

**ORDINANCE NO. 2610**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A TREE CUTTING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 0.81 ACRE, MORE OR LESS**

**WHEREAS, on the 6th day of April 2018, a conditional use application, denominated Conditional Use No. 2141, was filed on behalf of Miller's Tree & Outdoor Services (David Miller); and**

**WHEREAS, on the 27th day of September 2018, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 11th day of October 2018, said Planning and Zoning Commission recommended that Conditional Use No. 2141 be approved with conditions; and**

**WHEREAS, on the 30th day of October 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. 2141 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 Little Creek Hundred, Sussex County, Delaware, and lying on the north side of Whitesville Road, approximately 0.3 mile southeast of Russell Road, and being more particularly described per the attached legal description prepared by Pennoni Associates, Inc., said parcel containing 0.81 acre, 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 tree cutting business. No other business shall be conducted from the site, and no vehicles associated with any business shall be parked on the site.**
- B. No retail sales shall be conducted from the site.**
- C. No mulching, chipping, shredding or grinding of any materials, including the dyeing of mulch or similar materials, shall occur on the site.**
- D. One unlighted sign permitted up to 16 square feet.**
- E. The hours of operation shall be limited to 6:00 am through 6:00 pm, Monday through Friday and 7:00 am through 2:00 pm on Saturday. No hours on Sunday.**
- F. Any security lighting shall be screened so that it does not shine on neighboring properties or roadways and the front shall have a 20-foot forested buffer.**
- G. The Applicant shall comply with all DelDOT requirements, including any entrance or roadway improvements.**
- H. Any 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 any required stormwater management areas.**
- I. 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.**
- J. The Final Site Plan shall clearly show all areas where cut timber may be stored, and these areas shall be clearly marked on the site itself.**
- K. 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.**
- L. All equipment and vehicle maintenance and repair shall occur indoors.**
- M. Failure to comply with any of these conditions shall be grounds for termination of the Conditional Use approval.**
- N. 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. 2610 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 30TH DAY OF OCTOBER 2018.**

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**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 Miller’s Tree & Outdoor Services to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a tree cutting business to be located on a certain parcel of land lying and being in Little Creek Hundred, Sussex County, containing 0.81 acre, more or less (lying on the north side of Whitesville Road, approximately 0.3 mile southeast of Russell Road (911 Address: None Available) (Tax Parcel No. 532-16.00-14.01 (portion of).**
  
- 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, Inc., and David Miller, owner of Miller’s Tree & Outdoor Services were present on behalf of the application; that this is an application for a Conditional Use in a AR-1 Zone; that it is located on a property of 0.81 acres; that the Applicant has been in business for 25 years; that he is a licensed tree expert and works in both Delaware and Maryland; that he lives across the street and currently has his equipment parked on that site; that he will be purchasing the parcel across the street; that they are proposing a 2,000 square foot building for maintenance and repair of the equipment; that all the maintenance and repairs will be inside of the building; that there will be an area in the back to store his trailers and equipment; that he provides tree removal services, tree trimming, stump grinding, snow removal, storm cleanup, etc.; that there is no grinding of trees on the site; that no stumps will be taken to the site; that he cuts and delivers firewood, but does not sell firewood at this site; and that he will store the trees for firewood behind the building and it will be properly screened.**
  
- C. Council also found that the Future Land Use Map shows the property is located in a low-density area; that all the work is done offsite; that he just needs a place to park his trucks and trailers and to be able to service them; that the hours of operation are 6:00 a.m. to 6:00 p.m., Monday through Friday, and 7:00 a.m. to 2:00 p.m., on Saturdays; that there will be no Sunday hours except during extreme inclement weather conditions; that there is no septic on-site now and he would like to be able to install septic in the future with the proper permits; that the site is on a major collector road; that he has two employees now but is looking to grow; that there will be a minimum 15-foot buffer around the property; that he is not really looking to display advertising that he is there; and that the parking lot will be a gravel.**
  
- 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 (8A through 8N), as amended, Council found that:**
  - 1. The property is an .81-acre parcel located on Whitesville Road. It is primarily surrounded by wooded and agricultural areas.**
  
  - 2. The Applicant has stated his business is mostly conducted offsite. This is primarily the central location for keeping the Applicant’s equipment.**
  
  - 3. The Applicant is relocating an existing tree service to this property. This property is conveniently located to serve the needs of customers in both Maryland and Delaware.**

- 4. 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.**
- 5. There was testimony in support of the application from the property owner adjacent to the site.**
- 6. The use is an agricultural-type use and it is consistent with the underlying AR-1 zoning of the property.**
- 7. The business provides a service to a wide variety of Sussex County residents, farmers and businesses. This intended use is also of a public or semi-public character that will benefit the residents, farmers and businesses of Sussex County.**
- 8. Based on the record and recommendation of the Planning & Zoning Commission, the Conditional Use is approved subject to fourteen (14) conditions (A – N), as amended, which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**