

ORDINANCE NO. 2783

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 BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 6.4 ACRES, MORE OR LESS

WHEREAS, on the 18th day of June 2019, a zoning application, denominated Change of Zone No. 1891, was filed on behalf of Chappell Farm, LLC; and

WHEREAS, on the 21st day of January 2021, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 11th day of February 2021, said Planning and Zoning Commission recommended that Change of Zone No. 1891 be approved; and

WHEREAS, on the 2nd day of March 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 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 Broadkill Hundred, Sussex County, Delaware, and lying on the northwest corner of Coastal Highway (Route 1) and Cave Neck Road, and being more particularly described in the attached legal description prepared by Becker Morgan Group, Inc., said parcel containing 6.4 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. 2783 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 22ND DAY OF JUNE 2021.

**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 Chappell Farm, 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 Broadkill Hundred, Sussex County, containing 6.4 acres, more or less (property lying on the northwest corner of Coastal Highway [Route 1] and Cave Neck Road) (Tax I.D. No. 235-23.00-1.02 [portion of]) (911 Address: 30511 Cave Neck Road, Milton).**
- B. Based on the record before the Planning and Zoning Commission and the hearing before the Sussex County Council, Council found that John W. Paradee, Esquire, with Baird Mandalas Brockstedt LLC, was present on behalf of the Applicant, Chappell Farm, LLC, together with Michael Riemann and Christopher Duke from the Becker Morgan Group, and Christian Hudson and Jamin Hudson, Principals of Chappell Farm, LLC; that this application seeks a change in zone from AR-1 Agricultural Residential District to MR Medium Density Residential District; that the property is adjacent to a property that has C-1 zoning; that there are other commercially zoned properties across Cave Neck Road from this site; that in the case of the C-1 zoning, a wide variety of commercial uses are permitted and the District also allows residential development of up to 12 units an acre; that there is also extensive MR zoning next to this property and across Cave Neck Road from this property; and that this rezoning is consistent with other zonings and land uses in the area.**
- C. Council also found that the Sussex County Code states that the purpose of the MR District is to provide for medium-density residential development in an area which is, or which is expected to become, generally urban in character, and both central water and central sewer will be available; that sewer can be provided by the Sussex County Unified Sanitary Sewer District, operated and maintained by the Sussex County Engineering Department and water can be provided by Artesian Resources, Inc.; that the area is expected to become generally urban in character, as evidenced by the surrounding uses; that, in addition, this site is the location of a grade separated intersections (or overpass) that is being constructed by DelDOT with on-ramps and off-ramps and will be one of the first grade-separated intersections in Sussex County; and that this grade-separated intersection adds an urban character to the area.**
- D. Council further found that, according to the Sussex County Comprehensive Plan, the property is located in the Coastal Area and MR zoning is appropriate in this area; that the 2018 Sussex County Comprehensive Plan outlines zoning districts by their applicability to each Future Land Use category; that under Table 4.5-2, "Zoning Districts Applicable to Future Land Use Categories", the Medium Density Residential District is listed as an applicable zoning district in the "Coastal Area"; that the Coastal Area is designated to encourage growth and development provided that environmental concerns are addressed; that the Coastal Area may include various types of housing, small-scale retail and office, light commercial, and institutional land uses; that, given its location adjacent to the interchange being constructed by DelDOT and the uses surrounding the property, the purpose of the MR District has been met; that MR zoning will promote the orderly growth of Sussex County in an appropriate location and will allow a wide range of opportunity to develop the site, while maintaining the existing character of the area; and that MR zoning is appropriate for this property.**

E. Based on the Planning & Zoning Commission's Findings (1 through 6), Council found that:

- 1. This application seeks a change in zone from AR-1 to MR. The purpose of the MR zone is to provide housing in an area which is expected to become urban in character and where central water and sewer are available.**
- 2. The stated purpose of the MR District is satisfied for this site. Both central water and central sewer will be available. Also, this site is the location of a grade separated intersection, (or overpass) that is being constructed by DelDOT with on-ramps and off-ramps. This will be one of the first grade-separated intersections in Sussex County. This grade separated intersection gives this location an urban character. Given its location adjacent to this interchange, MR zoning is appropriate for this property.**
- 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 adjacent to a property that has C-1 zoning and there are other commercially zoned properties across Cave Neck Road from this site. In the case of the C-1 zoning, a wide variety of commercial uses are permitted and that District also allows residential development of up to 12 units an acre. There is also extensive MR next to this property and across Cave Neck Road from this property. This rezoning is consistent with other zonings and land uses in the area.**
- 5. The site is located within the Coastal Area according to the Sussex County Comprehensive Plan. MR Zoning is appropriate in this area according to the Plan.**
- 6. For all of these reasons, MR zoning is appropriate for this site.**

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