

ORDINANCE NO. 2555

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A GR-RPC GENERAL RESIDENTIAL DISTRICT - RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 21.26 ACRES, MORE OR LESS

WHEREAS, on the 4th day of August 2017, a zoning application, denominated Change of Zone No. 1844, was filed on behalf of Boardwalk Development, LLC, aka Westridge Shores; and

WHEREAS, on the 8th day of February 2018, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 22nd day of February 2018, said Planning and Zoning Commission recommended that Change of Zone No. 1844 be approved with conditions; and

WHEREAS, on the 13th day of March 2018, 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 of GR-RPC General 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 Indian River Hundred, Sussex County, Delaware, and lying at the southeast corner of Shady Lane and Banks Road and being more particularly described in the attached legal description, as prepared by Axiom Engineering, LLC.

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 shall not exceed 54 single family lots.**
- B. A homeowner's association shall be formed to provide for the perpetual maintenance, repair and replacement of buffers, stormwater management facilities, streets, amenities and other common areas.**
- C. All entrances, intersections, interconnections, roadways and multi-modal improvements required by DelDOT shall be completed in accordance with DelDOT's requirements.**
- D. The RPC 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 opened in a manner which is consistent with Best Management Practices.**
- G. Interior street design shall meet or exceed Sussex County's street design requirements. There shall also be sidewalks on both sides of all streets within the RPC.**
- H. No wetlands shall be included within any individual lots. Any wetland buffers required by Section 115-93(B) shall be shown on the Final Site Plan.**
- I. As stated by the Applicant, all amenities shall be completed prior to the issuance of the 27th building permit.**
- J. A 20 foot wide vegetated buffer shall be established along the perimeter of the site. This may include the existing trees. Trees shall be left to the extent possible and removal shall be minimized next to the Hopkins Prong.**
- K. If requested by the local school district, a school bus stop shall be provided. The location of the bus stop area shall be shown on the Final Site Plan.**
- L. Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.**

- M. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.**
- N. The Final Site Plan shall include a landscape plan for all of the buffer areas, showing all of the landscaping and vegetation to be included in the buffer areas.**
- O. The Final Site Plan 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. 2555 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 13TH DAY OF MARCH 2018.

**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 Boardwalk Development, LLC to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District to a GR-RPC General Residential District – Residential Planned Community for a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 21.26 acres, more or less [located at the southeast corner of Shady Lane and Banks Road] (Tax I.D. No. 234-17.00-165.00) (911 Address: None Available).**
- B. Based on the record before the Planning and Zoning Commission and the public hearing before the Sussex County Council, Council found that Ken Christenbury with Axiom Engineering, LLC and Joseph Reed, owner of Boardwalk Development, LLC, were present on behalf of the application; that the Applicant proposes 54 single family dwellings on 21.32 acres which is a 2.54 density; that the site is consistent with the character and trend of the development in the area; that Shady Lane is a community with a mix of mobile homes, modular homes, stick built homes and has a density of 2.67 dwelling units per acre; that the adjoining Dogwood Lane Development has a density of 9.32 dwelling units per acre; that there are no sidewalks in either community; that they are proposing 43% open space including preservation of 6 1/2 acres of existing forest; that there will be sidewalks on both sides of the streets; that there will be protection of the forested wetlands; that there are large wooded buffers on both sides; that to the north, the minimum buffer is 68 feet wide and widens out as it gets farther back in the project; that along the waterfront, there is a 20 foot forested buffer; and that on the south side, open space is 50 to 100 feet deep.**
- C. Council also found that the project will be served by Sussex County sewer and Tidewater Utilities will provide water; that the project is in the Environmentally Sensitive Developing Area and complies with that section of Code; that there is open space with amenities along the water for the entire community; that the property currently consists of 66 unimproved lots and they are proposing 54 lots; that they are proposing a change of zone from AR-1 to GR-RPC; that the project went to PLUS; that the project is located in the Level 3 Area in State Strategies; that the site will include stormwater management ponds and the Final Site Plan approval shall be subject to the Sussex Conservation District’s final approval; that the Sussex County Engineering Department will construct sewer within two years; that the**

DelDOT Service Level Evaluation did not require a Traffic Impact Study; that there are no known endangered species on the parcel; that they have provided a draft of covenants; and that the property will be compatible with the surrounding area and will be an improvement to the area.

D. Based on the record and recommendation of the Planning and Zoning Commission and the Planning and Zoning Commission's Findings (1 through 9) and Conditions (10A through 10O), as amended, Council found that:

- 1. The property is currently zoned AR-1 (Agricultural Residential District). However, both the deed to the property and a recorded plot for the property reference 66 lots within the 21.16 acre parcel. This density is similar to the density permitted within the GR Zoning District.**
- 2. GR Zoning is also consistent with the adjoining Dogwood Lane Development, which has a density of 9.32 units per acre.**
- 3. The County Engineering Department has indicated that adequate wastewater capacity is available for the project as a GR-RPC. Central water will also be provided.**
- 4. 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. This project will maintain 43% open space, which includes 6.5 acres of existing forest. It also includes large wooded buffers on both sides of the site. There will also be amenities along the water available to the entire community.**
- 5. The project will not adversely affect the neighborhood or surrounding community. There are existing developments in the immediate area with similar characteristics. This is basically in-fill development, with a density similar to what exists in the immediate area.**
- 6. The proposed development will have a density of 2.54 units per acre, which is less than the 2.67 units per acre to the north, and the 9.32 units per acre to the south.**
- 7. According to the County's current Comprehensive Plan, the project is in a Developing Area.**
- 8. The Applicant has favorably addressed the items set forth in Section 99-9C of the Subdivision Code.**
- 9. No parties appeared in opposition to the application.**
- 10. Based on the record and recommendation of the Planning & Zoning Commission, the Change of Zone is approved subject to fifteen (15) conditions (A - O), as amended, which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**