

ORDINANCE NO. 2799

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR OUTDOOR BOAT STORAGE AND OVERFLOW PARKING TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 1.006 ACRES, MORE OR LESS

WHEREAS, on the 21st day of December 2020, a conditional use application, denominated Conditional Use No. 2257 was filed on behalf of Indian River Volunteer Fire Co. Inc, and

WHEREAS, on the 12th day of August 2021, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 26th day of August 2021, said Planning and Zoning Commission recommended that Conditional Use No. 2257 be approved with conditions; and

WHEREAS, on the 14th day of September 2021, 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, Subsections 115-39, of the Code of Sussex County, be amended by adding the designation of Conditional Use No. 2257 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 northeast corner of the intersection of Oak Orchard Road (Route 5) and Spruce Street and being more particularly described in the attached legal description prepared by Karins and Associates, said parcel containing 1.006 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:

- a. The use shall be limited to the storage of boats and overflow parking. No other storage of vehicles or equipment shall occur on the site.**
- b. The facility shall only be accessible from 8:00 a.m. until dusk.**
- c. The perimeter of the site shall be fenced with a 6-foot high fence that screens the property from neighboring and adjacent properties and roadways.**
- d. No sales or maintenance of boats shall occur on the site.**
- e. All security lighting shall be shielded and downward screened so that it does not shine on neighboring properties or roadways.**
- f. The storage area shall be covered with a pervious stabilizing material. The location and type of this material shall be shown on the Final Site Plan.**
- g. The use shall be subject to all DelDOT requirements regarding the entrance and roadway improvements necessary to provide access to the site.**
- h. No hazardous materials or fuel shall be stored on the property other than what may be in the tanks of boats located on the site.**
- i. One lighted sign shall be permitted on the site. It shall not exceed 32 square feet in size.**
- j. No junked or unregistered boats or boat trailers shall be stored on the site.**
- k. The failure to abide to these conditions of approval may result in the revocation of this Conditional Use.**
- l. 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. 2799 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 14TH DAY OF SEPTEMBER 2021.

**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. for the consideration of a Conditional Use of land in a GR General Residential District for outdoor boat storage and overflow parking to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 1.006 acres, more or less (land lying on the northeast corner of the intersection of Oak Orchard Road [Route 5] and Spruce Street) (Tax I.D. No. 234- 34.08-53.00 [part of]) (911 Address: None Available).**

- B.** Based on testimony before the Planning and Zoning Commission and the public hearing before the Sussex County Council, Council found that Mr. Patrick Miller spoke on behalf of the Applicant, Indian River Volunteer Fire Co., Inc. (“Fire Company”); that he is the President of the Fire Company; that the Fire Company has owned both parcels since 1966; that it was originally purchased to build a firehouse as the Fire Company already had a facility across the street; that the property has never been utilized for anything other than community gatherings and overflow parking for the nearby church; that the parcel has remained vacant and the Fire Company has maintained the parcel over the years; that a few years ago the Fire Company sold a section of the parcel to Sussex County to utilize as a pumping station; that across the street, next to WMF Watercraft, there is property also owned by the Fire Company; that the Fire Company has complied with all fencing and lighting requirements; that they are expanding on the opposite side of Old Orchard Road, where they have purchased the old convenience store; and that the proposed property is located between the convenience store and the community church.
- C.** Council also found that WMF Watercraft has approached the Fire Company to see if they would be willing to rent them some facilities to store boats as the boats are arriving to be serviced; that they will not be storing boats for seasons, as they already have a property for this purpose located on John J. Williams Highway; that the anticipation is only for storage of the boats waiting to be serviced; that the Fire Company has partnered with the community church, who is not in opposition; that the community church plans to submit a letter of support; that the community church requests to still utilize the proposed parcel for their overflow parking; that the boat storage for WMF Watercraft does not anticipate using the entire 1.06 acres; that the Fire Company has worked out an arrangement with the community church to transition the ownership of Oak Street from the community church to the Fire Company; that this process has not been finalized due to the death of the attorney who was handling the process; that WMF Watercraft is already familiar with the fencing, lighting and business hour conditions that are already in place and the business hours are Monday through Friday 8:00 a.m. to 5:00 p.m., Saturdays 8:00 a.m. to 3:00 p.m. and no business hours on Sundays; and that these are the current working hours that were already granted to WMF Watercraft previously.
- D.** Based on the record and recommendation of the Planning and Zoning Commission and the Planning and Zoning Commission’s Findings (1 through 7) and Conditions (8a - l), Council found that:
- 1.** The Applicant seeks approval for a boat storage and overflow parking facility on approximately 1 acre of land.
 - 2.** The proposed Conditional Use is located in the Oak Orchard area, which is an appropriate location for this type of use. This will be an expansion of the existing boat facility across the road.
 - 3.** There is a need for the use proposed by the Applicant in this area of Sussex County.
 - 4.** This use is limited in nature and will not involve any new buildings.
 - 5.** The project, with the conditions and stipulations imposed upon it, will not have an adverse impact upon the neighboring properties or community.
 - 6.** The use is of a public or semi-public character and is desirable for the general convenience and welfare of residents in this area of Sussex County.
 - 7.** No parties appeared in opposition to this Application.
 - 8.** Based on the record and recommendation of the Planning and Zoning Commission and the record created before the Sussex County Council, the Conditional Use is approved subject to twelve (12) conditions (a through l) which will serve to minimize any potential impacts on the surrounding area and adjoining properties.