

ORDINANCE NO. 2568

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 6.98 ACRES, MORE OR LESS

WHEREAS, on the 15th day of June 2017, a zoning application, denominated Change of Zone No. 1834, was filed on behalf of Colonial East, L.P.; and

WHEREAS, on the 16th day of November 2017, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Change of Zone No. 1834 be approved; and

WHEREAS, on the 12th day of December 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 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 north side of Lewes – Georgetown Highway (Route 9) approximately 741 feet east of Minos Conaway Road and being more particularly described in the attached legal descriptions, as prepared by Axiom Engineering.

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. 2568 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 20TH 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 Colonial East L.P. 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 6.98 acres, more or less (located on the north side of Lewes-Georgetown Highway (Route 9) approximately 741 feet east of Minos Conaway Road (Tax I.D. No. 334-5.00-165.00 (portion of) and 334-5.00-166.00 (portion of) (911 Address: 30769 Lewes-Georgetown Highway, Lewes).**
- B. Based on the record before the Planning and Zoning Commission and the hearing before the Sussex County Council, Council found that David Hutt, Esquire with Morris James Wilson Halbrook & Bayard LLP, Ken Christenbury, Project Engineer with Axiom Engineering, LLC; Steve Class, owner of Colonial East L.P., and DJ Hughes, Traffic Engineer with Davis Bowen and Friedel, Inc., were present on behalf of the application; that the property is located on Route 9, near the intersection of Minos Conaway Road, directly in front of the Sussex East and Sussex West manufactured home communities; that both communities began with conditional uses, the first of which was approved in 1981, the second in 1997, and the third in 2007; that between the 3 conditional uses, there are a total of 350 units within the communities; that at the present time, 96 percent of the units are occupied by 55 plus individuals with an average age of 75 and older; and that 80 percent of the community are year-round residents.**
- C. Council found that this particular application does not apply to the entire manufactured home park, but only to the front 7 acres of the property; that the project is intended to be rezoned to B-1 neighborhood business and will be known as Sussex Square; that B-1 is for a relatively small area and area uses; that the Comprehensive Plan encourages growth in this area; that the property would not accommodate one large building, but it would accommodate multiple smaller buildings; that the hope is to alleviate traffic going to Route 1; that the existing amenities will remain AR-1; that this is a potential concept plan; that the property is located within a low density environmentally sensitive development overlay zone that does allow for commercial areas in proximity to residential communities; that there is quite a bit of commercial zoning on the Route 9 corridor and further into the Rehoboth area; and that the area is a Level 2 for Strategies for State Policies and Spending, which is an area that does encourage growth and development of this nature.**
- D. Council also found that a Traffic Impact Study (TIS) is required by DelDOT; that the total proposed site, without the mobile homes, would generate approximately 1,379 new trips per day and 318 pass-by trips; that there would be a total of 2,736 trips added when the existing community trips are included; that based on projected trips, two intersections are required; that the recommendations for the TIS will be that Route 9 and Sheffield Drive will have to be improved to meet DelDOT standards (a bike lane will be included and the right turn lane will be extended, etc.); that an additional lane will be added exiting Sheffield Drive; that they are going to have interconnectivity with the bike trail; that they do have to dedicate ten feet of right-of-way and provide a 15 foot easement for a bike trail; that off-site improvements at the intersection of Route 9 and Minos Conway Road are included in the TIS review; that DelDOT approvals will be required for the TIS, as well as a letter of no objection, and entrance plan approvals; that the roads are privately owned by Mr. Class; and that signage could be posted that would discourage traffic from entering the residential community.**

- E. Council further found that a survey was sent to the residents; that residents were informed that lot rents would not be impacted; that the residents are looking for amenities such as a cafe with food and a bakery, a farmer's type of market, etc. that would allow them not to have to access Coastal Highway; that it could include a professional medical office or pharmacy; that all development will be low key; that there will be no drive-ins, gas stations, Wawa type of establishments, or drive thru banks, etc.; and that the application meets the requirements of B-1 Neighborhood Business zoning.**
- F. Based on the Findings (1 through 8) of the Planning & Zoning Commission and the record created before the Sussex County Council, Council found that:**
- 1. The site is located along Route 9 at the front of a large manufactured home development and it is surrounded by other existing and new residential developments. This makes it 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 all of these needs.**
 - 2. 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.**
 - 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 rezoning 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 Department of Transportation.**
- G. Based on the record created before the Planning and Zoning Commission and the Sussex County Council, the Council approved this application.**