

ORDINANCE NO. 2320

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 INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 9.33 ACRES, MORE OR LESS (Tax Map I.D. 2-34-29.00-263.00)

WHEREAS, on the 25th day of July 2013, a zoning application, denominated Change of Zone No. 1734 was filed on behalf of American Legion Post #28; 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. 1734 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 [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 Indian River Hundred, Sussex County, Delaware, and lying at the southwest corner of the intersection of Route 24 (John J. Williams Highway) and Road 298 (Legion Road) and being more particularly described in Deed Book 3957, Page 128, in the Office of the Recorder of Deeds in and for Sussex County, said parcel containing 9.33 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. 2320 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 AR-1 Agricultural Residential District to CR-1 Commercial Residential District for a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 9.33 acres, more or less, lying at the southwest corner of the intersection of Route 24 (John J. Williams Highway) and Road 298 (Legion Road) (Tax Map I.D. 2-34-29.00-263.00)**
- 2. DelDOT commented that no use has been specified for the land to be rezoned, and while the criteria could be met, DelDOT cannot predict the site's trip generation with enough accuracy to make a Traffic Impact Study useful; that it recommends this rezoning application be considered without a Traffic Impact Study, and that the need for a Traffic Impact Study be evaluated when a subdivision or land development plan is proposed; and that the current Level of Service for Route 24 (John J. Williams Highway) at this location is at Level of Service "E".**
- 3. The Sussex County Engineering Department, Utility Planning Division, commented that the site is located in the Oak Orchard Sanitary Sewer District; that the parcel was served with a 6-inch lateral during original sewer district construction which is not adequate for most potential commercial uses of the parcel; that conformity to the Oak Orchard Sanitary Sewer District Expansion Area #1 Facilities Plan and Environmental Assessment will be required; that sewer capacity downstream of potential connection points is limited and the developer may be required to undertake or participate in upgrades at their expense; that prior to issuance of a building permit for construction exceeding 37.32 EDU, the developer is required to undertake a capacity evaluation to determine necessary sewer upgrades at their expense; that development of the parcel may require a developer installed collection system in accordance with County standard requirements and procedures; that the County Engineer must approve the connection point; that the County Engineering**

Department requires that a Sewer Concept Plan be submitted for review and approval prior to development; and that a checklist was attached for preparing conceptual plans.

4. Michael Cotton, Professional Engineer with Cotton Engineering, LLC was present on the Applicant's behalf and stated that the Legion owns three (3) properties; that one property is improved with the Legion Post buildings, one property is improved with the parking lot, and this site is improved with a pavilion building and storage buildings; that this Legion Post is the fourth largest in the world and has generated 25,000 hours of volunteer service work to date; that the property is grassed and has been used for fundraising functions for veteran charities; that rezoning will aid the Applicant in the financial process; that a utility easement exists on the westerly property line; that within two (2) miles of the site there are many commercial and business uses, i.e. retail, offices, a museum, churches, storage facilities, restaurants, etc.; that DelDOT is doing a design study for the area and may limit access to the site from Legion Road; and that this property has approximately 286 feet of frontage along Legion Road.
5. The site has been used by the American Legion for many years; this includes the buildings and the fields which have been used for gatherings, circuses, carnivals, and similar types of uses; this rezoning will allow the American Legion to continue to effectively serve its members, residents of Sussex County, and veterans who have served our Country; and the rezoning will be consistent with the historical use of the property and nearby uses and zonings.
6. The site is served by Sussex County sewer and central water.
7. The rezoning 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.