

ORDINANCE NO. 2752

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A TRUCK AND TRAILER REPAIR BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GUMBORO HUNDRED, SUSSEX COUNTY, CONTAINING 2.69 ACRES, MORE OR LESS

WHEREAS, on the 25th day of August 2020, a conditional use application, denominated Conditional Use No. 2241 was filed on behalf of Jonathan J. Bowman; and

WHEREAS, on the 8th day of October 2020, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 22nd day of October 2020, said Planning and Zoning Commission recommended that Conditional Use No. 2241 be approved with conditions; and

WHEREAS, on the 10th day of November 2020, 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 VI, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2241 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 Gumboro Hundred, Sussex County, Delaware, and lying on the east side of Millsboro Highway (S.C.R. 26/30) approximately 120 feet north of Bradford Road (S.C.R 426) and being more particularly described in the attached legal description prepared by Tunnell & Raysor, P.A, said parcel containing 2.69 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.

The Ordinance was approved subject to the following conditions:

- a. Before Final Site Plan approval occurs, the Applicant shall clean up the property and remove any inoperable trucks, trailers, or vehicles. This clean-up shall be verified by a Sussex County Constable.
- b. No sign shall be permitted.
- c. Security lighting shall be shielded and downward screened and shall be directed away from neighboring properties and roadways.
- d. Any dumpsters shall be screened from view of neighbors and roadways. The dumpster locations shall be shown on the Final Site Plan.
- e. No junked, unregistered or permanently inoperable vehicles, trucks or trailers shall be stored on the site.
- f. There shall be no more than five (5) trucks or trailers on the site at any time.
- g. There shall not be any parking in the front yard setback.
- h. The parking and repair areas shall be shown on the Final Site Plan and clearly marked on the site itself. Vehicles, trucks and trailers shall only be parked and worked on within these designated areas.
- i. 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.
- j. The site shall be subject to all DelDOT entrance and roadway requirements.
- k. As stated by the Applicant, there shall be a perimeter buffer of cypress trees or similar vegetation that shall be planted and maintained to screen the use from neighboring properties and roadways and to suppress noise coming from the truck repairs. The location and details of this perimeter buffer shall be shown on the Final Site Plan.
- l. Any violation of these conditions may be grounds for termination of this Conditional Use.
- m. 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. 2752 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 10TH DAY OF NOVEMBER 2020.

**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 Jonathan J. Bowman for a Conditional Use of land in an AR-1 Agricultural Residential District for a truck and trailer repair business to be**

located on a certain parcel of land lying and being in Gumboro Hundred, Sussex County, containing 2.69 acres, more or less. The property is lying on the east side of Millsboro Highway (S.C.R. 26/30) approximately 120 ft. north of Bradford Road (S.C.R. 426) (911 Address: 34647 Millsboro Highway, Millsboro) (Tax Parcel: 333-7.00-32.00).

- B.** Based on the record before the Planning and Zoning Commission and the hearing before the Sussex County Council, Council found that Ms. Mackenzie Peet, Esquire, of Tunnell & Raysor, P.A., was present on behalf of the application, together with the Applicant, Jonathan J. Bowman; that the Applicant and his wife, Veronica, reside on this property with their family, and that both have full time jobs outside of the home; that the use of a truck and trailer repair business began in 2018 as a hobby for the Applicant; that two notices of violation have been issued regarding the business on the subject property; that one of the violations was for having unregistered and inoperable vehicles on the property; that the Applicant intends to extend the pole barn to remedy this issue should the Conditional Use be granted; that the second violation was for operating a truck and trailer repair business on site without a Conditional Use approval; and that this business is a hobby for the Applicant, however, he has a friend who works on the site who does garner a small profit from the repairs.
- C.** Council also found that there are no formal hours of operation; that a Traffic Impact Study is not required; that there is a dumpster onsite for waste and all oil is disposed of at a nearby oil burner company; that the repairs can create noise on the property, but the Applicant is proposing to add cypress around the perimeter of the property to help reduce the noise to neighboring properties; that the subject property is in a rural area with few neighbors; that the Applicant has discussed the use with neighbors and received no complaints; that the subject property is zoned AR-1 and the surrounding properties are also zoned AR-1; that there are no other conditional uses within a one-mile radius; that the location of the business is compatible with the surrounding use; that there are businesses in the area, a chicken farm, Reynolds Garage and a similar truck repair business; and that the Applicant will take steps to keep the property neat and presentable.
- 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 (a – m), Council found that:
- 1.** The proposed truck and trailer repair facility is small, and with the conditions and stipulations placed upon it, it will not have an adverse impact on the neighboring properties or community. It is also small enough that it will not negatively impact traffic or nearby roadways.
 - 2.** The use began as a hobby on the Applicant's property, and the need for a conditional use arose as the use expanded.
 - 3.** The location is mostly surrounded by farms and other large tracts of land.
 - 4.** The Applicants live on the site and the Applicants intend to keep the residential appearance of the property.
 - 5.** 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 thirteen (13) conditions (a – m) which will serve to minimize any potential impacts on the surrounding area and adjoining properties.