

**ORDINANCE NO. 2601**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A STORAGE WAREHOUSE FOR SMALL CONTRACTORS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 4.74 ACRES, MORE OR LESS**

**WHEREAS, on the 12th day of March 2018, a conditional use application, denominated Conditional Use No. 2139, was filed on behalf of Arctec Properties, LLC; and**

**WHEREAS, on the 23rd day of August 2018, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 13th day of September 2018, said Planning and Zoning Commission recommended that Conditional Use No. 2139 be approved with conditions; and**

**WHEREAS, on the 25th day of September 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. 2139 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 Northwest Fork Hundred, Sussex County, Delaware, and lying on the west side of Sussex Highway (Route 13), approximately 0.75 mile north of East Newton Road, and being more particularly described per the attached legal description prepared by Miller-Lewis, Inc., Land Surveying, said parcel containing 4.74 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 project shall be used for indoor storage purposes only. There shall not be any outside storage, including boats, RVs, or equipment within the site.**
- B. There shall be no retail sales from the property.**
- C. No vehicle repair or fueling operations shall be performed on site.**
- D. There shall be no manufacturing on the site.**
- E. All lighting on the site shall be downward screened so that it does not shine on neighboring properties or roadways.**
- F. Any dumpsters on the site are to be screened from the view of neighboring properties and roadways. The dumpster locations shall be shown on the Final Site Plan.**
- G. The Applicant shall comply with all DelDOT requirements for entrance and roadway improvements.**
- H. The parking areas may be crusher run and there shall be an adequate area for all tenants and employees as required by Code. The parking areas shall be clearly shown on the Final Site Plan and on the site itself. In addition, any vehicles parked overnight shall be located on the west end of the block building located on the site.**
- I. One lighted sign shall be permitted. It shall not be larger than 32 square feet per side.**
- J. As required by Conditional Use No. 1693 and Ordinance No. 1918, there shall be a vegetated buffer along the northern side of the site. The buffer shall be shown on the Final Site Plan.**
- K. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.**
- L. The Applicant shall immediately start action to bring the building into compliance and it shall be completed within nine months of this date. If it is not completed during this time period, then the current use must cease and the Applicant must bring the property into compliance prior to the Final Site Plan approval.**

**I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2601 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 25TH DAY OF SEPTEMBER 2018.**

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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 Arctec Properties, LLC for the consideration of a Conditional Use of land in an AR-1 Agricultural Residential District for a storage warehouse for small contractors to be located on a certain parcel of land lying and being in Northwest Fork Hundred, Sussex County, containing 4.74 acres, more or less (lying on the west side of Sussex Highway (Route 13), approximately 0.75 mile north of East Newton Road) (Tax I.D. No. 530-17.00-10.00) (911 Address: 14906 and 14910 Sussex Highway, Bridgeville).
- B. Based on testimony before the Planning & Zoning Commission and the public hearing before the Sussex County Council, Council found that Mike Smith, Esquire with The Smith Firm, and Jeremy Booros, owner of Arctec Properties, LLC were present; that a large portion of this property is wooded, the majority of which is wetlands; that the property consists of approximately 4.7 acres and one acre is the proposed Conditional Use site; that there is a 60'x80' metal building and a 20'x20' block building located on the site; that this Conditional Use application is identical to the overlapping previous Conditional Use application; that the prior application was Conditional Use 1693 and was approved under Ordinance No. 1918; that the application was submitted in April 2006 and approved by Council in 2007, with conditions, for a multi-unit warehouse; that the previously approved Conditional Use was approximately more than 30% of what is proposed; and that it will be similar to the prior approval of the Conditional Use.
- C. Council found that the Applicant is amenable to the same conditions with some minor requests; the existing 60'x80' building will remain and another building is proposed; that there will be no outside storage; that the security lighting will be downward screened; that there will be no retail sales; that the existing block building be permitted as an office building; that the rest of the building will be for warehousing and storage; that there will be no manufacturing on the property; that the Applicant will operate with the same hours; that the Applicant does not want to have fencing on the site; that the parking lot is now millings; that there is on-site septic; that he would like to have a lighted 32 square foot sign; and that there is a proposed vegetative buffer of 15 feet wide on the north side of the property.
- D. Council also found that parking overnight should be parked west of the block building; that they are willing to show the dumpster location on the site plan; that the Conditional Use had a time extension until 2009 and they are now trying to bring it back again; that the Applicant has fourteen (14) employees; that half of the employees take vehicles home and others do not; that all the staff meets at the site in the morning; that the employees arrive between 6:45 am to 7:15 am, that they are on site for about an hour and then return between 4:00 pm to 5:00 pm; that there will be four (4) to five (5) vehicles that will stay on the site; that four (4) to five (5) of the vehicles will stay overnight; that the site is like a wash as one (1) vehicle goes in and one (1) vehicle goes out; that there is an old cesspool on site and it is not working; that a split rail fence will be in the rear of the property to help with parking and to notify about the drop off area; that there is potential interconnectivity to the north and could have the ability to connect; and that there are commercial uses to the south and there are some to the north of the site.
- E. Based on the record and recommendation of the Planning and Zoning Commission and the Planning and Zoning Commission's Findings (1 through 7) and Conditions (A - L), as amended, Council found that:
  1. The site was previously approved for a multi-unit warehouse for small contractors in 2007 as Conditional Use #1693 and Ordinance #1918. That prior approval was for a larger building than what is proposed with this application.

- 2. The site is located along Route 13, which is a main arterial highway in Sussex County. This use is appropriate for this location.**
- 3. The use is situated on a 4.74 acre parcel of land. It is situated among other larger parcels of land. There are other businesses and structures in the area with similar characteristics and uses to what is proposed by the Applicant. This use is compatible with the surroundings.**
- 4. Traffic generated by the proposed use will be minimal and will not have a negative impact on the neighboring properties or roadways.**
- 5. The use is of a public or semi-public character that is desirable for the general convenience and welfare of the area and the County. It is also a location along Route 13 that is convenient for small businesses operated in the County.**
- 6. The Applicant has stated that he is generally agreeable to the conditions that were imposed by Conditional Use #1693 and Ordinance #1918, with some minor modifications.**
- 7. No parties appeared in opposition to the application.**
- 8. Based on the record and recommendation of the Planning & Zoning Commission and the record created before the Sussex County Council, the Conditional Use is approved subject to twelve (12) conditions (A - L), as amended, which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**