



County of Fairfax, Virginia

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

April 7, 2010

Sarah E. Hall
Blankingship and Keith, P.C.
4020 University Drive, Suite 300
Fairfax, VA 22030

Re: Special Exception Application SE 2008-HM-010

Dear Ms. Hall:

At a regular meeting of the Board of Supervisors held on April 6, 2010, the Board approved Special Exception Application SE 2008-HM-010 in the name of George B and Carolyn L.E. Sagatov. The subject property is located at 10120 Wendover Dr. on approximately 4.54 acres of land zoned R-E in the Hunter Mill District [Tax Map 27-4 ((1)) 14C1]. The Board's action permits a waiver of the minimum lot width requirements pursuant to Section 9-610 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 approved with the application, as qualified by these development conditions.
3. Any plan submitted pursuant to this Special Exception shall be in substantial conformance with the approved Special Exception Plat (SE Plat) entitled "Special Exception Plat for Minimum Lot Width Lot 1B, Lantern Hill at Wendover" prepared by Runyon, Dudley, Associates, Inc., dated August 20, 2009 (Sheets 1, 2, 3, 4, 6A, 6B, 7 and 8) and September 21, 2009 (Sheet 5) and certified by Reid M. Dudley (Cert. No. 09548) on January 19, 2010, and these conditions.

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. The Environmental Quality Corridor (“EQC”) shall be as delineated on the SE Plat and, except as qualified herein, shall remain as undisturbed open space. In the EQC area, except as otherwise provided herein, there shall be no clearing of any vegetation, except for dead or dying trees or shrubs; and there shall be no structures, except for the driveway crossing and the outfall pipe from the bio-retention basin, as depicted on the SE Plat. Any additional disturbance areas which are determined by the Department of Public Works and Environmental Services (DPWES) to be necessary shall be minimized to the maximum extent feasible and shall be re-vegetated with indigenous species, subject to the approval by the Urban Forest Management Division.
5. Stormwater Management (SWM) or Best Management Practices (BMP) measures may be provided as bioretention basins as shown on the SE Plat, as determined by DPWES, and shall be privately maintained. If a modification of the Public Facilities Manual (PFM) to permit the proposed SWM/BMP facilities as shown on the SE Plat is not granted by DPWES and SWM/BMP facilities in substantial conformance with the SE Plat cannot be provided, then a Special Exception Amendment (SEA) shall be filed to provide water quantity and quality control measures in accordance with the PFM as determined by DPWES.
6. Prior to record plat approval, the necessary residential covenants shall be established governing the maintenance of the bioretention facilities on the proposed lots as shown on the SE Plat. Residential covenants shall be recorded which disclose to the existing and all subsequent property owners the maintenance obligations of the bioretention facilities.
7. The existing plant nursery operation on site shall be discontinued at time of record plat approval. The greenhouse labeled as existing temporary structure on the SE plat shall be devoted solely to the personal use of the owners of Lot 1B1.
8. Trees and shrubs grown on the site shall be used as listed on the approved SE Plat. A transplanting plan shall be provided as part of the first and all subsequent submissions of the subdivision plan for review and approval by the Urban Forest Management Division (UFM), DPWES and shall implement the plan as approved and as field verified by UFM. The plan shall be prepared by a certified arborist or landscape architect with experience in the preparation of tree transplanting plans. Depending upon site constraints, the plan shall address one or all of the following items, as determined in writing by UFM.
 - the species and sizes to be transplanted;
 - the existing locations of the trees;
 - any proposed interim and the ultimate planting locations of the plant material;

- the proposed time of year when the plant material will be moved;
 - the transplant methods to be used, including tree spade size if applicable;
 - details regarding on-site storage of plant material until transplanting can be completed;
 - details regarding after-transplant care, including mulching and watering, and, if necessary, support measures such as guying or staking.
 - details regarding equipment to be used to transport plant materials, and (if the transplantation area in which the trees will be located is in a preservation area) the routing of such equipment.
9. The subdivision plan shall conform to the limits of clearing and grading shown on the SE Plat, as determined by Urban Forest Management Division (UFM), of Fairfax County Department of Public Works and Environmental Services (DPWES). Minor modifications may be permitted by UFM to the extent that these do not change the designations of individual trees, or result in significant physical impacts to the areas designated to be left undisturbed.

At the time of subdivision plan submission, a Tree Designation Plan shall be submitted for review and approval by the Urban Forest Management Division that identifies the trunk location, species, size, crown spread and condition analysis rating for all individual and groups of trees shown on the GDP to be preserved, as well as all on and off-site trees, living or dead with trunks 8 inches in diameter and greater (measured at 4 ½ -feet from existing grade at the base of the tree or as otherwise allowed in the 9th edition of the Guide for Plant Appraisal published by the International Society of Arboriculture) located within 25 of the approved limits of clearing and grading. The Tree Designation Plan shall also specify maintenance activities to increase the survivability of trees to be preserved, given the anticipated impacts from proposed construction. Such maintenance activities include, but are not limited to root pruning, crown pruning, mulching, and treatments designed to enhance the root zones of trees and their ability to recover and avoid stress.

10. Trees to be preserved: The necessary steps and actions shall be taken to ensure the long-term survival, and continuing structural integrity and health of trees designated on the Tree Designation Plan to be preserved. If any of these trees is found to be dead, dying, diseased, or hazardous (as determined by UFM, at or prior to, the final release of the project bond) and that such was not the result of unapproved construction practices, the applicant shall provide for restoration and remuneration by:
- providing for the removal of the above ground portions of trees.
 - restoring understory plants and/or soil conditions damaged during tree removal activities (as determined by UFM).
 - restoring the associated loss in canopy coverage in accordance with the tree cover guidance found in the Public Facilities Manual.
 - paying a sum equal to the monetary value of that tree or trees identified in

the approved Tree Preservation Plan into the Hunter Mill District's Tree Preservation and Planting Fund for use by the County within the Hunter Mill Magisterial District on or off the subject property as determined by UFM after consultation with the District Supervisor.

- In addition, the County may use other legal remedies at its disposal related to non-compliance, including, but not limited to the fact that a Special Exception Amendment may be required if any proposed remedies are not in substantial conformance with the development conditions, as determined by the Zoning Administrator.

If wrongful or negligent acts on the part of the applicant or the applicant's agents caused in whole or in part, these trees to be found to be dead, dying, diseased, or hazardous, as determined by UFM at, or prior to, the final release of the project bond, in addition to the removal and restoration requirements identified above, the applicant shall provide remuneration by paying a sum equal to the monetary value of that tree or trees as identified in the approved Tree Designation Plan into the Hunter Mill District's Tree Preservation and Planting Fund for use by the within the Hunter Mill Magisterial District on or off the subject property as determined by UFM after consultation with the District Supervisor. In addition, the County may use other legal remedies at its disposal related to non-compliance, including, but not limited to the fact that a Special Exception Amendment be required if any proposed remedies are not in substantial conformance with the development conditions, as determined by the Zoning Administrator.

11. Trees to be removed: Trees specified on the Tree Designation Plan to be removed shall be removed during initial clearing and grading activities in a manner approved by the Urban Forest Management Division. Trees to be removed that are located in the area protected by limits of clearing and grading shall be removed by hand with a chain saw and felled into the cleared area. No heavy equipment shall operate from a position within the area protected by limits of clearing and grading. Any work within the protected area shall be performed only under the direct supervision of the Project Arborist.
12. Tree Preservation Walk-Through: The services of a certified arborist or landscape architect shall be retained and the limits of clearing and grading shall be marked with a continuous line of flagging prior to the pre-construction meeting. Prior to commencement of any land disturbing activities, the applicant's certified arborist or landscape architect shall walk the limits of clearing and grading with a representative from the Urban Forest Management Division (UFM), Fairfax County Department of Public Works and Environmental Services ("DPWES") to determine where adjustments to the clearing limits can be made to increase the size of the area to be left undisturbed, and to increase the survivability of trees to be conserved or preserved that occur along the edge of the limits of clearing and grading, and/or identify hazardous trees that need to be removed. Any adjustments agreed to by the applicant and UFM shall be agreed upon and

memorialized in writing by both the applicant and UFM before any such adjustments are implemented, and such adjustments shall be implemented. Trees to be removed shall be tagged in the field. Trees that are identified in writing by an authorized representative of UFM as dead or dying may be removed as part of the clearing operation. Any tree that is so identified shall be removed using a chain saw and such removal shall be accomplished in a manner that avoids damage to surrounding trees and associated understory vegetation. If a stump must be removed, this shall be done using a stump grinding machine in a manner causing as little disturbance as possible to the adjacent trees and associated understory vegetation and soil conditions.

13. Areas to be Left Undisturbed and Adherence to Limits of Clearing and Grading:
The subdivision plan and the grading plan shall clearly identify the limits of clearing and grading as shown on the Special Exception Plat. As part of the subdivision plan, management practices shall be provided for the protection of understory plant materials, leaf litter and soil conditions found in areas to be left undisturbed, subject to the approval of the Urban Forest Management Division. The site shall be actively monitored by the applicant to ensure that inappropriate activities such as the storage of construction materials, dumping of construction debris, and traffic by construction equipment and personnel do not occur within these areas. Understory plant materials shall be restored, leaf litter and soil conditions to the satisfaction of UFM if these are found to be damaged, removed or altered in manner not allowed in writing by the Urban Forest Management Division.

If it becomes necessary to install utilities determined necessary by DPWES within areas to be left undisturbed, they shall be located and installed in the least disruptive manner possible as determined by UFM in coordination with the Environmental and Site Review Division, DPWES. In addition, the applicant shall develop and implement a replanting plan for the portions of protected areas disturbed for utility installation taking into account planting restrictions imposed by utility easement agreements.

Any work occurring in or adjacent to the areas to be left undisturbed, such as root pruning, installation of tree protection fencing and silt control devices, removal of trash, or plant debris, or extraction of trees designated to be removed shall be performed in a manner that minimizes damage to any tree, shrub, herbaceous, or vine plant species that grows in the lower canopy environment; and minimizes impacts to the existing top soil and leaf litter layers that provide nourishment and protection to that vegetation, all as approved by UFM. The use of power equipment in these areas shall be limited to small hand-operated equipment such as chainsaws. Any work that requires the use of larger motorized equipment such as, but not limited to, tree transplanting spades, skid loaders, tractors, trucks, stump-grinders, or any accessory or attachment connected to such equipment shall not occur unless reviewed and approved in writing by UFM.

14. Root Pruning and Mulching: (1) The roots of trees to be preserved that may be damaged during clearing, demolition, grade changes, utility installation and/or the installation of retaining walls shall be pruned; (2) mulch to a minimum depth of 3 inches within the areas to be left undisturbed where soil conditions are poor, lacking leaf litter or prone to soil erosion. The areas that will be root pruned and mulched shall be clearly identified on the Tree Designation Plan. All treatments for such trees and vegetation shall be clearly specified, labeled, and detailed on the erosion and sediment control sheets and demolition plan, if required, sheets of the subdivision plan submission. The details for these treatments shall be included in the Tree Designation Plan and shall be subject to the review and approved of UFM.

All root pruning and mulching work shall be performed in a manner that protects adjacent trees and vegetation that are required to be preserved and may include, but not be limited to, the following:

- Root pruning shall be done with a trencher or vibratory plow to a depth of 18 inches.
 - Root pruning shall take place prior to any clearing and grading and/or demolition of structures.
 - Root pruning shall not sever or significantly damage structural or compression roots in a manner that may compromise the structural integrity of trees or the ability of the root system to provide anchorage for the above ground portions of the trees.
 - Root pruning trench shall be back filled within 24 hours
 - Root pruning shall be conducted with the on-site supervision of a certified arborist.
 - Tree protection fencing shall be installed immediately after root pruning, and shall be positioned just outside the trench within the disturbed area.
 - Immediately after the phase II E&S activities are complete, mulch shall be applied at a depth of 3 inches within designated areas without the use of motorized equipment
 - Mulch shall consist of (specify mulch type) wood chips, shredded hardwood and/or pine bark mulch. Hay or straw mulch shall not be used within tree preservation areas.
 - UFM, DPWES shall be informed in writing when all root pruning and tree protection fence installation is complete.
15. Tree Protection Fencing and Signage: All individual trees to be preserved and all areas designated to be left undisturbed shall be protected by tree protection fencing and signage as set forth below. Tree protection fencing shall be four-foot high, 14 gauge welded wire attached to 6 foot steel posts driven 18 inches into the ground and placed no further than 10 feet apart; or super silt fence as may be approved by UFM to the extent that required trenching for super silt fence does

not sever or wound compression roots which can lead to structural failure and/or uprooting of trees. Tree protection fencing shall be erected at the drip line of individual trees to be preserved and at the limits of clearing and grading, and shall be shown on the demolition and phase I and II erosion and sediment control sheets.

All tree protection fencing shall be installed prior to Phase II clearing and grading activities, including the demolition of any existing structures. The installation of all tree protection fencing shall be performed under the supervision of a certified arborist or landscape architect and accomplished in a manner that does not harm existing vegetation that is required to be preserved. At least three days prior to the commencement of any clearing, grading, or demolition activities and prior to the installation of tree protection fencing, UFM and the District Supervisor shall be notified in writing and given the opportunity to inspect the site to assure that all individual trees to be preserved and all areas to be left undisturbed have been correctly delineated. UFM shall provide written notice to the applicant as to whether or not the areas have been delineated correctly. If it is determined by UFM that the areas are not delineated correctly, no grading or construction activities shall occur on the subject property until the delineation is corrected and field verified by UFM.

Signs that identify and help protect all areas to be left undisturbed shall be erected. These signs will be highly visible, posted in appropriate locations along the limits of clearing and grading, and attached to the tree protection fencing. Under no circumstances will the signs be nailed or in any manner attached to the trees or vegetation within the areas to left undisturbed.

16. Site Monitoring: At all times during root pruning operations or trenching for the installation of super silt fence to function as tree protection fencing; and during any clearing or removal of trees, vegetation, or structures, or transplanting of trees or vegetation on the site, or other similar activities within or adjacent to areas of trees to be preserved, a representative of the applicant who is a certified arborist or landscape architect shall be present to monitor the process and ensure that the activities are conducted in accordance with the development conditions and as approved by UFM. In addition, the services of a certified arborist or landscape architect shall be retained by the applicant to monitor all construction work and tree preservation efforts in order to ensure conformance with all tree preservation requirements and UFM approvals. The monitoring schedule shall be described and detailed in the Tree Designation Plan and shall be reviewed and approved by UFM.
17. Landscaping and restoration of the Environmental Quality Corridor (EQC) shall be provided in substantial conformance with that depicted on the SE Plat; however, wherever feasible, as determined by Urban Forest Management, DPWES, new plantings shall consist of native and other desirable species.

Species and number of plantings shall be subject to the approval of the Urban Forester.

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 responsible for obtaining the required Residential Use Permit through established procedures, and this Special Exception shall not be valid until this has been accomplished.

Pursuant to Sect. 9-015 of the Zoning Ordinance, this special exception shall automatically expire, without notice, thirty (30) months after the date of approval unless the use has been established as evidenced by recordation of the subdivision plat. 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.

Sincerely,



Nancy Vehrs
Clerk to the Board of Supervisors
NV/ph

Cc: Chairman Sharon Bulova
Supervisor Catherine Hudgins, Hunter Mill 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
Eric Teitelman, 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 Moreland, Chief Capital Projects Sections, Dept. of Transportation