

ORDINANCE NO. 2583

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 (EXTENSION OF CHANGE OF ZONE NO. 1471) FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 7.236 ACRES, MORE OR LESS

WHEREAS, on the 9th day of January 2018, a zoning application, denominated Change of Zone No. 1850, was filed on behalf of Swann Cove West, LLC; and

WHEREAS, on the 24th day of May 2018, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 14th day of June 2018, said Planning and Zoning Commission recommended that Change of Zone No. 1850 be approved with conditions; and

WHEREAS, on the 12th day of June 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 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 and southeast corners of Herring Way and Old Mill Bridge Road, and being more particularly described per the attached legal description, said parcel containing 7.236 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 lots permitted in Phase 9 of Swann Cove West shall not exceed 20.**
- B. Phase 9 of Swann Cove West shall be an extension of the Swann Cove West MR-RPC (CZ #1471) and is subject to the conditions imposed on CZ #1471 approved on July 23, 2002, as amended, and subject to any revisions caused by these conditions.**
- C. As proposed by the Applicant, Phase 9 of Swann Cove West shall be subject to the existing Swann Cove West Homeowners Association covenants and deed restrictions. The residents of Phase 9 of Swann Cove West shall become members of the Swann Cove Homeowners Association and shall have access to the amenities within Swann Cove Homeowners Association and shall have access to the amenities within Swann Cove. The Applicant shall record with the Recorder of Deeds all necessary documents evidencing that this condition has been met.**
- D. The streets shall meet or exceed the County street design standards.**
- E. The Applicant shall submit a revised RPC Master Plan for the entire Swann Cove MR/RPC to include this new Phase 9.**
- F. The Final Site Plan shall contain the review and approval of the Sussex Conservation District for the design and location of all stormwater management areas.**
- G. Deliveries of dirt, fill or other similar materials shall only be made to or from the site between the hours of 8:00 a.m. through 5:00 p.m., Monday through Friday.**
- H. No other outdoor construction activities shall occur at the site except between the hours of 7:30 a.m. through 7:00 p.m., Monday through Friday, and 8:30 a.m. through 2:00 p.m. on Saturdays. There shall be no construction activities at the site on Sundays.**
- I. 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. 2583 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 26TH 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 Swann Cove West, LLC 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 (extension of Change of Zone No. 1471) for a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 7.236 acres, more or less (lying on the northeast and southeast corners of Herring Way and Old Mill Bridge Road) (Tax I.D. No. 533-12.00-73.02) (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 James Fuqua, Attorney with Fuqua, Willard, Stevens and Schab, Jim Swann, owner of Swann Cove and Steve Gorski, with Duffield Associates, Inc. were present on behalf of the application; that the application is to rezone 7.236 acres to MR-RPC for 20 single family lots as an extension of the existing Swann Cove West MR-RPC; that on July 23, 2002, Change of Zone No. 1470 was approved which rezoned 10 acres to B-1 and, at the same time, Change of Zone No. 1471 was approved which rezoned 109.5 acres to MR-RPC; that the RPC was approved with 15 conditions, one of the conditions was there is a maximum number of 372 units; that the development has been developed in eight phases with 362 single family lots; that the RPC is fully developed and the infrastructure is completed; that there are two amenity areas in the development; that the community has two access points, one on Route 54 and the other on Old Mill Bridge Road; that the 7.236 acres proposed to be rezoned to MR-RPC was not owned by the Swanns at the time of the original application; that Delaware Electric Cooperative owned the land; that they would like to incorporate this parcel into the RPC; that the HOA has no objection to the inclusion of the parcel; and that this phase would be considered Phase 9 of the development.
- C. Council also found that this is a better use than commercial development or a separate subdivision; that the Land Use classification per the Comprehensive Plan is Environmentally Sensitive Developing Area; that no Traffic Impact Study or Traffic Operational Analysis was required; that the entrance has been approved and constructed; that there will be a right-of-way dedication along Old Mill Bridge Road with a permanent easement; that it is a meandering way to get from a commercial site to Old Mill Bridge Road and it is not a lot of benefit to cut through the development; that the main roads are built to DelDOT standards and are State maintained roads; that the stormwater management will meet DNREC and Sussex Conservation District requirements and will have a pond and bioswale; that there are no known drainage issues; that water will be provided by Artesian Water Company; that the site will be served by County Sewer; and that electric will be provided by Delaware Electric Cooperative.
- D. Council further found that there are no threatened or endangered species or historical resources on the site; that the lot sizes and setbacks will comply with the original RPC; that the minimum lot sizes are 7,500 square feet with a minimum width of 60 feet; that there will be sidewalks on both sides of the cul-de-sac; that the development will have 1.5 acres of open space; that .32 acre on the south side of Herring Way will remain wooded; that the gross density is 2.7 which is less than the 3.4 per acre approved for the original RPC; that the homeowners will be members of the Swann Cove Homeowners Association (“HOA”); that this is an addition to or extension of the existing Change of Zone No. 1471; that there be two additional conditions; that one new condition would be that the maximum number of lots within Phase 9 not exceed 20; and that the second condition would be that the approval would be an extension of Change of Zone No. 1471 and is subject to the conditions imposed on Change of Zone No. 1471.
- E. Based on the Planning and Zoning Commission’s Findings (1 through 9) and Conditions (10a. – i.), and the record created before the Sussex County Council, Council found that:

- 1. This application is for an extension of the Swann Cove West MR-RPC (CZ #1471), which includes 372 units on 109 acres. The expansion area consists of 20 single family lots on 6.913 acres. This expansion area is identified as “Phase 9” of the Swann Cove MR/RPC.**
- 2. This expansion area will use the existing Swann Cove entrances on Route 54 and Old Mill Bridge Road.**
- 3. The residents of this expansion area shall become part of the existing Swann Cove HOA, and shall be entitled to use all of the existing Swann Cove amenities.**
- 4. This new MR/RPC area will include 1.5 acres of open space, or approximately 21% of the site.**
- 5. The site is located in the Environmentally Sensitive Development Area which is designated as a “Growth” area under the Comprehensive Plan.**
- 6. The density of this application is approximately 2.89 units per acre, which is less than the 3.4 units per acre in the existing MR/RPC.**
- 7. The site is located within the Sussex County Sewer District and the water service area of Artesian Water Company.**
- 8. This expansion of the existing Swann Cove MR/RPC will not adversely affect neighboring roadways, traffic or the community.**
- 9. The Findings of Fact supporting approval of CZ #1471 are incorporated by reference herein.**
- 10. Based on the record and recommendation of the Planning and Zoning Commission, the Change of Zone from an AR-1 Agricultural Residential District to a MR-RPC Medium Density Residential District – Residential Planned Community is approved subject to nine (9) conditions (A through I) which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**