

ORDINANCE NO. 2402

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN ELEMENTARY SCHOOL TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 25.4 ACRES, MORE OR LESS

WHEREAS, on the 23rd day of February 2015, a conditional use application, denominated Conditional Use No. 2016 was filed on behalf of Cape Henlopen School District; and

WHEREAS, on the 7th day of May 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. 2016 be approved with conditions; and

WHEREAS, on the 16th day of June 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, Section 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2016 as it applies to the property hereinafter described.

Section 2. The subject property is described as:

All that certain tract, piece or parcel of land, lying and being in Lewes and Rehoboth Hundred, Sussex County, Delaware, and lying northwest of John J. Williams Highway (Route 24) 500 feet southwest of Mulberry Knoll Road (Road 284) and being more particularly described as Parcel "A" in Plot Book 202 Pages 54 and 55 in the Office of the Recorder of Deeds in and for Sussex County, said parcel containing 25.4 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 site shall comply with all DelDOT entrance and roadway improvement requirements.**
- B. The site shall comply with all requirements of the Sussex Conservation District.**
- C. All lighting shall be downward screened so that it does not shine on neighboring properties or roadways.**
- D. There shall be a 20 foot wide forested buffer installed and maintained along all residential lots along the northeast boundary of the site.**
- E. 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. 2402 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 16TH DAY OF JUNE 2015.



**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 Cape Henlopen School District to consider the Conditional Use of land in an AR-1 Agricultural Residential District for an elementary school to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 25.4 acres, more or less. The property is located northwest of John J. Williams Highway (Route 24) 500 feet southwest of Mulberry Knoll Road (Road 284) (911 Address: None Available) (Tax Map I.D. 334-12.00-45.01).**
- B. Council found that the Sussex Conservation District commented that the Applicant will be required to follow recommended erosion and sedimentation control practices during construction and to maintain vegetation after construction; that no storm flood hazard areas are affected; that it is not likely that off-site drainage improvements will be required; that on-site drainage improvements will be required; and that no tax ditches are affected.**
- C. Council found that the Sussex County Engineering Department, Utility Planning Division, commented that the site is located in the West Rehoboth Expansion Area; that wastewater capacity is available for the project; that Ordinance 38 construction will be required; that sewer service has not yet been extended to the Goslee Creek Planning Area; that a connection point will be determined at a later date; that conformity to the Goslee Creek Planning Study and draft priority project memorandum dated April 1, 2015 will be required; that the project area is located in the Goslee Creek Planning Area for sewer service and was recently annexed into the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District; that the County completed a planning study to determine how service to the Planning Area will be provided; that the proposed school project was included as a priority project in the study, and a means for providing service was included as a work item; that the County recently requested that its consultant undertake further study of three priority projects to develop connection options allowing for flexible construction timelines; that the school is one of the priority projects studied; that the report has**

been provided to the School District; that easements and a pump station site must be provided to the County; that the County requires design and construction of the collection and transmission system to meet County sewer standards and specifications; that the County Engineer must approve the connection point; that a Sewer Concept Plan must be submitted for review and approval prior to design of the sewer system; and that a checklist was provided for preparing concept plans.

- D. Based on testimony before the Planning & Zoning Commission and the public hearing before the Sussex County Council, Council found that James Fuqua, Esq. with Fuqua, Yori and Willard, P.A. was present on behalf of the Cape Henlopen School District with Zac Crouch, Professional Engineer with Davis Bowen & Friedel, Inc., and Brian Bassett with the Cape Henlopen School District, and that they stated that the proposed Love Creek Elementary School is intended to serve students from Kindergarten through 5th grade; that the new school location required approval from the State; that 11 possible school locations were reviewed and considered by PLUS; that after consideration, this site was chosen as the most appropriate; that this site is located in an area of the District with the largest population concentration of students; that the site is directly across from the Beacon Middle School; that the State will pay 60% of the cost for the School; that the District will have to pay the remainder; that a referendum was held on April 2, 2014 and was approved; that central sewer will be provided by the County; that central water will be provided by Tidewater Utilities, Inc.; that there are no Federal or State Wetlands on the site; that there are no known archaeological sites or environmental concerns relating to the site; that the site is in close proximity to the shared Lewes/Rehoboth Beach Fire Department facility to the west; and that stormwater management will be designed to current DNREC regulations.
- E. Council further found that that buses already travel Route 24; that the Traffic Impact Study has been completed and is in final review by DelDOT; that the entrance is directly across from the Beacon Middle School entrance at the traffic light; that a limited joint access with the State Police facility is proposed; that 167 parking spaces are required; that 177 parking spaces are proposed with additional bus parking facilities; that the bus area and limited access to the Troop 7 facility will be gated; that the intersection with the Beacon School will be a 4-way lighted intersection; that multi-modal facilities will be completed to State specification and subject to review, approval and inspection by DelDOT; that they hope to be able to break ground in the Fall of 2015; that it has always been a desire of the State to improve the Mulberry Knoll intersection due to safety concerns, but it is not likely that a traffic light will be installed due to the close proximity to the traffic light at the Beacon School entrance; that pedestrian access is anticipated at the Beacon School signal for access between the Beacon School and the Elementary School; that no variances will be needed; that sidewalks will interconnect to the multi-modal paths; and that standard widening of Route 24 is anticipated per DelDOT.
- F. Council also found that that the building has been designed for future expansions; that two outdoor recreational fields and playground areas are proposed; that all playground equipment will be designed to National standards; that the site is located in an Investment Level 2 Area according to the Strategies for State Policies and Spending document; that the site is located in an Environmentally Sensitive Developing Area according to the Comprehensive Plan 2008, which supports public service uses; that the use complies with the purpose of a Conditional Use since it supports public and semi-public uses; and that they previously met with the County Engineering Department and will be building a pump station to be shared with the Troop 7 facility.
- G. Based on the record and recommendation of the Planning and Zoning Commission and the Planning and Zoning Commission's Findings (1 through 9) and Conditions (A through E), Council found that:
1. The use is for a public purpose – a new elementary school for the children and families of the Cape Henlopen School District.
 2. A new elementary school will promote the health, safety, and welfare of Sussex County residents and their children.

3. **The site is appropriate for this use. It is in a location along Route 24 across from the existing Beacon Middle School. It will serve children from families in the growing areas of Route 24, Love Creek, and Angola Neck who are currently bussed to other elementary schools in the District. This will shorten the bus times for these children and create a community school for the children and their families.**
4. **The new school was the subject of a successful referendum that passed within the Cape Henlopen School District.**
5. **Based upon the information presented during the public hearing, there is a need for an additional elementary school in this area of Sussex County within the Cape Henlopen School District, and it will reduce crowding in the existing elementary schools in the District.**
6. **The use will not adversely affect neighboring properties or roadways.**
7. **The State Office of Management and Budget, the Department of Education, and the Office of State Planning Coordination have each approved this site for an elementary school.**
8. **The site will be served by central water and Sussex County sewer.**
9. **The site is in a growth area according to the Sussex County Comprehensive Plan, which is an appropriate location for an elementary school.**
10. **Based on the record and recommendation of the Planning & Zoning Commission, the Conditional Use is approved subject to five (5) conditions (A – E) which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**