

**ORDINANCE NO. 2531**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR STORAGE OF CONSTRUCTION EQUIPMENT AND VEHICLES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 6.61 ACRES, MORE OR LESS**

**WHEREAS, on the 27th day of April 2017, a conditional use application, denominated Conditional Use No. 2101, was filed on behalf of 1<sup>st</sup> State Paving; and**

**WHEREAS, on the 28th day of September 2017, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 12th day of October 2017, said Planning and Zoning Commission recommended that Conditional Use No. 2101 be approved with conditions; and**

**WHEREAS, on the 31st day of October 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. 2101 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 on the east side of Iron Branch Road (Road 331), approximately 2,500 feet northeast of Main Street in Dagsboro, and being more particularly described per the attached previous Conditional Use (Conditional Use No. 2027, Ordinance No. 2419), said parcel containing 6.61 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 is subject to the following conditions:**

- A. The use shall be limited to the parking and storage of vehicles associated with the company. No more than ten vehicles or pieces of equipment may be parked or stored at any one time.**
- B. As stated by the Applicant, the vehicles and equipment shall not be cleaned of paving materials on this site. That shall occur entirely off-site.**
- C. As stated by the Applicant, no maintenance work on the vehicles or equipment shall occur on the site.**
- D. No materials associated with the paving company (such as asphalt, concrete, sand, aggregate or similar materials) shall be dumped or kept on the site at any time.**
- E. There shall not be any inoperable vehicles or equipment stored on the site. Also, no unregistered vehicles or trailers shall be stored on the site.**
- F. The use shall only operate between the hours of 7:30 a.m. and 6:00 p.m., Monday through Saturday.**
- G. The parking and storage areas shall be shown on the Final Site Plan, and clearly marked on the site itself.**
- H. The failure to abide by these conditions shall result in the termination of the Conditional Use.**
- 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. 2531 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 31ST 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 1st State Paving to consider the Conditional Use of land in an AR-1 Agricultural Residential District for storage of construction equipment and vehicles to be located on a certain parcel of land lying and being in Dagsboro Hundred, Sussex County, containing 6.61 acres, more or less (located on the east side of Iron Branch Road (Road 331) approximately 2,500 feet northeast of Main Street in Dagsboro (Tax I.D. No. 233-11.00-17.00 (portion of) (911 Address: 31005 Iron Branch Road, Dagsboro).**

- B. Based on testimony before the Planning & Zoning Commission and the public hearing before the Sussex County Council, Council found that Evan Maynard was present on behalf of the application; that he is the owner of a small local business; that they do small driveways; that they previously parked on the job site and had issues with vandalism; that a friend allowed him to park his items on site in exchange for maintenance; that there is no business being done on the property; that there is no office or customers; that there is no maintenance done on the site; that no materials are located or will be stored on the site; that there is a small 6-wheeled dump truck, small paver, small roller, skid loader, 25 to 26 foot long trailer, extra bucket, and five (5) to six (6) pieces of equipment total stored on the site; that the trucks are cleaned at the site; that they bring the materials from an asphalt plant or stone plant to maintain the driveway and parking area; that there will be no backing up, or back up alarm on the trucks; that he has four (4) to five (5) employees that come in the morning to pick up the equipment vehicles and leave at the end of the day; that the hours of operations are 7:30 a.m. to 5:30 p.m. or 6:00 p.m., Monday thru Friday and maybe a Saturday every once in a while; and that they have not considered a sign.**
- C. Based on the record and recommendation of the Planning and Zoning Commission and the Planning and Zoning Commission’s Findings (1 through 6) and Conditions (7A through 7I), Council found that:**
- 1. This use is limited in nature. The applicant only seeks to park or store equipment associated with his paving company on the site. There are no parking activities on the site, and there will not be any paving material stored or deposited at the site.**
  - 2. The site currently has a conditional use approval for a retail gun shop and gunsmithing. This limited use will have no impact upon that use.**
  - 3. The use as a location for parking and storage of equipment will not require extensive deliveries to or from the site, and the use does not generate a significant amount of traffic.**
  - 4. The limited parking and storage of vehicles and equipment on this site, which was formerly used as a chicken farm, is similar to the parking and storage of equipment used in agricultural operations on the site.**
  - 5. With the conditions and limitations placed upon the use, it will not have an adverse impact upon traffic, roadways or properties.**
  - 6. The use will continue to provide a service to Sussex County residents and local businesses.**
  - 7. Based on the record and recommendation of the Planning & Zoning Commission, 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.**