

## **THE MINUTES OF THE REGULAR MEETING OF DECEMBER 15, 2022.**

The regular meeting of the Sussex County Planning and Zoning Commission was held on Thursday evening, December 15, 2022, in Council Chambers, Sussex County Administrative Office Building, 2 The Circle, Georgetown, Delaware. Members of the public were also able to attend this meeting by teleconference. The teleconference system was tested during the meeting by staff to confirm connectivity.

The meeting was called to order at 5:00 p.m. with Chairman Wheatley presiding. The following members of the Commission were present: Mr. Robert Wheatley, Ms. Kim Hoey-Stevenson, Mr. Keller Hopkins, and Mr. Bruce Mears. Ms. Holly Wingate was absent. Also, in attendance were Mr. Vincent Robertson – Assistant County Attorney, Mr. Jamie Whitehouse – Planning & Zoning Director, Ms. Christin Scott – Planner I, Mr. Chase Phillips – Planner II, and Ms. Ashley Paugh – Recording Secretary.

Motion by Mr. Mears, seconded by Ms. Stevenson and carried unanimously to approve the Agenda as circulated. Motion carried 4- 0.

Motion by Ms. Stevenson, seconded by Mr. Hopkins to approve the Minutes of the November 3, 2022, Planning and Zoning Commission meeting as circulated. Motion carried 4 – 0

### **PUBLIC COMMENT**

The Commission found there was no one present in the room or by teleconference who wished to provide comment.

Upon there being no public comment, Chairman Wheatley closed the public comment session.

### **OTHER BUSINESS**

#### **Americana Bayside MR-RPC - Freeman Arts Pavilion**

##### **Revised Parking Plan**

This is a Revised Parking Plan to re-orient the parking aisle in the large parking lot adjacent to the existing Freeman Arts Pavilion. Accommodating this change will allow patrons to move east to west through the lot, and then queue along the existing sidewalk that runs along Americana Parkway. A copy of the previously approved Final Site Plan has been provided as part of the Commission's Paperless Packet. The Commission last reviewed and approved the Plans at their meeting of Thursday, November 12, 2020, for temporary use to accommodate patrons under the CDC guidelines. The plan shows the limits of the parking lot to be identical to that of the previously approved plan, with the only change to the plans being the reoriented drive aisles. The proposed parking lot holds 346 spaces, while the previously approved lot held 332 spaces. Therefore, the proposed orientation yields an increase of 14 spaces. The Revised Parking Plan complies with the Sussex County Zoning Code and all Conditions of Approval. Tax Parcels: 533-19.00-36.01, 864.00, 866.00, 881.00, and 990.00. Zoning District: MR-RPC (Medium Density Residential, Residential Planned Community).

Motion by Mr. Mears, seconded by Mr. Hopkins and carried unanimously to approve the Revised Parking Plan. Motion carried 4-0.

#### **2021-02 The Estuary Phase 4 (2005-64 & 2019-06)**

##### **Final Subdivision Plan**

This is a Final Subdivision Plan for a cluster subdivision to consist of one hundred and sixteen (116) single-family lots and improvements to include private roads, open space, and amenities to include a

clubhouse, inground pool, gazebo, mail kiosk, and related parking areas. The proposal is a revision to a previously approved 665-lot major cluster subdivision (The Estuary Subdivision, 2005-64 and 2019-06) and is a net increase of 18 lots bringing the total number of lots within the subdivision to 683 lots total and adds three parcels containing 3.67 acres to the Subdivision (for a total of 476.57 acres +/-). The Preliminary Subdivision Plan was approved by the Planning and Zoning Commission at their meeting of Thursday, August 26<sup>th</sup>, 2021. The properties are located on the north and south sides of Millers Neck Road (S.C.R. 364A), approximately 0.54 mile southeast of Double Bridges Road (S.C.R. 363). The Final Subdivision Plan complies with the Sussex County Zoning and Subdivision Code and all Conditions of Approval. Though the proposal is not a Residential Planned Community (RPC), a Master Phasing Plan has also been included with the submittal due to the size of the Subdivision to ensure compliance with the original Conditions of Approval for the Subdivision. Tax Parcels: 134-21.00-11.00 & 11.12, 134-21.00-10.00 & 10.01. Zoning: AR-1 (Agricultural Residential District). Staff are in receipt of all agency approvals.

Motion by Mr. Mears, seconded by Ms. Stevenson and carried unanimously to approve the Final Subdivision Plan as a final. Motion carried 4-0.

### **Yellow Metal, LLC**

#### **Revised Final Site Plan**

This is a Revised Final Site Plan for the construction of four (4) 2,400 pole buildings with each building having its own 14,450 square foot yard space. Each building (unit) is proposed to have a 6-foot fence and gate with each unit having its own access. Included in this plan is the proposal for a stormwater management pond which will be located on the east side of the main access way. One 30-foot access easement and two 60-foot access easements have been designed to serve the proposed improvements. The existing entrance from Lewes Georgetown Highway (Route 9) will be utilized. Additionally, a parcel consolidation will be necessary, and this will be achieved through a separate parcel consolidation plan. The Revised Final Site Plan complies with the Sussex County Zoning Code. Tax Parcels: 135-16.00-17.00 & 70.00 and 135-11.00-31.00. Zoning: C-1 (General Commercial). Staff are awaiting agency approvals.

Motion by Mr. Mears, seconded by Ms. Stevenson and carried unanimously to approve the Revised Final Site Plan as a preliminary with final approval to be by the staff upon receipt of all agency approvals. Motion carried 4-0.

### **Twin Cedars GR-RPC (CZ 1942)**

#### **Preliminary Site Plan**

This is a Preliminary Site Plan for a Residential Planned Community to consist of two-hundred and fifty-four (254) dwellings, including approximately one-hundred and sixty-eight (168) multifamily apartments, forty-four (44) multifamily townhomes, forty-two (42) single-family lots and proposed amenities to include a clubhouse, pool, walking paths, and a tot lot. At their meeting of Tuesday, September 14<sup>th</sup>, 2021, the Sussex County Council approved a Change of Zone for the parcel through C/Z 1942 from General Commercial District (C-1), Commercial Residential District (CR-1), and General Residential District (GR) to General Residential District, Residential Planned Community (GR-RPC) and the change was adopted through Ordinance No. 2797. The property is located on the south side of Zion Church Road (Route 20), 0.55 miles northwest of Bayard Road (S.C.R. 384). The Preliminary Site Plan complies with the Sussex County Zoning and Subdivision Codes and all Conditions of Approval. Tax Parcel: 533-11.00-42.00. Zoning: GR-RPC (General Residential District, Residential Planned Community). Staff are awaiting agency approvals.

Mr. Phillips advised the Commission that final approval could not be made by staff, as the Preliminary Site Plan was for a Residential Planned Community (RPC).

Motion by Mr. Mears, seconded by Mr. Hopkins and carried unanimously to approve the Preliminary Site Plan. Motion carried 4-0.

### **S-17-39 The Vineyards at Nassau Valley – Phase 3**

#### **Amenities Plan**

This is an Amenities Plan for the establishment of a proposed 6,067 square foot +/- clubhouse, 2,210 square foot +/- inground pool, concrete seating area, walking path, related parking, and other site improvements. The Final Site Plan for Phase 3 of the development was approved by the Planning and Zoning Commission at their meeting of Thursday, September 27<sup>th</sup>, 2018, which included the provision of a means of interconnectivity to the parcel to the north as previously requested by the Commission and featured a placeholder for the proposed amenities. The property is located on Merlot Drive within the existing Vineyards at Nassau Valley Residential Community. The Amenities Plan complies with the Sussex County Zoning and Subdivision Code. Tax Parcel: 334-5.00-152.06. Zoning: C-1 (General Commercial District). Staff are in receipt of all agency approvals.

Motion by Ms. Stevenson, seconded by Mr. Hopkins and carried unanimously to approve the Amenities Plan as a preliminary and final. Motion carried 4-0.

### **S-22-39 Southern Delaware Medical Center, LLC (CU 2316)**

#### **Preliminary Site Plan & Landscape Plan**

This is a Preliminary Site Plan & Landscape Plan for Southern Delaware Medical Center, LLC (CU 2316) for the construction of a 2-story 31,600 square-foot building for medical and professional uses and other site improvements. At their meeting of Tuesday, September 27<sup>th</sup>, 2022, the Sussex County Council approved a Conditional Use for multiple parcels through CU 2316 for the use of medical and professional office spaces. The change was adopted through Ordinance No. 2888. The property is located on the southeast side of Shady Road (Route 276), 0.14-mile northeast of the intersection of Shady Road and Plantations Road (Rt. 1D). The Preliminary Site Plan complies with the Sussex County Zoning Code and all Conditions of Approval. The Applicant also requests relief from the off-street lighting requirements and requests for 25 parking spaces to be permitted within the front yard setback. Tax Parcels: 334-6.00-511.02, 511.06 & 513.00. Zoning: AR-1 (Agricultural Residential District). Staff are awaiting agency approvals.

Motion by Ms. Stevenson, seconded by Mr. Hopkins and carried unanimously to approve the Preliminary Site Plan and Landscape Plan as preliminary, with the provision the site plan reserve space for future interconnection with the adjacent property. Motion carried 4-0.

### **S-22-35 Dartmouth Drive Storage**

#### **Revised Preliminary Site Plan**

This is a Revised Preliminary Site Plan for the construction of a 4-story, 74,999-square-foot storage building. The plan includes landscaping, parking, and other site improvements. The property is located on the northwest corner of Coastal Highway (Rt. 1) and Dartmouth Drive (Rt. 9). The Revised Preliminary Plan complies with the Sussex County Zoning Code. Tax Parcel: 334-6.00-63.03 Zoning: C-1 (General Commercial). Staff are awaiting agency approvals.

Motion by Mr. Mears seconded by Ms. Stevenson and carried unanimously to approve the Revised Preliminary Site Plan as a preliminary, with final approval to be by the staff upon receipt of all agency approvals. Motion carried 4-0.

### **Lands of Yoder**

**Minor Subdivision off an Easement**

This is a Minor Subdivision Plan for the creation of one parcel that is proposed to consist of 1.336 acres +/- and be located off a 50-foot access easement. The residual land will consist of 1.29 acres +/- . The Planning and Zoning Commission previously approved a three (3) lot minor subdivision for this parcel of land at their meeting of Thursday, June 9<sup>th</sup>, 2022. This plan proposes one additional lot to be located off the existing easement. The property is located on the west side of Saint Johnstown Road (S.C.R. 600). The plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 430-5.00-23.00. Zoning: AR-1 (Agricultural Residential District). Staff are awaiting agency approvals.

Motion by Mr. Hopkins, seconded by Ms. Stevenson and carried unanimously to grant preliminary approval for the Minor Subdivision off a 50-ft easement, with final approval to be by the staff upon receipt of all agency approvals. Motion carried 4-0.

**Lands of Toney Floyd**

**Minor Subdivision off a 50-ft. Easement**

This is a Minor Subdivision Plan for Lands of Toney Floyd for the subdivision of a 5.066-acre parcel into three (3) lots including residual. Proposed Lot 1 will consist of 1.346 acres +/-, Proposed Lot 2 will consist of 2.312 acres +/-, and the residual land will contain 1.408 acres +/- . Proposed Lot 1, Lot 2, and the residual land shall have combined access from an ingress/egress access easement located on the northeast side of Oak Orchard Road (Rt. 5). The Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 234-29.00-274.00. Zoning AR-1 (Agricultural Residential District). Staff are awaiting agency approvals.

Motion by Mr. Mears, seconded by Ms. Stevenson and carried unanimously to grant preliminary approval for the Minor Subdivision off an Easement, with final approval to be by the staff upon receipt of all agency approvals. Motion carried 4-0.

**Lands of Lockhaven Farms**

**Minor Subdivision off a 50-ft Easement**

This is a Minor Subdivision Plan for the subdivision of a 125.80-acre parcel into five (5) lots including the residual lands. Proposed Lot 1 will consist of 2.81-acres +/-, proposed Lot 2 will consist of 2.35-acres +/-, proposed Lot 3 will consist of 1.99-acres +/-, proposed Lot 4 will consist of 36.49-acres +/-, and the residual lands will contain 81.84-acres +/- . Lots 1 & 2 will have combined access from the northwest side of Round Pole Bridge Road (S.C.R. 257). Lot 3 and the residual lands will have combined access on the northwest side of Round Pole Bridge Road. Proposed Lot 4 will have access off a 50-ft ingress/egress access easement also located on the northwest side of Round Pole Bridge Road. The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 235-15.00-34.00. Zoning: AR-1 (Agricultural Residential) District. 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 Ms. Stevenson, seconded by Mr. Hopkins and carried unanimously to grant preliminary approval for the Minor Subdivision off a 50-ft. Easement, with final approval to be by the staff upon receipt of all agency approvals. Motion carried 4-0.

**OLD BUSINESS**

**C/U 2336 Community Power Group, 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 PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 25.012 ACRES, MORE OR LESS.** The property is lying on the north side of Woodland Ferry Road (S.C.R. 78) 0.15 miles east of the intersection of Woodland Ferry Road (SCR 78) and Bethel Road (SCR 493) and on the east side of Bethel Road (SCR 493) 0.2 miles north of the intersection of Woodland Ferry Road (SCR 78) and Bethel Road (SCR 493). 911 Address: N/A. Tax Parcel: 232-5.00-11.03 (p/o).

The Commission discussed the Application which had been deferred since November 17, 2022.

Mr. Mears moved that we recommend approval of C/U 2336 for Community Power Group, 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.
3. The proposed facility promotes Goal 7.9 of the Sussex County Comprehensive Plan which encourages the use of renewable energy options such as solar farms.
4. With the conditions imposed in this recommendation, the proposed use will not have any adverse impact on the neighboring or adjacent properties.
5. The proposed solar generation facility will not result in any noticeable increase in traffic on area roadways. There are no regular employees at the site, only periodic visits for inspections, maintenance, or repair of the solar panels.
6. The entire site is 39.45 acres in size. The solar farm will only utilize approximately 25 acres of the property.
7. Based upon the testimony in the record, it is evident that no significant noise, dust, or odor will be generated by the facility.
8. There will be a buffer to screen the view of the solar farm from the nearby residential properties while allowing the solar arrays to function properly.
9. The proposed use provides a renewable energy source that is a benefit to the residents and businesses of Sussex County.
10. This recommendation is subject to the following conditions:
  - a. The use shall be for a ground-mounted solar farm. No other types of electric generation shall be permitted at the site.
  - b. Any lighting on the facility shall only consist of perimeter lighting needed for security purposes. All lighting shall be downward screened so that it does not shine on neighboring properties or roadways.
  - c. One unlighted 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.
  - d. The site shall be secured by fencing with a gate with a "Knox Box" or similar device to accommodate emergency access by the local fire company or other emergency responders. The fence line shall be shown on the Final Site Plan.
  - e. Any transformers or similar equipment shall be centrally located on the site away from any nearby residential uses.
  - f. The entire site, including the area outside the fence, shall be maintained so that it does not become overgrown.

- g. Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with all applicable State and County requirements. These facilities shall be operated using Best Management Practices.
- h. There shall be a vegetated buffer that is at least 15 feet wide planted with deciduous and evergreen trees and shrubs around the perimeter of the solar arrays wherever there is not an existing vegetated buffer. These buffers shall screen solar arrays while allowing the solar arrays to function properly. These plantings shall include a double row of screening along the western boundary and the existing screening shall be bolstered along the southern and eastern boundaries.
- i. The Final Site Plan shall identify 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.
- j. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Mr. Mears, seconded by Ms. Stevenson and carried unanimously to recommend approval of C/U 2336 Community Power Group, LLC for the reasons and conditions stated in the motion. Motion carried 4-0.

Vote by roll call: Mr. Hopkins – yea, Ms. Stevenson – yea, Mr. Mears – yea, Chairman Wheatley – yea

**C/U 2327 Howard L. Ritter & Sons, Inc.**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 DISTRICT TO ALLOW THE CONTINUED SALES AND STORAGE OF STONE, MULCH, SOIL, AND RELATED OUTDOOR PRODUCTS AT THE PROPERTY WITH THE EXISTING, NON-CONFORMING BORROW PIT TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 50.90 ACRES, MORE OR LESS.** The property is lying on the southwest side of Plantations Road (Rt. 1D), approximately 0.18 mile southeast of Robinsonville Road (S.C.R. 277). 911 Address: 33508 Ritter Lake Road, Lewes. Tax Parcel: 334-12.00-7.00.

The Commission discussed the Application which had been deferred since November 17, 2022.

Ms. Stevenson moved that the Commission recommend approval of C/U 2327 Howard L. Ritter & Sons, Inc. to allow the continued use of the site for the sales and storage of stone, mulch, soil, and other related outdoor products in addition to the existing legally non-conforming borrow pit that exists on the property based on the record made during the public hearing and for the following reasons:

1. There is an existing legally non-conforming, or grandfathered, borrow bit in operation on this property. This use as a borrow pit has been in existence for decades and pre-dated the Sussex County Zoning Code. This application does not affect these borrow pit operations, which are allowed to continue.
2. This Conditional Use is for the sales and storage of stone, mulch, soil, and other related outdoor materials. There was evidence in the record that this use has also been in existence for years, and that it is closely related to the borrow pit operations. The continued sales and storage of these materials is appropriate in this location where the borrow pit also operates.
3. This use provides a needed location for those types of materials for Sussex County residents and businesses, and they are important to the economy of Sussex County.
4. There was opposition to this application regarding noise and traffic. However, most of this opposition was directed at the borrow pit operations, and those operations existed long before

any residential development occurred nearby, and they are not part of this application. There must be an expectation of the potential for noise, dust, and traffic when building or moving into a house near an active borrow pit. There was no compelling testimony that this Conditional Use for the storage and sales of stone, dirt, and mulch will create a significant increase in noise, dust, or traffic from their site.

5. This Conditional Use will not significantly increase the congestion of roads or streets in the area. DelDOT has stated that this use will only have a “diminutive” impact, which means that it will create less than 50 vehicle trips per day.
6. Because the borrow pit is a legal, pre-existing and non-conforming use under the Zoning Code, it is not appropriate to impose conditions on those activities on this site.
7. With appropriate Conditions of Approval, this use will not affect the nature of the area or neighboring properties.
8. This recommendation is subject to the following conditions:
  - a. This Conditional Use shall be limited to the storage and sale of mulch, stone, soil, and other related landscaping materials, in addition to the legally non-conforming, or grandfathered, borrow pit operations.
  - b. The location of the storage areas for stone, mulch, soil, and related materials shall be identified on the Final Site Plan and clearly marked on the site itself.
  - c. No manufacturing or industrial processes shall occur on the site. This prohibition includes the crushing, shredding, or grinding of any materials including specifically rock, stone, or concrete, and also includes the dyeing of mulch or similar materials.
  - d. One lighted sign not to exceed 32 square feet per side shall be permitted.
  - e. The hours of operation shall be from 7:00 a.m. to 7:00 p.m. Monday through Friday and 7:00 a.m. to 1:00 p.m. on Saturdays. No receiving of materials before 8:00 a.m. shall be permitted.
  - f. Any security lighting shall be downward screened so that it does not shine on neighboring properties or roadways.
  - g. The Applicant shall comply with all DelDOT requirements, including any entrance or roadway improvements.
  - h. All materials shall be stored in bins on a concrete or hot-mix base. All runoff from the bins shall be controlled so that it does not travel to neighboring or adjacent properties or adversely affect groundwater on the site.
  - i. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.

Motion by Ms. Stevenson, seconded by Mr. Mears and carried unanimously to recommend approval of C/U 2327 Howard L. Ritter & Sons, Inc. for the reasons and conditions stated in the motion. Motion carried 4-0.

Vote by roll call: Mr. Hopkins – yea, Ms. Stevenson – yea, Mr. Mears – yea, Chairman Wheatley – yea

#### **ORD 22-08**

**AN ORDINANCE TO AMEND THE FUTURE LANDS USE MAP OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCEL 135-11.00-65.00.** The property is located on the north side of Lewes Georgetown Highway (Rt. 9), approximately 620 feet northeast of Gravel Hill Road (Rt. 30). 911 Address: N/A Tax Parcel: 135-11.00-65.00.

The Commission discussed the Application which had been deferred since December 8, 2022.

In relation to ORD 22-08. Motion by Ms. Stevenson to defer action for further consideration, seconded by Mr. Hopkins and carried unanimously. Motion carried 4-0.

**C/Z 1959 Charles E. Turner Jr.**

**AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR MEDIUM RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 9.72 ACRES, MORE OR LESS.** The property is located on the north side of Lewes Georgetown Highway (Rt. 9), approximately 620 feet northeast of Gravel Hill Road (Rt. 30). 911 Address: N/A Tax Parcel: 135-11.00-65.00.

The Commission discussed the Application which had been deferred since December 8, 2022.

In relation to C/Z 1959 Charles E. Turner, Jr. Motion by Ms. Stevenson to defer action for further consideration, seconded by Mr. Hopkins and carried unanimously. Motion carried 4-0.

**C/U 2320 Charles E. Turner Jr.**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM-DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLINGS (42 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 9.72 ACRES, MORE OR LESS.** The property is located on the north side of Lewes Georgetown Highway (Rt. 9), approximately 620 feet northeast of Gravel Hill Road (Rt. 30). 911 Address: N/A Tax Parcel: 135-11.00-65.00.

The Commission discussed the Application which had been deferred since December 8, 2022.

In relation to C/U 2320 Charles E. Turner, Jr. Motion by Ms. Stevenson to defer action for further consideration, seconded by Mr. Hopkins and carried unanimously. Motion carried 4-0.

The Commission took a five-minute recess.

## PUBLIC HEARINGS

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

**2021-34 Suncrest (F.K.A. Marsh Homestead)**

A Coastal Area cluster subdivision to divide 18.02 acres +/- into forty-one (41) single-family lots to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County. The property is lying on the south side of Waterview Road (S.C.R. 279A), approximately 0.19-mile east of the intersection of Camp Arrowhead Road (S.C.R. 279) and Waterview Road (S.C.R. 279A) Tax Parcel: 234-12.00-22.31. Zoning: AR-1 (Agricultural Residential).

Mr. Whitehouse advised the Commission that submitted into the record were the Preliminary Subdivision Plan, the Environmental Assessment, the Public Facility Evaluation Report, the Exhibit Booklet, which included the Chapter 89 Source Water Protection Letter, a copy of the Applicant's Chapter 99-9C response, a copy of the PLUS response, a copy of the Applicant's response to the PLUS response, the Staff Review Letter, a letter received from the Applicant related to a density bonus request, Technical Advisory Committee (TAC) comments, which included a letter from the Department of Agriculture, a letter from Sussex County Geographic Information Office (GIO), a letter from U.S. Fish



& Wildlife, a letter from Sussex County Engineering Department, a letter from the Division of Public Health and letter from Sussex County Engineering Department Utility Planning Division. Mr. Whitehouse advised the Commission that staff had received one mail return, one letter in opposition, and zero letters in support.

The Commission found that Mr. Blake Carey, with the Smith Firm, spoke on behalf of the Application and the Applicant, WV3, LLC; that also present was Mr. Cliff Mumford, Mr. Dave Green, and Mr. Dale Brown; that the property consists of 18.017 acres, with 1.757 acres being located across Camp Arrowhead Rd.; that the 1.757 acres is to remain undeveloped; that the Applicant proposes a cluster subdivision; that the proposed subdivision is to be called Suncrest; that the proposed project is to divide 18.017 acres into 41 single-family lots; that a portion of the subdivision will consist of lots and streets; that 7.748 acres, or 42.65%, consisting of open space; that 5.991 acres of open space is provided on the main tract of land, equating to 33.25% open space; that the property is currently zoned AR-1 (Agricultural Residential); that all proposed structures will comply with the height, area, and bulk requirements of the Code for cluster subdivision; that the property is located within Investment Level 3; that the property is located within the Growth Area and Coastal Area; that State, tidal and Federal non-tidal wetlands do not exist on the site proposed to be developed; that a portion of the site is located within a Good Groundwater Recharge Area; that the property is not within a Wellhead Protection Area; that the property is not impacted by the 100 Year Flood Plain; that the project is superior in design; that the project will consist of single-family home lots; that the plan includes passive and active open space, including a pool and amenity area, proposed walking trail around the perimeter, stormwater pond and open space; that there will be a 30-ft. landscape buffer; that no existing trees will be removed for the project; that the proposed density is 2.28 units per acre; that a Density Bonus Request was made; that the subdivision proposed one entrance to Waterview Rd.; that the developer will contribute to Henlopen Transportation Improvement District (TID); that the developer will install a right turn lane at the site's entrance, as well as a shared use pathway along the site's frontage; that internal streets will be privately maintained; that the internal streets will meet and/or exceed Code requirements; that drinking and fire protection water will be provided by Tidewater; that wastewater will be provided by Sussex County; that fire protection is to be provided by the Rehoboth Beach Volunteer Fire Department; that electricity is to be provided by Delaware Electric Coop; that the property is located within the Cape Henlopen School District; that the project was presented to PLUS on June 22, 2022, as well as the Technical Advisory Committee (TAC); that responses were provided by the engineers addressing the PLUS and TAC comments; that the project complies with §115-25(E)(F), particular being the design requirements for the AR-1 (Agricultural Residential) Zoning District for a Cluster Development; that the project provides for a superior environment and design; that homes will be clustered on environmentally suitable portions of the property; that no wetlands, waterways or water bodies exist on the property proposed for development; that there are mature woodlands located on the site; that the existing woodlands will remain undisturbed; that the proposed open space complies with the Code; that 42.65% of the open space consists of recreational facilities and amenities areas, as well as ponds, buffers, forested areas and sidewalks; that stormwater accommodations will be located on the site, meeting all State of Delaware regulations; that scenic views from within the property are preserved as there are limited back to back lots; that the plan preserves all existing trees, as well as the wetlands located across Camp Arrowhead Rd.; that the plan proposes roadways, sidewalks, walk trail and open space; that the sidewalk will be provided on at least one side of the street; that the project is located within the Coastal Area; that the Coastal Area can accommodate development provided special environmental concerns are addressed; that the project does not propose any environmental concerns; that the project proposes single-family homes, which are permitted; that the Applicant is proposing a density of 2.28 units per acre; that a 2.28 unit per acre density can be supported in areas where there is central sewer and water, being located near sufficient employment areas, keeping in character with the area; that the property is located near the Rt. 24 corridor; that the project is in character of the area, as the property is surrounded by other

subdivisions, as well as by providing significant permanent open space well above the 30% requirement; that all existing woodlands and wetlands will be preserved; that the plan integrates the proposed subdivision into existing terrain; that the property is bordered by single-family dwellings to the west, south, north and northeast; that a 30-ft landscape buffer will be provided around the perimeter of the site; that there is also tree plantings located to the west, located on the Marsh Farm Estate property line; that all landscaping will use native species to fit in and enhance surrounding scenery; that the property preserves natural and historical features; that the existing woods are to be preserved; that no known historical features are located on the site; that the property is not located within a Water Resource Protection Area; that tree, vegetation, soil removal and grade changes will be minimized; that grade changes will be minimized to only what is necessary to provide site development, with assurance of proper site drainage; that the site will be balanced to minimize the need for soil removal; that best available technologies and best management practices will be utilized during construction and design of the property; that the project will meet and/or exceed the requirements of the Water Resource Protection Area by the utilization of an infiltration pond; that all stormwater management will meet all local, State and Federal guidelines for sediment and nutrient removal; that erosion and sediment control plan will be developed and implemented as required by Sussex Conservation District and DNREC; that the entrance to the site, as well as the internal road network, will provide safe vehicular movement from the site, to access Waterview Rd.; that the roads will meet Sussex County standards; that a shared use pathway is proposed for bicycles and pedestrians along Waterview Rd.; that the shared use pathway will connect to the proposed internal sidewalk network; that a sidewalk is proposed on both sides of the road; that internal street lighting, along the roadway will also be provided; that based on historical trends in Sussex County, it is anticipated that the property values around the proposed subdivision will increase with the development of Suncrest; that the area between Rt. 24 to the Rehoboth Bay has, for many years, progressed from agricultural to a more developed area; that large cropland acreage no longer exists in close proximity to the site; that the design focuses on a open and relaxed plan, which allows for greater environmental protection and incorporates open spaces that exceeds Sussex County requirements; that the proposed subdivision will increase tax revenues to the Cape Henlopen School District; that the entrance will be designed to meet DelDOT's standards; that the project is located within the Henlopen TID; that the developer will sign a TID Agreement, coupled with the TID fee; that a right turn lane will be installed at the site entrance; that the development will improve the road to include 11-ft. travel lanes, with five foot shoulders, to the eastern limits of the site entrance; that the proposed subdivision is adjacent to single-family residential homes, creating compatibility with other surrounding land uses; that the Applicant is requesting a density greater than the permitted two units per acre; that §115-25(B)(3) allows the density to be increased to four units per acre, for a cluster development, lying within the Coastal Area, where open space is provided and a development fee is paid; that the project proposes five additional units from the permitted 36 units, for a total of 41 single-family dwelling units; that the 41 single-family dwelling units equates to 2.28 units per acre; that the site was originally proposed for 83 lots approximately 10 years ago and for all the reasons stated, the Applicant requested the Commission approve the subdivision request.

Ms. Stevenson questioned if the road expansion will take place on both sides of the road, if adjacent land will need to be acquired for the road expansion and if the Applicant would be agreeable to placing fencing or markers along the rear of the lots heading into the open space.

Mr. Mumford with Davis Bowen & Friedel, Inc. stated the expansion will take place on both sides of the road to include the 11-ft. travel lanes with five-foot shoulders on the north and south side; that they would connect into Marsh Farm Estate's Hammerhead entrance; that improvements would extend to the east, just past their 25-ft. curbing; that there is sufficient right-of-way located on the north side, however, there could potentially be a need to require right-of-way.

Mr. Carey stated he believed fencing could be sufficiently placed; that he felt the fencing requirement would be included within the Homeowners Association documents and he stated the area will clearly be open space.

The Commission found that Mr. Frank Corradi spoke in opposition to the Application; that he lives within Marsh Farm Estates; that he questioned if any studies were performed regarding traffic impacts for the proposed project; that he stated he understood the site plan to reflect 70% hardwood and 30% evergreen trees proposed to be planted; that he questioned if there was a specific count of trees or examples submitted for the proposed trees; he questioned if the 30-ft proposed buffer area would be in addition to the 25-ft buffer area located on Marsh Farm Estates property and he questioned if there was any proposal for fencing.

Mr. Whitehouse stated that prior to application submission to Sussex County, the Applicant was required to submit the proposal to be reviewed by the State; that the Applicant had included some technical information; that the State's response to the submitted technical information was included in the submitted Exhibit Booklet; that the project will be participating within the Transportation Improvement District (TID); that the TID is a district created from all the analysis frontloaded at the creation of the district; that this allows DelDOT to know all the intersections located within the TID; that DelDOT is aware of all improvements required based on the expected growth with the TID;

Mr. Robertson stated that if the subdivision is approved, the proposed trees would be included within the Landscape Plan; that the County Code dictates a specific number of trees required per every 100-ft.; that the Code also dictates the types of species of trees and the distance apart the trees must be; that these trees would be part of the required buffer located around the perimeter of the property; that these buffer requirements would be checked and enforced by staff; that the buffers are bonded to ensure compliance and fencing is not a Code requirement.

Ms. Stevenson stated the landscape buffer is proposed to be 30 feet; that the developer would be required to plant the trees and the required landscape buffer is in addition to the 25-ft. landscape buffer located on Marsh Farm Estates property.

The Commission found that Mr. Victor Letonoff spoke in opposition to the Application; that he lives along Camp Arrowhead Rd.; that he purchased his property 22 years ago to escape the Cluster design in Rehoboth Beach; that at that time, it was his understanding a minimum of  $\frac{3}{4}$  acre was required to develop a lot; that with the recent development of Cluster subdivisions in the area, the traffic has become an issue; that the constant traffic and construction vehicles have become an issue; that road construction has become an issue; that he feels although a cluster development may be allowed, should not mean a cluster development should be approved; that he requested the Commission enforce the  $\frac{3}{4}$  acre minimum requirement per lot; that the constant development of the area is detracting from the properties existing on Waterview Rd.; that everything surrounding the proposed site is larger than  $\frac{3}{4}$  acre, except for Marsh Farm Estates and he requested the Commission slow down on approving cluster developments in the area.

Ms. Stevenson stated the Commission does not make the rules for subdivision; that the Commission can only utilize the rules currently in place; that Sussex County Council is the body that makes the rules the Commission is required to abide by; that the requirement for larger lots was back before water and sewer services; that the cluster design is allowed when serviced by central water and sewer and therefore the Commission does not have the authority to deny the Applicant the right to request a cluster design.

The Commission found that Mr. Sam Mills spoke in opposition; that also present was his wife, Mrs. Grace Mills; that he and his family have lived at his property for over five decades; that the Applicant is proposing less than ½ acre per lot; that they are very concerned about the water table; that they are also concerned about increased traffic; that they are also concerned about the existing wildlife and they feel the current proposal of 41 lots on 18 acres is too dense for the area.

The Commission found that Ms. Eul Lee spoke with questions regarding the proposed open space, the calculation of contiguous open space, and how it applies to the application; that she stated the proposed open space is supposed to be a usable space; that she questioned if the open space located across Camp Arrowhead Rd. will be useable and she requested there be no placement of a crosswalk to that tract.

Ms. Stevenson stated the PLUS comments mention the existence of five full-depth gravity system permits under the parcel; she questioned if the statement meant there are systems already located on the site; that she questioned if the tract located across the street will be active and if there is any proposal to place a crosswalk.

Mr. Mumford stated he believed the comment regarded when the property was a larger parcel, prior to the subdivision; that the subject property was a subdivided property from a large farm; that when the residential lots were subdivided off, there was a Site Evaluation performed and those residential lots were on file as being part of the parent parcel, which associated them with the subject property; that on the subject property there are no existing septic systems on the site; that he envisions the tract located across Camp Arrow Head Rd. as being more of a conservation area; that the area would be passive open space and there is no proposal to have access to the tract of land.

Mr. Carey stated there is no anticipation for any active use at the tract located across Camp Arrowhead Rd. and perpetual conservation of the area will be considered by the developer.

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 2021-34 Suncrest (F.K.A. Marsh Homestead). Motion by Ms. Stevenson to defer action for further consideration, seconded by Mr. Hopkins and carried unanimously. Motion carried 4-0.

#### **C/U 2342 Turning Point Energy - TPE DE SU07, 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 SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 27.5 ACRES, MORE OR LESS.** The property is lying on the west side of Elks Road (Rt. 46) approximately 0.50 miles west of the intersection of Elks Road (Rt. 46) and Sussex Highway (Rt. 13). 911 Address: N/A. Tax Parcel: 331-1.00-15.01 (p/o).

Mr. Whitehouse advised the Commission that submitted into the record were the DeIDOT Service Level Evaluation Response, the Staff Analysis, a letter from Sussex County Engineering Department Utility Planning Division, and the Applicant's Conceptual Site Plan. Mr. Whitehouse advised the Commission that zero comments were received.

The Commission found that Mr. Jon Falkowski spoke on behalf of the Application; that he is a civil engineer with Becker Morgan Group; that also present was Mr. Jordan Belknap, with Turning Point Energy as the Applicant TPE DE SU107; that the property is located within Seaford, being just south of

Bridgeville; that the property is located off Cannon Rd., along Elks Rd.; that the property is approximately 108 acre parcel; that only 27.5 acres, to the north of the 108 acres is being requested for Conditional Use; that the site has existing access by a gravel road; that the gravel road also serves Bakers Farm and two residents located to the south of the property; that the solar array will only be located to the north of the site, within the requested Conditional Use area; that the project will create no increase in traffic; that the project will create no odors, dust, gas, smoke or fumes; that there will be little to no noise from the project inverters, other than a slight humming; that the hum can no longer be heard from a few feet away from the inverters; that all inverters will be placed away from adjacent residences; that they did perform a glare study for the project; that the glare study confirmed there were no glare impacts to the neighbors; that the performed glare study was very conservative as the study did not account for any buffering or landscaping for the property; that the project proposes a pollinator mix be planted; that they will seek sediment and stormwater approval from Sussex Conservation District; that the change in land cover from the existing agricultural use to the pollinator mix will help the reduce of runoff; that they propose eight foot fencing be place around the entire perimeter of the array; that the fencing will have gates and Knox Box for emergency personnel; that a community outreach meeting was held for the project; that project mailers were sent out to all residents listed on the Sussex County mailing list for the public hearing; that Mr. Belknap did attend the community outreach meeting on December 7, 2022, at the Bridgeville Public Library; that they did submit their proposed decommissioning plan; that at the end of the solar arrays useful life, the arrays will be decommissioned; that the property will then return to its existing agricultural use and they did submit Findings of Fact and proposed conditions for the project.

The Commission found that Mr. Jordan Belknap spoke on behalf of the Application; that he is the Director of Development for Turning Point Energy; the Turning Point Energy is an energy developer, where the core business is focused on bringing financial, environmental and community value to all projects; that they achieve this by developing community solar projects; that they also make charitable commitment and donations for every project; that community solar is a model where a solar farm can be constructed, which allow residents, businesses and municipalities to sign up as subscribers to a solar farm; that subscribers pay for their subscription; that the subscription generates a credit which is received on the subscribers electric bill; that the amount, size and cost of the subscription is modeled with the energy consumption that the subscriber has at their residence or business; that cost of the credit is of greater value than the subscription; that they can develop an effective solar farm, at an effective scale, at an effective cost, which allow to pass the savings on to the residents of Sussex County, who are customers of Delmarva Power; that community solar is especially appealing to low incoming housing, renters, condominiums, mobile homes, businesses and residences that do not have a suitable roof for the placement of solar panels; that these residents can participate in renewable energy economy, save money, without impacting the infrastructure of their buildings; that the project will not create any long term increase in traffic; that the arrays sit quietly; that the arrays are monitored remotely; that there is a four to six month construction window that will create increased traffic; that after the construction window passes, the property may see a vehicle every few months for the property and/or equipment maintenance; that they will not be using goats or sheep for maintenance; that they are proposing to use a low growth pollinator mix; that the low growth pollinator mix will allow for a nice environment for the birds and bees; that the pollinator mix will not grow very high, which allows for more time between property maintenance visits; that the distributed energy eases the burden on the transmission system; that power is generated where it is locally consumed which is beneficial for the grid; that they have a 25 year lease options for the subject property, with five year extensions; that the proposed use will not be a permanent transformation of the land; that the project will not require new roads; that the project will not impact the local water and sewer systems; that there is no basic impact to the County's infrastructure; that they work with Delmarva Power; that Delmarva Power studies their facilities, informing them of

any required upgrades necessary for connection and Delmarva Power make the required upgrades along the public right-of-way to connect the facility.

Mr. Mears questioned how the solar farm would benefit low-income housing.

Mr. Belkamp stated that residents who qualify as low-income are able to subscribe to the solar array; that the credit created by their subscription allows the resident to save money on their electric bill and there is a specific call out within the Community Solar Legislation that all projects will offer a component which is provided to low-income households.

Mr. Hopkins questioned what the decommissioning cost is estimated to be in 25 years.

Mr. Belkamp stated they could submit a cost estimate for the standard operating procedure for solar energy projects for the Commission's review and approval and they will provide financial surety for the decommissioning process.

Mr. Mears questioned Mr. Whitehouse if the proposal for an eight-foot fence will require a variance by the Sussex County Board of Adjustment (BOA).

Mr. Whitehouse advised the Commission that residential fencing is limited to seven feet in height; that the fencing proposed is for commercial use and can be approved to be greater than seven feet.

Mr. Jon Falkowski stated a seven-foot fence is standard for the Public Service Commission and Electric Code; that they had proposed an eight-foot fence and they would be agreeable to a seven-foot fence.

The Commission found that Ms. Rosemary Everton spoke in support of the Application; that her daughter and son own property adjacent to the project; that prior to Turning Point Energy becoming involved, she and her daughter were interested in the proposed use for solar arrays; that they visited nearby solar farms to gather information and listen for noise; that they had a great experience; that they did not hear any objectionable noise; that the subject property is very well suited for the use of a solar farm as the property is secluded; that she believed most people will not know the solar project is there, as it cannot be seen; that she feels only positive benefits can come from the proposed project and she cannot think of any negative impacts from the proposal.

The Commission found that Mr. Philip Everton spoke in support of the Application; that he owns property to the rear of the subject site; that the site is located along a peninsula, which takes over the majority of Hearn's Pond; that there is no direct view of the subject area, other than a few spots where the landscaping has openings; that he travels the road daily; that upon his daily travels he is unable to see the pond; that there is not a direct view to the area being proposed for the solar arrays; that the property has been in his family for generations; that he and his family are very protective of the coastline around the pond; that other than the small amount of people who hunt once to twice a year, no other people visit the property other than deliver trucks; that the property is one of the only non-irrigated fields in the area; that he believed the hidden location of the property protected both Turning Point Energy's interest, as well as adjacent properties to the site; that he feels the impact of the project is low and he is excited to move renewable energy forward with the proposed project.

The Commission found there was no one present in the room who wished to speak in opposition.

The Commission found there was no one present by teleconference who wished to speak in support of or 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 2342 Turning Point Energy – TPE DE SU07, LLC. Motion by Mr. Hopkins to defer action for further consideration, seconded by Ms. Stevenson and carried unanimously. Motion carried 4-0.

**C/U 2343 Turning Point Energy - TPE DE SU163, 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 25.00 ACRES, MORE OR LESS.** The property is lying on the west side of Gravel Hill Road (S.C.R. 248) approximately 0.37 mile north of the intersection of Gravel Hill Road (S.C.R. 248) and Lewes Georgetown Highway (Rt. 9). 911 Address: N/A. Tax Parcel: 135-11.00-48.00 (p/o).

Mr. Whitehouse advised the Commission that submitted into the record were the Conceptual Site Plan, the Exhibit Booklet, the DelDOT Service Level Evaluation Response, the Staff Analysis, and a letter received from U.S. Fish & Wildlife and Sussex County Engineering Department Utility Planning Division. Mr. Whitehouse advised the Commission that zero comments were received.

Chairman Wheatley granted the request that the provided community solar information for C/U 2342 Turning Point Energy – TPE DE SU07, LLC be included in the testimony for C/U 2343 Turning Point Energy – TPE DE SU163, LLC.

The Commission found that Mr. Jon Falkowski spoke on behalf of the Application; that he is a civil engineer with Becker Morgan Group; that also present was Mr. Jordan Belknap, with Turning Point Energy as the Applicant TPE DE SU163; that the site is located within Georgetown; that the property is currently being used for agricultural propose within the AR-1 (Agricultural Residential) Zoning District); that the site is located off Gravel Hill Rd., being just north of Rt. 9, near Harbeson; that the property consist of 39.5 acres; that the area requested for the Conditional Use is located to the south, consisting of 25 acres; that the solar array is a tracker ground mounted system; that the project does propose an extensive landscape buffer as it is adjacent to residents surrounding the project; that they propose a 25-ft. wide landscape buffer, consisting of 12 deciduous trees and 15 scrubs per 100 feet; that the landscape buffer will shield from the residents located along Gravel Hill Rd.; that they also propose a landscape buffer along the northside perimeter, as they are aware that construction recently began for Azalea Woods; that Azalea Woods is a 66 lot subdivision that is currently underway; that the project will create no increase in traffic; that the project will create no odors, dust, gas, smoke or fumes; that there will be little to no noise from the project inverters, other than a slight humming; that the hum can no longer be heard from a few feet away from the inverters; that all inverters will be placed away from adjacent residences; that they did perform a glare study for the project; that the glare study confirmed there were no glare impacts to the neighbors; that the performed glare study was very conservative as the study did not account for any buffering or landscaping for the property; that the project proposes a pollinator mix be planted; that they will seek sediment and stormwater approval from Sussex Conservation District; that the change in land cover from the existing agricultural use to the pollinator mix will help the reduce of runoff; that they propose a seven to eight foot chain link fence, with necessary gates and Knox Box for emergency personnel; ; that a community outreach meeting was held for the project; that project mailers were sent out to all residents listed on the Sussex County mailing list for the

public hearing; that Mr. Belknap did attend the community outreach meeting on December 5, 2022, at the Cheer Center; that they did submit their proposed decommissioning plan; that at the end of the solar arrays useful life of 25 years, the arrays will be decommissioned; that the property will then return to its existing agricultural use and they did submit Findings of Fact and proposed conditions for the project; that the proposed use is a public utility under the Code; that they believe it meets the purposes of a Conditional Use as it is of a public character, as well as desirable for the general convenience and welfare of the residents of Sussex County; that the proposed use does meet the goals of the Comprehensive Plan, which encourages the use of renewable energy and the proposed use does not have any impact to adjacent neighbors due to the proffered buffering, fencing, minimal noise or impact on traffic.

Mr. Robertson questioned if renewable energy is only available to Delaware Power customers.

Mr. Belkamp stated the program is specific to the public utility of Delmarva Power; that the solar project must be located within the utility territory as the subscriber; that any Delmarva Power customer, located within Delaware could be a subscriber; that there is no geographic boundary, only utility service territory boundary; that all three solar project applications are located within Delmarva Power territory; that subscribers do subscribe to particular solar facilities, however are not required to subscribe to a facility nearby; that a subscriber may find one facilities rate more attractive than another; that due to this the subscriber is presented options with multiple solar facilities; that the subscriptions are first come, first serve; that the rates are set by the capital invested in the particular facility; that typically, the subscription offers a 10% to 15% savings for the subscriber; that facility rates will depend on the economic variables of the specific projects and projects are similar in cost to construct, however not always similar in cost to connect due the nature of required upgrades.

The Commission found that Mr. Keith Tabor spoke in support of the Application; that he lives along Gravel Hill Rd., adjacent to the site; that he attended the community outreach meeting at the Cheer Center; that at the meeting, he did receive a similar presentation; that he welcomes a solar farm, as opposed to subdivision and additional housing; that his current view is of either soybeans or corn and he confirmed that he had no relationship to Turning Point Energy, nor any financial gain from the project.

The Commission found there was no one present in the room who wished to speak in opposition to the Application.

The Commission found there was no one present by teleconference who wished to speak in support or 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 2343 Turning Point Energy – TPE DE SU163, LLC. Motion by Ms. Stevenson to defer action for further consideration, seconded by Mr. Hopkins and carried unanimously. Motion carried 4-0.

**C/U 2344 Turning Point Energy – TPE DE SU113, LLC**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A 35-ACRE SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 35.58 ACRES, MORE OR LESS.** The property



is lying on both the east and west sides of East Trap Pond Road (S.C.R. 62), approximately 0.4 mile north of Substation Road (S.C.R. 518), with solar panels to be located on the east side of East Trap Pond Road (S.C.R. 62). 911 Address: N/A. Tax Parcel: 135-22.00-23.00 (p/o).

Mr. Whitehouse advised the Commission that submitted into the record were the Exhibit Booklet, the Conceptual Site Plan, the DelDOT Service Level Evaluation Response, the Staff Analysis, and a letter received from the U.S. Fish & Wildlife and Sussex County Engineering Department Utility Planning Division. Mr. Whitehouse advised the Commission that one mail return and no comments were received.

Chairman Wheatley granted the request that the provided community solar information for C/U 2342 Turning Point Energy – TPE DE SU07, LLC and C/U 2343 Turning Point Energy – TPE DE SU163, LLC be included in the testimony for C/U 2344 Turning Point Energy – TPE DE SU113, LLC.

The Commission found that Mr. Jon Falkowski spoke on behalf of the Application; that he is a civil engineer with Becker Morgan Group; that also present was Mr. Jordan Belknap, with Turning Point Energy as the Applicant TPE DE SU113; that the site is located on the southside of Georgetown, along East Trap Pond Rd.; that the property is currently being use for agricultural purposes; that the site is located within the AR-1 (Agricultural Residential) Zoning District; that the property is 35.6 acres; that they are asking for the entire 35.6 acres to be granted Conditional Use; that they propose a 25-ft. wide landscape buffer, consisting of 12 deciduous trees and 15 scrubs per 100 linear feet, located on the north, east and west perimeter of the property; that there is natural vegetation located to the south of the property; that there is a solar array located to the south of the property, which is owned by Delaware Electric Coop; that the project will create no increase in traffic; that the project will create no odors, dust, gas, smoke or fumes; that there will be little to no noise from the project inverters, other than a slight humming; that the hum can no longer be heard from a few feet away from the inverters; that all the inverters will be placed away from adjacent residences; that they did perform a glare study for the project; that the glare study confirmed there were no glare impacts to the neighbors; that the performed glare study was very conservative as the study did not account for any buffering or landscaping for the property; that the project proposes a pollinator mix be planted; that they will seek sediment and stormwater approval from Sussex Conservation District; that the change in land cover from the existing agricultural use to the pollinator mix will help the reduce of runoff; that they propose a seven to eight foot chain link fence, with necessary gates, access points and a Knox Box for emergency personnel; ; that a community outreach meetings was held for the project; that project mailers were sent out to all residents listed on the Sussex County mailing list for the public hearing; that Mr. Belknap did attend the community outreach meeting on December 5, 2022, at the Cheer Center; that they did submit their proposed decommissioning plan; that at the end of the solar arrays useful life of 25 years, the arrays will be decommissioned; that the property will then return to its existing agricultural use and they did submit Findings of Fact and proposed conditions for the project; that the proposed use is a public utility under the Code; that they believe it meets the purposes of a Conditional Use as it is of a public character, as well as desirable for the general convenience and welfare of the residents of Sussex County; that the proposed use does meet the goals of the Comprehensive Plan, which encourages the use of renewable energy and the proposed use does not have any impact to adjacent neighbors due to the proffered buffering, fencing, minimal noise or impact on traffic.

The Commission found that Mr. Sean Kelly spoke in support of the Application; that also present was his wife, Ms. Cristal Wright; that they live along East Trap Pond Rd., to the west of the site; that they did attend the community meeting, which was very thorough; that they do intend to subscribe and join the service; that he and his wife are both educators; that they are excited to discuss the prospects of renewable energy and having discussions about renewable energy for the future with their students.

The Commission found there was no one present in the room who wished to speak in opposition to the Application.

The Commission found that Ms. Valerie Jones Giltner spoke by teleconference in support of the Application; that she did have a concern regarding errors offered within the submitted packet; that Page 12 -13 and Page 38 of the packet, reflects an aerial view presentation of the property from 2017; that the aerial presentations do not reflect her property as being an adjacent residential property to the solar field; that her 12-acre property was again not reflected on Page 178 and Page 200; that on Page 13 the Landscape Plan offered different tree densities for areas adjacent to residential versus non-residential, which created her request to update the submitted records and the reflection of her property would give her option for recourse if the buffer was not installed properly.

The Commission found that Mr. Michael Vasilkikos spoke in support of the Application; that he has been the owner of the land for approximately 15 years; that he believes in being good stewards of the land and environment; that he believes in renewable energy; that he desires to contribute to reducing his carbon footprint; that he supports community solar projects and their ability to reduce electric bills for their neighbors and believe the project would be beneficial to his time and energy.

The Commission found that there was no one present by teleconference who wished to speak in opposition to the Application.

Chairman Wheatley stated he believed Ms. Jones Giltner's concern would be best addressed during the Site Plan Review process, ensuring everything is shown on the approved Final Site Plan.

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 2344 Turning Point Energy – TPR SU113, LLC. Motion by Ms. Stevenson to defer action for further consideration, seconded by Mr. Hopkins and carried unanimously. Motion carried 4-0.

#### ADDITIONAL BUSINESS

Mr. Whitehouse advised the Commission that the next scheduled Planning & Zoning Commission meeting, on January 12, 2023, will begin the new Commission meeting start time of 3:00 pm.

**Meeting adjourned at 7:13 p.m.**

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**Planning and Zoning Commission meetings can be monitored on the internet at  
[www.sussexcountydade.gov](http://www.sussexcountydade.gov).**

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