

**ORDINANCE NO. 2885**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A REALTY OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.57 ACRES, MORE OR LESS**

**WHEREAS, on the 9<sup>th</sup> day of September 2021, a conditional use application, denominated Conditional Use No. 2313 was filed on behalf of John Ford; and**

**WHEREAS, on the 25<sup>th</sup> 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. 2313 be approved; and**

**WHEREAS, on the 20<sup>th</sup> day of September 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 IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2313 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 south east side of Savannah Road (Rt. 9) approximately 0.16 mile north east of Wescoats Road (Rt. 12) and being more particularly described in the attached legal description prepared by Baird Mandalas Brockstedt, LLC, said parcel containing 0.57 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 a real estate office within the existing structure. Any modifications to the floorplan of the existing structure shall be shown on the Final Site Plan.**
- b. One lighted sign shall be permitted. It shall not exceed 32 square feet per side.**
- c. The applicant shall comply with any DelDOT entrance and roadway improvement requirements.**
- d. Any security lighting shall be directed downward so that it does not shine on neighboring properties or roadways.**
- e. Any trash receptacles shall be screened from view from neighboring properties and roadways.**
- f. The Final Site Plan shall designate all parking areas, and these shall be clearly marked on the site itself.**
- g. The failure to comply with these conditions may result in the revocation of this 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. 2885 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 20<sup>TH</sup> DAY OF SEPTEMBER 2022.**

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**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 John Ford for a Conditional Use of land in an AR-1 Agricultural Residential District for a realty office to be located on a certain parcel of land lying and being in Lewes & Rehoboth Hundred, Sussex County, containing 0.57 acres, more or less (property lying on the southeast side of Savannah Road [Rt. 9] approximately 0.16 mile northeast of Wescoats Road [Rt. 12]) (911 Address: 1528 Savannah Road, Lewes) (Tax Parcel: 335-12.06-49.00).**
- B. Based on the record before the Planning and Zoning Commission and the hearing before the Sussex County Council, Council found that Mackenzie Peet, Esquire, with Baird Mandalas Brockstedt Federico & Cardea, was present on behalf of the Application, together with the Applicant, Mr. John Ford; that Mr. Ford is a real estate broker with RE/MAX Associates Delaware; that the Applicant submitted the Conditional Use application on September 8, 2021, to pursue a Conditional Use of land located within the AR-1 (Agricultural Residential) Zoning District to allow for a realty office to be located on the property; that the property is .57 acres; that the property is located on Savannah Road in Lewes, near the intersection of Savannah Road and Old Orchard Road, also known as Five Points; that the property is the former location of the Henlopen Grange No. 20; that Henlopen Grange No. 20 is one of America's oldest farm family fraternal service organizations; that Mr. Ford purchased the property on June 11, 2021; and that the site has an existing building and adequate parking area located at the front of the property,**
- C. Council also found that properties located adjacent to the site are located within the B-1 (Neighborhood Business) and AR-1 (Agricultural Residential) Zoning Districts; that other parcels within the vicinity of the site are in the B-1 (Neighborhood Business) and AR-1 (Agricultural Residential) and MR (Medium-Density Residential) Zoning Districts; that, since 2011, there have been eight Conditional Uses**

approved within a .25 mile radius of the site; that the requested Conditional Uses were for professional offices, hair studios, medical offices and multi-family use; that counsel's firm is located down the street from the site; that DeIDOT's Service Level Evaluation Response stated in part that they anticipated fewer than 50 tips to the site daily; that the proposed development's traffic impact is considered de minimis; that preliminary discussions with DeIDOT resulted in the anticipation that the existing entrance, off Savannah Road, will remain the same; that should the Conditional Use be approved, the Applicant will coordinate with all DeIDOT requirements; that Sussex County's Engineering Utility Planning & Review Department confirms that the property is to be served by Sussex County sewer; that a survey of the property was prepared by Karins & Associates and shows an existing building, existing entrance off Savannah Road, existing stairway leading into main entrance of the existing building and the large paved area at the front of the property, which will provide parking for staff and clients; that the adjacent property to the east of the site is the location of the Beebe Medical offices; and that there is a chiropractic office located across the street.

- D. Council found that the Future Land Use Map indicates that the property is located within a commercial area; that the Commercial Area is a designated growth area; that commercial areas included concentrations of retail and services uses, located along arterial roads and highways; that the property is located within Investment Level 1 within the State Strategies for State Policies and Spending Map; that within Investment Level I areas, State investments and policies should support and encourage a wide range of uses and densities which promote a variety of transportation options, foster efficient use of existing public and private investments; that commercial areas should enhance community identity and integrity; that the proposed business is consistent with other uses within the Commercial Area designation, very specifically in the proposed area along Savannah Road; and that the proposed use is a commercial use, which is permitted as a Conditional Use, when the purposes of the Zoning Chapter are more fully met by the issuance of a Conditional Use permit.
- E. Council further found that Section 115-171 details the purposes of a Conditional Use, with the purpose to provide certain uses, which cannot be well adjusted to their environment and particular locations, with full protection offered to surrounding properties by rigid application of the district regulations; that these uses are generally of public or semi-public character, being essential and desirable to the general convenience and welfare; that due to the nature of the use, the importance of the relationship to the Comprehensive Plan and the possible impact to neighboring properties and a large section of the County, require the exercise and planning judgement of location and site plan; that the use is of a public character, providing needed realty services to present and future residents in Sussex County; that the use is consistent with surrounding uses located on Savannah Road; that other surrounding uses seem to be more consistent with a B-1 Zone, rather than an AR-1 Zone; and that the use is consistent with the Future Land Use Designation of a commercial area.
- F. Council found that sufficient parking will be provided onsite, within the existing paved area; that the use is not anticipated to adversely affect neighboring properties, which offer similar office-type uses; that the property to the east is the location of the Beebe Medical Offices; that Beebe's office building entrance faces away from the subject site's entrance; that the back site of the Beebe's medical office fronts the property; that there is also a fence placed between the properties; that Mr. Ford owns the adjacent property on the other side; that Mr. Ford was granted a Conditional Use previously for the adjacent property, however, the Conditional Use expired; that Mr. Ford purchased the subject property, which is more convenient for the proposed use; that the use will occur within the existing structure which is to be renovated by the Applicant; that the hours of operation shall be between the hours of 9:00 am and 5:00 pm, Monday through Friday for realty staff; that the hours of operation shall be Monday through Sunday for all real estate agents; that the Applicant intends to place a sign in compliance with the Code requirements; that the Final Site Plan shall

**designate all parking areas associated with the use; and that the Final Site Plan shall be subject to the review and approval of the Commission.**

**G. 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.), as amended, Council found that:**

- 1. This site is along Savannah Road where a variety of conditional uses have been approved. It is close to Wescoats Corner, where several commercially zoned properties are located. It is within a section of Savannah Road where other professional and medical offices and other small businesses exist. Most of these are located within a structure that has existed for years, or they have a residential appearance. This use will be consistent with the way that this area of Savannah Road has developed.**
- 2. The applicant intends to use the former Grange Building for a real estate office.**
- 3. This site will only be for sales and office uses and a majority of the real estate work will occur off-site.**
- 4. This small business use within the existing structure will not generate a significant amount of traffic or adversely affect area roadways, neighboring properties, or the community.**
- 5. No parties appeared in opposition to the application.**
- 6. 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 the following eight (8) conditions (a. – h.), as amended, which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**