

ORDINANCE NO. 2471

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN ELECTRICAL SUBSTATION TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 4.0 ACRES, MORE OR LESS

WHEREAS, on the 21st day of June 2016, a conditional use application, denominated Conditional Use No. 2057 was filed on behalf of Delaware Electric Cooperative, Inc.; and

WHEREAS, on the 22nd day of September 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. 2057 be approved with conditions; and

WHEREAS, on the 25th day of October 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. 2057 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 south of Zoar Road (Route 48) 3,300 feet east of Gravel Hill Road (Route 30) and 2,000 feet west of Lawson Road (Road 296) and being more particularly described as follows:

BEGINNING at a capped pin on the southerly right-of-way of Zoar Road (Route 48), a corner for these subject lands and lands of T. P. One, LLC; thence North 76°20'07" East 374.92 feet along the southerly right-of-way of Zoar Road to a capped pin; thence South 04°37'09" West 453.72 feet along lands of T. P. One, LLC to a capped pin; thence South 66°38'25" West 403.10 feet along lands of T. P. One, LLC to a capped pin; thence North

04°37'09" East 523.21 feet along lands of T. P. One, LLC to the point and place of beginning, said parcel containing 4.00 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 perimeter of the substation will be fenced.**
- 2. Two signs shall be permitted on the fencing around the property to identify the site and emergency contact information.**
- 3. Any security lighting shall be screened away from neighboring properties and County roads.**
- 4. Landscaping shall be provided to screen the facility from adjacent properties and roadways.**
- 5. The Final Site Plan 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. 2471 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 25TH DAY OF OCTOBER 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 a Conditional Use of land in an AR-1 Agricultural Residential District for an electric substation to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 4.0 acres, more or less. The property is located at the south of Zoar Road (Route 48) 3,300 feet east of Gravel Hill Road (Route 30) and 2,000 feet west of Lawson Road (Road 296) (911 Address: Not Available) (Tax Map I.D. 234-21.00-138.00 (Part of)).**
- B. Council found that DelDOT commented that a Traffic Impact Study was not recommended and that no changes are anticipated in the Level of Service of Zoar Road.**
- C. Council found the Sussex County Engineering Department, Utility Planning Division, commented that the site is located in the North Coastal Planning Area; that the proposed use is not in an area where the County has a schedule at this time to provide sewer service; that when the County does provide sewer service, the on-site septic must be properly abandoned and connection to the central sewer system is mandatory; 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 with Jack Jester on behalf of Delaware Electric Cooperative, Inc. and stated that the proposed site for the new substation is across the road from an existing substation located on Zoar Road (Route 48); that the residential growth in the area has created a cause for this application; that the existing substation has reached its lifespan and needs to be updated in order to serve the expanding load growth and development in the greater Georgetown-Millsboro and beach areas; that after the new facility is built, the existing substation would be retired; and that the Cooperative has negotiated terms with the developer/owner of the property, which consists of approximately 4.0 acres.**
- E. Council further found that the site is geographically important because it is centered in a high growth area; that the site is also important because it allows the connection to existing 69kV electrical transmission facilities which are adjacent to the site, on its western property line; that if the new substation were relocated to a different site, the Cooperative would have to construct a very costly and intrusive 69kV transmission line to a DP&L facility; that a chain linked fence/slotted fence would enclose the perimeter of the site to protect the public; that security lights around the perimeter of the facility would point downward with side shields to prevent lateral diffusion of light; that American Arborvitae evergreen trees would provide a landscape buffer; that the facility will not generate traffic; that once constructed, it will be visited approximately twice a month by utility personnel for inspection or maintenance tasks; that no materials or equipment will be stored on the site; that retirement of the existing substation means removal of all equipment; that the maximum height of the new facility will be the same as the DP&L transmission lines; that the entire site will be landscaped around the perimeter; and that 93% of their customer base are residential users in the entire service area.**
- F. Based on the Planning & Zoning Commission's Findings (1 through 3) and Conditions (4a through 4e), and the record created before the Sussex County Council, Council found that:**
- 1. The Conditional Use for an electrical substation is of a public nature, and it will promote the health, safety and welfare of the residents of Sussex County.**
 - 2. It is located on a large tract in a rural area where it will have a minimal impact on neighboring or adjacent properties.**
 - 3. The Co-op has stated that the substation is necessary to maintain and improve its electrical service to current and future residents of Sussex County.**
 - 4. Based on the record and recommendation of the Planning & Zoning Commission and the record created before Council, the Conditional Use is approved subject to the five (5) conditions (1 – 5) which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**