

ORDINANCE NO. 2510

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 LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 64.50 ACRES, MORE OR LESS

WHEREAS, on the 25th day of January 2017, a zoning application, denominated Change of Zone No. 1821 was filed on behalf of Nechay Ventures; and

WHEREAS, on the 22nd day of June 2017, 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. 1821 be approved with conditions; and

WHEREAS, on the 18th day of July 2017, 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 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 Little Creek Hundred, Sussex County, Delaware, and lying on the south side of Whitesville Road approximately 529 feet east of Sussex Highway (Route 13) and on the east side of Sussex Highway (Route 13) approximately 1,002 feet south of Whitesville Road and being more particularly described per the attached Deed prepared by The Smith Firm, LLC.

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. 2510 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 18TH DAY OF JULY 2017.

**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 Nechay Ventures 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 Little Creek Hundred, Sussex County, containing 64.50 acres, more or less (located on the south side of Whitesville Road approximately 529 feet east of Sussex Highway (Route 13) and on the east side of Sussex Highway (Route 13) approximately 1,002 feet south of Whitesville Road) (Tax I.D. No. 532-6.00-86.00 & 87.00) (911 Address: None Available).**

- B. Based on the record before the Planning and Zoning Commission and the public hearing before the Sussex County Council, Council found that Michael R. Smith, Esquire, of The Smith Firm, LLC; Frank Nechay, President of Nechay Ventures, and Robert Palmer with Beacon Engineering, LLC were present on behalf of the application; that there are two (2) parcels totaling 62.63 acres; that the property is located on Route 13; that Hale Trailer is to the south of the property; that Solid Image is to the north of the property and was rezoned in October 2016; that there are industrial uses on the neighboring properties all the way down the highway; that there is direct access to Whitesville Road; that the property is subject to the Corridor Capacity Preservation Program; that they do not anticipate a need for state spending; that there is no noticeable impact on traffic; that the property is consistent with the surrounding trend of development; that it is consistent with the Comprehensive Plan; that general refrigeration will be the main use; that the business has been in use since 1992; that there are limited soils; that the development of larger buildings on site is cost prohibitive; that they acquired the property for the specific use as a general refrigeration business; that Mr. Nechay stated that there are currently forty (40) employees; and that the new construction could allow the business to almost double the number of employees.**

- C. Based on the Findings (1 through 7) of the Planning & Zoning Commission, Council found that:**
 - 1. The site is located along U.S. Route 13 (Sussex Highway). This location is appropriate for CR-1 (Commercial Residential District) zoning.**
 - 2. The site is in an area where other commercially-zoned properties exist. This includes a property recently zoned to CR-1 Commercial Residential District to the north and a large C-1 General Commercial District property to the south. The CR-1 Commercial Residential District zoning will be consistent with the area zoning.**
 - 3. The proposed use will not adversely affect neighboring or adjacent properties or roadways.**
 - 4. The Applicant will be required to meet or exceed all DelDOT requirements.**
 - 5. CR-1 Commercial Residential District zoning is appropriate, since the County Zoning Code states that the purpose of such zoning is to provide for a wide variety of commercial and service activities generally serving a wide area, and that such uses should be located along existing major thoroughfares where a general mixture of commercial and service activities now exist. In this case, the rezoning along U.S. Route 13 falls within the stated purposes of the CR-1 Commercial Residential District.**
 - 6. No parties appeared in opposition to this rezoning.**
 - 7. Any use of the property will require site plan review by the Sussex County Planning and Zoning Commission for compliance with the Sussex County Zoning Code.**

- D. Based on the record created before the Planning and Zoning Commission and the Sussex County Council, the Council approved this application.**