

**BOROUGH OF SUSSEX
COUNTY OF SUSSEX
ORDINANCE NO. 2024-17**

AN ORDINANCE TO REPEAL AND REPLACE ORDINANCE NO. 2023-25 ADOPTED DECEMBER 19, 2023 REGARDING CHAPTER 19, ENTITLED “ZONING”, OF THE CODE OF THE BOROUGH OF SUSSEX, COUNTY OF SUSSEX, STATE OF NEW JERSEY, ESTABLISHING A MIXED USE DISTRICT.

WHEREAS, the property designated as Block 503, Lot 1, on the current Sussex Borough Tax Map (as of October 2023) (“parcel”) is vacant land consisting of approximately 2.19 acres and located along and adjacent to Harrison Street in the Borough of Sussex; and

WHEREAS, the parcel was located for zoning purposes in the Borough’s Public and Semi-Public Use District, for which the zoning purpose was the “orderly existence and future expansion of public and semi-public facilities such as schools, parks, municipal buildings, swimming beaches, churches and the like” (former Code Section 19-2.2.10); and

WHEREAS, the parcel is surrounded to a great extent by properties zoned for commercial and residential uses; and

WHEREAS, the parcel was used to house a public school in the distant past, has not been used for school or other public or semi-public purposes for many years, and is not a good or appropriate candidate for such uses based on its terrain and location; and

WHEREAS, the Governing Body had concluded and concludes that the best and most compatible use for the parcel, in light of the current character and uses of the properties in the surrounding areas and the size, location and characteristics of the parcel itself, is as a single-family, duplex or multi-family use with potential for office and/or retail uses, as further set forth in this Ordinance; and

WHEREAS, the Borough’s Master Plan and any amendments may not reflect the changes that have occurred with regard to the parcel and surrounding properties; and the zoning of the property for public and semi-public uses is no longer appropriate; and

WHEREAS, the Governing Body is cognizant that the provisions of this ordinance are thus inconsistent with the land use and housing plan elements of the Borough’s Master Plan and any amendments thereto but recognize that it is appropriate and necessary to exercise its authority under N.J.S.A. 40:55D-62(a) to amend the designation of the parcel’s zone and establish the terms and requirements applicable thereto in order to accord with historical changes and current reality; and

WHEREAS, the Governing Body had previously reached the conclusions set forth above and therefore adopted Ordinance No. 2023-25 after review by the Sussex Borough Planning and Zoning Board; and

WHEREAS, in the interest of ensuring that the due process requirements pertaining to the passage of the amendments which are the subject of this ordinance, the Governing Body has determined that it is appropriate to repeal Ordinance 2023-25 and to replace same in accordance herewith after following the procedure and notice requirements prescribed by law; and

WHEREAS, the Sussex Borough Planning and Zoning Board reviewed the contents of the within Ordinance at its October 28, 2024 meeting and recommended by Resolution memorialized November 25, 2024 that this Ordinance be adopted;

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Sussex, in the County of Sussex and State of New Jersey, as follows:

SECTION 1. Ordinance No. 2023-25 is hereby repealed in its entirety, *nunc pro tunc*.

SECTION 2. Section 19-2.1, entitled “Establishment of Districts”, of Chapter 19, entitled “Zoning” of the Code of the Borough of Sussex is amended to add the following:

MU Mixed Use District.

SECTION 3. Chapter 19, entitled “Zoning” of the Code of the Borough of Sussex is amended to add Section 19-2.2.11, entitled “MU - Mixed Use District” and shall read as follows:

§ 19-2.2.11 MU - Mixed Use District.

This zone provides for residential uses, with the ability to mix same with certain commercial and/or office uses, and shall permit such development in the area identified as Block 503, Lot 1 on current Sussex Borough Tax Map (as of October 2024).

SECTION 4. Section 19-2.3, entitled “Zoning Map”, of Chapter 19, entitled “Zoning”, of the Code of the Borough of Sussex is amended to add the following at the end of the paragraph:

The property designated as Block 503, Lot 1, on the current Sussex Borough Tax Map (as of October 2023) is designated as being within the Mixed Use District, and the Zoning Map is revised accordingly.

SECTION 5. Chapter 19, entitled “Zoning” of the Code of the Borough of Sussex is amended to add Section 19-9B, entitled “Mixed Use District” and shall read as follows:

§ 19-9B MIXED USE DISTRICT

§ 19-9B.1 Principal Permitted Uses.

- a. Single family detached homes.
- b. Duplex dwellings.
- c. Multi-family dwellings.
- d. Town houses.
- e. Garden apartments.
- f. Buildings containing apartments, as defined by Borough ordinance, on the second or third floors of a building containing a retail store, service establishment or office on the first floor of a building.
- g. Any other use determined by the zoning board of adjustment to be similar to and of the same general character as the above specified uses.

§ 19-9B.2 Permitted Accessory Uses.

- a. For single family, duplex and multifamily dwellings, as provided in subsections **19-6.2**.
- b. Garages to house motor vehicles.

§ 19-9B.3 Conditional Uses.

None.

§ 19-9B.4 Bulk and Other Requirements.

- a. For single family and duplex dwellings: same as required in subsection **19-6.4**; otherwise as follows:
 1. Minimum lot area: Two acres.
 2. Minimum street frontage: 50 feet.
 3. Maximum height: Three stories, not including ground level or underground garages; no apartments below ground level.
 4. Maximum density: 12 units per acre of site area excluding public streets.
 5. Setbacks from public streets: 25 feet; no parking permitted in this setback area.
 6. Setbacks from lot lines: 25 feet.
 7. Setbacks from driveways and parking areas: 20 feet, except for garages under buildings.

8. Maximum coverage of land by buildings: 35 percent.
9. Minimum distance between buildings: 50 feet between front and rear elevations of buildings; 50 feet between ends of buildings; front facade of a building not to overlap the sidewalk of an opposite building by more than eight feet.
10. Maximum length of buildings: 180 feet; length of an unbroken building facade not over 60 feet, with a setback of not less than five feet considered a satisfactory break in the building line.
11. Minimum floor space: one bedroom apartment, 750 square feet; two-bedroom apartments, 950 square feet. These minimum floor spaces shall not include stairways, public hallways, public foyers, or other means of ingress or egress.
12. Minimum off-street parking: two spaces per dwelling unit.
13. Access drives: minimum 20 feet where no parking is permitted on either side. Parallel curb parking on access drives is not to be counted toward required off-street parking.
14. Minimum area of common recreation space: 20 percent of site area excluding public streets, developed for active or passive recreation for the residents of the development.
15. Electric and telephone utility lines: shall all be installed underground.
16. Buffer strip adjoining a one-family residential zone: minimum ten feet.
17. Minimum distance from parking area to building: 25 feet.

§ 19-9B.5 Off-Street Parking and Loading.

As required in section **19-17**.

§ 19-9B.6 Signs.

As regulated in section **19-18**.

§ 19-9B.7 Required Conditions.

Multi-family dwellings and garden apartments (units), as permitted in Section **19-9B**, shall meet the following requirements:

- a. Not more than four units shall be located on any floor of any building.
- b. Each unit shall be self-contained to the extent of having its own kitchen and bathroom facilities and shall have its own private entry, either to the outside of the building or to a common entry.
- c. Cooking facilities, bathrooms and water closet compartments shall be adequately ventilated, in accordance with the applicable codes.
- d. All units shall be subject to the requirements of any applicable state or local health, housing, fire, building and safety codes.

SECTION 6. If any article, section, subsection, paragraph, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect.

SECTION 7. In the event of any inconsistencies between the provisions of this Ordinance and any prior ordinance of the Borough, the provisions hereof shall be determined to govern. All other ordinances of the Borough are hereby ratified and confirmed, except where inconsistent with the terms hereof.

SECTION 8. The Clerk is directed to give notice at least 10 days prior to the hearing on the adoption of this Ordinance to the County Planning Board and to all others entitled pursuant to the provisions of N.J.S.A. 40:55D-15. Upon the adoption of this Ordinance, after public hearing, the Clerk is further directed to publish notice of the passage and to file a copy of this Ordinance, as finally adopted, with the Sussex County Planning Board, as required by N.J.S.A. 40:55D-16.

SECTION 9. This Ordinance shall take effect upon final passage and publication in accordance with the laws of the State of New Jersey.

Attest:

Antoinette Smith, Borough Clerk

Robert Holowach, Mayor

NOTICE

NOTICE IS HEREBY GIVEN that the attached Ordinance 2024-17 was introduced at a regular meeting of the Mayor and Council of the Borough of Sussex, Sussex County, New Jersey, held on September 3, 2024 and passed on first reading, and that such Ordinance will be further considered for final passage and adoption at the regular meeting of the Mayor and Council to be held on December 3, 2024 at Borough Hall, 2 Main Street, in the Borough of Sussex at 7:00 p.m. and/or via the internet, connectivity information available at www.sussexboro.com and that at such time and place all persons interested be given an opportunity to be heard concerning said Ordinance.

Antoinette Smith, RMC, Clerk/Administrator

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