

IN THE MATTER OF : BEFORE THE
Howard : HOWARD COUNTY
EcoWorks, Inc. : BOARD OF APPEALS
Petitioner : HEARING EXAMINER
 : BA Case No. 25-024C

.....
.....

DECISION AND ORDER

On April 21, 2026, the undersigned, serving as the Howard County Board of Appeals Hearing Examiner, and in accordance with the Hearing Examiner Rules of Procedure, held the evidentiary hearing for the Petition of Howard EcoWorks, Inc. (Petitioner) for a Landscape Contractors Conditional Use in a RR (Rural Residential) DEO (Density Exchange Option) Zoning District, filed pursuant to Section 131.0.N.32 of the Howard County Zoning Regulations (HCZR).

The Petitioner certified to compliance with the notice and posting requirements of the Howard County Code. The Hearing Examiner viewed the subject property as required by the Hearing Examiner Rules of Procedure. Sang Oh, Esq. represented the Petitioner Howard EcoWorks, Inc.. Lori Lilly, Alec Lynde, Jaimie Fraser and Marisa Vitamvas testified in support of the Petition. Gary Melick appeared in opposition to clarify the fencing situation.

Petitioner submitted the following evidence into the record:

Pet. Ex. 1. Howard EcoWorks slide presentation

Pet. Ex. 2. Plat showing forest conservation easement area

Pet. Ex. 3. Site stopping distance

Opposition submitted the following evidence into the record:

Opp. Ex. 1. Fence Location

Opp. Ex. 5.(a)-(h). Photos of fence location and condition

FINDINGS OF FACT

Based upon the evidence of record, the Hearing Examiner finds the following facts:

1. Property Identification. The 16.4-acre site is an irregular shaped parcel containing five (5) existing structures: the principal dwelling, two (2) sheds, and two (2) barns with associated parking. The Property is encumbered by 6 acres of forest conservation easement area; there are no wetlands or streams on the Property. The site rises from an elevation of 560 feet along the southwestern corner property line to 620 feet at the northeastern corner of the Property. The Property is designated as a preservation parcel, as shown on the subdivision plat (Plat No. 13722), and is encumbered with a preservation easement that is recorded in Maryland Land Records as Liber 3912 Folio 631.

The Property is located on the north side of Burntwoods Road, west of Sykesville Road (Md. Rt. 32), east of Roxbury Mills Road (Md Rt 97), and south of I-70. The Property in its entirety is 16.4 acres and the proposed Conditional Use area is .239 acre of land

located at Tax Map 14, Grid 24, Parcel 92, Lot PAR A, also identified as 14270

Burntwoods Road, Glenwood, in Council District 5.

2. Vicinal Properties.

Direction	Zoning	Land Use
North	RR-DEO	Single-Family Residential
South	RR-DEO	Single-Family Residential
East	RR-DEO	Single-Family Residential
West	RR-DEO	Single-Family Residential

3. Roads. Burntwoods Road has two travel lanes within an 80-foot right-of-way. The speed limit is 35 miles per hour. No changes to ingress or egress to the Property are proposed; however, it should be noted that the existing driveway is approximately 20 feet wide but would need to be expanded to 24 feet to meet commercial standards for two-way traffic. There is no Average Annual Daily Trips data for this section of Burntwoods Road.

4. Water and Sewer Service. The Property is not within the Planned Service Area for water/sewer services. The Property is currently served by private water and septic.

5. The General Plan. The Property is designated Rural Living on the Future Land Use Map of HoCo By Design. Burntwoods Road is a Major Collector Road.

6. Reported Agency Comments. There are no Agency or Department comments in objection to the Petition.

The Development Engineering Division "takes NO EXCEPTION to the request for

a landscape contractor use based on the justification presented in the application. This is subject to meeting APFO requirements for the change in use of the property for the additional landscape contractor use and the submission of a Site Development Plan for the proposed improvements. An Environmental Concept Plan shall be approved prior to the submission of a Site Development Plan as the proposed improvements appear to exceed 5,000 sq ft. The access driveway shall be widened to be 24' wide to meet commercial standards for two-way traffic and stormwater management shall be addressed for all proposed improvements”.

The Department of Fire and Rescue Services has no objection to this request. Any areas requiring a change-in-use must meet all requirements of the Howard County Fire Prevention Code for the new occupancy type.

The Health Department stated “This property has an existing SDA (sewage disposal area) for the main building (a house according to records). If a barn or any other structure is being converted into an office with bathrooms; at the time of building permit submittal, Health would review all historic well & septic records and make sure that the existing septic system is sized appropriately for all of the combined uses on the property. It is possible that these proposals may require septic system upgrades and even additional perc testing. We would require additional details from the property owner to be able to make those determinations. It is also possible that current operations may not have an adequately sized septic system, the last records we have were a septic system repair for a residential house only.”

The Division of Land Development provided:

CRITERIA: Potential to comply with all technical requirements:

- A site development plan (SDP) for this development will be required should the conditional use be granted. As shown on the plan exhibit, the development has the POTENTIAL to comply with the technical requirements in subsequent plan stages. Proposed site improvements and features shall be evaluated by DPZ staff and county review agencies as part of the SDP submission requirements, including access

requirements, parking, landscaping, forest conservation, etc.

o DLD has concerns with General Note 20 on F-96-101 indicating "Preservation Parcel "A" is for the use of one single family detached dwelling unit only. There is an existing structure on Preservation Parcel "A" which is to remain".

o Please be informed that approval of a Conditional Use plan and specific site design does not serve as unwarranted hardship justification for any potential alternative compliance requests to the Subdivision and Land Development Regulations. If any changes do not qualify as "minor modifications" as defined in Section 131.0.1.2.c, these changes may require a new hearing by the Hearing Authority, unless otherwise specified in the Decision and Order.

CRITERIA: Existing and/or proposed landscaping on the site are such that the use will not hinder or discourage the development and/or use of adjacent land and structures

- Landscape requirements will be reviewed and evaluated at the SDP stage.
- A type-C landscape perimeter edge will be required for the proposed landscape contractor use since all abutting properties are residential uses.

CRITERIA: The number of parking spaces will be appropriate to serve the particular use. Parking areas loading areas, driveway and refuse areas will be appropriate located and buffered or screened from public roads and residential uses to minimize adverse impacts on adjacent properties

- Parking requirements will be reviewed and evaluated at the SDP stage. DLD has concerns with potential issues regarding the proposed access location within the existing access easement. There does not appear to be enough area to provide adequate access within the existing easement for a commercial use.

CRITERIA: The proposed use will not have a greater potential for adversely impacting environmentally sensitive areas in the vicinity than elsewhere (streams, wetlands, floodplain, forest conservation, etc.)

- There do not appear to be environmental impacts within the Limit of Disturbance as shown on the conditional use exhibit. An environmental concept plan for the site must be

approved prior to the site development plan to identify any impacts to streams, wetlands, and their buffers, floodplain, steep slopes and specimen trees on site which are protected from disturbance per the Subdivision and Land Development Regulations. The existing natural environmental conditions of the subject site must be thoroughly assessed by an environmental professional and findings must be provided with the forthcoming plans.

CRITERIA: Design Advisory Panel review

- The proposed development is not subject to Design Advisory Panel (DAP) review as it is not within the boundaries of a DAP review area.

7. Zoning History.

The Department of Planning and Zoning does not have record of any prior zoning petitions for the Property.

8. Conditional Use Proposal. The Petitioner is proposing a 10,406 square foot landscape contractor use. This includes an existing 3,110 square-foot barn, an existing 2,798 square-foot gravel area and a proposed 4,498 square-foot gravel area. The gravel area includes 10 parking spaces and storage for the Landscape Contractor use. The Petitioner indicates that there would be 20 employees who will arrive on-site in the morning and afternoons to pickup or drop off commercial vehicle/equipment. The proposed hours of operation are 7:00 a.m. to 3:30 p.m. Monday to Friday. The use will not operate on Saturdays or Sundays. No expansion to the existing structure is proposed.

BURDEN OF PROOF

The Court of Appeals of Maryland has frequently expressed the applicable standards for judicial review of the grant or denial of a Conditional Use. The Conditional

Use is a part of the comprehensive zoning plan sharing the presumption that, as such, it is in the interest of the general welfare, and therefore, valid. The Conditional Use is a valid zoning mechanism that delegates to an administrative body a limited authority to allow enumerated uses which the legislature has determined to be permissible absent any fact or circumstance negating this presumption. The legislative body has statutorily determined that a Conditional Use is compatible in a particular zoning district absent specific facts adduced to the contrary at a particular location. The duties given the hearing body are to judge whether the neighboring properties in the general neighborhood would be adversely affected and whether the use in the particular case is in harmony with the general purpose and intent of the Zoning Plan.

The Applicant has the burden of adducing testimony which will show that his use meets the prescribed standards and requirements, he does not have the burden of establishing affirmatively that his proposed use would be a benefit to the community. These prescribed standards and requirements are conditions precedent to the approval of a conditional use. If he shows to the satisfaction of the zoning body that the conditions precedent have been met and that the proposed use would be conducted without real detriment to the neighborhood and would not actually adversely affect the public interest to a greater extent than if the proposed use were located elsewhere, he has met his burden.

The extent of any harm or disturbance to the neighboring area and uses is, of course, material. If the evidence makes the question of harm or disturbance or the question of the disruption of the harmony of the comprehensive plan of zoning fairly debatable, the matter is one for the zoning body to decide. But if there is no probative

evidence of harm or disturbance in light of the nature of the zone involved or of factors causing disharmony to the operation of the comprehensive plan, a denial of an application for a Conditional Use is arbitrary, capricious, and illegal. Turner v. Hammond, 270 Md. 41, 54-55, 310 A.2d 543, 550-51 (1973); Rockville Fuel & Feed Co. v. Board of Appeals of Gaithersburg, 257 Md. 183, 187-88, 262 A.2d 499, 502 (1970); Montgomery County v. Merlands Club, Inc., 202 Md. 279, 287, 96 A.2d 261, 264 (1953); Anderson v. Sawyer, 23 Md. App. 612, 617, 329 A.2d 716, 720 (1974).

These standards dictate that if a requested Conditional Use is properly determined to have an adverse effect upon neighboring properties in the general area, it must be denied. Schultz v. Pritts, 291 Md. 1, 432 A.2d 1319, 1325 (1981). See also Mossberg v. Montgomery County, 107 Md. App. 1, 666 A.2d 1253 (1995).

The appropriate standard to be used in determining whether a requested Conditional Use would have an adverse effect and, therefore, should be denied is whether there are facts and circumstances that show that the particular use proposed and the particular location proposed would have any adverse effects above and beyond those inherently associated with such a Conditional Use irrespective of its location within the zone. Turner v. Hammond, 270 Md. 41, 54-55, 310 A.2d 543, 550-51 (1973); Deen v. Baltimore Gas & Electric Co., 240 Md. 317, 330-31; 214 A.2d 146, 153 (1965); Anderson v. Sawyer, 23 Md. App. 612, 617-18, 329 A.2d 716, 720, 724 (1974). Schultz v. Pritts, 291 Md. 1, 432 A.2d 1319, 1331 (1981). See also Mossberg v. Montgomery County, 107 Md. App. 1, 666 A.2d 1253 (1995).

CONCLUSIONS OF LAW

1. General Criteria for Conditional Uses (Section 131.0.B)

HCZR Sections 131.0.B.1-3 require the Hearing Authority to evaluate whether the proposed Conditional Use will be in harmony with the landscape uses and policies indicated in the Howard County General Plan for district in which it is located through the application of three standards: harmony with the General Plan, overall intensity and scale of use, and atypical adverse impacts.

A. Harmony and Intensity of Use

Section 131.0.B.1. The proposed Conditional Use plan will be in harmony with the land uses and policies in the Howard County General Plan which can be related to the proposed use.

While Howard County General Plan policies are not directly related to Conditional Use requests for Landscape Contractor uses, properly sited and appropriately scaled facilities are considered compatible with rural residential areas.

Section 131.0.B.2. The nature and intensity of the use, the size of the site in relation to the use, and the location of the site with respect to streets giving access to the site are such that the overall intensity and scale of the use(s) are appropriate for the site.

The 16.4-acre Property exceeds the 5-acre minimum lot size required for Landscape Contractors in an RR district. The combined indoor and outdoor storage areas are 10,406 square feet, which is approximately 1.45% of the total acreage and does not exceed the 5% maximum allowed. Additionally, all existing structures and existing and proposed areas used for material and equipment storage comply with the 100-foot setback requirements.

The proposed hours of operation are 7:00 a.m. to 3:30 p.m. Monday to Friday,

with no operations taking place during the weekends.

The property has frontage on Burntwoods Road, which is designated as a Major Collector Road and is appropriate for the type and number of vehicles associated with the proposed use. The Property does not gain access from its public road frontage but from a shared driveway on an adjacent residential lot.

Therefore, the nature and intensity of the use, the size of the site in relation to the use, and the location of the site with respect to streets giving access to the site are such that the overall intensity and scale of the use is appropriate for the site.

B. Adverse Impacts (Section 131.0.B.3)

Unlike HCZR Section 131.0.B.1, which concerns the proposed use's harmony or compatibility with the General Plan, or Section 131.0.B.2, which concerns the on-site effects of the proposed use, compatibility of the proposed use with the neighborhood is measured under Section 131.0.B.3's six off-site, "adverse effect" criteria: (a) physical conditions; (b) structures and landscaping; (c) parking areas and loading; (d) access; (e) environmentally sensitive areas; and (f) impact on the character and significant historic sites.

Inherent in the assessment of a proposed Conditional Use under these criteria is the recognition that virtually every human activity has the potential for adverse impact. The assessment therefore accepts some level of such impact in light of the beneficial purposes the zoning body determined to be inherent in the use. Thus, the question in the matter before the Hearing Examiner is not whether the proposed use would have adverse effects in an RR Zoning District. The proper question is whether there are facts and circumstances showing the particular use proposed at the particular location would have any adverse effects above and beyond those inherently associated with such a special exception [conditional] use irrespective of its location within the zones. *People's Counsel*

for Baltimore County v. Loyola College in Maryland, 406 Md. 54, 956 A.2d 166 (2008); *Schultz v. Pritts*, 291 Md. 1, 432 A.2d 1319 (1981); *Mossburg v. Montgomery*, 107 Md. App. 1, 666 A.2d 1253 (1995).

For the reasons stated below, Petitioner has met its burden of presenting sufficient evidence under HCZR Section 131.0.B.3 to establish the proposed use will not have adverse effects on vicinal properties beyond those ordinarily associated with a Landscape Contractor, in the RR Zoning District.

Section 131.0.B.3.a. The impact of adverse effects such as, but not limited to, noise, dust, fumes, odors, intensity of lighting, vibrations, hazards or other physical conditions will be greater at the proposed site than it would generally be elsewhere in the same zoning district or other similar zoning districts.

The Property is 16.4 acres and all structures and areas that will be utilized by the Landscape Contractor are over 100 feet from adjacent properties. On-site activities will be limited to workday preparation for offsite jobs in the mornings and afternoons, with limited trips otherwise during the day. Existing and proposed vegetation and landscaping on the Property screen the proposed use from adjacent properties. The two existing barns will utilize motion sensing outdoor lighting that will be screened by existing vegetation with no other outdoor lighting proposed.

Therefore, the adverse effects associated with the proposed use, such as noise, dust, fumes, odors, vibrations, increased lighting, hazards or other physical conditions will not be greater at the subject site than generally elsewhere in the RR zoning district.

Section 131.0.B.3.b. The location, nature and height of structures, walls or fences, and the nature and extent of the existing and/or proposed landscaping on the site are such that the use will not hinder or discourage the development and/or use of

adjacent land and structures more at the subject site than it would generally elsewhere in the same zoning district or other similar zoning districts.

The proposed and existing structures/areas comply with all setback and height requirements outlined in Section 131.0.N.32 and the bulk requirements of the RR district. The existing driveway is a paved, dustless material; however, the existing and proposed parking and storage areas will be constructed with gravel. The Petitioner should explain how the dust will be mitigated while using this material. Due to the location, the proposed use will be effectively screened from adjacent properties.

Therefore, the proposed landscape contractor will not hinder or discourage the development and/or use of adjacent land and structures more at the subject site than it would generally elsewhere in the RR zoning district.

Section 131.0.B.3.c. The number of parking spaces will be appropriate to serve the particular use. Parking areas, loading areas, driveways and refuse areas will be approximately located and buffered or screened from public roads and residential uses to minimize adverse impacts on adjacent properties.

The Regulations do not contain an off-street parking requirement for a Landscape contractor. The closest use category would be for home-based contractors Which require 1 parking space per non-resident employee, plus 1 space per visitor. The petition indicates that there will be at least 20 employees on-site and 10 parking spaces will be provided, the Petitioner should evaluate if the proposed parking spaces will be sufficient for the use. The Property will be also used for a proposed philanthropic use that will utilize additional parking areas. Company trucks will be used to go to jobsites, not the vehicles belonging to employees. As shown in the Conditional Use Plans, all parking areas and loading areas are properly located and screened from public roads and residential uses. The Petition does not indicate whether there will be refuse areas located on the site.

Section 131.0.B.3.d. The ingress and egress drives will provide safe access with adequate sight distance, based on actual conditions, and with adequate acceleration and deceleration lanes where appropriate. For proposed Conditional Use sites which have driveway access that is shared with other residential properties, the proposed Conditional Use will not adversely impact the convenience or safety of shared use of the driveway.

The existing ingress/egress entrance to Burntwoods Road was approved during the original construction of the dwelling and no changes are being proposed to this area. In its review of the petition, the Development Engineering Division indicated that the existing 20-foot-wide driveway would need to be expanded to 24 feet in order to meet commercial standards for two-way traffic. The Property does not gain access from its public road frontage but from a shared driveway on an adjacent residential lot. The line of sight at the entrance onto Burntwoods Road exceeds required visibility requirements.

Section 131.0.B.3.e The proposed use will not have a greater potential for adversely impacting environmentally sensitive areas in the vicinity than elsewhere.

The Property is encumbered with approximately 6 acres of forest conservation areas that will not be impacted by this proposed use. The next closest environmental area is a wetland buffer located over 500 feet away from the existing and proposed structures/areas. Therefore, the proposed use will not have a greater potential for adversely impacting environmentally sensitive areas in the vicinity than elsewhere in the RR zoning district.

Section 131.0.B.3.f. The proposed use will not have a greater potential for diminishing the character and significance of historic sites in the vicinity than elsewhere.

The closest historic site, The Knock-Frizzel-Day Farm (HO-998), is located over 0.31-miles to the southwest of the Property and is screened by existing structures,

distance/topography, and vegetation. Therefore, the proposed use will not have a greater potential for diminishing the character and significance of historic sites in the vicinity than elsewhere in the RR zoning District.

2. Specific Criteria for Landscape Contractors (Section 131.0.N.32)

A Conditional Use may be granted in the RC and RR Districts for landscape contractors, provided that:

a. The site is at least 5 acres in area.

The Property is 16.4 acres in size.

b. Buildings and outdoor areas to be used for parking, loading and storage of vehicles, equipment and tools and supplies shall be delineated on the Conditional Use plan and located at least 100 feet from lot lines and public roads.

The proposed parking and storage areas, including the existing barn that will be used for equipment and supply storage, are located at least 100 feet from lot lines and the public road.

c. The location and design of the operation shall be such that the use will not be a nuisance to neighboring properties due to noise, dust or fumes.

The proposed use areas are over 100 feet from neighboring properties.

The primary use of the Landscape Contractor is the storage of equipment and supplies for off-site activities. The existing driveway is a paved, dustless material; however, the existing and proposed parking and storage areas will be constructed with gravel. Petitioner shall mitigate the dust while using this material.

d. Buildings used for storage or offices will be screened or compatible in scale and character with other residential or agricultural structures in the vicinity. If new structures or additions to structures are proposed,

architectural elevations or renderings must be submitted with the petition.

No new structures are proposed. All existing and proposed storage areas related to the Landscape Contractor use are screened from neighboring properties by existing and proposed vegetation and landscaping.

- e. Outdoor parking and storage areas shall be screened from neighboring properties and roads.**

Existing and proposed vegetation and landscaping on the Property will screen the parking and storage areas from adjacent properties and Burntwoods Road.

- f. Minor repairs to vehicles or equipment are permitted, provided such activities take place inside a building. Body work, engine rebuilding, engine reconditioning, painting and similar activities are not permitted.**

The existing barn will be used for minor repairs to vehicles and equipment. The Petitioner will not perform body work, engine rebuilding, engine reconditioning, painting or similar activities on-site.

- g. The area used for parking and storage of commercial vehicles, equipment, materials and supplies, whether exterior or interior, shall be limited to no more than 5% of the area of the lot.**

The total area that will be used for parking and storage of commercial vehicles, equipment, materials and supplies is 10,406 square feet or 1.45% of the 16.4-acre Property.

- h. The Hearing Authority shall set limits on the maximum number of employees and shall set the days and hours of operation.**

The proposed hours of operation are from 7:00 a.m. to 3:30 p.m. Monday through Friday with no operations taking place during the weekend. The Petitioner has indicated that there will be at least 20 employees that will be on the

Property at any given time.

- i. **A snow removal service shall not be conducted as an accessory use unless specifically authorized by the Hearing Authority, upon a finding that the noise and level of activity of such a service will not be a nuisance to the neighborhood.**

The Petitioner has indicated that there will not be any snow removal services conducted as part of the proposed landscape contractor use.

- j. **On an ALPP purchased or dedicated easement property, the following additional criteria are required:**
 - (1) **The use shall not interfere with farming operations or limit future farming production.**
 - (2) **Any new building or building addition associated with the use, including any outdoor storage and parking area shall count towards the cumulative use cap of 2% of the easement.**

The Property is encumbered by an environmental preservation easement. The Landscape Contractor use will not occur in areas where farming operations take place and will not impede such activities. No new structures or additions to existing structures are proposed. As shown on the Plans, the existing barn and outdoor parking and equipment storage areas related to the proposed Landscape Contractor use encompass 10,406 square feet or 1.45% of the 16.4-acre site, not exceeding the 2% maximum use cap of the easement.

ORDER

Based upon the foregoing, it is this 23rd day of April, 2026, by the Howard County Board of Appeals Hearing Examiner, **ORDERED:**

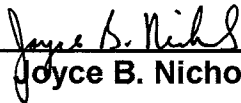
That the Petition of Howard EcoWorks, Inc., for a Conditional Use for Landscape Contractors, in a RR (Rural Residential) DEO (Density Exchange Option) Zoning District, Tax Map 14, Grid 24, Parcel 92, Lot PAR A, Council District 5, identified as 14270 Burntwoods Road, Glenwood, Maryland, be and is hereby **GRANTED, subject to the following Conditions:**

1. Petitioner shall obtain a waiver from the Design Manual of 4 feet for the width of the access easement, bringing the current 20-foot-wide easement into compliance with the regulations governing access for commercial vehicles.
2. This approved Conditional Use for a Landscape Contractor shall automatically terminate if the use is no longer operated by Howard EcoWorks, its agents or assigns. Howard EcoWorks shall notify the Department of Planning and Zoning of the termination of the Conditional Use.

- 3 Petitioner shall install and maintain a new sight tight fence 6 ft in height within the access easement unless the owner of the adjacent property agrees to the installation and maintenance of the fence on their private property.
- 4 The hours of operation are limited to 7 am -3:30 pm Monday through Friday.
There shall be no weekend operation.

HOWARD COUNTY BOARD OF APPEALS

HEARING EXAMINER



Joyce B. Nichols

Notice: A person aggrieved by this decision may appeal it to the Howard County Board of Appeals within 30 days of the issuance of the decision. An appeal must be submitted to the Department of Planning and Zoning on a form provided by the Department. At the time the appeal petition is filed, the person filing the appeal must pay the appeal fees in accordance with the current schedule of fees. The appeal will be heard *de novo* by the Board. The person filing the appeal will bear the expense of providing notice and advertising the hearing.