

Town of Bellefonte, Delaware



ORDINANCE 2014-02

ORDINANCE TO REVISE ZONING MAP: TOWN BELLEFONTE, EASTERN SIDE SCHOOLHOUSE LANE, BETWEEN PHILADELPHIA PIKE AND WYNNBROOK AVENUE; 0.263 ACRE FROM R-1 (RESIDENTIAL 1 AND 2 FAMILY DISTRICT) TO MX-2 (MIXED USE 2 DISTRICT)

WHEREAS, the owner of 202 Schoolhouse Lane (Tax Parcel No. 17-001.00-044) proposes to rezone the property from its present classification of R-1 (Residential 1 and 2 Family District) to MX-2 (Mixed Use 2 District) as part of a larger plan to combine Tax Parcel 17-001.00-044 with adjacent Tax Parcel 17-001.00-045 for purposes of, among other things, adding additional off-street parking spaces and facilitating a small addition to the existing building on Tax Parcel 17-001.00-045; and

WHEREAS, the owner of 202 Schoolhouse Lane (Tax Parcel No. 17-001.00-044) has also, pursuant to 22 Del. C. §702(e), requested that the Town's Zoning Map be amended to change the zoning classification of Tax Parcel No. 17-001.00-044 from Single Family Residential to MX-2 (the "Proposed Zoning Change"); and

WHEREAS, the Planning Commission of the Town of Bellefonte, at a public hearing, took testimony on the Proposed Zoning Change and has provided its recommendation to the Commissioners of the Town of Bellefonte; and

WHEREAS, Section 10 of the Land Use Code of the Town of Bellefonte provides that the Commissioners of the Town of Bellefonte, following a public hearing, may amend the Land Use Code if it finds that the Review Criteria in §10-02.C(3) have been satisfied; and

WHEREAS, the Commissioners of the Town of Bellefonte, in consideration of the application materials, the Recommendation of the Planning Commission, and the testimony before it at a public hearing, find that the Proposed Zoning Change is appropriate; and

WHEREAS, the Commissioners of the Town of Bellefonte expressly find that the Proposed Zoning Change is consistent with the Town's Comprehensive Development Plan as amended; and

WHEREAS, the Commissioners of the Town of Bellefonte also expressly find that the Proposed Zoning Change benefits the health, safety and welfare of the Town, provides for adequate light and air, will not contribute to the overcrowding of land, will not adversely impact public facilities or other public requirements, and finds that the character of the area will not be adversely impacted by the Proposed Zoning Change.

NOW THEREFORE, in accordance with all laws and procedures, **BE IT ORDAINED** by the Commissioners of the Town of Bellefonte, an appropriate majority thereof concurring after careful review, that:

1. The Zoning Map of the Town of Bellefonte is hereby further amended by changing the zoning classification of Tax Parcel No. 17-001.00-044 to MX-2, as set forth in Exhibit A attached hereto;

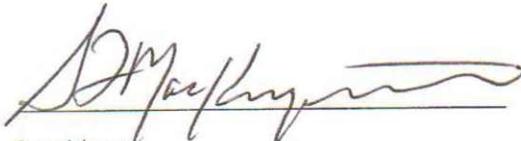
2. Upon adoption of this Ordinance, the Official Zoning Map of the Town of Bellefonte shall be updated to reflect the rezoning of the above-referenced parcel.

AND, BE IT FURTHER ORDAINED by the Commissioners of the Town of Bellefonte that this Ordinance, including the revised Zoning Map attached as Exhibit A hereto, shall take effect upon adoption.

Synopsis: This Ordinance will authorize the rezoning 202 Schoolhouse Lane (Tax Parcel No. 17-001.00-044) from R-1 to MX-2.

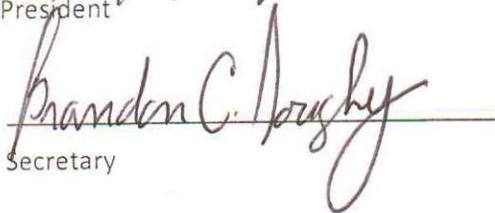
First Reading: 10/13/14

Second and Final Reading: 11/10/14 Amended as described in attached Declaration of Restrictions. *SEM*



President

11/16/14
Date

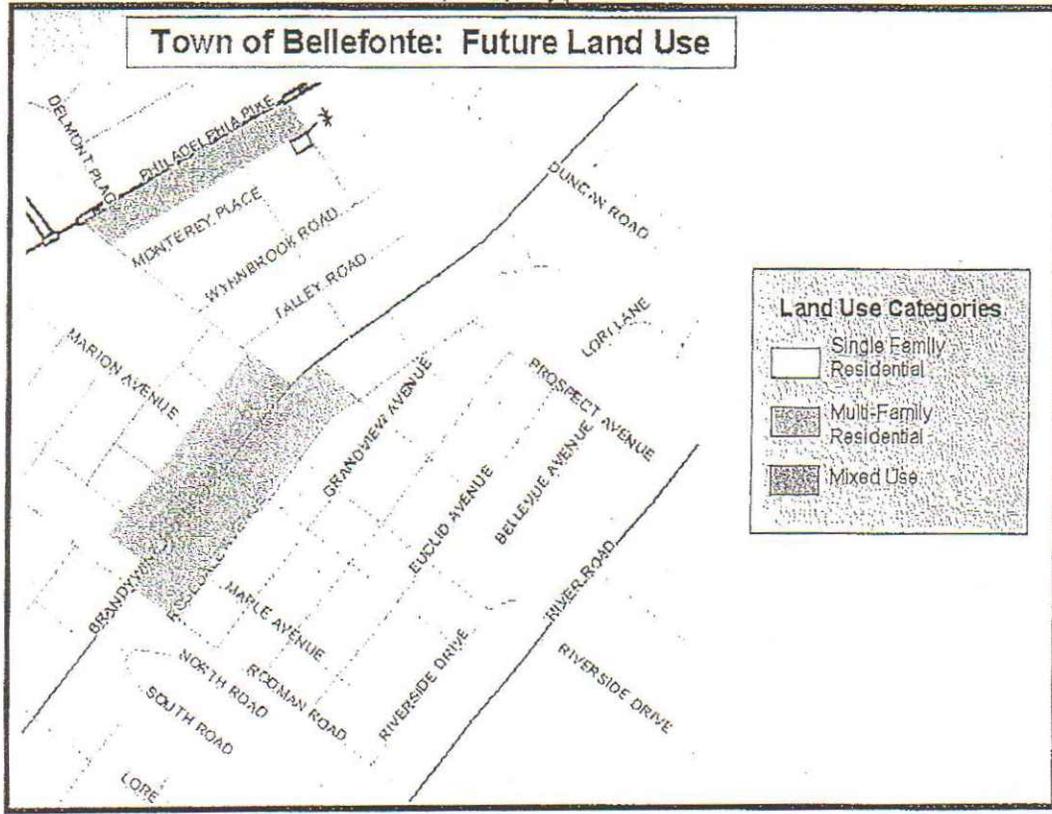
Affirmed: 

Secretary

11/10/14
Date

Map 13: Bellefonte Future Land Use

Exhibit A



* Amendment to Town of Bellefonte Comprehensive Plan (2008)
from Single Family Residential to Mixed Use

Tax Parcel No.: 17-001.00-044
Prepared by and Return to:
John E. Tracey, Esquire
Young Conaway Stargatt & Taylor,
LLP
1000 N. King Street
Wilmington DE 19801

DECLARATION OF RESTRICTIONS

This Declaration of Restrictions (this "Declaration") is hereby made this ____ day of _____, 20__, by 202 Schoolhouse Lane, LLC, a Delaware limited liability company (referred to herein as "Declarant"), and states as follows:

WHEREAS, Declarant is seized in fee simple of that certain tract of land situate in Town of Bellefonte, Brandywine Hundred, New Castle County, State of Delaware, consisting of approximately 0.2630 acres of land, more or less, located at 202 Schoolhouse Lane, and being New Castle County Tax Parcel No. 17-001.00-044 (the "Property"), as more particularly bounded and described on that certain Deed dated August 19, 2004 and of record in the Office of the Recorder of Deeds in and for New Castle County, Delaware at Instrument No. 20040826-0094921; and

WHEREAS, Declarant desires to impose upon the Property certain restrictions and to bind itself, its successors and assigns who may hereafter be the owners of all or part of the Property.

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS, that Declarant does hereby covenant and declare for itself, its successors and assigns, that Declarant shall and does hereby stand seized of the Property, which Property shall henceforth be subject to the following covenants and agreements, which shall be covenants running with the land and which shall be binding upon Declarant, its respective

successors, assigns, grantees and all other subsequent owners or holders of any right, title to or interest in all or any portion of the Property, for the general benefit of Town of Bellefonte, an incorporated municipality of the State of Delaware, its successors and assigns:

1. **SETBACKS.** Any building constructed on the Property shall be no closer than fifteen feet (15') from the southerly property line and ten feet (10') from the westerly property line

2. **LANDSCAPE BUFFERS.** Landscaped Buffers, with a minimum width of eight feet (8'), shall be maintained along the southerly and westerly property lines.

3. **BUILDING HEIGHT.** No building constructed on the Property shall exceed 2½ stories or 35 feet in height, whichever is greater.

4. **SQUARE FOOTAGE.** No building constructed on the Property shall exceed two thousand five hundred (2,500) square feet.

5. **AMENDMENT.** The foregoing real covenants are hereby incorporated for the benefit of Town of Bellefonte, its successors and assigns, and may not be altered, amended or modified, in whole or in part, without the approval of the Town Commissioners of the Town of Bellefonte, its successors and assigns.

6. **EFFECTIVE DATE.** These restrictions shall be recorded and become effective upon the expiration of any applicable appeal period applied to the approval of the proposed rezoning of 202 Schoolhouse Lane.

7. **SEVERABILITY.** In the event that any provision of this Declaration is deemed to be illegal or unenforceable, the balance of this Declaration shall remain in full force and effect.