

ORDINANCE NO. 2675

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PROFESSIONAL OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 18.11 ACRES, MORE OR LESS

WHEREAS, on the 17th day of April 2019, a conditional use application, denominated Conditional Use No. 2180, was filed on behalf of Robert J. Palmer and Laura M. Hudson; and

WHEREAS, on the 11th day of July 2019, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 18th day of July 2019, said Planning and Zoning Commission recommended that Conditional Use No. 2180 be approved with conditions; and

WHEREAS, on the 11th day of August 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. 2180 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 Dagsboro Hundred, Sussex County, Delaware, and lying on the west side of Cedar Lane, approximately 0.53 mile north of Governor Stockley Road, and being more particularly described in the attached legal description prepared by Berl & Feinberg, LLP, said parcel containing 18.11 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 1,500 square feet of professional office space.**
- B. As proffered by the Applicants, the new office space shall be located no closer than 200 feet from the front or rear property line. In addition, all existing perimeter buffers shall be maintained.**
- C. As stated by the Applicant, the hours of operation shall be between 7:00 a.m. and 7:00 p.m., Monday through Saturday. This shall not prohibit the Applicants from working in the office at other hours of the day or on weekends.**
- D. One lighted sign, not to exceed 32 square feet per side, shall be permitted. It shall be located so that it does not shine upon the residential lots on either side of the property's entrance road.**
- E. Any dumpsters shall be screened from view of neighboring properties and roadways.**
- F. The Applicant shall comply with all DelDOT requirements concerning entrance, traffic and roadway improvements.**
- G. All parking areas for the Conditional Use shall be shown on the Final Site Plan and clearly marked on the site itself.**
- H. The Applicants shall comply with all DNREC requirements concerning any upgrades that are necessary to the existing septic system as a result of the construction of this new office space.**
- 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. 2675 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 13TH DAY OF AUGUST 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 Robert J. Palmer and Laura M. Hudson for the consideration of the Conditional Use of land in an AR-1 Agricultural Residential District for a professional office to be located on a certain parcel of land lying and being in Dagsboro Hundred, Sussex County, containing 18.11 acres, more or less (land lying on the west side of Cedar Lane, approximately 0.53 miles north of Governor Stockley Road (Tax I.D. No. 133-3.00-1.00 and 1.10) (911 Address: 23318 Cedar Lane, Georgetown).**
- B. **Based on the record before the Planning and Zoning Commission and the hearing before the Sussex County Council, Council found that Mr. Robert Palmer with Beacon Engineering was present on behalf of the application; that he is requesting a Conditional Use to add employees to his home occupation with an office by the garage; that he opened his business seven years ago; that now he needs help with drafting and would like to add additional employees; that he was able to purchase land and would like to be able to keep his home office and grow his business; that the contractors are currently at the office more than they use to be; that there could be a client that might come to the site twice a month and it is generally easier to go to the clients; that he does go out to meetings; that his immediate plan is to have up to five employees of which two of the employees include himself and his wife; that there would be three to four employees added and potentially having up to 10 employees in the longer term; and that if he has more than 10 employees, it would lose the personal touch and home comes first.**
- C. **Council also found that there are other Conditional Uses in the area; that some of the Conditional Uses are a borrow pit and an approval for the land application/spraying of biosolids; that the nearby subdivision is called the Woods at Walls Creek which is zoned MR Medium Density Residential District and is located behind this site; that the Georgetown reclamation site is located across the street; that the property has vegetation on three sides; that some of the vegetation is owned by the Applicant and some is owned by the Woods at Walls Creek; that the Woods at Walls Creek has a 30-foot forested buffer and the Applicant has 20 feet of woods that have remained untouched; that they do not generate any noise or dust; that with the vegetation around the property it is impossible to see the garage until you are close to it; that the closest neighbor is 600 feet away and there are two other neighbors that are 1000 feet away from the property; and that he was granted a variance in 2017 for the existing stables.**
- D. **Council further found that the parcel is located in the State Spending Strategies Level 3 Area; that he does not plan to build any new structures on the property; that he intends to keep the existing home and would live there; that the Land Use Classification per the 2018 Comprehensive Plan the land is in the Developing Area; that the Comprehensive Plan reads that a variety of office uses would be appropriate in many areas, in doing so, a careful mixture of homes with light commercial and institutional uses can be appropriate to provide for convenience services and to allow people to work close to home; that there is little traffic coming and going from the site; that he submitted a Service Level Evaluation Request to DelDOT; that a Traffic Impact Study was not warranted for 10 employees; that he would like a sign but he has not put up a 6 square foot sign for the home occupation yet; and that the hours of operation would be 8:00 a.m. to 5:00 p.m., Monday through Friday.**
- E. **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 proposed Conditional Use started as a home occupation within the Applicant's home. Because the business has grown, the Applicants are seeking to include office space for themselves and employees upon the property.**
 - 2. **The Applicants' property is 18.11 acres in size. This is large enough to permit the construction of a small office without having an adverse impact on neighboring properties.**

- 3. The Applicants stated that the office space will be used as an engineering office, and that does not generate much traffic other than the few employees who will work there. Meetings with the business clients typically occur off-site.**
- 4. The property is in a Developing Area according to the Comprehensive Plan. Office uses are appropriate in this area according to the Plan.**
- 5. 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.**