

ORDINANCE NO. 2308

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 INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 2.81829 ACRES, MORE OR LESS (Tax Map I.D. 2-34-23.00-Part of Parcels 260.00 and 269.18)

WHEREAS, on the 18th day of March 2013, a zoning application, denominated Change of Zone No. 1728 was filed on behalf of Lighthouse Carillon, LLC; and

WHEREAS, on the 9th day of May 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. 1728 be approved; and

WHEREAS, on the 4th day of June 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 Indian River Hundred, Sussex County, Delaware, and lying southwest of Route 5 (Indian Mission Road) 600 feet west of Route 24 (John J. Williams Highway) and being more particularly described per the attached legal description prepared by Dominic L. Agresta, Land Surveyor, and containing 2.81829 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. 2308 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 4TH DAY OF JUNE 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 the application of Lighthouse Carillon, LLC to amend the Comprehensive Zoning Map from AR-1 Agricultural Residential District to CR-1 Commercial Residential District, to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 2.81829 acres, more or less, lying southwest of Route 5 (Indian Mission Road) 600 feet west of Route 24 (John J. Williams Highway) (Tax Map I.D. 2-34-23.00 – Part of Parcels 260.00 and 269.18).**
- 2. The Sussex County Engineering Department Utility Planning Division commented that the site is located in the Long Neck Sanitary Sewer District; that Ordinance 38 construction will be required; that there is no sewer service to the parcels nor is sewer service available at this time but connection is mandatory; that conformity to the North Coastal Area Planning Study and Amendment No. 1, Expansion Area No. 1, Long Neck Sanitary Sewer District Planning Study will be required; that in order to receive sewer service, an extension of mainline sewer along the east side of Route 24 must be completed at developer's expense before the parcels can connect to sanitary sewer; that the County does not have a schedule at this time to provide sewer service to the parcel areas; that the County requires design and construction of the collection system to meet County Engineering requirements and procedures; that the County Engineer must approve the connection point; and that a Sewer Concept Plan must be submitted for review and approval prior to any sewer construction.**

- 3. Gene Bayard, Esquire, with Morris James Wilson Halbrook & Bayard, LLP, and Rich Polk of Vista Design, Inc. were present on behalf of this application and they stated that no commercial buildings are planned for this expansion area; that this is the fourth rezoning request for this site; that rezoning was approved in 2000, 2004 and 2009; that a Rite-Aid pharmacy site is being prepared for construction on the existing commercially zoned portion of the site; that a Wawa is proposed to be built on another portion; that the area has a mix of commercial uses, i.e. shopping centers, service/gas stations, medical facilities, convenience store; that the neighborhood is trending toward commercial activities; that the site is irregularly shaped and the purpose of the application is to square up the boundaries and to provide access to Route 5; that there are no wetlands on this portion of the site; that there are no reported rare/endangered species or archaeological features on the site; and that no sewer expansion is needed to serve this portion of the site.**
- 4. The Applicant stated that it submitted to the PLUS process; that DelDOT supports the use and the proposed improvements to the intersection of Route 24 and Route 5, and provides for safe vehicular/pedestrian traffic; that the rezoning will provide access to Route 5 and improves the layout of the project; that there should be no negative impact on the community or property values; that the rezoning complies with the Comprehensive Plan Update and the State Strategies; that a Traffic Impact Study has been submitted for consideration by DelDOT and that a response has not yet been received; that the rezoning allows for corrections to the site plan to improve parking and pedestrian access; that interconnection with Timber Acres Manufactured Home Park is being discussed; that a sewer pump station is planned near the Route 5 entrance; and that the Route 5 entrance lines up with the rear entrance to the Food Lion Shopping Center across Route 5.**
- 5. This is an extension of existing CR-1 zoning; the area is approximately 2.8 acres in size; the entire parcel is the site of a commercially zoned shopping center; and by adding this additional area of CR-1 land, the site plan and access to the shopping center will be significantly improved.**

6. The rezoning is consistent with nearby zoning and uses; that, at or near the intersection of Routes 5 and 24, there are two other commercially zoned shopping centers, gas stations, a bank, and other commercial zonings and business and commercial uses.
7. The rezoning will not have any adverse impact on traffic and it will improve traffic flow within the planned Carillon Square commercial project and adjacent roadways by allowing a safer means of ingress and egress to the project.
8. The area is served by the Long Neck Sanitary Sewer District and water will be provided by Tidewater Utilities, Inc.
9. The proposed zoning meets the purposes of the CR-1 Zoning District in that it promotes the orderly growth, convenience, order, prosperity and welfare of present and future residents of Sussex County.
10. There are no parties were present in support of or in opposition to this application.
11. Based on the record and recommendation of the Planning and Zoning Commission and the record created before the Council, the application was approved.