

**ORDINANCE NO. 2421**

**AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A C-1 GENERAL COMMERCIAL DISTRICT TO A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 0.9 ACRE, MORE OR LESS**

**WHEREAS, on the 30th day of June 2015, a zoning application, denominated Change of Zone No. 1784 was filed on behalf of Marlene C. Stebelsky; and**

**WHEREAS, on the 10th day of September 2015, 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. 1784 be approved; and**

**WHEREAS, on the 13th day of October 2015, 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 [C-1 General Commercial District] and adding in lieu thereof the designation of 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 Dagsboro Hundred, Sussex County, Delaware, and lying south of Route 326A (Betts Pond Road) at the southerly end of the dead end of Heritage Lane and north of Betts Pond and being more particularly described in Deed Book 2431 Page 252 in the Office of the Recorder of Deeds in and for Sussex County, said parcel containing 0.9 acre, 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. 2421 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 13TH DAY OF OCTOBER 2015.**



---

**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 Marlene C. Stebelsky to amend the Comprehensive Zoning Map of Sussex County from a C-1 General Commercial District to a MR Medium Density Residential District for a certain parcel of land lying and being in Dagsboro Hundred, Sussex County, containing 0.9 acres, more or less. The property is located south of Route 326A (Betts Pond Road) at the southerly end of the dead end of Heritage Lane and north of Betts Pond (911 Address: 12 Heritage Lane, Millsboro) (Tax Map I.D. 133-16.00-57.00).**
- B. Council found that DelDOT comments were not requested since this application is a downzoning and since the parcel has access from a private street.**
- C. Council found that the County Engineering Department, Utility Planning Division, commented that the property is located in a Town of Millsboro Growth Area; that continued use of an existing septic system is proposed; that conformity to the North Coastal Planning Study will be required; that the parcel is not in an area where the County will provide sewer service; that the Applicant can contact the Town of Millsboro for information on sewer service; and that a Concept Plan is not required.**
- D. Based on the testimony before the Planning & Zoning Commission and the Public Hearing before the Sussex County Council, Council found that Marlene C. Stebelsky was present with David Hutt, Esquire of Morris James Wilson Halbrook & Bayard, LLP, and that they stated that the purpose of the application is to downzone a portion of the property from C-1 General Commercial to MR Medium Density Residential to be more compatible with the residential character of the property and the adjacent properties to the north and east; that access to the property is from Heritage Lane off of Betts Pond Road; that the Stebelsky's have owned the property since 1999; that they only recently found out that the property was partially zoned C-1 General Commercial; that lending institutions may require commercial loans since the property is partially zoned C-1 General Commercial; that the property does not have any direct access to U.S. Route 113; that the adjacent subdivision lots on Lakeside Lane are also zoned MR Medium Density Residential; and that based on the lack of frontage on U. S. Route 113 and the historic use of the property as residential, the property should be downzoned to conform to the adjacent residential properties.**
- E. Based on the Findings (1 through 8) of the Planning & Zoning Commission, Council found that:**
  - 1. Although the property is currently zoned C-1 General Commercial, it has been used for residential purposes since the 1960s.**
  - 2. Rezoning of this property to MR Medium Density Residential will make the zoning consistent with the long-standing use of the property as a residence.**
  - 3. The property is located on a cul-de-sac in a private residential community. The current C-1 General Commercial zoning of the property is not suitable for this location in a small residential subdivision.**
  - 4. There is no frontage on a State Highway that is appropriate for commercial zoning.**

- 5. The property is in a development with restrictive covenants that prohibit commercial uses.**
  - 6. MR Medium Density Residential zoning is compatible with the zoning on contiguous properties.**
  - 7. Neighbors of the Applicant spoke in favor of the application and testified that the downzoning to MR Medium Density Residential would be a benefit to the community.**
  - 8. No parties appeared in opposition to the application.**
- F. Based on the record, recommendation and Findings of the Planning & Zoning Commission and the record created before Council, the Council approved this application.**