

CONDITIONAL USE HOME OCCUPATION for a CONTRACTOR YARD

Owner & Applicant: Chad Hayden, Whitetail Landscaping & Excavation LLC P.O. Box 247, Hinesburg, VT 05461	Engineer: Steve Palmer, VTM Engineering, PLC 2941 Shelburne Falls Road, Hinesburg, VT 05461
Property Location, Tax Map #, Area & Zoning District: 1174 North Road, 09-01-12.000, 3.1-Acres, Rural Residential 2 Zoning District (RR2)	

BACKGROUND – Chad Hayden, owner of Whitetail Landscaping & Excavation LLC, hereafter referred to as the Applicant, is requesting conditional use approval for a home occupation contractor’s yard per Section 5.3 of the Hinesburg Zoning Regulations (HZR) on his 3.1-acre property located at 1174 North Road in the Rural Residential 2 Zoning District (RR2). The property is on the northeast corner of North Road and Hayden Hill Road and has direct access to North Road, which is a class two Town roadway.

The Applicant started working this business on this property in 2019. Notices of violation were issued on September 10th and October 7th of 2019. The Selectboard agreed to stay the enforcement because the Planning Commission was working on a change to the regulations that would allow a greater opportunity for home occupation contractor’s yards. The regulations were updated in June of 2022.

Currently there are two accesses to North Road, an existing two-bedroom one-story mobile home, a large shed structure and a gravel surface area where currently the construction vehicles are parked. The area of the structures and gravel surface is surrounded on three sides by existing forest. There is a stream on the rear, east side, of the property. Much of the eastern portion of the property is in a stream setback. The Applicant is proposing to remove all the existing structures, the northern of the two North Road entrances and some gravel area. The Applicant proposes to place a new 2-bedroom stick-built residence, a new 30-foot by 50-foot (1,500 square foot) shop/garage, new gravel surface area, site grading, and a drainage swale. The Applicant will reside on the property, as required in section 5.3.2 of the HZR. The Applicant is showing a 50-foot setback area from the adjoining property lines on the plans to show that there is no proposed business activity in this area.

The Applicant is proposing to utilize the existing well and septic system. To satisfy the screening and landscaping requirements the Applicant is proposing to add screening along North Road. The Applicant is proposing to have about one bulldozer, 4 excavators, one skid steer, one 15-yard dump truck, and three pickup trucks. The Applicant states that they can accommodate at least seven of these in the proposed shop. The sizes of all the equipment are unclear. The Applicant is proposing to have three full-time employees, including the two owners. Employee and family vehicles are proposed to park on the gravel surface near the proposed residence.

The Applicant has stated in their narrative that they will stop screening topsoil once the existing topsoil has been processed and removed, which will occur within 12-months of a conditional use approval. The hours of operation will be limited to that of Section 5.3.9 of the HZR, which are

6am-9pm weekdays and 8am-5pm on weekends. The Applicant states that they will not store bulk fuel.

The Applicant has calculated on drawing C1.2 the existing impervious area on the property to be about 5,600 square feet and the proposed impervious area on the property to be about 9,550 square feet. The increase in impervious area would be 3,950 square feet. Since the increase in impervious area is less than 10,000 square feet, Section 5.27.2 of the HZR does not apply. However, stormwater treatment per Section 5.27.3 of the HZR to address concentrated discharges and discharges from steep slopes is required.

Stormwater discharge on the property drains to the east and south, either directly to the stream on the eastern part of the property or to a drainage swale on the north side of Hayden Hill Road West that discharge to the same stream. The Applicant is proposing to have some of the surface drainage sheet flow off the site to steeper 2½ to 1 sloped areas. There is a proposed drainage swale that would capture some of this runoff either at the beginning of the swale or further downslope, which would have check dams. It is unclear how stormwater discharges would reach the swale. The plans show what appears to be a drainage pipe discharging stormwater from the proposed buildings to the lower portion of the swale. It is unclear how this concentrated discharge would receive stormwater treatment as required per Section 5.27.3(1) of the HZR.

The proposed development would disturb nearly one-acre of area. The Applicant has submitted an erosion control plan as required per Section 5.27.1(3) of the HZR. On this plan the Applicant shows the use of silt fencing, a stone lined ditch with check dams, and a stabilized construction entrance. The Applicant is also proposing to spread out the discharge coming from the stone lined ditch. Much of the discharge area is going to traverse existing and/or proposed slopes that are greater than 15%.

The Applicant states in their narrative that they are proximate to another existing contractor yard and not that far from the Town Highway Maintenance facility. Concern has been provided from a neighbor who states that the existing forests need to be supplemented in some areas for adequate screening.

The March 21, 2023 public hearing was warned in *The Citizen* on March 2, 2023. The conditional use application was submitted on February 15, 2023 and deemed complete on February 21, 2023. This application included the application form and the following documents, which are contained in the document file (09-01-12.000) in the Hinesburg Planning & Zoning office.

- A supplemental DRB application narrative revised dated 2-15-23 (6-pages).
- Tax map and deed information to demonstrate complying land area.
- A plan titled “Site Improvement Plan”, by VTM Engineering, PLC, with project number 22-1.3, drawing number C1.0, dated 12/20/2022 and with a revision date of 2/02/2023. This plan has a location map.
- A plan titled “Erosion Prevention & Sediment Control Plan, Details and Notes”, by VTM Engineering, PLC, with project number 22-1.3, drawing number C1.1, dated 12/20/2022 and with a revision date of 2/02/2023.

- A plan titled “Impervious Area Plan”, by VTM Engineering, PLC, with project number 22-1.3, drawing number C1.2, dated 12/20/2022 and with a revision date of 2/02/2023.

STAFF REVIEW – Overall, the plans demonstrate that conceptually the proposed development could work. The Applicant has demonstrated that the property has an area of at least 3-acres as required in Section 5.3.3 of the HZR. Approval for a contractor yard as a home occupation requires review per Section 5.3 of the HZR. Section 5.3.1 requires conditional use review per Section 4.2 of the HZR and site plan approval per Section 4.3 of the HZR. Section 5.3.14 requires conformance to Sections 5.1.3, 5.1.4 and 5.1.5 of the HZR. Section 5.3.13 of the HZR states that contractor yard approvals are not transferable to new owners. The Applicant has stated that he is not applying for a sign per Section 5.1.3(4) of the HZR at this time.

Section 5.3.3 of the HZR (Location)- This application appears to conform to the location requirements with the property being located in the RR2, appearing to be from submitted evidence on a lot that exceeds three acres, providing a 50-foot buffer to all adjoining property lines, and having direct access to a class 2 Town roadway. The DRB should condition any approval on receiving a permit for work in the Town road right of way – to formalize/improve the southern access point, and discontinue the northern access point.

Sections 5.3.4 & 4.3.8 of the HZR (Screening and Landscaping) – There would be existing forests on three sides, (north, east and south), of the area of the proposed development. On the west side, or North Road side, of the development the Applicant is proposing to place 17 Balsam Fir trees. The DRB could waive the landscaping requirements of Section 4.3.8 of the HZR if it believes that sufficient vegetation exists to screen the proposed development area. We have heard from one neighbor who would like to see some additional plantings on the northeast portion of the development area. This could be addressed with additional evergreen plantings in this area to provide for screening during the leaf-off period.

Section 5.3.5 of the HZR (Equipment) – The Applicant provided a list of 10 vehicles they currently have and use. The Applicant wanted to be clear that the type of vehicles may change. However, we do not know the size of these vehicles and how they could fit in the proposed shop or parking area. The maximum number of vehicles and equipment is 15. Also unclear is the storage of trailers needed to move the equipment. The Applicant has stated that the equipment is usually on other sites. However, the DRB should ensure that the site is adequate for all the proposed equipment for those times when all the equipment is on the Applicant’s property.

The Applicant needs to show that the proposed development can accommodate fully the proposed use. This would be when all the equipment is stored, maintained, and move within the proposed site. It is good that we have a list of the equipment used, but we do not know the sizes and the Applicants plans for storing and maintaining this equipment. Can all the proposed equipment be stored, maintained and circulated within the proposed parking area and shop? The parking area will also need to accommodate employee parking and residential parking. Is the proposed parking area and shop adequately sized? Does it need to be enlarged?

Sections 5.3.6 & 5.6.3 of the HZR (Employee Parking) – The Applicant has stated that a total of three people, including the two owners, are employed in the company. The maximum allowable

number of employees, per this Section, is eight. As with the equipment, it is unclear whether there is sufficient space for the equipment, employee parking and residential parking. Can the vehicles adequately move within the developed area. The parking area is located on the side and rear of the project area and meets the setback requirement for conformance to Section 5.6.3 of the HZR.

Section 5.3.7 of the HZR (Size of Structures) – The proposed shop would have an allowable 1,500 square feet of floor area and has been described as a steel building. The Applicant needs to describe how the proposed shop could be “converted to residential, accessory, or agricultural use if the business ceases to operate.”

Section 5.3.8 of the HZR (Material Processing) – The Applicant stated in the narrative that they will only screen the material that is on the site and cease processing material within one year of obtaining an approval for this development. Such an approval would be conditioned on the requirements of this Section.

Section 5.3.9 of the HZR (Hours of Operation) – The Applicant stated in the narrative that the landscaping business will comply with the hours that are a part of this application. The Applicant stated that they will also be providing plowing service, which would have extended hours beyond the contractor yard use.

Sections 5.3.10, 5.1.3(3) & 4.3.4(8) of the HZR (Hazardous Materials/Exterior Impacts)– The Applicant needs to describe how the equipment will be maintained. Should this be done on site, then additional information on the securing hazardous materials, such as oils, needs to be provided.

Section 5.3.11 of the HZR (Erosion Control/Stormwater) – The plans provided show discharges for a portion of the gravel surface going to the east down a slope and to a proposed swale. However, much of the gravel surface is shown to discharge to the south away from any stormwater treatment and erosion control. In addition, it appears the Applicant is proposing to place a stormwater pipe to collect discharge from the proposed residence and shop. It is unclear how this concentrated flow will be provided with stormwater treatment. The Applicant is also proposing to discharge stormwater over area that currently have, or would have slopes greater than 15%. Similarly, how will stormwater be treated and erosion controlled in these areas.

The Applicant should provide details about what materials will be stored on site (gravel, mulch, etc.), and how these will be contained with barriers or stabilized and treated to prevent erosion. The Applicant should also address whether debris from construction sites will be brought back to this site, and if so, where it will be stored and how it will be treated. Simply pushing materials over the embankment toward the stream is not a viable option.

Sections 5.1.3(5) & 4.2.2(2) of the HZR (Character of the Neighborhood) – The Applicant described in the submitted narrative that there is a contractor yard to the north of this property and that they are not far from the Town Highway Maintenance facility. The use does seem consistent with the character of the area, but the Board still needs to assure that the site is

adequately sized for the proposed equipment storage, and that any hazardous materials related to vehicle and equipment maintenance are properly addressed.

Section 4.2.2 of the HZR (Conditional Use Review) – There does not appear to be an effect on community facilities, traffic on roads, and renewable energy resources. Should there be too much noise, vibrations or hazardous material, then this could affect the character of the neighborhood, development of adjacent property and public welfare.

Section 4.3 of the HZR (Site Plan Review) – The Applicant has not fully demonstrated that there would be good vehicular circulation, adequate parking, emergency vehicular access, control of runoff and erosion, and not discharging hazardous waste. The Applicant has shown on the plans the locations for four motion activated downcasting security lights to be placed on the proposed shop, but has not provided information on proposed lighting described in Section 5.29 of the HZR as required in Section 4.3.4(4) of the HZR.

Respectfully submitted,

Mitchel Cypes, P.E.,
Hinesburg Development Review Coordinator