

ORDINANCE NO. 2759

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 LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.78 ACRE, MORE OR LESS

WHEREAS, on the 29th day of September 2020, a zoning application, denominated Change of Zone No. 1932 was filed on behalf of Jeff-Kat, LLC; and

WHEREAS, on the 12th day of November 2020, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 19th day of November 2020, said Planning and Zoning Commission recommended that Change of Zone No. 1932 be approved; and

WHEREAS, on the 1st day of December 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 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 Lewes and Rehoboth Hundred, Sussex County, Delaware, and lying on the east side of Kings Highway (Route 9) approximately 900 feet southeast of Theodore C. Freeman Highway (S.C.R 23) and being more particularly described in the attached legal description prepared by Atlantic Surveying and Mapping, LLC, said parcel containing 0.78 acre, 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. 2759 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 1ST DAY OF DECEMBER 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 Jeff-Kat, LLC 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 Lewes and Rehoboth Hundred, Sussex County, containing 0.78 acre, more or less (property lying on the east side of Kings Highway (Route 9) approximately 900 feet southeast of Theodore C. Freeman Highway (S.C.R. 23) (Tax I.D. No. 335-8.00-40.00 (part of) (911 Address: 1005 Kings Highway, Lewes).**
- B. Based on the record before the Planning and Zoning Commission and the hearing before the Sussex County Council, Council found that Ring Lardner was present on behalf of the Applicant, Jeff-Kat, LLC, together with a Principal of the Applicant, Jeff Hamer; that the Application is to rezone a 0.78 of land from Agricultural Residential (AR-1) to Heavy Commercial (C-3); that in May 2019, Council approved the rezoning on a parcel of land to the east of the subject property; that the area to be rezoned is currently owned by First Baptist Church of Lewes; that the purchase of this portion of land is contingent on the successful rezoning of this land; that to the north of the subject property is First Baptist Church, Bay Breeze Estates and Jefferson Apartments; that across Kings Highway to the west is a commercial strip and as you move south there is Henlopen Gardens, Jack Lingo Realty and Cape Henlopen High School; and that to the south of the subject property is the Cape Henlopen Medical Center, Mitchell lands and Lane Builders which is adjacent to Big Oyster Brewery.**
- C. Council also found that the site is not in a floodplain and does not contain federal wetlands; that there are no known archaeological sites or National Register-listed properties on the subject parcel; that the DelDOT response states that the use would generate less than 50 trips per hour, less than 500 trips per day and therefore, a Traffic Impact Study is not required; that some right-of-way may be required by DelDOT when the Site Plan is submitted; that if this rezoning is approved, the subject parcel would be used for the Big Oyster Brew Pub business and the existing dwelling on the property would be used as an office; that the use will not adversely affect the neighborhood as the brew pub is already in operation; that vehicular circulation will be improved as additional parking will be added; that currently, the business leases commercial property across King's Highway; and that to have additional property on the same side of the street will provide a safer environment for employees and the general public.**
- D. Council further found that the property is located in a Level One Investment Area on the Delaware State Strategies for State Policies and Spending Map and is located in the Coastal Area of the 2045 Future Land Use Map in the Sussex County Comprehensive Plan; that there are commercial uses in the area so this request is not out of character for the area; that the request is consistent with the recent C-3 zoning and the Comprehensive Plan; and that the C-3 Zoning is appropriate based on the record.**
- E. Based on the Findings (1 through 9) of the Planning & Zoning Commission, Council found that:**
 - 1. C-3 Heavy Commercial Zoning is designed to allow auto-oriented retail and service businesses that serve local and regional residents. Permitted Uses include retail uses, restaurants, offices and vehicle service stations.**
 - 2. The site is adjacent to the Applicant's property that is currently used for a brewpub/restaurant. This location is appropriate for this type of zoning.**
 - 3. This location currently has a dwelling and multi-purpose building. The Applicant stated that these existing structures will be incorporated into its restaurant and brewery operations at the site.**
 - 4. As stated by the Applicant, there will be interconnectivity between this site and the existing brewpub restaurant that is next to it.**

- 5. The expansion of the Applicant's C-3 zoning will also improve the vehicle movement and parking on the entire site.**
 - 6. The site will be served by central water and sewer.**
 - 7. The site is in the Coastal Area according to the Sussex County Land Use Plan. This type of commercial use is appropriate in these areas according to the Plan.**
 - 8. The proposed rezoning meets the general purpose of the Zoning Code by promoting the orderly growth, convenience, order, prosperity and welfare of the County.**
 - 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.**