

ORDINANCE NO. 2365

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A NURSERY AND LANDSCAPING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 5.436 ACRES, MORE OR LESS

WHEREAS, on the 3rd day of April 2014, a conditional use application, denominated Conditional Use No. 1990 was filed on behalf of Olsen Enterprises, Inc.; and

WHEREAS, on the 10th day of July 2014, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 24th day of July 2014, said Planning and Zoning Commission recommended that Conditional Use No. 1990 be approved with conditions; and

WHEREAS, on the 16th day of September 2014, 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. 1990 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 Dagsboro Hundred, Sussex County, Delaware, and lying northwest of Road 431 (Shortley Road) 600 feet south of Road 471 (Paradise Road) and being more particularly described as:

BEGINNING at a concrete monument on the northwesterly right-of-way of Road 431 (Shortly Road), a corner for these subject lands and lands, now or formerly, of Mary E. Myers; thence South 31°33'54" West 853.84 feet along the northwesterly right-of-way of Road 431 to a concrete monument; thence North 85°38'26" West 28.66 feet and North 01°09'22" East 843.51 feet along lands, now or formerly, of A. Richard Clark to an iron pipe; thence North 87°38'51" East 459.61 feet along Lots 1, 2, and 3 of the Wayne Pepper

Subdivision to an iron pipe; and thence South 00°17'49" West 136.87 feet along lands, now or formerly, of Mary E. Mears to the point and place of beginning, said parcel containing 5.436 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. The Final Site Plan shall specifically show all areas for existing and proposed greenhouses and nursery stock, as well as vehicle and truck parking. It shall also show existing and proposed storage containers on the site. Those storage containers shall be screened from view of neighboring properties.
- B. All materials and equipment storage shall be within the existing pole building.
- C. One lighted sign, not to exceed 6 square feet per side, shall be permitted.
- D. The Applicant has proposed to extensively landscape the property. The Final Site Plan shall contain a proposed landscaping plan for the site.
- E. The Applicant shall confirm on the Final Site Plan whether the ditch on the property is a Tax Ditch. If it is a Tax Ditch, all Tax Ditch Easements shall be shown on the Final Site Plan.
- F. 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. 2365 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 16TH DAY OF SEPTEMBER 2014.



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:

- A. This is the Application of Olsen Enterprises, Inc. to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a nursery and landscaping business to be located on a certain parcel of land lying and being in Dagsboro Hundred, Sussex County, containing 5.436 acres, more or less, land lying northwest of Road 431

(Shortly Road) 600 feet south of Road 471 (Paradise Road) (911 Address – 26250 Shortly Road, Georgetown, Delaware) (Tax Map I.D. #1-33-5.00-26.00).

- B. Council found that DelDOT commented that a Traffic Impact Study was not recommended and that the current Level of Service “A” of Road 431 will not change as a result of this application.**
- C. Council found that the Sussex County Engineering Department, Utility Planning Division, commented that the project is not in a proposed or current County operated and maintained sanitary sewer and/or water district; that the site is located in the Western Sussex Planning Area #5; that use of an onsite septic system is proposed; that conformity to the Western Sussex Planning Study will be required; that the proposed use is not in an area where the County has a schedule to provide sewer at this time; and that a Concept Plan is not required.**
- D. Based on testimony before the Planning & Zoning Commission and the public hearing before the Council, Council found that the Applicant, Patrick Olsen, was present with Dennis Schrader, Esquire with Morris James Wilson Halbrook & Bayard, LLP, and they stated that Mr. Olsen lives on the premises and proposes to operate a landscaping business with future greenhouses and nursery stock; that the site was previously used for a beauty shop; that the use is compatible with other agricultural uses in the area; that the State Strategies reference that this site is located in an Investment Level 4 Area which supports agricultural uses; that an on-site mound septic system and on-site well already exists; that the mound septic system is screened; that there are no wetlands on the site; that Mr. Olsen has been in this type of business since 2008 and has been working in this industry since 2002; that the company provides contracting services in Delaware and Maryland, and provides full service for landscaping, hardscaping, and irrigation; that they do some snow removal in the winter months; that he normally has 8 to 12 employees, but less in the winter months; that their work season runs from April through November; that a new DelDOT entrance is proposed to serve the business; that there are existing storage containers on the site; that the only other storage outside will be vehicles and work trailers; that the company has seven (7) diesel trucks; that there is very limited business activity on the site; that the employees come in to the site to pick up the trucks to go to job sites; that normal business hours are**

from 6:00 a.m. to 6:00 p.m.; that material and equipment storage will be in the pole building; that Mr. Olsen hopes to start a nursery stock area in front of the pond to benefit his business and the appearance of the property; that they would like to erect a lighted sign to advertise the business; that the applicant is hoping that the landscaping for his dwelling is good advertising; that the entire area around the pole building is planned for landscape screening; that the gas tanks referenced on the site plan are for diesel fuel for the company trucks; that two dumpsters are maintained on-site for the disposal of trash; and that it is not clear if the ditch on the property is a Tax Ditch.

E. Based on the Findings (1 through 7) of the Planning & Zoning Commission, Council found that:

- 1. The Applicant, Patrick Olsen, resides on the premises where this Conditional Use will be located. He proposes to operate a landscaping business with greenhouses and nursery stock.**
- 2. The site has a history of business uses and was previously used as a beauty shop.**
- 3. The proposed use is compatible with the underlying agricultural zoning and other agricultural uses in the area.**
- 4. The use promotes both business and convenience in Sussex County in that it provides contracting services in the area with full service landscaping, hardscaping, and irrigation services, as well as snow removal in the winter months.**
- 5. Aside from the proposed greenhouse and nursery stock, the landscaping business primarily occurs off the site, with workers traveling to customers' locations for landscaping services.**
- 6. The Conditional Use will not adversely affect neighboring properties, the community or area roadways and traffic.**
- 7. Based on the record and recommendation of the Planning & Zoning Commission and the record created before Council, the Conditional Use was approved subject to six (6) conditions (A – F) which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**