

**FINDINGS AND RECOMMENDATION  
OFFICE OF PLANNING AND ZONING  
ANNE ARUNDEL COUNTY, MARYLAND**

**APPLICANT:** The Lawn Pros Group Inc.  
(contract purchaser)

**ASSESSMENT DISTRICT:** 4

**CASE NUMBER:** 2022-0135-S/0136-V

**COUNCILMANIC DISTRICT:** 6

**HEARING DATE:** November 15, 2022

**PREPARED BY:** Robert Konowal  
Planner

**REQUEST**

The applicant is requesting approval of a special exception to allow a landscaping and tree contracting facility in a RLD- Residential Low Density District and variances to allow a landscaping and tree contracting use with vehicular access not directly from a collector or higher classification road and a building (pole building) with less setbacks than required on property located at 796 Generals Highway in Millersville.

**LOCATION AND DESCRIPTION OF SITE**

The subject site has frontage of 34 feet on the west side of a 50 foot private right-of-way, 370 feet north of Cedarcroft Drive. These lands are approximately 5.3675 acres in area. The property is shown on Tax Map 30, Grid 17 as Parcel 175 and is currently zoned “RLD–Residential Low Density District”. This zoning was implemented by the comprehensive zoning for the Sixth Council District on October 7, 2011.

The property is currently an undeveloped, forested site with the exception of a pole building located along the south property line.

**PROPOSAL**

The applicant wishes to operate a landscape and tree contracting facility on the subject property which will entail the construction of a 60-foot by 90-foot structure to be used for offices, storage and vehicle maintenance related to the use. A gravel area measuring approximately 90 feet by 105 feet will be used for parking and outdoor storage. The existing pole building located along the south lot line is to be used for accessory storage.

**SPECIAL EXCEPTION STANDARDS**

The specific criteria by which a special exception for a landscaping and tree contracting facility may be granted are set forth under Section 18-11-132. of the Zoning Code. Additionally, all special exceptions are subject to the general standards contained in Section 18-16-304 of the Code.

## **REQUESTED VARIANCES**

Section 18-11-132 (2) of the Anne Arundel County Code requires that all vehicular access to a Landscaping and Tree Contracting facility shall be directly from a collector or higher classification road. A variance is required to allow vehicular access via a 50-foot private right-of-way rather than directly from a collector of higher class roadway.

Section 18-11-132 (3) of the Code requires buildings and outdoor areas to be used for parking, loading or storage of vehicles, equipment, tools, and supplies shall be delineated on a site development plan and located at least 50 feet from all property lines and public roads. The existing pole building is located as close as 37 feet from the south lot line requiring a variance of 13 feet.

## **FINDINGS**

### **1) Specific Special Exception Standards - Section 18-11-132.**

The subject property is 5.36 acres in size which exceeds the minimum 2 acre lot area requirement for a Landscaping and Tree Contracting facility. As indicated in the deed for the subject lands, access to the site is gained via a 50-foot private right of way which does not satisfy the Code requirement that the use be accessed by a collector or higher classification road. A variance has been requested to provide relief from this requirement.

In accordance with the standards for this use, proposed buildings and outdoor areas to be used for parking, loading or storage of vehicles, equipment, tools, and supplies have been delineated on the site development plan and are located at least 50 feet from all property lines and public roads. However, an existing pole building to be used for accessory storage is located 30 feet from the south lot line and will require a variance to remain in this location. The applicant has indicated outdoor storage will not exceed 20% of the total lot area. The location and design of the operation subject to certain site plan revisions will ensure the use is not a nuisance to neighboring properties due to noise, dust, and fumes. The applicant has proposed to maintain a forested buffer along the entire periphery of the site adjacent to the proposed activity areas to screen accessory outdoor storage and parking areas from neighboring properties.

The Development Division advised approval of a Preliminary/Site Development Plan application, per Article 17-4-201 and 202, including Adequacy of Public Facilities, landscape and adequate parking on-site will be required. The Division did not object to the application.

Minor repairs to vehicles or equipment, if undertaken, will take place inside a building in accordance with the Code. No body work, engine rebuilding, engine reconditioning, painting, or similar activities are proposed. Finally the applicant advised that the hours of operation for the use will be from 7:00 a.m. to 6:00 p.m. in accordance with the Code. No request (i.e. variance) has been made to deviate from these hours.

### **2) General Special Exception Standards - Section 18-16-304.**

In accordance with the general special exception standards, the proposed use of the subject property for a landscaping and tree contracting facility will not be detrimental to the public

health, safety, and welfare. The location, nature, and height of each building, wall, and fence, the nature and extent of landscaping on the site, and the location, size, nature, and intensity of each phase of the use and its access roads will be compatible with the appropriate and orderly development of the district in which it is located. Operations related to the use will be no more objectionable with regard to noise, fumes, vibration, or light to nearby properties than operations in other uses allowed under this article.

There is no evidence that the proposed use will conflict with an existing or programmed public facility, public service, school, or road. The Health Department did not object to the request but did indicate a plan is required to be submitted to and approved by them. The applicant has presented sufficient evidence that the use will meet and be able to maintain adherence to the criteria for the specific use with the exception of two requirements (access and setbacks) for which variances have been requested and recommended for approval.

The proposed landscaping and tree contracting facility is not located within a recorded residential subdivision but is instead located in a low density, rural setting surrounded by several large, multi-acre parcels of land used for residential, agricultural and non-residential purposes. The property is located and connected to, just a short distance to the east, to Generals Highway, a scenic and historic, minor arterial roadway. Mature trees will screen the view of the use from adjacent properties. In this context, this Office believes that a landscaping and tree contractor at this location will not have any adverse effects above and beyond those inherently associated with the use irrespective of its location within the zoning district.

The Long Range Planning Division of the Office of Planning and Zoning has indicated the proposed use is consistent with the County General Development Plan.

The Development Division of the Office of Planning and Zoning did not object to the administrative site plan. The applicant is required to present sufficient evidence of public need for the use.

### **3) Variances**

#### **Access and Setbacks**

This Office finds the subject property to be unique in that it is a landlocked parcel that does not have direct access to a public roadway. Access to a public road is gained via a 50-foot private right-of-way. While the subject property does not have direct access to a collector or higher classification roadway for the subject use as required by the Code, the 50 foot access does in fact lead directly to such a roadway, in this case a minor arterial roadway, passing only one other landlocked property that also gains access via the private road right of way. This condition constitutes an exceptional circumstance which creates a practical difficulty in complying with the Code. The existing pole building is also an exceptional circumstance that makes compliance with the required setbacks of the Code difficult.

Both variances are considered to be the minimum necessary to afford relief. There is no evidence either variance would alter the essential character of the neighborhood, impair the appropriate use or development of adjacent lands or be detrimental to the public welfare.

**AGENCY COMMENTS**

The **Development Division** of the Office of Planning and Zoning indicated they have no objection to the application but did advise that approval of a Preliminary/Site Development Plan application, per Article 17-4-201 and 202, including Adequacy of Public Facilities, landscape and adequate parking on-site will be required.

The **Anne Arundel Department of Health** indicated that they do not have an approved plan for this project but would have no objection to the above referenced variance request provided a plan is submitted to and approved by the Health Department.

The **Long Range Planning Division** of the Office of Planning and Zoning advised that Plan2040 does not have recommendations that are specific to this site and the proposal is generally consistent with the goals, policies and strategies of Plan2040. The proposal is also consistent with the 2017 Water and Sewer Master Plan.

The **Engineering Division** of the Department of Inspection and Permits advised there are no Engineering objections to approval of the requested Zoning Special Exception.

The **Department of Recreation and Parks** reviewed the case to determine if there may be impacts to Anne Arundel County greenways, parks, and trails. The Department has determined this case will not have any impact and as such the Department had no comment.

**RECOMMENDATION**

With regard to the standards by which a special exception may be granted as set forth under Section 18-16-304 and 18-16-305 of the County Zoning Ordinance, the Office of Planning and Zoning recommends the following be **approved**:

- 1) That a special exception to allow a Landscaping and Tree Contracting Facility as generally shown on the attached site plan as varied in 2) and 3) below subject to the applicant providing satisfactory evidence of need for the use,
- 2) a variance to allow to allow a Landscaping and Tree Contracting Facility vehicular access via a 50-foot private right-of-way rather than directly from a collector of higher class roadway, and
- 3) a variance of 13 feet to the required 50-foot setback to allow an existing pole building as close as 37 feet from the south lot line.

Disclaimer: This recommendation does not constitute a building permit. In order for the applicant to construct the structure(s) as proposed, the applicant shall apply for and obtain the necessary building permits, and obtain any other approvals required to perform the work described herein. This includes but is not limited to verifying the legal status of the lot, resolving adequacy of public facilities, and demonstrating compliance with environmental site design criteria.