

ORDINANCE NO. 2891

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND A C-1 GENERAL COMMERCIAL DISTRICT TO AN LI-2 LIGHT INDUSTRIAL DISTRICT FOR CERTAIN PARCELS OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 19.71 ACRES, MORE OR LESS

WHEREAS, on the 22nd day of December 2021, a zoning application, denominated Change of Zone No. 1964 was filed on behalf of Martin Property Development, LLC; and

WHEREAS, on the 13th day of October 2022, 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. 1964 be approved; and

WHEREAS, on the 18th day of October 2022, 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 C-1 General Commercial District and adding in lieu thereof the designation of LI-2 Light Industrial District as it applies to the properties hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcels of land lying and being situated in Dagsboro Hundred, Sussex County, Delaware, and lying on the west side of Delaware Avenue and on the east side of Dupont Boulevard (Route 113), approximately 0.3 mile north of Parker Road (S.C.R. 380), being more particularly described in the attached deeds prepared by Tunnell & Raysor, P.A. said parcels containing 19.71 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. 2891 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 18TH DAY OF OCTOBER 2022.

**Tracy N. Torbert
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 Martin Property Development, LLC to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District and a C-1 General Commercial District to an LI-2 Light Industrial District for certain parcels of land lying and being in Dagsboro Hundred, Sussex County, containing 19.71 acres, more or less (properties lying on the west side of Delaware Avenue and on the east side of Dupont Boulevard [Route 113], approximately 0.3 mile north of Parker Road [S.C.R. 380]) (911 Addresses: 34796, 34770, 34752 & 34708 Delaware Avenue) (Tax Parcels: 433-11.00- 21.00, 433-11.00-21.02).**
- B. Based on the record before the Planning and Zoning Commission and the hearing before the Sussex County Council, Council found that Timothy Willard, Esquire, with Fuqua, Willard & Schab, P.A., was present on behalf of the Application, together with Mr. Travis Martin, owner of Chesapeake Plumbing & Heating, Inc.; that Mr. Martin has several companies associated with HVAC services; that the property is located south of Frankford, on the east side; that the Application request is for a change in zoning; that the Application had been put through the PLUS process; that both parcels are split zoned; that the two parcels are primarily zoned C-1 (General Commercial) within the front portions of the properties; that both properties have areas of AR-1 (Agricultural Residential) Zoning to the rear of the properties; that properties can no longer be rezoned for C-1; that the closest zoning to C-1 is LI-2 (Light Industrial) Zoning District; that the request is to change the zoning for both properties to be completely located within LI-2 Zoning; that of the 19 acre total between both properties, 17 acres is zoned for C-1; and that two acres are located within AR1 Zoning.**
- C. Council found that the properties are located within a Developing District according the Comprehensive Plan; that LI-2 is listed as an appropriate zoning for the developing area; that to the south of the properties there is Industrial Zoning for a forest service company; that the properties are primarily surrounded by commercially zoned properties; that the properties are located adjacent to the municipal Town of Frankford; that developing areas are typically found next to municipal areas; that developing areas recognize business and industrial parks, with good access to roads; that the properties are located along Route 113; that Delaware Avenue is located to the rear of the properties; that the Applicant has received entrance permits; that the Applicant is almost completed with DelDOT approval on Phase 1 of the project; and that no Traffic Impact Study (TIS) was recommended.**
- D. Council found that the LI-2 zoning is zoned for light industrial uses, such as fabrication, processing, wholesale distribution, and warehousing, located along major roads; that Route 113 is considered a major road; that the Applicant's use will support economic activity for Delaware; that the properties are located within Investment Level 3 for State Strategies for Spending; that Investment Level 3 areas encourage and acknowledge growth in the infrastructure improvements; that he presented a letter from Mr. William (Bill) Pfaff, with Sussex County Development Office; that the Applicant applied for a grant for Phase 2 of the project, which was received; that the grant is the Delaware Site Readiness Fund, the purpose of which is to attract out-of-state businesses to shuttle-ready sites; that Mr. Pfaff's letter, dated February 11, 2022, which stated, *"on behalf of the Sussex County Economic Development Office, I am writing to express my support for the Frankford Business Park Application for the Site Readiness Grant Funds to expand into Phase 2 of the park; that the expansion of the business park and the funds that would make it possible would create new shuttle ready sites that can be quickly marked to potential business; that the Frankford Business Park – Phase 2 project includes central water and central sewer, industrial water, natural gas, high-speed internet, stormwater management pond and is***

located along Rt. 113; that not only will the infrastructure project help increase the inventory to shuttle-ready sites in Sussex County, but it will also provide jobs and contribute to the economic health of Sussex County; that for all these reasons Sussex County Economic Development Office fully supports this Application for site readiness funds and believes it will have a meaningful and sustainable impact”; and that the letter was for Phase 2, as Phase 1 was already significantly underway.

- E. Council found that the Applicant already has the contract with the State of Delaware; that there were ten million dollars allotted; that the Applicant received the grant for a million; that the Applicant already has a tenant, CP Cases, from Maryland, which builds high-end cases; that the Application does fit the Comprehensive Plan; that there are other businesses located in the surrounding area; that he requested to submit proposed Findings of Fact and for all the reasons stated the Change of Zone request is appropriate.**
- F. Based on the Planning & Zoning Commission’s Findings (1 through 8), Council found that:**
- 1. This location, along Route 113, has a split-zoning of AR-1 and C-1.**
 - 2. There are other nearby uses that are commercially zoned and very nearly industrial in character and zoning. This is an appropriate location for the proposed LI-2 Zoning.**
 - 3. The intended use of the site will be for manufacturing, light industrial uses and flex space. These are appropriate uses for this area, and they are consistent with the surrounding uses.**
 - 4. The rezoning and the resulting possible uses will not have an adverse impact on neighboring properties, roadways or other public facilities.**
 - 5. This rezoning to LI-2 will stimulate economic activities in Sussex County by providing shovel-ready sites to attract new businesses in an appropriate location along Route 113.**
 - 6. This site is located in the “Developing District” according to the Sussex County Comprehensive Plan. LI-2 is an appropriate zoning district in this Area according to the Plan.**
 - 7. This LI-2 zone satisfies the stated purposes of the district according to the Sussex County Zoning Code.**
 - 8. Any development of this property under LI-2 zoning will be subject to site plan review by the Sussex County Planning and Zoning Commission to ensure that it complies with all requirements of the Zoning Code.**
- G. Based on the record created before the Planning and Zoning Commission and the Sussex County Council, the Council approved this Application.**