

ORDINANCE NO. 2767

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT AND AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A 35.4 ACRE SOLAR FIELD TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 142.80 ACRES, MORE OR LESS

WHEREAS, on the 12th day of November 2020, a conditional use application, denominated Conditional Use No. 2251 was filed on behalf of Heimlich Solar Partners, LLC; and

WHEREAS, on the 11th day of March 2021, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 25th day of March 2021, said Planning and Zoning Commission recommended that Conditional Use No. 2251 be approved with conditions; and

WHEREAS, on the 11th day of April 2021, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County determined, based on the findings of facts, that said conditional use is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and that the conditional use is for the general convenience and welfare of the inhabitants of Sussex County.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsections 115-22 and 115-39, of the Code of Sussex County, be amended by adding the designation of Conditional Use No. 2251 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land, lying and being situate in Northwest Fork Hundred, Sussex County, Delaware, and lying on east side of Mile Stretch Road (S.C.R 590) approximately 0.49 mile southeast of Scotts Store Road (Route 36) and being more particularly described in the attached legal description prepared by Smith O'Donnell Procino & Berl, LLP, said parcel containing 142.80 acres, more or less.

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

This Ordinance was adopted subject to the following conditions:

- a. No storage facilities shall be constructed on the site.**
- b. Lighting on the facility shall only consist of perimeter lighting needed for security purposes. All lighting shall be downward screened so that it does not shine on neighboring properties or roadways.**
- c. One unlighted sign, not to exceed 32 square feet in size, shall be permitted.**
- d. The site shall be secured by fencing with a gate with a “Knox Box” or similar device to accommodate emergency access by the local fire company or other emergency responders. The fence line shall be shown on the Final Site Plan.**
- e. Any transformers or similar equipment shall be centrally located on the site away from any nearby residential uses.**
- f. All of the grounds, including the area outside of the fence, shall be maintained so that they do not become overgrown.**
- g. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2767 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 13TH DAY OF APRIL 2021.

**ROBIN A. GRIFFITH
CLERK OF THE COUNCIL**

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

- A. This is the application of Heimlich Solar Partners, LLC for the consideration of a Conditional Use of land in a GR General Residential District and an AR-1 Agricultural Residential District for a 35.4 acre solar field to be located on a certain parcel of land lying and being in Northwest Fork Hundred, Sussex County, containing 142.80 acres, more or less (property lying on the east side of Mile Stretch Road (S.C.R. 590) approximately 0.49 mile southeast of Scott’s Store Road (Route 36) (Tax I.D. No. 530-13.00-10.00) (911 Address: None Available).**
- B. Based on testimony before the Planning and Zoning Commission and the public hearing before the Sussex County Council, Council found that Jeff Machiran, EDF Renewables was present on behalf of the Applicant, Heimlich Solar Partners, LLC, at the Planning and Zoning Commission’s public hearing along with Doug Carton of EDF Renewables, Mark Nielson of Delaware Electric Cooperative (DEC) and Chad Kayser of TRC Companies, Inc.; that Mark Neilson of DEC was present on behalf of the Applicant at the Sussex County Council’s public hearing; that DEC was formed in 1936 and is a not-for-profit organization owned by the members it serves; that it serves many of the rural areas of Sussex County; that DEC serves over 100,000 accounts and is growing at about 3% per year; that DEC is headquartered in Greenwood, Delaware and the proposed project is approximately one mile from the headquarters; that EDF Renewables is developing Heimlich Solar in partnership with Old Dominion Electric Cooperative (ODEC); and that this project is attempting to**

meet the standards set by the Delaware Legislature which is to have 40% renewable energy and 10% by solar by the Year 2035.

- C. Council also found that solar panels are made up of silicon or similar semi-conductor material similar to a computer chip; that when the sunlight hits the semi-conductor material it creates an electrical charge; that the current is converted into alternating current so that it can be fed into the distribution grid for use by homes and businesses; that solar energy provides clean, renewable electricity without using water, creating emissions or producing waste; that its low visual profile and quiet operations make for a great neighbor; that it places little to no demand on County infrastructure; that due to the installation of the panels on steel posts, the land is easily returned to agricultural use at the end of the project's life; that Distributed Solar generates electricity in communities where power is consumed; that it connects to existing infrastructure and does not require construction of a new substation; that it increases resiliency of the local distribution grid; that it can deliver power at a lower cost to the end user; that a smaller footprint means smaller impact; and that Heimlich Solar will occupy tens of acres as compared to transmission level generation which can occupy 100's or 1000's of acres.
- D. Council further found that Heimlich Solar Partners, LLC, which is a wholly owned entity of EDF Renewables Distributed Solutions, is the Applicant for this project; that the proposed location is one parcel of land which runs along Mile Stretch Road in Greenwood, Delaware; that the project area is currently an open agricultural field with no structures; that the anticipated project footprint will be less than 40 acres; that the capacity of the proposed project is 4.5 MWac which is a relatively small project sized accordingly to meet the needs of the customers nearby the project; that the site will be composed of racking systems installed on support posts, panels installed on the racking, a transformer skid, interconnection equipment, and a weather station; that there will be a 100 foot buffer to onsite wetland areas; that no other impact to natural resources is anticipated; that equipment will be less than 15 feet except for the weather station; that there is a proposed gravel access drive off Mile Stretch Road; that no substation will be constructed; that the project will tie into the existing substation approximately 1.5 miles from this site; that fencing will be agricultural fencing and be consistent with the surrounding area; and that concrete surfaces will be installed for the ancillary equipment and will be only a very small area of the site.
- E. Council also found that wetlands have been mapped and avoided and given appropriate buffers; that there are no threatened or endangered species on-site; that no cultural or historic resources have been identified on site; that stormwater runoff will be controlled in accordance with state and local regulations; that rain passes through gaps between panels to infiltrate into the ground; that there is less than 1 acre of impervious surface proposed; that natural drainage patterns will be maintained as there is limited grading proposed; that the project will obtain all required local, state, and federal permits; that construction should take approximately five months and the site should be operational by 2022; and that EDF Renewable has 35 years in the U.S. developing wind, solar and energy storage and is one of the largest owners of renewable energy in the country.
- F. Based on the record and recommendation of the Planning and Zoning Commission and the Planning and Zoning Commission's Findings (1 through 5) and Conditions (6a - g), Council found that:
1. The proposed facility is a public utility use under the Sussex County Zoning Code, and it meets the purposes of a Conditional Use in that it is of a public or semi-public character that is essential and desirable for the general convenience and welfare of Sussex County residents.
 2. The proposed facility promotes Goal 7.3 of the Sussex County Comprehensive Plan which encourages the use of renewable energy options such as solar farms.
 3. With the conditions imposed in this recommendation, the proposed use will not have any adverse impact on the neighboring or adjacent properties.

- 4. The proposed solar generation facility will not result in any noticeable increase in traffic on adjacent and neighboring roadways. There are no regular employees at the site, only periodic visits for inspections, maintenance or repair of the solar panels.**
- 5. No significant noise, dust or odor will be generated by the facility.**
- 6. Based on the record and recommendation of the Planning and Zoning Commission and the record created before the Sussex County Council, the Conditional Use is approved subject to seven (7) conditions (a - g) which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**