

**ORDINANCE NO. 2251**

**AN ORDINANCE TO AMEND CONDITION NO. 8 OF THE CONDITIONS OF APPROVAL IN ORDINANCE NO. 2204 FOR CONDITIONAL USE NO. 1862 FOR NANTICOKE SHORES ASSOCIATES, LLC AS IT RELATES TO EARTHEN BERMS AROUND THE PERIMETER OF THE PROPERTY FOR A CAMPGROUND/RV PARK TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 50.81 ACRES OF A 138 ACRE TRACT**

**WHEREAS, on the 20th day of January 2012, a conditional use application, denominated Conditional Use No. 1926 was filed on behalf of Nanticoke Shores Associates, LLC; and**

**WHEREAS, on the 22nd day of March 2012, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 12th day of April 2012, said Planning and Zoning Commission recommended that Conditional Use No. 1926 be approved; and**

**WHEREAS, on the 17th day of April 2012, 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, Section 115-22, of the Code of Sussex County, be amended by adding the designation of Conditional Use No. 1926 as it applies to the property hereinafter described.**

**Section 2. The subject property is described as:**

**All that certain tract, piece or parcel of land, lying and being in Indian River Hundred, Sussex County, Delaware, and lying northeast of Long Neck Road (Route 22) 1 mile east of Pot Nets Road (Road 22C) and being more particularly described in Ordinance No. 2204 for Conditional Use No. 1862, as containing 50.81 acres of a 138 acre tract.**

**Section 3. The intent of this Ordinance Amendment is to amend Condition No. 8 by deletion of [The project shall be surrounded by a 50 foot vegetative buffer with a 6-foot earthen berm, planted with indigenous trees, and the perimeter of the property shall be**

fenced with a security gate at the entrance to the campground/RV park, with appropriate security lighting, and shall include a separate office for this project, with appropriate directional signage.], and by inserting in lieu thereof with: A 6-foot earthen berm, planted with indigenous trees, will be installed between the campground/RV park site and the affected homes in Rehoboth Shores Manufactured Home Park to screen those homes from view of the campground/RV park, and that the marsh perimeter of the campground/RV park site will be screened by the existing trees and by an additional planting of three (3) rows of indigenous trees immediately adjoining the tree line along the marsh area on the northeasterly and northwesterly portions of the site.

This Ordinance shall take effect immediately upon its adoption by majority vote of all members of the County Council of Sussex County, Delaware.

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2251 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 17TH DAY OF APRIL.

  
ROBIN A. GRIFFITH  
CLERK OF THE COUNCIL

The Council found that the Conditional Use was appropriate legislative action based on the following Findings of Facts:

1. This is an application to consider the Application of Nanticoke Shores Associates, LLC for a Proposed Ordinance entitled "AN ORDINANCE TO AMEND CONDITION NO. 8 OF THE CONDITIONS OF APPROVAL IN ORDINANCE NO. 2204 FOR CONDITIONAL USE NO. 1862 FOR NANTICOKE SHORES ASSOCIATES, LLC AS IT RELATES TO EARTHEN BERMS AROUND THE PERIMETER OF THE PROPERTY FOR A CAMPGROUND/RV PARK TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 50.81 ACRES OF A 138 ACRE TRACT," (Conditional Use No. 1926), said parcel being located northeast of Long Neck Road (Road 22) 1 mile east of Pot Nets Road (Road 22C).
2. Comments were not requested from DelDOT or Sussex County Engineering since this application is for an amendment to a Condition of Approval for the previously approved Conditional Use No. 1862.

3. **David A. Podlaseck of Nanticoke Shores Associates, LLC (General Manager of Rehoboth Shores and Tall Pines Campground) was present with Gene Bayard, Esquire, of Wilson, Halbrook & Bayard, P.A., on the Applicant's behalf and they stated that the purpose of the application is to amend Condition No. 8 only; that Condition No. 8 references that "The project shall be surrounded by a 50 foot vegetative buffer with a 6-foot earthen berm, planted with indigenous trees, and the perimeter of the property shall be fenced with a security gate at the entrance to the campground/RV park, with appropriate security lighting, and shall include a separate office for this project, with appropriate directional signage."; that the Sussex Conservation District has advised that it has been questioned whether installing a berm along the marsh to the north of the development will obstruct drainage, and that per the District review, the District believes that the berm will obstruct rear lot drainage from the proposed units; that if they were to create a berm around the perimeter of the property and there was a flood, flooding rains or storms, it would create a lake that would flood out the entire area and flood back into Rehoboth Shores; and that a continuous berm around the perimeter of the site will obstruct the natural conveyance of the property to the marsh.**
4. **No parties appeared in support of or in opposition to this application.**
5. **This amendment is consistent with the original intent of Council in that surrounding property owners are still buffered.**
6. **Based on the record and recommendations of the Planning and Zoning Commission and the record created before Council, the following amendment to Condition No. 8 of the previously approved Conditional Use is approved which will serve to minimize any potential impacts on the surrounding area and adjoining properties. The original Condition No. 8 shall be stricken in its entirety and the following new Condition No. 8 shall be inserted in its place and stead;**

**A 50 foot vegetative buffer with a 6 foot wide earthen berm planted with indigenous trees shall be constructed around that portion of the perimeter of the site which abuts any existing mobile homes in Rehoboth Shores, running parallel to Seagull Lane, Seahawk Lane, crossing Bayview Lane and ending at the northern portion of the site at Baybreeze Lane, screening all existing**

mobile homes from view of the campground/RV park site. The balance of the perimeter of the property shall have a 50 foot vegetative buffer, with three rows of indigenous trees planted in the buffer area in addition to the trees that already exist on that portion of the perimeter of the property, thereby insuring that best practice stormwater management will occur and that the potential for flooding the site and any portion of the developed area of Rehoboth Shores Community is minimized. The perimeter of the property shall be fenced, with a security gate at the entrance to the campground/RV park, with appropriate security lighting, and shall include a separate office for this project, with appropriate directional signage.