

ORDINANCE NO. 2408

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND A GR GENERAL RESIDENTIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 12,394 SQUARE FEET, MORE OR LESS

WHEREAS, on the 20th day of February 2015, a zoning application, denominated Change of Zone No. 1775 was filed on behalf of Charles R. Auman, Jr.; and

WHEREAS, on the 11th day of June 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. 1775 be approved; and

WHEREAS, on the 2nd day of July 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 [GR General 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 Cedar Creek Hundred, Sussex County, Delaware, and lying at the northeast end of the dead-end of Lighthouse Road (Road 203) 1.0 mile north of Cedar Beach Road (Route 36) and being more particularly described in Deed Book 3272 Page 295 and Deed Book 2823 Page 309 in the Office of the Recorder of Deeds in and for Sussex County, and containing approximately 12,394 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. 2408 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 21ST DAY OF JULY 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 Charles R. Auman, Jr. to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District and a GR General Residential District to a CR-1 Commercial Residential District for a certain parcel of land lying and being in Cedar Creek Hundred, Sussex County, containing 12,394 square feet, more or less. The properties are located at the northeast end of the dead-end of Lighthouse Road (Road 203) 1 mile north of Cedar Beach Road (Route 36) (911 Address: None Available) (Tax Map I.D. 330-5.00-7.04 and 8.00).**
- B. Council found that DelDOT commented that the Level of Service “A” of Lighthouse Road will not change as a result of this proposed application.**
- C. Council found that the Sussex Conservation District commented that the Applicant will be required to follow recommended erosion and sediment control practices during any construction and to maintain vegetation after construction; that there are no storm flood hazard areas affected; that no off-site drainage improvements will be required; that no on-site drainage improvements will be required; and that no tax ditches are affected.**
- D. Council found that the Sussex County Engineering Department, Utility Planning Division, commented that the property is not in a proposed or current County operated and maintained sanitary sewer and/or water district; 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 project is not in an area where the County currently plans to provide sewer service; 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, Council found that Charles Auman was present with Timothy Willard, Esquire of Fuqua, Yori and Willard, P.A. and they stated that Mr. Auman is a commercial fisherman/waterman who catches and packages seafood products on site; that the property is unique since it sits where the Cedar Creek and the Mispillion River meet; that the use is non-conforming in nature; that the old cinder block building has been replaced with a pole building; that the business is titled “That’s Right Fresh Seafood, Co.”; that the State has appraised the site and determined that it is a mixed residential/commercial area; that the property is appropriate for CR-1 Commercial Residential zoning; that the properties are small and limit the possible activities that can occur on the site; that the rezoning will not impact the non-conforming use; that CR-1 zoning was chosen due to the permitted similar types of uses; that M Marine zoning was not chosen due to the limited size of the property; that the nearby Cedar Creek Boat Ramp is one of the largest in the area; that DelDOT had no negative comments; that fishing has been very intensive due to the weather which has created a situation where it appears that four (4) fishing seasons are all happening at once; that there are two (2) parcels that can be combined into one parcel if necessary; that parking has not been an issue; and that the only intent of this application is to bring the zoning of the site into conformity with the use.**
- F. Based on the Findings (1 through 6) of the Planning & Zoning Commission, Council found that:**
 - 1. The property is currently used as a seafood packing and wholesale company. It has been used for these purposes for many years.**
 - 2. There are several commercial and marine uses in the area. Rezoning this property to CR-1 Commercial Residential will be consistent with these nearby uses.**

- 3. The existing use is more compatible with a CR-1 Commercial Residential zoning than the current agricultural and residential zoning of AR-1 Agricultural Residential and GR General Residential. Therefore, the rezoning is appropriate.**
 - 4. The rezoning will not affect neighboring or adjacent properties, traffic or area roadways.**
 - 5. No parties appeared in opposition to the rezoning application.**
 - 6. Any change in use of this property will still require site plan review and approval by the Sussex County Planning and Zoning Commission.**
- G. Based on the record, recommendation and findings of the Planning & Zoning Commission and the record created before Council, the Council approved this Application.**