

ORDINANCE NO. 2457

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND A C-1 GENERAL COMMERCIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR CERTAIN PARCELS OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 3.99 ACRES, MORE OR LESS

WHEREAS, on the 20th day of November 2015, a zoning application, denominated Change of Zone No. 1798 was filed on behalf of David and Veronica Hamm/Clarksville Auto; and

WHEREAS, on the 10th day of March 2016, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 24th day of March 2016, said Planning and Zoning Commission recommended that Change of Zone No. 1798 be approved; and

WHEREAS, on the 21st day of June 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 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 C-1 General Commercial 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 Baltimore Hundred, Sussex County, Delaware, and lying northeast of Atlantic Avenue (Route 26) approximately 300 feet northeast of the Clarksville intersection of Omar Road (Route 54) and Powell Farm Road (Road 365), and being more particularly described in attached legal descriptions provided by Karins and Associates, said parcels containing 3.99 acres, 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. 2457 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 21ST DAY OF JUNE 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 David and Veronica Hamm/Clarksville Auto to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District and a C-1 General Commercial District to a CR-1 Commercial Residential District for a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 3.99 acres, more or less. The property is located northeast of Atlantic Avenue (Route 26) approximately 300 feet northeast of the Clarksville intersection of Omar Road (Route 54) (911 Address: None Available) (Tax Map I.D. 134-11.00-155.00, 153.00 and 83.01).**
- B. Council found that DelDOT commented that the Department cannot predict the site's trip generation with enough accuracy to make a Traffic Impact Study useful; that the Department recommends that this rezoning application be considered without a Traffic Impact Study and that the need for a Traffic Impact Study be evaluated when a subdivision or land development plan is proposed.**
- C. Council found that the Sussex County Engineering Department, Utility Planning Division, commented that the site is located in the Millville Expansion of the Bethany Beach Sanitary Sewer District; that wastewater capacity is available so long as the proposed use does not exceed 28.12 total equivalent dwelling units (EDUs); that sewer service is not available to the parcels at this time; that sewer construction is occurring currently and the County anticipates sewer will become available in the late spring or summer of 2017; that an 8-inch and 6-inch sanitary sewer lateral has been installed along Route 26 to the property line of Parcel 155 and a 6-inch lateral has been installed along Route 26 to the property line of Parcel 153; that a maximum of 4.0 EDUs can connect to a 6-inch lateral; that conformity to the South Coastal Area Planning Study – 2005 Update and Route 26 West Technical Memorandum will be required; that connection to the sewer system is mandatory; that improvements on parcels are required to connect within one year of sewer service becoming available; and that a Concept Plan is required.**
- D. Based on the record before the Planning and Zoning Commission and the public hearing before the Sussex County Council, Council found that David Hamm was present with Richard Abbott, Esquire; that they stated that the majority of the site is presently used for an auto parts store and automotive service/repair and tire business; that they presented a powerpoint display of the site plan so that they could describe the site as it relates to the area; that approximately 50% of the site is C-1 General Commercial and 50% of the site is AR-1 Agricultural Residential; that the business activities have existed in excess of 30 years on the site; that the Clarksville intersection has been realigned and will be signalized; that during the season he has as many as 40 employees; that the rezoning will bring the properties into one zoning category and will allow for future growth of the uses; that the use and the rezoning will conform to the Comprehensive Plan; that the parcels will be combined and allow for interconnection and access to the realigned Clarksville intersection; that the two ingress/egress points in front of the auto parts store and service bays have been substantially reduced in width by DelDOT causing difficulties with ingress/egress for delivery trucks; that the rezoning will have minimal impact on the adjoining Powell property which is very limited in space and site; and that they have not received any negative comments from the owners of the Powell property.**
- E. Based on the record of the Planning and Zoning Commission and the record created before the Sussex County Council, the application for a Change of Zone from an AR-1 Agricultural Residential District and a C-1 General Commercial District to a CR-1 Commercial Residential District is approved for the following eight (8) reasons:**

- 1. This application seeks to create a uniform CR-1 zoning for an area of land that currently has a split AR-1 and C-1 zoning. It also seeks to rezone two adjacent parcels from AR-1 to CR-1.**
- 2. The overall site is improved with businesses including an automobile service facility and auto parts retail sales buildings. These types of uses have existed for at least 30 years on the site.**
- 3. The area is within the Environmentally Sensitive Developing Area according to the Sussex County Comprehensive Plan. CR-1 Zoning is appropriate within this area.**
- 4. There are other commercial zonings and uses in the area, and this rezoning will be consistent with those zonings and uses.**
- 5. The rezoning will not adversely affect neighboring properties or roadways.**
- 6. The site is located along Route 26 in Clarksville and DelDOT has just reconfigured the Clarksville Route 26 Intersection to include a traffic light that will serve that intersection with an entrance to these properties. This signalized location is appropriate for CR-1 zoning.**
- 7. The Sussex County Engineering Department has stated that sewer construction is currently underway and that sewer service to the property will become available in 2017.**
- 8. No parties appeared in opposition to the application.**