

**ORDINANCE NO. 2803**

**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 8.33 ACRES, MORE OR LESS**

**WHEREAS, on the 15th day of June 2021, a zoning application, denominated Change of Zone No. 1945 was filed on behalf of Gulfstream Development, LLC; and**

**WHEREAS, on the 26th day of August 2021, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 9th day of September 2021, said Planning and Zoning Commission recommended that Change of Zone No. 1945 be approved; and**

**WHEREAS, on the 21st day of September 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 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 on the southwest side of Sand Cove Road (S.C.R 394) approximately 750 feet southeast of Lighthouse Road (Route 54) and being more particularly described in the attached legal description prepared by Raymond E. Tomasetti, Jr. Esq., said parcel containing 8.33 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. 2803 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 21ST DAY OF SEPTEMBER 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 Gulfstream Development, 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 8.33 acres, more or less” (property lying on the southwest side of Sand Cove Road (S.C.R. 394) approximately 750 feet southeast of Lighthouse Road [Route 54]) (Tax I.D. No. 533-19.00-56.05) (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, of Morris James, LLP, was present on behalf of the Applicant, Gulfstream Development, LLC, together with Mr. Robert Harris, who is the Principal of Gulfstream Development, LLC, Mr. Steve Engel with Vista Design Inc. and Mr. Tom Brinker who is one of the current owners of the property; that the Application is for a 8.33 acre parcel located on Sand Cove Road; that this is a short distance from the intersection of Sand Cove Road and Lighthouse Road; that directly across the street is part of the Bayside subdivision; that the Commission previously considered an Application for Bay Knoll on the adjacent property to the west; that the previous Bay Knoll Application was very similar to the proposed Application; that it requested approval for a Change of Zone from AR-1 Agricultural Residential to MR Medium Residential, as well as, sought the approval of 52 duplex multi-family units for the property; that the Application was approved on December 12, 2019; that on January 14, 2020 Sussex County adopted Ordinance 2700 and Ordinance 2701 which were the approvals for C/Z 1896 and C/U 2197; that in the previously approved site plan there is a note to a proposed future access to the Melson property; that the Melson property is part of the property belonging to Heron’s Ridge at Bayside; that currently the proposed entrance has been installed; that after the Bay Knoll’s Application was approved in January 2020, Gulfstream Development, LLC purchased the 13.3-acre parcel and also placed the current Application’s 8 acres under contract; that the 8 acres were placed under contract with the goal of replicating what is currently placed on the 13 acres; and that the Applicant requests approval to continue the theme of the 13 acres, to the proposed 8 acres, with hopes to result in a superior project in several respects.**
- C. Council also found that the proposed property is located in the Coastal Area on the Sussex County Future Land Use Map; that the Coastal Area is one of the seven growth areas; that in the project booklet there is a Chapter 99-9C response and an Environmental Assessment and Public Facility Report which is required; that according to the Comprehensive Plan the MR Zoning District is appropriate in the Coastal Area on the Future Land Use map; that the Comprehensive Plan states that medium and higher densities are appropriate when public utilities are available to serve the project; that water for fire protection and drinking will be provided by Artesian Water Co. Inc.; that the Sussex County Engineering Department states that the property is located in Tier I of the Sussex County Unified Sanitary Sewer System; and that the capacity is available for the proposed units.**
- D. Council also found that the project is currently zoned AR-1; that directly to the west of the property is MR Zoning; that across the street from the property, it is zoned MR/RPC Medium Density Residential District - Residential Planned Community; that located further down the road is the Bayside Community which is zoned as MR; that in 2014 the Application for the MR/RPC was approved for a combination of single-family homes, townhomes and duplexes; that along Route 54 is a parcel previously approved for B-1 Neighborhood Business which was approved in 2016; that also approved in 2016 was the Heron’s Ridge at Bayside Application, which is located directly across Sand Cove Road from the currently proposed 8 acres; that in**

**2020 the Bay Knolls Subdivision Application was approved for a Change of Zone to MR along with the 52 unit multi-family Conditional Use; and that the proposed Application is consistent with the character and trend of development in the area along Sand Cove Road.**

- E. Council also found that DelDOT stated in the Service Level Evaluation Response that there was no Traffic Impact Study (“TIS”) required and indicated the traffic impact to be negligible; that the Application proposes the same multi-family duplex housing style located within the adjacent 13 acres; that the Application proposes housing consistent with housing found across the street, as well as the mixture of homes found in the various phases of Bayside; that the Application has a similar proposed density as the 13-acre parcel; that the gross density of the 13-acre parcel is 3.9 units per acre; that the gross density of the proposed Application is 3.84 units per acre; and that the MR Zoning District permits up to four units per acre.**
- F. Based on the Planning & Zoning Commission’s Findings (1 through 7), Council found that:**
- 1. The project is located in the Coastal Area according to the County Comprehensive Land Use Plan. MR Zoning is appropriate in this Area according to the Plan.**
  - 2. This site is intended to be joined with the adjacent property, which was the subject of CZ #1896 and CU #2197 that approved MR zoning and 52 multi-family duplex units on that 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 land that is currently zoned MR. In addition, there are other properties in the area that are zoned MR, C-1 and B-1 as well as the Bayside project. This rezoning 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. MR zoning is appropriate for this site because medium density development is appropriate 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.**
  - 7. For all of these reasons, MR Medium Density Residential Zoning is appropriate for this location.**
- G. Based on the record created before the Planning and Zoning Commission and the Sussex County Council, the Council approved this Application.**