

ORDINANCE NO. 2652

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A GR GENERAL RESIDENTIAL DISTRICT TO A C-3 HEAVY COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 1.194 ACRES, MORE OR LESS

WHEREAS, on the 31st day of August 2018, a zoning application, denominated Change of Zone No. 1869, was filed on behalf of WMF Watercraft and Marine; and

WHEREAS, on the 28th day of March 2019, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 11th day of April 2019, said Planning and Zoning Commission recommended that Change of Zone No. 1869 be approved; and

WHEREAS, on the 30th day of April 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 [GR General 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 Indian River Hundred, Sussex County, Delaware, and lying on the southwest side of Oak Orchard Road, approximately 551 feet north of River Road, and being more particularly described in the attached legal description prepared by Baird Mandalas Brockstedt, said parcel containing 1.194 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. 2652 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 30TH DAY OF APRIL 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 WMF Watercraft and Marine to amend the Comprehensive Zoning Map of Sussex County from a GR General Residential District to a C-3 Heavy Commercial District for a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 1.194 acres, more or less (lying on the southwest side of Oak Orchard Road, approximately 551 feet north of River Road) (Tax I.D. No. 234-34.08-45.00) (911 Address: 32676 Oak Orchard Road, Millsboro).**
- B. Based on the record before the Planning and Zoning Commission and the hearing before the Sussex County Council, Council found that Timothy G. Willard, Esquire with Fuqua, Willard, Stevens, & Schab, P.A., Bill Forenski, the Applicant, and Ring Lardner, with Davis, Bowen, & Friedel, Inc., were present on behalf of the application; that this is an application to change the zone from a GR General Residential District to a C-3 Heavy Commercial District; that the Applicant sells pontoon boats from an existing parcel on Route 24 and wishes to expand his business; that this parcel is approximately 1.19 acres and is located near the bay; that the site is currently being used as a service and boat storage area; that Conditional Use 395 approved the parcel for the use of boat sales, service, and storage; that the Applicant is planning to keep the same use; that a fire company is located to the north of the parcel, and a manufactured home park is located to the south of the parcel; that this is a good location for this use; that the Commercial Zone helps with financing; that a Traffic Impact Study (TIS) was not required from DelDOT; that sewer is available; and that central water will be provided by Tidewater Utilities.**
- C. Based on the Findings (1 through 6) of the Planning & Zoning Commission, Council found that:**
- 1. C-3 (Heavy Commercial Zoning) is designed to allow auto-oriented retail, and service businesses including boat sales and service for local and regional residents.**
 - 2. This site was approved as a Conditional Use for boat displays, sales, and service in 1977, and it has been in that use ever since. The site is across the road from other C-1 properties used for marine sales and it is next to property owned by the Oak Orchard Volunteer Fire Company. This rezoning to C-3 is a reasonable evolution of the 40± year old Conditional Use, and it is appropriate for this location.**
 - 3. The site will be served by central water and Sussex County sewer.**
 - 4. The site is in the Environmentally Sensitive Developing Area, and Mixed Residential Area according to the current Sussex County Land Use Plan. This type of commercial use is appropriate in these areas according to the Plan.**
 - 5. The proposed rezoning meets the general purpose of the Zoning Code by promoting orderly growth, convenience, order, prosperity, and welfare of the County.**
 - 6. 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.**