

ORDINANCE NO. 2734

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A C-1 GENERAL COMMERCIAL DISTRICT FOR A FOOD TRUCK TO BE OPERATED FOR A PERIOD EXCEEDING THREE DAYS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.115 ACRE, MORE OR LESS

WHEREAS, on the 17th day of December 2019, a conditional use application, denominated Conditional Use No. 2214, was filed on behalf of Anthony Crivella and Harold E. Dukes, Jr.; and

WHEREAS, on the 23rd day of July 2020, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 13th day of August, 2020, said Planning and Zoning Commission recommended that Conditional Use No. 2214 be approved with conditions; and

WHEREAS, on the 25th day of August 2020, 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. 2214 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 on the northeast side of Johnson Street, southeast of Central Avenue, and being more particularly described in the attached legal description prepared by Tunnell & Raysor, P.A., said parcel containing 0.115 acre, 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.**
- B. The use shall comply with all setback and parking requirements.**
- C. The Applicant shall comply with all DeIDOT requirements, including entrances.**
- D. Any trash containers associated with the use shall be screened from view of neighboring properties and roadways.**
- E. The use shall comply with any requirements of the Sussex County Engineering Department regarding wastewater and grease discharges.**
- F. The hours of operation shall be from 11:00 a.m. until 7:00 p.m., Fridays, Saturdays and Sundays.**
- G. Any dumpsters associated with the use shall be screened from the view of neighboring properties and roadways.**
- H. The Final Site Plan for this use shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**
- I. The food truck shall be removed no later than February 28, 2021.**

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2734 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 25TH DAY OF AUGUST 2020.

**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 Anthony Crivella and Harold E. Dukes, Jr. for a Conditional Use in a C-1 General Commercial District for a food truck to be operated for a period exceeding three days to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 0.115 acre, more or less (land lying on the northeast side of Johnson Street southeast of Central Avenue) (Tax I.D. No. 334-13.20-25.00) (911 Address: None Available).**
- B. Based on testimony before the Planning and Zoning Commission and the public hearing before the Sussex County Council, Council found that Mackenzie Peet, Esquire, of Tunnell & Raysor, P.A., was present on behalf of DaNizza Wood Fired Pizza, LLC and the owners, Applicants Anthony Crivella and Harold E. Dukes, Jr.; that the Applicants requested a conditional use to permit, locate and operate a food truck on the subject property for a period to exceed three days to provide food for the patrons of Revelation Brewing Company (“Revelation”); that Revelation received conditional use approval to operate a microbrewery on Lot 45 in 2018; that Revelation hired DaNizza Pizza to provide food for Revelation patrons; that DaNizza Pizza received a temporary food vendor license and was initially located along Central Avenue; and that the license allowed for the food truck to remain in that location from March 15 through November 15, 2019.**

- C. Council also found that a complaint was made regarding the location of the food truck; that the food truck has now been moved from the front of Lot 45 to Lot 49 which is in the rear of Revelation; that a conditional use application to permit a food truck at this location was filed December 2019; that Lot 49 is a 5,000 square foot unimproved lot in a general commercial (C-1) zoning district; that the food truck does meet the setback requirements for the property; that the proposed location is surrounded by similar commercial properties and, therefore, the food truck is compatible with the surrounding uses; that it is low-profile as it sits behind Revelation on another lot; that the food truck operates on weekends only when Revelation is open; that additional parking is not required for the food truck; that this is a temporary use as Revelation will be moving to an alternative site in the near future; that the food truck will remain on the site when not open for business; that a dumpster will be on site; and that the food truck receives its electricity from the Revelation site.**
- D. 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 (A - I), as amended, Council found that:**
- 1. This is an application to allow a food truck or trailer serving pizza to be located on property owned by the applicants.**
 - 2. The site is zoned C-1 General Commercial, which permits various uses that are more intensive than what is proposed here, including full-scale restaurants. The use as a food truck location is consistent with the underlying C-1 zoning.**
 - 3. The food truck will serve residents of the community, people on the nearby bike trail and patrons of the nearby Revelation Brewing Company.**
 - 4. The use will not adversely affect neighboring properties, the community or area roadways.**
 - 5. No parties spoke in opposition to this application.**
 - 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 nine (9) conditions (A - I), as amended, which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**