

ORDINANCE NO. 2395

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO OPERATE A TRUCKING BUSINESS AND PARKING OF VEHICLES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 35,011 SQUARE FEET, MORE OR LESS

WHEREAS, on the 27th day of October 2014, a conditional use application, denominated Conditional Use No. 2008 was filed on behalf of John Martin; and

WHEREAS, on the 12th day of February 2015, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 26th day of

February 2015, said Planning and Zoning Commission recommended that Conditional Use No. 2008 be denied; and

WHEREAS, on the 31st day of March 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, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2008 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 Dagsboro Hundred, Sussex County, Delaware, and lying northwest of Millsboro Highway (Route 24) 300 feet northeast of Lewis Road (Road 409) and being more particularly described in Deed Book 3230, Page 229, in the Office of the Recorder of Deeds in and for Sussex County, said parcel containing 35,011 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:

- 1. Owner or occupant shall reside on the site at all times during the use.**
- 2. There shall be no commodities stored or sold, no group instruction, assembly or activity, and no outside storage or display material on the premises.**
- 3. The use shall be limited to storage and routine maintenance on personally owned trucks and other personally owned vehicles.**
- 4. All personal vehicles on site shall be tagged in the name of the owner or occupant and may only be operated by the owner or occupant.**
- 5. No semi-trailers shall be parked on the site.**
- 6. There shall be no commercial vehicle sales on the site. Vehicle sales shall be limited to the sale of personally owned vehicles.**
- 7. Neither owner nor occupant shall employ any persons who will perform commercial services or sales on the site.**
- 8. There shall be no vehicle repair services performed on the site, other than routine repair or maintenance on personally owned vehicles.**
- 9. All oil, and other wastes associated with the repair or maintenance of the vehicles shall be properly disposed of in accordance with State regulations.**
- 10. No towing business shall be operated on the site.**
- 11. Any security lighting shall be downward screened so that it does not shine on neighboring properties or roadways.**
- 12. The Applicant shall comply with all DelDOT requirements, if any, regarding entrances to the property.**
- 13. 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. 2395 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 21ST DAY OF APRIL 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 John Martin to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a trucking business and parking of vehicles to be located on a certain parcel of land lying and being in Dagsboro Hundred, Sussex County, containing 35,011 square feet, more or less, land lying northwest of Millsboro Highway (Route 24) 300 feet northeast of Lewis Road (Road 409) (911 Address: 30102 Millsboro Highway, Millsboro, DE) (Tax Map I.D. 133-20.00-17.17).
- B. Council found that DelDOT commented that a Traffic Impact Study was not recommended and that the current Level of Service "E" of Millsboro 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; that no storm flood hazard areas are affected; that it is not likely that off-site drainage improvements will be required; that it is possible 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 Western Sussex Planning Area #5; that use of 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 has a schedule to provide sewer at this time; and that a Concept Plan is not required.
- E. Based on testimony before the Planning & Zoning Commission and the public hearing before the Sussex County Council, Council found that Ellouise Martin was present with Donald Brown, tenant, and that they stated that John Martin was in the hospital at the time of the Planning and Zoning Commission's public hearing and could not attend; that Mr. Brown lives on the property; that, although he has had as many as three (3) trucks on the site, his request is only for one (1) tractor truck; that he no longer parks trailers on the site; that he parks the trailers at another location; that most of his haul loads are within Delaware for Coastal Materials; that he is aware that he cannot park his tractor and trailer on Route 24; that on occasion he starts his truck at 5:00 a.m.; that he does some minor maintenance on his truck periodically; that he currently has six (6) additional personal vehicles on the site including a service pickup truck, a tow truck and a race car which is kept in a box trailer on site; that he does tinker with his own cars on site; that no signage is necessary; that Parker Block is just west of the intersection on the south side of Route 24; that he does not now cross the property line with his vehicles; that the driveway is stoned; that he realizes that the area is primarily residential with small lots; and that he has been selling vehicles, but they were his personal vehicles.
- F. Council found that there were no parties present in support of or in opposition to this application and three (3) letters in opposition were received.
- G. Council found that the proposed use is limited in scope and will have little or no impact on traffic, area roadways, neighboring properties or the community.
- H. Council found that the proposed use is akin to a home occupation because the Applicant's tenant resides on the property, will continue to reside there throughout the use, and has no employees; that the activity is conducted solely by one or more members of a family on the premises and is incidental and secondary to the use of the premises for dwelling; that no commodity is stored or sold; and that there is no group instruction, assembly or activity and no outside storage or display material on the premises.

- I. **Based on the record created before the Sussex County Council, the Conditional Use is approved subject to thirteen (13) conditions which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**