

ORDINANCE NO. 2893

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AN MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.4 ACRES, MORE OR LESS

WHEREAS, on the 28th day of December 2021, a zoning application, denominated Change of Zone No. 1965 was filed on behalf of Kent Walston, LLC; and

WHEREAS, on the 13th day of October 2022, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Change of Zone No. 1965 be approved; and

WHEREAS, on the 18th day of October 2022, 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 on the east side of Kent Avenue (S.C.R. 361), approximately 350 feet north of Jefferson Bridge Road (S.C.R. 361A) and being more particularly described in the attached deed prepared by Sergovic, Carmean, Weidman, McCartney & Owens, P.A., said parcel containing 1.4 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. 2893 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 18TH DAY OF OCTOBER 2022.

**Tracy N. Torbert
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 Kent Walston, LLC to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District to an MR Medium Density Residential District for a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 1.4 acres, more or less (property lying on the east side of Kent Avenue [S.C.R. 361], approximately 350 feet north of Jefferson Bridge Road [S.C.R. 361A]) (911 Address: N/A) (Tax Parcel: 134-17.07-173.02).**
- B. Based on the record before the Planning and Zoning Commission and the hearing before the Sussex County Council, Council found that Mr. Chris Phifer, professional engineer with GMB, LLC, was present on behalf of the Application, together with the Applicant, Mr. Paul McCabe; that the property is currently zoned as AR-1 (Agricultural Residential) Zoning District; that the Applicant is requesting a zoning change to MR (Medium-Density Residential) Zoning District; that the property is 1.37 acres and is located off Kent Avenue, being adjacent to Bethany Beach, Delaware; that there was an issue found while going through the process; that while going through PLUS it was discovered the property was showing as being under the jurisdiction of the Town of Bethany Beach; that he confirmed the property is located within Sussex County's jurisdiction; that the property was incorrectly included within the Bethany Beach Municipality in the 2019 Comprehensive Plan; that this error was discovered during the PLUS meeting of November 17, 2021; and that the Ordinance request is to amend the Comprehensive Zoning Map to show the property as being within Sussex County's Coastal Area.**
- C. Council also found that all of the adjacent properties to the north are zoned R-2 (Residential District) for the Town of Bethany Beach; that per the Town of Bethany Beach, the R-2 Zoning District permits one, two, three and four standard dwelling unit buildings; that Bethany Proper is located directly north of the property; that Bethany Proper includes multifamily duplexes, triplexes and quadplexes; that to the south of the property are MR properties located within Sussex County's jurisdiction; that there is one HR-1 (High-Density Residential) property located directly to the west of the property; and that the HR-1 area is a mix of condominiums and single-family homes.**
- D. Council also found that public water is provided by Bethany Beach; that sewer service will be served by Sussex County; that Kent Avenue is a DelDOT maintained road; that the entrance off Kent Avenue will be coordinated with DelDOT, following all rules and regulations; that DelDOT did not require a Traffic Impact Study (TIS), as there was less than 500 vehicle trips anticipated per day; that the project anticipates 42 vehicle trips per day; that an Environmental Assessment and Public Facilities Evaluation Report was prepared by GMB, LLC; that an additional Environmental Assessment Report was prepared by ERI (Environmental Resources, Inc.), which indicated no threatened or endangered species were found on the site; that ERI performed a site investigation confirming there are no State regulated tidal wetlands located on the property; that the Federally Regulated Wetlands are still being distinguished; that a wetland report will be submitted to Philadelphia District Corps; and that it has been indicated there are no anticipated impacts to any potential Federally regulated wetlands on the site.**
- E. Based on the Planning & Zoning Commission's Findings (1 through 10), 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 is available.**

- 2. Both central water and sewer are available at this site.**
 - 3. This site is situated along Kent Avenue adjacent to the municipal boundary of the Town of Bethany Beach. Given its location, MR zoning is appropriate for this property.**
 - 4. The property is near other properties that are zoned MR and it is next to Bethany Beach Town Zoning that is similar to Sussex County's MR Zone.**
 - 5. The proposed MR zoning is consistent with other nearby residential uses, including townhomes.**
 - 6. 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.**
 - 7. The Commission has recommended a corrective amendment to the Future Land Use Map in the Sussex County Comprehensive Plan to show that this property is in the Coastal Area. MR Zoning is appropriate in this Area according to the Plan.**
 - 8. No parties appeared in opposition to this Application.**
 - 9. Any future development of the site will require either a conditional use or site plan approvals by the Sussex County Planning & Zoning Commission.**
 - 10. For all 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.**