

ORDINANCE NO. 2343

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A USED CAR SALES FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 14,295 SQUARE FEET, MORE OR LESS (Tax Map I.D. 234-4.00-11.00)

911 Address: 20524 Harbeson Rd., Harbeson, DE 19951

WHEREAS, on the 31st day of December 2013, a conditional use application, denominated Conditional Use No. 1980 was filed on behalf of Eastern Shore Auto Exchange; and

WHEREAS, on the 13th day of March 2014, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 27th day of March 2014, said Planning and Zoning Commission recommended that Conditional Use No. 1980 be approved with conditions; and

WHEREAS, on the 8th day of April 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 X, Subsection 115-71, Code of Sussex County, be amended by adding the designation of Conditional Use No. 1980 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) 0.5 mile south of Road 292A (Rust Road) and being more particularly described:

BEGINNING at an iron bar on the southwesterly right-of-way of Route 5, a corner for these subject lands and lands of Wilmer J. Hunter, Trustee; thence south 46°01'38" east 150.00 feet along the southwesterly right-of-way of Route 5 to an iron bar; thence south 43°49'58" west 95.19 feet along lands of Wilmer J. Hunter, Trustee, to an iron pipe; thence north 46°07'00" west 150.00 feet along lands of Wilmer J. Hunter, Trustee, to an iron pipe; thence

north 43°49'58" east 95.42 feet along lands of Wilmer J. Hunter, Trustee, to the point and place of beginning, and containing 14,295 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.

This Ordinance was adopted subject to the following conditions:

- A. The hours of operation shall be from 10:00 a.m. to 7:00 p.m., Monday through Friday, with weekend hours by appointment only.
- B. One lighted sign, not to exceed 32 square feet per side, shall be permitted.
- C. Security lighting shall be downward screened and shall be directed away from neighboring properties and roadways.
- D. Any dumpsters shall be screened from view of neighbors and roadways. The dumpster locations shall be shown on the Final Site Plan.
- E. No automobile repairs shall be performed on the site. No automobile parts shall be stored outside. Automobile detailing shall be permitted on the site.
- F. No junked, unregistered or permanently inoperable vehicles or trailers shall be stored on the facility.
- G. No more than 10 cars shall be displayed for sale on the site at any one time.
- H. All display areas, parking and storage areas shall be clearly depicted on the Final Site Plan.
- I. The site shall be subject to all DelDOT entrance and roadway requirements.
- J. 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. 2343 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 8TH DAY OF APRIL 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 Eastern Shore Auto Exchange to consider the Conditional Use of land in a B-1 Neighborhood Business District for a used car sales facility to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 14,295 square feet, more or less, land lying southwest of Route 5 (Harbeson Road) 0.5 mile south of Road 292A (Rust Road).
2. DelDOT has issued a No Contention Letter for the use of the existing entrances, with conditions.
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 conforming to the North Coastal Planning Area will be required; that the proposed project is not in an area where Sussex County currently has a schedule to provide sewer service; and that a Concept Plan is not required.

- 4. Based on Wendy Wall's testimony on behalf of the application before the Planning and Zoning Commission, the Council found that there will not be any auto repairs performed on the site; that they will be detailing some vehicles on the site; that the metal building will be used for storage of vehicles for sale; that business hours are proposed to be from 10:00 a.m. to 6:00 or 7:00 p.m. with weekend hours by appointment only; that signage will be limited to placement on the building; that a detail shop exists to the south; and that there are several businesses in the Harbeson intersection area to the north; and that security lighting already exists on the site.**
- 5. The Council found that Wendy Wall was present at the Public Hearing before the Council and she stated that they have applied for an automotive sales lot; that they will not be offering more than 10 vehicles for sale at any one time; and that the building was previously used as a package store.**
- 6. The Council found that, other than the Applicant, no parties appeared in support of or in opposition to the application.**
- 7. Based on the Findings of the Planning and Zoning Commission, the Council found that:**
 - A. The project, with the conditions and stipulations placed upon it, will not have an adverse impact on the neighboring properties or community.**
 - B. The site has a history of commercial uses and this is a redevelopment of the site for a used car sales facility.**
 - C. There are other small business and commercial uses in the area and this will be consistent with these existing uses.**
 - D. 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 ten (10) conditions which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**