

**ORDINANCE NO. 2635**

**AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A B-2 BUSINESS COMMUNITY DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 3.0 ACRES, MORE OR LESS**

**WHEREAS, on the 26th day of September 2018, a zoning application, denominated Change of Zone No. 1871, was filed on behalf of Masten Realty, LLC; and**

**WHEREAS, on the 14th day of February 2019, 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. 1871 be approved; and**

**WHEREAS, on the 12th day of March 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 B-2 Business Community 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 Cedar Creek Hundred, Sussex County, Delaware, and lying on the east side of South Rehoboth Boulevard, approximately 0.51 mile south of Southeast 2<sup>nd</sup> Street, and being more particularly described in the attached legal description, said parcel containing 3.0 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. 2635 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 12TH DAY OF MARCH 2019.**

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**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 Masten Realty, LLC to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District to a B-2 Business Community District for a certain parcel of land lying and being in Cedar Creek Hundred, Sussex County, containing 3.0 acres, more or less (lying on the east side of South Rehoboth Boulevard, approximately 0.51 mile south of Southeast 2nd Street) (Tax I.D. No. 330-11.00-46.01) (911 Address: 6103 South Rehoboth Boulevard, Milford)
- B. Based on the record before the Planning and Zoning Commission and the hearing before the Sussex County Council, Council found that Mr. Jamie Masten, the principal of Masten Realty, LLC, was present on behalf of the application; that the Applicant currently has a small office on Route 113 with limited parking; that Mr. Masten lives right behind this parcel; that the existing dwelling is 5,200 square feet and would make a nice office; that he would maintain the dwelling's appearance as a residence; that the application went through the PLUS process; that the property is located in the Delaware State Strategies for Spending Level 1 Area; that a Traffic Impact Study was not required; that he was asked to check into annexation to the City of Milford, but it was not viable; that the City of Milford would require a 6-foot tree line buffer around the entire property; that he would like to preserve the open space of the yard; that there is no commercial zoning in the area, but the area is transitioning to commercial; that the property is located adjacent to a liquor store and an old gas station; that a country club with a commercial kitchen and bar is located across the street from the site; that there is a new church being built to the north of this site; and that he would like to maintain the parcel in its present state.
- C. Based on the Planning & Zoning Commission's Findings (1 through 7), Council found that:
  - 1. B-2 (Business Community Zoning) is designed to allow office, retail shopping and personal service uses that serves a relatively small area, including low-density and medium-density neighborhoods.
  - 2. The site is in the Town Center Area according to the current Sussex County Comprehensive Plan and it is surrounded by this classification on the north, south, east, and west, with a portion of the western boundary running along the boundary with the City of Milford. B-2 uses are appropriate in the Town Center Area according to the Plan.
  - 3. The site is located along South Rehoboth Boulevard in an area where there is a mix of small businesses including a liquor store next door and residential uses. This location is appropriate for B-2 Zoning.
  - 4. The proposed rezoning meets the general purpose of the Zoning Code by promoting the orderly growth, convenience, order, prosperity and welfare of the County.
  - 5. No parties appeared in opposition to the application.
  - 6. The property next to a liquor store, is no longer suitable for residential use.
  - 7. 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.