

ORDINANCE NO. 2236

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A YARD WASTE AND COMPOSTING FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 17.011 ACRES, MORE OR LESS

WHEREAS, on the 26th day of August 2011, a conditional use application, denominated Conditional Use No. 1913 was filed on behalf of Jeremy W. Smith; and

WHEREAS, on the 27th day of October 2011, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 8th day of December 2011, said Planning and Zoning Commission recommended that Conditional Use No. 1913 be approved with conditions; and

WHEREAS, on the 15th day of November 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. 1913 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 Baltimore Hundred, Sussex County, Delaware, and lying west of Road 347 (White's Neck Road), 1,850 feet south of Road 349 (Old Mill Road) and being more particularly described per the attached legal description by Simpler Surveying & Associate, Inc., said parcel containing 17.011 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. The use shall be limited to an organic yard waste composting facility only. No poultry manure, sludge or other agricultural or solid or liquid wastes shall be accepted at the site. No lumber, stumps, or construction waste shall be accepted at the site.**
- 2. The use shall comply with all DNREC and Sussex Conservation District requirements and permits necessary for the Organic Yard Waste Composting Facility.**
- 3. The Applicant shall install a 20-foot landscaped buffer between the roadway and the common boundary between the site and Lots 12 through 18 of the Squirrel's Run development. The buffer area shall comply with the requirements for buffers set forth in Section 99-5 of the Sussex County Code. The buffer area shall be shown on the Final Site Plan.**
- 4. As offered by the Applicant, there shall be a 50 foot buffer along the rear of the site.**
- 5. Sales, composting, and processing hours will be limited to 9:00 a.m.to 6:00 p.m., Monday through Friday, and 9:00 a.m. to noon on Saturday. No Sunday hours shall be permitted.**
- 6. There shall be no composting, grinding, processing or mulch storage operations within 300 feet of any neighboring property line. The areas set aside for composting, grinding, and processing shall be shown on the Final Site Plan.**
- 7. The areas set aside for any mulch storage shall be shown on the Final Site Plan. Processed mulch shall be stored in bins as shown on the Final Site Plan.**
- 8. Delivery hours will be limited to 9:00 a.m. to 6:00 p.m., Monday through Friday, and 9:00 a.m. to noon on Saturday, with no Sunday hours. The site shall be gated at the entrance along White's Neck Road so that after-hours deliveries or dumping do not occur.**
- 9. Water shall be available to control dust and for fire prevention within the site.**
- 10. The site shall have one (1) non-illuminated on-premise sign not to exceed 32 square feet per side.**
- 11. Any security lighting shall not shine on neighboring roadways or properties.**
- 12. 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. 2236 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 7TH DAY OF FEBRUARY 2012.


ROBIN A. GRIFFITH
CLERK OF THE COUNCIL

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

- 1. This is an application to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a yard waste and composting facility to be located on a certain parcel of land lying and being in Baltimore, Hundred, Sussex County, containing 17.01 acres, more or less, lying west of Road 347 (White's Neck Road) 1,850 feet south of Road 349 (Old Mill Road).**
- 2. The Sussex Conservation District submitted comments referencing that there are four soil types on the site; that the Applicant will be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation; that no storm flood hazard areas are affected; that it is not likely that off-site drainage improvements will be required; that it is possible that on-site drainage improvements will be required; and that the Canal Ditch may possibly be affected.**
- 3. The Sussex County Engineering Department, Utility Planning Division, commented that the site is located in the North Millville Planning Area; that wastewater capacity is available; that the current System Connection Charge Rate is \$6,001.00 per EDU; that construction of a central sewer system to serve the area will be completed soon; that a connection point will be provided on the parcel's property line along Road 347 (White Neck's Road) near the parcel's northeastern property corner; that the project is capable of being annexed into the North Millville Expansion Area Sanitary Sewer District; that conformity to the South Coastal Area Planning Study – 2005 Update will be required; that the parcel is within the planning area for sewer service from the North Millville Expansion Area; that a connection point will be provided for the parcel during sewer construction to be completed by approximately the summer of 2012; that if the facility will have wastewater discharge, connection to the sewer system will be required; that prior to the sewer connection, the property owner must request annexation and complete the**

administrative procedure to have the parcel added to the sewer district; and that a Concept Plan is required prior to sewer connection.

- 4. The Applicant, Jeremy W. Smith, was present along with Mark Davidson and Doug Barry of Pennoni Associates and they stated that the proposed Conditional Use is for the recycling of yard waste, composting and sales; that they are proposing to utilize 17 acres in the center of a 39 acre property; that they acknowledge that the property is located in an Investment Level 2 Area according to the State Strategies and an Environmentally Sensitive Developing District according to the County Comprehensive Land Use Plan.**
- 5. The land is zoned AR-1 Agricultural Residential and the use is consistent with the agricultural purposes of this District. It also promotes the goals of the Conservation Element of the Sussex County Comprehensive Land Use Plan.**
- 6. The project, with the conditions and stipulations placed upon it, will not have an adverse impact on the neighboring properties, roadways or community, and that the site is fairly level and that there should be no negative runoff.**
- 7. The use will benefit the citizens and the environment of Sussex County by recycling yard waste, tree trimmings and other materials so that there will be a reduction of materials ultimately going to the landfills.**
- 8. The existing poultry house will be converted into storage and equipment storage; that no endangered species were found on the site; that the existing woodlands will remain wooded; and that no historic or cultural resources exist on the site.**
- 9. The use is of a public or semi-public character.**
- 10. The use will be limited to organic yard waste, and not poultry waste or other more objectionable materials. It will also be subject to DNREC permitting and regulations.**
- 11. Based on the record and recommendations of the Planning and Zoning Commission and the record created before Council, the Conditional Use is approved subject to twelve (12) conditions which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**