

ORDINANCE NO. 2567

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A MEDICAL OFFICE AND ANCILLARY MEDICAL USES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 3.30 ACRES, MORE OR LESS

WHEREAS, on the 17th day of August 2017, a conditional use application, denominated Conditional Use No. 2112, was filed on behalf of Mitchell Family Limited Partnership; 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 8th day of February 2018, said Planning and Zoning Commission recommended that Conditional Use No. 2112 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. 2112 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 southeast corner of Kings Highway and Gills Neck Road and being more particularly described per the attached legal description prepared by Davis, Bowen & Friedel, Inc., said parcel containing 3.30 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. As stated by the Applicant, there shall be no more than 39,000 square feet of medical and professional office space.**
- B. As stated by the Applicant, the hours of operation shall be between 7:00 a.m. and 7:00 p.m. Monday through Friday, and between 8:00 a.m. and 4:00 p.m. on Saturdays. There shall not be any Sunday hours.**
- C. One non-illuminated sign, not to exceed 50 square feet, shall be permitted on the building; however, there shall be no signs on the building on the sides that face Kings Highway and Gills Neck Road. In addition, the Applicant may install a total of two (2) non-illuminated ground signs that do not exceed 32 square feet in size per side.**
- D. The medical office building shall be set back a minimum of 60 feet from the property line adjacent to King’s Highway with parking allowed beyond the building setback of 40 feet. The setbacks and right-of-way shall be compatible with DeIDOT and the Lewes Historic Byways CMP.**
- E. All entrance, intersection and roadway improvements required by DeIDOT shall be completed in accordance with DeIDOT’s requirements.**
- F. The preferred entrance to the entire site is further east of Gill’s Neck Road. The Applicant shall report on the status of this issue at the time of Final Site Plan approval and note the results of the consultations with DeIDOT on the Final Site Plan. The current entrance shall be a temporary one only and shall be closed when the balance of the property is developed.**
- G. There shall be vehicle interconnectivity between this site and the surrounding properties when they are developed. These areas of interconnectivity shall be shown on the Final Site Plan.**
- H. Any dumpsters shall be screened from view of neighboring properties and roadways.**
- I. The site shall be served by central water and central sewer.**
- J. Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with applicable State and County requirements. These facilities shall be designed and operated using Best Management Practices. The Final Site Plan shall contain the approval of the Sussex Conservation District.**
- K. 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. 2567 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 20TH DAY OF MARCH 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 Mitchell Family Limited Partnership for the consideration of a Conditional Use of land in an AR-1 Agricultural Residential District for a medical office and ancillary medical uses to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 3.30 acres, more or less (located on the southeast corner of Kings Highway and Gills Neck Road) (Tax I.D. No. 335-8.00-37.01 and 335-8.00-37.00 (portion of) (911 Address: Not Available).**
- B. Based on testimony before the Planning & Zoning Commission and the public hearing before the Sussex County Council, Council found that David Hutt, Esquire with Morris James Wilson Halbrook & Bayard LLP, and Robert Mitchell and Jerry Mitchell were present at the Sussex County Council public hearing on behalf of the application, along with Ring Lardner, Engineer with Davis, Bowen & Friedel, Inc., Bob McLeish and Mike Glick with Lighthouse Construction, Inc. and David Blaeuer and Michael Fiori of the Development Group; that the application is for a conditional use for a 39,000 square feet medical office building; that the site is a 3.3 acre parcel;**

that the project will serve the local community by providing supporting services in the same building, i.e. medical examination, diagnostic radiology, MRI, physical therapy, etc., providing continuity of care to cut down on numerous trips to different facilities; that the surrounding uses in the area include commercial uses and a church; that across the highway there is a strip commercial center and lands that are within the City of Lewes; that a new assisted living facility was recently approved in the City of Lewes; that also across the street is Cape Henlopen High School; that there are other office uses down the street and the Crooked Hammock further down the street; that the property is zoned AR-1 Agricultural Residential District; and that there are B-1 (Neighborhood Business District) and C-1 General Commercial District zonings in the area along with other conditional uses.

- C. Council also found that the parcel is in compliance with Sussex County's Comprehensive Plan and is in a Level 1 Area according to State Strategies for State Policies and Spending; that the property is located in the Environmentally Sensitive Developing Area land use classification; that a letter was submitted to comply with Chapter 115 §194.3 of the Sussex County Code; that the property does not contain any wetlands; that the site is not located in the floodplain; that the proposed project is for a two story building; that the building will be set back 80 feet from both roads; that the intersection was recently upgraded; that they will meet with the Byway group if approved; that the site needs a Traffic Impact Study; however, it has a minor impact with the traffic as it is less than 200 trips per day and they can pay into an area wide study; that this use will help with traffic as it will reduce visits; that the entrance will have to meet DelDOT standards; that they expect a left turn into the site and they will work with DelDOT for further entrance development when the rest of the site may be developed; that this portion of the access road is to be built with this project; that the proposed project requires 89 parking spaces and this plan proposes 156 parking spaces; that the plan currently shows parking in the front yard setback and they can revise the site plan to remove the parking from the front yard setback if approved; that there are two other sites in Delaware; that the excess parking is for other members attending the appointments; that they have oversized the parking spaces; that this will make it easier to recruit doctors and other tenants; that they have done this model in other locations; that the Byways requirements may have impact and DelDOT may require some additional right-of-way dedications; that the corner front yard setback could go down to 15 feet; and that they will provide interconnectivity in at least one location.
- D. Council further found that the parcel will be served by central sewer; that water will be served by Tidewater; that the parcel is located in excellent ground water recharge area and will comply with Chapter 89 of the Sussex County Code; that the Developer will provide stormwater management for the site and will use Best Management Practices for stormwater management; that the dumpsters will be screened from view and there will be signage for the site; that they are proposing a condition that the building will match the commercial setback along Kings Highway; that there is no known development plans for the larger parcel and it is currently used as farmland; that there is not a master plan for the larger parcel; and that there was discussion about the location of the road off of Gills Neck Road and concerns how the larger site to the rear could develop and possibility of interconnection.
- 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 – 8K), Council found that:
1. The proposed Conditional Use is at the corner of Kings Highway and Gills Neck Road. There are other business and commercial zoning and uses in this area, including a B-1 zoned parcel across the street. The property is also very close to an existing assisted living facility on Gill's Neck Road and another one proposed for Kings Highway within the City of Lewes. This is an appropriate location for medical offices.
 2. The use serves a community need by creating medical offices at a convenient location for Sussex County residents near Beebe Hospital.

- 3. The use as a medical office will benefit the health, safety and welfare of Sussex County residents.**
- 4. The site is within the Environmentally Sensitive Developing Area according to the Sussex County Comprehensive Plan. Medical offices such as this are appropriate within this Area according to the Plan.**
- 5. The use will be served by central water and sewer.**
- 6. The use, with the conditions and limitations placed upon it, will not adversely affect neighboring properties or roadways.**
- 7. No parties appeared in opposition to the proposed Conditional Use.**
- 8. Based on the record and recommendation of the Planning & Zoning Commission, 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.**