



September 11, 2023

Mr. Lee Bergus, Chairman
Town of Goshen Planning Board
P.O. Box 217
Goshen, NY 10924

RE: RVH Mulch Supply, LLC/Ver Hage
Industries, Inc.
Town of Goshen, Orange County, NY

Dear Mr. Bergus and Members of the Planning Board:

Please find enclosed the following:

- Fourteen (14) copies of plans entitled, "Amended Site Plan Prepared for RVH Mulch Supply, LLC", dated May 8, 2023 and revised September 7, 2023.
- Fourteen (14) copies of a Full Environmental Assessment Form, dated September 7, 2023
- Two (2) copies of a SWPPP Amendment report, dated September 7, 2023.
- Fourteen (14) copies of Material Safety Data Sheets
- Fourteen (14) copies of Well Water Quality Testing dated May 31, 2023 by Pace Analytical Services
- Fourteen (14) copies of Google Earth Imagery (dated September 2013 and October 2006)

The following responses are offered to the comments received from Hoffman Engineering dated May 26, 2023, with the responses being shown in bold italics.

A) **Review of Submitted Materials** – The materials submitted should be supplemented with additional materials prior to scheduling a public hearing. As such, our comments identify a number of matters for the applicant's consideration as detailed plans are developed.

1. **Zoning** –

- a) **Use** – Applicant proposes expansion of the mulch operational area from 6.3-acres to 7.7- acres and expansion of the outdoor storage areas from 2.248-acres to 4.5-acres. In 2016 Building Inspector Halloran confirmed his 2013 interpretation that the process described (i.e., processing leaves, bark and brush for the purpose of creating organic mulch) was light industry¹ which is permitted subject to site plan approval by the Planning Board. We recommend the applicant confirm there have been no changes to the proposed onsite processes.

Response: The proposed use is consistent with the original approval. The mulch products are delivered to the site and the processing consists of grinding the mulch to size, screening mulch

and compost and dyeing the mulch using an iron oxidation process.

- b) Public Hearing – This is a major project since the proposal includes the active use of 10,000 square feet of land, with or without structures [§97-70D(1)(e)] and a public hearing is required. [Informational].

Response: No response needed.

- c) Dimensional Regulations – The plans include a Zoning Regulations table indicating the compliance status with the dimensional regulations of the I zoning district. We have the following comments:

- The existing scales and scale house are identified on the plan to remain and were previously determined to be legally pre-existing nonconforming conditions and no variances from the ZBA were necessary. [Informational].
- We believe the lot meets the Code definition of a corner lot and has two (2) front yards, two (2) side yards and no rear yards [§97-40B]. [Informational].

Response: No response needed.

- d) Design Standards – Development within the I zoning district requires compliance with the Design Standards listed in §97-14D for buildings visible from public roads or properties not located in the I district. The Code provides that “where alterations to existing structures and business operations require special permit and site plan approval, they shall comply with these standards to the extent practical” (i.e., full compliance is not required if it would pose unnecessary economic hardship or discourage owners from improving the property). We have the following comments:

- *Landscaping* – The Code requires a continuous green landscaped buffer along the road, consisting of trees, shrubs, fields, meadows, natural areas and lawns, provided such buffer vegetation does not interfere with required sight distances. Further, the Code requires bike paths and/or sidewalks to be constructed within this landscaped buffer [§97-14D(3)(a)]. The plans graphically depict the landscape buffer area, however it appears a dirt drive has been constructed partially within the buffer. We recommend you discuss replanting the landscape buffer and relocating the dirt drive if it is intended to remain.

Response: The dirt drive that runs along the western property line and within the landscape buffer area has been in existence since at least 2006. Included with this submission are maps with Google Earth imagery from October 2006 and September 2013. The dirt drive is evident in both aerial views.

- *Fences* – The plan shows existing fencing along NYS Route 17M and Hartley Road will remain. The Code prohibits chain link fencing in locations visible from public highways however, existing chain link fences may be replaced if coated with dark, nonreflective finish or screened by an evergreen hedge [§97-14D(4)]. The fencing was previously determined to be a legally pre-existing nonconforming condition. [Informational].

Response: No response needed.

- *Outdoor Storage* – The Code permits outdoor storage of materials, equipment or vehicles in an orderly manner in any area other than the required front, rear or side yards provided the storage area does not exceed 10% of the lot area and is screened from public roads and adjacent residential district boundaries [§97- 17D(5)]. The plans show the expanded stockpile storage complying with the 100- foot setback from Hartley Road and 50-foot side yard setback. The total storage area (4.5-acres) represents 18.25% of the lot area. The Code allows you to waive this 10% limitation in the course of site plan review for those uses which by their nature require outdoor storage of material or products, such as nurseries, lumberyards, outdoor sculpture galleries, and automobile dealers. We recommend any action include a condition requiring the applicant permanently delineate the limits of the storage areas in the field to the satisfaction of the Building Inspector. Further, we recommend you discuss with the applicant the proposed stockpile heights and dividing the westerly stockpile into a series of smaller piles.

Response: New York State DEC regulations limit the height of the storage piles to 25 feet and their width to 30 feet at the base. This is noted as General Note #7.

2. Site Plan – The Code allows you to waive or allow deferred submission of some site plan requirements as you deem appropriate [§97-75C]. If the applicant wishes you to consider any waivers, we recommend these be requested at this time.
 - a) Access – The site is located at the intersection of NYS Route 17M and Hartley Road adjacent to the Al Turi Landfill. The applicant proposes to continue use of the existing driveway. In accordance with 2016 OCDPW's request for a new driveway at Hartley Road you determined there to be insufficient sight distances at this location.

Response: No new driveway is being proposed at this time.

In 2016 the Goshen Fire Department requested: (1) year-round maintenance of the site access roads; (2) access to the stormwater

management pond for use as an emergency water source; and (3) installation of a Knox Box® for rapid entry. We recommend the applicant confirm compliance with the fire department's requests.

Response: Fire access notes are shown on the plan, consistent with the Fire Department's request and the originally approved Site Plan.

3. Utilities –

- a) Water – In June 2016 the applicant performed well testing and provided a well test report with quantity and quality information. At that time, the applicant proposed to utilize the existing operational well and abandon all other wells and piezometers.

The 2016 testing determined a daily demand of 2,060 GPD (domestic and process). The applicant tested the operational well to pump 10 GPM with a 12-foot drawdown and recovery within 24-hours. At that time, the applicant proposed a 2,000-gallon water tank for daily use. We recommend the applicant confirm the current daily water use and whether the proposed expansion will require additional water (domestic or process).

In connection with your 2016 review, the applicant provided historic (2003) results for potential contaminants including VOC's. The 2016 approval required the applicant to resample the operational well to confirm there had been no change in water quality due to potential contaminants associated with the adjacent landfill. The applicant provided an analytical report performed by EnviroTest Laboratories, Inc. dated October 28, 2016 which was reviewed by the Town Hydrogeologist November 8, 2016. Given the location of the operational well adjacent to the landfill, we recommend any action include a requirement for resampling the well and comparing the results to the 2016 testing.

The 2016 approval required the applicant to abandon, cap and decommission all wells and piezometers on site, with the exception of the existing operational well and provide a certification indicating decommissioning in accordance with NYSDEC procedures prior to issuance of a certificate of occupancy. We recommend you confirm receipt of the certificate(s) with Building Inspector Leva.

Response: All wells and piezometers that were to be decommissioned have been, with the exception of piezometer PZ-89-7, which was not found on site despite excavation in the location of the piezometer. Information relative to the decommissioning of the wells/piezometers was previously provided to the Building Department. The table on Sheet 1 has been updated with the abandonment accordingly. The applicant had the water supply well

retested for bacteria in May 2023 and results are included with this submission.

- b) Wastewater Disposal – The plan identifies the approximate location of the existing septic tank, pump station, forcemain and disposal system (south of the easterly stockpile). We recommend the disposal area be field identified to prevent vehicles and equipment from entering this area.

Response: General Note #6 has been added to Sheet 1 to indicate that the existing subsurface sewage disposal system shall be field verified and that several boulders shall be placed around the system to protect it from being accidentally disturbed.

- c) Stormwater – The proposed area of disturbance exceeds the one (1) acre threshold for coverage under the NYSDEC SPDES General Permit for Stormwater Discharges from Construction Activities and submission of a revised Stormwater Pollution Prevention Plan (SWPPP) is required.

Response: A SWPPP Amendment has been provided to account for the additional area of disturbance and impervious surfaces (gravel drive). The proposed siltation/detention pond has been increased in size as needed.

4. Miscellaneous –

- Agricultural Data Statement – The applicant submitted an Agricultural Data Statement. The Code requires public hearings for major site plans to follow the provisions on agricultural data statements for special permits [§97-76F(1)] which requires the Secretary of the Planning Board to mail written notice of the application to the owners of the land as identified by the applicant in the agricultural data statement. [Informational].

Response: No response needed.

- Mulch Dyeing – As part of the previous approval, you required the applicant to maintain onsite inert absorbents (i.e., sand and vermiculite) to collect any spilled materials. If the applicant intends to continue dyeing operations, we recommend you consider the same requirement. Additionally, we recommend you discuss with the applicant whether the increase in stockpile storage will reduce the onsite processing (including dyeing) of materials.

Response: The owner maintains sand on site at all times to have in the event of any spillage. The extent of processing will generally remain unchanged.

6. SEQRA – The applicant has submitted a Full EAF. You determined the previous applications to be Type I actions since site was in an Agricultural District and the disturbance exceeded 2.5-acres. The site is no longer in an Agricultural District and unless Attorney Naughton advises to the contrary, we understand this to be

an Unlisted Action. Additionally, we note the following for your consideration:

- *Question D.2.1.(Hours & Noise)* – EAF indicates construction will occur between 7:00 AM and 5:00 PM weekdays and between 7:00 AM and 5:00 PM Saturdays. This is at variance with the Code which restricts construction noise other than between 8:00 AM and 8:00 PM weekdays and 9:00 AM and 8:00 PM weekends and holidays [§70-2F]. We recommend the applicant confirm the hours of construction activities and operations.

Response: *The enclosed EAF has been updated to reflect the applicant's intended hours of construction and operation. With regard to hours of operation (excluding construction), the applicant may work any days of the week, including weekend, which is how they've been operating since they've been operating at the property (2016).*

- *Question E.2.o (Species)* – EAF indicates the site may contain species or habitat for endangered or threatened species. Applicant to provide additional information including whether any tree clearing is proposed.

Response: *The species identified in the EAF is the Indiana Bat. Impacts to these species are generally through the clearing of trees where the bats can nest. The clearing of vegetation on the site is limited to brush and meadow and there are no trees to be removed and no impacts to this species as a result of the project.*

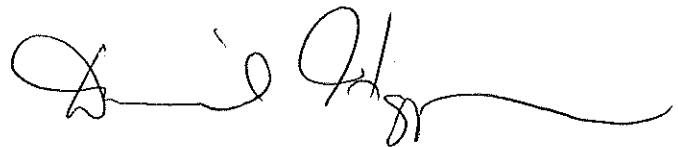
- *Question E.3.f (Archaeological)* – EAF indicates possible presence of sensitive archaeological site. We suggest the applicant provide further information so you may consider the impacts from this project (if any).

Response: *Project information has been uploaded to the Cultural Resource Information System. Correspondence from CRIS will be provided once it is received.*

If you have any questions or should you require any additional information, please do not hesitate to contact me.

Very truly yours,

LANC & TULLY, P.C.

A handwritten signature in black ink, appearing to read 'David Higgins', with a long horizontal flourish extending to the right.

David Higgins, P.E.