

ORDINANCE NO. 2383

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A VENDOR (LUNCH TRUCK) TO SELL FOODS AND BEVERAGES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 16,820.70 SQUARE FEET, MORE OR LESS” (Tax Map I.D. 235-7.00-44.00)

WHEREAS, on the 29th day of April 2014, a conditional use application, denominated Conditional Use No. 1992 was filed on behalf of W. Ralph Brumbley; and

WHEREAS, on the 7th day of August 2014, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 21st day of August 2014, said Planning and Zoning Commission recommended that Conditional Use No. 1992 be approved with conditions; and

WHEREAS, on the 7th day of October 2014 and the 13th day of January 2015, 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. 1992 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 northeast of Route One (Coastal Highway) across from Route 5 (Union Street Extended) and being more particularly described in Deed Book 2357, Page 168, in the Office of the Recorder of Deeds in and for Sussex County, said parcel containing 16,820.70 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 mobile or temporary food and beverage vendor. When not in continuous operation, it must be removed from the site and must not become permanently located on the site.**

- B. The use shall comply with all setback and parking requirements.**
- C. The applicant shall comply with all DelDOT requirements, including entrances from Route One.**
- D. Any trash containers associated with the use shall be screened from view of neighboring properties and roadways.**
- E. The hours of operation shall be from 6:00 a.m. until 9:00 p.m.**
- F. The Final Site Plan for this use shall be subject to the review and approval of the Sussex County Planning and Zoning Commission. In addition to parking and other requirements of a Final Site Plan, it shall also show the location of the picnic tables or tents that were proposed by the Applicant.**

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2383 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 13TH DAY OF JANUARY 2015.



**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 W. Ralph Brumbley to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a vendor (lunch truck) to sell foods and beverages to be located on a certain parcel of land lying and being in Broadkill Hundred, Sussex County, containing 16,820.70 square feet, more or less, land lying northeast of Route One (Coastal Highway) across from Route 5 (Union Street Extended) (911 Address: 12209 Coastal Highway, Milton, Delaware) (Tax Map I.D. #2-35-7.00-44.00).**
- B. Council found that DelDOT commented that a Traffic Impact Study is not required; that the subject property is adjacent to Delaware Route One and is therefore subject to the Department's Corridor Capacity Preservation Program; that the main goal of the Program is to maintain the capacity of the existing highway; that Delaware Route One is a controlled access highway; that according to the Office of State Planning Coordination's Strategies for State Policies and Spending document, the property is located within a Level 4 Investment Area; that in this area, State policies will encourage the preservation of a rural lifestyle; and that the property owner can develop a rights-in/rights-out access to Delaware Route One for a site generating an average of 40 vehicle trips per day.**

- C. Council found the Sussex County Engineering Department, Utility Planning Division, commented that the site is not located in a proposed or current County operated and maintained sanitary sewer district; that the site is in the North Coastal Planning Area; that an onsite septic system is proposed; that conformity to the North Coastal Planning Study or undertaking an amendment 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.**
- D. Based on testimony before the Planning & Zoning Commission, Council found that W. Ralph Brumbley was present on behalf of this application and he stated that he owns the adjoining manufactured home park; that the proposed vendor truck will serve the residents of the park and transient customers; that he has cleaned up the park; that there is plenty of room for parking; that he may set up 10-foot by 20-foot tents for customers; that the existing day care building is not in use at this time; that the vendor truck will be located near the exit of the manufactured home park; that the use will be a benefit to the residents of the park; that the use would open at 6:00 a.m.; that coffee, cold beverages, doughnuts, pizzas, snacks and sandwiches will be served; that he has no intentions of operating a barbeque; that the Board of Health has granted a license to operate; that the business would be open six days per week; that there are three other vendors in the area; that it could be possible to provide picnic tables also; and that he submitted three photographs of the site.**
- E. Based on the Findings (1 through 5) and the Conditions (A through F) of the Planning & Zoning Commission, Council found that:**
- 1. This is a small use that will be located on property owned by the Applicant. It will be temporary in nature and will primarily serve residents and visitors to the adjoining manufactured home park that he owns.**
 - 2. There is room for the use on site, which also includes parking. There will also be room to pull off of Route One to access the food vendor.**
 - 3. The use will not adversely affect neighboring properties, the community or area roadways.**
 - 4. The use is appropriate in this location which is next to the manufactured home park, which includes fishing areas and other activities for residents and guests.**
 - 5. Based on the record and recommendation of the Planning & Zoning Commission and the record created before Council, the Conditional Use was approved subject**

to six (6) conditions (A through F) which will serve to minimize any potential impacts on the surrounding area and adjoining properties.