

**ORDINANCE NO. 2680**

**AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-3 HEAVY COMMERCIAL DISTRICT) FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 5.771 ACRES, MORE OR LESS**

**WHEREAS, on the 24th day of April 2019, a zoning application, denominated Change of Zone No. 1889, was filed on behalf of Air Fish Automotive; and**

**WHEREAS, on the 8th day of August 2019, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 22nd day of August 2019, said Planning and Zoning Commission recommended that Change of Zone No. 1889 be approved; and**

**WHEREAS, on the 17th day of September 2019, 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 C-3 Heavy Commercial 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 on the southwest corner of Trussum Pond Road and Sussex Highway (Route 13) and being more particularly described in the attached legal description prepared by Alan O Kent Land Surveying, said parcel containing 5.771 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. 2680 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 17TH DAY OF SEPTEMBER 2019.**

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**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 Air Fish Automotive to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District to a C-3 (Heavy Commercial District) for a certain parcel of land lying and being in Little Creek Hundred, Sussex County, containing 5.771 acres, more or less (property lying on the southwest corner of Trussum Pond Road and Sussex Highway) (Tax I.D. No. 332-1.00-72.00 (portion of) (911 Address: 11125 National Boulevard, Laurel).
- B. Based on the record before the Planning and Zoning Commission and the hearing before the Sussex County Council, Council found that Timothy G. Willard, Esquire, with Fuqua, Willard, Stevens, & Schab, P.A., Brent James, owner of Air Fish Automotive, and William James, operator of Air Fish Automotive, were present on behalf of the application; that the business is limited to repairing diesel Fords only; that the business has been operating at this current site for a number of years; that the total parcel contains 16-acres; and that the proposed application is to change the zoning to C-3 (Heavy Commercial Zoning District) for the front 5.77 acres of the parcel.
- C. Council also found that the existing buildings on the property were previously used as hatcheries; that Conditional Use #745 was approved in 1983 for retail sales and storage; that the site became a garage door business and is now a diesel vehicle repair business with three (3) employees; that there are commercial uses and industrial uses in the area; that the Land Use Classification per the 2019 Comprehensive Plan shows the land is in the Developing Area; that the parcel is located in the Delaware Strategies for State Policies and Spending Level 1 or Level 2; that the property has its own private water and sewer; that improvements have been made to the building; that the Applicant is bringing the building up to Fire Marshal Code; and that Mr. William James affirmed the testimony presented.
- D. Based on the Findings (1 through 6) of the Planning & Zoning Commission, Council found that:
  - 1. C-3 Heavy Commercial Zoning is designed to allow auto-oriented retail and service businesses that serve local and regional residents. Permitted uses include retail uses, restaurants, offices, and vehicle service stations.
  - 2. The site is adjacent to Route 13 and is directly across the highway from large parcels that have industrial and commercial zoning and which have been developed with large-scale commercial uses. This location is appropriate for this type of zoning.
  - 3. This site has been used for business and commercial purpose for decades. It was used as a hatchery and later was converted to retail and storage space under a Conditional Use. These prior uses of the property support the rezoning to C-3.
  - 4. The site is in the Developing Area according to the current Sussex County Land Use Plan. This type of commercial zoning is appropriate in this area according to the Plan.
  - 5. The proposed rezoning meets the general purpose of the Zoning Code by promoting the orderly growth, convenience, order, prosperity, and welfare of the County.
  - 6. Any future use of the property will be subject to the Site Plan review by the Sussex County Planning and Zoning Commission.
- E. Based on the record created before the Planning and Zoning Commission and the Sussex County Council, the Council approved this application.