

ORDINANCE NO. 2766

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CAMPGROUND TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 8.0 ACRES, MORE OR LESS

WHEREAS, on the 26th day of August 2019, a conditional use application, denominated Conditional Use No. 2201, was filed on behalf of Pine Acres, Inc.; and

WHEREAS, on the 21st day of January 2021, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 11th day of February 2021, said Planning and Zoning Commission recommended that Conditional Use No. 2201 be approved with conditions; and

WHEREAS, on the 2nd day of March 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. 2201 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 south side of Dogwood Lane approximately 305 feet south of Radie Kay Lane, approximately 0.29 mile northeast of Long Neck Road and being more particularly described in the attached legal description prepared by Morris James Wilson Halbrook & Bayard, LLC and D. Stephen Parsons, P.A., said parcel containing 8.0 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. There shall be no more than 58 camping or RV sites within this Conditional Use area. No more than 6 guests shall be permitted per site.**
- B. All entrance and roadway improvements and any other DeIDOT requirements shall be completed as required by DeIDOT.**
- C. The campground shall be connected to Sussex County's central sewer system.**
- D. The campground shall be connected to a central water system for domestic use and fire protection.**
- E. Stormwater management and sediment and erosion control facilities shall be constructed in accordance with applicable State and County requirements and maintained using Best Management Practices. The Final Site Plan shall contain the approval of the Sussex Conservation District.**
- F. This expansion area shall be surrounded by a 50-foot-wide landscaped buffer.**
- G. Each campsite shall be permitted to have one accessory building of no more than 64 square feet with a maximum height of 10 feet. The accessory buildings shall be of uniform design and size.**
- H. Campground restrictions shall be submitted as part of the site plan review. These shall include "Quiet Hours" between 11:00 p.m. and 7:00 a.m. each day.**
- I. All units to be used for the purpose of human habitation on campsites shall be tents, travel trailers, recreational vehicles and equipment manufactured specifically for camping purposes.**
- J. All lighting shall be downward screened so that it does not shine on neighboring communities or roadways.**
- K. The Applicant shall identify all "dwellings" in the vicinity of the property that require a 400-foot buffer pursuant to Section 115-172.H(3) of the Sussex County Code. Except for the dwellings that are the subject of the approved variance in Board of Adjustment Case No. 12428, all campsites and cabins shall be a minimum of 400 feet from any dwelling that exists at the time of Final Site Plan approval.**
- L. All campsites must be 2000 square feet in size and at least 40 feet wide.**
- M. No cabin or campsite shall have direct access to any road outside of the boundaries of the campground. Access to the campground shall be gated and restricted so that the only access shall be from Radie Kay Lane.**
- N. There shall be no sales of campsites or camping units, including park models, RVs, travel trailers or cabins.**
- O. This expanded camping area shall comply with all of the requirements of Section 115-172H, with the exception of the variance approved in Board of Adjustment Case Number 12428.**
- P. No entertainment or similar organized activities shall be permitted in this expansion area of the campground.**
- Q. The Final Site Plan shall include the conditions established by this Conditional Use No. 2208 and by Board of Adjustment Case No. 12428.**
- R. The Final 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. 2766 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 16TH DAY OF MARCH 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 Sun Leisure Point Resort, LLC (Pine Acres, Inc.) for the consideration of a Conditional Use of land in an AR-1 Agricultural Residential District for a campground to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 8.0 acres, more or less (property lying on the south side of Dogwood Lane approximately 305 feet south of Radie Kay Lane, approximately 0.29 mile northeast of Long Neck Road (Tax I.D. No. 234-24.00-39.02 and 39.06) (911 Address: 25491 Dogwood Lane, Millsboro).**
- b. Based on testimony before the Planning and Zoning Commission and the public hearing before the Sussex County Council, Council found that David Hutt, Esquire, with Morris, James LLP was present on behalf of the Applicant at the Planning and Zoning Commission's public hearing and the Sussex County Council's public hearing with Mark Davidson, Principal Land Planner, and Alan Decktor, Professional Engineer, with Pennoni Group, and with Jackie Maguire representing Sun Leisure Point Resort, LLC; that also present at the Planning and Zoning Commission hearing was Brian Styck, Engineer with the Atwell Group, who was present by teleconference; that Sun Leisure Point Resort community is a community of manufactured homes, recreational vehicles (RVs), and a marina located just off Long Neck Road; that the property under consideration is made up of two (2) tax parcels; that each parcel is made up of four (4) acres for a total of eight (8) acres; and that the proposed Conditional Use is for 58 RV sites on these eight (8) acres.**
- c. Council also found that Leisure Point has been in existence since the 1960s; that Leisure Point was developed by George Harrison, Sr., prior to the enactment of the Sussex County Zoning Code; that Leisure Point is considered a pre-existing legally non-conforming manufactured home and RV resort community; that Leisure Point was originally developed for transient campers but, over time, it became a mixture of permanent manufactured home lots as well as RV sites; that, currently, the community consists of 211 manufactured home sites, 317 RV sites, and 305 boat slips in the marina; that Dick Harrison worked in Leisure Point for many years until it was sold in 2019 to Sun Leisure Point Resort, LLC; that, after the Conditional Use application was filed, the Applicant was informed that a variance from the separation distance requirement would also be necessary for this property; that the variance request was heard by the Board of Adjustment on June 1, 2020 and was granted on July 6, 2020; that the property is zoned AR-1; and that a Conditional Use is required for a campground in addition to the special requirements of Sussex County Code 115-172(H).**
- d. Council also found that the surrounding area is primarily residential and consists of manufactured home/RV parks, single-family residential homes and farmland; that there are 17 manufactured home parks and three RV parks off Long Neck Road not counting Sun Leisure Point; that immediately to the south of the subject property are three (3) single-family residences, to the north is the remainder of the Sun Leisure Point community, to the east are manufactured home parks and to the west is an agricultural area; that Long Neck Road is known as a major collector road; that the entrance will be off Radie Kay Lane which already exists so additional road improvements will not be needed at this time; that the subject property lies in the Coastal Area according to the Comprehensive Plan and the majority of the parcel is in the Level 2 Area according to the Strategies for State Policies and Spending Map with a small portion in the Level 3 Area; that Level 2 is an area where growth is anticipated by local, county and state plans in the near-term future; that public utilities are available for this site; that there are no known archeological sites or national registered historical sites on the property; that there are no wetlands on the property and the**

property is outside of a floodplain area; that because this property is located in the Coastal Area, an environmental assessment report was prepared; that the property is located in a well-head protection area; that the development must be at least 100 feet away from the wells and this proposal will greatly exceed the requirements; and that the impervious cover must be 35% or less and this proposal will comply with those requirements.

- e. **Council further found that there are nine (9) requirements for a RV park; that, first, the access to the site must be from a public highway or an easement having a width of at least 50 feet and this property has access from a public road – Long Neck Road to Radie Kay Lane which is a 50 foot right-of-way which leads back to Leisure Point; that, second, there is adequate drainage on the site and the entire site is in a Fair Water Recharge Area; that drainage will be to Guinea Creek and those waters eventually end up in the Bay; that, third, the campsites be at least 400 feet from any existing dwelling on property of other ownership and be at least 100 feet from any public road and this site is over 100 feet from a public road and a variance was granted by the Board of Adjustment with regard to the 400 foot separation distance; that as part of that approval, the Applicant has offered to install a privacy fence around the entire perimeter of the campground; that, fourth, each campsite shall have an area of 2000 square feet and a width of not less than 40 feet and that the park have a landscaped buffer that is 50 feet wide and that the Applicant will meet the campsite dimensions and the 50 foot buffer requirements and will include a privacy fence; that, fifth, proper provisions be made for public water supply, toilets and bathing facilities and electric connections and, as described earlier, these services will be provided and a bathing facility for guests is shown on the site plan; that the guests in this part of Leisure Point will also have access to the amenities in the existing Leisure Point; that, sixth, small retail businesses intended primarily for occupants of the park area shall be permitted within the park area and there is no plan to add to this section as there is a camp store in the original section of Leisure Point; that, seventh, proper provision shall be made for refuse storage and collection, and as it does now, there will be refuse collection sites and all refuse will be removed from the site by a commercial refuse hauler; that, eighth, all accessory structures on the site will be shown on the site plan and be uniform appearance in design and size; and that, ninth, other than the allowed accessory structures, the only other structures on site would be the RVs that would rent space there.**

- f. **Council also found that anyone who brings in a golf cart must show proof of insurance; that there will be an 11:00 p.m. curfew; that animals must be leashed; that there will be speed limits within the park; that all conditions placed by the Board of Adjustment be part of the site plan; that conditional uses are of a public or semipublic character and require the exercise of planning judgment on location and site plan, that a conditional use should be found to be desirable for the general convenience and welfare of the County; that this application meets those objectives as the nature of this area is exactly what Leisure Point is a microcosm of and that is manufactured home parks and RV parks; that this is in the Coastal Area; that no additional infrastructure is necessary; that tourism is the second highest economic generator in Sussex County, trailing only to agriculture and forestry and this proposed RV resort extension would contribute to the prosperity and welfare of the County by providing another option for visitors to the County; that the RV industry thrived during the pandemic as people could vacation and still maintain social distancing; and that this use is desirable for the convenience, orderly growth, prosperity and welfare of the County.**

- g. **Based on the record and recommendation of the Planning and Zoning Commission and the Planning and Zoning Commission’s Findings (1 through 13) and Conditions (14A - R), Council found that:**
 - 1. **This application seeks to add 58 additional campsites to the existing legally nonconforming Leisure Point campground. These additional 58 units will be situated on 8 acres.**

2. **This conditional use is for the expansion to the existing Leisure Point campground/resort to provide additional lodging opportunities for RV and camping visitors to Sussex County and its beach and bay areas, which is a vital part of Sussex County's tourism industry.**
3. **The use is consistent with other existing uses in the area, including the existing Leisure Point camping facility. There are a number of similar manufactured home or RV communities in the area, including four (4) with campgrounds. There are also nearby C-1 properties.**
4. **The Comprehensive Plan identifies this site as part of the Coastal Area, which is recognized as a development or growth area on the Future Land Use Map.**
5. **The development is consistent with the purposes and goals of the Sussex County Comprehensive Plan Update since it (1) promotes economic development; (2) promotes tourism; and (3) is consistent with the character of the zoning and development in the area.**
6. **This expanded camping and RV area will be accessed through the existing gated entrance to Leisure Point via Radie Kay Lane.**
7. **The proposed conditional use will not adversely affect the congestion of roads or streets as confirmed by DelDOT. In accordance with the MOU between Sussex County and DelDOT, the campground would only have a "negligible" impact on area roadways and a Traffic Impact Study is not required. Access will be via Radie Kay Lane from Long Neck Road, which DelDOT has designated as a "Major Collector".**
8. **There will be no negative impact on schools or other similar public facilities since the expanded camping and RV area will only be used for transient visitors.**
9. **The Long Neck Water Company will provide water service to the expansion area.**
10. **Sussex County will provide central sewer service to the expansion area.**
11. **By written decision of the Board of Adjustment dated August 17, 2020 in Case No. 12428, the Sussex County Board of Adjustment granted a 266-foot variance from the 400-foot separation distance required for the manufactured homes on Sussex County Tax Parcels 234-24.00 39.07 and 39.08.**
12. **With the variance, the expansion area complies with the requirements of Section 115-172.H of the Sussex County Zoning Code for the approval, design and operation of campgrounds.**
13. **The proposed use is beneficial and desirable for the general convenience and welfare of Sussex County and its residents and visitors since it will provide tourism and related services, economic growth in a designated development area, full and part-time employment opportunities, and significant economic benefits to area businesses.**
14. **Based on the record and recommendation of the Planning and Zoning Commission and the record created before the Sussex County Council, the Conditional Use was approved subject to eighteen (18) conditions (A through R) which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**