

ORDINANCE NO. 2247

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A PUBLIC UTILITY (ABOVE GROUND STORAGE TANK) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 2.19 ACRES, MORE OR LESS

WHEREAS, on the 5th day of January 2012, a conditional use application, denominated Conditional Use No. 1924 was filed on behalf of Colony Pool Service; and

WHEREAS, on the 8th day of March 2012, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 22nd day of March 2012, said Planning and Zoning Commission recommended that Conditional Use No. 1924 be approved with conditions; and

WHEREAS, on the 3rd day of April 2012, 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 115-31, Code of Sussex County, be amended by adding the designation of Conditional Use No. 1924 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 Baltimore Hundred, Sussex County, Delaware, and lying at the northwest corner of the intersection of Sanctuary Court within the Sanctuary Subdivision and Delaware Route One (Tax Map 1-34 - 9.00 - 12.00) and being more particularly described as follows:

BEGINNING at a point at the northwest corner of the intersection of Sanctuary Court, a private road within The Sanctuary Subdivision, and Delaware Route One, thence along Sanctuary Court, south 88°34'05" west a distance of 350.36 feet to a point, said point being a corner for these lands and lands of Lot 23 of the Sanctuary Subdivision, thence

along said Lot 23 of The Sanctuary Subdivision, north 00°33'58" west a distance of 273.23 feet to a found capped rebar, said rebar being a corner for these lands and lands now or formerly of the Reserve at North Bethany, LLC, thence along said lands north 88°20'10" east a distance of 345.82 feet to a found concrete monument on the west side of the right of way of Delaware Route One, thence along said right of way of Delaware Route One, the following two (2) courses and distances: (1) south 01°30'50" east 223.71 feet to a found concrete monument and (2) south 01°30'50" east, 50.06 feet to said point of beginning, said parcel to contain 2.19 acres, more or less, as surveyed by Delaware Surveying Services dated December 13, 2011 (Tax Map 1-34-9.00-12.00).

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:

1. As stated by the Applicant, the use shall be limited to the proposed 6,250 gallon vertical tank within the Sussex Shores Water Company, Inc. water plant compound.
2. In the event that the Conditional Use issued to Sussex Shores Water Company, Inc. shall terminate, this Conditional Use shall also automatically terminate.
3. As stated by the Applicant, the use shall be seasonal from April 15 through October 15.
4. As further stated by the Applicant, deliveries to and from the storage tank shall be limited to Monday through Friday between 8:00 a.m. and 4:00 p.m.
5. The tank area shall be enclosed with fencing and the fencing shall contain a sign with notification information in the event of a leak or other damage to the tank. The notification shall include a 911 reference and phone number for the owner and the Department of Natural Resources and Environmental Control (DNREC). Such a sign shall also be installed at the entrance to the Sussex Shores facility.
6. Prior to the issuance of the Final Site Plan approval, the Applicant shall provide the Office of Planning and Zoning with confirmation that it has notified the State Fire Marshal of the intended use and the chemical that will be stored on site.
7. The Applicant shall comply with any and all Federal, State and County regulatory agencies having authority and jurisdiction over the proposed use; in addition, the Applicant shall comply with applicable County Building Code requirements for

construction of this structure in a coastal high-wind area.

8. The Final Site Plan, with a landscape plan, shall be subject to 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. 2247 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 3RD DAY OF APRIL 2012.


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:

1. This is an application to consider the Conditional Use of land in a MR Medium Density Residential District for a public utility (above ground storage tank) to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 2.19 acres, more or less, lying at the northwest corner of the intersection of Sanctuary Court within the Sanctuary Subdivision and Delaware Route One.
2. DelDOT's comments were not requested since this use is an accessory service use to an existing utility with access from an interior drive.
3. The Sussex County Engineering Department, Utility Planning Division, commented that the site is located in the North Bethany Expansion of the Bethany Beach Sanitary Sewer District; that an 8-inch lateral is located along the parcel's frontage on Route One; that conformity to the South Coastal Area Planning Study will be required; and that a Concept Plan is not required.
4. Josiah Wolcott, Esquire, and Timothy Kelly appeared on the Applicant's behalf stating that the application is for a Conditional Use within a Conditional Use; that the Sussex Shores Water Company, Inc. already has a Conditional Use for a public utility and this application would only be for the purpose of adding a 6,250 containment tank.
5. The application is for an above ground chlorine storage tank to be located within the existing Sussex Shores Water Company, Inc. compound on Route One near

Bethany Beach; that storage of this product will allow the Applicant to better and more efficiently serve its clients in Sussex County as well as Sussex Shores Water Company, Inc. by eliminating excessive trips to and from Wilmington carrying product to customers in Sussex County; and that the proposed use is consistent with the existing utility use of the Sussex Shores Water Company, Inc. for the property.

- 6. The property is located in the Environmentally Sensitive Development District Overlay Zone and is near the coast where it will be susceptible to high wind, hurricanes, etc. and is in close proximity to residences.**
- 7. The use is of a public or semi-public character.**
- 8. There were no parties present in support of or in opposition to this application.**
- 9. The Council found that there is no indication that the use will adversely affect neighboring properties or roadways.**
- 10. Based on the record and recommendations of the Planning and Zoning Commission and the record created before Council, the Conditional Use is approved subject to eight (8) conditions, which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**