

ORDINANCE NO. 2655

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR A DOG BAKERY WITH STORAGE AND WAREHOUSE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 5.3981 ACRES, MORE OR LESS

WHEREAS, on the 14th day of January 2019, a conditional use application, denominated Conditional Use No. 2171, was filed on behalf of Lisa St. Clair; and

WHEREAS, on the 25th day of April 2019, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 9th day of May 2019, said Planning and Zoning Commission recommended that Conditional Use No. 2171 be approved with conditions; and

WHEREAS, on the 21st day of May 2019, 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 VI, Subsection 115-39, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2171 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 on the northwest side of Hollyville Road, approximately 91 feet northwest of Harmony Cemetery Road and being more particularly described in the attached legal description prepared by Sergovic Carmean Weidman McCartney & Owens, P.A., said parcel containing 5.3981 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. Security lighting shall be downward screened and shall be directed away from neighboring properties and roadways.**
- B. Any dumpsters shall be screened from view of neighbors and roadways. The dumpster locations shall be shown on the Final Site Plan.**
- C. No more than seven (7) employees shall be permitted at the dog bakery.**
- D. All baking must be conducted indoors.**
- E. The site shall be subject to all DelDOT entrance and roadway requirements.**
- F. Handling and disposal of all waste from the dog bakery shall comply with all local, State and Federal laws, rules and regulations.**
- G. The dog bakery hours shall only be from 6:00 a.m. through 6:00 p.m. Monday through Friday. There shall not be any weekend hours.**
- H. One directional sign shall be permitted not to exceed six (6) square feet in size.**
- I. No retail sales to occur on the site.**
- J. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission. The Final Site Plan shall clearly show the areas set aside for parking.**

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2655 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 21ST DAY OF MAY 2019.

**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 Lisa St. Clair for a Conditional Use in a GR General Residential District for a dog bakery with storage and warehouse to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 5.3981 acres, more or less (land lying on the northwest side of Hollyville Road, approximately 91 feet northwest of Harmony Cemetery Road) (Tax I.D. No. 234-21.00-213.00) (911 Address: 24500 Hollyville Road, Millsboro).**
- B. Based on testimony before the Planning and Zoning Commission and the public hearing before the Sussex County Council, Council found that David J. Weidman, Esquire, with Sergovic, Carmean, Weidman, McCartney & Owens, P.A., and Applicant, Lisa St. Clair, were present on behalf of the application; that per the 2018 Comprehensive Plan, the Land Use Classification for the land is a Mixed Residential Area, and the Future Land Use map shows that the site is in the Coastal Area; that the proposed dog treat bakery and storage warehouse is consistent with the Land Use Plan; that DelDOT has determined that a Traffic Impact Study is not required; that the proposed application for a dog treat bakery and storage facility is a less intense use than the other permitted uses; that the Applicant operates Tail Bangers bakery; that the business is a wholesale dog bakery; that there are no direct public sales; that she lives at the site; that the site is 5.5 acres; that the site currently contains a house; that**

her brother also has a tiny-house on the site, and there is a building used for storage; that there is a landscape company located to the south of this site and to the north of the site is a HVAC business and landscaping business; that there are no homes across the street; and that there are trees on both sides of the property and out front.

- C. Council also found that the Applicant applied for the proposed Conditional Use because she is out of room for storage at her current location; that there would be no additional improvements to the site and she would be using the existing building; that there are two septic systems and wells on the site; that yogurt, flour, and boxes would be stored at the site; that they are currently designing and constructing machines to coat the treats and this equipment would be enclosed within the building; that the hours of operation would be 7:00 a.m. to 5:00 p.m., Monday through Friday; that once a month there would be deliveries to the site; that there would be no noise generated from the site, but there would be a smell of cinnamon; and that there would be no dust from the proposed use.
- D. Council further found that there would be no adverse impact on the neighboring properties; that, at most, there would be five employees at the site; that she has a company van and the van would transport supplies to Tail Bangers; that she would not like a sign except for maybe deliveries and the site would not be open to the public; that there is room for the delivery trucks to turn around; that the yogurt is delivered by a tractor trailer; that there is an existing security light on the building and she would not be adding additional lighting; that all the ingredients would be stored in the existing building and no additional buildings would be built; that the yogurt has to be stored within a temperature-controlled room and she has a freezer at the site; that the product is shipped out to other locations; and that she has a grease trap attached to the septic system.
- E. Based on the record and recommendation of the Planning and Zoning Commission and the Planning and Zoning Commission's Findings (1 through 6) and Conditions (7A – J), as amended, Council found that:
1. This Applicant proposes to operate a dog bakery with storage and warehouse on her property which consists of 5.40 acres. The property will primarily be used for the Applicant's residence.
 2. The dog bakery will be used to bake dog treats and to store materials and products used at the Applicant's main facility located off site.
 3. The dog bakery will produce no dust, emissions, or vibrations. Odor from the facility will be limited.
 4. The use as a dog bakery with storage and warehouse at this location is of a public or semi-public character and is desirable for the general convenience and welfare of the area.
 5. The project, with the conditions and stipulations so placed upon it, will not adversely affect area roadways.
 6. Based on the record and recommendation of the Planning and Zoning Commission and the record created before the Sussex County Council, the Conditional Use is approved subject to the ten (10) conditions (A - J), as amended, which will serve to minimize any potential impacts on the surrounding area and adjoining properties.