

ORDINANCE NO. 2463

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN OFFICE, EQUIPMENT STORAGE, AND PARKING FOR A CONSTRUCTION COMPANY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 2.0 ACRES, MORE OR LESS

WHEREAS, on the 23rd day of May 2016, a conditional use application, denominated Conditional Use No. 2054 was filed on behalf of UtiliSite, Inc.; and

WHEREAS, on the 11th day of August 2016, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 25th day of August 2016, said Planning and Zoning Commission recommended that Conditional Use No. 2054 be approved with conditions; and

WHEREAS, on the 20th day of September 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. 2054 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 Robinsonville Road (Road 277), 800 feet north of Harts Road (Road 277A), and being more particularly described in Deed Book 1551, Page 72, in the Office of the Recorder of Deeds in and for Sussex County, said parcel containing 2.0 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 an office, equipment storage and parking for a construction company.**
- B. There shall be no retail sales from the property.**
- C. As stated by the Applicant, the existing tree line shall be extended to screen the service and equipment yard area from view of neighboring properties and roadways.**
- 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 the view of neighboring properties or roadways.**
- F. The Applicant shall comply with all DelDOT requirements for entrance and roadway improvements.**
- G. Signage shall not exceed 32 square feet on each side and may be lighted.**
- H. 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. 2463 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 20TH DAY OF SEPTEMBER 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 UtiliSite, Inc. for a Conditional Use of land in an AR-1 Agricultural Residential District for an office, equipment storage, and parking for a construction company located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 2.0 acres, more or less. The property is located at the east of Robinsonville Road (Road 277), 800 feet north of Harts Road (Road 277A) (911 Address: 20721 Robinsonville Road, Lewes) (Tax Map I.D. 234-6.00-9.01)**
- B. Council found that DelDOT commented that a Traffic Impact Study is not recommended, and that the Level of Service of Robinsonville Road will not change as a result of this application.**
- C. Council found that the Sussex Conservation District commented that the Applicant will be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation after construction; that no storm flood hazard areas are affected; that off-site drainage improvements should not be necessary; that it may not be necessary for on-site drainage improvements; and that no tax ditches are affected.**
- D. Council found that the Sussex County Engineering Department, Utility Planning Division, commented that the site is located in the Angola Planning Area; that an on-site septic system is proposed; that conformity to the North Coastal Planning Study will be required; that the proposed use is not in an area where the County currently has a schedule to provide sewer service; and that a Concept Plan is not required.**

- E. Based on testimony before the Planning & Zoning Commission and the public hearing before the Sussex County Council, Council found that Sharon Hart was present on behalf of UtiliSite, Inc. and stated that she resides on the property; that they started a small construction company in 2004, improved the site by creating a tree line around most of the perimeter in 2006, and built an open pole building/garage in 2007 to store equipment and materials; that family members own the adjacent properties; that they have 10 employees; that they have two utility trucks and two dump trucks; that four of the employees come to the site, park, and then leave in the trucks to take equipment to the job sites; that the other employees go directly to the job sites; that most of their work is site work and utility work off site; that deliveries of materials and parts, etc. are taken to the job sites; that there are minimal deliveries to this location; that they do store some materials on the site, mostly materials that are left over from past projects; that they do intend to extend the tree line screening; and that there are several other businesses in the general area, and referenced lawn care, auto repair, and a beauty salon.**
- F. Based on the record and recommendation of the Planning and Zoning Commission and the Planning and Zoning Commission's Findings (1 through 6) and Conditions (A through H), Council found that:**
- 1. This is an existing business that has evolved on the property where the owner lives. It has grown from what was close to a home occupation to the point where it now requires a Conditional Use approval.**
 - 2. The use is situated on a 2.0 acre parcel of land. It is situated among other larger parcels of land owned by other members of the Applicant's family. The use is compatible with the surroundings and will not have a negative impact on the neighboring properties or roadways.**
 - 3. No significant work other than administration is done at the site, and most of the employees start the work day from their own homes. The existing building will only be used to store equipment and vehicles.**
 - 4. The site is located on Robinsonville Road, but it is very close to Route 24. This is an appropriate location for this low-impact small business.**
 - 5. No parties appeared in opposition to the application.**
 - 6. Small businesses such as these are appropriate in the Environmentally Sensitive Developing 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 eight (8) conditions (A – H), which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**