

**ORDINANCE NO. 2498**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURES (20 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 5.1 ACRES, MORE OR LESS**

**WHEREAS, on the 31st day of October 2016, a conditional use application, denominated Conditional Use No. 2072 was filed on behalf of KHM Ventures DE, LLC; and**

**WHEREAS, on the 20th day of April 2017, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 18th day of May 2017, said Planning and Zoning Commission recommended that Conditional Use No. 2072 be approved with conditions; and**

**WHEREAS, on the 23rd 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 determined, based on the findings of facts, that said conditional use 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, and that the conditional use is for the general convenience and welfare of the inhabitants of Sussex County.**

**NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:**

**Section 1. That Chapter 115, Article VI, Subsection 115-39, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2072 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 on the north side of Munchy Branch Road, approximately 1,064 feet southwest of Field Lane, and being more particularly described in Plot Book 2105, Page 294, in the Office of the Recorder of Deeds in and for Sussex County, said parcel containing 5 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 maximum number of residential units shall not exceed 20 units.**
- B. All entrance, intersection, roadway and multi-modal improvements required by DelDOT shall be completed by the Applicant in accordance with DelDOT's determination.**
- C. The project will be served by a County Sewer District. It must be constructed in accordance with the requirements of the Sussex County Engineering Department, including any offsite upgrades necessary to provide service to the project.**
- D. The project shall be served by a public central water system providing adequate drinking water and fire protection as required by applicable regulations.**
- E. Stormwater management and erosion and sediment control shall be constructed in accordance with applicable state and county requirements, and the project shall utilize Best Management Practices to construct and maintain these fixtures. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of the stormwater management system.**
- F. The interior street design shall be in accordance with or exceed Sussex County street design requirements. As proffered by the Applicant, sidewalks shall be installed along both sides of all streets.**
- G. The Applicant shall submit as part of the site plan review a landscape plan showing the proposed tree and shrub landscape design, as well as buffers along the upland perimeter of the project.**
- H. Construction, site work, grading, and deliveries of construction materials, landscaping materials and fill on, off or to the property shall only occur between the hours of 7:00 a.m. and 6:00 p.m., Monday through Saturday.**
- I. Street naming and addressing shall be subject to the review and approval of the County Mapping and Addressing Departments.**
- J. The Final Site Plan for the development shall be subject to approval of the Planning and Zoning Commission.**

**I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2498 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 23RD DAY OF MAY 2017.**

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**ROBIN A. GRIFFITH  
CLERK OF THE COUNCIL**

**The Council found that the Conditional Use was appropriate legislative action based on the following Findings of Fact:**

- A. This is the application of KHM Ventures DE, LLC for a Conditional Use of land in a GR General Residential District for multi-family dwelling structures (20 units) to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 5.1 acres, more or less (located on the north side of Munchy Branch Road, approximately 1,064± feet southwest of Field Lane) (Tax I.D. No. 334-13.00-27.00) (911 Address: 18834 Munchy Branch Road, Rehoboth Beach).**
- B. Based on testimony before the Planning & Zoning Commission and the public hearing before the Sussex County Council, Council found that James Fuqua, Esquire with Fuqua, Willard, Stevens, & Schab, P.A., Frank Kea and Jason Palkewicz with Solutions IPEM, LLC, and the Developer, Ed Launey with Environmental Resources, Inc., were present on behalf of the application; that Mr. Fuqua stated that this is an application for a Conditional Use for 20 single family detached residential condominiums unit; that the land contains 5.1 acres; that the site is in an Investment Level 2 Area according to State Strategies; that the land is zoned GR General Residential District; that the zoning allows for medium density residential use including manufactured homes; that the maximum density is 4.35 residential units per acre; that the property is located in the Environmentally Sensitive Developing Area (ESDA) and the Mixed Residential Area per the Comprehensive Plan; and that there is a mixture of residential and commercial uses in the area.**
- C. Council also found that water will be provided by Tidewater Utilities; that the property is located in the Sussex County Unified Sanitary Sewer District; that sewer capacity is available for the site; that the sewer concept plan was approved; that a wetland delineation was performed and there is one-half (1/2) acre that is non-tidal wetlands; that the wetlands are located to the rear of the property adjacent to Munchy Branch Road; that all the buildings are going to be located 30 feet from the wetlands and the wetlands boundary will be marked; that stormwater management will meet or exceed DNREC standards and they can do infiltration on site; that no endangered or threatened species exist on site; and that there are no historical structures on or near the property.**
- D. Council further found that DelDOT did not require a Traffic Impact Study; that the road will be built as a private drive; that the driveway will be built to the new Sussex County road standards and not to the old road standards; that the street will be curbed with gutters; that there will be sidewalks on both sides of the street and street lighting; that there will be a 20 foot landscape buffer on the sides of the upland portion of the site and a 40 foot landscape buffer along Munchy Branch Road; that there will be a community gathering area with a picnic area, shade structure, and a fire pit; that passive inactive open space including the wetlands will total approximately 2 acres; that there will be one (1) lighted sign; that the gross density is 3.9 units per acre; that each unit will have a two-vehicle garage in addition to the two parking spaces in the driveway; that there will be a Condominium Association; and that no environmental assessment has been submitted.**

- E. Based on the record and recommendation of the Planning and Zoning Commission and the Planning and Zoning Commission's Findings (1 through 6) and Conditions (7A through J), Council found that:**
- 1. The parcel is zoned GR General Residential and the purpose of the GR District is to provide for medium density residential use. This application is consistent with the purpose of the GR District.**
  - 2. The property is in an area along Munchy Branch Road where other residential development has occurred, including single family, multi-family, and manufactured home developments. The project is consistent with those developments.**
  - 3. The density of 20 units on 5.1 acres is within the permissible density of the GR General Residential Zone.**
  - 4. The project is in a Development District according to the Sussex County Comprehensive Development Plan.**
  - 5. The development will be served by central water and sewer.**
  - 6. With the stipulations placed upon this approval, there will be no adverse impact on neighboring or adjacent properties. It will also result in housing options in an appropriate location that are essential and desirable for the general convenience and welfare of Sussex County.**
  - 7. Based on the record and recommendation of the Planning & Zoning Commission, the Conditional Use was approved subject to ten (10) conditions (A – J) which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**