

**ORDINANCE NO. 2210**

**(AS AMENDED)**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR AN HVAC BUSINESS AND MULTI-FAMILY DWELLING STRUCTURES (2 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 4.37 ACRES, MORE OR LESS, AS AMENDED**

**WHEREAS, on the 3rd day of January 2011, a conditional use application, denominated Conditional Use No. 1886 was filed on behalf of Clarence A. Edgens III; and**

**WHEREAS, on the 14th day of April 2011, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 28th day of April 2011, said Planning and Zoning Commission recommended that Conditional Use No. 1886 be denied; and**

**WHEREAS, on the 3rd day of May 2011, 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 VI, Subsection 115-39, Code of Sussex County, be amended by adding the designation of Conditional Use No. 1886 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 Route 305 (Hollyville Road) 3,330 feet south of Route 48 (Zoar Road) and being more particularly described in Deed Book 3172, Page 205, in the Office of the Recorder of Deeds in and for Sussex County, said parcel containing 4.37 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. All vehicles associated with the heating, ventilation and air conditioning business shall be parking inside of the existing garage or outside on a designated parking area that is screened by fencing from the view of neighboring properties.**
- 2. There will only be one unlighted sign on the premises that shall not exceed 32 square feet on each side.**
- 3. Any security lighting shall be screened so that it does not shine onto neighboring properties.**
- 4. Any dumpster or outside storage shall be behind the existing shop/garage and shall be screened by fencing from view from neighboring properties.**
- 5. All entrance, intersection, roadway and multi-modal improvements required by DelDOT shall be completed by the Applicant in accordance with DelDOT's determination.**
- 6. The 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. 2210 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 23RD DAY OF AUGUST 2011.**

  
**ROBIN A. GRIFFITH**  
**CLERK OF THE COUNCIL**

**The Council found that the Change of Zone was appropriate legislative action based on the following Findings of Fact:**

- 1. The proposed Conditional Use for an HVAC business will serve the residents, farms and business uses in the County.**
- 2. The proposed Conditional Use is generally similar to other uses in the vicinity of the property, i.e. landscaping business, day care business, boat mechanic shop and storage, tree cutting service, plumber, etc.**
- 3. The project, with the conditions and stipulations placed upon it, will not have an adverse impact on the neighboring properties or community.**

4. The operation of a heating, ventilation and air-conditioning business will not generate a significant increase in traffic or noise, since the majority of the work will be conducted off-site.
5. The Planning and Zoning Commission did make a recommendation that this application be denied since there were restrictive covenants that prohibit commercial uses of the five lot subdivision within the plat entitled "Lands of Country Trails Land Co."; however, the landowners have since agreed, amended, and recorded an Amendment to the Deed Restrictions and Covenants terminating the prohibition against commercial activities on the five properties.
6. DelDOT has responded that a Traffic Impact Study is not recommended and that the current Level of Service A of Hollyville Road will not change as a result of this application.
7. The County Engineering Department, Utility Planning Division, has commented that the site is located in the North Coastal Planning Area; that an on-site septic system is proposed; that conformity to the North Coastal Planning Study will be required; and that the project is not in an area where the County currently plans to provide sewer service.
8. Other than the Applicant, there were no other parties present in favor of or in opposition to the application.
9. Based on the record and recommendation of the Planning and Zoning Commission and the record created before the Council, this Conditional Use is a partial approval for the HVAC business only, since that is consistent with other business uses in the area. The requested multi-family dwelling structures (2 units) are not being considered since the Applicant did not provide any record of support for this portion of his application.
10. Based on the record created before Council, this Conditional Use is approved subject to six conditions and stipulations which will minimize any potential impacts on the surrounding area and adjoining properties.