

ORDINANCE NO. 2446

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A C-1 GENERAL COMMERCIAL DISTRICT TO AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 20,833 SQUARE FEET, MORE OR LESS

WHEREAS, on the 12th day of October 2015, a zoning application, denominated Change of Zone No. 1792 was filed on behalf of Ray C. & Candice E. Sammons; and

WHEREAS, on the 28th day of January 2016, 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. 1792 be approved; and

WHEREAS, on the 3rd day of May 2016, 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 HEREBY 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 [C-1 General Commercial District] and adding in lieu thereof the designation of AR-1 Agricultural 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 Seaford Hundred, Sussex County, Delaware, and lying at the southwest corner of Oak Grove Road (Road 549B) and North Oak Grove Road (Road 549) and being more particularly described as follows:

BEGINNING at an iron pipe on the southerly right-of-way of Oak Grove Road (Road 549B), a corner for these subject lands and lands, now or formerly, of Willin Farms, Inc.; thence easterly, southeasterly, and southerly along the southerly right-of-way of Oak Grove Road (Road 549B) and the westerly right-of-way of North Oak Grove Road (Road 549) approximately 326.37 feet to an iron pipe on the westerly right-of-way of North Oak Grove Road, a corner with lands, now or formerly, of Claudell Sammons; thence

south 77°56'00" west 190.24 feet along said Sammons lands to a point; thence north 33°41'00" west 99.21 feet along aforementioned Willin Farms, Inc. lands to the point and place of beginning, and containing 20,833 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. 2446 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 3RD DAY OF MAY 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 Ray C. and Candice E. Sammons to amend the Comprehensive Zoning Map of Sussex County from a C-1 General Commercial District to an AR-1 Agricultural Residential District for a certain parcel of land lying and being in Seaford Hundred, Sussex County, containing 20,833 square feet, more or less. This property is located at the southwest corner of Oak Grove Road (Road 549B) and North Oak Grove Road (Road 549) (911 Address: 2568 Oak Grove Road, Seaford) (Tax Map I.D. 531-8.00-26.01).
- B. Council found that DelDOT's comments were not requested since this application is a downzoning from C-1 General Commercial to AR-1 Agricultural Residential.
- C. Council found that the Sussex County Engineering Department, Utility Planning Division, commented that the site is located in the Western Sussex Planning Area #3; that use of an on-site septic system is proposed; that conformity to the Western Sussex Planning Study will be required; that the property is not in an area where the County has a schedule to provide sewer at this time; and that a concept plan is not required.
- D. Based on the record before the Planning and Zoning Commission and the hearing before the Sussex County Council, Council found that Ray C. Sammons and Candice E. Sammons were present on behalf of their application and stated that the property was originally rezoned to C-1 General Commercial so that he could operate his heating and air conditioning business; that the business has been closed since 1993; that they have been advised that if they sell the property, the buyers would be required to obtain a commercial loan since the property is zoned commercially; that there would be no negative impact on the community by rezoning this property since all of the properties in the area are zoned AR-1 Agricultural Residential; and that the area is predominantly used either agriculturally or residentially.
- E. Based on the Findings (1 through 5) of the Planning & Zoning Commission, Council found that:
 - 1. The property is surrounded by AR-1 Agricultural Residential lands and rezoning this parcel to AR-1 Agricultural Residential will make it consistent with the area zoning.
 - 2. The property was previously rezoned to C-1 General Commercial by the applicants for their business; that business no longer exists, so there is no reason to continue with C-1 General Commercial zoning on this property.

- 3. The property is only 20,833 square feet in size. It would be very difficult to develop this property commercially given the size of it. AR-1 Agricultural Residential zoning is more appropriate for a parcel of this size.**
 - 4. The rezoning will not adversely affect area properties or roadways. Downzoning it to AR-1 Agricultural Residential should have a positive impact on the area.**
 - 5. No parties appeared in opposition to this application.**
- F. 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 a C-1 General Commercial District to an AR-1 Agricultural Residential District.**