

ORDINANCE NO. 2464

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN HVAC BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.10 ACRES, MORE OR LESS

WHEREAS, on the 10th day of May 2016, a conditional use application, denominated Conditional Use No. 2053 was filed on behalf of Red Dog Plumbing and Heating c/o Ken Wood; 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. 2053 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. 2053 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 Baltimore Hundred, Sussex County, Delaware, and lying northwest of Roxana Road (Route 17) across from Smith Avenue and 400 feet northeast of Smithfield Acres Road (Road 52B), said parcel containing 1.10 acres, more or less, and being more particularly described as:

BEGINNING at a point in the center of a ditch on the northwesterly right-of-way of Roxana Road (Route 17), at a corner for these subject lands and lands of Clifton C. Murray, Trustee; thence South 48°40'58" West 402.27 feet along the northwesterly right-of-

way of Roxana Road to a point in the center of a ditch; thence North 09°23'27" East 376.27 feet with the centerline of said ditch to a point; thence South 66°18'31" East 262.88 feet with the centerline of said ditch to the point and place of beginning and containing 1.10 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:

1. The use shall be limited to an HVAC business located on the same parcel as the Applicant's home.
2. There shall be no retail sales from the property.
3. All lighting on the site shall be downward screened so that it does not shine on neighboring properties or roadways.
4. All dumpsters on the site are to be screened from the view of neighboring properties and roadways.
5. There shall not be any outside storage of any HVAC equipment or materials associated with the use.
6. The Applicant shall comply with all DelDOT requirements for entrance and roadway improvements.
7. Signage shall not exceed 32 square feet on each side and shall not be lighted.
8. 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.2464 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 is appropriate legislative action based on the following Findings of Fact:

- A. This is the application of Red Dog Plumbing and Heating, c/o Ken Wood, to consider the Conditional Use of land in an AR-1 Agricultural Residential District for an HVAC business located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 1.10 acres, more or less. The property is located at the northwest of Roxana Road (Route 17) across from Smith Avenue and 400 feet northeast of Smithfield Acres Road (Road 52B) (911 Address: 37058 Roxana Road, Selbyville) (Tax Map I.D. 533-10.00-14.00).**
- B. Council found that DelDOT commented that a Traffic Impact Study is not recommended and that the Level of Service “C” of Roxana 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 not located in a proposed or current County operated and maintained sanitary sewer district; that the site is located in a Town of Selbyville Growth or Annexation Area; that an on-site septic system is proposed; that the project is not capable of being annexed into a County operated sanitary sewer district; that conformity to the Western Sussex 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 Ken Wood was present on behalf of Red Dog Plumbing and Heating and stated that he is the owner and operator of the business; that he lives on the premises; that he purchased the property and home to live in and opened the HVAC business; that he has made many improvements to the property; that he stores materials and equipment in the garage; that he did receive a notice from the Planning and Zoning Department and immediately applied for this application; that a dumpster is maintained beside the garage and is somewhat hidden; that there is nothing standing around the dumpster; that he does have multiple signs on the premises; that he does not do any sheet metal work on the premises; that he has six employees, counting himself; and he has five business vehicles; and that he has no intent to expand the business any further at this site.**
- F. Council found that there were no parties present in support of or in opposition to this application.**
- G. Based on the record and recommendation of the Planning and Zoning Commission and the Planning and Zoning Commission’s Findings (1 through 4) and Conditions (5A through H), Council found that:**
 - 1. The site is located along Roxana Road, along with the Applicant’s residence. This use, with no retail sales or other significant activity on the site, is appropriate for this location.**
 - 2. No work is to be done at the site, and all employees start the workday from their own homes. As a result, the use will not have a negative impact on the neighboring properties or roadways.**

- 3. This site allows the reasonable expansion of the Applicant's home based business in an appropriate location that will serve the residents of Sussex County.**
- 4. Small businesses such as these are appropriate in the Town Center Area according to the Sussex County Land Use Plan.**
- 5. Based on the record and recommendation of the Planning & Zoning Commission, the Conditional Use is approved subject to eight (8) conditions which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**