

ORDINANCE NO. 2587

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTIFAMILY DWELLING STRUCTURES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 11.53 ACRES, MORE OR LESS

WHEREAS, on the 22nd day of January 2018, a conditional use application, denominated Conditional Use No. 2131, was filed on behalf of CBB Cedar Pines, LLC; and

WHEREAS, on the 14th day of June 2018, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2131 be approval with conditions; and

WHEREAS, on the 24th day of July 2018, 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. 2131 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 east side of Cedar Neck Road, approximately 722 feet north of Yacht Basin Road, and being more particularly described per the attached legal description, said parcel containing 11.53 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. There shall be no more than 30 units within the Conditional Use area.**
- D. The Applicant shall form a homeowners' or condominium association responsible for the perpetual maintenance of streets, roads, and buffers, stormwater management facilities, erosion and sedimentation control facilities and other common areas.**
- E. 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.**

- D. All entrances shall comply with all of DelDOT's requirements, and an area for a school bus stop shall be established. The location of the school bus stop shall be coordinated with the local school district.**
- E. Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.**
- F. 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.**
- G. A 20-foot forested agricultural buffer shall be shown along the perimeter of the entire residential development, including the area covered by Change in Zone #1747 for the RPC portion of the development. The Final Site Plan shall also contain a landscape plan for all of the buffer areas, showing all of the landscaping and vegetation to be included in the buffer area.**
- H. The project shall be served by Sussex County sewer.**
- I. As proffered by the Applicant, the Developer shall construct all of the recreational amenities no later than the issuance of the 50th residential building permit for the entire project, including the RPC portion of the development covered by CZ #1747.**
- J. Construction, sitework, grading and deliveries of construction material, landscaping material and fill on, off or to the property shall occur from Monday through Saturday between the hours of 8:00 a.m. and 6:00 p.m.**
- K. The preliminary approval is contingent upon the Applicant submitting a revised preliminary site plan either depicting or noting the conditions of this approval on it. Staff shall approve the revised plan upon confirmation that the conditions of approval have been depicted or noted on it.**
- L. 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. 2587 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 24TH DAY OF JULY 2018.

**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 CBB Cedar Pines, LLC to consider the Conditional Use of land in a MR Medium Density 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 11.53 acres, more or less (lying on the east side of Cedar Neck Road, approximately 722 feet north of Yacht Basin Road) (Tax I.D. No. 134-9.00-21.00) (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 James Fuqua, Esquire with Fuqua, Willard, Stevens, & Schab, P.A., Todd Burbage and Jeff Clark, with Land Tech Land Planning, LLC were present on behalf of the application; that Conditional Use 1986 was previously approved for 30 multifamily units; that the previous application is the same as this application; that the previous Conditional Use expired after three (3) years; that Conditional Use 1488 was approved for 143 multifamily units and the owner passed away; that eventually the construction got underway, recession hit and the work stopped; and that in 2012 a new application was made for an RV park and water park but was withdrawn.**

- C. Council also found that three (3) new applications were filed in 2014; that the first application was to rezone the site from Commercial to MR, the second application was for an MR-RPC for 45 single family lots and the third application was for a Conditional Use for the 30 units and was approved; that this application is for the exact 30 units as the Conditional Use that was approved; that the new stormwater regulations caused issues; that the RPC had received the Final Site Plan and was valid for five (5) years but the Conditional Use is valid for three (3) years and construction has to be substantially underway; that the stormwater management complies with the Sussex Conservation District; that most of the agency approvals have been obtained; that the units will be clustered around the entrance and amenities; that there will be ten (10), three-unit buildings; that water will be provided by Sussex Shores; that sewer will be provided by Sussex County; that a sewer concept plan has been approved; that the wetlands have been delineated and the townhomes are away from the wetlands; that there are no wetlands on the Conditional Use site; that the Land Use classification per the Comprehensive Plan is Environmentally Sensitive Developing Area, mixed use area, and both are growth areas; and that they are seeking reapproval.**
- D. 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 (6A through 6L), Council found that:**
- 1. This Conditional Use is identical to Conditional Use #1986 filed by Castaways Bethany Beach, LLC. That prior approval expired.**
 - 2. This Conditional Use permits the development of 30 multifamily units to be part of a mixed use residential development.**
 - 3. The Conditional Use will allow the development of this property in a way that is consistent with nearby residential communities and it is consistent with the prior approvals for multifamily units on this parcel.**
 - 4. The Conditional Use will be served by central water and Sussex County sewer.**
 - 5. The Conditional Use will not adversely affect adjacent properties, roadways or other public facilities.**
 - 6. Based on the record and recommendation of the Planning & Zoning Commission, the Conditional Use is approved subject to twelve (12) conditions (A - L) which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**