

ORDINANCE NO. 2370

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A COMMERCIAL PROPANE/STORAGE AND CNG/PROPANE DISPENSING OFFICE/WAREHOUSE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 15.00 ACRES, MORE OR LESS”

WHEREAS, on the 28th day of July 2014, a conditional use application, denominated Conditional Use No. 1997 was filed on behalf of Skipjack, Inc.; and

WHEREAS, on the 25th day of September 2014, 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. 1997 be approved with conditions; and

WHEREAS, on the 14th day of October 2014, 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. 1997 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 Dagsboro Hundred, Sussex County, Delaware, and lying at the northwest corner of DuPont Boulevard (U.S. Route 113) and East Piney Neck Road (Road 329) and being more particularly described as:

BEGINNING at a point on the westerly right-of-way of U.S. Route 113, a corner for these subject lands and lands of Citation 49 Farms, LLC; thence South 36°27'37" East 893.45 feet along the westerly right-of-way of U.S. Route 113 to a point; thence South 24°58'32" West 47.81 feet along the corner cut for the intersection of U.S. Route 113 and Road

329 to a point; thence South 86°24'41" West 418.52 feet; South 86°17'30" West 433.60, and South 86°31'01" West 115.26 feet along the northerly right-of-way of Road 329 to a point; thence by and along a tree line near Mirey Branch northerly the following four (4) courses: North 26°27'33" West 155.03 feet, North 14°34'15" West 125.82 feet, North 23°53'44" West 197.51 feet, and North 43°51'02" West 73.97 feet to a point; thence North 53°31'48" East 715.84 feet, South 36°27'37" East 143.84 feet, and North 53°32'23" East 31.73 feet along lands of Citation 49 Farms, LLC to a point on the westerly right-of-way of U.S. Route 113, the point and place of beginning and containing 15.00 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 Applicant shall comply with all DelDOT entrance and access requirements.
- B. The Applicant shall comply with all State, Federal and local regulations regarding the facility.
- C. Any security lights shall be screened so that they do not shine on neighboring properties or roadways.
- D. The Applicant shall comply with the landscape buffering requirements of the Highway Corridor Overlay Zone and the landscape plan shall be included as part of the Final Site Plan.
- E. The Applicant shall have two lighted ground signs, not to exceed 200 square feet per side. One sign shall be located along Route 113 and the other shall be located along East Piney Grove Road. Signage on buildings shall be subject to the sign regulations in the Zoning Ordinance relating to B-1 zoning classifications.
- F. The conditions of approval shall be noted on the Final Site Plan.
- G. 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. 2370 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 14TH DAY OF OCTOBER 2014.



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 Skipjack, Inc. to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a commercial propane/storage and compressed natural gas/propane dispensing office/warehouse to be located on a certain parcel of land lying and being in Dagsboro Hundred, Sussex County, containing 15.00 acres, more or less, land lying northwest corner of DuPont Boulevard (U.S. Route 113) and East Piney Neck Road (Road 329) (911 Address: None Available) (Tax Map I.D. #133-11.00-1.00).
- B. Council found that DelDOT commented that the subject property is located adjacent to U.S. Route 113 and is subject to the Department's Corridor Capacity Preservation Program; that the property is located within a Level 3 Investment Area according to the State Strategies; that the property owner can develop a rights-in/rights-out access to U.S. Route 113 for a site generating an average of 200 vehicle trips per day; that the property owner can develop a full access to East Piney Grove Road (Road 329); that a Traffic Impact Study is not recommended; and that the current Level of Service "C" of U.S. Route 113 will not change as a result of this application; and that the current Level of Service "A" of East Piney Grove Road may change to a Level of Service "B".
- C. Council found the Sussex County Engineering Department, Utility Planning Division, commented that the property is located in the Western Sussex Planning Area #5; that the use of an on-site septic system is proposed; that conformity to the Western Sussex Planning Study will be required; that the proposed use is not in an area where the County has a schedule to provide sewer at this time; and that a Concept Plan is not required.
- D. Council found that the Sussex Conservation District commented that the developer shall be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation after construction; that no storm flood hazard areas are affected; that no off-site drainage improvements will be necessary; that on-site drainage improvements may be necessary; and that a tax ditch/branch may be affected and all considerations/activities should be taken to minimize any impacts on the ditch/branch.

- E. Based on testimony before the Planning & Zoning Commission and the Public Hearing before the Council, Council found that Mark Dunkle, Esquire, was present on behalf of the Applicant, together with Garth Jones, Professional Engineer with Becker Morgan Group; and Shane Breakie, David De Caro, Bill Gradie and Ron Patrick of Chesapeake Utilities. They stated in their presentations that Skipjack, Inc. is a subsidiary of Chesapeake Utilities; that the proposed use is for a compressed natural gas/propane vehicle fuel dispensing facility, commercial propane sales and storage, with offices and warehousing; that the facility will not sell gasoline nor will it sell diesel fuel; that this type of facility is new to the area; that they are proposing a fueling station to provide for alternative fuels, i.e. natural gas and propane, for automotive vehicles; that there are several business uses in close proximity, i.e. Melvin L. Joseph Construction Co., Pep-Up, among others; that there are two Conditional Use locations on East Piney Grove Road and they referenced a storage facility and a truck repair facility; that a propane storage facility, office, and single propane dispensing facility exists at Sharp Gas in Georgetown; that the photographs in the Exhibit Booklet depict several propane and natural gas fueling stations that exist in other locations; that the requested use is an appropriate use and meets the standards for a Conditional Use; that there are propane filling stations serving propane gas for vehicles in use and some of those facilities have been in service for 20 years; that two buildings are proposed along U.S. Route 113, an 18,000 square foot office and warehouse, and a 7,500 square foot office and warehouse; that two access locations are proposed along East Piney Grove Road, one for access to the offices, and one to the filling station and storage facilities; that there will not be any parking in the required setbacks; and that a 60' wide easement is proposed to cross the parcel to serve the remaining acreage to the north from East Piney Grove Road.**
- F. Council also found that the Applicant is requesting permission to be permitted to have signage related to the B-1 Neighborhood Business District; that the filling station would be open 24 hours, 7 days per week; that there will be approximately 64 employees working from the site, some drivers, and the majority office staff; that some of their existing facilities will be closed and the employees will be relocated to this facility; that they are not planning to operate a convenience store from this site, only fuel sales; that no vehicles will be serviced on the site; that both compressed natural gas and propane gas**

will be available; that the compressors will have electric driven motors; that the gas will be compressed to 3,600 PSI; that the compressors will be outside in sound enclosed containers; that they will comply with all agency requirements; that the State Fire Marshal has the majority of the regulations relating to these facilities; that the systems have safety features, including automatic shutdowns, specific setbacks from structures and equipment, 30,000 gallon water storage; that four 30,000 gallon propane storage tanks are proposed for this site; that the office/warehouse facility would be open during normal business hours; that the propane tanks will be filled from tanker trucks, not pipelines; that the facility will be fenced with 6-foot high chain-link fencing; that security lighting and security cameras will be installed; that all access to the site will be from East Piney Grove Road; that they propose two entrances; that they propose a two phase plan – a compressed natural gas side and a propane side; that they have submitted a plan to DelDOT; and that a Letter of No Objection was received from DelDOT on this date.

G. Based on the Findings (1 through 7) of the Planning and Zoning Commission and Conditions (a through g) recommended by the Planning & Zoning Commission, Council found that:

- 1. The use is located along Route 113, which is a major highway in Sussex County. This is an appropriate location for the proposed use and it is centrally located in the County.**
- 2. The use is of a public or semi-public character that will provide a safe and convenient alternate fuel dispensing facility, along with propane storage, office and warehouse uses serving the emerging alternate fuel market.**
- 3. The design will meet all State and national fire regulations. It will also be required to adhere to Federal and State regulations governing the construction and operation of this type of facility.**
- 4. The use is consistent with other zoning districts and business and commercial uses in the area of Route 113. These include a crematorium, a construction and hot mix production facility, manufactured home sales, equipment rental, mulch and stone paver sales, tractor and mower sales and service, and a fuel oil and propane dealership.**

- 5. The project, with the conditions and stipulations placed upon it, will not have an adverse impact on the neighboring properties, the community or area roadways.**
- 6. The project adds employment in Sussex County.**
- 7. Based on the record and recommendation of the Planning & Zoning Commission and the record created before Council, the Conditional Use was approved subject to seven (7) conditions (a-g) which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**