

**ORDINANCE NO. 2896**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AMENDMENT OF CONDITION “N” OF THE CONDITIONS OF APPROVAL IN ORDINANCE NO. 2766 (CONDITIONAL USE NO. 2201) RELATING TO THE SALE OF CAMPSITES WITHIN A CAMPGROUND/RV PARK 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 22<sup>nd</sup> day of November 2021, a conditional use application, denominated Conditional Use No. 2326 was filed on behalf of Sun Leisure Point Resort, LLC; and**

**WHEREAS, on the 27<sup>th</sup> day of October 2022, 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. 2326 be approved; and**

**WHEREAS, on the 6<sup>th</sup> day of December 2022, 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. 2326 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 south side of Dogwood Lane, approximately 305 feet south of Radie Kay Lane, approximately 0.29 mile northeast of Long Neck Road (Rt. 23) and being more particularly described in the attached legal description prepared by Morris, Nichols, Arsht & Tunnell LLP, 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.**

**I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2896 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 6<sup>TH</sup> DAY OF DECEMBER 2022.**

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**Tracy N. Torbert  
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 for the consideration of a Conditional Use of land in an AR-1 Agricultural Residential District for an amendment of Condition “N” of the conditions of approval in Ordinance No. 2766 (Conditional Use No. 2201) relating to the sale of campsites within a campground/RV park 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 [Rt. 23]) (911 Address: 25491 Dogwood Lane, Millsboro) (Tax Parcels: 234-24.00- 38.00 [portion of]) (F.K.A. Tax Parcels: 234-24.00-39.02 & 39.06).
- 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 Application for Sun Leisure Point Resort, LLC, which is the owner and operator of Leisure Point Resort Community, together with Mr. Brian Mingerink, Regional Vice President of Sales and Operations, and Ms. Amy Eskridge, General Manager; that the Leisure Point Resort Community is a combination manufactured home community, RV park and marina located off Long Neck Road; that the Application request is for the limited purpose of requesting modification to Condition N; and that Condition N was adopted by County Council through Ordinance No. 2766, being the approval of C/U 2201.
- C. Council found that in January 2021 a public hearing was held before the Planning & Zoning Commission to request a Conditional Use to allow for 58 campsites as an extension of the existing campground the existed as part of Leisure Point Resort; that as part of the Conditions of Approval, Condition No. 15 stated there shall be no sale of campsites; that in February 2021 the Commission issued their recommendations of approval with conditions A through R; that Condition N modified what had been proposed by the Applicant, adding to it, language which stated no sales of campsite or camping units, including park models, RVs, travel trailers, or cabins; that in March 2021 the Application moved to County Council; that during the County Council before public hearing, he requested a revision to Condition N, allowing the Condition to state that there shall be no sales of campsites; that he read his statement, made during the public hearing before County Council, from the approved meeting minutes of March 2, 2021, which stated that Sun Leisure does sell RVs; that these RVs are on a campsite and there is no separate show room area; that this request is made so that the expansion site will be consistent with the existing site; and that County Council did not have any opposition to the proposed revision to the conditions.
- D. Council found that the current request is to propose Condition N to read that there shall be no sale of campsites; that the request is made for multiple reasons; that the proposed language is consistent with §115-172 which provide for special requirements which exist for certain types of Conditional Uses; that a campground is a Conditional Use which has special requirements; that Subsection H and Subsection 4 reference campsites within a campground; that the last sentence of §115-172(H)(4) states that no site shall be offered for sale or sold; that the condition proposed by the Applicant was consistent with the Code; and that the proposed condition is also consistent with the practice of the existing community.
- E. Council also found that existing Leisure Point Resort Community has operated since the 1960s; that the current community consists of 211 manufactured homesites, 317 RV sites and 305 boat slips in the marina; that for RVs in the existing portion of Leisure Point, the community acts as the broker for those sales; that this practice has been conducted from the 1960s until current times; that, in a typical year, there are 15 to 20 of sales brokered through the community; that the RV sales are for RVs located on individual sites within Leisure Point Resort Community; that there is not a separate showroom or display area onsite; that there is no intention to become an RV dealership; that in June 2021 the Planning & Zoning Commission reviewed the site plan for C/U 2201; that since that time, the site plan as received all agency approvals, receiving final approval by staff in September 2021, and recorded; that the only remaining room left on the site plan was for 58 RV sites, various amenities and buffers; and that a display area, for the sale of RVs, was not reflected on the site plan.

**F. Council further found that the Sussex County Engineering Department did submit comments in relation to the current Application; that he feels the Engineering Department may have misunderstood the Application request; that with the Engineering comments it mentions addressing the “Leisure Point Condition N removal request”; that the current Application is not a request to remove Condition N, but rather to amend Condition N to remove a portion of the current language; that the Engineering Department had a particular concern to not having means for billing individual campsites for sewer; that there is no intention of selling a campsite at the subject location; that it would be for the selling of RVs, travel trailers and park model RVs; that the language used by the Engineering Department, was that which can be found in the Code, except with the additional language and cabins at the end; that there is no definition within the Code for cabins; that to avoid confusion, he requested the word, cabin, not be included in the condition; that; that the submitted site plan reflects 58 RV sites; that the Engineering Department also provided comments regarding the disconnection of sewer attachments from RVs, which are not hard piped to the County sewer system and clipping the sewer connections closed during storm events; that he questioned if the Engineering comments fell within the purview of that Application request; that Final Site Plan was recently approved; that construction is about to begin; that there is a construction requirement and Applicant is happy to work with the Engineering Department to comply.**

**G. Based on the record and recommendation of the Planning and Zoning Commission and the record created before the Sussex County Council, Condition N of Ordinance No. 2766, being the approval of Conditional Use No. 2201, is hereby deleted in its entirety and a new Condition N is inserted in its place and stead as follows:**

**“n. There shall be no sales of campsites.”**