

**ORDINANCE NO. 2199**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A YOGA STUDIO TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.134 ACRES, MORE OR LESS**

**WHEREAS, on the 22<sup>nd</sup> day of March 2011, a conditional use application, denominated Conditional Use No. 1894 was filed on behalf of Ellen Sanders and Tom Wallo; and**

**WHEREAS, on the 12th day of May 2011, 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. 1894 be approved with conditions; and**

**WHEREAS, on the 7th day of June 2011, 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. 1894 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 south of Road 353 (Burbage Road) 0.4 mile east of Road 364 (Jones Road) and being more particularly described as follows:**

**BEGINNING at a point on the southerly right-of-way of Road 353 (Burbage Road), said point being a corner with lands, now or formerly, of Donald L. Barnes, Jr. and Teresa M. Barnes; thence south 87° 50' 18" east 150.00 feet along the southerly right-of-way of Road 353 to a point; thence southerly along other lands of Thomas O. Wallo and Ellen Fay Sanders the following four courses: south 14° 48' 59" east 104.10 feet to a point; south 07° 32' 52" west 64.27 feet to a point; south 00° 57' 08" east 159.93 feet to a point; and north 87° 50' 18" west 168.23 feet to a point; and thence north 00° 59' 26" west 303.76 feet to the point and place of beginning, and containing 1.134 acres, more or less, as surveyed by Miller Lewis, Inc.**

**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. No retail sales shall occur on the site.**
- 2. The Applicant shall comply with all parking requirements contained within the County's Zoning Code.**
- 3. As stated by the Applicant, the days of operation shall be Monday through Friday with business hours of 9:00 a.m. to 5:00 p.m.**
- 4. The Applicant shall comply with all DelDOT requirements regarding the entrance to the project.**
- 5. All yoga activities shall be conducted inside of the building on the premises.**
- 6. There shall be one lighted sign, not to exceed 32 square feet per side.**
- 7. The Final Site Plan shall be subject to the 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. 2199 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 7TH DAY OF JUNE 2011.**

  
**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:**

- 1. This is an application to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a yoga studio to be located on a certain parcel of land, lying and being in Baltimore Hundred, Sussex County, Delaware, containing 1.134 acres, more or less, lying south of Road 353 (Burbage Road) 0.4 mile east of Road 364 (Jones Road).**
- 2. DelDOT commented that a Traffic Impact Study was not recommended and that the current Level of Service A of Burbage Road (Road 353) will not change as a result of this application.**
- 3. The Applicant stated that his business will be open from 9:00 a.m. to 5:00 p.m. Monday through Friday; that all activities shall occur indoors; that the use promotes health and fitness for County residents; that a septic system already exists; and that yoga sessions last 1.5 hours per session.**
- 4. The use will not adversely affect traffic or area roadways.**
- 5. The use is of a public or semi-public character and the Applicant performs services for both residential and agricultural uses in this area of Sussex County.**
- 6. The use will not adversely affect the neighboring and adjacent properties.**
- 7. Other than the Applicant, there were no parties present in support of or in opposition to the application.**
- 8. Based on the record and recommendation of the Planning and Zoning Commission and the record created before the Council, the Conditional Use was approved subject to seven (7) conditions which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**