

ORDINANCE NO. 2809

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 CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 6.12 ACRES, MORE OR LESS

WHEREAS, on the 4th day of February 2021, a conditional use application, denominated Conditional Use No. 2267 was filed on behalf of Cynthia B. Gibbs; and

WHEREAS, on the 14th day October 2021 and 28th day of October 2021, 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. 2267 be approved; and

WHEREAS, on the 9th day of November 2021, 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. 2267 as it applies to the properties 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 Cedar Creek Hundred, Sussex County, Delaware, and lying on the southwest side of Hollytree Road (S.C.R. 226), approximately 0.28 mile southeast of Fleatown Road (S.C.R. 224), and being more particularly described in the attached deed prepared by Autman & Bredt, P.A., said parcel containing 6.12 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 use shall be limited to a catering business. No events catered as part of the Applicant's business shall occur on the site.**
- b. The site shall maintain its residential appearance and the catering business shall be conducted from the home on the property.**
- c. One lighted sign shall be permitted. It shall not be any larger than 32 square feet in size.**
- d. No catered events shall occur on this property.**
- e. The failure to comply with any of these conditions of approval may result in the revocation of this Conditional Use.**
- 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. 2809 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 9TH DAY OF NOVEMBER 2021.

**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 Cynthia B. Gibbs for 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 Cedar Creek Hundred, Sussex County, containing 6.12 acres, more or less (property lying on the southwest side of Hollytree Road (S.C.R. 226), approximately 0.28 mile southeast of Fleatown Road (S.C.R. 224) (Tax I.D. No. 230-20.00-9.10) (911 Address: 11420 Hollytree Road, Lincoln).**
- B. Based on the record before the Planning and Zoning Commission and the hearing before the Sussex County Council, Council found that Ms. Cynthia Brown Gibbs was present on behalf of her Application; that she currently owns a food truck which was converted from a trailer which must be pulled and cannot be driven; that she does a lot of business from her food truck; that Applicant is on her food truck three days out of the week at the new Howard T. Ennis school being built across from Sussex Central High School; that she desires to begin a catering business due to getting older as it would make her feel more settled; that she would be able to do more and potentially something a little bigger; that her food truck is only 7x16 and, due to the lack of room in the truck, it can get a little hectic; and that she is requesting a Conditional Use to allow her to continue operating the same catering business she currently operates from her food truck from the kitchen within her home.**
- C. Council also found that the Applicant currently has one full-time employee; that for right now she does everything on her own aside from large events, including festivals; that if she has an event going on, such as the recent Wings & Wheels event, that she preps two weeks in advance, but on the day of the event she does require additional help; that in the future she may need one more employee; she currently prepares the food and delivers the food with her food truck; that the way she understood the regulations it must be carry-out only; that no customers come to the property for food tastings; that the Applicant has purchased a box truck which she will be able to drive herself; that the box truck is currently going through the inspection process and will become the delivery truck; that she would like to sell the trailer she is currently using; that the Applicant would like to request a lighted sign; and that she does not feel her Application will have any negative impacts to nearby schools, roadways, water and property values since she lives out in the country.**

D. 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 (a – f), Council found that:

- 1. Based upon the description of the proposed use made during the public hearing, this use is very near a home occupation, as it will occur within the Applicant's residence. Because there may be one or more employees, a conditional use is required.**
- 2. This use will occur within the house on a 6.12-acre property. Except for the catering truck or trailer parked on-site when not in use, it will not even be evident that the catering business will be occurring on the property.**
- 3. No events will be conducted on the property. The Applicant has stated that all of her catered functions occur off-site.**
- 4. The use will not adversely affect neighboring properties or roadways.**
- 5. The use will not require any additional utility services beyond what currently exists for the Applicant's residence on the property.**
- 6. No parties appeared in opposition to this Application.**
- 7. 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 six (6) conditions (a – f), which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**