

ORDINANCE NO. 2469

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 BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 1.9192 ACRES, MORE OR LESS

WHEREAS, on the 20th day of June 2016, a zoning application, denominated Change of Zone No. 1808 was filed on behalf of William T. Peden III; and

WHEREAS, on the 25th day of August 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. 1808 be approved; and

WHEREAS, on the 4th day of October 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 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 Broadkill Hundred, Sussex County, Delaware, and lying south of Lewes Georgetown Highway (Route 9) 800 feet east of Harbeson Road (Route 5) and being more particularly described in Deed Book 3104, Page 134, in the Office of the Recorder of Deeds in and for Sussex County, said parcel containing 1.9192 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. 2469 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 4TH DAY OF OCTOBER 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 William T. Peden, III 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 Broadkill Hundred, Sussex County, containing 1.9192 acres, more or less. The property is located at the south of Lewes Georgetown Highway (Route 9) 800 feet east of Harbeson Road (Route 5) (911 Address: 26526 Lewes Georgetown Highway, Harbeson) (Tax Map I.D. 235-30.00-63.00 and 63.01).**
- 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 subdivision or land development plan is proposed.**
- C. Council found that the Sussex County Engineering Department, Utility Planning Division, commented that the property is not in a current County operated or maintained sanitary sewer or water district; that the property is located in the North Coastal Planning Area; that the proposed use is not in an area where the County has a schedule at this time to provide sewer service; and that a Concept Plan is not required.**
- D. Based on the record before the Planning and Zoning Commission and the Public Hearing before the Sussex County Council, Council found that William Peden was present on behalf of his application and stated that he has owned the property for approximately 16 years; that the property has been utilized for an office for his construction business, a showroom, and artisans/artist space after receiving Conditional Use approval for those uses; that he intends to continue those uses and to add a small retail hunting supply business to the rear with a possible archery range; that he understands that a Special Use Exception is required for the archery range; that his property is located across from and in close proximity to several commercial and business uses, and referenced offices, retail sales (Tupperware and antiques), a trucking business, an auto repair, a deli, storage facilities, and other uses; that he is asking to bring the front parcel into compliance with the appropriate zoning and to bring the entire property into one zoning classification, CR-1 Commercial Residential.**
- E. Based on the Findings (1 through 7) of the Planning & Zoning Commission, Council found that:**
 - 1. The property has frontage along Route 9 in the area of other commercial and business zonings and uses, including retail, convenience store with gas pumps, a warehouse, contracting, and truck repair. It is also across from properties that are zoned CR-1. This is an appropriate location for CR-1 zoning.**
 - 2. The application will not have an adverse impact upon traffic, area roadways, or the neighborhood.**
 - 3. The property is located in a Developing Area according to the Sussex County Comprehensive Plan. CR-1 zoning is an appropriate zoning classification in a Developing Area according to the Plan.**

4. The property is currently used for business purposes, and this rezoning will make the zoning consistent with the historical use of the property. It has been the subject of two previously approved Conditional Uses.
 5. The Applicant is considering additional uses for portions of the property that are not utilized or are under-utilized. The change of zone to CR-1 will permit the Applicant to more fully utilize the entire property commercially without having to apply for additional Conditional Uses.
 6. No parties appeared in opposition to the application.
 7. CR-1 zoning is appropriate, since the County Zoning Code states that the purpose of such zoning is to provide for retail shopping, personal and miscellaneous service activities, and that such uses should be located along arterial roadways where a general mixture of commercial and service activity now exists. This application satisfies all of these factors.
- F. Based on the record created before the Planning and Zoning Commission and the Sussex County Council, the Council approved this application.