

ORDINANCE NO. 2409

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CONSTRUCTION COMPANY OFFICE; STORAGE OF MATERIALS; RETAIL SALES; AND EQUIPMENT STORAGE AND RENTAL TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 34,495.70 SQUARE FEET, MORE OR LESS

WHEREAS, on the 17th day of April 2015, a conditional use application, denominated Conditional Use No. 2019 was filed on behalf of JB Builders, LLC; and

WHEREAS, on the 25th day of June 2015, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 9th day of July 2015, said Planning and Zoning Commission recommended that Conditional Use No. 2019 be approved with conditions; and

WHEREAS, on the 4th day of August 2015, 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, Section 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2019 as it applies to the property hereinafter described.

Section 2. The subject property is described as:

All that certain tract, piece or parcel of land, lying and being situate in Indian River Hundred, Sussex County, Delaware, and lying north of John J. Williams Highway (Route 24) 500 feet east of Gull Point Road (Road 313) and being more particularly described in Deed Book 4328, Page 178, in the Office of the Recorder of Deeds in and for Sussex County, said parcel containing 34,495.70 square feet, 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. Although sales are permitted from the premises as requested by the Applicant, the Applicant has stated that the primary purpose of these sales is for materials, tools and supplies of the type typically used by the Applicant's subcontractors. Retail sales beyond those described to the public shall not be permitted from this location without further approval from the Planning and Zoning Commission.**
- B. As stated by the Applicant, all storage of vehicles and equipment associated with the business (but not including employee vehicles) shall be located inside. The Applicant's tractor and low-boy trailer may be stored outside.**
- C. There shall be no outside repairs or maintenance of vehicles or equipment associated with the use shall occur on the site.**
- D. All dumpsters, storage bins, and stock pile locations shall be screened from view of neighboring properties and roadways.**
- E. The site shall be fenced and gated.**
- F. One lighted sign, not to exceed 32 square feet per side, shall be permitted.**
- G. All security lights shall be downward screened so that they do not shine on neighboring properties or adjacent roadways.**
- H. The hours of operation shall be between 8:00 a.m. and 5:00 p.m. Monday through Saturday.**
- I. 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. 2409 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 4TH DAY OF AUGUST 2015.



**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:

- A. This is the application of J.B. Builders, LLC to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a construction company office, storage of materials, retail sales, and equipment storage and rental to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 34,495.70 square feet, more or less. The property is located north of John J. Williams Highway (Route 24) 500 feet east of Gull Point Road (Road 313) (911 Address: 27324 John J. Williams Highway, Millsboro) (Tax Map I.D. No. 234-28.00-153.00).**
- B. Council found that DelDOT commented that a Traffic Impact Study is not recommended and that the current Level of Service “E” of John J. Williams Highway will not change as a result of this application.**
- C. Council found that 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 after construction; that there are no storm flood hazard areas affected; that off-site drainage improvements will not be required; that it is not likely that on-site drainage improvements will be required; and that no tax ditches are affected.**
- D. Council found that the Sussex County Engineering Department, Utility Planning Division, commented that the site is located in the Oak Orchard Sanitary Sewer District; that wastewater capacity is available for this project; that Ordinance 38 construction is not required; that sewer service is not available at this time; that the parcel will receive sewer service in the future; that when sewer service becomes available, connection to the system will be mandatory; that connection to the system must occur within the first year of service being available; and that a Concept Plan is not required.**
- E. Council found that this site was previously approved for a Conditional Use for the sales and service of golf carts and related work (Conditional Use No. 1395).**
- F. Based on testimony before the Planning & Zoning Commission and the public hearing before the Sussex County Council, Council found that Stephen Spence, Esquire with Phillips, Goldman & Spence, P.A., was present with Airtion P. Maria, Jr. on behalf of J. B. Builders, LLC and that they stated that the Applicant purchased the property in 2014; that the Applicant has obtained a new septic permit; that they are presenting an aerial photograph showing the location of the business and commercial uses along John J. Williams Highway; that the Applicant intends to renovate and expand the existing buildings on the site for the purpose of a construction company home office, retail sales of small building supplies, materials, nails, screws, tools, etc., primarily to sub-contractors working for Applicant; that storage of materials will be primarily indoors; that some equipment will be stored outdoors; that business hours are planned to be from 8:00 a.m. to 5:00 p.m. weekdays; that the Applicant has been in business for 2002; that all maintenance of equipment will be performed indoors; that they would like to have a lighted sign, if possible; that they are willing to screen any dumpsters on site from neighboring properties and roadways; that they will have three employees; and that waste oils/fluids will be handled by a licensed waste handler.**
- G. Based on the Planning and Zoning Commission’s Findings (1 through 6) and Conditions (A - I), Council found that:**
 - 1. The property is the site of a prior business use for golf cart sales and repairs. It has been vacant for some time. The redevelopment and reuse of this site will improve the appearance of this location. It also promotes the re-use of existing business locations rather than having new businesses scattered throughout the County.**

- 2. The location for this use, along Route 24, is appropriate for a business such as this. There are also several other small businesses and commercial uses in this area of Route 24, and this use will be consistent with what currently exists in the area.**
- 3. The redevelopment of this property will not have an adverse impact on adjacent or neighboring properties, roadways or the community in general.**
- 4. The use promotes the health, safety and welfare of Sussex County residents by redeveloping an existent vacant and abandoned business location.**
- 5. No parties appeared in opposition to the application.**
- 6. Based on the record and recommendation of the Planning & Zoning Commission and the record created before the Sussex County Council, the Conditional Use is approved subject to nine (9) conditions (A - I), as amended by Council, which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**