

ORDINANCE NO. 2699

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.26 ACRE, MORE OR LESS

WHEREAS, on the 4th day of June 2019, a conditional use application, denominated Conditional Use No. 2190, was filed on behalf of Steven and Helene Falcone; and

WHEREAS, on the 26th day of September 2019, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 10th day of October 2019, said Planning and Zoning Commission recommended that Conditional Use No. 2190 be denied; and

WHEREAS, on the 29th day of October 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. 2190 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 corner of Beaver Dam Road and Church Street, and being more particularly described in the attached legal description prepared by Wolfe & Associates, LLC, said parcel containing 0.26 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 professional offices.**
- b. This Conditional Use is approved subject to the Applicant's newly submitted site plan entitled, "Lands H&S Properties, LLC" prepared by The Kercher Group, Inc. dated November 11, 2019 which shows the site contains sufficient space for the use and required parking.**
- c. The hours of operation shall be limited to 7:00 a.m. to 7:00 p.m., Monday through Saturday, and by appointment during tax season.**
- d. The current structure is nonconforming and shall not be permitted for this use (business vs. residential). All future improvements on the property shall comply with all setbacks. The size and characteristics of this property may pose challenges to designing a building for the use that conforms with the setbacks on the property, and variances may need to be sought from the Board of Adjustment. The approval of this Conditional Use is not determinative of whether any variances should or should not be granted for this property.**
- e. No parking shall be permitted in the front yard setbacks. All parking shall be shown on the Final Site Plan.**
- f. All parking and entrances shall be in compliance with DelDOT requirements and the Sussex County Zoning Code. DelDOT approval shall be required before the Applicant receives Final Site Plan approval.**
- g. One unlighted sign shall be permitted on the property. The sign shall not exceed 36" by 36" and shall not be permitted in the front yard setback.**
- h. All exterior lighting shall be downward screened so that it does not shine on neighboring properties or roadways.**
- i. All stormwater management shall meet DNREC standards and shall be shown on the Final Site Plan.**
- j. The Applicant shall be required to remove all dead trees on the site and all landscaping shall be shown on the Final Site Plan.**
- 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. 2699 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 7TH DAY OF JANUARY 2020.

**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 Steven and Helene Falcone for the consideration of a Conditional Use of land in an AR-1 Agricultural Residential District for an office to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 0.26 acre, more or less (Tax I.D. No. 334-5.00-212.00 and 213.00) (911 Address: 17662 Beaver Dam Road, Lewes).**

B. Based on the record, Council found that:

- 1. The site location is appropriate for the Applicant's proposed use as an accounting office.**
- 2. DelDOT did not require a Traffic Impact Study because the use would have a de minimus effect on traffic.**
- 3. The use, with the conditions and limitations placed upon it, will not adversely affect neighboring properties or roadways.**
- 4. The proposed improvements will significantly improve the aesthetic of the intersection at Beaver Dam and Church Roads.**
- 5. The property is located in a Sussex County-operated and maintained sanitary sewer and/or water district and the proposed wastewater capacity is available for the project.**
- 6. The use as a professional office is of a public or semi-public character that will benefit present and future residents of Sussex County by providing such a use in a convenient location.**
- 7. No one spoke in favor of or in opposition to the application.**
- 8. Based on the record created before the Planning & Zoning Commission and the record created before the Sussex County Council, the Conditional Use was approved subject to eleven (11) conditions (a – k), which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**