

ORDINANCE NO. 2613

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-2 MEDIUM COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 1.08 ACRES, MORE OR LESS

WHEREAS, on the 10th day of April 2018, a zoning application, denominated Change of Zone No. 1856, was filed on behalf of Melissa and Nate Walker; and

WHEREAS, on the 27th day of September 2018, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 25th day of October 2018, said Planning and Zoning Commission recommended that Change of Zone No. 1856 be approved; and

WHEREAS, on the 13th day of November 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 C-2 Medium Commercial 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 Indian River Hundred, Sussex County, Delaware, and lying on the east side of John J. Williams Highway (Route 24), approximately 0.38 mile south of Hollymount Road, and being more particularly described in the attached legal description prepared by Pennoni Associates, Inc., said parcel containing 1.08 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. 2613 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 13TH DAY OF NOVEMBER 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 Melissa and Nate Walker to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District to a C-2 Medium Commercial District for a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 1.08 acres, more or less (lying on the east side of John J. Williams Highway (Route 24) approximately 0.38 mile south of Hollymount Road (Tax I.D. No. 234-17.00-35.00) (911 Address: 22935 John J. Williams Highway, Millsboro).**
- B. Based on the record before the Planning and Zoning Commission and the hearing before the Sussex County Council, Council found that Mark Davidson with Pennoni Associates, Inc., and Melissa Walker and Nathan Walker, owners of the property, were present of behalf of the application; that the parcel is currently zoned AR-1; that there is currently an existing home on the site; that the home is dated back to the 1890s; that there is an existing dog grooming business on the site; that there is an inground swimming pool; that there are two entrances to the property and one is the only one way in; that they have owned the property since 2004; that the property is surrounded by a flag lot on the side and behind the parcel; that they are also surrounded by Herring Creek Estates; that this accommodates commercial uses and is on an arterial road; that they would like to turn the house into a boutique, architectural, salvage and retail sales; that they would like to provide interior design sales; that it is a two story house and the first-floor contains 1,000 square feet; and that their parents are living in the house.**
- C. Council also found that C-2 permits for mixed-use and will not impact the area; that the existing building is approximately 1,800 square feet, the dog grooming business is 1,200 square feet and in the rear of the property is a 600 square foot studio/apartment; that the proposed rezoning of C-2 will not diminish or impair property values within the neighborhood and it would not create a public nuisance or result in an increase of public expenditures; that the C-2 District supports uses that include retail sales and the type of mixed consumer services that they are proposing to use for the property; that the land use classification per the Comprehensive Plan is in an area that is low density, and permitted uses such as business development should be confined to businesses addressing the needs of nearby residents and residential uses; that this is also in the Environmentally Sensitive Developing Overlay Zone; that in the Growth Area, a mixture of residential and light commercial and convenience services is appropriate; that in the proposed Comprehensive Plan, this is considered a Coastal Area; that C-2 zoning is permitted in the Coastal Area; that the site is located on Route 24 and it is a major collector road; that it averages approximately 12,700 vehicles a day; and that DelDOT did not require a Traffic Impact Study.**
- D. Council further found that the property is a very small property (1.08 acres in size) and that they are proposing a very small use; that the property is located in Tier 1 sewer district; that sewer is planned in a few years to be connected along Route 24; that they are able to get Tidewater Utilities for water; that there is a lot for residential use and a campground with a commercial store; that they are talking about a very small commercial property; that there are no known major preserved lands in this area; that the property is not in a flood zone and there are no wetlands on the property; that stormwater will be managed by infiltration into the ground; that the property is in an Investment Level 3 according to the Strategies for State**

Policies and Spending; and that all the improvements such as the multi-modal path and entrance will be carried out by the owners.

E. Based on the record and recommendation of the Planning and Zoning Commission and the Planning and Zoning Commission's Findings (1 through 6), Council found that:

- 1. The Applicants are seeking a Change of Zone to C-2 Medium Commercial. The purpose of this District is to allow retail sales and consumer services. It is intended to be located near arterial and collector streets.**
- 2. This location along Route 24 is appropriate for the uses that are permitted in the C-2 District. The permitted uses in the C-2 District are limited in both size and type.**
- 3. This location has previously been used for small-scale business or commercial uses. This rezoning is consistent with the prior types of uses that have occurred on the property.**
- 4. The rezoning will not have a significant impact upon neighboring properties or roadways.**
- 5. Any development that occurs on the property will require site plan review by the Sussex County Planning & Zoning Commission after taking into account all required agency reviews, including DelDOT, State Fire Marshall and the Sussex Conservation District.**
- 6. For all of these reasons it is appropriate to rezone this property from AR-1 to C-2 Medium Commercial.**

F. Based on the record created before the Planning and Zoning Commission and the Sussex County Council, the Council approved this application.