

**ORDINANCE NO. 2192**

**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 CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 6.1694 ACRES, MORE OR LESS**

**WHEREAS, on the 20<sup>th</sup> day of December 2010, a conditional use application, denominated Conditional Use No. 1884 was filed on behalf of Michael Schimmel; and**

**WHEREAS, on the 24th day of March 2011, 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. 1884 be approved with conditions; and**

**WHEREAS, on the 12th day of April 2011, 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. 1884 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 Cedar Creek Hundred, Sussex County, Delaware, and lying northwest of Staytonville Road (Road 224) 850 feet northeast of Union Church Road (Route 42) and being more particularly described as follows:**

**BEGINNING at an iron pipe on the northwesterly right-of-way of Staytonville Road, said pipe being 300 feet northwest of an iron pipe at a corner with lands, now or formerly, of Oran B. White II and Jennifer Alice White; thence across lands of John Hamstead the following three (3) courses: north 26° 37' 11" west 42.72 feet to a point, north 08° 14' 08" west 458.99 feet to a point; and south 89° 29' 21" west 125.19 feet to a point on line with Lot 4 of the H. Millard Betts Subdivision; thence by and along the rear lot lines of Lots 4, 3, 2 and 1 of said subdivision the following five (5) courses: north 00° 29' 42" west 106.66 feet to a point, north 89° 30' 18" east 45.00 feet to a point, north 00° 29' 42" west 150.00 feet to a point, south 89° 30' 18" west 45.00 feet to a point, and north 00° 29' 42" west 299.20 feet to a rebar; thence north 85° 41' 19" east 426.29 feet along lands, now or formerly, of Roland J. and Eva J. Pasterfield, and lands, now or formerly, of Thomas E. and Diane M. Robbins to a concrete monument; thence south 06° 30' 02" east 352.63 feet along lands, now or formerly, of James N. and Lorrie L. Sylvester to a point; thence across lands of John Hamstead the following three (3) courses: south 82° 59' 08" west 206.90 feet to a point, south 05° 32' 11" east 566.70 feet to a point, and south 09° 36' 41" west 40.00 feet to a point on the northwesterly right-of-way of Staytonville Road; thence south 42° 49' 26" west 136.50 feet along the northwesterly right-of-way of Staytonville Road to the point and place of beginning and containing 6.1694 acres, more or less, as surveyed by Miller Lewis, Inc.**

**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:**

- 1. The use shall be limited to the Applicant's landscaping business.**
- 2. A vegetated buffer shall be established as shown on the Final Site Plan. The vegetation shall be extended out to Staytonville Road along the side property lines. The vegetation shall be planted to screen the use from neighboring properties. The buffer shall be established within 90 days of the approval of the Final Site Plan for the use.**
- 3. The hours of operation shall be from 7:00 a.m. until 6:00 p.m. Monday through Saturday.**

4. All parking areas shall be shown on the Final Site Plan.
5. Any security lighting shall be screened so that it does not shine on neighboring properties or roadways.
6. Any storage of stone, mulch, dirt or similar materials shall be in bins, and the location of those bins shall be shown on the Final Site Plan.
7. Any chemicals used in the business shall be stored inside of the building.
8. No retail sales shall occur from the site.
9. No mulching or stump grinding shall occur on the site.
10. The location of any dumpster shall be shown on the Final Site Plan and shall be screened from view of neighboring properties.
11. One (1) lighted sign, not exceeding 32 square feet per side, may be permitted.
12. 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. 2192 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 10TH DAY OF MAY 2011.**

  
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:**

1. This is an application for a Conditional Use in an AR-1 Agricultural Residential District for a landscaping business to be located on a certain parcel of land lying and being in Cedar Creek Hundred, Sussex County, containing 6.1694 acres, more or less, lying northwest of Staytonville Road (Road 224) 850 feet northeast of Union Church Road (Route 42).
2. DeIDOT commented that a Traffic Impact Study is not recommended and that the current Level of Service A of Staytonville Road, aka Fleatown Road, will not change as a result of this application.

3. **The County Engineering Department, Utility Planning Division, commented that the site is located in the Western Sussex Planning Area No. 1; that an on-site septic system is proposed; and that the project is not capable of being annexed into a County operated sanitary sewer district.**
4. **Michael Schimmel was present on behalf of his application and he stated that he has a growing business and would like to locate it at his proposed home location; that the site is proposed to be improved by a dwelling, a pole building and an area for parking vehicles and equipment; that he currently has eight (8) employees; that the tree line buffer will screen the site; that he only needs minimal outside storage on the site for mulch; that he maintains a limited storage of pesticides for job-site uses, not for sale, and that he will be maintaining his lawn mowers and other equipment in the pole building.**
5. **This project will not have an adverse impact on the neighboring properties or community.**
6. **Other than the Applicant, there were no parties present in support of or in opposition to the application.**
7. **The use is of a public or semi-public character.**
8. **The use will not adversely affect traffic or area roadways.**
9. **Based on the record and recommendation of the Planning and Zoning Commission and the record created before the Council, the Conditional Use was approved subject to twelve (12) conditions which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**