

ORDINANCE NO. 2636

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A GR-RPC GENERAL RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY TO A GR-RPC GENERAL RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY TO ALLOW FOR AMENDMENTS TO CONDITIONS OF APPROVAL FOR CZ 1721 (ORDINANCE NO. 2295) FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 154.72 ACRES, MORE OR LESS”

WHEREAS, on the 11th day of October 2018, a zoning application, denominated Change of Zone No. 1873, was filed on behalf of Captain’s Way Development, LLC; and

WHEREAS, on the 14th day of February 2019, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Change of Zone No. 1873 be approved; and

WHEREAS, on the 12th day of March 2019, 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 [GR-RPC General Residential District – Residential Planned Community] and adding in lieu thereof the designation of GR-RPC General Residential District – Residential Planned Community to allow for amendments to conditions of approval for CZ 1721 (Ordinance No. 2295) 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 Broadkill Hundred, Sussex County, Delaware, and lying on the northeast side of Milton Ellendale Highway (Route 16) approximately 0.34 mile east of Hollytree Road and being more particularly described in the attached legal description prepared by Parkowski, Guerke & Swayze, P.A., Griffith & Hackett, P.A. and Griffin & Robertson, P.A., said parcel containing 154.72 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.

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2636 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 12TH DAY OF MARCH 2019.

**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 Captain’s Way Development, LLC to amend the Comprehensive Zoning Map of Sussex County from a GR-RPC General Residential District – Residential Planned Community to a GR-RPC General Residential District – Residential Planned Community to allow for amendments to conditions of approval for CZ 1721 (Ordinance No. 2295) for a certain parcel of land lying and being in Broadkill Hundred, Sussex County, containing 154.72 acres, more or less (lying on the northeast side of Milton Ellendale Highway (Route 16), approximately 0.34 mile east of Hollytree Road) (Tax I.D. No. 235-13.00-2.00, 2.06, 2.07, 2.08 and 235-13.00-32.00 through 332.00) (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 Pret Dyer, Member of Captain’s Way Development, LLC, and Mark Davidson with Pennoni Associates, were present on behalf of the application; that the Applicant desires to change the location of the clubhouse closer to the entrance; that they would like to amend Condition ‘F’ (referred to in Ordinance No. 2295 as Condition 6) to change the phasing of construction and opening of amenities to more realistically coincide with the Applicant’s construction schedule; that they would like to change Condition P (referred to in Ordinance No. 2295 as Condition 16) to state that the area to be used as a school bus shelter with parking for five vehicles shall be set aside in the parking lot for the community center; that both the DART bus stop and the school bus stop shall be constructed at the same time that DeIDOT entrances are constructed; that they are working with the school district for the bus to come in and pick up the students which is safer for the children and the buses; that they have rearranged the parking lot so the bus can navigate in the parking lot and subdivision; that the DART bus stop will still be located along Route 16; that the amendments to both of these conditions are believed to be both consistent with, and an improvement to, the previous conditions that were granted; that their desire is for both to accommodate the construction of the amenities; that they have been working with the school district and transportation manager from the Cape Henlopen School District as to how they are going to accommodate the school bus and have been given several different choices; and that the Cape Henlopen School District has not yet agreed to the change.**
- C. Based on the Planning & Zoning Commission’s Findings, as amended by Council, Council found that the conditions contained in Change of Zone No. 1721, Ordinance No. 2295, are hereby amended to state as follows:**

Condition F, referred to in Ordinance No. 2295 as Condition 6, is amended to read:

“The amenities in Phase 1 shall be constructed and open before the issuance of building permits in Phase 2 and all other amenities shall be constructed prior to the issuance of a building permit in the next phase and the amenities in Phase 8 shall be completed prior to the issuance of 50% of building permits within Phase 8.”

Condition P, referred to in Ordinance No. 2295 as Condition 16, is amended to read:

“Area to be used as a school bus shelter with parking for 5 vehicles shall be set aside in the parking lot for the community center and that both the DART Bus Stop and School Bus Stop shall be constructed at the time the DeIDOT entrance is also constructed.”

- D. Based on the record created before the Planning and Zoning Commission and the Sussex County Council, the Council approved this application.**