

**ORDINANCE NO. 2283**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A TOWING SERVICE AND LANDSCAPING TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 3.374 ACRES, MORE OR LESS**

**WHEREAS, on the 9th day of April 2012, a conditional use application, denominated Conditional Use No. 1933 was filed on behalf of Mark A. Giblin; and**

**WHEREAS, on the 26th day of July 2012, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 9th day of August 2012, said Planning and Zoning Commission recommended that Conditional Use No. 1933 be approved with conditions; and**

**WHEREAS, on the 11th day of December 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. 1933 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 southeast of Route 17 (Roxana Road) 1,185 feet northeast of Road 382 (Zion Church Road) and being more particularly described in Deed Book 2493, Page 185, in the Office of the Recorder of Deeds in and for Sussex County, said parcel containing 3.374 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 impound yard shall be surrounded by a fence with landscaping to screen it from neighboring and adjacent properties, to be constructed on or before June 1, 2013.**
- 2. No more than 18 impounded vehicles shall be permitted on the property besides the Applicant's own vehicles.**
- 3. No permanently disabled or abandoned vehicles shall be allowed to remain on the property. All existing and abandoned vehicles shall be removed within 90 days.**
- 4. There shall be one lighted sign which shall not exceed 32 square feet in size to identify the towing service and the impound lot. The sign shall include a phone number to call for information about vehicles impounded and for other information about the service.**
- 5. No vehicles shall be displayed for sale.**
- 6. All security lighting shall be downward screened so that it does not shine on neighboring or adjacent properties.**
- 7. The Final Site Plan shall clearly depict the areas set aside for parking of impounded vehicles and towing equipment.**
- 8. The area set aside for the landscaping business, including equipment storage and any bins for materials such as topsoil, mulch, etc. shall clearly be depicted on the Final Site Plan.**
- 9. The landscaping business hours of operation shall be limited to 7:00 a.m. to 6:00 p.m. Monday through Saturday with no Sunday hours.**
- 10. The Final Site Plan shall include a landscaping plan for the area surrounding the impound yard screening it from neighboring or adjacent properties.**
- 11. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

**I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2283 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 11TH DAY OF DECEMBER 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 towing service and landscaping business to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 3.374 acres, more or less, lying southeast of Route 17 (Roxana Road), 1,185 feet northeast of Road 382 (Zion Church Road) (Tax Map I.D. 5-33-6.00-60.02)**
- 2. DelDOT commented that a Traffic Impact Study is not recommended and that the current Level of Service “C” of Roxana Road will not change as a result of this application.**
- 3. The Sussex County Engineering Department, Utility Planning Division, commented that the site is located in the Roxana Planning Area; that use of an on-site septic system is proposed; that conformity to the South Coastal Area Planning Study – 2005 Update will be required; that the proposed use is not in an area where the County has a schedule to provide sewer at this time; that when the County provides sewer service, it is required that the on-site system be abandoned and a connection made to the central sewer system; and that a Concept Plan is not required.**
- 4. The Applicant, Mark A. Giblin, was present and stated that he has been operating the towing business for 12 to 13 years; that employees work from their homes since they are on call; that he thought that he had previously been approved; that since he found out that he had not been approved, he made application to become compliant; that he lives and has an office on the site; that the towing business is on call 24 hours per day; that 85% of his hauls go to other sites, primarily in the Ocean City area; that he may have 7 to 10 vehicles in the on-site impound; that the site is wooded behind the shop; that the landscaping business is an occasional use, which primarily provides topsoil and stones; that there are no automobile sales performed on the site; that all storage is to the rear of the residence; and that there will not be any activities in front of the residence.**

5. The use is on a 3.374 acre tract where the Applicant currently resides; the use has been in existence for 12 to 13 years and was recently found to be in violation for operating without an approval. This Conditional Use, with stipulations and conditions placed upon it, will regulate the use of the business and mitigate any adverse effects on the neighboring or adjacent properties.
6. Although the towing business operates from the site, the employees mostly work from their homes, since they are on call. As a result, there is not a great deal of traffic that is generated to or from the site.
7. The use is consistent with other small scale business uses in the area, including a bait and tackle shop on the adjacent property, an air conditioning service business, and other uses in close proximity to the site.
8. This approval shall be for towing service and landscaping and shall not be construed to include auto repair service.
9. Based on the record and recommendation of the Planning and Zoning Commission and the record created before Council, the Conditional Use was approved subject to 11 (eleven) conditions which will serve to minimize any potential impacts on the surrounding area and adjoining properties.