

ORDINANCE NO. 2435

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 LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 29,289 SQUARE FEET, MORE OR LESS.

WHEREAS, on the 17th day of November 2014, a zoning application, denominated Change of Zone No. 1765 was filed on behalf of Red Mill Pointe, LLC; and

WHEREAS, on the 12th day of March 2015, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 9th day of April 2015 said Planning and Zoning Commission recommended that Change of Zone No. 1765 be denied; and

WHEREAS, on the 2nd day of February 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 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 situated in Lewes and Rehoboth Hundred, Sussex County, Delaware, and lying northeast of Route One (Coastal Highway) across from Red Mill Pond and being more particularly described in Deed Book 4263 Page 60 in the Office of the Recorder of Deeds in and for Sussex County, Delaware, and containing 29,289 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. 2435 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 2ND DAY OF FEBRUARY 2016.



**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 Red Mill Pointe, LLC 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 Lewes and Rehoboth Hundred, Sussex County, containing 29,289 square feet, more or less, land lying northeast of Route One (Coastal Highway) across from Red Mill Pond (911 Address: None Available) (Tax Map I.D. 334-1.00-5.00).**
- B. Council found that DelDOT commented that a Traffic Impact Study was not required and that the current Level of Service “E” of Route One will not change as a result of this 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 construction and to maintain vegetation; that no storm flood hazard areas are affected; that on-site and off-site drainage improvements will not be required; and that no tax ditches are affected.**
- D. Council found that the Sussex County Engineering Department Utility Planning Division commented that the site is located in the Northern West Rehoboth Expansion Planning Area; that central sewer service is not available to the parcel at this time; that use of an on-site septic system is proposed; that conformity to the North Coastal Planning Study will be required; that the parcel is in a future service area of the West Rehoboth Expansion Area and does not have sewer service available at this time; that the County does not have a schedule to provide sewer service; and that a Concept Plan is not required.**
- E. Based on the record before the Planning and Zoning Commission and the hearing before the Sussex County Council, Council found that Hal Dukes, Esquire with Tunnell & Raysor, P.A., was present at both hearings on behalf of the Applicant and stated that the Applicant is the owner of the adjacent commercial property that is improved with professional offices; that DelDOT has taken 100 foot of the frontage on the adjacent parcel; that Applicant intends to add this parcel to its adjacent parcel; that the adjacent property has no other use except for joining this piece of property; that the front 100 foot of the adjacent parcel contains the septic system, and that the Applicant will be utilizing this site for a new septic system and some possible additional parking; that the size of the adjacent property does not work for another septic system; that the medical facility needs a septic system; and that the Applicant has tried to connect to Sussex County sewer but it is not available at this site.**
- F. Council also found that some of the buildings on this site have already been removed or will be removed shortly; that when the highway comes through, the remaining structures will also be moved; that the entrance to the offices already exists; that the hardship was not created by the Applicant, it was created by the expansion of the highway (DelDOT); that there is a pending agreement with the Applicant, that if the septic system needs to be taken, DelDOT would pay for an unspecified period of time for a holding tank; that a holding tank is not an acceptable answer to the problem; that he has asked for the zoning change to maintain the continuity of his medical office**

facility; that this parcel has not been condemned or conveyed to DelDOT; that the Applicant received a letter saying there is no immediate plan to widen the highway in front of this parcel; that the lands of the State of Delaware on the plot have been condemned/deeded to the State; that some of the parcels were deeded recently and some were deeded several years ago; that both sides of this site are zoned commercial and this is the only non-commercial piece of property on that strip; and that the CR-1 Commercial Residential zoning classification has been requested so that the parcels can be combined into one parcel with one zoning classification.

- G. Council found that this Change of Zone from AR-1 to CR-1 will bring this Applicant's contiguous two (2) parcels under a consistent commercial zoning classification; that it is basically an in-fill as the property is surrounded by commercially zoned properties on all sides; that access to this property will be from an existing commercial entrance on the adjacent property; that the rezoning will not adversely affect neighboring properties or area roadways; and that no parties appeared in opposition to this application.
- H. Based on the record created before the Planning and Zoning Commission and the Sussex County Council, the Council approved this Application for a Change of Zone from an AR-1 Agricultural Residential District to a CR-1 Commercial Residential District.