

**ORDINANCE NO. 2773**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT AND AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AMENDMENT OF CONDITIONS OF APPROVAL FOR CONDITIONAL USE NO. 2129 (ORDINANCE 2603) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 10.76 ACRES, MORE OR LESS**

**WHEREAS, on the 9th day of July 2020, a conditional use application, denominated Conditional Use No. 2235 was filed on behalf of Brian P. Lessard, Lessard Builders, Inc., and**

**WHEREAS, on the 8th day of April 2021, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 22nd day of April 2021, said Planning and Zoning Commission recommended that Conditional Use No. 2235 be approved with conditions; and**

**WHEREAS, on the 8th day of June 2021, 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 V, Subsection 115-39, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2235 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 Cedar Creek Hundred, Sussex County, Delaware, and lying at the southeast corner of Argos Corner Road and Coastal Highway (Route 1), and being more particularly described per the attached legal descriptions, said parcels containing 10.76 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:**

- K. Two lighted on-premise signs shall be permitted. One of the signs shall have a maximum area of 32 square feet per side, and the other shall be permitted with a maximum area of 82.75 square feet per side.**

**I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2773 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 8TH DAY OF JUNE 2021.**

---

**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 Brian P. Lessard, Lessard Builders, Inc. for a Conditional Use in a GR General Residential District and an AR-1 Agricultural Residential District for an amendment of conditions of approval for Conditional Use No. 2129 (Ordinance No. 2603) to be located on a certain parcel of land lying and being in Cedar Creek Hundred, Sussex County, containing 10.76 acres, more or less (property lying at the southeast corner of Argos Corner Road and Coastal Highway [Route 1]) (Tax I.D. No. 230-7.00-95.00) (911 Address: 22754 Argos Corner Road, Lincoln).**
- B. Based on testimony before the Planning and Zoning Commission and the public hearing before the Sussex County Council, Council found that the Applicant, Brian Lessard, and James A. Fuqua, Jr., Esquire, were present on behalf of this application; that this is a request to modify a condition of approval for Conditional Use No. 2129; that the original Conditional Use application was for a storage facility at Argos Corner Road, just south of Milford; that Council approved the use with an amended version of the Planning and Zoning Commission's recommended condition; that the facility has been partially constructed and is open for business; that the issue of this application involves Condition K which stated "One lighted sign, with a maximum area of 32 square feet per side shall be permitted."; that the limitation of only one sign creates problems for both the business and the public; that the property is shaped like a triangle and the longer sides border two roads; that Argos Corner Road is on the northeast and Coastal Highway on the southwest; that the entrance to the storage facility is on Argos Corner Road and that is where the permitted sign was placed, and that sign will identify the business and the entrance to the facility; and that the entrance sign is 500 feet from Route One and is blocked from view by two of the storage buildings on the site.**
- C. Council also found that Route One is a principal arterial roadway with a speed limit of 55 mph; that if you compare the traffic on both roads, Route One has 99% of the traffic volume; that with the condition for only one sign, there is no way to advertise or identify the business to people traveling on Route One; that the Applicant is proposing to locate a digital sign on his property along Route One which according to County Code is known as an Electronic Message Center; that there are specific provisions in the Code regulating the operation of such signs; that the proposed sign will be an on- premise sign identifying and advertising the storage facility; that while signs are generally prohibited in GR and AR-1 zoning districts, they are permitted as part of a Conditional Use and that is the Applicant's request; that there will be no adverse impact on adjacent properties; that the land to the south along Route One is wooded, to the west is Route One, on the other side of Route One is wooded and the land to the north and northwest is the location of the Taylor Marine business; that the proposed sign will not be out of character with the area as the Taylor Marine business has an existing electronic message center sign located at the northern end of their property; and that the permit for the existing sign authorizes 177 square feet per side and that the actual sign is approximately 140 square feet per side.**
- D. Council also found that Mr. Lessard worked with Rogers Sign Company to determine the minimum size sign that would serve the needs of the business but still be reasonably visible for the safety of vehicles on Route 1; that he has submitted two designs for review; that both signs would be a maximum of 20 feet high and one would be 78.6 square feet per side and the other 82.75 square feet per side; that both of those sign designs are significantly smaller than the Taylor Marine sign; that the facts of this request are unique and can be distinguished from other situations; that most times a business has frontage on one road and, in that case, one sign would be sufficient; that if a business was on an intersection that the placement of one sign to**

be visible from both roads might be an option particularly because traffic might be traveling slower or even stopped because of the intersection; that this triangular shaped land is a large through lot parcel containing approximately 11 acres; and that one sign cannot be visible from both roads.

- E. Council further found that, when this use was approved, both the Commission and the Council recognized that this use was of a public character and was essential and desirable for the convenience and welfare of area residents; that a second sign on the property would serve the same purpose; that Mr. Lessard has made an effort to design a sign that will reasonably deal with the unique circumstances; that the additional sign will deal with the needs of the business; that it will provide information to area residents and the traveling public on Route One; that it will have no negative or detrimental impact on neighboring properties; that it is not out of character with the area; and that the Applicant is requesting the approval of the amendment of Condition K to permit, in addition to the 32 square foot entrance sign, a second on-premise sign with the maximum area of 82.75 square feet.
- 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 recommended amendment of Condition K of Conditional Use No. 2129 and Ordinance No. 2603, Council found that:
1. The site was previously approved as Conditional Use No. 2129 for a mini-storage facility.
  2. The prior approval only permitted one sign on the premises, and the Applicant is seeking an amendment to allow an additional sign, including an Electronic Message Display.
  3. The property has frontage on two roads: Argo's Corner Road and Route One. The entrance is on Argo's Corner Road.
  4. It is appropriate to permit an additional on-premises sign for the mini-storage facility. This will allow one sign near the entrance and an additional sign along Route One. This will help direct customers of the storage facility to the entrance from Route One to reduce the possibility that people will miss the entrance and turn around or make U-turns on Route One to return to the site.
  5. The Applicant has requested an Electronic Message Center, or EMC, capability for the additional sign. Council discussed this request and made a Motion to amend Condition K which was approved as set forth below.
  6. The requested sign size of 82.75 square feet per side is appropriate for this location.
  7. Based on the record and recommendation of the Planning and Zoning Commission and the record created before the Sussex County Council, Condition K of Conditional Use No. 2129 and Ordinance No. 2603, which will serve to minimize any potential impacts on the surrounding area and adjoining properties, as amended by Council, is hereby amended to state as follows:
    - K. Two lighted on-premise signs shall be permitted. One of the signs shall have a maximum area of 32 square feet per side, and the other shall be permitted with a maximum area of 82.75 square feet per side.