

COMMONWEALTH OF MASSACHUSETTS

Town of Milton

**Amended Application for Special Permit and Site Plan Approval for
Landscaping Business**

217, 237 and 270 Hillside Street and 0 and 24 Forest Street

Oldfield Family LLC, Owner, and

Joshua Oldfield, Maggie Oldfield, and Thayer Nursery Corp., Applicants

Pursuant to Section III, Subsection N of Chapter 10 of the General Bylaws known as the Zoning Bylaws the Applicants Joshua Oldfield, Maggie Oldfield and Thayer Nursery Corp. (hereinafter the "Applicants") apply for a special permit for the lots of land containing approximately 391,126 square feet known and numbered as 217, 237 and 270 Hillside Street and 0 and 24 Forest Street (the "Property"). Pursuant to Subsection D of Section VIII of the Zoning Bylaws, the Applicants seek Site Plan Approval for the changes to the Property described herein and shown on the Site Plan.

Applicants are successors in interest to Robert C. Oldfield and Margaret T. Oldfield who held a special permit under the provisions of Section III.A.7.d dated January 9, 1967 as amended by a decision dated August 7, 1987. (Attached as Exhibit B) Applicants are thereby entitled to apply for a Landscaping Business Use permit.

Applicants request that the Special Permit and Site Plan Approval ("Special Permit") authorize certain construction and site layout as described herein and shown on the Site Plan and certain uses which are described herein, certain of which are limited to specific areas depicted on the Site Plan. The Site Plan consists of five (5) sheets, four of which have been prepared by DeCelle Burke & Associates, Inc., dated December 22, 2014, generally entitled "Plan of Land in Milton, MA 270 Hillside Street." Sheet 1 is entitled "Existing Conditions & Demolition Plan." Sheet 2 is entitled "Proposed Conditions Plan." Sheet 3 is entitled "Construction Details." Sheet 4 is entitled "217-237 Hillside Street." The fifth sheet is entitled "Thayer Photometrics" prepared by Boston Light Source dated December 5, 2014. The Site Plan is attached hereto as Exhibit A and is incorporated herein and made a part hereof.

Section III, Subsection N of the Zoning Bylaws ("Subsection N") in Paragraph 4 contains nineteen subparagraphs lettered (a) – (s) which require various Plans,

Rules and Specifications. Some of the requirements are specified in the subparagraphs themselves, and insofar as any requirement is so specified it is a requested requirement of the Special Permit. Certain other material meeting requirements in a subparagraph is contained in the Site Plan as outlined in the following table:

Plan Required by III.N.4	Sheet Number
Existing Conditions and Demolition Plan	1 of 5
Drainage Plan	2 and 3 of 5
Landscape Plan	2 and 3 of 5
Operations	2 of 5
Parking Plan	2 of 5
Building Plans	1 and 2 of 5
Lighting Plan	5 of 5
Signage Plan	1 and 2 of 5

In addition, Applicants request text as follows that addresses requirements in Subsection N.

1. Purpose.

The purpose of the zoning pursuant is to permit the ongoing operations of a Landscaping Business that was in operation in July 2012. The zoning requires conditions to be imposed under which the Applicants may operate the Landscaping Business and which define and regulate those factors that affect the interests of abutters, other residents and the Town, including:

- i. Control of dust, noise, light, and odor.
- ii. Promotion of safety.
- iii. Reduction of inconvenience to neighboring residents.
- iv. Establishment of reasonable limits on the amount of infrastructure, equipment, and operations.

2. Intent; Definition of Landscaping Business; Permissible Activities.

(a) Intent and Definition of a Landscaping Business.

The requested provisions of this special permit are intended to mitigate the noise, dust, odor, light intrusions and stormwater runoff of business operations

and to authorize a Landscaping Business as defined in Subsection N.2 under the terms and conditions specified herein to be maintained and conducted on the Property. Subsection N.2 defines a Landscaping Business as a business concern that operates to construct, install, and maintain lawns, trees, yards, shrubs, gardens, patios, related grounds and other outdoor areas owned by others.

(b) Permissible Activities.

This application requests that the Applicants, subject to appropriate terms and conditions, be authorized to undertake the following activities as a Landscaping Business:

- i. Landscape services including design and installation.
- ii. Own or lease real and personal property and employ employees for the Landscaping Business.
- iii. Own, lease, operate, and store vehicles and equipment for the Landscaping Business.
- iv. Sell trees, shrubs, sod, seed, loam, mulch and related material, stone, stone dust, gravel, pavers, timbers, and landscape fixtures needed to implement and for use in a specific landscape design installed by the Landscaping Business.
- v. Sell firewood.
- vi. Provide snow plowing and snow and ice removal services for third parties, including the Town of Milton.

The level of each activity shall be no greater than the level of that activity existing in 2012.

(c) 2012 Activity Level: Employees.

The Applicants had 19 employees in July 2012 as set out in the following table. Additional employees may be hired to replace departing employees, but the total number of employees shall not exceed 19.

An Affidavit attesting to the number of employees in July 2012 is attached.

Business	2012 Number of Employees
Landscaping/Nursery	Oldfield, Joshua
Nursery/Landscaping	Oldfield, Maggie
Landscaping/Nursery	4
Nursery	6

Business	2012 Number of Employees
Landscaping	7
Total Employees	19

(d) 2012 Activity Level: Materials and Firewood.

In any calendar year the Applicants request authorization for purchases for delivery to the Property and sale of no more than the amounts of materials shown below. The 2012 amounts delivered and sold is shown in the following table:

Material	2012 Total Volume (cubic yards, annually)
NutriMulch	3,300
Hemlock mulch	1,000
Playground chips	350
Loam	1,500
NutriSoil	1,500
OrganiGro compost	2,000
Sand	500
Stone (3/4" stone, dense grade, or stone dust)	2,000

In any calendar year the Applicants may also receive and sell no more than one thousand (1,000) cords of firewood. In calendar year 2012 the Applicants received and sold no less than 1,000 cords of firewood.

An affidavit attesting to the amount of materials delivered and sold in 2012 is attached.

Various terms and conditions applying to deliveries and sales of materials are hereafter requested. . Applicants are prepared to make available certain relevant records specified in *Paragraph 10, Review of Required Records*.

(e) 2012 Activity Level: Vehicles.

Applicants request that the activity level of the uses conducted on the Property in 2012 be measured and determined by the total number of employees and

vehicles used in business operations in 2012 and the amount of materials delivered and sold. The number and type of vehicles operated in 2012 is as listed in Paragraph 4(n) List of Vehicles. The number of employees is specified in Paragraph 4(c) Activity Level; Employees. The amount of materials delivered and sold is specified in Paragraph 4(d) Activity Level; Materials and Firewood.

3. The Landscaping Business May Exist on the Lot With Other Uses, Including Agricultural, Greenhouse, Nursery and/or Residential Subject to Control of Certain Activities.

Under Subsection N.3, a Landscaping Business may be located on a lot or lots in conjunction with other uses permissible in a residence district including residential use; an agricultural use defined by and conducted in accordance with M.G.L. c. 128, s.1 and M.G.L. c. 40A, s. 3; and a greenhouse and/or nursery use as defined by and conducted in accordance with Subsection III.A.7(d) of the Zoning Bylaws of the Town of Milton. Subsection N, Paragraph 3 permits the Planning Board to authorize operation of a landscaping business on a lot on which one or more permissible uses already exists provided that, if there is any "involvement" between a proposed landscaping business use and an existing use, the requirements of Subsection N shall apply to that other use. There may be the requisite involvement in the following activities: delivery, storage and sale of bulk materials, including firewood; hours of operation; use of employees; and vehicle operation and storage. Accordingly, whatever the underlying use, any activities which are so involved shall be subject to the terms and conditions of this Special Permit.

4. Plans, Rules and Specifications.

The following plans, rules and specifications are required by Subsection N.4 and are intended to be material parts and enforceable provisions of a Special Permit. These plans, rules and specifications are provided by Applicants pursuant to Subsection N.4 ("Plans, Rules and Specifications").

(a) Existing Conditions Plan.

Existing conditions, including existing site topography, buildings, structures, utility services, water and sewer lines, wells, drainage infrastructure, driveways, landscape, natural features and areas of use, are shown on Sheet 1 of the Site Plan.

(b) Deeds and Leases.

The following deeds and leases attached as Exhibit C show the Applicants' interest in the Property. .

- i. Quitclaim Deed from Hanna B. and Richard F. Ricciardi to Joshua and Stephanie Oldfield, dated November 26, 2014. (217 Hillside Street)
- ii. Quitclaim Deed from Pamela R. and Charles S. Bailey to Philip F. Laing and Margaret T. Oldfield, dated December 5, 2005. (237 Hillside Street)
- iii. Quitclaim Deed from Margaret T. Oldfield to Oldfield Family, LLC, dated May 1, 2012. (270 Hillside Street)
- iv. Quitclaim Deed from Margaret T. Oldfield to Oldfield Family, LLC, dated May 1, 2012. (Forest Street)
- v. Quitclaim Deed from F. Joshua and Margaret T. Oldfield to Oldfield Family, LLC, dated May 1, 2012 (24 Forest Street)
- vi. Agrister Lease between Maggie Oldfield and Philip Laing to The Thayer Nursery Corporation, dated January 1, 2014 (237 Hillside Street)
- vii. Agrister Lease between Margaret Oldfield and The Oldfield Family Trust to The Thayer Nursery Corporation, dated January 1, 2014 (270 Hillside Street, and 0 and 24 Forest Street)
- viii. Agrister Lease between Stephanie and Josh Oldfield to The Thayer Nursery Corporation, dated January 1, 2014 (217 Hillside Street)

(c) Wetlands Delineation Plan.

The Site Plan shows that no wetlands exist on the Property.

(d) Drainage Plan.

The Drainage Plan is shown on Sheets 2 and 3 of the Site Plan. All drainage infrastructure shall be constructed and installed as shown on the Site Plan, as specified below, and as specified in the letter from DeCelle Burke & Associates, Inc. dated September 21, 2015 which is attached hereto as Appendix D.

- i. **Goals.** The Drainage Plan imposes requirements to (1) reduce flows off the Property and to (2) clear any suspended materials from the runoff from the Property before reaching the municipal drain or abutting properties. The drainage system has been designed to handle anticipated stormwater runoff and as much as reasonably possible to eliminate suspended solids in stormwater runoff for 2, 10, 25 and 100-year storm events. The system consists of a detention basin, outlet control structure and rock bag check dam as shown on the Site Plan. The drainage system is designed to retain the majority of stormwater on site and to prevent water flows off site and creation of ponding on neighboring properties.
- ii. **Stormwater Operation & Maintenance Plan.** A “Stormwater Operation & Maintenance Plan (OMP)” is attached as Exhibit E and is a part of this Special Permit. Its provisions are requirements of the

Special Permit and shall be enforceable as such. The provisions include inspection of the stone berm after rain events, maintenance of the berm, and a required annual inspection and cleaning of the detention area and swale. An annual report shall be submitted to the Town Engineer documenting the maintenance of this system. Applicants shall make available this report as provided in *Paragraph 10, Review of Required Records*.

- iii. **Interim Stormwater Report.** The Applicants shall hire a stormwater engineer to review implementation of the drainage provisions and provide written reports to the Planning Board and Town Engineer on the effectiveness of the drainage twelve (12) months and twenty-four (24) months after completion of the installed system.

(e) Landscape Plan.

The Landscape Plan is shown on Sheets 2 and 3 of the Site Plan.

- i. **LandCare Yard.** Applicants shall install a LandCare Yard as shown on the Site Plan.
 - a. **Material Bins.** The LandCare Yard shall include material bins as shown on the plan. Sprinklers shall be attached to the corners of the bins. The bins shall be set back at least forty-five (45') from the southerly property line as shown and shall be built with stone or concrete blocks or similar materials. There shall be no more than six (6) material bins along the easterly side of the LandCare Yard, which shall be set against the concrete base wall of the Wood Barn. These bins shall be thirty-two feet (32') deep, fifteen feet (15') wide and six feet (6') in height. There shall be no more than three (3) material bins along the westerly side of the LandCare Yard. These bins shall be thirty-two feet (32') deep, fifteen feet (15') wide and six feet (6') in height.
 - b. **Surface Materials.** Three-quarter inch washed stone shall be installed as a surface material in the LandCare Yard and in front of the Wood Barn as shown on the Site Plan. The surface shall be kept dust-free.
- ii. **Grow-Out Area.** Applicants shall remove approximately ten thousand (10,000) square feet of impervious surface in the area shown on Sheet 1 of the Site Plan as "Pavement to be Removed" and replace it with loam or similar material. A large new nursery stock grow-out area will be created as shown on Sheet 2 of the Site Plan. The Grow-Out Area shall be irrigated with over-head sprinklers supplemented by hand or tank watering if needed for control of dust.
- iii. **Fence.** Applicants shall install an eight-foot (8') high tensile steel fence (SolidLock or similar), with twelve-foot (12') long, six-inch (6")

square pressure-treated posts with attached two (2) overlapping four-and-a-half foot (4.5') sheets of Trademark Soundproofing 1-Pound Reinforced Mass Loaded Vinyl if available, or if not available an equivalent product, covering the full eight-foot (8') high fence along the southeast and northeast property lines, as shown on the Site Plan.

- a. Along part of the northeast property line, the fence will be positioned on a rock wall which will be built up to place the bottom of the fence at elevation of at least one hundred eighty-four feet (184') as shown on the Site Plan.
 - b. Along part of the northeast property line (Teevens) the fence will be set back nine feet (9') so as to preserve the existing trees that provide a natural buffer. Removing the trees to accommodate a 15' fence setback required in the zoning would diminish the buffer. The trees shall be preserved and, as necessary, replaced.
 - c. The Applicants will also install three (3) up to ten-foot (10') wide, eight-foot (8') high access gates constructed of high tensile fencing with attached sound attenuation panels. The gates shall be as shown on the Site Plan. Insofar as possible in accordance with all good construction practices and techniques, there shall be no gaps between the fence and the gates when closed. Gates shall be kept closed unless access is needed. The fence and sound attenuation materials shall be maintained in good condition and promptly repaired when necessary.
- iv. **Plantings.** Evergreen plants will be sited between the fence and lot lines as shown on the Site Plan. Thirteen (13) Norway Spruces with a height of ten to twelve feet (10' to 12') will be planted approximately sixteen feet (16') feet apart between the lot line with Lot N-12-3A and 3B and the fence and eleven (11) Arborvitae between ten to twelve feet (10' to 12') in height will be planted on the LandCare Yard side of the fence. Eight (8) evergreens will be spot sited and planted along the easterly lot line. These evergreens shall consist of a mix of Arborvitae 'Green Giant' at eight to ten feet (8-10'), White Pine at eight to ten feet (8-10') and Norway Spruce at eight to ten feet (8-10'). Eight (8) additional evergreens of the same size will be spot sited and planted along the property line for Parcel N-12-2 as agreed with the owner of Parcel N-12-2. The Applicants will supplement existing plantings between the lot line for Lot N-12-7 and the fence with plantings of rhododendron and/or mountain laurel so as to provide denser screening. All plantings shall be maintained in good condition. Insofar as possible plantings shall help mitigate dust and noise as well as present an attractive visual appearance. Plantings shall be replaced if diseased, dying or otherwise not in good condition.

(f) Operations.

Areas for Operations at 270 Hillside Street and 0 and 24 Forest Street are shown on Sheet 2 of the Site Plan and are described in various paragraphs of this application. Operations shall be concentrated in the LandCare Yard, the area in front of the Wood Barn and in the Wood Barn as shown on Sheet 2.

Operations at 217-237 Hillside Street are shown on Sheet 4. Composting may be conducted in the area shown. This area shall be buffered by the plantings shown on Sheet 4. Composting shall be reasonably odor-free and conducted in a reasonably quiet, efficient manner. Nursery stock may be grown in the areas shown, and there may be deliveries of nursery stock to be established in these areas. There may be storage of pallets of stone and storage of boulders if these materials are not in everyday use for landscaping. Certain non-hazardous, organic, noncompostable material removed from landscaping sites may be stored in the area shown for eventual disposal off-site. All storage shall be neat and orderly. Wood chips may be stored in the areas shown. On-site use of wood chippers and on-site use of gas chainsaws in normal business operations at 217-237 Hillside Street shall be restricted to the hours 9AM to 4PM Monday through Friday. There shall be no weekend use of wood chippers and gas chainsaws at that location. The non-vegetated areas of the premises at 217-237 Hillside Street shall be kept in a reasonably dust-free condition.

- i. Rules for on-site vehicular movements, loading, and deliveries at 270 Hillside Street and 0 and 24 Forest Street are specified in *Paragraph 7(e), On-site Traffic; Loading; Deliveries*.
- ii. Driveways shall not be located within twenty feet (20') of the lot lines of abutting owners. Any material change in the location of an existing driveway shall require approval by the Planning Board.
- iii. The principal loading area is the LandCare Yard, the Wood Barn and the area in front of the Wood Barn. No loading area shall be located within thirty feet (30') of any lot line.
- iv. Hours of operation are specified in *Paragraph 4(i), List of Business Activities*.

(g) Parking Plan.

The Parking Plan is shown on Sheet 2 of the Site Plan. Customers of the Landscaping Business shall park on-site in one of the designated spaces and shall not park on Hillside Street or Forest Street. The Applicants shall not park vehicles or allow standing vehicles to idle on Hillside Street or Forest Street. Vehicles providing landscaping services to a customer on those streets may park on the street if necessary.

- i. **Calculation of Required Parking Spaces.** The Institute of Traffic Engineers Parking Generation Manual (the ITE Manual) does not

provide a standard for either a nursery use or a Landscaping Business Use. The Applicants have suggested Retail (Building Materials and Lumber Store) as a proxy for a nursery use and Industrial (General Light Industrial/Warehousing) as a proxy for the Landscaping Business Use. Application of the standards for these uses as proxies is reasonable. On the basis of these standards, the Applicants have a need for fifteen (15) spaces for its nursery use and eight (8) spaces for its Landscaping Business use for a total of twenty-three (23) spaces.

- ii. **Provision of Spaces.** Applicants shall provide 34 parking spaces as shown and numbered on the Site Plan and allocated as follows:
 - a. Spaces 1-16: Customers.
 - b. Spaces 17-24: Employees.
 - c. Spaces 25-34: Parking of equipment and vehicles when not in use.
- iii. **Parking of Trucks and Equipment.** At the close of business each day, trucks and equipment will be parked either within or in front of the Wood Barn (Bobcats and other loaders), or within the LandCare Yard, in parking spaces numbered 25-34, shown on the Site Plan.
- iv. **Maintenance.** The existing driveways and parking areas shall be maintained in good condition and shall be kept free from litter. The Applicants shall clear snow from parking areas and driveways as necessary to maintain safe access and vehicular maneuverability.

(h) Buildings Plan.

The Building Plan is shown on Sheets 1 and 2 of the Site Plan. The sheets show the business buildings, storage bins, dumpsters and other business structures. Dimensions are specified. Expansion of any existing building shown on the Site Plan or the construction of any additional structures beyond those shown on the Site Plan is not requested. Primary uses are as follows: The Garden Shoppe is used for sales and administration. The Greenhouse and Lath House are used as greenhouses. The 1798 Barn and Shed are used for storage and displays. The Wood Barn is used for storage and transfer of firewood and for storage and maintenance of equipment and other materials. The Tool Shop is used for storage of tools. The Fuel Shed/Dry Storage is used for storage of fuel and equipment.

(i) List of Business Activities.

The allowable business activities are specified in *Paragraph 2(b), Permissible Activities*. The activities of the Landscaping Business may be operated and conducted at the Property only during the following hours:

Activity	Monday-Friday	Saturday	Sunday
Sales Office	7:00 am – 6:00 pm	7:00 am – 6:00 pm	9:00 am – 6:00 pm
Loading and Use of Noisy Equipment – Landscaping Business and Loading of Firewood	7:00 am – 6:00 pm	9:00 am– 5:00 pm	Not allowed
Loading of Plant and Nursery Materials not Sold as Part of the Landscaping Business	7:00 am – 6:00 pm	9:00 am– 5:00 pm	10:00 am – 3:00 pm
All Deliveries to Property	9:00 am – 2:00 pm	Not allowed	Not allowed
Deliveries from Property	7:00 am – 6:00 pm	9:00 am– 5:00 pm	10:00 am – 3:00 pm
Emptying Dumpster	10:00 am – 2:00 pm	Not allowed	Not allowed
Power-washing vehicles	12: 00 pm – 5:00 pm	Not allowed	Not allowed

Noisy equipment is defined as any vehicle or equipment with an engine powered by gasoline or diesel. Automobiles; vans; pick-up trucks; and gators and golf cart identified in the table in *Paragraph 4(n), List of Vehicles* below are not noisy equipment.

(j) Mitigation Plan.

The Applicants shall install certain improvements and undertake certain operational changes to provide relief from noise, odor and dust. Stormwater runoff and lighting glare are also made part of the mitigation plan required by Subsection N.4(j). The improvements and operational changes are designed to address conditions that will be present as a result of the operations of the Landscaping Business, and include the elements below:

- i. Installation of a drainage system that will reduce the amount of stormwater runoff and the pollutants in the runoff, as described in *Paragraph 4(d), Drainage Plan*.
- ii. Installation of a fence with sound-attenuating materials and landscaping on either side of the fence, as described in *Paragraph 4(e), Landscape Plan* and as shown on the Site Plan.
- iii. Required operational changes to reduce noise from deliveries, loading and equipment operations, as described in *Paragraph 4(f), Operations*
- iv. New requirements for the storage of material, including restrictions on location and quantity, and control of dust and odor, as described in *Paragraph 7(a), Storage, Loading, and Unloading of Materials*.

- v. Prevention of light overspill and glare onto abutting properties, as described in *Paragraph 4(k), Lighting Plan*.

These improvements and other improvements shown on the Site Plan and described in this application shall be constructed and maintained as shown and as specified.

(k) Lighting Plan.

The Lighting Plan is shown on Sheet 5 of the Site Plan. Lighting will be installed as shown on the Site Plan.

- i. Applicants shall direct exterior lights downward and install covers to shield them such that the lamps shall not be visible off-site. Light levels shall be kept as low as reasonably practical.
- ii. All lights used in business operations shall be turned off at the close of business each night except certain lights along the driveway on granite posts, which Applicants deem necessary for safety reasons.
- iii. Security lighting may be established with the approval of the Planning Board. Any such lighting shall employ the lowest practical light levels and shall be screened.

(l) Street Improvement Plan.

Any damage to the portions of Forest and Hillside Streets abutting or opposite the Property and/or their shoulders by Applicants' vehicles or by trucks making deliveries to or from the Property will be repaired and restored by Applicants within two (2) weeks after a request by the Town of Milton or the private property owner who abuts such damage. The Applicants have installed a hard-pack surface on the shoulder of Hillside and Forest Streets abutting that part of the Property at 270 Hillside Street, and this shoulder shall be maintained in a dust-free and litter-free condition. The shoulder on the opposite side of Hillside and Forest Streets shall not be hard-packed but shall be maintained in a grassed or vegetated condition. The responsibility for maintenance of the far-side shoulder shall be on the abutting owners, and Applicants shall only be responsible for damage caused by the above-specified truck traffic.

(m) Signs.

The location of certain signs is shown on Sheets 1 and 2 of the Site Plan. Signs shall be erected, maintained and approved as provided in the Zoning Bylaws and other regulations of the Town of Milton.

(n) List of Vehicles.

The Applicants shall not have a number of vehicles in excess of the number owned or leased on July 1, 2012 and as shown in the table below. Vehicles may be replaced on a vehicle-by-vehicle basis with vehicles that are similar in size, type and capacity and equal to or better in noise and pollution emissions from those they replace. Any new acquisitions shall be chosen with quiet operation as a principal criterion. No additional vehicles may be leased, rented, or purchased. Applicants shall make available to the Building Commissioner or his designee certain relevant records regarding vehicles specified in *Paragraph 10(d), Review of Required Records*.

Year	Vehicle Description	Predominate Vehicle Use	Description of Vehicle Use
2002	Chevy Silverado pickup	Nursery/Lands caping	Making sales calls and deliveries
2003	Chevy 5500 dump truck	Nursery	Delivery of plant material and bulk material
2001	Chevy dump truck	Nursery/Lands caping	Delivery of plant material and bulk material
1991	GMC TopKick dump truck	Nursery/Lands caping	Delivery of plant material and bulk material
1997	Mack dump truck	Landscaping	Delivery of plant material and bulk material
2006	Chevy 5500 dump truck	Landscaping	Delivery of plant material and bulk material
2005	Sprinter van	Nursery	Pickup and delivery of plant material
1998	Water tank/hydroseeder	Nursery/Lands caping	Watering plant material, driveway, and for installing new lawns
2006	John Deere excavator	Nursery/Lands caping	Excavating trenches for irrigation, drainage, patios, and walls

Year	Vehicle Description	Predominate Vehicle Use	Description of Vehicle Use
2004	Bobcat 1	Nursery	Planting of material in fields, loading/unloading plant and bulk material
1998	Bobcat 2	Nursery	Planting of material in fields, loading/unloading plant and bulk material
2005	Bobcat 3	Landscaping	Planting of material in fields, loading/unloading plant and bulk material
2005	Bobcat 4	Landscaping	Planting of material in fields, loading/unloading plant and bulk material
1997	Trailer 1	Nursery	Pickup and delivery of plant material
2002	Trailer 2	Landscaping	Delivery of plant material and equipment
2006	Trailer 3	Landscaping	Delivery of plant material and equipment
2008	Bobcat Gator	Nursery	Moving of plant material, mulching of fields
2002	John Deere Gator	Nursery	Moving of plant material, mulching of fields
2004	Golf cart	Nursery	Moving of plant material, mulching of fields

(o) Rules.

The following rules shall apply to all vehicles and equipment on the Property. These rules shall be enforceable as part of the Special Permit

- i. Applicants shall install quality mufflers, to the extent that such mufflers exist, on all Bobcats, trucks, and other vehicles used on the Property so as to lessen engine noise as effectively as reasonably possible.
- ii. Applicants shall not leave Bobcats, trucks, and other vehicles with engines running unattended at any time.
- iii. Applicants shall not allow Bobcat or truck engines to be idling, when attended, for more than five (5) consecutive minutes. There shall be compliance with Section 16A of Chapter 90 of the General Laws ("Stopped Motor Vehicles; Operation of Engines...").
- iv. Applicants shall store Bobcat attachments in the Wood Barn, with overflow in the Seasonal Outdoor Storage Area.
- v. No more than two (2) Bobcats shall operate on Sundays.
- vi. No equipment or vehicle with a gas or diesel engine, other than automobiles; vans; pick-up trucks; and gators and golf cart identified in the table in *Paragraph 4(n), List of Vehicles* above, may be operated by the Applicants on the Property outside of the hours stated in *Paragraph 4(i), List of Business Activities*. Trucks that return after the closing time shall be shut off immediately upon their return to the Property. No unloading or loading of trucks may occur after the closing time specified in *Paragraph 4(i), List of Business Activities*.
- vii. To the extent legally possible, backup alarms on Bobcats and trucks will be deactivated, or set at the lowest sound level possible.
- viii. All vehicles and equipment shall be properly registered with the Registry of Motor Vehicles and shall be maintained in proper running order. All safety signals shall be inspected periodically, including when any equipment is inspected for annual inspection stickers.
- ix. Power-washing of trucks, Bobcats and other vehicles shall take place between the hours specified in *Paragraph 4(i), List of Business Activities*. Any such power washing activity shall take place in the Wood Barn or in an enclosed space designated for the purpose such as the LandCare Yard but not within 40 feet from the lot lines. Routine maintenance may also be conducted in these areas at those times.
- x. Landscape equipment shall not be operated outside of the hours stated in *Paragraph 4(i), List of Business Activities*.
- xi. All equipment shall be turned off when not in use.
- xii. Off-season equipment shall be stored neatly in the Wood Barn or in the Seasonal Outdoor Storage Area shown on the Site Plan.
- xiii. Employees shall wear earphones when listening to radios, CD players or similar devices. Any such use shall not compromise safety.

(p) Firewood Plan.

- i. **Quantity.** The Applicants may sell no more than one thousand (1,000) cords of firewood annually.

- ii. **Deliveries to the Property.** Firewood delivery trucks shall drive past the Wood Barn and back into the barn so that wood can be unloaded using a “walking floor” mechanism within the Wood Barn. Deliveries to the Property shall take place from 9:00 am-2:00 pm Monday to Friday and shall not be allowed on Saturday and Sunday.
- iii. **Loading of Firewood.** All loading of firewood for delivery to customers shall take place within the Wood Barn from 7:00 am-6:00 pm Monday to Friday, 9:00am-5:00pm on Saturday and shall not take place on Sunday. Applicants’ dump trucks will be lined with SportFloor Stamina Performance Rubber Flooring to prevent excess noise during loading. Loading into a customer’s automobile or pick-up truck by hand may occur on any day during regular business hours
- iv. **Deliveries from the Property.** Deliveries of firewood from the Property shall take place from 7:00 am-6:00 pm Monday through Friday, 9:00 am-5:00 pm on Saturday and 10:00 am-3:00 pm on Sunday. All firewood delivered on Sunday shall be either loaded by equipment on Saturday or be loaded by hand.

(q) Snow and Ice Removal Plan.

- i. Snow and ice removal operations shall be limited to vehicles (or replacement vehicles) which are listed in *Paragraph 4(n), List of Vehicles* not to exceed the number of vehicles and type of such vehicles which were used in snow removal operations in 2012. The number of employees engaged in snow removal operations shall not exceed the number of employees used in snow removal operations in 2012.
- ii. Equipment used in snow and ice removal shall be parked in the Wood Barn and LandCare Yard in season, and shall be used on an as needed basis during snow and ice conditions. Equipment shall be serviced and assembled 7:00am-6:00pm Monday-Friday, 9:00-5:00pm on Saturday, but not on Sunday. Emergency repairs during a storm event may take place outside these hours. Insofar as possible, preparations for snow and ice removal shall take place in the Wood Barn and in the LandCare Yard.
- iii. Vehicles shall not idle unattended for more than five minutes. Noise shall be kept to the minimum possible for safe operations. An amount of exterior lighting required for safe operations may be used. The impact on the neighbors from on-site and vehicular light shall be minimized.
- iv. During and following a snow or ice event, equipment may be operated outside the permitted hours specified in *Paragraph 4(q)ii* above as reasonably necessary.
- v. An affidavit attesting to the level of snow and ice removal activities in 2012 is attached as Exhibit F.

(r) Sales Plan.

- i. **Hours of Operation.** The hours of the sales office shall be 7:00 am-6:00 pm Monday through Saturday and 9:00 am-6:00 pm on Sunday.
- ii. **Record-keeping.** Applicants shall maintain appropriate records supporting the requirements which limit various activities to the 2012 levels, and shall make such records available for review and copying as specified in *Paragraph 10(d), Review of Required Records*.

(s) Christmas Trees and Holiday Materials Plan.

Not applicable – Applicants have not applied to sell Christmas Trees and Holiday Materials under Subsection N.

5. Incorporation of Plans, Rules and Specifications.

The Applicant requests that the Planning Board incorporate these various plans, rules, and specifications provided by the Applicants in the application into the special permit.

6. Site Plan Approval.

Applicants request that the Planning Board grants both a special permit pursuant to Subsection N and site plan approval pursuant to Section VIII.D of the Zoning Bylaws.

7. Additional Terms, Conditions and Requirements for the Landscaping Business Use.

Certain additional terms, conditions and requirements for a Landscaping Business use are required by Subsection N.7(a) – (j) of the Zoning Bylaw. There shall be strict compliance with these terms, conditions and requirements. These terms, conditions and requirements shall include:

(a) Storage, Loading, and Unloading of Materials.

- i. **Storage.** All bulk agricultural/earth materials (excepting those at 217, 237 Hillside Street) shall be properly stored in three-sided contained bins. The bins shall be set back at least forty-five (45') from the southerly property line as shown on the Site Plan and shall be built with stone or concrete blocks or similar materials. There shall be up to six (6) material bins along the easterly side of the LandCare Yard, which shall be set against the concrete base wall of the Wood Barn. These bins shall be thirty-two feet (32') deep, fifteen feet (15') wide and six feet (6') in height. There shall be up to three (3) material bins along the westerly side of the LandCare Yard. These bins shall be

thirty-two feet (32') deep, fifteen feet (15') wide and six feet (6') in height.

- ii. **Quantity and Capacity.** Each bin shall have a capacity of no more than one hundred sixty (160) cubic yards. Applicants may fill each bin at the start of the season and reorder when volumes drop to forty (40) cubic yards. At no time shall the materials be stored in the bins at more than their capacity. Total deliveries of materials shall not exceed the amounts specified in *Paragraph 2(d), 2012 Activity Level: Materials*.
- iii. **State Regulations.** The requirements of 527 CMR 1.00, Chapter 31: "Forest Products" regarding the storage of mulches, including fencing, stacking, and location relative to buildings and property lines, shall be met and any required permits shall be obtained and kept current prior to and during the storage of mulches and other controlled bulk agricultural materials.
- iv. **Control of Dust and Odors.** The LandCare Yard and bins shall be periodically watered as reasonably necessary and appropriate for reducing dust and odors. The LandCare Yard and the materials in the bins, which need water for dust control without producing unreasonably offensive odors, shall be watered regularly by the four permanently mounted sprinklers attached to the corners of the new materials bins as shown on Sheet 2 of the Site Plan or by hand or tank irrigation as needed so as to control dust from leaving the Property. Materials shall be covered if necessary to prevent dust and/or odors from leaving the Property. Materials shall also be stored so as to prevent infestation by insects or vermin. Manure must be bagged. If stored materials transfer dust or odors to adjoining properties, the amounts stored shall be reduced by twenty-five percent (25%) and measures taken to prevent any further transfer of unreasonable dust or odors. If the problem persists additional reductions of 25% shall be made until the problem is solved.
- v. **Loading and Unloading of Materials.** All loading and unloading of materials shall take place within the LandCare Yard from 7:00 am-6:00 pm Monday to Friday, 9:00am-5:00pm on Saturday. Loading and unloading of materials associated with the Landscaping Business are not allowed on Sunday.
- vi. **Loading and Unloading of Nursery Stock.** Loading and unloading of nursery stock shall occur in the LandCare Yard or in the area immediately adjacent to the Wood Barn. Nursery stock unloaded for establishment in one or more of the "Nursery Stock" growing areas may be unloaded on the driveway next to such growing area as far from neighboring residences as reasonably possible.

(b) Storage of Fertilizer.

Fertilizers, insect, weed and fungus controls will be stored at least thirty-five feet (35') from the lot lines. Storage shall meet all applicable standards, directions and best practices for the storage of the particular materials.

- i. Any spillage shall be reported if required and cleanup shall be prompt and in accordance with any applicable standards, directions and best practices. Inadequate containers and underground tanks shall not be used for storage.
- ii. Use of fertilizer and chemical products in growing operations shall be in accordance with instructions, regulations and best practices and shall not be carried airborne or by runoff onto neighboring properties.

(c) Operators of a Landscaping Business.

Subsection N.7(c) requires that there shall be "operators" of the Landscaping Business. The Operators shall be Joshua Oldfield and Maggie Oldfield.

- i. The Operators shall be responsible for ensuring that all requirements, terms, and conditions of a Special Permit are complied with.
- ii. An Operator or an authorized representative shall be on-site during regular business hours.
- iii. If any complaint is received that the Landscaping Business is not in compliance with the requirements, terms, and conditions of this Special Permit, then the Operator will cure such non-compliance and take appropriate steps to prevent any recurrence. The complaint procedures regarding complaints are specified in *Paragraph 10, Complaints; Access; and Review of Required Records*.

(d) Vehicles.

A list of vehicles to be used in business operations is heretofore set out in *Paragraph 4(n), List of Vehicles*. Certain rules for the operation and storage of vehicles are provided in *Paragraph 4(o), Rules*.

(e) On-site Traffic; Loading; Deliveries.

- i. **Required Log.** Deliveries shall not be made outside of permissible hours. In the event of noncompliance a log of any deliveries made outside of the hours specified in *Paragraph 4(i), List of Business Activities* shall be kept onsite in the Sales Office for review by the Building Commissioner or his designee; the Board of Appeals; the Planning Board; and members of the public, as requested through the Building Commissioner or designee. The log shall include the date and time of delivery, the company making the delivery, and the reason the

delivery was made outside of the permitted hours. See *Paragraph 10(d), Review of Required Records*.

- ii. **Direction of Travel and Loading Requirements.** The travel of all trucks operating on the Property shall insofar as possible avoid multiple backing movements. Incoming trucks shall follow the driveway to the LandCare Yard identified on the Site Plan. The trucks shall be unloaded in the LandCare Yard. Nursery stock shall be offloaded in this area or as otherwise provided herein. Bulk Materials shall be offloaded in the appropriate bin and other products shall be offloaded and shall be appropriately stored as specified in *Paragraph 7(a), Storage, Loading, and Unloading of Materials*. Upon completion of delivery, the delivery truck will execute a turn in the LandCare Yard and exit from the Property on the driveway, turn right onto Forest Street, then turn right onto Hillside Street and proceed to Route 28 (Randolph Avenue). Trucks shall not park or allow their engines to idle on public streets in Milton while waiting to make a delivery. When backup alarms are not deactivated, forward-only movements shall be used as much as possible.

(f) Outside Truck Traffic.

The Applicants will provide a standard set of delivery directions to all suppliers (exempting mail and parcel-service deliveries which are not subject to the delivery requirements herein), which shall provide that all delivery persons are to follow I-93 to Route 28 North (Randolph Avenue), turn left on Hillside Street, left on Forest Street and left into the driveway. Certain "Truck Turn Plans" establish that all anticipated vehicles are able to navigate this route. Directions shall note that Chickatawbut Road comes under the jurisdiction of the Massachusetts Department of Conservation and Recreation and that truck traffic is prohibited from Chickatawbut Road. Directions shall also note that idling or parking on Town of Milton streets is not allowed.

(g) Dumpsters.

Any dumpsters will be located as shown on the Site Plan. The dumpsters shall be screened by either fences or plantings as shown on the Site Plan.

- i. There may be a compost dumpster governed by 330 CMR 25: Agricultural Composting Program. There may also be a trash dumpster.
- ii. The area around any dumpster shall be free of spills, overflows and refuse.
- iii. No dumpster shall emit unreasonably offensive odors and shall be free from any insect or vermin infestation. The trash dumpster shall

- not contain food wastes other than food associated with employee consumption or daily business uses, which shall be bagged.
- iv. The dumpster shall be fully covered with either the cover provided by the manufacturer or a tarpaulin when not in use, including overnight.
- v. Moving, changing, and emptying dumpsters will take place only on weekdays between 10:00 am and 2:00 pm. Dumpsters shall be emptied regularly to prevent odors.
- vi. No dumping into the dumpster shall occur after 6:00 pm.

8. Notice and Procedure for Decision.

Subsection N.8 refers to the standards set out in Section IX.C. which are to be employed by the Planning Board in determining an application for a special permit for Landscaping Business Use. The Applicants submit that they meet the specific requirements of Subsection N. The Applicant further submits that a special permit may be issued without substantial detriment to the public good and without substantial derogation from the intent and purpose of the bylaw with such appropriate conditions and limitations which the Planning Board deems necessary to safeguard the legitimate use of property in the neighborhood and the health and safety of the public.

There shall be strict compliance with the terms, conditions, limitations and requirements so specified. There shall be no material changes to operations, site features or addition of site features without amendment of the special permit.

There shall be continued compliance with all requirements, terms and conditions.

9. Recording of Decision; Transfer of Property.

(a) Recording.

Any Special Permit shall be recorded with the Norfolk County Registry of Deeds by the Applicants at their own expense within thirty days from the date when such Special Permit becomes final. A copy of the recorded document shall be provided to the Town Planner promptly after recording.

(b) Transfer of Property or Landscaping Business.

In the event that the Property and/or Landscaping Business shall be transferred to a third party (excluding children, family members or successors in interest) and said third party shall seek to continue operation of the Landscaping Business use on all or part of the Property, then a new application shall be required under the provisions of Subsection N, provided that the third party shall meet the criteria for an Applicant.

10. Complaints; Access; and Review of Required Records.

Applicants propose the following procedures:

(a) Informal Procedure: Complaints to Applicants.

As provided in Subsection N.7(c) the Applicants shall have an “operator” or an authorized representative on the Property during regular business hours. The operator shall be a person responsible for ensuring that there is compliance with all requirements, terms and conditions of this Special Permit, and if an oral or written complaint is received by him or her, he or she shall promptly cause such noncompliance to be cured and take appropriate steps to prevent any recurrence.

In addition, any person who believes that Applicants have failed to comply with any provision of Subsection N and/or any provision of this Special Permit may deliver, mail or e-mail a written complaint addressed to Thayer Nursery, 270 Hillside Street, Milton, MA 02186 or to the “Contact Us” section of Thayer Nursery’s website.

A written dated complaint shall contain the name, address and e-mail address (if any) of the person or persons making the complaint, a detailed description of the activity or activities or condition[s] which is or are believed to be in violation of Subsection N or the Special Permit, the date of the activity or condition and whether it is continuing, and any recommended curative action.

After receipt of such a written complaint, if Applicants determines it to have merit, Applicants shall promptly cure the noncompliant activity or condition and take appropriate steps to prevent its recurrence. After receipt of such a written complaint Applicants may make a written response to the complaint. The response shall be dated. If Applicants dispute that there has been any violation or noncompliance the Applicants shall so state. Otherwise, Applicants shall specify any reason for the non-compliant condition or activity and the steps which have been or are being taken to cure the noncompliance and to prevent any recurrence.

(b) Formal Procedure: Complaints to the Building Commissioner.

Use of the foregoing procedure for making complaints directly to Applicants and for securing the Applicants’ response shall not preclude a person who has a complaint from pursuing that complaint under the relevant procedures for lodging a complaint with the Building Commissioner.

(c) Access.

The Applicants shall allow access to the Property by the Building Commissioner and/or his designee who shall have the right to inspect the business activities on the Property for compliance during the normal hours of operation at the Sales Office as set out in *Paragraph 4(r), Sales Plan* or outside of those hours in response to a formal complaint. The Building Commissioner and/or his designee shall have the right to inspect and have copied with redacted proprietary information the records specified below during the normal hours of operation at the Sales Office as set out in *Paragraph 4(r), Sales Plan*. Failure to grant such access shall be a material violation of this Special Permit.

(d) Review of Required Records.

The following records shall be kept in the Sales Office and shall be made available for inspection and copying by the Building Commissioner and/or his designee at the Building Commissioner's request. Records shall be updated on a regular basis, as relevant information is received or changed.

- i. Updated employee list including identification of each employee's tasks as landscaping, nursery, or both. Employees may be identified by an employee number or similar designation; employees need not be identified by name.
- ii. Log of bulk agricultural materials clearly showing total amounts purchased and delivered to the Property and sold from the Property on an annual basis throughout the term of the Special Permit. Backup materials including invoices for purchases and sales and delivery records shall be maintained and made available if the Building Commissioner and/or designee shall require backup information. Any proprietary information may be redacted from the materials provided.
- iii. Records establishing that snow and ice removal operations were conducted with no more than the number of employees and vehicles than the number of employees and vehicles used in such operations in 2012. Any proprietary information may be redacted from the materials provided.
- iv. Annual report to the Town Engineer concerning annual maintenance of the drainage as specified in the Stormwater Operation and Maintenance Plan Interim Stormwater Report.
- v. Current list of vehicles to show the then current number and type of vehicles together with any vehicles replaced over the term of the Special Permit.
- vi. Delivery log *showing* any out-of-hours deliveries and the reason for the non-compliance.

11. Term, Renewal, Revocation and Amendment

(a) Initial Term.

Applicants request an initial term of three (3) years.

(b) Training of Employees.

Training of employees need not be formal but shall be sufficient that the employees are aware of and understand the terms and conditions under which the operations of the activity shall be conducted.

(c) Renewal.

Applicants understand that a Special Permit may be renewed for one or more additional terms of up to five (5) years, with such additional terms and conditions as may be appropriate provided that there has been material compliance with the Special Permit in the prior term.

(d) Revocation by the Board of Appeals.

Applicants understand that upon application by the Building Commissioner during the term or extended term of the Special Permit, the Special Permit may be revoked by the Board of Appeals after hearing in the event of a material violation which has not been promptly cured following notice from the Building Commissioner, as provided in Subsection N of the Zoning Bylaw Upon notice of violation, Applicants in good faith shall commence a cure and diligently pursue completion of the cure.

12. Joint and Several Liability.

Applicants understand that they shall be jointly and severally liable for any violation of this Special Permit. Each named Applicant shall be responsible for ensuring compliance with all terms, conditions and requirements of this special permit. Any notice, which pertains to this Special Permit and which is given to any of the named Applicants, shall constitute notice to all of the named Applicants.

Respectfully submitted,

Thayer Nursery, Margaret Oldfield and Joshua Oldfield
Applicants

EXHIBITS

Exhibit A: Site Plan

Exhibit B: 1967 and 1987 Special Permits

Exhibit C: Deeds and Leases

Exhibit D: 9/21/15 Letter from DeCelle Burke

Exhibit E: Stormwater O&M Plan

Exhibit F: Affidavit of Margaret and Joshua Oldfield

Exhibit G: 12/7/15 e-mail from Chris Teevens regarding fence setback