

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

**CASE NUMBER 2021-0071-S AND 2021-0072-V**

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**RONALDO E. TEJADA AND MIRNA Y. TEJADA**

EIGHTH ASSESSMENT DISTRICT

DATE HEARD: AUGUST 5, 2021

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ORDERED BY:

**DOUGLAS CLARK HOLLMANN**  
ADMINISTRATIVE HEARING OFFICER

PLANNER: **JOAN JENKINS**

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DATE FILED: **AUGUST 17, 2021**

**PLEADINGS**

Ronaldo E. Tejada and Mirna Y. Tejada (hereinafter the applicant), seeks a special exception (2021-0071-S) to perfect a landscaping and tree contracting establishment in an RA – Rural Agricultural District and a variance (2021-0072-V) to perfect a landscaping and tree contracting establishment with less setbacks than required and with vehicular access from a local road on property with a street address of 4605 Winding Brooke Lane, Lothian, MD 20711.

**PUBLIC NOTIFICATION**

The hearing notice was posted on the County’s website in accordance with the County Code. The file contains the certification of mailing to community associations and interested persons. Each person designated in the application as owning land that is located within 300 feet of the property was notified by mail, sent to the address furnished with the application. Ronaldo E. Tejada testified that the property was posted for more than 14 days prior to the hearing. Therefore, I find and conclude that the requirements of public notice have been satisfied.

**THE HEARING**

A hearing was held on August 5, 2021, in which the witnesses were sworn and the following was presented with regard to the proposed relief requested by the applicants.

## **THE PROPERTY**

The applicants own the subject property which has 150 feet of frontage on the east side of Winding Brooke Lane, 300 feet south of Decesaris Drive, Lothian. It is identified as Lot 8 on Parcel 73 in Block 20 on Tax Map 67 in the Winding Brooke subdivision. The property comprises 2.034 acres and is zoned RA – Rural Agricultural District.

The property is currently developed with a one-story single-family dwelling with a deck, a pool, a freestanding deck, a garden fireplace, a detached garage, gravel drive and gravel pad. The site is served by private water and private sewer facilities.

## **THE PROPOSAL**

The proposal calls to construct a 32' by 40' garage; cleared an area that is being used for outside storage, parking and loading; and have created a gravel driveway. These components are being used for the operation of a landscaping business as shown on County Exhibit 2.

## **THE ANNE ARUNDEL COUNTY CODE**

### **Special Exception Standards**

§ 18-11-132 sets forth the specific requirements for a landscaping and tree contracting facility special exception. Additionally, all special exceptions are subject to the general standards contained in § 18-16-304 of the Zoning Ordinance.

### **Variance Standards**

§ 18-11-132(2) requires all vehicular access to the site shall be directly from a collector or higher classification road. The property access is from a local road, requiring a variance to this provision.

§18-11-132(3) requires buildings and outdoor areas to be used for parking, loading or storage of vehicles, equipment, tools, and supplies be delineated on a site development plan and located at least 50 feet from all property lines and public roads, and provides that maximum coverage for outdoor storage may not exceed 20% of the total lot area. The gravel driveway and connected gravel pad for outside storage, parking and loading area is located 15 feet from the side lot line and as close as 25 feet from the rear lot line requiring variances.

### **The Evidence Submitted At The Hearing**

Joan A. Jenkins, a zoning analyst with the Office of Planning and Zoning (OPZ), presented the following findings:

- OPZ finds that the subject property is irregularly shaped and meets the minimum lot area requirement and the lot width requirement for a lot in an RA district. According to state tax assessment records the dwelling was built on the property in 1986.
- A review of the County aerial photograph from 2020 reveals five large residential properties sharing a cul-de-sac at the end of Winding Brook Lane, designated as a local road.

- The applicant purchased the property on November 1, 2005. The aerial photo from 2007 shows the beginning of a driveway on the north side of the property into the rear yard. In the 2010 aerial photo the driveway area appears to be a gravel surface. In 2010 a large area of gravel appeared in the rear yard. A permit for a detached garage (B02341880) was issued on March 13, 2017 and finally completed on September 21, 2017 with residential setbacks.
- The applicant's letter attests to the fact that the landscaping business has been operating from the site for 15 years, which is prior to the garage improvement. The letter states that the applicant has received five letters of support from nearby neighbors.
- The Health Department reviewed the onsite sewage disposal system and well water supply system and have determined that the proposed request does not adversely affect the onsite sewage disposal and well water systems. The Department has no objection to the request as long as there are no finished living spaces or bathroom facilities in the detached building. If there are bathroom facilities or living spaces in the building, the septic system will have to be evaluated and all sewer lines from the garage must be connected to the existing septic system of the house.
- The Long Range Planning Division commented that this proposal is within Region Planning Area 8. The Region Plan process for Region 8 is anticipated to begin in April, 2024. Plan 2040 retains rural planned land use and the Rural Development Policy Area designation. The proposal is generally consistent

with the goals, policies, and recommendations of Plan 2040. The site is in the No Public Service sewer and water categories in the Rural Service areas. The proposal is consistent with the 2017 Water and Sewer Master Plan.

- The Development Division (Regional Team) reviewed the project offering comments regarding the need for a Preliminary and Site Development Plan. A comprehensive review of the proposed development will occur at that time. While landscaping buffers have been identified a landscaping review will be addressed at the Site Development Plan process. Additional planting and/or fencing may be required. They also noted that the proposed driveway does not comply with the 24-foot minimum width requirement for two-way traffic found in Article 17-6-603 and must be widened.
- The Department of Inspections and Permits (Engineering Division) commented that there are no engineering objections to approval of the requested special exception. The request has been deferred to the Zoning Division on whether the application meets the special exception standards.
- The property is the subject of an open compliance case; Z-2019-872 was filed June 21, 2019 for “commercial use in a residential zone”. A prior case for “commercial vehicle complaint” was opened March 25, 2015 under case Z-2015-198. The case was closed June 24, 2015 with no evidence of a business.
- With regard to the specific special exception requirements, OPZ submits the following findings:

- The facility shall be located on a lot of at least two acres. *The subject site at 2.034 acres meets the two-acre minimum area requirement.*
- All vehicular access to the site shall be directly from a collector or higher classification road. *Vehicular access to the landscaping facility is from a private right-of-way. A variance to this requirement has been requested.*
- Buildings and outdoor areas to be used for parking, loading or storage of vehicles, equipment, tools, and supplies shall be delineated on a site development plan and located at least 50 feet from all property lines and public roads, and maximum coverage for outdoor storage may not exceed 20% of the total lot area. *The allowable storage area is 4,136 square feet. The applicant writes that the area currently in use for outside storage is 2,350 square feet. The site plan delineates a 50-foot setback line and the proposed outside storage. Parking and loading areas are marked but not delineated as a specific area. These areas will not meet the required 50-foot setback and a setback variance has been requested.*
- 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. *There is neighboring opposition to this landscaping operation as evidenced by the violation therefore, the applicant must demonstrate to the hearing officer that no nuisance exists.*

- Hours of operation shall be limited to 7:00 a.m. to 6:00 p.m. *The applicant shall comply with this requirement.*
- Accessory outdoor storage and parking areas shall be screened from neighboring properties in accordance with the Landscape Manual. *The special exception requires the administrative site plan demonstrates the applicant's ability to comply with the requirements of the Landscape Manual. It does not comply.*
- Minor repairs to vehicles or equipment are permitted, provided such activities take place inside a building. Body work, engine rebuilding, engine reconditioning, painting, and similar activities are not permitted. *The applicant shall comply with this requirement.*
- Concerning the general special exception standards, it is the opinion of OPZ that the proposed use will be detrimental to the public health, safety, or welfare as the access is from a local road and through a neighborhood of local roads. The use on a local road is not compatible with the RA district. The applicant must provide sufficient evidence that the proposed facility would be no more objectionable with regard to noise, fumes, vibration, or light than other permitted uses. The proposed use would not conflict with existing or programmed public uses. The proposed use is consistent with the rural planned land use. The Health Department has no objection to the use provided there are no finished living spaces or bathroom facilities in the detached building. The applicant has not provided evidence of public need. And finally, the

administrative site plan does not demonstrate the applicant's ability to comply with the requirements of the Landscape Manual.

- The standard for granting a variance is whether because of certain unique physical conditions strict compliance of the zoning ordinance regulations would result in practical difficulty or unnecessary hardships. Variances should only be granted if in strict harmony with the spirit and intent of the zoning regulations and only in such a manner as to grant relief without substantial injury to the public health, safety and general welfare. The need sufficient to justify a variance must be substantial and urgent and not merely for the convenience of the applicant. No unique conditions have been shown to allow access from a road other than a collector or higher classification road or to grant setback variances for the garage, outside storage, parking and loading area. Additionally, it is apparent this request is the result of actions by the applicant specifically, commencing with development before an application for a variance was filed.
- As the request is not warranted it cannot be considered the minimum necessary to afford relief. Based upon the standards set forth under § 18-16-305 under which a variance may be granted OPZ recommends *denial* of a zoning variance to § 18-11-132(2) to allow access from a road other than a collector or higher classification road; and *denial* of zoning variances to § 18-11-132(3) to perfect the crushed asphalt driveway and connected storage area that is located as

close as 15 feet from the side lot line and 25 feet from the rear lot line requiring variances of 35 feet and 25 feet respectively.

- Accordingly, based upon the standards set forth under § 18-16-304 under which a special exception may be granted OPZ recommends denial of a special exception to perfect a landscaping and tree contracting facility in an RA district.

### **Testimony and Exhibits**

Ronaldo E. Tejada was assisted at the hearing by Roy Little of Terrain, Inc., the applicant's engineer. Evidence was presented that the applicants have been operating a landscaping and tree service business from the property for quite some time. The applicant's hardship is that the property is located on a local road. The applicants have been operating without objection and would like to continue to use the property as a landscaping business.

A number of neighbors (Alan Dunivant, Matt Zaleskas, Michael Donahue, Denise Donahue, Bonnie and Joe Gollup, Maisie Howard, Meg Phillips) testified that the applicants are fine neighbors and that they have no objection to the applicants being allowed to continue to operate their landscape business. No one spoke in opposition to the applicant's request.

There was no other testimony taken or exhibits received in the matter. The Hearing Officer did not visit the property.

## DECISION

### Background

The applicants have been operating a landscaping business from their residential property. They would like to continue to operate their business. To do so, they need a special exception. Because they do not meet two of the requirements for a landscaping business special exception - they are located on a local road, and portions of their operation take place within setbacks - they need two variances.

The subject property is in the middle of a developed residential subdivision, as shown below:



### **Special Exception**

A special exception use is a use that the legislative body recognizes as compatible with permitted uses, subject to a public hearing to show compliance with the underlying standards. Schultz v. Pritts, 291 Md. 1, 432 A.2d 1319 (1981); Peoples Council for Baltimore County, et al v. Loyola College in Maryland, 406 Md. 54, 956 A. 2d 166 (2008). “A permitted use in a given [zoning] zone is permitted as of right within the zone, without regard to any potential or actual adverse effect that the use will have on neighboring properties. A special exception, by contrast, is merely deemed *prima facie* compatible in a given zone. The special exception requires a case-by-case evaluation by an administrative zoning body or officer according to legislatively-defined standards. That case-by-case evaluation is what enables special exception uses to achieve some flexibility in an otherwise semi-rigid comprehensive legislative zoning scheme.” People’s Counsel, 406 Md. at 19, 956 A.2d at 176.

A landscaping and tree contracting facility is permitted as a special exception in RA districts, provided that it complies with the provisions found in § 18-11-132. In addition, the application must meet the requirements of § 18-16-304, which applies to all special exceptions. These provisions, as they apply to this application, will be discussed below, with the Code language in italics, followed by the findings.

*§ 18-11-132. Landscaping and tree contracting.*

*Landscaping and tree contracting facilities shall comply with all of the following requirements.*

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

The facility is located on a site of 2.034 acres.

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

Vehicular access is from a local road. Therefore, a variance to this requirement is needed.

*(3) Buildings and outdoor areas to be used for parking, loading or storage of vehicles, equipment, tools, and supplies shall be delineated on a site development plan and located at least 50 feet from all property lines and public roads, and maximum coverage for outdoor storage may not exceed 20% of the total lot area.*

The setback requirements will not be met. Therefore, a variance to this requirement is needed.

*(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.*

There is evidence that the location and design of the operation has not met and cannot meet the requirements of this subsection so that it is not a nuisance to neighboring properties and cause neighbors to suffer from noise, dust, and fumes generated by the applicant's operation. A landscaping business generates noise, dust, and fumes. Were the operation located among farms or larger lots, or if there were sufficient buffers, this requirement might be satisfied. On these facts, it is not.

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

The applicants stated they will comply with this requirement.

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

The application does not show that the applicants can comply with the screening requirements of the Landscape Manual.

*(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.*

The applicants stated they will comply with this requirement.

In addition, § 18-16-304 requires that the Hearing Officer make affirmative findings that:

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

The evidence shows that the operation is and will be detrimental to the public health, safety, or welfare.

*(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;*

A landscaping business in this neighborhood is out of place. Therefore, the current operation is not compatible with the appropriate and orderly development of the district in which it is located.

Compare Case No. 2013-0286-S, among many others, which was to perfect the operation of an ongoing landscaping business in an RA district. The operation was surrounded by farmland. No variances were needed. Since the application met the requirements of § 18-11-132, the application was granted.

*(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;*

The landscaping operation, whether under the management of the current owners or a future owner, will be more objectionable with regard to noise, fumes, vibration, or light to nearby properties than operations in other uses allowed under this article.

*(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;*

The applicant's landscaping operation, if on a different property in the RA district, as was the case in Case No. 2013-0286-S, would not have the adverse impacts it will have in this residential neighborhood.

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

The proposed use will not conflict with an existing or programmed public facility, public service, school, or road.

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

The proposed use has the written recommendations and comments of the Health Department and the Office of Planning and Zoning.

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

The proposed use is consistent with the County's General Development Plan.

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

The applicants have presented sufficient evidence of public need for the use.

*(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;*

This is irrelevant in light of the findings in earlier sections.

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

The property is not in the critical area.

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

This is irrelevant in light of the findings in earlier sections.

Based on the above findings, the applicants have not complied with the requirements of § 18-11-132 and § 18-16-304 and is not entitled to the special exception requested. Since the special exception will be denied, it is unnecessary to consider the request for variances.

It should be noted that it is very unusual for neighbors to come in and testify in favor of granting a property owner approvals to allow the continued operation of a commercial business in a residential neighborhood. However, there is nothing in the Code to suggest that zoning issues are decided by whether neighbors like (or do not like) an applicant. The applicants have apparently established and built a fine business, and are themselves good neighbors.

However, they find themselves in the current situation because they did not come to the County and ask for the relief they want now. If they had, they would have been denied a special exception to operate a landscaping business on these facts. Having gone ahead anyway, they cannot get the relief that would have been denied them had they applied for the necessary permits.

Having to move their business will be expensive. That is unfortunate, but to do otherwise would encourage people to ignore the Code, build first, and then try to convince the County to give the property owner relief because it will cost so much to comply. That way lies chaos.

### **ORDER**

PURSUANT to the application Ronaldo E. Tejada and Mirna Y. Tejada, petitioning for a special exception to allow the expansion to perfect a landscaping and tree contracting establishment in an RA – Rural Agricultural District and a variance (2021-0072-V) to perfect a landscaping and tree contracting establishment with less setbacks than required and with vehicular access from a local road on property with a street address of 4605 Winding Brooke Lane, Lothian; and

PURSUANT to the notice, posting of the property, and public hearing and in accordance with the provisions of law, it is this **17<sup>th</sup> day of August, 2021**; and

ORDERED, by the Administrative Hearing Officer of Anne Arundel County, that the application is hereby **denied**.



Douglas Clark Hollmann  
Administrative Hearing Officer

**NOTICE TO APPLICANT**

Within thirty days from the date of this Decision, any person, firm, corporation, or governmental agency having an interest therein and aggrieved thereby may file a Notice of Appeal with the County Board of Appeals.

If this case is not appealed, exhibits must be claimed within 60 days of the date of this Order, otherwise they will be discarded.

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

**CO. EXHIBIT#:** 1  
**CASE:** 2021-0071S & 72V  
**DATE:** 8/5/21

**APPLICANTS:** Ronaldo & Mirna Tejada

**ASSESSMENT DISTRICT:** 8

**CASE NUMBER:** 2021-0071-S & 2021-0072-V

**COUNCILMANIC DISTRICT:** 7

**HEARING DATE:** August 5, 2021

**PREPARED BY:** Joan A. Jenkins  
Planner II



**REQUEST**

The applicants are requesting a special exception to perfect a landscaping and tree contracting facility in an RA – Rural Agricultural District and a variance to perfect a landscaping and tree contracting business that does not have direct access to a collector or higher classification roadway and with parking and structures with less setbacks than required for property located at 4605 Winding Brooke Lane in Lothian.

**LOCATION AND DESCRIPTION OF SITE**

The subject property consists of approximately 2.034 acres of land. It is located with approximately 150 feet of frontage on the east side of Winding Brooke Lane, 300 feet south of Decesaris Drive. The property is identified as Lot 8 on Parcel 73 in Block 20 on Tax Map 67 in the Winding Brooke subdivision. The site has been zoned RA – Rural Agricultural District since the adoption of comprehensive rezoning for the Seventh Councilmanic District, effective October 7, 2011.

The property is currently improved with a one-story single-family detached dwelling with a deck, a pool, a freestanding deck, a garden fireplace, a detached garage, gravel drive and gravel pad. The site is served by private water and private sewer facilities.

The site is not located in the Chesapeake Bay Critical Area Overlay.

**PROPOSAL**

The applicants have constructed a 32-foot by 40-foot garage; cleared an area that is being used for outside storage, parking and loading; and have created a gravel driveway. These components are being used for the operation of a landscaping business.

**SPECIAL EXCEPTION STANDARDS**

§18-11-132 of the Anne Arundel County Zoning Ordinance sets forth the specific requirements for a landscaping and tree contracting facility special exception. Additionally, all special exceptions are subject to the general standards contained in §18-16-304 of the Zoning Ordinance.

### **REQUESTED VARIANCES**

§18-11-132 (2) of the Anne Arundel County Zoning Ordinance requires all vehicular access to the site shall be directly from a collector or higher classification road. The property access is from a local road requiring a variance to this provision.

§18-11-132 (3) of the Anne Arundel County Zoning Ordinance, requires buildings and outdoor areas to be used for parking, loading or storage of vehicles, equipment, tools, and supplies be delineated on a site development plan and located at least 50 feet from all property lines and public roads, and provides that maximum coverage for outdoor storage may not exceed 20% of the total lot area. The gravel driveway and connected gravel pad for outside storage, parking and loading area is located 15 feet from the side lot line and as close as 25 feet from the rear lot line requiring variances of 35 feet and 25 feet, respectively.

### **FINDINGS**

This Office finds that the subject property is irregularly shaped and meets the minimum lot area requirement and the lot width requirement for a lot in an RA District. According to state tax assessment records the dwelling was built on the property in 1986.

A review of the County aerial photograph from 2020 reveals five large residential properties sharing a cul-de-sac at the end of Winding Brook Lane, designated as a local road.

The applicants purchased the property on November 1, 2005. The aerial photo from 2007 shows the beginning of a driveway on the north side of the property into the rear yard. In the 2010 aerial photo the driveway area appears to be a gravel surface. In 2010 a large area of gravel appeared in the rear yard. A permit for a detached garage (B02341880) was issued on March 13, 2017 and finally completed on September 21, 2017 with residential setbacks.

The applicants' letter attests to the fact that the landscaping business has been operating from the site for 15 years, which is prior to the garage improvement. The letter states that the applicants have received five letters of support from nearby neighbors.

The **Health Department** reviewed the on-site sewage disposal system and well water supply system and have determined that the proposed request does not adversely affect the on-site sewage disposal and well water systems. The Department has no objection to the request as long as there are no finished living spaces or bathroom facilities in the detached building. If there are bathroom facilities or living spaces in the building, the septic system will have to be evaluated and all sewer lines from the garage must be connected to the existing septic system of the house.

The **Long Range Planning Division** commented that this proposal is within Region Planning Area 8. The Region Plan process for Region 8 is anticipated to begin in April, 2024. Plan2040 retains Rural planned land use and the Rural Development Policy Area designation. The proposal is generally consistent with the goals, policies, and recommendations of Plan2040. The site is in the No Public Service sewer and water categories in the Rural Service areas. The proposal is consistent with the 2017 Water and Sewer Master Plan.

The **Development Division (Regional Team)** reviewed the project offering comments regarding the need for a Preliminary and Site Development Plan. A comprehensive review of the proposed development will occur at that time. While landscaping buffers have been identified a landscaping review will be addressed at the Site Development Plan process. Additional planting and/or fencing may be required. They also noted that the proposed driveway does not comply with the 24-foot minimum width requirement for two-way traffic found in Article 17-6-603 and must be widened.

The **Department of Inspections and Permits (Engineering Division)** commented that there are no engineering objections to approval of the requested special exception. The request has been deferred to the Zoning Division on whether the application meets the Special Exception standards.

The property is the subject of an open compliance case; Z-2019-872 was filed June 21, 2019 for “commercial use in a residential zone”. A prior case for “commercial vehicle complaint” was opened March 25, 2015 under case Z-2015-198. The case was closed June 24, 2015 with no evidence of a business.

With regard to the specific special exception requirements, this Office submits the following findings:

1. The facility shall be located on a lot of at least two acres. *The subject site at 2.034 acres meets the two-acre minimum area requirement.*
2. All vehicular access to the site shall be directly from a collector or higher classification road. *Vehicular access to the landscaping facility is from a private right-of-way. A variance to this requirement has been requested.*
3. Buildings and outdoor areas to be used for parking, loading or storage of vehicles, equipment, tools, and supplies shall be delineated on a site development plan and located at least 50 feet from all property lines and public roads, and maximum coverage for outdoor storage may not exceed 20% of the total lot area. *The allowable storage area is 4,136 square feet. The applicants write that the area currently in use for outside storage is 2,350 square feet. The site plan delineates a 50 foot setback line and the proposed outside storage. Parking and loading areas are marked but not delineated as a specific area. These areas will not meet the required 50' setback and a setback variance has been requested.*
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. *There is neighboring opposition to this landscaping operation as evidenced by the violation therefore, the applicants must demonstrate to the hearing officer that no nuisance exists.*
5. Hours of operation shall be limited to 7:00 a.m. to 6:00 p.m. *The applicants shall comply with this requirement.*
6. Accessory outdoor storage and parking areas shall be screened from neighboring properties in accordance with the Landscape Manual. *The special exception requires the administrative site plan demonstrates the applicants' ability to comply with the requirements of the Landscape Manual. It does not comply.*
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. *The applicants shall comply with this requirement.*

Concerning the general special exception standards, it is the opinion of this Office that the proposed use will be detrimental to the public health, safety, or welfare as the access is from a local road and through a neighborhood of local roads. The use on a local road is not compatible with the RA – Rural Agricultural District. The applicants must provide sufficient evidence that the proposed facility would be no more objectionable with regard to noise, fumes, vibration, or light than other permitted uses. The proposed use would not conflict with existing or programmed public uses. The proposed use is consistent with the Rural planned land use. The Health Department has no objection to the use provided there are no finished living spaces or bathroom facilities in the detached building. The applicants have not provided evidence of public need. And finally, the administrative site plan does not demonstrate the applicants' ability to comply with the requirements of the Landscape Manual.

The standard for granting a variance is whether because of certain unique physical conditions strict compliance of the zoning ordinance regulations would result in practical difficulty or unnecessary hardships. Variances should only be granted if in strict harmony with the spirit and intent of the zoning regulations and only in such a manner as to grant relief without substantial injury to the public health, safety and general welfare. The need sufficient to justify a variance must be substantial and urgent and not merely for the convenience of the applicants. No unique conditions have been shown to allow access from a road other than a collector or higher classification road or to grant setback variances for the garage, outside storage, parking and loading area. Additionally, it is apparent this request is the result of actions by the applicants specifically, commencing with development before an application for a variance was filed.

As the request is not warranted it cannot be considered the minimum necessary to afford relief.

### **RECOMMENDATION**

Based upon the standards set forth under § 18-16-305 under which a variance may be granted the Office of Planning and Zoning recommends *denial* of a zoning variance to §18-11-132 (2) to allow access from a road other than a collector or higher classification road; and *denial* of zoning variances to §18-11-132 (3) to perfect the crushed asphalt driveway and connected storage area that is located as close as 15 feet from the side lot line and 25 feet from the rear lot line requiring variances of 35 feet and 25 feet respectively.

Accordingly, based upon the standards set forth under § 18-16-304 under which a special exception may be granted the Office of Planning and Zoning recommends *denial* of a special exception to perfect a landscaping and tree contracting facility in an RA – Rural Agricultural District.

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

open compliance case 2-2019-872

For Office Use Only

CASE # 2021-0071-S  
FEE PAID 1235  
DATE 4/16/2021



For Office Use Only

ZONE RA  
CRITICAL AREA: IDA \_\_\_ LDA \_\_\_ RCA \_\_\_  
BMA: Yes \_\_\_ No \_\_\_  
NO. OF SIGNS 1

SPECIAL EXCEPTION APPLICATION

NOTE: This form can be downloaded to your computer and filled out utilizing Adobe Reader (or similar product). It can also be printed and filled out by hand.

Applicant(s): RONALDO & MIRNA TEJADA

(Applicant must have a financial, contractual, or proprietary interest in the property)

Property Address: 4605 WINDING BROOKE LANE, LOTHIAN MD 20711

Property Location: 149.83' feet of frontage on the ( EAST ) side of WINDING BROOKE LANE ;  
300' feet ( SOUTH ) of (Nearest intersecting street) DECESARIS DRIVE .

12-digit Tax Account Number 08-889-90033523 Tax District ( 8TH ) Council District ( 7TH )

Waterfront Lot: Y  N Corner Lot: Y  Deed Title Reference 18878/648

Zoning District RA Lot # 8 Tax Map 67 Block/Grid 20 Parcel 73

Area 2.034 AC. ( 88,613 SF' ) Subdivision Name WINDING BROOKE

Description of Special Exception Requested (Brief, detail fully in letter of explanation)

SPECIAL EXCEPTION IS REQUIRED FOR LANDSCAPING AND TREE CONTRACTING IN ORDER TO  
RECOGNIZE THE SITE AND CURRENT USE.

The applicant hereby certifies that he or she has a financial, contractual, or proprietary interest equal to or in excess of 10 percent of the property; that he or she is authorized to make this application; that the information shown on this application is correct; and that he or she will comply with all applicable regulations of Anne Arundel County, Maryland.

Applicant's Signature Ronaldo E Tejada Owner's Signature Mirna Tejada

Print Name RONALDO & MIRNA TEJADA Print Name RONALDO & MIRNA TEJADA

Mailing Address 4605 WINDING BROOKE LANE Mailing Address 4605 WINDING BROOKE LANE

City, State, Zip LOTHIAN, MD 20711 City, State, Zip LOTHIAN, MD 20711

Work Phone (410) 212-3870 Work Phone (410) 212-3870

Home Phone N/A Home Phone N/A

Cell Phone (410) 216-3870 Cell Phone (410) 216-3870

Email Address MARVINSLANDSCAPING@VERIZON.NET Email Address MARVINSLANDSCAPING@VERIZON.NET

\*\*\* Below For Office Use Only \*\*\*

Application accepted by Anne Arundel County Office of Planning and Zoning: SLA 4/16/2021  
Initials Date

Special Exception to perfect a landscaping and tree contracting establishment in an RA-Rural Agricultural District

open compliance case 2-2019-872

For Office Use Only

CASE # 2021-0072-V  
FEE PAID 515 -  
DATE \_\_\_\_\_



For Office Use Only

ZONE RA  
CRITICAL AREA: IDA \_\_\_ LDA \_\_\_ RCA \_\_\_  
BMA: Yes \_\_\_ No \_\_\_  
NO. OF SIGNS 1

VARIANCE APPLICATION

NOTE: This form can be downloaded to your computer and filled out utilizing Adobe Reader (or similar product). It can also be printed and filled out by hand.

Applicant(s): RONALDO & MIRNA TEJADA  
(Applicant must have a financial, contractual, or proprietary interest in the property)

Property Address: 4605 WINDING BROOKE LANE, LOTHIAN MD 20711

Property Location: 149.83' feet of frontage on the ( EAST ) side of WINDING BROOKE LANE ;  
300' feet ( SOUTH ) of (Nearest intersecting street) DECESARIS DRIVE

12-digit Tax Account Number 08-889-90033523 Tax District ( 8TH ) Council District ( 7TH )

Waterfront Lot: Y  Corner Lot: Y  Deed Title Reference 18878/648

Zoning District RA Lot # 8 Tax Map 67 Block/Grid 20 Parcel 73

Area 2.034 AC. ( 88,613 SF. ) Subdivision Name WINDING BROOKE

Description of Proposed Project and Variance Requested (Brief, detail fully in letter of explanation)  
REQUESTING VARIANCE FOR : USE OF LOCAL ROAD AND REDUCED PARKING LOADING SETBACK.

The applicant hereby certifies that he or she has a financial, contractual, or proprietary interest in the property; that he or she is authorized to make this application; that the information shown on this application is correct; and that he or she will comply with all applicable regulations of Anne Arundel County, Maryland.

Applicant's Signature Ronaldo E Tejada Owner's Signature Mirna Tejada

Print Name RONALDO E. TEJADA Print Name MIRNA TEJADA

Mailing Address 4605 WINDING BROOKE LANE Mailing Address 4605 WINDING BROOKE LANE

City, State, Zip LOTHIAN, MD 20711 City, State, Zip LOTHIAN, MD 20711

Work Phone (410) 212-3870 Work Phone (410) 212-3870

Home Phone N/A Home Phone N/A

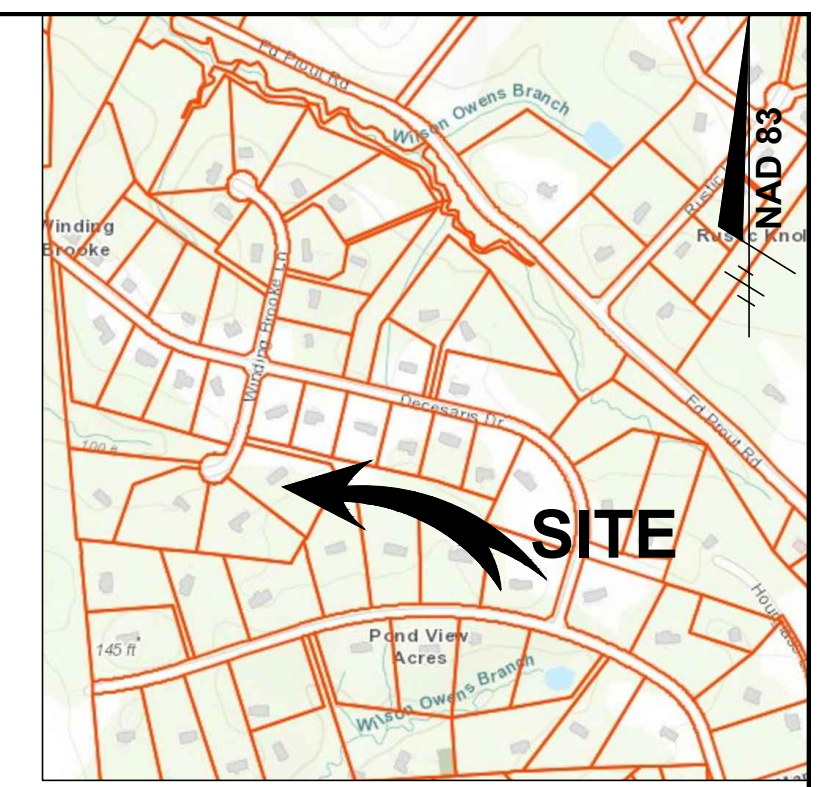
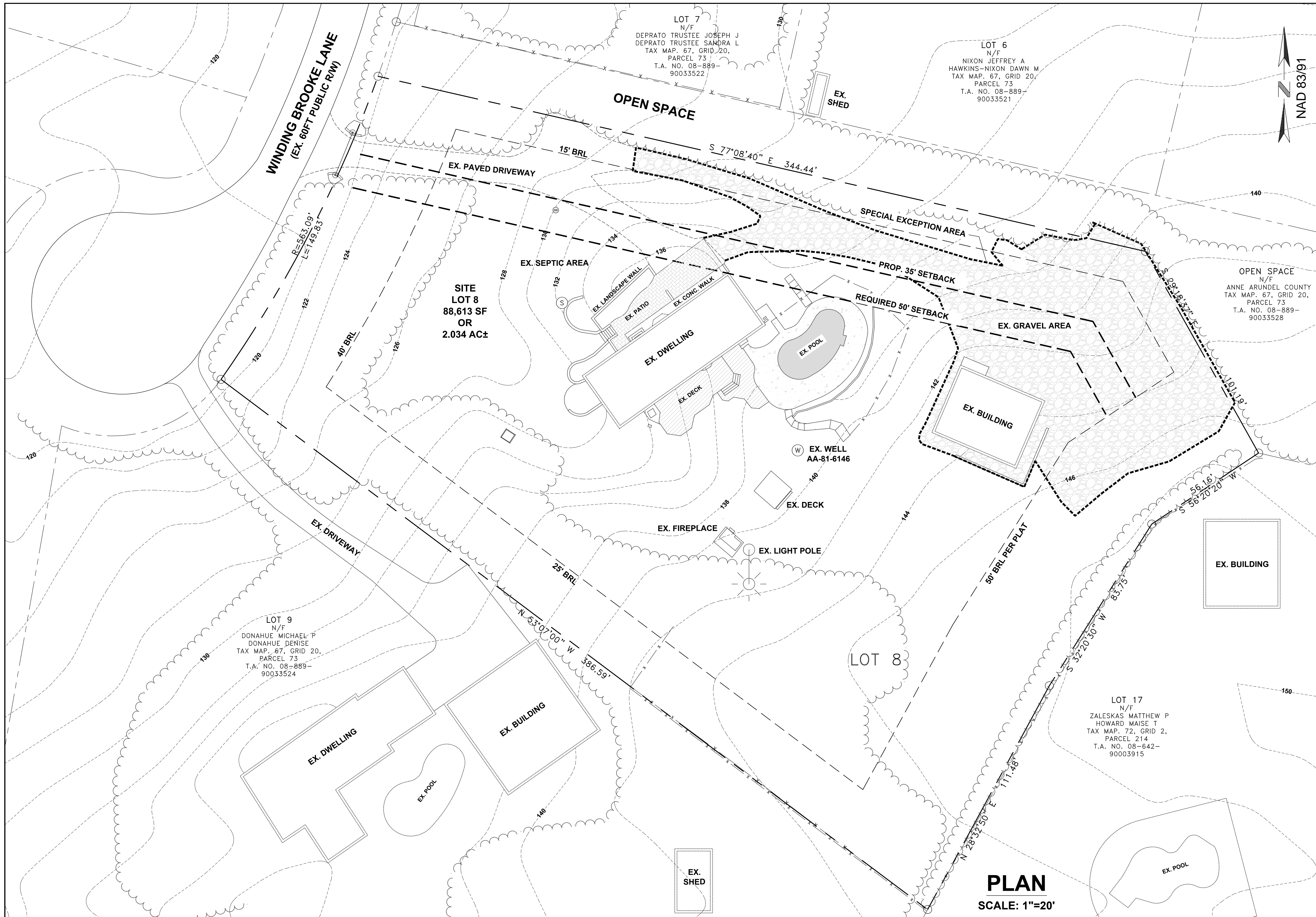
Cell Phone (410) 212-3870 Cell Phone (410) 212-3870

Email Address MARVINLANDINGSCAPING@VERIZON.NET Email Address MARVINLANDSCAPING@VERIZON.NET

\*\*\* Below For Office Use Only \*\*\*

Application accepted by Anne Arundel County Office of Planning and Zoning: SLA 4/16/2021  
Initials Date

Variance to perfect a landscaping and tree contracting establishment with less setbacks than required and with vehicular access from a local road.



VICINITY MAP  
Scale: 1"=2000'

**GENERAL NOTES**

- TOTAL AREA OF SITE IS 2.034 AC.± = 88,613 SQUARE FEET.
- EXISTING ZONING IS: RA  
SETBACKS: FRONT- 40 FEET  
REAR- 50 FEET (PER PLAT)  
SIDE- 15/40 FEET
- EXISTING USE OF THE SITE IS A RESIDENTIAL DWELLING
- PROPOSED USE OF THE SITE IS RESIDENTIAL/LANDSCAPE CONTRACTOR
- SITE IS KNOWN AS - LOT 8 -4605 WINDING BROOKE LANE
- PRIVATE WATER AND SEWER TO BE UTILIZED.
- F.E.M.A. #24003C0285E ZONE X ELEV. N/A
- SITE IS NOT IN THE CRITICAL AREA ZONE.
- THIS SITE IS NOT LOCATED WITHIN THE SEVERN RIVER WATERSHED.
- THE SITE IS NOT IN A BOG PROTECTION AREA
- WINDING BROOKE LANE IS NOT A SCENIC OR A HISTORIC ROAD.

**LEGEND**

- EXISTING CONTOUR ——— 42 ———
- PROPOSED CONTOUR ——— 40 ———
- 15% < 25% STEEP SLOPES
- 25% > STEEP SLOPES
- EXISTING SPOT ELEVATION ——— 45.00
- PROPOSED SPOT ELEVATION 45.00
- EXISTING TREE LINE
- EXISTING BUILDING
- STORM DRAIN
- EXISTING SEWER
- EXISTING FORCE MAIN
- EXISTING WATER
- EXISTING ELECTRIC
- EXISTING FENCE
- EX. WETLANDS
- BUILDING RESTRICTION LINE

**PLAN**  
SCALE: 1"=20'

PROFESSIONAL CERTIFICATION: I HEREBY CERTIFY THAT THESE DOCUMENTS WERE PREPARED OR APPROVED BY ME, AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MARYLAND, LICENSE #. 13354, EXPIRATION DATE: 2/28/23. (CORPORATE LICENSE #48856, EXPIRATION DATE: 2/28/2022)

REVISION BLOCK			
NO.	DATE	DESCRIPTION	BY

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**OWNER**  
TEJADA RONALDO E  
TEJADA MIRNA Y  
4605 WINDING BROOKE LANE  
LOTHIAN MD 20711



**TERRAIN, INC.**  
LAND ENGINEERING & DEVELOPMENT SERVICES  
106 OLD SOLOMON'S ISLAND ROAD  
ANNAPOLIS, MARYLAND 21401  
410-266-1160 FAX (410) 266-6129  
E-MAIL: TERRAIN@COMCAST.NET

SPECIAL EXCEPTIONS SITE PLAN	
<b>WINDING BROOKE LOT 8</b>	
4605 WINDING BROOKE LANE LOTHIAN, MD 20711	
TAX MAP#7, GRID 20, PARCEL 73 TAX ACCT#08-889-90033523 ZONING:RA 8th TAX DISTRICT ANNE ARUNDEL COUNTY, MARYLAND	
DATE: MARCH, 2021	DRAWN BY: D.J.B.
SCALE: AS SHOWN	CHECKED BY: R.C.L.
SHEET: 1 OF 1	TERRAIN JOB NO. 2967