

ORDINANCE NO. 2839

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 BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 0.91 ACRES, MORE OR LESS

WHEREAS, on the 24th day of March 2021, a zoning application, denominated Change of Zone No. 1943 was filed on behalf of Shirley and Gordon Price, Jr.; and

WHEREAS, on the 10th day of February 2022, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Change of Zone No. 1943 be approved; and

WHEREAS, on the 1st day of March 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 [AR-1 Agricultural Residential District] and adding in lieu thereof the designation 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 Baltimore Hundred, Sussex County, Delaware, and lying on the north side of Atlantic Avenue (Rt. 26) approximately 0.13 mile northwest of Roxana Road (Rt. 17) and being more particularly described in the attached legal description prepared by Raymond E. Tomasetti, Jr., said parcel containing 0.91 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. 2839 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 1ST DAY OF MARCH 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 Shirley and Gordon Price, Jr. 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 Baltimore Hundred, Sussex County, containing 0.91 acres, more or less (property lying on the north side of Atlantic Avenue [Route 26], approximately 0.13 mile northwest of Roxana Road [Route 17]). (911 Address: 34861 Atlantic Avenue, Ocean View). (Tax Parcel: 134-11.00-175.00).**
- B. Based on the record before the Planning and Zoning Commission and the hearing before the Sussex County Council, Council found that Mrs. Shirley Price spoke on behalf of their Application; that they purchased their property on Route 26 in 1981; that the corridor then was much different than it is today; that when they purchased the property the only commercial area was Holts Dispensary; that the other surrounding properties were fields and houses; that the first major change was when an application was submitted for a liquor store across the street from the property; that many other businesses followed after that; that their property is now surrounded by commercial zoning; that their neighbor to the west runs a heating & air company; that to the east there is now a new and more modern Holts Dispensary, known as Holts Liquor Store, with a very well-lit parking lot; that a double decker billboard with lights was recently added; that Parsell's Funeral Home and 84 Lumber are across the street; that there are other small businesses in the area; that their property is a logical location for commercial zoning as it is no longer a residential area and can never be residential again; that their property's highest and best use is commercial; and that this is permitted within the land use plan.**
- C. Based on the Planning & Zoning Commission's the Findings (1 through 8), 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 along Route 26. It is surrounded on either side by C-1 and CR-1 Zoning, plus a number of business and commercial uses. The continued designation and use of this property for residential purposes is no longer appropriate. This is an appropriate location for C-2 zoning.**
 - 3. C-2 Zoning at this location along Route 26 will benefit nearby residents of Sussex County by providing a convenient location for retail uses or consumer services.**
 - 4. There is no evidence that this rezoning will have an adverse impact on neighboring properties or area roadways.**
 - 5. The site is mostly 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 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 rezoning application.**

8. Any future use of the property will be subject to Site Plan review by the Sussex County Planning and Zoning Commission.

D. Based on the record created before the Planning and Zoning Commission and the Sussex County Council, the Council approved this Application.