

**ORDINANCE NO. 2160**

**AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A C-1 GENERAL COMMERCIAL DISTRICT TO AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 22,172 SQUARE FEET, MORE OR LESS**

**WHEREAS, on the 9th day of June 2010, a zoning application, denominated Change of Zone No. 1696 was filed on behalf of Timothy J. Stubbs and Coleen M. Hunter; and**

**WHEREAS, on the 28th day of October 2010, 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. 1696 be approved; and**

**WHEREAS, on the 16th day of November 2010, 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 [C-1 General Commercial District] and adding in lieu thereof the designation AR-1 Agricultural 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 Baltimore Hundred, Sussex County, Delaware, and lying at the northwest corner of Road 384 (Bayard Road) and Janus Court, and 400 feet north of Road 370 (Daisey Road) and being more particularly described in Deed Book 3609, Page 98, in the Office of the Recorder of Deeds in and for Sussex County, said parcel containing 22,172 square feet, 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. 2160 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 16TH DAY OF NOVEMBER 2010.**

  
**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:**

- 1. This is an application for a Change of Zone to amend the Comprehensive Zoning Map from a C-1 General Commercial District to an AR-1 Agricultural Residential District for a certain parcel of land lying and being in Baltimore Hundred, Sussex County, Delaware, land lying at the northwest corner of Road 384 (Bayard Road) and Janus Court, and 400 feet north of Road 370 (Daisey Road) to be located on 22,172 square feet, more or less.**
- 2. DelDOT's comments were not requested since this application is to downzone the property from C-1 General Commercial to AR-1 Agricultural Residential.**
- 3. The Sussex County Engineering Department, Utility Planning Division, commented that the site is located in the Bayard Planning Area; that the proposed single family dwelling will use an on-site septic system; that the County is currently working on the Bayard Extension of the Miller Creek Sanitary Sewer District, which proposes to include this parcel; that when and if the County provides sewer service, a connection to the system will be required; and that a Concept Plan is not required.**
- 4. The Sussex Conservation District commented that the Applicant will be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation; that there are no storm flood hazard or tax ditches affected; that the proposed project will not necessitate any off-site drainage improvements; and that it is not likely that the proposed project will necessitate any on-site drainage improvements.**
- 5. The Applicant stated in his presentation that he is unable to refinance his home due to the fact that the property is zoned C-1 General Commercial and that it will only allow him to get a commercial loan at a higher interest rate. The Applicant stated that he has no intent to use the property for commercial purposes and therefore, he desires this property to be AR-1 so he can refinance at the residential rates.**

- 6. The Council found that the down-zoning to AR-1 Agricultural Residential is because the commercial use of the property is impracticable.**
- 7. The Council found that the use is currently residential and will continue to be used in that manner and that the use is consistent with permitted uses in the AR-1 Agricultural Residential District.**
- 8. The Council found that down-zoning will not adversely affect neighboring properties or roadways.**
- 9. The Council found that the down-zoning is consistent with the County's Comprehensive Plan Update.**
- 10. The application was approved based on the above Findings and the recommendation of the Planning and Zoning Commission.**