

ORDINANCE NO. 2593

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 7.33 ACRES, MORE OR LESS

WHEREAS, on the 1st day of February 2018, a zoning application, denominated Change of Zone No. 1851, was filed on behalf of The Evergreene Companies, LLC; and

WHEREAS, on the 12th day of July 2018, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 26th day of July 2018, said Planning and Zoning Commission recommended that Change of Zone No. 1851 be approved; and

WHEREAS, on the 14th day of August 2018, 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 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 north side of Gills Neck Road, approximately 135 feet west of Spinnaker Circle in the Wolfe Runne development and being more particularly described in the attached legal description, said parcel containing 7.33 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. 2593 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 14TH DAY OF AUGUST 2018.

**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 The Evergreene Companies, LLC 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 7.33 acres, more or less (lying on the north side of Gills Neck Road, approximately 135 feet west of Spinnaker Circle in the Wolfe Runne development) (Tax I.D. No. 335-8.00-44.00) (911 Address: 16386 Gills Neck Road, Lewes).**
- B. Based on the record before the Planning and Zoning Commission and the public hearing before the Sussex County Council, Council found that Jim Fuqua, Esquire with Fuqua, Willard, Stevens and Schab, Josh Mastrangelo, Applicant, and Bob Palmer with Beacon Engineering were present on behalf of the application before the Planning and Zoning Commission and that Jim Fuqua, Esquire with Fuqua Willard, Stevens and Schab, Tim Naughton on behalf of the Applicant, and Bob Palmer with Beacon Engineering were present on behalf of the application before the Sussex County Council; that they stated that this is a growing area; that it proposes 26 multi-family residential units in 13 duplex-type buildings; that to the south are several single-family subdivisions with large lots (Senators, Hawkeye, Wolfe Runne and Wolf Point); that to the east is Showfield and it is also to the rear of the property; that the Junction and Breakwater bike trail is adjacent to the west of the property; that the Cadbury MR-RPC is further west of the property; that Cadbury is 95 acres with many uses; that one part is a retirement community with 48 single and duplex units and 84 apartments along with 80 assisted living rooms and is now called Moorings of Lewes; that the other part of the site is mixed uses and contains 80 single family lots and 105 townhouse, duplex, and condominium units; that across Gills Neck Road to the west is Governors; that Governors was approved for 472 multi-family condo units on 186 acres; and that the 7.33-acre parcel would have a density of 3.5 units per acre which is less than the density permitted in the MR district.**
- C. Council also found that the proposed use is in accordance with the State, Sussex County and the City of Lewes plans; that the property is located in the Level 1 State Strategies; that the Land Use classification per the Comprehensive Plan is in the Environmentally Sensitive Developing Area; that the property is located close to Lewes and their Comprehensive Plan states that 14% of the population is 65 and over, for Sussex County 20.8% is over 65, and for Lewes 43.6% are over the age of 65; that the median age of Lewes residents is 63 years old; that the Lewes Comprehensive Plan recognizes that many of the residents are older and desire to age in place; that water will be provided by the City of Lewes; that sewer service will be provided by Sussex County; that there are no wetlands and the site is not in a floodplain; that there are no endangered species and there are no known historical or agricultural resources on the site; that stormwater management will comply with all regulations; that a Traffic Impact Study was not required; that the entrance to the site will be constructed per DelDOT; that there will be a five foot right-of-way dedication; that the Applicant will construct a shared use path; that the closest duplex building will be 60 feet from Gills Neck Road and the pool and deck area will be 80 feet from the road; that there will be one entrance with the cul-de-sac; that the streets will be private and have curb and gutters; and that there will be sidewalks on both sides of the street.**

- D. Council further found that the average lot size per unit is 7,240 square feet; that 1.32 acres of woods would remain and that 90% of the woods would remain; that there will be a 20 foot buffer along the east and west of the property; that a 10 foot forested landscape buffer will be along the rear of the property; that they have tried to comply with the Byways plan and a 30 foot wooded buffer will be between Showfield; that Sussex County has approved 660 multi-family units and 80 assisted units in the area; that the use and zoning is consistent with the area; that the design is to look like a one story and the worst case scenario box with the maximum buildout area for the houses is shown on the plan; that there will be no parking at the pool due to the size of the community and they could provide a space along the pool; that there will be no age restriction; that the duplexes are on a fee simple lot; that there is no price range yet; that there will be no on street parking; that there will be two parking spaces per unit and each unit will have its own garage: that there will be parking for two in the garage spots, two in the driveway with a minimum of four on site; and that the radius of the cul-de-sac will allow for a fire truck and will still comply with the County's street requirements.**
- E. Based on the record and recommendation of the Planning and Zoning Commission and the Planning and Zoning Commission's Findings (1 through 9), Council found that:**
- 1. The site is along Gill's Neck Road, which has developed with a variety of housing types, including single family homes, duplexes, multi-family units and even an assisted living facility. MR zoning is consistent with the development trends of this area.**
 - 2. The property is nearly adjacent to the Breakwater RPC, which has MR zoning. This application represents a reasonable extension of that existing MR zoning.**
 - 3. The site on the outskirts of Lewes is appropriate for MR zoning and the housing types permitted in that zone.**
 - 4. The site is in the Environmentally Sensitive Developing Area according to the current Sussex County Comprehensive Plan, which is a Developing Area. MR zoning is appropriate in this area according to the Plan.**
 - 5. The site is served by central sewer provided by Sussex County.**
 - 6. The site is served by central water provided by a publicly regulated water system.**
 - 7. The Sussex County Zoning Code states that the purpose of MR zoning is to provide medium density residential development in areas which are, or expect to become, generally urban in character and where central water and sewer are available. Here, the property is just outside of the City of Lewes with development occurring all around, and it is in a Developing Area under the current Comprehensive Plan. This location is appropriate for MR zoning according to the stated purpose of the District.**
 - 8. The change in zone will not adversely affect neighboring properties or roadways.**
 - 9. For all of these reasons, it is recommended to approve the application for a change in zone from AR-1 to MR.**
- F. Based on the record created before the Planning and Zoning Commission and the Sussex County Council, the Council approved this Application.**