

ORDINANCE NO. 2273

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 8.53 ACRES, MORE OR LESS (Tax Map ID# 2-35-30.00-27.00 and 28.00)

WHEREAS, on the 3rd day of April, 2012, a zoning application, denominated Change of Zone No. 1718 was filed on behalf of Gary L. Hudson, Trustee; and

WHEREAS, on the 12th day of July 2012, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Change of Zone No. 1718 be approved; and

WHEREAS, on the 7th day of August 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 classification of [AR-1 Agricultural 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 Broadkill Hundred, Sussex County, Delaware, and lying north of Route 9 and 1,000 feet east of Route 5 at Harbeson and being more particularly described as follows:

BEGINNING at a concrete monument on the northerly right-of-way of Route 9, a corner for these subject lands and lands of Robert M. and Sandra E. Davidson; thence north 04 degrees 52 minutes 58 seconds west 1,292.23 feet along said Davidson lands to a point in centerline of Beaverdam Creek; thence northeasterly 605 feet with the meandering centerline of Beaverdam Creek to a point; thence south 04 degrees 06 minutes 51 seconds east

1,743.59 feet along lands of Harbeson Land, Inc. to a concrete monument on the northerly right-of-way of Route 9; thence south 84 degrees 51 minutes 00 seconds west 223.78 feet along the northerly right-of-way of Route 9 to the point and place of beginning, and containing 8.54 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. 2273 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 7TH DAY OF AUGUST 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 an 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 Broadkill Hundred, Sussex County, containing 8.53 acres, more or less, lying north of Route 9 and 1,000 feet east of Route 5 at Harbeson.
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 no storm flood hazard areas or tax ditches are 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 North Coastal Planning Area; that the use of an on-site septic system is proposed; that conformity to the North Coastal Planning Study will be required; that the proposed project is not in an area where the County currently has a schedule to provide sewer services; and the a Concept Plan is not required.

- 4. The Applicant, Gary L. Hudson, was present along with Shannon Carmean, Esquire of Sergovic, Carmean & Weidman, P.A. and Ken Christenbury, P.E. of Axiom Engineering, LLC and they stated that this site contains two (2) shops and a dwelling; that the shop building along Route 9 has existed since the 1940's; that the storage building to the rear was built in the 1970's for personal storage use; that the site is located in a Developing Area according to the County's Comprehensive Land Use Plan; that DelDOT did not require a Traffic Impact Study for the current uses; that they have applied for rezoning so that the non-conforming uses can be expanded; that the Applicant intends to continue to operate the 5,000 square foot automotive care center, and eight mini-storage units; that the rezoning will also provide a mixture of residential and light commercial uses which are appropriate in Developing Areas; that it will provide for convenient services; and that it will allow residents to work close to home.**
- 5. This site is basically infill, with commercial zoning and commercial uses surrounding it; this property has been used for commercial purposes for many years prior to the County's adoption of its Zoning Code; CR-1 zoning is appropriate for this property; it is located along Route 9 which is a major arterial roadway; and it is located in the immediate vicinity of the intersection of Route 9 and Route 5 where additional businesses and commercial uses are located.**
- 6. The Change of Zone will have no adverse impact on neighboring properties, uses or traffic in the area.**
- 7. There were several neighbors in support of the project. One neighbor submitted a letter of opposition.**
- 8. Based on the record and recommendations of the Planning and Zoning Commission and the record created before Council, the Council approved this Application.**