

ORDINANCE NO. 2572

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A TREE CARE BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 3.9713 ACRES, MORE OR LESS

WHEREAS, on the 30th day of October 2017, a conditional use application, denominated Conditional Use No. 2121, was filed on behalf of Cheryl Webster and Kenna Nethken; and

WHEREAS, on the 12th day of April 2018, 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. 2121 be approved with conditions; and

WHEREAS, on the 17th day of April 2018, 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. 2121 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 Seaford Hundred, Sussex County, Delaware, and lying on the southwest side of Old Furnace Road, approximately 677 feet northwest of Middleford Road, and being more particularly described per the attached deed prepared by David W. Baker, Esq., P.A., said parcel containing 3.9713 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. As stated by the Applicant, most of the work shall occur offsite. There shall be no retail sales from this site, and there shall not be any stockpiles of dirt, mulch or similar materials on the site.**
- B. The existing sign shall be allowed to remain. If the sign is removed, it may be replaced with a sign of the same size.**
- C. The hours of operation shall be from 7:00 a.m. until 5:00 p.m., Monday through Saturday, with extra hours permitted for emergency needs.**
- D. All security lighting shall be screened so that it does not shine onto neighboring properties or roadways.**
- E. All dumpsters shall be screened from view from neighboring properties or roadways.**
- F. All required parking spaces shall be clearly marked on the Final Site Plan and on the site itself, including areas set aside for equipment parking and storage.**
- G. The application shall comply with all DeIDOT entrance or roadway improvement requirements.**
- H. 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. 2572 ADOPTED BY THE SUSSEX COUNTY ON THE 17TH DAY OF APRIL 2018.

**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 Cheryl Webster and Kenna Nethken to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a tree care business to be located on a certain parcel of land lying and being in Seaford Hundred, Sussex County, containing 3.9713 acres, more or less (located on the southwest side of Old Furnace Road, approximately 677 feet northwest of Middleford Road) (Tax I.D. No. 331-6.00-134.00) (911 Address: 10404 Old Furnace Road, Seaford).**
- B. Based on testimony before the Planning & Zoning Commission and the public hearing before the Sussex County Council, Council found that Mr. Kenna Nethken was present on behalf of the application; that he has been in business for twenty-five (25) years and was not aware that he needed a Conditional Use; that he has had no complaints about his business from his neighbors; that he recycles all of the material for the business; that there are five (5) work vehicles and five (5) employees; that the employees come and pick up the trucks and go off site to work; that the public does not come to the site; that no material comes to the site; that the equipment stored outside are a stump grinder and chippers; that most vehicles are stored indoors; that the only maintenance he does on the equipment is greasing the machines and that occurs indoors and outside; that all other maintenance is done elsewhere; that he would like to keep his existing sign; and that he found out that he needed a Conditional Use when the new building on his property was inspected.**

C. 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 through 6H), Council found that:

- 1. The Applicant prunes and cuts down trees in Sussex County, including in residential developments.**
- 2. The use is similar in nature to agricultural uses that are permitted in the AR-1 Zoning District.**
- 3. The Applicant stated that most of his employees' work occurs offsite. As a result, this use will have little or no impact on the neighborhood, or area roadways.**
- 4. The proposed use will be a benefit to Sussex County residents and the Applicant provides a needed service to commercial and residential developments throughout Sussex County.**
- 5. No parties appeared in opposition to this application.**
- 6. Based on the record and recommendation of the Planning & Zoning Commission, the Conditional Use is approved subject to eight (8) conditions (A through H), as amended, which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**