

**ORDINANCE NO. 2762**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND GR GENERAL RESIDENTIAL DISTRICT FOR A LANDSCAPING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 3.18 ACRES, MORE OR LESS**

**WHEREAS, on the 3rd day of September 2020, a conditional use application, denominated Conditional Use No. 2243 was filed on behalf of Keith Twardowski; and**

**WHEREAS, on the 19th day of November 2020, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 10th day of December 2020, said Planning and Zoning Commission recommended that Conditional Use No. 2243 be approved with conditions; and**

**WHEREAS, on the 5th day of January 2021, 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 VI, Subsection 115-22 and 115-39, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2243 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 north side of Friendship Road (S.C.R. 306A), approximately 0.36 mile southwest of Indian Mission Road (Route 5), and being more particularly described in the attached legal description prepared by Larry W. Fifer, Esquire, said parcel containing 3.18 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. No manufacturing shall occur on the site. This prohibition includes the shredding or grinding of any materials and also includes the dyeing of mulch or similar materials.**
- b. As stated by the Applicant, there shall not be any retail sales occurring from the site.**
- c. One unlighted sign, not to exceed 32 square feet per side, shall be permitted.**
- d. The hours of operation shall be limited to 7:00 a.m. through 6:00 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.**
- e. There shall not be any dumping of trees, stumps and other debris on the property. Branches, limbs, leaves, and mulchable items may be stored on-site in the identified area.**
- f. Any security lighting shall be screened so that it does not shine on neighborhood properties or roadways.**
- g. The Applicant shall comply with all DelDOT requirements, including any entrance or roadway improvements.**
- h. The Final Site Plan shall clearly show all areas for vehicle and 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.**
- i. Failure to comply with any of these conditions shall be grounds for termination of the Conditional Use approval.**
- j. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**
- k. This use shall be limited to a landscaping business. For purposes of this Conditional Use, "Landscaping" shall include the Applicant's tree service business.**

**I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2762 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 5TH DAY OF JANUARY 2021.**

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**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 Keith Twardowski for a Conditional Use of land in an AR-1 Agricultural Residential District and GR General Residential District for a landscaping business to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 3.18 acres, more or less (property lying on the north side of Friendship Road (S.C.R. 306A) approximately 0.36 mile southwest of Indian Mission Road (Route 5) (Tax I.D. No. 234-23.00-51.00) (911 Address: 33602 Samantha Drive, Millsboro).**
- B. Based on the record before the Planning and Zoning Commission and the hearing before the Sussex County Council, Council found that Larry Fifer, Esquire, and the Applicant, Keith Twardowski, were present at the Planning and Zoning Commission's public hearing on behalf of this application, and that Mr. Fifer was present at Sussex County Council's public hearing on behalf of this application; that the application is for a Conditional Use for an existing landscaping business; that the subject parcel is split-zoned GR and AR-1; that the use is allowed under a Conditional Use permit; that no waste would be stored on the site; that there will be some storage of materials to be used on jobsites; that this use will not affect the environment, waterways, streams or groundwater; that the use will not adversely affect the neighboring properties; that the hours of operation will be 7:00 a.m. – 6:00 p.m., Monday through Saturday; that there are two (2) employees with two (2) to three (3) trips to the subject property daily; that a sign is being requested; that snow removal is part of the business so additional hours are requested for inclement weather; that some vehicle repairs take place on site; and that oil will be disposed of in a correct and safe manner.**
- 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 (8a – k), as amended, Council found that:**
  - 1. The property is located on a 3.18-acre parcel and it is surrounded by properties that have a similar size. It has a "split-zoning" of both AR-1 and GR. It is an appropriate location for this limited type of use.**
  - 2. The site is located within the Coastal Area according to the Sussex County Comprehensive Plan. The Coastal Area is a Developing Area according to the Plan. This type of use is appropriate within this Area.**
  - 3. The property is partially zoned AR-1 Agricultural Residential. The use of the property as a landscaping business is consistent with the agricultural zoning of the property.**
  - 4. The use will not adversely affect area roadways or neighboring properties.**
  - 5. The 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. The Applicant resides on the property and the landscaping business will be located to the rear of the residence on the property. It will not be visible from the roadway.**
  - 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), as amended, which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**