

**ORDINANCE NO. 2858**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A FARM TRACTOR AND TRUCK REPAIR SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 20 ACRES, MORE OR LESS**

**WHEREAS, on the 13<sup>th</sup> day of January 2022, a conditional use application, denominated Conditional Use No. 2341 was filed on behalf of Caden Oplinger; and**

**WHEREAS, on the 12<sup>th</sup> day of May 2022, 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. 2341 be approved; and**

**WHEREAS, on the 7<sup>th</sup> day of June 2022, 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. 2341 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 on the southeast side of Shawnee Road (Route 36), approximately 0.23 mile south of Abbotts Pond Road (S.C.R. 620), and being more particularly described in the attached legal description prepared by Moore & Rutt, P.A., said parcel containing 20 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 repairs on trucks and farm equipment. There shall not be any retail sales occurring on the property.**
- b. The use shall be limited to the front 350 feet of the property. The Final Site Plan shall clearly depict this reduced area of the Conditional Use.**
- c. One lighted sign shall be permitted. It shall not be larger than 32 square feet per side.**
- d. Security lighting shall be shielded and downward screened so that it is directed away from neighboring properties and roadways.**
- e. Any dumpsters shall be screened from the view of neighbors and roadways. The dumpster locations shall be shown on the Final Site Plan.**

- f. All repairs shall occur indoors within the proposed building. No outside storage of parts or other materials associated with the use shall be permitted.
- g. No junked, unregistered, or permanently inoperable vehicles, trucks or trailers shall be stored on the site.
- h. There shall not be any parking in the front yard setback.
- i. The parking areas shall be shown on the Final Site Plan and clearly marked on the site itself. Trucks and farm equipment shall only be parked within these designated areas.
- j. 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.
- k. The site shall be subject to DeDOT entrance and roadway requirements.
- 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. 2858 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 7<sup>TH</sup> DAY OF JUNE 2022.**

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**Tracy N. Torbert  
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 Caden Oplinger for the consideration of a Conditional Use of land in an AR-1 Agricultural Residential District for a farm tractor and truck repair shop to be located on a certain parcel of land lying and being in Cedar Creek Hundred, Sussex County, containing 20 acres, more or less (property lying on the southeast side of Shawnee Road [Route 36] approximately 0.23 mile south of Abbots Pond Road [S.C.R. 620]) (911 Address: N/A) (Tax Parcel: 130-6.00-22.00).**
- B. Based on testimony before the Planning and Zoning Commission and the public hearing before the Sussex County Council, Council found that Mr. Caden Oplinger was present on behalf of his Application; that his request is for a Conditional Use to operate a shop where he can repair farm tractors and trucks; that the Conditional Use request is for the portion of the property currently being used; that the building is 60'x 80' in size; that he farms the area around the building, as a hobby; that all materials, supplies and parts will be stored within the building; that no material, parts or work will be performed outside; that he will have proper storage of all chemicals located on site; that on the Site Plan, there are evergreen trees proposed on both sides of the road; that he is requesting permission for a lighted advertising sign to advertise his business as "Fleet Refinishing"; that Fleet Refinishing is a business which he took over from a gentleman he worked for in high school, where they would restore and repair old farm tractors, as well as other equipment; that he believes he will need only one to two employees; that he plans to perform this work full-time; that any noise would be associated with typical farm equipment, such as a running tractor; that he has known his surrounding neighbors for decades and has friendly relationships with all of his adjacent neighbors; and that he does not know of any adjacent neighbors who are opposed to his request.**

- 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 (7a. - m.), Council found that:**
- 1. The proposed 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 location is mostly surrounded by farms and other large tracts of land. The Applicant lives behind the site and his grandfather lives next door. The Applicant stated that none of the neighbors oppose his plans.**
  - 3. The proposed use provides a service to Sussex County farmers and small businesses in the area by providing a convenient location for diesel repair services for trucks and agricultural equipment.**
  - 4. The Applicant proposes to use a 60-foot by 80-foot building for the business. This use, within the proposed workshop building, is very similar to the type of repair and maintenance work that a farmer would be permitted to do on his or her farm equipment under the existing AR-1 zoning.**
  - 5. No parties appeared in opposition to this Application.**
  - 6. The Applicant seeks a Conditional Use for the entire 20-acre parcel. The Applicant has stated that he only needs a Conditional Use for the front portion of the property where the proposed use will actually be located. As a result, this recommendation is to approve the Conditional Use for the entire front 350 feet of the property, which extends beyond the proposed workshop building with enough extra space for reasonable expansion and setbacks.**
  - 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 thirteen (13) conditions (a. through m.) which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**