

ORDINANCE NO. 2798

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR THE SALE, RENTING, STORAGE, AND REPAIR OF BICYCLES AND RELATED ACCESSORIES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 2.9 ACRES, MORE OR LESS

WHEREAS, on the 15th day of December 2020, a conditional use application, denominated Conditional Use No. 2255 was filed on behalf of John Sommers, and

WHEREAS, on the 12th day of August 2021, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 26th day of August 2021, said Planning and Zoning Commission recommended that Conditional Use No. 2255 be approved with conditions; and

WHEREAS, on the 14th day of September 2021, 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, Subsections 115-22, of the Code of Sussex County, be amended by adding the designation of Conditional Use No. 2255 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 (Rt. 17), approximately 0.55 mile southwest of Burbage Road (S.C.R. 353), and being more particularly described in the attached deed prepared by D. Stephen Parsons, P.A., said parcel containing 2.9 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. This use shall be limited to the business of selling, renting, and repairing bicycles and related accessories. No other business shall be conducted from the site.**
- b. One lighted sign shall be permitted. It shall be no larger than 32 square feet per side.**
- c. The hours of operation for the business shall be from 8:00 a.m. until 8:00 p.m.**
- d. Any security lighting shall be shielded and downward screened so that it does not shine on neighboring properties and roadways.**
- e. There was testimony during the hearing about a water valve on the neighbor's property that is served and controlled from this property. The Applicant shall disconnect any plumbing or water service that crosses from his property onto the neighboring property.**
- f. There shall be a row of tree planting along the northern boundary of this site to sufficiently screen it from the view of the adjacent property. The nature, type, and location of the plantings shall be shown on the Final Site Plan.**
- g. The Final Site Plan shall depict the area of the Conditional Use as being between the frontage along Roxanna Road and the ditch that bisects the property. There shall also be "No Trespassing" signs placed along the northern boundary to deter anyone from disturbing the farm animals next door.**
- h. The Applicant shall comply with all DeDOT requirements, including any entrance or roadway improvements.**
- i. The Final Site Plan shall clearly show all areas for parking, and these areas shall be clearly marked on the site itself. There shall not be any parking within the property's setbacks.**
- j. Failure to comply with any of these conditions may be grounds for termination of the Conditional Use approval.**
- k. The Final Site Plan shall be subject to 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. 2798 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 14TH DAY OF SEPTEMBER 2021.

**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 Sommers for the consideration of a Conditional Use of land in an AR-1 Agricultural Residential District for the sale, renting, storage, and repair of bicycles and related accessories to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 2.9 acres, more or less (land lying on the northwest side of Roxana Road [Route 17], approximately 0.55 mile southwest of Burbage Road [S.C.R. 353]) (Tax I.D. No.: 134-15.00-95.03) (911 Address: 32650 Roxana Road, Frankford).**
- B. **Based on testimony before the Planning and Zoning Commission and the public hearing before the Sussex County Council, Council found that the Applicant, John Sommers, was present on behalf of the application; that he is the owner of the Fenwick Island Bicycle Shop and Ocean Cycles of Bethany Beach; that he purchased the proposed property in 2017 for his family for the purpose of gardening and recreational use; that as the market for beach homes has expanded outward from the beach, he noticed the demand for rental bikes increased; that the need for rental bikes often came from the subdivisions of Bear Trap Dunes, Bishops Landing and Millville By the Sea, along with others; that he has noticed an increase in road and casual bicycle traffic on nearly every road in the area; that the increase of homes and bicycle traffic has led him to believe the proposed location would be beneficial to expand his business with another bicycle shop where he will perform repairs, maintenance, and sales; that by doing so he will create jobs and support a healthy recreational sport and service the needs of an area of expanding population; that there are currently 2,885 homes in Millville By the Sea proposed and/or built; that there are 834 homes in Bishops Landing proposed and/or built and there are 76 homes built in Coventry; that the majority of these subdivision are connected or will be connected by multi-use pathways; that if the current trend continues, and as additional phases of Millville By the Sea are built, a multi-use path will most likely be built directly across the street from the proposed property; and this will allow for safe interconnected bicycle traffic in the area.**
- C. **Council also found that the property is listed as being in the Coastal Area within the Comprehensive Plan; that the proposed type of small scale business growth is permitted and promoted in the area; that the proposed property is screened by trees from surrounding properties; that it is located 0.1 mile from Beebe's South Coastal Emergency Department and located directly across from Millville By the Sea's original commercial development that is currently occupied by a credit card processing company; that an adjacent property has a Conditional Use for offices and warehouses; that 0.6-mile north of the intersection of Burbage Road and Route 17 there is C-1 Commercial Residential Zoning and Conditional Uses for mini-storage, self-storage and professional offices; that commercial uses and zonings continue to creep south along Route 17 and away from Route 26 as residential development continues to expand; that as the area grows, business services must continue to grow with the area; that he feels expanding his business in the proposed location will promote the health, wellness, and financial growth of Sussex County and he is looking forward to creating jobs and expanding a healthy recreation in the area.**
- D. **Council also found that the proposed bicycle business would be run only from the front portion of the property; that the front of the property where the business will be located can accommodate parking for 10 vehicles without using the back of the property; that the use will not negatively affect nearby schools or roadways; that there is a tree line down a part of the back part of the parcel; that there is a fence on the north side of the property; that he would be willing to plant trees if it is required; that he currently has security lighting on the pole barn; that the lighting is located on the opposite side of the building facing his property; that he does not propose placing any additional lighting other than possibly for a sign which will be located to the front of the property; that the requested tree buffer will also act as an additional shield to any residual light pollution; that he only uses the field hydrants to water his garden; that he will have bike storage in a 30 x 30 pole barn on the property; that, other than**

a few bikes outside of the storage area for display, all bikes will be stored inside; that he intends to have three to five employees at the proposed location; that the proposed hours of operation are 8:00 a.m. to 8:00 p.m. every day of the week; and that he would like to display a sign.

E. Based on the record and recommendation of the Planning and Zoning Commission and the Planning and Zoning Commission's Findings (1 through 5) and Conditions (6a. - k.), Council found that:

- 1. The property is a 2.9-acre parcel that is zoned AR-1 Agricultural Residential.**
- 2. The site is in the Coastal Area according to the Sussex County Comprehensive Plan. Small business uses such as this are appropriate in this area according to the Plan.**
- 3. The site is in an area of Sussex County that has developed with other small businesses. This business will be compatible with those existing uses.**
- 4. This small business will provide a service to Sussex County residents and visitors. The use of bicycles has expanded beyond the beach areas where most of these types of businesses are currently located, and this location is an area that is developing with many homes. This intended use has a public or semi-public character that will benefit the residents and visitors of Sussex County.**
- 5. The use will only occur on the front half of the property nearest Roxanna Road.**
- 6. 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 eleven (11) conditions (a through k) which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**