

ORDINANCE NO. 2519

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 4.16 ACRES, MORE OR LESS

WHEREAS, on the 8th day of February 2017, a conditional use application, denominated Conditional Use No. 2085, was filed on behalf of Land and Marketing Corporation; and

WHEREAS, on the 13th day of July 2017, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 27th day of July 2017, said Planning and Zoning Commission recommended that Conditional Use No. 2085 be approved with conditions; and

WHEREAS, on the 22nd day of August 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. 2085 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 northeast side of Sandy Cove Road, approximately 472 feet north of Cedar Neck Road and on the northwest side of Cedar Neck Road, approximately 764 feet north of Sandy Cove Road, and being more particularly described per the attached legal description, said parcel containing 4.16 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 be 19.**
- B. All entrances, intersection, roadways and multi-modal improvements shall be completed by the Developer in accordance with all DelDOT requirements.**
- C. The project shall be served by Sussex County sewer. The Developer shall comply with all Sussex County Department requirements, including any offsite upgrades necessary to provide service to the project.**
- D. The project shall be served by central water to provide drinking water and fire protection.**
- E. The Applicant shall submit as part of the Final Site Plan a landscape plan showing the proposed tree and shrub landscape design, including any buffer areas.**
- F. All construction and site work on the properties, including deliveries of materials to or from the property, shall only occur between 7:00 a.m. and 6:00 p.m. Monday through Saturday.**
- G. Street naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.**
- H. The Applicant shall form a homeowners' or condominium association responsible for the perpetual maintenance of the streets, road, any buffers or landscaping, stormwater management facilities, erosion and sediment control facilities, and other common elements.**
- I. The stormwater management system shall meet or exceed the requirements of the State and County. It shall be constructed and maintained using Best Management Practices.**
- J. The Final Site Plan shall contain the approval of the Sussex County Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.**
- K. The Final Site Plan shall be subject to 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. 2519 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 26TH DAY OF SEPTEMBER 2017.

**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 Land & Marketing Corporation to consider the Conditional Use of land in a GR General Residential District for Multi-Family Dwelling structures to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 4.16 acres, more or (located on the northeast side of Sandy Cove Road, approximately 472 feet north of Cedar Neck Road and on the northwest side of Cedar Neck Road, approximately 764 feet north of Sandy Cove Road (Tax I.D. No. 134-9.00-88.00, 80.06, and 80.01 (portion of)) (911 Address: None Available).
- B. Based on testimony before the Planning & Zoning Commission and the public hearing before the Sussex County Council, Council found that Jeff Clark, with Land Tech Planning, and Robert Harris, President of Land & Marketing Corporation, were present on behalf of the application; that the proposed use of the property is as a single-family home community with 19 homes (Salt Aire); that Conditional Use 1752 was approved for the property as a 16-unit multi-family attached dwelling project in 2007 and has lapsed; that information was presented which included an environmental assessment, public facility evaluation, PLUS comments and Applicant's response, boundary and topographic survey, storm drainage design, public water (Sussex Shores) and wastewater service (Sussex County), analysis of traffic, open space (57%), architectural floor plans, setbacks, buffers, parking, streetlighting, landscaping, FEMA requirements, and compliance with the County's Land Use Plan; that the dwellings will have a 15-foot separation distance and will comply with the 165-foot maximum length requirement; that the homes will be two story homes; that 49 homes are allowed per maximum density but they are only proposing 19 homes; that they will not exceed the setback requirements; that they are proposing a 10-foot wide landscape buffer; that they will try to preserve existing trees; that there will be new trees and landscaping around the homes; that there will be street lights; and that the entire community will be condominium ownership.
- C. Council also found that the site is in an Investment Level 3 Area according to Strategies for State Policies and Spending; that the project is within the Environmentally Sensitive Development District Overlay Zone; that DelDOT did not require a Traffic Impact Study or a Traffic Operations Analysis; that DelDOT will require a public right-of-way dedication along Sandy Cove Road and Cedar Neck Road and a permanent sign easement (community name signage at the gateway to the community); that access into the community will be from Sandy Cove Road; that there are no sidewalks; that the roads will be 24 feet wide for cars and could strip five feet for sidewalks; and that the turnarounds meet Fire Marshal regulations.
- D. Council further found that the site consists of 4.61 acres and is comprised of three (3) abutting tracts of land on three (3) separate tax parcels and is mostly undeveloped; that there is an interior parcel of land surrounded by existing single family dwellings, all of which are fronting on existing roads and streets; that one residence and some storage buildings are currently on the site; that the existing house will be removed; that the entire Salt Aire tract is zoned GR General Residential as are all the existing lots abutting the property on all sides; that there are no known archeological sites on the site; that the project lies within the Cedar Neck Expansion of the Bethany Beach Sanitary Sewer District; that the allocated EDU capacity is 15 EDUs; that a letter was received from John Ashman, Sussex County Engineering Department, stating that there are no capacity issues; that they propose to enter into a Use of Existing Infrastructure Agreement with Sussex County and purchase an additional 4 EDUs; that there will be two (2) stormwater management facilities; that one of the stormwater management ponds will be designed to be dry and used as open space; that Sussex Shores Water Company will be able to provide water; that the sewer will be using an existing line from Sandy Cove Road; that there no known endangered species or wetlands; that a half acre will be buffer and 57% will be open space; that all construction will conform to FEMA requirements; that there will be no negligible affect to values of the area; that it is a well-drained area; that the property slopes and drains toward the home across Sandy Cove Road; and that there are existing public water mains in the road.

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 7K), Council found that:

- 1. This property was the site of Conditional Use #1752 that was approved in 2007 for multi-family dwellings. The application is similar to that prior approval.**
- 2. The property is in an area where other residential development has occurred, including single family homes, multi-family homes, mobile home communities and campgrounds. This project is consistent with those nearby uses, and it is essentially an infill development in this area of Cedar Neck Road.**
- 3. The site is in the Environmentally Sensitive Developing Area according to the Sussex County Comprehensive Plan. This type of development is appropriate in this area according to the Plan.**
- 4. The proposed development will not have an adverse impact on the neighboring properties or roadways.**
- 5. The proposed density is significantly lower than the allowable density in the GR General Residential District.**
- 6. The development will be served by central sewer provided by Sussex County.**
- 7. Based on the record and recommendation of the Planning & Zoning Commission, the Conditional Use is approved subject to eleven (11) conditions (A - K), which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**