

ORDINANCE NO. 2800

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR STORAGE UNITS AND OFFICES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.63 ACRES, MORE OR LESS

WHEREAS, on the 8th of January 2021, a conditional use application, denominated Conditional Use No. 2261 was filed on behalf of What Is Your Voice, Inc.; and

WHEREAS, on the 12th day of August 2021, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 26th day of August 2021, said Planning and Zoning Commission recommended that Conditional Use No. 2261 be approved with conditions; and

WHEREAS, on the 14th day of September 2021, 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 115, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2261 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 southeastern side of Shady Road (Rt. 276), approximately .21 mile southwest of Coastal Highway (Route 1), and more particularly described in the attached deed prepared by Wolfe & Associates, LLC containing 0.63 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 an office and four storage units within the existing structures on the site.**
- b. There shall not be any outside storage of any materials or equipment.**
- c. All lighting on the site shall be shielded and downward screened so that it does not shine on neighboring properties or roadways.**
- d. Any dumpsters on the site shall be screened from the view of neighboring properties and roadways.**
- e. The Applicant shall comply with all DelDOT requirements for entrance and roadway improvements.**
- f. As stated by the Applicant, no signs shall be located on the site.**
- g. The parking shall comply with the County parking requirements. All vehicle parking areas shall be shown on the Final Site Plan and clearly marked on the site itself. All vehicles must only be parked within the designated areas.**
- h. The existing vegetation on the sides and rear of the site shall remain in place to act as a screen from neighboring properties. The Final Site Plan shall confirm the existence and location of this vegetation.**
- i. The Applicant shall comply with all requirements of the Sussex Conservation District regarding stormwater management on the site.**
- j. Failure to comply with any of these conditions may be grounds for termination of the Conditional Use approval.**
- 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. 2800 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 14TH DAY OF SEPTEMBER 2021.

**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 What Is Your Voice, Inc. for the consideration of a Conditional Use of land in an AR-1 Agricultural Residential District for storage units and offices to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 0.63 acres, more or less (land lying on the southeastern side of Shady Road [Route 276], approximately 0.21 mile southwest of Coastal Highway [Route 1]) (Tax I.D. No. 334-6.00-515.00) (911 Address: 17583 Shady Road, Lewes).**

- B. **Based on testimony before the Planning and Zoning Commission and the public hearing before the Sussex County Council, Council found that Shannon Carmean Burton, Esquire, of Sergovic Carmean Weidman McCartney & Owens, P.A., was present at the public hearing before the Planning and Zoning Commission on behalf of the Applicant, What Is Your Voice, Inc., together with Walter Sterbach, Vice President of the Applicant, who appeared on behalf of Jacqueline Sterbach, Applicant's Founder and President, who was unable to attend for health reasons and that Rachel Bleshman, Esquire, of Sergovic Carmean Weidman McCartney & Owens, P.A., was present at the public hearing before the Sussex County Council, together with Walter Sterbach, Vice President of the Applicant; that other Board members were also in attendance; that the Applicant requests a Conditional Use in the AR-1 Agricultural Residential District for maintaining an office in the existing garage and four rental storage units in the existing one-story pole building; that the request is in connection with the Applicant's nonprofit organization; that, in addition to the proposed uses, the Applicant intends to use the existing dwelling on the property for residential purposes as permitted under the Zoning Code under the AR-1 Agricultural Residential District; that the Applicant is a well-respected nonprofit 501(c)(3) organization that was established in 2013 to combat domestic violence, family violence and teen violence; that the mission is to stop the cycle of violence against women and children within Sussex County and the entire State of Delaware; and that the purpose of the requested Conditional Use is to enhance the Applicant's ability to efficiently provide critically needed services to the vulnerable and expanding population of Sussex County.**

- C. **Council found that the proposed property is located at 17583 Shady Road, Lewes, Delaware; that the property does consist of 0.63 acres; that the Applicant rented the property for a year and a half from the former owner, Point Crossing, LLC, before purchasing the property in May 2019 with all of the existing improvements; that the former landlord previously rented the pole barn to third parties for storage purposes; that the surrounding properties are mostly zoned CR-1 Commercial Residential or AR-1 Agricultural Residential; that the property is in close proximity to Delaware Route 1; that the general area is a mixed-used area, which includes residential and commercial uses; that the Conditional Uses allowed within the AR-1 Zoning District include residential, business, commercial, and industrial uses when the purposes of the chapter are fully met by issuing a Conditional Use permit; that, upon information and belief, there have been more than twenty (20) Conditional Uses within a 0.5 mile radius of the proposed property; that these Conditional Uses range from medical offices and sales centers to auto and boat storage and repair; and that the proposed uses for an office and storage units on the property as Conditional Uses are permitted under the Zoning Code and are consistent with the purposes and goals of the Comprehensive Plan.**

- D. **Council also found that the property is located within the Coastal Area according to the Comprehensive Plan; that the Coastal Area includes areas around Rehoboth Bay, Indian River Bay and Little Assawoman Bay; that the proposed area is a growth area; that additional consideration should be taken into account in this growth area that may not apply in other growth areas per the Comprehensive Plan; that in addition to residential uses, retail and office uses are appropriate uses within the Coastal Area and mixed-use development should also be allowed; that the Comprehensive Plan also provides that careful mixtures of homes with light commercial office and institutional uses can be appropriate to provide convenient services to allow people to work close to home; and that the proposed office and storage uses are appropriate uses within the Coastal Area.**

- E. Council further found that due to the nature of the critical services that are provided by the Applicant, that the uses are of a public or semi-public character that will benefit the residents of Sussex County; that the proposed uses will not cause any detrimental impact on the surrounding properties or neighborhoods; that the Applicant had received letters of support from neighboring property owners; that there is currently a landscape buffer located around the majority of the perimeter of the property; that there is a privacy fence to the rear of the property to limit any potential impact that the proposed uses could have on the adjoining properties; that there are also audio and video cameras on the property to monitor any activity; that there is security lighting which points downward to lessen the impact to neighboring properties; that there is an existing gravel driveway and a parking area to access the office and storage buildings; that DelDOT has determined the traffic impact for this application as negligible and, therefore, did not require a Traffic Impact Study (TIS); that sewer services are provided by Sussex County; that central water services are currently not available; that the property is currently served by a private well; and that there are no wetlands on the property.**
- F. Council also found that the Applicant currently has three employees; that only one employee is located onsite and manages daily operations; that the proposed office will not be open to the public; that business hours are currently 9:00 a.m. to 4:00 p.m. Monday through Thursday; that most appointments with clients are conducted by online Zoom meetings; however, the Peer Support Advocates may meet with clients only during those business hours; that there will be no signs on the property advertising the uses of the property; and that the proposed Conditional Use will help facilitate the Applicant's ability to continue to operate their established non-profit corporation on the property and provide these critically needed services to the residents of Sussex County.**
- G. Based on the record and recommendation of the Planning and Zoning Commission and the Planning and Zoning Commission's Findings (1 through 8) and Conditions (9a - k), Council found that:**
- 1. The Applicant is a 501(c)(3) non-profit corporation which provides essential services to clients to combat domestic violence, family violence, and teen violence. It is recognized for its mission to stop the cycle of violence against women and children within Sussex County and the entire State.**
 - 2. The use is situated on a 0.63-acre parcel of land located along Shady Road and close to Route One. There is C-1 General Commercial Zoning and many large and small businesses nearby. It is also across from the new DelDOT transit center. This is an appropriate location for this Conditional Use.**
 - 3. With the conditions and stipulations of approval, the use will not have a negative impact on the neighboring properties or roadways.**
 - 4. This site is located in the Coastal Area according to the Sussex County Comprehensive Plan. Small business-type uses such as this one are appropriate in the Coastal Area according to the Plan.**
 - 5. The use provides a service and benefit to residents of Sussex County.**
 - 6. The site is served by central sewer provided by Sussex County.**
 - 7. DelDOT has commented that the traffic impact of the use will be negligible, and that no Traffic Impact Study is required.**
 - 8. There is a natural forested buffer along most of the sides and rear of the property, which will remain in place to screen the use from neighboring properties.**
 - 9. 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 eleven (11) conditions (a through k) which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**