

ORDINANCE NO. 2871

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A TOWING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 3.078 ACRES, MORE OR LESS

WHEREAS, on the 1st of July 2021, a conditional use application, denominated Conditional Use No. 2296 was filed on behalf of Michael Milligan; and

WHEREAS, on the 23rd day of June 2022, 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. 2296 be approved; and

WHEREAS, on the 12th day of July 2022, 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 115, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2296 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 Broad Creek Hundred, Sussex County, Delaware, and lying on the east side of Jestice Farm Road (S.C.R 449A) approximately 0.31 mile south of Johnson Road (S.C.R 447), and being more particularly described in the attached legal description prepared by Haller & Hudson, containing 3.078 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 subject to the following conditions:

- a. The Applicant has stated that no sign is required or needed.**
- b. Security lighting shall be downward screened and shall be directed away from neighboring properties and roadways.**
- c. Any dumpsters shall be screened from the view of neighbors and roadways. The dumpster locations shall be shown on the Final Site Plan.**
- d. No repairs shall be performed on the site.**
- e. No junked, unregistered, or permanently inoperable vehicles or trailers shall be stored on the site.**
- f. There shall not be any parking in the front yard setback.**
- g. The impound and parking areas shall be shown on the Final Site Plan and marked on the site itself. Vehicles shall only be parked within these designated areas.**
- h. The perimeter of the impound area shall be screened from the view of neighboring properties with a fence or vegetation. This screening shall be shown on the Final Site Plan.**
- i. No cars shall be sold from the property.**
- j. Any violation of these conditions may be grounds for termination of this Conditional Use.**
- k. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.**

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2871 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 12TH DAY OF JULY 2022.

**Tracy N. Torbert
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 Michael Milligan for the consideration of a Conditional Use of land in an AR-1 Agricultural Residential District for a towing business to be located on a certain parcel of land lying and being in Broad Creek Hundred, Sussex County, containing 3.078 acres, more or less (property lying on the east side of Jestice Farm Road [S.C.R. 449A] approximately 0.31 mile south of Johnson Road [S.C.R. 447]) (911 Address: 31531 Jestice Farm Road, Laurel) (Tax Parcel: 232-19.00-12.02).**
- B. Based on testimony before the Planning and Zoning Commission and the public hearing before the Sussex County Council, Council found that Mr. Michael Milligan was present on behalf of his Application; that he runs a towing business from the subject property; that this is his ninth year in business; that he lives at the property; that it is a repossession business; that the pound is fenced in with cameras, lights and security; that he has two rottweilers and a pit bull; that he has eight employees and may have 70 vehicles on the property at a given time; that vehicles rotate out on Mondays, Wednesdays, and Fridays; that Delaware vehicles are usually on-site for approximately six days and Maryland vehicles are on-site for approximately twenty-one days; that a sign is not being requested; and that the property is surrounded by farmland.**

- 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 (6a. – k.), Council found that:**
- 1. Although characterized as a towing business, the Applicant operates an impound yard on this property. As a result, it does not generate customer traffic in the way that a typical towing operation would. Cars are brought in, stored for a short time, and then hauled out. No maintenance or repairs occur onsite.**
 - 2. The towing business is small, and with the conditions and stipulations placed upon it, it will not have an adverse impact on the neighboring properties or nearby roadways.**
 - 3. The Applicant resides on the property and the impound yard is screened from view. The Applicant intends to keep this primarily residential appearance.**
 - 4. The use as a towing business and impound yard is of a public or semi-public character and it is a service that is relied upon by banks, financing companies, and other businesses that require the towing and impounding of vehicles.**
 - 5. No parties appeared in opposition to this application.**
 - 6. The Conditional Use is approved subject to the eleven (11) conditions (a. – k.), which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**