

ORDINANCE NO. 2590

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A HAIR STUDIO TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.504 ACRE, MORE OR LESS

WHEREAS, on the 23rd day of January 2018, a conditional use application, denominated Conditional Use No. 2132, was filed on behalf of Dorothy Darley; and

WHEREAS, on the 14th day of June 2018, 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. 2132 be approved with conditions; and

WHEREAS, on the 31st day of July 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. 2132 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 north side of Clay Road, approximately 600 feet east of Marsh Road, and being more particularly described per the attached deed prepared by Schab & Barnett, P.A., said parcel containing 0.504 acre, 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 the 800-square foot building shown on the plan submitted during the public hearing identified as “Existing One Story Building (Salon)”.**
- b. The Applicant shall submit a Final Site Plan showing all entrance and parking areas.**
- c. One unlighted sign shall be permitted, it shall not exceed 32 square feet per side.**

- d. As stated by the Applicant, the hours of operation shall be between 9:00 a.m. and 6:00 p.m., Monday through Friday, and 9:00 a.m. through 3:00 p.m. on Saturdays.
- e. Any security lighting on the site shall be downward screened so that it does not shine on neighboring properties or roadways.
- f. The Applicant shall comply with all DelDOT requirements concerning entrance and roadway improvements.
- g. No parking shall be permitted within the front yard setback.
- h. The Final Site Plan shall show all designated parking areas, and these locations shall also be clearly designated on the site itself.
- i. 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. 2590 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 31ST DAY OF JULY 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 Dorothy Darley to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a hair studio to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 0.504 acre, more or less (lying on the north side of Clay Road, approximately 600 feet east of Marsh Road) (Tax I.D. No. 335-12.06-58.00) (911 Address: 33995 Clay Road, Lewes).
- 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, and Bayard, LLP, Joe Johnson, owner of the property, and Dorothy Darley were present on behalf of the application; that there was a previous Conditional Use on the site for a yoga studio; that the yoga instructor has moved; that the Applicant is proposing a new use for the site; and that there are three (3) buildings on the site: a house, an 800 square foot building to be used for a hair studio, and an accessory structure in the back that is used by the property owner.
- C. Council also found that there is B-1 zoning in the area; that there is industrial use as a gas company across the street; that there are other small businesses in the area; that the site is close to Route 1 and many C-1 zonings; that the property is in the Level 2 State Strategy; that the Land Use classification per the Comprehensive Plan is Environmentally Sensitive Developing Area; that there are two (2) employees that work part-time; that there were seven letters of support; that they recently obtained the DelDOT entrance approval; and that the Applicant is ok with all the previous conditions from Planning Commission and County Council.
- D. Based on the record and recommendation of the Planning and Zoning Commission and the Planning and Zoning Commission's Findings (1 through 5) and Conditions (6a. through i.), Council found that:
 - 1. The use is very small in nature. It is very consistent with the size and scope of a permitted "home occupation" under the County Code.
 - 2. The small structure and limited use will have little, if any, impact on neighboring properties or the community.
 - 3. The proposed use will not adversely affect traffic, roadways or community facilities in the area.

- 4. The site is in a location where a mixture of residential, commercial and neighborhood uses exist. It is located on Clay Road, which is a transitional area from the more intensive uses closer to Westcoats Corner. This small business use is consistent with this area.**
- 5. The property is within the Environmentally Sensitive Developing Area according to the County's Comprehensive Plan. This type of use is appropriate in this Area under the Plan.**
- 6. Based on the record and recommendation of the Planning & Zoning Commission, the Conditional Use is approved subject to nine (9) conditions (a. – i.) which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**