

ORDINANCE NO. 2298

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 7.57 ACRES, MORE OR LESS (Tax Map I.D. 2-35-30.00-26.00)

WHEREAS, on the 4th day of January 2013, a zoning application, denominated Change of Zone No. 1726 was filed on behalf of Robert M. & Sandra E. Davidson; and

WHEREAS, on the 28th day of February 2013, 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. 1726 be approved; and

WHEREAS, on the 26th day of March 2013, 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 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 Broadkill Hundred, Sussex County, Delaware, and lying north of Route 9 approximately 800 feet east of Route 5 at Harbeson and being more particularly described as follows:

BEGINNING at a point on the northerly right-of-way of Route 9, approximately 884 feet east of Route 5, a corner for these subject lands and lands, now or formerly, of Gary L. Hudson, Trustee; thence north 13°45'00" west 1,282.00 feet along said Hudson lands to the centerline of Beaverdam Branch; thence southwesterly along the meandering centerline of Beaverdam Branch to a point, a corner with lands, now or formerly, of Alva O. Wagner; thence north 74°00'00" 288.00 feet along lands of Delmarva Power & Light Co. to a point; thence continuing along lands of Delmarva Power & Light Co. south 13°45'00" east 348.00

feet to the northerly right-of-way of Route 9; and thence north 76° 15' 00" east 90.00 feet along the northerly right-of-way of Route 9 to the point and place of beginning, and containing 7.57 acres, more or less, per survey by Pennoni Associates, Inc.

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. 2298 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 26TH DAY OF MARCH 2013.



**ROBIN A. GRIFFITH
CLERK OF THE COUNCIL**

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

1. This is an application to amend the Comprehensive Zoning Map from 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 7.57 acres, more or less, lying north of Route 9 approximately 800 feet east of Route 5 at Harbeson (Tax Map I.D. 2-35-30.00-26.00)
2. DelDOT commented that a Traffic Impact Study is not recommended at this time; that the current Level of Service "E" will not change as a result of this application; and that the Department is willing to postpone a decision on DelDOT requirements for a Traffic Impact Study until the subject land has been rezoned and is proposed for redevelopment in a manner that warrants a Traffic Impact Study.
3. The Sussex County Engineering Department, Utility Planning Division, commented that the site is located in the North Coastal Planning Area; that the parcel is not in an area where the County currently plans to provide sewer service; and that a Concept Plan is not required.
4. The Applicant, Robert Davidson, was present along with Douglas Barry, Professional Engineer with Pennoni Associates, Inc. They stated that they are applying for rezoning so that the Applicant does not have to apply for every expansion of his existing Conditional Use; that the site is currently used for an office and storage of materials and equipment for his house moving business; that additional storage buildings may be built in the near future; that he has no intent to change the use; that

there are several business and commercial uses in the area; that the adjacent parcel was recently rezoned CR-1 Commercial Residential; that according to the State Strategies, the site is located in an Investment Level 3 Area; that according to the Comprehensive Land Use Plan, the site is located in a Development Area; that they have met with DelDOT and were advised that, since no development is currently proposed, a Traffic Impact Study will not be required at this time; that the site is served with on-site water and on-site septic; that Route 9 is a major arterial roadway; that they are aware that the Commission and other agencies will review any future site plans before any development activities take place; that no outside storage is intended; that the existing storage contains approximately 1,500 square feet; and that a home being relocated may be stored on the site for one or two weeks pending preparation of the site for the relocation.

5. The property is currently the subject of a Conditional Use for a contractor's storage yard.
6. The location is appropriate for CR-1 zoning; it is located along Route 9 near the intersection with Route 5; the adjoining property was recently rezoned to CR-1; it is next to a Delmarva Power substation; and there are other commercially zoned properties and businesses in the immediate vicinity including retail, warehouses, contracting businesses, and truck repair facilities.
7. The property is located in a Development District according to the current Sussex County Comprehensive Land Use Plan.
8. The rezoning will not have an adverse effect on traffic or neighboring properties and the rezoning promotes the orderly growth of Sussex County.
9. The CR-1 zoning is appropriate, since the Sussex County Zoning Code states that the purpose of such zoning is to provide for retail shopping, personal and miscellaneous service activities, and that such uses should be located along arterial roadways where a general mixture of commercial and service activities now exist; and that the project along this area of Route 9 falls within the stated purposes of the CR-1 District.
10. There were no parties present in support of or in opposition to this application.
11. Based on the record and recommendation of the Planning & Zoning Commission and the record created before Council, the Council approved this Application.