

ORDINANCE NO. 2697

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-2 MEDIUM COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 1.97 ACRES, MORE OR LESS

WHEREAS, on the 17th day of July 2019, a zoning application, denominated Change of Zone No. 1897, was filed on behalf of Preston Dyer; and

WHEREAS, on the 14th day of November 2019, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 12th day of December 2019, said Planning and Zoning Commission recommended that Change of Zone No. 1897 be approved; and

WHEREAS, on the 17th day of December 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-2 Medium 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 Lewes and Rehoboth Hundred, Sussex County, Delaware, and lying on the north side of Lewes Georgetown Highway (Route 9), approximately 428 feet east of Josephs Road, and being more particularly described in the attached legal description prepared by Pennoni Associates, Inc., said parcel containing 1.97 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. 2697 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 17TH 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 Preston Dyer to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District to a C-2 Medium Commercial District for a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 1.97 acres, more or less (lying on the north side of Lewes Georgetown Highway (Route 9) approximately 428 feet east of Josephs Road) (Tax I.D. No. 334-4.00-37.01) (911 Address: 28855 Lewes Georgetown Highway (Route 9), Lewes).**
- B. Based on the record before the Planning and Zoning Commission and the hearing before the Sussex County Council, Council found that Preston Dyer, Joe Reed and Jake Booth of Capstone Homes, LLC were present on behalf of the application along with Mark Davidson of Pennoni Associates, Inc.; that this is a rezoning to C-2 Medium Commercial District for 1.97 acres located in the low-density area under the Comprehensive Plan; that the project to the west of the subject parcel is zoned general commercial (C-1); that the three properties to the east are zoned commercial residential (CR-1) and general commercial (C-1); that to the south of the subject property is Georgetown-Lewes Highway (Route 9) which is an arterial road; that to the north is the Georgetown-Lewes trail path; that C-2 zoning is consistent with the commercial uses to the east and west of this property; that it is appropriate for this area; that this rezoning will not diminish or impair property values; that it will not create a public nuisance or create any increase in public expenditures; and that C-2 zoning will allow for a more specific medium commercial district with smaller more related uses.**
- C. Council also found that the intended use of this property would be for a professional office; that there would be no outside sales or storage; that if the rezoning is granted, the historic home on the property would serve as the office; that, although the house is of historical nature, there are no other historical features on the site; that the company is locally owned and operated and was founded in 2006; that Capstone builds 80 to 100 homes per year in Sussex County and has 22 employees; that this office will be an administrative office and sales center; that the property will have to dedicate an additional 20 feet of right-of-way in addition to the current 60 feet of right-of-way for DelDOT's future improvements; that there will also be a permanent 15 foot easement in the front of the property to provide for future multi-modal paths and drainage utilities; that DelDOT asked if the Applicant would like to provide access to the Georgetown-Lewes trail path and that will be included in the site plan; that there are no wetlands on the property; that the property is located in Flood Zone X; that the entrance meets the requirements of DelDOT; that there is sufficient parking on site; that Route 9 is a business corridor; and that the rezoning meets the purpose of the Zoning Code and the Comprehensive Plan.**
- D. Based on the Planning and Zoning Commission's Findings (1 through 7), Council found that:**
- 1. C-2 Medium Commercial Zoning is designed to support retail sales and the performance of consumer services. It is intended to be located near arterial and collector roads.**
 - 2. The Applicant's property is currently zoned AR-1, but it is in an area along Route 9 where other commercial zonings and commercial uses exist. This is an appropriate location for C-2 zoning.**
 - 3. There is no evidence that this rezoning will have an adverse impact on neighboring properties or area roadways.**

- 4. The site is in a “Commercial Area” according to the Sussex County Land Use Plan and Future Land Use Map. This is an appropriate location for C-2 Zoning according to the Plan.**
 - 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 rezoning application.**
 - 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.**