

**ORDINANCE NO. 2163**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR EXPANSION OF CONDITIONAL USE NO. 1265 (ORDINANCE NO. 1284) ANTIQUES AND CRAFT SHOP AND WILDLIFE AND FOLK ART BY ADDING THE SALE OF SWING SETS, SHEDS, OUTDOOR FURNITURE, FENCING AND VARIOUS GARDEN AND YARD ACCESSORIES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 2.05 ACRES, MORE OR LESS**

**WHEREAS, on the 26<sup>th</sup> day of July 2010, a conditional use application, denominated Conditional Use No. 1871 was filed on behalf of Candleberry Creek ; 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. 1871 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. 1871 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 west of Route One, 3,540 feet north of Road 198 (Truitt Road) and being more particularly described as follows:**

**BEGINNING at a point on the west side of the right-of-way of Delaware Route One, said point being approximately 3,540 feet more or less north of Road 198, said point being a corner for these lands and other lands now or formerly of Nancy C. Rhue, thence the following three (3) courses and distances; (1) south 73°48'32" west 300.00 feet to a point; (2) north 12°53'53" west 300.00 feet to a point; and (3) north 73°49'02" east 300.00 feet to a point on the west side of the right-of-way of Delaware Route One; thence following said right-of-way in a southeasterly direction 299.96 feet to said point of beginning, said parcel to contain 2.05 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:**

- 1. Outside storage and displays of sheds, swing sets, and garden products shall be permitted on the site. The location of the display areas shall be shown on the Final Site Plan.**
- 2. There shall be no more than a total of 30 swing sets and/or sheds displayed on the site at any one time.**
- 3. All outside displays shall be located at least 60 feet away from the right-of-way of Route One, with the exception of one swing set and shed that can be located no less than 40 feet from the right-of-way.**
- 4. The Final Site Plan shall contain the location of all entrances, driveways and parking areas.**
- 5. The use shall be subject to all DelDOT approvals.**
- 6. As stated by the Applicant, the hours of operation shall be between 10:00 a.m. and 5:00 p.m. but open 6 days per week.**
- 7. Any sheds sold from the premises shall contain a notice that a shed placement requires a permit from Sussex County.**
- 8. This approval shall be limited to the Applicant and his family. If the business or the site is transferred to anyone other than the Applicant or his family, this Conditional Use, which is an expansion of Ordinance No. 1284, shall expire.**
- 9. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

**I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2163 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 expansion of Conditional Use No. 1265 (Ordinance No. 1284) antiques and craft shop and wildlife and folk art by adding the sale of swing sets, sheds, outdoor furniture, fencing and various garden and yard accessories to be located on a certain parcel of land lying and being in Cedar Creek Hundred, Sussex County, Delaware, containing 2.05 acres, more or less, lying west of Route One, 3,540 feet north of Road 198 (Truitt Road).**
- 2. DeIDOT comments were not requested since the intended use is a continuation of an existing Conditional Use.**
- 3. The County Engineering Department, Utility Planning Division, commented that the site is located in the North Coastal Planning Area; that an on-site septic system is proposed to be utilized; that conformity to the North Coastal Planning Study will be required; that the proposed project is not in an area where the County currently has plans to provide sewer service; and that a Concept Plan is not required.**
- 4. The Sussex Conservation District commented that the applicants will be required to follow recommended erosion and sediment control practices and to maintain vegetation upon completion of construction; 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 not likely that on-site drainage improvements will be required.**
- 5. The Applicant was present and stated that he would like to expand his business to be able to sell other items such as sheds, swing sets, etc. that are in demand at his location.**

- 6. 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 the use is desirable for the general convenience, health, safety, prosperity, morals and welfare of the residents of Sussex County.**
- 7. The Council found that, other than the Applicant, there were no parties present in support of or in opposition to the application.**
- 8. The use will not adversely affect the neighboring or adjacent properties.**