

ORDINANCE NO. 2193

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A LANDSCAPING SERVICE BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 7.57 ACRES, MORE OR LESS

WHEREAS, on the 14th day of January 2011, a conditional use application, denominated Conditional Use No. 1889 was filed on behalf of Robert A. Marshall; and

WHEREAS, on the 28th day of April 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. 1889 be approved with conditions; and

WHEREAS, on the 17th day of May 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. 1889 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 Lewes and Rehoboth Hundred, Sussex County, Delaware, and lying west of Road 274 (Old Landing Road) 1,150 feet north of Arnell Road and being more particularly described in the attached legal description provided by Davis, Bowen & Friedel, Inc., said parcel containing 7.57 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:

- 1. No new buildings shall be constructed.**
- 2. All equipment servicing and repairs shall occur inside of the existing buildings.**
- 3. Any material storage shall be stored in bins or other containers. The location of these shall be shown on the Final Site Plan.**
- 4. Fertilizers and other chemicals shall be stored inside the structures or in approved outdoor tanks or containers.**
- 5. The location of all parking areas shall be shown on the Final Site Plan.**
- 6. The Final Site Plan shall be subject to the review of the Planning and Zoning Commission.**
- 7. Per the Applicant, they will submit plans for approval from the Sussex Conservation District.**

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2193 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 17TH 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 Conditional Use of land in an AR-1 Agricultural Residential District for a landscaping service business to be located on a certain parcel of land, lying and being in Lewes and Rehoboth Hundred, Sussex County, Delaware, containing 7.57 acres, more or less, lying west of Road 274 (Old Landing Road), 1,150 feet north of Arnell Road.**
- 2. DelDOT commented that a Traffic Impact Study is not recommended and that the current Level of Service C of Old Landing Road could change to a Level of Service D.**

3. **The Sussex County Engineering Department, Utility Planning Division, commented that since the Conditional Use is for existing use conformance, the County Engineering Department has no objection to the proposed Conditional Use.**
4. **The Applicant is applying for a Conditional Use to utilize 7.57 acres of the 133 acre Old Landing Golf Course for a landscaping service business; Mr. Marshall is the owner of the property and he is in a partnership with Mr. Anderson in Bay Creek Landscaping which is a full service landscaping business; they intend to utilize the two existing maintenance storage buildings near the entrance of the golf course to operate the business; the older of the two buildings has been utilized for maintenance of the equipment for the golf course and will continue to be used for maintenance of equipment for both the golf course and the landscaping business; both buildings have been connected to the County Sewer System and that the landscaping business currently has eight (8) employees; they cut grass, maintain properties, and provide and install landscaping and irrigation systems; and the business will assist the golf course for maintenance when needed.**
5. **The use is of a public or semi-public character. The Applicant performs services for both residential and agricultural uses in Sussex County.**
6. **The proposed use will not adversely affect the neighboring and adjacent properties. The proposed use will be similar to the use that has been on the property for many years in maintaining the current golf course.**
7. **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 seven (7) conditions which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**