

ORDINANCE NO. 2419

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A HOME BUSINESS – RETAIL GUN SHOP AND GUNSMITHING TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 6.61 ACRES, MORE OR LESS OF A 14.04 ACRE TRACT

WHEREAS, on the 15th day of June 2015, a conditional use application, denominated Conditional Use No. 2027 was filed on behalf of SLC Homestead, LLC; and

WHEREAS, on the 27th day of August 2015, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 10th day of September, 2015, said Planning and Zoning Commission recommended that Conditional Use No. 2027 be approved with conditions; and

WHEREAS, on the 29th day of September 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. 2027 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 Dagsboro Hundred, Sussex County, Delaware, and lying east of Iron Branch Road (Road 331) 2,500 feet northeast of Main Street in Dagsboro, and being more particularly described as follows:

BEGINNING at a concrete marker on the easterly right-of-way of Iron Branch Road (Road 331), a corner for these subject lands and lands, now or formerly, of Debra Marie Baker; thence North 87°15'00" East 557.50 feet along said Baker lands to a point; thence across lands of John and Carol Evans the following three (3) courses:

South 8°50'41" East 337.40 feet to a point; and

South 81°09'19" West 25.96 feet to a point; and

South 8°12'21" East 139.14 feet to a point;

thence South 81°49'29" West 565.83 feet along lands, now or formerly, of James A. Burton to a point on the easterly right-of-way of Iron Branch Road; thence North 3°32'26" West 531.27 feet along the easterly right-of-way of Iron Branch Road to the point and place of beginning, said parcel containing 6.61 acres, more or less, of a 14.04 acre tract.

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 Applicant must comply with all Federal and State licenses and regulations for the use.
- B. As stated by the Applicant, there shall not be a firing range on the site.
- C. The hours of operation shall be 11:00 a.m. to 7:00 p.m. weekdays, 10:00 a.m. to 4:00 p.m. on Saturdays, and no Sunday hours.
- D. As stated by the Applicant, the use shall be operated within the structures that currently exist on the site, as shown on the preliminary site plan submitted with the application.
- E. One lighted sign, not to exceed 32 square feet per side, shall be permitted.
- F. Security lights shall be installed. All lighting shall be downward screened so that it does not shine onto neighboring properties or roadways.
- G. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2419 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 29TH DAY OF SEPTEMBER 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 SLC Homestead, LLC to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a home business (retail gun shop and gunsmithing) to be located on a certain parcel of land lying and being in Dagsboro Hundred, Sussex County, containing 6.61 acres, more or less of a 14.04 acre tract. The property is located east of Iron Branch Road (Road 331) 2,500 feet northeast of Main Street in Dagsboro (911 Address: 31005 Iron Branch Road, Dagsboro) Tax Map I.D. 233-11.00-17.00 (part of).

- B. Council found that DelDOT commented that a Traffic Impact Study was not recommended and that the current Level of Service “C” of Iron Branch Road 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 no offsite drainage improvements will be required; that it is 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 property is located in the Dagsboro/Frankford Planning Area; that sewer service has not been extended to the area at this time; that conformity to the Dagsboro/Frankford Planning Study will be required; that when sewer service is provided to the area, connection is mandatory; that the County does not have a schedule to provide sewer service at this time; and that a Concept Plan is not required.**
- E. Based on testimony before the Planning and Zoning Commission and the Sussex County Council, Council found that Stuart Jones was present on behalf of his application and stated that he will be purchasing the property if the use is approved; that his business is currently located in Country Gardens commercial complex between Dagsboro and Millsboro; that he and his wife are living in a condominium and intend to purchase the farm and reside in the dwelling on this site; that the site has a nice home and outbuildings and a working chicken house on the property; that he is intending to utilize the entrance to the existing chicken house for access for his customers; that the property will appear the same after the use is established; that he is proposing retail firearm sales and gunsmithing; that he has his Federal and State licenses; that the property already has a security system on the home, the garage and the outbuildings; that gun safes will be utilized to store the firearms; that he is proposing business hours from 11:00 a.m. to 7:00 p.m. weekdays, and 10:00 a.m. to 4:00 p.m. Saturdays; that he may extend those hours during holidays; that no Sunday hours are proposed; that he hopes to hire an additional employee in the future; that he typically tests firearms offsite at approved ranges; that he does not build firearms from scratch, only from kits or by adding accessory parts, i.e., scopes; and that he is purchasing the entire property, and hopes to lease the chicken house operation to a tenant operator.**
- F. Based on the Findings (1 through 8) and the Conditions (A through G) of the Planning & Zoning Commission, Council found that:**
- 1. The use is for a retail gun shop and gunsmithing business located on 6.61 acres out of a 14.04 acre tract of land.**
 - 2. The use will exist within existing structures on the premises, and the applicants intend to reside there while the business is underway.**
 - 3. The use is small in nature and is very nearly a home occupation.**
 - 4. The use will not adversely affect neighboring properties or roadways. There are no residences that are close by to the proposed use.**
 - 5. The Applicant has stated that there will not be a firing range located on the premises.**
 - 6. The Applicant has stated that many of his customers include local law enforcement officers. As a result, the use has a public or semi-public character.**
 - 7. No parties appeared in opposition to the application.**
 - 8. Based on the record and recommendation of the Planning & Zoning Commission and the record created before Council, the Conditional Use is approved subject to seven (7) conditions (A – G) which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**