

ORDINANCE NO. 2461

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 3.05 ACRES, MORE OR LESS

WHEREAS, on the 7th day of April 2016, a zoning application, denominated Change of Zone No. 1804 was filed on behalf of Doug Melson; and

WHEREAS, on the 28th day of July 2016, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 11th day of August 2016, said Planning and Zoning Commission recommended that Change of Zone No. 1804 be approved; and

WHEREAS, on the 30th day of August 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 [AR-1 Agricultural Residential District] and adding in lieu thereof the designation of B-1 Neighborhood Business 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 south of Lighthouse Road (Route 54), 700 feet east of West Sand Cove Road (Road 394), and being more particularly described per the attached legal description provided by George, Miles & Buhr, LLC, said parcel containing 3.05 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. 2461 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 30TH DAY OF AUGUST 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 Doug Melson to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District to a B-1 Neighborhood Business District for a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 3.05 acres, more or less (located at the south of Lighthouse Road (Route 54), 700 feet east of West Sand Cove Road (Road 394) (Tax Map I.D. 533-19.00-50.00 (Part of) (911 Address: None Available).**
- b. Council found that DelDOT commented that it has no objection to recordation.**
- 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 maintain vegetation after construction; that no storm flood hazard areas are affected; that it is not likely that off-site drainage improvements will be required; that on-site drainage improvements may be required depending on the building location; and that it is not likely to affect ditches depending on structure locations.**
- d. Council found that the Sussex County Engineering Department, Utility Planning Division, commented that the properties are located in the Sussex County Unified Sanitary Sewer District (Fenwick Island area); that wastewater capacity is available; that Ordinance 38 will be required; that conformity to the South Coastal Area Planning Study, 2005 Update, will be required; that the project is within the boundary of a sewer district, but sanitary sewer service has not been extended to the property at this time; that the County has undertaken an extension of gravity sewer service that will serve the property; that the County anticipates that sewer service could become available as early as the Fall of 2017; that sewer capacity has been allocated on the basis of 4.0 EDUs per acre; and that a concept plan is required.**
- e. Based on the record before the Planning and Zoning Commission and the hearing before the Sussex County Council, Council found that Doug Melson was present with James A. Fuqua, Jr., Esquire of Fuqua, Yori and Willard, P.A., and Steve Marsch, Professional Engineer of George Miles & Buhr, LLC, and that they stated that they would like the record of their comments made during the public hearing on C/Z #1803 to be incorporated into the record of this application; that this site contains 3.3 acres and is proposed for a possible funeral chapel; that they are requesting rezoning to B-1 Neighborhood Business District which permits the use; that the Melson Funeral Services business has been in existence since 1934 and is a needed service due to the demographics of the area; that Delaware has grown faster than most states; that one in four residents in Sussex County are over the age of 65 years; that the application meets the purpose of the B-1 Neighborhood Business District; that the project will be developed along with development of the CMF Bayside, LLC portion of the property and will share entrance to Route 54 and share stormwater management facilities; and that the trends in the area have changed.**
- f. 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 AR-1 Agricultural Residential District to B-1 Neighborhood Business District is approved for the following six (6) reasons:**

- 1. The site is appropriate for the change in zone to B-1 (Neighborhood Business), given its location on Route 54, which is a major roadway in Sussex County.**
- 2. The permitted B-1 uses are appropriate and will benefit the nearby residents of the neighborhood. The applicant's business is Melson Funeral Services, and he has stated on the record that he intends to operate a new funeral chapel on the property to provide services to the residents and growing residential communities located in the Route 54 area.**
- 3. The change in zone will not adversely affect neighboring and adjacent properties or the community.**
- 4. The project will be served by central water and will be served by County sewer.**
- 5. The site is located in the Environmentally Sensitive Developing Area according to the Sussex County Comprehensive Plan. B-1 (Neighborhood Business) zoning is an appropriate zoning classification in this area according to our Plan.**
- 6. The Final Site Plan for any proposed use of the property will be subject to the review and approval of the Commission.**