

ORDINANCE NO. 2209

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A LAWN MAINTENANCE AND TREE CUTTING COMPANY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 1.735 ACRES, MORE OR LESS

WHEREAS, on the 10th day of March 2011, a conditional use application, denominated Conditional Use No. 1893 was filed on behalf of Toby L. Schlick; and

WHEREAS, on the 12th day of May 2011, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 1893 be approved with conditions; and

WHEREAS, on the 7th day of June 2011, 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. 1893 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 Indian River Hundred, Sussex County, Delaware, and lying at the southwest corner of Mt. Joy Road (Road 297) and Cordrey Road (Road 308) and being more particularly described in Deed Book 2270 at Page 249 in the Office of the Recorder of Deeds in and for Sussex County, said parcel containing 1.735 acres, more or less.

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. One lighted sign shall be permitted, not to exceed 32 square feet in size per side.**
- 2. There shall not be any retail sales from the site.**
- 3. All mulch, dirt, stone, and similar materials shall be enclosed or stored in bins. The location of bins or enclosures shall be shown on the Final Site Plan.**
- 4. The dumpster shall be enclosed.**
- 5. No stump grinding, crushing operations or similar mechanical operations that create excessive noise or vibrations shall be permitted.**
- 6. The Applicant shall comply with all agency requirements, including DelDOT and the Sussex Conservation District.**
- 7. 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. 2209 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 7TH DAY OF JUNE 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 to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a lawn maintenance and tree company to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, Delaware, containing 1.735 acres, more or less, lying on the southwest corner of Mt. Joy Road (Road 297) and Cordrey Road (Road 308).**
- 2. DelDOT commented that a Traffic Impact Study was not recommended and that the current Level of Service B of Mt. Joy Road (Road 297) and that the current Level of Service A of Cordrey Road (Road 308) will not change as a result of this application.**

- 3. The Applicant operates a lawn maintenance business and a tree service business; he has been in operation for approximately 12 to 15 years; he started the business in the Coolspring area; his neighbors have voiced no objections to the use of the site; he lives immediately adjacent to the site; his employees show up for work, get some materials or equipment and go to job sites; he occasionally cuts firewood for himself and friends, not for retail; he does store some mulch and top soils on the site; and there are no retail sales from the site.**
- 4. The Applicant employs three (3) staff for his tree service business and three (3) staff for his lawn maintenance business, two (2) office staff, and himself. The business is operational six (6) days per week with seasonal hours of 7:00 a.m. to 7:00 p.m.**
- 5. The proposed use will not adversely affect traffic or area roadways.**
- 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 the neighboring and adjacent properties.**
- 8. Based on the record and recommendation of the Planning and Zoning Commission and the record created before the Council, the Conditional Use was approved subject to seven (7) conditions which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**