

ORDINANCE NO. 2705

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A LANDSCAPING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 6.345 ACRES, MORE OR LESS

WHEREAS, on the 29th day of August 2019, a conditional use application, denominated Conditional Use No. 2202, was filed on behalf of John H. Passwaters; and

WHEREAS, on the 19th day of December 2019, 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. 2202 be approved with conditions; and

WHEREAS, on the 4th day of February 2020, 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. 2202 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 Northwest Fork Hundred, Sussex County, Delaware, and lying on the west side of Sussex Highway (Route 13) approximately 0.48 mile south of S. Main Street and being more particularly described in the attached legal description prepared by David W. Baker, Esq., P.A., said parcel containing 6.345 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 landscaping business.**
- B. One lighted sign, not to exceed 32 square feet per side, shall be permitted.**
- C. The hours of operation shall be limited to 6:00 a.m. through 9:00 p.m. Monday through Sunday.**

- D. Any security lighting shall be screened so that it does not shine on neighboring properties or roadways.
- E. The Applicant shall comply with all DelDOT requirements, including any entrance or roadway improvements.
- F. The Final Site Plan shall clearly show all areas for vehicle equipment storage and parking, and these areas shall be clearly marked on the site itself. There shall not be any parking or storage within the property's setbacks.
- G. Failure to comply with any of these conditions shall be grounds for termination of the Conditional Use approval.
- 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. 2705 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 4TH DAY OF FEBRUARY 2020.

**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 John H. Passwaters for a Conditional Use in an AR-1 Agricultural Residential District for a landscaping business to be located on a certain parcel of land lying and being in Northwest Fork Hundred, Sussex County, containing 6.345 acres, more or less (lying on the west side of Sussex Highway (Route 13) approximately 0.48 mile south of S. Main Street) (Tax I.D. No. 131-15.00-17.00) (911 Address: 18956 Sussex Highway, Bridgeville).
- B. Based on testimony before the Planning and Zoning Commission and the public hearing before the Sussex County Council, Council found that the Applicant, John Passwaters, was present on behalf of the application; that this application was identified as being necessary by the County's zoning staff; that the Applicant was seeking approval for a small landscaping and lawncare business; that the structures have been in situ for 30 years; that the building closest to the highway will be used as an office with one person working in there; that he resides on the property; that he has been in business for 15 years; that his business involves pick-up trucks that come in and out of the site; that his parents own the surrounding properties; that his site is located in-between these two farms; that his family has operated the site for over 60 years including the use of tractors; that there will be similar equipment on-site but much smaller; that they provide snow removal services in the winter months, as needed; that there are 8 vehicles, but this varies throughout the season and can increase to 16 vehicles; that there is no storage of chemicals; that there is a shop for repairs; that all repairs are performed inside the shop; that all materials are stored inside the shop except for vehicles; and that loose mulch and stone is stored outside the buildings.
- 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 (A – H), Council found that:
 - 1. The property is located along Route 13, which is an appropriate location for this limited type of use.

- 2. The site is located within a Developing Area according to the Sussex County Comprehensive Plan. This type of use is appropriate within this Area according to the Plan.**
- 3. The property is zoned AR-1 Agricultural Residential District. The use of the property as a landscaping business is consistent with the underlying agricultural zoning of the property.**
- 4. The Applicant has stated that his landscaping company 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.**
- 5. No parties appeared in opposition to this application.**
- 6. Based on the record and recommendation of the Planning and Zoning Commission and the record created before the Sussex County Council, the Conditional Use is approved subject to eight (8) conditions (A - H), which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**