

## **ORDINANCE NO. 2454**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR EQUIPMENT STORAGE AND REPAIR FOR A CONTRACTING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 4.972 ACRES, MORE OR LESS**

**WHEREAS, on the 8th day of March 2016, a conditional use application, denominated Conditional Use No. 2047 was filed on behalf of Delmarva Petroleum Service; and**

**WHEREAS, on the 12th day of May 2016, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 26th day of May 2016, said Planning and Zoning Commission recommended that Conditional Use No. 2047 be approved with conditions; and**

**WHEREAS, on the 21st day of June 2016, 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. 2047 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 Cedar Creek Hundred, Sussex County, Delaware, and lying northeast of Clendaniel Pond Road (Road 38), 700 feet north of Fleatown Road (Road 224), and being more particularly described in Deed Book 3864, Page 333, in the Office of the Recorder of Deeds in and for Sussex County, said parcel containing 4.972 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 equipment storage and repairs associated with the Applicants' petroleum service business.**
- B. As stated by the Applicant, no sales or displays shall occur on the site.**
- C. As stated by the Applicant, no petroleum storage shall occur on the site, other than what is required for day-to-day operations of the Applicant's vehicles and equipment.**
- D. All security lighting shall be downward screened so that it does not shine on neighboring properties or roadways.**
- E. All parking and equipment storage locations shall be clearly shown on the Final Site Plan, which 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. 2454 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 21ST DAY OF JUNE 2016.**

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**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 Delmarva Petroleum Service for a Conditional Use of land in an AR-1 Agricultural Residential District for equipment storage and repair for a contracting business located on a certain parcel of land lying and being in Cedar Creek Hundred, Sussex County, containing 4.972 acres, more or less. The property is located northeast of Clendaniel Pond Road (Road 38) approximately 700 feet north of Fleatown Road (Road 224). (911 Address: 9483 Clendaniel Pond Road, Lincoln) (Tax Map I.D. 230-13.00-148.00).**
- B. Council found that DelDOT commented that it had performed a Service Level Evaluation, and that a Traffic Impact Study was not required.**
- C. Council found that the Sussex County Engineering Department, Utility Planning Division, submitted comments.**
- D. Based on testimony before the Planning & Zoning Commission and the public hearing before the Sussex County Council, Council found that Dennis Schrader, Esquire, was present on behalf of the Applicant, with Curtis Walls, the property and business owner; that the 4.972 acre parcel is zoned AR-1 Agricultural Residential District; that he has been operating his business at this location for five (5) years; that he realized recently he did not have the proper approval needed to operate a business on this property and applied right away; that when the Applicant purchased the property, the previous owner operated a business; that the property is located in a low density Level 4 Area; that no new streets will be created; that there are no wetlands or tax**

ditches on the property; that his son lives in the existing dwelling on the property; that no business is conducted from the dwelling; that the existing block building was constructed in 2005 by the previous owner for his business; that the block building and pole shed are used for equipment storage and repair for a contracting business; that there are Leyland Cypress trees along both side property lines; that there is an existing fence between the dwelling and the existing buildings used for business; that farmland surrounds the property; that the nearest dwelling is approximately 150 feet away; that the use is compatible with the neighborhood; and that there have been no previous complaints from the neighbors.

E. Council also found that there is adequate parking; that there are no sales, displays or customers on the property and no business is conducted thereon; that his employees arrive at the site approximately at 7:00 a.m. to load the work trucks and leave the site by 7:30 a.m.; that the employees return to the site between 4:00 p.m. and 4:30 p.m. at the end of the day; that there is no petroleum stored on the property; that they only store equipment needed to maintain petroleum equipment for their customers; that he currently has four (4) employees in state and three (3) employees that work out of state; that they receive approximately three (3) UPS deliveries per week; that there is no negative impact on traffic; that the security lighting on the property does not shine on the neighbors' properties; that they do maintenance on their work trucks such as oil changes or minor repairs; that large repairs to vehicles are not done at the site; that equipment repair is the business and all work is done at the customer's property; that regular hours of operation are Monday through Friday; that they are on-call 24/7 and on Saturday and Sundays; that there is a significant tree line and distance from the road; and that there is no need for a trash enclosure.

F. Based on the Planning and Zoning Commission's Findings (1 through 7) and Conditions (8a – 8e), Council found that:

1. The site is on a parcel with a residence and the Applicant's son will continue to reside on the property.
2. The property is zoned AR-1 Agricultural Residential. The use will be very similar to equipment storage and maintenance associated with farming operations and agricultural equipment.
3. The use will not adversely affect neighboring properties or roadways. The nearest dwelling is also more than 150 feet away.
4. There will be no significant traffic generated by the use, since there are not any sales, displays or customers on the property.
5. The proposed use provides a service to residents and businesses in Sussex County without any significant negative impacts.
6. The use is consistent with the prior use of this property for business purposes.
7. No parties appeared in opposition to the application.
8. Based on the record and recommendation of the Planning & Zoning Commission, the Conditional Use is approved subject to five (5) conditions (a through e) which will serve to minimize any potential impacts on the surrounding area and adjoining properties.