

ORDINANCE NO. 2631

AS AMENDED

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CONCRETE CONSTRUCTION BUSINESS WITH EQUIPMENT STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 4.51 ACRES, MORE OR LESS

WHEREAS, on the 8th day of August 2018, a conditional use application, denominated Conditional Use No. 2154, was filed on behalf of Arturo Granados-Gonzalez; and

WHEREAS, on the 19th day of January 2019, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 24th day of January 2019, said Planning and Zoning Commission recommended that Conditional Use No. 2154 be approved with conditions; and

WHEREAS, on the 5th day of February 2019, 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. 2154 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 at the southwest corner of Burbage Road and Jones Road, and on the south side of Burbage Road approximately 251 feet, and 401 feet west of Jones Road, and being more particularly described in the attached legal description prepared by Haller & Hudson, said parcel containing 4.51 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. This use shall be limited to the Applicant's concrete form business with equipment storage. No retail sales or other business shall be conducted from the site.**
- B. No manufacturing or concrete mixing shall occur on the site. This prohibition includes the shredding or grinding of any materials.**
- C. One lighted sign, not to exceed 32 square feet per side, shall be permitted.**
- D. The hours of operation shall be limited to 7:00 a.m. through 6:00 p.m., Monday through Saturday only.**
- E. Any security lighting shall be screened so that it does not shine on neighboring properties or roadways.**
- F. A fence with landscaping shall be constructed along the perimeter of the site. The fencing and landscaping shall be shown on the Final Site Plan.**
- G. The Applicant shall comply with all DelDOT requirements, including any entrance or roadway improvements.**
- H. All stormwater management facilities shall be subject to the review and approval of the Sussex Conservation District.**
- I. As stated by the Applicant, there shall be no dumping or storage of concrete or similar materials on the site. Also, all trucks and equipment shall be cleaned off-site.**
- J. All maintenance of vehicles and equipment shall be performed indoors.**
- K. The Final Site Plan shall clearly show all areas for vehicle equipment storage and parking, and those areas shall be clearly marked on the site itself. There shall not be any parking or storage within the property's setbacks.**
- L. All concrete forms shall be stored in a location that is screened from view from neighboring properties and roadways. These storage areas shall be shown on the final Site Plan.**
- M. Failure to comply with any of these conditions shall be grounds for termination of the Conditional Use approval.**
- N. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2631 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 5TH DAY OF FEBRUARY 2019.

**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 Arturo Granados-Gonzalez for the consideration of a Conditional Use of land in an AR-1 Agricultural Residential District for a concrete construction business with equipment storage to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 4.51 acres, more or less (lying at the southwest corner of Burbage Road and Jones Road, and on the south side of Burbage Road approximately 251 feet, and 401 feet west of Jones Road) (Tax I.D. No. 134-14.00-20.00, 20.03 & 20.04) (911 Address: None Available).
- B. Based on testimony before the Planning and Zoning Commission and the public hearing before the Sussex County Council, Council found that David Hutt, Esquire, with Morris, James, Wilson, Halbrook and Bayard, LLP, and Mr. Arturo Granados-Gonzalez, the Applicant, were present on behalf of the application; that this application is similar to an application that was presented to the Sussex County Council in 2017 for a site located on Vines Creek Road; that the Planning and Zoning Commission previously recommended that the prior application be approved and that the Sussex County Council then denied that application; that the Applicant then had to re-locate his business and is now proposing a Conditional Use application for the current site; that, at the Planning and Zoning Commission hearing, this application was amended to reflect that the property subject to the Conditional Use application was modified to contain 2.36 acres, more or less, being Tax I.D. No. 134-14.00-20.00 & 20.03, with Tax I.D. No 134-14.00-20.04 having been withdrawn from the application; that the property is zoned AR-1 (Agricultural Residential District); that the Land Use Classification per the 2008 Comprehensive Plan, the land is “Low-Density Area”; that the Land Use Classification per the 2018 Comprehensive Plan is “Coastal Area”; that the Applicant only intends to use the lot with the house and Lot 2 (Parcel 20.03); and that the Applicant’s nephew lives in the house on-site.
- C. Council also found that the Applicant has a concrete form business, including brick and paving work; that there are no construction activities physically undertaken at this site; that the employees meet at the site and go to the client’s job-site where the contracted work is then undertaken; that the Applicant does physically store equipment on the site; that the types of equipment stored on-site are trucks, dump truck, skid-steer loaders, mini-excavators, flatbed trailers, and some concrete forms; that all maintenance of vehicles would take place in the existing garage; that parking for employees would be provided; that screening would be provided for the site; that there would not be any retail sales of stored materials to the public; that this site would operate more like a park and ride for employees; that employees would not bring any products back to the site; and that there would be no storage of waste materials.
- D. Council further found that the proposed use is consistent with the Comprehensive Plan; that the property is located in an area where development is occurring; that the employees arrive between 7:00 am to 7:15 am and return to the site between 5:00 pm to 5:45 pm; that six (6) or seven (7) employees would drive to the site; that there would be ten (10) work vehicles parked at the site; that there would be a total of fifteen (15) vehicles on the site including the company’s and employees’ vehicles; that they have six (6) trailers that are parked in the back near the concrete forms; that the concrete forms are stored in the trailers; that the other equipment is typically kept on job sites; that they own two (2) skid loaders and two (2) mini-excavators; that some of the equipment would be stored in the garage; that the trailer pump is kept in the garage at all times; and that the Applicant would like to display a business sign.
- E. Based on the record and recommendation of the Planning and Zoning Commission and the Planning and Zoning Commission’s Findings (1 through 6) and Conditions (7A – 7N), Council found that:
 1. There is a need for this type of use in this area of Sussex County. The Applicant submitted information showing that this site is centrally located in an area where a lot of construction is underway.
 2. There will be no retail sales or similar business conducted from the site. It will only be used for storage of concrete forms and equipment.

- 3. The Applicant has stated that all work is performed off-site, and that there will not be any dumping or storage of concrete or similar materials on the site.**
- 4. The use does not require any regular deliveries during the day. The only traffic is typically in the morning and afternoon when employees take the equipment to off-site job locations.**
- 5. With the conditions and limitations of this approval, the continuation of the use of the site for storage purposes will not adversely affect neighboring properties, roadways or traffic.**
- 6. The Applicant has stated that his company provides a service to the construction industry in Sussex County. This use is of a public or semi-public character that will benefit the residents and businesses of Sussex County.**
- 7. Based on the record and recommendation of the Planning and Zoning Commission and the record created before the Sussex County Council, the Conditional Use is approved subject to fourteen (14) conditions (A – N), which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**