

**ORDINANCE NO. 2898**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A 5.8 MEGAWATT GROUND MOUNTED SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 32.90 ACRES, MORE OR LESS**

**WHEREAS, on the 24<sup>th</sup> day of November 2021, a conditional use application, denominated Conditional Use No. 2328 was filed on behalf of Sunrise Solar; and**

**WHEREAS, on the 17<sup>th</sup> day of November 2022, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2328 be approved; and**

**WHEREAS, on the 10<sup>th</sup> day of January 2023, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County determined, based on the findings of facts, that said conditional use is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and that the conditional use is for the general convenience and welfare of the inhabitants of Sussex County.**

**NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:**

**Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2328 as it applies to the property hereinafter described.**

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

**ALL that certain tract, piece or parcel of land, lying and being situate in Cedar Creek Hundred, Sussex County, Delaware, and lying on the north side of Fleetown Road (S.C.R. 224) and on the west side of Clendaniel Pond Road (S.C.R. 38), approximately 0.50 mile east of Greentop Road (S.C.R. 225) and being more particularly described in the attached legal description prepared by The Pelsa Company, said parcel containing 32.90 acres, more or less.**

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

**I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2898 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 10<sup>TH</sup> DAY OF JANUARY 2023.**

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**Tracy N. Torbert  
Clerk of the Council**

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

- A. This is the application of Sunrise Solar for a Conditional Use of land in an AR-1 Agricultural Residential District for a 5.8 megawatt ground-mounted solar farm to be located on a certain parcel of land lying and being in Cedar Creek Hundred, Sussex County, containing 32.90 acres, more or less (property lying on the north side of Fleatown Road [S.C.R. 224] and on the west side of Clendaniel Pond Road [S.C.R. 38], approximately 0.50 mile east of Greentop Road [S.C.R. 225]) (911 Address: N/A) (Tax Parcel: 230-13.00-121.00).**
- B. Based on the record before the Planning and Zoning Commission and the hearing before the Sussex County Council, Council found that Mr. Richard Stoltzfus, CEO of Sunrise Solar, together with Mr. Tony Stefon with Standard Solar, Mr. Julian Pellegrini, P.E. with PELSA Company, Inc., and Mr. Bob Smith and Mrs. Doris Smith who are the owners of the property, were present on behalf of the application; that Standard Solar is the investor of the project; that the proposed use is for a 5.8-megawatt, ground mounted community solar project; that community solar in Delaware is fairly new; that the proposed solar project will service approximately 865 homes; that a portion of the project will be for low-income; and that there are three different tiers the solar project will cover.**
- C. Council found that the property is approximately 57-acres; that the property is located on the northside of Flea Town Road, just west of Cedar Creek Estates; that the site is slightly past Clendaniel Pond Road; that there will be a gravel entrance off of Clendaniel Pond Road; that the entrance has already been approved by DelDOT; that there is a small area of trees located in the center of the site where the solar field is proposed; that the trees are required to be removed for the proposed use; that they propose to add a landscape buffer to the southern and eastern boarder of the site; that wildflowers and/or agrovoltaic farming are proposed to be planted under the solar panels; and that agrovoltaic farming is likely to include sheep on the site and the sheep will keep the grass levels down on the site; that the facility has had a lot of success with sheep at that property and there is a local business in Sussex County that will provide the agrovoltaic service and the management of the sheep.**
- D. Council also found that Standard Solar provides the financing, as well as some of the engineering and permitting for the project; that the life expectancy for the project is 30 to 35 years; that typically, inverters are most likely to require replacement, as they have a 15-year life expectancy; that the solar panels degrade slightly, at .6% annually; that the solar panels do not typically need replacing, unless there is an economic benefit from retrofitting equipment and an economic decision would be in the circumstance more advanced technology became available; that the noise generated by the project would be minimal; that the only equipment that would make noise would be the inverters; that the generated noise would be a very low hum; that the noise would not be able to be heard from individual houses; that they are required to have a fence; and that they currently have a facility located at the packing plant for Fifers Orchard in Woodside, Delaware.**
- E. Based on the record and recommendation of the Planning and Zoning Commission and the Planning and Zoning Commission's Findings (1 through 8) and Conditions (9a. – j.), Council found that:**
  - 1. The proposed facility is a public utility use under the Sussex County Zoning Code, and it meets the purposes of a Conditional Use because it has a public or semi-public character that is essential and desirable for the general convenience and welfare of Sussex County residents.**
  - 2. The owner of the property has testified that this is an adaptive use of his farmland that will preserve it from more intensive development. It will remain**

open and maintain its fundamental agricultural function through sheep grazing on the property to maintain vegetation.

3. The proposed facility promotes Goal 7.9 of the Sussex County Comprehensive Plan which encourages the use of renewable energy options such as solar farms.
4. With the conditions imposed in this recommendation, the proposed use will not have any adverse impact on the neighboring or adjacent properties.
5. The proposed solar generation facility will not result in any noticeable increase in traffic on adjacent and neighboring roadways. There are no regular employees at the site, only periodic visits for inspections, maintenance, or repair of the solar panels.
6. Based upon the testimony in the record, it is evident that no significant noise, dust, or odor will be generated by the facility.
7. There will be a buffer to screen the view of the solar farm from the nearby residential properties while allowing the solar arrays to function properly.
8. The proposed use provides a renewable energy source that is a benefit to the residents and businesses of Sussex County.
9. Based on the record and recommendation of the Planning and Zoning Commission and the record created before the Sussex County Council, the Conditional Use is approved subject to the following ten (10) conditions (a. – j.) which will serve to minimize any potential impacts on the surrounding area and adjoining properties.
  - a. The use shall be for a ground-mounted solar farm. No other types of electric generation shall be permitted at the site.
  - b. Any lighting on the facility shall only consist of perimeter lighting needed for security purposes. All lighting shall be downward screened so that it does not shine on neighboring properties or roadways.
  - c. One unlighted sign, not to exceed 32 square feet in size, shall be permitted. The sign shall identify the operator of the solar farm and shall provide contact information in case of emergency.
  - d. The site shall be secured by fencing with a gate with a “Knox Box” or similar device to accommodate emergency access by the local fire company or other emergency responders. The fence line shall be shown in the Final Site Plan.
  - e. Any transformers or similar equipment shall be centrally located on the site away from any nearby residential uses.
  - f. All of the grounds, including the area outside of the fence, shall be maintained so that they do not become overgrown.
  - g. Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with all applicable State and County requirements. These facilities shall be operated in a manner consistent with Best Management Practices.
  - h. The Final Site Plan shall include the approval of the Sussex Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.
  - i. The site’s boundaries that are adjacent to residential uses shall have a buffer planted and maintained in such a manner as to screen the view of the solar farm from the residential properties while allowing the solar

**arrays to function properly. This buffer and the landscaping within it shall be shown in the Final Site Plan.**

- j. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**