

ORDINANCE NO. 2441

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR MANUFACTURING AND INSTALLATION OF PERFORMANCE AUTOMOTIVE PARTS AND ACCESSORIES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 34,740 SQUARE FEET, MORE OR LESS

WHEREAS, on the 22nd day of September 2015, a conditional use application, denominated Conditional Use No. 2039 was filed on behalf of Performance Injection Equipment Co., LLC; and

WHEREAS, on the 10th day December 2015, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 14th day of January 2016, said Planning and Zoning Commission recommended that Conditional Use No. 2039 be approved with conditions; and

WHEREAS, on the 5th day of April 2016, 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. 2039 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 at the northeast corner of DuPont Boulevard (U.S. Route 113) and Betts Lane and being more particularly described in Deed Book 4119, Page 217, in the Office of the Recorder of Deeds in and for Sussex County, said parcel containing 34,740 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. No outside repair work shall be performed on the site.**
- b. Any fluids removed from vehicles shall be placed in approved containers and removed by licensed handlers of those materials.**
- c. All used or junked parts, equipment, etc. shall be stored from view from neighboring properties and roadways and shall be appropriately discarded or recycled.**
- d. The chassis dynamometer shall be operated with the doors to its building closed. It shall also only be operated between 10:00 a.m. and 5:00 p.m. Monday through Friday.**
- e. The property shall have security lighting that is downward screened so that it does not project onto neighboring properties or roadways.**
- f. One lighted sign, not to exceed 32 square feet per side, shall be permitted.**
- g. The Applicant shall comply with all DelDOT requirements concerning access and roadway improvements.**
- h. All dumpsters or trash disposal containers shall be screened from view from neighboring and adjacent properties and roadways.**
- 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. 2441 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 12TH DAY OF APRIL 2016.

**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 Performance Injection Equipment Co., LLC for the Conditional Use of land in an AR-1 Agricultural Residential District for manufacturing and installation of performance automotive parts and accessories to be located on a certain parcel of land lying and being in Dagsboro Hundred, Sussex County, containing 34,740 square feet, more or less. The property is located on the northeast corner of DuPont Boulevard (U.S. Route 113) and Betts Lane. (911 Address: 24994 Betts Lane, Georgetown) (Tax Map I.D. 133-6.00-110.00).**
- B. Council found that DelDOT commented that a Traffic Impact Study was not recommended and that the current Level of Service “C” of DuPont Boulevard (U.S. Route 113) 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 located in the North Coastal Planning Area; that the project is not capable of being annexed into a County operated Sanitary Sewer District at this time; that conformity to the North Coastal Planning Study will be required; that the proposed site is not in an area where the County has a schedule to provide sewer service at this time; and that a Concept Plan is not required.
- D. Council found that the Sussex Conservation District commented that the Applicant will be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation; that no storm flood hazard areas or tax ditches are affected; and that no off-site or on-site drainage improvements will be required.
- E. Council found that Lawrence Lank, Director of Planning and Zoning, stated that this site was previously approved for an office and warehouse for a heating and air conditioning business (C/U #1493) for Ron and Doneita Witke, and was utilized for that purpose until several years ago; that C/U #1493 was originally approved by the Sussex County Council on May 13, 2003 with five (5) conditions of approval; that the property owner was advised that the ongoing business activities that are currently in operation are a violation of the Zoning Ordinance; and that a new Conditional Use application was required.
- F. Based on testimony before the Planning & Zoning Commission and the public hearing before the Sussex County Council, Council found that Chris Hitchens of Performance Injection Equipment Co., Inc. was present with Aaron Baker, Esquire of Baird Mandalas Brockstedt, LLC, and that they stated that the metal building contains approximately 3,000 square feet; that trees buffer the lot along the rear; that a solid fence has been erected along the northerly property line; that the previous business, a heating and air conditioning business moved out in 2013; that they manufacture, research, test and install performance automobile parts and accessories; that the use is not a general repair shop; that they sell performance parts through their website; that they tune vehicles on a dyno in the shop; and that the shop is ventilated and the doors are now kept closed during testing.
- G. Council also found that the Applicant currently has one (1) employee and anticipates no more than three (3) including himself; that he has ten (10) or fewer customers visit the site during any given week; that he has applied for the Conditional Use to bring the business into compliance which has been operating since 2013; that there are many established business and commercial uses in the area and he referenced Kruger Trailers, Pep-Up, Georgetown Speedway, Infinity Choppers, a hair salon, AD-Art, Classic Auto Tire and Wheel, Stockley Materials, M. L. Joseph Construction, Iron Source, BFW Restoration and others; that some of those businesses are zoned commercial, some are conditional uses, and some may have pre-existed zoning; that the use is not inconsistent with the Comprehensive Land Use Plan; that no outside repair work is performed; that the Applicant sent letters to his neighbors explaining the dyno process and the activities being conducted on the site; that any fluids removed from vehicles are placed in an approved container and removed by a licensed handler; and that metal parts are recycled.
- H. Based on the record and recommendation of the Planning and Zoning Commission and the Planning and Zoning Commission's Findings (1 through 5) and Conditions (6a through 6i), Council found that:
1. The property has historically been used for commercial purposes since at least 2002. The previous business, a heating and air conditioning business, moved out in 2013. This proposed use will be consistent with the prior uses of the property, and will use the same building that currently exists on the property.

- 2. The use is to manufacture, research and test performance automotive equipment and it will not be a general repair shop. The sales of performance parts are primarily through the business's website.**
- 3. The site is located in an area where there are many established businesses and commercial uses, including Kruger Trailers, Pep-Up, the Georgetown Speedway, Infinity Choppers, a hair salon, Ad-Art, Classic Autos, Stockley Materials, M. L. Joseph Construction, Ironworks and others. The proposed use is consistent with these other existing businesses.**
- 4. The proposed use will not adversely affect traffic or area roadways. It will also not adversely affect neighboring or adjacent properties.**
- 5. The Applicant sent letters to neighbors explaining the uses and activities being conducted on the site. No parties objected to the use and no parties appeared in opposition to the application during the public hearing.**
- 6. Based on 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.**