

Mario A. Guzman and Victor Guzman Argueta, Petitioner

Narrative Supplement in Support of
Conditional Use Petition to the
Howard County Hearing Authority
(1242 Long Corner Road, Mt. Airy – a/k/a Tax Map 6, Parcel 241, Lot 1)

8. Summary of Request

Section 8.b. Details of the proposed use, including, where applicable; types of indoor and outdoor activities; hours of operation; number of employees, occupants, and/or customers; quality and types of vehicles or equipment used; outdoor lighting to be used; quantities and capacities of materials stored; etc.

Response: The Petitioner is seeking a Conditional Use approval for a Landscape Contractor business. Most activities related to the Landscape Contractor business will take place off-site at customer jobsites. On-site activities include the arrival of employees and parking of employees' personal vehicles. Upon arrival, the employees will transfer to company-owned vehicles and will depart for various job sites. Upon return from off-site jobsites, employees will load their work vehicles with materials and supplies needed for the next workday. No customers will visit the Subject Property. The business office will be located within the residence and will be staffed by residents of the Subject Property.

Additionally, on-site Landscape Contractor business activities include the receiving and storage of materials and supplies used in the Landscape Contracting business. Such materials and supplies include by way of example: mulch, topsoil, stone, fertilizer; grass seed; plant materials; and the like. In addition, vehicles, equipment, and materials related to the Landscape Contractor business are stored on-site either in the open (screened from the public road and adjoining residential properties) or within the various structures shown on the attached Conditional Use Plan, Sheets 1 - 5.

Please see Landscape Contracting Operational Details, attached as **Exhibit A** for a detailed description of the hours of operation; number of employees, occupants, and/or customers; types and number of vehicles and equipment, materials stored; etc.

Section 8.c. Any additional information which will be useful in the evaluation of whether the Conditional Use complies with the specific criteria for the conditional use category within Section 131.0.N.32.

Response: As demonstrated on the Conditional Use Plan and elsewhere in this Petition, the proposed use complies with the general and specific criteria for approval set forth in Section 131.0.B and Section 131.0.N.32. of the Howard County Zoning Regulations (the "HCZR").

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EVALUATION OF THE PETITION UNDER HCZR SEC.131.0.B - GENERAL CRITERIA:

1. *The proposed Conditional Use plan will be in harmony with the land uses and policies in the Howard County General Plan which can be related to the proposed use.*

Response: As proposed, the Conditional Use Plan satisfies the general criteria for approval set forth in the Howard County Zoning Regulations, Section 131.0.B. Specifically, the Conditional Use Plan is in harmony with the land uses and policies indicated in the Howard County General Plan (PlanHoward 2020) for the district in which it is located. The proposed Conditional Use activities (landscape contractor) are designated as Conditional Use activities permitted within the RC zoning district. As such these Conditional Use activities are presumptively in harmony with the general plan.

2. *The nature and intensity of the use, the size of the site in relation to the use, and the location of the site with respect to streets giving access to the site are such that the overall intensity and scale of the use(s) are appropriate for the site.*

Response: The nature and intensity of the use, the size of the site in relation to the use, and the location of the Subject Property with respect to streets giving access to the Subject Property are such that the overall intensity and scale of the use are appropriate for the Subject Property. The proposed Conditional Use entails landscape contracting, the nature and intensity of this use is appropriate given the size of the area proposed for parking and storage of commercial vehicles, equipment, materials and supplies (13,206 sq. ft.) in relation to overall size of the Subject Property (281,476 sq. ft.) and because the Subject Property has direct access to Long Corner Road, a major collector roadway. Also, the intensity of the Conditional Use activities is minimized by the fact that most of the landscape contracting activities take place off-site. Please see Landscape Contracting Operation Details, attached as **Exhibit A** for a detailed description of the hours of operation; number of employees, occupants, and/or customers; types and number of vehicles and equipment, materials stored; etc. As such, the overall intensity and scale of the proposed Conditional Use is appropriate for the Subject Property.

3. *The proposed use at the proposed location will not have adverse effects on vicinal properties above and beyond those ordinarily associated with such uses. In evaluating the proposed use under this standard, the Hearing Authority shall consider whether or not:*

a. *The impact of adverse effects such as, but not limited to, noise, dust, fumes, odors, intensity of lighting, vibrations, hazards, or other physical conditions will not be greater at the proposed site than it would generally be elsewhere in the same zoning district or other similar zoning districts.*

Response: The proposed Conditional Use at the proposed location will not have adverse effects on vicinal properties above and beyond those ordinarily associated with such uses. As previously stated, the proposed use will not have any atypical adverse impacts on vicinal properties due to noise, dust, fumes, odors, lighting, vibrations, hazards, or other physical conditions. Notwithstanding, to the extent such impacts may exist those impacts certainly will

not be greater at the Subject Property than they would generally be elsewhere in the RC zoning district or applicable other zones due to the size of the Subject Property and the limited size of the proposed Conditional Use area, and the existing well-established landscape buffers on the Subject Property and additional landscape buffering and screening proposed. Additionally, the Petitioner proposes to pave the existing gravel driveway and proposed addition to the existing driveway and parking area, in order to mitigate any noise and dust. Further, the Conditional Use Plan proposes to remove an existing trailer and outdoor material storage area that is currently located approximately 20 feet from the eastern property line, adjacent to Parcel 248, Lot 3.

To further screen the use from adjacent properties, the Conditional Use Plan proposes to construct a 6-foot-high landscaped noise reducing earthen berm to be located parallel to the eastern boundary of the Property. The Conditional Use Plan also proposes an 8-foot solid entry gate and fence, with a total length of 40' will provide screening from the public road and the residential uses on the south side of Long Corner Road. Finally, existing storage areas will either be relocated to a proposed 100' x 50' pole barn located approximately 335.04 feet away from the nearest adjacent residential structure located on Parcel 248, Lot 3; or if materials or supplies are stored in the open, they will be screened from the road and vicinal properties by a combination of 1) natural topography (storage areas are approximately 30 ft. lower in elevation than the first floor elevation of the nearest adjacent residential dwelling); 2) existing and proposed vegetation and landscaping; 3) a proposed noise reducing earthen berm; and 4) a solid board on board fence (see Conditional Use Plan, Sheet 1). The placement of the proposed pole barn and storage areas will also take advantage of the property's topography and elevation which drops off significantly in the northern region of the Property. At this proposed location, the proposed pole barn and storage areas will not be visible from ground level adjacent to the residential dwelling on Parcel 248, Lot 3 (see, Site Section A-A on Conditional Use Plan, Sheet 1).

b. The location, nature and height of structures, walls or fences, and the nature and extent of the existing and/or proposed landscaping on the site are such that the use will not hinder or discourage the development and/or use of adjacent land and structures more at the subject site than it would generally elsewhere in the same zoning district or other similar zoning districts.

Response: Due to the location, nature and height of the structures, walls, or fences, and the nature and extent of the existing and proposed landscaping on the Subject Property, the proposed Conditional Use will not hinder or discourage the development and use of adjacent land and structures more at the Subject Property than it would generally in the RC zone or applicable other zones. Again, this is due to the size of the Subject Property and the limited scope of the proposed Conditional Use area. And as stated above, the existing and proposed landscape buffers; solid fencing; a gated entry; a landscaped noise berm, and natural topography will effectively screen and buffer the proposed use from vicinal properties.

c. The number of parking spaces will be appropriate to serve the particular use. Parking areas, loading areas, driveways and refuse areas will be appropriately located and buffered or screened from public roads and residential uses to minimize adverse impacts on adjacent properties.

Response HCZR Sec. 133.0 does not prescribe a parking requirement for Landscape Contractor uses. Nonetheless, the Conditional Use Plan provides a total of 12 parking spaces to serve the proposed use. The amount of proposed parking is more than adequate to serve the proposed use given that there will be a maximum of 11 employees on-site and the proposed use will not be open to the public. In addition, it is the Petitioner's experience as an employer in the landscape contracting field that many landscape contractor employees choose not to own automobiles, but rather they choose to carpool with other co-workers to their place of employment. Further, and as shown on the Conditional Use Plan, parking areas, loading areas, driveways and refuse areas will be properly located and buffered or screened from public roads and residential uses to minimize adverse impacts on adjacent properties.

d. The ingress and egress drives will provide safe access with adequate sight distance, based on actual conditions, and with adequate acceleration and deceleration lanes where appropriate. For proposed Conditional Use sites which have driveway access that is shared with other residential properties, the proposed Conditional Use will not adversely impact the convenience or safety of shared use of the driveway.

Response: The Conditional Use Plan demonstrates that the Subject Property has an existing ingress and egress drive that will provide safe access with adequate sight distance, based on actual conditions. The available sight distance at the existing access location exceeds the minimum sight distance required for safe ingress and egress under the Howard County Design Manual, Volume III – Roads and Bridges (see Conditional Use Plan, Sheet 5 & Sheet 6, and Free Flow Speed Study attached as **Exhibit B**). The proposed driveway access is not shared with other residential properties.

e. The proposed use will not have a greater potential for adversely impacting environmentally sensitive areas in the vicinity than elsewhere.

Response: The proposed Conditional Use will not have a greater potential for adversely impacting environmentally sensitive areas in the vicinity than elsewhere. The Subject Property does not contain environmentally sensitive features; nor are there sensitive environment features in the nearby vicinity. The closest off-site sensitive environmental feature (a stream) is located approximately 350 feet from the northern boundary of the Subject Property. The proposed Landscape Contractor Conditional Use area is located more than 550 feet from this stream.

f. The proposed use will not have a greater potential for diminishing the character and significance of historic sites in the vicinity than elsewhere.

Response: The proposed use will not have a greater potential for diminishing the character and significance of historic sites in the vicinity than elsewhere. The Howard County GIS indicates that the closest historic site (the Klein-Flynn House, HO 251) is located approximately 3,432 feet from the Subject Property. The Subject Property is not visible from the Klein Flynn House due to the considerable distance and separation between this historic site and the Subject Property.

EVALUATION OF PETITION UNDER HCZR SEC. 131.0.N.1 – SPECIFIC CRITERIA:

32. *Landscape Contractors*

a. *The site is at least 5 acres in area.*

Response: The Subject Property satisfies the above criterion because the total land area is 6.4618 acres +/- (281,476 sq. ft.).

b. *Buildings and outdoor areas to be used for parking, loading and storage of vehicles, equipment and tools and supplies shall be delineated on the Conditional Use plan and located at least 100 feet from lot lines and public roads.*

Response: The Subject Property and Conditional Use Plan satisfy the above criterion because all buildings and outdoor areas to be used for parking, loading and storage of vehicles, equipment and tools and supplies are delineated on the Conditional Use Plan and are located at least 100 feet from lot lines and public roads.

c. *The location and design of the operation shall be such that the use will not be a nuisance to neighboring properties due to noise, dust, or fumes.*

Response: The Subject Property and the Conditional Use Plan satisfy the above criterion because the location and design of the Conditional Use operations are such that the use will not be a nuisance to neighboring properties due to noise, dust or fumes. The Conditional Use operations have been located within the interior of the Subject Property in order to avoid the creation of a nuisance to neighboring properties and to further minimize the impacts of noise, dust, odors, fumes and vibrations. Further, any potential adverse impacts will be mitigated by 1) natural topography; 2) existing and proposed vegetation and landscaping; 3) a proposed noise reducing earthen berm; and 4) a solid board on board fence (see Conditional Use Plan, Sheets 1 & 2).

d. *Buildings used for storage or offices will be screened or compatible in scale and character with other residential or agricultural structures in the vicinity. If new structures or additions to structures are proposed, architectural elevations or renderings must be submitted with the petition.*

Response: The Subject Property and Conditional Use Plan satisfy the above criterion because all buildings used for storage are screened and are compatible in scale and character with other residential or agricultural structures in the vicinity. The character and scale of the proposed pole barn is compatible with other residential or agricultural structures in the vicinity. (See, Conditional Use Plan, Sheet 1.)

e. *Outdoor parking and storage areas shall be screened from neighboring properties and roads.*

Response: The Subject Property and Conditional Use Plan satisfy the above criterion because all outdoor parking and storage areas associated with the Conditional Use activities are screened from neighboring properties and roads by 1) natural topography; 2) existing and proposed

vegetation and landscaping; 3) a proposed noise reducing earthen berm; and 4) a solid board on board fence. (See, Conditional Use Plan, Sheet 1 & 2).

f. Minor repairs to vehicles or equipment are permitted, provided such activities take place inside a building. Body work, engine rebuilding, engine reconditioning, painting and similar activities are not permitted.

Response: The Subject Property and Conditional Use Plan satisfy the above criterion because only minor repairs to vehicles or equipment are permitted and will only take place inside the proposed pole barn. No body work, engine rebuilding, engine reconditioning, painting and similar activities will take place on the Subject Property.

g. The area used for parking and storage of commercial vehicles, equipment, materials and supplies, whether exterior or interior, shall be limited to no more than 5% of the area of the lot.

Response: The Subject Property and Conditional Use Plan satisfy the above criterion because the total land area is 6.4618 acres +/- (281,476 sq. ft.) and the total area used for parking and storage of commercial vehicles, equipment, materials and supplies associated with the Conditional Use activities, whether exterior or interior, is 13,206 Sq. Ft. +/- or 4.69% of the Subject Property. (See, Conditional Use Plan - Sheet 1 for the Site Analysis Data and Area Tabulation Chart.)

h. The Hearing Authority shall set limits on the maximum number of employees and shall set the days and hours of operation.

Response: The Subject Property and Conditional Use Plan satisfy the above criterion because this Petition does not propose to have employees working full days on-site. Rather, employees will only begin and end the workday at the Subject Property. The Petitioner currently has eleven (11) employees and requests approval for eleven (11) employees. The requested hours of operation are 6 am to 7 pm Monday thru Friday, and 7 am – 5 pm on Saturdays.

i. A snow removal service shall not be conducted as an accessory use unless specifically authorized by the Hearing Authority, upon a finding that the noise and level of activity of such a service will not be a nuisance to the neighborhood.

Response: The Subject Property and Conditional Use Plan satisfy the above criterion because this Petition proposes to provide snow removal services, but the snow removal activities consist of the off-site use of vehicles mounted with snowplows and salt spreaders. These plows and salt spreaders are mounted to vehicles already owned and utilized by the Petitioner for Landscape Contractor purposes, so no additional vehicles are required to provide snow removal services. When a snow event occurs, existing employees of the Landscape Contractor business are deployed to customer job sites to provide snow removal services for existing customers. The hours of operation for snow removal activities are of course weather dependent but will usually start shortly before a winter storm event and will continue through the end of the weather event and until the snow has been fully remove from customer's driveways, sidewalks and parking areas.

j. On the ALPP purchased or dedicated easement property, the following additional criteria are required:

(1) The use shall not interfere with farming operations or limited future farming production.

(2) Any new building or building addition associated with the use, including any outdoor storage and parking area shall count towards the cumulative use cap of 2% of the easement.

Response: The Subject Property and Conditional Use Plan continue to satisfy the above criterion because none of the Subject Property is bound by an ALPP purchase or dedicated easement.

Section 8.d. Will the Conditional Use generate any physical conditions such as noise, dust, fumes, odors, lighting, or vibrations which would be discernible from abutting and vicinal properties?

Response: The proposed Conditional Use activities will generate nominal levels of physical conditions such as noise, dust, fumes, odors, lighting, or vibrations which would be discernible from abutting and vicinal properties. However, the proposed Conditional Use activities will not have any atypical adverse impacts on vicinal properties due to noise, dust, fumes, odors, lighting, or vibrations, hazards or other physical conditions. To the extent such impacts may exist, those impacts certainly will not be greater at the Subject Property than they would generally be elsewhere in the RC-DEO zoning district or applicable other zones; particularly considering the size of the Subject Property in relation to the proposed limited size of the Conditional Use area and the existing and proposed landscape buffers and screening.

Section 8.e. Will the number of parking spaces be appropriate to serve the use and will the parking areas, loading areas, driveways, and trash receptacle areas be appropriately located and buffered from public roads and residential areas?

Response: The number of parking spaces (12) will be appropriate to serve the use and parking areas, loading areas, driveways, and trash receptacle areas will be appropriately located and buffered from public roads and residential areas by 1) natural topography; 2) existing and proposed vegetation and landscaping; 3) a proposed noise reducing earthen berm; and 4) a solid board on board fence. (See, Conditional Use Plan, Sheet 1 & 2). Trash receptacle areas will be located within the interior of the proposed pole barn. The Petitioner currently has eleven (11) employees and requests approval for eleven (11) employees.

Section 8.f. Will the ingress and egress driveway(s) provide safe access with adequate sight distance?

Response: The existing ingress and egress driveway will continue to provide safe access to the site with adequate sight distance. No new points of access are proposed. The available sight distance at the existing access location exceeds the minimum sight distance required for safe

ingress and egress under Howard County Design Manual, Volume III – Roads and Bridges. (See, Conditional Use Plan, Sheet 5).

Section 8.g. Are there any environmentally sensitive areas in the vicinity of the property and, if so, will the proposed use have any potential to affect such areas?

Response: There are no environmentally sensitive areas located on the Subject Property. There is a stream located approximately 350 feet from the northern boundary of the Subject Property. However, it is located more than 550 feet from the proposed Conditional Use area. The proposed use does not have any potential to affect this stream or its buffer.

Section 8.h. Are there any historic sites in the vicinity of the property and, if so, will the proposed use have any potential to affect such areas?

Response: The Howard County GIS indicates that the closest historic site (the Klein-Flynn House, HO 251) is located approximately 3,432 feet from the Subject Property. The Subject Property is not visible from the Klein Flynn House due to the considerable distance and separation. Furthermore, the proposed Conditional Use Plan provides that the uses and activities will be located within the interior of the Subject Property and will be screened from the view of vicinal properties and the public road. Therefore, the proposed Conditional Use will not have any potential for diminishing the character or significance of any of the vicinal properties.

Exhibit(s):

A - Landscape Contracting Operational Details

B – Free Flow Speed Study

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