

**ORDINANCE NO. 2854**

**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 PORTION OF A PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 1.19 ACRES, MORE OR LESS**

**WHEREAS, on the 27<sup>th</sup> day of October 2021, a zoning application, denominated Change of Zone No. 1962 was filed on behalf of Jeff-Kat, LLC; and**

**WHEREAS, on the 28<sup>th</sup> day of April 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. 1962 be approved; and**

**WHEREAS, on the 17<sup>th</sup> day of May 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 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 Lewes & Rehoboth Hundred, Sussex County, Delaware, and lying on the east side of Kings Highway (Rt. 9), approximately 0.36-miles northeast of the intersection of Kings Highway (Rt. 9) and Gills Neck Road (S.C.R. 267), being more particularly described in the attached legal description prepared by Davis Bowen & Friedel, Inc. said parcel containing 1.19 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. 2854 ADOPTED BY THE SUSSEX COUNTY COUNCIL  
ON THE 17<sup>TH</sup> DAY OF MAY 2022.**

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**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 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 portion of a parcel of land lying and being in Lewes & Rehoboth Hundred, Sussex County, containing 1.19 acres, more or less (property lying on the east side of Kings Highway [Route 9] approximately 0.36 mile northeast of the intersection of Kings Highway [Route 9] and Gills Neck Road [S.C.R. 267]) (911 Address: 1005 & 1007 Kings Highway, Lewes) (Tax Parcel: 335-8.00-39.00 [portion of]).**
- B. Based on the record before the Planning and Zoning Commission and the hearing before the Sussex County Council, Council found that Mr. Jeff Hamer was present on behalf of this Application; that he is a member of Jeff-Kat, LLC; that his wife is the other member; that he originally began with 7/10's of an acre; that as his business has grown over the years, he has added more parcels; that the first parcel he purchased was commercial; that he has since added two more parcels and had them rezoned to C-3 (Heavy Commercial); that the subject parcel is the last possible parcel he can purchase to grow his business; that his business is going to be confined to a certain amount of growth; that his business is growing approximately 20% each year; that he has already purchased the subject property from the Mitchell Farm, LLC; and that the Mitchell Farm is currently awaiting approval for 200 +/- homes.**
- C. Council also found that he purchased the property for multiple reasons; that there are plans to widen Kings Hwy.; that, due to this, he will lose a substantial portion of the front of his property; that he will be losing anywhere from 6,000-ft. to 12,000-ft. of his current use; that it does seem as if he is adding 1.19-acres, however, DelDOT has requested to build a connector road at the rear of his property which will connect to the proposed Mitchell Farm Development; that part of the subject property will be used to construct a connector road to the proposed Mitchell Farm subdivision; that by doing this he will gain access to Gills Neck Rd.; that he will also lose part of the front of the property when the widening of Kings Hwy. takes place; that in essence, he is not gaining much more room to grow his business with the rezoning of the property to commercial; that he is transferring property from the front to the back of the property; that he currently has no specific use for the extra land; that he assumes it will probably be an area to allow for more parking, which they will lose with the widening of Kings Hwy.; that he purchased the property to continue his business and continue with some growth, but mostly to save what he currently has; that the subject property is currently landlocked; and that there is no other way to access the property other than through his property.**
- D. Based on the Planning and Zoning Commission's Findings (1 through 8), 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 which is currently used for a brewpub/restaurant. This location is appropriate for this type of zoning.**
  - 3. As stated by the Applicant, there will be interconnectivity between this site, the existing brewpub restaurant, as well as the adjoining property.**
  - 4. The expansion of the Applicant's C-3 zoning will improve the vehicle movement and parking on the entire site and the area in general.**

5. The site will be served by central water and sewer.
  6. 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.
  7. The proposed rezoning meets the general purpose of the Zoning Code by promoting the orderly growth, convenience, order prosperity, and welfare of the County.
  8. Any future use of the property will be subject to Site Plan review by the Sussex County Planning and Zoning Commission.
- E. Based on the record created before the Planning and Zoning Commission and the Sussex County Council, the Council approved this Application.