

ORDINANCE NO. 2551

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 LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 4.0 ACRES, MORE OR LESS

WHEREAS, on the 28th day of June 2017, a zoning application, denominated Change of Zone No. 1839, was filed on behalf of Dale Lomas/Seashore Highway Associates, LLC; 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. 1839 be denied; and

WHEREAS, on the 23rd 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 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 Lewes and Rehoboth Hundred, Sussex County, Delaware, and lying on the north side of Lewes Georgetown Highway (Route 9), approximately 590 feet east of Josephs Road, and being more particularly described on the attached survey prepared by Pennoni Associates, Inc., said parcel containing 4.0 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. 2551 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 27TH DAY OF FEBRUARY 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 Dale Lomas/Seashore Highway Associates, 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 Lewes and Rehoboth Hundred, Sussex County, containing 4.0 acres, more or less (Tax I.D. No. 334-4.00-37.04) (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 Mark Davidson of Pennoni Associates, Inc. and Dale Lomas of Seashore Highway Associates, LLC were present of behalf of the application; that the request is to change the zone from AR-1 (Agricultural Residential District) to CR-1 (Commercial Residential District); that the parcel is approximately 4 acres; that the property was purchased in 2016 and is adjacent to other properties that Seashore Highway Associates owns that are zoned CR-1; that the site has a building supply business on it; that he has owned the adjacent parcel since 2008; that he has made significant improvements to the site; that he purchased the property from the adjacent property owner to the west; and that the adjacent property owner did not have any objection to the change in zone.**
- C. Council also found that the land use classification per the Comprehensive Plan is Low Density; that CR-1 can be considered in the Low Density Areas classification; that the change in zone meets the general purpose of the Zoning Ordinance; that there is a railroad to the rear of the property; that the area is a general mixture of commercial and residential uses and the site is adjacent to other commercial activity; that commercial properties in the area include an antique shop and a gun shop; that there are also several Conditional Uses in the area; that Route 9 is a major collector road; that the Comprehensive Plan states that development should occur on or near a major road and is in an appropriate location to provide a wide variety of uses along a thoroughfare such as Route 9; that DelDOT did not require a Traffic Impact Study; that once a site plan is completed, a Traffic Impact Study may be required; that there is an existing entrance on Mr. Lomas' property where his business is and would comply with any requirements of DelDOT; and that it will not diminish or impair property values in the area.**
- D. Based on the record before the Planning and Zoning Commission and the public hearing before the Sussex County Council, Council found that:**
 - 1. The Comprehensive Plan states that development should occur on or near a major road. The property is located along Route 9 (Lewes Georgetown Highway) which is a major collector road and, therefore, the property is in an appropriate location to provide a wide variety of uses along a thoroughfare.**
 - 2. CR-1 (Commercial Residential District) Zoning is appropriate, since the Sussex 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 Route 9 falls within the stated purposes of the CR-1 (Commercial Residential District) District.**
 - 3. The Comprehensive Plan land use classification for the property is Low Density. CR-1 can be considered in the Low Density Area classification.**
 - 4. While there are residential uses in the surrounding area, the surrounding uses also include several business and commercial uses including an antique store, a**

gun store, and the Applicant's existing building supply store. There are also some additional conditional uses in the surrounding area. The CR-1 zoning will be consistent with the area zoning and the use is compatible with the surrounding properties.

5. The property is located adjacent to other properties owned by the Applicant, Seashore Highway Associates, which are zoned CR-1. This location is appropriate for CR-1 zoning and will allow the expansion of the Applicant's existing commercial use on the adjacent property by creating one consistent zoning category for both properties.
 6. The proposed use will promote the orderly growth, convenience, order, prosperity and welfare of Sussex County and its residents.
 7. The use will not adversely affect neighboring or adjacent properties or area roadways.
 8. Any development of the property under CR-1 zoning will be subject to site plan review by the Sussex County Planning and Zoning Commission to ensure compliance with all requirements of the Sussex County Zoning Code.
 9. The Applicant will be required to meet or exceed all DelDOT requirements associated with any permitted use of the property.
- E. Based on the record created before the Planning and Zoning Commission and the Sussex County Council, the Council approved this Application.