

**ORDINANCE NO. 2376**

**AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 7.2035 ACRES, MORE OR LESS**

**WHEREAS, on the 14th day of July 2014, a zoning application, denominated Change of Zone No. 1758 was filed on behalf of Dozer, LLC, c/o Hal Dukes; and**

**WHEREAS, on the 25th day of September 2014, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 9th day of October 2014, said Planning and Zoning Commission recommended that Change of Zone No. 1758 be approved; and**

**WHEREAS, on the 2nd day of December 2014, 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 MR Medium Density 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 north of Double Bridges Road (Road 363) east of Parker House Road (Road 362) and being more particularly described per the attached legal description prepared by Axiom Engineering, LLC and containing 7.2035 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. 2376 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 2ND DAY OF DECEMBER 2014.**



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**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 Dozer, LLC, c/o Hal Dukes, to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District to a MR Medium Density Residential District for a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 7.2035 acres, more or less, land lying north of Double Bridges Road (Road 363) east of Parker House Road (Road 362) (911 Address: None Available) (Tax Map I.D. #134-19.00-19.00 (Part of).**
- B. Council found that DelDOT commented that a Traffic Impact Study was not recommended and that the current Level of Service “B” of Double Bridges Road and the current Level of Service “A” of Parker House Road will not change as a result of this application.**
- C. Council found that the Sussex County Engineering Department, Utility Planning Division, commented that the project is located in the Miller Creek Sanitary Sewer District; that wastewater capacity is available for the project; that Ordinance 38 construction will be required; that an 8-inch sewer stub has been provided; that the stub is located along the parcel’s westerly frontage on Double Bridges Road; that conformity to the South Coastal Area Planning Study, 2005 Update, will be required; that connection to the sewer system is mandatory; that the proposed project is a recent expansion area and that sanitary sewer service is available; that the project as proposed is within planning study assumptions for sewer service and there will be adequate capacity for the project as proposed; that the County requires design and construction of the collection and transmission system to meet County Engineering Department requirements and procedures; that the County Engineer must approve the connection point; and that a Sewer Concept Plan must be submitted for review and approval prior to any sewer connections.**
- D. Council found that the Sussex Conservation District commented that the developers shall be required to follow recommended erosion and sediment control practices during**

construction and to maintain vegetation after construction; that the project is not located in a storm flood hazard area; that it is possible that the proposed project will necessitate off-site drainage improvements; that on-site drainage improvements will be required; and that no tax ditches are affected.

- E. Based on testimony at the Public Hearing before the Planning & Zoning Commission and the Public Hearing before the Sussex County Council, Council found that Harold Dukes, Esquire of Tunnell & Raysor, P.A., and Ken Christenbury, Professional Engineer with Axiom Engineering, were present on behalf of the application and stated that their intent is to rezone the property so that they can develop smaller lots for single family detached homes, similar to the trend of development in the area; that 6 months ago they had applied for a cluster subdivision in the AR-1 District, not realizing that they would be required to have central sewer and central water for such an application; that central water is not yet available; that they are proposing the development of a major subdivision of 14 lots; and that the property is located in the Environmentally Sensitive Developing District Overlay Zone, which allows for the subdivision of 7,500 square foot lots served by central sewer and central water.
- F. Council found that the Applicants have dedicated a portion of the property to the County for the installation of Pump Station #286 for the Sewer District; that the Public Service Commission has issued a Certificate of Public Convenience and Necessity (CPCN) to Artesian Water Company to provide central water to the property; that subsequent to the addition of these lands to the Sewer District, no extensions of central water have been made in the vicinity of the property; that Artesian Water Company has issued a statement to the State DNREC's Well Permitting Branch indicating that individual wells would be appropriate for the property; that when the Applicants dedicated the land for the pump station, it was with the anticipation that the land could be developed in similar fashion to the surrounding GR zoned lands; that AR-1 lands without central water have a minimum lot size of 20,000 square feet; that the Applicants' request for this application would allow a MR subdivision with 10,000 square foot lots that are served by central sewer and individual wells, in character with the existing subdivision in the area; that the Applicants own 14.6 acres, the entire parcel; that this rezoning request only includes approximately half of that acreage; and that the residual acreage will remain AR-1.

- G. Council found that plans to construct a sanitary sewer extension from Pump Station #286 to the property have been approved by the Engineering Department; that portions of the sanitary sewer are to be installed under 404 Wetlands regulated by the U.S. Army Corps of Engineers; that the Corps has issued a Nationwide Permit 12 permitting said installation from Pump Station #286 to the property; that no additional wetland impact permits are anticipated for the construction of the subdivision; that the general trend of development in the area is GR General Residential zoning with 10,000 square foot lots improved with manufactured homes and dwellings; that 5 minor subdivision lots have been approved by DelDOT and the Planning Department staff; and that sewer is being made available to the 5 lots and the proposed subdivision, if approved.**
- H. Based on the Findings 1 through 6 of the Planning & Zoning Commission and the record before the Sussex County Council, Council found that:**
- 1. The proposed rezoning is located in the Environmentally Sensitive Developing Area according to the Sussex County Land Use Plan.**
  - 2. The proposed rezoning is located in a “mixed residential area” according to the County Land Use Plan.**
  - 3. The proposed rezoning is consistent with neighboring and adjacent properties and uses and will not have an adverse impact on the neighboring properties or community. It is in close proximity to other lands that have a GR General Residential Zoning and is near the municipal boundary of the Town of Ocean View.**
  - 4. The proposed rezoning is located within the Sussex County Miller Creek Sanitary Sewer District and the Sussex County Engineering Department states that there is adequate capacity for the project as proposed.**
  - 5. The proposed rezoning is consistent with the stated purpose of the MR Zoning District.**
  - 6. No parties appeared in opposition.**
- I. Based on the record, recommendation and findings of the Planning & Zoning Commission and the record created before Council, the Council approved this Application.**