

**ORDINANCE NO. 2596**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR SITE CONTRACTING EXCAVATING SERVICES WITH STORAGE, REPAIR AND MAINTENANCE AND LIGHT MATERIAL AND STORAGE AND GENERAL OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 13.76 ACRES, MORE OR LESS**

**WHEREAS, on the 9th day of February 2018, a conditional use application, denominated Conditional Use No. 2138, was filed on behalf of Walker Construction, Inc.; and**

**WHEREAS, on the 26th day of July 2018, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 9th day of August 2018, said Planning and Zoning Commission recommended that Conditional Use No. 2138 be and**

**WHEREAS, on the 21st day of August 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. 2138 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 west side of Robinsonville Road, approximately 671 feet south of Kendale Road and being more particularly described in the attached deed prepared by Pennoni Associates, Inc., said parcel containing 13.76 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 site contracting and excavating services with storage, along with maintenance and repairs to the equipment associated with the business and office space for the business. No other businesses shall be conducted from the site, and no vehicles associated with any other business shall be parked on the site. No retail sales shall be conducted from the site.**
- B. No manufacturing shall occur on the site. This prohibition includes the chipping, shredding or grinding of any materials and also includes the dyeing of mulch or similar materials.**
- C. One unlighted 4' by 4' double sided sign shall be permitted.**
- D. The hours of operation shall be limited to 6:00 a.m. through 6:00 p.m. Monday through Friday and 7:00 a.m. through 2:00 p.m. on Saturday. There shall not be any Sunday hours of operation.**
- 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. There shall not be any dumping on the site, and a single dumpster permitted on the site shall be screened from the view of neighboring properties and roadways.**
- I. The Final Site Plan shall clearly show all areas for vehicle and equipment storage and parking, and these areas shall be clearly marked on the site itself.**
- J. All equipment and vehicle maintenance and repair shall occur indoors.**
- K. All loading areas, storage areas and trash container areas shall be screened by the existing wooded vegetation located on the site with a minimum vegetated buffer of at least 50 feet from all property lines. This buffer shall be shown on the Final Site Plan.**
- 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. 2596 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 21ST DAY AUGUST 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 Walker Construction, Inc. for the consideration of a Conditional Use of land in an AR-1 Agricultural Residential District for site contracting excavating services with storage, repair and maintenance and light material and storage and general office to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 13.76 acres, more or less (lying on west side of Robinsonville Road, approximately 671 feet south of Kendale Road) [Tax I.D. No. 234-2.00-23.03 (portion of)] (911 Address: 33077 Walker Farm Road, Lewes).**
- B. Based on testimony before the Planning & Zoning Commission and the public hearing before the Sussex County Council, Council found that Mark Davidson, with Pennoni Associates, and Nathan and Melissa Walker, owners, were present at both hearings on behalf of the application and Alan Decker, with Pennoni Associates was also present at the Planning & Zoning Commission hearing on behalf of the application; that the Applicant is requesting a Conditional Use on 13.76 acres of the 17.42 acre parcel located on Robinsonville Road; that they purchased the property in 2015; that they have been in business for 15 years; that they would like to relocate their office from Route 24; that, in the past, this property was part of an old borrow pit and a construction/tree dump; that they have been removing debris and filled in the old borrow pit; that a horse barn, pasture and residence is located on the property but is not included in the acreage for the proposed use; that they reside in the residence on the property; that they have converted a horse building into an office and do repairs inside of the building; that they do lot clearing, minor site grading, snow plowing, and basements; that they have four (4) employees; and that they want the opportunity to grow their business and number of employees.**
- C. Council also found that there is a subdivision located across the street from this property and there are other subdivisions located in the area to which they provide services; that this use meets the needs of the area; that the location of the area they want to use is 900 feet back from the road and is not visible from the road; that the site is surrounded by wooded areas and the closest house is 900 feet away; that the Land Use Classification per the Comprehensive Plan is the Environmentally Sensitive Developing Area; that the property is located in Investment Level 3 according to the Strategies for State Policies and Spending; that there is on-site septic for the house and a porta-potty will be used for the business; that they have an on-site well for their needs; that a Traffic Impact Study was not required; that the hours of operation are 6:00 am to 6:00 pm, Monday through Friday and 7:00 am to 2:00 pm on Saturdays; that the storage of materials will be in bins for small stones, etc.; that no borrow operations will take place and that the site will not be a dumping site; that there will be two (2) dump trucks that leave and come back to the property, approximately ten (10) times a day; that they would like to expand within the existing area and keep the trees; that there will be a 50 foot buffer around the Conditional Use area; and that no sign is requested.**

**D. Based on the record and recommendation of the Planning and Zoning Commission and the Planning and Zoning Commission's Findings (1 through 7) and Conditions (A - M), as amended, the Council found that:**

- 1. The property is a 17.42-acre parcel located on Robinsonville Road; only 13.76 acres of the property will be used for the Conditional Use.**
- 2. The site has a history of prior usage. Prior to the Applicant's acquisition of it, it had been used as a borrow pit and a dump site. The Applicants have cleaned up the site and stated that they will continue to do so.**
- 3. The activities of the conditional use will be confined to an area located approximately 900 feet back from the front property line. The use is generally not visible from Robinsonville Road.**
- 4. The Applicants reside on the property.**
- 5. The Applicants have stated that all excavating work is performed offsite, and that there will not be any dumping on the site.**
- 6. There will be no retail sales from the property, and the use is limited in nature. With the conditions and limitations placed upon it, the use will not adversely affect neighboring properties, roadways or traffic.**
- 7. The business 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.**
- 8. Based on the record and recommendation of the Planning & Zoning Commission and the record created before the Sussex County Council, 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.**