

ORDINANCE NO. 2784

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 BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 8.53 ACRES, MORE OR LESS

WHEREAS, on the 21st day of June 2019, a zoning application, denominated Change of Zone No. 1892, was filed on behalf of Chappell Farm, LLC; and

WHEREAS, on the 21st day of January 2021, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 11th day of February 2021, said Planning and Zoning Commission recommended that Change of Zone No. 1892 be approved; and

WHEREAS, on the 2nd day of March 2021, 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 Broadkill Hundred, Sussex County, Delaware, and lying on the northwest corner of Coastal Highway (Route 1) and Cave Neck Road, and being more particularly described in the attached legal description prepared by Becker Morgan Group, Inc., said parcel containing 8.53 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. 2784 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 22ND DAY OF JUNE 2021.

**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 Chappell Farm, 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 Broadkill Hundred, Sussex County, containing 8.53 acres, more or less (property lying on the northwest corner of Coastal Highway (Route 1) and Cave Neck Road) (Tax I.D. No. 235-23.00-1.02 (portion of) (911 Address: 30511 Cave Neck Road, Milton).**
- B. Based on the record before the Planning and Zoning Commission and the hearing before the Sussex County Council, Council found that that John W. Paradee, Esquire, with Baird Mandalas Brockstedt LLC, was present on behalf of the Applicant, Chappell Farm, LLC, together with Michael Riemann and Christopher Duke from the Becker Morgan Group, and Christian Hudson and Jamin Hudson, Principals of Chappell Farm, LLC; that this application seeks a change in zone from AR-1 Agricultural Residential District to C-3 Heavy Commercial District; that this property has a history of commercial uses, including a conditional use (Ordinance No. 2158) for a country market, and has frontage along Route 1 at a location that is next to an existing C-1 property with various commercial uses; that there are also additional commercially zoned properties located across Cave Neck Road which makes it an appropriate location for C-3 zoning; that the Sussex County Code states that the purpose of the C-3 District is “intended for larger scale auto-oriented retail and service businesses along major arterial roads that serve local and regional residents as well as the travelling public. In addition to most commercial uses found in this zone, automobile, truck, recreational vehicle and boat sales, rental and major repair facilities may also be located in this district”; that this particular C-3 District is intended to be integrated into a mixed-use community that will include multi-family residential units; that the C-3 zoning will permit uses that are beneficial, not only to the residential units that the Applicant intends to construct, but also to the general public that travels on Route 1.**
- C. Council also found that, according to the Sussex County Comprehensive Plan, the property is located in the Coastal Area and C-3 Zoning is appropriate in this Area; that the 2018 Sussex County Comprehensive Plan outlines zoning districts by their applicability to each Future Land Use category; that under Table 4.5-2 “Zoning Districts Applicable to Future Land Use Categories”, the C-3 Heavy Commercial District is listed as an applicable zoning district in the “Coastal Area”; that the Coastal Area is designated to encourage growth and development provided that environmental concerns are addressed; that the Coastal Area may include various types of housing, small-scale retail and office, light commercial, and institutional land uses; that sewer can be provided by the Sussex County Unified Sanitary Sewer District, operated and maintained by the Sussex County Engineering Department and water can be provided by Artesian Resources, Inc.; that it will benefit from the grade-separated intersection (or overpass) that is being constructed by DelDOT with on-ramps and off-ramps; and that this will be one of the first grade-separated intersections in Sussex County; and that this grade-separated intersection adds an urban character to the area.**

- D. Council further found that this application specifically meets the purpose of the C-3 Heavy Commercial District, because of its location adjacent to the interchange being constructed by DelDOT, the uses surrounding the property, and because it will provide a site for commercial and service activities along a major arterial highway; that C-3 zoning will promote the orderly growth of Sussex County in an appropriate location and will allow a wide range of opportunity to develop the site, while maintaining the existing character of the area, as well as promoting the convenience, order, prosperity and welfare of Sussex County; that, because of the residential development in the surrounding Cave Neck Road area, commercial uses will create convenient alternative choices for the residents' shopping and service needs while lessening their travel time to neighboring cities resulting in less congestion on the roadways; and that C-3 zoning is appropriate for this property.**
- E. Based on the Planning & Zoning Commission's Findings (1 through 10), 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 has frontage along Route 1 at a location that is next to existing C-1 property with various commercial uses. It is also across Cave Neck Road from other commercially zoned properties. This location is appropriate for this type of zoning.**
 - 3. This site has a history of commercial uses. Ordinance No. 2158 approved a conditional use for a country market at this location.**
 - 4. This site is the location of a grade separated intersection (or overpass) that is being constructed by DelDOT with on-ramps and off-ramps. Given its location adjacent to this interchange, commercial zoning, including C-3 Zoning, is appropriate for this property.**
 - 5. This C-3 District is intended to be integrated into a mixed-use community that will include multi-family residential units. The C-3 zoning will permit uses that are beneficial to the residential units that are part of this development as well as traffic from Route 1.**
 - 6. There has been significant residential development in this area of Cave Neck Road. Adding nearby convenient uses permitted in the C-3 zone will eliminate trips from these residential developments to either Lewes or Milton for shopping needs.**
 - 7. The site will be served by central water and Sussex County sewer.**
 - 8. The site is in the Coastal Area according to the Sussex County Comprehensive Plan. C-3 zoning is appropriate in these Areas according to the Plan.**
 - 9. The proposed rezoning meets the general purposes of the Zoning Code by promoting the orderly growth, convenience, order prosperity and welfare of the County.**
 - 10. 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.**