

ORDINANCE NO. 2546

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 LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 4.484 ACRES, MORE OR LESS

WHEREAS, on the 21st day of June 2017, a zoning application, denominated Change of Zone No. 1835, was filed on behalf of HKLS, LLC; and

WHEREAS, on the 14th day of December 2017, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 21st day of December 2017, said Planning and Zoning Commission recommended that Change of Zone No. 1835 be approved; and

WHEREAS, on the 9th 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 Lewes and Rehoboth Hundred, Sussex County, Delaware, and lying on the southwest corner of Plantations Road and Cedar Grove Road, and being more particularly described per the attached legal description, said parcel containing 4.484 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. 2546 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 9TH 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 HKLS, LLC 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 Lewes and Rehoboth Hundred, Sussex County, containing 4.484 acres, more or less (located on the southwest corner of Plantations Road and Cedar Grove Road (Tax I.D. No. 334-12.00-51.00) (911 Address: Not Available).**
- B. Based on the record before the Planning and Zoning Commission and the public hearing before the Sussex County Council, Council found that Robert Gibbs, Esquire of Morris James Wilson Halbrook and Bayard, LLP, and Ring Lardner with Davis, Bowen and Friedel were present on behalf of the application; that the property is zoned AR-1 and is vacant; that the proposed zoning classification is B-1; that this property was previously granted a conditional use for medical offices in 2009; that the project did not go forward; that the intent of the property is for the use of general business and professional offices as permitted in the B-1 Zoning District; that this is an Environmentally Sensitive Developing Area and Mixed Residential Area per the Future Land Use Plan in the 2008 Comprehensive Plan; that it is in Level 2 Area in the State Strategies; and that the use is consistent with the strategies and land use.**
- C. Council also found that DelDOT previously granted a Letter of No Objection in 2009 for the prior application; that a Service Level Evaluation was completed for the new application and the results are in the file; that a Traffic Impact Study was not required for the rezoning; that the property does not contain any federal wetlands, it is not in any floodplain, and there are no known historic places; that the property is served by Sussex County sewer and Tidewater Utilities for water; that Plantations Road is beginning to develop for economic growth; that the Board of Adjustment just granted a Special Use Exception for an assisted living facility on the adjacent property; that this property is located at the new intersection of Plantations Road and Cedar Grove Road; that this an ideal use for the site; that there is a mixed use holistic center, Plantations Park Community Center, Metropolitan Community Church of Rehoboth and a Sussex County Paramedic station in the area; that there is another pending rezoning to B-1 in the area; that Lowe's is at the other end of Plantations Road; that the Beebe Complex is located on Route 24 and plans to expand and this would be consistent with that use; that there are many different zoning districts in the area; that this could help reduce the need to go out onto Route 1 for services; that the primary access would be off of Cedar Grove Road; that DelDOT left an entrance off of Cedar Grove Road when the intersection was redesigned; that there could be access off of Plantations Road depending on discussions with DelDOT; that there has been some discussion about the possibility of interconnectivity with the potential assisted living facility; that this would be reviewed as part of the site plan if the Change of Zone is approved; that the purpose of the B-1 Zoning District is consistent with the area and would be a permitted use in the area; and that there is a cemetery in the area that will be delineated.**
- D. Based on the Findings (1 through 9) of the Planning & Zoning Commission, Council found that:**

- 1. The site is located on the southern corner of the intersection of Plantations Road and Cedar Grove Road. Existing residential developments are located nearby and preliminary approval for a special use exception for an assisted living facility on an adjacent parcel was recently granted. These uses make the site an appropriate location for B-1 zoning and it will provide neighborhood business uses in a location that is convenient to many homes. It will also eliminate the current need to travel to Route 1 for certain needs.**
 - 2. According to the County's Comprehensive Land Use Plan, the site is identified as being within the Environmentally Sensitive Developing Area and Mixed Residential Area. B-1 Zoning is appropriate within these areas according to the Plan.**
 - 3. According to the Zoning Code, B-1 Zoning is appropriate "to provide retail shopping and personal service uses, ... to serve the needs of a relatively small area, primarily nearby rural, low density or medium density residential neighborhoods." This application satisfies this purpose of B-1 Zoning.**
 - 4. The B-1 District is the most limited commercial zoning district in the County. It is appropriate in this location since it will limit the type and size of the uses that may occur at the site.**
 - 5. The rezoning is consistent with the developing character of the area and will not adversely affect the neighboring properties and roadways.**
 - 6. The proposed zoning meets the purpose of the Zoning Ordinance since it promotes the orderly growth, convenience, order, prosperity and welfare of Sussex County and its residents.**
 - 7. The site is served by central water and Sussex County will provide wastewater service to the site.**
 - 8. Any future development of the site will require site plan approval by the Sussex County Planning & Zoning Commission as well as entrance and roadway improvements from the Delaware Department of Transportation.**
 - 9. No parties appeared in opposition to the proposed rezoning.**
- E. Based on the record created before the Planning and Zoning Commission and the Sussex County Council, the Council approved this application.**