

**PLANNING COMMISSION REPORT**  
**Regular Agenda – Public Hearing Item**

PC Staff Report  
07/25/16

**ITEM NO. 4 SPECIAL USE PERMIT; SEEDS FROM ITALY; 1501 LEARNARD AVE (MKM)**

**SUP-16-00217:** Consider a Special Use Permit for Seeds From Italy, located at 1501 Learnard Avenue. The applicant proposes to renovate an existing building on the property for office and warehouse use supporting their mail-order garden seed business. Submitted by Lynn Byczynski, for Sunrise Green LLC, property owner of record.

**STAFF RECOMMENDATION:** Planning Staff recommends approval of a Special Use Permit for Seeds From Italy a *Wholesale Storage and Distribution, Limited* use to be located at 1501 Learnard Avenue as Phase 1 of the Sunrise Green Project, and forwarding the item to the City Commission with a recommendation of approval subject to the following conditions:

1. Provision of a site plan performance agreement.
2. Provision of shop drawings for the new manhole construction/connection and the inspection fee to the City Utilities Division for approval prior to the release of the Special Use Permit to Development Services for processing of a building permit.
3. New manhole constructed and connected to service lines per utilities approval prior to release of Certificate of Occupancy.
4. Prior to the release of the Special Use Permit for issuance of a building permit the applicant shall provide a revised drawing to include the following note:
  - a. *“Alternative Compliance from the Bufferyard Requirement on the south property line was approved to allow the building itself to serve as a buffer. Alternative Compliance was approved based on site constraints, primarily the lack of area to the south of Building C to install a landscaped bufferyard, and the fact that the building serves as an effective screen for the facility and operations to the north.”*

**Reason for Request:** *“We are seeking a Special Use Permit to convert a garage on the property of the former Sunrise Garden Center into an office and storage area for our mail-order garden seed business. The property was recently rezoned to allow the use, provided we receive a Special Use Permit.”*

**KEY POINTS**

- The Special Use Permit application was submitted for Phase 1 of the Sunrise Green project, the conversion of an existing garage, Building C on the attached site plan, into a mail-order seed distribution business. This is one of the less intense uses proposed as part of the project.
- The subject property is not platted. Platting will be required prior to more significant development, but the Planning Director determined that the seed mail-order company and the educational/growing component, proposed in Building A on the attached site plan, could occur prior to platting due to their low intensity and the fact that they will reuse existing buildings on the site. This will accommodate the project by allowing the low intensity changes to occur without platting; while, preserving the platting requirement for the more significant site improvements, such as a building addition or new construction.

- Public Improvements will be required with the platting of the property to extend a sanitary sewer main to serve the facility. A new manhole connection will be required with this phase. The City Utilities Division will require shop drawings of the connection and payment of inspection fees prior to the release of the Special Use Permit plans.
- In 2015, the property was rezoned to the IL District, conditioned to restrict permitted uses, to accommodate the proposed local food project.

#### **ASSOCIATED CASE**

- Z-15-00427; Rezoning of the subject property from RS7 to IL, with conditions. Approved by the City Commission on December 8, 2015 with the adoption of Ordinance No. 9181.

#### **OTHER ACTION REQUIRED**

- City Commission approval of Special Use Permit and adoption of related ordinance.
- Publication of Special Use Permit ordinance.
- Submittal and approval of shop drawings and inspection fees for new manhole, prior to the release of the SUP plans to Development Services for processing with building permits.
- Building permits shall be obtained from Development Services Division prior to the commencement of development.
- Manhole shall be constructed and connected to service lines per the City Department of Utilities approval prior to the release of Certificate of Occupancy for Building C.

#### **PLANS AND STUDIES REQUIRED**

- *Traffic Study* – The Traffic Study requirement has been waived as the City Engineer determined that proposed development will not generate traffic impacts sufficient to justify the preparation of a Traffic Impact Study.
- *Downstream Sanitary Sewer Analysis* – Fixture count analysis provided as the Downstream Sanitary Sewer Analysis was accepted by the City Utilities Engineer.
- *Drainage Study* – A drainage study is not required for this project because there is no change in the property surface summary.

#### **ATTACHMENTS**

Attachment A: Special Use Permit Site Plan

Attachment B: Rezoning Ordinance

Attachment C: Public Communication

#### **PUBLIC COMMENT**

- Hampton letter, expressing support for the application.

#### **GENERAL INFORMATION**

##### **Current Zoning and Land Use:**

IL (Limited Industrial, with conditions); vacant nursery buildings with *Crop Agriculture*.

##### **Surrounding Zoning and Land Use:**

To the north:

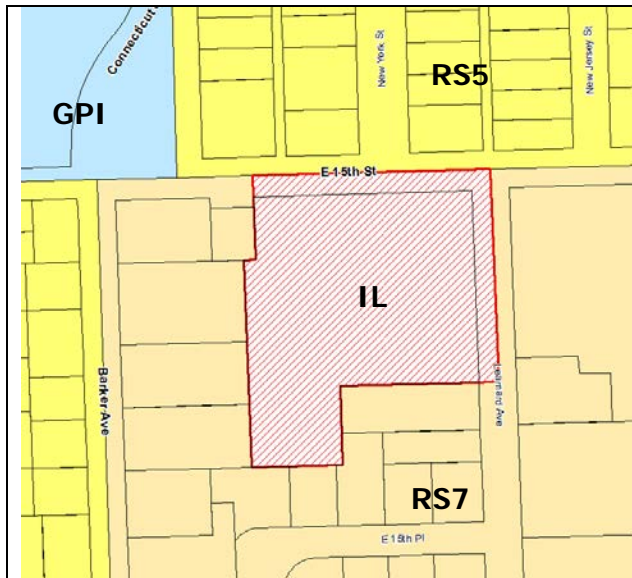
RS5 (Single-Dwelling Residential) District with minimum lot area of 5,000 sq ft; *Detached Dwellings*

To the northwest:

GPI (General Public and Institutional Use) District; *School*

To the west, south, and east:

RS7 (Single-Dwelling Residential) District with minimum lot area of 7,000 sq ft; *Detached Dwellings*  
(Figure 1)



**Figure 1a.** Zoning of surrounding area. Subject property outlined.



**Figure 1b.** Land use of surrounding area.

<b>SITE SUMMARY</b>	<b>Existing</b>	<b>Proposed</b>	<b>Change</b>
Land Use:	<i>Crop Agriculture;</i>	<i>Wholesale Storage and Distribution, Limited</i>	Change in use
Land Area:	127,665 sq ft	127,665 sq ft	---
Building Area:	39,332 sq ft	39,332 sq ft	---
Pavement Area:	3,980 sq ft	3,980 sq ft	---
Impervious Area:	43,312 sq ft (33.9%)	43,312 sq ft (33.9%)	---
Pervious Area:	84,353 sq ft	84,353 sq ft	---

### SUMMARY OF SPECIAL USE

This application proposes the conversion of a 1,520 sq ft building (formerly a garage) into office and warehouse space for Seeds from Italy, a mail-order seed distribution company. (Figure 2) The applicant indicated that there would be one to two semi-truck deliveries per year and that product would be distributed through the mail. No customers are expected at the site. They currently operate this business as a Rural Home Occupation in the unincorporated portion of the County, but have decided to move it into the city limits. The improvements to the building will include the addition of a restroom. There will be no other physical changes to the site to accommodate this use.



**Figure 2.** Building C, proposed mail order distribution/seed warehouse.

A *Wholesales Storage and Distribution, Limited* use is typically permitted in the IL District with site plan approval, but conditions placed on the IL Zoning in this location allow the use only when approved with a Special Use Permit to insure compatibility with adjacent residential uses. Section 20-1306(a), of the Development Code provides the following information on the review procedures for a Special Use:

*"The process entails a public review and evaluation of the use's operating characteristic and site development features and is intended to ensure that proposed Special Uses will not have a significant adverse impact on surrounding uses or on the community at large."*

## **SITE PLAN REVIEW**

### **Review and Decision-Making Criteria (20-1306(i), Development Code)**

#### **1. WHETHER THE PROPOSED USE COMPLIES WITH ALL APPLICABLE PROVISIONS OF THIS DEVELOPMENT CODE**

Applicant's Response:

*"Yes, the current zoning allows for the office and warehouse use."*

The proposed use, a mail order seed distribution business, is classified in the Development Code as a *Wholesale Storage and Distribution, Limited* use. The subject property was recently rezoned to the IL zoning district with conditions limiting the permitted uses on the property. The conditions allow the *Wholesale Storage and Distribution, Limited* use when approved as a Special Use. Standards that apply to this development include density and dimensional requirements in Article 6, parking in Article 9, landscaping in Article 10 and general development standards in Article 11. The following is a review of the change being proposed with this project, the renovations to Building C, for compliance with the Development Code.

#### **DENSITY AND DIMENSIONAL STANDARDS**

The property is not currently platted. The Planning Director determined that the proposed use and other low-scale uses could occur on the site without requiring platting; however, uses that were more intense or that required significant development on the site would trigger the platting requirement. The IL District requires a minimum lot area of 20,000 sq ft and a minimum width of 100 ft. The subject property exceeds these requirements with an area of approximately 2.93 acres (127,630 sq ft) and a width of 300 ft.

<b>IL District Density and Dimensional Standards</b>				
STANDARD			REQUIRED	PROVIDED
Lot Area			20,000 sq ft	127,630 sq ft
Lot Width			100 ft	300 ft
Maximum Coverage	Impervious	Lot	75%	33.9%
Setback from Street			50 ft	83 ft
Setback from Adjacent Lots			20 ft	20 ft with exception of the eastern row of hoopouses, the concrete mulch bins and Building C, the proposed warehouse/office building.*

\*The property at 1501 Learnard Avenue was developed with greenhouses and a retail store in 1926, prior to annexation into the City and prior to the adoption of zoning regulations in the County. The Douglas County Appraiser's records note that the garage was constructed in 1998. No

information is provided regarding the date the hoop houses were installed. Additional research would be necessary when development is proposed for the portion of the property containing the hoop houses or the platting of the property to determine if the hoop houses are nonconforming structures or if a variance would be required for them to remain in this location. The building permit that was issued for the garage, Building C on the plan, indicates City approval of the location and it will be considered as a nonconforming structure, as defined in Section 20-1503 of the Development Code. A nonconforming structure is one that was legally installed, but that no longer complies with the City Code. Building C can be used and can be remodeled or extended as long as the changes do not increase the degree of the nonconformity, which in this case would be increased encroachment into the setback.

#### PARKING

Per the Off-Street Parking Schedule C (Section 20-904 of the Development Code), a *Wholesale Storage and Distribution, Limited* use with less than 20,000 sq ft of building area requires 1 parking space per 1,000 sq ft of building area and 1 space per vehicle used in the business. The applicant indicated they would have one vehicle for the business. The building is 1,520 sq ft in area; therefore, 3 parking spaces are required for this use. One van accessible ADA parking space is required for parking lots with 25 spaces or less. The required parking is provided on the plan.

#### LANDSCAPING / BUFFERYARD

Street trees will be required with the platting and development of the property. The changes being proposed with this plan, the change in the use of Building C and the use of a portion of the parking, are interior to the site and won't require street trees at this time. The subject property is zoned IL (Limited Industrial) and is adjacent to property in the RS7 (Single-Dwelling Residential) District. It is across the street from property in the RS5 (Single-Dwelling Residential) District. A Type 3 landscaping buffer area, minimum of 15 ft wide, is required when these two zoning districts are adjacent each other.

North Property Line The existing greenhouse and retail building are set back approximately 80 ft from E 15<sup>th</sup> Street. (Figure 3) No bufferyard is required along E 15<sup>th</sup> Street with this phase of the project, as it will occur behind the greenhouses on the south side of the property and will not be visible from the street. The north bufferyard will be evaluated with the plan review when development of the facilities along E 15<sup>th</sup> Street is proposed.

West Property Line An access drive and hoop houses are located near the west property line. (Figure 3) Adequate space is provided along the west property line for a bufferyard and there is existing vegetation in this area. The current project is located to the east of the hoop houses



**Figure 3.** Bufferyards for the property. Area with inadequate space for a bufferyard is shown with a solid red line. The bufferyard required with this project is marked with yellow dashes.

and is not visible from the west property line; therefore a bufferyard along the west of the property is not required with this project. The west bufferyard will be evaluated with the plan review when development of the facilities along the west side of the property is proposed.

East Property Line. The building is separated from the east property line and Learnard Avenue by concrete mulch bins that are not a part of this project. Existing trees and shrubs provide screening along Learnard Avenue. (Figure 4) The existing vegetation effectively buffers the facility from Learnard Avenue. This bufferyard will be reevaluated with the plan review when development of the facilities along the east side of the property is proposed.

South Property Line As Building C is located near the south property line there is inadequate space between the building and the property line to install a landscaped bufferyard. (Figure 3) Fencing is often used in areas where there is inadequate space for a landscaped bufferyard; however, the rear wall of the building screens the development from the property to the south, in this location. (Figure 4)

Alternative Compliance has been approved for the Type 3 Bufferyard that is required along the south property line south of the subject building to allow the rear of the structure to serve as a screening wall. Alternative Compliance was approved based on site constraints, primarily the lack of area to the south of Building C to install a landscaped bufferyard, and the fact that the building serves as an effective screen for the facility and operations to the north. This should be noted on the plan.



**Figure 4.** Screening from existing vegetation along the east side of the property, Learnard Avenue right-of-way.



**Figure 5.** Rear of Building C, facing adjacent property to the south.

#### SITE COVERAGE.

The IL District permits a maximum of 75% of the site to be covered with impervious materials. Approximately 35% of the site is currently impervious.

#### LIGHTING

No exterior lighting is being proposed with this project. The plan notes that the addition of any exterior lighting will require the submittal of a photometric plan to the Planning Office for approval prior to the installation of any exterior lighting.

**Staff Finding** – This use complies with the applicable provisions of the Development Code as an allowed use in the IL District subject to a Special Use Permit and as conditioned.

**2. WHETHER THE PROPOSED USE IS COMPATIBLE WITH ADJACENT USES IN TERMS OF SCALE, SITE DESIGN, AND OPERATING CHARACTERISTICS, INCLUDING HOURS OF OPERATION, TRAFFIC GENERATION, LIGHTING, NOISE, ODOR, DUST AND OTHER EXTERNAL IMPACTS**

Applicant's Response:

*"Yes. Seeds from Italy is a very small and quiet business. We expect to have a maximum of four people working in the building at any given time, so there will be minimal traffic. We will operate only during regular business hours, 8 a.m. to 6 p.m. We will be renovating an existing building, so there will be no additional structures."*

The facility will be screened from nearby residential uses as noted in the section above. No exterior lighting is being proposed with this project. The applicant indicated there would be, at most, two semi-truck deliveries per year. Product will be distributed through the mail, so no customers are expected at the site. The business will operate from 8 am to 6 pm; therefore, there will be no night-time activity associated with this use. This is a very small scale, low intensity wholesale storage and distribution use. The applicants are currently operating the business from their home in rural Douglas County as a Rural Home Occupation.

**Staff Finding –** The proposed use is a very small scale, low intensity wholesale storage and distribution use that will operate during daytime hours. The business will be located in a building that is oriented toward the interior of the site. The proposed use is compatible with the adjacent land uses based on the small scale and low intensity of the proposed use and its orientation to the interior of the site.

**3. WHETHER THE PROPOSED USE WILL CAUSE SUBSTANTIAL DIMINUTION IN VALUE OF OTHER PROPERTY IN THE NEIGHBORHOOD IN WHICH IT IS TO BE LOCATED**

Applicant's Response:

*"No, in fact we believe that bringing life back to the former garden center will be good for the neighborhood. As neighbors ourselves, we find that the vacant site is forlorn looking. We look forward to being part of a flourishing center for food production and related endeavors. Although our building is just a small part of the overall site, we plan for it to be an asset to Sunrise and to the Barker Neighborhood. We will invest in an attractive renovation of the run-down garage and we will help to maintain the landscaping and display gardens around the site."*

One of the principal factors for rezoning the property to the IL District, was the rehabilitation of the garden center. The garden center has been in place since 1926, and predates many of the residences in the area. The garden center is a unique feature of area and rezoning was seen as a tool to accommodate the redevelopment of a Local Food oriented project while maintaining the character of the facility. As the applicant noted, this development is one of the early stages of that development.

**Staff Finding –** The project is one of the first phases for the re-use and rehabilitation of the nursery/garden center property with a local food oriented project. There is no evidence to support a finding that the proposed use would cause a diminution of other property values in the area.

**4. WHETHER PUBLIC SAFETY, TRANSPORTATION AND UTILITY FACILITIES AND SERVICES WILL BE AVAILABLE TO SERVE THE SUBJECT PROPERTY WHILE MAINTAINING SUFFICIENT LEVELS OF SERVICE FOR EXISTING DEVELOPMENT**

**Staff Finding** – Safety, transportation and utility facilities are available to serve the subject property.

**5. WHETHER ADEQUATE ASSURANCES OF CONTINUING MAINTENANCE HAVE BEEN PROVIDED**

**Staff Finding** – The site plan will function as the enforcement document to assure that the maintenance and use of the property is consistent with the approval.

**6. WHETHER THE USE WILL CAUSE SIGNIFICANT ADVERSE IMPACTS ON THE NATURAL ENVIRONMENT**

Applicant's Response:

*"No. Our proposed use will have no effect at all on the natural environment. In fact, the entire thrust of the project is to support organic and sustainable gardening and farming. As long-time organic farmers ourselves, we do not plan to make any changes to the landscape, gardens, buildings, or other features that would harm the natural environment."*

The proposed use should have no adverse impact on the natural environment. The facility will reuse and rehabilitate a vacant building. Minimal deliveries will be made to the site and the business will use the mail to distribute their product.

**Staff Finding** – The proposed use, a mail order seed distribution business, should have no adverse impact on the natural environment.

**7. WHETHER IT IS APPROPRIATE TO PLACE A TIME LIMIT ON THE PERIOD OF TIME THE PROPOSED USE IS TO BE ALLOWED BY SPECIAL USE PEMRIT AND, IF SO, WHAT THAT TIME PERIOD SHOULD BE**

Time limits are established on Special Use Permits to permit a periodic review to determine if the use remains compliant with the area. As mentioned earlier in the report, the use will have very few deliveries and very little impact on adjacent properties. The property is located in a developed residential area and has historically been used for a garden center/nursery which included truck deliveries, employees and customers on the site. The use, as approved, should remain compatible with the area. Any changes to the use would require review and approval. Significant changes to the site or a proposed change to the use would require a revised SUP and a public hearing while minor changes to the site would require approval of a revised site plan.

**Staff Finding** – The Special Use Permit would allow a small scale low-intensity use on a property that has historically been used as a nursery/retail garden center in the residential area. The Special Use Permit approval process for any significant change to the site or an intensification of use should insure compatibility with the neighborhood. It would not be appropriate to place a time limit on the Special Use Permit.

**CONCLUSION**

Based on the findings in this report, and as conditioned, staff recommends approval of the proposed Special Use Permit.