

ORDINANCE NO. 2545

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 2.4968 ACRES, MORE OR LESS

WHEREAS, on the 28th day of July 2017, a zoning application, denominated Change of Zone No. 1842, was filed on behalf of Carmelita L. Pavlosky and Karl Meek; and

WHEREAS, on the 21st day of December 2017, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 11th day of January 2018, said Planning and Zoning Commission recommended that Change of Zone No. 1842 be approved; and

WHEREAS, on the 30th day of January 2018, 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 on the north side of Zion Church Road, approximately 1,115 feet northwest of Bayard Road, and being more particularly described per the attached deed prepared by Tomasetti Law, LLC, said parcel containing 2.4968 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. 2545 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 30TH DAY OF JANUARY 2018.

**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 Carmelita L. Pavlosky and Karl Meek 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 2.4968 acres, more or less (located on the north side of Zion Church Road, approximately 1,115 feet northwest of Bayard Road (Tax I.D. No. 533-11.00-82.03) (911 Address: 36169 Zion Church Road, Frankford).**
- B. Based on the record before the Planning and Zoning Commission and the public hearing before the Sussex County Council, Council found that Carmelita Pavlosky and Karl Meek were present on behalf of the application; that they have owned the property since April 2015; that the previous owner originally had a Conditional Use for a garden center and then he changed it to a BBQ stand; that they decided not to pursue the BBQ stand; that they are not currently operating a business on the site; that they have been approached by several businesses wanting to use it as a lawn care facility/garden center or as a dance center; that the types of businesses that have been proposed are beneficial to the area; that they plan to market the site to businesses to serve the area; that the B-1 (Neighborhood Business District) zoning would permit multiple uses to benefit the community, such as a bakery; that there are other commercial uses and buildings in the area; that there is a proposed medical center further along Zion Church Road; that the zoning would be consistent with the area; that there are two (2) buildings on the property; that the Applicant is considering using the smaller building for furniture refurnishing and the other building as the garden center; that they are planning on improving the building; and that the only house in the area is Ms. Pavlosky's insurance agent who is not opposed to the application.**
- C. Based on the Findings (1 through 8) of the Planning & Zoning Commission, Council found that:**
 - 1. The property has historically been used for commercial purposes, including two prior conditional uses. Prior uses include a lawn care service and BBQ stand. With this historical use of the property, this is an appropriate location for B-1 zoning, which is intended to provide for neighborhood businesses and small scale commercial and retail activities.**
 - 2. This use will allow the property owners to redevelop and clean up the property with appropriate small-scale uses that are permitted under the B-1 zone.**
 - 3. The property will be served by Sussex County sewer.**
 - 4. According to the Sussex County Comprehensive Plan, the site is in the Environmentally Sensitive Developing Area. B-1 zoning is appropriate in this area.**

- 5. The rezoning will not adversely affect neighboring properties or roadways.**
 - 6. Any development of the property will require site plan review by the Planning and Zoning Commission, as well as entrance approval from the Department of Transportation.**
 - 7. No parties appeared in opposition to the rezoning application.**
 - 8. The rezoning complies with the purpose of the B-1 District as set forth in 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.**