

ORDINANCE NO. 2695

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY (45 APARTMENT UNITS) TO BE LOCATED ON 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 conditional use application, denominated Conditional Use No. 2195, 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 Conditional Use No. 2195 be approved with conditions; 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 determined, based on the findings of facts, that said conditional use 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, and that the conditional use is for the general convenience and welfare of the inhabitants of Sussex County.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article VI, Subsection 115-39, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2195 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.

This Ordinance was adopted subject to the following conditions:

- a. A maximum number of residential units shall be 16.**
- b. The Applicant or its successor, as landlord shall be responsible for perpetual maintenance of the development roadway, buffers, stormwater management facilities, erosion and sediment control facilities, and other common areas. The ditch on the property shall be cleaned and maintained and not be filled in. If it is relocated, it must be with the approval of the Sussex County Soil Conservation District and maintained pursuant to their requirements.**
- c. All entrance intersections, roadways, and multi-modal improvements shall be completed by the Developer in accordance with DelDOT's requirements.**
- d. The project shall be served by County sewer. The Developer shall comply with all Sussex County Engineering Department requirements including any off-site upgrades necessary to provide service to the project.**
- e. The project shall be served by central water to provide drinking water and fire protection.**
- f. There shall be vegetated or forested buffer at least ten feet in width.**
- g. The Applicant shall submit as part of the final plan a landscape plan showing the proposed tree and shrub landscape design including the buffer areas.**
- h. Construction activities including site work and deliveries shall occur only between 7:30 a.m. and 7:00 p.m. Monday to Friday and between 8:00 a.m. and 5:00 p.m. on Saturdays. There shall be no construction activities on the site on Sunday.**
- i. Street naming and addressing shall be subject to the review and approval of the County Mapping and Addressing Department.**
- j. The Final Site Plan shall contain the approval of the Sussex County Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.**
- k. All street lights shall be shielded and downward screened so they do not shine on neighboring properties or roadways.**
- l. The interior street designs shall meet or exceed Sussex County street design requirements.**
- m. If required by the local school district, a school bus stop shall be provided. The location of the bus stop shall be shown on the Final Site Plan.**
- n. Recreational amenities including the outdoor swimming pool and bathhouse shall be completed simultaneously with the issuance of the Certificate of Occupancy for the first multi-family dwelling.**
- o. The Final Site Plan shall be subject to the review and approval by the Sussex County Planning and Zoning Commission.**

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2695 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 17TH DAY OF DECEMBER 2019.

**ROBIN A. GRIFFITH
CLERK OF THE COUNCIL**

The Council found that the Conditional Use was appropriate legislative action based on the following Findings of Fact:

- A. This is the application of Gulfstream Development, LLC (Kent Apartments) for a Conditional Use of land in a GR General Residential District for a multi-family (45 apartment units) to be located on 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 the Conditional Use application is for multi-family housing which will consist of three (3) buildings containing 45 apartment units; that the existing perimeter buffer of the parcel would remain largely intact; 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; and that there is adequate potable water supply to serve the development, including service for fire protection.
- D. Council also found that the proposed buildings would be 50' x 150' and each would be three stories in height; that this building size is below the 170' maximum; that this size is in keeping with the adjacent Providence Residential Planned Community; that each building would have a total of 15 residential units with a total of 5 units on each floor; that there would be a mixture of 2 and 3 bedroom units with approximately 40% of the total units being 3 bedroom in size; that adequate area would be provided for perimeter fire access; that the driveways and circulation and parking areas have been designed to exceed minimum Code requirements; that the development requires 90 spaces minimum; that 116 spaces would be provided; that a single commercial vehicle entrance is proposed and aligns with Butler Blvd. across the street; that a meeting was held with DelDOT and the entrance has been reviewed and is considered to be acceptable by DelDOT and that the PLUS response did not raise any objection from DelDOT; that a Traffic Impact Study is not required as the threshold of 500 vehicle trips a day was not met; that DelDOT considered the impact to be negligible; however, DelDOT will require the Developer to improve Muddy Neck Road and Parker House Road across the entire site frontage; that this would include 11' travel lanes and 8' shoulders on development road frontages; that both of these roads are major collector roads; that the Developer must dedicate a minimum 40' of right-of-way to include a 15' permanent easement; and that a shared-use path or sidewalk will be also required.
- E. Council also found that existing utility poles will be relocated to allow for the improvements; that the site is within the Delaware Strategies for State Policies and Spending Investment 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 pervious pavements are to be used to avoid the need for stormwater management areas; that amenities will be located near the road with additional parking; that the existing wooded fringe would be preserved; that the buffer obstructs views into the site; that a landscaping plan would be provided; that landscaping would be maintained by a management company; that the surrounding lands around the proposal are predominantly zoned GR; that there is a mixture of uses in the wider area, but that the remaining AR-1 lands are now actually unique in that little AR-1 remains; that the Site Plan demonstrates that all area and bulk requirements of the County can be met; that the building envelope is sufficient to accommodate the buildings while meeting Building Code requirements; that up to 12 dwelling units to the acre is potentially permitted; that the proposal is consistent with adjoining land uses and area zoning; and that there are no wetlands on the property.

- F. 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 the Delaware Strategies for State Policies and Spending Level 2 Area also recognizes the need for a variety of housing types.**
- G. 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 such as newly graduated police officers looking for a place to live, and not seasonal workers.**
- H. 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; that the application site is not surrounded by single-family homes per se; that townhouses are themselves a form of multifamily; 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.**
- I. Based on the record and recommendation of the Planning and Zoning Commission and the Planning and Zoning Commission’s Findings (1 through 9), as amended, and Conditions (a – o), as amended, Council found that:**
- 1. The application seeks the approval of 45 multi-family structures with three buildings on approximately 3.93 acres but is being amended as set forth (in the conditions), which is “16 units on the entire property”.**
 - 2. The property is in an area where a variety of development has occurred. Lands to the north of this property are zoned HR-1/RPC with a multi-family residential development. Lands to the west and south are developed under GR zoning and there is a nearby B-1 zoning and other lands with commercial uses. This property is basically an infill development and it is consistent with these nearby uses.**
 - 3. This site is in the Coastal Area according to the Sussex County Comprehensive Plan. This type of development is appropriate in this area according to the plan which states that a range of housing types are acceptable here including medium and high density with a site near commercial uses is served by central water and sewer where the key use is in keeping with the character of the area and other similar factors. These types of considerations exist with regard to this site.**
 - 4. The proposed development will not have an adverse impact on the neighboring properties or communities with the conditions attached.**

- 5. The project is located in an area of opportunity as defined by the Delaware State Housing Opportunity Maps. The Delaware State Housing Authority has strongly recommended this application.**
- 6. The development will be served by central sewer provided by Sussex County.**
- 7. This application is essentially an infill development that is consistent with adjacent residential development in the area.**
- 8. The development will be served by central water.**
- 9. Based on the record and recommendation of the Planning and Zoning Commission and the record created before the Sussex County Council, the Conditional Use is approved subject to fifteen (15) conditions (a – o), as amended, which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**