

ORDINANCE NO. 2625

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-3 HEAVY COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 9.9 ACRES, MORE OR LESS

WHEREAS, on the 12th day of June 2018, a zoning application, denominated Change of Zone No. 1864, was filed on behalf of Scott and Monica Shubert; 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 said Planning and Zoning Commission recommended that Change of Zone No. 1864 be approved; and

WHEREAS, on the 8th 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 of C-3 Heavy 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 Little Creek Hundred, Sussex County, Delaware, and lying at the northwest corner of Iron Hill Road and Old Stage Road, and being more particularly described in the attached deed prepared by D. Stephen Parsons, P.A., said parcel containing 9.9 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. 2625 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 Scott and Monica Shubert to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District to a C-3 Heavy Commercial District for a certain parcel of land lying and being in Little Creek Hundred, Sussex County, containing 9.9 acres, more or less (lying at the northwest corner of Iron Hill Road and Old Stage Road) (Tax I.D. No. 532-14.00-6.05) (911 Address: 11133 Iron Hill Road, Delmar).**

- B. Based on the record before the Planning and Zoning Commission and the hearing before the Sussex County Council, Council found that the Applicant, Scott Shubert, was present on behalf of the application; that he stated he wanted to convert the Conditional Use to a Change of Zone to be able to rent out the buildings; that there is a produce stand and a garden center on the site; that there is commercial zoning across the street; that he has started installing a buffer on the west side of the property to protect neighboring parcels; that he is willing to exclude 4.5 acres to the west; that he would like to use the existing infrastructure on the site for commercial uses; that the main use would be for offices; that the parking and entrance would stay the same on the site; that the other buildings are storage with some outdoor storage; that the back entrance can be closed off; and that the septic is located on the north side of the parcel.**

- C. Based on the record and recommendation of the Planning and Zoning Commission and the Planning and Zoning Commission's Findings (1 through 9), as amended, Council found that:**
 - 1. C-3 Heavy Commercial Zoning is designed to allow auto-oriented retail and service businesses that serve local and regional residents. Permitted uses include retail uses, restaurants, offices and vehicle service stations.**
 - 2. The site is at the intersection of Iron Hill Road and Old Stage Road. This intersection is appropriate for this type of zoning.**
 - 3. Most of the site is currently used for commercial purposes. This rezoning is consistent with the types of uses that have been evolving at this location over the years.**
 - 4. The proposed C-3 Zoning at this site lessens the congestion on area roads by providing commercial activities at an appropriate location so that residents and visitors to the area can meet some of their commercial needs without having to travel to Route 13 or other commercial areas.**
 - 5. The proposed rezoning meets the general purpose of the Zoning Code by promoting the orderly growth, convenience, order, prosperity and welfare of the County.**
 - 6. The site has a history of commercial uses and is currently the subject of an existing Conditional Use. This rezoning is a reasonable expansion to the existing uses that occurred on the property.**
 - 7. There is existing commercial zoning across the street.**
 - 8. As proffered by the Applicant, the 200 feet from the western side of the property is deleted from the C-3 Zoning District and remains in its current zoning.**
 - 9. Any future use of the property will be subject to 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.**