

**ORDINANCE NO. 2375**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A C-1 GENERAL COMMERCIAL DISTRICT FOR A FOOD VENDOR TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 15,285 SQUARE FEET, MORE OR LESS**

**WHEREAS, on the 28<sup>th</sup> day of July 2014, a conditional use application, denominated Conditional Use No. 1996 was filed on behalf of Hector Patraca Carmona; and**

**WHEREAS, on the 25th day of September 2014, a public hearing was held, after notice before the Planning and Zoning Commission of Sussex County and on the 9th day of October 2014, said Planning and Zoning Commission recommended that Conditional Use No. 1996 be approved subject to conditions; and**

**WHEREAS, on the 2nd day of December 2014, 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 XI, Subsection 115-79, Code of Sussex County, be amended by adding the designation of Conditional Use No. 1996 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 west of U.S. Route 113 (DuPont Boulevard) 800 feet south of Road 380 (Parker Road) and being more particularly described as follows:**

**BEGINNING at an iron pipe on the westerly right-of-way of U.S. Route 113, a corner for these subject lands and lands of Parker Farm Properties, LLC; thence North 24°13'04" West 266.72 feet along Parker lands to a concrete monument, thence South 84°34'52" East 131.89 feet along lands, now or formerly, of Clarence E. and Donna L. Drummond, to a concrete monument, and thence South 05°25'08" West 231.83 feet along the westerly right-**

of-way of U.S. Route 113 to the point and place of beginning, and containing 15,285 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 is subject to the following conditions:

- A. The use shall comply with all setback and parking requirements, or obtaining appropriate approvals from the Sussex County Board of Adjustment.
- B. The Applicant shall comply with all DelDOT requirements, including entrances to and from U.S. Route 113.
- C. Any trash containers associated with the use shall be screened from view of neighboring properties and roadways.
- D. There shall be permitted one lighted sign, not to exceed 32 square feet in size.
- E. Bathroom/sanitation facilities shall be provided on the site.
- F. The Applicant shall obtain all agency approvals for the food service operations prior to Final Site Plan approval.
- G. The Final Site Plan for this use including the location of the food truck, any bathroom/sanitation facilities, driveways, entrances, and parking and picnic tables 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. 2375 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 2ND DAY OF DECEMBER 2014.**



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**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:

- A. This is the application of Hector Patraca Carmona to consider the Conditional Use of land in a C-1 General Commercial District for a food vendor to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing

**15,285 square feet, more or less, land lying west of U.S. Route 113 (DuPont Boulevard) 800 feet south of Road 380 (Parker Road) (911 Address: 34892 DuPont Boulevard, Frankford, DE) (Tax Map I.D. #533-4.00-13.00).**

- B. Council found that DelDOT commented that the property is located adjacent to U.S. Route 113 and is subject to the Department's Corridor Capacity Preservation Program; that the property is located within a Level 3 Investment Area according to the State Strategies; that the property owner can develop a rights-in/rights-out access to U.S. Route 113 for a site generating an average of 200 vehicle trips per day; that a Traffic Impact Study is not recommended; and that the current Level of Service "B" of U.S. Route 113 will not change as a result of this application.**
- C. Council found that the Sussex County Engineering Department, Utility Planning Division, commented that the project is located in the Western Sussex Planning Area #5; that use of an on-site septic system is proposed; that conformity to the Western Sussex Planning Study will be required; that the proposed use is not in an area where the County has a schedule to provide sewer at this time; and that a Concept Plan is not required.**
- D. Council found that the Sussex Conservation District commented that the developer shall be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation after construction; that no storm flood hazard areas are affected; that no on-site or off-site drainage improvements will be necessary; and that no tax ditches are affected.**
- E. Based on testimony before the Planning & Zoning Commission and the Public Hearing before the Sussex County Council, Council found that Hector Patraca Carmona was present with an interpreter and Holly Carmack, and stated that a taco stand is proposed; that the stand will be open year round for 6 days per week; that the stand will be closed on Wednesdays; that they are proposing to be open from 11:00 a.m. to 9:00 p.m.; that they would like to install a lighted sign; that parking is proposed as indicated on the site plan; that Mr. Carmona and his wife are the only employees; that Mr. Carmona owns the property; that they would like to have permission to utilize a porta-toilet; that they may have small gatherings on the site; that he currently does not need any more than a residential trash container for trash;**

**that waste water is dumped on the ground; and that cooking oils are stored and then recycled and hauled away by a licensed handler.**

**F. Council found that there were no parties present in support of or in opposition to this application.**

**G. Based on the Findings (1 - 3) and the Conditions (a - g) of the Planning & Zoning Commission, Council found that:**

- 1. There is room for the use on the site, including parking. There will also be room to pull off of U.S. Route 113 to access the food vendor.**
- 2. The use will not adversely affect neighboring properties, the community or area roadways.**
- 3. The use is appropriate in this location next to U.S. Route 113 and it is on property that is zoned C-1 Commercial.**
- 4. Based on the record and recommendation of the Planning & Zoning Commission and the record created before Council, the Conditional Use was approved subject to seven (7) conditions (A – G) which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**