

ORDINANCE NO. 2304

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND A GR GENERAL RESIDENTIAL DISTRICT FOR PARKING COMMERCIAL TRACTOR TRAILERS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 9.59 ACRES, MORE OR LESS (Tax Map I.D. 2-31-12.00-152.00)

WHEREAS, on the 4th day of October 2012, a Conditional Use application, denominated Conditional Use No. 1950 was filed on behalf of the Erlin I. Rivera; and

WHEREAS, on the 10th day of January 2013, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 14th day of February 2013, said Planning and Zoning Commission recommended that Conditional Use No. 1950 be approved with conditions; and

WHEREAS, on the 5th day of February 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, and Chapter 115, Article VI, Subsection 115-39; Code of Sussex County, be amended by adding the designation of Conditional Use No. 1950 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 Nanticoke Hundred, Sussex County, Delaware, and lying west of Road 516 (Concord Pond Road) 600 feet south of Road 525 (King Road) and being more particularly described in Deed Book 3883, Page 110, as recorded in the Office of the Recorder of Deeds in and for Sussex County, said parcel containing 9.59 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. There shall be no more than 10 trucks and/or trailers on the site at any one time.**
- 2. All trucks and trailers on the site must be operable and have valid registrations.**
- 3. At no time will refrigeration units on any trailer stored on site be started, running or operating.**
- 4. At no time will trucks be left to idle for an extended period and/or an unreasonable amount of time. Reasonable time will be considered that time needed to sensibly allow the trucks engine and operating systems to warm to allow the truck to be driven in a safe and reasonable manner. This shall include the time needed to hook and/or unhook from trailers.**
- 5. At no time will any general maintenance be performed on any truck, trailer or vehicle except for emergency repairs needed for the safe and reasonable operation of said truck, trailer or vehicle.**
- 6. The parking areas and spaces shall be clearly designated on the Final Site Plan. The parking areas shall also be clearly marked on the actual site.**
- 7. There shall be a 50 foot setback from any perimeter boundary with a third party owner. No parking of trucks or trailers shall be allowed in this setback area. The setback area shall be shown on the Final Site Plan and also clearly marked on the site with post and rail fencing or a similar barrier. If this setback area eliminates the Applicant's ability to reasonably park the trucks and trailers, the Applicant may apply for an expansion of the Conditional Use onto the remaining property owned by him. If such an application is required, but only in the event that it is necessary due to this setback requirement, it should be considered on an expedited basis without an additional application fee. Any such expansion shall only include the minimal area needed to comply with this setback requirement.**
- 8. Any security lighting shall be downward screened so that it does not shine on neighboring properties or roadways.**
- 9. 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. 2304 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 23RD OF APRIL 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 and a GR General Residential District for parking commercial tractor trailers, to be located on a certain parcel of land lying and being in Nanticoke Hundred, Sussex County, containing 9.59 acres, more or less, lying west of Road 516 (Concord Pond Road) 600 feet south of Road 525 (King Road) (Tax Map I.D. 2-31-12.00-152.00)**
- 2. DelDOT commented that a Traffic Impact Study was not recommended and that the current Level of Service “C” for Concord Road will not change as a result of this application. On February 16, 2012, DelDOT provided additional comments in the form of a letter which referenced that the Department has since spoken with the Applicant and were advised that the Applicant may want to have more than ten trucks per day to and from the site; that a Traffic Impact Study would be warranted if more than 400 vehicle trips are generated per day (200 entering and 200 exiting or 50 trips per hour); that their expectation is that both the maximum number of trucks that the Applicant may want to park on the site and the maximum number of trucks that the County might find appropriate to this rural area are far lower than DelDOT warrants; and that if the County finds that the proposed use to be otherwise acceptable, and can reach an agreement with the Applicant on the maximum numbers of truck trips per day and per hour that does not exceed the amount DelDOT warrants, then the Department recommends that the County include those limits in their approval and proceed without a Traffic Impact Study.**
- 3. The Applicant, Erlin I Rivera, was present along with Doug Williams, Surveyor with George William Stephens, Jr. and Associates, Inc. They stated in their presentation and in response to questions raised by the Commission that the site is intended for the parking and storage of trucks and trailers; that no refrigerated trailers are stored running on the site; that the Applicant contracts for Allen Foods and other poultry operations; that they anticipate 10 to 12 trips per day; that the Applicant currently has 6 trucks and trailers, and that the total number of trucks and trailers will not exceed 10 each; that the business operates seven (7) days per week; that no dumpster is needed on the site; that there is no need for septic or a**

porta-toilet; that there is no dwelling on the site; that no security is provided; that no signage is intended; that they deliver goods throughout the Mid-Atlantic region; that there will not be any scrap tires stored on the site; that they plan on keeping the site free of debris and dilapidated vehicles; that the trucks are not serviced on the site, they are currently serviced off-site; that the trucks are cleaned at plant sites; that the use will be limited to a 1.4 acre portion of the 9.59 acre site; that Apple Orchard Lane serves another property and this site; and that the maximum number of drivers will not exceed 10 drivers.

4. The Applicant has stated that his tractor trailer company provides a service to the Sussex County Agricultural Industry; that this site is centrally located for this purpose and the Applicant's customers; that the site is intended for parking only; and that there will not be any truck or trailer maintenance or repairs on site.
5. The use promotes the orderly growth and economic development of Sussex County.
6. The Conditional Use, with the conditions and stipulations placed upon it, will not have any adverse impact on neighboring properties, roadways or traffic.
7. Based on the record and recommendation of the Planning & Zoning Commission and the record created before Council, the Conditional Use was approved subject to 9 (nine) conditions, which shall serve to minimize any potential impacts on the surrounding area and adjoining properties.