

**ORDINANCE NO. 2771**

**AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 5.0 ACRES, MORE OR LESS**

**WHEREAS, on the 28<sup>th</sup> day of February 2020, a zoning application, denominated Change of Zone No. 1921 was filed on behalf of Stephen M. Sprogell; and**

**WHEREAS, on the 25th day of March 2021, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 8th day of April 2021, said Planning and Zoning Commission recommended that Change of Zone No. 1921 be approved with conditions; and**

**WHEREAS, on the 27th day of April 2021, 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 MR-RPC Medium Density Residential District Residential Planned Community 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 south side of Sprogell Lane. approximately 873 ft. east of the intersection of Whites Neck Rd. and Sprogell Lane., and being more particularly described in the attached legal description prepared by Morris & Ritchie Associates, Inc., said parcel containing 5.0 ac., 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. The conditions imposed by Ordinance No. 1670 for Change of Zone No. 1526 shall apply to this application, with the exception that this application shall add 23 additional units to the total number of permitted units.**
- b. The property that is the subject of this application shall be integrated into the overall development scheme of the Bay Forest project.**
- c. The number of units associated with this application shall be 23 units consisting of 15 single-family detached units and 8 townhouse units.**
- d. As a result of this application, the total number of units approved for the Bay Forest Club MR-RPC shall be 936 units.**
- e. Before proceeding with any construction involving land that is the subject of this application, the Applicant or Developer shall submit a revised Master Plan integrating this land into the Bay Forest Club MR-RPC.**

**I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2771 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 27TH DAY OF APRIL 2021.**

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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 Stephen M. Sprogell to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District to a MR-RPC Medium Density Residential District – Residential Planned Community for a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 5.0 acres, more or less (property lying on the south side of Sprogell Lane, approximately 873 feet east of the intersection of Whites Neck Road (S.C.R. 347) and Sprogell Lane) (Tax I.D. No. 134- 8.00-17.01) (911 Address: 30261 Sprogell Lane, Dagsboro).**
- B. Based on the testimony before the Planning and Zoning Commission and the public hearing before the Sussex County Council, Council found that James Fuqua, Esquire of Fuqua, Willard, Stevens & Schab, P.A. was present on behalf of the Applicant, Natelli Communities, together with Tom Natelli and Ken Usab from Morris Ritchie Associates; that Mr. Sprogell is the property owner; that this is an application to rezone a five-acre parcel of land from AR-1 to MR-RPC overlay as an addition to the existing Bay Forest Club MR-RPC; that Bay Forest Club is located north of Millville and east of White’s Neck Road; that it is a rectangular portion of land with a panhandle for access; that Bay Forest Club was originally approved in 2004 as a MR-RPC containing a mixture of 808 residential units, consisting of single-family lots, villas and townhouses; that in 2005, the RPC site plan was amended to provide a street connection to an existing approved but undeveloped subdivision that contained 32 lots which was called Bywoods; that this approved subdivision was surrounded by Bay Forest Club and was interconnected; that Bywoods became part of the Bay Forest Club subject to the same restrictions and benefits; and that in 2014 the Council approved Applicant’s request for a MR-RPC zoning for a 30-acre parcel as an addition to the MR-RPC that added 84 units to the RPC which increased the RPC to 913 units.**

- C. Council also found that this application requests the rezoning of a five acre parcel to MR-RPC and will be used as the site of a new section of the development and will contain 23 units made up of 15 single-family detached condos and eight villa townhouse units; that these units will be similar to other homes being built in the development; that these 23 units would increase the total number units in the RPC to 936; the increase in density would be insignificant as it would go from 2.19 to 2.22 units per acre; and that this is significantly less than what is permitted by the Zoning Code.
- D. Council also found that the five acre parcel is currently zoned AR-1 but is surrounded by lands that are zoned MR; that according to the Land Use Plan, this site is in the Coastal Area which is a growth area; that the entrance will be from the existing Sanderling Road and will have an internal connection to Flycatcher Way, so there will be two points of ingress and egress to this section; that the townhome villas will be located on the eastern portion of the site and will have two buildings each with four units; that the 15 single family condo units would be located on the remainder of the land; that the existing access to the parcel from Sprogell Lane will be eliminated and most of the panhandle area will be incorporated into the existing stormwater management system as an extension of the existing pond; that 69 parking spaces are required and will be provided with an additional 18 off-street parking spaces for a total of 87 parking spaces; that there will be a village green of open space in the center of this portion of the development between the single-family units and a small area close to Sanderling Road which creates an open vista view through the center; that over 40% of this section will be in open space; and that there will be a 6-foot wide concrete walkway in this section which links up with other walkways throughout the development for pedestrian access to all the community.
- E. Council also found that Environmental Resources, Inc. performed a wetland delineation and found that there are no wetlands located on the site and confirmed with U.S. Fish and Wildlife Service that there are no federally listed animals or plants or natural communities that are protected on the site; that there are no archeological sites or national listed properties on the site; that the stormwater management will meet State regulations and will be a continuation of the existing system in the development; that the development of this section will improve stormwater quality from the site by eliminating any nutrient run-off from the existing conditions; that the site currently has an unpaved dirt road, an on-site septic system and a small on-site livestock operation; that as with the rest of the Bay Forest Development, this section will be served with water for domestic use and fire protection by Tidewater Utilities and have an elevated water tower within the Bay Forest Development; that this section will be served by Sussex County Sewer District and adequate capacity is available; that DelDOT indicated that traffic impact for the development of this section would be negligible and no Traffic Impact Study was required; and that no additional roadway improvements would be required as the Developer has already provided improvements as part of the existing development.
- F. Council further found that the purchasers of the 23 units in this section will be subject to the same restrictions and benefits as the owners in the rest of the development and that includes the use of the existing recreational amenities; that Bay Forest Club has been a successful community with approximately 900 lots built and sold; that the inclusion of this five-acre parcel is a textbook infill parcel; and that the construction of the additional 23 units is appropriate and a logical addition to this community and will eliminate the existing use which is not compatible with the existing residential uses of the Bay Forest Club development.
- G. Based on the Planning and Zoning Commission's Findings (1 through 7) and Conditions (8a through e), Council found that:
1. This is a property that is surrounded by the Bay Forest MR-RPC. It will be completely integrated into that MR-RPC.
  2. This expansion to the Bay Forest MR-RPC will consist of 23 new units. The gross density of the entire Bay Forest MR-RPC will increase from 2.19 units per acres to 2.33 units per acre. This remains significantly less than what is permitted under the MR Medium Density Residential Zoning District.

- 3. This expansion area will be interconnected with the interior roads of the Bay Forest MR-RPC and the existing entrance onto White's Neck Road will be eliminated.**
  - 4. This expansion area will be served by central water and sewer.**
  - 5. The stormwater management of this expansion area will be integrated into the existing system within Bay Forest.**
  - 6. This expansion of the Bay Forest MR-RPC will not adversely affect area roadways, traffic or nearby property values.**
  - 7. Scores of letters were received in support of this application and there was not any opposition to it.**
  - 8. Based on the record and recommendation of the Planning and Zoning Commission, the Change of Zone is approved subject to five (5) conditions (a – e) which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**
    - a. The conditions imposed by Ordinance #1670 for Change of Zone #1526 shall apply to this application, with the exception that this Application shall add 23 additional units to the total number of permitted units.**
    - b. The property that is the subject of this application shall be integrated into the overall development scheme of the Bay Forest project.**
    - c. The number of units associated with this application shall be 23 units consisting of 15 single-family detached units and 8 townhouse units.**
    - d. As a result of this application, the total number of units approved for the Bay Forest Club MR-RPC shall be 936 units.**
    - e. Before proceeding with any construction involving land that is the subject of this application, the Applicant or Developer shall submit a revised Master Plan integrating this land into the Bay Forest Club MR-RPC.**
- H. Based on the record created before the Planning and Zoning Commission and the Sussex County Council, the Council approved this application.**