

ORDINANCE NO. 2404

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 BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 2.33 ACRES, MORE OR LESS

WHEREAS, on the 16th day of January 2015, a zoning application, denominated Change of Zone No. 1772 was filed on behalf of Sussex Ventures, LLC; and

WHEREAS, on the 21st day of May 2015, 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. 1772 be approved; and

WHEREAS, on the 30th 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 Broad Creek Hundred, Sussex County, Delaware, and lying east of U.S. Route 13 (Sussex Highway) 995 feet south of Road 482 (Boyce Road) and being more particularly described in Deed Book 4324, Page 213, in the Office of the Recorder of Deeds in and for Sussex County and containing 2.33 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. 2404 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 30TH 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 Sussex Ventures, 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 Broad Creek Hundred, Sussex County, containing 2.33 acres, more or less. The property is located east of U.S. Route 13 (Sussex Highway) 995 feet south of Road 482 (Boyce Road) (911 Address: None Available) Tax Map I.D. 132-12.00 112.00 and 112.05.**
- B. Council found that DelDOT commented that the Current Level of Service of U.S. Route 13 will not change as a result of this application and that the Department cannot predict the site's trip generation with enough accuracy to make a Traffic Impact Study useful; that the Department 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 of land development plan is proposed; that the property, being adjacent to U.S. Route 13, is subject to the Department's Corridor Capacity Preservation Program; that the goal of the Program is to maintain capacity of the existing highway; and that the property is located in a Level 2 Investment Area according to the State Strategies where State policies will promote efficient orderly development.**
- C. Council found that the Sussex Conservation District commented that the developer will be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation after completion of construction; that no storm flood hazard area is affected; and that no tax ditch is affected.**
- D. Council found that the Sussex County Engineering Department, Utility Planning Division, commented that the site is located in the Western Sussex Planning Area #3; 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. Based on testimony before the Planning & Zoning Commission and the public hearing before the Sussex County Council, Council found that Don Ward and Drew Ward were present on behalf of Sussex Ventures, LLC and stated that they purchased the property in October 2014; that U.S. Route 13 is a major arterial roadway; that a portion of the property is being tilled and the wooded portion is being cleared; that the UTZ warehousing project to the rear crosses the property through an easement; that most of the area zoning is commercial; that they feel that this rezoning is an infill between other commercially zoned properties; that according to the Comprehensive Land Use Plan the site is located within a Town Center Area; that they have spoken to their neighbors and heard no objections; that there should not be any adverse impact on the area; that an off-premise billboard exists on the site; that they are considering building a self-storage facility on the site; and that access to the site will be at the existing easement location.**
- 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 an UTZ Potato Chip distribution center, 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. This is basically an infill rezoning.**
 - 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, recommendation and findings of the Planning & Zoning Commission and the record created before Council, the Council approved this application.**