

ORDINANCE NO. 2579

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 71.379 ACRES, MORE OR LESS

WHEREAS, on the 13th day of September 2017, a zoning application, denominated Change of Zone No. 1846, was filed on behalf of CMF Bayside, LLC; and

WHEREAS, on the 22nd day of February 2018, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 8th day of March 2018, said Planning and Zoning Commission recommended that Change of Zone No. 1846 be approved with conditions; and

WHEREAS, on the 20th 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 MR-RPC Medium Density Residential District – Residential Planned Community 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 both sides of Williamsville Road approximately 843 feet southwest of E. Sand Cove Road and being more particularly described per the attached legal description (and included on the survey in the application file), as prepared by Steven M. Adkins Land Surveying, 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 residential dwelling units on this property shall be 122.**
- b. The 122 units approved as part of this extension of the MR-RPC shall be part of the uses approved in conditions #1 and #3 of CZ #1393 and shall not be in addition to these conditions previously imposed on the Americana Bayside MR-RPC project.**
- c. The development shall be served as part of a Sussex County Sanitary Sewer District.**
- d. 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 designed and operated in a manner consistent with Best Management Practices.**
- g. The Final Site Plan for each phase of the development shall contain the approval of the Sussex Conservation District upon it.**
- h. The project will be incorporated as part of the existing Americana Bayside MR-RPC (CZ #1393) and shall be subject to, and benefited by, the conditions imposed upon that development, except as modified herein.**
- i. All entrance, roadway, intersection and multi-modal improvements required by DelDOT shall be completed in accordance with DelDOT's determinations.**
- j. The interior street design and parking areas shall meet or exceed Sussex County street design specifications and requirements.**
- k. The residential units in this development shall be part of the Americana Bayside Homeowners Association responsible for the maintenance of streets, roadways, buffers, stormwater management areas and community areas.**
- l. Road naming and addressing shall be subject to the review and approval of Sussex County Mapping and Addressing Department.**
- m. The Final Site Plan shall include a landscape plan for all the buffer areas, showing all the landscaping and vegetation to be included in those areas.**
- n. 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. 2579 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 5TH DAY OF JUNE 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 CMF Bayside, LLC to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District to a MR-RPC Medium Residential District – Residential Planned Community for a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 71.37 acres, more or less [lying on both sides of Williamsville Road, approximately 843 feet southwest of E. Sand Cove Road] (Tax I.D. No. 533-19.00-297.00) (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 James Fuqua, Esquire, and Tim Willard, Esquire, both with Fuqua, Willard, Stevens and Schab, P.A., Rich Rishel of CMF Bayside, LLC, Steve Marsh with George, Miles & Buhr, LLC, and Edward Launay with Environmental Resources, Inc. (“ERI”) were present on behalf of this application; that the property is adjacent to Americana Bayside which is zoned MR-RPC; that the original application was approved for 1,700 residences and this addition will add 74.25 acres into the RPC; that 122 townhouse units are proposed, but would count towards the original 1,700 lots approved as part of the RPC; that there is no new density added to this application and only new land to the RPC; that the result is a decrease in the overall density; and that the property is in the Environmentally Sensitive Developing District land use classification; and that the area accommodates growth.**
- C. Council also found that water would be provided by Tidewater; that the parcel is in the Sussex County Unified Sanitary Sewer District which has adequate capacity; that the site is located in the Indian River School District; that fire service will be provided by the Roxana Fire District; that they did do road work on Route 54 as part of the original site with a fee; that stormwater management will meet or exceed all regulatory requirements; that stormwater management design will incorporate swales, bio soils, and green technology; that the phase will contain 122 residential townhouse units located in 22 buildings; that the entrances will meet DelDOT requirements; that the roads will meet the County street design requirements; that the streets will be curbed and guttered; that there will be sidewalks on both sides of the streets and street lighting provided; that owners purchasing units in this section will become members of the existing homeowners’ association (“HOA”); and that new owners will be entitled to the use of all amenities within the community.**
- D. Council further found that approximately 41.5 acres of the parcel are identified as regulated wetlands; that no structures will encroach into any non-tidal wetlands; that there are some tidal wetlands located on the eastern side of the site and a 50 foot buffer is provided; that the ERI wetland determination was submitted to the Army Corps of Engineers and the preliminary jurisdiction letter was issued by the Philadelphia District; that there have been changes to how to identify wetlands; that the changes have impacted four to five acres here; that there will be a path that may go into the wetlands and will comply; that they looked at connection to Phase 3 but a large tidal ditch makes it impractical; that there’s not much traffic on this part and they had to build two entrances off Williamsville Road; that the benefit for internal circulation is not enough to build a bridge over the ditch; that south of the site is in Maryland and is a conservation area; that crossing the ditch will require DNREC and Army Corps permits; that there is an agreement with the State and the Freeman company to plow the roads; and that the HOA documents are expandable.**
- 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 n.), Council found that:**

- 1. The site is adjacent to portions of the existing Americana Bayside MR-RPC development. It will be an extension of that development.**
- 2. The proposed density of 122 residential units on 74.25 acres is within the permitted density of the MR District. It is also consistent with the density of the Americana Bayside development, and these units will be included in, and will not exceed, the total number of units permitted as part of the entire Americana Bayside MR-RPC.**
- 3. The proposed development will have sewer service provided by Sussex County and water provided by Tidewater Utilities.**
- 4. The proposed rezoning to a MR-RPC is in compliance with the goals and objectives of the Sussex County Comprehensive Land Use Plan. The Plan recognizes that a range of housing types are appropriate in the Environmentally Sensitive Developing Area where this project is located, including multi-family and townhouse units.**
- 5. The proposed development will not adversely impact neighboring properties, traffic or the environment.**
- 6. The development will be an extension of the existing Bayside development, and residents will be members of the Americana Bayside Homeowners Association entitling them to use the development's existing recreational amenities and requiring them to pay the required dues and assessments within the development.**
- 7. Based on the record and recommendation of the Planning & Zoning Commission, the Change of Zone is approved subject to fourteen (14) conditions (a through n), which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**