

ORDINANCE NO. 2757

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A MINI SPA TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 1.50 ACRES, MORE OR LESS

WHEREAS, on the 12th day of October 2020, a conditional use application, denominated Conditional Use No. 2247 was filed on behalf of Hillary Brock; and

WHEREAS, on the 12th day of November 2020, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 19th day of November 2020, said Planning and Zoning Commission recommended that Conditional Use No. 2247 be approved with conditions; and

WHEREAS, on the 1st day of December 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. 2247 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 Indian River Hundred, Sussex County, Delaware, and lying on the west side of Beaver Dam Road (Route 23) approximately 0.41 mile south of Hopkins Road (S.C.R. 286) and being more particularly described in the attached legal description prepared by Sergovic, Carmean, Weidman, McCartney & Owens, P.A., said parcel containing 1.50 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 the storage of boats and RVs. No other storage of vehicles or equipment shall occur on the site.**
- B. The facility shall only be accessible during daylight hours, and the access gate shall be locked to prevent after-hours access to the site.**
- C. The perimeter of the site shall be fenced with a 6-foot high fence that screens the property from neighboring and adjacent properties and roadways.**
- D. There shall be a landscaping buffer between the outside of the fence and Bethpage Drive to screen the use and the fence from Bethpage Drive and the adjacent golf course. The landscaped buffer shall be comprised of 5' - 6' trees and shrubs at the time of planting. The Final Site Plan for this use shall include a landscaping plan for this buffer area.**
- E. No maintenance of boats or RVs shall occur on the site.**
- F. All security lighting shall be shielded and downward screened so that it does not shine on neighboring properties or roadways.**
- G. No more than 60 boats and RVs shall be permitted on the site.**
- H. The storage area shall be covered with a pervious stabilizing material. The location and type of this material shall be shown on the Final Site Plan.**
- I. The use shall be subject to all DelDOT requirements regarding the entrance and roadway improvements necessary to provide access to the site. It is anticipated that DelDOT will require sufficient right-of-way dedication from the Applicant to accommodate the entrance.**
- J. The entrance drive from Postal Lane to this site shall have a paved width of at least 24 feet to accommodate vehicles with boat trailers and RVs and to allow sufficient space for such vehicles to safely wait to exit the premises onto Postal Lane.**
- K. No hazardous materials or fuel shall be stored on the property.**
- L. One unlighted sign shall be permitted on the site. It shall not exceed 9 square feet in size.**
- M. No sales shall occur on the site.**
- N. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.**

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2757 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 1ST DAY OF DECEMBER 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 Hillary Brock for a Conditional Use of land in an AR-1 (Agricultural Residential District) for a mini-spa to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 1.50 acres of land, more or less (property lying on the west side of Beaver Dam Road (Route 23) approximately 0.41 mile south of Hopkins Road (S.C.R. 286) (Tax I.D. No. 234-5.00- 44.09) (911 Address: 19950 Beaver Dam Road, Lewes).**
- B. Based on the record before the Planning and Zoning Commission and the hearing before the Sussex County Council, Council found that Ms. Hillary Brock and Mr. Todd Brock were present on behalf of their application; that Ms. Brock had a mini-spa in downtown Milton that was destroyed in a fire; that she and her husband have built their home on Beaver Dam Road; that the property is improved with a pole building; that a portion of that pole building could be used as a day-spa; that two (2) other providers would also use the premises as subcontractors; that the hours of operation would be 9:00 a.m. – 7:00 p.m., seven (7) days a week, by appointment only; that a lighted sign is requested; that the light will be extinguished after 10:00 p.m. daily; that there is adequate parking; and that there will be approximately ten (10) people coming and going daily.**
- C. Based on the record and recommendation of the Planning and Zoning Commission and the Planning and Zoning Commission’s Findings (1 through 4) and Conditions (5a – g), Council found that:**
 - 1. The use is very small in nature. It could nearly be considered a permitted “home occupation” under the County Code. It does not qualify as a “home occupation” because the owner may have three other people working on the premises.**
 - 2. The 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. No parties appeared in opposition to this Application.**
 - 5. 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 seven (7) conditions (a – g), which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**