

Hagos Gebre *
 Robert A. Thomassen *
 Jane S. Hunter, individually and representing *
 Sugarloaf Citizens Association *
 Dolores Milmo, representing *
 Audubon Naturalists Society and *
 F.A.R.M. (For A Rural Montgomery) *
 Robert Chapman, representing the Izaak *
 Walton League *
 Beverly Strauss *
 Terry Cummings *
 Brett Michaels *
 Diane Hogan *
 James Evans *

In Opposition to the Petition *

William Chen, Esquire *

Attorney for Robert A. Thomassen, *
 Diane M. Hogan, John Egly, Stephanie *
 Egly, Jane S. Hunter, individually and *
 representing Sugarloaf Citizens Association *

ORDER

Upon consideration of the Board of Appeals' Remand Order, correspondence from interested parties subsequent thereto, and advice from the Planning Board that it will not be able to consider this matter until June 24, 2004, it is this 14th day of June, 2004

ORDERED, that the Planning Board and Technical Staff are hereby requested to submit their comments, if any, with respect to the final plans on or before July 2, 2004; and it is further

ORDERED, that the Applicant, People's Counsel and all other interested parties shall submit their comments, if any, in response to the Technical Staff and/or Planning Board's comments on or before July 23, 2004; and it is further

ORDERED, that oral argument is hereby scheduled for August 17, 2004 at 9:30 a.m. in the Davidson Memorial Hearing Room, 2nd Floor, Council Office Building, 100 Maryland Avenue, Rockville, Maryland, at which time the Applicant, People's Counsel and all other interested parties will have the opportunity to respond to the written comments, if any, that were required to be submitted on or before July 23, 2004.


David R. Podolsky, Hearing Examiner

Hagos Gebre *
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 * * * * *

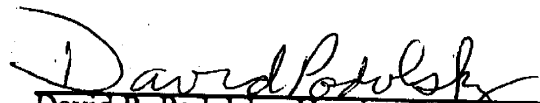
ORDER

Upon consideration of the Board of Appeals' Remand Order, correspondence from interested parties subsequent thereto AND Carlton Gilbert's letter of April 5, 2004, it is this 13 th day of April, 2004

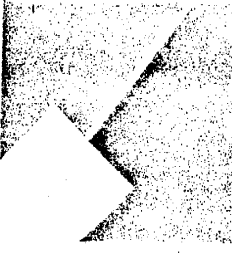
ORDERED, that the Planning Board and Technical Staff are hereby requested to submit their comments, if any, with respect to the final plans on or before June 15, 2004; and it is further

ORDERED, that the Applicant, People's Counsel and all other interested parties shall submit their comments, if any, in response to the Technical Staff and/or Planning Board's comments on or before July 1, 2004; and it is further

ORDERED, that oral argument is hereby scheduled for July 20, 2004 at 9:30 a.m. in the Davidson Memorial Hearing Room, 2nd Floor, Council Office Building, 100 Maryland Avenue, Rockville, Maryland, at which time the Applicant, People's Counsel and all other interested parties will have the opportunity to respond to the written comments, if any, that were required to be submitted on or before July 1, 2004.


David R. Podolsky, Hearing Examiner

M-NCPPC



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

8787 Georgia Avenue
Silver Spring, Maryland 20910-3760
301-495-4500, www.mncppc.org

April 5, 2004

David Podolsky, Hearing Examiner
Office of Zoning & Administrative Hearing
Stella B. Werner Office Building
100 Maryland Avenue, 2nd Floor
Rockville, Maryland 20850

Re: S-2527, S-2528, S-2529
(Twin Ponds Farm, LLC)

Dear Mr. Podolsky,

In lieu of our telephone conversation regarding the above-mentioned case, please be advised that the current schedule for this case needs to be revised, so that technical staff can submit comments (inclusive of the Planning Board's recommendation) in a timely manner. Originally, staff was requested to submit comments by April 30, 2004. However, it has come to our attention that this case will need to be presented before the Planning Board due to substantial changes proposed by the applicant to the final site plan. The case is scheduled to be heard by the Planning Board on May 27, 2004, which provides staff adequate time to review and analyze the issues of this case.

Currently, May 24, 2004 is the scheduled date for your oral arguments in response to staff's comments. This date will need to be pushed back to mid-June, so that the Planning Board's recommendation is included in staff's comments. If there are any questions regarding this matter, please do not hesitate to contact me at 301-495-4576.

Sincerely,

A handwritten signature in black ink that reads "Carlton W. Gilbert". The signature is written in a cursive, flowing style.

Carlton W. Gilbert
Zoning Supervisor

cc: Nina Foer
Judy Daniel

Hagos Gebre *
 Robert A. Thomassen *
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 Beverly Strauss *
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 Brett Michaels *
 Diane Hogan *
 James Evans *

In Opposition to the Petition *

William Chen, Esquire *

Attorney for the Opposition *

ORDER

Upon consideration of the Board of Appeals' Remand Order and of the correspondence from interested parties subsequent thereto, it is this 5th day of March, 2004

ORDERED, that, in accordance with Section 59-A-4.4(c) of the Montgomery County Zoning Ordinance, the Petitioner shall transmit to the Planning Board a copy of the final plans (including, but not limited to, the final Statement of Operations, amended Phasing Plan, revised Site Plan and all other documents showing the final proposal) on or before March 26, 2004; and it is further

ORDERED, that the Planning Board and Technical Staff are hereby requested to submit their comments, if any, with respect to the final plans on or before April 30, 2004; and it is further

ORDERED, that the Applicant, People's Counsel and all other interested parties shall submit their comments, if any, in response to the Technical Staff and/or Planning Board's comments on or before May 14, 2004; and it is further

ORDERED, that the record is reopened to receive the Remand Order, correspondence received subsequent to the Hearing Examiner's original reports, the Planning Board and Technical Staff's comments, if any, and the comments in response as described above; and it is further

ORDERED, that oral argument is hereby scheduled for May 24, 2004 at 9:30 a.m. in the Davidson Memorial Hearing Room, 2nd Floor, Council Office Building, 100 Maryland Avenue, Rockville, Maryland, at which time the Applicant, People's Counsel and all other interested parties will have the opportunity to respond to the written comments, if any, that were required to be submitted on or before May 14, 2004.


David R. Podolsky, Hearing Examiner



MONTGOMERY COUNTY, MARYLAND

February 26, 2004

RECEIVED
MAR 01 2004

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

BY:.....

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

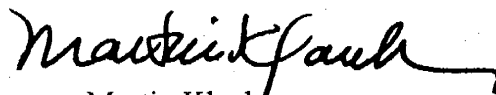
activities and operations encompasses within these cases. However, two basic questions, pursuant to the requirements of the Zoning Ordinance, now must be addressed.

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 Milmo

**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

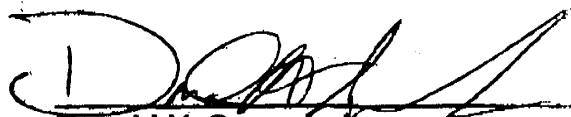
Case No. S-2527**Page 2.**

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

Case No. S-2527

Page 3.

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 9th day of January, 2004.



Katherine Freeman
Executive Secretary to the Board

NOTE:

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book (See Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure.