

ORDINANCE NO. 2427

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 INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 26,596 SQUARE FEET, MORE OR LESS

WHEREAS, on the 13th day of July 2015, a zoning application, denominated Change of Zone No. 1788 was filed on behalf of Upesh Vyas; and

WHEREAS, on the 29th day of October 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. 1788 be approved; and

WHEREAS, on the 1st day of December 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 Indian River Hundred, Sussex County, Delaware, and lying at the northwest corner of the intersection of John J. Williams Highway (Route 24) and Indian Mission Road (Route 5) and being more particularly described as follows:

BEGINNING at an iron pipe on the northerly right-of-way of Indian Mission Road (Route 5), a corner for these lands and lands of Nanticoke Crossing Limited Partnership; thence North 29°27'29" East 159.86 feet to a steel T-Bar, and South 77°15'48" East 139.64 feet along lands of Nanticoke Crossing Limited Partnership to an iron pipe on the westerly right-of-way of John J. Williams Highway (Route 24); thence South 22°11'22" West 172.15 feet along the westerly right-of-way of John J. Williams Highway to a point; thence South

75°23'28" West 49.64 feet along the corner cut of the intersection of John J. Williams Highway and Indian Mission Road to a point; and thence North 60°25'15" West 89.30 feet along the northerly right-of-way of Indian Mission Road to the point and place of beginning and containing 26,596 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. 2427 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 1ST DAY OF DECEMBER 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 Upesh Vyas 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 Indian River Hundred, Sussex County, containing 26,596 square feet, more or less. The property is located at the northwest corner of the intersection of John J. Williams Highway (Route 24) and Indian Mission Road (Route 5) (911 Address: 24858 John J. Williams Highway, Millsboro) (Tax Map I.D. 234-23.00-269.08).
- B. Council found that DelDOT commented that it recommended that this rezoning application be considered without a Traffic Impact Study and that the need for a Traffic Impact Study be evaluated when a development plan is proposed.
- 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 or tax ditches are affected; and that it may not be necessary for any on-site or off-site drainage improvements.
- D. Council found that the Sussex County Engineering Department, Utility Planning Division, commented that the site is located in the Long Neck Sanitary Sewer District; that wastewater capacity is available for the use; that Ordinance 38 construction is required; that the parcel has been provided with a sanitary sewer lateral and that the building was connected to sewer on February 23, 1999; that conformity to the North Coastal Area Planning Study and Amendment No. 1 Expansion Area No. 1, Long Neck Sanitary Sewer District Planning Study will be required; that the proposed use is not expected to have an adverse impact on the sewer system; and that a Concept Plan is not required.
- E. Based on the testimony before the Planning & Zoning Commission and the Public Hearing before the Sussex County Council, Council found that Jim Clark, Architect, was present on behalf of the Applicant and stated that the Applicant is proposing to remove the existing convenience store and replace the store with a new structure; that the gas pumps and canopy will remain as existing; that the application is basically an infill zoning since the lot is surrounded by Route 24, Route 5 and the Nanticoke Crossing Shopping Center which is zoned C-1 General Commercial.

- F. Based on the Findings (1 through 6) of the Planning & Zoning Commission, Council found that:**
- 1. The site has been used as a gas station for decades. The use predates zoning, which is why the zoning has remained as AR-1 Agricultural Residential.**
 - 2. The site is surrounded by a shopping center that was rezoned to C-1 General Commercial. This property should have been rezoned to C-1 General Commercial at the same time, but it was not.**
 - 3. The area is surrounded by commercial zonings and uses. This rezoning will make the parcel consistent with surrounding zonings and uses.**
 - 4. CR-1 Commercial Residential is appropriate for this location at the intersection of Route 5 and Route 24.**
 - 5. The rezoning will make the long-standing use of the property consistent with the property's zoning.**
 - 6. No parties appeared in opposition to the 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.**