

ORDINANCE NO. 2456

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A LI-2 LIGHT INDUSTRIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 9.822 ACRES, MORE OR LESS

WHEREAS, on the 29th day of January 2016, a zoning application, denominated Change of Zone No. 1797 was filed on behalf of John P. Disharoon and Sherry B.; and

WHEREAS, on the 10th day of March 2016, 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. 1797 be approved; and

WHEREAS, on the 21st day of June 2016, 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 LI-2 Light Industrial 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 southwest corner of Sussex Highway (U.S. Route 13) and Allens Mill Road (Road 454A), and being more particularly described as Tract 1 in Plot Book 224, Page 78, in the Office of the Recorder of Deeds in and for Sussex County, said parcel containing 9.822 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. 2456 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 21ST DAY OF JUNE 2016.

**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 John P. and Sherry B. Disharoon to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District to a LI-2 Light Industrial District for a certain parcel of land lying and being in Little Creek Hundred, Sussex County, containing 9.822 acres, more or less. The property is located at the southwest corner of Sussex Highway (U.S. Route 13) and Allens Mill Road (Road 454A) (911 Address: None Available) (Tax Map I.D. 532-13.00-51.00 (part of)).**
- B. Council found that DelDOT commented that the size of the proposed industrial space does not meet DelDOT's warrants for requiring a Traffic Impact Study; that the respective land is located along U.S. Route 13, thereby subject to the policies of the Corridor Capacity Preservation Program; that the Program's primary goal is to manage and preserve the traffic capacity and safety of the existing highway; that U.S. Route 13 is a limited access highway; and that the property owner can obtain site access via Allens Mill Road.**
- C. Council found that the Sussex County Engineering Department, Utility Planning Division, commented that the site is located in the Delmar Future Growth and Annexation Area; that an on-site septic is proposed; that conformity to the Western Sussex Planning Study will be required; that the proposed metal shop is not in an area where the County currently has a schedule to provide sewer service; and that a Concept Plan is not required.**
- D. Based on the record before the Planning and Zoning Commission and the public hearing before the Sussex County Council, Council found that the Applicants, John and Sherry Disharoon, were present with Ken Christenbury, Professional Engineer with Axiom Engineering, who stated that the property has been divided into two parcels; that the parcel adjacent to U.S. Route 13 is the application site; that the remaining site will remain agricultural/residential; that the wooded portion of the site contains some wetlands; that the site is in close proximity to other commercial and industrial uses and zonings; that the site is an infill between those commercial and industrial activities; that the closest home in the area is in excess of 200 feet to the west; that the Applicant has chosen rezoning over a conditional use due to the other commercial and industrial uses in the area; that the business started as a family run business in 2005 in Maryland with 2 to 4 employees; that they moved to another location which increased to 10 employees; that they moved to their current site on U.S. Route 13 and still need more room for their shop; and that they anticipate increasing their staff to 17 employees if they get approval to relocate their shop.**
- E. Based on the record of the Planning and Zoning Commission and the record created before the Sussex County Council, the application for a Change of Zone from AR-1 Agricultural Residential to LI-2 Light Industrial is approved for the following six (6) reasons:**

- 1. This site is located at the intersection of Allens Mill Road and U.S. Route 13. It has 923 feet of frontage on U.S. Route 13. This is an appropriate location for this type of zoning.**
- 2. The rezoning is consistent with the surrounding zoning along U.S. Route 13, which includes HI-1 Heavy Industrial, LI-2 Light Industrial and commercial zonings. Even the commercial zoning is used intensively for a trucking company.**
- 3. The Comprehensive Plan supports the rezoning to LI-2 Light Industrial.**
- 4. The Applicants are the owners of the adjacent tract that is 200 feet wide. The Applicants have stated that this parcel will remain zoned as an AR-1 Agricultural Residential parcel that will serve as a buffer between the LI-2 Light Industrial property and the nearest residence.**
- 5. No parties appeared in opposition to the application.**
- 6. For all of these reasons, LI-2 Light Industrial zoning is appropriate for this site.**