

ORDINANCE NO. 2624

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 BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 0.51646 ACRES, MORE OR LESS

WHEREAS, on the 8th day of June 2018, a zoning application, denominated Change of Zone No. 1863 was filed on behalf of Triumpf I, LLC and

WHEREAS, on the 15th day of November 2018, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 29th day of November 2018, said Planning and Zoning Commission recommended that Change of Zone No. 1863 be approved; and

WHEREAS, on the 4th day of January 2019, 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 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 Baltimore Hundred, Sussex County, Delaware, and lying on the west side of Roxanna Road, approximately 1,040 feet south of Atlantic Avenue and being more particularly described in the attached legal description prepared by Thomas & Libowitz, P.A., said parcel containing 0.51646 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. 2624 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 8TH DAY OF JANUARY 2019.

**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 Triumpf I, 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 Baltimore Hundred, Sussex County, containing 0.51646 acres, more or less (lying on the west side of Roxana Road, approximately 1,040 feet south of Atlantic Avenue) (Tax I.D. No. 134-11.00-805.01) (911 Address: None Available).**
- B. Based on the record before the Planning and Zoning Commission and the hearing before the Sussex County Council, Council found that Shannon Carmean Burton, Esquire with Sergovic, Carmean, Weidman, McCartney & Owens, P.A., and Ken Christenbury with Axiom Engineering, LLC were present on behalf of the application; that the Applicant is seeking a rezoning of the property to CR-1 in order to allow for further permitted commercial uses; that there are a number of parcels in the area that are zoned CR-1 and C-1 and various commercial uses; that the property is located near larger scale uses as well as smaller scale commercial uses; that the property is consistent with the Zoning Code; that a rezoning of this land from AR-1 to CR-1 is appropriate; that the trend in this area is toward commercial uses, and that there has been an increase in commercial zoning since 2005; that the Land Use Classification per the Comprehensive Plan is both Highway Commercial and Environmentally Sensitive Developing Area; that water and sewer is not immediately available on the parcel; that a small office could be supported by septic and well; that water and sewer service is anticipated in the future; and that DeIDOT did not require a Traffic Impact Study (“TIS”), but that a TIS may be required depending on the future use.**
- C. Based on the record and recommendation of the Planning and Zoning Commission and the Planning and Zoning Commission’s Findings (1 through 7), Council found that:**
 - 1. The site is located in an area of Roxana Road near the intersection with that road and Route 26. There are many other commercial and business zoned properties that exist at this intersection. The CR-1 zoning will be consistent with the area zonings and uses.**
 - 2. Although the property is currently zoned AR-1 Agricultural Residential, it is in a location that is no longer viable for agricultural or residential uses. CR-1 zoning is a more appropriate zoning for this property.**
 - 3. The site is in a Developing Area according to the Sussex County Comprehensive Plan. CR-1 zoning is appropriate within this area according to the Plan.**
 - 4. The proposed use will not adversely affect neighboring or adjacent properties or roadways.**
 - 5. No parties appeared in opposition to this rezoning application.**
 - 6. Whenever this property is developed for a particular use, the Applicant will be required to meet or exceed all DeIDOT requirements. DeIDOT will determine where appropriate entrance locations should be.**
 - 7. Any development of the site will require Preliminary and Final Site Plan review by the Sussex County Planning and Zoning Commission.**
- D. Based on the record created before the Planning and Zoning Commission and the Sussex County Council, the Council approved this application.**