

ORDINANCE NO. 2556

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 6.0576 ACRES, MORE OR LESS

WHEREAS, on the 25th day of August 2017, a zoning application, denominated Change of Zone No. 1845, was filed on behalf of LMHT, LLC; and

WHEREAS, on the 25th day of January 2018, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 8th day of February 2018, said Planning and Zoning Commission recommended that Change of Zone No. 1845 be approved; and

WHEREAS, on the 13th day of March 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 west side of Plantations Road, approximately 841 feet north of John J. Williams Highway (Route 24), and being more particularly described per the attached legal description dated August 9, 2017, said parcel containing 6.0576 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. 2556 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 13TH DAY OF MARCH 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 LMHT, 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 6.0576 acres, more or less [located on the west side of Plantations Road approximately 841 feet north of John J. Williams Highway (Route 24)] (Tax I.D. No. 334-12.00-57.01) (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 Gene Bayard, Esquire with Morris James Wilson Halbrook & Bayard LLP; Nick Hammonds, Principal of LMHT, LLC; and Ring Lardner, P.E. with Davis, Bowen, and Friedel, Inc., were present on behalf of the application; that the six acres which are the subject of the application are not agriculturally viable due to significant development activity in the area; that the site is not wooded; that it is not located in a floodplain; that there are no known historical sites on the property; that a Traffic Impact Study was not required for rezoning and would be determined upon submittal of a site plan; that a Concept Plan was submitted which includes alignment of the entrance with Summer Crest and provides interconnectivity; that there are three possible buildings being considered; that the parcel to the rear of the site has an Agriculture Easement; that the Plantation Road and Cedar Grove Road intersection is upgraded; that this parcel is near a signalized intersection; and that this makes good sense to residents without having to go onto Route 1.**
- C. Council also found that to the west on Plantation Road, a 4.5 acre parcel was recently rezoned to B-1 (Neighborhood Business District); that the Board of Adjustment recently approved a Special Use Exception for an assisted senior living facility for the ten acre parcel; that there is a medical/professional office complex (Plantation Park) and the Metropolitan Community Church of Rehoboth to the west; that the Sussex County Paramedic Station is adjacent to the site; that on the east side of Plantation Road is mainly residential uses; that the Beebe Medical Campus is on the south side of Route 24; that Herola, LLC property was rezoned in 2013; that there are several C-1 (General Commercial District) zoned properties on the north side of Route 24 which are currently undeveloped and other commercial uses on Route 24; that there is considerable commercial development growth in the area; that they have received interest from many different users; that the site is appropriate for B-1 (Neighborhood Business District) as it is in character with the area; that it is compliant with the Comprehensive Plan and the draft Comprehensive Plan; and that the rezoning will not have an adverse impact on local property values.**
- 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 6.06-acre site is located along Plantations Road, in an area that has developed with a variety of residential uses. Other business and commercial uses exist or have been approved for the same side of Plantations Road as this site. This includes an assisted living facility to be located on 10 acres near the site.**

2. This is 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 Route 1 for some neighborhood convenience shopping needs.
 3. According to the County's Comprehensive Land Use Plan, the site is identified as being within the Environmentally Sensitive Developing Area. B-1 Zoning is appropriate within this Area according to the Plan.
 4. According to the Zoning Code, B-1 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.
 5. 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.
 6. The rezoning is consistent with the developing character of the area and will not adversely affect the neighboring properties and roadways.
 7. The proposed project meets the purpose of the Zoning Ordinance since it promotes the orderly growth, convenience, order, prosperity and welfare of Sussex County and its residents.
 8. The site is served by central water and Sussex County will provide wastewater service to the site.
 9. 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 Department of Transportation.
- E. Based on the record created before the Planning and Zoning Commission and the Sussex County Council, the Council approved this Application.