

ORDINANCE NO. 2473

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 LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 6.24 ACRES, MORE OR LESS

WHEREAS, on the 25th day of July 2016, a zoning application, denominated Change of Zone No. 1809 was filed on behalf of MOCA Properties, LLC / Solid Image; and

WHEREAS, on the 22nd day of September 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. 1809 be approved; and

WHEREAS, on the 25th day of October 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 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 Little Creek Hundred, Sussex County, Delaware, and lying east of Sussex Highway (U.S. Route 13) 650 feet south of Whitesville Road (Route 64) and being more particularly described in Plot Book 82, Page 16, in the Office of Recorder of Deeds in and for Sussex County, said parcel containing 6.24 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. 2473 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 25TH DAY OF OCTOBER 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 MOCA Properties, LLC/Solid Image 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 Little Creek Hundred, Sussex County, containing 6.24 acres, more or less. The property is located at the east of Sussex Highway (U.S. Route 13) 650 feet south of Whitesville Road (Route 64) (911 Address: 11244 Whitesville Road, Laurel) (Tax Map I.D. 532-6.00-87.02).**
- B. Council found that DelDOT commented that, on November 19, 2015, it issued a “Letter of No Objection to Recordation” referencing that the letter is intended for entrance location only; that a formal record/site plan will be required at such time as the proposed entrance or any other improvements to the site more forward; that the letter does not authorize the commencement of entrance construction; that attached to the letter is a survey/site plan depicting a deceleration lane and right turn entrance lane into the property off of Sussex Highway; and that the Site Plan only depicts a right turn in and no exit.**
- C. Council found that the Sussex County Engineering Department, Utility Planning Division, commented that the property is located in the Western Sussex Planning Area #1; that the proposed rezoning is for a parcel of land that 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.**
- D. Based on the record before the Planning and Zoning Commission and the Public Hearing before the Sussex County Council, Council found that Mike Smith, Esquire of The Smith Firm, and Warren Reid of MOCA Properties, LLC and Solid Image, were present on behalf of the application at the Planning and Zoning Commission’s Public Hearing; and that Blake Carey, Esquire of The Smith Firm, and Warren Reid were present on behalf of the application at the Sussex County Council’s Public Hearing; that the site was previously approved for a Conditional Use for a countertop manufacturing business (Conditional Use No. 1971/Ordinance 2329); that the Final Site Plan has not yet been submitted; that the site is presently accessed from Whitesville Road; and that the Applicant has an existing retail center on the westerly side of Sussex Highway approximately one mile to the north of this site and would like to relocate his retail display center to this site and to expand his fabrication and cabinet shop.**
- E. Council also found that there are two (2) buildings on the site, one containing 10,000 square feet and one containing 12,000 square feet; that the buildings were originally designed with greenhouse type roofing to allow for an aquaculture business; that they have no immediate intent to expand the building footprint, only interior improvements; that there are business and commercial uses within one (1) to two (2) miles of the site location; that the business and commercial uses include small commercial strip centers, a landscaping retail business and greenhouses, auto repair and auto sales facilities, a Hale Trailers facility, appliance sales, a new Bobcat dealership, heavy equipment sales and service facilities, furniture stores, and many other business, commercial and industrial uses along Sussex Highway between Laurel and Delmar; that DelDOT is limiting the access to Sussex Highway with an entrance only and an entrance/exit to Whitesville Road; and that the Applicant would like to have signage on the property.**

- F. Based on the Findings (1 through 6) of the Planning & Zoning Commission, Council found that:**
- 1. The site is located along U.S. Route 13 (Sussex Highway). This location is appropriate for CR-1 Commercial Residential District zoning.**
 - 2. The site is in an area where other commercial and industrially zoned properties exist. The property itself is the subject of a Conditional Use and has historically been used for business and commercial purposes. The CR-1 Commercial Residential District zoning will be consistent with the area zoning and also the prior uses of the property.**
 - 3. The proposed use will not adversely affect neighboring or adjacent properties or roadways.**
 - 4. The Applicant will be required to meet or exceed all DelDOT requirements.**
 - 5. CR-1 Commercial Residential District 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 purpose of the CR-1 District.**
 - 6. No parties appeared in opposition to this rezoning.**
- G. Based on the record created before the Planning and Zoning Commission and the Sussex County Council, the Council approved this application.**