

ORDINANCE NO. 2296

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR BOAT REPAIR, BOAT STORAGE, AND BOAT SALES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 2.36 ACRES, MORE OR LESS (Tax Map I.D. 2-32-2.00-21.00\22.00)

WHEREAS, on the 24th day of October 2012, a conditional use application, denominated Conditional Use No. 1952 was filed on behalf of Clinton E. McCutchen; and

WHEREAS, on the 14th day of February 2013, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 28th day of February 2013, said Planning and Zoning Commission recommended that Conditional Use No. 1952 be approved with conditions; and

WHEREAS, on the 19th day of March 2013, 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. 1952 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 Broad Creek Hundred, Sussex County, Delaware, and lying southwest of Route 20 (Hardscrabble Road) at corner with and northeast of Road 473 (Messick Road) and being more particularly described in Deed Book 3956, Page 244 in the Office of the Recorder of Deeds in and for Sussex County, said parcel containing 2.36 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 boat storage facility will be open during daylight hours only.**
- 2. The perimeter of the site shall be fenced and gated with a 7-foot high chain linked type of fencing.**
- 3. All persons visiting the site shall be accompanied by representatives of the Applicant.**
- 4. This approval is for boats (including personal watercraft) only, not the storage, sales and maintenance of vehicles and RV's.**
- 5. One lighted sign, not to exceed 32 square feet per side, shall be permitted.**
- 6. Security lighting shall be provided on the site and shall be directed away from neighboring properties and roadways.**
- 7. Any dumpsters shall be screened from view of neighbors and roadways. The dumpster locations shall be shown on the Final Site Plan.**
- 8. All repairs shall be performed either indoors or on an impervious surface on the site.**
- 9. No unregistered or permanently inoperable boats, watercraft or trailers shall be stored on the site.**
- 10. No more than 40 boats (including personal watercraft) shall be stored on the site at any one time.**
- 11. All parking and storage areas shall be clearly depicted on the Final Site Plan and also physically identified on the site itself.**
- 12. The site shall be subject to all DelDOT entrance and roadway requirements.**
- 13. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

**I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2296 ADOPTED BY THE SUSEX COUNTY COUNCIL ON THE 19TH DAY OF MARCH 2013.**

  
**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 the Conditional Use of land in an AR-1 Agricultural Residential District for boat repair, boat storage, and boat sales, to be located on a certain parcel of land lying and being in Broad Creek Hundred, Sussex County, containing 2.36 acres, more or less, lying southwest of Route 20 (Hardscrabble Road) at the corner with and northeast of Road 473 (Messick Road) (Tax Map I.D. 2-32-2.00-21.00/22.00).
2. DelDOT commented that a Traffic Impact Study is not recommended, and that the current Level of Service "A" for Road 473 and the current Level of Service "A" for Route 20 will not change as a result of this application.
3. The Sussex County Engineering Department, Utility Planning Division, commented that the site is located in the Western Sussex Planning Area #5; 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 proposed use is not in an area where the County has a schedule to provide sewer service at this time; and that a Concept Plan is not required.
4. The Applicant, Clinton E. McCutchen, was present with Heidi Gilmore, Attorney with Tunnell and Raysor, P.A., and stated that Mr. McCutchen wants to operate a boat repair, boat storage and boat sales business; that he lives on the premises; that the area is considered a Low Density Area; that on-site well water and septic exists; that the site is in close proximity to Messick Supply Store and the Horsey borrow pits; that the building will be used for repairs; that a boat hoist will be available for use; that the area will be fenced with chain-link fencing; that access is intended from Messick Road subject to DelDOT approval; that the Applicant's engineers are working with DelDOT to obtain a Letter of No Objection; that there should be no adverse impact on the community; that no employees are intended immediately; that as business improves, he would hope to have no more than two (2) employees; that since he is starting as a one man operation living on the premises, he would like to be able to operate seven (7) days per week with no limitation on hours; and that he has not received any violations.

5. The Applicant stated that the use cannot be considered a home occupation since he does repairs for others; that the fenced area will be gated; that the gate will be locked when not in use; that dumpsters will be screened; that due to the size of some boats, he will be doing some repairs outside, but only on the existing concrete pad; that most of the repair work will be performed indoors; that waste oils will be removed by licensed handlers; that he will be working on all types of water craft, i.e. boats, jet-skis, etc.; that all boats moved to and from the site will be moved by the Applicant; that boats for sale would include boats owned by the Applicant and boats on sale for consignment; and that he should be able to store 30 to 40 boats on the site.
6. The project, with the conditions and stipulations placed upon it, will not have an adverse impact on the neighboring properties or community; and that the location, surrounded by Hardscrabble Road, Messick Road and a Delmarva Power & Light power line right-of-way is appropriate for this proposed use.
7. The use, as a boat storage facility, is of a public or semi-public character and is desirable for the general convenience and welfare of the area and the Applicant intends to continue using the property as his primary residence while this use is underway.
8. There were no parties present in support of or in opposition to this application.
9. Based on the record and recommendation of the Planning & Zoning Commission and the record created before Council, the Conditional Use was approved subject to 13 (thirteen) conditions which will serve to minimize any potential impacts on the surrounding area and adjoining properties.