

ORDINANCE NO. 2391

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN ELECTRICAL SUBSTATION TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 4.0 ACRES, MORE OR LESS

WHEREAS, on the 23rd day of October 2014, a conditional use application, denominated Conditional Use No. 2007 was filed on behalf of Delaware Electric Cooperative, Inc.; and

WHEREAS, on the 12th day of February 2015, 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. 2007 be approved with conditions; and

WHEREAS, on the 31st day of March 2015, 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. 2007 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 Little Creek Hundred, Sussex County, Delaware, and lying northwest of Providence Church Road (Road 504) and across from Pine Branch Road (Road 503) and being more particularly described as follows:

BEGINNING at a concrete monument on the northwesterly right-of-way of Providence Church Road (Road 504), a corner for these subject lands and lands, now or formerly, of Nancy L. and Louis Moore; thence south 28°52'45" west 437.01 feet along the northwesterly right-of-way of Providence Church Road to an iron pipe; thence north 65°43'29" west 400.00 feet along lands of Delmarva Woodlands Alliance II, LLC to an iron pipe; thence north 28°52'45" east 437.01 feet along lands of Delmarva Woodlands Alliance II, LLC to an iron pipe; thence south 65°43'29" east 400.00 feet and aforementioned Moore lands to the point and place of beginning, said parcel containing 4.0 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 perimeter of the substation shall be fenced.**
- B. Four signs shall be permitted on the fencing around the property to identify the site and emergency contact information.**
- C. Any security lighting shall be screened away from neighboring properties and County roads.**
- D. Landscaping shall be provided to screen the facility from adjacent properties and roadways. Use of existing vegetation is acceptable.**
- E. Storage of materials or equipment is permitted, but not to exceed a period of 30 days.**
- F. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.**

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2391 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 31ST DAY OF MARCH 2015.



**ROBIN A. GRIFFITH
CLERK OF THE COUNCIL**

The Council found that the Change of Zone was appropriate legislative action based on the following Findings of Fact:

- A. This is the Application of Delaware Electric Cooperative, Inc. to consider the Conditional Use of land in an AR-1 Agricultural Residential District for an electrical substation to be located on a certain parcel of land lying and being in Little Creek Hundred, Sussex County, containing 4.0 acres, more or less, land lying northwest of Providence Church Road (Road 504) and across from Pine Branch Road (Road 503) (911 Address: None Available) (Tax Map I.D. #532-11.00-25.00 (part of).**
- B. Council found that DelDOT commented that a Traffic Impact Study was not recommended and that the current Level of Service "A" of Providence Church Road may change to a Level of Service "B" when the site is fully developed.**
- C. Council found that the Sussex Conservation District commented that the Applicant will be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation; that no storm flood hazard areas are affected; that it is not likely that off-site drainage improvements will be required; that it is possible that on-site drainage improvements will be required; and that no tax ditches are affected.**
- D. Council found the Sussex County Engineering Department Utility Planning Division commented that the site is located in the Western Sussex Planning Area #4; that use of an on-site septic system is proposed; that conformity to the Western Sussex Planning Study will be required; that the proposed use is not in an area where the County has a schedule to provide sewer at this time; and that a concept plan is not required.**

- E. Based on testimony before the Planning & Zoning Commission and the public hearing before the Sussex County Council, Council found that Terry Jaywork, Esquire of Hudson, Jones, Jaywork and Fisher, PA, was present on behalf of Delaware Electric Cooperative, Inc. with Jack Jester of Delaware Electric Cooperative, Inc. and Walter Hoey of Century Engineering, and that they stated that the proposed substation is needed due to projected development in the area; that the substation will aid the Cooperative with the routing of their electrical service; that the substation will be screened from adjacent properties; that the area of the substation will encompass approximately one (1) acre of the four (4) acre parcel; that the highest point of any structure or equipment will not exceed 35 feet; that security lighting will be provided and will be downward illuminated so that they do not shine onto neighboring properties; that the substation will be fenced with 8-foot chain-linked fencing with security wire across the top; that warning signage is proposed on all sides of the fencing; that typically the electrical hum cannot be heard within 100 feet of the transformer; that the transformers will be at least 150 feet from any property line; that once constructed the site will only have one or two monthly inspection visits; that there will not be any outside equipment or material storage on the site; that the use will have no negative impact on traffic in the area; that the four (4) acre parcel size allows space for the Cooperative to screen and buffer the facility and the possibility of future expansion, if needed; and that the local fire company is normally provided a means of access to the property, in case of an emergency.**
- F. Council found that there were no parties present in support of or in opposition to this application.**
- G. Based on the Findings (1 through 3) and the Conditions (4a. through f.) of the Planning & Zoning Commission and the record created before the Sussex County Council, Council found that:**
- 1. The Conditional Use for an electrical substation is of a public nature, and it promotes the health, safety and welfare of the residents of Sussex County.**
 - 2. It is located on a large tract in a rural area where it will have a minimal impact on neighboring or adjacent properties.**
 - 3. The Co-op has stated that the substation is necessary to maintain and improve its electrical service to the current and future residents of Sussex County.**
 - 4. Based on the record and recommendations of the Planning & Zoning Commission and the record created before the Council, the Conditional Use is approved subject to the following conditions which will serve to minimize any potential impacts on the surrounding area and adjoining properties:**