

ORDINANCE NO. 2521

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A LANDSCAPE BUSINESS WITH EQUIPMENT STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 3.740 ACRES, MORE OR LESS

WHEREAS, on the 31st day of March 2017, a conditional use application, denominated Conditional Use No. 2093, was filed on behalf of John Huss; and

WHEREAS, on the 24th day of August 2017, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 14th day of September 2017, said Planning and Zoning Commission recommended that Conditional Use No. 2093 be approved with conditions; and

WHEREAS, on the 26th day of September 2017, 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. 2093 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 on the northwest corner of Lewes Georgetown Highway (Route 9) and Prettyman Road, and being more particularly described per the attached deed prepared by Tunnell & Raysor, P.A., said parcel containing 3.740 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. This use shall be limited to a landscaping business with equipment storage. No retail sales shall be conducted from the site.**
- B. No manufacturing shall occur on the site. This prohibition includes the shredding or grinding of any materials, and also includes the dyeing of mulch or similar materials.**
- C. One lighted sign, not to exceed 32 square feet, located on the side of the building, shall be permitted.**
- D. The hours of operation shall be limited to 6:30 a.m. through 6:00 p.m. Monday through Saturday.**
- E. Any security lighting shall be screened so that it does not shine on neighboring properties or roadways.**
- F. The Applicant shall comply with all DeIDOT requirements, including any entrance or roadway improvements.**
- G. All stormwater management facilities shall be subject to the review and approval of the Sussex Conservation District. The Final Site Plan shall include the approval of the Sussex Conservation District for the design and location of the stormwater management areas.**
- H. As stated by the Applicant, there shall be no dumping on the site, and any dumpsters on the site shall be screened from view of neighboring properties and roadways.**
- I. The Final Site Plan shall clearly show all areas for equipment storage, and parking in these areas shall be clearly marked on the site itself; there shall not be any parking or storage within 60 feet of the front right-of-way line.**
- J. Several nearby property owners wanted the dirt road that runs along the western side of the property to be closed. The Applicant has stated that the area of the existing dirt roadway along the western boundary of the property shall be removed within his property. This shall be shown on the Final Site Plan.**
- K. The Final Site Plan shall be designed to allow interconnectivity with adjacent properties along Route 9 if those properties are developed in the future.**
- L. Failure to comply with any of these conditions shall be grounds for termination of the Conditional Use approval.**
- M. 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. 2521 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 26TH DAY OF SEPTEMBER 2017.

**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 John Huss for the consideration of a Conditional Use of land in an AR-1 Agricultural Residential District for a landscape business with equipment storage be located on certain parcel of land lying and being in Broadkill Hundred, Sussex County containing 3.740 acres, more or less (located on the northwest corner of Lewes Georgetown Highway (Route 9) and Prettyman Road) (Tax I.D. No. 235-30.00-6.20) (911 Address: None Available).**
- B. Based on testimony before the Planning & Zoning Commission and the public hearing before the Sussex County Council, Council found that Glen Mandalas, Esquire, with Baird Mandalas Brockstedt, LLC, and Mr. John Huss were present on behalf of the application; that they are proposing a 3,200 square foot building for equipment storage; that vehicles will be stored in the back of the property; that three (3) vehicles will not be located within the building and will be stored behind the building; that he has thirteen (13) employees; that he would like to keep hours of operation of 7 a.m. – 5:00 p.m.; that employees show up on site and pick up a work vehicle and leave so there is not a lot of traffic during the day; that there is no storage of chemicals on the site; that there are no major deliveries to the site; and that they typically load and unload lawn mowers on trucks in the morning that may create some noise.**
- C. Council also found that the Delaware Turkish Educational Foundation is located to the east of the site where they plan to plant an evergreen buffer; that the Deerwood subdivision with approximately sixty-five (65) homes is across the street with some buffer; that to the west of the site is a 48-acre wooded area; that the use is consistent with uses and zonings along Route 9; that there will be no manufacturing or dying of mulch on site; that they will screen the dumpsters; that the applicant is typically on site around 6:30 a.m. to do paperwork and employees show up on site at 7 a.m., leave by 7:30 a.m. and come back no later than 5:30 p.m.; that work on equipment is done elsewhere and not on the site; that they have no mechanic on staff; that they would like a sign on the building; that they will provide low voltage lighting for night; that the Route 9 entrance will be the only access to the site; that he has eight (8) trucks and most are stored within the building; that no materials are stored onsite; that he purchases the material from Stockley Materials and dump at the end of the day there; that he keeps a clean site; that he recognizes the potential for interconnectivity with the adjacent properties; and that there are no deed restrictions regarding the operation of a business on the site.**
- D. Based on the record and recommendation of the Planning and Zoning Commission and the Planning and Zoning Commission’s Findings (1 through 5) and Conditions (6a. – m.), as amended, Council found that:**
 - 1. The property is located along Route 9, which is an appropriate location for this limited type of use.**
 - 2. The property is zoned AR-1 Agricultural Residential. The use of the property as a landscaping business with equipment storage is consistent with the underlying agricultural zoning of the property.**
 - 3. The applicant has stated that all landscaping work is performed offsite, and that there will not be any dumping on the site. Also, there will not be any major deliveries to the site as part of the business.**

- 4. There will be no retail sales from the property, and the use is limited in nature. It will not adversely affect neighboring properties, roadways or traffic.**
- 5. The applicant has stated that his landscaping company provides a service to a wide variety of Sussex County residents and businesses. This intended use is of a public or semi-public character that will benefit the residents and businesses of Sussex County.**
- 6. Based on the record and recommendation of the Planning & Zoning Commission, the Conditional Use is approved subject to thirteen (13) conditions (A - M), as amended, which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**