

ORDINANCE NO. 2318

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 25.4219 ACRES, MORE OR LESS (Tax Map I.D. 3-34-12.00-127.01 and 127.07-127.10)

WHEREAS, on the 3rd day of June 2013, a zoning application, denominated Change of Zone No. 1732 was filed on behalf of Herola Family, LLC and Artisan's Bank; and

WHEREAS, on the 8th day of August 2013, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 22nd day of August 2013, said Planning and Zoning Commission recommended that Change of Zone No. 1732 be approved; and

WHEREAS, on the 20th day of August 2013, 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 CR-1 Commercial Residential 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 and Rehoboth Hundred, Sussex County, Delaware, and lying south of Route 24 (John J. Williams Highway) 2,025 feet west of Route One and being more particularly described per the attached legal description provided by Davis, Bowen & Friedel, Inc. and containing 25.4219 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. 2318 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 24TH DAY OF SEPTEMBER 2013.


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:

- 1. Based on the record, the site is located in a County operated and maintained sanitary sewer district; the parcel is capable of being annexed into the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District; and conformity to the West Rehoboth Expansion Area Capacity Evaluation and the North Coastal Area Planning Study will be required.**
- 2. The land is appropriate for CR-1 zoning because the property is located, according to the Strategies for State Policies and Spending documents, in an Investment Level 2; that Investment Level 2 reflects areas where growth is anticipated by local, County, and State plans in the near term future; that State investments will support growth in these areas; and that the Office of State Planning and Coordination has no objection to the proposed rezoning of this project in accordance with the relevant County Codes and Ordinances.**
- 3. The project is located in the Environmentally Sensitive Developing District according to the Sussex County Comprehensive Plan.**
- 4. The site is located in an area where a general mixture of commercial and service activities currently exist including the Rehoboth Mall, Beebe Medical Center, Delaware Eye Institute and numerous other commercial and service businesses on Route 24, Route One, and Old Landing Road; that the site adjoins other lands zoned commercial on the south, east and north and the Beebe Medical Center, a conditional use, on the west; that other commercially zoned land is located in the immediate area; and that this rezoning will be consistent with the surrounding zoning.**
- 5. Based on the record, the Applicant and adjacent property owner worked with DelDOT on a study of the impact of the development of their properties referred to as the Old Landing Road Traffic Study; that, as part of DelDOT's ongoing plans to create a relief route from Route 24 to Airport Road, the Applicant has agreed to provide lands for the construction of the route, and the development of this site will incorporate this new road; that DelDOT is satisfied that the affected intersections will operate at an acceptable level; and the letter from James Fuqua of Fuqua, Yori and Willard, dated August 23, 2013, is incorporated by reference.**
- 6. This property will be served by central water and by County sewer as part of the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District.**
- 7. The proposed CR-1 zoning classification is consistent with the purposes of the Sussex county Zoning Ordinance and the Comprehensive Land Use Plan by promoting the orderly growth, convenience, order, prosperity and welfare of the county; that it will encourage commercial activity where substantial commercial activity exists and continues to grow; that the site is located near the intersection of two major thoroughfares, Route One and Route 24; that the CR-1 zoning classification is in character with the surrounding area and is consistent with the trends of development in this area of the Route One corridor; that Route One is designated as a major arterial roadway under the County Code; and that this Change of Zone application is an infill rezoning and CR-1 is the appropriate zoning classification.**
- 8. Any proposed use on the property will be subject to site plan review by the Sussex County Planning and Zoning Commission.**

RECEIVED

JUN 03 2013

**PLANNING & ZONING
COMM. OF SUSSEX COUNTY**

LEGAL DESCRIPTION
REZONING EXHIBIT
HEROLA FAMILY, L.L.C.
& ARTISANS' BANK

May 22, 2013

ALL that piece or parcel of land, hereinafter described, situate, lying and being on the southeasterly side of Route 24 and being located in Lewes and Rehoboth Hundred, Sussex County, Delaware; said piece or parcel of land being more particularly described as follows:

BEGINNING at a point on the southeasterly right-of-way line of Route 24; said beginning point formed by the intersection of said southeasterly right-of-way line of Route 24 with the southerly right-of-way line of the "30' Wide Strip of Right-of-Way" as recorded in the Office of the Recorder of Deeds, in and for Sussex County and the State of Delaware in Plot Book 127, Page 85, thence,

1) running by and with said 30' Wide Strip of Right-of-Way, North 41 degrees 11 minutes 29 seconds East 69.76 feet to a point on the westerly line of Lot 1, thence,

2) leaving said 30' Wide Strip of Right-of-Way and running by and with said Lot 1, the following two courses and distances, North 40 degrees 42 minutes 29 seconds East 106.91 feet to a point, thence,

3) continuing with said Lot 1 and also running by and with the westerly line of Lot 2, Lot 3 and Lot 4, the following two courses and distances, North 42 degrees 08 minutes 25 seconds East 480.15 feet to a point, thence running,

4) North 40 degrees 42 minutes 29 seconds East 176.24 feet to a point, thence,

5) continuing by and with said Lot 4, the following two courses and distances, South 45 degrees 27 minutes 43 seconds East 366.70 feet to a point of curvature, thence,

6) running by and with the arc of a curve, deflecting to the left, having an arc length of 81.91 feet, a radius of 50.00 feet and a chord bearing and distance of North 87 degrees 36 minutes 13 seconds East 73.05 feet to a point on the westerly line of the "50' Wide Strip

Legal Description

Rezoning Exhibit

2

of Right-of-Way" as recorded Office of the Recorder of Deeds, in and for Sussex County and the State of Delaware in Plot Book 127, Page 85, thence,

7) leaving said Lot 4 and running by and with said "50' Wide Strip of Right-of-Way", the following three courses and distances, North 40 degrees 40 minutes 22 seconds East 224.77 feet to a point of curvature, thence,

8) running by and with the arc of a curve, deflecting to the left, having an arc length of 72.84 feet, a radius of 50.00 feet and a chord bearing and distance of North 01 degrees 03 minutes 26 seconds West 66.57 feet to a point, thence,

9) continuing by and with said "50' Wide Strip of Right-of-Way" and also running by and with the southwesterly line of the lands of, now or formerly, Hood Family, L.L.C., as recorded in the aforesaid Office of the Recorder of Deeds in Deed Book 2631, Page 187, the following seven courses and distances, South 45 degrees 27 minutes 14 seconds East 607.75 feet to a point, thence,

10) South 44 degrees 31 minutes 26 seconds West 25.00 feet to a point, thence,

11) South 45 degrees 28 minutes 34 seconds East 85.00 feet to a point, thence,

12) North 44 degrees 31 minutes 26 seconds East 25.00 feet to a point, thence,

13) South 45 degrees 28 minutes 34 seconds East 162.54 feet to a point, thence,

14) South 44 degrees 31 minutes 26 seconds West 39.00 feet to a point, thence,

15) South 45 degrees 28 minutes 34 seconds East 238.00 feet to a point on the westerly line of the lands of, now or formerly, J.G. Townsend, Jr. & Co., as recorded in the aforesaid Office of the Recorder of Deeds in Deed Book 2401, Page 244, thence,

16) leaving said Hood Family, L.L.C. lands and running by and with said J.G. Townsend, Jr. & Co. lands, South 53 degrees 50 minutes 04 seconds West 19.98 feet to a point, thence,

17) continuing by and with said J.G. Townsend, Jr. & Co. lands and also running by and with the lands of, now or formerly, Old Landing Road, Inc., as recorded in the aforesaid Office of the Recorder of Deeds in Deed Book 2771, Page 203, South 40 degrees 57 minutes 30 seconds West 322.67 feet to a point on the northeasterly line of the lands of, now or formerly, Beebe Medical Center, Inc., as recorded in the aforesaid Office of the Recorder of Deeds in Deed Book 2477, Page 292, thence,

Legal Description
Rezoning Exhibit
3

18) leaving said Old Landing Road, Inc. lands and running by and with said Beebe Medical Center, Inc., the following four courses and distances, North 76 degrees 56 minutes 54 seconds West 163.87 feet to a point, thence,

19) North 83 degrees 15 minutes 12 seconds West 849.40 feet to a point of curvature, thence,

20) by and with the arc of a curve, deflecting to the right, having an arc length of 445.66 feet, a radius of 750.00 feet and a chord bearing and distance of North 66 degrees 16 minutes 34 seconds West 439.13 feet to a point, thence,

21) North 49 degrees 15 minutes 27 seconds West 200.01 feet to the point and place of beginning; **CONTAINING** 25.4219 acres of land, more or less.

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