

ORDINANCE NO. 2442

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN EXPANSION OF CONDITIONAL USE NO. 1474 (LANDSCAPING BUSINESS) TO UTILIZE A WAREHOUSE FOR THE STORAGE OF WINE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 10.109 ACRES, MORE OR LESS

WHEREAS, on the 5th day of October 2015, a conditional use application, denominated Conditional Use No. 2040 was filed on behalf of Sposato Imports; and

WHEREAS, on the 28th day of January 2016, 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. 2040 be approved; and

WHEREAS, on the 12th day of April 2016, 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. 2040 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 east of Hudson Road (Road 258) and 1,720 feet south of Eagles Crest Road (Road 264) and being more particularly described as follows:

BEGINNING at a point on the easterly right of way of Road 258, a corner for these subject lands and lands of Charles H. Ewing, Jr.; thence northerly along the easterly right of way of Road 258, 276.62 feet to a point, a corner with lands of John Frederick Sposato and Patricia A. Sposato; thence following said Sposato lands the following five (5) courses:

South 52 degrees 51 minutes 41 seconds east 417.10 feet to a point, south 42 degrees 39 minutes 53 seconds west 135.44 feet to a point, south 44 degrees 04 minutes 00 seconds east 229.81 feet to a point, south 45 degrees 56 minutes 00 seconds west 115.00 feet to a point, and south 44 degrees 04 minutes 00 seconds east 677.82 feet to a point; thence south 45 degrees 54 minutes 04 seconds west 339.88 feet along The Island Farm, Inc., to a point; thence north 44 degrees 07 minutes 42 seconds west 887.73 feet along The Edge Group, Inc., to a point; thence north 39 degrees 15 minutes 44 seconds east 271.05 feet along the aforementioned Ewing lands to a point; thence north 43 degrees 48 minutes 46 seconds west 309.65 feet along the aforementioned Ewing lands to the point and place of beginning, said parcel containing 10.109 acres, more or less, as surveyed by Adams-Kemp 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:

- a. No retail sales shall occur from the site.
- b. No additional signage shall be permitted.

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2442 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 12TH DAY OF APRIL 2016.

**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 Sposato Imports for a Conditional Use of land in an AR-1 (Agricultural Residential District) for an expansion of Conditional Use No. 1474 (landscaping business) to utilize a warehouse for the storage of wine to be located on a certain parcel of land lying and being in Broadkill Hundred, Sussex County, containing 10.109 acres, more or less. The property is located east of Hudson Road (Road 258) and 1,720 feet south of Eagles Crest Road (Road 264) (911 Address: 16181 Hudson Road, Milton) Tax Map I.D. 235-22.00-21.01.
- B. Council found that DelDOT commented that a Traffic Impact Study is not recommended and that the current Level of Service of Hudson Road will not change as a result of this application.
- C. Council found that the Sussex County Engineering Department, Utility Planning Division, commented that the property is located in the North Coastal Planning Area; that an on-site septic system is required; that conformity to the North Coastal Planning Area Study will be required; that the proposed use is not in an area where the County currently has a schedule to provide sewer service; and that a Concept Plan is not required.

- D. Based on testimony before the Planning & Zoning Commission and the public hearing before the Sussex County Council, Council found that David and Karen Sposato were present and stated that they are proposing to import bottled and labeled Argentina wines that will be stored in a warehouse on their property; that the warehouse will be temperature controlled; that the wines will be shipped directly from the site to their distributor; that they anticipate one stake body truck, similar to a UPS or Fed-Ex vehicle, per week in and out; that there will not be any retail sales; that no signage is necessary; that they have not met with the neighbors; and that delivery and pick-up hours would be from 7:00 a.m. to 3:30 p.m.**
- E. Based on the record and recommendation of the Planning and Zoning Commission and the Planning and Zoning Commission's Findings (1 through 6) and Conditions (7a and 7b), Council found that:**
- 1. The use is currently operated as a landscaping business.**
 - 2. The proposed use will be located in an existing building on the premises.**
 - 3. The use will generate very little additional traffic beyond what currently exists with the landscaping business.**
 - 4. The expansion will not adversely affect neighboring properties or roadways.**
 - 5. The applicant has stated that they are asking for the ability to store wine only. They have stated that there will not be any retail sales from the site.**
 - 6. No parties appeared in opposition to the application.**
 - 7. Based on the record and recommendation of the Planning & Zoning Commission, the Conditional Use is approved subject to two (2) conditions (a and b) which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**