

ORDINANCE NO. 2221

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A HOT DOG VENDOR TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 39,176 SQUARE FEET, MORE OR LESS

WHEREAS, on the 1st day of July 2011, a conditional use application, denominated Conditional Use No. 1910 was filed on behalf of Charles Boehm; and

WHEREAS, on the 25th day of August 2011, 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. 1910 be approved with conditions; and

WHEREAS, on the 20th day of September 2011, 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. 1910 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 at the southeast corner of Long Neck Road (Route 22) and Julia's Lane, 1,300 feet east of Banks Road (Road 298) and being more particularly described in Deed Book 2381, Page 34, in the office of the Recorder of Deeds in and for Sussex County, said parcel containing 39,176 square feet, 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 hot dog cart shall not be permanently located at the site and shall remain mobile.**
- 2. The Applicant shall comply with all Health Department recommendations governing the sale of food and beverages.**
- 3. The hot dog cart shall be parked in the location shown on the preliminary site plan, at least 40 feet from the right-of-way of Long Neck Road.**
- 4. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.**

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2221 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 20TH DAY OF SEPTEMBER 2011.


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 for a Conditional Use of land in an AR-1 Agricultural Residential District for a hot dog vendor to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, Delaware, containing 39.176 square feet, more or less, lying on the southeast corner of Long Neck Road (Route 22) and Julia's Lane, 1,300 feet east of Banks Road (Road 298).**
- B. DelDOT commented that a Traffic Impact Study is not recommended and that the current Level of Service "D" of Long Neck Road will not change as a result of this Application.**
- C. The Sussex County Engineering Department, Utility Planning Division, commented that the site is located in the Long Neck Sanitary Sewer District; that wastewater capacity is available for the project if the use does not exceed approximately 1.0 EDU; that conformity to the North Coastal Planning Study will be required; and that a Concept Plan is not required.**
- D. The Applicant was present and stated that he intends to continue operating a hot dog vendor cart; that the cart is set back 40 feet from the right-of-way of Long Neck Road; that 3 or 4 parking spaces are available for parking; that most of his patrons are from the retail bait and tackle shop on the site and the Shorts Marine site to the west; that the cart is removable; and that he hauls the cart to and from his home to the site.**
- E. There were no parties present in support of or in opposition to this Application.**
- G. The project, with the conditions and stipulations placed upon it, will not have an adverse impact on the neighboring properties or community.**
- H. The use is of a public or semi-public character.**
- I. Based on the record and recommendations of the Planning & Zoning Commission and the record created before Council, the Conditional Use was approved subject to four (4) conditions which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**