

ORDINANCE NO. 2275

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A FOOD VENDOR TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.0 ACRES, MORE OR LESS (Tax Map I.D. # 1-34-11.00-3.00)

WHEREAS, on the 11th day of May 2012, a conditional use application, denominated Conditional Use No. 1936 was filed on behalf of Chester Townsend, IV; and

WHEREAS, on the 26th day of July 2012, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 23rd day of August 2012, said Planning and Zoning Commission recommended that Conditional Use No. 1936 be approved with conditions; and

WHEREAS, on the 21st day of August 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 IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 1936 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 north of Route 26, 0.2 mile northeast of Road 342 (Sandy Landing Road) and being more particularly described in Deed Book 3995, Page 181 in the Office of the Recorder of Deeds in and for Sussex County, said parcel containing 1.0 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 take-out style seafood vendor. Other than the few picnic tables that currently exist on the site, no additional seating shall be installed for food service. The existing picnic tables shall be shown on the Final Site Plan.**
- 2. The use shall be seasonal, operating from April 1 through November 1, with hours of operation as stated by the Applicant of Thursday, Friday and Saturday from 11:00 a.m. to 8:00 p.m.**
- 3. There shall only be one lighted sign on the site not to exceed 32 square feet in size. This limitation on the number of signs includes a prohibition against sign cut-outs, pictures, or replicas of various types of seafood, including lobsters, crabs, shrimp, etc. No feather flags or free standing signs of any shape or size shall be permitted. The location of the 32 square foot sign shall be shown on the Final Site Plan for the property.**
- 4. The entrance shall be approved by DelDOT and noted and depicted on the Final Site Plan.**
- 5. Any security lighting shall be screened so that it does not shine on neighboring properties or roadways.**
- 6. No parking in the front yard setback shall be allowed. The designated parking area shall be shown on the Final Site Plan and clearly marked on the site itself.**
- 7. This approval is contingent upon the Sussex County Board of Adjustment approving the mobile home type structure for a business. The application to the Board of Adjustment shall be filed within 30 days of this approval.**
- 8. 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. 2275 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 11TH DAY OF SEPTEMBER 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 Facts:

- 1. This is an application to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a food vendor to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 1.0 acre, more or less, lying north of Route 26, 0.2 mile northeast of Road 342 (Sandy Lane Road).**
- 2. DelDOT commented that a Traffic Impact Study was not recommended and that the current Level of Service “D” of Vines Creek Road (Route 26) 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 Vines Creek Planning Area; that the use of an on-site septic system is proposed; that when the County provides sewer service, connection to the system is mandatory; that the County does not have a firm schedule to provide sewer service at this time; and that a Concept Plan is not required.**
- 4. Shirley Townsend was present on behalf of the application and stated that this was the fourth summer season the business has conducted business in the area; that they recently purchased the current site; that the business sells lobsters, soft crab, chicken and fish products; that the business is seasonal, is only open Thursday, Friday and Saturday from 11:00 a.m. – 8:00 p.m. and is primarily carry-out; that there are a few picnic tables outside and restrooms are available; that no one occupies the dwelling on the site which is used for storage purposes only and not as a restaurant; and that there are other business uses in the area.**
- 5. The project is located on Route 26, which is appropriate for a small take-out vendor of the type proposed by the Applicant; that it is in the vicinity of other business uses in the area including landscaping, restaurant equipment sales, daycares and similar businesses; that the use will be limited to take-out seafood; that the Applicant is a local commercial fisherman and this proposed use is an extension of his commercial fishing operation; that this is the fourth summer season that the Applicant has conducted business in the area; that they originally set up a commercial site near the Vines Creek Bridge and desire to relocate their business onto the property owned by them that is the subject of this application.**

- 6. The use of the mobile home type trailer for business purposes is subject to the approval of the Board of Adjustment.**
- 7. This approval will allow the Applicant to continue his local business with conditions and stipulations regulating the use so that it does not have an adverse impact upon neighboring properties, the community, or area roadways.**
- 8. The use is of a public or semi-public use of the property.**
- 9. 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 eight (8) conditions, which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**