



Village of



Fee must accompany application

\$1460 Paid    Date 2/26/19

## CONDITIONAL USE PERMIT APPLICATION

Pursuant to Section 17.42 of the Municipal Code

Please read and complete this application carefully. All applications must be signed and dated.

**1 APPLICANT OR AGENT**  
MSTLC. LLC  
PO BOX 55  
Menomonee Falls, WI  
53052  
 Phone (414) 584-9292  
 Fax ( )  
 E-Mail matt@totalawncarewi.com

**PROPERTY OWNER**  
Matt & Amy Seban  
W210 N10738 Appleton Ave  
Germantown, WI  
53022  
 Phone (414) 403-8956

**2 TO WHOM SHOULD THE PERMIT BE ISSUED?**  
MSTLC. LLC

<b>3 PROPERTY ADDRESS</b>	<b>TAX KEY NUMBER</b>
<u>W210 N10738 Appleton Ave.</u>	<u>GTNV 304959</u>

**4 DESCRIPTION OF EXISTING OPERATION**  
 Briefly describe the use as it exists today, including use, size, number of employees, hours of operation, etc. If this permit involves new construction, describe the current status of the property, e.g. "vacant." Use additional pages as necessary.

**5 DESCRIPTION OF PROPOSED OPERATION**  
 Write the name of the proposed conditional use exactly as it appears in the Municipal Code.

Describe the proposed use, including size, number of employees, hours of operation and extent of any new construction/alterations.

**METES AND BOUNDS LEGAL DESCRIPTION OF PROPERTY — REQUIRED**

6

Attach pages as necessary.

[Empty rectangular box for legal description of property]

**SUPPORTING DOCUMENTATION:**

7

- Site plan and elevations for new construction (can be conceptual)
- Photos of existing use and/or proposed use operating elsewhere
- \_\_\_\_\_
- \_\_\_\_\_

**READ AND INITIAL THE FOLLOWING:**

8

MS I understand that the Village is under no obligation to issue a Conditional Use Permit and will do so only if the applicant successfully demonstrates that the proposed use is harmonious with the neighborhood and the long range goals of the Village.

MS I will notify the Village if any aspect of the conditional use changes. I understand that failure to do so may result in the revocation of the CUP.

MS I understand that a Conditional Use Permit is valid only if the conditions and restrictions of the permit are met. I understand that failure to comply with any aspect of the permit may result in revocation.

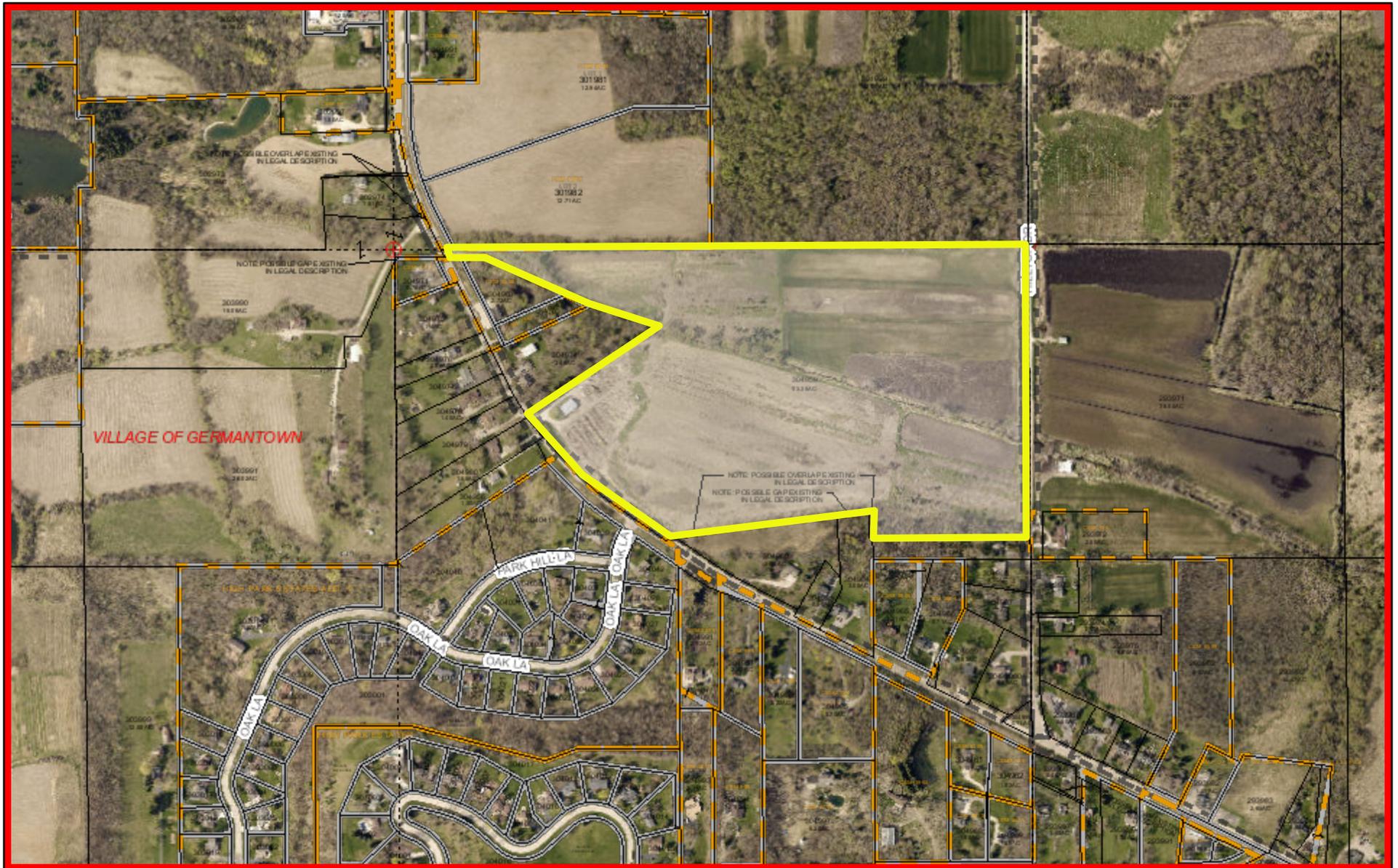
**SIGNATURES — ALL APPLICATIONS MUST BE SIGNED BY OWNER!**

9

Matthew Seba                      2/11/19  
Applicant                                      Date

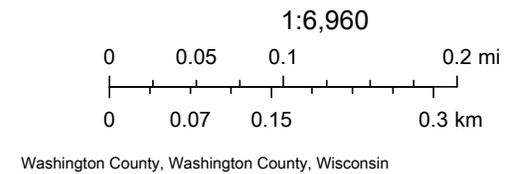
Matthew Seba                      2/11/19  
Owner    Date

# Matt & Amy Seban-MSTLC Property



March 25, 2019

- |                            |                             |                    |               |
|----------------------------|-----------------------------|--------------------|---------------|
| County Boundary            | Washington County Landmarks | Public Open Spaces | Meander Line  |
| City, Village or Town Hall | Airports                    | Current Parcel     | PLSS Monument |
| Libraries                  | Trails                      | Landhook           | PLSS Boundary |



## **TLC Acres, LLC – W210 N10738 Appleton Ave.**

### **Table Of Contents**

- I. Table of Contents & Legal Description of Property
- II. TLC Acres History Narrative (2 Pages)
- III. TLC Acres & MSTLC Operational Information (5 Pages)
- IV. TLC Acres Site Map Description (2 Pages)
- V. TLC Acres Site Plan Full Map
- VI. TLC Acres Site Plan Main Yard Map

### **Legal Description Of Property**

THAT PART OF THE NORTHEAST ¼ AND NORTHWEST ¼ OF THE SOUTHWEST ¼ SECTION 30, TOWN 9 NORTH, RANGE 20 EAST, VILLAGE OF GERMANTOWN, WASHINGTON COUNTY, WISCONSIN, BOUNDED AND DESCRIBED AS FOLLOWS: BEGINNING AT THE EAST ¼ CORNER, SECTION 30-9-20, THENCE SOUTH 0 DEGREES 27' 58" EAST ON THE EAST LINE OF THE SOUTHEAST ¼ OF SAID SECTION 1222.00 FEET, THENCE SOUTH 89 DEGREES 32' 02" WEST - 670.00 FEET, THENCE 0 DEGREES 27' 58" WEST 118.80 FEET, THENCE SOUTH 81 DEGREES 32' 02" WEST - 863.51 FEET, THENCE NORTH 55 DEGREES 27' 58" WEST ON THE C/L OF APPLETON AVENUE 113.65 FEET, THENCE NORTH 55 DEGREES 21' 58" WEST ON SAID C/L 148.60 FEET, THENCE NORTH 53 DEGREES 08' 58" WEST, ON SAID C/L 107.70 FEET, THENCE NORTH 44 DEGREES 39' 18" WEST, ON SAID C/L 203.19 FEET, THENCE NORTH 40 DEGREES 55' 06" WEST, ON SAID C/L 199.71 FEET, THENCE NORTH 54 DEGREES 23' 20" EAST, -669.00 FEET, THENCE NORTH 75 DEGREES 12' 40" WEST, -310.40 FEET, THENCE NORTH 64 DEGREES 10' 40" WEST, -471.50 FEET, THENCE SOUTH 89 DEGREES 30' 20" WEST -175.40 FEET, THENCE NORTH 26 DEGREES 14' 40" WEST, -36.70 FEET, THENCE NORTH 89 DEGREES 30' 20" EAST, ON THE EAST ¼ LINE OF SAID SECTION 2463.18 FEET TO THE POINT OF BEGINNING.

## **Specific Operational Information For TLC Acres, LLC & MSTLC, LLC**

### **W210 N10738 Appleton Ave.**

This outline follows the specific request for information in a letter received on January 23<sup>rd</sup> from Jeff Retzlaff. The numbers and letters reflect the outline as it is laid out in said letter so that can be used as a reference if necessary. All this information is 100% accurate without omissions as of February 20, 2019. The information requested has been answered in outline form two times. The first time the information was given as it pertains to TLC Acres, LLC and the second time as it pertains to MSTLC, LLC.

#### **2a. Operational Information for TLC Acres, LLC**

##### **A. Days And Hours Of Operation**

- April 01 – November 01
  1. 7:30 a.m. - 4:30 p.m. Monday thru Saturday
  2. 9:00 a.m. – 4:30 p.m. Sundays
  3. Occasional use outside of these hours for specific circumstances.
  4. Farming activities will take place 12 months out of the year and will be done per village ordinance.

##### **B. Employees**

- TLC Acres currently has no employees outside of the Seban family. Any labor for TLC Acres is contracted labor through MSTLC, LLC

##### **C. Services And Products Provided**

###### **i. Products Grown Or Extracted From On Site**

- i. Trees, Shrubs, Plant Material
- ii. Extracted - Topsoil, Pete Moss, Sod

###### **ii. Products Not Grown Or Extracted From On Site**

- iii. Spruce Trees purchased from the “Morse Nursery” (1600 trees over next 4 years)
- iv. Plant material including trees, plants, perennials purchased wholesale for retail sale from Johnsons Nursery, Minors, etc.
- v. Mulch- Hardwood, Brown Enviro, Red Enviro, Pine, Hemlock, Wood Chips, etc.
- vi. Topsoil- Screened, Field Run, and Engineered
- vii. Stone- Clear, T.B., Decorative, etc.
- viii. Firewood

##### **D. Assets / Types Of Vehicles And Equipment Of TLC Acres, LLC**

- New Holland 100hp tractor – **onsite**
- John Deere 544-wheel loader – **both**
- John Deere 333G Track skid steer w/ Tree Spade – **both**
- 2001 International 20' Box Truck – **onsite**
- 2001 Ford F-250 – **both**
- New Holland 46hp Tractor – **both**
- Various Hand Tools – **onsite**
- Various small engine equipment – **both**
- Other numerous small equipment necessary to support a tree nursery - **Both**

#### **E. Plant And Non-Plant Material Stored On Site**

- Mulch- Bins hold max. capacity 400 yds. at any one time
- Stone- Bins hold max capacity 200 ton at any one time
- Topsoil- Pile currently holds 8000 yds.
- Various palletized fertilizers
- Various chemicals supporting farming operations
- Plant Material- 150 spruce trees
- Max 2 acres – healed in nursery stock (trees & shrubs)

#### **F. Description Of Leased Acres And Purpose**

- Parking Lot- Leased to MSTLC, LLC (see attached map)
- 16 Acres- Leased to Pfaff Sod (see attached map)

#### **G. Expected Time Frame Remaining To Complete Tier 2 (see attached map)**

- Depending on fill availability and weather, the soonest completion date is April 15<sup>th</sup>
- Tier 2 will be completed fully in 2019
  - Trucks**
    - trucks of soil imported range from 10-75 units per day with a normal day being 40 loads
    - Hours- filling hours and operations 7:30am-6:30pm Monday thru Friday, 8:00am-2:00pm Saturday, no activities on Sundays
    - Extraordinary circumstances hours may be extended to village operation ordinance
  - Equipment Used**
    - Bulldozer
    - Wheel Loader
    - Track Skid steer
    - Quad Axle Dump Truck
    - Road Sweeper
    - Compactor

**iii. Measures Taken To Migrate Noise, Dust, Traffic**

- All vehicles owned by TLC Acres, LLC & MSTLC, LLC, have been equipped with “white noise” back up alarms. Any leased equipment may have regular back up alarms. We will make every effort to keep these back up alarms to a minimal use.
- Paperwork pointing out our rules is distributed to every new truck driver that enters our property. Included in these rules we cover both safety and respect to neighbors.
- Road is swept as needed
- On dry days, driveway is watered down to control airborne dust
- The Village of Germantown is looking into signage on Hwy. 175 regarding trucks entering and leaving, no engine braking, etc.

## 2b. Operational Information for MSTLC, LLC

### A. Days And Hours Of Operation

- March 15 – December 1 (landscape maintenance, landscape construction, hardscape installation, and athletic fields)
  1. 6:00 a.m.-8:00 p.m. Shop Employees (indoor duties)
  2. 7:15 a.m.-3:00/8:00 p.m. Field Employees (laborers)
  3. It is important to note that all MSTLC LLC employees report to TLC Acres as the terminal of MSTLC LLC and no work is done on site. The only time employees will work on site is if they are contracted by TLC Acres
- November 01- April 1 (Snow Management Operations)
  1. 6:00 a.m.-8:00 p.m. Shop Employees (indoor duties)
  2. Field Employees (laborers) Times are not specific
  3. Typically equipment is stored at job sites or equipment is picked up a day prior to a snow event
  4. Only a small amount of equipment is dispatched from TLC Acres location
  5. During an overnight snow event, there will be a minimal amount of traffic through TLC Acres to reload materials
  6. It is a current policy to shut off all flashing lights when on or entering premises after dark
- Occasional use outside of these hours for specific circumstances.

### B. Employees

- MSTLC LLC currently has (8) full time employees. When we are fully staffed with seasonal labor, we have as many as 23 employees.

### C. Services And Products Provided

#### i. **MSTLC, LLC**

- i. Total Lawn Care/ division of MSTLC, LLC - Landscape management including mowing, fertilizing, plant and bed maintenance, spring and fall cleanups for residential and commercial locations
- ii. TLC Hardscapes/ division of MSTLC, LLC – design and installation of outdoor living areas, including retaining walls, patios, water features, outdoor kitchens, outcropping and more.
- iii. TLC Athletic Fields/ division of MSTLC, LLC – Manage, maintain & renovate athletic complexes
- iv. Snow Management Solutions/ division of MSTLC, LLC – Provides snow management services for commercial property, schools, church's, retail and residential sites

### D. Assets / Types Of Vehicles And Equipment Of MSTLC, LLC

7. 10 Trucks which include pickup trucks, dump trucks & flat beds that are used to support both companies
8. 2 Skid steers used to support both companies
9. 1 Mini Excavator used to support both companies
10. 2 40hp tractors used to support both companies
11. 2 Wheel loaders used to support both companies
12. Trailers- 6 enclosed / 4 open used to support both companies
13. Various lawn mowers
14. Various small engine equipment
15. Various hand tools
16. Other equipment "common" to support use in both companies

**E. Plant And Non-Plant Material Stored On Site –** (and other miscellaneous items that would support a landscape construction & maintenance company)

- Palletized Fertilizer
- Rolls of erosion control mat
- Outcropping block
- Grass seed
- Pallets of pavers and block
- Inventory will vary from time to time, not for resale at TLC Acres

**F. Description Of Leased Acres And Purpose**

- MSTLC LLC has a lease agreement with TLC Acres to lease an area of parking lot (highlighted on site plan map)
- The purpose and use of this area is to provide a terminal or hub for MSTLC LLC
- Parked on this site includes but is not limited to trucks, trailers and other miscellaneous equipment owned by MSTLC LLC
- It will also provide a place for Total Lawn Care employees to park their vehicles while at work for the day.

## Description Of Site Plan For TLC Acres (see attached maps)

### W210 N10738 Appleton Ave.

- I. Existing Pole Building
  - A. Storage and shop area for TLC Acres
  - B. "Man Cave" for use by Seban family and friends
  - C. The well location noted on the site map. It provides the water to all of the irrigation lines for the nursery.
- II. Proposed Landscape Patio
  - A. Brick paver patio and fire pit area for use by Seban family and friends
  - B. Landscaping will include: trees, shrubs, and perennials to beautify the front of the property.
- III. Proposed Landscape Berm
  - A. This berm will include spruce trees as well as other perennials and shrubs to create a soft barrier for the neighbor to the north.
- IV. Proposed Sign Location
  - A. This is the approximate location identified at this time where a future sign will be built. There are currently no specific plans for a sign. The sign will be subject to a sign permit from the Village of Germantown.
- V. Nursery Staging Area
  - A. This area is to store and display plant material that is ready for sale.
  - B. This will be an irrigated area.
- VI. Parking And Loading Area For TLC Acres
  - A. This area will be used for visitor parking, loading area, and other TLC Acres activities. This lot is not designated for any activities of MSTLC, LLC.
- VII. Mulch And Stone Bins
  - A. These bins are designated to hold and keep separate specific materials. These materials include: various varieties of mulch and stone, firewood, etc.
- VIII. Cold Storage Building
  - A. This building is used for storage of many items. Here are some examples of what is stored in this building.
    1. Tractors
    2. Irrigation equipment
    3. Palletized fertilizer
    4. Straw matting
    5. 3 point implements such as plows, mowers, and tillers
    6. Various tools including power and hand tools
- IX. Dry Materials Building
  - A. In summer screened topsoil and peat moss is stored inside to keep dry.
  - B. In winter bulk salt is stored inside.
- X. Topsoil
  - A. This is a topsoil pile that we use to support farming operations as well as have available for sale.

- B. This area is subject to an erosion control permit through the Village of Germantown. We currently hold this permit in good standing.
- XI. Overland Runoff Swale
- A. This swale has been engineered to control the overflow from the ditch along Hwy. 175 as well as is designed to handle the runoff off the existing parking area and nursery staging area.
  - B. This swale is made of “no mow” fescue grass. This is done specifically for erosion control.
- XII. Lot Leased To MSTLC, LLC
- A. TLC Acres has an agreement to lease this area of the property to MSTLC, LLC for the purpose of being a terminal or hub for MSTLC, LLC.
  - B. This is an area where autos and equipment owned by MSTLC, LLC are staged.
  - C. This is an area for employees of MSTLC, LLC to park their personal autos while working.
  - D. This area will be used as outside storage for MSTLC, LLC.
- XIII. Tier 1
- A. This area is approximately 1.75 acres
  - B. A portion of this tier was planted in the Fall of 2018
  - C. The remainder of this tier will be planted in the spring of 2019
  - D. When complete this tier will contain spruce trees, arborvitae, deciduous trees, and other plant material consistent with a nursery.
  - E. This tier will be irrigated.
- XIV. Tier 2
- A. This area is currently under construction. The silt fence as well as topsoil stockpiles are identified as they are on the erosion control plan submitted to the Village of Germantown.
  - B. When complete it will be approximately 4.85 acres in size.
  - C. When complete this tier will contain spruce trees, arborvitae, deciduous trees, and other plant material consistent with a nursery.
  - D. This tier will be irrigated.
- XV. Tillable Acreage
- A. This area is the tillable acreage available to TLC Acres for planting cash crops.
- XVI. Unnamed Waterway
- A. This is a creek that runs through the property.
  - B. There is currently a vegetation buffer that is greater than 10' wide on both sides of the creek. This area is left natural to control the erosion of soil that can potentially run into this creek.
- XVII. Existing Planted Nursery Stock
- A. This is nursery stock that was existing when we purchased the property in 2017.
- XVIII. Acreage Leased To Pfaff Sod
- A. This acreage is leased to Pfaff Sod to raise and sell sod. Pfaff has been leasing this land for 15+ years.



# **Documents Pertaining to Conditional Use Permit Application**

**TLC Acres LLC**  
Matthew and Amy Seban  
W210 N10738 Appleton Avenue  
Germantown, WI 53022  
(414) 403-8956

## **Description Of Proposed Operation**

### **W210 N10738 Appleton Ave.**

TLC Acres LLC is a family owned and operated tree nursery which is located at W210N10738 Appleton Avenue in the Village of Germantown (the "Property"). Matt and Amy Seban purchased the Property in June of 2017. In their first year of ownership they have dedicated many hours of man power and made a significant monetary investment towards cleaning up the property from the eyesore that it was when they took ownership. They look forward to continuing to invest in and build out this tree nursery into a more modern operation. They look forward to being a great neighbor and resident of Germantown for many years to come.

The Sebans secured a loan to purchase the Property through the Farm Service Of America (FSA) which is a branch of the Federal Government. This loan requires the Sebans to "farm" the Property for the 25-year term of the loan. They have site visits and are audited annually by a member of the FSA as a condition of their loan.

TLC Acres operates during normal farming hours that can vary depending on the time of the year. They have been and will continue to be respectful to neighbors of the property with respect to the hours that they work.

The Sebans worked with the Germantown Building inspector to renovate the existing pole building that was on site. They did not change the footprint of this structure. This building acts as a storage shed as well as a place to work on and house equipment to support their farming operation. This building does not have running water or septic.

The Sebans purchased this property as an existing tree nursery which they understand had been operated for 25 years and are not looking to change the fundamental use of the Property. The primary use will be as a nursery to raise growing stock, a permitted use under the A-1 Zoning. (Section 17.12(1)(g), (i)) Outlined below is some additional information regarding the proposed use of the Property:

**Growing Trees & Shrubs** - Beyond the trees that are currently growing on the property the Sebans first crop was planted in the Fall of 2018. The first crop is scheduled to be planted on the plateau built (Tier 1) out by Appleton Ave. Building these plateaus – which includes the use of fill brought to the property and graded by the Sebans -- is a big part of the long-term plan for plant material on this land.

As part of a "new generation" of tree farmers, the Sebans are always looking for ways to become more progressive and environmentally friendly. Building and farming on plateaus allows them to control the moisture that is provided for the plants during the various seasons as well as the different points in the plant's gestational maturation.

The first plateau is ready for planting. The topsoil has been redistributed and the land is ready for planting. They have installed telephone poles in a grid that will act as the means of irrigation. Large water cannons will be placed on each pole which will allow them to control the amount of moisture that plants receive. By monitoring the soil's moisture level they can be more responsible with their water usage by giving water to the plant when it is necessary and withholding water from the plant when it does not need water.

The Sebans are currently in the process of creating the second plateau (Tier 2). There is an existing erosion control permit that is in place which has been approved by the Village of Germantown for use during the construction of the plateau. Once the plateau is complete the land will be viewed as A1 and no erosion control plan will be necessary for future farming operations. The process of building a plateau involves stripping the topsoil from the existing land and stacking available topsoil to redistribute on to the top of the plateau once it is built. They are currently bringing in clean fill when it is available to them for use in the creation of this second plateau. Each load that is brought to the farm is tracked and the source is disclosed to the Sebans. All of this information is maintained as part of the Sebans' records. Once the plateau is complete they will GPS grade it for proper drainage and then cover it with the very same topsoil that was stripped off the land in preparation for this plateau. They will then irrigate the plateau and it will be ready for planting in 2019.

Selling Nursery Stock & Related Materials - The Sebans understand that for many years the Property has been

used an outlet for local landscapers, other growers, as well as the public to purchase nursery stock as well as related materials. Sale of nursery stock which is not raised on site is a conditional use under the Village's code, and we would therefore read that sale of nursery stock that is raised on site is a permitted use. (Section 17.12(1)(m) and (2)(l)) When in season, the Sebans are selling trees, shrubs, topsoil, stone, and mulch.

This is not a brick and mortar location with indoor retail space. The renovated pole shed is intended for storage and maintenance of farm equipment as well as a "dream farm man cave" for the Sebans use. It is posted on each door that the public is not allowed inside the building.

Lease Of Land To Pfaff Sod – The Sebans currently lease 16 acres of the land to Pfaff Sod for a sod growing operation. This is a permitted use in the A-1 district. (Section 17.12(1)(j)).

Rental Of Parking Space To M.S.T.L.C., LLC ("Total Lawn Care") - There is a current rental agreement between TLC Acres, LLC and Total Lawn Care for use of parking space for the storage of equipment, trucks, and employee vehicles and the corresponding use of the Total Lawn Care equipment by TLC Acres, LLC. As a matter of background, Total Lawn Care is a local landscape company that services Germantown and the surrounding areas. Matt and Amy Seban are the only members of Total Lawn Care, so there is common ownership with TLC Acres LLC. Total Lawn Care currently services and maintains great relationships with the Germantown School District, where they manage the fertilizer and weed control for all of their schools, the Germantown Hwy./ Parks/ Park & Rec Departments where they manage the fertilizer, weed control, and athletic field maintenance for the Germantown parks, and the Germantown Little League where they manage they manage all of the turf at their various locations. Total Lawn Care has been a great long-term partner with these local organizations because they are local, follow through on their promises, and do quality work. Total Lawn Care also services local businesses and residents, helping them with their landscaping needs from maintenance to construction.

The current area used by Total Lawn Care for parking space is not the final area that they will be using in the future. The Sebans are continuing to build out this property as time and funds allow. The final area that will be designated for Total Lawn Care will be tucked back behind the building (see site plan).



EXISTING PLANTED NURSERY STOCK

TLC ACRES TILLABLE ACREAGE

ACREAGE LEASED TO PFAFF SOD

UNNAMED WATERWAY

10" WIDE VEGETATION BUFFER

TLC ACRES TILLABLE ACREAGE

UNNAMED WATERWAY

TLC ACRES TILLABLE ACREAGE

LOT LEASED TO MSTLC LLC

DRIVEWAY

PROPOSED LANDSCAPE BURM

EXISTING BUILDING

PROPOSED LANDSCAPE PATIO

WELL

PROPOSED SIGN LOCATION

PARKING

NURSERY STAGING AREA

LOADING AREA FOR TLC ACRES

OVERLAND RUNOFF SWALE

WATER INLET

DRY MATERIALS BUILDING

COLD STORAGE BUILDING

SILT FENCE

TIER 2

TIER 1

# TLC Acres View 1

PROPOSED LANDSCAPE BURM

EXISTING BUILDING  
PROPOSED LANDSCAPE PATIO

WELL

LOT LEASED TO MSTLC LLC

PROPOSED SIGN LOCATION

IRRIGATED NURSERY STAGING AREA

PARKING

LOADING AREA FOR TLC ACRES

MULCH AND STONE BINS

COLD STORAGE BUILDING

DRY MATERIALS BUILDING

TOPSOIL

OVERLAND RUNOFF SWALE

WATER INLET

TIER 1

TIER 2

