

ORDINANCE NO. 2801

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A C-1 GENERAL COMMERCIAL DISTRICT FOR AN OUTDOOR MARKETPLACE WITH SIMILAR ACTIVITIES AND OFF-SITE PARKING TO BE LOCATED ON CERTAIN PARCELS OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.247 ACRES AND 0.327 ACRES, MORE OR LESS

WHEREAS, on the 18th of May 2021, a conditional use application, denominated Conditional Use No. 2289 was filed on behalf of Leah Beach; 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. 2289 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 115-79, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2289 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 southwestern side of Canal Crossing Road and Central Avenue, approximately 100 feet east of Hebron Road (Rt. 273), and being more particularly described in the attached survey by Coast Survey Inc., dated July 25, 2006, said parcel containing 0.248 acre, more or less; and also, a portion of a certain tract, piece or parcel of land, lying and being situate in Lewes and Rehoboth Hundred, Sussex County, Delaware, and lying on the northeastern corner of Rehoboth Avenue Extended (Rt. 1A) and Hebron Road (Rt. 273), and being more particularly described in the attached deed prepared by Wilson, Halbrook, Bayard, Bunting & Marshall, containing 1.98 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. This use shall be limited to an outdoor marketplace, which may include food and beverage service and live music.**
- b. One lighted sign shall be permitted. It shall not exceed 32 square feet per side.**
- c. The hours of operation shall be limited to 9:00 a.m. through 9:00 p.m., seven (7) days per week.**
- d. Any security lighting shall be downward screened so that it does not shine on neighboring properties or roadways.**
- e. The Applicant shall comply with all DelDOT requirements, including any entrance or roadway improvements.**
- f. There shall not be any dumping on the site. Also, no junk or unsold items shall accumulate outdoors on the site.**
- g. Any dumpsters associated with the use shall be screened from view from neighboring properties or roadways.**
- h. The Final Site Plan shall clearly show all parking areas, stage locations and other structures associated with the use as well as the areas set aside for the outdoor sales. It shall also clearly show the location for the sale of alcoholic beverages, and the fencing or similar enclosures required by the Delaware Alcoholic Beverage Control Commission for such sales.**
- i. Failure to comply with any of these conditions may be grounds for termination of the Conditional Use approval.**
- j. 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 FORGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2801 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 Leah Beach for the consideration of a Conditional Use of land in a C-1 General Commercial District for an outdoor marketplace with similar activities and off-site parking to be located on certain parcels of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 0.247 acres and 0.327 acres, more or less (land lying on the southwestern side of Canal Crossing Road and Central Avenue, approximately 100 feet east of Hebron Road [Route 273] and being on the northeastern corner of Rehoboth Avenue Extended [1A] and Hebron Road [Route 273]) (Tax I.D. Nos. 334-13.20-21.00 & 334-13.19-79.00 [p/o]) (911 Addresses: 19897 Hebron Road & 19826 Central Avenue, Rehoboth Beach).**
- B. Based on testimony before the Planning and Zoning Commission and the public hearing before the Sussex County Council, Council found that the Applicant, Ms. Leah Beach, was present on behalf of the application; that she is the Executive Director and Founder of The Developing Artist Collaboration which is an artist development organization whose mission is to support the careers of artists with resources, creation space, peer connection and innovative presentation opportunities; that Creative Market is an event that began in 2020 as a response to the pandemic; that this event was held in downtown Rehoboth as a way to allow the public to access the artist in a safe open-air environment to promote culture and commerce; that the organization's headquarters are located in West Rehoboth, just outside of downtown Rehoboth; that Creative Market is located on a lot that is owned by the landlord of another one of the organization's buildings; that the organization has committed to dedicate as much programming as possible to take place in West Rehoboth; that this is due to the location of the organization's facilities and the priority to honor the culture and rich history of the historic community of color; that the organization has invested its resources and energy into creating a weekly innovative and modern marketplace that features local and regional artists and handmade business; and that the Creative Market also includes live music, food trucks and responsible alcohol service to create a cultural experience for the community while promoting tourism.**
- C. Council also found that public safety and crowd management is a priority of the organization; that the organization has safely maintained 100 local community events since 2015; that the market has roughly 20 artists, two food truck options, 10 staff members, and between 50 to 75 guests at any given time on the lot; that guests are encouraged to park at the Quillen's parking lot and are shuttled in on a small bus that runs during the duration of the event; that "No Parking" signs are placed on the corners of Corkran Boulevard and Canal Crossing Road, as well as a sign at the intersection of Canal Crossing Road and Hebron Road directing traffic to the designated parking area; that there are no parking signs located outside of Park Shore and Canal Corkran out of respect for the neighbors; that there is also signage located on Central Avenue and Hebron Road directing traffic down to the designated Quillen's parking lot and there are four large signs at both entrances of Quillen's parking lot stating, "Event Parking Here"; that the shuttle runs throughout the duration of the event, regardless of whether guests are on it or not; that the shuttle also includes a sign that states it is a free shuttle to free parking; the Revelation Brewery allows the Creative Market guests to use their restroom facilities; that there is a written agreement with Quillen's to utilize their lot for event parking and also with Revelation Brewery for the use of their portable restrooms; that the live music is offered as only a one-man acoustic set with a very small public address system; and that the event ends very promptly at 9:00 p.m.**
- D. Council further found that the organization has obtained a gathering license; that a submission is required for every event held due to being a non-profit organization; that the organization has a very strict policy with no alcohol leaving the front entrance; that all alcohol is kept within the perimeter; that the artist tables and food trucks create a buffer for only one way in and one way out allowing for better monitoring; that the organization works with Revelation in keeping alcohol on the site it is provided; that they request approval for another year while continuing the market throughout the Fall; that they would like to have a holiday market; that in the past the organization had an event called Dewey Sip & Shop, which was an open-air shopping experience during Black Friday weekend; and that she feels this**

experience is important with the pandemic and requests to continue the market into December and days of operation would be the first, second and third Saturday and Sunday in December from 11:00 am until 4:00 pm (weather permitted).

E. Based on the record and recommendation of the Planning and Zoning Commission and the Planning and Zoning Commission's Findings (1 through 10), as amended, and Conditions (11a. - k.), as amended, Council found that:

- 1. This property is currently zoned C-1 General Commercial, which permits a wide variety of commercial uses. This Conditional Use for an outdoor market is compatible with the permitted uses that could occur on this site.**
- 2. There are a variety of other commercial and small business uses in this area. This use will be compatible with those other uses.**
- 3. The use started out small under the County's limited approvals for events. It has become so successful that a more permanent Conditional Use approval is necessary and appropriate.**
- 4. The use is a benefit to the entire community, providing an outlet for local artisans, musicians, and other small businesses.**
- 5. With the conditions imposed by the County, the use will not adversely affect neighboring properties, roadways or traffic.**
- 6. The use has a public or semi-public character that is a benefit to residents of nearby communities and Sussex County.**
- 7. As part of this use, food service in the form of food trucks or similar temporary stands shall be permitted. Also, the service of alcoholic beverages shall be permitted, subject to the receipt of all required approvals from the Delaware Alcoholic Beverage Control Commission.**
- 8. There shall be off-site parking with shuttle service provided from what is commonly known as the "Quillen's Hardware" property identified as Parcel 3-34-13.19-79.00.**
- 9. Although the Applicant has stated that this use will likely be limited to Mondays during the summer, with the possibility of future hours in the Fall and holiday season, it is likely, given past success, that it may expand. It is appropriate to allow the use to occur seven (7) days per week to allow some flexibility in scheduling as needs arise.**
- 10. No parties appeared in opposition to this application, and a representative of West Side New Beginnings appeared in support of this application.**
- 11. 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. through j.), as amended, which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**