

ORDINANCE NO. 2406

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 31,200 SQUARE FEET, MORE OR LESS

WHEREAS, on the 30th day of January 2015, a zoning application, denominated Change of Zone No. 1774 was filed on behalf of John R. and Susan K. Eisenbrey; 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. 1774 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 Lewes Georgetown Highway (Route 9) 0.7 mile east of Route 5 at Harbeson and being more particularly described as follows:

FROM a concrete monument on the southerly right-of-way of Route 9 (Lewes Georgetown Highway), a corner for these subject lands and lands, now or formerly of The Old Brick Barn, LLC, South 05°00'00" East 300.00 feet to the point and place of beginning; thence North 85°00'00" East 150.00 feet across lands of John R. Eisenbrey and Susan K. Eisenbrey to a point; thence South 05°00'00" (East 208.49 feet along lands, now or formerly, of Nardo, Inc. to an iron pipe; thence South 85°00'00" West 150.00 feet along lands, now or formerly, of Terri L. Martin and Irene P. Martin to an iron pipe; thence North 05°00'00"

West 208.49 feet along said Martin lands to the point and place of beginning, and containing 31, 200 square feet of a 1.75 acre parcel.

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. 2406 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 John R. and Susan K. Eisenbrey to amend the Comprehensive Zoning Map of Sussex County from AR-1 Agricultural Residential District to CR-1 Commercial Residential District for a certain parcel of land lying and being in Broadkill Hundred, Sussex County, containing 31,200 square feet, more or less. The property is located south of Lewes Georgetown Highway (Route 9) 0.7 mile east of Route 5 at Harbeson (911 Address: 26822 Lewes Georgetown Highway, Harbeson) Tax Map I.D. 235-30.00-58.02 (part of).
- 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; and that the current Level of Service "E" of U.S. Route 9 will not change as a result of this application.
- 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 Sussex County Council, Council found that Bill Schab, Esquire with Schab and Barnett, P.A. was present with Andrew Pennington on behalf of the applicants and that the front portion of the property is already zoned C-1 General Commercial; that the site was previously used by Peninsula Masonry contractors; that all of the buildings on the site are within the C-1 General Commercial zoned area; that this request for rezoning is for an extension to the existing commercial zoning to bring the entire property into one zoning classification; that the front portion was rezoned in 1987; that the zoning in the area includes B-1 Neighborhood Business, C-1 General Commercial, and CR- 1 Commercial Residential with some conditional uses; that the rezoning is consistent with the other uses and zoning in the area; that the site is intended to be used for storage relating to a construction company; that Mr. Pennington is a road equipment

dealer; that the storage area would be used for the storage of equipment and trucks; and that Mr. Pennington has a similar business operation in Wilmington and hopes to start a similar business in Sussex County.

F. Based on the Findings (1 through 5) of the Planning & Zoning Commission, Council found that:

- 1. The entire parcel is 1.75 acres in size. The first 300 feet of the property nearest Route 9 is already zoned C-1 General Commercial.**
- 2. Although commercial buildings exist on the C-1 portion of the property, all of the property has been historically used for commercial purposes.**
- 3. There are other nearby business and commercial uses and zonings. This rezoning is consistent with the area.**
- 4. It is appropriate for the zoning district boundaries to match the properties boundaries.**
- 5. No parties appeared in opposition to this application.**

G. Based on the record, recommendations and findings of the Planning & Zoning Commission and the record created before Council, the Council approved this Application.