

**ORDINANCE NO. 2450**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A RETAIL AUTO SALES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 10.0 ACRES, MORE OR LESS**

**WHEREAS, on the 6th day of November 2015, a conditional use application, denominated Conditional Use No. 2041 was filed on behalf of Scott Randall Witzke; and**

**WHEREAS, on the 28th day of January 2016, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 11th day of February 2016, said Planning and Zoning Commission recommended that Conditional Use No. 2041 be approved with conditions; and**

**WHEREAS, on the 12th 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. 2041 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 Little Creek Hundred, Sussex County, Delaware, and lying north of Delmar Road (Route 54) 0.5 mile west of Horsey Church Road (Road 510) and being more particularly described in Deed Book 4243, Page 219, in the Office of the Recorder of Deeds in and for Sussex County, said parcel containing 10.0 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. No more than five (5) vehicles shall be displayed for sale on the site at any one time, and as stated by the Applicant, the vehicles shall be displayed only during daylight hours.**
- b. The vehicles shall be displayed no closer than fifty (50) feet from the front property line. The display area location shall be shown on the Final Site Plan.**
- c. There shall be no more than 15 vehicles stored on the site for sale at any one time.**
- d. No auto repair work shall be performed on the vehicles at the site.**
- e. As stated by the Applicant, no automotive parts shall be sold from the site.**
- f. One lighted sign, not to exceed 32 square feet per side, shall be permitted.**
- g. No junked, unregistered or permanently inoperable vehicles or trailers shall be stored on the site. In addition, no automotive parts shall be stored outside on the site.**
- h. Any dumpsters shall be screened from view of neighbors and roadways. The dumpster location shall be shown on the Final Site Plan.**
- i. Any security lighting shall be downward screened and shall be directed away from neighboring properties and roadways.**
- 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. 2450 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 7TH DAY OF JUNE 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 Scott Randall Witzke for a Conditional Use of land in an AR-1 Agricultural Residential District for a retail auto sales to be located on a certain parcel of land lying and being in Little Creek Hundred, Sussex County, containing 10.0 acres, more or less. The property is located north of Delmar Road (Route 54) 0.5 mile west of Horsey Church Road (Road 510) (911 Address: 8137 Delmar Road, Delmar) (Tax Map I.D. 532-19.00-7.00).**
- B. Council found that DelDOT commented that a Traffic Impact Study was not recommended and that the current Level of Service of Delmar Road (Route 54) will not change as a result of this application.**
- C. Council found that the Sussex County Engineering Department, Utility Planning Division, commented that the property is located in the Western Sussex Planning Area #4; that on-site septic is required; that conformity to the Western Sussex Planning Study will be required; that the proposed use is not in an area where the County currently has a schedule to provide sewer service; 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 Scott Witzke was present and stated that the 10 acre parcel is a part of a larger 43 acre farm; that he has made significant improvements to his property since its purchase and plans to continue; that improvements include the planting of 15,000 pine trees as a perimeter, as well as the significant home renovations to date; that he is very sensitive to his neighbors and his property will continue to have the appearance of a farm; that there are no immediate neighbors to the site proposed for vehicle display; that the business is approximately seven (7) years old, and is a wholesale business where most of the vehicles are sold over the internet or thru international contacts who make purchases; that much of his sales go directly to the Port of Baltimore, New Jersey, or to Florida to be shipped to Haiti, the Dominican Republic, Nigeria, and other countries; that occasionally someone may come to his business location to pick up a product; that he will only occasionally display vehicles for sale; that he will comply with the display codes; that he will not display more than five (5) vehicles at any one time; that there will be no more than ten (10) vehicles stored on the site for sale; that he has no intention to display products out front with the exception of an occasional vehicle, and that the vehicles will only be displayed during daylight hours; that he will be selling both automobiles and trucks; that no auto repair work will be performed on the vehicles; that he will not be selling automotive parts; that he was approached by the State regarding the need for a retailer's license and the reason for the zoning request is to enable the transition from wholesaler to retailer; and that signage will not exceed 32 square feet per side.**
- E. 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 6j), Council found that:**
- 1. The use is primarily for automobile auctions via the internet. Although there may be some vehicles displayed on the site, most of the sales will be off-site via the internet.**
  - 2. The 10 acre parcel that is the subject of this application is part of a larger 43 acre farm and there are no immediate neighbors to the proposed area for vehicle display. And, the Applicant will only occasionally display vehicles for sale on the site.**
  - 3. The project, with the conditions and stipulations placed upon it, will not have an adverse impact on neighboring properties or the community.**
  - 4. But for an occasional display of vehicles for sale, the use would not be evident to anyone on the roadway or adjacent properties. Since the actual sales typically occur via the internet, it is nearly a home occupation.**
  - 5. Based on the record and recommendation of the Planning & Zoning Commission, the Conditional Use is approved subject to ten (10) conditions (a and j) which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**