

ORDINANCE NO. 2156

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A MULTI-FAMILY DWELLING STRUCTURE (2 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 8,140 SQUARE FEET, MORE OR LESS

WHEREAS, on the 7th day of December 2009, a conditional use application, denominated Conditional Use No. 1860 was filed on behalf of John F. and Lorry A. Luikart; and

WHEREAS, on the 14th day of October 2010 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. 1860 be approved with conditions; and

WHEREAS, on the 9th day of November 2010 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. 1860 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 east of Pennsylvania Avenue and Route One and 75 feet north of Bennett Road being more particularly described in Deed Book 3713, Page 279 in the Office of the Recorder of Deeds in and for Sussex County, said parcel containing 8,140 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. Only two residential units shall be constructed upon the property.**
- 2. The development shall be served as part of a Sussex County Sanitary Sewer District.**
- 3. 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 8:00 a.m. and 6:00 p.m.**
- 4. The Conditional Use must be substantially underway within three years or it will become void.**
- 5. The Applicant shall obtain an entrance permit from DelDOT and comply with all DelDOT requirements.**
- 6. The 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. 2156 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 9TH DAY OF NOVEMBER 2010.


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 a Conditional Use of land in a B-1 Neighborhood Business District for a multi-family dwelling structure (2 units) to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, Delaware, containing 8,140 square feet, more or less, lying east of Pennsylvania Avenue and Route One and 75 feet north of Bennett Road.**
- 2. DelDOT commented that a Traffic Impact Study was not recommended and that the existing Level of Service C of Pennsylvania Avenue will not change as a result of this application.**
- 3. The County Engineering Department, Utility Planning Division, commented that the site is located in the Bethany Beach Sanitary Sewer District and that wastewater capacity is available for the project.**

- 4. The applicants were present with their attorney and they testified that even though the lot is zoned B-1, they are instead placing two residential units on the property of the similar style of other properties in the area.**
- 5. The use comes in close proximity of Bethany Beach and complies with the current Land Use Plan for Sussex County.**
- 6. Two residential units are more appropriate than a commercial or business use of this location at the irregular intersection of Route 1 and Pennsylvania Avenue.**
- 7. The use is of a public or semi-public character and it will provide additional housing in a growth area. The use is desirable for the general convenience, health, safety, prosperity, morals and welfare of the residents of Sussex County.**
- 8. Based on the record and recommendation of the Planning & Zoning Commission, which were adopted by Council, and the record created before Council, the Conditional Use was approved subject to six (6) conditions, which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**