

STATEMENT OF JUSTIFICATION

**Special Exception for
Landscaping and Tree Contracting with
Accessory Recycling of Logs Into Firewood**

APPLICANT: Ballard Landscaping Enterprises, Inc. (d/b/a Ballard Enterprises)
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REQUEST: Special Exception (Sec. 18-16-304(a)) to use a portion of the subject property as a Landscaping and tree contracting business with accessory recycling of logs into firewood (Sec. 18-11-133).

I. DESCRIPTION OF PROPERTY

1. Addresses – 1371 Saint Stephens Church Road, Crownsville, MD 21032.
2. Use – Landscaping and Tree Contracting Business¹ with accessory recycling of logs into firewood.

¹ Section 18-1-101(76) defines this use as “a business engaged in providing the services of planting, seeding, sodding, removing, cutting, trimming, pruning, mulching, aerating, applying chemicals, watering, fertilizing, or similar services

3. Incorporated Area – None
4. Council District – 6th; Council Member Lisa D. B. Rodvien
5. Parcel/Lot – Parcel 13
6. Total Area – +/-203.4 acres
7. Special Exception/Lease Area – +/-18.44 acres
8. Area for Processing logs into firewood - +/- 4.99 acres
9. Deed Reference – Book 3015 at Page 888
10. Tax Map/Grid – 43/6
11. Location – East side Saint Stephens Church Road, across from its intersection with Creeks Farm Lane
12. Zoned: RA (Rural Agriculture)

II. APPLICANT’S PROPOSAL

A landscaping and tree contracting business with accessory recycling of logs into firewood is a permitted use in the RA Zone subject to the approval of a special exception pursuant to Section 18-11-133 of the County Code.

The subject property is currently improved with a single-family home and a number of barns and outbuildings that are utilized on the property. For more than a decade, the applicant has been leasing space on the property and operated a roadside stand with ancillary secondary functions: greenhouse, nursery, limited landscape product sales, and landscape and tree business. The applicant, doing business as Ballard Enterprises, is a local business that specializes in landscaping and tree contracting, as defined in the County Code. From classic landscaping and expert tree care to cutting-edge developments in green roofs and living walls, Ballard Enterprises is a preferred local resource for all outdoor needs. Employees are trained, certified, licensed and qualified in this field, to include:

- Maryland Licensed Tree Expert
- Maryland Licensed Home Improvement Contractor
- MD Forest Products Operator
- MD Licensed Fertilizer Applicator
- MD Licensed Plant Broker

to establish, promote, or control growth of trees, shrubs, flowers, grass, ground cover, and other flora, or otherwise maintaining a lawn or landscape for ornamentation or other nonagricultural purpose.

- Accredited by TCIA
- ISA Certified Master Arborist
- ISA Qualified Tree Risk Assessment
- Certified tree worker/climber specialist
- Tree care apprentice
- Aerial lift specialist
- Ground operation specialist
- Chipper operator specialist
- Tree care safety Professional
- NCCER Certified Crane Operator
- Landscape architects
- OSHA 30 Safety Certified
- OSHA Rigger / Signal Person Certified
- First Aid / CPR Certified
- ICPI Paver Installation Certified

Finally, the applicant has been recognized and licensed in its field by a number of sources, to include the following:



Recently, the Tree Care Industry Association, voted Ballard Enterprises as a TOP 20 Best Accredited Tree Services in the United States. There are currently over 125,000 registered tree services in the United States. Being recognized as within the top 0.1% by the industry’s leading organization is a testament to the professionalism, safety, and community stewardship demonstrated by Ballard Enterprises.

III. CRITERIA FOR APPROVAL

Evaluation of a special exception application is not an equation to be balanced with formulaic precision. (*See Sharp v. Howard County Bd. of Appeals*, 98 Md.App. 57, 73, 632 A.2d 248, 256 (1993) (rejecting “appellants’ interpretation of the holding of *Schultz* as if it were the atomic chart of elements from which a formula for divining inherent and peculiar adverse effects could be derived”). Instead, a “special exception is a valid zoning mechanism that delegates to an administrative board a limited authority to permit enumerated uses which the legislative body has determined can, *prima facie*, properly be allowed in a specified use district, absent any fact or

circumstance in a particular case which would change this presumptive finding.” *People’s Counsel v. Loyola College*, 406 Md. 54, 105-106 (2008) (internal citations omitted). Thus, there is a presumption that the proposed use is *prima facie* allowed.

The seminal case for special exception law in Maryland is *Schultz v. Pritts*, 291 Md. 1, 432 A.2d 1319 (1981). *Schultz*, among other things, “postulates an analytical paradigm for how individual special exception applications are to be evaluated.” The court explained:

Whereas, 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. If he shows to the satisfaction of the [administrative body] that the proposed use would be conducted without real detriment to the neighborhood and would not actually adversely affect the public interest, he has met his burden. The extent of any harm or disturbance to the neighboring area and uses is, of course, material. . . . 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 special exception use is arbitrary, capricious, and illegal.

Schultz, 291 Md. at 11-12, 432 A.2d at 1325.

In carrying out the *Shultz* test, however, “some of the language of Judge Davidson’s opinion . . . occasionally has been misperceived by subsequent appellate courts and frequently misunderstood by some attorneys, planners, governmental authorities, and other citizens.” *People’s Counsel for Baltimore County v. Loyola College in Maryland*, 406 Md. 54, 57, 956 A.2d 166, 167 (2008). Judge Harrell, writing for the Supreme Court of Maryland, used *Loyola* to clarify and explain the proper evaluative framework for special exception applications and dispelled any lingering misunderstandings of what the Court truly intended when it filed the opinion in *Schultz* almost forty years ago. *Id.*

“The *Schultz* standard, as presaged in *Anderson v. Sawyer*, 23 Md. App. 612, 329 A.2d 716 (1974), requires that the adverse effect ‘inherent’ in a proposed use be determined without recourse to a comparative geographic analysis.” *Id.* at 106, 956 A.2d at 197 (emphasis added); *Mills v. Godlove*, 200 Md. App. 213, 232, 26 A.3d 1034, 1045 (2011).

Loyola explains, and makes clear, that the *Schultz* analytical paradigm is

not a second, separate test (in addition to the statutory requirements) that an applicant must meet in order to qualify for the grant of a special exception. Rather, the *Schultz* explication speaks to two different contexts, one by which a legislative body decides to classify a particular use as requiring the grant of a special exception before it may be established in a given zone, and a second one by

which individual applications for special exceptions are to be evaluated by the zoning body delegated with responsibility to consider and act on those applications in accordance with criteria promulgated in the zoning ordinance.

Id. at 69, 956 A.2d at 175. The Court's explanation for arriving at this conclusion in *Loyola* is based upon the rationale that

[t]he local legislature, when it determines to adopt or amend the text of a zoning ordinance with regard to designating various uses as allowed only by special exception in various zones, considers in a generic sense that certain adverse effects, at least in type, potentially associated with (inherent to, if you will) these uses are likely to occur wherever in the particular zone they may be located. In that sense, the local legislature puts on its 'Sorting Hat' and separates permitted uses, special exceptions, and all other uses. That is why the uses are designated special exception uses, not permitted uses. The inherent effects notwithstanding, the legislative determination necessarily is that the uses conceptually are compatible in the particular zone with otherwise permitted uses and with surrounding zones and uses already in place, provided that, at a given location, adduced evidence does not convince the body to whom the power to grant or deny individual applications is given that actual incompatibility would occur. With this understanding of the legislative process (the 'presumptive finding') in mind, the otherwise problematic language in *Schultz* makes perfect sense. The language is a backwards-looking reference to the legislative 'presumptive finding' in the first instance made when the particular use was made a special exception use in the zoning ordinance. It is not a part of the required analysis to be made in the review process for each special exception application. It is a point of reference explication only.

Id. at 106-107, 956 A.2d at 197-198 (footnote 33 omitted). Consequently, so long as probative evidence exists to support the required findings, the special exception should be approved. In this case, the general findings that are required for granting a special exception are as follows:

Section 18-16-304(a).

(a) Requirements. A special exception use may be granted only if the Administrative Hearing Officer makes each of the following affirmative findings:

(1) The use will not be detrimental to the public health, safety, or welfare;

COMMENT: The use at this location has been designed to be in conformance with the requirements of the County Code. The special exception provides for a safe internal circulation

for vehicles and workers, as well as a safe ingress and egress of vehicles from Saint Stephen's Church Road. The proposed uses will setback and screened from adjoining properties and not be visible from the public right-of-way. All required landscape and buffering requirements for the use are also being met or exceeded. All required state and local regulations regarding design are met with this application. Indeed, the applicant is not requesting any variances or departures from any design standards. The use is one that serves the needs of all County residents. The applicant is among the industry's leading organizations.

- (2) The location, nature, and height of each building, wall, and fence, the nature and extent of landscaping on the site, and the location, size, nature, and intensity of each phase of the use and its access roads will be compatible with the appropriate and orderly development of the district in which it is located;**

COMMENT: As depicted on the site plan filed in conjunction with the applicant, the components of the special exception use are significantly screened and will not have any impacts on adjacent property. The access from Saint Stephens Church Road adequately serves the use and is compatible with the orderly and appropriate development of the RA Zone. Again, the special exception/lease area is approximately 18.44 acres while the property is over 203.4 acres. Thus, given the size, setback, screening, and other components of the use on a property this large, the size and nature of the use will not be incompatible with the orderly development of the RA Zone.

- (3) Operations related to the use will be no more objectionable with regard to noise, fumes, vibration, or light to nearby properties than operations in other uses allowed under this article;**

COMMENT: Submitted herewith is an acoustical analysis. That analysis concluded that during testing the technician never heard any wood processing noises. While some noise levels were higher than the ordinance requirement, these were attributed to other sources (particularly road noise on Saint Stephens Church Road) and were not due to the wood processing operations. This combined with the hilly forest terrain of the property makes it clear that the wood processing operations at subject property will not impact adjacent residential properties and are, therefore, in compliance with the ordinance requirements. No fumes, vibrations or light impacts on nearby properties will occur.

- (4) The use at the location proposed will not have any adverse effects above and beyond those inherently associated with the use irrespective of its location within the zoning district;**

COMMENT: The requested special exception use will not be detrimental or have an adverse effect above and beyond those inherently associated with the use irrespective of its location within the RA Zone. As the Supreme Court of Maryland articulated in *Loyola*:

The local legislature, when it determines to adopt or amend the text of a zoning ordinance with regard to designating various uses as allowed only by special exception in various zones, considers in a generic sense that certain adverse effects, at least in type, potentially associated with (inherent to, if you will) these uses are likely to occur wherever in the particular zone they may be located. In that sense, the local legislature puts on its 'Sorting Hat' and separates permitted uses, special exceptions, and all other uses. That is why the uses are designated special exception uses, not permitted uses. The inherent effects notwithstanding, the legislative determination necessarily is that the uses conceptually are compatible in the particular zone with otherwise permitted uses and with surrounding zones and uses already in place, provided that, at a given location, adduced evidence does not convince the body to whom the power to grant or deny individual applications is given that actual incompatibility would occur.

Loyola, 406 Md. at 106 – 107. In this instance, and with the presumptive finding in mind, while some inherent adverse impacts may exist, the legislature has previously examined any inherent impacts of the uses, and determined, in this instance, this use in the RA Zone is presumptively compatible with other uses in the RA Zone, and by placing the property in the said zone, shares reciprocal benefits; thereby, providing for coordinated, adjusted, and harmonious development of the County, zoning district, and property. There is no evidence of incompatibility. Indeed, the proposed use to be developed in accordance with all applicable laws concerning screening and buffering, and the noise study evidence that the use will not adversely impact adjacent uses.

(5) The proposed use will not conflict with an existing or programmed public facility, public service, school, or road;

COMMENT: The proposed use will not conflict with any existing or planned public facilities or public service. It has no impact on schools, water and sewer service, or roads. Further, as indicated by Staff in its memorandum dated January 6, 2023, the proposal is consistent with the 2022 Water and Sewer Master Plan

(6) The proposed use has the written recommendations and comments of the Health Department and the Office of Planning and Zoning;

COMMENT: This application will be referred to the Health Department and the Office of Planning and Zoning for review and comment.

(7) The proposed use is consistent with the County General Development Plan;

COMMENT: The subject property is located in the rural and agricultural policy area, which, among other things, seeks to support agricultural economy. The proposed use of the property as a

business engaged in providing the services of planting, seeding, sodding, removing, cutting, trimming, pruning, mulching, watering, fertilizing, or similar services to establish, promote, or control growth of trees, shrubs, flowers, grass, as well as recycling of logs further the agricultural economy. In addition, the use is one that serves the needs of all County residents that rely on the services rendered by the applicant. The special exception use is located on the property sufficiently screened and buffered by adjoining properties, and all applicable laws concerning screening and buffering, are met. Further, as indicated by Staff in its memorandum dated January 6, 2023, the General Plan (Plan 2040) “does not have recommendations that are specific to this site and the proposal is generally consistent with the goals, policies and strategies of Plan 2040.”

(8) The applicant has presented sufficient evidence of public need for the use;

COMMENT: Article 18 and the County Code do not define the term “need.” In *Brandywine Enterprises, Inc. v. County Council*, 117 Md. App. 525, 540 (1997), the Appellate Court of Maryland addressed the definition of “necessary” in the Prince George’s County’s Zoning Ordinance as it relates to rubble fills and noted that “‘necessary’ . . . means necessary rather than reasonably convenient or useful.” The Court went on to note that the best method for determining “need” for a rubble fill would be to assess whether there would be an actual deficit of capacity. In a case involving liquor licenses, *Baltimore County Licensed Beverage Association, Inc. v. Kwon*, 135 Md. App. 178, 194 (2000), the Appellate Court held that the meaning is dependent upon the context in which “necessary” or “need” is used. The Court then found that “‘necessary,’ in this instance, means that the transfer of the liquor license to the transfer site will be ‘convenient, useful, appropriate, suitable, proper, or conducive’ to the public in that area.” The applicant contends that the proper standard to apply in the review of the instant request is whether the proposed use will be “convenient, useful, appropriate”, etc., given the nature of the use.

The applicant contends that its use at this location will be convenient, useful, and appropriate. There is no doubt, based on the following that there is strong demand for professional tree and landscaping companies, that include the recycling of logs, in the greater Annapolis area. The applicant has been in business locally since 2003 and has enjoyed growth for its entire 20 year history. Notwithstanding, the size of the applicant’s employee base, it is quite often that the applicant experiences a backlog of work for services that extends several months. Indeed, the applicant’s services between seventy-five (75) to one hundred and twenty-five (125) clients every week, which equates to approximately four thousand (4,000) to six thousand (6,000) clients annually.

In addition, it is important to note that the applicant also services multiple governmental agencies in the immediate area, including multiple Department of Defense organizations, the Naval Academy, Anne Arundel County Public Libraries, and the City of Bowie. Given the applicant’s level of professionalism and its certified credentials, which are outlined *supra*, the applicant’s services are in high demand. There is no doubt that being a Tree Risk Assessment Qualified

(TRAQ) Arborist and a Board Certified Master Arborist (BCMA), offers several significant benefits (including being useful, appropriate, suitable, proper, or conducive) to the public in that area.

A BCMA has a high degree of expertise in Tree Health and Care, by possessing advanced knowledge and skills in arboriculture, including tree health, care, and maintenance. This expertise ensures proper care for the community's trees, promoting their longevity and vitality, and safety to persons and property. Moreover, the applicant, as a BCMA who is Tree Risk Assessment Qualified, helps the community with Tree Risk Assessment and Mitigation. A TRAQ BCMA can conduct thorough risk assessments of trees in private residences, public spaces, parks, and along streets. The applicant, as a BCMA, also guides, advises, and recommends to its clients appropriate tree species for planting based on local conditions and environmental factors. Proper tree selection contributes to biodiversity, aesthetics, and the overall health of the community. Thus, the applicant, as a BCMA, plays a crucial role in educating homeowners and the community about the value of trees, proper tree care practices, and the benefits of a healthy urban forest. Increased awareness fosters a sense of environmental stewardship among residents. Consequently, there is a need for the applicant's use and services, which collectively, ensure the foregoing, all of which is no doubt useful, appropriate, and proper.

Furthermore, healthy trees provide environmental benefits such as improved air quality, reduced urban heat island effect, and carbon sequestration. These benefits contribute to a more sustainable and resilient community. Trees contribute to the overall aesthetics of neighborhoods and create a desirable living environment. Well-maintained trees and green spaces, under the guidance of the applicant, as a BCMA, and the services it provides, can enhance property values in the community.

It is important to note that in times of storms or other tree related emergencies, the applicant, as a TRAQ BCMA, can provide expertise in assessing and managing tree-related damage. Quick and informed response contributes to safe and efficient recovery efforts. Ballard Enterprises is a part of the Emergency Tree Responders group as well as Clarity Market, making it one of the only companies in the area that truly has specialized training in storm damage recovery, which greatly helps the community when severe storms hit. Overall, having an ISA Board Certified Master Arborist in a community brings expertise, environmental stewardship, and numerous social and economic benefits, making it an asset for sustainable and resilient community development.

It must be noted that when searching for a TRAQ Arborist via the ISA "Find an Arborist" search tool, only Ballard Enterprises appears when searching within Crownsville, MD. There are no others. This alone supports a finding of need, as the applicant is the only company that has such useful, appropriate, and proper qualifications for the services proposed.

Furthermore, the Tree Care Industry Association (TCIA) Accreditation is a voluntary program for tree care companies that sets industry standards and best practices to ensure safety, professionalism, and quality of service. The TCIA Accreditation is a recognition that a tree care

company meets certain criteria and adheres to industry standards for safety, ethical business practices, and quality of work. The key aspects of TCIA Accreditation include:

1. Safety Standards:

- TCIA Accredited companies are required to follow stringent safety standards to protect both their employees and the public.
- Safety protocols include proper training, the use of personal protective equipment, adherence to industry safety guidelines, and compliance with applicable regulations.

2. Ethical Business Practices:

- Accredited companies must adhere to a code of ethics that promotes honesty, integrity, and fair business practices.
- This includes transparent communication with clients, fair pricing, and ethical behavior in all aspects of their operations.

3. Employee Training and Professionalism:

- TCIA Accreditation requires companies to invest in the training and professional development of their employees.
- Qualified and knowledgeable staff contribute to the overall quality of tree care services.

4. Adherence to Industry Standards:

- Accredited companies are expected to comply with industry best practices and standards for tree care.
- This includes proper pruning techniques, tree removal procedures, and other aspects of arboriculture.

5. Insurance and Licensing:

- TCIA Accredited companies must have appropriate insurance coverage to protect clients and employees.
- They are also required to hold any necessary licenses or certifications required by local or state authorities.

6. Customer Satisfaction:

- Accredited companies prioritize customer satisfaction and feedback.
- They are expected to have processes in place for addressing customer concerns and providing high-quality service.

7. Professionalism in Business Operations:

- Accredited companies demonstrate professionalism in their business operations, including clear communication, timely responses, and efficient project management.

8. Environmental Stewardship:

- TCIA Accreditation encourages companies to adopt environmentally responsible practices in their tree care services.
- This includes considerations for tree preservation, sustainable practices, and minimizing environmental impact.

9. Continual Improvement

- Accredited companies commit to continuous improvement by staying informed about industry advancements, adopting new technologies, and updating their practices accordingly.

Obtaining TCIA Accreditation is a mark of distinction for tree care companies, signaling to clients and the community that the company is committed to excellence, safety, and ethical conduct in the field of arboriculture. The applicant is one of only two companies that are TCIA Accredited in the greater Annapolis area. Furthermore, in 2022, Ballard Enterprises was named by TCIA as one of the top 20 Accredited companies in the entire United States. Thus, in terms of determining the need of the applicant's services, being one of only two companies with such accreditation results in the backlog and high demand of said services, which goes well beyond being convenient, useful, and appropriate.

As it relates to the recycling of logs and firewood production and sales, currently, according to the Maryland Department of Natural Resources' website (https://dnr.maryland.gov/forests/pages/fpo_search.aspx), the applicant is the only licensed forest products operator in Anne Arundel County that offers online sales of seasoned firewood in multiple grades and quantities, with delivery and stacking available. Consequently, a typical season of firewood sales for Ballard Enterprises will consist of approximately two hundred (200) cords of firewood sold locally. Alternatively, all of this wood would otherwise be disposed of in a wood waste recycling facility or a landfill.

Furthermore, Ballard Enterprises is the sole firewood donor to the Ballard Wood Bank, which is the only non-profit wood bank in the state of Maryland. The Ballard Wood Bank offers firewood donations to families in need of heat assistance in Anne Arundel County. Last winter, for example, approximately forty (40) half cords of seasoned firewood was donated and delivered to families in need of heat assistance.

The need for the applicant's services is also demonstrated by the amount of people Ballard Enterprises employs throughout the greater Annapolis area. Over the years, the applicant has employed well over two hundred (200) individuals and subcontractors who have supported their

families and contributed to the local economy via the income that they earned at Ballard Enterprises. Currently, Ballard Enterprises operates a total of ten (10) crews that perform varying functions (Management, Administration, Sales, Tree Services, Landscaping Services, Lawn Care Services, Plant Health Care Services, Snow & Ice Management Services, and Firewood Production). Currently, Ballard Enterprises employs approximately 30 employees and multiple subcontractors, which varies with seasonality.

- (9) The applicant has presented sufficient evidence that the use will meet and be able to maintain adherence to the criteria for the specific use;**

COMMENT: The criteria of Sections 18-11-133 and 18-11-132 are outlined below.

- (10) The application will conform to the critical area criteria for sites located in the critical area; and**

COMMENT: Neither the special exception area nor the overall property is located in the critical area.

- (11) The administrative site plan demonstrates the applicant's ability to comply with the requirements of the Landscape Manual.**

COMMENTS: All applicable requirements of the Landscape Manual are met.

Section 18-11-133.

Landscaping and tree contracting with accessory recycling of logs into firewood shall comply with all of the following requirements.

- (1) The facility shall be located on a lot of at least five acres.**

COMMENT: This criterion is met. As provided herein and on the site plan filed in conjunction with the special exception application, the special exception boundary is approximately 18.44 acres and the overall parcel is 199.18 acres.

- (2) Buildings and outdoor areas to be used for parking, loading or storage of vehicles, equipment, tools, and supplies related to landscaping and tree contracting shall be delineated on a site development plan and located at least 50 feet from all lot lines and public roads.**

COMMENT: Acknowledged. The buildings and outdoor areas to be used for parking, loading or storage of vehicles, equipment, tools, and supplies related to landscaping and tree contracting are delineated on a site development plan and located at least 50 feet from all lot lines and public roads.

- (3) The processing areas, parking and loading areas, and areas for storage of mechanical equipment related to the recycling of logs into firewood shall be delineated on a site development plan and located at least 200 feet from lot lines.**

COMMENT: Acknowledged. The processing areas, parking and loading areas, and areas for storage of mechanical equipment related to the recycling of logs into firewood are delineated on a site development plan and located at least 200 feet from lot lines.

- (4) Firewood shall be stored in windrows not more than 10 feet high and 20 feet wide, in static piles not more than 20 feet high, or in bulk storage bags and shall be located at least 50 feet from lot lines.**

COMMENT: Acknowledged. Static piles will not be more than 20' high and are located more than 50' from lot lines.

- (5) Outdoor storage, including storage of unprocessed logs and processed firewood, may not occupy more than 20% of the total lot area, not to exceed five acres.**

COMMENT: The outdoor storage, including unprocessed logs and processed firewood, does not occupy more than 20% of the total lot area and does not exceed five acres. The proposed 4.99 acres only makes up approximately 2.5% of the total lot area.

- (6) Hours of operation for the recycling of logs into firewood shall be limited to either 9:00 a.m. to 12:00 p.m. or 1:00 p.m. to 4:00 p.m. on any one day, Monday through Friday.**

COMMENT: Acknowledged. The recycling of logs into firewood will be limited to 9:00 a.m. to 12:00 p.m. on any one day, Monday through Friday.

- (7) The sound level at any residentially zoned or residentially developed property line may not exceed an average of 55 dba and a peak of 60 dba based on readings taken during operations.**

COMMENT: This criterion is met. The applicant has submitted a noise study in conjunction with its application. While some noise levels were higher than the ordinance requirement, these were attributed to other sources (particularly road noise on Saint Stephens Church Road) and were not due to the wood processing operations. This combined with the hilly forest terrain of the property makes it clear that the wood processing operations at subject property will not impact adjacent residential properties and are, therefore, in compliance with the ordinance requirements.

- (8) The storage and processing of logs that are not incidental to the landscaping and tree contracting business is prohibited.**

COMMENT: Acknowledged. The storage and processing of logs that are not incidental to the proposed use will not be permitted on the subject property.

- (9) The facility shall meet the requirements of § 18-11-132(2), (4), (5), (6), and (7).**

COMMENT: See below.

Section 18-11-132(2), (4), (5), (6), and (7).

- (2) All vehicular access to the site shall be directly from a collector or higher classification road.**

COMMENT: All vehicular access to the site shall be directly from a collector road. This criterion is met.

- (4) 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, and fumes.**

COMMENT: See above.

- (5) Hours of operation shall be limited to 7:00 a.m. to 6:00 p.m.**

COMMENT: Acknowledged. The hours of operation are limited to 7:00 a.m. to 6:00 p.m.

- (6) Accessory outdoor storage and parking areas shall be screened from neighboring properties in accordance with the Landscape Manual.**

COMMENT: All accessory outdoor storage and parking areas are screened from neighboring properties in accordance with the Landscape Manual, as depicted on the site plan filed in conjunction with this application.

- (7) 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.**

COMMENT: Acknowledged. Any repairs would take place inside a building/barn. This, however, would not include body work, engine rebuilding, engine reconditioning, painting, and similar activities are not permitted.

The evidence demonstrates, among other things, that the proposed use will not be a nuisance to neighboring properties in light of the nature of the zone/properties involved or cause disharmony to the operation of the comprehensive plan. It is, therefore, proper to grant the requested special exception.

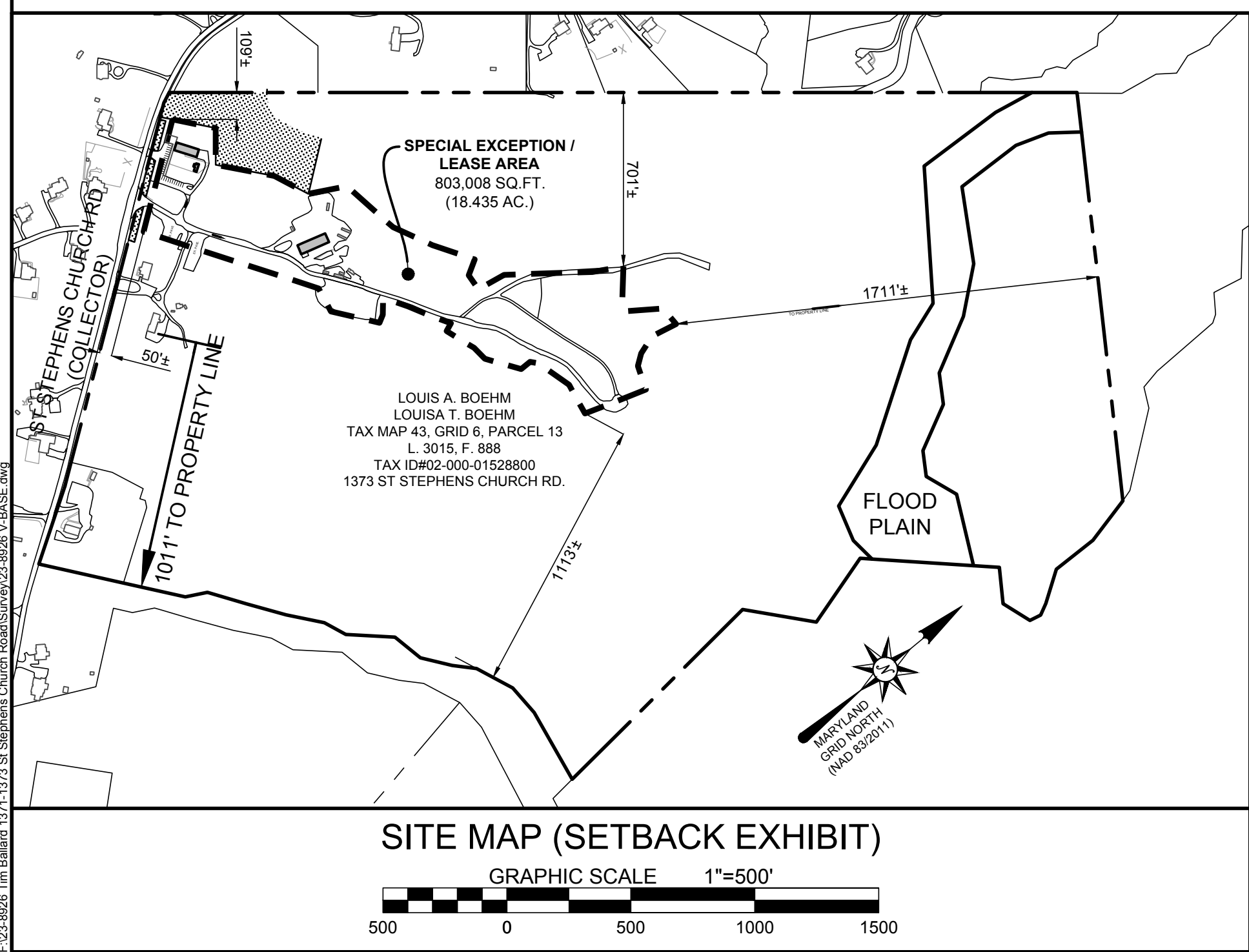
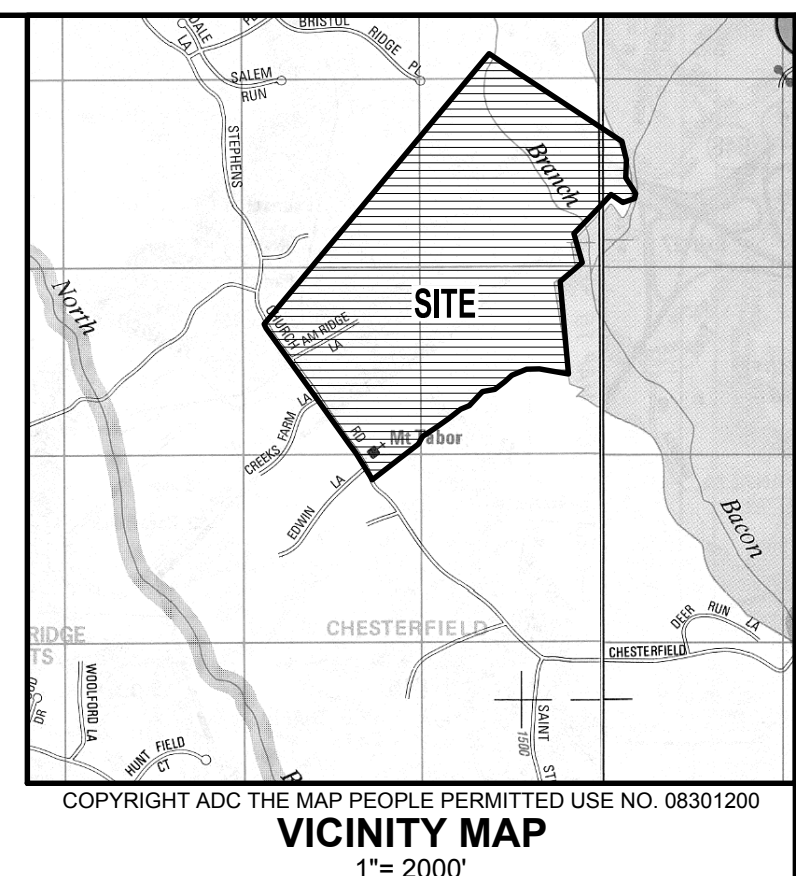
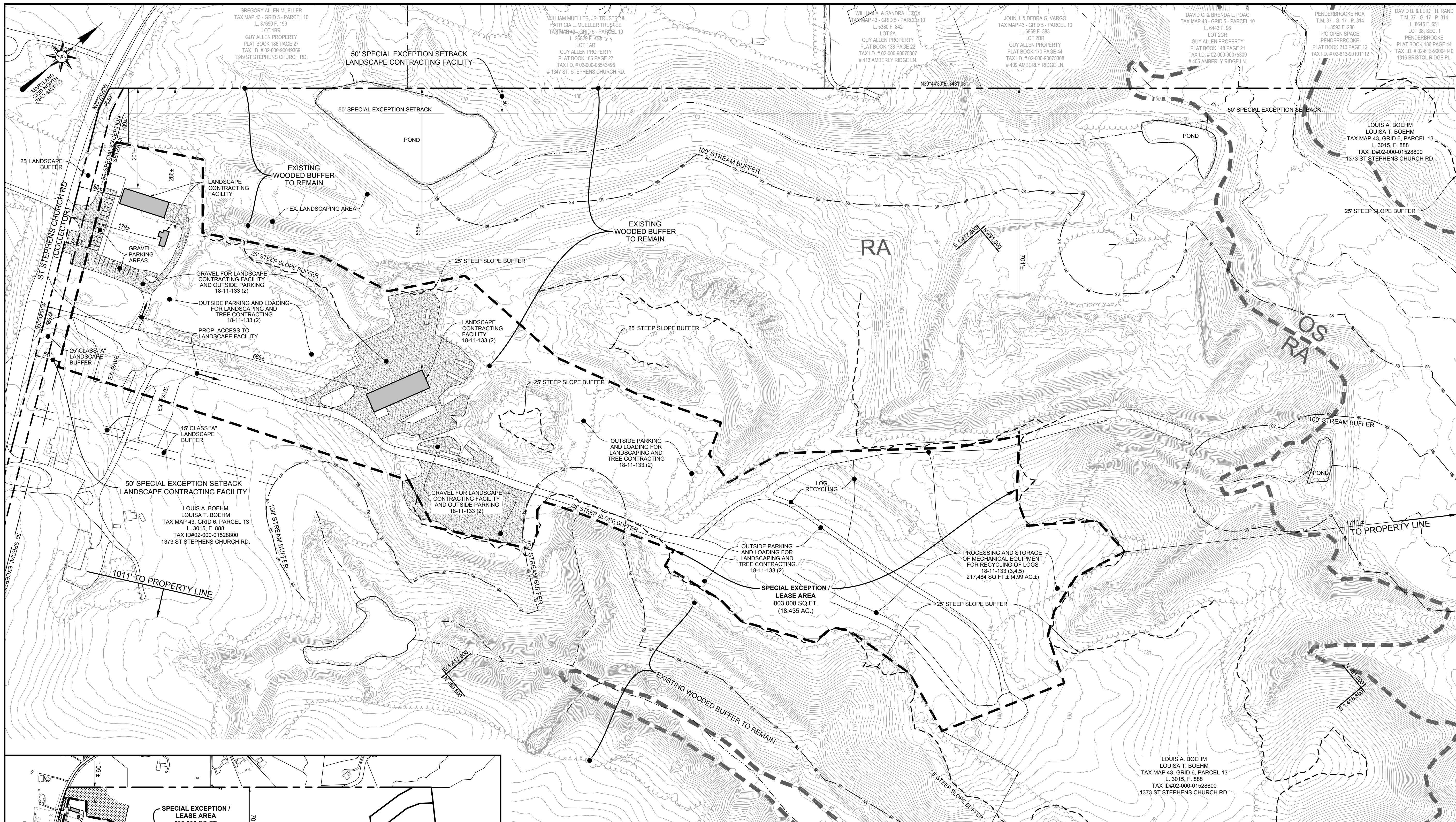
IV. CONCLUSION

For all of the reasons articulated herein and provided into the record, the applicant contends that it has met its burden of proof in this matter, and its request for a special exception to allow a landscape and tree contracting business with accessory recycling of logs into firewood on the subject property should be approved.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "M. Tedesco", written in a cursive style.

Matthew C. Tedesco
Attorney for the Applicant



LOUIS A. & LOUISA T BOEHM 1373 ST STEPHENS CHURCH RD SPECIAL EXCEPTION AND VARIANCE PLAN - LANDSCAPE CONTRACTING FACILITY



SITE TABULATION	
EXISTING SITE ZONING	RA / OS
TOTAL SITE AREA	8,676,221 SQ.FT.± (199.179 AC.±) *
TOTAL SITE AREA (ZONED RA)	6,508,973 SQ.FT.± (149.425 AC.±) *
TOTAL SITE AREA (ZONED OS)	2,167,248 SQ.FT.± (49.753 AC.±) *
TOTAL FLOODPLAIN AREA	466,070 SQ.FT.± (10.699 AC.±) *
TOTAL SPECIAL EXCEPTION / LEASE AREA	18.44 AC.±
LOG / FIREWOOD PROCESSING AREA	4.99 AC.±

* SITE ACREAGE IS BASED UPON ANNE ARUNDEL COUNTY DEED PLOTTINGS.

LEGEND	
PROPERTY LINE	---
WOODS	
ZONING	----
STREAM	~~~~~
SPECIAL EXCEPTION AREA	- - - - -

GENERAL NOTES

ADDRESS: 1371 SAINT STEPHENS CHURCH ROAD
 CROWNSVILLE, MD 21032

LAND USE: LANDSCAPING AND TREE CONTRACTING BUSINESS WITH ACCESSORY RECYCLING OF LOGS INTO FIREWOOD.

INCORPORATED AREA: NO

TAX MAP 43 - GRID 6 - PARCEL 13

COUNCIL DISTRICT: 6

COUNCIL MEMBER: LISA D. B. RODVJEN

DEED REFERENCE: BOOK 3015 AT PAGE 888

ZONING: RA & O/S

GENERAL NOTES

- THIS EXHIBIT DRAWING IS BASED ON AVAILABLE GIS DATA AND NOT A FIELD SURVEY.
- THE SURVEYOR HAS CONDUCTED A VISUAL INSPECTION OF THE SITE AND HAS PREPARED THIS REPORT FOR THE BENEFIT OF THE CLIENT. THIS REPORT DOES NOT REVEAL EASEMENTS, EASEMENTS OR OTHER SERVITUDES THAT MAY AFFECT THE SUBJECT PROPERTY.
- SITE AREA PER SPAT = 203.37 AC. OR 8,888,707 SQ. FT.

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 410.897.9295
 email: info@BayEngineering.com
 www.BayEngineering.com

DATE: NOVEMBER, 2023
 JOB NUMBER: 23-8926
 SCALE: AS SHOWN
 DRAWN BY: C.J.M.
 CHECKED BY: T.J.M.

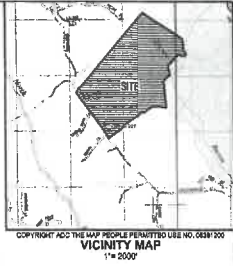
SPECIAL EXCEPTION ADMINISTRATIVE SITE PLAN

THE LANDS OF
LOUIS A. & LOUISA T BOEHM
 1373 ST STEPHENS CHURCH RD
 TAX MAP 43 - GRID 6 - PARCEL 13
 CROWNSVILLE, MARYLAND
 ANNE ARUNDEL COUNTY, MD
 2ND DISTRICT

Sheet No. 1 of 1
 File No.

PLOT DATE: 10/20/24 11:34 AM
 PLOTTED: 10/20/24 11:34 AM
 PLOTTED BY: T.M. Ballard 1371-1373 St. Stephens Church Road Survey 23-8926 V-48-SE.dwg

PLOT DATE: 10/20/24 11:34 AM
 PLOTTED: 10/20/24 11:34 AM
 PLOTTED BY: T.M. Ballard 1371-1373 St. Stephens Church Road Survey 23-8926 V-48-SE.dwg



GENERAL NOTES

1. THIS EXHIBIT DRAWING IS BASED ON AVAILABLE GIS DATA AND HAS NOT BEEN FIELD VERIFIED. THE USER SHALL BE RESPONSIBLE FOR VERIFYING THE ACCURACY OF THE DATA AND THE INFORMATION PROVIDED HEREIN. THE USER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES.
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DATE: NOVEMBER, 2023
 JOB NUMBER: 53-0028
 SCALE: AS SHOWN
 DRAWN BY: C.J.M.
 CHECKED BY: T.J.M.

FOLDER REFERENCE:

SPECIAL EXCEPTION EXHIBIT PLAN
 THE LANDS OF
LOUISA T. BOEHM
 1373 ST STEPHENS CHURCH RD
 TAX MAP 43 - GRID 6 - PARCEL 13
 CROWNSVILLE, MARYLAND
 ANNE ARUNDEL COUNTY, MD
 2ND DISTRICT

Sheet No. 1 of 1
 File No.

FILED DATE: 10/26/2023 11:02 AM
 FILED BY: JAMES M. BOEHM
 COUNTY: ANNE ARUNDEL COUNTY, MD

ENVIRONMENTAL NOISE LEVEL SURVEY

Prepared for:

Ballard Enterprises

1371 Saint Stephens Church Road
Crownsville, MD 21032

November 22, 2023

This document has been prepared by Mobile Health Diagnostics. The material and data in this report were prepared under the supervision and direction of the undersigned.



Troy Bouman, PhD
Acoustical Engineer

Table of Contents

Acronyms	2
1. Introduction	3
2. Methodology	3
3. Results	6
4. Conclusions	6
5. REFERENCES	7
6. LIMITATIONS	7
Appendix A – Calibration Certificates	8

Acronyms

dB	Decibel reference 20uPa
dBZ	Unweighted decibel
dBA	A-weight decibel. A-weighting reflects how humans perceive sound.
SLM	Sound level meter
SPL	Sound pressure level

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1. Introduction

Mobile Health Diagnostics was contracted to perform environmental noise level testing at 1371 Saint Stephens Church Rd, Crownsville, MD 21032. The goal of the testing was to understand the sound levels at the property line during wood processing operations in relation to the county sound ordinance requirements. The testing was conducted on October 26, 2023.

Ballard Enterprises operates firewood processing at their Saint Stephens Church Road facility where they run chainsaws, wood splitters, and skid loaders. Anne Arundel County outlines its noise ordinance requirements for this type of work in their special ordinance 18-11-133 (7) [1]. In this section, the county states:

The sound level at any residentially zoned or residentially developed property line may not exceed an average of 55 dba and a peak of 60 dba based on readings taken during operations.

There are only noise ordinance requirements at the property line for residentially zoned neighbors. In these cases, operations can only take place from 9-12pm and 1-4pm Monday through Friday.

2. Methodology

A sound level meter (SLM) was placed on a tripod then the SLM roamed around the perimeter taking measurements at 4 total locations while the wood processing was in operation. Descriptions of each test location are detailed in Table 1 and shown in Figure 1.

Table 1: Measurement location descriptions

Location	Start Time	Description
1	8:26	NW property line
2	8:47	SW entrance property line
3	9:06	SW property line
4	9:43	East property line



Figure 1: Measurement locations visualized over a satellite image of Saint Stephens

An example of the SLM at the entrance to Saint Stephens (i.e. location 2) is shown in Figure 2.



Figure 2: Example test photo at location 2

Sound was recorded for 15 minutes at each location. From that data, A-weighted average and max levels were recorded (i.e. LAavg and LAm_{ax}). The measurements were made using a Quest Sound Pro sound level meter, SN BLL100005, set to slow response. The sound level meter was calibrated before and after the testing using a 3M AC-300 calibrator, SN AC300016523 and were within 0.5dB between each calibration. The calibration certificates for the equipment can be found in Appendix A. The weather at the start of testing was 54F, 52% humidity, and 30.3 inHg pressure.

3. Results

The results for the testing are shown in Table 2. Looking at the data, there is only one location where the average sound level was above the limit. This was at the entrance to Saint Stephens where the technician noted significant road noise. The technician said he never heard the wood processing operation while acquiring the 15 minutes of data at location 2 and that the entrance is more than 1800 ft away from the operations. Therefore, the elevated 59.1 dBA level is attributed to the road noise and not the wood processing.

Looking at the max data, there are multiple site locations that showed levels higher than the 60 dBA limit. This conflicts with the technician’s subjective report that at no location was the wood processing heard. There was a helicopter nearby trimming power lines that could impact the max level. If The County is trying to limit transient noise with the max requirement, it’s the author’s opinion that L10 would be a better metric (i.e. the decibel level that 90% of the sound is under) as this metric would be less susceptible to outliers/extremes skewing the data over large data collection periods. It is MHDs experience that ordinances use this metric or write separate requirements for impact noise when extremely transient noise is a concern.

Table 2: Sound pressure level results from the testing locations. Highlighted cells are above the ordinance limit.

Location	Lavg (dBA)	Lmax (dBA)
Limit	55	60
1	55.3	62.1
2	59.1	77.0
3	55.3	58.2
4	55.3	60.6

Note: the sound level meter used for testing was a standard type 2 SLM, which has a precision of +/-2 dB. Therefore, there may be some levels (e.g. 55.3 dBA) that are higher than the limit (e.g. 55 dBA), but due to the lack of precision in the SLM these data cannot be confirmed higher than the ordinance.

4. Conclusions

Acoustic data were acquired at a Ballard Enterprises site located at 1371 Saint Stephens Church Rd, Crownsville, MD 21032. During testing the technician never heard any wood processing noises. While some levels were higher than the ordinance requirement, these were attributed to other sources and were not due to the wood processing operations. This combined with the hilly forest terrain makes it clear that the wood processing operations at 1371 Saint Stephens Church Rd will not impact adjacent residential properties and are therefore in compliance with the ordinance requirements.

5. REFERENCES

[1] Anne Arundel County Ordinance

https://codelibrary.amlegal.com/codes/annearundel/latest/annearundelco_md/0-0-0-122839

6. LIMITATIONS

The services described in this work product were performed in accordance with generally accepted professional consulting principles and practices. No other representations or warranties, expressed or implied, are made. These services were performed consistent with our agreement with our client. This work product is intended solely for the use and information of our client unless otherwise noted. Any reliance on this work product by a third party is at such party's sole risk.

Opinions and recommendations contained in this work product are based on conditions that existed at the time the services were performed and are intended only for the client, purposes, positions, time frames, and project parameters indicated. The data reported and the findings, observations, and conclusions expressed are limited by the scope of work. We are not responsible for the impacts of any changes in environmental standards, practices, or regulations subsequent to performance of services. We do not warrant the accuracy of information supplied by others, or the use of segregated portions of this work product.

This work product presents professional opinions and findings of a scientific and technical nature. The work product shall not be construed to offer legal opinion or representations as to the requirements of, nor the compliance with, environmental laws rules, regulations, or federal, state or local regulations.

Appendix A – Calibration Certificates



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Page 1 of 1

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Certificate of Calibration

Certificate No: 112049A AC30016523

Submitted By: MOBILE HEALTH DIAGNOSTICS
2639 CHELSEA STREET
DENVER, CO 80207

Serial Number:	AC300016523	Date Received:	10/2/2023
Customer ID:	SIM-0002	Date Issued:	10/12/2023
Model:	AC-300 CALIBRATOR	Valid Until:	10/12/2024

Test Conditions:		Model Conditions:	
Temperature:	18°C to 28°C	As Found:	1M TOLERANCE
Humidity:	20% to 80%	As Left:	1M TOLERANCE
Barometric Pressure:	890 mbar to 1050 mbar		

SubAssemblies: Serial Number:
Description:

Calibrated per Procedure: 057V879

Reference Standard(s):

I.D. Number	Device	Last Calibration	Date Calibration Due
ET0000555	B&K ENSEMBLE	6/6/2022	6/6/2024

Measurement Uncertainty:

ACOUSTIC +/- 0.1% (FREQUENCY) +/- 0.05%
Repeatability at 95% Confidence Level (95%)

Calibrated By: James Cullinane III 10/12/2023
JAMES CULLINAN III Service Technician

This report certifies that all calibration equipment used in the test is traceable to NIST, and applies only to the unit identified under equipment above. This report must not be reproduced except in its entirety without the written approval of TSI Incorporated.

058-001 Rev. B

A1-1: Calibration certification for the calibrator



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 Registered Company

Certificate of Calibration

Certificate No: 1104238A 11110005

Submitted By: MOBILE HEALTH DIAGNOSTICS
 2639 ONEIDA STREET
 DENVER, CO 80101

Serial Number: 11110005 **Date Received:** 7/24/2023
Customer ID: **Date Issued:** 8/17/2023
Model: SOUNDPRO DL-1-1/3 SLM **Valid Until:** 8/17/2024

Test Conditions: **Model Conditions:**
 Temperature: 18°C to 29°C **As Found:** IN TOLERANCE
 Humidity: 20% to 80% **As Left:** IN TOLERANCE
 Barometric Pressure: 890 mbar to 1050 mbar

SubAssemblies: **Serial Number:**
Description: 53969
 MICROPHONE OE 7057 1/2 IN. ELECTRET 0715 0717
 TYPE 2 PREAMP


Calibrated per Procedure: 53V899

Reference Standard(s):

I.D. Number	Device	Last Calibration	Date Calibration Due
EF000104	QUEST-CAL	8/3/2023	8/3/2024
ET0000370	PLANE 85 MULTIMETER	6/16/2022	6/16/2024
ET0000556	SLM ENSEMBLE	6/6/2022	6/6/2024

Measurement Uncertainty:

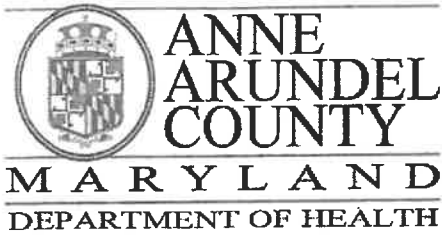
ACOUSTIC +/- 0.19dB
 Estimated at 95% Confidence Level (MUT)

Calibrated By:  8/17/2023
 J. M. NEUMAN Service Technician

This report certifies that all calibration equipment used in the test is traceable to NIST, and applies only to the unit identified under equipment above. This report must not be reproduced except in its entirety without the written approval of TSI Incorporated.

099-193 Rev. B

A1-2: Calibration certificate for the sound level meter



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Phone: 410-222-7095 Fax: 410-222-7294
Maryland Relay (TTY): 711
www.aahealth.org

Tonii Gedin, RN, DNP
Health Officer

MEMORANDUM

TO: Sadé Medina, Zoning Applications
Planning and Zoning Department, MS-6301

FROM: Brian Chew, Program Manager
Bureau of Environmental Health

THROUGH: Don Curtian, Director
Bureau of Environmental Health

A handwritten signature in blue ink, appearing to be "BC", written over the name Brian Chew in the FROM field.

DATE: February 1, 2024

RE: 1373 Saint Stephens Church Road
APT #R
Crownsville, MD 21302

NUMBER: 2024-0018-S

SUBJECT: Variance/Special Exception/Rezoning

The Health Department has reviewed the above referenced special exception to allow landscaping and tree contracting with accessory recycling of logs into firewood in an RA- Rural Agricultural District.

Based on review of the above referenced request, additional information is needed by the Health Department on the type and location of the water supply well and the on-site sewage disposal system:

If you have further questions or comments, please contact Brian Chew at 410-222-7413.

cc: Sterling Seay



OFFICE OF PLANNING AND ZONING

CONFIRMATION OF PRE-FILE MEETING

DATE OF MEETING __1/9/2023 (via email)_____

P&Z STAFF __Donnie D./Courtney W./Desirae W._____

APPLICANT/REPRESENTATIVE __Tim Ballard (Ballard Enterprises)_____ EMAIL __tim.ballard@ballardenterprises.com_____

SITE LOCATION __1371 Saint Stephens Church Road Crownsville_____ LOT SIZE __199.18 Acres_ ZONING __RA/OS_____

CA DESIGNATION __NA_____ BMA _____ or BUFFER _____ APPLICATION TYPE __Special Exception_____

The applicant is proposing to develop the site with a landscaping and tree contracting business with accessory recycling of logs into firewood as shown on the site plan. A preliminary review of the site plan and letter of explanation shows that no variance appears to be needed, but cannot be confirmed at this time (see comments below).

COMMENTS

From Zoning: The site plan as presented is not adequate for submittal of the special exception application. The site plan needs to clearly delineate the use and square footage of each area and structure that is to be part of the special exception. Currently the site plan just shows a general colored area but gives no indication of the uses of the buildings nor does it outline the outside areas of storage, parking, etc. Also needed is a clear label of how far the proposed areas/structures for the SE use are from the property lines. Each structure and/or area of the site that is proposed to be used for the SE will need to be clearly outlined and labeled with use and area on the site plan. It may be necessary to break down the site plan into additional pages or show an inset of the SE area of the site. There also appears to be areas of OS - Open Space zoning on the site, and the site plan should show the zoning line for clarity.

From Development Division (Regional Team): No comment at this time.

From Long Range Planning: See attached comments.

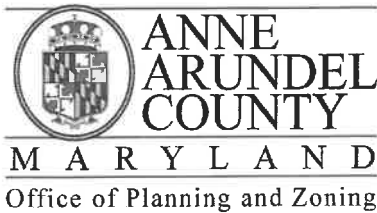
INFORMATION FOR THE APPLICANT

Section 18-16-201 (b) Pre-filing meeting required. Before filing an application for a variance, special exception, or to change a zoning district, to change or remove a critical area classification, or for a variance in the critical area or bog protection area, an applicant shall meet with the Office of Planning and Zoning to review a pre-file concept plan or an administrative site plan. For single lot properties, the owner shall prepare a simple site plan as a basis for determining what can be done under the provisions of this Code to avoid the need for a variance.

*** A preliminary plan checklist is required for development impacting environmentally sensitive areas and for all new single-family dwellings. A stormwater management plan that satisfies the requirements of the County Procedures Manual is required for development impacting environmentally sensitive areas OR disturbing 5,000 square feet or more. State mandates require a developer of land provide SWM to control new development runoff from the start of the development process.

Section 18-16-301 (c) Burden of Proof. The applicant has the burden of proof, including the burden of going forward with the production of evidence and the burden of persuasion, on all questions of fact. The burden of persuasion is by a preponderance of the evidence.

A variance to the requirements of the County's Critical Area Program may only be granted if the Administrative Hearing Officer makes affirmative findings that the applicant has addressed all the requirements outlined in Article 18-16-305. Comments made on this form are intended to provide guidance and are not intended to represent support or approval of the variance request.



Mark Wedemeyer
Interim Planning and Zoning Officer

MEMORANDUM

TO: Zoning Division

FROM: Desirae Williams, Long Range Planning

THROUGH: Cindy Carrier, Planning Administrator, Long Range Planning

SUBJECT: Long Range Planning Comments

DATE: January 6, 2023

Name of Project: Pre-file application for 1371 St. Stephens Church Rd
Location: 1371 St. Stephens Church Road, Crownsville MD 21032
Region Planning Area: 6

Summary:

The applicant seeks to operate a landscaping and tree contracting business at 1371 St. Stephens Church Road in Crownsville, MD. The applicant is requesting a Special Exception to operate a landscaping businesses in an RA – Rural Agricultural zoning district.

The site is located in the Plan2040 Rural and Agricultural Development Policy Area and the Rural Planned Land Use category. The surrounding properties are also located in a Rural Planned Land Use category. Zoning for the site is RA. Properties surrounding the property are all zoned RA as well. The site is not located within the Priority Funding Area.

Findings:

Compliance with Plans:

Plan2040 General Development Plan: Plan2040 does not have recommendations that are specific to this site and the proposal is generally consistent with the goals, policies and strategies of Plan2040. No application for a change in Planned Land Use was filed during the 2021 update to the General Development Plan (Plan2040) and no rezoning application was filed during the 2011 Comprehensive Rezoning process. The site is within the Region 6 Planning Area; the region planning process for this area is anticipated to begin in April of 2024.

2022 Water and Sewer Master Plan: The site is in the No Public Service Sewer Service category in the Rural Sewer Service Area and the No Public Service Water Service category in the Rural Water Pressure Zone. The proposal is consistent with the 2022 Water and Sewer Master Plan.