

ORDINANCE NO. 2233

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR BARBEQUE PREP AND SALES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 2.5 ACRES, MORE OR LESS

WHEREAS, on the 14th day of September 2011, a conditional use application, denominated Conditional Use No. 1914 was filed on behalf of Steven Krebs and Barbara Krebs; and

WHEREAS, on the 17th day of November 2011, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 8th day of December 2011, said Planning and Zoning Commission recommended that Conditional Use No. 1914 be approved with conditions; and

WHEREAS, on the 6th day of December 2011, 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. 1914 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 northeast of Route 20 (a.k.a. Road 382) approximately 1,100 feet northwest of Road 384 and being more particularly described in Deed Book 3487, Page 25, in the Office of the Recorder of Deeds in and for Sussex County, said parcel containing 2.5 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:

- 1. The use shall be limited to a barbeque preparation (in kitchen/indoor) and sales facility.**
- 2. Conditional Use No. 1795 (Ordinance No. 2087) for commercial greenhouses and a retail garden center is repealed, as stated by the Applicant. The site shall no longer be used for those purposes upon approval of this Conditional Use.**
- 3. The Applicant shall comply with all DelDOT requirements regarding entrances and roadway improvements.**
- 4. The Applicant shall comply with all requirements of Sussex County regarding the provisions of sewer service to the property.**
- 5. Food service for take-out, delivery, and off-site catering shall be permitted.**
- 6. The hours of operation, as stated by the Applicant, shall be from 11:00 a.m. until 8:00 p.m., six (6) days a week.**
- 7. Any security lighting shall be screened from view of neighboring roadways or properties.**
- 8. All dumpsters shall be screened from view.**
- 9. 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. 2233 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 17TH 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 an AR-1 Agricultural Residential District for a barbeque prep and sales to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 2.5 acres, more or less, lying northeast of Route 20 (a.k.a. Road 382) approximately 1,100 feet northwest of Road 384.**

2. **DelDOT commented that a Traffic Impact Study is not required and that the Level of Service “C” of Zion Church Road (Road 382) will not change as a result of this Application.**
3. **The Sussex County Engineering Department, Utility Planning Division, commented that the site is located in the Johnson’s Corner Sanitary Sewer District; that capacity is available for the proposed Conditional Use; that the proposed use shall not connect to the existing septic system; that conformity to the South Coastal Area Planning Study – 2005 Update and the Preliminary Engineering Report for the Johnson’s Corner Sanitary Sewer District will be required; that central sewer service became available to the parcel on June 15, 2011 and connection to the system is mandatory; that the existing septic tank must be properly disconnected from the existing uses and abandoned; that if a lateral upgrade is required, it would be at the property owner’s expense; and that a Concept Plan is not required.**
4. **The Applicant will be required to follow recommended erosion and sedimentation control practices during construction and to maintain vegetation; that there are no storm flood hazard areas affected; that it will not be necessary for any off-site drainage improvements; that it may be possible that on-site drainage improvements will be required; and that the Tax Ditch located on the southeast corner of the property may be affected.**
5. **There were no parties present in support of or in opposition to this Application.**
6. **The site has an approved Conditional Use for commercial greenhouses and a retail garden center. The Applicant stated that the prior Conditional Use will be terminated and replaced with the BBQ, with the conditions and stipulations placed upon it, and will not have an adverse impact on the neighboring properties or community.**
7. **The use is of a public or semi-public character.**
8. **Based on the record and recommendations of the Planning and Zoning Commission and the record created before Council, the Conditional Use is approved subject to nine (9) conditions, which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**