ORDINANCE NO. 2367

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PAINT BALL PARK TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 5.1345 ACRES, MORE OR LESS" (Tax Map I.D. 430-8.00-9.02)

WHEREAS, on the 1st day of May 2014, a conditional use application, denominated Conditional Use No. 1993 was filed on behalf of David J. Bosco; and

WHEREAS, on the 7th day of August 2014, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 21st day of August 2014, said Planning and Zoning Commission recommended that Conditional Use No. 1993 be approved with conditions; and

WHEREAS, on the 7th day of October 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. 1993 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 east of Road 600 (Saint Johnstown Road) 1,760 feet north of Road 597 (Tuckers Road) and being more particularly described in Deed Book 3821, Page 137, in the Office of the Recorder of Deeds in and for Sussex County, said parcel containing 5.1345 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 paintball and activities related to it. Sales of paintball related items shall also be permitted.

- B. As stated by the Applicant, the facility shall only be open on Saturdays and Sundays from 11:00 a.m. until 6:00 p.m.
- C. One lighted sign shall be permitted, not to exceed 32 square feet in size per side.
- D. As stated by the Applicant, the use will only occur on the north side of the site to the left of the dwelling that is located on the property. The area used for paintball shall be entirely enclosed with netting or fencing. The Final Site Plan shall show the exact location of the area specified by the Applicant for the Conditional Use.
- E. The areas set aside for parking shall be clearly identified on the Final Site Plan and on the site itself.
- F. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2367 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 7TH DAY OF OCTOBER, 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:

- A. This is the application of David J. Bosco to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a paintball park to be located on a certain parcel of land lying and being in Nanticoke Hundred, Sussex County, containing 5.1345 acres, more or less, land lying east of Road 600 (Saint Johnstown Road) 1,760 feet north of Road 597 (Tuckers Road) (911 Address: 14639 Saint Johnstown Road, Greenwood, Delaware) (Tax Map I.D. #430-8.00-9.02).
- B. Council found that DelDOT commented that a Traffic Impact Study is not required and that the existing Level of Service will not change as a result of this application.
- C. Council found that the Sussex County Engineering Department, Utility Planning Division, commented that the site is not located in a current or proposed County operated and maintained sanitary sewer district; that the site is located in the Western Sussex Planning Area #1; that use of an onsite septic system is proposed; that conformity to the Western Sussex Planning Study or undertaking an amendment will be required; that the proposed use is not in an area where Sussex County has a schedule to provide sewer at this time; and that a Concept Plan is not required.

- D. Based on testimony before the Planning & Zoning Commission, Council found that David Bosco was present on behalf of his application and he stated that the use will be conducted on the north side of the site to the left of the dwelling located on the property; that the barns and accessory buildings will not be used; that typically they can average 10 to 15 players per time; that the proposed parking area is adjacent to the existing driveway; that the hours of operation will be from 11:00 a.m. to 6:00 p.m. on Saturdays and Sundays; that no lighting is required; that there will not be any negative impacts to any neighbors as the surrounding property is family owned; that he would like to have a 4-foot by 8-foot sign to identify the use; that there are 3 employees; that the use will occur in the field near the barns; that safety netting will be provided; that inflatable bumpers are used along with wooden spools and pallets; that no junk cars are used; that portojohns will be provided; that the use is regulated by a Paintball Association for insurance requirements; that retail sales are internet driven; and that he has a retail license.
- E. Council found that Amy Robb was present on behalf of the application at the Public Hearing before Council. She stated that she owns the property and her family owns the farmland around it; that the land is currently pasture land; that a perimeter fence exists; and that she and her family fully support the application.
- F. Based on the Findings (1 through 5) and the Conditions (A through F) of the Planning & Zoning Commission, Council found that:
 - 1. The use as a paintball facility will occur on the weekends and will not have an adverse effect on neighboring properties, roadways, or the community.
 - 2. There are currently very few paintball facilities in Sussex County, this will serve a need for such a facility in Sussex County for County residents and others who participate in the sport.
 - 3. The use will occur on only a part of the Applicant's 5.1 acre site and the property is surrounded by other property which is owned by family members.
 - 4. No parties appeared in opposition to the application.
 - 5. Based on the record and recommendation of the Planning & Zoning Commission and the record created before Council, the Conditional Use was approved subject to the six(6) conditions (A-F) which will serve to minimize any potential impacts on the surrounding area and adjoining properties.