

ORDINANCE NO. 2627

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY (22 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 5.59 ACRES, MORE OR LESS

WHEREAS, on the 22nd day of June 2018, a conditional use application, denominated Conditional Use No. 2151, was filed on behalf of Francis C. Warrington III; and

WHEREAS, on the 29th day of November 2018, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 13th day of December 2018, said Planning and Zoning Commission recommended that Conditional Use No. 2151 be approved with conditions; and

WHEREAS, on the 15th day of January 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. 2151 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 east side of Old Landing Road approximately 155 feet north of Marina Drive, and on the north side of Marina Drive approximately 450 feet east of Old Landing Road, and being more particularly described in the attached deed prepared by David W. Baker, Esq., P.A., said parcel containing 5.59 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 22.**
- B. All entrances, 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 offsite 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. With the exception of the entrance road, there shall be sidewalks on both sides of the roadway. The entrance area may have a sidewalk on just one side of the road.**
- G. Section 115-218 of the Zoning Code allows the County to require a 20-foot forested buffer around multi-family developments. 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 50-foot wide entrance road area to the project. There shall be landscaping provided on the north side of this entrance road area to screen it from adjacent properties. To the extent feasible, utilities shall be located within the paved area or the south side of the entrance area to avoid interference with this landscaping.**
- H. 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 areas.**
- I. 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, and between 8:00 a.m. and 2:00 p.m. on Saturdays. There shall be no construction activities at the site on Sundays.**
- J. Street naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Departments.**
- K. The Applicant shall form a homeowners' association responsible for the perpetual maintenance, repair and replacement of the roads, buffers and landscaping, stormwater management facilities, erosion and sediment control facilities and other common elements.**

- L. 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.**
- M. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all stormwater management area and erosion and sedimentation control facilities.**
- N. 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.**
- O. The wetlands area at the northeast corner of the site shall not be disturbed, and there shall not be any buildings located closer than 35-feet to this wetlands area.**
- P. All street lights shall be downward screened so that they do not shine on neighboring properties or roadways.**
- 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. 2627 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 15TH DAY OF JANUARY 2019.

**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 Francis C. Warrington, III for the consideration of a Conditional Use of land in a MR Medium Density Residential District for multi-family (22 units) to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 5.59 acres, more or less (lying on the east side of Old Landing Road, approximately 155 feet north of Marina Drive and on the north side of Marina Drive, approximately 450 feet east of Old Landing Road) (Tax I.D. No. 334-19.00-1.00) (911 Address: 20873 Old Landing Road, Rehoboth Beach).**
- B. Based on the record before the Planning and Zoning Commission and the hearing before the Sussex County Council, Council found that Mr. Mark Davidson, with Pennoni Associates, Mr. Francis C. Warrington, III, the applicant, and Mr. Keith Walpole were present at the Planning and Zoning hearing, and Mr. Davidson and Mr. Warrington were present at the Council hearing on behalf of this application; that the application is for a Conditional Use for twenty-two (22) units; that the property is approximately 5.59 acres and is located near the end of Old Landing Road; that the property is bordered by a mobile home park and a MR-RPC subdivision; that the property is currently being used as a business and has been used for farming in the past; that the proposed use keeps with the residential character of the area; that they are proposing twenty-two (22) 40-foot wide, single family attached units; that the units will be two-story with two-car garages; that the access to the property is from a 50-foot lane; that the units would be placed off the back road; and that they would provide curb and gutter and sidewalks along every unit.**

C. Council also found that the amenities would include a pool and pool house; that a partial waiver of the 20-foot landscape buffer is being requested; that the first 400-foot is only 50-foot wide and would meet the minimum road requirements and fire access for the road design, but would have limited room to provide the 20-foot landscape buffer; that in the area of the 400-foot section, there would be some landscaping that cannot meet the 20-foot landscape buffer requirement; that they would extend the right-of-way and provide a shared use path along Old Landing Road; that there would be 65% of open space provided; that the density would be 3.93 units per acre; that Sawgrass has approximately 3.68 units per acre and 62% of open space; that Rehoboth Bay Mobile Home Park has 3.2 units per acre and Port Delmarva has a density of 9.87 acres; that the Land Use Classification per the Comprehensive Plan is in the Environmentally Sensitive Developing Area which is a growth area; that the land use classification per the future Land Use Plan is in the Coastal Area; that a portion of the property is in an AE flood zone with elevation of five and six and they will comply with the requirements; that the rest of the property is located in a X zone; that they are staying approximately 35-feet away from the wetlands; that there is 2.7 acres of wetlands and wooded areas that would remain untouched; that the site is not in a ground water management protection zone; that the site is located in the Herring Creek Rehoboth Beach watershed; and that the stormwater management will utilize infiltration with a dry pond with landscaping.

D. Council further found that there are no known historical features on the property; that the Sussex County Engineering Department submitted a facility report for this property and it has been allocated for 4 EDU's per acre; that the project would be expected to pay to extend the sanitary sewer throughout the property and connect to the sewer; that Tidewater Utilities would provide water for domestic and fire protection; that a Traffic Impact Study was not required; that this project would generate 63 vehicles a day; that the architectural design would meet or exceed the architecture of the newer homes in the area; that there will be a 20-foot landscape buffer in addition to the landscaping at Sawgrass subdivision; that there are over 100-feet between houses; that there would be 35-feet from the houses to the wetlands; that they would provide two-car garages and two additional spaces in the driveway; that when the car is parked, it would not be blocking the sidewalks; and that there would be additional parking throughout the development.

E. Based on the record and recommendation of the Planning and Zoning Commission and the Planning and Zoning Commission's Findings (1 through 7) and Conditions (8A –Q), Council found that:

1. This application seeks the approval of 22 duplex-type structures on approximately 5.59 acres, for a density of 3.93 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 adjacent Sawgrass MR/RPC with 282 units and other single family and multi-family developments. It is also surrounded by two manufactured home communities. One has 474 units and a density of 3.2 units per acre and the other is 144 units with a total density of 9.87 units per acre. This project is basically an infill development and it is consistent with these 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 project will have 3.62 acres of open space. This includes amenities such as the pool and pool house, as well as the stormwater management areas.

- 6. The development will be served by central sewer provided by Sussex County.**
- 7. The development will be served by central water.**
- 8. 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.**