

ORDINANCE NO. 2258

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A FARM TRACTOR AND AUTO REPAIR TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 20,437 SQUARE FEET, MORE OR LESS (T.M. 5-33-17.00 Parcel 179.00) (Part of)

WHEREAS, on the 16th day of March, 2012, a conditional use application, denominated Conditional Use No. 1929 was filed on behalf of Everett Dennis & David Harbin; and

WHEREAS, on the 10th day of May 2012, 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. 1929 be approved with conditions; and

WHEREAS, on the 5th day of June 2012, 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. 1929 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 southeast of Road 387 (Hudson Road), 0.6 mile north of Route 54, and being more particularly described as follows:

BEGINNING at an iron pipe on the southeasterly right-of-way of Road 387 (Hudson Road), a corner for these lands and lands of C & U Hundson Farms, LLC; thence south 52° 22' 13" east 73.50 feet along lands of C & U Hundson Farms, LLC to a point; thence meandering across lands of Everett M. & Iva B. Dennis the following eight (8) courses: south 37° 46' 00" west 48.50 feet to a point; south 52° 14' 00" east 62.50 feet to a point; south 37° 46' 00" west 50.50 feet to a point; south 50° 12' 00" east 76.00 feet to a point; south 38° 04' 00" west 86.00 feet to a point; north 51° 56' 00" west 87.00 feet to a point; north 06° 00' 00" east 88.50 feet to a point; and north 23° 25' 00" west 111.91 feet to a point on the southeasterly right-of-way of Road 387; thence north 56° 57' 18" east 61.28 feet to the point and place of beginning, and containing 20,437 square feet per survey by Lawrence R. Long.

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 Final Site Plan shall show all required parking and equipment storage areas.**
- 2. There shall not be any outside storage of junked or permanently inoperable vehicles, automobile parts, farm equipment, tires, or other materials used to repair cars or agricultural equipment.**
- 3. No vehicles for sale will be displayed on the premises.**
- 4. All repair work shall be performed inside the three bay garage/shop building. The only repair work shall be for automobiles, trucks and farm equipment and all work shall be completed inside the shop building except for large equipment (farm equipment too large to fit in the three bay garage/shop building).**
- 5. The shop will only be operated between the hours of 8:00 a.m. until 5:00 p.m. Monday through Friday, and 8:00 a.m. until noon on Saturday.**
- 6. There may only be one lighted sign on the property advertising the business, not to exceed 32 square feet in size on either side.**
- 7. Any security lights shall only be installed on the building and shall be screened so that they do not shine on neighboring properties or roadways.**

8. The location for a possible dumpster shall be shown on the Final Site Plan, and it shall be screened from view of neighboring properties.
9. The Site Plan shall be subject to the approval of the Planning and Zoning Commission.

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2258 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 5TH DAY OF JUNE 2012.


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 the Conditional Use of land in an AR-1 Agricultural Residential District for a farm tractor and auto repair to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 20,437 square feet, more or less, lying southeast of Road 387 (Hudson Road), 0.6 mile north of Route 54 (Tax Map I.D. # 5-33-17.00-179.00 – Part Of).
2. DelDOT commented that a Traffic Impact Study is not recommended and that the current Level of Service A of Hudson 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 areas or tax ditches affected; that the project will not necessitate any off-site drainage improvements; and that it may be possible that on-site drainage improvements will be required.
4. The County Engineering Department, Utility Planning Division, commented that the site is not in the area of a County operated and maintained sanitary sewer district; that the site is located in the Western Sussex – Town of Selbyville Area of Potential Expansion; that use of an on-site septic system is proposed; that the project is not

capable of being annexed into a County operated sanitary sewer district; that conformity to the Western Sussex Planning Study will be required; that the parcel is not in an area where the County expects to provide sewer service; and that a Concept Plan is not required.

5. Everett Dennis and David Harbin, Applicants, were present on behalf of their application; Mr. Dennis is the property owner and Mr. Harbin is the only employee of the business; in addition to automotive repairs, the business performs welding and repair work on farm equipment, which is a benefit to area agriculture; there are other business uses in the general area, including another automotive repair, storage facility and electrical business; and there is a need for farm machinery repair in the area.
6. The Conditional Use will have no significant impact on traffic.
7. The project, with the conditions and stipulations placed upon it, will not have an adverse impact on the neighboring properties or community.
8. The use is conveniently located for area farmers and will reduce the distance they will need to haul their tractors and equipment on area roadways for service.
9. No parties appeared in support of or in opposition to this 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 and adjoining properties.