

ORDINANCE NO. 2211

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND A GR GENERAL RESIDENTIAL DISTRICT FOR MARINE SERVICES AND BOAT STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 6.81 ACRES, MORE OR LESS

WHEREAS, on the 12th day of January 2011, a conditional use application, denominated Conditional Use No. 1888 was filed on behalf of Michael Henderson; and

WHEREAS, on the 14th day of April 2011, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 28th day of April 2011, said Planning and Zoning Commission recommended that Conditional Use No. 1888 be denied; and

WHEREAS, on the 3rd day of May 2011, 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 IV, Subsection 115-22 and Article VI, Subsection 115-39, Code of Sussex County, be amended by adding the designation of Conditional Use No. 1888 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 northwest of Road 305 (Hollyville Road) across from Road 306 (Inland Bay Road) and being more particularly described in Deed Book 2900, Page 209, in the Office of the Recorder of Deeds in and for Sussex County, said parcel containing 6.81 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:

- 1. There shall be no retail sales on the site, only marine services and boat storage.**
- 2. All service work shall be performed inside of a service building or within an area fenced and/or screened from view of neighboring properties.**
- 3. All waste oils and fluids shall be stored in containers and hauled away by licensed waste oil haulers.**
- 4. The project will be open during daylight hours only.**
- 5. The site plan shall be subject to all appropriate agency approvals.**
- 6. There shall be no more than 30 boats stored on the site at any one time, whether storage or waiting for repair and/or pickup.**
- 7. The storage area shall be gated and screened from view from Hollyville Road.**
- 8. There will only be one unlighted sign on the premises that shall not exceed 32 square feet on each side.**
- 9. Any security lighting shall be screened so that it does not shine onto neighboring properties.**
- 10. Any dumpster or outside storage shall be screened by fencing from view from neighboring properties.**
- 11. All entrance, intersection, roadway and multi-modal improvements required by DelDOT shall be completed by the Applicant in accordance with DelDOT's determination.**
- 12. The site plan shall be subject to the review and approval of the Planning and Zoning Commission.**

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2211 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 23RD DAY OF AUGUST 2011.



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. The proposed Conditional Use for a Marine Services and Boat Storage business will serve the residents in the area.**
- 2. The proposed Conditional Use is generally similar to other uses in the vicinity of the property, i.e. landscaping business, heating, ventilating and air conditioning service, tree cutting service, plumber, etc.**
- 3. The project, with the conditions and stipulations placed upon it, will not have an adverse impact on the neighboring properties or community.**
- 4. The operation of a marine service and boat storage business will not generate a significant increase in traffic.**
- 5. The Planning and Zoning Commission did make a recommendation that this application be denied since there were restrictive covenants that prohibit commercial uses of the five lot subdivision within the plat entitled "Lands of Country Trails Land Co."; however, the landowners have since agreed, amended, and recorded an Amendment to the Deed Restrictions and Covenants terminating the prohibition against commercial activities on the five properties.**
- 6. DelDOT has responded that a Traffic Impact Study is not recommended and that the current Level of Service A of Hollyville Road will not change as a result of this application.**
- 7. The County Engineering Department, Utility Planning Division, has commented that the site is located in the North Coastal Planning Area; that an on-site septic system is proposed; that conformity to the North Coastal Planning Study will be required; and that the project is not in an area where the County currently plans to provide sewer service.**
- 8. Other than the Applicant, there was one party present in support and no parties present in opposition to the application.**
- 9. Based on the record created before the Council, this Conditional Use was approved subject to twelve conditions and stipulations which will minimize any potential impacts on the surrounding area and adjoining properties.**