

ORDINANCE NO. 2328

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 1.24 ACRES, MORE OR LESS (Tax Map I.D. 3-34-10.00-199.00)

WHEREAS, on the 2nd day of August 2013, a zoning application, denominated Change of Zone No. 1736 was filed on behalf of Judith B. Demeno, Trustee; and

WHEREAS, on the 10th day of October 2013, 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. 1736 be approved; and

WHEREAS, on the 19th day of November 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 B-1 Neighborhood Business 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 north of Route 9, 1,800 feet west of Road 281 (Josephs Road) and 1,400 feet east of Road 290 (Cool Spring Road) and being more particularly described in Deed Book 3247, Page 51, in the Office of the Recorder of Deeds in and for Sussex County and containing 1.24 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. 2328 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 19TH DAY OF NOVEMBER 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. This is an application to amend the Comprehensive Zoning Map from AR-1 Agricultural Residential District to a B-1 Neighborhood Business District for a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 1.24 acres, more or less, lying north of Route 9, 1,800 feet west of Road 281 (Josephs Road) and 1,400 feet east of Road 290 (Cool Spring Road) (Tax Map I.D. 334-10.00-199.00).**
- 2. DelDOT commented that a Traffic Impact Study is not recommended and that the current Level of Service "E" of Route 9 will not change as a result of this application.**
- 3. The Sussex County Engineering Department, Utility Planning Division, commented that this site is located in the North Coastal Planning Area; that an on-site septic system is proposed; that conformity to the North Coastal Planning Study will be required; that the proposed use is not in an area where the County currently has a schedule to provide sewer service; and that a Concept Plan is not required.**
- 4. Eugene Bayard, Esquire and Judith B. Demeno, the Applicant, were present on behalf of the application and they stated that the neighborhood is an active neighborhood business area and the site has a history of commercial and business uses (since 1974); that the character and trend of development along Route 9 in this area has been changing to business and commercial uses; that Ms. Demeno purchased the property in 2005; that no improvements to the property are planned; that she has been in the retail clothing business for over 25 years; that the Applicant proposes to lease the house on the property for the operation of a day spa; that DelDOT limited the use to 200 vehicle trips per day; that her business may have 25 trips per day; that DelDOT did not request any entrance improvements; that there are no wetlands on the property; that the site is served by an on-site septic system and a private well; and that the Applicant wrote letters to her neighbors regarding the proposed rezoning and that she received only one response which was in support of her proposal.**

- 5. The site is appropriate for a Change of Zone to B-1 Neighborhood Business; it is located on the north side of Route 9, which is appropriate for small businesses that are allowed under the B-1 zoning; the B-1 rezoning is consistent with the orderly growth of the County; and there are a number of businesses and commercial uses located in the vicinity along Route 9, including several properties that are zoned C-1 General Commercial.**
- 6. The change of zoning will not adversely affect neighboring or adjacent properties or nearby communities.**
- 7. Although the State has objected based on the location of the property being in an Investment Level 4 Area, the site is almost adjacent to an Investment Level 3 Area, and the Investment Level 4 designation does not appear to take into account development trends along Route 9.**
- 8. The rezoning is consistent with the historical use of the property, including a gift shop approved as a conditional use in 1974 and that the Change of Zone is consistent with the Sussex County Comprehensive Land Use Plan.**
- 9. The Site Plan for any use of the property will be subject to the review and approval of the Planning and Zoning Commission.**
- 10. There were no parties present in support of or in opposition to this Application.**
- 11. Based on the record and recommendation of the Planning & Zoning Commission and the record created before the Council, the Council approved this application.**