

ORDINANCE NO. 2526

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 INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 5.38 ACRES, MORE OR LESS

WHEREAS, on the 23rd day of February 2017, a zoning application, denominated Change of Zone No. 1824, was filed on behalf of Tomark, LLC; and

WHEREAS, on the 13th day of July 2017, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 27th day of July 2017 said Planning and Zoning Commission recommended that Change of Zone No. 1824 be approved; and

WHEREAS, on the 22nd day of August 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 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 Indian River Hundred, Sussex County, Delaware, and lying south of John J. Williams Highway (Route 24) and on the north side of Jersey Road, approximately 687 feet east of Gravel Hill Road, and being more particularly described per the attached Deed prepared by Tunnell & Raysor, P.A., said parcel containing 5.38 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. 2526 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 10TH DAY OF OCTOBER 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 Tomark, LLC 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 Indian River Hundred, Sussex County, containing 5.38 acres, more or less (located on the south side of John J. Williams Highway (Route 24) and on the north side of Jersey Road, approximately 687 feet east of Gravel Hill Road) (Tax I.D. No. 234-32.00-73.00) (911 Address: None Available).**
- B. Based on the record before the Planning and Zoning Commission and the hearing before the Sussex County Council, Council found that Craig de Mariana Aleman, Esquire with Tunnell & Raysor, P.A. and John Murray, Project Manager with Kercher Engineering, Inc. were present at the Planning and Zoning Commission hearing on behalf of the application, and Harold Dukes, Esquire with Tunnell & Raysor, P.A., Mark Showell, and Tom DePrince, and John Murray with Kercher Engineering, Inc. were present at the Sussex County Council hearing on behalf of this application; that the intent for the site is for storage, office space and a showroom for antiques; that the site is centrally located between both of Mr. Showell's business locations (Mark Showell Interiors); that Delmarva Power's substation is the adjacent property; that adjacent to the property is a gas station, restaurant and other commercially zoned properties; that it is adjacent to commercial zoning across the street; that there are some parcels zoned B-1 to the northeast which are being used for commercial purposes; and that the gas station was in the area prior to zoning.**
- C. Council also found that the site is in an Investment Level 2 Area according to the Strategies for State Policies and Spending; that there will be two (2) small buildings; that it is on its own well and septic; that there will be road improvements with a ten (10) foot multimodal path; that the project did go through DelDOT for approval; that they have received a Letter of No Objection from DelDOT and that no Traffic Impact Study was required; and that the proposed zoning change is consistent with the Comprehensive Plan.**
- D. Based on the Findings (1 through 7) of the Planning and Zoning Commission, Council found that:**
 - 1. The site is located along Route 24 near the town limits of Millsboro. It is also next to a large electrical substation on an adjacent property. This location is appropriate for CR-1 zoning.**
 - 2. The site is in an area where other commercial and business zoned properties exist. The CR-1 zoning will be consistent with the area zoning and uses.**
 - 3. The site is in a Developing Area according to the Sussex County Comprehensive Plan. CR-1 zoning is appropriate within this area according to the Plan.**
 - 4. The proposed use will not adversely affect neighboring or adjacent properties or roadways.**
 - 5. Whenever this property is developed for a particular use, the Applicant will be required to meet or exceed all DelDOT requirements. DelDOT will determine where appropriate entrance locations should be.**

- 6. CR-1 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 servicing 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 Route 24 falls within the stated purposes of the CR-1 District.**
 - 7. Any development of the site will require Preliminary and Final Site Plan review by the Planning and Zoning Commission.**
- E. Based on the record created before the Planning and Zoning Commission and the Sussex County Council, the Council approved this application.**