

ORDINANCE NO. 2826

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A C-1 GENERAL COMMERCIAL DISTRICT AND AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-3 HEAVY COMMERCIAL DISTRICT FOR CERTAIN PARCELS OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 4.33 ACRES AND 0.08 ACRE, MORE OR LESS

WHEREAS, on the 16th day of July 2021, a zoning application, denominated Change of Zone No. 1947 was filed on behalf of Kenneth P. Adams; and

WHEREAS, on the 16th day of December 2021, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 13th day of January 2022, said Planning and Zoning Commission recommended that Change of Zone No. 1947 be approved; and

WHEREAS, on the 25th day of January 2022, 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 C-1 General Commercial District and AR-1 Agricultural Residential District and adding in lieu thereof the designation of C-3 Heavy Commercial District as it applies to the properties 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 Dagsboro Hundred, Sussex County, Delaware, and lying on the southwest side of DuPont Boulevard (Route 113) approximately 351 feet northwest of Governor Stockley Road (S.C.R. 432) and being more particularly described in the attached legal descriptions prepared by Pennoni Associates, Inc. and entitled "Rezoning Site Plan" dated May 14, 2021, said parcels containing 4.33 acres and 0.08 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. 2826 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 25TH DAY OF JANUARY 2022.

**TRACY N. TORBERT
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 Kenneth P. Adams to amend the Comprehensive Zoning Map of Sussex County from a C-1 General Commercial District and AR-1 Agricultural Residential District to a C-3 Heavy Commercial District for certain parcels of land lying and being in Dagsboro Hundred, Sussex County, containing 4.33 acres and 0.08 acre, more or less (property lying on the southwest side of DuPont Boulevard (Route 113) approximately 351 feet northwest of Governor Stockley Road [S.C.R. 432]) (911 Addresses: 25116, 25076 & 25136 DuPont Boulevard, Georgetown) (Tax Parcels: 133-6.00-50.00 & p/o 50.02).
- B. Based on the record before the Planning and Zoning Commission and the hearing before the Sussex County Council, Council found that David Hutt, Esquire, of Morris James, LLP, was present at the Planning and Zoning Commission and Sussex County Council hearings on behalf of the Applicant, Mr. Kenneth Adams, together with Mr. Mark Davidson, Principal Land Planner with Pennoni Associates, Mr. Kenneth Adams was present at the Planning and Zoning Commission hearing, and Mr. Robert Stickels was present at the Sussex County Council hearing; that there is a small piece of Parcel 50.02 which is included in the Application and is 8/10 of one acre; that the balance of the property which is 4.33 acres is to the rear of parcel 50; that the zoning line is 500 feet back from Route 113; that all of the area south of the zoning line will be changed from AR-1 to Heavy Commercial District (C-3); that there are no improvements on the portion of parcel 50.02; that there is a drive aisle from the runway to the Melvin Joseph building; that parcel 50 has several buildings and the private runway which is no longer being used; that there is other C-1 zoning in this area, and a large parcel across Governor Stockley Road is designated as Medium Commercial District (C-2); and that, in addition to the commercially zoned properties, there are a number of Conditional Use permits in this area.
- C. Council also found that Chapter 4 of the Comprehensive Plan states that the goal is to encourage tourism and other responsible commercial and industrial job providers to locate and invest in the County; that this Application allows the County to provide for those opportunities; that when businesses are looking for locations, they are looking for property that is situated on highways and major routes on intersections; that this property fronts onto two roads; that the Commercial Area in the Comprehensive Plan is described as including concentrations of retail and service uses mainly located on Arterial Roads and Highways; that it also states that it includes commercial corridors, shopping centers, and other medium and large commercial vicinities geared toward vehicular traffic; that this site would also be appropriate to locate other medium and larger scale commercial uses not primarily targeted to the immediate adjacent residential areas; that these more intense uses should be located along main roads or near major intersections; that this property qualifies; that the purpose of the C-3 zoning is intended for larger scale auto oriented businesses along major arterial roads that serve local and regional residents in addition to the traveling public; that C-3 was chosen as it best matches the existing C-1 district to the front of the site; and that the property meets the bulk area requirements of the County Code.
- D. Council also found that there are no wetlands located on the property and the property is located in flood zone X; that the site has well-drained soils which will be suitable for on-site waste water disposal systems ; that the property is located in a fair and good ground water recharge area; that no Traffic Impact Study (“TIS”) was performed as that will be based on the end use for this property; that a slide showing all the businesses in this area has been included in the exhibit booklet; and that this is a busy commercial corridor of Route 113.
- E. Based on the Planning and Zoning Commission’s Findings (1 through 9), as amended, 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 C-1 property that is currently used by the Applicant’s company for its construction, site work, and paving operations.

- 3. The property is generally located at the corner of Route 113 and Governor Stockley Road. The land on the opposite side of Governor Stockley Road is zoned C-1 and C-2. This is an appropriate location for an expansion of the Applicant's commercial zoning by adding additional C-3 land to the existing C-1 Zoning.**
 - 4. This location currently has several accessory buildings on the site, including a former airplane hangar. These buildings will be incorporated into the Applicant's existing operations at the site.**
 - 5. As stated by the Applicant, there will continue to be interconnectivity between this land and the existing C-1 land that is next to it.**
 - 6. The site will be served by on-site water and sewer.**
 - 7. The site is in the Commercial Area according to the Sussex County Land Use Plan. C-3 Zoning is appropriate in this Area 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.**