

**ORDINANCE NO. 2356**

**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 LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 22,024 SQUARE FEET, MORE OR LESS (Tax Map I.D. No. 334-5.00-73.00)**

**WHEREAS, on the 4th day of March 2014, a zoning application, denominated Change of Zone No. 1749 was filed on behalf of Bruce and Cathy King; and**

**WHEREAS, on the 8th day of May 2014, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 22nd day of May 2014, said Planning and Zoning Commission recommended that Change of Zone No. 1749 be approved; and**

**WHEREAS, on the 15th day of July 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 of 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 Lewes and Rehoboth Hundred, Sussex County, Delaware, and lying southwest of Nassau Road (Road 266B) 200 feet northwest of Railroad and 70 feet northwest of New Road (Road 266) and being more particularly described in Deed Book 3131, Page 147, in the Office of the Recorder of Deeds in and for Sussex County, said parcel containing 22,024 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. 2356 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 15TH DAY OF JULY 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:**

- A. This is the application of Bruce and Cathy King to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District to a CR-1 Commercial Residential District to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 22,024 square feet, more or less, land lying southwest of Nassau Road (Road 266B) 200 feet northwest of Railroad and 70 feet northwest of New Road (Road 266) (Tax Map I.D. #334-5.00-73.00).**
- B. Council found that DelDOT commented that a Traffic Impact Study was not recommended and that the current Level of Service “A” of Nassau Road may change to a Level of Service “B”; that they presently cannot predict the site’s trip generation with enough accuracy to make a Traffic Impact Study useful; and that they recommend that the rezoning application be considered without a Traffic Impact Study and that the need for a Traffic Impact Study be evaluated when a subdivision or land development plan is proposed.**
- C. Council found that the Sussex County Engineering Department, Utility Planning Division, commented that the site is located in the West Rehoboth Expansion Area; that the sewer design assumption is 1.0 EDU for an AR-1 zoned lot of less than 1.0 acre; that the parcel has been provided with a sanitary sewer lateral along the parcel’s frontage on Nassau Road; that conformity to the North Coastal Area Planning Study will be required; that the proposed CR-1 zoning is not located on residential lands previously identified for commercial use by the Planning and Zoning Department; that the Engineering Department has concerns that the rezoning will result in a potential increase of wastewater flow from the parcel in the future; that a capacity evaluation, at the Developer’s expense, may be required to determine what upgrades would be required to serve a future use; that required upgrades would be completed by the developer, at the developer’s expense; and that a Concept Plan is not required.**
- D. Council found that the Sussex Conservation District commented that the Applicants will need to follow recommended erosion and sediment control practices during any construction and to maintain vegetation; that no storm flood hazard areas are affected; that it is not likely that off-site drainage improvements will be necessary; that it is possible that on-site drainage improvements will be necessary; and that no tax ditches are affected.**
- E. Based on the testimony before the Planning and Zoning Commission, Council found that Cathy King was present with Cathy Ford, Realtor, and Chris Carpenter, a cross-fit trainer, and they stated that there are several commercial properties in close proximity to this site, and referenced Best machinery, a mill property, a survey office, warehousing, a repair shop/garage, and others.**
- F. Council found that Cathy Ford, Associate Broker and Realtor, was present on behalf of the Applicant and stated that the Applicant is proposing to establish a fitness center/cross-fit gym on the site; that the property backs up to Route One; that there is a standard setback from the railroad on the rear; that the existing structures on the site will be removed through a controlled burn; and that the trend in this area between Route One and Nassau Road is for commercial development.**
- G. Based on the Findings (1 through 6) of the Planning and Zoning Commission, the Council found that:**
  - 1. The project is located in the Environmentally Sensitive Developing Area. CR-1 is appropriate zoning in this area.**

- 2. CR-1 zoning is appropriate at this location. There are other commercial zoning and uses in the immediate area of this parcel. It is also surrounded by Nassau Road, Coastal Highway, and a railroad.**
  - 3. The rezoning will not adversely affect neighboring properties, roadways, or community facilities.**
  - 4. The rezoning is consistent with the purposes of the CR-1 Zone in the County Code.**
  - 5. No parties appeared in opposition to this application.**
  - 6. Any redevelopment of this property will require site plan approval by the Planning and Zoning Commission along with other agency approvals.**
- H. Based on the record, recommendation and findings of the Planning and Zoning Commission and the record created before Council, the Council approved this Application.**