

COUNTY COUNCIL

MICHAEL H. VINCENT, PRESIDENT  
JOHN L. RIELEY, VICE PRESIDENT  
CYNTHIA C. GREEN  
DOUGLAS B. HUDSON  
MARK G. SCHAEFFER



Sussex County

DELAWARE  
sussexcountyde.gov  
(302) 855-7743

**SUSSEX COUNTY COUNCIL**

**AGENDA**

**February 6, 2024**

**10:00 AM**

**Call to Order**

**Approval of Agenda**

**Approval of Minutes - January 30, 2024**

[Draft Minutes 013024](#)

**Reading of Correspondence**

**Public Comments**

**Todd Lawson, County Administrator**

1. Caroling on the Circle Food Drive Recognition
2. Presentation – Delaware Department of Transportation Update
3. Administrator’s Report

**10:15 a.m. Public Hearing**

1. Community Development Block Grant (CDBG) Program  
[Public Hearing CDBG](#)

**Vince Robertson, Assistant County Attorney**

1. Discussion & Introduction of an Ordinance Related to Marijuana Establishments  
[Ordinance related to Marijuana Establishments](#)



**Hans Medlarz, County Engineer**

1. **South Coastal WRF Treatment Process Upgrade No.3 & Rehoboth Beach WTP Capital Improvement Program, Phase 2**
  - A. **GHD Amendment 24 – Construction Phase Engineering Services Extension**
  - B. **BW Electric – Change Order No. 26, Electrical Construction Project C19-17**
  - C. **M.F. Ronca – Change Order No. 32, General Construction Project C19-11**  
[South Coastal WRF & Rehoboth Beach WTP](#)

**Mark Parker, Assistant County Engineer**

1. **Paramedic Station 103, Project C21-18**
  - A. **Recommendation to Award**  
[Paramedic Station 103](#)

**Old Business**

1. **[Change of Zone No. 1996 filed on behalf of McKee Builders, LLC](#)**

**“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 CERTAIN PARCELS OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 51.23 ACRES, MORE OR LESS” (properties on the west side of Central Avenue [Rt. 84] approximately 0.25 mile east of Peppers Corner Road [S.C.R. 365]) (911 Address: 34428 & 34434 Central Avenue, Frankford) (Tax Map Parcels: 134-19.00-13.00 & 13.04)**

[CZ1996](#)

2. **[Conditional Use No. 2402 filed on behalf of McKee Builders, LLC](#)**

**“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY (174 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 51.23 ACRES, MORE OR LESS” (properties lie on the west side of Central Avenue [Rt. 84] approximately 0.25 mile east of Peppers Corner Road [S.C.R. 365]) (911 Address: 34428 & 34434 Central Avenue, Frankford) (Tax Map Parcels: 134-19.00-13.00 & 13.04)**

[CU2402](#)

3. [Conditional Use No. 2381 filed on behalf of 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” (properties lying on the south side of Lewes Georgetown Highway [Rt. 9], approximately 0.40 mile east of Harbeson Road [Rt. 5]) (911 Address: 26628 & 26772 Lewes Georgetown Highway, Harbeson) (Tax Map Parcels: 235-30.00-61.00, 58.06 & 58.07)

[CU2381](#)

4. [Conditional Use No. 2382 filed on behalf of 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” (property lying on the south side of Kendale Road [S.C.R. 287], approximately 0.15 mile east of Wil King Road [Rt. 288]) (911 Address: N/A) (Tax Map Parcel: 234-2.00-18.00)

[CU2382](#)

5. [Conditional Use No. 2383 filed on behalf of 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” (property lying on the southwest side of Woodland Ferry Road [S.C.R. 78], approximately 635 feet northwest of Old Sailor Road [S.C.R. 78A]) (911 Address: N/A) (Tax Map Parcel: 232-12.00-4.00 [p/o])

[CU2383](#)

6. [Conditional Use No. 2384 filed on behalf of 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” (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])**

[CU2384](#)

7. [Conditional Use No. 2385 filed on behalf of 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” (property lying on the north side of West Line Road [S.C.R. 512], approximately 0.67 mile west of Delmar Road [Route 54]) (911 Address: 8517 West Line Road, Delmar) (Tax Map Parcel: 532-19.00-57.00)**

[CU2385](#)

**Grant Request**

1. **Laurel Historical Society for Restoration of Hitchens Homestead**  
[Laurel Historical Society](#)

**Introduction of Proposed Zoning Ordinances**

**Council Members' Comments**

**Executive Session - Land Acquisition pursuant to 29 Del.C.§10004(b)**

**Possible action on Executive Session Items**

**Adjourn**

**-MEETING DETAILS-**

In accordance with 29 Del.C. §10004(e)(2), this Agenda was posted on January 30, 2024 at 4:15 p.m. and at least seven (7) days in advance of the meeting.

This Agenda was prepared by the County Administrator and is subject to change to include the addition or deletion of items, including Executive Sessions, which arise at the time of the meeting.

Agenda items may be considered out of sequence.

The meeting will be streamed live at <https://sussexcountyde.gov/council-chamber-broadcast>.

The County provides a dial-in number for the public to comment during the appropriate time of the meeting. **Note, the on-line stream experiences a 30-second delay.**

Any person who dials in should listen to the teleconference audio to avoid the on-line stream delay.

To join the meeting via telephone, please dial:

**Conference Number: 1-302-394-5036**

**Conference Code: 570176**

Members of the public joining the meeting on the telephone will be provided an opportunity to make comments under the Public Comment section of the meeting and during the respective Public Hearing.

The Council meeting materials, including the “packet”, are electronically accessible on the County’s website at: <https://sussexcountyde.gov/agendas-minutes/county-council>.

**SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JANUARY 30, 2024**

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, January 30, 2024, at 12:30 p.m., in Council Chambers, with the following present:

<b>Michael H. Vincent</b>	<b>President</b>
<b>John L. Rieley</b>	<b>Vice President</b>
<b>Cynthia C. Green</b>	<b>Councilwoman</b>
<b>Douglas B. Hudson</b>	<b>Councilman</b>
<b>Mark G. Schaeffer</b>	<b>Councilman</b>
<b>Todd F. Lawson</b>	<b>County Administrator</b>
<b>Gina A. Jennings</b>	<b>Finance Director</b>
<b>J. Everett Moore, Jr.</b>	<b>County Attorney</b>

**Call to Order**

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

Mr. Vincent called the meeting to order.

**M 047 24  
Approve  
Agenda**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, to approve the Agenda, as presented.

**Motion Adopted: 5 Yeas**

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

**Grayrock  
Preserve  
Subdivision  
Appeal**

Mr. Lawson reported that the County received an email on Thursday, January 25, 2024, from Mr., Sykes indicating that he would like to withdraw the appeal of the Planning & Zoning Commission's decision in the Grayrock Preserve matter. Mr. Charles H. Toliver, IV scheduled a meeting to discuss this request and provided a letter. In the letter, Mr. Toliver stated that it was his decision as the hearing officer appointed by the Sussex County Council to accept Mr. Sykes's decision to withdrawal the appeal by the Planning & Zoning Commission regarding Grayrock Preserve. The proceedings involving the property shall be returned to the Planning & Zoning Commission for such further proceedings as if the appeal had not been filed. The matter shall be removed from the Sussex County Council agenda and calendar for January 30, 2024. The correspondence received from Mr. Toliver was dated January 26, 2024.

**Minutes**

The minutes from January 23, 2024, were approved by consensus.

**Corre-**

Mr. Moore read correspondence received from Shoes That Fit, The Arc,

**spondence**      **Cancer Support Community of Delaware and Optimist Foundation thanking Council for their donation.**

**Public  
Comments**

**Public comments were heard:**

**Ms. Eul Lee spoke about affordable housing strategies.**

**Ms. Michelle Williams spoke about accessory dwelling units.**

**Ms. Tammy Smith spoke about the Voluntary School Assessment (VSA).**

**Ms. Yvonne Valdes spoke about traffic issues on Route 24.**

**Ms. Melissa Yanchuck spoke about concerns about the Chapel Branch project.**

**Mr. Bill Bogia spoke about traffic issues on Dorman Road and Route 24.**

**Mr. Mike Helwich spoke about proposed development going in at Route 24 and Dorman Road.**

**Mr. William Howe spoke about issues relating to the Chapel Branch Apartments.**

**Mr. Gary Dickinson spoke about the Chapel Branch Apartments.**

**Ms. Christy Quiden spoke about the Chapel Branch Apartments.**

**Mr. Peter Zoler spoke about the Chapel Branch Apartments.**

**Ms. Katharine Dowell spoke about concerns with Dorman Road and Route 24.**

**Mr. Jon Horner spoke about the Sussex County Rental Program (SCR).**

**Mr. Steve Castiglione spoke about concerns with the Chapel Branch Apartments and the Sussex County Rental Program (SCR).**

**M 048 24  
Approve  
Consent  
Agenda**

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

**Use of Existing Wastewater Infrastructure Agreement – IUA-1212  
Hunters Creek, Millville Area**

**Use of Existing Wastewater Infrastructure Agreement – IUA-1154  
Ironwood, Miller Creek Area**

**Use of Existing Wastewater Infrastructure Agreement – IUA-1161 Revised  
The Knoll, Holt’s Landing Area**

**Proclamation Request – Engineers Week**

**Motion Adopted: 5 Yeas**

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

**New County Engineer** Mr. Lawson reported that on December 12, 2023, Council voted to approve the selection of Candidate 2023-C. Mr. Lawson announced that the new County Engineer is Michael T. Harmer who will start with the County on February 5, 2024.

**Voluntary School Assessment (VSA) Discussion** Mr. Hudson recused himself from the conversation due to a possible conflict.

A discussion was held related to the Voluntary School Assessment (VSA). Mr. Lawson stated that the General Assembly last session passed a bill that gave the County the same authority as New Castle to enact a Voluntary School Assessment. In order to do, an Ordinance would need to be enacted to begin the VSA program. Earlier this month, an overview of the process was received by a staff member of the Department of Education.

Mr. Schaeffer stated that he has discussed this with his local school Superintendent on a few occasions as well as discussing it on the radio over the past month. He added that he supports our kids and teachers and that he has always supported them and will continue to do so. Mr. Schaeffer stated that building classrooms is the responsibility of the legislature and the State of Delaware. It is not the responsibility of the Counties, and he has made a proposal that the State legislature should fix the problem instead of kicking the can down the road and continuing to tax our citizens. Mr. Schaeffer commented that it is clear today that the way we fund school districts in the State of Delaware is broken and has been broken for decades. He added that the state legislature needs to fix the problem and not continue to tax our citizens or attempt to tax them and try to make the three Counties in Delaware the bad guys. He also pointed out that this is a tax and there is nothing voluntary about this tax; it is mandatory. In addition, this tax will most affect lower middle-class people and middle-class people. He pointed out that the legislature has exempted people 55+ from this tax. Therefore, the retirees that are moving into the area that are buying \$700,000 houses will be exempt. Mr. Schaeffer noted that if you are not exempt and you purchase a \$700,000 house and an individual is buying a \$200,000 house, the tax is exactly the same amount which is not equitable, fair, and right and he does not support it. He added that it is not fair to continue to burden lower middle-class people and middle-class people with additional taxes. He stated that the way this tax is structured, in the Cape Henlopen school district with the new school that was recently built, he calculated that this tax would be about \$17,000 or \$18,000 per house. He pointed out that the Delaware Department of Education recently denied the



**Voluntary  
School  
Assessment  
(VSA)  
Discussion  
(continued)**

Cape Henlopen School District the ability to buy additional real estate to built classrooms, however, they approved the Cape Henlopen School District the ability to buy real estate to build a new administration building which he believes does not add up. Mr. Schaeffer suggested that the local newspaper in his district and their editorial board directs their efforts and their influence to lobby the legislature to fix the problem after decades of ignoring it. Mr. Schaeffer stated that he will do anything that he can to support the children and the teachers.

Mr. Rieley commented that he echoes Councilman Schaeffer's comments about wanting to support the students and schools. However, this proposal is flawed in a number of ways. He added that this amount does not include the 4% transfer tax which is the highest in the nation and all of this is in the background of reassessment which is creating a lot of uncertainties. In addition, the State has been running a large surplus for several years now and it is their responsibility to fund schools, not the County. He added that he does not understand the urgency of the State to push this onto the County at a time when they are flush with money.

Mrs. Green commented that she agrees with Councilman Schaeffer and Councilman Rieley on their statements that they have already made. She added that clearly this is a tax, and it is going to hit the working class the hardest. It does not seem fair that the 55+ communities would be exempt when we are trying to get affordable housing. She added that the money goes to the Department of Education and then the money goes through committees and finally through the DOE's process. Therefore, by the time the money gets to the schools, all of the money does not go directly to the school which she has an issue with that.

Mr. Vincent commented that he agrees with all three of the Council Members. He added that there is nobody here that does not truly care about the children and the teachers in the community. He believes that all students deserve access to an equal education. There is nothing voluntary about this; you either have to give them land if they will take the land or this tax is put in place. He stated that this is a new tax; all taxes are paid by the public that we serve. The VSA will add more than \$15,000 for every new single-family house built in a major subdivision, regardless of the price. While it was reported that the estimate was \$2,000 per unit which was incorrect. Mr. Vincent commented that adding a new tax to development does not help with the affordability of housing in Sussex County. The Delaware Department of Education reports that all Sussex County schools would qualify for the VSA, however, all school districts are not alike. This law does not benefit or provide equity among all students in the public-school districts in the County. In fact, it shortchanges many students based on where they live; only school districts where development takes place will see added funding. This means that schools on the Western side of Sussex County will see little to no additional funding as new construction is less in these districts compared to those on the Eastern side of the County. This creates a system of winners and losers. For example, Woodbridge, Seaford

**Voluntary  
School  
Assessment  
(VSA)  
Discussion  
(continued)**

and Delmar have had few than 15 new lots that would qualify for a VSA in the last five years. Mr. Vincent commented that all school districts in this County have at least one school that is considered over capacity so every school district should qualify for it. This law is fundamentally flawed that excludes apartments and condominiums not in major subdivisions for collection of VSA fees. At a time when the County is encouraging the construction of new apartments and multi-family housing units for the purpose of growing workforce housing, this legislation excludes the housing units that the County is working to build. According to State officials, the majority of new single-family housing built in Sussex County are second homes or for retirees. The developments that are considered 55+ are excluded. Due to fair housing laws, classifying a development of 55+ does not eliminate all children from moving into a development. This law will not fix Delaware's education funding failures and may do more to widen the gap between the haves and have not. It is being asked for County Council to pass an Ordinance to collect a new tax without any oversight on how much is charged, where it is spent and what to do with it since it all goes to DOE. Mr. Vincent stated that if law makers in Dover believe so adamantly in such a measure, why create a mechanism that needs a third party to enact, why not directly empower local independent school boards the ability to establish a VSA tax if they so choose and based on need. This is not a time to enact a new tax in Sussex County, reassessment is currently underway, and people are concerned of how that will affect their tax bills.

There was no interest to move this matter forward into an Ordinance.

**SCRP &  
Chapel  
Branch  
Apartments**

Mr. Lawson reviewed the Sussex County Rental Program & the Chapel Branch Apartments. Mr. Lawson reviewed the Sussex County Rental Program which was enacted in 2008 with incentives for developers to build moderately priced rental units. Over the next 14 years, only one developer utilized the program and developers reported that the program was not economically viable and expediting the approval process was not an incentive to produce these units. During this time, the need for workforce housing continued to grow and became a centerpiece of the County's updated Comprehensive Land Use Plan in 2018.

Fast forward to 2019 when the County hired LSA, a firm which specializes in housing consultation, to produce a housing needs and market analysis focused on Sussex County. The analysis provided several recommendations to the County, including updating the SCRPs. With the analysis and subsequent recommendation, along with the growing call for more workforce housing, the Council requesting the SCRPs to be updated in 2022.

The SCRPs update in 2022 came in the form of Ordinance Number 2889. The Ordinance was introduced by County Council on March 29, 2022; a public hearing was held by the Planning & Zoning Commission on April 28, 2022, and the Ordinance was amended and approved by the Commission on June 9, 2022. Subsequently, the County Council held its public hearing on October 18, 2022, and voted to approve the Ordinance on the same date.

**SCRP &  
Chapel  
Branch  
Apartments  
(continued)**

The SCR update does allow the development of multifamily units or townhouses “by right” so long as the development meets several requirements outlined in the Ordinance. Among those requirements, the site must be located within a Town Center, Developing Area, Commercial Area, or the Coastal Area as described within the County’s publicly adopted Comprehensive Land Use Plan. Twenty-five percent (25%) of the dwelling units must be offered at a reduced rent based on the household income. Families with incomes between 30%-80% of the area medium income (AMI) as defined by the U.S. Department of Housing and Urban Development would be able to apply for these units. The rent is set at 25% of household income for a family earning 50% AMI. Generally speaking, these rent ranges are designed to support working families. The site must be located on specific roads classified by the Delaware Department of Transportation (DelDOT) and work to have DART First State transit access. The site must be served by central water and sewer systems. The site requires a 100-foot setback around the perimeter if the dwelling exceeds 42 feet in height and a 50-foot setback if the dwelling is less than 42 feet in height. Additionally, the site requires that 50% of the gross area remain as open space.

As a result of these requirements, similar to any other “by right” property use, a developer seeking to participate in the SCR must still submit their application and receive approval in a public meeting from the Planning & Zoning Commission upon review of the site plan. no public hearings are required, nor held.

In addition to meeting the County criteria for approval, the developer must meet all other agency approvals, including DelDOT, Sussex Conservation District, and the Delaware State Fire Marshall.

To date, the County has had four developers being the SCR process, including the development known as Chapel Branch Apartments.

Following the process outlined above, the Chapel Branch Apartments application was submitted for the site located at the corners of John J. Williams Highway (DE Route 24) and Dorman Road, east of Burton Pond, near Agnola. The Planning & Zoning Commission reviewed the site plan and granted preliminary approval of the application on May 25, 2023. The developer’s building renderings were shown.

According to the site plan provided by the applicant, the Chapel Branch Apartments will be developed in two phases. Phase 1 features two apartment buildings and a clubhouse, while Phase 2 features two apartment buildings. Phase 1 construction is tentatively scheduled to being in the spring of 2024.

The development is approved for a total of 84 units with 28 designated as SCR and 56 as non-SCR. The apartment buildings are designed to be 38 feet, 6 inches in height and will have a 50-foot setback to the rear, side, and

**SCRP &  
Chapel  
Branch  
Apartments  
(continued)**

**front of the property. a bus stop is called for on the corner of Dorman Road.**

**Mr. Roberston provided an overview of property rights for property owners and outlined the steps that were taken for the Ordinance. It was stated that DelDOT make the determinations related to traffic improvements that may be needed for developments. Mr. Robertson noted that they are not subsidized housing, however, through Mrs. Nauman’s department, there is an ongoing monitoring and coordination with any SCRIP project to ensure all of the requirements are being followed.**

**Adminis-  
trator’s  
Report**

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

**1. Projects Receiving Substantial Completion**

**Per the attached Engineering Department Fact Sheets, the following projects have received Substantial Completion: Cardinal Grove – Phase 2 (Construction Record); Cardinal Grove – Pump Station; Heritage Shores – Villas at Bridgeville – Phase 5A (Construction Record); Heritage Shores – Villas at Bridgeville – Phase 5B (Construction Record); all effective January 17<sup>th</sup>.**

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

**Accessory  
Dwelling  
Units  
Discussion**

**Jamie Whitehouse, Director of Planning & Zoning provided a presentation related to Accessory Dwelling Units. Mr. Whitehouse reminded Council that this topic was discussed during the public workshop that was held with the Commission in the fall of last year. He explained that the definition is broad, and it goes to the relationship with the structure vs. its principal structure on the property. An accessory dwelling unit is a self-contained dwelling unit that is secondary to the principal dwelling. So, that means there is an existing house on the parcel, and this is a smaller, secondary dwelling. They are more affordable dwellings, and they are designed to be occupied for year-round dwellings. They have all of the functional facilities of a dwelling house, but they are separate from the main dwelling house. Mr. Whitehouse explained that they come in a variety of different types of attachment whether they are internal or external. There are six common types which were discussed. Currently, in the zoning code, you will not see the words accessory dwelling unit. This does not mean that we do not have them, we call them garage/studio apartments which have been in the Code since about 1998. These applications go through the Board of Adjustments and historically, you would make an application and pay a fee. There are certain requirements that have to be met prior to the application going for a public hearing. In 2019, a change was adopted by County Council by an Ordinance that allows the applicant to come to staff to apply and a survey along with a \$50 fee. It then triggers staff to notify the adjoining property owners to allow them 10 working days to review what has been submitted and give them an opportunity to object. If there is an objection, then the**

**Accessory Dwelling Units Discussion (continued)**

application would go to the Board of Adjustment as a public hearing, but if nobody objects, staff has the ability to administratively approve the application without the need for a public hearing. Since 2019, staff has seen over 70 detached ADUs of which about 85% of them were approved administratively.

Mr. Whitehouse then reviewed recent changes that Kent County adopted last year. He explained that the Ordinance came up with a good definition of an ADU. They define an ADU as a self-contained dwelling unit that is secondary to the principal dwelling unit on the property and includes independent living facilities such as a separate entrance, bathroom, and a kitchen. The dwelling unit may be attached to the principal dwelling, but they call it an accessory apartment. However, what may be detached on the same lot, they refer to as cottages. In addition, Kent County only permits one per property and they do not allow manufactured homes to be an ADU. They also have design requirements that states that the area of the ADU is a maximum of 50% of the floor area of the principal dwelling. It also has to be constructed on a slab or a cross space and the total lot coverage can only be 50% which includes the main dwelling. It also must also comply with all of the regulations in the Code.

Mr. Whitehouse and Mr. Robertson reviewed possible next steps and recommendations.

**Grant Requests**

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

**M 049 24 Milton Historical Society**

A Motion was made by Mrs. Green, seconded by Mr. Hudson to give \$1,000 (\$1,000 from Mrs. Green’s Councilmanic Grant Account) to Milton Historical Society for their Shipbuilding Museum and Public Exhibit.

**Motion Adopted: 5 Yeas**

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

**M 050 24 Pop Warner Little Scholars Inc.**

A Motion was made by Mrs. Green, seconded by Mr. Hudson to give \$1,500 (\$1,500 from Mrs. Green’s Councilmanic Grant Account) to Pop Warner Little Scholars, Inc. (Woodbridge) for their Woodbridge Youth football program.

**Motion Adopted: 5 Yeas**

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

**Introduction of Proposed**

Mr. Vincent introduced a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1

**Ordinances**      **AGRICULTURAL RESIDENTIAL DISTRICT FOR TRUCK PARKING, STORAGE, & MAINTENANCE AND AN OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 5.06 ACRES, MORE OR LESS” filed on behalf of Deihm’s Trucking Inc.**

**Mr. Vincent introduced a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN OUTDOOR VENUE FOR SEASONAL VENDORS AND SERVICES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 2.84 ACRES MORE OR LESS” filed on behalf of Blue Hen Rental Company, LLC.**

**The Proposed Ordinances will be advertised for a Public Hearing.**

**Council Members’ Comments**      **Mr. Hudson commented about the three soldiers that were killed and the several that were injured in the drone attack in Jordan. He asked that everyone keep them in their thoughts.**

**Recess**      **A five-minute recess was held at 2:07 p.m. At 2:12 p.m., the Council came out of recess back into Public Hearings.**

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

**Public Hearing/ CU2401**      **A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY (180 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 48.36 ACRES, MORE OR LESS” (property lying on the northeast corner of Old Mill Road [Rt. 349], and the southwest corner of Railway Road [S.C.R. 350], at the intersection of Railway Road [S.C.R. 350] and Old Mill Road [Rt. 349]) (911 Address: N/A) (Tax Map Parcel: 134-12.00-74.01) filed on behalf of OA Sundance Club, LLC.**

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

**The Planning & Zoning Commission held a Public Hearing on the application on December 14, 2023. At the meeting of January 3, 2024, the Planning & Zoning Commission recommended approval of the application for the 9 reasons stated and subject to the 17 recommended conditions as outlined.**

**The Council found that Mr. Jim Fuqua, Esq. with Fuqua, Willard & Schab, P.A. spoke on behalf of the Applicant, OA Sundance Club, LLC;**

Public  
Hearing/  
CU2401  
(continued)

that also present were Mr. Ben Gordy of Ocean Atlantic Companies and Mr. Alan Decktor, Senior Engineer, with Pennoni Associates, Inc. Mr. Fuqua stated that an Exhibit Booklet was submitted; that the Application proposes 180 multi-family residential units; that the units will be single-family detached condominium units, to be located within an over 55 age-restricted community; that the Application is unique; that the site was already approved as a Conditional Use, and received Final Site Plan approval for a 200 unit multi-family development, as 17 multi-family apartment-type buildings; that the current Application proposes three modifications to the original Conditional Use and Site Plan; that rather than the large multi-family unit buildings, the Applicant is proposing single-family detached condominium units; that both types of units are defined as multi-family dwellings under the Sussex County Zoning Ordinance; that there was a 2.25 acre parcel that was located on the east side of Railway Rd., which has been removed from the current Application request; that the already approved 200 unit Conditional Use is now being proposed to reduce the density to 180 units; that the property is located at the northwest corner of the intersection of Railway Rd. and Old Mill Rd.; that the parcel contains 48.36 acres, which mostly consists of farmland; that there is approximately 3.6 acres of forest; that within the forested area is 1.3 acres of non-tidal wetlands, being located to the northwest corner of the site; that the site had frontage along both Railway Rd. and Old Mill Rd.; that the site is located adjacent to a wooded parcel to the rear of the site; that the remainder of the area surrounding the site is predominantly for single-family residential uses; that in 2010, the property was approved as a Conditional Use for 200 multi-family residential units; that approval was subsequently voided for the failure to be substantially under construction within the timeframe allotted; that in April 2021, the County Council held a public hearing on a Conditional Use application, C/U 2206, filed by Lender and Company for a 200 unit, multi-family development, which was similar to the Conditional Use that had been approved in 2010; that neither Ocean Atlantic nor Mr. Schell were involved in the previous Application, nor was Mr. Fuqua; that from his research, it seemed the previous application was controversial; that the previous public hearing lasted over five hours; that there was a opposition petition signed by over 1,000 residents in the area; there were over 260 email and letters of opposition submitted for the previous Application; that there was an organization, Evans Farm Watch, comprised of representatives from over a dozen area communities who led the opposition; that the previous application was granted a recommendation of approval by the County Council granted approval by a three to two vote; that the previously approved application proposed 200 units, in 17 multi-family buildings with 17 garage buildings located on the perimeter of the site; that the current Application request is to modify the previously approved development by replacing the large multi-family buildings with single-family detached condominium units, and reducing the units from 200 to 180; that this change was proposed for several reasons; that first, Ocean Atlantic Companies is an established and experienced local developer; that they build single-family

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(continued)**

**and multi-family residential developments, rental communities and commercial projects; that based on the companies' experience and knowledge in Sussex County, it was determined that the site was not an appropriate location for the development of a large multi-family rental-type project; that the need for rental housing, particularly workforce housing is well established; that such housing does need to be located in an appropriate place; that the current location was deemed not to be appropriate for several reasons; that the site is not located in close proximity to shopping areas or employment centers; that the site is not served by public transportation; that the area roads, particularly Railway Rd., between Old Mill Rd. and Rt. 26, is a narrow, two-laned road; that there are no sidewalks or shoulders; that due to this, it would create unsafe conditions for pedestrians walking or cycling along the road; that additionally, as it was noted by the opposition for the prior Conditional Use, the large multi-family building project does not fit in with the existing character of the area; that the surrounding area is predominantly of single-family residential character; that the previous Conditional Use Site Plan reflected 17 large buildings, with 17 garage buildings located along the outside perimeter of the large buildings; that one resident in opposition referred to the previous Site Plan layout as a circled wagon train design; that everything was centered with an almost military style and feel with compounded units located on the outside surrounding of the site; that the aesthetic appeal was lacking, and was not in character with the existing nature of the area; that the Site Plan for the current Application replaces the 17 big, box-styled, multi-family buildings and garages with 180 single-family attached condominiums; that there are a variety of unit types and styles that can be chosen, with options that the purchaser can choose from; that there will be a variety of different styles and appearances within the development; that the current Site Plan has the appearance of a mini-subdivision comprised of single-family condominium units, rather than the single-family homes located on individual lots; that the modified Site Plan retains the multi-family use, but with a building design that is in better harmony with the area and creates a more appropriate transition from the surrounding area to the use of the site; that everyone can recognize there is a need for rental housing in eastern Sussex County, however, there is also a need for appropriate housing, such as an over 55 community for both new and current older residents; that the existing 2019 Sussex County Comprehensive Plan note that the median age of a Delaware resident is 39 years; that the median age in New Castle County is 37.5 and Kent County it is 37 years; that the median resident age in Sussex County is 47 years; that the median age of residents in eastern, coastal area of Sussex County is much higher; that the census population data from the beach towns and areas such as Longneck and Ocean View, report an average median age of approximately 64 years; that this equals to half of the population in those areas being older than 64 years of age; that now, over 55 communities are designed with the needs of the older residents in mind; that the homes tend to be smaller, with master bedrooms located on the first floor; that accessibility and safety are key design components;**



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(continued)

that options are available to provide a number of things that would be desirable by older residents, which include handicap accessible bathrooms, and other floor modifications to make the homes more navigable and safer for older residents, many purchasers, including current older residents seeking to remain living in the area where they have been living, but wanting to downsize from their existing larger homes and yards; that downsizing will provide less utility and other expenses, as all buildings and lawn maintenance will be taken care of by the Owner's Association; that the Applicant has concluded the subject site is much more appropriate for the proposed type of use, and is more compatible with the local uses in the area; that the proposed development will contain 180 single-family detached condominium units, resulting in a density of 3.7 units per acre; that the proposed density is significantly less than the density that would have been permitted by the existing GR (General Residential) Zoning; that the parcel is zoned GR (General Residential); that the current Application proposes 20 units less than what was already approved for the site; that the site is located within the Coastal Area, which is a Growth Area, where a range of housing types, including multi-family uses, are appropriate; that the site is in State Investment Level 2 and 3; that central water will be provided by Tidewater Utilities; that central sewer will be provided by Sussex County; that the Applicant will be responsible for the entrance and road improvements, as required by DelDOT, along the road frontage on both Railway Rd. and Old Mill Rd.; that the road improvements will include a shared use path along both of those roads; that there will be a vegetated or forested buffer of at least 20 ft. in width installed along the perimeter of the development that is adjacent to lands of other ownership; that the buffer will be increased to a minimum of 25 ft. along the western boundary line of the site; that there will be an enhanced buffer to the northeastern corner of the property; that there would be a landscape buffer to the rear of the homes bordering Railway Rd. and Old Mill Rd.; that there are 1.6 acres of non-tidal Federally regulated wetlands located in the northwest corner of the site; that area will remain undisturbed, and in its natural wooded state; that there will be a 50 ft. buffer established from any home and the wetland line; that the site is located with Flood Zone X, being outside of the floodplain, according to the FEMA Insurance Map; that there are 3.6 acres of woodlands that are located to the northwest corner; that along the northern boundary line, approximately .39 acres of woodlands will be removed; that approximately 89% of the existing woodlands will remain as they are; that stormwater management facilities will be designed and constructed in full compliance with DNREC's regulations; that there will be a recreational area located near the entrance of the site that will consist of a clubhouse, a pool and a deck, two pickleball courts, a community garden, and a dog park; that it is proposed that the recreational amenity would be completed prior to the issuance of the 90<sup>th</sup> Certificate of Occupancy, equating to 50%; that sidewalks will be located on one side of all internal streets with shielded street lighting; that each residential unit will have a two car garage and space for two cars to be located in the

**Public  
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CU2401  
(continued)**

**driveway; that in addition, there will be 47 parking spaces located at the recreational area; that the spaces will be comprised of 44 regular spaces and three ADA compliant spaces; that there was an emergency access placed in the northeast corner of the site, which he believed was to have lighting along the shared use paths; that DelDOT requested the emergency access be removed, as they did not want the emergency access or the lighted pathway; that due to this both the emergency access and lighting were removed; that the modified Site Plan does present an appropriate transition design that is more harmony in appearance with the many single-family developments in the area; that he believed the proposed design is much more acceptable and preferred by many of the residents of the area; that there was a letter submitted by the Evans Farm Watch, which was the same organizational group on record for the previous application; that the group did indicate that they found the modified plan to be more acceptable; that in 2021, the Council stated a number of reasons for recommending approval of the previous application; that those reasons were adopted by the County Council, and the application was approved; that he felt those previous reasons equally applied to the current Application; that the property is zoned GR (General Residential), which provides for medium density residential use with a permitted density of four units per acre; that the property is in the vicinity of a mixture of residential and commercial zoned properties, including GR properties, as well as MR (Medium-Density Residential) and C-1 (General Commercial) zoned properties; that a multi-family residential project is consistent with those zoning classification options; that the proposed Conditional Use is appropriate for the site because central sewer and water is available; that the proposed use is consistent with the County's Comprehensive Plan because the site is located within the Coastal Area, which is a Growth Area, and is located in an area where medium and higher density is appropriate, and a range of housing types should be permitted in the Coastal Area, including multi-family units; that DelDOT reviewed the proposed use and determined under its vehicle trip standards, that the traffic impact would be minor; that the developer will be responsible for road improvements required by DelDOT; that the current Application proposed fewer units than the previous application, and the current Application is for an age restricted community; that the Commission previously stated under the Sussex County Zoning Ordinance, there is no distinction between a condominium multi-family unit and an apartment multi-family unit; that a condominium is not a building, it is a form of ownership; that it is a way to own something; that it is not a construction type; that the definition of a multi-family unit is various things under the Sussex County Zoning Ordinance, including an apartment, a townhouse, and a duplex; that these findings were made in 2021; that no conditions have changed in that area so they equally apply to this application; that at its meeting on January 3, 2024, the Planning & Zoning Commission recommended approval of this application subject to conditions A-Q; that the applicant believes that this application is an appropriate use of the land and the existing GR zoning; that it is compliance with the**

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CU2401  
(continued)**

**Comprehensive Plan; that it is more compatible with the existing residential communities in the area; that it is much more acceptable to the many area residents; that he requested the Council’s approval based on the findings and conditions provided by the Commission.**

**Public comments were heard.**

**Mr. Martin Lampner spoke in favor of the application; that his neighborhood association, formerly Evans Farm Watch will be becoming the Whites Neck Communities Association; that the association is approachable; that Mr. Schell reached out to them; that they sat down to provide ground on both sides to give a workable design and they recommend the Council approve this development.**

**Ms. Tracy Wells questioned if this building would affect their wells; that she questioned what a condominium unit is; that she questioned the lighting on the site; that she did not receive any notice for the meetings.**

**The Public Hearing and the public record were closed.**

**M 051 24  
Amend  
Condition J/  
CU2401**

**A Motion was made by Mr. Hudson, seconded by Mr. Rieley to amend Condition J to state as follows: Construction, site work, excavation, grading, and deliveries to or from the property shall only occur between the hours of 7:00 a.m. to 6:00 p.m., Monday through Friday, and 8:00 a.m. through 2:00 p.m. on Saturdays. There shall be no Sunday hours. During sitework and initial construction, all dumpsters and roll-off containers shall be covered to prevent construction materials and debris from blowing across the site or onto neighboring properties.**

**Motion Adopted: 5 Yeas**

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

**M 052 24  
Adopt  
Ordinance  
No. 2977  
CU2401**

**A Motion was made by Mr. Hudson, seconded by Mr. Rieley to Adopt Ordinance No. 2977 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY (180 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 48.36 ACRES, MORE OR LESS” for the reasons and conditions given by the Planning & Zoning Commission as amended by this Council as follows:**

- 1. This property has been the subject of several prior applications. Conditional Use No. 1848 was recommended for approval by this Commission and then approved by County Council for 200 multifamily condominium units. Then, Conditional Use No. 2206 was subsequently approved for a similar project with 200**

**M 052 24  
Adopt  
Ordinance  
No. 2977  
CU2401  
(continued)**

- apartment multifamily units. Neither development was built.
2. This application is for 180 condominium units, twenty less than what was previously approved. Instead of large buildings with multiple units, this project will consist of condominium units that have the appearance of individual homes. These individual structures will be consistent with the single-family homes that exist on many neighboring properties.
  3. The property is currently zoned GR General Residential. According to the Sussex County Zoning Code, the purpose of the GR District is to provide for medium density residential uses. The permitted density within the GR District is 4 units per acre. This application complies with the purpose and density of the GR Zoning District.
  4. The property is in the vicinity of a mixture of commercially and residentially zoned properties, including other GR properties, MR properties and C-1 properties. This use is consistent with all of the nearby uses and zoning districts.
  5. The proposed Conditional Use is appropriate for this site because residential development of this type is appropriate where central sewer and water are available. Sewer will be provided by Sussex County and water will be provided by Tidewater Utilities.
  6. The proposed use is consistent with the County's Comprehensive Land Use Plan. It is in the Coastal Area according to the Plan, which is a Growth Area. The Plan states that medium and higher densities can be appropriate where, like here, there are features such as central water and sewer and nearby commercial uses and employment centers.
  7. The project will be served or benefitted by amenities which include a clubhouse, pool, playground, sport courts, and walking paths.
  8. DelDOT has reviewed the proposed project and has determined that the development traffic impact will be minor.
  9. With the conditions placed upon this recommendation, there will be no adverse impact upon traffic or the neighboring area.
  10. This recommendation is subject to the following conditions:
    - a. There shall be no more than 180 Units within the development.
    - b. All entrances, intersections, roadways, and multimodal improvements required by DelDOT shall be completed by the applicant in accordance with DelDOT's determination.
    - c. There shall be on-site active and passive amenities including a clubhouse, swimming pool, pickleball courts, gardens, and a dog park. These amenities shall be completed and open to use as required by the Zoning Code.
    - d. Central sewer shall be provided to the development by Sussex County. The developer shall comply with all requirements and specifications of the Sussex County Engineering Department.
    - e. The development shall be served by a central water system providing adequate drinking water and fire protection as

**M 052 24**  
**Adopt**  
**Ordinance**  
**No. 2977**  
**CU2401**  
**(continued)**

- required by applicable regulations.
- f. Stormwater management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements, and the project shall utilize Best Management Practices to construct and maintain these fixtures. The Final Site Plan shall contain the approval of the Sussex Conservation District.
  - g. No wetlands shall be disturbed except as authorized by State and Federal permits.
  - h. All internal roadways shall be private and maintained by the developer or its assigns. All roads shall comply with Fire Marshal and Delaware Fire Prevention requirements.
  - i. The applicant shall consult with the local school district's transportation manager to determine if a school bus stop is appropriate. The location of such a bus stop shall be shown on the Final Site Plan.
  - j. Construction, site work, excavation, grading, and deliveries to or from the property shall only occur between the hours of 7:00 a.m. to 6:00 p.m., Monday through Friday, and 8:00 a.m. through 2:00 p.m. on Saturdays. There shall be no Sunday hours. During sitework and initial construction, all dumpsters and roll-off containers shall be covered to prevent construction materials and debris from blowing across the site or onto neighboring properties.
  - k. The developer shall preserve as many existing trees as possible on the site. Clearing, disturbance or altering of existing vegetation shall be limited to what is necessary for construction and for the removal of dead and dying trees which pose a threat to public safety or harm to adjacent properties. These areas of non-disturbance shall be clearly shown on the Final Site Plan.
  - l. There shall be a forested and/or vegetated buffer strip that is at least 20 feet wide adjacent to land of other ownership. This buffer shall increase to a width of 25 feet along the western boundary line between units 13 and 31 and along the northeastern boundary line between units 54 and 62. This buffer shall utilize existing forest or similar vegetation where it exists in the buffer area. Where trees currently exist in the buffer area, stump removal or construction activities that disturb the existing grade of the area within the buffer shall be prohibited. All silt fencing shall be located along the interior limit of the buffer area (the edge of the buffer nearest the interior development) and the Final Site Plan shall identify the "Limit of Disturbance" to prevent disturbance of the buffer area.
  - m. The Applicant or its assigns shall be responsible for the maintenance of all interior roadways and parking areas, buildings, buffers, stormwater management areas, recreational amenities, and open space.

**M 052 24  
Adopt  
Ordinance  
No. 2977  
CU2401  
(continued)**

- n. All lighting on the site shall be downward screened so that it does not shine on neighboring properties or roadways.**
- o. As represented by the Applicant, the development shall be an “age-restricted, over-55” community as that term is generally interpreted under Federal Law and Fair Housing.**
- p. The Final Site Plan shall include an unobstructed area set aside for vehicular access to the subdivision in emergency situations from Railway Road. This area does not need to be improved with paving or stones. Instead, it must be an area outside of any structures and free from obstructions so that the development is not isolated in the event that the main entrance is impassible.**
- q. The Final Site Plan shall be subject to the review and approval of the Sussex Planning & Zoning Commission.**

**Motion Adopted: 5 Yeas**

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

**M 053 24  
Go Into  
Executive  
Session**

**At 2:51 p.m., a Motion was made by Mr. Rieley, seconded by Mr. Hudson to recess the Regular Session, and go into Executive Session for the purpose of discussing matters related to pending & potential litigation.**

**Motion Adopted: 5 Yeas**

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

**Executive  
Session**

**At 2:53 p.m., an Executive Session of the Sussex County Council was held in the Council Chambers to discuss matters related to pending & potential litigation. The Executive Session concluded at 3:07 p.m.**

**M 054 24  
Reconvene**

**At 3:09 p.m., a Motion was made by Mr. Rieley, seconded by Mr. Hudson to come out of Executive Session back into Regular Session.**

**Motion Adopted: 5 Yeas**

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

**There was no action related to Executive Session matters.**

**M 055 24  
Adjourn**

**A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer to adjourn at 3:10 p.m.**

**Motion Adopted: 5 Yeas**

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

**Respectfully submitted,**

**Tracy N. Torbert  
Clerk of the Council**

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

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**Sussex County**  
DELAWARE  
sussexcountyde.gov

## MEMORANDUM

**TO:** Sussex County Council  
The Honorable Michael H. Vincent, President  
The Honorable John L. Rieley, Vice President  
The Honorable Cynthia Green  
The Honorable Douglas B. Hudson  
The Honorable Mark Schaeffer  
Todd F. Lawson, County Administrator

**FROM:** Brandy B. Nauman, Director

**RE:** **FY2024 Community Development Block Grant Application**

**DATE:** February 1, 2024

During Tuesday's County Council meeting, I will be presenting Sussex County's Community Development Block Grant (CDBG) application request for the FY2024 CDBG grant year. The Community Development & Housing Department has held public hearings at the towns/cities identified in the proposed application request, and the projects associated with each town/city represent their individual application requests.

I have consulted with and received approval from the Sussex County Community Development Advisory Committee for the submission of this application request.

Attached are two (2) required Resolutions for your consideration, as well as the proposed application request.

Please do not hesitate to contact me with any questions. Thank you.





STATE OF DELAWARE  
 DELAWARE STATE HOUSING AUTHORITY  
DELAWARE CDBG PROGRAM - PROJECT COST SUMMARY  
 SUSSEX COUNTY

Contract Period - From: July 1, 2024 To: June 30, 2026

Summary of Program Activities  
 Amount of Source

I. PROGRAM ACTIVITIES	CDBG PROGRAM FUNDS	LOCAL FUNDS	OTHER FUNDS	TOTAL
A. Bethel - (5) Rehab	\$100,000	\$0	\$0	\$100,000
B. Blades - (5) Rehab	\$100,000	\$0	\$0	\$100,000
C. Delmar - (4) Rehab	\$80,000	\$0	\$0	\$80,000
D. Ellendale - (4) Rehab	\$80,000	\$0	\$0	\$80,000
E. Frankford - (6) Rehab	\$120,000	\$0	\$0	\$120,000
F. Georgetown - (4) Rehab	\$80,000	\$0	\$0	\$80,000
F. Laurel - (6) Rehab	\$120,000	\$0	\$0	\$120,000
G. Milford - (4) Rehab	\$80,000	\$0	\$0	\$80,000
H. Milton - (4) Rehab	\$80,000	\$0	\$0	\$80,000
I. Seaford - (6) Rehab	\$120,000	\$0	\$0	\$120,000
J. Selbyville - (6) Rehab	\$120,000	\$0	\$0	\$120,000
K. Coverdale Crossroads - (6) Rehab	\$120,000	\$0	\$0	\$120,000
L. Greentop - (6) Rehab	\$120,000	\$0	\$0	\$120,000
M. Handicap Accessibility - (10) Rehab	\$55,000	\$0	\$0	\$55,000
N. Scattered Emergency Rehab - (11) Rehab	\$71,500	\$0	\$0	\$71,500
O. Scattered Hookups - (10) Hookups	\$35,000	\$0	\$0	\$35,000
P. Scattered Rehab - (20) Rehab	\$400,000	\$0	\$0	\$400,000
Q. Scattered Roofing - (12) Rehab	\$144,000	\$0	\$0	\$144,000
<b>TOTAL PROGRAM ACTIVITY COST</b>	<b>\$2,025,500.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$2,025,500.00</b>
II. ADMINISTRATION	CDBG PROGRAM FUNDS	LOCAL FUNDS	OTHER FUNDS	TOTAL
A. Salaries	\$230,000.00	\$132,000.00	\$38,000.00	\$400,000.00
B. Other Employment Costs	\$20,000.00	\$212,000.00	\$33,000.00	\$265,000.00
C. Travel	\$0.00	\$0.00	\$0.00	\$0.00
D. Contractural Services	\$0.00	\$0.00	\$0.00	\$0.00
E. Supplies & Materials	\$0.00	\$0.00	\$0.00	\$0.00
<b>TOTAL ADMINISTRATIVE COSTS</b>	<b>\$250,000.00</b>	<b>\$344,000.00</b>	<b>\$71,000.00</b>	<b>\$665,000.00</b>
<b>III. TOTAL PROGRAM COSTS</b>	<b>\$2,275,500.00</b>	<b>\$344,000.00</b>	<b>\$71,000.00</b>	<b>\$2,690,500.00</b>

\* Denotes Cash Match

\*\* Denotes In-kind Match

**RESOLUTION NO. R**  
**AUTHORIZATION TO SUBMIT APPLICATIONS**

**BE IT KNOWN**, The Sussex County Council resolves to apply for Community Development funds from the Delaware State Housing Authority in accordance with appropriate regulations governing Community Development Block Grants for the State of Delaware Community Development Block Grant Program; and

**WHEREAS**, the County Administrator, Todd F. Lawson, is hereby authorized to certify that matching funds in excess of \$250,000.00 will be made available upon the approval by the Delaware State Housing Authority.

**BE IT FURTHER RESOLVED** by the Sussex County Council that Todd F. Lawson, County Administrator, is hereby authorized to submit the Fiscal Year 2024 Community Development Block Grant applications with all understandings and certifications contained therein to the State of Delaware Housing Authority.

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF RESOLUTION NO. R PASSED BY THE SUSSEX COUNTY COUNCIL ON THE 6<sup>TH</sup> DAY OF FEBRUARY 2024.

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TRACY N. TORBERT  
CLERK OF THE COUNTY COUNCIL

**RESOLUTION**

**AFFIRMATIVELY FURTHERING FAIR HOUSING**

**WHEREAS** Sussex County Council recognizes the importance of fair housing for the citizens of Sussex County; and

**WHEREAS**, the Sussex County Council supports the goals of the Federal Fair Housing Law,

**NOW THEREFORE, BE IT RESOLVED**, that the Sussex County Council heartily encourages all parties involved in the renting, selling or financing of housing in Sussex County to ensure that no person shall, on the grounds of race, color, national origin, religion, creed, sex, marital status, familial status, age, sexual orientation, source of income or disability be discriminated against or denied a fair and equal opportunity to housing.

**AND BE IT FUTHER RESOLVED** that the Sussex County Council take meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially or ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws.

**AND BE IT FURTHER RESOLVED** that the Sussex County Council, when acting as administrator of a Community Block Grant, is hereby authorized to take such actions as deemed necessary to affirmatively further fair housing in connection with the said Community Development Block Grant.

**I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF RESOLUTION NO. R ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 6<sup>TH</sup> DAY OF FEBRUARY 2024.**

ATTEST: \_\_\_\_\_

\_\_\_\_\_  
TRACY N. TORBERT  
CLERK OF THE COUNTY COUNCIL

CITIZEN PARTICIPATION  
CERTIFICATE OF ASSURANCE

It is hereby assured and certified to the Delaware State Housing Authority that Sussex County, Delaware has met application requirements of (Attachment E Delaware Community Development Block Grant Program Policies and procedures) citizen participation requirements, and that Sussex County has:

- (1) made available information concerning the amount of funds that may be applied for;
- (2) made known the range of activities that may be undertaken with these funds;
- (3) made known the fact that more applications will be submitted to the State of Delaware than can be funded;
- (4) outlined the processes to be followed in soliciting and responding to the views and proposals of citizens, communities, nonprofit agencies, and others in a timely manner; and
- (5) provided a summary of other important program requirements.

The Sussex County Council has held a public hearing on February 6, 2024 with required notice for all citizens, including low and moderate-income persons, to have an opportunity to present their views and proposals.

The Sussex County Council has by resolution and after one public hearing, endorsed this application.

ATTEST:

SUSSEX COUNTY COUNCIL

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Todd F. Lawson  
County Administrator

PARKOWSKI  
GUERKE &  
SWAYZE

Attorneys at Law

VINCENT G. ROBERTSON

Rehoboth Beach Office

302-567-2671

[vrobertson@pgslegal.com](mailto:vrobertson@pgslegal.com)

Firm Website: [www.pgslegal.com](http://www.pgslegal.com)

TO: Sussex County Council

FROM: Vincent G. Robertson, Esq.  
Assistant Sussex County Attorney

RE: Marijuana Ordinance

DATE: February 2, 2024

House Bill No. 2 was enacted by the General Assembly with an effective date of July 5, 2023. It authorized, among other things, the creation of the State Office of the Marijuana Commissioner and the issuance of a total of 125 Licenses for the cultivation and/or sale of marijuana. It also authorized the promulgation of Rules and Regulations for the cultivation, manufacturing, testing and sale of marijuana. Of these Licenses, 60 will be for Marijuana Cultivation Facilities, 30 will be for Marijuana Product Manufacturing Facilities, 30 will be for Retail Marijuana Stores and 5 will be for Marijuana Testing Facilities. The legislation provides that municipalities can, “prohibit the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities or retail marijuana stores” as those terms are defined. A majority of the municipalities in Sussex County have prohibited these uses. On the other hand, the legislation does not permit Sussex County to deny these uses, only regulate them.

In the time period since the last presentation to County Council on this topic, County Staff has had an opportunity to meet with Commissioner Robert Coupe, who serves as Marijuana Commissioner for the State of Delaware, to discuss each of the uses (cultivation, manufacturing, testing and retail sales) in more detail. As a result of that informative meeting and upon further review of the legislation and pending regulations (which are planned for adoption on July 5, 2024), there is a greater clarification over the cultivation, manufacturing and testing of marijuana in

Delaware and the high level of security, environmental scrutiny and product purity that is required at all levels. The cultivation and manufacturing of marijuana products will be in controlled, secured environments that are tested for minute levels of impurities such as mold, yeasts, pesticides and other contaminants. The plants are tracked from seed to harvest. There is no public access to these facilities and no retail sales may occur. In other words, while marijuana cultivation is somewhat akin to other agricultural uses, it is also very different and highly regulated, tested and secured. In fact, the cultivation facilities that currently exist in Delaware are in otherwise nondescript (but highly secured) buildings on land that is zoned for not only agricultural use but also for business and commercial uses. It can occur in converted poultry houses or in warehouse buildings on commercially or industrially-zoned land.

As a result of this additional information, the initial proposal previously discussed with Council has been modified for consideration.

In the attached Ordinance, the cultivation, manufacturing and testing of marijuana and marijuana products would be permitted in the AR-1, C-1, CR-1, C-3, LI-1, LI-2 and HI-1 Districts. The C-4 District was not included because it is intended to be a larger scaled, mixed-use zoning district. Likewise, the C-5 District was not included because every use in the C-5 District must have a retail component, which is inconsistent with Council's directives for the treatment of retail marijuana stores.

In the attached Ordinance, the retail sales of marijuana products would only be permitted in the C-3 Zone with a Conditional Use. The C-3 District is "generally intended for larger scale auto-oriented retail and service businesses along major arterial roads that serve local and regional residents as well as the travelling public. In addition to most commercial uses found in this zone, automobile, truck, recreational vehicle and boat sales, rental and major repair facilities may also be located in this district." This is the most appropriate location within the new business and commercial districts for a conditional use for retail marijuana sales.

If Council is satisfied with this approach, the attached Ordinance can be introduced as set forth on the agenda for the Tuesday, February 6, 2024 Council Meeting.

VGR

1 **AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY,**  
2 **CHAPTER 115, ARTICLES I, IV, XI, XIA, XIC, XIII, XIV, AND**  
3 **XV, AND XXV, SECTIONS 115-4, 115-20, 115-77, 115-83.2, 115-**  
4 **83.18, 115-83.19A 115-94, 115-102 AND 115-194.6 115-TO**  
5 **REGULATE MARIJUANA ESTABLISHMENTS IN SUSSEX**  
6 **COUNTY.**  
7

8 WHEREAS, House Bill No. 2 was enacted by the General Assembly of  
9 the State of Delaware as an amendment to Titles 4, 11, 16 and 30 of the  
10 *Delaware Code* with an effective date of July 5, 2023; and

11 WHEREAS, House Bill No. 2 authorized, among other things, the  
12 creation of the State Office of the Marijuana Commissioner, the issuance  
13 of a total of 125 State-Wide Open, Microbusiness and Social Equity  
14 Licenses for the cultivation and/or sale of marijuana, and authorized the  
15 promulgation of Rules and Regulations for the cultivation, distribution  
16 and sale of marijuana; and

17 WHEREAS, there is an existing medical marijuana industry in Delaware  
18 with approximately 17,000 patients currently participating in that  
19 industry; and

20 WHEREAS, of the total 125 State-wide Open, Microbusiness and Social  
21 Equity Licenses, 60 of them will be for Marijuana Cultivation Facilities,  
22 30 of them will be for Marijuana Product Manufacturing Facilities, 30 of  
23 them will be for Retail Marijuana Stores and 5 of them will be for  
24 Marijuana Testing Facilities as set forth in Title 4, Section 1343 of the  
25 *Delaware Code*; and

26 WHEREAS, Title 4, Section 1351(a) of the *Delaware Code* authorizes  
27 municipalities in Sussex County, to “prohibit the operation of marijuana  
28 cultivation facilities, marijuana product manufacturing facilities,  
29 marijuana testing facilities or retail marijuana stores” as those terms are  
30 defined and many, but not all, municipalities in Sussex County have  
31 adopted ordinances containing such prohibitions; and

32 WHEREAS, Sussex County acknowledges that many municipalities have  
33 prohibited Marijuana Establishments and as a result thereof this  
34 Ordinance creates reasonable distance separation requirements from any  
35 municipal boundary so that municipalities that have prohibited Marijuana  
36 Establishments are not circumvented by having them immediately  
37 adjacent to their municipal boundaries; and

38 WHEREAS, unlike municipalities, pursuant to Title 4, Section 1351(b) of  
39 the *Delaware Code*, Sussex County is not permitted to prohibit Marijuana  
40 Establishments, but instead may enact Ordinances such as this one  
41 governing the time, place, manner and number of Marijuana  
42 Establishment operations; and

43 WHEREAS, it is the intention of Sussex County to permit Marijuana  
44 Establishments in an appropriate zoning district, with reasonable  
45 requirements concerning the proximity to schools, churches, substance  
46 abuse treatment facilities and other Marijuana Establishments; and

47 WHEREAS, Sussex County has determined that it can be appropriate for  
48 Retail Marijuana Stores to operate in the C-3 Heavy Commercial District  
49 with a Conditional Use; and

50 WHEREAS, Sussex County has a rich agricultural history, and the  
51 cultivation of marijuana is not entirely unlike the propagation of other  
52 crops, therefore Sussex County deems it appropriate that Marijuana  
53 Cultivation, Manufacturing and Testing may be a permitted use in the AR-  
54 1 Agricultural Residential Zoning District; and

55 WHEREAS, Because Marijuana Cultivation, Product Manufacturing and  
56 Marijuana Testing Facilities are heavily regulated (including, but not  
57 limited to, tracking, security and environmental controls) by the State of  
58 Delaware and are generally conducted indoors, it is appropriate for them  
59 to also operate in the C-1, CR-1, C-3, LI-1, LI-2 and HI-1 Districts as a  
60 permitted use; and



61 WHEREAS, it has been determined that this Ordinance promotes and  
62 protects the health, safety, convenience, orderly growth and welfare of  
63 the inhabitants of Sussex County.

64  
65 **NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY**  
66 **ORDAINS:**

67  
68 **Section 1. The Code of Sussex County, Chapter 115, Article I, § 115-**  
69 **4 is hereby amended by inserting the italicized language**  
70 **alphabetically within the definitions as follows:**

71  
72 **§ 115-4. Definitions and Word Usage.**

73 . . .

74  
75 **B.**

76 General definitions. For the purpose of this chapter, certain terms and  
77 words are hereby defined as follows:

78  
79 . . .

80  
81 ***Marijuana Commissioner***

82 *The person appointed by the Governor and confirmed by the Senate who*  
83 *serves as the Marijuana Commissioner for the State of Delaware.*

84  
85 ***Marijuana Cultivation Facility***

86 *An entity licensed by the Marijuana Commissioner to cultivate, prepare,*  
87 *and package marijuana and sell marijuana to retail marijuana stores, to*  
88 *marijuana product manufacturing facilities, and to other marijuana*  
89 *cultivation facilities, but not to consumers. A marijuana cultivation*  
90 *facility may not produce marijuana concentrates, tinctures, extracts, or*  
91 *other marijuana products.*

92

93 ***Marijuana Establishment***

94 *An entity licensed by the Marijuana Commissioner as a marijuana*  
95 *cultivation facility, a marijuana testing facility, a marijuana product*  
96 *manufacturing facility, or a retail marijuana store.*

97

98 ***Marijuana Product Manufacturing Facility***

99 *An entity licensed by the Marijuana Commissioner to purchase*  
100 *marijuana; manufacture, prepare, and package marijuana products; and*  
101 *sell marijuana and marijuana products to other marijuana product*  
102 *manufacturing facilities and retail marijuana stores, but not to*  
103 *consumers.*

104

105 ***Marijuana Products***

106 *Products that are comprised of marijuana, including concentrated*  
107 *marijuana, and other ingredients and are intended for use or*  
108 *consumption, such as edible products, ointments, and tinctures.*

109

110 ***Marijuana Testing Facility***

111 *An entity licensed by the Marijuana Commissioner to test marijuana for*  
112 *potency and contaminants.*

113

114 . . .

115

116 ***Retail Marijuana Store***

117 *An entity licensed by the Marijuana Commissioner to purchase marijuana*  
118 *from marijuana cultivation facilities; to purchase marijuana and*  
119 *marijuana products from marijuana product manufacturing facilities;*  
120 *and to sell marijuana and marijuana products to consumers.*

121

122 **Section 2. The Code of Sussex County, Chapter 115, Article IV, §**  
123 **115-20 is hereby amended by inserting the italicized language therein**  
124 **as follows:**

125

126 **§ 115-20. Permitted Uses.**  
127

128 A. A building or land shall only be used for the following purposes:  
129

129

130 . . .

131

132 *(18) Marijuana Cultivation Facilities, Marijuana Product*  
133 *Manufacturing Facilities or Marijuana Testing Facilities.*

134

135 **Section 3. The Code of Sussex County, Chapter 115, Article XI, §**  
136 **115-77 is hereby amended by inserting the italicized language therein**  
137 **as follows:**

138

139 **§ 115-77. Permitted Uses.**  
140

141 A. A building or land shall only be used for the following purposes:  
142

142 . . .

143

144 *Marijuana Cultivation Facilities, Marijuana Product Manufacturing*  
145 *Facilities or Marijuana Testing Facilities.*

146

147 **Section 4. The Code of Sussex County, Chapter 115, Article XIA, §**  
148 **115-83.2 is hereby amended by inserting the italicized language**  
149 **therein as follows:**

150

151 **§ 115-83.2. Permitted Uses.**  
152

153 A. A building or land shall only be used for the following purposes:  
154

154 . . .

155  
156  
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184

*Marijuana Cultivation Facilities, Marijuana Product Manufacturing Facilities or Marijuana Testing Facilities.*

**Section 5. The Code of Sussex County, Chapter 115, Article XIC, § 115-83.18 is hereby amended by inserting the italicized language therein as follows:**

**§ 115-83.18. Permitted Uses.**

A. A building or land shall on be used for the following purposes:

...

- (1) Agriculture-related uses.
  - (a) Greenhouse, commercial
  - (b) Wholesale, retail nurseries for sale of products produced on site.
  - (c) *Marijuana Cultivation Facilities, Marijuana Product Manufacturing Facilities or Marijuana Testing Facilities.*

**Section 6. The Code of Sussex County, Chapter 115, Article XIC, is hereby amended by inserting a new § 115-83.19A “Conditional Uses” as follows:**

**§ 115-83.19A. Conditional Uses.**

The following uses may be permitted as conditional uses when approved in accordance with Article XXIV of this Chapter:

*Retail Marijuana Store, subject to the requirements of §115-194.6.*

185 **Section 7. The Code of Sussex County, Chapter 115, Article XIII, §**  
186 **115-94 is hereby amended by inserting the italicized language therein**  
187 **as follows:**

188  
189 **§ 115-94. Permitted Uses.**  
190

191 A. A building or land shall only be used for the following purposes:

192 . . .

193  
194 *(U) Marijuana Cultivation Facilities, a Marijuana Product*  
195 *Manufacturing Facilities or Marijuana Testing Facilities.*

196  
197 **Section 8. The Code of Sussex County, Chapter 115, Article XIV, §**  
198 **115-102 is hereby amended by inserting the italicized language**  
199 **therein as follows:**

200  
201 **§ 115-102. Permitted Uses.**  
202

203 A. A building or land shall be used for the following purposes, consisting  
204 of general light industrial, warehousing and storage uses, including  
205 certain open or enclosed storage of products, materials and vehicles,  
206 and including the following uses and any similar uses which are not  
207 likely to create any more offensive noise, vibration, dust, heat, smoke,  
208 odor, glare or other objectionable influences than the minimum amount  
209 normally resulting from other uses listed, such listed uses being  
210 generally wholesale establishments, service industries and light  
211 industries that manufacture, process, store and distribute goods and  
212 materials and are, in general, dependent on raw materials refined  
213 elsewhere, and manufacture, compounding, processing, packaging or  
214 treatment, as specified, of the following products or similar products:

215 . . .

216

217 *Marijuana Cultivation Facilities, Marijuana Product Manufacturing*  
218 *Facilities or Marijuana Testing Facilities.*

219

220 **Section 9. The Code of Sussex County, Chapter 115, Article XV, §**  
221 **115-110 is hereby amended by inserting the italicized language**  
222 **therein as follows:**

223

224 **§ 115-110. Permitted Uses.**

225

226 A building or land shall only be used for the following purposes:

227 A. General enumeration.

228 . . .

229

230 *Marijuana Cultivation Facilities, Marijuana Product Manufacturing*  
231 *Facilities or Marijuana Testing Facilities.*

232

233 **Section 10. The Code of Sussex County, Chapter 115, Article XXV**  
234 **“Supplementary Regulations”, is hereby amended by inserting the**  
235 **italicized language therein as a new § 115-194.6 therein as follows:**

236

237 **§ 115-194.6. Marijuana Establishments.**

238

239 *All Marijuana Establishments shall be subject to the following*  
240 *requirements:*

241

242 *A. No Retail Marijuana Store shall be located within three miles of any*  
243 *municipal boundary.*

244 *B. No Retail Marijuana Store shall be located within three miles of any*  
245 *other Retail Marijuana Store.*

246 *C. No Retail Marijuana Store shall be located within three miles of any*  
247 *church, school, college, or substance abuse treatment facility as*  
248 *defined under §2203 of Title 16 of the Delaware Code.*

249 *D. Retail Marijuana Stores may only operate between the hours of 7:00*  
250 *a.m. and 9:00 p.m.*

251 *E. Any approved and licensed Marijuana Establishment in existence*  
252 *as of the date of adoption of this Ordinance shall be considered a*  
253 *legal, nonconforming use. Any licensed and approved pre-existing,*  
254 *legally nonconforming Retail Marijuana Store shall be subject to*  
255 *the hours of operation set forth in subsection D. herein.*

256

257

258 **Section 11. The Code of Sussex County, “115 Attachment 4, Sussex**  
 259 **County, Table IV Permitted Uses Commercial”, is hereby amended**  
 260 **by inserting the italicized language therein as follows:**

261

Blank = Not Permitted P = Permitted Use SUE =Special Use Exception CU = Conditional Use A = Permitted Accessory Use, see section D =Definition, see section	Zone B- 2	Zone B-3	Zone C-2	Zone C-3	Zone C-4	Zone C-5	Zone I-1
<b>Agriculture-Related Uses</b>							
<i>Marijuana Cultivation Facilities</i>				<i>P</i>			
<i>Marijuana Product Manufacturing Facilities</i>				<i>P</i>			
<i>Marijuana Testing Facilities</i>				<i>P</i>			
<b>Sales and Rental of Goods, Merchandise, and Equipment</b>							
<i>Retail Marijuana Store</i>				<i>CU<sup>5</sup></i>			

262

263 <sup>5</sup> *Subject to the requirements of §115-194.6.*

264

265 **Section 12. Severability.**

266

267 The provisions of this Ordinance are severable and if any of its provisions  
 268 or any sentence, clause, or paragraph or the application thereof to any  
 269 person or circumstance shall be held unconstitutional or violative of the  
 270 Laws of the State of Delaware by any court of competent jurisdiction, the  
 271 decision of such court shall not affect or impair any of the remaining  
 272 provisions which can be given effect without the invalid provision or  
 273 application.

274



275

276 **Section 13. Effective Date.**

277

278 This Ordinance shall take effect immediately upon its adoption by Sussex  
279 County Council.

280

## ENGINEERING DEPARTMENT

HANS M. MEDLARZ  
COUNTY ENGINEER

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# Sussex County

DELAWARE  
[sussexcountyde.gov](http://sussexcountyde.gov)

## Memorandum

**TO:** Sussex County Council  
The Honorable Michael H. Vincent, President  
The Honorable John L. Rieley, Vice President  
The Honorable Cynthia C. Green  
The Honorable Douglas B. Hudson  
The Honorable Mark G. Schaeffer

**FROM:** Hans Medlarz, P.E., County Engineer, ret.

**RE:** *South Coastal WRF Treatment Process Upgrade No.3 & Rehoboth Beach WTP Capital Improvement Program, Phase 2*  
*A. GHD Amd. 24 – Construction Phase Engineering Services Extension*  
*B. BW Electric – Change Order 26, Electrical Construction Project C19-17*  
*C. M.F. Ronca – Change Order 32, General Construction Project C19-11*

**DATE:** February 13, 2024

### Professional Services Background:

GHD, Inc., held the County's engineering services contract associated with the SCRWF since December 7, 2001. They also held the City of Rehoboth Beach's engineering services contract associated since 2000. Council reaffirmed GHD as the "Engineer of Record" South Coastal in 2016 and again on May 14, 2019, at which time Council also included professional services associated with the City's Wastewater Treatment Plant. Since contract inception, Sussex County awarded nineteen (25) amendments under this base contract.

Amendments 11 - 13 were associated with South Coastal's RWF Treatment Process Upgrade No.3. The 11<sup>th</sup> amendment covering planning and conceptual design was approved by Council on October 25, 2016 and used in the 2018 budgeting process. The 12<sup>th</sup> amendment was approved August 22, 2017 for development of construction documents excluding any construction phase services. Lastly, on July 11, 2017 Council awarded the 13<sup>th</sup> one for electrical value engineering design and constructability reviews.

Amendments 14 - 18 were associated with the City's Wastewater Treatment Plant. On July 24, 2018, Council approved the 14<sup>th</sup> for design services of the Phase 2 capital upgrade project. On October 2, 2018 Council approved the 15<sup>th</sup> for design services associated with the wastewater transmission line crossing of the Lewes-Rehoboth Canal allowing Pump Station No. 202 to be diverted to the City's treatment plant. On February 5, 2019 Council approved



the 16<sup>th</sup> incorporating scope changes to the electrical motor control center design scope, as part of the City's WTP Phase 2 project. On March 26, 2019 Council approved the 17<sup>th</sup> for a flow diversion of Pump Station No. 204 to the gravity sewer on the opposite side of SR-1 and ultimately to the City's plant. On June 4, 2019 Council approved the 18<sup>th</sup> for the design of the headworks improvements under an expanded scope of the Phase 2 project.

On June 18, 2019 Council approved the 19<sup>th</sup> Amendment covering development of South Coastal bid alternates associated mostly with the influent forcemains, the fiber optic network and the pre-cast concrete construction. The consolidation of thirteen (13) influent forcemains outside of the South Coastal plant headworks into two (2) eliminated a complex cast-in-place concrete riser box expansion offering overall construction cost savings. In summary, award of the amendments associated with the various design aspects of the SCRWF and the City's WTP totaled \$3,437,247.32.

Council approved award of construction phase and inspection services to GHD, Inc under a "not to exceed" Amendment 20 in the amount of \$6,589,558.49 on February 4, 2020. Also included in this amendment were control programming services of the treatment components and a comprehensive site mapping effort during construction. Amendment 20 represents a well-balanced scope of services. In addition to professional services, it includes a significant 3<sup>rd</sup> party material testing allowance of \$400,000. Merging of the timelines for both projects allowed the total compensation of the professional services to be held at 15% of the overall project construction costs well within the customary professional services range for a highly complex project.

However, the pandemic and the supply chain interruptions caused project delays outside of the control of either the contractors or the consulting engineers. The construction has exceeded the original contract times and will continue for a significant period in 2024. GHD's budget for construction management and inspection services will be fully exhausted in the next 2-3 months. As a result, the Engineering Department requested Amendment 24 for construction management, engineering, inspection, and programming services to continue supporting the project based on previous months' efforts of \$150,000 per month. In summary the Engineering Department requests approval of GHD's Amendment 24 in the not to exceed amount of \$900,00.00 for the completion of the construction and start up phases.

The South Coastal WRF Treatment Process Upgrade No.3 encompasses the following components and statuses:

- a. Effluent Forcemain Relocation/Replacement; Completed in fall of 2019.
- b. Influent Forcemain Consolidation; Completed in May of 2020.
- c. Drainage Network Rerouting;  
This scope was not included in the base bid. After cost comparison between the General Labor & Equipment Contract versus a change order under Ronca's general construction contract; Council awarded the stand alone Change Order Request 554-001 to Ronca & Sons, Inc. in the amount of \$104,592.96 on March 10, 2020. The construction was completed in July 2020.

- d. **General Construction Project C19-11**; awarded on December 17, 2019, to M.F. Ronca & Sons, Inc.

On March 10, 2020, Council authorized Change Order No.1 in the net amount of \$97,294.31 for deletion of the record drawing requirement and the modification of the RBWTF influent forcemains.

On May 12, 2020, Council authorized credit Change Order No. 2 in the amount of (\$12,705.00) eliminating an explosion proof motor requirement.

On July 28, 2020, Council approved credit Change Order No. 3 in the combined amount (\$9,764.30) for use of County surplus materials.

Change Order No.4 in the amount of \$871,000.00 for the repairs of partial failures at the two City of Rehoboth's wastewater treatment plant oxidation ditch systems was also approved on July 28, 2020. M.F. Ronca & Sons, Inc. completed the scope in May of 2021 and the County increased the flow contribution to the City's plant.

On December 15, 2020, County Council approved Change Order No. 6 for steel framing repairs in the first oxidation ditch on a time & material basis up to \$10,500.00 in addition to the concrete repairs conducted per the awarded contingent unit price schedules.

The County initiated RFP-019 for interior headworks piping modifications and RFP-023 covering the addition of a cross connection between the existing 14-inch process drain header for Aeration Tank Nos. 1-4 and the new header for the Aeration Tank Nos. 5-8. On September 22, 2020, Council approved Change Order No.5 in the combined amount of \$32,991.66.

GHD issued RFP-031 for the installation of plug valves on each of the 12-inch recycle influent pipes to be connected to the existing Aeration Tank Nos. 1-4 and to the new Aeration Tank Nos. 7-8. On December 15, 2020, Change Order No. 7 was approved for said shut off valves in the amount of \$31,974.51.

The new South Coastal aeration basin had to be connected to the existing large diameter sludge return piping requiring a forward flow stoppage. Minimizing the joint risk M. F. Ronca proposed a line stop approach under Change Order No. 8. Since it also gained construction efficiency, they offered to only charge for the subcontractor work.

In the spring of 2021, the Rehoboth Beach WTP oxidation ditch rehabilitation was receiving expansive attention including:

- Contingent Unit Price Concrete Repairs, Bid Items F-19 & F-20
- Steel Repairs authorized under Change Order No. 6

- Steel Coatings authorized as part of Change Order No. 4

In addition, all of the leaking expansion joints have been repaired under a time & material approach. On March 9, 2021, County Council approved Change Order Nos. 8 and 9 in the respective amounts of \$34,765.50 and \$45,600.00.

Only one of the two headworks vertical influent pipes has a shut off valve and Environmental Services requested a second valve. In addition, two of the existing headworks slide gates were compromised in need of replacement. On May 25, 2021, Council approved Change Order No. 10 in the aggregate amount of \$34,160.64.

The County initiated RFP-039 addressing modifications to two slide gates avoiding conflict with the new air piping. In addition, it was discovered during the rehabilitation work in the grit tanks, that the existing influent chutes to the stacked tray grit removal systems were significantly compromised. On June 22, 2021, Council approved Change Order No. 11 in the aggregate amount of \$59,557.16.

The design team-initiated RFP-038 for exhaust duct modifications associated with the new turbo blowers and RFP-041 correcting the elevation difference in the headworks cross channel. On July 13, 2021, Council approved Change Order No. 12 to M.F. Ronca & Sons in the aggregate amount of \$14,700.07.

The contract as bid included concrete repairs to the City's headworks and influent splitter box. With the structures by-passed and accessible, the full extent of the damage required an alternative approach detailed in RFP-037 including full demolition of the upper level as well as the channel between it and the splitter box. GHD, the City Engineer and the County Engineer supported the approach, and the change order was within budget of the City's financing arrangements previously approved by the City and County elected officials. Therefore, Council approved Change Order No. 13 to M.F. Ronca & Sons in the amount of \$1,043,243.92 on August 10, 2021.

The City requested M.F. Ronca & Sons' assistance in the wetwell cleaning of the State Rd. pump station to allow a full evaluation in preparation of the upgrade design. In addition, the City requested to modify the air intake for B-10 Building ventilation from a roof mount to an existing window opening. On November 30, 2022, County Council approved Change Order No. 14 in the aggregate amount of \$7,380.37.

Upon exposure of the normally submerged piping at the oxidation ditches, GHD formulated an initial repair scope for the influent, return sludge & air piping including replacement of valves and fittings. It was subsequently reduced and Michael F. Ronca & Sons, Inc. proposed to perform the modified repair scope for \$324,996.81. GHD, the City Engineer and the County Engineer supported the modified approach. However, this amount is not within

budget of the City's financing arrangements previously approved. The City will pay for this change order directly out of City funds. County Council approved Change Order No. 15 on January 11, 2022, subject to direct payment by the City. Since then, it was determined that the pipe support configuration for the replacement of oxidation ditch influent piping at the City's WTP required additional supports and RFP-056 was issued. Michael F. Ronca & Sons, Inc. proposed to perform the expanded repair scope for \$ \$8,992.49. County Council approved Change Order No. 17 to M.F. Ronca & Sons in the amount of \$8,992.49 on January 25, 2022.

GHD's design scope included a separate task for the hydraulic transient analysis of the South Coastal effluent force under various pumping scenarios. After County approval of the findings, GHD issued RFP-052 for replacing air valves on the effluent force main and installing additional air valves at new locations. This work scope was not known at time of base bid and hence not included. On January 11, 2022, County Council issued Change Order No. 16 to M.F. Ronca & Sons in the amount of \$88,132.23.

The South Coastal RWF's return sludge pumping station has three (3) pumps, two of which have been upgraded. The third unit recently experienced a failure, and the Environmental Services requested replacement of the pump and piping to be integrated in the project as per RFP-053. Michael F. Ronca & Sons, Inc. proposed Change Order No. 18 in the amount of \$ 31,101.61, which Council approved on January 25, 2022.

Under RFP-053 the Environmental Services staff requested replacement of two (2) compromised pumps and rail systems in the existing filtrate return pump station in the filter building. Under RFP-057 the City staff requested new fiberglass baffles and a guide bracket assembly to replace the original wooden baffle assembly located in the flow splitter box. M.F. Ronca & Sons proposed to complete the work for \$90,081.84 and \$8,132.66 respectively which Council approved on February 8, 2022, via Change Order 19.

The City requested M.F. Ronca & Sons' assistance in the installation of a lintel above the screen chute complete with control joints limiting vertical cracking. Ronca proposed to complete this work for \$7,426.59.

Starting in 2021, Environmental Services started experiencing more frequent malfunctions and alarm call outs with the influent screens at the Inland Bays RWF. In addition, a reduction in screen bar opening from ¼-inch to 3/16-inch opening will help the facilities sludge accumulation. The units were commissioned in the fall of 2010 and normally have a 15-year service life. The Engineering Department requested the assistance of Michael F. Ronca & Sons, Inc. and their investigation revealed that a full replacement could be accomplished for \$ 253,417.58, which was only 10% more expensive than a full rebuilt. Therefore, County Council approved Change Order No. 20 in the

aggregate amount of \$260,844.17 on March 8, 2022 for the replacement in kind of two screens at Inland Bays and the masonry work at the City's plant.

The South Coastal facility requires alkalinity adjustments. In the past caustic soda was used however with the upgrade project the approach was switched to magnesium hydroxide. The as bid design included an innovative low energy consumption type Enviromix gas mixing system with a performance guarantee which was not met at start up. Therefore, the design approach was switched to a traditional impeller type mixing system. Michael F. Ronca & Sons, priced the modification including the full contract credits relating to the original Enviromix system and on March 29, County Council approved Change Order No. 21 in the aggregate amount of \$45,989.72.

The FY2022 Environmental Services budget included roof repairs of the South Coastal administration building and conversion of an existing pole building to an electrical panel shop. M. F. Ronca & Sons already has subcontractors in their scope of work who perform this type of work. They priced the building modification and selectively investigated the roof conditions. The roof dating to the original construction needs full replacement and has areas of compromised decking. Due to market volatility, long lead times and anticipated incremental increases in roofing material (membrane & tapered insulation) costs, pricing includes a material escalation allowance. Upon delivery of roofing materials final costs will be incorporated in a corrective change order reflecting actual material increases. Roof decking replacement will be performed at a unit cost of \$25.00 per SF incorporated into the corrective change order. On May 10, 2022, Council approved Change Order No. 22 in the aggregate amount of \$306,692.52 for pole building enclosure and admin building roof replacement followed by a later corrective change order adjusting unit costs and material pricing.

Environmental Services initiated RFP-067 for painting of the original 1970s mechanical building pump room and M. F. Ronca & Sons proposed to perform the work for \$7,893.90. On June 7, 2022, Council approved Change Order No. 23 in the amount of \$7,893.90.

Environmental Services initiated RFPs-072 & 073. The first deals with a new isolation valve on the existing 8-inch equalization return line in the Mechanical Building Pump Room. The second one modifies the PLC control logic in motor circuit protection of the new turbo blowers and the human machine interfaces graphic displays. On August 23, 2022, Council approved Change Order No. 24 to M.F. Ronca & Sons in the aggregate amount of \$12,829.83.

The headworks at the SCRWF are covered and the ventilated air treated for odors. The contract included unit pricing repair items for the headworks. The damage discovered during the rehabilitation work in the headworks and grit tanks indicated corrosion way above the anticipated levels. Therefore, the Engineering Department initiated RFP-071 for improvements to the headworks

ventilation. After value engineering by M. F. Ronca & Sons they proposed to perform the work for \$126,590.76. On October 11, 2022, Council approved Change Order No. 25, significantly extending the asset life of the headworks in the amount of \$126,590.76.

Upon condition exploration of the City's main system pump station on State Street, GHD formulated an initial repair scope and subsequently issued RFP-075 for the repairs. This station also carries the County's Henlopen Acres Sewer District Area flows, and the County participates in the repair effort. With the urgency of the repair evident, the City requested inclusion in the project. M. F. Ronca & Sons, Inc. proposed to perform the modified repair scope for \$2,270,000.00. GHD, the City Engineer and the County Engineer supported the modified approach. On December 6, 2022, Council approved Change Order No. 26 to Michael F. Ronca & Sons, Inc. to perform the expanded State Street Pump Station repair scope for \$2,270,000.00. The City will pay for this change order directly out of City funds with separate invoice by contractor. In addition, with concurrence of the City, County Council granted Substantial Project Completion for the Rehoboth Beach WTP Capital Improvement Program, Phase 2 as of November 14, 2022.

In January of 2023, GHD conducted a factory acceptance test of the new turbo blower system controls. The test revealed that modifications to the PLC and HMI programs were necessary. All parties agreed that the quantity of the desired modifications would trigger RFP-079. M. F. Ronca & Sons, Inc. proposed to perform the additional scope for \$4,412.55.

The original bid contained a unit cost for grit removal from the sludge holding lagoons. For Lagoon B a hydraulic removal was considered but due to the quantity of grit a mechanical removal was analyzed. It would result in the destruction of the 20-years+ old liner. However, despite the replacement cost of the liner in the amount of \$84,375.17 the overall approach proved to be more cost effective and resulted in a new liner. On March 21, 2023 Council concurred and approved M. F. Ronca & Sons, Inc.'s Change Order No. 27 in the aggregate amount of \$88,787.72.

The project includes a new aeration basin and the associated above ground air supply piping. The air supplied by the turbo blowers is compressed and heats up in the process. Therefore, the piping has to balance the expansion and contraction via a specialized support system. GHD conducts routine construction phase QC inspections. During the last one in April, GHD identified opportunities to further reduce pipe stress and increase service life summarized in the attached RFP-081. The additional made to order components were administratively authorized after review of preliminary pricing to maintain the project schedule. On June 6, 2023, Council approved M. F. Ronca & Sons, Inc.'s Change Order No. 28 in the amount of \$108,583.52.



During the start-up of the upgraded mechanical plant pump station a one-time pressure transient was experienced. In an abundance of caution GHD recommended under RFP-088 to replace the gauge with a pressure transmitter in the same location. M. F. Ronca & Sons, Inc. proposes to install the modified tap and piping for \$1,656.00.

The original project bid included a complex winch system moving biosolids containers back and forth under the belt press shoots to allow for uniform loading. Staff has been operating the regional biosolids system for two years and found the occasional moving of the containers to be unproblematic. This allows for the elimination of the winch system under RFP-088. M. F. Ronca & Sons, Inc. proposes a credit of (-\$282,145.60).

On July 18, 2023, Council approved Change Order No. 29 for M. F. Ronca & Sons, Inc. in the aggregate credit amount of (-\$280,489.60).

Environmental Services initiated RFPs-096 & 098. The first creates a hydraulic bypass for each of the two effluent filter banks allowing part of the filtration system to stay in operation during maintenance. The second one deals with the replacement of the compromised 40-year-old LTS Digester Building roof. M. F. Ronca & Sons proposes to accomplish the tasks for \$68,284.99 and \$24,675.00 respectively.

The original bid contains a walkway from the mechanical building to the equalization tanks. It was in part supported by the original parapet wall. When the wall cap was removed it was determined that the wall was completely compromised and had to be rebuilt. M. F. Ronca & Sons is proposing to complete this task for \$71,547.30.

The original bid only contained trench hot mix restoration resulting in a patchwork of pavement conditions as depicted on the attachment. The Engineering Department requested the contractor to provide an alternate road reclamation based base course proposal combined with a site wide 2-inch hot mix overlay. M. F. Ronca & Sons agreed to limit the mark up on the cost delta only and is proposing to complete this task for \$149,674.16.

On September 12, 2023, Council approved Change Order No. 30 in the aggregate amount of \$314,181.45.

The original bid contained a \$315.00 per ton unit cost for grit removal & disposal from the existing aeration basins. The bid quantity was based on pictures provided by Environmental Services, but the actual quantity is close to three times the estimate. Therefore, the Engineering Department and M. F. Ronca developed an alternate on-site grit storage approach which as a side benefit provides for new aeration diffusers in the existing tanks at a \$219.61 per ton unit price. On September 12, 2023 Council's concurred with the modified unit cost pricing of item C-6 Grit Removal.

The FY24 environmental services budget contains \$75k funding for the repair of the existing influent screen. The quotation for the parts alone amounted to >\$30K, once the labor and crane services were added the repair far exceeded 50% of the new screen offered by M. F. Ronca & Sons at \$89,762.10. A replacement screen will match the new one provided under the project and will represent the better asset value over the service life.

The project includes a full rebuild of the existing four-cell Effluent Filter No. 2. The project included removing the sand from cell one and stockpiling it while using sand from cell two to refill cell one and so on. Once the filter cells were drained it became apparent that approximately 40% of the sand had been lost in the backwash process over the last twelve years. M.F. Ronca & Sons proposed to utilize the County's bagged sand on site in combination with additional manufacturer supplied sand and complete the process in one step rather than four. The contractor can streamline the labor, speed up the process and agreed not to mark up the supplemental sand. M.F. Ronca & Sons offer of \$142,745.34 includes hauling costs but landfill fees will be paid directly by the County at the discounted rate.

The County requested HVAC equipment and control replacements under RFPs 093 & 095 for three of the original 1970s smaller buildings. All of the units have been repaired before and are not fully functional. M.F. Ronca & Sons proposes to perform the replacements and mechanical tie-ins for \$56,155.84.

On October 17, 2023, Council approved Change Order No. 31 in the aggregate amount of \$288,663.28.

Upon the request of Environmental Services Ronca priced out additional switches (i) two (2) Hydraulic Oil Pressure Switches for the belt filter press per RFP-110 (ii) four (4) Blower Inlet Isolation Valve Limit Switches per RFP-111 and (iii) two (2) Conveyor Pull Cord emergency shut off switches. The Engineering Department recommends award of Change Order No. 32 to M.F. Ronca & Sons in the aggregate amount of \$16,608.23.

- e. **Electrical Construction Project C19-17**; awarded on December 17, 2019, to BW Electric, Inc.

On February 4, 2020, Council awarded Change Order No.1 in the credit amount of (\$759,374.80) mostly for changes to the conduit materials. A second credit change order was approved on March 10, 2020, in the amount of (\$6,800.00) for ductbank modifications.

On April 7, 2020, Council approved Change Order No.3 in the not to exceed amount of \$235,637.33 for DP&L requested changes to the utility power service entrance location at the RBWTP.

On May 12, 2020, Council authorized Change Order No.4 in the amount of \$11,350.00 for reconstruction of the original electrical equipment in South Coastal's sludge handling building electrical room.

On July 28, 2020, Council approved Change Order No.5 in the combined amount of \$37,830.00 for the removal of an existing electrical handhole and duct bank and the modification of the duct bank between the DP&L utility switching pedestal and the transformer.

On September 22, 2020, Council approved Change Order No.6 in the amount of \$16,550.00 for the change of the sewer service for the return sludge building No. 2 from a gravity drain to a pumped approach.

On September 22, 2020, Council approved Change Order No. 7 in the not to exceed amount of \$307,300.00 for the City's oxidation ditch complete electrical equipment replacement. This change order had an allowance for sensor replacements which proved too low and required an increase of \$6,582.80. Council approved the modification to Change Order No. 7 on November 10, 2020.

On November 10, 2020, Council approved Change Order No. 8 in the aggregate amount of \$2,249.00 covering RFP-027, RFP-028, RFP-029 & RFP-030. GHD has concluded that RFP-029 can be rescinded in its entirety. Therefore, the scope of work in the Sludge Building reverts to the Drawings, as modified by Change Order No. 4 associated with RFP-016. However, on December 15, 2020, Council approved the modification reducing Change Order No. 8 by \$9,040.00 for a modified net total credit of (\$6,791.00).

On February 9, 2021, Council approved Change Order No. 9 in the aggregate amount of \$30,554.00 covering RFPs-032 & 033. The first RFP provided upsized control panels, conduit and conductors associated with the two (2) Jet Mixing Pump VFDs while the second dealt with a modified temporary electrical feeder arrangement and a redirection of the medium voltage loop.

On August 10, 2021, Council approved Change Order No. 10 in the aggregate amount of \$7,320.00 covering RFP- 035 for waterproofed convenience receptacles at the return sludge building's pump room and RPP-040 for additional site lighting in the area of the generator and blower buildings.

On October 12, 2021, Council approved Change Order No. 11 in the aggregate amount of \$47,328.70 covering the City's initiated RFPs-042 & 44. The first one replaces the deteriorated pull box at building B-10 with a stainless steel one and the second one addresses modifications to the garage feeder.

Also on October 12, 2021, Council approved Change Order No. 12 in the amount of \$4,779.38 covering RFP-045 for modification to the aeration basin lighting out of operational safety concerns.

On January 11, 2022, County Council issued Change Order No. 13 in the aggregate amount of \$20,018.56 for City initiated RFPs -043 & 049. The first one relates to the electrical control requirements for a booster pump in Building T-1. The second one addresses rewiring of the two (2) level sensors and dissolved oxygen probes at the oxidation ditches.

Also On January 11, 2022, County Council issued Change Order No. 14 in the credit amount of (\$6,485.87) for the elimination of four valve actuators.

The City's lighting in the headworks building and the panelboard in the chemical building are compromised by corrosion and City staff requested replacement as per RFP-050. The County Environmental Services and IT staff reanalyzed the facility's fiber optic cabling needs and requested inner duct modifications under RFP-059. BW Electric proposed to make the changes for \$12,018.72 and \$16,100.70 respectively and on February 8, 2022, Council issued Change Order No. 15 in the aggregate amount of \$28,119.42.

On March 29, 2022, County Council issued Change Order No. 16 in the aggregate amount of \$52,003.13 for the DP&L metering modifications at the City's plant and dedicated VFD cabinet ventilation.

The following RFPs were requested by Environmental Services:

1. RFP-064 for float-controlled effluent pump backup control panel in the event of a failure in the digital pump control system or level transmitter in the amount of \$29,895.13.
2. RFP-065 for the demolition and replacement of the original 1970s lighting in the Headworks Pump Room, Headworks Grit Dewatering Room, Mechanical Building Pump Room, and outdoor wallpacks around perimeter of Mechanical Building in the amount of \$80,099.11.
3. RFP-066 for additional circuits and conduits associated with a conveyor warning alarm in the Cake Storage Building, and for separation of 120 VAC circuits from 24 VDC circuits originating in Cake Storage Building in the amount of \$3,090.30.
4. RFP-068 for the electrical work associated with replacing the compressed gas mixing system with a mechanical mixing system in the amount of \$83,738.84. This is the companion change order to Michael F. Ronca & Sons' Change Order No. 21 for the mechanical work.
5. RFP-069 for a change in the existing 6-way DB-5A allowing for the MH-47 to be eliminated at a credit of (\$7,500.00).

On May 10, 2022, Council approved BW Electric, Inc.'s Change Order No. 17 in the aggregate amount of \$189,323.38.

The pumps and rail systems in the existing filtrate return pump station were upgraded under Change Order No. 18 by M. F. Ronca & Sons. RFP-060 covers the electrical and control upgrades associated with that station. This work was not part of the original plant upgrade scope. BW Electric, Inc. proposed to complete the work for \$92,713.82. In order to address operator safety and access cameras, as well as network access points, proposals were requested at aeration tanks 5-8 requiring a series of additional conduits and pull boxes. BW Electric, Inc. proposed to complete the work for \$50,362.91. On June 7, 2022, Council approved Change Order No. 18 to BW Electric, Inc in the aggregate amount of \$143,076.73.

Provide a credit proposal to remove the Off-Site Manufacturer Course Training specified in the construction documents. This will be conducted as part of the startup process resulting in a credit of \$17,758.13. On October 11, 2022, Council approved Change Order No. 19 in the amount of \$17,758.13.

On October 11, 2022, Council approved M. F. Ronca & Sons' Change Order No. 25 for the SCRWF for improvements to the headworks ventilation. GHD issued the companion RFP-077 for the odor control electrical modifications. In response BW Electric, Inc. proposed to complete the work for \$19,401.62.

GHD also issued companion RFP-076 for the electrical components associated with City's State Street pump station repair scope. In response BW Electric, Inc. proposed to complete the work for \$462,938.82. The City has concurred in the issuance and again will pay for this change order directly out of city funds with separate invoice by the electrical contractor.

On December 6, 2022, Council approved Change Orders No. 20 in the amount of \$19,401.62 & 21 in the amount of \$462,938.82 to BW Electric, Inc. for the headworks ventilation and the expanded State Street Pump Station electrical repair scope. The latter paid for by the City via direct reimbursements to the contractor.

BW Electric, Inc. submitted RFI-102 questioning the absence of a neutral bonding conductor in the electrical feeder 5A. GHD investigated the information request and concluded that the least costly solution to achieve the NEC required bonding was to add a conductor. Since this was an omission in the original documents, all of GHD's work associated with this item was not billed. On March 21, 2023 Council concurred and approved BW Electric's Change Order No. 22 in the amount of \$33,342.10.

The following RFPs were requested by Environmental Services:

1. RFP-082 deals with now required generator building feeder replacement since the "spare" shown on record drawings turned out to be already occupied. BW Electric proposes to complete the task for \$4,736.24.

2. RFP-083 for the shop feeder conductor replacements required due County's equipment changes. BW Electric proposes to complete the task at no cost.
3. RFP-084 covers the complete replacement of original 1970s lagoon sludge lighting system. It is largely inoperative, and the poles and fixtures are heavily corroded. BW Electric proposes to complete the task for \$86,480.73.
4. RFP-085 for the welder receptacles upgrades. BW Electric proposes to complete the task at no cost.
5. RFP-087 for the electrical components and signal wiring associated with the pressure sensor in the mechanical pump station. This is the electrical companion scope to Michael F. Ronca & Sons' RFP-088 for the mechanical work. BW Electric proposes to complete the task for \$10,340.23.

On July 18, 2023, Council approved Change Order No. 23 for BW Electric, Inc. in the aggregate amount of \$101,557.20.

BW Electric priced RFP-089 for the electrical credit associated with the winch system elimination at (\$10,134.30). In addition, an electrical safety issue at the SC administration building was identified under RFP-091. It required removing the existing PLC cabinet located in the Administration Building's electrical room, and replacing it with a new PCS cabinet, PCS-AB in its place. BW Electric has now priced RFP-091 at \$68,103.21. The last RFP-092 was associated with HVAC related issues in the Sodium Hypochlorite Building electrical room replacing it with a new power circuit and DS for a heat pump as well as providing new outdoor receptacle and associated power circuit. BW Electric has priced RFP-092 at \$8,554.77. The General Contractor is still pricing the mechanical components under RFP-093.

On August 1, 2023, Council approved BW Electric, Inc.'s Change Order No. 24 in the aggregate amount of \$66,523.68.

The County requested HVAC equipment and control replacements under RFPs 093 & 095 for three of the original 1970s smaller buildings. All of the units have been repaired before and are not fully functional. On October 10, 2023 Council approved M.F. Ronca & Sons' proposal to perform the replacements and mechanical as part of Change Order No. 31. RFP-094 addresses the electrical side of these HVAC improvements. On December 5, 2023, Council approved BW Electric, Inc.'s Change Order No. 25 in the aggregate amount of \$17,939.03.

The Environmental Services staff requested a new exterior a freestanding EMR for the sludge building between the overhead doors. The Engineering Department requests Council's approval for BW Electric, Inc.'s Change Order No. 26 in the amount of \$9,636.87

- f. Mobile Belt Filter Press; awarded on January 7, 2020, Council to Kershner Environmental Technologies. The unit is currently stationed at South Coastal in anticipation of the aeration basin transfer.
- g. DP&L direct expenses; on February 4, 2020, Council approved the electric utility service relocation contract with the utility.
- h. The Rehoboth Beach WTP was built on a municipal landfill and Council approved a stand-alone competitive purchase order to Melvin L. Joseph Construction Company, Inc. for material hauling & screening on July 14, 2020.

The updated expenses associated with the South Coastal WRF Treatment Process Upgrade No.3 & Rehoboth Beach WTP Capital Improvement Program; Phase 2 are summarized in the attached spreadsheet.

**SOUTH COASTAL REGIONAL WASTEWATER FACILITIES**

**SUSSEX COUNTY, DELAWARE**

**CONTRACT AMENDMENT NO. 24**

This contract amendment, **Contract Amendment No. 24** dated \_\_\_\_\_, **2024** amends our original contract dated December 7, 2001, between Sussex County, a political subdivision of the State of Delaware, as First Party, hereinafter referred to as the COUNTY and GHD Inc., a State of Maryland Corporation, hereinafter referred to as CONSULTANT, whose address is 16701 Melford Boulevard, Suite 330, Bowie, Maryland 20715. Except as specifically amended herein, the provisions of the Original Contract dated December 7, 2001, as thereafter amended, remain in effect and fully valid.

By execution of this Amendment, the following sections are hereby added as new sections to the Original Contract, as respectfully numbered below.

**ARTICLE FOUR**

**FEE STRUCTURE**

- 4.4.1 The previous versions of Section 4.4 as set forth in **Contract Amendment Nos. 1 to 23** are hereby incorporated by reference. Notwithstanding any language to the contrary in such Amendments, the parties agree that those Amendments are intended to be additions to the Original Contract between the parties dated December 7, 2001.
- 4.4.2 In accordance with the method of fee determination described in Articles 4.3.1, 4.3.2, 4.3.3, and 4.3.4 of this Agreement, the total compensation and reimbursement obligated and to be paid the CONSULTANT by the COUNTY for the CONSULTANT's Scope of Services for **Extension of Construction Engineering Services for the SCRWF Treatment Upgrade No. 3** as set forth in **Attachment A**, which is attached hereto and incorporated by reference, shall not exceed **Nine Hundred Thousand dollars (\$900,000.00)**. In the event of any discrepancy or inconsistency between the amounts set forth in this Article 4.4.2 and any appendices, exhibits, attachments or other sections of this Agreement, the amounts set forth in this Article 4.4.2 shall govern.

**ARTICLE FOURTEEN**

**INCORPORATED DOCUMENTS**

14.2 **Attachment A: Consultant's Scope of Services, Extension of Construction Engineering Services for the SCRWF Treatment Upgrade No. 3. (Contract Amendment No. 24).**

By execution of this Agreement, the following sections are amended as set forth below:



- 2.4 The CONSULTANT shall perform the Scope of Services attached hereto as Attachment A and all additional Scopes of Services as may be set forth in consecutively numbered subsets of Attachment A.
- 4.3 The COUNTY shall pay the CONSULTANT for the satisfactory completion of the Scope of Services specified herein before in Attachment A and all additional Scopes of Services as may be set forth in consecutively numbered subsets of Attachment, based on and limited to the following method of determination....”

IN WITNESS WHEREOF, the parties hereunto have caused this Amendment No. 24 to this Agreement to be executed on the day and year first written hereof by their duly authorized officers.

SEAL

FOR THE COUNTY:  
SUSSEX COUNTY

\_\_\_\_\_  
President, Sussex County Council

PREVIOUSLY APPROVED FORM

\_\_\_\_\_  
Date

ATTEST:

\_\_\_\_\_  
Clerk of the Sussex County Council

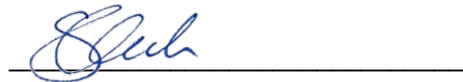
FOR THE CONSULTANT:

GHD Inc.



\_\_\_\_\_  
Vince Maillard, P.E.

WITNESS:



## Attachment A

Your ref:  
Our ref: 11209168

January 22, 2024

Hans Medlarz P.E., County Engineer  
Sussex County  
2 The Circle  
Georgetown, DE 19947

### Construction Phase Engineering Services Extension Proposal for the SCRWF Treatment Upgrade No. 3

Dear Mr. Medlarz

GHD is pleased to submit this proposal for ongoing Construction Phase Engineering Services for the South Coastal Regional Wastewater Facilities Treatment Upgrade No. 3 project.

#### Scope of Services

Construction of the South Coastal Regional Wastewater Facilities Treatment Upgrade No. 3 has exceeded the original contract times and will continue for a significant period in 2024. GHD's budget for construction management and inspection services will be fully exhausted in the next 2-3 months. As a result, GHD requests a new amendment for construction management, engineering, inspection, and programming services to continue supporting the project. Based on GHD's understanding of the status of the project, we recommend an additional 6 months of budget be included.

While we cannot easily estimate the total cost of the remaining services with accuracy, based on reviewing previous month's efforts and anticipating what future efforts may be, an average monthly cost of \$150,000 is recommended as the basis for the budget. The actual effort may be more or less than this, but GHD will invoice the County based on actual effort according to the rate schedule included herein. Should actual effort exceed this projection, for reasons such as further delay, then an additional amendment in the future may be requested. Considering the anticipated time to completion and monthly cost of services, GHD recommends a total amendment value of \$900,000.

GHD's scope of services will essentially be a continuation of the services included in Amendment 21, with most future effort likely to be associated with:

1. Construction Management
2. Electrical, Instrumentation, and Controls Coordination
3. Testing and Startup Assistance
4. Programming
5. On-site Inspection

## Subconsultants

GHD will continue to utilize John D. Hynes, Inc. for construction phase materials testing services. GHD will also utilize Trijay Systems, Inc. for programming modifications in existing PCS Cabinets and may utilize ACI for programming support. These costs are included in the amendment value included herein.

## Engineering Fee

GHD proposes to provide engineering services based on direct hourly payroll costs paid to technical staff engaged on the project plus overhead and fringe benefit costs of 1.85 times actual payroll costs billed plus out-of-pocket and subconsultant expenses at cost, plus a fixed fee of 10% on direct costs plus overhead and fringe benefit costs. Total cost shall not exceed the following:

Table 1      *Engineering Fee*

Description	Cost
Direct Wage Costs	\$270,000.00
Overhead and Fringe Benefits	\$499,500.00
Fixed Fee	\$76,950.00
Expenses	\$53,550.00
Total	\$900,000.00

Please let us know if you have any questions or comments regarding this proposal.

Regards



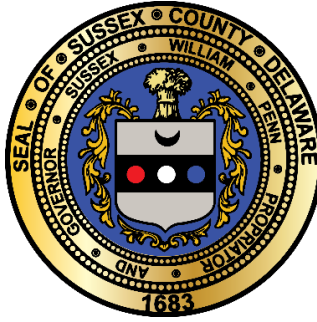
**Steven Clark**  
Project Manager

443-875-5061  
steven.clark@ghd.com

**GHD, Inc.**  
**Hourly Direct Rate Ranges By Classification**  
**Effective July 1, 2023**

Personnel Category	Hourly Rate (\$/Hr)	
	Minimum	Maximum
Principal	75.00	88.00
Associate	60.00	84.00
Senior Engineer	55.00	82.00
Project Manager	45.00	70.00
Project Engineer	40.00	60.00
Engineer	26.00	40.00
Managing Designer	46.00	65.00
Senior Designer	36.00	46.00
Designer	25.00	36.00
Drafter	20.00	25.00
Senior Rep	30.00	46.00
Project Rep	24.00	30.00
Administrative Assistant	22.00	32.00

Rates are subject to annual adjustment  
Rates do not include overhead and profit



**SUSSEX COUNTY  
CHANGE ORDER REQUEST**

**A. ADMINISTRATIVE:**

1. Project Name: **SCRWF Treatment Process Upgrade No. 3 & RBWTP Capital Improvement Program, Phase 2 – Electrical Construction**
2. Sussex County Project No. C19-17
3. Change Order No. 26
4. Date Change Order Initiated - 2/2/24
5.
  - a. Original Contract Sum \$22,178,674.00
  - b. Net Change by Previous Change Orders \$795,811.76
  - c. Contract Sum Prior to Change Order \$22,974,485.76
  - d. Requested Change \$ 9,636.87
  - e. Net Change (No. of days) \_\_\_\_\_
  - f. New Contract Amount \$22,984,122.63
6. Contact Person: Hans Medlarz, P.E.  
Telephone No. (302) 855-7718

**B. REASON FOR CHANGE ORDER (CHECK ONE)**

1. Differing Site Conditions
2. Errors and Omissions in Construction Drawings and Specifications
3. Changes Instituted by Regulatory Requirements
4. Design Change
5. Overrun/Underrun in Quantity

6. Factors Affecting Time of Completion

     7. Other (explain below):

**C. BRIEF DESCRIPTION OF CHANGE ORDER:**

**D. JUSTIFICATION FOR CHANGE ORDER INCLUDED?**

Yes   X   No                   

**E. APPROVALS**

1. B.W. Electric, Inc., Contractor

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Representative's Name in Block Letters

2. Sussex County Engineer

\_\_\_\_\_  
Signature Date

3. Sussex County Council President

\_\_\_\_\_  
Signature Date



15342 S. DuPont Hwy  
Harrington DE 19952

Office: 302.566.6248  
Fax: 302.566.6251

Bryon Warren  
President  
302-270-5719

Email(s):  
office@bwelectricinc.com  
estimates@bwelectricinc.com

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February 1, 2024

Subject: SCRWF Upgrade No. 3 & RBWWTP CIP Upgrade Phase 2 RFP No. 113

Dear Mr. Medlarz,

Our price to perform the electrical work associated with the above project is based on RFP No. 113. Our price does not include the use of Prevailing Wages. Our price is **\$9,636.87** and includes the following:

Description of proposed changes:

Reference RFI-117.

EC to construct a new exterior pad (Detail 25.C or 28.C, Drawing SC-S0004) and freestanding EMR to support the panels shown to be located on the exterior face of the Sludge Building between the two overhead doors. Include two bollards (Detail 6, SC-C6001) to protect the panels from vehicle impact. Coordinate location with GHD and County staff in the field.

**If this RFP is accepted, we are requesting 5 days be added to the contract.**

Exclusions

1. No permit fees.
2. No cutting.
3. No patching or painting.
4. No liquidated damages.

This price is good for thirty (30) days only.

Sincerely,

Jason R. Walters  
B. W. Electric, Inc.  
Superintendent  
JRW/



## #SCRWF Upgrade No.3 and RBWWTP CIP Upgrade Phase 2 : RFP-113 Sludge building Apron E

## Totals (Summary) - Bid Summary: Default

<b>Material</b>	
Non-Quoted	\$4,500.10
Quotes	0.00
Sales Tax (0.00%)	0.00
<b>Total Material</b>	<b>\$4,500.10</b>
<b>Labor</b>	
Direct (56.00 hours @ \$65.00)	\$3,640.00
Non-Productive Labor	0.00
<b>Total Labor (56.00 hours)</b>	<b>\$3,640.00</b>
Direct Job Expenses	\$0.00
Tools and Miscellaneous Materials	0.00
Subcontracts	0.00
<b>Job Subtotal (Prime Cost)</b>	<b>\$8,140.10</b>
Overhead (10.00%)	814.01
Profit (5.00%)	447.71
<b>Job Total</b>	<b>\$9,401.82</b>
<b>Bond</b>	
Bond	235.05
<b>Job Total with Bond</b>	<b>\$9,636.87</b>
<b>Actual Bid Price</b>	<b>\$9,636.87</b>
<b>Material to Direct Labor ratio: 0.55</b>	
Prime Cost per square foot	\$0.00
Job Total per square foot	\$0.00
Actual Bid Price per square ft	\$0.00
Labor cost per square foot	\$0.00
Labor hours per square foot	0.00
Gross Profit %	15.53
Gross Profit \$	\$1,496.77
Net Profit %	7.08



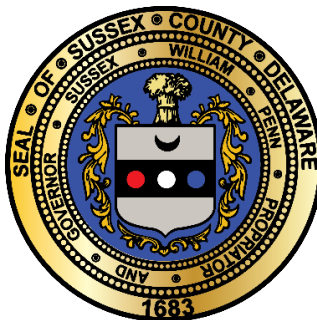
# Request for Proposal

<b>Project Title</b>	SCRWF Upgrade No. 3 & RBWWTP CIP Upgrade Phase 2		
<b>Owner</b>	Sussex County, Delaware		
<b>Contract No.</b>	C19-17: Electrical Construction	<b>GHD Project No.</b>	11121182
Contractor is requested to provide a Change Proposal for the following proposed modifications to the Work. This request alone neither directs nor approves any change to the Work nor any adjustments to the Contract Price or Contract Times. Contractor's proposal shall be submitted to Engineer for review and shall adhere to all requirements of the Contract Documents. If found acceptable to Owner and Engineer, Contractor's Change Proposal will be incorporated into the Work via Change Order.			
<b>RFP No.</b>	113		
<b>RFP Subject</b>	Sludge Building Apron EMR		
<b>Issued By</b>	S. Clark	<i>SC</i>	<b>Issue Date</b> Jan. 26, 2024

## Description of proposed changes:

Reference RFI-117.

EC to construct a new exterior pad (Detail 25.C or 28.C, Drawing SC-S0004) and freestanding EMR to support the panels shown to be located on the exterior face of the Sludge Building between the two overhead doors. Include two bollards (Detail 6, SC-C6001) to protect the panels from vehicle impact. Coordinate location with GHD and County staff in the field.



***SUSSEX COUNTY  
CHANGE ORDER REQUEST***

**A. ADMINISTRATIVE:**

1. Project Name: **SCRWF Treatment Process Upgrade No. 3 & RBWTP Capital Improvement Program, Phase 2 – General Construction**
2. Sussex County Project No.           C19-11
3. Change Order No.           32
4. Date Change Order Initiated -           1/31/24
5.
  - a. Original Contract Sum           \$39,526,400.00
  - b. Net Change by Previous Change Orders           \$6,473,462.31
  - c. Contract Sum Prior to Change Order           \$45,999,862.31
  - d. Requested Change           \$ 16,608.23
  - e. Net Change (No. of days)           0
  - f. New Contract Amount           \$46,016,470.54
6. Contact Person: Hans Medlarz, P.E.  
Telephone No. (302) 855-7718

**B. REASON FOR CHANGE ORDER (CHECK ONE)**

1. Differing Site Conditions
2. Errors and Omissions in Construction Drawings and Specifications
3. Changes Instituted by Regulatory Requirements
4. Design Change
5. Overrun/Underrun in Quantity

\_ 6. Factors Affecting Time of Completion

\_\_\_ 7. Other (explain below):

**C. BRIEF DESCRIPTION OF CHANGE ORDER:**

Two hydraulic oil pressure switches for the belt filter, four blower inlet isolation valve limit switches and two conveyor pull cord emergency shut off switches.

**D. JUSTIFICATION FOR CHANGE ORDER INCLUDED?**

Yes   X   No                   

**E. APPROVALS**

1. M.F. Ronca & Sons, Inc, Contractor

	2/2/2024
Signature	Date

David A. Ronca, CEO & General Manager
Representative's Name in Block Letters

2. Sussex County Engineer

Signature	Date

3. Sussex County Council President

Signature	Date

Michael F.  
**RONCA**  
& Sons, Inc.

TELEPHONE 610/759-5100  
FACSIMILE 610/746-0974



CONTRACTORS

179 Mikron Road, Bethlehem, PA 18020

January 26, 2024

Mr. Steven Clark, P.E.  
GHD  
16701 Melford Boulevard, Suite 330  
Bowie, MD 20715

Re: Sussex County  
SCRWF-RBWWTP CIP Phase 2 Upgrades  
Proposed Change Order Request No. 554-054  
BFP Hydraulic Switches

Dear Mr. Clark:

Please consider this writing to be Michael F. Ronca & Sons, Inc.'s formal change order request for performance of the above referenced work, in the amount of Four Thousand Seven Hundred Eighty Nine Dollars and 18 Cents.....(\$4,789.18).

Enclosed for your review is a corresponding breakdown of costs.

Should this change order request be acceptable as provided, please prepare the appropriate change order documentation, and forward the same to our office for further processing. Until then, should you have any questions, or require additional information, please do not hesitate to contact me.

Regards,

*Scott Wachinski*

Project Manger

cc: HO file 554  
Hans M. Medlarz, P.E. – Sussex Co.  
David A. Ronca – M.F. Ronca

**Sussex County - SCRWF-RBWWTP CIP Phase 2 Upgrades**

PCOR 554-054 BFP Hydraulic Switches

1/26/2024

**CHANGE ORDER SUMMARY**

Item 1	Furnish and Install 2 EA New Hydraulic Oil Pressure Switches on BFP No. 2 and Furnish 4 EA Spare Switches Including 50% of Travel/Onsite Expenses per GHD RFP-110.
<b>Labor</b>	\$0.00
<b>Materials</b>	\$4,164.50
<b>Equipment</b>	\$0.00
<b>Subcontract</b>	\$0.00
<b>Subtotal</b>	\$4,164.50
<b>Contractor Overhead &amp; Profit @ 15%</b>	\$624.68
<b>Contr. Overhead &amp; Profit on Subcontr. @ 5%</b>	\$0.00
<b>Item Total</b>	<b>\$4,789.18</b>
<b>Change Order Total</b>	<b>\$4,789.18</b>

**Sussex County - SCRWF-RBWWTP CIP Phase 2 Upgrades**

PCOR 554-054 BFP Hydraulic Switches

1/26/2024

Item                      Description

Item 1      Furnish and Install 2 EA New Hydraulic Oil Pressure Switches on BFP No. 2 and Furnish 4 EA Spare Switches Including 50% of Travel/Onsite Expenses per GHD RFP-110.

<b>Labor:</b>	<u>Qty</u>	<u>Unit</u>	<u>Unit Cost</u>	<u>Total</u>	
			\$0.00	\$0.00	
					Labor Total:      \$0.00
<b>Materials:</b>	<u>Qty</u>	<u>Unit</u>	<u>Unit Cost</u>	<u>Total</u>	
Hydraulic Oile Pressure Switches	6.00	EA	\$335.75	\$2,014.50	
Freight	1.00	LS	\$150.00	\$150.00	
50% Vender Site Service Expenses	1.00	LS	\$2,000.00	\$2,000.00	
					Material Total:      \$4,164.50
<b>Equipment:</b>	<u>Qty</u>	<u>Unit</u>	<u>Unit Cost</u>	<u>Total</u>	
			\$0.00	\$0.00	
					Equipment Total:      \$0.00
<b>Subcontract:</b>	<u>Qty</u>	<u>Unit</u>	<u>Unit Cost</u>	<u>Total</u>	
			\$0.00	\$0.00	
					Subcontract Total:      \$0.00
					Item Total:      \$4,164.50


November 9, 2023



Attention: Scott Wachinski

Reference: SCRWF Upgrade No. 3 & RBWWTP CIP Upgrade Phase 2  
GDH Project No. 11121182  
BFP Pressure Switches/Site Service  
Alfa Laval Quote No. 110923A-MS

Alfa Laval Inc.  
10470 Deer Trail Drive  
Houston, TX 77038  
USA  
Tel: +1 800-362-9041  
Fax: +1 281-449-1324  
www.alfalaval.us

Description	Qty.	Price	Ext. Price
Hydraulic Pressure switch p/n 029872 Note: Quantity (2) two will be installed BFP No. 2 and quantity (4) four are spares	6	\$ 335.75	\$ 2,014.50
Site Services (1) one man for (1) one day on site (plus travel time) to install pressure switches on BFP No. 2 and perform panel checkout after installation of pressure switches on BFP No. 2 Note: Pressure switch installation and panel checkout (PLC modification) shall be performed only after the Velodyne control panels are modified to correct operating conditions.	1	<del>\$ 7,372.00</del> \$4,000.00	<del>\$ 7,372.00</del> 4,000.00  <div data-bbox="987 1150 1274 1255" style="border: 1px solid green; padding: 2px;">Site Service Negotiated Down to \$4,000.00.</div>
Freight	1	\$ 150.00	\$ 150.00
		Total	\$ 9,536.50

Delivery: 1 Week ARO

Yanely Ascencio  
Application Engineer



Michael F.  
**RONCA**  
& Sons, Inc.

TELEPHONE 610/759-5100  
FACSIMILE 610/746-0974



CONTRACTORS

179 Mikron Road, Bethlehem, PA 18020

January 26, 2024

Mr. Steven Clark, P.E.  
GHD  
16701 Melford Boulevard, Suite 330  
Bowie, MD 20715

Re: Sussex County  
SCRWF-RBWWTP CIP Phase 2 Upgrades  
Proposed Change Order Request No. 554-055  
Turbo Blower Inlet Iso Valve Limit Switches

Dear Mr. Clark:

Please consider this writing to be Michael F. Ronca & Sons, Inc.'s formal change order request for performance of the above referenced work, in the amount of Seven Thousand One Hundred Seventy Five Dollars and 17 Cents.....(\$7,175.17).

Enclosed for your review is a corresponding breakdown of costs.

Should this change order request be acceptable as provided, please prepare the appropriate change order documentation, and forward the same to our office for further processing. Until then, should you have any questions, or require additional information, please do not hesitate to contact me.

Regards,

*Scott Wachinski*

Project Manger

cc: HO file 554  
Hans M. Medlarz, P.E. – Sussex Co.  
David A. Ronca – M.F. Ronca

**Sussex County - SCRWF-RBWWTP CIP Phase 2 Upgrades**

PCOR 554-055 Turbo Blower Inlet Iso Valve Limit Switches

1/26/2024

**CHANGE ORDER SUMMARY**

**Item 1 Furnish and Install 4 EA Blower Inlet Isolation Valve Limit Switches per GHD RFP-111.**

<b>Labor</b>	\$1,564.00
<b>Materials</b>	\$4,550.00
<b>Equipment</b>	\$125.28
<b>Subcontract</b>	\$0.00
<b>Subtotal</b>	\$6,239.28
<b>Contractor Overhead &amp; Profit @ 15%</b>	\$935.89
<b>Contr. Overhead &amp; Profit on Subcontr. @ 5%</b>	\$0.00
<b>Item Total</b>	<b>\$7,175.17</b>
<b>Change Order Total</b>	<b>\$7,175.17</b>

**Sussex County - SCRWF-RBWWTP CIP Phase 2 Upgrades**

PCOR 554-055 Turbo Blower Inlet Iso Valve Limit Switches

1/26/2024

<u>Item</u>	<u>Description</u>					
Item 1	Furnish and Install 4 EA Blower Inlet Isolation Valve Limit Switches per GHD RFP-111.					
	<b>Labor:</b>	<u>Qty</u>	<u>Unit</u>	<u>Unit Cost</u>	<u>Total</u>	
	Mechanic/Fitter	8.00	MH	\$122.18	\$977.44	
	Laborer	8.00	MH	\$73.32	\$586.56	
						Labor Total: \$1,564.00
	<b>Materials:</b>	<u>Qty</u>	<u>Unit</u>	<u>Unit Cost</u>	<u>Total</u>	
	Valve Limit Switches	4.00	EA	\$825.00	\$3,300.00	
	Vendor Install Assist	1.00	D	\$1,250.00	\$1,250.00	
						Material Total: \$4,550.00
	<b>Equipment:</b>	<u>Qty</u>	<u>Unit</u>	<u>Unit Cost</u>	<u>Total</u>	
	STS	8.00	HR	\$15.66	\$125.28	
						Equipment Total: \$125.28
	<b>Subcontract:</b>	<u>Qty</u>	<u>Unit</u>	<u>Unit Cost</u>	<u>Total</u>	
				\$0.00	\$0.00	
						Subcontract Total: \$0.00
						Item Total: \$6,239.28

# DeZURIK Quotation



**To:** Michael F Ronca & Sons  
 Travis Neubert  
 USA  
 Phone 610-342-5422  
 Email TNeubert@mfronca.com

**Date of Quote:** 09-28-2023  
**Quote Number:** 333961  
**Project Name:** So. Coastal WWTP - BB2 Suction Side Isolation Valves - Limit

**Invoice Terms:** Net 30 Days  
**Days Valid:** 0  
**Shipping Point:**  
**Delivery Notes:**

**I.D. (Rep. Use):**  
**Line of Business:** 4952 - Municipal Sewage Treatment  
**Make Order To:**  
 Sherwood Logan  
 Nathan Kramer  
 USA  
 Phone 714-657-8881  
 Email nkramer@sherwoodlogan.com

Currency and Values expressed in USD (\$)

ANY PURCHASE ORDER ISSUED AS A RESULT OF THIS QUOTATION IS SUBJECT TO ALL OF THE MANUFACTURER'S CONDITIONS SET FORTH IN THIS DOCUMENT HEREOF, REASONABLE CONTRACT LANGUAGE NEGOTIATIONS AND FINAL ACCEPTANCE BY DEZURIK AT SARTELL, MN USA.

UNLESS OTHERWISE NOTED, QUOTATIONS ARE VALID FOR 30 DAYS. UNTIL ACCEPTANCE OF ORDER, QUOTED PRICES AND DELIVERY ARE SUBJECT TO CHANGE. UNLESS OTHERWISE NOTED, PRICES ARE FIRM FOR SHIPMENT OF GOODS WITHIN 12 MONTHS FROM THE RELEVANT QUOTATION DATE. OUR PRICES ARE BASED ON CURRENT PRICES FOR MATERIAL. IF A SIGNIFICANT MATERIAL PRICE INCREASE OCCURS BETWEEN ORDER ACCEPTANCE AND SHIPMENT DATE, GOODS SCHEDULED TO SHIP BEYOND 12 MONTHS OF THE QUOTATION DATE ARE SUBJECT TO A PRICE ADJUSTMENT BY THE AMOUNT NECESSARY TO COVER SUCH AN INCREASE.

Line #	Cust. Line # Tag #	Qty	Order Code	Unit Price	Total Price
1	4 EA	1	SEH90 Limit Switch with Two Position Open/Close for use with 9704491 & 9704491	\$825.00	<del>\$825.00</del> \$3,300.00
2		1	As Required Field Service Assistance - \$1,250.00 Per Day (As Required)	\$0.00	\$0.00
<b>Total</b>					\$825.00



Michael F.  
**RONCA**  
& Sons, Inc.

TELEPHONE 610/759-5100  
FACSIMILE 610/746-0974



CONTRACTORS

179 Mikron Road, Bethlehem, PA 18020

January 26, 2024

Mr. Steven Clark, P.E.  
GHD  
16701 Melford Boulevard, Suite 330  
Bowie, MD 20715

Re: Sussex County  
SCRWF-RBWWTP CIP Phase 2 Upgrades  
Proposed Change Order Request No. 554-056  
BC-1 Pull Switches

Dear Mr. Clark:

Please consider this writing to be Michael F. Ronca & Sons, Inc.'s formal change order request for performance of the above referenced work, in the amount of Four Thousand Six Hundred Forty Three Dollars and 88 Cents.....(\$4,643.88).

Enclosed for your review is a corresponding breakdown of costs.

Should this change order request be acceptable as provided, please prepare the appropriate change order documentation, and forward the same to our office for further processing. Until then, should you have any questions, or require additional information, please do not hesitate to contact me.

Regards,

*Scott Wachinski*

Project Manger

cc: HO file 554  
Hans M. Medlarz, P.E. – Sussex Co.  
David A. Ronca – M.F. Ronca

**Sussex County - SCRWF-RBWWTP CIP Phase 2 Upgrades**

PCOR 554-056 BC-1 Pull Cord Switches

1/26/2024

**CHANGE ORDER SUMMARY**

Item 1	Furnish and Install 2 EA Replacement Conveyor BC-1 Conveyor Pull Cord Switches and Provide 2 Spares per GHD RFP-112.
<b>Labor</b>	\$488.72
<b>Materials</b>	\$3,486.80
<b>Equipment</b>	\$62.64
<b>Subcontract</b>	\$0.00
<b>Subtotal</b>	\$4,038.16
<b>Contractor Overhead &amp; Profit @ 15%</b>	\$605.72
<b>Contr. Overhead &amp; Profit on Subcontr. @ 5%</b>	\$0.00
<b>Item Total</b>	<b>\$4,643.88</b>
<b>Change Order Total</b>	<b>\$4,643.88</b>

**Sussex County - SCRWF-RBWWTP CIP Phase 2 Upgrades**

PCOR 554-056 BC-1 Pull Cord Switches

1/26/2024

<u>Item</u>	<u>Description</u>					
Item 1	Furnish and Install 2 EA Replacement Conveyor BC-1 Conveyor Pull Cord Switches and Provide 2 Spares per GHD RFP-112.					
	<b>Labor:</b>	<u>Qty</u>	<u>Unit</u>	<u>Unit Cost</u>	<u>Total</u>	
	Mechanic/Fitter	4.00	MH	\$122.18	\$488.72	
						Labor Total: \$488.72
	<b>Materials:</b>	<u>Qty</u>	<u>Unit</u>	<u>Unit Cost</u>	<u>Total</u>	
	Pull Cord Switches	4.00	EA	\$715.20	\$2,860.80	
	Vinyl Coated Cable	1.00	LS	\$284.00	\$284.00	
	Freight	1.00	LS	\$92.00	\$92.00	
	SS Mounting Hardware	1.00	LS	\$250.00	\$250.00	
						Material Total: \$3,486.80
	<b>Equipment:</b>	<u>Qty</u>	<u>Unit</u>	<u>Unit Cost</u>	<u>Total</u>	
	STS	4.00	HR	\$15.66	\$62.64	
						Equipment Total: \$62.64
	<b>Subcontract:</b>	<u>Qty</u>	<u>Unit</u>	<u>Unit Cost</u>	<u>Total</u>	
				\$0.00	\$0.00	
						Subcontract Total: \$0.00
						Item Total: \$4,038.16





# Conveyor Components Company

Div. of Material Control, Inc.  
130 Seltzer Road, PO Box 167  
Croswell, MI 48422 USA  
PH: 800-233-3233, PH 810-679-4211, FAX: 810-679-4510  
www.conveyorcomponents.com

## Quote

<b>Quote Number:</b> 50663	<b>Revision:</b> 3	<b>Prepared By:</b> AUSTIN SCHEID
<b>Prepared For:</b> Scott Wachinski		<b>On:</b> 01/26/2024
<b>Phone:</b> 610-972-1356		<b>Valid Until:</b> 02/25/2024
<b>Fax:</b>		<b>RFQ:</b>
<b>Email:</b> swachinski@mfronca.com		<b>Sub RFQ:</b>
<b>Company Name:</b> MICHAEL F RONICA & SONS		<b>Customer No:</b> NEW <b>Type:</b> R
<b>Bill To:</b> ATTN ACCTS PAYABLE US		<b>Shipping To:</b>

### Shipping Instructions

Line	Quantity	Item Item Description	FOB	Lead Time (Business Days)	List Price	Discount	Net Price	Ext Total
1	4.00	PCD-4S Double end pull cord operated safety stop control WITH 2 SP/DT MICRO SWITCHES IN EACH END. 20A@ 480V MAX AC, 10A@ 125VAC "L". NEMA 4, 4X RATED INDOORS/OUTDOORS. SHIPPING WEIGHT = 16 LBS.	MI	5 DAYS	\$894.00	20.00%	\$715.2000	\$2,860.80
2	1.00	RS-25-500 Vinyl Coated Aircraft Cable 500 FT 3/32" 7 X 7 GALVANIZED STEEL CABLE WITH VINYL COATING. 3/16" OUTSIDE DIAM.	MI	5 DAYS	\$355.00	20.00%	\$284.0000	\$284.00

**All lead times are business days and A.R.O**

**Terms: Net 30 Days (Upon Approval)**

**Freight: Ex-works Croswell, MI 48422**

**Tax And Freight Not Included**

**List Total:** \$3,931.00

**Discount Total:** -\$786.20

**Freight:**

**Total USD:** \$3,144.80

We thank you for your interest in our products.

If you have any further questions regarding this quote please contact AUSTIN SCHEID

at (810)679-4211 Ext: 2783 or austins@conveyorcomponents.com

Please reference the quote and revision number at the top of this document in all correspondence.

Please verify electrical & enclosure requirements, agency approvals and model numbers to required specifications.



# Request for Proposal

<b>Project Title</b>	SCRWF Upgrade No. 3 & RBWWTP CIP Upgrade Phase 2		
<b>Owner</b>	Sussex County, Delaware		
<b>Contract No.</b>	C19-11: General Construction	<b>GHD Project No.</b>	11121182
Contractor is requested to provide a Change Proposal for the following proposed modifications to the Work. This request alone neither directs nor approves any change to the Work nor any adjustments to the Contract Price or Contract Times. Contractor's proposal shall be submitted to Engineer for review and shall adhere to all requirements of the Contract Documents. If found acceptable to Owner and Engineer, Contractor's Change Proposal will be incorporated into the Work via Change Order.			
<b>RFP No.</b>	108		
<b>RFP Subject</b>	Compressed Air System PSL and PG		
<b>Issued By</b>	S. Clark	<i>SC</i> <b>Issue Date</b>	Oct. 9, 2023

### Description of proposed changes:

It was observed some time ago that the new low pressure switch for the compressed air system was not installed in the intended location. It is desired that the switch monitor a low pressure condition on the receiver pressure side of the regulator, and not the pressure upstream of the regulator.

After some discussion on site between GHD and Ronca, it was agreed that this switch would be installed such that it would provide the originally intended functionality, but that we would allow the switch to be installed at a location that would minimize effort, and possibly allow the conduit and conductors to remain in the same locations.

It was also discussed that we would be adding some minor work to this relocation effort, as described below.

#### Relocation of PSL – Costs to be borne by Contractor as part of original contact

Disconnect pressure switch from current location and cap tap. Remove regulator spool piece and weld sensing pipe tap into spool piece on downstream side of regulator to allow re-installation of pressure switch. Re-install spool piece and test for leaks.

Work shall be scheduled with County for coordination of shutdown of compressed air system.

#### Additional Work – Costs to be included in response to this RFP

1. Prior to re-installing pressure switch, using portable compressor/receiver, regulator and pressure gauge on site, demonstrate actuation pressure of switch – verify 90 psig setting; conduct in the presence of the Engineer.
2. Dead band of switch is fixed/variable 8-21 psi. Verify and record reset pressure and dead band.
3. Set pressure switch to actuate at pressure designated by Engineer, and re-verify dead band.
4. On pressure sensing tap for pressure switch, provide ball valve with calibration port and screw cap to allow isolation of switch and calibration verification of switch while installed.
5. Provide additional welded tap on spool piece upstream of regulator, with ball valve and calibration port with cap.
6. Provide 0-160 psig range pressure gauge and install on upstream tap on spool piece. Gauge shall be 2.5" or 4" diameter, rated for 250 deg F process temperature. 0-200 psig range is allowed if 0-160 psig range not available.



# Request for Proposal

<b>Project Title</b>	SCRWF Upgrade No. 3 & RBWWTP CIP Upgrade Phase 2		
<b>Owner</b>	Sussex County, Delaware		
<b>Contract No.</b>	C19-11: General Construction	<b>GHD Project No.</b>	11121182
Contractor is requested to provide a Change Proposal for the following proposed modifications to the Work. This request alone neither directs nor approves any change to the Work nor any adjustments to the Contract Price or Contract Times. Contractor's proposal shall be submitted to Engineer for review and shall adhere to all requirements of the Contract Documents. If found acceptable to Owner and Engineer, Contractor's Change Proposal will be incorporated into the Work via Change Order.			
<b>RFP No.</b>	110		
<b>RFP Subject</b>	BFP Hydraulic Switches		
<b>Issued By</b>	S. Clark	<i>SC</i>	<b>Issue Date</b> Oct. 12, 2023

### Description of proposed changes:

During functional testing of the BFPs and corresponding control panels, a couple of items arose that are required to be addressed. These are described briefly below:

1. Alfa Laval/Revere made a temporary change to their program in each BFP CP whereby they do not remove the POLYMER RUN command when a Polymer System Fault is received. This was necessitated by deficiencies in the Velodyne control relay logic within the Polymer System CPs. Alfa Laval agrees this is poor practice and that this situation should be corrected after control logic revisions are made to the Velodyne panels. The main theme is that the Velodyne CP must display fault conditions on the panel for troubleshooting purposes even when the RUN command is removed. This concern with associated details has been transmitted to Ronca in separate correspondence.
2. The existing hydraulic oil pressure switches on BFP-2 are not operable. The unit was tested and placed in service excluding testing of these items. Bob Moore (County) understands this and has accepted operating BFP-2 until the switches can be replaced with the understanding that they will be replaced.

It is our opinion that some of the work required to resolve the above items is within the scope of the Contract, and some is not within the scope of the Contract and requires a change order. This RFP is separated into two components to reflect this.

### Work Within Contract Scope

1. Once the Velodyne control panels are modified such that the fault conditions are latched without requiring a POLYMER RUN command, revise the BFP CP PLC programs to what was originally programmed and intended, and re-test the portion of the control scheme that includes the polymer system and corresponding faults.

### Work Outside Contract Scope

1. Provide two (2) new hydraulic oil pressure switches on BFP No. 2 to replace existing and test the functionality and alarming of the switches per the original Functional Test Plan.
2. Furnish four (4) spare hydraulic oil pressure switches to the County.
3. Include in the proposal approximately one-half (50%) of the travel, lodging and miscellaneous expenses required to provide an Alfa Laval representative to perform all of the work described herein. It is our opinion that this would be a fair split of travel and lodging expenses.



## Notes

1. Other issues identified during the functional testing for the BFPs that require correction have been transmitted to Ronca under separate correspondence and are not included herein. These items were considered minor and the Alfa Laval representative agreed to resolve them.



# Request for Proposal

<b>Project Title</b>	SCRWF Upgrade No. 3 & RBWWTP CIP Upgrade Phase 2		
<b>Owner</b>	Sussex County, Delaware		
<b>Contract No.</b>	C19-11: General Construction	<b>GHD Project No.</b>	11121182
Contractor is requested to provide a Change Proposal for the following proposed modifications to the Work. This request alone neither directs nor approves any change to the Work nor any adjustments to the Contract Price or Contract Times. Contractor's proposal shall be submitted to Engineer for review and shall adhere to all requirements of the Contract Documents. If found acceptable to Owner and Engineer, Contractor's Change Proposal will be incorporated into the Work via Change Order.			
<b>RFP No.</b>	111		
<b>RFP Subject</b>	Turbo Blower Inlet Isolation Valve Limit Switches		
<b>Issued By</b>	S. Clark	<i>SC</i>	<b>Issue Date</b> Nov. 2, 2023

## Description of proposed changes:

Install limit switches on the two 20" and two 30" inlet isolation valves for the turbo blowers in Blower Building No. 2. Limit switches shall be configured to verify that an isolation valve is fully open. Blower controls will prohibit operation of a turbo blower if this condition is not met.



# Request for Proposal

<b>Project Title</b>	SCRWF Upgrade No. 3 & RBWWTP CIP Upgrade Phase 2		
<b>Owner</b>	Sussex County, Delaware		
<b>Contract No.</b>	C19-11: General Construction	<b>GHD Project No.</b>	11121182
Contractor is requested to provide a Change Proposal for the following proposed modifications to the Work. This request alone neither directs nor approves any change to the Work nor any adjustments to the Contract Price or Contract Times. Contractor's proposal shall be submitted to Engineer for review and shall adhere to all requirements of the Contract Documents. If found acceptable to Owner and Engineer, Contractor's Change Proposal will be incorporated into the Work via Change Order.			
<b>RFP No.</b>	RFP-112		
<b>RFP Subject</b>	BC-1 Pull Cord Replacement		
<b>Issued By</b>	S. Clark	<i>SC</i>	<b>Issue Date</b> 01/03/2024

### Description of proposed changes:

Provide two (2) new emergency stop pull cord switches for existing conveyor BC-1 located in the Sludge Room of the Sludge Building to replace existing two (2) switches. Provide pull cords to replace the existing pull cords that are currently connected to the existing switches. Provide two (2) new spare switches.

#### Pull Cord Switches

1. Provide quantity of four (4) pull cord switches; two (2) new switches shall be installed on the existing conveyor BC-1 to replace the two existing pull cord switches, and two (2) new switches furnished to the County as spares.
2. Provide stainless steel mounting hardware for mounting of the two new pull cord switches. Control wiring will be reconnected by the EC.
3. Switch enclosure shall be cast aluminum, NEMA 4X.
4. Double ended, standard 16 lb. pull force, with red flag arms.
5. No warning light.
6. Contacts rated minimum of 20A at 120 VAC.
7. Each switch shall be provided with four (4) SPDT contacts.
8. Switches shall be UL listed.
9. Switches shall be Model PCD-4S as manufactured by Material Control, Inc., or equal.

#### Pull Cords

1. Provide pull cord in sufficient lengths to replace existing cords that are connected to the push rods of the ends of each switch.
2. Vinyl coated cable, same cable OD as existing cable, color orange.
3. Furnished by same manufacturer as switches.

#### Testing and Demonstration

Provide testing and demonstration of the two new installed switches and associated cords in the presence of the Engineer.

# South Coastal RWF & Rehoboth Beach WTF Upgrade

2/2/2024

Vendor/Contract	Description	Contract Value
Michael F. Ronca & Sons, Inc.	SCRWF/RBWWTP General Construction	46,016,470.54
BW Electric Inc.	SCRWF/RBWWTP Electrical Construction	22,984,122.63
BW Electric Inc. CO#3	DP&L Service Entrance Modification Conduit System	235,637.33
BW P.O.	Soil Screening @ Rehoboth Plant	4,504.50
City of Rehoboth	Direct Payment for repairs to piping in oxidation ditches	324,996.81
	State Street Pump Station Repair	2,732,938.82
GHD	Amd 11 - SCRWF Expansion to 10mgd - Planning & Concept	241,938.68
	Amd 12 - SCRWF Expansion Construction Docs	2,240,280.73
	Amd 13 - Value Engineering	95,080.15
	Amd 14 - Rehoboth WTP Capital Improvement Program Upgrade Phase 2/Joint Project with SCRWF Expansion	398,410.63
	Amd 16 - Ocean Outfall Discharge Modeling & Wetlands Delineation for SCRWF and Add'l Design Services for Rehoboth WTP Capital Improvement Program	181,089.72
	Amd 18 - RBWTP CIP Upgrade Phase 2 - Add'l Design	172,153.01
	Amd 19 - SCRWF Upgrade 3 Add'l Design	108,073.71
	Amd 20 - SCRWF Upgrade 3/RBWTP Upgrade Phase 2 Construction Engineering	6,589,558.49
Core & Main	Influent FM Consolidation Materials	339,944.59
Core & Main	Effluent FM Pipeline Materials	227,603.39
Delmarva Power	Improve service entrances for both projects. Payment not distributed.	175,000.00
G&L	FM Consolidation & Influent Consolidation Phase II	973,229.04
G&L Work- Effluent Relocation		316,635.20
G&L Work - RB Treatment Plant	Parking Lot Repavement	
Kershner Environmental Technologies	Belt Press	295,000.00
Melvin Joseph	Material Screening	80,000.00
DSWA	Loading, Hauling & Disposal of Debris	33,000.00
	Hauling of Rehoboth Oxidation Ditch Remnants	39,663.15
Totals		84,805,331.12

## ENGINEERING DEPARTMENT

J. MARK PARKER, P.E.  
ASSISTANT COUNTY ENGINEER

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mark.parker@sussexcountyde.gov



# Sussex County

DELAWARE  
sussexcountyde.gov

**TO:** Sussex County Council:  
The Honorable Michael H. Vincent, President  
The Honorable John L. Rieley, Vice President  
The Honorable Cynthia C. Green  
The Honorable Douglas B. Hudson  
The Honorable Mark G. Schaeffer

**FROM:** J. Mark Parker, P.E., Assistant County Engineer

**RE:** *Paramedic Station 103, Project C21-18*  
*A. Recommendation to Award*

**DATE:** February 6, 2024

The new Paramedic Station 103 was programmed to replace the current temporary EMS location in Dagsboro, and to support the new station a 0.92-acre parcel of land was purchased in February 2020 off Dickerson Road just outside of Millsboro Town limits. The Engineering Department coordinated to have the parcel annexed into the Town in order to have public water and sewer service, and the annexation was officially approved in April 2023.

In coordination with our EMS Team, our Design Consultant George, Miles and Buhr, Inc. (GMB) spearheaded the development of a Building Prototype for the new EMS Station, in part based on the building layout that was implemented for the Seaford Station completed in 2022. The Building Prototype was adapted to fit the Millsboro site, and was approved by the EMS/Engineering Teams in February 2023 which in turn kicked-off the detailed design phase for the project.

Final Bidding Documents were subsequently developed and the project was advertised for public bid on December 15, 2023, and on January 24, 2024 a total of five (5) bids were received. The low bidder was The Whayland Company with a total bid of \$1,812,700.00 which included three (3) Bid Alternates and eight (8) Site Contingent Items. The Engineering Department, in coordination with GMB and our EMS & Finance Teams, has reviewed all bids and recommends award of the project to The Whayland Company in the amount of \$1,812,700.00.





JAMIE WHITEHOUSE, AICP  
DIRECTOR OF PLANNING & ZONING  
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**Sussex County**

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## Memorandum

To: Sussex County Council  
The Honorable Michael H. Vincent  
The Honorable Cynthia C. Green  
The Honorable Douglas B. Hudson  
The Honorable John L. Rieley  
The Honorable Mark G. Schaeffer

From: Jamie Whitehouse, AICP, Director of Planning & Zoning

CC: Everett Moore, County Attorney

Date: February 1, 2024

RE: County Council Report for C/Z 1996 filed on behalf of McKee Builders, LLC

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The Planning and Zoning Department received an application (C/Z 1996 filed on behalf of McKee Builders, LLC) for a change of zone from an AR-1 Agricultural Residential District to MR Medium Density Residential Zoning District for Tax Parcels 134-19.00-13.00 & 13.04. The property is located at 24434 Central Avenue, Frankford. The parcel size is 51.23 acres +/-

The Planning & Zoning Commission held a Public Hearing on the application on October 26, 2023. At the meeting of November 9, 2023, the Planning & Zoning Commission recommended approval of the application for the 7 reasons as outlined within the motion (copied below).

The County Council held a Public Hearing on the application at the meeting of December 12, 2023. At the conclusion of the Public Hearing, action on the application was deferred for further consideration. Below is a link to the minutes of the County Council meeting of December 12, 2023.

[Link to the Minutes of the December 12, 2023, County Council Meeting](#)

Below are the minutes from the Planning & Zoning Commission meeting of October 26, 2023, and November 9, 2023.

[Minutes of the October 26, 2023, Planning & Zoning Commission Meeting](#)

Chairman Wheatley granted the request to consolidate the public hearings for C/Z 1996 and C/U 2402 McKee Builders, LLC as the Applications were related to the same properties by the same Applicant.



COUNTY ADMINISTRATIVE OFFICES  
2 THE CIRCLE | PO BOX 417  
GEORGETOWN, DELAWARE

**C/Z 1996 McKee Builders, LLC**

**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 CERTAIN PARCELS OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 51.23 ACRES, MORE OR LESS.** The properties lie on the west side of Central Avenue (Rt. 84) approximately 0.25 mile east of Peppers Corner Road (S.C.R. 365). 911 Address: 34428 & 34434 Central Avenue, Frankford. Tax Map Parcels: 134-19.00-13.00 & 13.04.

Mr. Whitehouse advised the Commission that submitted into the record were the Staff Analysis, the Applicant's Environmental Assessments, the DelDOT Area Wide Study Fee letter, a letter from the Sussex County Engineering Department Utility Planning Division, and the PLUS comments. Mr. Whitehouse stated that two letters in support and one letter in opposition had been received for the Application.

The Commission found that Mr. James Fuqua, Esq. with Fuqua, Willard & Schab, P.A. spoke on behalf of the Applicant, McKee Builders, LLC for both C/Z 1996 and C/U 2402 applications, also present were Mr. Jason Palkewicz, Professional Engineer with Solutions IPEM, and Mr. Mick Kenny on behalf of McKee Builders, LLC. Mr. Fuqua stated there was an Exhibit Booklet, PLUS comments and responses, Environmental Assessment and a §99-9C report; that the proposed use is not a subdivision, however it does provide similar information; that there were two application submitted for the property; that the Change of Zone application is requesting a change in zoning from AR-1 (Agricultural Residential) to MR (Medium-Density Residential); that the Conditional Use application proposes 174 multifamily townhouse units; that the property consists of a 51.23 acre site, located south of Ocean View; that the site has frontage on the west side of Central Ave.; that is also has frontage on the northside of Lizard Hill Rd.; that the majority of the property along the frontage of Central Ave. is cleared farmland; that there is a portion of the Beaver Dam Canal prong tax ditch that crosses the southern portion of the property; that along the frontage of Lizard Hill Rd. the site is mostly wooded; that there is an area of Federally regulated non-tidal wetlands located in that wooded area; that both sides of Central Ave. have been fairly well developed with single-family and multifamily residential communities; that located about a half mile north of the site are the developments of Fairway Village and Bear Trap Dunes; that on the east side of Central Ave. near the site are the developments of Forest Landing and Friendship Creek; that Friendship Creek was approved by Sussex County in 2018, as a Conditional Use for 133 multifamily units to be located on a 47 acre parcel, within the GR (General Residential) Zoning District; that south of Friendship Creek, just past Central Ave. at the intersection with Lizard Hill Rd. is a 14 acre parcel, referred to as Seaway; that this parcel was rezoned from AR-1 to MR in February 2023, as Conditional Use for 57 multifamily units; that across from Seaway, there is the Wilson Property, that is zoned C-1 (General Commercial), and is being used commercially at this time; that C-1 Zoning does permit 12 units to the acre; that on the northside of Lizard Hill Rd.. bordering the property to the west, is Milos Haven, which was approved in 2019 as a GR-RPC with 179 units, 41 single-family lots and 138 townhouse units located on 71.75 acres in the GR District; that the Applications were reviewed as part of the PLUS process about a year ago; that as noted within the PLUS comment letter, the site is located in both Investment Levels 3 and 4 according to the State Strategies Investment Map; that the development is concentrated in the Investment Level 3 portion of the site, which is a Growth Area, and where growth in anticipated by the State and County; that also in the PLUS comments is a note that the development Site Plan shows minimal disturbance to the wooded and wetland areas on the site; that they are requesting a rezoning to the MR Zoning District; that the MR District provides for medium-density residential development in areas which are expected to be urban in character, particularly where central water and sewer are available; that multifamily dwellings,

such as townhouses are authorized as a Conditional Use in the MR District, subject to County Council approval; that their requests are in character with the surrounding area; that the site is adjacent to Milos Haven, Friendship Creek and Forest Landing; that MR Zoning or GR Zoning surround the majority of the site; that both the MR and GR Zoning Districts permit the same density at 4.35 units to the acre; that the Application proposes 174 townhouse units to be located on 51.23 acres results in a density of 3.39 units per acre, being significantly less than the maximum that could be requested, which would be 223 townhomes; that the Sussex County Comprehensive Plan designates the property as being within the Coastal Area, which is Growth Area; that the Comprehensive Plan states that it seeks to encourage the most concentrated forms of new development in the Growth Areas, including higher density residential developments; that the Comprehensive Plan recognizes that a range of housing types should be permitted, including townhomes; that the Comprehensive Plan recognizes 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, and the proposed use is in keeping with the character of the area; that based on those factors, they believe the proposed Applications are consistent with the State Investment Levels map; that the Applications are in character with the existing uses and zoning designations of the surrounding area; that the Applications are in accordance with the goals of the current Comprehensive Plan; that Tidewater Utilities will provide central water for domestic use and fire protection; that Tidewater also holds the CPCN to serve the area and are already serving the area; that the site will be served by the Sussex County Sewer; that Sussex County Engineering Department has indicated that adequate sewer capacity is available for the proposed development; that there will be an onsite sewer pump station on the site; that stormwater management facilities will be designed and constructed in compliance with DNREC regulations; that they will be reviewed by Sussex Construction District; that all stormwater management facilities will meet or exceed current stormwater regulations, including management of water quantity and quality; that Geotechnology Associates, Inc. performed a Subsurface Soil Exploration Study of the site to determine recommendations for the most appropriate locations for the stormwater facilities; that DelDOT indicated that in accordance with the Development Coordination Manual, DelDOT would accept an Area Wide Study Fee in lieu of a Traffic Impact Study (TIS); that DelDOT will require the Applicant to improve Central Ave. along the site's frontage, to provide 11-ft. travel lanes with five foot shoulders; that the Applicant will provide a shared use path on the Central Ave. frontage, and will dedicate additional right of way need on Central Ave. to provide a 40 ft. right of way from Central Ave. and on Lizard Hill Rd.; that there will be improvements to the road to provide 11 ft. travel lanes, and five foot shoulders, with a dedication to provide a 30 ft. right of way from the center line; that the development entrance will be designed and constructed in accordance with DelDOT requirements; that the development design was based on the superior design criteria for cluster subdivisions, by identifying areas on the property that are most appropriate for preservation due to natural features such as wetlands, wooded areas and water ways; that they then identified the most appropriate areas for development to minimize impact on the areas that were identified as containing natural features that were worthy of preservation; that the site consists of mostly cleared farmland, with some wooded areas, containing pockets of wetlands; that there is a home and some agricultural outbuildings on the property; that the site borders the tax ditch and a prong that bisects the property; that the southern portion of the site is wooded, containing wooded uplands and non-tidal wetlands; that there was a Wetland Delineation performed by Environmental Resources, Inc.; that the study indicated that the site contained 5.9 acres of Federally regulated non-tidal wetlands, being the land located along the tax ditch and the prong; that additionally, there were three pockets of wetlands located in the wooded area; that the portion of the parcel proposed for development is located within Flood Zone X according to the FEMA Flood Maps; that the townhouse development is proposed to be located on the cleared agricultural lands located on the northern portion of the site; that the entire southern portion of the site, fronting on Lizard Hill Rd., contains the wooded uplands and wetlands; that this area will remain in a natural state and will be

permanently preserved; that there will be a 50-ft. resource buffer provided adjacent to the Beaver Dam Canal Tax Ditch , which is classified as a perennial stream; that there will be a 30 ft. resource buffer provided adjacent to other non-tidal wetlands; that the non-tidal wetlands will be undisturbed, except for any necessary road and utility crossings, which will comply with all U.S. Army Corp of Engineers regulations and permitting requirements; that there are 10.04 acres of existing woodlands on the property; that the vast majority of the woodlands are located on the southern portion of the site; that the proposed site design will preserve 9.47 acres (97%) of the existing woodlands; that the community open space will total 29.78 acres (58.1%) of the site; that the development entrance will be from Central Ave., and will be designed and constructed in accordance with DelDOT requirements; that the 174 townhouse units will be located as shown of the Site Plan; that there is a mixture of three, four and five unit buildings; that the proposed density is 3.39 units per acre, being less than the maximum density permitted in the MR District; that each unit will have two off street parking spaces, which will provide for the 345 required spaces; that there will also be an additional 67 parking spaces located at the recreational center, as well as other locations through the community; that there will be a centrally located recreational facility that will consist, at minimum, of a clubhouse, an outdoor swimming pool, a deck and open space; that there may be other amenities provided, but will be determined based on the demand; that there will be a fenced community dog park located toward the north of the site; that they have proposed that the recreation area and dog park be completed and open for use before the issuance of the 90<sup>th</sup> residential building permit; that a school bus stop will be located near the development entrance is desired by the school district; that the exact location will be coordinated with the Indian River School District office; that there will be a central mailbox facility that will be located near the entrance or at the recreational area; that the development streets will be private, and built to County standards; that there will be sidewalks on both sides of the streets; that street lighting will be non-intrusive and downward screened; that there is a dead-end street connection located on the west side of the development, adjacent to Milos Haven development for possible future connection; that there is no road or pedestrian access provided into the wooded uplands and wetlands located on the southern portion of the site, as the intention is for those to remain permanently preserved in their natural state; that there will be a 20 ft. landscape buffer along the boundary of the site adjacent to the Rickers property and Milos Haven; that the community will be attractively landscape with native trees and plants; that a detailed Landscape Plan will be submitted as part of the Final Site Plan review process; that there will be a Condominium Association created, which will initially be comprised of the Developer, and subsequently comprised of the future residents; that the Condominium Association will be responsible for the enforcement of the restrictions, collection of assessments, and the maintenance and repair of all the community, property and facilities; that he requested to submit Findings of Fact for the Change of Zone application, and Findings & Proposed Conditions for the Conditional Use application for the record; that the development complies with the applicable land use regulations; that the project is designed to preserve the environmental features of the site, and the project is in character with the nature of the area, the zoning and the surrounding uses, particularly with the fact that townhouses are located adjacent to the site within Milos Haven, and across the site at Friendship Creek.

Mr. Collins questioned if there were any proposed provisions for affordable or workforce housing for the project.

Mr. Fuqua stated the subject project does not propose any workforce housing; that it is not part of the Sussex County Rental Program, and that the project would be similar to the other developments in the surrounding area.

Mr. Robertson questioned if the project had taken into account the required tax ditch easements located

on both sides of the tax ditch and any resource buffer requirements.

Mr. Fuqua stated the tax ditches to have maintenance easement right of ways; that he believed there would be a petition requested to reduce the current tax ditch right of way setback requirements; and that currently the site is farmland with agricultural ditches located on it; that if the project is approved the site would have a stormwater facility that would be reviewed and approved by Sussex Conservation District; that with the stormwater facility the drainage ditches would no longer be needed and there are buffers provided from the main tax ditch and the prong.

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/Z 1996 McKee Builders, LLC. Motion by Mr. Mears to defer action for further consideration, seconded by Mr. Collins and carried unanimously. Motion carried 4-0.

#### Minutes of the November 9, 2023, Planning & Zoning Commission Meeting

The Commission discussed the Application which had been deferred since October 26, 2023.

Mr. Collins moved that the Commission recommend approval of C/Z 1996 McKee Builders, LLC for a change in zone from AR-1 to MR based upon the record made during the public hearing and for the following reasons:

1. This Application seeks a change in zone from AR-1 to MR. The purpose of the MR zone is to provide medium-density housing in an area that is expected to become urban in character and where central water and sewer are available.
2. The stated purpose of the MR District is satisfied for this site. Both central water and central sewer will be available.
3. The proposed MR Zoning meets the purpose of the Zoning Ordinance in that it promotes the orderly growth of the County in an appropriate location.
4. This location is appropriate for MR Zoning. The properties to the west and across from this one are zoned GR with approved multi-family developments. There is also a 5.6-acre parcel across Lizzard Hill Road from this site that permits a wide variety of commercial uses and multi-family residential development with a density of up to 12 units per acre. This property is also in close proximity to the Town of Ocean View. This rezoning is consistent with other zoning and land uses in the area.
5. The site is located within the Coastal Area according to the Sussex County Comprehensive Plan. The Coastal Area is a “Growth Area”, and MR Zoning is appropriate in this Area according to the Plan.
6. The Comprehensive Plan suggests that higher densities such as those permitted in the MR District can be appropriate where there is water and sewer available, there are appropriate roadways to handle the density, and there are nearby commercial or employment centers. All of those factors are satisfied with regard to this application.
7. For all of these reasons, MR zoning is appropriate for this site.

Motion by Mr. Collins, seconded by Ms. Wingate and carried unanimously to recommend approval of C/Z 1996 McKee Builders, LLC for the reasons stated in the motion. Motion carried 4-0.

Ms. Wingate stated she was not in attendance at the Planning & Zoning Commission meeting of October 26, 2023, however, she did listen to the public hearings online and reviewed all submitted documentation and therefore was eligible to vote.

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

**PLANNING & ZONING COMMISSION**

ROBERT C. WHEATLEY, CHAIRMAN  
BRIAN BUTLER  
GREGORY SCOTT COLLINS  
J. BRUCE MEARS  
HOLLY WINGATE



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JAMIE WHITEHOUSE  
DIRECTOR

**PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET**

Planning Commission Public Hearing Date: October 26<sup>th</sup>, 2023

Application: C/Z 1996 McKee Builders, LLC

Applicant: McKee Builders, LLC (Attn: Mr. Kevin McLaughlin)  
940 West Sproul Road, Suite 301  
Springfield, PA 19064

Owner: Wayne E. Hickman, Gary O. Hickman & Cinda S. Richards, Trustees  
34434 Central Avenue  
Frankford, DE 19945

Site Location: The properties are lying on the west side of Central Avenue (Route 84), approximately 0.25 mile east of Peppers Corner Road (S.C.R. 365) in Frankford, Delaware.

Current Zoning: Agricultural Residential (AR-1) District

Proposed Zoning: Medium Density Residential (MR) District

Proposed Use: Multifamily Dwellings (174 Units) (accompanying Application for C/U 2402).

Future Land Use Map Designation: Coastal Area

Councilmanic District: Mr. Hudson

School District: Indian River School District

Fire District: Millville Fire Company/District

Sewer: Sussex County Public Works

Water: Tidewater

Site Area: 51.23 acres +/-

Tax Map IDs: 134-19.00-13.00 & 13.04



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**Sussex County**

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## Memorandum

To: Sussex County Planning Commission Members  
From: Ms. Lauren DeVore, AICP Planner III  
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant  
Date: October 24<sup>th</sup>, 2023  
RE: Staff Analysis for C/Z 1996 McKee Builders, LLC (Lilyvale)

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This memo is to provide background and analysis for the Planning Commission to consider as a part of the Application for Change of Zone No. 1996 McKee Builders, LLC (Lilyvale) to be reviewed during the October 26<sup>th</sup>, 2023, Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Change of Zone for Tax Parcel IDs: 134-19.00-13.00 and 13.04 from an Agricultural Residential (AR-1) District to a Medium Density Residential (MR) District to allow one-hundred and seventy-four (174) multifamily units (townhomes) and related side improvements to be located within a Medium Density Residential (MR) District. The properties are lying on the west side of Central Avenue (Route 84), approximately 0.25-mile east of Peppers Corner Road (S.C.R. 365). The properties are located at 34428 and 34434 Central Avenue in Frankford, Delaware.

### Further Site Considerations

Staff note that the property is part of the Beaver Dam Canal Tax Ditch Area. There appear to be multiple related Tax Ditch Rights-Of-Way on the property running primarily on the perimeter of the Parcels, but also bisecting Parcel 13.00 north to south. Several of these Tax Ditch Rights-Of-Way have already been reduced through a Court Order Change (COC #12). It should further be noted that the entirety of Parcel 13.04 is comprised of a Tax Ditch ROW measured 120-ft from the Top of Bank of the Tax Ditch. No structures or improvements may be placed in these areas without written approval from the DNREC Tax Ditch Program.

Further, staff note that the properties lie within Flood Zone "X" – Areas determined to be outside the 1% annual chance flood zone and outside the 500-year floodplain and Flood Zone "AE" – Areas subject to inundation by the 1% annual chance flood where base flood elevations are determined. Any structures to be placed within Flood Zones will require the submittal of an Elevation Certificate issued by FEMA.

DNREC's Flood Planning Tool indicates that the properties are within the Little Assawoman Bay Subwatershed, that the approximate Base Flood Elevation (BFE) Range at the Parcel is 4-ft and that the Ground Elevation Height at the Parcel is anywhere between 1 to 19 feet. The County's Online Mapping System also indicates the presence of terrene and lotic wetland areas on the Site. The property is not located within any established Transportation Improvement Districts (TIDs). DelDOT stated as part of the Service Level Evaluation Response that the project is anticipated to





generate more than 50 vehicle trips per peak hour or 500 vehicle trips per day, meaning that the project would have a Minor impact within the context of the County's MOU with DelDOT. DelDOT has provided an Area Wide Study Fee (AWSF) Memo for the project which has been included in the Commission's packet this evening.

### Comprehensive Plan Analysis

The 2018 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be developed. As part of the Comprehensive Plan, a Future Land Use Map is included to help determine how land should be zoned to ensure responsible development. The Future Land Use Map in the plan indicates that the parcel has a designation of "Coastal Area." The adjoining parcels to the north, south, east and west also have a Future Land Use Map designation of "Coastal Area." The Parcels border Central Avenue (Route 84) on the easternmost side and Parcel 13.00 fronts on Lizzard Hill Road (S.C.R. 367A) on the south side.

As outlined in the 2018 Sussex County Comprehensive Plan, the Coastal Area are "areas that can accommodate development provided special environmental concerns are addressed" (2018 Sussex County Comprehensive Plan, 4-15). The Plan also states that a range of housing types "should be permitted" to include "townhouses and multifamily units" (2018 Sussex County Comprehensive Plan 4-15). The Plan further states that "medium density could be supported in areas where there is central water and sewer, near sufficient commercial uses and employment centers, where it is in keeping with the character of the area, where it is along a main road or at/near a major intersection, where there is adequate Level of Service or where other considerations exist that are relevant to the requested project and density" (2018 Sussex County Comprehensive Plan, 4-16).

### Zoning Information

The subject properties are zoned Agricultural Residential (AR-1) District and are located approximately 1-mile south of the incorporated town limits of the Town of Millville. The properties to the south which front along Lizzard Hill Road (S.C.R. 367A) and to the east along Central Avenue (Route 84) are also zoned Agricultural Residential (AR-1) District. The property immediately to the west of the subject site is zoned General Residential (GR) District and consists of the Milos Haven Residential Planned Community. The properties on the opposite side of Central Avenue are also zoned General Residential (GR) District and include to the northeast, the Friendship Creek multifamily development.

It is worth noting that there exists a related Application, Conditional Use No. 2402 McKee Builders, LLC (Lilyvale) to allow for the establishment of the multifamily units on the property under the provisions of §115-

Table 4.5-2 "Zoning Districts Applicable to Future Land Use Categories" in the 2018 Sussex County Comprehensive Plan notes that the Medium Density Residential (MR) District is an applicable Zoning District within the "Coastal Area" Future Land Use Map Designation

### Applicability to Comprehensive Plan

The 2018 Sussex County Comprehensive Plan outlines Zoning Districts by their applicability to each Future Land Use category. Under Table 4.5-2 "Zoning Districts Applicable to Future Land

Use Categories,” the Medium Density Residential (MR) District is listed as an Applicable Zoning District within the Coastal Area Future Land Use Map designation (Sussex County Comprehensive Plan, 4-25).

Changes of Zone Applications within the Vicinity of the Subject Site

Staff confirms that there has been one (1) Change of Zone Application within a 0.25-mile radius of the Application Site. This Application was for Change of Zone No. 1969 Ron Sutton for a Change of Zone from an Agricultural Residential (AR-1) District to a Medium Density Residential (MR) District for the establishment of sixty (60) multifamily units. Please find further information regarding this Application in the Table provided below:

Change of Zone Applications (w/in a 0.25-mile radius of the subject site)*								
Application Number	Applicant Name	Zoning	Proposed Zoning	P&Z Date	P&Z Recommendation	CC Date	CC Decision	Ordinance No.
C/Z 1969	Ron Sutton	AR-1	MR	11/17/2022	Recommended Approval	2/21/2023	Approved	2902

Based on the analysis of the land use, surrounding zoning and uses, a Change of Zone to Medium Density Residential (MR) District for the development of one-hundred and seventy-four (174) multifamily units (townhomes) and related site improvements, subject to considerations of scale and impact, could be considered as being consistent with the land use, area zoning and surrounding uses.



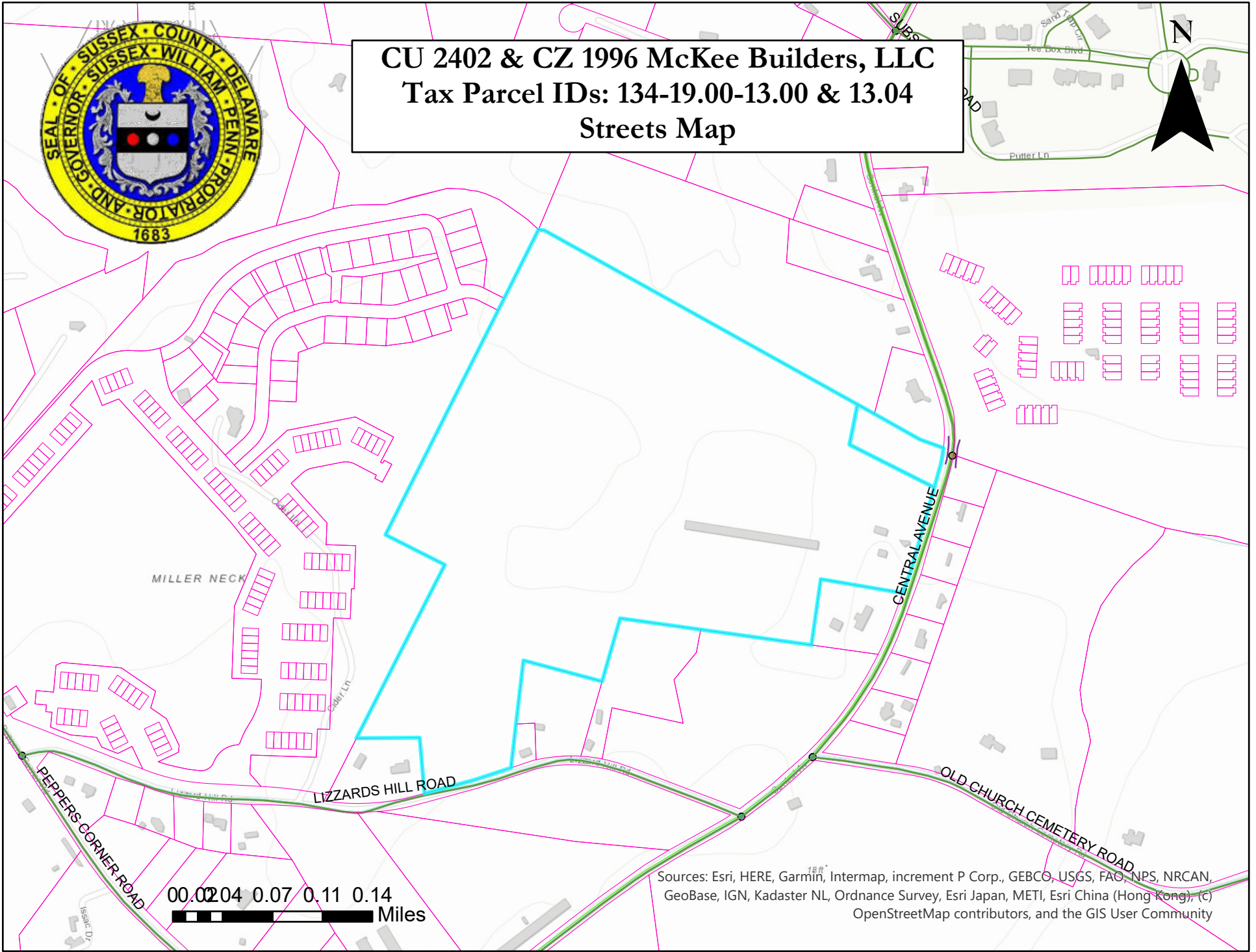
**CU 2402 & CZ 1996 McKee Builders, LLC**  
**Tax Parcel IDs: 134-19.00-13.00 & 13.04**  
**Aerial Map**



Source: Esri, Maxar, Earthstar Geographics, and the GIS User Community



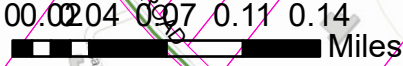
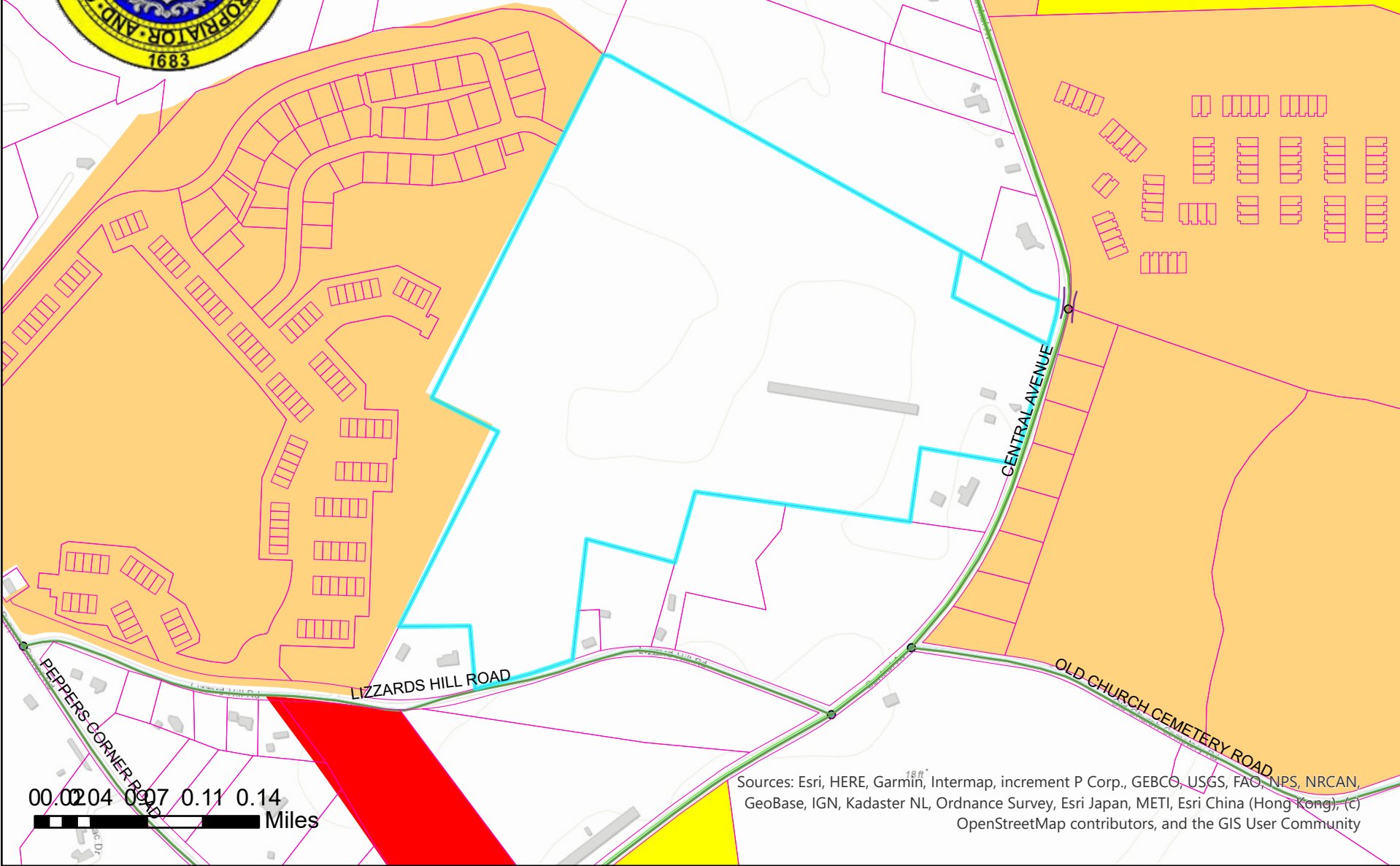
**CU 2402 & CZ 1996 McKee Builders, LLC**  
**Tax Parcel IDs: 134-19.00-13.00 & 13.04**  
**Streets Map**



Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (C) OpenStreetMap contributors, and the GIS User Community



**CU 2402 & CZ 1996 McKee Builders, LLC**  
**Tax Parcel IDs: 134-19.00-13.00 & 13.04**  
**Zoning Map**



Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (C) OpenStreetMap contributors, and the GIS User Community

**Introduced: 10/10/23**

**Council District 4: Mr. Hudson  
Tax I.D. No.: 134-19.00-13.00 & 13.04  
911 Address: 34428 & 34434 Central Avenue, Frankford**

**ORDINANCE NO. \_\_\_\_**

**AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENIAL DISTRICT TO AN MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR CERTAIN PARCELS OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 51.23 ACRES, MORE OR LESS**

**WHEREAS, on the 27<sup>th</sup> day of October, 2022, a zoning application, denominated Change of Zone No. 1996 was filed on behalf of McKee Builders, LLC; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2023, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Change of Zone No. 1996 be \_\_\_\_\_; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2023, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County has determined, based on the findings of facts, that said change of zone is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County,**

**NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:**

**Section 1. That Chapter 115, Article II, Subsection 115-7, Code of Sussex County, be amended by deleting from the Comprehensive Zoning Map of Sussex County the zoning classification of [AR-1 Agricultural Residential District] and adding in lieu thereof the designation and MR Medium Density Residential District as it applies to the property hereinafter described.**

**Section 2. The subject property is described as follows:**

**ALL that certain tract, piece or parcels of land lying and being situate in Baltimore Hundred, Sussex County, Delaware, and lying on the west side of Central Avenue (Rt. 84) approximately 0.25 mile east of Peppers Corner Road (S.C.R. 365) and being more particularly described in the attached legal description prepared by Solutions Integrated Planning & Engineering Management, LLC said parcels containing 51.23 ac., more or less.**

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



## Memorandum

To: Sussex County Council  
The Honorable Michael H. Vincent  
The Honorable Cynthia C. Green  
The Honorable Douglas B. Hudson  
The Honorable John L. Rieley  
The Honorable Mark G. Schaeffer

From: Jamie Whitehouse, AICP, Director of Planning & Zoning

CC: Everett Moore, County Attorney

Date: February 1, 2024

RE: County Council Report for C/U 2402 filed on behalf of McKee Builders, LLC

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The Planning and Zoning Department received an application (C/U 2402 filed on behalf of McKee Builders, LLC) for multi-family dwelling units (174 units) to be located at Tax Parcels 134-19.00-13.00 & 13.04. The property is located at 24434 Central Avenue, Frankford. The parcel size is 51.23 acres +/-.

The Planning & Zoning Commission held a Public Hearing on the application on October 26, 2023. At the meeting of November 9, 2023, the Planning & Zoning Commission recommended approval of the application for the 7 reasons and subject to the 18 recommended conditions as outlined within the motion (copied below).

The County Council held a Public Hearing on the application at the meeting of December 12, 2023. At the conclusion of the Public Hearing, action on the application was deferred for further consideration. Below is a link to the minutes of the County Council meeting of December 12, 2023.

[Link to the Minutes of the December 12, 2023, County Council Meeting](#)

Below are the minutes from the Planning & Zoning Commission meeting of October 26, 2023, and November 9, 2023.

[Minutes of the October 26, 2023, Planning & Zoning Commission Meeting](#)

Chairman Wheatley granted the request to consolidate the public hearings for C/Z 1996 and C/U 2402 McKee Builders, LLC as the Applications were related to the same properties by the same Applicant.



**C/U 2402 McKee Builders, LLC**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY (174 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 51.23 ACRES, MORE OR LESS.** The properties lie on the west side of Central Avenue (Rt. 84) approximately 0.25 mile east of Peppers Corner Road (S.C.R. 365). 911 Address: 34428 & 34434 Central Avenue, Frankford. Tax Map Parcels: 134-19.00-13.00 & 13.04.

Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's Exhibit Booklet, the Applicant's Geotechnical Report within the Exhibit Booklet, the Applicant's Conceptual Site Plan, the Staff Analysis, the DelDOT Area Wide Study Fee letter, the Applicant's Environmental Assessments and Public Facilities Evaluation Report, the PLUS comments and the Applicant's response to the PLUS comments, and a letter from the Sussex County Engineering Department Utility Planning Division. Mr. Whitehouse stated that two letters in support and one letter in opposition had been received for the Application.

The Commission found that Mr. James Fuqua, Esq. with Fuqua, Willard & Schab, P.A. spoke on behalf of the Applicant, McKee Builders, LLC for both C/Z 1996 and C/U 2402 applications, also present were Mr. Jason Palkewicz, Professional Engineer with Solutions IPEM, and Mr. Mick Kenny on behalf of McKee Builders, LLC. Mr. Fuqua stated there was an Exhibit Booklet, PLUS comments and responses, Environmental Assessment and a §99-9C report; that the proposed use is not a subdivision, however it does provide similar information; that there were two application submitted for the property; that the Change of Zone application is requesting a change in zoning from AR-1 (Agricultural Residential) to MR (Medium-Density Residential); that the Conditional Use application proposes 174 multifamily townhouse units; that the property consists of a 51.23 acre site, located south of Ocean View; that the site has frontage on the west side of Central Ave.; that is also has frontage on the northside of Lizard Hill Rd.; that the majority of the property along the frontage of Central Ave. is cleared farmland; that there is a portion of the Beaver Dam Canal prong tax ditch that crosses the southern portion of the property; that along the frontage of Lizard Hill Rd. the site is mostly wooded; that there is an area of Federally regulated non-tidal wetlands located in that wooded area; that both sides of Central Ave. have been fairly well developed with single-family and multifamily residential communities; that located about a half mile north of the site are the developments of Fairway Village and Bear Trap Dunes; that on the east side of Central Ave. near the site are the developments of Forest Landing and Friendship Creek; that Friendship Creek was approved by Sussex County in 2018, as a Conditional Use for 133 multifamily units to be located on a 47 acre parcel, within the GR (General Residential) Zoning District; that south of Friendship Creek, just past Central Ave. at the intersection with Lizard Hill Rd. is a 14 acre parcel, referred to as Seaway; that this parcel was rezoned from AR-1 to MR in February 2023, as Conditional Use for 57 multifamily units; that across from Seaway, there is the Wilson Property, that is zoned C-1 (General Commercial), and is being used commercially at this time; that C-1 Zoning does permit 12 units to the acre; that on the northside of Lizard Hill Rd.. bordering the property to the west, is Milos Haven, which was approved in 2019 as a GR-RPC with 179 units, 41 single-family lots and 138 townhouse units located on 71.75 acres in the GR District; that the Applications were reviewed as part of the PLUS process about a year ago; that as noted within the PLUS comment letter, the site is located in both Investment Levels 3 and 4 according to the State Strategies Investment Map; that the development is concentrated in the Investment Level 3 portion of the site, which is a Growth Area, and where growth in anticipated by the State and County; that also in the PLUS comments is a note that the development Site Plan shows minimal disturbance to the wooded and wetland areas on the site; that they are requesting a rezoning to the MR Zoning District; that



the MR District provides for medium-density residential development in areas which are expected to be urban in character, particularly where central water and sewer are available; that multifamily dwellings, such as townhouses are authorized as a Conditional Use in the MR District, subject to County Council approval; that their requests are in character with the surrounding area; that the site is adjacent to Milos Haven, Friendship Creek and Forest Landing; that MR Zoning or GR Zoning surround the majority of the site; that both the MR and GR Zoning Districts permit the same density at 4.35 units to the acre; that the Application proposes 174 townhouse units to be located on 51.23 acres results in a density of 3.39 units per acre, being significantly less than the maximum that could be requested, which would be 223 townhomes; that the Sussex County Comprehensive Plan designates the property as being within the Coastal Area, which is Growth Area; that the Comprehensive Plan states that it seeks to encourage the most concentrated forms of new development in the Growth Areas, including higher density residential developments; that the Comprehensive Plan recognizes that a range of housing types should be permitted, including townhomes; that the Comprehensive Plan recognizes 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, and the proposed use is in keeping with the character of the area; that based on those factors, they believe the proposed Applications are consistent with the State Investment Levels map; that the Applications are in character with the existing uses and zoning designations of the surrounding area; that the Applications are in accordance with the goals of the current Comprehensive Plan; that Tidewater Utilities will provide central water for domestic use and fire protection; that Tidewater also holds the CPCN to serve the area and are already serving the area; that the site will be served by the Sussex County Sewer; that Sussex County Engineering Department has indicated that adequate sewer capacity is available for the proposed development; that there will be an onsite sewer pump station on the site; that stormwater management facilities will be designed and constructed in compliance with DNREC regulations; that they will be reviewed by Sussex Construction District; that all stormwater management facilities will meet or exceed current stormwater regulations, including management of water quantity and quality; that Geotechnology Associates, Inc. performed a Subsurface Soil Exploration Study of the site to determine recommendations for the most appropriate locations for the stormwater facilities; that DelDOT indicated that in accordance with the Development Coordination Manual, DelDOT would accept an Area Wide Study Fee in lieu of a Traffic Impact Study (TIS); that DelDOT will require the Applicant to improve Central Ave. along the site's frontage, to provide 11-ft. travel lanes with five foot shoulders; that the Applicant will provide a shared use path on the Central Ave. frontage, and will dedicate additional right of way need on Central Ave. to provide a 40 ft. right of way from Central Ave. and on Lizard Hill Rd.; that there will be improvements to the road to provide 11 ft. travel lanes, and five foot shoulders, with a dedication to provide a 30 ft. right of way from the center line; that the development entrance will be designed and constructed in accordance with DelDOT requirements; that the development design was based on the superior design criteria for cluster subdivisions, by identifying areas on the property that are most appropriate for preservation due to natural features such as wetlands, wooded areas and water ways; that they then identified the most appropriate areas for development to minimize impact on the areas that were identified as containing natural features that were worthy of preservation; that the site consists of mostly cleared farmland, with some wooded areas, containing pockets of wetlands; that there is a home and some agricultural outbuildings on the property; that the site borders the tax ditch and a prong that bisects the property; that the southern portion of the site is wooded, containing wooded uplands and non-tidal wetlands; that there was a Wetland Delineation performed by Environmental Resources, Inc.; that the study indicated that the site contained 5.9 acres of Federally regulated non-tidal wetlands, being the land located along the tax ditch and the prong; that additionally, there were three pockets of wetlands located in the wooded area; that the portion of the parcel proposed for development is located within Flood Zone X according to the FEMA Flood Maps; that the townhouse development is proposed to be located on the cleared agricultural lands located

on the northern portion of the site; that the entire southern portion of the site, fronting on Lizard Hill Rd., contains the wooded uplands and wetlands; that this area will remain in a natural state and will be permanently preserved; that there will be a 50-ft. resource buffer provided adjacent to the Beaver Dam Canal Tax Ditch, which is classified as a perennial stream; that there will be a 30 ft. resource buffer provided adjacent to other non-tidal wetlands; that the non-tidal wetlands will be undisturbed, except for any necessary road and utility crossings, which will comply with all U.S. Army Corp of Engineers regulations and permitting requirements; that there are 10.04 acres of existing woodlands on the property; that the vast majority of the woodlands are located on the southern portion of the site; that the proposed site design will preserve 9.47 acres (97%) of the existing woodlands; that the community open space will total 29.78 acres (58.1%) of the site; that the development entrance will be from Central Ave., and will be designed and constructed in accordance with DelDOT requirements; that the 174 townhouse units will be located as shown of the Site Plan; that there is a mixture of three, four and five unit buildings; that the proposed density is 3.39 units per acre, being less than the maximum density permitted in the MR District; that each unit will have two off street parking spaces, which will provide for the 345 required spaces; that there will also be an additional 67 parking spaces located at the recreational center, as well as other locations through the community; that there will be a centrally located recreational facility that will consist, at minimum, of a clubhouse, an outdoor swimming pool, a deck and open space; that there may be other amenities provided, but will be determined based on the demand; that there will be a fenced community dog park located toward the north of the site; that they have proposed that the recreation area and dog park be completed and open for use before the issuance of the 90<sup>th</sup> residential building permit; that a school bus stop will be located near the development entrance is desired by the school district; that the exact location will be coordinated with the Indian River School District office; that there will be a central mailbox facility that will be located near the entrance or at the recreational area; that the development streets will be private, and built to County standards; that there will be sidewalks on both sides of the streets; that street lighting will be non-intrusive and downward screened; that there is a dead-end street connection located on the west side of the development, adjacent to Milos Haven development for possible future connection; that there is no road or pedestrian access provided into the wooded uplands and wetlands located on the southern portion of the site, as the intention is for those to remain permanently preserved in their natural state; that there will be a 20 ft. landscape buffer along the boundary of the site adjacent to the Rickers property and Milos Haven; that the community will be attractively landscape with native trees and plants; that a detailed Landscape Plan will be submitted as part of the Final Site Plan review process; that there will be a Condominium Association created, which will initially be comprised of the Developer, and subsequently comprised of the future residents; that the Condominium Association will be responsible for the enforcement of the restrictions, collection of assessments, and the maintenance and repair of all the community, property and facilities; that he requested to submit Findings of Fact for the Change of Zone application, and Findings & Proposed Conditions for the Conditional Use application for the record; that the development complies with the applicable land use regulations; that the project is designed to preserve the environmental features of the site, and the project is in character with the nature of the area, the zoning and the surrounding uses, particularly with the fact that townhouses are located adjacent to the site within Milos Haven, and across the site at Friendship Creek.

Mr. Collins questioned if there were any proposed provisions for affordable or workforce housing for the project.

Mr. Fuqua stated the subject project does not propose any workforce housing; that it is not part of the Sussex County Rental Program, and that the project would be similar to the other developments in the surrounding area.

Mr. Robertson questioned if the project had taken into account the required tax ditch easements located on both sides of the tax ditch and any resource buffer requirements.

Mr. Fuqua stated the tax ditches to have maintenance easement right of ways; that he believed there would be a petition requested to reduce the current tax ditch right of way setback requirements; and that currently the site is farmland with agricultural ditches located on it; that if the project is approved the site would have a stormwater facility that would be reviewed and approved by Sussex Conservation District; that with the stormwater facility the drainage ditches would no longer be needed and there are buffers provided from the main tax ditch and the prong.

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 2402 McKee Builders, LLC. Motion by Mr. Mears to defer action for further consideration, seconded by Mr. Collins and carried unanimously. Motion carried 4-0.

#### Minutes of the November 9, 2023, Planning & Zoning Commission Meeting

The Commission discussed the Application which had been deferred since October 26, 2023.

Mr. Collins moved that the Commission recommend approval of C/U 2402 McKee Builders, LLC for 174 Multi-Family Units based upon the record made during the public hearing and for the following reasons:

1. The purpose of the MR zone is to provide housing in an area that is expected to become urban in character and where central water and sewer are available. This conditional use application for multi-family units is in compliance with the purposes of the MR zone.
2. This site is located along Central Avenue, where other residential and commercial properties were developed, including other GR, MR, and C-1 zoning and development. The site is also in close proximity to the Town of Ocean View.
3. A satisfactory Environmental Assessment and Public Facilities Evaluation Report was submitted by the Applicant and is part of the record for this Application.
4. The proposed multi-family conditional use meets the purpose of the Zoning Ordinance in that it promotes the orderly growth of the County in an appropriate location.
5. The proposed use is consistent with the County's Comprehensive Land Use Plan. It is in the Coastal Area according to the Plan, which is a Growth Area. The Plan states that medium and higher densities can be appropriate where, like here, there are features such as central water and sewer and nearby commercial uses and employment centers. The Plan also states that a range of housing types should be permitted in the Coastal Area, including single-family homes, townhouses, and multifamily units.
6. No parties appeared in opposition to this Application and there is no evidence that this project will adversely affect the neighboring properties, area roadways, or community facilities.
7. Non-tidal wetland buffers will be provided and approximately 97% of the woods on the site will be permanently preserved. Also, approximately 29.78 acres or 58.1% of the site will remain as open space.

8. All entrance and road improvements will be constructed as directed by DelDOT.
9. The project will be served by central water and central sewer.
10. This recommendation is subject to the following conditions:
  - a. There shall be no more than 174 Units within the development.
  - b. Approximately 29.78 acres or 58.1% of the site shall remain as open space.
  - c. All entrances, intersections, roadways, and multimodal improvements required by DelDOT shall be completed by the applicant in accordance with DelDOT's determination.
  - d. All recreational amenities including the pool, deck, clubhouse, and dog park shall be completed in accordance with the Sussex County Zoning Code.
  - e. Central sewer shall be provided to the development. The developer shall comply with all requirements and specifications of the Sussex County Engineering Department.
  - f. The development shall be served by a central water system providing adequate drinking water and fire protection as required by applicable regulations.
  - g. Approximately 97% of the existing woodlands on the site shall be preserved. These areas shall be marked on the Final Site Plan clearly as "Non-Disturbance Areas" on the site itself.
  - h. Stormwater management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements, and the project shall utilize Best Management Practices to construct and maintain these fixtures. The Final Site Plan shall contain the approval of the Sussex Conservation District.
  - i. Interior street design shall comply with or exceed Sussex County standards.
  - j. Road naming and addressing shall be subject to the review and approval of the Sussex County Geographic Information Department.
  - k. The developer shall consult with the local school district's transportation manager to determine if a school bus stop is necessary. If it is, the location of the bus stop shall be shown on the Final Site Plan.
  - l. Construction, site work, and deliveries shall only occur on the site between the hours of 7:30 a.m. through 7:00 p.m., Monday through Friday, and between 8:00 a.m. and 2:00 p.m. on Saturdays. No Sunday hours are permitted. A 24-inch by 36-inch "NOTICE" sign confirming these hours in English and Spanish shall be prominently displayed at the site entrance during construction.
  - m. The Final Site Plan shall include a landscape plan for the development showing the proposed tree and shrub landscape design, including the buffer areas. The landscape plan shall identify all "Limits of Disturbance" within the site and these "Limits of Disturbance" shall be clearly marked on the site itself. The landscape plan shall also include a planting schedule for all buffer areas.
  - n. The Applicant shall form a Homeowners or Condominium Association that shall be responsible for the maintenance of all interior roadways and parking areas, buildings, buffers, stormwater management areas, recreational amenities, and open space.
  - o. All lighting on the site shall be downward screened so that it does not shine on neighboring properties or roadways.
  - p. The recorded Final Site Plan and recorded condominium documents (including the Declaration Plan) shall state that hunting activities exist on nearby properties.
  - q. There is a Tax Ditch with Tax Ditch Easements that runs through this site. The developer shall verify that it is in compliance with all existing or modified Tax Ditch

easements and other requirements.

- r. The Final Site Plan shall depict or note these conditions of approval and it shall be subject to the review and approval of the Sussex Planning & Zoning Commission.

Motion by Mr. Collins, seconded by Ms. Wingate and carried unanimously to recommend approval of C/U 2402 McKee Builders, LLC for the reasons and the conditions stated in the motion. Motion carried 4-0.

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

**PLANNING & ZONING COMMISSION**

ROBERT C. WHEATLEY, CHAIRMAN  
BRIAN BUTLER  
GREGORY SCOTT COLLINS  
J. BRUCE MEARS  
HOLLY WINGATE



**Sussex County**

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JAMIE WHITEHOUSE  
DIRECTOR

**PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET**

Planning Commission Public Hearing Date: October 26<sup>th</sup>, 2023

Application: C/U 2402 McKee Builders, LLC

Applicant: McKee Builders (Attn: Mr. Kevin McLaughlin)  
940 West Sproul Road, Suite 301  
Springfield, PA 19064

Owner: Wayne E. Hickman, Gary O. Hickman & Cinda S. Richards, Trustees  
34434 Central Avenue  
Frankford, DE 19945

Site Location: The properties are lying on the west side of Central Avenue (Route 84), approximately 0.25 mile east of Peppers Corner Road (S.C.R. 365) in Frankford, Delaware.

Current Zoning: Agricultural Residential (AR-1) District

Proposed Zoning: Medium Density Residential (MR) District (accompanying Application for C/Z 1996.)

Proposed Use: Multifamily Dwellings (174 Units)

Future Land Use Map Designation: Coastal Area

Councilmanic District: Mr. Hudson

School District: Indian River School District

Fire District: Millville Fire Company/District

Sewer: Sussex County Public Works

Water: Tidewater

Site Area: 51.23 acres +/-

Tax Map IDs: 134-19.00-13.00 & 13.04



JAMIE WHITEHOUSE, AICP MRTPI  
PLANNING & ZONING DIRECTOR  
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**Sussex County**

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## Memorandum

To: Sussex County Planning and Zoning Commission Members  
From: Lauren DeVore, AICP Planner III  
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant  
Date: October 23<sup>rd</sup>, 2023  
RE: Staff Analysis for C/U 2402 McKee Builders, LLC (Lilyvale)

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The purpose of this memo is to provide background and analysis for the Planning and Zoning Commission to consider as a part of Application C/U 2402 McKee Builders, LLC (Lilyvale) to be reviewed during the October 26<sup>th</sup>, 2023, Planning and Zoning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Conditional Use for Tax Parcels: 134-19.00-13.00 and 13.04 to allow for one-hundred and seventy-four (174) multifamily units (townhomes) and related site improvements to be located within a Medium Density Residential (MR) District. The properties are lying on the west side of Central Avenue (Route 84), approximately 0.25-mile east of Peppers Corner Road (S.C.R. 365). The properties are located at 34428 and 34434 Central Avenue in Frankford, Delaware.

### Further Site Considerations

Staff note that the property is part of the Beaver Dam Canal Tax Ditch Area. There appear to be multiple related Tax Ditch Rights-Of-Way on the property running primarily on the perimeter of the Parcels, but also bisecting Parcel 13.00 north to south. Several of these Tax Ditch Rights-Of-Way have already been reduced through a Court Order Change (COC #12). It should further be noted that the entirety of Parcel 13.04 is comprised of a Tax Ditch ROW measured 120-ft from the Top of Bank of the Tax Ditch. No structures or improvements may be placed in these areas without written approval from the DNREC Tax Ditch Program.

Further, staff note that the properties lie within Flood Zone "X" – Areas determined to be outside the 1% annual chance flood zone and outside the 500-year floodplain and Flood Zone "AE" – Areas subject to inundation by the 1% annual chance flood where base flood elevations are determined. Any structures to be placed within Flood Zones will require the submittal of an Elevation Certificate issued by FEMA.

DNREC's Flood Planning Tool indicates that the properties are within the Little Assawoman Bay Subwatershed, that the approximate Base Flood Elevation (BFE) Range at the Parcel is 4-ft and that the Ground Elevation Height at the Parcel is anywhere between 1 to 19 feet. The County's Online Mapping System also indicates the presence of terrene and lotic wetland areas on the Site.

The property is not located within any established Transportation Improvement Districts (TIDs). DelDOT stated as part of the Service Level Evaluation Response that the project is anticipated to generate more than 50 vehicle trips per peak hour or 500 vehicle trips per day, meaning that the project would have a Minor impact within the context of the County's MOU with DelDOT.



DelDOT has provided an Area Wide Study Fee (AWSF) Memo for the project which has been included in the Commission's packet this evening.

### Comprehensive Plan Analysis

The 2018 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be developed. As part of the Comprehensive Plan, a Future Land Use Map is included to help determine how land should be zoned to ensure responsible development. The Future Land Use Map in the plan indicates that the parcel has a designation of "Coastal Area." The adjoining parcels to the north, south, east and west also have a Future Land Use Map designation of "Coastal Area." The Parcels border Central Avenue (Route 84) on the easternmost side and Parcel 13.00 fronts on Lizzard Hill Road (S.C.R. 367A) on the south side.

As outlined in the 2018 Sussex County Comprehensive Plan, the Coastal Area are "areas that can accommodate development provided special environmental concerns are addressed" (2018 Sussex County Comprehensive Plan, 4-15). The Plan also states that a range of housing types "should be permitted" to include "townhouses and multifamily units" (2018 Sussex County Comprehensive Plan 4-15). The Plan further states that "medium density could be supported in areas where there is central water and sewer, near sufficient commercial uses and employment centers, where it is in keeping with the character of the area, where it is along a main road or at/near a major intersection, where there is adequate Level of Service or where other considerations exist that are relevant to the requested project and density" (2018 Sussex County Comprehensive Plan, 4-16).

### Zoning Information

The subject properties are zoned Agricultural Residential (AR-1) District and are located approximately 1-mile south of the incorporated town limits of the Town of Millville. The properties to the south which front along Lizzard Hill Road (S.C.R. 367A) and to the east along Central Avenue (Route 84) are also zoned Agricultural Residential (AR-1) District. The property immediately to the west of the subject site is zoned General Residential (GR) District and consists of the Milos Haven Residential Planned Community.

The properties on the opposite side of Central Avenue are also zoned General Residential (GR) District and include to the northeast, the Friendship Creek multifamily development.

It is worth noting that there exists a related Application, Change of Zone No. 1996 McKee Builders, LLC (Lilyvale) to amend the current zoning of the property from an Agricultural Residential (AR-1) District to a Medium Density Residential (MR) District.

### Applicability to Comprehensive Plan

Table 4.5-2 "Zoning Districts Applicable to Future Land Use Categories" in the 2018 Sussex County Comprehensive Plan notes that the Medium Density Residential (MR) District is an applicable Zoning District within the "Coastal Area" Future Land Use Map Designation.



Existing Conditional Uses within the Vicinity of the Subject Property

Although there have been multiple applications in this area, there have been four (4) Conditional Use Applications within a 0.25-mile radius of the Application Site. All four (4) Applications were recommended approval by the Planning and Zoning Commission and approved by the Sussex County Council.

A Supplemental Table has been provided below showing further information regarding these Applications.

Conditional Use Applications (w/in a 0.25-mile radius of the subject site)*								
Application Number	Applicant Name	Zoning	Proposed Use	P&Z Date	P&Z Recommendation	CC Date	CC Decision	Ordinance No.
C/U 1254	Bethany Beach Kennels	AR-1	Pet Crematory	8/27/1998	Recommended Approval	12/8/1998	Approved	1275
C/U 2142	RH Orr, LLC c/o Ribera Development, LLC (John Stomato)	GR	135 multifamily units (townhomes)	10/11/2018	Recommended Approval	11/13/2018	Approved	2612
C/U 2324	Zachary Bedell	AR-1	Automotive Repair Shop including boats	10/27/2022	Recommended Approval	12/13/2022	Approved	2897
C/U 2339	Ron Sutton	MR	Multifamily (60 units)	11/17/2022	Recommended Approval	2/21/2023	Approved - Revised Condition "A"	2903

Based on the analysis provided, the Conditional Use to allow for a multifamily development to consist of one-hundred and seventy-four (174) units in this location, could be considered as being consistent with the surrounding land use, zoning, and uses, subject to considerations of scale and impact.



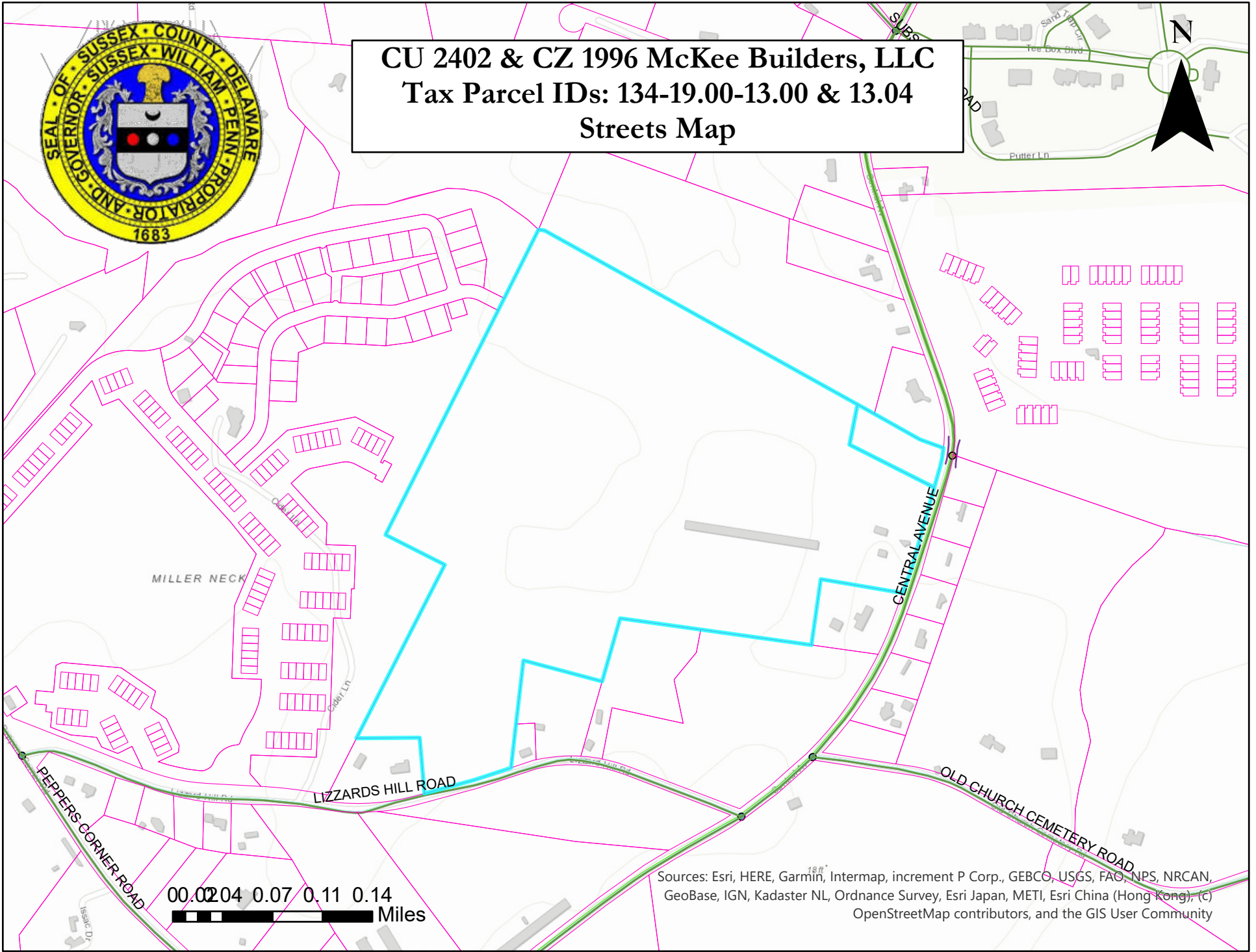
**CU 2402 & CZ 1996 McKee Builders, LLC**  
**Tax Parcel IDs: 134-19.00-13.00 & 13.04**  
**Aerial Map**



Source: Esri, Maxar, Earthstar Geographics, and the GIS User Community



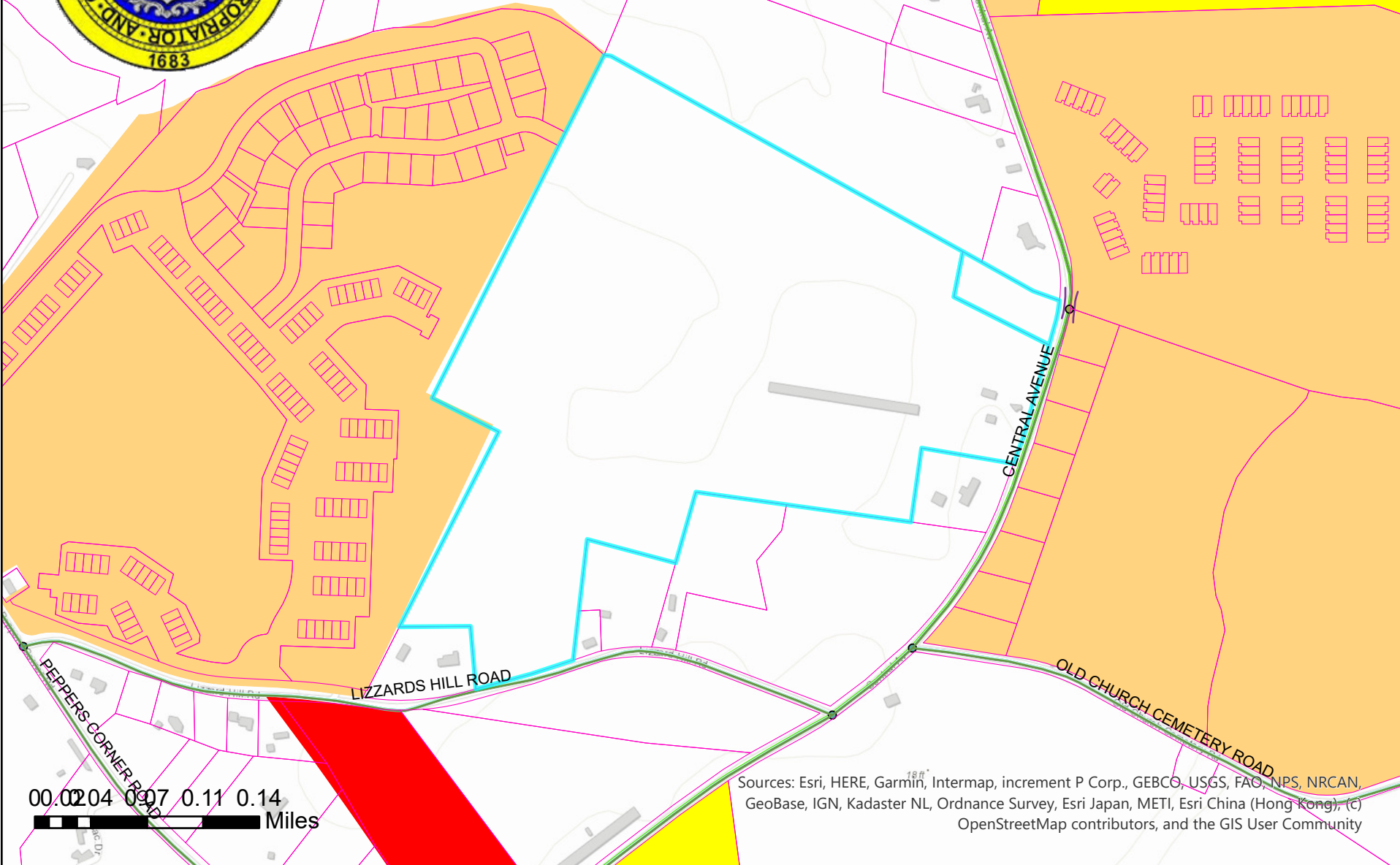
**CU 2402 & CZ 1996 McKee Builders, LLC**  
**Tax Parcel IDs: 134-19.00-13.00 & 13.04**  
**Streets Map**



Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (C) OpenStreetMap contributors, and the GIS User Community



**CU 2402 & CZ 1996 McKee Builders, LLC**  
**Tax Parcel IDs: 134-19.00-13.00 & 13.04**  
**Zoning Map**



Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (C) OpenStreetMap contributors, and the GIS User Community

**Introduced: 10/10/23**

**Council District 4: Mr. Hudson  
Tax I.D. No. 134-19.00-13.00 & 13.04  
911 Address 34428 & 34434 Central Avenue, Frankford**

**ORDINANCE NO. \_\_\_\_**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY (174 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 51.23 ACRES, MORE OR LESS**

**WHEREAS, on the 27<sup>th</sup> day of October 2022, a conditional use application, denominated Conditional Use No. 2402 was filed on behalf of McKee Builders, LLC; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2023, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2402 be \_\_\_\_\_; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2023, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County determined, based on the findings of facts, that said conditional use is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and that the conditional use is for the general convenience and welfare of the inhabitants of Sussex County.**

**NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:**

**Section 1. That Chapter 115, Article V, Subsection 115-31, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2402 as it applies to the property hereinafter described.**

**Section 2. The subject property is described as follows:**

**ALL that certain tract, piece or parcels of land lying and being situate in Baltimore Hundred, Sussex County, Delaware, and lying on the west side of Central Avenue (Rt. 84) approximately 0.25 mile east of Peppers Corner Road (S.C.R. 365) and being more particularly described in the attached legal description prepared by Solutions Integrated Planning & Engineering Management, LLC said parcels containing 51.23 ac., more or less.**

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

JAMIE WHITEHOUSE, AICP  
DIRECTOR OF PLANNING & ZONING  
(302) 855-7878 T  
pandz@sussexcountyde.gov



**Sussex County**

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## Memorandum

To: Sussex County Council  
The Honorable Michael H. Vincent  
The Honorable Cynthia C. Green  
The Honorable Douglas B. Hudson  
The Honorable John L. Rieley  
The Honorable Mark G. Schaeffer

From: Jamie Whitehouse, AICP, Director of Planning & Zoning

CC: Everett Moore, County Attorney

Date: February 1, 2024

RE: County Council Report for C/U 2381 filed on behalf of Consolidated Edison Development, Inc.

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The Planning and Zoning Department received an application (C/U 2381 filed on behalf of Consolidated Edison Development, Inc.) for a solar farm (array) on parcel 235-30.00-61.00. The property is located at 26628 and 26772 Lewes Georgetown Highway, Harbeson. The parcel size is 43.27 acres +/-

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

The County Council held a Public Hearing on the Application at its meeting on December 5, 2023. At the conclusion of the Public Hearing action on the application was deferred for further consideration. Below is a link to the minutes of the County Council meeting of December 5, 2023.

[Link to the Minutes of the December 5, 2023, County Council Meeting](#)

Below are the minutes from the Planning & Zoning Commission meeting of September 28, 2023, and October 12, 2023.

Minutes of the September 28, 2023, Planning & Zoning Commission Meeting

**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**



COUNTY ADMINISTRATIVE OFFICES  
2 THE CIRCLE | PO BOX 417  
GEORGETOWN, DELAWARE

**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.

Mr. Whitehouse advised the Commission that submitted into the record were the Staff Analysis, a copy of the Applicant's conceptual site plan and exhibits, a letter from the Applicant, the DelDOT Service Level Evaluation Response, and a letter from the Sussex County Engineering Department Utility Planning Division, a letter from the Sussex Conservation District. Mr. Whitehouse stated that there were zero comments.

Mr. Shanahan stated that C/U 2381 is the Harbeson A Solar Project located at 26628 and 26772 Lewes Georgetown Highway in Harbeson, Delaware; that the lease area is shown on the site plan is 25.8 acres on an overall 43 acre property; that the project would be set back 315 feet from Lewes Georgetown Highway accessed by 20 ft. wide gravel driveway; that the site is mainly undeveloped with one residential building and the landowner resides at the property; that this project is a public utility use under the Sussex County Zoning Code; that it meets the purposes of the Conditional Use as each has a public or semi-public character that is essential and desirable for the general convenience and welfare for the Sussex County residents; that this project is located in an AR-1 Agricultural Residential zoning district; that a public utility use is allowed when approved by the County Council; that the application was submitted on July 1, 2022 and preceded the adoption of the recent Solar Ordinance in April 2023; that the application complies with the new ordinance including the requirement for a decommissioning plan; that the proposal is 4 megawatt alternating current project with is the maximum size allowed under the new ordinance; that the project will be enclosed by a 7 ft. fence as required by the National Electrical Code; that the fence will be gated with a lock and knob; that it will be solar arrays wired together to collect energy from the sun and send it into the solar project's converter and converting the power to electricity and distributing it to the Delmarva power grid; that the panels are hung on posts and are approximately 3 ft. off the ground and approximately 12 ft. in height; that the grounds around and below the panels will be planted with a pollinator friendly mix that provides more shelter for a variety of insects that provide a food source for wild animals and birds; that an exhibit book was submitted and contains the DelDOT Service Level negative determination, a Federal Aviation Administration Determination of No Hazard, Invoice from and fee paid to Delmarva Power to undertake Community Solar Interconnection Study, determination by the state Historic Preservation Office (SHPO) that a review of the property or of the project under the National Historic Preservation Act (NHPA) is not necessary, determination from the United States fish and Wildlife Service that the project will have no adverse impact on any threatened or endangered species, United States Army Corps of Engineers Preliminary Jurisdictional Determination (PJD), Approval by the Office of State Fire Marshal, "Clean" Phase 1 Environmental Site Assessment, and the Decommissioning Plan and Cost Estimate; that this site is owned by Terri L. Martin, who with her husband is present this evening; that Ms. Martin requested that the following be read into the record this evening,

"Members of the Planning and Zoning Commission, my name is Terri Martin. I was born and raised in Sussex County. I graduated from Cape Henlopen high school, Delaware Tech Community College, and Wilmington University. Reminders of my family's deep roots include Martins Farm Road, Thompsonville, and Russell Road, Bridgeville. Having inherited none of the family land, I began assembling my property in 1984 and have added to it as contiguous pieces of land became available

over the years with the last piece being purchased in 2009. In total, I currently own approximately 46 acres, I have also owned and operated a successful business, M&D Bird Farm for the last 21 years. It has always been my plan that I would find a way for my land to produce an income so that I could retire comfortably without creating another housing development. I was intrigued by the several calls I received from solar com, like ConEd, offering to lease my land for a solar farm. Most assuredly, this was stimulated by Delaware's State mandates to increase the amount of power that comes from renewable energy sources like solar. I found the prospect of reducing our carbon footprint with solar power very appealing. In conclusion, I am requesting that the Commission approve this Conditional Use and allow ConEd to move forward with making Sussex County more energy efficient. Respectfully submitted. Terri Martin"

Mr. Shanahan stated that he was ready to address any questions from the Commission members.

There were no questions from the Commission.

Mr. Robertson asked if there was a vegetated buffer on the southeast side of the property.

Mr. Shanahan stated that there is no proposed vegetated buffer as there is an existing buffer.

The Commission found that there was no one present who wished to speak in favor of or in opposition to C/U 2381.

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 2381 Consolidated Edison Development, Inc. Motion by Ms. Wingate to defer action for further consideration, seconded by Mr. Mears and carried unanimously. Motion carried 4-0.

#### Minutes of the October 12, 2023, Planning & Zoning Commission Meeting

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.

**PLANNING & ZONING COMMISSION**

ROBERT C. WHEATLEY, CHAIRMAN  
SCOTT COLLINS  
BRIAN BUTLER  
J. BRUCE MEARS  
HOLLY J. WINGATE



**Sussex County**

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302-854-5079 F  
JAMIE WHITEHOUSE, AICP, MRTPI  
DIRECTOR OF PLANNING & ZONING

**PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET**

Planning Commission Public Hearing Date: September 28<sup>th</sup>, 2023

Application: CU 2381 Consolidated Edison Development, Inc. (Lewes Georgetown Highway)

Applicant: Consolidated Edison Development, Inc (c/o Joe Shanahan)  
PO Box 2002  
Pawcatuck, CT 06379

Owner: Terri L. Martin  
26772 Lewes Georgetown Highway  
Harbeson, DE 19951

Site Location: Lying on the south side of Lewes Georgetown Highway (Rt. 9) approximately 0.40-miles east of Harbeson Road (Rt. 5).

Current Zoning: Agricultural Residential (AR-1) Zoning District

Proposed Use: Solar Farm

Comprehensive Land Use Plan Reference: Low Density Area

Councilmanic District: Mr. Rieley

School District: Cape Henlopen School District

Fire District: Milton Fire Co.

Sewer: N/A

Water: N/A

Site Area: 25.83 acres +/- (p/o)

Tax Map ID: 235-30.00-58.06, 58.07 & 61.00



JAMIE WHITEHOUSE, AICP MRTPI  
PLANNING & ZONING DIRECTOR  
(302) 855-7878 T  
jamie.whitehouse@sussexcountyde.gov



**Sussex County**

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## Memorandum

To: Sussex County Planning and Zoning Commission Members  
From: Elliott Young, Planner I  
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant  
Date: September 20, 2023  
RE: Staff Analysis for CU 2381 Consolidated Edison Development, Inc.

---

The purpose of this memo is to provide background and analysis for the Planning and Zoning Commission to consider as a part of Application CU 2381 (Consolidated Edison Development, Inc.) to be reviewed during the September 28<sup>th</sup>, 2023, Planning and Zoning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Conditional Use for Tax Parcels: 235-30.00-58.06, 58.07, & 61.00 to allow for a solar array farm. The property is lying on the south side of Lewes Georgetown Highway (Rt. 9), approximately 0.46-miles east of the intersection of Harbeson Road (Rt. 5) and Lewes Georgetown Highway. The applicant is applying 25.83 acres +/- to be included in the Conditional Use area.

### Comprehensive Plan Analysis

The 2018 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be developed. As part of the Comprehensive Plan, a Future Land Use Map is included to help determine how land should be zoned to ensure responsible development. The Future Land Use Map in the plan indicates that the parcel has a designation of “Low Density.” Majority of adjoining parcels to the south, east, and west also have a Future Land Use Map designation of “Low Density, as well as the parcels north across Lewes Georgetown Highway. There are a few adjoining parcels with separate Future Land Use Map designations that include the “Existing Development Area” as well as the “Commercial” area.

As outlined in the 2018 Sussex County Comprehensive Plan, Low Density Areas are intended to support agricultural uses and low-density single-family housing. Specifically, the Comprehensive Plan states that single family homes may have a density of up to two dwelling units to the acre. It is envisioned that the Low-Density Areas allow for businesses that support nearby residents and the agricultural economy. More intense commercial uses should be limited in scale and impact. While residential growth is expected, the Comprehensive Plan intends for the rural landscape to be maintained and for farmland to be preserved in select locations.

### Zoning Information

The subject property is zoned Agricultural Residential (AR-1) District. Almost all adjacent properties to the south, east, and west of the subject parcels are zoned Agricultural Residential (AR-1) District. The parcels adjoining subject parcel 58.07, to the north and east sides have various Commercial zonings. These zonings include the CR-1 (Commercial Residential) zoning district, the



C-1 (General Commercial) zoning district, the C-3 (Heavy Commercial) zoning district, and the B-1 (Neighborhood Business) zoning district.

Existing Conditional Uses within the Vicinity of the Subject Property

Although there have been multiple applications in this area, since 2011, there have been six (6) Conditional Use applications within a one (1) mile radius of the Application Site.

CU	Applicant	Proposed Use	CC Decision Date	Ordinance No.
1867	Lawson's Produce, LLC	Mulch Facility	2/1/2011	2177
1882	John Lingo	Professional Offices	3/29/2011	2185
1943	Charles L. Williams	Automotive Repair Shop/Garage	3/19/2013	N/A (Denied)
2026	Christian Omar Hernandez Perez and Terri L. Martin	Home Based Business (auto repair, detailing, and auto resales)	12/15/2015	N/A (Denied)
2210	Dewey Beer Company	Microbrewery	8/11/2020	2729
2290	Toback Development, LLC	Contractor Flex Space	5/10/2022	2849

Based on the analysis provided, the Conditional Use to allow for a solar farm in this location could be considered as being consistent with the surrounding land use, zoning, and uses, subject to considerations of scale and impact.



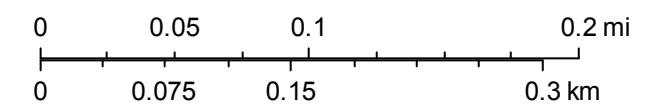
# Sussex County



<b>PIN:</b>	235-30.00-58.06
<b>Owner Name</b>	MARTIN TERRI L
<b>Book</b>	3601
<b>Mailing Address</b>	26772 LEWES GEORGETOWN HWY
<b>City</b>	HARBESON
<b>State</b>	DE
<b>Description</b>	S/RT 9
<b>Description 2</b>	3150'E/JCT RT 9 5
<b>Description 3</b>	FX
<b>Land Code</b>	

- polygonLayer**
- Override 1
- polygonLayer**
- Override 1
- Tax Parcels
- Streets
- County Boundaries

1:4,514



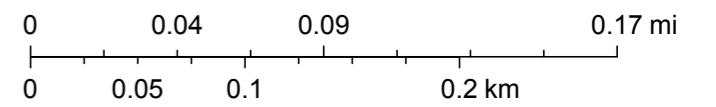
# Sussex County



August 25, 2023

- |                                 |                                  |                             |                               |                         |
|---------------------------------|----------------------------------|-----------------------------|-------------------------------|-------------------------|
| Override 1                      | Agricultural Residential - AR-2  | Neighborhood Business - B-1 | General Commercial - C-4      | Light Industrial - LI-2 |
| Override 1                      | Medium Residential - MR          | Neighborhood Business - B-2 | General Commercial - C-5      | Heavy Industrial - HI-1 |
| Tax Parcels                     | General Residential - GR         | Business Research - B-3     | Commercial Residential - CR-1 | County Boundaries       |
| Streets                         | High Density Residential - HR-1  | General Commercial - C-1    | Institutional - I-1           |                         |
| <b>Zoning</b>                   | High Density Residential - HR-2  | General Commercial - C-2    | Marine - M                    |                         |
| Agricultural Residential - AR-1 | Vacation, Retire, Resident - VRP | General Commercial - C-3    | Limited Industrial - LI-1     |                         |

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Introduced: 03/07/23

Council District 5: Mr. Rieley

Tax I.D. No.: 235-30.00-61.00, 58.06, & 58.07 (p/o)

911 Address: 26628 and 26772 Lewes Georgetown Highway, Harbeson and N/A

ORDINANCE NO. \_\_\_\_

**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**

WHEREAS, on the 29<sup>th</sup> day of June 2022, a conditional use application, denominated Conditional Use No. 2381 was filed on behalf of Consolidated Edison Development, Inc.; and

WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2023, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2381 be \_\_\_\_\_; and

WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2023, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County determined, based on the findings of facts, that said conditional use is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and that the conditional use is for the general convenience and welfare of the inhabitants of Sussex County.

**NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:**

Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2381 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land, lying and being situate in Broadkill Hundred, Sussex County, Delaware, and lying on the south side of Lewes Georgetown Highway (Rt. 9) approximately 0.40 mile east of Harbeson Road (Rt. 5) and being more particularly described in the attached legal description prepared by Langan Engineering and Environmental Services, Inc., said parcels (portion of) containing 25.83 acres, more or less.

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



JAMIE WHITEHOUSE, AICP  
DIRECTOR OF PLANNING & ZONING  
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**Sussex County**

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## Memorandum

To: Sussex County Council  
The Honorable Michael H. Vincent  
The Honorable Cynthia C. Green  
The Honorable Douglas B. Hudson  
The Honorable John L. Rieley  
The Honorable Mark G. Schaeffer

From: Jamie Whitehouse, AICP, Director of Planning & Zoning

CC: Everett Moore, County Attorney

Date: February 1, 2024

RE: County Council Report for C/U 2382 filed on behalf of Consolidated Edison Development, Inc.

---

The Planning and Zoning Department received an application (C/U 2382 filed on behalf of Consolidated Edison Development, Inc.) for a solar farm (array) on parcel 234-2.00-18.00. The property is located on the south side of Kendale Road (S.C.R. 287), approximately 0.15 mile east of Wil King Road (Rt. 288). The parcel size is 37.04 acres +/-

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

The County Council held a Public Hearing on the application at its meeting on December 5, 2023. At the conclusion of the Public Hearing, action on the application was deferred for further consideration. Below is a link to the minutes of the December 5, 2023, County Council meeting.

[Link to the Minutes of the December 5, 2023 County Council Meeting](#)

Below are the minutes from the Planning & Zoning Commission meeting of September 28, 2023, and October 12, 2023.

Minutes of the September 28, 2023, Planning & Zoning Commission Meeting

**C/U 2382 Consolidated Edison Development, Inc.**  
**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1**



COUNTY ADMINISTRATIVE OFFICES  
2 THE CIRCLE | PO BOX 417  
GEORGETOWN, DELAWARE

**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.

Mr. Whitehouse advised the Commission that submitted into the record were the Staff Analysis, a copy of the Applicant's conceptual site plan and exhibits, the DelDOT Service Level Evaluation Response, and a letter from the Sussex County Engineering Department Utility Planning Division, a letter from the Sussex Conservation District. Mr. Whitehouse stated that there were zero comments.

The Commission found that Mr. Joe Shanahan, spoke on behalf of the Applicant, RWE Clean Energy owner of Consolidate Edison Development, Inc. Mr. Shanahan stated that C/U 2382 is the Lewes A project located on Kendale Road in Lewes, Delaware; that for the purpose of this public hearing he requested that the testimony presented in connection with the public hearing for C/U 2381, including the introductions and attributes that these seven projects have in common be entered into this record; that the specifics of this site are shown on the site plan and the lease area/conditional use area is 21.6 acres of an overall 37 acre property; that the setback is approximately 200 ft. from Kendale Road with access by a 20 ft. gravel driveway; that the site is mainly undeveloped with some residential properties to the north of the site; that there are portions of wooded areas and wetlands to the south and east of the property and all development is outside of the wetlands; that this site is owned by Garciel Street Family and Matt Tucker, family member, is present this evening; that requested that the following be read into the record this evening,

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

Mr. Shanahan stated that he was ready to address any questions from the Commission members.

There were no questions from the Commission.

Mr. Robertson asked if there would be any tree removal.

Mr. Shanahan stated that there may be some tree removal at the rear property line.

The Commission found that there was no one present who wished to speak in favor of or in opposition to C/U 2382.

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 2382 Consolidated Edison Development, Inc. Motion by Ms. Wingate to defer action for further consideration, seconded by Mr. Mears and carried unanimously. Motion carried 4-0.

Minutes of the October 12, 2023, Planning & Zoning Commission Meeting

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.

**PLANNING & ZONING COMMISSION**

ROBERT C. WHEATLEY, CHAIRMAN  
KIM HOEY STEVENSON, VICE-CHAIRMAN  
R. KELLER HOPKINS  
J. BRUCE MEARS  
HOLLY J. WINGATE



**Sussex County**

DELAWARE  
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302-855-7878 T  
302-854-5079 F  
JAMIE WHITEHOUSE, AICP, MRTPI  
DIRECTOR OF PLANNING & ZONING

**PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET**  
Planning Commission Public Hearing Date: September 28<sup>th</sup>, 2023

Application: CU 2382 Consolidated Edison Development Inc. (Kendale Road)

Applicant: Consolidated Edison Development, Inc. (Kendale Road)  
c/o Joe Shanahan  
P. O. Box 2002  
Pawcatuck, CT 06379

Owner: Geraldine G. Street, (c/o Matt Tucker)  
27168 Carpenter Road  
Milton, DE 19968

Site Location: Lying on the southside of Kendale Road (S.C.R. 287) approximately 635 feet east of Wil King Road (S.C.R. 288).

Current Zoning: Agricultural Residential (AR-1) Zoning District & General Residential (GR) Zoning District

Proposed Use: Solar Farm consisting of photovoltaic electric generation facility on a (26.97) acre portion of the parcel.

Comprehensive Land Use Plan Reference: Coastal Area

Councilmanic District: Mr. Schaeffer

School District: Cape Henlopen School District

Fire District: Lewes Fire Department

Sewer: N/A

Water: N/A

Site Area: 37.04 acres +/- (p/o 26.97 acres +/-)

Tax Map ID: 234-2.00-18.00



JAMIE WHITEHOUSE, AICP MRTPI  
PLANNING & ZONING DIRECTOR  
(302) 855-7878 T  
(302) 854-5079 F  
jamie.whitehouse@sussexcountyde.gov



**Sussex County**

DELAWARE  
sussexcountyde.gov

## Memorandum

To: Sussex County Planning Commission Members  
From: Mr. Michael Lowrey, Planner III  
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant  
Date: June 26<sup>th</sup>, 2023  
RE: Staff Analysis for C/U 2382 Consolidated Edison Dev. (Kendale Road)

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This memo is to provide background and analysis for the Planning Commission to consider as a part of Application C/U 2382 Consolidated Edison Dev. (Kendale Road) to be reviewed during the September 28, 2023 Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

**Please note that the following staff analysis is for informational purposes only and does not prejudice any decision that the Sussex County Planning & Zoning Commission or Sussex County Council may wish to make as part of any Application submitted to the Department.**

**Tax Parcel ID(s):** 234-2.00-18.00

**Proposal:** The request is for a Conditional Use for Tax Parcel 234-2.00-185.00 to allow for a solar array. The site is lying on the south side of Kendale Road (S.C.R. 287) approximately 635 feet east of Wil King Road (S.C.R. 288). The improvements are proposed on a (26.97) acre portion of the parcel which is comprised of a total of 37.04 acres +/-

**Zoning:** The property is zoned Agricultural Residential (AR-1) District. The parcels immediately adjacent to the north, south, and east of the subject property are all zoned Agricultural Residential (AR-1) District. Adjacent to the west is are parcels zoned General Residential (GR).

**Future Land Use Map Designation w/in Comprehensive Plan:** Low Density Area

**Applicability to Comprehensive Plan:** The project lies within the Growth Area and is categorized as “Coastal Area” (per the 2018 Comprehensive Plan). Coastal Areas are growth areas that the County encourages only the appropriate forms of concentrated new development, especially when environmental features are in play. (2018 Sussex County Comprehensive Plan, 4-15). The Coastal Area designation is intended to recognize the characteristics of both anticipated growth and ecologically important and sensitive characteristics (2018 Sussex County Comprehensive Plan, 4-15). Additionally, the Plan notes, “careful mixtures of homes with light commercial, office and institutional uses can be appropriate (2018 Sussex County Comprehensive Plan, 4-15).

**Further Site Considerations:**



- **Density:** N/A
- **Open Space Provisions:** N/A
- **Agricultural Areas:** The site is within the vicinity of active agricultural lands.
- **Interconnectivity:** N/A
- **Transportation Improvement District (TID):** The Parcel is within the Henlopen TID.
- **Forested Areas:** The portion of parcel proposed to be improved includes existing forest at the rear (south) and eastern portions of the Parcel. The Plan notes that portions of these forested areas are to be removed.
- **Wetlands Buffers/Waterways:** Regulatory wetlands are present at the rear (south) and eastern portions of the Parcel.
- **Other Site Considerations (ie: Flood Zones, Tax Ditches, Groundwater Recharge Potential, etc.):** The property is located within Flood Zone X and within an area of “Fair” Groundwater Recharge Potential. The site is not located in a Wellhead Protection Area.

Based on the analysis of the land use, surrounding zoning and uses, a Conditional Use Application to allow for a solar array, subject to considerations of scale and impact, could be considered as being consistent with the land use, area zoning and surrounding uses.

**Existing Conditional Uses within the Vicinity of the Subject Site:** A Data Table has been supplied to provide further background regarding the approval status of Applications in the area, including the location of all other Conditional Use Applications that are less than 1 mile distance from the subject site.

<b>Conditional Use Applications</b> (Within a 1-mile radius of the subject site)							
<b>Item #</b>	<b>Application Number</b>	<b>Application Name</b>	<b>Zoning District</b>	<b>Proposed Use</b>	<b>CC Decision</b>	<b>CC Decision Date</b>	<b>Ordinance Number</b>
<b>#1</b>	265	Leroy Lucas	AR-1	Manufactured Home Park	Approved	4/29/1975	<Null>
<b>#2</b>	272	Melvin Gollub & Ada	AR-1/GR	FM radio station & tower	Approved	6/10/1975	<Null>

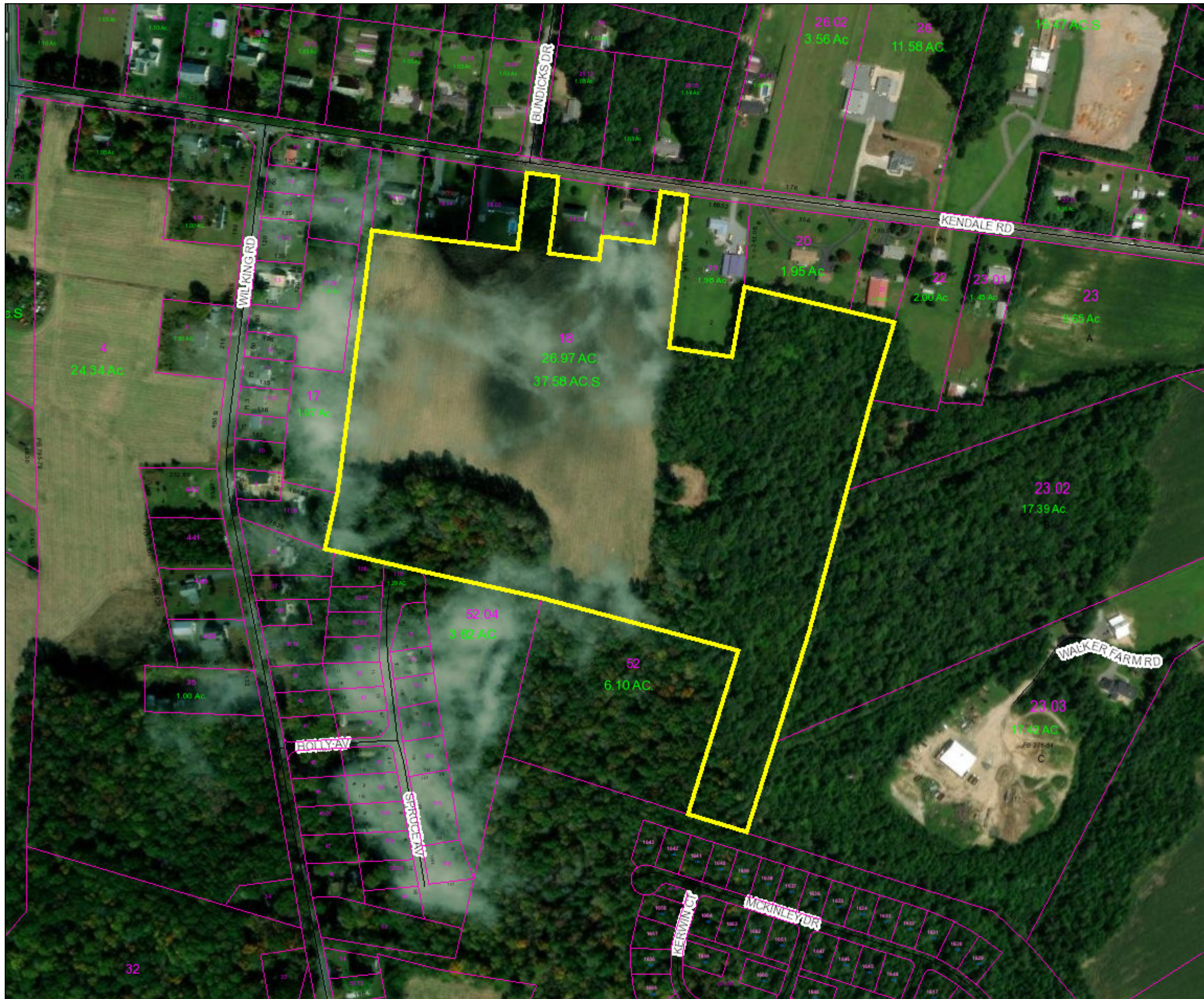
<b>#3</b>	337	Cape Henlopen Elks Lodge #2540	AR-1	private club	Approved	4/27/1976	<Null>
<b>#4</b>	550	John & Barbara Clark	GR	Upolstery Shop/Antique & Used Furniture Sales	Approved	10/16/1979	<Null>
<b>#5</b>	616	John R. Metcalf	GR/AR- 1	Manufactured Home Park	Withdrawn	N/A	N/A
<b>#6</b>	1017	Townsend Inc.	AR-1	Sludge Application To Forested Land	Withdrawn	10/13/1992	N/A
<b>#7</b>	1127	Delaware Electric Cooperative, Inc.	AR-1	Electrical Substation	Approved	8/29/1995	1045
<b>#8</b>	1568	Douglas W. Brockway	AR-1	Boat Repair & Accessory	Approved	3/15/2005	1759
<b>#9</b>	1635	Thomas N. & Marion L. Rossi	AR-1	Landscaping	Approved	2/14/2006	1825
<b>#10</b>	1932	Tanya Gibbs & Kimwuan Gibbs	GR	Automotive Sales Lot	Denied	1/15/2013	N/A
<b>#11</b>	1967	Tidewater Environmental Services	MR	Wastewater Treatment Plant To Treat Offsite Waste	Denied	10/1/2013	N/A
<b>#12</b>	2025	Rudy South c/o T. & C. Properties	AR-1	Boat Sales, Service And Storage	Denied	12/15/2015	N/A
<b>#13</b>	2082	Tidewater Utilities	AR-1	N/A	Withdrawn	N/A	N/A
<b>#14</b>	2122	Richard Thurman Jr. (Arbor Care)	AR-1	Plant, Tree And Lawn Care Diagnostic Center	Approved	4/17/2018	2573



<b>#15</b>	2138	Walker Construction Inc.	AR-1	Site Contracting Excavating Services, w Storage, Repair & Maintenance Light Material Storage w Office	Approved	8/21/2018	2596
<b>#16</b>	2177	Ingrid Hopkins	AR-1	Events Venue	Approved	7/30/2019	2670
<b>#17</b>	2311	Phillip Jackson	AR-1	Tree Service Business	N/A	9/20/2022	N/A
<b>#18</b>	2350	Anton Balakin	AR-1	Multi-Family	N/A	4/25/2023	N/A
<b>#19</b>	2379	Lewes Saddle Ridge Solar 1, LLC	AR-1	Solar Farm	N/A	N/A	N/A
<b>#20</b>	2382	Consolidated Edison Development, Inc.	AR-1/GR	Solar Farm	N/A	N/A	N/A



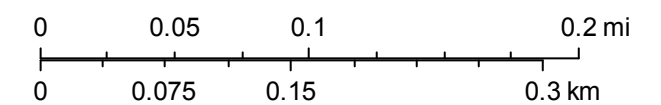
# Sussex County

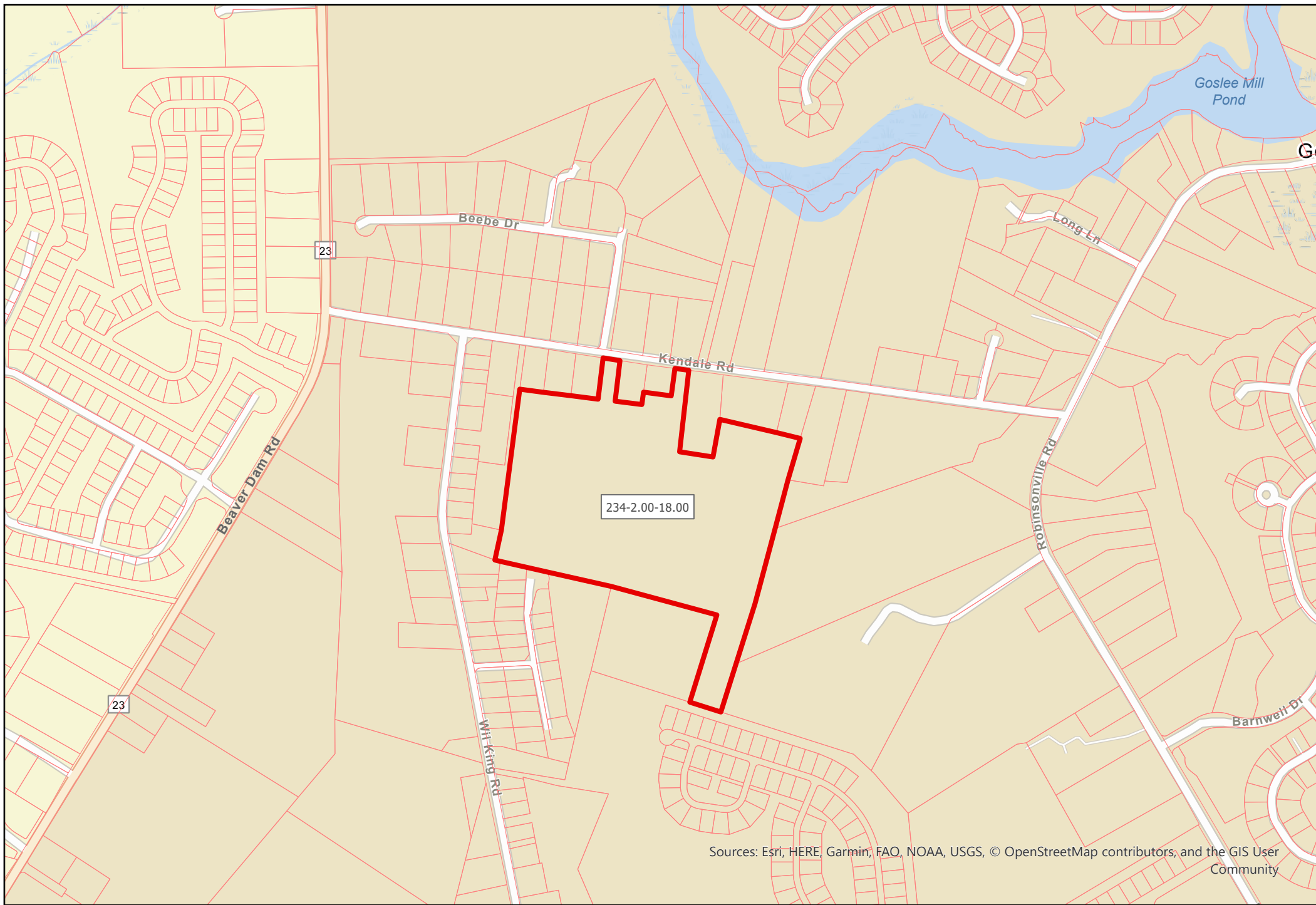


<b>PIN:</b>	234-2.00-18.00
<b>Owner Name</b>	STREET GARCIEL G
<b>Book</b>	0
<b>Mailing Address</b>	27186 CARPENTER RD
<b>City</b>	MILTON
<b>State</b>	DE
<b>Description</b>	S/RT 287
<b>Description 2</b>	280'E/RT 288
<b>Description 3</b>	26.97 AC
<b>Land Code</b>	

- polygonLayer**
- Override 1
- polygonLayer**
- Override 1
- Tax Parcels
- Streets
- County Boundaries

1:4,514

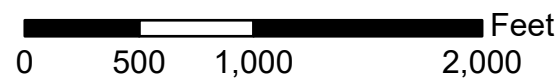


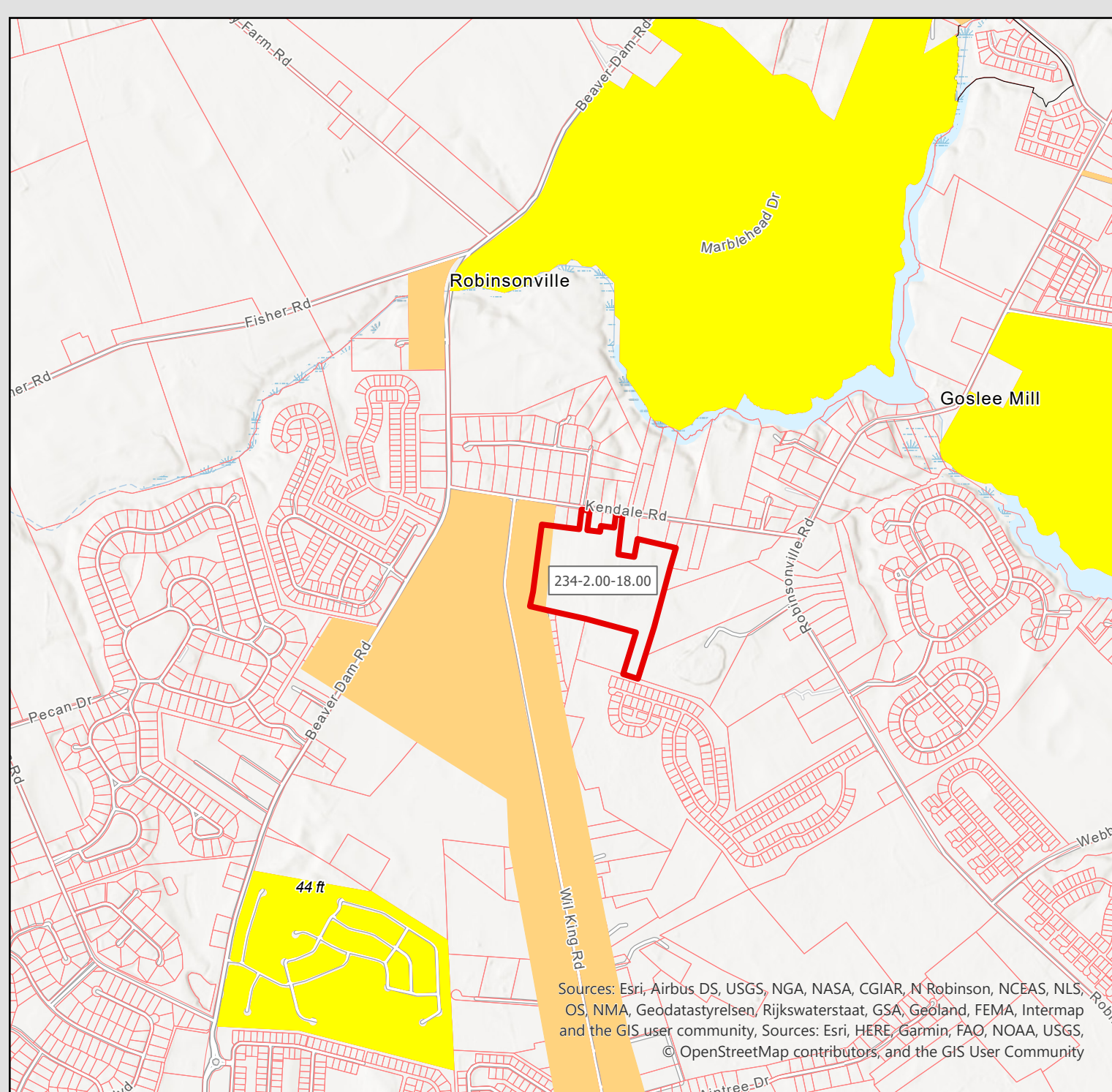


Sources: Esri, HERE, Garmin, FAO, NOAA, USGS, © OpenStreetMap contributors, and the GIS User Community

CU 2382 - Consolidated Edison Development Inc.  
(Kendale Road)  
Street Map

 CU 2382 Consolidated Edison Development Inc





- CU 2382 ConEd (Kendale Rd)
- Zoning**
- Agricultural Residential - AR-1
- Agricultural Residential - AR-2
- Medium Residential - MR
- General Residential - GR
- High Density Residential - HR-1
- High Density Residential - HR-2
- Vacation, Retire, Resident - VRP
- Neighborhood Business - B-1
- Neighborhood Business - B-2
- Business Research - B-3
- General Commercial - C-1
- General Commercial - C-2
- General Commercial - C-3
- General Commercial - C-4
- General Commercial - C-5
- Commercial Residential - CR-1
- Institutional - I-1
- Marine - M
- Limited Industrial - LI-1
- Light Industrial - LI-2
- Heavy Industrial - HI-1

Sources: Esri, Airbus DS, USGS, NGA, NASA, CGIAR, N Robinson, NCEAS, NLS, OS, NMA, Geodastyrrelsen, Rijkswaterstaat, GSA, Geoland, FEMA, Intermap and the GIS user community, Sources: Esri, HERE, Garmin, FAO, NOAA, USGS, © OpenStreetMap contributors, and the GIS User Community



Introduced: 8/29/23

Council District 5: Mr. Rieley  
Tax I.D. No.: 234-2.00-18.00  
911 Address: N/A

ORDINANCE NO. \_\_\_\_

**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 PORTION OF CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 37.04 ACRES, MORE OR LESS**

WHEREAS, on the 29<sup>th</sup> day of June 2022, a conditional use application, denominated Conditional Use No. 2382 was filed on behalf of Consolidated Edison Development, Inc.; and

WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2023, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2382 be \_\_\_\_\_; and

WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2023, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County determined, based on the findings of facts, that said conditional use is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and that the conditional use is for the general convenience and welfare of the inhabitants of Sussex County.

**NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:**

Section 1. That Chapter 115, Article IV & VI, Subsection 115-22 & 115-39, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2382 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land, lying and being situate in Indian River Hundred, Sussex County, Delaware, and lying on the south side of Kendale Road (S.C.R. 287) approximately 0.15 mile east of Wil King Road (Rt. 288) and being more particularly described in the attached legal description prepared by Langan Engineering, said portion of the parcel containing 37.04 acres, more or less.

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



## Memorandum

To: Sussex County Council  
The Honorable Michael H. Vincent  
The Honorable Cynthia C. Green  
The Honorable Douglas B. Hudson  
The Honorable John L. Rieley  
The Honorable Mark G. Schaeffer

From: Jamie Whitehouse, AICP, Director of Planning & Zoning

CC: Everett Moore, County Attorney

Date: February 2, 2024

RE: County Council Report for C/U 2383 filed on behalf of Consolidated Edison Development, Inc.

---

The Planning and Zoning Department received an application (C/U 2383 filed on behalf of Consolidated Edison Development, Inc.) for a solar farm (array) on parcel 232-12.00-4.00. The property is located on the southwest side of Woodland Ferry Road (SCR 78), approximately 635 feet northwest of Old Sailor Road (SCR 78A). The parcel size is 143.09 acres +/-

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

The County Council held a Public Hearing on the application at its meeting on December 5, 2023. At the conclusion of the Public Hearing, action on the application was deferred for further consideration. Below is a link to the minutes of the December 5, 2023, County Council meeting.

[Link to the Minutes of the December 5, 2023 County Council Meeting](#)

Below are the minutes from the Planning & Zoning Commission meeting of September 28, 2023, and October 12, 2023.

Minutes of the September 28, 2023, Planning & Zoning Commission Meeting

### **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).

Mr. Whitehouse advised the Commission that submitted into the record were the Staff Analysis, a copy of the Applicant's conceptual site plan and exhibits, the DelDOT Service Level Evaluation Response, and a letter from the Sussex County Engineering Department Utility Planning Division. Mr. Whitehouse stated that there were zero comments.

The Commission found that Mr. Joe Shanahan, spoke on behalf of the Applicant, RWE Clean Energy owner of Consolidate Edison Development, Inc. Mr. Shanahan stated that C/U 2383 is the Laurel E project located on Woodland Ferry Road in Lewes, Delaware; that for the purpose of this public hearing he requested that the testimony presented in connection with the public hearing for C/U 2381, including the introductions and attributes that these seven projects have in common be entered into this record; that the specifics of this site are shown on the site plan and the lease area/conditional use area is 30.1 acres of an overall 143 acre property; that the setback is approximately 1500 ft. from Woodland Ferry Road with access by a 20 ft. wide gravel driveway; that the site is mainly undeveloped with portions of wooded areas, wetlands and floodplains of Broad Creek to the rear of the property to the south and all development is outside of the wetlands and the floodplain; that this site is owned by the Dickerson Family, currently by Richard Dickerson and Zachary Dickerson; both Richard and Zachary were present earlier this evening, but had to leave to attend to farm animals; Richard and Zachary represent the fifth and sixth generations of Dickersons to own and operate this property as a farm; that Richard and Zachary Dickerson said that approval of this application would allow their family to create value from an underperforming portion of their property as this location is very sandy and nearly impossible to irrigate; that the lease to Con Edison will afford them a steady stream of income that will assist them in keeping the farm in operation and the land in the family for still more generations to come; and that Richard Dickerson feels that the opportunity to make a positive impact on the greenhouse gas effect caused by fossil fuels with this solar project will in some way offset the many years of emissions which have resulted from his family having had to use diesel fuel to operate farm equipment.

Mr. Shanahan stated that he was ready to address any questions from the Commission members.

Mr. Collins asked if there was a buffer around the farm.

Mr. Shanahan stated that the buffer is wooded at the rear of the property and that the conditional use area will be 1500 ft. from the roadway and will not be seen from the road.

The Commission found that there was no one present who wished to speak in favor of or in opposition to C/U 2383.

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 2383 Consolidated Edison Development, Inc. Motion by Ms. Wingate to defer

action for further consideration, seconded by Mr. Mears and carried unanimously. Motion carried 4-0.

Minutes of the October 12, 2023, Planning & Zoning Commission Meeting

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.

**PLANNING & ZONING COMMISSION**

ROBERT C. WHEATLEY, CHAIRMAN  
KIM HOEY STEVENSON, VICE-CHAIRMAN  
R. KELLER HOPKINS  
J. BRUCE MEARS  
HOLLY J. WINGATE



**Sussex County**

DELAWARE  
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302-855-7878 T  
302-854-5079 F  
JAMIE WHITEHOUSE, AICP, MRTPI  
DIRECTOR OF PLANNING & ZONING

**PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET**  
Planning Commission Public Hearing Date: Month xx, 2023

**Application:** CU 2383 Consolidated Edison Development Inc. (Woodland Ferry Road)

**Applicant:** Consolidated Edison Development, Inc. (Woodland Ferry Road)  
c/o Joe Shanahan  
P. O. Box 2002  
Pawcatuck, CT 06379

**Owner:** Geraldine W. Dickerson Trust, Richard Dickerson, Trustee  
32780 Gordy Road  
Laurel, DE 19956

**Site Location:** 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).

**Current Zoning:** Agricultural Residential (AR-1) Zoning District

**Proposed Use:** Solar Farm consisting of photovoltaic electric generation facility on a (30.1) acre portion of the parcel.

**Comprehensive Land Use Plan Reference:** Low Density Area

**Councilmanic District:** Mr. Vincent

**School District:** Laurel School District

**Fire District:** Laurel Fire Department

**Sewer:** N/A

**Water:** N/A

**Site Area:** 143.09 acres +/- (p/o 30.1 acres +/-)

**Tax Map ID:** 232-12.00-4.00



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**Sussex County**

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## Memorandum

To: Sussex County Planning Commission Members  
From: Mr. Michael Lowrey, Planner III  
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant  
Date: May 26<sup>th</sup>, 2023  
RE: Staff Analysis for C/U 2383 Consolidated Edison Dev. (Woodland Ferry Road)

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This memo is to provide background and analysis for the Planning Commission to consider as a part of Application C/U 2383 Consolidated Edison Dev. (Woodland Ferry Road) to be reviewed during the September 28, 2023 Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

**Please note that the following staff analysis is for informational purposes only and does not prejudice any decision that the Sussex County Planning & Zoning Commission or Sussex County Council may wish to make as part of any Application submitted to the Department.**

**Tax Parcel ID(s):** 232-12.00-4.00

**Proposal:** The request is for a Conditional Use for Tax Parcel 232-12.00-4.00 to allow for a solar farm. The site 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). The improvements are proposed on a (30.1) acre portion of the parcel which is comprised of a total of 143.09 acres +/-

**Zoning:** The property is zoned Agricultural Residential (AR-1) District. The parcels immediately adjacent to the north, south, east, and west of the subject property are all zoned Agricultural Residential (AR-1) District. Adjacent to the northwest is a single parcel zoned Medium-Density Residential (MR). The southeast portion of the parcel is in close proximity to the municipal boundary of the Town of Laurel.

**Future Land Use Map Designation w/in Comprehensive Plan:** Low Density Area

**Applicability to Comprehensive Plan:** The 2018 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be developed. As part of the Comprehensive Plan, a Future Land Use Map is included to help determine how land should be zoned to ensure responsible development. The Future Land Use map in the plan indicates that the subject property is designated as a Rural Area and has a land use designation of "Low Density Area." All surrounding properties to the north, south, east, and west of the subject site contain the Future Land Use Map designation of "Low Density Area" with exception to the southeastern portion of the parcel bordering the "Municipalities Area" designation (Town of Laurel).



As outlined in the 2018 Sussex County Comprehensive Plan, Low Density Areas are areas that the County envisions as “a predominantly rural landscape where farming co-exists with appropriate residential uses and permanently preserved property” (Sussex County Comprehensive Plan, 4-18). The Plan also notes that commercial uses “should be limited in their location, size and hours of operation” and “more intense commercial uses should be avoided” and commercial uses “may be appropriate depending on surrounding uses” (Sussex County Comprehensive Plan, 4-19).

**Further Site Considerations:**

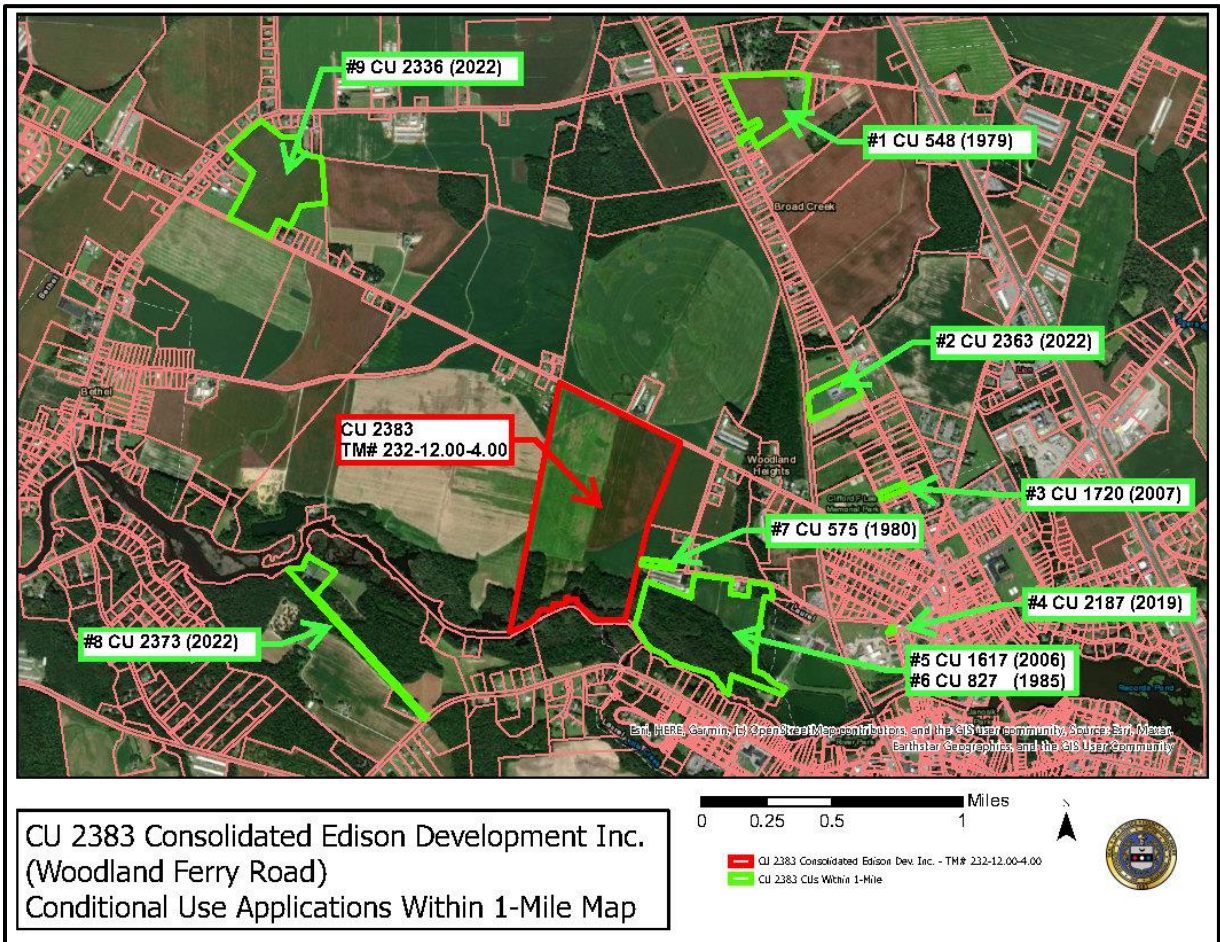
- **Density:** N/A
- **Open Space Provisions:** N/A
- **Agricultural Areas:** The site is within the vicinity of active agricultural lands. The Givens Farm Agricultural Preservation District Easement borders the parcel immediately to the north across Woodland Ferry Road.
- **Interconnectivity:** N/A
- **Transportation Improvement District (TID):** N/A
- **Forested Areas:** The portion of parcel proposed to be improved includes existing forest at the rear and southern portions of the Parcel. The Plan notes that portions of these forested areas are to be removed.
- **Wetlands Buffers/Waterways:** Regulatory wetlands are present at the rear of the Parcel adjacent to it’s boundary with Broad Creek.
- **Other Site Considerations (ie: Flood Zones, Tax Ditches, Groundwater Recharge Potential, etc.):** The property is located within Flood Zone AE and within areas of “Good” and “Fair” Groundwater Recharge Potential. The site is not located in a Wellhead Protection Area.

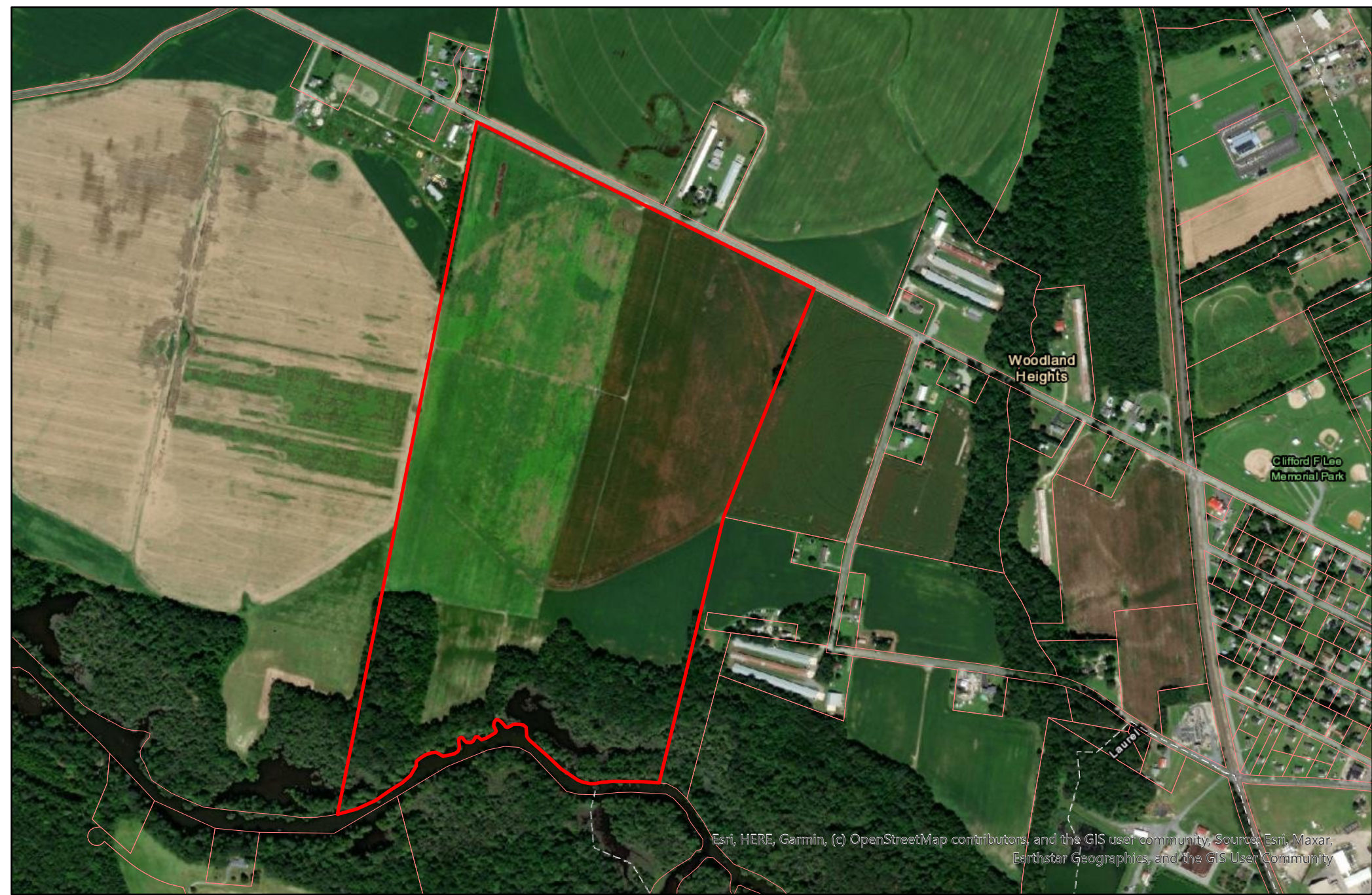
Based on the analysis of the land use, surrounding zoning and uses, a Conditional Use Application to allow for a solar farm, subject to considerations of scale and impact, could be considered as being consistent with the land use, area zoning and surrounding uses.

**Existing Conditional Uses within the Vicinity of the Subject Site:** A Data Table and Supplemental Map have been supplied which provide further background regarding the approval status of Applications in the area, including the location of all other Conditional Use Applications that are less than 1 mile distance from the subject site.

<b>Conditional Use Applications</b> (Within a 1-mile radius of the subject site)							
<b>Item # Attached Map</b>	<b>Application Number</b>	<b>Application Name</b>	<b>Zoning District</b>	<b>Proposed Use</b>	<b>CC Decision</b>	<b>CC Decision Date</b>	<b>Ordinance Number</b>
<b>#1</b>	<b><u>CU 548</u></b>	Christ Evangelistic Church	AR-1	Cemetery	<b>Approved</b>	10/2/1979	<b>N/A</b>
<b>#2</b>	<b><u>CU 2363</u></b>	Laurel Wesleyan Church - Reverend M. Scott Conn	AR-1	Outdoor Entertainment Events w/ Temporary Camping Facilities During Events Only	<b>Approved</b>	6/14/2022	<b>2865</b>
<b>#3</b>	<b><u>CU 1720</u></b>	Wayne & Janet Samsone	AR-1	Archery Repair & Sales	<b>Approved</b>	9/11/2007	<b>1931</b>
<b>#4</b>	<b><u>CU 2187</u></b>	Daniel Ostinvil.	AR-1	Car Sales	<b>Approved</b>	11/12/2019	<b>2689</b>
<b>#5</b>	<b><u>CU 1617</u></b>	Glen R. Jones (Annexed)	AR-1	Expand Campground / CU 827	<b>Withdrawn</b>	10/10/2006	<b>N/A</b>
<b>#6</b>	<b><u>CU 827</u></b>	Glen R. Jones & Sally A. S. Jones	AR-1	Campground	<b>Approved</b>	7/30/1985	<b>282</b>
<b>#7</b>	<b><u>CU 575</u></b>	Charles K. Kennedy	AR-1	Sales and Service of Used Appliances	<b>Approved</b>	N/A	<b>N/A</b>

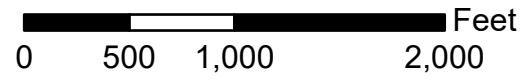
#8	<u>CU 2373</u>	Sarah Peterson	AR-1	Events Venue	Pending	N/A	N/A
#9	<u>CU 2336</u>	Community Power Group, LLC	AR-1	Community Solar Facility	Pending	N/A	N/A






Esri, HERE, Garmin, (c) OpenStreetMap contributors, and the GIS user community, Source: Esri, Maxar, Earthstar Geographics, and the GIS User Community

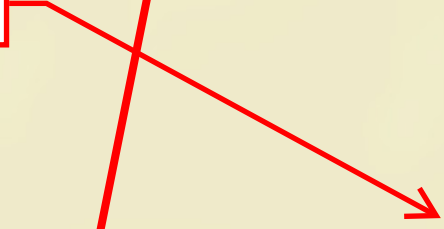
**CU 2383 Consolidated Edison Development Inc.  
(Woodland Ferry Road)  
Aerial Map**



 CU 2383 Consolidated Edison Dev. Inc. - TM# 232-12.00-4.00




**CU 2383**  
**TM# 232-12.00-4.00**

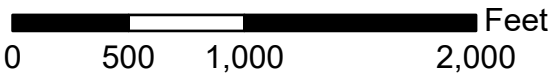


Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), NGCC, (c) OpenStreetMap contributors, and the GIS User Community



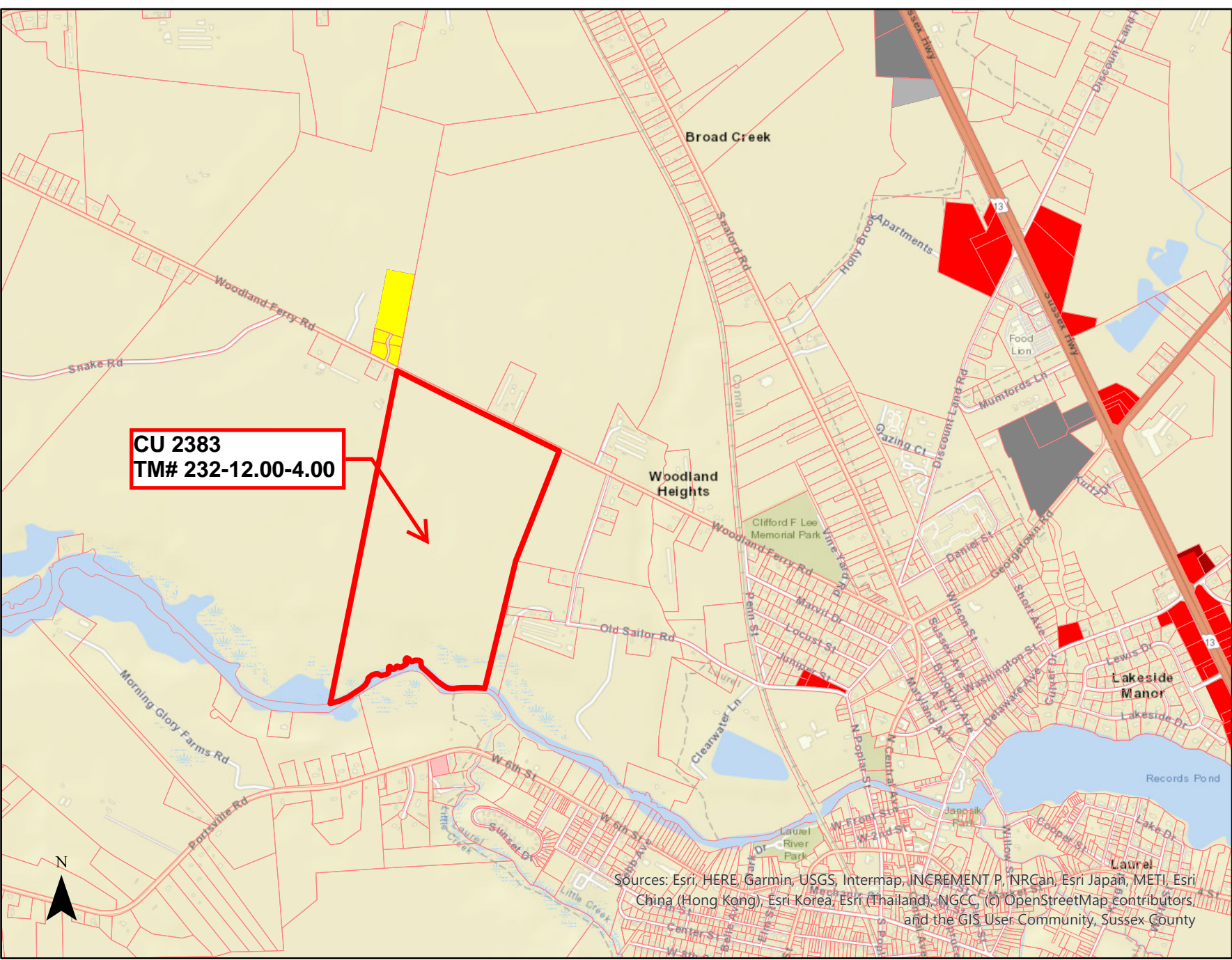
# CU 2383 Consolidated Edison Development Inc. (Woodland Ferry Road) Street Map

 CU 2383 Consolidated Edison Dev. Inc. - TM# 232-12.00-4.00





- Zoning**
- Agricultural Residential - AR-1
  - Agricultural Residential - AR-2
  - Medium Residential - MR
  - General Residential - GR
  - High Density Residential - HR-1
  - High Density Residential - HR-2
  - Vacation, Retire, Resident - VRP
  - Neighborhood Business - B-1
  - Neighborhood Business - B-2
  - Business Research - B-3
  - General Commercial - C-1
  - General Commercial - C-2
  - General Commercial - C-3
  - General Commercial - C-4
  - General Commercial - C-5
  - Commercial Residential - CR-1
  - Institutional - I-1
  - Marine - M
  - Limited Industrial - LI-1
  - Light Industrial - LI-2
  - Heavy Industrial - HI-1

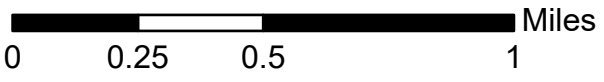


**CU 2383**  
**TM# 232-12.00-4.00**

Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), NGCC, (c) OpenStreetMap contributors and the GIS User Community, Sussex County

**CU 2383 Consolidated Edison Development Inc.**  
**(Woodland Ferry Road)**  
**Zoning Map**

CU 2383 Consolidated Edison Dev. Inc. - TM# 232-12.00-4.00



Introduced: 6/6/23

Council District 1: Mr. Vincent  
Tax I.D. No.: 232-12.00-4.00 (p/o)  
911 Address: N/A

ORDINANCE NO. \_\_\_\_

**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**

WHEREAS, on the 29<sup>th</sup> day of June 2022, a conditional use application, denominated Conditional Use No. 2383 was filed on behalf of Consolidated Edison Development, Inc.; and

WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2023, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2383 be \_\_\_\_\_; and

WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2023, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County determined, based on the findings of facts, that said conditional use is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and that the conditional use is for the general convenience and welfare of the inhabitants of Sussex County.

**NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:**

Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2383 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land, lying and being situate in Broad Creek Hundred, Sussex County, Delaware, and 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) and being more particularly described in the attached legal description prepared by Langan Engineering and Environmental Services, Inc., said portion of the parcel containing 30.1 acres, more or less.

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



## Memorandum

To: Sussex County Council  
The Honorable Michael H. Vincent  
The Honorable Cynthia C. Green  
The Honorable Douglas B. Hudson  
The Honorable John L. Rieley  
The Honorable Mark G. Schaeffer

From: Jamie Whitehouse, AICP, Director of Planning & Zoning

CC: Everett Moore, County Attorney

Date: February 2, 2024

RE: County Council Report for C/U 2384 filed on behalf of Consolidated Edison Development, Inc.

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The Planning and Zoning Department received an application (C/U 2384 filed on behalf of Consolidated Edison Development, Inc.) for a solar farm (array) on parcel 131-14.00-29.00. The property is located at 18374 South Main Street, Bridgeville. The parcel size is 74.96 acres +/-

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

The County Council held a Public Hearing on the application at its meeting on December 5, 2023. At the conclusion of the Public Hearing, action on the application was deferred for further consideration. Below is a link to the minutes of the December 5, 2023, County Council meeting.

[Link to the Minutes of the December 5, 2023 County Council Meeting](#)

Below are the minutes from the Planning & Zoning Commission meeting of September 28, 2023, and October 12, 2023.

[Minutes of the September 28, 2023, Planning & Zoning Commission Meeting](#)

### **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).

Mr. Whitehouse advised the Commission that submitted into the record were a copy of the Applicant's conceptual site plan and exhibits, the DelDOT Service Level Evaluation Response, and a letter from the Sussex County Engineering Department Utility Planning Division. Mr. Whitehouse stated that there is one letter of opposition.

The Commission found that Mr. Joe Shanahan, spoke on behalf of the Applicant, RWE Clean Energy owner of Consolidate Edison Development, Inc. Mr. Shanahan stated that C/U 2384 is the Bridgeville A project located at 18374 South Main Street in Bridgeville, Delaware; that for the purpose of this public hearing he requested that the testimony presented in connection with the public hearing for C/U 2381, including the introductions and attributes that these seven projects have in common be entered into this record; that the specifics of this site are shown on the site plan and the lease area/conditional use area is 19.61 acres of an overall 74.96 acre property; that the setback is approximately 685 ft. from South Main Street with access by a 20 ft. wide gravel driveway; that the site is mainly undeveloped with some residential properties east of property; that there are no wetlands on the property; that the site is owned by Karen L. Walls and has been in her family for over 70 years; that Ms. Walls is present this evening and requested that the following be read into the record this evening,

“My name is Karen L. Adams Walls, and I am the owner of the property located at 18374 South Main Street, Bridgeville, Delaware. This property was purchased by my parents, Maurice and Mildred Adams, and our family farm known as Grateful Acres was built in 1953. My father and Aunt, Mary Adams were the owners of Rapa, Inc. which was established by my uncles in 1926. As you can see our roots in Sussex County run deep. Until recently we have enjoyed continuing the tradition of raising and racing standard-bred horses, since we are now in our seventies, and this has become too labor intensive we began looking into different options to maintain the farm and to keep it green. Con Edison was the answer to our prayers, knowing that after the lease expires our land will be returned to its natural state while at the same time while at the same time helping the environment was a perfect solution for us. I truly appreciate your consideration in granting the permits needed for this community solar project. My grandchildren do as well, we look forward to keeping Grateful Acres in the family for generations to come. Respectfully yours, Karen Walls.”

Mr. Shanahan stated that he was ready to address any questions from the Commission members.

Mr. Collins asked if there was a buffer around the farm.

Mr. Shanahan stated that there are no plans to buffer the site as it is 700 ft. from the road and there is adequate screening, it complies with both the previous and current Solar Ordinance with regard to setbacks.

The Commission found that there was no one present who wished to speak in favor of C/U 2383.

The Commission found that Demetrios Kaouris spoke in opposition to the application. Mr. Kaouris stated that he was present on behalf of Passwaters Farm, LLC and Bridgeville Villas, LLC; that

Passwater Farm is the owner of the property west of the site and Bridgeville Villas is the owner of the property north of the subject site; that a letter was submitted into the record setting forth the basis for the opposition to this application including citation to the relevant portions of Sussex County Code; that there will be 200 townhomes developed directly to the north of the subject property; that the code provides that there should be a 50 ft. setback from all property lines and in the current plat is not existing; that the setback from any adjacent dwellings should be 200 ft.; that the townhomes would be roughly 52 ft. from the property line; that it is there position that the setback area should be at least 150 ft. along that property line; that this is one of the only solar projects that is adjacent to a municipality and should be taken into consideration by the Commission; and that they respectfully ask the denial of this Application and at a minimum add additional screening.

Mr. Shanahan stated that this application has been pending for over 15 months and for an abuttal to share their comments on the day of the public hearing without sharing a courtesy copy of the comments is less than professional; that the attorney cited the current solar ordinance which was not applicable at the time the applications were filed; that when this application was filed, the setback from the street was 40 ft. and 10 ft. from the side and rear property lines; and that this application greatly exceeds those setbacks.

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 2384 Consolidated Edison Development, Inc. Motion by Mr. Mears to defer action for further consideration, seconded by Ms. Wingate and carried unanimously. Motion carried 4-0.

#### Minutes of the October 12, 2023, Planning & Zoning Commission Meeting

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:

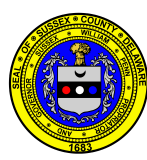
1. The proposed facility is a public utility use under the Sussex County Zoning Code, and it meets the purposes of a Conditional Use because it has a public or semi-public character that is essential and desirable for the general convenience and welfare of Sussex County residents.
2. This is an adaptive 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.

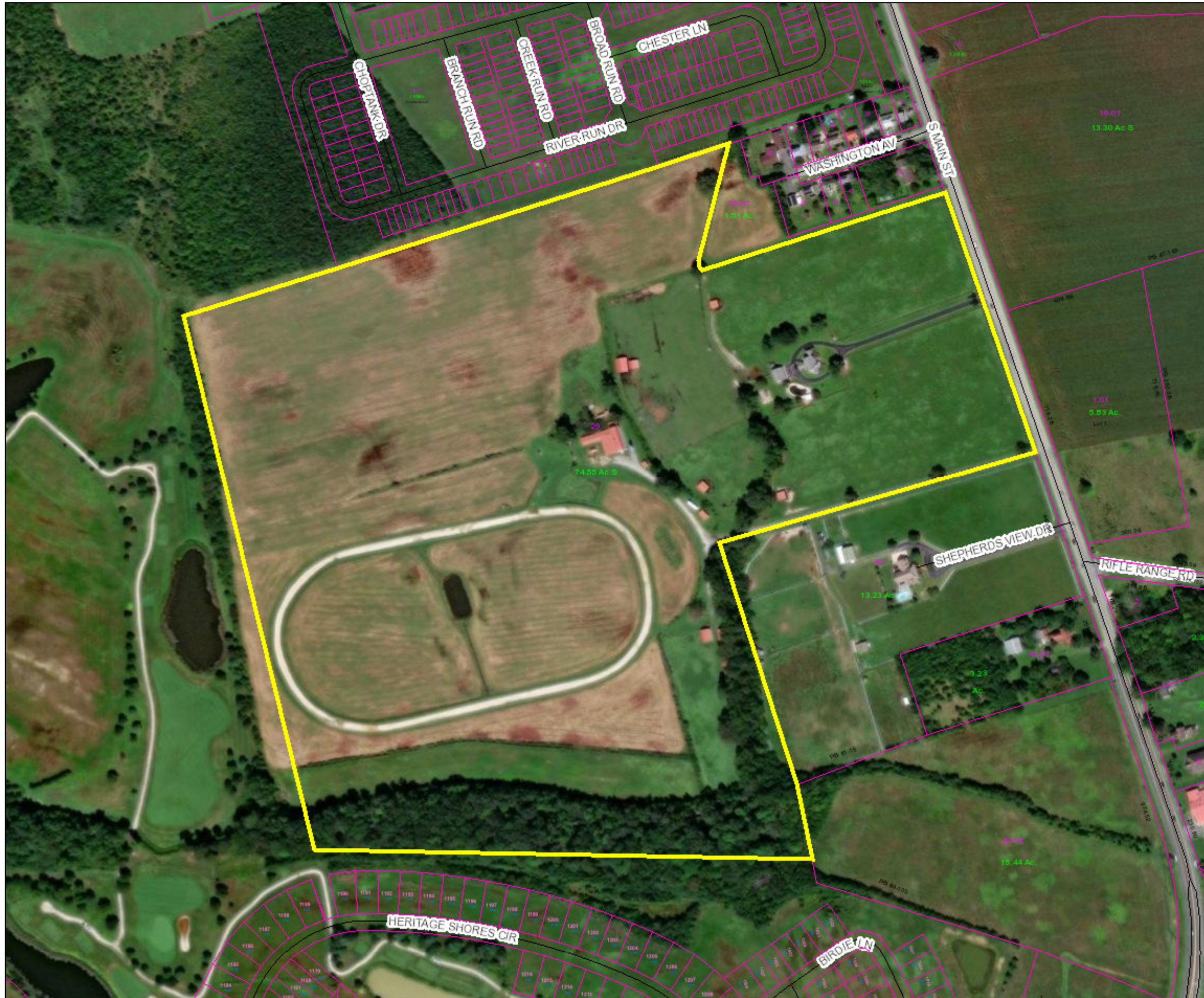
- I. There shall be a 30-foot-wide buffer of planted vegetation along the northern boundary of this site. These areas shall be clearly shown on the Final Site Plan. The Final Site Plan shall include a landscape plan showing the proposed tree and shrub landscape design in the buffer area.
- J. The Final 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.



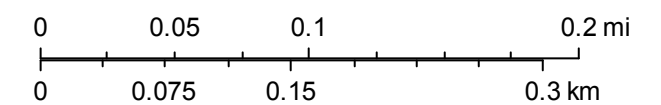
# Sussex County



<b>PIN:</b>	131-14.00-29.00
<b>Owner Name</b>	WALLS KAREN L
<b>Book</b>	2297
<b>Mailing Address</b>	18374 S MAIN ST
<b>City</b>	BRIDGEVILLE
<b>State</b>	DE
<b>Description</b>	BRIDGEVILLESEAFORD
<b>Description 2</b>	W/RT 13A 400'
<b>Description 3</b>	N/RT 545
<b>Land Code</b>	

- polygonLayer**
- Override 1
- polygonLayer**
- Override 1
- Tax Parcels
- Streets
- County Boundaries

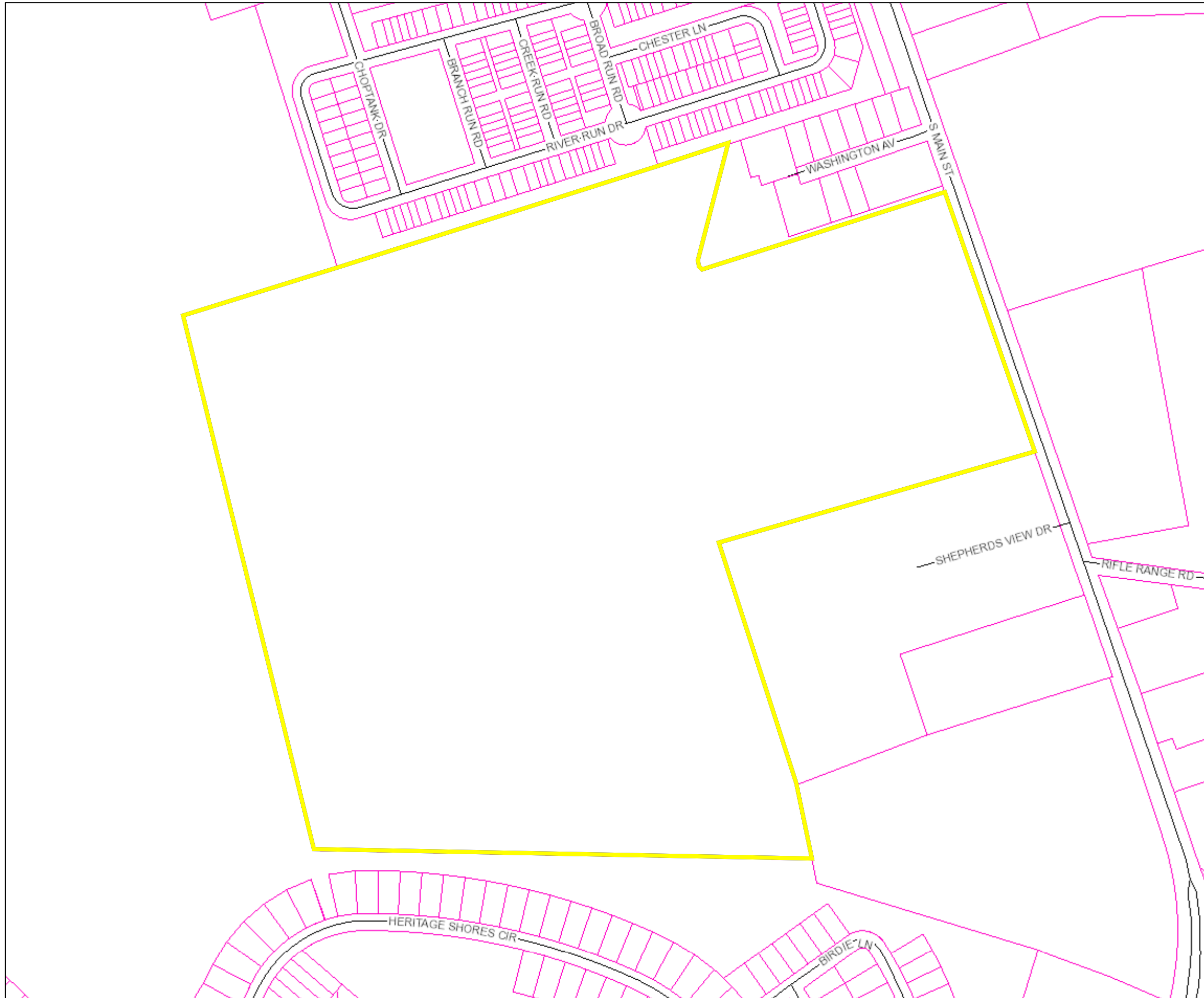
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# Sussex County



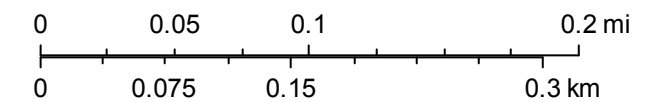
<b>PIN:</b>	131-14.00-29.00
<b>Owner Name</b>	WALLS KAREN L
<b>Book</b>	2297
<b>Mailing Address</b>	18374 S MAIN ST
<b>City</b>	BRIDGEVILLE
<b>State</b>	DE
<b>Description</b>	BRIDGEVILLESEAFORD
<b>Description 2</b>	W/RT 13A 400'
<b>Description 3</b>	N/RT 545
<b>Land Code</b>	

- polygonLayer**

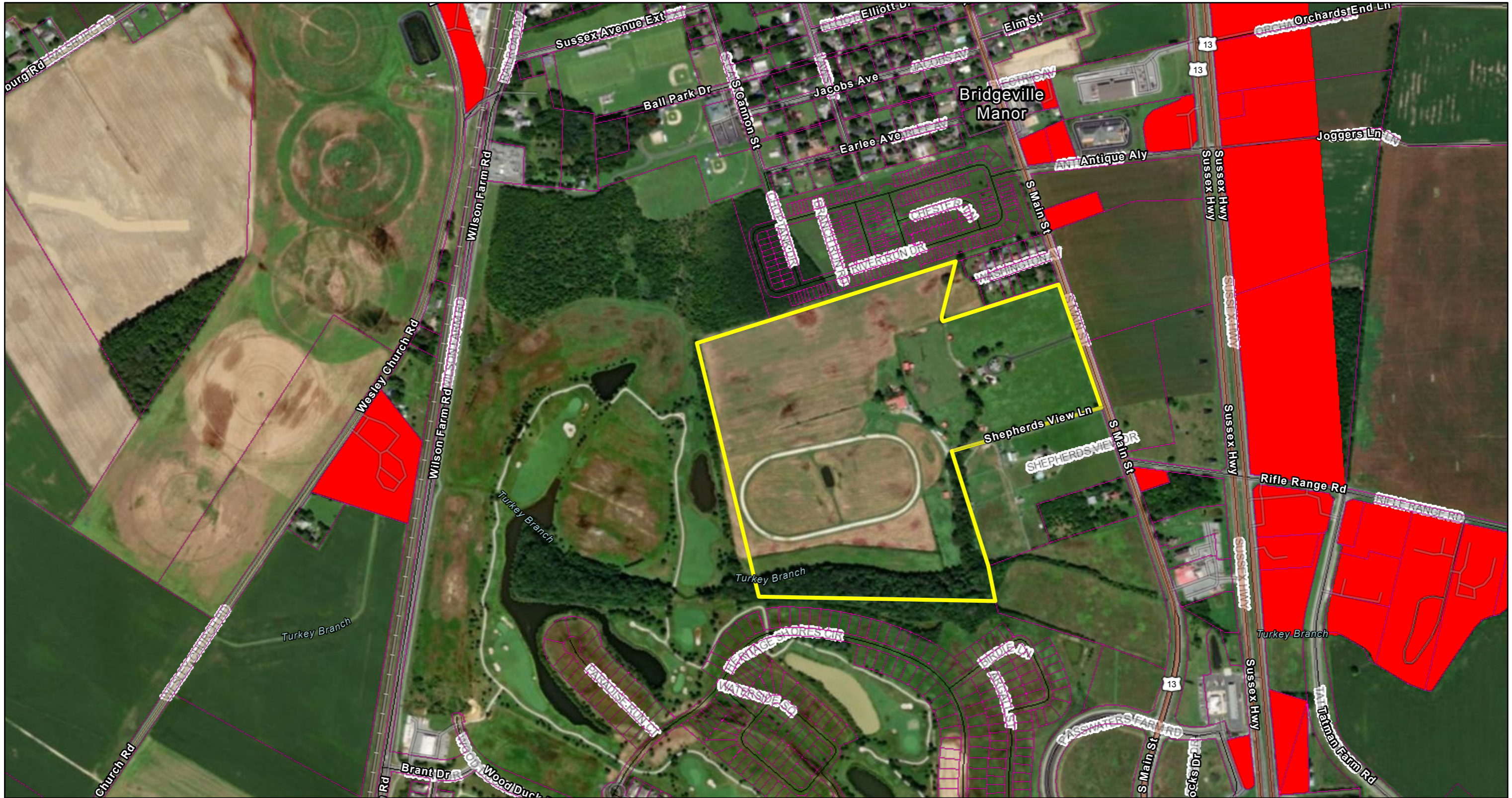
  - Override 1
- polygonLayer**

  - Override 1
- Tax Parcels
- Streets
- County Boundaries

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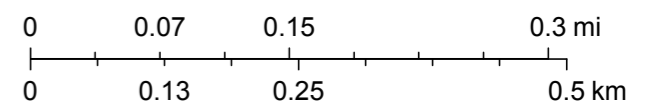
# Sussex County



August 25, 2023

1:9,028

- |                                 |                                  |                             |                               |                         |
|---------------------------------|----------------------------------|-----------------------------|-------------------------------|-------------------------|
| Override 1                      | Agricultural Residential - AR-2  | Neighborhood Business - B-1 | General Commercial - C-4      | Light Industrial - LI-2 |
| Override 1                      | Medium Residential - MR          | Neighborhood Business - B-2 | General Commercial - C-5      | Heavy Industrial - HI-1 |
| Tax Parcels                     | General Residential - GR         | Business Research - B-3     | Commercial Residential - CR-1 | County Boundaries       |
| Streets                         | High Density Residential - HR-1  | General Commercial - C-1    | Institutional - I-1           |                         |
| Zoning                          | High Density Residential - HR-2  | General Commercial - C-2    | Marine - M                    |                         |
| Agricultural Residential - AR-1 | Vacation, Retire, Resident - VRP | General Commercial - C-3    | Limited Industrial - LI-1     |                         |



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Introduced: 02/21/23

Council District 2: Mrs. Green  
Tax I.D. No.: 131-14.00-29.00 (portion of)  
911 Address: 18374 South Main Street, Bridgeville

ORDINANCE NO. \_\_\_\_

**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**

WHEREAS, on the 30<sup>th</sup> day of June 2022, a conditional use application, denominated Conditional Use No. 2384 was filed on behalf of Consolidated Edison Development, Inc.; and

WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2023, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2384 be \_\_\_\_\_; and

WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2023, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County determined, based on the findings of facts, that said conditional use is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and that the conditional use is for the general convenience and welfare of the inhabitants of Sussex County.

**NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:**

Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2384 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land, lying and being situate in Northwest Fork Hundred, Sussex County, Delaware, and lying on the west side of South Main Street (Rt. 13A) approximately 380 feet north of Rifle Range Road (S.C.R. 545) and being more particularly described in the attached legal description prepared by David W. Baker, Esq., said parcel containing 74.96 acres, more or less.

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

JAMIE WHITEHOUSE, AICP  
DIRECTOR OF PLANNING & ZONING  
(302) 855-7878 T  
pandz@sussexcountyde.gov



**Sussex County**

DELAWARE  
sussexcountyde.gov

## Memorandum

To: Sussex County Council  
The Honorable Michael H. Vincent  
The Honorable Cynthia C. Green  
The Honorable Douglas B. Hudson  
The Honorable John L. Rieley  
The Honorable Mark G. Schaeffer

From: Jamie Whitehouse, AICP, Director of Planning & Zoning

CC: Everett Moore, County Attorney

Date: February 2, 2024

RE: County Council Report for C/U 2385 filed on behalf of Consolidated Edison Development, Inc.

---

The Planning and Zoning Department received an application (C/U 2385 filed on behalf of Consolidated Edison Development, Inc.) for a solar farm (array) on parcel 532-19.00-57.00. The property is located at 8517 West Line Road, Delmar. The parcel size is 29.45 acres +/-

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

The County Council held a Public Hearing on the application at its meeting on December 5, 2023. At the conclusion of the Public Hearing, action on the application was deferred for further consideration. Below is a link to the minutes of the December 5, 2023, County Council meeting.

[Link to the Minutes of the December 5, 2023 County Council Meeting](#)

Below are the minutes from the Planning & Zoning Commission meeting of September 28, 2023, and October 12, 2023.

[Minutes of the September 28, 2023, Planning & Zoning Commission Meeting](#)

### **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**



COUNTY ADMINISTRATIVE OFFICES  
2 THE CIRCLE | PO BOX 417  
GEORGETOWN, DELAWARE

**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.

Mr. Whitehouse advised the Commission that submitted into the record were a copy of the Applicant's conceptual site plan and exhibits, the DelDOT Service Level Evaluation Response, and a letter from the Sussex County Engineering Department Utility Planning Division. Mr. Whitehouse stated that there were zero comments.

The Commission found that Mr. Joe Shanahan, spoke on behalf of the Applicant, RWE Clean Energy owner of Consolidate Edison Development, Inc. Mr. Shanahan stated that C/U 2385 is the Delmar B project located at 8517 West Line Road in Delmar, Delaware; that for the purpose of this public hearing he requested that the testimony presented in connection with the public hearing for C/U 2381, including the introductions and attributes that these seven projects have in common be entered into this record; that the specifics of this site are shown on the site plan and the lease area/conditional use area is 17.21 acres of an overall 29.45 acre property; that the setback is approximately 425 ft. from Delaware Avenue with access by a 20 ft. gravel driveway; that the site is mainly undeveloped except for a single-family dwelling occupied by the landowners daughter; that there are portions of wooded area to the east, west and north; that there are some wetlands to the south and western sides of the property and all development is outside of the wetlands; that the site is owned by William J. and Janet James who purchased the property in 2010 as it was adjacent to their then existing property where they continue to reside; that Mr. James and his daughter were present earlier this evening but had to leave; that he met with Mr. & Mrs. James on the occasion of their 60<sup>th</sup> wedding anniversary; and that they are hopeful that this Conditional Use permit will be granted so that they may have the rental income for many years to come so that they can maintain the two family properties and keep them in the family.

Mr. Shanahan stated that he was ready to address any questions from the Commission members.

There were no questions from Commission members.

The Commission found that there was no one present who wished to speak in favor of or in opposition to C/U 2385.

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 2385 Consolidated Edison Development, Inc. Motion by Ms. Wingate to defer action for further consideration, seconded by Mr. Mears and carried unanimously. Motion carried 4-0.

Minutes of the October 12, 2023, Planning & Zoning Commission Meeting

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.

**PLANNING & ZONING COMMISSION**

ROBERT C. WHEATLEY, CHAIRMAN  
KIM HOEY STEVENSON, VICE-CHAIRMAN  
R. KELLER HOPKINS  
J. BRUCE MEARS  
HOLLY J. WINGATE



**Sussex County**

DELAWARE  
sussexcountyde.gov  
302-855-7878 T  
302-854-5079 F  
JAMIE WHITEHOUSE, AICP, MRTPI  
DIRECTOR OF PLANNING & ZONING

**PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET**  
Planning Commission Public Hearing Date: September 28<sup>th</sup>, 2023

Application: CU 2385 Consolidated Edison Development, Inc. (West Line Road)

Applicant: Consolidated Edison Development, Inc. (West Line Road)  
c/o Joe Shanahan  
100 Summit Lake Drive  
Valhalla, NY 10595

Owner: William J. James & Janet G. James  
38713 James Lane  
Delmar, DE 19940

Site Location: Lying on the north side of West Line Road (S.C.R. 512), approximately  
0.67 mile west of Delmar Road (Route 54)

Current Zoning: GR (General Residential)

Proposed Use: Solar Farm consisting of photovoltaic electric generation facility on a  
(17.45) acre portion of the parcel.

Comprehensive Land  
Use Plan Reference: Developing Area

Councilmanic  
District: Mr. Vincent

School District: Delmar School District

Fire District: Delmar Fire Department

Sewer: N/A

Water: N/A

Site Area: 29.45 acres +/- (p/o 17.45 acres +/-)

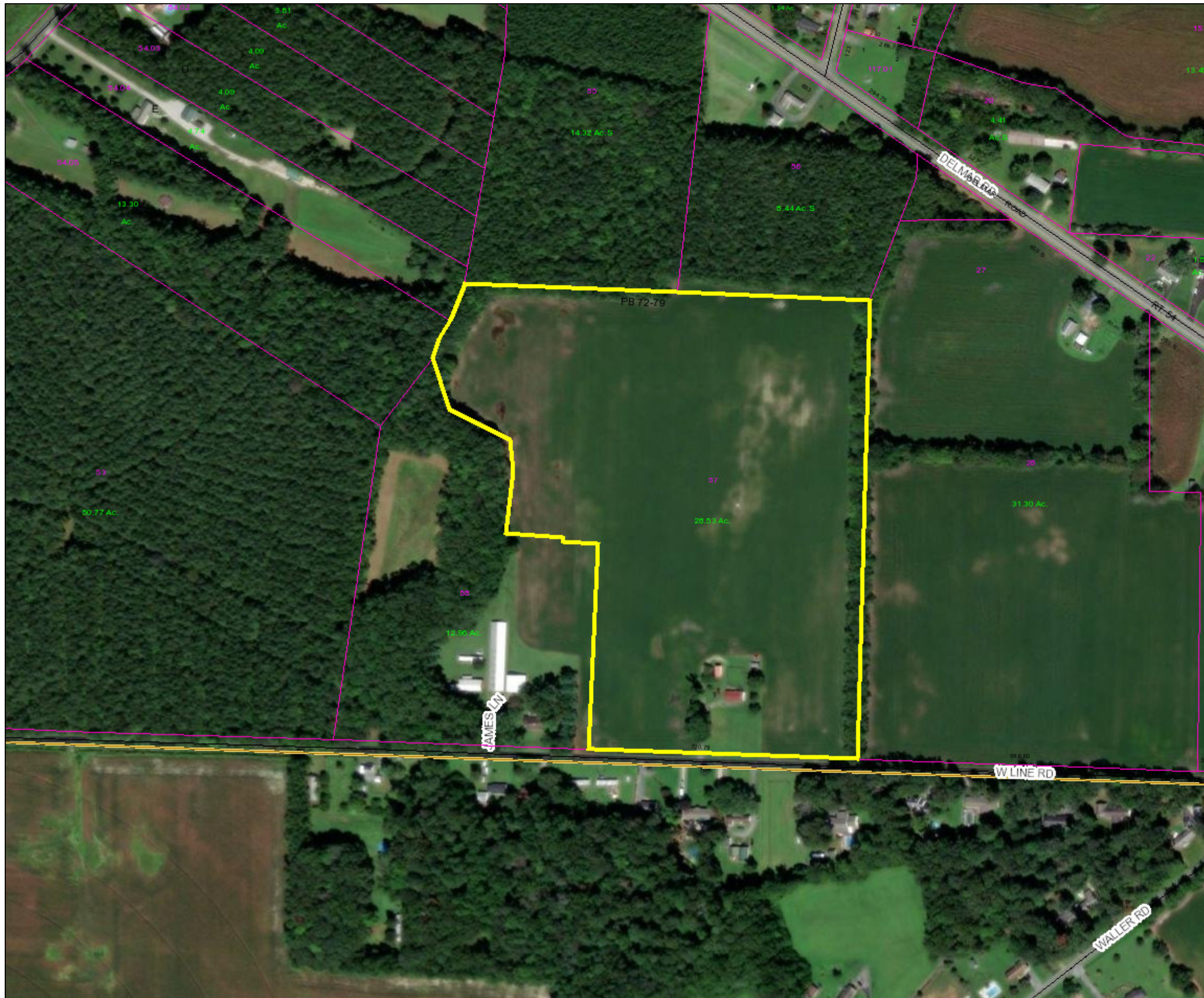
Tax Map ID: 532-19.00-57.00







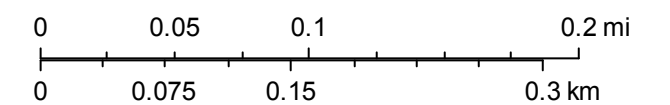
# Sussex County

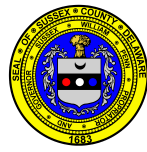


<b>PIN:</b>	532-19.00-57.00
<b>Owner Name</b>	JAMES WILLIAM J TTEE REV TR
<b>Book</b>	5857
<b>Mailing Address</b>	38712 JAMES LN
<b>City</b>	DELMAR
<b>State</b>	DE
<b>Description</b>	N/RT 512
<b>Description 2</b>	E/RT 502
<b>Description 3</b>	N/A
<b>Land Code</b>	

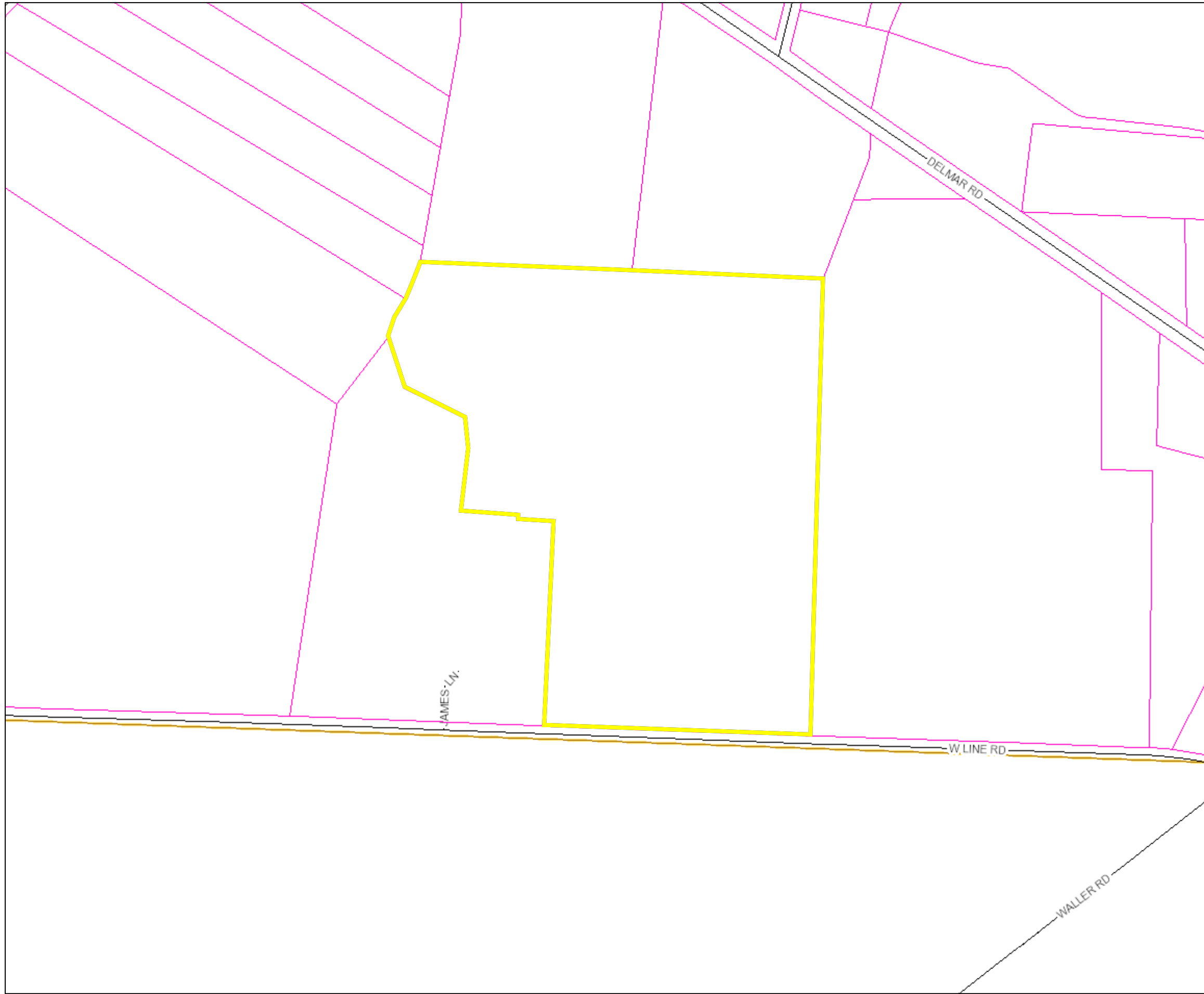
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- Override 1
- Tax Parcels
- Streets
- County Boundaries

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# Sussex County



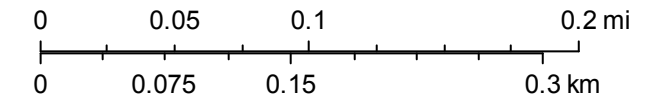
<b>PIN:</b>	532-19.00-57.00
<b>Owner Name</b>	JAMES WILLIAM J TTEE REV TR
<b>Book</b>	5857
<b>Mailing Address</b>	38712 JAMES LN
<b>City</b>	DELMAR
<b>State</b>	DE
<b>Description</b>	N/RT 512
<b>Description 2</b>	E/RT 502
<b>Description 3</b>	N/A
<b>Land Code</b>	

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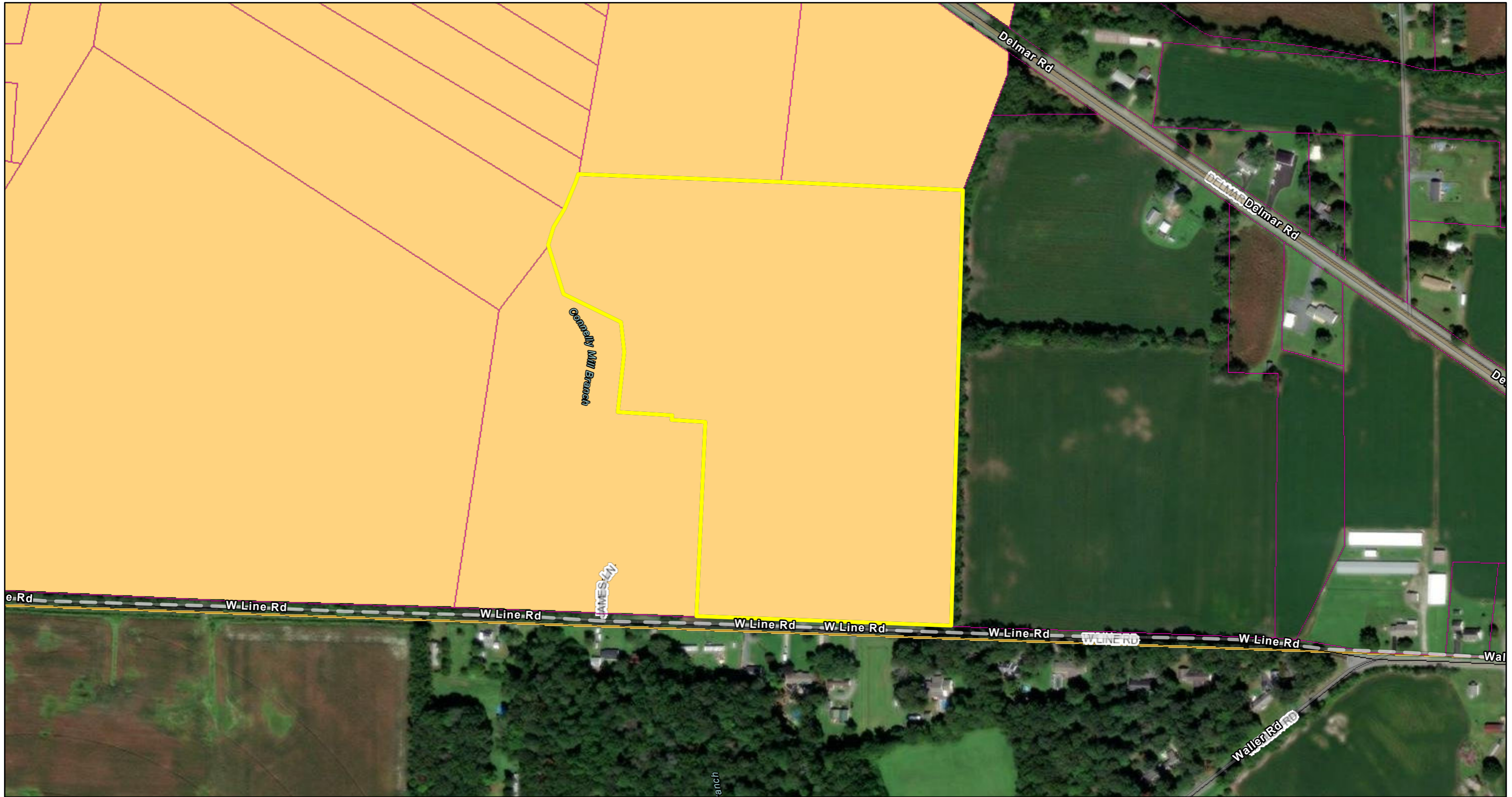
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  - Override 1
- Tax Parcels
- Streets
- County Boundaries

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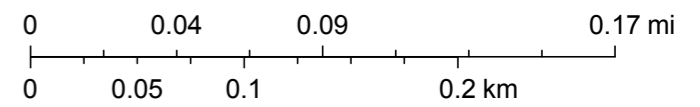
# Sussex County



August 25, 2023

- |                                 |                                  |                             |                               |                         |
|---------------------------------|----------------------------------|-----------------------------|-------------------------------|-------------------------|
| Override 1                      | Agricultural Residential - AR-2  | Neighborhood Business - B-1 | General Commercial - C-4      | Light Industrial - LI-2 |
| Override 1                      | Medium Residential - MR          | Neighborhood Business - B-2 | General Commercial - C-5      | Heavy Industrial - HI-1 |
| Tax Parcels                     | General Residential - GR         | Business Research - B-3     | Commercial Residential - CR-1 | County Boundaries       |
| Streets                         | High Density Residential - HR-1  | General Commercial - C-1    | Institutional - I-1           |                         |
| <b>Zoning</b>                   | High Density Residential - HR-2  | General Commercial - C-2    | Marine - M                    |                         |
| Agricultural Residential - AR-1 | Vacation, Retire, Resident - VRP | General Commercial - C-3    | Limited Industrial - LI-1     |                         |

1:4,514



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Introduced: 02/07/23

Council District 1: Mr. Vincent  
Tax I.D. No.: 532-19.00-57.00  
911 Address: 8517 West Line Road, Delmar

ORDINANCE NO. \_\_\_\_

**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**

WHEREAS, on the 30<sup>th</sup> day of June 2022, a Conditional Use Application, denominated Conditional Use No. 2385 was filed on behalf of Consolidated Edison Development, Inc.; and

WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2023, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2385 be \_\_\_\_\_; and

WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2023, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County determined, based on the findings of facts, that said conditional use is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and that the conditional use is for the general convenience and welfare of the inhabitants of Sussex County.

**NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:**

Section 1. That Chapter 115, Article VI, Subsection 115-39, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2385 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land, lying and being situate in Little Creek Hundred, Sussex County, Delaware, and lying on the north side of West Line Road (S.C.R. 512) approximately 0.67 mile west of Delmar Road (Route 54) and being more particularly described in the attached legal description prepared by Bergmann, said parcel containing 29.45 acres, more or less.

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

VINCENT.  
OK. 1/25

## Casey Hall

---

**From:** notifications=d3forms.com@mg.d3forms.com on behalf of Sussex County DE  
<notifications@d3forms.com>  
**Sent:** Wednesday, January 24, 2024 9:18 AM  
**To:** Casey Hall  
**Subject:** Sussex County DE - Council Grant Form: Form has been submitted

**CAUTION:** This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

### ***Council Grant Form***

<b>Legal Name of Agency/Organization</b>	Laurel Historical Society
<b>Project Name</b>	Restoration of Hitchens Homestead
<b>Federal Tax ID</b>	51-0209785
<b>Non-Profit</b>	Yes
<b>Does your organization or its parent organization have a religious affiliation? (If yes, fill out Section 3B.)</b>	No
<b>Organization's Mission</b>	The mission of the Laurel Historical Society is to preserve and interrupt the cultural history of the Laurel community and to foster an appreciation of its historical significance through education and outreach.
<b>Address</b>	PO Box 102
<b>City</b>	Laurel
<b>State</b>	DE
<b>Zip Code</b>	19973

<b>Contact Person</b>	Georget Denney
<b>Contact Title</b>	President
<b>Contact Phone Number</b>	302-745-1963
<b>Contact Email Address</b>	<a href="mailto:gdenney3@comcast.net">gdenney3@comcast.net</a>
<b>Total Funding Request</b>	10,000
<b>Has your organization received other grant funds from Sussex County Government in the last year?</b>	No
<b>If YES, how much was received in the last 12 months?</b>	N/A
<b>Are you seeking other sources of funding other than Sussex County Council?</b>	Yes
<b>If YES, approximately what percentage of the project's funding does the Council grant represent?</b>	10
<b>Program Category (choose all that apply)</b>	Cultural Educational Infrastructure
<b>Primary Beneficiary Category</b>	Low to Moderate Income

Approximately the total number of Sussex County Beneficiaries served, or expected to be served, annually by this program

2000

**Scope**

The restoration of Hitchens Homestead<sup>\*</sup> serves to inspire the depressed Town of Laurel and citizens to being the revitalization of the blighted neighborhood. The Millhand House, once the home of African Americans needs major repair to the support piers. This grant will provide part funding for this important project to save this structure. Without we funding, we risk losing this historical African American structure.

**Religious Components**

N/A

Please enter the current support your organization receives for this project (not entire organization revenue if not applicable to request)

40,000.00

**Description**

Repair of brick support piers<sup>\*</sup>

**Amount**

15,000.00

**TOTAL EXPENDITURES**

15,000.00

**TOTAL DEFICIT FOR PROJECT OR ORGANIZATION**

25,000.00

?

Mike ok. 1/25.

**Name of Organization**

Laurel Historical Society

**Applicant/Authorized  
Official**      Geroge Denney

**Date**                      01/24/2024

**Affidavit  
Acknowledgement**      Yes