

**ORDINANCE NO. 2691**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A FURNITURE MAKING AND REPAIR BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 5.0 ACRES, MORE OR LESS**

**WHEREAS, on the 21st day of June 2019, a conditional use application, denominated Conditional Use No. 2194, was filed on behalf of Imagination-Renovation, LLC; and**

**WHEREAS, on the 17th day of October 2019, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 21st day of November 2019, said Planning and Zoning Commission recommended that Conditional Use No. 2194 be approved with conditions; and**

**WHEREAS, on the 19th day of November 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. 2194 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 east side of Rust Road, approximately 0.25 mile south of Harbeson Road (Route 5), and being more particularly described in the attached legal description prepared by Hudson Jones Jaywork & Fisher, said parcel containing 5.0 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. The use shall be limited to the two buildings of approximately 4,100 square feet and 400 square feet and designated on the Boundary Survey Plan as “Buildings to be used in furniture making business.”.**
- B. One unlit sign, not to exceed 32 square feet per side, shall be permitted.**
- C. There shall be no outside storage of materials or supplies.**
- D. Security lighting shall be downward screened and shall be directed away from neighboring properties and roadways.**
- E. Any dumpsters shall be screened from view of neighbors and roadways. The dumpster locations shall be shown on the Final Site Plan.**
- F. The hours of operation shall be from 7:00 a.m. to 5:00 p.m. Monday through Friday, and 8:00 a.m. to 2:00 p.m. on Saturdays.**
- G. All furniture making (including staining) and repairs shall be performed inside the existing buildings located on the property. No lumber and equipment shall be stored outside.**
- H. The site shall be subject to all DeIDOT entrance and roadway requirements.**
- I. Handling and disposal of all hazardous waste from the furniture making and repair shop shall comply with all local, state, and federal laws, rules and regulations.**
- J. The failure to abide by these conditions shall result in the termination of the conditional use approval.**
- K. 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 areas set aside for parking.**

**I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2691 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 10TH DAY OF DECEMBER 2019.**

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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 Imagination – Renovation, LLC for a Conditional Use in an AR-1 Agriculture Residential District for a furniture making and repair business to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 5.0 acres, more or less (Tax I.D. No. 234-4.00-10.32) (911 Address: 20601 Rust Road, Harbeson).**
- 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, LLP and Mr. Phillip Bortz, one of the owners of the property and also one of the**

Principals of Imagination-Renovation, LLC, were present on behalf of the application; that the application is for a cabinet, furniture, and repair business; that the property is located on Rust Road; that the buildings in the back are proposed to be used for the business; that the Applicants had just acquired the property; that the seller of the property was a contractor/builder and had used the building in the past in a similar manner to that proposed; that the property consists of 5-acres and is similar to other parcels in the area; that the property is zoned AR-1 (Agricultural Residential District); that the application is for the entire property; that the Land Use Classification per the 2019 Comprehensive Plan is the “Low-Density Area”; that there is very little traffic; and that DelDOT stated that a Traffic Impact Study (“TIS”) was not required because DelDOT views the impact as being negligible.

- C. Council also found that one of the existing pole barns is approximately 4,000 square feet in area and the second one is under 400 square feet; that Imagination-Renovation, LLC is a custom cabinetry maker and furniture making business; that the proposal for the Conditional Use is that the two buildings would be the workshop where the cabinetry and furniture is constructed; that the cabinets are then taken to the customer’s home for installation; that they would have two to four cabinet makers or apprentices that would be working at the site; that the typical hours of operation are 8:00 am to 4:00 pm or 4:30 pm; that they are requesting the hours of operation to be from 7:00 am to 5:00 pm, Monday through Friday and 8:00 am to 2:00 pm on Saturdays; that there would be no Sunday hours; that the proposed use would likely be unnoticed from the road due to the location of the buildings on the site; that all the work is indoors; that all the materials are stored indoors; that the Applicants live at the property; that there would be no retail sales; that the only time a customer would come to the site is during production; and that the area is a busy construction area for new homes.
- D. Council further found that the proposed Conditional Use is appropriate because this business is of a public or semi-public character, is for the convenience and welfare of the public, and also promotes orderly growth; that there are several Conditional Uses in the area; that there would be no odor or noise with the use; that it would only be employees going to the buildings; that one of the proposed conditions relates to an un-lit sign that would not be greater than 32 square feet in size; that the Applicant has spoken to the neighbors and they had no objections; that the materials are delivered by delivery trucks; that one tractor trailer would deliver the materials, such as lumber, per month; that the tractor trailer would use the paved driveway to deliver the materials; that the cabinets are custom-designed and are generally small in size and the Applicant often purchases and picks up the required materials from the lumber yard; that there is adequate room for parking; that six employees would be the maximum to allow for growth; that they have a spray room and they only use water based latex and no oil based lacquers; and that there are no chemicals used on the site, that the materials are all wood and no there is no welding.
- E. 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 (A – K), Council found that:
1. The Applicant proposes to operate a small furniture making and repair business on the property which consists of 5 acres. The Applicant has 2-4 employees and the Applicant proposes to use two existing buildings on site.
  2. The use as a furniture making and repair shop at this location is of a public or semi-public character and is desirable for the general convenience and welfare of the area.
  3. The project, with the conditions and stipulations so placed upon it, will not adversely affect area roadways.
  4. No parties appeared in opposition to this application.
  5. 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 eleven (11) conditions (A - K), which will serve to minimize any potential impacts on the surrounding area and adjoining properties.