

ORDINANCE NO. 2130

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO CONFIRM, CLARIFY AND EXPAND THE HISTORICAL USES OF THE PROPERTY, INCLUDING: BUSINESS AND PROFESSIONAL OFFICES; LANDSCAPING; RETAIL AND WHOLESALE SALES; INDOOR WAREHOUSING AND STORAGE; INDOOR VEHICLE, TRUCK AND EQUIPMENT REPAIR; INDOOR FABRICATION; AND RECYCLING OPERATIONS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 10.0238 ACRES, MORE OR LESS

WHEREAS, on the 7th day of January 2010, a conditional use application, denominated Conditional Use No. 1859 was filed on behalf of The Johnson Associates, LLC; and

WHEREAS, on the 10th day of June 2010 a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 24th day of June 2010, said Planning and Zoning Commission recommended that Conditional Use No. 1859 be approved with conditions; and

WHEREAS, on the 29th day of June 2010 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. 1859 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 southeast of Route 38 (Primehook Road) 2,240 feet northeast of Route One and being more particularly described in Deed Book 3419, Page 37, in the Office of the Recorder of Deeds in and for Sussex County, said parcel containing 10.0238 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. The uses shall be limited to business and professional offices, landscaping, retail and wholesale sales, indoor warehousing and storage, indoor vehicle, truck and equipment repair and indoor fabrication. As stated by the Applicant, there shall be no recycling operation permitted on the property.**
- 2. Retail uses shall be limited to those sales directly related to the other uses permitted by this approval. Large scale commercial or retail uses shall not be permitted on the site.**
- 3. There shall be no fuel storage on the site.**
- 4. There shall be no Sunday hours, except in the event of an emergency.**
- 5. Any waste oil generated by the vehicular repair facility shall be stored and disposed of as DNREC regulations require, using a licensed waste oil hauler.**
- 6. The Applicant shall maintain, repair the place as necessary, including parking areas, buffer areas, stormwater management facilities, interior drives and other common areas.**
- 7. The project shall comply with all agency requirements, including but not limited to Sussex Conservation District, DNREC, Sussex County Engineering Department, etc.**
- 8. Because the site is already fully developed with lighting, signage, security fencing and a motor operated gate, these shall be deemed approved as they currently exist. The Applicant shall file with the Commission an as-built site plan of the property, depicting the location and nature of all of the elements of the property, and designate the parking area and interior drives on it.**
- 9. The Final Site Plan, containing all of the information referenced above, 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. 2130 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 29TH DAY OF JUNE 2010.


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 to consider a Conditional Use of land in an AR-1 Agricultural Residential District to confirm, clarify and expand the historical uses of the property, including business and professional offices; landscaping, retail and wholesale sales; indoor warehousing and storage; indoor vehicle, truck and equipment repair, and indoor fabrication to be located on a certain parcel of land lying and being in Cedar Creek Hundred, Sussex County, State of Delaware, containing 10.0238 acres, more or less, lying southeast of Route 38 (Prime Hook Road) 2,240 feet northeast of Route 1.**
- 2. DelDOT commented that a Traffic Impact Study was not recommended and that the Current Level of Service A of Prime Hook Road will not change as a result of this application.**
- 3. The Sussex Conservation District commented that the Applicant will be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation; that there are no storm flood hazard or tax ditches affected; that no off-site drainage improvements will be necessary; and that it may be possible that on-site drainage improvements will be necessary, since expansion may pose a need for improvements.**
- 4. The Sussex County Engineering Department Utility Planning Division commented that the site is located in the North Coastal Planning Area; that the Applicant plans to utilize an on-site septic system; that the proposed project is not in an area where the County currently provides sewer service; and that a Concept Plan is not required.**
- 5. The property has traditionally been commercial in that it was originally the Carlton Clifton & Sons Canning Factory; that the buildings on the property were used pursuant to Conditional Use No. 1284 for truck repair, storage yard, a contractor facility and sales office, and a lawn care irrigation business. The current owners purchased the property in December 2006 and they acquired all necessary approvals for the buildings. The purpose of this application is to prevent the Applicant from having to file and change their Conditional Use as tenants change.**
- 6. The Delaware Strategies for State Policies and Spending identifies the area as an Investment Level 3 Area.**

7. The project is in character with the nature of the area since it has been in place for many years and will have no adverse impact on the area or the character of the neighborhood.
8. The use is of a public or semi-public character. The Applicant performs services for both residential and agricultural uses in this area of Sussex County.
9. There were no parties present in support of or in opposition to the application.
10. 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 nine conditions which will serve to minimize any potential impacts on the surrounding area.