

ORDINANCE NO. 2664

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CATERING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 1.08 ACRES, MORE OR LESS

WHEREAS, on the 1st day of February 2019, a conditional use application, denominated Conditional Use No. 2173, was filed on behalf of Ray Richardson; and

WHEREAS, on the 23rd day of May 2019, 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. 2173 be approved with conditions; and

WHEREAS, on the 25th day of June 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 IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2173 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 west side of Doddtown Road, approximately 511 feet north of Anderson Corner Road, and being more particularly described in the attached legal description prepared by Sergovic, Carmean & Weidman, P.A., said parcel containing 1.08 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 site shall only be used for preparing food for off-site catering.**
- B. The catering preparations shall occur within the 20 by 24 square foot building shown on the Preliminary Plan.**

- C. As stated by the Applicant, no signs shall be permitted.
- D. The Applicant shall comply with any DelDOT requirements for entrance approval.
- E. Any dumpster located on the site shall be screened from view of the neighboring properties or roadways.
- F. 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. 2664 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 25TH DAY OF JUNE 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 Ray Richardson, incorrectly referred to as Roy Richardson, for a Conditional Use in an AR-1 Agriculture Residential District for a catering business to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 1.08 acres, more or less (land lying on the west side of Doddtown Road, approximately 511 feet north of Anderson Corner Road) (Tax I.D. No. 234-9.00-6.02) (911 Address: 21170 Doddtown Road, Harbeson).
- B. Based on testimony before the Planning and Zoning Commission and the public hearing before the Sussex County Council, Council found that Fred A. Townsend, III, Esquire with Hudson, Jones, Jaywork and Fisher, and Ray Richardson, the Applicant, were present on behalf of the application; that the Applicant's name is Ray and not Roy; that the Applicant is a well-known chef with a history in the area and in the restaurant business; that this is a limited application for a specific purpose and would not result in incremental expansion, if approved; that the Applicant is seeking to authorize an on-site catering business in a proposed 20' x 24' building placed behind his existing home; that the structure would not be visible from the road; that there are trees behind the proposed structure; that the Applicant has support from the adjoining neighbors; that the proposed new structure would be compatible with the existing house; that the proposed structure would include a kitchen to prepare foods, to be delivered from off-site; that there would be no patron visits to the site; that there would be no sales conducted from the site; that there would be no increase in or impact on traffic; that the Applicant may desire to add one or two employees in the future; that the Applicant has been working in the restaurant business for 45 years; that the proposed business would be low key; that he is trying to make a living; that he would go to the client's house to meet with them and serve the food; that there would be a van to deliver the food; that he does not want a sign; that there would be no deliveries to the site; and that there would be no outside cooking.
- C. Based on the record and recommendation of the Planning and Zoning Commission and the Planning and Zoning Commission's Findings (1 through 5) and Conditions (6A – 6F), Council found that:
 - 1. The use will occur in a building located behind the existing residential structure that is on the property.
 - 2. The Applicant has a great deal of restaurant and food prep experience.
 - 3. All food prepared on the site will be delivered off-site. No food service will occur on-site, and there will not be any customers on the site.

- 4. The use will not adversely impact adjacent properties or roadways.**
- 5. No parties appeared in opposition to the application, and the Applicant stated that his neighbors are all in favor of it.**
- 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 six (6) conditions (A - F), which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**