

ORDINANCE NO. 2373

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A C-1 GENERAL COMMERCIAL DISTRICT TO AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 21,923 SQUARE FEET, MORE OR LESS

WHEREAS, on the 22nd day of August 2014, a zoning application denominated Change of Zone No. 1761 was filed on behalf of Elizabeth A. Brinton; and

WHEREAS, on the 23rd day of October 2014, 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. 1761 be approved; and

WHEREAS, on the 18th day of November 2014, 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 [C-1 General Commercial District] and adding in lieu thereof the designation AR-1 Agricultural 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 Baltimore Hundred, Sussex County, Delaware, and lying north of Janus Court, 150 feet west of Road 384 (Bayard Road) being 550 feet north of Road 370 (Daisey Road) at Bayard and being more particularly described as Lot 2 of the subdivided lands of Sun Marine Maintenance Co. as recorded in Plot Book 29 Page 220 in the Office of the Recorder of Deeds in and for Sussex County, said parcel containing 21,923 square feet, 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. 2373 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 18TH DAY OF NOVEMBER 2014.



**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:

- A. This is the application of Elizabeth A. Brinton to amend the Comprehensive Zoning Map of Sussex County from a C-1 General Commercial District to an AR-1 Agricultural Residential District for a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 21,923 square feet, more or less, land lying north of Janus Court, 150 feet west of Road 384 (Bayard Road) being 550 feet north of Road 370 (Daisey Road) at Bayard (911 Address: 33540 Janus Court, Frankford, DE) (Tax Map I.D. #1-34-18.00-85.00).**
- B. Council found that DelDOT comments were not requested since this is an existing lot on the interior street of a subdivision and since the application is considered a downzoning. The adjacent parcel, Lot #1 within the subdivision, was downzoned to AR-1 (C/Z #1696) on November 16, 2010 after recommendation from the Planning and Zoning Commission on October 28, 2010.**
- C. Council found that the Sussex County Engineering Department, Utility Planning Division, commented that the site is located in the Roxana Planning Area; that the use of an on-site septic system is proposed; that conformity to the South Coastal Area Planning Study 2005 Update will be required; that the proposed use is not in an area where the County has a schedule to provide sewer at this time; that when the County provides sewer service, it is required that the on-site system be abandoned and a connection made to the central sewer service; and that a Concept Plan is not required.**
- D. Council found that the Sussex Conservation District commented that the Applicant would be required to follow recommended erosion and sedimentation control practices during any construction and to maintain vegetation after construction; that no storm flood hazard areas are affected; that off-site drainage improvements will not be necessary; that on-site drainage improvements are not likely; and that no tax ditches are affected.**

- E. Based on the testimony at the Public Hearing before the Planning & Zoning Commission and the Public Hearing before the Sussex County Council, Council found that Elizabeth A. Brinton was present and stated that she had purchased the property with the dwelling not knowing that the property was zoned C-1 General Commercial and that she is requesting that the property be rezoned from C-1 General Commercial to AR-1 Agricultural Residential.**
- F. Council found that Mr. Lank confirmed that the adjacent Lot #1 was downzoned from C-1 General Commercial to AR-1 Agricultural Residential in 2010.**
- G. Based on the Findings (1 through 4) of the Planning & Zoning Commission, Council found that:**
- 1. This downzoning is appropriate for this property, which is presently used for residential purposes.**
 - 2. The AR-1 zoning is consistent with adjacent properties, including Lot #1 next door, which was also rezoned from C-1 to AR-1 in 2010.**
 - 3. The downzoning will not adversely affect neighboring properties or roadways.**
 - 4. No parties appeared in opposition to the downzoning.**
- H. Based on the record, recommendation and findings of the Planning & Zoning Commission and the record created before Council, the Council approved this Application.**