

Prince George's County Special Exception No. ROSP-SE-4247/1 - VSE-4247/A

Applicant: Donald and Susan Stelfox

Location: Located on the east side of US Rt. 301, approximately 2,000 feet north of Queen Anne Bridge Road

Request: Minor Revision of Site Plan to relocate access drives, parking areas, material storage, sales, display and growing areas, provide additional screening and buffering and relocate stormwater management ponds. This request also involves a variance from the 80 foot setback from a street right-of-way for an existing barn.

R E S O L U T I O N

WHEREAS, the applicant is requesting approval of a minor change to Special Exception No. ROSP-SE-4247/1 in accordance with Section 27-325(b) of the Prince George's County Zoning Ordinance; and

WHEREAS, under this provision the applicant is requesting Minor Revision of Site Plan for a Landscape Contractor's Business and Nursery Garden Center; and

WHEREAS, the advertisement of the public hearing was posted on the property in accordance with the adopted Rules of Procedure of the Prince George's County Planning Board; and

WHEREAS, the Technical Staff Report released August 30, 2000, recommended APPROVAL, with conditions and APPROVAL of VSE-4247/A; and

WHEREAS, after consideration of the Technical Staff Report and testimony at its regular meeting on September 7, 2000, the Prince George's County Planning Board agreed with the staff recommendation; and

WHEREAS, the Planning Board decision is based on the findings and conclusions found in the Technical Staff Report and the following DETERMINATIONS:

- A. Location and Field Inspection: The subject 39.5 ∇ -acre property is an irregularly-shaped parcel located on the east side of the US 301, Crain Highway, 2,000 ∇ feet north of Queen Anne Bridge Road. It is improved with a 3,710 ∇ -square-foot barn located adjacent to Crain Highway, several small sheds ranging from 35 ∇ to 105 ∇ square feet in size and an 875 ∇ -square-foot building (all of which are located north of the existing entrance). Two other barns, 2,800 ∇ and 540 ∇ square feet in size, are located 276 ∇ and 220 ∇ feet, respectively, north of the south boundary. Several rows of trees and plantings also exist adjacent to the roadway. The major central portion of the site is cleared and in agricultural and plant nursery uses. The remainder of the property in the north and south contains wooded slopes. A portion of the north and south boundaries contain streams that flow toward Mill Branch and, in turn, the Patuxent River.
- B. History: In the 1992 Bowie-Collington-Mitchellville and Vicinity Sectional Map Amendment (SMA), the District Council rezoned the subject property from the C-2 and O-S Zones to the R-A

Zone. A special exception (SE-4247) was granted in June, 1997 for a landscaping contractor's business and a nursery and garden center. The applicant filed for a revision of site plan for the approved special exception (ROSP SE-4247/1) in April, 1999. The Technical Staff Report for this revision recommended DENIAL. The Planning Board heard the case in March 2000 and continued the case to allow the applicant to file for a variance, departure from sign design standards and address additional concerns from adjacent property owners.

- C. Master Plan Recommendation: The 1990 Bowie-Collington-Mitchellville and Vicinity Master Plan recommends permanent low-density, rural living area character for the subject property, as well as the whole community.
- D. Request: The applicant wishes to revise the approved special exception site plan to accommodate changes in size and location of two approved storm water management ponds. The proposed revisions also include the relocation of access drives, parking areas, material storage areas, sales, display and growing areas. The departure from sign design standards application (DSDS-569) requests two additional freestanding signs.

The site plan indicates that an existing barn lies partially within the right-of-way for U.S. Route 301. This right-of-way also serves as the building restriction line. A 80 foot setback is required from the building restriction line for accessory structures. Variance SE-4247A requests a waiver of this requirement.

- E. Neighborhood and Surrounding Uses:

The property is surrounded by the following uses:

<u>Northeast and East:</u>	Predominantly undeveloped land, Mill Branch, then Mill Branch Road (R-A Zone)
<u>South:</u>	Undeveloped land and Queen Anne Bridge Road. A minor subdivision, Hidden Hills, is located off Queen Anne Bridge Road, 600 ∇ feet east of US 301 (R-A Zone)
<u>West:</u>	US 301, then service-commercial auto-related uses in the median and scattered commercial uses on the west side of US 301 southbound (C-M and R-R Zones). West of these uses are residential subdivisions, including Amber Mews, in the City of Bowie (R-80 Zone)

- F. Minor Change Provisions:
(c) **Five (5) or more acres in size.**

- (1) **Changes of site plans for property of greater than five (5) acres may be permitted by the Planning Board, provided that either of the following two (2) situations exist:**

(A) **Situation No. 1.**

- (i) **There is a proposed increase in gross floor area of a building or in land area covered by a structure other than a building (over that approved on the original site plan) which is not greater than fifteen percent (15%) of the gross floor area or covered land area ; or**
- (ii) **There is a proposed relocation (in any direction) of any improvement (approved on the original plan) which is not greater than fifteen percent (15%) of the distance to the boundary line of the Special Exception property or twenty (20) feet, whichever is less.**

(B) **Situation No. 2.**

- (i) **There is a proposed change in the design of a parking lot or loading area; or**
- (ii) **There is a proposed change in a landscape plan.**

Comment: The subject property contains approximately 39.5 acres of land. The application involves the redesign of parking and loading areas, changes to the landscape plan. There are also changes to the size and location of certain structures on the property. However, these changes amount to a decrease in coverage of land by structures (from 84,000 sq. ft to 70,000 sq. ft.). None of the proposed improvements will be moved 20 feet (or 15 percent) closer to the special exception boundary line.

G. Specific Special Exception Requirements:

Sec. 27-369. Landscaping contractor's business.

- (a) **A landscaping contractor's business may be permitted, subject to the following:**
(1) **The subject property shall contain at least twenty-five (25) contiguous acres;**

Comment: The subject property contains 39.5± contiguous acres.

- (2) **The subject property shall have frontage on, and direct vehicular access to, an existing street with sufficient capacity to accommodate the type and amount of traffic to be generated by the business;**

Comment: The Transportation Planning Section, in a memo dated June 26, 2000, submits the following comments:

Although the revision does not propose an expansion of the use and is limited to a reconfiguring of the site, the transportation staff in February 2000 raised questions about whether the use is a retail nursery or a landscape contractor. In that memo, and at the resulting Planning Board hearing, the transportation staff testified that if the use is actually operating as a retail use, the site trip generation could be much higher than when the staff originally analyzed the site as a landscape contractor and wholesale nursery.

In response to this concern, the applicant provided a brief trip generation study for the site, highlighting the rates for the wholesale nursery as well as the landscape contractor uses. The counts were taken on Mondays and Fridays during late March and early April. The study indicated that the site (which is currently developed to nearly the level of activity planned by the original Special Exception SE-4247) generates 24 AM and 41 PM peak-hour vehicle trips.

The transportation staff has reviewed this information in light of all previous findings, and offers the following observations:

1. The transportation staff made three observations at the site during late April and early May. The observations were on a Friday, Monday and Wednesday. The staff's observations suggest that the site would generate 27 AM and 43 PM peak hour vehicle trips.
2. Neither the applicant's nor the staff's observations suggest that the site has trip generation approaching that of a retail nursery.
3. The cover memorandum from the applicant states that the observed traffic volumes are quite low, as compared with trip generation estimates developed during the 1997 Zoning Hearing Examiner hearings and evaluations, which was the basis for the development of the site. Not having rates at hand for a wholesale nursery, the transportation staff surmised that site trip generation would be greater than for a site which solely contained a landscape contractor (10 AM, 18 PM) but less than for a retail nursery (61 AM, 177 PM). The measured site trip generation is significantly less than the midpoint of the range, and so the applicant's statement is reasonable.

Based on the applicant's and the staff's study of site trip generation, the transportation staff believes that the site plan revisions currently proposed generally would not change the uses planned for the site when the Special Exception was originally approved. The trip generation of the site is generally less than that which was considered when the original application was reviewed.

Special Exceptions for a Landscaping Contractor's Business may be approved subject to two specific transportation requirements:

1. The subject property shall have frontage on, and direct vehicular access to, an existing street with sufficient capacity to accommodate the type and amount of traffic to be generated by the business.
2. Vehicular access to the subject property shall not be by means of streets internal to residential subdivisions.

With regard to the first requirement, the transportation staff finds the use would not be substantially changed by the revision. This use is virtually identical to that which was approved in 1997, with evidence provided that the first requirement was met. The entrance to the site was constructed pursuant to a valid access permit issued by the State Highway Administration (SHA) Engineering Access Permits Division, with consideration of safety and capacity factors along northbound US 301. The SHA has not objected to the use.

Concerning the second requirement, the transportation staff has previously noted that the Bowie, Collington, Mitchellville and Vicinity Master Plan recommends that US 301 eventually become a freeway facility, and that the subject site would eventually lose direct access to US 301 in favor of future site access via Hideout Lane within the Hidden Hills Subdivision. While the access situation is acceptable now, clearly it will change once US 301 is upgraded. The transportation staff believes that commercial businesses in general should not rely on residential streets for access. This matter has been discussed with the SHA, and the SHA has agreed that access to the subject property can and should be provided via a southward extension of a planned service road at Mount Oak Road once access controls along US 301 are upgraded. All parties should be assured that this use should not and is not intended to have future access through the Hidden Hills Subdivision.

One other issue was raised in a previous transportation memorandum that should be addressed herein. There was an implication that the subdivision might be invalid in consideration of the trip generation of the use. However, the transportation staff made its subdivision findings in consideration of SE-4247. Furthermore, earlier in this memorandum the finding was made that the nature of the use (and its resulting trip generation) would not be substantially changed by the subject revision. Provided the use on the property is consistent with SE-4247, or any future revisions,

the transportation staff would be hard-pressed to demonstrate any validity issues regarding adequacy findings for the preliminary plat.

In conclusion, the transportation staff finds that the plan revision would not pose a health, safety or welfare concern from the standpoint of transportation.

Based on the comments from the Transportation Planning Section, staff finds that the applicant has adequately addressed the transportation issues that were raised in our previous review of this application.

- (3) Vehicular access to the subject property shall not be by means of streets internal to residential subdivisions;**

Comment: As discussed in the Transportation Planning Section's comments above, no access via streets internal to residential subdivisions will be permitted.

- (4) All business operations (except the outdoor growing of nursery stock) shall be located at least two hundred (200) feet from any abutting land in any Residential Zone, or land proposed to be used for residential purposes on an approved Basic Plan for a Comprehensive Design Zone, approved Official Plan for an R-P-C Zone, or any approved Conceptual or Detailed Site Plan. The District Council may waive this setback requirement if it determines that the buffer yard required in the Landscape Manual will adequately protect abutting residential land. These operations shall be screened from the view of the abutting residential land in accordance with the Landscape Manual; and**

Comment: The proposed revisions do not locate any uses closer than 200 feet to abutting residential properties. The site plan indicates that business operations shall be adequately screened using plant materials, fences and existing vegetation.

- (5) Outdoor storage of equipment and materials (except nursery stock) shall not be visible from a street.**

Comment: All equipment and materials (except nursery stock) associated with the landscape contractor's business are either being stored within buildings, or otherwise being visibly screened from the street.

Section 27-385 provides that a nursery and garden center may be permitted, subject to the following:

- (1) The display and sale of items not grown on the premises shall be incidental to the nursery operation. The display area for these items shall involve not more than twenty-five percent (25%) of the total gross display and sales area on the subject property;**

Comment: The gross sales and display area for the nursery and garden center is 60,000 square feet. The site plan indicates that 25 percent of the sales and display area (15,000 square feet) will be devoted to products not grown on the premises.

(2) The display, sale, or repair of motorized nursery or garden equipment shall not be permitted;

Comment: The applicant provides that the display, sale or repair of motorized nursery or garden equipment will not be permitted.

(3) The subject property shall contain at least one (1) acre; and

Comment: The subject property contains 39.5 ± acres.

(4) All sales and loading areas shall be located at least twenty-five (25) feet from any abutting street right-of-way.

Comment: The site plan indicates that all sales and loading areas are located at least twenty-five (25) feet from the street right-of-way for U.S. Route 301.

- H. Parking Regulations: The parking schedule correctly indicates the two uses operating on the property; Landscape Contractor's Business and Nursery and Garden Center. The landscape contractor's use has 5,585 square feet of office space and 21,172 square feet of warehouse / storage space. Parking for the office space is calculated at 1 parking space per 250 square feet for the first 2,000 square feet of gross floor area (GFA) and 1 space per 400 square feet for GFA above 2,000 square feet. The parking schedule correctly provides the 20 parking spaces that are required for the offices serving the Landscape Contractor's Business. Parking for the warehouse activity is calculated at 1 parking space per 500 square feet. The parking schedule correctly provides 43 parking spaces for the 21,172-square-foot warehouse facility. The Landscape Contractor's Business with offices and warehouse facilities requires a minimum of 63 parking spaces. The applicant provides 114 parking spaces for this business.
- The Nursery and Garden Center consists of sales and display areas that total 60,000 square feet. Sales and display areas require 1 parking space per 1,000 square feet. The parking schedule correctly provides 60 parking spaces for the sales and display areas. Staff notes that the Zoning Ordinance does not distinguish between wholesale or retail nursery and garden centers. The parking schedule provides the correct parking calculations for these activities. The site plan also proposes a green house with offices. The proposed 21,000-square-foot greenhouse generates 1 parking space per 1,000 square feet of GFA and therefore requires 21 parking spaces. At 1 parking space per 250 for the first 2,000 square feet and 1 space per 400 for the remaining square footage, the 5,800-square-foot office associated with the greenhouse generates 18 parking spaces. The small 720-square-foot temporary sales office trailer will require 3 parking spaces. Based on the activities proposed with the Nursery and Garden Center, a minimum of 102 parking spaces are required. The site plan indicates that 104 parking spaces will be provided.

- I. **Landscape Manual Requirements:** The Urban Design Section has reviewed the site plan and in a memo dated June 2, 1999, makes the following findings:

The on-site density and site coverage will not change and the limits of disturbance on site remains exactly as approved. The proposal will not alter the existing use of the property or add square footage.

The proposal is exempt from the requirements of the *Landscape Manual* because:

- The existing use of the property is not being altered
- The area of the existing buildings is not being altered
- The relocation of the parking spaces by restriping does not increase the area of the existing paved surfaces.

The applicant has revised the site plan to show the correct location of all landscaping and screening as recommended in the Technical Staff Report of 3-30-00.

- J. **Zone Standards:** The site plan shows a 2,500-square-foot barn to be used for storage. The existing barn is located partially within the right-of-way for US 301. Section 27-441(i) (Table VIII) requires a minimum 80-foot setback from a front street right-of-way for accessory buildings. A variance is required to waive the setback requirement. A discussion of the variance request is provided later in this report. The applicant must also obtain permission from the District Council to locate a structure within a right-of-way.
- K. **Sign Regulations:** The site plan proposes three freestanding signs. Generally, one freestanding sign is permitted. A departure from sign design standards application (DSDS 569) which requests approval of two additional signs is discussed in Part M of this report.
- L. **Required Findings:**

A Special Exception may be approved if:

- (1) The proposed use and site plan are in harmony with the purpose of this Subtitle;**

Comment: The purposes of the Zoning Ordinance generally seek to protect and promote the health, safety, morals, comfort, convenience and welfare of the present and future inhabitants of the County. With the recommended conditions, the proposed use and site plan are generally in harmony with the purposes of the Zoning Ordinance. As discussed in Part G of the Technical Staff Report, the applicant has addressed traffic issues which relate to the retail component of the nursery center. The applicant has also revised the site plan to accurately reflect existing and proposed conditions, zoning violations have been corrected and the appropriate departures and variances have been filed. The Planning Board recommends additional conditions to address other minor issues which are discussed later in this report.

- (2) **The proposed use is in conformance with all the applicable requirements and regulations of this Subtitle.**

Comment: With the conditions of approval recommended by staff, the proposed use will be in conformance with all applicable requirements and regulations of this Subtitle.

- (3) **The proposed use will not substantially impair the integrity of any validly approved Master Plan or Functional Master Plan, or in the absence of a Master Plan or Functional Map Plan, the General Plan.**

Comment: The 1991 Bowie-Collington-Mitchellville and Vicinity Master Plan recommends maintaining and fostering a permanent low-density, rural, living area character for the subject property and surrounding community (page 93). The applicant contends that the proposed uses, landscape contractor's office and nursery/garden center, are rural in character and not incompatible with the Master Plan. The Master Plan states that the community derives its rural character from the natural environment, scattered farm tracts and rural home sites, rural scenic roads and existing large-lot zoning (page 93). The proposed uses are in keeping with the agricultural element and the attractiveness of the rural environment and natural setting: described by the Master Plan (page 92). To preserve the rural environment and natural setting envisioned by the Master Plan, all of the existing mature woodland on the subject property (approximately 19.07 acres), is to be preserved under the proposed use. In keeping with the agricultural element, a 300-foot-wide nursery growing and display area is proposed for the entire US 301 frontage.

Finally, both proposed uses (landscape contractor's business and the nursery and garden center) are permitted uses in the R-A Zone as special exceptions. A special exception is presumed to be compatible with the surrounding uses absent a finding of a unique adverse impact at this location, which is greater than any other location in the R-A Zone.

- (4) **The proposed use will not adversely affect the health, safety or welfare of residents or workers in the area.**

Comment: The proposed use will not adversely affect the health, safety or welfare of residents or workers in the area. The traffic study submitted by the applicant reviewed by staff confirms that the retail component of the subject use will not significantly increase traffic on U.S. Route 301.

- (5) **The proposed use will not be detrimental to the use or development of adjacent properties or the general neighborhood.**

Comment: The proposed use will not be detrimental to the use or development of adjacent properties or the general neighborhood. The applicant has revised the site plan to move noise-generating activities such as stump grinding away from the residential area. Other

impacts created by the use are common to both the subject use as well as many other uses permitted in an agricultural zone.

(6) The proposed site plan is in conformance with an approved Tree Conservation Plan.

Comment: The subject site contains more than 10,000 square feet of woodland. The site plan shows that less than 5,000 square feet of woodland will be disturbed. A tree conservation plan is, therefore, not required.

M. Variance:

The site plan indicates that an existing barn lies within the proposed ultimate right-of-way for US 301. The Master Plan proposes a widened freeway facility (F-10) which would take a 174 foot wide strip of land along the west side of the subject property. Rather than dedicate or place this land into reservation, the plat of subdivision was approved with a twenty-five foot wide building restriction line from the proposed right-of-way. The purpose of this building restriction line was to prevent the construction of permanent buildings within the right-of-way. The applicant provides that the existing barn is to be used for storage of agricultural products. The applicants are requesting a variance from the 80-foot building restriction line to permit the continued use of the barn.

Section 27-230 sets forth the following criteria for granting a variance:

(1) A specific parcel of land has exceptional narrowness, shallowness, or shape, exceptional topographic conditions, or other extraordinary situations or conditions;

Finding: The placement of the future right-of-way for the relocation of US 301 (F-10) along the subject property to a width of 174 feet and the 80-foot-wide building restriction line impacts the existing barn. As a result of this recommendation in the Master Plan for an expanded freeway, the barn no longer meets the setback requirements. This constitutes an extraordinary situation.

(2) The strict application of this Subtitle will result in peculiar and unusual practical difficulties to, or exceptional or undue hardship upon, the owner of the property;

Finding: The special exception for the subject landscape contractor's business and nursery and garden center was approved in June, 1997. The barn was then renovated to permit storage of agricultural products. The subdivision plat which placed the 80-foot building restriction line was approved in July, 1998. The applicant spent over \$200,000 to use the subject barn which was subsequently affected by a setback requirement that could not be met by the existing structure. The strict application of the 25-foot building restriction line renders the barn useless and the applicant's investment to improve the structure is lost. This situation would result in undue hardship upon the owner.

(3) The variance will not substantially impair the intent, purpose, or integrity of the General Plan or Master Plan.

Finding: The variance will not substantially impair the intent, purpose, or integrity of the General Plan or Master Plan. A condition of approval for the subdivision plat provided that such time as the Maryland State Highway Administration (SHA) takes the future F-10 right-of-way, the applicants will remove and relocate all existing structures including the barn, fencing and signs at no cost to the State. Approving the variance and allowing the barn to remain will not conflict with this condition.

Staff believes the above criteria have been met. Staff notes that the approved special exception site plan shows two barns in the right-of-way, both of which were to be removed. The applicant only removed one barn. We are supporting this variance request because the barn allows additional storage of materials which will be out of view from adjacent properties. The demolition of the subject barn after the applicant has invested in improvements to the structure would constitute a hardship on the owner. We also note that SHA has no immediate plans to widen U.S. Route 301 at this location.

NOW, THEREFORE, BE IT RESOLVED, that Variance Request No. ROSP-SE-4247/1 is hereby APPROVED and the application for a "minor change" to Special Exception No. ROSP-SE-4247/1, is hereby APPROVED, with conditions and APPROVED VSE-4247/A, subject to the following conditions:

1. The parking schedule and site plan must be revised to show all required loading spaces.
2. All compact parking spaces must be clearly marked as such in the parking lot. The method of compliance with this requirement must be indicated on the site plan.

BE IT FURTHER RESOLVED, that an appeal of the Planning Board's action must be filed with Circuit Court for Prince George's County, Maryland within thirty (30) days following the final notice of the Planning Board's decision.

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This is to certify that the foregoing is a true and correct copy of the action taken by the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Lowe, seconded by Commissioner Brown, with Commissioners Lowe, Eley, Brown and Hewlett voting in favor of the motion, at its regular meeting held on Thursday, September 7, 2000, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 5th day of October 2000.

Trudye Morgan Johnson
Executive Director

By Frances J. Guertin
Planning Board Administrator

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