

ORDINANCE NO. 2685

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A MR MEDIUM DENSITY RESIDENTIAL DISTRICT AND AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A B-2 BUSINESS COMMUNITY DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 0.8016 ACRES, MORE OR LESS

WHEREAS, on the 26th day of July 2019, a zoning application, denominated Change of Zone No. 1899, was filed on behalf of Harbeson Farm Revex, LLC; and

WHEREAS, on the 1st day of October 2019, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 10th day of October 2019, said Planning and Zoning Commission recommended that Change of Zone No. 1899 be approved; and

WHEREAS, on the 22nd day of October 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 [MR Medium Density Residential District and 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 Broadkill Hundred, Sussex County, Delaware, and lying on the east side of Harbeson Road (Route 5) approximately 0.44 miles south of Lewes-Georgetown Highway (Route 9) and being more particularly described in the attached legal description prepared by Adam-Kemp Associates, Inc., said parcel containing 0.8016 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. 2685 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 22ND DAY OF OCTOBER 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 Harbeson Farm Revex, LLC to amend the Comprehensive Zoning Map of Sussex County from a MR Medium Density Residential District and AR-1 Agricultural Residential District to a B-2 Business Community District for a certain parcel of land lying and being in Broadkill Hundred, Sussex County, containing 0.8016 acres, more or less (property lying on the east side of Harbeson Road (Route 5), approximately 0.44 miles south of Lewes-Georgetown Highway (Route 9) (Tax I.D. No. 235-30.00-131.01 (portion of) (911 Address: 18865 Harbeson Road, Harbeson).**
- B. Based on the record before the Planning and Zoning Commission and the hearing before the Sussex County Council, Council found that Mr. David Hutt, Esquire, with Morris James, LLP and Ms. Kay Dukes, a Principal with Harbeson Farm Revex, LLC, were present on behalf of the application; that the application is a proposed Change in Zone for 35,000 square feet; that the property is currently split-zoned; that the majority of the property is zoned MR (Medium Density Residential District) and the last piece of the property is zoned AR-1 (Agricultural Residential District); th at the proposed Change of Zone application is for the MR portion of the property; that the property is located 1/2 mile south of the intersection of Harbeson Road (Route 5) and Lewes-Georgetown Highway (Route 9); that the intersection has had improvements and this has had a positive effect; that a Royal Farms has recently been built; that the previous structures were demolished prior to the construction of Royal Farms; that those buildings included a gas station, a convenience store, a small deli, a Tupperware store, and the United States Postal Service; and that the Harbeson Post Office is looking for a new site.**
- C. Council also found that the Change of Zone application is to change the zoning classification to C-3 (Heavy Commercial District); that the Service Level Evaluation (“SLER”) application that was filed was for a Change of Zone to C-3; that after looking at the response from DelDOT regarding the SLER, the Applicant decided that the B-2 (Business Community District) was the most appropriate Zoning District; that the proposed application, if approved, would meet the intended use of the property and would be in keeping with the area where the lot is located; that the purpose of the B-2 Zoning District is to provide for office, retail shopping, personal service uses to be developed either as a unit or an individual parcel to serve the needs of a relativity small area – primarily being nearby rural, low-density or medium-density residential neighborhoods; that the proposed Change in Zone seems to fit the exact purpose of a Post Office in the Harbeson area; that the Post Office use would be similar to other permitted uses such as an office or personal service; that a governmental facility is also permitted in the B-2 Zoning District; that the Harbeson area is rural in character; that there are other zoning classifications in the area; that the Land Use Classification per the 2019 Comprehensive Plan for the MR portion of land is in the Existing Development Area and the AR-1 portion is within a Rural Area; that the parcel is located in the Delaware State Strategies for Spending Level 3; that the property fronts on Route 5 which is a major collector road; that the property, if approved, would have shoulders and an approved entrance subject to DelDOT approval; that the proposed plan is for on-site water and septic; that water and wastewater could possibly be provided by Artesian Water Company; and that only a portion of the parcel is being rezoned.**
- D. Based on the record and recommendation of the Planning and Zoning Commission and the Planning and Zoning Commission’s Findings (1 through 7), Council found that:**

- 1. The B-2 Business Community Zoning is designed to allow office, retail shopping and personal service uses that serve a relatively small area, including low density and medium density neighborhoods.**
- 2. The Applicant has stated that the purpose of this rezoning is to allow the United States Post Office serving Harbeson to be relocated to this property. The Post Office was previously discontinued at its prior site due to the redevelopment of that property and the improvements to the Route 9 and Route 5 intersection. B-2 zoning supports this use as a Post Office.**
- 3. The site is located along Route 5 in Harbeson in an area where there is a mix of small businesses and residential uses. There is also a large industrially-zoned property nearby. This location is appropriate for B-2 zoning.**
- 4. The B-2 zoning will not adversely affect the area roadways, public facilities or nearby properties.**
- 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. No parties appeared in opposition to the application, and several people appeared in favor of it.**
- 7. Any future use of the property will be subject to Site Plan review by the Sussex County Planning and Zoning Commission.**
- 8. Based on the record created before the Planning and Zoning Commission and the Sussex County Council, the Council approved this application with the conditions set forth herein.**