

ORDINANCE NO. 2573

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PLANT, TREE, AND LAWN CARE DIAGNOSTIC CENTER TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 4.0 ACRES, MORE OR LESS

WHEREAS, on the 8th day of November 2017, a conditional use application, denominated Conditional Use No. 2122, was filed on behalf of Richard Thurman Jr. (Arbor Care); and

WHEREAS, on the 17th 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. 2122 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. 2122 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 on the southwest side of Robinsonville Road, approximately 1,737 feet south of Kendale Road, and being more particularly described per the attached deed prepared by Griffin & Robertson, P.A., said parcel containing 4.0 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. As stated by the Applicant, there shall not be any sign advertising this use on the site.**
- C. The hours of operation shall be from 6:00 a.m. until 8:00 p.m., 7 days per week, with extra hours permitted for emergency needs such as snowplowing.**
- 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 DelDOT 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. 2573 ADOPTED BY THE SUSSEX COUNTY COUNCIL 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 Richard Thurman, Jr. (Arbor Care) to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a plant, tree, and lawn care diagnostic center to be located on a certain parcel of land lying and being in Indian River hundred, Sussex County, containing 4.0 acres, more or less (located on the southwest side of Robinsonville Road, approximately 1,737 feet south of Kendale Road) (Tax I.D. No. 234-6.00-88.01) (911 Address: 20182 Robinsonville Road, Lewes).**
- B. Based on testimony before the Planning & Zoning Commission and the public hearing before the Sussex County Council, Council found that Richard Thurman, Jr. was present of behalf of the application; that Mr. Thurman stated that his company, Arbor Care, marks out trees to preserve for developments; that he purchased the property for his home; that there is agricultural land around the entire property; that he has planted trees around the entire parcel; that he has ten (10) employees; that the equipment needed for the jobs is stored indoors; that two (2) trailers are parked on site; that he has nine (9) vehicles; that two (2) employees take their vehicles home every night; that there is one (1) secretary on site; that all the larger trucks are stored inside; that there will be fifteen (15) parking spaces; that the parking number does not include personal vehicles; that the current hours of operation are 7:00 a.m. to 5:00 p.m.; that they do snow plowing as well and those hours would be twenty-four (24) hours a day; that he would like seven (7) days a week; that the trucks have back-up signals and the trailers do not; and that the dumpster will be on site and cannot be seen from the road or the neighbors.**

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 treats trees, plants and natural areas in Sussex County, including residential developments.**
- 2. The use is similar in nature to agricultural uses that occur within certain types of farming operations 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) which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**