



MONTGOMERY COUNTY PLANNING DEPARTMENT
 THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB
Item #
Date: 05/31/07

MEMORANDUM:

DATE: May 18, 2007

TO: Montgomery County Board of Appeals

VIA: Rose Krasnow, Chief, Development Review Division *RK*
 Ralph Wilson, Acting Zoning Supervisor, Development Review *RW*
 Division

FROM: Elsabett Tesfaye, Development Review Division (301) 495-1301 *ET*

SUBJECT:

1. Preliminary Forest Conservation Plan S-2695
2. Special Exception S-2695 Flower Valley Landscaping: request for approval of special exception to establish a landscape contractor business

Acreage: 6.27 acres
Zone: RDT
Address: 7420 Damascus Road, Gaithersburg MD
Applicants: Fabrico & Vivian Fidelis
Master Plan: 2005 Damascus Master Plan

FILING DATE: January 19, 2007
PLANNING BOARD HEARING May 31, 2007
PUBLIC HEARING: June 8, 2007

Staff Recommendation:

1. Preliminary Forest Conservation Plan for S-2695: **Approval** with conditions.
2. Special Exception 2695: **Approval** with conditions.

Rationale

The proposed special exception conforms to all applicable requirements for a special exception as specified in the Montgomery County Zoning Ordinance. Moreover, the proposed landscape contractor business is consistent with the recommendations of the 2005 Damascus Master Plan. The requested special exception will validate a use that has been operated on the property for the past three years. Approval of the requested special exception is not likely to substantially change the nature, character, scope or

intensity of the current use as now conducted by the applicants. There are no notable traffic, circulation, noise or environmental issues associated with the application provided that the recommended conditions are satisfied. The proposed special exception use does not conflict with the Forest Conservation Plan, which is the companion application to the subject special exception modification.

Staff recommends approval of the Preliminary Forest Conservation Plan and of the proposed special exception subject to the following conditions:

1. Applicants must submit a Final Forest Conservation Plan (FCP) that meets the requirements of Section 109(B) of the Forest Conservation Regulations. The Final FCP must be approved by Environmental Planning prior to any further work on the project.
2. Applicants must place the 1.25-acre onsite afforestation area in a Category 1 Conservation Easement. The easement must be protected by split-rail fencing or other measures approved by Environmental Planning.
3. Afforestation area must be planted during the first planting season after approval of the final Forest Conversation Plan
4. The maximum number of employees, excluding the applicants, must be limited to 10.
5. Hours of operation for the landscape contractor business are limited to 7:00 a.m. through 6:00 p.m. Monday through Friday.
6. Use of bathroom facilities located in the residential home must be made available to the employees of the business.
7. The landscape contractor business must not have more than six trucks and four trailers.
8. The applicants must obtain a commercial access permit from the State Highway Administration and improve the existing 20-foot-wide residential driveway onto MD 108 in accordance with permit specifications.
9. There must be no identification sign placed on the property.
10. The landscape contractor business must comply with the Montgomery County's Noise Ordinance.
11. Visitors to the site in connection with the proposed use must be limited only to the employees of the landscape contractor business. All business arrangements including consultation and sales meetings that require the physical presence of customers must be conducted off-site.

12. No wholesale or retail horticultural nursery, or mulch/compost manufacturing operation, shall be conducted on the property.
13. Landscaping on the site must be in accordance to the Landscape & Lighting plans submitted to MNCPPC-MC Development Review Division on May 9, 2007.

A. Location and Field Inspection

The property is located on the west side of Damascus Road (MD 108) approximately 500 feet south of its intersection with Annapolis Rock Road. The property consists of approximately 6.27 acres of land identified on the plat records as Part of Lot 28 and Part of Parcel 56. The site is connected to Damascus Road via two driveways constructed within narrow easements. The driveway on the south side of the property measures approximately 1,400 feet in length and provides access to the street for the neighboring residential properties to the south and the existing residence on the subject property. The second driveway, which is constructed within approximately 40-foot-wide easement, is dedicated for the exclusive use of the proposed landscape contractor's business and traverses through the east and north side of Part of Parcel 28 and ends at the proposed parking area for the special exception use (the portion of the site in Part of Parcel 56). This driveway measures 25 feet wide at the entrance and narrows to a width of 10 feet extending approximately 1375 feet.

The property is improved with a two-story, single-family dwelling, a small shed, and a gravel parking area. A 2,400 square-foot structure is under construction on a portion of the parking area. The remainder of the property is defined by open lawn with a few mature trees located at the northeastern corner of the property and along the southern property line. The property is zoned RDT. A site inspection by staff reveals that the property is properly posted.

B. Elements of Proposal

The applicants, Mr. Fabricio Fideles and Mrs. Viviane Fidelis, request approval of a special exception to validate the establishment of a landscape contractor business that they have been operating from their property for the past three years. They propose to utilize approximately .73 acres of the 6.27 acres property for the proposed use. This area, which is currently improved by a 2400 square-foot steel storage building and a gravel parking lot, is located within the westernmost part of the property in the area where the subject property abuts wooded parkland. The storage building is fully enclosed by a six-foot wooden privacy fence with a gate and a wooded area (along the western property line-rear side). The landscape contractor business will have six trucks and four trailers. The plan provides for eight surface parking spaces.

The applicants indicated that the business consists of providing landscaping services to off-site locations, and that the site is strictly for storage of equipment and vehicles associated with the business. There will be no sale of plant material or garden supplies from the site. The proposed business will have a total of 10 employees. The hours of operations for the business are 7:00 a.m. to 6:00 p.m., Monday through Friday.

C. Neighborhood Description

For purposes of this application, the neighborhood in which the subject site is located is generally defined by Damascus Road to the east, the Great Seneca Creek to the west, and includes all the properties within the Seneca Valley Estates. The neighborhood is predominantly single-family residential with very large estate type lots and parcels, unimproved parcels, and parkland, all in the RDT zone. The subject property abuts residential properties to the north, south, and east and parkland to the west (rear).

D. Land Use and Zoning History:

The site was placed in the R-R Zone with the 1956 comprehensive rezoning. The property was placed in the RDT Zone in 1980. The 2005 Damascus Master Plan and Sectional Map Amendment retained the property in the RDTZone.

E. Analysis

1. Master Plan

Upon reviewing the proposal for Master Plan consistency, the Community Based Planning Division Staff found the proposed special exception to be consistent with the approved Damascus Master Plan and has offered the following comments.

The property is situated within the Adopted and Approved Damascus Master Plan (2006). According to the Master Plan it is located in the rural area and the Plan reconfirmed the RDT zoning for the subject site. The Plan states the following with respect to special exceptions in the rural areas:

- Endorse and support criteria for evaluation of agriculturally related special exceptions.
- When evaluating compatibility with surrounding land uses the impact of agricultural related special exceptions in agricultural zones do not necessarily need to be controlled as stringently as the impact of similar special exceptions in a residential zone.

The Plan also specifies that when “special exceptions are proposed in the transition and rural areas within the Damascus Master Plan, their review should take into special consideration the preservation of these long vistas that are part of the unique character of the community. Any proposed land use that would impede those vistas should be discouraged unless it serves an important public purpose.”

According to the submitted site plan, the proposed use will be located at the rear of the property at an elevation lower than the surrounding residential uses and adjacent to heavily forested areas of the Great Seneca stream valley park. The applicant is proposing to buffer a portion of the special exception area with evergreen landscaping materials and a 6-foot high privacy fence. Community Planning Staff does not support the evergreen landscaping proposed along the western lot line in the vicinity of the proposed parking spaces, as this portion of the site abuts the stream valley park. Community Planning Staff recommends that this landscaped area only be composed of, but not limited to, a mix of hardwoods hollies, spruces, oaks, and pines trees. The width of the landscaped/planting strip in this location should be a little wider than proposed on the site plan. The recommended materials will provide a “natural looking” buffer and less of a structured landscaped look in this location. At the time of planting, these materials should be at least 3 inches in caliper and 10 feet in height. The remaining proposed evergreen landscaping adjacent to Lot 13 and the proposed fencing are adequate to screen the use from the surrounding residential uses. This special exception use will sit at a lower elevation than the surrounding residential uses, thus the preservation of long vistas cited in the master plan are not a factor in this location.

According to the applicant’s statement of operations the proposed use will have 10 employees and up to 10 trucks and will operate between the hours of 7:00 a.m. and 6:00 p.m., Monday through Friday. The intensity of activity and potential for noise associated with this use is of concern. Staff recommends that the number of trucks and type of trucks be reduced to alleviate this concern.

The proposed use is an agriculturally related use and as such is appropriate in the RDT zone. The master plan supports agriculturally related uses as a means to support the existing agricultural economy and to continue the protection of the Agricultural Reserve. The requested special exception is consistent

with the policies and recommendations contained in the Damascus Master Plan.

The applicant has amended the proposal by reducing the maximum number of trucks that the business uses from 10 to six. The amended proposal also reduces the maximum number of trailers from 6 to 4. The reduction in the number of trucks and trailers addresses the concern raised by the Community Based Planning staff regarding intensity of activity and noise.

2. Transportation

The proposal meets the transportation related requirements of Local Area Transportation Review Test (LATR). The Transportation Planning Staff reviewed the site plan and the traffic statement submitted by the applicant and offers the following comments:

Based on information contained in the traffic statement submitted by the applicant, the site would generate 19 peak-hour vehicle trips during the weekday morning (6:30 a.m. to 9:30 a.m.) and evening (4:00 p.m. to 7:00 p.m.) peak periods. Therefore, no traffic study is required to satisfy the Local Area Transportation Review test.

The site has a 20-foot wide driveway from Damascus Road (MD 108). After reviewing the existing driveway in connection with the proposed landscaping business, SHA staff concluded that the existing driveway is substandard in width, turning radii and condition to be used by the trailers and longer wheel base vehicles expected to service this site. Based on their initial review, SHA staff recommends the existing driveway to be widened to 25 feet with a 20-foot turning radius and 30-foot width. Transportation Planning staff supports the SHA staff recommendation. Because the existing driveway access permit is for a residential driveway connection, staff recommends that the petitioner be required to obtain an access permit for the modified driveway reflecting its commercial use.

Damascus Road exists as a two-lane major highway with a 120-foot width right-of-way, consistent with the Damascus Master Plan recommendation. The site will be provided with eight (8) off-street parking spaces and indoor parking for trucks and trailers will also be available. There are no sidewalks on either side of Damascus Road and little pedestrian activity in the vicinity of the site and this situation will not change with the proposed use under the subject special exception. Staff finds the improved access will be safe and adequate and the number of parking spaces will be adequate.

Transportation staff concludes that the approval of the subject special exception petition will not adversely affect the surrounding roadway system with the conditions identified above.

Transportation Planning staff recommends the following condition for transportation requirements related to approval of this application:

1. The applicant shall obtain a commercial access permit from the State Highway Administration and improve the existing 20-foot wide residential driveway onto MD 108 in accordance with permit specifications.

3. Environment

In response to earlier comments from Environmental Planning regarding the preliminary forest conservation plan, the applicant has amended the plan. Environmental Planning staff reviewed the amended plan and offered the following comments and recommendations:

Forest Conservation

The site has an approved Natural Resources Inventory/Forest Stand Delineation (NRI/FSD) (No. 42006334) issued on June 28, 2007. Environmental Planning staff has reviewed the Preliminary Forest Conservation Plan (FCP) submitted for the project. The plan shows the 6.27-acre site as unforested though it abuts forested parkland. The Conservation Threshold is 1.57 acres and the Afforestation Threshold is 1.25 acres. By planting 1.25 acres of forest onsite adjacent to the Great Seneca Stream Valley Park (Unit 6) as proposed, the project will meet the requirements of Forest Conservation Law. We recommend approval of the FCP.

Environmental Guidelines

This site is not located within a Special Protection Area. There are no streams, wetlands or other sensitive environmental features on the property.

Water Quality

The property is in the Upper Great Seneca subwatershed. The Montgomery County *Countywide Stream Protection Strategy* (CSPS, 2003 Update) lists stream quality and current habitat status as 'excellent', and habitat stability as 'stable' based on data collected between 1994 and 2000. The proposed project should not adversely affect water quality.

Stormwater Management

The Department of Permitting Services (DPS) approved the applicants' stormwater management concept request by letter dated February 8, 2007. The stormwater management concept consists of on-site channel protection measures via the use of a dry pond. On-site water quality control and onsite recharge will be provided via the use of a surface sand filter and non-structural measures.

Environmental Planning staff recommends approval of the proposed Forest Conservation Plan with the following conditions:

1. Applicant to submit a Final Forest Conservation Plan (FCP) that meets the requirements of Section 109(B) of the Forest Conservation Regulations. The Final FCP must be approved by Environmental Planning prior to any further work on the project.
2. Applicant to place the 1.25-acre onsite afforestation area in a Category 1 Conservation Easement. The Easement must be protected by split-rail fencing or other measure approved by Environmental Planning.
3. Afforestation area to be planted during the first planting season after approval of the final Forest Conversation Plan

4. Subdivision

Following a meeting with the applicants and the applicants' attorney on Friday, April 27, 2007, the Subdivision Section has offered the following comments regarding discrepancies concerning the status of the platting of the property.

It is now understood that a building permit has been issued by the Department of Permitting Services (DPS) for a detached garage that is to be located on Part of Parcel 56. DPS did not forward a copy of the building permit to MNCPPC for review and comment. The building permit approval that staff reviewed at the meeting appears to reference Part of Lot 28 as the property for which the permit was approved. It is not clear to staff as to why the permit approval references Part of Lot 28 when the structure is to be located on Part of Parcel 56. For reasons stated in our previous memorandum, we do not believe a building permit

should be issued for any structure(s) on Part of Parcel 56 until the property is brought into conformance with Chapter 50. This would entail the eventual platting of the property(s) involved with the issuance of a building permit for this special exception use.

In staff's view, the uncertain status of the property platting was not in our purview during review of the special exception application.

5. General Development Standards

- 1. Development Standards-59-G-1.23 (a): Special exceptions are subject to the development standards of the applicable zone where the special exception is located, except when the standard is specified in Section G-1.23 or in Section G-2.**

The following table summarizes the relevant RDT Zone development standards:

Development Standard	Required	Proposed/Existing
Minimum Lot Area	40,000 SF	272, 250 SF
Minimum Lot width:		
▪ at street line	25 ft	25
▪ at building line	125	382
Minimum Building Setback:		
a. From street	50 ft	50+
b. From Adjoining lot		
Side yard:		
▪ One side	20 ft	155 ft
▪ Sum of both sides	40 ft	355 ft
Rear yard	50 ft	310 ft

Yard Requirement-Accessory building		
a. Front lot line	50 ft	50+
b. From side lot line		
▪ Of Interior lot	15 ft	170 ft
▪ Of a lot abutting a public street	50 ft	NA
c. Rear lot line	10 ft	50
Maximum Building Height	50 ft	29 ft
Maximum lot coverage	10%	1.80%
Sec. 59-G-2.30.00 Landscape Contractor		
▪ Minimum Lot Size	2.0 ac	6.25 ac
▪ Setback for parking and loading	50 ft	50 ft

2. Parking Requirements—59-G-1.23 (b): Special exceptions are subject to all relevant requirements of Article 59-E.

Section 59-G-2.30.00 (3) states that the number of motor vehicles and trailers for equipment and supplies operated in connection with the contracting business or parked on site must be limited by the Board so as to preclude an adverse impact on adjoining uses. Adequate parking must be provided on site for the total number of vehicles and trailers permitted.

The application proposes a total of eight surface parking spaces and four additional spaces in the storage building. Sufficient parking accommodation is provided to satisfy the business' parking needs. Moreover, the parking area meets all applicable setback, screening, access, circulation and minimum landscaping requirements.

3. Forest Conservation-59-G-23 (d): If a special exception is subject to Chapter 22A, the Board must consider the preliminary forest conservation plan required by that Chapter when approving the special exception application and must not approve a special exception that conflicts with the preliminary forest conservation plan.

The site has an approved Natural Resources Inventory/Forest Stand Delineation (NRI/FSD) (No. 42006334) issued on June 28, 2007. As noted, Environmental Planning staff has reviewed the

Preliminary Forest Conservation Plan (FCP) submitted for the project and has recommended approval of the plan with conditions.

4. Signs—59-G-23 (f): The display of a sign must comply with Article 59-F.

The applicants indicated that no identification sign would be placed on the property.

5. Building compatibility in residential zones —59-G-23 (g): Any structure that is constructed, reconstructed or altered under a special exception in a residential zone must be well related to the surrounding area in its sitting, landscaping, scale, bulk, height, materials, and textures, and must have a residential appearance where appropriate. Large building elevations must be divided into distinct planes by wall offsets or architectural articulation to achieve compatible scale and massing.

A 2,400 square-foot (40ft X60ft) steel garage is currently being constructed in the area dedicated for the proposed use (landscape contractor's yard) and is identified as a storage/maintenance building. A building permit for a detached garage was issued to allow the construction of the building. But the parcel on which the subject building is placed (part of Parcel 56) is erroneously identified by DPS as Part of lot 28. The subject one-story, steel building is similar in shape and size to other accessory buildings on some of the neighboring properties. The storage building is substantially set back from the nearest residential property and partially screened by the six-foot-high, sight-tight, wooden fence and backs onto a wooded park. The building is located in a .73-acre enclosed area surrounded by existing forest, the 1.25 acres of afforestation area, and a landscape strip that will be planted with several large trees.

6. Lighting in residential zones —59-G-23 (h): All outdoor lighting must be located, shielded, landscaped, or otherwise buffered so that no direct light intrudes into an adjacent residential property. The following lighting standards must be met unless the Board requires different standards for a recreational facility or to improve public safety:

(1) Luminaires must incorporate a glare and spill light control device to minimize glare and light trespass.

(2) Lighting levels along the side and rear lot lines must not exceed 0.1 foot candles.

The applicants indicated that two 250-watt light fixtures will be installed on the 40'X60 storage garage. The lights will illuminate the areas adjoining the building but will not cause any light to spill onto adjoining properties. A photometric study is submitted with the application to show that the proposed special exception use meets this requirement.

F. Community Concerns: The applicants indicated that the proposed modifications were informally discussed with some of the neighbors and that no objection was voiced to the proposal. As of the date of this report, no comments were received from a civic association or individual homeowners in the area concerning the proposed use.

G. Inherent and Non-Inherent Adverse Effects

Standard for Evaluation: Section 59-G-1.2.1 of the Zoning Ordinance specifies that a special exception must not be granted without the findings required by this Article. In making these findings, the Board of Appeals, Hearing Examiner, or District Council, as the case may be, must consider the inherent and non-inherent adverse effects of the use on nearby properties and the general neighborhood at the proposed location, irrespective of adverse effects the use might have if established elsewhere in the zone. Inherent adverse effects are the physical and operational characteristics necessarily associated with the particular use, regardless of its physical size or scale of operations. Inherent adverse effects alone are not a sufficient basis for denial of a special exception. Non-inherent adverse effects are physical and operational characteristics not necessarily associated with the particular use, or adverse effects created by unusual characteristics of the site. Non-inherent adverse effects, alone or in conjunction with inherent adverse effects, are a sufficient basis to deny a special exception.

As established in previous special exception cases, seven criteria are used to identify the physical and operational characteristics of a use. Those criteria are size, scale, scope, lighting, noise, traffic, and the environment.

The primary characteristics necessarily associated with a *landscape contractor business* include noise associated with staff arrivals and departures from the site, loading of equipment, and operation and maintenance of the various equipment used in the business (i.e. lawn mowers, garden tractors, etc.)

The proposed use with the recommended conditions is not likely to result in adverse operational characteristics such as noise or excess traffic to the site. But to further ensure that there is no potential impact to the adjoining property, staff recommends that the proposed landscape contractor business comply with the

County's Noise Ordinance. There are no inherent or non-inherent adverse impacts associated with this application sufficient to warrant a denial of the subject special exception.

H. Specific Special Exception Requirements: Section 59-G-2.30.00 states that a Landscape contractor must adhere to the following standards and requirements.

This use may be allowed together with incidental buildings upon a finding by the Board of Appeals that the use will not constitute a nuisance because of traffic, noise, hours of operation, number of employees, or other factors. It is not uncommon for this use to be proposed in combination with a wholesale or retail horticultural nursery, or a mulch/compost manufacturing operation. If a combination of these uses is proposed, the Board opinion must specify which combination of uses is approved for the specified location.

The applicants indicated that the use will provide landscaping and design, and installation and maintenance services to residential properties throughout the County. All business arrangements are conducted off-site. No wholesale or retail horticultural nursery, or mulch/compost manufacturing operation exists on or are proposed for the property. The only other use on the property is a residential home.

- (1) The minimum area of the lot must be 2 acres if there are any on-site operations, including parking or loading of trucks or equipment.**

The proposal complies with this requirement. The subject property comprises 6.25 acres of land.

- (2) Areas for parking and loading of trucks and equipment as well as other on site operations must be located a minimum of 50 feet from any property line. Adequate screening and buffering to protect adjoining uses from noise, dust, odors, and other objectionable effects of operations must be provided for such areas.**

Areas for parking and loading of trucks and equipment as well as other on-site operations are located a minimum of 50 feet from any property line. Adequate buffering and screening is provided in the form of a landscape strip, substantial distance from residential buildings, existing mature trees and wooded areas, fencing, and a forest conservation easement.

- (3) **The number of motor vehicles and trailers for equipment and supplies operated in connection with the contracting business or parked on site must be limited by the Board so as to preclude an adverse impact on adjoining uses. Adequate parking must be provided on site for the total number of vehicles and trailers permitted.**

Adequate parking is provided for the proposed landscape contractor business. Eight parking spaces are provided in the parking area and at least four spaces are provided within the proposed detached garage. The business has 10 staff and a total number of six trucks and four trailers.

- (4) **No sale of plant materials or garden supplies or equipment is permitted unless the contracting business is operated in conjunction with a retail or wholesale nursery or greenhouse.**

There will be no sale of plant materials or garden supplies on the site.

- (5) **The Board may regulate hours of operation and other on-site operations so as to prevent adverse impact on adjoining uses.**

The hours of operation for the subject landscaping contractor business are from 7:00 am to 6:00 p.m., Monday through Friday. Employees arrive in the morning to pick-up company vehicles, materials and equipment, and return in the evening to retrieve their private automobiles. These operating hours are not likely to be disruptive to the adjacent properties or the general neighborhood.

- (6) **In evaluating the compatibility of this special exception with surrounding land uses, the Board must consider that the impact of an agricultural special exception on surrounding land uses in the agricultural zones does not necessary need to be controlled as stringently as the impact of a special exception in the residential zones.**

The property is located within the agricultural reserve and classified in the RDT Zone. The proposal meets all specific and general special exception requirements and is in conformance with the recommendations of the master plan. The applicants have operated the proposed special exception use on the property, albeit without permission, for the past three years without any incident. The proposed use will not intensify or exacerbate existing traffic and parking noise or adversely affect the immediate residential neighborhood.

I. Section 59-G-1.21. General conditions

(a) A special exception may be granted when the Board, the Hearing Examiner, or the District Council, as the case may be, finds from a preponderance of the evidence of record that the proposed use:

(1) Is a permissible special exception in the Zone.

The subject property is located in the RDT Zone, which permits the proposed special exception.

(2) Complies with the standards and requirements set forth for the use in Division 59-G-2. The fact that a proposed use complies with all specific standards and requirements to grant a special exception does not create a presumption that the use is compatible with nearby properties and, in itself, is not sufficient to require a special exception to be granted.

The proposal is in compliance with the specific special exception requirements of **Section 59-G-2.30.00**

(3) Will be consistent with the general plan for the physical development of the District, including any master plan adopted by the Commission. Any decision to grant or deny a special exception must be consistent with any recommendation in a master plan regarding the appropriateness of a special exception at a particular location. If the Planning Board or the Board's technical staff in its report on a special exception concludes that granting a particular special exception at a particular location would be inconsistent with the land use objectives of the applicable master plan, a decision to grant the special exception must include specific findings as to master plan consistency.

There are no master plan issues associated with this application.

(4) Will be in harmony with the general character of the neighborhood considering population density, design, scale and bulk of any proposed new structures, intensity and character of activity, traffic and parking conditions and number of similar uses.

With the recommended conditions, the proposed use will be in harmony with the general character of the neighborhood. The site and landscape plans provide for extensive landscaping, adequate setbacks, substantial green space and sufficient building setbacks. There is extensive buffering, in the form of landscaping,

afforestation, fencing and existing wooded areas, between the nearest residential properties and the proposed use.

Due to the nature of the use, the hours of operation, and the location of the property within the neighborhood, it is unlikely that the proposed use will generate a level of traffic or noise that will adversely affect the residential neighborhood.

- (5) **Will not be detrimental to the use, peaceful enjoyment, economic value or development of surrounding properties or the general neighborhood at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.**

The proposed use will not be detrimental to the development or economic values of the surrounding properties or neighborhood.

- (6) **Will cause no objectionable noise, vibrations, fumes, odors, dust, illumination, glare, or physical activity at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.**

It is not anticipated that the use will cause objectionable noise, vibrations, fumes, odors, dust, illumination, glare, or physical activity at the subject site. The applicants' amended statement of operation provides the following:

...A 40 X 60 foot steel building is currently under construction and is located within the landscape storage area on the site, and will be used to store all of the equipment, up to four trucks and all of the trailers utilized by the business. The building is equipped with garage doors and has sufficient indoor parking for four trucks and four trailers....All maintenance of the trucks and equipment used in connection with the business will take place inside this building or at garages off-site.

...The business will also maintain a small amount of plants within the storage area for planting on customers' properties. Some mulch and topsoil will be stored on the site, but will be contained in bags and no loose materials will be stored on the site. All of this material will be stored behind the six-foot privacy fence on the portion of the site to be utilized by the landscape contracting business. Any debris which is removed from customer's homes or properties will be taken directly to the County Transfer Station, and will not be

brought back to the site or stored on site. No mulch will be manufactured on the site, and no composting of debris will be conducted on site. The landscape trailers used by the business are equipped with stake bodies, and are used to transport yard waste directly to the County Transfer Station.

- (7) **Will not, when evaluated in conjunction with existing and approved special exceptions in any neighboring one-family residential area, increase the number, intensity, or scope of special exception uses sufficiently to affect the area adversely or alter the predominantly residential nature of the area. Special exception uses that are consistent with the recommendations of a master or sector plan do not alter the nature of an area.**

There are no approved special exceptions within the immediate vicinity of the property. The subject special exception would not adversely affect or alter the residential nature of the area.

- (8) **Will not adversely affect the health, safety, security, morals or general welfare of residents, visitors or workers in the area at the subject site, irrespective of any adverse effects the use might have if**

With the recommended conditions, the proposed use will not adversely affect the health, safety, security, morals or welfare of residents, visitors or workers in the area.

- (9) **Will be served by adequate public services and facilities including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage and other public facilities.**

- (i) **If the special exception use requires approval of a preliminary plan of subdivision the adequacy of public facilities must be determined by the Planning Board at the time of subdivision review. In that case, subdivision approval must be included as a condition of the special exception. If the special exception does not require approval of a preliminary plan of subdivision, the adequacy of public facilities must be determined by the Board of Appeals when the special exception is considered. The adequacy of public facilities review must include the Local Area Transportation Review and the Policy Area Transportation Review, as required in the applicable Annual Growth Policy.**

The Subdivision Section is of the opinion that a building permit should not be issued for any structure on Part of Parcel 56 until the property is brought into conformance with

the platting requirements of Chapter 50. But the Department of Permitting Services has already issued a building permit for the detached garage/storage building on Parcel 56 that is currently under construction. The permit identifies that portion of the property on which the garage/storage building is located as part of Lot 28. Staff defers to the Board of Appeals to determine the validity of the building permit issued by DPS and whether the applicants need to apply for preliminary plat.

The existing residential use is served by adequate well and septic facilities. With respect to the proposed use, the applicant provided the following information:

No sanitation facilities are being proposed for the landscape contractor's yard. The only sanitation facilities on the site are located within the existing home and will not be utilized by employees of the business. These employees do not spend much time at the site, basically arriving, picking up equipment and materials, and leaving in company vehicles to visit job sites during the day. When they return in the evening they drop off their company vehicles, return their equipment, and leave in their private automobiles.

In a supplemental statement dated May 10, 2007, the applicants indicated that as need arises, the applicants will allow employees of the business to use the bathroom facilities in the dwelling located on the property.

- (ii) **With regard to findings relating to public roads, the Board, the Hearing Examiner, or the District Council, as the case may be, must further determine that the proposal will not reduce the safety of vehicular or pedestrian traffic.**

Transportation Planning staff's review of the proposal reveals that the granting of the requested special exception would not have an adverse effect on the nearby road system provided that the applicants obtain a commercial access permit from the State Highway Administration and improve the existing 20 feet wide residential driveway onto MD 108 in accordance with permit specifications.

- (b) **Nothing in this Article relieves an applicant from complying with all requirements to obtain a building permit or any other approval**

required by law. The Board's finding of any facts regarding public facilities does not bind any other agency or department, which approves or licenses the project.

The applicants have so noted.

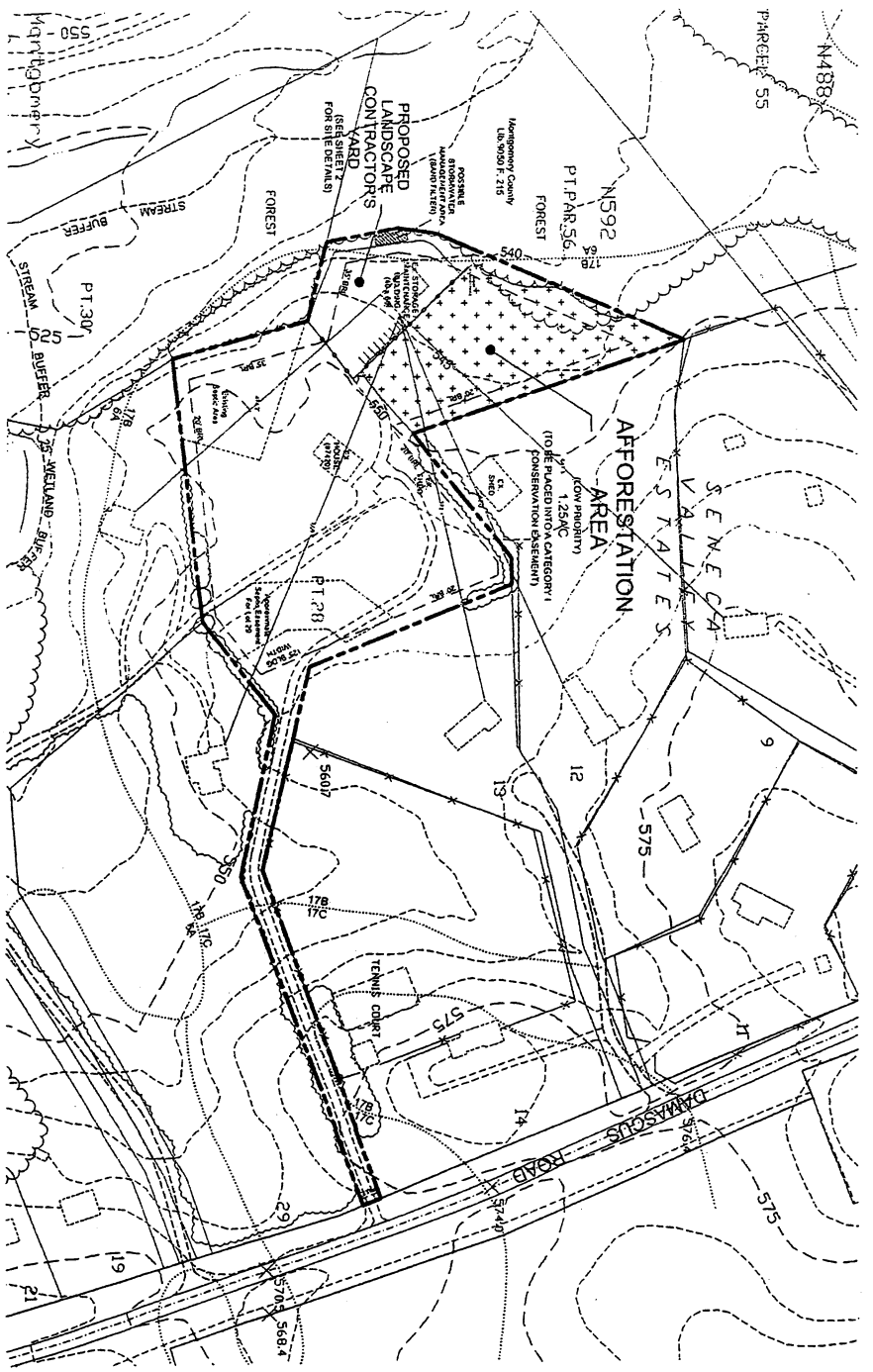
- (c) **The applicant for a special exception has the burden of proof to show that the proposed use satisfies all applicable general and specific standards under this Article. This burden includes the burden of going forward with the evidence, and the burden of persuasion on all questions of fact.**

The applicants have met the burden of proof under Sections 59-G-30.00 landscape contractor business (specific requirements) and 59-G-21(a): General Conditions.

Conclusion

Based on the foregoing analysis, staff recommends Approval of Special Exception S-2695 and the request for approval of the Preliminary forest conservation Plan for S-2695, subject to the conditions found at the beginning of the technical staff report.

ATTACHMENTS



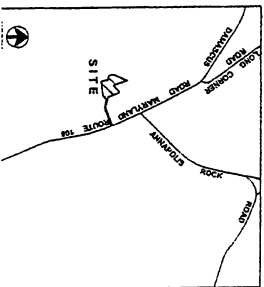
REQUIRED / PROVIDED DEVELOPMENT STANDARDS

RD1 ZONE (SECTION 89-G-2-30.00)	REQUIRED	PROVIDED
MINIMUM LOT SIZE PERMITTED	40,000 SF	277,250 SF
MINIMUM LOT WIDTH AT BUILDING LINE	125'	362'
MINIMUM STREET FRONTAGE	25'	25'
MAXIMUM LOT COVERAGE	10%	1,800%
MAXIMUM BUILDING HEIGHT	50'	14-28'
FOR MAIN BUILDING		
SETBACK FROM FRONT LOT LINE	50'	N/A
SETBACK FROM SIDE LOT LINES	30'	60'+
SETBACK FROM REAR LOT LINE	35'	128'+
FOR ACCESSORY BUILDINGS		
SETBACK FROM FRONT LOT LINE	50'	N/A
SETBACK FROM SIDE LOT LINES	15'	168'+
SETBACK FROM REAR LOT LINE	10'	50'+
LANDSCAPE CONTRACTOR (SECTION 89-G-2-30.00)		
MINIMUM LOT SIZE PERMITTED	2.0 AC	0.25 AC
SETBACK FROM ALL LOT LINES FOR PARKING, LOADING AND ON-SITE OPERATIONS	50'	85'+

GENERAL NOTES:

1. CURRENT ZONING OF SUBJECT PROPERTY - RD1
2. PROPOSED USE - LANDSCAPE CONTRACTOR (permitted by Sec-G-2-30.00)
3. AREA OF SUBJECT PROPERTY - 6.25 AC
4. EXISTING SEWER & WATER SERVICE CATEGORIES: S-6, W-8
5. PROPERTY IS SERVED BY INDIVIDUAL WELL AND ON-SITE SEWAGE DISPOSAL SYSTEM.
6. SITE IS LOCATED IN GREAT SENECA CREEK WATERSHED.
7. NO. OF PARKING SPACES PROVIDED - 8 PLUS 2 INSIDE BUILDING.
8. PARKING SPACES ARE FOR NIGHTTIME TRUCK PARKING AND DAYTIME EMPLOYEE USE.

VICINITY MAP
1" = 2000'



Prepared for:
FABRICIO & VIVIANE FIDELIS

600 JEFFERSON PLAZA, SUITE 308
ROCKVILLE, MARYLAND 20852

SPECIAL EXCEPTION SITE PLAN

LOWER VALLEY LANDSCAPING

PART OF LOT 28, BLOCK 1 OF SENECA VALLEY ESTATES & PARCEL N5991
Montgomery County, Maryland



Reynolds & Associates, Inc.

date: May 2007

scale: 1" = 100'



S-2695 FLOWER VALLEY LANDSCAPING



CONTRACTORS YARD

SITE

Map compiled on May 10, 2007 at 4:47 PM | Site located on base sheet no - 235NW07 | Date of Orthophotos: April 2006 - Used with permission from Montgomery County Government

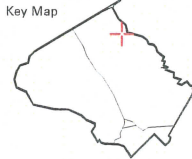
NOTICE

The planimetric, property, and topographic information shown on this map is based on copyrighted Map Products from the Montgomery County Department of Park and Planning of the Maryland-National Capital Park and Planning Commission, and may not be copied or reproduced without written permission from M-NCPPC.

Property lines are compiled by adjusting the property lines to topography created from aerial photography and should not be interpreted as actual field surveys. Planimetric features were compiled from 1:14400 scale aerial photography using stereo photogrammetric methods.

This map is created from a variety of data sources, and may not reflect the most current conditions in any one location and may not be completely accurate or up to date. All map features are approximately within five feet of their true location. This map may not be the same as a map of the same area plotted at an earlier time as the data is continuously updated. Use of this map, other than for general planning purposes is not recommended. - Copyright 1998

Key Map



N

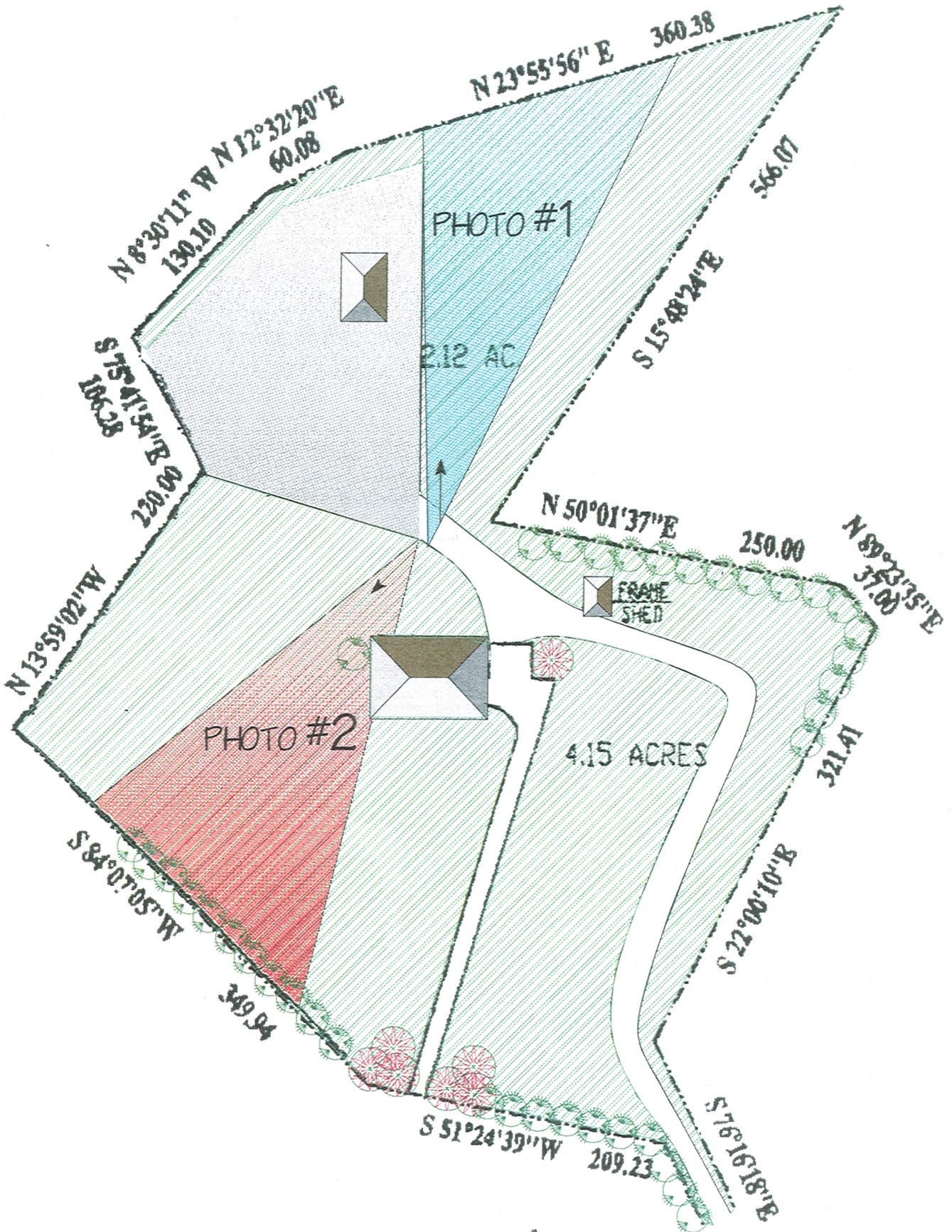


Research & Technology Center

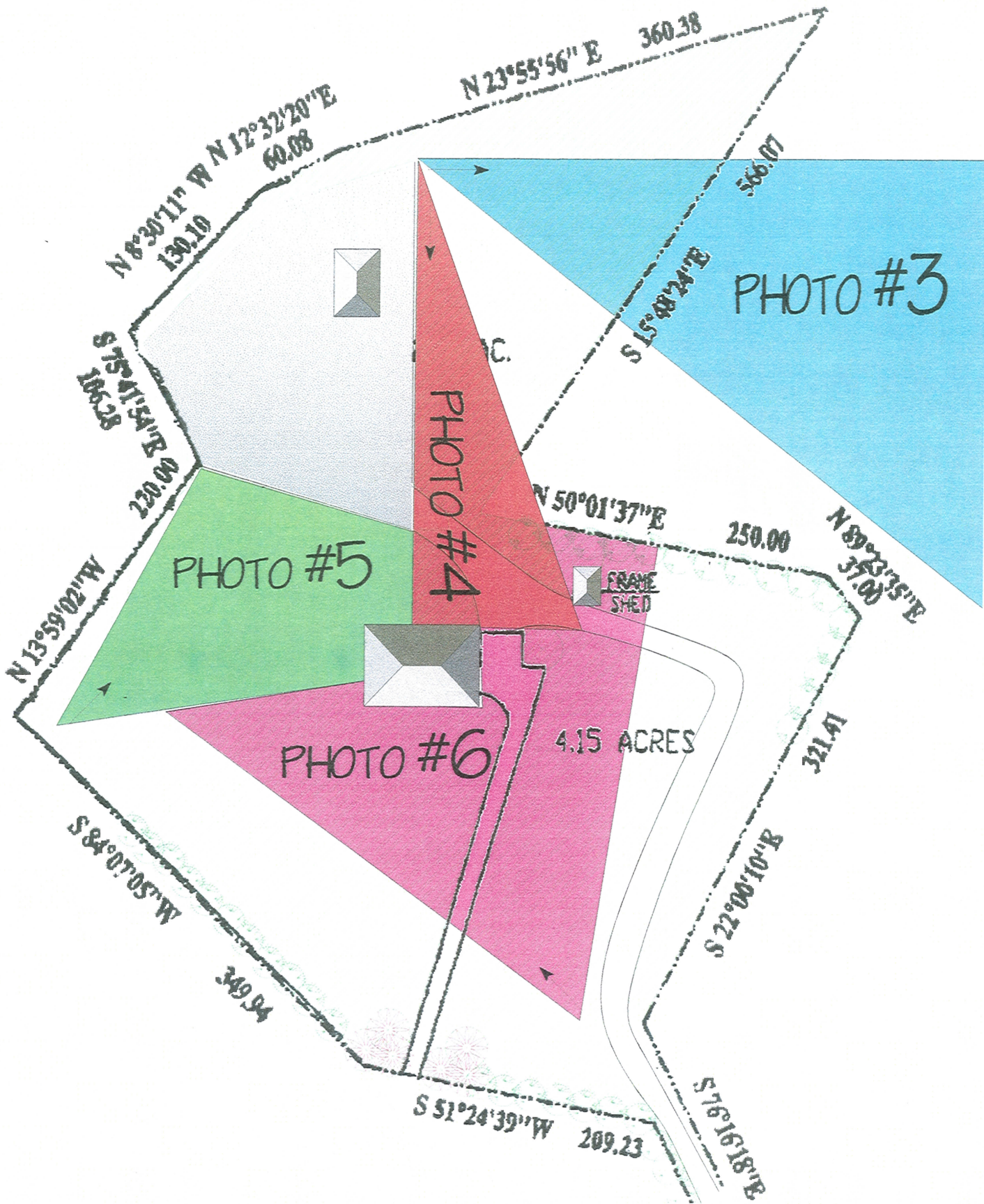
0 400

1 inch = 400 feet
1 : 4800

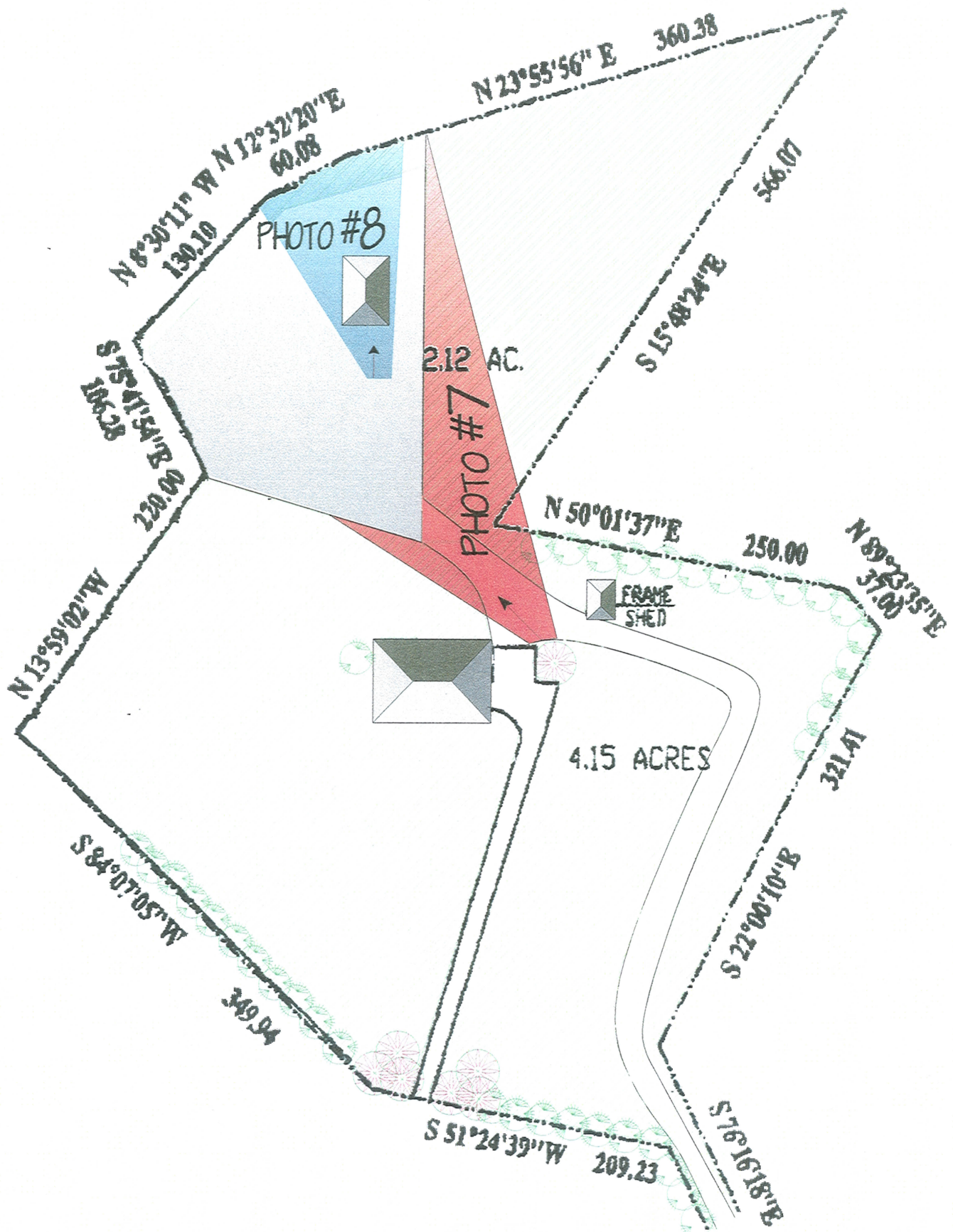
PHOTOGRAPHY MAP



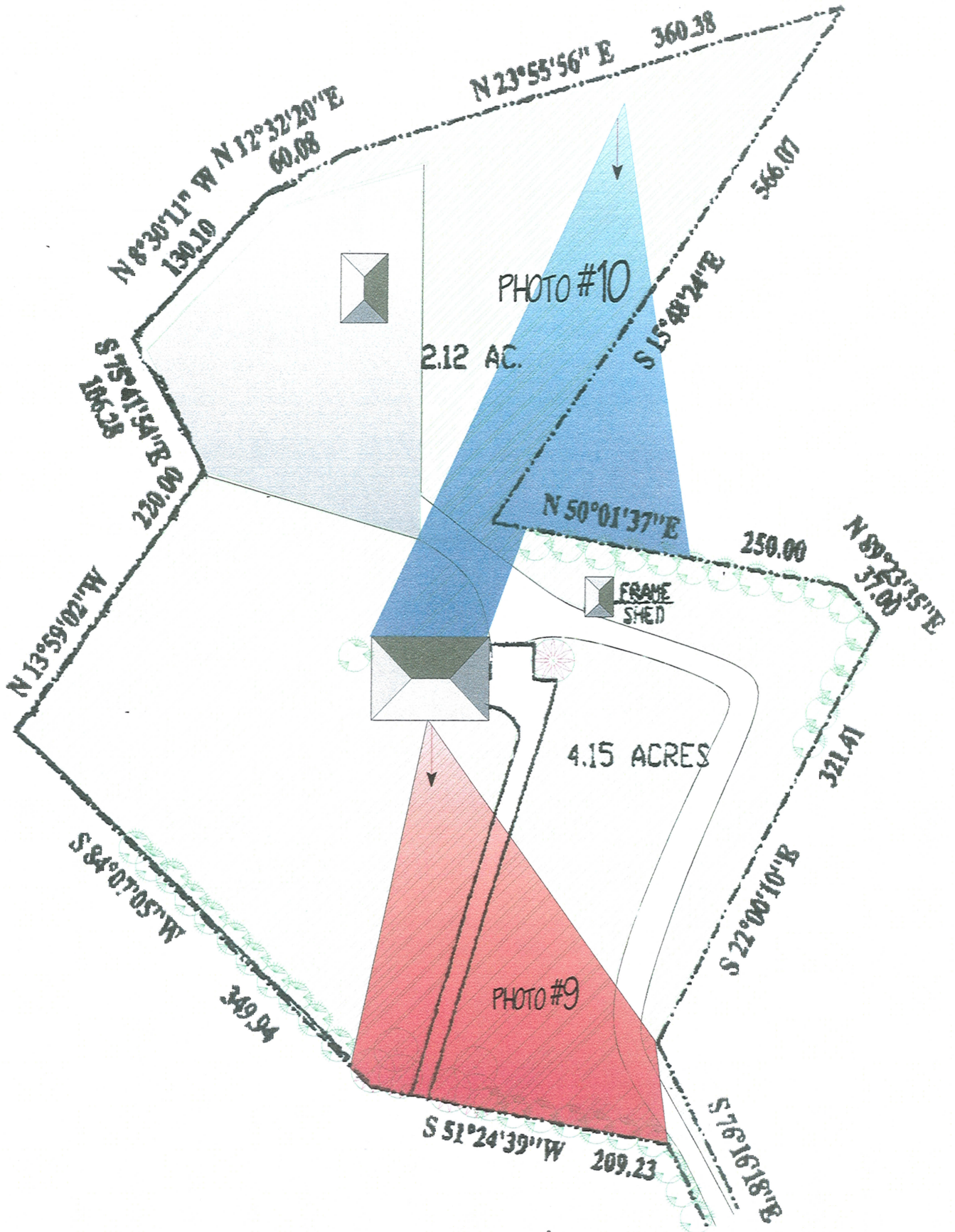
PHOTOGRAPHY MAP



PHOTOGRAPHY MAP



PHOTOGRAPHY MAP



1



NORTH VIEW
FROM THE FENCED AREA ENTRANCE

2



SOUTH VIEW
FROM THE FENCED AREA ENTRANCE

3



EAST SIDE VIEW
FROM THE END OF THE FENCED AREA

4

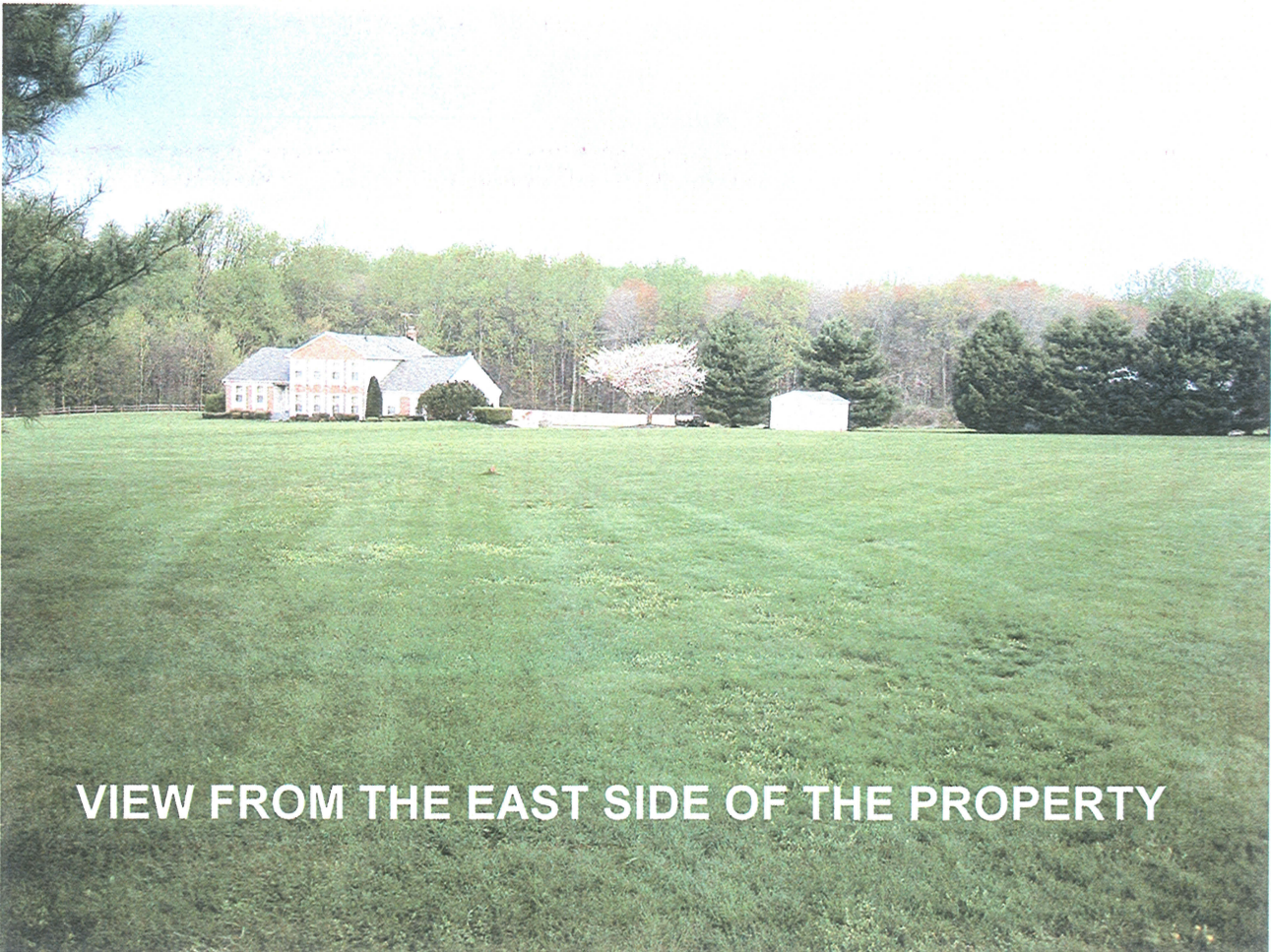


HOUSE VIEW
FROM FROM THE END OF THE FENCED AREA

5



6



7



VIEW FROM THE HOUSE

8



NEW BUILDING

9



SERVICE DRIVEWAY

MAIN DRIVEWAY

FRONT OF THE PROPERTY

10



7432 Damascus Rd

VIEW FROM BACK OF THE PROPERTY



MONTGOMERY COUNTY PLANNING DEPARTMENT
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MEMORANDUM

DATE: April 24, 2007

TO : Elsabett Tesfaye
Development Review Division

FROM: Taslima Alam *TBA*
Development Review Division

SUBJECT: Board of Appeals Petition No. S-2695

This application is for a landscape contractor operation at Damascus Road, Damascus MD. There is an existing structure located at that address on part of lot 28. Because part of a lot 28 was created as a result of a public taking, the applicant will not be required to replat part of lot 28 prior to the issuance of a building permit under section 50-9(c) of the Subdivision Regulations.

However, part of Parcel 56 does not qualify for an exception to the platting requirement. On May 8, 1986, a subdivision reservation plat was recorded, which effectively created part of lot 28 and Parcel 56. The sole purpose of this plat was to reserve Parcel 56 for public use as deemed necessary for the proposed Great Seneca Extension Stream Valley Buffer Park. Parcel 56 was not reviewed for consistency with the Adequate Public Facilities Ordinance and was, therefore, never intended to be built on. Parcel 56, was created as a land locked parcel.

Prior to acquisition, both part of lot 28 and Parcel 56 were sold to another party MNCPPC approached the new property owner and acquired only a portion of Parcel 56 with the remainder being left under the ownership of the owner of part of lot 28. The deed line separating part of lot 28 and part of parcel 56 remains. Since Parcel 56 was never intended to be built on, staff does not believe that any portion of this parcel should receive a building permit. Therefore, prior to issuance of a building permit part of Parcel 56 would have to be brought into conformance with Chapter 50. This will require platting of part of Parcel 56 prior to issuance of a building permit. A final decision on the ability to replat this property will be made by the Planning Board.



MONTGOMERY COUNTY PLANNING DEPARTMENT
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MEMORANDUM

DATE: May 2, 2007
TO: Elsabett Tesfaye, Development Review Division
FROM: Kathleen A. Reilly, AICP, Community-Based Planning Division
SUBJECT: Special Exception S-2695

The subject application is a request for a landscape contracting business. The property is located at 7420 Damascus Road in the Damascus Planning Area. The site is zoned Rural Density Transfer (RDT) and contains approximately 6.25 acres of land. Presently, it is developed with a single-family detached dwelling unit and newly constructed detached garage. The special exception use will be operated in the detached garage at the rear of the property.

The property is situated within the Adopted and Approved Damascus Master Plan (2006). According to the Master Plan it is located in the rural area and the Plan reconfirmed the RDT zoning for the subject site. The Plan states the following with respect to special exceptions in the rural areas:

- o Endorse and support criteria for evaluation of agriculturally related special exceptions
- o When evaluating compatibility with surrounding land uses the impact of agricultural related special exceptions in agricultural zones do not necessarily need to be controlled as stringently as the impact of similar special exception in a residential zone.

The Plan also specifies that when "special exceptions are proposed in the transition and rural areas within the Damascus master plan, their review should take into special consideration the preservation of these long vistas that are part of the unique character of the community. Any proposed land use that would impede those vistas should be discouraged unless it serves an important public purposes."

According to the submitted site plan, the proposed use will be located at the rear of the property at an elevation lower than the surrounding residential uses and adjacent to heavily forested areas of the Great Seneca stream valley park. The applicant has proposed to buffer a portion of the special exception area with evergreen landscaping materials and a 6-foot high privacy fence. Staff does not support the evergreen landscaping proposed along the western lot line in the vicinity of the proposed parking spaces, as this portion of the site abuts the stream valley park. Staff recommends that this landscaped area only be composed of, but not limited to,

a mix of hardwoods hollies, spruces, oaks, and pines trees. The width of the landscaped/planting strip in this location should be a little wider than proposed on the site plan. The recommended materials will provide a "natural looking" buffer and less of a structured landscaped look in this location. At the time of planting, these materials should be 3 inches in caliper and 10 feet in height. The remaining proposed evergreen landscaping adjacent to Lot 13 and the proposed fencing are adequate to screen this use from the surrounding residential uses. This special exception use will sit at a lower elevation than the surrounding residential uses, thus the preservation of long vistas cited in the master plan are not a factor in this location.

According to the applicant's statement of operations the proposed use will have 10 employees and up to 10 trucks and will operate between the hours of 7:00 a.m. and 6:00 p.m., Monday through Friday. The intensity of activity and potential for noise associated with this use is of concern. Staff recommends that the number of trucks and type of trucks be reduced to alleviate this concern.

The proposed use is considered an agriculturally related use and as such is appropriate in the RDT zone. The master plan supports agriculturally related uses as a means to support the existing agricultural economy and to continue the protection of the Agricultural Reserve. The requested special exception is consistent with the policies and recommendations contained in the Damascus Master Plan.



MONTGOMERY COUNTY PLANNING DEPARTMENT
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

May 9, 2007

MEMORANDUM:

TO: Elsabett Tesfaye
Development Review Division

VIA: Daniel K. Hardy, Supervisor *DKH*
Transportation Planning

FROM: Ki H. Kim, Planner *KHK*
Transportation Planning

SUBJECT: Special Exception Application No. S-2695
Landscape Contractor Business at 7420 Damascus Road
Damascus

This memorandum is Transportation Planning staff's Adequate Public Facilities (APF) review of the subject special exception petition. The subject special exception is for permitting operation of a landscape contracting business on a site located at 7420 Damascus Road in Damascus.

RECOMMENDATION

Transportation Planning staff recommends the following condition for transportation requirements related to approval of this application:

1. The applicant shall obtain a commercial access permit from the State Highway Administration and improve the existing 20 feet wide residential driveway onto MD 108 in accordance with permit specifications.

DISCUSSION

Based on information contained in the traffic statement submitted by the applicant, the site would generate 19 peak-hour vehicle trips during the weekday morning (6:30 a.m. to 9:30 a.m.) and evening (4:00 p.m. to 7:00 p.m.) peak periods. Therefore, no traffic study is required to satisfy the Local Area Transportation Review test.

The site has a 20-foot wide driveway from Damascus Road (MD 108). After reviewing the existing driveway in connection with the proposed landscaping business, SHA staff concluded that the existing driveway is substandard in width, turning radii and condition to be used by the trailers and longer wheel base vehicles expected to service this site. Based on their initial review, SHA staff recommends the existing driveway to be widened to 25 feet wide with a 20-foot turning radius and 30-foot length. Transportation Planning staff supports the SHA staff recommendation. Because the existing driveway access permit is for a residential driveway connection, staff recommends that the petitioner be required to obtain an access permit for the modified driveway reflecting its commercial use.

Damascus Road exists as a two-lane major highway with a 120-foot width right-of-way, consistent with the Damascus Master Plan recommendation. The site will be provided with eight (8) off-street parking spaces and indoor parking for trucks and trailers will be also available. There are no sidewalks on either side of Damascus Road and little pedestrian activity in the vicinity of the site and this situation will not change with the proposed use under the subject special exception. Staff finds the improved access will be safe and adequate and the number of parking spaces will be adequate.

CONCLUSION



Transportation staff concludes that the approval of the subject special exception petition will not adversely affect the surrounding roadway system with the condition identified above.

KK:DH:tc



MONTGOMERY COUNTY PLANNING DEPARTMENT
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MEMORANDUM

TO: Elsabett Tesfaye, Community Based Planning
VIA: Jorge Valladares, Environmental Planning
FROM: Michael Zamore, Environmental Planning  
DATE: May 14, 2007
SUBJECT: 1. Preliminary Forest Conservation Plan No. S-2695
Flower Valley Landscape
2. Special Exception Application No. S-2695
Flower Valley Landscape

STAFF RECOMMENDATIONS

Approval of the Preliminary Forest Conservation Plan, with the following conditions:

1. Applicant to submit a Final Forest Conservation Plan (FCP) that meets the requirements of Section 109(B) of the Forest Conservation Regulation. Final FCP to be approved by M-NCPCC prior to any further work on the project.
2. Applicant to place the 1.25-acre onsite afforestation area in a Category 1 Conservation Easement. Easement to be protected by split-rail fencing or other measure approved by Environmental Planning.
3. Afforestation area to be planted during the first planting season after approval of the Final Forest Conservation Plan.

Approval of Board of Appeals petition No. S-2695 with the following conditions:

Forest Conservation

The site has an approved Natural Resources Inventory/Forest Stand Delineation (NRI/FSD) (No. 42006334) issued on June 28, 2006. Environmental Planning staff has reviewed the Preliminary Forest Conservation Plan (FCP) submitted for the project. The plan shows the 6.27-acre site as unforested though it abuts forested parkland. The Conservation Threshold is 1.57 acres and the Afforestation Threshold is 1.25 acres. By planting 1.25 acres of forest onsite adjacent to the Great Seneca Stream Valley Park (Unit 6) as proposed, the project will meet the requirements of Forest Conservation Law. We recommend approval of the FCP.

Environmental Guidelines

This site is not located within a Special Protection Area. There are no streams, wetlands or other sensitive environmental features on the property.

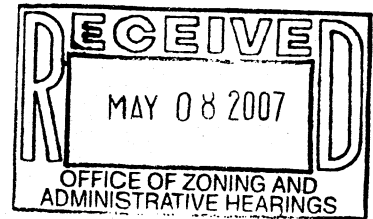
Water Quality

The property is in the Upper Great Seneca subwatershed. The Montgomery County *Countywide Stream Protection Strategy* (CSPS, 2003 Update) lists stream quality and current habitat status as 'excellent', and habitat stability as 'stable' based on data collected between 1994 and 2000. The proposed project should not adversely affect water quality.

Stormwater Management

The Department of Permitting Services (DPS) approved the stormwater management concept request by letter dated February 8, 2007. The stormwater management concept consists of on-site channel protection measures via the use of a dry pond. On-site water quality control and onsite recharge will be provided via the use of a surface sand filter and non-structural measures.

Office of Zoning and Administration Hearings
Stella B. Werner Council Office Building
100 Maryland Ave, Room 200
Rockville, Maryland 20850



May 3, 2007

Re: Case No. S-2695, Petition of Fabricio and Viviane Fidelis

Dear Sir/Madam:

Enclosed are two copies of my opposition to the above petition. Please kindly let me know whether it is required to send a copy to any other interested party. If it is require for me to mail copy of my opposition to any other party, please provide their names and addresses so I will be able to take a prompt action in a timely manner.

I appreciate your kindness and prompt action very much.

Sincerely,

A handwritten signature in black ink, appearing to read "Saiid Bina".

Saiid Bina
7422 Damascus Rd
Gaithersburg, MD 20882
Home: 301-253-3272
Work: 301-295-3142
Email: sbina@usuhs.mil

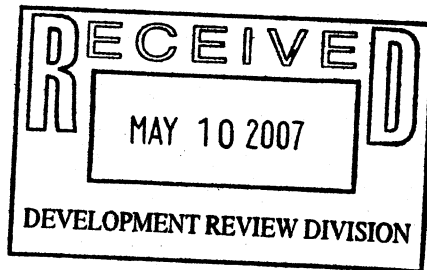


EXHIBIT NO. 14
REFERRAL NO. S-2695

Office of Zoning and Administration Hearings
Stella B. Werner Council Office Building
100 Maryland Ave, Room 200
Rockville, Maryland 20850

May 3, 2007

Re: Case No. S-2695, Petition of Fabricio and Viviane Fidelis

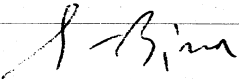
Dear Sir/Madam:

We Bina's family residing since 1996 at 7422 Damascus Rd, Gaithersburg, MD 20882 are **OPPOSE** to the Mr. and Mrs. Fidelis petition for a Special Exception permit pursuant to section 59-G-2.30 for the following reasons.

1. I purchased my real property with understanding that the neighborhood is and will remain residential to provide safe and commercial free traffic neighborhood for my family. This was the case until Fidelis family with their landscaping company moved to our neighborhood in March 2004. Since then they have been operating their landscaping business (Landscape Contractor) from their current residential location apparently by a license/permit issued to them to operate landscaping Co at a full scale from this location.
2. Issuing Special Exception permit pursuant to the section 59-G-2.30 has the same application and consequences as zoning change from residential to commercial zoning for our neighborhood.
3. Operating landscaping facilities and equipment, storing mulch, manure, pesticides, chemicals, fertilizers, etc, along with commercial traffic of heavy duty trucks and landscaping machinery will affect air quality and increases pollution in our neighborhood and will create less suitable environment for this neighborhood residents.
4. Obviously, their landscaping business will not remain on the level that they are operating now and petitioning for a Special Exception permit. It will grow and so will number of trucks, employee, storage areas, quantities of chemicals, etc. adding even more to the undesirable and less suitable environment that they have already created in our neighborhood.
5. Changing our residential neighborhood to commercial neighborhood will affect value of my real property as well as values of other real properties of this neighborhood and this is not fair to us.

6. They have been operating their landscaping Co from their current resident location since March 2004 presumably with a permit to operate their landscaping Co from this location. If such a license/permit has been issued it has been done without knowledge and consent of the real property owners of this residential neighborhood.
7. Issuing Special Permit to Mr. and Mrs. Fidelis to change their residential status to commercial and allowing them to operate their landscaping Co from their resident will open doors for other residents to do the same. Thus, why not to change the whole neighborhood status from residential to commercial zoning all together?
8. For the above reasons I am requesting that Mr. Fidelis petition for Special Permit be denied. In addition, I am requesting to seize and stop Mr. Fidelis's landscaping operation from his residential location immediately and permanently.

Sincerely,



Saiid Bina
7422 Damascus Rd
Gaithersburg, MD 20882
H: 301-253-3272
W: 301-295-3142

THE LAW OFFICES OF
DAVID C. GARDNER

DAVID C. GARDNER (MD, DC)
dgardner@davidgardnerlaw.com

MICHELE H. CABRERA (MD, DC)
mcabrera@davidgardnerlaw.com

JEFFERSON PLAZA BUILDING
600 JEFFERSON PLAZA
SUITE 308
ROCKVILLE, MARYLAND 20852

SERENA R. WOOD, PARALEGAL
swood@davidgardnerlaw.com

PATRICIA McNAMEE, PARALEGAL
pmcnamee@davidgardnerlaw.com

www.davidgardnerlaw.com

(301) 762-8475

FAX: (301) 762-1180

May 10, 2007

MNCPPC
Attn: Ms. Elsabett Tesfaye
8787 Georgia Avenue
Silver Spring 20910

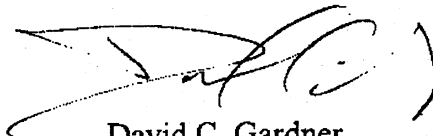
Re: Site Plan for Flower Valley Landscaping - 7420 Damascus Road
Application No.: S No. 2695
Applicant: Fabricio Fidelis

Dear Ms. Tesfaye:

I am writing to confirm that in case of emergencies my client will allow employees of the landscape contracting business to be operated at 7420 Damascus Road, Gaithersburg, Maryland to use the bathroom facilities in the home located on the site. My client does not intend to install a separate bathroom in the landscape contractor's yard because there will be no more than ten employees and each of them are on the site for a brief period of time during which they park their car, pick up their equipment and depart in company trucks. During the day, all of the employees are off-site and do not require sanitary facilities to be maintained on the property. However, if an emergency arises which requires them to use a bathroom, they will be allowed to use the bathroom in the existing home on the site.

Please feel free to contact me should you require any further information about my client's use of the site.

Very truly yours,



David C. Gardner

DCG:pm

cc: Office of Zoning and Administrative Hearings
Mr. Fabricio Fidelis



Benning & Associates, Inc.
Land Planning Consultants

8933 Shady Grove Court
Gaithersburg, Md. 20877
(301) 948-0240

April 27, 2007

Mr. Michael P. Zamore
Environmental Planning Division
M-NCPPC
8787 Georgia Avenue
Silver Spring, MD 20910

Re: Flower Valley Landscaping (S-2695)


Dear Michael,

We received your comments of 4/11/07 which were amended on 4/16/07. To address these comments we have prepared a new Final Forest Conservation Plan and a Landscape & Lighting Plan. Copies of both plans are attached for your review.

Please note that we disagree with your request to place the 1.25 acre afforestation area off-site. The owner of the subject property is willing to place an easement over the 1.25 acre on-site area shown for planting. In addition, we have added permanent fencing and signage to provide for the protection of the area. The area proposed for planting is contiguous with off-site forest on County-owned property which is considered high-priority forest due to the proximity of streams and the presence of large trees. The extension of this forest area onto the subject site adds to the protection of the adjacent stream valley. Furthermore, the owner is in the business of landscaping and tree planting and has the ability to provide for continuous maintenance of the afforestation area as needed. Given all of this, we see no reason why the planting should not be located on-site as proposed.

Please contact us at your earliest convenience if you have any further comments at this time.

Sincerely,


David W. McKee



DEPARTMENT OF PERMITTING SERVICES

Douglas M. Duncan
County Executive

Robert C. Hubbard
Director

BUILDING PERMIT

Issue Date: 6/14/2006

Permit No: 421135
Aptype : BUILDING
Expires: 6/15/2007
X Ref.
Rev. No:
Contact_ID: AC962024

THIS IS TO CERTIFY THAT: FABRICIO & VIVIANE FIDELIS
7420 DAMASCUS RD
GAITHERSBURG MD 208823316

HAS PERMISSION TO: CONSTRUCT GARAGE
PERMIT CONDITIONS: Detached Garage.

MODEL NAME:
PREMISE ADDRESS: 7420 DAMASCUS RD
GAITHERSBURG MD 20882-3316

LOT P28 BLOCK 1 ZONE RDT GRID
LIBER ELECTION DISTRICT PLATE PARCEL
FOLIO TAX ACCOUNT NO.: PS NUMBER
PERMIT FEE: \$491.05 SUBDIVISION

MUST BE POSTED ON JOB SITE

AN APPROVED FINAL INSPECTION IS REQUIRED PRIOR TO USE OR OCCUPANCY

Every new one- or two-family dwelling, every townhouse and any attached accessory structure must be equipped with a fire sprinkler system. A separate sprinkler permit is required for the installation of the fire sprinkler system.

NOTICE
THIS APPROVAL DOES NOT INCLUDE LUMBING, GAS PIPING OR ELECTRICAL OR CONSTRUCTION IN ANY DEDICATED RIGHT-OF-WAY.

NOTE
THIS PERMIT DOES NOT INCLUDE APPROVAL FOR ANY ELECTRICAL WORK. YOU MUST HAVE A SEPARATE ELECTRICAL PERMIT TO DO ANY ELECTRICAL WORK.

Director, Department of Permitting Services



DEPARTMENT OF PERMITTING SERVICES

Douglas M. Duncan
County Executive

Robert C. Hubbard
Director

**FENCE
PERMIT**

Issue Date: 5/3/2004

Permit No: 343037
Expires: 5/4/2005
X Ref.
Rev. No:
ID: AC962024

THIS IS TO CERTIFY THAT: FABRICIO & VIVIANE FIDELIS
7420 DAMASCUS RD
GAITHERSBURG MD 208823316

HAS PERMISSION TO: CONSTRUCT FENCE
6 Feet 0 Inches in height
PROPERTY LINE N OWNERS LAND Y RIGHT OF WAY N

PERMIT CONDITIONS:

PREMISE ADDRESS: 7420 DAMASCUS RD
GAITHERSBURG MD 20882-3316

LOT P28 BLOCK 1 ZONE RDT GRID
LIBER ELECTION DISTRICT PLATE PARCEL
FOLIO TAX ACCOUNT NO.: SUBDIVISION PS NUMBER 0
PERMIT FEE: \$38.50

MUST BE POSTED ON JOB SITE

Director, Department of Permitting Services

MONTGOMERY COUNTY WELL AND EXCRETA DISPOSAL PERMIT

DEPARTMENT OF HEALTH
DIVISION OF LICENSURE & REGULATORY SERVICES
261-7272

PERMIT NO. 8705059008
APPLI. NO. 15917
GRID 202-679-02;

Upon application made by George Allen Hudson, Jr. Telephone No. 301-445-5900

permission is hereby granted to George Allen Hudson, Jr. & Wanda Marie Hudson Telephone No. 301-937-2924

(Owner) to construct a new excreta disposal system and/or a water supply system to serve a new building for use as a dwelling containing 3 bedrooms; for use as a

and located at 7420 Damascus Road, Gaithersburg, MD 20879

on Lot 28 Block 1 Subdivision Seneca Valley Estates
or Plate Grid Parcel

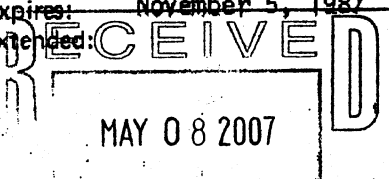
THE CONDITIONS SPECIFIED BELOW ARE PART OF THIS PERMIT. ANY CHANGES IN THE TERMS OF THE PERMIT OR THE USE OF THE BUILDING SHALL BE BY WRITTEN APPROVAL OF THE APPROVING AUTHORITY ONLY.

NO BUILDING SHALL BE OCCUPIED AND NO EXCAVATION SHALL BE COVERED UNTIL THE OWNER HAS OBTAINED WRITTEN APPROVAL FROM THE APPROVING AUTHORITY OR HIS DULY AUTHORIZED REPRESENTATIVE. NOTIFY THE DEPARTMENT OF HEALTH 48 HOURS BEFORE EXCAVATIONS ARE TO BE BACKFILLED.

Date issued: May 5, 1987
Date Expires: November 5, 1987
Date Extended:

APPROVING AUTHORITY, MARYLAND STATE
DEPARTMENT OF HEALTH & MENTAL HYGIENE

By [Signature]
Montgomery County
Department of Health



CONDITIONS

ALL DIRECTIONS ARE GIVEN FACING THE PROPERTY FROM

- 1. Limits of well location: Well to be 187 ft. from 321.41' lot line and 251 ft. from 349.94' lot line as per attached site plan.
2. Size of septic tank: 1000 gallon (top of tank to be within 18" of finished grade).
3. Percolation test: 1 inch in 13 minutes at 4 feet and 12 feet.
4. Size of absorption system: 128' of trenches by 2 ft. wide with 4 ft. of 2 inch stone. Bottom of trenches to be 8 ft. below natural grade.
5. Location: 1st trench to begin as per attached site plan. Trenches to be constructed on contour. Starting point of initial absorption system to be surveyed in by a registered land surveyor.

THIS PROPERTY IS IN CATEGORY S-6114-B WHERE THERE IS NO PLANNED COMMUNITY SERVICE AND AN INDIVIDUAL SYSTEM MAY BE INSTALLED ON AN INDEFINITE BASIS WITHOUT FIRM OBLIGATION TO CONNECT TO COMMUNITY SYSTEM WHEN AND IF IT BECOMES AVAILABLE.

6. Other special conditions:
Trenches to be connected in center

WELL

Well to be pre-drilled and log submitted to this office prior to issuance of building permit.

Post-It Fax Note 7671
Table with columns: To (Serena), From (Kim Beall), Co./Dept., Phone #, Fax #

