

ORDINANCE NO. 2393

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CHRISTIAN ACADEMY/PRIVATE SCHOOL TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 9.55 ACRES, MORE OR LESS

WHEREAS, on the 20th day of November 2014, a conditional use application, denominated Conditional Use No. 2010 was filed on behalf of The Cross Christian Academy, Inc.; and

WHEREAS, on the 26th day of February 2015, 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. 2010 be approved with conditions; and

WHEREAS, on the 14th day of April 2015, 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. 2010 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 situated in Cedar Creek Hundred, Sussex County, Delaware, and lying south of Route 16 (Beach Highway) 1020 feet west of Road 595A (Spruce Road) and north of Road 595A (Spruce Road) 1,075 feet southwest of Route 16 (Beach Highway) and being more particularly described in Deed Book 4230 Page 232 in the Office of the Recorder of Deeds in and for Sussex County, Delaware, said parcel containing 9.55 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 stormwater management system shall meet or exceed the requirements of the State and County. To the extent possible, its design and location shall minimize tree removal on the site. It shall be constructed and maintained using Best Management Practices.**
- B. All entrances and roadway improvements shall comply with all of DelDOT's requirements.**
- C. Addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.**
- D. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.**
- E. The Final Site Plan shall also contain a landscape plan for all of the buffer areas shown on the preliminary site plan, showing all of the landscaping and vegetation to be included in the buffer areas.**
- F. The developer shall maintain as many existing trees as possible.**
- G. The site shall be served by an on-site wastewater disposal system. All improvements for collection, treatment and disposal of sanitary waste shall be constructed and maintained in accordance with the Delaware Department of Natural Resources and Environmental Control.**
- H. The site shall be served by an on-site well. All improvements for central water distribution, including wells, pumps and storage facilities shall be constructed and maintained in accordance with the Delaware Department of Natural Resources and Environmental Control and the Department of Public Health.**
- I. 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. 2393 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 14TH DAY OF APRIL 2015.



**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 The Cross Christian Academy, Inc. to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a Christian academy/private school to be located on a certain parcel of land lying and being in Cedar Creek Hundred, Sussex County, containing 9.55 acres, more or less, land lying south of Route 16 (Beach Highway) 1,020 feet west of Road 595A (Spruce Road) and north of Road 595A (Spruce Road) 1,075 feet southwest of Route 16 (Beach Highway) (911 Address: None Available) (Tax Map I.D. # 230-26.00-6.03).**
- B. Council found that DelDOT commented that the developer has agreed to either pay the area-wide study fee or submit supplemental traffic data to determine whether the developer meets Traffic Impact Study warrants; that should the developer choose to develop the land as a 100-student K-12 private school, DelDOT would permit payment of a fee in lieu of requiring a Traffic Impact Study; that the developer is not exempt**

from making or contributing towards off-site improvements or from doing a Traffic Operational Analysis, if necessary, for review of the site access plans; and that the area-wide study fee is subject to change if the developer submits supplemental traffic data that shows a change in daily trips.

- C. Council found that the Sussex County Engineering Department, Utility Planning Division, commented that the site is located in the Western Sussex Planning Area #1; that use of 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 Western Sussex Planning Study will be required; that the proposed use is not in an area where the 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 and the public hearing before the Sussex County Council, Council found that Don Porter, Director of the Academy, was present with Gene Bayard, Esquire with Morris, James, Wilson, Halbrook & Bayard, LLP, and Roger Gross, Project Manager from Merestone Consultants, Inc. and they stated that the academy started in a church in Milford in 2011; that the academy is currently operating just outside of Ellendale; that the Hudson family donated this land for the purpose of the academy/school; that they are proposing a maximum of 100 students from kindergarten through 12th grade; that no adverse impact on the neighborhood or community is anticipated; that the site is wooded along its western boundary; that they have no intent to disturb the wooded area; that to the east is Prong 9 of Maple Marsh Tax Ditch; that they are working with the State to correct the tax ditch easement; that they are proposing to reduce the tax ditch easement to 30-feet of width with approval from the State DNREC and a Court Order; that the area is primarily agricultural; that there are some residential properties in close proximity; that the site is located in a Level 4 area according to the State Strategies; and that the site is in or on the edge of the Ellendale Growth Area according to the Comprehensive Plan.
- E. Council further found that they do not anticipate any drainage issues; that on-site well water will be provided; that on-site septic will be provided, most likely an LPP System; that DelDOT is permitting a single access onto Spruce Road; that the academy will be paying an area-wide study fee in lieu of doing a Traffic Impact Study; that currently three (3) buildings are proposed: two (2) just less than 10,000 square feet for administration and classrooms, and a gym; and a maintenance building; that the septic system has been approved; that there is room on the site for future expansion; that the letters received in support were from friends, family and students of the academy; that the use is consistent with the Comprehensive Plan and the Conditional Use section of the Zoning Ordinance; that the use is of a public/semi-public character and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of the County; that the use is for the general convenience and welfare of the inhabitants of the County; that the academy currently has 40 students and 11 staff members; and that there is ample space on the site to expand parking, if necessary.
- F. Based on the Planning and Zoning Commission's Findings (1 through 6) and Conditions (A through I) and the record created before the Sussex County Council, Council found that:
 - 1. The use is for a small school, which is a public use that will benefit Sussex County residents.
 - 2. The site is located in the Growth Area for the Town of Ellendale according to the Sussex County Comprehensive Land Use Plan.
 - 3. The use will not adversely affect neighboring properties or area roadways.
 - 4. No parties appeared in opposition to the proposed school.
 - 5. The Applicant has stated that the existing school is expanding and requires more space than is available in the building that is currently rented by the school.
 - 6. The site has been donated to the school and the donor will still own much of the land that surrounds the school. The donor fully supports the school on this site.

- 7. Based on the record and recommendation of the Planning & Zoning Commission and the record created before the Sussex County Council, the Conditional Use is approved subject to nine (9) conditions (A – I) which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**