

ORDINANCE NO. 2412

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 0.74 ACRE, MORE OR LESS

WHEREAS, on the 20th day of April 2015, a zoning application, denominated Change of Zone No. 1778 was filed on behalf of John Floyd Lingo; and

WHEREAS, on the 9th day of July 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. 1778 be approved; and

WHEREAS, on the 11th day of August 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 (Lewes-Georgetown Highway) 200 feet east of Route 5 (Harbeson Road) and being more particularly described as follows:

BEGINNING at an iron rod on the southerly right-of-way of Route 9, a corner for these subject lands and lands of John Floyd Lingo and Nancy B. Lingo, Co-Trustees; thence North 82°50'31" East 153.38 feet along the southerly right-of-way of Route 9 to a concrete monument; thence South 07°09'29" East 200.00 feet along lands of W & B Hudson Family Limited Partnership to a concrete monument; thence continuing along said Hudson Family lands South 82°50'31" West 170.73 feet to an iron rod; and thence North 02°12'00" West 200.75 feet along other Lingo lands to the point and place of beginning, and containing 0.74 acre, 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. 2412 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 11TH DAY OF AUGUST 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 Floyd Lingo 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 0.74 acres, more or less. The property is located south of Route 9 (Lewes-Georgetown Highway) 200 feet east of Route 5 (Harbeson Road) (911 Address: None Available) (Tax Map I.D. No. 235-30.00-68.00).**
- B. Council found that DelDOT commented by letter, dated April 17, 2015, with attachments, and that the Planning and Zoning Department received the referenced letter from DelDOT.**
- C. Council found that the Sussex Conservation District commented that the Applicant will be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation; that no storm flood hazard areas are affected; that no off-site drainage improvements are necessary; that no on-site drainage improvements are necessary for a change in zone; and that no tax ditches are affected.**
- D. Council found that the Sussex County Engineering Department, Utility Planning Division, commented that the site is not located in a proposed or County operated and maintained sanitary sewer and/or water district; that conformity to the North Coastal Planning Study will be required; that the proposed change of zone is not in an area where the County has a schedule to provide sewer service at this time; and that a Concept Plan is not required.**
- E. The Council found that the Applicant, John Floyd Lingo, was present with Richard Abbott, Esquire, and Mark Davidson, Project Manager for Pennoni Associates, Inc.; that they stated that the Applicant recently received Conditional Use approval for the dwelling on the property to be converted to professional office space; that the site is adjacent to other properties owned by the Applicant that are commercially zoned and used for a small commercial strip center; that DelDOT has an intersection improvement plan proposed to improve the intersection of Route 9 and Route 5; that trucks going to the Allen Harim processing plant have difficulties turning onto Route 5 off of Route 9 to get access to the plant located west of Route 5 further south from Route 9; that the old Post Office building, more recently used for a barber shop, needs to be relocated to allow for these DelDOT improvements; that DelDOT has agreed to allow relocation of the building to a location between the existing dwelling and the strip center; that the two parcels will be combined into one parcel; that the Tupperware store that was in the strip center has been moved prematurely into the dwelling in preparation for the DelDOT improvements; that the barber shop will move into one of the units in the strip center; that there should be no adverse impact on adjacent properties; that the existing entrance to the dwelling will be closed and the driveway will be extended over to the parking lot for the strip center; that the strip center is currently improved by the barber shop, a deli, the Post Office, a fuel filling station, and a vacant unit; and that the fuel filling station location will not be impacted by the intersection improvements.**

- F. Based on the Findings (1 through 6) of the Planning & Zoning Commission, Council found that:**
- 1. This request is for the expansion of an existing commercially zoned property. The expansion area includes an existing business use.**
 - 2. The rezoning is at the signalized Route 5 and Route 9 intersection. This is an appropriate location for CR-1 Commercial Residential zoning.**
 - 3. The rezoning is consistent with other existing commercial zoning and uses in the area.**
 - 4. The rezoning will not adversely affect neighboring properties or roadways.**
 - 5. The rezoning will allow for the relocation of structures from the adjacent commercially zoned property onto part of this property in conjunction with DelDOT's re-construction of the Route 5 and Route 9 intersection.**
 - 6. No parties appeared in opposition to this application.**
- G. Based on the record, recommendation and findings of the Planning & Zoning Commission and the record created before Council, the Council approved this application.**