

**ORDINANCE NO. 2496**

**AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A MR MEDIUM DENSITY RESIDENTIAL DISTRICT TO A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT - RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 141.086 ACRES, MORE OR LESS**

**WHEREAS, on the 14th day of September 2016, a zoning application, denominated Change of Zone No. 1817 was filed on behalf of Liborio Ellendale, LLC; and**

**WHEREAS, on the 9th day of March 2017, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 23rd day of March 2017, said Planning and Zoning Commission recommended that Change of Zone No. 1817 be approved with conditions; and**

**WHEREAS, on the 9th day of May 2017, 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 [MR Medium Density 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 Cedar Creek Hundred, Sussex County, Delaware, and lying west of Old State Road (Road 213) and southeast of Sharons Road (Road 641) and also 118 feet south of Wild Cherry Street (a subdivision street) and being more particularly described as follows:**

**BEGINNING at an iron rod found on the westerly right-of-way of Road 213, 118 feet south of Wild Cherry Street; thence south 00° 36' 27" west 1,606.89 feet along the westerly right-of-way of Road 213; thence southerly and continuing along the westerly right-of-way of Road 213, 567.09 feet with 6,330.00 foot radius to a point; thence south 12° 51' 22" west 243.73 feet along the westerly right-of-way of Road 213 to a point; thence south 09° 11'**

04" west 20.00 feet along the westerly right-of-way of Road 213 to a point; thence by and along the northerly property line of Randall Raser, 571.01 feet to an iron rod; thence southerly approximately 700 feet along the meandering rear line of said Raser lands and lands of Daniel P. Lynch to an iron rod; thence south 70° 08' 01" west 1,832.08 feet along lands of Raymond and Sherry L. White to an iron rod; thence north 01° 48' 27" west 1,277.29 feet along lands of the State of Delaware to a point; thence continuing northerly along the meandering rear line of said State lands, lands of Clifford D. Short, lands of James and Kimberly Burns, and lands of Robert P. Short Jr. and Virginia L. Short, approximately 1,200 feet to a point; thence north 06° 19' 30" east 195.78 feet along lands of Robert P. Short Jr. and Virginia L. Short, lands of Shannon M. Showell, and lands of Bayview Loan Servicing, LLC to a point; thence north 52° 17' 33" west 178.32 feet along said Bayview Loan Servicing, LLC lands to a point; thence north 49° 55' 15" east 571.50 feet along the rear of lots 5 through 9 of John H. Walker Subdivision to a point; thence following the entrance road right-of-way from Road 641 the following five (5) courses: north 40° 04' 45" west 167.50 feet to a point, 39.27 feet along a radius of 25.00 feet with a chord bearing of north 85° 04' 45" west to a point, north 49° 55' 15" east 100.00 feet along the southeasterly right-of-way of Road 641 to a point, 39.27 feet along a radius of 25.00 feet with a chord bearing of south 04° 55' 15" west to a point, and south 40° 04' 45" east 167.50 feet to a point; thence north 49° 55' 15" east 700.22 feet along the rear of lots 1 through 4 of John H. Walker Subdivision to a point; thence north 89° 42' 00" east 560.79 feet and north 89° 23' 00" east 724.35 feet along Walker Acres Subdivision to the point and place of beginning, said parcel containing 141.086 acres, more or less, per survey by Davis, Bowen & Friedel, Inc.

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 maximum number of lots or units shall not exceed 296. There shall be 224 single family lots and 72 townhouses.
- B. All entrances, intersections, interconnections, roadways and multi-modal improvements required by DelDOT shall be completed in accordance with DelDOT's requirements.
- C. A traffic calming device shall be installed for Joseph Court Road and shall be shown on the Final Site Plan.

- D. The development shall be served as part of a Sussex County Sanitary Sewer District. The Developer shall comply with all requirements and specifications of the County Engineering Department.**
- E. The RPC shall be served by central water.**
- F. Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with all applicable State and County requirements. These facilities shall be operated in a manner that is consistent with Best Management Practices.**
- G. Sidewalks, street lighting and roadside trees shall be provided for the internal streets and their locations shall be shown on the Final Site Plan.**
- H. The Park Area shown on the preliminary site plan shall be created for the community and the Town of Ellendale, with details provided as part of the Final Site Plan. The Final Site Plan shall also include at least 10 parking spaces for this area.**
- I. The developer shall form a homeowner's association responsible for the maintenance of the streets, road, buffers, open space, stormwater management facilities and other common areas.**
- J. There shall be active and passive recreational amenities provided. The active amenities shall include a centralized recreational area including a tot lot, clubhouse and swimming pool open to use by residents by the issuance of the 72nd building permit. All the amenities shall be shown on the Final Site Plan.**
- K. The developer shall minimize tree removal. Conservation Easements shall be created as non-disturbance areas for the northerly and southerly upland forested areas with these areas shown on the Final Site Plan.**
- L. A school bus stop and DART bus stop shall be provided. The location of the bus stop area shall be shown on the Final Site Plan.**
- M. A 20-foot wide forested or landscaped buffers shall be installed along the entire perimeter of the site.**
- N. Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.**
- O. The Final Site Plan shall contain the approval of the Sussex Conservation District for design and location of all stormwater management areas and erosion and sediment control facilities.**

- P. The Final Site Plan shall include a landscape plan for all of the open space and buffer area, showing all of the landscaping and vegetation to be included in those areas.**
- Q. The Final Site Plan shall include a phasing plan and shall be subject to the review and approval of the Planning and Zoning Commission.**

**I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2496 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 9TH DAY OF MAY 2017.**

---

**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 of Liborio Ellendale, LLC to amend the Comprehensive Zoning Map of Sussex County from a MR Medium Density Residential District to a MR-RPC Medium Density Residential District – Residential Planned Community for a certain parcel of land lying and being in Cedar Creek Hundred, Sussex County, containing 141.086 acres, more or less (located on the west side of Old State Road (Road 213) and southeast of Sharons Road (Road 641) and also approximately 118 feet south of Wild Cherry Street (a subdivision street) (Tax I.D. No. 230-26.00-115.00, 115.04, 122.00; and 230-31.00-33.00, 33.01) (911 Address: None Available).**
- 2. Based on the record before the Planning and Zoning Commission and the hearing before the Sussex County Council, Council found that Zachary Crouch, of Davis, Bowen, and Friedel, Inc. and, Louis J. Ramunno, Esquire of Ramunno & Ramunno, P.A. were present on behalf of the Applicant; that 141 acres was previously approved and rezoned as a MR-RPC in 2008; that the old house is included as part of the application; that the development would include 224 single family homes and 72 townhomes; that it would be 2.11 units per acre and that they would cluster the lots; that 36 acres of woodlands would be in a Conservation Easement; and that there are lots of amenities which people can walk to, including the pool, tot lot and clubhouse that is proposed.**
- 3. Council also found that in May 2009 the Planning and Zoning Commission approved the same plan and on June 30, 2009 the County Council approved the plan; that since the approval, the property changed property owners; that during that time they were in the process of obtaining all agency approvals when the RPC expired; that all agency approvals have now been received; that the property was annexed into the sewer district with specific number of units, and sewer plans are approved; that the Milford School District has approved a bus stop along with DART; that there is a required buffer of the project; that there will be sidewalks, street lighting and landscaping throughout the community; that streets will be built to County standards; that the pump station was approved; that stormwater management was approved in June 2015; that the water will be supplied by Artesian; that the Traffic Impact Study was done and requirements have been met; that PLUS comments have been addressed as well as Sussex County Code Chapter 99, §99-9; that 5,000 square feet is typical for a clubhouse and there will be more detail on the site plan; that the a park area as shown on the preliminary site plan will be created for the community and the Town of Ellendale, with at least 10 parking spaces for the park; and that 75 acres will be open space.**

4. **Based on the Planning and Zoning Commission's Findings (1 through 7) and Conditions (A through Q), and the record created before the Sussex County Council, Council found that:**
  1. **This is the site of an identical Residential Planned Community that was approved as Ordinance Number 2069. The prior approval lapsed and was voided.**
  2. **The County Engineering Department has indicated that adequate wastewater capacity is available for project. Central water will also be provided.**
  3. **With the conditions and stipulations placed upon it, the RPC designation is appropriate, since it allows the creation of a superior environment through design ingenuity while protecting existing and future uses. It permits a design that duplicates the grid layout of the Town of Ellendale while maintaining 40 acres that will be subject to a permanent conservation easement.**
  4. **The project will not adversely affect the neighborhood or surrounding community and it is consistent with growth patterns of the adjacent Town of Ellendale.**
  5. **The project will not adversely impact schools, public or community facilities, area roads or public transportation.**
  6. **According to the County's Comprehensive Plan, the project is in a Developing Area.**
  7. **The Applicant has favorably addressed the items set forth in Section 99-9C of the Subdivision Code.**
  8. **Based on the record and recommendation of the Planning & Zoning Commission, the Change of Zone from MR Medium Density Residential District to MR-RPC Medium Density Residential District – Residential Planned Community is approved subject to seventeen (17) conditions (A-Q) which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**