

ORDINANCE NO. 2611

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A TREE COMPANY OPERATION TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 2.5851 ACRES, MORE OR LESS

WHEREAS, on the 14th day of May 2018, a conditional use application, denominated Conditional Use No. 2144, was filed on behalf of William Caldwell; 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. 2144 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. 2144 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 Cedar Creek Hundred, Sussex County, Delaware, and lying on the south side of Greely Avenue, and being more particularly described in the attached deed prepared by Moore & Rutt, P.A., said parcel containing 2.5851 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 tree cutting business. No other business shall be conducted from the site, and no vehicles associated with any other 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. As requested by the Applicant, a small unlighted sign shall be permitted. It shall not exceed 8 square feet per side.
- E. The hours of operation shall be limited to 7:00 a.m. through 7:00 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.
- F. Any security lighting shall be screened so that it does not shine on neighboring properties or roadways.
- 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 any required stormwater management areas.
- I. No cut trees, logs or timber shall be stored on the site. All timber and logs currently on the site shall be removed within 4 months of County Council's approval of this Conditional Use.
- J. There shall not be any dumping on the site.
- 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. No sirens or flashing lights shall be used anywhere on the site.
- M. All equipment and vehicle maintenance and repair shall occur indoors.
- N. Failure to comply with any of these conditions shall be grounds for termination of the Conditional Use approval.
- O. 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. 2611 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 30TH DAY OF OCTOBER 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 William Caldwell to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a tree company operation to be located on a certain parcel of land lying and being in Cedar Creek Hundred, Sussex County, containing 2.5851 acres, more or less (located on the south side of Greely Avenue, approximately 376 feet and 461 feet east of N. Old State Road) (Tax I.D. No. 230-5.20-55.00 and 56.00) (911 Address: 18576 Greely Avenue, Lincoln).**
- B. Based on testimony before the Planning & Zoning Commission and the public hearing before the Sussex County Council, Council found that Carl Anderson and Jim Atkins, owners of the property, and William Caldwell, the Applicant, were present of behalf of the application; that Mr. Anderson owns the property with Mr. Atkins; that the Applicant needed a place to establish his business; that they were not aware that the property needed a Conditional Use permit; that the property owners will permit the Applicant to operate the business and rent the house that is on the property; that business is basically done off-site; that the Applicant has been in business for about 28 years; that he parks his trucks there and all the work is done off-site; that he does bring home logs, until they can haul them away; that it's not worth hauling one or two logs at time, so he waits until he has a full load to haul; that they scattered logs on the site because he does not have equipment to stack them; that there is a drainage problem and that he tried to get a ditch installed; that three parcels down from this site is a propane tank storage building and the fire hall is nearby; that the piles have been there for five years; that he might have 100 logs on 2 1/2 acres; that the hours of operation are 8:00 a.m. to 5:00 p.m. or 6:00 p.m.; and that he had a very small sign.**
- 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 – O), Council found that:**
 - 1. The property is a 2.585-acre parcel located on Greely Avenue near North Old State Road. There are some other business uses in the general area, and the Ellendale Fire Company owns the property to the rear of this site.**
 - 2. The Applicant has stated that his business is mostly conducted offsite. This is a location for keeping the Applicant's equipment when it is not being used offsite.**
 - 3. There will be no retail sales from the property, and the proposed use is limited. With the conditions imposed by the County, the use will not adversely affect neighboring properties, roadways or traffic.**
 - 4. This is an agricultural-type use and it is consistent with the underlying AR-1 zoning of the property.**
 - 5. The business provides a service to a wide variety of Sussex County residents, farmers and businesses. It has a public or semi-public character that will benefit the residents, farmers and businesses of Sussex County.**
 - 6. Based on the record and recommendation of the Planning & Zoning Commission, the Conditional Use is approved subject to fifteen (15) conditions (), which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**