

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, OCTOBER 10, 2023

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, October 10, 2023, at 1:00 p.m., in Council Chambers, with the following present:

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

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

**Call to
Order**

Mr. Vincent called the meeting to order.

**M 478 23
Approve
Agenda**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, 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 from September 26, 2023, were approved by consensus.

**Corre-
spondence**

Mr. Moore reported letters were received from Shoes That Fit, Chamber of Commerce of Greater Milford and Delaware Seaside Railroad Club thanking Council for their support.

**Public
Comments**

Public comments were heard.

Ms. Jill Hicks spoke about buffers and construction occurring in the area of her house.

Ms. Janet Ligabel spoke about the public comment period and scheduling for Planning & Zoning Commission meetings.

Ms. Judy Rose Siebert spoke about allowing telephone comments during the Planning & Zoning Commission meetings.

**M 479 23
Approve
Consent
Agenda**

A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer to approve the following item under the Consent Agenda:

**Use of Existing Wastewater Infrastructure Agreement – IUA-1195
Still Waters (The Peninsula), Long Neck Area**

Motion Adopted: 5 Yeas

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

**CC & P&Z
Commission
Workshop
Review**

Mr. Lawson reviewed information from the joint workshop with County Council & the Planning & Zoning Commission.

Mr. Lawson reported that staff took the presentation, reviewed notes from the workshop and created a table summarizing the ideas. Mr. Vincent commented that he would like the Commission to first comment on the ideas and then prioritize them. Mr. Lawson stated that it is on the agenda for the meeting of the Planning & Zoning Commission on Thursday. During the meeting, their feedback and prioritizes will be collected which will then be passed onto County Council.

**Adminis-
trator's
Report**

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

1. William "Bill" Davis

It is with great sadness that we inform you that pensioner, William "Bill" Davis, passed away on Monday, October 2, 2023. Mr. Davis began his career with Sussex County in October 1980 where he worked until June 1996 for a total of 15 years of service. His last position with the County was Electrician. We would like to extend our condolences to the Davis family.

2. Glenda Pusey

It is with great sadness that we inform you that pensioner, Glenda Pusey, passed away on Thursday, October 5, 2023. Mrs. Pusey began her career with Sussex County in November 1991 where she worked until November 2016 for a total of 25 years of service. Her last position with the County was District Supervisor with Emergency Medical Services. We would like to extend our condolences to the Pusey family.

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

Reassessment Update **Chris Keeler, Director of Assessment introduced Ms. Mary Noddy, Tyler Technologies to provide an update on the project and discuss the next phase.**

Ms. Noddy reported that 71% of Sussex County properties have been visited for data collection. Currently, residential data collection is taking place in the Bridgeville area. She added that the transition to Rehoboth and Lewes will start this week. In addition, commercial data collection is anticipated to be completed around the 4th week of November. Overall, data collection is anticipated to be completed by Spring of 2024.

Ms. Noddy shared an example and explained data mailers that will be going out to property owners later this month which is the next phase of the project.

Grant Requests **Mrs. Jennings presented grant requests for Council's consideration.**

M 480 23 Fraternal Order of Police Lodge #2 **A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to give \$3,000 (\$1,000 from Mr. Schaeffer's Councilmanic Grant Account, \$500 from Mr. Rieley's Councilmanic Grant Account, \$500 from Mr. Hudson's Councilmanic Grant Account, \$500 from Mr. Vincent's Councilmanic Grant Account and \$500 Mrs. Green's Councilmanic Grant Account) to Fraternal Order of Police from Sussex County Lodge #2 for their charitable projects.**

Motion Adopted: 5 Yeas

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

M 481 23 COBA US **A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to give \$1,000 (\$1,000 from Mr. Schaeffer's Councilmanic Grant Account) to COBA US for Jumpstart Sussex.**

Motion Adopted: 5 Yeas

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

M 482 23 DE Nurse Association **A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer to give \$1,000 (\$500 from Mr. Vincent's Councilmanic Grant Account and \$500 from Mr. Rieley's Councilmanic Grant Account) to Delaware Nurse Association for their Inaugural Delaware DAISY Gala.**

Motion Adopted: 5 Yeas

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

**Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

M 483 23 **A Motion was made by Mr. Hudson, seconded by Mr. Rieley to give \$1,500**
Optimist **(\$1,500 from Countywide Youth Grant Account) to Optimist International**
International **Foundation for their Youth Appreciation Day.**

Foundation **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/ **Hans Medlarz, County Engineer presented change order no. 2 for Cannon**
Co No. 2/ **Road – Inland Bays Road Drainage Improvements and Constructed**
Inland Bays **Wetlands, Project S22-05 for Council’s consideration.**

M 484 23 **A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson, that be it**
Approve CO **moved based upon the recommendation of the Sussex County Engineering**
No. 2 **Department that change order no. 2 for Contract S22-05, Cannon Road**
 Inland Bays Road Drainage Improvements and Constructed Wetlands be
 approved increasing the contract amount by \$847,134.56 and extend the
 contract by 55 calendar days.

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. Vincent introduced a Proposed Ordinance entitled “AN ORDINANCE**
of Proposed **TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL**
Ordinances **RESIDENTIAL DISTRICT FOR A SOLAR ARRAY TO BE LOCATED**
 ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE
 CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 134.61 ACRES,
 MORE OR LESS” filed on behalf of Sunrise Solar, Inc.

Mrs. Green introduced a Proposed Ordinance entitled “AN ORDINANCE
TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1
AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR ARRAY
TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND
BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY,
CONTAINING 121.33 ACRES, MORE OR LESS” filed on behalf of
Misphillion Solar Farm, LLC.

Mr. Hudson introduced a Proposed Ordinance entitled “AN ORDINANCE
TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1
AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR ARRAY
TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND

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| Introduction of Proposed Ordinances (continued) | <p>BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 50.50 ACRES, MORE OR LESS” filed on behalf of Chaberton Energy.</p> <p>Mr. Schaeffer introduced a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO ALLOW FOR AN ON-PREMISES ELECTRONIC MESSAGE CENTER SIGN TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 8.19 ACRES, MORE OR LESS” filed on behalf of Epworth UMC.</p> <p>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 (174 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 51.23 ACRES, MORE OR LESS” filed on behalf of McKee Builders, LLC.</p> <p>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 AN MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR CERTAIN PARCELS OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 51.23 ACRES, MORE OR LESS” filed on behalf of McKee Builders, LLC.</p> |
| Council Member Comments | <p>The Proposed Ordinances will be advertised for a Public Hearing.</p> <p>Mr. Rieley commented on the language for Proposed Ordinances being changed from “Solar Farm” to “Solar Array”.</p> |
| Rules | <p>Mr. Moore read the rules and procedures for public hearings.</p> |
| Public Hearing/ CU2379 | <p>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 SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 15.97 ACRES, MORE OR LESS” (properties lying on the north and south side of Saddle Ridge Way and the west side of Beaver Dam Road [S.C.R. 23], approximately 0.57-mile northeast of Hopkins Road [S.C.R. 286]) (911 Address: 30857 & 30862 Saddle Ridge Way) (Tax Map Parcels: 234-6.00-6.02, 6.03 & 6.04) filed on behalf of Lewes Solar Ridge Solar 1, LLC.</p> <p>The Planning & Zoning Commission held a Public Hearing on the Proposed Ordinance on August 24, 2023. At the meeting of September 14, 2023, the Planning & Zoning Commission recommended approval of the Application</p> |

**Public
Hearing/
CU2379
(continued)**

for the 9 reasons and the 11 recommended conditions as outlined.

Jamie Whitehouse, Planning and Zoning Director presented the Proposed Ordinance.

The Council found that Mr. James Fuqua, Esq., with Fuqua, Willard & Schab, P.A., spoke on behalf of the Applicant; that also present were Mr. Zac Meyer, Director of Development with Soltage, LLC, Ms. Jennifer Oltman, P.E., Senior Project Manager with Kimley-Horn & Associates and Antwan Balakian, the property owner.

Mr. Fuqua stated that the following hearing involve applications requesting solar array facilities on behalf of the same company, Soltage, LLC; that he requested the Council's permission to incorporate the general information provided in the first hearing, into the record for the second application hearing, in order to avoid repeating himself; that both the current Application, as well as the following Applicant, are companies owned by Soltage, LLC; that Soltage, LLC is a renewable power producer that develops, finances, and operates solar energy facilities throughout the United States; that they have developed more than 100 solar energy projects with more than 400 milliwatts of energy generating capacity; that within the last 18 months there has been a large number of community solar array applications filed in Sussex County; that the ability to request these applications was created by legislation passed by the Delaware Legislature in September 2021; that the legislation authorized community solar facilities to create renewable energy projects, with participation of the public that results in reduced energy costs to the people that subscribe to the project; that the bill creating community solar was signed by Governor Carney at a private solar array facility that was owned and operated by Soltage, LLC, located just outside of Wilmington; that the Conditional Use application proposes a community solar facility on a 7.03 acre parcel of land that is owned by Beaver Dam Enterprises, Inc.; that the land is being leased to Soltage, LLC; that the site is located on Parcel 6.04; that the site is located 550 ft. west of Beaver Dam Rd.; that the solar facility will occupy approximately 6.26 acres of the 7.03 acres site, being the area that would be enclosed within the security fence; that the Application listed Parcel 6.02 and Parcel 6.03, being the parcels closer to the front; that those parcels will only involve an existing private driveway that straddles the boundary of the parcels; that the drive will provide the access road back to Parcel 6.04 from Beaver Dam Rd.; that the solar facility in its entirety is to be located only on Parcel 6.04, being a total of 7.03 acres; that the site borders a 4.81 acre parcel to the north, that is designated as Parcel 6.03; that the site also borders a portion of the forested buffer belonging to the Ridings of Rehoboth subdivision; that the Ridings of Rehoboth stretch of buffer is approximately 560 ft. in length; that this area also borders five properties within the Ridings of Rehoboth development; that to the west and the south of the site, the land is adjacent to an eight acre parcel called Iron Horse Landing; that the lands to the east, being Parcel 6.01, 6.02 are wooded; that Parcels 6.01, 6.02 and 6.03 are either owned by Beaver Dam Enterprises, a

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lessee, or the Applicant's LLC; that the site is being leased to Soltage, LLC; that the lease is for a 20 year term; that the lessee would have a three or five year option to extend the lease, with a four or five year option to extend the lease by mutual agreement of the parties; that the site and the surrounding lands are all zoned AR-1 (Agricultural Residential); that the site is designated as being within the Low Density area according to the Future Land Use Map section of the Comprehensive Plan; that solar array facilities are consistent with the Comprehensive Plan; that the utility elements, being Section 7, of the Comprehensive Plan provide that the County should encourage the development of renewable energy from a utility level standpoint in order to realize the potential for more prevalent uses of renewable energy; that a stated goal of the plan, being Goal 7.03.3 is to encourage the use of renewable energy options such as community solar facilities; that Parcel 6.04 comprised of unimproved grasslands; that little ground disturbance is proposed, except for the removal of a small area of trees that would interfere with the solar array operation; that there is a small sliver of non-tidal wetlands located in the extreme southeastern corner of the parcel; that the wetland area has been delineated; that the delineation was confirmed by an approved jurisdictional determination issued by the U.S. Army Corp of Engineers; that there will be a buffer of 25 ft. from the wetland line, which is to remain undisturbed; that access from the site will be provided by the existing private drive located from Beaver Dam Rd.; that after project construction is completed, there is very little traffic proposed for the site; that they estimate two vehicle trips per month, making traffic very minimal; that the only traffic to the site would be for periodic equipment maintenance and inspection, and routine property maintenance and grass cutting; that there are no employees proposed for the site; that the site equipment will be monitored remotely; that the DelDOT Service Level Evaluation response indicated that the traffic impact would be diminutive and no further study was required; that any entrance improvements required by DelDOT would be provided by the Applicant; that the project anticipates one unlit sign to be located at the entrance, which will not exceed 32 sq. ft. in size; that the solar array would be enclosed within a security fence; that they had proposed a six foot fence, however, the Applicant would have no issue providing whatever height standard the Commission saw fit; that the fence would have an emergency key box at the entrance gate; that the project would consist of ground mounted, fixed solar panels; that the panels would be oriented to maximize the panels exposure to sunlight; that the panels would convert the sunlight into electrical power; that the power generated by the array will be managed by inverters and other equipment that will be located on an equipment pad; that the equipment pad will be located away from the residential development surrounding the site; that the energy generated will be interconnected with the Delmarva Power lines existing overheard on Beaver Dam Rd. by an underground electric line; that the project is located within the Delmarva Power service area; that the site will be seeded with a pollinator seed mix, which will allow for slow growing, environmentally friendly ground mix; that no security lights are planned, except at the entrance gate; that if any security lighting should be required, the

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(continued)**

Applicant understands the lighting should be downward oriented; that there is no sewer or water impact with the facility or the operation; that there are no odors, dust, smoke or heat associated with the facility; that the only sound generated is minimal, being a low hum from the inverters; that there is minimal to no glare from the solar panels; that the solar panels are designated to absorb sunlight, not to reflect sunlight; that there will be a landscape buffer surrounding the site, as well as existing trees that already surround the site; that the site is located outside of the 100 Year Floodplain, being located within Flood Zone X, as designated by the FEMA Flood Zone Maps; that all stormwater management will comply with all State and County requirements, and will be reviewed and approved by the Sussex Conservation District; that to a large extent the site will remain pervious; that the solar panel equipment are on poles at are in the ground; that there is no paving on the site other than where the pad is located; that it is proposed there would be no buffer on the other two parcels, being Parcel 6.01 and 6.02, as they are existing wooded parcels which would not require a buffer; that the proposed buffer design has been modified and replaced with a denser design; that the buffer would consist of continuous Evergreen trees; that the Evergreen trees would be at least six feet in height when planted; that the trees would be planted in a staggered arrangement to effectively create a visual buffer; that the buffer will be 20 ft. wide; that for every 100 linear feet, there will be a minimum of 15 trees planted; that all of the new trees would be guaranteed for a period of the Conditional Use; that the facility is anticipated to generated 1.77 megawatt hours of electricity, which is the equivalent of the annual power needs of approximately 250 homes; that the anticipated production life of the facility is 35 to 40 years, which corresponds to the lease term; that as part of Final Site Plan approval, a Decommissioning Plan will be provided to the Planning & Zoning Commission, providing that upon the expiration of the lease, or earlier termination of the lease, all of the equipment materials will be removed from the site; that all equipment will be properly disposed of and that the site would return to a physical condition, similar to how it exists today; that the Decommissioning Plan also provides a security in the form of a Decommissioning Bond, to guarantee that the cost of restoration would be available; that the estimated amount in terms of the security, would be part of the Final Site Plan review and approval by the Planning & Zoning Commission; that the Applicant will be required to operate the facility in compliance with Title 26 of the Delaware Code; that is the Delaware law section regulating the owned energy generating facilities; that it was also have to be in compliance with the Delaware Public Service Commission; that the County enacted a Solar Ordinance in April of 2023; that this Application was filed with the County in June of 2022; that based on past history, that Ordinance would not apply to pending Applications; that the closest dwelling is approximately 190 feet from the closest solar panel; that there were many letters expressing questions and concerns received for the Ridings of Rehoboth development; that approximately 560 feet of the northern boundary is adjacent to the 50 foot wide landscape buffer of the Ridings development that is owned by their HOA; that Mr. Meyer has had discussions and provided information to the HOA President, Mr. Hempler;

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that Mr. Meyer testified at the Planning & Zoning Commission hearing addressing their concerns; that at the request of the PZ Commission, Mr. Meyer submitted a written summary of his comments; that the document is included in the record; that Mr. Meyer's testimony and summary exhibit provided that studies indicate that solar facilities have no measurable impact on area property values; that studies conclude that community solar facilities result in no public health or safety impact related to radiation or magnetic field levels; that solar panels are silent and produce no sound; that the only sound that is produced is from the transformer inventor equipment which is minimum; that the pad for the equipment that on the eastern end of the site; that it is over 480 feet from the nearest residence in the Ridings; that all equipment associated with the solar facility will comply with the National Electric Code which incorporates safety features and protection; that the solar area is outside of the FEMA 100 year flood plain; that the solar panels to be utilized are crystalline silicone panels; that there are no batteries utilized or associated with the proposed solar operation; that solar communities are often located near or adjacent to residential communities throughout the US and Sussex County; that during the PZ hearing, a commissioner requested that PZ staff to determine the location of solar facilities that had been approved in Sussex County as of August 24; that staff reported that of the 13 solar applications that have been completed, 8 solar facilities were located within a quarter mile of a town boundary, village or a subdivision; that 3 approved solar facilities actually shared common boundaries with a residential subdivision; that the Ridings buffer will have a 20 foot wide landscape buffer planted with Evergreen trees at least 6 feet in height; that they will be planted in a staggered arrangement; that for every 100 feet of buffer there will be a minimum of 15 trees; that the proposed solar buffer is adjacent to the approximate 50 foot buffer of the Ridings development which is composed of mature trees; that there are two gaps in the Ridings buffer where trees were removed by residents; that the proposed solar facility will have a double buffer from the 5 adjacent lots; that the applicant is offering additional items with the knowledge that they will required to do what is being represented.

The Council found that Mr. Zac Meyer, Director of Development with Soltage, LLC, spoke on behalf of the Application. Mr. Meyer stated they are committed to being good neighbors; that they have spoken with the Ridings subdivision homeowners association numerous times; that on September 13th, he hosted a question and answer session with them; that they want to add shrubs to the vegetative buffer; that in the buffer owned by the Ridings Homeowners Association, there are some areas where they are no longer trees; that they would like to reimburse the homeowners association up to \$7,000 of their costs to do what they would like with the buffer; that they would like to offer a one month early access period to all of the members of the Ridings of Rehoboth to sign up for the subscription.

Mr. Fuqua stated that all of the items being offered that Mr. Meyer spoke on are being offered by the applicant and will be their responsibility if the

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(continued)**

application is approved; that on October 6th, a petition was sent to the Planning & Zoning office that was signed by 206 residents of the Riding development requesting that this application be denied; that there were no reasons or basis stated supporting the position of the petition; that the only thing stated is that they requested that the application be denied; that since there were no reasons stated, it is not possible for him to address to address the opposition; that there is a Delaware Court of Chancery opinion involving a Conditional Use decision involving Sussex County Council; that the case is Gibson vs. Sussex County that was decided in 2005; that the decision stated that public comment should be considered by the Council; that the Council's reasoning in deciding a Conditional Use application must be articulated and must relate to the statutory mandates for a land use decision; that the Court also stated that the people objecting in that case did not state specific evidence; that he believes that this application is similar; that the proposed solar facility meets the purpose of a Conditional Use; that that it is accordance in the County's Comprehensive Plan; that Goal 7.3 of the Plan is to encourage renewal energy use options such as solar energy; that the use is consistent with and furthest goals of the recent amendments to the Delaware State Laws relating to community owned energy generating and renewable energy; that at the Planning and Zoning Commission recommended approval of the application based on a detailed Finding of Fact and subject to conditions; that based on the recommendation of approval, it is being requested that Council approve the application.

Mr. Moore noted that he had a concern that with the last offer provided by the applicant regarding the early access to subscribe to the system. He asked if Mr. Fuqua was familiar with the law on providing that and the process that it can be done. Mr. Fuqua replied that he only difference in the law is that 15% of the subscriptions must be to low-income residents. Mr. Meyer added that the Ridings of Rehoboth and Iron Horse Ranch and HOA members will be offered early access.

Mr. Rieley asked if there were any citations that related to the studies that were referenced. Mr. Fuqua responded that they are noted in the exhibit that was submitted on September 11th. Mr. Rieley asked if it could be ensured that these solar panels were not manufactured under forced labor. Mr. Meyer replied that this is an issue with China, and they do not purchase their panels from China. Their panels come from other Asian nations such as Talian and Malaysia.

Public comments were heard.

Ms. Dolcey Zilg spoke in opposition of the application; that she only received two or three months' notice; that she found that federal agencies are funded by the solar companies; that she has a tough time supporting; that the \$7,000 offered by the applicant was turned down by the HOA board; that the legislation states that it is 200 feet from a dwelling; that they are required to do the 200 feet and they are using their property to fill the 200; that she does not see any money set aside for the disposal; that she

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(continued)**

would like to find out who supplies Malaysia; that this is an electricity manufacturing plant; that Delmarva Power has put out new information regarding on any new solar on a roof; that she is not against solar that is done reasonably; that there are serious problems; that the buffers includes their land; that problem values will be impacted; that it will be 20-30% loss of property value; that she discussed magnetic fields; that she was told that it was going to have batteries; that there is a flooding problem; that a few trees is not a solution; that there is 17 acres that is available; that they are using 7 acres; that she questions if they will come back for an amendment to fill in the other acres; that there was a flooding issue in the past; that there is a huge difference in ambient temperature; that she believes that they will request an amendment to add batteries and more panels; that she found that only 5% of the people are in support of this application when she went around.

Mr. Rich Zilg spoke in opposition of the application; that he has asked the applicant at least twice to provide information about the density of the population surrounding the solar farm; that he has estimated that there is over 1,000 homes within a mile of this; that the 13 solar farms that have been approved, none of them are surrounded by residential areas like the Ridings; that the area being proposed is only for 7 acres; that the ones approved to date seem to be at least 20 acres; that he discussed the minimum acreage for community solar farms that he found online; that this application does not seem to meet those standards; that he contacted 4-5 local real estate agents in the Lewes area; that they told him that the concept of the community solar farm is new; that he was told that it would have a negative effect on home values; that he asked for it to not be approved.

The Public Hearing and public record were closed.

**M 485 23
Defer
Action/
CU2379**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson 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 SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 15.97 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/
CU2380**

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 SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND

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(continued)**

BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 28.81 ACRES, MORE OR LESS” (property lying on the east side of Thorogoods Road [S.C.R. 333], approximately 0.41-mile northeast of Dagsboro Road [Rt. 20]) (911 Address: 30561 Thorogoods Road, Dagsboro) (Tax Map Parcel: 233-5.00-187.00) filed on behalf of Dagsboro Thorogoods Solar 1, LLC.

The Planning & Zoning Commission held a Public Hearing on the application on August 24, 2023. At the meeting of September 14, 2023, the Planning & Zoning Commission recommended approval of the application for the 11 reasons and subject to the 11 recommended conditions as outlined.

Jamie Whitehouse, Planning and Zoning Director presented the application.

The Council found that Mr. James Fuqua, Esq., with Fuqua, Willard & Schab, P.A., spoke on behalf of the Applicant; that also present were Mr. Zac Meyer, Director of Development with Soltage, LLC, Ms. Jennifer Oltman, P.E., Senior Project Manager with Kimley-Horn & Associates and Mr. Jack Cordrey, property owner.

Mr. Fuqua stated that the current Application was similar to the last Application, as it is requesting a Conditional Use for a community solar facility; that the Applicant is a company that is owned by Soltage, LLC, which is also the owner of the Applicant company of the prior Application; that due to this he requested to incorporate the relevant information presented for the previous Application, into the record for the current solar Application; that the subject parcel is owned by Ina W. Cordrey Trustee, and is being leased to Soltage, LLC; that Ms. Ina Cordrey had passed away; that the parcel is designated as Parcel No.187, being a corner property on the south side of Thorogoods Rd.; that the property has approximately 1,100 ft. of road frontage; that the site is a short distance east of Rt. 20 and Rt. 113; that the Tax Map listed the acreage of the parcel as 28.81 acres; that Soltage, LLC did perform a survey, which confirmed the acreage to be 30.36 acres; that facility will occupy 26.23 acres of the 30.36-acre site, which will be the area located within the proposed security fence; that there is a mixture of residential, agricultural, and industrial uses and woodlands in the area; that to the west of the site, fronting along Thorogoods Rd. there is a residential property located on the corner, as well as residences located along Thorogoods Road, running west; that being that area, there is farmland and woodland; that to the rear of the site, the site borders forested areas; that on the east of the site, railroad tracks run along the entire eastern boundary of the site; that railroad tracks are former Conrail Tracks, which are now operated by Maryland Delaware Railroad Company; that to the north, across Thorogoods Rd. from the site, there are residential uses and some industrial uses, such as Dagsboro Materials, River Asphalt and Thorogoods Concrete Plant; that the subject site is zoned AR-1 (Agricultural Residential); that the site is designated as being within the Coastal Area under the Future Land Use Map of the Comprehensive Plan; that the land across from the site is zoned AR-1 (Agricultural Residential)

**Public
Hearing/
CU2380
(continued)**

and H-1 (Heavy Industrial); that almost all of the land on the north side of the road is designated as Industrial under the Future Land Use Map designation; that the Application was reviewed as part of the PLUS process; that a PLUS comment letter, dated December 16, 2022, was submitted into the record; that the letter stated there was no objection to the Application; that the site is located within Investment Level 2 and 3, which are areas where growth is anticipated by both State and County land use plans; that the land is being leased to Soltage, LLC; that the lease would be for a 25 year term with two, five year options to extend the term, and one, five year mutual option; that the site is mostly cleared, agricultural lands; that there is a wooded area, with a deteriorated cement home and several deteriorated cement agricultural use-type outbuildings located toward the center of the site; that the intention is to demolish and remove the buildings from the site; that the buildings are surrounded by a wooded area, which is to be cleared as not to interfere with the solar array operation; that there is an old, small, family cemetery on the site; that the cemetery will be excluded from the leased area and from the solar facility; that the Applicant retained the firm of Richard Grubb and Associates to perform an Archaeological Survey of the cemetery to confirm the exact boundaries of the cemetery; that the boundaries of the cemetery will be established and fenced; that there will be an eight foot wide access path from the western side of the property to access the cemetery; that no portion of the solar array area will be located within the Hundred Year Floodplain; that no wetlands will be impacted by the proposed facility; that access to the site will utilize the existing access road of the property; that the access road would enter the site, and would intersect with the service road, being the straight road, located in the middle of the property; that generated traffic would be minimal; that the site would be limited to periodic inspections and routine maintenance; that DelDOT, similar to the previous Application, indicated a diminutive traffic impact; that the entrance would be built to build out requirements; that there would be a 30-ft. buffer surrounding the perimeter of the property; that a landscape buffer would be placed along Thorogoods Rd, and around the turning corners of the property on the east and west; that the landscape buffer is proposed to be spruce trees at 20 ft. intervals, as shown on the Site Plan; that the remaining areas are located adjacent to existing woodlands or the railroad tracks, therefore they do not believe there is a need for a landscape buffer in those areas; that similar to the previously provided information, there will be one unlit sign at the entrance of the site; that the sign will not exceed 32sq. ft.; that the facility will be enclosed with a six foot chain-link fence, with an emergency key box; that the area will be seeded with the seed mix previously mentioned; that the site will be properly maintained; that the facility will utilize a single axis tracking system, being the type of panels that move with the sun; that the equipment transmits the current generated to be interconnected with Delmarva Power at Thorogoods Rd., where it will then connect to the grid; that there is no sewer or water impact; that the project will have to comply with all stormwater management regulations; that a Decommissioning Plan will be prepared and submitted as part of the Final Site Plan review, along with the financial security as will be deemed appropriate from the study

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CU2380
(continued)**

performed to remove the equipment; that the facility will operate in compliance with Title 26; that the facility is proposed to generate 3.45 megawatts of electricity, equaling an annual power required for approximately 700 homes; that the production life of the facility would be 35 to 40 years, corresponding roughly to the lease, and he requested approval of the Application based on the Planning Commission recommendations; that he recommended one slight modification of Condition I; that the Applicant determined that the height of matured spruce tree would impact the operation of the solar panels; that it is requested that spruce trees be deleted and replaced with evergreen trees.

There were no public comments.

The Public Hearing and public record were closed.

**M 486 23
Defer
Action/
CU2380**

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 SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 28.81 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/
CU2446**

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 GREENHOUSES AND EMPLOYEE HOUSING BUILDINGS TO BE LOCATED ON A PORTION OF CERTAIN PARCELS OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 166.19 ACRES, MORE OR LESS" (properties are lying on the south side of West Newton Road [S.C.R. 582] and the west side of Adams Road [S.C.R. 583], at the intersection of West Newton Road [S.C.R. 582] and Adams Road [S.C.R. 583]) (911 Address: N/A) (Tax Map Parcels: 131-6.00-1.00 & 18.00 [p/o]) filed on behalf of Tijmen van den Bosch.

The Planning & Zoning Commission held a Public Hearing on the application on August 24, 2023. At the meeting of September 14, 2023, the Planning & Zoning Commission recommended approval of the application for the 9 reasons and subject to the 10 recommended conditions as outlined.

Jamie Whitehouse, Planning and Zoning Director presented the application.

Public
Hearing/
CU2446
(continued)

The Council found that Ms. Mackenzie Peet, Esq. with Saul Ewing, LLP, spoke on behalf of the Applicant; that Mr. Jamie Sechler, P.E. with Davis, Bowen & Friedel. Ms. Peet stated that Bosch Growers is a sixth generation, family-owned business, founded in 1854 in the Netherlands; that Bosch Growers specializes in greenhouse grown fruits and vegetables; that Bosch Growers specializes in cultivating green bell peppers, and annual blackberries currently; that Bosch Growers is now seeking to grow strawberries in Sussex County, on a tract of land being approximately 102 acres, located in Bridgeville; that there is a requested change to Condition A; that it is requested for it to read as follows: The primary use shall be large scale commercial greenhouses for growing of fruits or vegetables including accessory operational and support uses, structures, and facilities, these accessory operational and support uses and facilities may include but are not limited to employee housing for persons permanently employed on the premise, functional support buildings, packhouses, irrigation ponds, water tanks, storage tanks, substation, research and development areas and various heat, power and/or energy generating or producing technologies including but not limited to renewable and carbon neutral technologies; that the site is zoned AR-1 (Agricultural Residential); that the site is adjacent to other properties also zoned AR-1, LI-1 (Limited Industrial), as well as other properties zoned Heavy Industrial, Commercial and Heavy Commercial; that there are agricultural, industrial and commercial related uses within the vicinity of the site; that the Applicant anticipates investment of upwards of \$100 million in the proposed facility, to be developed in two phases; that the project poses that two greenhouses, at approximately 29 acres each, permitted residential and/or guest housing, as well as employee housing, (for persons permanently employed on the premises in compliance with the AR-1 District permitted uses); that employee housing is contemplated as part of the use, but only if the local workforce cannot fill the anticipated 80 to 100 jobs; that the site is located within the Developing Area of the County's Future Land Use Map, and adjacent to other properties designated the same, as well as areas designated as municipalities, low density and industrial; that as confirmed by the Town of Bridgeville's letter of support, the site is in the Town's short and long term annexation area, where heavier commercial areas, such as manufacturing and agricultural industry is designated; that the Town's support letter states "the proposed Application fits well within the surrounding properties as the area is already primarily composed of larger scale commercial, industrial and agricultural uses, and is also designated as such in the Future Land Use Map and in our Comprehensive Plan"; that additionally within the Town's support letter, it is noted the site is identified as a Future Growth Employment Area as well; that the Bosch's request has received support from State Representative Jesse Vanderwende, Senator David Wilson, Senator Brian Pettyjohn, Secretary Michael Scuse of Delaware's Department of Agriculture, and Ms. Bethany DeBussy, Town Manager of Bridgeville; that the support is evidenced by submitted letters of support, and she requested to conclude with reading a portion of Senator Wilson's submitted letter, which stated, *"This is an exciting opportunity for Sussex County and for the State of Delaware. Bosch Growers has an excellent reputation. The technology and growing strategies they will bring to our State, in*

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Hearing/
CU2446
(continued)**

terms of greenhouse production, will be beneficial to our agricultural community. The knowledge and expertise they will bring to our State will also have a direct impact academically by establishing partnerships with Delaware's colleges and universities."

Public comments were heard.

A comment was made by telephone that they hope the Council acts in favor of the application.

The Public Hearing and public hearing were closed.

**M 487 23
Amend
Condition A/
CU2446**

A Motion was made by Mrs. Green, seconded by Mr. Schaeffer to amend Condition A as recommended.

Motion Adopted: 5 Yeas

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

**M 488 23
Adopt
Ordinance
No. 2954/
CU2446**

A Motion was made by Mrs. Green, seconded by Mr. Schaeffer to Adopt Ordinance No. 2954 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR GREENHOUSES AND EMPLOYEE HOUSING BUILDINGS TO BE LOCATED ON A PORTION OF CERTAIN PARCELS OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 166.19 ACRES, MORE OR LESS" for the reasons and conditions given by the Planning and Zoning Commission as follows and amended:

- 1. The property is zoned AR-1, Agricultural Residential. The proposed use will consist of large greenhouses with accessory and support uses and facilities, including employee housing, packhouses for packaging the products grown in the greenhouses, irrigation ponds, water tanks, storage tanks, and other uses and structures necessary to support the primary use as a large commercial greenhouse facility.**
- 2. The site is located along the Route 404 Bypass around Bridgeville, which is an appropriate location for a large-scale agricultural use with its inherent trucking needs like this project.**
- 3. This location is in an area of Sussex County just outside of Bridgeville that has evolved with multiple large-scale agricultural uses over many decades, including the OA Newton facilities, Perdue Farms' grain storage facilities, T.S. Smith's agricultural operations and store, and more recently Mountaire Farms' plans to develop its own grain storage facilities and rail spur. This use is consistent with these ongoing large-scale agricultural uses in this area of Sussex County.**
- 4. The Property is designated as Developing Area on the Sussex County Future Land Use Map. This use is appropriate within this Area**

**M 488 23
Adopt
Ordinance
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CU2446
(continued)**

- according to that Map.
5. The property is adjacent to the Town of Bridgeville, and the Town has submitted a letter in support of the Application, stating that, “The proposed application fits well with the surrounding properties, as this area is already primarily composed of larger-scale Commercial/Industrial and agricultural uses and is also designated as such in Future Land Use (Map10-3) in our 2018 Comprehensive Plan.” The Town also recognized that this use is consistent with its history of strawberry production, noting that Bridgeville was once known as “June Strawberry Capital of the World” following the construction of H.P. Cannon & Son’s produce packing. The Town strongly supports this application right next to its borders.
 6. The Secretary of the Delaware Department of Agriculture has supported this Application, stating in a letter to the Commission that this Application “will focus on the production of strawberries using the newest greenhouse technologies from the Netherlands. Bosch Growers’ sustainable technologies enable year-round local food production that conserves water resources, reduces agricultural inputs and carbon-sourced energy use, decreases food transportation miles to consumers, and targets zero waste.” The Secretary concluded his letter with this statement: “Bosch Growers will be a valuable addition to Delaware’s economy and agriculture industry. I am pleased to offer the Department of Agriculture’s support” Several State legislators also provided support for this project.
 7. The Department of Transportation has determined that the traffic generated by this use will be “Negligible”.
 8. There was nothing in the record to suggest that this use will have any adverse impacts upon neighboring or adjacent properties or residents or visitors to Sussex County.
 9. The proposed use supports one of the primary goals of Sussex County: to conserve the county’s agricultural economy. It also complies with the Comprehensive Plan’s Vision Statement: “We appreciate and seek to preserve [Sussex County’s] unique natural, historical and agricultural character while fostering new economic opportunities, community vitality and desirable growth through strategic investments and efficient use of County resources.”
 10. This recommendation is subject to the following conditions:
 - a. The primary use shall be large-scale commercial greenhouses for growing of fruits and vegetables, including accessory, operational, and support uses, structures and facilities. These accessory, operational, and support uses and facilities may include, but are not limited to, employee housing for persons permanently employed on the premises, functional support buildings, packhouses irrigation ponds, water tanks, storage tanks, substations, research and development areas, and various heat, power and/or energy generating or producing technologies (including, but not limited to, renewable and carbon-neutral technologies).

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(continued)**

- b. Storage of materials and equipment associated with the use shall be permitted. The storage areas shall be shown on the Final Site Plan.
- c. 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.
- d. This project shall comply with all DelDOT entrance and roadway improvement requirements.
- e. There shall be adequate parking on the site in compliance with the parking requirements contained in the Sussex County Zoning Code. The location of the vehicle parking areas shall be shown on the Final Site Plan and clearly marked on the site itself.
- f. One lighted sign shall be permitted. It shall not exceed 32 square feet on each side.
- g. Any dumpsters or trash containers shall be screened from the view of neighboring properties and roadways. The location of these trash containers shall be shown on the Final Site Plan.
- h. Any security lighting shall be downward screened so that it does not shine on neighboring properties or roadways.
- i. A revised Preliminary Site Plan either depicting or noting these conditions shall be submitted to the Planning & Zoning office.
- j. 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**

**Old
Business/
CU2350**

Under Old Business, Jamie Whitehouse, Planning and Zoning Director presented a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY (2 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 2.144 ACRES, MORE OR LESS” filed on behalf of Beaver Dam Enterprises, LLC.

On September 19, 2023, Council deferred action at the conclusion of the Public Hearing, holding the record open to receive a recommendation from the Planning & Zoning Commission and, once a recommendation was received, the public shall have a period of 5 days to submit additional written comments.

The recommendation from Planning & Zoning Commission has been received and the public has 5 days from today to make any comments in writing.

**Old
Business/
CU2354**

Under Old Business, Jamie Whitehouse, Planning and Zoning Director presented 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 23.58 ACRES, MORE OR LESS” filed on behalf of Sussex CSG 1, LLC.

The Council held a Public Hearing on the application on June 6, 2023. At the conclusion of the Public Hearing, Council deferred action for further consideration.

**M 489 23
Amend
Condition I/
CU2354**

A Motion was made by Mr. Vincent, seconded by Mr. Hudson to amend Condition I to include an additional sentence at the end of condition “I” to state:

In addition, there shall be a forested buffer of no less than 20 feet in depth planted along the northwest side of the site adjacent to Tax Parcel 532-20.00-15.00. The location and planting design for this buffer shall be shown on the Final Site Plan.

Motion Adopted: 5 Yeas

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

**M 490 23
Adopt
Ordinance
No. 2955/
CU2354**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson to Adopt Ordinance No. 2955 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 23.58 ACRES, MORE OR LESS” for the reasons and conditions given by the Planning & Zoning Commission as follows and as amended:

- 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. This is an adaptive use of farmland that will preserve it from more intensive development. The solar farm will be located on approximately 23.58 acres of a larger 52-acre tract.**
- 3. 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. This solar farm will create the ability for residential, business, and municipal subscribers to lower their power costs.**
- 4. With the conditions imposed in this recommendation including**

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No. 2955/
CU2354
(continued)**

- landscaped buffers, the proposed use will not have any adverse impact on the neighborhood.
5. The proposed solar generation facility will not result in any noticeable increase in traffic on area 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 record, it is evident that no significant noise, glare, dust, or odor will be generated by the facility.
 7. The Applicant has included a Decommissioning Plan in the record for when their solar farm is no longer in use.
 8. The existing tree line along the northern, eastern, and southern perimeter of the solar array shall be maintained subject to limited trimming to screen the view of the solar farm from the nearby residential properties while allowing the solar arrays to function properly.
 9. The proposed use provides a renewable energy source that is a benefit to the residents and businesses of Sussex County.
 10. This recommendation is subject to the following conditions:
 - a. The use shall be for ground-mounted solar farm. No other types of electric generation shall be permitted at the site.
 - b. The Final Site Plan shall clearly show the limits of the Conditional Use area for this solar farm as well as the remaining acreage that is not part of this Conditional Use.
 - c. 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.
 - d. One unlit 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.
 - e. 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.
 - f. The location of all transformers or similar equipment or structures shall be shown on the Final Site Plan.
 - g. The entire site, including the area outside the fence, shall be maintained so that it does not become overgrown.
 - h. 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 using Best Management Practices.
 - i. The existing tree line along the northern, eastern, and southern perimeter of the solar array area shall remain to serve as a buffer with the exception of reasonable trimming to allow the solar arrays to function properly. In addition, there shall be a forested buffer of no less than 20 feet in depth planted along the northwest side of the site adjacent to Tax Parcel 532-20.00-15.00. The location and

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CU2354
(continued)**

- planting design for this buffer shall be shown on the Final Site Plan.
- j. The Final Site Plan shall include a Decommissioning Plan that includes a financial security to ensure that funds are available for decommissioning and removal of the solar farm in its entirety throughout the life of the Conditional Use.
 - k. 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 491 23
Go into
Executive
Session**

At 3:06 p.m., a Motion was made by Mr. Hudson, seconded by Mr. Rieley to recess the Regular Session, and go into Executive Session to discuss matters relating to pending/potential litigation and collective bargaining.

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 3:07 p.m., an Executive Session of the Sussex County Council was held in the Council Chambers for the purpose of discussing matters relating to pending/potential litigation and collective bargaining. The Executive Session concluded at 3:12 p.m.

**M 492 23
Reconvene**

At 3:12 p.m., a Motion was made by Mr. Hudson, seconded by Mr. Rieley to come out of Executive Session back into Regular Session.

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

There was no action related to Executive Session matters.

**M 493 23
Adjourn**

A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer to adjourn at 3:13 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.}