



County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

August 4, 2009

Francis A. McDermott, Esquire
Hunton & Williams, LLP
1751 Pinnacle Drive, Suite 1700
McLean, Virginia 22102

Re: Special Exception Application SE 2006-PR-018
(Concurrent with Rezoning Application RZ 2008-PR-017)

Dear Mr. McDermott:

At a regular meeting of the Board of Supervisors held on August 3, 2009, the Board approved Special Exception Application SE 2006-PR-018 in the name of Merrifield Garden Center Corporation. The subject property is located at 8112 Lee Highway on approximately 3.91 acres of land zoned I-5 and HC in the Providence District [Tax Map 49-2 ((1)) 28]. Concurrent Rezoning Application RZ 2008-PR-017 was also approved subject to proffers dated June 12, 2009. The Board's action on Special Exception Application SE 2006-PR-018 permits a plant nursery pursuant to Section 5-504 of the Fairfax County Zoning Ordinance, 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 (SE Plat) approved with this 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 SE Plat entitled "Merrifield Garden Center" consisting of five sheets, prepared by William H. Gordon, Associates, Inc., dated September 19, 2008, as revised through May 8, 2009. Minor modifications to the approved Special Exception may be permitted pursuant to Par. 4 of Sect. 9-004 of the Zoning Ordinance.

Office of the Clerk to the Board of Supervisors
12000 Government Center Parkway, Suite 533
Fairfax, Virginia 22035

Phone: 703-324-3151 ♦ Fax: 703-324-3926 ♦ TTY: 703-324-3903
Email: clerktothebos@fairfaxcounty.gov
<http://www.fairfaxcounty.gov/bosclerk>

4. A copy of these special exception conditions shall be posted in a conspicuous place on the property, and made available to the public and all departments of the County of Fairfax during hours of operation.
5. A consolidated site plan shall be filed for the application property and adjacent lots which are part of the Merrifield Garden Center (Tax Map 49-2 ((1)) 27, 28, 28A, 28C and 34B). Such site plan shall be approved and implemented prior to the issuance of a Non-residential Use Permit (Non-RUP).
6. Building permits shall be obtained for any buildings requiring permits on site which have not been so permitted, prior to the issuance of a Non-RUP.
7. Parking shall be provided as shown on the SE Plat. Parking spaces shall consist of a minimum of 229 permanent, striped spaces and a minimum of 73 seasonal overflow spaces.
8. Contractor vehicles and equipment on-site shall only be parked/stored in that area shown on the SE Plat as "contractor parking."
9. The entrance on Lee Highway shall be signed "delivery vehicles only." Customers shall be directed to use the other entrances to the site. No signage advertising the use shall be placed adjacent to the entrance on Lee Highway.
10. Upon request by the Board of Supervisors or the owner of the adjacent parcel to the east [Tax Map 49-2 ((1)) 30], an interparcel access easement shall be recorded in the land records to allow that parcel access through the Lee Highway entrance to the site.
11. All new signage shall be in conformance with Article 12 of the Zoning Ordinance. Any existing signs which do not have permits shall be removed or receive approved sign permits prior to the issuance of a Non-RUP.
12. All new or replacement lighting, including security, pedestrian and/or other incidental lighting, shall meet the standards of Article 14 of the Zoning Ordinance.
13. Stormwater Management/Best Management Practices (SWM/BMPs) for the entire area under the combined site plan shall be provided in conformance with applicable ordinances as determined by DPWES.
14. 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.

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 floors, completely protected from the weather.
16. Outside storage areas and/or structures for the storage of bulk (loose, unpackaged) materials such as soil, manure, peat moss, humus, mulches, etc., shall be kept covered or located within the areas which drain to the SWM/BMP facilities, or which are confined by erosion and sedimentation measures to the satisfaction of DPWES to prevent any adverse impacts on water quality.
17. 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.
18. Outdoor display of accessory retail items listed in Exhibit 1 attached to these conditions, shall be permitted in those areas shown on the SE Plat. In no event shall items such as the following be stored for sale or displayed within the SE area (the I-5 portion of the site): 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.
19. No heavy equipment (such as wood chippers) shall be operated on the site prior to noon on Sundays.
20. As required by Sect. 9-517 of the Zoning Ordinance, all landscape contracting services provided from this site, including the related number of employees and commercial vehicles, shall remain accessory to the plant nursery.
21. The Applicant may conduct on-site educational classes, including school field trips and other group instruction, provided that classes are related to the propagation of trees, plants and other plant nursery related topics. Said classes may be offered on a year-round basis.
22. Festivals may be held on-site during regular hours of operation. Notification of any proposed festival must be provided to the Zoning Administrator at least three weeks prior to the beginning of the festival, provided that the Zoning Administrator may approve a lesser time period. All parking for such festivals must be accommodated on-site.

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, twenty-four (24) months after the date of approval unless, at a minimum, the use has been established, as evidenced by the issuance of a Non-RUP, or construction has commenced and been diligently prosecuted. The Board of Supervisors may grant additional time to establish the use or to commence construction if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the special exception. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.

Merrifield Garden Center: Merrifield Location

List of Accessory Retail Items

Pursuant to Paragraph 1 of Section 9-517 of the Zoning Ordinance

- Landscaping materials such as railroad ties, landscape timbers, wall stones, pavers, edging, drain pipe, spikes, rebar, straw, jute netting, erosion control cloth, tree stakes, tree wire, tree kote, tree wrap, sod staples, gravel, sand and stone
- Pots/planters such as plant containers, grow pots, hanging baskets, hayrack and moss planters, coconut liners, baskets, saucers, urns, outdoor vases, pot feet
- Garden accents such as statuary, birdhouses, birdfeeders, bird seed, birdbaths, squirrel feeders and baffles, butterfly houses, decorative plant hangers, plant stands, arbors, trellises, gazing balls, pink flamingos, garden flags, windsocks, pedestals, sundials, wind chimes, fountains, garden stepping stones, weather vanes, garden plaques, garden benches, garden bridges
- Water gardens such as water plants, fish, snails and other water garden animals, pumps, filters, pipes, liners and pond forms, waterfalls, tubing and fittings, pond heaters and de-icers, fish food, aquatic pharmaceuticals and water quality products, submersible lights, pond statues
- Wheelbarrows, garden carts
- Firewood
- Seasonal/holiday decorations such as live or cut trees, tree stands, live and artificial wreaths, swags, garland and roping.

The Board also:

- Modified the additional standard for plant nurseries #9, parking, in favor of that shown on the SE plat and as conditioned.
- Waived the service drive requirement along Lee Highway.
- Modified the frontage improvements on Lee Highway in favor of that shown on the SE Plat in accordance with VDOT Project #0029-029-119.
- Waived Section 2-504 of the Zoning Ordinance to permit outdoor storage and sales in a required yard and of Section 5-505 (3) to permit outdoor storage and sales in a front yard.

Sincerely,



Nancy Vehrs
Clerk to the Board of Supervisors
NV/dms

Cc: Chairman Sharon Bulova
Supervisor Linda Smyth, Providence District
Janet Coldsmith, Director, Real Estate Division. Dept. of Tax Administration
Regina Coyle, Director, Zoning Evaluation Division, DPZ
Diane Johnson-Quinn, Deputy Zoning Administrator, Dept. of Planning and Zoning
Angela K. Rodeheaver, Section Chief, Transportation. Planning Division
Ellen Gallagher, Capital Projects and Operations Div., Dept. of Transportation
Ken Williams, Plans & Document Control, ESRD, DPWES
Department of Highways-VDOT
Sandy Stallman, Park Planning Branch Manager, FCPA
Charlene Fuhrman-Schulz, Development Officer, DHCD/Design Development Division
District Planning Commissioner
Karyn Mooreland, Chief Capital Projects Sections, Dept. of Transportation



AMENDED
COUNTY OF FAIRFAX
 Department of Planning and Zoning
 Zoning Evaluation Division
 12055 Government Center Parkway, Suite 801
 Fairfax, VA 22035 (703) 324-1290, TTY 711
www.fairfaxcounty.gov/dpz/zoning/applications

APPLICATION No: SE 2006-PR-018
 (Staff will assign)

RECEIVED
 Department of Planning & Zoning
 Zoning Evaluation Division
 SEP 19 2008

APPLICATION FOR A SPECIAL EXCEPTION
 (PLEASE TYPE or PRINT IN BLACK INK)

APPLICANT	NAME Merrifield Garden Center Corporation	
	MAILING ADDRESS P. O. Box 848 Merrifield, VA 22116	
	PHONE HOME ()	WORK ()
	PHONE MOBILE ()	
PROPERTY INFORMATION	PROPERTY ADDRESS 8112 Lee Highway	
	TAX MAP NO. 49-2-((1))-28	SIZE (ACRES/SQ FT) ±3.9133 acres (±170,464 s.f)
	ZONING DISTRICT I-5, HCOD	MAGISTERIAL DISTRICT Providence
	PROPOSED ZONING IF CONCURRENT WITH REZONING APPLICATION: N/A	
	ZONING ORDINANCE SECTION § 9-501(19)	
SPECIAL EXCEPTION REQUEST INFORMATION	PROPOSED USE Plant Nursery	
	NAME Francis A. McDermott, Esquire	
AGENT/CONTACT INFORMATION	MAILING ADDRESS Hunton & Williams LLP 1751 Pinnacle Drive, Suite 1700 McLean, VA 22102	
	PHONE HOME ()	WORK (703) 714-7422
	PHONE MOBILE ()	FAX: (703) 714-7410
	MAILING Send all correspondence to (check one): <input type="checkbox"/> Applicant -or- <input checked="" type="checkbox"/> Agent/Contact	
<p>The name(s) and addresses of owner(s) of record shall be provided on the affidavit form attached and made part of this application. The undersigned has the power to authorize and does hereby authorize Fairfax County staff representatives on official business to enter the subject property as necessary to process the application.</p> <p>Robert P. Warhurst</p> <p>TYPE/PRINT NAME OF APPLICANT/AGENT SIGNATURE OF APPLICANT/AGENT</p>		

DO NOT WRITE IN THIS SPACE

Date Application accepted: 11/20/08

Virginia Ruffner

Application Fee Paid: \$ 529.50

SE 2008-0271 and 11/20/08