

ORDINANCE NO. 2594

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 7.33 ACRES, MORE OR LESS

WHEREAS, on the 1st day of February 2018, a conditional use application, denominated Conditional Use No. 2134 was filed on behalf of The Evergreene Companies, LLC; and

WHEREAS, on the 12th day of July 2018, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 26th day of July 2018 said Planning and Zoning Commission recommended that Conditional Use No. 2134 be ; and

WHEREAS, on the 14th day of August 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. 2134 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 north side of Gills Neck Road, approximately 135 feet west of Spinnaker Circle in the Wolfe Runne development and being more particularly described in the attached legal description, said parcel containing 7.33 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 24.**
- B. All entrance, 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 off-site 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. As proffered by the Applicant, there shall be sidewalks on both sides of all streets and roadways.**
- G. All lots shall be set back at least 75 feet from the Gills Neck Road right-of-way. This is consistent with the design of other existing developments on both sides of Gills Neck Road.**
- H. Section 115-218 of the Zoning Code allows the County to require a 20-foot forested buffer around multi-family developments. Like other developments in the area, there shall be a vegetated or forested buffer of at least 20 feet in width around the entire perimeter of the project, with the exception of the area fronting along Gills Neck Road. This buffer area shall include the existing vegetation that exists along the boundary of this property.**
- I. The Applicant shall submit as part of the Final Site Plan a landscape plan showing the proposed tree and shrub landscape design, including the buffer area. The landscape plan shall clearly designate the existing 1.32 acres of forested area that will be preserved.**
- J. All construction and site work on the property, including deliveries of materials to or from the property, shall only occur between 8:00 a.m. and 5:00 p.m., Monday through Friday.**
- K. 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 8:00 a.m. through 2:00 p.m. on Saturdays. There shall be no construction activities at the site on Sundays.**
- L. Street naming and addressing shall be subject to the review and approval of the County Mapping and Addressing Departments.**
- M. The Applicant shall form a homeowners association responsible for the perpetual maintenance, repair, and replacement of the roads and any buffers and landscaping, stormwater management facilities, erosion and sediment control facilities, and other common elements.**
- N. 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.**
- O. 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.**

- P. As stated by the Applicant, there shall be a swimming pool and small pool house installed on the premises. The swimming pool shall be at least 15 feet by 30 feet in size.
- Q. 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. 2594 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 14TH DAY OF AUGUST 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 The Evergreene Companies, LLC to consider the Conditional Use of land in a MR Medium Density Residential District for multi-family to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 7.33 acres, more or less (lying on the north side of Gills Neck Road, approximately 135 feet west of Spinnaker Circle in the Wolfe Runne development) (Tax I.D. No. 335-8.00-44.00) (911 Address: 16386 Gills Neck Road, Lewes).
- B. Based on the record before the Planning and Zoning Commission and the hearing before the Sussex County Council, Council found that Jim Fuqua, Esquire with Fuqua, Willard, Stevens and Schab, Josh Mastrangelo, Applicant, and Bob Palmer with Beacon Engineering were present on behalf of the application before the Planning and Zoning Commission and that Jim Fuqua, Esquire with Fuqua, Willard Stevens and Schab, Tim Naughton on behalf of the Applicant, and Bob Palmer with Beacon Engineering were present on behalf of the application before the Sussex County Council; that they stated that this is a growing area; that it proposes 26 multifamily residential units in 13 duplex-type buildings; that to the south are several single-family subdivisions with large lots, and they are Senators, Hawkeye, Wolfe Runne and Wolf Point; that to the east is Showfield and it is also to the rear of the property; that the Junction and Breakwater bike trail is adjacent to the west of the property; that the Cadbury MR-RPC is further west of the property; that Cadbury is 95 acres with many uses; that one part is a retirement community with 48 single and duplex units and 84 apartments along with 80 assisted living rooms and is now called Moorings of Lewes; that the other part of the site is mixed uses and contains 80 single family lots and 105 townhouse, duplex, and condominium units; that across Gills Neck Road to the west is Governors; that Governors was approved for 472 multi-family condo units on 186 acres; and that the 7.33-acre parcel would have a density of 3.5 units per acre which is less than the density permitted in the MR district.
- C. Council also found that the proposed use is in accordance with the State, Sussex County and the City of Lewes plans; that the property is located in the Level 1 State Strategies; that the Land Use classification per the Comprehensive Plan is in the Environmentally Sensitive Developing Area; that the property is located close to Lewes and their Comprehensive Plan states that 14% of the population is 65 and over, for Sussex County 20.8% is over 65, and for Lewes 43.6% are over the age of 65; that the median age of Lewes residents is 63 years old; that the Lewes Comprehensive Plan recognizes that many of the residents are older and desire to age in place; that water will be provided by the City of Lewes; that sewer will be provided by Sussex County; that there are no wetlands and the site is not in a floodplain; that there are no endangered species and there are no known historical or agricultural resources on the site; that stormwater management will comply with all regulations; that a Traffic Impact Study was not required; that the entrance to the site will be constructed per DelDOT; that there will be a five foot right-of-way dedication; that the Applicant will construct a shared use path; that the closest duplex building will be 60 feet from Gills

Neck Road and the pool and deck area will be 80 feet from the road; that there will be one entrance with the cul-de-sac; that the streets will be private and have curb and gutters; and that there will be sidewalks on both sides of the street.

- D.** Council further found that the average lot size per unit is 7,240 square feet; that 1.32 acres of woods would remain and that 90% of the woods would remain; that there will be a 20 foot buffer along the east and west of the property; that a 10 foot forested landscape buffer will be along the rear of the property; that they have tried to comply with the Byways plan and a 30 foot wooded buffer will be between Showfield; that Sussex County has approved 660 multi-family units and 80 assisted units in the area; that the use and zoning is consistent with the area; that the design is to look like a one story and the worst case scenario box with the maximum buildout area for the houses is shown on the plan; that there will be no parking at the pool due to the size of the community and they could provide a space along the pool; that there will be no age restriction; that the duplexes are on a fee simple lot; that there is no price range yet; that there will be no on street parking; that there will be two parking spaces per unit and each unit will have its own garage; that there will be parking for two in the garage spots, two in the driveway with a minimum of four on site; and that the radius of the cul-de-sac will allow for a fire truck and will still comply with the County's street requirements.
- E.** Based on the record and recommendation of the Planning and Zoning Commission and the Planning and Zoning Commission's Findings (1 through 8) and Conditions (9A through Q), Council found that:
1. This application seeks the approval of 26 single family duplex-type structures on approximately 7.3 acres, for a density of 3.5 units per acre. This density is appropriate within the MR zone, which permits up to 4 units per acre.
 2. The property is in an area where other residential development has occurred, including the mixed-use Breakwater and Cadbury developments and other single family and multi-family developments. This project is generally 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, which states that "a range of housing types" are acceptable here.
 4. The proposed development will not have an adverse impact on the neighboring properties or roadways.
 5. The property does not contain any wetlands.
 6. The project will have 18% of the site set aside as active and passive open space. This includes the preservation of 1.32 acres of existing woodlands on the site.
 7. The development will be served by central sewer provided by Sussex County.
 8. The development will be served by central water.
 9. Based on the record and recommendation of the Planning & Zoning Commission, the Conditional Use is approved subject to seventeen (17) conditions (A - Q) which will serve to minimize any potential impacts on the surrounding area and adjoining properties.