

**ORDINANCE NO. 2361**

**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 LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 5.00 ACRES, MORE OR LESS**

**WHEREAS, on the 31st day of March 2014, a zoning application, denominated Change of Zone No. 1753 was filed on behalf of Cadbury at Lewes, Inc.; and**

**WHEREAS, on the 12th day of June 2014, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 26th day of June 2014 said Planning and Zoning Commission recommended that Change of Zone No. 1753 be approved with conditions; and**

**WHEREAS, on the 5th day of August 2014, 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 Lewes and Rehoboth Hundred, Sussex County, Delaware, and lying northeast of Road 267 (Gills Neck Road) 1,100 feet east of Road 268 (Kings Highway) and being more particularly described as follows:**

**BEGINNING at a point on the northeasterly right-of-way of Road 267 (Gills Neck Road), a corner for these subject lands and other lands of Cadbury at Lewes, Inc.; thence North 46°00'00" East 1,447.04 feet along other lands of Cadbury at Lewes, Inc. to a point; thence South 42°31'46" East 320.00 feet along other lands of Cadbury at Lewes, Inc. to a point; thence North 47°09'56" East 155.00 feet along Breakwater Development to a point; thence North 40°48'38" West 425.39 feet along the boundary line of the City of Lewes to a point; thence South 46°00'00" West 1660.82 feet across lands of L.W. and J.T. Mitchell Family Limited Partnership to a point on the northeasterly right-of-way of Road 267 (Gills Neck Road); thence easterly approximately 110.00 feet along the northeasterly right-of-way of Road 267 (Gills Neck Road) to the point and place of beginning, said parcel containing 5.00 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.**

**This Ordinance was adopted subject to the following conditions:**

- a. The total number of units permitted by this application shall be 32. This includes 29 new units in the rezoning area and three (3) units within the existing Cadbury project.**
- b. The Property that is covered by this application shall be incorporated into the entire Cadbury at Lewes project.**
- c. The existing 30 foot landscaped buffer located along the western boundary of Cadbury shall be relocated to the western boundary of the expansion area.**
- d. With the exception of the number of units, the conditions imposed on Ordinance No. 1679 shall apply to this approval.**
- e. The Final Site Plan for this MR-RPC shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

**I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2361 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 5TH DAY OF AUGUST 2014.**



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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 Cadbury at Lewes, Inc. 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 to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 5.0 acres, more or less, land lying northeast of Road 267 (Gills Neck Road) 1,100 feet east of Road 268 (Kings Highway) (911 Address: 17028 Cadbury Circle, Lewes, Delaware) (Tax Map I.D. 3-35-8.00-37.00 (Part of).**
- B. Council found that the Sussex Conservation District commented that the Applicants will be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation; that there are no storm flood hazard areas affected; that the project will likely necessitate off-site drainage improvements; that the project will necessitate on-site drainage improvements; and that no tax ditches are affected.**
- C. Council was provided with copies of an Exhibit Booklet, copies of the Revised Site Plan, PLUS response comments, comments on the 99-9C requirements, copies of an Environmental Assessment and Public Facilities Evaluation Report, Technical Advisory Committee comments and a copy of Ordinance No. 1679 for Change of Zone No. 1528, the original application filed on behalf of Cadbury Senior Services, Inc.**
- D. Based on testimony before the Planning & Zoning Commission and the Sussex County Council, Council found that Carol Holzman, representing Cadbury at Lewes, Inc., was present with Robert Gibbs, Esquire, of Morris, James, Wilson, Halbrook & Bayard, LLP, and Ring Lardner, Professional Engineer, of Davis, Bowen & Friedel, Inc., and they stated that the site is located just off Gills Neck Road to the rear of the existing Cadbury project; that the project is currently at 90% capacity; that the existing Cadbury project was approved by Ordinance No. 1679 in April 2004; that the original MR-RPC approved 212 units and 215 were built; that the issue of the three additional units will be corrected with this proposed application because the 5 acres would actually support 32 units; that the current project includes independent cottages, apartments, assisted living quarters, and nursing/rehabilitation facilities; that this proposal is intended to be an expansion, not a separate application site; and**

that the site is located in a Level 1 Area according to the 2010 State Strategies Map.

- E. Council also found that two shared parking lots will be located on the side of the buildings; that sidewalks are proposed to connect the buildings to one another and the parking lots; the proposal is for four buildings; that a maintenance shed is also proposed with this expansion; that the thirty (30) foot landscaped buffer that currently exists will be relocated to form the western boundary of the property; that the property is currently split-zoned (AR-1 and MR) and the request is to rezone the entire property to MR-RPC; that 2.9 acres is proposed to be open space; that an Environmental Assessment and Public Facilities Report was prepared and included in the Exhibit Book; that the project was presented to PLUS on April 23, 2014 and comments were received from the Office of State Planning Coordination on May 21, 2014; that the site does not contain any wetlands and is not within a flood area; and that there are no historic or cultural resources listed on this parcel.
- F. Council further found that DelDOT did not require a Traffic Impact Study; that the project will use the existing roadways to serve the expansion; that stormwater management will meet or exceed all State, County, and Sussex Conservation District requirements and be maintained utilizing Best Management Practices; that the project will comply with all requirements of the Subdivision Ordinance Section 99-9C; that a small portion of the parcel is within a groundwater recharge area and that a wet pond will not be located within this area; that there are no commercial uses intended; and that they have no objections to the conditions proposed by the Planning and Zoning Commission.
- G. Based on the Findings (1 through 8) and Conditions (a through e) of the Planning & Zoning Commission, Council found that:
1. This is a five (5) acre expansion of the existing Cadbury at Lewes Senior Residential project. It will consist of 4 new residential buildings with a total of 29 units in the new area and three (3) units in the existing facility. It will be consistent with the overall density of the existing Cadbury facility.
  2. The rezoning will not adversely affect neighboring communities and roadways in the area.
  3. This expansion of Cadbury promotes the health, safety and welfare of Sussex County and its residents by providing additional Senior Housing opportunities for Sussex County residents.

- 4. The site is in a developing area under the Sussex County Comprehensive Development Plan and the rezoning is consistent with the Plan.**
- 5. The rezoning is consistent with the existing Cadbury project as well as the nearby residential development on Gill's Neck Road.**
- 6. No parties appeared in opposition to the Application.**
- 7. The project will be served by central water and Sussex County sewer.**
- 8. Based on the record, recommendation and findings of the Planning & Zoning Commission and the record created before Council, the Council approved this Application subject to the following conditions.**