

ORDINANCE NO. 2340

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PROFESSIONAL OFFICE WITH CONTRACTOR STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 4.6425 ACRES, MORE OR LESS (Tax Map I.D. 234-10.00-70.16 - no 911 address available)

WHEREAS, on the 20th day of November 2013, a conditional use application, denominated Conditional Use No. 1978 was filed on behalf of John W. Davidson; and

WHEREAS, on the 13th day of February 2014, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 27th day of February 2014, said Planning and Zoning Commission recommended that Conditional Use No. 1978 be approved with conditions; and

WHEREAS, on the 18th day of March 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. 1978 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 Indian River Hundred, Sussex County, Delaware, and lying southwest of Route 5 (Harbeson Road) 1915 feet northwest of Route 48 (Hollyville Road) more particularly described in Deed Book 4154, Page 148 in the Office of the Recorder of Deeds in and for Sussex County, said parcel containing 4.6425 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:

- A. The use shall be limited to professional offices and contracting, including the Applicants' masonry, dumpster rental, and house moving business.**
- B. Although permitted for use as the Applicant's house moving business, the site shall not become a sales facility for used or relocated houses, mobile homes or manufactured homes.**
- C. All security lighting shall be screened from view so that it does not shine on neighboring properties or roadways.**
- D. No junked or unregistered vehicles, trailers or similar equipment shall be stored on the site.**
- E. The Final Site Plan shall depict all areas used for outside storage, including:**
 - a) Vehicles, trailers and similar equipment storage and parking.**
 - b) Storage of house moving materials such as beams, axles, dunnage, jacks, etc.**
 - c) Materials associated with the masonry business;**
 - d) Construction dumpsters**
 - e) Structures temporarily moved to the site while in transit between locations.**
 - f) Any other outside storage associated with the Applicant's business.**
- F. The Final Site Plan shall contain the approval of the Sussex Conservation District for all required storm water management governed by that office.**
- G. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**
- H. The project shall be subject to all DelDOT requirements regarding entrances and roadway improvements.**
- I. The hours of operation on this site shall be from 6:00 a.m. until 6:00 p.m.**

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2340 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 18TH DAY OF MARCH 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 to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a professional office with contractor storage to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 4.6425 acres, more or less, lying southwest of Route 5 (Harbeson Road), 1,915 feet northwest of Route 48 (Hollyville Road).**

2. **DelDOT commented that a Traffic Impact Study was not recommended and that the current Level of Service “C” of Route 5 at this location 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 North Coastal Planning Area; that 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 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; and that a Concept Plan is not required.**
4. **The Applicant was present with Heidi Gilmore, Esquire, of Tunnell & Raysor, P.A. They stated that the Applicant also owns East Coast Structural Movers; that the site is currently vacant; that the Applicant purchased this property in 2013; that he proposes to use the site for an office and storage or warehousing of equipment and materials; that the site is approximately 600 feet from his existing business site; that a dwelling may be placed on the site for an office or for rental purposes; that the use will be consistent with other uses in the area; that the use is a service business; that he does not plan on storing relocated dwellings on the site; that he may be relocating his moving business to the site; that he will not be working on or servicing his equipment on site; that he has five (5) employees; that chain-linked fencing is proposed; that the lighting on the building will be downward illuminated; that signage will be lighted; that a dumpster will be used for trash; that he has not spoken to any of the neighbors; and that he may be storing rental dumpsters on the site since that is a part of his contracting business.**
5. **The Council found that one person appeared in response to the application stating concerns about potential drainage issues. Lawrence Lank, Director of Planning and Zoning, stated that the site plan will require approval by the Sussex Conservation District.**
6. **Based on the Findings of the Planning and Zoning Commission, the Council found that:**
 - A. **The location along Route 5 near the Indian Mission intersection is appropriate for this type of use. It is in an area where other commercial and business uses exist, including a car sales lot, warehousing, a mini-storage facility, a boat sales and storage**

facility, a house moving and masonry yard and others. The State of Delaware Solid Waste Authority Transfer Station is also nearby.

- B. The use will provide a service to Sussex County residents. The Applicant's business involves the re-use of dwellings and other structures that would otherwise be torn down when redevelopment occurs.**
- C. The proposed use is consistent with the Sussex County Comprehensive Development Plan and it promotes the orderly growth of the County.**
- D. The project will not have an adverse impact on traffic as the proposed use does not generate large amounts of traffic to and from the site.**
- E. The use will not adversely affect neighboring properties or the community, as it is an extension of an existing commercial and business area.**
- F. 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 (9) conditions which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**