

ORDINANCE NO. 2651

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PROFESSIONAL OFFICE AND BUSINESS SERVICES AND RESIDENCE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.58 ACRES, MORE OR LESS

WHEREAS, on the 11th day of December 2018, a conditional use application, denominated Conditional Use No. 2166, was filed on behalf of Deborah Townsend; and

WHEREAS, on the 28th day of March 2019, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 11th day of April 2019, said Planning and Zoning Commission recommended that Conditional Use No. 2166 be approved with conditions; and

WHEREAS, on the 30th day of April 2019, 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. 2166 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 on the north side of Burbage Road approximately 347 feet west of Roxana Road and being more particularly described in the attached legal description prepared by Smith O'Donnell Feinberg & Berl, LLP, said parcel containing 1.58 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 professional offices, business services, and a residence.**
- B. As stated by the Applicant, the use shall occur within the existing structure that will be renovated by the Applicant, while maintaining its residential appearance.**
- C. The hours of operation shall be between 7:00 a.m. and 9:00 p.m. Monday through Friday, and 9:00 a.m. until 5:00 p.m. on Saturdays. There shall not be any Sunday hours.**
- D. Any dumpsters shall be located to the rear of the property and screened from view of neighboring properties and roadways.**
- E. The Applicant shall comply with all DelDOT requirements concerning entrance, traffic, and roadway improvements.**
- F. All exterior lighting shall be downward screened so that it does not shine on neighboring properties or roadways.**
- G. One lighted sign shall be permitted on the property. The sign shall be no larger than 32 square feet per side.**
- H. 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. 2651 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 30TH DAY OF APRIL 2019.

**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 Deborah Townsend in an AR-1 Agricultural Residential District for a professional office and business services and residence to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 1.58 acres, more or less (lying on the north side of Burbage Road, approximately 347 feet west of Roxana Road) (Tax I.D. No. 134-11.00-226.01) (911 Address: 34745 Burbage Road, Frankford).**
- B. Based on testimony before the Planning and Zoning Commission and the public hearing before the Sussex County Council, Council found that Thomas Carney, Esquire with Baird, Mandalas, and Brockstedt, LLC, was present at the Planning and Zoning Commission hearing on behalf of this application, and Applicant, Deborah Townsend, was present at both the Planning and Zoning Commission hearing and the Sussex County Council hearing on behalf of this application; that the proposed Conditional Use is to rent shared office space and to provide professional support service to her clients; that the services would be a virtual use and in-person office space for up to three (3) clients at any one time; that the use is mostly for virtual businesses; that the property is located between residences and commercial uses; that there is a self-storage facility adjoining this parcel; and that since the storage units have gone up, the noise has increased and it is not a residential area.**

- C. Council also found that this proposed Conditional Use would not change the exterior or interior of the structure; that the Applicant would comply with the parking requirements set forth in the Code; that it does provide one space per 200 square feet of the structure; that only 1,000 square feet of the structure would be used for the on-site business services; that the parking would be in the rear of the structure and would provide 15 to 20 parking spaces; that there is parking available on the adjacent parcel; that the parking area is not in the way of the septic system; that the parcel has on-site well and septic and there would be no increase or impact; that the land was all family land; that there is a lot of lighting in the area; that there would be no additional lighting; that the Applicant currently has a feather flag and would like to place a small sign on the structure; that there may be another person on-site once in a while; that there would only be one employee; that the hours of operation are between the hours of 9:00 a.m. to 5:00 p.m., Monday through Friday; and that the proposed use would not impact noise or traffic.**
- 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 –H), Council found that:**
- 1. The proposed Conditional Use is consistent with other uses in this area. There are many businesses, commercial zones, and conditional uses in the area, and the Applicant has stated that the area is no longer primarily residential in character.**
 - 2. The use as a professional office with business services in this location will benefit the health, safety, and welfare of present and future residents of Sussex County by providing such a use in a convenient location.**
 - 3. The Applicant intends to utilize the existing structure on the property as an office. This is consistent with other small business uses in the area.**
 - 4. The use, with the conditions and limitations placed upon it, will not adversely affect neighboring properties or roadways.**
 - 5. No parties appeared in opposition to this application.**
 - 6. Based on the record and recommendation of the Planning and Zoning Commission and the record created before the Sussex County Council, the Conditional Use is approved subject to the eight (8) conditions (A – H), which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**