

ORDINANCE NO. 2277

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR STORAGE, MAINTENANCE AND GENERAL OFFICE FOR CONTRACTING/EXCAVATING SERVICES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 10.56 ACRES, MORE OR LESS

WHEREAS, on the 5th day of July 2012, a conditional use application, denominated Conditional Use No. 1942 was filed on behalf of Douglas L. Boozer; and

WHEREAS, on the 23rd day of August 2012, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 13th day of September 2012, said Planning and Zoning Commission recommended that Conditional Use No. 1942 be approved with conditions; and

WHEREAS, on the 18th day of September 2012, 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. 1942 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 south of Huff Road (Road 252) 2,000 feet west of Route 30 and being more particularly described in Deed Book 3354, Page 293, in the Office of the Recorder of Deeds in and for Sussex County, said parcel containing 10.56 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:

- A. There will only be one unlighted sign on the premises that shall not exceed 32 square feet on each side.**
- B. Any security lights shall only be installed on the buildings and shall be screened so that they do not shine on neighboring properties.**
- C. The hours of operation shall be 6:00 a.m. to 6:00 p.m., Monday through Friday, and 7:00 a.m. to 2:00 p.m. on Saturday.**
- D. All loading areas, storage areas and trash container areas shall be screened by the existing wooded vegetation currently located on the site, with a minimum vegetated buffer of at least 50 feet from all property lines. The buffer area shall be shown on the Final Site Plan.**
- E. As stated by the Applicant, all repair work shall be performed inside of the building and that all maintenance shall be for the Applicant's own use, on his own equipment.**
- F. All entrances and roadway improvements required by DelDOT shall be completed by the Developer as required by DelDOT.**
- G. Stormwater management and erosion and sediment control facilities shall be constructed in accordance with all applicable State and County requirements and shall be maintained utilizing best management practices.**
- H. 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. 2277 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 18TH DAY OF SEPTEMBER 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 Fact:

- 1. This is an application of Douglas L. Boozer to consider the Conditional Use of land in an AR-1 Agricultural Residential District for storage, maintenance and general office for contracting/excavating services, to be located on a certain parcel of land lying and being in Broadkill Hundred, Sussex County, containing 10.56 acres, more or less, lying south of Huff Road (Road 262) 2,000 feet west of Route 30 (Tax Map I.D. 2-35-24.00-39.13).**
- 2. The Sussex Conservation District commented on the type of soil on the site; that the Applicant will be required to follow recommended erosion and sedimentation control practices during construction and to maintain vegetation after construction; that no storm flood hazard areas or tax ditches are affected; and that it would not be necessary for any off-site drainage improvements but may be necessary for on-site drainage improvements.**
- 3. Douglas Boozer (Applicant) was present with Mark Davidson of Pennoni Associates, Inc. on behalf of the Application; that the site and surrounding parcels are predominantly wooded; that according to the State Strategies, the site is located in a Level 4 Area; that the Applicant has lived along Huff Road for approximately 19 years; that according to the 2007 Comprehensive Plan, the site is located in a Low Density Area; that the Applicant, among other things, is a licensed septic designer and installer; that the Applicant has operated an excavating business for approximately 12 years; that currently, the Applicant has five (5) employees; that the site will provide the Applicant a place to store equipment, perform maintenance on his equipment and office space for employees to meet before heading to job sites; that the site currently has a DelDOT entrance; that they have proposed a 50-foot wide buffer around the entire property; that a septic system has been approved for the site; that they currently do not have a need for a septic system, so a portable toilet is going to be utilized; that an existing well is located on the site as permitted by DNREC; and that the Applicant is in agreement on the proposed conditions.**
- 4. The proposed Conditional Use will provide a service to Sussex County residents and businesses. In addition to contracting and excavating, the Applicant is a licensed septic installer. He also provides snow removal services for County businesses and residents.**

5. **There were no parties present in support of or in opposition to the application; however, there were several letters in support.**
6. **The application meets the purposes of a Conditional Use in that it is of a public or semi-public character that is essential and desirable for the general convenience and welfare of Sussex County residents.**
7. **The project, with the conditions and stipulations placed upon it, will not have an adverse impact on the neighboring properties or community. It is in the center of a predominantly wooded area and there are no houses in close proximity to the use.**
8. **The operation of the business will not generate a significant increase in traffic or noise since the majority of the work will be conducted off-site.**
9. **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 eight (8) conditions which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**