

ORDINANCE NO. 2285

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR THE RELOCATION OF THE ACCESS EASEMENT TO THE PROPOSED BORROW PIT (CU #1897) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 2.1571 ACRES, MORE OR LESS (Tax Map I.D. 134-7.00-186.00)

WHEREAS, on the 20th day of September 2012, a conditional use application, denominated Conditional Use No. 1949 was filed on behalf of the Banks Family Farm Preservation Trust; and

WHEREAS, on the 15th day of November 2012, 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. 1949 be approved; 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. 1949 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 east of Irons Lane (Road 348) 800 feet north of Old Mill Road (Road 349) and being more particularly described as:

BEGINNING at a point on the easterly right-of-way of Irons Lane; thence north 09°42'46" east for a distance of 50.00 feet to a point on a line; thence south 80°17'14" east for a distance of 1150.80 feet to the beginning of a curve, said curve turning to the left through an angle of 55°10'16" having a radius of 25.00 feet and whose long chord bears north 72°07'38" east for a distance of 23.15 feet to a point of intersection with a non-tangential line; thence north 44°32'30" east for a distance of 654.48 feet to the beginning of a non-tangential curve, said curve turning to the right through an angle of 25°47'05" having a radius of 75.00 feet and whose long chord bears north 57°26'03" east for a distance of 33.47 feet to a point of intersection with a non-tangential line; thence north 70°19'36" east for a distance of 15.42 feet to a point on a line; thence south 05°52'53" west for a distance of 57.43 feet to the beginning of a non-tangential curve, said curve turning to the left through an angle of 03°48'43" having a radius of 25.00 feet and whose long chord bears south 46°26'52" west for a distance of 1.66 feet to a point of intersection with a non-tangential line; thence south 44°32'30" west for a distance of 654.48 feet to the beginning of a non-tangential curve, said curve turning to the right through an angle of 55°10'16" having a radius of 75.00 feet and whose long chord bears south 72°07'38" west for a distance of 69.46 feet to a point of intersection with a non-tangential line; thence north 80°17'14" west for a distance of 1150.80 feet to the POINT OF BEGINNING; said parcel containing 2.1571 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.

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2285 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 relocation of the access easement to a proposed borrow pit (Conditional Use No. 1897), to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 2.1571 acres, more or less, lying east of Irons Lane (Road 348) 800 feet north of Old Mill Road (Road 349) (Tax Map I.D. 1-34-7.00-186.00).**
- 2. The Sussex Conservation District commented that the Applicant will be required to follow recommended erosion and sedimentation control practices during construction and to maintain vegetation after construction and that no storm flood hazard area or tax ditches are affected.**
- 3. The Sussex County Engineering Department, Utility Planning Division, commented that the site is located in the Beaver Dam Planning Area; that wastewater capacity is available for the project; that Ordinance 38 construction will not be required; that central sewer service has not been extended to the area at this time; that conformity to the South Coastal Area Planning Study – 2005 Update will be required; that the County does not have a schedule to provide sewer service to the parcel at this time; that when the County does provide 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 at this time.**
- 4. This application is part of a borrow pit application that was previously approved by the Sussex County Council with conditions (Conditional Use No. 1897); that, as part of that approval, the area of the access road to the borrow pit operation was included in the ordinance granting the Conditional Use; that after the approval was granted, the Applicant and its land planners recognized that the road needed to be slightly relocated from where it was originally shown; that this approval simply adjusts or corrects the location of the access road so that the Final Site Plan will accurately reflect where the road is located on the ground; that the road is still located in the same general location as where it was depicted during the public hearing on Conditional Use No. 1897 and the adjustments are very minor.**

- 5. The approval of this minor adjustment to the access road location will have no impact on traffic or the neighboring public roadways or upon the primary use of the site as a borrow pit.**
- 6. There were no parties present in support of or in opposition to this application.**
- 7. 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 all of the Conditions imposed as part of Conditional Use No. 1897 which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**