

**SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JANUARY 10, 2023**

**A regularly scheduled meeting of the Sussex County Council was held on Tuesday, January 10, 2023, at 10:00 a.m., in Council Chambers, with the following present:**

<b>Michael H. Vincent</b>	<b>President</b>
<b>John L. Rieley</b>	<b>Vice President</b>
<b>Cynthia C. Green</b>	<b>Councilwoman</b>
<b>Douglas B. Hudson</b>	<b>Councilman</b>
<b>Mark G. Schaeffer</b>	<b>Councilman</b>
<b>Todd F. Lawson</b>	<b>County Administrator</b>
<b>Gina A. Jennings</b>	<b>Finance Director</b>
<b>J. Everett Moore, Jr.</b>	<b>County Attorney</b>

<b>Call to Order</b>	<b>The Invocation and Pledge of Allegiance were led by Mr. Vincent.</b> <b>Mr. Vincent called the meeting to order.</b>
<b>M 014 23 Approve Agenda</b>	<b>A Motion was made by Mr. Rieley, seconded by Mr. Hudson, to approve the Agenda, as presented.</b> <b>Motion Adopted: 5 Yeas</b> <b>Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;</b> <b>Mr. Hudson, Yea; Mr. Rieley, Yea;</b> <b>Mr. Vincent, Yea</b>
<b>Minutes</b>	<b>The minutes from January 3, 2023, were approved by consensus.</b>
<b>Corre- spondence</b>	<b>Mr. Moore read correspondence received from The Crisis House thanking Council for their donation.</b>
<b>Public Comments</b>	<b>Public comments were heard and the following people spoke:</b> <b>Mr. Rich Borrasso representing SARG spoke about the SR1 Corridor project and development in Sussex County.</b> <b>Mr. Bill Kinnick spoke about sewage and drinking water issues in Sussex County.</b>
<b>Recognition/ Laurel HS Football Team</b>	<b>The Council recognized members of the Laurel High School Football Team for winning the 2022 DIAA Class 1A Championship.</b>
<b>Bay Beach</b>	<b>Mr. Ted Becker, representing the Bay Beach Association came forward for a presentation. Mr. Becker introduced those that were in attendance in</b>

**Association  
Presentation**

**support.**

**Mr. Becker discussed the legislation that was recently passed, the Water Resources Development Act. The legislation is aimed to help with ongoing issues along the 27-mile Delaware Bayshore line.**

**The Bay Beach Association is made up of the three incorporated communities along the Bay including Slaughter Beach, Bowers Beach, and Lewes. All of the incorporated areas will be represented by Kent County and Sussex County.**

**Mr. Becker explained that the legislation authorizes the Army Corps to make emergency repairs and restoration along the shoreline for a period of up to ten years. It also requires that within ten years, the Army Corps would have engineered beaches that are consistent with the shoreline as we know it today. In addition, it requires that a feasibility study be conducted regarding the beneficial use of dredge materials. Mr. Becker discussed the federal and state matches that would change as a result of this legislation. Currently, 65% of the funds are federal and 35% are state funds for Army Corps projects. This has been changed to 90% federal and 10% state funds.**

**Mr. Becker shared how the Bay Beach Association was formed; the association has been working with the three communities, Slaughter, Bowers, and Lewes. Each of those communities have pledged \$1,000 and Kent County Levy Court has authorized \$30,000 towards this effort. The funds will be used to work with a consultant that would take the legislation and interface with the Army Corps to make sure that the Bay Beach Communities and the entire Delaware shore on the Bay would be represented in a unified voice.**

**Mr. Becker outlined the goals of the Bay Beach Association. These goals are to develop MOUs with the participating partners, have quarterly meetings and work with the Greater Lewes Foundation. In addition, hire a consultant to work with the association to make sure that the interest and concerns are recognized by the Army Corps and working with legislators to make sure funding is available.**

**Mr. Becker asked Council for consideration of a \$30,000 one-year contribution to Bay Beach Association's efforts to coordinate this program and to move it forward.**

**Mrs. Jennings explained that this is not a budgeted item, therefore, the funding would come out of contingency funds if desired.**

**Adminis-  
trator's  
Report**

**Mr. Lawson read the following information in his Administrator's Report:**

**1. Council Meeting/Holiday Schedule**

**County offices will be closed on Monday, January 16<sup>th</sup> for the Martin**

**Administrator's  
Report  
(continued)**

**Luther King Jr. Holiday. Offices will reopen on Tuesday, January 17<sup>th</sup>, at 8:30 a.m. Council will not meet on January 17<sup>th</sup>. The next regularly scheduled Council meeting will be on Tuesday, January 24<sup>th</sup> at 10:00 a.m.**

**2. Beatrice Ennis**

**It is with great sadness that we inform you that Beatrice Ennis passed away on Saturday, December 31, 2022. Beatrice began her career with Sussex County in June 1978 where she worked until December 1994 for a total of 16 years of service. Her last position with the County was Librarian I. We would like to extend our condolences to the Ennis family.**

**[Attachments to the Administrator's Report are not attached to the minutes.]**

**Bank  
Resolutions**

**Mrs. Jennings presented for Council's consideration a Proposed Resolution authorizing signatures on the accounts of Sussex County Council with various financial institutions and investment firms.**

**M 015 23  
Adopt R  
001 23  
Bank  
Resolutions**

**A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, to Adopt Resolution No. R 001 23 entitled "BE IT RESOLVED THAT THE SUSSEX COUNTY COUNCIL IS AUTHORIZING THE SIGNATURES ON THE ACCOUNTS OF THE SUSSEX COUNTY COUNCIL WITH VARIOUS FINANCIAL INSTITUTIONS AND INVESTMENT FIRMS TO BE MICHAEL H. VINCENT, PRESIDENT; JOHN L. RIELEY, VICE PRESIDENT; AND GINA A. JENNINGS, FINANCE DIRECTOR/CHIEF OPERATING OFFICER".**

**Motion Adopted: 5 Yeas**

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;  
Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Vincent, Yea**

**Airport  
Advisory  
Committee  
Appointme-  
nts**

**Mr. Bob Bryant, Airport Manager, presented for Council's approval the Delaware Coastal Airport Advisory Committee members for the Year 2023: Garrett Dernoga, Larry Kelley, Jeffrey Reed, Rick Garner, Ezra Richards, Mark Ryan, Scott Thomas, and Ray Hopkins. Mr. Bryant noted that the Committee members also include one County Council member, the County Administrator, the County Engineer, and the Director of Economic Development.**

**M 016 23  
Approve  
Airport**

**A Motion was made by Mr. Schaeffer, seconded by Mr. Rieley, that the Sussex County Council appoints Garrett Dernoga, Larry Kelley, Jeffrey Reed, Rick Garner, Ezra Richards, Mark Ryan, Scott Thomas and Ray**

<b>Advisory Committee Appointments</b>	<b>Hopkins to the Delaware Coastal Airport Advisory Committee for 2023.</b>  <b>Motion Adopted: 5 Yeas</b>  <b>Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea; Mr. Hudson, Yea; Mr. Rieley, Yea; Mr. Vincent, Yea</b>
<b>Rules</b>	<b>Mr. Moore read the rules of procedure for public hearings.</b>
<b>Public Hearing/ Black Oak Annexation into SCUSSD</b>	<b>A Public Hearing was held on the Black Oak Annexation of the Sussex County Unified Sanitary Sewer District (West Rehoboth Area).</b>  <b>John Ashman, Director of Utility Planning and Design Review reported that County Council approved permission to prepare and post notices for the public hearing on December 6, 2022, for an expansion of the Sussex County Unified Sanitary Sewer District in the West Rehoboth Area. The Engineering Department had received a request from Davis, Bowen &amp; Friedel, Inc. on behalf of their client Leslie Gay Knapp Marini, Successor Trustee Under Revocable Trust Agreement of Halsey G. Knapp and Joan D. Knapp the owners/developers of parcel 335-7.00-6.00 along New Road. The project is proposed at 127 single family homes with a pool and clubhouse on 77.22 acres and has P&amp;Z preliminary approval. The project will be responsible for System Connection Charges of \$6,600 per EDU based on current rates and subject to an Infrastructure Use Agreement. The Engineering Department advertised December 28, 2022, and January 4, 2023, and on the County webpage. In addition, the area was posted on December 20, 2022. To date, there has been no correspondence either in support or opposition to this project.</b>  <b>There were no public comments.</b>  <b>The Public Hearing and public record were closed.</b>
<b>M 017 23 Adopt Resolution No. 002 23/ Black Oak</b>	<b>A Motion was made by Mr. Rieley, seconded by Mr. Hudson to Adopt Resolution No. R 002 23 entitled “A RESOLUTION TO EXTEND THE BOUNDARY OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (SCUSSD), TO INCLUDE A PARCEL ON THE NORTH SIDE OF NEW ROAD. THE PARCEL IS LOCATED IN THE LEWES &amp; REHOBOTH HUNDRED, SUSSEX COUNTY, DELAWARE AND RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS, IN AND FOR SUSSEX COUNTY, DELAWARE”.</b>  <b>Motion Adopted: 5 Yeas</b>  <b>Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea; Mr. Hudson, Yea; Mr. Rieley, Yea; Mr. Vincent, Yea</b>

**Public  
Hearing/  
Coral Lakes  
Annexation  
Into  
SCUSSD**

**A Public Hearing was held on the Coral Lakes Annexation of the Sussex County Unified Sanitary Sewer District (West Rehoboth Area).**

**John Ashman, Director of Utility Planning and Design Review reported that County Council approved permission to prepare and post notices for the public hearing on December 6, 2022, for an expansion of the Sussex County Unified Sanitary Sewer District. The Engineering Department has received a request from George, Miles & Buhr on behalf of their client Schell Brothers, LLC, the owners/developers of parcels 234-6.00-84.00 & 234-6.00-67.00 along Robinsonville Road. The project is proposed at 304 single family homes on 157.12 acres and has P&Z preliminary approval. The project will be responsible for System Connection Charges of \$6,600 per EDU based on current rates and subject to an Infrastructure Use Agreement. The Engineering Department advertised December 28, 2022, and January 4, 2023, and on the County webpage. The area was posted on December 20, 2022. To date, no correspondence either in support or opposition, just questions on how it will affect the neighboring communities have been received.**

**Public comments were heard.**

**Ms. Susan Petze-Rosenblum expressed concern about the installation of the new sewer pipe being installed and the possibility of disturbance to tree roots. Mr. Medlarz replied that the proposed sewer line is more than 20 feet away from her property line; it is expected to not cause any damage to her trees.**

**The Public Hearing and public record were closed.**

**M 018 23  
Adopt  
Resolution  
No. R 003 23  
Coral Lakes**

**A Motion was made by Mr. Rieley, seconded by Mr. Hudson to Adopt Resolution No. R 003 23 entitled “A RESOLUTION TO EXTEND THE BOUNDARY OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (SCUSSD) CHAPEL BRANCH AREA, TO INCLUDE A PARCEL ON THE WEST SIDE OF ROBINSONVILLE ROAD LOCATED IN THE INDIAN RIVER HUNDRED, SUSSEX COUNTY, DELAWARE AND RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS, IN AND FOR SUSSEX COUNTY, DELAWARE”**

**Motion Adopted: 5 Yeas**

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;  
Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Vincent, Yea**

**Warwick  
Park Area  
PH Results**

**John Ashman, Director of Utility Planning and Design Review presented the Public Hearing results for Warwick Park Area. On August 23, 2022, County Council granted Permission to Prepare and Post Notices for an expansion of the Sussex County Unified Sanitary Sewer District (Oak Orchard Area) to include Warwick Park, Warwick Cove, and Gull Point.**

**Warwick  
Park Area  
PH Results  
(continued)**

The Engineering Department received a request from the Warwick Cove Condominium Association for information and petitions. Within a few days, interest was expressed from Warwick Park Co-President. The Engineering Department distributed polling letters to all residents of the communities and the results were in favor of proceeding with the potential expansion.

During the background investigation by the Department, it was discovered that DNREC had contacted Gull Point in 2012, notifying them that their operating permit would expire in 5 years and plant upgrades would be required following the promulgation of the Pollution Control Strategy (PCS) Regulations.

The Engineering Department held a Public Hearing on October 29, 2022, at Indian River Fire Hall in Oak Orchard. The presentation included the annexation process and the estimated rates, which were presented as a 2-part project, one for Warwick Cove and Gull Point having existing community systems and one for Warwick Park which will require a full collection system. There appeared to be strong support from the Warwick Cove and Warwick Park residents in attendance however there was minimal attendance from GullPoint. Following the meeting, the Department was asked to attend a separate meeting for GullPoint to explain to those not in attendance. The information shared at the Public Hearing as the community was unaware of the 2012 DNREC letter and were under the impression their system was in compliance. The Gull Point special general membership meeting was held on December 10, 2022. At that point, the Board shared that DNREC had recently notified GullPoint to come into compliance with the PCS and make an official application for a new operating permit. The Department then presented the information from the Public Hearing to the larger congregation of Gull Point property owners and the Board.

The property owners and the Board engaged in a lengthy Q&A discussion with the County Engineer and then called for a vote on the desire of the community to be included in the project. The result was unanimous on the part of the members present for Gull Point to remain in the expansion area and to be a part of the project. Therefore, the Engineering Department is recommending that County Council approve the expansion of the Sanitary Sewer District Boundary to include Warwick Park area, as proposed.

**M 019 23  
Adopt  
Resolution  
R 004  
23/Warwick  
Park**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley to Adopt Resolution No. R 004 23 entitled “A RESOLUTION TO EXTEND THE BOUNDARY OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (SCUSSD) OAK ORCHARD AREA, TO INCLUDE THE WARWICK PARK AREA, ON THE NORTH AND SOUTH SIDE OF RIVER ROAD LOCATED IN THE INDIAN RIVER HUNDRED, SUSSEX COUNTY, DELAWARE AND RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS, IN AND FOR SUSSEX COUNTY, DELAWARE”.

**Motion Adopted: 5 Yeas**

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;  
Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Vincent, Yea**

**Countryside Hamlet/No. 8 Amendment** Hans Medlarz, County Engineer presented Amendment No. 8 for Countryside Hamlet, Project S23-01 for Council's consideration. Mr. Medlarz explained that with the funding in place the Department solicited a proposal from DBF for survey and basic design services. The selection was made since DBF was already under contact with the Artesian Water Company to provide the same services on the water supply side.

**M 020 23 Approve Amendment No. 8/ Countryside Hamlet** A Motion was made by Mr. Schaeffer, seconded by Mr. Rieley, be it moved based upon the recommendation of the Sussex County Engineering Department, that Amendment No. 8 to the 2019 Miscellaneous Engineering Base Agreement with Davis, Bowen and Friedel, be approved in the amount not to exceed \$124,500.00, for survey and design services associated with the Countyside Hamlet project, contingent upon DNREC concurrence.

**Motion Adopted: 5 Yeas**

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;  
Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Vincent, Yea**

**Cannon Rd/ Inland Bays/ Constructed Wetlands project** Hans Medlarz, County Engineer presented Cannon Road – Inland Bays Road Drainage Improvements and Constructed Wetlands project award recommendation for Council's consideration. Mr. Medlarz reported that many bids were received, and it is being recommended to award to the lowest responsive bid.

**M 021 23 Approve Contract S22-05** A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson, be it moved based on the recommendation of the Sussex County Engineering Department, that Contract S22-05, Cannon Road/Inland Bays Road Drainage Improvements and Constructed Wetland project, be awarded to Kinsley Construction, Inc. for their total bid in the amount of \$11,467,000.00.

**Motion Adopted: 5 Yeas**

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;  
Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Vincent, Yea**

**Old Business/ FLUM** Under Old Business, Jamie Whitehouse, Planning and Zoning Director discussed a Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN IN

**Ordinance**      **RELATION TO TAX PARCEL NO. 235-23.00-2.02 (PORTION OF), 235-23.00-1.00, 235-23.00-1.04, 235-23.00-2.00, AND 235-23.00-2.01”.**

**Mr. Whitehouse reminded Council that a public hearing was held at its meeting of December 14, 2021. At the conclusion of the meeting, County Council left the record open until its meeting of January 4, 2022 for the submission of additional comments. The additional comments were reported to Council.**

**The County Council considered the Ordinance at its meeting of January 11, 2022 and a motion was passed to defer action on the Ordinance until the next County Council meeting, and to leave the Public Record open for the receipt of additional comments.**

**At the County Council meeting of January 25, 2022 staff summarized the total number of responses that had been received. A motion was then made and passed to close the public record.**

**M 022 23**      **A Motion was made by Mr. Schaeffer, seconded by Mr. Rieley to Adopt a**  
**Adopt**      **Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE**  
**FLUM**      **FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN IN**  
**Ordinance/**      **RELATION TO TAX PARCEL NO. 235-23.00-2.02 (PORTION OF), 235-**  
**DENIED**      **23.00-1.00, 235-23.00-1.04, 235-23.00-2.00, AND 235-23.00-2.01”.**

**Motion Denied:      2 Yeas, 3 Nays**

**Vote by Roll Call:      Mrs. Green, Yea; Mr. Schaeffer, Yea;**  
**Mr. Hudson, Nay; Mr. Rieley, Nay;**  
**Mr. Vincent, Nay**

**Grant**  
**Requests      Mrs. Jennings presented a grant request for the Council’s consideration.**

**M 023 23**      **A Motion was made by Mr. Rieley, seconded by Mrs. Green, to give**  
**Springboard**      **\$5,250.00 (\$2,000.00 from Mr. Rieley’s Councilmanic Grant Account, \$250**  
**Collabora-**      **from Mr. Schaeffer’s Councilmanic Grant Account, \$2,000 from Mrs.**  
**tive**      **Green’s Councilmanic Grant Account, \$500 from Mr. Vincent’s and Mr.**  
**Inc. for their Pallet Shelter Village.**

**Motion Adopted:      5 Yeas**

**Vote by Roll Call:      Mrs. Green, Yea; Mr. Schaeffer, Yea;**  
**Mr. Hudson, Yea; Mr. Rieley, Yea;**  
**Mr. Vincent, Yea**

**Introduction**      **Mr. Rieley introduced a Proposed Ordinance entitled “AN ORDINANCE**  
**of Proposed**      **TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1**  
**Ordinances**      **AGRICULTURAL RESIDENTIAL DISTRICT FOR A LANDSCAPING**  
**BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND**



**Introduction of Proposed Ordinances (continued)** **LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 12.06 ACRES, MORE OR LESS”**

**Mr. Vincent introduced a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 21.42 ACRES, MORE OR LESS”**

**Mr. Hudson introduced a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 9.2 ACRES, MORE OR LESS”**

**Mr. Hudson introduced a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY (10 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 0.84 ACRE, MORE OR LESS”**

**Mr. Hudson reintroduced a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE SUSSEX COUNTY SEWER TIER MAP OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCELS 533-11.00-23.00, 23.03 & 23.04”**

**Mr. Hudson introduced a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLINGS (23 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 9.20 ACRES, MORE OR LESS”**

**The Proposed Ordinances will be advertised for Public Hearings.**

**Council Members’ Comments** **Mr. Vincent commented about requests for changes to the Future Land Use Map. He asked that Mr. Lawson and Mr. Whitehouse review the process and potentially review these requests every six months rather than one at a time.**

**Mr. Vincent commented about the Tribute and Proclamation request process. He reported that when he first came on Council, the requests were approved by the Council. He would like to review this process to see if it should be used again or if there is another method that needs to be used.**

**M 024 23**      **At 10:59 a.m., a Motion was made by Mr. Hudson, seconded by Mr.**  
**Recess**            **Schaeffer to recess until 1:30 p.m. Public Hearings.**

**Motion Adopted:      5 Yeas.**

**Vote by Roll Call:      Mrs. Green, Yea; Mr. Schaeffer, Yea;**  
                                 **Mr. Hudson, Yea; Mr. Rieley, Yea;**  
                                 **Mr. Vincent, Yea**

**M 025 23**      **At 1:30 p.m., a Motion was made by Mr. Hudson, seconded by Mr.**  
**Reconvene**        **Schaeffer to reconvene.**

**Motion Adopted:      5 Yeas.**

**Vote by Roll Call:      Mrs. Green, Yea; Mr. Schaeffer, Yea;**  
                                 **Mr. Hudson, Yea; Mr. Rieley, Yea;**  
                                 **Mr. Vincent, Yea**

**Rules**            **Mr. Moore read the rules and procedures for public hearings.**

**Public**            **A Public Hearing was held on a Proposed Ordinance entitled “AN**  
**Hearing/**        **ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-**  
**CU2328**           **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) filed on behalf of Sunrise Solar**

**Jamie Whitehouse, Planning and Zoning Director presented the application.**

**The Planning & Zoning Commission held a Public Hearing on the application on November 3, 2022. At the meeting of November 17, 2022, the Planning & Zoning Commission recommended approval of the application for the eight reasons stated and subject to the ten recommended conditions as outlined within the motion.**

**The Council found that Mr. Julian Pellegrini spoke on behalf of the Application; that he is the Project Engineer for the Application; that the proposal is for a 5.8-megawatt, ground mounted, community solar field; that there will be a gravel entrance; that there is a small area of trees located in the center of the site, where the solar field is proposed; that they propose to add a landscape buffer.**

**Mr. Hudson inquired where the easement would be located.**

**Public  
Hearing/  
CU2328  
(continued)**

**Mrs. Green asked if the property owner understood that the property taxes will change on the property.**

**Public comments were heard.**

**Mr. Robert Smith, owner of the property commented that all property owners in the trust fund are in agreement to move this forward.**

**The Public Hearing and public record were closed.**

**M 026 23  
Adopt  
Ordinance  
No. 2898/  
CU2328**

**A Motion was made by Mrs. Green, seconded by Mr. Schaeffer to Adopt Ordinance No. 2898 entitled “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” for the reasons and conditions given by Planning and Zoning as follows:**

- 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. This recommendation is subject to the following conditions:**
  - a. The use shall be for a ground-mounted solar farm. No other types of electric generation shall be permitted at the site.**

**M 026 23  
Adopt  
Ordinance  
No. 2898/  
CU2328  
(continued)**

- 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.

**Motion Adopted: 5 Yeas**

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;  
Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Vincent, Yea**

**Public  
Hearing/  
CU2329**

**A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A BOAT RESTORATION BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 6.20 ACRES, MORE OR LESS” (property lying on the southwest side of Dirickson Creek Road [S.C.R. 364B], approximately 0.23 mile southeast of the intersection of Millers Neck Road [S.C.R. 364A] and Dirickson Creek Road [S.C.R. 364B]) (911 Address: 37230 Dirickson Creek Road, Frankford) (Tax Parcel: 134-21.00-**

**Public  
Hearing/  
CU2329  
(continued)**

**14.07) filed on behalf of Thomas Drgon Trustee**

**Jamie Whitehouse, Planning and Zoning Director presented the application.**

**The Planning & Zoning Commission held a Public Hearing on the application on November 3, 2022. At the meeting of November 17, 2022, the Planning & Zoning Commission recommended denial of the application for the 7 reasons as outlined within the motion.**

**The Council found that Mr. Tim Willard, Esq., with Fuqua, Willard & Schab, P.A., spoke on behalf of the Application; that also present was Mr. Thomas Drgon, owner of the property and Mr. Edward Launay, with Environmental Resources, Inc.; that the request is for a Conditional Use; that the request is to allow Mr. Drgon to live on his property and work on boats; that Mr. Drgon has worked to develop a valuable trade for this area; that the boat work does include fiberglass, restoration, wiring and detailing; that the Applicant desires to perform his boat work, for his private customers at the subject property; that during the Planning Commission meeting, the opposition did a good job developing this project as a larger industrial use; that a condition that is being offered is that any and all work will be done inside and there will be no boat storage on the property; that the property consists of 6.46 acres, located on Dirickson Rd.; that there are tidal and non-tidal wetlands located on the property; that historically the front of the property was farmed; that the land did lie dormant for some time; that the Army Corp of Engineers did review the property, per the Applicant's request when purchasing; that the Army Corp of Engineers did determine that a portion of the wetlands had been filled by the previous owner; that the Applicant did receive a permit to remove soil from the filled wetlands; that the Applicant used the removed soil to fill other areas on the property; that the Applicant originally purchased the property with a pre-existing issue and took the measures necessary to correct the issue, after obtaining permission from the U.S. Army Corp of Engineers; that the Applicant improved the property; that the Applicant restores boats and does not do any engine work; that the Applicant currently rents a property along the canal in Rehoboth; that the Applicant also works for Indian River Marina; that the Applicant does not perform work to boat engines; that the Applicant does restore boats; that the zoning is AR-1 (Agricultural Residential) in the immediate nearby areas; that it is in a Coastal Zone in the Future Land Use Plan that allows like commercial and convenient; that this is an area that the County is recognizing for mixed use as described in the Future Land Use Plan; that in Ordinance No. 2756, the County Council decided that tourism is a big part of Sussex County; that the letters of opposition received seemed to focus of noise, traffic and the environment; that exhibit books were distributed and those issues were addressed in those books; that Mr. Willard discussed home occupations; that there is information relating to traffic included in the exhibit booklet; that there will be a limited number of customers coming to the location; that the Applicant also does some work at the nearby marinas and boat yards; that the average**

**Public  
Hearing/  
CU2329  
(continued)**

number of customers at the applicants current site is averaged at 3 to 5 per month over the last 2 ½ years; that information is based on the applicant's financial records; that since the last hearing, a forensic sound specialist was engaged to verify any noise generated by the applicant's loudest activity; that the report was distributed to the Council members and a witness was present today that was present when the report was conducted; that all grinding will be conducted inside the building; that the noise is no louder than a lawnmower or a leaf blower; that the accessory building is 100' x 48' and is insulated; that the test was completed in that building with the doors open and the doors shut; that all work shall be performed with accepted environmental practices; that the Applicant has been performing his work for years using the dust collector; that the Applicant denies having any side effects or health issues from his work; that there are other businesses located along Dirickson Road; that the Applicant has valuable clients; that some of those clients submitted letters of support; that the resident and shop consists of 6.74 acres; that there is a tree line to provide privacy from the road; that a raised berm shall be constructed and planted with evergreens along the frontage of the property; that the only boats that will be stored outside are for pick up or drop off; that in Tab 2 of the exhibit booklet showed the site plan for the proposed building; that the distance to the closest house is unknown; that the landscaping plan was discussed and provided to Mr. Moore.

The Council found that Mr. Edward Launay, with Environmental Resources, Inc. spoke on behalf of the Application; that he is an Environmental Consultant and Wetland Scientist; that the larger box in the front of the property is the raised wastewater; that the area next to it is a reserve area; that the area would be the replacement area if needed; that the layout has been approved by DNREC.

Mr. Willard stated that in AR, marinas and yacht clubs are permitted uses; that permitted uses allows for home occupations and the permitted use in AR is boat storage; that boat storage is not being asked for at this time; that a TIS is not needed; that a letter from the applicant's accountant was provided in the exhibit booklet outlining the number of visits per month; that the applicant is not selling boats; that he is taking them for a time; that a noise analyze was done and the report was provided in the exhibit book; that the firm was hired to give a reading of noise and how it compares to other uses, in particular lawn mowers and leaf blowers; that Mr. Arnold West recommended a witness be there during the experiment; that Gordon Bowers came forward; that Gordon Bowers witnessed the test; that the readings were videotaped; that Mr. Willard reviewed the forensic test that was completed on December 17, 2022; that Mr. Willard asked Mr. Bowers questions about how the test was conducted; that during the test, it was videotaped and the equipment was operated by the applicant; that Mr. Willard reviewed the report that was included in the exhibit booklet; that Mr. Bowers noted he is noise sensitive; that he did the test and the noise was barely noticeable especially with the garage doors down; that pictures were taken while at the site; that pictures were shown of how far the building is

**Public  
Hearing/  
CU2329  
(continued)**

from the roadway; that it has been questioned if there are doors on the building yet; that the test was completed at the other location; that the test was completed at the Rehoboth location when the test was done with the door closed; that all of the testes were done on that property; that the testes were done at a warehouse similar to the proposed warehouse and 100 feet away; that the doors were shut and it was done inside; that it is unknown if the building where the test was done was insulated; that pictures were shown of the properties located near the proposed property.

The Council found that Mr. Jeff Perno came forward; that he is a banker; that he financed the applicant's project here; that he is a customer of the applicant's; that the test was done at the applicant's shop that he currently runs; that there are no doors on the new shop; that there is not a point to put doors and insulation in the new garage until an approval is received; that construction was stopped once this issue came about; that the test was done at his current shop that is a smaller shop at 100 feet back; that the closest neighbor is about 100 feet from the proposed shop; that is why the test was completed at 100 feet due to the concern of the neighbors; that the shop where the test was completed is insulated; that until it is known that the Conditional Use is approved, installation and doors will not be done.

Mr. Willard read a letter from Teresa Moser, a marina manager that was dated December 2022; that the letter explained the work that the applicant completed; that it explained that he is an approved vendor; that Mr. Drgon explained that fiberglass will be grinded; that small repairs will be completed; that a picture of the vacuum being used was included in the Exhibit Booklet; that in Tab No. 8, the nearby businesses were listed with the locations of each of them; that an explanation of the businesses was provided; that in Tab No. 9, various letters of support were provided; that Mr. Willard read some of the letters of support; that Mr. Willard stated the proposed conditions; that the conditional use shall be limited to restoration and repair of boats within 100 by 48 accessory business; that no repairs will be completed outside; that all work shall be performed with accepted environmental practices; that a raised berm shall be constructed and planted with evergreens along the frontage of the property; that no customer boats or trailers should be parked outside the accessory building unless being dropped off or picked up; that customer business hours shall be by appointment only during the hours of 8:00 a.m. to 6:00 p.m. seven days per week; that one lighted and permitted sign shall be located at the entrance of the property; that one fenced dumpster shall be located on the site plan; that all security lighting shall be shielded and downward screened; that no hazardous material will be stored outside of the secured accessory building; that all necessary agency approvals and permitting shall be obtained; that the Final Site Plan shall be submitted for the review and approval by the Planning & Zoning Commission; that language was quoted from the Future Land Use Plan.

Public comments were heard.

**Public  
Hearing/  
CU2329  
(continued)**

**Mr. Garth Troescher spoke in opposition of the application. Mr. Troescher commented that he and his wife have tried on two attempts, one to have a wedding venue which was denied and for a bed and breakfast which they decided to withdraw their application because they knew they would be turned down; that he has a proper business on Route 17 next to Bebee Medical Hospital; that he only receives his mail at his house; that he does not have company trucks or a lumber yard or anything coming in and out of his house; that he is unsure how many businesses are permitted on this street; however, the applicant was assuming based on websites and pictures; that the bed and breakfast has been there for many years, probably before any house was built there; that the use cannot be controlled if this is approved; that the test that was completed in regard to sound was done at another location; that the one person in support was a future neighbor; that he is aware what the kayak owners do; that he has a granddaughter that lives with him full time; that he worries about the trucks and big boats coming and going; that he is concerned about the air quality.**

**Mrs. Jennifer and Mr. Walt Mitchell spoke in opposition of the application. They described the nature of Dirickson Creek Road and addressed some of the discrepancies and misleading claims put out by the applicant; that Dirickson Creek Road is a very short quiet dead end street with about 25 single family homes and one business which is a bed and breakfast; that most of the residents purchased here for peace and quiet and the nature of the area; that he believes this is a bad location for type of business; that the new building has been constructed about 100 feet from their back deck; that his commercial dumpster will be even closer; that there is no amount of installation that can be done for them not to hear or smell his operation; that the applicant's house is about 100 feet away from their house; that the noise report is extremely misleading; that there are no doors on the building located on the site; that the report was done at another location, therefore, the report has zero value; that each building is built differently; that they did not specific what they were griding during the reading or what type of disc they were using; that many of the compared objects done during the test were very misleading; that of the seven businesses the applicant listed as being nearby, only one actually operates on Dirickson Creek Road; that business is the bed and breakfast; that he listed them as having two businesses; that they only use their home address for mailing; that they are not allowed to store their equipment on State property in the off season; that they bring the equipment to their house during that time; that they have insured that the vegetation around their property is thick enough so that the neighbors do not notice the equipment in the winter; that the applicant cut and trimmed some of the trees and removed almost all of the vegetation next to their property so he could construct his building closer to the property line; that since that has been cut, he may be able to see some of the kayaks; that they do not transact any business on their property and no customers come to their property; that in the PZ meeting, the applicant misrepresented a flower business being on Dirickson Creek Road and being comparable to a fiberglass business; that the florist shop is on Camp Barnes Road; that none of the people that submitted letters of support live on**



**Public  
Hearing/  
CU2329  
(continued)**

**Dirickson Creek Road; that only one person even owns property on Dirickson Creek Road which is a vacant lot; that many of the people that submitted letters are boat captains; that the home occupation business was discussed; that his building plan shows a living area of 1,800 square feet; that the applicant has already constructed a 4,800 foot workshop; that a sizable loan was taken out by the applicant according to the Sussex County Recorder of Deeds; that according to the documents, the applicant was supposed to be living on the property within 60 days of the loan; that it has been over 550 days and he has not even started on his house; that the applicant acknowledged in those documents that he would not be using hazardous materials in his business; that the applicant dropped it down from a 5 to 1 horse power dust collector; that there is a ditch on the property; that there is a wildlife area nearby the property; that there are rare species in the area; that a fiberglass repair business would not help tourism; that a boat storage business is different than this type of business; that the proposal has been written with minimal limits and conditions.**

**Mr. Pat Welch spoke in opposition of the application. Mr. Welch stated that he is the President of the Dirickson Cove HOA; that he sent a letter yesterday addressing the problems that occurred early on with the construction; that trucks were backing into properties because they could not turn around; that they were asked not to do it; that he owns a construction company that does fiberglass work; that there was no mention of the size of the grinder of vacuum system when the test was completed; that there was no mention of venting that would come out of the warehouse; that lighting will be an annoyance; that he moved here to be in a secluded area and not to be near a commercial property; that the bed and breakfast is now run as an AirB&B; that the neighborhood is very quiet; that the septic area has an area next to it listed as reserve; that being in the construction business, those areas are typically meant for expansion; that he is concerned that other areas will be completed if this is approved.**

**Ms. Teresa Stevens spoke in opposition of the application. Ms. Stevens stated that she believes there are more appropriate places for him to have his business; that she started a small business herself as a dog and cat boarding business; that she looked for more than two years to find an appropriate spot that would not impact any neighbors; that there will be pollutants and hazardous chemicals; that she can see the building that has been constructed clear as day when she walks outside of her home; that the building is very tall and very big; that she sent a letter in on January 4<sup>th</sup> letter to the Council and asked that it be incorporated into the minutes; that the letter has been attached; that she also submitted pictures that she took from the road of the property; that she has concerns of the dust that may be generated while doing his business that would flow into the water which would flow into the creeks and nearby areas; that all of the boats that will be on the property are going to be outside of the building and all of the boats being worked on will be inside the building based on the testimony by the applicant; that she calls that storage; that the applicant gave conflicting testimony; that the noise test was not conducted on site; that she has a large**

**Public  
Hearing/  
CU2329  
(continued)**

property where she cuts her grass weekly; that the comparison of his equipment to her grasscutter is not comparable; that a marina is not comparable to what is being proposed; that there is already a boat restoration business within four miles of Dirickson Creek Road; that bringing this business here does not enhance any marina type use; that she assumes that the applicant and his employees use protective gear to protect themselves; that she will not be using that protective gear and will be subject to all of the sounds, noise and chemicals; that several of the businesses mentioned by the applicant are not located on Dirickson Creek Road; that the only business is the Air B&B; that she suggests that if a party venue or wedding venue is not suitable for this street, than an industrial business is also not suitable on this street; that of the letters of support only consists of one person that owns property but does not live on the street; that she pulled the permit that the applicant got for the structure; that in the permit, it states that it would be used for a home, business and ancillary structure; that they did not in any place note that it would be used for commercial purposes; that she has concerns that if this request is denied, the applicant will still run his business and she wonders what ramifications her and her neighbors would then have.

Mr. Bob Ferrugson spoke in opposition of the application. He spoke about property values; that no impact studies have been done on that; that he has concerns on where this will end; that if this type of business is approved on this road; that what would be next; that what would that do to the street and the property values; that he asked that this request be denied.

Ms. Gloria Marryman spoke in opposition of the application. She stated that she looks at the area that needs to be preserved; that the road is tiny and is still be preserved; that she does not reside on the road, however, she owns two pieces of property; that it is a peaceful area; that she purchased the properties in 1987; that it ends on the water and there is no way to turn around.

Mr. Robert Luca spoke in opposition of the application. Mr. Lucca stated that if this goes through what would happen next; that the quality of life would be impacted; that he has concerns about the property value; that he is concerned that the applicant took for granted an approval because he has already started construction on his building.

Mr. Henry Altevogt spoke in opposition of the application. He expressed concerns of the water and the chemicals; that the wildlife is right next to it; that the pollution would be terrible; that if it is approved, who would enforce it.

Ms. Maria Lopez spoke in opposition of the application. Ms. Lopez stated that she owns six acres on the road; that her and her husband attempted to find a property to raise their children; that it is beautiful and peaceful; that a business like this would be hard for everyone; that children ride bicycles and people walk their dogs which is nice; that her and her husband worked

**Public  
Hearing/  
CU2329  
(continued)**

for a long time to purchase this property; that it is sad for her that someone is trying to convert this peaceful place into a industrial street; that the property is close to the water; that this type of business would not be good for anyone on the street; that it would decrease the value of the properties; that she is concerns about animals and health issues.

**The Public Hearing and public record were closed.**

**M 027 23  
Defer  
Action/  
CU2329**

**A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer to defer action on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A BOAT RESTORATION BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 6.20 ACRES, MORE OR LESS”**

**Motion Adopted: 5 Yeas**

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;  
Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Vincent, Yea**

**Public  
Hearing/  
CU2331**

**A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 (AGRICULTURAL RESIDENTIAL DISTRICT) FOR A HORSE-RIDING ACADEMY WITH OVERNIGHT ACCOMODATIONS AND ASSOCIATED AGRICULTURAL ACTIVITIES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 5.0 ACRES, MORE OR LESS” (property lying on Sweet Meadow Lane on the north side of Deer Run Road [S.C.R. 388], approximately 0.5 mile southwest of Zion Church Road [Rt. 20]) (911 Address: 37033 Sweet Meadow Lane, Selbyville) (Tax Parcel: 533-11.00-27.04) filed on behalf of Sweet Meadows Riding Academy**

**Jamie Whitehouse, Planning and Zoning Director presented the application.**

**The Planning & Zoning Commission held a Public Hearing on the application on November 3, 2022. At the meeting of November 17, 2022, the Planning & Zoning Commission recommended approval of the application for the 9 reasons stated and subject to the 7 recommended conditions as outlined within the motion.**

**The Commission found that Mr. Mark Davidson, with Pennoni Associates, Inc. spoke on behalf of the Application; that also present was Ms. Shelly Lynn Wright-Estellam; that the proposed Application is for a Conditional Use within the AR-1 (Agricultural Residential) Zoning District, on five acres of land; that the property is located on the north side of Deer Run Rd. (S.C.R. 388); that the property is located directly across the road from**

**Public  
Hearing/  
CU2331  
(continued)**

Bearhole Rd. (S.C.R. 390); that the property is owned by Ms. Wright, her husband and three children; that they currently live on the property; that under Tab 2 of the Exhibit Booklet are four letters and 200 signatures submitted in support of the Application; that Ms. Wright founded Sweet Meadow Riding Academy in 2003; that Sweet Riding Academy has been operating under an existing Special Use Exception under Case No. 8287-2003, which was approved by the Sussex County Board of Adjustment on August 18, 2003; that the use was approved for a riding academy, for the purpose of boarding horses and teaching equestrian skills; that the property consists of the existing dwelling and an office; that he had submitted an existing Conditions Plan and a Site Plan; that the office does have an individual address; that there are existing barns, sheds, run-ins, lean-tos, parking and pastures; that the facility is currently gated and has security cameras; that the Applicant has two horses, one miniature house, an alpaca, two goats, a Hyland bull, six chickens and one peacock; that the Applicant does proposed to expand the horse riding academy by offering overnight accommodations and associated agricultural activities; that the overnight accommodations would consist of up to 10 individual-style guest accommodations, for temporary occupancy, for person engaged only for the specific use of the riding academy; that the Applicant proposes four cabins, two yurts, three A-style framed tents; that the Applicant does propose a bathhouse; that all proposed structures will be permitted and reviewed by Sussex County Building Code; that the agricultural activities will be centered around the horsemanship for the visiting guest, by offering education and an unforgettable farm-like experience; that proposed activities will include, classes on horses and other farm animals, daily chore schedules, dude ranch living and style riding, cowboy camp, English riding, equine-based demonstration, animal yoga, and horse whispering; that the properties are bordered on the north and east by an existing residential dwelling and a previously used chicken house; that the property owners for the chicken house have provided a letter in support of the Application; that the property is bordered in the south by a residential dwelling, who have also provided a letter in support; that an agricultural field borders the property to the west; that the Applicant has planted a vegetated buffer, starting from behind the residence, down the easternly property line and the northern property line; that the Applicant has placed a six foot high privacy fence adjacent to her neighbor to the south; that at this time, the Applicant is not proposing a buffer on the western property line; that there currently is an existing swale along the property line; that the property is adjacent to an agricultural field; that the Applicant feels the relationship between the two agricultural uses is beneficial when performing education classes; that Applicant has proposed a condition stating, if the farm field should be developed, she will plant a buffer along that property line; that the surrounding area to the property is a mixture of AR-1 (Agricultural Residential) and a large portion of GR (General Residential) land; that the Conditional Use is not out of character for the neighborhood as there are several other Conditional Use properties within the vicinity of the site; that the Conditional Use request is agricultural based in nature; that the Conditional Use request will be subject to the provisions of Sussex County

**Public  
Hearing/  
CU2331  
(continued)**

**Code; that the purpose of a Conditional Use is to provide for certain uses which cannot otherwise be well adjusted by environment and particular location with full protection offered to surrounding properties by the ridged application and district regulations; that the horse riding academy, with the overnight accommodations and associated agricultural activity uses is of a public and semi-public character and is essential and desirable to the general convenience and welfare of the community; that the site is within a Developing Area according to the 2019 Comprehensive Plan; that the site is surrounded by areas designated within the Coastal Area; that the site is in close proximity to a Commercial Area; that the Comprehensive Plan promotes tourism, related services and economic growth within designated Growth Areas, which offer employment opportunities, economic benefits to the area business, consistent with the character; that the Comprehensive Plan states permitted uses within the farm rich use development, with careful a careful mixture of homes, with light commercial is appropriate to provide for desired services; that §9.2.1 of the Comprehensive Plan states that agriculture is an important sector for the overall economy of Sussex County, providing a strong economic foundation; that there is a large potential for agritourism within Sussex County; that Sweet Meadows Riding Academy is designated agritourism with the Delaware Department of Agriculture; that the property is found within Investment Level 3 according to the State Strategies for Policies and Spending Map; that the property has an existing entrance to the site; that the site will have access to Deer Run Rd. by the existing access and existing driveway; that DelDOT confirmed the Conditional Use will not adversely affect the traffic congestion of the roads; that DelDOT stated the traffic impact for the proposed use would be diminutive, as the use would generate less than 50 vehicle trips per day; that there are no wetlands located on the site; that an Environmental Review was performed as the site is in close proximity to the Coastal Area; that there are no threatened or endangered species located on the site; that the property is located under the Tier I Sussex County Unified Sanitary Sewer District; that the property is currently served by sewer; that water is provided by private commercial wells, which are currently servicing the property; that the property is not located within any Excellent Groundwater Recharge or Wellhead Protection areas; that the property is outside of the 500 Year Flood Plain; that the Roxanna Fire Department, Station, will provide fire protection services for the site; that the applicant discussed the goals and business plan for the property; that the applicant would like to continue to grow and serve the community.**

**There were no public comments.**

**The Public Hearing and public record were closed.**

**M 028 23  
Adopt  
Ordinance  
No. 2899/  
CU2331**

**A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer to Adopt Ordinance No. 2899 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 (AGRICULTURAL RESIDENTIAL DISTRICT) FOR A HORSE-RIDING ACADEMY WITH OVERNIGHT ACCOMODATIONS AND ASSOCIATED**

**M 028 23  
Adopt  
Ordinance  
No. 2899/  
CU2331  
(continued)**

**AGRICULTURAL ACTIVITIES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 5.0 ACRES, MORE OR LESS” based on the following reasons and conditions given by the Planning and Zoning Commission as follows:**

- 1. The site is a 5.00-acre parcel of land owned by the Applicant that is currently used as a small farm. In 2003, the Sussex County Board of Adjustment granted a Special Use Exception to operate a riding academy on this property. This Application seeks to expand that use to allow campers to stay overnight.**
- 2. The use is an extension of the Riding Academy and the agricultural zoning of this property, and it is consistent with the surrounding uses.**
- 3. The Applicant intends to allow campers to stay overnight as part of the overall equestrian and agricultural experience associated with the riding academy.**
- 4. The property shall be served by central sewer from Sussex County.**
- 5. This is an appropriate Agri-Tourism use within the AR-1 Zoning District.**
- 6. The site is in the Developing Area and in close proximity to the Coastal and Commercial Areas according to the County Future Land Use Map. This small Agri-Tourism Use is appropriate in this location according to the Plan.**
- 7. There was no opposition to this Application and there was one letter in support of it.**
- 8. With the conditions and limitations placed upon the Conditional Use, it will not adversely affect neighboring or adjacent properties or area roadways.**
- 9. This use promotes agricultural activities in Sussex County and is an innovative Agri-Tourism destination.**
- 10. This recommendation is subject to the following conditions:**
  - a. The accommodations associated with this use shall be used in conjunction with the approved riding academy on the site by guests engaged in the specific use of the horse-riding academy.**
  - b. The location of the overnight accommodations shall be shown on the Final Site Plan. There shall be no more than ten(10)cabins or “yurt” structures on the site.**
  - c. All entrance locations shall be subject to the review and approval of DelDOT.**
  - d. One lighted sign shall be permitted. It shall not exceed 32 square feet per side.**
  - e. An existing buffer has been established along the north and east boundary along Parcel 27.02 and a 6-foot-tall privacy fence has been installed along the south and west property lines along Parcel 27.06. This buffer and fencing shall be shown on the Final Site Plan. No buffer is currently required along Parcel 28.00 given the agricultural use of that property. Should Parcel 28.00 ever be developed, the Applicant shall install a buffer along that**

**M 028 23  
Adopt  
Ordinance  
No. 2899/  
CU2331  
(continued)**

- common boundary line.
- f. All dumpsters and other trash containers shall be outside of the setback lines and screened from the view of neighboring properties and roadways.
  - g. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

**Motion Adopted: 5 Yeas**

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;  
Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Vincent, Yea**

**Public  
Hearing/  
CU2335**

A Public Hearing was held on a Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A GUNSMITHING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 5.12 ACRES, MORE OR LESS" (property lying on the northeast side of Utica Road [S.C.R. 632], approximately 0.24 mile south of Lighthouse Lane) (911 Address: 12559 Utica Road, Greenwood) (Tax Parcel: 430-6.00-4.03) filed on behalf of Joseph Kraft

Jamie Whitehouse, Planning and Zoning Director presented the application.

The Planning & Zoning Commission held a Public Hearing on the application on November 3, 2022. At the meeting of November 17, 2022, the Planning & Zoning Commission recommended approval of the application for the 7 reasons stated and subject to the 5 recommended conditions as outlined within the motion

The Council found that Mr. Joseph Kraft spoke on behalf of his Application; that he is the owner of Send It Precision, LLC; that he has been approved previously for fire arm sales; that he is a Class 1 FFL licensed dealer; that his original plan was gunsmithing and ammunition reloading and manufacturing; that he has no intention to do sales; that he has a family that lives there; that he tunes rifles for hunters and develops custom ammunition for hunters; that he works out of a 24 x 30 pole building; that there would be no additional noise or traffic; that everything he does is appointment based; that he currently works for the prison; that he only has two days off of work a week; that the proposed use would be a very small business.

There were no public comments.

The Public Hearing and public record were closed.

**M 029 23**

A Motion was made by Mrs. Green, seconded by Mr. Schaeffer to Adopt

**Adopt  
Ordinance  
No. 2900/  
CU2335**

**Ordinance No. 2900 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A GUNSMITHING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 5.12 ACRES, MORE OR LESS” for the reasons and conditions provided by the Planning and Zoning Commission as follows:**

- 1. The use is for a gunsmithing business located on the property where the Applicant resides.**
- 2. The use is small in nature and the Applicant is the only person involved in the use. It is very nearly a home occupation which would be a permitted use on this property.**
- 3. The Applicant has stated that there will be very little direct interaction with the public. All business will be conducted by appointment only.**
- 4. The use will not adversely affect neighboring properties or roadways.**
- 5. The Applicant has stated that there will not be a firing range located on the premises.**
- 6. The use provides a needed service for residents of Sussex County who own firearms. As a result, the use has a public or semi-public character.**
- 7. No parties appeared in opposition to the application.**
- 8. This recommendation is subject to the following conditions:**
  - a. The use shall be for professional gunsmithing. There shall not be a firing range on the premises.**
  - b. The Applicant must comply with all Federal and State licenses and regulations for the use.**
  - c. As stated by the Applicant, the use shall occur within the Applicant’s existing building on the site.**
  - d. As stated by the Applicant, there shall not be any sign associated with this use.**
  - e. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

**Motion Adopted: 5 Yeas**

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;  
Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Vincent, Yea**

**Public  
Hearing/  
CU2339 &  
CZ1969**

**A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM RESIDENTIAL DISTRICT FOR MULTI-FAMILY (60 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 14.45 ACRES, MORE OR LESS” (property lying on the southeast side of Central Avenue [Rt. 84], approximately 0.17-mile northeast of the**

**Public**



**Hearing/  
CU2339 &  
CZ1969  
(continued)**

**intersection of Peppers Corner Road [S.C.R. 365] and Central Avenue [Rt. 84]) (911 Address: 34667 Central Avenue, Frankford) (Tax Parcel: 134-19.00-24.00) and a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR MEDIUM RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 14.45 ACRES, MORE OR LESS” (property lying on the southeast side of Central Avenue [Rt. 84] approximately 0.17-mile northeast of the intersection of Peppers Corner Road [S.C.R. 365] and Central Avenue [Rt. 84]) (911 Address: 34667 Central Avenue, Frankford) (Tax Parcel: 134-19.00-24.00)**

**Jamie Whitehouse, Planning and Zoning Director presented the applications.**

**For CZ1969, the Planning & Zoning Commission held a Public Hearing on the application on November 3, 2022. At the meeting of November 17, 2022, the Planning & Zoning Commission recommended approval of the application for the 8 reasons as outlined within the motion**

**For CU2339, the Planning & Zoning Commission held a Public Hearing on the application on November 3, 2022. At the meeting of November 17, 2022, the Planning & Zoning Commission recommended approval of the application for the 9 reasons stated and subject to the 17 recommended conditions as outlined within the motion.**

**The Council found that Ms. Mackenzie Peet, Esq. with Baird Mandalas Brockstedt Federico & Cardea, spoke on behalf of the Applicant; that also present was Mr. Ron Sutton, P.E. with Civil Engineering Associates, LLC, Robert Harris and Mr. Alan Ruble, the Developer’s Project Manager; that the project is known as the Wilson Property; that the Applicant proposes to rezone the property from AR-1 (Agricultural Residential) to MR (Medium-Density Residential), in addition to a Conditional Use request for 60 townhome lots; that the property consists of 14.45-acres, located on the southeast side of Central Avenue; that the property is near the intersection of Peppers Corner Rd. and Central Avenue; that the property is located in the vicinity of a number of residential developments, which include, single-family and multi-family townhome developments; the property to be located within Investment Level 3 and the Coastal Area; that the proposed rezoning and use is consistent with and in character with the surrounding uses and Sussex County’s Comprehensive Plan and if the property is rezoned from AR-1 to MR and ultimately developed into a townhome development the project will comply with all MR District Coastal Area and subdivision of lands requirements as the record confirms.**

**There were no public comments.**

**The Public Hearing and public record were closed.**

**M 030 23  
Defer  
Action/  
CZ1969**

**A Motion was made by Mr. Hudson, seconded by Mr. Rieley to defer action on a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR MEDIUM RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 14.45 ACRES, MORE OR LESS”**

**Motion Adopted: 5 Yeas**

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;  
Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Vincent, Yea**

**M 031 23  
Defer  
Action/  
CU2339**

**A Motion was made by Mr. Hudson, seconded by Mr. Rieley to defer action on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM RESIDENTIAL DISTRICT FOR MULTI-FAMILY (60 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 14.45 ACRES, MORE OR LESS”**

**Motion Adopted: 5 Yeas**

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;  
Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Vincent, Yea**

**M 032 23  
Adjourn**

**A Motion was made by Mr. Rieley, seconded by Mr. Hudson to adjourn at 3:58 p.m.**

**Motion Adopted: 5 Yeas**

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;  
Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Vincent, Yea**

**Respectfully submitted,**

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

*{An audio recording of this meeting is available on the County’s website.}*



**From:** Doug Hudson  
**Sent:** Fri, 6 Jan 2023 00:19:58 +0000  
**To:** Jamie Whitehouse  
**Subject:** Fwd: Letter Requesting Denial of Application for Boat Restoration Business on Dirickson Creek at upcoming Council Meeting on January 10

Get [Outlook for iOS](#)

**From:** Theresa Stevens <terri.stevens@outlook.com>

**Sent:** Thursday, January 5, 2023 4:21 PM

**To:** Doug Hudson

**Subject:** Letter Requesting Denial of Application for Boat Restoration Business on Dirickson Creek at upcoming Council Meeting on January 10

**CAUTION:** This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

**RE: Letter in OPPOSITION to Application C/U 2329 submitted by Thomas Drgon Trustee For Boat Restoration Business at Property located at 37230 Dirickson Creek Road, Frankford DE: Tax Parcel 134-21.00-14.07**

Dear Sussex County Council Members,

I am a property owner within 200 feet of the subject site. Having received a notice of upcoming public hearing before the Sussex County Council (hereinafter the "Council"), I wish to notify the Council that I am OPPOSED to this conditional use. Such a Conditional Use will substantially and adversely impact the uses of all adjacent and neighboring properties. The requested Conditional Use lies far outside any uses, special uses, conditional uses, or even accessory uses as contemplated by any sections of 115 of Article XXVIII of the Code regulating Administration and Enforcement of Permits.

Further, I herein request that the Council DENY the application because the operation of this business WILL have a negative impact on the physical, economic and social environment of my property as well as all surrounding properties on Dirickson Creek Road – as further explained below.

1. Negative Social Environment Impact

Dirickson Creek Road is a secluded, quiet, dead-end street with all developed land being residential properties – mostly single families with small children and/or

pets. There is 1 short-term rental residential property (Dirickson Creek B&B). I personally looked for a suitable property for more than 2 years before finding Dirickson Creek Road. I bought here particularly due to its quiet nature, with very large, spread-out lots and the low traffic nature of a dead-end street, so that I could enjoy my property without too many neighbors, without too much noise and without too much traffic on the road. I and all my neighbors walk our dogs and /or children regularly on the road because of the low traffic nature of the dead-end street. Additionally, the quiet nature of the street is enhanced by Camp Barnes which backs up to Dirickson Creek Road, with its vast undeveloped property bringing wild birds and other wild-life and adds to the beauty of our street. The properties that are not yet developed are small acreage lots that have no agricultural businesses currently operating on them and will most likely be developed (if at all) for residential purposes. It is clear that Dirickson Creek property owners, including myself, want to protect the quiet enjoyment of our property. As further evidence, Dirickson Creek Road owners have previously opposed 2 other applications for special exceptions, which thankfully were denied by this Council; one was for use as an occasional wedding venue and the other was where the B&B wanted to add a party venue. Allowing a Boat Restoration Business will absolutely destroy and disrupt the quiet enjoyment and social environment of our properties. This business will bring, among other nuisances, significant traffic and endless loud noise and a total disruption of our quiet nature-filled street. The Conditional Use WILL alter the essential character of the neighborhood in which this property is located and WILL be detrimental to the public welfare.

## 2. Negative Physical Impact

Notwithstanding the addition of significantly more traffic, Boat Restoration Businesses are known to use huge amounts of highly toxic chemicals spreading noxious odors and high levels of dust containing known hazardous particulates. Some of the chemicals used by this type of business include, but are not limited to gas; diesel; motor oil; anti-freeze, cleaners, paints, Styrene monomer; organic peroxide - the most common is methyl ethyl ketone peroxide; Cobalt compounds; and Acetone, even the polymer that would be used by Applicant to turn the dust into a solid for waste disposal (as explained in his testimony before the P&Z Commission). All of these chemicals are toxic, noxious, and several are known carcinogens. Exposure to which causes damage to the skin, lungs, nervous systems, among others. Even workers at these businesses must wear full protective gear including respirators – yet as a neighbor I and my dogs would be exposed regularly, constantly to these same toxic chemicals without any protective gear.

Additionally, there is a tremendous amount of water runoff on this property which would carry toxic chemicals and fiberglass dust from the power washing, sanding and cleaning operation to seep into the ground or runoff into the waterways of Dirickson Creek and Little Assawoman Bay. This property regularly floods during high water events (see for example several attached pictures taken just last month on

December 16, 2022). Such an operation would have a significant detrimental physical impact on the health of our residents.

### 3. Negative Economic Impact

A Boat Restoration Business will devastate our property values. As stated above, we are a quiet residential street. It is unacceptable to have constant noise, hazardous fumes and abundant dust particles from a Boat Restoration Business settling on the exterior and interior of our homes and yards, not to mention our lungs. It is equally unacceptable to have polluted water runoff spewing from such an operation penetrating our ground water and lands where wildlife and fowl currently abound. This would immediately and permanently cause a reduced property value and may make it impossible for me or my neighbors to ever sell our property. Thus, such a business will have a significant economic impact, and would NOT be a great selling point for our community nor a safe, healthy and tranquil environment for our residents.

### 4. Untruthful Application

I would also like to point out to the Council that the Applicant was untruthful in his application for a permit to build the structure that is almost completely finished on the property. In the building permit application, he submitted that this would be a garage for personal use. Yet in his testimony at the public hearing for the application of conditional use in front of the Planning and Zoning Commission on November 3, 2022, both the Applicant and his attorney stated that this 100' x 40' x 20' steel beamed steel wall structure was intended to be used for the Boat Restoration Business. Thus, I have no faith that he will be law abiding and not run such a business on this property even if the Council does deny the application. I am concerned what my (and my neighbors) repercussions might be if this happens.

Lastly, this Boat Restoration Business is NOT desirable nor essential for the general convenience and welfare of the public because there are numerous other Boat Restoration Businesses available in nearby areas, and there are numerous other more suitable properties where this Applicant can build his business. This quiet residential street is no place for a quasi-industrial commercial business. Therefore, this purpose does not rise to the level of requiring allowance by the Council or County Council.

**Thus, for the reasons stated above, I hereby OPPOSE this application and REQUEST that the Council DENY the subject Application.**

Respectfully submitted,

Theresa M Stevens

37292 Dirickson Creek Road

Frankford DE 19945











