

ORDINANCE NO. 2336

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AUTO REPAIR AND SALES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 1.06 ACRES, MORE OR LESS (Tax Map I.D. 3-30-15.00-20.01)

WHEREAS, on the 10th day of October 2013, a conditional use application, denominated Conditional Use No. 1975 was filed on behalf of Ronald and Susan Berwick; and

WHEREAS, on the 9th day of January 2014, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 23rd day of January 2014, said Planning and Zoning Commission recommended that Conditional Use No. 1975 be approved with conditions; and

WHEREAS, on the 4th day of February 2014, 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. 1975 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 east of Road 225 (Marshall Street) 2,767 feet north of Road 207 (Johnson Road) and north of Jumping Jack Lane more particularly described as Lot 2 in Plot Book 121, Page 152 as recorded in the Office of the Recorder of Deeds in and for Sussex County, Delaware, said parcel containing 1.06 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 hours of operation shall be from 8:00 a.m. to 6:00 p.m. Monday through Saturday.**
- B. One lighted sign, not to exceed 32 square feet per side, shall be permitted.**
- C. Security lighting shall be downward screened and shall be directed away from neighboring properties and roadways.**
- D. Any dumpsters shall be screened from view of neighbors and roadways. The dumpster locations shall be shown on the Final Site Plan.**
- E. All repairs shall be performed indoors. No automobile parts shall be stored outside.**
- F. No junked, unregistered or permanently inoperable vehicles or trailers shall be stored on the site.**
- G. No more than 15 cars shall be displayed for sale on the site at any one time. No more than 5 additional vehicles may be parked outside the building in preparation for the sales lot.**
- H. All display areas, parking and storage areas shall be clearly depicted on the Final Site Plan.**
- I. No more than 5 vehicles waiting for service or parts may be parked outside.**
- J. The site shall be subject to all DeIDOT entrance and roadway requirements.**
- K. 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. 2336 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 4TH DAY OF FEBRUARY 2014.


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 for a Conditional Use of land in an AR-1 Agricultural Residential District for auto repair and sales to be located on a certain parcel of land lying and being in Cedar Creek Hundred, Sussex County, containing 1.06 acres, more or less, lying east of Road 225 (Marshall Street) 2,767 feet north of Road 207 (Johnson Road) and north of Jumping Jack Lane (Tax Map I.D. #330-15.00-20.01).**

2. **DelDOT commented that the Department has reviewed the proposal and that a Traffic Impact Study was not recommended and that the current Level of Service B of Marshall Street will not change as a result of this application.**
3. **The Sussex County Engineering Department, Utility Planning Division, commented that the site is located in the North Coastal Planning Area; that the use of an on-site septic system is proposed; that conformity to the North Coastal 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 Applicants, Ronald and Susan Berwick, and Edward Rohlring, the Lessee, were present on behalf of this application. Mr. Berwick stated that he and his wife own the property and that, subject to the approval of this Conditional Use, Mr. Rohlring will be leasing the property to perform minor automotive mechanical repair work and offer vehicles for sale; and that Mr. Rohlring stated that there may be fifteen (15) cars or less.**
5. **Mr. Rohlring, his wife, and a part-time mechanic will work at the property. The smaller garage on the property will be used for storage only. The primary intent is vehicle sales.**
6. **The project, with the conditions and stipulations placed upon it, will not have an adverse impact on the neighboring properties or community.**
7. **The site has a history of automotive use; the Applicant's father started an automotive repair business on the site in 1944; this type of use existed there until about 2 1/2 years ago; and the use as an automotive repair facility is of a public or semi-public character and is desirable for the general convenience and welfare of the area.**
8. **There are other business and commercial uses in the area, including an oil company, construction company, trucking and excavating company, a convenience store and another automotive repair facility.**
9. **There were no parties present in opposition to this application.**
10. **Based on the record and recommendation of the Planning and Zoning Commission and the record created before the Council, the Conditional Use was approved subject to eleven (11) conditions (A-K) which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**