

**ORDINANCE NO. 2700**

**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 BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 13.33 ACRES, MORE OR LESS**

**WHEREAS, on the 16th day of July 2019, a zoning application, denominated Change of Zone No. 1896, was filed on behalf of Fenwick Commons, LLC; and**

**WHEREAS, on the 14th day of November 2019, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 12th day of December 2019, said Planning and Zoning Commission recommended that Change of Zone No. 1896 be approved; and**

**WHEREAS, on the 17th 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 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 Baltimore Hundred, Sussex County, Delaware, and lying at the southwest corner of Lighthouse Road (Route 54) and Sand Cove Road, and the east side of Sand Cove Road approximately 211 feet south of Lighthouse Road (Route 54), and being more particularly described in the attached legal description prepared by Parsons & Weidman, P.A., said parcel containing 13.33 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. 2700 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 14TH DAY OF JANUARY 2020.**

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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 Fenwick Commons, 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 Baltimore Hundred, Sussex County, containing 13.33 acres, more or less (lying at the southwest corner of Lighthouse Road (Route 54), and Sand Cove Road, and the east side of Sand Cove Road, approximately 211 feet south of Lighthouse Road (Route 54) (Tax I.D. No. 533-19.00-52.00) (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 Eugene H. Bayard, Esquire, of Morris James, LLP, and Ken Christenbury with Axiom Engineering were present on behalf of the application; that Conditional Use No. 2098 and Change of Zone No. 1827 were recommended for approval with conditions by the Commission in November 2017; that the record of those applications was made a part of this record; that in 2017, the Commission recommended approval of the 52 duplex-type residential structures with a density of 3.9 units per acre; and that on January 23, 2018, County Council denied the applications by a vote of 3-2, stating that the Environmentally Sensitive Development District Overlay Zone should have a western boundary and that the subject property should be limited to AR density of not more than two units per acre.**
- C. Council also found that since that time two things have changed; that to the south of the subject property is farmland; that to the east is Bayside – Phase 7 which is fronted by commercially zoned property on Route 54; that the Bayside development has 48 multi-family dwellings on 9.87 acres which is a density of 4.86 units per acre; that the second change is that in March 2019, the Environmentally Sensitive Development District Overlay Zone was replaced by the new classification of Coastal Area and that the County’s Future Land Use maps were amended accordingly; that this property is within the Coastal Area; that the Comprehensive Plan states that, for Coastal Areas, it is clear that where central water and sewer are available, a range of housing types should be permitted including single-family homes, townhomes, and multi-family units; and that the language also states that medium and higher density is appropriate in certain locations where there is central water and sewer, near sufficient commercial uses and employment areas, and where it is in keeping with the character of the area.**
- D. Based on the Findings (1 through 7) of the Planning & Zoning Commission, Council found that:**
- 1. The Planning and Zoning Commission previously recommended approval of this rezoning on November 16, 2017.**
  - 2. The project is located in the Coastal Area according to the 2018 County Comprehensive Land Use Plan. MR Zoning is appropriate in this area according to the Plan.**
  - 3. The proposed MR Zoning meets the purpose of the Zoning Ordinance in that it promotes the orderly growth of the County in an appropriate location.**

- 4. The property is surrounded by land that is currently zoned MR. In addition, there are other properties in the area that are zoned MR, along with C-1 and B-1, as well as the Bayside project. This rezoning is an infill of MR zoning, and it also is consistent with other zonings and land uses in the area.**
  - 5. The rezoning to MR will not have an adverse impact on neighboring properties or the community.**
  - 6. No parties appeared in opposition to this application.**
  - 7. MR zoning is appropriate for this site because medium density development is appropriate in areas where central water and sewer are available. In this case, sewer service will be provided by Sussex County and adequate wastewater capacity is available. Water service will be provided by a publicly regulated water company.**
- E. Based on the record created before the Planning and Zoning Commission and the Sussex County Council, the Council approved this application.**