

ORDINANCE NO. 2177

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A MULCH FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 2.20 ACRES, MORE OR LESS

WHEREAS, on the 1st day of June 2010, a conditional use application, denominated Conditional Use No. 1867 was filed on behalf of Lawson's Produce, LLC; and

WHEREAS, on the 28th day of October 2010, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 10th day of November 2010, said Planning and Zoning Commission recommended that Conditional Use No. 1867 be approved with conditions; and

WHEREAS, on the 16th day of November 2010, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County determined, based on the findings of facts, that said conditional use is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and that the conditional use is for the general convenience and welfare of the inhabitants of Sussex County.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 1867 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land, lying and being situate in Broadkill Hundred, Sussex County, Delaware, and lying east of Route 5, south of Railroad and 1,700 feet south of Route 9 and being more particularly described as:

FROM a point on the easterly right-of-way of Route 5, a corner for these lands and lands of David L. Chicosky; thence North 66°44'34" east 195.00 feet, along said Chicosky lands to a concrete monument, the beginning point; thence North 25°16'10" west 155.42 feet along lands of Robert L. and Diana R. Lawson ("Lawson's Produce") to an iron rod on the southerly right-of-way of railroad; thence north 67°44'38" east 514.68 feet along

the southerly right-of-way of Railroad to a point; thence southwesterly across lands of The Community of Beaver Creek, LLC the following three (3) courses: south 00°52'00" west 164.88 feet to a point; south 50°30'29" west 226.73 feet to a point; and south 65°00'13" west 221.56 feet to a point on line with lands of David L. Chicosky; thence north 25°16'10" west 74.31 feet along said Chicosky lands to the point and place of beginning and containing 2.20 acres, more or less, per survey by Miller-Lewis, Inc.

This Ordinance shall take effect immediately upon its adoption by majority vote of all members of the County Council of Sussex County, Delaware.

This Ordinance was adopted subject to the following conditions:

1. The use shall be limited to a mulching facility only. There shall not be any composting permitted on the site. No lumber, stumps or construction waste shall be accepted at the site.
2. Grinding and dyeing or processing hours will be limited to 9:00 a.m. to 6:00 p.m. Monday through Saturday.
3. There shall be no grinding or dyeing operations within 100 feet of any neighboring property line. The areas set aside for grinding and dyeing shall be shown on the Final Site Plan.
4. There shall not be any mulch storage within 20 feet of any neighboring property line. The areas set aside for mulch storage shall be shown on the Final Site Plan.
5. Water shall be available to control dust and for fire prevention within the site.
6. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2177 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 1ST DAY OF FEBRUARY 2011.


ROBIN A. GRIFFITH
CLERK OF THE COUNCIL

The Council found that the Conditional Use was appropriate legislative action based on the following Findings of Fact:

- 1. This is an application for a Conditional Use of land in an AR-1 Agricultural Residential District for a mulch facility to be located on a certain parcel of land lying and being in Broadkill Hundred, Sussex County, Delaware, containing 2.20 acres, lying east of Route 5, south of Railroad and 1,700 feet south of Route 9.**
- 2. DelDOT commented that a Traffic Impact Study was not recommended; that the Level of Service E of Seashore Highway will not change as a result of this application; and that the Level of Service C of Indian Mission Road will not change as a result of this application.**
- 3. The Sussex Conservation District commented that the Applicant will be required to follow recommended erosion and sediment control practices during any construction and to maintain vegetation; that no storm flood hazard areas or tax ditches are affected; that the proposed project will not necessitate any off-site drainage improvements; and that it is not likely that the proposed project will necessitate any on-site drainage improvements.**
- 4. The County Engineering Department Utility Planning Division commented that the site is located in the North Coastal Planning Area; that the use of an on-site septic system is proposed; that conformity to the North Coastal Planning Study will be required; that the proposed project is not in an area where the County currently plans to provide sewer service.**
- 5. The current operation currently employs 3 to 4 workers; the current mulch operation receives chipped, processed (pre-chipped) tree materials from several local tree service companies; these materials are collected free-of-charge and provide a natural alternative to dumping them in local landfills; tree chips are stockpiled until they are needed for the mulch processing; materials are not composted on the property; stumps are not accepted; the facilities are adjacent to the family farm which has been in operation for more than 68 years; ingress and egress to the facility will not have to be altered; and the entrance is 90 feet wide and was installed by DelDOT.**

6. **The use is of a public or semi-public character and the Applicant performs services for both residential and agricultural uses in this area of Sussex County.**
7. **The proposed use will not adversely affect traffic or area roadways.**
8. **The proposed use will not adversely affect the neighboring and adjacent properties.**
9. **Based on the record, the recommendation of the Planning & Zoning Commission, and the record created before the Council, the Conditional Use was approved subject to six (6) conditions which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**