

ORDINANCE NO. 2332

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN ELEMENTARY SCHOOL EXPANSION TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 26.77 ACRES, MORE OR LESS (Tax Map I.D. 1-33-17.00-41.00 and 42.00)

WHEREAS, on the 21st day of October 2013, a conditional use application, denominated Conditional Use No. 1976 was filed on behalf of Indian River School District; and

WHEREAS, on the 12th day of December 2013, 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. 1976 be approved with one condition; and

WHEREAS, on the 7th day of January 2014, 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. 1976 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 Dagsboro Hundred, Sussex County, Delaware, and lying southwest of Road 331 (Iron Branch Road) 1,200 feet southeast of Road 339 (Old Landing Road) and northwest of 1st Street in Riverview Subdivision more particularly described as:

BEGINNING at a point at the northwest corner of Road 331 (Iron Branch Road) and 1st Street, a 30 foot width right-of-way in Riverview Subdivision; thence south 24°44'09" west 502.81 feet along said 1st Street to a point; thence north 63°19'51" west 154.01 feet along lands of Ralph Drummond to a point; thence northwesterly and easterly the following eight (8) courses; south 51°47'41" west 454.88 feet to a point; south 88°18'47" west 320.12 feet to a

point; north 26°25'23" west 697.00 feet to a point; north 41°42'33" west 54.51 feet to a point; north 25°22'46" west 168.67 feet to a point; north 24°24'41" west 84.66 feet to a point; north 49°34'11" east 440.30 feet to a point; and north 48°02'39" east 337.02 feet to a point on the southwesterly right-of-way of Road 331; thence southeasterly 20 feet along Road 331 to a point, a corner for lands, now or formerly, of David C. and Jamie F. Doane; thence following said Doane lands the following three (3) courses: south 47°55'06" west 323.96 feet to a point; south 37°25'02" east 79.97 feet to a point; and north 48°00'42" east 347.66 feet to a point on the southwesterly right-of-way of Road 331; thence southeasterly 1,050.03 feet along the southwesterly right-of-way of Road 331 to the point and place of beginning. Said parcel containing 26.77 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 condition:

- 1. 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. 2332 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 7TH DAY OF JANUARY 2014.


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 of the Indian River School District to consider the Conditional Use of land in an AR-1 Agricultural Residential District for an elementary school expansion to be located on a certain parcel of land lying and being in Dagsboro Hundred, Sussex County, containing 26.77 acres, more or less, lying southwest of Road 331 (Iron Branch Road) 1,200 feet southeast of Road 339 (Old Landing Road) and northwest of 1st Street in Riverview Subdivision (Tax Map I.D. # 133-17.00-41.00 and 42.00).**
- 2. The Applicants submitted a survey/site plan with the application and advised in a cover letter that they had met with DelDOT on October 7, 2013; that DelDOT will not require a Traffic Impact Study, but will require right-of-way and permanent easement dedications, construction of a sidewalk along Iron Branch Road, and that a formal**

submission through DelDOT's review process is required to obtain a "Letter of No Objection"; that on November 26, 2013, DelDOT commented that the Department has received the preliminary site and entrance plan, and that it is in the process of reviewing said plans.

3. The Sussex County Engineering Department, Utility Planning Division, commented that the site is located in the Town of Millsboro sewer district; that the school expansion will connect to the Town's central sewer system; that conformity to the North Coastal Planning Study will be required; that the school is not in an area where the County will provide sewer service; and that a Concept Plan is not required.
4. Garth Jones, Professional Engineer with Becker Morgan Group, was present on behalf of the application and stated that they are proposing an addition of 9,000 square feet, a one-story building with a height of 22 feet; that the school property is a legal non-conforming use of the property; that they have added additional acreage to the property and are asking for a Conditional Use to bring the entire property into compliance; that they are proposing to add eight (8) additional classrooms and two (2) restrooms; that DelDOT will be requiring sidewalks, multi-modal paths, and some dedication of roadway to expand the right-of-way of Iron Branch Road; that the existing parking already exceeds the minimum required by the Code; and that the parking and fire lane will be reconfigured.
5. This is the expansion of an existing elementary school that has been in its present location for many years; that its existence predates the Sussex County Zoning Code; and that the Indian River School District has stated that this expansion is necessary to serve the growing population of families within the District.
6. The use as a school is a public use that is beneficial to the residents of Sussex County.
7. The expansion of the school under this conditional use will not adversely affect the neighboring properties, roadways or community.
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 record created before Council, the Conditions Use was approved subject to one (1) condition, which will serve to minimize any potential impacts on the surrounding area and adjoining properties.