

ORDINANCE NO. 2314

AN ORDINANCE TO MODIFY CONDITION NO. 24 IMPOSED ON ORDINANCE NO. 2110 FOR CHANGE OF ZONE NO. 1694, THE APPLICATION OF CMF BAYSIDE, LLC, FOR "AMERICANA BAYSIDE", A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY, TO ALLOW REVISED COMMERCIAL ENTRANCE LOCATION (LEFT-TURN) AS MAY BE APPROVED BY DELDOT (Tax Map I.D. 5-33-19.00-16.00)

WHEREAS, on the 22nd day of April 2013, a zoning application, denominated Change of Zone No. 1731 was filed on behalf of CMF Bayside, LLC.; and

WHEREAS, on the 27th day of June 2013, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 11th day of July 2013, said Planning and Zoning Commission recommended that Change of Zone No. 1731 be approved; and

WHEREAS, on the 16th day of July 2013, 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 Condition No. 24 be modified to read "All commercial activities shall be limited to the south side of Route 54, with no direct access to Route 54, except for a single right-in/right-out/left-in commercial entrance to Parcel 16.00 as may be approved by DelDOT. Entrances to other commercial areas shall be a minimum of 300 feet from Route 54.

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 Route 54 and Americana Parkway across from Zion Church Road.

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 modified Condition No. 24:

“All commercial activities shall be limited to the south side of Route 54, except for a 1.27 acre parcel designated Tax Map 5-33-19.00 Parcel 17.01, located on the north side of Route 54 on which commercial use shall be permitted subject to commercial entrance approval from DelDOT. Entrance to the commercial area located on the south side of Route 54 shall be a minimum of 300 feet from Route 54, except for a single right-in/right-out/left-in commercial entrance to a parcel designated as Tax Map 5-33-19.00 Parcel 16.00 which is subject to approval from DelDOT”.

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2314 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 16TH DAY OF JULY 2013.


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:

- 1. This is the application for an Ordinance to modify Conditional No. 24 imposed on Ordinance No. 2110 for Change of Zone No. 1694, the application of CMF Bayside, LLC for “Americana Bayside”, a MR-RPC Medium Density Residential District – Residential Planned Community, to allow a revised commercial entrance location (left-turn) as may be approved by DelDOT, for a certain parcel of land lying at the southwest corner of Route 54 and Americana Parkway Across from Zion Church Road (Tax Map I.D. 5-33-19.00-16.00).**
- 2. DelDOT commented that the Department has reviewed a traffic operational analysis (“TOA”) received on February 6, 2013; that the TOA examines a change in configuration of the existing access to the property, from its current rights-in/rights-out configuration; that after reviewing the TOA, the Department finds that this change is acceptable; that the entrance can remain at its existing location; and that DelDOT provided a Concept Plan of the new entrance configuration with their comments.**
- 3. The Sussex County Engineering Department, Utility Planning Division, commented that the site is located in the Fenwick Island Sanitary Sewer District; that wastewater capacity is available for this project; that Ordinance 38 construction is required; that conformity to the South Coastal Area Planning Study, 2005 Update, will be required; that the proposed zoning is to amend a condition of approval to revise DelDOT’s entrance requirements; that the Department requests to meet with the Applicant to determine the impact and sewer requirements in regards to the revised commercial entrance proposal; that the Department anticipates that their requirements will be met; and that a Concept Plan is required.**
- 4. Mr. Fuqua, Attorney with Fuqua, Yori and Willard, P.A., was present on behalf of the Applicants and stated that, originally, the RPC approval required that all commercial activities would be limited to the south side of Route 54 with internal access through the community; that in 2010, an amendment to Condition No. 24 allowed rights-in/rights-out on Route 54; that the Applicants are now requesting a left-in on Route 54 to serve the commercial area; and that the only change in the wording of Condition No. 24 is the addition of the wording “left-in”.**
- 5. Mr. Fuqua stated that this site will be developed for commercial use; that the existing welcome center on the site is being relocated internally within the RPC project; that the entrance improvements are the responsibility of the Applicants; and that the site also has access connection to Americana Parkway, the entrance into the Americana Bayside Residential Planned Community.**

6. **Based on the record and recommendation of the Planning & Zoning Commission and the record created before Council, the Council approved this application to modify Condition No. 24, as follows:**

“All commercial activities shall be limited to the south side of Route 54, except for a 1.27 acre parcel designated Tax Map 5-33-19.00 Parcel 17.01, located on the north side of Route 54 on which commercial use shall be permitted subject to commercial entrance approval from DelDOT. Entrance to the commercial area located on the south side of Route 54 shall be a minimum of 300 feet from Route 54, except for a single right-in/right-out/left-in commercial entrance to a parcel designated as Tax Map 5-33-19.00 Parcel 16.00 which is subject to approval from DelDOT”.