



STAFF REPORT

May 27, 2009

TO: Aubry Township Zoning Board
FR: Paul Greeley, Deputy Director
RE: Application No. AU-CU-2912

APPLICATION INFORMATION:

Applicant/Landowner: H&R Lawn and Landscape

Requested Action: Conditional Use Permit Renewal (CUP)

Purpose: Continue operation of a lawn and landscape business in conjunction with a wholesale nursery

Legal Description: Portion of the NW ¼ of 17-15-25

Site Address/Location: 6735 W. 207th Street

Existing Land Use and Zoning: Nursery and lawn/landscape operation/RUR, Rural

Existing Improvements: Operations buildings, gravel drives, outdoor storage and parking areas, and 15 acres of trees

Site Size: 20 acres

Proposal: The applicant is requesting renewal of a CUP to continue to operate a lawn and landscape business in conjunction with a wholesale nursery on the property. The initial CUP was approved in 1988 with a 20 year term. The business includes lawn mowing, landscaping, irrigation and snow removal services. The written narrative indicates the following:

- **Hours of Operation:** 6:30am-6:00pm, Monday through Friday. Saturdays if weather constraints necessitate. Snow removal hours are varied. *No Sunday operations.*
- **Dispatching from the Site:** Trucks depart and return Monday through Friday 8am-5pm. Snow removal will operate during snow events. Employees' drive trucks home in the event that snow is expected during non-business hours.
- **Equipment:** Equipment consists of 20 trucks none of which exceeds 2 tons, trailers, snow blades, salt spreaders, and tractors. Most of the equipment is stored within the existing buildings. An outdoor parking area for equipment is located on the east side of the property.

- **Buildings:** There are 2 existing buildings on the property. The 60 ft. x 110 ft. building is used for equipment storage. The 54 ft. x 100 ft. building is shop area and office. Two 30 ft. x 40 ft. cold frame hoop houses are planned in the area shown on the site plan.
- **Outdoor Parking and Storage:** Employee vehicles are parked in front of the office building in the area shown on the site plan. Bulk mulch, topsoil and rock are stored in bins as marked on the site plan. A hard goods (pipe, stacking stone, etc.) storage area is shown. Fueling area and truck trailer parking is shown. Tree holding areas are shown.
- **Entrance:** The property has 1 existing entrance to 207th that is gated. The gate will be moved 100 ft. off the street and the access drive to the street will be paved. This work will be done upon completion of the paving of 207th Street which is planned for summer 2008. Interior drives will remain gravel.
- **Perimeter and Permanent Landscaping/Screening:** Perimeter buffers consist of setbacks and landscaping on the west and south sides of the property. New mature evergreen trees will be planted along the east and north side of the property as shown on the site plan. There are landscape berms and buffers on the interior of the property adjoining the storage areas.
- **Wholesale Nursery:** Established.
- **Exterior Lighting:** There are existing building and pole mounted lights in the locations shown on the site plan. The light fixtures are aimed down onto the property.
- **Chemicals:** Fertilizers are stored inside existing buildings.
- **Irrigation:** Nursery and balled and burlapped trees are watered from the pond.



Aerial view of buildings on the subject property

Term: The applicant is requesting a 15 year term.

Zoning History: The Rural zoning was established in 1994 as part of the county-wide rezoning. The landscape contractor CUP approved in 1988 was amended in 1993 to allow a building expansion.

Subdivision History: The parcel is legal and conforming to the County's Zoning and Subdivision Regulations.

MINIMUM INFRASTRUCTURE REQUIREMENTS

The *Johnson County Zoning and Subdivision Regulations* state that the minimum infrastructure requirements shall be guidelines for interpretation of the minimum infrastructure required for each conditional use.

Water: Water District #1 provides water service to the area. The property does not have public water service.

Sewers: Wastewater disposal is managed by on-site holding tanks.

Public Safety: Police protection is provided by the Johnson County Sheriff's Department. Fire Protection is provided by South Johnson County. The nearest fire station is approximately 1-1/2 road-miles to the north at 195th and Metcalf Avenue.

Transportation: Access to this property is from 207th Street, a Type 1 CARNP county-maintained gravel road. Johnson County will pave 207th from Metcalf to Nall Avenue in the summer of 2009. 207th Street connects to Metcalf. Metcalf Avenue is a Type 2 CARNP road, is paved and is considered a Type B Collector.

Parks/Schools: The park and school requirements are not applicable to this application.

Summary: Existing infrastructure is adequate to serve the contractor business and wholesale nursery use.

STAFF ANALYSIS

The regulations, the *Rural Comprehensive Plan* and laws in Kansas indicate that consideration should be given to whether the conditional use is in the interest of the public health, safety, morals, and the general welfare of the community. **In the RUR, Rural District, a CUP for a landscape contractor's yard may be approved only in conjunction with a wholesale nursery.**

The subject property is located on the south side of 207th Street and about ¼ mile east of Metcalf Avenue. The subject property is zoned RUR, Rural. Property to the north is zoned PEC3, Planned Light Industrial (about 160 acres). Property to the west across Metcalf is zoned PEC3, Planned Light Industrial (about 160 acres). Property to the east and south is zoned RUR, Rural. Immediately to the south is a 10 acre parcel zoned RN1, Residential Neighborhood. The RN1 zoned property is vacant. Immediately to the west is an approximate 15 acre parcel zoned RUR, Rural. This property is owned by the applicant and has one rental house.

Nearby uses consist of vacant land, farmed land, light industrial uses including warehouses, light fabrication, construction contractor businesses, and offices. There are residential uses on 10 acre lots to the east. An active railroad line is located immediately to the west, and Metcalf Avenue is less than ¼ mile to the west. Property to the north is zoned PEC-3 and is owned by the Park District with plans for a future community park.



Aerial view of subject property and surrounding property

This application is to renew a CUP operation that has existed with no known complaints since 1988. In 1988, and again in 1993, the appropriateness of the use was evaluated and found to be consistent with the zoning and surrounding uses; compatible with the character of the area; the use was found to well suited for the property; possible detrimental effects were previously found not to exist; potential detrimental effects can be mitigated by screening; there would be no relative gain to the public by denying the use; and, the use is in keeping with the comprehensive plan. In 2000, the County approved a residential subdivision of eight 10-acre lots adjacent to the east of the subject property. Most of the landscape contractor activity occurs near the front (north) and interior part of the subject property. If there are any points of conflict with the adjacent residential uses, it would be in the front 500 ft. along the common property line between the use and the residences to the east. The applicant proposes to install approximately 40 large evergreen trees in this area. The remainder (rear) of the common property line has existing trees and distance buffering already in place, also less landscape contractor activity occurs in the rear area. Otherwise, very little has changed in the area in the last 20 years. Also, the County has plans to pave 207th Street. The paving project will reduce the need for road maintenance that might otherwise occur from the trucks and trailer traffic associated with the use.

It is staff's conclusion that in conjunction with the wholesale nursery:

1. The landscape contractor use remains consistent with nearby Rural and Light Industrial zoning and the nearby uses.
2. The landscape contractor uses is compatible with the character of the area.
3. The landscape contractor use is well suited for this property.
4. The landscape contractor use with the added perimeter landscaping will not have detrimental effects to nearby parcels.
5. The landscape contractor use will pose no threat to the public health, safety and welfare.

ZONING AND SUBDIVISION REGULATION STANDARDS

Article 23 Sec. 6 (C) establishes that the granting of the requested CUP shall not be recommended unless the Zoning Board first makes a finding that the following conditions are met:

- 1) *Is in harmony with the general purpose and intent of the regulations.*
The use (landscape contractor operation in conjunction with a wholesale nursery) is in harmony with the general purpose and intent of the regulations because it is consistent with nearby zoning and uses and will be compatible with the character of the area.
- 2) *Will not impair the adequate supply of light and air to adjacent property.*
The use will not impair the supply of light or air to adjacent property.
- 3) *Will not increase hazards from fire or other dangers.*
The proposed use will not create any activity of a hazardous or dangerous nature.

- 4) *Will not increase traffic on streets beyond their capacity.*
The landscape contractor operation in conjunction with the wholesale nursery will not increase traffic beyond the capacity of the existing streets.
- 5) *Will not increase potential for flood damages to adjacent property or lead to additional public expense for flood protection, rescue or relief.*
There is no floodplain on this property. This use will not increase potential for flood damages to adjacent properties.
- 6) *Will not otherwise unduly impair the public health, safety, comfort, morals, or general welfare of the inhabitants of the County, or otherwise create a nuisance or nuisance-like situation.*
By installing additional landscaping, maintaining building and use setbacks, and keeping the outdoor activity to the center of the property, the landscape contractor operation will not impair the public health, safety, or general welfare of County residents.
- 7) *Will not pollute the air, land, or water.*
The applicant's use of chemicals or fertilizers will not affect neighbors land or water bodies.

Public Works Department Staff: Recommends approval of the conditional use permit.

Environmental Department: This use has a current Operation Permit for the holding tanks and is inspected annually. We do not have any problem with this site getting their conditional use permit renewed.

RECOMMENDATION

Planning staff recommends **approval** of a Conditional Use Permit renewal to allow the continued operation of a landscape contractor business in conjunction with a wholesale nursery, subject to the following stipulations:

1. Permitted Use: This permit allows for the use of a landscape contractor business in conjunction with a wholesale nursery in the locations as shown on the site plan, attached hereto as Exhibit A. Uses permitted include lawn care, landscape design and installation, irrigation installation, office and equipment repair, and snow removal. Two future cold frame hoop houses (30' x 40' greenhouses) are allowed in the locations shown on the site plan.
2. Term: The term of the permit for the landscape contractor operation in conjunction with the wholesale nursery shall be for a period not to exceed 10 years commencing from the date of approval of this resolution by the Board of County Commissioners.
3. Wholesale Nursery: The wholesale nursery area shall be continually maintained by replacing trees that have been used or that have died. The extent of nursery area shall not fall below 10 acres of trees and shrubs.

4. Outside Parking and Storage: Employee parking shall occur in the area shown on the site plan. Outside storage of equipment and materials shall occur in the areas shown on the site plan.
5. Driveway Entrance: The entrance gate will be moved 100 ft. off the street and the access drive to the street shall be paved. Such drive shall be constructed to commercial standards as may apply.
6. Signage: All signs shall conform to Article 20 of the County Zoning Regulations. No wall signs shall be allowed on any side of any building on the subject property.
7. Storing and Use of Chemicals/Fertilizers: The applicant shall follow all applicable manufacturer procedures, standards, and/or regulations when storing fertilizers or chemicals on the property or applying fertilizers and chemicals to the nursery stock. In addition, the applicant shall take proactive measures to prevent chemicals or fertilizers from being blown, carried or deposited onto neighboring property or water bodies (ponds). Such measures shall include installation of water runoff control measures at the property perimeter, spraying during calm (no wind) periods, and following manufacturer application rates. Fertilizers or chemicals shall be stored inside a building.
8. Retail Sales: No retail sales or services of any kind, including sales or service of plants, lawn or landscape equipment, materials or supplies shall be allowed on this site.
9. Hours of Operation: Hours of operation shall be from 6:30 a.m. to 6:00 p.m., Monday through Friday, and occasional Saturday's in the event of adverse weather. No Sunday operation shall occur.
10. Trash and Debris: One or more trash dumpsters shall be allowed. The trash dumpsters and all trash debris or refuse storage shall be screened and not visible from adjacent properties. Only trash, brush, plant materials or debris associated with the business shall be brought to the site for composting or recycling. Such activity shall only occur in the area designated on the site plan. Composting activities shall occur only during business hours. Odors from composting shall be controlled such that they are not noticeable off-site.
11. Landscaping/Screening: Permanent landscape screening (evergreen trees) shall be installed and continuously maintained on the east and north property line as shown on the site plan. All permanent trees shall be installed prior to issuance of the zoning permit or within 1 year of approval of the CUP.
12. Lighting: If exterior lighting is installed, the bulb or luminary i) shall be shielded from direct view off-site, ii) shall be aimed down on to the site, and iii) shall not produce glare off-site. Lighting shall be for security purposes only. Lighting shall not be installed to enable evening or night activities.

13. Codes: Uses allowed by this permit will require construction of new structures as described in Stipulation #1. Such new construction shall be completed in accordance with the County environmental sanitary, building, and fire codes.
14. Snow Removal: Snow removal activities shall be allowed on the site including outdoor storage of snow removal equipment and dispatching of employees for snow removal purposes during regular business hours.
15. Water Use. In order to avoid impacting the water supply to the neighbors, the landscape contractor business and the wholesale nursery operation, shall both comply with a watering schedule prepared by the applicable water district if using public water.
16. Maintenance of Adjacent Roads. Any mud, dirt or other material dropped, deposited or scattered on area roads as a result of this operation shall be immediately removed by the applicant.

Reasons for Recommendation of Approval:

1. The landscape contractor use remains consistent with nearby the Rural and Light Industrial zoning.
2. The landscape contractor use is compatible with the character of the area.
3. The landscape contractor use is well suited for this property.
4. The landscape contractor use with the added perimeter landscaping will not have detrimental effects to nearby parcels.
5. The landscape contractor use will pose no threat to the public health, safety and welfare.

Attachments: Applicant's Narrative, Site Plan, vicinity map