

Maryland-National Capital Park and Planning Commission
 Prince George's County Planning Department
 Development Review Division
 301-952-3530



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SPECIAL EXCEPTION APPLICATION 4411 (VSE 4411A)

Application	General Data
Project Name Takoma Tree & Landscaping, Inc. Location Northeast side of Cool Spring Road approximately 265' south of Quinn Spring Court, known as 2310 Cool Spring Road. Applicant Takoma Tree & Landscaping, Inc. 2310 Cool Spring Road Adelphi, Maryland 20783	Date Accepted 3/2/01
	Planning Board Action Limit
	Tax Map & Grid 032/E-1
	Plan Acreage 2.25 Acres
	Zone R-R
	Dwelling Units
	Square Footage
	Planning Area 65
	Council District 02
	Municipality None
200-Scale Base Map 210NE2	

Purpose of Application	Notice Dates		
Landscaping Contractor Business 27-369, 27-317 Variance for 25-acre requirement	Adjoining Property Owners 10/31/01 (CB-15-1998)		
	Previous Parties of Record NA (CB-13-1997)		
	Sign(s) Posted on Site NA		
	Variance(s): Adjoining NA Property Owners		
Staff Recommendation	Staff Reviewer Catherine Wallace		
APPROVAL	APPROVAL WITH CONDITIONS	DISAPPROVAL	DISCUSSION
		X	

October 31, 2001

TECHNICAL STAFF REPORT:

TO: The Prince George's County Planning Board
The Prince George's County District Council

VIA: Arie Stouten, Zoning Supervisor

FROM: Catherine H. Wallace, Planner-Coordinator

SUBJECT: **Special Exception Application No. 4411**
VSE 4411

REQUEST: Landscaping contractor's business, including a variance from the minimum acreage requirement.

RECOMMENDATION: **DENIAL**

NOTE:

This application is on the agenda for the Planning Board to decide whether or not to schedule a public hearing. If the Planning Board decides to hear the application, it will be placed on a future agenda.

Any person may request the Planning Board to schedule a public hearing. The request may be made in writing prior to the agenda date or in person on the agenda date. All requests must specify the reasons for the public hearing. All parties will be notified of the Planning Board's decision.

You are encouraged to become a person of record in this application. The request must be made in writing and sent to the Office of the Zoning Hearing Examiner at the address indicated above. Questions about becoming a person of record should be directed to the Hearing Examiner at 301-952-3644. All other questions should be directed to the Development Review Division at 301-952-3530.

FINDINGS:

- A. Location and Field Inspection: The subject property is a 2.2-acre site located in Adelphi on the northeast side of Cool Spring Road, about 265 feet from its intersection with Quinn Spring Court and about 800 feet east of Riggs Road. The site is wooded with many mature trees and contains moderate to steep slopes, especially along the edges of a stream running through the east portion of the property. The eastern half of the site is in the 100-year floodplain.

The property is developed with a single-family residence, which is occupied by the owner/applicant, as well as a small office and garage/storage building. A gravel driveway leads to the residence and beyond to the office and storage area to the rear. A parking area near the residence was used for the storage of trucks associated with the business. The area in front of the office (which also includes a proposed parking space for the handicapped) was used for the storage of vehicles and large pieces of equipment. Two shredding or mulching machines were on the site, as well as a small front-end loader and several trucks. Two large green storage bins about eight feet in height are located east of the driveway. Four sand spreaders are stored on top of the green bins, and staff observed four snowplows as well. Two large piles of logs exist roughly in the center of the site, about 160 feet from Cool Spring Road. Most of these logs have been split into firewood, but a number of large, intact logs (presumably to be split) were observed as well.

- B. History: The subject property has been in the R-R Zone since 1949. The staff is unaware of any zoning history on the subject property.
- C. Master Plan Recommendation: The 1990 *Langley Park-College Park-Greenbelt Master Plan* recommends single-family detached residential use for the site.
- D. Request: The applicant requests a special exception for a landscaping contractor's business. The statement of justification notes that the applicant currently operates a service business in which living trees are pruned and dead trees and limbs are hauled away or ground into mulch.... No nursery stock is kept, or grown or sold by the applicant. No mulch is ground or sold on the premises. No customers or clients visit the property, which is primarily used as an office for the business, [sic] a parking space for business vehicles. •

The applicant also requests a variance of 22.8 acres from the requirement that a landscaping contractor's business be located on a site containing at least 25 acres. The applicant also requested Alternative Compliance for the building setbacks and the width of the bufferyard along Cool Spring Meadows Subdivision.

- E. Neighborhood and Surrounding Uses: The neighborhood boundaries in this case are identified as follows:

<u>Northeast</u> -	Adelphi Road
<u>East</u> -	Pepco Right-of-Way
<u>South</u> -	Northwest Branch
<u>West</u> -	Riggs Road

The neighborhood is comprised of mostly suburban and low-suburban single-family detached development, with Adelphi Community Park located in the northeast quadrant. With the exception of a nonconforming use and a limousine business on Riggs Road, commercial development in the neighborhood is limited to the area north of Metzert Road.

The uses immediately surrounding the proposed special exception are as follows:

North - A day care center and residence, a stormwater management pond, and single-family homes in the Cool Spring Meadows Subdivision, all in the R-R Zone.

East - Single-family residences in the R-R Zone

Southwest - Single-family residences in the R-R Zone

F. Specific Special Exception Requirements:

Sec. 27-369. Landscaping Contractor's Business.

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;

The subject property contains only 2.2 acres, or about nine percent of the required 25 acres for a landscaping contractor's business; therefore, a substantial variance is required. This minimum acreage requirement applies only to a landscaping contractor's office in residential zones, not to those in commercial zones where they are permitted outright. One intent of these regulations is to permit the use of landscaping contractors in areas where larger parcels and agricultural uses exist side by side, and where the impacts of nurseries and landscaping contractors are similar, in some respects, to agricultural uses. Taken together with the 200-foot setback for business operations (subsection 4, below), it is clear that the size requirement exists primarily to provide open-space buffers between the noise and visual impacts of the business and surrounding residential areas.

The required findings regarding the requested variance from this section are discussed in Section I. below.

(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;

Cool Spring Road is a two-lane road with a 60-foot right-of-way. The paved section in front of the subject site is 22 to 24 feet wide. However, should this special exception be approved, the Department of Public Works and Transportation has indicated that a dedication of 30 feet from the centerline from this property would be required.

The applicant has indicated that no customers come to this site. Although firewood and mulch are apparently sold by the applicant, this is presumably done by delivery. On this assumption, it is likely that Cool Spring Road can adequately accommodate the number of

vehicle trips generated by the proposed special exception. (See memorandum from M-NCPPC Transportation Planning Division attached.) Cool Spring Road is a somewhat hilly and winding road in this location. Given the horizontal and vertical alignments of the road, it is likely that the applicant's trucks may pose a nuisance to other drivers due to grade changes in the roadway. However, there is no evidence that the trucks cannot negotiate Cool Spring Road.

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

Cool Spring Road is not internal to a residential subdivision.

- (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 bufferyard 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*;**

Due to the size and configuration of the site, most of the site is, in fact, within 200 feet from abutting land in a residential zone. The large piles of split wood and logs are about 120 feet from the residence and day care center property line north of the site, and 85 feet from the residential property south of the site. Storage areas to the rear are located only 70 feet from the residential property line to the south. The office building is located about 11 feet from the northern property line. Although a stormwater management pond intervenes, this would place this building about 160 feet from the residential lots along Quinn Spring Court.

It is true that the District Council may waive the 200-foot setback, if the bufferyard required by the *Landscape Manual* will adequately protect abutting residential land. Along the northern property line, the applicant has filed for Alternative Compliance because the building setback and width of the bufferyard could not be met. Section 27-328.02 exempts special exception uses from compliance with the regulations of the *Landscape Manual* if there is no increase in gross square floor area proposed. It reserves the right to the District Council, however, to determine if adequate landscaping is proposed. In reviewing the proposed landscape plan, the Alternative Compliance Committee found that the additional plant materials in the bufferyard compensate for the lack of depth of the bufferyard required by the *Landscape Manual*. This does not suggest, however, that this bufferyard is sufficient to compensate for the additional requirement of a 200-foot setback for business operations associated with this use.

The fact that this use, when permitted in a residential zone through the special exception process, requires a 200-foot setback for business operations, in addition to a 25-acre overall size requirement, is an indication of the need to protect surrounding residential development from the impacts of the operations on the site. These impacts include noise as well as visual

impacts. The placement of a visual buffer along the property line is not sufficient to overcome the need for the 200-foot setback.

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

As shown on the site plan and as currently located, the woodpiles and stored vehicles and equipment are visible from the street. Neither the existing nor proposed landscaping is sufficient to adequately screen this storage from view.

- G. Parking Regulations: The applicant is proposing to provide five parking spaces; however, during the staff site visit it was noted that several of the required parking spaces are being used to store trucks and other vehicles associated with the business. Four spaces are required for the use of employees and the residence on the site. These spaces may not be used for vehicle storage purposes.

- H. Landscape Manual Requirements:

Alternative compliance was requested from Section 4.7 of the *Landscape Manual*, Buffering Incompatible Uses, along the northeast property line. Because no increase in square footage is proposed for this site, this special exception is exempt from meeting the specific requirements of the *Landscape Manual*.

However, the District Council retains the right to determine if the landscaping proposed is sufficient to protect adjoining uses. The proposed use, a landscaping contractor's business, is a high-impact use. Where applicable, the *Landscape Manual* would normally require a ■D• bufferyard where the property abuts single-family residential uses, a ■C• bufferyard against the day care center, and a ■B• bufferyard where the property abuts the stormwater management pond.

The applicant proposes to slightly increase the amount of plant units in bufferyards where the minimum landscaped area width and building setback can be met, in return for allowing the existing buildings to remain in place and a reduction of the required bufferyard along the stormwater management pond. The Alternative Compliance Committee found this acceptable for two reasons. First, the building exists and the bufferyard in question abuts a stormwater management facility. Second, the property is wooded on most sides and the applicant's additional landscaping will augment the woodlands adequately. Subsequent to the Alternative Compliance Committee review, it was determined that the proposed landscape strip along Cool Spring Road falls partially within the 60-foot-wide right-of-way. This landscape strip must be relocated five feet to remain outside of the affected right-of-way.

The proposed landscape plan adequately addresses the issues raised by the *Landscape Manual*, assuming the landscape strip along Cool Spring Road is relocated. However, the *Landscape Manual* assumes that other relevant requirements of the Zoning Ordinance can be met.

- I. **Sec. 27-230. Criteria for Variances.**

A variance of 22.8 acres has been requested from the minimum size requirement of 25 acres for a landscape contractor's business in a residential zone. This is equivalent to a 91 percent reduction of the required minimum size.

A variance may only be granted when it is found that:

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

The applicant notes that the site is an odd-shaped triangular lot. However, this section requires a finding that the unusual shape or conditions affect the lot in such a way as to affect the site's ability to meet the requirements. The applicant's inability to meet this requirement has very little to do with the shape of the site. Even if the site had no unusual shape, its disparity from the required 25-acre size is of such an order of magnitude as to render it impossible to approve such a variance without undermining the assumptions which would permit the use of this special exception in this zone. As noted in *Alviani v. Dixon*, (365 Md. 95), the granting of a variance may not so substantially alter the criteria for the granting of the special exception so that the criteria of the special exception would be swallowed by the variance to the extent that the special exception would not be a use that was contemplated in the comprehensive zoning scheme in respect to any particular special exception.

- (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;**

It is clear that the strict application of this requirement will cause the applicant practical difficulties, since the use proposed already exists and will not be permitted to continue. However, the applicant has begun operations on this site without the required county approvals, thereby creating a self-imposed difficulty. Moreover, the physical improvements to the site have been slight, and the property can easily continue as a residential use. This site has the potential to be subdivided into two residential lots based upon the prior approval of a two-lot preliminary plan of subdivision.

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

The 1990 *Langley Park-College Park-Greenbelt Master Plan* recommends single-family detached residential uses for this site. The Master Plan also recommends that residential areas be protected from encroachment by incompatible uses. The requested variance does contribute substantially to the incompatibility of this use with its residential neighbors. However, these impacts are localized to this neighborhood and do not constitute a substantial impairment of the Master Plan.

- J. Sign Regulations: There are no signs proposed for the property.
K. Required Findings:

Section 27-317(a) of the Zoning Ordinance provides that a special exception may be approved if:

(1) The proposed use and site plan are in harmony with the purposes of this Subtitle.

The purposes of the Zoning Ordinance are to provide for the orderly growth and development of the county and to promote the public health, safety and welfare. Two specific purposes which are relevant in this case are:

- (6) To promote the most beneficial relationship between the uses of land and buildings and protect landowners from adverse impacts of adjoining development; and
- (13) To protect against undue noise, and air and water pollution, and to encourage the preservation of stream valleys, steep slopes, lands of natural beauty, dense forests, scenic vistas, and other similar features.

This use could be in harmony with these purposes if the property for which it is proposed were of an appropriate size to accommodate the visual and noise impacts associated with a landscaping contractor's business. However, due to the site's inability to even approach the appropriate size, this special exception request cannot be considered to be in harmony with these purposes.

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

This special exception requires the approval of two variances, one of which is so substantial as to negate the appropriateness of this use in this zone. It is therefore not in conformance with applicable 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.

Although this use will have adverse impacts on neighboring uses, its approval would not substantially affect the overall principles which guide this Master Plan.

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

Given the modest number of vehicle trips associated with this use, traffic safety is not considered an issue in this case. There are visual and noise impacts associated with this use which will be detrimental to the use of adjoining properties. However, they are unlikely to directly affect the health and welfare of the residents in the area.

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

This use has caused and will continue to cause detriment to the use and development of adjacent properties. Because the site is inadequate for the use proposed, both visual and noise impacts are visited upon the neighborhood. As noted in the October 17, 2001, memorandum from the M-NCPPC Environmental Planning Section, ■The type of noise typically generated by a landscaping business is periodic in nature and includes the loading and unloading of equipment and materials. Due to the nature of this business, these noise events often occur before and after normal business hours. During a site visit conducted in April 2001, a log splitter was in use generating a considerable amount of noise. . . . Other noise-generating equipment observed included a wood chipper and a small front-end loader. Snow removing equipment was also observed, which raises a special concern regarding noise during the nighttime operations for snow removal.■

The applicant has maintained that the business would be operated in such a way as to eliminate noise-producing activities and stockpiles of materials. However, the October 2001 staff visit revealed large stockpiles of logs which are being split on the property. Moreover, just the movement of heavy trucks and equipment into and out of the site is disquieting to a residential neighborhood, and should only be allowed where the zoning is appropriate or the size of the property is many times larger. The Zoning Ordinance permits this type of use but intends to minimize the nuisances associated with them through the use of minimum setbacks and large expanses of land. These factors are not available here and the nuisances are not sufficiently contained.

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

The site is not subject to the provisions of the Woodland Conservation Ordinance because it will result in a cumulative disturbance of less than 5,000 square feet of woodland. A December 29, 2000, letter from the Environmental Planning Section states that no square feet of woodland will be disturbed under the proposed plan.

CONCLUSION:

This proposal cannot meet the requirements of the Zoning Ordinance and is detrimental to the use and development of surrounding properties. We, therefore, recommend DENIAL.