

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, DECEMBER 5, 2023

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, December 5, 2023, at 10:00 a.m., in Council Chambers, with the following present:

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 555 23
Approve
Agenda**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley, 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 November 14, 2023, were approved by consensus.

**Corre-
spondence**

Mr. Moore reported that correspondence was received from Delaware Lions Foundation, Milford Housing Development Corporation and Cape Henlopen Senior Center thanking Council for their grants and donations.

**Public
Comments**

Public comments were heard.

Mr. Rick Hasen spoke about the Design Development and interconnectivity.

**M 556 23
Approve
Consent
Agenda**

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

- 1. Proclamation Request – Cape Henlopen High School Field Hockey Division I State Champions**
- 2. Proclamation Request – Delmar High School Field Hockey Division**

**M 556 23
Approve
Consent
Agenda
(continued)**

II State Champions

- 3. Proclamation Request – Sussex Academy High School Boys’ Soccer Division II State Champions**
- 4. Use of Existing Wastewater Infrastructure Use Agreement IUA-18 02 350
Millville Square (Millville Area)**
- 5. Use of Existing Wastewater Infrastructure Use Agreement IUA-1193
The Preserve at Shore Vista (Ocean View Area)**

Motion Adopted: 5 Years

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

**Adminis-
trator’s
Report**

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

1. Caroling on The Circle

A reminder that the annual Caroling on The Circle program will take place on Thursday, December 7th, at 6:30 p.m. in front of the Sussex County Courthouse. This is a free event sponsored by the Sussex County Council each year. Everyone is welcome and encouraged to attend, and to bring a food item for the less fortunate if they can afford to do so. The “Pack the Pod” campaign will remain in full swing until the end of December. New this year we are partnering with the Georgetown Chamber of Commerce which sponsors the Georgetown Christmas parade. Following Caroling on The Circle, the Town will hold its tree lighting before the parade steps off at 7:00 p.m. We invite the public to attend this fun-filled, festive evening.

2. Delaware State Police Activity Report

The Delaware State Police year-to-date activity report for October 2023 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 190 troopers assigned to Sussex County for the month of October.

3. Projects Receiving Substantial Completion

**Adminis-
trator’s
Report
(continued)**

Per the attached Engineering Department Fact Sheets, the following projects have received Substantial Completion: Maritima (FKA Red Clover Walk, Cedar Grove & Coastal Cove) – Phase 1 Roads and Phase 1 & 2 Sewer effective October 31st; Vincent Overlook – Phase 6A (Construction Record), Vincent Overlook Phase 6B (Construction Record) and Vincent Overlook - Phase 8 (Construction Record) effective November 1st.

4. Pauline Hughes

It is with great sadness that we inform you that pensioner, Pauline Hughes, passed away on Tuesday, November 21, 2023. Ms. Hughes began her career with Sussex County in February 2004 where she worked until February 2018 for a total of 14 years of service. Her last position with the County was Clerk IV in Building Code. We would like to extend our condolences to the Hughes family.

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

**Plan Review
& Inspection
Agreement**

John Ashman, Director of Utility Planning & Design Review presented a plan review and inspection agreement for Council’s consideration. The agreement would shift the review and inspection of roadways, site grading and stormwater conveyance in proposed subdivisions within the municipal boundary to Sussex County. Mr. Ashman reported that one such agreement has been executed by the Town of Blades for Council’s consideration and a second agreement is awaiting execution by the Town of Ellendale. If Council chooses to approve this template, all future agreements could be completed as a Consent Agenda item once executed by the respective municipality.

**M 557 23
Approve
Plan Review
& Inspection
Agreement**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson that be it moved based upon the recommendation of the Sussex County Engineering Department that Sussex County Council approves the plan review and inspection agreement template and the Town of Blades agreement shifting the review and inspection of roadways, site grading and stormwater within Municipal Boundaries to Sussex County 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**

**Permission
to Prepare
& Post**

John Ashman, Director of Utility Planning & Design Review presented a permission to prepare and post notices for South Greenwood Annexation

Notices/
South
Greenwood

into the Sussex County Unified Sanitary Sewer District (Western Sussex Area) for Council's consideration. The expansion creates a new area consisting of parcel 530-14.00-16.00 & 17.00. The Engineering Department has received a request from Delaware Electric Co-op for sewer service to a facility south of Greenwood. The facility is not contiguous to the existing boundary therefore it would need to be established as a new area, holding a public hearing and referendum. The request comes stating the inability to replace or expand their existing on-site system based on the existing building layouts and impervious area. The request also states that without the ability to replace or expand the existing on-site facility they would be unable to move forward with their planned expansion and provide new employment opportunities. Their desire is to construct a low-pressure sewer system connecting multiple buildings to a common small grinder station that would connect to the County's existing infrastructure. Understanding that they would pay for the improvements and offer paying for the electricity and providing the back-up generator service for the grinder station.

M 558 23
Approve
Permission
to Prepare
& Post
Notices/
South
Greenwood

A Motion was made by Mrs. Green, seconded by Mr. Hudson, be it moved by Sussex County Council that the Sussex County Engineering Department is authorized to prepare and post notices for a public hearing to establish the boundary for the South Greenwood area of the Sussex County Unified Sanitary Sewer District 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

Amend. 5/
Joy Beach

Hans Medlarz, County Engineer presented KCI Amendment 5 for Joy Beach Phase II for Council's consideration.

M 559 23
Approve
Amend. No.
5/ Joy Beach

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, that be it moved based upon the recommendation of the Sussex County Engineering Department that Amendment No. 5 to the 5-year Miscellaneous Engineering Services Agreement with KCI Technologies, Inc. be approved in the amount not to exceed \$152,520.00 for the design and permitting of Joy Beach Phase II.

Motion Adopted: 5 Yeas

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

SC CO No.
25

Hans Medlarz, County Engineer presented change order no. 25 for South Coastal WRF treatment process upgrade no. 3 & Rehoboth Beach WTP capital improvement program, phase 2 for Council's consideration.

M 560 23 **A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, be it**
Approve CO **moved based upon the recommendation of the Sussex County Engineering**
No. 25/SC **Department, that change order no. 25 for contract C19-17, SCRWF**
WTF & RB **Treatment Process Upgrade No. 3 & RBWTP capital improvement**
WTP **program, phase 2 – electrical construction, be approved, for an increase of**
 \$17,939.03.

Motion Adopted: 5 Yeas

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

Cannon- **Hans Medlarz, County Engineer presented change order no. 3 for Cannon-**
Inland Bays/ **Inland Bays Roads Drainage Improvements & Constructed Wetlands for**
CO No. 3 **Council’s consideration.**

M 561 23 **A Motion was made by Mr. Rieley, seconded by Mr. Hudson, that be it**
Approve CO **moved based upon the recommendation of the Sussex County Engineering**
No. 3/ **Department that change order no. 3 for contract S22-05, Cannon**
Cannon - **Road/Inland Bays Road Drainage Improvements and Constructed**
Inland Bays **Wetlands, be approved, increasing the contract amount by \$375,000.00 and**
 extend the contract by 29 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

DE **Vince Robertson, Assistant County Attorney discussed the Delaware**
Marijuana **Marijuana Control Act. Mr. Robertson reported that the Delaware**
Control Act **Marijuana Control Act was enacted back in April, 2023. One of the things**
 that the Act said was that the towns can prohibit marijuana establishments,
 and everything associated, however, the Counties cannot. Mr. Robertson
 added that to date, it is known that the following Towns have prohibited
 marijuana include Rehoboth Beach, Dewey Beach, Bethany Beach,
 Millville, Seaford, Ocean View, Fenwick Island, Millsboro, Dagsboro, and
 Middletown. There may be more or some that have not acted on it yet. With
 our County Zoning under the Act, we can enact Zoning Ordinances that
 regulate it and we can regulate based on time, matter and place for
 marijuana establishments. With regard to the establishments, the different
 Zoning Districts were looked at with staff and it is thought that the C-3,
 Heavy Commercial District is the appropriate location. In addition, it would
 require a Conditional Use so it would go through Planning & Zoning
 Commission and County Council. In terms of the time and place
 restrictions, it was discussed that no marijuana establishment should be
 located within 1 mile of any municipal boundary, 3 miles of another
 marijuana establishment and no marijuana establishment can be located

**DE
Marijuana
Control Act
(continued)**

closer than 1 mile to any church, treatment center, school, or college. In addition, hours of operation would be 7:00 a.m. until 9:00 p.m. These are the guardrails that were discussed to be in the Code.

Mr. Robertson then discussed the marijuana cultivation facility which is growing the plant and under the state definition, it includes the preparation and packaging. On one hand, it is a crop as an agricultural use and the other hand it goes beyond that with preparation and packaging. The thought was to keep it in the AR-1 district and require a Conditional Use.

Mr. Robertson stated that the next step would be to draft an Ordinance to bring back to the Commission and Council.

Mr. Hudson questioned the security of the land of where the crops are being grown. Mr. Robertson responded that it will be approved by the State so they will need to go to the Commission to get approval for that. It would also be no closer than a certain number of feet from the property line.

Mrs. Green suggested to change it to be the same measurement for everything.

**Old
Business/
Ord. No. 20-
06**

Under Old Business, Jamie Whitehouse, Planning & Zoning Director presented a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCEL NO. 132-2.00-264.00 (PORTION OF)”.

The County Council held a Public Hearing on the Ordinance at its meeting of February 9, 2021. At the conclusion of the Public Hearing, action on the application was deferred for further consideration.

**M 562 23
Approve
Ord. No.
20-06/
DENIED**

A Motion was made by Mr. Hudson, seconded by Mr. to approve a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCEL NO. 132-2.00-264.00 (PORTION OF)”.

Motion DENIED: 5 Nays

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

All Members voted no based on the reason given by Mr. Vincent.

**Old
Business/
CZ1910**

Under Old Business, Mr. Whitehouse presented a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A GR GENERAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX

COUNTY, CONTAINING 3.093 ACRES, MORE OR LESS” (property lying on the northwest side of Brickyard Road, approximately 0.3 miles southeast of Sussex Highway) (Route 13) (Tax I.D. No. 132-2.00-264.00) (911 Address: 9329 Brickyard Road, Seaford) filed on behalf of Brickyard Apartments, LLC.

Mr. Whitehouse noted that the previous application relied on approval of the previous application presented.

**M 563 23
Approve
CZ1910/
DENIED**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley to approve a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A GR GENERAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 3.093 ACRES, MORE OR LESS”.

Motion DENIED: 5 Nays

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

The Members voted no based on the reasons provided by Mr. Vincent.

**Old
Business/
CU2212**

Under Old Business, Mr. Whitehouse presented a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY (48 APARTMENTS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 5.05 ACRES, MORE OR LESS” (property lying on the northwest side of Brickyard Road, approximately 0.3 miles southeast of Sussex Highway (Route 13) (Tax I.D. No. 132-2.00-264.00) (911 Address: 9329 Brickyard Road, Seaford) filed on behalf of Brickyard Apartments, LLC.

The Council held a Public Hearing for the application at its meeting on February 9, 2021. At the conclusion of the Public Hearing, action on the application was deferred for further consideration. Mr. Whitehouse noted that this application was related to the previous two applications.

**M 564 23
Approve
CU2212/
DENIED**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley to approve a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY (48 APARTMENTS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 5.05 ACRES, MORE OR LESS” for the reasons and conditions given by the Planning & Zoning Commission.

Motion DENIED: 5 Nays

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

The Members voted no based on the reasons provided by Mr. Vincent.

**Old
Business/
Ord. No. 22-
08**

Under Old Business, Mr. Whitehouse presented a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCEL 135-11.00-65.00” (property located on the north side of Lewes Georgetown Highway [Rt. 9], approximately 620 feet northeast of Gravel Hill Road [Rt. 30]) (911 Address: N/A) (Tax Parcel: 135-11.00-65.00).

The County Council held a Public Hearing on the Ordinance at its meeting of February 7, 2023. At the conclusion of the Public Hearing, action on the application was deferred for further consideration.

**M 565 23
Approve
Ord. No. 22-
08/
DENIED**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson to approve a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCEL 135-11.00-65.00”.

Motion DENIED: 2 Yeas, 3 Nays

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

**Old
Business/
CZ1959**

Under Old Business, Mr. Whitehouse presented a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR MEDIUM RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 9.72 ACRES, MORE OR LESS” (property located on the north side of Lewes Georgetown Highway [Rt. 9], approximately 620 feet northeast of Gravel Hill Road [Rt. 30]) (911 Address: N/A) (Tax Parcel: 135-11.00-65.00) filed on behalf of Charles E. Turner Jr.

The County Council held a Public Hearing on the Application at its meeting of February 7, 2023. At the conclusion of the Public Hearing, action on the application was deferred for further consideration. Mr. Whitehouse noted that this application was linked to the previous application.

**M 566 23
Approve**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson to approve a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE

**CZ1959/
DENIED**

COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR MEDIUM RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 9.72 ACRES, MORE OR LESS”.

Motion DENIED: 5 Nays

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

**Old
Business/
CU2320/
DENIED**

Under Old Business, Mr. Whitehouse presented a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLINGS (42 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 9.72 ACRES, MORE OR LESS” (property located on the north side of Lewes Georgetown Highway [Rt. 9], approximately 620 feet northeast of Gravel Hill Road [Rt. 30]) (911 Address: N/A) (Tax Parcel: 135-11.00-65.00) filed on behalf of Charles E. Turner, Jr.

The County Council held a Public Hearing on the Application at its meeting of February 7, 2023. At the conclusion of the Public Hearing, action on the application was deferred for further consideration.

**M 567 23
Approve
CU2320/
DENIED**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson to approve a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLINGS (42 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 9.72 ACRES, MORE OR LESS”.

Motion DENIED: 5 Nays

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

**Old
Business/
CZ1979**

Under Old Business, Mr. Whitehouse presented 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 RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 25.56 ACRES, MORE OR LESS” (property lying on the east side of Kings Highway [Rt. 9] and Gills Neck Road [S.C.R. 267], at the intersection of

Kings Highway [Rt. 9] and Gills Neck Road [S.C.R. 267]) (911 Address: 16673 Kings Highway, Lewes) (Tax Map Parcel: 335-12.00-3.00 [p/o]) filed on behalf of J.G. Townsend Jr. & Co.

The County Council held a Public Hearing on the application at its meeting of June 27, 2023. At the conclusion of the Public Hearing, action on the application was deferred for further consideration.

**M 568 23
Adopt
Ordinance
No. 2963
CZ1979**

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to Adopt Ordinance No. 2963 entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AN MR MEDIUM RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 25.56 ACRES, MORE OR LESS” for the reasons given by the Planning and Zoning Commission as follows:

- 1. This application seeks a change in zone from AR-1 to MR. The purpose of the MR zone is to provide housing in an area which is expected to become urban in character and where central water and sewer is available.**
- 2. The stated purpose of the MR District is satisfied for this site. Both central water and central sewer will be available. It is also in an area with a more urban character since it is near the City of Lewes, in the vicinity of a high school campus, and near various businesses. There is also other MR-Zoned land in the area. This rezoning is consistent with other zoning and land uses in the area.**
- 3. The proposed MR Zoning meets the purpose of the Zoning Ordinance in that it promotes the orderly growth of the County in an appropriate location.**
- 4. The site is located within the Coastal Area according to the Sussex County Comprehensive Plan. MR Zoning is appropriate in this Area according to the Plan.**
- 5. The intended use of this property will be to allow the development of it with multi-family residential units. This is an appropriate use for this location given its surroundings.**
- 6. The Comprehensive Plan suggests that higher densities such as those permitted in the MR District can be appropriate where there is water and sewer available, there are appropriate roadways to handle the density, and there are nearby commercial or employment centers. All of those factors are satisfied with regard to this application.**
- 7. DelDOT has stated that the proposed rezoning to MR will have a “minor” impact upon local area roadways. In addition, the overall traffic in the area has recently been studied through Traffic Impact Studies and Traffic Operations Analyses for other nearby properties. These studies take into account this proposed rezoning as well as DelDOT’s “US9, Kings Highway, Dartmouth Drive to Freeman Highway (DelDOT Contract No. T202212901)”.**

M 568 23
Adopt
Ordinance
No. 2963
CZ1979
(continued)

8. For all of these reasons, MR zoning is appropriate for this site.

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/
CU2359

Under Old Business, Mr. Whitehouse presented a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR (MEDIUM RESIDENTIAL DISTRICT) FOR MULTI-FAMILY (102 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 25.56 ACRES, MORE OR LESS” (property lying on the east side of Kings Highway [Rt. 9] and the south side of Gills Neck Road [S.C.R. 267], at the intersection of Kings Highway [Rt. 9] and Gills Neck Road [S.C.R. 267]) (911 Address: 16673 Kings Highway, Lewes) (Tax Map Parcel: 335-12.00-3.00 [p/o]) filed on behalf of J.G. Townsend Jr. & Co.

The County Council held a Public Hearing on the application at its meeting of June 27, 2023. At the conclusion of the Public Hearing, action on the application was deferred for further consideration.

M 569 23
Amend
Condition 4/
CU2359

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to amend Condition 4 in the Findings provided by Planning and Zoning be amended by striking the number 6 in the last line and substitute the number 4 in its place. This is done because the application is actually 3.99 units per acre.

Motion Adopted: 5 Yeas

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

M 570 23
Amend
Condition 9
C/CU2359

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to amend Condition 9 C of the Conditions provided by Planning and Zoning be amended in regard to the size of the pool by striking one zero to reduce the size of the surface area of the pool from 10,000 square feet to 1,000 square feet.

Motion Adopted: 5 Yeas

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

M 571 23
Add

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson that an additional condition be added to read as follows *The Final Site Plan shall*

**Condition R/
CU2359** *contain a landscape plan for the subdivision's frontage along Kings Highway with appropriate landscaping consistent with the goals of the Lewes Scenic and Historic Byway Corridor Management Plan. The Kings Highway landscaping shall be perpetually maintained by the developer and/or homeowner's association and shall be noted 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 572 23
Amend
Condition 9
H/
CU2359** A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson, to amend Condition 9 H by adding the following at the end of the condition: However, while the interconnection must remain open, to address the concerns about this becoming a short-cut where people will speed through these connected communities, the Applicant shall install a gate, approved by the State Fire Marshall to limit through traffic except through card use by residents of Governors Subdivision, and also install other traffic calming devices including curb bump outs and elevated crosswalks, as set forth in the Sussex County Comprehensive Plan, at the boundary line between the Governors' community and the cottage community.

Motion Adopted: 4 Yeas, 1 Nay

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

**M 573 23
Adopt
Ordinance
No. 2964/
CU2359** A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to Adopt Ordinance No. 2964 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR (MEDIUM RESIDENTIAL DISTRICT) FOR MULTI-FAMIY (102 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 25.56 ACRES, MORE OR LESS" for the reasons and conditions given by the Planning & Zoning Commission as amended:

1. This property has been recommended for approval of a change in zone from AR-1 to MR Medium Density Residential. The purpose of the MR zone is to provide housing in an area which is expected to become urban in character and where central water and sewer is available. This conditional use application for multi-family units is in compliance with the purposes of the MR zone.
2. Both central water and central sewer will be available to this site.
3. This site is the location of the Gill's Neck Road and King's Highway lighted intersection and the King's Highway and Cave Neck Road lighted intersection. DelDOT is also planning to improve the King's Highway Corridor in the near future. Multi-family development is

**M 573 23
Adopt
Ordinance
No. 2964/
CU2359
(continued)**

- appropriate for this property in the area of these roadways and intersections.
4. The property is in the immediate vicinity of other properties with a variety of business, commercial, and institutional uses. The site is near the Cape Henlopen High School campus. It is near the City of Lewes with nearby Mixed Residential, General Commercial, and Community Facilities zoning districts within the City. Some nearby residential uses include Dutchman’s Harvest within the City of Lewes with 17.7 units per acre; Jefferson Apartments within the City of Lewes with 9.8 units per acre; the Moorings at Lewes in Sussex County with 6.4 units per acre; and Henlopen Gardens in the City of Lewes with 5.5 units per acre. This is also the last parcel of the planned development of Gills Neck Road, with an appropriate density transitioning between the adjacent B-1 property on one side and the existing multifamily units on the other side. This conditional use at approximately four (4) units per acre is consistent with other zoning and multi-family developments in the area.
 5. DelDOT has reviewed the proposed project and has determined that its traffic impact will be “Minor”. When DelDOT determines that traffic impact will be minor, a project is eligible to pay an Area Wide Study Fee instead of obtaining a Traffic Impact Study. Paying this fee does not eliminate the developer’s obligation to construct or pay for offsite road improvements that are required by DelDOT. This project has also already been incorporated into other existing Traffic Impact Studies and Traffic Operational Analysis as well as DelDot’s Contract No. T202212901 for US9, Kings Highway, Dartmouth Drive to Freeman Highway. As the Site Plan is finalized, DelDOT will also require the developer to provide safe vehicular and pedestrian movement onto Gill’s Neck Road and King’s Highway.
 6. The proposed multi-family conditional use meets the purpose of the Zoning Ordinance in that it promotes the orderly growth of the County in an appropriate location.
 7. The proposed use is consistent with the County’s Comprehensive Land Use Plan. It is in the Coastal Area according to the Plan, which is a Growth Area. The Plan states that medium and higher densities can be appropriate where, like here, there are features such as central water and sewer and nearby commercial uses and employment centers. The Plan also states that a range of housing types should be permitted in the Coastal Area, including single-family homes, townhouses, and multifamily units.
 8. There is no evidence that this project will adversely affect the neighboring properties, area roadways, or community facilities.
 9. This recommendation is subject to the following conditions:
 - a. There shall be no more than 102 Units within the development.
 - b. All entrances, intersections, roadways, and multimodal improvements required by DelDOT shall be completed by the applicant in accordance with DelDOT’s determination.
 - c. The recreational amenities shall include cottage courts, pocket parks,

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(continued)**

- green area, and a central amenity area, including a pool with at least 1,000 square feet of surface area, and a community center/clubhouse of at least 2,000 square feet in size. These amenities shall be completed within the development as follows:
- i. The Community Center/Clubhouse and pool shall be completed on or before the 60th residential building permit; and
 - ii. The other amenities shall be completed as the adjacent dwellings are completed.
 - d. Central sewer shall be provided to the development by Sussex County. The developer shall comply with all requirements and specifications of the Sussex County Engineering Department.
 - e. The development shall be served by a central water system providing adequate drinking water and fire protection as required by applicable regulations.
 - f. Stormwater management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements, and the project shall utilize Best Management Practices to construct and maintain these fixtures. The Final Site Plan shall contain the approval of the Sussex Conservation District.
 - g. Interior street design shall comply with or exceed Sussex County standards. However, the Sussex County Street design standards shall not apply to the parking lanes within the development.
 - h. This project is interconnected with the adjacent commercial areas facing King's Highway as well as the Governor's community which is itself interconnected with the Senator's Community. This interconnection is part of the larger plan for the residential development of King's Highway and Gill's Neck Road. This interconnectivity is important and necessary for safe vehicular and pedestrian movement within the developments to provide a means of access to and from them in addition to use Gill's Neck Road. This interconnectivity has been part of the developer's Master Plan for this entire area, and it has been shown and approved by Sussex County at each stage of development along Gills Neck Road. Therefore, once construction is completed this interconnectivity must remain open to all vehicular traffic at all times without obstruction. However, while the interconnection must remain open, to address the concerns about this becoming a short-cut where people will speed through these connected communities, the Applicant shall install a gate, approved by the State Fire Marshall to limit through traffic except through card access use by residents of Governors Subdivision, and also install other traffic calming devices including curb bump outs and elevated crosswalks, as set forth in the Sussex County Comprehensive Plan, at the boundary line between the Governors' community and the cottage community.
 - i. Road naming and addressing shall be subject to the review and approval of the Sussex County Geographic Information Office.
 - j. The Applicant shall consult with the local school district's transportation manager to determine if a school bus stop is appropriate. If it is, the location of such a bus stop shall be shown on

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(continued)

- the Final Site Plan.
- k. Construction, site work, and deliveries shall only occur on the site between the hours of 7:00 a.m. through 6:00 p.m. Monday through Friday and on Saturdays between October 1 and April 30th. No Sunday hours are permitted. A 24-inch by 36-inch “NOTICE” sign confirming these hours in English and Spanish shall be prominently displayed at the site entrance during construction.
 - l. The Final Site Plan shall include a landscape plan for the development showing the proposed tree and shrub landscape design for the community including the transitional landscaping used to screen the common boundary between this development and Governors. No buffering shall be required along the stormwater ponds shared with the adjacent Governor’s community. The Landscape Plan shall identify all “Limits of Disturbance” within the site and these “Limits of Disturbance” shall be clearly marked on the site itself.
 - m. The Applicant shall form a Condominium Association that shall be responsible for the maintenance of all interior roadways and parking areas, buildings, buffers, stormwater management areas, recreational amenities, and open space.
 - n. All lighting on the site shall be shielded and downward screened so that it does not shine on neighboring properties or roadways.
 - o. The development shall comply with the requirements of Chapter 89 of the Sussex County Code and the following notes shall be included within the Final Site Plan to ensure the long-term viability of the Wellhead Protection Area:
“During construction document plan review, the Applicant/Developer shall provide verification to the Sussex County Engineering Department that the post-development recharge exceeds the pre-development volume as calculated within the Water Climatic Budget. Additional recharge may be required if the side slop infiltration in the existing stormwater management ponds do not meet this requirement.”
“Rooftop air conditioning system components requiring intermittent unit blowdown are prohibited within the cottages project. The recorded condominium declaration for the cottages shall include this prohibition.”
 - p. 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.
 - q. The Final Site Plan shall depict or note these conditions of approval and it shall be subject to the review and approval of the Sussex Planning & Zoning Commission.
 - r. *The Final Site Plan shall contain a landscape plan for the subdivision’s frontage along Kings Highway with appropriate landscaping consistent with the goals of the Lewes Scenic and Historic Byway Corridor Management Plan. The Kings Highway landscaping shall be perpetually maintained by the developer and/or homeowner’s association and shall be noted on the Final Site Plan.*

Motion Adopted: 4 Yeas, 1 Nay

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

**Grant
Requests**

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

**M 574 23
Law
Enforce-
ment
United, inc.**

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to give \$1,000 (\$500 from Mr. Schaeffer's Councilmanic Grant Account and \$500 from Mr. Hudson's Councilmanic Grant Account) to Law Enforcement United, Inc. for Road to Hope 2024.

Motion Adopted: 5 Yeas

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

**M 575 23
Good
Samaritan
Aid
Organiza-
tions inc.**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley to give \$1,000 (\$1,000 from Mr. Vincent's Councilmanic Grant Account) to Good Samaritan Aid Organization, Inc. for their Annual Christmas Food Basket/Toy Outreach.

Motion Adopted: 5 Yeas

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

**M 576 23
Blades
Police
Department**

A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer to give \$550 (\$550 from Mr. Vincent's Councilmanic Grant Account) to the Blades Police Department for security cameras and a shelf monitor.

Motion Adopted: 5 Yeas

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

**Proposed
Ordinance
Introduc-
tions**

Mr. Hudson introduced a Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY (180 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 48.36 ACRES, MORE OR LESS" filed on behalf of OA Sundance Club, LLC.

Mr. Hudson introduced a Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX

Proposed Ordinance Introductions (continued)

COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-2 MEDIUM COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 4.7 ACRES, MORE OR LESS” filed on behalf of Mahmut Yilmaz.

Mr. Hudson introduced a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AMEND THE CONDITIONS OF APPROVAL FOR CONDITIONAL USE NO. 1713 (ORDINANCE NO. 1961) TO ALLOW FOR AN ADDITIONAL BUILDING TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.28 ACRES, MORE OR LESS” filed on behalf of TN Hitch, LLC.

Mr. Rieley reintroduced a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A GR GENERAL RESIDENTIAL DISTRICT TO A C-2 MEDIUM COMMERCIAL DISTRICT FOR A PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 1.11 ACRES, MORE OR LESS” filed on behalf of Horacio Paxtor.

CC Member Comments

Mr. Moore noted that comments cannot be accepted on any matter that has had a public hearing and the record has been closed.

Mr. Vincent commented about solar arrays and their requirements.

**M 577 23
Go Into
Executive
Session**

At 10:59 a.m., a Motion was made by Mr. Rieley, seconded by Mr. Hudson to recess the Regular Session, and go into Executive Session for the purpose of discussing matters related to personnel.

Motion Adopted: 5 Yeas

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

Executive Session

At 11:05 a.m., an Executive Session of the Sussex County Council was held in the Basement Caucus Room to discuss matters related to personnel. The Executive Session concluded at 12:09 p.m.

**M 578 23
Reconvene**

At 12:13 p.m., a Motion was made by Mr. Rieley, seconded by Mr. Hudson to come out of Executive Session back into Regular Session.

Motion Adopted: 5 Yeas

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

Motion Adopted: 5 Yeas

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

**M 582 23
Approve
USDA Loan
Resolution
& Grant
Agreement**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley, be it moved, based upon the recommendation of the Sussex County Engineering & Finance Departments, that the USDA Loan Resolution and Grant Agreement associated with the Lochwood Community area expansion be approved.

Motion Adopted: 5 Yeas

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

Rules

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

**Public
Hearing/
CU2381**

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 PORTION OF CERTAIN PARCELS OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 43.27 ACRES, MORE OR LESS” (properties lying on the south side of Lewes Georgetown Highway [Rt. 9], approximately 0.40 mile east of Harbeson Road [Rt. 5]) (911 Address: 26628 & 26772 Lewes Georgetown Highway, Harbeson) (Tax Map Parcels: 235-30.00-61.00, 58.06 & 58.07) filed on behalf of Consolidated Edison Development, Inc.

The Planning & Zoning Commission held a Public Hearing on the application on September 28, 2023. At the meeting of October 12, 2023, the Planning & Zoning Commission recommended approval of the application for the 11 reasons and 11 recommended conditions.

Jamie Whitehouse, Planning and Zoning Director presented the application.

The Council found that Mr. David Hutt, Esq. with Morris James, LLP introduced the Application, that Mr. Joe Shanahan, RWE Clean Energy owner of Consolidate Edison Development, Inc.; that also present were Mr. Brian Conlon, Langan Engineering; that Council has seen a number of these applications recently; that Governor Carney signed two bills in 2021, Senate Bill 2 and Senate Bill 33; that Senate Bill 33 had a requirement that Delaware raise its renewable portfolio standard by 40% by 2035; that Senate 22 updated requirements for community energy owned facilities; that they are limited in size; that a set amount must be provided to low-income customers; that they require a certificate to operate that is obtained

**Public
Hearing/
CU2381
(continued)**

from the Public Service Commission.

The Council found that Mr. Joe Shanahan spoke on behalf of the Applicant, RWE Clean Energy owner of Consolidate Edison Development, Inc.; that also present were Mr. Brian Conlon, Langan Engineering and Environmental Services, the engineering firm working on this project, and the following two projects; and Mr. John Lee, Colliers Engineering & Design, the engineering firm on the subsequent four projects on the agenda. Mr. Shanahan stated that RWE Group is one of the largest renewable energy companies in the United States; that RWE has been developing, constructing, and operating renewable energy facilities for more than 15 years in the United States; RWE has a secure investment grade credit rating and revenue over 38 billion; that RWE has over 1,500 employees and is the second largest solar owner and operator in the United States with a renewable energy portfolio of about 8 gigawatts (GW) of installed capacity including solar, battery storage, and onshore wind.

Mr. Shanahan stated that that members of the Council know the general characteristics of ground mounted community solar projects because of the number of public hearings during the past 12 months; that he will mention the characteristics again so that they are in the record for this application and the other six applications being considered; that solar projects do not emit any noise or odors; that they do not create and glare during the day and as there are no lights on the sites do not create any illumination at night; that they do not produce any form of waste; that they do not create any traffic because once constructed there are only occasional visits to the site for inspections, landscaping and maintenance; that they do not require sanitary sewer service or utilize the water supply; that solar projects do not create any burden on local fire, police, or other first respondent departments; that solar projects do not put any additional children in the respective school districts; that solar projects particularly in rural areas raise tax revenue in areas that have difficulty increasing their tax base without putting any additional burden on community services or infrastructure; that community solar projects allow access to solar power for all Delmarva Power customers; that 15% of users will be low-income households; that this project and the other six applications will provide rental income for the property owners and allow them to keep the farm for future generations; that when the life of the solar project comes to an end the equipment will be removed and the site will be restored to its previous condition; that Sussex County requires a decommissioning plan; and that these attributes apply to C/U 2381 and the other six applications.

Mr. Shanahan stated that each project is a public utility use under the Sussex County Zoning Code and meets the purposes of a Conditional Use because each has a semi-public character that essential and desirable for the general convenience and welfare of Sussex County residents. Each of the project is located in either a GR (General Residential) District or AR-1 (Agricultural Residential) District; that public utility use is allowed in both of those districts with the approval of this County Council; that the

**Public
Hearing/
CU2381
(continued)**

applications were submitted on July 1, 2022; that they were submitted prior to the adoption of the recent Solar Ordinance in April, 2023; that the projects comply with the requirements of the new Ordinance including the decommissioning plan; that the conditions given by the Planning & Zoning Commission have been incorporated into each of the final site plans that have been submitted; that all of the projects are proposed as a 4 mega watt AC projects; that none of the projects utilize all of the land; that most of the landlords will continue to farm on the remaining land; that all of the projects are setback significantly from the roadways from which they gain their access; that all of the projects will be accessed by 20 ft. wide gravel driveways; that all of the projects will be enclosed by a 7 ft. fence; that the projects will be enclosed by a 7ft. fence as required by the National Electrical Code; that the fence will be gated with a lock and knock box; that the grounds around and below the panels will be planted with a pollinator friendly mix that provides more shelter for a variety of insects that provide a food source for wild animals and birds; that an exhibit book was submitted for each project and contains the DelDOT Service Level negative determination, a Federal Aviation Administration Determination of No Hazard, Invoice from and fee paid to Delmarva Power to undertake Community Solar Interconnection Study, determination by the state Historic Preservation Office (SHPO) that a review of the property or of the project under the National Historic Preservation Act (NHPA) is not necessary, determination from the United States fish and Wildlife Service that the project will have no adverse impact on any threatened or endangered species, United States Army Corps of Engineers Preliminary Jurisdictional Determination (PJD), Approval by the Office of State Fire Marshal, “Clean” Phase 1 Environmental Site Assessment, and the Decommissioning Plan and Cost Estimate.

Mr. Shanahan stated that C/U 2381 is the Harbeson A Solar Project located at 26628 and 26772 Lewes Georgetown Highway in Harbeson, Delaware; that the lease area is shown on the site plan is 25.8 acres on an overall 43 acre property; that the project would be set back 315 feet from Lewes Georgetown Highway accessed by 20 ft. wide gravel driveway; that the site is mainly undeveloped with one residential building and the landowner resides at the property; that this site is owned by Terri L. Martin; that there was no opposition to the application during the Public Hearing at the Planning & Zoning Commission meeting; that the Commission voted unanimously for its approval; that Ms. Martin requested that the following be read into the record:

“Members of the County Council, my name is Terri Martin. I was born and raised in Sussex County. I graduated from Cape Henlopen high school, Delaware Tech Community College, and Wilmington University. Reminders of my family’s deep roots include Martins Farm Road, Thompsonville, and Russell Road, Bridgeville. Having inherited none of the family land, I began assembling my property in 1984 and have added to it as contiguous pieces of land became available over the years with the last piece being purchased in 2009. In total, I currently own 44 acres, I have also

**Public
Hearing/
CU2381
(continued)**

owned and operated a successful business, M&D Bird Farm for the last 21 years. It has always been my plan that I would find a way for my land to produce an income so that I could retire comfortably without creating another housing development. I was intrigued by the several calls I received from solar com, like ConEd, offering to lease my land for a solar farm. Most assuredly, this was stimulated by Delaware's State mandates to increase the amount of power that comes from renewable energy sources like solar. I found the prospect of reducing our carbon footprint with solar power very appealing. In conclusion, I am requesting that the Council approve this Conditional Use and allow ConEd to move forward with making Sussex County more energy efficient. Respectfully submitted. Terri Martin".

A discussion was held about the bond and who could subscribe to the solar arrays to receive credits.

Public comments were heard.

Mr. John Nichols spoke in opposition of the application; that he is opposed to solar farms; that they are not farms; that they are industrial power plants; that they do not conform with goals for safety; that there are many things lacking; that material safety data sheets are never seen; that all of the solar panels are contaminated with hazard chemicals that cause cancer; that it increases their efficiency and life span; that 90% of the panels come from China; that the capacity factor was questioned; that in Delaware, you are going to get about 14%; that 90% of the energy in Delaware is provided by natural gas; that it was recently stated by John Carey that he wants to shut down every coal fire plant in America; that these facilities are critical; that the more solar that is built into the system, the more likely we will have power outages; that it has been announced that we are short in our capacity during emergency situations; that if it snows and on cloudy days, there will be little coming from these systems; that this is a poor waste of land; that we need reliable energy generation; that during peak demand hours, the value of the electricity that they can dispatch increases; that they store it and use it when it is high value; that this adds very little to grid capacity; that the amount of carbon dioxide that will be reduced is negotiable; that there is nothing that is renewable about it; that it is a rent seeker dream; that it should be required to be done in an industrial setting; that the land should be zoned appropriately; that this should not be done at all; that he recommends that the Ordinance be changed; that there is litigation in Kent County against permits that were issued on a Conditional Use basis; that the argument is that the permit should have never been issued by Kent County; that there are legal liabilities that should be considered; that he does not believe there are adequate safeguards put forth.

Mr. Kevin Goldsborough spoke in opposition of the application; that he has talked to many people about solar in the last few years; that this is not a farm; that you cannot eat anything that a solar panel produces; that it is only good for whoever is selling or leasing it; that there are laws to protect adjacent property owners; that there is a risk to the crop dusters; that

**Public
Hearing/
CU2381
(continued)**

many studies show that projects of this scale can increase temperature up to 5 or 6 degrees; that the process of photosynthesis should be considered; that he discussed droughts and how that affects the land; that when it is does to this scale, they can only recycle about 10% of the panels that are being placed; that if the company goes bankrupt, it is questioned who would clean up these panels; that it has been confirmed that there are 15 containments that go into the construction of these panels; that you have the potential for these chemicals to get into the water; that there should be soil testes and environmental impact studies done; that only 23% of the land is to be covered by anything other than agricultural; that the Governor’s mandate was discussed; that this is not a community project; that if you want the money you should put the work in and continue to farm; that there is a potential of Indian artifacts can be on these lands.

The Public Hearing and public record were closed.

**M 583 23
Defer
Action/
CU2381**

A Motion was made by Mr. Rieley, 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 PORTION OF CERTAIN PARCELS OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 43.27 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/
CU2382**

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 AND A GR GENERAL 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 37.04 ACRES, MORE OR LESS” (property lying on the south side of Kendale Road [S.C.R. 287], approximately 0.15 mile east of Wil King Road [Rt. 288]) (911 Address: N/A) (Tax Map Parcel: 234-2.00-18.00) filed on behalf of Consolidated Edison Development, Inc.

The Planning & Zoning Commission held a Public Hearing on the application on September 28, 2023. At the meeting of October 12, 2023, the Planning & Zoning Commission recommended approval of the application for the 11 reasons and 10 recommended conditions as outlined.

Jamie Whitehouse, Planning and Zoning Director presented the application. The Council found that Mr. Joe Shanahan, spoke on behalf of the Applicant, RWE Clean Energy owner of Consolidate Edison Development,

**Public
Hearing/
CU2382
(continued)**

Inc. Mr. Shanahan stated that C/U 2382 is the Lewes A project located on Kendale Road in Lewes, Delaware; that for the purpose of this public hearing he requested that the testimony presented in connection with the public hearing for C/U 2381, including the introductions and attributes that these seven projects have in common be entered into this record; that he has no problem producing certifications, material data sheets as a condition to certify what the panels are made of if this should be approved; that none of the panels have toxic base or any that go into the soil below them to affect the ground water; that there is no application presented today have battery storage; that the specifics of this site are shown on the site plan and the lease area/conditional use area is 21.6 acres of an overall 37 acre property; that the setback is approximately 200 ft. from Kendale Road with access by a 20 ft. gravel driveway; that the site is mainly undeveloped with some residential properties to the north of the site; that there are portions of wooded areas and wetlands to the south and east of the property and all development is outside of the wetlands; that there was no opposition expressed at the Planning & Zoning Commission hearing; that the Commission voted unanimously for approval; that he has met with two of the neighbors and they requested a screening plan to be developed and they have worked that out with the neighbors; that that this site is owned by Garciel Street Family and Matt Tucker, family member, is present; that requested that the following be read into the record:

“Thank you for taking the time to consider our family’s farmland as a future site for clean energy production in Lewes, Delaware. Our family has farmed the land containing this parcel for the last century and it is now being managed by the fourth generation of the family. Aside from contributing to the local agricultural community, the Garciel Street family are members of the Nanticoke Indian Tribe and have deep roots both in the tribe and the area. It is very humbling to know that through this partnership with Con Edison, we will be able to continue to make an impact on the community and the people in this area. Through this project, we will be able to ensure that this land remains in the family and continues to be one of the few remaining undeveloped agricultural properties on the western side of Lewes. Signed by Matt Tucker–Garciel Street family”.

Public comments were heard.

Mr. Kevin Goldsborough asked that his previous comments be incorporated into the record for this application and the other applications presented today; that he has a petition of people that do not want these; that they are highly subsidized.

The Public Hearing and public record were closed.

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 AND A GR GENERAL RESIDENTIAL

**M 584 23
Defer
Action/
CU2382**

DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 37.04 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/
CU2383**

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 30.1 ACRE PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 143.09 ACRES, MORE OR LESS” (property lying on the southwest side of Woodland Ferry Road [S.C.R. 78], approximately 635 feet northwest of Old Sailor Road [S.C.R. 78A]) (911 Address: N/A) (Tax Map Parcel: 232-12.00-4.00 [p/o]) filed on behalf of Consolidated Edison Development, Inc.

The Planning & Zoning Commission held a Public Hearing on the application on September 28, 2023. At the meeting of October 12, 2023, the Planning & Zoning Commission recommended approval of the application for the 12 reasons and 10 recommended conditions as outlined within the motion.

Jamie Whitehouse, Planning and Zoning Director presented the application.

The Council found that Mr. Joe Shanahan, spoke on behalf of the Applicant, RWE Clean Energy owner of Consolidate Edison Development, Inc. Mr. Shanahan stated that C/U 2383 is the Laurel E project located on Woodland Ferry Road in Lewes, Delaware; that for the purpose of this public hearing he requested that the testimony presented in connection with the public hearing for C/U 2381, including the introductions and attributes that these seven projects have in common be entered into this record; that the specifics of this site are shown on the site plan and the lease area/conditional use area is 30.1 acres of an overall 143 acre property; that the setback is approximately 1,500 ft. from Woodland Ferry Road with access by a 20 ft. wide gravel driveway; that the site is mainly undeveloped with portions of wooded areas, wetlands and floodplains of Broad Creek to the rear of the property to the south and all development is outside of the wetlands and the floodplain; that there was no opposition to the application during the Planning & Zoning Commission meeting; that the Commission voted unanimously to approve the application; that this site is owned by the Dickerson Family, currently by Richard Dickerson and Zachary Dickerson; Richard and Zachary represent the fifth and sixth generations of Dickerson’s to own and operate this property as a farm; that Richard and Zachary Dickerson said that approval of this

**Public
Hearing/
CU2383
(continued)**

application would allow their family to create value from an underperforming portion of their property as this location is very sandy and nearly impossible to irrigate; that the lease to Con Edison will afford them a steady stream of income that will assist them in keeping the farm in operation and the land in the family for still more generations to come; and that Richard Dickerson feels that the opportunity to make a positive impact on the greenhouse gas effect caused by fossil fuels with this solar project will in some way offset the many years of emissions which have resulted from his family having had to use diesel fuel to operate farm equipment.

There were no public comments.

The Public Hearing and public hearing were closed.

**M 585 23
Defer
Action/
CU2383**

A Motion was made by Mr. Vincent, 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 A SOLAR FARM TO BE LOCATED ON A 30.1 ACRE PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 143.09 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/
CU2384**

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 ON A 19.61 ACRE, PORTION, MORE OR LESS, OF A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 74.96 ACRES, MORE OR LESS” (property is lying on the west side of South Main Street [Rt. 13A], approximately 380 feet north of Rifle Range Road [S.C.R. 545]) (911 Address: 18374 South Main Street, Bridgeville) (Tax Map Parcel: 131-14.00-29.00 [p/o]) filed on behalf of Consolidated Edison Development, Inc.

The Planning & Zoning Commission held a Public Hearing on the application on September 28, 2023. At the meeting of October 12, 2023, the Planning & Zoning Commission recommended approval of the application for the 11 reasons and 11 recommended conditions as outlined.

Jamie Whitehouse, Planning and Zoning Director presented the application.

The Council found that Mr. Joe Shanahan, spoke on behalf of the Applicant, RWE Clean Energy owner of Consolidate Edison Development,

**Public
Hearing/
CU2384
(continued)**

Inc. Mr. Shanahan stated that C/U 2384 is the Bridgeville A project located at 18374 South Main Street in Bridgeville, Delaware; that for the purpose of this public hearing he requested that the testimony presented in connection with the public hearing for C/U 2381, including the introductions and attributes that these seven projects have in common be entered into this record; that the specifics of this site are shown on the site plan and the lease area/conditional use area is 18.74 acres of an overall 75 acre property; that the setback is approximately 685 ft. from South Main Street with access by a 20 ft. wide gravel driveway; that the site is mainly undeveloped with some residential properties east of property; that there are no wetlands on the property; that the Commission voted unanimously for its approval; that an attorney representing a project being developed north to this site expressed concern about the view shed between the properties; that as a result, the Planning & Zoning Commission included in its vote to recommend approval of the requirement that a 30 ft. deep landscape buffer be installed on the entire northerly property line; that such buffer has been added to the final site plan that has been submitted for this project; that that the site is owned by Karen L. Walls and has been in her family for over 70 years; that Ms. Walls is present and requested that the following be read into the record:

“My name is Karen L. Adams Walls, and I am the owner of the property located at 18374 South Main Street, Bridgeville, Delaware. This property was purchased by my parents, Maurice and Mildred Adams, and our family farm known as Grateful Acres was built in 1953. My father and Aunt, Mary Adams were the owners of Rapa, Inc. which was established by my uncles in 1926. As you can see our roots in Sussex County run deep. Until recently we have enjoyed continuing the tradition of raising and racing standard-bred horses, since we are now in our seventies, and this has become too labor intensive we began looking into different options to maintain the farm and to keep it green. Con Edison was the answer to our prayers, knowing that after the lease expires our land will be returned to its natural state while at the same time while at the same time helping the environment was a perfect solution for us. I truly appreciate your consideration in granting the permits needed for this community solar project. My grandchildren do as well, we look forward to keeping Grateful Acres in the family for generations to come. Respectfully yours, Karen Walls”; that Ms. Walls acknowledged that when adjoining property owners came into town to built multiple 3-story apartment buildings with little setbacks; that they were concerned about the view shed; that she never objected to that development; that she has had many of her neighbors come to her that said they were rather look at solar arrays than the apartment buildings; that he would like to incorporate all points about the panels and that there would be no batteries also be incorporated into the record.

There were no public comments.

The Public Hearing and public record were closed.

**M 586 23
Defer
Action/
CU2384**

A Motion was made by Mrs. Green, 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 A SOLAR FARM ON A 19.61 ACRE, PORTION, MORE OR LESS, OF A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 74.96 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/
CU2385**

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR A SOLAR FARM ON A 17.45 ACRE PORTION, MORE OR LESS, OF A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 29.45 ACRES, MORE OR LESS” (property lying on the north side of West Line Road [S.C.R. 512], approximately 0.67 mile west of Delmar Road [Route 54]) (911 Address: 8517 West Line Road, Delmar) (Tax Map Parcel: 532-19.00-57.00) filed on behalf of Consolidated Edison Development, Inc.

The Planning & Zoning Commission held a Public Hearing on the application on September 28, 2023. At the meeting of October 12, 2023, the Planning & Zoning Commission recommended approval of the application for the 11 reasons and 11 recommended conditions as outlined.

Jamie Whitehouse, Planning & Zoning Director presented the application.

The Council found that Mr. Joe Shanahan, spoke on behalf of the Applicant, RWE Clean Energy owner of Consolidate Edison Development, Inc. Mr. Shanahan stated that C/U 2385 is the Delmar B project located at 8517 West Line Road in Delmar, Delaware; that for the purpose of this public hearing he requested that the testimony presented in connection with the public hearing for C/U 2381, including the introductions and attributes and any other information provided for these seven projects have in common be entered into this record; that the specifics of this site are shown on the site plan and the lease area/conditional use area is 17.21 acres of an overall 29.45 acre property; that the setback is approximately 425 ft. from Delaware Avenue with access by a 20 ft. gravel driveway; that the site is mainly undeveloped except for a single-family dwelling occupied by the landowners daughter; that there are portions of wooded area to the east, west and north; that there are some wetlands to the south and western sides of the property and all development is outside of the wetlands; that there was no opposition expressed at the Planning & Zoning Commission meeting; that the P&Z Commission voted unanimously to approve the

**Public
Hearing/
CU2385
(continued)**

application; that the site is owned by William J. and Janet James who purchased the property in 2010 as it was adjacent to their then existing property where they continue to reside; that Mr. and Mrs. James were unable to attend today.

There were no public comments.

The Public Hearing and public record were closed.

**M 587 23
Defer
Action/
CU2385**

A Motion was made by Mr. Vincent, seconded by Mr. Hudson to defer on Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR A SOLAR FARM ON A 17.45 ACRE PORTION, MORE OR LESS, OF A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 29.45 ACRES, MORE OR LESS".

Motion Adopted: 5 Yeas

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

**Public
Hearing/
CU2386**

A Public Hearing was held on a Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR A SOLAR FARM ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 53.891 ACRES, MORE OR LESS" (property lying on the east and west side of Cast Rite Drive on the south side of Bacons Road [S.C.R. 515], approximately 0.39 mile west of Country Walk) (911 Address: 35204 Cast Rite Drive, Delmar) (Tax Map Parcel: 532-6.00-32.00) filed on behalf of Consolidated Edison Development, Inc.

The Planning & Zoning Commission held a Public Hearing on the application on September 28, 2023. At the meeting of October 12, 2023, the Planning & Zoning Commission recommended approval of the application for the 11 reasons and 11 recommended conditions as outlined.

The Council found that Mr. Joe Shanahan, spoke on behalf of the Applicant, RWE Clean Energy owner of Consolidate Edison Development, Inc. Mr. Shanahan stated that C/U 2386 is the Delmar C project located at 35204 Cast Rite Drive in Delmar, Delaware; that for the purpose of this public hearing he requested that the testimony presented in connection with the public hearing for C/U 2381, including the introductions and attributes and all information offered about these seven projects have in common be entered into this record; that the specifics of this site are shown on the site plan and the lease area/conditional use area is 24.53 acres of an overall 53.89 acre property; that the setback is approximately 350 ft. from Bacons

**Public
Hearing/
CU2386
(continued)**

Road with access by a 20 ft. gravel driveway; that the site is mainly undeveloped except for a single-family dwelling occupied by the landowner; that there are portions of wooded areas with wetlands to the western side of the property and all development is outside of the wetlands; that at the Planning & Zoning Commission meeting, there was no opposition to the application; that the Planning & Zoning Commission voted unanimously for approval; that the site is owned by Robert Blaney; that he asked that the following statement be entered into the record on his behalf:

“To whom it may concern, Pursuant to Delaware’s agenda to go green and utilize solar technology to generate electricity rather than fossil fuels—i.e., heavy oils, coal, and even natural gas seems to be a rational approach rather than nuclear generation which is fraught with too many fears and technical problems. Desiring to contribute my small part to alleviate the problem of airborne pollution, when I was approached by Consolidated Edison after consideration, I agreed to their proposal. Long-term the land can be returned to agricultural use as the decommissioning will leave no contamination of the soils or groundwater. Ruralness of the area will be preserved, if solar proves to be the long-term solution to society's energy needs this project will play a role in that endeavor. Thank you, Robert Blaney.”

There were no public comments.

The Public Hearing and public record were closed.

**M 588 23
Defer
Action/
CU2386**

A Motion was made by Mr. Vincent, seconded by Mr. Schaeffer to defer action on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR A SOLAR FARM ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 53.891 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/
CU2387**

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 17.04 ACRES, MORE OR LESS” (property lying on the north and south sides of Hastings Lane and the west side of Bi-State Boulevard [Rt. 13A], approximately 0.37 mile north of Old Crow Road [S.C.R. 503B]) (911 Address: 10311 Hastings Lane, Delmar) (Tax Map Parcel: 532-13.00-22.00 [p/o]) filed on behalf of Consolidated Edison

**Public
Hearing/
CU2387
(continued)**

Development, Inc.

The Planning & Zoning Commission held a Public Hearing on the application on September 28, 2023. At the meeting of October 12, 2023, the Planning & Zoning Commission recommended approval of the application for the 10 reasons and 11 recommended conditions as outlined.

The Council found that Mr. Joe Shanahan, spoke on behalf of the Applicant, RWE Clean Energy owner of Consolidate Edison Development, Inc. Mr. Shanahan stated that C/U 2387 is the Delmar D project located at 10311 Hastings Lane in Delmar, Delaware; that for the purpose of this public hearing he requested that the testimony presented in connection with the public hearing for C/U 2381, including the introductions and attributes and any other information that these seven projects have in common be entered into this record; that the specifics of this site are shown on the site plan and the lease area/conditional use area is 16.94 acres of an overall 54.49 acre property; that the setback is approximately 410 ft. with access by a 20 ft. gravel driveway; that the site is undeveloped and currently used as part of the family farm; that there are no wetlands on the property; that the Planning and Zoning Commission voted unanimously to approve the project; that during the P&Z Commission public hearing, there were abutting property owners that expressed concerns about the view shed between the properties; that as a result, the Commission included in their vote to recommend approval that a 30 ft. deep landscape buffer be installed to mitigate the concern; that such a buffer has been added to the final site plan that has been submitted; that it is a significant commitment that has been addressed; that the site is owned by Rufus Lester (Skip) Ammons and his wife Charlotte Ammons who live on the property with their daughter and son-in-law who operate the farm and farm seed and equipment business at this location; that Mr. and Mrs. Ammons are present; and that the Ammons family asked that he read the following statement into the record on their behalf:

“To whom it may concern, my wife and I ask that you consider the approval of a solar panel project on a small acreage of our family farm. My wife’s parents purchased this farm in 1945 with the intent of it being a family farm for generations to come. We are the second generation and upon our death, our two children will become the third generation. At this time, we have grown grandchildren who represent the fourth generation. We presently have three generations living on the farm. We see this project to be a win-win thing, it will bring financial stability to the farm operation, and it will provide financial support in the form of discounts on electric bills to the surrounding community. We also have strong feelings not only about the present but also future need for electric power. Thank you for your consideration in this matter. Skip and Charlotte Ammons.”

Mr. Shanahan stated that the applications do meet the requirements of the Ordinance set forth for Solar applications.

**Public
Hearing/
CU2387
(continued)**

Public comments were heard.

Ms. Sheree Hammerer spoke in opposition to the application. Ms. Hammerer stated that she found that RWE acquired Consolidated Edison Development, Inc. on March 1, 2023, and they based out of Germany; that it is disturbing to her that the solar panels are going to be manufactured in China; that she found an article written by a North Carolina State professor that is on why solar farms are not a good use for agricultural lands; that solar panels only capture about 20% of light for about 5 hours a day; that the rest of the solar energy is going to pass through the ground; that there is going to be contamination; that they are many rare earth minerals that are being used to make these panels; that it is not known for sure what is going to happen in the 25 years of the lease; that there is a loss of business for feed companies, seed, chemical dealer, hardware, machinery that depend on agricultural for their business; that she questioned if the money would still be there in 25 years for the bond; that the panels are considered a toxic waste; that solar farms are not a good use of land; that the traditional utility are still going to have to produce their normal amount of power for the other times; that on cloudy, rainy days, other power will need to be provided for 24 hours; that we are not improving our climate or our environment; that there are 37 homes that surround where the solar farm is going to be; that out of the 37 homes, there were 22 that signed a petition opposing the solar farm; that 4 of the families were not able to be spoken to for various reasons; that 8 of the families, they were unable to make contact with them; that there 3 families for personal reasons did not want to be involved with the petition; that she provided information stating the disadvantages of living near a solar farm; that she lives on the east side of Bi State Blvd.; that she discussed the disadvantages that were discussed in the article; that there is an increase of cancer and potential effects on the nervous system; that she has concerns about the glare coming off of the panels; that she also had concerns about radiation or buzzing noise from the solar panels; that she has land use concerns; that that she has concerns about the animals in the fields; that property values will decrease; that heat stress was discussed; that there is a fire hazard; that if one panel goes out, all of them will go out since they are connected; that the disadvantages should be addressed; that it is critical to balance the advantages with the disadvantages; that a study should be done to show the effects; that she submitted copies of the study she referenced.

The Council found that Mr. Steve Harrison spoke in opposition to the application. Mr. Harrison stated that he put together some information that he found on the internet; that he agrees with the previous speaker's comments; that they did go through the neighborhood to ask people if they knew about it; that quite of few did not know about this application; that he had a copy of the petition that was referenced by the previous speaker; that the petition has 25 signatures.

Mr. Vincent Hammerer spoke in opposition to the application. Mr. Hammerer stated that his wife's family has been in the area for many years;

**Public
Hearing/
CU2387
(continued)**

that when the application came to the P&Z Commission meeting, the information was misleading; that he presented a copy of what was received by the neighbors; that many of the neighbors did not receive the information; that he asked that Mr. John A. Nichols's for CU2381 comments be incorporated into the record for this application (CU2387); that he is the voice for the members that signed the petition; that he is committed to the community; that he thinks property values will be impacted; that the panels are made in China; that he questioned if malware is placed on the panels; that he questioned what was out there to protect the property owners; that he asked who would clean the property up; that he has concerns with the wildlife; that he would like to have an impact study to set up better guidelines.

Mr. Donald Messick spoke in opposition of the application; that his neighbors have said everything that he needs to say.

Mr. Rieley questioned if the panels contained heavy metals. Mr. Shanahan stated that solar panels can be found that contain the worst of everything. The solar panels that his company uses contain no materials that will degrade or leachate into the soil. He is willing to provide documentation.

It was added that the notice for the public hearings are sent out by the County and a discussion was held about the property taxes.

The Public Hearing and public record were closed.

**M 589 23
Defer
Action/
CU2387**

A Motion was made by Mr. Vincent, seconded by Mr. Hudson to defer action on a Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 17.04 ACRES, MORE OR LESS".

Motion Adopted: 5 Yeas

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

**M 590 23
Adjourn**

A Motion was made by Mr. Hudson seconded by Mr. Rieley to adjourn at 4:15 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.}