

ORDINANCE NO. 2162

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR SHEET METAL FABRICATION AND WELDING FOR THE POULTRY INDUSTRY AND OFFICES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 6.45 ACRES, MORE OR LESS, OF A 63.07 ACRE TRACT

WHEREAS, on the 7th day of July 2010, a conditional use application, denominated Conditional Use No. 1870 was filed on behalf of Allen McCabe/McCabe's Farms, LLC; and

WHEREAS, on the 10th day of November 2010, 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. 1870 be approved with conditions; and

WHEREAS, on the 30th day of November 2010, 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. 1870 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 Nanticoke Hundred, Sussex County, Delaware, and lying north of Seashore Highway (Route 18/404) 620 feet east of Road 528 and being more particularly described as follows:

BEGINNING at a point on the northerly right-of-way of Delaware Route No. 18 (a.k.a. Seashore Highway) being 70 foot wide, said point situated on a common boundary corner between this parcel and lands now or formerly of Mildred T. Rogers; thence by and with common boundary line between this parcel and aforesaid lands of Rogers, north 6°37'49" west 425.43 feet to a point; thence by and with two new lines of division through the remaining lands of McCabe Farms, L.L.C., 1) north 71°34'30" east

641.43 feet to a point; 2) south 19° 14'43" east 445.98 feet to a point, said point situated on the northerly right-of-way of Delaware Route No. 18; thence by and with aforesaid northerly right-of-way Delaware Route No. 18, said northerly right-of-way being a curve to the left, said curve having a radius of 2,043.35 feet, a central angle of 20°43'58", an arc length of 739.40 feet, and chord data of south 73°52'23" west, 735.37 feet to the Point of Beginning and containing 6.45 acres of a 63.07 acre tract.

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:

1. The use shall be limited to metal fabrication, welding and related activities.
2. The hours of operation shall be limited to 6:00 a.m. to 6:00 p.m. Monday through Friday with weekend operations when off-site installations are scheduled.
3. With the exception of materials screened from view and stored in bins, there shall not be any outside storage. The location of the permitted storage bins shall be shown on the Final Site Plan.
4. One lighted sign shall be permitted, not to exceed 32 square feet in size per side.
5. Any security lights shall be screened from view so that they do not shine on neighboring properties or roadways.
6. Any dumpsters shall be located at the rear of the buildings and shall be screened from view of Route 18.
7. The Conditional Use shall expire unless it is substantially underway within 3 years of the Council's approval.
8. 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. 2162 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 30TH DAY OF NOVEMBER 2010.


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:

- 1. This is an application to consider a Conditional Use of land in an AR-1 Agricultural Residential District for sheet metal fabrication and welding for the poultry industry and offices to be located on a certain parcel of land lying and being in Nanticoke Hundred, Sussex County, Delaware, containing 6.45 acres, more or less, of a 63.07 acre tract, lying north of Seashore Highway (Route 18/404), 620 feet east of Road 528.**
- 2. DelDOT commented that a Traffic Impact Study was not recommended and that the existing Level of Service E of Seashore Highway will not change as a result of this application.**
- 3. The Sussex Conservation District commented that the Applicant will be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation; that there are no storm flood hazard areas or tax ditches affected; that it will not be necessary for any off-site drainage improvements; and that it is likely that on-site drainage improvements will be required.**
- 4. The County Engineering Department, Utility Planning Division, commented that the site is located in the Western Sussex Planning Area No. 1; that an individual on-site septic system is proposed; that conformity to the Western Sussex Planning Study will be required; that the proposed use is not in an area where Sussex County currently has a schedule to provide sewer service; and that a Concept Plan is not required.**
- 5. The Applicant was present with his representative and indicated that the services provided are of benefit to agricultural business in general and specifically to the poultry industry due to his fabrication work primarily used in poultry processing.**
- 6. The use will not adversely affect traffic or area roadways.**
- 7. The use is of a public or semi-public character. The Applicant performs services for both residential and agricultural uses in this area of Sussex County and is desirable for the general convenience, health, safety, prosperity, morals and welfare of the residents of Sussex County.**

- 8. The Council found that other than the Applicant and his attorney, there were no parties present in support of or in opposition to the application. Letters are on file in support of this application.**
- 9. Based on the record and recommendation of the Planning and Zoning Commission which were adopted by the Council, and the record created before the Council, the Conditional Use was approved subject to eight conditions, which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**