

ORDINANCE NO. 2646

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 1.2 ACRES, MORE OR LESS

WHEREAS, on the 20th day of November 2018, a zoning application, denominated Change of Zone No. 1874, was filed on behalf of Leanna and Hung Nguyen; and

WHEREAS, on the 14th day of March 2019, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 28th day of March 2019, said Planning and Zoning Commission recommended that Change of Zone No. 1874 be approved; and

WHEREAS, on the 16th day of April 2019, 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 at the northeast corner of Old Landing Road and Marine Drive and being more particularly described in the attached legal description prepared by Hudson Jones Jaywork & Fisher, said parcel containing 1.2 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. 2646 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 16TH DAY OF APRIL 2019.

**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 Leanna and Hung Nguyen 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 1.2 acres, more or less (lying on the northeast corner of Old Landing Road and Marina Drive) (Tax I.D. No. 334-19.00-1.06) (911 Address: None Available).**
- B. Based on the record before the Planning and Zoning Commission and the hearing before the Sussex County Council, Council found that Alan Decktor, with Pennoni Associates, was present at the Planning and Zoning Commission hearing on behalf of the application, and Mark Davidson, with Pennoni Associates, and Applicants, Leanna Nguyen and Hung Nguyen, were present at both the Planning and Zoning Commission and Sussex County Council hearings, on behalf of the application; that this is an application for a Change in Zone from AR-1 (Agricultural Residential District) to MR (Medium Density Residential); that the land is located in the Environmentally Sensitive Developing District Overlay Zone; that the project is located almost at the end of Old Landing Road; that the property is adjacent to the north and east of Mr. Warrington's property which was approved to rezone the property to MR with a Conditional Use for 22 multifamily units; that to the south of the site is a mobile home park which is non-conforming; that the property is currently vacant; that the project is in character with the neighborhood; and that they are proposing five units within the dwelling.**
- C. Council also found that there are no wetlands on the property; that there is approximately 60% to 70% of open space and the density is 3.85 units per acre; that Mr. Warrington's property had a density of 3.93 units per acre; that the Sawgrass Subdivision is in the area and has a density of 3.68 units per acre; that the mobile home park has a density of 3.2 units per acre and Port Delmarva has a density of 9.87 units per acre; that the project is within the growth area and is characterized as the Environmentally Sensitive Developing Area; that there is MR Zoning in the area; that the parcel is located in the Delaware Strategies for State Policies and Spending Level 5; that the sewer would be provided by the Sussex County Engineering Department; that Tidewater Utilities would provide both domestic and fire protection; and that DeIDOT did not require a Traffic Impact Study.**
- D. Based on the Planning & Zoning Commission's Findings (1 through 8), Council found that:**
 - 1. The site is along Old Landing Road, which has developed with a variety of housing types, including single-family homes, MR-RPC's, multi-family dwellings and manufactured home communities. MR Zoning is consistent with the development trends of this area.**
 - 2. The property to the north and east of this property was recently approved for MR Zoning. This application is a reasonable extension of that existing MR Zoning.**
 - 3. The site is in the Environmentally Sensitive Developing Area according to the current Sussex County Comprehensive Plan, which is a Growth Area. MR Zoning is appropriate in this area according to the Plan.**
 - 4. The site is served by central sewer provided by Sussex County.**

5. This site is served by central water provided by a publicly regulated water system.
 6. 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 one of the last vacant parcels in this area of Old Landing Road, and it is surrounded by MR Zoning on two sides and on the other side by manufactured home communities. It is basically an infill rezoning to MR. This location is appropriate for MR Zoning according to the stated purpose of the District.
 7. The change in zone will not adversely affect neighboring properties or roadways.
 8. For all of these reasons, the application for a change in zone from AR-1 to MR is approved.
- E. Based on the record created before the Planning and Zoning Commission and the Sussex County Council, the Council approved this Application.