

ORDINANCE NO. 2887

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 DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 9.54 ACRES, MORE OR LESS

WHEREAS, on the 13th day of November 2021, a zoning application, denominated Change of Zone No. 1963 was filed on behalf of ES Motors, Inc.; and

WHEREAS, on the 8th day of September 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. 1963 be approved; and

WHEREAS, on the 27th day of September 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 Dagsboro Hundred, Sussex County, Delaware, and lying on the south side of Vines Creek Road (Rt. 26) approximately 0.5 miles east of Armory Road (Rt. 382) and being more particularly described in the attached legal description prepared by Griffin & Hackett. P.A., said parcel containing 9.54 ac., 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. 2887 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 27TH DAY OF SEPTEMBER 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 ES Motors, Inc. 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 Dagsboro Hundred, Sussex County, containing 9.54 acres, more or less (property lying on the south side of Vines Creek Road [Rt. 26], approximately 0.5 mile east of Armory Road [Rt. 382]) (911 Address: 30028 and 30032 Vines Creek Road) (Tax Parcel: 233-11.00-172.00).**

- B. Based on the record before the Planning and Zoning Commission and the hearing before the Sussex County Council, Council found that Timothy G. Willard, Esquire, with Fuqua, Willard & Schab, P.A., was present on behalf of the Applicant, ES Motors, Inc., together with Mr. Max Nichai and Mr. Alex Stenevich, principals of the Applicant; that this property is located just east of Dagsboro and is comprised of 9.5 acres; that the property is designated as a Coastal Area on the Future Land Use Map which recognizes that office uses and light commercial uses are appropriate, and, therefore the designation of C-2 Medium Commercial would be appropriate; that there are other commercial uses in the area, including an RV storage property, a plumbing business, a seafood shop, and a trailer retail business; that this property has a Conditional Use permit which was approved in 2019 for the current use as a used car sales lot and repair shop, as well as storage for commercial vehicles; that the current use would continue, but the Applicant seeks to add some storage units on the rear of the property to provide commercial storage for small construction firms and some office buildings; and that the subject property is on a minor arterial road which would support such development.**

- C. Based on the Planning & Zoning Commission's Findings (1 through 7), 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 Vines Creek Road, a minor arterial road. It is close to land zoned CR-1 General Commercial and next to a non-conforming junkyard. This is an appropriate location for C-2 zoning.**
 - 3. The property was previously approved for the sale of used vehicles and related activities as C/U 619. This rezoning is a reasonable expansion of the existing conditional use.**
 - 4. C-2 Zoning at this location will benefit nearby residents of Sussex County by providing a convenient location for permitted uses.**
 - 5. While there were concerns expressed by one neighbor, those can be addressed as part of the County's site plan review. Such a site plan review must occur for any expansion beyond what currently occurs on the site.**
 - 6. The site is 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.**
 - 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.**

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