

**ORDINANCE NO. 2707**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AUTO-MOTORCYCLE REPAIR TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 1.8711 ACRES, MORE OR LESS**

**WHEREAS, on the 10th day of September 2019, a conditional use application, denominated Conditional Use No. 2205, was filed on behalf of Frank Passwaters; and**

**WHEREAS, on the 9th day of January 2020, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 23rd day of January 2020, said Planning and Zoning Commission recommended that Conditional Use No. 2205 be approved with conditions; and**

**WHEREAS, on the 18th day of February 2020, 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. 2205 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 on the southwest side of Railroad Avenue and Greely Avenue, and being more particularly described in the attached legal description prepared by Hudson, Jones, Jaywork & Fisher, said parcel containing 1.8711 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:**

- 1. One lighted sign, not to exceed 32 square feet per side, shall be permitted.**
- 2. Security lighting shall be downward screened and shall be directed away from the neighboring properties and roadways.**
- 3. Any dumpsters shall be screened from view of the neighbors and roadway. The dumpster locations shall be shown on the Final Site Plan.**
- 4. All repairs shall be performed indoors. No automobile parts shall be stored outside.**
- 5. No junked, unregistered or permanently inoperable vehicles, motorcycles or trailers shall be stored on the site.**
- 6. There shall not be any parking in the front yard setback.**
- 7. All parking areas shall be shown on the Final Site Plan and clearly marked on the site itself. Vehicles shall only be parked within these designated areas.**
- 8. As stated by the Applicant, any tow trucks associated with the business shall be stored indoors when not in use.**
- 9. All oils and other fluids shall be properly stored indoors in appropriate containers. The Applicant shall also comply with the state and federal requirements for the disposal of these fluids.**
- 10. The site shall be subject to all DelDOT entrance and roadway requirements.**
- 11. The hours of operation shall be 7:00 a.m. through 5:00 p.m., Monday through Friday, and 8:00 a.m. until 5:00 p.m. on Saturdays. There shall not be any Sunday hours.**
- 12. Any violation of these conditions may be grounds for termination of this Conditional Use.**
- 13. 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. 2707 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 18TH DAY OF FEBRUARY 2020.**

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**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 Frank Passwaters for a Conditional Use of land in an AR-1 Agricultural Residential District for auto-motorcycle repair to be located on a certain parcel of land lying and being in Cedar Creek Hundred, Sussex County, containing 1.8711 acres, more or less (lying on the southwest side of Railroad Avenue and Greely Avenue) (Tax I.D. No. 230-6.00-1.02) (911 Address: 8870 Railroad Avenue, Lincoln).**
- B. Based on the record before the Planning and Zoning Commission and the hearing before the Sussex County Council, Council found that the Applicant, Mr. Frank Passwaters, was present on behalf of his application; that the use as an auto-motorcycle repair business is operating and that a Conditional Use is needed to allow it to continue; that he keeps the property clean and tidy; that he has renovated the house and erected a pole barn; that there used to be chicken houses on the property; that there is an oil business on the adjoining parcel; that the Applicant has been in business for 14 years but not at the subject property location; that he just purchased the property two years ago; that he worked in a shop on Calhoun Road; that he is now in**

another facility in Milford but wants to operate in his own place; and that he has no employees.

- C. Council found that the Applicant also has a towing company, but will not be towing cars onto the property; that he has one tow truck that will be parked inside the building on the property; that the Applicant has also been a crane operator for 38 years; that he owns a 350-ton crane which is parked at his house but may be on the property from time to time; that he is expecting no more than 3-5 cars on the lot if the shop is full; that there will be no more than 10 in total; that the hours of operation would be from 7:30 a.m. to 4:30 p.m., Monday through Saturday; that, if approved, he requests that a 4x8 size sign be allowed; that he has a containment unit for waste oil that will be inside the building; that a company comes in and pumps it out; that there will be a bathroom but no dumpster; that he tries to recycle everything that he can including the old parts and cardboard; that the work would be performed under a roof; that his customers drop off the vehicles for repair; and that there is an office building where his customers can wait.**
- D. Based on the record and recommendation of the Planning and Zoning Commission and the Planning and Zoning Commission's Findings (1 through 4) and Conditions (5a. – m.), Council found that:**
- 1. The repair facility will be small, and with the conditions and stipulations placed upon it, it will not have an adverse impact on the neighboring properties or community.**
  - 2. The site is located on Railroad Avenue, which is a fairly well-traveled roadway. There is also an active railway next to the roadway. This is an appropriate location for a small business such as this one.**
  - 3. This small business will not have a negative impact on traffic or nearby roadways.**
  - 4. The use as a repair facility is of a public or semi-public character and is desirable for the general convenience and welfare of the area.**
  - 5. Based on the record and recommendation of the Planning and Zoning Commission and 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.**