

ORDINANCE NO. 2743

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A LANDSCAPING AND LAWN MAINTENANCE BUSINESS ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 5.678 ACRES, MORE OR LESS

WHEREAS, on the 10th day of March 2020, a conditional use application, denominated Conditional Use No. 2229 was filed on behalf of D.R.'s Lawn Maintenance, LLC; and

WHEREAS, on the 27th day of August 2020, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 10th day of September 2020, said Planning and Zoning Commission recommended that Conditional Use No. 2229 be approved with conditions; and

WHEREAS, on the 29th day of September 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. 2229 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 Georgetown Hundred, Sussex County, Delaware, and lying on the north side of Hollis Rd (S.C.R. 295) approximately 0.38 mile east of the intersection of Gravel Hill Rd. (Rt 30) and Hollis Rd (S.C.R. 295) and being more particularly described in the attached legal description prepared by The Smith Firm, LLC, said parcel containing 5.678 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 a landscaping and lawn care business. The use shall only occupy a .62 acre portion of the entire site, and this area shall be shown on the Final Site Plan.**
- b. No manufacturing shall occur on the site. This prohibition includes the shredding or grinding of any materials and the dyeing of mulch or similar materials.**
- c. As stated by the Applicant, there shall not be any retail sales occurring from the site.**
- d. A sign was not requested by the Applicant, so no sign shall be permitted on the site.**
- e. The hours of operation shall be limited to 7:00 a.m. through 6:30 p.m., Monday through Saturday. There shall not be any Sunday hours. The Applicant shall be able to operate beyond these hours on an as-needed basis for limited situations such as snow removal, storm damage clean-up, and similar events.**
- f. There shall not be any dumping of trees, branches, grass or other debris on the site.**
- g. The on-site storage of mulch, stone, topsoil and similar materials shall be located in bins or enclosures. The location of these storage areas shall be shown on the Final Site Plan.**
- h. Any security lighting shall be screened so that it does not shine on neighboring properties or roadways.**
- i. The Applicant shall comply with all DeDOT requirements, including any entrance or roadway improvements.**
- j. The Final Site Plan shall clearly show all areas for vehicle and equipment storage and parking, and those areas shall be clearly marked on the site itself. There shall not be any parking or storage within the property's setbacks.**
- k. The Applicant has stated that a privacy fence will be installed along the common boundary with one of the neighboring properties. The location and type of fencing shall be shown on the Final Site Plan.**
- l. Failure to comply with any of these conditions shall be grounds for termination of the Conditional Use approval.**
- 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. 2743 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 29TH DAY OF SEPTEMBER 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 D.R.'s Lawn Maintenance, LLC for a Conditional Use in an AR-1 Agricultural Residential District for a landscaping and lawn maintenance business on a certain parcel of land lying and being in Georgetown Hundred, Sussex County, containing 5.678 acres, more or less. The property is lying on the north side of Hollis Road (S.C.R. 295), approximately 0.38 mile east of the intersection of Gravel Hill Road (Rt. 30) & Hollis Road (S.C.R. 295). 911 Address: 25479 Hollis Rd., Harbeson. Tax Parcel: 135-16.00-43.09.
- B. Based on testimony before the Planning and Zoning Commission and the public hearing before the Sussex County Council, Council found that Mackenzie Peet, Esquire, of Tunnell & Raysor, P.A., was present on behalf of the application, together with the Applicant, Devon S. Rice; that D.R.'s Lawn Maintenance, LLC has been in business serving Sussex County for 15 years; that the previous location for this business was on Beaver Dam Road which also had a conditional use; that the business has outgrown that property and moved to the subject property in 2019; that the Applicant is seeking a conditional use for the subject property; that the property is 5.678 acres and the portion dedicated to the business will occupy approximately 0.62 acre; that there is a 1,600 square foot pole building on the parcel for the business; that the Applicant's dwelling is also on this parcel and is located to the front of the property; that the 2018 Sussex County Comprehensive Plan and the Sussex County Future Land Use Map identify the area as low-density area; and that this use is consistent with the land use area zoning.
- C. Council also found that the hours of operation are 7:00 a.m. – 6:30 p.m. during the summer months and 8:00 a.m. – 6:30 p.m. in the winter months; that there may be some days where the business may have alternate hours due to weather conditions; that there are 8-9 trucks and 10-11 trailers which will be stored on-site; that the business has 18 employees with an onsite gravel parking area provided for them; that mulch, stone and top-soil is stored on-site; that the property is heavily vegetated and screens the business from the view of neighbors; that the Applicant has spoken with neighbors and is considering privacy fencing to further screen the business from the view of neighbors; that the location of this business is compatible with surrounding uses; that all debris will be removed from the subject property; that oil-changes for the vehicles may be completed on-site, but vehicles are taken to a mechanic shop for all other repairs; that oil is disposed of at the transfer station on Route 5 or at the mechanic's shop; and that a sign is not requested.
- D. 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 (a – m), Council found that:
 - 1. The site is part of a 5.678-acre parcel. The conditional use will only occupy approximately .62 acres of the entire site.
 - 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 site is heavily vegetated, which will screen the use from neighboring properties.
 - 4. 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.
 - 5. The use will not adversely affect area roadways or neighboring properties.
 - 6. 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.
 - 7. Two people spoke in favor of the application, including one of the neighboring property owners.

- 8. The Applicant has stated that he will reside on the property.**
- 9. 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 fourteen (14) conditions (a – m), which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**