

ORDINANCE NO. 2727

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 BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 3.03 ACRES, MORE OR LESS

WHEREAS, on the 2nd day of January 2020, a zoning application, denominated Change of Zone No. 1916, was filed on behalf of Alice P. Robinson, Trustee; and

WHEREAS, on the 25th day of June 2020, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 9th day of July 2020, said Planning and Zoning Commission recommended that Change of Zone No. 1916 be approved; and

WHEREAS, on the 28th day of July 2020, 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 Broadkill Hundred, Sussex County, Delaware, and lying on the southwest side of Coastal Highway (Route 1), approximately 458 feet south of Cave Neck Road, and being more particularly described in the attached legal description prepared by Pennoni, said parcel containing 3.03 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. 2727 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 28TH DAY OF JULY 2020.

**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 Alice P. Robinson, Trustee 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 Broadkill Hundred, Sussex County, containing 3.03 acres, more or less (land lying on the southwest side of Coastal Highway (Route 1), approximately 458 feet south of Cave Neck Road) (Tax I.D. No. 235-23.00-54.01, 54.02, and 54.05) (911 Address: None Available).**
- B. Based on the record before the Planning and Zoning Commission and the hearing before the Sussex County Council, Council found that Mr. Mark Davidson, of Pennoni Associates, Inc., Mrs. Alice Robinson and Mr. Thomas Robinson were present by teleconference on behalf of the application at the Planning and Zoning Commission hearing and Mr. Davidson and Mrs. Robinson were also present in person at the Sussex County Council hearing; that this is an application to grant a rezoning of lands in an AR-1 Agricultural Residential District located on 3.03 acres on the west side of Coastal Highway (Route 1) to C-2 Medium Commercial District; that the properties are bordered on the north by vacant property which is zoned B-1, on the south by Heritage Antiques Market which is zoned C-1, on the west by Paynter's Mill which is a mixed use (multi-family, single-family with commercial within that community) and on the east by Coastal Highway which is a principal arterial roadway; that the subject property is in the vicinity of other commercially zoned properties; and that it will not impair or diminish property values within the neighborhood.**
- C. Council also found that the rezoning will not be a public nuisance and will not create an increase in public spending; that C-2 zoning permits a variety of retail businesses and services; that the district should be near arterial and collector streets and accommodates community commercial uses that do not include outdoor storage or sales; that a Concept Plan has been provided to show the vision for the site showing some small warehouses, storage and offices; that in the Comprehensive Plan, the area is shown to be in a Growth Area; that the site will be served by public water and sewer; that the Applicant will coordinate with DelDOT on road improvements and may be served by a service road if the Proposed Cave Neck Road Grade Separated Interchange is completed; that there are no wetlands on the property and the property is located in Flood Zone X; and that there are no historical or natural features on the property.**
- D. Council further found that stormwater management will be on site; that the property is not in any groundwater protection zones or well-head protection area; that there are no existing wooded areas on the site; that the proposed rezoning meets the general purpose of the Zoning Ordinance being located in an appropriate location meeting the purpose of this district and the Future Land Use Plan strategies and objectives of the Comprehensive Plan that promote growth and development through community design, mobility, utilities, transportation and economic development in an area where a general mixture of commercial and service activity now exists, which is essential and desirable for the general convenience, orderly growth, prosperity and welfare of the County.**
- E. Based on the Planning and Zoning Commission's Findings (1 through 9), 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 contiguous to SCR 1 and a future service road being planned by DeIDOT. There are other commercial zonings and commercial uses existing in the area. This is an appropriate location for C-2 zoning.**
 - 3. C-2 Zoning at this location will benefit nearby residents of Sussex County by providing a convenient location for small retail and service uses.**
 - 4. There is no evidence that this rezoning will have an adverse impact on neighboring properties or area roadways.**
 - 5. The site is in the "Coastal 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.**
 - 6. The location is served by central sewer, which is appropriate to support C-2 and the permitted uses within that district.**
 - 7. The proposed rezoning meets the general purpose of the Zoning Code by promoting the orderly growth, convenience, order prosperity and welfare of the County.**
 - 8. No parties appeared in opposition to the rezoning application.**
 - 9. Any future use of the property will be subject to Site Plan review by the Sussex County Planning and Zoning Commission.**
- F. Based on the record created before the Planning and Zoning Commission and the Sussex County Council, the Council approved this application.**