



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

MCPB  
Item #  
March 13, 2008

**MEMORANDUM**

**DATE:** March 3, 2008

**TO:** Montgomery County Board of Appeals

**FROM:** Renée M. Miller, AICP, Senior Planner *[Signature]*  
Development Review Division (301-495-4723)

**VIA:** Rose Krasnow, Chief, Development Review Division *[Signature]*  
Ralph Wilson, Zoning Supervisor *[Signature]*

**SUBJECT:** Special Exception Request (S-2684: Zelkova, LLC), as amended October 29, 2007

**MASTER PLAN:** Preservation of Agriculture and Rural Open Space (October 1980)  
Rustic Roads Functional Master Plan (December 1996)

**FILING DATE:** August 17, 2006 (original petition)  
October 29, 2007 (amended petition)

**PLANNING BOARD:** March 13, 2008

**PUBLIC HEARING:** March 21, 2008

**STAFF RECOMMENDATION:**

**Approve Special Exception Application S-2684 for operation of a landscape contractor business at 18930 Wasche Road, subject to conditions.**

Some degree of adverse impacts is inherent in any special exception use. Regulatory staff's role is to determine whether the non-inherent adverse effects of a proposed special exception, alone or in conjunction with inherent effects, are a sufficient basis to deny a special exception. Staff does not believe this to be the case for the proposed use. Most of the activities associated with the proposed use qualify as inherent and as being essential to the nature of a landscape contractor operation.

Staff considers the potential impact of landscape and delivery trucks on the Rustic Roads in the area and the lack of sanitary facilities available for employees on site to be non-inherent. However, given the approvals and exemptions the applicant has received from DPWT to use otherwise restricted Rustic Roads, and DPS's consent for the applicant to use the site as intended provided provision is made for employees to access bathroom facilities off-site, and past administrative practice not to require landscape contractors to have on-site sanitary facilities for employees who will be on-site only for a limited period of time each day, staff does not find the non-inherent adverse effects associated with the landscape operation to rise to a level sufficient to warrant denial. In addition, the application, in consideration of the operational limitations and conditions proposed by staff, satisfies all relevant standards for grant of a landscape contractor business at the proposed site. For these reasons, staff recommends approval of Special Exception Application S-2684, subject to the following conditions:

- (1) The applicant is bound by all submitted statements and plans.
- (2) A maximum of thirty-five (35) employees is permitted on site at any one time, and no employee may remain on-site for an entire length of day, except for the two week planting and harvesting seasons, in accordance with the September 19, 2005, correspondence from the Montgomery County Department of Permitting Services.
- (3) Vehicles are limited to a total of thirteen trucks, and consist of: four (4) stakebody trucks; two (2) pick-up trucks, two (2) 5-ton trucks and five (5) utility vans. All vehicles, when not in use, must be parked in the designated parking areas, as indicated by the provided site plan. On-site parking is limited to 24 employee parking spaces.
- (4) The number of trailers permitted on-site is limited to four (4) and must not exceed 25-feet in length. Deliveries are not permitted to the site via tractor-trailer trucks.
- (5) Regular weekday hours of operation are limited to the hours of 7:00 A.M. to 7:00 P.M., except for snow removal operations which may occur as needed. Saturday hours are permitted during the peak season, from April through November from 7:30 A.M. to 6:30 P.M. Customers are not permitted on-site.
- (6) No material or equipment is permitted to be loaded on trucks before 7:00 A.M., and the trash dumpster must not be emptied before 8:00 A.M..
- (7) All on-site landscape activities, including mulch and plant storage, employee parking, and related outdoor operations are restricted to within the 50-foot Building Restriction Line (BRL) identified on the Site and Landscape Plan, dated October 24, 2007.
- (8) The applicant must revise the "provided" column on the site data table to correct the following:
  - a. §59-C-9.42, Minimum Net Lot Area, should read 230,868 sq. ft.(5.3 acres); and
  - b. §59-C-9.46, Maximum Lot Coverage, must be updated to reflect correction of "Minimum Net Lot Area," as stated in condition 8(a) of this recommendation.
- (9) No truck traffic to and from the site is allowed on Martinsburg Road. The applicant must provide binding employment agreements and vendor contracts to prohibit travel over Martinsburg Road and the weight-restricted bridges.
- (10) The applicant must provide an easement for future right-of-way dedication to a point thirty-five (35) feet from the centerline along Wasche Road.
- (11) The applicant must obtain a permit for site access from Wasche Road, as shown on the October 24, 2007, site plan.
- (12) The applicant must comply with the conditions of the Montgomery County Department of Permitting Services letter of February 8, 2007, approving the project's Stormwater Management Concept.
- (13) The applicant must comply with the conditions contained in the Maryland Department of Environment's Water Appropriation and Use Permit of January 1, 2007.
- (14) The applicant must comply with the conditions for use of the site contained within the September 19, 2005, letter from the Montgomery County Department of

Permitting Services, with regards to the limited use of chemical toilets on-site and provisions for employees to access bathroom facilities off-site to avoid public nuisance.

## APPLICATION SUMMARY

<b>Site Size and Location:</b>	Site size is approximately 5.3 acres. The site is located on the west side of Wasche Road, between Whites Ferry Road and West Hunter Road. The area surrounding the subject site contains a mix of agricultural uses and single-family residences. (See Attachment 1.)
<b>Zone and Proposed Use:</b>	The site is classified in the RDT Zone. The property currently contains a barn, pond and minimal trees. The applicant is seeking approval to operate a landscape contractor use.
<b>Scope of Operations:</b>	The number of proposed employees is 35, with 24 employee parking spaces, 13 trucks and 4 trailers. Hours of operation proposed are as follows <sup>1</sup> : Peak Season (April – November) Monday - Friday 6:00 A.M. to 8:00 P.M. and Saturday, 7:30 A.M. – 6:30 P.M. and Non-Peak Season (December – March) Monday – Friday, 6:00 A.M. – 6:30 P.M., with snow removal operation to proceed whenever necessary.
<b>Master Plan Consistency:</b>	The proposed site is governed by two approved and adopted Functional Master Plans, the <i>Preservation of Agricultural and Rural Open Space</i> and <i>Rustic Roads Master Plans</i> . Both Master Plans are silent with regards to specific recommendations for the location and siting of special exceptions.

### Background

Special Exception Application S-2684 is a request by Zelkova, LLC to operate a landscape contractor business at 18930 Wasche Road. The property is a portion of a larger 20-acre tract of which approximately 15 acres will remain in agricultural production. The special exception application was first submitted on August 26, 2006. (See Attachment 2.) The application, which was considerably larger in scope, was recommended for denial by staff. There was concern that the proposed use would constitute a nuisance because of noise, number of employees, and other factors associated with the use at the proposed location. After the staff report was issued, the applicant was granted a postponement by the Board of Appeals to file an amended application. The revised application was submitted on October 24, 2007, and substantially reduced the scope of operations. (See Attachment 3.) Table 1 below compares important elements of the original and the revised applications.

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<sup>1</sup> Staff believes, in order to reduce the burden of noise and fumes in the early hours of the proposed landscaping business hours should be reduced and proposes that regular hours of operation be from 7:00 A.M. to 7:00 P.M., except for snow removal operations which may occur as needed. Saturday hours are permitted during the peak season, from April through November from 7:30 A.M. to 6:30 P.M. Please refer to the Analysis Section of this report, specifically §59-G2.30(5).

**Table 1: Comparison of Original and Revised Petitions**

<b>Request</b>	<b>Original Petition (08/2006)</b>	<b>Revised Petition (10/2007)</b>	<b>Difference</b>
<b>Number of Employees</b>	60	35	(25)
<b>Number of Parking Spaces</b>	43 employee parking 19 truck parking 6 trailer parking	24 (22 Standard, 2 Handi-capped) 13 truck parking 4 trailer parking	(19) (6) (2)
<b>Number of Trucks</b>	19 (total) 8 stake-body trucks 2 pick-up trucks 4 5-ton trucks 5 utility vans	13 (total) 4 stake-body trucks 2 pick-up trucks 2 5-ton trucks 5 utility vans	(6)
<b>Number of Trailers</b>	6 (various lengths)	4 (various lengths)	(2)
<b>Hours of Operation</b>	Non specified	Peak Season (Apr – Nov) M-F, 6:00 A- 8:00 P Sat, 7:30 A – 6:30 P Non-Peak (Dec – Mar) M-F, 6:00 A- 6:30 P Snow removal (as necessary)	Not Applicable

The Petitioner has reduced the disturbance area associated with the property's development and is not proposing to make any improvements to the southeast portion of the property, nearest the residence located at 18815 Wasche Road, which was an issue in the original application. The applicant is also proposing to extend the landscape berm and add landscape plantings from the front (eastern side of property) to the southern side of the property in order to provide additional screening for the activity area. The landscape material to be used for the berm is red cedar. It is anticipated that the height of the evergreens at planting will be about 4-feet.

### **Operations**

Proposed landscape operations include the storage of plant and bulk goods, including mulch, topsoil, and irrigation supplies, to be dispatched from the property to landscaping jobs. The portion of the property not subject to special exception application will be used to grow ornamental trees, shrubs and annual and perennial flowers. The growing of agricultural products is permitted by right in the RDT Zone and will take place outside the limits of the special exception area. Access to the agricultural area will be via an access road, which the applicant will be required to relocate outside of the wetland buffer. (See Attachment 3.)

As shown in Table 1 the maximum number of employees on-site will be 35; however all employees will be dispatched in the morning and none will remain on-site after the trucks leave. The employees come back to the site in the late afternoon to return the trucks and restock for the next morning. The petitioner stated that deliveries of the products used in conjunction with the landscape contractor's business will not need Zelkova employees to be on-site. If the delivery is large enough to warrant a Zelkova employee, the petitioner will coordinate the delivery schedule so that the delivery will be before departure to off-site businesses or in the afternoon upon arrival of the field crews. No office or retail sales space will be provided on the site, nor will any employee be permitted to remain on-site for the entire length of day.

The application indicates that there will be an average of one mulch delivery per week in the spring (with 1 mulch delivery per month in the summer and fall and none in the winter); two

deliveries of compost, topsoil and gravel per month; two deliveries of fertilizer, seed and irrigation supplies per month; and one delivery of plants per day. Fertilizer and similar materials will be stored inside one of the two barns. Other bulk materials, such as mulch and gravel, will be stored along the north side of the existing metal and frame barn. There will be six (6) of these storage "bins." No manufacturing of mulch or compost will take place on-site.

Above-ground fueling stations located next to the southern-most barn, will be installed and maintained by an authorized vendor. Fuel deliveries will be limited to a maximum of two per week. The typical size of the fuel delivery trucks will be the size used in standard home fuel deliveries.

### **Neighborhood and Surrounding Conditions**

The site is primarily vacant, with the exception of a metal barn and pond. The overall property consists of two 10-acre parcels, which is bisected by a stream. The eastern stream valley buffer defines the limit of the special exception area. The site is relatively flat, with grass and minimal trees. A small berm with mature trees and shrubbery exists on the eastern-most property line, along Wasche Road. (See Attachment 4.)

In the *Functional Master Plan of Rustic Roads (December 1996)*, Wasche Road is classified as a "rustic road" with a 70-foot right-of-way. Wasche Road is posted "No thru Truck Over ¾ Tons" and several bridges on Whites Ferry Road and Edwards Road (south of the site) are weight-restricted see Attachment 5). No sidewalks are along Wasche Road; however, the road contains hedgerows along the west side and forest along the east.

The neighborhood is defined by staff as those properties fronting or having access from Wasche Road between White's Ferry Road and West Hunter Road (see Attachment 1.) Properties within the neighborhood are zoned RDT. Several large and small tracts of land are farmed and several tracts of land surrounding the site are residential, according to tax records. The closest home to the site is approximately 374-feet. This home is not visible from the property line of the special exception site, as several rows of trees lie in between the house and the subject site. The applicant has provided a map depicting the distance between the proposed structures and adjacent properties and is attached as Attachment 6.

The property immediately to the north and west of the special exception site is in agricultural use, and contains a residential dwelling. East of the special exception site are two properties, one is in agricultural use and another is residential. To the south of the site is a driveway, which provides access to an agricultural use with two residential dwellings.

### **Master Plan Conformance**

The subject property is governed by the Functional Master Plan for the Preservation of Agriculture and Rural Open Space. The Agricultural Preservation Master Plan focuses on the preservation of farmland and policies for the continuation of farming in the agriculture reserve. The plan also recognizes the need for commercial and residential uses to serve the agricultural community and the rural community at large. Although the Plan recommends the subject property for RDT zoning, no guidance is provided for review of an agricultural special exception at the subject site. Landscape contractors, which are classified as an agricultural-commercial use under the zoning code, are permitted by special exception in the RDT zone. For this reason, staff concludes that the proposed special exception is consistent with the applicable master plan.

Community-Based Planning staff believes the non-inherent adverse affects associated with the proposed landscape contractor application make the use incompatible with the surrounding neighborhood (see Attachment 7). Community Based-Planning staff has identified the non-

inherent adverse affects of the site to include the lack of a potable water source, lack of sanitary facilities, and impact of truck traffic on Rustic Roads. The position of Community-Based Planning is that these impacts alone are a basis for denial of the application. In view of the approvals and exemptions the applicant has received from DPWT to use the weight-restricted Rustic Roads, DPS's consent for the applicant to use the site as intended provided provisions is made for employees to access bathroom facilities off-site, and the past administrative practice not to require landscape contractors to have on-site sanitary facilities, Development Review staff does not find the non-inherent adverse effects associated with the landscape operation to rise to a level sufficient to warrant denial of the application.

### **Transportation**

Transportation Planning staff in their review of the application concluded that approval of the proposed landscape application subject to conditions would not adversely impact the surrounding roadway system. It was also the conclusion of Transportation Planning staff that the applicant adequately addressed the road sufficiency issues as related to truck weight restrictions and rustic roads in the vicinity of the site (see Attachment 8).

The site has direct access to Wasche Road. A single access point to the site is proposed from Wasche Road. Wasche Road is classified as a Rustic Road, with seventy-(70) feet of right-of-way. The traffic volumes associated with the proposed landscape contractor operations are relatively low and are not expected to have an unacceptable adverse affect on Wasche Road.

There are several weight-restricted bridges in the vicinity of the site (see Attachment 5). The two bridges located on Whites Ferry Road, east of Wasche Road have weight limits of 8,000 pounds for single unit vehicles and 16,000 pounds for combination unit vehicles. Additionally, a bridge located on Edwards Ferry Road, south of Whites Ferry Road is restricted to a weight of 64,000 pound and 70,000 pounds for single and combination unit vehicles, respectively. Both Wasche Road and West Hunter Road contain signs which state that "No Thru Trucks Over  $\frac{3}{4}$  Ton" are permitted.

To address these restrictions, the applicant submitted to DPWT a supplemental analysis of truck routes to be taken by the landscape trucks. This analysis includes alternate truck routes that avoid weight-restricted bridges on Whites Ferry Road and addresses the weight restrictions on Wasche Road, West Hunter Road, and Martinsburg Road. The applicant applied for and has been granted a permit by DPWT for a "Weight Restriction Waiver" to cross the two bridges along Whites Ferry Road (see Attachment 9). This waiver applies only to the work trucks owned by the applicant and does not extend to the vendors' deliveries. This permit must be renewed annually. The applicant is in the process of renewing the "Weight Restriction Waiver."

DPWT staff also has determined that the applicant's trucks accessing the site from the northeast by way of West Hunter Road and Wasche Road are local in nature and are exempt from the "No Thru Trucks Over  $\frac{3}{4}$  Ton" restrictions. It is the recommendation of DPWT staff and that of Transportation Planning staff that travel by way of Martinsburg Road is to be prohibited. Both staffs agree that the applicant's proposal to require the employees and vendors to enter into binding employment agreements to prohibit travel over Martinsburg Road and the weight-restricted bridges would be an important condition to include for the grant of this special exception. (See Attachment 10.)

## **Environmental**

The special exception site has an approved Natural Resources Inventory/Forest Stand Delineation (NRI/FSD) issued on January 7, 2008. The applicant has submitted a Preliminary Forest Conservation Plan (FCP), showing the site as unforested. The applicant is proposing planting 1.73-acres within the stream valley buffer, and as proposed, the project will meet the requirements of the Forest Conservation Law (see Attachment 11).

This site is not located within a Special Protection Area but is located within the Broad Run Watershed, which drains directly into the Potomac River. Additionally, a stream with associated wetlands flows from north to south near the center of the 20-acre property. Wetlands and stream valley buffer areas are being protected under the Environmental Guidelines, and the agreement to reforest part of the stream valley buffer will aid in the reduction of thermal impacts to the stream. Environmental Planning staff states that because of the area's high water table, fuel or chemical spills on the site could quickly lead to groundwater contamination; therefore, extra care must be taken to contain any spills, if they occur.

With regards to water availability, Environmental Planning staff has indicated that the Maryland Department of Environment (MDE) approved a Water Appropriation and Use Permit for the project in January 2007, limiting water use to a daily average of 2,000 gallons per year, for one well. The permit requires that the water be used for irrigation of a nursery, specifically for two containerized plant areas.

## **Stormwater Management**

The applicant has an approved stormwater management concept, which consists of on-site channel protection measures via the use of a dry pond. On-site water quality control and recharge will be provided via the use of a surface sand filter and non-structural measures. During/prior to the detailed sediment control/stormwater management plan stage, the applicant must address several items that are outline in Attachment 12.

## **Community Comments/Concerns**

As of this writing, staff has received verbal comments and/or concerns with respect to the amended application, S-2684. These concerns include early hours of operation, dust and noise associated with this request; and lack of sanitary facilities. Their correspondence and e-mail regarding this special exception request is attached as Attachments 13A through 13C.

## **ANALYSIS**

### **Inherent and Non-Inherent Effects**

The standard for evaluation under 59-G-1.21 requires consideration of the inherent and non-inherent effects of the proposed use at the proposed location. 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 the physical and operational effects 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 effects, are a sufficient basis to deny a special exception.

The inherent characteristics of a landscape contractor include: (1) buildings and structures, as well as outdoor areas for the storage of plants and gardening-related equipment; (2) outdoor areas for the storage of mulch, soil, and other landscape materials, in bulk or in containers and the dispensing of fuel for the landscaping trucks, lawn mowers, etc.; (3) on-site storage of business vehicles and equipment including small trucks and landscaping trailers; (4) traffic associated



with trips to the site by employees, and suppliers; (5) trips to and from the site by employees engaged in off-site landscaping activities; (6) adequate parking areas to accommodate staff; (7) dust and noise associated with the movement of landscape products and the loading and unloading of landscape equipment; and (8) long hours of operation.

The basic operation of the proposed landscape contractor business, including the arrival and departure of employees and the loading and unloading of supplies and equipment for off-site operations, are typical of a landscape contractor operation and should be considered inherent to the proposed use. As a general matter, staff believes that most of the activities associated with the proposed use qualify as inherent and as being essential to the nature of a landscape contractor operation.

Trips to and from the landscape contractor site are generally considered inherent to a landscape contractor operation; however, the adverse effects of truck trips can become non-inherent, dependent on the characteristics of the site. In the case under review, the site has a single access point from Wasche Road. Wasche Road is classified as a Rustic Road and has no shoulders. There are several weight-restricted bridges in the vicinity of the site and certain weight restrictions that apply to truck travel on Wasche Road and other Rustic Roads. However in staff's view, the non-inherent adverse effects of the truck traffic due to these conditions are not sufficient to warrant denial of the application. The applicant has received weight restriction waivers from DPWT for work trucks to cross Whites Ferry Road and an exemption from the "No thru Trucks Over ¾ Ton" restrictions on Wasche Road. For this reason, staff believes that in consideration of the permits and exemptions granted and with an appropriate condition to prohibit use of tractor-trailers for the delivery of materials, the non-inherent adverse effects associated with the landscape operation are mitigated to a level that does not warrant denial of the application.

A characteristic that may be considered to be a non-inherent adverse effect is the site's inability to percolate, which prevents construction of a private septic system. In a letter to the applicant, dated September 19, 2005, the Department of Permitting Services addressed the lack of septic facilities on the site. The Department will allow chemical toilets to be used only during peak seasons for one to two weeks. The Department indicated, however, that regardless of the site's inability to percolate, the applicant would be permitted to: "(i) park at the property; (ii) pick up work vehicles, materials and equipment stored at the property each morning; (iii) leave for various job site off the property; and (iv) return such equipment to the property each evening as is typical of a landscape contractor use." (See Attachment 14.) Because there will be no bathroom facilities of any kind during most of the year, the Department will require that provisions be made for such employees to access bathroom facilities off-site to avoid a public nuisance.

In a similar special exception case where bathroom facilities were not available to the employees of the landscape contractor business, the Hearing Examiner concluded that the past administrative practice of DPS has been to permit landscape contractors to operate without on-site bathroom facilities for employees who will be on-site only for a limited period of time each day. In consideration of this past practice, staff does not believe the lack of on-site sanitary facilities for employees is a sufficient basis to deny the application.



#### **59-G-1.2.1 Standard for evaluation.**

- (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.**

**Staff Analysis:** A landscape contractor is an allowed special exception in the RDT zone under §59-C-1.31 of the Montgomery County Zoning Ordinance.

- (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.**

**Staff Analysis:** The proposed application for landscape contractor use satisfies the requirements of §59-G-2.30 Landscape Contractor.

- (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.**

**Staff Analysis:** The subject property is included in the Functional Master Plan for the Preservation of Agriculture and Open Space. The Agricultural Preservation Master Plan focuses on the preservation of farmland and policies for the continuation of farming in the agriculture reserve. The Plan recommends the subject property for RDT zoning. Although no specific land use recommendation is made regarding the subject property, landscape contractors are classified as an agricultural-commercial use under the zoning code and permitted by special exception in the RDT zone. For this reason, staff concludes that the proposed special exception is consistent with the applicable master plan.

The Rustic Roads Master Plan notes that many of the rustic roads do not have a base course and continuous heavy weight breaks up the roadway surface. Both West Hunter Road and Wasche Road have posted signs "No thru Trucks Over ¾ Ton" restrictions. Martinsburg Road, between Wasche Road and the Mirant Plant entrance, is a 9-foot wide concrete pavement augmented by 4-wide gravel shoulders and the concrete shows signs of deterioration. The applicant's trucks could exacerbate the conditions along Martinsburg Road. To avoid conflicts with the Rustic Roads Master Plan, trucks should not be allowed to enter or exit the site by way of Martinsburg Road.

As previously discussed, the tractor-trailer traffic related to the delivery of supplies, and the arrivals and departures of employees in personal vehicles and landscaping trucks can be considered a non-inherent adverse impact due to the weight-restricted bridges and the unique characteristics of Wasche and West Hunter Roads. Staff believes that in

consideration of the permits and exemptions granted by DPWT and with an appropriate condition to prohibit use of tractor-trailers for the delivery of materials that the non-inherent adverse effects associated with the landscape operation have been addressed and the application is consistent with the Rustic Roads Master Plan.

- (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.**

Staff Analysis: The proposed use will be in harmony with the general character of the neighborhood, when considering design, scale and bulk of the proposed new structures and activity. The applicant is maintaining the existing barn and is proposing to construct another, similar barn. Both structures are consistent with the surrounding area. To mitigate the effects of traffic and parking, the applicant has proposed to extend the hedge rows by adding an additional berm along the eastern portion of the property and continue the buffer around the southeastern property, adjacent to the pond. The proposed landscaping, along with the proposed buffer areas, will further shield the view from nearby residences.

- (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.**

Staff Analysis: The subject property abuts other agricultural uses. The proposed use will fit within the context of the agricultural setting of the surrounding neighborhood. The proposed use will therefore, not be detrimental to the surrounding properties. The closest residence is approximately 374-feet from the nearest structure on-site. Additionally, the applicant has provided, in response to staff concerns, an additional berm and landscaping to widen the existing hedgerow.

- (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.**

Staff Analysis: Lighting will be minimal, as required for safety and security. No office, office station, mulching, composting, or on-site customer visits are permitted. Employees are not permitted to stay on-site for an entire day. Traffic impacts have been studied and found to be within acceptable standards. The impacts related to the machinery and activities associated with the use are consistent with those of a farm operation, which is a preferred use in the RDT zone. Staff concludes that the use will not have unacceptable impacts at the proposed location.

- (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.**

Staff Analysis: There are no special exceptions in the neighboring area. As such, the approval of this special exception will not increase the number, intensity, or scope of special exception uses to affect the area adversely or alter the residential 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 established elsewhere in the zone.**

Staff Analysis: The site layout and the nature of the use will not adversely affect the health, safety, and security of residents, visitors, and workers at the subject site. There is no sufficient reason to believe or evidence to support a finding that the proposed use as restricted by staff would not satisfy this standard.

- (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.**
- 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.**

Staff Analysis: This site does not require subdivision, as it qualifies for an exemption from platting under Chapter 50-9(a)(2) (see Attachment 15). There would be no adverse impact on schools, fire protection, roads, and other public facilities that serve the site. The traffic volumes associated with the proposed landscape contractor application have been found not to adversely affect roadway conditions or reduce vehicular or pedestrian safety.

This site is not able to support a private septic system. However, in a letter dated September 19, 2005, DPS indicated that chemical toilets could be used during peak seasons for one to two weeks. The Department also indicated that regardless of the site's inability to percolate, the applicant would be permitted to: "(i) park at the Property; (ii) pick up work vehicles, materials and equipment stored at the Property each morning; (iii) leave for various job sites off the Property; and (iv) return such equipment to the Property each evening as is typical of a landscape contractor use." Because there will be no bathroom facilities of any kind during non-peak periods, the Department will require that provisions be made for employees to access bathroom facilities off-site to avoid a public nuisance. In a similar special exception case where bathroom facilities were not available to the employees of the landscape contractor business, the Hearing Examiner concluded

that the past administrative practice has been to permit landscape contractors to operate without on-site bathroom facilities for employees who will be on-site for less than the entire day. For these reasons, staff does not find the lack of on-site sanitary inadequate.

#### **Sec. 59-G-1.23. General development standards**

Special exceptions are subject to the development standards of the applicable zone, unless otherwise specified under the standards of the special exception. The project equals or exceeds the minimum standards as shown on the following table:

<b>Development Standards</b>	<b>Requirement</b>	<b>Provided</b>
§59-C-9.42: Minimum Net Lot Area	40,000 sq. ft.	230,868 sq. ft. (5.30 ac)
§59-C-9.43: Minimum lot width (in feet)		
(a) Measured along front building line	125	400
(b) Measured along front street line	25	400
§59-C-9.44: Yard requirements for a main building (in feet)		
(a) Minimum setback from street. The front building line must be parallel to the front lot line or proposed street line and set back from the lot or street line at least:	50	98
(b) Minimum side yard, 2 required		
(1) One side	20	134
(2) Sum of both sides	40	433
(c) Minimum rear yard	35	885
§59-C-4.96: Maximum Lot Coverage No more than this percentage of the net lot area may be covered by buildings, including accessory buildings	10%	2.73%
§59-C-9.47: Maximum building height (in feet)	50	20 (existing barn); 15 (proposed barn)
<i>In addition to the above development standards, the proposed special exception request must conform to specific standards under §59-G-2.30.00:</i>		
§59-G-2.30.00(1): Lot Area	2-acres	5.30-acres
§59-G-2.30.00(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.	50 (all sides)	Front- 50 Side- 134; 299 Rear- 805

#### **Sec. 59-G-2.30 Landscape Contractor**

- (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.**

Staff Analysis: The subject site is approximately 5.3 acres in land area; therefore, it satisfies this requirement.

- (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.**

Staff Analysis: The site layout plan identifies on-site areas for employee parking, storage of mulch and plant stock, location of the trash dumpster, and for loading of trucks and equipment. The areas for parking and loading of trucks and equipment, as well as all on-site operations are located in excess of 50-feet from the property lines, which exceeds the minimum requirement. The property to the north is an agricultural use, with a residential dwelling. The residential dwelling is located over 1,000 feet from the existing barn on the subject site. The applicant is planting along the northern property line two rows of white pine and red cedar trees, in combination with the replanting of approximately 1.7 acres of stream valley buffer, which will adequately screen the property to the north. The properties to the east are screened by existing forested areas and the hedgerows along Wasche Road; however, the applicant is providing additional landscaping behind the existing hedgerow, and is including a 2-foot to 4-foot berm which will wrap around the southernmost paved areas in order to maximize the existing landscaping. Staff concludes that adequate screening is provided to protect nearby properties from any objectionable operations associated with the landscape contractor business.

- (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.**

Staff Analysis: The number of vehicles and trailers permitted on the subject property is limited under staff recommendation #2 on the first page of this report. Only twenty-four employee parking spaces will be on-site as designated by the letter "G" on the site plan and vehicles associated with the business will be parked in along the north side of the property (designated by the letter "A" on the site plan) when not in use. See Attachment 3A. Staff believes that the on-site parking arrangement precludes adverse impacts on adjoining properties.

- (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 green house.**

Staff Analysis: The sale of plant materials or garden supplies or equipment is not proposed for this special exception application. Plant stock will be stored on-site to be used for off-site landscape services.

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

Staff Analysis: During peak season April through November, the applicant proposes to operate weekdays and Saturdays, between the hours of 6:00 A.M. and 8:00 P.M. and 7:30 A.M. and 6:30 P.M., respectively. Winter operations will be proposed to be between 6:00 A.M. and 6:30 P.M., except snow removal can occur when necessary. There will be a maximum of 35 employees on site at any one time, and no employee will remain on-site all day. Employees will arrive on-site around 6:00 A.M. in preparation for off-site jobs and return to the property between the hours of 5:00 P.M. and 8:00 P.M. The applicant has indicated that the unloading and loading of vehicles with material or equipment is to occur in the late afternoon hours when the employees return from the off-site locations. Staff believes that the proposed hours of operation are too early and not consistent with the majority of landscape contractor special exceptions; therefore, staff recommends later hours of operation as outlined in Condition #5 of the recommendation. The proposed hours of operation as conditioned by staff mitigate adverse impacts (e.g., noise, fumes, etc.) on surrounding properties.

- (6) In evaluating the compatibility of this special exception with surround 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.**

Staff Analysis: The proposed use is an agricultural-commercial use permitted by special exception in the RDT zone. The County Council, in designating a landscape contractor as a special exception in the RDT zone, established that a landscape contractor is a use generally compatible with other uses in the zone, absent unacceptable adverse effects on the neighborhood.

## **CONCLUSION**

Based on review of the application and all information of record, staff concludes that the application, with the operational limitations and site improvements imposed by staff, satisfies all relevant standards for grant of a landscape contractor at the proposed site. For these reasons, staff recommends that application S-2684 for a landscape contractor special exception located at 18930 Wasche Road be granted by the Board of Appeals.

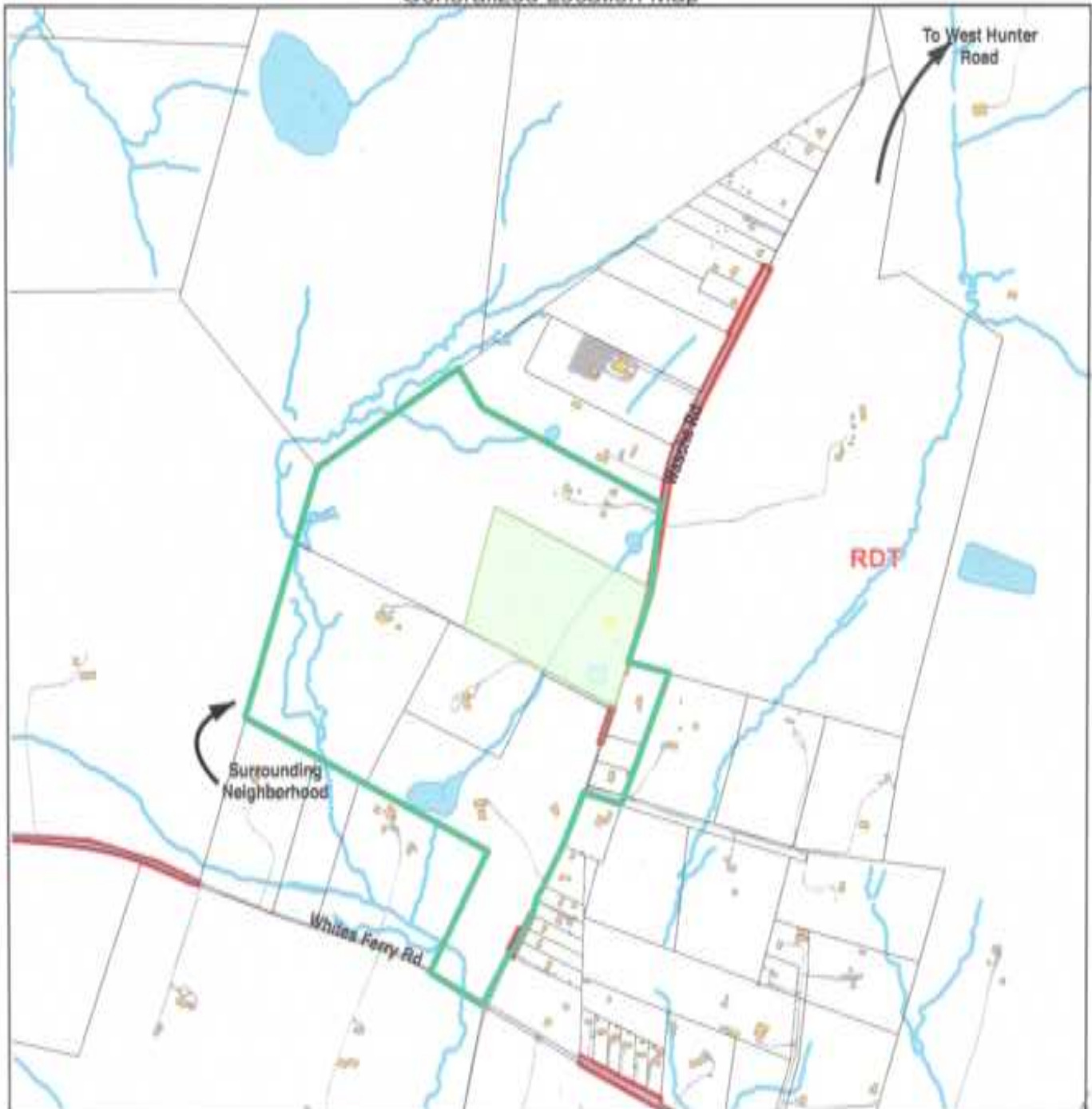
## ATTACHMENTS

- Attachment 1** Generalized Location Map
- Attachment 2** Special Exception Site Plan, as submitted and later revised, August 26, 2006
- Attachment 3** A. Special Exception Site Plan, as amended, October 29, 2007  
B. Special Exception Landscape Plan, as amended, October 29, 2007
- Attachment 4** Site Photographs
- Attachment 5** Weight-Restricted Bridges & Posted “No Thru Trucks” Map
- Attachment 6** Neighborhood Map, per applicant submittal, October 29, 2007
- Attachment 7** Memorandum from Callum Murray, Team Leader, Community-Based Planning to Renée M. Miller, AICP, Planner, Development Review Division
- Attachment 8** Memorandum from Ki H. Kim, Planner/Coordinator, Transportation Planning to Renée M. Miller, AICP, Planner, Development Review Division
- Attachment 9** Correspondence from Bruce E. Johnston, Chief, Division of Capital Development, Department of Public Works and Transportation to Heather Dlhopsky and Todd D. Brown, Linowes and Blocher, LLP, dated February 27, 2007
- Attachment 10** Correspondence from Gregory M. Leck, Manager Traffic Engineering and Operations Section, Department of Public Works and Transportation to Ki Kim, Planner/Coordinator, Transportation Planning, dated March 15, 2007
- Attachment 11** Memorandum from Josh Penn, Environmental Planning to Renée M. Miller, AICP, Planner, Development Review Division
- Attachment 12** Correspondence from Richard R. Brush, Manager, Division of Land Development Services, Department of Permitting Services to James Witmer, CAS Engineering, dated February 8, 2007
- Attachment 13** A. Email correspondence from Sugarloaf Citizens Association to Ralph Wilson, Zoning Supervisor, dated February 20, 2008  
B. Email correspondence from Warren S. Shamlan, Jr. to Renée Miller, Zoning Analyst, dated February 21, 2008  
C. Correspondence from Gil and Anne Rocha to Renée Miller, Planner, dated February 18, 2008
- Attachment 14** Correspondence from Susan Scala-Demby, Permitting Services Manager, Department of Permitting Services to John Shorb, John Shorb Landscaping, Inc., dated September 19, 2005
- Attachment 15** Memorandum from Erin Greyson, Planner, Development Review Division to Renée M. Miller, AICP, Planner, Development Review Division



# ATTACHMENT 1

## Generalized Location Map



### LEGEND

- S-2648 Site
- Parcel
- Building
- Paved Area
- Lake and Pond
- Stream and River

#### NOTES:

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

Property lines are compiled by adjusting the property lines to topography obtained 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.

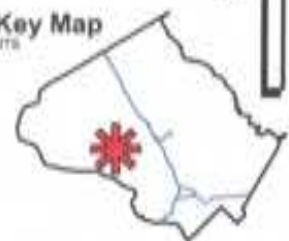
This map is created from a variety of data sources, and may not reflect the most current conditions in any one location and may not be completely accurate or up to date. All map features are approximately within five feet of their true location. This map may not be the same as a map of the same area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

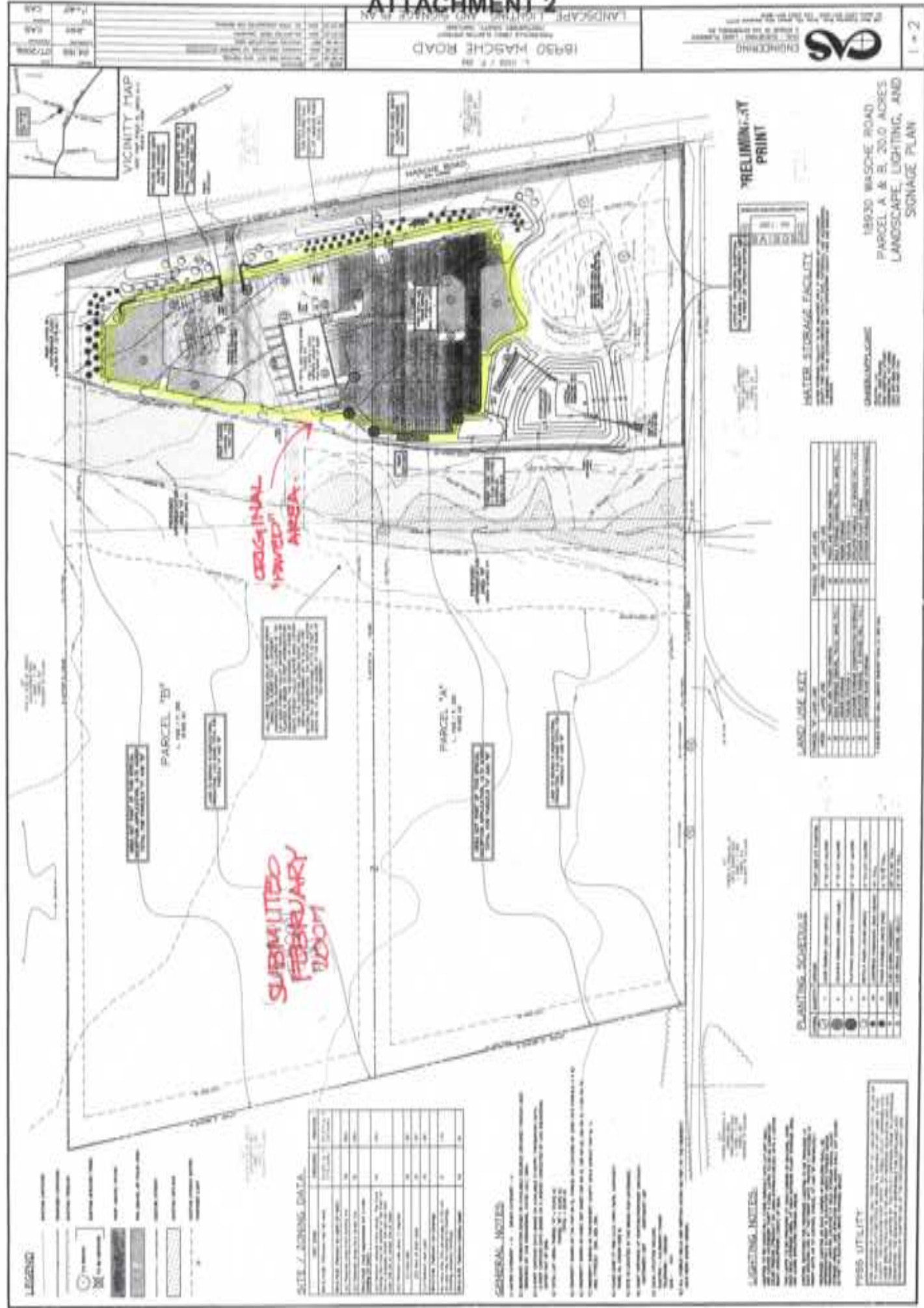
1 inch = 1,000 feet

Address: 18930 Wasche Rd, Dickerson

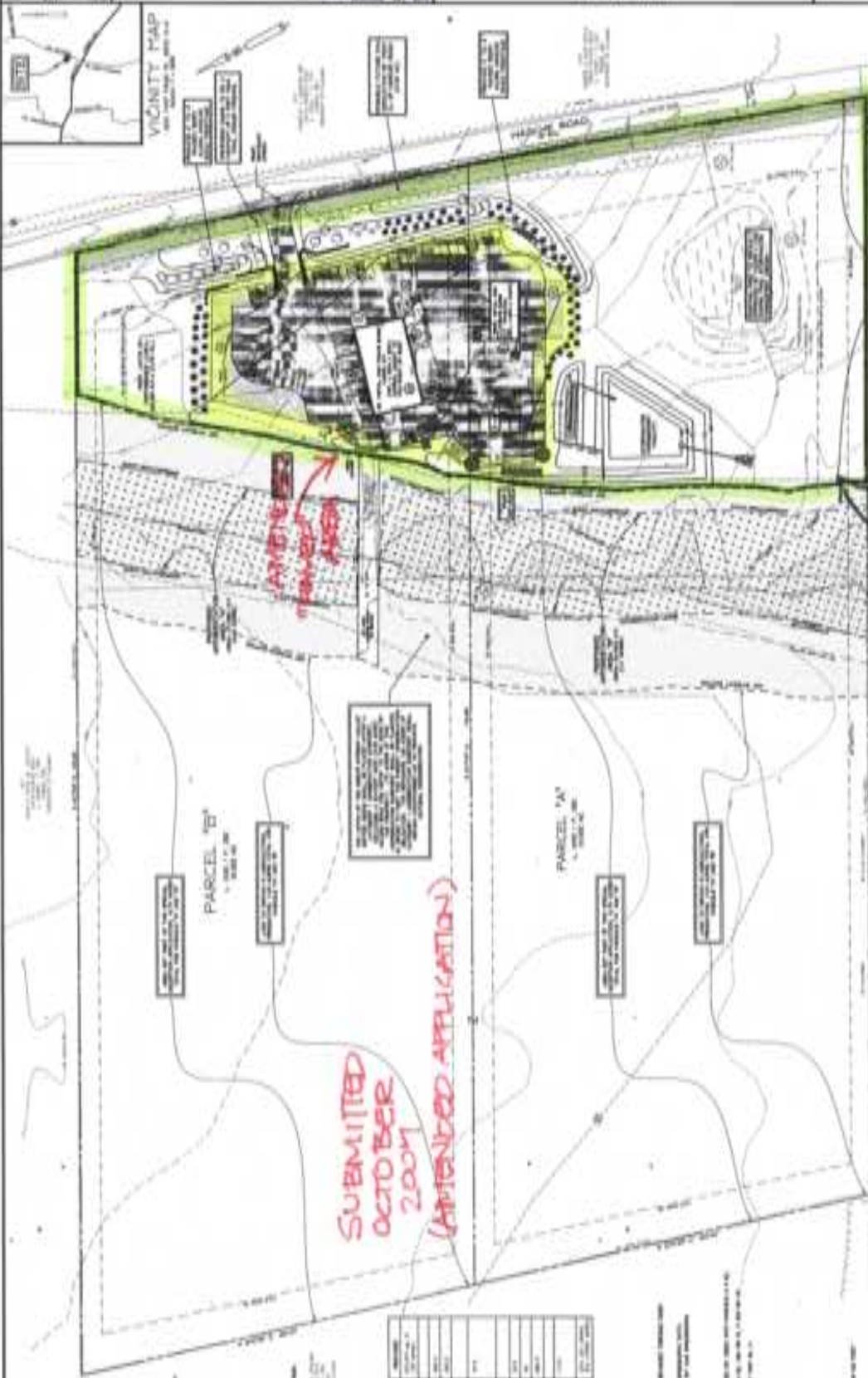
### Key Map

NTS







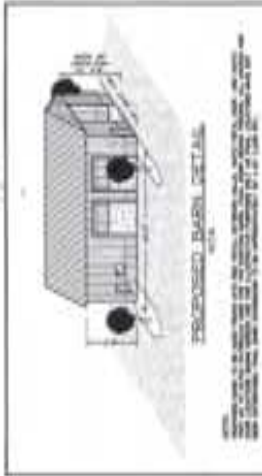


SUBMITTED  
OCTOBER  
2007  
(APPROVED APPLICATION)

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## GENERAL NOTES

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S.E. REQUEST

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**WINTER STORAGE FACILITY**

**ATTORNEYS:**  
 WOOD & BARNES  
 1000 15th St., N.W.  
 Washington, D.C. 20004  
 (202) 462-1000

**CONSULTANTS:**  
 WOOD & BARNES  
 1000 15th St., N.W.  
 Washington, D.C. 20004  
 (202) 462-1000

16930 WASCHE ROAD  
PARCEL A & B, 20.0 ACRES  
SPECIAL EXCEPTION  
SITE PLAN

### High Utility

1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2076, 2077, 2078, 2079, 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2120, 2121, 2122, 2123, 2124, 2125, 2126, 2127, 2128, 2129, 2130, 2131, 2132, 2133, 2134, 2135, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147, 2148, 2149, 2150, 2151, 2152, 2153, 2154, 2155, 2156, 2157, 2158, 2159, 2160, 2161, 2162, 2163, 2164, 2165, 2166, 2167, 2168, 2169, 2170, 2171, 2172, 2173, 2174, 2175, 2176, 2177, 2178, 2179, 2180, 2181, 2182, 2183, 2184, 2185, 2186, 2187, 2188, 2189, 2190, 2191, 2192, 2193, 2194, 2195, 2196, 2197, 2198, 2199, 2200, 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213, 2214, 2215, 2216, 2217, 2218, 2219, 2220, 2221, 2222, 2223, 2224, 2225, 2226, 2227, 2228, 2229, 2230, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2238, 2239, 2240, 2241, 2242, 2243, 2244, 2245, 2246, 2247, 2248, 2249, 2250, 2251, 2252, 2253, 2254, 2255, 2256, 2257, 2258, 2259, 2260, 2261, 2262, 2263, 2264, 2265, 2266, 2267, 2268, 2269, 2270, 2271, 2272, 2273, 2274, 2275, 2276, 2277, 2278, 2279, 2280, 2281, 2282, 2283, 2284, 2285, 2286, 2287, 2288, 2289, 2290, 2291, 2292, 2293, 2294, 2295, 2296, 2297, 2298, 2299, 2300, 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313, 2314, 2315, 2316, 2317, 2318, 2319, 2320, 2321, 2322, 2323, 2324, 2325, 2326, 2327, 2328, 2329, 2330, 2331, 2332, 2333, 2334, 2335, 2336, 2337, 2338, 2339, 2340, 2341, 2342, 2343, 2344, 2345, 2346, 2347, 2348, 2349, 2350, 2351, 2352, 2353, 2354, 2355, 2356, 2357, 2358, 2359, 2360, 2361, 2362, 2363, 2364, 2365, 2366, 2367, 2368, 2369, 2370, 2371, 2372, 2373, 2374, 2375, 2376, 2377, 2378, 2379, 2380, 2381, 2382, 2383, 2384, 2385, 2386, 2387, 2388, 2389, 2390, 2391, 2392, 2393, 2394, 2395, 2396, 2397, 2398, 2399, 2400, 2401, 2402, 2403, 2404, 2405, 2406, 2407, 2408, 2409, 2410, 2411, 2412, 2413, 2414, 2415, 2416, 2417, 2418, 2419, 2420, 2421, 2422, 2423, 2424, 2425, 2426, 2427, 2428, 2429, 2430, 2431, 2432, 2433, 2434, 2435, 2436, 2437, 2438, 2439, 2440, 2441, 2442, 2443, 2444, 2445, 2446, 2447, 2448, 2449, 2450, 2451, 2452, 2453, 2454, 2455, 2456, 2457, 2458, 2459, 2460, 2461, 2462, 2463, 2464, 2465, 2466, 2467, 2468, 2469, 2470, 2471, 2472, 2473, 2474, 2475, 2476, 2477, 2478, 2479, 2480, 2481, 2482, 2483, 2484, 2485, 2486, 2487, 2488, 2489, 2490, 2491, 2492, 2493, 2494, 2495, 2496, 2497, 2498, 2499, 2500, 2501, 2502, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513, 2514, 2515, 2516, 2517, 2518, 2519, 2520, 2521, 2522, 2523, 2524, 2525, 2526, 2527, 2528, 2529, 2530, 2531, 2532, 2533, 2534, 2535, 2536, 2537, 2538, 2539, 2540, 2541, 2542, 2543, 2544, 2545, 2546, 2547, 2548, 2549, 2550, 2551, 2552, 2553, 2554, 2555, 2556, 2557, 2558, 2559, 2560, 2561, 2562, 2563, 2564, 2565, 2566, 2567, 2568, 2569, 2570, 2571, 2572, 2573, 2574, 2575, 2576, 2577, 2578, 2579, 2580, 2581, 2582, 2583, 2584, 2585, 2586, 2587, 2588, 2589, 2590, 2591, 2592, 2593, 2594, 2595, 2596, 2597, 2598, 2599, 2600, 2601, 2602, 2603, 2604, 2605, 2606, 2607, 2608, 2609, 2610, 2611, 2612, 2613, 2614, 2615, 2616, 2617, 2618, 2619, 2620, 2621, 2622, 2623, 2624, 2625, 2626, 2627, 2628, 2629, 2630, 2631, 2632, 2633, 2634, 2635, 2636, 2637, 2638, 2639, 2640, 2641, 2642, 2643, 2644, 2645, 2646, 2647, 2648, 2649, 2650, 2651, 2652, 2653, 2654, 2655, 2656, 2657, 2658, 2659, 2660, 2661, 2662, 2663, 2664, 2665, 2666, 2667, 2668, 2669, 2670, 2671, 2672, 2673, 2674, 26



**PAGE 0107**

[illegible]



## ATTACHMENT 4



Figure 1: Looking northwest from subject site property line



Figure 2: Looking southwest from existing barn



Figure 3: 3-D Aerial Photo of Existing Conditions (looking northwest)



Figure 4A/B: Wasche Road, Weekday Morning, looking north (towards West Hunter Road)  
November 2007







Figure 5A/B: Wasche Road, Weekday Morning, looking south (towards Whites Ferry Road)

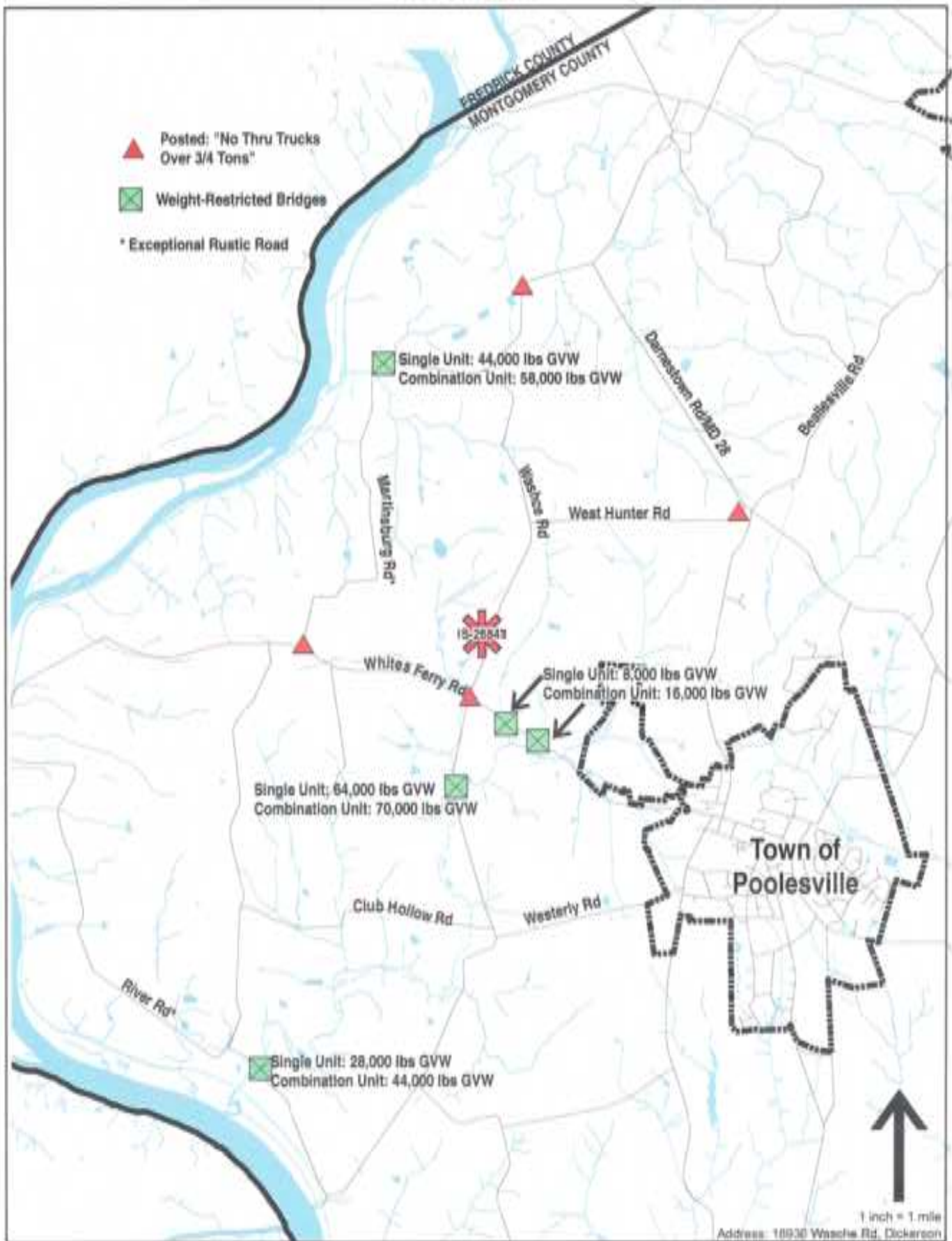




Figure 6: 18815 Wasche Road, approximate view-shed (north is on left of photograph)

# ATTACHMENT 5

## Road Conditions





# ATTACHMENT 6

18930 MASCHKE ROAD  
NEIGHBORHOOD MAP

PROJECT NO. 18930 MASCHKE ROAD  
DATE: 10/1/2003  
SCALE: 1" = 100'

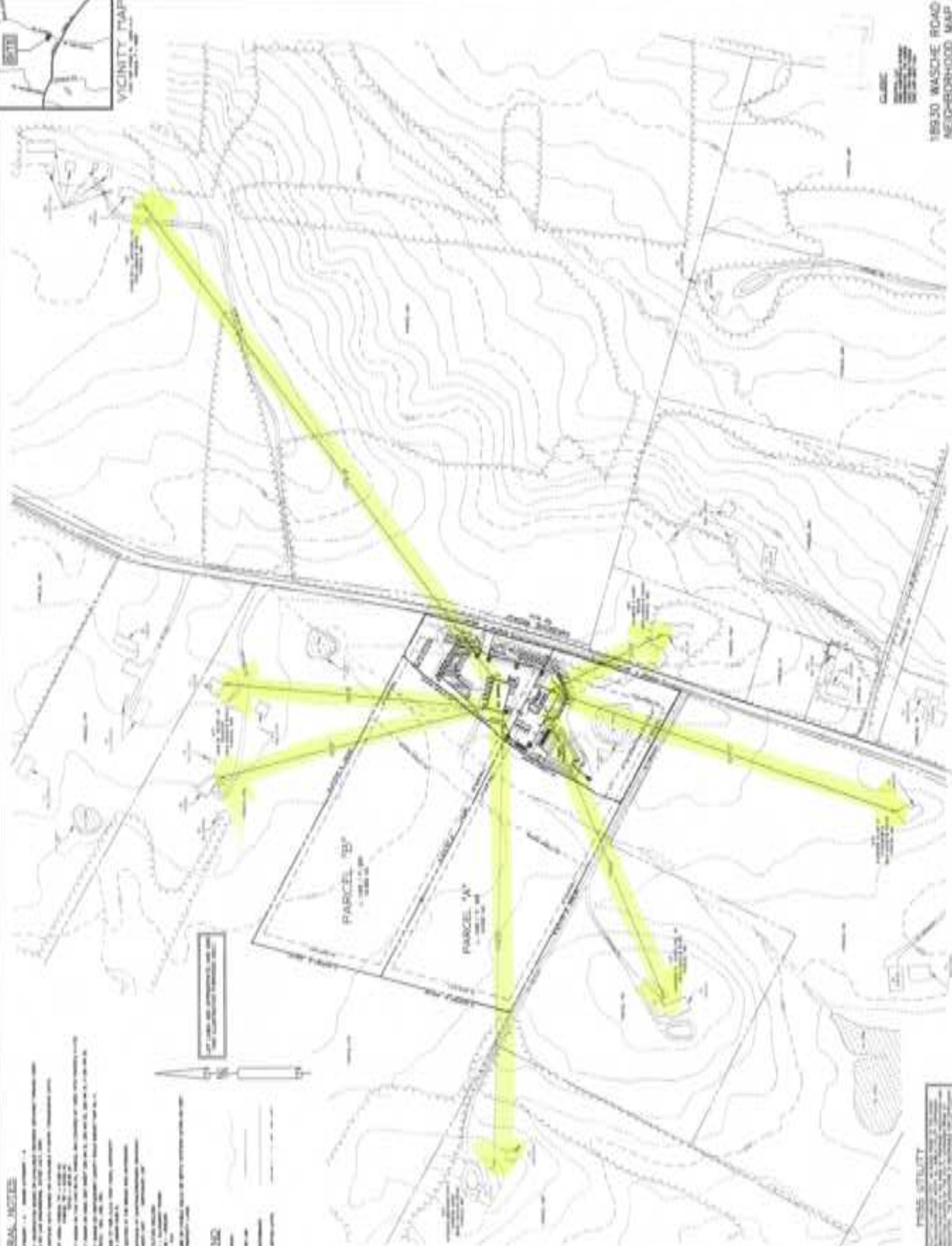


1 of 1

1" = 100'  
DATE: 10/1/2003  
SCALE: 1" = 100'

VICINITY MAP

CLIMATE  
18930 MASCHKE ROAD  
NEIGHBORHOOD MAP



GENERAL NOTES

1. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE MICHIGAN DEPARTMENT OF TRANSPORTATION (MDOT) STANDARD SPECIFICATIONS FOR HIGHWAY CONSTRUCTION.
2. THE DESIGNER HAS CONDUCTED A VISUAL INSPECTION OF THE SITE AND HAS FOUND NO OBVIOUS OBSTRUCTIONS TO THE PROPOSED CONSTRUCTION.
3. THE DESIGNER HAS CONDUCTED A VISUAL INSPECTION OF THE SITE AND HAS FOUND NO OBVIOUS OBSTRUCTIONS TO THE PROPOSED CONSTRUCTION.
4. THE DESIGNER HAS CONDUCTED A VISUAL INSPECTION OF THE SITE AND HAS FOUND NO OBVIOUS OBSTRUCTIONS TO THE PROPOSED CONSTRUCTION.
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9. THE DESIGNER HAS CONDUCTED A VISUAL INSPECTION OF THE SITE AND HAS FOUND NO OBVIOUS OBSTRUCTIONS TO THE PROPOSED CONSTRUCTION.
10. THE DESIGNER HAS CONDUCTED A VISUAL INSPECTION OF THE SITE AND HAS FOUND NO OBVIOUS OBSTRUCTIONS TO THE PROPOSED CONSTRUCTION.

LEGEND

- 1. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE MICHIGAN DEPARTMENT OF TRANSPORTATION (MDOT) STANDARD SPECIFICATIONS FOR HIGHWAY CONSTRUCTION.
- 2. THE DESIGNER HAS CONDUCTED A VISUAL INSPECTION OF THE SITE AND HAS FOUND NO OBVIOUS OBSTRUCTIONS TO THE PROPOSED CONSTRUCTION.
- 3. THE DESIGNER HAS CONDUCTED A VISUAL INSPECTION OF THE SITE AND HAS FOUND NO OBVIOUS OBSTRUCTIONS TO THE PROPOSED CONSTRUCTION.
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- 8. THE DESIGNER HAS CONDUCTED A VISUAL INSPECTION OF THE SITE AND HAS FOUND NO OBVIOUS OBSTRUCTIONS TO THE PROPOSED CONSTRUCTION.
- 9. THE DESIGNER HAS CONDUCTED A VISUAL INSPECTION OF THE SITE AND HAS FOUND NO OBVIOUS OBSTRUCTIONS TO THE PROPOSED CONSTRUCTION.
- 10. THE DESIGNER HAS CONDUCTED A VISUAL INSPECTION OF THE SITE AND HAS FOUND NO OBVIOUS OBSTRUCTIONS TO THE PROPOSED CONSTRUCTION.

PROJECT NO. 18930 MASCHKE ROAD  
DATE: 10/1/2003  
SCALE: 1" = 100'

## ATTACHMENT 7



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

February 8, 2008

#### MEMORANDUM

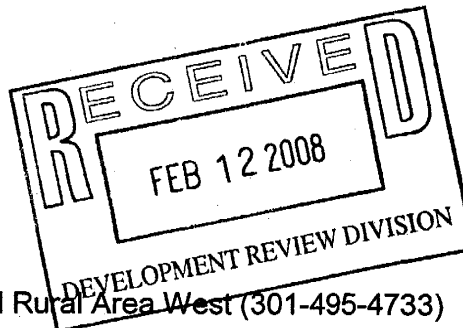
**TO:** Renee Miller, AICP, Planner  
Development Review Division - Zoning

**VIA:** John A Carter, Chief *JK*  
Community-Based Planning Division

**FROM:** Callum Murray, Team Leader, Potomac and Rural Area West (301-495-4733) *CM*  
Community-Based Planning Division

Leslie Saville, Planner (301-495-2194) *[Signature]*  
Community-Based Planning Division

**SUBJECT:** S-2684 Landscape Contractor  
18930 Wasche Road



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#### Recommendation: Denial

Community-based planning staff finds this special exception landscape contractor use to be incompatible with the surrounding neighborhood due to its location, size and intensity, and recommends denial. Non-inherent characteristics considered in this finding include the lack of potable water, lack of sewer or septic facilities on the site, and the truck traffic generated by this use, including both the applicant's work trucks and the delivery trucks.

#### Description

The Special Exception Petition proposes a landscape contractor business on a 5.3 acre portion of a 20-acre property on Wasche Road, west of the Town of Poolesville. The remainder of the parcel is not part of the application; it includes a stream and an 11.04-acre<sup>1</sup> area that is proposed to be used for agricultural purposes.

This property lies within the Agricultural Reserve in the Rural Density Transfer (RDT) zone, and is located on Wasche Road, a rustic road. Improvements to the property include a metal storage building, an unpaved driveway and a culvert for the stream. There is no sewer service in this area and testing has determined that the property is unsuitable for any type of septic system<sup>2</sup>. The well permit<sup>3</sup> allows water to be withdrawn for the irrigation of plants; it is not a potable water supply. Permits for potable water are not provided in the absence of sewer or septic facilities.<sup>4</sup>

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<sup>1</sup> Acreage noted on the applicant's Agricultural Declaration of Intent dated November 15, 2006.

<sup>2</sup> Pre-application plan number 7-05024.

<sup>3</sup> DPS Well Location Permit number 365322, and State of Maryland Department of the Environment Water Appropriation and Use Permit number MO2006G010 (02).

<sup>4</sup> Per phone conversation with Kim Beall, Acting Manager, DPS - Well and Septic, February 1, 2008.

Site Solutions Inc. describes the neighborhood as comprising approximately 20 single family homes, farms and woodlots<sup>5</sup> in a 1,000-foot radius surrounding the property. There are thirteen residences within that 1,000-foot area.<sup>6</sup> Because of the car and truck traffic anticipated by this use, staff also reviewed the neighborhoods on the routes approaching the property. Approached from the south and counting from the edge of Poolesville, there are 34 properties that would be impacted by the additional traffic—23 of these properties are residential. Approached from the north, there are 41 properties of which 17 are residential. (See attached maps.)

## Relationship to Master Plans

Two master plans address this property, the Functional Master Plan for the Preservation of Agriculture and Rural Open Space in Montgomery County (AROS) (1980) and the Rustic Roads Functional Master Plan (RRFMP) (1996). Both plans are silent on applications for special exceptions, but provide more general guidance:

The Foreword to the AROS Plan states, "This Plan focuses on the preservation of farmland but it also tries to establish a policy framework that will contribute to the continuation of farming in the County."<sup>7</sup> The subject property is located in the Rural Density Transfer (RDT) Zone; agriculture is the preferred use in this zone.<sup>8</sup>

The RRFMP states: "Many of the roads, particularly those being considered for designation as rustic, do not have a base course, and continuous heavy weight breaks up the roadway surface."<sup>9</sup> No record has been found that indicates whether Wasche and West Hunter Roads have a base course. Wasche Road was constructed by 1865,<sup>10</sup> and West Hunter Road was probably built between 1865 and 1879.<sup>11</sup>

The applicant has worked with the Rustic Roads Advisory Committee (RRAC) to retain the side banks and hedgerows on Wasche Road.<sup>12</sup> Likewise, the applicant has made adjustments to the planting plan to include mostly native plants that are consistent with the rural character of the area; many appear on neighboring properties. In the event this application is approved, the final signs should be brought back to the RRAC for comment.

## Discussion

The application is fully described elsewhere, so this summary will be brief. A landscape contractor business with 35 employees, 13 trucks and four trailers is proposed; the sanitary facilities described as being aboard five trucks will now not be included. This property will be used "to grow and maintain plant materials, serve as an up-county staging area for daily operations and a delivery location for landscape maintenance materials."<sup>13</sup>

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<sup>5</sup> Site Solutions Inc, Land Use and Zoning Analysis, revised September 2007, p. 4.

<sup>6</sup> Based upon site visits, aerial photos and State Department of Assessment and Taxation records.

<sup>7</sup> AROS, p. i, emphasis in original.

<sup>8</sup> Ibid., p. 79

<sup>9</sup> RRFMP, p. 27.

<sup>10</sup> Ibid., p. 164

<sup>11</sup> Ibid., p. 168

<sup>12</sup> These sidebanks are protected as Significant Features on this road (pp. 164-165).

<sup>13</sup> Site Solutions Inc, p. 6.

The property has no potable water source or sanitary facilities. Chemical or portable facilities store but do not treat effluent, so are permitted for only limited periods,<sup>14</sup> generally 1-2 weeks per year; they are not approved for extended periods. This application includes 35 workers onsite at least twice per day, for approximately 328 days per year, for an unspecified amount of time; based on discussions with other landscape operations, staff anticipates workers onsite for 45 to 90 minutes each day<sup>15</sup> (see attached descriptions and time estimates). The closest facilities found by staff which might be used by workers include a McDonalds Restaurant and a Getty gas station in Poolesville. The McDonalds is 4.5 miles away and opens at 6:00 a.m., and the Getty gas station is 4.1 miles away and opens at 5:00 a.m.<sup>16</sup> In staff's opinion, the lack of potable water and sanitary facilities for 35 employees is a sufficient basis for denial.

Traffic has been described as follows: each workday, 35 employees will arrive in 22 vehicles and will depart from the site in 13 work trucks. Deliveries and other trips to the site include those for mulch, compost, topsoil, gravel, fertilizer, seed, irrigation supplies, trash, fuel, toilet cleaning, (now presumably deleted), and plants. Based on the days of operations proposed, the approximate annual trips to and from the site are thus:

Employee vehicle trips		13,024
Work truck trips	7,696	
Delivery trips	1,340	
<u>Subtotal, trucks</u>		<u>9,036</u>
<b>All trips<sup>17</sup></b>		<b>22,060</b>

Kimel-Horn and Associates, Inc. proposes travel routes<sup>18</sup> that prohibit truck use of the section of Martinsburg Road north of Wasche Road, as requested by staff and the RRAC. All traffic to the site is proposed to be routed to the north along Wasche Road, then east on West Hunter Road to Route 28 and points beyond. This route is not supported by staff or the RRAC.

Wasche Road and West Hunter Road are rustic roads, each with 18 feet of paving and no shoulders<sup>19</sup>; Martinsburg Road is an exceptional rustic road, a "politician's road" with nine feet of concrete paving edged with about four-foot shoulders in this section.<sup>20</sup> MCDPWT has posted

<sup>14</sup> By phone call on February 8, 2008, Susan Scala-Demby, DPS, confirmed that RV-style sanitary facilities are considered to be a type of chemical toilet, and so are only permitted for brief periods; a letter of confirmation is forthcoming. In a letter to the applicant dated September 19, 2005, she outlines these restrictions. An e-mail dated April 5, 2007, from Gene von Gunten, DPS, to MNCPPC staff clarifies, "We informed Mr. Brown that we could not approve any use that required employees to be on-site for more than a few minutes each day. He said that the only time that anyone would be on-site would be a few days each year when trees were being planted. I explained that portable toilets could not be used for any on-going basis, but they could be used for very limited periods, perhaps 1-2 weeks total, when the trees were being planted." This information was confirmed with Kim Beall, DPS, by staff on January 31, 2008; the proposed facilities provide sanitary storage, but are not sanitary treatment facilities. Violations constitute a serious health hazard, but are difficult to track.

<sup>15</sup> See attachment for details of times and tasks performed.

<sup>16</sup> Mileage recorded by staff during a site visit. Hours obtained by phone with McDonalds and Getty on February 8, 2008. The availability of facilities for workers was not confirmed.

<sup>17</sup> This information is based on the description from Kimley-Horn and Associates, Inc., dated September 7, 2007. See the attached table for a breakdown of type and frequency of these trips.

<sup>18</sup> Kimley-Horn and Associates, Inc., September 7, 2007, pp. 3-4.

<sup>19</sup> Rustic Roads Functional Master Plan (RRFMP), pp. 164-165 and 168-169, respectively.

<sup>20</sup> RRFMP, pp. 109-110. This section of Martinsburg Road is the only road in Montgomery County named in the Master Plan for Historic Preservation.



signs on all routes to this site, No Thru Trucks over ¾ Ton.<sup>21</sup> These signs are only posted where suitable and feasible through-truck routes are available.<sup>22</sup> (See attachment, Memorandum for placing No Thru Truck signs.)

Truck traffic is usually considered to be inherent to a landscape contractor use, but because of the unique features of these rustic roads, the weight limits on through truck traffic, and the weight limited bridges, the unusual characteristics of this site make this truck traffic non-inherent. (See attachment, Road Assessment photos.) In addition, tractor-trailer deliveries as described for the mulch deliveries are also non-inherent.<sup>23</sup> Staff considers the extensive truck traffic of both types on these roads to be a sufficient basis for denial.

Staff previously advised the applicant that, in the event that the application is approved, the preferred routing is from Poolesville on Whites Ferry Road, as this is the only non-rustic road with close access to the site. A one-year permit was obtained in February 2007 which would allow the applicant's work trucks to cross two weight-limited bridges on this route; an updated application for this permit is anticipated. (See maps.)

Additional issues include:

- Onsite fueling, oil changes and maintenance (non-inherent)
- Equipment, vehicle washdowns and toilet cleaning without septic facilities (non-inherent) – (note that the applicant has amended the application to state that sanitary facilities aboard trucks will not now be included)
- Early and late hours (impacts from lights, noise from backing trucks and machinery, powerwashers, blowers, mowers) (non-inherent due to numerous adjacent homes)

Based upon the lack of potable water, lack of septic facilities, and the number of new truck trips on roads which are designated as rustic, signed for No Thru Trucks, and have weight-limited bridges, staff finds that no conditions can make this use compatible with this site and recommends denial.

#### Attachments:

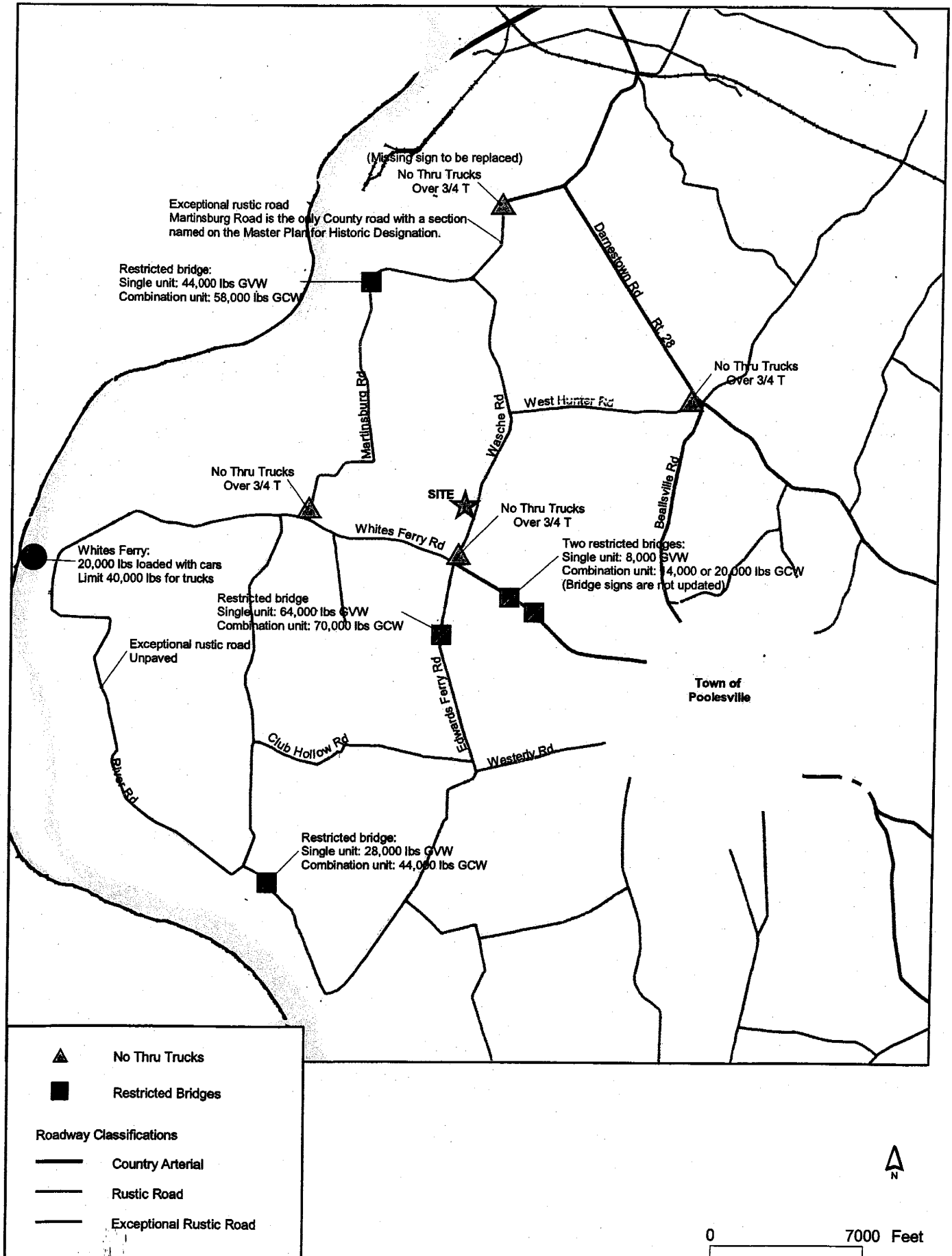
- A. Map of 18930 Wasche Road Vicinity Road Network
- B. Map of S-2684 Vicinity with Route Options
- C. Map of S-2684 Vicinity Land Use
- D. Road Assessment photos
- E. Letter from Susan Scala-Demby, DPS, September 19, 2005
- F. E-mail from Gene von Gunten, DPS, April 5, 2007
- G. Memorandum dated January 12, 1981, describing policies for placing No Thru Truck signs
- H. Table of vehicle traffic by vehicle type, as described by Kimley-Horn and Associates
- I. Landscape contractor operations (descriptions of times and tasks performed onsite by landscaping contractors)

<sup>21</sup> One sign has been reported as removed or vandalized; a replacement is being requested.

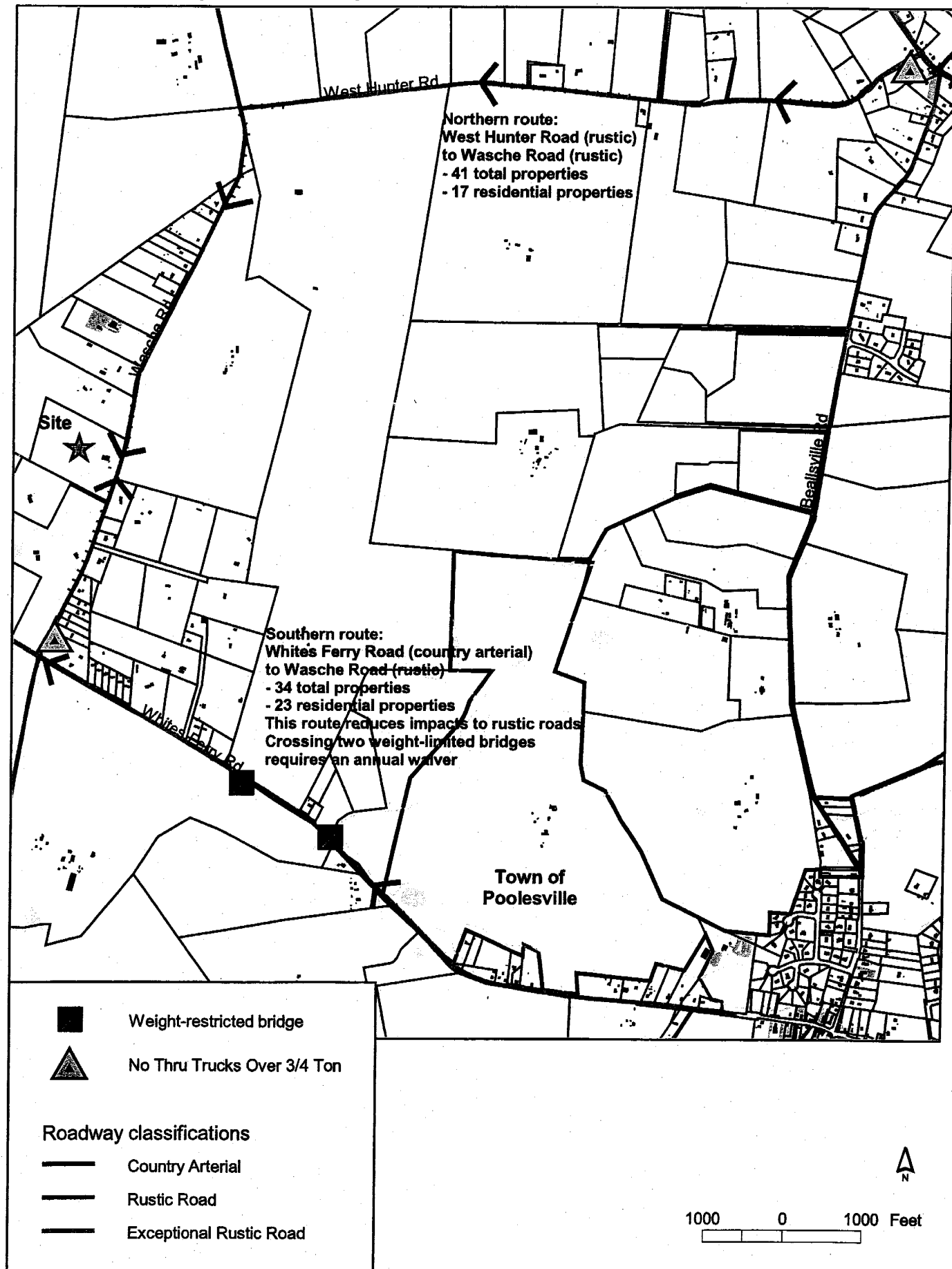
<sup>22</sup> Memorandum dated January 12, 1981, describing policies for placing No Thru Truck signs—copy attached.

<sup>23</sup> S-2590 (Special Exception Petition for a landscape contractor business on Purdum Road, an exceptional rustic road) Hearing Examiner's Report: "In the case at hand, the undersigned finds that **both trips to and from job sites and deliveries must be considered non-inherent adverse effects** because of the character of Purdum Road. In addition, deliveries by tractor-trailer are not necessarily associated with a landscape contractor, as demonstrated by Mr. Brown's own testimony that he does not currently foresee such deliveries. Accordingly, they should be considered a non-inherent adverse effect in this case," p. 30, emphasis added.

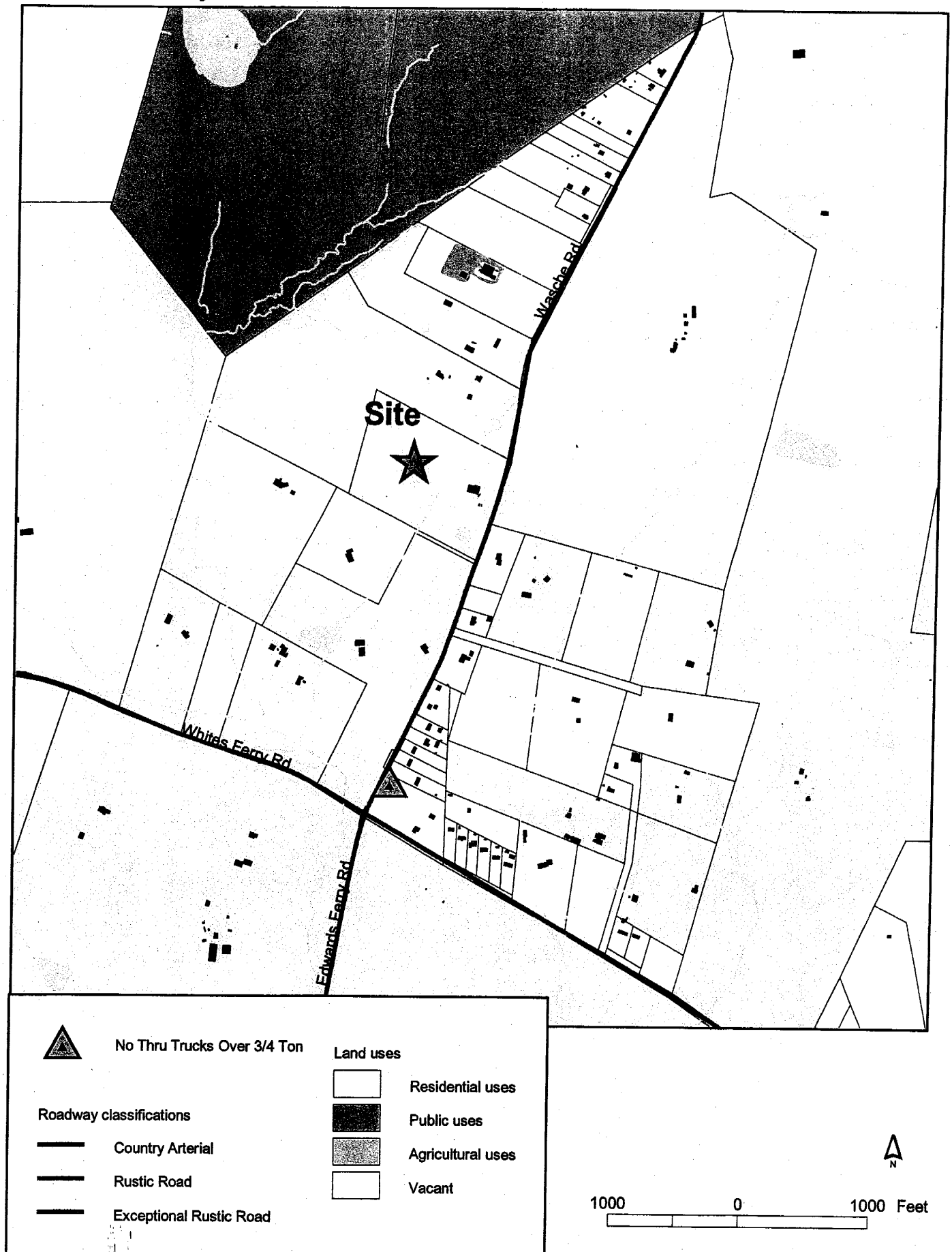
# 18930 Wasche Road Vicinity Road Network



# S-2684 Vicinity with Route Options



# S-2684 Vicinity Land Use



## S-2684 Road Assessment



**Above:** No Thru Truck sign on Wasche Road near the intersection with Whites Ferry Road (property beyond sign on left)

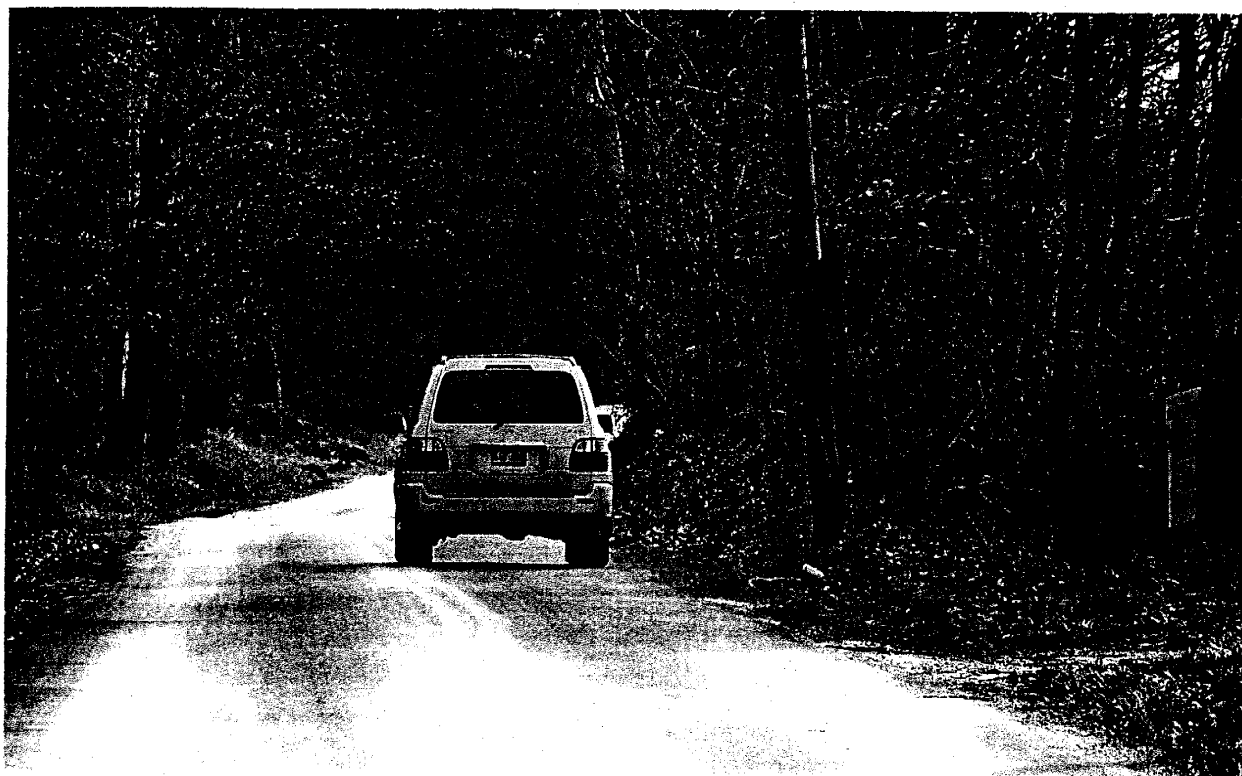
**Below:** Weight-limited bridge sign on Whites Ferry Road (this sign should show 8,000 and 14,000 pounds).





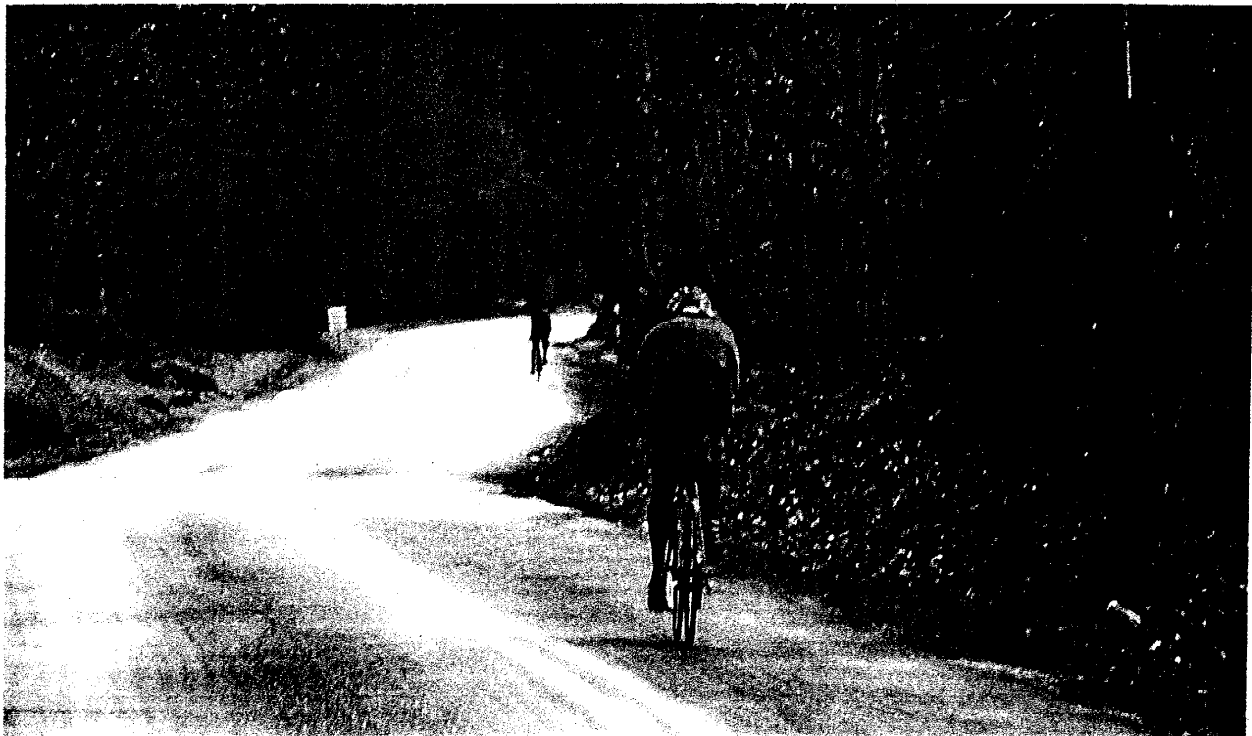
**Above:** The applicant has worked with the Rustic Roads Advisory Committee to retain the embankment and hedgerow along Wasche Road (property on right side.)

**Below:** Wasche Road is 18 feet wide and has no shoulders (RRFMP, p. 165) (right side).





**Above:** During a 20-minute site visit on Sunday, February 3, 2008, at about 3:30 pm, every vehicle that passed staff while in a car or on foot drove on or over the center line (left side).  
**Below:** Four bicyclists passed during the visit (right side).







**Above:** Staff had to pull off the edge of the pavement to allow these horse trailers to pass (property beyond on left side).

**Below:** Pavement edges show damage from traffic pulling off the edge of the road (left side).





DEPARTMENT OF PERMITTING SERVICES

Douglas M. Duncan  
County Executive

September 19, 2005

Robert C. Hubbard  
Director

Mr. John W. Shorb  
John Shorb Landscaping, Inc.  
10518 Warfield Street  
Kensington, Maryland 20895

Re: 19630 Wasche Road, Dickerson

Dear Mr. Shorb:

This letter confirms the Department of Permitting Services' position regarding the operation of a farm and/or landscape contractor use on all or part of the twenty (20) acres of land located at 19630 Wasche Road in Dickerson ("Property").

As discussed with your attorney, Todd Brown, at a meeting on August 17, 2005, operation of a farm on the Property, which could include the growing and maintenance of flowers, trees, shrubs and other plant materials, is permitted by right. However, operation of a landscape contractor use on the Property will require approval of a special exception by the Montgomery County Board of Appeals. Subject to compliance with the operating limitations identified below and applicable legal requirements, including obtaining a landscape contractor special exception from the Board of Appeals, the Department agrees that a landscape contractor use is permitted on the Property.

As discussed at the August 17 meeting, environmental conditions on the Property preclude approval of a private septic system under current regulations, and public sewer service is not available to the Property. Accordingly, although a farm and/or landscape contractor use could be established on the Property, the lack of public or private sanitary sewerage facilities requires that certain limitations be placed on such use.

The Department agrees that one or more buildings may be constructed on the Property, subject to applicable permitting and other requirements, provided such building(s) are used for the storage of equipment, materials and/or vehicles only. Greenhouses for the growing and maintenance of plants may also be erected, again subject to applicable requirements. However, the construction of an office or office station within such structure(s) is not permitted. Further, provided such use is approved by the Board of Appeals, employees may (i) park at the Property; (ii) pick up work vehicles, materials and equipment stored at the Property each morning; (iii) leave for various job sites off the Property; and (iv) return such equipment, etc. to the Property each evening as is typical of a landscape contractor use.



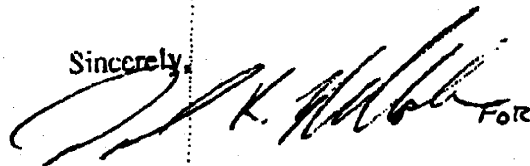
Mr. John W. Shorb  
September 19, 2005  
Page 2

As further discussed, the Department understands that one or more employees will be needed to water, prune and otherwise maintain the flowers, trees and other plant materials to be grown on the Property and perform other activities typical of a farm or landscape contractor use. In this regard, the Department agrees such activities may occur, but must be performed by persons who do not remain on the Property for the entire workday.

Lastly, as provided in COMCOR Section 27A.00.01.09, chemical toilets may be used only for special short term events and in the abatement of problems. The Department agrees the use of chemical toilets at the Property for 1-2 weeks during peak growing or harvesting operations is permitted (typically 3-4 peak periods per year for greenhouse production and 2-3 peak periods per year for field container production). Chemical toilets may not be installed on the Property at any other time without express Department authorization. Moreover, with respect to employees who may be on-site to maintain plant materials during non-peak times as discussed above, because there will be no bathroom facilities of any kind during these non-peak periods, provision must be made for such employees to access bathroom facilities off-site to avoid public nuisance.

If you have any questions concerning the contents of this letter, please contact us.

Sincerely,

A handwritten signature in black ink, appearing to read "Susan Scala-Demby", with a small "FOR" written below the signature.

Susan Scala-Demby  
Permitting Services Manager

Message

Page 1 of 3

**von Gunten, Gene**

**From:** von Gunten, Gene  
**Sent:** Thursday, April 05, 2007 9:23 AM  
**To:** 'Sandra.Youla@mncppc-mc.org'  
**Cc:** Scala-Demby, Susan; Beall, Kim  
**Subject:** FW: S-2684 Well and Septic Issues

Post-It® Fax Note	7671	Date	1/31/08	# of pages	3
To	Leslie	From	Kim		
Co./Dept.		Co.			
Phone #		Phone #			
Fax #		Fax #			

Sandra:

I am familiar with this property. It was the subject of a pre-application plan number 7-05024. Water table and (sand mound) evaluations were performed, and the result was the property is not suitable for any type of conventional sewage disposal system.

After the tests were completed, I was approached by an attorney (Todd Brown) on behalf of the owner. He wanted to pursue a use that would be a "tree farm" combined with a landscape contracting business. Having many of the same concerns you mentioned, I arranged for a meeting with Mr. Brown and Susan Scalia-Denby of our Zoning section.

Mr. Brown described a business where the employees would arrive early in the morning, exit their own vehicles and drive immediately away in the company trucks. There would be no office whatsoever, just a storage barn for tractors and other equipment. The remainder of the property would be a commercial tree farm.

We informed Mr. Brown that we could not approve any use that required employees to be on-site for more than a few minutes each day. He said the only time that anyone would be on-site would be a few days each year when trees were being planted. I explained that portable toilets could not be used for any on-going basis, but they could be used for very limited periods, perhaps 1-2 weeks total, when the trees were being planted. This would be the same for any other type of agriculture- such as someone growing grapes for a winery or hay for horses. Tree farming is an agricultural use.

Ms. Scalia-Denby was in agreement with these terms.

I realize the capacity is here for abuse, but that same capacity would exist in almost any commercial setting. With a large number of landscaping companies operating in the County- both in compliance and totally outside, I appreciate the fact that this applicant bothered to get the rules first. Long-term compliance is, of course, our responsibility to monitor.

Any water well drilled on this property will be for non-potable purposes only. As such, the use of that water is controlled completely by the State (MDE) through the Groundwater Appropriation Permit (GAP) process. I would refer you to MDE with any questions about the GAP.

Thanks,

gene

-----Original Message-----

**From:** Youla, Sandra [mailto:Sandra.Youla@mncppc-mc.org]  
**Sent:** Tuesday, April 03, 2007 7:28 PM  
**To:** von Gunten, Gene  
**Cc:** Zamore, Michael; Murray, Callum; Saville, Leslie; Wilson, Ralph  
**Subject:** S-2684 Well and Septic Issues

4/5/2007

26.04.02.07

### **.07 Special Methods of Sewage Collection and Disposal.**

A. Privies shall be located and constructed so as to prevent contamination of ground and surface water. They shall be constructed in such a manner as to be insect and rodent free and to prevent odor nuisances. Location and construction plans shall be approved by the Approving Authority before issuing a sewage disposal construction permit.

B. Chemical toilets shall be constructed of impervious materials, vented to the outside air above the roof line of the structure housing them, and supplied with an adequate amount of the chemical agent used to reduce and deodorize the tank contents. Chemical toilets shall be used only for special term events and in the abatement of problems.

C. When privies or chemical toilets become filled to recommended capacity, the contents shall be removed and disposed of as provided in Regulation .08 of this chapter.

POLICY #  
**RES-5**

**MEMORANDUM**

January 12, 1981

TO: Mr. Gerald R. Cichy, Director, Department of Transportation

FROM: Ronald C. Welke, Chief, Division of Traffic Engineering

SUBJECT: Policy Regarding the Installation of "No Through Trucks Over 3/4 Ton" Regulations on County Roads

From time to time we are requested to install "No Through Trucks Over 3/4 Ton" signs on various County roads. Such requests originate from both individual citizens as well as civic associations and generally involve tertiary, secondary, primary, or arterial roads in residential areas. Less frequently, requests involving rural roads are considered. In the past we have evaluated each request by studying the scope of the problem, types of land use in the affected area, and the availability of suitable alternatives.

**RECOMMENDATIONS:**

We recommend that the following policy be adopted relative to through-truck traffic on County roads and that it supersede the policy adopted earlier (Memorandum dated November 28, 1975, from Ronald C. Welke to Richard J. Lynch - copy attached as Attachment A):

1. Requests to prohibit through-truck traffic over 3/4 ton on County roads functioning as major or arterial roads be denied outright;
2. "No Through Trucks Over 3/4 Ton" regulations be installed only where suitable and feasible alternative through-truck routes are available;
3. Requests to prohibit through-truck traffic over 3/4 Ton on County roads functioning as primary residential or rural roads be subjected to engineering investigation but in no case be granted unless criterion #2, above, is satisfied;
4. Requests to prohibit through-truck traffic over 3/4 Ton on County roads functioning as secondary or tertiary roads be granted outright if criterion #2, above, is satisfied.

**DISCUSSION:**

Each request should be evaluated with regard to specific conditions relative to that particular situation. However, a guideline is necessary to ensure consistency in our recommendations and to facilitate our communications with the public.

While this policy will be used most often for evaluations of tertiary, secondary, primary, or arterial County roads, it may also be used for evaluating rural roads. In every case, although master plan roadway classification shall be taken into account in determining long-term effects, the functional roadway classification shall be used in determining the immediate effects of installation or non-installation of "No Through Trucks Over 3/4 Ton" signs.

CONT'

To clarify the classes of roadways discussed here, the following definitions are extracted from the Montgomery County Code, 1972 (Section 49-34).

- o Arterial road means any road ... which connects two or more state or federal roads and which will be used primarily for through traffic....
- o Rural road means an existing county maintained road which serves farms and scattered developments along or near the road and which is generally used as a connecting road.
- o Primary residential road means a road ... which serves or will be used as a principal outlet to a state road, business district road, or arterial road from any existing or prospective residential development which provides or which may provide housing for two hundred or more families....
- o Secondary residential road means any road ... whose principal function is to provide direct access between a residential development housing less than two hundred families and a primary residential road, a state road, business district road, or arterial road ....
- o Tertiary residential road means any road ... whose purpose is to provide direct access to a residential development containing not more than seventy-five dwelling units ....

An earlier policy was developed that recommended designating a weight limit of 3/4 Ton for such through-truck prohibition (memorandum from Ronald C. Welke to Richard J. Lynch, dated November 14, 1975, copy attached as Attachment B), and the advantages of that weight limit as stated in the memorandum still apply.

Attachment C is a flow chart that illustrates how requests for through-truck prohibitions would be handled under these revised guidelines.

Your review and concurrence are requested.

KC/slf

Attachments



*Attachment A*

## M E M O R A N D U M

November 28, 1975

TO: Mr. Richard J. Lynch, Director, Department of Transportation

FROM: Ronald C. Welke, Chief, Division of Traffic Engineering *RCW*

SUBJECT: Installation of "No Through Trucks" Regulations on County Streets

From time to time we are requested to install "No Through Trucks" signs on certain County streets. Such requests are originated both from individual citizens as well as civic associations and generally involve secondary, primary or arterial streets. In the past, we have been studying such requests by evaluating the extent of the problem, types of land use in the study area and the availability of suitable alternatives.

Although we realize that each request should be studied in detail with regard to specific conditions relative to that particular situation, there is a need to formulate a general policy that would serve as a guideline. Such a policy would ensure consistency in our recommendations and facilitate our communications with the public.

To clarify the classes of roadways discussed above, the following definitions are extracted from the Montgomery County Code:

\*Arterial Road means any road which connects two or more state or federal roads and which will be used primarily for through traffic.

\*Primary Residential Road means a road which serves or will be used as a principal outlet to a state road, business district road or arterial road from any existing or prospective residential development which provides or which may provide housing for two hundred or more families.

\*Secondary Residential Road means any road whose principal function is to provide direct access between a residential development housing less than two hundred families and a primary residential road, a state road, business district road or arterial road.

We recommend that the following policy be adopted relative to the through truck traffic on County streets and roadways:

1. Requests to prohibit through truck traffic on "major" or "arterial" roadways should not be granted.
2. Engineering investigations should be conducted if the problem involves a primary or a secondary residential street.
3. "No Through Trucks" regulations should be installed on primary residential streets only when a suitable and feasible alternative truck route is available.

Your review and comments on the above are requested.

ZUS/md

*Revised*

*12/1/75*

*Consent and All  
of above  
JLK 12/1/75*

*Attachment B*

## MEMORANDUM

November 14, 1975

TO: Mr. Richard J. Lynch, Director, Department of Transportation

FROM: Ronald G. Walke, Chief, Division of Traffic Engineering

SUBJECT: Truck Traffic Controls

This is in reference to Mr. Robert Passmore's inquiry of September 30, 1975 relative to the need of establishing a weight limit for enforcement of existing and future through truck prohibitions. At present all truck prohibitions installed and legalized by traffic orders originating from this department bear the legend "No Thru Trucks". The implication is that any vehicle with "truck" registration is affected. Conversation with Lt. John DeVries, Commander, Montgomery County Police Department indicated that a one-ton limit is used as a general guidelines for enforcement. County law as presently written allows the County Executive to establish a weight limit to be used with the posting of "No Thru Trucks" (Section 31-10, 31-11).

In order to gain a broader perspective with regard to truck legislation, the following political jurisdictions were contacted and existing weight limits noted.

<u>Location</u>	<u>Weight Limit</u>
Washington, D. C.	No restrictions
Baltimore, Md.	3/4 Ton
Rockville, Md.	1 Ton
Arlington, Va.	No restrictions
Alexandria, Va.	Noweight limit
Prince Georges County	Noweight limit
Anne Arundel County	3/4 Ton
Baltimore County	3/4 Ton
Howard County	Variable
Maryland State	No restrictions
Frederick County	No restrictions
Virginia State	No weight limit

Conversations were also had with various police department spokesmen with regard to enforcement problems. Principal among the problems mentioned were (1) identification of trucks (as opposed to recreation vehicles, small pick ups, etc.) and (2) proof of through trip violation.

Page Two, Memorandum to Mr. Lynch, November 14, 1975 - Re: Truck Traffic Controls

The most widely accepted weight limit is 3/4 ton. Its advantages are as follows:

- a) "3/4 Ton" is clearly marked on the motor vehicle registration. All heavier weights are noted in gross vehicle weight.
- b) Most vehicles in excess of 3/4 ton have dual rear wheels and are thus easy to identify.
- c) A one ton truck although not considered overweight for most County roads can, by virtue of body type, appear to be very large, and thus undesirable to residents.
- d) A 3/4 ton limit will exempt most recreation vehicles, vans, pick ups and other small trucks.

Therefore, we recommend that an executive regulation be adopted designating a weight limit of 3/4 ton for trucks on specified roads in the County. This limit could be added to existing signs and included in all future signing and traffic orders.

RST/mhl  
Attachment

Generally, I concur, but new T.O. will have to be written with definite language permitting enforcement and "burden of proof" required of driver regarding thru movement vs. delivery, inhibiting, etc.

ACK

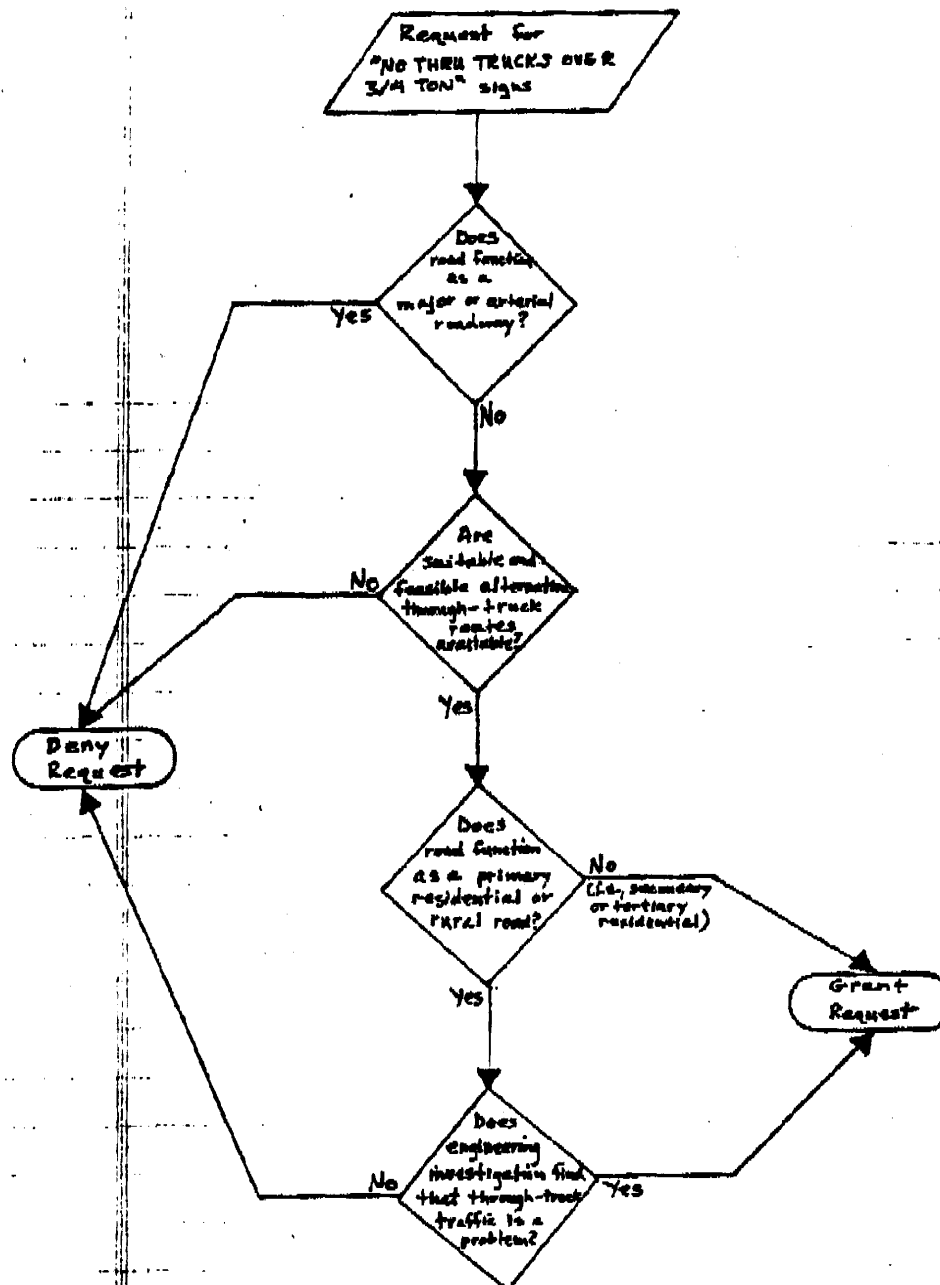
11/19/75

RAP discussed this memo w/ me 11/20/75 and generally concurs. Wants a carbon copy of report to go to Co Atty Don Hoagy when we submit

Don

ATTACHMENT C

## PROCEDURE FOR HANDLING REQUESTS FOR THRU-TRUCK PROHIBITION



### Annual Vehicle Travel by Vehicle Type

	Count	Jan*	Feb*	Mar*	April*	May*	June*	July*	Aug*	Sept*	Oct*	Nov*	Dec*	Total annual trips
Employees	22	44	44	44	52	52	52	52	52	52	52	52	44	13,024
Work trucks	13	44	44	44	52	52	52	52	52	52	52	52	44	7,696
Mulch deliveries	1	0	0	8	8	8	2	2	2	2	2	2	0	36
Compost, etc	1	4	4	4	4	4	4	4	4	4	4	4	4	48
Fertilizer, etc	1	4	4	4	4	4	4	4	4	4	4	4	4	48
Trash pickup	1	16	16	16	16	16	16	16	16	16	16	16	16	192
Fuel delivery	1	16	16	16	16	16	16	16	16	16	16	16	16	192
Toilet cleaning	1	8	8	8	8	8	8	8	8	8	8	8	8	96
Plant deliveries	1	62	54	62	60	62	60	62	62	60	62	60	62	728

#### Summary:

Vehicle trips	13,024
Work truck trips	7,696
Delivery trips	1,340
Subtotal, trucks	9,036
<b>All trips</b>	<b>22,060</b>

Source: Table based on the description from Kimley-Horn and Associates, Inc., dated September 7, 2007.

\*Trips per vehicle per month (e.g., for April, 30 days minus 4 Sundays, counting arrival and departure trips). Holidays have not been described and potential snow removal on weekends is not included.



## **Landscape contractor operations**

---

Descriptions of two operations follow: Ruppert Nurseries, the example of a landscape contractor submitted by the applicant, and M-NCPPC operations from Wheaton Regional Park, with the description focusing on local crew operations.

### **Fall Creek, LLC, DBA Ruppert Nurseries**

23601 Laytonsville Road, Laytonsville, MD

301-414-0022

Maintenance operations were described by Ed, the branch manager:

AM: Time elapsed: 15-30 mins

All preparations are made in the evenings; in the morning, crews gather and leave with a truck and enclosed cargo van.

PM: Time elapsed: about 1 hour

Pull in, drop off laborers in lot; field manager and assistant move to fueling station

Fuel up truck and all equipment

Vacuum and wipe down interior of truck

Dump yard wastes in 30-yard cans designated for organics

Park truck and trailer; assistant leaves

Field manager completes paper work

Other onsite work:

:30/week/crew to sharpen blades

:60/week/crew to change oil and sharpen blades

Most other equipment maintenance (trucks, mowers, blowers) is done by onsite mechanics

Landscape installation operations were described by Bob:

AM: Time elapsed: 15 minutes

Again, all preparations are made in the evening. In the morning, the crew does a safety check, collects water and leaves.

PM: Time elapsed: 15 minutes to one hour

Foreman and assistance foreman bring the truck to the fueling station—fill trucks and all containers.

Drop off equipment (sod cutters, tillers, Bobcats)—clean with power washers and blowers, write up repairs as needed

Dump yard wastes and trash; restock unused materials

Load up for the next day (collect equipment/lock into truck, load materials and plants from holding area—a separate truck picks up plants from nurseries and delivers them directly to the job site)

Foreman completes paperwork in office or at home (computers are supplied for home use)

Other onsite work:

Hose off trucks once or more per week  
Oil changes on equipment (20 minutes)  
Bobcats are greased daily, but usually at the jobsite  
Clean up around yard  
Onsite mechanics regularly schedule maintenance (e.g. carburetor rebuilds) for equipment, and handles routine truck maintenance and repairs. Major truck repairs are usually under warranty and done offsite by the manufacturer.

**Wheaton Regional Park Maintenance Yard**

12012 Kemp Mill Road, Wheaton

301-680-0010

Vantura Henderson, Park Manager, described work that is primarily done by local crews. More specialized crews focus on ballfield renovations or maintenance, horticultural work, and custodial work.

AM: Time elapsed: 15 to 30 minutes, except during winter—for safety reasons, crews wait until there is some daylight

Crews arrive at 6:00

Crew leaders meet with teams

Trucks and equipment are fueled (this reduces the impacts on air quality)

Workers are dispatched to other facilities for large equipment as needed

PM: Time elapsed: 30 minutes

Unload trucks

Load for next day

Other onsite work:

A mechanic is onsite 10 hours per day, four days per week, handling all maintenance of trucks and equipment

Other operational notes:

On Code Red days, workers operate no mechanized equipment and quit strenuous activities by 11:30 AM for health, safety and environmental reasons

Restroom facilities are available at the maintenance yard during the mornings and evenings, and Activity Buildings in parks while crews are onsite

For extended projects, chemical toilets are installed onsite, including handicap accessible ones

## ATTACHMENT 8



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

January 29, 2008

#### MEMORANDUM

TO: Renee Miller  
Development Review Division

VIA: Shahriar Etemadi, Supervisor  
Transportation Planning

FROM: Ki H. Kim, Planner/Coordinator  
Transportation Planning

SUBJECT: Landscape Contractor  
Special Exception Case No. S-2684



This memorandum represents Transportation Planning staff's Adequate Public Facilities (APF) review and recommendations on the subject special exception application for permitting operation of a landscape contracting business on a site located at 18930 Wasche Road, Dickerson.

#### RECOMMENDATION

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

1. The number of employees under the special exception application S-2684 should be limited to a maximum of 35.
2. No truck traffic to and from the site will be allowed on Martinsburg Road. The applicant should have employees and vendors enter into binding employment agreements and vendor contracts to prohibit truck travel over Martinsburg Road.
3. The applicant shall provide an easement for a future right-of-way dedication to a point thirty-five (35) feet from centerline for their frontage along Wasche Road.
4. The applicant shall obtain a permit for site access as shown on the site plan dated October 24, 2007.

## DISCUSSION

### Site Location

The currently vacant site is located on the west side of Wasche Road just north of the intersection of Whites Ferry Road and Wasche Road in Dickerson.

### Site Vehicle Access

A single access point to the site is proposed from Wasche Road. Wasche Road is classified as a Rustic Road with 70 feet right-of-way and the traffic volumes (57 trips during the weekday peak hour) associated with the proposed landscaping facility are relatively low and will not adversely affect the rustic road classification of Wasche Road. The proposed development is not subject to a subdivision and thus, the master planned right-of-way is normally required at the stage of special exception application. However, because of the rustic road classification, Wasche Road is not anticipated for any major roadway improvement except spot safety improvements. Staff accepted the applicant's request for an easement for a future right-of-way dedication when Wasche Road is ready to be improved by the County. The Rustic Road Advisory Committee has reviewed the initial access point and requested to move access point toward north so that their site access minimizes impact on the qualities that merited that rustic road classification. The applicant revised the site plan to reflect the RRAC's request to show the new access point acceptable to the RRAC. Staff reviewed the site plan and finds the proposed access to the site and the internal traffic circulation system as shown on the site plan are safe and adequate. Due to its location in a rural area without existing sidewalks, no pedestrian facilities are needed for this use.

### Truck Travel Route

There are several weight-restricted bridges in the vicinity of the site. On Whites Ferry Road east of Wasche Road, two bridges restricting weight to 8,000 pounds for single unit vehicles and 16,000 pounds for combination unit vehicles exist. On Edwards Ferry Road south of Whites Ferry Road, one bridge restricting weights to 64,000 pounds for single unit vehicles and 70,000 pounds for combination unit vehicles exists. Also, "No Thru Trucks Over ¾ Ton" signs exist on Wasche Road and West Hunter Road. A map showing the site location and relevant signs is attached.

The applicant submitted a supplemental analysis for truck travel routes to be taken by the landscaping trucks on November 13, 2006 and updated on December 8, 2006. The supplemental analysis includes alternative truck routes to avoid weight-restricted bridges on Whites Ferry Road and addresses the "No Thru Trucks Over ¾ Ton" restriction on Wasche Road, West Hunter Road and Martinsburg Road. The applicant has requested a Weight Restriction Waiver to cross the two Whites Ferry Road bridges and obtained a grant. (A copy of Division of Capital Development February 27, 2007 approval letter is attached.) It is noted that this permit only applies to the work trucks owned by the applicant and does not extend to the vendors' delivery trucks. Further, the permit must be renewed periodically.

Staff has reviewed the proposed alternative route, north along Wasche Road and east along West Hunter Road to MD 28 with DPWT staff. We agree with the DPWT staff finding that the alternative truck routes are adequate as described in Gregory Leck's March 15, 2007 letter (a copy attached). In light of the "No Thru Trucks Over ¾ Ton" restriction on Wasche Road, West Hunter Road and Martinsburg Road, staff agrees with the DPWT staff's finding that trucks accessing the site from the northeast by way of West Hunter and Wasche Roads are considered local in nature; as such, they do not violate these restrictions.

Martinsburg Road between Wasche Road and the Mirant plant entrance is a 9-foot wide concrete pavement augmented by 4-foot wide (nominal width) gravel shoulders. The concrete shows signs of deterioration and there are potholes in the gravel shoulders. The applicant's trucks could exacerbate those conditions. In light of its rare cross-section and Exceptional Rustic Road designation, trucks will not be allowed to enter or exit the site by way of Martinsburg Road. We agree with the DPWT staff's recommendation that the conditions of approval of the Special Exception include the applicant's proposal to have employees and vendors enter into binding employment agreement and vendor contracts to prohibit travel over Martinsburg Road and the weight-restricted bridges on White's Ferry Road.

#### Local Area Transportation Review

Four intersections were identified as critical intersections to be affected by the proposed development were examined in the traffic study to determine whether they met the applicable congestion standard. The congestion standard in the Rural Policy Area is 1,400 Critical Lane Volumes (CLV). The critical lane volume (CLV) impacts of the proposed development to the site on critical intersections in the vicinity of the site were analyzed and are summarized in Table 1.

**Table 1**

<b>Intersection Capacity Analysis with CLV</b> <b>During the Weekday Peak Hour</b>				
<b>Intersection</b>	<b>Existing Traffic Volumes</b>		<b>Background and Total Future Traffic Volumes</b>	
	<b>AM</b>	<b>PM</b>	<b>AM</b>	<b>PM</b>
Wasche Road/Whites Ferry Road	135	148	137	180
Wasche Road/Site Entrance	-	-	76	81
Wasche Road/West Hunter Road	26	31	46	56
Darnestown Road/West Hunter Road	1204	790	1224	810



As shown in the above table, all intersections analyzed are currently operating at acceptable CLVs (below 1,400) and this acceptable level will continue for the background (the existing traffic plus traffic from approved and unbuilt developments) and total future development conditions during the weekday AM and PM peak hours. Alternative options for different truck travel routes have a small effect on the numeric CLV values, but do not affect the staff conclusion that the application passes the LATR test.

## **SUMMARY**

Transportation staff concludes that approval of the proposed landscaping contractor under the subject special exception application with the conditions identified above would not adversely impact the surrounding roadway system. The applicant has adequately addressed the road sufficiency issues as related to truck weight restrictions and rustic roads in the vicinity of the site.

Attachments

KK:tc

KHK: HWPDOCS\ S-2684- Revised Memo for SPEC S-2684

03/15/07 THU 15:03 FAX 2407772080

TRAFFIC ENGR

002



DEPARTMENT OF PUBLIC WORKS AND TRANSPORTATION

Isiah Leggett  
County Executive

Arthur Holmes, Jr.  
Director

March 15, 2007

Mr. Ki Kim, Planner Coordinator  
Transportation Planning  
The Maryland-National Capital  
Park and Planning Commission  
8787 Georgia Avenue  
Silver Spring, Maryland 20910-3760

RE Special Exception No. S-2684  
Zelkova, LLC  
18930 Wasche Road

Dear Mr. Kim:

We have completed our review of the Local Area Transportation Review Traffic Impact Study and supplemental documents submitted by the applicant's representatives for the above-referenced project. We recommend approval of this Special Exception subject to the following comments:

- 1) As discussed in my November 9, 2006 e-mail message, from a CLV-calculations standpoint, we agree that the applicant's projected site-generated traffic volumes will not cause any unacceptable traffic congestion.
- 2) Our Division of Capital Development has conditionally granted the applicant a Weight Restriction Waiver Request to cross Whites Ferry Road Bridges Nos. M-187 and M-189. A copy of their February 27, 2007 approval letter is enclosed. Please note that this permit only applies to the work trucks owned by the applicant (JSLI); it does not extend to the vendors' delivery trucks nor does it extend (for any party) to any other weight-restricted bridge in the vicinity of the site. The vendors' delivery trucks will need to bypass Whites Ferry Road Bridges Nos. M-187 and M-189 using a detour route.
- 3) In light of its rare cross-section and Exceptional Rustic Road designation, trucks will not be allowed to enter or exit the site by way of Martinsburg Road. We agree that trucks accessing the site from the northeast by way of West Hunter and Wasche Roads are considered local in nature; as such, they are exempt from the "No Through Trucks over 3/4 Ton" restrictions.

Division of Operations

101 Orchard Ridge Drive, 2nd Floor • Gaithersburg, Maryland 20878  
240-777-6000 • 240-777-6013 TTY • 240-777-6030 FAX  
[www.montgomerycountymd.gov](http://www.montgomerycountymd.gov)

03/15/07 THU 15:04 FAX 2407772080

TRAFFIC ENGR

003

Mr. Ki Kim  
Special Exception No. S-2684  
March 15, 2007  
Page 2

- 4) We have reviewed the alternate route proposed by Edward Y. Papazian of Kimley-Horn and Associates, Inc. for vehicles traveling to the site that exceed the nearby bridge weight restrictions. We accept the route being proposed by Mr. Papazian.

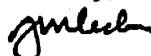
We do not object to his proposal to have employees and vendors enter into binding employment agreements and vendor contracts to prohibit travel over Martinsburg Road and the weight-restricted bridges. However, we believe such restrictions should be a condition of approval of the Special Exception and should also apply to the applicant.

We recommend that, as a condition of Special Exception approval, that these restrictions apply to the applicant, his employees, and his vendors. We also encourage the Planning Board and the Board of Appeals to condition their approvals on a binding commitment or other mechanism from the applicant that ensures their trucks (and their vendors' trucks) will not use Martinsburg Road to enter or exit the site.

- 5) Wasche Road is classified as a Rustic Road; as such, the applicant will need to minimize impact on the qualities that merited that classification. We recommend the applicant be required to dedicate right-of-way to a point thirty-five (35) feet from centerline. Site access and any other construction within the right-of-way will require a permit from the Department of Permitting Services.

Thank you for the opportunity to review this Special Exception application. If you have any questions or comments regarding this letter, please contact me at 240-777-2197 or e-mail me at [greg.leck@montgomerycountymd.gov](mailto:greg.leck@montgomerycountymd.gov).

Sincerely,



Gregory M. Leck, Manager  
Development Review Group  
Traffic Engineering and Operations Section

Enclosure

M:\sub\gm\docs\TIS\S-2684, Shorb Landscaping, 18930 Wasche Rd FINAL

cc: Todd D. Brown; Linowes and Blocher, LLP  
Edward Y. Papazian; Kimley-Horn and Associates, Inc.  
Sandra L. Youla; M-NCPPC Development Review  
Martin L. Grossman; Board of Appeals  
Sarah R. Navid; DPS Right-of-Way Permitting and Plan Review  
Greg Hwang; DPWT Capital Development/Design  
Emil Wolanin; DPWT Traffic Engineering and Operations  
Kyle K. Liang; DPWT Traffic Engineering and Operations  
David C. Adams; DPWT Traffic Engineering and Operations

03/15/07 THU 15:04 FAX 2407772080

TRAFFIC ENGR

004



DEPARTMENT OF PUBLIC WORKS AND TRANSPORTATION

Isiah Leggett  
County Executive

February 27, 2007

Arthur Holmes, Jr.  
Director

Ms. Heather Dlhopsky  
Mr. Todd D. Brown  
Linowes and Blocher LLP  
7200 Wisconsin Avenue, Suite 800  
Bethesda, Maryland 20814-4842

Re: Whites Ferry Road Bridge No.  
M-187 and M-189; Weight Restriction  
Waiver Request; Zelkova, LLC at  
18930 Wasche Road,  
Dickerson, Maryland

Dear Mr. Brown and Ms. Dlhopsky:

This is in response to your waiver request of February 8, 2007, on behalf of Zelkova, LLC (Applicant), for the trucks specified in the request to cross the referenced two structures.

Your waiver request for vender's delivery trucks owned by Riverside Mulch or Tri-State Stone is denied. The specified gross weight of each truck exceeds the absolute maximum permissible load level of each structure to which the structure may be subjected. A detour must be used for these trucks to bypass the structures.

The permit for crossing these two structures is granted for the specified Applicant's work trucks owned by JSLI subject to the following conditions:

1. The permit is only valid for the business related to Zelkova, LLC for the property located at 18930 Wasche Road in Dickerson, Maryland.
2. The permit is only valid for the JSLI trucks, as submitted, with a maximum gross weight specified. Number of crossings for each truck will not be restricted.
3. The truck must come to a complete stop before proceeding across the bridge at a maximum speed of five (5) miles per hour.

Division of Capital Development

101 Monroe Street, 11th Floor • Rockville, Maryland 20850 • 240-777-7221 • 240-777-6003 FAX  
www.montgomerycountymd.gov

03/15/07 THU 15:04 FAX 2407772080

TRAFFIC ENGR

005

Ms. Heather Dlhopsky  
Mr. Todd D. Brown  
February 27, 2007  
Page 2

4. Zelkova, LLC agrees to indemnify and save harmless the County against all liabilities, claims and demands for personal injury or property or other expenses suffered or rising out of or caused by any negligent act or omission of the permittee, its subcontractors, agents, and/or employees in connection with this waiver.
5. Zelkova, LLC also agrees to defend the County in any action or suit brought against the County caused by the permittee's negligence error, and/or omission.
6. This permit will expire on February 20, 2008. An application for a new waiver permit shall be submitted to our office at least 3 weeks before the expiration date. The County will re-evaluate each truck to determine if a new permit will be granted.

The County will strictly enforce these conditions to protect the safety of the bridge and the traveling public. Please be advised that this permit does not allow the permittee or any subcontractor to use any other restricted bridge in the vicinity of this location.

If these written conditions are acceptable to Zelkova, LLC, please have John W. Shorb of Zelkova, LLC sign below indicating their concurrence and return the original to the County before proceeding with the crossing.

If you have any questions, please call Mr. Barry N. Fuss, at 240-777-7261 or Mr. Greg Hwang, at 240-777-7279 for further clarification.

Sincerely,



Bruce E. Johnston, Chief  
Division of Capital Development

---

CONCURRENCE:

John W. Shorb  
Zelkova, LLC

BEJ/gl

cc: Barry N. Fuss  
Greg Hwang  
Project File/Reading File



# ATTACHMENT 9



## DEPARTMENT OF PUBLIC WORKS AND TRANSPORTATION

Isiah Leggett  
County Executive

February 27, 2007

Arthur Holmes, Jr.  
Director

Ms. Heather Dlhopsky  
Mr. Todd D. Brown  
Linowes and Blocher LLP  
7200 Wisconsin Avenue, Suite 800  
Bethesda, Maryland 20814-4842

Re: Whites Ferry Road Bridge No.  
M-187 and M-189; Weight Restriction  
Waiver Request; Zelkova, LLC at  
18930 Wasche Road,  
Dickerson, Maryland

Dear Mr. Brown and Ms. Dlhopsky:

This is in response to your waiver request of February 8, 2007, on behalf of Zelkova, LLC (Applicant), for the trucks specified in the request to cross the referenced two structures.

Your waiver request for vender's delivery trucks owned by Riverside Mulch or Tri-State Stone is denied. The specified gross weight of each truck exceeds the absolute maximum permissible load level of each structure to which the structure may be subjected. A detour must be used for these trucks to bypass the structures.

The permit for crossing these two structures is granted for the specified Applicant's work trucks owned by JSLI subject to the following conditions:

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2. The permit is only valid for the JSLI trucks, as submitted, with a maximum gross weight specified. Number of crossings for each truck will not be restricted.
3. The truck must come to a complete stop before proceeding across the bridge at a maximum speed of five (5) miles per hour.

Ms. Heather Dlhopsky  
Mr. Todd D. Brown  
February 27, 2007  
Page 2


4. Zelkova, LLC agrees to indemnify and save harmless the County against all liabilities, claims and demands for personal injury or property or other expenses suffered or rising out of or caused by any negligent act or omission of the permittee, its subcontractors, agents, and/or employees in connection with this waiver.
5. Zelkova, LLC also agrees to defend the County in any action or suit brought against the County caused by the permittee's negligence error, and/or omission.
6. This permit will expire on February 20, 2008. An application for a new waiver permit shall be submitted to our office at least 3 weeks before the expiration date. The County will re-evaluate each truck to determine if a new permit will be granted.

The County will strictly enforce these conditions to protect the safety of the bridge and the traveling public. Please be advised that this permit does not allow the permittee or any subcontractor to use any other restricted bridge in the vicinity of this location.

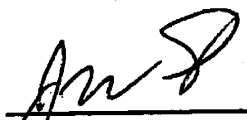
If these written conditions are acceptable to Zelkova, LLC, please have John W. Shorb of Zelkova, LLC sign below indicating their concurrence and return the original to the County before proceeding with the crossing.

If you have any questions, please call Mr. Barry N. Fuss, at 240-777-7261 or Mr. Greg Hwang, at 240-777-7279 for further clarification.

Sincerely,



Bruce E. Johnston, Chief  
Division of Capital Development



CONCURRENCE:  
John W. Shorb  
Zelkova, LLC

BEJ/gl

cc: Barry N. Fuss  
Greg Hwang  
Project File/Reading File

03/15/07 THU 15:03 FAX 2407772080

TRAFFIC ENGR

002



DEPARTMENT OF PUBLIC WORKS AND TRANSPORTATION

Isiah Leggett  
County Executive

Arthur Holmes, Jr.  
Director

March 15, 2007

Mr. Ki Kim, Planner Coordinator  
Transportation Planning  
The Maryland-National Capital  
Park and Planning Commission  
8787 Georgia Avenue  
Silver Spring, Maryland 20910-3760

RE Special Exception No. S-2684  
Zelkova, LLC  
18930 Wasche Road

Dear Mr. Kim:

We have completed our review of the Local Area Transportation Review Traffic Impact Study and supplemental documents submitted by the applicant's representatives for the above-referenced project. We recommend approval of this Special Exception subject to the following comments:

- 1) As discussed in my November 9, 2006 e-mail message, from a CLV-calculations standpoint, we agree that the applicant's projected site-generated traffic volumes will not cause any unacceptable traffic congestion.
- 2) Our Division of Capital Development has conditionally granted the applicant a Weight Restriction Waiver Request to cross Whites Ferry Road Bridges Nos. M-187 and M-189. A copy of their February 27, 2007 approval letter is enclosed. Please note that this permit only applies to the work trucks owned by the applicant (JSL); it does not extend to the vendors' delivery trucks nor does it extend (for any party) to any other weight-restricted bridge in the vicinity of the site. The vendors' delivery trucks will need to bypass Whites Ferry Road Bridges Nos. M-187 and M-189 using a detour route.
- 3) In light of its rare cross-section and Exceptional Rustic Road designation, trucks will not be allowed to enter or exit the site by way of Martinsburg Road. We agree that trucks accessing the site from the northeast by way of West Hunter and Wasche Roads are considered local in nature; as such, they are exempt from the "No Through Trucks over ¾ Ton" restrictions.

Division of Operations

101 Orchard Ridge Drive, 2nd Floor • Gaithersburg, Maryland 20878  
240-777-6000 • 240-777-6013 TTY • 240-777-6030 FAX  
[www.montgomerycountymd.gov](http://www.montgomerycountymd.gov)

03/15/07 THU 15:04 FAX 2407772080

TRAFFIC ENGR

003

Mr. Ki Kim  
Special Exception No. S-2684  
March 15, 2007  
Page 2

- 4) We have reviewed the alternate route proposed by Edward Y. Papazian of Kimley-Horn and Associates, Inc. for vehicles traveling to the site that exceed the nearby bridge weight restrictions. We accept the route being proposed by Mr. Papazian.

We do not object to his proposal to have employees and vendors enter into binding employment agreements and vendor contracts to prohibit travel over Martinsburg Road and the weight-restricted bridges. However, we believe such restrictions should be a condition of approval of the Special Exception and should also apply to the applicant.

We recommend that, as a condition of Special Exception approval, that these restrictions apply to the applicant, his employees, and his vendors. We also encourage the Planning Board and the Board of Appeals to condition their approvals on a binding commitment or other mechanism from the applicant that ensures their trucks (and their vendors' trucks) will not use Martinsburg Road to enter or exit the site.

- 5) Wasche Road is classified as a Rustic Road; as such, the applicant will need to minimize impact on the qualities that merited that classification. We recommend the applicant be required to dedicate right-of-way to a point thirty-five (35) feet from centerline. Site access and any other construction within the right-of-way will require a permit from the Department of Permitting Services.

Thank you for the opportunity to review this Special Exception application. If you have any questions or comments regarding this letter, please contact me at 240-777-2197 or e-mail me at [greg.leck@montgomerycountymd.gov](mailto:greg.leck@montgomerycountymd.gov).

Sincerely,



Gregory M. Leck, Manager  
Development Review Group  
Traffic Engineering and Operations Section

Enclosure

M:\sub\gm\docs\TIS\S-2684, Shorb Landscaping, 18930 Wasche Rd FINAL

cc: Todd D. Brown; Linowes and Blocher, LLP  
Edward Y. Papazian; Kimley-Horn and Associates, Inc.  
Sandra L. Youla; M-NCPPC Development Review  
Martin L. Grossman; Board of Appeals  
Sarah R. Navid; DPS Right-of-Way Permitting and Plan Review  
Greg Hwang; DPWT Capital Development/Design  
Emil Wolanin; DPWT Traffic Engineering and Operations  
Kyle K. Liang; DPWT Traffic Engineering and Operations  
David C. Adams; DPWT Traffic Engineering and Operations

# ATTACHMENT 11



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

### MEMORANDUM

**TO:** Renee Miller, Development Review

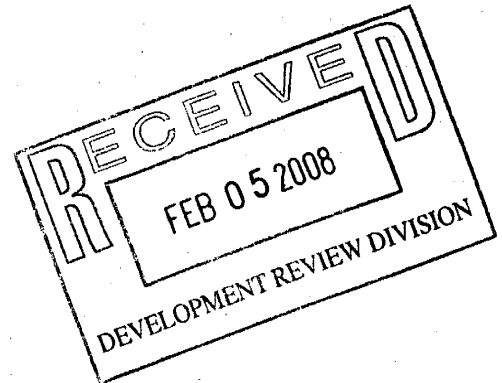
**VIA:** Stephen Federline, Environmental Planning

**FROM:** Josh Penn, Environmental Planning

**DATE:** January 30, 2008

**SUBJECT:** 1. Preliminary Forest Conservation Plan No.S-2684  
Landscape Contractor, 18930 Wasche Road

2. Special Exception No.S-2684  
Landscape Contractor, 18930 Wasche Road



### STAFF RECOMMENDATIONS

1. **Approval** of the Preliminary Forest Conservation Plan, with the following conditions:
  - a. Applicant to submit a Final Forest Conservation Plan (FCP) that meets the requirements of Section 109(B) of the Forest Conservation Regulations. Final FCP to be approved by M-NCPPC prior to any clearing, grading or other site disturbance associated with the project.
  - b. Applicant to remove the existing culvert and shift the farmland access road and stream crossing north, out of the wetland buffer as part of this special exception. The new road location must be shown on the Final FCP.
  - c. All stream valley buffers and credited afforestation on the site must be protected in a Category I Forest Conservation Easement. The easement must be protected by split-rail fencing or other measure approved by Environmental Planning and must be recorded by Deed in the Land Records Office prior to grading, land clearing or construction.
  - d. Afforestation area to be planted during the first planting season after approval of the Final Forest Conservation Plan.
  - e. Final afforestation areas to be determined at time of the Final Forest Conservation Plan.
2. **Approval** of Board of Appeals petition No. S-2684 with the following conditions:
  - a. Compliance with the conditions of the Montgomery County Department of Permitting Services (DPS) letter of February 8, 2007 approving the project's Stormwater Management Concept.
  - b. Demonstrate compliance with the Montgomery County Noise Control Ordinance (Chapter 31B of the Montgomery County Code).
  - c. Compliance with the conditions contained in the Maryland Department of the Environment's Water Appropriation and Use Permit of January 1, 2007.

- d. Ensure that above-ground fuel storage tanks meet required technical standards and comply with all county, state and federal air and water quality permitting requirements.

### **Forest Conservation**

The site has an approved Natural Resources Inventory/Forest Stand Delineation (NRI/FSD) (No. 42005064) issued on January 8, 2007. Environmental Planning staff has reviewed the Preliminary Forest Conservation Plan (FCP) submitted for the project. The plan shows the 20-acre site as unforested. The conservation threshold is 4.32 acres and the Afforestation Threshold is 1.73 acres. By planting 1.73 acres onsite within the stream valley buffer as proposed, the project will meet the requirements of Forest Conservation Law. We recommend approval of the preliminary FCP.

### **Environmental Guidelines**

This site is not located within a Special Protection Area. A small stream with associated wetlands, flows south near the center of the property. Wetlands and stream valley buffer areas are being protected per the Environmental Guidelines (*Guidelines for Environmental Management of Development in Montgomery County*). The applicant has agreed to reforest part of the stream valley buffer, which will help reduce thermal impacts to the stream.

### **Imperviousness**

The applicant proposes to pave an extensive area close to the stream, which could adversely affect the stream. Efforts should be made where practicable to reduce imperviousness and allow more groundwater recharge through rain gardens or increased landscaping.

### **Watershed Protection**

The property is in the Broad Run watershed draining directly to the Potomac River. The Broad Run originates west of Poolesville near Wasche Road and West Hunter Road. Flowing south towards the Potomac River it passes through an area of Montgomery County that has changed little in over one hundred years. The Montgomery County *Countywide Stream Protection Strategy* (CSPS, 2003 Update) lists stream quality, current habitat status, and average stream conditions in the Broad Run as 'good' and habitat stability as 'stable' based on data collected between 1994 and 2000. CSPS has designated the Broad Run as an Agricultural Watershed Management Area.

Because of the area's high water table, fuel or chemical spills on the site could quickly lead to groundwater contamination. Extra care must be taken to quickly contain any such spills if they occur. Additionally, the applicant provided no information on wash areas for trucks and equipment. The applicant must ensure that these activities do not lead to groundwater contamination or reduction in stream quality.

### **Stormwater Management**

The applicant has an approved stormwater management concept. 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. In its letter of February 8, 2007 approving the project's Stormwater Management Concept Request, DPS listed specific issues that the applicant must address at detailed sediment control/stormwater management plan stage,

### **Water and Sewer Availability**

Individual parcels in the area are served by private well and septic systems. The Maryland Department of the



Environment (MDE) approved a Water Appropriation and Use Permit for the project in January 2007. The permit limits water use to a daily average of 2,000 gallons on a yearly basis, from one well only. The permit requires that water should be used for irrigation of a nursery, specifically for two containerized plant areas totaling 0.5 acre in area. There are further limits to water use in times of prolonged drought.

In its September 19, 2005 letter DPS stated that environmental conditions on the property precluded approval of a private septic system, and public sewer service was not available to the property. COMCOR Section 27A.00.01.09 stipulates that chemical toilets may be used only for special short term events and in the abatement of problems. In that regard DPS has authorized the use of chemical toilets on the property for a period of 1 to 2 weeks during peak growing or harvesting operations only.

While DPS is the lead agency in the review of private sewerage facilities, EP staff questions the enforceability of the current concept of individual camper-type toilets in individual vehicles using the site.

### **Noise**

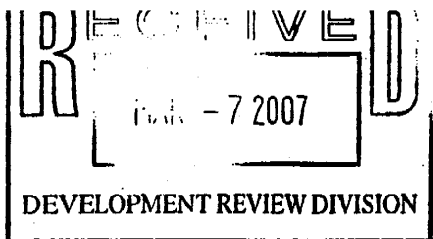
The operation must demonstrate compliance with all applicable provisions of the Montgomery County Noise Control Ordinance (Chapter 31B of the Montgomery County Code). Under the Ordinance the receiving property line limits are 65 dBA (daytime) and 55 dBA (nighttime).

### **Air Quality**

Dust and fumes from truck exhausts could potentially be problematic. The applicant must make an effort to ensure that trucks using the facility are in compliance (at least certification) with MVAP and other air quality standards. All installations that are potential sources of air pollution (including stationary sources such as gasoline storage tanks and fuel pumps) are regulated and require permits of approval from county and state authorities. State regulations (COMAR 26.11.24 and COMAR 26.11.13.04C) require the use of both Stage I and Stage II systems. Stage I vapor recovery systems trap gasoline vapors emitted during refilling of storage tanks by a tank truck, while Stage II vapor recovery systems capture gasoline vapors emitted during vehicle refueling. Using Stage I with Stage II recovery creates a closed system that recovers all gasoline vapors and returns them to the gasoline storage tank for eventual return to the fuel processing plant. Fuel storage tank and fuel pump installation and use, must comply with the control guidelines and air quality permitting requirements of the Maryland Department of the Environment (MDE).

### **Quality of Open Space**

The project site is in the Agricultural Reserve, an area set aside in 1980 to conserve farmland and rural open space and to protect such areas from development. The current project is of a limited scale. However Environmental Planning staff should revisit the issues of noise, potential impacts on nearby rustic roads, air quality and water use, for any future expansion of the project.



## ATTACHMENT 12



### DEPARTMENT OF PERMITTING SERVICES

Isiah Leggett  
County Executive

February 8, 2007

Reginald Jetter  
Acting Director

Mr. James Witmer  
CAS Engineering  
108 West Ridgeville Boulevard, Suite 101  
Mount Airy, MD 21771

Re: Stormwater Management **CONCEPT** Request  
for 18930 Wasche Road  
Preliminary Plan #: N/A  
SM File #: 227537  
Tract Size/Zone: 20/RDT  
Total Concept Area: 5.3ac  
Lots/Block: N/A  
Parcel(s): A & B  
Watershed: Broad Run

Dear Mr. Witmer:

Based on a review by the Department of Permitting Services Review Staff, the stormwater management concept for the above mentioned site is acceptable. 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 are provided via the use of a surface sand filter and non structural measures.

The following items will need to be addressed **during/prior** to the detailed sediment control/stormwater management plan stage:

1. Prior to permanent vegetative stabilization, all disturbed areas must be topsoiled per the latest Montgomery County Standards and Specifications for Topsoiling.
2. A detailed review of the stormwater management computations will occur at the time of detailed plan review.
3. An engineered sediment control plan must be submitted for this development.
4. The existing pond must be removed with the site layout as shown. All applicable permits to remove the pond must be obtained prior to sediment control permit issuance.
5. Geotechnical recommendations that address any potential rock or groundwater concerns must be submitted with the first detailed plan review.
6. The potential water storage facility must be located in an area that will not impact SWM drainage flows.
7. An acceptable pretreatment method must be provided prior to the sand filter for the fueling station areas.

This list may not be all-inclusive and may change based on available information at the time.

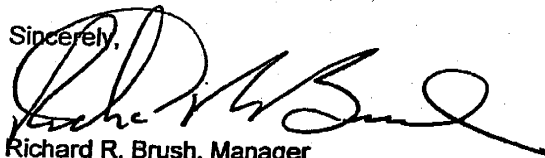
Payment of a stormwater management contribution in accordance with Section 2 of the Stormwater Management Regulation 4-90 is not required.



This letter must appear on the sediment control/stormwater management plan at its initial submittal. The concept approval is based on all stormwater management structures being located outside of the Public Utility Easement, the Public Improvement Easement, and the Public Right of Way unless specifically approved on the concept plan. Any divergence from the information provided to this office; or additional information received during the development process; or a change in an applicable Executive Regulation may constitute grounds to rescind or amend any approval actions taken, and to reevaluate the site for additional or amended stormwater management requirements. If there are subsequent additions or modifications to the development, a separate concept request shall be required.

If you have any questions regarding these actions, please feel free to contact Thomas Weadon at 240-777-6309.

Sincerely,



Richard R. Brush, Manager  
Water Resources Section  
Division of Land Development Services

RRB:dm CN 227537

cc: C. Conlon  
S. Federline  
SM File # 227537

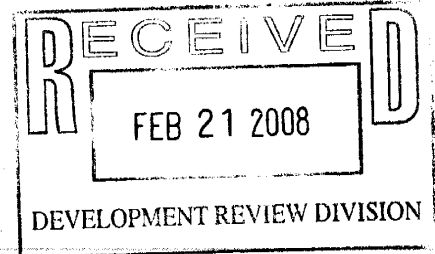
QN - On Site; Acres: 5.3ac  
QL - On Site; Acres: 5.3ac  
Recharge is provided

## ATTACHMENT 13A

**Miller, Renee**

---

**From:** Wilson, Ralph  
**Sent:** Thursday, February 21, 2008 11:20 AM  
**To:** Miller, Renee  
**Subject:** FW: Re Case # S-2684



FYI -Ralph

**From:** Brewer, Judy [mailto:Judy.Brewer@montgomerycountymd.gov] **On Behalf Of** Office of Zoning and Administrative Hearings  
**Sent:** Thursday, February 21, 2008 10:38 AM  
**To:** JBrownDC@aol.com; Wilson, Ralph; Office of Zoning and Administrative Hearings  
**Subject:** RE: Re Case # S-2684

Dear Mr. Brown,

The Office of Zoning and Administrative Hearings has received your email dated 2/20/08 regarding Case # S-2684, Zelkova Landscapes.

Unfortunately, per our office policy, we cannot accept emails and/or attached letters because they are not signed. Your comments will not become a part of the official record until we have received them in a signed document. Please send your signed document to this office via US mail at 100 Maryland Avenue, Room 200, Rockville, MD 20850, by fax at 240-777-6665, or by hand delivery. If you have any questions, please call our office at 240-777-6660.

If you plan to testify on behalf of the Sugarloaf Citizens Association at the public hearing, scheduled for Friday, March 21 at 9:30 am, please see the following instructions. If you wish to testify on your own behalf, you only need to appear at the hearing.

"Anyone desiring to represent a group or association at the hearing must submit a pre-hearing statement in writing, no later than ten days before the hearing, indicating the name of the group, the name of the person(s) giving testimony, approximately how long the testimony will take and a statement of the grounds for the group's position. The pre-hearing statement must specifically identify any expert witnesses and summarize their testimony, must be accompanied by any reports or documents intended to be introduced at the hearing and should be sent to the address listed above. An individual wishing to give testimony does not require a pre-hearing statement unless that individual is represented by counsel."

Thank you.

Judy Brewer  
Administrative Specialist  
Office of Zoning and Administrative Hearings  
P: 240-777-6661  
f: 240-777-6665

-----Original Message-----

**From:** JBrownDC@aol.com [mailto:JBrownDC@aol.com]  
**Sent:** Wednesday, February 20, 2008 6:05 PM  
**To:** ralph.wilson@mncppc-mc.org; Office of Zoning and Administrative Hearings  
**Subject:** Re Case # S-2684

***On behalf of the Sugarloaf Citizens Association representing hundreds of families in the County Agriculture Reserve, we are writing to express our strong opposition to the pending special exception application Case # S2684 Wasche Rd. Zelkovia Landscaping.***

***Our fundamental objection of this amended application is based on our conviction that this type of activity is not in the best interests of local residents, our rustic roads, traffic safety, sanitation "no approved percs", and is a further industrialization of the Ag Reserve.***

***We also sight the following concerns expressed in the original denial:***

***Denial of Item #10B – Landscape Contractor Special Exception, for the following reasons:***

*The scale of operations are excessive in consideration of the proximity to area homes; unavailability of on-site sanitary facilities; unsafe road conditions, restrictions on travel routes, and vulnerability of important rustic roads from heavy truck traffic. In staff's view, the use would constitute a nuisance because of traffic, noise, number of employees, and other factors associated with the use at the proposed location.*

*The operation of a landscape contractor business is not an inherently incompatible land use in the agricultural community. However, the scale of operations associated with the applicant's proposal is problematic. It is anticipated that 60 employees will arrive at the site each day and return in the evening. There are no sanitary facilities on-site available for employee use. Several rustic roads exist in the area. Because rustic roads often lack base courses, truck traffic could cause serious damage and necessitate more frequent maintenance. There are potential safety issues from heavy truck travel on Wasche Road, which directly serves the site. The noise, dust, and traffic from the use are expected to adversely impact nearby homes. For these reasons, staff recommends that application S-2684 for a landscape contractor special exception not be approved."*

Further community concerns over the project.

1. Lack of sanitary facilities. Without any approved percs on the property, there would not be any restrooms available to the crews. The applicants' statements that he will have several vans outfitted with on board toilets similar to those on recreational vehicles, and that his crews would have the nearby town of Poolesville available with many businesses' that are open to the public which have restrooms, are unacceptable because of the likelihood that the crews will relieve themselves in the trees whenever the vans are not there and because the zoning code prohibits porta-jons in the ag- reserve except for limited time periods. This would create an unacceptable public nuisance as well as a health hazard to the neighbors who all rely on well water.
2. Disturbance to surrounding residences: The proposed site is surrounded by private residences. The noise, dust, fumes, lighting would severely reduce the peaceful enjoyment of the neighbors.
3. Risk of contamination. The proposed onsite fueling station and storage of pesticides and other chemicals would create an unacceptable risk to the ground water supplies, and the watershed of Broad run, as there is a year round tributary running through the property.
4. Problems with heavy truck traffic. The revised proposal still includes 13 trucks, 4 trailers and regular delivers of fuel and material form heavy trucks. This on a narrow rustic road that is built from tar and chip and has no base course and no shoulders. The excessive truck traffic would damage this road constantly, as well as create dangerous conditions when large vehicles have to pass each other and use narrow intersections. Also, the permit the applicant received to cross the weight restricted bridges on

Whites Ferry rd. has the ridiculous and unenforceable condition that the trucks must come to a full stop and the cross at 5 mph. The tractor trailers would be required to use West Hunter rd. which is No Thru Trucks over 3/4 Ton.

5. Attempt to subdivide the property: The applicant is trying to keep any conditions set on this special exception to only apply to the five acre portion of the 20 acre property. He stated his "intent" to use the remainder of the property to grow trees and shrubs as reason not to bind the remainder of the property with any conditions. If he receives this special exception, his "intent" may change 5 minutes later and he may apply for 2 or 3 more of these on the rest of the property.

Thank you for considering our concerns. Jim Brown President SCA 202-365-2113

---

Delicious ideas to please the pickiest eaters. [Watch the video on AOL Living.](#)

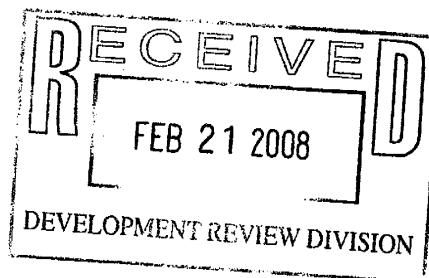
## ATTACHMENT 13B

**Miller, Renee**

---

**From:** QSRESandy@aol.com  
**Sent:** Thursday, February 21, 2008 9:17 AM  
**To:** Wilson, Ralph; Miller, Renee  
**Subject:** (no subject)

Warren S Shamlan Jr.  
18810 Wasche Road  
Dickerson Maryland 20842



February 20, 2008  
Renee Miller  
Zoning Analyst  
Montgomery County Department of Park and Planning  
8787 Georgia Avenue 3<sup>rd</sup> Floor  
Silver Spring MD. 20910-3760

Dear Renee

My wife and I are opposed of this entire project.

We want to go on record that the community, with the additions of security lights, paved parking areas and parking of light and heavy weight equipment is not ready for these looks or changes. Also at certain points of Wasche road it is only 18 ft. wide not enough for large trucks with equipment. We also have great concerns with the potentially dangerous uses of this land due. to runoff of Diesel fuel, Gasoline and Human waste and fertilizers.

Sincerely, Warren & Shirley Shamlan Residents since 1983

---

Delicious ideas to please the pickiest eaters. [Watch the video on AOL Living.](#)



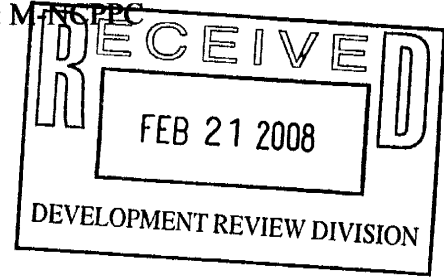
## ATTACHMENT 13C

TO: Renee Miller,  
Senior Planner  
Community-Based Planning Division: M-NCPPC

FROM: Gil and Anne Rocha  
18815 Wasche Rd.  
Dickerson, MD. 20842

DATE: 2-18-08  
RE: CASE NO.S-2684

PAGES: 4, including this one.



Dear Ms. Miller;

Please take a minute to consider these important issues concerning the petition for special exception at 18930 Wasche Road. My wife and I own the property at 18815 Wasche Rd, across the street of the applicant's property. Our property is shown as plat 960 on the county tax map.

We applaud the Planning Board and staff for the April 2207 recommendation to deny the application for a Landscaper at 18930 Wasche Rd. We feel strongly that you made the absolutely correct decision.

We also feel strongly that the revised application that is before you now is still completely unacceptable. The issues that you identified last year are all still major issues, even with the slightly reduced numbers. While the code allows for a special exception even in the case of inherent adverse affects, many of the adverse affects from this proposal are clearly non-inherent, simply because they would not exist if the site were not close to private residences. The applicant sites the case of Fall Creek, LLC, case # S-2636, as a precedent demonstrating that the adverse affects of a landscape contractor are inherent. However, if one reads the Fall Creek, LLC, case # S-2636, Hearing Examiners Report and Recommendation, that Zelkova submitted with his revised application as exhibit 30, on page 44, it states,

***“Physical and operational characteristics of the proposed use that are not consistent with the characteristics thus identified, or adverse effects created by unusual site conditions, will be considered non-inherent adverse effects. The inherent and non-inherent effects thus identified must be analyzed to determine whether these effects are acceptable or would create adverse impacts sufficient to result in denial.”***

The phrase, “unusual site conditions”, is one key phrase. The Wasche rd. site is certainly unusual, in that it would be a 35 man industrial activity with no restrooms inserted into the middle of 5 residential properties, onto a site where no such activity had ever existed before. By contrast, the Fall Creek site is a 16 acre operation in the middle of a 172 acre property. There is no valid comparison between Fall Creek and the front five acres of the Wasche road site.

Here are some of the main reasons that this operation is still unacceptable across the street from a private residence.

1. The Montgomery County Code states that:

**59-G-1.21 (a) A special exception may be granted when the Board, Hearing Examiner, or the District Council, as the case may be, finds from a preponderance of the evidence of record that the proposed use:**

**59-G-1.21 (a) (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.**

A. Consider the noise created from 35 landscapers using heavy equipment to load trucks at pre dawn hours; back up beepers, dump trucks slamming, power riding mowers being started to be shuffled onto the needed trailers for the day. Can anyone honestly claim that this would not be “detrimental to the peaceful enjoyment” of their property? Please see the aerial picture labeled exhibit “A” to see just how close this heavy industrial activity will be to our house and property. Please compare that to exhibit “B”, an aerial picture of the applicant’s current location in Kensington. Please don’t allow the Ag reserve to become a dumping ground for this type of activity, especially in close proximity to peoples’ homes.

B. The proposed site sits North West of our house. This is the direction of the prevailing winds, and the strong winds which accompany nearly every cold front that passes through our area. These strong winds typically blow steady for 36 to 48 hours after a weather front passes through. Please see exhibit “C” which is the National Weather Service forecast for Dickerson, Md. At the time this letter was started. Notice that each day that has wind direction forecasted, it is out of the West or Northwest. A steady cloud of dust, exhaust, diesel fumes, and debris will continuously shower our house if you allow this activity at this location. In addition, any fire which started at the site would be blown directly towards our house.

2. Lack of Sanitary Facilities:

The proposed plan suggests that the lack of restrooms will be offset by the use of truck mounted portable toilets. This is expressly prohibited in the zone except for brief temporary time periods during peak growing or harvesting operations for greenhouse production or field container productions. The applicant’s proposed operation for his special exception does not include either greenhouse or field container production, therefore, there would not be any time that portable toilets would be permitted. Please see the applicant’s exhibit # 20, page 2, which is a letter from the M.C. Department of Permitting Services dated September 19, 2005, which states:

**“...chemical toilets may be used only for special short term events and in the abatement of problems. The Department agrees the use of chemical toilets at the Property for 1-2 weeks during peak growing or harvesting operations is permitted (typically 3-4 peak periods per year for greenhouse production and 2-3 peak periods per year for field container production). Chemical toilets may not be installed on the Property at any other time without the express department authorization. Moreover, with respect to employees who may be on-site to maintain plant materials during non-peak times as discussed above, *because there will be no bathroom facilities* of any kind during these non-peak**

***periods, provision must be made for such employees to access bathroom facilities off-site to avoid public nuisance.”***

Clearly this DPW letter does not intend for the lack of sanitation facilities to be addressed by truck mounted portable toilets. The applicant's contention that his employees' access to public restaurant restrooms 2.5 miles away in Poolesville would be sufficient, is ridiculous. The employees will just relieve themselves in the surrounding bushes. This was exactly what was occurring at the Peach Tree rd property that was operating a landscaping business. Their employees, who numbered less than 20% of Zelkova's proposed #, were urinated and DEFACATING along the property line of the neighbors. And this was at a location that had a working bathroom available inside the house!

3. Threat to Drinking Water:

The applicant's water permit allows for up to 4000 gallons of water per day. This would jeopardize the supply of water to our well and the wells of our neighbors. We have already had 2 serious droughts in the 5 year period that we have lived here on Wasche rd. During those droughts, we had to use or water sparingly to avoid running our well dry. Even with our conservation efforts, we experienced multiple shut-offs of our well during both droughts, 2002 and 2007. A shut-off occurs when a sensor detects that the water has dropped below the pump, and is intended to keep the pump from burning up. The Commissioners of Poolesville' Watershed Management Plan dated February 22, 2005, stated that the yearly daily average per day per household is 325 gallons (<http://ci.poolesville.md.us/WatershedMgmtPlan-01.htm>). If we are already struggling with water issues during dry periods now, it is almost certain that a landscaper pumping 4000 gallons per day across the street to fill water tanks for down county watering will cause a crisis with the drinking water supply.

4. Traffic Issues.

A. Narrow County Road.

The increase in large truck traffic would pose excessive risk and maintenance issues to the community. The large trucks and trucks with trailers would be forced to make a right angle turn out of the proposed 25 ft wide driveway onto an 18 ft wide tar and chip road without shoulders. When these vehicles are entering and leaving the property, they will completely block the road. Vehicles commonly pass this site well above the posted 35 mph speed limit. With the heavy vegetation along this Rustic road blocking the view of the truck drivers leaving the property, and drivers passing the property, this will be a very unsafe condition.

B. Weight restricted Bridge Waiver:

The permit the applicant received from the MC Department of Public Works and Transportation to cross the two weight restricted bridges on Whites Ferry road is both unenforceable and unrealistic. To think that the truck drivers will comply with the requirement that they must stop completely in the middle of a long straight away, and then cross at 5 mph is not realistic. Even if they were to stop, other traffic on the road would likely be startled by trucks stopping in the middle of a passing zone for no apparent reason. If DPWT was so concerned about those trucks crossing at speeds over 5 mph, they must have had serious reasons. When those trucks roll across those bridges at full speed and cause bridge damage, who will be responsible for any type of bridge failure?

C. Road Maintenance;

At present, when two large vehicles try to pass on another from opposite directions, one must leave the road surface to pass safely. This causes deep trenches in the mud along the road. The current level of truck traffic here keeps this situation from happening too often, but with the volume of traffic associated with this proposal this will be a regular occurrence. In addition, I have been informed that this road does not have a course base. The volume of commercial truck traffic would cause constant damage to Wasche Rd.

5. End Run Around Sub Division:

The applicant has gone to great lengths to make it clear that the petition for special exception only applies to the front of the property. However, he claims that his intended plantings on the back of the property legitimize his claim to suitability for this project in the Ag reserve. I urge the Board of Appeals to exercise its discretion to require the entire property be subject to the conditions established in any possible special exception. Failure to do so would mean the applicant could simply change his mind about using the rear of the property for agricultural purposes. Perhaps he would apply for 2 or 3 more special exceptions for the rear of the property and create an industrial park. Prior to submitting this application for special exception, the applicant had submitted pre concept plans for two houses on the rear of this property, (M- NCPPC file # 7-05024). It is alarming that the current site plan for the landscape contracting operation **does not overlap at all** with the previously filed house concept plan on the rear of the property.

There are other issues as well, such as light pollution in this very unlit neighborhood, and the wisdom of encouraging commercial development in the Ag reserve, resulting in additional traffic needing to get down county.

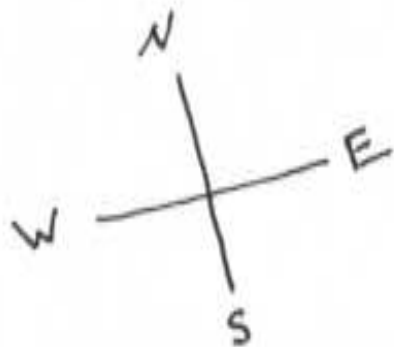
We would request that the Planning Board and the Board of Appeals, would consider how they would feel if this operation were proposed across the street from their home.

This revised application would still have severe non-inherent adverse affects on the surrounding neighborhood. It would cause significant traffic safety hazards and problems on this small country road. It would pose a fire and chemical threat from the on site fueling station, and have fuel tanks and chemical containers which would be a possible source of contamination to the surrounding private wells, should there be any spills. It would put commercial water demand onto the struggling aquifer that supplies residential drinking water. It is still not in harmony with the general character of the neighborhood, (please see exhibit "D"). And without restroom facilities, it would be a sanitary nightmare, turning the area into a literal cesspool.

We would be happy to answer any questions the commissioners or staff may have, or to have you come out to our house to see the proximity of our house to the proposed site. Feel free to contact us at the number below.

Thank you,  
Gil and Anne Rocha  
18815 Wasche Rd.  
Dickerson, MD 20842  
301-407-9086

Proposed  
Site



Gil & Anne's House

Exhibit A



S-2684 Applicant: John Shorb  
Current Landscape Contractor Location  
at 10518 Warfield Rd. Kensington Md 20894



Exhibit B



# Your National Weather Service *forecast*

## Dickerson MD



Enter Your "City, ST" or zip code

Go

NWS Baltimore, MD/Washington, D.C.

Point Forecast: Dickerson MD

39.24N -77.42W

[En Español](#)

Last Update: 11:32 am EST Feb 18, 2008

Forecast Valid: 12pm EST Feb 18, 2008-6pm EST Feb 24, 2008

### Forecast at a Glance

Presidents' Day	Tonight	Tuesday	Tuesday Night	Wednesday	Wednesday Night	Thursday	Thursday Night	Friday
Partly Sunny Hi 63°F ↓	Partly Cloudy Lo 29°F	Breezy Hi 43°F	Partly Cloudy Lo 22°F	40% Chance Rain/Snow Hi 40°F	Mostly Cloudy Lo 21°F	Partly Sunny Hi 34°F	Mostly Cloudy Lo 25°F	40% Chance Showers Hi 37°F

### Detailed 7-day Forecast

Hazardous weather condition(s):

#### Hazardous Weather Outlook Short Term Forecast

**Presidents' Day:** Partly sunny, with a temperature falling to around 52 by 5pm. West wind between 14 and 18 mph.

**Tonight:** Partly cloudy, with a low around 29. West wind between 9 and 13 mph.

**Tuesday:** Mostly sunny, with a high near 43. Breezy, with a west wind between 14 and 21 mph, with gusts as high as 31 mph.

**Tuesday Night:** Partly cloudy, with a low around 22. West wind between 5 and 11 mph.

**Wednesday:** A slight chance of snow showers before noon, then a chance of rain and snow showers. Mostly cloudy, with a high near 40. Light wind becoming northwest between 14 and 17 mph. Chance of precipitation is 40%. New precipitation amounts of less than a tenth of an inch possible.

**Wednesday Night:** Mostly cloudy, with a low around 21.

**Thursday:** Partly sunny, with a high near 34.

**Thursday Night:** Mostly cloudy, with a low around 25.

**Friday:** A chance of showers. Mostly cloudy, with a high near 37. Chance of precipitation is 40%.

**Friday Night:** A chance of snow or rain showers. Mostly cloudy, with a low around 31. Chance of precipitation is 40%.

**Saturday:** A chance of rain showers. Mostly cloudy, with a high near 42. Chance of precipitation is 30%.

**Saturday Night:** Mostly cloudy, with a low around 32.

**Sunday:** A chance of rain. Mostly cloudy, with a high near 49.

### Detailed Point Forecast

[\(Move Down\)](#)

Click Map for Forecast



### Current Conditions

[\(Move Up\)](#)

Leesburg / Godfrey

Lat: 39.08 Lon: -77.57 Elev: 390

Last Update on Feb 18, 11:40 am EST

Overcast

63°F

(17°C)

Humidity: 64 %

Wind Speed: NW 10 MPH

Barometer: 29.55"

Dewpoint: 50°F (10°C)

Visibility: 10.00 mi.

[More Local Wx:](#) [3 Day History:](#)

### Radar and Satellite Images

Exhibit C





Exhibit D.



## DEPARTMENT OF PERMITTING SERVICES

September 19, 2005

Robert C. Hubbard  
DirectorDouglas M. Duncan  
County ExecutiveMr. John W. Shorb  
John Shorb Landscaping, Inc.  
10518 Warfield Street  
Kensington, Maryland 20895

Re: 19630 Wasche Road, Dickerson

Dear Mr. Shorb:

This letter confirms the Department of Permitting Services' position regarding the operation of a farm and/or landscape contractor use on all or part of the twenty (20) acres of land located at 19630 Wasche Road in Dickerson ("Property").

As discussed with your attorney, Todd Brown, at a meeting on August 17, 2005, operation of a farm on the Property, which could include the growing and maintenance of flowers, trees, shrubs and other plant materials, is permitted by right. However, operation of a landscape contractor use on the Property will require approval of a special exception by the Montgomery County Board of Appeals. Subject to compliance with the operating limitations identified below and applicable legal requirements, including obtaining a landscape contractor special exception from the Board of Appeals, the Department agrees that a landscape contractor use is permitted on the Property.

As discussed at the August 17 meeting, environmental conditions on the Property preclude approval of a private septic system under current regulations, and public sewer service is not available to the Property. Accordingly, although a farm and/or landscape contractor use could be established on the Property, the lack of public or private sanitary sewerage facilities requires that certain limitations be placed on such use.

The Department agrees that one or more buildings may be constructed on the Property, subject to applicable permitting and other requirements, provided such building(s) are used for the storage of equipment, materials and/or vehicles only. Greenhouses for the growing and maintenance of plants may also be erected, again subject to applicable requirements. However, the construction of an office or office station within such structure(s) is not permitted. Further, provided such use is approved by the Board of Appeals, employees may (i) park at the Property; (ii) pick up work vehicles, materials and equipment stored at the Property each morning; (iii) leave for various job sites off the Property; and (iv) return such equipment, etc. to the Property each evening as is typical of a landscape contractor use.



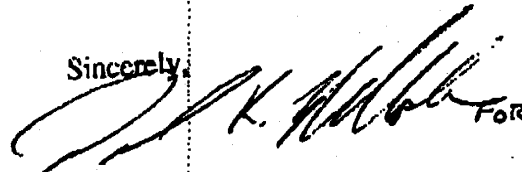
Mr. John W. Shorb  
September 19, 2005  
Page 2

As further discussed, the Department understands that one or more employees will be needed to water, prune and otherwise maintain the flowers, trees and other plant materials to be grown on the Property and perform other activities typical of a farm or landscape contractor use. In this regard, the Department agrees such activities may occur, but must be performed by persons who do not remain on the Property for the entire workday.

Lastly, as provided in COMCOR Section 27A.00.01.09, chemical toilets may be used only for special short term events and in the abatement of problems. The Department agrees the use of chemical toilets at the Property for 1-2 weeks during peak growing or harvesting operations is permitted (typically 3-4 peak periods per year for greenhouse production and 2-3 peak periods per year for field container production). Chemical toilets may not be installed on the Property at any other time without express Department authorization. Moreover, with respect to employees who may be on-site to maintain plant materials during non-peak times as discussed above, because there will be no bathroom facilities of any kind during these non-peak periods, provision must be made for such employees to access bathroom facilities off-site to avoid public nuisance.

If you have any questions concerning the contents of this letter, please contact us.

Sincerely,

A handwritten signature in black ink, appearing to read "S. Scala-Demby", followed by the word "FOR" in a smaller, printed font.

Susan Scala-Demby  
Permitting Services Manager



## ATTACHMENT 15

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

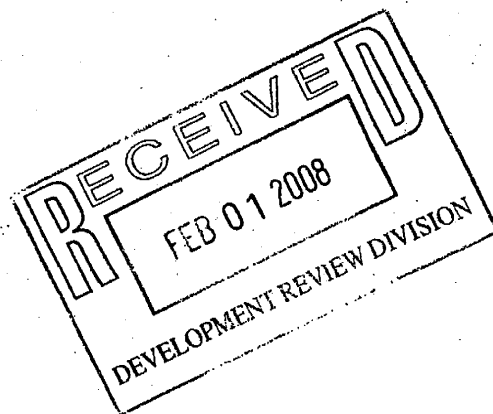
#### MEMORANDUM

Date: February 1, 2008

To: Renee Miller, AICP, Senior Planner  
Development Review Division

From: Erin Grayson, Planner *EGH*  
Development Review Division

Subject: Board of Appeals Petition No. S-2684



The property consists of 2 unrecorded parcels in the RDT zone. Under 50-9(a)(2), recording of a plat under Chapter 50 is not required for:

(a) *Agriculture and uses located on agricultural land.*

(2) Land that is and will remain part of a farm, as defined in this chapter, but that is used concurrently for a related use that requires issuance of a building permit. This includes a special exception use under divisions 59-G-1 and 59-G-2, unless the Board of Appeals requires subdivision as a condition of the special exception.

If through Special Exception procedures it is determined that the proposed use should be permitted in the RDT zone and should be recorded as a subdivision, the property can be platted under 59-C-9.74(b)(2) but a deed must be provided by the applicant verifying that the parcels existed prior to June of 1981.