

ORDINANCE NO. 2272

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A MULTI-FAMILY DWELLING STRUCTURE (3 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 8,030 SQUARE FEET, MORE OR LESS (T.M. 1-34-13.15-159.00)

WHEREAS, on the 21st day of March, 2012, a conditional use application, denominated Conditional Use No. 1930 was filed on behalf of Penn Central, LLC; and

WHEREAS, on the 10th day of May 2012, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County at which time the action was deferred; on the 31st day of May 2012, action was deferred again; and on the 21st day of June 2012, said Planning and Zoning Commission recommended that Conditional Use No. 1930 be approved with conditions; and

WHEREAS, on the 5th day of June 2012, 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 X, Subsection 115-71, Code of Sussex County, be amended by adding the designation of Conditional Use No. 1930 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 Baltimore Hundred, Sussex County, Delaware, and lying at the southeast corner of Pennsylvania Avenue (Road 51) and Bennett Road, and being Lot 3, Block 1, of Sussex Shores, more particularly described in Deed Book 3706, Page 158, in the office of the Recorder of Deeds in and for Sussex County, said parcel containing 8,030 square feet, 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. No more than 3 units shall be constructed upon the property.**
- 2. This recommendation for no more than 3 units is also contingent upon the approval of that number of units from the Sussex County Board of Adjustment. Such a variance is not required if only two units are constructed.**
- 3. The development shall be served as part of a Sussex County Sanitary Sewer District, and the developer shall comply with all County Engineering Department requirements for connections and possible upgrades to the system necessary for service to these units.**
- 4. Construction, site work, grading, and deliveries of construction materials, landscaping materials and fill on, off or to the property shall only occur during the hours between 8 a.m. and 6 p.m., Monday through Saturday.**
- 5. The units shall be served by central water.**
- 6. All entrances shall be designed and completed in accordance with DelDOT regulations.**
- 7. The Final Site Plan shall include a landscape plan. The large pine trees along the southern boundary of the property shall be depicted on the Final Site Plan and retained on the site.**
- 8. The Final Site Plan shall identify all parking areas and spaces for the multi-family units.**
- 9. The Final Site Plan shall be subject to approval of the Planning and Zoning Commission.**

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2272 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 24TH DAY OF JULY 2012.


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:

- 1. This is an application to consider the Conditional Use of land in a B-1 Neighborhood Business District for a multi-family dwelling structure (3 units) to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 8,030 square feet of land, more or less, lying at the southwest corner of Pennsylvania Avenue (Road 51) and Bennett Road, and being Lot 3, Block 1, of Sussex Shores (Tax Map 1-34-13.15-159.00).**
- 2. DelDOT commented that a Traffic Impact Study is not recommended and that the current Level of Service B of Pennsylvania Avenue will not change as a result of this application.**
- 3. The Sussex County Engineering Department, Utility Planning Division, commented that the System Design Assumption for the site is 1.55 EDUs total based on the current use of the parcel as a medical office; that the site is located in the Bethany Beach Sanitary Sewer District; that wastewater capacity may not be available for this project for three units; that Ordinance 38 construction is not required; that the current System Connection Charge Rate is \$4,697.00 per EDU; that the parcel is served with one 6-inch lateral located along the parcel's frontage on Bennett Road; that conformity with the South Coastal Area Planning Study 2005 Update is required; that the existing structure on the parcel must be property disconnected and the disconnection inspected by the County prior to removal, demolition, site work, or issuance of a building permit for new construction; that one-time system connection charges will apply; and that a Concept Plan is not required.**
- 4. The Soil Conservation District commented that the Applicant will be required to follow recommended erosion and sedimentation control practices during any construction and to maintain vegetation; that no storm flood hazard areas or tax ditches are affected; that it is not likely that any off-site drainage improvements will be required; and that it may be possible that on-site drainage improvements will be required.**

5. Carol Schultz was present on the Applicant's behalf and she stated that the application is not different than the other multi-family structures in the area; that the existing one-story medical office building on the premises will be removed; that adequate space is available on the site for parking; that parking will be provided below the units and on pads on-site with space available to turn around on-site so that people do not back out into the streets; that there are currently fifteen (15) parking spaces on the site that back out into the streets; that she hopes to be able to get driveways on both Pennsylvania Avenue and Bennett Road; that the building will not exceed forty-two (42) feet in height; that she was not aware that there was a negative issue on the availability of sewer service; and that she realizes that she will be required to file an application to the Board of Adjustment for a variance in the density for three (3) units.
6. The use is of a public or semi-public character.
7. While the County Engineering Department expressed concerns about the proposed density and its effect upon the capacity of the sewer system, the developer will have to comply with any County Engineering Department upgrades or requirements during the development process.
8. No parties appeared in opposition to this application.
9. There are other multi-family structures in the immediate vicinity, including two (2) six-unit multi-family buildings immediately to the south of the site; that, on the opposite side of Bennett Road, there are several business uses; and that there are business and multi-family uses across from the site on Pennsylvania Avenue.
10. The Conditional Use will have no significant or adverse impact upon traffic and there was no indication in the record that the project will have an adverse impact on the neighboring properties or community.
11. Based on the record and recommendation of the Planning and Zoning Commission and the record created before Council, the Conditional Use was approved subject to nine (9) conditions which will serve to minimize any potential impacts on the surrounding area and adjoining properties.