

ORDINANCE NO. 2405

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 9.541 ACRES, MORE OR LESS

WHEREAS, on the 30th day of January 2015, a zoning application, denominated Change of Zone No. 1773 was filed on behalf of Ernest and Donna DeAngelis; and

WHEREAS, on the 21st day of May 2015, 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. 1773 be approved; and

WHEREAS, on the 30th day of June 2015, 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 COUNTY 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 of 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 south of Route 9 (Seashore Highway) 800 feet west of Road 262 (Fisher Road) and being more particularly described in Deed Book 3026, Page 86, in the Office of the Recorder of Deeds in and for Sussex County and containing 9.541 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. 2405 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 30TH DAY OF JUNE 2015.



**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 Ernest and Donna DeAngelis to amend the Comprehensive Zoning Map of Sussex County from 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 9.541 acres, more or less. The property is located south of Route 9 (Seashore Highway) 800 feet west of Road 262 (Fisher Road) (911 Address: None Available) (Tax Map I.D. 235-30.00-53.00).**
- B. Council found that DelDOT commented that the Department cannot predict the site's trip generation with enough accuracy to make a Traffic Impact Study useful; that the Department recommends that 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.**
- C. Council found that the Sussex Conservation District commented that the developer will be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation after completion of construction; that no storm flood area is affected; that the scope of the project may dictate the need for off-site drainage improvements; that once the project is underway there will probably be a need for some on-site drainage improvements; and that no tax ditch is affected.**
- D. Council found that the Sussex County Engineering Department, Utility Planning Division, commented that the site is located in the North Coastal Planning Area; that conformity to the North Coastal Planning Study will be required; that the proposed use is not in an area where the County has a schedule to provide sewer at this time; and that a Concept Plan is not required.**
- E. Based on testimony before the Planning & Zoning Commission, and the public hearing before the Sussex County Council at which time Ernest DeAngelis, Sr. was present with Tim Willard, Esquire of Fuqua, Yori & Willard, P.A., Council found that the site is bounded by Route 9 to the north, a Delmarva Power electrical right-of-way and powerlines to the east, a railroad to the south, and CR-1 Commercial Residential zoning to the west (the Veggie Shack); that the commercial uses on the south side Route 9 include the Veggie Shack, the Peachtree Rehabilitation facility, the Donut Connection, warehousing and offices, etc.; that the commercial uses to the north side of Route 9 include service uses, auto sales, auto repair, office, antiques, etc.; that the Comprehensive Land Use Plan depicts the site in a Developing Area, a growth area, where light commercial uses should be allowed; that the Applicants intend to create a self-storage facility with some contractor shops and storage; and that this site was originally proposed for a subdivision, which did not develop.**
- F. Based on the Findings (1 through 5) of the Planning & Zoning Commission, Council found that:**
 - 1. The property fronts on Route 9 and is surrounded on two (2) sides by powerlines and a railroad right-of-way. The other boundary is CR-1 Commercial Residential that was recently approved by the County. CR-1 zoning is appropriate in this location.**
 - 2. CR-1 zoning is appropriate in this general area of Route 9, where other business and commercial uses and zoning exist.**
 - 3. The property is primarily in a Developing Area according to the Sussex County Comprehensive Plan. CR-1 is appropriate in this Area according to the Plan.**
 - 4. No parties appeared in opposition to this application.**
 - 5. The change in zone will not adversely affect neighboring properties or roadways.**
- G. Based on the record, recommendation and findings of the Planning & Zoning Commission and the record created before Council, the Council approved this Application.**