

ORDINANCE NO. 2812

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLINGS (4 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 1.25 ACRES, MORE OR LESS

WHEREAS, on the 11th day of January 2021, a conditional use application, denominated Conditional Use No. 2262 was filed on behalf of Matthew Hete; and

WHEREAS, on the 9th day of September 2021, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 13th day of October 2021, said Planning and Zoning Commission recommended that Conditional Use No. 2262 be approved; and

WHEREAS, on the 11th day of October 2021 and the 16th day of November 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 V, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2262 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 southeast side of Postal Lane approximately 0.22 mile northeast of Plantation Road and being more particularly described in the attached legal description prepared by Hudson, Jones, Jaywork & Fisher, said parcel containing 1.25 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 maximum number of residential units shall be 4.**
- b. All entrance, intersection, roadway and multi-modal improvements shall be completed by the Developer in accordance with all DelDOT requirements.**
- c. There shall be a 75-foot buffer along the road frontage that complies with the requirements of Section 115-22 of the Zoning Code for multi-family dwellings in the AR-1 District.**
- d. The Applicant shall submit as part of the Final Site Plan a landscape plan showing the proposed tree and shrub landscape design, including the buffer areas.**
- e. The project shall be served by Sussex County Sewer. The Developer shall comply with all Sussex County Engineering Department requirements including any offsite upgrades necessary to provide service to the project.**
- f. The project shall be served by central water to provide drinking water and fire protection.**
- g. Construction and site work on the property, including deliveries of materials to or from the property, shall only occur between 7:00 a.m. and 5:00 p.m. Monday through Friday. There shall be no construction activities at the site on Saturdays or Sundays. A 24 inch by 36 inch “NOTICE” sign in English and Spanish confirming these hours shall be prominently displayed at all entrances to the site during construction.**
- h. Street naming and addressing shall be subject to the review and approval of the County Mapping and Addressing Department.**
- i. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.**
- j. All streetlights shall be downward screened so that they do not shine on neighboring properties or roadways.**
- k. The Applicant must pay the bonus density fee required by Chapter 62, Section 62-7 of the Code of Sussex County for the two additional units in excess of two units per acre.**
- l. 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. 2812 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 16TH DAY OF NOVEMBER 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 Matthew Hete for a Conditional Use of land in an AR-1 Agricultural Residential District for multi-family dwellings (4 units) to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 1.25 acres, more or less. The property is lying on the southeast side of Postal Lane (S.C.R. 283), approximately 0.22-mile northeast of Plantations Road (S.C.R. 275) (911 Address: 34360 Postal Lane, Lewes) (Tax Parcel: 334-6.00-686.00).**
- B. Based on the record before the Planning and Zoning Commission and the hearing before the Sussex County Council, Council found that Mr. Kevin Smith and the Applicant, Mr. Matthew Hete, were present on behalf of the Application; that this project was before Planning and Zoning and Sussex County Council last year for a completely different use; that the Applicant is proposing four separate single-family homes on the property in a condominium-style format; that currently there is only one single-family residence located on the property; that the parcel is located on the south side of Postal Lane and contains 1.249-acres; that the density is 3.2 units per acre; that the units depict a one-car garage and a six-car parking pad driveway; that the single-family style home is indicative of the current conditions in the immediate vicinity of the property; that the developer of Lands of Hete, LLC made every attempt to assure that the design of the project conforms to the Sussex County Code; and that the property is currently zoned AR-1 Agricultural Residential.**
- C. Council found that the property is located within the Sussex County Environmentally Sensitive Development District Overlay Zone; that the property is located across from Sandy Brae which is zoned MR Medium Residential; that there are other MR-zoned developments located in the immediate vicinity of the property; that these developments are Plantations East, Plantations Summercrest, and Maple Wood; that there is also commercial development nearby; that some of the commercial ventures in the vicinity are Pelican Square, Heritage Inn, Bob Evans, Tangler Outlets and Midway Shopping Center; that according to the Sussex County Comprehensive Plan, the property is identified for future land use purposes as Mixed Residential; and that the project is in character with a long history of development and approved applications for development in the immediate area.**
- D. Council also found that the proposed development will provide housing in an area where infrastructure and transit services are available; that this thereby meets the general purpose of the Sussex County Zoning Ordinance by promoting growth, convenience, order, prosperity, and welfare of Sussex County; that the project will be served by central water through Tidewater Utilities; that wastewater collection will be provided through Sussex County by the Dewey Beach Sanitary Sewer District; that four units per acre meets the requirement of Sussex County and seems pretty small considering the area; that there are no threatened species indicated on the proposed property; that there are no know historical and cultural resources located on the property; that there is no indication of tidal and nontidal wetlands being located on the property; that the proposed layout of the development promotes open space; that what is proposed to be impervious is what is currently shown on the plan; that generally .789 acres or 63% of the site should remain green open area; that potentially Sussex Conservation District may request to have a BMP infiltration area placed on the property; and that regarding public and private infrastructure, in the immediate area there is a parking facility provided for wastewater and water utilities.**

- E. Council found that the Applicant performed a lot of due diligence working with the neighbors in all three nearby developments as well as all adjacent neighbors to make sure they approved of the proposed project and helped overcome any objections the neighbors may have; that his proposed plan is to place single-family homes that fit into the neighborhood; that there will be no mobile homes or excessively large homes, only homes that are conducive to the surrounding area; that the Applicant has friends that are builders who are taking down homes in the Lewes and Rehoboth areas, and he would like to take advantage of the homes that will be torn down and relocate them to the proposed property; that he hopes in doing this it will keep the heritage of Lewes and Rehoboth alive; that his intention is to keep the proposed homes for his family, making it affordable for his children to move into; and that Sandy Brae and other associations were concerned about multiple driveways, so he created only one entrance off of Postal Lane.**
- F. Based on the record and recommendation of the Planning and Zoning Commission and the Planning and Zoning Commission’s Findings (1 through 6) and Conditions (a – l), Council found that:**
- 1. This Application seeks the approval of four (4) multi-family structures on approximately 1.25 acres.**
 - 2. Multi-family dwellings can be approved with a density of 4 units per acre as a Conditional Use in the AR-1 District, subject to a bonus density payment for each unit above 2 units per acre to preserve open space elsewhere. There will be a bonus density payment required for the two additional units of density on this site.**
 - 3. The site is in the Coastal Area according to the Sussex County Comprehensive Plan. This type of development is appropriate in this Area according to the Plan, which states that “a range of housing types” are acceptable here.**
 - 4. The development will not have an adverse impact on the neighboring properties or roadways. In fact, there are letters in support of the application from many of the nearby neighbors.**
 - 5. The development will be served by central sewer provided by Sussex County.**
 - 6. The development will be served by central water.**
 - 7. 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 twelve (12) conditions (a – l), which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**