

ORDINANCE NO. 2665

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AUTOMOTIVE REPAIR BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 0.75 ACRE, MORE OR LESS

WHEREAS, on the 6th day of February 2019, a conditional use application, denominated Conditional Use No. 2175, was filed on behalf of All Automotive, LLC; and

WHEREAS, on the 23rd day of May 2019, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 13th day of June 2019, said Planning and Zoning Commission recommended that Conditional Use No. 2175 be approved; and

WHEREAS, on the 25th day of June 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. 2175 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 Indian River Hundred, Sussex County, Delaware, and lying on the south side of Harmons Hill Road, approximately 0.6 mile east of Hollyville Road, and being more particularly described in the attached legal description prepared by Larry W. Fifer, Attorney at Law, said parcel containing 0.75 acre, 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. One lighted sign, not to exceed 32 square feet per side, shall be permitted.**
- B. The security lighting shall be downward screened and shall be directed away from neighboring properties and roadways.**
- C. Any dumpsters shall be screened from view of neighbors and roadways. The dumpster locations shall be shown on the Final Site Plan.**
- D. All repairs shall be performed indoors. No automobile parts shall be stored outside.**
- E. No junked, unregistered or permanently inoperable vehicles or trailers shall be stored on the site.**
- F. There shall not be any parking in the front yard setback and the front yard setback area shall be landscaped. This landscaped area shall be shown on the Final Site Plan.**
- G. The parking areas shall be shown on the Final Site Plan and clearly marked on the site itself. Vehicles shall only be parked within these designated areas.**
- H. The perimeter of the Conditional Use area shall be screened from view of neighboring properties with a fence or vegetation. This screening shall be shown on the Final Site Plan.**
- I. As stated by the Applicants, the structure shall retain its residential appearance.**
- J. No cars shall be sold on the property.**
- K. All oils and other fluids shall be properly stored indoors in appropriate containers. The Applicant shall also comply with all State and Federal requirements for the disposal of these fluids.**
- L. The site shall be subject to all DelDOT entrance and roadway requirements.**
- M. The hours of operation shall be 8:00 a.m. through 6:00 p.m., Monday through Friday, and 8:00 a.m. until Noon on Saturdays. There shall not be any Sunday hours.**
- N. Any violation of these conditions may be grounds for termination of this Conditional Use.**
- O. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.**

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2665 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 25TH DAY OF JUNE 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 All Automotive, LLC for a Conditional Use in an AR-1 Agricultural Residential District for an automotive repair business to be located on certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 0.75 acre, more or less (land lying on the south side of Harmons Hill Road, approximately 0.6 mile east of Hollyville Road) (Tax I.D. No. 234-16.00-27.03) (911 Address: 28858 Harmons Hill Road).
- B. Based on testimony before the Planning and Zoning Commission and the public hearing before the Sussex County Council, Council found that Mr. Dan Honaker and Mr. Tom Honaker, father and son, were present on behalf of their application; that the intent is for an automotive repair business for Applicants, Dan and Tom Honker, only; that there is farmland located behind this property and a cemetery adjacent to the property; that there are only a few neighbors in the area; that the road is a heavily-travelled road, and that the proposed application would not cause any traffic issues; that the existing garage facility currently has five bays with a total of two automotive lifts; that the intent is to have four automotive lifts and one of the bays to be an open spot for a car overnight for a total of five bays; that this would limit the amount of work undertaken during the day; that the garage on the property has the appearance of a house; that parking would be provided in the front and rear of the property; that there would not be any parking for overnight vehicles in the rear of the property; and that the parking lot would be a blue stone crush-and-run.
- C. Council also found that there would not be any employees; that the hours of operation would be Monday through Friday from 8:00 am to 6:00 pm; that there would be no weekend or holiday hours; that there would be Saturday hours by appointment only; that the Saturday hours of operation would be from 8:00 a.m. to 12:00 p.m.; that the Applicants have spoken to the neighbors prior to purchasing this property and they had no negative comments subject to the understanding that no work would be undertaken at night or on holidays; that they would like a lighted sign; that there would be no work undertaken outside; that parts would be delivered for the vehicles via a small car, and there would be no big trucks or tractor trailers; and that they would get a waste oil tank for the oils which would be located outside at the rear of the property.
- D. Based on the record and recommendation of the Planning and Zoning Commission and the Planning and Zoning Commission's Findings (1 through 5) and Conditions (6A – 6O), Council found that:
 1. The automobile repair facility is small, and with the conditions and stipulations placed upon it, it will not have an adverse impact on neighboring properties or community.
 2. The site is located on Harmons Hill Road, which is a well-traveled roadway. This small business will not have a negative impact on traffic or nearby roadways.
 3. The Applicants have stated that the use will occur in an existing garage structure that looks like a house when seen from the roadway. The Applicant intends to keep this residential appearance.
 4. The use as an automotive repair facility is of a public or semi-public character and is desirable for the general convenience and welfare of the area.
 5. The Applicants stated that they spoke to their neighbors prior to purchasing the property and no one objected to their plans. Also, no parties appeared in opposition to this application.
 6. 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 the fifteen (15) conditions (A - O), which will serve to minimize any potential impacts on the surrounding area and adjoining properties.