

ORDINANCE NO. 2297

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AUTO REPAIR AND SERVICE AS EXTENSION TO AN APPROVED TOWING SERVICE AND LANDSCAPING BUSINESS (CONDITIONAL USE NO. 1933) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 3.374 ACRES, MORE OR LESS

WHEREAS, on the 11th day of December 2012, a conditional use application, denominated Conditional Use No. 1956 was filed on behalf of Mark A. Giblin; and

WHEREAS, on the 14th day of February 2013, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 28th day of February 2013, said Planning and Zoning Commission recommended that Conditional Use No. 1956 be approved with conditions; and

WHEREAS, on the 19th day of March 2013, 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. 1956 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 Baltimore Hundred, Sussex County, Delaware, and lying southeast of Route 17 (Roxana Road) 1,185 feet northeast of Road 382 (Zion Church Road) and being more particularly described in Deed Book 2493, Page 185, in the Office of the Recorder of Deeds in and for Sussex County, said parcel containing 3.374 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. The conditions imposed upon Conditional Use No. 1933 shall remain in effect.**
- 2. Condition "B" of Conditional Use No. 1933 is modified so that no more than 18 vehicles shall be permitted on the property besides the Applicant's own vehicle.**
- 3. The hours of operation of the auto repair and service activities shall be from 8:00 a.m to 8:00 p.m. seven (7) days a week.**
- 4. All liquids, oils, and similar materials shall be disposed of in accordance with all State and Federal requirements.**
- 5. Parking areas for vehicles and customers associated with the service and repair component of this use shall be clearly shown on the Final Site Plan and marked on the site itself.**
- 6. The Applicant shall comply with all DelDOT entrance requirements.**
- 7. The Final Site Plan showing this use and the use of Conditional Use No. 1933 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. 2297 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 19TH DAY OF MARCH 2013.


ROBIN A. GRIFFITH
CLERK OF THE COUNCIL

The Council found that the Conditional Use was appropriate legislative action based on the following Findings of Facts:

- 1. This is an application to consider the Conditional Use of land in an AR-1 Agricultural Residential District for auto repair and service as an extension to an approved towing service and landscaping business (Conditional Use No. 1933), to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 3.374 acres, more or less, lying southeast of Route 17 (Roxana Road) 1,185 feet northeast of Road 382 (Zion Church Road) (Tax Map I.D. 5-33-6.00-60.02)**
- 2. There were no comments requested from DelDOT since the Department had already responded to the application for Conditional Use No. 1933.**

3. The Sussex County Engineering Department, Utility Planning Division, commented that the site is located in the Roxana Planning Area; that use of an on-site septic system is proposed; that conformity to the South Coastal Area Planning Study, 2005 Update, will be required; that the proposed use is not in an area where the County has a schedule to provide sewer at this time; that when the County provides sewer service, it is required that the on-site system be abandoned and a connection made to the central sewer system; 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 construction and to maintain vegetation; that no storm flood hazard areas or tax ditches are affected; and that it may not be necessary for any on-site or off-site drainage improvements.
5. The Applicant, Mark A. Giblin, was present and stated that he agrees with the conditions imposed on his original application for towing and landscaping; that he thought that he had originally included service work; that he services vehicles for several police departments and other agencies and services; that he does not do any work on vehicles owned by the general public; that his requested hours for the service/repair business are seven (7) days per week from 8:00 a.m. to 8:00 p.m.; and that customers normally pick up their vehicles on the same day as serviced.
6. The application is an extension of Conditional Use No. 1933 granted to the Applicant for a towing service and landscaping business; that, as part of that approval, Council found that the use was consistent with other small scale businesses in the area, including a bait and tackle shop, HVAC business, and other similar uses in the vicinity; and that auto repair and service is a natural extension of the approved towing service.
7. The auto repair and service use will provide a public service to residents of the area and Sussex County in general. The use promotes the orderly growth, convenience and welfare of Sussex County and its residents.
8. The use, with the existing conditions required in Conditional Use No. 1933 and with those imposed on this application, will not have any adverse impact on neighboring properties, roadways or public facilities.
9. There were no parties present in support of or in opposition to this application.

10. Based on the record and recommendation of the Planning & Zoning Commission and the record created before Council, the Conditional Use was approved subject to 7 (seven) conditions which will serve to minimize any potential impacts on the surrounding area and adjoining properties.