

ORDINANCE NO. 2693

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 2.368 ACRES, MORE OR LESS

WHEREAS, on the 26th day of June 2019, a zoning application, denominated Change of Zone No. 1894, was filed on behalf of Howard Pepper, Jr.; and

WHEREAS, on the 17th day of October 2019, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 21st day of November 2019, said Planning and Zoning Commission recommended that Change of Zone No. 1894 be approved; and

WHEREAS, on the 19th day of November 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 east side of DuPont Boulevard (Route 113), approximately 0.38 mile south of Lazy Lagoon Road, and being more particularly described in the attached legal description prepared by Ellis & Szabo, LLP, said parcel containing 2.368 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. 2693 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 10TH DAY OF DECEMBER 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 Howard Pepper, Jr. 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 2.368 acres, more or less (Tax I.D. No. 533-4.00-61.00) (911 Address: 35029 DuPont Boulevard, Frankford).**
- B. Based on the record before the Planning and Zoning Commission and the hearing before the Sussex County Council, Council found that Applicant Howard Pepper, Jr., representing the Pepper Family Farm, LLC, and Mr. Ron Pepper were present at the Planning and Zoning Commission on behalf of the application, and Howard Pepper, Jr., on behalf of the Pepper Family Trust, was present at the Sussex County Council hearing; that the parcel is part of 500-acres of family farm; that in 1973, this site was used for a mobile homes sales park; that in the past year, the site has been used as a commercial property and it was not known until only recently that the property was zoned AR-1; that commercial uses surround the property with the exception of property that is in Agriculture Preservation; that the Applicant's son proposes to operate a hardscape business on the site and to use the mobile home as an office; that they would use the office building and have a display with a sign; and that the Applicant thinks that the C-3 zoning district is appropriate in the Commercial Land Use classification.**
- C. Based on the Planning and Zoning Commission's Findings (1 through 7) Council found that:**
- 1. This site is along Route 113, which is a major arterial road, and the location is appropriate for C-3 zoning. The property directly to the north is zoned C-1 and the existing property across Route 113 is zoned C-1. The C-3 zoning will be consistent with the area zoning and uses.**
 - 2. According to the Sussex County Comprehensive Plan, the property is designated as Commercial Area. C-3 Zoning is appropriate within these areas according to the Plan. Adjacent parcels to the south and east are designated as Developing Areas and the Comprehensive Plan provides that C-3 zoning may be appropriate in Developing Areas as well.**
 - 3. The proposed zoning will not adversely affect neighboring or adjacent properties or roadways.**
 - 4. Whenever this property is developed for a particular use, the Applicant will be required to meet or exceed all DelDOT requirements. DelDOT will determine where appropriate entrance locations should be.**
 - 5. C-3 Zoning is appropriate, since the County Zoning Code states that the purpose of such zoning is to provide for businesses along major arterial roads that serve local and regional residents as well as the travelling public. In this case, the rezoning along Route 113 falls within the stated purposes of the C-3 District.**
 - 6. Any future development of the site will require preliminary and final site plan review by the Sussex County Planning and Zoning Commission.**
 - 7. No parties appeared in opposition to the Change of Zone application.**
- D. Based on the record created before the Planning and Zoning Commission and the Sussex County Council, the Council approved this application.**

