SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, OCTOBER 20, 2026

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, October 20, 2026, at 1:00 p.m., in Council Chambers, with the following present:

Douglas B. Hudson	**President**
John L. Rieley	**Vice President**
Jane Gruenebaum	**Councilwoman**
Matt Lloyd	**Councilman**
Steve C. McCarron	**Councilman**
Todd F. Lawson	**County Administrator**
Gina Jennings	**Finance Director**
J. Everett Moore, Jr.	**County Attorney**

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

Call to Order **Mr. Hudson called the meeting to order.**

M 474 26 Approve Agenda **A Motion was made by Mr. Rieley, seconded by Mr. McCarron, to approve the Agenda, as presented.**

Motion Adopted: **5 Yeas**

Vote by Roll Call: **Ms. Gruenebaum, Yea; Mr. McCarron, Yea; Mr. Lloyd, Yea; Mr. Rieley, Yea; Mr. Hudson, Yea**

Minutes **The minutes from October 13, 2026, were approved by consensus.**

Corresp. **There was no correspondence.**

Public Comments **Mr. David Stein spoke about SB23.**

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

Adminis-trator's Report

1. **<u>Delaware State Police Activity Report</u>**

   The Delaware State Police year-to-date activity report for September 2026 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 196 troopers assigned to Sussex County for the month of September.

Administrator's Report (continued)

2. **Joseph "Joe" King**

It is with great sadness that we inform you that pensioner, Joseph "Joe" King, passed away on Saturday, October 10, 2026. Mr. King began his career with Sussex County in July 1988 where he worked until February 2016 for a total of 17 years of service. His last position with the County was Maintenance Worker II. We would like to extend our condolences to the King family.

3. **David Brannon**

It is with great sadness that we inform you that pensioner, David Brannon, passed away on Wednesday, October 14, 2026. Mr. Brannon began his career with Sussex County in December 2001 where he worked until December 2010 for a total of 9 years of service. His last position with the County was Wastewater Operator III. We would like to extend our condolences to the Brannon family.

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

Proposed Ordinance Introductions

Mr. Rieley introduced a Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CONTRACTOR VEHICLE STORAGE AND MAINTENANCE YARD TO INCLUDE LEASABLE AREAS FOR VEHICLES, MACHINERY, AND MATERIALS STORAGE, CONTRACTORS OFFICES, AND VEHICLE MAINTENANCE TO BE LOCATED ON A PORTION OF CERTAIN PARCELS OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 10.63 ACRES, MORE OR LESS" filed on behalf of Preston & Mason Dyer.

Mr. Lloyd introduced a Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AGRICULTURAL RESIDENTIAL (AR-1) DISTRICT FOR AN AUTO REPAIR SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 0.944 ACRES, MORE OR LESS" filed on behalf of Marc Aurel Jean.

CM Comments

Mr. Lloyd commented about balancing solar energy and farmland in Sussex County.

M 475 26 Go Into

At 1:09 p.m., a Motion was made by Mr. Lloyd, seconded by Mr. McCarron to go into Executive Session to discuss matters related to land acquisition.

Executive Session

Motion Adopted: 5 Yeas

Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea; Mr. Lloyd, Yea; Mr. Rieley, Yea; Mr. Hudson, Yea

Executive Session

At 1:10 p.m., an Executive Session of the Sussex County Council was held in the Basement Caucus Room to discuss matters related to land acquisition. The Executive Session ended at 1:44 p.m.

M 476 26 Reconvene

A Motion was made by Mr. Lloyd, seconded by Mr. McCarron to reconvene.

Motion Adopted: 4 Yeas, 1 Absent

Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea; Mr. Lloyd, Yea; Mr. Rieley, Absent; Mr. Hudson, Yea

E/S Action

There was no action related to Executive Session matters.

Rules

Mr. Moore read the rules of procedure for zoning matters.

Public Hearing/ CU2639

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 SOLAR ARRAYS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 47.20 ACRES, MORE OR LESS" (parcel is lying on the north side of Sycamore Road [S.C.R. 466], approximately 0.27 miles east of Sussex Highway [Route 13]) (911 Address: 11279 Sycamore Road, Laurel) (Tax Map Parcel: 232-12.00-100.00) filed on behalf of Sunrise Solar, Inc.

Jamie Whitehouse, Planning & Zoning Director, presented the application.

The Planning & Zoning Commission held a Public Hearing on the application on September 16, 2026. On October 7, 2026, the Commission recommended approval of the application for the 7 reasons of approval and subject to the 9 recommended conditions as outlined.

The Council found that Ms. Denna Corio, a consultant for Sunrise Solar spoke on behalf of the Applicant, Sunrise Solar, Inc.; that also present was the Applicant, Mr. Dan Baugher with Sunrise Solar, Inc.

Ms. Corio stated that the application proposed a four megawatt community solar facility, to be located along County Seat Highway, in Laurel; that the existing condition of the site was a farm field; that the site was generally flat; that the site layout consisted of an interconnection and

Public Hearing/ CU2639

driveway curb cut along County Seat Highway; that the interconnection would consist of approximately six utility poles, going down the proposed driveway, and would contain various electrical equipment to be able to interconnect the solar array into the power grid; that the driveway would be gravel, providing 20 feet of width and approximately 2,000 feet in length; that the panels would be single axis tracker panels, which would rotate with the sun throughout the day; that they would be fully enclosed within a seven foot high, agricultural style fence; that the fence would enclose an area of about 22.5 acres; that the fence would have a 20 foot wide, double swing gate, for access into the solar array; that the driveway would provide access to the two equipment pads and inverters on the site; that the project would provide 30 foot wide landscape buffers in any area that would be visible to the public roads or any adjacent neighbors; that the driveway provides emergency vehicle turn around access; that the sound barrier was discussed further.

There were no public comments.

The Public Hearing and public record were closed.

M 477 26 Adopt Ordinance No. 4096/ CU2639

A Motion was made by Mr. Lloyd, seconded by Mr. McCarron to Adopt Ordinance No. 4096 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR SOLAR ARRAYS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 47.20 ACRES, MORE OR LESS" for the reasons and conditions given by the Planning & Zoning Commission as follows:

1. **The proposed facility is a public utility use under the Sussex County Zoning Code, and it meets the purposes of a Conditional Use because it has a public or semi-public character that is essential and desirable for the general convenience and welfare of Sussex County residents.**
2. **The solar array will be located on a portion of a larger 47.20-acre tract. The array area complies with all of the Code requirements for separation distances and setbacks from property lines and dwellings.**
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 arrays. There was testimony that this solar array will benefit residential, business, and municipal subscribers with lower power costs.**
4. **This Application generally complies with Section 115-172.I of the Sussex County Zoning Code regarding solar arrays.**
5. **The proposed solar generation facility will not result in any noticeable increase in traffic on area roadways, and DelDOT has stated that the traffic impact will be "Diminutive". There are no regular employees at the site, only periodic visits for inspections, maintenance, or repair of the solar panels.**

M 477 26 Adopt Ordinance No. 4096/ CU2639 (continued)

6. **The proposed use provides a renewable energy source that is a benefit to the residents and businesses of Sussex County.**
7. **There was no opposition to this Application.**
8. **This recommendation is subject to the conditions set forth in Section 115-172.I of the Zoning Code and the following additional conditions:**
   a. **The use shall be for a ground-mounted solar array with inverters. No other types of electric generation shall be permitted at the site. The inverters shall be relocated to a more centralized location within the site as shown on the Final Site Plan and they shall be surrounded by a ten-foot-tall timber noise barrier also depicted on the Final Site Plan.**
   b. **The Final Site Plan shall clearly show the limits of the Conditional Use area for this solar array as well as the remaining acreage that is not part of this Conditional Use.**
   c. **The entire area of the solar array shall be surrounded by a 7-foot-tall fence to comply with the height requirement of the National Electric Code. The fencing shall be a knot-wire agricultural style fencing including an interwoven privacy screening. The privacy screening shall be attached to the fencing with metal fasteners and a tension wire to reduce maintenance. The fence location and type of screening shall be shown on the Final Site Plan. The property screening may be removed after the earliest of ten years from the installation of the solar array or when the surrounding vegetation is uniformly taller than the height of the fence as determined by the Director of Planning and Zoning. The fencing shall remain.**
   d. **The entire area of the solar array shall be surrounded by a buffer strip of open space, a minimum of 100 feet from any street lines and a minimum distance of 50 feet from all property lines. It shall also be no closer than 200 feet from a dwelling on adjacent property. The landscaped buffer shall be at least 30 feet wide along the perimeter of the Property adjacent to lands of other ownership. This landscaped buffer shall use existing vegetation or shall be planted with 70% evergreen vegetation and 30% deciduous vegetation that serves as a screen while not impeding the use as a solar array facility. The location and types of vegetation used within this buffer area shall be included in a landscape plan provided with the Final Site Plan.**
   e. **Any lighting on the facility shall only consist of perimeter lighting needed for security purposes. Any lighting shall be downward screened so that it does not shine on neighboring properties or roadways.**
   f. **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.**
   g. **Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with all applicable**

M 477 26 Adopt Ordinance No. 4096/ CU2639 (continued)

State and County requirements. These facilities shall be operated using Best Management Practices.

h. 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.

i. 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: **Ms. Gruenebaum, Yea; Mr. McCarron, Yea; Mr. Lloyd, Yea; Mr. Rieley, Yea; Mr. Hudson, Yea**

Public Hearing/ CU2652

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 SOLAR ARRAYS FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 52.34 ACRES, MORE OR LESS" (parcel is lying the south side of Old Racetrack Road [S.C.R. 502], approximately 0.25 mile west of the intersection of Old Racetrack Road [S.C.R. 502] and North Second Street) (911 Address: N/A) (Tax Map Parcel: 532-20.00-14.00) filed on behalf of Sussex CSG3, LLC.

Jamie Whitehouse, Planning & Zoning Director, presented the application.

The Planning & Zoning Commission held a Public Hearing on the application on September 16, 2026. On October 7, 2026, the Commission recommended approval of the application for the 8 reasons of approval and subject to the 9 recommended conditions as outlined.

The Council found that Ms. Mackenzie Sindelar, Esq. with Fox Rothschild, LLP spoke on behalf of the Applicant, Sussex CSG3, LLC; that also present were Ms. Tulpen Hansen-Schwoebel, Dimension Energy Project Manager, and representative of the Applicant, and Mr. Eric Wahal, Professional Engineer with Pennoni.

The Council found that Ms. Tulpen Hansen-Schwoebel, Dimension Energy Project Manager, spoke on behalf of the Applicant; that Dimension Energy prided themselves on being the owner and operator; that meant that they took ownership of their sites from their origination through the permitting process, through construction, and were the long-term owners and operators of their sites for the life of the project; that this allowed them a very streamlined practice of enforcing conditions that they suggest or that are imposed on them by Sussex County; that this allows them to avoid the hurdle of handoffs like many other developers do; that they had developed over one gigawatt of distributed energy; that she wanted to

Public Hearing/ CU2652 (continued)

emphasize that these distribution was not in their pipeline; that it was the actual number of facilities they had either begun construction or construction was completed; that they had larger than one gigawatt in their pipeline; that they had four projects located within Sussex County, being Chaberton Solar Blue Hen, LLC, being four megawatts, Chaberton Solar Biggins Creek, LLC, being four megawatts, Sussex CSG2, LLC being 3.25 megawatts and Sussex CSG1, LLC; that they have a substation across the street.

Ms. Sindelar stated that the site was located on the south side of Old Racetrack Road, approximately 0.25 mile west of the intersection of Old Racetrack Road and North 2nd Street, just outside, but entirely surrounded on the one side by the Town of Delmar; that the property was zoned AR-1 (Agricultural Residential), however it was designated Heavy Industrial; that this is in an Industrial Area; that this is in the Level 3 area; that traffic is limited here; that the project complied with all of the Zoning requirements; that there are some wetlands on site that will be left undisturbed; that Findings of Fact have been previously submitted; that a letter was submitted requesting changes to some of the conditions placed by the Commission; that the first condition relating to timber noise barrier; that they have centrally located the inventors; that they are requesting approval to eliminate the timber noise barrier due to the location of the property; that the condition regarding interwoven privacy screening is being requesting to be removed; that there is existing vegetation on the property; that the request is to restore the applicants original requested buffer language.

There were no public comments.

The Public Hearing and public record were closed.

M 478 26 Defer Action/ CU2652

A Motion was made by Mr. Lloyd, seconded by Mr. Rieley 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 SOLAR ARRAYS FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 52.34 ACRES, MORE OR LESS".

Motion Adopted: 5 Yeas

Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea; Mr. Lloyd, Yea; Mr. Rieley, Yea; Mr. Hudson, Yea

Public Hearing/ CU2597

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

Public Hearing/ CU2597 (continued)

BEING IN SUSSEX COUNTY, CONTAINING 28.64 ACRES, MORE OR LESS" (parcel is lying on the east side of Lonesome Road [S.C.R. 541], approximately 800 feet south of Woodpecker Road [S.C.R. 80]) (911 Address: N/A) (Tax Map Parcel: 531-12.00-92.02) filed on behalf of Lonesome Road Community Energy Initiative, LLC.

Jamie Whitehouse, Planning & Zoning Director, presented the application.

The Planning & Zoning Commission held a Public Hearing on the application on September 16, 2026. On October 7, 2026, the Commission recommended approval of the application for the 8 reasons of approval and subject to the 11 recommended conditions as outlined.

The Council found that Mr. David Hutt, Esq. with Morris James, LLP spoke on behalf of the Applicant, Lonesome Road Community Energy Initiative, LLC; that also present were Mr. Michael Redding, Vice President and Civil Engineer with ECA Solar, Ms. Martha Channell, Senior Development Manager for ECA, Mr. Nick Heven, Engineer with ECA, and Mr. Michael Riemann, Principal and Civil Engineer with Becker Morgan Group, Inc.

Mr. Hutt stated that in 2021, Governor Carney signed into law a requirement that raised Delaware's renewable portfolio standard to 40% by 2035; that meant that 40% of Delaware's energy must come from renewable sources by 2035, being less than 10 years away; that as part of those actions taken in 2021, a process was established for the creation of community energy facilities; that specifically in Chapter 10, Title 26 of the Delaware Code, there was a process for community energy facilities laid out; that community energy facilities provide the opportunity for individuals in the area to sign up for reduced electrical rates; that the practice was that individuals in the local community have the first opportunity or option to elect to have those reduced electrical rates; that the first two current applications before the Planning Commission are from affiliates of ECA Solar; that ECA Solar is an employee-owned company that had been in existence for about 12 years, since 2014; that ECA Solar had developed a number of solar projects in several states, including Delaware, as well as neighboring states of Maryland and Pennsylvania; that with respect to Delaware specifically, ECA Solar had 16 projects in various stages of approval or construction; that eight of the 16 projects were presently under construction or their construction had been completed, and within Sussex County, ECA currently had two projects completed, with one being off DuPond Boulevard, just outside of Frankford, and the other being off Helens Lane, just outside of Seaford.

Mr. Hutt stated that the current application was for a solar array facility to create a clean, renewable supply of electricity on approximately 13.45-acre portion of a larger 28.64-acre site; that a little less than half of the property

Public Hearing/ CU2597 (continued)

would be part of the proposed Conditional Use and requested that Mr. Michael Riemann with Becker Morgan Group, Inc. review the Site Plan, project details, and the various studies and analysis for the Council.

Mr. Michael Riemann, Principal and Civil Engineer with Becker Morgan Group, Inc. spoke on behalf of the Applicant. Mr. Riemann presented the Council with a presentation regarding the project, stating that on the rendering, the subject parcel was outline in yellow; that the project area was outlined in green; that the Conditional Use area was outlined in magenta; that the facility would not utilize the entire property, and was completely contained within the agricultural portion of the field; that the woods within the back area of the site were located outside of the development area; that the project proposed buffers on two sides of the site, as there was existing mature forest around the other two sides of the facility; that the site would have a 16 foot wide, gravel access to Lonesome Road; that the drive would allow access to the inverters; that the plan provided additional landscaping beyond the standard buffers, which resulted from conversations with some of the neighboring property owners; that the plan allowed for the typical 30 foot wide buffer, providing three rows of staggered trees; that there would be a fourth row of staggered trees to provide additional landscaping; that the proposed fence would be a knot wire fence, which were very common with solar facilities because of the way the openings work; that the openings allow smaller animals to migrate through the facility, as they want the facility to be integrated into the habitat; that the fencing mesh had previously been discussed; that the proposed a slightly different mesh than what had been seen in the past; that their proposed fence meshing provided some openings, which allowed for better airflow, while still remaining opaque; that this avoid issues with the mesh blowing off the fence; that within their proposed conditions, they had specified the type of metal ties they would use; there had been previous conversations regarding the five year time frame for the mesh, as the mesh was really only placed for the initial stage, while landscaping was taking root and maturing; that after about five years, the mesh could become a potential maintenance issue over time; that because of this, they had proposed as a condition that the mesh would remain for a period of five years and then be removed; that this was a condition that the County Council recently approved on multiple solar applications within the last few months; that the idea was, as the landscaping grows, it would look like a forest and the project would not be visible; that the access drive would be from Lonesome Road; that the inverters were located back off the roadway; that inverters do produce some sound, which was the reason why they push them back into the facility; that they performed a Sound Study for the project; that the project would include a vertical sound barrier, which generates the sound up rather than out, and would reduce the sound; that the Sound Study demonstrated that at the nearest residence, the sound would be about 40 decibels, being equivalent to a refrigerator; that the inverters produce most sound during the day when the sun is shining and they are producing energy; that the inverters quietest period, would be

Public Hearing/ CU2597 (continued)

during the night, when they would not be running; that a Glare Study was performed, which evaluated the potential for glare on nearby roadways and homes; that the study concluded that there was no glare issue associated with the project; that there was an industry standard for how Glare Studies were performed; that the panels have a anti-reflective coating, which was engineered to minimize glare by design; that there were 16 points reviewed around the property, and it was concluded that there would not be a glare concern from the project; that at times, it had been stated that solar projects could reduce property values; that this simply was not the case; that there had been numerous studies performed, concluding that solar projects do not adversely impact property values of nearby areas; that the project would benefit local residents through subscriptions for lower power costs; that the project would not increase traffic other than weekly to bi-weekly maintenance; that the project was for renewable energy source, therefore would not create odor, dust, gas, smoke or fumes; that the project would create low to no noise, being less than a refrigerator; that the project would reduce stormwater runoff because it would be changing from a tilled agricultural field, to a field of pollinator mixes, which reduces runoff from its current condition, and being much more environmentally friendly; that the project provides a 30 foot landscape screening buffer; that previously discussed by the Council was the switching of the percentages for the required deciduous and evergreen trees; that the 30% evergreen and 70% deciduous would not be as effective in the wintertime for screening; that with newer solar applications, as well as the current three applications they represent, proposed a higher percentage of evergreen trees, which would provide a much more effective screening in the wintertime; that they had been working with the State Fire Marshal, who would be required to review and approve their plans; that the Fire Marshal had standards, one of them being the requirement for a knox box, so that they would have access, should they need it; that the project would be decommissioned at the end of its operation life; that the facility would be removed to restore the property to its original state; that a Decommission Bond would be required as per the Ordinance, and was consistent with industry standards; that there was a community meeting held on January 22, 2026, were feedback was obtained; that the feedback resulted in the additional enhanced landscaping on the one side of the property; that the interconnection process can be lengthy; that for the current project, an application had been submitted to DP&L (Delmarva Power & Light) in November 2024; that an Interconnection Study was completed in March 2025; that the Completion Cost Estimate was received March 2026; that the first payment, being 25% of the interconnection payment is planned for September 2026; that the project was fairly along in the process; that the facility was a public utility use under and as defined within the Sussex County Code; that the project met the purpose of a Conditional Use, as it was a public or semi- public character, being essential and desirable for the general convenience and welfare of Sussex County residents; that the proposed facility promotes Goal 7.3 of the Sussex County Comprehensive Plan, which encourages the use of renewable energy options, such as solar; that

Public Hearing/ CU2597 (continued)

the proposed use would not have any adverse impact on the neighboring and adjacent properties; that the project would provide adequate landscape buffering and perimeter fencing, with some provided landscaping being above what was typically required; that the facility would not result in any noticeable increase in traffic on adjacent neighboring roadways; that there would be no regular employees at the site; that there would be no significant noise, dust, or odor generated by the facility; that the project was compliant with Ordinance No. 2920, relating to all applicable buffers and setbacks; that interconnection studies had been completed; that the construction cost had been identified, and therefore, the project's status was significantly de-risked.

Mr. Hutt stated that the proposed conditions were comprised in an attempt to mirror the standardized conditions that the Planning Commission and County Council had previously recommended; that the purposed of a Conditional Use as defined in §115-171 of the Sussex County Code was met for all of their current solar applications; that the applications promoted Goal 7.3 of the Comprehensive Plan; that the projects would not increase traffic; that the DelDOT Service Level Evaluation Response stated that the traffic impact would be diminutive; that the projects complied with the Special Requirements found in §115-172 of the Zoning Code; that a solar array application is one that had a list of special requirements for a Conditional Use; that the applications meet those requirements; that it was proposed to amend Condition D; that it relates to the perimeter buffer; that

Public comments were heard.

Mr. Matt Marine spoke in opposition of the application.

The Public Hearing and public record were closed.

M 479 26 Amend Condition D/ CU2597

A Motion was made by Mr. Lloyd, seconded by Mr. Rieley to Amend Condition D to read as follows "The entire area of the solar array shall be surrounded by a buffer strip of open space a minimum of 100 feet from any street lines and a minimum distance of 50 feet from all property lines and it shall extend from the entrance to the array to the property's frontage with Lonesome Road on its northern boundary line. It shall also be no closer than 200 feet from a dwelling on adjacent property. The landscaped buffer shall be installed along the northwestern and southwestern side of the solar array as shown on the Preliminary Conditional Use Site Plan and shall be at least 30 feet wide except along the first 160 feet from Lonesome Road which shall be 10 feet wide and taper to 30 feet wide as shown on the Preliminary Conditional Site Use Plan. This landscaped buffer shall use existing vegetation or shall be planted with 70% evergreen vegetation and 30% deciduous vegetation that serves as a screen while not impeding the use as a solar array facility. The location and types of vegetation used within this buffer area shall be included in a landscape plan provided with the Final Site Plan along the northeastern and southeastern sides of the solar array

the existing woods shall be preserved as the buffer for the solar array facility as shown on the Preliminary Conditional Use Site Plan".

Motion Adopted: **5 Yeas**

Vote by Roll Call: **Ms. Gruenebaum, Yea; Mr. McCarron, Yea; Mr. Lloyd, Yea; Mr. Rieley, Yea; Mr. Hudson, Yea**

M 480 26 Adopt Ordinance No. 4097/ CU2597

A Motion was made by Mr. Lloyd, seconded by Ms. Gruenebaum to Adopt Ordinance No. 4097 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR SOLAR ARRAYS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 28.64 ACRES, MORE OR LESS" for the reasons and conditions given by the Planning & Zoning Commission and as amended by this Council as follows:

1. **The proposed facility is a public utility use under the Sussex County Zoning Code, and it meets the purposes of a Conditional Use because it has a public or semi-public character that is essential and desirable for the general convenience and welfare of Sussex County residents.**
2. **The solar array will be located on approximately 13.45 fenced-in acres of a larger 28.64-acre tract. The array area complies with all of the Code requirements for separation distances and setbacks from property lines and dwellings.**
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 arrays. There was testimony that this solar array will benefit residential, business, and municipal subscribers with lower power costs.**
4. **The proposed solar array is to be located on the tilled portion of a larger tract owned by the Applicant's holding company leaving the wooded portions of the property undisturbed.**
5. **This Application generally complies with Section 115-172.I of the Sussex County Zoning Code regarding solar arrays.**
6. **The Applicant has obtained expert reports regarding potential noise, glare, and impacts on property values. This evidence in the record confirms that the nearby properties will not be adversely affected by noise, glare, or the solar use in general.**
7. **The proposed solar generation facility will not result in any noticeable increase in traffic on area roadways, and DelDOT has stated that the traffic impact will be "Diminutive". There are no regular employees at the site, only periodic visits for inspections, maintenance, or repair of the solar panels.**
8. **The proposed use provides a renewable energy source that is a benefit to the residents and businesses of Sussex County.**
9. **This recommendation is subject to the conditions set forth in Section**

M 480 26 Adopt Ordinance No. 4097/ CU2597 (continued)

115-172.I of the Zoning Code and the following additional conditions:

a. The use shall be for a ground-mounted solar array with inverters. No other types of electric generation shall be permitted at the site. The inverters shall be relocated to a more centralized location within the site on the Final Site Plan and they shall be surrounded by a ten-foot-tall timber noise barrier also depicted on the Final Site Plan.

b. The Final Site Plan shall clearly show the limits of the Conditional Use area for this solar array as well as the remaining acreage that is not part of this Conditional Use.

c. The entire area of the solar array shall be surrounded by a 7-foot-tall fence to comply with the height requirement of the National Electric Code. The fencing shall be a knot-wire agricultural style fencing including an interwoven privacy screening. The privacy screening shall be attached to the fencing with metal fasteners and a tension wire to reduce maintenance. The fence location and type of screening shall be shown on the Final Site Plan. The property screening may be removed after the earliest of ten years from the installation of the solar array or when the surrounding vegetation is uniformly taller than the height of the fence as determined by the Director of Planning and Zoning. The fencing shall remain.

d. The entire area of the solar array shall be surrounded by a buffer strip of open space a minimum of 100 feet from any street lines and a minimum distance of 50 feet from all property lines and it shall extend from the entrance to the array to the property's frontage with Lonesome Road on its northern boundary line. It shall also be no closer than 200 feet from a dwelling on adjacent property. The landscaped buffer shall be installed along the northwestern and southwestern side of the solar array as shown on the Preliminary Conditional Use Site Plan and shall be at least 30 feet wide except along the first 160 feet from Lonesome Road which shall be 10 feet wide and taper to 30 feet wide as shown on the Preliminary Conditional Site Use Plan. This landscaped buffer shall use existing vegetation or shall be planted with 70% evergreen vegetation and 30% deciduous vegetation that serves as a screen while not impeding the use as a solar array facility. The location and types of vegetation used within this buffer area shall be included in a landscape plan provided with the Final Site Plan along the northeastern and southeastern sides of the solar array the existing woods shall be preserved as the buffer for the solar array facility as shown on the Preliminary Conditional Use Site Plan.

e. As proffered by the Applicant, if the Applicant is granted permission to access the neighbor's property, the Applicant will plant a single, supplemental row of trees along the rear boundary line of Sussex County Tax Parcel No. 531-12.00-92.07 to provide

M 480 26 Adopt Ordinance No. 4097/ CU2597 (continued)

an additional row of trees for screening as requested by the property owner.

f. As proffered by the Applicant, two pollinator gardens shall be planted outside of the fenced area for the solar array in the southwestern and eastern parts of the site as shown on the Preliminary Conditional Use Plan.

g. Any lighting on the facility shall only consist of perimeter lighting needed for security purposes. Any lighting shall be downward screened so that it does not shine on neighboring properties or roadways.

h. 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.

i. 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.

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: **Ms. Gruenebaum, Yea; Mr. McCarron, Yea; Mr. Lloyd, Yea; Mr. Rieley, Yea; Mr. Hudson, Yea**

Public Hearing/ CU2601

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 SOLAR ARRAYS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 39.281 ACRES, MORE OR LESS" (parcel is lying on the northwest side of Woodpecker Road [S.C.R. 80], approximately 0.29 mile south of West Stein Highway [Rt. 20]) (911 Address: N/A) (Tax Map Parcel: 531-12.00-84.01) filed on behalf of Woodpecker Road Energy Initiative, LLC.

Jamie Whitehouse, Planning & Zoning Director, presented the application.

The Planning & Zoning Commission held a Public Hearing on the application on September 16, 2026. On October 7, 2026, the Commission recommended approval of the application for the 8 reasons of approval and subject to the 9 recommended conditions as outlined.

The Council found that Mr. David Hutt, Esq. with Morris James, LLP spoke

Public Hearing/ CU2601 (continued)

on behalf of the Applicant, Woodpecker Road Community Energy Initiative, LLC. Mr. Hutt requested that his previous background information, provided for the previous application, that were not site specific, be included into the current record by reference.

Mr. Hutt stated that the site was located on Woodpecker Road, down the road from the intersection of Lonesome Road and Woodpecker Road, and with his previously provided introductory comments being included into the current record, he requested that Mr. Riemann reviewed the site features for the Woodpecker Road facility.

Mr. Michael Riemann, Principal and Civil Engineer with Becker Morgan Group, Inc. spoke on behalf of the Applicant. Mr. Riemann stated that the site was located on the intersection of Woodpecker Road and West Stein Highway; that the parcel consisted of 39.2 acres; that the total project area was consisted of roughly 31.59 acres; that the Conditional Use area consisted of approximately 27.8 acres; that the property was zoned AR-1 (Agricultural Residential); that the project provided a 30 foot wide landscape buffer around the entirety of the parcel; that site access was located from Woodpecker Road and would lead to the inverters; that this project would also include sound barriers as presented and shown within the previous application's hearing; that this project proposed the same buffer design as the previous application, being a 70% evergreen tree and 30% deciduous tree mix; that the Code required a 200 foot dwelling setback, which the project complied with; that the proposed fencing was the same as that proposed in the previous application's hearing, being a knot wire fence, with mesh fabric, metal ties and openings for wildlife; that with the landscape buffer, fence and meshing, the solar arrays would not be visible, which was their goal; that as the trees grow, the solar arrays would not be seen; that they make friendly neighbors; that there was a Noise Study provided for the project; that the inverters would create noise at 40 decibels, which was equivalent to a refrigerator; that the noise would only be generated during the day, and would not function at night; that there was a Glare Study performed for different points throughout the site; that the project did not create an glare concerns; that a study regarding property values was included in the record; that the project would benefit local residents with lower power costs, no increase in traffic, renewable energy, noise, low to no noise from inverters using 40 decibels; that the project proposed a sound barrier; that the project would produce reduced stormwater runoff, as compared to the agricultural operation currently existing; that a 30 foot landscape buffer would be provided around the entire property; that the buffer would consist of 70% evergreen trees and 30% deciduous trees; that perimeter fencing would be provided with emergency access; that a decommissioning would occur at the end of the project's life; that there was a community outreach meeting held on June 23, 2026; that it was explained how many homes would benefit from this facility.

Mr. Hutt distributed a site plan and a request for a proposed change to

Condition A; that it was discussed further how the property will be maintained and kept free of weeds.

Public comments were heard.

Mr. Richard O'Bier spoke in favor of the application.

The Public Hearing and public record were closed.

M 481 26 Amend Condition A/ CU2601

A Motion was made by Mr. Lloyd, seconded by Ms. Gruenebaum to Amend Condition A to now read "The use shall be for a ground-mounted solar array with inverters. No other types of electric generation shall be permitted at the site. The inverters shall be located in a centralized location within the site as shown on the Preliminary Conditional Use Site Plan no less than 400 feet from any dwellings on properties of other ownership and they shall be surrounded by a ten-foot-tall timber noise barrier also depicted on the Final Site Plan".

Motion Adopted: 5 Yeas

Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea; Mr. Lloyd, Yea; Mr. Rieley, Yea; Mr. Hudson, Yea

M 482 26 Amend Condition H/CU2601

A Motion was made by Mr. Lloyd, seconded by Mr. Rieley to amend Condition H to now read "All grasses and ground cover shall be monitored to prevent any noxious grasses or weeds. If any are detected, the applicant shall follow guidelines and recommendations of the Delaware Department of Agriculture".

Motion Adopted: 5 Yeas

Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea; Mr. Lloyd, Yea; Mr. Rieley, Yea; Mr. Hudson, Yea

M 483 26 Adopt Ordinance No. 4098/ CU2601

A Motion was made by Mr. Lloyd, seconded by Mr. McCarron to Adopt Ordinance No. 4098 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR SOLAR ARRAYS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 39.281 ACRES, MORE OR LESS" for the reasons and conditions given by the Planning & Zoning Commission as follows and as amended by this Council:

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.**

M 483 26 Adopt Ordinance No. 4098/ CU2601 (continued)

2. **The solar array will be located on approximately 31.59 fenced-in acres of a larger 39.28-acre tract. The array area complies with all of the Code requirements for separation distances and setbacks from property lines and dwellings.**
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 arrays. There was testimony that this solar array will benefit residential, business, and municipal subscribers with lower power costs.**
4. **This Application generally complies with Section 115-172.I of the Sussex County Zoning Code regarding solar arrays.**
5. **The Applicant has obtained expert reports regarding potential noise, glare, and impacts on property values. This evidence in the record confirms that the nearby properties will not be adversely affected by noise, glare, or the solar use in general.**
6. **The proposed solar generation facility will not result in any noticeable increase in traffic on area roadways, and DelDOT has stated that the traffic impact will be "Diminutive". There are no regular employees at the site, only periodic visits for inspections, maintenance, or repair of the solar panels.**
7. **The current owner of the property testified about the family's generational ownership of the farm, and the exploration that they did about various potential uses of the property. Ultimately, the family determined that a solar facility avoided a more intensive development of the property that benefited them, since they still live nearby, as well as the other neighboring property owners.**
8. **The proposed use provides a renewable energy source that is a benefit to the residents and businesses of Sussex County.**
9. **This recommendation is subject to the conditions set forth in Section 115-172.I of the Zoning Code and the following additional conditions:**
    a. **The use shall be for a ground-mounted solar array with inverters. No other types of electric generation shall be permitted at the site. The inverters shall be located in a centralized location within the site as shown on the Preliminary Conditional Use Site Plan no less than 400 feet from any dwellings on properties of other ownership and they shall be surrounded by a ten-foot-tall timber noise barrier also depicted on the Final Site Plan.**
    b. **The Final Site Plan shall clearly show the limits of the Conditional Use area for this solar array as well as the remaining acreage that is not part of this Conditional Use.**
    c. **The entire area of the solar array shall be surrounded by a 7-foot-tall fence to comply with the height requirement of the National Electric Code. The fencing shall be a knot-wire agricultural style fencing including an interwoven privacy screening. The privacy screening shall be attached to the fencing with metal fasteners and a tension wire to reduce maintenance. The fence location and type of screening shall be shown on the Final Site Plan. The property screening may be removed after the earliest of ten years from the**

M 483 26 Adopt Ordinance No. 4098/ CU2601 (continued)

installation of the solar array or when the surrounding vegetation is uniformly taller than the height of the fence as determined by the Director of Planning and Zoning. The fencing shall remain.

d. The entire area of the solar array shall be surrounded by a buffer strip of open space, a minimum of 100 feet from any street lines and a minimum distance of 50 feet from all property lines. It shall also be no closer than 200 feet from a dwelling on adjacent property. The landscaped buffer shall be at least 30 feet wide along the perimeter of the Property adjacent to lands of other ownership. This landscaped buffer shall use existing vegetation or shall be planted with 70% evergreen vegetation and 30% deciduous vegetation that serves as a screen while not impeding the use as a solar array facility. The location and types of vegetation used within this buffer area shall be included in a landscape plan provided with the Final Site Plan.

e. Any lighting on the facility shall only consist of perimeter lighting needed for security purposes. Any lighting shall be downward screened so that it does not shine on neighboring properties or roadways.

f. 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.

g. Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with all applicable State and County requirements. These facilities shall be operated using Best Management Practices.

h. All grasses and ground cover shall be monitored to prevent any noxious grasses or weeds. If any are detected, the applicant shall follow guidelines and recommendations of the Delaware Department of Agriculture.

i. 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.

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: **Ms. Gruenebaum, Yea; Mr. McCarron, Yea; Mr. Lloyd, Yea; Mr. Rieley, Yea; Mr. Hudson, Yea**

M 484 26 Adjourn

A Motion was made by Mr. Lloyd, seconded by Mr. McCarron to adjourn at 3:36 p.m.

Motion Adopted: **5 Yeas**

Vote by Roll Call: **Ms. Gruenebaum, Yea; Mr. McCarron, Yea; Mr. Lloyd, Yea; Mr. Rieley, Yea; Mr. Hudson, Yea**

Respectfully submitted,

Tracy N. Torbert
Clerk of the Council

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