

ORDINANCE NO. 2678

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 BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.015 ACRES, MORE OR LESS

WHEREAS, on the 3rd day of April 2019, a zoning application, denominated Change of Zone No. 1885, was filed on behalf of 36191 DWB, LLC; and

WHEREAS, on the 25th day of July 2019, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 8th day of August 2019, said Planning and Zoning Commission recommended that Change of Zone No. 1885 be approved; and

WHEREAS, on the 20th day of August 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 Baltimore Hundred, Sussex County, Delaware, and lying on the north side of Lighthouse Road (Route 54) approximately 850 feet west of Zion Church Road and being more particularly described in the attached legal description prepared by Tomasetti Law, LLC, said parcel containing 1.015 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. 2678 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 20TH DAY OF AUGUST 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 36191 DWB, LLC 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 Baltimore Hundred, Sussex County, containing 1.015 acres, more or less (land lying on the north side of Lighthouse Road (Route 54) approximately 850 feet west of Zion Church Road) (Tax I.D. No. 533-19.00-15.00) (911 Address: 36191 Lighthouse Road, Selbyville).**
- 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., and Mr. Darryl Brasure, Principal of 36191 DWB, LLC, were present at the Planning and Zoning Commission hearing and the Sussex County Council hearing on behalf of this application, and Mrs. Andrea Brasure, Principal of 36191 DWB, LLC, was also present at the Planning and Zoning Commission hearing on behalf of this application; that Mr. Brasure owns the adjacent commercial property to the right which is Brasure Auto Repair, Auto Services, and the commercial property to left which is Brasure Carpet Services; that there is RPC Zoning (“Residential Planned Community”) in the area and Americana Bayside RPC is down the road; that there is a commercial property at the corner of Zion Church Road and Route 54; that the zoning in the area is partially zoned commercial and part of it is a RPC; that a Methodist Church is located across the street; that there are townhouses located behind the property that are zoned MR (“Medium Density Residential District”); and that the property was formerly used to sell lighthouses with a Conditional Use.**
- C. Council also found that a lot line adjustment has been approved and recorded to make the parcel a 1-acre parcel; that Mr. Brasure would like to expand the use for the auto repair service; that C-3 Zoning (“Heavy Commercial District”) does allow for repair and service; that the business has been there for approximately 30 years and it has been successful. Council also found that DelDOT did not require a Traffic Impact Study (“TIS”); that sewer is available, but the Applicant may have to pay for more sewer capacity; that the property is still on a well, but there is a possibility of a hook-up to water; that per the 2018 Comprehensive Plan, the Land Use Classification is the Coastal Area; that the Coastal Area is a growth area; and that the proposed Change of Zone is consistent with the area land uses, area zoning and the Comprehensive Plan.**
- D. Based on the Planning and Zoning Commission’s Findings (1 through 7), 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 adjacent to a C-1 property fronting along Route 54 that is owned by the Applicant and used for commercial purposes. This location is appropriate for this type of zoning. This application is a reasonable extension of the existing C-1.**
 - 3. This site is the only AR-1 property between properties to the north and south which are zoned MR and the C-1 property to the east. This property is no longer viable as an AR-1 property. The rezoning is basically an infill of C-1 zoning.**
 - 4. The site will be served by Sussex County sewer.**

- 5. The site is in the Coastal Area according to the current Sussex County Land Use Plan. This type of commercial zoning is appropriate in this area according to the Plan.**
 - 6. The proposed rezoning meets the general purpose of the Zoning Code by promoting the orderly growth, convenience, order, prosperity and welfare of the County.**
 - 7. Any future use of the property will be subject to Site Plan review by the Sussex County Planning and Zoning Commission.**
- E. Based on the record created before the Planning and Zoning Commission and the Sussex County Council, the Council approved this application.**