

April 11, 2023 – Regular Meeting

The Town Board met in Regular Session this evening at the Gardiner Town Hall at 7 PM. Present were Supervisor Majestic, Councilmembers Wiegand, Carucci, Walls and Richman. There was approximately 15± audience members.

### **LAZY RIVER 2023 LICENSE APPLICATION AND AMENDED RESOLUTION**

**Resolution No. 83** - Offered by Councilmember Walls;

**WHEREAS**, Lazy River Resorts, LLC (“Applicant”) has submitted an application to the Gardiner Town Board (“Town Board”) to establish a Campground Floating District (“CFD”) across approximately 104 acres in the Town of Gardiner, located at 50, 46, 40, 36 and 30 Bevier Road (Tax Parcel IDs: 93.4-1-20, 21, 24, 23, and 25.110) in the RA Zoning District. The application is made pursuant to Sections 220-18.2, 220-45.2 and 220-69 of the Town of Gardiner Town Code and includes a request for Special Use Permit and certain waivers under Section 220-45.2(F);

**WHEREAS**, there has been an existing campground on the property identified as 50 Bevier Road and 40 Bevier Road (Tax IDs: 93.4-2-24 and 23) (the “Existing Campground Parcels”) since in or around 1969 pursuant to a Special Use Permit, area variance, and various site plan amendments approved by the Town of Gardiner Planning Board (“Planning Board”). The Existing Campground Parcels are approximately 70.8 acres; and

**WHEREAS**, in October of 2014, the Planning Board approved a site plan amendment (the “2014 Site Plan”) to permit an expansion to 314 camping spaces on the Existing Campground Parcels. Other improvements shown on the 2014 Site Plan include a check-in station with bathroom and laundry facilities, six (6) bath houses, pool, rec hall/ office, two (2) structures identified as “Existing Manager’s Dwelling”, garage, maintenance shed, game room, “Exist[ing] 3 RV Cabins” located on camp spaces 98A, 98 and 99, and “Proposed Sewer Hook-up’s to the Existing 10 RV Cabins w/ water & electric (77-86)”;

**WHEREAS**, the Town of Gardiner Zoning Code was amended in 2008 (the “2008 Zoning Code”) and the 2008 Zoning Code was applicable when the Planning Board approved the 2014 Site Plan. At the time the 2008 Zoning Code Permitted “Camps” in the RA zoning district with site plan and special use permit approvals. Camps were regulated by Section 220-45 of the 2008 Zoning Code and defined as follows:

Any area of land containing recreation facilities, and which may contain cabins, tents, recreational travel vehicles, shelters, or accommodations used for what is commonly known as “overnight camping” or “day camp” purposes, or otherwise designed for seasonal or other temporary recreational and living purposes occupied by adults, children or any combination of individuals.

**WHEREAS**, pursuant to Section 200-45(E) of the 2008 Zoning Law, Travel Trailer Parks and Tourist Camps, as defined in Chapter 200 of the Town Code were also required to comply with the provisions of Chapter 200 and “the more restrictive provisions” were to apply; and

**WHEREAS**, Chapter 200 was enacted in 1984 and defined a “Travel Trailer” as a “vehicular portable structure built on a chassis, designed to be used as a temporary dwelling for travel and recreational purposes, and having a body width not exceeding 8.5 feet”; and

**WHEREAS**, Chapter 200 required that the operator of a Travel Trailer Park or Tourist Camp obtain a license from the Town Board that would be issued for a period of April 1 through October 31 of each calendar year and included certain “Plan Requirements”, including minimum campsite widths, access and circulation requirements, setbacks and screening requirements; and

---

<sup>1</sup> The two (2) buildings identified on the 2014 Site Plan as “Existing Manager’s Dwelling” are now referred to as “Ranger’s Retreat” [Building #5] and “Mountainview Lodge” [Building #13].

**WHEREAS**, Chapter 200 provided that the only permanent structures permitted in such part of camp are a single owner or caretaker dwelling, recreational buildings, and service and office buildings and expressly prohibited any other “year-round dwellings provided of any type” and the placement of “mobile homes” within the park property; and

**WHEREAS**, Chapter 200, at Section 200-17, provided the Town Board could waive, subject to appropriate conditions, the provision of any or all such improvements and requirements in Chapter 200; and

**WHEREAS**, after the 2014 Site Plan was approved the current Applicant acquired the Existing Campground parcels, and additional adjacent parcels located at 30 Bevier Road and 36 Bevier Road (Tax IDs: 93.4-1-25.110 and 93.4-1-20<sup>2</sup>). Both properties were improved with an existing single-family home; and

**WHEREAS**, in 2018 Applicant applied for a site plan amendment for a new pool feature and lot line adjustment. The Planning Board approved the Applicant’s site plan amendment (the “2018 Site Plan”) with the following conditions:

- The Applicant will install a speed table on Bevier Road in consultation with and subject to the approval of the Town’s Highway Superintendent.
- The Applicant will install automatic noise limiters on all amplified sources.
- The operation parameters of the limiters will be set in consultation with the Building Department.
- All amplified sound will end at 10:00 at which time quiet hours will commence.

**WHEREAS**, in 2018, the Applicant purchased 46 Bevier Road (Tax ID: 93.4-1-21) which was improved with an existing single-family residence and accessory apartment (the “Schultz Parcel”); and

**WHEREAS**, during a scheduled inspection on July 3, 2019, the Town of Gardiner Code Enforcement Officer observed the Applicant had constructed a large tennis court, basketball court, and pedal car track on the Schultz Parcel, within the recognized floodplain, without necessary approvals. The Code Enforcement Officer also determined that the existing residential structure on the Schultz Property (now known as “Cindy Bear’s Palace”) was being used and advertised as part of the existing campground capable of providing overnight accommodations for up to 18 transient guests. The Code Enforcement Officer issued a Notice of Violation on July 31, 2019, stating the inclusion of the Schultz Property, and its subsequent use as part of the exiting campground operation was an unauthorized amendment and/or expansion of the Applicant’s site plan and required Planning Board approval; and

**WHEREAS**, in August 2019, the Applicant appealed the Building Inspector’s Notice of Violation to the Town of Gardiner ZBA (“ZBA”) and the ZBA upheld the Building Inspector’s determination. On October 25, 2019, the Applicant filed a Petition in the New York State Supreme Court, Ulster County, seeking review of the ZBA’s determination pursuant to N. Y. CPLR Article 78. The return date on this proceeding has been adjourned by agreement of the parties and is currently pending in Ulster County Supreme Court; and

**WHEREAS**, on February 2020, the Town Board adopted Local Law No. 1 of 2020, amending Chapter 220 of the Town Code, the Zoning Law of the Town of Gardiner, and Chapter 200 of the Town Code, regulating “Travel Trailer Parks and Tourist Camps”. Local Law No. 1 of 2020 created a new procedure for the establishment of a Campground Floating District (“CFD”). The law states that the expansion of an existing campground to add more than ten (10) camping spaces shall require the establishment of a CFD and Special Use Permit from the Town Board and compliance with supplemental requirements incorporated in the amended Town Zoning Law at Section 220-45.2(E); and

**WHEREAS**, in addition to the CFD and Special Use Permit, site plan approval is required from the Planning Board. An annual License from the Town Board is also required under Chapter 200 of the Town Code; and

---

<sup>2</sup> These parcels are commonly referred to as the “Lobster Pound Parcel” and the “Bevier Lodge Parcel” respectively.

**WHEREAS**, in May of 2020, the Applicant applied to the Town Board for a license to operate a Campground pursuant to Chapter 200 of the Town of Gardiner Town Code. During an inspection of the existing campground, several improvements/ activities were observed that were not previously reviewed or approved by the Town; and

**WHEREAS**, in August 2020, the Applicant filed the instant application for CFD, Special Use Permit and site plan approval. The application seeks the establishment of a CFD to include 50, 46, 40, 36 and 30 Bevier Road (Tax Parcel IDs: 93.4-1-20, 21, 24, 23, and 25.110), consisting of approximately 104 acres of land. The Existing Campground Parcels and adjacent parcels proposed to be added to the CFD is hereinafter referred to collectively as the “Expanded Campground”. In addition, the application seeks approval for the following existing improvements/ activities that were constructed in the Expanded Campground without the Town’s review or approval:

- Use of existing building as “Ice Cream Outpost”
- Golf Cart Charging Station (*building permit was issued in 2017 but not shown on site plan*).
- Temporary storage area for materials from projects and maintenance activities
- Use of the following permanent structures as overnight accommodations for Campground guests:
  - Building #5 - Ranger's Retreat Rental
  - Building #19 - Cindy Bear’s Palace
  - Building #19 - Lobster Pound Campground Managers dwelling.
- The current site plan identifies existing sites that are used for workforce housing.
- Existing RV storage location has been identified on the current site plan.
- The as-built design of "Third Avenue" as two dead end streets is depicted on the current site plan and differs from prior approvals that have "Third Avenue" as a thru-road.
- Pedal car track and tennis court located on 46 Bevier Road.
- Halloween Trail Area
- Laser Tag Area
- Elimination of Campsites (Total Eliminated: 4)
  - Removal sites 300, 306, 307 and 308 which is currently a playground area.
- Additional Campsites (Total Added: 19)
  - Camping Sites 400, 401 and 402 – Three (3) additional Sites Located within 50’ Setback (primitive/ tent camping sites).

- Camping Sites 62-76 (including site 74A) – Sixteen (16) additional Sites Located along the Wallkill River (primitive/ tent camping sites).

**WHEREAS**, the application includes a request for certain waivers under Section 220-45.2(F) of the Zoning Law, as amended by Local Law No. 1 of 2020 (the “Zoning Law”); and

**WHEREAS**, The Planning Board determined the project was a Type I action under the State Environmental Quality Review Act (“SEQRA”) pursuant to 6 NYCRR Parts 617.4(b)(6)(i), 617.4(b)(8) and 617.4(b)(9); and

**WHEREAS**, the Planning Board declared itself Lead Agency under SEQRA and circulated a notice to the other involved and interested agencies; and

**WHEREAS**, after the requisite circulation and waiting period, the Town of Gardiner Planning Board declared itself Lead Agency under SEQRA and commenced a coordinated environmental review of the application/Expanded Campground that continued for several months; and

**WHEREAS**, on or about May 4, 2022, the Planning Board acting as Lead Agency under SEQRA approved a Negative Declaration completing the environmental review process and satisfying the requirements of SEQRA. A copy of the Planning Board’s Negative Declaration for the application/Expanded Campground is incorporated herein by reference; and

**WHEREAS**, at the Town Board’s June 7, 2022 regular meeting, a public hearing was opened at which time all members of the public wishing to speak were heard. Members of the public attended the public hearing and commented on the application. Specific concerns that were raised included persistent noise impacts from the campgrounds operations including regular DJ events and hayrides, code compliance issues and the Applicant’s act of proceeding with the construction of improvements without required approvals, the expansion of accessory uses that have changed the character of the campground, visual impacts and light pollution (from exterior lights used by campground but also projectors and decorative lights that are used by campground guests). The Applicant also submitted letters of support for the proposed project; and

**WHEREAS**, the Town Board continued the public hearing and received additional public comment on June 14, 2022 and July 12, 2022 and then voted to close the public hearing; and

**WHEREAS**, the application materials were referred back to the Planning Board for recommendation pursuant to Zoning Law §§220-45.2(A), 229-18.2 and 220-69. The Gardiner Planning Board reviewed and discussed materials that had been received and provided a report to the Town Board on September 19, 2022; and

**WHEREAS**, the application/project did not require a referral to the Ulster County Planning Board under General Municipal Law 239-m; and

**WHEREAS**, the Town Board has discussed the application documents, technical reviews by the Town’s consultants, and the public comments that had been received. There were extended discussions of the Applicant’s waiver requests and deliberations on the application; and

**WHEREAS**, at the Town Board’s October 20, 2022 meeting, the Town Board directed the attorney to prepare a draft resolution approving the CFD and Special Use Permit consistent with its deliberations for the Town Board’s review and discussion; and

**WHEREAS**, the Town Board has duly considered all the materials before it, including the Applicant’s submissions, comments from members of the public and individual members of the Town Board, detailed comments of the Town’s staff, officers and professional consultants, comments received from involved and interested agencies, the Planning Board’s Negative Declaration under SEQRA and report pursuant to Zoning Law §§220-45.2(A), 229-18.2 and 220-69.

**NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS BY THE TOWN BOARD OF THE TOWN OF GARDINER, ULSTER COUNTY, NEW YORK:**

The Town Board hereby grants Conditional Approval for the establishment of a CFD and issues a special permit with certain waivers and conditions pursuant to Section 220 of the Gardiner Code as follows:

**FINDINGS AND GENERAL CONDITIONS**

The establishment of a CFD and approval of a Special Use Permit with waivers requires approval by the Town Board. The Town Code provides standards for each of these approvals. For ease of reference the applicable standard and/or criteria are restated below (in italics) with a discussion that follows regarding whether there is compliance with the Code provisions or how compliance is achieved with mitigation proposed by the Applicant and/or the imposition of a condition of approval.

**GENERAL FINDINGS**

Town Zoning Law at §220-45.2, as amended by Local Law No. 1 of 2020, provides the expansion of an existing campground to add more than ten (10) camping spaces shall require a special use permit issued by the Town Board and the creation of a CF District consistent with the provisions of the Zoning Law section and Chapter [200](#) of the Town Code. The law requires that all campgrounds and expansions of existing campgrounds shall be required to comply with all applicable state and federal regulation, all applicable environmental performance standards and special permit standards set forth in the Town Zoning Law, and the supplemental regulations for campgrounds set forth in Town Zoning Law Section 220-45.2(E).

Town Board Findings: The Applicant proposes the following expansions of the existing campground use: 1) the addition of three (3) new parcels located at 30, 36 and 46 Bevier Road (Tax IDs: 93.4-1-25.110, 93.4-1-20, and 93.4-1-21), bringing the total acreage from 70.8 acres [Existing Campground Parcels] to approximately 104 acres for the Expanded Campground; 2) the addition of a net total of 15 camp spaces which have already been located in the Expanded Campground [on Existing Campground Parcels] without necessary approvals<sup>3</sup>, 3) the use of four (4) existing single-family structures in the Expanded Campground as overnight accommodations for transient guests, with a total combined occupancy of fifty-four (54) people<sup>4</sup>; and 4) additional structures, improvements and accessory uses that have been located in the Expanded Campground without necessary approvals<sup>5</sup>. In addition, the Applicant has provided a conceptual analysis demonstrating an additional seventeen (17) primitive campsites could be located on the parcel located at 30 Bevier Road Tax IDs: 93.4-1-25 (the “Lobster Pound Parcel) if rezoned to CFD, although development of these additional sites is not proposed at this time.

The Town hereby finds the instant application is for the expansion of an existing campground, and therefore the applicant is required to obtain a CFD and special use permit issued by the Town Board. The Applicant is also required to comply with the supplemental regulations set forth in Town Law Section 220-45.2(E) for the Extended Campground unless a waiver is granted by the Town Board.

---

<sup>3</sup> Camp spaces 61-76 [including camp space 74A], and camp spaces 400 to 402 on the Existing Campground Parcels have been added without necessary approvals. The applicant has also removed four (4) camp spaces and replaced them with a children’s play area without site plan amendment. The net total of additional camp spaces proposed is 15 additional camp spaces.

<sup>4</sup> The existing single-family residences proposed for overnight occupancy by transient guests include: 1) Cindy Bear’s Palace [40 Bevier Road [Tax ID: 93.4-1-21], 2) Bevier Lodge [36 Bevier Road, 93.4-1-20], 3) Mountain View Lodge [Existing Campground Parcel], and 4) Ranger’s Retreat [Existing Campground Parcel].

<sup>5</sup> These uses include a golf cart charging building and gold cart area, ice cream outpost, pedal car track, sports court, lazar tag area, Halloween trail, RV storage area, three (3) employee RV sites, proposed new bath house, and dog park.

### ESTABLISHMENT OF A CFD

The application seeks to establish a CFD that includes the Existing Campground Parcels and three (3) adjacent parcels acquired by the Applicant which are located at 30, 36 and 46 Bevier Road. The Town Board has the sole discretion whether or not to entertain a request to amend the [Zoning Map](#) to create a CFD, which must be consistent with the Town of Gardiner Comprehensive Plan. A proposed local law to amend the zoning map to establish a CFD on the Expanded Campground was reviewed as part of the Application and the Town Board has considered whether the establishment of a CFD is consistent with the Town of Gardiner Comprehensive Plan and the purpose of the Town of Gardiner Zoning law set forth at Zoning Law §220-3.

Town Board Findings: The Existing Campground Parcels have been used as a campground since in or around 1969 pursuant to a Special Use Permit, area variance, and various site plan amendments approved by the Planning Board. Adjacent parcels located at 50 Bevier Road [Tax ID: 93.4-2-24] and 40 Bevier Road [Tax ID: 93.4-1-21] were acquired by the Applicant in 2014 when it acquired the Existing Campground Parcels. The parcel located at 36 Bevier Road [Tax ID: 93.4-1-20] was acquired four years later in 2018. Each adjacent parcel is improved with an existing single-family home. The Existing Campground Parcels have been used as a campground for several decades and uses that were previously reviewed and permitted on those parcels will continue regardless of whether a CFD is established. The Applicant is now proposing to incorporate the Existing Campground Parcels and uses on adjacent parcels under one CFD. The Town Board finds the establishment of a CFD that includes all parcels owned by the Applicant will create a cohesive zoning scheme for the Expanded Campground and provide for the Town's regulation of a campground use on the property under a single, special permit with unified site plan. The Town Board believes the Expanded Campground is best suited to be included in a CFD to ensure that it can continue to provide public access to open spaces for recreation enjoyment, and to ensure that the existing, more densely developed Existing Campground Parcels are sufficiently buffered from nearby residential uses.

To further mitigate impacts on adjacent land uses and to ensure consistency with the goals and recommendations of the Town of Gardiner Comprehensive Plan, the Town Board imposes the following conditions on its approval to create a CFD on the Expanded Campground:

1. The Expanded Campground shall be limited to the uses and improvements that are shown on an approved site plan and special use permit. There shall be no further development or improvements constructed, erected, or maintained in the Expanded Campground. This includes the Existing Campground Parcels located at 50 Bevier Road and 40 Bevier Road (Tax IDs: 93.4-2-24 and 23) and adjacent parcels and parcels located at 30, 36 and 46 Bevier Road (Tax IDs: 93.4-1-25.110, 93.4-1-20, and 93.4-1-21). In addition, the establishment of any new camping spaces or additional accessory uses/activities is prohibited. Any change or modification to existing accessory uses, structures or activities in the Expanded Campground shall require an amendment to the Expanded Campground's special use permit and site plan.
2. There shall be no sources of outdoor amplified sound installed, operated, or maintained by the Applicant in the Expanded Campground. This includes the Existing Campground Parcels located at 50 Bevier Road and 40 Bevier Road (Tax IDs: 93.4-2-24 and 23) and adjacent parcels located at 30, 36 and 46 Bevier Road (Tax IDs: 93.4-1-25.110, 93.4-1-20, and 93.4-1-21). Notwithstanding the foregoing, the following sources of outdoor amplified noise shall be permitted in the Expanded Campground subject to limitations set forth in the Expanded Campground's special use permit for the Expanded Campground and any applicable Town noise regulations or ordinances: 1) limited use of a public announcement system shall be permitted to announce evacuation orders, to locate missing persons, and to identify vehicle owners; 2) a portable speaker may be used for Halloween sound effects when the Halloween Trail is in use; 3) sound from laser tag devices that are affixed to the

- individual player and integral to the game of laser tag; and 3) speakers used for outdoor movies.
3. There shall be no exterior lighting/illumination permitted on parcels located at 30, 36 and 46 Bevier Road (Tax IDs: 93.4-1-25.110, 93.4-1-20, and 93.4-1-21), except for string lights that are used to illuminate the Halloween Trail when the trail is in use, exterior lighting that is necessary to provide safe travel along any roadway located on these parcels, or safe ingress and egress to and from any single-family residences located on these parcels. All exterior light fixtures that are required for these purposes shall comply with Town Code, Section 220-40(L) and be reviewed and approved by the Planning Board.
  4. A 200-foot-wide buffer shall be maintained along the southern and western boundary of the parcel located at 30 Bevier Road (Tax IDs: 93.4-1-25.110 [the “Lobster Pound” parcel]). At least fifty (50) feet of this 200-foot buffer area shall be maintained as vegetated buffer. Any portion of the existing Halloween Trail located in the 200-foot buffer area shall be removed from the 200’ buffer. There shall be no new development, improvements, uses or activities established in the 200’ buffer area.
  5. Existing setbacks and buffers along the Wallkill River shall be maintained and the removal of vegetation and trees along the riverbank shall be limited by the special use permit issued by the Town Board. A 50’ buffer shall be maintained along all other property lines in the Expanded Campground, subject to a limited waiver granted to permit spaces 77, 78, 79, 80 and 81 to remain in their current location within the 50’ setback. There shall be no other development, improvements, uses or activities within these buffer areas except for additional landscaping that is required by the Town Board or Planning Board.

These conditions shall be incorporated in the proposed local law to amend the Zoning Map to establish a CFD on Tax IDs: 93.4-2-23, 93.4-2-24, 93.4-1-25.110, 93.4-1-20, and 93.4-1-21.

#### Seasonal Use

The Zoning Law defines a “Campground” as a “seasonal” use which “shall mean a period of seven months or less during a calendar year, unless otherwise permitted by the Town Board in an approved CF District.” *See* Zoning Law, §220-74 (iii). The Applicant has requested, as part of this application, that the Town Board grant a waiver to permit a camping season that is longer than 7 months. The Applicant has also requested that permanent structures proposed to be incorporated in the campground use as overnight accommodations for transient guests, be permitted to operate year-round.

Town Board Findings: The Town Board finds the operating season should be limited to a seven-month season and that the permanent structures approved in the Expanded Campground for use as overnight accommodations for transient guests must be subject to the same seasonal limitation. The Town Board finds the operation of a campground on a 7-month seasonal basis is in keeping with the spirit, intent and clear language of the Town’s local laws that have been in place for decades. The proposed expansion of the operating season and year-round use of permanent structures as overnight accommodations for transient occupancy would alter the essential character of the use and impact adjoining property owners and the neighborhood during months when the campground has not historically been in operation. The Town Board finds this would not be in the public interest or in keeping with the spirit and intent of the Town law, and therefore, does not grant this waive request. The Expanded Campground may continue to operate for a 7-month season with the commencement date and end date to be determined by the Applicant and approved by the Town Board with its annual license renewal. Notwithstanding the foregoing, the approved manager’s dwelling can be occupied on a year-round basis by the Campground’s manager.

#### SPECIAL PERMIT – WAIVER REQUESTS

The Town Zoning Law provides the Town Board may waive, subject to appropriate conditions, the requirements for campgrounds set forth in Section 220-45.2(E) “as in the judgment of the special

circumstances of a particular property are not requisite in the interest of public health, safety, and general welfare or would cause unusual hardship, provided the public interest is protected and the development is in keeping with the general spirit and intent of the regulations set forth in Section 220-45.2”. The law further provides that the Town Board may consider the preexisting nonconforming status of any use or improvement on the subject property when determining whether or not to grant a waiver. *See Town Zoning Law §220-45.2(F)*.

The Applicant has requested certain waivers pursuant to Section 220-45.2(E) as part of this application. The supplemental requirements for campgrounds set forth at Section 220-45.2, and the waiver request sought by the Applicant are listed below together with the Town’s corresponding findings.

(1) *Dimensional Requirements*

(a) *Campgrounds require a ten-acre minimum lot size in the RA zone.*

Town Board Findings: The Town Board finds the Expanded Campground, consisting of a total 104 acres, meets this requirement and no waiver is required.

(b) *Camping units consisting of wheeled vehicles shall not exceed 8.5 feet in width. The wheels must remain on the vehicle.*

Town Board Finding: The Applicant has requested a waiver from this provision to permit the placement of 160 Park Model RVs in the Expanded Campground. Park Model RVs are typically 12 feet in width which exceeds the maximum 8.5 feet width restriction in the Town Zoning Law. Park Model RVs include wheels that remain on the RV, which are covered by skirting.

The Applicant maintains the use of Park Model RVs on the Existing Campground Parcels were “previously permitted by the Town and were compliant with Zoning Code prior to the adoption of Local Law No. 1 of 2020”. However, the 8.5-foot width restriction was included in the Town Code prior to the adoption of Local Law No. 1 of 2020, at Chapter 200. In fact, the width restriction had been in place since at least 1984. Pursuant to the 2008 Zoning Law, Section 220-45(E), the width restriction in Chapter 200 applied to “Camps” regulated under the Zoning Law. Thus, the 8.5 width restriction has been in place since in or around 1984 and was in place when Lazy River acquired the Existing Campground Parcels in 2014.

In its December 2021 submission to the Town Board, the Applicant has provided a bill of sale to demonstrate the following Park Model RVs were installed in the Existing Campground prior to its acquisition of the property in 2014:

- Rustic River (Site 8,9, & 26): 11’ 5” W [3]
- Cottages (Site 77-86): 11’ 5” W [10]

The 2014 Site Plan identified a total of thirteen (13) “Existing RV Cabins” located on the Existing Campground Parcels, however, the width of the “RV Cabins” is not specified.<sup>6</sup> There is no evidence in the record that the Town Board granted a waiver from the 8.5 width restriction to allow these Park Model RVs to be installed in the Existing Campground.<sup>7</sup>

---

<sup>6</sup> The 2014 Site Plan identified: “Exist[ing] 3 RV Cabins” located on camp spaces 98A, 98 and 99, and “Proposed Sewer Hook-up’s to the Existing 10 RV Cabins w/ water & electric (77-86)”.

<sup>7</sup> The record demonstrates the prior owner of the Existing Campground Parcels appeared before the Planning Board on January 19, 1999 at which time the Planning Board concluded the replacement of tent sites with “four 2 room Kozy Kabins, front room 13 x 11 w/ 6’ porch, back room 9x7” did not require Planning Board action.



After the Applicant acquired the Existing Campground Parcels in 2014, it installed the following eighty-three (83) additional Park Model RVs:

- Riverfront Premium (Site 1-7): 13' W **[7 sites]**
- Hillside Premium (Site 201-213, 287-300): 13'2" W **[27 sites]**
- Ridgeview (Site 259-283): 11'10" W **[25 sites]**
- Shawangunk (Site 337-349): 13'9" W **[13 sites]**
- Hudson Valley (Site 170-180): 11'11" W **[11 sites]**

There is no evidence in the record that the Town Board granted a waiver from the 8.5 width restriction to allow these Park Model RVs to be installed in the Existing Campground.

The Applicant filed the instant application in August 2020. The Applicant included a request to waive the 8.5 maximum with restriction to permit Park Model RVs<sup>8</sup>. While the application with waiver request was pending, the Applicant installed the following 35 additional Park Model RVs on the Existing Campground Parcels:

- Hillside Premium (Site 214-221): 13'2" W **[8 sites]** *Added in Fall 2021*
- Two Room Ridge View (Site 301-308): 11'10" W **[8 sites]** *Added in Fall 2021*
- Two Room Bungalows (143-152) **[10 sites]** *Added in Spring 2022*
- Hillside Premium (Site 222-232) **[11 sites]** *Added in Spring 2022*

The Applicant now argues the use of Park Model RVs is a pre-existing non-conforming use and that it has a right to locate Park Model RVs on any camping space shown on the 2014 Site Plan. It has identified the following additional spaces where it intends to install twenty-eight (27) more Park Model RVs:

- Sites 142, 284-286, and 314-336

The Town Board finds Park Model RVs are not a preexisting non-conforming use. The Town Board is, and has always been, the only entity with authority to waive the 8.5 foot width restriction and there is no evidence in the record the Town Board granted such a waiver. The Applicant recognized that it needed a waiver from the Town Board when it submitted its application on August 28, 2020 but proceeded to install additional Park Model RVs while its application was under consideration. The Applicant's installation of Park Model RVs on the Existing Campground Parcels without necessary approvals does not create a pre-existing nonconforming use.

Regardless, the Town Board has considered the Applicant's request and hereby finds a partial waiver should be granted to permit the Applicant to maintain the 133 Park Model RVs that have already been installed on the Existing Campground Parcels.

With regard to proposed traffic impacts, it is recognized the use of Park Model RVs has a positive impact on traffic by reducing the number of truck and trailer or large RV trips on Town roads as guests using these sites only need personal vehicles. During the public hearing, residents voiced concerns about the impact of RV traffic on Town roads which will be reduced by the increased number of Park Model RVs. However, it is noted the Park Model RVs that were added in 2022 replaced camping spaces that were reserved for seasonal use by traditional sized RV's. Therefore, the installation of Park Model RVs on these camping spaces are not expected to have the same traffic mitigating impact.

The Town Board agrees that Park Model RVs are regularly maintained by the Applicant may be more visually attractive than a typical road RV unit, and in this respect, it may be said the use of Park Model RVs has a positive impact on the campground aesthetic. However, the Town Board also recognizes Park RVs

---

<sup>8</sup> Local Law No. 1 of 2020 incorporated the 8.5' width restriction from Chapter 200 into the Town Zoning Law.

remain on the property year-round. Therefore, there is a visual impact created in the off-season, where you have Park Model RVs remaining on the property when traditional sized RV users would be absent from the site.

The Applicant has demonstrated the use of Park Model RVs does not increase the overall occupancy of the Expanded Campground. It has also demonstrated the placement of Park Model RVs on approved camping spaces on the Existing Campground Parcels accords with minimum spacing requirements established by the New York State Department of Health (NYSDOH) and enforced by the Ulster County Health Department (UCHD). These regulations require a minimum 10-foot separation distance between camping units which will also be required as a condition of the Town Board's special permit approval.

The Applicant has also demonstrated the Park Model RVs that have been installed on the Existing Campground Parcels meet applicable standards for electrical, plumbing, construction, heating and fire safety, mandated by Federal regulations for the use of Park Model RVs. It is also noted the use of Park Model RVs allows more opportunity for guests who do not own their own traditional road RV to visit the campground.

The Town Board has considered these factors and finds the public interest will be adequately protected if a partial waiver is granted to permit the existing 133 Park Model RV's to remain on the Existing Campground Parcels in the Expanded Campground, but prohibit any additional Park Model RVs from being located on the property in the future. The prohibition on future Park Model RVs is applicable to the remaining 179 RV camp spaces on the 2014 Site Plan, including the 27 additional camping spaces that were identified by Applicant in January 2022 for future Park Model RVs, and all primitive camp spaces. The addition of any new Park Model RVs on these spaces, or any other camping spaces or areas in the Expanded Campground is expressly prohibited.

The Town Board finds that the addition of any future Park Model RVs must be restricted to ensure the development and use of the Expanded Campground is in keeping with the general spirit and intent of the Town's long-standing regulations which prohibit the use of RV or travel trailers of this size, mobile homes and the permanent structures to accommodate transient guests. The Town Board finds a partial waiver which allows the continued use of 133 Park Model RVs while prohibiting their installation on the remaining 179 RV camp spaces and 19 primitive camp spaces in the Existing Campsite Parcels strikes the right balance between maintaining the historic character of the property as a campground and accommodating the Applicant's desire to provide a wider array of accommodations for visiting guests.

*(c) Each individual camp space shall be a minimum of 6,000 square feet with up to two camp units allowed per camp space; provided however, that there shall be only one camping unit consisting of a wheeled vehicle and utility hook up allowed per camping space.*

Town Board Findings: The Town Board finds a waiver should be granted for the camping spaces in the Existing Campground that have previously been approved and are shown on the 2014 Site Plan.

The following primitive camp spaces are not shown on the 2014 Site Plan have been added to the Existing Campground Parcels without approval

- Camp spaces 62-76 [including camp site 74A] [**16 sites**]
- Camp spaces 400, 401 and 402 [**3 sites**]

It is noted the above-listed camp sites are primitive camp spaces and no new development or ground disturbance is proposed to allow for their continued use. An additional space, camp space 100 appears on aerial imagery dating back to 2001, but it is not shown on the 2014 Site Plan. Similarly, this space has been

added to the Existing Campground Parcels but there is no new development or ground disturbance proposed to allow its continued use because it is an existing RV site with water and sewer service. Regardless, the Town Board has expressed concerns regarding the overall density of development on the Existing Campground Parcels and the addition of these unapproved camp spaces which are located along the Wallkill River in the floodplain (62-75) and in the minimum 50' setback along the southern property line (400, 401, 402). Residents have also commented that noise and visual impacts from exterior lighting concentrated in areas along the Wallkill River negatively impacts the surrounding neighborhood.

To address the Town Board's concerns regarding density of existing development and resident complaints, the Applicant has offered to further mitigate noise impacts by eliminating sources of amplified noise in the Expanded Campground, including sound related to DJ events, hayrides and public announcement system (except for limited use in emergency situations). The Applicant has also offered to mitigate visual impacts by restricting the use of certain exterior lighting prohibiting the use of string lights in locations that face the Wallkill River. The Town Board finds this mitigation will have a positive impact on the neighborhood. The Applicant has also updated its safety plans and protocols, including flood preparedness and response plans to ensure the campground is operated in a manner that protects the public health, safety and welfare. Specifically, the Applicant has consented to the following mitigation measures, which will be a condition of its special permit as well as the Applicant's yearly campground license:

- Evacuation Plan: Lazy River has amended its current Evacuation Plan (on file with the Town) to include notice to the Town of Gardiner Fire Department immediately upon the Evacuation Plan being activated.
- Evacuation Location: Lazy River utilizes the Ulster County Fairgrounds for any off-site evacuations. Lazy River has secured an agreement with Ulster County Fairgrounds and have maps and directions immediately available to its guests. Lazy River will be required to present documentation on a yearly basis to confirm an agreement with the Ulster County Fairgrounds remains in place.
- Evacuation Staff: Due to the seasonal nature of the Campground and rotating managers on duty, Lazy River will be required to update its emergency plans continuously to specifically identify the persons responsible for each emergency task. These designations will be readily available at the Campground's administrative office/front desk in the event of an emergency. Lazy River will also be required to undertake practice drills in coordination with emergency service responders.
- Flood Plan: The Flood Plan has been amended to identify all structures within the 100-year floodplain areas.
- Further, Lazy River has updated its Flood Plan to identify specific action points for evacuating the 100-year floodplain. Evacuation shall occur before flood waters crest the bank and inundates campsites.

Lazy River will activate evacuation pursuant to information from the USGS gauge station on the Wallkill River in Gardiner when there is an issued flood warning and the Wallkill River gauge at Gardiner passes the Action Stage of 7.3 ft. This will be accomplished by monitoring real time information from <https://water.weather.gov/ahps2/hydrograph.php?wfo=okx&gage=grdn6> as requested by the Planning Board engineer. Lazy River shall be required to identify the person responsible for monitoring this information in its annual license application.

- Fire Department Training: Prior to opening the Campground each season, Lazy River will

invite the Gardiner Fire Department to the Campground for a training and review of its emergency plans. All employees, including employees who are hired after the required annual training, must be made aware of all emergency plans and protocols.

With this mitigation in place, the Town Board finds a waiver to allow the continued use of Camp spaces 62-76 and 400-402 shall be granted subject to the following additional conditions:

- 1) Camp spaces 62-76 and 400-402 shall remain primitive camp spaces and no new improvements shall be installed in these areas; and
- 2) The use of outdoor projectors and decorative string lights on camp spaces along the Wallkill River (including camp spaces 62-76) shall be prohibited to mitigate impacts on properties across the Wallkill River; and
- 3) The proposed site plan shall be amended to remove spaces 75, 76, 400, 401 and 402 out of the 50' minimum buffer area.

*(d) Each camp space shall provide a maximum of two parking spaces.*

Town Board Findings: The Town Board finds all traditional/primitive camp spaces and RV camp spaces are compliant with this requirement. The Applicant has requested a waiver from this provision to allow the following additional parking spaces at single-family residences proposed for transient occupancy:

- Ranger's Retreat (5 parking spaces)
- Mountain View Lodge Rental (13 parking spaces)
- Cindy Bear's Palace (9 parking spaces)

The Town Board finds the public interest will not be impacted if this waiver is granted and the particular circumstances of the property, specifically the fact that there are existing single-family residences on the property, support granting the waiver. Maximum occupancy of these structures will be confirmed on an annual basis as determined by the applicable provisions of the New York State Uniform Building. It is noted there is sufficient room on the site to provide the proposed and that a waiver to allow additional parking at these locations will ensure visitors to not park on internal roads within is generally prohibited.

Based on the foregoing, the requested waiver is granted.

*(e) A seventy-five foot separation will be provided between camp spaces preserving natural vegetation to the extent possible.*

Town Board Findings: The Town Board finds a waiver should be granted for the camping spaces in the Existing Campground that have previously been approved and are shown on the 2014 Site Plan. For the reasons set forth above with regard to the waiver request from subsection (1)(c), the Town Board also finds a waiver should be granted from the minimum separation distance for camp spaces 62-76 and 400-402.

*(f) Each campground must provide 150 feet of road frontage*

Town Board Findings: The Town Board finds the Expanded Campground complies with this requirement and no waiver is needed.

*(g) Camp units must be setback from side or rear lot lines a maximum of 50 feet to provide a vegetated buffer. This setback shall be increased to 200 feet in locations where the existing adjacent use is residential. In such case, a minimum fifty-foot wide vegetated buffer shall be provided.*

Town Board Findings: The Town Board finds a waiver should be granted to permit the existing 50' setback for the camping spaces in the Existing Campground that have previously been approved and are shown on the 2014 Site Plan. The Applicant shall not locate any camping spaces, accessory uses or improvements within the minimum buffer area except as set forth herein. A waiver shall also be granted for camp spaces

62-76 and 400-402 subject to this condition, and the additional conditions set forth at subsection (1)(c) above.

As noted above, the Town Board has conditioned the establishment of a CFD on the provision of a 200-foot-wide buffer along the southern and western boundary of the parcel located at 30 Bevier Road (Tax IDs: 93.4-1-25.110 [the “Lobster Pound” parcel]). The final site plan shall be amended to identify at least fifty (50) feet of this 200-foot buffer area shall be a vegetated buffer. Any portion of the existing Halloween Trail located in the 200-foot buffer area shall be relocated out of the buffer. There shall be no new development, improvements, uses or activities established in the 200’ buffer area.

- (h) Camp units must be setback a minimum of 100 feet from public roads. Common parking area must not exceed 5% of the gross developable area. A minimum of 10% of the gross developable area must be designated as a common recreational area.

Town Board Findings: The Town Board finds a waiver should be granted to permit the existing camp spaces 1-3 within 100 feet of Bevier Road as these spaces have previously been approved and are shown on the 2014 Site Plan (and are therefore, considered pre-existing non-conforming). The Applicant has also requested a waiver from this provision to allow the use of Cindy Bear’s Palace which is located within 100 feet of Bevier Road. The Town Board finds the public interest will not be impacted if this waiver is granted and the circumstances of the property, specifically the fact that Cindy Bear’s Palace is an existing single-family residence located within 100 feet of Bevier Road, support granting the waiver. Based on the foregoing, the requested waiver is granted.

(2) Access and internal roadways

- (a) Access to the campgrounds shall be from a state or county road and the interior road shall be constructed to Town road specifications for a minimum of 150 feet into the campground, or to the first interior lane, whichever is longer.

Town Board Findings: The record demonstrates that a variance was granted in 2005 to allow the Existing Campground Parcels to be accessed from a Town Road. The Town Board finds the Town public interest will not be impacted if a waiver is granted to allow the continued use of Bevier Road for access to the Expanded Campground. The Applicant has submitted a traffic study that demonstrates the intersection of CR 9/ Bevier Road currently operates at a level of service A/B during the peak hours and will not be negatively impacted if the Expanded Campground is approved. However, the traffic study also acknowledges special events (such as the food truck rally that was previously held on the property) may result in temporary impacts to Bevier Road, and are not permitted without additional permits and approvals. Based on the foregoing, the Town Board approves this waiver on the condition that no special events that are open to the public shall be planned on the premises without the Town Board’s review and approval, and any other necessary permits and approvals. The Town Board shall utilize the application requirements and review procedure in the Town of Gardiner Mass Gathering Law (Chapter 107 of the Town of Gardiner Town Code) to review and approve requests for special events that are open to the public.

- (b) If a campground has 25 or more camping units, there shall be two connections to a public road.

Town Board Findings: The Town Board finds the Existing Campground complies with this requirement.

- (c) Interior roadways or lanes shall be constructed to provide safe and convenient access for patrons and emergency vehicles.

Town Board Findings: The Town Board finds a conditional waiver should be granted to permit the existing interior roadway and lanes that have previously been approved and are shown on the 2014 Site Plan (and are therefore, considered pre-existing non-conforming). However, it is noted the Applicant changed the configuration of Third Avenue after the 2014 Site Plan was approved without Town approval. By letter dated September 15, 2022, the Town Highway Superintendent confirmed the Third Avenue modification does not meet 2020 Fire Code and Town requirements for turn arounds and that certain signage be installed. Therefore, the Town Board grants this waiver on the condition the final site plan is revised to demonstrate compliance with the New York State Fire Code and that the required signage be installed. The Planning Board shall set a deadline for the improvements required to comply with the New York State Fire Code as a condition of final site plan approval.

*(d) There shall be no direct connection to public roads from any camping space or camping unit.*

Town Board Findings: The Town Board finds a waiver should be granted to allow a direct connection from Bevier Road to Cindy Bear’s Palace so that it can be used as overnight accommodations for transient guests. The Town Board finds the public interest will not be impacted if this waiver is granted and the circumstances of the property, specifically the fact that Cindy Bear’s Palace is an existing single-family residence with existing access from Bevier Road support granting the waiver. Based on the foregoing, the requested waiver is granted.

*(e) All interior roadways shall meet the following minimum standards:*

- (1) One-way interior roadway driving surface shall be a minimum 12 feet in width.*
- (2) Two-way interior roadways driving surface shall be a minimum of 18 feet in width.*

Town Board Findings: The Town Board finds a waiver should be granted to permit interior roadways in the Existing Campground that have previously been approved and are shown on the 2014 Site Plan. It is noted the parcels to be added to the Expanded Campground do not include any access drives and are serviced by existing access drives (except for Cindy Bear’s Palace which is addressed in the Town Board’s findings at subsection (d) above).

*(f) Notwithstanding the foregoing, the Town Board or Planning Board may require that all interior roadways or lanes within the campground meet rural road specifications where prospective traffic or emergency vehicle access would require such improvement.*

Town Board Findings: See Town Board findings at subsections I, (d) and I(e) above.

*(3) General Requirements and Design Standards*

*(a) All campgrounds shall be located on a well-drained site, properly graded to prevent ponding of water.*

Town Board Findings: The Existing Campground parcels have been used as a campground since in or around 1969. The Applicant has prepared an amended Stormwater Pollution Prevention Plan, prepared by Medenbach & Eggers last revised November 5, 2021 (the “SWPPP”), for the Expanded Campground that takes into account all new impervious surfaces that are the result of the Project and that is compliant with all NYSDEC stormwater regulations. With this mitigation in place, the Town Board finds the Expanded Campground is compliant with this requirement.

*(b) The only permanent structures permitted in campgrounds are a single owner or caretaker dwelling, service and office buildings, restrooms and recreational buildings designed and*

*intended to accommodate indoor sports and recreation. Sleeping accommodations for transient guests may not be offered in permanent structures intended for year-round use.*

Town Board Findings: The Applicant has requested a waiver from this requirement in order to locate two camp managers/ caretaker’s dwellings in the Expanded Campground. The Applicant also requests a waiver to use the existing permanent structures as overnight accommodations for transient guests:

- Rangers Retreat (Bldg. #5) – proposed occupancy 16
- Mountain View Lodge (Bldg. #13) – proposed occupancy 16
- Cindy Bear’s Palace (Bldg. #19) – proposed occupancy 18
- Bevier Lodge (Bldg.# 20) – proposed occupancy 9

The 2014 Site Plan identified the following two managers/caretaker’s dwellings on the Existing Campground Parcels: 1) Mountain View Lodge (Bldg. #13) (identified as “Existing Manager’s Dwelling”), and 2) the Ranger’s Retreat (Bldg. #5”) (identified on the 2014 Site Plan as “Existing Manager’s Dwelling”). The Applicant maintains these structures have previously been permitted for camp rentals, however, there is no evidence in the record that the Town Board granted a waiver to allow the use of permanent, year-round dwellings in the campground as overnight accommodations for transient guests or that the 2014 Site Plan was amended to reflect this change.<sup>9</sup> Therefore, the use has not been previously approved and requires a waiver.

The Applicant proposes to change the location of the two permitted manager’s dwellings from the Mountain View Lodge (Bldg. #13) and Ranger’s Retreat (Bldg. #5) (as identified on the 2014 Site Plan), to the single-family home located on the Lobster Pound Parcel (Bldg. #17) and Check in Station located on the Existing Campground Parcel (Bldg. #11). The Town Board finds it is in the public interest to grant a waiver to allow the location of two manager’s dwellings in the Expanded Campground. This will promote the proper maintenance and functioning of the campground, and as represented by the Applicant, ensure campground managers “are always at the facility to deal with any emergency or compliance issues (i.e., quiet hour enforcement)”.

The Town Board also grants a waiver to allow the two manager’s dwellings to be relocated to the Lobster Pound Parcel and Check in Station, and for the Mountain View Lodge, Ranger’s Retreat, Cindy Bear’s Palace and Bevier Lodge to be used for overnight accommodations for transient guests during the campground season subject to the following conditions:

- Maximum occupancy must be confirmed by the Building Inspector on an annual basis as determined by the applicable provisions of the New York State Uniform Building and Fire Code.

---

<sup>9</sup> From 1984 to 2020, Chapter 200 of the Town Code limited the use of permanent structures to a single owner or caretaker dwelling, recreational building, and service and office building and prohibits year-round dwellings of any type. The Code allowed the Town Board to grant a waiver from this requirement, but there is no evidence in the record that a waiver was granted. By Local Law No. 1 of 2020, this prohibition was moved from Chapter 220 to Chapter 220, Section 220-45.2(E), while still allowing a waiver from the Town Board. The Applicant has produced a letter from its principle, Zachary J. Bossenbroek, to the Town’s former Building Inspector, dated May 24, 2017, which acknowledges the campground is subject to Chapter 200 of the Town Code, and specifically the prohibition on the use of permanent structures and year-round dwellings at Section 200-5. The letter expresses the Applicant’s desire to use the two single family residences in the Existing Campground (now referred to as the Ranger’s Retreat and Mountain View Lodge) as overnight accommodations for transient guests during the campground season. There is no evidence in the record that the Applicant ever obtained a waiver from the Town Board to allow this use, or a site plan amendment from the Planning Board.

- Maximum occupancy shall be the lesser of the maximum occupancy represented by the Applicant in this application, or the maximum occupancy permitted under any applicable New York State Uniform Building and Fire Code.
- The structures shall only be used and occupied as part of the campground during the campground season, except for identified campground manager’s dwellings.
- The Applicant shall be required to make whatever improvements or modifications that are necessary to ensure the use of the structures for transient occupancy meets applicable New York State Uniform Building and Fire Code requirements.

The Town Board finds the incorporation of existing single-family structures in the Expanded Campground will promote the public interest by bringing these uses under the control of campground management and the requirements of the campground special permit. The use of these structures will be subject to all requirements applicable to camping spaces in the Expanded Campground, including seasonal use and quiet hours, in addition to the waiver conditions set forth above. The Applicant has maintained it would either demolish existing structures or convert them to more intensive commercial uses if it did not obtain approval to use these structures as part of the campground, which could result in a greater impact on the neighborhood character and adjacent uses. The Town Board finds it is in the public interest and in keeping with the general spirit and intent of Town law, to maintain the visual appearance of these structures as single-family homes, while limiting them to seasonal use as part of the regulated campground.

*(c) Screening, in the form of fences, trees, or plantings, shall be provided between a campground and any other use. A minimum fifty-foot-wide buffer area shall be required between a campground and any street or highway on which such campground fronts. A buffer area of 50 feet shall also be located along side and rear lot lines between a campground and any other use. Such buffer area shall be suitably landscaped and screened.*

Town Board Findings: The Applicant requests a waiver to permit existing structures to remain in the 50’ buffer area and to permit camping spaces and other improvements to be located in the buffer. The Town Board hereby finds a partial waiver to allow the continued use of permanent structures in the minimum buffer area should be granted, however, the Town Board determines that camping spaces and other improvements that have been constructed in the designated buffer area without Town approval should be removed from the buffer, unless specifically permitted to remain by this Resolution.

The Applicant seeks a waiver from the 50’ buffer area for existing structures on the Lobster Pound Parcel (Bldg. #17 and 18), and Cindy Bear’s Palace (Bldg. # 19) which are located less than 50’ from Bevier Road. For the reasons set forth in subsection (b) above, the Town Board finds a waiver should be granted to allow use of these existing structures as part of the regulated campground. The Town Board also grants a waiver to locate the Bathhouse and Arts & Crafts Building (Bldg. #1) less than 50’ from Bevier Road.

The Applicant also seeks a waiver to allow spaces 77, 78, 79, 80 and 81 to remain in the 50’ buffer area (campsite 81 is partially within this buffer area). The 2014 Site Plan shows “Proposed Sewer Hook-Up’s to the Existing 10 RV Cabins w/ Water and Electric 77-86”. Units 77-81 are shown on the 2014 Site Plan as being located outside the 50’ buffer. However, the Applicant has confirmed spaces 77 through 80 are located within the 50’ buffer area and that a surveying error in 2014 caused the units to be shown outside the buffer. A review of available aerial imagery shows the subject units have been in their current location within the 50’ buffer since in or around 2004. To further mitigate visual impacts of units 77, 78, 79, 80 and 81, the Applicant has offered to install landscaping on the northern side of these units in addition to landscaping along the entire southern boundary line within the 50’ buffer. With the mitigation proposed by the Applicant,



the Town Board grants the requested variance to allow spaces 77, 78, 79, 80 and 81 to remain in their current location.

With regard to camp spaces adjacent to the Wallkill River, it is noted the Project Site is located at the intersection of the Shawangunk Kill River and the Wallkill River and a Wild, Scenic and Recreational Rivers Permit from the NYSDEC for the operation of the existing campground has been obtained and the Applicant will be required to obtain any necessary amendments to its 6 NYCRR Part 666 permit for the Expanded Campground, including the additional 16 camp spaces (61-76) proposed along the Wallkill River.

The Town Board finds a waiver should be granted to permit camp spaces 1 through 60 along the Wallkill River within the 50' setback as these camp spaces were approved on the 2014 Site Plan. With regard to camp spaces 62-74 (existing but never reviewed and approved), the Town Board finds a waiver shall also be granted to allow these camping spaces to remain subject to the conditions set forth at finding (1)(c) above.

The Town Board finds that camp spaces 75 and 76, and 400, 401 and 402, which were constructed in the minimum 50' buffer area adjacent to neighboring property, should be relocated out of the buffer. While the Town Board finds the size of the buffer, limited to 50', is a legal pre-existing nonconforming condition, the installation and establishment of additional camp spaces in the minimum buffer was never approved and is therefore, not considered to be a legal pre-existing non-conforming use. Considering these camping units are adjacent to property that is zoned for residential and agricultural use, the Town Board finds a minimum buffer between camping spaces and adjacent uses is necessary and appropriate and a waiver to allow additional camping spaces within the minimum buffer should be granted. Therefore, the Town Board does not grant a waiver to allow camping spaces 75 and 76, and 400, 401 and 402 to be in the 50' buffer and finds the final site plan must be revised to relocate these camping spaces out of the buffer. The Town Board also finds that the RV storage area should be modified to remove materials and RVs that are located in the 50' buffer and prohibit the future storage of materials in this area. This change must be included in the final site plan.

*(d) There shall be no parking on public roads or interior roadways within a campground.*

Town Board Findings: The Applicant has not requested a waiver from this provision and recognizes parking on public roads and interior roadways is prohibited.

*(e) Management headquarters, recreational facilities, toilets, dumping stations, showers, coin-operated laundries, and other uses and structures customarily incidental to the operation of campground are permitted as accessory uses to the camping grounds. In addition, retail stores and other convenience establishments shall be permitted as accessory uses in campgrounds in such districts where such uses are not allowed as principal uses, subject to the following restrictions:*

- (1) Such establishments and the parking areas primarily related to their operations shall not occupy more than 5% of the gross area of the campground. Such establishments shall be restricted in their use to occupants of the campground.*
- (2) Such establishments shall present no visible evidence from any street outside the campground of their commercial character which would attract customers other than occupants of the campground.*
- (3) The structures housing such facilities shall not be located closer than 100 feet to any public road and shall not be directly accessible from any public road and shall only be accessible from an internal roadway within the campground.*

Town Board Findings: The Applicant has requested a waiver from this provision to permit the location existing structures, including the Bathhouse and Arts & Crafts Building (Bldg. #1) and existing residence on the Lobster Pound Property. The Town Board finds this waiver should be granted in accordance with its findings at subsection (1)(c) and 3(c) above. The Town Board finds parking areas on site are in compliance with this standard, and therefore, no waiver from this provision is needed for parking areas in the Expanded Campground.

*(f) All service buildings and grounds of the park shall be maintained in a clean, sightly condition and kept free of any conditions that shall menace the health of any occupant or the public or constitute a nuisance.*

Town Board Findings: The Applicant has not requested a waiver from this provision and maintains that it will operate the Existing Campground in accordance with this requirement. The Town Board finds the Applicant's compliance with this requirement is paramount to protect the public interest and ensure the public health, safety and welfare and grants this approval based on the Applicant's representation that it will comply with this requirement.

#### SPECIAL PERMIT – ADDITIONAL FINDINGS

In addition to the below listed Zoning Law sections (Zoning Law §220-63B), the Zoning Law has general considerations to be taken into account. Those criteria, which are listed in the introductory language of Zoning Law 220-63 (and restated below in italics) include that the Town Board shall take into consideration:

- *the scale of the proposed project*

Town Board Finding: The Town Board determines that the scale of the proposed project is appropriate to the surrounding area and the site. Existing Campground Parcels are densely developed; however, the mitigation proposed by the Applicant and conditions imposed by the Town Board will ensure the Expanded Campground does not cause new or greater impacts on neighboring property owners or the community.

Specifically, the Town Board has conditioned its CFD approval to ensure public access to open space recreational activities is maintained and that adequate buffers are provided to mitigate impacts to neighboring properties and the surrounding community. The Applicant has also proposed that it would fully eliminate sources of amplified sound, including sound related to the related to DJ events, wagon rides and the public announcement system (except for use in emergency situations) from the Expanded Campground if approved, which will address noise complaints that have been received by residents and voiced to the Town Board during the public hearing on this application. In addition, while the Applicant has proposed the addition of a net sixteen (19) additional camp spaces in the Expanded Campground, these camp spaces are existing, primitive tent spaces that will not require the construction of any new improvements on the property.

In the same respect, the impact of allowing existing year-round dwellings on the Expanded Campground to be used as overnight accommodations for transient guests are mitigated by making these properties subject to the same conditions and requirements as the Campground use, including restrictions for only seasonal use, applicable quiet hours, and prohibitions on amplified sound and exterior lighting. Compliance with occupancy limits dictated by the New York State Uniform Code and updated campground safety plans and protocols will also be required to ensure these structures, and all accommodations in the Expanded Campground, are operated in a manner that protects the public health, safety and welfare. As a condition of this approval, the Applicant will be required to undergo yearly training with the Gardiner Fire Department and the Building Inspector will be required to undergo annual inspections to ensure compliance. These requirements will be enforced as conditions of this approval and the necessary inspections and training shall be required annually prior to the campground commencing operations.

It is noted the Applicant has requested a waiver as part of this application to allow the use of Park Model RVs which exceed the 8.5' maximum width for travel trailers/recreational vehicles in the Town Code. To date, there is a total of 133 Park Model RVs located on pre-existing RV sites in the Existing Campground Parcels. The Applicant has proposed the addition of twenty-eight (27) additional Park Model RVs in the future. The Town Board has considered the proposed use of Park Model RVs in the Expanded Campground as part of its consideration of the scale of the proposed project, and finds the public interest will be adequately protected if a partial waiver is granted to permit the existing 133 Park Model RV's to remain on the Existing Campground Parcels, while prohibiting any future and additional Park Model RVs from being located on the property.

Based on the foregoing, the Town Board finds the scale of the approved project, with the conditions and mitigation measures set forth in this resolution, appropriately balances the interests of the public and the Applicant and is consistent with the Town's adopted land use plans.

- *the possible impact of the proposed project on the functioning of nearby farm operations, and, in rural areas, the tradition of freedom of land use where such use does not interfere with or diminish the value of adjoining property.*

Town Board Finding: The Town Board finds the proposed project will not have an impact on any nearby farm operations. There are no existing farm operations in close proximity to the site. While there are parcels adjacent to the Expanded Campground that are zoned for residential and agricultural use, the Applicant will be required to maintain minimum buffer areas to mitigate impacts on existing and future uses on these properties. Additional conditions and mitigation measures requiring quiet hours, the elimination of amplified sound, and restrictions on exterior lighting will also mitigate impacts on the neighborhood. In addition, the project will draw visitors to the area, some of whom may choose to patronize established farm operations.

- *The Town Board shall also take account of any proposed conservation easements, architectural restrictions or other measures that would tend to mitigate potential adverse impacts and preserve or enhance the scenic and historic character of the Town.*

Town Board Finding: As a condition of CFD approval for the Expanded Campground, the Town Board has required adequate buffers and prohibited further development in the Expanded Campground. The Town Board has also approved the use of existing-residential structures for overnight accommodations so they may continue to be used on a seasonal basis as part of the campground use while maintaining the visual appearance of a single-family residence.

To further enhance the visual appearance of the property, the Town Board conditions its approval on the development of a detailed Landscaping Plan that considers the criteria at Zoning Law §220-65(D)(2) and the specific requirements for vegetative buffering set forth in these findings. The landscaping plan shall include vegetation that acts as backdrop to reduce the prominence of Park Model RVs that have been placed along the crestline of the hill at the southern boundary of the property.

- *No special permit shall be granted for any property on which there exists a violation of this chapter, including a violation of any condition of a previous municipal approval, unless the Town Board finds that the applicant has no legal right or ability to remedy the violation or that the grant of a special permit is necessary to remedy a condition that poses a risk to public health or safety.*

Town Board Finding: The Town Board is aware that there are existing violations on the Property and finds the instant application for a CFD on the Expanded Campground, special permit and site plan amendment will remedy existing violations and provide a basis for the Town to better regulate the Campground use going forward. The updated safety protocols and action plans, annual inspections and testing, required by the Town Board as a condition of this approval will also mitigate potential risks to public health and safety that have been identified through this permitting process.

The Zoning Law at §220-63(B) requires that before granting or denying a major project special permit, the Town Board shall make specific written findings. Each required consideration is restated in italics below. In reviewing these considerations, the Town Board must establish whether or not the proposed major project:

*(1) Will comply with all applicable land use district, overlay district, floating district, and other specific requirements of this and other chapters and regulations, and will be consistent with the purposes of this chapter and of the land use district in which it is located.*

Town Board Findings: The Town Board finds the Expanded Campground will comply with applicable requirements, subject to the waiver approvals and conditional waiver approvals set forth above.

*(2) Will not result in excessive off-premises noise, dust, odors, solid waste, or glare, or create any public or private nuisances.*

Town Board Findings: The Town Board finds the Expanded Campground, with mitigation proposed by the Applicant and conditions imposed by the Town Board, will meet this standard. The Applicant has represented it will eliminate sources of outdoor amplified sound to mitigate noise impacts, including sound related to the related to DJ events, wagon rides and the public announcement system (except for use in emergency situations), the Town Board has also conditioned the establishment of a CFD on there being no outdoor amplified sound on the parcels added to the campground in compliance with this Resolution. In addition, the Applicant has represented it will continue to impose quiet hours beginning at 10:00pm and the “2022 In House Security Measures” will be implemented to enforce the restriction, including the following

- Two (2) security officers will continuously patrol the campground between the hours of 8:00pm and 4:00 am every Saturday and Friday night. In addition to the security officers, additional employees will remain on duty later into the evening (after 12am) during busy times of the season.
- Campground guests will be given two warnings for minor infractions of the Campground’s quiet hours or rules before they will be asked to leave, and if necessary, law enforcement will be called. For major complaints (i.e., extreme noise or excessive drinking) the subject guest will be spoken to by management and may be asked to immediately leave the campground.

With regard to lighting, the Town Board’s CFD approval is conditioned on there being no exterior lighting/illumination permitted on the parcels that have been added to the campground, except for exterior lighting that is used to illuminate the Halloween Trail when it is in use, and that is necessary to provide safe travel along any roadway located on these parcels, or safe ingress and egress to and from any single-family residences located on these parcels. All exterior light fixtures that are required for these purposes shall comply with Town Code, Section 220-40(L) and be reviewed and approved by the Planning Board. At a minimum the final lighting plan approved by the Planning Board shall incorporate the following mitigation measures proposed by the Applicant:

- Applicant will shut off the exterior lights associated with the lazy river pump houses (Bldg. #23) which is near the Wallkill River.
- Applicant will dim four lights, two of which are in the pool area and two of which are near the basketball court/ play area.

With regard to odors, it is noted no new amenities or structures are proposed that would result in any odor, except the proposed new bathhouse will be appropriately ventilated to mitigate any odor impacts. It is noted nearby residents have commented that smoke from campfires has had a negative impact on their use and enjoyment of their properties. The record reflects that each camp site contains a campfire pit that is used by guests for recreation and cooking. The guest must purchase wood from the Applicant. The Town Board finds the use of small campfires is reasonable and customary for a campground use and notes campground expansions were approved in 1969 and 2014 which included the addition of several camping spaces and associated fire pits. These are considered pre-existing uses that are permitted in the Existing Campground Parcels. It is recognized that the Applicant seeks approval for 19 new primitive campsites as part of this approval which will each include a small fire pit. The Town Board finds the addition of these camp spaces will not result in excessive off-site odor or cause a public or private nuisance.

*(3) Will not cause significant traffic congestion, impair pedestrian safety, or overload existing roads, considering their current width, surfacing, and condition, and any improvements proposed to be made to them by the applicant.*

Town Board Findings: The Town Board finds the Expanded Campground will not cause significant traffic congestion, impair pedestrian safety or overload existing roads. In support of this conclusion, the Town Board adopts the Planning Board’s reasoned elaboration supporting a Negative Declaration which found no potential for significant adverse impacts to traffic:

In September of 2020, the Planning Board requested the previous traffic study related to the campground (2004) be revised and updated to reflect current conditions. The 2004 traffic analysis was prepared by Creighton Manning, LLP. Lazy River again retained Creighton Manning to update the 2004 traffic analysis. The updated traffic analysis is dated November 5, 2020, which reviews the traffic impacts from the Project (“Traffic Analysis”). Based on traffic counts over Labor Day 2020 weekend, the Traffic Analysis found that “no traffic improvements are considered necessary.” By letter dated September 27, 2021, the Planning Board’s engineering consultant, Sterling Environmental, asked for clarification related to the proposed study area within the Traffic Analysis. In response, by memo dated October 7, 2021, Creighton Manning resolved this issue by clarifying that:

This increase in trips is well below the NYSDOT guidance of 100 trips for expanding a study area. Further, the analysis of the main intersection, CR 9/Bevier Road, is the single point of entry and exit, and was calculated to operate at LOS A’s and B’s during the peak hours. Like the spokes of a bicycle wheel, traffic will dissipate at intersections further away from the site; therefore, the increase in traffic from the project (4 to 8 trips), which has little to no impact at the main entrance, will also have little to no impact at intersections further from the site.

Based on the foregoing, the Project will not result in any significant adverse impacts on transportation.

*(4) Will be accessible to fire, police, and other emergency vehicles.*

Town Board Findings: The Town Board finds the Expanded Campground will be accessible to fire, police and other emergency vehicles. The proposed site plan has been reviewed by Brian Stiscia, Superintendent of Highways and Assistant Fire Chief, who has recommended that Third Avenue be modified to accord with applicable New York State Fire Code provisions. As noted above, necessary improvements required to comply with the New York State Fire Code shall be required as a condition of this approval and shown on the final site plan. In addition, the Town Board will condition this approval on the Applicant installing signage recommended in Superintendent Stiscia’s letter of September 15, 2022, to provide for better onsite circulation and wayfinding. It is also noted the Applicant has demonstrated camping units, including Park Model RVs will accord with minimum spacing requirements established by the NYSDOH and enforced by the UCHD as part of its annual permitting process.

*(5) Will not overload any public water, drainage, or sewer system, or any other municipal facility*

Town Board Findings: The Expanded Campground is not served by a municipal water supply or wastewater system and will rely on existing on-site drinking-water wells and private on-site septic systems. No new on-site private water wells or septic systems are proposed.

*(6) Will not materially degrade any watercourse or other natural resource or ecosystem, or endanger the water quality of an aquifer.*

Town Board Findings: The use of the existing on-site wells and septic systems is not expected to result in any adverse impacts to ground water resources as detailed in the engineering report prepared by Medenbach & Eggers and reviewed by the Planning Board’s engineer (the “Engineering Report”). The Project Sponsor has submitted the Engineering Report to the UCDH for review. UCDH has issued a letter, dated April 21, 2022 stating it had no objection to repurposing an existing outfall to accommodate the addition of 19 primitive camp spaces proposed as part of this application. Moreover, as no new improvements or land disturbance is proposed to accommodate the additional 16 primitive camp spaces proposed along the Wallkill River, the Town Board finds the Expanded Campground will not materially degrade this watercourse.

*(7) Will be suitable for the property on which it is proposed, considering the property's size, location, topography, vegetation, soils, natural habitat, and hydrology, and, if appropriate, its ability to be buffered or screened from neighboring properties and public roads.*

Town Board Findings: The Town Board finds the Expanded Campground is suitable for the property upon which it is proposed. In making this determination, the Town Board has taken into consideration that the existing campground as shown on the 2014 Site Plan is an existing permitted facility, that the Applicant has acquired adjacent parcels which have existing single-family homes located on them. It is noted the Lobster Pound Parcel has a history of commercial use and that the Town Board’s CFD approval is conditioned on the maintenance of a 200-foot buffer along the western boundary with at least 50’ of that buffer being vegetated. The CFD approval also prohibits further development on the parcels being added to the campground (consisting of approximately 34 acres of land). In addition, the establishment of any new camping spaces or additional accessory uses/activities will be prohibited in these areas to ensure they continue to provide public access to open space areas for recreation enjoyment. Any change or modification to existing accessory uses, structures or activities on these parcels shall require an amendment to the Expanded Campground’s special use permit and site plan. With regard to the Existing Campground Parcels, the Town Board has required camp spaces 75, 76, 400, 401 and 402, and the RV storage area be removed from established buffer areas

along the southern portion of the project site and that this change be incorporated in the final site plan. Based on the foregoing, and the other mitigation proposed by the Applicant and conditions of this approval, the Town Board finds this criterion has been satisfied.

- (8) Will be subject to such conditions on operation, design and layout of structures, and provision of buffer areas or screening as may be necessary to ensure compatibility with surrounding uses and to protect the natural, historic, and scenic resources of the Town.*

Town Board Findings: The Town Board finds the Expanded Campground meets this standard and refers to its findings on criteria (1) through (7) above.

- (9) Will be consistent with the goal of concentrating retail uses in hamlets, avoiding strip commercial development, and buffering nonresidential uses that are incompatible with residential use.*

Town Board Findings: The Expanded Campground does not involve retail uses or strip commercial development. Moreover, as noted throughout this document, the Town Board has imposed conditions on this approval to ensure residential uses are sufficiently buffered from the Expanded Campground. For this reason, the Town Board determines the Expanded Campground meets this standard.

- (10) Will not adversely affect the availability of affordable housing in the Town.*

Town Board Findings: The Town Board finds the Expanded Campground will not have an impact on affordable housing options in the Town. The Applicant has proposed that existing year-round dwelling structures be incorporated in the campground use and stated the alternative would be for it to tear down the structures or seek approval to use them for other, non-residential purposes. Therefore, it cannot be said the Town Board's approval will adversely impact the Town's housing stock or eliminate affordable housing.

- (11) Will comply with applicable site plan criteria in § 220-65D.*

Town Board Findings: The Town Planning Board has jurisdiction to review and approve the final site plan for the Expanded Campground pursuant to Zoning Law §220-45.2(C). Regardless, the Town Planning Board has reviewed the criteria in Section 220-65 and finds that the Expanded Campground, with final site plan revisions required by this resolution, is in accord with applicable site plan criteria. Regarding Landscaping specifically, it is noted Zoning Law Section 220-65(D)(2)(c) calls for existing tree stock of eight or more inches in diameter at breast height "shall be protected and preserved to the maximum extent possible to retain valuable community natural resources and promote energy conservation by maximizing the cooling and shading effects of trees." The Town Board incorporates this requirement as a condition of this approval.

- (12) If the property is in the SP, RA, or HR District, will have no greater overall off-site impact than would full development of the property with uses permitted by right, considering relevant environmental, social, and economic impacts.*

Town Board Findings: There has been a permitted campground operating on the Existing Campground parcels since in or around 1969 and the Town Board finds the Expanded Campground will have no greater overall off-site impact than would full development of the property with uses permitted by right in the RA without the CFD zoning designation. The Lobster Pound Parcel has a history of commercial use and, with the conditions imposed by the Town Board will remain largely undeveloped to ensure public access to recreational opportunities. Moreover, although the existing permanent dwelling structures will be permitted for overnight accommodations by transient guests, their use will be limited to the campground season and the

general conditions and restrictions applicable to the campground use, including quiet hours, limitations on exterior lighting and amplified sound.

#### RURAL SITING PRINCIPLES

The Zoning Law at §220-31 provides nonbinding guidelines that are to be considered in the siting of non-residential uses that are subject to site plan or special permit approval. The guidelines are restated below (in italics) and the Town Board has made every effort to adhere to the guidelines in the review and approval of this matter. The guidelines are:

*A. Wherever feasible, retain and reuse existing old farm roads and lanes rather than constructing new roads or driveways. This minimizes clearing and disruption of the landscape and takes advantage of the attractive way that old lanes are often lined with trees and stone walls. (This is not appropriate where reuse of a road would require widening in a manner that destroys trees or stone walls.)*

Town Board Finding: The above listed criteria are not exactly applicable to this property because a majority of the project area has already been developed to accommodate the existing campground (which has been in operation since in or around 1969). Regardless, it is noted existing access roads and internal roadways are being retained as part of the Expanded Campground.

*B. Preserve stone walls and hedgerows. These traditional landscape features define outdoor areas in a natural way and create corridors useful for wildlife. Using these features as property lines is often appropriate, as long as setback requirements do not result in constructing buildings in the middle of fields.*

Town Board Finding: Due to the existing campground use, there are no stone walls or hedgerows to preserve in the Existing Campground Parcels. In addition, no similar features have been identified on the parcels that will be added to the Expanded Campground.

*C. Avoid placing buildings in the middle of open fields. Place them either at the edges of fields or in wooded areas. Septic systems and leach fields may be located in fields.*

Town Board Finding: The new structures proposed as part of this application include the following: Golf cart charging building and golf cart storage area (313sf)(Bldg. #24) and proposed new bathhouse (Bldg. #34). Both structures have been located on the Existing Campground Parcels and have been located to avoid placement in open fields.

*D. Use existing vegetation and topography to buffer and screen new buildings if possible, unless they are designed and located close to the road in the manner historically found in the Town. Group buildings in clusters or tuck them behind treelines or knolls rather than spreading them out across the landscape.*

Town Board Finding: The Town Board has conditioned this approval on the requirement that existing tree stock of eight or more inches in diameter at breast height “shall be protected and preserved to the maximum extent possible to retain valuable community natural resources and promote energy conservation by maximizing the cooling and shading effects of trees.” See Town Zoning Law §220-65(D)(2)(c). The Town has also required the preservation of a 200’ buffer on the Lobster Pound Parcel and required that at least 50’ of this buffer be preserved as a vegetative buffer. It is noted that the Town Board has approved a waiver for use of the structures on the Lobster Pound Parcel (Bldg. #17 and 18), and Cindy Bear’s Palace (Bldg. # 19), which are located within 50’ of Bevier Road. In its findings supporting this waiver, the Town Board concluded the use of existing dwelling structures in their current location will help to preserve the existing neighborhood character.

*E. Minimize clearing of vegetation at the edge of the road, clearing only as much as is necessary to create a driveway entrance with adequate sight distance. Use curves in the driveway to increase the screening of buildings.*



Town Board Finding: The Town Board finds that the Expanded Campground will not impact vegetation at the edge of the road as no new roads or driveways are proposed as part of this project and existing vegetation along the road frontage is somewhat limited at present due to the former uses of the project parcels.

*F. Site buildings so that they do not protrude above treetops and crestlines of hills as seen from public places and roads. Use vegetation as a backdrop to reduce the prominence of the structure. Wherever possible, open up views by selective cutting of small trees and pruning lower branches of large trees, rather than by clearing large areas or removing mature trees.*

Town Board Finding: The Town Board finds the elevation of the Expanded Campground increases from the edge of Bevier Road and the Wallkill River to its southern boundary line. It is noted the Applicant has installed Park Model RVs along the crestline of the hill at the southern boundary of the property, most recently in the Spring of 2022 (Camp spaces 222-232). At least one Town Board member has personally observed these, and other park model RVs are visible from public places outside the Expanded Campground. To mitigate this impact, the Town Board has conditioned this approval on the development of a detailed Landscaping Plan that considers the criteria at Zoning Law §220-65(D)(2) and includes vegetation that acts as backdrop to reduce the prominence of Park Model RVs that have been placed along the crestline of the hill at the southern boundary of the property.

*G. Minimize crossing of steep slopes with roads and driveways. When building on slopes, take advantage of the topography by building multilevel structures with entrances on more than one level (e.g., walk-out basements, garages under buildings), rather than grading the entire site flat. Use the flattest portions of the site for subsurface sewage disposal systems and parking areas.*

Town Board Finding: There are no new access roads or internal roadways proposed as part of this application.

*H. Minimize land disturbance generally. Whenever development is undertaken, removal of vegetation, grading, and operation and storage of heavy equipment should only occur where necessary for the proposed development. Special attention should be given to preserving the root systems of existing trees by avoiding soil compaction within their drip lines.*

Town Board Finding: Limited new land disturbance is proposed as part of this Application. However, it is recognized the Applicant constructed new improvements and established new camp spaces in the Expanded Campground before making the instant application. The Town Planning Board reviewed the potential for environmental impacts associated with this unauthorized activity and concluded it did not create the potential for significant adverse environmental impacts under SEQRA.

#### WETLAND AND WATERCOURSE PROTECTION

The Zoning Law at 220-35 has requirements for wetland and watercourse protection. There are no wetland impacts associated with the Expanded Campground. However, watercourse protection is of significance due to the presence of the Wallkill River immediately adjacent to the site. As noted above, the existing campground has obtained a permit from NYSDEC pursuant to 6 NYCRR 666, regulations implementing the Wild, Scenic & Recreational Rivers System Act program and will be required to obtain any necessary amendment to that permit to cover the Expanded Campground. The purpose of 6 NYCRR Part 666 is to establish statewide regulations for the management, protection, enhancement and control of land use and development in river areas on all designated wild, scenic and recreational rivers in New York State. The Town Zoning Law includes additional requirements for stream protection which are set forth below.

*220-35 (D) Regulations to protect streams. Within 150 feet of the top of the bank of any stream classified as AA, A, B or C(t) by the DEC, the Planning Board shall ensure that any development subject to its approval<sup>10</sup>:*

*(1) Will not result in erosion or stream pollution from surface or subsurface runoff. In making such determination, the Planning Board shall consider slopes, vegetation, drainage patterns, water entry points, soil erosivity, depth to bedrock and high water table, and other relevant factors;*

Town Board Finding: There are no new improvements proposed within 150' of the Wallkill River. It is noted that the 16 additional camp spaces that are proposed along the Wallkill River are primitive tent sites that do not require the installation of any improvements. In any event, a SWPPP for the Expanded Campground has been developed which meets the NYSDEC design standards for stormwater management and erosion control.

*(2) Will not result in impervious surface coverage exceeding 2% of the regulated area (i.e., the land lying within 150 of the stream bank);*

Town Board Finding: The Expanded Campground will include the parcel located at 46 Bevier Road (Tax ID: 93.4-1-21) (commonly referred to as “Cindy Bar’s Palace”) which includes the existing access road. The Town Board’s consultant engineer has confirmed the existing access road on the parcel exceeds the 2% threshold set forth in this section. It is noted the Applicant proposes to add additional impervious surface on this parcel, in the form of a pedal car track that is located within 150' of the stream bank. The Applicant has accounted for the additional impervious surface in its Stormwater Pollution Prevention Plan (SWPPP) to ensure that surface water resources are not adversely impacted by stormwater runoff.

*(3) Will provide an adequate vegetated buffer along the stream to prevent adverse impacts on the stream; and*  
Town Board Finding: The Town Board finds that the Expanded Campground will not impact vegetation at the edge of the Wallkill River as no new improvements are proposed in this area and existing vegetation along the river is somewhat limited at present due to the historic use of the property as a campground.

*(4) Will maintain existing tree canopy over the stream and the stream bank.*

Town Board Finding: The Town Board has conditioned this approval on the Applicant preserving existing tree stock of eight or more inches in diameter at breast height to the maximum extent possible to retain valuable community natural resources and promote energy conservation by maximizing the cooling and shading effects of trees. These includes any trees meeting the criteria that contribute to the existing tree canopy over the stream and stream bank.

*Section 220-35(E)(1) provides that the following shall not be located within 100 feet of the top of the bank of a stream classified as AA, A, B or C(t) by the DEC or, in the absence of a clear bank, from the outer edge of the riparian wetland adjacent to the stream:*

*(a) Principal and accessory structures 200 square feet or larger in footprint area.*

Town Board Finding: No new principal or accessory structures are proposed within 100 feet of the top of the stream bank.

*(b) Septic systems, leach fields, and wells.*

Town Board Finding: No new septic systems, leach fields or wells are proposed within 100 feet of the top of the stream bank.

*(c) Driveways, roads, and parking lots, except as otherwise provided in Subsection E(3) below.*

Town Board Finding: No new driveways, roads or parking lots are proposed within 100 feet of the top of the stream bank.

*(d) Excavation and fill areas.*

Town Board Finding: No new excavation and fill areas are proposed 100 feet of the top of the stream bank.

*(e) Herbicide and fertilizer applications.*

---

<sup>10</sup> While this provision applies to Planning Board approvals, the Town Board has reviewed the application for compliance with these requirements as part of its review.

Town Board Finding: As a condition of this approval, the Town Board prohibits the application of herbicides or fertilizer within 100 feet of the top of the stream bank.

*(f) Storage of chemicals.*

Town Board Finding: As a condition of this approval, the Town Board prohibits the application and storage of chemicals within 100 feet of the top of the stream bank.

*(g) Vegetation removal, except as necessary to allow hiking trails and structures permitted by Subsection E(2).*

Town Board Finding: As a condition of this approval, the Town Board prohibits the removal of any existing vegetation within 100 feet of the top of the stream bank other than minor clearing needed to maintain access the Wallkill River.

### CONDITIONS OF APPROVAL

- 1) The Expanded Campground will undergo Site Plan Review before the Planning Board. The final site plan shall be revised to incorporate plan revisions required as a condition of this approval.
- 2) There shall be specific performance of the approved plans and specifications.
- 3) There shall be full compliance with all permits issued for the Expanded Campground by other agencies.
- 4) Payment of any outstanding fees or expenses incurred by the Town in connection with its review of this application.
- 5) Special events that are open to the public in the Expanded Campground shall only be permitted after review and approval by the Town Board and subject to the Applicant obtaining all necessary permits and approvals in accordance with the Town Code. The Town Board shall utilize the application requirements and review procedure in the Town of Gardiner Mass Gathering Law (Chapter 107 of the Town of Gardiner Town Code) to review and approve requests for special events that are open to the public.
- 6) There must be a minimum 10' separation distance maintained between camping units, including RVs and Park Model RVs.
- 7) The final site plan shall be revised to remove camp spaces 400, 401 and 402 from of the minimum 50' setback.
- 8) The final site plan shall be revised to remove camp spaces 75 and 76 from the minimum 50' setback.
- 9) The final site plan shall be revised to incorporate required improvements to ensure Third Avenue is in compliance with the New York State Fire Code.
- 10) Existing and all new signage including street signs shall be replaced with reflective signage for identification purposes.
- 11) Dead end signage must be posted at the beginning of said roadway with dead end.
- 12) Dead end roads must post no parking Fire Lane signs and must comply with the New York State Fire Code.
- 13) The Town Highway Superintendent and Fire Chief or Deputy Fire Chief shall be required to review the final site plan prior to signature by the Planning Board Chairman.
- 14) Guest parking on public roads and interior roadways is prohibited.
- 15) Permanent structures within the Expanded Campground that are used to accommodate transient guests must be inspected by the Building Inspector on an annual basis to confirm compliance with the New York State Uniform Building and Fire Code.
- 16) Maximum occupancy of permanent structures within the Expanded Campground used to accommodate transient guests shall be the lessor of the maximum occupancy represented by the

Applicant in this application, or the maximum occupancy permitted under the applicable New York State Uniform Building and Fire Code.

- 17) The Applicant shall be required to make whatever improvements or modification required by the New York State Uniform Building and Fire Code to allow use of existing dwelling structures in the Expanded Campground as overnight accommodations for transient guests. The campground shall be inspected annually by the Town of Gardiner Building Inspector to confirm the maximum occupancy permitted under then then current Uniform Code provisions.
- 18) The Expanded Campground, including all accessory uses and accommodations for transient guests (including accommodations offered in year-round dwellings) shall be limited to the 7-month campground season. The Applicant shall identify the proposed season start and end date as part of its annual license application to the Town Board. The annual license shall be submitted at least one-hundred and fifty (150) days prior to the anticipated season commencement date in accordance with Town Code Chapter 200.
- 19) Existing tree stock of eight or more inches in diameter at breast height within the Expanded Campground shall be protected and preserved to the maximum extent possible to retain valuable community natural resources and promote energy conservation by maximizing the cooling and shading effects of trees.
- 20) The application of pesticides, herbicides or fertilizer, and the storage of chemicals are prohibited within 100 feet of the top of the bank of the Wallkill River.
- 21) The removal of any existing vegetation within 100 feet of the top of the bank of the Wallkill River is prohibited other than minor clearing needed to maintain access to the river.
- 22) Outdoor amplified sound is prohibited in the Expanded Campground. This prohibition includes amplified sound from a DJ, wagon or hayrides, use of the public announcement system. Notwithstanding the foregoing, the following sources of outdoor amplified noise shall be permitted in the Expanded Campground subject to limitations set forth in the Expanded Campground's special use permit and any applicable Town noise regulations or ordinances: 1) limited use of a public announcement system shall be permitted to announce evacuation orders, to locate missing persons, and to identify vehicle owners; 2) a portable speaker may be used for Halloween sound effects when the Halloween Trail is in use; 3) sound from laser tag devices that are affixed to the individual player and integral to the game of laser tag; and 4) speakers used for outdoor movies.
- 23) The Halloween Trail shall only be used one day per week, on Saturdays from 7:00pm to 9:30pm, during a six (6) week period preceding Halloween (a total of 6 nights per year for 2 ½ hours each night). The only exterior illumination that shall be permitted are string lights used to illuminate the trail when it is in use. The only amplified sound that shall be permitted on the Halloween Trail is a portable speaker that plays Halloween sounds, including owls and ghosts. The use of chain saws (with or without chains) or audio recording of chain saw noises shall be prohibited.
- 24) There shall be no further development or improvements constructed, erected, or maintained in the Expanded Campground. This includes the Existing Campground Parcels located at 50 Bevier Road and 40 Bevier Road (Tax IDs: 93.4-2-24 and 23) and adjacent parcels and parcels located at 30, 36 and 46 Bevier Road (Tax IDs: 93.4-1-25.110, 93.4-1-20, and 93.4-1-21). In addition, the establishment of any new camping spaces or additional accessory uses/activities is prohibited. Any change or modification to existing accessory uses, structures or activities in the Expanded Campground shall require an amendment to the Expanded Campground's special use permit and site plan.
- 25) A Lighting Plan shall be submitted to the Planning Board for its review and approval as part of the final site plan. The Lighting Plan shall incorporate the following mitigation measures on the Existing Campground Parcels proposed by the Applicant:
  - Applicant will shut off the exterior lights associated with the lazy river pump houses (Bldg.

- #23) which is near the Wallkill River.
- Applicant will dim four lights, two of which are in the pool area and two of which are near the basketball court/ play area.
- 26) There shall be no exterior lighting/illumination permitted on parcels located at 30, 36 and 46 Bevier Road (Tax IDs: 93.4-1-25.110, 93.4-1-20, and 93.4-1-21) except for string lights that are used to illuminate the Halloween Trail when the trail is in use, exterior lighting that is necessary to provide safe travel along any roadway located on these parcels, or safe ingress and egress to and from a structure used as overnight accommodations for transient guests. All exterior light fixtures that are required for these purposes shall comply with Town Code, Section 220-40(L) and be included in the proposed Lighting Plan and reviewed and approved by the Planning Board.
  - 27) Outdoor movies shall be offered on the baseball field in the Existing Campground with the screen and speakers facing away from the Wallkill River. Outdoor movies shall be limited to twice per week during peak season (Memorial Weekend-Labor Day Weekend) and once a week during off-peak season. Outdoor movies must conclude prior to the 10:00pm quiet hours.
  - 28) The use of outdoor projectors, televisions and decorative string lights on camp spaces along the Wallkill River (including camp spaces 62-76) shall be prohibited.
  - 29) A 200-foot-wide buffer shall be maintained along the southern and western boundary of the parcel located at 30 Bevier Road (Tax IDs: 93.4-1-25.110 [the “Lobster Pound Parcel”]). At least fifty (50) feet of this 200-foot buffer area shall be maintained as vegetated buffer. There shall be no new development, improvements, uses or activities established in the 200’ buffer area.
  - 30) A detailed Landscaping Plan shall be required that considers the criteria at Zoning Law §220-65(D)(2) and the specific requirements for vegetative buffering set forth in these findings. The landscaping plan shall include landscaping on the northern side of spaces 77, 78, 79, 80 and 81 and along the entire southern boundary line within the 50’ buffer to reduce the prominence of Park Model RVs that have been placed along the crestline of the hill at the southern boundary of the property. The Landscaping Plan shall be submitted to the Planning Board for its review and approval as part of the final site plan.
  - 31) Any portion of the existing Halloween Trail located in the 200-foot buffer area on the Lobster Pound Parcel shall be removed from the buffer.
  - 32) Applicant will shut off the exterior lights associated with the lazy river pump houses (Bldg. #23) which is near the Wallkill River.
  - 33) Applicant will dim four lights, two of which are in the pool area and two of which are near the basketball court/ play area.
  - 34) Applicant will enforce quiet hours beginning at 10:00pm.
  - 35) Applicant will implement “2022 In House Security Measures”, appended to the Applicant’s July 2022 submission to the Town Board. A copy of these security measures is incorporated by reference herein and compliance by the Applicant is a condition of this approval. The Applicant shall include its’ in house security measures as part of its annual license application for review and approval by the Town Board.
  - 36) The amenities and accessory uses/activities in the Expanded Campground shall not be open to use by the general public unless they are renting a camping space.
  - 37) Applicant shall provide a list of events and activities scheduled in the Expanded Campground to the Town Code Enforcement Officer. To the extent practicable, the list shall be provided to the Town Code Enforcement Officer prior to opening day and updated throughout the season to include any changes or additions.
  - 38) The approved manager’s dwelling can be occupied on a year-round basis as a dwelling for the Campground’s manager and shall not be utilized for any other purpose.

- 39) Chassis with an attached hitch shall remain on all Park Model RV's and shall not be removed by the Applicant.
- 40) During the peak season, the Expanded Campground shall have at least two security guards on site on Fridays and Saturdays and at least one security guard on site on Sunday through Thursday.
- 41) Applicant will maintain an up-to-date Evacuation Plan and Flood Plan. The Applicant shall include its Evaluation Plan and Flood Plan as part of its annual license application for review and approval by the Town Board. Such plans shall include the following information:
  - Evacuation Plan: The Applicant must include notice to the Town of Gardiner Fire Department immediately upon the Evacuation Plan being activated.
  - Evacuation Location: The Applicant utilizes the Ulster County Fairgrounds for any off-site evacuations. The Applicant has secured an agreement with Ulster County Fairgrounds and shall have maps and directions immediately available to its guests. The Applicant will be required to present documentation on a yearly basis to confirm an agreement with the Ulster County Fairgrounds remains in place.
  - Evacuation Staff: The Applicant shall update its emergency plans continuously to specifically identify the persons responsible for each emergency task. These designations will be readily available at the Campground's administrative office/front desk in the event of an emergency. The Applicant will also be required to undertake practice drills in coordination with emergency service responders.
  - Flood Plan: the Applicant shall identify specific action points for evacuating the 100-year floodplain. Evacuation shall occur before flood waters crest the bank and inundates campsites. The Applicant shall identify the person responsible for monitoring this information in its annual license application.
- 42) Prior to opening the Expanded Campground each season, the Applicant will invite the Gardiner Fire Department to the Expanded Campground for a training and review of its emergency plans. All employees, including employees who are hired after the required annual training, must be made aware of all emergency plans and protocols.

**IT IS FURTHER RESOLVED**, that the Town Board of the Town of Gardiner hereby authorizes and requires the Town Supervisor, Town Clerk, and the Attorney for the Town to take the appropriate steps to effectuate this resolution including any filing and distribution requirements.

Seconded by Councilmember Carucci and carried. Councilmember Richman opposed.

**Resolution No. 84** – Offered by Councilmember Walls;

**WHEREAS**, on March 8, 2023, Town Board of the Town of Gardiner, New York (the “Town”), duly adopted a Resolution (the “Approval Resolution”) approving with conditions the application of Lazy River Resorts, LLC (“Applicant”) to establish a Campground Floating District (“CFD”) and Special Use Permit to operate a campground across approximately 104 acres in the Town of Gardiner, located at 50, 46, 40, 36 and 30 Bevier Road (Tax Parcel IDs: 93.4-1-20, 21, 24, 23, and 25.110) in the RA Zoning District; and

**WHEREAS**, the Approval Resolution included several minor errors including an incorrect description of camp space 143 as not having a Park Model RV, omission of the camp space identified as site 100, and resulting errors on the overall calculation of approved camping spaces; and

**WHEREAS**, with these corrections the total number of approved camping spaces is as follows:

**Park Model RVs:**

- Riverfront Premiums (Site 1-7) – 7 sites
- Rustic River (Site 8, 9 & 26) – 3 sites
- Cottages (Site 77-86) – 10 sites

April 11, 2023 – Regular Meeting

- Hillside Premium (Site 201-232, 287-300) (214-221 added fall 2021 and 222-232 added spring of 2022) – 46 sites
- Ridgeview (Site 259-283) – 25 sites
- Shawangunk (Site 337-349) – 13 sites
- Hudson Valley (Site 170-180) – 11 sites
- Two Room Ridgeview (Site 301-308) (added Fall 2021) – 8 sites
- Two Room Bungalows (site 143-152) (added spring 2022) – 10 sites
- **TOTAL:** 133 Park Model RVs.

**Road Side RV Sites:** 179 RV Sites (including Camp Site 100)

**Primitive Sites:** 19 Primitive Sites (62-74A and 400-402).

**Permanent Structures:** 4 permanent structures (Bevier Lodge, Cindy Bear’s Palace, Rangers Retreat and Mountain View Lodge)

**Three Existing Previously Permitted (Kozi Cabins) in existing campground:** 98A, 98, 99

**TOTAL:** 338 camp spaces

**WHEREAS**, the Town Board desires to amend the Approval Resolution, *nunc pro tunc*, to correct the errors identified above and has prepared the attached redline copy to show the necessary changes.

**NOW, THEREFORE, BE IT RESOLVED**, by the Town Board that the Approval Resolution adopted by the Town Board on March 8, 2023, is hereby amended to incorporate the attached revisions and that an amended copy of the Approval Resolution including the approved changes be filed in the Town Clerk’s Office.

Whereupon, the Resolution was put to a vote, recorded as follows:

Seconded by Councilmember Wiegand and carried. Councilmember Richman opposed.

#### **2021 FINANCIAL AUDIT PRESENTATION**

Matthew VanDerbeck from UHY LLP firm was present to review with the Town Board the 2021 Annual Report Draft that will be submitted to the State Comptroller’s Office. The Annual Update Document (AUD) filing is very specific and Mr. VanDerbeck explained the process at length with the Board.

#### **WILLIAMSON LAW BOOKS FINANCIAL MANAGEMENT SYSEMS PRESENTATION**

Supervisor Majestic explained to the Board that a representative from Williamson Law Books was unable to present tonight and that she requested a quote from them which she has yet to receive. Supervisor Majestic and Board members discuss the urgency on settling with a Financial Management System.

#### **ULSTER COUNTY MUNICIPAL PARKS & REC GRANT APPLICATION**

Ilka Casey from Parks & Rec was present to follow up with the Board the committee’s decision to go in the direction of expanding the Skate Park with a new Pump Track. In addition to the Pump Track, new fencing for the Skate Park as well as replacing the current paved walkway with an ADA compliant walkway from the playground to the parking lot was proposed for the Grant.

On the motion of Supervisor Majestic, seconded by Councilmember Wiegand carried, for the Town Board to commit to support the County Municipal Parks Grant with the financial contribution of \$75,000.00 to be determined to come from either the Town’s Rescue Plan Funding and Spectrum Construction Fund or a combination of the two.

April 11, 2023 – Regular Meeting

On the motion of Councilmember Carucci, seconded by Councilmember Walls and carried, to authorize Parks and Rec to withdraw \$650.00 from the New Paltz Community Foundation Fund to install a Kiosk down at the River Bend Park Trails.

**284 AGREEMENT**

Offered by Councilmember Wiegand;

In Accordance with Section 284 of Highway Law

New York and the undersigned Members of the Town Board of the Town of Gardiner:

PURSUANT to the provisions of Section 284 of the Highway Law; We hereby AGREE that monies levied and collected in the Town for repair and improvement of highways, and received from the State for State Aid for the repair and improvement of highways, shall be expended as follows:

PERMANENT IMPROVEMENTS (Account 5112): The sum of \$200,000.00 budgeted shall be set aside; (with the request for a total of \$110,000.00 additional funds to come from Highway Unexpended Fund balance in order to commence capital improvements) to be expended for Section 284 NYS Highway Law for Capital Improvement Projects on the following roads:

The following Application for Albany Post Road (start Intersection of Albany Post Rd & Libertyville Rd — to Outlook Farm Dr intersection with Libertyville Rd) to install Approx. 2 1/2" Compacted 12.5 MM Top course asphalt with Tack Option:

Acct. 5112 — Albany Post Road \$ 80,000.00 for improvements

The following Application for Jewels Court (start at Old Ford Rd to Dead End) to install Approx. 2 1/2" Compacted 12.5 MM Top course asphalt with Tack Option:

Acct. 5112 — Jewels Court \$ 90,000.00 for improvements

The following Application for Shaft Road (start at Bruynswick Rd to South Mountain Rd) to install Approx. 2 1/2" Compacted 12.5 MM Top course asphalt with Tack Option:

Acct. 5112 ---- Shaft Road \$140,000.00 for improvements

Seconded by Councilmember Walls and carried.

**ZONING UPDATE**

David Church circulated with the Board a status report regarding the Zoning/Land Use Code Update Project. After review, the Board decided to take the time to review and prioritize each code update on their own and then come together and create a list as a whole to share with Mr. Church.

**SUPERVISOR MONTHLY REPORT**

On motion of Councilmember Wiegand, seconded by Councilmember Carucci and carried. The March Supervisor’s Monthly Report was approved as presented.

**CLAIMS**

Claims for the month of March 2023 were approved on the motion of Councilmember Carucci, seconded by Councilmember Wiegand, and carried. They are listed on Abstract #3 as follows; General Fund voucher #96-151 \$24,275.15; Highway Fund voucher #45-66 \$34,989.34; Sewer Fund voucher #7-9 \$4,536.09.

Councilmember Walls was absent.

**BUDGET TRANSFER & SUPPLEMENTAL APPROPRIATIONS**

Resolution No. 85 - Transfer in General Fund – Offered by Councilmember Wiegand, pursuant of Section 112, Town Law, the 2023 Annual Budget, General Fund is hereby amended to provide the transfer of



April 11, 2023 – Regular Meeting

\$3,000.00 from Acct 00-01-1330-103 PS Tax Collector Clerk to Acct 00-01-1330-401 CE General Misc.  
Seconded by Councilmember Carucci and carried. Councilmember Walls was absent.

**ADJOURNMENT**

On the motion of Councilmember Carucci, seconded by Councilmember Wiegand and carried, the meeting adjourned at 9:15 PM.

Respectfully,

Julia Hansen  
Acting Town Clerk

April 11, 2023