

STANDARD APPLICATION
Harford County
Board of Appeals
 Bel Air, Maryland 21014

RECEIVED
 HARFORD COUNTY COUNCIL
 JUN 16 2016
 ZONING BOARD OF APPEALS
 HARFORD COUNTY, MD

Case No. 5838
 Date Filed 1/15/15
 Hearing Date _____
 Receipt _____
 Fee \$400.00
 Type Special Exception

Information to be Submitted with Application

1. A plot plan drawn to scale indicating all pertinent data.
2. A list of all adjoining property owners with mailing addresses.
3. Names and addresses of all persons having legal or equitable interest in the property.
4. All required supporting documentation or additional studies as may be required; including traffic and environmental studies, etc.

NOTE:

All applicants **MUST** schedule a pre-application meeting with the Department of Planning and Zoning prior to filing any application to the Board of Appeals.

To schedule please call **410-638-3119**.

Shaded areas for Office Use Only

Nature of Request and Section(s) of Code

CASE 5838 MAP 61 TYPE Special Exception
ELECTION DISTRICT 01 TAX ID 01015346
LOCATION Dorothy Avenue, Joppa 21085
BY Albert Bierman, 3440 Dorothy Avenue, Joppa 21085
Appealed because a special exception pursuant to
Sec. 267-88E(3) of the Harford County code to permit
a mulch processing, storage and sales use in the
AG District requires approval by the Board.

Owner (please print or type)

Name Albert J. Bierman Phone Number Call Attorney

Address 3440 Dorothy Avenue, Joppa, Maryland 21085
Street Number Street City State Zip Code

Co-Applicant _____ Phone Number _____

Address _____
Street Number Street City State Zip Code

Contract Purchaser _____ Phone Number _____

Address _____
Street Number Street City State Zip Code

Attorney/Representative Robert S. Lynch, Esquire
Elizabeth H. Thompson, Esquire Phone Number 410-879-2222

Address 30 Office Street, Bel Air, MD 21014
Street Number Street City State Zip Code

Land Description

Address and Location of Property Dorothy Avenue
Joppa, Maryland 21085-2500

Subdivision _____ Lot Number _____

Acreage/Lot Size 99.04 acres Election District 01 Zoning AG Tax ID # 015346

Tax Map No. 61 Grid No. 3B Parcel 85 669 Water/Sewer: Private Public _____

List ALL structures on property and current use:

Estimated time required to present case: 30 minutes

If this Appeal is in reference to a Building Permit, state number N/A

Would approval of this petition violate the covenants and restrictions for your property? Yes _____ No

Is this property located within the County's Chesapeake Bay Critical Area? Yes _____ No

If so, what is the Critical Area Land Use designations: N/A

Is this request the result of a zoning enforcement investigation? Yes _____ No

Is this request within one (1) mile of any incorporated town limits? Yes _____ No

Request

See attached

Justification

See attached

If additional space is needed, attach sheet to application. In answering the above questions, please refer to the Requirements that pertain to the type of approval request. (Special Exception, Variance, Critical Area or Natural Resource District (NRD) Variance, etc.)

ATTACHMENT TO BOARD OF APPEALS APPLICATION

Applicant: Albert J. Bierman

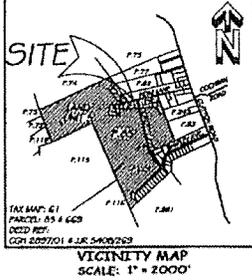
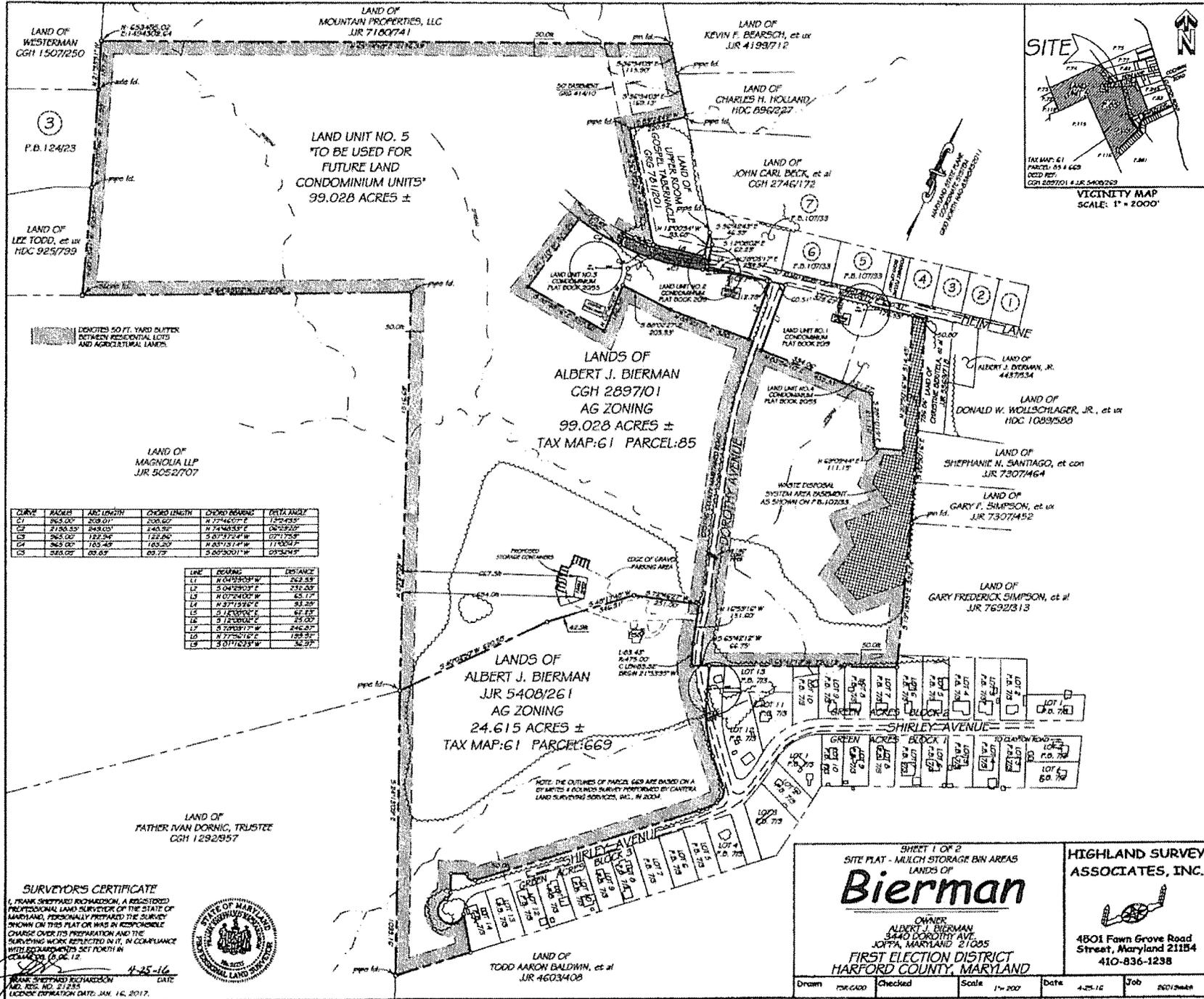
Request and Justification

Request

A special exception pursuant to Section 267-88(E)(3) of the Harford County Zoning Code to permit a mulch processing, storage and sales use on the subject property, zoned AG, Agricultural as shown on the attached site plan.

Justification

Given its size, current uses and location, the subject property is an ideal location for the proposed use. The subject property is an active farm. The proposed use is seasonal and limited in scope. The use generates very little traffic. A small area of the property will be used for mulch storage and delivery. Approximately 90% of the mulch is delivered to homeowners by the Applicant. Approximately 5% of the mulch is delivered to professional landscapers by the Applicant. The remaining 5% of the mulch is picked up at the subject property by the Applicant's customers. No adverse impact to adjoining property owners will result from approval of the Applicant's request.



LINE	BEARING	DISTANCE	CHORD BEARING	CHORD LENGTH	AREA
L1	N 04°05'38" W	262.35	N 17°46'07" E	230.67	1790.495
L2	S 04°25'00" E	232.80	N 74°53'51" E	243.50	3202.959
L3	N 02°29'00" W	62.17	S 67°32'24" W	122.80	1271.759
L4	N 37°13'24" E	93.20	N 83°17'17" W	163.20	11000.7
L5	S 12°59'00" E	67.30	S 65°30'01" W	69.17	236.297
L6	S 12°59'00" E	28.00			
L7	S 70°03'17" W	246.87			
L8	N 37°04'12" E	188.50			
L9	S 01°12'23" W	56.97			

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L9	S 01°12'23" W	56.97

SURVEYOR'S CERTIFICATE
I, FRANK SHEPHERD RICHARDSON, A REGISTERED PROFESSIONAL LAND SURVEYOR OF THE STATE OF MARYLAND, PERSONALLY PREPARED THE SURVEY SHOWN ON THIS PLAN OR WAS IN RESPONSIBLE CHARGE OF ITS PREPARATION AND THE SURVEYING WORK REFLECTED IN IT, IN COMPLIANCE WITH REGULATIONS SET FORTH IN COMAR 06.06.12.

FRANK SHEPHERD RICHARDSON DATE: 4-25-16
AND REG. NO. 21225
LICENSE EXPIRATION DATE: JAN. 14, 2017.



SHEET 1 OF 2
SITE PLAN - MULCH STORAGE BIN AREAS
LANDS OF

Bierman

OWNER:
ALBERT J. BIERMAN
3440 DOROTHY AVE.
JOPPA, MARYLAND 21085

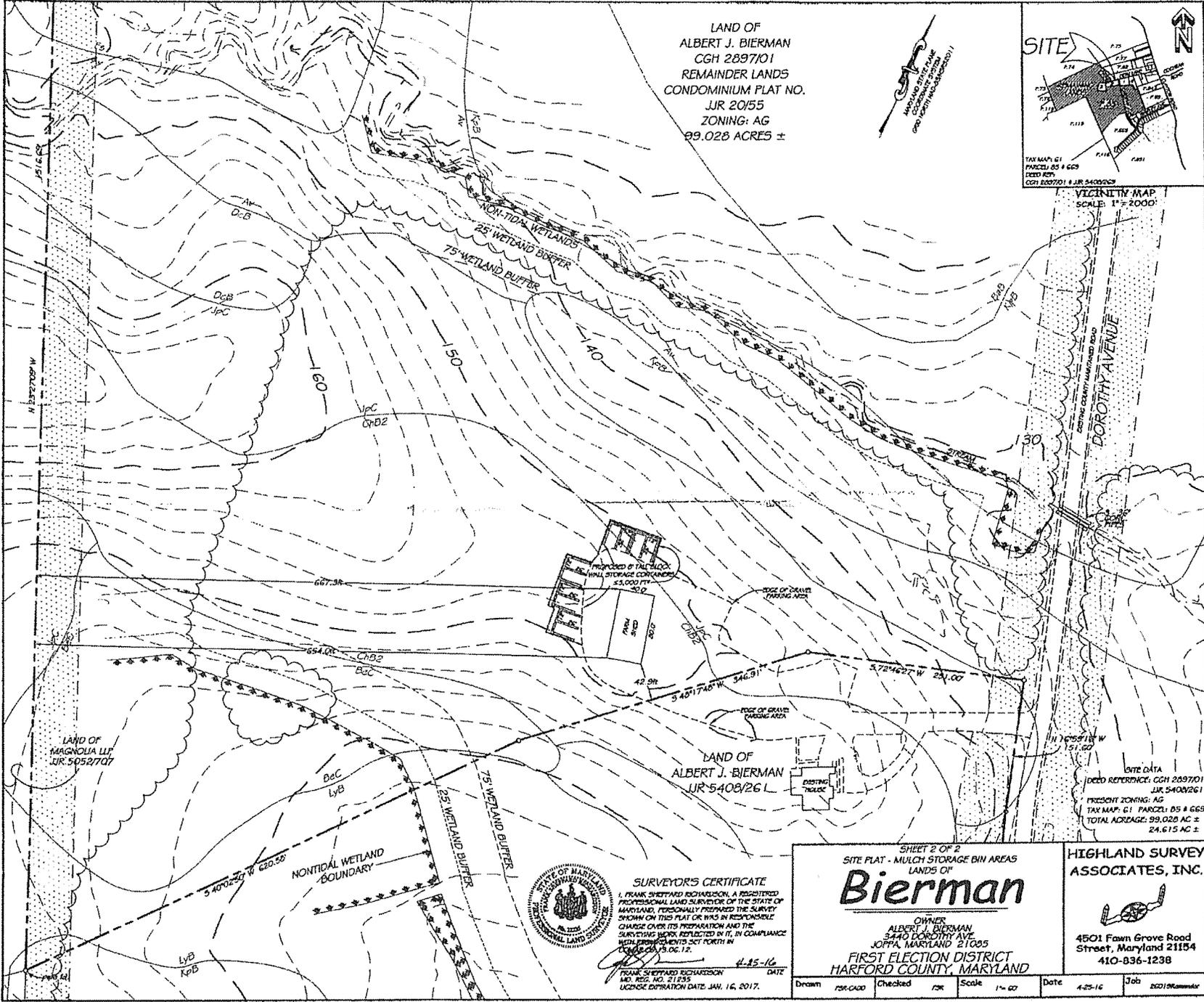
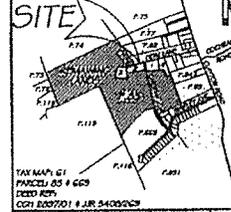
FIRST ELECTION DISTRICT
HARFORD COUNTY, MARYLAND

HIGHLAND SURVEY ASSOCIATES, INC.

4501 Fawn Grove Road
Street, Maryland 21154
410-836-1238

Drawn	7/26/2007	Checked	Scale	1" = 200'	Date	4-25-16	Job	26072668
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LAND OF
ALBERT J. BIERMAN
CGH 289701
REMAINDER LANDS
CONDOMINIUM FLAT NO.
JUR 20/55
ZONING: AG
89.028 ACRES ±



SITE DATA
DEED REFERENCE: CGH 289701
JUR 5408/26 L
PRESENT ZONING: AG
TAX MAP: G1 PARCELS 05 & 669
TOTAL ACREAGE: 89.028 AC ±
24.615 AC ±



SURVEYOR'S CERTIFICATE
I, FRANK SHEPPARD RICHARDSON, A REGISTERED PROFESSIONAL LAND SURVEYOR OF THE STATE OF MARYLAND, PERSONALLY PREPARED THE SURVEY SHOWN ON THIS FLAT OR MAPS IN RESPONSIBLE CHARGE OVER ITS PREPARATION AND THE SURVEYING WORK REFLECTED IN IT, IN COMPLIANCE WITH PROVISIONS SET FORTH IN TITLE 17, § 12.
DATE: 4-25-16
FRANK SHEPPARD RICHARDSON
M.D. REG. NO. 21835
LICENSE EXPIRATION DATE: JAN. 16, 2017.

SHEET 2 OF 2 SITE FLAT - MULTI STORAGE BIN AREAS LANDS OF				Bierman	
OWNER ALBERT BIERMAN 3440 DOROTHY AVE JOPPA, MARYLAND 21095				FIRST ELECTION DISTRICT HARFORD COUNTY, MARYLAND	
Drawn	FSR-GAO	Checked	FSR	Scale	1" = 60'
Date	4-25-16	Job#	20219Kamander		

HIGHLAND SURVEY ASSOCIATES, INC.

4501 Fawn Grove Road
Street, Maryland 21154
410-836-1238

BARRY GLASSMAN
HARFORD COUNTY EXECUTIVE

BILLY BONIFACE
DIRECTOR OF ADMINISTRATION



BRADLEY F. KILLIAN
DIRECTOR OF PLANNING & ZONING

July 26, 2016

STAFF REPORT

BOARD OF APPEALS CASE NO. 5838

APPLICANT/OWNER: Albert J. Bierman
3440 Dorothy Avenue, Joppa, MD 21085

REPRESENTATIVE: Robert S. Lynch, Esquire
Elizabeth H. Thompson, Esquire
30 Office Street, Bel Air, MD 21014

LOCATION: 3440 Dorothy Avenue
Tax Map: 61 / Grid: 3B / Parcel(s): 85 & 669
Election District: One (1)

ACREAGE: 99.04+/- Acres and 24.62+/- Acres

ZONING: AG/Agricultural

DATE FILED: January 5, 2015

HEARING DATE: August 17, 2016



APPLICANT'S REQUEST

See Attachment 1.

JUSTIFICATION:

See Attachment 1.

Maryland's New Center Of Opportunity

410.638.3103 | 410.879.2000 | TTY Maryland Relay 711 | www.harfordcountymd.gov

220 South Main Street, Bel Air, Maryland 21014

THIS DOCUMENT IS AVAILABLE IN ALTERNATIVE FORMAT UPON REQUEST

CODE REQUIREMENTS:

Section 267-88E(3) of the Harford County Code reads:

- (3) *Mulch processing, storage and sales. These uses may be granted in the AG district, provided that:*
 - (a) *A minimum parcel area of 10 acres is required.*
 - (b) *Storage areas are fully buffered from view of public roads and neighboring residences by means of a solid fence or wall at least 8 feet high.*
 - (c) *A type "E" buffer yard (see §267-30 Buffer Yards) shall be provided along any adjacent road right-of-way or adjacent property.*
 - (d) *No wood products shall be piled more than 6 feet high or above the level of the buffering, whichever is greater.*

Section 267-9I of the Harford County Code will be discussed in detail later in the report.

LAND USE and ZONING ANALYSIS:

Land Use – Master Plan:

The Applicant's property is located in the southwest portion of Harford County; north of Interstate 95 (I-95), and west of Clayton Road. The subject property is accessed from Dorothy Avenue, which intersects Heims Lane to the north and Shirley Avenue to the south. Enclosed with the report are copies of a location map and the Applicant's site plan (Attachments 2 and 3A-3B).

The subject property is located outside of the Development Envelope. The predominant land use designation in this area of the County is Agricultural/AG. The Natural Features Map reflects Agricultural Preservation Easements and Districts, Stream Systems and Sensitive Species Project Review Areas (SSPRA). The subject property is designated as Agricultural which is defined by the 2012 Master Plan as:

***Agricultural** – Areas where agriculture is the primary land use, but where development rights are available. Residential development is possible at a density of 1.0 dwelling unit for every 10 acres. Commercial uses within this area are intended to serve the agriculture industry or residents of the area while maintaining the character of the surrounding countryside.*

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Board of Appeals Case Number 5838

Albert J. Bierman

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Enclosed with the report are a copy of the Joppa Area portion of the 2012 Land Use Map and the Natural Features Map (Attachments 4 and 5).

Land Use – Existing:

The existing land uses conform to the overall intent of the 2012 Master Plan. The predominant land uses north of Interstate 95 (I-95) are single-family residential and agriculture. Institutional uses in the area include churches, daycare facilities, and schools.

The subject property contains a total 123.66+/- acres, is irregularly shaped and has approximately 1,800+/- feet of frontage along Dorothy Avenue. The Applicant's property is located north and west of properties enrolled in Agricultural Land Preservation Easement programs. The Green Acres subdivision along Shirley Avenue was created prior to 1957. This neighborhood includes single family dwellings on relatively small lots. There are continuing agricultural uses in the area, as well as dense woodland.

The Applicant's request includes two (2) adjacent parcels of record. The first parcel (Parcel 669) totals 24.62 acres +/- and is improved with a two (2) story single-family dwelling. Access to the dwelling is achieved via a gravel drive extending west from Dorothy Avenue. A large recreation pond is located to the south of the existing dwelling. The second parcel (Parcel 85) is improved with a large three (3) story metal agricultural accessory building. This parcel shares the gravel drive with the existing dwelling located on parcel 669. A recent inspection of the property revealed a stockpile of logs and loose gravel were located on the north side of the accessory structure. In addition, scattered construction debris, several metal storage containers and an untagged automobile were also noted to the west of the metal building.

A portion of the subject property surrounding the existing dwelling is open pasture and active agricultural fields. The remainder of the subject property is mature forest. A tributary to Winters Run is located within the forested area of the subject property. The property is landscaped and partially screened from Dorothy Avenue. The topography of the subject property is moderately sloping toward the northeast and the southeast.

Enclosed with the report are a site topography map, aerial photograph, and site/neighborhood photographs (Attachments 6, 7A-7B and 8A-8Q).

Zoning History and Enforcement:

The Applicant's property has been the subject of a prior zoning investigation and two (2) Board of Appeals cases. In October of 1998, The Department of Planning and Zoning received a complaint that a new use had commenced without permits, specifically the storage of mulch. In December of 1998, the Applicant filed a Board of Appeals application (Case No. 4886) for an interpretation concerning a mulch business located at 3440 Dorothy Avenue. This case was

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Albert J. Bierman

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officially withdrawn. A second application was submitted to the Department of Planning and Zoning on October 15, 1999. This request sought a special exception to establish a saw mill in the Agricultural (AG) District (Case No. 4997). That case was subsequently denied.

Zoning:

The zoning classifications in this area of the County are generally consistent with the 2012 Master Plan as well as the existing land uses. The predominant zoning classification on the north side of Interstate 95 (I-95), east of Mountain Road (MD Route 152) is Agricultural (AG). A small area of RR/Rural Residential District zoning is located to the south. The subject property is zoned AG/Agricultural District as shown on the enclosed zoning map (Attachment 9).

SUMMARY:

The Applicant is requesting a Special Exception pursuant to Section 267-88E(3) of the Harford County Zoning Code to permit a mulch processing, storage and sales use in the Agricultural (AG) District.

Section 267-88E(3) of the Harford County Code reads:

(3) *Mulch processing, storage and sales. These uses may be granted in the AG district, provided that:*

(a) *A minimum parcel area of 10 acres is required.*

The subject property is zoned AG/Agricultural and contains 123.66+/- acres. A significant portion of the property is wooded. The Applicant has proposed to operate the mulch processing storage and sales area on a relatively open area (Parcel 85), northwest of the existing dwelling.

(b) *Storage areas are fully buffered from view of public roads and neighboring residences by means of a solid fence or wall at least 8 feet high.*

The applicant's site plan proposes mulch storage and processing on Parcel 85. Access will be through Parcel 669. The applicant has further proposed to store the processed mulch in concrete block units (8-feet in height). The storage areas will be located to the north and west of the existing metal accessory shed. Evergreen trees have been planted to the east of the existing shed.

(c) *A type "E" buffer yard (see §267-30 Buffer Yards) shall be provided along any adjacent road right-of-way or adjacent property.*

The Applicant's Site plan has proposed a 50-foot buffer yard to be located around the perimeter of the properties. The type "E" buffer is delineated on both Parcel 85 and Parcel 669. A buffer

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of mature forest exists along a significant portion of the property boundaries. The remaining areas would have to be planted with new vegetation.

(d) No wood products shall be piled more than 6 feet high or above the level of the buffering, whichever is greater.

The Applicant has proposed 8-foot high concrete block wall storage containers.

Section 267-9I:

(1) The number of persons living or working in the immediate area.

Although the majority of the area west of Dorothy Road is wooded and rural in nature, the subject property is accessed through an older, established residential neighborhood along Shirley Avenue. There is also a residential subdivision of small lots located along Heims Lane.. The Department believes that the residents in this neighborhood would be impacted by the proposed use.

(2) Traffic conditions, including facilities for pedestrians and cyclist, such as sidewalks and parking facilities, the access of vehicles to roads; peak periods of traffic, and proposed roads, but only if construction of such roads will commence within the reasonably foreseeable future.

The subject property is accessed via Heims Lane, Shirley Avenue and Dorothy Avenue. These three (3) minor subdivision roads provide access to the Applicant's proposed site. The roads are narrow, constructed of tar and chip, and are approximately 16 to 20 feet in width. The roads were not designed to accommodate large truck traffic and currently serve existing low density residential uses.

(3) The orderly growth of the neighborhood and community and the fiscal impact on the County.

Although the use is permitted in the AG/Agricultural District as a Special Exception, the existing road network and proposed use will have an adverse impact on the existing established neighborhood.

(4) The effect of odors, dust, gas, smoke, fumes, vibration, glare and noise upon the use of surrounding properties.

The vehicles and equipment used in the operation of the mulch business will generate noise, dust and increased traffic. The Department believes that this proposed use will adversely impact the surrounding residents.

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Albert J. Bierman

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- (5) *Facilities for police, fire protection, sewerage, water, trash and garbage collection and disposal and the ability of the County or persons to supply such services.*

Police protection will be provided by the Sheriff's Department and the Maryland State Police. Fire and emergency protection will be provided by the local Volunteer Fire and Ambulance. The property is served by a private onsite well and septic system. Trash and garbage collection will be the responsibility of the property owner.

- (6) *The degree to which the development is consistent with generally accepted engineering and planning principles and practices.*

The Department believes that the proposed location and access to the site is not appropriate for the proposed use.

- (7) *The structures in the vicinity, such as schools, houses of worship, theaters, hospitals and similar places of public use.*

The proposed use should not have any impact on uses listed in this section.

- (8) *The purposes set forth in this Part 1, the Master Plan and related studies for land use, roads, parks, schools, sewers, water, population, recreation and the like.*

The proposed use is not considered compatible with the existing neighborhood and the intent of the Master Plan.

- (9) *The environmental impact, the effect on sensitive natural features and opportunities for recreation and open space.*

The subject properties contain large areas of mature forest, as well as a tributary to Winters Run. The proposed mulch processing and storage area is located on the south boundary of Parcel 85 property, approximately 200 feet northwest of the existing dwelling located on Parcel 669. The use should not impact the sensitive natural features located on the subject property.

- (10) *The preservation of cultural and historic landmarks.*

This condition is not applicable to the subject site and request.

SUMMARY

The Applicant has proposed to operate a mulch processing, storage and sales operation. Further, the Applicant has stated that 90% of the processed mulch is delivered from the processing location. Although no detail was provided in the formal Board of Appeals application, the vehicles and equipment used in the proposed operation would access the site utilizing Heims Lane, Shirley Avenue and Dorothy Avenue. As noted earlier in the staff report, these local

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Albert J. Bierman

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subdivision roads are 16-20 foot wide and constructed with tar and chip material. The delivery and sale of processed mulch through the established subdivisions will result in increased noise and traffic. The homes are located on small, residential lots, with the houses situated relatively close to the road(s). Therefore, the Department of Planning and Zoning believes that the proposed use will have an adverse impact on the area and surrounding residential uses.

RECOMMENDATION and or SUGGESTED CONDITIONS:

The Department of Planning and Zoning recommends that the Applicant's request be denied.



Eric L. Vacek, Planner



Anthony S. McClune, AICP
Chief, Current Planning

EV/ASM/jf