

ORDINANCE NO. 2686

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CONTRACTOR'S OFFICE AND STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.69 ACRE, MORE OR LESS

WHEREAS, on the 22nd day of May 2019, a conditional use application, denominated Conditional Use No. 2188, was filed on behalf of Donovan's Painting and Drywall, LLC, c/o Jose Sandoval; and

WHEREAS, on the 26th day of September 2019, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 10th day of October 2019, said Planning and Zoning Commission recommended that Conditional Use No. 2188 be approved with conditions; and

WHEREAS, on the 29th day of October 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. 2188 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 Lewes and Rehoboth Hundred, Sussex County, Delaware, and lying on the south side of Lewes Georgetown Highway (Route 9), approximately 187 feet west of Church Street, and being more particularly described in the attached legal description prepared by Sergovic Carmean Weidman McCartney & Owens, P.A., said parcel containing 0.69 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. The use shall be limited to a contracting office with storage.**
- B. There shall not be any outside storage of paint or other materials associated with the use.**
- C. All lighting on the site shall be shielded and downward screened so that it does not shine on neighboring properties or roadways.**
- D. Any dumpsters on the site shall be screened from the view of neighboring properties and roadways.**
- E. The Applicant shall comply with all DelDOT requirements for entrance and roadway improvements.**
- F. The hours of operation shall be Monday through Friday from 7:00 a.m. until 7:00 p.m. and from 7:00 a.m. through 1:00 p.m. on Saturdays. There shall not be any Sunday hours.**
- G. One lighted sign shall be permitted on the site. It shall not exceed 32 square feet per side.**
- H. The parking shall comply with the County parking requirements. All vehicle parking and large equipment storage areas shall be clearly shown on the Final Site Plan and clearly marked on the site itself. All vehicles must only be parked within the designated areas.**
- I. The existing vegetation on the sides and rear of the site shall remain in place to act as a screen from neighboring properties. The Final Site Plan shall confirm the existence and location of this vegetation.**
- J. The Applicant shall comply with all requirements of the Sussex Conservation District regarding stormwater management on the site.**
- K. Failure to comply with any of these conditions shall be grounds for the termination of the Conditional Use approval.**
- L. 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. 2686 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 29TH DAY OF OCTOBER 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 Donovan’s Painting and Drywall, LLC, c/o Jose Sandoval, for a Conditional Use in an AR-1 Agriculture Residential District for a contractor’s office and storage to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 0.69 acre, more or less (land lying on the south side of Lewes Georgetown Highway (Route 9), approximately 187 feet west of Church Street (Tax I.D. No. 334-5.00-205.01 and 208.00) (911 Address: 32454 Lewes Georgetown Highway, Lewes).**

- B.** Based on testimony before the Planning and Zoning Commission and the public hearing before the Sussex County Council, Council found that Shannon Carmean Burton, Esquire with Sergovic Carmean Weidman McCartney & Owens, P.A., Mr. Jose Sandoval, principal of the Applicant, and Mr. Ken Christenbury, with Axiom Engineering, were present on behalf of the Applicant; that the Applicant is requesting a Conditional Use of land in an AR-1 (Agricultural Residential District) for the purpose of constructing a contractor's office and storage building for an existing/established Sussex County painting and drywall business known as Donovan's Painting and Drywall, LLC which was established in 2007; that the current office is located on Coastal Highway; that the Applicant purchased the two parcels subject to this application in 2018 and would like to relocate and expand his existing business and meet the needs in the area; that the parcel consists of 0.7 acres with the two parcels combined; that the property is located on a major collector road west of the Five Points intersection, Church Road, and is located in the vicinity of Stockley Materials; that the north side of Route 9 is zoned for commercial uses; that the proposed use is similar to other commercial uses in the area; that there are a number of Conditional Uses in the area; and that the parcel is located in the Delaware Strategies for State Policies and Spending Investment Level 1.
- C.** Council also found that the Land Use Classification for the property per the 2019 Comprehensive Plan is the "Coastal Area"; that property to the north of the site is also designated Coastal Area and highway commercial areas; that light commercial uses are considered by the Comprehensive Plan as being appropriate in the "Coastal Area"; that a mixture of uses is appropriate in the Coastal Area and this use is compatible; that the proposed office use is a permitted Conditional Use under the Zoning Code and is consistent with the purposes and goals of the Comprehensive Land Use Plan; and that the proposed use would enhance the character of the neighborhood.
- D.** Council further found that the house is encroaching into the site; that the proposal is for a 2,600 square foot contractor's office and a 1,800 square foot storage building that requires 13 parking spaces; that the Applicant proposes to provide 13 parking spaces and one handicapped accessible parking space; that one loading space is required and has been provided; that the existing trees would remain after construction; that there would be a 10-foot Right-of-Way dedication to DeIDOT; that DeIDOT is requiring 15-foot for a permanent easement; that there would be a 40-foot front yard setback; that there would be no parking in the front yard setback; that they would try to use the existing entrance; that the existing sidewalk would remain; and that the Applicant is trying to be sensitive of the ongoing transition in the area from residential to commercial use.
- E.** Council also found that the Applicant has 18 employees and only three of the employees would be on-site; that the business hours are 7:00 a.m. to 7:00 p.m., Monday through Friday, and 7:00 a.m. to 12:00 p.m. on Saturdays; that the materials would be stored in the proposed storage building and served by a loading area; that sewer services would be provided by Sussex County; that a private well is proposed; that there are no wetlands on the property; that there is a natural forested buffer around most of the perimeter of the property and the Applicant would prefer to keep the remaining buffer; that the Applicant would try to retain as much vegetation as possible; that the Applicant would not want a fence so that he would not have to remove the trees; that lighting would be downward screened; and that DeIDOT did not require a Traffic Impact Study ("TIS").
- F.** 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 – 7L), Council found that:

- 1. The use is situated on a .69-acre parcel of land. It is located along Route 9, which is classified as a major collector road by DelDOT. There is C-1 General Commercial Zoning across the road along with several conditional uses in the vicinity. These conditional uses include commercial landscaping sales and storage, a landscaping business office and other businesses. This is an appropriate location for this Conditional Use.**
- 2. With the conditions and stipulations of approval, the use will not have a negative impact on the neighboring properties or area roadways.**
- 3. This site is located in the Coastal Area according to the Sussex County Comprehensive Plan. Small businesses such as this one are appropriate in the Coastal Area according to the Plan.**
- 4. The use provides a service to residents and the construction industry in Sussex County. This use has a public or semi-public character that will benefit the residents and businesses of the County.**
- 5. The applicant has stated that most of the work is offsite, so there is not a lot of activity that occurs on this site during the day.**
- 6. There is a natural forested buffer along most of the sides and rear of the property, which will remain in place to screen the use from neighboring properties.**
- 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 the following twelve (12) conditions (A - L), which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**