

ORDINANCE NO. 2831

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM RESIDENTIAL DISTRICT FOR AN AMENDMENT OF CONDITIONS OF APPROVAL FOR CONDITIONAL USE NO. 2046 (ORDINANCE NO. 2479) RELATED TO PERMITTED HOURS OF CONSTRUCTION TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 36.61 ACRES, MORE OR LESS

WHEREAS, on the 2nd day of July 2021, a conditional use application, denominated Conditional Use No. 2297 was filed on behalf of Schell Brothers, LLC; and

WHEREAS, on the 13th day of January 2022, 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. 2297 be approved; and

WHEREAS, on the 22nd day of February 2022, 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 V, Subsection 115-31, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2297 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 northeast side of Warrington Road (S.C.R. 275), approximately 0.25 mile southeast of John J. Williams Highway (Route 24) and being more particularly described in the attached legal description prepared by The Malmberg Firm, LLC, said parcel containing 36.61 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.

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2831 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 22ND DAY OF FEBRUARY 2022.

**TRACY N. TORBERT
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 Schell Brothers, Inc. for the Conditional Use of Land in a MR Medium Residential District for an amendment of conditions of approval for Conditional Use No. 2046 (Ordinance No. 2479) related to permitted hours of construction to be located on a certain parcel of land lying and being in Lewes & Rehoboth Hundred, Sussex County, containing 36.61 acres, more or less (property lying on the northeast side of Warrington Road [S.C.R. 275] approximately 0.25 mile southeast of John J. Williams Highway [Rt. 24]) (911 Address: N/A) (Tax Parcel: 334-12.00-127.02).**
- B. Based on testimony before the Planning and Zoning Commission and the public hearing before the Sussex County Council, Council found that Jon Horner, Esquire spoke on behalf of the Applicant, Schell Brothers, Inc.; that he is the general counsel for Schell Brothers, Inc.; that the Application is a request to change the working hours in the community known as Arbor Lynn to be consistent with the other Schell Brothers communities; that Arbor Lynn currently has an 8:00 a.m. start time; that every other Schell Brother community has a 7:00 a.m. start time; that they have found allowing the contractors to arrive at the site earlier has a positive impact on traffic, as well as the ability to construct the homes; that most people are up by 7:00 a.m. and Arbor Lynn is a bit isolated from other residential communities which would have noise impacts from the proposed time.**
- C. Based on the record and recommendation of the Planning and Zoning Commission and the record created before the Sussex County Council, Conditional Use No. 2297 is hereby approved, which shall amend Conditional Use 2046 and Ordinance No. 2479 so that the hours of operation for the development known as Arbor Lynn set forth in Condition K of that approval is hereby amended to state as follows:**
- K. "Construction, site work, grading and deliveries of construction material, landscaping material and fill on, off or to the property shall occur from Monday through Saturday, between the hours of 7:00 a.m. and 6:00 p.m., no Sunday hours are permitted. A 24-inch by 36-inch "NOTICE" sign, in English and in Spanish, confirming these hours shall be prominently displayed at the entrance to the site during construction. Route 24 shall be the only point of construction access to the site."**