

Background

Currently, landscaping services are principally permitted in A-R Rural Agricultural, B-5 Business/Industrial, I-1 Light Industrial, and I-2 Heavy Industrial zones. Landscaping services are conditionally permitted in the A-U Urban Agricultural zone. In B-3 Highway Business and B-4 General Business zones, landscaping services are permitted as accessory uses to retail sale of plant, nursery or greenhouse items and are prohibited when not an accessory use to a retail establishment.

Because landscaping uses are permitted as accessory uses, it is believed that there is merit in conditionally allowing landscaping services when not in conjunction with a retail use. It would seem that the basis of landscaping services being prohibited in commercial zones would stem from the possible nuisances that could occur with a landscaping service, including the aesthetics of the storage of landscaping products on the site, potential chemical use on the site and other activities that are typically associated with landscaping services. By allowing it as an accessory use, all of the potential detriments to the area are permitted by virtue of establishing a retail use of plant, nursery or greenhouse items on the property. There is no limit in the ordinance on the scope of the accessory landscaping service as long as it occurs in conjunction with retail sales.

By conditionally permitting landscaping services in the B-3 and B-4 zones, there is provided an opportunity for review of these sites. The OMBA would have the ability to impose conditions to mitigate detriments to the neighborhood or to deny an application if it could not be integrated properly into the neighborhood. Retail sales would not be required to establish a landscaping service under this proposal, and landscaping services could locate in commercial areas with a conditional use permit, allowing some flexibility of placement outside of agricultural and industrial areas. The conditional use process would also ensure that adjoining property owners have the opportunity to be informed about a decision to locate a landscaping service in the area and the forum to express opinions regarding the application.

While landscaping services can be classified as industrial or agricultural in nature, they are also commercial uses that are a service type business rather than a manufacturing environment like many industrial uses. Landscaping services are agricultural in terms of plant and nursery products they may provide, but really extend beyond the agricultural use by selling a commercial service.

In 1997, the zoning ordinance was amended to replace the term “horticultural service” with the use “landscaping service.” At that time, a change was made to conditionally

permit landscaping services in the A-U Urban Agricultural zone.

As landscaping services can be characterized as hybrid uses fitting into several classifications, a provision to conditionally permit them in the B-3 and B-4 is reasonable with review of their location and integration subject to review and approval by the Owensboro Board of Adjustment.

Finding

The staff recommends approval of the proposed text amendments with the following findings of fact:

1. Landscaping services are currently permitted as accessory uses in the B-3 Highway Business and the B-4 General Business zone without review of the OMBA;
2. Landscaping services provide a **commercial service** that could be compatible in Highway Business and General Business zones if properly integrated into the district; and,
3. Conditionally permitting landscaping services in the B-3 and B-4 zones would require review by the OMBA to assure proper integration into the commercial area; and,
4. The conditional use permit process ensures that adjoining property owners are notified and have the opportunity to address the location of the landscaping service in the area.