

ORDINANCE NO. 2548

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A HOUSE CONSTRUCTION AND SALES BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.709 ACRE, MORE OR LESS

WHEREAS, on the 8th day of August 2017, a conditional use application, denominated Conditional Use No. 2110, was filed on behalf of Gaw Venture Group, LLC c/o John Gaw; and

WHEREAS, on the 11th day of January 2018, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 25th day of January 2018, said Planning and Zoning Commission recommended that Conditional Use No. 2110 be approved with conditions; and

WHEREAS, on the 6th day of February 2018, 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. 2110 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 Lewes and Rehoboth Hundred, Sussex County, Delaware, and lying on the northwest side of John J. Williams Highway (Route 24), approximately 1,824 feet west of Mulberry Knoll Road and being more particularly described in attached deed prepared by Schab & Barnett, P.A., said parcel containing 0.709 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. The use shall be limited to an office for home construction and sales within the existing structure.**
- B. No outside storage of construction materials or equipment shall be permitted on the site.**
- C. One lighted sign shall be permitted. It shall not exceed 32 square feet per side.**
- D. The Applicant shall comply with any DelDOT entrance and roadway improvement requirements.**
- E. Parking shall be permitted in the front yard setback. In addition, sufficient space shall be set aside for parking elsewhere on the property in the event that Route 24 is widened at some point.**
- F. Failure to comply with these conditions shall result in the revocation of the Conditional Use approval.**
- G. 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. 2548 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 6TH DAY OF FEBRUARY 2018.

**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 Gaw Venture Group, LLC, c/o John Gaw for the consideration of a Conditional Use of land in an AR-1 Agricultural Residential District for a house construction and sales business to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 0.709 acre, more or less (located on the northwest side of John J. Williams Highway (Route 24) approximately 1,824 feet west of Mulberry Knoll Road) (Tax I.D. No. 334-12.00-24.00) (911 Address: 20028 John J. Williams Highway, Lewes).**
- B. Based on testimony before the Planning & Zoning Commission and the public hearing before the Sussex County Council, Council found that Rick Berl, Esquire with Berl and Feinberg, LLP, Chuck Adams, with Adams-Kemp Associates, Inc., and John Gaw were present on behalf of the application; that the Applicants have a small custom building business; that the brothers run the business; that they describe their business as infill as they go to almost built-out subdivisions and build on vacant lots; that they do a handful of construction projects a year; that this site is intended to be an office; that the site will not be used as retail space or a showroom; that they will not have walk-in business; that the site will be used for them to meet with subcontractors, material suppliers and perhaps a client; that the previous Conditional Use for the property was for window treatments and lighting, which was more of a retail use with work done offsite; that there will not be as much traffic with the proposed use as there was with the prior use; that the site will not be a staging**

area; that there will be no employees; that they use subcontractors to do the work; and that there be no equipment on the site.

- C. Council also found that the area where the site is located has changed since the original Conditional Use was granted; that there are other commercial uses in the area and along Route 24; that in the vicinity are Cape Henlopen schools on both sides of Route 24; that the site is surrounded by farmland; that the Applicant would use the building and site as-is; that there is parking in the front yard setback; that there are no plans to enlarge the building or to make any other improvements; that a Traffic Impact Study was not required; that they expect there will be a maximum of two to three cars per day and days in which there will be no cars; that this use will not generate a great deal of traffic; that DeDOT has given their initial consent; that there are mature trees in the rear yard and they are asking for a waiver to continue to park in the front yard setback as was previously approved; and that they would be fine with reserving area for parking if the road is widened.
- D. Council found that the site is currently served by an old cesspool and the County is running sewer to the area; that they will connect to County sewer once it is completed which should be within the next year or two; that when sewer service becomes available, it will open up the area where the cesspool is located and the area can be used for parking; that there are no tax ditches on the property; that there is no need for stormwater management; that the use is consistent with the other uses in the area; that there would be no adverse impact on neighboring properties; that they would like one lighted sign; that the rear of the property has some elevation issues; that there is no proposed residence on the site; and that there will be no storage of materials on the site.
- E. 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. – 8G.), Council found that:
1. The site was previously approved with a Conditional Use for a lamp store as Conditional Use No. 1659. That the Conditional Use occurred within the existing structure on the site, which was formerly a residential dwelling.
 2. The Applicant intends to use the same residential-style structure for an office for its home construction business.
 3. The Applicant has stated that it builds homes within existing subdivisions, and that this site will only be for sales and office uses and not for storage of construction materials or equipment.
 4. The proposed use will not generate a significant amount of traffic, and it will not have any adverse effect on area roadways.
 5. The proposed use is very limited in nature within the existing residential-style structure and it will not have any adverse impact on neighboring properties or the community.
 6. No parties appeared in opposition to the application.
 7. As permitted as part of Conditional Use No. 1659, parking is permitted within the front yard setback. However, sufficient space shall be set aside for parking elsewhere on the property in the event that Route 24 is widened at some point.
 8. Based on the record and recommendation of the Planning & Zoning Commission, the Conditional Use is approved subject to seven (7) conditions (A - G) which will serve to minimize any potential impacts on the surrounding area and adjoining properties.