

[HomePage](#)
[Frederick County](#)
[Montgomery County](#)
[Prince Georges County](#)
[Carroll County](#)
[Southern Md](#)

Gazette.Net

Hundreds of local jobs.
Updated every single weekday. [Click here.](#)

Jobs
on Gazette

SiteSearch



More condos coming to Silver Spring's downtown

Advanced Search:
Archives

[E-Mail This Article](#)

NEWS by Community

- Select One
- Aspen Hill
- Bethesda

SPORTS by Community

- Select One
- Aspen Hill
- Bethesda

EASY FINDER

- [Births](#)
- [Columns](#)
- [Editorials](#)
- [Engagements](#)
- [Letters](#)
- [Movie Finder](#)
- [Obituaries](#)
- [Police Reports](#)
- [Restaurant Finder](#)
- [Reunions](#)
- [Weddings](#)

GAZETTE SECTIONS

- [Business](#)
- [Classifieds](#)
- [Entertainment](#)
- [Local Calendars](#)
- [Sports](#)

LOCAL NONPROFITS

- [Frederick](#)
- [Montgomery](#)
- [Prince George's](#)

RELATED SITES

- [The Bowie Star](#)
- [The Business Gazette](#)
- [DCMilitary.com](#)
- [Weekend Edition](#)

THE GAZETTE

- [About Us](#)
- [Advertising Info](#)
- [Contact Us](#)
- [Employment](#)
- [Photo Reprints](#)
- [Newspaper Locator](#)

by **Meredith Hooker**
Staff Writer

June 2, 2004

Two new residential projects were OK'd Thursday by the Montgomery County Planning Board, adding to a growing list of housing stock in downtown and south Silver Spring.

KSI Services Inc. will build condominiums on Ripley Street near the Bonifant Street parking garage and RST Development will convert the Williams and Wilste buildings in south Silver Spring into multi-family dwelling units.

"It's another two-hit day for Silver Spring," said Planning Board Chairman Derick P. Berlage.

At this time, there is no preliminary design plan for KSI's condo unit on Ripley Street, although KSI would like construction to begin by summer 2005.

Currently, county and state agencies are working to extend Dixon Street through the parking garage on Bonifant Street, as well as create underground parking beneath Dixon Street, said Wynn Withans of the Maryland-National Capital Park and Planning Commission. They will come before the commission within 60 days to discuss the project again.

The extension of Dixon Street is in Silver Spring's master plan, which outlines potential land use in the area, Berlage said. It's important to allow the Ripley Street area to "share in the redevelopment of Silver Spring."

South Silver Spring, where about 900 new housing units are being constructed, will soon include the redevelopment of the Williams and Wilste commercial buildings at 13th and King streets by Eastern Avenue. RST Development, which refurbished the Gramax building in south Silver Spring, will redevelop the buildings. The Gramax will have a ribbon-cutting ceremony next month, said Bob Harris of law firm Holland and Knight, which represents RST.

RST plans to build 135 multi-family dwelling units at the Williams and Wilste site, said Robert Kronenberg of Park and Planning. Seventeen

of those will be moderately priced dwelling units. RST will create a courtyard and lobby between the two buildings, he said.

Residents will park on the street and in nearby county facilities, according to staff reports. Nearby neighborhood associations have given their support, provided RST lease spaces in a nearby lot on King Street for its residents. RST is currently working with the Silver Spring Parking District.

Silver Spring resident Daniel Meijer told the board he supported the project, as well as RST's work on the Gramax building. "I look forward to seeing quality projects in that part of the community."

"Staff thinks this is a great project," Kronenberg said. "The site has been an eyesore for many years."

[Frederick County](#) | [Montgomery County](#) | [Carroll County](#) | [Prince George's County](#)
[CALENDARS](#) | [SPORTS](#) | [ENTERTAINMENT](#) | [CLASSIFIEDS](#) | [DIRECTORIES](#)
Copyright © 2004 The Gazette - ALL RIGHTS RESERVED. [Privacy Statement](#)

Umovefree Apt. Locators

Dallas Fort Worth Apts and a Free Move or a \$200 Cash Back Rebate!

Free Apt. Loft Finder

Get up to \$200 back. All apartments in Dallas & Ft. Worth

Ads by Google

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

Stella Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850

www.montgomerycountymd.gov/mc/council/board.html

Case No.S-2527 [S-2528, 2-2529]

PETITION OF TWIN PONDS FARM, LLC

RESOLUTION TO REMAND CASES TO HEARING EXAMINER

(Resolution Adopted November 26, 2003)
(Effective Date of Resolution: January 9, 2004)

Case No. S-2527 is an application for a special exception pursuant to Section 59-G-2.30.0 (Nursery Horticultural - Wholesale) of the Zoning Ordinance to permit the operation of a wholesale nursery. The petitioner proposes to plant nursery stock for sale to landscape contractors on approximately 8 acres of the 77 acre subject property.

Case No. S-2528 is an application for a special exception pursuant to Section 59-G-2.30.00 (Landscape Contractor) of the Zoning Ordinance to permit the operation of a landscape contracting business.

Case No. S-2529 is an application for a special exception pursuant to Section 59-G-2.30.000 (Manufacture of Mulch and Compost) of the Zoning Ordinance to permit the operation of a manufacturer of mulch and compost. The petitioner proposes to manufacture mulch and compost for sale on approximately 9 acres of the 77-acre subject property.

Pursuant to Section 59-A-4.125, the Board of Appeals referred the cases, consolidated by Resolution effective August 28, 2002, to the Hearing Examiner to conduct the public hearing and provide the Board with a written report and recommendation. The Hearing Examiner issued reports, in each of the three cases, dated November 5, 2003, recommending approval in each case, with conditions.

The subject property is Parcel P400, located at 15315 Mt. Nebo Road, Poolesville, Maryland, in the RDT Zone.

The Board of Appeals considered the reports and recommendations from the Hearing Examiner, together with requests for oral argument before the Board from

Stephanie and John Egly, Poplar Spring Animal Sanctuary, the Audubon Naturalist Society and Sugarloaf Citizens Association at its Worksession on November 26, 2003. The Board finds that it requires additional factual information before it can decide either

on the special exceptions or the requests for oral argument. Specifically the Board requires additional information or clarification about:

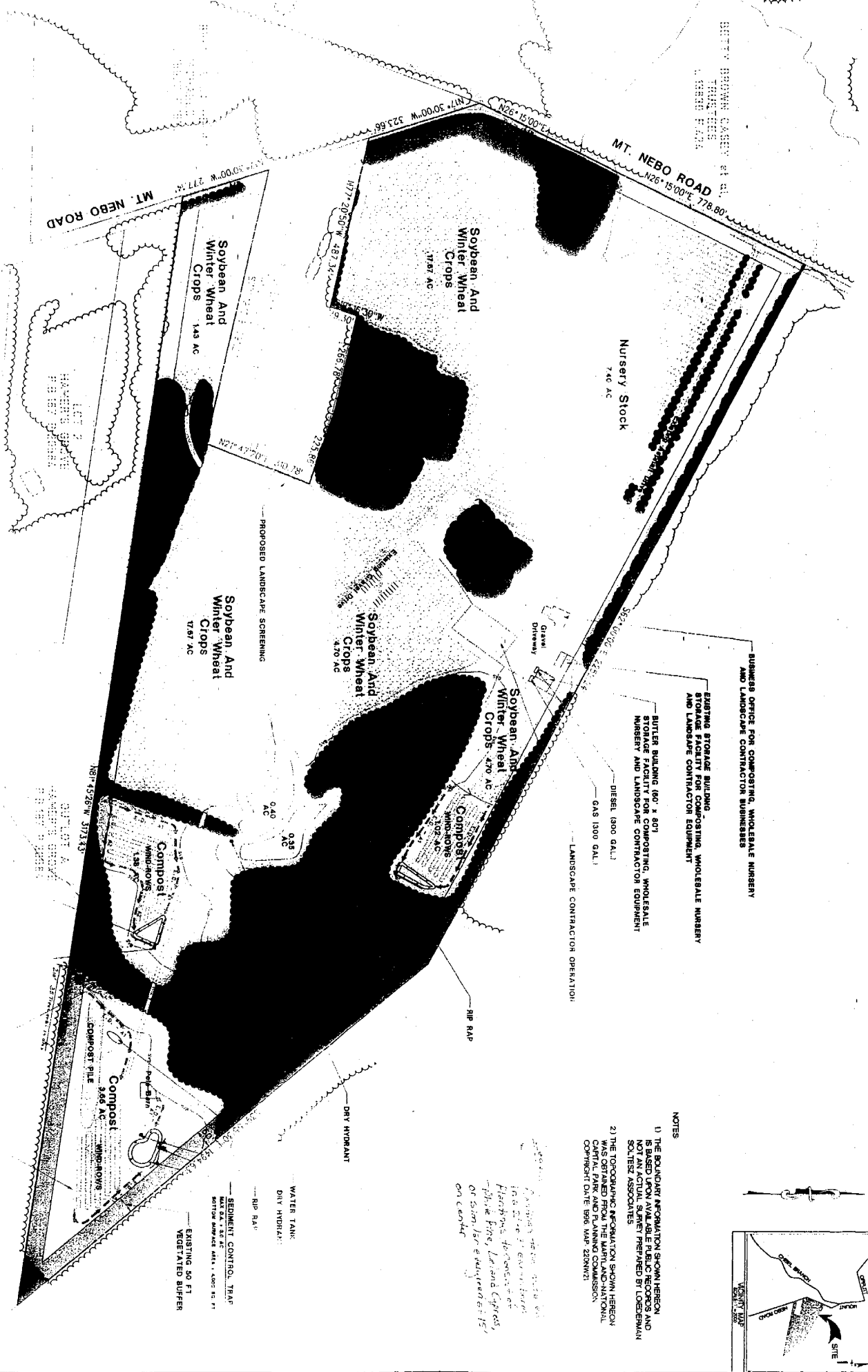
- The nature and extent of contractor operations, specifically:
 - the number of employees,
 - number and types of equipment, and
 - types of activities;
- The source of water to serve the operations of the special exceptions;
- Applicable parking requirements for the uses and compliance of the applications with those standards;
- The stream valley buffer area;
- Whether subdivision is required with respect to Case No. S-2528;
- What activities would be necessary on Saturday and Sunday with respect to Case No. S-2529; and
- The configuration, including graphic depiction, of the entry and exit control proposed for Mount Nebo Road.

Therefore, on a motion by Allison Ishihara Fultz, seconded by Donna L. Barron, with Louise L. Mayer, Angelo M. Caputo and Donald H. Spence, Jr., Chairman in agreement:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland that Case Nos. S-2527, S-2528 and S-2529, Petitions of Twin Ponds Farm, are remanded to the hearing examiner to supplement the reports and recommendations as described above, either with information available in the existing hearing record or by reopening the record in the cases.

Donald H. Spence, Jr.
Chairman, Montgomery County Board of Appeals

PROPERTY BOUNDARY CASES: 81 & 82
 TWIN PONDS
 LANDSCAPE ARCHITECTURE
 7810 WOODROW PLACE
 CABELIN, JOHN, MD 20818



BUSINESS OFFICE FOR COMPOSTING, WHOLESALE NURSERY AND LANDSCAPE CONTRACTOR BUSINESSES

EXISTING STORAGE BUILDING STORAGE FACILITY FOR COMPOSTING, WHOLESALE NURSERY AND LANDSCAPE CONTRACTOR EQUIPMENT

BUTLER BUILDING (60' x 301') STORAGE FACILITY FOR COMPOSTING, WHOLESALE NURSERY AND LANDSCAPE CONTRACTOR EQUIPMENT

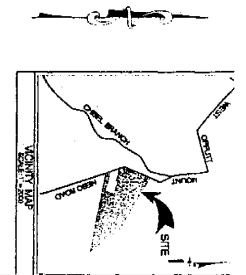
DIESEL (300 GALL.) GAS (300 GALL.)

LANDSCAPE CONTRACTOR OPERATION

Handwritten note: Plantings to occur in a State 17 existing trees - White Pine, Laurel, Cypress, or similar in winter 6 & 15 on center

NOTES

- 1) THE BOUNDARY INFORMATION SHOWN HEREON IS BASED ON THE RECORD RECORDS AND NOT A FIELD SURVEY. FIELD RECORDS AND SOLICIT ASSOCIATES
- 2) THE TOPOGRAPHIC INFORMATION SHOWN HEREON IS BASED ON THE LAND NATIONAL COPYRIGHT DATE 1996 MAP 220NW21



SEDIMENT CONTROL TRAP
 100' DIA. x 18" AC
 BOTTOM IMPACT AREA: 2,800 SQ. FT.

SEDIMENT CONTROL TRAP
 100' DIA. x 18" AC
 BOTTOM IMPACT AREA: 2,800 SQ. FT.

SEDIMENT CONTROL TRAP
 100' DIA. x 18" AC
 BOTTOM IMPACT AREA: 2,800 SQ. FT.

SEDIMENT CONTROL TRAP
 100' DIA. x 18" AC
 BOTTOM IMPACT AREA: 2,800 SQ. FT.

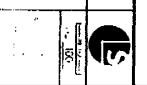
CLIENT:
 TWIN PONDS FARM, LLC
 7810 WOODROW PLACE
 CABELIN, JOHN, MD 20818

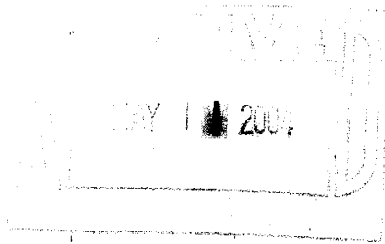
Loiederman
 Soltesz Associates

SPECIAL EXCEPTION SITE PLAN

TWIN PONDS

3100 PROCESSION/ELECTION DISTRICT
 MONTGOMERY COUNTY, MARYLAND





May 10, 2004

Judy J. Daniel, AICP
Team Leader, Rural Areas
MNCPPC – Montgomery County
8787 Georgia Avenue
Silver Spring, MD 20910-3760

Subject: Twin Ponds, S-2527, S-2528, S-2529

Dear Ms. Daniel:

The opponents of the Twin Ponds special exception cases have reviewed the current proposal in light of the Resolution to Remand Cases issued by the Board of Appeals. Of the seven points addressed in the remand, we believe these three points are the most important:

1. The nature and extent of contractor operations remains unclear.

The conditions proposed by the petitioner are vague, will be difficult to enforce, and create uncertainty about the level of activity the neighbors can expect on the property. We are especially concerned about the exceptions to the limits for employees, which generally exclude members of the limited partnership and outside contractors. Is membership in the LLC limited to the individuals listed on the special exception application or can additional members be added after approval? Will the exception for outside contractors permit the landscaping firms to use independent subcontractors to supplement their employees? The effect of subcontractors upon the neighborhood will be the same as the effects of employees, but the language of the proposed condition could exclude them from the count of "employees."

The Board requested additional information with regards to the number of employees per contractor, how many contractors each of the three operations will have, what activities these contractors will conduct, what types of equipment they will use on site and transport to and from the property. The applicants' responses to date have not resolved the Board's concerns.

2. We believe subdivision is necessary with respect to Case No. S-2528.

If subdivision were to occur, each of the three operations would have to clearly identify what activities it will conduct on-site. Moreover, the areas of the site proposed for farm activities only could likewise be identified. This would prohibit each Special Exception from

attributing their activities, contractors, and number of employees, equipment, and vehicles to another Special Exception or to the farm activities, if questions arise during enforcement actions.

In addition, we believe the design, function and capacity of the sediment control trap must account for the special features of runoff from the compost facility. We believe this is a concern for water quality, since this facility is located near the stream valley buffer area, as mentioned in the remand. If subdivision were to occur, this facility would be brought into compliance with County regulations, rather than rely on less stringent Montgomery County Soil Conservation District requirements. We believe that bringing the landscaping operation into compliance with County regulations would better protect the county's resources.

3. The proposed parking is not sufficient to serve the three Special Exceptions and the proposed location does not meet the requirements of the zoning ordinance.

The small amount of parking is not consistent with the scale of the operations that they propose. The proposed conditions permit up to 28 employees on the site, not including members of the LLC, employees of the farm operation only, or outside contractors. Only 20 parking spaces are provided in an area of Montgomery County not served by any transit service.

In addition, the applicants have proposed parking in an area that is not accessible to the functions that are dependent on that parking. In addition, the site plan is not clear about parking and outside storage areas for the various vehicles associated with the proposed uses. The petitioners have not presented a parking scenario that can support their own proposed functions. Given the information available, we do not believe the staff can determine whether the petitioners will comply with the applicable parking requirements of the zoning ordinance. This is one of several ways in which the site plan and phasing plan remain insufficient to warrant approval.

Attachment 1 provides a more detailed discussion of our concerns related to the issues in the Board's remand.

We would urge you to take advantage of the review provided by the remand to resolve the inconsistencies between the Special Exception Site Plan and the Phasing Plan. Both documents should show the same activities at the same locations on the site. There appears to be no reason to show any of the "soybean and winter wheat crops" areas shown on the site plan, as part of any phase on the phasing plan. Likewise, the two smaller compost facilities shown on the site plan are excluded by the applicants' recommended conditions and should be removed from both the site plan and the phasing plan. Attachment 2 - Evaluation of Phasing Plan and Special Exception Site Plan contains a more detailed discussion of our concerns related to the site plan.

Judy J. Daniel, AICP
Team Leader, Rural Areas
Page 3 of 3

We continue to have numerous concerns related to the proposed activities beyond those raised by the Board of Appeals, however, we recognize that your review is of necessity limited by the language of the remand.

Please call either of us if you wish to discuss the issues raised in this letter or if you require additional information while preparing a response to the Hearing Examiner's recent correspondence.

Regards,

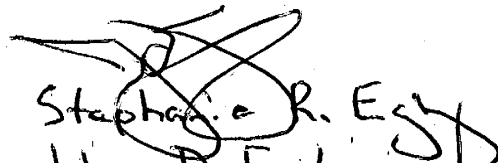


Robert Thommasen
(301) 916-3199

cc: William Chen, Esq.



Jane Hunter
(301) 349-5432



Stephanie R. Egly
John D. Egly
301-253-8912

Attachment 1 – Evaluation of the Record with respect to the Board of Appeals Remand for Twin Ponds, S-2527, S-2528, S-2529

1. The nature and extent of contractor operations

- a. Neither the Statement of Operations nor Ms. Leatham's response specifies how many employees contractors may bring to the site or the number and types of equipment they might bring. Nor does it specify the range of activities in which they might engage. In fact, her response raises the potential for specialized equipment to "muck" out the ponds – equipment not addressed in the Statement of Operations. Mr. Hughes describes "contractors" coming to the site in the role of customers – either picking up plants and materials or disposing of yard waste in his testimony. Examples can be found on pages 25, 27, 73, and 77 of the transcript of his testimony. In Ms. Egley's line of questioning from pages 80-85 both she and the witness discuss the trucks that "contractors" will bring to the site for the disposal of yard waste. This material belies the assertion in Ms. Leatham's letter of February 17, 2004, that each reference by the applicant to "independent contractor," "private contractor" and "outside contractor" refers to those contractors that would enter the property to perform general maintenance activities on-site on behalf of Twin Ponds Farm.

The Board's remand inquires about "the nature and extent of *contractor* operations, specifically: the number of employees, the number and types of equipment, and the types of activities." Their question is not limited to private, independent and/or outside contractors. The applicant's testimony on the record includes references to "contractors" other than those providing services on-site on behalf of the Twin Ponds property.

- b. No definition is provided for the phrase "outside contractors." In condition 20 of S-2527, the language refers to "outside contractors used to perform specialized tasks which cannot be performed by employees dedicated to any of the special exceptions (such as pesticide applications, etc.)" This language implies some limits on the role of outside contractors but applies only to the nursery operation.
- c. Except for the language cited above, the decisions make no distinction between outside contractors who:
- may come to the property to perform tasks associated with the uses on-site,

- the landscape contractors or subcontractors who may come to the site to obtain work assignments or materials to be used on other sites and
- the contractor customers who will come to the site to dispose of materials at the compost operation.

The combination of these three groups of contractors has the potential to yield a considerable number of trips to and from the site. As stated in the remand, testimony from the applicants has not yet addressed these questions. These questions have not been adequately addressed in any written responses from Ms. Leatham.

- d. The recommendations place a limit on the number of "outside contractors" that may be on the property on any given day but does not limit the number of employees that any contractor may bring to the property.
- e. In condition 7 of S-2527 there is a reference to an "independent contractor" who processes materials for the manufacturing of mulch and composting. Is this an "outside contractor" subject to the limit of one per day (See a. above)? Condition 26 of S-2529 refers to "haulers." Are these also "outside contractors" or are they classified as "deliveries and/or pick-ups"
- f. The limits on deliveries and pick-ups appear to be separate from limits on "outside contractors" coming to the site.
- g. There are conflicting limits on equipment to be used on-site when compared to the limits on "outside contractors" and the use of track vehicles.
 - Condition 7 of S-2527 (Nursery) limits deliveries to the subject property to two per day. Only three track vehicles may operate on-site per day. Of the three track vehicles, two will be used by the "independent contractor" responsible for processing materials for the manufacturing of mulch and composting.
 - Condition 26 of S-2529 permits the use of "up to two front-end or track loaders to manage and move materials (as used as part of the nursery operation and farm operation)." Condition 26 also says that "an additional two loaders may be brought to the site by haulers...provided the loaders are not stored on site."

Does this mean that the limit on equipment use applies only to equipment that is part of the on-site operation, not equipment brought on-site by "outside contractors," "contractors," "independent contractors" or "haulers"?

2. Applicable parking requirements for the uses and compliance of the applications with those standards

The record contains little information on the proposed parking beyond its location and size. There is no testimony about the compliance of the parking area with the code. This is of specific concern related to the landscaping business. The staff report (Exhibit 36, p. 20) says that the area designated for parking trucks and equipment is approximately 200 feet from the nearest property line. The applicant testified that the trucks would be stored in the existing gravel parking lot along the gravel road, the same lot that would be used by employees. This lot is located some 650 feet from the nearest property line. Therefore, the staff conclusion that parking would be adequate is not based upon the parking arrangements proposed by the applicant at the hearing.

The Montgomery County Zoning ordinance does not contain specific on-site parking requirements for any of the uses proposed in these special exceptions. Given the mixed-use nature of the operations and the concerns about run-off and stream impacts from the site, it is imperative to address this issue. The applicant has proposed one parking lot containing about 20 spaces to serve all three special exceptions and the existing farm operations.

Preliminary analysis shows that the Hearing Examiner's recommendations permit as many as 31 full-time and two part-time employees of the special exception uses on the site. This number does not include any of the members of the LCC, employees of the farm operations nor does it include any "outside contractors," "contractors," "independent contractors" or "haulers."

In addition the Hearing Examiner's recommendations permit up to 12 trucks, 12-13 additional pieces of specified equipment and an unlimited number of trailers on the site. No limit is placed on equipment such as tractors, mowers, plow blades and similar equipment typically used in the special exception activities.

There is also an ongoing farm operation at the site, which the applicant maintains is not subject to the special exception limits. An unknown and unlimited number of vehicles connected with the farm operations will also be on site.

A parking area for 30-50 spaces, at a minimum, will be necessary to accommodate the motor vehicles associated with the special exception activities proposed. The Montgomery County ordinances require that the parking area be located with 500 feet of the pedestrian entrance to the uses - which in this case would likely be the office, storage buildings and fenced outside storage yard. The proposed parking area is clearly located farther from these buildings and operations and no pedestrian connections are depicted.

The parking area to serve employees of the each business on-site should be in a different location than the parking area for equipment used in each business. The parking and storage areas for equipment should be secured.

3. Whether subdivision is required with respect to Case S-2528

If any of the special exceptions are approved, each special exception should be associated with a specific area of the property, each having a separate lot, for the purposes of clarity and enforcement. This will have the additional benefit of allowing county staff the opportunity to review the final activities and site plan to assure compliance with any final decision.

Only one business should be approved on any one lot. Each of the three existing partners in the LLC operates a separate business today. If, as the testimony suggests, each partner will continue to operate his own business, each should be located on a separate lot with an associated special exception approval so that the equipment associated with each use can be accounted for. If more than one landscape contractor business operates from the site, each business should be located on a separate lot and be subject to a separate special exception case.

4. The configuration of the entry and exit control proposed for Mt. Nebo Road

The testimony in the case and in the Statement of Operations indicates that the existing gravel road will be used for ingress and egress. The condition for a "pork chop" entrance relates to the gravel drive, as does the proposal to erect a directional sign. However, there are two existing entrances to this site:

- The gravel drive serving the parking lot and the larger area of the compost operation, and
- The asphalt drive serving the existing house, storage buildings, the fenced area for the landscape contractor and a portion of the compost operation.

There are no internal roads, existing or proposed, to connect these two drives or the areas of the property that they serve.

Addressing the configuration for entry and exit control requires additional explanation and testimony regarding the future of the asphalt drive and the network of internal drives that will service the site. Or, will internal site traffic traveling between the two areas use Mt. Nebo Road? How will trucks stored in the parking area get to the landscape operation, the storage buildings and the nursery stock necessary for their work off-site? How will the equipment stored in the barns get to the compost areas without turning left on Mt. Nebo Road?

Attachment 2 - Evaluation of Phasing Plan and Special Exception Site Plan

The site plan shows three composting areas. The existing 3.65 acre compost area, located in the east corner of the property as well as a 1.38 acre parcel and a 1.02 acre parcel located on the north central and southeast edges of the property, respectively. Total acreage proposed for composting is 6.05 acres, less than the original requested proposed amount of 9 acres. The applicants' recommended conditions in Exhibit 161(a-2) request that that "Operations onsite are limited to the following c. Phase 1 of the Manufacture of Mulch and Composting Operation."

The phasing plan shows:

Phase 1	Nursery stock	2.00 ac
	Compost	3.65 ac
Phase 2	no measured area shown on Phasing Plan	
Phase 3	Nursery Stock Area	2.64 ac
	4 other areas	26.2 ac

The Phasing Plan describes five areas in Phase 3. The following is a comparison of these areas to the uses shown on the Site Plan. The areas proposed for Phase 3 consist of a Nursery Stock Area and four areas of unspecified use. These areas are described below moving clockwise around the property, starting at the paved driveway at Mount Nebo Road.

1. Nursery Stock Area (2.64 ac), located on the northwest corner of the property, adjacent to Mt. Nebo Road.

The Site Plan shows this area as a portion of the Nursery Stock (7.40 ac).

2. Shown as of soybean and winter wheat crops on the Phasing Plan, 5.72 acres, located east of, and adjacent to, the existing farm buildings.

The Site Plan shows this area as 4.70 ac of soybean and winter wheat crops and 1.02 ac of Compost (wind-ROWS).

3. Shown as soybean and winter wheat crops on the Phasing Plan, 1.38 acres, located west of the existing compost operation, between the gravel road (north) and Outlot A of Hammer's Grove (south).

The Site Plan shows this area as 1.38 ac of Compost (wind-ROWS).

4. Shown as soybean and winter wheat crops on the Phasing Plan, 17.67 acres, located south of the gravel road from the twin ponds westward, up to the forest buffer along Mount Nebo Road. The Phasing Plan shows a modest buffer between this use and the Egly parcel to the east and north. This use is located adjacent to the entire east boundary to a significant portion of the northern property boundary of the Egly parcel.

The Site Plan also shows this area of 17.67 acres of soybean and winter wheat crops.

5. Shown as soybean and winter wheat crops on the Phasing Plan, 1.43 acres, located in a portion of the property bounded by Mount Nebo Road to the west, the Egly property to the north and Lot 2 of the Hamer's grove parcel to the south.

The Site Plan also shows this area of 1.43 acres as soybean and winter wheat crops.

The Phasing Plan and Site Plan do not show any access between the paved drive and the gravel drive on the property. The restricted access onto Mount Nebo Road, as required by the recommended conditions, is not shown on the Phasing Plan or the Special Exception Site Plan.



MONTGOMERY COUNTY, MARYLAND

February 26, 2004

David R. Podolsky, Hearing Examiner
Office of Zoning and Administrative Hearings
Werner Council Office Building, Room 200
100 Maryland Avenue
Rockville, Maryland 20850

Re: Special Exception Case Nos. S-2527, S-2528 and S-2529

Dear Mr. Podolsky:

The Petitioner's letter of February 17, 2004 has created the necessity for a response which is the purpose of this letter.

First, with reference to "Independent/Private/Outside Contractors." The Petitioner's response continues the basic vagueness which has been and is reflected in the information contained in this record.

Vagueness – due to not knowing how many employees of "Independent/Private/Outside Contractors" will be on the subject property at a given time. Not knowing the number of such employees makes it impossible to determine whether parking is sufficient. Additionally, not knowing when such employees will be entering or leaving the site makes it impossible to realistically calculate or analyze the traffic impact of these cases.

Vagueness – because the term "general maintenance activities which Twin Ponds either is not licensed to perform or does not have the requisite materials to perform" is not satisfactory. All activities performed by anyone that are not related to the requested special exceptions must be fully explained and specified.

Second, the reference to the "equipment" to be used by the "Independent/Private/Outside Contractors" is not satisfactory due to vagueness. All equipment brought to the site that is related to these cases should be specified and explained. It is not possible to analyze this issue based on the Petitioner's vague description and the record in this proceeding.

The record in these cases reflects the endeavors of this Office and the Hearing Examiner to get the Petitioner to submit specific information. To a degree the Petitioner during the course of the hearing has submitted more specific information about the nature and scopes of the

David Podolsky
February 26, 2004
Page 2

activities and operations encompasses within these cases. However, two basic questions, pursuant to the requirements of the Zoning Ordinance, now must be addressed.

Is there a sufficient amount of testimony and evidence in the record to analyze these cases pursuant to the requirements of subsection 59-G-1.2.1 of the Zoning Ordinance? And, at what point does vagueness become a basic factor in analyzing these cases?

Additionally, given the numerous instances of more specific information being entered into the record, as well as areas of pronounced vagueness, these cases do not resemble what was originally analyzed and considered by the Technical Staff and Planning Board.

Under these circumstances, should the Technical Staff and the Planning Board have the opportunity of reviewing these cases in a more informed analysis than was possible at the outset of this process?

Sincerely yours,



Martin Klauber
People's Counsel

MK:jte

cc: William Chen, Esquire
Erica Leatham, Esquire
Robert A. Thomassen and Diane Hogan
Jane S. Hunter
John D. and Stephanie Egly
Brett Michaels
Hagos Gebre and Sharon Freeman Louw
Terry Cummings
Robert E. Chapman
Dolores Milmoec



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
Office of the Chairman, Montgomery County Planning Board

December 3, 2002

Mr. Donald Spence, Jr. Chairman
Montgomery County Board of Appeals
Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850

Re: Special Exception Petitions S-2527, S-2528, S-2529
Twin Ponds Farm, L.L.C.

Dear Mr. Spence and Board Members:

At the regular meeting of the Planning Board on November 21 we reviewed the special exception petitions of John Hughes, Twin Pond Farms, L.L.C., to permit landscape contractor, mulch manufacture and wholesale horticultural nursery located at 15315 Mt. Nebo Road, Poolesville, in the Rural Density Transfer Zone. After extended discussion with staff, the applicant and members of the community, the Planning Board recommends that only a first phase of these special exception applications be APPROVED subject to several limiting conditions discussed below.

The Planning Board's main concerns are the potential intensity of the proposed use, its inherent characteristic of using a number of large commercial trucks on the surrounding narrow roads, and the subsequent need to increase the number of trucks used for full implementation of this request. In order to limit that potential, the Board believes that this use should be only gradually implemented, with further expansions authorized via modifications to the approved special exceptions after a period of operation. We therefore recommend approving a first phase that would include:

1. A mulch/compost manufacture operation using the area that is currently used for the farm operation,
2. The landscape contractor operation for up to 10 trucks; and
3. One of the three proposed phases for the nursery operation.

With just this phase of operations in place, all parties involved will be able to review any adverse impact on the surrounding roads and neighbors. And the applicant will be able to prove that the use can be operated without undue detrimental impact to the surrounding community. If the applicant wishes to later expand his operations, he will be able to apply for a special exception modification. Those subsequent modifications would include two other areas for mulch/compost manufacture, 5 more trucks assigned to the landscape contractor operation, and two additional areas for nursery operation.

Mr. Donald Spence, Jr., BOA Chairman

December 3, 2002

S- 2527, 2528, 2529

Page two

In the course of discussing this proposal, the Board determined that further conditions to limit the use, beyond those above and listed in the staff report are warranted. These include:

1. Stump grinding operations must be limited to 25 times per year;
2. The applicant must keep a daily log of the number and type of vehicles used in the operations for review by Department of Permitting Services staff; and
3. Traffic to and from the subject property on both driveways must be "channelized" via a traffic control device limiting access to "left in/right out" movement in order to restrict truck traffic from using Mt. Nebo Road south of the subject property.

With these recommendations for limiting conditions, and the other recommendations contained in the staff report, on a motion by Vice Chair Perdue, seconded by Commissioner Bryant, with Vice Chair Perdue, Commissioner Bryant, Chairman Berlage, and Commissioners Robinson and Wellington in agreement, the Planning Board recommends that these special exception applications be APPROVED.

Sincerely,



Derick P. Berlage
Chairman

DPB:MWF:JD



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MEMORANDUM

Date: August 8, 2002

To: Judy Daniel
Community Based Planning Division

From: Taslima Alam

Subject: Board of Appeals Petition No. S-2527, 2528, 2529

The use is commercial in nature and requires a building permit for the construction of the new building. In the event of any new buildings or an increase in building square footage, conformance under chapter 50 will be required prior to the issuance of any building permit.

MT. NEBO ROAD

17'-9"



SHOULDER

17'

TWIN PONDS ENTRANCE

RAISED ISLAND WITH 6" RAISED CURB (STD. TYPE "A" MC-100.01)

APPROVED _____

DATE

DIRECTOR, DEPT. OF TRANS.

CHIEF, DIV. ENG. SERVICES

REVISED

MONTGOMERY COUNTY
DEPARTMENT OF TRANSPORTATION

CONCEPTUAL ENTRANCE DESIGN

STANDARD NO.