

ORDINANCE NO. 2870

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR INDOOR AND OUTDOOR STORAGE OF HEATING AND COOLING EQUIPMENT TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 4.03 ACRES, MORE OR LESS

WHEREAS, on the 28th day of June 2021, a conditional use application, denominated Conditional Use No. 2295 was filed on behalf of Bones & Sons Heating & Air; and

WHEREAS, on the 23rd day of June 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. 2295 be approved; and

WHEREAS, on the 12th day of July 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 IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2295 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 Seaford Hundred, Sussex County, Delaware, and lying on the east side of Conrail Road (S.C.R. 546), approximately 606 feet south of the intersection of Hearn's Pond Rd (S.C.R. 544), and being more particularly described in the attached legal description prepared by Haller & Hudson, said parcel containing 4.03 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 property shall be used for an HVAC repair business in addition to the Applicant's residence. As part of that Business, the temporary storage of used HVAC equipment shall be allowed so that it can be recycled.**
- b. There shall be no retail sales of HVAC equipment from the property.**

- c. The site shall not be permitted to become a junkyard, which requires separate zoning and other approvals. The used HVAC equipment shall be kept within a fenced and screened area, and none of it shall be permanently stored. The Applicant shall only store HVAC equipment it obtains as part of its repair and installation business. No HVAC equipment shall be brought to the site by other contractors, businesses, or individuals other than the Applicant and its employees.
- d. No more than 1,600 square feet on the site shall be set aside for this temporary storage area. This area shall be shown on the Final Site Plan.
- e. Any outdoor lighting on the site shall be downward screened so that it does not shine on neighboring properties or roadways.
- f. Any dumpsters on the site shall be screened from the view of neighboring properties and roadways. The dumpster location shall be shown on the Final Site Plan.
- g. The Applicant shall comply with any DelDOT requirements for entrance and roadway improvements.
- h. Any violation of these conditions of approval may result in the termination of this Conditional Use.
- i. 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. 2870 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 12TH DAY OF JULY 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 Bones & Sons Heating & Air for the consideration of a Conditional Use of land in an AR-1 Agricultural Residential District for indoor and outdoor storage of heating and cooling equipment to be located on a certain parcel of land lying and being in Seaford Hundred, Sussex County, containing 4.03 acres, more or less (property lying on the east side of Conrail Road [S.C.R. 546], approximately 606 feet south of the intersection of Hearn's Pond Rd [S.C.R. 544]) (911 Address: 22135 Conrail Road, Seaford) (Tax Parcel: 331-3.00-129.07).
- B. Based on testimony before the Planning and Zoning Commission and the public hearing before the Sussex County Council, Council found that Ms. Tiffany Bone was present on behalf of her Application; that her family lives at the property; that there is a garage behind the home; that in the center of the property there is a concrete pad that is used for temporary parking when employees are picking up materials; that behind that pad there are some storage buildings for items used for the business; that there is not much traffic associated with the business, but there are occasional deliveries; that, in addition to her and her husband, there are three employees with only one work truck; that there is some outdoor storage of old heating and air equipment until it can be scrapped; that there is some commercial activity in the area including a hair salon and a welding business; that clients give them items when renovating or demolishing houses; that these items are stored on the property in the shed until they can be recycled or donated; that this company has been in business since 2009, but has only been at this location since 2018; that the hours of operation are 9:00 a.m. – 5:00 p.m. Monday through Friday with no weekend hours; that there were no complaints from neighbors; and that a sign is being requested.
- C. Based on the record and recommendation of the Planning and Zoning Commission and the Planning and Zoning Commission's Findings (1 through 7) and Conditions (8a. – i.), Council found that:

- 1. The applicant operates an HVAC repair business on the site. It evolved from a home occupation to the point where a Conditional Use is now required. This Conditional Use will bring the use into compliance with the zoning code.**
- 2. As part of the HVAC repair business, the Applicant keeps damaged, replaced, and worn-out HVAC equipment on the site to recycle the various metal parts contained in them.**
- 3. The use will not have an adverse impact upon neighboring properties or area roadways.**
- 4. Traffic generated by the proposed use will be minimal and will not have a negative impact on the neighboring properties or roadways.**
- 5. The use is of a public or semi-public character that is desirable for the general convenience and welfare of the area and the County.**
- 6. The Applicant has stated that they reside at the property and will continue to do so as part of this Conditional Use.**
- 7. No parties appeared in opposition to the application.**
- 8. The Conditional Use is approved subject to the following nine (9) conditions (a. – i.), which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**