

**ORDINANCE NO. 2606**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AMENDMENT TO A CONDITION OF APPROVAL OF CONDITIONAL USE NO. 1771 (ORDINANCE 2056) AND CONDITIONAL USE NO. 2020 (ORDINANCE 2410) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 8.93 ACRES, MORE OR LESS**

**WHEREAS, on the 11th day of July 2018, a conditional use application, denominated Conditional Use No. 2152, was filed on behalf of Charles Auman; and**

**WHEREAS, on the 13th day of September 2018, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 27th day of September 2018, said Planning and Zoning Commission recommended that Conditional Use No. 2152 be approved with reasons/conditions; and**

**WHEREAS, on the 9th day of October 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. 2152 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 west of Marshall Street Extended and south of Swain's Private Road approximately 570 feet west of Marshall Street Extended and being more particularly described in the legal descriptions prepared for Conditional Use No. 2020 and Conditional Use No. 1771, said parcel containing 8.93 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.**

**Legal Description for Conditional Use No. 2020:**

**BEGINNING** at a point on the westerly right-of-way of Marshall Street Extended (Road 225), a corner for these subject lands and lands, now or formerly, of Charles E. Harding; thence south 75°04'25" west 161.56 feet and south 83°31'26" west 556.27 feet along said Harding lands to a point; thence north 00°50'46" east 736.76 feet and north 03°32'28" west 216.71 feet along lands, now or formerly, of Sussex Materials, LLC to a point; thence north 84°42'03" east 106.31 feet along Swain's Private Road to a point; thence south 03°26'36" east 366.74, feet north 86°33'24" east 237.85 feet, and north 03°26'36" west 141.06 feet along lands, now or formerly, of Mark J. Donovan to a point; thence north 88°18'45" east 161.20 feet along lands, now or formerly, of Thomas A. and B. Lyn Jester to a point; thence south 02°03'11" east 70.00 feet along lands, now or formerly, of Brett C. Warren to a point; thence south 03°02'50" east 278.95 feet along lands, now or formerly, of Margaret W. Swain to a point; thence south 03°12'56" east 140.69 feet along lands, now or formerly, of Bryan O. Attix to a point; thence south 03°01'08" east 69.88 feet and north 78°01'35" east 161.39 feet along lands, now or formerly, of Jay Donovan to a point on the westerly right-of-way of Marshall Street Extended; and thence south 11°43'24" east 127.26 feet along the westerly right-of-way of Marshall Street Extended to the point and place of beginning.

**Legal Description for Conditional Use No. 1771:**

**BEGINNING** at a point on the southerly right of way of Swains Private Road, a corner for these subject lands and lands, now or formerly, of Sussex Materials, L.L.C.; thence easterly 106.83 feet along Swains Private Road to a point; thence S 03°26'36" E 366.74 feet, N 86°33'24" E 237.85 feet, and N 03°26'36" W 141.06 feet along lands, now or formerly, of Mark J. Donovan to a point; thence N 88°18'45" E 161.20 feet along lands, now or formerly, of B. Lyn Jester to a point; thence S 02°03'11" E 10.00 feet along lands, now or formerly, of Brett C. Warren to a point; thence S 03°02'50" E 278.95 feet along lands, now or formerly, of Margaret W. Swain to a point; thence S 03°12'56" E 140.69 feet along lands, now or formerly, of Bryan O. Attix to a point; thence S 03°01'08" E 69.88 feet along lands, now or formerly, of Jay Donovan to a point; thence S 03°19'02" E 135.33 feet along lands, now or formerly, of Linda D. Chandler and Marsha L. McCormick to a point; thence S 83°31'26" W 556.27 feet along lands, now or formerly, of Charles E. Harding, Trustee, to a point; thence N 00°50'46" E 736.76 feet and N 03°32'26" W 216.71 feet along lands, now or formerly, of Sussex Materials, L.L.C., to the point and place of beginning.

The Ordinance was adopted for the following reasons:

1. Condition #4 currently states that “One lighted sign, not to exceed 32 square feet in size, shall be permitted. The proposed sign location shall be shown on the Final Site Plan.
2. Section 115-161.1 of the Zoning Code states that On-Premises Electronic Message Displays can only be allowed in the AR-1 Zone “if specifically permitted as part of a conditional use”. This is the reason that the Applicant is seeking an amendment to his Conditional Use to allow the Electronic Message Display.
3. The Applicant explained that the Electronic Message Display is needed to advertise the services of the storage facility that was approved by the Conditional Use for the property.
4. The Applicant stated that he understands that the Zoning Code governs brightness, no animation after dark and other factors regarding how the sign will be operated so that it will not have an adverse effect on neighboring properties or roadways.
5. No parties appeared in opposition to the requested sign.
6. Condition #4 of Conditional Use #1771 and Ordinance #2056 should be amended to state: “One Electronic Message Center sign, not to exceed 20 square feet in size, shall be permitted. The proposed sign location shall be shown on the Final Site Plan”.

**I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2606 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 9TH DAY OF OCTOBER 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 Charles Auman to consider the Conditional Use of land in an AR-1 Agricultural Residential District for an amendment to a condition of approval of Conditional Use No. 1771 (Ordinance 2056) and Conditional Use No. 2020 (Ordinance 2410) to be located on a certain parcel of land lying and being in Cedar Creek Hundred, Sussex County, containing 8.93 acres, more or less (lying on the west side of Marshall Street Extended, and south of Swain’s Private Road, approximately 570 feet west of Marshall Street Extended (Tax I.D. No. 330-11.17-20.00 & 330-15.05-6.00) (911 Address: 7158 Marshall Street, Lincoln).

- B. Based on testimony before the Planning & Zoning Commission and the public hearing before the Sussex County Council, Council found that Charles Auman, owner and Applicant, was present of behalf of the application at the Planning & Zoning Commission hearing and Timothy G. Willard, Esquire of Fuqua, Willard, Stevens & Schab, P.A. was present on behalf of the application at the Sussex County Council hearing; that the Applicant is requesting an amendment to his Conditional Use to allow for a digital sign instead of a changeable copy sign; that the sign is 4' x 5'; that the sign is not 32 square feet as is permitted per his Conditional Use; that the Applicant wants a more modern sign for his site; that the requested sign can be programed to comply with the Sussex County Code regarding lighting, timing, brightness, etc.; that it will be easier than changing the letters on the sign; that there was a discussion about the sign requirements and restrictions concerning lighting, timing, and brightness; that a condition can be imposed on the hours the sign is in use so as not to impact the neighbors during the night; that the houses in the area are set back further than the office; that the sign will not be as bright as the streetlights on the road; that the sign would be along Marshall Street; that the Applicant's intent is to use the sign to state the hours, specials, etc.; that there are trees and fences in the area to provide protection; and that the sign will be perpendicular to the road.**
- C. Based on the record and recommendation of the Planning and Zoning Commission and the Planning and Zoning Commission's Findings (1 through 6), as amended, Council found that Condition #4 of Conditional Use No. 1771 and Ordinance No. 2056 should be amended to allow an electronic message display sign based upon the record made during the public hearing and for Reasons 1 through 6.**