

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, MARCH 22, 2022

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, March 22, 2022, at 10:00 a.m., in Council Chambers, with the following present:

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

The Invocation and Pledge of Allegiance were led by Mr. Vincent.

**Call to
Order**

Mr. Vincent called the meeting to order.

**M 114 22
Approve
Agenda**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, to approve the Agenda as presented.

Motion Adopted: 5 Yeas.

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

Minutes

The minutes of the March 8, 2022 meeting were approved by consensus.

**Corres-
pondence**

Mr. Moore reported that correspondence was received from ReTemp Development Center, Inc. thanking Council for their support.

**Public
Comment**

There were no public comments.

**Adminis-
trator's
Report**

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

1. Project Receiving Substantial Completion

Per the attached Engineering Department Fact Sheets, Hailey's Glen – Phase 1 (Construction Record) and Seaglass (formerly known as Midtown & Herola Property) received Substantial Completion effective February 23rd and March 15th, respectively.

**Administrator's
Report
(continued)**

2. Delaware Animal Services Performance Report – Fourth Quarter & Annual Report

The Delaware Animal Services Performance Report for the fourth quarter and the annual report for 2021 are attached listing the total of number of calls for service by location as well as a breakdown of the total types of calls in Sussex County. In total there were 1,287 calls for service in the fourth quarter and 5,191 calls for the year.

3. Delaware State Police Activity Report

The Delaware State Police year-to-date activity report for February 2022 is attached listing the number of violent crime and property crime arrests, as well as total traffic charges and corresponding arrests. In addition, DUI and total vehicle crashes investigated are listed. In total, there were 188 troopers assigned to Sussex County for the month of January.

4. Referendum -Indian River Acres Area

The Sussex County Engineering Department will be conducting a Referendum at Community Lutheran Church, 30897 Omar Road, Frankford, Delaware on Saturday, March 26, 2022 from 9:00 a.m. until 11:00 a.m. The purpose of the referendum is to establish the Indian River Acres Area of the Sussex County Unified Sanitary Sewer District.

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

**First
Quarter
Employee
Recognition
Awards**

Karen Brewington, Human Resources Director, announced the First Quarter recipients of the Shining Star Employee Recognition Program. First Quarter recipients are Caroline Capriccio, Library Assistant at the Milton Library and Ashley Paugh, Clerk III in the Planning and Zoning Department. Mrs. Brewington noted these individuals were selected out of 18 submissions.

**Grant
Requests**

Mrs. Jennings presented grant requests for Council's consideration.

**M 115 22
Cape
Henlopen
Senior
Center**

A Motion was made by Mr. Schaeffer, seconded by Mrs. Green, to give \$1,000.00 from Mr. Schaeffer's Councilmanic Account to Cape Henlopen Senior Center for their Rehoboth Concert Band Fundraiser.

Motion Adopted: 5 Yeas.

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

M 116 22 A Motion was made by Mrs. Green, seconded by Mr. Hudson, to give
H.O. Brittingham \$1,500.00 from Mrs. Green's Councilmanic Account to Cape Henlopen
Robotics School District for H.O. Brittingham Elementary School's Robotics
Program Program.

Motion Adopted: 5 Yeas.

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

M 117 22 A Motion was made by Mr. Rieley, seconded by Mr. Hudson, to give \$500.00
Georgetown from Mr. Rieley's Councilmanic Account to Friends of the Georgetown Public
Public Library, Inc. for the Annual 5K Race fundraiser to supplement library
Library program operating costs.

Motion Adopted: 5 Yeas.

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

M 118 22 A Motion was made by Mrs. Green, seconded by Mr. Schaeffer, to give
Mariner \$1,500.00 from Mrs. Green's Councilmanic Account to Mariner Middle
Middle School for Business Professionals of America for conference expenses.
School

Business
Profession-
als of
America

Motion Adopted: 5 Yeas.

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

M 119 22 A Motion was made by Mrs. Green, seconded by Mr. Rieley, to give \$4,000.00
Woodbridge (\$3,000.00 from Mrs. Green's Councilmanic Account and \$1,000.00 from Mr.
Youth Vincent's Councilmanic Account) to Pop Warner Little Scholars, Inc. for the
Football Woodbridge Youth Football Association's equipment, uniform expenses,
Association snacks, and sanitizing needs.

Motion Adopted: 5 Yeas.

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

**CIB
Lighthouse
Reforest-
Ation** Mr. Hans Medlarz, County Engineer asked for Council's consideration for participation in Center of Inland Bay's Community Water Quality Improvement Grant Project on County owned lands off Lighthouse Road adjacent to Bunting Branch in the amount of \$10,635.00. The area to be reforested is 6.5 acres with the Center of Inland Bay taking the lead in the planting as well as long term maintenance.

**M 120 22
CIB
Lighthouse
Reforest-
ation
Approval** A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, be it moved, based upon the recommendation of the Sussex County Engineering Department, that the Sussex County Council approve the "Lighthouse Road Reforestation, Phase I" proposal between Sussex County and the Delaware Center for Inland Bays to reforest and provide long term maintenance on County owned lands off of Lighthouse Road, providing water quality benefits and future credits for the Clean Water Enhancement Program, in the amount of \$10,635.00.

Motion Adopted: 5 Yeas.

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

**Landfill
Professional
Services/
Weston
Solutions,
Inc.** Mr. Hans Medlarz, County Engineer explained the history of the Landfill Professional Services that have been performed by Weston Solutions, Inc. He then requested Council's consideration for reaffirmation of Weston Solutions, Inc. as the Landfill Professional Services Firm.

**M 121 22
Approve
Landfill
Professional
Services
Firm** A Motion was made by Mr. Hudson, seconded by Mr. Rieley, be it moved, based upon the recommendation of the Sussex County Engineering Department, that Council approve the reaffirmation of Weston Solutions, Inc., of West Chester, PA as the professional service consultant for all Sussex County Landfills over a five (5) year period starting July 1, 2022, and to authorize the County Engineer to approve annual task orders not to exceed \$100,000.00 in total, based upon Council approval of each fiscal year budget.

Motion Adopted: 5 Yeas.

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

**EMS Public
Safety
Building/CO
No. 11 & 12** Mr. Hans Medlarz, County Engineer presented Change Orders No. 11 & 12 for the EMS Public Safety Building for Council's consideration. Change Order No. 11 includes an adjustment for a ceiling and bulkhead location in the corridor leading to the northside of the existing EOC building and restoring unsuitable soils. Change Order No. 12 consists of work to the EOC kitchen renovations.

**M 122 22
Approve CO
11 & 12
EMS Public
Safety
Building**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, be it moved based upon the recommendation of the Sussex County Engineering Department, that Change Orders No. 11 & 12 for contract C19-04, Sussex County EMS Public Safety Building, be approved, for an increase of \$5,427.58 and a credit of -\$15,118.52, respectively.

Motion Adopted: 5 Yeas.

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

**EMS Public
Safety
Building/Te-
mporary LP
Gas Service**

Mr. Hans Medlarz, County Engineer provided an update on the Temporary LP Gas service at the EMS Public Safety Building. Mr. Medlarz explained that the heating and hot water systems were designed based on availability of natural gas. The utility directed us to seek an interim solution using their subsidiary, Sharp Energy, which already supplies propane to the Joint Maintenance Facility under this arrangement. Upon the Department's request, Sharp indicated the tanks could be used if both building were interconnected. Sharp provided three acceptable gas piping contractors; one quotation has been received back to date. The Engineering Department is working with the Finance Department to develop a purchase order.

**Proposed
Brookland
Farm
Expansion
of the
SCUSSD**

Mr. John Ashman, Director of Utility Planning and Design, presented a request to prepare and post notices for the Brookland Farm Annexation of the Johnson's Corner Area into the Sussex County Unified Sanitary Sewer District. The proposed expansion would include Parcel 533-11.00-87.00. The Engineering Department received a request from Land Tech Planning, LLC on behalf of their Gulfstream Development, LLC owners/developers of a project to be known as Brookland Farm. The project is proposed at 92 single family homes and will be responsible for System Connection Charges of \$6,600.00 per EDU based on current rates. With Council's approval, a public hearing will be scheduled.

**M 123 22
Approval to
Prepare and
Post Notices
Brookland
Farm into
SCUSSD**

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson that be it moved by Sussex County Council, the Sussex County Engineering Department is authorized to prepare and post notices for the Brookland Farm Expansion of the Sussex County Unified Sanitary Sewer District to include Parcel 533-11.00-87.00 as presented.

Motion Adopted: 5 Yeas.

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

**Proposed
The Knoll
Expansion**

Mr. John Ashman, Director of Utility Planning and Design, presented a request to prepare and post notices for the Knoll Annexation of the Holt's Landing Area into the Sussex County Unified Sanitary Sewer District. The

**of the
SCUSSD**

Engineering Department received a request from Land Tech Planning, LLC on behalf of Iron Knoll, LLC for the owners/developers of a project to be known as The Knoll. The proposed expansion would include Parcel 134-7.00-163.00. The project is proposed at 33 lots and will be responsible for System Connection Charges of \$6,600.00 per EDU based on current rates. With Council's approval, a public hearing will be scheduled.

**M 124 22
Approval to
Prepare and
Post Notices
The Knoll
into
SCUSSD**

A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer that be it moved by Sussex County Council that the Sussex County Engineering Department is authorized to prepare and post notices for The Knoll Expansion of the Sussex County Unified Sanitary Sewer District to include Parcel 134-7.00-163.00 as presented.

Motion Adopted: 5 Yeas.

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

**Schell
Aviation
Ground
Lease
Agreement/
Lots A & B**

Mr. Robert Bryant, Airport Manager presented a Ground Lease Agreement and Specialized Aviation Service Operations Agreement for Lots A & B for Council's consideration. Mr. Bryant explained that the agreement is between Sussex County and Schell Aviation. He then reviewed the terms of the lease that is being presented for approval.

**M 125 22
Approval
Schell
Aviation
Ground
Lease
Agreement/
Lots A & B**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer that the Sussex County Council approve an Airport Ground Lease and Specialized Aviation Agreement with Schell Aviation as the lease is presented.

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/
Long Neck
Communit-
ies**

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO \$7,788,761 OF GENERAL OBLIGATION BONDS OF SUSSEX COUNTY IN CONNECTION WITH THE LONG NECK COMMUNITIES SEPTIC ELIMINATION PROJECT AND AUTHORIZING ALL NECESSARY ACTIONS IN CONNECTION THEREWITH".

Mr. Hans Medlarz, County Engineer reminded the Council that the dollar amount included in the bond reflects the total amount of the project, however, the debt is roughly only half of that figure. Once the project is closed, the principal forgiveness is taken off of the balance.

There were no public comments.

The Public Hearing and public record were closed.

**M 126 22
Adopt
Ordinance
No. 2840
/Long Neck
Commun-
ities**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson to Adopt Ordinance No. 2840 entitled “AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO \$7,788,761 OF GENERAL OBLIGATION BONDS OF SUSSEX COUNTY IN CONNECTION WITH THE LONG NECK COMMUNITIES SEPTIC ELIMINATION PROJECT AND AUTHORIZING ALL NECESSARY ACTIONS IN CONNECTION THEREWITH”.

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/
Proposed
Ordinance
to Amend
Chapter 99
and 115
(Wetland,
Water
Resources
and Buffers)**

Mr. Jamie Whitehouse, Planning and Zoning Director provided an overview of the Proposed Ordinance. On January 11, 2022, a public hearing was held on the Proposed Ordinance. At the conclusion of the meeting, a motion was made, and adopted to suspend the Public Hearing and continue the Public Hearing at the February 22, 2022 meeting. At the conclusion of the Public Hearing held on February 22, 2022, the County Council deferred action on the Proposed Ordinance for further consideration and the public record was closed. Mr. Whitehouse noted that there were over 200 responses received that were circulated.

Mr. Lawson discussed the timeline of the Ordinance.

Mr. Lawson noted that Mr. Medlarz, Mr. Whitehouse, and Mr. Robertson along with himself reviewed the testimonies provided, public hearing information, and the comments that were received to determine what recommendations to bring forward.

Mr. Lawson shared the thirteen sections of the Ordinance; of which the majority was deemed to be acceptable in staff’s view. Most of the discussion focused on Section 10 of the Ordinance. In particular, Paragraph G of Section 10 which has been referred to as the “Options Paragraph”.

It was clarified that this Proposed Ordinance will be applied to new applications for subdivisions if the property is to be developed with more than four lots. Additionally, there must be a resource on the property.

The first recommendation is under Section 10 B - Resource Buffer Averaging. The recommendation is to clarify the language to ensure the buffer averaging can only be used on the same resource types within the development.

The next recommendation is to amend language under Section 10 C - Permitted Activities – Table 2. It is being recommended to amend the

Old Business/ Proposed Ordinance to Amend Chapter 99 and 115 (Wetland, Water Resources and Buffers) (continued)

language so that walking trails are permitted parallel to a Resource. Additionally, language to state in Zone A – not permitted and Zone B – permitted.

Under Section 10 C - Permitted Activities – Table 2, it is being recommended to amend the language so that dry and wet stormwater management ponds are excluded. These would not be permitted in Zone A or Zone B.

Under Section 10 G Resource Buffer Options, there were a few items for consideration. First, limit the scope of the options to exclude Tidal and Tidal Wetlands, leaving only Perennial Non-Tidal Rivers and Streams, Non-tidal Wetlands, and Intermittent Streams. Second, limit the scope of the options to exclude Buffer Zone A, leaving only Buffer Zone B.

Additionally, under Section 10 G - Resource Buffer Options, it is being recommended to clarify the language so that the references to forest mean “existing natural forest”. Also, clarify the language so that an area preserved with a conservation easement may not be farmed.

Mr. Lawson then presented additional considerations for the Proposed Ordinance:

1. Require signs and monuments to designate the resource buffer areas
2. Edit the existing wetlands notice required by 99-6H
3. Determine an effective date
4. Fix minor typos and edits
5. Update engineering agreements to include letters of credit for the resource buffer areas
6. Include new language for recorded restrictive covenants

Mr. Lawson discussed the recommended penalties that would be implemented if a buffer resource area or open space area is illegally disturbed. The structure of the proposed penalties is categorized by the size of the disturbed area. If the disturbed area is less than 100 square feet, the following penalties are proposed:

1. Monetary fine of \$500.00 per square foot of disturbance
2. Buffer rehabilitation and replanting
3. Building permits held until rehabilitation is complete

If the disturbed area is more than 100 square feet, the following penalties are being proposed:

1. \$1,000.00 per square foot of disturbance
2. Buffer rehabilitation and replanting
3. Developer/owner to purchase exiting natural forest in the same HUC 12 with a conservation easement to the benefit of the County or an entity of the County’s approval. Size of purchase shall be 10 times the

Old Business/ Proposed Ordinance to Amend Chapter 99 and 115 (Wetland, Water Resources and Buffers) (continued)

size of the area of disturbance.

4. Building permits held until rehabilitation completed and easement acquired

It was noted that these fines would be paid by whoever is developing the site.

It was suggested having a minimum size for trees or plantings that are replaced.

Mr. Lawson discussed recommended penalties when the property is in the HOA ownership stage and the buffer resource area or open space area is illegally disturbed. A monetary fine imposed upon the HOA as owner of the disturbed buffer area and requirement for rehabilitation of the buffer. The fine levels would include monetary fine of \$500.00 per square foot of disturbance, buffer rehabilitation and replanting and building permits held until rehabilitation is complete.

A discussion was held about recourse if a disturbance were to occur by a mistake.

Mr. Lawson pointed out that any of the recommendations are at the discretion of the Council to change if desired.

Mr. Robertson explained that there are currently penalties in place in the Zoning Codes which this Proposed Ordinance would be a part of, consisting of \$100.00 per day. The Constables deal with and enforce that at this time.

It was through that the monetary fine when there is a mistake is too much on the construction side. It was suggested to have a timeframe established for rehabilitation rather than a monetary fine. Mr. Medlarz suggested a monetary fine of \$1,000.00 per day; he added that once a certain level is reached, it would trigger a clear cut. It was also noted that the monetary fines can be drafted as a tiered approach for first, second or third offense.

It was also suggested to have a limitation on the homeowner and HOA if a mistake were to occur with some type of cap that would say up to a certain amount.

Introduction of Proposed Ordinances

Mr. Rieley introduced a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND MR MEDIUM RESIDENTIAL DISTRICT TO AN MR MEDIUM RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 4.54 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 THE EXPANSION OF CU 1741 (ORDINANCE 2021) FOR THE EXPANSION OF A BORROW PIT TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE

Introduction of Proposed Ordinances (continued)

HUNDRED, SUSSEX COUNTY, CONTAINING 62.204 ACRES, MORE OR LESS”

Mr. Rieley introduced a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR MEDIUM-DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLINGS (24 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 4.54 ACRES, MORE OR LESS”

Mr. Schaeffer introduced a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A WASTEWATER RECLAMATION TREATMENT FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 26.05 ACRES, MORE OR LESS”

Mr. Rieley introduced a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCEL NO. 235-13.00-94.00”

The Proposed Ordinances will be advertised for Public Hearing.

Council Members’ Comments

There were no Council Member comments.

M 127 22 Go Into Executive Session

At 11:42 a.m., A Motion was made by Mr. Hudson, seconded by Mr. Rieley, to recess the Regular Session and go into Executive Session for the purpose of discussing matters relating to pending/potential litigation, personnel, and land acquisition.

Motion Adopted: 5 Yeas.

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

Executive Session

At 11:49 a.m., an Executive session of the Sussex County Council was held in the Basement Caucus Room to discuss matters relating to potential/pending litigation, personnel, and land acquisition. The Executive Session concluded at 1:25 p.m.

M 128 22 Reconvene

At 1:37 p.m., a Motion was made by Mr. Hudson seconded by Mr. Schaeffer to come out of Executive Session and into 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

E/S Action

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer to

M 129 22
County
Adminis-
trator
Authoriz-
ation/Parcel
2022-B

Authorize the County Administrator to negotiate, enter into a contract and proceed to final closing on a parcel identified as Parcel 2022-B.

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 rules and procedures for public hearings.

Public
Hearing/
CU2288

A Public Hearing was held on the 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 BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 72.00 ACRES, MORE OR LESS”. (property lying on the north side of Frankford School Road [S.C.R. 92]) approximately 0.55 mile west of Pyle Center Road (S.C.R. 20) (911 Address: N/A) (Tax Parcel: 533-5.00-47.00)

The Planning and Zoning Commission held a Public Hearing on this application on February 10, 2022 at which time action was deferred. On March 10, 2022, the Commission recommended approval subject to the five reasons stated and subject to the seven recommended conditions.

(See the minutes of the Planning and Zoning commission dated February 10 and March 10, 2022.)

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

The Council found that Mr. Jeff Machiran with EDF Renewables spoke on behalf of the Application, Broom Solar Partners. Mr. Dave Shapley, from Delaware Electric Cooperative and Mr. Chad Kayser, Environmental Consultant with TRC were also present.

Mr. Shapley, Vice President for Delaware Electric Cooperative stated that the Coop is a non-profit organization; that Delaware Electric purchased power from Old Dominion Electric Cooperative (ODEC); that ODEC is a non-profit, wholesale generation transmission cooperative which operates for the benefits of its members who are the owners. ODEC serves 11 member distribution cooperatives in Virginia, Delaware, and Maryland; that Delaware Electric Cooperative service 108,000 meters within Kent and Sussex County, Delaware; that the Broom Solar Project will provide 100% of its output directly to homes and businesses within the County and surrounding areas; that the project was specifically designed to offset DEC’s customer load in the area; that this will reduce the need for costly transmission system upgrades; that the proposed Broom Solar site is proposed to connect to existing distribution infrastructure to avoid the need

**Public
Hearing/
CU2288
(continued)**

for a new substation; that the Broom Solar Project will save DEC members about \$51,000 per year in power costs; that combined with the solar project in Greenwood, DEC members will save about \$136,000 per year; that solar creates clean, renewable electricity without the use of water, creating emissions or producing waste products; that its low visual profile and quiet operations makes for a great neighbor; that solar projects place no demand on County infrastructure or services such as roads, water, sewer, emergency services or schools; that construction consists of minimal grading and disturbance; land would return to its previous agricultural use at the end of the project; this project would create jobs during the construction and direct economic benefits by using a local contractors, material purchases, equipment rental and spending on other local goods and services.

The Council found that Mr. Jeff Machiran with EDF Renewables spoke on behalf of the Application; that the project generates electricity directly to homes and businesses via local electrical distribution lines compared to larger centralized powerplants; that centralized powerplants push power onto high voltage transmission lines which carry electricity hundreds to thousands of miles away; that a key benefit of distributed generation projects like Broom Solar is they generate electricity in the communities where the power is consumed; that this reduces the need for long transmission lines and other costly infrastructure; that providing clean, renewable power close to the end user, they improve the resiliency of the local distribution grid and deliver the power at an all-end lower cost to the user; that another benefit to distributed generation projects is the smaller footprint of the projects; that this means a smaller impact; that Broom Solar will occupy thousands of acres; that Broom Solar Partners, LLC, which is a wholly-owned entity of EDF Renewables Distributed Scale Power, is the Applicant of the project on behalf of the property owner, Wilgus Family Revocable Trust; that the proposed location is on one parcel of land, which runs along Frankford School Road in Frankford, Delaware; that the project area is currently an agricultural field with no existing structures; that the anticipated project will be less than 35-acres; that the capacity to the proposed project is three megawatts of alternating current; that this is considered a relatively small project; that the project is sized to meet the local distribution system; that this type of project is referred to as distributed generation because it is connecting to the distribution grid as opposed to the electrical transmission system; that the point of interconnection will be at Delaware Electric's existing electric line, running along Frankford School Rd.; that this will end at the Omar substation; that the equipment will consist of racking systems, which are mounted on support posts, panels which are installed on top of the racking systems, an inverter/transformer skid, interconnection equipment, which are typical utility poles and a small weather station; that there is a stream which runs to the south eastern portion of the project; that EDF is committed to community engagement and has reached out directly to neighbors with mailings and a community outreach meeting was held over a two day period in January; it is anticipated to take up to five months to build a project of

**Public
Hearing/
CU2288
(continued)**

this size; that the first month would consist of site preparation, installing the access road and fencing; that about two months would be required for the installation of the posts and racking; that approximately two more months are required for the installation of the modules, wiring and conduit, that next they would install the remaining electrical equipment, including inverters and transformers; that a month would be required for the final system testing and commissioning; that by the beginning of 2023 the project could begin commercial operation; that EDF Renewables has over 35 years of experience in the United States developing wind, solar and storage projects; that they have developed over 16,000 megawatts of renewable energy projects; that they current operate over 11,000 megawatts; that EDF is one of the largest owners and operators of renewable energy in the country and EDF is well equipped to handle this type of project due to their experience and expertise.

Mrs. Green questioned the life expectancy of the equipment. Mr. Machrian replied 25-35 years.

Mr. Hudson asked if all materials could be removed from the site at the end of the project. Mr. Machrian replied yes; all materials are recycled or reused.

Mr. Rieley questioned if the company were to go out of business or a change of energy system in the country occurs, what guarantee is there that financially the company could restore the site back to its original condition. Mr. Machrian pointed out that is part of the agreement with the property owner, and they are contractually obligated to do so.

Mr. Moore asked if concrete was used around the bases. Mr. Machrian replied that they are driven piles.

There were no public comments.

The Public Hearing and public record were closed.

**M 130 22
Adopt
Ordinance
No. 2841
/CU2288**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley, to Adopt Ordinance No. 2841 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 BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 72.00 ACRES, MORE OR LESS”. (Conditional Use No. 2288) filed on behalf of Broom Solar Partners, LLC based on the following reasons and condition given by the Planning and Zoning Commission:

- 1. The proposed facility is a public utility use under the Sussex County Zoning Code, and it meets the purposes of a Conditional Use in that it is of a public or semi-public character that is essential and desirable for the general convenience and welfare of Sussex County**

**M 130 22
Adopt
Ordinance
No. 2841
/CU2288
(continued)**

- residents.
2. The proposed facility promotes Goal 7.3 of the Sussex County Comprehensive Plan which encourages the use of renewable energy options such as solar farms.
 3. With the conditions imposed in this recommendation, the proposed use will not have any adverse impact on the neighboring or adjacent properties.
 4. 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.
 5. No significant noise, dust or odor will be generated by the facility.
 6. This recommendation is subject to the following conditions:
 - A. No storage facilities shall be constructed on the site.
 - B. 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.
 - 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 on 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. 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/
CU2284**

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR THE EXPANSION OF CU 889 (ORDINANCE NO. 536) FOR PUBLIC UTILITIES OR PUBLIC SERVICES USES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 29.98 ACRES, MORE OR LESS." (property being a landlocked parcel accessed off Emma Jane Lane, approximately 0.33 mile south of E. Newton Road [S.C.R. 584]) (911

**Public
Hearing/
CU2284
(continued)**

**Address: 17019, 17025, 17035 & 17041 Black Cherry Drive, Bridgeville)
(Tax Parcel: 131-10.00-99.00)**

The Planning and Zoning Commission held a Public Hearing on this application on February 10, 2022, at which time action was deferred. On March 10, 2022, the Commission recommended approval subject to the eight reasons stated and subject to the four recommended conditions.

(See the minutes of the Planning and Zoning Commission dated February 10 and March 10, 2022.)

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

The Council found Mr. Mark Parker, Engineer Manager for Eastern Shore Natural Gas Company, spoke on behalf of the Application; that Eastern Shore Gas has safely and reliably served the natural gas transportation needs of the region since 1959; they currently owns and operates 516 miles of Natural Gas transmission mains; that they serve all of Delaware; that they support Chesapeake Utilities as the local distribution company in Sussex County, along with industrial users and energy producers; that they have three compressor station sites; that two station sites are located in Delaware, one located in Bridgeville; that the subject compressor station has operated at the subject location since 1988; that the compressor ensures adequate natural gas is transported throughout the region; the facility is required by Federal law are subject to annual leak surveys; that there is a 24/7 gas control operation out of Dover; that the location of the subject compressor station is approximately eight acres; that the area was previously granted a Conditional Use (C/U 889) in 1988 upon the stations original construction; that in 2015, it was expanded to allow for growth of the facility; that there is infrastructure in the area, including railroad and industrial facilities in the area; that they have been good neighbors, living harmoniously under the granted Conditional Use since 1988; that the existing compressor station facility is comprised of stone cover, two compressor unit buildings, several small axillary structures, a control room, a stormwater facility, above grade piping and ancillary equipment; that there is a solar farm located on the northwest corner; that the compressor stations units are contained within two separate buildings; that the property will be fully fenced and have a secured yard including a “knox box” as conditioned by the Planning and Zoning Commission; that there will be above grade piping and ancillary equipment and a stormwater management facility; that the project will serve as a receive point where natural gas is injected in the existing pipeline system; the facility will meter, regulate and heat the injected gas before entering the existing Eastern Shore Natural Gas pipeline system; that the pipeline system runs along the Southern edge of the property; that there will be no gas processing that will take place at this facility; that here is presence of above grade piping, consisting of majority five feet high; that truck off load and above grade piping is approximately 800 feet from the nearest residence; approximately 675 feet from the

**Public
Hearing/
CU2284
(continued)**

southern property line; over 1,000 feet away from the playground for Phyllis Wheatley Elementary School; 1,300 feet away from the school structure; that ancillary piping (the non-off load area) is 1,000 from the nearest residence, 520 feet from the southern property line, 850 feet away from the noted playground and over 1,150 feet away from the school; that there would be three offload points; that all truck traffic would enter and exit via Emma Jane Lane and utilize SR 404; that they hold approvals from Delaware Department of Transportation (DelDOT), Sussex Conservation District, United States Fish & Wildlife Service, Delaware State Historic Preservation (SHPO), the Species Conservation and Research Program (SCRIP) of the Delaware Department of Natural Resources (DNREC); that there next step is will Federal Energy Regulatory Commission (FERC); that they agree with the conditions set forth by the Planning and Zoning Commission; the proposed development will not have a negative impact on the physically, economic or social environment of the area; Eastern Shore has selected this location to develop the project as it minimizes the potential for negative environmental or community impact; that minimal above ground facilities are proposed which are smaller scale compared to the compressor station, agribusiness and new construction.

Mrs. Green asked for more clarification regarding the location of the school and truck traffic. It was clarified that the trucks would not be going around the school; they would utilize Route. 404 and Emma Jane Lane. Furthermore, there is existing pipeline and compressor station in the area. Mr. Parker emphasized that the facility is monitored twenty-four hours a day, seven days a week.

Mr. Rieley spoke about concerns regarding a leak that could occur and the proximately to the Elementary School.

Public comments were heard.

The Council found that Mr. Greg Layton on behalf of Delaware Food and Water Watch spoke about moving away from fossil fuel infrastructure and factory farms. In addition, he expressed concerns of the expanded hazardous pipeline being so close to Sussex County children and educators at the nearby elementary school. Mr. Layton also spoke about environmental justice and safety for the nearby residents. He encouraged the Sussex County Council members to say no to this proposal. The Public Hearing and public record were closed.

**M 131 22
Adopt
Ordinance
No. 2842/
CU2284**

A Motion was made by Mrs. Green, seconded by Mr. Schaeffer, to Adopt Ordinance No. 2842 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR THE EXPANSION OF CU 889 (ORDINANCE NO. 536) FOR PUBLIC UTILITIES OR PUBLIC SERVICES USES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 29.98 ACRES, MORE OR LESS."

**M 131 22
Adopt
Ordinance
No. 2842/
CU2284
(continued)**

(Conditional Use No. 2284) filed on behalf of Eastern Shore Natural Gas Company based on the following reasons and conditions given by the Planning and Zoning Commission:

- 1. This is the expansion of an existing natural gas facility within property that is owned by the Applicant. The original conditional use was approved by Sussex County Council on September 27, 1988, as Ordinance No. 536, and the property has been used as a natural gas facility ever since.**
- 2. There are other conditional uses in the vicinity. These include Conditional Use #1955, which allowed the State of Delaware and DelDOT to operate a maintenance yard. This limited expansion of an existing conditional use in this location is appropriate.**
- 3. This limited expansion will permit a point of connection into the Applicant's existing gas line infrastructure. It will allow renewable natural gas, compressed natural gas, or liquified gas to be introduced into the existing pipeline system.**
- 4. The proposed use will have minimal above-ground facilities. These new facilities will be smaller in comparison to the existing facilities on the site.**
- 5. No wetlands, waterbodies or other sensitive resources are located on the site, and it will not require any water or sewer connections.**
- 6. The limited expansion will not have a detrimental impact upon the physical, economic or social environment of the area.**
- 7. This Conditional Use to allow the limited expansion of the existing natural gas facility on this site promotes the convenience, order, prosperity and welfare of residents and businesses of Sussex County by providing improvements to natural gas infrastructure within an existing natural gas facility.**
- 8. Fire protection will be provided by the Bridgeville Volunteer Fire Department, which is located approximately one-half mile from this site.**
- 9. This recommendation is subject to the following conditions:**
 - A. The area of this use shall be fenced with a locked access gate. A "knoxbox" or similar means of access shall be established on the site for use by emergency responders.**
 - B. The site shall be marked with signage identifying the owner of the facility and emergency contact information.**
 - C. The use shall comply with all Federal and State requirements governing the use.**
 - D. The Final Site Plan shall be subject to review and approval of the Sussex County Planning & Zoning Commission.**

Motion Adopted: 4 Yeas, 1 Nay

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

**Public
Hearing/
CU2305**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A ZOOLOGICAL PARK TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 7.24 ACRES, MORE OR LESS”. (property lying on the northeast side of Peppers Corner Road [S.C.R. 365], approximately 0.61 mile southeast of Roxanna Road [Route 17]). (911 Address: 34215 Peppers Corner Road, Frankford) (Tax Parcel: 134-15.00-124.00)

The Planning and Zoning Commission held a Public Hearing on this Application on February 10, 2022 at which time action was deferred. On March 10, 2022, the Commission recommended approval for the seven reasons and fourteen recommended conditions as outlined within the motion.

(See the minutes of the Planning and Zoning Commission dated February 10 and March 10, 2022.)

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

The Council found Mr. Tom Ford with Land Design, Inc, spoke on behalf of the Application; that also present was Mr. Joshua Mueller; that the owner, Mr. Mueller grew up on the property; that the land was originally owned by his parents; that the property is 7.25 acres; that the property has setbacks of 40 feet from the front, 15 feet from the side and 20 feet from the rear; that the property is also encumbered with tax ditch ROW buffer of 50 feet; that guest attendance is by reservation only; that the maximum number of guests is 25 people at one time; that in Phase 1 they have proposed 20 parking spaces; that there is an additional six spaces for employee parking; that the 20 parking spaces allow for transition of one group not quite leaving and another group arriving; that they feel they have proposed adequate parking for facility; that the site has existing features; that the existing features are the residential home of the owner, a garage, and multiple accessory structures which act as the wildlife habitats, appropriately sized paddocks for adequate movement, exercise and recreation of the wildlife; that there are State regulations which require a 8 foot perimeter fence for this type of operation.

Mr. Ford asked for consideration for Item #6 of the Planning and Zoning Commission conditions be amended to add when it becomes available adjacent to the property. Mr. Moore clarified that was just in the findings themselves; it was not a condition.

The Council found Mr. Joshua Mueller spoke on behalf of his Application; that he is the owner of Barnhill Preserve of Delaware; that he is an eagle scout, who was born and raised in Sussex County, Delaware; that his family has owned the subject property since 1996, where he grew up; that he has

**Public
Hearing/
CU2305
(continued)**

always had a strong passion to work with animals; that this drove him to get his degree in wildlife ecology at LSU; that while attending college he had the opportunity to work at Barnhill Preserve, at its original location in Ethel, Louisiana, with Mr. John Ligon; that Mr. Ligon is his business partner for the Delaware location; that he felt the preserve would be a great addition to Sussex County; that growing up in the area, there were no options to attend zoos, other than the Salisbury Zoo and Brandywine Zoo, which are a far distance to travel; that there was little opportunity to learn about the wildlife around the world; that the main mission at Barnhill Preserve is to educate youth and adults about the conservation and multiple animals on the planet; that in 2020 Barnhill Preserve helped fundraise over \$75,000 for the Australian wildlife during the bush fires; that he, and his staff members, spent a month in Australia helping rescue, providing care and providing food to the animals; that Barnhill Preserve has raised over \$15,000 for the Costa Rican wildlife just this year; that the Barnhill Preserve mobile unit visits schools all over the Northeast; that they generally educate about 300,000 children every year; that they have three crews; that each crew goes to a different state; that he currently has employee crews in Ohio and Pennsylvania; that these education programs are free for the schools; that they strive to provide everyone access to learning about the animals; that the current facility has provided the chance to educate the local community, as well as inspire people to take action in helping the animals; that some of the animals he cares for are listed as threatened or endangered in the wild; that they can offer breeding programs to help increase the population, which help prolong the species; that they worked hard to receive the highest level of licensing provided by the United States Department of Agriculture; that Barnhill Preserve is considered a Class C Exhibitor; that this license allows them to be at the same level as every zoo in the nation; that they are randomly inspected annually; that the past year they were awarded a three year inspection; that this reflects the trust they have in Barnhill to not require an inspection for three years from their last inspection in October 2021; that he worked with the State of Delaware to receive an exhibitor license; that this permits him to be able to exhibit in the State of Delaware; that he also has exhibitor licenses in Florida, Kentucky, New Jersey, Maryland and Georgia; that they do exhibit in other states, which do not require a license; that they started the zoological process for accreditation with the Zoological Association of America (ZAA); that within the Code for Delaware, Association of Zoos and Aquariums (AZA) is the requirement; that they have work with the State of Delaware and the Department of Agriculture to include ZAA as an exception, as it meets more of their specific needs and beliefs with the animals; that the animals still have a very high level of care required; that in this high level of care, they discussed the required eight foot fence; that they require the eight foot fence; that the United States Department of Agriculture (USDA) recommends it to ensure the safety of the community and animals; that their first priority is the well being of the animals; that they do have a zoological vet who visits the site monthly; that the vet performs a full inspection of every animal to ensure every animal is healthy; that they also work very closely with Dr. Michael Metzler, who provides

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(continued)

any treatments required when their zoological vet is out of the state; that their zoological vet is available by phone 24/7 to provide assistance or instruction to Dr. Metzler; that Dr. Metzler does not have expertise in the zoological field, but does have the background and supplies to provide care to the animals; that they have a zoological nutritionist; that diets are tailored to the particular species, as well as, to the specific animal's weight, preferred foods and activity level; that they have continued to update and improve the animal enclosures to provide optimal chances of enrichment; that all of his staff have degrees in biology or have comparable experience; that 11 professionals on the team have received extensive training to ensure they are equipped to work with the animals at Barnhill Preserve; that with a combined 16 years of experience, between Mr. John Ligon and himself, they have developed protocols to make it easier and safer to care for their animals; that he has worked with Delaware regarding the Nutrient Waste Management Plan; that due to not exceeding 8,000-lbs in animals, they are not required to have a plan in place; that they chose to match the Georgetown SPCA protocols, they bag animals waste, dispose of the waste with a locally approved waste management service; that they have proposed a manure barn in the case they should exceed the 8,000-lb. requirement in the future; that they desire to already have a plan in place; that he lives on the property; that he is available 24/7 for emergencies or should his staff need assistance; that he was recently elected on the Board of Directors to Prestigious U.S. Based Nonprofit, who rescues and rehabilitate wildlife in Costa Rica; that it is his desire to continue to share his love for animals with the community; that visitors from the area, as well as visitors from out of state have benefitted from Barnhill Preserve in the short amount of time it has been open to the public; that there have been multiple reviews of a positive experience at Barnhill Preserve; that Mr. Brian Jones is a neighbor located across the street from Barnhill Preserve; that at first Mr. Jones had reserves about the project; that after some discussion, he was able to put Mr. Jones' concerns at ease; that Mr. Jones did write a letter in support, which Mr. Mueller submitted into the record; that he has no intention to build a massive zoo; that he desires to create a more personal experience; that the tours are led by a personal guide; that with their unique encounters, they provide a stronger connection for guests and assist them with daily animal enrichment; that they are developing a program to allow schools to visit the facility for field trips; that they are designing a Junior Keeper program, allowing kids to shadow the animal caretakers; that they will continue to offer their educational presentations all over the east coast and northeast; that the animals are no more vocal than any other traditional agricultural animal; that they have been very considerate with their hours of operations; that they are open from April until Christmas, with limited hours in the colder seasons; that the first Kangaroo yoga session begins at 7:00 a.m.; that tours of the facility begin at 10:00 a.m. and the last tour ending at 7:00 p.m.; that they did host later events in the summer, but never exceed 9:00 p.m. in hopes to avoid creating any light pollution or nuisance to the neighbors; that they are currently in the process of working with the Ultra Solar Group, in hopes to have the facility run off of 100% green energy and he hopes the Council can see his passion

**Public
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CU2305
(continued)**

and how much of an asset the facility is to the community.

There were no public comments.

The Public Hearing and public record were closed.

**M 132 22
Adopt
Ordinance
No. 2843/
CU2305**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley to Adopt Ordinance No. 2843 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A ZOOLOGICAL PARK TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 7.24 ACRES, MORE OR LESS”. (Conditional Use No. 2305) field on behalf of Barnhill Preserve of Delaware, LLC with the following reasons and conditions given by the Planning and Zoning Commission:

- 1. The property is zoned AR-1 Agricultural Residential, which anticipates the keeping of live animals in certain situations. This use is similar to the types of uses that are expected within the AR-1 Zoning District. The Sussex County Zoning Code allows the keeping of various types of animals for personal use and larger farming operations on properties greater than five acres.**
- 2. The property is in the Coastal Area according to the Sussex County Comprehensive Plan. The Plan does not prohibit this type of small business use in this Area.**
- 3. The Applicant has stated that the use as a Zoological Park is intended to be educational and it will be visited by school-aged children from all over Sussex County.**
- 4. The use, with the conditions and limitations placed upon it, will not have an adverse impact upon neighboring properties, roadways, or the community in general.**
- 5. The use is regulated by the United States Department of Agriculture with regular inspections, and it is licensed by the State of Delaware.**
- 6. The use will be connected to Sussex County sewer when available.**
- 7. The use, as a small Zoological Park, will be a benefit to residents and visitors of Sussex County by providing a nearby location for residents, visitors, and schoolchildren to learn about the animals kept in the park without having to otherwise travel to Wilmington, Salisbury, or other out-of-state locations for such an educational experience.**
- 8. This recommendation is subject to the following conditions:**
 - A. The use shall be limited to a Zoological Park.**
 - B. There shall not be any parking located within the setbacks. All parking spaces shall be shown on the Final Site Plan and clearly marked on the site itself.**
 - C. One lighted sign shall be permitted. It shall not exceed 32 square feet per side.**
 - D. The Zoological Park shall only be open to the public between the**

**M 132 22
Adopt
Ordinance
No. 2843/
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(continued)**

- hours of 6:30 a.m. until 9:00 p.m.
- E. The Applicant has stated that the Zoological Park must have 8-foot-tall fencing. This will require a variance from the Sussex County Board of Adjustment.**
 - F. All lighting shall be shielded and downward screened so that it does not shine on neighboring properties or roadways.**
 - G. The location of the Tax Ditch and Tax Ditch Right of Way shall be shown on the Final Site Plan. No fencing or structures shall be located within the Tax Ditch Right of Way.**
 - H. The stormwater management system shall meet or exceed the requirements of the State and County. The Final Site Plan shall contain 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 use shall comply with all DelDOT entrance and roadway improvement requirements.**
 - J. Any expansion of the Zoological Park into the area designated on the Preliminary Site Plan as “Area Reserved for Future Expansion” north of the Beaver Dam Canal Tax Ditch require another public hearing.**
 - K. All locations for the temporary storage of animal waste shall be fully enclosed and centrally located on the site. These locations and the method of enclosure shall be clearly shown on the Final Site Plan.**
 - L. Any outdoor entertainment and music or the use of outdoor speakers shall end at 9:00 p.m. each night. All outdoor entertainment and music or outdoor speakers shall be oriented away from the residential properties adjacent to the site.**
 - M. The failure to abide by any of these conditions of approval may result in the revocation of this Conditional Use.**
 - N. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & 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**

**M 133 22
Adjourn**

A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer to adjourn 2:50 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.}