

**ORDINANCE NO. 2455**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A WAREHOUSE AND OFFICE TO RECEIVE AND STORE HVAC EQUIPMENT TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 1.457 ACRES, MORE OR LESS**

**WHEREAS, on the 8th day of March 2016, a conditional use application, denominated Conditional Use No. 2048 was filed on behalf of Delaware Shore Equity, LLC; 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. 2048 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. 2048 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 Indian River Hundred, Sussex County, Delaware, and lying east of John J. Williams Highway (Route 24), 1,150 feet southwest of Jolyns Way (Road 289), and being more particularly described in Deed Book 4408, Page 289, in the Office of the Recorder of Deeds in and for Sussex County, said parcel containing 1.457 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 a warehouse and office to receive and store HVAC equipment.**
- B. There shall be no retail sales from the property.**
- C. No vehicle repair shall be performed on site.**
- D. All lighting on the site shall be downward screened so that it does not shine on neighboring properties or roadways.**
- E. Any dumpsters on the site are to be screened from view of neighboring properties and roadways.**
- F. The Applicant shall comply with all DelDOT requirements for entrance and roadway improvements.**
- G. No outside storage unless properly screened with fencing or landscaping.**
- H. Signage shall not exceed six (6) square feet on each side and shall not be lighted.**
- I. The Final Site Plan, which shall contain a landscape buffer, 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. 2455 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 is appropriate legislative action based on the following Findings of Fact:**

- A. This is the application of Delaware Shore Equity, LLC for a Conditional Use of land in an AR-1 Agricultural Residential District for a warehouse and office to receive and store HVAC equipment located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 1.457 acres, more or less. The property is located east of John J. Williams Highway (Route 24), 1,150 feet southwest of Jolyns Way (Road 289) (911 Address: None Available) (Tax Map I.D. 234-11.00-502.00)**
- 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 David George, the property and business owner; that the 1.457 acre parcel is zoned AR-1 Agricultural Residential District; that the property is located in the Environmentally Sensitive Area and located in a Level 2 Low Density Area; that the Applicant has run the business out of his home for**

twenty-two (22) years; that all work is done at the customer's location and no work is done at the site; that the employees start their work day from their homes; that the existing building on the property will be used to store equipment and vehicles; that the property is wooded along the right side and rear of the property; that there are security lights on the existing building and they do not shine on the neighboring properties; that the Applicant plans to build a dwelling on the property in the future; that employees will only be on site once or twice a week to pick up equipment needed for the customer; that he has two (2) employees; that approximately two (2) deliveries per week will be made to the site; that the use will not have a negative impact to the neighborhood or impact traffic; that the use is compatible to the surrounding area; that there is a boat storage facility, church, fire station, and upholstery business in the area; that only HVAC equipment will be stored in the building; that the refrigerant stored on site is not a hazardous material; and that there will be no vehicle repair done on site.

**E. Based on the Planning and Zoning Commission's Findings (1 through 6) and Conditions (7A through 7I), as amended, Council found that:**

- 1. The site is located on Route 24, which is a significant roadway in the area. This use, with no retail sales or other significant activity on the site, is appropriate for this location along Route 24.**
- 2. The use is situated on a 1.457 acre parcel of land. It is situated among other larger parcels of land. The use is compatible with the surroundings and will not have a negative impact on neighboring properties or roadways.**
- 3. No work is done at the site and all employees start the workday from their own homes. The existing building will only be used to store equipment and vehicles.**
- 4. The Applicant has stated that he previously operated his business from his home. As the business successfully grew, another more appropriate location was needed. This site allows the reasonable expansion of the Applicant's previous business in an appropriate location that will serve the residents of Sussex County.**
- 5. No parties appeared in opposition to the application.**
- 6. Small businesses such as this are appropriate in the Environmentally Sensitive Area according to the Sussex County Land Use Plan.**
- 7. Based on the record and recommendation of the Planning & Zoning Commission, the Conditional Use is approved subject to nine (9) conditions (a through i) which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**