

ORDINANCE NO. 2403

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 NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 2.062 ACRES, MORE OR LESS

WHEREAS, on the 7th day of January 2015, a zoning application, denominated Change of Zone No. 1771 was filed on behalf of B. Ray Investments, LLC; and

WHEREAS, on the 7th day of May 2015, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 21st day of May 2015, said Planning and Zoning Commission recommended that Change of Zone No. 1771 be approved; and

WHEREAS, on the 16th day of June 2015, 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 COUNTY 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 Northwest Fork Hundred, Sussex County, Delaware, and lying east of U.S. Route 13 (Sussex Highway) 0.2 miles north of Road 583 (Adams Road) and being more particularly described as follows:

BEGINNING at a concrete monument on the easterly right-of-way of U.S. Route 13 (Sussex Highway), a corner for these subject lands and lands, now or formerly, of George S. Isaacs; thence northerly 272.51 feet along said right-of-way of U.S. Route 13 to an iron pipe; thence South 67°42'40" East 85.00 feet to an iron pipe and North 22°17'16" East 66.00 feet along said right-of-way of U.S. Route 13 to an iron pipe; thence southeasterly 512.2 feet along a tie-line for an old tax ditch location and the relocated Cart Branch Tax Ditch centerline to

a point; thence North 75°14'46" West 516.33 feet along lands, now or formerly, of George S. Isaacs, to the point and place of beginning and containing 2.062 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. 2403 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 16TH DAY OF JUNE 2015.



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 B. Ray Investments, LLC to amend the Comprehensive Zoning Map of Sussex County from AR-1 Agricultural Residential District to a CR-1 Commercial Residential District for a certain parcel of land lying and being in Northwest Fork Hundred, Sussex County, containing 2.062 acres, more or less. The property is located east of U.S. Route 13 (Sussex Highway) 0.2 mile north of Road 583 (Adams Road) (911 Address: None Available) (Tax Map I.D. 530-14.00-15.00).
- B. Council found that DelDOT commented that it recommends that this 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 Conservation District commented that the Applicant will be required to follow recommended erosion and sedimentation control practices during construction and to maintain vegetation after construction; that no storm flood hazard areas are affected; that it is not likely that any off-site drainage improvements will be required; that at this time, on-site drainage improvements may not be required; and that a tax ditch borders the site on the northeast side and that development of the site may have a potential effect on the ditch.
- D. Council found that the Sussex County Engineering Department, Utility Planning Division, commented that the site is located in the Western Sussex Planning Area #1; that conformity to the Western Sussex Planning Study will be required; that the proposed use is not in an area where the County has a schedule to provide sewer at this time; and that a Concept Plan is not required.
- E. The Council found that Eddy Parker was present on behalf of "Bay to Beach Builders" and stated that the purpose of this application is to provide a storage facility for the company; that the company has a display home/design center and corporate offices in Greenwood at the intersection of U.S. Route 13 and Route 16; that the site has been improved by the removal of a dilapidated home; that they built a pole building on the site for personal use and storage, and are currently storing a tractor and other equipment in the building for use on the property; that the site is basically surrounded by commercial uses, referencing Delaware Electric Cooperative across U.S. Route 13, and several business/commercial uses to the north and south of the site; that the area is predominantly zoned C-1 General Commercial with some additional Conditional Uses; that no water or sewer is proposed; that the only intent of the use of the building is storage of materials; that he anticipates 1 or 2 staff vehicles per day; that the size of the building is adequate for the storage of materials; that the land drops off toward the ditch; and that the lot is very restricted for making improvements due to the 85-foot tax ditch easement.

- F. Based on the Findings (1 through 6) of the Planning & Zoning Commission, Council found that:**
- 1. The property is located along U.S. Route 13 (Sussex Highway) in an area that is basically surrounded by commercial uses and zonings. This location is appropriate for CR-1 zoning.**
 - 2. Surrounding uses include the Delaware Electric Cooperative across U.S. Route 13, several business and commercial uses to the north and south of the site, and some additional conditional uses. The rezoning to CR-1 and the permitted uses in that zone are compatible with the surrounding properties.**
 - 3. CR-1 zoning is appropriate, since the County Zoning Code states that the purpose of such zoning is to provide for a wide variety of commercial and service activities generally serving a wide area, and that such uses should be located along existing major thoroughfares where a general mixture of commercial and service activities now exist. In this case, the rezoning along U.S. Route 13 falls within the stated purposes of the CR-1 District.**
 - 4. The use will not adversely affect neighboring properties or area roadways.**
 - 5. The Applicant will be required to meet or exceed all DelDOT requirements associated with any permitted use of the property.**
 - 6. No parties appeared in opposition to the application.**
- G. Based on the record, recommendations and findings of the Planning & Zoning Commission and the record created before Council, the Council approved this application.**