

ORDINANCE NO. 2252

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CONVENIENCE STORE WITH GAS PUMPS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 8.88 ACRES, MORE OR LESS

WHEREAS, on the 20th day of January 2012, a conditional use application, denominated Conditional Use No. 1927 was filed on behalf of Two Farms, Inc.; and

WHEREAS, on the 22nd day of March 2012, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 12th day of April 2012, said Planning and Zoning Commission recommended that Conditional Use No. 1927 be approved with conditions; and

WHEREAS, on the 17th day of April 2012, 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. 1927 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 Little Creek Hundred, Sussex County, Delaware, and lying east of U.S. Route 13 and south of Route 24 and being more particularly described in Plot Book 70 at Page 162 and Plot Book 104 at Page 312 in the Office of the Recorder of Deeds in and for Sussex County, said parcel containing 8.88 acres, more or less. (Tax Map I.D. 3-32-1.00-100.00)

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. Unless the Applicants apply for commercial zoning for the entire property, the use shall be limited to a convenience store with gas pumps. This Conditional Use shall not affect the ongoing operation of O'Neals Auction Center Store which also currently exists on the property.**
- 2. The Applicants shall comply with all DelDOT entrance and access requirements.**
- 3. A landscaping plan shall be included as part of the Final Site Plan approval process. The landscape plan shall include details about the buffer along U.S. Route 13 required by the Combined Highway Corridor Overlay Zone classification that applies to this property.**
- 4. One lighted sign, not to exceed 32 square feet in size, shall be permitted on the Conditional Use portion of this site. The sign regulations applicable to commercial districts shall govern that portion of the site that is currently zoned C-1 General Commercial.**
- 5. The Conditions of Approval shall be noted on the Final Site Plan.**
- 6. 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. 2252 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 17TH DAY OF APRIL 2012.


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 the Conditional Use of land in an AR-1 Agricultural Residential District for a convenience store with gas pumps to be located on a certain parcel of land lying and being in Little Creek Hundred, Sussex County, containing 8.88 acres, more or less, lying east of U.S. Route 13 and south of Route 24.**

2. **DelDOT commented that a Traffic Impact Study was performed for the application.**
3. **The Sussex County Engineering Department, Utility Planning Division, commented that the site is located in the Western Sussex – Laurel Growth Area; that an 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 the County currently has a schedule to provide sewer service; and that a Concept Plan is not required.**
4. **The Sussex Conservation District commented that the Applicant will be required to follow recommended erosion and sedimentation control practices during any construction and to maintain vegetation; that no storm flood hazard areas or tax ditches are affected; that it is not likely that any off-site drainage improvements will be required; and that it may be possible that on-site drainage improvements will be required.**
5. **Garth Jones, P.E. of the Becker Morgan Group was present on the Applicant's behalf and he stated that the Applicant is proposing to build a Royal Farms; that the project involves two properties on the south east corner of Route 24 and Route 13 near Laurel which will both be owned by the Applicant; that the existing repair shop on the C-1 parcel will be removed; that the auction building and related parking on the AR-1 parcel will remain; that the Conditional Use application is for the O'Neal's property which was the subject of a prior Conditional Use; that they are proposing a 5,800 square foot store with two fueling areas, totaling about 32 gas pumps; that a soil evaluation study has been performed and approved by DNREC; that the auction center has an on-site septic system and it will be expanded to accommodate both uses; that a new well will be installed to serve the Royal Farms store; that there will be no shared parking and they have added parking since the original site rendering; and that the Applicant is agreeable, once the project is under construction, to come back to the County and file for a rezoning to commercial zoning.**
6. **The use is of a public or semi-public character.**
7. **No parties appeared in support of or in opposition to this application.**

- 8. The site is appropriate for the proposed use; a portion of the site is currently zoned Commercial; the entire site is currently used for commercial or business purposes; the proposed use is consistent with the prior zoning and use of the property; and the use, under either a Conditional Use or Commercial Zoning, is in accordance with the current Sussex County Comprehensive Land Use Plan.**
- 9. The use is a benefit to Sussex County residents and provides a service to the County.**
- 10. Based on the record and recommendations of the Planning and Zoning Commission and the record created before Council, the Conditional Use is approved subject to 6 (six) conditions which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**