

ORDINANCE NO. 2462

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 LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 35.45 ACRES, MORE OR LESS

WHEREAS, on the 15th day of January 2016, a zoning application, denominated Change of Zone No. 1796 was filed on behalf of Lockwood Design and Construction, Inc.; and

WHEREAS, on the 24th day of March 2016, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 14th day of April 2016, said Planning and Zoning Commission recommended that Change of Zone No. 1796 be approved; and

WHEREAS, on the 14th day of June 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 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 [AR-1 Agricultural Residential 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 Lewes and Rehoboth Hundred, Sussex County, Delaware, and lying on the northeast side of Warrington Road (Road 275), 0.25 mile southeast of John J. Williams Highway (Route 24), and being more particularly described as follows:

BEGINNING at a point on the northerly side of Warrington Road (Road 275), said point being 0.25 mile southeast of John J. Williams Highway (Route 24) and east of lands of the City of Rehoboth; thence north 09°33'10" east 404.05 feet along lands of the City of Rehoboth to a concrete monument; thence north 42°06'04" east 774.63 feet along lands of Beebe Medical Center, Inc., to a concrete monument; thence continuing along lands of Beebe Medical Center, Inc., south 53°09'06" east 305.54 feet to an iron pipe and north 40°57'30" east 439.29 feet to an iron pipe; thence south 37°40'32" east 682.80 feet along lands, now or formerly, of Old Landing Road, Inc., to a concrete monument; thence south 08°27'51" west 960.53 feet along lands, now or formerly, of Robino Sea Chase, LLC, and Colleen A. Lowe to an iron pipe on the northerly side of Warrington Road; thence northwesterly by and along the northerly side of Warrington Road 1,491.05 feet to the point and place of beginning, said parcels containing 35.45 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. 2462 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 20TH DAY OF SEPTEMBER 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 Lockwood Design and Construction, Inc. 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 Lewes and Rehoboth Hundred, Sussex County, containing 35.45 acres, more or less. The property is located on the northeast side of Warrington Road (Road 275), 0.25 mile southeast of John J. Williams Highway (Route 24). (911 Address: None Available) (Tax Map I.D. 334-12.00-127.02, 127.04, 127.05)
- B. Based on testimony before the Planning & Zoning Commission and the public hearing before the Sussex County Council, Council found that Mr. and Mrs. Robert Hood, Pete Malmberg, Don Lockwood, and John Barwick of Lockwood Design were present with Gene Bayard, Esquire of Morris James Wilson Halbrook & Bayard LLP at the Planning and Zoning Commission hearing, and Robert Hood, Don Lockwood and John Barwick of Lockwood Design, and Roger Gross of Merestone Consultants, Inc. were present with Dennis Schrader, Esquire of Morris James Wilson Halbrook & Bayard LLP at the County Council hearing, and they stated that this application was initially submitted as a HR-RPC (CZ 1780); that the Planning and Zoning Commission recommended denial of CZ 1780 and, thereafter, the Applicant resubmitted for a Conditional Use project and a Change of Zone from

AR-1 to MR thereby reducing the density to the lower densities provided for in the Medium Density Residential District; that a record of the public hearing for CZ 1780 was made part of the record for this application; that the only change is the zoning classification; that CZ 1780 was recommended to be denied for excess density if the zoning was approved and the RPC classification lapsed; that when the RPC overlay lapses in HR-1 zoning, the density restriction in the RPC lapses and the zoning classification of HR-1 increases the density; that in the Motion to recommend denial, the Planning and Zoning Commission stated that the MR zoning classification with a Conditional Use is a more appropriate application; that there are multiple commercially zoned properties in the area; that there are properties zoned MR, CR-1, HR-2, and two (2) conditional uses with significant density; that Sterling Crossing and Sea Chase both have approximately six (6) units to the acre; that to the north of the property is the Beebe Medical Center; and that in the last 15 years at least 12 Change of Zone applications or Conditional Use applications have been approved in the area.

- C. Council also found that the application is for a Medium Density Residential Development (Arbor-Lyn) containing 35.45 acres more or less of which 3.1 acres are in streets, 23 acres in lots, and open space of 21.17 acres (59.5% of the project); that the property is currently wooded and has a single family dwelling on it; that their proposal is to develop the site with a mixture of residential unit types consisting of 60 single family homes, 82 townhouse units, and a condominium type project with 60 apartments at a gross density of 5.70 units per acre; that the proposed use will be marketed to empty-nesters and 55 and over families; that water will be provided by Tidewater Utilities and sewer will be provided by Sussex County; that any upgrades are at the developers expense; that the project has been reviewed by PLUS, TAC review, stormwater design review by Soil Conservation, and Envirotech has studied the woods; that there are no wetlands or endangered species on the site; that the Applicant met the Sussex County Planning Manager's suggestions to have incorporated additional sidewalks for future connection to the Beebe Medical property; that the Applicant plans to preserve as many trees as possible; that the project did not require a traffic impact study; that the Applicant will participate in the cost of intersection improvements; that DelDOT has a timeline for improvements to the intersection of Old Landing Road and Warrington Road; that the response still does not define whether a traffic light will be required; that the response does define that road improvements will begin in fiscal year 2017; and that the road improvements will coincide with final site plan approval of this project and Osprey Landing, if approved.
- D. Council further found that the project is consistent with the Zoning Ordinance, Comprehensive Land Use Plan, and Future Land Use Map; that the density housing mix is consistent with the Zoning Code and the neighboring developments; that residents from this project will have walking access to the neighboring CR-1 zoned property; that there will be 14 acres of impervious area; that storm water management, ponds, and swales will cover approximately 60% of the property; that with the Conditional Use, the Commission is able to define the density of this project; that this project follows the residential character and development of this area; that this parcel is the last large undeveloped parcel in the area; that this property is in a Level 1 and Level 2 State growth area; and that it should be treated accordingly.
- E. Based on the Findings (1 through 6) of the Planning & Zoning Commission, Council found that:
1. The property is located in an area where there are existing zonings from AR-1 to MR, some limited HR and commercial. There are also some Conditional Uses in the vicinity with densities that are compatible with MR Zoning.
 2. MR Zoning is an appropriate zoning for this location under the Sussex County Comprehensive Plan.

3. **The MR Zoning, which is consistent with surrounding uses and zonings, will not adversely affect the neighboring properties or community.**
 4. **The MR Zoning will be supported by central sewer supplied by Sussex County.**
 5. **The site is served by a central water system.**
 6. **The rezoning to MR zoning is supported by the purpose clause of the MR District as set forth in the Sussex County Zoning Code.**
- F. **Based on the record created before the Planning and Zoning Commission and the Sussex County Council, the Council approved this application.**