

ORDINANCE NO. 2690

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT-RESIDENTIAL PLANNED COMMUNITY TO A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT-RESIDENTIAL PLANNED COMMUNITY TO AMEND CONDITIONS OF APPROVAL OF CHANGE OF ZONE NO. 1475 (ORDINANCE NO. 1573) FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 787.787 ACRES, MORE OR LESS

WHEREAS, on the 19th day of March 2019, a zoning application, denominated Change of Zone No. 1883, was filed on behalf of OA-BP Marina Bay-Lakeside, LLC; and

WHEREAS, on the 27th day of June 2019, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 18th day of July 2019, said Planning and Zoning Commission recommended that Change of Zone No. 1883 be approved; and

WHEREAS, on the 30th day of July 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 [MR-RPC Medium Density Residential District-Residential Planned Community] and adding in lieu thereof the designation of MR-RPC Medium Density 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 on the south end of Bay Farm Road and the south side of Trinity Road, and being more particularly described in the attached legal description prepared by McCrone, said parcel containing 787.787 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:

Condition No. 1 of Change of Zone No. 1475 and Ordinance No. 1573 is hereby amended as follows:

“The maximum number of units shall not exceed 1,394 units completed, as follows:

**358 Single Family Lots
388 Single Family Detached Condominiums
270 Single Family Attached Town Houses
378 Multi-Family Units”**

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2690 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 8TH DAY OF OCTOBER 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 OA-BP Marina Bay-Lakeside, LLC to amend the Comprehensive Zoning Map of Sussex County from a MR-RPC Medium Density Residential District - Residential Planned Community to a MR-RPC Medium Density Residential District - Residential Planned Community to amend conditions of approval of Change of Zone No. 1475 (Ordinance No. 1573) for a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 787.787 acres, more or less (Tax I.D. No. 234-30.00-1.00 through 430.00) (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 Zac Crouch with Davis, Bowen & Friedel, Inc. was present at the Planning and Zoning Commission hearing, and Ring Lardner with Davis Bowen & Friedel, Inc. was present at the Sussex County Council hearing, on behalf of the application; that the application is for an amendment to Condition #1 to Ordinance No. 1573; that the original condition stated that the number of units shall not exceed 1,404 consisting of 323 single-family lots, 378 single-family detached condos, 325 single-family attached townhouses, and 378 multi-family units; that the Applicant wishes to reduce the number of townhouses and increase the number of single-family and single-family detached condos; that the overall number requested shall not exceed 1,394 units comprised of 358 single-family lots, 388 single-family detached condos, 270 single-family attached townhouses, and 370 multi-family units; that this amendment will result in an increase of 35 single-family lots, an increase of 10 single-family detached condominiums, a reduction of 55 single-family attached townhouses, and no change in the number of multi-family units; that there would be a total reduction of 10 units; that the request is due to market and trend changes; and that the market indicates that more single-family units are desired.**
- C. Based on the record and recommendation of the Planning and Zoning Commission and the Planning and Zoning Commission’s Findings (1 through 6), Council found that:**
 - 1. C/Z # 1475, which was identified as Ordinance No. 1573, included a condition identifying the number and types of uses allowed within this MR-RPC as follows:**

“The maximum number of units shall not exceed 1,404 units comprised, as follows:

323 Single Family Lots

378 Single Family Detached Condominiums

325 Single Family Attached Town Houses

378 Multi-Family Units”

2. This MR-RPC was approved in 2002 and is still being built out today.
3. As the master developer of this project, the Applicant has stated that there is no longer as strong demand for townhouse units within this project. Based upon the market, they are seeking to replace certain townhouse units with single-family units and detached condominium units. This will also result in a reduction in the total number of units that will be built in the MR-RPC.
4. The Peninsula Owners Association representatives testified during the hearing that they do not object to this request, subject to confirmation of the reduced number of units that will be allowed as a result of this request.
5. This request will not adversely affect the overall design of the MR-RPC, or the current and future residents of the development.
6. For these reasons, and at the Applicant’s request, Condition #1 of C/Z #1475 and Ordinance #1573 is hereby amended to state as follows:

“The maximum number of units shall not exceed 1,394 units comprised, as follows:

358 Single Family Lots

388 Single Family Detached Condominiums

270 Single Family Attached Town Houses

378 Multi-Family Units”

- D. Based on the record created before the Planning and Zoning Commission and the Sussex County Council, the Council approved this application with the amended condition set forth herein.