

**ORDINANCE NO. 2566**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY UNITS (52 TOWNHOMES) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 6.86 ACRES, MORE OR LESS**

**WHEREAS, on the 6th day of June 2017, a conditional use application, denominated Conditional Use No. 2106, was filed on behalf of MDI Investment Group, LLC; and**

**WHEREAS, on the 16th day of November 2017, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 14th day of December 2017, said Planning and Zoning Commission recommended that Conditional Use No. 2106 be approved; and**

**WHEREAS, on the 5th day of December 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 V, Subsection 115-31, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2106 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 southeast side of Shady Road, approximately 130 feet northeast of Plantations Road, and being more particularly described per the attached deeds, said parcels containing 6.86 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 41.**
- B. All entrances, intersection, roadway, 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 Engineering 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. Interior street design shall meet or exceed the Sussex County street design requirements.**
- F. All construction and site work on the property, including deliveries of materials to or from the property, shall only occur between 7am to 6pm Monday through Saturday.**
- G. Street naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Departments.**
- H. The Applicant shall form a condominium association responsible for the perpetual maintenance, repair and replacement of the roads, any buffers and 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 Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.**
- K. The Applicant shall coordinate with the local school district to establish a school bus stop area, which shall be shown on the Final Site Plan, if required by the District.**
- L. As stated by the Applicant, there shall be a shared entrance and interconnectivity with the adjacent Wellness Center property.**
- M. The Final Site Plan 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. 2566 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 20TH DAY OF MARCH 2018.**

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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 MDI Investment Group, LLC for the consideration of a Conditional Use of land in a MR Medium Density Residential District for multi-family units (52 townhomes) to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 6.86 acres, more or less (located on the southeast side of Shady Road, approximately 130 feet northeast of Plantations Road) (Tax I.D. No. 334-6.00-511.00 and 334-6.00-512.00) (911 Address: Not Available).**
- B. Based on the record before the Planning and Zoning Commission and the public hearing before the Sussex County Council, Council found that Hal Dukes, Esquire, with Tunnell & Raysor, P.A. was present on behalf of the prospective purchaser of this tract of land with Doug Compher of MDI Investment Group, LLC, and John Murray of The Kercher Group; that Mr. Compher recently acquired the parcels that are zoned AR-1; that the site is 6.86 acres in size; that the parcels are surrounded by high density developments such as Eagles Point subdivision, Arbors at Cottagedale, Summerset Green and other residential developments and the Lewes Wellness Center; that Summerset Green is a townhouse development which is similar in character to the proposed development; and that there is a history of other conditional uses and rezonings in the area.**
- C. Council also found that the project will be in character with the area; that a transportation hub is located across the street from the site; that infrastructure is available; that the project went through the PLUS process and was identified as being located in a Level 1 Investment Area, an area designated for this type of use; that the County's Comprehensive Plan Future Land Use Map identifies these two parcels as being located within the Environmentally Sensitive Developing Area and partially within the Mixed Residential and the Highway Commercial areas; that the site complies with Section 115-194.3 for a development in the ESDDOZ; that the site has good soils for infiltration for stormwater management; that the stormwater management area will be located in the panhandle area of the site; that they will have central sewer provided by Sussex County; and that water will be provided by Tidewater Utilities.**
- D. Council further found that a Traffic Impact Study was not required; that they have requested a Letter of No Objection from DelDOT; that the entrance to the Lewes Wellness Center will be closed and the Lewes Wellness Center will use this project's entrance as a shared entrance; that the entrance will be off of Shady Road; that part of the roadway improvements will involve interconnectivity with sidewalks in front of Lewes Wellness Center and extending sidewalk along the property frontage; and that there are several other potential interconnectivity opportunities.**
- E. Based on the record and recommendation of the Planning and Zoning Commission and the Planning and Zoning Commission's Findings (1 through 7), as amended, and Conditions (8A – 8M), as amended, Council found that:**

- 1. This application seeks the approval of 41 single family duplex-type structures on 6.86 acres, for a density of approximately 6 units per acre. By comparison, the density on the adjacent Arbors of Cottagedale MR multifamily development is 9.29 units per acre.**
- 2. The property is surrounded by other multifamily residential development as well as business and commercial uses and a DelDOT transit center. This project is consistent with those nearby uses.**
- 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 within the allowable density in the MR District, and it is less than the density of an adjacent approved, but not yet built, multifamily development.**
- 6. The project will have approximately 60% open space.**
- 7. The development will be served by central sewer provided by Sussex County.**
- 8. Based on the record and recommendation of the Planning & Zoning Commission, the Conditional Use is approved subject to thirteen (13) conditions (A - M), as amended, which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**