

**ORDINANCE NO. 2423**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A C-1 GENERAL COMMERCIAL DISTRICT FOR PROPANE AND OIL STORAGE TANKS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 8.82 ACRES, MORE OR LESS**

**WHEREAS, on the 14th day of July 2015, a conditional use application, denominated Conditional Use No. 2030 was filed on behalf of Dean Sherman / Sherman Heating Oil; and**

**WHEREAS, on the 24th day of September 2015, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 15th day of October 2015, said Planning and Zoning Commission recommended that Conditional Use No. 2030 be approved with conditions; and**

**WHEREAS, on the 3rd day of November 2015, 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 XI, Subsection 115-79, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2030 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 west of Sussex Highway (U.S. Route 13) and east of Seaford Road (U.S. Route 13A) and being 213 feet south of Swain Road (Road 554A) and being more particularly described as follows:**

**BEGINNING at a concrete marker on the westerly right-of-way of Sussex Highway (U.S. Route 13) a corner for these subject lands and lands, now or formerly, of Sunrise Motel, LLC; thence North 68°26'39" West 267.25 feet along lands, now or formerly, of Sunrise Motel, LLC, and North 68°40'15" West 275.11 feet along lands, now or formerly, of Robert R. King to a concrete marker on the easterly right-of-way of Seaford Road (U.S. Route 13A); thence North 21°05'00" East 749.76 feet along the easterly right-of-way of Seaford Road to an iron**

rebar; thence easterly by and along lands, now or formerly, of Edward W. Wagner the following three courses: South 68°35'50" East 237.82 feet to an iron rebar, South 14°10'50" West 44.98 feet to a concrete marker, and South 75°53'41" East 209.14 feet to the westerly right-of-way of Sussex Highway; thence South 13°57'45" 738.20 feet along the westerly right-of-way of Sussex Highway to the point and place of beginning, said parcel containing 8.823 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. Any security lights shall only be installed on the buildings and shall be screened so that they do not shine on any neighboring properties or roadways.
- B. The property is zoned C-1 General Commercial. The sign regulations applicable to the C-1 General Commercial zoning shall apply to this use.
- C. The proposed use shall meet all local, State, and National Fire Regulations.
- D. As so stated by the applicant, only portable tanks shall be stored within the DP&L right-of-way.
- E. All parking areas shall be clearly designated on the Final Site Plan and on the site itself.
- F. The applicant shall comply with all DelDOT requirements for roadway improvements and ingress and egress.
- G. The Final Site Plan shall be subject to the approval of the Planning and Zoning Commission.

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2423 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 3RD DAY OF NOVEMBER 2015.



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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:**

- A. This is the application of Dean Sherman/Sherman Heating Oil to consider the Conditional Use of land in a C-1 General Commercial District for propane and oil storage tanks to be located on a certain parcel of land lying and being in Seaford Hundred, Sussex County, containing 8.82 acres, more or less. The property is located west of Sussex Highway (U.S. Route 13) and east of Seaford Road (911 Address: None Available) (Tax Map I.D. 331-3.00-164.00).**
  
- B. Based on testimony before the Planning & Zoning Commission and the Public Hearing before the Sussex County Council, Council found that William Tobin, consultant for the Applicant, was present and stated that the property was purchased for this specific use; that the Applicant has similar sites on Clay Road and in Milton; that they reached out to surrounding property owners; that they submitted letters of support from the surrounding property owners; that the Applicant is expanding their business; that this site is needed to accommodate growth on the west side of the County; that the site will provide job opportunities in the area; that the property will be completely fenced in; that the existing building on the site will remain; that the trailer on the site will be removed; that DelDOT has approved the ingress/egress, which is already established; that there is ample parking available; that the proposed site will have four (4) propane tanks, space for four (4) additional propane tanks in the future, and two (2) vertical fuel oil tanks; that the proposed tanks meets the safety requirements of the local fire department; that industry standards govern the tank requirements; that the proposed tanks are approximately one hundred (100) feet from the fencing and nearby road; that only portable tanks are to be stored within the DP&L right-of-way; that they will acquire all necessary agency approvals; and that they agree to the conditions recommended by the Planning and Zoning Commission.**
  
- C. Based on the Findings (1 through 7) and the Conditions (8a through 8g) of the Planning & Zoning Commission and the record created before the Sussex County Council, Council found that:**
  - 1. The project is located on a commercially-zoned property within the Highway Commercial Area according to the Comprehensive Land Use Plan. The proposed use for propane and oil storage tanks is appropriate under this designation.**
  
  - 2. The project is located between U.S. Route 13 and U.S. Route 13A. This is an appropriate location for the proposed use.**
  
  - 3. The site has a history of commercial/industrial type uses and the proposed use is consistent with the prior use of the property.**
  
  - 4. The project, with the conditions and stipulations to be placed upon it, will not have an adverse impact on the neighboring properties or community, and there are other properties with commercial uses in the area.**
  
  - 5. The use is of a public or semi-public character and is desirable for the general convenience and welfare of the area and the County.**
  
  - 6. The design will meet all State and National Fire Regulations.**
  
  - 7. Letters of support from surrounding property owners were submitted into the record and no parties appeared in opposition to the proposed use.**
  
  - 8. Based on the record and recommendation of the Planning & Zoning Commission and the record created before the Council, the Conditional Use is approved subject to seven (7) conditions (A – G) which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**