



County of Fairfax, Virginia

MEMORANDUM

DATE: November 7, 2008

TO: John F. Ribble, III, Chairman
Members, Board of Zoning Appeals

FROM: Mavis E. Stanfield
Deputy Zoning Administrator for Appeals

SUBJECT: **Status Update**

REFERENCE: Appeal A 2006-PR-040
Appeal A 2006-PR-043
Armstrong, Green and Embrey, Inc.
2809 Old Lee Highway (Lot 65A)
8524 and 8524A Lee Highway (Lots 67 and 65B)
Tax Map: 49-3 ((1)) 65A, 65B, 67

This status update and request for deferral covers two separate appeal applications, A 2006-PR-040 and A 2006-PR-043. The public hearings for these appeals were conducted concurrently on February 27, 2007 because the subject lots are abutting lots, all owned by the appellant and used together in the operation of his landscaping business. The specific appeals are described as follows:

- Appeal A 2006-PR-040 is an appeal of a determination that the appellant is operating an establishment for processing of earthen materials, which is not a permitted use in the I-5 District and that he is operating his business without site plan, building permit or Non-Residential Use Permit (Non-RUP) approvals for storage and other structures on property located at 2809 Old Lee Highway.
- Appeal A 2006-PR-043 is an appeal of a determination that the appellant has expanded the use of the property located at 8524 and 8524A Lee Highway without site plan or Non-RUP approvals and that he has established an outdoor storage area on the property which exceeds 250 square feet.

The original staff report for the appeals is provided as Attachment A. The public hearings for the appeals were continued on numerous occasions to allow approval and implementation of a site plan for the uses in violation.

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On September 28, 2007, Site Plan #9425-SP-001-2 was approved by the Department of Public Works and Environmental Services (DPWES). During the construction of the bunkers that will contain the outdoor storage of landscaping materials, the appellant encountered problems with the height and strength of the walls and with site drainage in the area of the bunkers. On December 31, 2007, a revision to the approved site plan was submitted to DPWES to address these issues. A zoning inspection on June 19, 2008 revealed that the appellant still had several small issues to resolve with regard to completing the implementation of the site plan.

On September 9, 2008, staff recommended one final deferral to November 18, 2008, because the appellant was still waiting for plan approval to construct the final phase of the business operation. Given the amount of time that had transpired towards resolving the zoning violations associated with the subject properties, staff indicated in September that no further deferrals would be supported. However, as of this date, a Non-Residential Use Permit (Non-RUP) has not been issued for the current uses operating on the property and therefore staff recommends that the BZA uphold the determination of the Zoning Administrator.

Attachment: A/S

cc: Linda Q. Smyth, Supervisor
Providence District
Eileen McLane, Zoning Administrator
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for Zoning Enforcement/Property Maintenance
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