

THE MINUTES OF THE REGULAR MEETING OF OCTOBER 12, 2023.

The regular meeting of the Sussex County Planning and Zoning Commission was held on Thursday evening, October 12, 2023, in Council Chambers, Sussex County Administrative Office Building, 2 The Circle, Georgetown, Delaware.

The meeting was called to order at 3:00 p.m. with Chairman Wheatley presiding. The following members of the Commission were present: Mr. Robert Wheatley, Ms. Holly Wingate, Mr. Bruce Mears, Mr. Brian Butler, and Mr. Scott Collins. Also, in attendance were Mr. Vincent Robertson – Assistant County Attorney, Mr. Jamie Whitehouse – Planning & Zoning Director, Ms. Lauren DeVore– Planner III, and Ms. Ashley Paugh – Recording Secretary.

Motion by Ms. Wingate, seconded by Mr. Mears and carried unanimously to approve the Agenda as revised. Motion carried 5 - 0.

Motion by Ms. Wingate, seconded by Mr. Collins to approve the Minutes of the September 14, 2023, Planning and Zoning Commission meeting as circulated. Motion carried 5 – 0.

PUBLIC COMMENT

The Commission found that Mr. George Voigt and Mr. Brian Ratcliffe wished to provide comment but were denied permission as their comments were related to an application scheduled for a public hearing that evening.

OTHER BUSINESS

2004-38 Wetherby

Request to Amend Conditions of Approval

The Department of Planning and Zoning has received a request to amend Conditions of Approval for the Wetherby (2004-38) Subdivision. Wetherby is a previously approved cluster subdivision consisting of one-hundred and twenty-six (126) lots, private roads, open space, and associated amenities to include an in-ground pool, bathhouse, tot lot, and multipurpose court. The Revised Final Subdivision Plan for the subdivision was approved by the Planning and Zoning Commission at their meeting of Thursday, November 4th, 2021. Specifically, the Applicant is requesting to amend Condition No. 9 of the Conditions of Approval which currently states, *“Recreational facilities and amenities shall be constructed and open to use by the residents of the development within 2 years of the issuance of the first Certificate of Occupancy. These recreational facilities shall include walking and jogging paths, bike paths, picnic areas, swimming pool, playgrounds, and a basketball court with a paved surface”* and for the second sentence to now state, *“These recreational facilities shall include walking and jogging paths, bike paths, picnic areas, swimming pool, pool bathhouse with covered picnic area and two (2) paved pickleball courts.”* The Applicant has supplied an explanatory Memo which indicates that the requested change would allow for more age-inclusive sports such as pickleball, access to bathroom/changing rooms, and a covered picnic area associated with the community pool, which are now more desirable and valued in this current retirement market. The property is located on the south side of Harmons Hill Road (S.C.R. 302) in Millsboro. Zoning: AR-1 (Agricultural Residential District). Tax Parcel: 234-16.00-27.00.

Motion by Mr. Collins, seconded by Mr. Mears and carried unanimously to approve the request to amend Condition No. 9 within the Conditions of Approval for Wetherby (2004-38). Motion carried 5-0.

2021-09 Brookland Farm

Request to Amend Conditions of Approval

The Planning and Zoning Department has received a request to amend the Conditions of Approval for the Preliminary Subdivision Plan approval for the Brookland Farm (2021-09) Subdivision as approved by the Planning and Zoning Commission at their meeting of Thursday, November 18th, 2021. Specifically, the Applicant is requesting to amend Condition “M” of the original Conditions of Approval which states, *“Street design shall meet or exceed Sussex County standards. The street design shall include an emergency vehicle access point connecting the internal street system with Bayard Road as shown on the Preliminary Site Plan.”* And instead read *“Street design shall meet or exceed Sussex County standards. The Final Site Plan shall include an unobstructed area set aside for vehicular access to the subdivision in an emergency between Jahnigen Drive and Evans Road connecting through Laws Court. This area does not need to be improved with paving or stones. Instead, it must be an area outside of any lot lines and free from obstructions so that the development is not isolated in the event that the main entrance from Bayard Road is impassible.”* The Applicant has submitted a written request which explains that the emergency vehicular access is being revised to “Emergency Open Space.” This previously approved AR-1 standard subdivision contains ninety-two (92) single-family lots on 42.82 acres +/- and is located on the east side of Bayard Road (S.C.R. 384). Tax Parcel: 533-11.00-87.00. Zoning: AR-1 (Agricultural Residential District).

Motion by Ms. Wingate, seconded by Mr. Mears and carried unanimously to deny the request to amend Condition “M” of the Conditions of Approval for Brookland Farm (2021-09). Motion carried 5-0.

2019-30 Pelican Point (Phase 5)

Revised Subdivision Plan

This is a Revised Subdivision Plan for the Pelican Point (Phase 5) Subdivision, a cluster subdivision consisting of 219 single-family lots, private roads, stormwater management facilities, and open space. The Preliminary Subdivision Plan for Phases 4-5 of the Subdivision was approved by the Planning and Zoning Commission at their meeting of Thursday, February 11th, 2021, which proposed an addition of 30 units to the previously approved 189-unit Subdivision, yielding the 219 single-family lots, and amenities to include a dog park and seven (7) parking spaces. The Sussex County Engineering Department has been coordinating with the Developer and has suggested increasing the structural integrity of the existing boulevard which provides direct access to Phase 5 as an alternative to the County’s existing entrance off of Townsend Road. In addition to this structural increase, the topcoat would be bonded to remediate any construction traffic damage. Exhibits and an explanatory Memo have been included in the Commission’s packet this evening which provide further clarification regarding these proposed changes. Staff are seeking the Commission’s approval in reference to these proposed changes so that the Sussex County Engineering Department may amend the construction documents accordingly. The property is located on the south and east sides of Townsend Road (S.C.R. 303), approximately 750-ft south of Harmons Hill Road (S.C.R. 302). Tax Parcels: 234-16.00-21.03, 21.07, 23.01, and 234-16.00-1509.00 through 1697.00. Zoning District: AR-1 (Agricultural Residential District).

Motion by Ms. Wingate, seconded by Mr. Mears and carried unanimously to approve the Revised Subdivision Plan. Motion carried 5-0.

Brasure Carpet Care

Revised Preliminary & Final Site Plan

This is a Revised Preliminary and Final Site Plan for the construction of a proposed 8,000 square foot +/- storage building and other site improvements. No additional parking is proposed, nor is it required. The Revised Preliminary and Final Site Plan complies with the Sussex County Zoning Code. The

property is located on the northwest side of Lighthouse Road (Route 54). Zoning: C-1 (General Commercial District) & C-2 (Medium Commercial District). Tax Parcel: 533-19.00-13.02. Staff are in receipt of all agency approvals.

Motion by Ms. Wingate, seconded by Mr. Collins and carried unanimously to approve the Revised Preliminary and Final Site Plan. Motion carried 5-0.

Lands of Hasnian Farm, LLC

Minor Subdivision Plan off a 50-ft Easement

This is a Minor Subdivision Plan for the creation of three (3) lots plus residual lands. Proposed Lot 1 will consist of 0.774-acre +/-, Proposed Lot 2 will consist of 1.454-acres +/-, Proposed Lot 3 will consist of 0.774-acre +/-, and the Residual Lands will contain 25.311-acres +/- . The parcels are located on the east side of Jones Church Road (S.C.R. 423). Lot 3 and the residual lands are to be served by a fifty (50) foot wide ingress/egress easement with a shared maintenance agreement. The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Zoning: AR-1 (Agricultural Residential District). Tax Parcel: 333-10.0-2001. Staff are awaiting agency approvals. Should the Commission desire to act favorably on this proposal, staff are requesting final approvals to be made subject to staff upon the receipt of all agency approvals.

Motion by Mr. Butler, seconded by Ms. Wingate and carried unanimously to approve the Minor Subdivision Plan off a 50 ft. easement as a preliminary, with final approval to be provided by the staff subject to the receipt of all other agency approvals. Motion carried 5-0.

OLD BUSINESS

ORD 23-05

AN ORDINANCE TO DELETE CHAPTER 115, ARTICLE XVII VACATION RETIREMENT-RESIDENTIAL PARK DISTRICT SECTIONS 115-132 THROUGH 115-140 IN ITS ENTIRETY AND TO INSERT ARTICLE XVII MASTER PLAN ZONE, SECTIONS 115-132 THROUGH 115-140 IN ITS PLACE.

The Commission discussed the Ordinance Application, which had been deferred since September 14, 2023.

Mr. Collins moved that the Commission recommend approval of the Ordinance to create a new Master Plan Zoning District (or MPZ) in Sussex County based upon the record made during the public hearing and for the following reasons:

1. There has been discussion about the need for better master planning in Sussex County for decades. The Council, the Commission, the Office of State Planning Coordination, and the public have all talked positively about creating a method for master planning in Sussex County.
2. The 2019 Sussex County Comprehensive Plan's Future Land Use Element states that "the Plan seeks to encourage the County's most concentrated forms of new development to Growth Areas, including most higher density residential development and most commercial development" and development designed in accordance with this Master Plan Community Zone can be in accordance with this encouragement.
3. The Office of State Planning Coordination reviewed and favorably commented upon the creation of an MPZ and offered several constructive comments about it.

4. Several Sussex County land use practitioners reviewed the MPZ ordinance as introduced and commented favorably upon it while also providing constructive comments about how to improve it.
5. The MPZ will be a useful tool for large-scale development in Sussex County. It will allow appropriate design flexibility while protecting the nearby residents and properties. At the same time, it establishes a new review process that is beneficial to landowners and applicants, the public, and the county.
6. The MPZ will allow the integrated and interconnected development of larger parcels of land where appropriate, instead of individual, isolated, and unrelated developments over the same land area.
7. Although the MPZ Ordinance states that it will be limited to Growth Areas, including the Coastal Area, Developing Area, Town Center Area, and Commercial Area as designated in the Comprehensive Plan and its Future Land Use Map, County Council should consider opening up the MPZ to all parts of the County. It is intended to allow larger scale, yet self-contained development including all kinds of residential uses, retail and commercial uses, and institutional uses. It is intended to allow developments that are therefore large enough to be potentially served by their own utilities, and also of a scale sufficient to be able to support off-site infrastructure improvements necessary for the MPZ. Therefore, County Council should consider opening up the MPZ to all of the County, not just the Growth Areas designated on the Future Land Use Map.
8. There was testimony suggesting that the MPZ should continue to have an affordable housing component, but it should not specifically be tied to the County's SCRIP program established by Chapter 72 of the Sussex County Code. The rationale for this suggestion was that the SCRIP program has only recently been substantially amended and at this point, there is only one SCRIP development that has actually been built. Therefore, until the SCRIP program is a proven and workable method of providing affordable housing, it should not be a requirement of the MPZ. Instead, Lines 221-222 of the Ordinance should be modified to state: *(i) There shall be a substantial affordable housing component of the MPZ that shall be described in detail in the Master Manual. The goal of this affordable housing component shall be to serve the "Intent" of the Sussex County MPHU and SCRIP programs as set forth in Sections 72-2 and 72-16 of Chapter 72 of the Sussex County Code.*
9. After the Ordinance is adopted, Sussex County should continue to coordinate with DelDOT in the form of an MOU or similar understanding so that: (i) there is a one-time or master DelDOT approval versus multiple entrance approvals once the initial main internal roadway is constructed and turned over to DelDOT; and (ii) there is one-time bonding for all DelDOT roadway improvements.
10. This recommendation is subject to the following suggested revisions to the MPZ Ordinance:
 - A. Council should consider amending the Ordinance as needed to permit an MPZ to be located throughout the County and not just in the Growth Areas. However, it should also be clear that if an MPZ is proposed for an area outside of a Growth Area, it can and will be served by adequate on or off-site utilities, that are scaled to be able to accommodate and pay for any infrastructure, services or improvements required by the State and County.
 - B. If the MPZ is not expanded beyond the Growth Areas, then **Line 202 (Eligibility Requirements)** should be amended to reference the Coastal Area, Developing Area, Town Center Area, and Commercial Area to mirror the Whereas Clause listing these four Areas.
 - C. At **Line 192 (Spatial Distribution Plan)**: Clarify that in addition to higher densities, the commercial areas/intensive uses should be centrally located and/or along main roadways consistent with higher-density residential uses.

- D. At **Line 209-210 (Eligibility Requirements)**: the reference to “existing or planned arterial or collector road” (which are not defined in the Zoning Code) should be changed to “Major Arterial Roadways or “Collector Street” which are defined in Chapter 99.
- E. At **Line 223 (Design and Development Principles and Standards)**: add a new “Item 11” stating that all collector or primary roads (or similar term) within the MPZ must be constructed to DelDOT standards and State-maintained (or move/copy this requirement from existing language at line 317-322) and also state that all other roads within the MPZ are dedicated to public use and must remain open and accessible to the public at all times.
- F. At **Line 279-283 (Service Alleys)**: delete the reference to service alleys.
- G. At **Line 304 (Neighborhood Commercial Area), Line 352-356 (Professional Office, Medical and Financial Area), and Line 386-390 (Civic Area)**: Allow these Areas to have frontage on existing DelDOT rights of way and not just an “internal main street”.
- H. At **Line 304 (Neighborhood Commercial Area, parking design requirements); Line 358-362 (Professional Office, Medical and Financial Area parking design requirements); and Line 392-396 (Civic Area parking design requirements)**: Reword this section so that it states, “The [Neighborhood Commercial Area. Etc.] shall be designed so that off-street parking is screened from rights of ways and non-commercial uses so that buildings and landscaped areas are more visible than large off-street parking lots. This can be accomplished through landscaping, location of parking areas in relation to roads and buildings, etc.”
- I. At **Line 330 (Neighborhood Commercial Area Service Drives); Line 364 (Professional Office, Medical and Financial Area Service Drives); and Line 398 (Civic Area Service Drives)**: Revise these lines so that they state, “Whenever possible, service drives shall be designed and utilized for loading and trash collection.”
- J. At **Line 336-339 (Neighborhood Commercial Area Drive-Through Prohibition)**: Delete the drive-through prohibition.
- K. At **Line 448 (Regarding the Master Manual)**: Delete the reference to “Master Transportation Plan approved by DelDOT” (which is not an actual DelDOT document) and replace it with “Traffic Impact Study for the MPZ approved by DelDOT”.
- L. At **Line 466-471 (Master Manual, Buildings)**: Delete the reference to specific architectural details at lines 469-470 since they are likely to change throughout the multi-year build-out of an MPZ.
- M. At **Line 489-491 (Master Manual, Lighting Design)**: Delete the reference to “and design of the lighting fixtures, globes” since those will change over time.
- N. Modify Lines 221-222 of the Ordinance to state: *(i) There shall be a substantial affordable housing component of the MPZ that shall be described in detail in the Master Manual. The goal of this affordable housing component shall be to serve the “Intent” of the Sussex County MPHU and SCRIP programs as set forth in Sections 72-2 and 72-16 of Chapter 72 of the Sussex County Code.*

Motion by Mr. Collins, seconded by Ms. Wingate and carried unanimously to recommend approval of ORD 23-05 for Master Planning District for the reasons and the conditions stated in the motion. Motion carried 5-0.

Vote by roll call: Ms. Wingate – yea, Mr. Mears – yea, Mr. Collins – yea, Mr. Butler – yea, Chairman Wheatley - yea

C/U 2381 Consolidated Edison Development, Inc.

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. The properties are 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.

The Commission discussed the Application which had been deferred since September 28, 2023.

Ms. Wingate moved that the Commission recommend approval of C/U 2381 Consolidated Edison Development, Inc. for a solar farm in the AR-1 District based on the record made during the public hearing and for the following reasons:

1. The proposed facility is a public utility use under the Sussex County Zoning Code, and it meets the purposes of a Conditional Use because it has a public or semi-public character that is essential and desirable for the general convenience and welfare of Sussex County residents.
2. This is an adaptive use of farmland that will preserve it from more intensive development. The solar array will be located on approximately 25.8 acres of a larger 43.27-acre tract.
3. The proposed facility promotes Goal 7.3 of the Sussex County Comprehensive Plan which encourages the use of renewable energy options such as solar arrays. This solar array will benefit residential, business, and municipal subscribers with lower power costs.
4. This Application was submitted prior to the adoption of Ordinance No. 2920 regarding solar arrays. However, with the conditions imposed as part of these recommendations, it complies with many parts of that Ordinance.
5. The property is located along Route 9 and backs up to a railroad. The solar array is set back several hundred feet from the boundary with Route 9. It is in an area where other farmland and businesses exist. With the conditions imposed in this recommendation, the proposed use will not have any adverse impact on area properties.
6. The proposed solar generation facility will not result in any noticeable increase in traffic on area roadways. There are no regular employees at the site, only periodic visits for inspections, maintenance, or repair of the solar panels.
7. The Applicant has included a Decommissioning Plan in the record for when their solar array is no longer in use.
8. Based on the record there is no significant noise, glare, dust, or odor that will be generated by the facility.
9. There will be a buffer of planted vegetation along the boundary of the solar array area facing Route 9 and at the rear of the adjacent properties that front along Route 9 as well as the eastern boundary of the array area to screen it from view.
10. The proposed use provides a renewable energy source that is a benefit to the residents and businesses of Sussex County.
11. There was no opposition to this Application.

12. This recommendation is subject to the following conditions:

- A. The use shall be for ground-mounted solar arrays. No other types of electric generation shall be permitted at the site.
- B. The Final Site Plan shall clearly show the limits of the Conditional Use area for this solar array as well as the remaining acreage that is not part of this Conditional Use.
- C. Any lighting on the facility shall only consist of perimeter lighting needed for security purposes. Any lighting shall be downward screened so that it does not shine on neighboring properties or roadways.
- D. One unlit sign, not to exceed 32 square feet in size, shall be permitted. The sign shall identify the operator of the solar farm and shall provide contact information in case of emergency.
- E. The site shall be secured by gated fencing with interwoven screening and a “Knox Box” or similar device to accommodate emergency access by the local fire company or other emergency responders. The fence line and type of screening shall be shown on the Final Site Plan.
- F. The location of all transformers or similar equipment or structures shall be along the railroad right of way as shown on the Final Site Plan.
- G. The entire site, including the area outside the fence, shall be maintained so that it does not become overgrown.
- H. Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with all applicable State and County requirements. These facilities shall be operated using Best Management Practices.
- I. There shall be a 30-foot-wide buffer of planted vegetation along the boundary of the solar array facing Route 9 and at the rear of the adjacent properties facing Route 9 as well as the eastern boundary of this site. These areas shall be clearly shown on the Final Site Plan. The Final Site Plan shall include a landscape plan showing the proposed tree and shrub landscape design in the buffer area.
- J. The Final Site Plan shall include a Decommissioning Plan that includes a financial security to ensure that funds are available for decommissioning and removal of the solar farm in its entirety throughout the life of the Conditional Use.
- K. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.

Motion by Ms. Wingate, seconded by Mr. Mears and carried unanimously to recommend approval for C/U 2381 Consolidated Edison Development, Inc. for the reasons and conditions stated in the motion. Motion carried 5-0.

Vote by roll call: Ms. Wingate – yea, Mr. Mears – yea, Mr. Collins – yea, Mr. Butler – yea, Chairman Wheatley – yea.

C/U 2382 Consolidated Edison Development, Inc.

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. The property is 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.

The Commission discussed the Application which has been deferred since September 28, 2023.

Ms. Wingate moved that the Commission recommend approval of C/U 2382 Consolidated Edison Development, Inc. for a solar farm in the AR-District and GR-District based on the record made during the public hearing and for the following reasons:

1. The proposed facility is a public utility use under the Sussex County Zoning Code, and it meets the purposes of a Conditional Use because it has a public or semi-public character that is essential and desirable for the general convenience and welfare of Sussex County residents.
2. This is an adaptive use of farmland that will preserve it from more intensive development. The solar array will be located on approximately 21.6 acres of a larger 37.04-acre tract.
3. The proposed facility promotes Goal 7.3 of the Sussex County Comprehensive Plan which encourages the use of renewable energy options such as solar arrays. This solar array will benefit residential, business, and municipal subscribers with lower power costs.
4. This Application was submitted prior to the adoption of Ordinance No. 2920 regarding solar arrays. However, with the recommended conditions it complies with many parts of that Ordinance.
5. With the conditions imposed in this recommendation, the proposed use will not have any adverse impact on the neighborhood.
6. The proposed solar generation facility will not result in any noticeable increase in traffic on area roadways. There are no regular employees at the site, only periodic visits for inspections, maintenance, or repair of the solar panels.
7. The array area is set back from Kendale Road by more than 200 feet. Also, the solar array is largely in the open areas of this property, and it is largely surrounded by existing forest.
8. The Applicant has included a Decommissioning Plan in the record for when their solar array is no longer in use.
9. Based on the record there is no significant noise, glare, dust, or odor that will be generated by the facility.
10. The proposed use provides a renewable energy source that is a benefit to the residents and businesses of Sussex County.
11. There was no opposition to this Application.
12. This recommendation is subject to the following conditions:
 - A. The use shall be for ground-mounted solar arrays. No other types of electric generation shall be permitted at the site.
 - B. The Final Site Plan shall clearly show the limits of the Conditional Use area for this solar array as well as the remaining acreage that is not part of this Conditional Use and the undisturbed forested areas.
 - C. Any lighting on the facility shall only consist of perimeter lighting needed for security purposes. Any lighting shall be downward screened so that it does not shine on neighboring properties or roadways.
 - D. One unlit sign, not to exceed 32 square feet in size, shall be permitted. The sign shall identify the operator of the solar farm and shall provide contact information in case of emergency.

- E. The site shall be secured by gated fencing with interwoven screening and a “Knox Box” or similar device to accommodate emergency access by the local fire company or other emergency responders. The fence line and type of screening shall be shown on the Final Site Plan.
- F. The location of all transformers or similar equipment or structures shall be shown on the Final Site Plan.
- G. The entire site, including the area outside the fence, shall be maintained so that it does not become overgrown.
- H. Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with all applicable State and County requirements. These facilities shall be operated using Best Management Practices.
- I. The Final Site Plan shall include a Decommissioning Plan that includes a financial security to ensure that funds are available for decommissioning and removal of the solar farm in its entirety throughout the life of the Conditional Use.
- J. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.

Motion by Ms. Wingate, seconded by Mr. Mears and carried unanimously to recommend approval for C/U 2382 Consolidated Edison Development, Inc. for the reasons and conditions stated in the motion. Motion carried 5-0.

Vote by roll call: Ms. Wingate – yea, Mr. Mears – yea, Mr. Collins – yea, Mr. Butler – yea, Chairman Wheatley – yea.

C/U 2383 Consolidated Edison Development, Inc.

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. The property is 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).

The Commission discussed the Application which had been deferred since September 28, 2023.

Ms. Wingate moved that the Commission recommend approval of C/U 2383 Consolidated Edison Development, Inc. for a solar farm in the AR-1 District based on the record made during the public hearing and for the following reasons:

1. The proposed facility is a public utility use under the Sussex County Zoning Code, and it meets the purposes of a Conditional Use because it has a public or semi-public character that is essential and desirable for the general convenience and welfare of Sussex County residents.
2. This is an adaptive use of farmland that will preserve it from more intensive development. The solar array will be located on approximately 30.1 acres of a larger 143.09-acre tract.
3. The proposed facility promotes Goal 7.3 of the Sussex County Comprehensive Plan which encourages the use of renewable energy options such as solar arrays. This solar array will benefit residential, business, and municipal subscribers with lower power costs.

4. This Application was submitted prior to the adoption of Ordinance No. 2920 regarding solar arrays. However, with the recommended conditions it complies with many parts of that Ordinance.
5. The proposed solar array is located on an underperforming part of the property owners' farm. The soils in this location are very sandy and nearly impossible to irrigate. This use will keep the property in the farming and preserve it from more intensive development.
6. With the conditions imposed in this recommendation, the proposed use will not have any adverse impact on the neighborhood. The solar array is also approximately 1,500 feet from the nearest roadway.
7. The proposed solar generation facility will not result in any noticeable increase in traffic on area roadways. There are no regular employees at the site, only periodic visits for inspections, maintenance, or repair of the solar panels.
8. The Applicant has included a Decommissioning Plan in the record for when their solar array is no longer in use.
9. Based on the record there is no significant noise, glare, dust, or odor that will be generated by the facility.
10. Because this solar array is within the property owners' larger agricultural landholdings and farming operations, no buffer is necessary.
11. The proposed use provides a renewable energy source that is a benefit to the residents and businesses of Sussex County.
12. There was no opposition to this Application.
13. This recommendation is subject to the following conditions:
 - A. The use shall be for ground-mounted solar arrays. No other types of electric generation shall be permitted at the site.
 - B. The Final Site Plan shall clearly show the limits of the Conditional Use area for this solar array as well as the remaining acreage that is not part of this Conditional Use.
 - C. Any lighting on the facility shall only consist of perimeter lighting needed for security purposes. Any lighting shall be downward screened so that it does not shine on neighboring properties or roadways.
 - D. One unlit sign, not to exceed 32 square feet in size, shall be permitted. The sign shall identify the operator of the solar farm and shall provide contact information in case of emergency.
 - E. The site shall be secured by gated fencing and a "Knox Box" or similar device to accommodate emergency access by the local fire company or other emergency responders. The fence line shall be shown on the Final Site Plan.
 - F. The location of all transformers or similar equipment or structures shall be shown on the Final Site Plan.
 - G. The entire site, including the area outside the fence, shall be maintained so that it does not become overgrown.
 - H. Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with all applicable State and County requirements. These facilities shall be operated using Best Management Practices.
 - I. The Final Site Plan shall include a Decommissioning Plan that includes a financial security to ensure that funds are available for decommissioning and removal of the solar farm in its entirety throughout the life of the Conditional Use.

- J. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.

Motion by Ms. Wingate, seconded by Mr. Mears and carried unanimously to recommend approval of C/U 2383 Consolidated Edison Development, Inc. for the reasons and conditions stated in the motion. Motion carried 5-0.

Vote by roll call: Ms. Wingate – yea, Mr. Mears – yea, Mr. Collins – yea, Mr. Butler – yea, Chairman Wheatley – yea.

C/U 2384 Consolidated Edison Development, Inc.

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. The 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).

The Commission discussed the Application which had been deferred since September 28, 2023.

Mr. Butler stated he was not present at the public hearing; however, he did listen online and was prepared to make a motion.

Mr. Robertson read Mr. Butler’s prepared motion into the record, per Mr. Butler’s request.

Mr. Butler moved that the Commission recommend approval of C/U 2384 Consolidated Edison Development, Inc. for a solar farm in the AR-1 District based on the record made during the public hearing and for the following reasons:

1. The proposed facility is a public utility use under the Sussex County Zoning Code, and it meets the purposes of a Conditional Use because it has a public or semi-public character that is essential and desirable for the general convenience and welfare of Sussex County residents.
2. This is an adaptive use of farmland that will preserve it from more intensive development. The solar array will be located on approximately 18.74 acres of a larger 74.96-acre tract.
3. The proposed facility promotes Goal 7.3 of the Sussex County Comprehensive Plan which encourages the use of renewable energy options such as solar arrays. There was testimony that this solar array would benefit residential, business, and municipal subscribers with lower power costs.
4. This Application was submitted prior to the adoption of Ordinance No. 2920 regarding solar arrays. However, with the recommended conditions it will comply with many parts of this Ordinance.
5. With the conditions imposed in this recommendation, the proposed use will not have any adverse impact on the neighborhood.
6. The property owners have stated that they owned this property for more than 70 years, farming it since 1973 and training racehorses. They are no longer training the horses, and this use will keep the land in the family and prevent it from being developed with a more intensive use.

7. The proposed solar generation facility will not result in any noticeable increase in traffic on area roadways. There are no regular employees at the site, only periodic visits for inspections, maintenance, or repair of the solar panels.
8. The Applicant has included a Decommissioning Plan in the record for when their solar array is no longer in use.
9. Based on the record there is no significant noise, glare, dust, or odor that will be generated by the facility.
10. There will be a buffer of planted vegetation along the northern boundary of this site to screen it from the view of the houses under construction on the adjacent property.
11. The proposed use provides a renewable energy source that is a benefit to the residents and businesses of Sussex County.
12. This recommendation is subject to the following conditions:
 - A. The use shall be for ground-mounted solar arrays. No other types of electric generation shall be permitted at the site.
 - B. The Final Site Plan shall clearly show the limits of the Conditional Use area for this solar array as well as the remaining acreage that is not part of this Conditional Use.
 - C. Any lighting on the facility shall only consist of perimeter lighting needed for security purposes. Any lighting shall be downward screened so that it does not shine on neighboring properties or roadways.
 - D. One unlit sign, not to exceed 32 square feet in size, shall be permitted. The sign shall identify the operator of the solar farm and shall provide contact information in case of emergency.
 - E. The site shall be secured by gated fencing with interwoven screening and a “Knox Box” or similar device to accommodate emergency access by the local fire company or other emergency responders. The fence line and type of screening shall be shown on the Final Site Plan.
 - F. All transformers or similar equipment or structures shall be centrally located within the solar array, and they shall be shown on the Final Site Plan.
 - G. The entire site, including the area outside the fence, shall be maintained so that it does not become overgrown.
 - H. Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with all applicable State and County requirements. These facilities shall be operated using Best Management Practices.
 - I. There shall be a 30-foot-wide buffer of planted vegetation along the northern boundary of this site. These areas shall be clearly shown on the Final Site Plan. The Final Site Plan shall include a landscape plan showing the proposed tree and shrub landscape design in the buffer area.
 - J. The Final Site Plan shall include a Decommissioning Plan that includes a financial security to ensure that funds are available for decommissioning and removal of the solar farm in its entirety throughout the life of the Conditional Use.
 - K. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.

Motion by Mr. Butler, seconded by Mr. Collins and carried unanimously to recommend approval of C/U 2384 Consolidated Edison Development, Inc. for the reasons and conditions stated in the motion. Motion carried 5-0.

Vote by roll call: Ms. Wingate – yea, Mr. Mears – yea, Mr. Collins – yea, Mr. Butler – yea, Chairman Wheatley – yea.

C/U 2385 Consolidated Edison Development, Inc.

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. The property is 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.

The Commission discussed the Application which had been deferred since September 28, 2023.

Ms. Wingate moved that the Commission recommend approval of C/U 2385 Consolidated Edison Development, Inc. for a solar farm in the GR-District based on the record made during the public hearing and for the following reasons:

1. The proposed facility is a public utility use under the Sussex County Zoning Code, and it meets the purposes of a Conditional Use because it has a public or semi-public character that is essential and desirable for the general convenience and welfare of Sussex County residents.
2. This is an adaptive use of farmland that will preserve it from more intensive development. The solar array will be located on approximately 17.45 acres of a larger 29.45-acre tract.
3. The proposed facility promotes Goal 7.3 of the Sussex County Comprehensive Plan which encourages the use of renewable energy options such as solar arrays. There was testimony that this solar array would benefit residential, business, and municipal subscribers with lower power costs.
4. This Application was submitted prior to the adoption of Ordinance No. 2920 regarding solar arrays. However, with the recommendations it will comply with many parts of that Ordinance.
5. The solar array area is set back from the nearest road, and with the conditions imposed in this recommendation, the proposed use will not have any adverse impact on the neighborhood.
6. The proposed solar generation facility will not result in any noticeable increase in traffic on area roadways. There are no regular employees at the site, only periodic visits for inspections, maintenance, or repair of the solar panels.
7. The Applicant has included a Decommissioning Plan in the record for when their solar array is no longer in use.
8. Based on the record there is no significant noise, glare, dust, or odor that will be generated by the facility.
9. There will be a buffer of planted vegetation along the southern boundary of this site along with the boundary between the array area and the adjacent Tax Map Parcel No. 532-19.00-58.00 where no vegetation currently exists to screen it from view.
10. The proposed use provides a renewable energy source that is a benefit to the residents and businesses of Sussex County.
11. There was no opposition to this Application.
12. This recommendation is subject to the following conditions:
 - A. The use shall be for ground-mounted solar arrays. No other types of electric generation shall be permitted at the site.

- B. The Final Site Plan shall clearly show the limits of the Conditional Use area for this solar array as well as the remaining acreage that is not part of this Conditional Use.
- C. Any lighting on the facility shall only consist of perimeter lighting needed for security purposes. Any lighting shall be downward screened so that it does not shine on neighboring properties or roadways.
- D. One unlit sign, not to exceed 32 square feet in size, shall be permitted. The sign shall identify the operator of the solar farm and shall provide contact information in case of emergency.
- E. The site shall be secured by gated fencing with interwoven screening and a “Knox Box” or similar device to accommodate emergency access by the local fire company or other emergency responders. The fence line and type of screening shall be shown on the Final Site Plan.
- F. The location of all transformers or similar equipment or structures shall be centrally located within the array area and shall be shown on the Final Site Plan.
- G. The entire site, including the area outside the fence, shall be maintained so that it does not become overgrown.
- H. Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with all applicable State and County requirements. These facilities shall be operated using Best Management Practices.
- I. There shall be a 30-foot-wide buffer of planted vegetation along the southern boundary of this array area along with the boundary between the array and the adjacent parcel #532-19.00-58.00 where no vegetation currently exists. These areas shall be clearly shown on the Final Site Plan. The Final Site Plan shall include a landscape plan showing the proposed tree and shrub landscape design in the buffer area.
- J. The Final Site Plan shall include a Decommissioning Plan that includes a financial security to ensure that funds are available for decommissioning and removal of the solar farm in its entirety throughout the life of the Conditional Use.
- K. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.

Motion by Ms. Wingate, seconded by Mr. Mears and carried unanimously to recommend approval of C/U 2385 Consolidated Edison Development, Inc. for the reasons and conditions stated in the motion. Motion carried 5-0.

Vote by roll call: Ms. Wingate – yea, Mr. Mears – yea, Mr. Collins – yea, Mr. Butler – yea, Chairman Wheatley – yea.

C/U 2386 Consolidated Edison Development, Inc.

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. The property is 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.

The Commission discussed the Application which had been deferred since September 28, 2023.

Ms. Wingate moved that the Commission recommend approval of C/U 2386 Consolidated Edison Development, Inc. for a solar farm in the GR-District based on the record made during the public hearing and for the following reasons:

1. The proposed facility is a public utility use under the Sussex County Zoning Code, and it meets the purposes of a Conditional Use because it has a public or semi-public character that is essential and desirable for the general convenience and welfare of Sussex County residents.
2. This is an adaptive use of farmland that will preserve it from more intensive development. The solar array will be located on approximately 23.35 acres of a larger 53.89-acre tract.
3. The proposed facility promotes Goal 7.3 of the Sussex County Comprehensive Plan which encourages the use of renewable energy options such as solar arrays. There was testimony that this solar array would benefit residential, business, and municipal subscribers with lower power costs.
4. This Application was submitted prior to the adoption of Ordinance No. 2920 regarding solar arrays. However, with the recommendations it will comply with many parts of the Ordinance.
5. The solar array is set back 350 feet from Bacons Road and another side of it is adjacent to a railroad. Most of the site is surrounded by woods. With the conditions imposed in this recommendation, the proposed use will not have any adverse impact on the neighborhood.
6. The proposed solar generation facility will not result in any noticeable increase in traffic on area roadways. There are no regular employees at the site, only periodic visits for inspections, maintenance, or repair of the solar panels.
7. The Applicant has included a Decommissioning Plan in the record for when their solar array is no longer in use.
8. Based on the record there is no significant noise, glare, dust, or odor that will be generated by the facility.
9. In addition to all of the existing vegetation, there will be a buffer of planted vegetation along the boundary of the array facing Bacons Road to screen it from view.
10. The proposed use provides a renewable energy source that is a benefit to the residents and businesses of Sussex County.
11. There was no opposition to this Application.
12. This recommendation is subject to the following conditions:
 - A. The use shall be for ground-mounted solar arrays. No other types of electric generation shall be permitted at the site.
 - B. The Final Site Plan shall clearly show the limits of the Conditional Use area for this solar array as well as the remaining acreage that is not part of this Conditional Use.
 - C. Any lighting on the facility shall only consist of perimeter lighting needed for security purposes. Any lighting shall be downward screened so that it does not shine on neighboring properties or roadways.
 - D. One unlit sign, not to exceed 32 square feet in size, shall be permitted. The sign shall identify the operator of the solar farm and shall provide contact information in case of emergency.
 - E. The site shall be secured by gated fencing and a "Knox Box" or similar device to accommodate emergency access by the local fire company or other emergency responders. The fencing shall include interwoven screening along the north and eastern sides of the array area. The fence line and type of screening shall be shown on the Final Site Plan.

- F. The location of all transformers or similar equipment or structures shall be shown on the Final Site Plan.
- G. The entire site, including the area outside the fence, shall be maintained so that it does not become overgrown.
- H. Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with all applicable State and County requirements. These facilities shall be operated using Best Management Practices.
- I. There shall be a 30-foot-wide buffer of planted vegetation along the northern and northeastern boundary of this site. These areas shall be clearly shown on the Final Site Plan. The Final Site Plan shall include a landscape plan showing the proposed tree and shrub landscape design in the buffer area.
- J. The Final Site Plan shall include a Decommissioning Plan that includes a financial security to ensure that funds are available for decommissioning and removal of the solar farm in its entirety throughout the life of the Conditional Use.
- K. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.

Motion by Ms. Wingate, seconded by Mr. Mears and carried unanimously to recommend approval of C/U 2386 Consolidated Edison Development, Inc. for the reasons and conditions stated in the motion. Motion carried 5-0.

Vote by roll call: Ms. Wingate – yea, Mr. Mears – yea, Mr. Collins – yea, Mr. Butler – yea, Chairman Wheatley – yea.

C/U 2387 Consolidated Edison Development, Inc.

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. The property is 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).

The Commission discussed the Application which had been deferred since September 28, 2023.

Ms. Wingate moved that the Commission recommend approval of C/U 2387 Consolidated Edison Development, Inc. for a solar farm in the GR-District based on the record made during the public hearing and for the following reasons:

1. The proposed facility is a public utility use under the Sussex County Zoning Code, and it meets the purposes of a Conditional Use because it has a public or semi-public character that is essential and desirable for the general convenience and welfare of Sussex County residents.
2. This is an adaptive use of farmland that will preserve it from more intensive development. The solar array will be located on approximately 16.94 acres of a larger 54.49-acre tract.
3. The proposed facility promotes Goal 7.3 of the Sussex County Comprehensive Plan which encourages the use of renewable energy options such as solar arrays. There was testimony that

this solar array would benefit residential, business, and municipal subscribers with lower power costs.

4. This Application was submitted prior to the adoption of Ordinance No. 2920 regarding solar arrays. However, the recommended conditions will make it comply with many parts of that Ordinance.
5. The solar array is located approximately 410 feet from the County Road. With the buffering and the conditions imposed in this recommendation, the proposed use will not have any adverse impact on the neighborhood.
6. The proposed solar generation facility will not result in any noticeable increase in traffic on area roadways. There are no regular employees at the site, only periodic visits for inspections, maintenance, or repair of the solar panels.
7. The Applicant has included a Decommissioning Plan in the record for when their solar farm is no longer in use.
8. Based on the record there is no significant noise, glare, dust, or odor that will be generated by the facility.
9. There will be a buffer of planted vegetation along the eastern, western, and southern boundaries of this site to screen it from the view of the neighboring residential properties.
10. The proposed use provides a renewable energy source that is a benefit to the residents and businesses of Sussex County.
11. This recommendation is subject to the following conditions:
 - A. The use shall be for ground-mounted solar arrays. No other types of electric generation shall be permitted at the site.
 - B. The Final Site Plan shall clearly show the limits of the Conditional Use area for this solar array as well as the remaining acreage that is not part of this Conditional Use.
 - C. Any lighting on the facility shall only consist of perimeter lighting needed for security purposes. Any lighting shall be downward screened so that it does not shine on neighboring properties or roadways.
 - D. One unlit sign, not to exceed 32 square feet in size, shall be permitted. The sign shall identify the operator of the solar farm and shall provide contact information in case of emergency.
 - E. The site shall be secured by gated fencing and a “Knox Box” or similar device to accommodate emergency access by the local fire company or other emergency responders. The fencing shall be installed inside of the vegetated buffer, and it shall include interwoven screening along the western and southern boundaries of the array area. The fence line and type of screening shall be shown on the Final Site Plan.
 - F. All transformers and similar equipment shall be centrally located within the array. The location of all transformers or similar equipment or structures shall be shown on the Final Site Plan.
 - G. The entire site, including the area outside the fence, shall be maintained so that it does not become overgrown.
 - H. Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with all applicable State and County requirements. These facilities shall be operated using Best Management Practices.
 - I. There shall be a 30-foot-wide buffer of planted vegetation along the eastern, western, and southern boundary of the array area. These areas shall be clearly shown on the Final Site

Plan. The Final Site Plan shall include a landscape plan showing the proposed tree and shrub landscape design in the buffer area.

- J. The Final Site Plan shall include a Decommissioning Plan that includes financial security to ensure that funds are available for decommissioning and removal of the solar farm in its entirety throughout the life of the Conditional Use.
- K. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.

Motion by Ms. Wingate, seconded by Mr. Mears and carried unanimously to recommend approval of C/U 2387 Consolidated Edison Development, Inc. for the reasons and conditions stated in the motion. Motion carried 5-0.

Vote by roll call: Ms. Wingate – yea, Mr. Mears – yea, Mr. Collins – yea, Mr. Butler – yea, Chairman Wheatley – yea.

PUBLIC HEARINGS

Mr. Robertson described the procedures for public hearings before the Planning and Zoning Commission.

The Commission took a two-minute recess.

Mr. Butler left the Council Chambers due to an unforeseen emergency.

Ms. Wingate recused herself from the next two public hearings and left Council Chambers.

Chairman Wheatley advised the Commission that the next two applications, C/U 2368 and C/Z 1984 for Carl M. Freeman Companies are in relation to the same property and the public hearings would be combined into one presentation. Chairman Wheatley stated the Commission would act on each application separately.

C/Z 1984 Carl M. Freeman Companies

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 9.20 ACRES, MORE OR LESS. The properties are lying on the north side of Lighthouse Road (Route 54), and the west side of Bennett Avenue, approximately 350 feet west of Madison Avenue. 911 Address: N/A. Tax Map Parcels: 533-20.00-22.00 & 20.00 (p/o).

Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's Change of Zone Plan, the Staff Analysis, the PLUS comments, the Applicant's Traffic Operational Analysis, the DelDOT Service Level Evaluation Response, the Planning & Zoning Commission Meeting Minutes of June 10, 2021, and July 8, 2021, and the Sussex County Council Meeting Minutes of July 27, 2021, and October 12, 2021. Mr. Whitehouse stated the Application had received 31 comments.

C/U 2368 Carl M. Freeman Companies

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLINGS (23 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE

HUNDRED, SUSSEX COUNTY, CONTAINING 9.20 ACRES, MORE OR LESS. The properties are lying on the north side of Lighthouse Road (Route 54), and the west side of Bennett Avenue, approximately 200 feet west of Deer Run Road (S.C.R. 388). 911 Address: N/A. Tax Map Parcels: 533-20.00-22.00 & 20.00 (p/o).

Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's Conceptual Site Plan, the Staff Analysis, a letter from the Sussex County Engineering Department, Utility Planning Division, the DelDOT Service Level Evaluation Response, the Applicant's Traffic Operational Analysis, the DelDOT response to the Traffic Operational Analysis, the PLUS comments, the Planning & Zoning Commission Meeting Minutes of June 10, 2021, and July 8, 2021, and the Sussex County Council Meeting Minutes of July 27, 2021, and October 12, 2021. Mr. Whitehouse advised the Commission that 48 comments had been received for the Application, however, some of the comments appeared to be duplicates.

The Commission found Mr. James Fuqua, Esq., with Fuqua, Willard & Schab, P.A., was present to represent the Applicant, Carl M. Freeman Companies; that also present was Mr. Josh Mastrangelo, the Sr. Vice President of Freeman Companies, Ms. Katja Kalinski and Mr. Steve Marsh with George, Miles & Buhr, LLC, and Mr. Edward Launay with Environmental Resources, Inc. Mr. Fuqua stated there was an exhibit booklet submitted for the record; that there are two land use applications before the Commission for the site; that one application is a Change of Zone requesting a zoning change from AR-1 (Agricultural Residential) to MR (Medium-Density Residential); that the second application is a Conditional Use request for 23 townhouse units; that the development is proposed to be called Channel Pointe Villas; that he will be addressing both applications within his one presentation. Mr. Fuqua stated that both Applications involve a 9.2-acre parcel, located on the north side of Rt. 54; that the site is adjacent to Bennett Ave., being located one mile west of Rt. 1 and Rt. 54 intersection; that the 9.2-acre parcel was historically involved with a 128 acre parcel, which was purchased by the Freeman Companies in March 2022; that the company previously had a contract to purchase the property; that in 2018 had applied for 70 single-family lot, cluster subdivision to be located on the majority of the site, which consisted of uplands and wetlands; that the previous application was designated as Subdivision 2018-18; that Preliminary Subdivision approval was granted in November 2018, with Final Subdivision approval being granted in February 2022; that the subject 9.2-acre property was not part of the previous 70 lot subdivision application; that in 2020, Freeman Companies applied for a Conditional Use for the 9.2 acre parcel for a 70 room hotel and a 8,500 sq. ft. restaurant; that the Planning & Zoning Commission held a public hearing in June 2021, and took action in July 2021; that only four Commissioners participated in the decision; that a motion was made to recommend denial of the application, which resulted in a two in-favor and a two-against vote; that due to this, the recommendation to deny failed, and no motion was made to recommend approval at that time; that Mr. James Sharp, Esq., the attorney representing the Planning & Zoning Commission for that hearing, indicated that the Application would proceed to County Council without a recommendation; that County Council held the application hearing in July 2021; that County Council action was taken in October 2021, which also resulted in a two in-favor and a two-against vote; that three votes are required for the approval of an application, and therefore the application was denied; that Mr. Mears made the initial recommendation to deny; that he believed the Commission and Council voted to deny based on the reasons that a hotel and restaurant are not a residential project, but more of a commercial enterprise in a predominantly residential area, the proposed use was too intense, being out of character, and therefore not compatible with the existing residential uses that largely surrounded the property; that the Applicant disagrees with those opinions; that based on the previously

made comments, the Applicant proposes the two subject Applications, which do not propose an intense commercial use, but a residential use which is in character and compatible with the residential uses that already exist in the area; that located to the south of the property, on the other side of Rt. 54, is the location of Edgewater Acres and Cape Windsor developments, which are composed of single-family lots, where the majority of the lots are located along man-made canals; that to the west of Cape Windsor is the Veranda Bay community, which is zoned MR (Medium-Density Residential), and was approved as Conditional Use, C/U 1523, in 2004 for 12 multi-family units; that Veranda Bay as a density of 4.8 units to the acre; that located on the west side of the site is a broad expansive open tidal and non-tidal wetlands, which stretches over .5 mile westward to the next development property, Treasure Beach RV Park & Campground; that located north and to the rear of the site is the location of the Channel Pointe subdivision; that located to the east of the site is a mixture of zoning and uses; that there are a couple single-family homes fronting onto Bennett Ave, on lots zoned as AR-1; that the northern portion of the remaining adjacent land is zoned M (Marine), which is currently developed with a marina and boat slips, the Catch 54 Fish House restaurant, and the multi-family townhouse development, Fenwick Landing; that Fenwick Landing is 26 townhomes, located on 1.49 acres of land, equaling a density of 17.4 units per acre; that the remaining portion of adjacent land, fronting along Rt. 54 and Bennett Ave., is zoned B-1 (Neighborhood Business) and is the location of an existing spa facility, the Papa Grande restaurant, and a large parking lot; that the Application site will be served central water by Artesian Water Company, who hold the CPCN for the site; that the site is located within Sussex County's West Fenwick Sanitary Sewer District; that Sussex County Engineering Department confirmed that there is adequate sewer capacity available for the development; that stormwater management facilities will be designed and constructed in compliance with DNREC regulations, and will be reviewed and approved by Sussex Conservation District; that the entire 128 acre property, including the 9.2 acre parcel, had a Wetland Delineation performed by Mr. Edward Launay of Environmental Resources, Inc.; that the delineation was reviewed by the U.S. Army Corp of Engineers, who issued a Jurisdictional Determination Letter; that the delineation found that the 9.2 acre site contained 3.88 acres of tidal wetlands and 4.2 acres of non-tidal wetlands; that all of the wetlands are located along the western side of the parcel; that the site design provides a minimum 50 ft. buffer from the tidal wetland line to the lot lines; that the tidal wetland buffer average is 72 ft., with a minimum of 50 ft.; that additionally there is a voluntary 20 ft. minimum buffer from the non-tidal wetland line, with an average width of 36 ft; that the applications were filed before the recent Resource Buffer Ordinance was adopted; that contrary to allegations made by some of the submitted public comment letters, no wetlands will be disturbed, filled, or encroached upon; that Environmental Resources, Inc. also confirmed with the U.S. Fish & Wildlife Service that there were no federally listed, threatened or endangered species or critical habitats found on the site; that per the FEMA Flood Zone Maps, the majority of the site, which is proposed to be developed, is located within Flood Zone X, being located outside of the 100 Year Floodplain; that historically, the site was used as an area to store fill when Rt. 54 was being rebuilt, which led to the site being at a higher grade than much of the surrounding area; that the western portion of the site being developed, being the area located adjacent to the wetlands, is located within Flood Zone AE; that any development within the Flood Zone AE area will comply with the construction elevations and other FEMA requirements, which are also requirements of the Sussex County Building Code; that DelDOT indicated that in accordance with DelDOT's Development Coordination Manual, the trips generated by a 23 townhouse development did not warrant a Traffic Impact Study (TIS); that DelDOT further indicated that they had already reviewed and commented on a Traffic Operational Analysis (TOA), which Freeman Companies had completed through their engineering consultant, Century Engineering, Inc.; that the TOA was

completed in relation to the 70 lot subdivision and the originally proposed hotel and restaurant, which was much more intensive in terms of traffic impacts; that the improvements recommended by the TOA, are the improvements which will be required by the Applicant for the subject Applications and the 70 lot subdivision, despite the significantly lessened impact of the proposed Applications; that the required improvement will include the realignment of Bennett Ave. to intersection with Rt. 54 on a right angle, and is located directly opposite Monroe Ave. on the south side of Rt. 54; that this improvement will create a more standard four-legged intersection; that the location of the realigned road will be constructed on land that is owned by the Applicant; that the Applicant will be dedicating that area to DelDOT; that the new intersection will have turn lanes and pedestrian, bike and transit improvements as recommended by DelDOT; that it will include a 10 ft. wide shared-use path along the Rt. 54 road frontage; that it will provide a pad site for a DART bus stop along Rt. 54; that as recommended by DelDOT's 2021 SR54 Corridor Study, the Applicant will be responsible for the installation of a traffic signal at the realigned Rt. 54, Bennett Ave, and Monroe Ave. intersection; that the development will have access from Bennett Ave. at a new traffic circle on Bennett Ave. at Madison Ave., and will also be the entrance to the approved subdivision; that there will be an interior drive, which will terminate at a cul-de-sac; that the 23 townhouse units will be located within four buildings; that the buildings will front along the internal drive, which will have sidewalks along both sides; that the 23 units proposed for the site is a density permitted by the MR Zoning District; that the density was determined by deducting the 3.8 acres of tidal wetlands from the 9.2 acre parcel size, which resulted in a net developable area of 5.32 acres, which supports the proposed 23 townhomes units; that the townhouse lots will be individually owned; that the townhomes will have sprinkler systems; that they will have three parking spaces for each unit, comprised of a one vehicle garage and two parking spaces in the driveway; that there will also be seven additional guest parking spaces located adjacent to a recreational amenity; that recreational amenities will consist of an outdoor swimming pool, a deck area, a bathhouse, and the central mailbox area; that they propose the recreational amenity area would be required to be completed by the issuance of 18th Certificate of Occupancy, equaling to the completion of the third building; that the stormwater management ponds are located along Bennett Ave. near the entrance and the development entrance along Rt. 54; that the development will be attractively landscaped with trees and other plantings along Bennett Ave., Rt. 54, along the northern boundary of the site, located adjacent to the subdivision and internally; that a detailed landscaping plan will be submitted as part of the Final Site Plan review; that not wetlands will be impacted by the site design; that to the western portion of the site there will be a minimum 50 ft. buffer from the tidal wetland and a minimum 20 ft. buffer from the non-tidal wetlands; that the townhouse lots and road right-of-way occupy approximately 2.34 acres of the site, resulting in 7.04 acres for the remainder of the site; that the remainder of the site will be open space comprised of the recreational amenity area, stormwater management areas, common areas, and wetlands; that there will be a Homeowners Association formed that will manage and maintain the common areas of the community; that the purposed of the MR Zoning District is to provide Medium-Density Residential development in areas which are expected to be urban in character and where public central sewer and water are available; that townhouses are an authorized Conditional Use within the MR District; that the surrounding area is largely developed; that central water and sewer are available to the site; that under the 2019 Comprehensive Land Use Plan, the Future Land Use Map designates the 9.2 acre parcel as being located within the Coastal Area, which is considered a Growth Area within the Comprehensive Plan; that the Plan states on Page 4-9 that it seeks to encourage the County's most concentrated forms of new development, including most higher density residential development in Growth Areas, such as the Coastal Area; that the Plan further states on Page 4-15 & 16, that a range of

housing types should be permitted within the Coastal Area, including single-family homes, townhouses and multi-family units; that the Plan also states that medium and higher density development of four to 12 units per acre can be appropriate in certain locations, where central water and sewer are available, near existing commercial uses and employment centers, where the use is in character of the area and located along main roads, and based on all the facts provided within the submitted exhibits and stated within the presentation, the Conditional Use and Change of Zone Applications are in accordance with the Comprehensive Plan, and are in character with the nature of the area. Mr. Fuqua requested to submit the proposed Findings and Conditions into the record.

Mr. Mears questioned how Bennett Ave. impacts the parking lot, located along Rt. 54, which is used by existing businesses, if there would be access to the parking lot from Bennett Ave., and when the traffic signal is anticipated to be constructed. Mr. Mears stated he would like to see additional parking provided, as multiple people could reside in one house when renting.

Mr. Fuqua stated there would be access to the realigned parking lot, which would come across lands owned by Freeman Companies, Inc., and that he believed there would be a private restriction against short-term rentals,

Mr. Josh Mastrangelo stated the traffic signal is part of a larger DeIDOT project along Rt. 54 to replace the bridges on both sides; that as a part of that project, they are coordinating with DeIDOT to avoid prolonged construction, and the timing of the traffic signal will largely be dictated by DeIDOT.

Mr. Collins stated the roads in the area tend to become flooded; that the road improvements will be beneficial, and he questioned if some of the development would be located within the flood plain, requiring the townhomes to obtain flood insurance.

Mr. Fuqua stated due to the historical use of the site, the site location is the highest-grade property in that location, which resulted in the majority of the development being located outside of the flood plain; that there is a small portion of the piece being development that is located within the flood zone, which will be required to comply with elevation requirements, and all of the surrounding areas are also under the same elevation requirements.

Mr. Mears stated there is a berm constructed on the property, and he questioned if development will be built on top of the berm.

Mr. Fuqua stated the site would be reconfigured by the engineers.

Ms. DeVore stated it was proposed that the amenities were to be completed by the issuance of the 18th Certificate of Occupancy, and she questioned the total number of building permits that would represent the project.

Mr. Fuqua stated he roughly estimated it to be 75 building permits; that with subdivisions, he would strive for 50%; that with the current application, it consists of four buildings, which would be constructed around the same time, and this requirement would ultimately be at the Commission's discretion.

Mr. Collins questioned if there would be a prohibition on rentals and/or seasonal rentals.

Mr. Fuqua stated that his previous statement was more of a personal statement; that Freeman Companies, Inc. would ultimately be developing a high-end, residential development to the rear of the site, with the proposed project to be a companion to the development, and he believed he would be fairly restricted

and Freeman Companies, Inc. is not looking for mass quantities of rentals.

The Commission found that no one wished to speak in support of the Application and one person wished to speak in opposition to the Application.

The Commission found that Mr. Brian Radcliffe spoke in opposition to the Application. Mr. Radcliffe spoke with concerns regarding the change from the initial intense commercial development to an intense residential development, not repeating the same zoning mistakes made in the past, the lack of infrastructure along Rt. 54 and Rt. 20, the lack of trees in the area, and the negative traffic impacts.

Upon there being no further questions, Chairman Wheatley closed the public hearings.

At the conclusion of the public hearings, the Commission discussed the Applications.

In relation to C/Z 1984 Carl M. Freeman Companies. Mr. Mears motioned to defer for further consideration, seconded by Mr. Collins and carried unanimously. Motion carried 3-0. Ms. Wingate abstained.

In relation to C/U 2368 Carl M. Freeman Companies. Mr. Mears motioned to defer for further consideration, seconded by Mr. Collins and carried unanimously. Motion carried 3-0. Ms. Wingate abstained.

Ms. Wingate returned to the Council Chambers.

ORD 23-09

AN ORDINANCE TO AMEND THE SUSSEX COUNTY SEWER TIER MAP OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCEL 533-11.00-23.02. The property is lying on the northeast side of Zion Church Road (Rt. 20), approximately 275 feet northwest of Deer Run Road (S.C.R. 388). 911 Address: N/A. Tax Map Parcel: 533-11.00-23.02. Zoning: AR-1 (Agricultural Residential).

Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's Concept Plan, a copy of the current Sewer Tier Map taken from the Comprehensive Plan, and a letter from the Sussex County Engineering Department. Mr. Whitehouse stated no public comment was received in relation to the Ordinance Application and stated PLUS comments had not been received, as it would not get sent to PLUS until it receives a recommendation from the Commission.

Mr. Robertson advised the Commission that typically, Mr. Hans Medlaz, Sussex County Engineer, performs the presentations for these types of Ordinance requests on behalf of the Sussex County Engineering Department, but unfortunately, he was unable to make the public hearing that evening; that historically, this type of Sewer Tier Map amendment would have been handled at the County Engineering level, but because it was placed within the Comprehensive Plan as a map, it is now required to come before the Planning & Zoning Commission, Sussex County Council, as well as PLUS. Mr. Robertson stated the request was to amend the Sewer Tier Map to bring the property into the appropriate Sewer Tier; that he did not want to diminish the role of the Commission, however, the particular request was strictly an engineering issue, and typically if the Engineering Department stated they were satisfied, the Commission and Council typically accept that approval.

The Commission found that Mr. David Hutt, Esq., with Morris James, LLP, spoke on behalf of the Ordinance Application. Mr. Hutt stated that currently the property is shown to be within a Sewer Tier 4 area, which is a “System Optional” area; that the current Application proposes a change to a Sewer Tier 2 area, which is a “Sussex County Planning Area”; that there was a previously approved Sewer Tier Map amendment, which was approved by County Council in June 2023, as Ordinance No. 2931; that this Ordinance was adopted for properties located on the western side of Zion Church Rd.; that it is an Engineering Department concern, however, it does involve Chapter 4, as it relates to areas within the Coastal Areas; that with Chapter 4 it states, that central sewer facilities are strongly encouraged within the Future Land Use Map designation of the Coastal Area; that the entire site is located within the Coastal Area, and with the approval provided in June 2023, this amendment request would simply fill in the location on the map.

Mr. Robertson stated the recommendation of the amendment to the Sewer Tier Map, will have no relation to the recommendation made for the following land use application for C/U 2389 AWH Properties, LLC, and the Ordinance would have not been introduced, had County Engineering not already signed off on it.

Mr. Whitehouse advised the Commission on the PLUS process for the Application.

The Commission found that no one wished to speak in support of or in opposition to the Ordinance Application.

At the conclusion of the public hearing, the Commission discussed the Application.

Mr. Robertson stated he had prepared a motion and read the prepared motion into the record per the Commission’s request.

Mr. Mears moved that the Commission recommend approval of ORD 23-09 to amend the Sussex County Sewer Tier Map of the Comprehensive Plan in relation to Tax Parcel 533-11.00-23.02, based on the recommendation from Sussex County Engineering, the coordination of Sussex County Engineering with the property owners, and the fact that this is an amendment to the Sewer Tier Map to reflect the sewer tiers on adjacent properties.

Motion by Mr. Mears, seconded by Ms. Wingate and carried unanimously to recommend approval of ORD 23-09 to amend the Sussex County Sewer Tier Map of the Comprehensive Plan in relation to Tax Parcel No. 533-11.00-23.02 for the reasons stated in the motion. Motion carried 4-0.

Vote by roll call: Ms. Wingate – yea, Mr. Mears – yea, Mr. Collins – yea, Chairman Wheatley – yea.

Chairman Wheatley stated the following public hearings, C/U 2389 AWH Properties, LLC and C/U 2392 Zion Church Ventures, LLC, would be combined into one presentation per the Applicant’s request.

C/U 2389 AWH Properties, LLC

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A COMMERCIAL STORAGE FACILITY INCLUDING RV/BOAT STORAGE, THE STORAGE OF COMMERCIAL VEHICLES, AND AN OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 6.95 ACRES, MORE OR LESS.

The property is lying on the northeast side of Zion Church Road (Rt. 20), approximately 275 feet northwest of Deer Run Road (S.C.R. 388). 911 Address: N/A. Tax Map Parcel: 533-11.00-23.02.

Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's Conceptual Site Plan, the Staff Analysis, the Applicant's Exhibit Booklet, a Jurisdiction Determination letter, a Soil Survey, the DelDOT Service Level Evaluation Response, and a letter received from the Sussex County Engineering Department - Utility Planning Division.

C/U 2392 Zion Church Ventures, LLC

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR STORAGE/WAREHOUSE BUILDINGS, A CAR WASH, & CLUBHOUSE WITH SWIMMING POOL TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 31.83 ACRES, MORE OR LESS. The properties are lying on the southwest side of Zion Church Road (Route 20), approximately 605 feet northwest of Deer Run Road (S.C.R. 388), and the north side of Deer Run Road (S.C.R. 388), approximately 159 feet southwest of Zion Church Road (Route 20). 911 Address: 36054 Zion Church Road, Frankford. Tax Map Parcel: 533-11.00-23.00, 23.03 & 23.04.

Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's Conceptual Site Plan, the Applicant's Exhibit Booklet, the Staff Analysis, the PLUS response, and the DelDOT Service Level Evaluation Response. Mr. Whitehouse stated zero comments had been received for the Application.

Mr. Whitehouse stated the original PLUS comments included in the record had been revised to correct a typo, and he submitted into the record the revised PLUS comments, which remain the same other than the correction of minor typographical errors.

The Commission found that Mr. David Hutt, Esq. with Morris James, LLP spoke on behalf of the owners and Applicants for C/U 2389 AWH Properties, LLC, and C/U 2392 Zion Church Ventures, LLC; that also present were Mr. Matt Williams and Mr. Brad Absher, Principals of both AWH Properties, LLC and Zion Church Ventures, LLC, and Mr. Jamie Sechler, P.E. with Davis Bowen & Friedel, Inc.

Mr. Hutt stated that the properties are located directly across from each other along Zion Church Rd.; that the property's ownership groups are the same, despite the different names of the entities; that the properties are located along Zion Church Rd. (Rt. 20), being a short distance north from Deer Run Rd; that C/U 2392 Zion Church Ventures, LLC would be the western project, and C/U 2389 AWH Properties, LLC would be the eastern project; that the Application for C/U 2389 AWH Properties, LLC is for RV, boat and self-storage, which is a permitted Conditional Use within the AR-1 (Agricultural Residential) District; that the proposed use for the western side, is a new form of self-storage; that this form of self-storage is a bit more elaborate, being where a person can buy an individual self-storage unit, that would be located within the proposed project area; that these projects are often referred to as a "Hobby Condo"; that within the surrounding area for both properties are Your Space Self Storage, European Coach Werkes, Inc., the recently approved GR-RPC known as Twin Cedars, and Hampton Park; that both properties are located within Investment Level 3, which is where the State anticipates growth in the near and long term future; that there is a portion of the western parcel, for C/U 2392 Zion Church Ventures, LLC, which is located within Investment Level 4, where the State does not anticipate growth; that the surrounding areas are generally located within Investment Levels 2 and 3; that in areas located within Investment Level 4 are areas where the State believes there may be wetlands; that neither of the Applications will involve public funds for their proposed uses; that these Applications will provide

a service for the existing residents in the area to store their belongings; that according to the 2045 Future Land Use Map found in Sussex County's Comprehensive Plan both properties are located within the Coastal Area, which is a Growth Area; that properties located to the west of the sites are located within the Developing Area, which is also a Growth Area; that the permitted uses within the Coastal Area and the Developing Area are very similar; that mixed-use development is encouraged in those areas, to help provide convenient services that allow people to work close to home; that the Applications propose a mixed use for the area, to provide a service for individuals who live in communities or cluster subdivisions where they are not permitted to have an RV, boat or multiple vehicles; that these Applications will provide people a location to be able to do so; that he felt, this makes the proposed uses very consistent with the Comprehensive Plan; that both properties are located with the AR-1 (Agricultural Residential) Zoning District; that there are a variety of zoning classifications along Zion Church Rd. consisting of C-1 (General Commercial), B-1 (Neighborhood Business), CR-1 (Commercial Residential), GR (General Residential) and HR-1 (High Density Residential); that Mr. Hutt shared a visualization of all the subdivisions located within a five mile radius of the properties, which reflected a large number of existing subdivisions within the surrounding area of the sites; that the surrounding area is a highly residential area of Sussex County, making the proposed uses a need for the area; that the objective for both Application's is to provide a location in the proximity to all the various subdivisions for those uses; that on the eastern side, for C/U 2389 AWH Properties, LLC, the primary use is for boat and RV storage, which would be stored outside; that on the western side, for C/U 2392 Zion Church Ventures, LLC, the proposed units would provide indoor, climate controlled storage space, where work could be performed, or vehicles could be washed; that the style of the two self-storage units is the biggest difference between the two Applications; that neither property is located within a flood plain, as they are both located within the Flood Zone X area; that Artesian Water Company holds the CPCN for both properties; that they have acquired a Willing & Able letter for C/U 2389 AWH Properties, LLC, however, they had not yet received the Willing & Able letter for C/U 2392 Zion Church Ventures, LLC; that both properties were right on the edge of the Sewer Tier Map; that in June 2023, through Ordinance No. 2931, the western property was brought into the Sewer Tier 2; that Ord 23-09 proposes to do the same on the eastern property; that there are no rare, threatened or endangered species likely to be located on either property; that there was a report from Watershed Eco submitted into both exhibit books; that there are no known archaeological sites or national registered, listed or eligible properties located on either site and there are no Wellhead Protection Areas or Excellent Water Recharge areas on either site.

Mr. Hutt stated that C/U 2389 AWH Properties, LLC, being the eastern property, was the subject site of the previously heard application for ORD 23-09; that this location is for the proposed use of boat and RV storage; that there would be a 2,500 sq. ft. self-storage building located to the northern end of the property; that there would be a 576 sq. ft. office located just in front of the self-storage building; that the entrance would be located off Zion Church Rd., which will align with the entrance to the western property; that one unlit sign is requested to be placed along Zion Church Rd., not to exceed 32 sq. ft.; that any security lighting would be downward screened, as to not shine onto Zion Church Rd. or onto neighboring properties; that the site was evaluated by Watershed Eco for the presence of wetlands; that a report, as well as, a Preliminary Jurisdictional Determination have been included within the project materials; that there was a recent Supreme Court decision, which reclassified wetlands and the definition of wetlands nationally; that there are two ditches that run along the boundaries of the property with a 50 ft. tax ditch right of way; that they had discussions with Mr. James McCulley and Mr. William Twupack, with Watershed Eco, who indicated the wetlands located to the rear of the property, may continue to be classified as wetlands as they have intermittent connections to the tax ditches; that there is a 25 ft. buffer proposed from the wetlands; that the Application does pre-date the adoption of the Resource Protection Buffer Ordinance; that per the DelDOT Service Level Evaluation Response, there would be a diminutive

impact on traffic, which is the lowest impact a project could have, with less than 50 vehicle trips per day for the proposed use; that they have proposed a condition that no washing, cleaning or maintenance are permitted on the site and he requested to submit for the record proposed conditions and the Willing & Able letter for C/U 2389 AWH Properties, LLC at the end of his presentation.

Mr. Hutt stated that C/U 2392 Zion Church Ventures, LLC, being the western property, proposing 180,500 sq. ft. of warehouse or storage buildings; that reflected on the site plan are 19, 9,500 sq. ft. buildings, located to the rear of the property; that in addition to the proposed climate-controlled buildings, there is a proposed 2,500 sq. ft. building for a car wash, with a potential additional amenity of a clubhouse, pool and patio area, to be located just off Zion Church Rd.; that the additional amenities are optional; that the individual units are anticipated to be much like a “Man Cave; that a person would purchase a unit; that the person would then have, through that purchase, access to the car wash and amenities; that the frequent users of these types of units are people with hobbies, who desire to have their hobbies located within a climate controlled environment; that these are typically people who wish to store motorcycles, sports cars, classic cars, RVs, boats and other hobby type items; that many people who have these types of hobbies, also enjoy tinkering with those hobby items; that this proposed use will allow people to do that; that these units would allow people to work on their hobby items, and be around others who may share the same hobby interests; that this is the reasoning for the potential clubhouse, to allow for people a place to meet to discuss their similar hobbies; that the car wash amenity would not be an optional amenity and is absolutely proposed; that the car wash area would be an area for those who are a part of the condominium association to wash their vehicles; that to allow people the ability to work on their vehicles, there would be an oil recycling facility located on the site; that all work would be performed indoors; that each unit would have a regular sized door, as well as a large garage door; that because it is a condominium unit, there would be flexibility for personalization to the interior of the unit; that the entrance would be located off Zion Church Rd.; that Mr. Jamie Sechler did participate in a pre-submittal meeting with DelDOT for both properties; that there would be a fence around the entirety of the property, with a gated entrance; that a request for one unlit sign, not exceeding 32 sq. ft., would be located on Zion Church Rd.; that any security lighting would be downward screened, as to not shine onto neighboring properties or Zion Church Rd. or Deer Run Rd.; that the site was evaluated by Watershed Eco for the presence of wetlands; that a report, as well as, a Preliminary Jurisdictional Determination have been included within the project materials; that the wetland areas on the site do not have any connections, and are likely no longer regulated or jurisdictional wetlands; that this is still a determination which needs to be made; that in the case those areas are considered wetlands, a 25 ft. buffer is proposed from those areas; that in addition, there are two locations where there would be an impact to the wetlands; that per consultation with Watershed Eco, the indicated that a nationwide permit to fill the two locations, because they are less than .5 acre, would be readily available; that within the pre-submittal meetings with DelDOT the western entrance from Zion Church Rd. was required, and therefore would offer no other way to access the bulk of the property without crossing what may, or may not, be wetlands according to the Supreme Court; that according to the DelDOT Service Level Evaluation Response, the proposed use would have a negligible impact on traffic, indicating that the anticipated traffic would be less than 50 vehicles per hour and less than 500 vehicle trips per day; that he requested to submit the proposed findings and conditions for C/U 2392 Zion Church Ventures, LLC; that proposed Condition O states, *any wetlands will be delineated on the Final Site Plan, which Plan should also show a 25 ft. buffer from those wetlands or a permit from the U.S. Army Corp of Engineers for mitigate in specific locations shown on the Final Site Plan*; that proposed Condition B states, *no unit or area within the property can be used for housing or overnight accommodations*; that proposed Condition C states, *that the business may only use the area for climate controlled storage*, and goes on to state the business cannot use the units for a manufacturing or industrial uses or to be used as a mail

center or mail drop off location; that business are welcome to use the units for their self-storage needs, however they would not be permitted to conduct their business from the site; that another proposed condition states that there would be no outdoor storage; that there would be an RV sewer cleanout on the site, which would be located near the oil recycling area; that these areas would be shown on the Final Site Plan, and the car wash amenity is certain; that the other amenities would be dependent on the market, but request a place holder on the plan to prevent the Applicant from having to return for a future Conditional Use.

Mr. Hutt stated both Applications are requesting a Conditional Use; that Conditional Uses are uses that are public or semi-public in character, for the convenience and welfare of area residents, and to promote the orderly general convenience, orderly growth, and prosperity of the County; that the Commission will get to place conditions on any approval they provide for the Applications and with the specific proposed conditions, they feel both Applications will provide a valuable service to individuals who live within the area.

Mr. Mears questioned if the office would be for the use of the business or anticipated to be rented to another business, if the car wash and pool were for the exclusive use of the unit owners, and mentioned there may need to be a condition for quiet time, as there is potential for hot rods and motorcycles.

Mr. Hutt stated the office is intended to be used for the business; that it would be located outside of the gated fence as a place to sign up to purchase one of the units; that he confirmed that the car wash and pool would be only for the use of the condominium owners, and he believed the quiet time would be handled by the condominium restrictions and regulations.

Ms. Wingate questioned what the reasoning was for the proposed clubhouse and pool; that the types of people who would be drawn to use the storage units, typically already have a clubhouse and pool within their own community; that she questioned who will ensure that no one resides in any of the units, and she stated a lot of communities are beginning to offer storage facilities.

Mr. Hutt stated the Condominium Association would monitor and regulate through the monitored access gate; that the Association would be able to distinguish if a person has entered but has not left; that much like a residential condominium, there would be the management of the facilities and property as well; that the proposed clubhouse and pool are optional amenities; that he felt these amenities are offered for owners who would like to have access to those amenities, while not being home; that other option would be the unit owner may drop their significant other and/or children off at the pool while they work on their hobby in the unit, and the amenities offer owners a place to meet and socialize over common hobbies.

The Commission found that no one wished to speak in support of the Applications, and two people spoke with questions regarding the Applications.

Mr. James Frey questioned the Application. Mr. Frey questioned how a condominium could be associated with boat and RV storage and if each unit would have individual water and sewer service.

Mr. John Frey questioned the Application. Mr. Frey questioned the need for the clubhouse and pool; that he was confused regarding the wetlands, he questioned if the property could become something bigger or different in the future and requested that there be fencing, or a buffer placed between the project and his property should the Application be approved.

Mr. Hutt stated water and sewer would be available to each unit.

Chairman Wheatley questioned if someone could place a full bathroom in a unit.

Mr. Hutt stated yes, a unit owner would be permitted to place a full bath in the unit if they desired, and the Applicant would have no objection to some type of landscape buffer or fencing being placed along those boundaries of concern.

Upon there being no further questions, Chairman Wheatley closed the public hearings.

At the conclusion of the public hearings, the Commission discussed the Applications.

In relation to C/U 2389 AWH Properties, LLC. Motion by Mr. Mears to defer for further consideration, seconded by Mr. Collins and carried unanimously. Motion carried 4-0.

In relation to C/U 2392 Zion Church Ventures, LLC. Motion by Mr. Mears to defer for further consideration, seconded by Ms. Wingate and carried unanimously. Motion carried 4-0.

Recess

5:59 pm – 6:29 pm

C/U 2448 TPE DE SU75, LLC

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 35-ACRE PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 75.62 ACRES, MORE OR LESS. The property is lying on the northeast side of Seashore Highway (Rt. 18 and S.C.R. 404), approximately 0.67 mile southeast of Sussex Highway (Rt. 13). 911 Address: N/A. Tax Map Parcel: 131-15.00-34.00 (p/o).

Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's Preliminary Site Plan, the property legal description, the DelDOT Service Level Evaluation Response, the Staff Analysis, and a letter from the Sussex County Engineering Department Utility Planning Division. Mr. Whitehouse stated the Application had received one letter of support and one mail return.

The Commission found that Mr. Jon Falkowski, Civil Engineer with Becker Morgan Group, Inc., spoke on behalf of the Applicant and that also present was Mr. Jordan Belknap, with Turning Point Energy. Mr. Falkowski stated the property is in Bridgeville, bound between Rifle Range Rd. and Rt. 404; that the site is accessed from an existing gravel road from Rt. 404; that the site consists of 75.62 acres; that the proposed Conditional Use area will be comprised of 35 acres; that the site is located within the AR-1 (Agricultural Residential) Zoning District, and is mostly used for agricultural purposes, and the proposed use is for a community solar facility, made up of four megawatt ground-mounted tracking system.

Mr. Jordan Belknap, Managing Director of Turning Point Energy, spoke on behalf of the Applicant. Mr. Belknap stated Turning Point Energy is an experience community solar developer, who is active in Delaware; that they believe their projects should create economic, environmental and community values; that they create economic value through their construction of community solar projects, which allow residents to sign up to participate in the project, helping them to save money on their electric bills; that

they create an environmental value by creating renewable energy solar facilities which replace more carbon intensive forms of electricity generation; that they create community value by making charitable contributions for every project constructed within the local communities; that in September 2022, Senate Bill 2 passed allowing solar facilities in Delaware; that they are a model to allow residents, businesses and municipalities to sign up, subscribed to the facility, to provide them a credit on their electric bill; that the project will allow residents to achieve the same savings, as those who have solar on their roof, without changing any of their infrastructure; that it additionally provides the opportunity to those residing in low-income housing, or in household that are not capable of placing solar on their home; that the subject project will create multiple benefits for the residents of Sussex County, not only by providing renewable energy, but by also providing construction and engineering jobs at the local level to construct the facilities; that the project will not create any long term increase in traffic; that there will be an initial construction period last a few months, but beyond that, it would only be occasional traffic for maintenance purposes; that the site and arrays are monitored remotely; that the local nature of the energy production eases the burden on the transmission system; that a pollinator friendly ground cover is planted underneath the facility; that this creates a habitat for birds and bees; that the facility is not a permanent development; that after the life cycle of the project, the site can be returned to its current use and the current land owners; that the project was designed in compliance with the recently adopted Solar Ordinance and they feel the project meets the objectives of Goal 7.3 of the Comprehensive Plan.

Mr. Jon Falkowski stated the arrays are proposed to be placed on 35 acres, located to the north of the site; that they are proposing a landscaping buffer be placed around the entire array, except for an opening for the gravel access road; that the array will have a perimeter fence surrounding the entire perimeter, with a gate and a Knox box for emergency personnel; that there will be a turn-around for fire apparatuses; that there are wetlands located in the corner, closest to the ditch; that the wetlands were delineated by Watershed Eco; that the wetland portion of the property is located within the AE Flood Zone; that the Conditional Use area is located outside of the wetland and AE Flood Zone areas; that the ditch and flood zone does come up to the area of existing road; that they will use the existing ditch crossing culverts to cross the ditch; that they will be upgrading the existing farm road to a 16 ft. wide gravel road to allow for emergency fire access; that the project will not produce any increased traffic; that there will only be one to two trucks per month; that the project does not produce any odor, dust, gas, smoke or fumes; that the project produces low to no noise from the power inverters; that the project will reduce stormwater runoff by providing the pollinator friendly ground cover and plantings, in which they are working with Sussex Conservation District to achieve; that they will be providing the 25 ft. landscape buffer screening with perimeter fencing; that a Decommissioning Plan will be provided for the project; that the facility is a public utility use under the Sussex County Zoning Code; that it meets the purposes of a Conditional Use in that it is a public or semi-public character, that is essential and desirable for the general convenience and welfare of Sussex County residents; that the facility promotes Goal 7.3 of the Sussex County Comprehensive Plan, which encourages the use of renewable energy options; that the proposed use will not have any adverse impact on the neighboring and adjacent properties, with the provided landscape buffers and perimeter fencing; that the facility will not result in any noticeable increase in traffic on adjacent and neighboring roadways; that there are no regular employees at the site, only periodic visits for inspections, maintenance, or repair of the solar panels; that there is no significant noise, dust, or odor generated by the use, and the project is compliant with Ordinance No. 2920, and complies with all buffer and setback requirements.

The Commission found that one person spoke in support of the Application, and no one spoke in opposition to the Application.

Ms. Pam Tull spoke in support of the Application; that also present with her was her husband, Mr. Jeff Tull. Ms. Tull stated she and her husband were gifted the property from her grandfather, Mr. Bill

Passwaters, who was a farmer; that they support the Application as a way to honor her grandfather and his family's legacy; that she and her husband desire to be good stewards of the land; that they did not make the decision lightly; that they believe their property is the perfect plot to give back as solar energy; that the proposed use honors the past, present and the future; that through the project they desire to give back to their grandchildren, their neighbors and their community; that they plan to till the remainder of the land, which will help the other farm families they rent to, and they feel the proposed project is a great way to give back.

Upon there being no further questions, Chairman Wheatley closed the public hearing.

At the conclusion of the public hearing, the Commission discussed the Application.

Mr. Collins moved that the Commission recommend approval of C/U 2448 TPE DE SU75, LLC for a solar farm in the AR-1 District based on the record made during the public hearing and for the following reasons:

1. The proposed facility is a public utility use under the Sussex County Zoning Code, and it meets the purposes of a Conditional Use because it has a public or semi-public character that is essential and desirable for the general convenience and welfare of Sussex County residents.
2. This is an adaptive use of farmland that will preserve it from more intensive development. The solar array will be located on approximately 35 acres of a larger 75.62-acre tract.
3. The proposed facility promotes Goal 7.3 of the Sussex County Comprehensive Plan which encourages the use of renewable energy options such as solar arrays. There was testimony that this solar array would benefit residential, business, and municipal subscribers with lower power costs.
4. This Application complies with Ordinance No. 2920 regarding solar arrays. Therefore, specific conditions regarding its operation and screening are not necessary.
5. The solar array is located in an area that primarily consists of tilled agricultural land. With the conditions imposed by the operation of Ordinance No. 2920 including separation distances and buffering, the proposed use will not have any adverse impact on the surrounding property.
6. The proposed solar generation facility will not result in any noticeable increase in traffic on area roadways. There are no regular employees at the site, only periodic visits for inspections, maintenance, or repair of the solar panels.
7. Based on the record there is no significant noise, glare, dust, or odor that will be generated by the facility.
8. The proposed use provides a renewable energy source that is a benefit to the residents and businesses of Sussex County.
9. There was no opposition to this Application.
10. This recommendation is subject to the following conditions set forth in Ordinance No. 2920 and the following additional conditions:
 - A. The use shall be for ground-mounted solar arrays. No other types of electric generation shall be permitted at the site.
 - B. The Final Site Plan shall clearly show the limits of the Conditional Use area for this solar array as well as the remaining acreage that is not part of this Conditional Use.

- C. Any lighting on the facility shall only consist of perimeter lighting needed for security purposes. Any lighting shall be downward screened so that it does not shine on neighboring properties or roadways.
- D. One unlit sign, not to exceed 32 square feet in size, shall be permitted. The sign shall identify the operator of the solar farm and shall provide contact information in case of emergency.
- E. The location of all transformers or similar equipment or structures shall be shown on the Final Site Plan.
- F. Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with all applicable State and County requirements. These facilities shall be operated using Best Management Practices.
- G. The Final Site Plan shall include a Decommissioning Plan that includes financial security to ensure that funds are available for decommissioning and removal of the solar farm in its entirety throughout the life of the Conditional Use.
- H. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.

Motion by Mr. Collins, seconded by Ms. Wingate and carried unanimously to recommend approval of C/U 2448 TPE DE SU75, LLC for the reasons and conditions stated in the motion. Motion carried 4-0.

Vote by roll call: Ms. Wingate – yea, Mr. Mears – yea, Mr. Collins – yea, Chairman Wheatley – yea.

C/U 2452 Community Lutheran Church

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO ALLOW FOR AN ON-PREMISES ELECTRONIC MESSAGE CENTER TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED AND BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 3.99 ACRES, MORE OR LESS. The property is lying on the southwest side of Armory Road (S.C.R. 382), and the north side of Omar Road (Rt. 54), at the intersection of Armory Road (S.C.R. 382) and Omar Road (Rt. 54). 911 Address: 30897 Omar Road, Frankford. Tax Map Parcel: 533-2.00-8.00.

Mr. Whitehouse advised the Commission that submitted into the record were the property deed, the DelDOT Service Level Evaluation Response, the Site Plan, Applicant photos, and a letter from the Sussex County Engineering Department Utility Planning Division. Mr. Whitehouse stated the Application had received zero comment letters and zero main returns.

The Commission found that Mr. Ed Evans, Vice President of the Church Council for Community Lutheran Church, spoke on behalf of the Application; that also present was Mr. Lynn Rogers, President of Rogers Sign Co., Inc. Mr. Evans stated their church is best known as being the church located at the blinking light of Armory Rd. and Omar Rd.; that the Application is requesting an upgrade to an already existing sign; that they are requesting to upgrade from clay tablets to new LED technology; that the current sign has existed for over two decades; that they do not wish to relocate the sign or change the size of the sign; that they are requesting to utilize the existing sign housing, upgrade the 36”x72” portion of the sign to an LED sign which will be mounted in the existing sign frame; that the existing sign frame is 36”x121”; that the current “Community Lutheran Church” portion of the sign will remain as is, and if the Application were approved, Rogers Sign Co., Inc. would perform the work.

The Commission found that no one wished to speak in support of or in opposition to the Application.

Upon there being no further questions, Chairman Wheatley closed the public hearing.

At the conclusion of the public hearing, the Commission discussed the Application.

Mr. Robertson stated he had prepared a motion and read the motion into the record per Ms. Wingate's request.

Ms. Wingate moved that the Commission recommend approval of C/U 2452 Community Lutheran Church for an on-premises Electronic Message Center based on the record made during the public hearing and for the following reasons:

1. The Electronic Message Center, or EMC will be located on the Church property and will be utilized for advertising church activities.
2. The EMC will be located within the frame of an existing sign that has been in existence for over two decades. This is just an upgrade of that existing sign. The existing signboard of the sign that has lettering changed manually will be replaced by a new EMC.
3. The proposed sign will not have any adverse impact on neighboring properties or communities.
4. The EMC will comply with the requirements of Article XXI of the Sussex County Zoning Code regarding its operating and lighting requirements.
5. No parties appeared in opposition to this Application.
6. No conditions are necessary since the sign is regulated by Article XXI of the Sussex County Zoning Code.

Motion by Ms. Wingate, seconded by Mr. Collins and carried unanimously to recommend approval of C/U 2452 Community Lutheran Church for the reasons stated in the motion. Motion carried 4-0.

Vote by roll call: Ms. Wingate – yea, Mr. Mears – yea, Mr. Collins – yea, Chairman Wheatley – yea.

C/U 2470 CI Renewables, LLC [F.K.A. CI Solar DP, LLC]

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 64.59 ACRES, MORE OR LESS. The property is lying on the east side of Savannah Road (S.C.R. 246), approximately 0.85 mile south of Rudd Road (S.C.R. 245). 911 Address: N/A. Tax Map Parcel: 135-15.00-8.00.

Mr. Whitehouse advised the Commission that submitted into the record were the Preliminary Site Plan, the Applicant's Exhibit Booklet, the legal description of the property, the DelDOT Service Level Evaluation Response, and a letter from the Sussex County Engineering Department Utility Planning Division. Mr. Whitehouse stated the Application had received zero comment letters.

The Commission found that Mr. David Hutt, Esq., with Morris James, LLP. Spoke on behalf of the Applicant; that also present were Mr. Walter Serafyn with CI Renewables, LLC, Mr. Mark Davidson with Pennoni, and Mr. Michael Marra, Wetland Scientist with Pennoni. Mr. Hutt stated the influx of solar applications was due to the bill signed by Governor Carney in 2021, which increased the standard for Delaware's portfolio of how much renewable energy the State must have by 2035; that as part of that legislation, solar facilities became part of Title 26, Chapter 10 of the Delaware Code; that the subject application is slightly different than some of the other solar applications seen by the Commission recently; that the subject Application proposes and 18 megawatt facility to be located on approximately 64 acres, to help create a clean, renewable supply of electricity; that the Application is a combination of a community solar facility, as well as a net-metering facility; that the customer of the net-metering facility will be the nearby Georgetown Perdue Processing Plant; that the site consists of 64.5 acres, along the eastern side of Savannah Rd.; that the property is located within the AR-1 (Agricultural Residential) Zoning District; that the site is located adjacent to the municipality of the Georgetown; that there are GR (General Residential) zoned properties located to the north and west of the site; that to the west of the site there is an Industrial zoned property; that along Rt. 113 and Rt. 9 there are commercially zoned properties; that according to the Future Land Use Map, the site is located within a Developing Area; that within the municipality of

Georgetown, adjacent to the site is the Perdue plant, which is located within the Town's LI-2 (Limited Industrial) Zoning District; that other Town of Georgetown zoning within the surrounding area are UR-1 (Urban Residential) and URC-RPC (Neighborhood Residential – Residential Planned Community); that Mr. Hutt presented to the Commission time lapse aerial photos from 1937 to 2022, which reflected that the site was farmed and wooded as far back as 1937; that the photos also reflect wet areas located on the property, which seemed to have always present a challenge for farming; that the surrounding location of the site has become developed and is no longer a farming area; that to the east of the site, is the location of the Sandhill Sports Complex; that to the east of the sports complex is the location of the Cheer Center; that to the north and west of the property are wooded areas; that south of the site there are a few residential homes; that the site is located with Investment Levels 1 & 2, according to the State Strategies Map, being levels where the State anticipates growth within the near and long term future; that the solar facility will not require public funding, therefore will not burden the public with extra assistance from the schools, police, and emergency responders; that the project does not require public utilities such as water and sewer; that the site is located within Flood Zone A, which indicates that the site is located within the 100 Year Floodplain; that this is likely the reason the site is no longer prime farmland; that the floodplain will not impact the proposed solar facility use; that there are no jurisdictional or regulated wetlands located on the site; that there are a few low-lying areas located on the site; that these low-lying areas do not qualify as jurisdictional or regulated wetlands; that there is no traffic associated with the proposed use; that DeIDOT stated the traffic impact would be diminutive; that the site will require very minimal grading, as it is already a flat site, being ideal for the installation of solar arrays; that the solar arrays would be installed to withstand hurricane force winds; that the solar arrays are ground-mounted tracking systems, which move throughout the day to capture the most amount of sun; that inverters would be located to the center of the site, being away from adjacent properties; that the operational life of these systems begin at 20 years, but could as long as 30 years; that the Applicant, CI Renewables, LLC is a private, non-utility affiliated developer and are the owner and operator of the commercial and industrial solar facilities; that they are the contract purchaser of the property; that as the operator of the site, they would be fully responsible for constructing, ensuring and decommissioning the system at the end of the solar arrays life span; that a Decommissioning Plan was submitted as part of the Exhibit Book materials; that the three concerns most often heard in relation to solar projects are sound, visual impacts and the impact to adjacent properties; that the sound generated from the project is minimal, being equal to a small appliance or an HVAC system; that a data sheet was included in the Exhibit Booklet which address the sound proposed to be generated by the project; that any sound would be generated during the daytime; that the inverters are centrally located away from any populated areas; that a Glare Study was included within the Exhibit Booklet; that solar panels are intended to absorb sunlight, not to reflect sunlight, therefore there will be no negative impact from glare; that the Application is subject to the recently adopted solar Ordinance, and the project does comply with the requirements of the Ordinance; that there would be a 100 ft. space between the roadway and the solar arrays; that a 50 ft. distance is provided between the arrays and adjacent properties; that where there is existing vegetation, it would be utilized as part of the buffer, and would be filled in as need to comply with the Code requirements; that a pollinator mix would be placed in the location of the solar arrays; that there will be little visual impact to anyone along Savannah Rd.; that the surrounding area is not a highly residential area; that there are a few homes along Savannah Rd.; that within the Exhibit Booklet there is information as to where CI Renewables, LLC is in their process with DP&L, Inc.; that there will be a fence surrounding the entire perimeter with a Knox box for emergency responders; that there are two parts to the proposed project; that to the left of the site will be the location of the community energy facility portion, which will allow individuals to subscribe to obtain credits to their electric bill; that a certain percentage, being up to 15%, must be allotted to low income housing; that the right side of the site will be the location for the net metered facility, which would be connected to the Georgetown Perdue Processing Plant; that §115-171, the proposed use is an appropriate Conditional Use, as they are public or semi-public use utilities; that Goal 7.3 of the Sussex County Comprehensive Plan, which encourages the use of renewable energy options, such as solar farms and that as required, the solar arrays will be located at least 200 ft. from any dwelling not located on the property. Mr. Hutt requested to submit proposed findings and conditions into the record.

The Commission found that no one wished to speak in support of or in opposition to the Application.

Upon there being no further questions, Chairman Wheatley closed the public hearing.

At the conclusion of the public hearing, the Commission discussed the Application.

In relation to C/U 2470 CI Renewables, LLC [F.K.A. CI Solar DP, LLC]. Motion by Ms. Wingate to defer action for further consideration, seconded by Mr. Mears and carried unanimously. Motion carried 4-0.

ADDITIONAL BUSINESS

The Commission discussed the topics of discussion for the County Council and Planning & Zoning Commission Joint Workshop.

The Commission discussed future Planning & Zoning Commission meeting dates for 2024.

Meeting adjourned at 7:37 p.m.

**Planning and Zoning Commission meetings can be monitored on the internet at
www.sussexcountyde.gov.**
