

ORDINANCE NO. 2750

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A FIBERGLASS SWIMMING POOL AND SPA DISPLAY AND LANDSCAPING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 2.70 ACRES, MORE OR LESS

WHEREAS, on the 18th day of June 2020, a conditional use application, denominated Conditional Use No. 2234 was filed on behalf of James Jones; and

WHEREAS, on the 8th day of October 2020, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 22nd day of October 2020, said Planning and Zoning Commission recommended that Conditional Use No. 2234 be approved with conditions; and

WHEREAS, on the 10th day of November 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. 2234 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 Indian River Hundred, Sussex County, Delaware, and lying on the south side of Cordrey Rd (S.C.R. 308), approximately 0.12 miles east of William Street Rd (S.C.R. 309) and being more particularly described in the attached legal description prepared by The Lawson Firm, LLC, said parcel containing 2.70 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 business and the display of model swimming pools and spas that are for sale. No other sales shall occur on the property.**
- b. No pools or spas shall be constructed, stockpiled or inventoried on the property. As stated by the Applicant, all swimming pools and spas on the property shall be display models, used by customers to inspect prior to ordering the structures for delivery from the off-site manufacturer directly to their properties.**
- c. No more than one pool and one spa shall be displayed on the site at any one time. The location of these displays shall be shown on the Final Site Plan.**
- d. As stated by the Applicant, the home on the property shall be the owner's primary residence which may include a small office for the business.**
- e. The landscaping business shall be located at the rear of the property, with all vehicles and trailers parked at the rear of the premises. The parking area for the business vehicles and trailers shall be shown on the Final Site Plan and clearly shown on the site itself. All other equipment shall be stored within the existing pole building on the site.**
- f. All vehicle and equipment maintenance shall only occur within the existing pole building.**
- g. The hours of operation shall be limited to 7:00 a.m. until 7:00 p.m., unless the Applicant is providing services for snow removal, storm damage or from similar causes.**
- h. No grinding, shredding, mulching or dyeing of materials shall occur on the site.**
- i. No landscaping materials shall be brought onto the site for dumping.**
- j. As stated by the Applicant, signage shall be limited to one lighted sign along the roadway not to exceed 32 square feet in size.**
- k. Any lighting directed at the display models shall be screened so that it does not shine on neighboring properties or roadways. Any such lighting shall be turned off no later than 10:00 p.m. each day.**
- l. All parking areas shall be shown on the Final Site Plan and clearly marked on the site itself.**
- m. All entrances shall be subject to all DelDOT requirements.**
- n. 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. 2750 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 10TH DAY OF NOVEMBER 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 James Jones for a Conditional Use of land in an AR-1 Agricultural Residential District for a fiberglass swimming pool and spa display and landscaping business to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 2.70 acres, more or less. The property is lying on the south side of Cordrey Road (S.C.R. 308), approximately 0.12 miles east of William Street Road (S.C.R. 309) (911 Address: 28984 Cordrey Road, Millsboro) (Tax Parcel No. 234-28.00-67.00).**
- B. Based on the record before the Planning and Zoning Commission and the hearing before the Sussex County Council, Council found that the Applicant, James Jones, was present at both the Planning and Zoning Commission and Sussex County Council public hearings on behalf of the application; that the Applicant has a landscape business but also installs and services swimming pools and hot tubs; that the Applicant has owned the property since 2015 and the display has been in place for approximately one (1) year; that he has a store in Lewes where customers can visit, but occasionally a customer will visit this location to see the pool displayed at this site; that the swimming pool display is approximately 25 feet from the road on the northeast portion of the subject property; that there are four (4) employees; that there are three (3) landscaping trailers and six (6) work vehicles; that trucks are parked in the rear of the property; that equipment is stored in the pole building in the rear of the building; that maintenance on the work vehicles is performed within the pole building; that the hours of operation are from 7:00 a.m. – 6:30 p.m.; that there are times during inclement weather when the hours may vary; that there is a sign currently on the property and that a sign is requested; that the Applicant also resides on the property; and that the Applicant runs his business from this location.**
- 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 - n), Council found that:**
 - 1. This use is limited in nature. It is a location for model swimming pools and spas to be viewed for purchase from the manufacturer. It is not a location where swimming pools or spas are stockpiled for sale from the site. Once purchased, spas and pools are delivered directly from the manufacturer to the purchaser's property.**
 - 2. The use as a location for model swimming pools and spas will not require extensive deliveries to or from the site, and the use does not generate a significant amount of traffic from customers.**
 - 3. This limited use, as a display area for spas and pools, is appropriate for this location.**
 - 4. The Applicant also seeks to operate a small landscaping business from the site, which will use the existing pole building on the site. All landscaping equipment will be located within the pole building.**
 - 5. The limited use will not have an adverse impact upon traffic, roadways or area properties.**

- 6. The Applicant has stated that he resides on the property. As a result, he will have control over the use and maintenance of the property at all times.**
- 7. No parties appeared in opposition to the 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 fourteen (14) conditions (a - n) which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**