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## EVALUATION OF ISSUES PERTAINING TO ALL THREE USES

Because many of the concerns raised during the hearings pertain to the site as a whole, many of the conditions of approval for these uses are repetitive – in that the same conditions are repeated for all the uses. This is still a single business with three complementary elements. It is still to be a generally seasonal operation – with busiest times in late spring, summer, and early fall. The proposed uses would use fewer than 12 acres of the 77-acre property. The remainder would remain in forest or agricultural operations. The following evaluates elements that pertain to all three uses.

### A. Driveway and Truck Access Limits

Original Plan - The Planning Board recommendation that the driveway be restricted to left turn ingress and right turn egress onto Mt. Nebo Road via a channelized island to restrict truck traffic from using Mt. Nebo Road (a Rustic Road) to the south of the property is incorporated. The visual diagram of that access-limiting island is attached.

The applicant had stated his intent from the beginning to prevent trucks from using Mt. Nebo Road to the south, and submitted the intended routing plan. This intent was reinforced by the recommended channelized driveway design.

Current Plan - All three uses are to use a common driveway for commercial applications. This has changed since the November 2002 Planning Board review. Only one driveway, the southernmost, is now recommended for use by commercial truck traffic instead of two.

*Staff Recommendation: Support the current plan as it adopts the Planning Board recommendation, but limits commercial access further. The submitted design for the channelized driveway design should be sufficient to prevent left turns by large trucks onto Mt. Nebo Road. Support for the change to only allow trucks to use one driveway is recommended, as this will require channelized design for one driveway only.*

*If the Board supports the use of the house as an office for the business (discussed in the Landscape Contractor section), allowing office employees and the owners of the business to use that driveway and park in the circular driveway near the house is recommended.*

*The design drawing should be submitted to the Rustic Roads Advisory Committee for review and comment.*

## **B. Outside Contractors Access Limits**

Original Plan - The Planning Board did not address this issue.

Current Plan - Access by outside contractors to the site is limited to no more than one per day. Such contractor may have "more than one" employee to help with the work the contractor is performing on the site. This restriction arose from concerns expressed that the use would allow an undefined number of outside contractors on the site, clogging the area roads and creating adverse conditions for those living in the surrounding area.

*Staff Recommendation: Modify the current plan. The staff supports the concept of limiting activity by closely defining contractor access. But the limits proposed are insufficient to achieve the goal. Modifications are recommended to further limit the number of employees the permitted outside contractor may bring, and the number of visits permitted per month, and to more closely define the work they may do. The number recommended and workers who may come with them are based on clarification from the Petitioner regarding the frequency of visits they anticipate.*

*A major concern of the Opposition appears to be a belief that there will be excessive traffic to and from the site created by outside or independent contractors doing maintenance, process, or auxiliary work at the site; and a fear of the number of auxiliary workers they would bring with them to do the contracted work. Without strong and clear limits this could become a problem.*

*But any business contracts with other businesses that arrive from time to time to do work related to maintenance or upgrading of the business. Any office hires painters, any restaurant hires plumbers – and so any business of this type might logically hire experts from time to time for tasks such as cleaning out a pond. These are not regular visitors to the site and cannot always be fully determined in advance. Rather than try to anticipate every potential visit, the current plan limits the number of contractors who may visit the site on a daily basis.*

## **C. Vehicle Log Requirements**

Original Plan - The Planning Board recommended requiring the applicant to keep a daily log of the number and type of vehicles used in the operations for review by the Department of Permitting Services staff.

Current Plan – The Planning Board recommendation is incorporated and expanded, requiring the logs for all the uses to be made available to the Department of Permitting Services, the Department of Environmental Protection, The Maryland Department of the Environment, and the Maryland Department of Agriculture. The log requirements are stated separately for all the uses.

The extent of the log contents is defined and must include all vehicles entering or leaving the property, except employees personal vehicles, and is to contain the time of day the vehicle enters or departs the site, the truck type and size, the type of load, the truck number (for the Petitioner's vehicles), as well as the special exception to which the trip is assigned and the entity responsible for the vehicle. The log is also to record vehicles delivering or picking up materials from the site as well as vehicles used by independent contractors.

*Staff Recommendation: The staff recommends support of the revised plans with modifications to the log requirements that clarify the contractors who may visit the site, and more clearly specify vehicles to be included in the log.*

#### **D. Fuel Tanks**

Original Plan - The originally submitted statement of operations indicated that an above ground gasoline tank for operating the equipment was to be installed on the property (as commonly used on farms).

Current Plan - To clarify and limit fuel stored on the site, a condition was added regarding the fuel tank specifications for all uses. A steel, double-lined 300 gallon tank for #2 diesel fuel is required. It is to be inspected regularly and replaced as needed. But the Site Plan indicates both diesel and gas tanks located near a storage building.

*Staff Recommendation: Because the Site Plan reflects both gas and diesel fuel tanks a modification to this element is recommended to make this applicable to both fuel tanks.*

#### **E. Community Liaison Committee**

Original Plan - This concept was not considered previously.

Current Plan - As a means to assure future cooperation and compliance a condition has been added for all three uses to establish a community liaison committee that will work to ensure adequate communications between the Petitioner and the surrounding community.

For the *Wholesale Nursery* only, the Community Liaison Committee is to be notified in advance when fertilizer or pesticides are to be applied.

*Staff Recommendation: This element will be helpful for the community, support for this element of the current plan is recommended. No modifications proposed.*

## **F. Track Vehicles Limit**

Original Plan – This concept was not considered by the Planning Board.

Current Plan - To address concerns raised during the hearings process regarding activity on the site, the current plan recommends that for all three uses “track” vehicles used on the property be limited to a “loader” and “vehicles brought to the site by an independent contractor to process materials for the Manufacture of Mulch use”.

*Staff Recommendation: It is helpful to refine the limits on equipment for these uses. Support this limitation in the current plan.*

## **G. Liability Insurance**

Original Plan - The Planning Board did not consider the issue of liability insurance for these proposed uses.

Current Plan - The Petitioner is required to maintain at least \$1,000,000 in liability insurance as a condition of approval.

*Staff Recommendation: This is an issue important to the surrounding community. Support this element of the current plan.*

## **H. Water Supply Issues**

Original Plan - The Planning Board accepted the submitted analysis of the water supply for the property. The applicant's submitted materials noted that the anticipated supply of water from the property well and the two ponds would be sufficient for the proposed uses.

Current Plan - Subsequent testimony provided more detail on the water sources. Identified sources of water now identified to serve the operations include:

- a well that is drawn from the Poolesville Area Aquifer,
- the two on-site ponds (withdrawal authorized for fire suppression only)
- a 100 gallon water tank located next to the compost piles, and
- a sediment and erosion control pond located between the compost piles and the stream valley buffer.

The Department of Permitting Services, Well and Septic Division, and Maryland Department of the Environment are the appropriate lead agencies for any further information.

*Staff Recommendation: Water supply has been more fully addressed. Support a recommendation that the location of the wellhead and the water tank capacity be added to the Site Plan.*

**I. Burning or Burying Material**

Original Plan - The Planning Board recommended a condition to prohibit burning of wood waste for the Mulch Manufacture use.

Current Plan - Reflecting subsequent testimony and material, a ban on any burning or burying material on the property for all of the uses is proposed, not just the manufacture of mulch.

*Staff Recommendation: The staff recommends support of this modification as it confirms the importance of fire prevention.*