Town of Purcellville
Department of Planning and Zoning
130 E. Main Street Purcellville, VA 20132
(540)338-2304 Fax (540)338-7460

Administrative Appeal Application

Date June 5, 2015

APPEAL NUMBER BZA15-02

Appellant's Name James Alfred and Barbara T. Mason

Agent's Name Reed Smith

Phone No. (703) 641-4200 Fax No. (703) 641-4340 E-mail mbanzhaf@reedsmith.com

Mailing Address 3110 Fairview Park Drive, Suite 1400, Falls Church, VA 22042

Address of Subject Property, if applicable 341 Maple Street, Purcellville, VA 20132

PIN 487-10-5817 Zoning District C-1

I am appealing a decision by Patrick Sullivan, Zoning Administrator (Name) dated May 14, 2015 (Attach copy) in reference to:

(Summarize subject of appeal): See Attached.

Additional Submission Requirements:

- ☐ *An application properly completed.* The application must be filed in the name of the aggrieved party.
- ☐ *Statement of Justification for Appeal.* Applicant must file a statement indicating the nature of the alleged error in the decision being appealed pursuant to Purcellville Zoning Ordinance, Article 9, Section 4.
- ☐ *Payment of fee.* The fee for an appeal application must be paid at the time of submission. FEES ARE NON-REFUNDABLE.
- ☐ *Applicant must attend meetings.* Applicants or their agents must be present at the Board of Zoning Appeals meeting on the advertised public hearing date.

Agent/Owner:

I have read this completed application, understand its intent and freely consent to its filing. The information provided is accurate to the best of my knowledge.

Michael Banzhaf
Agent/Owner's Signature

June 5, 2015
Date

For Town Use Only

Application Received:		Hearing Date:		☐ Fees Paid Amount $
Approved:		Denied:		Appeal # BZA15-02

Attachment to
James Alfred and Barbara T. Mason
Administrative Appeal Application

FACTS

James Alfred and Barbara T. Mason (collectively the "Owners") the owners of 341 North Maple Street, Purcellville, Virginia (the "Property") appeal the attached zoning determination dated May 14, 2015 (the "Determination") for the following reasons:

The Property consists of approximately 3.55 acres shown on that certain plat described as "Above Ground Fuel Storage Tanks Canopy & Modular Space" by Bowers & Associates, P.C. dated February 9, 1999 (the "Plat"). The Plat illustrates entry features, parking stalls, a 12,780 square foot metal building, two modular buildings of approximately 980 square feet each, a 30 x 30 concrete tank pad with three fuel tanks (1 gasoline and 2 diesel; 10,000 gallons each) a 24 x 24 canopy with six dispensing pumps, and an impound gravel area covering at least 80% of the Property (collectively the "Property Improvements").

The Determination acknowledges the Property was zoned M-1 since at least 1982 when the Owner commenced using the Property for a contractor's storage yard, a use permitted under M-1 zoning applicable for the Property at that time. The Determination acknowledges that on July 27, 2010 the Town of Purcellville (the "Town") issued Heritage Site Development, Inc. ("Heritage") an occupancy permit for a contractor's storage yard on the Property and that Heritage has continued to use the Property for a contractor's storage yard, a use that is consistent with Owners' use of the Property since at least 1982. The Determination acknowledges that Heritage's continued use of the Property as a contractor storage yard is permissible under the Town Zoning Ordinance (the "Zoning Ordinance"). The Determination concludes Green Acres Lawn Care, Inc. ("Green Acres"), applied on February 25, 2015 for an occupancy permit on the Property for a contractor's storage yard, but the proposed Green Acres contractor's storage yard is prohibited under the Town Zoning Ordinance:

> "Both Heritage and Green Acres are considered contractor's storage yard uses and as such only one of the businesses can be allowed on the site and benefit from a non-conforming status. Heritage Site Development may continue to operate a contractor's storage yard on that site. Additional prohibited uses would be considered illegal uses, not a legal non-conformity and would be prohibited."

ARGUMENT

Section 15.2-2307 of the Code of Virginia authorizes the Town to provide in its Zoning Ordinance as follows:

> "land, buildings and structures and uses thereof that do not conform to the zoning prescribed for the district in which they are situated may be continued only so long as the then existing or more restricted use continues and such use is not discontinued for more than two years."

Consistent with Code of Virginia Section 15.2-2307, Article 5, Section 1 of the Zoning Ordinance provides as follows:

> "Except as provided herein, the lawful use of land or buildings existing at the effective date of this ordinance may be continued although such use does not conform to the provisions hereof only so long as the then existing or more restricted use continues and such use is not discontinued for more than two years, and so long as the buildings or structures are maintained in their then structural conditions. Except as provided in this article, such nonconforming use may not be enlarged, extended, reconstructed, moved or structurally altered except in compliance with the provisions of this ordinance."

The Determination is plainly wrong for the following reasons:

- The Code of Virginia and the Zoning Ordinance require continuation of a nonconforming <u>use</u>. The Code and the Zoning Ordinance do not regulate <u>occupancy</u> of a parcel of real property. The contractor's storage yard <u>use</u> commenced on the Property in 1982 was continued by the Owners and/or Heritage from 1982 until the present.

- The contractor's storage yard use of the Property in the location shown on the Plat was never abandoned, did not cease, and continues to be used on the Property. Under state law and the Town Zoning Ordinance the contractor's storage yard use for all portions of the Property shown on the Plat as improved with structures, parking or gravel may continue as a legal nonconforming use.

- Whether or not a person using the Property obtains or maintains an occupancy permit for his use of the Property is not determinative when evaluating whether a nonconforming use has continued. A failure to apply for or maintain an occupancy permit does not terminate a nonconforming use because the municipal power to license is distinct from the power to zone.

- The Town Zoning Administrator Decision discriminates between two similarly-situated Property users without any rational basis for such discrimination in violation of the United States Constitution and the Constitution of Virginia. Denial of a right of use to one party that is denied to another without a rational basis for such distinction is the type of action precluded by the General Assembly in Section 15.2-2208.1 that provides:

  > "Notwithstanding any other provision of law, general or special, any applicant aggrieved by the grant or denial by a locality of any approval or permit, however described or delineated, including a special exception, special use permit, conditional use permit, rezoning, site plan, plan of development, and subdivision, where such grant included, or denial was based upon, an unconstitutional condition pursuant to the United States Constitution or the Constitution of Virginia, shall be entitled to an award of

> compensatory damages and to an order remanding the matter to the locality with a direction to grant or issue such permit or approvals without the unconstitutional condition and may be entitled to reasonable attorney fees and court costs."

The Owners are aggrieved by the order of the Determination that while the Owner and Heritage may use the Property for a contractor's storage yard, "the lawn care use and its associated contractor's storage yard is not an allowed use on this site, it [Green Acres] is illegally occupying the site and must vacate immediately." The Board of Zoning Appeals is respectfully requested to determine that Green Acres Lawn Care, Inc. may continue to use the area of the Property previously used as a contractor's storage yard and the occupancy permit for such use may be issued.

The Owners reserve the right to present additional evidence and authority that support their appeal at the hearing of this appeal.

Respectfully submitted,

Reed Smith LLP on behalf of Owners
3110 Fairview Park Drive
Suite 1400
Falls Church, VA 22042
(703) 641-4200
mbanzhaf@reedsmith.com

Town of Purcellville Virginia
Community Development Department
Town of Purcellville
221 South Nursery Avenue
Purcellville, VA 20132
540-338-2304 www.purcellvilleva.gov

May 14, 2015

Eric Zimmerman, Esq
RoganMillerZimmerman, PLLC
50 Catoctin Circle, NE Suite 333
Leesburg, VA 20176

James Alfred & Barbara T Mason
36702 Paxson Road
Purcellville, VA 20132

Re: Green Acres Lawn Care, Inc. 341 Maple Ave, Purcellville, VA

Dear Mr. Zimmerman and Mr./Ms. Mason:

This letter is regarding your request for a commercial occupancy permit on behalf of Green Acres Lawn Care, Inc. to be located at 341 North Maple Street in the town of Purcellville. Please remember that the burden of proof is on the applicant to provide the appropriate evidence that supports their position.

Findings of fact.

1. The property, further identified by the County Assessor PIN Number 487-10-5817 and located at 341 North Maple Street, is located in the C-1 (Office Commercial) zoning district. The property is not in the historic corridor overlay district.
2. The Mason's provided an affidavit stating that they started their construction business at the Maple Ave site in 1982.
3. On August 12, 2008, as part of a comprehensive zoning update, this property had its zoning classification changed from M-1 to C-1.
4. A letter of notification, informing Barbara and James Alfred Mason that there would be a change to their zoning classification was mailed to them on August 1, 2008.
5. The Planning Commission and Town Council held public input sessions and public hearings in May, June and July 2008 regarding the Zoning Ordinance text amendments. The Town Council held a duly advertised Public Hearing on August 12, 2008 at 7pm at Town Hall.
6. Resolution 08-08-05, adoption of a revised zoning map for the Town of Purcellville, was duly adopted August 12, 2008.
7. Prior to the adoption of Resolution 08-08-05 the site was located in an M-1 zoning district and a contractor's storage yard use was a permitted by-right use.
8. A contractor's storage yard is a prohibited use in the present C-1 zoning district.

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9. Owners Alfred and Barbara Mason did not renew their business license for the March 2008 renewal year or any year thereafter. Their last business license on that site expired February 29, 2007.
10. Heritage Site Development received a business license and occupancy permit on July 27, 2010.
11. Green Acres Lawn Care, Inc. moved onto the site sometime prior to 1/7/2015.
12. The Town received a complaint from a neighbor about the site on 1/7/2015. The complaint stated that there was excess noise, dust, and heavy equipment fumes.
13. The Town has no record of a business license or occupancy permit for Green Acres Lawn Care.
14. Green Acres Lawn Care applied for an occupancy permit in February 2015.
15. The application for an occupancy permit has not been approved.
16. Heritage Site Development, Inc. still has an active business license and occupancy permit for the site.
17. The Zoning Ordinance for the Town of Purcellville, Virginia states that:

> *Article 5 Section 2. - Nonconformities.*
>
> *...<u>No additional uses which would be prohibited generally in the zoning district involved shall be permitted</u>.*

Green Acres Lawn Care is an additional use and is therefore prohibited in the C-1 district.

18. Owner Barbara Mason provided a timeline affidavit, dated February 25, 2015. That affidavit states that "4. ... Heritage continued the same use of the premises by becoming our major tenant." The affidavit continues to say that "5. Green Acres Lawn Care, Inc. likewise became our tenant, using the premises as we did, i.e., storing equipment, vehicles and materials.

<u>Conclusions.</u>

1. The contractor's storage yard use was established in 1982.
2. In 2008 the Town of Purcellville changed the zoning of 341 N Maple Ave. from M-1 to C-1. The owner of the property Alfred and Barbara Mason were notified of the upcoming change in a letter that was mailed to them by the Purcellville Office of Planning and Zoning. In addition, the Town held the required public hearings along with the required advertising prior to adopting the text changes and changes to the zoning map.
3. The change to the zoning map resulted in a contractor's storage yard use becoming a non-conforming use in the C-1 district.
4. The Masons failed to renew their business license for the period beginning March 1, 2008. Thereafter the Mason's never renewed their business license for 341 North Maple Ave.
5. Mason was the sole occupant of the contractor's storage yard prior to the expiration of their business license in February 2007,

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6. Heritage Site Development, Inc. received an occupancy permit for a contractor's storage yard on July 27, 2010.
7. The affidavit provided by the Masons in section 4 confirmed that Heritage "...continued the same use of the premises..." (a contractor's storage yard)
8. Heritage was able to continue the non-conforming use as it was a continuation of the use that Mason had started. Less than two years had elapsed between the time the district zoning changed and Heritage occupied the property.
9. Starting on the date of Heritage's occupancy on July 27, 2010, Heritage was the only contractor registered with the Town using the site as a contractor's storage yard.
10. Green Acres Lawn Care moved onto the site sometime prior to January 2015. They did not get an occupancy permit or a business license.
11. Green Acres is an additional use on the site and therefore did not replace an existing business (Heritage). It is an additional non-conforming use and as such is not allowed in this zoning district.
12. There are, as of 4/21/2015, two contractor's storage yard uses (Heritage and Green acres) occupying the site.

Decision.

The Purcellville Zoning Ordinance prohibits additional uses which would generally be prohibited in the zoning district (Article 5 Section 2, Purcellville Zoning Ordinance [PZO]). A contractor's storage yard and a lawn care business are prohibited uses in the C-1 District (Article 4 Section 6. PZO). Any uses added to the site following the zoning district changes (2008) must conform to the uses presently allowed in the C-1 District. The Green Acres Lawn Care business is an additional non-conforming use on the property which applied for an occupancy permit in 2015. Both Heritage and Green Acres are considered contractor's storage yard uses and as such only one of the businesses can be allowed on the site and benefit from a non-conforming status. Heritage Site Development may continue to operate a contractor's storage yard use on that site. Additional prohibited uses would be considered illegal uses, not a legal non-conformity and would be prohibited.

Based on the above facts and conclusions, it is my determination that the lawn care use and its associated contractor's storage yard is not an allowed use on this site, it is illegally occupying the site and must vacate immediately.

Right of Appeal.

This letter constitutes a decision by the Zoning Administrator that shall be final and unappealable if not appealed within thirty (30) days from the date shown on this letter. Section 15.2-2311 of the Code of Virginia, as amended, allows any person aggrieved by this decision to submit an appeal. An appeal package must be *received* by the Zoning Administrator and Board of Zoning Appeals within 30 days from the date shown on this letter at the

Town of Purcellville Virginia
Community Development Department
Town of Purcellville
221 South Nursery Avenue
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following address: Town of Purcellville Zoning Administrator and Board of Zoning Appeals, 221 South Nursery Avenue, Purcellville, Virginia, 20132.

An appeal package must include all of the following: (1) a completed appeal application form, which is available from the Town of Purcellville Department of Community Development, located in Town Hall, 221 South Nursery Avenue, Purcellville, VA 20132, and is also available on the Town's website at www.purcellvilleva.gov; (2) a copy of this letter; (3) a written statement specifying the grounds for your appeal; and (4) an appeal fee in the form of a check payable to the Town of Purcellville in the amount of $500.

Information regarding the submission of an appeal may be found in the Town of Purcellville Zoning Ordinance, Article 9, Sections 11, 12, and 13, which may be viewed at the Town of Purcellville Department of Community Development, located in Town Hall, 221 South Nursery Avenue, Purcellville, VA 20132, and may also be viewed on the Town's website at www.purcellvilleva.gov. Questions about the submission of an appeal may be answered by contacting the Town of Purcellville Department of Community Development at 540-338-2304.

Sincerely,

Patrick Sullivan, AICP CED
Zoning Administrator
Town of Purcellville

Town of Purcellville Virginia

Commercial Occupancy Permit

Permit # CO_____

Department of Community Development
221 S. Nursery Avenue, Purcellville, VA 20132
Phone: 540-338-2304 Fax: 540-338-7460

Application Type:

☑ **Occupancy:** Proposed Use: storage yard Sq. Ft. 36,510

☐ **Change of Use:** Proposed Use: warehouse storage for Sq. Ft. 4,440
Former Use: materials and equipment Sq. Ft. _____
Other Existing Uses (List all uses on site with square footages):

Number of Employees: 10
the number of employees varies with the seasons

Off Street Parking: the entire storage yard can be used for parking as needed
Total Existing Off-street Parking Spaces: 20 approx.
Spaces Required for Proposed Use: _____
Spaces Provided: _____

Subdivision / Development: _____ **Zoning District:** _____

Site Address: _____ **PIN #** _____

Applicant Name: John Rees

Business Name: Green Acres Lawn Care Inc

Mailing Address: 19090 Ebenezer Church Rd. Round Hill VA 20141

Phone #: 540-554-2506 **E- Mail:** greenacres@rstarmail.com

Property Owner's Name (If Different): _____

Mailing Address: _____

Phone#: _____ **E-Mail:** _____

I as the applicant for this permit do hereby agree to comply with the conditions of this permit and all other applicable town requirements:

_____ 2/3/15
Applicants Signature **Date**

I, as owner or authorized agent for the above-referenced parcel, agree to the proposed use on my property as described herein. I grant permission to the Town or authorized government agents to enter the property and make such investigations and tests as they deem necessary for the processing of this permit. Final inspections are scheduled through the Town of Purcellville Zoning Associate. Any special requests for an inspection must be made 48 hours in advance.

Barbara L Moss 2/25/15
Property Owners Signature **Date**

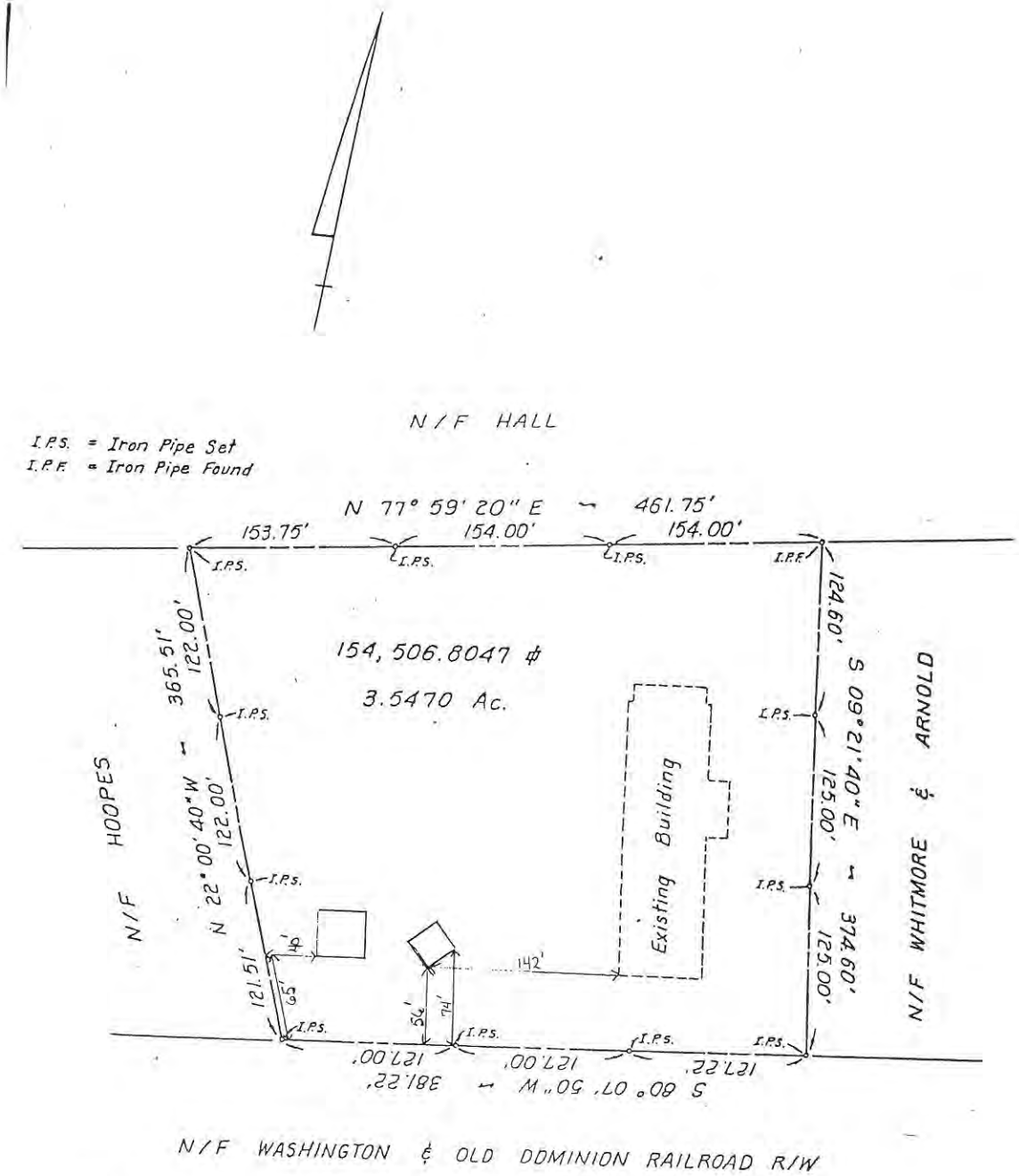
Permit Fee: _____ **Property Taxes Paid:** _____ **Business License:** _____

Occupancy Inspection Approval: _____ **Date:** _____

Zoning Approval: _____ **Date:** _____

Conditions:

Permit # - CO



COMMONWEALTH OF VIRGINIA
DARWIN H. OWENS
No.
1382

PLAT SHOWING

Town of Purcellville Virginia
Community Development Department
Town of Purcellville
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May 14, 2015

Eric Zimmerman, Esq
RoganMillerZimmerman, PLLC
50 Catoctin Circle, NE Suite 333
Leesburg, VA 20176

James Alfred & Barbara T Mason
36702 Paxson Road
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Sincerely,

Patrick Sullivan, AICP CED
Zoning Administrator
Town of Purcellville

SENDER: *COMPLETE THIS SECTION*

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

James Alfred & Barbara Mason
36702 Payson Rd
Purcellville, VA 20132

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X [signature] ☐ Agent ☐ Addressee

B. Received by *(Printed Name)* C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☒ Certified Mail ☐ Express Mail
☐ Registered ☒ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? *(Extra Fee)* ☐ Yes

2. Article Number
(Transfer from service label) 7012 2210 0002 1080 7218

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-15

SENDER: *COMPLETE THIS SECTION*

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Eric Zimmerman, Esq.
Rogan Miller Zimmerman PLLC
50 Catoctin Circle NE Ste 333
Leesburg, VA 20176

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X [signature] ☐ Agent ☐ Addressee

B. Received by *(Printed Name)* C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☒ Certified Mail ☐ Express Mail
☐ Registered ☒ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? *(Extra Fee)* ☐ Yes

2. Article Number
(Transfer from service label) 7012 2210 0002 1080 7225

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-15

UNITED STATES POSTAL SERVICE

PO VA
VA 220
18 MAY '15
PM 3 L

First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4 in this box •

Town of Purcellville
221 S. Nursery Ave
Purcellville VA 20132

Community Newsl

RECEIVED
MAY 20 2015
TOWN OF PURCELLVILLE

UNITED STATES POSTAL SERVICE

PO VA
VA 220
19 MAY '15
PM 4 L

First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4 in this box •

Town of Purcellville
221 S. Nursery Ave
Purcellville, VA 20132

Community Newsl.

RECEIVED
MAY 21 2015
TOWN OF PURCELLVILLE

7012 2210 0002 1080 7225

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com®

OFFICIAL USE

Postage	$ 48
Certified Fee	3.30
Return Receipt Fee (Endorsement Required)	2.70
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	$ 6.48

Postmark Here

Sent To: Eric Zimmerman
Street, Apt. No.; or PO Box No.: 50 Catoctin Circle NE Ste 333
City, State, ZIP+4: Leesburg, VA 20176

PS Form 3800, August 2006 — See Reverse for Instructions

7012 2210 0002 1080 7218

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com®

OFFICIAL USE

Postage	$ 48
Certified Fee	3.30
Return Receipt Fee (Endorsement Required)	2.70
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	$ 6.48

Postmark Here

Sent To: James Alfred & Barbara T. Mason
Street, Apt. No.; or PO Box No.: 36702 Parson Rd
City, State, ZIP+4: Purcellville VA 20132

PS Form 3800, August 2006 — See Reverse for Instructions

Mayor
Robert W. Lazaro, Jr.

Council
Gregory W. Wagner
Christopher J. Walker, III
Thomas A. Priscilla, Jr.
Stephen Varmecky
James O. Wiley
Joan Lehr

Town of Purcellville Virginia

Town Manager
Robert W. Lohr, Jr.

Assistant Town Manager
J. Patrick Childs

130 E. Main Street
Purcellville, VA 20132
(540) 338-7421
Fax: (540) 338-6205
www.purcellvilleva.gov

August 1, 2008

MASON, JAMES ALFRED & BARBARA T R/S
36702 PAXSON RD
PURCELLVILLE VA 20132-3935

NOTICE OF PUBLIC HEARING
PROPOSED ZONING CHANGES AFFECTING YOUR PROPERTY
Application #: RZ08-02 Proposed Amendments to the
Town of Purcellville Zoning Map for the Purposes of
Implementing the Policies of the Town of Purcellville 2025 Comprehensive Plan

Parcel (County Property Identification Number):	487105817
Parcel Address in Purcellville:	341A N Maple Ave.
Proposed Zoning District Classification:	C-1 (Office Commercial)
Existing Zoning District:	M-1 (Limited Industrial)
Existing Overlay District:	None
Existing Comprehensive Plan Designation:	Professional Office Planned Land Use Area

Dear Property Owner:

This letter provides you notice that, as a result of public comments received at the previous Planning Commission and Town Council public hearings on the above-referenced matter, the Purcellville Town Council is now proposing changes from the previously advertised Revised Zoning Map that will remap one or more land parcels to more intensive use and less intensive use classifications than those contained in the public notices for previous hearings on this matter. The appropriate changes proposed by the Town Council are: A vacant parcel along Hirst Road east of 205 Hirst RD (PIN# 487196082) previously advertised to remain Transition X would be remapped to C-1-Office Commercial; Purcellville Volunteer Rescue Squad, 211 S. 20th St. (PIN# 488278461) previously advertised to be remapped to IP-Institutional and Public Use, would be remapped to R-3-Duplex Residential; 148 E. Main Street (PIN# 488282086), previously advertised to be remapped to IP-Institutional and Public Use, would be remapped to R-3-Duplex Residential; Vacant church site at 600 Yaxley Drive (PIN# 454461136), previously advertised to be remapped to IP-Institutional and Public Use, would retain its current zoning of PDH-2.

The Town Council will hold a new public hearing in the Town Council Chambers at 130 East Main Street, Purcellville, Virginia on **Tuesday, August 12, 2008 beginning at 7:00 PM** at which public comments will be received on all proposed amendments to the Purcellville Zoning Map, including revisions to the zoning classification of your property. The proposed changes to the zoning classification will affect the allowable uses and/or densities on your property.

The official Zoning Map is being revised to implement the goals set forth in the Plan. This comprehensive rezoning will affect changes to the zoning designations of certain properties. However, overlay zones for floodplain and the historic corridor will remain the same.

Property:

According to the current real estate tax assessment records, you are shown as the property owner or agent of the parcel or parcels listed above. The Property Identification Number, or PIN Listed as "parcel" above, is used by the County and the Town of Purcellville to identify parcels of land.

New Zoning District Classification (Zoning Map Amendments)

The new zoning district classification proposed for your property is listed above, including any applicable zoning overlay districts. The zoning district classification corresponds to regulations governing the use and development of the property, including density or lot yield. The Zoning Ordinance and Zoning Map include zoning overlay districts in addition to the zoning district classifications. Properties in overlay districts are subject to additional regulations related to the protection of certain environmental or historic resources.

Zoning Ordinance Text Regulations

The proposed new zoning classification for your property is identified above as C-4 Central Commercial. Please see the attachment for a summary of the zoning regulations for the current zoning district designation and the proposed zoning district designation for your property. The Planning Commission and Town Council held public input sessions and public hearings in May, June and July 2008 regarding Zoning Ordinance text amendments to the zoning district regulations for the Commercial and Industrial Districts that may affect the permitted uses and densities in the districts. You were encouraged to participate in these public sessions and hearings in your last notice regarding this matter.

Additional information:

Copies of the Draft Revised Zoning Map as well as the current official Zoning Map, the *2025 Comprehensive Plan* and the Purcellville Zoning Ordinance are available for review weekdays 8:00 am to 5:00 p.m. except holidays at: Purcellville Department of Planning and Zoning, 130 East Main Street, Purcellville, VA 20132.

At the public hearing, any interested persons will be heard as to their views pertinent to these matters. If you require any type of reasonable accommodation as a result of a physical, sensory, or mental disability, to participate in this meeting, contact the Department of Planning at 540-338-2304. Please provide three days notice.

Sincerely,

Martha Mason Semmes

Martha Mason Semmes, AICP, CZA
Director of Planning & Zoning

Mayor
Robert W. Lazaro, Jr.

Council
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www.purcellvilleva.gov

TOWN OF PURCELLVILLE
IN

LOUDOUN COUNTY, VIRGINIA

RESOLUTION NO. 08-08-05 **PRESENTED:** **August 12, 2008**
ADOPTED: **August 12, 2008**

A RESOLUTION: ADOPTION OF REVISED ZONING MAP

WHEREAS, the Purcellville Planning Commission in February 2004 initiated the five-year review of the 1998 Purcellville Comprehensive Plan required by Section 15.2-2230 of the Code of Virginia, as amended, and held public input sessions on September 11 and September 25, 2004, to solicit public comments and concerns for the comprehensive plan and any amendments thereto; and

WHEREAS, the Planning Commission considered these public comments; the results of public planning and design charettes sponsored by the Town on May 1-3, 2003, May 16, 2003, March 19, 2004, and June 8-10, 2005; and comments from a public hearing on September 7, 2006 in the development and recommendation of a revised comprehensive plan on October 5, 2006; and

WHEREAS, after required public hearings on this *Purcellville, Virginia 2025 Comprehensive Plan* on November 14, 2006 and December 12, 2006, this Council adopted the *Purcellville, Virginia 2025 Comprehensive Plan* in December 2006; and

WHEREAS, following adoption of the *Purcellville, Virginia 2025 Comprehensive Plan* the Planning Commission, at the direction of this Town Council, proceeded to prepare a comprehensive Revised Zoning Map to establish new zoning districts and revise certain existing zoning district boundaries within the Town of Purcellville; and

WHEREAS, the Planning Commission and Town Council developed and considered amendments to the text of the Town of Purcellville Zoning Ordinance, as necessary or advisable, including new and revised district regulations to accompany the Revised Zoning Map; and

WHEREAS, the Planning Commission conducted a series of public workshops to solicit public input regarding the Revised Zoning Map and Zoning Ordinance text amendments; and

WHEREAS, following the preparation of a Draft Revised Zoning Map, dated May 2008, the Planning Commission held a public hearing on the Draft Revised Zoning Map on May 15, 2008, at which public comments were received; and

WHEREAS, on June 19, 2008, the Planning Commission recommended approval of the Draft Revised Zoning Map; and

WHEREAS, the Town enlisted the services of zoning consultant Herd Planning & Design to assist the Planning Commission in preparing the Zoning text amendments regarding commercial and industrial zoning districts; and

WHEREAS on July 8, 2008, the Town Council and Planning Commission held a joint public hearing on the commercial and industrial Zoning Ordinance text amendments; and

WHEREAS, on August 7, 2008, the Planning Commission recommended approval of the commercial and industrial Zoning Ordinance text amendments; and

WHEREAS, on June 10, 2008, the Town Council held a public hearing on the Draft Revised Zoning Map dated May 2008, which was continued to July 8, 2008; and following appropriate changes in response to public comments that would re-map several parcels of land to more intensive and less intensive use classifications than the classifications contained in the public notice of the Draft Revised Zoning Map, dated May 2008, this Council held a second public hearing on August 12, 2008 on the Draft Revised Zoning Map dated July 2008; and

WHEREAS, the Planning Commission and Town Council provided the required notice for their respective public hearings in the newspapers, to neighboring jurisdictions and individual letters to all affected property owners notifying them of the proposed new zoning designations for their property and

WHEREAS, this Town Council wishes to adopt the Revised Zoning Map dated July 2008, to make findings, to provide for transitional rules in the implementation of the Revised Zoning Map dated July 2008, and to establish the effective date of the Revised Zoning Map dated July 2008; now therefore;

BE IT ORDAINED AND RESOLVED, as follows:

Section 1. Adoption of Revised Zoning Map. The Town Council hereby adopts a comprehensive revised zoning map for the Town of Purcellville. The new map is identified as, "Town of Purcellville Revised Zoning Map, July 2008" [as prepared by the Department of Planning and Zoning], hereinafter identified as the Town of Purcellville "Revised Zoning Map". The new map is also referenced as RZ08-02

– Zoning Map Amendment for the Town of Purcellville. A copy of the Revised Zoning Map shall be maintained among the records of the Town of Purcellville along with this Resolution.

Section 2. Authorization of Zoning Administrator to Make Clerical Corrections. The Zoning Administrator is hereby authorized and directed to make clerical corrections to the new Town of Purcellville Revised Zoning Map, as necessary for the clarity and accuracy of the document, including (a) corrections of typographical or drafting errors and (b) changes to the legend compatible with the adopted Town of Purcellville Zoning Ordinance.

Section 3. Findings. The Revised Zoning Map is adopted in furtherance of the public necessity, convenience and general welfare, is consistent with good zoning practice, and is enacted after substantial public discussion and debate. The Town Council has given due consideration to the matters and purposes set out in the Code of Virginia for such action. Without limiting the foregoing, the Council includes the following findings as part of its action:

a. The Revised Zoning Map is in substantial conformance with the adopted *Purcellville, Virginia 2025 Comprehensive Plan.*
b. The Town Council has considered and enacted appropriate and reasonable zoning designations for each parcel in the Town. These designations were developed with due consideration for the recommended land use designations contained within the *Purcellville, Virginia 2025 Comprehensive Plan*, as well as for the concerns of the public and consideration of changes in circumstances in the community since adoption of the Plan in December 2006.
c. The Revised Zoning Map provides for a wide range of housing types, including single-family detached, single-family attached and multi-family housing.
d. The Revised Zoning Map encourages additional commercial and industrial development to better balance the Town's tax base and help to reduce the relative tax burden on residential property owners.
e. The Revised Zoning Map, by remapping older residential neighborhoods to match their current density, remapping institutional uses to a new Institutional and Public Use district, and remapping commercial and industrial uses, as recommended in the *Purcellville, Virginia 2025 Comprehensive Plan*, reduces the potential number of new dwelling units in the town by over 1,000 units, permitting the Town utility system to better accommodate future commercial and industrial development to better balance the tax base, which is consistent with the efficient and economical use of public funds.
f. The Revised Zoning Map furthers the protection of the Town's natural, agricultural, and historic resources and promotes the creation of a convenient, attractive and harmonious community.

Section 4. Transition Rules.

a. For any property subject to an approved, currently valid preliminary subdivision plat as of August 1, 2008, the Town will review and act on record subdivision plats in conformance with the approved preliminary plat pursuant to the provisions of Virginia Code Section 15.2-2260(F), including the time limitations and diligent pursuit requirements of that statute.

b. The Town shall review and process any subdivision application officially accepted on or before August 1, 2008, in accordance with the zoning district designations in effect at the time of acceptance of the application. The applicant shall diligently pursue approval of the application within the twelve (12) month period following the effective date of the adoption of the Revised Zoning Map. Any such applications shall be subject to Virginia Code Section 15.2-2260(F), including the time limitations and diligent pursuit requirements of that statute, and any other State, federal or local regulations applicable to such applications.

Section 5. Effective Date. The Town of Purcellville Revised Zoning Map as adopted in Section 1 shall become effective immediately upon its adoption.

Section 6. Severability. Any section or provision of the Revised Zoning Map shall be separable and severable in accordance with Article 16 of the Town of Purcellville Zoning Ordinance.

PASSED THIS 12th DAY OF AUGUST 2008.

Robert W. Lazaro, Jr., Mayor
Town of Purcellville

ATTEST:

Jennifer Helbert, Town Clerk

Town of Purcellville Virginia

COMMERCIAL OCCUPANCY PERMIT

130 E. Main St, Purcellville, VA 20132
Phone: 540-338-2304 Fax: 540-338-7460

Permit # CO- 10-067

APPLICATION TYPE:

___ OCCUPANCY: Proposed Use: yard. office Sq. Ft. 15,000 1900

NO CHANGE OF USE: Proposed Use: _____ Sq. Ft. _____

Former Use: _____ Sq. Ft. _____

Other Existing Uses (List all uses on site with square footages):

_____ Sq. Ft. _____

_____ Sq. Ft. _____

 # OF EMPLOYEES: 4

OFF-ST PARKING:

Total Existing Off-street Parking Spaces: _____

Spaces Required for Proposed Use: _____ Spaces Provided: _____

SITE ADDRESS: ~~350~~ 341-A N. Maple Ave, Purcellville, VA 20132 **PIN #** _____

APPLICANT NAME: Michael L. Bertelson

BUSINESS NAME: Heritage Site Development, Inc.

MAILING ADDRESS: P.O. Box 2815, Purcellville, VA 20134 **PIN #** _____

PHONE #: 540-338-4240 **EMAIL:** MBHERITAGESITE@Verizon.net

PROPERTY OWNER NAME (IF DIFFERENT): Alfred Mason

MAILING ADDRESS: 36702 Paxson Rd Purcellville, VA. 20132

PHONE #: 540-338-4165 **E-MAIL:** _____

I as the applicant for this permit do hereby agree to comply with the conditions of this permit and all other applicable town requirements:

_____ **DATE:** July 23, 2010
APPLICANT'S SIGNATURE

I, as owner or authorized agent for the above-referenced parcel, agree to the proposed use on my property as described herein grant permission to the Town or authorized government agents to enter the property and make such investigations and tests a they deem necessary for the processing of this permit:

A. Mason **DATE:** July 23, 10
OWNER'S SIGNATURE

PIN # 453-45-6966 487105817000

FOR OFFICE USE ONLY

ZONING DISTRICT: C-1 **FEE:** 100.00 **DATE PD:** 7-26-10

OCCUPANCY INSPECTION APPROVAL: _____ **DATE:** 7-27-10

CURRENT BUSINESS LICENSE ON FILE WITH FINANCE : _____ **DATE:** _____

CONDITIONS OF APPROVAL: TAXES: yes paid SKJ

APPROVED as indicated: _____ **DATE:** 7-28-10
ZONING ADMINISTRATOR

PAID
JUL 26 2010
TOWN OF PURCELLVILLE

THIS PERMIT EXPIRES ONE YEAR FROM THE APPROVAL DATE IF THE AUTHORIZED USE OR ACTIVITY IS NOT COMMENCED AS APPROVED

Town of Purcellville Virginia

Department of Community Development
221 S. Nursery Avenue Purcellville, VA 20132
(540)338-2304 Fax (540)338-7460

Zoning Complaint

Tracking # ZC 15-1

Date & Time of Complaint: 1 / 7 /2015 2:15 a.m./p.m. Taken by: Lucker

Name of Complainant/Reporting Party: [redacted]

Telephone No. (Day) [redacted] (Evening) _____ (Cell/Other) _____

E-mail: _____ Resident ☒ Non-resident ☐

Physical Address: Skyline Drive LC PIN: _____

Mailing Address: _____

Preference for Follow-up Contact By Town: TELEPHONE (Day, Evening, Cell/Other) E-MAIL OTHER: _____

ADDRESS/LOCATION OF COMPLAINT: 341 N. Maple Ave

NATURE OF COMPLAINT: Noise, dust heavy equipment fumes

Complaint Rec'd Via: E-mail Phone Walk-in Other: _____

Notes: Returned call and told him that we are trying to resolve issue. Green Acre Landscaping has moved off property. Heritage Site Devel. is still located there.

Assigned to: Patrick Sullivan Date: 1/7/15

Zoning Administrator Determination: _____

Action taken:

☐ No Violation Found

☐ Notice of Violation Sent Date ___/___/___ Return Receipt Date ___/___/___ Last Day to Appeal ___/___/___

☐ Warrants Obtained Date ___/___/___ Court Date ___/___/___ Conviction ☐ Yes ☐ No

☐ Appealed Date ___/___/___ BZA Hearing Date ___/___/___ ☐ ZA upheld ☐ ZA Overturned

☐ Appealed to Circuit Court ___/___/___ ☐ B ZA upheld ☐ BZA Overturned

☐ Violation Corrected Date ___/___/___

Resolution/Notes: _____

COMPLAINANT CONTACTED FOR FINAL FOLLOW-UP: (Via: Mail E-mail Phone or Other): ___/___/___ _____ a.m./p.m.

Zoning Administrator: _____ Date: ___/___/___ Ready for file

ROGANMILLERZIMMERMAN, PLLC
ATTORNEYS AND COUNSELORS AT LAW

50 CATOCTIN CIRCLE, NE
SUITE 333
LEESBURG, VA 20176
(703) 777-8850
(703) 777-8854 (FAX)
www.RMZLawFirm.com

ERIC V. ZIMMERMAN, ESQ.
EZIMMERMAN@RMZLAWFIRM.COM

LEGAL ASSISTANT
Martha Briggs

HAND-DELIVERED

February 25, 2015

Patrick Sullivan, Zoning Administrator
TOWN OF PURCELLVILLE
221 South Nursery Avenue
Purcellville, Virginia 20132

RE: 341 North Maple Avenue
Mason, Alfred and Barbara
487 10-5817-000

Dear Mr. Sullivan:

In response to your request for information regarding the use of the above-referenced property, I submit the following:

- Commercial Occupancy Permit duly signed by the owners;
- Check for $100.00 fee
- Affidavit executed by Barbara Mason (Al Mason was unavailable to sign) wherein the history of the property is delivered.

We understand the use of the property may be non-conforming to the current zoning, but our position is that the use has not changed since its purchase and entitled to continue.

Very truly yours,

Eric V. Zimmerman

cc: Mr. and Mrs. Alfred Mason (by email w/out enclosures)

Town of Purcellville Virginia

Commercial Occupancy Permit

Permit # CO 15-034

Department of Community Development
221 S. Nursery Avenue, Purcellville, VA 20132
Phone: 540-338-2304 Fax: 540-338-7460

Application Type:

☑ **Occupancy:** Proposed Use: storage yard Sq. Ft. 36,510

☐ **Change of Use:** Proposed Use: warehouse storage for Sq. Ft. 4,440
Former Use: materials and equipment Sq. Ft. _____
Other Existing Uses (List all uses on site with square footages):

Number of Employees: 10
the number of employees varies with the seasons

Off Street Parking: the entire storage yard can be used for parking as needed
Total Existing Off-street Parking Spaces: 20 approx.
Spaces Required for Proposed Use: _____
Spaces Provided: _____

Subdivision / Development: _____ **Zoning District:** _____
Site Address: 341 N. Maple Avenue **PIN #** 487. 105817
Applicant Name: John Rees
Business Name: Green Acres Lawn Care Inc
Mailing Address: 19090 Ebenezer Church Rd. Round Hill VA 20141
Phone #: 540-554-2506 **E- Mail:** greenacres@rstarmail.com
Property Owner's Name (If Different): _____
Mailing Address: _____
Phone#: _____ **E-Mail:** _____

I as the applicant for this permit do hereby agree to comply with the conditions of this permit and all other applicable town requirements:

Applicants Signature **Date** 2/3/15

I, as owner or authorized agent for the above-referenced parcel, agree to the proposed use on my property as described herein. I grant permission to the Town or authorized government agents to enter the property and make such investigations and tests as they deem necessary for the processing of this permit. Final inspections are scheduled through the Town of Purcellville Zoning Associate. Any special requests for an inspection must be made 48 hours in advance.

Property Owners Signature **Date** 2/25/15

Permit Fee: 100.00 **Property Taxes Paid:** OB **Business License:** _____

Occupancy Inspection Approval: _____ **Date:** _____

Zoning Approval: _____ **Date:** _____

Conditions: _____

PAID MAR 16 2015 TOWN OF PURCELLVILLE

Permit # - CO 15-034

Town of Purcellville

221 S. Nursery Avenue, Purcellville, VA 20132

Department of Community Development

Receipt of Payment

Date: 3/16/15

RECEIVED FROM: J. Alfred Mason / Green Acre Landscaping

DESCRIPTION: Occupancy 341 N. Maple Ave.

TOTAL AMOUNT PAID: $ 100.00 By: ~~Cash~~/Check # 8930

Staff Initials

Zoning Fees (57) $ 100.00
(Application Fees, Publications, Maps)

Zoning Proffers (58)

Fire $ _____

Rescue $ _____

Town Proffer (60) $ _____

Sewer Proffer (80) $ _____

Water Proffer (73) $ _____

Water Meters (72) $ _____

Water Availabilities (68) $ _____

Sewer Availabilities (78) $ _____

Plan Review (59) $ _____

Cash Bond (56) $ _____

Other $ _____

* Valid only with Town Stamp *

PAID

MAR 16 2015

TOWN OF PURCELLVILLE

White – Zoning Canary – Customer Pink - Finance

Sullivan, Patrick

From: Eric Zimmerman <ezimmerman@rmzlawfirm.com>
Sent: Monday, March 16, 2015 1:50 PM
To: Sullivan, Patrick
Subject: RE: Mason Landscaping business

Thank you, Patrick. Have a good trip and thank you for the informative update and opinion.

Eric V. Zimmerman, Esquire
ROGAN MILLER ZIMMERMAN, PLLC
50 Catoctin Circle NE, Suite 333
Leesburg, VA 20176
Phone: 703-777-8850
Fax: 703-777-8854
Email: ezimmerman@rmzlawfirm.com

Please note that effective November 18, 2013 our office relocated to Suite 333 within the same building at 50 Catoctin Circle and our firm name is

ROGANMILLERZIMMERMAN, PLLC

This communication may contain information that is legally privileged, confidential or exempt from disclosure. If you are not the intended recipient, please note that any review, dissemination, distribution or copying of this communication is strictly prohibited by law. Anyone receiving this message in error should notify me immediately by telephone or return e-mail, and delete/destroy all copies of this message.
Any tax advice contained in this communication (including any attachments) was not intended or written to be used, and can not be used, for the purpose of (a) avoiding penalties that may be imposed under the Internal Revenue Code of other tax authority; or (b) promoting, marketing, or recommending to anyone else any tax-related matter addressed herein.

From: Sullivan, Patrick [mailto:psullivan@purcellvilleva.gov]
Sent: Monday, March 16, 2015 12:18 PM
To: Eric Zimmerman
Subject: Mason Landscaping business

Eric, I am just heading out on a two week vacation but I wanted to provide you with some thoughts regarding the Mason property before I left. This is a very difficult review. I did go over the materials that you sent and they are not exactly what I was looking for. I am looking for some evidence that confirms that the whole parking area has been used continuously since the change in zoning occurred. I need something that proves that two years of non-use of the entire parcel has not occurred. There is no question that the landscaping business is a new business on the property and therefore to be in compliance with the non-conformity it will have to be shown that they have taken over space that was formerly used and occupied by another business of that size. A lease that showing that Heritage leases all the land and now gives up a portion for the landscape business would be ideal.

What makes this so difficult is that the Town has received a complaint regarding noise, dust and equipment fumes. If we could find a way to resolve this problem we might be able to move forward. Our ordinance has performance standards

for noise and odors and at the very least I would expect the landscaping business to abide by those standards. Maybe if there was a change in placement of equipment on the site some of those issues could be resolved.

Those are some of my recent thoughts on this subject and I will throw it back in your court to see if there are any ideas on the noise issue. I will be responsive to emails while I am away.

Sincerely,

Patrick Sullivan, AICP CED Director

Department of Community Development
Town of Purcellville
221 So Nursery Ave
Purcellville, VA 20132
psullivan@purcellvilleva.gov
www. Purcellvilleva.gov
540-338-2304

Sullivan, Patrick

From: Eric Zimmerman <ezimmerman@rmzlawfirm.com>
Sent: Friday, March 27, 2015 4:33 PM
To: Sullivan, Patrick
Subject: RE: Mason Landscaping business

Patrick, thank you for your candid email. I truly appreciate the time you took to summarize YOUR situation – and that becomes OUR situation.

I spoke with my client Al Mason and asked that he provide me with copies of any leases he has with both Heritage and Green Acres, and other documentation that may be useful. That will be a starting point as to the continuous use. In the meantime, we shall try to address the other environmental issues.

Al's wife Barbara will necessarily have to be part of assembling the documents. However, she is currently engaged in caring for her elderly aunt who lives outside the area, so it may take several days before I can respond meaningfully. At least you tell the "powers that be" we are not ignoring the complaints.

Eric V. Zimmerman, Esquire
ROGAN MILLER ZIMMERMAN, PLLC
50 Catoctin Circle NE, Suite 333
Leesburg, VA 20176
Phone: 703-777-8850
Fax: 703-777-8854
Email: ezimmerman@rmzlawfirm.com

Please note that effective November 18, 2013 our office relocated to Suite 333 within the same building at 50 Catoctin Circle and our firm name is

ROGANMILLERZIMMERMAN, PLLC

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parcel has not occurred. There is no question that the landscaping business is a new business on the property and therefore to be in compliance with the non-conformity it will have to be shown that they have taken over space that was formerly used and occupied by another business of that size. A lease that showing that Heritage leases all the land and now gives up a portion for the landscape business would be ideal.

What makes this so difficult is that the Town has received a complaint regarding noise, dust and equipment fumes. If we could find a way to resolve this problem we might be able to move forward. Our ordinance has performance standards for noise and odors and at the very least I would expect the landscaping business to abide by those standards. Maybe if there was a change in placement of equipment on the site some of those issues could be resolved.

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Sincerely,

Patrick Sullivan, AICP CED Director

Department of Community Development
Town of Purcellville
221 So Nursery Ave
Purcellville, VA 20132
psullivan@purcellvilleva.gov
www. Purcellvilleva.gov
540-338-2304

Sullivan, Patrick

From: Eric Zimmerman <ezimmerman@rmzlawfirm.com>
Sent: Wednesday, April 15, 2015 2:51 PM
To: Sullivan, Patrick
Subject: Mason Property

Patrick, thank you for taking my call today. As I said, we of course have no problem if you or someone else from the Town wish to visit the property. Indeed, we would be happy to meet with anyone to act as guides. We do, however, in the interest of security, have to be careful about uninvited interlopers.

I know what I gave you last week or so was not too original, but as I said, "It is what it is." We have not discontinued the conforming use but would consider reasonable ways to mitigate real negative impacts on the neighbors.

I hope you will issue our tenant his permits soon.

Eric V. Zimmerman, Esquire
ROGAN MILLER ZIMMERMAN, PLLC
50 Catoctin Circle NE, Suite 333
Leesburg, VA 20176
Phone: 703-777-8850
Fax: 703-777-8854
Email: ezimmerman@rmzlawfirm.com

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ROGANMILLERZIMMERMAN, PLLC
ATTORNEYS AND COUNSELORS AT LAW

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LEESBURG, VA 20176
(703) 777-8850
(703) 777-8854 (FAX)
www.RMZLawFirm.com

ERIC V. ZIMMERMAN, ESQ.
EZIMMERMAN@RMZLAWFIRM.COM

LEGAL ASSISTANT
Martha Briggs

April 7, 2015

Patrick Sullivan, Zoning Administrator
TOWN OF PURCELLVILLE
221 South Nursery Avenue
Purcellville, Virginia 20132

RE: 341 North Maple Avenue
Mason, Alfred and Barbara
+87-19-5817-000

Dear Mr. Sullivan,

A couple months ago I delivered an Affidavit on behalf of my client to establish that their use of their property, though non-conforming for the current zoning category, has been continuous and uninterrupted since its purchase in the 1982. While that Affidavit may not be the best evidence of the use, no one can controvert its assertions.

At the time of the delivery of that Affidavit I also submitted a Commercial Occupancy Permit on behalf of our tenant Green Acres Lawn Care, Inc. Lest that tenant decide to move to a more hospitable location, please issue that permit as soon as possible.

If necessary, I would be happy to meet with you (and the Town Attorney), but absent any proof that our Affidavit is untrue, we trust what you have is sufficient.

Very truly yours,

Eric V. Zimmerman

Eric V. Zimmerman

cc: Mr. and Mrs. Alfred Mason (by email)

AFFIDAVIT

1. The following is a summary of the activities that occurred at property located at 341 North Maple Avenue, Purcellville, Virginia ("Property").
2. The Property was purchased by the undersigned from Southern States Cooperative, Incorporated on January 20, 1982.
3. Upon purchasing the Property we began using the same as a storage yard for all aspects of our business L. B. Mason & Son, Inc., including but not limited to heavy and light equipment, trucks, tractors and trailers. Moreover, we stored ancillary building materials of all nature, which included stone, lumber, concrete barriers, concrete forms, signs, outdoor storage containers, sod, mulch, seed, sand and hay. We also maintained a fueling station and outdoor storage containers. Both indoors and outdoors, we maintained, repaired and restored our vehicles and equipment. We also conducted our operation from a modest business office.
4. Commencing in January 2008 we began the process of liquidating our assets. Heritage Site Development, Inc. ("Heritage") purchased some of the equipment but kept those items at the site as Heritage leased the premises from us so it could continue to store, repair and maintain its equipment. Likewise, Heritage moved its clerical activities to our former office. Heritage continued the same use of the premises by becoming our major tenant.
5. Green Acres Lawn Care, Inc. likewise became our tenant, using the premises as we did, i.e., storing equipment, vehicles and materials.

6. The use by the aforesaid current tenants does not materially differ from that of our original "industrial" use.

7. Other than to remove some of the equipment of L. B. Mason & Son, Inc. and replace it with the same equipment of our tenants, the aforesaid use of the Property as such has continued without interruption and without ceasing. Finally, the intensity of that use has not materially increased.

WITNESS the following signature and seal:

Barbara Mason (SEAL)

Barbara Mason

COMMONWEALTH OF VIRGINIA
COUNTY OF LOUDOUN, to-wit:

The foregoing was signed and acknowledged before me this 25th day of February 2015 by Barbara Mason in my State and County aforesaid.

My commission expires:
March 31, 2019

Caitlin L. Juncal
Notary Public Registration Number: 7620803

CAITLIN L JUNCAL
COMMONWEALTH OF VIRGINIA
REG. NO. 7620803
EXP. MARCH 31, 2019
NOTARY PUBLIC

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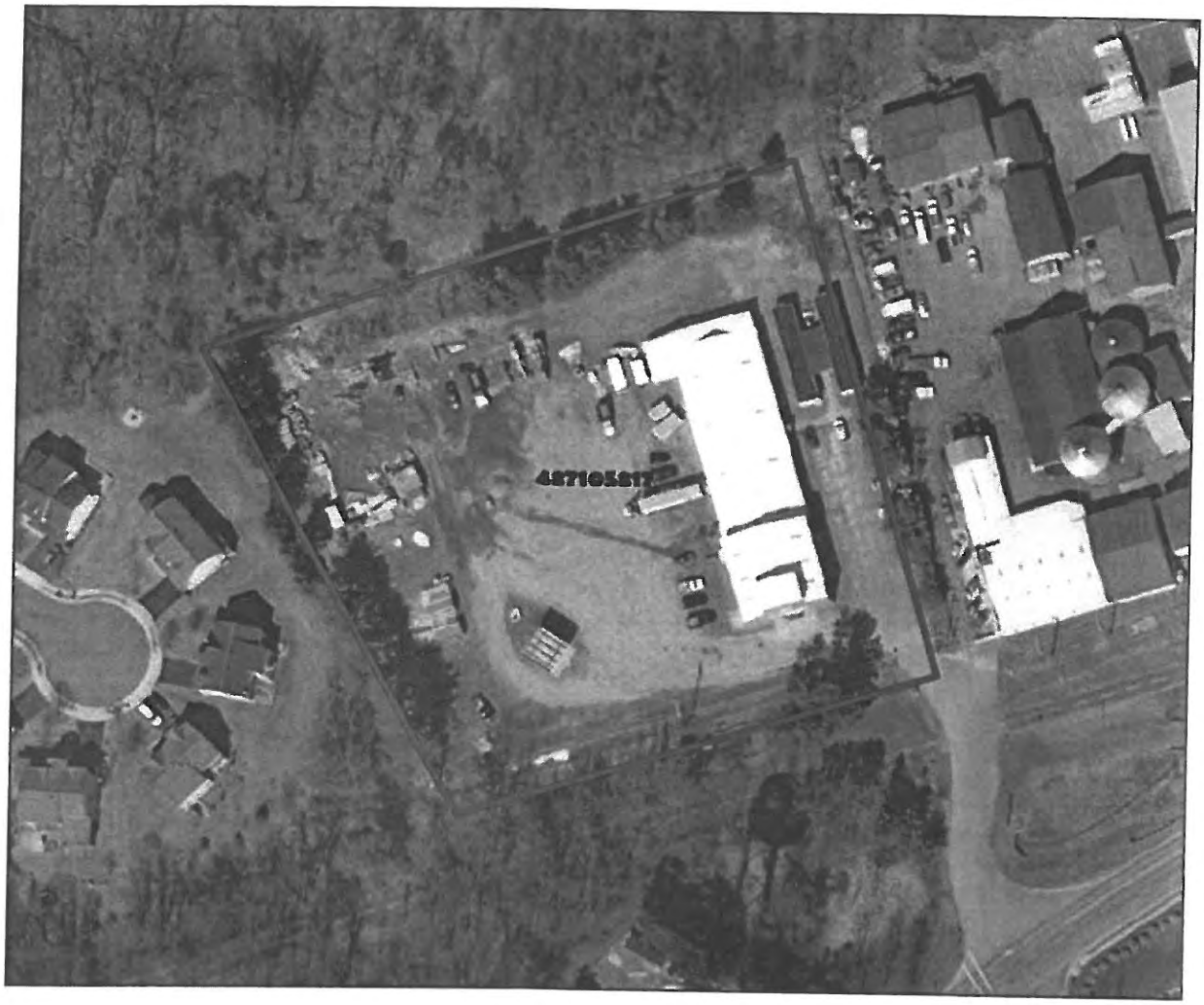
Loudoun County, Virginia
www.loudoun.gov

Monday, February 2, 2015

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