

## MOUNTAIN SPLENDOR SERVICES

### PROJECT STATEMENT

OCTOBER 2017

REVISED: FEBRUARY 2018

### REQUEST

N.E.S. Inc. on behalf of Dan Combs/Mountain Splendor Services requests approval of the following application(s):

1. A Variance of Use in the Agricultural Zone District (A-5) for a service establishment – Landscape Business, related tree nursery, and landscape equipment and material yard.

### LOCATION

The subject site is located off of Maine Lane, south of Adventure Way. Maine Lane provides access to various single-family residents and similar landscape type small businesses. The property is located in El Paso County (“County”) and is zoned Agricultural, A-5. The properties to the north and east are located in the County. The property to the north is zoned A-5 and the property to the east is zoned RR-5. The property to the west was annexed in to the City of Colorado Springs in 2005/2006 and is zoned A/AO. The lots to the south are part of the Quail Brush Creek Subdivision, located within the City of Colorado Springs and is zoned PUD. The property is not within a small-area master plan boundary in El Paso County.



## PROJECT DESCRIPTION

The site is approximately 5 acres and zoned A-5. The site is primarily accessed from Woodmen Road at Black Forest Road and Adventure Way to Maine Lane.

The Applicant has owned and operated Mountain Splendor Services since 2009. Mountain Splendor Services has been at the Maine Lane location since 2015, which is the primary business location. Mountain Splendor Services offers professional landscape services to commercial business and residential uses. The Applicant purchased this property from his brother in 2015, who owned and operated a wholesale tree nursery on-site for over 15 years. There have been no residential use on-site for over 17 years. The Applicant purchased the land in 2015, as a primary location for his landscape business as it provided a natural extension of the wholesale tree nursery use that has been previously operating on-site. The existing landscaping use is no more intensive than the previous use. There is no retail sales that occur on-site in association with this landscape business use.

## Site Structures/Uses/Equipment

The primary landscape business activities have remained similar in nature for the last 17+ years. Below is a brief summary of the uses/structures and equipment on-site.

The site is improved with the following structures/uses:

- Single-family residence which is used by Mountain Splendor Services as the main office. Built in 1972.
- Pole Barn used for general related vehicle maintenance and business related storage. Built 2000.
- Two greenhouse structures used for landscape planting storage. Installed in approximately 2002.
- One semi-trailer and storage container use for irrigation related storage materials. Brought on-site by Applicant in 2015.
- Landscape storage bins for mulch, rock, and other landscape material. Installed by Applicant in 2015.
- Tree nursery for wholesale and use for landscape related projects.
- Two (2) 32' x 8' water tanks. Brought on-site by Applicant 2017.
- Employee parking areas and open landscape material and equipment storage areas identified on the Site Plan.

Landscape business related equipment includes the following:

- Nine (9) trucks;
- One (1) company car;
- Nine (9) trailers;
- Seven (7) Bobcats.

## **Business Operation**

Mountain Splendor Services has defined peak and off- seasons. Below is a brief summary of the activities that occur during peak season and off-season.

### **Peak Season:**

- Due to the nature of the business and climate, peak season is approximately 8 months of the year from March/April through October/November.
- Hours of operation are normally 7:00 am to 5:30 pm. Some employees will arrive on-site between 6:30 am/6:45 am to obtain specific landscape job information, begin gathering landscape materials and equipment, and head out to jobs off-site between 7:00 am and 7:30 am. There is very little back and forth travel to and from job sites to the subject site during the day.
- During peak season there are 30 employees. Less than half of the employees come to the subject site. Most 'crew' employees will meet at specific job locations off-site.
- There can be up to 5 employee vehicles parked on-site during business hours.
- During peak season the company trucks are normally not parked on-site as employees take them home in the evening. There may occasionally be 1 or 2 company trucks that are parked overnight.

### **Off-Season:**

- During off-season months (October/November through March/April), 4-5 employees work on-site in the main office. Most off-season work is in the office with minimal outside on-site activity.
- During the off-season, hours of operation are 7:30 am to 4:00 pm.
- There can be up to 5 employee vehicles parked on-site during business hours.
- The company trucks, usually gone during peak season, are parked on-site during off-season as most employees leave town during off-season.

## **Maine Lane**

Maine Lane is the primary access to and from the subject site. Maine Lane is a private unpaved road from Adventure Way. Maine Lane has primarily been maintained by Mountain Splendor Services year around. This involves snow plowing in the winter and grading/dust control during summer months as needed. The City of Colorado Springs has an easement on Maine Lane for utilities.

## **EPC Land Use Code**

As a result of a Notice of Violation that was issued for the use, the Applicant is requesting approval of a Variance of Use to continue to operate the landscape business, related tree nursery, and ancillary landscape equipment and material yard on site.

In accordance to the Code definitions, a "Contractor's Equipment Yard" is defined as "*a service establishment primarily engaged in general contracting or subcontracting in the construction, repair, maintenance or landscape trades. It may include administrative offices, workshops and the indoor or*

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*outdoor storage of tools, equipment, materials, and vehicles uses by the establishment.”* The Land Use Code does not allow contractor’s equipment yards in the A-5 zone district.

The Code allows contractor equipment yards as special use in the CS, I-2, and C-2 Districts, as an allowed use in the I-3 and M Districts, and potentially as an accessory use in the A-5 (Agricultural) district and other large lot residential districts as a rural home occupancy as a special use. If the required development standards were met, a contractor’s equipment yard could be administratively approved as a rural home occupation as a special use in the A-5 district. Those development standards limit the amount of employees, trips generated by the use and require the home occupancy to be clearly subordinate to the use of the property as a residence.

As a result of the Notice of Violation and the ‘primary’ use of the property, a Variance of Use request was required in order to avoid compliance difficulties and not have binding limits on the number of employees and trips generated per day. A site plan has been provided which illustrates the manner of the use on-site.

### **Landscape Buffer**

The property is almost entirely encompassed within a 4' existing barb wire fence, except along Maine Lane. On the south side of the property, there is a 30' utility easement owned by the Quail Brush Creek Subdivision HOA, between the single-family residences and the subject site, which is used as part of the subdivisions' trail system. The residences along the south boundary all have a 6' cedar privacy fence along the utility easement.

Pursuant to Section 6.2.2(D)(2) of the Code, a buffer is required when use-to-use compatibility is a concern and between non-residential and residential zoning district. The Code requires a minimum 15' foot deep buffer and minimum number of trees be planted for every 25 feet of common lot, in addition to the installation of an opaque fence or wall. In accordance to the Code, “*the minimum number of trees in the buffer shall be one tree for every 25 feet of common lot, parcel, or tract line. A minimum of ½ of the trees shall be evergreen trees.*” The Applicant proposes to install 15 Austrian Pines at a minimum height of 10' along the southern property boundary in accordance with the Site Plan. This is in addition to the 11 existing deciduous trees (crabapple and cottonwood trees) and 1 existing pine tree, for a total of 27 trees. The Austrian Pines can grow up to a height of 50–60' with a spread of 20–40' at maturity and will provide sufficient screening of the subject site from the single-family residences to south. This live buffer will be permanent.

As part of the Quail Brush Creek Subdivision Annexation approved by the City of Colorado Spring in 2007 and the approval of the Concept and Development Plans Amendment in 2014, it was determined by the City that the 6' cedar fence along the north boundary of the residential lots in addition to the 30' utility easement was sufficient buffering between City and County properties. Therefore, the Applicant requests that the required 6' opaque fencing along the south boundary not be required to be installed. The installation of another 6' opaque fence between the uses will provide for an unappealing and potentially unsafe environment for trail users.

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## **Water/Wastewater**

Water is provided to the site by an individual well. A copy of the well permit issued for the site in April 1983 has been provided. The Applicant has submitted water quality testing through the County Health Department. Results were not received prior to submittal of this application. Upon receipt, results will be submitted to the County. Water use on the property is for the office use and irrigation of the tree nursery. The irrigation system was installed by the previous by the wholesale nursery business approximately 12 years ago. The Applicant is proposing to place two (2) existing 32' X 8' tanks along the north property boundary, adjacent to the storage trailers and tree nursery outside of the setbacks. These tanks will be used when necessary for water storage and used for tree irrigation. Water to fill the tank will be from the existing well and will only be used during years of significant drought.

Sanitation is provided on the site by an on-site wastewater system.

## **Drainage and Erosion**

The site is located in the Sand Creek drainage basin. No additional grading or site development is proposed at this time. The Final Drainage Report prepared by Drexel, Barrell, & Co. dated September 30, 2017, indicates that "The change in zoning use of the property, will not adversely affect surrounding or downstream developments."

## **PROJECT JUSTIFICATION**

### **A. Variance of Use**

To approve a variance of use, the following conditions shall exist:

- 1. The proposed use is compatible with the surrounding area, harmonious with the character of the neighborhood, not detrimental to the surrounding area, not detrimental to the future development of the area, and not detrimental to the health, safety, or welfare of the inhabitants of this area and County.**

**Response:** The proposed uses is compatible with the surrounding area and uses to the north, east and west. It is not detrimental to the surrounding area nor the future development of the area. There is no indication that it detrimental to the health, safety or welfare of the inhabitants of this area or County.

The reason for this Variance of Use application is a result of a complaint expressing opposition to this use adjacent to residential development. Mountain Splendor Services is a small local business serving the Colorado Springs area that provides professional landscape services to commercial business and residential developments in the area.

There is a legal term called "Coming to the Nuisance". This terminology is defined as "*Individuals who have knowledge of a foreseeable nuisance in an area, but still choose to build, operate a business, or reside in that area may not be entitled to relief from the nuisance.*"

Mountain Splendor Services has been operating on-site prior to the construction of the residential house to the immediate south and southwest. Homeowners were aware or should have been made aware by the developer of the existing use on the subject site and in the immediate area prior to construction of new homes. Choosing to construct a home next to a non-residential use, should not put unnecessary burden and hardship on existing non-residential use(s).

During the City of Colorado Springs review of the Quail Brush Creek Subdivision, it was noted that most of the County neighborhood residents enjoy using their property for home occupations and businesses and keep horses and other animals. The Subdivision was slightly modified along its westerly boundary during the review process to increase setbacks to conform to rural densities of the surrounding area. However, along the property boundary that adjoins both the subject site and the Quail Brush Creek Subdivision, the 30' utility easement was anticipated to provide sufficient buffering between uses along with the installation of a 6' cedar privacy fence.

Values of these residences should not be affected due to the continued use of the existing use.

**2. The proposed use will be able to meet air, water, odor or noise standards established by County, State or federal regulations during construction and upon completion of the project.**

**Response:** The proposed use meets the County Standards for air, water, odor or noise. Hours of operation during peak-season is 7:00 am to 5:30 pm and off-season is 7:30 am to 5:30 pm. Most noise from this use occurs in the morning hours when crews gathering landscape materials and equipment for off-site jobs and again towards the end of the day when equipment is being returned on-site. There is minimal disturbance or noise during the day time hours. Aside from the occasional diesel odor from landscape equipment, there is minimal odor. For dust control, roto-millings is done on the parking and drive areas, as the rest of the property is either grass or trees. Mountain Splendor Services tries to minimize any dust as a result of its operation.

**3. The propose use will not adversely affect property values in the immediate area;**

**Response:** The proposed use does not adversely affect the property values in the immediate area. Similar landscape type small businesses are located in the immediate area and are adjacent to residential neighborhoods. Letters of support have been provided in support of this business and for the continued operation of this use on-site. Mountain Splendor Services has been a respectable neighbor.

**4. The proposed use will comply with all requirements of this Code and all County, State, and federal regulations except those portions varied by this action;**

**Response:** The proposed use will comply with all County, State and Federal regulations as deemed necessary.

**5. The proposed use will not adversely affect wildlife and wetlands;**

**Response:** The proposed use will not adversely affect wildlife and wetlands. The marsh area along the east portion of the property is and has been undisturbed by this use. This area has been delineated on the site plan.

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**6. The applicant has addressed all off-site impacts;**

**Response:** Off-site impacts have been addressed to the maximum extent possible.

**7. The site plan for the proposed variance of use will provide for adequate parking, traffic circulation, open space, fencing, screening, and landscaping;**

**Response:** The site plan provides graphically depicts the limits of the existing operation. Adequate parking for employees and landscape equipment has been provided. The Applicant will install 21 Austrian Pines, in addition to the existing evergreen and deciduous trees along the southern property boundary as required by the County Landscape Code to provide required buffer between the residential houses to the south.

**8. Sewer, water, storm water drainage, fire protection, police protection, and roads will be available and adequate to serve the needs of the proposed variance of use as designed and proposed; and**

**Response:** Water is provided by an existing well and there is on-site wastewater system. The site falls under the Falcon Fire Protection District. Police protection is provided by the Sheriff Department. Maine Lane is a private unpaved road that serves approximately nine (9) parcels.

**9. The strict application of any of the provisions of this Code would result in peculiar and exceptional practical difficulties or undue hardship on either the owner or the contract purchaser of the property.**

**Response:** As a result of a Notice of Violation that was issued, the Applicant is requesting approval of a Variance of Use to continue to operate the landscape business and auxiliary landscape contractor yard on site. The Applicant understands that a Variance process is not intended to remove all practical difficulties or hardship for the reasonable use of the property. The grant of variance is purposed to address peculiar and exceptional practical difficulties or undue hardship caused by strict compliance of the Code. The inability to continue operation of this landscape business and auxiliary landscape contractor yard at this location will cause significant undue financial hardship to this small local business.

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# Green Thumb

COMMERCIAL GROUNDS MAINTENANCE, INC.  
7209 QUAIL BRUSH CREEK DRIVE COLORADO SPRINGS, CO 80923  
(719) 632-5184 FAX (719) 494-0521  
[greenthumb7209@msn.com](mailto:greenthumb7209@msn.com)  
[www.greenthumbsince1976.com](http://www.greenthumbsince1976.com)

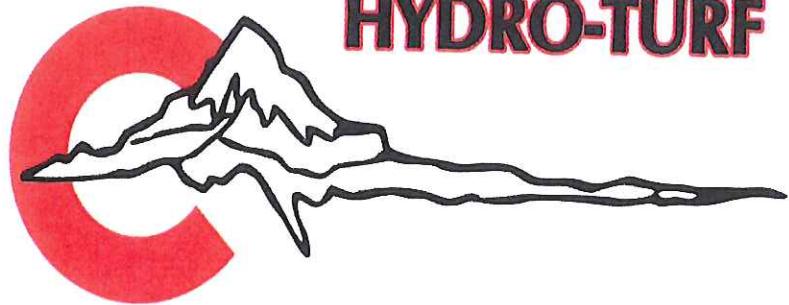
To whom it may concern:

Dan Combs (Mountain Splendor) operating at 7205 Maine Lane has maintained the same operation since buying the property. He is running a landscape/nursery out of the location. This operation is the same as it was before him back to 2000. It is located on a private road (Maine Lane). Green Thumb Commercial Grounds Maintenance Inc. (7209 Quail Brush Creek Dr, directly to the west) has no issues with the operation nor has seen any changes in what is being done on this property. If I can be of any further assistance please contact me at (719) 632 -5184.

Sincerely,



Jason Gingerich  
Green Thumb Commercial Grounds Maintenance Inc.



7215 Maine Lane  
Colorado Springs, CO 80923  
(719) 591-8151  
(719) 591-7446 (fax)

**Mailing Address**  
P.O. Box 303  
Larkspur, CO 80118

10/14/17

To Whom It May Concern:

Mountain Splendor Services, Inc. has been operating a landscape/nursery business from the property at 7205 Maine Lane since owner Dan Combs purchased the property two years ago.

We have no issues with Mountain Splendor's business operation. In fact, Dan has taken it upon himself to ensure that Maine Lane is maintained at his own expense.

We support a variance for Mountain Splendor Services/Dan Combs. Feel free to contact us if you have any questions.

Sincerely,

*Pamela R. Mazanec  
Leon Mazanec*

Pam and Leon Mazanec  
Owners  
Hydro Turf, Inc.

Philip B. Ciborowski  
7385 California Dr.  
Colorado Springs, CO 80923

8 November 2017

RE: Mt. Splendor Variance

To Whom It May Concern,

I recently received a letter in the mail concerning a variance for Mt. Splendor to operate a service establishment on their property which is in an Agricultural Zone.

My question is - why is a variance needed at all? I am their neighbor that lives directly ~~east~~ west of this property and we share a fence line that goes the length of their property. I can tell you that we have never had any noise issues or neighbor issues with this property- they have been the perfect neighbors. This property was previously owned by a service yard and again they were the perfect neighbors.

I would recommend that this variance be granted or better yet that it not be considered at all. If you have any questions for me please feel free to call me on my cell phone-719-650-1328.

Sincerely,

