

**ORDINANCE NO. 2231**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A HOTDOG / HAMBURGER VENDOR TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 24,743 SQUARE FEET, MORE OR LESS**

**WHEREAS, on the 25th day of October 2011, a conditional use application, denominated Conditional Use No. 1916 was filed on behalf of Tim Elder; and**

**WHEREAS, on the 15th day of December 2011, 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. 1916 be approved with conditions; and**

**WHEREAS, on the 10th day of January 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. 1916 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 Shortly Road (Road 431) and being more particularly described as follows:**

**BEGINNING at a nail at the northwest corner of Shortly Road (Road 431) and Hardscrabble Road (Route 20); thence south 65°43'19" west 119.84 feet along the northerly right-of-way of Hardscrabble Road to an iron pipe; thence north 23°43'34" west 212.45 feet along lands of Peter and Rosemary Brown to an iron pipe; thence north 65°43'19" east 113.11 feet along lands of Edwin Workman, et.al., to an iron rod on the westerly right-of-way of Shortly Road; thence south 25°32'31" east 212.50 feet along the westerly right-of-**

way of Shortly Road to the point and place of beginning, said parcel containing 24,743 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:

- A. The use shall be limited to a food vending cart.
- B. The hours of operation shall be 10:00 a.m. to 5:00 p.m., seven days per week.
- C. The Final Site Plan 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. 2231 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 10TH DAY OF JANUARY 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 for a Conditional Use of land in a B-1 Neighborhood Business District for a hot dog / hamburger vendor to be located on a certain parcel of land lying and being in Dagsboro Hundred, Sussex County, containing 24,743 square feet, more or less, lying on the northwest corner of Shortly Road (Road 431) and Hardscrabble Road (Route 20).
2. The Sussex County Engineering Department, Utility Planning Division, advised that the site is located in the Western Sussex Planning Area No. 5; that an on-site septic system is proposed to serve the site; that conformity to the Western Sussex Planning Study will be required; that the proposed use is not in an area where Sussex County currently has a schedule to provide sewer service; and that a Concept Plan is not required.
3. The Applicant was present and stated that he proposes to park the cart near the corner of the intersection so that it would be more visible between the building and parking area; that the cart will be used for the purpose of selling food items; and that the cart is portable and will be stored inside or behind the building when it is not in uses.

- 4. The property is zoned B-1 Neighborhood Business which permits small scale neighborhood type businesses and the use is consistent with that type of zoning.**
- 5. There were no parties present in opposition to the application.**
- 6. The project, with the conditions and stipulations placed upon it, will not have an adverse impact on the neighboring properties, roadways or community.**
- 7. Based on the record and recommendation of the Planning and Zoning Commission and the record created before the Council, the Conditional Use was approved subject to three (3) conditions which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**