

**ORDINANCE NO. 2337**

**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 LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 16,150 SQUARE FEET, MORE OR LESS (Tax Map I.D. 332-1.08-39.00)**

**WHEREAS, on the 13th day of October 2013, a zoning application, denominated Change of Zone No. 1739 was filed on behalf of Vance Phillips; and**

**WHEREAS, on the 12 day of December 2013, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 9th day of January 2014, said Planning and Zoning Commission recommended that Change of Zone No. 1739 be approved; and**

**WHEREAS, on the 7th day of January 2014, 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 Little Creek Hundred, Sussex County, Delaware, and lying at the northwest corner of U.S. Route 13 and Route 24 and being more particularly described as Tract No. 5 in Deed Book 4170, Page 89 as recorded in the Office of the Recorder of Deeds in and for Sussex County, excepting that portion of the property dedicated to public use for the right-of-way and intersection improvements for the intersection of U.S. Route 13 and Route 24; and as identified on the Sussex County Tax Map as District 3-32 Map 1.08 Parcel 39.00, said parcel containing 16,150 square feet, 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. 2337 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 4TH DAY OF FEBRUARY 2014.**

  
**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 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 Little Creek Hundred, Sussex County, containing 16,150 square feet, more or less, lying at the northwest corner of U.S. Route 13 and Route 24 (Tax Map # 332-1.08-39.00).**
- 2. Regarding this parcel and three (3) other parcels in consideration of a rezoning to CR-1 Commercial Residential, DelDOT commented that no use has been specified for the land to be rezoned; that they presently cannot predict the site's trip generation with enough accuracy to make a Traffic Impact Study useful; and that they are willing to postpone a decision on their requirement for a Traffic Impact Study until the subject land has been rezoned and a site plan has been developed for it.**
- 3. The Sussex County Engineering Department, Utility Planning Division, commented that this site is located in the Western Sussex – Laurel Growth Area; that an on-site septic system is proposed; 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. The Applicant and Council Member, Vance Phillips, recused himself and left the Council Chambers during the presentation. Dean Campbell, Esquire, was present on behalf of the application and stated that the rezoning of the property is appropriate to conform to the use of the properties surrounding it at this intersection, including Carey's garage, a proposed Royal Farms Store, Marino's Motors, and Lakeside Motel; and that the property to the west of the Applicant's property is an auto parts store.**

5. The property is improved by a single family dwelling that is a rental and has a home occupation for a Palm Reader; there is no intended change in use at this time; any use of the property shall be subject to DelDOT; the site is not currently served with central water or sewer; the rezoning complies with the Comprehensive Plan; and the majority of the commercial uses of the intersection and area have been in existence since prior to the establishment of zoning.
6. The rezoning will bring this property into conformity with the other three (3) corners of the Route 13 and Route 24 intersection; the other three (3) corners have commercial zoning; the location at the intersection of Route 13 and Route 24 is appropriate for CR-1 zoning; Route 13 is a major arterial roadway in Sussex County; and this intersection is one of the main access points to the Town of Laurel from the highway.
7. The rezoning will be consistent with the historically commercial use of the adjacent property; the next-door property has been used as an auto parts store for many decades, predating zoning.
8. This site is located within a Town Center District according to the Sussex County Comprehensive Plan and CR-1 Zoning is appropriate zoning for the Town Center District under the Plan.
9. The rezoning will not adversely affect neighboring properties, the community, or area roadways.
10. No parties appeared in opposition to the application.
11. Based on the record and recommendation of the Planning and Zoning Commission and the record created before Council, the application was approved.