

ORDINANCE NO. 2319

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A GR GENERAL RESIDENTIAL DISTRICT TO A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.29 ACRE, MORE OR LESS (Tax Map I.D. 3-34-13.19-2.00)

WHEREAS, on the 15th day of July 2013, a zoning application, denominated Change of Zone No. 1733 was filed on behalf of Rehoboth Appraisal Group, LLC d\b\ a First State Appraisal, Inc.; and

WHEREAS, on the 12th day of September 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. 1733 be approved; and

WHEREAS, on the 24th day of September 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 [GR General Residential District] and adding in lieu thereof the designation B-1 Neighborhood Business 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 Lewes and Rehoboth Hundred, Sussex County, Delaware, and lying at the northwest intersection of Hebron Street (Road 273) and Burton Avenue in West Rehoboth and being lots 2 and 3, said parcel containing 0.29 acre, 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. 2319 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 24TH DAY OF SEPTEMBER 2013.


**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 GR General Residential District to B-1 Neighborhood Business District, to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County containing 0.29 acres, more or less, lying at the northwest intersection of Hebron Street (Road 273) and Burton Avenue in West Rehoboth and being lots 2 and 3 (Tax Map I.D. 3-34-13.19-2.00)**
- 2. DelDOT commented that a Traffic Impact Study is not recommended and that the existing Level of Service B for Hebron Road (Road 273) will not change as a result of this application.**
- 3. The Sussex County Engineering Department, Utility Planning Division, commented that the site is located in a County operated and maintained sanitary sewer district, the West Rehoboth Expansion Area; that the parcel has been provided with two (2) sanitary sewer laterals along the parcel's frontage on Hebron Road; that conformity to the North Coastal Area Planning Study will be required; that the proposed B-1 zoning is not located on residential lands previously identified for commercial use by Planning and Zoning; that the Engineering Department has concerns that the rezoning will result in a potential increase of wastewater flow from the parcel in the future; that a capacity evaluation, at the developer's expense, may be required to determine what upgrades would be required to serve a future use; that required upgrades would be completed by the developer, at the developer's expense; and that a Concept Plan is not required.**
- 4. Stephen White was present on the Applicant's behalf along with Heidi Gilmore, Esquire, of Tunnell and Raysor, P.A. and Mark Davidson, of Pennoni Associates, Inc. and they stated that conditional uses are difficult to finance since the economic environment has changed; that a change of zoning is preferred; that the site plan will remain the same; that the use is in harmony with the neighborhood; that the predominant use of properties along Hebron Road and Route One is commercial and/or business use; that the site is located at the entrance to the West Rehoboth community; that the building was designed and built to appear as a residential use; that all infrastructure exists; that the site is a desirable location for professional uses; that the Applicant uses the first floor of the building and an Architect rents the second floor; that they have no intent to expand the business on site; and that the primary reason for applying is financial purposes.**
- 5. The site is located in an Investment Level 1 Area according to the State Strategies for Policies and Spending; that the site is located in the Environmentally Sensitive Developing District Overlay Zone according to the Sussex County Comprehensive Land Use Plan; that the rezoning is consistent with neighboring uses and zonings; that it is across the street from C-1 General Commercial zoning, and it is very near the Route One and Rehoboth Avenue commercial corridors; that the use is consistent with the trend of development taking place in the area; that C-1 General Commercial or CR-1 Commercial Residential zoning would be out of character with the existing use and community; that the proposed rezoning is not located on residential lands previously identified for commercial use by Planning and Zoning; that the site is too small to impact the area; and that the proposed use is consistent with the Sussex County Comprehensive Land Use Plan.**

- 6. The site is currently approved as a conditional use for an office building under Conditional Use No. 1596; that this existing use is consistent with the permitted uses in the B-1 Neighborhood Business zone; that the Applicant has stated that the current use will not change if the property is rezoned to B-1 Neighborhood Business; that the Applicant has pursued B-1 Neighborhood Business zoning instead of C-1 General Commercial zoning, since B-1 Neighborhood Business zoning with its limited uses is more appropriate for the neighborhood; and that, given the size of the property, many of the more intensive B-1 Neighborhood Business uses will not fit on the parcel.**
- 7. The limited B-1 Neighborhood Business uses that will fit on the property will not adversely affect neighboring properties or roadways.**
- 8. There were no parties present in support of or in opposition to this application.**
- 9. Based on the record and recommendation of the Planning & Zoning Commission and the record created before Council, the Council approved this Application.**