

ORDINANCE NO. 2881

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A REAL ESTATE OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 1.38 ACRES, MORE OR LESS

WHEREAS, on the 13th of August 2021, a conditional use application, denominated Conditional Use No. 2309 was filed on behalf of Rockswitch Properties, LLC; and

WHEREAS, on the 11th day of August 2022, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2309 be approved; and

WHEREAS, on the 30th day of August 2022, 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. 2309 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 Broadkill Hundred, Sussex County, Delaware, and lying on the north side of Coastal Highway (Route 1) approximately 0.14 mile southeast of Deep Branch Road (S.C.R 234), and being more particularly described in the attached legal description prepared by Tunnell & Raysor, P.A., containing 1.38 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 use as an office within the existing structure for real estate services, property management, and construction management.**
- b. One lighted sign shall be permitted. It shall not exceed 32 square feet per side.**
- c. The Applicant shall comply with any DeIDOT entrance and roadway improvement requirements.**
- d. No parking shall be permitted in the front yard setback.**
- e. No outside storage of construction equipment, materials, or other items associated with the business shall be permitted. This site shall be used only as an office.**
- f. Any dumpsters or trash receptacles on the site shall be screened from the view of neighboring properties and roadways.**
- g. Failure to comply with these conditions may result in the revocation of the Conditional Use approval.**
- h. 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. 2881 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 30TH DAY OF AUGUST 2022.

**Tracy N. Torbert
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 Rockswitch Properties, LLC for the consideration of a Conditional Use of land in an AR-1 Agricultural Residential District for a real estate office to be located on a certain parcel of land lying and being in Broadkill Hundred, Sussex County, containing 1.38 acres, more or less (property lying on the north side of Coastal Highway [Route 1] approximately 0.14 mile southeast of Deep Branch Road [S.C.R. 234]) (911 Address: 12537 Coastal Highway, Milton) (Tax Parcel: 235-8.00-62.00).**
- B. Based on testimony before the Planning and Zoning Commission and the public hearing before the Sussex County Council, Council found that Mackenzie Peet, Esquire, with Baird Mandalas Brockstedt Federico & Cardea, LLC was present on behalf of the Application; that Rockswitch Properties, LLC submitted a Conditional Use application on August 13, 2021, to request the Conditional Use of land for a small office space, located within the AR-1 (Agricultural Residential) Zoning District on the property which contains approximately 1.3802 acres; that the office space is proposed for their real estate services, property management and construction business out of an existing single family dwelling located on the property; that adjacent properties to the site are zoned AR-1 (Agricultural Residential) and GR (General Residential); that properties located across the street are zoned C-1 (General Commercial); that these properties, located along the southbound side of Route 1 include the Valero Gas Station and an auto repair shop; and that the Applicant is in agreement with the conditions provided by the Planning and Zoning Commission.**
- C. Council found that there is an existing wooded buffer which is proposed to stay intact; that the DeIDOT Service Level Evaluation Response stated the traffic impact for the project to be di minimis; that the Applicant anticipates approximately three vehicle trips to the site per day, including staff and customers; that there had been preliminary discussions between the engineer, Mr. John Roach, and DeIDOT; that it is expected that the Applicant will be permitted to use the existing entrance, as the vehicle trips to the site are minimal; that the site entrance is off of Coastal Highway;**

that there are six proposed parking spaces, with one space being designated for handicap use; that the Applicant proposes one to two employees; that the employees associated with the property management and construction business would not access the site; that only one to two employees are proposed to access the site; that no materials are proposed to be stored on site; that no business vehicles are proposed to be stationed at the site; and that the site is proposed for administration purposes only.

- D.** Council found that the site is served by septic and private well; that no wetlands are located on the site; that there is a one-story dwelling existing on the site; that the aerials maps show the AR-1 District overlay, the Future Land Use overlay which identifies the property to be within a low-density area and an overlay of nearby Conditional Uses; that all surrounding properties are located within a low-density area; that all properties designated within low-density areas are also within the AR-1 Zoning District; that the Comprehensive Plan provides guidelines for future growth within low-density areas; that the guidelines provide that future development should be related to agricultural and residential uses; that the guidelines also focus on retail and office uses, stating those uses should provide goods and services to nearby residents; that the proposed use will provided needed services to current and future residents; that the proposed use will provide services to uses which are specifically construction and real estate service related; that the proposed use will provide services to current and future residents looking to construct or renovate a home; and that the Comprehensive Plan states that a commercial use in a low-density area should be limited in location, size and hours of operation.
- E.** Council also found that the proposed use is a permitted Conditional Use within the AR-1 Zoning District when the purposes of the Zoning Chapter are more fully met by issuing the Conditional Use permit; that Section 115-171 of the Code details the purpose of Article XXIV on Conditional Uses; that the permitted Conditional Uses are of public or semipublic character, being essential and desirable for the general convenience and welfare of nearby residents; that because the nature of the use, the importance of the relationship to the Comprehensive Plan and possible impact to neighboring properties and the County, Conditional Uses require the exercise of planning judgement on proposed location and Site Plan review; that the proposed use is of semi-public character, providing services to present and future Sussex County residents; that the proposed use is compatible with other surrounding uses; that the proposed use is less intensive than uses operating across the street from the site, being a gas station and an auto repair store; that the proposed use will operate entirely out of the existing residential structure which shall be renovated; that the renovations will be largely cosmetic and will provide an area for parking; that the use is not anticipated to negatively impact any of the adjacent properties; that the site has a significant existing vegetated buffer which will screen the proposed use from neighboring properties; that all existing trees are to remain on the site; that the proposed hours of operation will be 7:00 a.m. through 5:00 p.m., Monday through Saturday; that there will be no Sunday hours; that all dumpster and trash receptacles will be located to the rear of the property, being screened from view of neighboring properties and roadways; that the Applicant intends to place a sign in conformity of the Zoning Code requirements; that all designated parking areas will be shown on the Final Site Plan; and that the Final Site Plan will be subject to the review and approval of the Planning & Zoning Commission.
- 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 (7a. – h.), Council found that:
- 1.** The site was previously approved as a Conditional Use for a marine sales business at this location. This Application is for a less intensive use as a real estate service business office. There will not be any sales from the site. This Application is consistent with the previous use of the site for business and commercial purposes.
 - 2.** The Applicant intends to use the existing residential-style structure for a real estate services office.
 - 3.** The Applicant has stated that this site will only be used for real estate services, property management, and construction management uses and that a majority of the work will occur off-site. This is a low-impact use that is appropriate for this location.

- 4. The proposed use will not generate a significant amount of traffic, and it will not have any adverse effect on area roadways.**
- 5. The proposed use is very limited in nature within the existing residential-style structure, and it will not have any adverse impact on neighboring properties or the community.**
- 6. No parties appeared in opposition to this application.**
- 7. The Conditional Use is approved subject to the eight (8) conditions (a. – h.), which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**