

ORDINANCE NO. 2481

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 25,163 SQUARE FEET, MORE OR LESS

WHEREAS, on the 22nd day of August 2016, a conditional use application, denominated Conditional Use No. 2062 was filed on behalf of RDK&A Investments, LLC; and

WHEREAS, on the 12th day of January 2017, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 26th day of January 2017, said Planning and Zoning Commission recommended that Conditional Use No. 2062 be approved with conditions; and

WHEREAS, on the 14th day of February 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. 2062 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 north of Burbage Road (Road 353), and being more particularly described as Lot 4 in Plot Book 28, Page 92, in the Office of the Recorder of Deeds in and for Sussex County, said parcel containing 25,163 square feet, 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. There shall not be any building contractor or subcontractor's office or workshop on the site.**
- B. No medical supply, device or product shall be manufactured, created, or assembled, or stored on the property except that such medical supplies, devices or products which are customarily found in an office setting shall be permitted on this premises.**
- C. Any security lighting shall be downward screened so that it doesn't shine on any neighboring properties or roadways.**
- D. A landscape buffer of Leyland Cypress or similar vegetation shall be maintained or planted along the boundaries of the project adjacent to any residential properties so that the office shall be screened from the view of any residential properties.**
- E. The site shall not be used for the storage or delivery of medical supplies, devices or products or other items sold as part of the mail order medical supply business.**
- F. All inventory for the mail order medical supply business shall be maintained at a different location.**
- G. Only one unlit sign shall be permitted on the property and shall not exceed 32 square feet per side.**
- H. All vehicles parking shall be clearly shown on the final site plan and clearly marked on the site.**
- I. The site shall not be used for any on-site retail business sales.**
- J. 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. 2481 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 14TH DAY FEBRUARY 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 RDK&A Investments, LLC to consider a Conditional Use of land in an AR-1 Agricultural Residential District for an office to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 25,163 square feet, more or less (located on the north side of Burbage Road (Road 353) approximately 1,456 feet west of Windmill Drive) (Tax I.D. No. 134-12.00-373.05) (911 Address: 36017 Burbage Road, Ocean View).**

B. Based on testimony before the Planning & Zoning Commission and the public hearing before the Sussex County Council, Council found that Richard H. Swear, President of North East Express, was present at both hearings on behalf of North East Express, along with Harold Dukes, Esquire of Tunnell & Raysor, P.A. at the Planning & Zoning Commission hearing and Etta R. Mayers, Esquire of Tunnell & Raysor, P.A. at the Sussex County Council hearing, and they stated that this is a business for a mail order medical supply company specializing in colostomy bags, catheters etc.; that there is no inventory and there will be no deliveries to or from the site, because the supplier ships directly from the warehouse to the patients; that the business deals directly with patients, insurance companies, and third parties; that the exhibit book describes the history of the activities on the site; that they applied for a Conditional Use to allow for the continuation and growth of the business activities on the stated site; that the survey/site plan included in the packet depicts the building and parking on the site; that the parking lot accommodates 8-10 vehicles and there is adequate land in the back if needed for additional parking; that the business will reuse the current building on site, which is double what they have now; that the business is currently full-time and year-round; that there are only five (5) employees, with an estimate of doubling the number of employees within the next year; and that the Conditional Use proposed is reasonably compatible with the surrounding area.

C. Based on the Findings (1 through 3) and the Conditions (4a through 4j) of the Planning & Zoning Commission and the record created before the Sussex County Council, Council found that:

- 1. The project is located on the north side of Burbage Road and is an appropriate location for this Conditional Use.**
- 2. The project, with conditions and limitations placed upon it, will not have an adverse impact on the neighboring properties or community.**
- 3. The property will be used as an office for a mail order medical supply company and will have minimal impact on the character of the neighborhood.**
- 4. Based on the record and recommendation of the Planning & Zoning Commission and the record created before Council, the Conditional Use is approved subject to ten (10) conditions which will serve to minimize any potential impact on the surrounding area and adjoining properties.**