

ORDINANCE NO. 2486

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A C-1 GENERAL COMMERCIAL DISTRICT FOR A PUBLIC UTILITY FOR AN EXPANSION TO AN EXISTING ELECTRICAL SUBSTATION TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 2.493 ACRES, MORE OR LESS

WHEREAS, on the 16th day of November 2016, a conditional use application, denominated Conditional Use No. 2073 was filed on behalf of Delmarva Power & Light Company; and

WHEREAS, on the 23rd day of February 2017, 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. 2073 be approved with conditions; and

WHEREAS, on the 7th day of March 2017, 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. 2073 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 Lewes and Rehoboth Hundred, Sussex County, Delaware, and lying on the west side of Coastal Highway approximately 700 feet south of Dartmouth Drive and being more particularly described in Deed Book 4472, Page 4, and Deed Book 517, Page 310, as recorded in the Sussex County Recorder of Deeds Office, said parcel containing 2.493 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 perimeter of the substation shall be fenced.**
- B. Two signs shall be permitted on the fencing around the property to identify the site and emergency contact information.**
- C. Any security lighting shall be screened away from neighboring properties and roadways.**
- D. 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. 2486 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 7TH DAY OF MARCH 2017.

**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 Delmarva Power and Light Company for a Conditional Use of land in a C-1 General Commercial District for a public utility for an expansion to an existing electrical substation to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 2.493 acres, more or less (located on the west side of Coastal Highway (Route 1) approximately 700 feet south of Dartmouth Drive) (Tax I.D. No. 334-6.00-496.00-497.00) (911 Address: 18200 Coastal Highway, Lewes).**
- B. Based on testimony before the Planning & Zoning Commission and the public hearing before the Sussex County Council, Council found that Shannon Carmean Burton, Esquire of Sergovic, Carmean, Weidman, McCartney & Owens, P.A. was present on behalf of Delmarva Power and Light Company, with Jim Smith, Senior Public Affairs Manager for Delmarva Power and Light Company, Sonia Marichic-Goudy, P.E. with McCormick Taylor, and Dr. Amy Williams, board certified toxicologist with Exponent; that they stated that the application is for the expansion to an existing electrical substation known as the Midway Substation located on the west side of Coastal Highway (Route 1); that they intend to combine the two existing parcels; that expansion will address the growing needs of the community; that they have over 100 years of service; that they invested over \$500 million dollars to improve their infrastructure; that the demand for electricity in the area has created the need for the expansion; and that the proposed second transformer on site will reduce disruption.**
- C. Council found that this site has existed since the 1960's; that they just upgraded the Five Point Substation; that this expansion will reduce impacts to other substations in the area; that they plan to add a new transformer, three transmission circuit breakers and realign the feeds; that construction will begin the spring of this year; that there will be minimal traffic to the site after completion; that Neil Baker from Delmarva Power stated they talked to Lefty's and there is an agreement for a 50 foot easement to have access to the site; that the area will be fenced in with a 7 foot chain link fence and a buffer to shield from view with a gate that is locked; that the site will have lights that are slanted down and limited for security reasons; that on the south side of the site the trees are to remain; that on the east side of the site there are no trees along Route 1 due to structures on the site and trees are not compatible; that some trees will have to come down for the expansion of the substation; that they reduced buffers due to security issues of the people stealing copper; that some buffering of vegetation will be placed around the site for the neighbors; that there will be 1 foot of barbed wire placed at the top of the fence; and that the limit of disturbance is approximately 1 acre.**

- D. Council also found that electrical equipment is stored inside the fence area; that the stormwater management facility is outside of the fenced area; that the existing substation will not be disturbed; that the drainage will drain toward Route 1; that they have been operating the Midway Substation since the 1960's; that the substation was deactivated for a number of years; that the substation has since been reactivated to address needs; that this application complies with the Zoning Code; that property is in the C-1 General Commercial District; that there is a mix of commercial and residential use in the surrounding area; that there will be little or no impact to adjacent properties; that the property complies with the current land use plan; that the fence will have warning signs and emergency contact information posted; and that Dr. Williams presented testimony regarding magnetic fields in response to a letter of opposition.**
- E. 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 5D), Council found that:**
- 1. The property is zoned C-1, and this is the expansion of an existing substation.**
 - 2. The Conditional Use for the expansion of an electrical substation is of a public nature, and it will promote the health, safety and welfare of the residents of Sussex County.**
 - 3. It is located within the Route 1 Commercial Corridor where it will have little or no impact on neighboring or adjacent properties. It will also have no impact upon traffic in the area.**
 - 4. DP&L has stated that the expansion of the existing substation is necessary to maintain and improve its electrical service to current and future residents of Sussex County.**
 - 5. Based on the record and recommendation of the Planning & Zoning Commission, the Conditional Use is approved subject to four (4) conditions (A – D) which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**