

**ORDINANCE NO. 2879**

**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 BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 2.00 ACRES, MORE OR LESS**

**WHEREAS, on the 26<sup>th</sup> day of July 2021, a conditional use application, denominated Conditional Use No. 2301 was filed on behalf of Jason Tedesco; and**

**WHEREAS, on the 28<sup>th</sup> day of July 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. 2301 be approved; and**

**WHEREAS, on the 23<sup>rd</sup> day of August 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 VI, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2301 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 Baltimore Hundred, Sussex County, Delaware, and lying on the west side of Roxana Road (S.C.R. 17), approximately 0.23 mile south of the intersection of Powell Farm Road (S.C.R. 365) and Peppers Corner Road (S.C.R. 365), and being more particularly described in the attached legal description prepared by D. Stephen Parsons, P.A., said parcel containing 2.00 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. This use shall be limited to a landscaping and lawn care business. The area set aside for the landscaping operations 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. There shall not be any retail sales occurring from the site.**
- D. One lighted sign shall be permitted. It shall not exceed 32 square feet on each side.**
- E. The hours of operation shall be limited to 8:00 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 cleanup, 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 these areas shall be clearly marked on the site itself. There shall not be any parking or storage within the property's setbacks.**
- K. Failure to comply with any of these conditions may be grounds for termination of the Conditional Use approval.**
- L. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.**

**I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2879 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 23<sup>RD</sup> DAY OF AUGUST 2022.**

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**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 Jason Tedesco for the consideration of 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 Baltimore Hundred, Sussex County, containing 2.00 acres, more or less (property lying on the west side of Roxana Road [Rt. 17] approximately 0.23 mile south of the intersection of Powell Farm Road [S.C.R. 365] and Peppers Corner Road [S.C.R. 365]) (911 Address: 34018 Roxana Road, Frankford) (Tax Parcel: 134-15.00-20.04).**
- B. Based on testimony before the Planning and Zoning Commission and the public hearing before the Sussex County Council, Council found that Mr. Jason Tedesco spoke on behalf of his Application; that he and his wife began a small landscape maintenance company, Bethany Blooms Landscaping, 15 years ago; that they are locals to the area; that they do not provide hardscaping services; that they do offer snow removal; that he typically is the person to perform the snow removal; that as his business grows, he may outsource or subcontract out the snow removal jobs for commercial sites; that he was considered 25% of his business's workforce; that after a recent injury, he had to change the way he had the business structured; that he does not desire to have a large overhead, but they desire to keep growing their business; that the business currently has four (4) employees; that they desire to hire no more than six (6) employees; that the hours of operation are typically 8:00 a.m. until 4:30 p.m.; and that they do not work holidays or weekends.**
- C. Council also found that the Applicant would like permission to have a sign; that he is unsure currently if he will utilize sign advertising or not; that business serves a very small radius; that he intends to keep his jobs within the Millville and Bethany locations; that their operation should not impact the traffic; that there are numerous businesses located on Route 17, which are already zoned for commercial use; that his adjacent neighbor to the rear of his property was approved over 20 years ago for a landscape business on a 10-acre property; that he believes Resort Landscaping is**

located at the property behind his; that the neighbor to the left of his property has a construction company; that the property across the street performs metalwork; that the adjacent business runs the same type of outfit they have; that currently he has no storage of material at the site; that if the future forces him to store material onsite, he would like to, if it is permitted; that they own a six cylinder dump truck; that all equipment is stored in an enclosed trailer or in the existing pole barn as shown on the survey provided; that there is little equipment servicing onsite; that he may service a belt occasionally; that he has a mechanic that he takes all of his equipment to; and that all acquired debris is taken to Eastern Shore Forest Products.

**D. 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. - 1.), Council found that:**

- 1. 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.**
- 2. The site is located within the Coastal Area according to the Sussex County Comprehensive Plan. This low-impact type of use is appropriate within this Area.**
- 3. The use will not adversely affect area roadways or neighboring properties.**
- 4. 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.**
- 5. There are other small businesses in the area with approved conditional uses, including another landscaping business and an indoor/outdoor storage facility. This conditional use is consistent with these other existing small businesses.**
- 6. 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 twelve (12) conditions (a. through l.), which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**