

ORDINANCE NO. 2253

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A B-1 NEIGHBORHOOD BUSINESS DISTRICT AND AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 6.954 ACRES, MORE OR LESS

WHEREAS, on the 31st day of January 2012, a zoning application, denominated Change of Zone No. 1713 was filed on behalf of Weller's Utility Trailers; and

WHEREAS, on the 12th day of April 2012, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 26th day of April 2012, said Planning and Zoning Commission recommended that Change of Zone No. 1713 be approved; and

WHEREAS, on the 1st day of May 2012, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County has determined, based on the findings of facts, that said change of zone 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,

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article II, Subsection 115-7, Code of Sussex County, be amended by deleting from the Comprehensive Zoning Map of Sussex County the zoning classifications of [B-1 Neighborhood Business District and AR-1 Agricultural Residential District] and adding in lieu thereof the designation CR-1 Commercial Residential District 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 north of Route 16 and 520 feet west of Road 595A (Spruce Road) and being more particularly described as follows:

BEGINNING at a point on the northerly right-of-way of Route 16, a corner for these lands and lands of Jeffrey S. and Judith V. Reed, said point being 520 feet west of the centerline of Road 595A; thence westerly 915.86 feet along the northerly right-of-way of Route 16 to a point at centerline of a ditch and lands, now or formerly of Charles H. Howard;

thence northeasterly along the meandering centerline of said ditch 862.50 feet to a point, a corner with lands, now or formerly, of Judith E. Webb; thence south 20°33'26" east 647.35 feet along said Webb lands and lands of Jeffrey S. and Judith V. Reed to the point and place of beginning and containing 6.954 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.

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2253 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 1ST DAY OF MAY 2012.


ROBIN A. GRIFFITH
CLERK OF THE COUNCIL

The Council found that the Change of Zone was appropriate legislative action based on the following Findings of Fact:

1. This is an application to amend the Comprehensive Zoning Map from B-1 Neighborhood Business District and AR-1 Agricultural Residential District to a CR-1 Commercial Residential District to be located on a certain parcel of land lying and being in Cedar Creek Hundred, Sussex County, containing 6.954 acres, more or less, lying north of Route 16 and 520 feet west of Road 595A (Spruce Road).
2. The Sussex Conservation District commented that the Applicant will be required to follow recommended erosion and sedimentation control practices during any construction and to maintain vegetation; that there are no storm flood hazard areas or ditches affected; that no off-site drainage improvements are necessary; and that it is not likely that on-site drainage improvements will be necessary.
3. The Sussex County Engineering Department, Utility Planning Division, commented that the site is located in the Western Sussex Planning Area #1; that conformity to the Western Sussex Planning Study will be required; that the proposed use is not in an area where the County currently has a schedule to provide sewer services; and that a Concept Plan is not required.

4. The Applicant was present with Gene Bayard, Esquire, of Wilson, Halbrook & Bayard, P.A. Mr. Bayard stated that this site is the old Sam Yoder Conditional Use parcel and the adjacent lot; that the 6.103 acre parcel is zoned B-1 Neighborhood Business and was previously a Conditional Use for meat cutting and sales; that a PLUS review was not required; and that the rezoning was chosen since banks are not lending funds for Conditional Use applications.
5. The parcel has a history of commercial-type uses; it is fully developed with a large retail/warehouse structure on it with parking lots and stormwater management facilities; it has been used intensively as a grocery store in the past; it previously had a Conditional Use approval that was upgraded to a B-1 zoning; and that this CR-1 rezoning would be consistent with the prior uses and zoning trends of the property.
6. The site is currently developed with all agency approvals, including commercial entrance approval from DelDOT. Because of the prior development of the property, DelDOT did not require a Traffic Impact Study.
7. This property is located along Route 16, a major collector road.
8. The Change of Zone will not adversely affect neighboring properties, roadways or traffic in the area.
9. Letters from neighbors were received in support of the application. No parties appeared in opposition to the application at the Public Hearing.
10. Based on the record and recommendation of the Planning and Zoning Commission and the record created before Council, the Council approved this application.