

**ORDINANCE NO. 2312**

**AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND A C-1 GENERAL COMMERCIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR CERTAIN PARCELS OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 9.4596 ACRES, MORE OR LESS (Tax Map I.D. 332-1.00-100.00 & 101.00)**

**WHEREAS, on the 18th day of April 2013, a zoning application, denominated Change of Zone No. 1730 was filed on behalf of Two Farms, Inc.; and**

**WHEREAS, on the 13th day of June 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. 1730 be approved; and**

**WHEREAS, on the 25th 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 C-1 General Commercial 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 Little Creek Hundred, Sussex County, Delaware, and lying at the southeast corner of U.S. Route 13 and Route 24 and being more particularly described as follows:**

**BEGINNING at a point on the southerly right-of-way of Route 24, a corner for these subject lands and lands of Carol M. O'Neal; thence by and along said O'Neal lands south 14°40'09" west 309.26 feet to a point, and south 77°26'09" east 219.82 feet to a point; thence south 17°47'30" west 755.12 feet along lands of James C. and Janet Windsor, Trustees, to a point in center of a ditch; thence southwesterly 301.57 feet along the meandering centerline of the ditch to a point on the easterly right-of-way of U.S. Route 13;**

thence north 00°58'07" east 1,143.27 feet along the easterly right-of-way of U.S. Route 13 to a point; thence north 48°56'50" east 37.50 feet along the corner-cut for the intersection of U.S. Route 13 and Route 24 to a point; thence south 79°43'26" east 326.42 feet along the southerly right-of-way of Route 24 to the point and place of beginning, and containing 9.4596 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 FORGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2312 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 25TH 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 Facts:

1. This is an application to amend the Comprehensive Zoning Map from AR-1 Agricultural Residential District and a C-1 General Commercial District to a CR-1 Commercial Residential District, to be located on a certain parcel of land lying and being in Little Creek Hundred, Sussex County, containing 9.4596 acres, more or less, lying at the southeast corner of U.S. Route 13 and Route 24 (Tax Map I.D. 3-32-1.00-100.00 & 101.00)
2. DelDOT commented that the Department would normally recommend that a Traffic Impact Study be completed before any decision is made on a rezoning application; that a Traffic Impact Study had already been performed by the Applicant's engineer, and has been reviewed by the Department; and that based on the review, the Department recommends that the County proceed in processing this rezoning application.
3. The Sussex County Engineering Department, Utility Planning Division, commented that this site is located within the Western Sussex – Laurel Growth Area; that an on-site septic system is proposed at this time; that conformity to the Western Sussex 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. **Garth Jones, P.E. of Becker Morgan Group was present on the Applicant's behalf and he stated that they have received preliminary approval for the site plan for Conditional Use No. 1927; that the Commission and the Sussex County Council suggested that they should have considered applying for rezoning when they received approval for Conditional Use No. 1927; that the rezoning request is for property at the intersection of Route 13 and Route 24 near Laurel; that the small corner portion of the site is zoned C-1 General Commercial and the remaining acreage is zoned AR-1 Agricultural Residential; that the parcels that were recently combined into one parcel are split-zoned; that they are planning on constructing a new Royal Farm Convenience Store; that the request is consistent with the Comprehensive Land Use Plan; and that the State Strategies indicate that the site is located in an Investment Level 2 Area.**
5. **This application consolidates the entire subject property into one consistent zoning district; this entire property has historically been used for commercial purposes; CR-1 Commercial Residential zoning for this site is appropriate given its location at the intersection of U.S. Route 13 and Delaware Route 24; and there are also other commercially and industrially zoned properties in the area of the intersection.**
6. **The location is in a Developing Area according to the Sussex County Comprehensive Plan; the site currently has a commercial site plan that was preliminarily approved by the Planning and Zoning Commission; and, at the time of that approval, the Planning and Zoning Commission suggested that uniform CR-1 zoning for the entire site would be appropriate.**
7. **The rezoning will have no adverse impact on neighboring properties, roadways, public facilities, or the community.**
8. **There were no parties present in support of or in opposition to this application.**
9. **Based on the record and recommendation of the Planning and Zoning Commission and the record created before Council, the Council approved this Application.**