

ORDINANCE NO. 2623

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND GR GENERAL RESIDENTIAL DISTRICT TO A GR-RPC GENERAL RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 60 ACRES, MORE OR LESS

WHEREAS, on the 15th day of May 2018, a zoning application, denominated Change of Zone No. 1859, was filed on behalf of Boardwalk Development, LLC, c/o Joseph Reed (Henlopen Meadows); and

WHEREAS, on the 25th day of October 2018, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 29th day of November 2018, said Planning and Zoning Commission recommended that Change of Zone No. 1859 be approved with conditions; and

WHEREAS, on the 27th day of November 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 GR General Residential District] and adding in lieu thereof the designation of GR-RPC General 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 Indian River Hundred, Sussex County, Delaware, and lying at the southeast corner of Angola Road and Angola Beach Road, and being more particularly described in the attached deed prepared by David W. Baker, Esq., P.A., said parcel containing 60 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 dwelling units shall not exceed 201 single family units.**
- B. A homeowners association shall be formed to provide for the perpetual maintenance, repair and replacement of buffers, stormwater management facilities, streets, amenities and other common areas.**
- C. All entrances, intersections, interconnections, roadways and multi-modal improvements required by DelDOT shall be completed in accordance with DelDOT's requirements.**
- D. The RPC shall be served as part of a Sussex County Sanitary Sewer District. 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 operated in a manner that is consistent with Best Management Practices. In reviewing the stormwater management design, the Applicant and the Sussex Conservation District shall also work to reduce the impacts from runoff from the property onto The Cove on Herring Creek; particularly during the site work, development, and construction phases.**
- G. Interior street design shall meet or exceed Sussex County's street design requirements. There shall also be street lighting and sidewalks on one side of the streets within the RPC.**
- H. All amenities shall be completed prior to the issuance of the 75th building permit.**
- I. A 20-foot wide forested landscape buffer shall be established along the perimeter of the site. This may include the existing trees.**
- J. If requested by the local school district, a school bus stop shall be provided. The location of the bus stop area shall be shown on the Final Site Plan.**
- K. Road naming and addressing shall be subject to the review and approval of Sussex County Mapping and Addressing Departments.**
- L. 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.**

- M. The Final Site Plan shall include a landscape plan for all of the buffer areas, showing all of the landscaping and vegetation to be included in the buffer areas.
- N. As proffered by the Applicant, the community will not contain any manufactured homes.
- O. The community shall be marketed as “workforce housing” and the target market will be households living and working in Sussex County earning 80%-120% Sussex County area median income. The Developer shall complete and provide a Buyer Data Sheet, the final settlement statement, and any other necessary information to an independent CPA to generate a report evidencing that homebuyers are not spending more than 30% of their gross household income on housing costs for each home sale. This report shall be submitted to the Planning and Zoning Department on an annual basis to analyze the success of the project as workforce housing. The Developer shall work with DSHA, NCALL, First State and other non-profit homeownership geared agencies to market the houses.
- P. 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. 2623 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 11TH DAY OF DECEMBER 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 Boardwalk Development, LLC c/o Joseph Reed (Henlopen Meadows) to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District and a GR General Residential District to a GR-RPC General Residential District – Residential Planned Community for a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 60 acres, more or less (lying at the southeast corner of Angola Road and Angola Beach Road) (Tax I.D. Nos. 234-12.00-3.00 and 6.00) (911 Address: None Available).
- B. Based on the record before the Planning and Zoning Commission and the hearing before the Sussex County Council, Council found that David Hutt, Esquire with Morris, James, Wilson, Halbrook, and Bayard, LLP, Joe Reed, Principal of Boardwalk Development, LLC and Ken Christenbury, with Axiom Engineering, LLC, were present on behalf of the application; that this is an application to amend the Comprehensive Zoning Map from a split zoned GR General Residential District and AR-1 Agricultural Residential District to a GR-RPC General Residential District with a Residential Planned Community overlay; that the property is currently owned and farmed by the Dorman family; that the two separate parcels would be combined; that the site is located at the intersection of Angola Road and Angola Beach Road; that the project is formerly known as Henlopen Meadows; that the project to be built on the site will be known as Fieldstone at Lewes, a Residential Planned Community; that the plan for the community is for 201 detached single family residential units, a

housing type consistent with the character and trend of development in the area; that this is a workforce housing opportunity; that the density is similar to the surrounding area and in accordance with the Comprehensive Plan; that the Land Use Classification per the Comprehensive Plan is in the Environmentally Sensitive Developing Area (“ESDA”) and a Mixed Residential Area which are both growth areas as defined by the Comprehensive Plan; and that the site would meet the Chapter 99 design criteria.

- C. Council found that there are a number of communities in the area; that the parcel is adjoining the GR district to the east and west; that there is also MR zoning in the area; that a number of the development lot sizes are 7,500 square feet and that there are smaller lots in the Manufactured Home Parks; that Angola by the Bay was developed with small lots and prior to sewer; that there are differences in lot sizes for those lots subdivided with sewer and those without sewer; that the proposed lot size for this development is 7,500 square feet; that there are a different range of densities in the area; that this is not a high-density neighborhood; that in the Manufactured Home Park next to the site is four dwellings units per acre, and adjoining is 3.25 dwelling units per acre and on the other side of the site is a Manufactured Home Park with 3.52 units per acre; and that the proposed project is a 60-acre parcel and proposing 201 lots with a density of 3.35 dwelling units per acre.
- D. Council also found that this proposed project is similar to other developments; that an amenity area would be provided and include a 1,500 square foot pool with a pool house; that they would have unpaved and paved walking trails; that the site would have sidewalks on one side of the road; that the streets would be curbed and guttered; that DelDOT determined that the project qualifies to contribute to an area-wide study in lieu of completing a project specified TIS; that there were concerns about traffic and, in accordance with DelDOT’s determination, improvements would be made to intersections; that improvements would be made to Angola Road including an east bound right turn lane, widening to provide 11-foot lanes and 5-foot shoulders; that these improvements would have to coordinate with the Hailey’s Glen subdivision; that the Developer would contribute to a DelDOT project on Route 24; and that there would be improvements to Angola Beach Road which include widening the lanes to 11-feet and providing 5-foot shoulders.
- E. Council further found that the project is located in Investment Level 3 according to the Strategies for State Policies and Spending; that sewer would be provided by Sussex County; that central water would be provided by Tidewater Utility Company; that the property does drain to the south; that a drainage improvement project was done several years ago; that they would build the stormwater management facility to address the drainage concerns in the area; that they cannot increase stormwater management from this property; that under the entrance to Bay Point are four 24-inch pipes to help with stormwater management; that there are no violations on the subdivision regarding drainage; that there are no floodplains and no wetlands; and that the property currently has 1.63 acres of woods and when the property is developed would have 4.75 acres of woodlands.
- F. Council also found that there is a need for workforce housing and this helps fill a need for affordable housing in accordance with the Comprehensive Plan; that residents find it difficult to find homes that they can afford, especially for nurses, teachers, etc.; that the project will be marketed for these target people with the help of the DSHA; that the project is not a high density project nor is it a low income project; that there is a diverse mix of density and price range of housing in the area; that the site is in the development districts and is near schools; that the price range would be \$244,900 to \$279,999; that there would be multiple house plans; that they would sell the lots at 60% of the going rate to hit the price point; that they would have the same covenants as other developments; that they would have smaller amenities to keep homeowner association fees down; that one letter of support was from Bay Point Homeowners Association; that these plans are working in other markets; that while there is no legal way to ensure workforce target, they would provide an annual audit and report on compliance with the workforce housing which will be provided to the County; and that this would not impact property values.

- G. Based on the Planning & Zoning Commission's Findings (1 through 9) of and Conditions (10A through P), Council found that:**
- 1. The property is currently zoned GR – General Residential and AR-1 Agricultural Residential. The proposed density is similar to the density permitted within the GR Zoning District.**
 - 2. GR Zoning is also consistent with neighboring lands west, east, and northeast of the site.**
 - 3. The County Engineering Department has indicated that adequate wastewater capacity is available for the project as a GR-RPC. Central water will also be provided.**
 - 4. With the conditions and stipulations placed upon it, the RPC designation is appropriate, since it allows the creation of a superior environment through design ingenuity while protecting existing and future uses. This project will maintain 24% open space, which includes 1.63 acres of existing forest and the planting of 3.77 acres of forested buffer. It also includes installation of over 2 miles of sidewalks along all streets, over 0.6 miles of shared used path, over 0.3 miles of unpaved walking trail, and construction of a clubhouse and community swimming pool.**
 - 5. The project will not adversely affect the neighborhood or surrounding community. There are existing developments in the immediate area with similar characteristics. This is basically infill development, with a density similar to what exists in the immediate area.**
 - 6. The proposed development will have a density of 3.35 units per acre, which is less than the 3.42 and 4.00 units per acre to the west and southwest. Lands to the north, south, southeast, and east are also developed.**
 - 7. According to the County's current Comprehensive Plan, the project is in an Environmentally Sensitive Developing Area.**
 - 8. While there were concerns expressed during the public hearing about drainage, the Sussex Conservation District will perform a thorough review of the project with the project engineers to address stormwater and drainage on the site and how it leaves the site. This should result in a drainage improvement for the area from what currently occurs on the undeveloped farmland that does not have any stormwater system in place.**
 - 9. The Applicant has favorably addressed the items set forth in Section 99-9C of the Subdivision Code.**
 - 10. Based on the record and recommendation of the Planning & Zoning Commission, the Conditional Use is approved subject to fifteen (16) conditions (A - P) which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**