

ORDINANCE NO. 2410

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR MINI-STORAGE UNITS, AND BOAT AND RV STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 8.93 ACRES, MORE OR LESS

WHEREAS, on the 24th day of March 2015, a conditional use application, denominated Conditional Use No. 2020 was filed on behalf of Charles Auman; 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. 2020 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. 2020 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 west of Marshall Street Extended (Road 225) and south of Swain's Private Road 570 feet west of Marshall Street Extended and being more particularly described as:

BEGINNING at a point on the westerly right-of-way of Marshall Street Extended (Road 225), a corner for these subject lands and lands, now or formerly, of Charles E. Harding; thence south 75°04'25" west 161.56 feet and south 83°31'26" west 556.27 feet along said Harding lands to a point; thence north 00°50'46" east 736.76 feet and north

03°32'28" west 216.71 feet along lands, now or formerly, of Sussex Materials, LLC to a point; thence north 84°42'03" east 106.31 feet along Swain's Private Road to a point; thence south 03°26'36" east 366.74, feet north 86°33'24" east 237.85 feet, and north 03°26'36" west 141.06 feet along lands, now or formerly, of Mark J. Donovan to a point; thence north 88°18'45" east 161.20 feet along lands, now or formerly, of Thomas A. and B. Lyn Jester to a point; thence south 02°03'11" east 70.00 feet along lands, now or formerly, of Brett C. Warren to a point; thence south 03°02'50" east 278.95 feet along lands, now or formerly, of Margaret W. Swain to a point; thence south 03°12'56" east 140.69 feet along lands, now or formerly, of Bryan O. Attix to a point; thence south 03°01'08" east 69.88 feet and north 78°01'35" east 161.39 feet along lands, now or formerly, of Jay Donovan to a point on the westerly right-of-way of Marshall Street Extended; and thence south 11°43'24" east 127.26 feet along the westerly right-of-way of Marshall Street Extended to the point and place of beginning, and containing 8.93 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. All of the conditions of Conditional Use No.1771 shall remain in effect unless directly affected by the relocation of the entrance road from Swain's Private Road to Marshall Street Extended.
- b. The access to Swain's Private Road shall be completely closed off, with fencing and the buffers required by Conditional Use No. 1771 extending across what was the entrance area Swain's Private Road.
- c. The Final Site Plan showing the relocated entrance and the closure of the entrance via Swain's Private Road 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. 2410 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 Charles Auman to consider the Conditional Use of land in an AR-1 (Agricultural Residential District) for mini-storage units, and boat and RV storage to be located on a certain parcel of land lying and being in Cedar Creek Hundred, Sussex County, containing 8.93 acres, more or less. The property is located west of Marshall Street Extended (Road 225) and south of Swain's Private Road 570 feet west of Marshall Street Extended. (911 Address: None Available) (Tax Map I.D. No. 330-11.17-18.00 and 330-15.05-6.00).
- B. Council found that DelDOT has issued an Entrance Approval Letter, dated February 5, 2015.
- 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 North Coastal Planning Area; that the project is not capable of being annexed into a County operated Sanitary Sewer District; that conformity to the North Coastal Planning Study will be required; that the proposed project is not in an area where the County currently plans to provide sewer service; and that a Concept Plan is not required.
- E. Council found that this is the site of a previously approved Conditional Use No. 1771 for the same use that only had access to Swain's Private Road; that this application intends to access Marshall Street Extended; and that the County Council approved Conditional Use No. 1771 in 2009.
- F. Based on testimony before the Planning & Zoning Commission and the public hearing before the Sussex County Council, Council found that Charles Auman was present and stated that his intent is to include a new entrance location to help pull traffic away from the private road; that the only difference in this application and his previous application is the additional land for the entrance to Marshall Street Extended; and that Charles Harding, an immediate neighbor, has written a letter voicing no objections.
- G. Based on the Planning and Zoning Commission's Findings (1 through 5) and Conditions (a – c), Council found that:
 1. Although this application was advertised for mini-storage units and boat and RV storage, the primary use was previously approved as Conditional Use No. 1771 in 2009. The purpose of this application is only to relocate the entrance road from the approved Conditional Use from Swain's Private Road to Marshall Street Extended.
 2. It is appropriate for the location of the entrance road to be via Marshall Street Extended, instead of Swain's Private Road. This will provide direct access to a State maintained road. Swain's Private Road is not State maintained and maintenance issues could become a problem if it is used for the entrance to the mini storage facility.
 3. The Marshall Street Extended entrance will provide safer vehicular access to the approved Conditional Use.
 4. Although several parties appeared in opposition to this application, most of the opposition related to the prior Conditional Use that was previously approved and not the relocation of the entrance. And, many of those in opposition expressed concerns about using Swain's Private Road as the entrance.

- 5. 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 three (3) conditions (a – c) which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**