

**ORDINANCE NO. 2422**

**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 CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 1.0 ACRE, MORE OR LESS**

**WHEREAS, on the 7th day of July 2015, a zoning application, denominated Change of Zone No. 1786 was filed on behalf of Wilson Baker, Inc.; and**

**WHEREAS, on the 10th day of September 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. 1786 be approved; and**

**WHEREAS, on the 13th day of October 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 Cedar Creek Hundred, Sussex County, Delaware, and lying east of DuPont Boulevard (U.S. Route 113) 200 feet north of Beach Highway (Route 16) and being more particularly described in Deed Book 4389, Page 192, in the Office of the Recorder of Deeds in and for Sussex County, said parcel containing 1.0 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. 2422 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 13TH DAY OF OCTOBER 2015.**



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**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 Wilson Baker, Inc. 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 Cedar Creek Hundred, Sussex County, containing 1.0 acre, more or less. The property is located east of DuPont Boulevard (U.S. Route 113) 200 feet north of Beach Highway (Route 16) (911 Address: None Available) (Tax Map I.D. 230-26.00-40.00).**
- B. Council found that the County Engineering Department, Utility Planning Division, commented that the site is located in the Ellendale Sanitary Sewer District; that wastewater capacity is available for up to 4.0 EDU (Equivalent Dwelling Units) per acre; that downstream upgrades, at the developer's expense, could be required for a project that exceeds 4.0 EDU per acre; that the parcel has not been provided with a sewer connection point; that the project is capable of being annexed into the Ellendale Sanitary Sewer District; that conformity to the Ellendale Wastewater Planning Study of June 2007 will be required; that the parcel must be annexed into the sewer district prior to connecting to sewer service; and that a Concept Plan is not required.**
- C. Based on the testimony before the Planning & Zoning Commission and the Public Hearing before the Sussex County Council, Council found that Mark Baker of Wilson Baker, Inc. was present with Mark Davidson of Pennoni Associates, Inc. and that they stated that Wilson Baker, Inc. has been in business since 1952; that they are applying to rezone this property from AR-1 Agricultural Residential to CR-1 Commercial Residential because this property is immediately adjacent to their convenience store property near Ellendale; that this property is surrounded by U.S. Route 113 and properties that are already zoned C-1 General Commercial; that their property immediately adjacent to the south is improved by a convenience store and gas filling pumps and canopy; that it is their intent to expand the convenience store use; that DelDOT has commented that they will allow a right-in/right-out access to this property; that the County Comprehensive Land Use Plan depicts this property as a commercial property within a Developing Area; that other business and commercial uses and zonings in the immediate area include a Royal Farm Store across U.S. Route 113, Whites Well Drilling, a Weller property to the north on the east side of U.S. Route 113, and a Dollar General store and office uses on the east side of U.S. Route 113 and south of Route 16; that their existing convenience store property has an on-site well and is connected to the Ellendale Sanitary Sewer District; that they have provided some suggested proposed Findings of Fact in their Exhibit Booklet; that no public water supply exists in the area at this time; and that they intend to combine the two properties to create a larger property so that they can enlarge the convenience store facility.**
- D. Based on the Findings (1 through 7) of the Planning & Zoning Commission, Council found that:**
  - 1. The property is surrounded by other properties with commercial zonings. As a result, this rezoning is an infill of a small area to conform with the surrounding commercial zonings.**
  - 2. Commercial zoning is appropriate for this location at the intersection of U.S. Route 113 and Route 16.**

- 3. The rezoning is consistent with other commercial uses, including the adjacent Exxon, a Royal Farms store, a Dollar General store, and other uses.**
  - 4. This rezoning will permit the Applicant reasonable expansion of the adjacent gas station and convenience store.**
  - 5. The Sussex County Comprehensive Land Use Plan designates this parcel as being within a Highway Commercial Area where CR-1 Commercial Residential zoning is appropriate.**
  - 6. No parties appeared in opposition to the application.**
  - 7. Any future development of the site will require DelDOT and other agencies' reviews and will be subject to site plan approval by the Sussex County Planning and Zoning Commission.**
- E. Based on the record, recommendation and Findings of the Planning & Zoning Commission and the record created before Council, the Council approved this Application.**