

**ORDINANCE NO. 2341**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A RETAIL PACKAGE STORE AND TAVERN TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 3.033 ACRES, MORE OR LESS (Tax Map I.D. 230-26.00-35.01)**

**WHEREAS, on the 11th day of December 2013, a conditional use application denominated Conditional Use No. 1979 was filed on behalf of Thomas and Judy Munce; and**

**WHEREAS, on the 27th day of February 2014, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 13th day of March 2014, said Planning and Zoning Commission recommended that Conditional Use No. 1979 be approved with conditions; and**

**WHEREAS, on the 25th day of March 2014, 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. 1979 as it applies to the property hereinafter described.**

**Section 2. The subject property is described as follows:**

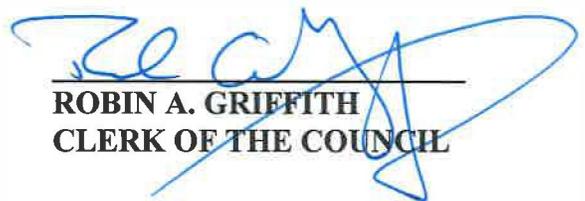
**ALL that certain tract, piece or parcel of land, lying and being situate in Cedar Creek Hundred, Sussex County, Delaware, and lying east of U.S. Route 113 and 2,800 feet north of Route 16 and being more particularly described as Parcel No. 4 on survey of "Lands of Sheila J. Stevens" as recorded in Plot Book 85, Page 50 in the Office of the Recorder of Deeds in and for Sussex County, said parcel containing 3.033 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 comply with all Sussex County parking requirements.**
- B. The existing signage shall be permitted.**
- C. Security lighting shall be provided. It shall be downward screened to provide safety but shall not shine on neighboring properties or roadways.**
- D. The structure shall exist in its current configuration. Any expansion shall require additional site plan approvals by the Sussex County Planning and Zoning Commission.**
- E. Any dumpsters on the site shall be screened from view of neighboring properties and 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. 2341 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 25TH DAY OF MARCH 2014.**

  
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 an application to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a retail package store and tavern to be located on a certain parcel of land lying and being in Cedar Creek Hundred, Sussex County, containing 3.033 acres, more or less, lying east of U.S. Route 113 and 2,800 feet north of Route 16.**
- B. DelDOT commented that a Traffic Impact Study was not recommended and that the current Level of Service B of U.S. Route 113 at this location will not change as a result of this application.**
- C. The Sussex County Engineering Department, Utility Planning Division, commented that the site is not in a proposed or current County operated and maintained sanitary sewer district and/or water district; that the site is located in the Ellendale Primary Planning Area; that an on-site septic system is proposed; that conformity to the North Coastal Planning Study will be required; that the proposed use is not in an area where the County has a schedule to provide sewer service at this time; and that a Concept Plan is not required.**

- D. The Applicants, Thomas and Judy Munce, were present and stated that they want to reopen the package store/tavern that has historically existed at this site; that they are not planning on cooking any foods on premise; that they will be offering snacks; and that they anticipate a total of 3 to 4 employees.**
- E. Based on the Findings of the Planning and Zoning Commission, the Council found that:**
- a. This site has historically been used as a tavern and package store. Such a use has been located at this site on U.S. Route 113 for many years, well before zoning was put into place.**
  - b. The use was a legal non-conforming use (in other words, grandfathered), but has lost its status due to delays in reopening the business. Since it was closed for more than two (2) years, the legal non-conforming status expired.**
  - c. The Applicants intend to use the premises in its current condition, with existing signage. They have stated that they have no plans to expand the building or the use at this time.**
  - d. The use, which has been in existence for a very long time prior to the two (2) year interruption, will not have any adverse impact on traffic, the neighborhood or neighboring property values.**
  - e. No parties appeared in opposition to the Application.**
  - f. Based on the record and recommendation of the Planning and Zoning Commission and the record created before the Council, the Conditional Use was approved subject to six (6) conditions (A through F), which will serve to minimize any potential impacts on the surrounding and adjoining properties.**