

ORDINANCE NO. 2632

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AN I-1 INSTITUTIONAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 18.3155 ACRES, MORE OR LESS

WHEREAS, on the 29th day of June 2018, a zoning application, denominated Change of Zone No. 1866, was filed on behalf of Triple B Farms, LLC; and

WHEREAS, on the 10th day of January 2019, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 24th day of January 2019, said Planning and Zoning Commission recommended that Change of Zone No. 1866 be approved; and

WHEREAS, on the 5th day of February 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 I-1 Institutional 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 Broadkill Hundred, Sussex County, Delaware, and lying on the northeast corner of Hudson Road and Lewes-Georgetown Highway (Route 9), and being more particularly described in the attached legal description prepared by Becker Morgan Group, Inc., said parcel containing 18.3155 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. 2632 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 5TH DAY OF FEBRUARY 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 Triple B Farms, LLC to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District to an I-1 Institutional District for a certain parcel of land lying and being in Broadkill Hundred, Sussex County, containing 18.3155 acres, more or less (lying on the northeast corner of Hudson Road and Lewes-Georgetown Highway [Route 9]) (Tax I.D. No. 235-27.00-11.01) (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 Eugene Bayard, Esquire with Morris, James, Wilson, Halbrook and Bayard, LLP; Mike Reimann with Becker Morgan Group; and Jerry Peters with Bayhealth Central and Southern Delaware, were present at the Planning and Zoning Commission hearing on behalf of the application, and Eugene Bayard, Steve Fortunato with Becker Morgan Group, and Terry M. Murphy, President and CEO of Bayhealth, were present at the Sussex County Council hearing on behalf of the application; that Bayhealth Medical Center, Inc. is now the property owner; that they are seeking a rezoning to I-1 Institutional Zoning District; that per the proposed 2018 Comprehensive Plan, the land is classified as a growing business corridor; that over the years there have been a dozen Zoning Map changes approved in the area; that there are a variety of retail, commercial, medical, and agricultural activities in the area; that the most recent Change of Zone request was from the Dollar General store; that a mini-storage business is currently under construction in the area; and that there are residential developments and over 600 homes in the area.**
- C. Council also found that the property is approximately 18 acres in size; that the site is currently vacant with agricultural use and woodlands; that there is a stormwater management facility that is at the corner of the nearby highway intersection and is a part of the proposed intersection upgrade; that the property does not have any wetlands; that the property is not in a floodplain; that there is a 12” water main from Artesian and an 8” force main adjacent to the property; that Applicant has obtained a letter confirming the ability of Artesian Water to serve the site; that DelDOT did not request a Traffic Impact Study for the rezoning application, but that DelDOT would evaluate that need as part of any site plan prepared in the future if the Change of Zone is approved; that the Site Plan submitted is very conceptual at this point; that the access would be located off of Hudson Road; that there are no plans for access off of Route 9; and that the proposed building would be in the rear of the parcel.**
- D. Council also found that, with respect to the strategic need for healthcare services in Sussex County, more health care services are being provided in the area and that the Route 9 location is a convenient location for the provision of such services; that diagnostic and walk-in clinics are needed in this area due to the growing population; that the proposal is consistent with the development in this area of Route 9; that the proposal meets the purposes of the I-1 zoning classification in both the 2008 and 2018 Comprehensive Plans; and that, as part of the Site Plan review and approval process, Bayhealth is willing to ensure that all lighting on the property is downward screened so that it does not shine on neighboring properties or roadways.**
- E. Based on the Findings (1 through 7) of the Planning & Zoning Commission, Council found that:**

- 1. This is a change of zone for the new I-1 Zoning District. The I-1 Zoning District has permitted uses that focus on healthcare and institutional uses.**
- 2. The rezoning is consistent with the stated purpose of the I-1 District, which is to allow public, quasi-public and institutional to occur on properties that are compatible with surrounding districts and uses. There are properties nearby that are zoned CR-1 and C-1, and this property is located along Route 9, which is a Major Arterial Roadway. The purpose of the I-1 Zoning and the permitted uses within the I-1 District are consistent with this area.**
- 3. The rezoning will not adversely affect neighboring properties, public facilities, traffic or area roadways.**
- 4. The site is located at an intersection along Route 9, which will provide convenient access to the public uses permitted under the I-1 Zone.**
- 5. The property is served by central water and sewer.**
- 6. The rezoning to I-1 promotes the health, safety and general welfare of Sussex County and its present and future residents by providing a convenient location for needed medical office space.**
- 7. Any further development of this site will require a site plan review and approval of the Sussex County Planning and Zoning Commission.**