

ORDINANCE NO. 2458

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A C-1 GENERAL COMMERCIAL DISTRICT FOR A PUBLIC UTILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 20.48 ACRES, MORE OR LESS

WHEREAS, on the 18th day of April 2016, a conditional use application, denominated Conditional Use No. 2052 was filed on behalf of Delaware Electric Cooperative, Inc.; and

WHEREAS, on the 9th day of June 2016, 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. 2052 be approved with condition; and

WHEREAS, on the 19th day of July 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 XI, Subsection 115-79, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2052 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 Northwest Fork Hundred, Sussex County, Delaware, and lying west of Sussex Highway (U.S. Route 13) north of Adams Road (Road 583) and east of Cart Branch Road (Road 583A) and being more particularly described in Deed Book 325, Page 504; Deed Book 364, Page 61; Deed Book 479, Page 384; Deed Book 1156, Page 248; and Deed Book 1779, Page 162, in the Office of the Recorder of Deeds in and for Sussex County, said parcel containing 20.48 acres, more or less, within the referenced road boundaries.

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 condition:

- 1. 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. 2458 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 19TH DAY OF JULY 2016.

**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 Delaware Electric Cooperative, Inc. to consider the Conditional Use of land in a C-1 General Commercial District for a public utility located on a certain parcel of land lying and being in Northwest Fork Hundred, Sussex County, containing 20.48 acres, more or less. The property is located west of Sussex Highway (U.S. Route 13) north of Adams Road (Road 583) and east of Cart Branch Road (Road 583A) (911 Address: 14198 Sussex Highway, Greenwood) (Tax Map I.D. 530-14.00-13.00, 14.00, 16.00 and 18.01).**
- B. Council found that DelDOT commented that the site is located in the Department's Corridor Capacity Preservation Program; that the main goal of the program is to maintain the capacity of the existing highway; that the property is located in a Level 2 Investment Area according to the State Strategies where State policies will promote efficient and orderly development; that given that the land is already developed, the Applicant can retain use of the existing entrances along U.S. Route 13; and that entrance improvements may be required to accommodate the increase in number of trips due to the proposed site.**
- C. Council found that the Sussex County Engineering Department, Utility Planning Division, commented that the site is located in the Western Sussex Planning Area #1; that a private septic system is required; 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.**
- D. 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. at the Planning & Zoning Commission hearing, and that D. Barrett Edwards, IV, Esquire of Hudson, Jones, Jaywork and Fisher, PA, was present on its behalf at the Sussex County Council hearing; that they stated that the Cooperative is proposing a 20,000+ square foot warehousing expansion on the site; that they intend to combine all of the parcels into one parcel; that the property is zoned C-1 General Commercial; that the history of the site includes existing offices, repair shops, storage facilities, transformer storage, wire sheds, open pole storage, employee and customer parking areas, and work vehicles parking areas; that the property to the north is also zoned C-1 General Commercial; that main access and work truck access are on U.S. Route 13; that secondary access exists on both Adams Road and Cart Branch Road; that there are some wetlands on the northerly end of the property and that the wetlands have been delineated and will be left undisturbed; that a couple of their buildings encroach into the setbacks from Cart Branch Road due to changes in the setback requirements; that the majority of the outdoor storage of equipment will be moved indoors when the warehousing is constructed; that property to the west of Cart Branch Road is owned by the Applicant, but is not a part of this application; and that no additional signage is intended.**
- E. Based on the Planning & Zoning Commission's Findings (1 through 9) and one Condition (10a), and the record created before the Sussex County Council, Council found that:**

- 1. This is an expansion of the existing Delaware Electric Cooperative headquarters property. At the same time, the Applicant seeks to bring its entire property under a single Conditional Use.**
- 2. The location along U.S. Route 13 is appropriate for this expansion, and the Conditional Use overlay of the rest of the Cooperative site.**
- 3. The property is zoned C-1 General Commercial, which is appropriate for this type of use. There are also other C-1 General Commercial properties in the area.**
- 4. The application seeks to obtain a Conditional Use approval for the entire property, which will enable the Applicant to consolidate all of its separate parcels along U.S. Route 13 into a single parcel totaling approximately 20.48 acres.**
- 5. DelDOT has no objection to the application, and has stated that the existing entrances will continue to be used.**
- 6. The use as a public utility promotes the health, safety, welfare and general convenience of Sussex County and its residents.**
- 7. The additional warehouse space is appropriate and necessary as a result of the growth of Sussex County and the increase in customers of the Cooperative. The Cooperative is currently exceeding its storage capacity.**
- 8. The conversion of this existing use to a conditional use along with the addition of new warehousing space will not adversely affect neighboring properties or roadways.**
- 9. No parties appeared in opposition to this application.**
- 10. Based on the record and recommendations of the Planning & Zoning Commission and the record created before Council, the Conditional Use is approved subject only to the following one (1) condition which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**