

ORDINANCE NO. 2813

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR PROFESSIONAL OFFICES TO BE LOCATED ON CERTAIN PARCELS OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.68 ACRES, MORE OR LESS

WHEREAS, on the 29th day of January 2021, a conditional use application, denominated Conditional Use No. 2264 was filed on behalf of Laudan Investments, LLC; and

WHEREAS, on the 28th day of October 2021, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 4th day of November 2021, said Planning and Zoning Commission recommended that Conditional Use No. 2264 be approved; and

WHEREAS, on 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 115, Subsections 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2264 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tracts, pieces or parcels of land, lying and being situate in Lewes and Rehoboth Hundred, Sussex County, Delaware, and lying on the southeastern side of Savannah Road (S.C.R. 443A), approximately 0.77 mile northeast of Wescoats Road (Rt. 12), and being more particularly described in the attached deed prepared by The Law Office of Gregory W. Williams, said parcel containing 0.34 acres, more or less, and also described in the attached deed prepared by Fuqua, Willard, Stevens & Schab, P.A., said parcel containing 0.34 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 buildings shall be used for office use only. No retail sales or other commercial uses shall occur on the site.**
- B. Each building shall be permitted to have one lighted sign. The signs shall not exceed 32 square feet in size on each side.**
- C. All security lighting shall be shielded and downward screened so that it does not shine on neighboring properties or roadways.**
- D. As proffered by the Applicant, the business hours shall be limited to 8:00 a.m. until 5:00 p.m., Monday through Friday, with the exception of emergency services that may be required.**
- E. The two existing office buildings shall share an entrance as approved by DelDOT.**
- F. With the exception of handicapped parking spaces, all parking areas shall be located at the rear of the properties. The Final Site Plan shall designate all parking areas.**
- G. As stated by the Applicant during the public hearing, the residential appearance of the existing structures shall be maintained while in use as offices.**
- H. Failure to abide by any of these conditions of approval may result in the revocation of this Conditional Use.**
- I. 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. 2813 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 Laudan Investments, LLC for a Conditional Use of land in an AR-1 Agricultural Residential District for professional offices to be located on a certain parcels of land lying and being in Lewes & Rehoboth Hundred, Sussex County, containing 0.68 acres, more or less (property lying on the southeastern side of Savannah Road (S.C.R. 443A), approximately 0.77-mile northeast of Wescoats Road (Route 12) (Tax I.D. No. 335-8.18-15.00 & 335-8.18-16.00) (911 Addresses: 1302 and 1304 Savannah Road, Lewes).**

- B.** Based on the record before the Planning and Zoning Commission and the hearing before the Sussex County Council, Council found that Timothy G. Willard, Esquire, with the law offices of Fuqua, Willard, Stevens and Schab, P.A., was present on behalf of the Application, together with Dr. Aponte, the Principal of the Applicant, Laudan Investments, LLC; that Dr. Aponte has been practicing medicine for 21 years in Lewes and that she specializes in rheumatology; that Dr. Aponte's practice is located on the property; that it is right next to the existing entrance to Cape Henlopen High School; that the parcel had been approved for a Conditional Use in the mid-2000's for use as a medical office; that this Application also includes parcel 16.00 which was approved for a Conditional Use in 2007 for use as an architectural office; that Dr. Aponte had purchased Parcel 16.00 two summers ago; that she had been having the necessary repairs performed on the existing property; that the proposed Conditional Use Application is for medical offices; that, after meeting with Mr. Whitehouse, it was determined that the appropriate path was to amend the previous Conditional Use by submitting a new application for a Conditional Use for general business and general office use; that the definition of General Office Use is "a room or group of rooms for conducting affairs of a business profession, serving industry or government and generally furnished with desks and files for communications"; and that the intent of the Application is to provide the Applicant with additional flexibility in the event that she wishes to rent the property.
- C.** Council found that the Conditional Use approved in 2004 was Conditional Use No. 1549, Ordinance No. 1723, which was for a medical office; that three years later, Conditional Use No. 1744, Ordinance No. 1996, was approved; that this approval was for Parcel 16.00 which was sought previously by Mr. Wagner; that the total acreage of Parcels 15.00 and 16.00 is 0.68 acres; that the property is zoned AR-1; that the property, through the latest approved Comprehensive Plan, has the Future Land Use designation of "Commercial Area;" that one of the previous Conditions of Approval was that the property remain residential in nature; that the proposed Findings of Fact were written to match this previous requirement; that the property has a recorded entrance permit already; that the entrance permit had been granted by DelDOT in 2007; that the entrance permit required site improvements including the installation of curb and gutter; that the parking requirement is one parking space per 200 square feet of floor area; that the property requires 15 parking spaces under these requirements; that the site currently contains 12 parking spaces; that the property was large enough that, per the survey, another 10 parking spaces could be added on the opposite side of the property; and that no Traffic Impact Study was required by DelDOT.
- D.** 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. – i.), as amended, Council found that:
- 1.** This application seeks to amend and replace the existing Conditional Uses on the subject properties. Previously, they were approved for medical offices under Conditional Use #1549 and Ordinance #1723 and Conditional Use #1744 and Ordinance #1966. This application expands the use from medical uses to more general office uses.
 - 2.** The use of these properties for offices is in character with the long history of development of medical and professional office space along Savannah Road.
 - 3.** The use as professional offices is supported by the Sussex County Comprehensive Plan.
 - 4.** The use, with the conditions and limitations placed upon it, will not adversely affect neighboring properties or roadways.
 - 5.** There is currently an approved commercial entrance from Savannah Road that serves both parcels. DelDOT has also reviewed the proposed use and has stated that no Traffic Impact Study is required.
 - 6.** There is sufficient space on the properties for parking to serve both office buildings.

- 7. The Applicant has stated that she intends to maintain the residential appearance of both buildings that currently exist on the site.**
- 8. No parties appeared in opposition to this application.**
- 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 nine (9) conditions (a – i), as amended by this Council, which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**