

ORDINANCE NO. 2815

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR THE USE OF COMMERCIAL DELIVERIES OF PARTS TO BE SOLD OFFSITE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 0.99 ACRES, MORE OR LESS

WHEREAS, on the 1st day of December 2020, a conditional use application, denominated Conditional Use No. 2273 was filed on behalf of Michael Parsons; and

WHEREAS, on the 4th day of November 2021, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 18th day of November 2021, said Planning and Zoning Commission recommended that Conditional Use No. 2273 be approved; and

WHEREAS, on the 30th 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, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2273 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 south side of Pecan Drive, approximately 475 feet east of Hopkins Road (S.C.R. 286) and being more particularly described in the attached legal description prepared by Morris James Wilson Halbrook & Bayard LLP, said parcel(s) containing 0.99 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 receipt of deliveries to and from the Applicant's residence and the storage of a trailer associated with the use upon the property.**
- B. The primary use of this property shall remain residential at all times that this Conditional Use is in effect. It shall also maintain a residential appearance at all times.**
- C. No retail sales shall occur directly from the property and no customers shall come to the property. This condition does not prevent indirect retail sales conducted via the telephone and/or the internet.**
- D. No manufacturing shall occur on the property.**
- E. No outside storage of any deliveries, parts, equipment, or inventory associated with the use shall be permitted.**
- F. One unlighted sign shall be permitted. It shall not be larger than 32 square feet per side.**
- G. The Applicant shall comply with any requirements imposed by DelDOT regarding this use.**
- H. The failure to comply with any of these conditions of approval may result in the termination of this Conditional Use.**
- I. 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. 2815 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 30TH 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 Michael Parsons for the consideration of a Conditional Use of land in an AR-1 Agricultural Residential District for the use of commercial deliveries of parts to be sold offsite to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 0.99 acres, more or less (property lying on the south side of Pecan Drive, approximately 475 feet east of Hopkins Road [S.C.R. 286]) (Tax I.D. No. 234-5.00-49.00) (911 Address: 30274 Pecan Drive, Lewes).**
- B. Based on testimony before the Planning and Zoning Commission and the public hearing before the Sussex County Council, Council found that Applicant, Michael Parsons, was present on behalf of his application; that he is seeking a Conditional Use for commercial deliveries of parts to be sold offsite; that commercial delivery of parts mostly comes on regular FedEx trucks; that there will be no deliveries by large vehicles, such as 18-wheeler tractor trailers; that during a busy week, he may receive deliveries up to four times per week; that during slower weeks, deliveries arrive about**

one time per week; that deliveries arrive Monday through Thursday; that on Fridays, he delivers the parts to the tracks; that all parts will be stored in a 17' x 16' trailer which is large enough to fit a go-kart in; that the trailer is the only business equipment he has; that parts are stored for a few days and the parts are then taken to his vendor sites where the parts are then sold; that he does not have any employees, only himself; that he is requesting one unlighted sign; that the property is residential; that he lives on the property; that most of the surrounding properties are residential; that the Hopkins do have a farm to the front of the property; that there is a construction business located down the road from his property; and that he does not believe there will be any negative impact to the neighboring properties.

C. 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 (A - I), Council found that:

- 1. This use is very nearly a home occupation. But for the fact that the Applicant stores and uses a commercial trailer on the property as part of his business and the regular commercial deliveries to and from his home, this use would likely not require a Conditional Use.**
- 2. The property will retain its primary use as a residence, and it will remain residential in appearance.**
- 3. The Applicant has stated that there are not any employees other than himself associated with the use on this property.**
- 4. The Applicant has stated that no parts are manufactured on the property and there will not be any outside storage occurring on the property.**
- 5. This limited use will not adversely affect neighboring properties or roadways.**
- 6. No parties appeared in opposition to this Application.**
- 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 nine (9) conditions (A - I) which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**