## **ORDINANCE NO. 2315**

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR USED CAR SALES BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 37,500 SQUARE FEET, MORE OR LESS (Tax Map I.D. 1-35-14.00 - 65.00)

WHEREAS, on the 22nd day of April 2013, a conditional use application, denominated

Conditional Use No. 1964 was filed on behalf of Salman P. Choudhary, t/a Master Tires; and WHEREAS, on the 27th day of June 2013, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 11th day of July, 2013 said Planning and Zoning Commission recommended that Conditional Use No. 1964 be approved with conditions; and

WHEREAS, on the 16th day of July 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. 1964 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 Georgetown Hundred, Sussex County, Delaware, and lying east of U.S. Route 113, 300 feet north of North Bedford Street Extended and being more particularly described in Deed Book 2130, Page 294, in the Office of the Recorder of Deeds in and for Sussex County, said parcel containing 37,500 square feet, 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.

The Ordinance was adopted subject to the following conditions:

- 1. The use as a used car sales facility is in addition to the existing use as a tire sales store.
- 2. There shall be no more than ten (10) cars for sale at any one time from the site.
- 3. The location of the cars for sale shall be paved or stoned and shall be shown on the Final Site Plan. All cars on display shall be located on the paved or stoned area.
- 4. The tires on the site must be enclosed or fenced so that they cannot be seen from roadways or neighboring properties. The location of these storage areas shall be shown on the Final Site Plan.
- 5. Any large trash cans or dumpsters on the site shall also be enclosed so that they are screened from view of neighboring properties or roadways.
- 6. Any lighting on the used car sales area of the site shall be downward screened so that it does not shine onto neighboring properties or roadways.
- 7. 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. 2315 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 16TH DAY OF JULY 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 Facts:

- 1. This is an application to consider the Conditional Use of land in an AR-1 Agricultural Residential District for used car sales, to be located on a certain parcel of land lying and being in Georgetown Hundred, Sussex County, containing 37,500 square feet, more or less, lying east of U.S. Route 113, 300 feet north of North Bedford Street Extended (Tax Map I.D. 1-35-14.00-65.00).
- 2. The site was originally used as a service station prior to zoning jurisdiction; that on November 9, 1971 the Sussex County Levy Court approved Conditional Use No. 26 for Hester L. Monroe to erect an addition to the existing service station; that the Applicant is now requesting permission to sell used cars on the site; that the property owner had been previously cited several times for this activity; that the owner had attempted to

- apply for annexation into the Town of Georgetown, but later withdrew his annexation proposal; and that the Applicant is actually a tenant trying to bring the site into compliance.
- 3. DelDOT commented that the Department has no contention to the referenced application and permitting use of the existing entrances without modification for the existing tire business and used car sales.
- 4. The Sussex County Engineering Department, Utility Planning Division, commented that the site is located in the North Coastal Planning Area; that use of an on-site septic system is proposed; that conformity to the North Coastal Planning Study will be required; that the proposed use is not in an area where the County currently has a schedule to provide sewer service; that the parcel adjoins the Town of Georgetown; that the parcel is in Georgetown's growth and annexation area; that the Applicant should contact the Town of Georgetown regarding central sewer service; and that a Concept Plan is not required.
- 5. The Sussex Conservation District commented that the Applicant will be required to follow recommended erosion and sediment control practices during any construction and to maintain vegetation; that no storm flood hazard areas or tax ditches are affected; and that it is not likely that any on-site or off-site drainage improvements will be required.
- 6. James Fuqua, Esquire, was present on the Applicant's behalf and he stated that the record reflects that the Applicant is operating a business on the site and the proposed use is a similar activity; that the proposed use should not pose any problems with the conditions that were recommended by the Planning and Zoning Commission; that the Applicant wants to bring the property into compliance so that he can sell used cars and continue selling tires; that several loads of tires have been removed; that the tires are hauled to a recycling facility in Baltimore, Maryland since there are no tire recycling facilities in the area; that the State Fire Marshall requires that tires must be at least 25 feet from property lines; that he has no need for additional signage since he has an existing sign on the roof canopy; that he does not sell gasoline and that the storage tanks have been removed; that he has been in the tire business on this site since 2006;

- that his lease, with the property owners, expires in January 2014; and that he does have an option in the lease to extend the lease, if the property is not sold.
- 7. The site is the location of a gas and service station that predates zoning; that the site is currently used for tire sales; and that the proposed use as a small used car sales facility is consistent with the historical use of the property.
- 8. The site is near the intersection of U.S. Route 113 and North Bedford Street Extended; that this type of use is appropriate for a location such as this; and that there are other commercial uses and zoning in the vicinity, including shopping centers, a Wal-Mart, radio stations, lumber yards, etc.
- 9. The proposed use will not have an adverse impact on neighboring properties, roadways, or the community.
- 10. The use in this location is a benefit to Sussex County residents by providing a used car sales facility along a major roadway nearly adjacent to the town limits of Georgetown.
- 11. Based on the record and recommendation of the Planning & Zoning Commission and the record created before Council, the Conditional Use was approved subject to 7 (seven) conditions which will serve to minimize any potential impacts on the surrounding area and adjoining properties.