

ORDINANCE NO. 2575

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AMEND CONDITIONS OF APPROVAL FOR CONDITIONAL USE NO. 1106 TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 5.706 ACRES, MORE OR LESS

WHEREAS, on the 11th day of October 2017, a conditional use application, denominated Conditional Use No. 2120, was filed on behalf of PJM Properties, LLC; and

WHEREAS, on the 12th day of April 2018, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 26th day of April 2018, said Planning and Zoning Commission recommended that Conditional Use No. 2120 be approved; and

WHEREAS, on the 15th day of May 2018, 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. 2120 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 Baltimore Hundred, Sussex County, Delaware, and lying on the northeast side of Williamsville Road approximately 2,476 feet southeast of Lighthouse Road (Route 54) and being more particularly described in attached deed prepared by D. Stephen Parsons, P.A., said parcel containing 5.706 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.

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2575 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 15TH DAY OF MAY 2018.

**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 PJM Properties, LLC for a Conditional Use of land in an AR-1 Agricultural Residential District to amend conditions of approval for Conditional Use No. 1106 to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 5.706 acres, more or less (lying on the northeast side of Williamsville Road, approximately 2,476 feet southeast of Lighthouse Road (Route 54) (Tax I.D. No. 533-19.00-287.02) (911 Address: N/A).**
- B. Based on testimony before the Planning & Zoning Commission and the public hearing before the Sussex County Council, Council found that James Fuqua, Esquire with Fuqua, Willard, Stevens, & Schab, P.A., and Mike Ferrari, owner of PJM Properties, LLC, were present on behalf of the application; that this is an application to amend two conditions of Conditional Use No. 1106 which was approved by County Council on May 23, 1995 for boat-related uses; that the original owner operated a business for approximately 20 years and sold the business in November 2016; that the Conditional Use was approved for the entire site and the Applicant only requests to increase the storage use; that they use about half of the site; that the aerial photos show the use and number of boats stored vary due to the season and are stored for the winter; that the business has been successful and there has been an increase in demand for service over the last 20 years; that the site is adjacent to Americana Bayside; that there are about four entrances/exits per year per boat; that the original approval was subject to eight (8) conditions; that they are requesting to amend Conditions Nos. 5 and 8; that the original Condition No. 8 limited storage to 108 boats; and that the Applicant would like to modify Condition No. 8 to not more than 300 boats on site.**
- C. Council also found that the Applicant is requesting an amendment to Condition No. 5 relating to a repair building limited to one story or 30 foot in height; that the owner wished to replace the repair building with a new 50x100 building to connect to the old building, and that it won't exceed the one (1) story or 30 feet in height; that to avoid confusion, the Applicant is seeking to amend Condition No. 5 even though there are no restrictions on the site for building square footage, only height; that they will connect to sewer and water when the new building is built; that this site will predominately be used for storage, and repair will be at other locations; that the customers' access to the site is limited; that the area is fenced and security lighting is indirect; that Mr. Ferrari stated there is no change in hours; that the current building houses equipment to move boats; that there is no current lighting; that there is no intention of housing old boats; and that they have a process to handle abandoned boats.**
- D. Based on the record and recommendation of the Planning and Zoning Commission and the Planning and Zoning Commission's Findings (1 through 8), Council found that:**
- 1. Conditional Use No. 1106 was approved by Ordinance No. 1028 on May 23, 1995 to permit a boat storage yard, marine engine repair and boat painting.**
 - 2. Although the entire property consisted of 5.706 acres, the prior approval limited the site to only 108 boat storage sites.**
 - 3. Since 1995, the area has continued to develop with more recreational boaters in the area than ever before. This includes the nearby Americana Bayside, a restricted residential development that limits on-site boat storage. As a result, the business has continued to grow, and more boat storage sites are needed.**

- 4. The ongoing use has not adversely impacted nearby residents or roadways, and no parties appeared in opposition to this request to expand the prior Conditional Use.**
- 5. Based on these reasons, it is appropriate to amend Condition #5 of Conditional Use No. 1106 and Ordinance No. 1028 to allow an additional 5,000 square foot boat repair building that may exceed one story or thirty feet in height, up to the height limit permitted in the AR-1 zone.**
- 6. It is also appropriate to amend Condition No. 8 of Conditional Use No. 1106 and Ordinance No. 1028 to allow no more than 300 boat storage sites and expanding the area of these sites onto the additional areas of the 5.7 acre site that are not currently being used.**
- 7. The other conditions of Conditional Use No. 1106 and Ordinance No. 1028 shall remain in effect.**
- 8. A revised Final Site Plan shall be submitted in accordance with these amendments for review and approval by the Sussex County Planning and Zoning Commission.**