

ORDINANCE NO. 2721

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR PROFESSIONAL OFFICES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.56 ACRES, MORE OR LESS

WHEREAS, on the 18th day of December 2019, a conditional use application, denominated Conditional Use No. 2215, was filed on behalf of BZ Land, LLC; and

WHEREAS, on the 28th day of May 2020, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 11th day of June 2020, said Planning and Zoning Commission recommended that Conditional Use No. 2215 be approved; and

WHEREAS, on the 30th day of June 2020, 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. 2215 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 south side of Lighthouse Road at Bayville Road, and being more particularly described in the attached legal description prepared by Sergovic & Carmean, P.A., said parcel containing 1.56 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.**
- B. As stated by the Applicant, the existing structures and the proposed additions shall maintain a residential appearance.**

- C. The hours of operation open to the public shall be between 8:00 a.m. and 7:00 p.m. Monday through Friday, and 8:00 a.m. until 4:00 p.m. on Saturdays. This shall not prohibit professionals utilizing the offices from working at other hours or on weekends.
- D. Any dumpsters shall be located to the rear of the property and screened from view of neighboring properties and roadways.
- E. All parking areas shall be shown on the Final Site Plan and clearly marked on the site itself.
- F. The Applicant shall comply with all DelDOT requirements concerning entrance, traffic and roadway improvements.
- G. All exterior lighting shall be downward screened so that it does not shine on neighboring properties or roadways.
- H. One lighted sign shall be permitted on the property. The sign shall be no larger than 32 square feet per side.
- I. A landscaping plan shall be submitted as part of the Final Site Plan review. It shall include a vegetated buffer along the eastern boundary of the property.
- J. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.

Ì DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2721 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 30TH DAY OF JUNE 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 BZ Land, LLC for a Conditional Use of land in an AR-1 Agricultural Residential District for professional offices to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 1.56 acres, more or less (property lying on the south side of Lighthouse Road (Route 54) at Bayville Road) (Tax I.D. No. 533-19.00-26.00) (911 Address: 37116 and 37124 Lighthouse Road, Selbyville).
- B. Based on the record before the Planning and Zoning Commission and the hearing before the Sussex County Council, Council found that James Fuqua, Esquire, was present on behalf of BZ Land, LLC, together with Mr. Charles Zonko, Property Owner, and Mr. Tom Ford of Land Design, Inc.; that this application is for a Conditional Use for professional offices on a 1.56 acre parcel of land located on the south side of Route 54 opposite Bayville Road; that the road frontage on Route 54 is approximately 225 feet; that there is a residence located adjacent to the property to the east, agricultural land adjacent on the west and agricultural land and woods to the rear of the site; that there are several residential developments in the general area including Keen-Wik on the Bay to the east, Keenwick West and Bayberry Woods to the west, and Bayville Shores to the north; and that the land is zoned AR-1 and a professional office can be permitted if approved as a Conditional Use under the Zoning Ordinance.
- C. Council also found that under the Comprehensive Plan, the site is located in the Coastal Area which is one of the Plan's designated growth areas; that retail and office uses are appropriate in the Coastal Area; that the site will be serviced by public water and sewer; that the site fronts on Route 54 which is a principal east-west road in southeast Sussex County; that currently the site is improved with a residence containing 3,897 square feet of floor area with a swimming pool and outbuildings in the rear; that the Zonko family resides here and the entrance to Route 54 is on the east front corner of the property; that Mr. Zonko is the owner of Zonko Builders and his office of 2,048 square feet is located on the property; that the office has a separate entrance from

Route 54 on the west side of the property; that the Zonko's purchased this property with the existing office and built their dwelling to the rear on the site; that the Applicant considered applying to have the property rezoned but decided that a Conditional Use for professional offices was more appropriate as it would allow the County to place conditions on the use that would safeguard the purpose and intent of the Conditional Use Ordinance; that the existing home will be remodeled into office space and an addition of 1,657 square feet will be added on the east side of the building; that the building and addition will maintain the same appearance of a residential building; that the existing offices will be remodeled with an addition of 1,785 square feet and will remain very similar to the existing building; and that the total floor area of the two buildings with the additions would be 9,387 square feet.

- D.** Council further found that DelDOT will not require a Traffic Impact Study; that after discussions with DelDOT regarding the entrance onto Route 54, the entrance on the east side of the property will be removed and the only entrance remaining will be the entrance to the current office building on the west side of the property; that the entrance will be improved to DelDOT requirements which may include a right-hand only turn into the site; that the Applicant is requesting one 32 square foot sign per side with a timed light which will shut off at 10:00 p.m.; that in accordance with the Sussex County Code, forty-seven (47) parking spaces would be required; that the Applicant proposes to have fifty (50) parking spaces including four (4) handicapped spaces; that there will be an easement agreement with the neighboring property for nine (9) of the existing parking spaces on the property; that lighting in the parking area will be minimal and non-intrusive; that there will be a vegetative buffer on the eastern boundary of the property; that stormwater management facilities will be located to the rear of the current residential building and will meet or exceed DNREC regulations; that there are no wetlands located on the property; that the site is on Zone X under the FEMA flood maps with a small portion in the AE Zone on the southwest portion of the site; and that professional offices have a lower impact than retail uses.
- 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 - J), Council found that:
- 1.** This property has previously been used for office purposes for 36 years. This Conditional Use will be consistent with the historical use of the property.
 - 2.** The office will continue to maintain a residential appearance.
 - 3.** The use as a professional office will benefit the health, safety and welfare of present and future residents of Sussex County residents by providing such a use in a convenient location.
 - 4.** The site is within the Coastal Area according to the Sussex County Comprehensive Plan. Professional offices are an appropriate use within this area according to the Comprehensive Plan.
 - 5.** The use, with the conditions and limitations placed upon it, will not adversely affect neighboring properties or roadways.
 - 6.** The site will be served by central water and sewer.
 - 7.** No parties appeared in opposition to this application.
 - 8.** 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 ten (10) conditions (A - J) which will serve to minimize any potential impacts on the surrounding area and adjoining properties.