

To: Joshua Penn
Office of Zoning & Administrative Hearings
Joshua.Penn@montgomeryplanning.org

From: Jacqueline & Timothy Hunt
Lazy Hounds Farm
12304 Prices Distillery Road
Damascus, MD 20872
301-717-0462
soulofamule@gmail.com

Re: Conditional Use Application from Chapingo LLC located at 12120 Prices Distillery Road, Damascus, MD

Date: April 3, 2022

We own and operate a small 26-acre farm where we raise cattle and grow hay in partnership with our neighbor, Thomas Hartsock at Porky Pines Farm. Lazy Hounds Farm shares a property line with the western edge of Chapingo LLC property located at 12120 Prices Distillery Road in Damascus, Maryland. Our property meets the rear of the Chapingo property. **We strongly oppose the conditional use request submitted by Chapingo LLC.**

The Chapingo business activity has increased the local road traffic, caused excessive equipment noise throughout the day, and has created an eyesore. In September 2020, Chapingo LLC began dumping large quantities of wood chips, tree debris, and wood waste materials on the property located at 12120 Prices Distillery Rd. Multiple dump trucks per day dumped debris in an open field on the Chapingo property. We observed first-hand dishonest conduct at a Rural Rustic Roads review and illegal land use practices, and assume the violations would resume if a special exemption is granted to Chapingo. This disregard puts our water quality, soil conservation, and the Agriculture Reserve at risk. Since applying for conditional use, Chapingo LLC has been on their best behavior. Since the application, trucks have started leaving at reasonable hours, restricted bridges are mostly avoided, and minimal wood waste has been added to the property. It is therefore obvious to us that the company owner knows what the laws are and only begun complying (for the most part) once the conditional use application was submitted. Based upon past behavior at this location and their previous location, we do not feel that Mr. Jose Alvarez and Chapingo employees will follow waste management requirements, a nutrient management plan, or other safe practices if this conditional use application is approved.

Increased Local Road Traffic – Since Chapingo LCC has been operating on at this location, there has been a significant increase in local road traffic, on rural rustic roads, and across weight restricted bridges. Chapingo has over tripled the width of the apron and more than doubled the width of the driveway into the property in recent months. Many truckloads of millings have been dumped and spread for this purpose and the drive is now wide enough for two large trucks to pass. These changes were made after the conditional use application was submitted, even though the application stated that the driveway was sufficient for their purposes and would not be altered. Additionally, large quantities of asphalt millings have been stockpiled on the Chapingo property, so we can only assume that the company will be continue expanding the parking area and further extending the road to rear of the property.

Equipment Noise & Disruption – During the peak period of dumping tree waste on the property, dump trucks and moving equipment would be in use Monday through Saturday, starting by dawn every day and continuing until dusk. The back-up alarms, slamming tail gates, yelling, and moving equipment noise could be heard across multiple farms. Multiple large pieces of equipment were in use to pile up the dumped wood debris. The equipment and truck noise was so frequent and loud, that neighbors north of Prices Distillery Road called us to complain because they thought we were making the noise. Their house is located 0.5 miles from the Chapingo property.

**Chapingo Tree Care Specialists
12120 Prices Distillery Road**

Dumping Trees Debris – Large sections of cut trees and wood chips were dumped on an area of the Chapingo property that is adjacent to our farm. In addition to being a visible eyesore from our property, the large piles of debris are visible from Prices Distillery Road, Burnt Hill Road, the Little Bennett Park Entrance on Burnt Hill, and multiple local residences. The daily dumping continued until late fall, and up until the time the ground was too muddy for the trucks to reach the back of the property. Larger equipment was brought in to manage the debris piles. This is when we were contacted by neighboring farms asking about the noise. This dumping was done without regard to soil conservation, safe waste management requirements, or nutrient management practices and puts Little Bennett Creek and the surrounding areas at risk. Most of the tree debris that was visible from the roads was been removed prior to the application submission, but large quantities of chips remain hidden from the street views at the rear of the property, and within 150 feet of the Little Bennett Creek headwaters.

Tree Disease - We are concerned that debris from diseased trees may have been dumped and that this could impact the surrounding area, including the park. While we cannot definitively prove that the Chapingo dumping contributed to it without closer examination of the tree waste being dumped, many of the trees on our property that were previously healthy began to show signs of disease in the fall of 2020. We have also observed that trees located on property adjoining Little Bennett Park have recently been impacted by disease and pests.

Impact on Little Bennett Creek Water Quality – The Chapingo dumping is directly uphill from Little Bennett Creek headwaters, and we are concerned that the water quality will be impacted by the decomposition of this material. As decomposition progresses, tree tannins, toxins, and pollutants will leach into the soil and will run off into the creek. Large areas of soil have been moved and loosened by large equipment driving across open fields and loaders moving debris.

The following pages show the extent of the dumping operation and the close proximity of the Chapingo property to the park, creek and surrounding farms in 2021. The photographs are from multiple vantage points and from different time points. Since the spring of 2021, Chapingo has removed some of the large debris, particularly from areas that are visible from Burnt Hill Road and Prices Distillery Road. As of March 2022, there are still wood chips and piles of wood debris within 150 feet of the creek head waters.

Prior to a hearing with the Rural Rustic Roads Committee, the owner of Chapingo Tree Specialists made a goodwill tour of the surrounding neighbors to discuss his plans for the property, but he has not spoken to us. From our perspective, he made a very small attempt to clean up some of the property prior to the Rural Roads Committee review, and there continued to be multiple large piles throughout the property that were hidden from the roads, but visible from our property. We are concerned that it will quickly return to the same state if a special exception is granted.

This has been one of a series of businesses moving into this part of the Agricultural Reserve and running a non-agricultural business that is disruptive to those around them, increasing traffic on rustic rural roads, and negatively impacting the environment and ecosystem.

Rural Rustic Roads Committee Meeting – The Committee met with Chapingo in 2021, and many of the neighbors adjoining the property joined the meeting. Multiple times during the meeting Mr. Alvarez or his lawyer lied about the current conditions, events, and circumstances surrounding the property use. They vehemently denied that there were loud parties taking place into the night, stated that no one was there after hours, and even said that they would know if anyone was there after hours because they surveilled the property with security cameras. Multiple neighbors contested their denial, and stated that there were routinely lights, music, vehicles, and loud noise coming from the property well into the night. The night time noise and parties stopped after that meeting.

**Chapingo Tree Care Specialists
12120 Prices Distillery Road**

During the meeting, Mr. Alvarez told the committee that the materials being dumped were for mulching fruit trees. As can be seen from the photos in this letter, the materials mainly consisted of debris such as large logs and roots, and were in quantities much greater than needed for mulching fruit trees.

The third blatant lie occurred when a committee member showed photos of the wood debris visible from Prices Distillery Road and Burnt Hill Road during the meeting. Mr. Alvarez and his lawyer stated that there was no visible debris at the time of the meeting, that it had been removed, and even said it was an old photo. Mr. Alvarez and his lawyer were caught lying when the committee member had stated that she had taken the photo herself within 24 hours of the meeting, and that the debris was still there.

This dishonest behavior by both Mr. Alvarez and his lawyer does not instill faith that they will follow the requirements and regulations if a conditional use is granted.

While Chapingo has exhibited the most egregious behavior, they are not alone in running an illegal business in the Ag Reserve. In the past three years, multiple commercial businesses have moved in to our area on property which is zoned either agricultural or residential. Several landscapers, construction, and even a roll-off dumpster company have been operating within the Ag Reserve. These business erect unpermitted buildings under the umbrella of agricultural practices, but use the building and properties for commercial purposes. The Ag Reserve was created to encourage farming to continue in Montgomery County, it was not created as a cheap alternative to commercial property. Younger people who would like to start farming cannot possibly compete with commercial enterprises to purchase tracts of land.

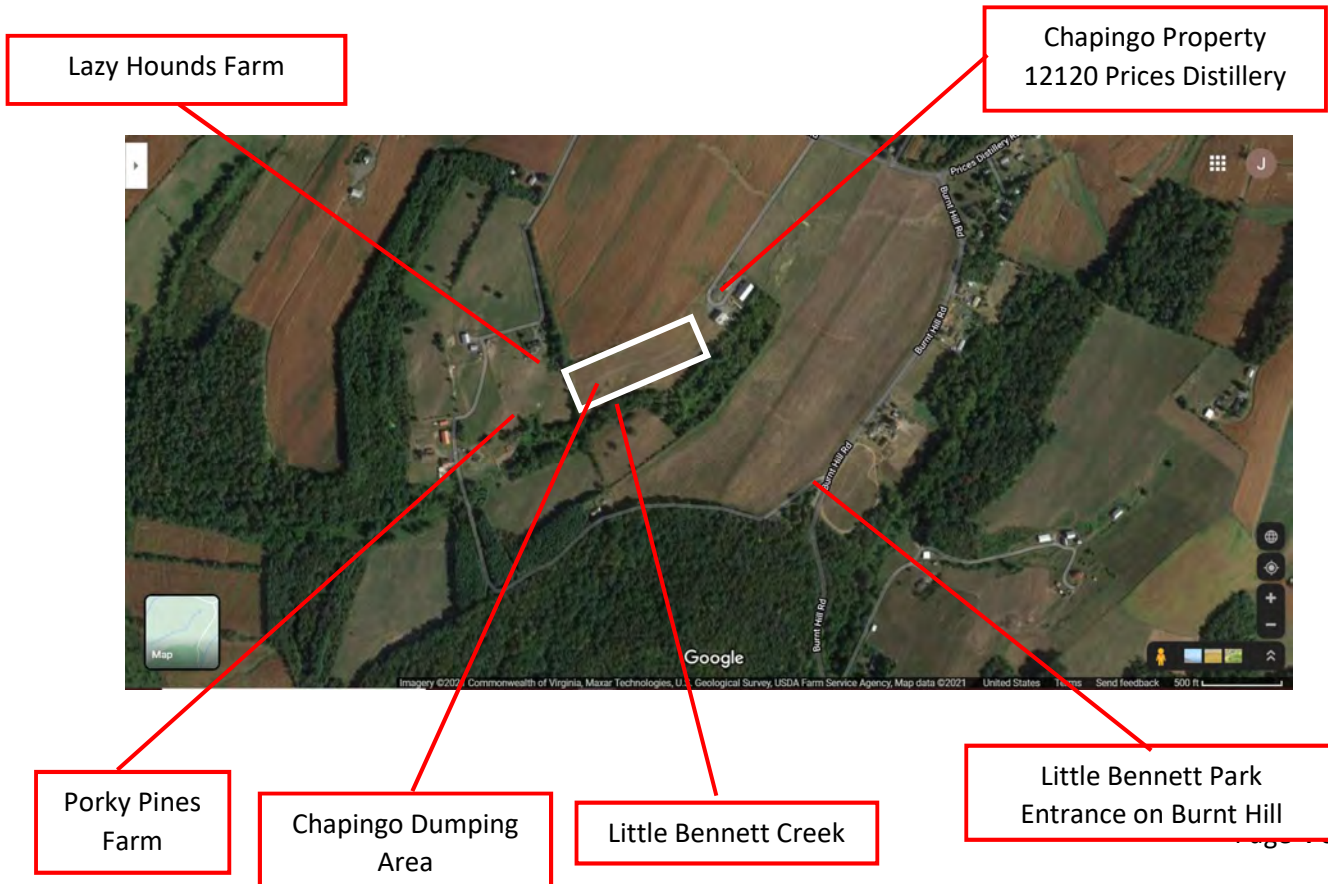
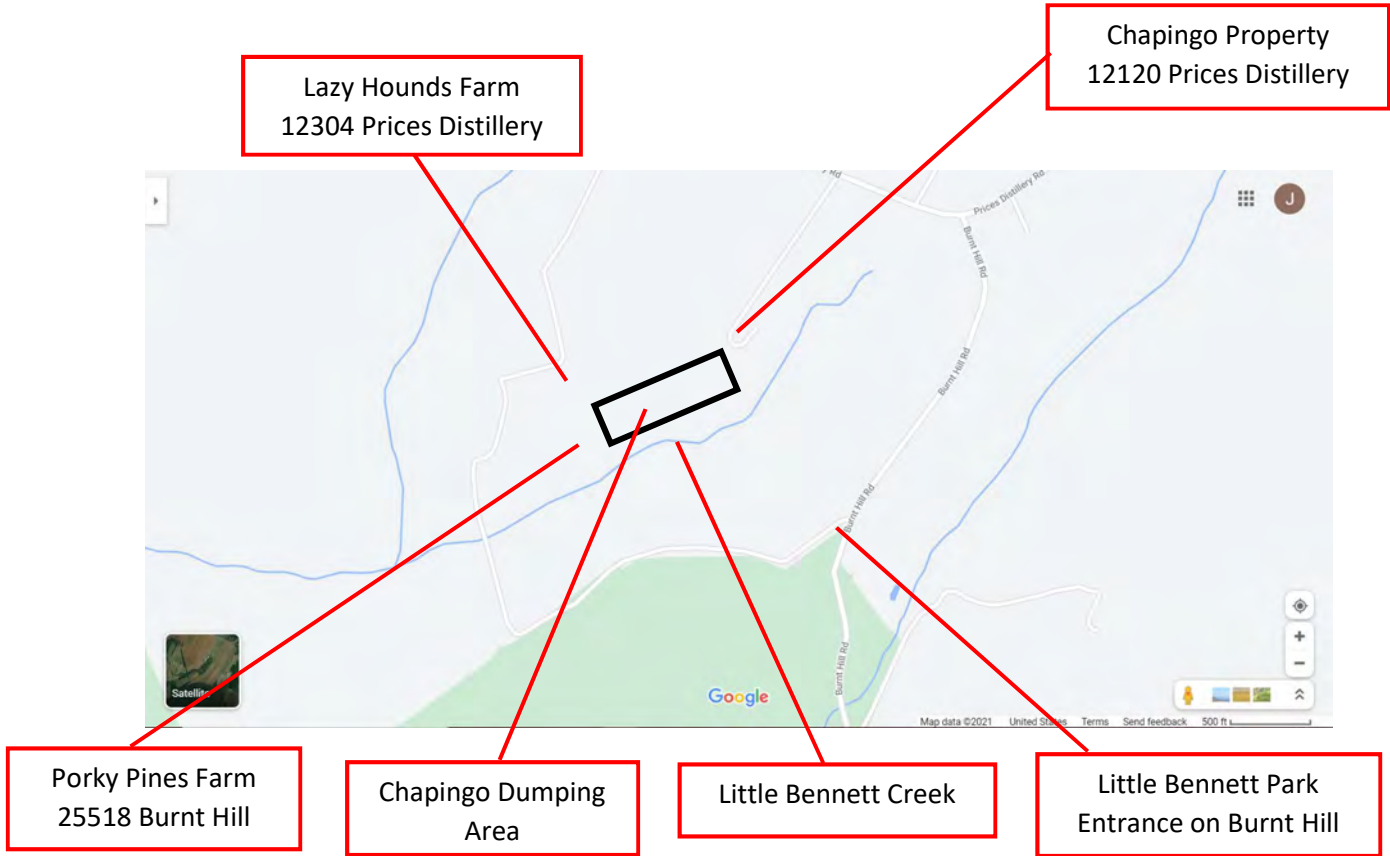
The follow pages contain diagrams showing where the primary debris piles are located and pictures of the area and activities at various times during the past two years. Including the close proximity of the Chapingo dumping area to Little Bennett Creek.

We hope the OZAH staff and Planning Board take these issues and impacts into consideration when reviewing the Chapingo LLC conditional use application.

Sincerely,


Jacqueline & Timothy Hunt

**Chapingo Tree Care Specialists
12120 Prices Distillery Road**



**Chapingo Tree Care Specialists
12120 Prices Distillery Road**

Satellite Image of Chapingo Found Online at Find My iPhone – Image Downloaded on April 4, 2022



**Chapingo Tree Care Specialists
12120 Prices Distillery Road**

View of Chapingo property from the Little Bennett Park entrance on Burnt Hill Road – October 30, 2020



View of Chapingo property from the Little Bennett Park entrance on Burnt Hill Road - December 8, 2020



View of Chapingo property from the Little Bennett Park entrance on Burnt Hill Road - December 8, 2020

**Chapingo Tree Care Specialists
12120 Prices Distillery Road**

View of Chapingo property from the Little Bennett Park entrance on Burnt Hill Road – January 25, 2021



**Chapingo Tree Care Specialists
12120 Prices Distillery Road**

View of Chapingo property from the Little Bennett Park entrance on Burnt Hill Road – January 25, 2021



View of Chapingo property from adjoining property, Lazy Hounds Farm – March 23, 2021



View of Chapingo property from adjoining property Lazy Hounds Farm – March 23, 2021

**Chapingo Tree Care Specialists
12120 Prices Distillery Road**



View of Chapingo property from adjoining property Lazy Hounds Farm – March 23, 2021



**Chapingo Tree Care Specialists
12120 Prices Distillery Road**

View of Chapingo property from adjoining property Lazy Hounds Farm – March 23, 2021



View of Chapingo property from adjoining property Lazy Hounds Farm – March 23, 2021



**Chapingo Tree Care Specialists
12120 Prices Distillery Road**

View of Chapingo property from adjoining property Lazy Hounds Farm – March 23, 2021



View of Chapingo property from adjoining property Lazy Hounds Farm – March 23, 2021



**Chapingo Tree Care Specialists
12120 Prices Distillery Road**

View of Chapingo property from adjoining property Lazy Hounds Farm – March 23, 2021



Chapingo Dump Site

Little Bennett Creek

**Chapingo Tree Care Specialists
12120 Prices Distillery Road**

Driveway Expansion in Progress – December 29, 2021



Driveway & Apron Expansion – January 28, 2022



**Chapingo Tree Care Specialists
12120 Prices Distillery Road**

View of Chapingo property from adjoining property Lazy Hounds Farm – April 3, 2022



View of Chapingo property from adjoining property Lazy Hounds Farm – April 3, 2022



**Chapingo Tree Care Specialists
12120 Prices Distillery Road**

Truck on Weight Restricted Road (10,000#) – April 2, 2021



Truck on Weight Restricted Road (10,000#) – May 26, 2021



Regarding: Chapingo LLC (dba Chapingo Tree Care Specialists)

Conditional Use Application # CU202207

From:

April 27, 2022

David and Susanne Lenk

25538 Burnt Hill Road, Clarksburg, MD 20871

301 250-5200

dslenk@hotmail.com

We are neighboring resident to Chapingo LLC, with our horse farm lying to the east and sharing a long border with the subject property. The pond that accepts the runoff from the subject property runs along the back of our property.

The landscaping contractor business proposed by Chapingo, is not agricultural in nature. The arrival of 20+ employees at 6 am and the departure with company trucks and trailers then returning around 6:30 pm in the evenings is highly disruptive. The extra-large vehicles impact travelers on both Prices Distillery and Burnt Hill road, as these roads are narrow and also includes an even more narrow bridge. The presence of a fuel shed and the storage of bulk salt and possibly other road treatment chemicals for snow removal with potential spills will contaminate the ground and Little Bennett Creek and our well.

These activities performed by Chapingo LLC are commercial and industrial, not agricultural. The activities are not consistent with the existing rural and agricultural character of the neighborhood, which was the the main reason we chose to build our home here and set up our horse farm.

In addition, after purchasing the subject property, Chapingo/Alvarez began dumping tree waste along the top of one of the fields. The field slopes toward a creek that connects with Little Bennett Creek. The large trucks dumping the waste damages the soil and grass, resulting in the waste and debris running off and accumulating in the creek.

Our concerns are:

- Large company trucks driving on Prices Distillery and Burnt Hill road endangering other travelers. On Burnt Hill road there is a weight-restricted narrow bridge that Chapingo's trucks use on a daily basis.

- Company employees have had loud, after-hour parties at the site late into evenings disrupting our normally quiet neighborhood.
- A fuel shed is located on the property and a spill could make its way into the connecting creek of Little Bennett and affect our well.
- If salt and chemicals are stored for snow removal, we are concerned it could make its way into a tributary of Little Bennett Creek and affect our well.
- With many employees the subject property has no well or septic or sanitary facilities and a spill would make its way into a tributary of Little Bennett Creek and affect our well.

We do not believe that Mr. Alvarez's business would enhance, or fit comfortably into, the existing rural farm community in which the subject property lies.

We strongly oppose the approval of the above referenced Conditional Use application.

Regards,

David and Susanne Lenk

March 25, 2022

Re: Chapingo LLC D/B/A Chapingo Care Tree Specialist, Conditional Use Application # CU202207

To whom it may concern:

I am writing in opposition to the approval of the conditional use application sought by Chapingo, LLC.

I have personally experienced the negative and devastating impact to the quiet enjoyment of my property. In 2018, ChampScape, a landscaping and construction company, moved next door to my property and illegally operated for three (3) years. This business was allowed to operate without the issuance of a Conditional Use permit as the COUNTY GOVERNMENT through the Department of Permitting Services disregarded and failed to properly investigate the complaints filed by me and the community.

On January 28, 2018, the neighboring property located at 25701 Burnt Hill Road, Clarksburg, MD was sold to Mr. Merino Valladares the principal of ChampScape. ChampScape, as advertised on their website, is a "Quality Landscaping and Design & Maintenance Operation" and their services included Landscape, Architecture, Masonry, Carpentry and many other services.

As soon as they moved in, ChampScape, immediately installed a 6-foot fence around their side of the property adjacent to mine and the front of the house. My side of the property has a natural fence of evergreen trees, and the front of their property was unfenced green pasture with trees, plants, and vegetation which was immediately destroyed and turned into a gravel parking lot and a dumpsite.

On March 7, 2018, a complaint was filed with the Department of Permitting Services as to the operation of a landscaping company and it was the conclusion of the inspector that the driveway was just resurfaced with gravel, that there were only a few vehicles on the property, the owner only had a couple of extra work vehicles parked at the house and that property was three acres in the AR zone therefore there were no restrictions on commercial or recreational vehicle parking and the violation was corrected. The inspector completely failed to investigate the nature of the complaint which was the operation of a landscaping company without the issuance of a conditional use permit.

On March 13, 2018, another complaint was filed with DPS as to commercial vehicles in a residential property and the conclusion of the investigation was the same as above, however, the owner was issued with a violation notice to obtain a Home Occupation permit for "lawn maintenance". Again, ignoring the fact that ChampScape was a full fledge landscaping operation as advertised on the web and as registered in SDAT, and pursuant to the county code not eligible for a home occupancy certificate which was applied for on March 16, 2018 and approved by the County on March 29, 2018. The operation of this business and the disruption it caused to the right of quiet enjoyment of its residents could have been avoided, if at the time of the first filed complaint, a proper investigation as to the owner of the property and the nature of his business, would have been properly conducted. It would have revealed the true nature of his business as "Landscaper and Construction Company" and not a "lawn service".

On April 15, 2018, another complaint was filed with DPS noting the same concerns mentioned above and now reporting 7 or more cars parked at property as well as multiple trucks. Several of the trucks having previously been equipped with snow plows and appearing to be equipped for landscape work. Further noting that it appeared that a business had quickly moved to this location and was being operated on a residential lot in the AR zone without a Conditional Use approval. The conclusion of the inspector after talking to the owner was that there were a few cars and few trucks, and the owner was following the home occupation rules and no violation was found.

On February 8, 2021, another complaint was filed regarding the use of the property as the site of a landscaping business with the home serving as a dormitory for about 6 employees, based on the amount of vehicles parked overnight, a half dozen snow plows stored that were not mounted on trucks, a skid steer loader kept at the facility; pallets of bags were stored, a pile of un-bagged road salt (tons of it dumped on the ground and partially covered, dump trucks delivering snow salt, a neighbor with a video of salt being loaded onto company trucks at the facility, timed with a snow event. The case remained open and no further information as to results of investigation is noted in the DPS online data search services. There was a total of 6 service calls and all this information can be verified and is documented on the DPS online complaint data search website.

For the past three years my family was subjected to loud back up alarms in the mornings and the evenings as the dump trucks would leave and arrive, noise in the morning from employees arriving to work as they got their equipment ready, screaming and whistling back and forth to each other over noise of trucks, continuous noise coming from the dumping of waste material like concrete, chemicals, salt and who knows what. As a result of said dumping, 4 of the evergreen trees adjoining the property line that have been thriving for the last 17 years or more dried up and died and now there is a huge gap in the natural evergreen fence. The complaint made through DPS about this matter was again disregarded. The destruction of my property and devaluation was allowed to happen as my complaints directly reported to the Montgomery County Executive's Office and the 2nd District Representative were completely disregarded, ignored, and just passed on to the DPS.

These businesses have figured out and take advantage of the slow-moving process to address zoning violations. In my experience the business next door was allowed to illegally operate for over three years and once it was no longer able to do so without the proper conditional use license, they immediately moved out, listed, and sold the property. To add insult to injury the property was listed as "the perfect property for a landscaping or construction owner."

Therefore, I strongly oppose the approval of the above referenced Conditional Use Application.

Sincerely,



Lilian Rodriguez

Comments on Chapingo LLC (dba Chapingo Tree Care Specialists)
Conditional Use Application # CU202207
on a property located at 12120 Prices Distillery Rd., Damascus, MD 20872

Tom Hartsock
dba Porky Pines Farm
25518 Burnt Hill Road
Clarksburg, MD 20871
301-253-9528
tgh@umd.edu
March 25, 2022

I am a neighboring farmer and resident, with my farm lying to the west of and sharing a short border with the subject property. The stream that accepts the runoff from the subject property runs through my farm and past my home.

The 1980 Preservation of Agriculture and Rural Open Space Functional Master Plan laid out the framework of what was to become Montgomery County's Agricultural Reserve (AR). In return for changing the residential zoning density from one house on five acres to one house on every 25 acres, impacted parties were given the opportunity to be compensated for the loss of development potential in the 73,000 acres in the AR that were not already committed for other uses (parkland, utility easements, emergency services, etc.). Developers could increase density in designated areas outside the AR by buying Transfer Development Rights (TDRs) from property owners in the AR. Property owners could sell all of their TDRs to developers or sell most of their TDRs, but keep some (one for every 25 acres maximum) so they could sell a limited number of residential lots clustered on smaller acreages. And non-agriculturalists still had the opportunity to buy a lot and build their home in the country.

The intended result was that property values in the AR dropped, giving existing and prospective farmers access to land (the designated primary use of AR land was agricultural) that was previously too expensive for existing farmers to expand and new, start-up farmers to buy in. I was one of those new, start-up farmers who benefitted from lowered farmland prices.

The previous owners of what was to be my farm were speculators, hoping to profit by purchasing, then reselling, the farm at a profit. But the establishment of the AR zoning had its desired effect. In my purchase contract, I kept a TDR for each 25 acres that I had bought and the sellers kept, then sold, the rest of the TDRs. This effectively reduced the price I paid for my farm, making it affordable for me to purchase. And the developer who bought those TDRs got to increase the housing density on development property outside the AR. The TDRs that left my farm were some of the first to be recorded in the County land records.

An unintended consequence of Montgomery County's Agricultural Reserve was that developers moved north, building large developments in and around Urbana and raising Frederick County property values.

A number of non-agricultural activities and services, most of them essential to, or appropriate for, residents, are also permitted in the AR. Another list of activities could potentially be carried out in the AR, but only after having gone through the Conditional Use process (formerly called a Special Exception). Chapingo Tree Care Specialists (principal and owner is Mr. Jose Alvarez) has applied for a Conditional Use approval to construct and operate a landscape contractor business on part of a 32.69-acre property, a deeded parcel, in the AR. Normally, a commercial enterprise would be required to go through the subdivision and platting process, but in this case, the reuse of an agricultural structure (which can be built by a farmer for agricultural use without a permit) is being repurposed as a commercial structure. As I understand it, this is not normally allowed. A commercial enterprise would be required to have a building permit, which would, in turn, require a subdivision and platting approval. Can this be done without a well, septic system and a TDR?

The subject property was formerly part of a larger tract that was a dairy farm, but this acreage was split off by deed without going through the subdivision process, and sold to a Frederick County farmer named Mark Yates. Mr. Yates intended to build his family home on the property until he discovered that there wasn't a TDR associated with it. (I became aware of this when Mr. Yates asked if I could "move" one of my remaining TDRs to his property.) Mr. Yates put siding on the bank barn and built the new pole building (unfortunately in the stream valley buffer) that Chapingo proposes to use as their base of operations. Yates stored straw in the bank barn and either stored equipment in or rented out the new pole building.

At any rate, we neighbors saw the Yates property as an ancillary part of his larger farm operation and his activities on the property did not disrupt the neighborhood and **did not** result in complaints to the Department of Permitting Services (DPS). The residential neighbors, many of whom purchased existing homes and some of whom built (or plan to build) homes on lots that were established as part of the TDR farmer compensation process, moved here with the assumption and assurance (because of existing zoning) that they would be living in a rural farming community, not a commercial/industrial/business area. Four of them with larger acreages have horses, ponies and mules on their properties. I also have a horse and produce hay and pasture-raise beef cattle in partnership with my adjacent neighbors. Two other neighbors also have commercial cattle operations on their farms.

All the folks living in our community understand that the land around them is zoned agricultural and have willingly accepted that they would periodically see, hear and smell farming activities.

Unfortunately, the landscaping contractor business proposed by Chapingo/Alvarez, and I say “proposed” with tongue-in-cheek because the business has already been **illegally** operating for some time, is not agricultural in nature, even if Mr. Alvarez does some kind of farming on the rest of the acreage. The arrival of 22 employees at 6am and the subsequent departure of the employees in company trucks and trailers and then the reversal of that process at around 6 or 6:30 that evening, has already been, and will continue to be, highly disruptive (vehicle and equipment noise, car and truck exhaust fumes, employees communicating loudly so they can be heard over the ambient noise created by vehicles and equipment, etc.). This is especially serious for the adjacent and close neighbors but also impacts those neighbors who live nearby along the two Rustic Roads where the caravan of private and company vehicles will be travelling.

These commercial activities will be conducted six days a week and even more often when it snows. The presence of a fuel shed indicates that fuel will be stored there. And the snow removal part of the business will require the storage of large piles of bulk salt and possibly other road treatment chemicals and materials, all of which will be noisily loaded onto plow trucks, often in the middle of the night. Spills and mishandled materials will contaminate the ground and move across the

stream valley buffer and into surface waters that eventually feed into Little Bennett Creek.

These activities are commercial and industrial, not agricultural. And they are simply not consistent with the existing rural and agricultural character of the neighborhood that was, and continues to be, expected by the folks who live and/or farm there.

All the above comments would be germane, even if the Conditional Use application were being proposed by an ethical business owner operating within the law and with a genuine concern for the impacts on neighbors. And I am sympathetic to the business needs of landscape companies because prior to my retirement from the University of Maryland, I was the Director of the Institute of Applied Agriculture, which has a program that trains landscape managers. There are places in Montgomery County that would be appropriate for businesses like Chapingo and I believe the County should make an effort to identify those places, rather than distributing them randomly in the AR.

After purchasing the subject property, one of the first things that Chapingo/Alvarez did was to begin dumping tree waste (wood chips and logs of various sizes) along the top of one field. The field slopes toward a tributary of Little Bennett Creek so that's where runoff from the accumulated debris, and the soil disturbed by the passage of numerous trucks, ended up, since there was no sediment control established. And it was not just a couple loads of material. Load after load arrived, sometimes early in the morning, sometimes late in the evening and sometimes during the day. After the accumulation of such a large number of piles left little room for trucks and rollofs to dump, equipment was used to consolidate the piles to make room for more loads to be dumped.

Several neighbors, including me, filed complaints (at least 5 were filed) to the Department of Permitting Services (DPS). DPS sent an inspector and I believe that Chapingo/Alvarez was cited and fined. But I'm guessing that paying the fines was not a hardship because nothing changed for quite a while. Mr. Alvarez did visit me to tell me that the dumped material was intended to be used to mulch the trees he planned to plant. As a farmer, I knew that this was, at best, stretching the truth, because he had enough material accumulated to put a layer over the whole field! And if he were going to compost it and use it for mulch, he would

need a permit for that. And if he were truly importing those nutrients as part of a farming operation, he'd also need a Nutrient Management Plan. If we neighbors hadn't filed complaints, I'm guessing that Chapingo/Alvarez would still be dumping tree waste there, probably as a holding area until it could be sold, repurposed or simply spread out on the rest of the property. Eventually most of the visible material was hauled away, a judicious move if the business were to have any hope of getting a favorable Conditional Use review.

Chapingo/Alvarez's behavior on the subject property is disturbing enough, but this is not the first time this company has used a Montgomery County property in this manner. The company previously owned a parcel at 22930 Old Hundred Road (also in the AR), where the dumping of woodchips spread widely and deeply across the property caused stormwater drainage problems on adjacent properties. DPS told Chapingo they needed a Conditional Use approval to continue their business activities at the parcel on Old Hundred Road, but apparently an application was never filed. That parcel was eventually sold.

Dumping complaints on the subject property were first filed with DPS in September 2020, and now, 18 months later, the Conditional Use process has finally started. But because of his violation on Old Hundred Road, it's clear that Mr. Alvarez was fully aware that a CU was needed before he purchased the Prices Distillery Road property and dumped his first load of debris. He seems to have figured out how to take advantage of a slow-moving process to address zoning violations. In order for the process to start, there have to be complaints filed. Depending on the severity of the violations and the awareness of neighbors of their right to complain, an illegal business can operate for quite a while before being cited. Once cited, the offending party is given the opportunity to resolve the problem identified by the complaint. If the business itself is seen by the inspector as being illegal, the owner will be informed of the need to file for a Conditional Use approval. But I see no evidence that there is a time limit on how long the illegal business has to file for and receive a Conditional Use exception.

In the case of the subject property on Prices Distillery Road, I'm guessing that Chapingo/Alvarez delayed filing a CU application in the hope that a Zoning Text Amendment (ZTA) that would make a landscape contractor business a permitted activity in the AR, negating the need for the Conditional Use process, would pass. That ZTA was withdrawn and a sign went up on the Chapingo/Alvarez property

indicating that a Conditional Use application had been filed. It would seem to me that there should be time limits placed on the steps of this process and there should be regulations in place to prevent companies like Chapingo/Alvarez from repeating the process while continuing to operate illegally.

Below is a list of other items that lead me to believe that the Chapingo/Alvarez business is being less than forthcoming in its intentions and would not be appropriate for this location:

- large company trucks have been seen and photographed crossing a restricted-weight bridge on Burnt Hill Road,

- company employees have had loud, after-hour parties at the site,

- a “fuel shed” has appeared on the property – is it permitted? A spill would make its way into a tributary of Little Bennett Creek,

- despite declaring in their CU application that “The applicant is not proposing...any alterations to the property.” And that “The existing gravel drive...is ...sufficient in size and design for Chapingo Tree Care.”, the gravel drive was widened with imported millings to allow for two-way traffic,

- the connection of the widened drive with Prices Distillery Road has been altered and expanded, taking it out of compliance with Rustic Road requirements and

- the subject property does not have a well and water table and perc tests have not been successful, so the property has no water, septic or sanitary facilities. And porta johns are not allowed for permanent use in MOCO. Twenty-two employees will be arriving at the site at 6am with their morning coffee in hand and milling around the pole building until they get their work assignments. It doesn't take too much imagination to realize that the outside of the pole building (built in the stream valley buffer) will become a latrine.

Since the best predictor of an individual's future behavior is an assessment of that individual's past behavior, I have little hope that Mr. Alvarez's business would enhance, or even fit comfortably into, the existing rural farm community in which the subject property lies. The Conditional Use process for the AR continues to be

a valuable tool to make sure that reasonably priced land designated for agricultural use is not given a Conditional Use approval just because a non-agricultural business sees it as an opportunity to acquire less expensive land on which to place its business operations.

So, for the record, I strongly oppose the approval of the above-referenced Conditional Use application.

Thomas G. Hartsock

From: peggy.piotrowski@gmail.com
To: [Penn, Joshua](#)
Subject: 12120 Prices Distillery Road, Damascus
Date: Wednesday, March 16, 2022 10:28:55 AM

[EXTERNAL EMAIL] Exercise caution when opening attachments, clicking links, or responding.

Re: Chapingo, LLC

The majority of the noise and the traffic on Prices Distillery Road are a direct result of Mr. Alvarez's 22 employee vehicles and 18 trucks with their attached chipper shredders which come and go throughout the day, 6:30am to 7pm or later, Monday-Saturday.

I would not have purchased my home 4 years ago had I known: 1) I would be living across the street from a truck depot, 2) the trucks rattle my front window when they change gears to go up a small incline in front of my home, and 3) the loud noise from these trucks breaks returning with a full load of uncut trees going 35-40mph down the incline to a dead stop approximately 25 yards from my home to Mr. Alvarez's driveway and 4) the use of chipper shredders will definitely affect the resale value of my home.

I received a letter from Mr. Alvarez's attorney dated December 15, 2021, stating Mr. Alvarez plans to use 28 plus acres of his 32-acre farm to farm in traditional ways. It did not mention when. To date, Mr. Alvarez has used the acreage to dump wood chips in the back of the property and park employee vehicles, trucks, chipper shredders, and a bulldozer in view of Prices Distillery Rd; hence, my home—disturbing the aesthetic beauty of the rural community.

As concerning, Mr. Alvarez could authorize other commercial vehicles and equipment to park on his property.

If Mr. Alvarez is approved under the pretense of being a landscaping contracting operation, please mandate he plant Leyland Cypress' or some other fast growing trees in front his property and along his driveway—"Good fences make good neighbors."

Peggy Piotrowski
12001 Prices Distillery Road
Damascus, MD 20872
p: 301-525-1623

May 6, 2022

Mr. Joshua Penn

Montgomery County MD Planning Board

Montgomery County, MD

Re: The Conditional Use Application (#CU202207) by Chapingo Tree Care Specialists for use of part of the 32 plus acre property located at 12120 Prices Distillery Road, Damascus, as a landscape contractor business.

Dear Mr. Penn,

My name is James G. Ryan. My wife (Karen S. Ryan) and I live at 25602 Burnt Hill Rd. in Clarksburg, MD. Although my property does not abut the 12120 Prices Distillery Rd. property in question, it is in close proximity to it, with a clear view of the access road into the property in question and close enough to be disturbed by the noise associated with the business.

Chapingo Tree Care has been in operation for over a year and a half. Neighbors have complained in the past about the dumping of tree waste on the property, but my bigger concern is the traffic that it causes on our narrow country roads. The application claims that all trucks are below 26,000 lbs., but most tow large wood chippers. I expect that the combination of truck, cargo, personnel and wood chipper cause the Gross Vehicular Weight / Gross Combination Weight to exceed 30,000 pounds.

The Chapingo trucks routinely cross the bridge on Burnt Hill Rd. that has a 30,000 lb. weight limit. Even if the fully loaded trucks returning from a day's work are under the bridge limit, the bridge is one of the narrowest, most dangerous parts of the road. In addition, Burnt Hill Rd. has a sign prohibiting through traffic for vehicles with greater than a 10,000 Gross Vehicular Weight. The Chapingo trucks have repeatedly violated this prohibition. Photographs of the Burnt Hill Rd. signs are attached to this letter.

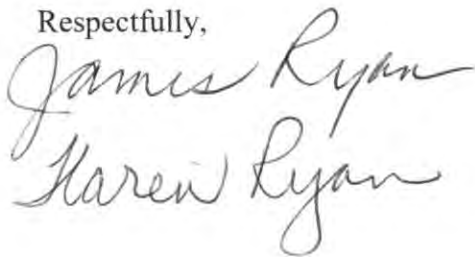
Burnt Hill Rd. has a number of driveways on blind curves as well as other narrow parts of the road. This part of the county has many farms (as one would expect in the Agricultural Reserve) and it is not unusual to encounter farm traffic moving slowly on the road. The local residents understand and expect these hazards during specific times of the year, but it is an area that is not conducive to daily commercial traffic. Our concern about large truck traffic is not only about the Chapingo trucks, but also includes the large trucks that routinely provide service to Chapingo.

The Chapingo application indicates that hours of operation will be 6 AM to 6:30 PM. From observations that my wife and I have made, work (indicated by incoming traffic as well as an industrial whirring noise) has continued well past 6:30 PM on numerous occasions. A

photograph of a truck with towed chipper that is used by the business is attached. This vehicle arrived at the Prices Distillery Rd. site at approximately 7:15 PM on March 16, 2022. Since workers are at the Prices Distillery Road site early (6 AM) as well as after 6:30 PM, and the application states that there is no water or septic facilities on the site, I wonder how the workers deal with the lack of such facilities.

Because of the impact on the local traffic, potential for accidents and road damage as well as for environmental concerns related to effects felt by the local residents and farms, I ask the Office of Zoning and Administrative Hearings to deny the Conditional Use Application (#CU202207) of Chapingo Tree Care Specialists for use of the property at 12120 Prices Distillery Road, Damascus, as a landscape contractor business.

Respectfully,

Handwritten signatures of James Ryan and Karen Ryan in cursive script.

James and Karen Ryan

25602 Burnt Hill Rd.

Clarksburg, MD 20871

Jgryan55@gmail.com

