

ORDINANCE NO. 2808

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CARPET BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 0.52 ACRE, MORE OR LESS

WHEREAS, on the 2nd day of February 2021, a conditional use application, denominated Conditional Use No. 2265 was filed on behalf of Pro Carpet, LLC, and

WHEREAS, on the 14th day of October 2021 and on the 28th day of October 2021, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2265 be approved; and

WHEREAS, on the 9th day of November 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 IV, Subsections 115-22, of the Code of Sussex County, be amended by adding the designation of Conditional Use No. 2265 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 east side of Miller Street, approximately 0.16 mile north of Mount Joy Road (S.C.R. 297) and being more particularly described in the attached legal description prepared by Hudson, Jones, Jaywork & Fisher, said parcel containing 0.52 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 limited to parking of vehicles, trailers and equipment associated with the Applicant's carpet business. No business shall be conducted on the site, and no retail sales shall occur on the site.**
- b. Although the Applicant's vehicles are permitted to park on the site, no vehicle maintenance shall occur on the site.**
- c. No junked, inoperable or untitled vehicles or trailers shall be located on the site.**
- d. The areas set aside for vehicle parking shall be clearly shown on the Final Site Plan and these areas shall be clearly marked upon the site itself.**
- e. Any dumpsters or trash containers shall be screened from view of neighboring properties and the front roadway.**
- f. Because this is a primarily residential area, no sign shall be permitted.**
- g. No storage of hazardous materials shall be permitted on the site. Any other materials associated with the use shall only be stored indoors.**
- h. Failure to abide by these conditions of approval may be grounds for revocation of this Conditional Use.**
- i. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.**

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2808 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 9TH DAY OF NOVEMBER 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 Pro Carpet, LLC for a Conditional Use of land in an AR-1 Agricultural Residential District for a carpet business to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 0.52 acre, more or less (property lying on the east side of Miller Street, approximately 0.16 mile north of Mount Joy Road (S.C.R. 297) (Tax I.D. No. 234-21.00-189.00) (911 Address: 26315 Miller Street, Millsboro).**

- B. Based on the record before the Planning and Zoning Commission and the hearing before the Sussex County Council, Council found that Mr. Juan F. Izara and Mr. Antonio Gomez were present on behalf of the Applicant and this Application; that Mr. Izara and Mr. Gomez are the present owners of Pro Carpet, LLC; that when the Applicant started the business in 2006, this property address was used for his business license; that as the business began to grow, the Applicant decided to buy the property; that they bought a couple of trucks and hired a few employees, which is the only reason the Applicant decided to purchase the property; that Pro Carpet, LLC is based around all types of flooring; that currently, the business has four employees; that, at times, they hire workers from out of state; that they propose for their employees to be able to stay on their property instead of having to pay for a hotel; that they are applying for the Conditional Use so that their employees may stay on the property while the employees are working for them; that the number of vehicles is about four to five at a time; that these vehicles are the employees' cars when they report to work; that employees would only stay at the house; and that two trailers with their company logo would remain on the property.**
- C. Council also found that the Applicant does not conduct any business on the property; that there are no offices present on the site; that no customers visit the site; that no materials are kept onsite; that the Applicant has a warehouse located in Georgetown by the airport; that all materials are stored at the Georgetown location; that Applicant does not have an office and the Applicant does not sell the flooring to customers; that Creative Floorings hires Pro Carpet, LLC to do all their flooring; that Creative Flooring sells all the flooring to the customers; and that the Applicant does not deal directly with the customers as the Applicant is a subcontractor.**
- D. Based on the record and recommendation of the Planning and Zoning Commission and the Planning and Zoning Commission's Findings (1 through 7) and Conditions (a - i), Council found that:**
- 1. Although characterized as a conditional use for a carpet business, the main purpose of this application is to allow the Applicant's employees to park their vehicles and trailers on this site.**
 - 2. The site is currently occupied by a home, which will continue to be used for residential purposes.**
 - 3. No business will be conducted from the site, and there will not be any customers using the site or deliveries made to the site.**
 - 4. The Applicant installs carpeting in new homes. All of this work occurs off-site. The employees either live at the home on this property or come to the property to ride together to the off-site jobs that the business has.**
 - 5. The use is really not much different than a company employee driving his or her truck home from work each day and then leaving in the morning to go to a job site.**
 - 6. The use will not adversely affect neighboring properties, public facilities or roadways.**
 - 7. No parties appeared in opposition to this application.**
 - 8. 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 nine (9) conditions (a – i), which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**