

ORDINANCE NO. 2392

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A C-1 GENERAL COMMERCIAL DISTRICT FOR A FOOD TRUCK (VENDOR) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 20,271 SQUARE FEET, MORE OR LESS

WHEREAS, on the 28th day of October 2014, a conditional use application, denominated Conditional Use No. 2009 was filed on behalf of Josh Grapski; and

WHEREAS, on the 12th day of February 2015, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 12th day of March 2015, said Planning and Zoning Commission recommended that Conditional Use No. 2009 be approved with conditions; and

WHEREAS, on the 31st 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 XI, Subsection 115-79, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2009 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 Lewes and Rehoboth Hundred, Sussex County, Delaware, and lying southwest of Coastal Highway (Route One) and southeast of Airport Road (Road 275A) and being more particularly described in Deed Book 3014, Page 251, in the Office of the Recorder of Deeds in and for Sussex County, said parcel containing 20,271 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 food truck shall be located in the front of the Liquid Surf Shop building as explained by the applicant during the public hearing.**
- B. The use shall comply with all other State and County regulations as may be applicable.**
- C. The truck shall not be permanently affixed or attached to the property.**
- D. If the truck is to be located within any setbacks, a variance from the Sussex County Board of Adjustment shall be required.**
- E. A Final Site Plan showing the location of the food truck 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. 2392 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 31ST 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 Josh Grapski to consider the Conditional Use of land in a C-1 General Commercial District for a food truck (vendor) to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 20,271 square feet, more or less, land lying southwest of Coastal Highway (Route One) and southeast of Airport Road (Road 275A) (911 Address: 19406 Coastal Highway, Rehoboth Beach, DE) (Tax Map I.D. #334-13.00-325.02).**
- B. Council found that DelDOT commented that a Traffic Impact Study was not recommended and that the current Level of Service "F" of Coastal Highway will not change as a result of this application.**
- C. Council found that the Sussex Conservation District commented that the Applicant will be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation; that no storm flood hazard areas are affected; that no off-site drainage improvements or on-site drainage improvements will be required; and that no tax ditches are affected.**
- D. Council found the Sussex County Engineering Department, Utility Planning Division, commented that the site is located in the West Rehoboth Expansion Area; that wastewater capacity is unknown at this time; that Ordinance 38 construction is not required; that if a wastewater connection is required, additional System Connection Charges are required; that the parcel has been provided with a sanitary sewer lateral located in the utility easement running along the parcel's southern property line; that conformity to the North Coastal Area Planning Study will be required; that the proposed Conditional Use is on a parcel where central sewer service has been provided; that a wastewater connection permit and inspection by County personnel is required prior to the food truck connecting to central sewer service; that the appropriate System Connection Charge must be paid prior to issuance of a hookup permit; that installation of a grease trap is required prior to connection to sewer; that if the food truck will**

discharge wastewater to a self-contained holding tank, a holding tank permit is required; and that a Concept Plan is not required.

- E.** Based on testimony before the Planning & Zoning Commission and the public hearing before the Sussex County Council, Council found that Josh Grapski, Billy Lucas, and Mitch Rosenfeld were present on behalf of this application and stated that they are submitting a revised Concept Plan with a revised location for the food truck on the site and landscaping; that the truck is presently parked just off of Route One and is intended to be relocated closer to Airport Road next to the Liquid Surf Shop; that they have been in business (Big Chill Restaurant) on the site for approximately three (3) years; that parking is a concern, so they have two (2) leases for parking on adjacent properties for shared parking to the rear of the Food Lion store; that they are proposing to improve the site by improving parking, drainage, and food service; that the Big Chill Restaurant has a liquor license for the site to serve indoors and on the patio; that the business is open seven (7) days per week with hours from 5:00 p.m. to 1:00 a.m. weekdays and noon to 1:00 a.m. on weekends; that no additional signage is necessary; that they may have some seating on the paver patio; that the truck is completely licensed and mobile; that they may use the truck at other sites for temporary functions and events; that there are no environmental concerns; that they are proposing to use the truck as a vendor vehicle for the long term; that the truck is a fun concept and something new to the area to attract patrons; that the site currently complies with parking and the shared parking is for overflow; that they are relocating the area to park the truck for safety purposes; and that they are a hospitality business, operating as “Big Chill” and “Taco Reho.”
- F.** Based on the Findings (1 through 4) and the Conditions (A through E) of the Planning & Zoning Commission and the record created before the Sussex County Council, Council found that:
- 1.** The property where the food truck will be located is zoned C-1 General Commercial. Permitted uses include retail sales and the sale of foods and beverages, as well as restaurants. The food truck operation is consistent with the underlying permitted uses in the C-1 General Commercial Zoning District.
 - 2.** This location, along Highway One near Rehoboth Beach is appropriate for a food truck operation. It would also be consistent with the uses on the site, which include a small tavern.
 - 3.** The use will not adversely affect any neighboring properties or area roadways.
 - 4.** No parties appeared in opposition to this application.
 - 5.** Based on the record and recommendations of the Planning & Zoning Commission and the record created before the Council, the Conditional Use is approved subject to five (5) conditions (A – E) which will serve to minimize any potential impacts on the surrounding area and adjoining properties.