

**ORDINANCE NO. 2525**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SHOP FOR PAINTING BUSINESS AND STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 1.4583 ACRES, MORE OR LESS**

**WHEREAS, on the 28th day of March 2017, a conditional use application, denominated Conditional Use No. 2090, was filed on behalf of Edgar Reyes Hernandez; and**

**WHEREAS, on the 27th day of July 2017, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 10th day of August 2017, said Planning and Zoning Commission recommended that Conditional Use No. 2090 be approved with conditions; and**

**WHEREAS, on the 29th day of August 2017, 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. 2090 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 on the north side of Zoar Road, approximately 748 feet west of Gravel Hill Road, and being more particularly described in the attached deed prepared by Haller & Hudson, said parcel containing 1.4583 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 a shop for a painting business and storage. The storage shall only be used for materials directly associated with the painting business.**
- B. There shall be no retail sales from the property.**
- C. There shall not be any outside storage of paint, equipment or other materials associated with the use.**
- D. All lighting on the site shall be downward screened so that it does not shine on neighboring properties or roadways.**
- E. Any dumpsters on the site are to be screened from the view of neighboring properties and roadways.**
- F. The Applicant shall comply with all DelDOT requirements for entrance and roadway improvements.**
- G. The hours of operation shall be Monday through Saturday from 7:00 a.m. until 6:00 p.m. No deliveries to or from the site shall occur before 7:00 a.m.**
- H. Signage shall not exceed 32 square feet on each side and shall not be lighted.**
- I. All vehicle parking areas shall be clearly shown on the Final Site Plan and clearly marked on the site itself. All vehicles, including the Applicant's vehicles and employees' vehicles, must only be parked within the designated areas.**
- J. No more than 15 vehicles may be parked on the site at any one time.**
- K. The use shall be limited to the existing buildings on the site. Any new or expanded buildings shall require a new public hearing.**
- L. Failure to comply with any of these conditions shall be grounds for the termination of the Conditional Use approval.**
- M. 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. 2525 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 10TH DAY OF OCTOBER 2017.**

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**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 Edgar Reyes Hernandez for the consideration of a Conditional Use of land in an AR-1 Agricultural Residential District for a shop for a painting business and storage to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 1.4583 acres, more or less (located on the north side of Zoar Road, approximately 748 feet west of Gravel Hill Road (911 Address: 25203 Zoar Road, Georgetown) (Tax I.D. No. 234-14.00-30.01).**
- B. **Based on testimony before the Planning and Zoning Commission and the public hearing before the Sussex County Council, Council found that Mr. Edgar Reyes, the Applicant and property owner, and Angelica Flores were present at the Planning and Zoning Commission hearing, and Mr. Edgar Reyes, along with Melanie Cervantes, an interpreter, were present at the Sussex County Council hearing on behalf of the application; that the application is for a Conditional Use for a shop to run a painting business and storage; that no business will be conducted on the premises; that they have 10-15 trucks and 25 employees; that employees either come to the shop to get materials and equipment then go to the job site, or go directly to the job site; that they sometimes leave their cars on the premises and go to the job site; that not all trucks return to the shop each night as some employees take vehicles home; that business hours are from 7 a.m. to 5:30 p.m. Monday through Saturday; that the Applicant wants to put a sign on the property for the business; that the lot is 1.4 acres in size; and that there is a daycare across the street and a poultry business down the road.**
- C. **Based on the record and recommendation of the Planning and Zoning Commission and the Planning and Zoning Commission's Findings (1 through 4) and Conditions (5A –5M), Council found that:**
  - 1. **The use is situated on a 1.45 acre parcel of land. It is situated among other larger parcels of land. With the conditions and stipulations of approval, the use will not have a negative impact on the neighboring properties or roadways.**
  - 2. **No work is done at the site, and most of the employees start the workday at offsite job locations. The existing buildings will only be used to store materials and equipment associated with the use.**
  - 3. **The use is compatible with the area, which includes some other small businesses such as a day care and an upholstery shop.**
  - 4. **Small family businesses such as this one are appropriate in the Low Density Area according to the Sussex County Land Use Plan. The Plan states that businesses that address the needs of agriculture and single-family homes are appropriate in this area. This small painting contractor is consistent with the direction given by the County's Plan.**
  - 5. **Based on the record and recommendation of the Planning and Zoning Commission and the record created before the Sussex County Council, the Conditional Use is approved subject to thirteen (13) conditions (A - M), which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**