

ORDINANCE NO. 2736

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 NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 5.00 ACRES, MORE OR LESS

WHEREAS, on the 6th day of June 2020, a conditional use application, denominated Conditional Use No. 2233 was filed on behalf of Brothers Landscaping, LLC; and

WHEREAS, on the 23rd day of July 2020, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 13th day of August 2020, said Planning and Zoning Commission recommended that Conditional Use No. 2233 be approved with conditions; and

WHEREAS, on the 25th day of August 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. 2233 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 Nanticoke Hundred, Sussex County, Delaware, and lying on the north side of German Rd, approximately 1.58 miles east of Concord Pond Rd and being more particularly described in the attached legal description, said parcel containing 5.00 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. The use shall be limited to home remodeling and home construction services with light material storage associated with that use. Maintenance and repair of the business' equipment shall be permitted to occur on the site. An office for the business only with a residence for the business manager or senior employee shall also be permitted. No other business shall be conducted from the site, and no retail sales shall be permitted on the site.**
- B. As stated by the Applicant, all construction materials will be stored indoors.**
- C. The Applicant shall comply with all DeIDOT requirements, including any entrance and roadway improvements that are directed by DeIDOT.**
- D. No outside repairs or maintenance of vehicles or equipment associated with the use shall occur on the site.**
- E. All dumpsters, storage bins and stockpile locations shall be screened from view of neighboring properties and roadways.**
- F. One indirectly lighted sign, not to exceed 32 square feet per side, shall be permitted.**
- G. All security lights shall be fully screened and downward so that they do not shine on neighboring properties or adjacent roadways.**
- H. The hours of operation shall be between 6:00 a.m. and 6:00 p.m., Monday through Friday, and 7:00 a.m. through 2:00 p.m. on Saturdays. There shall not be any Sunday hours of operation.**
- I. There shall not be any dumping on the site. All dumpsters associated with the use shall be screened from view of neighboring properties and roadways and shall be located at least 50-feet from the property boundaries.**
- J. The Final Site Plan shall clearly show all loading and storage areas and areas for vehicle parking and equipment storage and these areas shall be clearly marked on the site itself. These areas shall be screened and shall be at least 50-feet from the property boundaries.**
- K. All required screening or buffering shall be shown on the Final Site Plan.**
- L. Failure to comply with any of these conditions shall be grounds for the termination of this Conditional Use.**
- 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. 2736 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 25TH DAY OF AUGUST 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 Brothers Landscaping, LLC 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 Nanticoke Hundred, Sussex County, containing 5.00 acres, more or less (land lying on the north side of German Road approximately 1.58 miles east of Concord Pond Road) (Tax I.D. No. 231-13.00-190.00) (911 Address: 24516 German Road, Seaford).**
- B. Based on testimony before the Planning and Zoning Commission and the public hearing before the Sussex County Council, Council found that Mr. Ismar Chun and Ms. Amy Pardee were present at the Planning and Zoning Commission public hearing and the Sussex County Council public hearing on behalf of the application; that the application is to use the rear of the property for the business' commercial vehicles; that the business has been in operation for ten years; that there are twenty-eight (28) employees; that they were renting an area in Laurel, but purchased this property September 2019; that a complaint was made against the property; that the business currently has eight (8) trucks with trailers, six (6) bobcats and a dump truck; that the dump truck will be stored in the rear of the property; that irrigation lines are stored inside; that one of the owners of the company resides on the property; that there are security cameras; that privacy fencing will be installed to screen from neighbors; that the Applicant has requested a sign; that the hours of operation would be Monday – Friday from 6:00 a.m. - 8:00 p.m., Saturday 6:00 a.m. – 3:00 p.m., with no Sunday hours; and that no landscaping debris shall be dumped on the property.**
- C. 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 - K), Council found that:**
- 1. The property is located on a 5-acre parcel among other large parcels of land. It is an appropriate location for this limited type of use.**
 - 2. The site is located within a Low-Density Area according to the Sussex County Comprehensive Plan. This low impact type of use is appropriate within this area.**
 - 3. The property is zoned AR-1 Agricultural Residential. The use of the property as a landscaping business is consistent with the underlying agricultural zoning of the property.**
 - 4. The use will not adversely affect area roadways or neighboring properties.**
 - 5. 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.**
 - 6. Two people spoke in favor of the application, including one of the neighboring property owners.**
 - 7. No parties spoke in opposition to this application.**
 - 8. 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 eleven (11) conditions (A – K) which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**