

ORDINANCE NO. 2388

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SEASONAL FARM STAND/GARDEN CENTER TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 5.2287 ACRES, MORE OR LESS

WHEREAS, on the 16th day of October 2014, a conditional use application, denominated Conditional Use No. 2006 was filed on behalf of Thomas and Laura Kucharik; and

WHEREAS, on the 22nd day of January 2015, 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. 2006 be approved with conditions; and

WHEREAS, on the 10th day of March 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. 2006 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 Indian River Hundred, Sussex County, Delaware, and lying west of Beaver Dam Road (Road 285) 1,100 feet north of Stockley Road (Road 280) and being more particularly described in Deed Book 4073, Page 97, in the Office of the Recorder of Deeds in and for Sussex County, said parcel containing 5.2287 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:

- A. The Final Site Plan shall show all areas for the farm stand and the garden center and vehicle and truck parking. It shall also show existing and proposed display areas and storage containers on the site. Those storage containers shall be screened from view of neighboring properties. No display or storage shall be located in the front yard setback.**
- B. All material and equipment storage shall be screened from view of neighboring properties and roadways.**
- C. One lighted sign, not to exceed 32 square feet per side, shall be permitted.**
- D. 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. 2388 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 10TH DAY OF MARCH 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 Thomas and Laura Kucharik to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a seasonal farm stand/garden center to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 5.2287 acres, more or less, land lying west of Beaver Dam Road (Road 285) 1,100 feet north of Stockley Road (Road 280) (911 Address: 19884 Beaver Dam Road, Lewes, DE) (Tax Map I.D. #234-5.00-44.07).**
- B. Council found that DelDOT commented that a Traffic Impact Study was not recommended and that the current Level of Service of Beaver Dam Road will not change as a result of this application.**
- C. Council found that the Sussex County Engineering Department, Utility Planning Division, commented that the site is located in the North Coastal Planning Area; that an on-site septic system is proposed; that conformity to the North Coastal Planning Study will be required; that the proposed use is not in an area where the 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 and the public hearing before the Sussex County Council, Council found that Thomas Kucharik was present on behalf of their application and stated that he has been working in the green industry for approximately 20 years; that he and his wife opened the garden center (Garden Shack Farm); that they have been growing plants, flowers, vegetable and plant seedlings, and that they have some chickens for the sale of the eggs; that they purchased land and the garden center was a permitted use; that some of their clients have requested that they provide mulches, pots, and other landscaping materials; that their sales display area is approximately 100 feet from the road; that they are planning on planting evergreens and landscaping; that they will have 2 to 4 employees; that their business will be open from March through December with business hours from 8:00 a.m. to 4:00 p.m. Monday through Thursday, 8:00 a.m. to 6:00 p.m. Friday and**

Saturday, and Noon to 4:00 p.m. on Sunday; that the proposed sales building will contain approximately 576 square feet; that they will be erecting additional greenhouses; that signage already exists and will be downward illuminated; that they do not intend to erect any feather flags; that the parking area will be gravel; that there will not be any displays or parking within the 40-foot front yard setback; that the use is compatible with neighborhood uses; that the use will not have an adverse effect on properties or traffic; and that he believes it will help the community.

E. Based on the Planning and Zoning Commission's Findings (1 through 5) and Conditions (A - D), as amended by Council, and the record created before the Sussex County Council, Council found that:

- 1. The Applicant resides on the premises where this Conditional Use will be located. He proposes to operate a small farm stand with a garden center for shrubs, plants, pots, mulch and soils and other similar garden items.**
- 2. The proposed use is compatible with the underlying agricultural zoning and other agricultural uses in the area.**
- 3. The use promotes both business and convenience in Sussex County in that it provides an agricultural business that will sell produce and garden products to Sussex County residents and visitors.**
- 4. The Conditional Use will not adversely affect neighboring properties, the community, or area roadways and traffic.**
- 5. No parties appeared in opposition to the proposed use.**
- 6. Based on the record and recommendation of the Planning & Zoning Commission and the record created before the Sussex County Council, the Conditional Use is approved subject to four (4) conditions (A – D) which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**