



*Note: Staff reports can be accessed at [www.mncppc.org/pgco/planning/plan.htm](http://www.mncppc.org/pgco/planning/plan.htm).*

## Special Exception Application No. 4494

Application	General Data
<b>Project Name:</b> Takoma Tree Experts, Inc.  <b>Location:</b> Northeast side of Cool Spring Road approximately 265 feet south of Quinn Spring Court, known as 2310 Cool Spring Road.  <b>Applicant/Address:</b> William H. Marvil 2310 Cool Spring Road Adelphi, Maryland 20783	Date Accepted: 11/17/04
	Planning Board Action Limit: N/A
	Plan Acreage: 2.24
	Zone: R-R
	Dwelling Units: N/A
	Square Footage: N/A
	Planning Area: 65
	Tier: Developed
	Council District: 02
	Municipality: N/A
	200-Scale Base Map: 210NE02

Purpose of Application	Notice Dates
Nursery and Garden Center in the R-R Zone	Adjoining Property Owners Previous Parties of Record Registered Associations: (CB-12-2003) <div>8/4/04</div>
	Sign(s) Posted on Site and Notice of Hearing Mailed: <div>N/A</div>

Staff Recommendation		Staff Reviewer: Tom Lockard	
APPROVAL	APPROVAL WITH CONDITIONS	DISAPPROVAL	DISCUSSION
		X	

July 30, 2009

**TECHNICAL STAFF REPORT:**

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

VIA: Jimi Jones, Acting Zoning Supervisor

FROM: Tom Lockard, Senior Planner

SUBJECT: **Special Exception Application No. 4494**

REQUEST: **Nursery and Garden Center**

RECOMMENDATION: **DENIAL**

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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.

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## 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. Several large pieces of equipment are stored 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.

- B. **Development Data Summary:**

	EXISTING	PROPOSED
Zone(s)	R-R	R-R
Use(s)	Single-family residence and tree-trimming business (arborist)	Single-family residence nursery and garden center arborist (accessory use)
Acreage	2.24	2.24
Square Footage/GFA	Residence: 1,400 Office: 840 Garage/Storage: 1,100	Residence: 1,400 Outdoor sales and display area: 4,000 Office: 840 Garage/Storage: 1,100

- C. **History:** The subject property has been in the R-R Zone since the property was brought into the Regional District in 1949, and was retained in that zone by the 1990 *Approved Master Plan for Langley Park-College Park-Greenbelt and Vicinity and Adopted Sectional Map Amendment for Planning Areas 65, 66 and 67*. There has been a long history of zoning activity on the site:

<b>June 8, 2000:</b>	The Zoning Enforcement Section of DER issues a zoning violation notice ordering the applicant to cease his illegal tree-trimming business on the site and apply for a special exception as a landscaping contractor.
<b>March 3, 2001:</b>	Applicant applies for Special Exception 4411, as well as a needed variance and alternative compliance.
<b>March 24, 2003:</b>	District Council denies SE-4411 and associated variance and alternative compliance applications.
<b>April 2003:</b>	DER advises applicant to comply with District Council action or face legal action.
<b>December 2003:</b>	Applicant enters into Consent Order requiring applicant to bring site into conformance with the Zoning Ordinance.

**July 2004:** Applicant cited for contempt of court.

**November 17, 2004:** Applicant files this special exception application.

- D. **Master Plan Recommendation:** The 2002 General Plan locates this property in the Developed Tier. The vision for the Developed Tier is a network of sustainable, transit-supporting, mixed-use pedestrian-oriented, medium- to high-density neighborhoods. 1990 approved master plan for Langley Park–College Park–Greenbelt and vicinity recommends a Low-Suburban residential land use at up to 2.6 dwelling units per acre.
- E. **Request:** William Marvil, who is the applicant in this case, requests approval of a nursery and garden center on a 2.24-acre parcel on which he lives. In addition, the applicant's arborist business is proposed as an accessory use. In order to be considered an accessory use, the use must: (a) be subordinate to, customarily incidental to, and ordinarily found in association with, the principle use which it serves, (b) be subordinate in purpose, area, intensity to that use; and (c) not change the character of the principal use. The site plan shows a proposed 4,000-square-foot sales area at the front of the site along Cool Spring Road. To the rear of the site is a two-story office/garage for the nursery and garden center/arborist use as well as parking spaces for employee vehicles, work trucks and equipment.

The applicant has indicated that plant materials grown on-site will consist primarily of native trees for sale to reforestation and afforestation contractors. Business hours for the nursery and garden center are proposed to be 6 A.M to 6 P.M. Monday through Saturday. The arborist business would vary by season, however, no outdoor activity is proposed before sunrise or after sunset or on Sundays, except to respond to emergency situations.

The applicant proposes to store the following equipment on the site:

Three Pickup Trucks  
Two Dump Trucks.  
One Bucket Truck  
1 Bobcat  
Three Chippers (for off-site use only)

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

Northeast— Adelphi Road

East— Pepco Right-of-Way

South— Northwest Branch

West— Riggs Road

The neighborhood comprises 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 Metzerott 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  |

**G. Specific Special Exception Requirements: Sec. 27-385. Nursery and garden center.**

**(a) 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;**

The site plan shows a 4,000-square-foot area delineated as “outdoor sales and display area,” but does not differentiate between site-grown stock and items grown off the premises. The statement of justification states that a minimum of 75 percent of the sales will involve native tree stock grown on the site.

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

No display, sale or repair of motorized garden equipment is proposed as part of this application.

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

The area of the proposed special exception is 2.2 acres.

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

The site plan indicates that all sales and loading areas are over 25 feet from Cool Spring Road.

**H. Parking Regulations:**

The proposed site plan correctly notes that 38 parking spaces are required and provided. The parking needs are based upon one space for every 150 square feet of retail and office space and one space for every 1,000 square feet of outdoor sales and display area. One loading space is required and provided.

To conform to the requirements of the Part 11, the following must be addressed:

1. Access to the loading and parking spaces are provided by a gravel drive a minimum of 22-feet in width. A dirt driveway located between the greenhouse and outdoor sales and display area does not meet the standards for access to parking or loading spaces and should not be used for vehicular access to the parking or loading areas.
2. The two spaces for the handicapped must be shown closer to the proposed office/retail building and an access ramp must be provided between the building and those spaces.
3. The method for identifying the compact parking spaces in the field must be shown on the site plan.

**I. Landscape Manual Requirements:**

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 nursery and garden center, is a medium-impact use. Where applicable, the *Landscape Manual* would normally require a “C” bufferyard where the property abuts single-family residential uses, an “A” bufferyard against the day care center, and no bufferyard where the property abuts the stormwater management pond. The site plan shows the required bufferyards, but does not account for the tree-trimming (arborist) “accessory use.” This use has been previously determined to be a high-impact use, requiring additional buffering which could not be provided and was one of the reasons for the District Council’s denial of SE-4411.

- J. Zone Standards:** The proposed use meets the standards of the R-R Zone for lot coverage and setbacks.
- K. Sign Regulations:** There are no signs proposed on the site plan. If a freestanding sign is proposed, it must be shown on the site plan and conform to the location standards of Part 12 of the Zoning Ordinance.
- M. 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 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.

The nursery and garden center use proposed as part of this application could probably be found to be in harmony with these purposes if it and the residence were the only uses being considered. It is the applicant's proposed arborist "accessory use" that is problematic. In order to be considered an accessory use, the use must: (a) be subordinate to, customarily incidental to, and ordinarily found in association with, the principle use which it serves, (b) be subordinate in purpose, area, intensity to that use; and (c) not change the character of the principal use. Staff cannot find that a tree-trimming business fits the criteria for an accessory use, and the District Council has already made a decision on the appropriateness of such a business on this site in their denial of the previous special exception, finding the use to be deleterious to the use and enjoyment of the surrounding neighborhood. The proposed use is not, therefore, in harmony with the purposes of the Zoning Ordinance.

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

This special exception requires no variances or departures. It meets the requirements and regulations for development in the R-R Zone.

- (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.**

The Master Plan for Langley Park–College Park–Greenbelt and Vicinity recommends a Low-Suburban residential use for the site. Although this use will have adverse impacts on neighboring uses, its approval would not substantially affect the overall principles that guide the 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 that 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 proposed use would be detrimental to adjacent properties. The District Council found the "accessory use" proposed as part of this application 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. 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 would perpetuate a use that the District Council has previously found to be detrimental to the use and development of surrounding properties. Therefore, staff recommends DENIAL of Special Exception Application No. 4494.