

**ORDINANCE NO. 2306**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A LANDSCAPING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 0.997 ACRE, MORE OR LESS (Tax Map I.D. 2-34-11.00-56.09)**

**WHEREAS, on the 8th day of March 2013, a conditional use application, denominated Conditional Use No. 1961 was filed on behalf of Rendall Whibley and Ann Marie Whibley; and**

**WHEREAS, on the 25th day of April 2013, 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. 1961 be approved with conditions; and**

**WHEREAS, on the 21st day of May 2013, 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. 1961 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 southwesterly side of Angola Road (Road 277) approximately 300 feet southeast of John J. Williams Highway (Route 24) and being more particularly described in Deed Book 4031, Page 164 in the Office of the Recorder of Deeds in and for Sussex County, said parcel containing 0.997 acre, more or less, per survey by Pennoni Associates, Inc.**

**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 a landscaping business without any retail sales occurring on the site.**
- 2. No exterior storage shall be permitted on the site. All storage shall be inside of the pole building proposed by the Applicant or a similar structure.**
- 3. There shall not be any disturbance of the wetlands located on the site.**
- 4. Any security lighting shall be downward screened so that it does not shine on neighboring properties or roadways.**
- 5. One sign, lighted or unlighted, shall be permitted. It shall be no larger than 32 square feet per side.**
- 6. The hours of operation, as proposed by the Applicant, shall be from 7:00 a.m. to 6:00 p.m. Monday through Friday, and 7 a.m. to Noon on Saturdays.**
- 7. All equipment repairs shall occur indoors.**
- 8. 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. 2306 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 21ST DAY OF MAY 2013.**



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**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 for a Conditional Use of land in an AR-1 Agricultural Residential District for a landscaping business to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 0.997 acres, more or less, lying on the southwesterly side of Angola Road (Road 277) approximately 300 feet southeast of John J. Williams Highway (Route 24) (Tax Map I.D. 2-34-11.00-56.09).**
- 2. The Sussex County Engineering Department, Utility Planning Division, commented that the site is located in the Angola Neck Planning Area; that System Connection Charge Rates are unknown at this time; that sewer service has not been extended to the parcel; that an on-site septic system will be utilized; that when the County provides sewer service, a connection to the system will be mandatory; that the County does not**

have a firm schedule to provide sewer service at this time; and that a Concept Plan is not required.

3. The Sussex Conservation District commented that the Applicant will be required to follow recommended erosion and sediment control practices during any construction and to maintain vegetation; that no storm flood hazard areas or tax ditches are affected; and that it is not likely that any on-site or off-site drainage improvements will be required.
4. The Applicant, Rendall Whibley, was present along with Doug Barry, P. E. of Pennoni Associates, Inc. They stated that they are requesting approval to operate a landscaping business on the site; that a 40' by 50' pole building is proposed; that the pole building, driveway, and parking for employees will be installed first; that the dwelling on the site plan is proposed and may be occupied by the Applicant, an employee, or may be a rental; that no retail sales are proposed; that the Applicant has three (3) trucks and three (3) trailers that will be stored outside; that no equipment or materials are proposed to be stored outside; that it is the Applicant's intent to store all equipment and materials in the pole building; and that there are other conditional use sites in the area.
5. The Applicant, Rendall Whibley, stated that the site is located in an Investment Level 3 Area according to the State Strategies; that the site is located in a Developing Area according to the Comprehensive Plan Update; that a soil evaluation has been completed; that a wetlands delineation has been performed; that they are planning on installing a rain garden for stormwater management; that DelDOT did not require a Traffic Impact Study; that the proposed improvements are not located within a flood plain; that no development will take place in any environmental areas; that there will not be any water or septic on the site until the dwelling is constructed; that a porta-toilet will be available on the site; that business hours are proposed to be from 7:00 a.m. to 6:00 p.m. weekdays, and 7:00 a.m. to 12:00 Noon on Saturday; that they realize they will be required to obtain agency approvals; that eight (8) employees are anticipated; that they have not considered any security measures to date; and that the site will not be gated and/or fenced.
6. The site is zoned AR-1 and the proposed use for a landscaping business is consistent with the agricultural zoning; the proposed use is consistent with the current Comprehensive Plan for Sussex County; the use is consistent with other agricultural

uses in the area and small-scale business uses that exist nearby; and it will not adversely affect neighboring properties.

7. There will be no retail sales from the site, so there will be little, if any, impact on traffic or area roadways.
8. There were no parties present in support of or in opposition to this application.
9. Based on the record and recommendation of the Planning & Zoning Commission and the record created before 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.