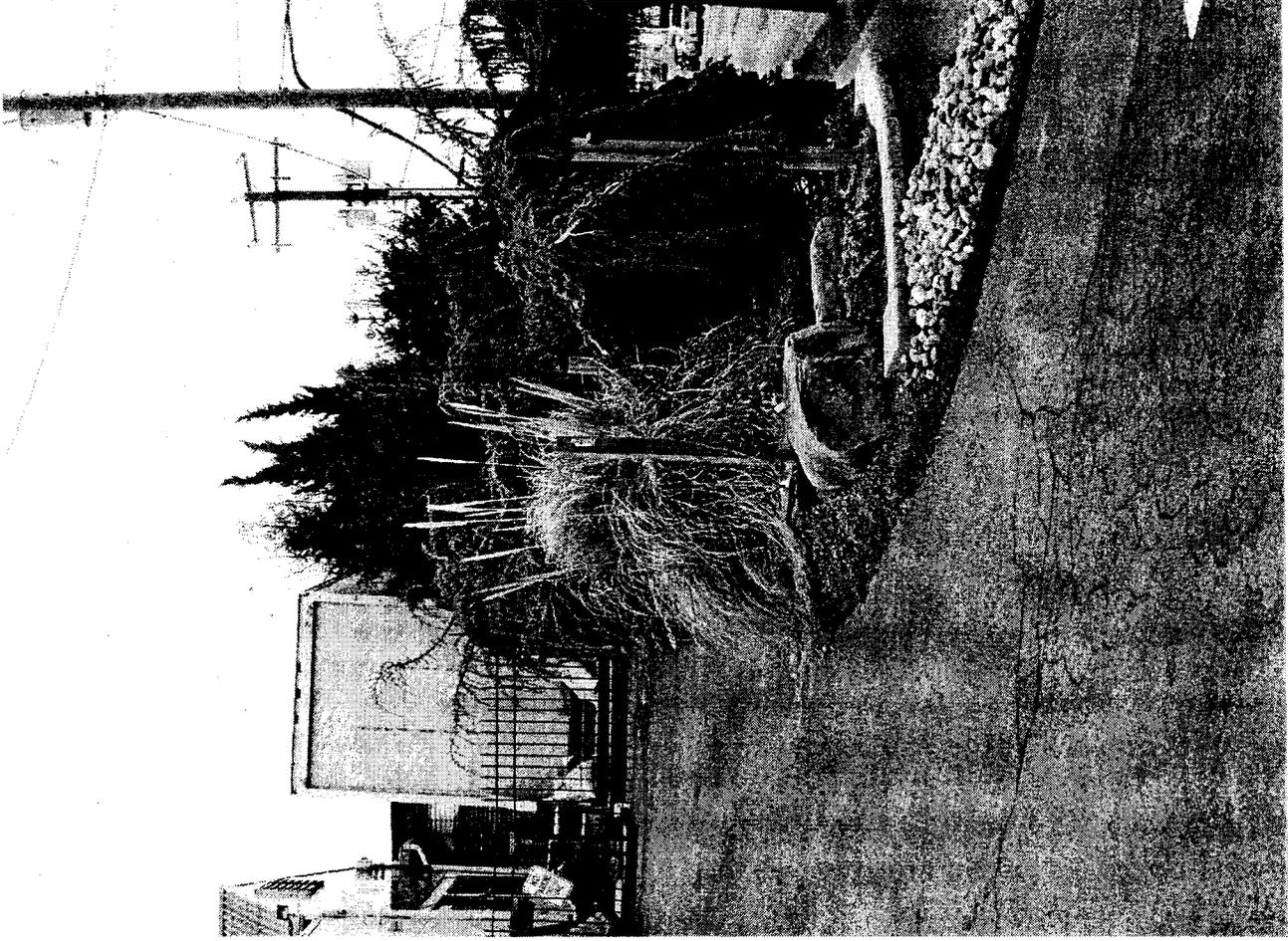
2/20/08



View of Western Property Boundary Looking North

2/20/08

RECEIVED
Department of Planning & Zoning
FEB 26 2008
Zoning Evaluation Division



View of Subject Building Looking South

2/20/08

DESCRIPTION OF THE APPLICATION

To amend SP 2006-PR-038 to permit the modification of Development Condition 3 to allow more time to obtain building permit approval for a retail sales structure that was built in error on the Merrifield Garden Center property. A copy of the Resolution and plat approved in conjunction with SP 2006-PR-038 is attached as Appendix 4.

Surrounding Are Description:

	Zoning	Use
North	C-8	Surface Parking
East	C-8, R-3, I-5	Plant Nursery
South	C-8, C-6	Service Station, Merrifield Plaza
West	C-6	Eating Establishments, Quick-service Food Store

BACKGROUND

Records indicate that a building was constructed in 1976, and was in conformance with the ordinance that was in effect at that time. Sometime after the building's construction, Gallows Road was widened which required additional right-of-way from this property. Over the ensuing thirty years, the intrusive portion of the building, which began as an overhang connection to the main building with the purpose of shading plants, was expanded and eventually evolved into a part of the year-round retail sales establishment.

ANALYSIS OF THE APPLICATION

Special Permit Plat (Copy at front of staff report)

Title of SP Plat: Merrifield Garden Center, Special Permit Amendment Plat, SPA 2006-PR-038, Providence District, Fairfax County, Virginia

Prepared By: William H. Gordon Associates, Inc., dated February 25, 2008

Error Made by: Applicant

Building Permit Required: Yes; however, not obtained

Proposal:

SP 2006-PR-038 was a request to permit a reduction to minimum yard requirements based on error in building location to permit a 438 square foot portion of an 11,282 square foot retail sales building on the Merrifield Garden Center property to remain 28.0 feet from the front lot line along the right of way of Gallows Road.

On February 27, 2007, the Board of Zoning Appeals approved SP 2006-PR-038 to permit the error in building location. Development Condition 3 allowed the applicant one year to obtain building permit approval and final inspections. To date, these have not been obtained and in anticipation of the end of the one (1) year timeframe, the applicant applied for this special permit amendment in order to modify the development condition to extend their time.

ZONING ORDINANCE REQUIREMENTS

Applicable bulk regulation(s) and additional location regulations are set forth on Page 1.

The application must meet all of the following standards, copies of which are attached as Appendix 5:

- General Special Permit Standards (Sect. 8-006)
- Group Standards for All Group 9 Uses (Sect. 8-903)
- Provisions for Approval of Reduction to Minimum Yard Requirements Based on an Error in Building Location (Sect. 8-914)

CONCLUSION

If it is the intent of the BZA to approve SPA 2006-PR-038, the BZA should condition its approval be requiring conformance with conditions set forth in Appendix 1 of this report, Proposed Development Conditions.

APPENDICES

1. Proposed Development Conditions
2. Applicant's Affidavit
3. Applicant's Statement of Justification
4. Approved Resolution and Plat
5. Applicable Zoning Ordinance Provisions

PROPOSED DEVELOPMENT CONDITIONS**SPA 2006-PR-038****June 10, 2008**

If it is the intent of the Board of Zoning Appeals to approve SPA 2006-PR-038 located at Tax Map 49-2 ((1)) 26C for an amendment to SP 2006-PR-038 previously approved to permit reduction in minimum yard requirements based on error in building location, to permit a modification of development conditions pursuant to Section 8-914, of the Fairfax County Zoning Ordinance, staff recommends that the Board condition the approval by requiring conformance with the following development conditions. Those conditions carried forward from the previous special permit are marked with an asterisk. Edits and subsequent revisions are **bolded**.

1. This special permit is approved for the location and size (approximately 438 square feet) of the existing one story structure as shown on the plat prepared by William H. Gordon Associates, Inc. dated, ~~February 2007~~ **February 25, 2008**, as submitted with this application and is not transferable to other land.*
2. Other by-right, special permit and special exception uses on site shall be permitted without a special permit amendment if such uses do not affect this special permit use.*
3. Building permits and final inspections for the structure shall be diligently pursued within 60 days and obtained within ~~one (1) year~~ **120 days** of final approval or this special permit shall be null & void.*

This approval, contingent upon the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations or adopted standards.

Application No.(s): SPA 2006-PR-038
 (county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: May 15, 2008
 (enter date affidavit is notarized)

I, Francis A. McDermott, do hereby state that I am an
 (enter name of applicant or authorized agent)

(check one) applicant
 applicant's authorized agent listed in Par. 1(a) below 99155 a

and that, to the best of my knowledge and belief, the following is true:

1(a). The following constitutes a listing of the names and addresses of all **APPLICANTS, TITLE OWNERS, CONTRACT PURCHASERS, and LESSEES** of the land described in the application,* and, if any of the foregoing is a **TRUSTEE,**** each **BENEFICIARY** of such trust, and all **ATTORNEYS** and **REAL ESTATE BROKERS**, and all **AGENTS** who have acted on behalf of any of the foregoing with respect to the application:

(NOTE: All relationships to the application listed above in **BOLD** print must be disclosed. Multiple relationships may be listed together, e.g., **Attorney/Agent, Contract Purchaser/Lessee, Applicant/Title Owner**, etc. For a multiparcel application, list the Tax Map Number(s) of the parcel(s) for each owner(s) in the Relationship column.)

NAME (enter first name, middle initial, and last name)	ADDRESS (enter number, street, city, state, and zip code)	RELATIONSHIP(S) (enter applicable relationships listed in BOLD above)
Merrifield Garden Center Corporation(1) Agents: Hampton C. Williams, III Robert P. Warhurst R. Kevin Warhurst C. David Watkins	P. O. Box 848 Merrifield, VA 22116	Applicant/Title Owner of Parcel 49-2-((1))-26C
Hunton & Williams LLP(2)	1751 Pinnacle Drive, Suite 1700 McLean, VA 22102	Attorneys/Agents for Applicant
Francis A. McDermott John C. McGranahan, Jr.	1751 Pinnacle Drive, Suite 1700 McLean, VA 22102	Attorneys/Agents for Applicant
Aaron L. Shriber Elaine O. Cox	1751 Pinnacle Drive, Suite 1700 McLean, VA 22102	Planners/Agents for Applicant
Jeannie A. Mathews	1751 Pinnacle Drive, Suite 1700 McLean, VA 22102	Paralegal/Agent for Applicant

(check if applicable) There are more relationships to be listed and Par. 1(a) is continued on a "Special Permit/Variance Attachment to Par. 1(a)" form.

* In the case of a condominium, the title owner, contract purchaser, or lessee of 10% or more of the units in the condominium.
 ** List as follows: Name of trustee, Trustee for (name of trust, if applicable), for the benefit of: (state name of each beneficiary).

Application No.(s): SPA 2006-PR-038
(county-assigned application number(s), to be entered by County Staff)

Page 1 of 1

Special Permit/Variance Attachment to Par. 1(a)

DATE: May 15, 2008
(enter date affidavit is notarized)

99155a

(NOTE: All relationships to the application are to be disclosed. Multiple relationships may be listed together, e.g., **Attorney/Agent, Contract Purchaser/Lessee, Applicant/Title Owner**, etc. For a multiparcel application, list the Tax Map Number(s) of the parcel (s) for each owner(s) in the Relationship column.)

NAME (enter first name, middle initial, and last name)	ADDRESS (enter number, street, city, state, and zip code)	RELATIONSHIP(S) (enter applicable relationships listed in BOLD above)
William H. Gordon Associates, Inc.(3) Agents: Robert W. Walker	4501 Daly Drive Chantilly, VA 22021	Planners/Engineers/Agents for Applicant

(check if applicable) There are more relationships to be listed and Par. 1(a) is continued further on a "Special Permit/Variance Attachment to Par. 1(a)" form.

Application No.(s): SPA 2006-PR-038
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SPECIAL PERMIT/VARIANCE AFFIDAVIT

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99155 a

1(b). The following constitutes a listing*** of the **SHAREHOLDERS** of all corporations disclosed in this affidavit who own 10% or more of any class of stock issued by said corporation, and where such corporation has 10 or less shareholders, a listing of all of the shareholders:

(NOTE: Include **SOLE PROPRIETORSHIPS, LIMITED LIABILITY COMPANIES, and REAL ESTATE INVESTMENT TRUSTS** herein.)

CORPORATION INFORMATION

NAME & ADDRESS OF CORPORATION: (enter complete name, number, street, city, state, and zip code)
(1) Merrifield Garden Center Corporation
P. O. Box 848
Merrifield, VA 22116

DESCRIPTION OF CORPORATION: (check one statement)
 There are 10 or less shareholders, and all of the shareholders are listed below.
 There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
 There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

NAMES OF SHAREHOLDERS: (enter first name, middle initial, and last name)
Robert P. Warhurst
Hampton C. Williams, III

(check if applicable) There is more corporation information and Par. 1(b) is continued on a "Special Permit/Variance Attachment 1(b)" form.

*** All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. ***In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER or LESSEE* of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed.*** Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.

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(county-assigned application number(s), to be entered by County Staff)

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Special Permit/Variance Attachment to Par. 1(b)

DATE: May 15, 2008
(enter date affidavit is notarized)

99155 a

NAME & ADDRESS OF CORPORATION: (enter complete name, number, street, city, state, and zip code)
(3)William H. Gordon Associates, Inc.
4501 Daly Drive
Chantilly, VA 22021

DESCRIPTION OF CORPORATION: (check one statement)
 There are 10 or less shareholders, and all of the shareholders are listed below.
 There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
 There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

NAMES OF THE SHAREHOLDERS: (enter first name, middle initial, and last name)
William H. Gordon
Joseph W. McClellan
R. Steven Hulsey
Eugene C. Dorn

NAME & ADDRESS OF CORPORATION: (enter complete name, number, street, city, state, and zip code)

DESCRIPTION OF CORPORATION: (check one statement)
 There are 10 or less shareholders, and all of the shareholders are listed below.
 There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
 There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

NAMES OF THE SHAREHOLDERS: (enter first name, middle initial, and last name)

(check if applicable) There is more corporation information and Par. 1(b) is continued further on a "Special Permit/Variance Attachment to Par. 1(b)" form.

Application No.(s): SPA 2006 - PR-038
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: May 15, 2008
(enter date affidavit is notarized)

99155a

1(c). The following constitutes a listing*** of all of the **PARTNERS**, both **GENERAL** and **LIMITED**, in any partnership disclosed in this affidavit:

PARTNERSHIP INFORMATION

PARTNERSHIP NAME & ADDRESS: (enter complete name, number, street, city, state, and zip code)

(2)Hunton & Williams LLP
1751 Pinnacle Drive, Suite 1700
McLean, VA 22102

(check if applicable) The above-listed partnership has no limited partners.

NAMES AND TITLE OF THE PARTNERS (enter first name, middle initial, last name, and title, e.g. **General Partner, Limited Partner, or General and Limited Partner**)

Benjamin C. Ackerly
Robert A. Acosta-Lewis
Lawrence C. Adams
Richard L. Adams
Michael F. Albers
Virginia S. Albrecht
Kenneth J. Alcott
Joseph B. Alexander, Jr.
Fernando C. Alonso
Chris M. Amantea
Thomas E. Anderson
Walter J. Andrews
W. Christopher Arbery
Charles G. Ashton
L. S. Austin
Ian Phillip Band
Jeffery R. Banish
Haywood A. Barnes
Rudene M. Bascomb
Jeffrey P. Bast

Philip M. Battles, III
Sean M. Beard
John J. Beardsworth, Jr.
Steven H. Becker
Kenneth D. Bell
Stephen Bennett (nmi)
Melinda R. Beres
Lucas Bergkamp (nmi)
Lon A. Berk
Douglas M. Berman
Mark B. Bierbower
Jo Ann Biggs
Stephen R. Blacklocks
Jeffrey M. Blair
Michael J. Blayney
James W. Bowen
Lawrence J. Bracken, II
James P. Bradley
Sheldon T. Bradshaw
David F. Brandley, Jr.

Jeannie P. Breckinridge
Craig A. Bromby
A. Todd Brown
Tyler P. Brown
F. William Brownell
Peter N. Brudenall
Kevin J. Buckley
Kristy A. Niehaus Bulleit
Joseph B. Buonanno
Nadia S. Burgard
Eric R. Burner
Brian M. Buroker
Ferdinand A. Calice
Matthew J. Calvert
Daniel M. Campbell
Thomas H. Cantrill
Curtis G. Carlson
Grady K. Carlson
Jean Gordon Carter
Charles D. Case

(check if applicable) There is more partnership information and Par. 1(c) is continued on a "Special Permit/Variance Attachment to Par. 1(c)" form.

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Special Permit/Variance Attachment to Par. 1(c)

DATE: May 15, 2008
(enter date affidavit is notarized)

99155a

PARTNERSHIP NAME & ADDRESS: (enter complete name, number, street, city, state, zip code)

(2)Hunton & Williams LLP (continued)
1751 Pinnacle Drive, Suite 1700
McLean, VA 22102

(check if applicable) The above-listed partnership has no limited partners.

NAMES AND TITLES OF THE PARTNERS: (enter first name, middle initial, last name, and title, e.g.,
General Partner, Limited Partner, or General and Limited Partner)

Thomas J. Cawley
Lawrence Chek (nmi)
James N. Christman
Whittington W. Clement
R. Noel Clinard
Herve' Cogels (nmi)
Myron D. Cohen
Cassandra C. Collins
Stacy M. Colvin
Joseph P. Congleton
Terence G. Connor
Stephen Gregory Cope
Cameron N. Cosby
T. Thomas Cottingham, III
Ted C. Craig
Cyane B. Crump
Ashley Cummings (nmi)
Alexandra B. Cunningham
Sean B. Cunningham
William D. Dannelly
Samuel A. Danon
Barry R. Davidson
John Deacon (nmi)
John A. Decker
John J. Delionado
Stephen P. Demm
Kenneth L. Dobkin
Dee Ann Dorsey
Edward L. Douma
Mark S. Dray
Sean P. Ducharme
Deidre G. Duncan
George C. Dunlap, Jr.
L. Traywick Duffie
Roger Dyer (nmi)
Frederick R. Eames
Maya M. Eckstein
Joseph C. Edwards
W. Jeffery Edwards

John C. Eichman
Whitney C. Ellerman
L. Neal Ellis, Jr.
Edward W. Elmore, Jr.
Charles Elphicke (nmi)
Frank E. Emory, Jr.
Juan C. Enjamio
John D. Epps
Patricia K. Epps
Steven B. Epstein
Kelly L. Faglioni
Susan S. Failla
James E. Farnham
Eric H. Feiler
Chet A. Fenimore
Norman W. Fichthorn
Andrea Bear Field
Robert M. Fillmore
Kevin J. Finto
William M. Flynn
Lauren E. Freeman
David R. Fricke
Edward J. Fuhr
Charles A. Gall
Daniel C. Garner
Douglas M. Garrou
Richard D. Gary
Andrew A. Gerber
John T. Gerhart, Jr.
Jeffrey W. Giese
Neil K. Gilman
C. Christopher Giragosian
Timothy S. Goettel
Peter G. Golden
Allen C. Goolsby
L. Raul Grable
Conan P. Grames
Douglas S. Granger
J. William Gray, Jr.

Charles E. Greef
Robert J. Grey, Jr.
Greta T. Griffith
Bradley W. Grout
Jeffrey W. Gutches
Miles B. Haberer
Virginia H. Hackney
Robert J. Hahn
John F. Haley
Eric J. Hanson
Ronald M. Hanson
Richard L. Harden
Lowell W. Harrison
Ray V. Hartwell, III
James A. Harvey
Robert W. Hawkins
Timothy G. Hayes
Mark S. Hedberg
Douglas J. Heffner
Michael S. Held
Matthew C. Henry
Scott Hershman (nmi)
Gregory G. Hesse
George H. Hettrick
Louanna O. Heuhsen
David A. Higbee
Thomas Y. Hiner
D. Bruce Hoffman
Robert E. Hogfoss
John E. Holloway
John M. Holloway, III
John R. Holzgraefe
Cecelia P. Horner
George C. Howell, III
Robert H. Huey
Thomas M. Hughes
Kevin F. Hull
Donald P. Irwin
Judith H. Itkin

(check if applicable) There is more partnership information and Par. 1(c) is continued further on a
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McLean, VA 22102

(check if applicable) The above-listed partnership has no limited partners.

NAMES AND TITLES OF THE PARTNERS: (enter first name, middle initial, last name, and title, e.g.,
General Partner, Limited Partner, or General and Limited Partner)

Makram B. Jaber
Lori M. Jarvis
Matthew D. Jenkins
Andrew E. Jillson
Harry M. Johnson, III
James A. Jones, III
Kevin W. Jones
Laura E. Jones
Dan J. Jordanger
Leslie O. Juan
Thomas R. Julin
W. Alan Kailer
E. Peter Kane
Thomas F. Kaufman
Geoffrey S. Kay
Joseph C. Kearfott
Michael G. Keeley
Douglas W. Kenyon
Michael C. Kerrigan
Ryan T. Ketchum
Robert A. King
Robert Klotz (nmi)
Sylvia K. Kochler
Edward B. Koehler
John T. Konther
Dana S. Kull
Christopher G. Kulp
Christopher Kuner (nmi)
David Craig Landin
Christine E. Larkin
David C. Lashway
Andrew W. Lawrence
Wood W. Lay
Daniel M. LeBey
David O. Ledbetter
Bradley T. Lennie
L. Steven Leshin
Ronald J. Lieberman
Thomas F. Lillard

Catherine D. Little
Gregory G. Little
Robert H. Lockwood
David C. Lonergan
Nash E. Long, III
Audrey C. Louison
Carlos E. Loumiet
David S. Lowman, Jr.
Timothy A. Mack
Tyler Maddry (nmi)
Kimberly M. Magee
C. King Mallory, III
Thomas J. Manley
Alan J. Marcuis
Brian R. Marek
Fernando Margarit (nmi)
Michael F. Marino, III
Stephen S. Maris
Jeffrey N. Martin
John S. Martin
J. Michael Martinez de Andino
Walfrido J. Martinez
Christopher M. Mason
Michael P. Massad, Jr.
Scott H. Matheson
Joseph C. Mathews
Laurie U. Mathews
Richard E. May
John Gary Maynard, III
William H. McBride
Michael C. McCann
Thomas A. McConnell
Patrick J. McCormick, III
Robert G. McCormick
Francis A. McDermott
Alexander G. McGeoch
John C. McGranahan, Jr.
David T. McIndoe
James E. Meadows

Mark W. Menezes
Gary C. Messplay
Thomas McN. Millhiser
Patrick E. Mitchell
John E. Moeller
Jack A. Molenkamp
Charles R. Monroe, Jr.
Will S. Montgomery
T. Justin Moore, III
Thurston R. Moore
Bruce W. Moorhead, Jr.
Robert J. Morrow
Ann Marie Mortimer
Eric J. Murdock
Frank J. Murphy, Jr.
Ted J. Murphy
Thomas P. Murphy
David A. Mustone
James P. Naughton
Michael Nedzbala (nmi)
Henry V. Nickel
Lonnie D. Nunley, III
E. A. Nye, Jr.
John D. O'Neill, Jr.
Pam G. O'Quinn
Brian V. Otero
Randall S. Parks
Peter S. Partee
R. Hewitt Pate
William S. Patterson
H. R. Bert Peña
Michael P. F. Phelps
R. Dean Pope
Laurence H. Posorske
Kurtis A. Powell
Lewis F. Powell, III
Wesley R. Powell
Donna M. Praiss
J. Waverly Pulley, III

(check if applicable) There is more partnership information and Par. 1(c) is continued further on a
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Application No.(s): SPA 2006-PR-038
(county-assigned application number(s), to be entered by County Staff)

Special Permit/Variance Attachment to Par. 1(c)

DATE: May 15, 2008
(enter date affidavit is notarized)

99155a

PARTNERSHIP NAME & ADDRESS: (enter complete name, number, street, city, state, zip code)

(2)Hunton & Williams LLP (continued)
1751 Pinnacle Drive, Suite 1700
McLean, VA 22102

(check if applicable) The above-listed partnership has no limited partners.

NAMES AND TITLES OF THE PARTNERS: (enter first name, middle initial, last name, and title, e.g., General Partner, Limited Partner, or General and Limited Partner)

- | | | |
|-------------------------|---------------------------|-----------------------------|
| Robert T. Quackenboss | Robert M. Schulman | Robin Lyn Teskin |
| Dearbhla Quigley (nmi) | Patricia M. Schwarzschild | Paul R. Tetlow |
| Arnold H. Quint | Jeremy R. Schwer | John Charles Thomas |
| William M. Ragland, Jr. | P. Watson Seaman | Martin K. Thomas |
| Dionne C. Rainey | James S. Seevers, Jr. | Gary E. Thompson |
| Gordon F. Rainey, Jr. | Douglass P. Selby | Paul M. Thompson |
| Katherine E. Ramsey | Joel R. Sharp | B. Cary Tolley, III |
| John Jay Range | James W. Shea | Timothy J. Toohy |
| Stuart A. Raphael | Michael R. Shebelskie | Randolph F. Totten |
| Craig V. Rasile | Rita A. Sheffey | Bridget C. Treacy |
| John M. Ratino | Michael A. Silva | Thomas B. Trimble |
| Robert S. Rausch | William P. Silverman | Estelle J. Tsevdos |
| Keila D. Ravelo | Edmund W. Sim | Melvin E. Tull, III |
| Belynda B. Reck | Jo Anne E. Sirgado | Julie I. Ungerman |
| Baker R. Rector | Thomas G. Slater, Jr. | Surasak Vajasit (nmi) |
| Shawn P. Regan | B. Darrell Smelcer | Travis E. Vanderpool |
| Sona Rewari (nmi) | Brooks M. Smith | Mark C. Van Deusen |
| Thomas A. Rice | Caryl Greenberg Smith | C. Porter Vaughan, III |
| James M. Rinaca | John R. Smith | Enid L. Veron |
| Michael D. Rist | Steven P. Solow | Stephen R. Voelker |
| Jennings G. Ritter, II | Yisun Song (nmi) | Mark R. Vowell |
| Kathy E. B. Robb | Lisa J. Sotto | Linda L. Walsh |
| Daryl B. Robertson | Joseph C. Stanko, Jr. | William A. Walsh, Jr. |
| Gregory B. Robertson | Marty Steinberg (nmi) | Lynnette R. Warman |
| Robert M. Rolfe | John J. Stenger | Mark R. Wasem |
| Ronald D. Rosener | Catherine B. Stevens | Abigail C. Watts-FitzGerald |
| Michael Rosenthal (nmi) | Gregory N. Stillman | William L. Wehrum |
| William L. S. Rowe | Franklin H. Stone | Peter G. Weinstock |
| Marguerite R. Ruby | C. Randolph Sullivan | David B. Weisblat |
| D. Alan Rudlin | Chanmanu Sumawong (nmi) | Malcolm C. Weiss |
| Mary Nash Rusher | R. Michael Sweeney, Jr. | Mark G. Weisshaar |
| Timothy R. Ryan | Henry Talavera (nmi) | Hill B. Wellford, Jr. |
| D. Kyle Sampson | Madeleine M. Tan | David E. Wells |
| Karen M. Sanzaro | Andrew J. Tapscott | G. Thomas West, Jr. |
| Stephen M. Sayers | Robert M. Tata | Jerry E. Whitson |
| Arthur E. Schmalz | Rodger L. Tate | Paul O. Wickes |
| Gregory J. Schmitt | W. Lake Taylor, Jr. | Jonathan M. Wilan |
| John R. Schneider | Wendell L. Taylor | David R. Wiles |
| Howard E. Schreiber | Michael L. Teague | Amy McDaniel Williams |

(check if applicable) There is more partnership information and Par. 1(c) is continued further on a "Special Permit/Variance Attachment to Par. 1(c)" form.

Application No.(s): SPA 2006-PR-038
(county-assigned application number(s), to be entered by County Staff)

Page 4 of 4

Special Permit/Variance Attachment to Par. 1(c)

DATE: May 15, 2008
(enter date affidavit is notarized)

99155a

PARTNERSHIP NAME & ADDRESS: (enter complete name, number, street, city, state, zip code)

(2)Hunton & Williams LLP (continued)
1751 Pinnacle Drive, Suite 1700
McLean, VA 22102

(check if applicable) The above-listed partnership has no limited partners.

NAMES AND TITLES OF THE PARTNERS: (enter first name, middle initial, last name, and title, e.g.,
General Partner, Limited Partner, or General and Limited Partner)

Gerry L. Williams
Matthew J. Williams
Michael G. Wilson
Robert K. Wise
Allison D. Wood
John W. Woods, Jr.
David C. Wright
Scott F. Yarnell
William F. Young
Andrew D. Zaron
Lee B. Zeugin

FORMER PARTNERS:

A. Neal Barkus
Ian Cuillerier (nmi)
Robert H. Edwards, Jr.
Mark James Fennessy
Ira L. Freilicher
Manning Gasch, Jr. (nmi)
Shahid Ghauri (nmi)
Edward J. Grass
Paul E. Janaskie
James Forrest Miller
Royce W. Montgomery
William M. Richardson
William L. Sladek

(check if applicable) There is more partnership information and Par. 1(c) is continued further on a
"Special Permit/Variance Attachment to Par. 1(c)" form.

Application No.(s): SPA 2006-PR-038
(county-assigned application number(s), to be entered by County Staff)

Page Four

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: May 15, 2008
(enter date affidavit is notarized)

99155a

1(d). One of the following boxes **must** be checked:

In addition to the names listed in Paragraphs 1(a), 1(b), and 1(c) above, the following is a listing of any and all other individuals who own in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the **APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE*** of the land:

Other than the names listed in Paragraphs 1(a), 1(b), and 1(c) above, no individual owns in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the **APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE*** of the land.

2. That no member of the Fairfax County Board of Zoning Appeals, Planning Commission, or any member of his or her immediate household owns or has any financial interest in the subject land either individually, by ownership of stock in a corporation owning such land, or through an interest in a partnership owning such land.

EXCEPT AS FOLLOWS: (NOTE: If answer is none, enter "NONE" on the line below.)

NONE.

(check if applicable) There are more interests to be listed and Par. 2 is continued on a "Special Permit/Variance Attachment to Par. 2" form.

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: May 15, 2008
(enter date affidavit is notarized)

99155a

3. That within the twelve-month period prior to the public hearing of this application, no member of the Fairfax County Board of Zoning Appeals, Planning Commission, or any member of his or her immediate household, either directly or by way of partnership in which any of them is a partner, employee, agent, or attorney, or through a partner of any of them, or through a corporation in which any of them is an officer, director, employee, agent, or attorney or holds 10% or more of the outstanding bonds or shares of stock of a particular class, has, or has had any business or financial relationship, other than any ordinary depositor or customer relationship with or by a retail establishment, public utility, or bank, including any gift or donation having a value of more than \$100, singularly or in the aggregate, with any of those listed in Par. 1 above.

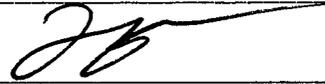
EXCEPT AS FOLLOWS: (NOTE: If answer is none, enter "NONE" on line below.)
NONE.

(NOTE: Business or financial relationships of the type described in this paragraph that arise after the filing of this application and before each public hearing must be disclosed prior to the public hearings. See Par. 4 below.)

(check if applicable) [] There are more disclosures to be listed and Par. 3 is continued on a "Special Permit/Variance Attachment to Par. 3" form.

4. That the information contained in this affidavit is complete, that all partnerships, corporations, and trusts owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land have been listed and broken down, and that prior to each and every public hearing on this matter, I will reexamine this affidavit and provide any changed or supplemental information, including business or financial relationships of the type described in Paragraph 3 above, that arise on or after the date of this application.

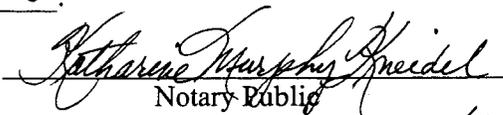
WITNESS the following signature:



(check one) [] Applicant [x] Applicant's Authorized Agent

Francis A. McDermott, Attorney Agent for Applicant
(type or print first name, middle initial, last name, and title of signee)

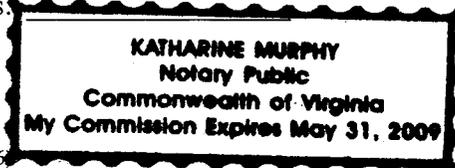
Subscribed and sworn to before me this 15TH day of May, 2008, in the State/Comm. of Virginia, County/City of Suffolk.



Notary Public

(Commissioned as Katharine Murphy)

My commission expires:



#246666

RECEIVED
Department of Planning & Zoning
February 21, 2008
FEB 26 2008
Zoning Evaluation Division

**APPLICANT'S STATEMENT
MERRIFIELD GARDEN CENTER
SPA 2006-PR-038**

Merrifield Garden Center Corporation (the "Applicant" and "Owner") seeks approval of a Special Permit Amendment ("SPA") application for Tax Map Parcel 49-2-((1))-26C (the "SPA Property"), a portion of the 8.93 acres which comprise the existing plant nursery and associated uses located at 8132 Lee Highway. Merrifield Garden Center is located within the northeast quadrant of the Lee Highway and Gallows Road intersection within the Merrifield Commercial Revitalization Area. Merrifield Garden Center has operated a plant nursery, including retail sales, display, wholesale, landscape contracting and other related uses on the Property since 1971. The Applicant's land is zoned to the C-8, I-5, R-3 and H-C Districts and is surrounded by industrial and retail uses to the east, south and west, and townhouse use to the north.

SP 2006-PR-038 was approved for the SPA Property by the Board of Zoning Appeals on February 27, 2007, to permit a reduction in the minimum front yard requirement based upon an error in building location. Development Condition No. 3 of this approval states:

Building permits and final inspections for the structure shall be diligently pursued within 60 days and obtained within one (1) year of final approval or this special permit shall be null and void.

The Applicant has been diligently pursuing acquisition of the requisite building permit, modifications to meet Code requirements, and final inspections necessary for the building subject to the approved Special Permit. Due to unanticipated delays, none the fault of the Applicant, it does not appear that final inspections will occur prior to the expiration date of SP 2006-PR-038 per Development Condition No. 3. The physical improvements to the building requisite to obtaining the Non-RUP, including structural repairs, ADA accessible facilities and a fire suppression system, have been completed. Though the building improvements have occurred, it is not possible to receive final inspections because of difficulties providing a required new waterline connection to the Property. The Virginia Department of Transportation ("VDOT") will soon begin construction on the Lee Highway/Gallows Road improvements (VDOT Project No. 0029-029-119). Part of this project involves utility relocations including the water line owned by the City of Falls Church. It is not possible to provide the necessary waterline connections to the building until VDOT and the City of Falls Church finalize the relocation of this line located within the Gallows Road right-of-way. It is because of this unforeseen delay that the Applicant will be unable to satisfy Development Condition No. 3, which is why this Special Permit Amendment has been filed. No revisions from the previous approval are requested, other than the extension of time to acquire building permit approval and final inspections.

The Special Permit Amendment ("SPA") Plat, dated February 2008, has been prepared by William H. Gordon Associates and consists of five (5) sheets. The SPA Plat depicts uses on the

industrial and commercial-zoned parcels located outside of the application area, showing the relationship of existing and proposed uses on the site.

The SPA Property is zoned to the C-8 and H-C Districts, and consists of approximately 131,474 square feet, or 3.02 acres, of land. As set forth in the Zoning Ordinance definition of a "Plant Nursery," such uses are deemed "Retail Sales Establishments" and therefore constitute a "by-right" use in the C-8 zoning district. The sole purpose of this SPA application is to request the Board of Zoning Appeals to reaffirm approval of SP 2006-PR-038, which was approved to permit a reduction of the minimum front yard setback pursuant to Section 8-914 of the Zoning Ordinance ("Provisions for Approval of Reduction in the Minimum Yard Requirements Based on Error in Building Location").

The building identified as "Building S-1" on the SPA Plat intrudes into a portion of the minimum front yard along the Gallows Road frontage of the site. Merrifield Garden Center seeks to modify the 40-foot minimum setback in the C-8 zoning district to a minimum of 28 feet in a limited area, in order to retain "Building S-1" as its flagship, retail sales building in the C-8 zone. The requested 28-foot building setback constitutes seventy percent of the required setback. Only a 438 square foot portion of the 11,282 square foot building, or a 3.8 percent sliver of the building, extends into the minimum yard. "Building S-1" initially was constructed in the mid-1970s outside the minimum front yard setback which existed at that time, prior to the widening of Gallows Road from two lanes. The right-of-way was enlarged and Gallows Road was reconstructed to four lanes subsequent to the initial construction of this building. The intrusive portion of "Building S-1," which began as an "overhang" connection to the main building with the purpose of shading plants, evolved into a protected plant storage area with plastic siding, then to a roofed fertilizer storage area and, when the double-doors were removed, ultimately became part of the year-round retail sales establishment. This non-compliance evolved incrementally, over a period of nearly thirty years, in good faith by the Applicant, who was not aware that this small corner of the building constituted any violation of the Ordinance.

The floor area ratio within the SPA Application area (Parcel 26C) is 0.11, out of a maximum permitted 0.5 FAR in the C-8 District. Fifty-five percent of the application area is retained in open space, when only 15 percent open space is required in the C-8 District. Also depicted within the SPA Application area is a reconfiguration of the parking spaces, resulting in a ten-foot minimum setback from the existing Lee Highway right-of-way line. The Applicant has rearranged uses so that no C-8 uses are located within the industrial zone.

In addition to the above information, the following is filed specifically pursuant to the requirements of Paragraph 6 of Section 8-011 of the Zoning Ordinance for the Special Permit Amendment application:

A. **Type Of Operation:** Plant nursery.

B. **Hours Of Operation:** Monday through Saturday 7:00 am to 9:00 pm and Sunday 9:00 am to 7:00 pm.

- C. **Estimated Number Of Patrons:** Average of 250 per day. Due to the unique seasonal nature of the business, the peak number of patrons occurs on week-ends during the months of April, May and the first half of June.
- D. **Proposed Number Of Employees:** The applicant employs a total of 85 full- and part-time employees. However, during the busiest part of the peak season, the number of employees on the site at any one time is approximately 60. During other times, the number of employees on the site at any one time is approximately 37.
- E. **Estimate Of Traffic Impact Of The Proposed Use,** including the maximum expected trip generation and the distribution of such trips by mode and time of day:
- Average daily traffic (ADT): Weekday: 450 trips; Saturday: 510 trips
- AM Peak Hour: Weekday: 25 trips
- PM Peak Hour: Weekday: 28 trips
- F. **Vicinity Or Area To Be Served:** Eastern Fairfax County, particularly neighborhoods in Merrifield, Vienna, Falls Church and Tysons.
- G. **Description Of Building Facade:** No change; as constructed and identified on the the SPA Plat.
- H. **Hazardous Materials Statement:** Approved herbicides, pesticides and fertilizers typical for a plant nursery are utilized on site; however, no pesticides shall be applied to plants on site without prior approval of the pesticide by the Fairfax County Health Department.
- I. **Conformance Statement:** The uses shall conform to the provisions of all applicable ordinances, regulations, adopted standards and conditions as permitted by special exception and special permit and in the C-8 and HCOD zoning district, except those modified herein, or which may be modified or waived by the Director of DPWES at the time of site plan approval.



Francis A. McDermott, Esquire



HUNTON & WILLIAMS LLP
1751 PINNACLE DRIVE
SUITE 1700
MCLEAN, VIRGINIA 22102
TEL 703 • 714 • 7400
FAX 703 • 714 • 7410

RECEIVED
Department of Planning & Zoning
FEB 26 2008

February 26, 2008

Zoning Evaluation Division
FRANCIS A. MCDERMOTT
DIRECT DIAL: (703) 714-7422
E-MAIL: FMCDERMOTT@HUNTON.COM
FILE NO.: 47697.9

BY HAND

Ms. Virginia H. Ruffner
Zoning Evaluation Division
Fairfax County Department of Planning and Zoning
12055 Government Center Parkway
Suite 800
Fairfax, Virginia 22035

Merrifield Garden Center Corporation
Special Permit Amendment Application SPA 2006-PR-038
Fairfax County Tax Map Parcels 49-2-((1))-26C

Dear Virginia:

On behalf of Merrifield Garden Center Corporation, we enclose the following application materials for a Special Permit Amendment on Fairfax County Tax Map Parcel 49-2-((1))-26C:

1. Application form (4 copies);
2. Special Permit Plat, which includes the SWM checklist (2 copies; remaining copies and reduction will be submitted upon a determination that the plat is acceptable);
3. Zoning Section Sheets 49-2 and 49-4;
4. Photographs of the property;
5. Special Permit Affidavit, which confirms Applicant's ownership of the subject property;
6. Applicant's Statement;
7. Authorization of Agents; and
8. Check in the amount of \$2,647.50 in payment of the application fee.

HUNTON & WILLIAMS

Ms. Virginia H. Ruffner
February 26, 2008
Page 2

This Special Permit Amendment application is filed for the sole purpose of providing the Applicant additional time to comply with Condition No. 3, which requires that building permits and final inspections for the structure be obtained within one year of final approval of the Special Permit. Due to unanticipated delays brought about by VDOT improvements to the adjacent right-of-way, requiring the relocation of water lines serving the Applicant's property, the Applicant is unable to finalize inspections and obtain its building permit within the time required by Condition No. 3. No other revisions to the approved Special Permit are requested.

As always, if you have any questions or require additional information, please do not hesitate to contact Aaron Shriber at (703) 714-7465, Jeannie Mathews at (703) 714-7451, or me. I look forward to hearing from you concerning the acceptance of this application.

Very truly yours,



Francis A. McDermott

Enclosures

cc: Mr. David Watkins

RECEIVED
Department of Planning
FEB 26 2008
Zoning Evaluation

AUTHORIZATION
Tax Map Parcels 49-2-((1))-26C

Merrifield Garden Center Corporation, applicant in a rezoning application on the property identified as Fairfax County Tax Map Parcel No. 49-2-((1))-26C, hereby authorizes the following persons to act as applicant's agent in this application: Hampton C. Williams, III, Robert P. Warhurst, R. Kevin Warhurst, C. David Watkins, Francis A. McDermott, John C. McGranahan, Jr., Aaron L. Shriber, Elaine O'Flaherty Cox, Jeannie A. Mathews and Robert W. Walker, all of whom are listed on the disclosure affidavit.

MERRIFIELD GARDEN CENTER
CORPORATION

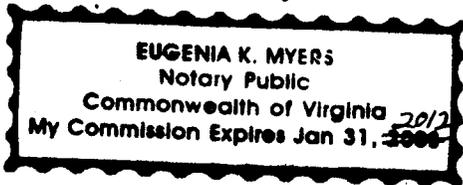
2/21/08
DATE

BY: [Signature]
Robert P. Warhurst
President

STATE OF Virginia
CITY/COUNTY OF Fairfax, to-wit:

I, the undersigned Notary Public in and for the jurisdiction aforesaid, do hereby certify that Robert P. Warhurst, whose name is signed to the foregoing, as President of Merrifield Garden Center Corporation, personally appeared before me, and acknowledged the same to be his act and deed.

Given under my hand and seal this 21 day of February, 2008.



[Signature]
NOTARY PUBLIC

Registration No. 132200

My commission expires: 1-31-2012

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

MERRIFIELD GARDEN CENTER CORPORATION, SP 2006-PR-038 Appl. under Sect(s). 8-914 of the Zoning Ordinance to permit reduction to minimum yard requirements based on error in building location to permit building to remain 28.0 ft. from front lot line. Located at 8132 Lee Hwy. on approx. 3.02 ac. of land zoned C-8 and HC. Providence District. Tax Map 49-2 ((1)) 26C. (In association with SE 2006-PR-018) (Admin. moved from 12/5/06 at appl. req.) Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on February 27, 2007; and

WHEREAS, the Board has made the following findings of fact:

1. The applicant is the owner of the land.

That the applicant has presented testimony indicating compliance with Sect. 8-006, General Standards for Special Permit Uses, and Sect. 8-914, Provisions for Approval of Reduction to the Minimum Yard Requirements Based on Error in Building Location, the Board has determined:

- A. That the error exceeds ten (10) percent of the measurement involved;
- B. The non-compliance was done in good faith, or through no fault of the property owner, or was the result of an error in the location of the building subsequent to the issuance of a Building Permit, if such was required;
- C. Such reduction will not impair the purpose and intent of this Ordinance;
- D. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity;
- E. It will not create an unsafe condition with respect to both other property and public streets;
- F. To force compliance with the minimum yard requirements would cause unreasonable hardship upon the owner; and
- G. The reduction will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the granting of this special permit will not impair the intent and purpose of the Zoning Ordinance, nor will it be detrimental to the use and enjoyment of other property in the immediate vicinity.
2. That the granting of this special permit will not create an unsafe condition with respect to both other properties and public streets and that to force compliance with setback requirements

would cause unreasonable hardship upon the owner.

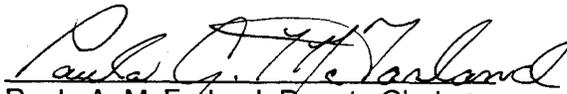
NOW, THEREFORE, BE IT RESOLVED that the subject application is APPROVED, with the following development conditions:

1. This special permit is approved for the location and size (approximately 438 square feet) of the existing one story structure as shown on the plat prepared by William H. Gordon Associates, Inc. dated, February 2007, as submitted with this application and is not transferable to other land.
2. Other by-right, special permit and special exception uses on site shall be permitted without a special permit amendment if such uses do not affect this special permit use.
3. Building permits and final inspections for the structure shall be diligently pursued within 60 days and obtained within one (1) year of final approval or this special permit shall be null & void.

This approval, contingent upon the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations or adopted standards.

Mr. Beard seconded the motion, which carried by a vote of 7-0.

A Copy Teste:



Paula A. McFarland, Deputy Clerk
Board of Zoning Appeals

8-006 General Standards

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

1. The proposed use at the specified location shall 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.
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.
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.
5. In addition to the standards which may be set forth in this Article for a particular group or use, the BZA shall require landscaping and screening in accordance with the provisions of Article 13.
6. Open space shall be provided in an amount equivalent to that specified for the zoning district in which the proposed use is located.
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.
8. Signs shall be regulated by the provisions of Article 12; however, the BZA, under the authority presented in Sect. 007 below, may impose more strict requirements for a given use than those set forth in this Ordinance.

8-903 Standards For All Group 9 Uses

In addition to the general standards set forth in Sect. 006 above, all Group 9 special permit uses shall satisfy the following standards:

1. All uses shall comply with the lot size and bulk regulations of the zoning district in which located, except as may be qualified below.
2. All uses shall comply with the performance standards specified for the zoning district in which located.
3. Before establishment, all uses, including modifications or alterations to existing uses, shall be subject to the provisions of Article 17, Site Plans, or other appropriate submission as determined by the Director.

8-914 Provisions for Approval of Reduction to the Minimum Yard Requirements Based on Error in Building Location

The BZA may approve a special permit to allow a reduction to the minimum yard requirements for any building existing or partially constructed which does not comply with such requirements applicable at the time such building was erected, but only in accordance with the following provisions:

1. Notwithstanding Par. 2 of Sect. 011 above, all applications shall be accompanied by ten (10) copies of a plat and such plat shall be presented on a sheet having a maximum size of 24" x 36", and one 8 ½" x 11" reduction of the plat. Such plat shall be drawn to a designated scale of not less than one inch equals fifty feet (1" = 50'), unless a smaller scale is required to accommodate the development. Such plat shall be certified by a professional engineer, land surveyor, architect, or landscape architect licensed by the State of Virginia and such plat shall contain the following information:
 - A. Boundaries of entire property, with bearings and distances of the perimeter property lines and of each zoning district.
 - B. Total area of the property and of each zoning district in square feet or acres.
 - C. Scale and north arrow, with north, to the extent feasible, oriented to the top of the plat and on all supporting graphics.
 - D. Location of all existing structures, with dimensions, including height of any structure and penthouse, and if known, the construction date(s) of all existing structures.
 - E. All required minimum yards to include front, side and rear, and a graphic depiction of the angle of bulk plane, if applicable, and the distances from all existing structures to lot lines.
 - F. Means of ingress and egress to the property from a public street(s).
 - G. For nonresidential uses, the location of parking spaces, indicating minimum distance from the nearest property line(s).
 - H. If applicable, the location of well and/or septic field.
 - I. For nonresidential uses, a statement setting forth the maximum gross floor area and FAR for all uses.
 - J. Location of all existing utility easements having a width of twenty-five (25) feet or more, and all major underground utility easements regardless of width.

K. Seal and signature of professional person certifying the plat.

In addition, the application shall contain a statement of justification explaining how the error in building location occurred and any supportive material such as aerial photographs, Building Permit applications, County assessments records, a copy of the contract to build the structure which is in error, or a statement from a previous owner indicating how the error in building location occurred.

2. The BZA determines that:
 - A. The error exceeds ten (10) percent of the measurement involved, and
 - B. The noncompliance was done in good faith, or through no fault of the property owner, or was the result of an error in the relocation of the building subsequent to the issuance of a Building Permit, if such was required, and
 - C. Such reduction will not impair the purpose and intent of this Ordinance, and
 - D. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity, and
 - E. It will not create an unsafe condition with respect to both other property and public streets, and
 - F. To force compliance with the minimum yard requirements would cause unreasonable hardship upon the owner.
 - G. The reduction will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.
3. In granting such a reduction under the provisions of this Section, the BZA shall allow only a reduction necessary to provide reasonable relief and may, as deemed advisable, prescribe such conditions, to include landscaping and screening measures, to assure compliance with the intent of this Ordinance.
4. Upon the granting of a reduction for a particular building in accordance with the provisions of this Section, the same shall be deemed to be a lawful building.
5. The BZA shall have no power to waive or modify the standards necessary for approval as specified in this Section.