

ORDINANCE NO. 2603

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR MINI-STORAGE BUILDINGS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 11.70 ACRES, MORE OR LESS

WHEREAS, on the 11th day of January 2018, a conditional use application, denominated Conditional Use No. 2129, was filed on behalf of Brian P. Lessard, Lessard Builders, Inc.; and

WHEREAS, on the 24th day of May 2018, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 14th day of June 2018, said Planning and Zoning Commission recommended that Conditional Use No. 2129 be approved with conditions; and

WHEREAS, on the 12th day of June 2018 and the 2nd day of October 2018, a public hearings were 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 VI, Subsection 115-39, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2129 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 at the southeast corner of Argos Corner Road and Coastal Highway (Route 1), and being more particularly described per the attached legal descriptions, said parcels containing 11.70 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. No outside storage, except for boats, trailers, campers, recreational vehicles (RVs), and vehicles shall be allowed on the premises. The number of boats, trailers, campers, recreational vehicles (RVs) and vehicles stored on the site shall not exceed 80.**
 - B. All buildings shall be one story tall and shall not exceed 15 feet in height except that the water tank shall not exceed 18 feet tall.**
 - C. Security lighting shall be downward screened and shall be directed away from neighboring properties and roadways.**
 - D. Entrance and roadway improvements required by DelDOT shall be constructed in accordance with DelDOT regulations and the site design shall be in compliance with DelDOT's Corridor Capacity Preservation Program.**
 - E. The area used for the storage buildings and the storage of boats, trailers, campers, recreational vehicles (RVs), and vehicles shall be fenced and gated. The type of fencing shall be shown on the Final Site Plan.**
 - F. There shall not be any building contractor's or subcontractor's offices or workshops within the project.**
 - G. Stormwater management design shall meet or exceed DNREC requirements and shall be approved by the Sussex Conservation District.**
 - H. One office for management and security of the facility shall be permitted.**
 - I. A landscape buffer shall be established along the Route 1 right-of-way in compliance with the Combined Highway Corridor Overlay Zone section of the Zoning Ordinance. A landscape plan for the site shall be included with the Final Site Plan.**
 - J. For the benefit of Tax Map Parcels 2-30-7.00-95.01, 94.00 and 93.00, the Applicant shall revise the site plan to provide the following:**
 - 1. Building #1 shall have a setback of 20 feet from parcel 95.01 and 25 feet from parcel 93.00.**
 - 2. A 6 foot high chain link fence shall be erected along the boundary of parcel 95.01, starting at the gate and running along the west, south and east boundary of parcel 95.01 and the south boundary of parcel 94.00. The fence shall continue along the west boundary of parcel 93.00 starting at a point adjacent to parcel 94.00 and 25 feet west of the boundary of parcel 93.00 extending to the northeast corner of Building #1.**
 - 3. A continuous row of giant arborvitae for buffering shall be planted along the boundaries of the site with parcels 95.01, 94.00 and 93.00.**
 - 4. Parking along the westerly boundary of parcel 95.01 shall be eliminated and relocated to the northern boundary of the site.**
 - 5. The 80 parking spaces for storage of vehicles (boats, campers, RVs) shall be marked and numbered on the site plan.**
 - 6. A 6 foot high shadowbox privacy fence shall be erected along the south boundary of parcel 94.00 and the west boundary of parcel 93.00, extending from a point being the corner of parcels 94.00, 93.00 and the site to a point parallel to the northeast corner of Building #1 and extending from the southeast corner of Building #1 to the southwest corner of the water tank site.**
- These conditions shall be incorporated into the Preliminary and Final Site Plans.**
- K. One lighted sign with a maximum area of 32 square feet per side shall be permitted.**
 - L. Any dumpster shall be screened from view of neighbors and roadways. The dumpster locations shall be shown on the Final Site Plan.**
 - M. No junked, unregistered or permanently inoperable vehicles or trailers shall be stored on the site.**
 - N. The hours of operation shall only be from 6:00 a.m. through 10:00 p.m. daily.**
 - O. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission. The Final Site Plan shall clearly show the size and location of buildings related to the facility.**

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2603 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 2ND DAY OF OCTOBER 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 Brian P. Lessard, Lessard Builders, Inc. for the consideration of a Conditional Use of land in a GR General Residential District for mini-storage buildings to be located on a certain parcel of land lying and being in Cedar Creek Hundred, Sussex County, containing 11.70 acres, more or less (lying at the southeast corner of Argos Corner Road and Coastal Highway (Route 1) (Tax I.D. No. 230-7.00-95.00, 96.00, and 97.00) (911 Address: 22754 Argos Corner Road, Lincoln).
- 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., Brian Lessard, owner, Pat Ryan, with Ryan Architecture, LLC and Kevin Minnich, with Minnich Engineering and Land Planning, Inc., were present on behalf of the application; that the parcel of land contains 11 acres; that it is zoned GR and AR-1; that there are some residential lots to the south of the property; that Taylor Marine is across Argos Corner Road; that there will be twelve (12) buildings of various size, all one-story buildings and less than fifteen (15) feet in height; that the intent of the plan was to have an A-frame type roof; that two (2) of the buildings will be climate controlled; that an office will be in the first building to allow for access to the storage area through a secured gate; that the site will utilize an on-site well with a tank for fire protection and on-site septic system; that the climate controlled units will have interior access for climate control and sprinkler system for fire protection; and that there will be one 40,000 gallon water tank with a maximum height of eighteen (18) feet.
- C. Council also found that DelDOT did not require a Traffic Impact Study; that because the property is adjacent to Route 1 it is also subject to DelDOT's Corridor Capacity Preservation Program; that the entrance will be located off of Argos Corner Road; that there is 0.58 acres of non-tidal wetlands located in the south corner along Route 1 and it will be protected with a 25-foot buffer; that the stormwater management will be constructed in accordance to Sussex Conservation District regulations and will use Best Management Practices; that the area surrounding the buildings will be paved; that some of the paved area is for outdoor storage with a maximum of eighty (80) boats and RV's to be stored outside; that the site is near Jellystone Campground and it would be convenient for them; that Taylor Marine has outside storage; that the Applicant is requesting one freestanding lighted sign of ninety-six (96) square feet (per side) as well as a thirty-two (32) square foot sign (per side) at the entrance; and that the storage area and stormwater pond will be fenced with black 6-foot chain link fence.
- D. Council also found that the office will be opened seven (7) days a week from 8:00 a.m. through 6:00 p.m.; that access to the climate controlled buildings will only be allowed during those hours; that there will only be one (1) employee during office hours; that the non-climate controlled buildings, vehicle storage area will be accessible from 6:00 a.m. through 10:00 p.m.; that the facility will have a security system; that the lighting will be minimal and on a timer with the lighting turning off at 10:00 p.m.; that there will be no contractor or businesses at the facility; that they will incorporate a 20-foot buffer along Route 1 per Combined Highway Corridor Overlay Zoning District (CHCOZ); that the Applicant does own another facility near Lewes; that the population is increasing and is increasing the need for storage facilities; that this site is located less than two (2) miles south of Milford and the new hospital; that the area is expected to experience growth; that this site is in character with the area and is needed; and that it is an appropriate use 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 8) and Conditions (A – O), as amended, Council found that:
 - 1. The use as a mini-storage facility is of a public or semi-public character and is desirable for the general convenience and welfare of area residents.
 - 2. Entrance and roadway improvements will be constructed in accordance with DelDOT requirements. The proposed use as a storage facility generates less traffic than other retail, commercial, or residential uses. As a result, the use will not adversely affect traffic on adjacent roadways.
 - 3. The site is located just south of Milford and the hospital currently under construction. The facility is needed and will serve the anticipated increasing population and business needs in the area.

- 4. Because this application is a Conditional Use, the underlying zoning will not be changed and the use will be limited to that of a storage facility with site design reviewed and approved by the Commission.**
- 5. The site has no environmental restraints associated with the property and the small area of on-site wetlands will be protected by a 25 foot buffer.**
- 6. The site is located adjacent to Route 1, a major arterial road which is appropriate for the proposed use. The site is also located along Argo's Corner Road directly across from an established boat dealership which has substantial outdoor display and storage of boats. The proposed use is consistent with the character of the area.**
- 7. The site's location between Route 1 and the boat dealership would not be appropriate or desirable for residential development under its current zoning.**
- 8. With conditions and stipulations placed upon it, the Conditional Use will not have an adverse impact on nearby properties or uses.**
- 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 fifteen (15) conditions (A - O), as amended, which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**