

ORDINANCE NO. 2387

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR A BOAT STORAGE FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 3.571 ACRES, MORE OR LESS

WHEREAS, on the 16th day of October 2014, a conditional use application, denominated Conditional Use No. 2005 was filed on behalf of Indian River Volunteer Fire Co., Inc.; and

WHEREAS, on the 22nd day of January 2015, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2005 be approved; and

WHEREAS, on the 10th day of March 2015, 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 VI, Subsection 115-39, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2005 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 (a.k.a. Route 5 and Road 297) 0.15 mile north of River Road (Road 312) and being more particularly described as follows:

BEGINNING at a point on the southwesterly right-of-way of Oak Orchard Road (Road 297), a corner for these subject lands and lands, now or formerly, of David A. Ritter and Kathy M. Ritter; thence south 40°56'20" west 612.23 feet along said Ritter lands to a point; thence north 37°30'25" west 199.08 feet to a point and north 36°31'15" west 82.12 feet along the centerline of a ditch to a point; thence north 43°26'30" east 567.65 feet along other lands of Indian River Volunteer Fire Co., Inc. to an iron bar on the southwesterly right-of-way of Oak

Orchard Road; and thence south 46°11'08" east 250.74 feet along the southwesterly right-of-way of Oak Orchard Road to the point and place of beginning, and containing 3.571 acres, more or less. (Tax I.D. No. 234-34.08-43.00 & 44.00) (911 Address: 32634 Oak Orchard Road, Millsboro)

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:

- A. The boat storage area shall be fenced.
- B. The area shall be open during daylight hours only.
- C. No maintenance of boats or vehicles shall occur on the site.
- D. Any security lighting on the site shall be downward screened so that it does not shine on neighboring properties or roadways.
- E. 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. 2387 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 10TH DAY OF MARCH 2015.



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:

- A. This is the application of Indian River Volunteer Fire Co., Inc. to consider the Conditional Use of land in a GR General Residential District for a boat storage facility to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 3.571 acres, more or less, land lying southwest of Oak Orchard Road (a.k.a. Route 5 and Road 297) 0.15 mile north of River Road (Road 312) (911 Address: 32634 Oak Orchard Road, Millsboro, DE) (Tax Map I.D. 234-34.08-43.00 & 44.00).
- B. Council found that DeIDOT commented that a Traffic Impact Study was not recommended and that the current Level of Service "C" will not change as a result of this application.
- C. Council found that the Sussex County Engineering Department, Utility Planning Division, commented that the site is located in the Oak Orchard Sanitary Sewer District; that wastewater capacity is available for the project, if the project does not exceed a total of 11.06 Equivalent Dwelling Units (EDUs); that Ordinance 38 construction will not be required; that a 6-inch sanitary sewer lateral serves each parcel; that the two laterals are installed along Oak Orchard Road; that conformity to the North Coastal Planning Study will be required; and that a Concept Plan is not required.

D. Based on testimony before the Planning & Zoning Commission and the public hearing before the Sussex County Council, Council found that Patrick Miller, President of the Indian River Volunteer Fire Company, Inc. (Fire Company) was present on behalf of the Fire Company and stated that the Fire Company is a not-for-profit operation; that the Fire Company purchased the property to prevent development and for future expansion of their facilities; that a revenue generator is needed to support the Fire Company; that they intend to lease the property to the adjoining boat repair and storage facility, which is in need of storage space; that if the boat storage facility is able to utilize the property for storage, it will generate income for the Fire Company to pay the mortgage on the property; that the use of automatic gates is anticipated; that the Fire Company stores their rescue boats in the firehouse; that fencing will be provided; that the type of fencing has not yet been determined; that they anticipated that 8 foot chain-linked fencing will be utilized and that slats in the fencing may be installed for screening; that based on the current activities of the adjoining boat storage facility, their employees will be moving the boats in and out of the facility; that the proposed use(s) are consistent with neighboring uses; and that the uses would not adversely affect the neighborhood.

E. Based on the Planning and Zoning Commission's Findings (1 through 4) and Conditions (A through E) and the record created before the Sussex County Council, Council found that:

- 1. The use is consistent with neighboring and adjacent uses. There is also an existing boat storage area next door.**
- 2. The use is appropriate for a waterfront community such as Oak Orchard.**
- 3. The use as a boat storage facility is a public or semi-public use and is desirable for the general convenience and welfare of the area.**
- 4. No parties appeared in opposition to the application.**
- 5. Based on the record and recommendation of the Planning & Zoning Commission and the record created before the Sussex County Council, the Conditional Use is approved subject to five (5) conditions (A – E) which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**