

ORDINANCE NO. 2158

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A COUNTRY MARKET WITH BBQ, ICE CREAM, AMISH MEATS/CHEESE/BAKED GOODS AND THE SALE OF PRODUCE, NURSERY STOCK, FLOWERS, AND ITEMS ASSOCIATED WITH GARDENING TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 3.32 ACRES, MORE OR LESS OF A 14.92 ACRE TRACT

WHEREAS, on the 26th day of March 2010, a conditional use application, denominated Conditional Use No. 1864 was filed on behalf of Dawn's Country Market; 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 on the 28th day of October 2010, said Planning and Zoning Commission recommended that Conditional Use No. 1864 be approved; 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 IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 1864 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 Broadkill Hundred, Sussex County, Delaware, and lying at the northwest corner of Cave Neck Road (Route 88) and Route One and being more particularly described as follows:

BEGINNING at a point on the southwesterly right-of-way of Route One at the northerly corner of the corner cut with Route 88; thence south 04°00'17" east 69.72 feet along the corner cut of the intersection of Route One and Route 88 to a point; thence south 41°47'47" west 360.88 feet along the northwesterly right-of-way of Route 88 to a point; thence north 49°41'22" west 354.44 feet across lands of Hebron Road, LLC to a point; thence north 40°11'39" east 410.00 feet across lands of Hebron Road LLC to a point on the southwesterly right-of-way of Route One; thence south 49°48'21" east 315.93 feet along the southwesterly right-of-way of Route One to the point and place of beginning and containing 3.32 acres, more or less, of a 14.92 acre tract.

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. Sales shall only occur during daylight hours.**
- 2. The use shall be limited to a country market with barbeque, ice cream, Amish meats/cheese/baked goods, produce, nursery stock, flowers and other items generally associated with farm markets, produce sales and gardening.**
- 3. The use shall not become a general retail store or convenience store and it shall maintain its agricultural appearance and theme at all times.**
- 4. Unless required by DelDOT, there shall not be any entrance to the property from Route One.**
- 5. The Applicant's shall comply with all DelDOT requirements, including Entrance Permits.**
- 6. The Final Site Plan shall show all parking required by the Sussex County Zoning Code.**
- 7. The project shall comply with all County Engineering, DNREC, State Board of Health, and other applicable requirements regarding bathroom and sewer facilities.**
- 8. The Final Site Plan shall show the location of all proposed uses on the property.**
- 9. There shall not be any structures, parking, produce, products or displays of any kind within the front or side yard setbacks.**

10. Any dumpsters shall be screened from view of neighboring properties and roadways.
11. Any security lighting shall be screened from view so that it does not shine on neighboring properties or roadways.
12. One lighted sign, not to exceed 32 square feet per side, shall be permitted.
13. This Conditional Use shall become null and void unless substantially underway within three (3) years of the date of approval by the County Council.
14. Final Site Plan approval shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2158 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 an AR-1 Agricultural Residential District for a country market with BBQ, ice cream, Amish meats/cheese/baked goods and the sale of produce, nursery stock, flowers and items associated with gardening to be located on a certain parcel of land lying and being in Broadkill Hundred, Sussex County, Delaware, containing 3.32 acres, more or less, of a 14.92 acre tract, lying at the northwest corner of Cave Neck Road (Route 88) and Route One.
2. DelDOT commented that a Traffic Impact Study was not recommended and that the existing Level of Service "D" of Coastal Highway (Route One) and the existing Level of Service "C" of Cave Neck Road (Route 88) 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 West Rehoboth Expansion Planning Area; that wastewater capacity is available for the proposed market; that a project exceeding 13.2 EDU may require downstream upgrades; that use of an on-site septic system is proposed; that a central sewer gravity connection point is available in Cave Neck Road; that a Concept Plan is required to be submitted for review and approval prior to requesting annexation to the District; that all costs associated with extending sewer service will be the sole responsibility of the developer; and that one-time system connection charges will apply.**
4. **The Applicant was present and stated that they want to expand their current operation; that they want to have an outside area for vendors; that they want to have picnic tables in that area; that they promote agriculture by using local produce; and that they promote farm values.**
5. **The use is of a public or semi-public character and is desirable for the general convenience, health, safety, prosperity, morals and welfare of the residents of Sussex County.**
6. **The use will not adversely affect traffic or area roadways.**
7. **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 fourteen (14) conditions, which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**