

ORDINANCE NO. 2276/A

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PHYSICAL TRAINING STUDIO AND GYM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 33,418.9 SQUARE FEET, MORE OR LESS (Tax Map I.D. 1-32-12.00-20.00)

WHEREAS, on the 6th day of June 2012, a conditional use application, denominated Conditional Use No. 1940 was filed on behalf of Phil DePenna; and

WHEREAS, on the 9th day of August 2012, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 23rd day of August 2012, said Planning and Zoning Commission recommended that Conditional Use No. 1940 be approved; and

WHEREAS, on the 11th day of September 2012, 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. 1940 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 Broad Creek Hundred, Sussex County, Delaware, and lying east of Route 13A (Seaford Road) 1,000 feet north of Road 480 (Mount Zion Road) and being more particularly described as:

BEGINNING at a pipe on the easterly right-of-way of Route 13A, a corner for these subject lands and lands of James R. Hall; thence N 66°15'00" E 199.97 feet along said Hall lands to a pipe in concrete; thence S 12°57'38" E 97.50 feet to a pipe and S 11°06'40" E 99.16 feet continuing along said Hall lands to a pipe; thence S 82°37'05" W 200.38 feet along lands of Donald Spicer to a concrete monument on the easterly right-of-way of Route 13A; thence northerly 140.00 feet along the easterly right-of-way of Route 13A to the point and place of beginning, and containing 33,418.9 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. The use shall be for a physical training studio and gym situated on the first floor of the existing building on the site.
- B. One lighted sign, not to exceed 32 square feet in size, shall be permitted.
- C. Parking for clients shall be clearly marked on the site and the location of the parking spaces shall be included on the Final Site Plan.
- D. All entrances and roadway improvements shall be subject to the requirements of DelDOT.
- E. 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. 2276/A ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 11TH DAY OF SEPTEMBER 2012.


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. The use will be very limited in scope and is situated on a property that has historically been used for commercial purposes. There was testimony that it has been used for a re-cap tire sales and service shop, a sandwich shop, and a church. This use will be consistent with the history of the property.

2. The Applicant intends to reside upon the property and will control its use.
3. The use will be a benefit to the health, safety, and welfare of Sussex County residents because it will provide a gym and physical training studio for residents in the Seaford and Laurel areas.
4. The use will not have any adverse impact on traffic or on adjacent and neighboring properties.
5. The use is consistent with other small businesses in the area, including a bait and tackle shop, garages, car sales, and a skating rink.
6. Based on the record and the recommendation of the Planning and Zoning Commission and the record created before the Council, the Conditional Use was approved subject to five conditions which will serve to minimize any potential impacts on the surrounding area.