

ORDINANCE NO. 2602

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A TRUCKING BUSINESS, LANDSCAPE AND MATERIAL STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 5.0 ACRES, MORE OR LESS

WHEREAS, on the 26th day of March 2018, a conditional use application, denominated Conditional Use No. 2140 was filed on behalf of Santay Trucking c/o Samuel Connors; 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. 2140 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. 2140 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 Cedar Creek Hundred, Sussex County, Delaware, and lying on the west side of DuPont Blvd. (Rt. 113) approximately 0.5 mile south of VFW Rd. and being more particularly described in the legal description contained in the attached deed prepared by Larry Fifer, Attorney at Law, said parcel containing 5.0 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. The use shall be limited to the type of trucking operation with landscape and material storage of the type that has occurred on the site for decades. This includes the existing structures on the site.**
- B. As stated by the Applicant, no sign was requested, so no sign is permitted.**
- C. As stated by the Applicant, no retail sales shall occur on the site.**
- D. All petroleum products, lubricants and similar fluids shall be properly stored and disposed of in accordance with all state and federal requirements.**
- E. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.**
- F. If the usage is expanded beyond the current area, there shall be a 40 foot front wooded buffer (on that expanded area).**

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2602 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 25TH DAY OF SEPTEMBER 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 Santay Trucking c/o Samuel Connors for the consideration of a Conditional Use of land in an AR-1 Agricultural Residential District for a trucking business, landscape and material storage to be located on a certain parcel of land lying and being in Cedar Creek Hundred, Sussex County, containing 5.0 acres, more or less (lying on the west side of DuPont Blvd. (Route 113) approximately 0.5 mile south of VFW Road (Tax I.D. No. 230-31.00-27.00, 27.01 and 27.02) (911 Address: 14292 DuPont Blvd., Ellendale).**
- B. Based on testimony before the Planning & Zoning Commission and the public hearing before the Sussex County Council, Council found that Larry Fifer, Esquire; Samuel Connors, owner of Santay Trucking; and Kevin Smith with Kercher Engineering, Inc., were present on behalf of the application; that the parcel consists of five acres; that the parcel has been used for the purposes the Applicant is seeking a Conditional Use for as a trucking business; that there are no violations on the site; that this is the old Will Connors site which the Applicant is bringing into compliance with a Conditional Use; that DeIDOT has expanded the pipe under the entrance; that there is an existing metal building and an office building; that the entrance was expanded by DeIDOT; that DeIDOT is okay with the project and no upgrades are needed; that DeIDOT installed the crossover to allow for the northbound traffic; and that the crossover has been there since before 2009.**

- C. Council also found that the adjacent parcels are owned by the State and are wooded; that there is a well and septic on site; that the Applicant plans to keep the site as is; that the number of employees depends on the time of the year; that the Applicant could have up to 20 employees; that the Applicant does not want a sign; that there will be no sales on the site; that there will be some outside storage; that they fix their own trucks within the building; that there will be proper means of disposal of oil and chemicals; and that the waste will be recycled.**
- D. Based on the record and recommendation of the Planning and Zoning Commission and the Planning and Zoning Commission's Findings (A through F) and Conditions (9a. -f.), as amended, Council found that:**
- 1. This site has been used for trucking and related operations for decades - most likely preceding the Sussex County Zoning Code. This Applicant has also owned and used the property for trucking operations for years.**
 - 2. Because there is not currently a formal zoning approval for the use, the Applicant is seeking this conditional use to confirm the longstanding and grandfathered use of the property for trucking and related operations.**
 - 3. DelDOT has historically recognized the existing use of the site through the construction of a commercial entrance and a crossover in the median of Route 113. DelDOT has no objection to the continued use of the site for trucking and related purposes.**
 - 4. The site is surrounded by wooded properties owned by the State of Delaware. The continued use of the site for trucking and storage areas will not interfere with these adjoining properties.**
 - 5. The continued use of the property for trucking and related activities will not adversely affect traffic or area roadways.**
 - 6. The Applicant has no plans to materially expand the use on the property or construct additional buildings beyond what currently exist on the site.**
 - 7. The Applicant does not want a sign for the property, and no retail sales or similar uses will occur from the property.**
 - 8. It is appropriate to approve this conditional use application to confirm the grandfathered, legal use of the property for trucking and landscape and material storage.**
 - 9. 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 six (6) conditions (A - F), as amended, which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**