

ORDINANCE NO. 2900

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A GUNSMITHING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 5.12 ACRES, MORE OR LESS

WHEREAS, on the 28th day of December 2021, a conditional use application, denominated Conditional Use No. 2335 was filed on behalf of Joseph Kraft; and

WHEREAS, on the 17th day of November 2022, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2335 be approved; and

WHEREAS, on the 10th day of January 2023, 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. 2335 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 Nanticoke Hundred, Sussex County, Delaware, and lying on the northeast side of Utica Road (S.C.R. 632), approximately 0.24 mile south of Lighthouse Lane, and being more particularly described in the attached legal description prepared by Haller & Hudson, said parcel containing 5.12 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.

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2900 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 10TH DAY OF JANUARY 2023.

**Tracy N. Torbert
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 Joseph Kraft for a Conditional Use of land in an AR-1 Agricultural Residential District for a gunsmithing business to be located on a certain parcel of land lying and being in Nanticoke Hundred, Sussex County, containing 5.12 acres, more or less (property lying on the northeast side of Utica Road [S.C.R. 632], approximately 0.24 mile south of Lighthouse Lane) (911 Address: 12559 Utica Road, Greenwood) (Tax Parcel: 430-6.00-4.03).**
- B. Based on the record before the Planning and Zoning Commission and the hearing before the Sussex County Council, Council found that Mr. Joseph Kraft was present on behalf of his Application; that he is the owner of Send It Precision, LLC; that he is a former member of the Marine Corp; that his hobby was firearms and creating them to shoot better; that his interest was in long rang shooting; that he performed in 1,000 yard competitions; that he worked in armories as a firearms instructor; that due to the political climate, there was an ammunition shortage; that he is now interested in turning his hobby into a small business; that he currently has a Class 1 FFL license, for the sale of firearms, which has already been approved by the County; that obtaining a Class 1 FFL does create public notice; that having a Class 1 FFL could attract negative attention, creating safety concerns for his family; and that, due to this, he is interested in getting away from the Class 1 FFL license and does not currently have intentions to sell firearms.**
- C. Council found that there is an existing small pole barn on the property, that the Applicant uses as his shop; that he has been hand loading ammunition since the age of 12; that he wanted to make sure he stayed in compliance and legal in all his activities; that he understands that the proposal to provide gunsmithing, manufacturing ammunition and custom load development requires a Conditional Use; that he is more interested in providing custom load development services; that he and his family live on the property; that the Conditional Use would permit him to enter back into the custom tailoring of ammunition, which would be performed within his shop; that the proposed use would not bring any additional attention or traffic to the area; that he only has two days off of work a week; that all work is performed by appointment only; that the proposed use would be a very small business; that Applicant would not have any employees; that he would perform all of the services himself; that he does not desire a sign; that all business has been done by word of mouth; that he does not wish to draw any additional attention to his property; that business would be conducted by appointment only; that he currently works for the Department of Corrections and is only available on Mondays and Tuesdays; and that he performs all the shooting of firearms at the ranges he belongs to.**
- D. Based on the record and recommendation of the Planning and Zoning Commission and the Planning and Zoning Commission's Findings (1 through 7) and Conditions (8a. – e.), Council found that:**

 - 1. The use is for a gunsmithing business located on the property where the Applicant resides.**
 - 2. The use is small in nature and the Applicant is the only person involved in the use. It is very nearly a home occupation which would be a permitted use on this property.**

- 3. The Applicant has stated that there will be very little direct interaction with the public. All business will be conducted by appointment only.**
- 4. The use will not adversely affect neighboring properties or roadways.**
- 5. The Applicant has stated that there will not be a firing range located on the premises.**
- 6. The use provides a needed service for residents of Sussex County who own firearms. 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 and Zoning Commission and the record created before the Sussex County Council, the Conditional Use is approved subject to the following five (5) conditions (a. – e.) which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**
 - a. The use shall be for professional gunsmithing. There shall not be a firing range on the premises.**
 - b. The Applicant must comply with all Federal and State licenses and regulations for the use.**
 - c. As stated by the Applicant, the use shall occur within the Applicant's existing building on the site.**
 - d. As stated by the Applicant, there shall not be any sign associated with this use.**
 - e. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**