

## Zoning Text Amendment 21-08: Landscape Contractor – Use Standards

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 Jason Sartori, Chief, CP&P, [Jason.Sartori@montgomeryplanning.org](mailto:Jason.Sartori@montgomeryplanning.org), 301.495.2172

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**Completed: 11/9/2021**

### Staff Recommendation

Transmit comments to the District Council opposing Zoning Text Amendment (ZTA) 21-08, which would create new Limited Use Standards for Landscape Contractors in certain Rural Residential and Residential Zones.

### Summary

Staff recommends the Planning Board oppose ZTA 21-08, which has a Public Hearing on November 30, 2021. The ZTA was first introduced by Council President Hucker on October 19, 2021. This ZTA would establish new Limited Use Standards for Landscape Contractors, and would allow them as a Limited Use in all the same zones that the use is currently allowed as a Conditional Use. Staff is very concerned about the negative impacts Landscape Contractors often have on neighboring residential uses, which are directly related to their operations and can only be properly mitigated through detailed analysis and regulatory conditions imposed by the Conditional Use process.

### Background

This ZTA would make changes in two sections of the code. First, the use table under Section 3.1.6 would be modified to recognize the limited use. Currently, Landscape Contractors are allowed by Conditional Use in the AR, R, RC, RNC, RE-2, RE-2C, RE-1, and R-200 zones. It is also currently a Limited Use in the IL zone, and permitted in the IM and IH zones, however this ZTA proposes no changes to the industrial zones.

The definition of Landscape Contractor, under Section 3.5.5 would be modified slightly, to allow for the growing of plant materials for the contracting business, along with all of the other existing uses. The added language is highlighted in red below.

*Landscape Contractor means the business of designing, installing, planting, or maintaining lawns, gardens, hardscapes, water features, outdoor structures, decorative features, stormwater and drainage features, or other activities intended to enhance the appearance or usefulness of outdoor areas. Landscape Contractor also means providing snow removal services with vehicles, equipment, and supplies that are stored, parked, serviced, or loaded at the business location. Landscape Contractor includes the growing of plant materials for the contracting business and tree installation, maintenance, or removal. Landscape Contractor does not include Lawn Maintenance Service (see Section 3.5.14.G, Lawn Maintenance Service).*

This change appears to help separate a Landscape Contractor growing their own plant supplies for business use from the Nursery Wholesale definition which specifically only applies to the growing and selling of plant supplies for use by retailers or other businesses.

Most of the changes proposed in the ZTA occur under the use standards for Landscape Contractor included in Section 3.5.5. Minor changes are proposed cleaning up the language for Limited Use in the IL zone that do not modify the intent of the provisions. The major change is a new subsection establishing new limited use standards as follows:

- ii. In the AR, R, RC, RNC, RE-2, RE-2C, RE-1 and R-200 zones, a Landscape Contractor must satisfy the following standards:
  - (a) The minimum lot area is 2 acres.
  - (b) Building and parking setbacks, including loading areas and other site operations, are a minimum of 50 feet from any lot line. Storage areas and site operations, except the growing of plant materials, must be screened pursuant to Option B under Section 6.5.3.C.7, without regard to applicability under Section 6.5.2.B, and parking and loading areas must be screened pursuant to the perimeter planting requirements under Section 6.2.9.C.3.b. Any power equipment larger than 8 feet in height, 6 feet in width, or 12 feet in length must be stored inside a structure.
  - (c) Commercial Vehicles, Heavy may not be parked on site. No more than six Commercial Vehicles, Light and trailers for equipment and supplies operated in connection with the contracting business may be parked on site at any one time. No more than twenty motor vehicles may be parked on site at any one time.
  - (d) Offices may not be operated on site and no more than twenty employees may be on site at any one time.
  - (e) Any parking lot lighting must be controlled by motion sensors during evening hours.

Through these limited use standards, Landscape Contractors that meet the above standards would not need a Conditional Use approval. They could proceed directly to the Department of Permitting Services (DPS) for a building permit.

### **Analysis**

Landscape Contractors as a separate defined use first appeared within the Montgomery County Zoning Ordinance in 1985, and since that time, has only been allowed as a Conditional Use (previously Special Exception) through approval of the Board of Appeals or, more recently, the Hearing Examiner. In looking at the use definitions, findings, and standards from current and previous codes, emphasis has recurrently been placed on nuisances around traffic, noise, hours of operation, employees, and on-site operation among other things. In past staff reports for Landscape Contractors, Planning staff has identified several characteristics that are inherently associated with the use that are analyzed as part of a Conditional Use review:

- buildings, structures, outdoor areas for the storage of plants, and gardening-related equipment;
- outdoor storage of plant stock, mulch, soil, and landscaping materials in bulk and in containers;
- on-site storage of business vehicles and equipment including small trucks and landscaping trailers;

- traffic associated with the trips to the site by employees and suppliers; trips to and from the site by employees engaged in off-site landscaping activities;
- adequate parking areas to accommodate employees;
- dust and noise associated with the movement of landscaping products and the loading and unloading of equipment associated with landscaping businesses; and
- hours of operation.

A review of applications for Landscape Contractors over the past 30 years finds there have been at least 90 unique applications, of which about 15% were ultimately denied, another 15% were withdrawn or dismissed, and the remaining ultimately approved with conditions. For the more recent cases where data are more available, most received opposition from the community with common concerns raised about noise from trucks, on-site equipment, dust, screening of lights, and access to the site because of narrow, rustic, or sub-standard roads. A recent denial, CU 19-04 (Francisco Landscaping) was a small operation with only 15 employees, located on a larger 6-acre track. It was ultimately denied due safety concerns with a sub-standard (not 20-foot-wide) road among other issues raised by the neighbors.

In the cases that were approved, conditions are almost always applied by the Hearing Examiner or the Board of Appeals to mitigate the negative effects of these uses. The most common conditions seen relate to the number of employees, crew shift/work hours, overall hours of operation, location and type of vehicle and equipment parking, limits on equipment size, impervious surface limitations, rustic road protections, noise, onsite mulching and composting, onsite sales, lighting and stormwater. These are just the common conditions; each application is unique and additional conditions are often tailored to specific projects.

The Hearing Examiner has also required many improvements over the years to access, frontage, or off-site road conditions that were found to be unsafe with the increased heavy truck traffic a Landscape Contractor use generates. Aspects of site design, such as layout and landscaping, are also scrutinized with applicants often required to provide extra screening to block light glare and dust, and minimize 'line of sight' to noise generating operations such as the loading of materials or areas where vehicles frequently back up. Without a Conditional Use process, there is no mechanism to review plans, require alterations to site design, or impose mitigating conditions on the operation. Some of these externalities may be minimized through more stringent use standards but zoning itself is not a fully effective or appropriate tool to anticipate problems that can arise on a case-by-case basis.

Many Landscape Contractors open up 'illegally' and come through for a Conditional Use application once being caught by DPS. Recent examples include the Greenskeeper Landscaping (CU 15-04), which started operating in 2003 and was issued a notice of violation in 2014 for the use of a non-permitted agricultural structure for commercial uses. A total of 15 conditions were imposed during the review process including work shifts, hours of operation, the number and types of equipment allowed, parking, and environmental compliance. The aforementioned Francisco Landscaping also began operations before applying for the Conditional Use. Once Landscape Contractor businesses get approved and open, there are frequent enforcement issues. Our partners at DPS provided a long, yet non-exhaustive, list of regular complaints or cited violations that are unique to these businesses:

- Increases in the number of employees on-site at any one time
- Increases in the number of trailers, equipment, light and/or heavy commercial vehicles
- Increases in the hours of operation

- Site modifications that include the addition of structures, parking, lighting, storage areas, fuel tanks, shipping containers, etc. that are not identified on approved plans
- Reconfiguration of parking areas
- Missing landscape screening
- Conversion of a residential house to an office
- Violation of the minimum 50' setback restriction (buildings/structures, parking, material storage, loading areas)
- Failure to store certain materials (i.e. ice melt, fertilizers) inside buildings in accordance with the terms/conditions of the Special Exception or Conditional Use
- Noise (i.e. back-up beepers, equipment – loaders particularly, equipment repairs, security alarms)
- Multiple businesses being sublet on the property (some associated with landscaping, some not)

Many of these violations are to conditions that were required through the Conditional Use or Special Exception review and were meant to mitigate impacts to surrounding properties. Enforcement on these sites is clear when there are explicit conditions that come with the Conditional Use approval, which would not exist for Landscape Contractors approved as a Limited Use. DPS would still perform enforcement on violations to the Zoning Ordinance, but the limits placed on Landscape Contractors through zoning are much less stringent. Allowing smaller Landscape Contractors to open without going through the Conditional Use process may exacerbate violations as these businesses may organically expand into a larger operation than allowed without realizing that is in violation of zoning.

The point is not to suggest all Landscape Contractors are bad neighbors or are inherently code violators, but to suggest the externalities associated with the use are many, and are generally not very compatible with residential uses. Staff understands the intent of this ZTA is to provide Limited Use standards only to smaller operations, but even a small operator is likely to generate an increase in noise and dust through truck traffic and equipment activity. This is especially true when potentially allowing the use on lots as small as two acres, in residential zones that are predominantly developed with detached housing. Without the reviews performed during the Conditional Use process, it is very difficult to say that any size Landscape Contractor would *always* be appropriate within a residential zone, which is exactly what allowing Landscape Contractor as a Limited Use is saying.

### **Racial Equity and Social Justice Impact**

Bill 44-20 Racial Equity and Social Justice – Impact Statements – Advisory Committee – Amendments was enacted on December 1, 2020 and became fully effective September 1, 2021. This Bill requires that the Office of Legislative Oversight (OLO), in consultation with the Planning Department, produce a racial equity and social justice (RESJ) impact statement for each ZTA that is introduced on or after September 1, 2021. At the time of the posting of this staff report, the RESJ impact statement for ZTA 21-08 had not yet been received from OLO.

### **Correspondence**

As of the completion of this staff report, staff has received correspondence from over 30 residents, mostly through e-mail (Attachment B) but also through phone calls. All were in opposition to the ZTA. There is a reoccurring message that Landscape Contractors are not a one-size fits all type of business that needs an extra layer of review to properly mitigate issues such as noise, impervious surfaces and the environment. There was also a concern that Landscape Contractors are taking up valuable small agricultural properties that could otherwise be used by small local start-up farms. It was also noted that some adjacent jurisdictions have even more strict requirements for Landscape Contractors including

fewer allowed zones and much larger minimum lot sizes. Staff also heard concerns about Landscape Contractors that may start off small and compliant with Limited Use standards but may illegally expand, not unlike how existing approved Landscape Contractors do today. There is also a major concern about losing the Conditional Use finding that there is not an over-concentration of conditional uses occurring in any particular area, or Master Plan recommendations that are common in many of our more suburban Master Plans that recommend extra scrutiny of conditional uses. The intent of the over-concentration finding was to ensure that residential areas remain residential and do not become over commercialized or industrialized. This has been an issue in some areas, and has led to specific Master Plans such as Fairland, Cloverly and Potomac to have separate recommendations around limiting the proliferation of conditional uses. Staff believes most of these points are well founded and echo concerns already raised with our analysis of the ZTA.

### **Conclusion**

Staff recommends the Planning Board transmit comments to the District Council opposing ZTA 21-08, which would create a new set of Limited Use standards for Landscape Contractors in certain Agricultural, Rural Residential and Residential zones. The use inherently brings an increase in externalities that are incompatible with residential uses, which require detailed, case-by-case scrutiny that is not provided through the proposed Limited Use standards. The existing Conditional Use process is the best way to ensure these impacts do not ultimately detract from surrounding residential properties.

### **Attachment:**

- A – ZTA 21-08 introduction packet
- B – Correspondence received as of 11/9/2021



**Committee:** PHED

**Committee Review:** At a future date

**Staff:** Livhu Ndou, Legislative Attorney

**Purpose:** To introduce agenda item – no vote expected

**Keywords:** #LandscapeContractor, #LimitedUseStandards

AGENDA ITEM #2A

October 19, 2021

**Introduction**

## SUBJECT

Zoning Text Amendment (ZTA) 21-08, Landscape Contractor – Use Standards

Lead Sponsor: Council President Hucker

## EXPECTED ATTENDEES

None

## COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

N/A

## DESCRIPTION/ISSUE

ZTA 21-08 will expand the definition for Landscape Contractor and allow it as a limited use in certain zones.

## SUMMARY OF KEY DISCUSSION POINTS

- Landscape Contractor is a conditional use in the Agricultural, Rural Residential, Residential Estate, and R-200 zones.
- ZTA 21-08 will allow Landscape Contractor as a limited use in those zones if certain conditions are met, such as: a minimum lot area of 2 acres; building and parking setbacks of 50 feet; a limitation on commercial and motor vehicles; and other requirements.
- ZTA 21-08 will also add the growing of plant materials for the contracting business to the definition of Landscape Contractor.

### This report contains:

Staff Report

ZTA 21-08

Page 1

© 1-5

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**Introduction**

**MEMORANDUM**

October 14, 2021

TO: County Council

FROM: Livhu Ndou, Legislative Attorney

SUBJECT: Zoning Text Amendment (ZTA) 21-08, Landscape Contractor – Use Standards

PURPOSE: Introduction

Zoning Text Amendment (ZTA) 21-08, Landscape Contractor – Use Standards, lead sponsor Council President Hucker, is scheduled to be introduced on October 19, 2021. ZTA 21-08 will expand the definition for Landscape Contractor and allow it as a limited use in certain zones.

Landscape Contractor is currently a conditional use in the Agricultural, Rural Residential, Residential Estate, and R-200 zones. ZTA 21-08 will add the growing of plant materials for the contracting business to the definition of Landscape Contractor. ZTA 21-08 will also allow Landscape Contractor as a limited use in those zones if certain conditions are met, such as: a minimum lot area of 2 acres; building and parking setbacks of 50 feet; a limitation on commercial and motor vehicles; and other requirements. The intent of this ZTA is to create a less cost-prohibitive process for landscaping companies, while placing certain limits on the sites where this use is located.

A public hearing is scheduled for November 30, 2021 at 1:30 p.m.

This packet contains:  
ZTA 21-08

Pages  
© 1-5

Ordinance No.:  
Zoning Text Amendment No.: 21-08  
Concerning: Landscape Contractor –  
Use Standards  
Draft No. & Date: 1 – 10/4/2021  
Introduced: October 19, 2021  
Public Hearing:  
Adopted:  
Effective:

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND  
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF  
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN  
MONTGOMERY COUNTY, MARYLAND**

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Lead Sponsor: Council President Hucker

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**AN AMENDMENT** to the Montgomery County Zoning Ordinance to:

- expand the definition for landscape contractor; and
- generally amend the use standards.

By amending the following sections of the Montgomery County Zoning Ordinance,  
Chapter 59 of the Montgomery County Code:

DIVISION 59.3.1. “Use Table”  
Section 59.3.1.6. “Use Table”  
DIVISION 59.3.5. “Commercial Uses”  
Section 59.3.5.5. “Landscape Contractor”

**EXPLANATION:** ***Boldface** indicates a Heading or a defined term.*  
*Underlining indicates text that is added to existing law by the original text amendment.*  
*[Single boldface brackets] indicate text that is deleted from existing law by original text amendment.*  
*Double underlining indicates text that is added to the text amendment by amendment.*  
*[[Double boldface brackets]] indicate text that is deleted from the text amendment by amendment.*  
*\* \* \* indicates existing law unaffected by the text amendment.*



*ORDINANCE*

*The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:*

**Sec. 1. Division 59-3.1 is amended as follows:**

**Division 3.1 Use Table**

\* \* \*

**Section 3.1.6 Use Table**

The following Use Table identifies uses allowed in each zone. Uses may be modified in Overlay zones under Division 4.9.

USE OR USE GROUP	Definitions and Standards	Ag	Rural Residential			Residential								* * *
		AR	R	RC	RNC	Residential Detached								
						RE-2	RE-2C	RE-1	R-200	R-90	R-60	R-40		
* * *														
COMMERCIAL														
* * *														
Landscape Contractor	3.5.5	<u>L/C</u>	<u>L/C</u>	<u>L/C</u>	<u>L/C</u>	<u>L/C</u>	<u>L/C</u>	<u>L/C</u>	<u>L/C</u>					
* * *														

**Key:** P = Permitted Use L = Limited Use C = Conditional Use Blank Cell = Use Not Allowed

\* \* \*

**Sec. 2. DIVISION 59-3.5 is amended as follows:**

**Division 59.3.5. Commercial Uses**

\* \* \*

**Section 3.5.5. Landscape Contractor**

**A. Defined**

Landscape Contractor means the business of designing, installing, planting, or maintaining lawns, gardens, hardscapes, water features, outdoor structures, decorative features, stormwater and drainage features, or other activities intended to enhance the appearance or usefulness of outdoor areas. Landscape Contractor also means providing snow removal services with vehicles, equipment, and supplies that are stored, parked, serviced, or loaded at the business location. Landscape Contractor includes the growing of plant

materials for the contracting business and tree installation, maintenance, or removal. Landscape Contractor does not include Lawn Maintenance Service (see Section 3.5.14.G, Lawn Maintenance Service).

**B. Use Standard**

a. Where Landscape Contractor is allowed as a limited use, it must satisfy the following standards:

i. In the IL zone, a Landscape Contractor on a [and the] lot or parcel [on which the use is located] that abuts a residential detached zone[,] is required to provide Option B screening under Section 6.5.3.C.7, [Option B is required, ] without regard to applicability under Section 6.5.2.B.

ii. In the AR, R, RC, RNC, RE-2, RE-2C, RE-1 and R-200 zones, a Landscape Contractor must satisfy the following standards:

(a) The minimum lot area is 2 acres.

(b) Building and parking setbacks, including loading areas and other site operations, are a minimum of 50 feet from any lot line. Storage areas and site operations, except the growing of plant materials, must be screened pursuant to Option B under Section 6.5.3.C.7, without regard to applicability under Section 6.5.2.B, and parking and loading areas must be screened pursuant to the perimeter planting requirements under Section 6.2.9.C.3.b. Any power equipment larger than 8 feet in height, 6 feet in width, or 12 feet in length must be stored inside a structure.

(c) Commercial Vehicles, Heavy may not be parked on site. No more than six Commercial Vehicles, Light and

trailers for equipment and supplies operated in  
connection with the contracting business may be parked  
on site at any one time. No more than twenty motor  
vehicles may be parked on site at any one time.

(d) Offices may not be operated on site and no more than  
twenty employees may be on site at any one time.

(e) Any parking lot lighting must be controlled by motion  
sensors during evening hours.

\* \* \*

**Sec. 3. Effective date.** This ordinance becomes effective 20 days after the  
date of Council adoption.

This is a correct copy of Council action.

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Selena Mendy Singleton, Esq.

Clerk of the Council

**Berbert, Benjamin**

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**From:** Ann Connor <info@email.actionnetwork.org>  
**Sent:** Friday, November 5, 2021 8:12 PM  
**To:** Wright, Gwen  
**Subject:** Table ZTA 21-08: Landscape Contractors Should Remain Conditional Use

**[EXTERNAL EMAIL]** Exercise caution when opening attachments, clicking links, or responding.

Planning Director Gwen Wright,

I am concerned about ZTA 21-08 that would change the permitting process for Landscape contractors. These operations are not one-size fits all and the current conditional use process is the best way to ensure that they can be sited appropriately. The limited use classification proposed by the ZTA does not address important concerns like impervious surface, noise and forest protections. Additionally, widening the areas where these industries can locate (without site specific review) will cause undue competition in both supply and price for productive farmland, further challenging new and expanding local food and fiber production. Many new table crop producers are also looking for 2+ acres to get started.

I urge you to find another way to address the concerns of landscape contractors that will still keep protections for farmland, water quality and forests provided by the conditional use process in place. Please bring stakeholders together to collaborate on a more workable solution.

Ann Connor  
conrfam@aol.com  
17325 Soper St  
Poolesville, Maryland 20837

**Berbert, Benjamin**

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**From:** Atira Zeoli <info@email.actionnetwork.org>  
**Sent:** Sunday, November 7, 2021 12:40 PM  
**To:** Wright, Gwen  
**Subject:** Table ZTA 21-08: Landscape Contractors Should Remain Conditional Use

**[EXTERNAL EMAIL]** Exercise caution when opening attachments, clicking links, or responding.

Planning Director Gwen Wright,

I am concerned about ZTA 21-08 that would change the permitting process for Landscape contractors. These operations are not one-size fits all and the current conditional use process is the best way to ensure that they can be sited appropriately. The limited use classification proposed by the ZTA does not address important concerns like impervious surface, noise and forest protections. Additionally, widening the areas where these industries can locate (without site specific review) will cause undue competition in both supply and price for productive farmland, further challenging new and expanding local food and fiber production. Many new table crop producers are also looking for 2+ acres to get started.

I urge you to find another way to address the concerns of landscape contractors that will still keep protections for farmland, water quality and forests provided by the conditional use process in place. Please bring stakeholders together to collaborate on a more workable solution.

Atira Zeoli  
zeoligirl@gmail.com  
402 4th Ave  
Washington Grove, Maryland 20880

**Berbert, Benjamin**

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**From:** Ben Graybeal <info@email.actionnetwork.org>  
**Sent:** Friday, November 5, 2021 7:53 PM  
**To:** Wright, Gwen  
**Subject:** Table ZTA 21-08: Landscape Contractors Should Remain Conditional Use

**[EXTERNAL EMAIL]** Exercise caution when opening attachments, clicking links, or responding.

Planning Director Gwen Wright,

I am concerned about ZTA 21-08 that would change the permitting process for Landscape contractors. These operations are not one-size fits all and the current conditional use process is the best way to ensure that they can be sited appropriately. The limited use classification proposed by the ZTA does not address important concerns like impervious surface, noise and forest protections. Additionally, widening the areas where these industries can locate (without site specific review) will cause undue competition in both supply and price for productive farmland, further challenging new and expanding local food and fiber production. Many new table crop producers are also looking for 2+ acres to get started.

I urge you to find another way to address the concerns of landscape contractors that will still keep protections for farmland, water quality and forests provided by the conditional use process in place. Please bring stakeholders together to collaborate on a more workable solution.

Ben Graybeal  
bengraybeal@yahoo.com  
15401 Conrad Spring Rd  
Boys, Maryland 20841

**Berbert, Benjamin**

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**From:** Bev Thoms <tiewyan@comcast.net>  
**Sent:** Friday, November 5, 2021 11:17 AM  
**To:** Wright, Gwen  
**Subject:** Table ZTA 21-08: Landscape Contractors Should Remain Conditional Use

**[EXTERNAL EMAIL]** Exercise caution when opening attachments, clicking links, or responding.

Planning Director Gwen Wright,

I am concerned about ZTA 21-08 that would change the permitting process for Landscape contractors. These operations are not one-size fits all and the current conditional use process is the best way to ensure that they can be sited appropriately. The limited use classification proposed by the ZTA does not address important concerns like impervious surface, noise and forest protections. Additionally, widening the areas where these industries can locate (without site specific review) will cause undue competition in both supply and price for productive farmland, further challenging new and expanding local food and fiber production. Many new table crop producers are also looking for 2+ acres to get started.

I urge you to find another way to address the concerns of landscape contractors that will still keep protections for farmland, water quality and forests provided by the conditional use process in place. Please bring stakeholders together to collaborate on a more workable solution.

Bev Thoms

tiewyan@comcast.net  
21700 Big Woods Road  
Dickerson, Maryland 20842



## Berbert, Benjamin

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**From:** Carol Kosary <info@email.actionnetwork.org>  
**Sent:** Sunday, November 7, 2021 3:19 PM  
**To:** Wright, Gwen  
**Subject:** ZTA 21-08: Landscape Contractors Should Remain Conditional Use in Residential Zones

**[EXTERNAL EMAIL]** Exercise caution when opening attachments, clicking links, or responding.

Planning Director Gwen Wright,

Landscape Contractors as a Limited Use in the Rural Residential, Residential Estate, and R-200 zones! To make the process less cost-prohibitive for the landscaping companies! We should be talking about whether these uses should even be allowed as a Conditional Use in these zones rather than discussing making this a Limited Use under certain situations.

In Howard County Landscape Contractors are allowed as a Conditional Uses only in their equivalent of Montgomery County's Rural Residential zones on lots with a minimum size of 5 acres and require building and parking setbacks of 100 feet from any lot line or street.

In Fairfax County Landscape Contractors are only allowed in several (but not all) of their Industrial zones (and are just a category under Contractor Office and Shop). They are not permitted in any residential zone.

In Prince George's County Landscape Contractors require a minimum lot size of 25 acres (which can under certain circumstances be reduced to a minimum of 5 acres) and require building and parking setbacks of 200 feet from any lot line of an adjoining residentially zoned property.

This is a use that operates 6-7 days per week. It begins operations very early in the morning often utilizing noisy equipment to load. Its trucks often return after dark, often with various types of waste materials from the day's jobs, and again may utilize noisy equipment to unload. Frequent deliveries of materials are required, deliveries generally made by heavy commercial vehicles, including semis. Continual daily use of heavy equipment exacerbates soil compaction and increases imperviousness.

If ZTA 21-08 is approved any residential neighborhood which finds itself cursed with one of these Landscape Contractors in their midst is going to experience a decline in their property values, degradation of their use and peaceful enjoyment of their home and could very well face safety concerns due to delivery traffic. At the very least the Conditional Use process helps to ensure that uses of this type are sited appropriately, are compatible, and have Conditions on their use which are both enforceable and protective.

The fact that ZTA 21-08 would prohibit on site offices is a dead giveaway that the intent is to allow Landscape Contractors to utilize residentially zoned property basically as storage yards.

While the Conditional Use process would look at the compatibility of any building or structure with the residential character of the adjoining neighborhood this is not required under a limited use. While a Hearing Examiner may require additional screening beyond what is required under the Zoning Code there is no way of knowing whether the screening dictated is going to be effective for each location because it will not be evaluated for each specific location as it would be for a Conditional Use.

Twenty vehicles at any time in a residential location for a use which will see 6-7 days of operation per week is excessive for a use which will receive no analysis of potential non-inherent adverse effects. Same with the allowed commercial vehicles and trailers. These are not small mom and pop one of two truck companies we are talking about. Further, the designated "screening" for parking and loading areas is not a section of Zoning Code designed to screen a large parking lot from a residential use. It is merely a perimeter planting landscaping requirement designed to make an ugly parking lot slightly less ugly. On top of that the code cited is incorrect! Only the Conditional Use process can evaluate whether the parking and loading areas are properly screened.

And finally, ZTA 21-08 adds growing plant materials to the definition of Landscape Contractor and carries this added category into the proposed Limited Use. This is not planting a few tomato plants and maybe some basil in your back yard. To support a Landscape Contracting business this would require growing plant material on a commercial scale. More than likely in a commercial scale greenhouse. If not that then it is growing trees, at a commercial level. Basically a tree farm. This has not been well thought out!

Carol Kosary

kosaryc@gmail.com

7416 Needwood Road

Derwood, Maryland 20855

**Berbert, Benjamin**

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**From:** Christine Rai <info@email.actionnetwork.org>  
**Sent:** Friday, November 5, 2021 12:38 PM  
**To:** Wright, Gwen  
**Subject:** Table ZTA 21-08: Landscape Contractors Should Remain Conditional Use

**[EXTERNAL EMAIL]** Exercise caution when opening attachments, clicking links, or responding.

Planning Director Gwen Wright,

I am concerned about ZTA 21-08 that would change the permitting process for Landscape contractors. These operations are not one-size fits all and the current conditional use process is the best way to ensure that they can be sited appropriately. The limited use classification proposed by the ZTA does not address important concerns like impervious surface, noise and forest protections. Additionally, widening the areas where these industries can locate (without site specific review) will cause undue competition in both supply and price for productive farmland, further challenging new and expanding local food and fiber production. Many new table crop producers are also looking for 2+ acres to get started.

I urge you to find another way to address the concerns of landscape contractors that will still keep protections for farmland, water quality and forests provided by the conditional use process in place. Please bring stakeholders together to collaborate on a more workable solution.

Christine Rai

sunny\_rai@verizon.net  
17320 Whitaqker Road  
Poolesville, Maryland 20837

**Berbert, Benjamin**

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**From:** Christy Bumanis <info@email.actionnetwork.org>  
**Sent:** Friday, November 5, 2021 12:41 PM  
**To:** Wright, Gwen  
**Subject:** Table ZTA 21-08: Landscape Contractors Should Remain Conditional Use

**[EXTERNAL EMAIL]** Exercise caution when opening attachments, clicking links, or responding.

Planning Director Gwen Wright,

I am concerned about ZTA 21-08 that would change the permitting process for Landscape contractors. These operations are not one-size fits all and the current conditional use process is the best way to ensure that they can be sited appropriately. The limited use classification proposed by the ZTA does not address important concerns like impervious surface, noise and forest protections. Additionally, widening the areas where these industries can locate (without site specific review) will cause undue competition in both supply and price for productive farmland, further challenging new and expanding local food and fiber production. Many new table crop producers are also looking for 2+ acres to get started.

I urge you to find another way to address the concerns of landscape contractors that will still keep protections for farmland, water quality and forests provided by the conditional use process in place. Please bring stakeholders together to collaborate on a more workable solution.

Establishment of the Agricultural Reserve is a nationally acclaimed achievement and is vitally important, especially now that the consequences of the climate emergency are upon us. After the Council's intelligent modifications of ZTA 20-01 to limit solar array development in favor of agriculture, I am shocked to see continued attacks on the Ag Reserve in favor of businesses and developers. The County Council should be protecting this valuable agricultural and environmental resource, not facilitating uses other than agricultural.

Christy Bumanis  
christylb33@verizon.net  
21101 Kaul lane  
Germantown, Maryland 20876

## Berbert, Benjamin

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**From:** Claire Seesman <info@email.actionnetwork.org>  
**Sent:** Sunday, November 7, 2021 7:42 AM  
**To:** Wright, Gwen  
**Subject:** Table ZTA 21-08: Landscape Contractors Should Remain Conditional Use

**[EXTERNAL EMAIL]** Exercise caution when opening attachments, clicking links, or responding.

Planning Director Gwen Wright,

We need to retain as much farmland for farmers growing food, especially table top crops, and especially smaller parcels. We need to keep it affordable to smaller scale farmers. I am concerned about ZTA 21-08 that would change the permitting process for Landscape contractors. These operations are not one-size fits all and the current conditional use process is the best way to ensure that they can be sited appropriately. The limited use classification proposed by the ZTA does not address important concerns like impervious surface, noise and forest protections. Additionally, widening the areas where these industries can locate (without site specific review) will cause undue competition in both supply and price for productive farmland, further challenging new and expanding local food and fiber production. Many new table crop producers are also looking for 2+ acres to get started.

I urge you to find another way to address the concerns of landscape contractors that will still keep protections for farmland, water quality and forests provided by the conditional use process in place. Please bring stakeholders together to collaborate on a more workable solution.

Claire Seesman  
cseesman@gmail.com  
25112 Applecross Ter  
Damascus, Maryland 20872

## Berbert, Benjamin

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**From:** Berbert, Benjamin  
**Sent:** Tuesday, November 9, 2021 2:06 PM  
**To:** Berbert, Benjamin  
**Subject:** FW: Table ZTA 21-08: Landscape Contractors Should Remain Conditional Use CRM:0137007

----- Original Message -----

**From:** info@email.actionnetwork.org info@email.actionnetwork.org <info@email.actionnetwork.org>;  
**Received:** Tue Nov 09 2021 11:22:17 GMT-0500 (Eastern Standard Time)  
**To:** MCP-Chair@mncppc-mc.org <mcp-chair@mncppc-mc.org>; MCP-Chair # <mcp-chair@mncppc-mc.org>; <mcp-chair@mncppc-mc.org>;  
**Subject:** Table ZTA 21-08: Landscape Contractors Should Remain Conditional Use

**[EXTERNAL EMAIL]** Exercise caution when opening attachments, clicking links, or responding.

Planning Board Chair Casey Anderson,

I am concerned about ZTA 21-08 that would change the permitting process for Landscape contractors. These operations are not one-size fits all and the current conditional use process is the best way to ensure that they can be sited appropriately. The limited use classification proposed by the ZTA does not address important concerns like impervious surface, noise and forest protections. Additionally, widening the areas where these industries can locate (without site specific review) will cause undue competition in both supply and price for productive farmland, further challenging new and expanding local food and fiber production. Many new table crop producers are also looking for 2+ acres to get started.

I urge you to find another way to address the concerns of landscape contractors that will still keep protections for farmland, water quality and forests provided by the conditional use process in place. Please bring stakeholders together to collaborate on a more workable solution.

Here are some personal reflections. This is getting tiresome. A few on the Council seem to be constantly thinking of new incursions into the Ag Reserve and rural areas. I am thankful for those on the Council who look more closely at the ramifications of these "ideas," which seem to benefit developers but not the residents. This ZTA will not only affect those of us who live

in the Ag Reserve, but also residents in other areas, including areas in Cloverly and Olney. Also, I understand that only five spots have been reserved for comment on the ZTA by the general public. This is outrageous. I hope that the majority of the Council tables this proposed ZTA so that stakeholders across the County have the opportunity to learn about this ZTA and comment. A working group should be established to study this before any action is taken.

Thank you.

Donna McDowell  
donnasmcd68@gmail.com  
24308 Hipsley Mill Road  
Gaithersburg, Maryland 20882



**Berbert, Benjamin**

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**From:** Dorothy Herman <doorthy@fuzzymagic.com>  
**Sent:** Friday, November 5, 2021 11:13 AM  
**To:** Wright, Gwen  
**Subject:** Table ZTA 21-08: Landscape Contractors Should Remain Conditional Use

**[EXTERNAL EMAIL]** Exercise caution when opening attachments, clicking links, or responding.

Planning Director Gwen Wright,

I am concerned about ZTA 21-08 that would change the permitting process for Landscape contractors. These operations are not one-size fits all and the current conditional use process is the best way to ensure that they can be sited appropriately. The limited use classification proposed by the ZTA does not address important concerns like impervious surface, noise and forest protections. Additionally, widening the areas where these industries can locate (without site specific review) will cause undue competition in both supply and price for productive farmland, further challenging new and expanding local food and fiber production. Many new table crop producers are also looking for 2+ acres to get started.

I urge you to find another way to address the concerns of landscape contractors that will still keep protections for farmland, water quality and forests provided by the conditional use process in place. Please bring stakeholders together to collaborate on a more workable solution.

Dorothy Herman  
doorthy@fuzzymagic.com  
19521 Lweis Orchard Ln  
Poolesville, Maryland 20837

## Berbert, Benjamin

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**From:** Elise Wendland <info@email.actionnetwork.org>  
**Sent:** Saturday, November 6, 2021 6:52 AM  
**To:** Wright, Gwen  
**Subject:** Table ZTA 21-08: Landscape Contractors Should Remain Conditional Use

**[EXTERNAL EMAIL]** Exercise caution when opening attachments, clicking links, or responding.

Planning Director Gwen Wright,

I am concerned about ZTA 21-08 that would change the permitting process for Landscape contractors. These operations are not one-size fits all and the current conditional use process is the best way to ensure that they can be sited appropriately. The limited use classification proposed by the ZTA does not address important concerns like impervious surface, noise and forest protections. Additionally, widening the areas where these industries can locate (without site specific review) will cause undue competition in both supply and price for productive farmland, further challenging new and expanding local food and fiber production. Many new table crop producers are also looking for 2+ acres to get started.

I urge you to find another way to address the concerns of landscape contractors that will still keep protections for farmland, water quality and forests provided by the conditional use process in place. Please bring stakeholders together to collaborate on a more workable solution.

Elise Wendland  
elisew2009@yahoo.com  
20315 Peach Tree Rd  
Dickerson, Maryland 20842

## Berbert, Benjamin

---

**From:** Wright, Gwen  
**Sent:** Sunday, November 7, 2021 6:43 PM  
**To:** Berbert, Benjamin  
**Cc:** Sartori, Jason  
**Subject:** FW: Table ZTA 21-08: Landscape Contractors Should Remain Conditional Use

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**From:** Emily Williams <info@email.actionnetwork.org>  
**Sent:** Friday, November 5, 2021 1:59 PM  
**To:** Wright, Gwen <gwen.wright@montgomeryplanning.org>  
**Subject:** Table ZTA 21-08: Landscape Contractors Should Remain Conditional Use

**[EXTERNAL EMAIL]** Exercise caution when opening attachments, clicking links, or responding.

Planning Director Gwen Wright,

I am concerned about ZTA 21-08 that would change the permitting process for Landscape contractors. These operations are not one-size fits all and the current conditional use process is the best way to ensure that they can be sited appropriately. The limited use classification proposed by the ZTA does not address important concerns like impervious surface, noise and forest protections. Additionally, widening the areas where these industries can locate (without site specific review) will cause undue competition in both supply and price for productive farmland, further challenging new and expanding local food and fiber production. Many new table crop producers are also looking for 2+ acres to get started.

I urge you to find another way to address the concerns of landscape contractors that will still keep protections for farmland, water quality and forests provided by the conditional use process in place. Please bring stakeholders together to collaborate on a more workable solution.

Emily Williams  
[emily.williams89@gmail.com](mailto:emily.williams89@gmail.com)  
22030 Big Woods Rd  
Dickerson, Maryland 20842

**Berbert, Benjamin**

---

**From:** Erika Bucciantini <info@email.actionnetwork.org>  
**Sent:** Friday, November 5, 2021 9:18 PM  
**To:** Wright, Gwen  
**Subject:** Table ZTA 21-08: Landscape Contractors Should Remain Conditional Use

**[EXTERNAL EMAIL]** Exercise caution when opening attachments, clicking links, or responding.

Planning Director Gwen Wright,

Keep protections for farmland, forests, and water sources. Our protected land is vital for our long-term survival.

I am concerned about ZTA 21-08 that would change the permitting process for Landscape contractors. These operations are not one-size fits all and the current conditional use process is the best way to ensure that they can be sited appropriately. The limited use classification proposed by the ZTA does not address important concerns like impervious surface, noise and forest protections. Additionally, widening the areas where these industries can locate (without site specific review) will cause undue competition in both supply and price for productive farmland, further challenging new and expanding local food and fiber production. Many new table crop producers are also looking for 2+ acres to get started.

I urge you to find another way to address the concerns of landscape contractors that will still keep protections for farmland, water quality and forests provided by the conditional use process in place. Please bring stakeholders together to collaborate on a more workable solution.

Erika Bucciantini  
erikabucciantini@gmail.com  
22014 Dickerson Rd  
Dickerson , Maryland 20842

Planning Director Gwen Wright,

I am concerned about ZTA 21-08 that would change the permitting process for Landscape contractors. These operations are not one-size fits all and the current conditional use process is the best way to ensure that they can be sited appropriately. The limited use classification proposed by the ZTA does not address important concerns like impervious surface, noise and forest protections. Additionally, widening the areas where these industries can locate (without site specific review) will cause undue competition in both supply and price for productive farmland, further challenging new and expanding local food and fiber production. Many new table crop producers are also looking for 2+ acres to get started.

I urge you to find another way to address the concerns of landscape contractors that will still keep protections for farmland, water quality and forests provided by the conditional use process in place. Please bring stakeholders together to collaborate on a more workable solution.

The above form letter expresses my technical views, but I would also like to add a general thought of my own. Land use policies in this county should be geared towards lifting up new family/small farmers wherever possible.

Joshua Stewart

[jloyalstewart@gmail.com](mailto:jloyalstewart@gmail.com)

19839 Billings Ct

Montgomery Village, Maryland 20886

**Berbert, Benjamin**

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**From:** Julie Halstead <info@email.actionnetwork.org>  
**Sent:** Friday, November 5, 2021 1:11 PM  
**To:** Wright, Gwen  
**Subject:** Table ZTA 21-08: Landscape Contractors Should Remain Conditional Use

**[EXTERNAL EMAIL]** Exercise caution when opening attachments, clicking links, or responding.

Planning Director Gwen Wright,

I am concerned about ZTA 21-08 that would change the permitting process for Landscape contractors. These operations are not one-size fits all and the current conditional use process is the best way to ensure that they can be sited appropriately. The limited use classification proposed by the ZTA does not address important concerns like impervious surface, noise and forest protections. Additionally, widening the areas where these industries can locate (without site specific review) will cause undue competition in both supply and price for productive farmland, further challenging new and expanding local food and fiber production. Many new table crop producers are also looking for 2+ acres to get started.

I urge you to find another way to address the concerns of landscape contractors that will still keep protections for farmland, water quality and forests provided by the conditional use process in place. Please bring stakeholders together to collaborate on a more workable solution.

Julie Halstead  
juliehalstead@gmail.com  
17117 Spates Hill Road  
Poolesville, Maryland 20837

## Berbert, Benjamin

---

**To:** Berbert, Benjamin  
**Subject:** RE: Table ZTA 21-08: Landscape Contractors Should Remain Conditional Use CRM:0137006

----- Original Message -----

**From:** Lawrence Regan Jr <[lregan@monterolawgroup.com](mailto:lregan@monterolawgroup.com)>;  
**Received:** Fri Nov 05 2021 15:42:38 GMT-0400 (Eastern Daylight Time)  
**To:** [MCP-Chair@mncppc-mc.org](mailto:MCP-Chair@mncppc-mc.org) <[mcp-chair@mncppc-mc.org](mailto:mcp-chair@mncppc-mc.org)>; MCP-Chair # <[mcp-chair@mncppc-mc.org](mailto:mcp-chair@mncppc-mc.org)>; <[mcp-chair@mncppc-mc.org](mailto:mcp-chair@mncppc-mc.org)>;  
**Subject:** Table ZTA 21-08: Landscape Contractors Should Remain Conditional Use

**[EXTERNAL EMAIL]** Exercise caution when opening attachments, clicking links, or responding.

Planning Board Chair Casey Anderson,

Table the landscape thing.

Lawrence Regan Jr  
[lregan@monterolawgroup.com](mailto:lregan@monterolawgroup.com)  
16213 Orchard View Court  
Gaithersburg, Maryland 20878

**Berbert, Benjamin**

---

**From:** Lisa Banana <info@email.actionnetwork.org>  
**Sent:** Sunday, November 7, 2021 8:25 AM  
**To:** Wright, Gwen  
**Subject:** Table ZTA 21-08: Landscape Contractors Should Remain Conditional Use

**[EXTERNAL EMAIL]** Exercise caution when opening attachments, clicking links, or responding.

Planning Director Gwen Wright,

I am concerned about ZTA 21-08 that would change the permitting process for Landscape contractors. These operations are not one-size fits all and the current conditional use process is the best way to ensure that they can be sited appropriately. The limited use classification proposed by the ZTA does not address important concerns like impervious surface, noise and forest protections. Additionally, widening the areas where these industries can locate (without site specific review) will cause undue competition in both supply and price for productive farmland, further challenging new and expanding local food and fiber production. Many new table crop producers are also looking for 2+ acres to get started.

I urge you to find another way to address the concerns of landscape contractors that will still keep protections for farmland, water quality and forests provided by the conditional use process in place. Please bring stakeholders together to collaborate on a more workable solution.

Lisa Banana  
ilovestupas@gmail.com  
18931 Fisher Ave  
Poolesville, Maryland 20837



**Berbert, Benjamin**

---

**From:** Megan Benton <half\_shekel@yaboo.com>  
**Sent:** Friday, November 5, 2021 11:48 AM  
**To:** Wright, Gwen  
**Subject:** Table ZTA 21-08: Landscape Contractors Should Remain Conditional Use

**[EXTERNAL EMAIL]** Exercise caution when opening attachments, clicking links, or responding.

Planning Director Gwen Wright,

I am concerned about ZTA 21-08 that would change the permitting process for Landscape contractors. These operations are not one-size fits all and the current conditional use process is the best way to ensure that they can be sited appropriately. The limited use classification proposed by the ZTA does not address important concerns like impervious surface, noise and forest protections. Additionally, widening the areas where these industries can locate (without site specific review) will cause undue competition in both supply and price for productive farmland, further challenging new and expanding local food and fiber production. Many new table crop producers are also looking for 2+ acres to get started.

I urge you to find another way to address the concerns of landscape contractors that will still keep protections for farmland, water quality and forests provided by the conditional use process in place. Please bring stakeholders together to collaborate on a more workable solution.

Megan Benton

half\_shekel@yaboo.com  
20407 Peach Tree Road  
Dickerson, Maryland 20842

## Berbert, Benjamin

---

**From:** Michelle Grissom <info@email.actionnetwork.org>  
**Sent:** Sunday, November 7, 2021 1:40 PM  
**To:** Wright, Gwen  
**Subject:** Table ZTA 21-08: Landscape Contractors Should Remain Conditional Use

**[EXTERNAL EMAIL]** Exercise caution when opening attachments, clicking links, or responding.

Planning Director Gwen Wright,

The point of the Ag Reserve is to reserve land for farming. We don't want to foolishly waste our arable land by driving out our small farmers. We've discovered in the recent pandemic and supply chain disruptions how beneficial our local farmers are. While food banks have struggled elsewhere, Montgomery County families have been fed by our local Ag reserve farms.

Therefore I am concerned about ZTA 21-08 that would change the permitting process for Landscape contractors. These operations are not one-size fits all and the current conditional use process is the best way to ensure that they can be sited appropriately. The limited use classification proposed by the ZTA does not address important concerns like impervious surface, noise and forest protections. Additionally, widening the areas where these industries can locate (without site specific review) will cause undue competition in both supply and price for productive farmland, further challenging new and expanding local food and fiber production. Many new table crop producers are also looking for 2+ acres to get started.

I urge you to find another way to address the concerns of landscape contractors that will still keep protections for farmland, water quality and forests provided by the conditional use process in place. Please bring stakeholders together to collaborate on a more workable solution.

Michelle Grissom  
simhamuka@yahoo.com  
14812 Ridge Oak Dr, Lake Apt  
Boyd's, Maryland 20841

**Berbert, Benjamin**

---

**From:** Molly Mclendon <info@email.actionnetwork.org>  
**Sent:** Saturday, November 6, 2021 2:57 PM  
**To:** Wright, Gwen  
**Subject:** Table ZTA 21-08: Landscape Contractors Should Remain Conditional Use

**[EXTERNAL EMAIL]** Exercise caution when opening attachments, clicking links, or responding.

Planning Director Gwen Wright,

I am concerned about ZTA 21-08 that would change the permitting process for Landscape contractors. These operations are not one-size fits all and the current conditional use process is the best way to ensure that they can be sited appropriately. The limited use classification proposed by the ZTA does not address important concerns like impervious surface, noise and forest protections. Additionally, widening the areas where these industries can locate (without site specific review) will cause undue competition in both supply and price for productive farmland, further challenging new and expanding local food and fiber production. Many new table crop producers are also looking for 2+ acres to get started.

I urge you to find another way to address the concerns of landscape contractors that will still keep protections for farmland, water quality and forests provided by the conditional use process in place. Please bring stakeholders together to collaborate on a more workable solution.

Molly Mclendon  
mollykmclendon@gmail.com  
16909 Hoskinson road  
Poolesville, Maryland 20837

## Berbert, Benjamin

---

**From:** Wright, Gwen  
**Sent:** Sunday, November 7, 2021 6:42 PM  
**To:** Berbert, Benjamin  
**Cc:** Sartori, Jason  
**Subject:** FW: Table ZTA 21-08: Landscape Contractors Should Remain Conditional Use

---

**From:** NOREEN COURNOYER <info@email.actionnetwork.org>  
**Sent:** Friday, November 5, 2021 7:10 PM  
**To:** Wright, Gwen <gwen.wright@montgomeryplanning.org>  
**Subject:** Table ZTA 21-08: Landscape Contractors Should Remain Conditional Use

**[EXTERNAL EMAIL]** Exercise caution when opening attachments, clicking links, or responding.

Planning Director Gwen Wright,

I am concerned about ZTA 21-08 that would change the permitting process for Landscape contractors. These operations are not one-size fits all and the current conditional use process is the best way to ensure that they can be sited appropriately. The limited use classification proposed by the ZTA does not address important concerns like impervious surface, noise and forest protections. Additionally, widening the areas where these industries can locate (without site specific review) will cause undue competition in both supply and price for productive farmland, further challenging new and expanding local food and fiber production. Many new table crop producers are also looking for 2+ acres to get started.

I urge you to find another way to address the concerns of landscape contractors that will still keep protections for farmland, water quality and forests provided by the conditional use process in place. Please bring stakeholders together to collaborate on a more workable solution.

NOREEN COURNOYER  
noreencournoyer@gmail.com  
12901 KITCHEN HOUSE WAY  
GERMANTOWN, Maryland 20874

## Berbert, Benjamin

---

**From:** Wright, Gwen  
**Sent:** Sunday, November 7, 2021 6:41 PM  
**To:** Berbert, Benjamin  
**Cc:** Sartori, Jason  
**Subject:** FW: Table ZTA 21-08: Landscape Contractors Should Remain Conditional Use

---

**From:** Patricia Kelly <info@email.actionnetwork.org>  
**Sent:** Saturday, November 6, 2021 10:19 AM  
**To:** Wright, Gwen <gwen.wright@montgomeryplanning.org>  
**Subject:** Table ZTA 21-08: Landscape Contractors Should Remain Conditional Use

**[EXTERNAL EMAIL]** Exercise caution when opening attachments, clicking links, or responding.

Planning Director Gwen Wright,

I am concerned about ZTA 21-08 that would change the permitting process for Landscape contractors. These operations are not one-size fits all and the current conditional use process is the best way to ensure that they can be sited appropriately. The limited use classification proposed by the ZTA does not address important concerns like impervious surface, noise and forest protections. Additionally, widening the areas where these industries can locate (without site specific review) will cause undue competition in both supply and price for productive farmland, further challenging new and expanding local food and fiber production. Many new table crop producers are also looking for 2+ acres to get started.

I urge you to find another way to address the concerns of landscape contractors that will still keep protections for farmland, water quality and forests provided by the conditional use process in place. Please bring stakeholders together to collaborate on a more workable solution.

Patricia Kelly

[bpjickelly@gmail.com](mailto:bpjickelly@gmail.com)

15423 Conrad Spring Road

Boyds, Maryland 20841

**Berbert, Benjamin**

---

**From:** Rita Anselmo <info@email.actionnetwork.org>  
**Sent:** Friday, November 5, 2021 12:41 PM  
**To:** Wright, Gwen  
**Subject:** Table ZTA 21-08: Landscape Contractors Should Remain Conditional Use

**[EXTERNAL EMAIL]** Exercise caution when opening attachments, clicking links, or responding.

Planning Director Gwen Wright,

I am concerned about ZTA 21-08 that would change the permitting process for Landscape contractors. These operations are not one-size fits all and the current conditional use process is the best way to ensure that they can be sited appropriately. The limited use classification proposed by the ZTA does not address important concerns like impervious surface, noise and forest protections. Additionally, widening the areas where these industries can locate (without site specific review) will cause undue competition in both supply and price for productive farmland, further challenging new and expanding local food and fiber production. Many new table crop producers are also looking for 2+ acres to get started.

I urge you to find another way to address the concerns of landscape contractors that will still keep protections for farmland, water quality and forests provided by the conditional use process in place. Please bring stakeholders together to collaborate on a more workable solution.

Rita Anselmo

rmanselmo@verizon.net  
23101 Slidel Road  
Boys, Maryland 20841

**Berbert, Benjamin**

---

**From:** Salome Shumaker <info@email.actionnetwork.org>  
**Sent:** Saturday, November 6, 2021 12:15 PM  
**To:** Wright, Gwen  
**Subject:** Table ZTA 21-08: Landscape Contractors Should Remain Conditional Use

**[EXTERNAL EMAIL]** Exercise caution when opening attachments, clicking links, or responding.

Planning Director Gwen Wright,

I am concerned about ZTA 21-08 that would change the permitting process for Landscape contractors. These operations are not one-size fits all and the current conditional use process is the best way to ensure that they can be sited appropriately. The limited use classification proposed by the ZTA does not address important concerns like impervious surface, noise and forest protections. Additionally, widening the areas where these industries can locate (without site specific review) will cause undue competition in both supply and price for productive farmland, further challenging new and expanding local food and fiber production. Many new table crop producers are also looking for 2+ acres to get started.

I urge you to find another way to address the concerns of landscape contractors that will still keep protections for farmland, water quality and forests provided by the conditional use process in place. Please bring stakeholders together to collaborate on a more workable solution.

Salome Shumaker  
Shumaker1224@gmail.com  
16700 Barnesville road  
Boys, Maryland 20841

**Berbert, Benjamin**

---

**From:** Sarah Defnet <info@email.actionnetwork.org>  
**Sent:** Friday, November 5, 2021 12:48 PM  
**To:** Wright, Gwen  
**Subject:** Table ZTA 21-08: Landscape Contractors Should Remain Conditional Use

**[EXTERNAL EMAIL]** Exercise caution when opening attachments, clicking links, or responding.

Planning Director Gwen Wright,

I am concerned about ZTA 21-08 that would change the permitting process for Landscape contractors. These operations are not one-size fits all and the current conditional use process is the best way to ensure that they can be sited appropriately. The limited use classification proposed by the ZTA does not address important concerns like impervious surface, noise and forest protections. Additionally, widening the areas where these industries can locate (without site specific review) will cause undue competition in both supply and price for productive farmland, further challenging new and expanding local food and fiber production. Many new table crop producers are also looking for 2+ acres to get started.

I urge you to find another way to address the concerns of landscape contractors that will still keep protections for farmland, water quality and forests provided by the conditional use process in place. Please bring stakeholders together to collaborate on a more workable solution. Protecting the agricultural uses of this reserve is important to us in supporting local farming and food production.

Sarah Defent  
defnet@verizon.net  
18010 Elgin Rd  
Poolesville, Maryland 20837



**Berbert, Benjamin**

---

**From:** sarah suszczyk <info@email.actionnetwork.org>  
**Sent:** Saturday, November 6, 2021 1:01 AM  
**To:** Wright, Gwen  
**Subject:** Table ZTA 21-08: Landscape Contractors Should Remain Conditional Use

**[EXTERNAL EMAIL]** Exercise caution when opening attachments, clicking links, or responding.

Planning Director Gwen Wright,

I am concerned about ZTA 21-08 that would change the permitting process for Landscape contractors. These operations are not one-size fits all and the current conditional use process is the best way to ensure that they can be sited appropriately. The limited use classification proposed by the ZTA does not address important concerns like impervious surface, noise and forest protections. Additionally, widening the areas where these industries can locate (without site specific review) will cause undue competition in both supply and price for productive farmland, further challenging new and expanding local food and fiber production. Many new table crop producers are also looking for 2+ acres to get started.

I urge you to find another way to address the concerns of landscape contractors that will still keep protections for farmland, water quality and forests provided by the conditional use process in place. Please bring stakeholders together to collaborate on a more workable solution.

sarah suszczyk  
sarah.suszczyk@gmail.com  
17301 Brown Rd  
Poolesville, Maryland 20837

Planning Director Gwen Wright,

I am concerned about ZTA 21-08 that would change the permitting process for Landscape contractors. These operations are not one-size fits all and the current conditional use process is the best way to ensure that they can be sited appropriately. The limited use classification proposed by the ZTA does not address important concerns like impervious surface, noise and forest protections. Additionally, widening the areas where these industries can locate (without site specific review) will cause undue competition in both supply and price for productive farmland, further challenging new and expanding local food and fiber production. Many new table crop producers are also looking for 2+ acres to get started.

I urge you to find another way to address the concerns of landscape contractors that will still keep protections for farmland, water quality and forests provided by the conditional use process in place. Please bring stakeholders together to collaborate on a more workable solution.

Steve Kurimchak

[skurimchak@gmail.com](mailto:skurimchak@gmail.com)

12930 Prices Distillery Road

Clarksburg, Maryland 20871

**Berbert, Benjamin**

---

**From:** Teresa McGee <info@email.actionnetwork.org>  
**Sent:** Saturday, November 6, 2021 8:41 AM  
**To:** Wright, Gwen  
**Subject:** Table ZTA 21-08: Landscape Contractors Should Remain Conditional Use

**[EXTERNAL EMAIL]** Exercise caution when opening attachments, clicking links, or responding.

Planning Director Gwen Wright,

I am concerned about ZTA 21-08 that would change the permitting process for Landscape contractors. These operations are not one-size fits all and the current conditional use process is the best way to ensure that they can be sited appropriately. The limited use classification proposed by the ZTA does not address important concerns like impervious surface, noise and forest protections. Additionally, widening the areas where these industries can locate (without site specific review) will cause undue competition in both supply and price for productive farmland, further challenging new and expanding local food and fiber production. Many new table crop producers are also looking for 2+ acres to get started.

I urge you to find another way to address the concerns of landscape contractors that will still keep protections for farmland, water quality and forests provided by the conditional use process in place. Please bring stakeholders together to collaborate on a more workable solution.

Teresa McGee  
rmcgee9870@aol.com  
21905 Slidell Road  
Boys, Maryland 20841

**Berbert, Benjamin**

---

**From:** Thomas Annia <info@email.actionnetwork.org>  
**Sent:** Saturday, November 6, 2021 8:47 AM  
**To:** Wright, Gwen  
**Subject:** Table ZTA 21-08: Landscape Contractors Should Remain Conditional Use

**[EXTERNAL EMAIL]** Exercise caution when opening attachments, clicking links, or responding.

Planning Director Gwen Wright,

I am concerned about ZTA 21-08 that would change the permitting process for Landscape contractors. These operations are not one-size fits all and the current conditional use process is the best way to ensure that they can be sited appropriately. The limited use classification proposed by the ZTA does not address important concerns like impervious surface, noise and forest protections. Additionally, widening the areas where these industries can locate (without site specific review) will cause undue competition in both supply and price for productive farmland, further challenging new and expanding local food and fiber production. Many new table crop producers are also looking for 2+ acres to get started.

I urge you to find another way to address the concerns of landscape contractors that will still keep protections for farmland, water quality and forests provided by the conditional use process in place. Please bring stakeholders together to collaborate on a more workable solution.

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**Berbert, Benjamin**

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**From:** TRACI STEVENS <info@email.actionnetwork.org>  
**Sent:** Friday, November 5, 2021 9:29 PM  
**To:** Wright, Gwen  
**Subject:** Table ZTA 21-08: Landscape Contractors Should Remain Conditional Use

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November 9, 2021

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Jason Sartori, [Jason.Sartori@montgomeryplanning.org](mailto:Jason.Sartori@montgomeryplanning.org) Chief of the Countywide  
Planning and Policy Division, Park and Planning

Subject: Review ZTA 21-08: Landscape Contracts Must Remain a Conditional Use  
in Montgomery County

**The Cloverly Civic Association is opposed to the Zoning Ordinance ZTA 21-08 change to allow landscaper contractors to operate in residential communities with half-acre or larger properties as a limited use.**

Keeping landscape contractor as a conditional use allows a review of how an operation would fit into a residential community. Changing to a limited use would allow these intensive uses only permitted in an industrial zone to be sited much more broadly based on a few factors and would not consider other factors that disrupt life in a residential community. Missing in a limited use approval are considerations for the following: impervious surface and water quality, stormwater runoff, erosion, forest destruction, road width and condition, changing the character of a community, number of landscapers allowed to operate in the same community, and noise. The complexity of different types of landscape contractor businesses and the many situations of the residents and communities. The process involved in the approval of a landscape contractor in a residential community using conditional use is lengthy and complicated and can not be simplified with a simple set of general guidelines. For example, a compact landscape contractor activity could meet the limited standard but generate a large amount of traffic with frequent visits to the site generating many deliveries of mulch and other materials to the site using dump trucks and semi-trucks on narrow roads. In the last section, there is a list of ***Review Items in the review of a conditional use for a landscape contractor.***

## **Background**

The County Council has proposed a Zoning Ordinance change that allows landscape contractors who meet certain criteria to operate in residential zones without a review of the impact the business would have on the community and without community comment on the business. A landscape contractor is only permitted in certain industrial zones. They are allowed in large lot residential and agricultural zone as a conditional use. A conditional use is one that ensures that the proposed operation does not harm

the surrounding community. An investigation is done by the Office of Zoning and Administrative Hearings (OZAH) and a hearing is held in which residents are allowed to present their concerns of the business operating in their community. The conditional review allows the evaluation of specific types of landscapers and the unique situation of a community. Conditions specific for a landscaper are set such as hours of operation, noise levels allowed, number and types of buildings allowed, types of landscaping required.

Under the proposed Zoning Text Amendment 21-09 the landscape contractor would be permitted to operate if they met certain conditions called a limited use. The limited conditions are the following:

- residential 2-acre lot zoned R200, RE-2 RE-2c or and larger.
- be set back 50 feet from adjoining residential properties,
- grow plants for their business on the property,
- park no more than 20 cars for employees.
- and 6 commercial vehicles on the property.

## **Primary Concerns**

### **Conditional Use is the only way to address the approval of landscape contractors.**

Cloverly Civic Association has dealt with many problems landscape contractors bring to our residential community. While there are circumstances that a landscape contractor business will not interfere with a residential community, most landscape contractors are not compatible with residential communities. They are industrial uses that generate congestion, noise, and air, water, and land pollution. Residential roads are too narrow to accommodate large trucks, dump trucks, and semi-trucks visiting the site and making deliveries. Residential roads that already accommodate walkers, children walking to school, joggers, and bicyclists - many without sidewalks are not compatible with congestion and truck traffic.

Landscapers contractors have different services they offer and some are done at the worksite and others done at the landscape contracts site. These include buildings, vehicles, parking, trucks, and all necessary equipment (chippers, front loaders, chainsaws) and materials (compost, mulch, soils, sand, etc), and even allowed to grow plants that are not now allowed for landscapers.

Different residential situations and the requirements of landscape contractors are often not compatible with residential uses. A simple standard proposed in the ZTZ 21-08 does not consider all the community concerns and all of the requirements of the landscaper contractor. The present system of treating all landscape contractor use using a conditional use is the only way these issues can be addressed.

### **The ZTA 21-08 has no controls over the number of landscape contractors allowed in specific communities.**

Most rural and suburban communities that require sewer and septic have out lots that can not be developed that are adjacent to homes. In some of our communities, a large number of these lots could

become landscape contractor sites that outnumber the residential homes. The conditional use reviews prevent this abuse but the ZTA has no controls on the number of sites permitted in a community.

**The ZTA 31-08 has no specific controls for stormwater management and erosion control in an area where plants are grown by landscape contractors.**

In the Agricultural zone, plants and soil disturbance are controlled by soil conservation practices. In the residential zone, soil disturbance is controlled by permits. Would a landscape contractor be subject to obtaining a permit for each disturbance needing a permit? The ZTA has no provision for controlling erosion and run-off.

**Review Items in the review of a conditional use for a landscape contractor**

**A. Summary of Review Items**

- *Compatibility with the scale and architecture of the adjoining neighborhood, consistent with the proposed use.*
- *The impact of signs, lighting, and other physical features on surrounding residential communities.* No signs exist or are proposed. No new lighting is proposed with this use.
- *Location of parking, loading, and other service areas to maintain residential appearances to the extent feasible.*
- *Options for landscaping that minimize the non-residential appearance of the site and the view from surrounding properties and roads. It is preferable for landscaping to reinforce Cloverly’s rural character and be consistent with the streetscape standards (page 49).*

**B. Development Standards**

The following table summarizes the relevant \_\_\_\_ Zone development standards:

Table 2: Development Standards

Zone _____ Development Standard	Required 59.4.4.5.B	59.3.5.5.B Landscape Contractor
Minimum Lot Area	2 acres	2 acres
Minimum Lot Width: <ul style="list-style-type: none"><li>• At street line</li><li>• At building line</li></ul>	25’ 150’	
Maximum Lot Coverage	25%	
Minimum Principal Building Setback <ul style="list-style-type: none"><li>• Front</li><li>• Side street</li></ul>	50 20	50’ 50’



• Side	17	50'
• Sum of Sides	35	
• Rear	35	50'
• Accessory Building		
• Setback		
• Front	80'	
• Side Street	20	
• Side	15	
• Rear	10'	
Height of Principal Building	50'	
Height of Accessory Building	50'	

### C. Transportation

Transportation services to the site

LATR review if above the 50-person trip peak period threshold.

### D. Parking

In general, the application meets the applicable requirements of Article 59-6. The parking table in **Section 59.6.2.4** requires a base minimum of .50 spaces per employee plus 1 space per each vehicle operated in connection with the landscape contractor use located within the \_\_\_\_ Zone:

<b>Section 59.6.2.4</b>
<b>Parking</b>
0.50 sp/employee
1sp/each Vehicle associated with use
Residential dwelling
<b>Total</b>

### E. Landscaping

#### Section 6.2.9.C. Parking Lot Requirements for 10 Or More Spaces

##### 1. Landscaped Area

- A surface parking lot must have landscaped islands that are a minimum of 100 contiguous square feet each comprising a minimum of 5 percent of the total area of the surface parking lot. Where possible, any existing tree must be protected and incorporated into the design of the parking lot.
- A maximum of 20 parking spaces may be located between islands.
- A landscaped area may be used for a stormwater management ESD facility.

## **2. Tree Canopy**

Each parking lot must maintain a minimum tree canopy of 25 percent coverage at 20 years of growth, as defined by the Planning Board's Trees Technical Manual, as amended.

## **3. Perimeter Planting**

a. The perimeter planting area for a property that abuts an Agricultural, Rural Residential, or Residential Detached zoned property that is vacant or improved with an agricultural or residential use must:

- i. Be a minimum of 10 feet wide;
- ii. Contain a hedge, fence, or wall a minimum of 6 feet high;
- iii. Have a canopy tree planted every 30 feet on center; and
- iv. Have a minimum of 2 understory trees planted for every canopy tree.

**Section 59-6.4.3: General Landscaping Requirements** specifies and defines the types of plant materials, canopy trees, understory trees, and evergreen trees. The revised landscaping satisfies the General Landscape Requirements as defined and specified under Section 59-6.4.3.

## **F. Lighting**

Pursuant to Division 6.4.4.E, outdoor lighting for Conditional Uses must be directed, shielded, or screened to ensure that the illumination is 0.1 foot-candles or less at any lot line that abuts a lot with a detached house building type, not located in a Commercial/Residential or employment zone.

## **G. Signage on the property**

There will be no identification sign on the property.

## **H. Environment**

### Consistency with Environmental Guidelines

The Application meets the requirements of Chapter 22A of the Montgomery County Forest Conservation Law. A Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) .

### Forest Conservation Required Statement

## **I. Community Concerns**

Specific issues that impact the community such as narrow or winding roads, schools, bus stops, elderly housing, etc. This could be a large number of community concerns.

## **SECTION IV: COMPLIANCE WITH THE NECESSARY FINDINGS IN SECTION 59.7.3.1.E AND SPECIFIC CONDITIONAL USE REQUIREMENTS IN SECTION 59-3**

### **Section 59.7.1.E. Necessary Findings**

1. Section 59.7.3.1.E.1 states that to approve a Conditional Use application, the Hearing Examiner must find that the proposed development satisfies the following requirements of Sections 59.7.1.E.a through g.

- a. Satisfies any applicable previous approval on the subject site or, if not, that the previous approval must be amended;
- b. Satisfies the requirements of the zone under Division 59-3, the use standards (Division 4), and applicable general requirements under Article 59-6.

### **Section 59. 3.5.5. Landscape contractor: Specific Conditional Use Requirements:**

## **A. Defined**

**Landscape contractor means the business of designing, installing, planting, or maintaining lawns, gardens, or other landscaping and providing snow removal services with vehicles, equipment, and supplies that are stored, parked, serviced, or loaded at the business location. Landscape contractor includes tree installation, maintenance, or removal. Landscape contractor does not include Lawn Maintenance Service (see Section 3.5.14.G, Lawn Maintenance Service**

**B. Use Standard**

**Where a Landscape contractor is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use, and the following standards:**

- 1. In the Agricultural, Rural Residential, and Residential Detached zones the minimum lot area is 2 acres. The Hearing Examiner may require a larger area if warranted by the size and characteristics of the inventory or operation.**
  - 2. Building and parking setbacks, including loading areas and other site operations, are a minimum of 50 feet from any lot line.**
  - 4. The number of motor vehicles and trailers for equipment and supplies operated in connection with the contracting business or parked on-site must be limited by the Hearing Examiner to avoid an adverse impact on abutting uses. Adequate parking must be provided on-site for the total number of vehicles and trailers permitted. Sale of plant materials, garden supplies, or equipment is prohibited unless the contracting business is associated with a Nursery (Retail) or Nursery (Wholesale).**
  - 5. The Hearing Examiner may regulate hours of operation and other on-site operations to avoid adverse impact on abutting uses.**
- c. Substantially conforms to the recommendations of the applicable Master Plan.**  
*(Please see analysis and findings under A: Master Plan).*
- d. Is harmonious with and will not alter the character of the surrounding neighborhood in a manner inconsistent with the plan.**
- e. Will not, when evaluated in conjunction with existing and approved Conditional Uses in any neighboring Residential Detached zone, increase the number, intensity or scope of Conditional Uses sufficiently to affect the area adversely or alter the predominately residential nature of the area; a Conditional Use application that conforms with the recommendations of a Master Plan does not alter the nature of the area.**
- f. Will be served by adequate public services and facilities, including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage, and other public facilities. If an approved adequate public facilities test is currently valid and the impact of the Conditional Use is equal or less than what was approved, a new adequate public facilities test is not required. If an adequate public facilities test is required and:**
- i. If a preliminary subdivision plan is not filed concurrently or required subsequently, the Hearing Examiner must find that the proposed development will be served by adequate public facilities, including schools, police and fire protection, water, sanitary sewer, public roads, or storm drainage; or**
  - ii. If a preliminary plan of subdivision is filed concurrently or required subsequently, the Planning Board must find that the proposed development will be served by adequate public services and facilities, including schools, police and fire protection, water, sanitary sewer, public roads, and storm drainage;**
- (a) Water and Sewer Service**
- (b) Storm Water Concept Plan**

The stormwater management concept plan had been submitted to the MCDPS Water Resource Section. MCDPS has posted on its web site an Approved Storm Water permit dated \_\_\_\_\_.

<b>Permit</b>		<b>Type</b>	
<b>Application</b>		<b>Approved</b>	
<b>Final Date</b>		<b>Status</b>	
<b>Work Type</b>		<b>Site Address</b>	
<b>Value</b>			
<b>Subdivision</b>		<b>Lot/Block</b>	
<b>Phase Name</b>			

#### *Storm Water Concept Approval*

#### **(c) Transportation**

Adequate Public Facilities Review (APF) and Local Area Transportation Review (LATR)

#### **Fire Access**

The Applicant submitted a fire access plan to the MCDPS, Fire Department Access, and Water Supply Office. The Office approved the proposed fire access plan on \_\_\_\_\_.

#### **(d) Other Facilities**

**g. Will not cause undue harm to the neighborhood as a result of a non-inherent adverse effect alone or the combination of an inherent and a non-inherent adverse effect in any of the following categories:**

- i. The use, peaceful enjoyment, economic value, or development potential of abutting and confronting properties or the general neighborhood;**
- ii. Traffic, noise, odors, dust, illumination or lack of parking; or**
- iii. The health, safety, or welfare of neighboring residents, visitors, or employees.**

Includes items such as the following: The inherent, generic physical and operational characteristics associated with landscape contractor businesses are

- (1) buildings, structures, outdoor areas for the storage of plants and gardening-related equipment;
- (2) outdoor storage of plant stock, mulch, soil, and landscaping materials in bulk and in containers;
- (3) on-site storage of business vehicles and equipment including small trucks and landscaping trailers;
- (4) traffic associated with the trips to the site by employees and suppliers; trips to and from the site by employees engaged in off-site landscaping activities;
- (5) adequate parking areas to accommodate employees;
- (6) dust and noise associated with the movement of landscaping products and the loading and unloading of equipment associated with landscaping businesses; and \_\_\_ hours of operation.
- (7) ...

Do the inherent and non-inherent impacts associated with the proposed use rise to a level sufficient to warrant a denial of the application?