

ORDINANCE NO. 2517

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AUTOMOTIVE REPAIR SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.0218 ACRES, MORE OR LESS

WHEREAS, on the 17th day of February 2017, a conditional use application, denominated Conditional Use No. 2087, was filed on behalf of John F. and Brenda L. Fegelein Trustees; and

WHEREAS, on the 13th day of July 2017, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 27th day of July, 2017, said Planning and Zoning Commission recommended that Conditional Use No. 2087 be approved with conditions; and

WHEREAS, on the 22nd day of August 2017, 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. 2087 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 on the northwest side of Roxana Road (Route 17), approximately 715 feet east of Zion Church Road, and being more particularly described per the attached legal description prepared by Land Design, Inc., said parcel containing 1.0218 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. One lighted sign not to exceed 16 square feet per side.**
- B. Security lighting shall be downward screened and shall be directed away from neighboring properties and roadways.**
- C. Any dumpsters shall be screened from view of neighbors and roadways. The dumpster locations shall be shown on the Final Site Plan.**
- D. All repairs shall be performed indoors. No outside storage permitted (propane and oil tanks for heat shall not be considered storage).**
- E. No junked, unregistered or permanently inoperable vehicles or trailers shall be stored on the site.**
- F. As proposed by the Applicant, no more than 8 cars shall be on the site for repairs at any one time.**
- G. The property shall be screened from view of neighboring properties with a fence or vegetation. This screen shall be shown on the Final Site Plan.**
- H. No cars shall be sold on the property.**
- I. The site shall be subject to all DelDOT entrance and roadway requirements.**
- J. The hours of operation shall be from 7:00 a.m. through 6:00 p.m., Monday through Saturday.**
- K. 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. 2517 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 22ND DAY OF AUGUST 2017.

**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 F. and Brenda L. Fegelein, Trustees to consider the Conditional Use of land in an AR-1 Agricultural Residential District for an automotive repair shop to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 1.0218 acres, more or less (land located on the northwest side of Roxana Road (Route 17) approximately 715 feet east of Zion Church Road (Tax I.D. No. 533-6.00-18.01) (911 Address: None Available).**
- B. Based on testimony before the Planning & Zoning Commission and the public hearing before the Sussex County Council, Council found that William Scott, Esquire with Scott and Shuman, P.A., and George Smudin, owner of Roxana Auto Services were present on behalf of the application; that this Conditional Use is to relocate Roxana Auto Services to this site; that the current location is approximately 800 ft. down the**

road; that the one (1) acre site is not improved; that information in the exhibit book shows other uses in the area, zoning map, and proposed conditions; that Mr. Smudin opened in 2009 and was told the lease would not be renewed; that it is important for him to stay in the area as most of his customers are in the area; that he is a one (1) person business; that he has talked to the neighbors and they seem not to have a problem; that there will be no junk on the property; that there will be no storage on site; that he does general automotive repair; that all the work is done indoors; that the building will be 40' x 60' and will be served by well and septic; that there will be eight (8) parking spaces; that there is no adverse impact as it is a relocation of the business; that there are other commercial uses along Route 17; that the fluids will be recycled appropriately; that the use would help the local economy; and that the land use designation is a Low Density Area which does permit some commercial uses.

C. Based on the record and recommendation of the Planning and Zoning Commission and the Planning and Zoning Commission's Findings (1 through 3) and Conditions (4A through 4K), Council found that:

- 1. The automotive repair is small, and with the conditions and stipulations placed upon it, it will not have an adverse impact on the neighboring properties or community.**
- 2. There are other small business uses and commercial or business uses in the area, including HVAC services, towing and other auto services, bait and tackle sales and others. This use is consistent with those uses.**
- 3. The use as an automotive repair facility is of a public or semi-public character and is desirable for the general convenience and welfare of the area.**
- 4. Based on the record and recommendation of the Planning & Zoning Commission, the Conditional Use is approved subject to eleven (11) conditions (a. – k.), as amended, which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**