

ORDINANCE NO. 2381

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A BBQ VENDOR TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 73 ACRES, MORE OR LESS

WHEREAS, on the 31st day of July 2014, a conditional use application, denominated Conditional Use No. 1999 was filed on behalf of Hopkins Farm Creamery, Inc.; and

WHEREAS, on the 23rd day of October 2014, 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. 1999 be denied; and

WHEREAS, on the 16th day of December 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. 1999 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 at the southwest corner of U.S. Route 9 (Seashore Highway) and Road 261 (Dairy Farm Road) and being more particularly described in Deed Book 2872, Page 1, in the Office of the Recorder of Deeds in and for Sussex County, said parcel containing 73 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:

- 1. The use shall comply with all setback and parking requirements, or obtain appropriate approvals from the Sussex County Board of Adjustment.**
- 2. The Applicant shall comply with all DelDOT requirements, including an entrance to and from Road 261 (Dairy Farm Road).**
- 3. Any trash containers associated with the use shall be screened from view of neighboring properties and roadways.**
- 4. There shall be permitted one lighted sign, not to exceed 32 square feet in size.**
- 5. Bathroom/sanitation facilities shall be provided on the site.**
- 6. The hours of operation for the food truck shall be the same as, or less than, the hours of operation for the Hopkins Farm Creamery ice cream business which is located on the same site.**
- 7. The Applicant shall obtain all agency approvals for the food service operations prior to Final Site Plan approval.**
- 8. Since a food truck/trailer is proposed, it shall be subject to the review and approval of the Sussex County Board of Adjustment prior to the Commission's review of the Final Site Plan.**
- 9. The Final Site Plan for this use, including the location of the food truck, any bathroom/sanitation facilities, driveways, entrances and parking and picnic tables, 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. 2381 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 16TH DAY OF DECEMBER 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 the application of Hopkins Farm Creamery, Inc. to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a BBQ vendor to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 73 acres, more or less, land lying southwest corner of U.S. Route 9 (Lewes Georgetown Highway, aka Seashore Highway) and Road 261 (Dairy Farm Road) (911 Address: 18186 Dairy Farm Road, Lewes, DE) (Tax Map I.D. #334-10.00-51.00).**
- B. Council found that DelDOT commented that a Traffic Impact Study was not recommended and that the current Level of Service “B” of Sweetbriar Road from Beaver Dam Road to U.S. Route 9 may change to a Level of Service “C”.**
- C. Council found that the Sussex Conservation District commented that the Applicant will be required to follow recommended erosion and sediment control practices during any construction and to maintain vegetation after construction; that no storm flood hazard areas are affected; that no off-site drainage improvements will be necessary; that it is not likely that any on-site drainage improvements will be necessary; and that no tax ditches are affected.**
- D. Council found that the Sussex County Engineering Department, Utility Planning Division, commented that the site is located in the North Coastal Planning Area; that an onsite 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 currently has a schedule to provide sewer service; and that a Concept Plan is not required.**
- E. Based on testimony at the Public Hearing before the Sussex County Council, Council found that Walter Hopkins, Jr. was present on behalf of the application of Hopkins Farm Creamery, Inc. and he stated that they plan to have a BBQ operation in conjunction with the ice cream operation at the dairy farm; that the BBQ operation will be located approximately 200 feet south of the ice cream operation in the parking lot; that they propose a food truck/trailer that would be mobile; that they do not propose to take it off site although they would have that option; that they propose to**

use the same entrance, same parking, and same hours of operation as the ice cream operation; and that they propose to serve lunch only.

F. Council found that there is room for the use on the site; that there will also be room to pull off of Road 261 (Dairy Farm Road) to access the food vendor; that the use is appropriate in this location next to U.S. Route 9 (Seashore Highway) and Road 261 (Dairy Farm Road) and it is on property that is zoned AR-1 Agricultural Residential; that the Conditional Use is in accordance with the Comprehensive Development Plan and is for the general convenience and welfare of the inhabitants of Sussex County; and that the Conditional Use will not adversely affect neighboring properties, the community, or area roadways and traffic.

G. Council found that no parties appeared in opposition to this application.

H. Based on the record created before Council and from the agencies, the Conditional Use was approved subject to nine (9) conditions which will serve to minimize any potential impacts on the surrounding area and adjoining properties.