

**ORDINANCE NO. 2753**

**AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A B-2 BUSINESS COMMUNITY DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 2.99 ACRES OF 25.63 ACRES, MORE OR LESS, AS AMENDED**

**WHEREAS, on the 10<sup>th</sup> day of July 2020, a zoning application, denominated Change of Zone No. 1925 was filed on behalf of Lemuel H. Hickman GST Exempt Trust fbo Brenton Archut; and**

**WHEREAS, on the 8th day of October 2020, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 22nd day of October 2020, said Planning and Zoning Commission recommended that Change of Zone No. 1925 be approved; and**

**WHEREAS, on the 10th day of November 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 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 Baltimore Hundred, Sussex County, Delaware, and lying on the northeast corner of the intersection of Bayard Road (S.C.R. 84) and Double Bridges Road (S.C.R. 363) and being more particularly described in the attached legal description, said parcel containing 25.63 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. 2753 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 10TH DAY OF NOVEMBER 2020.**

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**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 Lemuel H. Hickman GST Exempt Trust fbo Brenton Archut to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District to a B-2 Business Community District for a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 2.99 acres of 25.63 acres, more or less. The property is lying on the northeast corner of Bayard Road (S.C.R. 84) and Double Bridges Road (S.C.R. 363) (Tax Parcel: 134-19.00-22.00 (portion of) (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. Russell Archut and Mr. Brenton Archut were present on behalf of the application; that they are requesting to rezone a 2.99-acre portion of the property which is approximately 25.63 acres at the intersection of Bayard Road and Double Bridges Road from AR-1 to B-2; that it will provide a convenient location for services needed by this growing area; that having these small types of local businesses will reduce congestion on area roads and streets by providing a variety of services to local residents; that it will also provide opportunities for employment and small businesses to grow their businesses; that there is not enough commercial property in this area to keep up with growing residential needs; that this rezoning meets the goals of the Sussex County Land Use Plan as it is in the Coastal Area which is considered a growth area where additional consideration should be given; that currently the entire property is being farmed; that the Applicant is only requesting that 12% of the property located on the front northernmost portion of the property be zoned B-2; and that the remainder of the property will continue to be farmed;.**
- C. Council also found that the Woodlands at Bethany is the closest subdivision; that there are proposed subdivisions across the street; that there will be a natural buffer of dedicated open space which is wetlands and is covered with trees between the subdivision and the subject property; that the nearest dwelling is approximately 180 feet away through the woods and to the east and another dwelling is approximately 220 feet away; that this property has been owned by the family since 1943; that the property is adjacent to the County sewer district; that the developer of the Woodlands has provided an easement for sewer connection; that Tidewater Utilities has provided an Ability to Serve letter and water lines are currently located along the property frontage; that at this time a Traffic Impact Study (TIS) is not required but, if the rezoning is granted and a site plan submitted, a TIS may be required at that time and the Applicant may have to give some land to DelDOT for road improvements; that the property is centrally located in the growth area just below the towns of Millville and Ocean View; and that there are two commercially zoned areas in the vicinity in addition to a number of properties with conditional use approvals.**
- D. Council also found that historically this location has always had businesses that provided general services for the area; that H.H. Hickman store was in this location from the late 1800's to the mid-1900's; that the Applicant envisions that this property could host businesses such as a small restaurant, some office space and small retail stores; that many properties in the area are being bought by developers; and that the Staff Analysis states that based on the surrounding zoning and uses, a change of zone to Community Business could be considered as being consistent with land use, area zonings and surrounding areas.**
- E. Council also found that the Comprehensive Plan stated that in the Growth Area, there should be careful mixtures of homes with light commercial office and institutional uses which can be appropriate to provide for convenient services and to allow people to work close to home; that, in addition to being in the Coastal Area, this location is also in a low-density rural area which emphasizes that retail and office uses in Low Density Areas should be providing convenience goods and services to nearby residents; that within a one mile radius of this property are 1,000 plus new and approved homes since 2008 and another 135 potential in the near future; and that this is an ideal location as it is located 3.1 miles from Route 54 and 3.5 miles from Route 26.**

**F. Based on the Findings (1 through 8) of the Planning & Zoning Commission, Council found that:**

- 1. 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 site is in the Coastal Area according to the current Sussex County Comprehensive Plan and it is surrounded by this classification on the north, south, east and west. B-2 zoning and the uses permitted in that District are appropriate in the Coastal Area according to the Plan.**
- 3. This location is centrally located between Routes 54 and 26. It will provide a convenient location for B-2 uses and will reduce the need for current and future nearby residents to have to travel to Routes 54 and 26 for shopping and services that can be located on this site. It is an appropriate location for B-2 zoning.**
- 4. The rezoning will not adversely affect area roadways or traffic.**
- 5. The rezoning will also not adversely affect nearby properties or property values.**
- 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. No parties appeared in opposition to the application.**
- 8. Any future use of the property will be subject to Site Plan Review by the Sussex County Planning and Zoning Commission.**

**G. Based on the record created before the Planning and Zoning Commission and the Sussex County Council, the Council approved this application.**