

ORDINANCE NO. 2124

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A MARINA WITH RESTAURANT, RETAIL AND MULTI-FAMILY DWELLING STRUCTURES (5 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 0.84 ACRE, MORE OR LESS

WHEREAS, on the 17th day of March 2010, a conditional use application, denominated Conditional Use No. 1863 was filed on behalf of Andrew and Carol Walton; and

WHEREAS, on the 13th day of May 2010, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 27th day of May 2010, said Planning and Zoning Commission recommended that Conditional Use No. 1863 be approved with conditions; and

WHEREAS, on the 8th day of June 2010, 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, morale, 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. 1863 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 southwest of Oak Orchard Road, northeast of Pine Street and northeast of Bay Road in Oak Orchard and being more particularly described in Deed Book 3553 Page 244 in the Office of the Recorder of Deeds in and for Sussex County, said parcel containing 0.84 acre, 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:

- 1. This Conditional Use shall replace Conditional Use No. 1088 for the property.**
- 2. There shall be no more than 10 boat slips permitted, and all boat slips, dock, pier and marina activities shall be subject to all State and Federal requirements that may be applicable to the use.**
- 3. All entrance, intersection and roadway improvements required by DelDOT shall be completed by the Applicant in accordance with DelDOT's determination.**
- 4. No boat storage shall be permitted, except for boats belonging to the owner of the property.**
- 5. No boat motor repair shall be permitted.**
- 6. No fuel sales will be permitted.**
- 7. There shall not be an arcade.**
- 8. There shall be no more than 5 residential units on the property.**
- 9. There shall be parking as required by the Zoning Code. The spaces shall be delineated on the site, and there shall be landscaping or a fence between the parking area and Oak Orchard Road to separate the parking area from the roadway.**
- 10. The property shall be connected to the Oak Orchard Sanitary Sewer District and shall comply with all Sussex County Engineering Department requirements for the connection or system upgrades required to serve the property.**
- 11. Stormwater management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements, using Best Management Practices.**
- 12. Security lighting shall be screened from neighboring properties and roadways.**
- 13. All dumpsters or trash receptacles shall be screened from view.**
- 14. 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. 2124 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 8TH DAY OF JUNE 2010.


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:

- 1. This is an Application for a Conditional Use of land in a MR Medium Density Residential District for a marina with restaurant, retail and multi-family dwelling structures (5 units) to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing .84 acres of land, more or less.**
- 2. The purpose of a Conditional Use is to provide for certain uses which cannot be well adjusted to their environment in particular locations with full protection offered to surrounding properties by rigid application of the district regulations. These uses are generally of a public or semi-public character and are essential and desirable for the general convenience and welfare but, because of the nature of the use, the importance of the relationship to the Comprehensive Plan and possible impact not only on neighboring properties but on a large section of the County, require the exercise of planning judgment on location and site plan.**
- 3. The use as a marina with restaurant, retail and multi-family dwelling structures is an appropriate Conditional Use within the MR-Medium Density Residential District for this location.**
- 4. The site is the subject of a previously approved application in 1994 for a marina with boat rental, boat slip rental, bait and tackle sales, sandwich shop, crabbing pier, office and residence (Conditional Use No. 1088).**
- 5. The prior approval allowed for a maximum of 20 boat slips but only 10 exist and no additional slips are proposed.**
- 6. DelDOT reported that a Traffic Impact Study was not required and that it had no objections to the project.**

7. **Members of the public appeared and spoke in favor of the application and stated that the project will be beneficial to the area and that traffic and parking is not a concern.**
8. **The use as a marina with restaurant and retail is of a public benefit to the residents of Oak Orchard and should help revitalize small businesses within the heart of Oak Orchard.**
9. **The use, with the stipulations and conditions placed upon it, will not have an adverse impact on neighboring properties or the neighborhood.**
10. **The property is within a Development District according to the Comprehensive Plan Update.**
11. **Based upon the above findings and the recommendations of the Commission, which were adopted by Council, the Application was approved subject to fourteen (14) conditions.**