

**ORDINANCE NO. 2694**

**AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A GR GENERAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 3.93 ACRES, MORE OR LESS**

**WHEREAS, on the 2nd day of July 2019, a zoning application, denominated Change of Zone No. 1895, was filed on behalf of Gulfstream Development, LLC (Kent Apartments); and**

**WHEREAS, on the 24th day of October 2019, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 14th day of November 2019, said Planning and Zoning Commission recommended that Change of Zone No. 1895 be approved; and**

**WHEREAS, on the 10th day of December 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 GR General 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 on the northwest corner of Parker House Road and Muddy Neck Road and being more particularly described in the attached legal description prepared by Parsons & Robinson, P.A., said parcel containing 3.93 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. 2694 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 17TH DAY OF DECEMBER 2019.**

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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 Gulfstream Development, LLC (Kent Apartments) to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District to a GR General Residential District for a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 3.93 acres, more or less (Tax I.D. No. 134-16.00-382.00) (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 David Hutt, Esquire, with Morris James, LLP, Mr. Bob Harris, a Principal of Gulfstream Development, LLC, and Mr. Jeff Clark, a registered/licensed land use planner with Land Tech Planning, were present at the Planning and Zoning Commission and Sussex County Council hearings on behalf of the application, and Mr. Mike Coben, a registered/licensed engineer with George, Miles & Buhr, LLC, was also present at the Planning and Zoning Commission hearing on behalf of the application; that the application site is a 3.93 acre parcel of land located at the intersection of Muddy Neck Road and Parker House Road which is just outside the municipal limit of the Town of Ocean View; that this application seeks to change the zoning of a portion of the property to GR (General Residential Zoning District); that to the north of the site the land is zoned HR-1 High Density Residential; that to the south and west is the Shady Dell subdivision which is zoned GR and contains both single-wide and double-wide manufactured homes, as well as some stick-built homes; that there is a seasonal produce stand across Muddy Neck Road; and that most of the properties to the east are within the jurisdiction of Ocean View.**
- C. Council also found that the supplemental data submitted by the Applicant includes a field investigation carried out by Mr. Jim McCully of Watershed Eco that identified a ditch on the western portion of the site; that this area would not be disturbed by the development; that there were no rare, threatened or endangered species living on the site; that there is an existing 8" sewer lateral that has been extended into the property from Mimosa Street from the adjoining Shady Dell Subdivision; that Sussex County Engineering has confirmed that there is sufficient capacity to accommodate the proposed number of dwelling units; that there is adequate potable water supply to serve the development, including service for fire protection; that the site is within the Delaware Strategies for State Policies and Spending Level 2 Area and that the State of Delaware has no objection in principle to the use; that there are no known archaeological sites within the parcel; that the proposal is consistent with adjoining land uses and area zoning; and that there are no wetlands on the property.**
- D. Council further found that housing opportunity is a vital issue for the eastern side of Sussex County, where there are limited opportunities for limited-income housing; that, during the PLUS Process, the State of Delaware identified that the proposal represents an opportunity to provide a more affordable type of housing product in an area with little affordable housing; that the State Housing Authority is supportive of the project; that the Applicant recognized that this parcel can assist to meet that housing need within Sussex County; that the Comprehensive Plan recognizes that Sussex County is the fastest growing county in the State of Delaware; that market prices for housing and apartments are increasing and that safe and decent housing is out of reach for many households; that the fourth chapter**

of the Comprehensive Plan recognizes that there is a need to expand affordable housing opportunities, especially near commercial areas; that there are seven growth areas identified, including the Coastal Area, in which the application site is located; that this region does have ecologically and environmentally sensitive areas; that a range of housing types are permitted, including multi-family housing; that medium and higher density could be supported in areas where water and sewer are available; that this application addresses many of these objectives within the Comprehensive Plan; and that Delaware Strategies for State Policies and Spending Level 2 Area also recognizes the need for a variety of housing types.

- E. Council also found that Chapter 8 of the Comprehensive Plan (Housing) recognizes that most housing on the eastern side of the County is unaffordable for recent college graduates and first-time buyers, and that a variety of studies are being undertaken in relation to this; that 8.2 of the Comprehensive Plan talks about the strong demand for housing and the impact of price increases; that the shortage of affordable housing is a very real problem in Sussex County; that there is an identified need for workforce housing, especially in the eastern areas of the County; that workers currently have to live further away, placing increased demands on roads and transportation infrastructure; that the proposal is to provide market-rate housing and not low-income housing; and that the housing would be for year-round workers and not seasonal workers such as newly graduated police officers looking for a place to live.
- F. In addition, Council found that an appraiser has analyzed the site and surrounding uses and concluded that the proposal would not have a negative impact on the area, including the nearby business uses; and that, historically, many of the surrounding properties were zoned AR-1 and they were subsequently, over time, allowed to rezone to the current zoning.
- G. Based on the Planning and Zoning Commission's Findings (1 through 7), Council found that:
1. The project meets the purpose of the Zoning Code in that it promotes the orderly growth of the County.
  2. The proposed rezoning is consistent with other zonings and uses in the area, this includes a HR-1/RPC which is adjacent to the site. The property to the west and south is currently zoned GR and there is B-1 zoning in the area. There are also many services and retail uses in the general area.
  3. The rezoning is basically in-fill to make this parcel consistent with the GR and HR zoning that surrounds it.
  4. The rezoning will not have a significant impact upon area traffic or roadways. DelDOT has stated that the development on this site will generate less than 50 vehicle trips per hour and less than 500 trips per day. DelDOT has stated that the impact of the proposed development of the property will be negligible.
  5. The rezoning will not adversely impact the neighboring properties, community or public facilities in the area.
  6. The site is served by central sewer provided by Sussex County and by central water.
  7. The rezoning is consistent with the Sussex County Comprehensive Plan. The site is in the Coastal Area. According to the Plan, medium and higher densities such as those permitted in the GR district are appropriate in the Coastal Area. According to the Plan, in certain circumstances where the site will be served by central water and sewer, where it is near sufficient commercial uses and employment centers, where it is in keeping with the character of the area and

**other similar factors, the site meets the Plan's considerations for rezoning to GR in the Coastal Area under the Comprehensive Plan.**

**H. Based on the record created before the Planning and Zoning Commission and the Sussex County Council, the Council approved this application.**