

ORDINANCE NO. 2674

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY (2 DWELLINGS), LAWN MOWER REPAIR BUSINESS, OUTDOOR STORAGE, LEASED STORAGE UNITS, AND STORAGE BUILDING TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 3.71 ACRES, MORE OR LESS

WHEREAS, on the 3rd day of April 2019, a conditional use application, denominated Conditional Use No. 2179, was filed on behalf of Joseph H. Jr. and Patricia Prettyman; and

WHEREAS, on the 11th day of July 2019, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 18th day of July 2019, said Planning and Zoning Commission recommended that Conditional Use No. 2179 be approved with conditions; and

WHEREAS, on the 13th day of August 2019, 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. 2179 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 Lewes and Rehoboth Hundred, Sussex County, Delaware, and lying on the southeast side of Robinsonville Road, approximately 211 feet northwest of Jimtown Road and being more particularly described in the attached legal description prepared by Pennoni Associates, Inc., said parcel containing 3.71 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 lawnmower and small engine repair business, outdoor storage and leased storage units and storage buildings. No other businesses shall be conducted from the site. No retail sales shall be conducted from the site.**
- B. There shall not be any Conex-type metal storage containers, metal shipping containers, roll-off containers or dumpsters brought to the site or stored on the site, other than one dumpster to be used for refuse associated with the business.**
- C. One lighted sign shall be permitted. It shall be no larger than 32 square feet per side.**
- D. The hours of operation for the lawnmower and small engine repair business shall be from 8:30 a.m. until 5:00 p.m., Monday through Friday, with no weekend hours. The storage areas shall be accessible 7 days per week from dawn until dusk.**
- 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 DelDOT requirements, including any entrance or roadway improvements.**
- G. The Final Site Plan shall clearly show all areas for outdoor storage and parking, and these areas shall be clearly marked on the site itself. There shall not be any outdoor storage within the property's setbacks.**
- H. All lawnmower and small engine maintenance and repair shall occur indoors. Also, any fluids associated with this use shall be safely stored and disposed of in accordance with all State and Federal requirements. No fluids shall be stored outdoors.**
- I. The indoor leased storage shall only occur within the existing structures on the site. No additional storage buildings shall be permitted.**
- J. Failure to comply with any of these conditions shall be grounds for termination of the Conditional Use approval.**
- K. 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. 2674 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 13TH DAY OF AUGUST 2019.

**ROBIN A. GRIFFITH
CLERK OF THE COUNCIL**

The Council found that that the Conditional Use was appropriate legislative action based on the following Findings of Fact:

- A. This is the application of Joseph H. Jr. and Patricia Prettyman for the consideration of the Conditional Use of land in an AR-1 Agricultural Residential District for multi-family (2 dwellings), lawn mower repair business, outdoor storage, leased storage units, and storage building to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 3.71 acres, more or less (land lying on the southeast side of Robinsonville Road, approximately 211 feet northwest of Jimtown Road) (Tax I.D. No. 334-11.00-47.00) (911 Address: 18583 Robinsonville Road, Lewes)
- B. Based on the record before the Planning and Zoning Commission and the hearing before the Sussex County Council, Council found that Mr. Mark Davidson with Pennoni Associates, Mr. Joseph Prettyman and Mrs. Patricia Prettyman, the Applicants, and Mr. Francis Welsh with Welsh Mechanical were present on behalf of the application; that the application is for a Conditional Use for multi-family with two dwellings; that Mr. Prettyman's father purchased the property in 1954; that there were pastures throughout the entire farm when Mr. Prettyman purchased the property from his father; that part of the land had been sold and became Bridle Ridge Subdivision; that that there is nothing being proposed and no new buildings that are being proposed; that there is an existing main dwelling unit and an accessory dwelling unit; that all of the dwellings and uses are already existing on the site; that there is a lawnmower and small engine repair business, outdoor storage, self-storage units, and public stables for boarding and riding lessons located on the site; that the property consists of an existing main dwelling and an 1890 historical milk house, which formed part of the original farm, and it is currently being used for a tenant's house; that the Applicants own, occupy and manage the property themselves, and the tenant helps with the property's maintenance and upkeep; and that there are 16 leased self-storage units within two buildings, one storage warehouse, horse stables for 4 horses and barns located on the site.
- C. Council also found that a building chart was provided showing examples of the uses for each building; that there is some outdoor storage; that the Applicants do allow storage for boats, campers and trailers on the site; that there is nothing visible from the road; that when the Prettyman's farming operation started to decrease, they started to use the property as it is currently being used now; that Welsh Mechanics has been on that site for five years; that the mechanic use has been on the site since the 1970s; and that Mr. Prettyman owns farming equipment and it is stored on the site.
- D. Council further found that the Prettyman's received a letter from the Planning and Zoning Office stating they needed to apply for a Conditional Use for the activities being carried out on site; that the Applicants contacted Pennoni Associates which submitted a Service Level Elevation request to DelDOT; that DelDOT responded that there was very negligible traffic impact for these types of uses and no Traffic Impact Study was warranted for the application; that the Conditional Use would not increase any traffic issues; that an application for a Conditional Use and a Site Plan were filed; that the Land Use Classification per the 2018 Comprehensive Plan is the Coastal Area; that there are no environmental concerns on the site; and that the parcel is located in the State Spending Strategies Level 3 Area.
- E. Council also found that there is no sign located on the property and they do not advertise the uses on the property; that there is an existing well on-site and they would tie into central water, once it becomes available; that there is an existing on-site septic system; that the property is located in the Sussex County Tier 2 Planning Area; that once sanitary sewer becomes available, they would like to connect into the sanitary sewer system; that the hours of operation for Mr. Welsh's shop would be from 8:30 a.m. to 5:00 p.m., Monday through Friday; that Mr. Welsh does not have any Saturday or Sunday hours; that the hours of operation for the storage facility is seven days a week from dawn to dusk; and that the Conditional Use meets the general purpose of the County's Zoning Code and the Comprehensive Plan.

- F. Based on the record and recommendation of the Planning and Zoning Commission and the Planning and Zoning Commission's Findings (1 through 8) and Conditions (9A through K), Council found that:**
- 1. The property is a 3.71-acre parcel that is remaining from a much larger farm dating to the 1800s. The uses all occur within former agricultural outbuildings or buildings that were built more than 30 years ago. The uses have also occurred on the property for some time as the property transitioned away from primarily farming operations.**
 - 2. The property is zoned AR-1 Agricultural Residential. The use of part of the property for a small engine repair business with storage in outbuildings is consistent with the types of uses that would occur on an AR-1 property. The property also continues to be used for other agricultural purposes.**
 - 3. The site is in the Coastal Area according to the Sussex County Comprehensive Plan. Small business uses such as this are appropriate in this area according to the Plan.**
 - 4. The Applicants reside on the property and will have control over how it is used.**
 - 5. There will be no retail sales from the property.**
 - 6. The use will not adversely affect area roadways or traffic.**
 - 7. The small engine repair work and storage serves a 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. The property is served by a well and septic system.**
 - 9. Based on the record and recommendation of the Planning & Zoning Commission, the Conditional Use is approved subject to eleven (11) conditions (A - K) which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**