

**ORDINANCE NO. 2810**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A BOAT SHRINK WRAPPING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 3.97 ACRES, MORE OR LESS**

**WHEREAS, on the 4th day of February 2021, a conditional use application, denominated Conditional Use No. 2268 was filed on behalf of Staci C. and Winfield S. Walls, Jr.; and**

**WHEREAS, on the 14<sup>th</sup> day of October 2021 and the 28<sup>th</sup> day of October 2021, 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. 2268 be approved; and**

**WHEREAS, on the 9th day of November 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, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2268 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 southwest side of Gull Point Road (S.C.R. 313) approximately 0.52 mile southeast of John J. Williams Highway (Route 24) and being more particularly described in the attached legal description prepared by Cordrey & Clark, P.A., said parcel containing 3.97 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 a boat shrink wrapping business only, which shall include temporary storage of boats, materials, and equipment related to the operation of this business. The use shall only occupy a 2.0-acre portion of the entire property, and that the 2.0-acre area shall be shown on the Final Site Plan. This area shall be located to the rear of the home so that it is screened from view of Gull Point Road.**
- b. There shall be no retail sales occurring from the site.**
- c. No maintenance of boats shall occur on-site.**
- d. No unregistered or permanently inoperable boats, trailers, or watercraft shall be stored at this site.**
- e. There shall not be any boats permanently stored on this site other than the Applicant's own boats or watercraft.**
- f. The hours of operation shall be limited to 7:00 a.m. through 7:00 p.m., Monday through Sunday.**
- g. All business-related equipment and materials shall always be kept in a neat and presentable appearance.**
- h. The existing landscape buffer shall continue to be maintained between the southern side yard property line and the neighboring property for the entire duration the use is operated on the property. The Final Site Plan shall identify this landscape buffer area.**
- i. Any security lighting shall be screened so that it does not shine on neighboring properties or roadways.**
- j. One lighted sign shall be permitted. The sign shall be no larger than 32 square feet per side.**
- k. Any dumpsters shall be screened from the view of neighbors and roadways. The dumpster locations shall be shown on the Final Site Plan.**
- l. The Applicants shall comply with DeIDOT requirements, including any entrance or roadway improvements.**
- m. Failure to comply with any of these conditions may be grounds for termination of the Conditional Use approval.**
- n. 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. 2810 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 9TH DAY OF NOVEMBER 2021.**

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**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 Staci C. and Winfield S. Walls, Jr. for a Conditional Use of land in an AR-1 Agricultural Residential District for a boat shrink wrapping business to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 3.97 acres, more or less (property lying on the southwest side of Gull Point Road (S.C.R. 313), approximately 0.52 mile southeast of John J. Williams Highway (Route 24) (Tax I.D. No. 234-33.00-44.00) (911 Address: 30600 and 30606 Gull Point Road, Millsboro).**
- B. Based on the record before the Planning and Zoning Commission and the hearing before the Sussex County Council, Council found that Mackenzie Peet, Esquire, of Baird Mandalas Brockstedt, LLC, was present on behalf of the Application, together with Applicants, Staci C. Walls and Winfield S. Walls Jr.; that the Applicants occupy the home located to the front of the property; that they are requesting a Conditional Use pursuant to Sussex County Zoning Code 115-22 for the operation of a boat shrink wrapping business to be operated on a roughly two-acre portion of their 3.97-acre property; that Section 115-22 of Sussex County Code requires a Conditional Use for a business and commercial uses when the purpose of the AR-1 District is more fully met by issuing a Conditional Use; that the proposed use will be concentrated around the Applicants' roughly 1,500 square foot pole barn which is located to the upper middle portion of the property; and that the pole barn is also shown on the survey which has been submitted into the record.**
- C. Council found that the property is located within the AR-1 Agricultural Residential Zoning District; that all surrounding properties are also located within the AR-1 Zoning District; that the Applicants' business is compatible with surrounding uses; that properties located to the north and south are in the MR Medium Residential, HR2 High Density Residential, and Marine Zoning Districts; that there are two approved Conditional Uses and some properties operating commercial businesses nearby; that specifically since 2011, two Conditional Uses were approved within a mile radius of the property; that one approved Conditional Use was for a construction company that includes storage of materials, retail sales and equipment storage for JB Builders, LLC and a Conditional Use for the operation of an on-premise electronic message center sign; that Harmon's Body Shop is located across the street; that WMF Watercraft & Maine is located nearby at the intersection of Rt. 24 and S.C.R. 312; that the proposed use is a less intensive use than businesses operating nearby; that it is compatible with the surrounding area which is very much boat and marina friendly; that there is a boat dealer operating nearby; that a public boat access ramp is located approximately one mile down the road; that the Marine District is located just south of the Walls' property; and that DelDOT determined that the proposed uses' impact on traffic is insignificant and no Traffic Impact Study (TIS) was required.**
- D. Council found that the Applicants' home will screen the proposed use from the street view; that there are also mature trees and vegetation between the Applicants' property and the adjacent neighbor's property; that all trash receptacles and dumpsters will be located on a site plan and also screened from view; that the proposed hours of operation are Monday through Sunday from 7:00 a.m. until 7:00 p.m.; that there will be limited equipment on site; that any equipment used will be stored inside the pole barn; that they have no employees presently and do not plan to have employees at this time; that the Walls do not anticipate any more than a half a dozen boats to be brought to the property each day; that the shrink wrapping process normally takes about four hours to perform the service; that the Applicants anticipate some occasional need for temporary storage of boats on the site in the event the work on the boat cannot be completed on the day that the boat is dropped off; that Applicants are interested in installing a sign in the future that will comply with the Sussex County regulations; that all structures are**

located within the setbacks; and that all business equipment, materials and boats temporarily stored on the site will be kept in a neat and presentable appearance at all times.

E. Based on the record and recommendation of the Planning and Zoning Commission and the Planning and Zoning Commission's Findings (1 through 9) and as amended by this Council, Conditions (a – n), Council found that:

1. The Applicant seeks approval for a boat shrink wrapping business on approximately 3.97 acres. The use will occur on the same property occupied by the Applicants' residence.
2. The shrink wrapping associated with the use will be performed by the Applicants. According to the Applicants, there will not be any additional employees.
3. The proposed Conditional Use is located near Route 24 and along Gull Point Road near area waterways, docks, boat ramps, and marinas. This is an appropriate location for this type of use.
4. There is a need for the use proposed by the Applicant in this area of Sussex County.
5. This use is limited in nature and will not involve any off-site buildings. Boats will be brought to the site for shrink wrapping and then hauled off-site to wherever they will be stored. There will not be any boat storage on the site other than boats owned by the Applicants and their family.
6. There are other businesses in the area, including WMF Marine, a body shop, and a construction business. This use is consistent with these other small business uses in the area.
7. The project, with the conditions and stipulations imposed upon it, will not have an adverse impact upon the neighboring properties or community.
8. The use as a boat shrink wrapping facility 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.
9. No parties appeared in opposition to this Application.
10. 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 fourteen (14) conditions (a – n), as amended, which will serve to minimize any potential impacts on the surrounding area and adjoining properties.