

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

December 5, 2023

10:00 AM

Call to Order

Approval of Agenda

Approval of Minutes - November 14, 2023

[Draft Minutes 111423](#)

Reading of Correspondence

Public Comments

Consent Agenda

1. **Proclamation Request – Cape Henlopen High School Field Hockey Division I State Champions**
2. **Proclamation Request – Delmar High School Field Hockey Division II State Champions**
3. **Proclamation Request – Sussex Academy High School Boys' Soccer Division II State Champions**
4. **Use of Existing Wastewater Infrastructure Use Agreement IUA-18 02 350
Millville Square (Millville Area)**
[Consent Agenda Millville Square](#)
5. **Use of Existing Wastewater Infrastructure Use Agreement IUA-1193
The Preserve at Shore Vista (Ocean View Area)**
[Consent Agenda The Preserve at Shore Vista](#)



Todd Lawson, County Administrator

1. **Administrator's Report**

John Ashman, Director of Utility Planning & Design Review

1. **Plan Review and Inspection Agreement**

A. Municipal Boundaries

[Plan Review & Inspection Agreement](#)

2. **Permission to Prepare and Post Notices for South Greenwood Annexation into the Sussex County Unified Sanitary Sewer District (Western Sussex Area)**

[Permission to Prepare & Post Notices South Greenwood](#)

Hans Medlarz, County Engineer

1. **Joy Beach Phase II**

A. KCI Amendment 5

[Joy Beach KCI Amend 5](#)

2. **South Coastal WRF Treatment Process Upgrade No.3 & Rehoboth Beach WTP Capital Improvement Program, Phase 2**

A. Electrical Construction, Project C19-17, Change Order No. 25

[SCRWF BW CO 25](#)

3. **Cannon–Inland Bays Roads Drainage Improvements & Constructed Wetlands, Project S22-05**

A. Change Order No. 3

[Cannon Rd CO 3](#)

Vince Robertson, Assistant County Attorney

1. **Presentation & Discussion related to the Delaware Marijuana Control Act**

Old Business

1. **[Ordinance No. 20-06](#)**

“AN ORDINANCE TO AMEND THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCEL NO. 132-2.00-264.00 (PORTION OF)”

[Old Business Ord 20-06](#)

2. [Change of Zone No. 1910 filed on behalf of Brickyard Apartments, LLC](#)

“AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A GR GENERAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 3.093 ACRES, MORE OR LESS” (property lying on the northwest side of Brickyard Road, approximately 0.3 miles southeast of Sussex Highway) (Route 13) (Tax I.D. No. 132-2.00-264.00) (911 Address: 9329 Brickyard Road, Seaford)

[Old Business CZ1910](#)

3. [Conditional Use No. 2212 filed on behalf of Brickyard Apartments, LLC](#)

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

[Old Business CU2212](#)

4. [Ordinance No. 22-08](#)

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

[Old Business Ord 22-08](#)

5. [Change of Zone No. 1959 filed on behalf of Charles E. Turner, Jr.](#)

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

[Old Business CZ1959](#)

6. [Conditional Use No. 2320 filed on behalf of Charles E. Turner, Jr.](#)

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

[Old Business CU2320](#)

7. [Change of Zone No. 1979 filed on behalf on J.G. Townsend, Jr. & Co.](#)

“AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AN MR MEDIUM RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 25.56 ACRES, MORE OR LESS” (property lying on the east side of Kings Highway [Rt. 9] and Gills Neck Road [S.C.R. 267], at the intersection of Kings Highway [Rt. 9] and Gills Neck Road [S.C.R. 267]) (911 Address: 16673 Kings Highway, Lewes) (Tax Map Parcel: 335-12.00-3.00 [p/o])

[Old Business CZ1979](#)

8. [Conditional Use No. 2359 filed on behalf of J.G. Townsend Jr. & Co.](#)

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

[Old Business CU2359](#)

Grant Requests

1. **Law Enforcement United, Inc. for Road to Hope 2024**
[Law Enforcement United, Inc.](#)
2. **Good Samaritan Aid Organization, Inc. for their Annual Christmas Food Basket/Toy Outreach**
[Good Samaritan Aid Organization](#)
3. **Blades Police Department for security cameras and a shelf monitor**
[Blades Police Department](#)

Introduction of Proposed Zoning Ordinances

[Ord Intros CU2401 CZ2006 CU2428 CZ1999](#)

Council Members' Comments

Executive Session - Personnel pursuant to 29 Del.C.§10004(b)

Possible action on Executive Session Items

1:30 p.m. Public Hearings

1. **“AN ORDINANCE TO AMEND ORDINANCE NO. 2787 TO AUTHORIZE THE ISSUANCE OF UP TO A TOTAL OF \$5,187,000 OF GENERAL OBLIGATION BONDS OF SUSSEX COUNTY TO COVER THE INCREASED COSTS OF THE CONSTRUCTION AND EQUIPPING OF AN EXTENSION OF SANITARY SEWER SERVICES TO LOCHWOOD AND AUTHORIZING ALL NECESSARY ACTIONS IN CONNECTION THEREWITH”**

A. USDA Loan Resolution for Lochwood Area

[Public Hearing Lochwood](#)

2. **[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)

[Public Hearing CU2381](#)

3. **[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)

[Public Hearing CU2382](#)

4. **[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])

[Public Hearing CU2383](#)

5. [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])

[Public Hearing CU2384](#)

6. [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)

[Public Hearing CU2385](#)

7. [Conditional Use No. 2386 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 CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 53.891 ACRES, MORE OR LESS” (property lying on the east and west side of Cast Rite Drive on the south side of Bacons Road [S.C.R. 515], approximately 0.39 mile west of Country Walk) (911 Address: 35204 Cast Rite Drive, Delmar) (Tax Map Parcel: 532-6.00-32.00)

[Public Hearing CU2386](#)

8. [Conditional Use No. 2387 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 TO BE LOCATED ON A PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 17.04 ACRES, MORE OR LESS” (property lying on the north and south sides of Hastings Lane and the west side of Bi-State Boulevard [Rt. 13A], approximately 0.37 mile north of Old Crow Road [S.C.R. 503B]) (911 Address: 10311 Hastings Lane, Delmar) (Tax Map Parcel: 532-13.00-22.00 [p/o])

[Public Hearing CU2387](#)

Adjourn

-MEETING DETAILS-

In accordance with 29 Del.C. §10004(e)(2), this Agenda was posted on November 28, 2023 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, NOVEMBER 14, 2023

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, November 14, 2023, at 1:00 p.m., in Council Chambers, with the following present:

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

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

**Call to
Order**

Mr. Vincent called the meeting to order.

**M 536 23
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**

Minutes

The minutes from November 7, 2023, were approved by consensus.

**Corre-
spondence**

There was no correspondence.

There were no public comments.

**Public
Comments**

**2024 CC
Meeting
Schedule &
Holiday
Schedule**

Mr. Lawson presented the 2024 Council Meeting Schedule and Holiday Schedule for Council's consideration. Mr. Lawson noted that 2024 is an election year, therefore, the schedule will be adjusted accordingly to reflect Election Day, Primary Day, and Return Day. Mr. Lawson reported the days that the County Offices will be closed for 2024.

**M 537 23
Approve
2024**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, that be it moved that the Sussex County Council approves the 2024 County Holiday Schedule and the 2024 Council Meeting Schedule as presented.

Motion Adopted: 5 Yeas

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

SCLT **Mr. Lawson reviewed a property management agreement with the Sussex
Managem-** **County Land Trust for Hopkins Preserve.**
ent

Agreement **Mr. Lawson reported that County Council approved the purchase of the
property known as Hopkins Preserve off Sweetbriar Road, west of Lewes
on January 11, 2022. The County paid one million five hundred thousand
dollars for over 40 acres of land. In May 2022, the purchase agreement
between the County and Mr. Walter Hopkins was ratified. In June 2022, the
property officially settled.**

**The purchase of Hopkins Preserve was a unique negotiated acquisition. Mr.
Hopkins agreed to the sell the property only if it were to be preserved and
developed into an amenity the public could access and enjoy. In
consideration for this arrangement, Mr. Hopkins sold the property for less
than its appraised value. Part of the agreement included SCLT develop the
property and ultimately manage the Preserve. In anticipation of the
development of the Preserve, the County has allocated \$981,000 to be used
for construction costs.**

**The purchase stipulated that a Deed of Conservation Easement be recorded
in favor of the SCLT for the purposes of developing and managing the
property. Additionally, the purchase stipulated that the County and SCLT
enter into a Property Management Agreement outlining the responsibilities
of each party.**

**The Agreement specifies SCLT's roles and responsibilities in managing
Hopkins Preserve. The agreement is for a period of twenty-five years with a
twenty-five-year extension. SCLT is responsible for the development,
solicitation of bids, and construction of the agreed upon improvements. The
County will reimburse SCLT for completed work in \$245,250 increments
up to \$981,000. Any additional funding requests will need to be approved in
a future County budget. SCLT will serve as the day-to-day manager and is
also responsible for the long-term maintenance of the facility.**

**Mr. Vincent asked what the SCLT would be spending for the project. Mr.
Mark Chura from SCLT came forward to provide information of what they
plan to provide financially towards the project.**

M 538 23 **A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer, that be it
Approve** **moved that Sussex County Council approves the property management
SCLT** **agreement and the terms therein with the Sussex County Land Trust for the
Managem-** **purposes of managing the property known as Hopkins Preserve.**
ent

Agreement **Motion Adopted: 5 Yeas**

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

**Adminis-
trator's
Report**

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

1. Delaware Animal Services Performance Report

The Delaware Animal Services Performance Report for the first, second and third quarters of 2023 are attached listing the total number of calls for service by location as well as a breakdown of the total types of calls in Sussex County. In total there were 5,181 calls for service in the first three quarters of 2023 for Sussex County.

2. Advisory Committee on Aging & Adults with Physical Disabilities for Sussex County

The Advisory Committee on Aging & Adults with Physical Disabilities for Sussex County will meet November 20th at 10:00 a.m. at the Sussex County Administrative Offices West Complex, 22215 North DuPont Boulevard, in Georgetown. A copy of the meeting agenda is attached.

3. Council Meeting/Holiday Schedule

Council will not meet on Tuesday, November 21st, during the week of Thanksgiving. County offices will be closed on Thursday, November 23rd and Friday November 24th, for the Thanksgiving holiday and will reopen on Monday, November 27th, at 8:30 a.m.

Please also note that Council will not meet on Tuesday, November 28th. The next regularly scheduled Council meeting will be held on December 5th at 10:00 a.m.

4. County Holiday and Employee Appreciation Luncheon

The County's Holiday and Employee Appreciation Luncheon will take place on Friday, December 1, 2023, at the Crossroads Conference Center. County offices will close at 12:00 p.m. on December 1st and will reopen on Monday, December 4th, at 8:30 a.m. The public is asked to plan accordingly during this time, and we appreciate the public's understanding.

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

**FY24
Human
Service
Grants**

Mrs. Jennings presented the FY 2024 Human Service Grants for Council's consideration. Mrs. Jennings noted that there was \$225,000 included in the budget.

Mrs. Jennings introduced Sophia Chillelli, an Intern with Sussex County who provided a presentation on the formula used. Ms. Chillelli reviewed the Human Service Grant purpose and process of how the formula was created. This year, there was \$429,358 received in requests from 75 qualified organizations. There was a variety of types of beneficiaries with youth being the largest group at 25%. The list of recipients along with the recommended grant amount was provided in the Council's packets.

**M 539 23
Approve
FY24
Human
Service
Grants**

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson that be it moved that the Sussex County Council, approve the Fiscal Year 2024 Human Service Grant allocation 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**

**EMS Public
Safety Bldg/
CO No. 26**

Thomas Van Dyke, Project Engineer I presented Change Order No. 26 for EMS Public Safety Building – Project C19-04 for Council's consideration. Mr. Van Dyke reviewed the items included in the change order.

**M 540 23
Approve CO
No. 26/EMS
Public
Safety Bldg.**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, be it moved based upon the recommendation of the Sussex County Engineering Department that change order no. 26 for contract C-19-04, Sussex County Public Safety Building be approved for a decrease of \$6,000 with any held retainage released in accordance with the contract documents.

Motion Adopted: 5 Yeas

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

**Aviation
Apron
Expansion/
CO No. 1 &
2**

Robert Bryant, Airport & Business Park Manager presented change orders 1 & 2 and substantial completion for General Aviation Apron Expansion, Phase IV, Project A20-36 for Council's consideration.

**M 541 23
Approve CO**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley, that be it moved based upon the recommendation of the Sussex County Engineering Department that the Sussex County Council approves acceptance for the construct general aviation apron expansion phase IV project, A20-36 and

**No. 1 &
2/Aviation
Apron
Expansion**

that change order no. 1 contract price is decreased by \$268.00 and change order no. 2 contract price is decreased by \$169,506.07 and declare that substantial completion is granted effective November 14, 2023 at a final contract construction cost of \$1,764,024.93.

Motion Adopted: 5 Yeas

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

**Grant
Requests**

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

**M 542 23
New
Coverdale
Outreach
Mission, Inc.**

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 New Coverdale Outreach Mission, Inc. for operational expenses.

Motion Adopted: 5 Yeas

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

**M 543 23
Girl Scouts
of the
Chesapeake
Bay Council,
Inc.**

A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer to give \$2,000 (\$500 from Mr. Vincent's Councilmanic Grant Account, \$500 from Mr. Schaeffer's Councilmanic Grant Account and \$1,000 from Mr. Rieley's Councilmanic Grant Account) to Girl Scouts of the Chesapeake Bay Council, Inc. for an educational trip to Savannah, GA.

Motion Adopted: 5 Yeas

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

Ord. Intros

There were no Ordinances for Introduction.

**CC Member
Comments**

There were no Council Member comments.

**M 544 23
Go Into
Executive
Session**

At 1:20 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, collective bargaining, personnel & land acquisition.

Motion Adopted: 4 Yeas, 1 Absent

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

Executive Session At 1:23 p.m., an Executive Session of the Sussex County Council was held in the Basement Caucus Room to discuss matters related to pending/potential litigation, collective bargaining, personnel & land acquisition. The Executive Session concluded at 1:40 p.m.

M 545 23 Reconvene At 1:43 p.m., a Motion was made by Mr. Hudson, seconded by Mr. Rieley to come out into Executive Session back into Regular Session.

Motion Adopted: 4 Yeas, 1 Absent

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

E/S Action There was no action related to Executive Session matters.

**Public Hearing/
Ord. No. 23-09** A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE SUSSEX COUNTY SEWER TIER MAP OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCEL 533-11.00-23.02” (property lying on the northeast side of Zion Church Road [Rt. 20], approximately 275 feet northwest of Deer Run Road [S.C.R. 388]) (911 Address: N/A) (Tax Map Parcel: 533-11.00-23.02) (Zoning: AR-1 [Agricultural Residential])

Jamie Whitehouse, Planning and Zoning Director presented the Proposed Ordinance. Mr. Whitehouse noted that the request is to change the designated of the sewer tier from a Tier 4 to Tier 2.

The Planning & Zoning Commission held a Public Hearing on the application on October 12, 2023. At the meeting of October 12, 2023, the Planning & Zoning Commission recommended the adoption of the Ordinance for the reasons as outlined within the motion.

Following the Commission’s recommendation to adopt the Ordinance, the Ordinance has been submitted to the State of Delaware’s Preliminary Land Use Review process. The item is scheduled to be heard at the PLUS meeting on November 15, 2023. Following receipt of written PLUS comments from the State of Delaware, these will be reported to the County Council.

Public comments were heard.

The Commission found that Mr. David Hutt, Esq., with Morris James, LLP, spoke on behalf of the Ordinance Application. Mr. Hutt stated that the change in the sewer tier is consistent with the Sussex County Comprehensive Plan and the Future Land Use Map categories; that with Chapter 4 it states, that central sewer facilities are strongly encouraged within the Future Land Use Map designation of the Coastal Area; that the entire site is located within the Coastal Area; that across the street from the

property is not the same purple shade that is shown on the screen.

The Public Hearing was closed.

M 546 23
Leave
Record
Open/Ord.
No. 23-09

A Motion was made by Mr. Hudson, seconded by Mr. Rieley to leave the record open for 30 days after receiving the PLUS recommendation.

Motion Adopted: 5 Yeas

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

Rules

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

Public
Hearing/
CU2389 &
CU2392

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A COMMERCIAL STORAGE FACILITY INCLUDING RV/BOAT STORAGE, THE STORAGE OF COMMERCIAL VEHICLES, AND AN OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 6.95 ACRES, MORE OR LESS” (property lying on the northeast side of Zion Church Road [Rt. 20], approximately 275 feet northwest of Deer Run Road [S.C.R. 388]) (911 Address: N/A) (Tax Map Parcel: 533-11.00-23.02) filed on behalf of AWH Properties, LLC

The Planning & Zoning Commission held a Public Hearing on the application on October 12, 2023. At the meeting of October 26, 2023, the Planning & Zoning Commission recommended approval of the application for the 8 reasons stated and subject to the 14 recommended conditions as outlined.

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

The Planning & Zoning Commission held a Public Hearing on the application on October 12, 2023. At the meeting of October 26, 2023, the Planning & Zoning Commission recommended approval of the application

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CU2389 &
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(continued)**

for the 8 reasons stated and subject to the 19 recommended conditions as outlined.

Jamie Whitehouse, Planning and Zoning Director presented the applications.

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

Mr. Hutt stated that the properties are located directly across from each other along Zion Church Rd.; that the property's ownership groups are the same, despite the different names of the entities; that the properties are located along Zion Church Rd. (Rt. 20), being a short distance north from Deer Run Rd; that C/U 2392 Zion Church Ventures, LLC would be the western project, and C/U 2389 AWH Properties, LLC would be the eastern project; that the Application for C/U 2389 AWH Properties, LLC is for RV, boat and self-storage, which is a permitted Conditional Use within the AR-1 (Agricultural Residential) District; that the proposed use for the western side, is a new form of self-storage; that this form of self-storage is a bit more elaborate, being where a person can buy an individual self-storage unit, that would be located within the proposed project area; that these projects are often referred to as a "Hobby Condo" or "Man or She Caves"; that within the surrounding area for both properties are Your Space Self Storage, European Coach Werkes, Inc. and the recently approved GR-RPC known as Twin Cedars; that both properties are located within Investment Level 3, which is where the State anticipates growth in the near and long term future; that there is a portion of the western parcel, for C/U 2392 Zion Church Ventures, LLC, which is located within Investment Level 4, where the State does not anticipate growth; that the surrounding areas are generally located within Investment Levels 2 and 3; that in areas located within Investment Level 4 are areas where the State believes there may be wetlands; that neither of the Applications will involve public funds for their proposed uses; that these Applications will provide a service for the existing residents in the area to store their belongings; that according to the 2045 Future Land Use Map found in Sussex County's Comprehensive Plan both properties are located within the Coastal Area, which is a Growth Area; that properties located to the west of the sites are located within the Developing Area, which is also a Growth Area; that the permitted uses within the Coastal Area and the Developing Area are very similar; that mixed-use development is encouraged in those areas, to help provide convenient services that allow people to work close to home; that the Applications propose a mixed use for the area, to provide a service for individuals who live in communities or cluster subdivisions where they are not permitted to have an RV, boat or multiple vehicles; that these Applications will provide people a location to be able to do so; that he felt,

**Public
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CU2389 &
CU2392
(continued)**

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

Mr. Hutt stated that C/U 2389 AWH Properties, LLC, being the eastern property, was the subject site of the previously heard application for Ordinance No. 23-09; that this location is for the proposed use of boat and RV storage; that there would be a 2,500 sq. ft. self-storage building located to the northern end of the property; that there would be a 576 sq. ft. office located just in front of the self-storage building; that the entrance would be located off Zion Church Rd., which will align with the entrance to the western property; that there would be a fence and it would be gated access; that there would be one unlit sign proposed to be placed along Zion Church Rd., not to exceed 32 sq. ft.; that any security lighting would be downward screened, as to not shine onto Zion Church Rd. or onto neighboring properties; that the site was evaluated by Watershed Eco for the presence of wetlands; that a report, as well as, a Preliminary Jurisdictional Determination have been included within the project materials; that there was a recent Supreme Court decision, which reclassified wetlands and the definition of wetlands nationally; that there are two ditches that run along the boundaries of the property with a 50 ft. tax ditch right of way; that they

**Public
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CU2389 &
CU2392
(continued)**

had discussions with Mr. James McCulley and Mr. William Twupack, with Watershed Eco, who indicated the wetlands located to the rear of the property, may continue to be classified as wetlands as they have intermittent connections to the tax ditches; that there is a 25 ft. buffer proposed from the wetlands; that per the DelDOT Service Level Evaluation Response, there would be a diminutive impact on traffic, which is the lowest impact a project could have, with less than 50 vehicle trips per day for the proposed use; that they have proposed a condition that no washing, cleaning or maintenance are permitted on the site; that he requested some changes to the proposed conditions recommended by the PZ Commission; that the proposed changes are under condition 9; that the first is to make it clear that it is not just boats and RVs that could be stored here; that there are other types of vehicles that could potentially be stored here; that the proposed language added was to state under 9 A. "The use shall be limited to the outside storage (covered or uncovered) of vehicles, trailers, motorcycles, boats, and RV's, a 2,500-square-foot building for self-storage, and a 576-square-foot-building. No other outside storage of vehicles or equipment shall occur on the site"; that the same changes occur under D, K and M related to expand it to capture all of the potential types of vehicular uses; that under Condition 9 B, that the recommended condition was for it to only be accessible until dusk; that it is being proposed to read "Other than picking up or dropping off a vehicle, trailer boat or RV. The facility shall only be accessible from 6:00 a.m. until 10:00 p.m. and access to the site shall be locked to limit access accordingly"; that there is a minor change in C requested; that the perimeter of the storage and buildings will be fenced rather than the site; that the concern is that there would not be a need for a fence to run the perimeter of the entire property; that the only areas that would need fencing would be the areas where the storage is occurring.

Mr. Hutt stated that C/U 2392 Zion Church Ventures, LLC, being the western property, is a proposed 180,500 sq. ft. of warehouse or storage buildings; that in addition to the proposed climate-controlled buildings, there is a proposed 2,500 sq. ft. building for a car wash, with a potential additional amenity of a clubhouse, pool and patio area, to be located just off Zion Church Rd.; that the additional amenities are optional; that the individual units are anticipated to be much like a "Man Cave"; that a person would purchase a unit; that the person would then have, through that purchase, access to the car wash and amenities; that the frequent users of these types of units are people with hobbies, who desire to have their hobbies located within a climate controlled environment; that these are typically people who wish to store motorcycles, sports cars, classic cars, RVs, boats and other hobby type items; that many people who have these types of hobbies, also enjoy tinkering with those hobby items; that this proposed use will allow people to do that; that these units would allow people to work on their hobby items, and be around others who may share the same hobby interests; that this is the reasoning for the potential clubhouse, to allow for people a place to meet to discuss their similar hobbies; that the car wash amenity would not be an optional amenity and is absolutely proposed; that the car wash area would be an area for those who

**Public
Hearing/
CU2389 &
CU2392
(continued)**

are a part of the condominium association to wash their vehicles; that to allow people the ability to work on their vehicles, there would be an oil recycling facility located on the site; that all work would be performed indoors; that there would be a RV sewer cleanout; that the entrance would be located off Zion Church Rd.; that Mr. Jamie Sechler did participate in a pre-submittal meeting with DeIDOT for both properties; that there would be a fence around the entirety of the property, with a gated entrance; that the site was evaluated by Watershed Eco for the presence of wetlands; that a report, as well as, a Preliminary Jurisdictional Determination have been included within the project materials; that the wetland areas on the site do not have any connections, and are likely no longer regulated or jurisdictional wetlands; that this is still a determination which needs to be made; that in the case those areas are considered wetlands, a 25 ft. buffer is proposed from those areas; that in addition, there are two locations where there would be an impact to the wetlands; that per consultation with Watershed Eco, they indicated that a nationwide permit to fill the two locations, because they are less than .5 acre, would be readily available; that according to the DeIDOT Service Level Evaluation Response, the proposed use would have a negligible impact on traffic, indicating that the anticipated traffic would be less than 50 vehicles per hour and less than 500 vehicle trips per day; that a picture of the proposed buildings were shown; that both applications went through a public hearing before the Planning Commission; that both are uses that would typically be found in the Conditional Use section of the Code; that there were some amendments requested from the Planning Commission's recommended conditions that were distributed; that under 9A, it is requested to the word "optional" be added before pool and clubhouse amenity; that those things may exist as the site progresses; that under 9A, the next sentence was modified to read "The amenities (car wash area), oil recycling and disposal facility, RV sewer clean and optional (pool and clubhouse) shall be for the exclusive use of the owners and their families and guests;"; that this clarifies that it is for all of the amenities; that in recommended condition 9D, it is proposed to strike climate controlled; that recommended condition N was proposed to be taken out completely; that the Planning Commission had recommended that there be an onsite management office managing the property and the operation of it; that it states that it should be open during regular business hours; that this would impose a significant financial hardship on this project; that many self-storage projects of this size do not have an onsite manager all of the time; that there can be an area on the site that functions as an office; that most people would be there on a weekend or an evening; that under recommended condition O, it states "The units shall only have bathrooms with a sink and toilet. No showers, bathtub type fixtures or plumbing connections shall be permitted. Instead, any shower/bathing facilities shall be in standalone, centrally located buildings located on the site."; that it is being proposed to eliminate the proposed condition.

Mr. Vincent asked where it stated in the record that there would be bathrooms in the building. Mr. Hutt replied that it doesn't expressly say that. Mr. Vincent questioned where people would go to the bathroom. Mr.

**Public
Hearing/
CU2389 &
CU2392
(continued)**

Hutt stated that they would have a toilet and a sink. Mr. Hutt added that this was a limited condition that was proposed by the Planning Commission. So, another way to approach that would be to state that the units may have bathrooms. Mr. Hudson stated that it would need to be determined prior to the building being built if the units would have bathrooms.

Mr. Hudson questioned the office hours.

There were no public comments for either of the two applications.

The Public Hearing was closed for CU2389.

**M 547 23
Defer
Action/
CU2389**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley to defer action on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A COMMERCIAL STORAGE FACILITY INCLUDING RV/BOAT STORAGE, THE STORAGE OF COMMERCIAL VEHICLES, AND AN OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 6.95 ACRES, MORE OR LESS” and the public record was left open until 30 days after receiving the PLUS recommendation.

Motion Adopted: 5 Yeas

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

The Public Hearing and public record were closed for CU2392.

**M 548 23
Defer
Action/
CU2392**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley to defer action on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR STORAGE/WAREHOUSE BUILDINGS, A CAR WASH, & CLUBHOUSE WITH SWIMMING POOL TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 31.83 ACRES, MORE OR LESS”.

Motion Adopted: 5 Yeas

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

**Public
Hearing/
CU2448**

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM

**Public
Hearing/
CU2448
(continued)**

TO BE LOCATED ON A 35 ACRE PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 75.62 ACRES, MORE OR LESS” (property lying on the northeast side of Seashore Highway [Rt. 18 and S.C.R. 404], approximately 0.67 mile southeast of Sussex Highway [Rt. 13]) (911 Address: N/A) (Tax Map Parcel: 131-15.00-34.00 [p/o]) filed on behalf of TPE DE SU75, LLC.

The Planning & Zoning Commission held a Public Hearing on the application on October 12, 2023. At the meeting of October 12, 2023, the Planning & Zoning Commission recommended approval of the application for the 9 reasons and subject to the 8 recommended conditions as outlined.

Jamie Whitehouse, Planning and Zoning Director presented the application.

The Council found that Mr. Jon Falkowski, Civil Engineer with Becker Morgan Group, Inc., spoke on behalf of the Applicant and that also present was Mr. Jordan Belknap, with Turning Point Energy. Mr. Falkowski stated the project is on the Delmarva Power grid; that the property is in Bridgeville, bound between Rifle Range Rd. and Rt. 404; that the solar array area is to the north; that the proposed Conditional Use area will be comprised of 35 acres; that the solar array is in complete compliance with Ordinance No. 2920; that there is a 25-foot wide landscape buffer; that it fully encompass the perimeter of the solar array; that there will be a 7-foot fence; that there will be a Knox box with emergency access; that there is an existing farm lane off of Route 404 that will be utilized; that a wetland delineation was completed; that there are wetlands in a ditch; that there is a FEMA floodplain area zoned AE; that all of the applicable buffers are met; that that the site is located within the AR-1 (Agricultural Residential) Zoning District, and is mostly used for agricultural purposes, and the proposed use is for a community solar facility, made up of four megawatt ground-mounted tracking system; that the applicant agrees to the conditions placed by the Planning Commission; that they are aware of a tax increase.

Public comments were heard.

Mrs. Pam Tull spoke in favor of the application; that they are here today for her grandfather and his family’s work ethic; that they loved to farm; that her and her husband have been given a gift; that she is here today to represent her family; that they want to be good stewards of what have been given to her and her husband; that they have taken time to research this; that they have a perfect plot for a solar array; that everyone will benefit from this; that this honors her families legacy.

The Public Hearing and public record were closed.

**M 549 23
Adopt**

A Motion was made by Mrs. Green, seconded by Mr. Hudson to Adopt Ordinance No. 2960 entitled “AN ORDINANCE TO GRANT A

**Ordinance
No. 2960/
CU2448**

CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A 35 ACRE PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 75.62 ACRES, MORE OR LESS” for the reasons and conditions given by the Planning and Commission as follows:

- 1. The proposed facility is a public utility use under the Sussex County Zoning Code, and it meets the purposes of a Conditional Use because it has a public or semi-public character that is essential and desirable for the general convenience and welfare of Sussex County residents.**
- 2. This is an adaptive use of farmland that will preserve it from more intensive development. The solar array will be located on approximately 35 acres of a larger 75.62-acre tract.**
- 3. The proposed facility promotes Goal 7.3 of the Sussex County Comprehensive Plan which encourages the use of renewable energy options such as solar arrays. There was testimony that this solar array would benefit residential, business, and municipal subscribers with lower power costs.**
- 4. This Application complies with Ordinance No. 2920 regarding solar arrays. Therefore, specific conditions regarding its operation and screening are not necessary.**
- 5. The solar array is located in an area that primarily consists of tilled agricultural land. With the conditions imposed by the operation of Ordinance No. 2920 including separation distances and buffering, the proposed use will not have any adverse impact on the surrounding property.**
- 6. The proposed solar generation facility will not result in any noticeable increase in traffic on area roadways. There are no regular employees at the site, only periodic visits for inspections, maintenance, or repair of the solar panels.**
- 7. Based on the record there is no significant noise, glare, dust, or odor that will be generated by the facility.**
- 8. The proposed use provides a renewable energy source that is a benefit to the residents and businesses of Sussex County.**
- 9. There was no opposition to this Application.**
- 10. This recommendation is subject to the following conditions set forth in Ordinance No.2920 and the following additional conditions:**
 - a. The use shall be for ground-mounted solar arrays. No other types of electric generation shall be permitted at the site.**
 - b. The Final Site Plan shall clearly show the limits of the Conditional Use area for this solar array as well as the remaining acreage that is not part of this Conditional Use.**
 - c. Any lighting on the facility shall only consist of perimeter lighting needed for security purposes. Any lighting shall be downward screened so that it does not shine on neighboring properties or roadways.**
 - d. One unlit sign, not to exceed 32 square feet in size, shall be permitted. The sign shall identify the operator of the solar farm and**

**M 549 23
Adopt
Ordinance
No. 2960/
CU2448
(continued)**

- shall provide contact information in case of emergency.
- e. The location of all transformers or similar equipment or structures shall be shown on the Final Site Plan.
 - f. Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with all applicable State and County requirements. These facilities shall be operated using Best Management Practices.
 - g. The Final Site Plan shall include a Decommissioning Plan that includes financial security to ensure that funds are available for decommissioning and removal of the solar farm in its entirety throughout the life of the Conditional Use.
 - h. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.

Motion Adopted: 5 Yeas

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

**Public
Hearing/
CU2470**

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 64.59 ACRES, MORE OR LESS” (property lying on the east side of Savannah Road [S.C.R. 246], approximately 0.85 mile south of Rudd Road [S.C.R. 245]) (911 Address: N/A) (Tax Map Parcel: 135-15.00-8.00) filed on behalf of CI Solar DP, LLC.

The Planning & Zoning Commission held a Public Hearing on the application on October 12, 2023. At the meeting of October 26, 2023, the Planning & Zoning Commission recommended approval of the application for the 11 reasons and subject to the 10 recommended conditions as outlined.

Jamie Whitehouse, Planning and Zoning Director presented the application.

The Council found that Mr. David Hutt, Esq., with Morris James, LLP spoke on behalf of the Applicant; that also present were Mr. Walter Serafyn with CI Renewables, LLC and Mr. Mark Davidson, Principal Land Planner with Pennoni. Mr. Hutt stated the influx of solar applications was due to the bill signed by Governor Carney in 2021, which increased the standard for Delaware’s portfolio of how much renewable energy the State must have by 2035; that this past April, in Ordinance No. 2920, County Council adopted some standardized special conditions for the Conditional Use of a Solar Array in Sussex County; that the subject Application proposes and 18 megawatt facility to be located on approximately 64 acres, to help create a clean, renewable supply of electricity; that the Application is a combination of a

**Public
Hearing/
CU2470
(continued)**

community solar facility, as well as a net-metering facility; that the customer of the net-metering facility will be the nearby Georgetown Perdue Processing Plant; that the site consists of 64.5 acres, along the eastern side of Savannah Rd.; that the property is located within the AR-1 (Agricultural Residential) Zoning District; that the site is located adjacent to the municipality of the Georgetown; that there are GR (General Residential) zoned properties located to the north and west of the site; that to the west of the site there is an Industrial zoned property; that along Rt. 113 and Rt. 9 there are commercially zoned properties; that according to the Future Land Use Map, the site is located within a Developing Area; that within the municipality of Georgetown, adjacent to the site is the Perdue plant, which is located within the Town's LI-2 (Limited Industrial) Zoning District; that other Town of Georgetown zoning within the surrounding area are UR-1 (Urban Residential) and URC-RPC (Neighborhood Residential-Residential Planned Community); that Mr. Hutt presented to the Council time lapse aerial photos from 1937 to 2022, which reflected that the site was farmed and wooded as far back as 1937; that the photos also reflect wet areas located on the property, which seemed to have always present a challenge for farming; that the surrounding location of the site has become developed and is no longer a farming area; that to the east of the site, is the location of the Sandhill Sports Complex; that to the east of the sports complex is the location of the Cheer Center; that to the north and west of the property are wooded areas; that south of the site there are a few residential homes; that the site is located with Investment Levels 1 & 2, according to the State Strategies Map, being levels where the State anticipates growth within the near and long term future; that the solar facility will not require public funding, therefore will not burden the public with extra assistance from the schools, police, and emergency responders; that the project does not require public utilities such as water and sewer; that the site is located within Flood Zone A, which indicates that the site is located within the 100 Year Floodplain; that the floodplain will not impact the proposed solar facility use; that there are no jurisdictional or regulated wetlands located on the site; that there are a few low-lying areas located on the site; that these low-lying areas do not qualify as jurisdictional or regulated wetlands; that there is no traffic associated with the proposed use; that DelDOT stated the traffic impact would be diminutive; that the site will require very minimal grading, as it is already a flat site, being ideal for the installation of solar arrays; that the solar arrays would be installed to withstand hurricane force winds; that the solar arrays are ground-mounted tracking systems, which move throughout the day to capture the most amount of sun; that inverters would be located to the center of the site, being away from adjacent properties; that the operational life of these systems begin at 20 years; that the Applicant, CI Renewables, LLC is a private, non-utility affiliated developer and are the owner and operator of the commercial and industrial solar facilities; that they are the contract purchaser of the property; that as the operator of the site, they would be fully responsible for constructing, ensuring and decommissioning the system at the end of the solar arrays life span; that the three concerns most often heard in relation to solar projects are sound, visual appearance and the impact to adjacent properties; that the sound generated from the project is minimal, being equal to a small

**Public
Hearing/
CU2470
(continued)**

appliance or an HVAC system; that a data sheet was included in the Exhibit Booklet which address the sound proposed to be generated by the project; that any sound would be generated during the daytime; that the inverters are centrally located away from any populated areas; that a Glare Study was included within the Exhibit Booklet; that solar panels are intended to absorb sunlight, not to reflect sunlight, therefore there will be no negative impact from glare; that the Application is subject to the recently adopted solar Ordinance, and the project does comply with the requirements of the Ordinance; that there would be a 100 ft. space between the roadway and the solar arrays; that a 50 ft. distance is provided between the arrays and adjacent properties; that where there is existing vegetation, it would be utilized as part of the buffer, and would be filled in as need to comply with the Code requirements; that a pollinator mix would be placed in the location of the solar arrays; that there will be little visual impact to anyone along Savannah Rd.; that the surrounding area is not a highly residential area; that there are a few homes along Savannah Rd.; that there will be a fence surrounding the entire perimeter with a Knox box for emergency responders; that there are two parts to the proposed project; that to the left of the site will be the location of the community energy facility portion, which will allow individuals to subscribe to obtain credits to their electric bill; that the right side of the site will be the location for the net metered facility, which would be connected to the Georgetown Perdue Processing Plant; that it is estimated that this would supply approximately 35% of the electric for the Perdue Georgetown facility; that the proposed use is an appropriate Conditional Use, as they are public or semi-public use utilities; that Goal 7.3 of the Sussex County Comprehensive Plan, which encourages the use of renewable energy options, such as solar arrays and that as required, the solar arrays will the special requirements; that the Application was considered by the Planning Commission; that it was recommended for approval with conditions; that the Applicant has no changes or requests to those conditions at this time.

There were no public comments.

The Public Hearing and public hearing were closed.

**M 550 23
Adopt
Ordinance
No. 2961/
CU2470**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson to Adopt Ordinance No. 2961 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 64.59 ACRES, MORE OR LESS" for the reasons and conditions given by the Planning and Zoning Commission as follows:

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

**M 550 23
Adopt
Ordinance
No. 2961/
CU2470
(continued)**

- intensive development. The solar array will be located on approximately 64.59 acres.
3. The proposed use will be an 18-megawatt facility that will be a facility combining a Community Energy facility and a Net Metered Facility. The anticipated customer for the Net Metered Facility is the adjacent Perdue poultry plant.
 4. 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.
 5. The proposed solar array is located adjacent to the Town of Georgetown and the land is designated as being within the “Developing Area” according to Sussex County’s Future Land Use Map.
 6. This Application generally complies with Ordinance No. 2920 regarding solar arrays. Therefore, specific conditions regarding its operation and screening are not necessary.
 7. The solar array is located in an area that primarily consists of tilled agricultural land. With the conditions imposed by the operation of Ordinance No. 2920 including separation distances and buffering, the proposed use will not have any adverse impact on the surrounding property.
 8. 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. DelDOT has determined that the proposed conditional use would have a “Diminutive” impact on traffic.
 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 set forth in Ordinance No. 2920 and the following additional conditions:
 - a. The use shall be for ground-mounted solar arrays. No other types of electric generation shall be permitted at the site.
 - b. The Final Site Plan shall clearly show the limits of the Conditional Use area for this solar array as well as the remaining acreage that is not part of this Conditional Use.
 - c. All required fencing shall include interwoven screening. The fence location and type of screening shall be shown on the Final Site Plan.
 - d. 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.
 - e. 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.

**M 550 23
Adopt
Ordinance
No. 2961/
CU2470
(continued)**

- f. The location of all transformers or similar equipment or structures shall be shown on the Final Site Plan.**
- g. Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with all applicable State and County requirements. These facilities shall be operated using Best Management Practices.**
- h. There shall be a 25-foot-wide buffer of planted vegetation along the northern, eastern, and southern sides of the solar facility which shall use existing vegetated areas and supplement it as necessary with native plantings. There shall be a 25-foot-wide buffer created using native species along the eastern boundary of the property (Savannah Road). These buffer areas shall be clearly shown on the Final Site Plan. These buffers shall screen solar arrays while allowing them to function properly. The Final Site Plan shall include a landscape plan showing the proposed tree and shrub landscape design in these buffer areas.**
- 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 Adopted: 5 Yeas

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

**Public
Hearing/
CU2452**

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

The Planning & Zoning Commission held a Public Hearing on the application on October 12, 2023. At the meeting of October 12, 2023, the Planning & Zoning Commission recommended approval of the application for the 6 reasons as outlined.

Jamie Whitehouse, Planning and Zoning Director presented the application.

**Public
Hearing/
CU2452
(continued)**

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

Public comments were heard.

Ms. Doris Pierce spoke in favor of the application; that she had been looking for a spiritual church; that she visited a number of churches over the past year; that she felt welcomed and was accepted by this church; that they have a new female Pastor; that the goal is to grow the church; that the signs needs to be visual and get their message out there.

The Public Hearing and public record were closed.

**M 551 23
Adopt
Ordinance
No. 2962/
CU2452**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer to Adopt Ordinance No. 2962 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO ALLOW FOR AN ON-PREMISES ELECTRONIC MESSAGE CENTER TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED AND BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 3.99 ACRES, MORE OR LESS" for the reasons and conditions given by the Planning and Zoning Commission as follows:

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

Motion Adopted: 5 Yeas

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

**Public
Hearing/
CZ1984 &
CU2368**

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 9.20 ACRES, MORE OR LESS” (properties lying on the north side of Lighthouse Road [Route 54], and the west side of Bennett Avenue, approximately 350 feet west of Madison Avenue) (911 Address: N/A) (Tax Map Parcels: 533-20.00-22.00 & 20.00 [p/o]) filed on behalf of Carl M. Freeman Companies.

The Planning & Zoning Commission held a Public Hearing on the application on October 12, 2023. At the meeting of October 26, 2023, the Planning & Zoning Commission recommended approval of the application for the 8 reasons as outlined within the motion.

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLINGS (23 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 9.20 ACRES, MORE OR LESS” (properties lying on the north side of Lighthouse Road [Route 54], and the west side of Bennett Avenue, approximately 200 feet west of Deer Run Road [S.C.R. 388]) (911 Address: N/A) (Tax Map Parcels: 533-20.00-22.00 & 20.00 [p/o]) filed on behalf of Carl M. Freeman Companies.

The Planning & Zoning Commission held a Public Hearing on the application on October 12, 2023. At the meeting of October 26, 2023, the Planning & Zoning Commission recommended approval of the application for the 8 reasons and subject to the 13 recommended conditions as outlined within the motion.

Jamie Whitehouse, Planning & Zoning Director presented the applications.

The Council found Mr. James Fuqua, Esq., with Fuqua, Willard & Schab, P.A., was present to represent the Applicant, Carl M. Freeman Companies; that also present was Mr. Josh Mastrangelo, the Sr. Vice President of Freeman Companies, Ms. Katja Kalinski and Mr. Steve Marsh with George, Miles & Buhr, LLC, and Mr. Edward Launay with Environmental Resources, Inc. Mr. Fuqua stated there was an exhibit booklet submitted

**Public
Hearing/
CZ1984 &
CU2368
(continued)**

for the record; that there are two land use applications before the Council for the site; that one application is a Change of Zone requesting a zoning change from AR-1 (Agricultural Residential) to MR (Medium-Density Residential); that the second application is a Conditional Use request for 23 townhouse units; that the development is proposed to be called Channel Pointe Villas; that he will be addressing both applications within his one presentation. Mr. Fuqua stated that both Applications involve a 9.2-acre parcel, located on the north side of Rt. 54; that the site is adjacent to Bennett Ave., being located one mile west of Rt. 1 and Rt. 54 intersection; that the 9.2-acre parcel was involved with a 128 acre parcel, which was purchased by the Freeman Companies in March 2022; that the company previously had a contract to purchase the property; that in 2018 had applied for 70 single-family lot, cluster subdivision to be located on the majority of the site, which consisted of uplands and wetlands; that the previous application was designated as Subdivision 2018-18; that Preliminary Subdivision approval was granted in November 2018, with Final Subdivision approval being granted in February 2022; that the subject 9.2-acre property was not part of the previous 70 lot subdivision application; that in 2020, Freeman Companies applied for a Conditional Use for the 9.2 acre parcel for a 70 room hotel and a 8,500 sq. ft. restaurant; that the Planning & Zoning Commission held a public hearing in June 2021, and took action in July 2021; that only four Commissioners participated in the decision; that a motion was made to recommend denial of the application, which resulted in a two in-favor and a two-against vote; that due to this, the recommendation to deny failed, and no motion was made to recommend approval at that time; that the attorney representing the Planning & Zoning Commission for that hearing, indicated that the Application would proceed to County Council without a recommendation; that County Council held the application hearing in July 2021; that County Council action was taken in October 2021, which also resulted in a two in-favor and a two-against vote; that three votes are required for the approval of an application, and therefore the application was denied; that he believed the Commission and Council voted to deny based on the reasons that a hotel and restaurant are not a residential project, but more of a commercial enterprise in a predominantly residential area, the proposed use was too intense, being out of character, and therefore not compatible with the existing residential uses that largely surrounded the property; that the Applicant disagrees with those opinions; that based on the previously made comments, the Applicant proposes the two subject Applications, which do not propose an intense commercial use, but a residential use which is in character and compatible with the residential uses that already exist in the area; that the applications filed today do not propose a commercial use that is in character with and similar to the uses in the area that are there today; that located to the south of the property, on the other side of Rt. 54, is the location of Edgewater Acres and Cape Windsor developments, which are composed of single-family lots, where the majority of the lots are located along man-made canals; that to the west of Cape Windsor is the Veranda Bay community, which is zoned MR (Medium-Density Residential), and was approved as Conditional Use, C/U 1523, in 2004 for 12 multi-family units;

**Public
Hearing/
CZ1984 &
CU2368
(continued)**

that Veranda Bay as a density of 4.8 units to the acre; that located on the west side of the site is a broad expansive open tidal and non-tidal wetlands, which stretches over .5 mile westward to the next development property, Treasure Beach RV Park & Campground; that located north and to the rear of the site is the location of the Channel Pointe subdivision; that located to the east of the site is a mixture of zoning and uses; that there are a couple single-family homes fronting onto Bennett Ave, on lots zoned as AR-1; that the northern portion of the remaining adjacent land is zoned M (Marine), which is currently developed with a marina and boat slips, the Catch 54 Fish House restaurant, and the multi-family townhouse development, Fenwick Landing; that Fenwick Landing is 26 townhomes, located on 1.49 acres of land, equaling a density of 17.4 units per acre; that the remaining portion of adjacent land, fronting along Rt. 54 and Bennett Ave., is zoned B-1 (Neighborhood Business) and is the location of an existing spa facility, the Papa Grande restaurant, and a large parking lot; that the Application site will be served central water by Artesian Water Company, who hold the CPCN for the site; that the site is located within Sussex County's West Fenwick Sanitary Sewer District; that Sussex County Engineering Department confirmed that there is adequate sewer capacity available for the development; that stormwater management facilities will be designed and constructed in compliance with DNREC regulations, and will be reviewed and approved by Sussex Conservation District; that the entire 128 acre property, including the 9.2 acre parcel, had a Wetland Delineation performed by Mr. Edward Launay of Environmental Resources, Inc.; that the delineation was reviewed by the U.S. Army Corp of Engineers, who issued a Jurisdictional Determination Letter; that the delineation found that the 9.2 acre site contained 3.88 acres of tidal wetlands and 0.42 acres of non-tidal wetlands; that all of the wetlands are located along the western side of the parcel; that the site design provides a minimum 50 ft. buffer from the tidal wetland line to the lot lines; that the tidal wetland buffer average is 72 ft., with a minimum of 50 ft.; that additionally there is a voluntary 20 ft. minimum buffer from the non-tidal wetland line, with an average width of 36 ft; that the applications were filed before the recent Resource Buffer Ordinance was adopted; that contrary to allegations made by some of the submitted public comment letters, no wetlands will be disturbed, filled, or encroached upon; that Environmental Resources, Inc. also confirmed with the U.S. Fish & Wildlife Service that there were no federally listed, threatened or endangered species or critical habitats found on the site; that per the FEMA Flood Zone Maps, the majority of the site, which is proposed to be developed, is located within Flood Zone X, being located outside of the 100 Year Floodplain; that historically, the site was used as an area to store fill when Rt. 54 was being rebuilt, which led to the site being at a higher grade than much of the surrounding area; that the western portion of the site being developed, being the area located adjacent to the wetlands, is located within Flood Zone AE; that any development within the Flood Zone AE area will comply with the construction elevations and other FEMA requirements, which are also requirements of the Sussex County Building Code; that DelDOT indicated that in accordance with DelDOT's Development Coordination

**Public
Hearing/
CZ1984 &
CU2368
(continued)**

Manual, the trips generated by a 23 townhouse development did not warrant a Traffic Impact Study (TIS); that DelDOT further indicated that they had already reviewed and commented on a Traffic Operational Analysis (TOA), which Freeman Companies had completed through their engineering consultant, Century Engineering, Inc.; that the TOA was completed in relation to the 70 lot subdivision and the originally proposed hotel and restaurant, which was much more intensive in terms of traffic impacts; that the improvements recommended by the TOA, are the improvements which will be required by the Applicant for the subject Applications and the 70 lot subdivision, despite the significantly lessened impact of the proposed Applications; that the required improvement will include the realignment of Bennett Ave. to intersection with Rt. 54 on a right angle, and is located directly opposite Monroe Ave. on the south side of Rt. 54; that this improvement will create a more standard four-legged intersection; that the location of the realigned road will be constructed on land that is owned by the Applicant; that the Applicant will be dedicating that area to DelDOT; that the new intersection will have turn lanes and pedestrian, bike and transit improvements as recommended by DelDOT; that it will include a 10 ft. wide shared-use path along the Rt. 54 road frontage; that it will provide a pad site for a DART bus stop along Rt. 54; that as recommended by DelDOT's 2021 SR54 Corridor Study, the Applicant will be responsible for the installation of a traffic signal at the realigned Rt. 54, Bennett Ave, and Monroe Ave. intersection; that the development will have access from Bennett Ave. at a new traffic circle on Bennett Ave. at Madison Ave., and will also be the entrance to the approved subdivision; that there will be an interior drive, which will terminate at a cul-de-sac; that the 23 townhouse units will be located within four buildings; that the buildings will front along the internal drive, which will have sidewalks along both sides; that the 23 units proposed for the site is a density permitted by the MR Zoning District; that the density was determined by deducting the 3.8 acres of tidal wetlands from the 9.2 acre parcel size, which resulted in a net developable area of 5.32 acres, which supports the proposed 23 townhomes units; that the townhouse lots will be individually owned; that the townhomes will have sprinkler systems; that they will have three parking spaces for each unit, comprised of a one vehicle garage and two parking spaces in the driveway; that there will also be seven additional guest parking spaces located adjacent to a recreational amenity; that recreational amenities will consist of an outdoor swimming pool, a deck area, a bathhouse, and the central mailbox area; that they propose the recreational amenity area would be required to be completed by the issuance of 18th Certificate of Occupancy, equaling to the completion of the third building; that the stormwater management ponds are located along Bennett Ave. near the entrance and the development entrance along Rt. 54; that the development will be attractively landscaped with trees and other plantings along Bennett Ave., Rt. 54, along the northern boundary of the site, located adjacent to the subdivision and internally; that a detailed landscaping plan will be submitted as part of the Final Site Plan review; that not wetlands will be impacted by the site design; that to the western portion of the site there will be a minimum 50 ft. buffer from the tidal

**Public
Hearing/
CZ1984 &
CU2368
(continued)**

wetland and a minimum 20 ft. buffer from the non-tidal wetlands; that the townhouse lots and road right-of-way occupy approximately 2.34 acres of the site, resulting in 7.04 acres for the remainder of the site; that the remainder of the site will be open space comprised of the recreational amenity area, stormwater management areas, common areas, and wetlands; that there will be a Homeowners Association formed that will manage and maintain the common areas of the community; that the purpose of the MR Zoning District is to provide Medium-Density Residential development in areas which are expected to be urban in character and where public central sewer and water are available; that townhouses are an authorized Conditional Use within the MR District; that under the 2019 Comprehensive Land Use Plan, the Future Land Use Map designates the 9.2 acre parcel as being located within the Coastal Area, which is considered a Growth Area within the Comprehensive Plan; that the Plan states that it seeks to encourage the County's most concentrated forms of new development, including most higher density residential development in Growth Areas, such as the Coastal Area; that the Plan further states that a range of housing types should be permitted within the Coastal Area, including single-family homes, townhouses and multi-family units; that the Plan also states that medium and higher density development of four to 12 units per acre can be appropriate in certain locations, where central water and sewer are available, near existing commercial uses and employment centers, where the use is in character of the area and located along main roads, and based on all the facts provided within the submitted exhibits and stated within the presentation, the Conditional Use and Change of Zone Applications are in accordance with the Comprehensive Plan, and are in character with the nature of the area; that the Planning & Zoning Commission recommended approval of the Change of Zone and the Conditional Use subject to conditions A-M all which conditions are acceptable to the Applicant; that the Commission noted that the site is located along a major road; that the Applicant will be responsible for significant roadway improvements resulting in a safer intersection; that central water and sewer is available for the development; that the requested zoning and the proposed use and density is consistent with and authorized by the Comprehensive Plan and Coastal Area Designation; that these applications request an appropriate residential use that is in character with the area; that the applicant requests approval of the applications based on the record and recommendation of the Planning Commission subject to conditions A-M.

Public comments were heard.

Ms. Mary Lou Strong spoke in opposition of the application; that she came today for clarification; that this is the same parcel of land that was denied for the hotel; that nothing has changed; that it is still the same land and environment around it; that she understands that townhomes are more suitable; that she feels that Sussex County has gotten out of control; that she spoke about the signage regarding the public hearing on the property; that more needs to be thought about the environment and how things are

**Public
Hearing/
CZ1984 &
CU2368
(continued)**

moving forward in Sussex County.

Ms. Doris Pierce spoke in opposition of the application; that she is the secretary for the Southern Sussex County community action group; that they represent about 29 homeowners association in the corridor of Route 54; that there is a lot of congestion in the summer time; that during the hotel hearing in July of 2021, Mr. Bennett testified that this narrow piece of land is not good for development; that already 70 homes have been approved because they did not have to change the zoning; that this little peninsula is bordered by marshes and wetlands; that with an additional 23 townhomes, it would create a lot more water running out carrying with it fertilizers and landscaping components into the bay; that the bay is a big swimming pool for many people; that the water is polluted; that marine life is threatened; that all of the reasons that were given to deny the hotel should still stand.

Mr. John Drone spoke in opposition of the application; that he is a Councilmember of the Fenwick Landing Townhouse Condominium Association; that he is expressing his opinion as well as the voted opinion of the association; that things are different today than when their development was built in 1985; that they request the context for what is orderly growth and the appropriateness of the rezoning of the neighborhood; that these are two foundations that the Planning & Zoning used to justify their recommendation; that when their townhomes were built, the context was totally different; that there has been significant development along Route 54 since 1985; that he asked that the impact be considered; that the lack of sidewalk and parking is unsafe; that the fire hydrants and corners are parked in where emergency equipment could not be able to access; that vehicle traffic is threatening pedestrians walking back and back to the restaurants; that we need to stop saying yes and we do not need increased density of townhouses in this area.

The Public Hearing and public record were closed for CZ1984.

**M 552 23
Defer
Action/
CZ1984**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley to defer on Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 9.20 ACRES, MORE OR LESS”.

Motion Adopted: 5 Yeas

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

The Public Hearing and public record were closed for CU2368.

**M 553 23
Defer
Action/
CU2368**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer to defer action on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLINGS (23 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 9.20 ACRES, MORE OR LESS”.

Motion Adopted: 5 Yeas

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

**M 554 23
Adjourn**

A Motion was made by Mr. Rieley seconded by Mr. Hudson to adjourn at 4:12 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.}

ENGINEERING DEPARTMENT

ADMINISTRATION (302) 855-7718
AIRPORT & INDUSTRIAL PARK (302) 855-7774
ENVIRONMENTAL SERVICES (302) 855-7730
PUBLIC WORKS (302) 855-7703
RECORDS MANAGEMENT (302) 854-5033
UTILITY ENGINEERING (302) 855-7717
UTILITY PERMITS (302) 855-7719
UTILITY PLANNING (302) 855-1299
FAX (302) 855-7799



Sussex County


DELAWARE
sussexcountype.gov

HANS M. MEDLARZ, P.E.
COUNTY ENGINEER

JOHN J. ASHMAN
DIRECTOR OF UTILITY PLANNING

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: John J. Ashman 
Director of Utility Planning & Design Review

RE: *Existing Wastewater Infrastructure Use Agreement
Millville Square IUA 18 02 350
File: OM 9.01*

DATE: December 5, 2023

The Existing Wastewater Infrastructure Use Agreement is an arrangement that collects financial contributions based on development built out flows for available capacity in the existing wastewater transmission infrastructure previously funded by the County while at the same time eliminating the granting of "oversizing" credits.

The Engineering Department requests approval of an agreement for the existing wastewater infrastructure use with **Krypton Commercial, LLC** for the **Millville Square** project in the **Millville Area**. Such an arrangement does not modify the underlying land use decision in any form. However, it allows the wastewater originating from the approved project to be conveyed through the existing transmission system previously constructed by the County.

Under the proposed arrangement, the **Millville Square** project will connect to the existing County owned wastewater infrastructure. In return for utilization of said **Krypton Commercial, LLC** will contribute **\$8,922.00** for the financial catch-up contribution of the existing infrastructure to serve **5.52** Equivalent Dwelling Units. Payments of the contribution will be submitted prior to receiving a connection permit for the project.



EXISTING WASTEWATER INFRASTRUCTURE USE AGREEMENT

Millville Square IUA - 18 02 350

THIS AGREEMENT ("Agreement"), made this 6 day of November 2023, by and between:

SUSSEX COUNTY, a political subdivision of the State of Delaware, hereinafter called the "County," and;

KRYPTON COMMERCIAL LLC, a Delaware Limited Liability Company and developer of a project known as **Millville Square**, hereinafter called the "Developer."

WITNESSETH:

WHEREAS, Developer is developing several tracts of land identified as Tax Map parcels 134-12.00-350.00 & 134-12.00-351.00 be known as **Millville Square** ("Project") and;

WHEREAS, the Project is within the boundary of the Sussex County Unified Sanitary Sewer District (Millville Area) and;

WHEREAS, the Project will utilize available capacity in existing wastewater infrastructure previously funded by Sussex County.

NOW THEREFORE, in consideration of the mutual covenants and conditions contained herein, which is hereby acknowledged by both parties as sufficient consideration, the parties hereby agree as follows:

- (1) Developer is proposing to utilize County's existing collection and transmission capacity by connecting to existing regional infrastructure used by multiple pump stations.
- (2) In exchange for permission to connect up to 5.52 additional equivalent dwelling units to County's existing system and to utilize the existing capacity in said system, Developer agrees to financial catch-up contribution in the amount of \$8,922.00 for said existing facilities.
- (3) The contribution amount in the case of multiple pump stations using an existing collection and transmission system is based on the ratio of average flow capacity utilization of said transmission facilities.
- (4) **Payment of the contribution must be submitted prior to connection to the County infrastructure.**
- (5) If the Project (as currently submitted) is amended and County determines in its sole discretion that such amendments materially affect this Agreement, this Agreement

may be declared by County to be null and void, and any unused payments made pursuant to this Agreement shall be returned to Developer, unless the parties otherwise agree. Nothing herein shall prevent the parties from the negotiation of a new agreement with respect to the amended Project, as the parties may deem appropriate.

- (6) The contribution is to be placed in County's sewer capital fund and expended towards overall debt reduction or at such time when any transmission infrastructure in County's Unified Sanitary Sewer District requires capital improvements (See Chapter 110-96 of the Sussex County Code).
- (7) Developer shall be responsible for payment of any and all undiscounted system connection charges in accordance with and pursuant to the requirements of the *Sussex County Code* for all lots, due at such time the Developer receives the sewer connection permit.
- (8) Developer shall comply in all aspects with the *Sussex County Code* and any other local, state, county, or federal laws, regulations, or policies that may be applicable and as such may be hereinafter amended.
- (9) Prior to the commencement of construction of any sanitary sewer facilities for the Project, Developer shall obtain a project construction permit from the County in accordance with and pursuant to the requirements of the *Sussex County Code*.
- (10) In order to allow the opportunity for a County representative to be present as the County so chooses, Developer shall send written notice to County of the date upon which connection to the County regional transmission system will be made. Developer shall follow County's written or verbal instructions in making said connection to the County sanitary sewer system.
- (11) Developer may assign this Agreement in whole or in part to any entity controlled directly or indirectly by Developer or to any third party who purchases, leases or otherwise controls any portion of Developer's property without the consent of County. Developer, and any subsequent assignees or successors shall provide County at least ten (10) days' written notice of any such assignment. Any other assignments, transfers, or conveyances with respect to this Agreement are prohibited without prior written consent of County.
- (12) To the extent permitted by law, Developer shall indemnify and hold harmless County, and its appointed and elected officials, employees, licensees, and agents for any claims, losses, liabilities, suits, or damages, including but not limited to reasonable attorneys' fees, professional engineering fees, and any other costs of litigation, arising out of Developer's negligence in connection with its performance of this Agreement, including but not limited to damage to the County's infrastructure

in making connection to County's regional transmission system. The obligations of this Paragraph shall survive the termination of this Agreement.

- (13) All the terms, covenants, and conditions of this Agreement shall in all respects be governed and construed under and pursuant to the Laws of the State of Delaware without respect to its conflict of law provisions. This Agreement may only be amended, supplemented or modified by a subsequent written agreement executed by all the parties hereto.
- (14) This Agreement and exhibits constitute the final, entire and exclusive agreement between the parties with respect to the subject matter of all matters discussed in it and supersedes all prior or contemporaneous discussions, statements, representations, warranties or agreements, whether written or oral, made in connection with the Agreement described herein.
- (15) It is mutually agreed between the parties that no review, approval, acceptance, and/or payment made under this Agreement shall be conclusive evidence of the performance of the Agreement, either wholly or in part, and that no review, approval, acceptance, and/or payment shall be construed as acceptance of defective work by County, nor in any way relieve Developer of its responsibility for the adequacy of its work.
- (16) The waiver by any party hereto of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach. Neither party shall be deemed to have waived any rights under this Agreement unless such waiver is expressly given in writing and signed by the waiving party. No delay or omission on the part of either party in exercising any right shall operate as a waiver of such right or any other right.
- (17) This Agreement shall be executed in duplicate, any copy of which shall be considered and construed as and for the original.
- (18) If any provision of this Agreement shall be deemed invalid or unenforceable for any reason whatsoever, then such invalidity or unenforceability shall not render invalid or unenforceable any of the other provisions of this Agreement which may be given effect without such invalid or unenforceable provision, and to this end, the provisions of this Agreement are hereby deemed to be severable.
- (19) Any notice required to be delivered to or by either party under this Agreement shall be sent by U.S. first class mail. For purposes of this provision, the address of the County is 2 The Circle, P.O. Box 589, Georgetown, Delaware, 19947, and the address of the Developer is **1001 Eastern Shore Drive, Salisbury, Maryland 21801.**

IN WITNESS, WHEREOF, the respective parties hereto have affixed their hands and seals the day and year aforesaid.

FOR THE COUNTY:

{Seal}

By: _____
(President - Sussex County Council)

_____ (DATE)

ATTEST:

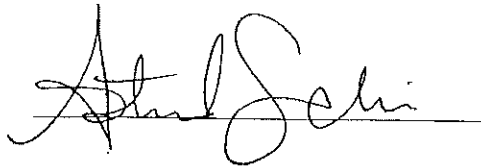
Tracy Torbert
Clerk of the County Council

FOR KRYPTON COMMERCIAL, LLC

By: _____ (Seal)
Justin White - Managing Member

11/6/23 _____ (DATE)

WITNESS:



ENGINEERING DEPARTMENT

ADMINISTRATION	(302) 855-7718
AIRPORT & INDUSTRIAL PARK	(302) 855-7774
ENVIRONMENTAL SERVICES	(302) 855-7730
PUBLIC WORKS	(302) 855-7703
RECORDS MANAGEMENT	(302) 854-5033
UTILITY ENGINEERING	(302) 855-7717
UTILITY PERMITS	(302) 855-7719
UTILITY PLANNING	(302) 855-1299
FAX	(302) 855-7799




Sussex County

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sussexcountyde.gov
HANS M. MEDLARZ, P.E.
COUNTY ENGINEER
JOHN J. ASHMAN
DIRECTOR OF UTILITY PLANNING

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: John J. Ashman 
Director of Utility Planning & Design Review

RE: *Existing Wastewater Infrastructure Use Agreement*
The Preserve at Shore Vista IUA-1193
File: OM 9.01

DATE: December 5, 2023

The Existing Wastewater Infrastructure Use Agreement is an arrangement that collects financial contributions based on development built out flows for available capacity in the existing wastewater transmission infrastructure previously funded by the County while at the same time eliminating the granting of "oversizing" credits.

The Engineering Department requests approval of an agreement for the existing wastewater infrastructure use with **DRB Group Eastern Shore, LLC** for **The Preserve at Shore Vista** project in the **Ocean View Area**. Such an arrangement does not modify the underlying land use decision in any form. However, it allows the wastewater originating from the approved project to be conveyed through the existing transmission system previously constructed by the County.

Under the proposed arrangement, **The Preserve at Shore Vista** project will connect to the existing County owned wastewater infrastructure. In return for utilization of said **DRB Group Eastern Shore, LLC** will contribute **\$69,535.00** for the financial catch-up contribution of the existing infrastructure to serve **109.00** Equivalent Dwelling Units. Payments of the contribution will be submitted prior to beneficial acceptance of the on-site collection system.



EXISTING WASTEWATER INFRASTRUCTURE USE AGREEMENT

The Preserve at Shore Vista – IUA-1193

THIS AGREEMENT (“Agreement”), made this 5TH day of DECEMBER 2023, by and between:

SUSSEX COUNTY, a political subdivision of the State of Delaware, hereinafter called the “County,” and;

DRB GROUP EASTERN SHORE, LLC, a Delaware Limited Liability Company and developer of a project known as The Preserve at Shore Vista, hereinafter called the “Developer.”

WITNESSETH:

WHEREAS, Developer is developing a tract of land identified as Tax Map parcel 134-12.00-470.00 to be known as The Preserve at Shore Vista (“Project”) and;

WHEREAS, the Project is within the boundary of the Sussex County Unified Sanitary Sewer District (Ocean View Area) and;

WHEREAS, the Project will utilize available capacity in existing wastewater infrastructure previously funded by Sussex County.

NOW THEREFORE, in consideration of the mutual covenants and conditions contained herein, which is hereby acknowledged by both parties as sufficient consideration, the parties hereby agree as follows:

- (1) Developer is proposing to utilize County’s existing collection and transmission capacity by connecting to existing regional infrastructure used by multiple pump stations.
- (2) In exchange for permission to connect up to 109.00 additional equivalent dwelling units to County’s existing system and to utilize the existing capacity in said system, Developer agrees to financial catch-up contribution in the amount of \$69,535.00 for said existing facilities.
- (3) The contribution amount in the case of multiple pump stations using an existing collection and transmission system is based on the ratio of average flow capacity utilization of said transmission facilities.
- (4) **Payment of the contribution must be submitted prior to beneficial acceptance of the on-site collection system.**
- (5) If the Project (as currently submitted) is amended and County determines in its sole discretion that such amendments materially affect this Agreement, this Agreement

may be declared by County to be null and void, and any unused payments made pursuant to this Agreement shall be returned to Developer, unless the parties otherwise agree. Nothing herein shall prevent the parties from the negotiation of a new agreement with respect to the amended Project, as the parties may deem appropriate.

- (6) The contribution is to be placed in County's sewer capital fund and expended towards overall debt reduction or at such time when any transmission infrastructure in County's Unified Sanitary Sewer District requires capital improvements (See Chapter 110-96 of the Sussex County Code).
- (7) Developer shall be responsible for payment of any and all undiscounted system connection charges in accordance with and pursuant to the requirements of the *Sussex County Code* for all lots, due at such time the Developer receives the sewer connection permit.
- (8) Developer shall comply in all aspects with the *Sussex County Code* and any other local, state, county, or federal laws, regulations, or policies that may be applicable and as such may be hereinafter amended.
- (9) Prior to the commencement of construction of any sanitary sewer facilities for the Project, Developer shall obtain a project construction permit from the County in accordance with and pursuant to the requirements of the *Sussex County Code*.
- (10) In order to allow the opportunity for a County representative to be present as the County so chooses, Developer shall send written notice to County of the date upon which connection to the County regional transmission system will be made. Developer shall follow County's written or verbal instructions in making said connection to the County sanitary sewer system.
- (11) Developer may assign this Agreement in whole or in part to any entity controlled directly or indirectly by Developer or to any third party who purchases, leases or otherwise controls any portion of Developer's property without the consent of County. Developer, and any subsequent assignees or successors shall provide County at least ten (10) days' written notice of any such assignment. Any other assignments, transfers, or conveyances with respect to this Agreement are prohibited without prior written consent of County.
- (12) To the extent permitted by law, Developer shall indemnify and hold harmless County, and its appointed and elected officials, employees, licensees, and agents for any claims, losses, liabilities, suits, or damages, including but not limited to reasonable attorneys' fees, professional engineering fees, and any other costs of litigation, arising out of Developer's negligence in connection with its performance of this Agreement, including but not limited to damage to the County's infrastructure

in making connection to County's regional transmission system. The obligations of this Paragraph shall survive the termination of this Agreement.

- (13) All the terms, covenants, and conditions of this Agreement shall in all respects be governed and construed under and pursuant to the Laws of the State of Delaware without respect to its conflict of law provisions. This Agreement may only be amended, supplemented or modified by a subsequent written agreement executed by all the parties hereto.
- (14) This Agreement and exhibits constitute the final, entire and exclusive agreement between the parties with respect to the subject matter of all matters discussed in it and supersedes all prior or contemporaneous discussions, statements, representations, warranties or agreements, whether written or oral, made in connection with the Agreement described herein.
- (15) It is mutually agreed between the parties that no review, approval, acceptance, and/or payment made under this Agreement shall be conclusive evidence of the performance of the Agreement, either wholly or in part, and that no review, approval, acceptance, and/or payment shall be construed as acceptance of defective work by County, nor in any way relieve Developer of its responsibility for the adequacy of its work.
- (16) The waiver by any party hereto of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach. Neither party shall be deemed to have waived any rights under this Agreement unless such waiver is expressly given in writing and signed by the waiving party. No delay or omission on the part of either party in exercising any right shall operate as a waiver of such right or any other right.
- (17) This Agreement shall be executed in duplicate, any copy of which shall be considered and construed as and for the original.
- (18) If any provision of this Agreement shall be deemed invalid or unenforceable for any reason whatsoever, then such invalidity or unenforceability shall not render invalid or unenforceable any of the other provisions of this Agreement which may be given effect without such invalid or unenforceable provision, and to this end, the provisions of this Agreement are hereby deemed to be severable.
- (19) Any notice required to be delivered to or by either party under this Agreement shall be sent by U.S. first class mail. For purposes of this provision, the address of the County is 2 The Circle, P.O. Box 589, Georgetown, Delaware, 19947, and the address of the Developer is **18054 Emerson Way, Georgetown DE 19947.**

IN WITNESS, WHEREOF, the respective parties hereto have affixed their hands and seals the day and year aforesaid.

FOR THE COUNTY:


{Seal}


By: _____
(President - Sussex County Council)
_____ (DATE)

ATTEST:

Tracy Torbert
Clerk of the County Council

FOR DRB GROUP EASTERN SHORE, LLC

By:  _____ (Seal)
John Ciavarra
_____ 11/16/23 _____ (DATE)

WITNESS: 

ENGINEERING DEPARTMENT

ADMINISTRATION (302) 855-7718
AIRPORT & INDUSTRIAL PARK (302) 855-7774
ENVIRONMENTAL SERVICES (302) 855-7730
PUBLIC WORKS (302) 855-7703
RECORDS MANAGEMENT (302) 854-5033
UTILITY ENGINEERING (302) 855-7717
UTILITY PERMITS (302) 855-7719
UTILITY PLANNING (302) 855-1299
FAX (302) 855-7799



Sussex County

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HANS M. MEDLARZ, P.E.
COUNTY ENGINEER
JOHN J. ASHMAN
DIRECTOR OF UTILITY PLANNING

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: John J. Ashman 
Director of Utility Planning & Design Review

RE: ***Plan Review & Inspection Agreements
Municipal Boundaries***

DATE: December 5, 2023

The Engineering Department has developed a Plan Review & Inspection Agreement for execution by any Sussex County Municipality pursuant to Title 9, Del. Code 6951. The agreement would shift the review and inspection of roadways, site grading and stormwater conveyance in proposed subdivisions within the municipal boundary to Sussex County. Several municipalities in Sussex County do not have their own review and/or inspection teams for the review of construction drawings and on-site inspection. The agreement permits the Engineering Department to review new proposed subdivision plans and perform the construction inspection in accordance with County Code Chapter 99.

Only after the municipality grants the underlying preliminary land use approval per their respective charter would the Department initiate the plan review and any subsequent interaction with the developer's engineering firm. All plans will be submitted to Sussex County and all plan review fees, as approved in the Budget Ordinance, will be paid directly to the County.

The Engineering Department currently has one such agreement executed by the Town of Blades for Council's consideration and second agreement awaiting execution by the Town of Ellendale. If Council chooses to approve the Plan Review and Inspection Agreement as a template all future agreements could be completed as a Consent Agenda item once executed by the respective municipality.



PLAN REVIEW AND INSPECTION AGREEMENT

This agreement, made and entered into this 5TH day of DEC 2023, by and between the Town of Blades, a municipal corporation of the State of Delaware, (the "TOWN") and Sussex County, a political subdivision of the State of Delaware (the "COUNTY".)

WITNESSETH:

WHEREAS, the TOWN and COUNTY desire to enter into this plan review and inspection agreement pursuant to Title 9 Del. Code 6951 (the "Agreement").

WHEREAS, the Town Council has requested that Sussex County review construction plans for roadways, site grading and stormwater conveyance within the municipal boundary in accordance with County Code Chapter 99.

WHEREAS, the TOWN and COUNTY agree that it would be the most cost-effective alternative for the COUNTY to assume all responsibility for the review and inspection of the TOWN's subdivision roads, grading and stormwater conveyance on the terms and conditions set forth in this agreement.

NOW, THEREFORE the parties hereto agree that the COUNTY will provide construction plan review and construction inspection. The COUNTY will assume the plan review and interaction with the developer's engineering firm(s).

BE IT FURTHER AGREED that after the TOWN grants the underlying preliminary land use approvals, all construction plans will be submitted directly to the COUNTY, and all plan review fees will be paid to Sussex County beginning DEC. 31ST 2023.

BE IT FURTHER AGREED that the TOWN will notify the COUNTY immediately on any parcel annexations into the TOWN boundary.

BE IT FURTHER AGREED that the TOWN will submit copies project plans which achieved preliminary land use approval and the conditions of approval to the COUNTY.

BE IT FURTHER AGREED that the TOWN hereby transfers all responsibility for the construction inspection of the subdivision roads, grading and stormwater conveyance to the COUNTY and the COUNTY hereby accepts all responsibility for the inspection as of DEC. 31ST 2023 on the following terms and conditions:

BE IT FURTHER AGREED that all construction and inspection agreements will be solely with the COUNTY and the COUNTY will collect all associated fees.

BE IT FURTHER AGREED that the COUNTY hereby agrees to indemnify, defend and hold the TOWN harmless for any and all costs expenses, claims and damages incurred by the TOWN after the date of execution of this agreement in connection with the subdivision roads, grading and stormwater conveyance plan review and inspection.

BE IT FURTHER AGREED that this AGREEMENT represents the final and entire agreement between the parties with respect to the subject matter hereof and supersedes all prior negotiations, commitments, understandings, representations and proposals, written or oral, relating to such subject matter. This Agreement can be modified only by a written Amendment specifically referencing this Agreement and signed by each of the parties hereto.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their proper corporate officers and their respective corporate seals to be hereto affixed, the day and year first written above.

By Town of Blades: lisa mares Town Administrator

Attest: Crystal Meyer Town Clerk

By Sussex County: _____ Council President Michael H. Vincent

Attest: _____ Clerk, Sussex County Council

**Proposed South Greenwood Area of the
Sussex County Unified Sanitary Sewer District**

Permission to Post Fact Sheet

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



14198 Sussex Highway
Greenwood, DE 19950
855-352-9090

www.delaware.coop

DELAWARE ELECTRIC CO-OP

'We Keep the Lights On'

med

September 27, 2023

Sussex County Administrative
Office Building, 3rd Floor
2 The Circle, P.O. 589
Georgetown, DE 19947

Attn: Mr. Hans Medlarz, P.E.
County Engineer

Re: Request for County Sewer Services

Dear Mr. Medlarz:

Delaware Electric Cooperative, Inc. (DEC) would like to request County sewer service for our headquarters located in Greenwood, Delaware. The parcel is defined as tax parcel 530-14.00-16.00. This request is necessary due to an aging and failing drain field that was constructed in 1993 which requires beyond routine maintenance to temporarily alleviate clogged drainage beds. Based on the layout of our facility and the amount of impervious areas, or lack of impervious areas, there is not adequate space to replace or expand the existing drain field.

Without the ability to replace the existing drain field and without connecting to County sewer service, DEC will not be able to move forward with our planned expansion and provide new employment.

Our desire is to construct a low-pressure sewer system with a small grinder station that would connect to the County's sewer system. DEC would pay for these improvements along with being responsible for paying for the electricity and providing back-up generator service for the grinder station.

DEC greatly appreciates your consideration of our request for connection to the County's sewer system. If you should have any questions, please do not hesitate to call me. Thank you!

Sincerely,

Herb Dennis
Manager of Property & Fleet

Permission to Prepare and Post Notices South Greenwood Area

Existing SSD South Greenwood Parcels



0 75 150 300
Feet
Map created: 11/20/2023



1
34.30 Ac.

188.62	2	1.03	1.50 Ac.
322.61			
322.74			
216.77	1	1.02	1.50 Ac.
276.96			
293.74			
242.30			

16
20.48 Ac.

17
10.20 Ac

41
4.19 Ac S

12
4.62 Ac
3.30 Ac S

41.02
1
1.07 Ac

41.01
150
150

SPARROW DR

RD. 583

Route 13

RT. 13
SUSSEX HWY
SUSSEX HWY

ENGINEERING DEPARTMENT

ADMINISTRATION	(302) 855-7718
AIRPORT & INDUSTRIAL PARK	(302) 855-7774
ENVIRONMENTAL SERVICES	(302) 855-7730
PUBLIC WORKS	(302) 855-7703
RECORDS MANAGEMENT	(302) 854-5033
UTILITY ENGINEERING	(302) 855-7717
UTILITY PERMITS	(302) 855-7719
UTILITY PLANNING	(302) 855-1299
FAX	(302) 855-7799



Sussex County

DELAWARE
sussexcountyde.gov

HANS M. MEDLARZ, P.E.
COUNTY ENGINEER

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

RE: ***Joy Beach Phase II, Project S20-12***
A. KCI Technologies – Amendment No. 5

DATE: December 5, 2023

On August 29, 2017, County Council authorized polling letters and posting notices for the October 20, 2017 public hearing to review an Expansion of the Sussex County Unified Sewer District (Angola Neck Area) to include the Joy Beach Community and adjacent parcels. Based on a recommendation from the Engineering Department, annexation of the proposed sewer boundary was adopted on November 7, 2017 by Resolution R 030 17. In 2020 Council approved two extensions, first the Cherry Creek Valley area on February 18th and secondly the Cherry Walk area on August 11th, creating Joy Beach Phase II.

During the August 13, 2019 Council session, the Department explained the terms of State Revolving Fund financing associated with the Joy Beach Sewer Expansion Project. After a public hearing, County Council adopted Ordinance No. 2671 providing for issuance of Sussex County General Obligation Bonds up to \$5,691,821 to finance or reimburse the County for a portion of costs for design, construction and equipping of the Project, with an expectation of principal forgiveness up to \$3,396,000 to reduce the principal amount to \$2,295,821 upon Project completion.

The Engineering Department's procurement process for 5-year Professional Service Contracts began in January 2019 with issuance of RFP 19-22, Miscellaneous Engineering Services. The Selection Committee recommendation was presented to Council on May 14, 2019 and Council approved the selection of three (3) consulting engineering firms to provide professional services: Davis, Bowen & Friedel (DBF); George Miles and Buhr (GMB); and KCI Technologies, Inc. (KCI). Additionally, the motion authorized the Engineering Department to negotiate Base Professional Service Agreements for a five-year period of July



1, 2019 through June 30, 2024 with project-based contract amendments under these base agreements to be brought to Council for authorization.

The Engineering Department requested KCI to develop and submit a scope of work with fee estimate for preliminary design, final design, and bidding phase services associated with the original Joy Beach Sewer Expansion Project. Subsequently, KCI provided Amendment No. 1 to the Base Professional Services Agreement dated September 10, 2019, for design and bidding services associated with the Joy Beach Sewer Expansion Project, at an estimated cost of \$340,300.00. On October 22, 2019, Council authorized award of Amendment No. 1 for design & bidding of the original Joy Beach Sewer Expansion, Sussex County Project S20-12.

After a lengthy easement acquisition and permitting phase, Invitations to Bid were advertised in the local newspaper, as well as available to view on the County website early in 2023. In addition, the information was directly forwarded to several contractors. Nine (9) contractors attended the pre-bid meeting on February 1, 2023, and on February 22, 2023, six (6) bids were received. The low bidder was Chesapeake Turf, LLC at \$4,758,640.00.

During the pre-award debriefing with Chesapeake Turf, the contractor proposed two cost saving means & methods changes. The first one replaced the open cut method of forcemain installation with a directional drill approach. The second one replaced the boring and jacking installation method of the steel casing under Waterview Road with a directional drill. The Engineering Department supported the alternate approaches, and on April 18, 2023, Council approved award of the contract to Chesapeake Turf, LLC in the amount of \$4,758,640.00 and Change Order No. 1 in the overall reduction amount of \$63,250.00.

KCI's approved Amendment No. 1 was limited to the design & permitting of the original Joy Beach expansion area with the Engineering Department providing construction phase and inspection services for cost containment within the funding constraints. In addition, the Department was able to secure a key pump station easement for Phase II setting the stage for another amendment to KCI's Base Professional Services Agreement for the design of Joy Beach Phase II.

Therefore, the Department requests Council's approval of KCI's Amendment No. 5 for the design & permitting of Joy Beach, Phase II in the not to exceed amount of 152,520.00.

This is **EXHIBIT K**, consisting of [6] pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated 09/10/2019.

**AMENDMENT TO OWNER-ENGINEER AGREEMENT
Amendment No. 5**

The Effective Date of this Amendment is: December 5, 2023.

Background Data

Effective Date of Owner-Engineer Agreement: 09/10/2019

Owner: Sussex County

Engineer: KCI Technologies, Inc.

Project: Joy Beach – Phase 2

Nature of Amendment: [Check those that are applicable and delete those that are inapplicable.]

Additional Services to be performed by Engineer

Modifications to services of Engineer

~~Modifications to responsibilities of Owner~~

~~Modifications of payment to Engineer~~

Modifications to time(s) for rendering services

~~Modifications to other terms and conditions of the Agreement~~

Description of Modifications:

Narrative:

This amendment includes additional design and permitting scope beyond the previously completed Joy Beach -Phase 1 Project to extend sewer service to the north of Waterview Road in Sussex County, DE. The proposed sewer service will be as depicted in the markups received from the Owner and includes gravity sewer, a new pump station, and forcemain connection to Phase 1. The Pump Station shall be designed in accordance with Sussex County standards and shall be similar to the previously designed Mulberry Knoll PS.

Exhibit "A" – Engineer's Services

A1.01 *Study and Report Phase* – This phase was previously completed under Phase 1. No additional work is required in Phase 2.

A1.02 *Preliminary Design Phase*

- Paragraph A.9. – add the following after the word *deliverables* the first line:
 1. Survey: KCI's Survey Practice will mobilize a survey team to perform a Topographic survey for topo areas not previously performed in as required to produce baseplan documents for sewer design. Field measurements will be processed, and contours will be shown with 1' intervals in the existing survey base map for the project. Survey work will be referenced to DE SPC NAD83 horizontal and NAVD88 vertical datum by RTN GPS control.

Boundary Surveys will be compiled into the AutoCAD drawing for the use of creating approximately 9 easement exhibits and corresponding legal descriptions, 1 for each property resulting from sewer utility crossings.

2. Geotechnical: Perform subsurface exploration along the proposed alignment and pump station location. A total of 10 borings are assumed. Geotechnical work also includes:
 - a. Groundwater Levels: Monitor short-term water levels with a water-level meter during drilling and after completion of drilling.
 - b. Geotechnical Evaluations & Report: Evaluate the results of the subsurface exploration and laboratory testing, perform geotechnical engineering analyses and prepare a geotechnical engineering report which will contain the following:
 - i. A review of existing site conditions and major features.
 - ii. A review of area and site geologic conditions.
 - iii. A brief review and description of the field and laboratory test procedures conducted and their results.
 - iv. Review and description of subsurface conditions encountered including soil/rock types and physical properties, boring logs, and depth to groundwater (if encountered).
 - v. Identification and discussion of geotechnical issues.
 - vi. Foundation and subgrade recommendations for the submersible pump station and along sewer pipe alignment.

- vii. Recommendations for the proposed pipe and trenchless installation methods (if required).
 - viii. General construction recommendations including re-use of on-site soils, subgrade preparation, potential excavation difficulties, and temporary groundwater control.”
- Paragraph A.10. In third line, change [TBD} to read: “60 days”. In the fourth line, change [TBD] to read: “14 days...”
- Paragraph A.11. Change the first line to read, “...Phase modify...”. In the fifth line, change “[TBD] to read “seven (7) days...”
- Estimated Fees for this Phase are as follows:

A1.02 Preliminary Design	
<i>Additional Survey</i>	
Topographical Survey	\$16,200.00
Boundary Survey for Easements	\$10,700.00
Easement Exhibits (9)	\$8,200.00
<i>Geotech Borings</i>	
Allocation	\$10,000.00

A1.03 *Final Design Phase*

- Paragraph A.3. Add the following to the end of the paragraph: “The following agency review/approvals are anticipated:
 1. Sussex Conservation District – A sediment and stormwater plan will be required for disturbing greater than 5,000 square feet. It is assumed that a “standard plan” submittal will be required.
 2. DNREC – Construction Permit will be required for the proposed sewer infrastructure.
 3. DeIDOT – KCI will provide applicable plan sheets for submittal by Owner to DeIDOT for Utility Permit.
- Paragraph A.9., Add to end of section:
 - Wastewater Design:
 1. Detailed design for pump station and forcemain systems as well as gravity piping as depicted in the markups provided by the Owner:
 - Design in accordance with Ten State Standards and Proposed Sussex County design guidelines.

- Pump selection based on optimizing hydraulic efficiency.
 - Drawing conventions will be similar to those produced in Phase 1 at the direction of the Owner.
2. Production of Plan Sheets, Profile Views and Construction Details and Project Specifications for the pump station sites and pipeline alignments.
 3. Submittals to the Owner shall occur at 50%, 90% and Final Bid Documents.
- Civil/Site Design
 1. Site design for the proposed pump station locations providing site access and positive drainage from wet wells and key station elements.
 2. Submit a Linear Utility Permit Application to Sussex Conservation District for review and approval.
 - Electrical, Instrumentation and Control Design:
 1. Services will include preparation of drawings, specifications, and cost estimates related to electrical, instrumentation, and controls for the proposed improvements. KCI will produce these deliverables for the 50%, 90%, and 100% milestone submissions.
 2. KCI will develop an equipment layout for the proposed electrical and control devices. This includes interior layouts for the proposed power and control cabinets. All devices will be new and adhere to Sussex County Standards. KCI will determine the appropriate power design for the new equipment by coordinating with the power utility and with County's preferred equipment vendors. Once equipment selections have been made, KCI will determine the appropriate standby generator size for the station.
 3. KCI will coordinate with preferred equipment vendors regarding field mounted instruments that are required as well as a new control system. Using County supplied information, KCI will coordinate SCADA alarms to include. KCI will develop controls for proposed ventilation systems under this project.
 4. KCI will provide site plans, floor plans, lighting selections, connection diagrams, and details to convey electrical and control work efforts for the contractor.
- Paragraph A.10. In the fifth line, change [TBD] to 120 days... In the sixth line, change [TBD] to read, " 21 days..."
 - Paragraph A.11. In the last line, change [TBD] to read, "14 days..."

- Paragraph D. Delete Paragraph.
- Estimated Fees for this Phase are as follows:

A1.03 Final Design Phase	
<i>Wastewater Design (collection and PS)</i>	
50% Collection and PS Design	\$30,320.00
90% Collection and PS Construction Plans and Specs	\$36,100.00
Permitting and Bid Documents	\$24,250.00
Electrical/Instrumentation/Controls	\$16,750.00

A1.04 *Bidding or Negotiating Phase* – No additional work is requested in Phase 2.

All verbiage from “Construction Phase” and Post-Construction Phase” Sections was previously deleted from the scope of work. The scope of work for this Amendment is considered complete upon submittal of the Bid Documents to the Owner.

EXCLUSIONS

1. Additional work required by the Owner/Client that is not expressly included in the above Scope of Services.
2. Any additional processing or studies required to address supplementary information requested above and beyond that which is normally required by the regulatory agencies will require an addendum to this scope of work and fee.
3. Attendance at public hearings or additional agency meetings not noted above.
4. No field surveys for significant natural or cultural/historical resources are included in this Scope of Work. If these services are required based on agency correspondence, KCI will submit a scope and budget modification to cover the additional work.
5. Alternatives analysis or agency coordination other than that identified above.
6. Certifications not specifically called for in the Scope of Services.
7. Changes in policies or regulations during the progress of work that affect any layouts, narrative and/or cost estimates already prepared at the time of the change.
8. Design of concrete cast-in-place wet wells.
9. Construction Bidding, Inspection, or Administration services.

The foregoing Agreement Summary is for reference only and does not alter the terms of the Agreement, including those set forth in Exhibit C.

Owner and Engineer hereby agree to modify the above-referenced Agreement as set forth in this Amendment. All provisions of the Agreement not modified by this or previous Amendments remain in effect.

OWNER:

ENGINEER:

KCI Technologies, Inc.

By: _____
Print
name: _____

Title: _____

Date Signed: _____

By: 
Print
name: Daniel R. String, PE

Title: Practice Leader

Date Signed: 11/10/2023

ENGINEERING DEPARTMENT

HANS M. MEDLARZ
COUNTY ENGINEER

(302) 855-7370 T
(302) 854-5391 F

hans.medlarz@sussexcountyde.gov



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 C. Green
The Honorable Douglas B. Hudson
The Honorable Mark G. Schaeffer

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

RE: ***South Coastal WRF Treatment Process Upgrade No.3 & Rehoboth Beach WTP Capital Improvement Program, Phase 2 A. Electrical Construction, Project C19-17, Change Order No. 25***

DATE: December 5, 2023

In summary, 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 startup of the upgraded mechanical plant pump station a onetime 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 contained 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 contained \$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 10, 2023 Council awarded Change Order No. 31 to M.F. Ronca & Sons in the aggregate amount of \$288,663.28.

- 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.

Environmental Services initiated the following RFPs:

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 proposed 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 agreed to perform it 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 proposed to complete the task for \$86,480.73.
4. RFP-085 for the welder receptacles upgrades. BW Electric proposed 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 proposed 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), the electrical safety issue at the SC Administration Building under RFP-091 removing the existing PLC cabinet and replacing it with a new PCS cabinet at \$68,103.21 and RFP-092 associated with HVAC related issues in the Sodium Hypochlorite Building replacing it with a new power circuit and DS for a heat pump at \$8,554.77.

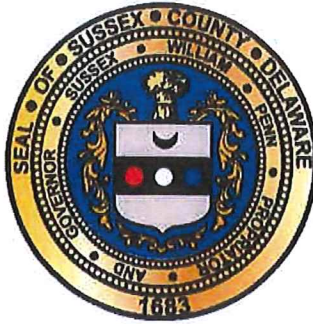
On August 1, 2023, Council approved BW Electric, Inc.'s Change Order No. 24 in the aggregate amount of \$66,523.68.

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. BW Electric, Inc proposes to complete the new power circuits and disconnect switches with EMRs, and new control wiring and conduit for these units for \$17,939.03.

The Engineering Department requests Council's approval for BW Electric, Inc.'s Change Order No. 25 in the amount of \$17,939.03.

- 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.



**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. 25

4. Date Change Order Initiated - 11/30/23

5. a. Original Contract Sum \$22,178,674.00

b. Net Change by Previous Change Orders \$777,872.73

c. Contract Sum Prior to Change Order \$22,956,546.73

d. Requested Change \$ 17,939.03

e. Net Change (No. of days) _____

f. New Contract Amount \$22,974,485.76

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:


Provide new power circuits and disconnect switches with EMRs, new control wiring and conduit for new heat pumps for Return Sludge Building and Blower Building electrical rooms. Provide new outdoor receptacles and associated power circuits.

D. JUSTIFICATION FOR CHANGE ORDER INCLUDED?

Yes No

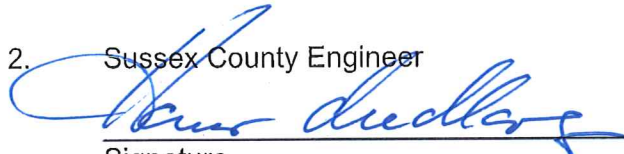
E. APPROVALS

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

 11/30/23
Signature Date

BRYAN WARDEN PRESIDENT
Representative's Name in Block Letters

- 2. Sussex County Engineer

 11/30/23
Signature Date

- 3. Sussex County Council President

Signature Date



Request for Proposal

Project Title	SCRWF Upgrade No. 3 & RBWWTP CIP Upgrade Phase 2		
Owner	Sussex County, Delaware		
Contract No.	C19-17: Electrical Construction	GHD Project No.	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.			
RFP No.	109		
RFP Subject	RBWWTP Generator Alarm		
Issued By	S. Clark	<i>SC</i> Issue Date	Oct. 20, 2023

Description of proposed changes:

Provide a common generator alarm for warning (non-shutdown-level) alarms. Alarm will be output from generator control panel to PCS-B6 and from PCS-B6 to RTU-T1.

- Have Fidelity configure the alarm in the generator control panel and identify field terminals for connection of alarm circuit to PCS-B6.
- Terminate existing spare control wires between PCS-B6 and generator control panel. Update PCS-B6 as-built to show DI from generator CP.
- Terminate existing spare control wires between PCS-B6 and RTU-B1. Update PCS-B6 as-built to show DO to RTU-B1.
- Programming of PCS-B6, RTU-B1, and SCADA are by others.



Request for Proposal

Project Title	SCRWF Upgrade No. 3 & RBWWTP CIP Upgrade Phase 2		
Owner	Sussex County, Delaware		
Contract No.	C19-17: Electrical Construction	GHD Project No.	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.			
RFP No.	RFP-094		
RFP Subject	BB1 and RSB1 Heat Pumps - Electrical		
Issued By	S. Clark	<i>SC</i>	Issue Date 9/25/2023

Description of proposed changes:

Provide new power circuits and disconnect switches with EMRs, and new control wiring and conduit for new heat pumps to be provided by General Contractor for Return Sludge Building No. 1 Electrical Room and Blower Building No. 1 Electrical Room. Provide new outdoor receptacles and associated power circuits.

A price proposal for the following work is requested of the electrical contractor. Refer to attached Figure Nos. RFP-094-01, -02 for BB1 work details, and RFP-094-03, -04 for RSB1 work details.

Blower Building No. 1:

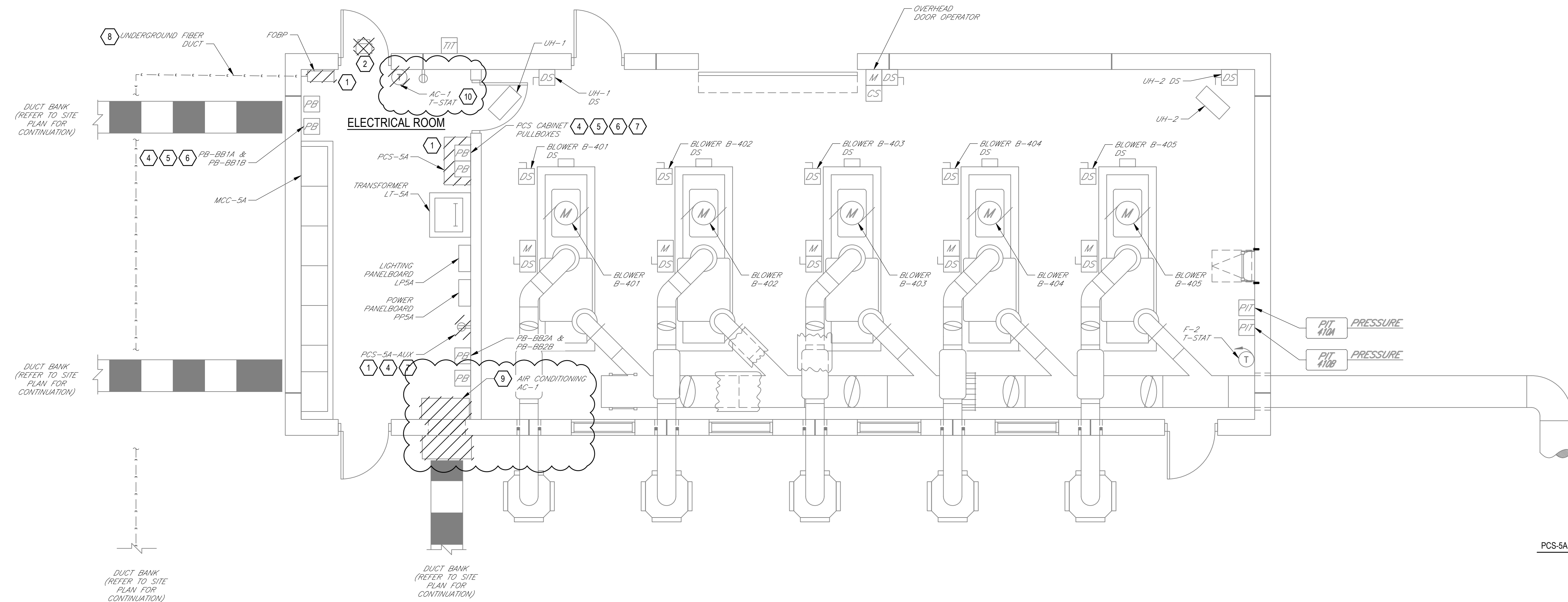
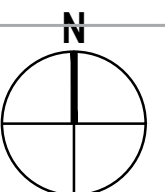
- Demolish conduit and conductors from existing A/C unit AC-1 back to panelboard PP5A.
- Demolish conduit and conductors associated with A/C unit AC-1 control wiring and existing thermostat.
- Provide one new 20A, 120V weatherproof receptacle and locate as shown on Figure RFP-094-01.
- Use spare 20A/1P circuit breaker LP5A-18 to provide power to receptacle. Provide new P2 power circuit from receptacle to LP5A.
- Provide new 30A, 2P non-fused DS and new EMR with ground grid conductor (connection to backboard and nearest existing building metallic structural member). Locate adjacent to new receptacle.
- Remove spare 15A/3P CB from panelboard LP5A-30. Provide new 20A/2P circuit breaker for new heat pump ACCU-BB1-01 in panelboard LP5A-30, and one single pole space.
- Provide new 3/4" C w/ 2-#12, 1-#12G power circuit from LP5A-30 to ACCU-BB1-01.
- Provide 3/4" C w/#16 TSP from ACCU-BB1-01 to AC-BB1-01.
- Install new heat pump thermostat furnished by General Contractor.
- Provide 3/4 C w/ #16 TSP from AC-BB1-01 to new thermostat.

Return Sludge Building 1:

- Demolish conduit and conductors from existing A/C unit AC-2 back to panelboard PP5B.
- Demolish conduit and conductors associated with A/C unit AC-2 control wiring and existing thermostat.
- Provide one new 20A, 120V weatherproof receptacle and locate as shown on figure RFP-094-02.
- Use 20A/1P LP5B-37 to provide power to receptacle. Provide new P2 power circuit from receptacle to LP5B.
- Provide new 30A, 2P non-fused DS and new EMR with ground grid conductor (connection to backboard and nearest existing building metallic structural member). Locate adjacent to new receptacle.



- Remove 20A/1P CBs from panelboard LP5A-33 and 35. Provide new 20A/2P circuit breaker on panelboard LP5B-33 for new heat pump ACCU-BB1-01.
- Provide new ¾" C w/ 2-#12, 1-#12G power circuit from LP5B-33 to ACCU-RSB1-01.
- Provide ¾" C w/ #16 TSP from ACCU-RSB1-01 to AC-RSB1-01.
- Install new heat pump thermostat furnished by Contractor.
- Provide ¾" C w/ #16 TSP from AC-RSB1-01 to new thermostat.



1 BLOWER BUILDING NO. 1 PLAN - DEMOLITION 3
 SCALE: 1/4"=1'-0"

LEGEND:

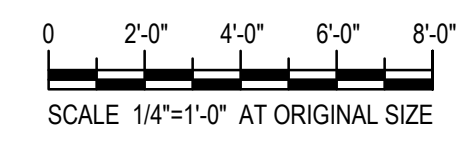
- TO BE DEMOLISHED
- TO BE RELOCATED

DRAWING NOTES:

- 1 REFER TO 'PROCESS CONTROL SYSTEM SCHEMATIC DIAGRAM - MODIFICATIONS' FOR MORE INFORMATION.
- 2 RELOCATE EXISTING EXTERIOR LIGHT FIXTURE TO ACCOMMODATE INSTALLATION OF NEW INTAKE AIR LOUVER - SEE MODIFICATION PLAN.
- 3 DEMOLISH POWER AND CONTROL CIRCUITS AND EXPOSED CONDUIT ASSOCIATED WITH EQUIPMENT SHOWN TO BE DEMOLISHED BY CONTRACTOR AND BY GENERAL CONTRACTOR. REMOVE CIRCUITS/CONDUIT BACK TO SOURCE, UNLESS OTHERWISE NOTED. CAP CONCEALED CONDUITS.
- 4 INTERCEPT THE CIRCUITS INDICATED BELOW AT PCS-5A AND PCS-5A-AUX AND RE-CONNECT TO NEW PCS-5A. PROVIDE NEW CONDUIT CONNECTIONS, CONDUIT SUPPORTS, TERMINAL BOXES AND TERMINAL BLOCKS AS REQUIRED TO CONNECT EXISTING CIRCUITS TO NEW PCS-5A. RE-USE EXISTING CONDUITS TO THE EXTENT PRACTICAL.

	EXISTING CIRCUIT	TYPE	
PCS-5A CIRCUITS	BLOWER DISCHARGE PRESSURE NO. 1	PIT-410A 4-20 mA	
	BLOWER DISCHARGE PRESSURE NO. 2	PIT-410B 4-20 mA	
	ELECTRIC UNIT HEATER 1 CNTL. INTERLOCK	UH-1 4-20 mA	
	ELECTRIC UNIT HEATER 2 CNTL. INTERLOCK	UH-2 4-20 mA	
	(CIRCUITS BELOW TYP. FOR WG-531 THROUGH WG-534)	WEIR GATE ACTUATOR WEIR GATE ACTUATOR	DISCRETE DISCRETE
	WEIR GATE STATUS - OPEN		DISCRETE
	WEIR GATE STATUS - CLOSED		DISCRETE
	(CIRCUITS BELOW TYP. FOR BLOWERS B-401 THROUGH B-405)	BLOWER LCP BLOWER LCP BLOWER LCP	DISCRETE DISCRETE DISCRETE
	BLOWER MODE STATUS - AUTO	SSRV	DISCRETE
	BLOWER MODE STATUS - HAND	SSRV	DISCRETE
BLOWER MOTOR OVERLOAD	SSRV	DISCRETE	
BLOWER SURGE	BLOWER INLET TE	DISCRETE	
BLOWER ISOLATION CONTACTOR CNTL	BLOWER OUTLET TE	DISCRETE	
BLOWER ISOLATION CONTACTOR STATUS		RTD (PT-100)	
BLOWER INLET BEARING TEMPERATURE		RTD (PT-100)	
BLOWER OUTLET BEARING TEMPERATURE			
PCS-5A-AUX CIRCUITS	(CIRCUITS BELOW TYP. FOR BLOWER INLET CONTROL VALVES ONLY)	INLET CONTROL VALVE INLET CONTROL VALVE INLET CONTROL VALVE	4-20 mA 4-20 mA DISCRETE
	POSITION - STATUS	LSH-500	DISCRETE
	POSITION - CONTROL	TIT-530	DISCRETE
	ALARM - ACTUATOR FAIL		DISCRETE
PCS-5A CIRCUITS	FLOW METER VAULT SUMP HIGH LEVEL	LT-720 LSHH-721	4-20 mA
	AMBIENT TEMPERATURE	LSHH-722	4-20mA
	FILTER NO. 2 INFLUENT LEVEL	MCC-5A MCB	DISCRETE
	FILTER NO. 2 INFLUENT HIGH LEVEL	MCC-5A SPD	DISCRETE
	FILTER NO. 2 EFFLUENT HIGH LEVEL		DISCRETE
MCC-5A MAIN BREAKER POSITION STATUS		DISCRETE	
MCC-5A SPD ALARM		DISCRETE	

- 5 DEMOLISH CAT 5 CABLES AND PROVIDE NEW CAT 6 CABLES BETWEEN B-401 THROUGH B-405 SSRVs IN MCC-5A AND NEW PCS-5A. RE-USE EXISTING CONDUITS; PROVIDE NEW CONDUIT CONNECTIONS AS REQUIRED.
- 6 DEMOLISH CAT 5 CABLES AND PROVIDE NEW CAT 6 CABLES BETWEEN MCC-5A DIGITAL POWER METER AND NEW PCS-5A. RE-USE EXISTING CONDUIT; PROVIDE NEW CONDUIT CONNECTIONS AS REQUIRED.
- 7 DEMOLISH WALL MOUNTED PCS-AUX OR USE AS TERMINAL BOX IF APPROVED BY COUNTY. DEMOLISH CAT 5 CABLE AND CONDUIT BETWEEN PCS-5A AND PCS-5A-AUX.
- 8 UNDERGROUND FIBER DUCT: DEMOLISH FIBER OPTIC CABLE BETWEEN EAST SLUDGE PUMP BUILDING AND BLOWER BUILDING NO-1. DEMOLISH EXPOSED CONDUITS.
- 9 DEMOLISH EXISTING A/C UNIT AND REBUILD AND REPAIR WALL TO EXISTING CONDITION. REPAIR SIMILAR TO WALL REPAIR DETAIL INCLUDED IN RFP-093 - BY GENERAL CONTRACTOR.
- 10 DEMOLISH EXISTING A/C UNIT THERMOSTAT AND ASSOCIATED WIRING AND CONDUIT - BY ELECTRICAL CONTRACTOR.

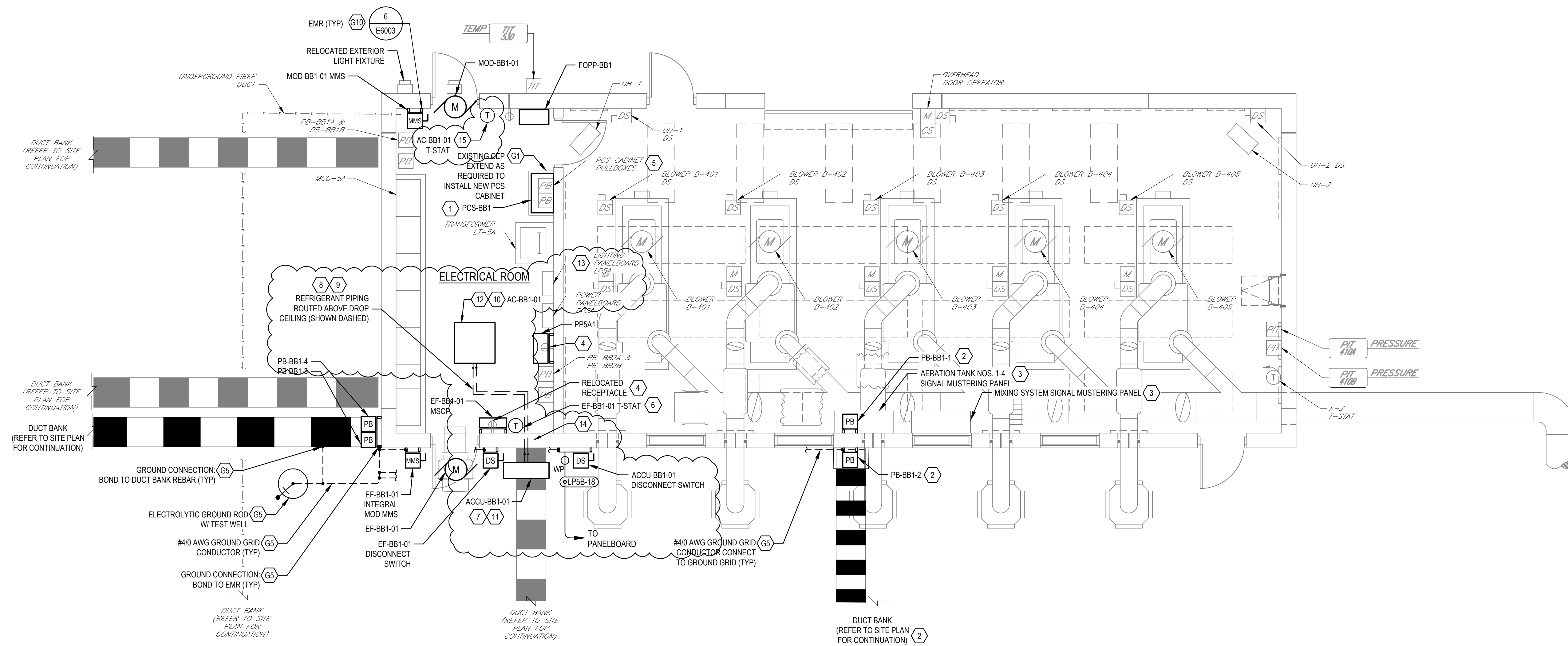
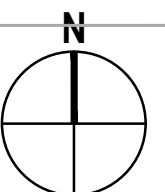


SUSSEX COUNTY, DELAWARE
 SCRFW NO.3 AND RBWWTP CIP PHASE 2
 UPGRADES

FIGURE RFP-094-01
BLOWER BUILDING NO. 1
PLAN - DEMOLITION

Project No. 11121182
 Report No. RFP-094
 Date 9/22/2023

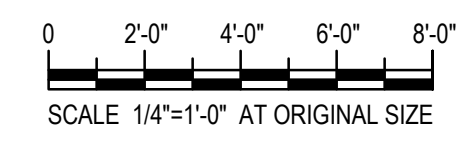
RFP-094-01



1 BLOWER BUILDING NO. 1 HVAC PLAN - ADDITIONS
SCALE: 1/4"=1'-0"

DRAWING NOTES:

- 1 REFER TO PROCESS CONTROL SYSTEM SCHEMATIC DIAGRAM - MODIFICATIONS FOR MORE INFORMATION.
- 2 INDICATED LOCATIONS OF DUCT BANK AND PULL BOXES ARE APPROXIMATE. COORDINATE LOCATIONS WITH LOCATIONS OF ELECTRICAL PANELS.
- 3 PANELS AND CEPs PROVIDED BY GENERAL CONTRACTOR. REMOVAL OF ACOUSTICAL WALL PANELS TO ALLOW INSTALLATION OF MUSTERING PANELS BY GENERAL CONTRACTOR.
- 4 RELOCATE EXISTING RECEPTACLE TO ALLOW INSTALLATION OF PP5A1. PROVIDE CONDUCTORS, CONDUITS AND FITTINGS TO CONNECT TO EXISTING CIRCUIT.
- 5 REFER TO BLOWER BUILDING NO. 1 PLAN - DEMOLITION FOR CONNECTION OF EXISTING CIRCUITS TO NEW PCS-5A.
- 6 THERMOSTAT FURNISHED BY GENERAL CONTRACTOR. INSTALLED BY CONTRACTOR.
- 7 EXTERIOR EQUIPMENT PAD, REFER TO STRUCTURAL DRAWINGS - BY GENERAL CONTRACTOR.
- 8 ROUTE UNIT CONDENSATE PIPING ALONG REFRIGERANT PIPING PATHWAY. TERMINATE CONDENSATE PIPING 12" ABOVE EXTERIOR GRADE AND ANGLE 45 DEGREES AWAY FROM BUILDING. PROVIDE INTEGRAL CONDENSATE PUMP IF CONDENSATE PIPING IS SLOPED UPWARDS AT ANY POINT - BY GENERAL CONTRACTOR.
- 9 CORE DRILL EXISTING WALL FOR PIPE PENETRATIONS AND SEAL WATERTIGHT - BY GENERAL CONTRACTOR.
- 10 SUPPORT INDOOR UNIT FROM CEILING - BY GENERAL CONTRACTOR.
- 11 ELECTRICAL WORK FOR HEAT PUMP INSTALLATION INCLUDING UNIT POWER, DS, RECEPTACLE AND RECEPTACLE POWER, EMR AND GROUNDING GRID CONDUCTOR TO BE PROVIDED BY ELECTRICAL CONTRACTOR.
- 12 NEW HEAT PUMP, INCLUDING INDOOR AND OUTDOOR UNITS, CEP, REFRIGERANT AND DRAIN PIPING, TEMPERATURE CONTROLS AND POWER AND CONTROL WIRING BETWEEN INDOOR AND OUTDOOR UNITS PROVIDED BY GENERAL CONTRACTOR.
- 13 PROVIDE NEW CBs AS INDICATED IN RFP-094 - BY ELECTRICAL CONTRACTOR.
- 14 DEMOLISH EXISTING A/C UNIT AND REBUILD AND REPAIR WALL TO EXISTING CONDITION. REPAIR SIMILAR TO WALL REPAIR DETAIL INCLUDED IN RFP-093 - BY GENERAL CONTRACTOR.
- 15 THERMOSTAT FURNISHED BY GENERAL CONTRACTOR. INSTALLED BY ELECTRICAL CONTRACTOR.

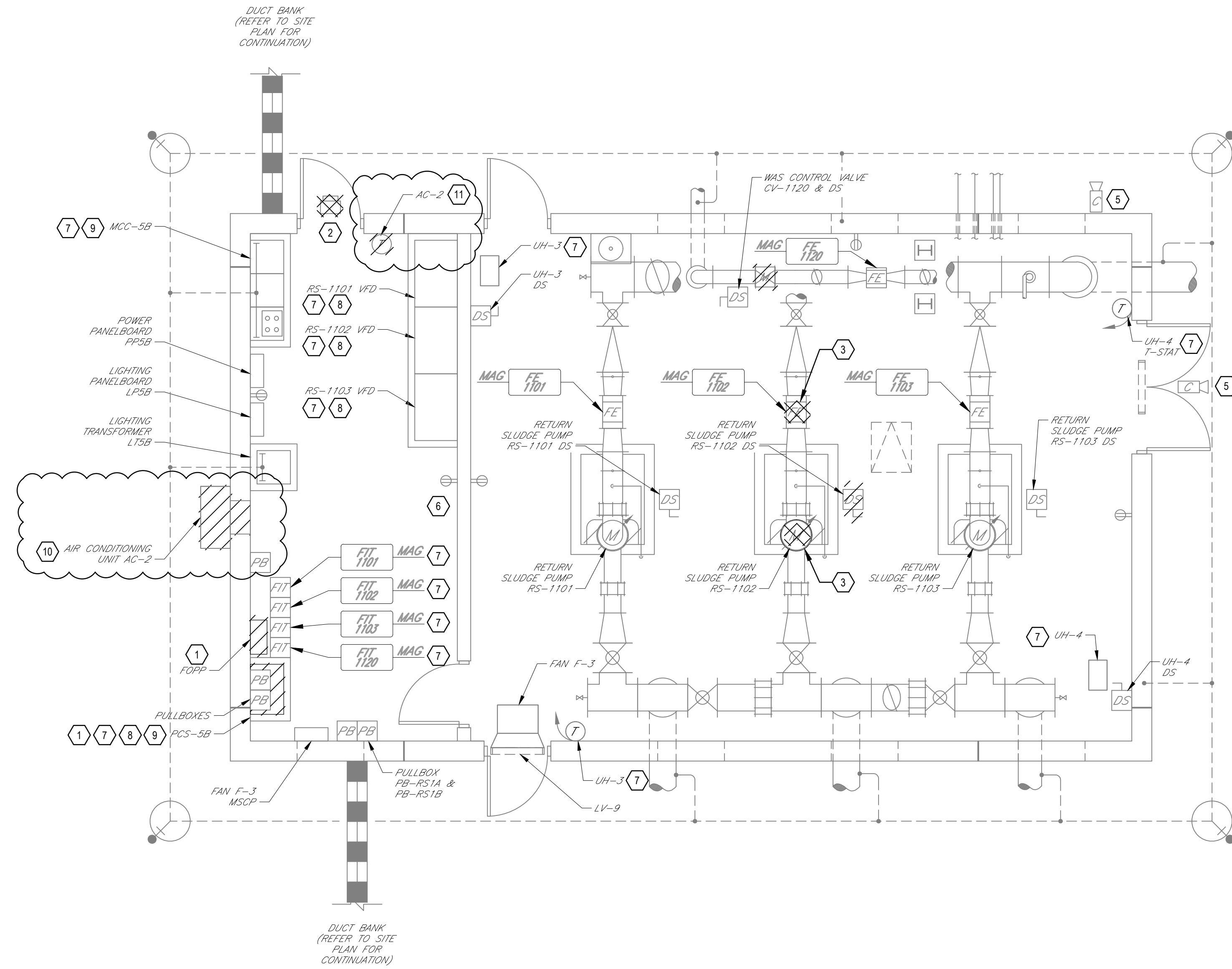
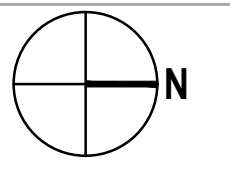


SUSSEX COUNTY, DELAWARE
SCWRP NO.3 AND RBWWTP CIP PHASE 2
UPGRADES

FIGURE RFP-094-02
BLOWER BUILDING NO. 1
HVAC PLAN - ADDITIONS

Project No. 11121182
Report No. RFP-094
Date 9/22/2023

RFP-094-02



1 RETURN SLUDGE BUILDING NO. 1 PLAN - DEMOLITION 4
SCALE: 1/4"=1'-0"

- LEGEND:**
- TO BE DEMOLISHED
 - TO BE RELOCATED

- DRAWING NOTES:**
- 1 REFER TO 'PROCESS CONTROL SYSTEM SCHEMATIC DIAGRAM - MODIFICATIONS' FOR MORE INFORMATION.
 - 2 RELOCATE EXISTING EXTERIOR LIGHTING FIXTURE TO SOUTH OF DOOR TO ACCOMMODATE INSTALLATION OF NEW INTAKE AIR LOUVER - SEE MODIFICATION PLAN.
 - 3 RELOCATION BY GENERAL CONTRACTOR.
 - 4 DEMOLISH POWER AND CONTROL CIRCUITS AND EXPOSED CONDUIT ASSOCIATED WITH EQUIPMENT SHOWN TO BE DEMOLISHED OR RELOCATED BY CONTRACTOR AND BY GENERAL CONTRACTOR. REMOVE CIRCUITS/CONDUIT BACK TO SOURCE, UNLESS OTHERWISE NOTED. CAP CONCEALED CONDUITS.
 - 5 APPROXIMATE LOCATIONS OF EXISTING CAMERAS MOUNTED ON EXTERIOR WALL APPROXIMATELY 12 FEET ABOVE GRADE. DEMOLISH CAT 5 CABLE AND CONDUIT BACK TO PCS-5B. CONNECT CAMERAS TO NEW PCS-5B.
 - 6 DEMOLISH CAT 5 CABLES FROM EXISTING PHONE AND PC BACK TO PCS-5B. CONNECT TO NEW PCS-5B.
 - 7 INTERCEPT THE CIRCUITS INDICATED BELOW AND RE-CONNECT TO NEW PCS-5B. PROVIDE NEW CONDUIT CONNECTIONS, CONDUIT SUPPORTS, TERMINAL BOXES AND TERMINAL BLOCKS AS REQUIRED TO CONNECT EXISTING CIRCUITS TO NEW PCS-5B. RE-USE EXISTING CONDUITS TO THE EXTENT PRACTICAL.

EXISTING CIRCUIT	SOURCE OR DESTINATION	TYPE
RAS PUMP NO. 1 FLOW	FIT-1101	4-20 mA
RAS PUMP NO. 1 FLOW METER FAIL	FIT-1101	DISCRETE
RAS PUMP NO. 2	FIT-1102	4-20 mA
RAS PUMP NO. 2 FLOW METER FAIL	FIT-1102	DISCRETE
RAS PUMP NO. 3 FLOW	FIT-1103	4-20 mA
RAS PUMP NO. 3 FLOW METER FAIL	FIT-1103	DISCRETE
WAS PUMP NO. 3 FLOW	FIT-1120	4-20mA
WAS PUMP NO. 3 FLOW METER FAIL	FIT-1120	DISCRETE
ELECTRIC UNIT HEATER 3 CNTL. INTERLOCK	UH-3	DISCRETE
ELECTRIC UNIT HEATER 4 CNTL. INTERLOCK	UH-4	DISCRETE

(CIRCUITS BELOW TYP FOR RAS PUMP RS-1101 THROUGH RS-1103)

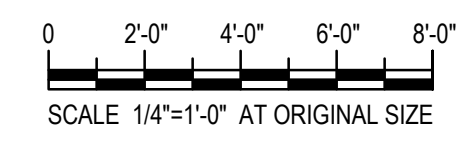
RAS PUMP MODE STATUS - AUTO	VFD CP	DISCRETE
RAS PUMP MODE STATUS - HAND	VFD CP	DISCRETE
RAS PUMP MWTS	VFD CP	DISCRETE
RAS PUMP ISOLATION CONTACTOR CNTL	VFD CP	DISCRETE
RAS PUMP ISOLATION CONTACTOR STATUS	VFD CP	DISCRETE

(CIRCUITS LISTED BELOW TYP FOR CLARIFIERS SC-601 AND SC-602 - CLARIFIER I/O ONLY)

CLARIFIER MODE STATUS - AUTO	MCC-5B MS	DISCRETE
CLARIFIER MODE STATUS - HAND	MCC-5B MS	DISCRETE
CLARIFIER MWTS	MCC-5B MS	DISCRETE
CLARIFIER RUN - STATUS	MCC-5B MS	DISCRETE
CLARIFIER START - CNTL	MCC-5B MS	DISCRETE
CLARIFIER TORQUE - WARNING	MCC-5B MS	DISCRETE
CLARIFIER TORQUE - SHUTDOWN	MCC-5B MS	DISCRETE
SCUM PUMP SP-1 MODE STATUS - AUTO	MCC-5B MS	DISCRETE
SCUM PUMP SP-1 MODE STATUS - HAND	MCC-5B MS	DISCRETE
SCUM PUMP SP-1 MOTOR HIGH TEMP	MCC-5B MS	DISCRETE
SCUM PUMP SP-1 MOTOR SEAL LEAK	MCC-5B MS	DISCRETE
SCUM PUMP SP-1 RUN - STATUS	MCC-5B MS	DISCRETE
SCUM PUMP SP-1 - CNTL	MCC-5B MS	DISCRETE

CV-1120 POSITION - STATUS	WASTE SLUDGE CV	4-20 mA
CV-1120 POSITION - CONTROL	WASTE SLUDGE CV	4-20 mA
CV-1120 MODE - AUTO	WASTE SLUDGE CV	DISCRETE
CV-1120 CONTROL - OPEN	WASTE SLUDGE CV	DISCRETE
CV-1120 CONTROL - CLOSE	WASTE SLUDGE CV	DISCRETE
CV-1120 ALARM - COMMON	WASTE SLUDGE CV	DISCRETE
WG - 621 STATUS OPEN	WG - 621	DISCRETE
WG - 621 STATUS CLOSED	WG - 621	DISCRETE
WG - 622 STATUS OPEN	WG - 621	DISCRETE
WG - 622 STATUS CLOSED	WG - 621	DISCRETE
SCUM VALVE VAULT SUMP HIGH LEVEL	LSH-1001	DISCRETE
SCUM PUMP STATION LEVEL	LIT-1000	4-20 mA
SCUM PUMP STATION LEVEL SENSOR FAIL	LIT-1000	DISCRETE
MCC-5B MAIN BREAKER POSITION STATUS	MCC-5B MCB	DISCRETE
MCC-5B SPD ALARM	MCC-5B SPD	DISCRETE

- 8 DEMOLISH CAT 5 CABLES AND PROVIDE NEW CAT 6 CABLES BETWEEN RS-1101 THROUGH RS-1103 VFD CPs IN ELECTRICAL ROOM AND NEW PCS-5B. RE-USE EXISTING CONDUITS; PROVIDE NEW CONDUIT CONNECTIONS AS REQUIRED.
- 9 DEMOLISH CAT 5 CABLE AND PROVIDE NEW CAT 6 CABLE BETWEEN MCC-5B DIGITAL POWER METER AND NEW PCS-5B. RE-USE EXISTING CONDUIT; PROVIDE NEW CONDUIT CONNECTIONS AS REQUIRED.
- 10 DEMOLISH EXISTING A/C UNIT AND REBUILD AND REPAIR WALL TO EXISTING CONDITION. REPAIR SIMILAR TO WALL REPAIR DETAIL INCLUDED IN RFP-093 - BY GENERAL CONTRACTOR.
- 11 DEMOLISH EXISTING A/C UNIT THERMOSTAT AND ASSOCIATED WIRING AND CONDUIT - BY ELECTRICAL CONTRACTOR.

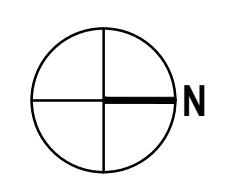
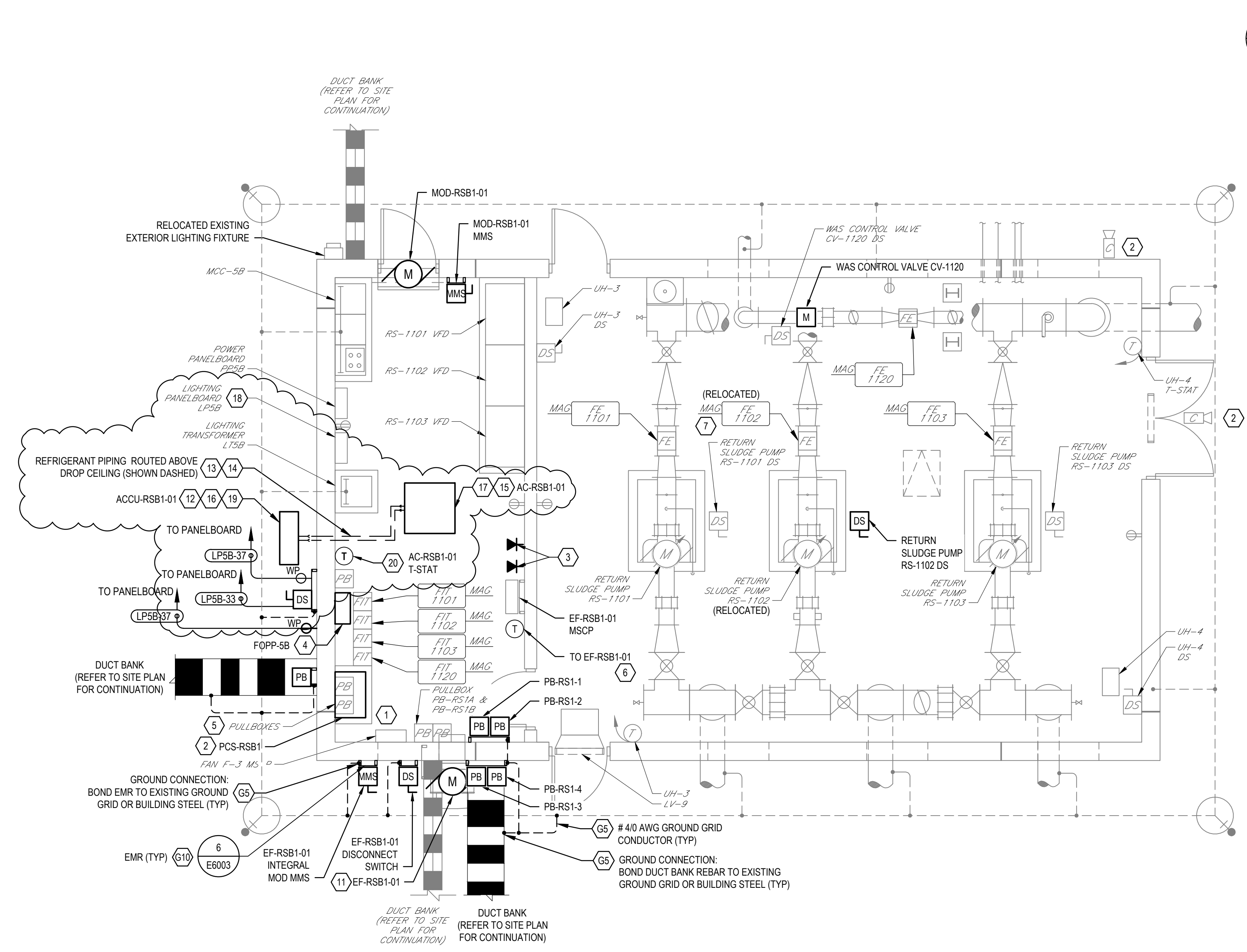


SUSSEX COUNTY, DELAWARE
 SCWRP NO.3 AND RBWWTP CIP PHASE 2
 UPGRADES

FIGURE RFP-094-03
RETURN SLUDGE BUILDING NO. 1
PLAN - DEMOLITION

Project No. 11121182
 Report No. RFP-094
 Date 9/22/2023

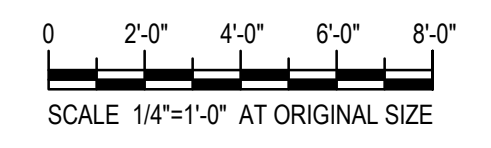
RFP-094-03



1 RETURN SLUDGE BUILDING NO. 1 - HVAC PLANS - ADDITIONS
SCALE: 1/4"=1'-0"

DRAWING NOTES:

- 1 REFER TO 'PROCESS CONTROL SYSTEM SCHEMATIC DIAGRAM - MODIFICATIONS' FOR MORE INFORMATION.
 - 2 CONNECT EXISTING CAMERAS TO PCS-5B.
 - 3 PROVIDE WALL MOUNTED DATA JACKS FOR CONNECTION OF EXISTING PHONE AND PC TO NEW PCS-5B. COORDINATE LOCATIONS OF WALL JACKS WITH COUNTY.
 - 4 MOUNT FOPP-5B ABOVE FLOW TRANSMITTERS IN SPACE VACATED BY DEMOLISHED FOPP.
 - 5 REFER TO RETURN SLUDGE BUILDING NO. 1 PLAN - DEMOLITION FOR CONNECTION OF EXISTING CIRCUITS TO NEW PCS-5B.
 - 6 THERMOSTAT FURNISHED BY GENERAL CONTRACTOR, INSTALLED BY CONTRACTOR.
 - 7 RE-LOCATED FE-1102. RE-USE EXISTING CONDUITS. PROVIDE ADDITIONAL CONDUIT AS REQUIRED FOR RELOCATION. PROVIDE NEW MANUFACTURER'S CABLES BETWEEN FLOW ELEMENT AND FLOW TRANSMITTER.
 - 8 VFD MOTOR BRANCH CIRCUITS: PROVIDE SHIELDED VFD CABLE FOR EACH VFD MOTOR BRANCH CIRCUIT AS SPECIFIED.
 - 9 ROUTE CIRCUITS THROUGH PCS PULL BOXES. PULL BOXES NOT SHOWN FOR BREVITY.
 - 10 PROVIDE NEW WIRING AND WIRING CONNECTIONS FOR FIVE (5) NEW HARDWIRED I/O FOR EACH OF THREE (3) EXISTING RAS PUMP VFD CONTROL PANELS TO REPLACE EXISTING ETHERNET I/O. NEW HARDWIRED I/O FOR EACH VFD CONTROL PANEL SHALL CONSIST OF THE FOLLOWING POINTS:
 - CONTROL - START/STOP (DISCRETE OUTPUT FROM PCS TO VFD)
 - STATUS - RUN (DISCRETE INPUT FROM VFD TO PCS)
 - ALARM - VFD FAIL (DISCRETE INPUT FROM VFD TO PCS)
 - CONTROL - SPEED (4-20mA SPEED CONTROL ANALOG OUTPUT FROM PCS TO VFD)
 - STATUS - SPEED (4-20mA SPEED INDICATION ANALOG INPUT FROM VFD TO PCS)
- EXISTING VFDs ARE SCHNEIDER ELECTRIC, MODEL ALTIVAR 61. PROVIDE ONE (1) NEW VFD I/O MODULE INSTALLED IN EACH VFD TO ACCOMMODATE NEW HARDWIRED I/O. MODIFY CONFIGURATION OF EACH VFD TO ACCEPT HARDWIRED START/STOP SIGNAL AND 4-20mA ANALOG SPEED CONTROL SIGNAL IN LIEU OF CONTROL SIGNALS TRANSMITTED VIA ETHERNET. PROVIDE CONFIGURATION MODIFICATIONS FOR VFDs TO OUTPUT HARDWIRED DISCRETE SIGNALS FOR VFD FAIL AND RUN STATUS SIGNALS, AND TO OUTPUT 4-20mA ANALOG SPEED INDICATION SIGNAL.
- CONDUIT AND WIRING FOR NEW DISCRETE AND ANALOG HARDWIRED SIGNALS INDICATED ON CONDUIT RISER DIAGRAM ARE IN ADDITION TO CONDUIT AND WIRING REQUIRED FOR INTERCEPTION OF EXISTING CIRCUITS TO/FROM VFD CONTROL PANELS TO NEW PCS CABINET AS INDICATED ON DRAWING SC-E0601.
- 11 EXHAUST FAN TO BE PLACED IN LOCATION OF EXISTING WINDOW CUT-OUT. EXISTING WINDOW TO BE REMOVED.
 - 12 EXTERIOR EQUIPMENT PAD, REFER TO STRUCTURAL DRAWINGS - BY GENERAL CONTRACTOR.
 - 13 ROUTE UNIT CONDENSATE PIPING ALONG REFRIGERANT PIPING PATHWAY. TERMINATE CONDENSATE PIPING 12" ABOVE EXTERIOR GRADE AND ANGLE 45 DEGREES AWAY FROM BUILDING. PROVIDE INTEGRAL CONDENSATE PUMP IF CONDENSATE PIPING IS SLOPED UPWARDS AT ANY POINT - BY GENERAL CONTRACTOR.
 - 14 CORE DRILL EXISTING WALL FOR PIPE PENETRATIONS AND SEAL WATERTIGHT - BY GENERAL CONTRACTOR.
 - 15 SUPPORT INDOOR UNIT FROM CEILING - BY GENERAL CONTRACTOR.
 - 16 ELECTRICAL WORK FOR HEAT PUMP INSTALLATION INCLUDING UNIT POWER, DS, RECEPTACLE AND RECEPTACLE POWER, EMR AND GROUNDING GRID CONDUCTOR TO BE PROVIDED BY ELECTRICAL CONTRACTOR.
 - 17 NEW HEAT PUMP, INCLUDING INDOOR AND OUTDOOR UNITS, CEP, REFRIGERANT AND DRAIN PIPING, TEMPERATURE CONTROLS AND POWER AND CONTROL WIRING BETWEEN INDOOR AND OUTDOOR UNITS PROVIDED BY GENERAL CONTRACTOR.
 - 18 PROVIDE NEW CBs AS INDICATED IN RFP-094 - BY ELECTRICAL CONTRACTOR.
 - 19 DEMOLISH EXISTING A/C UNIT AND REBUILD AND REPAIR WALL TO EXISTING CONDITION. REPAIR SIMILAR TO WALL REPAIR DETAIL INCLUDED IN RFP-093 - BY GENERAL CONTRACTOR.
 - 20 THERMOSTAT FURNISHED BY GENERAL CONTRACTOR, INSTALLED BY ELECTRICAL CONTRACTOR.



SUSSEX COUNTY, DELAWARE
SCWRV NO.3 AND RBWWTP CIP PHASE 2
UPGRADES
FIGURE RFP-094-04
RETURN SLUDGE BUILDING NO. 1
HVAC PLAN - ADDITIONS

Project No. 11121182
Report No. RFP-094
Date 9/22/2023

RFP-094-04



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

November 13, 2023

Subject: SCRWF Upgrade No. 3 & RBWWTP CIP Upgrade Phase 2 RFP No. 94

Dear Mr. Medlarz,

Our price to perform the electrical work associated with the above project is based on RFP No. 94. Our price does not include the use of Prevailing Wages. Our price is **\$17,939.03** and includes the following:

Description of proposed changes:

Provide new power circuits and disconnect switches with EMRs, and new control wiring and conduit for new heat pumps to be provided by General Contractor for Return Sludge Building No. 1 Electrical Room and Blower Building No. 1 Electrical Room. Provide new outdoor receptacles and associated power circuits.

A price proposal for the following work is requested of the electrical contractor. Refer to attached Figure Nos. RFP-094-01, -02 for BB1 work details, and RFP-094-03, -04 for RSB1 work details.

Blower Building No. 1:

- Demolish conduit and conductors from existing A/C unit AC-1 back to panelboard PP5A.
- Demolish conduit and conductors associated with A/C unit AC-1 control wiring and existing thermostat.
- Provide one new 20A, 120V weatherproof receptacle and locate as shown on Figure RFP-094-01.
- Use spare 20A/1P circuit breaker LP5A-18 to provide power to receptacle. Provide new P2 power circuit from receptacle to LP5A.

- Provide new 30A, 2P non-fused DS and new EMR with ground grid conductor (connection to backboard and nearest existing building metallic structural member). Locate adjacent to new receptacle.
- Remove spare 15A/3P CB from panelboard LP5A-30. Provide new 20A/2P circuit breaker for new heat pump ACCU-BB1-01 in panelboard LP5A-30, and one single pole space.
- Provide new 3/4" C w/ 2-#12, 1-#12G power circuit from LP5A-30 to ACCU-BB1-01.
- Provide 3/4" C w/#16 TSP from ACCU-BB1-01 to AC-BB1-01.
- Install new heat pump thermostat furnished by General Contractor.
- Provide 3/4 C w/ #16 TSP from AC-BB1-01 to new thermostat.

Return Sludge Building 1:

- Demolish conduit and conductors from existing A/C unit AC-2 back to panelboard PP5B.
- Demolish conduit and conductors associated with A/C unit AC-2 control wiring and existing thermostat.
- Provide one new 20A, 120V weatherproof receptacle and locate as shown on figure RFP-094-02.
- Use 20A/1P LP5B-37 to provide power to receptacle. Provide new P2 power circuit from receptacle to LP5B.
- Provide new 30A, 2P non-fused DS and new EMR with ground grid conductor (connection to backboard and nearest existing building metallic structural member). Locate adjacent to new receptacle.
- Remove 20A/1P CBs from panelboard LP5A-33 and 35. Provide new 20A/2P circuit breaker on panelboard
- LP5B-33 for new heat pump ACCU-BB1-01.
- Provide new 3/4" C w/ 2-#12, 1-#12G power circuit from LP5B-33 to ACCU-RSB1-01.
- Provide 3/4" C w/ #16 TSP from ACCU-RSB1-01 to AC-RSB1-01.
- Install new heat pump thermostat furnished by Contractor.
- Provide 3/4 C w/ #16 TSP from AC-RSB1-01 to new thermostat.

If this RFP is accepted, we are requesting 10 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 No. 094

Totals (Summary) - Bid Summary: Default

Material	
Non-Quoted	\$8,910.91
Quotes	0.00
Sales Tax (0.00%)	0.00
Total Material	\$8,910.91
Labor	
Direct (89.17 hours @ \$70.00)	\$6,241.90
Non-Productive Labor	0.00
Total Labor (89.17 hours)	\$6,241.90
Direct Job Expenses	\$0.00
Tools and Miscellaneous Materials	0.00
Subcontracts	0.00
Job Subtotal (Prime Cost)	\$15,152.81
Overhead (10.00%)	1,515.28
Profit (5.00%)	833.40
Job Total	\$17,501.49
Bond	
Bond	437.54
Job Total with Bond	\$17,939.03
Actual Bid Price	\$17,939.03
Material to Direct Labor ratio: 0.59	
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 \$	\$2,786.22
Net Profit %	7.08

South Coastal RWF & Rehoboth Beach WTF Upgrade

11/30/2023

Vendor/Contract	Description	Contract Value
Michael F. Ronca & Sons, Inc.	SCRWF/RBWWTP General Construction	45,999,862.31
BW Electric Inc.	SCRWF/RBWWTP Electrical Construction	22,974,485.76
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		84,779,086.02

ENGINEERING DEPARTMENT

HANS M. MEDLARZ
COUNTY ENGINEER

(302) 855-7370 T
(302) 854-5391 F

hans.medlarz@sussexcountype.gov



Sussex County

DELAWARE
sussexcountype.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

RE: ***Cannon Road –Inland Bays Road Drainage Improvements and Constructed Wetlands, Project S22-05
A. Change Order No. 3***

DATE: December 5, 2023

The County's five (5) year capital plan, as approved in the FY 23 Capital Budget, contains several projects at the Inland Bays Regional Wastewater Facility. The Cannon Road –Inland Bays Road Drainage Improvements and Constructed Wetlands, Project S22-05 will reduce runoff discharges to Guinea Creek as well as reduce nuisance flooding in the Cannon Road area and within the spray fields. This project is creating a significant water quality credit which can be used as a stormwater management offset for future projects including the upcoming treatment plant expansion.

The initial design for the constructed wetlands portion of the project was first submitted to the Delaware Department of Natural Resources and Environmental Control (DNREC) in 2020. As a result of DNREC's comments additional data acquisition, soil testing, hydrogeologic evaluations and surface water assessments were conducted summarized in the October 2022 Hydrogeological Report. The wetland is an innovative land application enhanced polishing and disposal option for wastewater effluent **and** groundwater with elevated nutrient levels.

The wetland was designed in coordination with DNREC under a 5-year "operational-testing" program. Once wetland dosing commences spray irrigation on the North Burton Field will cease and the center pivot equipment removed. This project utilizes a portion of the Council approved American Rescue Plan Act (ARPA) funding.



On November 17, 2022, invitations to bid for the Cannon Road/Inland Bays Road Drainage Improvements and Constructed Wetlands, Project S22-05 were publicly advertised and on December 21, 2022, six (6) bids were received.

The bid review revealed imbalances and mathematical errors in the apparent low bid and considering these errors and irregularities the bid was withdrawn. Kinsley Construction, Inc. of Dagsboro, Delaware submitted the lowest, responsive base bid and on January 10, 2023, Council awarded the project to Kinsley Construction, Inc. in the amount of \$11,467,000.00.

During the initial stages of the project the Environmental Services staff gained a better understanding of the objectives and made three improvement (3) requests associated with the South Field irrigation area. The first one involved an expanded hydroseeded buffer area on the downstream southern end of the field; the second one an additional drainage structure and piping next to Wetland 1 for an adjacent area ponding along the wetland maintenance access area; the third one was associated with the stabilization of the irrigation rig ruts. On June 6, 2023 County Council approved Change Order No.1 in the aggregate amount of \$34,953.00.

In October the Engineering Department requested pricing for the following objectives:

- The South Hettie irrigation field had initially been left out of the grading and replanting scope for cost considerations. However, it was beneficial to complete all the grading, eliminate the remaining ponding which poses permit challenges plant the area in meadow mix.
- During the construction of the submerged gravel wetland stone chimneys were deleted but subsequently more aquatic plants in the wetland itself as well as the outfall swale were added.
- The DNREC required four (4) two-inch monitoring wells around the submerged gravel wetland were added.
- A supplemental feed line essential for the initial hydration stages and during subsequent mid-summer months for aquatic plants survival was added.
- The bid included a \$200,000 allowance for two (2) suction lift pump systems. In cooperation with Kinsley's subcontractor the Department was able to value engineer the approach by switching to a system of wells with submersible pumps more than offsetting the cost by a reduction of the allowance.

October 10, 2023 County Council approved Change Order No. 2 in the aggregate amount of \$847,134.56 and the associated 55 calendar days extension.

The project is still on schedule despite several weather-related impacts. Even in the partially completed stage did the project prevent overtopping of Cannon Road during the most intense storm event.

The Department had previously advised Council of one last grading modification to eliminate an off-field ponding between the lagoon perimeter road and the North Spray Field. In addition to this known item listed under item 1 below several other issues arose.

1. Lagoon perimeter road and swale modifications (T&M) -- estimated at \$44,000.00.
2. Stormwater wetland 1 pilot channel repairs- completed for \$10,526.71.
3. North Spray Field electrical conduit test pitting- completed for \$7,776.50.
4. East Hettie Spray Field electric conduit and effluent lines test pitting (T&M) – estimated at \$7,800.00.
5. Assistance for consultants RK&K to expose restrictive layer for infiltration testing- completed for \$18,660.00.
6. Goose damage repair to wetland replanting- three-way cost split between contractor, subcontractor, and County – lump sum \$65,000.00.
7. Hydro-mulch hardening of wetland bypass swale and northern portion of Cannon Road swale – completed based on unit pricing \$104,885.20.
8. Bypass swale repairs after damage by County’s inappropriate irrigation techniques, since then corrected (T&M) – estimated at \$52,000.00.
9. Lower electric conduits and effluent main in North Spray Field in conflict with grading to be completed in January (T&M) – estimated at 58,000.00.

In summary, the Engineering Department recommends acceptance of Change Order No. 3 in the aggregate not to exceed amount of \$375,000.00. The Department believes that Change Order No. 3 constitutes all known remedial actions items required, short of additional storm or goose damage.



**SUSSEX COUNTY
CHANGE ORDER REQUEST**

A. ADMINISTRATIVE:

1. Project Name: **Cannon Rd/Inland Bays Rd Drainage Improvements**
2. Sussex County Project No. S22-05
3. Change Order No. 3
4. Date Change Order Initiated - 11/27/23
5.
 - a. Original Contract Sum \$11,467,000.00
 - b. Net Change by Previous Change Orders \$882,087.56
 - c. Contract Sum Prior to Change Order \$12,349,087.56
 - d. Requested Change \$ 375,000.00
 - e. Net Change (No. of days) 29
 - f. New Contract Amount \$12,724,087.56
6. Contact Person: Hans Medlarz, P.E.
Telephone No. (302) 855-7728

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:

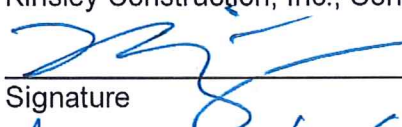

Improves the stabilization of the banks of Wetland 1; verifies the depths of utilities in the North Field and lowers them where necessary based on the new contours of the North Field; assists the consultant with verifying the depth of the Restrictive Layer under the Submerged Gravel Wetland (SGW); replaces a portion of the aquatic plants in the SGW with plants that do not attract wildfowl; improves drainage for the Plant access road around the Lagoons; improves stabilization efforts for two drainage swales that have been challenged by Plant irrigation; and verifies depth of existing utilities in the East Hettie Field prior to re-contouring the field.

D. JUSTIFICATION FOR CHANGE ORDER INCLUDED?


Yes No

E. APPROVALS

1. Kinsley Construction, Inc., Contractor


 Signature _____ Date 11/30/23

 Representative's Name in Block Letters _____

2. Sussex County Engineer


 Signature _____ Date 11/30/23

3. Sussex County Council President

 Signature _____ Date _____



1110 E Princess St
York, PA 17403
Phone: 717-741-3841 Fax:

Pending Change Order Request: 8

To: Sussex County Delaware
Attn: Helen Naylor
Phone: 302-381-8181
Email: helen.naylor@sussexcountyde.gov
From: Mitch Seitz
Phone: 302-233-2165
Email: mseitz@kinsleyconstruction.com

Date: 08/23/23
Project: CANNON ROAD DRAINAGE IMPROVEMENTS
KCI No: 234701-
Re: Wetland 1 Micro Pool #3's
Priority: High
Req Return Date: 08/30/2023

We propose to modify our contract for the above referenced project as follows :

Item	Amount
1 Wetland 1 Micro Pool #3's T&M Work Preformed as Directed 6/14/23 - 8/18/23 Reference attached T&M Spreadsheet and Cost Backup	\$10,526.71
TOTAL CHANGE ORDER FOR THIS REQUEST	
	\$10,526.71

We reserve the right to revise or withdraw this quotation if not accepted within 7 days. Estimated additional time required to complete job due to this change is 0 calendar days.

APPROVALS

Contractor
Kinsley Construction, Inc.
1110 E Princess St
York, PA 17403

Owner
Sussex County Delaware
2 The Circle
Georgetown, DE 19947

Signed: 

Printed: Mitch Seitz

Date: _____

Signed: _____

Printed: _____

Date: _____

Cannon Drainage (234701)

Wetland 1 Micro Pool #3's

70000-003

<u>Labor & Equipment @ T&M Rates:</u>	<u>6/14</u>	<u>7/5</u>	<u>7/6</u>	<u>8/17</u>	<u>8/18</u>	<u>TOTAL</u> <u>HOURS</u>	<u>HOURLY</u> <u>RATE</u>	<u>TOTAL</u> <u>COST</u>
Foreman			2.5			2.50	\$ 90.00	\$ 225.00
CAT 740 Artic Truck w/ Operator	3.5	2.0	1.0			6.50	\$ 290.00	\$ 1,885.00
CAT 315 Excavator w/ Operator	3.5	9.0	9.0	3.0	4.0	28.50	\$ 175.00	\$ 4,987.50
CAT D5 Dozer w/ Operator	3.5	1.0				4.50	\$ 188.00	\$ 846.00
CASE TR310B Skid Loader w/ Operator		3.0	8.0			11.00	\$ 132.00	\$ 1,452.00
F250/350 Truck w/Tools		6.0	10.5			16.50	\$ 18.00	\$ 297.00
								<u>\$ 9,692.50</u>
<u>Materials @ Cost Plus 15% OH&P</u>								
Martin Marietta Inv #39354951								\$ 758.37
10% OH&P								\$ 75.84
								<u>\$ 834.21</u>
						TOTAL:	\$	10,526.71



P.O. Box 30013
 Raleigh, NC 27622-0013
 Visit eRocks™ at www.martinmarietta.com

SEH

SPECIAL

FOR BILLING QUESTIONS PLEASE CALL
410-683-1260

JOB NAME: (D) CANNON AND INLAND BAYS RD

SOLD TO:

KINSLEY CONSTRUCTION INC
PO BOX 2886
YORK PA 17405

SHIP TO:

KINSLEY CONSTRUCTION INC
29445 Inland Bay Rd
Millsboro DE 19966

PAYMENT TERMS: NET 30 DAYS- A/R

Order No.	Customer PO No.	Dest. No.	Job No.	Dist	Business Unit	Business Unit Name	Cust. No.	Invoice Date	Invoice No.	
19954449 SO	234701-006	68157	60292018	12	31111	North East Quarry	470287	6/19/23	39354351	
Ship Date Car/Barge No.	Product No.	Description	Quantity	UM	Unit Price	Material Amount	Freight Rate	Freight Amount	Taxes & Fees	TOTAL
06/16/23	7401	WASHED ASTM #3 12091475	21.68	TN	@ 18.50	401.08	16.00	346.88		747.96
		FUEL SURCHARGE TRUCK					10.41	10.41		10.41
		SUBTOTAL	21.68			401.08		357.29		758.37
								FRT		
		TOTAL	21.68			401.08		357.29		758.37

06/21/2023

INVOICE TOTAL \$758.37

DETACH and Include this Return Portion with Payment



CUSTOMER NUMBER: 470287 KINSLEY CONSTRUCTION
 INVOICE NUMBER: 39354351

REMIT TO:

MARTIN MARIETTA MATERIALS
 PO BOX 935043
 ATLANTA GA 31193-5043

PAYMENT DUE \$758.37

Call or go online to report possible wrongdoing or to obtain clarification on ethical matter 1-800-209-4508 www.martinmarietta.alertline.com.
 For all other questions call the billing number above.

PLEASE NOTIFY US OF ANY ALTERATIONS YOU MAKE TOWARDS THE INVOICE AMOUNT

Daily Report - CANNON ROAD DRAINAGE IMPROVEMENTS (234701)

Date: 6/14/2023




Diary

COREY A CERKLEFSKIE (5298)



Note	Note Index
------	------------

Stripping top soil and vegetation on inland bay swale, haul away grass. Fine grade top area. Cut down fill dirt 4" for top soil. Haul fill out. Start putting top soil back on swale for finish grade. Go back to gravel ditch/ gabion wall to extend the R4 into the pond, 2 loads rip rap.


Code	Name	Pay Class	70000-003 Wetland 1 Micro Pool #3's - BILLABLE 50.000
35814	KYLE N REILLY	30	3.5
 402124	CAT 315 RP EXCAVATOR/GPS/S WIFE		3.5
25533	WILLIAM J MONTUORI HOSKINS	30	3.5
 502065	CAT D5K LGP/GPS		3.5
 159033	CAT 740B ARTIC TRUCK/TAILGATE		3.5

Daily Report - CANNON ROAD DRAINAGE IMPROVEMENTS (234701)

Date: 7/5/2023

Diary

COREY A CERKLEFSKIE (5298)

 Wet some areas, then dry and dusty

Note	Note Index
<p>Get hammer and everything loaded on truck Meet with Helen over wetland pond 1 and #3 aprons Kyle in the back doing the ruts (328' this morning) then brought him up to help with #3 aprons Me and Will in wetland pond 1 doing the #3 aprons Box all areas out, Load 3s from staging area brought to pond, lay down fabric, cover with 3s Ordered 100 ton #3s for tomorrow Sent Kyle back to the ruts in the back (398') while me and Will clean up</p>	

Notes

COREY A CERKLEFSKIE (5298)

No data available






Time Card

COREY A CERKLEFSKIE (5298)

Cost Codes #1-2

Shift 1

Code	Name	Pay Class	70000-003
Kinsley Construction			

			Wetland 1 Micro Pool #3's - BILLABLE 50.000
5298	COREY A CERKLEFSKIE	26	6
 151396	2023 FORD F250 4X4 RC		6
25533	WILLIAM J MONTUORI HOSKINS	30	9
35814	KYLE N REILLY	30	3
 308101	CASE TR310B COMPACT TRACK LOAD		3
 402124	CAT 315 RP EXCAVATOR/GPS/SWI VE		9
 159033	CAT 740B ARTIC TRUCK/TAILGATE		2
 502065	CAT D5K LGP/GPS		1

Daily Report - CANNON ROAD DRAINAGE IMPROVEMENTS (234701)

Date: 7/6/2023

Diary

COREY A CERKLEFSKIE (5298)



Note	Note Index
------	------------

Kyle with sheeting guys
 Get hammer unloaded
 Me and William doing the #3 aprons, dig them out, put the cloth down and put 3 stone in and clean everything up in the bottom of the pond.
 All the dirt we dug out was used to fill the access road/ruts
 Lee said he'll stabilize as soon as we are finished
 Remove the pump pit pipe by vinyl sheeting wall 1

7 aprons in total, 2 sections of cloth had to be cut for EACH one. 10x10 / 12x14
 we also cleaned up the washouts on the slopes that were eroding





Notes

COREY A CERKLEFSKIE (5298)

No data available

Time Card

COREY A CERKLEFSKIE (5298)


Code	Name	Pay Class	70000-003 Wetland 1 Micro Pool #3's - BILLABLE 60.000
5298	COREY A CERKLEFSKIE	26	11
 151396	2023 FORD F250 4X4 RC		10.5
25533	WILLIAM J MONTUORI HOSKINS	30	10
 308101	CASE TR310B COMPACT TRACK LOAD		8
 402124	CAT 315 RP EXCAVATOR/GPS/SWIVE		9
 159033	CAT 740B ARTIC TRUCK/TAILGATE		1

Daily Report - CANNON ROAD DRAINAGE IMPROVEMENTS (234701)

Date: 8/17/2023


Diary

ARNOLD PARRECO (31158)

 Hot (90+); Hot (90+)

Note	Note Index
------	------------

Install stone mulch in Wetland 1 (Extra work)
Fix wash out spots in swale along Inland Bay Rd. Per inspectors request

Code	Name	Pay Class	70000-003 Wetland 1 Micro Pool #3's - BILLABLE
35814	KYLE N REILLY	30	3
 402124	CAT 315 RP EXCAVATOR/G PS/SWIVE		3

Daily Report - CANNON ROAD DRAINAGE IMPROVEMENTS (234701)

Date: 8/18/2023

Diary

ARNOLD PARRECO (31158)




Warm - (75 - 90)

Note

Note Index

Add filter fabric behind Gabion baskets in wetland 1 instructed by county inspector (extra work)
Fix washout areas in swale along Inland bay rd

Code	Name	Pay Class	70000-003 Wetland 1 Micro Pool #3's
47245	LUKE D WORKMAN	47	4
 402124	CAT 315 RP EXCAVATOR/G PS/SWIVE		4



30512 Thorogoods Road
Dagsboro, DE 19939
Phone: Fax:

Pending Change Order Request: 9

To: Sussex County Delaware
Attn: Helen Naylor
Phone: 302-381-8181
Email: helen.naylor@sussexcountyde.gov
From: Mitch Seitz
Phone: 302-233-2165
Email: mseitz@kinsleyconstruction.com

Date: 08/23/23
Project: CANNON ROAD DRAINAGE IMPROVEMENTS
KCI No: 234701-
Re: Test Pitting
Priority: High
Req Return Date: 09/21/2023

We propose to modify our contract for the above referenced project as follows :


Item	Amount
1 Test Pitting T&M Work Preformed as Directed 7/11/23 - 8/23/23 Reference attached T&M Spreadsheet and Cost Backup	\$7,776.50
TOTAL CHANGE ORDER FOR THIS REQUEST \$7,776.50	

We reserve the right to revise or withdraw this quotation if not accepted within 7 days. Estimated additional time required to complete job due to this change is 0 calendar days.

APPROVALS

Contractor
Kinsley Construction Site Division
30512 Thorogoods Road
Dagsboro, DE 19939

Owner
Sussex County Delaware
2 The Circle
Georgetown, DE 19947

Signed: 
Printed: Mitch Seitz PM
Date: _____

Signed: _____
Printed: _____
Date: _____

Cannon Drainage (234701)

Test Pitting

70000-010

					TOTAL HOURS	HOURLY RATE	TOTAL COST
<u>Labor & Equipment @ T&M Rates:</u>							
Foreman	7/11	7/12	7/13	8/23	21.50	\$ 90.00	\$ 1,935.00
Laborer				15.0	15.00	\$ 52.00	\$ 780.00
CAT 315 Excavator w/ Operator	7.0	3.5	3.0	6.0	19.50	\$ 175.00	\$ 3,412.50
CAT 930M Wheel Loader w/ Operator				3.0	3.00	\$ 160.00	\$ 480.00
F250/350 Truck w/Tools	7.0	3.5	3.0	16.0	29.50	\$ 18.00	\$ 531.00
							\$ 7,138.50
<u>Materials @ Cost Plus 15% OH&P</u>							
Direct & Correct Inv #12666							\$ 580.00
10% OH&P							\$ 58.00
							\$ 638.00
					TOTAL:	\$	7,776.50

Direct & Correct, Inc.

6236 Mud Mill Rd
Camden, DE 19934

SEH
234701

Invoice

Date	Invoice #
8/26/2023	12666

Bill To
Kinsley Construction, Inc 1110 E Princess St PO Box 2886 York, PA 17403

P.O. No.	Terms	Project
Kinsley	Net 30	

Quantity	Description	Rate	Amount
	Invoice for Week Ending 08/26/2023; Invoice sent 08/30/2023		
4	MOT on Mt Joy Rd in Millsboro DE on 08/23/2023 with Kevin Thompson	60.00	240.00
1	Sign Rental	50.00	50.00
1	Pick-up/ Delivery (Fuel Charges) - Daily Rate	40.00	40.00
1	T16 - TMA (Crash Truck) # 16 - Daily Rate	250.00	250.00
	08/31/2023		


Thank you for your continued support.	Total	\$580.00
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Daily Report - CANNON ROAD DRAINAGE IMPROVEMENTS (234701)

Date: 7/11/2023

Diary

COREY A CERKLEFSKIE (5298)

 Wet some spots

Note	Note Index
------	------------

Test pit pipe line back by the gravel wetlands project

Hole #1
 Existing El.: 24.15
 Top of pipe: 20.84
 Depth: 3.31
 Pipe size: 8" water

Hole #2
 Existing El.: 26.45
 Top of pipe: 23.01
 Depth: 3.44

Backfill holes, put board in there to relocate in future

Walk with Helen, walk and measure everything. She blessed it all, total of 4,180 ft

Quantity for test pitting is the total for the day




No data available

🕒 Time Card

COREY A CERKLEFSKIE (5298)

Cost Codes #1-2

Shift 1


Code	Name	Pay Class	70000-010 Test Pitting - BILLABLE 9.000
5298	COREY A CERKLEFSKIE	26	7
 151396	2023 FORD F250 4X4 RC		7
25533	WILLIAM J MONTUORI HOSKINS	30	7
 308101	CASE TR310B COMPACT TRACK LOAD		
 402124	CAT 315 RP EXCAVATOR/GPS/SWI VE		7

Daily Report - CANNON ROAD DRAINAGE IMPROVEMENTS (234701)

Date: 7/12/2023

Diary

COREY A CERKLEFSKIE (5298)

 Dry, wet some spots

Note	Note Index
<p>Dig test pits first thing x4 *quantity for test pits is the total for today* Station 0+50 (closest to pivot) HOLE 1* Water Line Existing elevation: 27.00 Top of pipe: 22.75 Electric Line Existing elevation: 27.00 Top of pipe: 24.65 HOLE 2* Station 3+18 Water Line Existing elevation: 26.90 Top of pipe: 24.20 Electric Existing elevation: 26.90 Top of pipe: 25.50 Kyle help nick with some access roads on his side Sent him back to me,dress up everything behind me and Will. Dress all the areas we test pit and fill holes in.</p>	

Kyle pushing all water towards pump, pushing muck out. Prepping for fill





Notes

COREY A CERKLEFSKIE (5298)

No data available

Time Card

Cost Codes #1-2

Code	Name	Pay Class	70000-010 Test Pitting - BILLABLE 4.000
5298	COREY A CERKLEFSKIE	26	3.5
 151396	2023 FORD F250 4X4 RC		3.5
35814	KYLE N REILLY	30	
25533	WILLIAM J MONTUORI HOSKINS	30	3.5
 402124	CAT 315 RP EXCAVATOR/GPS/SWI VE		3.5
 502065	CAT D5K LGP/GPS		
 403079	CAT 336FL EX/HYD		

Daily Report - CANNON ROAD DRAINAGE IMPROVEMENTS (234701)

Date: 7/13/2023

Diary

COREY A CERKLEFSKIE (5298)



Note	Note Index
------	------------

X2 test pits over by gravel wetlands
 tests quantities is total test pits for the day
 Kyle/Nick had equipment go down, sent Kyle over to them for grade

Notes

COREY A CERKLEFSKIE (5298)

No data available

Time Card

COREY A CERKLEFSKIE (5298)

Cost Codes #1-2

Shift 1

Code	Name	Pay Class	70000-010 Test Pitting - BILLABLE 2.000

Kinsley Construction

Daily Report - CANNON ROAD DRAINAGE IMPROVEMENTS (234701)

Date: 8/23/2023

Diary

KEVIN J THOMPSON (41145)

 Warm - (75 - 90); Sunny; Normal Ground

Note	Note Index
<p>Test pitted force main pipes at cannon rd and my joy intersection. Test pitted 16" valve on left side of Inland bay rd. Valve was a eccentric valve</p>	

Notes

KEVIN J THOMPSON (41145)

70000-010 : Test Pitting - BILLABLE

Internal	Note Index	Public
		<p>Test pitted force main pipes and cannon rd and mt joy rd intersection. 12" is C900 pipe and 16" is C905 pipe</p> <p>Test pitted 16" valve on inland bay rd. Eccentric valve</p>

🕒 Time Card

KEVIN J THOMPSON (41145)

Cost Codes #1-2

Code	Name	Pay Class	70000-010 🗓️ Test Pitting - BILLABLE 3.000
41145	KEVIN J THOMPSON	26	8
🚛 151332	2022 FORD F250 4X4 RC		8
29054	WILSON ORTIZ TORRES	30	8
11194	TADD C FIBELKORN	30	8
🚛 151396	2023 FORD F250 4X4 RC		8
25489	JOHNNY MORALES- FELIPE	71	8
31154	RUBELMIN PEREZ- PEREZ	30	0
🚛 301037	CAT 930M WHEEL LOADER		3
🚛 606034	HAMM REMOTE TRENCH ROLLER		0
🚛 402124	CAT 315 RP EXCAVATOR/GPS/SWI VE		6



30512 Thorogoods Road
Dagsboro, DE 19939
Phone: Fax:

Pending Change Order Request: 10

To: Sussex County Delaware
Attn: Helen Naylor
Phone: 302-381-8181
Email: helen.naylor@sussexcountyde.gov
From: Mitch Seitz
Phone: 302-233-2165
Email: mseitz@kinsleyconstruction.com

Date: 08/23/23
Project: CANNON ROAD DRAINAGE IMPROVEMENTS
KCI No: 234701-
Re: T&M Test Pit and Assist with Testing at SGW's
Priority: High
Req Return Date: 09/21/2023

We propose to modify our contract for the above referenced project as follows :

Item	Amount
1 T&M Test Pit and Assist with Testing at SGW's T&M Work performed as directed 7/18/23 - 8/23/23 Reference attached T&M Spreadsheet and Cost Backup	\$18,694.50
TOTAL CHANGE ORDER FOR THIS REQUEST	
	\$18,694.50

We reserve the right to revise or withdraw this quotation if not accepted within 7 days. Estimated additional time required to complete job due to this change is 0 calendar days.

APPROVALS

Contractor
Kinsley Construction Site Division
30512 Thorogoods Road
Dagsboro, DE 19939

Owner
Sussex County Delaware
2 The Circle
Georgetown, DE 19947

Signed: 
Printed: Mitch Seitz
Date: _____

Signed: _____
Printed: _____
Date: _____

Cannon Drainage (234701)

Test Pit and Assist with Testing at SGW's

70000-011

<u>Labor & Equipment @ T&M Rates:</u>	7/18	7/19	7/20	7/21	7/24	7/25	7/26	7/27	7/28	7/31	8/1	8/21	TOTAL HOURS	HOURLY RATE	TOTAL COST
Foreman	10.5	3.5		2.5		0.5	10.0						27.00	\$ 90.00	\$ 2,430.00
Laborer	0.5	3.0		2.0									5.50	\$ 52.00	\$ 286.00
CAT 315 Excavator w/ operator	10.0	3.0	9.0		8.0	10.0	10.0	8.5	8.5	8.5	9.0	3.0	87.50	\$ 175.00	\$ 15,312.50
F250/350 Truck w/Tools	10.5	3.5		2.5		10.5	10.0						37.00	\$ 18.00	\$ 666.00
															<u>\$ 18,694.50</u>
													TOTAL:	\$	18,694.50

Daily Report - CANNON ROAD DRAINAGE IMPROVEMENTS (234701)

Date: 7/18/2023

Diary

COREY A CERKLEFSKIE (5298)



Dry, wet conditions

Note	Note Index
------	------------

Digging test pits for RK&K.
 Testing soils at the bottom of the hole. 2 ring testing
 Numbers of holes, # 1,2,7,8
 Make x4 sets of rings x2 12" x2 24"
 Find water line in gravel wetlands,/test pits
 Remove water line, cut the end
 560 ft pipe removal

Code	Name	Pay Class	70000-011 T&M Test Pit and Assist with Testing at SGW's - BILLABLE
5298	COREY A CERKLEFSKIE	26	10.5
 151396	2023 FORD F250 4X4 RC		10.5
25533	WILLIAM J MONTUORI HOSKINS	30	10.5
 402124	CAT 315 RP EXCAVATOR/GPS/SWIVE		10

Daily Report - CANNON ROAD DRAINAGE IMPROVEMENTS (234701)

Date: 7/19/2023



Diary

COREY A CERKLEFSKIE (5298)

 Damp

Note	Note Index
------	------------

William digging test pits 3,4
 Clean up all water pipe we removed/ dug up
 Me and Kyle laying out excavation area


Code	Name	Pay Class	70000-011 T&M Test Pit and Assist with Testing at SGW's - BILLABLE 0.000
5298	COREY A CERKLEFSKIE	26	3.5
 151396	2023 FORD F250 4X4 RC		3.5
35814	KYLE N REILLY	30	3
25533	WILLIAM J MONTUORI HOSKINS	30	3
 402124	CAT 315 RP EXCAVATOR/GPS/SWIVE		3

Daily Report - CANNON ROAD DRAINAGE IMPROVEMENTS (234701)

Date: 7/20/2023


Diary

COREY A CERKLEFSKIE (5298)

 Wet from storm yesterday, water laying

Note	Note Index
------	------------

William returning to test pits 3, 4 to pick up where we left off yesterday
 William backfilling holes 1,2,7,8
 Pumping down water laying in the gravel wetlands, pump to the weeds
 Unload catch basins off Gillespie truck
 Kyle and Asa mixing composite and mulch to put on the pad then switch Will
 to truck for couple hours
 William had to stay with testing guys to remove test rings
 kyle has bio mix quantities on his time card


Code	Name	Pay Class	70000-011 T&M Test Pit and Assist with Testing at SGW's - BILLABLE 0.000
25533	WILLIAM J MONTUORI HOSKINS	30	9
 402124	CAT 315 RP EXCAVATOR/GPS/S WIVE		9

Daily Report - CANNON ROAD DRAINAGE IMPROVEMENTS (234701)

Date: 7/21/2023


Diary

COREY A CERKLEFSKIE (5298)

 Wet, storms blowing in

Note	Note Index
------	------------

William requested PTO today
 Weather shut us down


Code	Name	Pay Class	70000-011 T&M Test Pit and Assist with Testing at SGW's - BILLABLE 0.000
5298	COREY A CERKLEFSKIE	26	2.5
 151396	2023 FORD F250 4X4 RC		2.5
35814	KYLE N REILLY	30	2

Daily Report - CANNON ROAD DRAINAGE IMPROVEMENTS (234701)

Date: 7/24/2023


Diary

COREY A CERKLEFSKIE (5298)

 Dry, wet some areas

Note	Note Index
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William with RK&K for test pits 5,6. Dig the holes over again and he has to stay with them because they only sent one guy in today.
 william left early family emergency
 I set the pump up to get the water pumped out of the hole in the gravel wetlands
 Kyle is the d5 cutting in swale on north side and grading the berm


Code	Name	Pay Class	70000-011 T&M Test Pit and Assist with Testing at SGW's - BILLABLE
25533	WILLIAM J MONTUORI HOSKINS	30	8
 402124	CAT 315 RP EXCAVATOR/GPS/SWI VE		8

Daily Report - CANNON ROAD DRAINAGE IMPROVEMENTS (234701)

Date: 7/25/2023

Diary

COREY A CERKLEFSKIE (5298)



 Dry, wet in some areas

Note	Note Index
------	------------

william is OFF today

- So I'm helping RK&K with test pits.
- Remove rings out of hole 5, take rings to hole 6
- Dig hole 6 over again, had to dig 3 different holes to try and find the layer we were looking for
- Pits 1-8 are DONE**we need the test results from RK&K before we can start digging to the bottom of the GW
- Go over to the area we will be mining sand and dig x3 holes for sand infiltration testing, had to carry buckets of water down and fill the rings (Still more testing to do)
- Kyle digging swale north side of GW, loading all the dirt on to the off road truck for the berm/ road

*Nick has Kyles time and the quantities for the day**

Code	Name	Pay Class	70000-011 T&M Test Pit and Assist with Testing at SGW's - BILLABLE 0.000
5298	COREY A CERKLEFSKIE	26	10.5
 151396	2023 FORD F250 4X4 RC		10.5
 402124	CAT 315 RP EXCAVATOR/GPS/SWIVE		10

Daily Report - CANNON ROAD DRAINAGE IMPROVEMENTS (234701)

Date: 7/26/2023

Diary



COREY A CERKLEFSKIE (5298)



Wet from rain yesterday

Note	Note Index
------	------------

- Kyle is with Nick doing swale on the north side of the gravel wetlands
- *nick has his time and quantities*
- me and William returned to the sand mound to finish up the infiltration testing
- fill the rings with 5 gallon buckets
- get all the holes backfilled before we head back over
- Helen added a 5th test hole due to hole 4 being bad material
- **my full notes will be in the weekly report**

Code	Name	Pay Class	70000-011 T&M Test Pit and Assist with
5298	COREY A CERKLEFSKIE	26	10
 151396	2023 FORD F250 4X4 RC		10
25533	WILLIAM J MONTUORI HOSKINS	30	10
 402124	CAT 315 RP EXCAVATOR/GPS/SWIVE		10

Daily Report - CANNON ROAD DRAINAGE IMPROVEMENTS (234701)

Date: 7/27/2023

Diary

COREY A CERKLEFSKIE (5298)




Note	Note Index
------	------------

Kyle on the excavator
 Gary in off road
 Luke on 315 for test pits
 -Start the excavation of the Gravel Wetlands bottom to a elevation 22.25
 -Luke doing the test pits for GW, test hole 5 had to be redone due to not finding the restrictive layer on the last dig
 Hole 5 Elevation: 19.00
 -still have another test pit to dig tomorrow and the plan B sand area to test

Code	Name	Pay Class	70000-011 T&M Test Pit and Assist with Testing at SGW's - BILLABLE 0.000
------	------	-----------	--

47245	LUKE D WORKMAN	47	8.5
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 402124	CAT 315 RP EXCAVATOR/GPS/SWI VE		8.5
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Daily Report - CANNON ROAD DRAINAGE IMPROVEMENTS (234701)

Date: 7/28/2023

Diary

ARNOLD PARRECO (31158)

 Hot (90+)

Code	Name	Pay Class	70000-011 T&M Test Pit and Assist with Testing at SGW's - BILLABLE
25533	WILLIAM J MONTUORI HOSKINS	30	8.5
 402124	CAT 315 RP EXCAVATOR/G PS/SWIVE		8.5

Daily Report - CANNON ROAD DRAINAGE IMPROVEMENTS (234701)

Date: 7/31/2023


Diary

ARNOLD PARRECO (31158)



Time Card

ARNOLD PARRECO (31158)

Code	Name	Pay Class	70000-011 T&M Test Pit and Assist with Testing at SGW's - BILLABLE
31158	ARNOLD PARRECO	26	
3407	ROBERT M BALDERSON	30	
47245	LUKE D WORKMAN	47	8.5
 402124	CAT 315 RP EXCAVATOR/G PS/SWIVE		8.5

Daily Report - CANNON ROAD DRAINAGE IMPROVEMENTS (234701)

Date: 8/1/2023


Diary

ARNOLD PARRECO (31158)

 Hot (90+)

Time Card

Cost Codes #1-5

Code	Name	Pay Class	70000-011 T&M Test Pit and Assist with Testing at SGW's -
35814	KYLE N REILLY	30	9
 402124	CAT 315 RP EXCAVATOR/G PS/SWIVE		9

Daily Report - CANNON ROAD DRAINAGE IMPROVEMENTS (234701)

Date: 8/21/2023

Diary



ARNOLD PARRECO (31158)

 Warm - (75 - 90)

Note	Note Index
------	------------

Dig test pits for Helen (inspector) to find water and electric lines (extra work)

Code	Name	Pay Class	70000-011 T&M Test Pit and Assist with Testing at SGW's - BILLABLE
 402124	CAT 315 RP EXCAVATOR/GPS/SWI VE		3
47245	LUKE D WORKMAN		3

5298	COREY A CERKLEFSKIE	26	3
 151396	2023 FORD F250 4X4 RC		3
25533	WILLIAM J MONTUORI HOSKINS	30	3
 403079	CAT 336FL EX/HYD		
 402124	CAT 315 RP EXCAVATOR/GPS/SWI VE		3



30512 Thorogoods Road
Dagsboro, DE 19939
Phone: Fax:

Pending Change Order Request: 15

To: Sussex County Delaware
Attn: Helen Naylor
Phone: 302-381-8181
Email: helen.naylor@sussexcountyde.gov
From: Mitch Seitz
Phone: 3022332165
Email: mseitz@kinsleyconstruction.com

Date: 11/08/23
Project: CANNON ROAD DRAINAGE IMPROVEMENTS
KCI No: 234701-
Re: Flexterra HP-FGM Hydroseeding
Priority: High
Req Return Date: 12/11/2023

We propose to modify our contract for the above referenced project as follows :

- Furnish and Install Flexterra HP-FGM Hydroseeding at a unit price of \$2.80 / SY
- Estimated quantity of the North Swale and the By Pass Swale is 37,450 SY's @ \$2.80 / SY

Actual quantities installed will be field verified and the final billing will reflect those actual quantities.

TOTAL CHANGE ORDER FOR THIS REQUEST \$104,860.00

We reserve the right to revise or withdraw this quotation if not accepted within 15 days. Estimated additional time required to complete job due to this change is 0 calendar days.

APPROVALS

Contractor

Kinsley Construction Site Division
30512 Thorogoods Road
Dagsboro, DE 19939

Owner

Sussex County Delaware
2 The Circle
Georgetown, DE 19947

Signed: 
Printed: Mitch Seitz
Date: 11/27/2023

Signed: _____
Printed: _____
Date: _____



30512 Thorogoods Road
Dagsboro, DE 19939
Phone: Fax:

Pending Change Order Request: 16

To: Sussex County Delaware
Attn: Helen Naylor
Phone: 302-381-8181
Email: helen.naylor@sussexcountyde.gov
From: Mitch Seitz
Phone: 3022332165
Email: mseitz@kinsleyconstruction.com

Date: 11/17/23
Project: CANNON ROAD DRAINAGE IMPROVEMENTS
KCI No: 234701-
Re: Juncus Effusus to Replace Dead Schoenoplectus
Priority: High
Req Return Date: 12/05/2023

We propose to modify our contract for the above referenced project as follows :

Juncus Effusus to Replace Dead Schoenoplectus in From Geese in the Submerged Gravel Wetland

Item	Amount
1 Juncus Effusus to Replace Dead Schoenoplectus Install 75,000 Juncus Effusus to replace the Schoenoplectus pungens that were killed by predation by geese in the submerged gravel wetland. (This pricing has been reduced as Aquatic Resource Restoration Company and Kinsley Construction are sharing the cost.)	\$65,000.00

TOTAL CHANGE ORDER FOR THIS REQUEST \$65,000.00

We reserve the right to revise or withdraw this quotation if not accepted within 15 days. Estimated additional time required to complete job due to this change is 0 calendar days.

APPROVALS

Contractor
Kinsley Construction Site Division
30512 Thorogoods Road
Dagsboro, DE 19939

Owner
Sussex County Delaware
2 The Circle
Georgetown, DE 19947

Signed: 
Printed: Mitch Seitz
Date: 11/20/2023

Signed: _____
Printed: _____
Date: _____

JAMIE WHITEHOUSE, AICP
DIRECTOR OF PLANNING & ZONING
(302) 855-7878 T
(302) 854-5079 F
jamie.whitehouse@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: November 27, 2023

RE: County Council Report for Ord. 20-06 relating to the Future Land Use Map

The Planning and Zoning Department received an application (CZ 1910 filed on behalf of Brickyard Apartments, LLC) for a Change of Zone of parcel 132-2.00-264.00 from Agricultural Residential Zoning District (AR-1) to General Residential Zoning District (GR). The parcel is located a 9329 Brickyard Rd, Seaford.

As the proposed re-zoning would be inconsistent with the low-density area designation of the parcel within the Future Land Use Map of the Comprehensive Plan, an Ordinance was introduced to consider the potential amendment of the Future Land Use Map within the Comprehensive Plan 2019. The Ordinance, if adopted, would change the existing low-density area designation for a portion of parcel 132-2.00-264.00 to the Developing Area. The Ordinance was submitted for review by the State of Delaware's Preliminary Land Use Review service ("PLUS"). A copy of the PLUS response is included with this memo.

The Planning and Zoning Commission held a public hearing on January 7, 2021. At the meeting of January 21, 2021, the Commission recommended that the Ordinance be adopted for the 6 reasons outlined within the motion (included below).

The County Council held a Public Hearing on the Ordinance at its meeting of February , 2021. At the conclusion of the Public Hearing, action on the application was deferred for further consideration, and to allow the Applicant an opportunity to submit further information in relation to the CPCN letter for the parcel.

Below is a link to the minutes of the County Council meeting of February 9, 2021.

[Link to the Minutes of the February 9, 2021, County Council Meeting](#)



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

Below are the draft minutes from the Planning & Zoning Commission meetings of January 7, 2021 and January 21, 2021

Draft Minutes of the January 7, 2021 Planning & Zoning Commission Meeting

Ord. 20-06 – Future Land Use Map

AN ORDINANCE TO AMEND THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCEL NO. 132-2.00-264.00 (PORTION OF)

Chairman Wheatley announced that the Commission would hear a combined public hearing for Ordinance 20-06, application C/Z 1910 and application C/U 2212. Whilst the hearings would be combined, the Commission would ultimately consider each matter separately.

Mr. Whitehouse advised the Commission that submitted into the record for Ordinance 20-06 is a copy of the County’s application to the State of Delaware Preliminary Land Use Service (“PLUS”) and a copy of the PLUS comments received from the State’s review of the submitted Ordinance.

The Commission found that Mr. John Paradee, Esq. was present on behalf of the Applicant, Brickyard Apartments, LLC.; that also present are Project Designer, Sherry Hockstedler from George Miles and Buhr and Billy Betts, Brickyard Apartments, LLC.; that a portion of the property is currently zoned GR; that this request is for a Change of Zone to allow for uniform zoning of GR and a Conditional Use for 48 apartments; that there would be a total of 12 buildings; that six buildings would have four one-bedroom apartments and six buildings with four two-bedroom apartments; that GR zoning designation is consistent with the prevailing uses and character of the neighborhood; that split-zoning is disfavored; that as Staff has noted that the approval would be consistent with the land use, area and surrounding uses; that the approval of this Application would help advance with the County’s long standing goal of providing opportunities for affordable housing in the area; that the Office of State Planning Coordination is supportive; that there are letters of no objection from Sussex Conservation District and the DelDOT; and that there are no letters of objection.

Mr. Hopkins asked for the square footage of the apartments. Ms. Hockstedler stated that the one-bedroom apartment buildings are 4,430 gross sf and the two-bedroom apartment buildings are 5,906 gross sf.

Ms. Stevenson asked if the development would meet Sussex County parking requirements.

Mr. Whitehouse stated that two parking spaces would be required for each unit with additional requirements for any units with more than three bedrooms.

Mr. Paradee stated that the parking requirements would be met. Ms. Stevenson asked about the water and sewer connections.

Ms. Hockstedler stated that this development has an agreement to connect to the water treatment facility at Mobile Gardens which is to the north of the subject property.

Ms. Suzanne Laws, Engineer with DelDOT gave comments on this Application by teleconference. Ms. Laws stated that this Application received a letter of no objection from DelDOT on January 13, 2020 and plans were approved on February 12, 2020.

The Commission found that no one spoke in favor of or in opposition to the Applications or the Ordinance. Upon there being no further questions, Chairman Wheatley closed the public hearing for this application.

At the conclusion of the Public Hearings, the Commission discussed the Applications and the proposed Ordinance.

In relation to Ord. 20-06 – Future Land Use Map, motion by Ms. Wingate to defer action for further consideration, seconded by Ms. Stevenson, and carried unanimously. Motion carried 5-0.

Draft Minutes of the January 21, 2021 Planning & Zoning Commission Meeting

The Commission discussed the proposed Ordinance, which has been deferred since January 7, 2021.

Ms. Wingate moved that the Commission recommend approval of Ordinance # 20-06 to amend the Future Land Use Map in the current Sussex County Comprehensive Plan for Parcel 132-2.00 264.00 from a Low-Density Area to a Developing Area based on the record made during the public hearing and for the following reasons:

1. The parcel is 5.05 acres of land. The portion of it fronting on Brickyard Road and currently zoned as GR General Residential is designated as the “Existing Developing Area” according to the Future Land Use Map.
2. The remaining 3.093 acres of the parcel is designated as being in the Low-Density Area according to the Future Land Use Map. This results in the property having two different designations according to the Map. Given the relatively small size of the property and the differing rules for the Low-Density Area and the Developing Area, it is appropriate for this property to have one classification on the Future Land Use Map.
3. The property to the east of this Parcel is entirely within the Existing Developing Area, and the properties across Brickyard Road from this parcel are designated as Developing Areas surrounded by the Commercial Area. The revision to a Developing Area on the Future Land Use Map is consistent with the surrounding Map designations.
4. This revision to the Future Land Use Map will not adversely affect neighboring properties, area roadways or future land-use planning in the area.
5. The parcel is approximately 450 feet from the municipal boundary of the City of Seaford. This supports a change to Developing Area on the Future Land Use Map.
6. This revision of the Future Land Use Map is appropriate given the particular circumstances involved, including the split-zoning of the property, the size of the property, the fact that the property has two different Area designations according to the current Future Land Use Map, the fact that the property is adjacent to other Developing Areas according to the Future Land Use Map, and because it is so close to a municipal boundary. When several factors like this

exist, the consideration and approval of an amendment to the Future Land Use Map is appropriate.

Motion by Ms. Wingate, seconded by Ms. Stevenson and carried unanimously to recommend approval for the reasons and conditions stated in the motion. Motion carried 5 – 0.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCEL NO. 132-2.00-264.00 (PORTION OF)

WHEREAS, on November 26th, 2019, the Sussex County Planning and Zoning Office received an application for Change of Zone No. 1910,

WHEREAS, the Sussex County Council will consider Change of Zone No. 1910 from an AR-1 Agricultural Residential District to a GR General Residential District for a certain parcel of land lying and being in Broad Creek Hundred, Sussex County, containing 5.03 acres, more or less (A portion of Tax Parcel No. 132-2.00-264.00) (the "Property"); and

WHEREAS, the Property is designated as being within the Low Density Area as set forth in the Future Land Use Map identified as Figure 4.5-1 in the Plan, and the Low Density Area does not permit such GR Zoning; and

WHEREAS, Sussex County Council desires to adopt this Ordinance amending the Future Land Use Map of the Plan with minor amendments; and

WHEREAS, in accordance with the required process for public hearings on ordinances such as this one, both Sussex County Council and the Sussex County Planning & Zoning Commission will hold public hearings on this Ordinance, but limited in scope to this specific proposed amendment to the Future Land Use Map contained in the Plan.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. The Future Land Use Map identified as Figure 4.5-1 of the Sussex County Comprehensive Plan is hereby amended to change the Area designation part of Sussex County Parcel. No. 132-2.00-264.00 from the Low Density Area to the Developing Area. The portion of Sussex County Parcel. No. 132-2.00-264.00 so changed is identified in Exhibit A, attached hereto and incorporated herein.

Section 2. This Ordinance shall also take effect following its adoption by majority vote of all members of the County Council of Sussex County, Delaware, and upon certification by the State of Delaware.



Sussex County

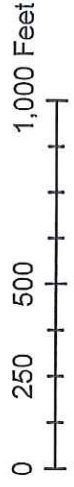


Exhibit A
Brickyard Apartments Future Land Use Map Amendment
132-2.00-264.00



Legend

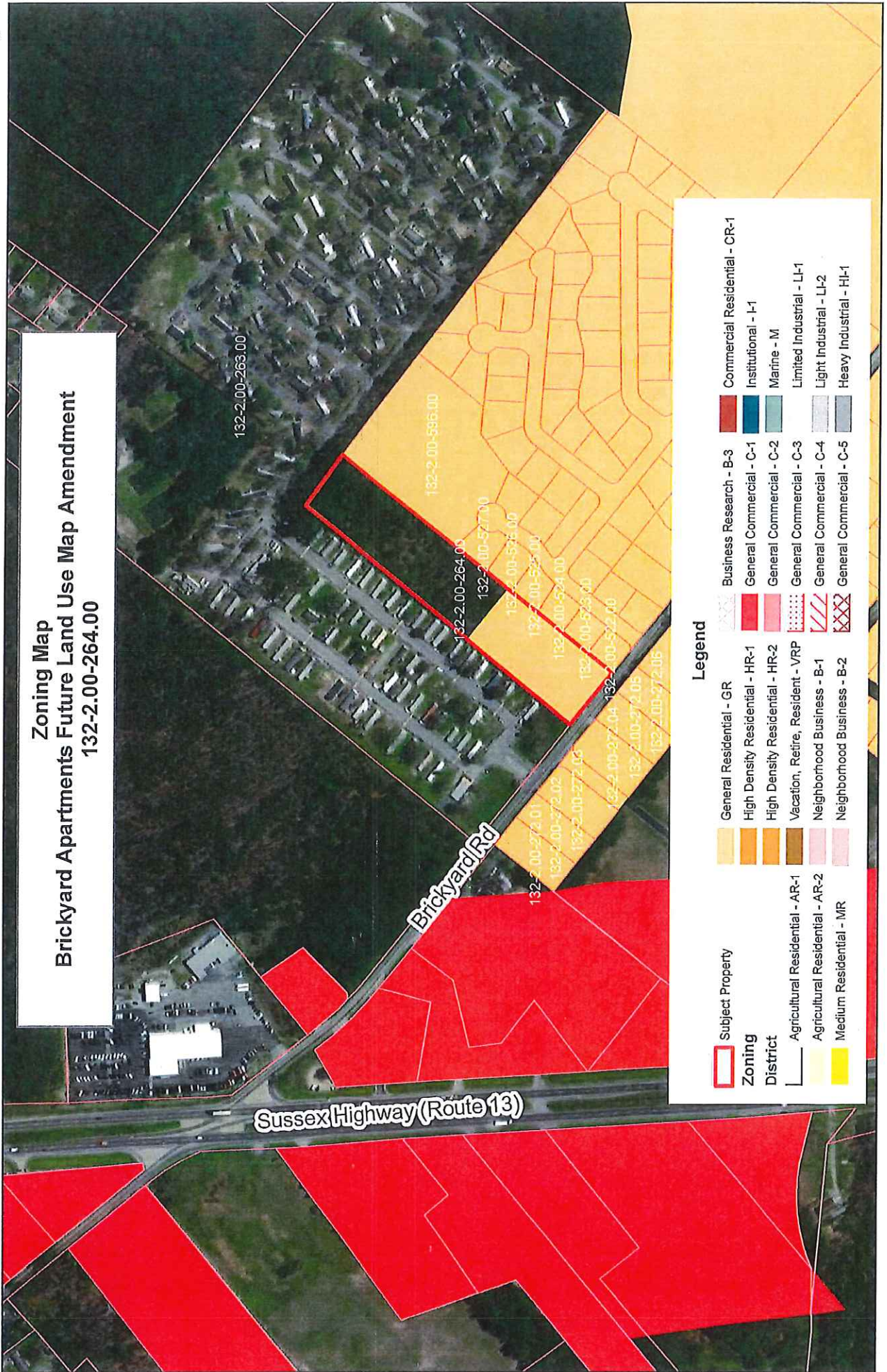
- Subject Property (thick red outline)
- Tax Parcels (thin red outline)





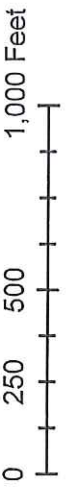
Sussex County

Zoning Map Brickyard Apartments Future Land Use Map Amendment 132-2.00-264.00



Legend

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

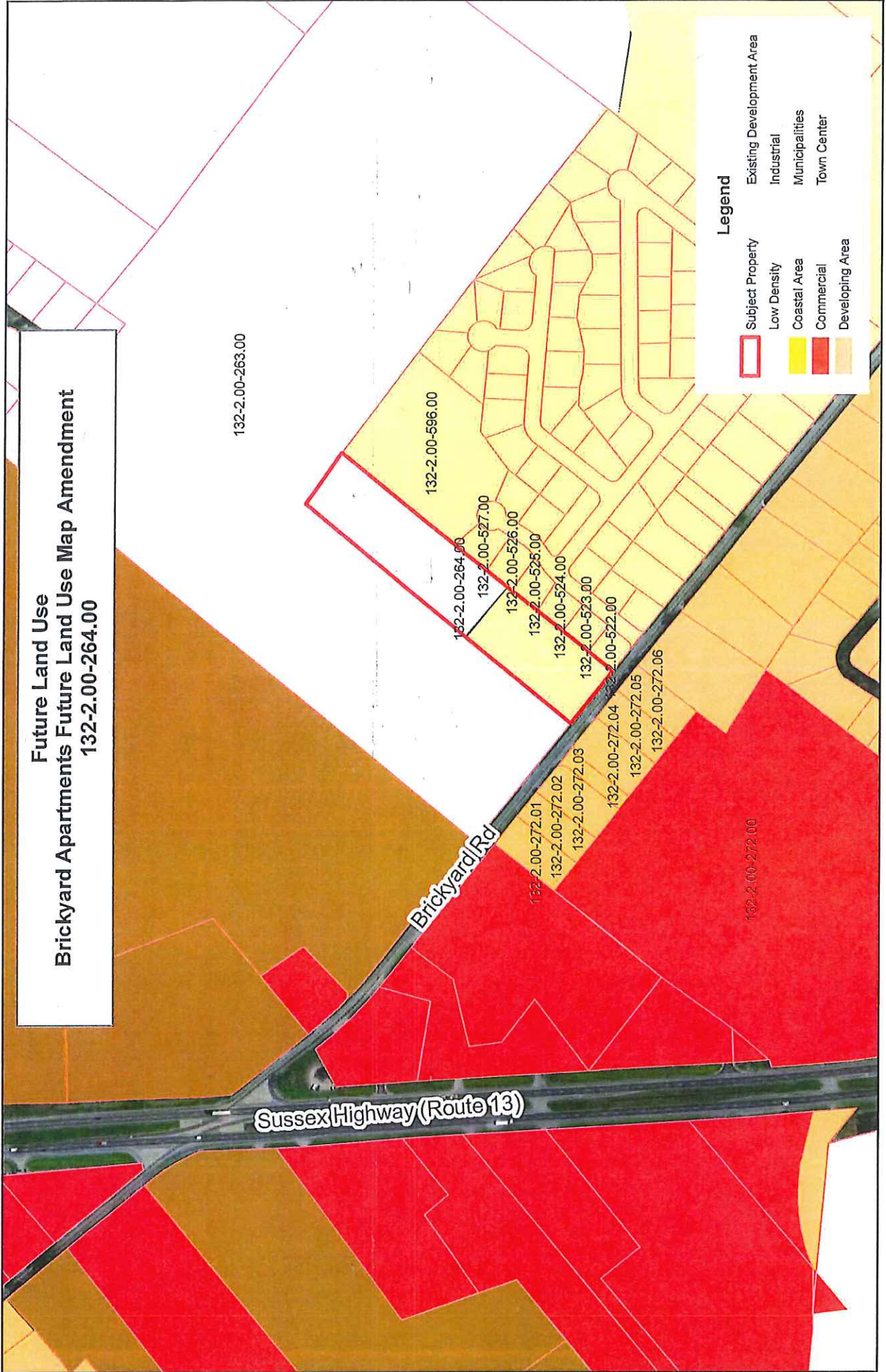




Sussex County



**Future Land Use
Brickyard Apartments Future Land Use Map Amendment
132-2.00-264.00**



132-2.00-263.00

132-2.00-596.00

132-2.00-264.00

132-2.00-527.00

132-2.00-526.00

132-2.00-525.00

132-2.00-524.00

132-2.00-523.00

132-2.00-522.00

132-2.00-272.04

132-2.00-272.05

132-2.00-272.06

132-2.00-272.01

132-2.00-272.02

132-2.00-272.03

132-2.00-272.00

Sussex Highway (Route 13)

Brickyard Rd

Legend

- Subject Property
- Existing Development Area
- Low Density
- Coastal Area
- Commercial
- Developing Area
- Industrial
- Municipalities
- Town Center



Introduced 11/10/20

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCEL NO. 132-2.00-264.00 (PORTION OF)

WHEREAS, on November 26th, 2019, the Sussex County Planning and Zoning Office received an application for Change of Zone No. 1910; and

WHEREAS, the Sussex County Council will consider Change of Zone No. 1910 from an AR-1 Agricultural Residential District to a GR General Residential District for a certain parcel of land lying and being in Broad Creek Hundred, Sussex County, containing 5.03 acres, more or less (a portion of Tax Parcel No. 132-2.00-264.00) (the “Property”); and

WHEREAS, the Property is designated as being within the Low Density Area as set forth in the Future Land Use Map identified as Figure 4.5-1 in the Plan, and the Low Density Area does not permit such GR Zoning; and

WHEREAS, Sussex County Council desires to adopt this Ordinance amending the Future Land Use Map of the Plan with minor amendments; and

WHEREAS, in accordance with the required process for public hearings on ordinances such as this one, both Sussex County Council and the Sussex County Planning and Zoning Commission will hold public hearings on this Ordinance, but limited in scope to this specific proposed amendment to the Future Land Use Map contained in the Plan.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. The Future Land Use Map identified as Figure 4.5-1 of the Sussex County Comprehensive Plan is hereby amended to change the Area designation of Sussex County Parcel No. 132-2.00-264.00 from the Low Density Area to the Developing Area. The portion of Sussex County Parcel No. 132-2.00-264.00 so changed is identified in Exhibit A, attached hereto and incorporated herein.

Section 2. This Ordinance shall also take effect following its adoption by majority vote of all members of the County Council of Sussex County, Delaware, and upon certification by the State of Delaware.

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



Sussex County

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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: November 29, 2023

RE: County Council Report for CZ 1910 filed on behalf of Brickyard Apartments, LLC

The Planning and Zoning Department received an application (CZ 1910 filed on behalf of Brickyard Apartments, LLC) for a Change of Zone of parcel 132-2.00-264.00 from Agricultural Residential Zoning District (AR-1) to General Residential Zoning District (GR). The parcel is located a 9329 Brickyard Rd, Seaford. The change of zone is for 3.093 acres of the parcel, more or less.

The Planning and Zoning Commission held a public hearing on January 7, 2021. At the meeting of January 21, 2021, the Commission recommended approval of the application for the 9 reasons within the motion (included below).

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

[Minutes of the February 9, 2021 County Council Meeting](#)

Below are the minutes from the Planning & Zoning Commission meetings of January 7, 2021, and January 21, 2021.

[Minutes of the January 7, 2021, Planning & Zoning Commission Meeting](#)

C/Z 1910 – Brickyard Apartments, LLC

An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District to a GR General Residential District for a certain parcel of land lying and being in Broad Creek Hundred, Sussex County, containing 3.093 acres, more or less. The property is lying on the northwest side of Brickyard Road approximately 0.3 miles



southeast of Sussex Highway (Rt. 13). 911 Address: 9329 Brickyard Road, Seaford. Tax Parcel: 132-2.00-264.00

Mr. Whitehouse advised the Commission that submitted into the record for CZ 1910 is a copy of the Applicant's site plan, a copy of the staff analysis, a copy of the DelDOT service level evaluation response, a copy of the Applicant's exhibit book, and comments from the Sussex County Engineering Department Utility Planning Division. Mr. Whitehouse noted that one letter of support and one mail return have been received.

The Commission found that Mr. John Paradee, Esq. was present on behalf of the Applicant, Brickyard Apartments, LLC.; that also present are Project Designer, Sherry Hockstedler from George Miles and Buhr and Billy Betts, Brickyard Apartments, LLC.; that a portion of the property is currently zoned GR; that this request is for a Change of Zone to allow for uniform zoning of GR and a Conditional Use for 48 apartments; that there would be a total of 12 buildings; that six buildings would have four one-bedroom apartments and six buildings with four two-bedroom apartments; that GR zoning designation is consistent with the prevailing uses and character of the neighborhood; that split-zoning is disfavored; that as Staff has noted that the approval would be consistent with the land use, area and surrounding uses; that the approval of this Application would help advance with the County's long standing goal of providing opportunities for affordable housing in the area; that the Office of State Planning Coordination is supportive; that there are letters of no objection from Sussex Conservation District and the DelDOT; and that there are no letters of objection.

Mr. Hopkins asked for the square footage of the apartments.

Ms. Hockstedler stated that the one-bedroom apartment buildings are 4,430 gross sf and the two-bedroom apartment buildings are 5,906 gross sf.

Ms. Stevenson asked if the development would meet Sussex County parking requirements.

Mr. Whitehouse stated that two parking spaces would be required for each unit with additional requirements for any units with more than three bedrooms.

Mr. Paradee stated that the parking requirements would be met.

Ms. Stevenson asked about the water and sewer connections. Ms. Hockstedler stated that this development has an agreement to connect to the water treatment facility at Mobile Gardens which is to the north of the subject property.

Ms. Suzanne Laws, Engineer with DelDOT gave comments on this Application by teleconference. Ms. Laws stated that this Application received a letter of no objection from DelDOT on January 13, 2020 and plans were approved on February 12, 2020.

The Commission found that no one spoke in favor of or in opposition to the Application. Upon there being no further questions, Chairman Wheatley closed the public hearing for this application.

At the conclusion of the Public Hearings, the Commission discussed the Applications.

In relation to Application C/Z 1910 Brickyard Apartments, LLC., motion by Ms. Wingate to defer action for further consideration, seconded by Ms. Stevenson, and carried unanimously. Motion carried 5-0.

Minutes of the January 21, 2021 Planning & Zoning Commission Meeting

The Commission discussed this application which has been deferred since January 7, 2021.

Ms. Wingate moved that the Commission recommend approval of C/Z 1910 for Brickyard Apartments, LLC for a change in zone from AR-1 to GR General Residential based upon the record made during the public hearing and for the following reasons:

1. The application meets the purpose of the Zoning Code in that it promotes the orderly growth of the County.
2. This parcel currently has a split zoning, where the front of the parcel is already zoned GR and the rear portion is zoned AR-1. This rezoning will bring the entire parcel under a single, uniform zoning district. Since the frontage is zoned GR, it is appropriate to rezone the rear to match the existing GR zoning.
3. The proposed rezoning is consistent with other zoning and uses in the area. The properties to the east and south are also currently zoned GR and there is C-1 zoning in the area. The parcel is also very close to the municipal boundaries of the City of Seaford. Under these circumstances the rezoning to GR is appropriate.
4. The rezoning will not have a significant impact upon area traffic or roadways.
5. The rezoning will not adversely impact neighboring properties, the community or public facilities in the area.
6. The site will be served by central sewer and by central water.
7. Based on the amended Future Land Use Map, this site is in a Developing Area. This Area is appropriate for GR zoning according to the Sussex County Comprehensive Plan.
8. No parties appeared in opposition to this application.
9. For all of these reasons, it is appropriate to rezone this property so that it is entirely within the GR General Residential Zoning District.

Motion by Ms. Wingate, seconded by Mr. Mears and carried unanimously to recommend approval of CZ 1910 Brickyard Apartments, LLC for the reasons and conditions stated in the motion. Motion carried 5 – 0.

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, MRTPI, AICP
DIRECTOR OF PLANNING & ZONING

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET

Planning Commission Public Hearing Date: January 7th, 2021

Application: CZ 1910 Brickyard Apartments, LLC

Applicant: Brickyard Apartments, LLC
1080 Pittsford Victor Road
Suite 202
Pittsford, NY 14534

Owner: Brickyard Apartments, LLC
1080 Pittsford Victor Road
Suite 202
Pittsford, NY 14534

Site Location: 9329 Brickyard Road, Seaford, DE. The property is on the northwest side of Brickyard Road, approximately 0.3 mile southeast of Sussex Highway (Route 13).

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

Proposed Zoning: GR – General Residential Zoning District

Comprehensive Land Use Plan Reference: Low Density & Existing Development Area

Councilmanic District: Mr. Vincent

School District: Seaford School District

Fire District: Blades Fire Department

Sewer: Public – Mobile Gardens Public Water System

Water: Public – Mobile Gardens Wastewater Treatment Facility

Site Area: 3.093 acres +/-

Tax Map ID.: 132-2.00-264.00



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



Sussex County

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sussexcountyde.gov

Memorandum

To: Sussex County Planning Commission Members
From: Lauren DeVore, Planner III
CC: Vince Robertson, Assistant County Attorney and applicant
Date: December 21, 2020
RE: Staff Analysis for CZ 1910 Brickyard Apartments, LLC

This memo is to provide background and analysis for the Planning Commission to consider as a part of application CZ 1910 Brickyard Apartments, LLC to be reviewed during the January 7, 2021 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 132-2.00-264.00 to allow for a change of zone from an Agricultural Residential (AR-1) Zoning District to a General Residential (GR) Zoning District. The parcel is located on the northwest side of Brickyard Road (Route 481) approximately 0.3 mile southeast of Sussex Highway (Route 13). The portion of the parcel to be rezoned contains 3.093 acres +/-.

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 has a split land use designation of "Existing Development Area" and "Low Density Area." The properties to the south also have the land use designation of Existing Development Area.

Existing Development Areas consist primarily of existing residential development under the current General Residential and Medium Density Residential Zoning Districts, as well as some commercial uses. The Existing Development Area permits a full range of housing types which are appropriate in these residential areas, including single-family homes, townhouses, and multi-family units.

The primary uses envisioned in Low Density Areas are agricultural activities and homes. Business development should be largely confined to businesses addressing the needs of these two uses. More intense commercial uses should be avoided in these areas. The properties to the north and northwest of the subject property also have the land use designation of Low Density.

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 General Residential (GR) Zoning District is listed as an applicable zoning district in the "Existing Development Area."



Additionally, the subject property is split-zoned with the northern half of the parcel being zoned Agricultural Residential (AR-1) and the southern half of the parcel being zoned General Residential (GR).

The property to the south as well as the properties on the opposite (western) side of Brickyard Road (Route 481) are zoned General Residential. The properties to the north and northwest of the subject site are zoned Agricultural Residential (AR-1).

Since 2011, there have been no Change of Zone applications within a 2-mile radius of the application site.

It is noted that there is a pending Ordinance to revise the Future Land Use Map to change a portion of the parcel's Future Land Use designation from the Low Density Area to the Developing Area. Based on the analysis of the land use, surrounding zoning and uses, the Change of Zone from an Agricultural Residential (AR-1) Zoning District to a General Residential (GR) Zoning District could be considered as being consistent with the land use, area zoning and surrounding uses.



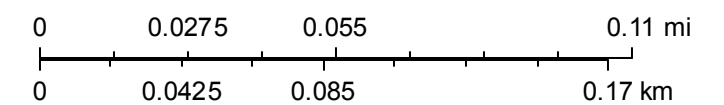
Sussex County



PIN:	132-2.00-264.00	
Owner Name	BRICKYARD	APTS LLC
Book	5105	
Mailing Address	1080 PITTSFORD VICTOR P	
City	PITTSFORD	
State	NY	
Description	STATE RD 481	
Description 2	N/A	
Description 3	N/A	
Land Code		

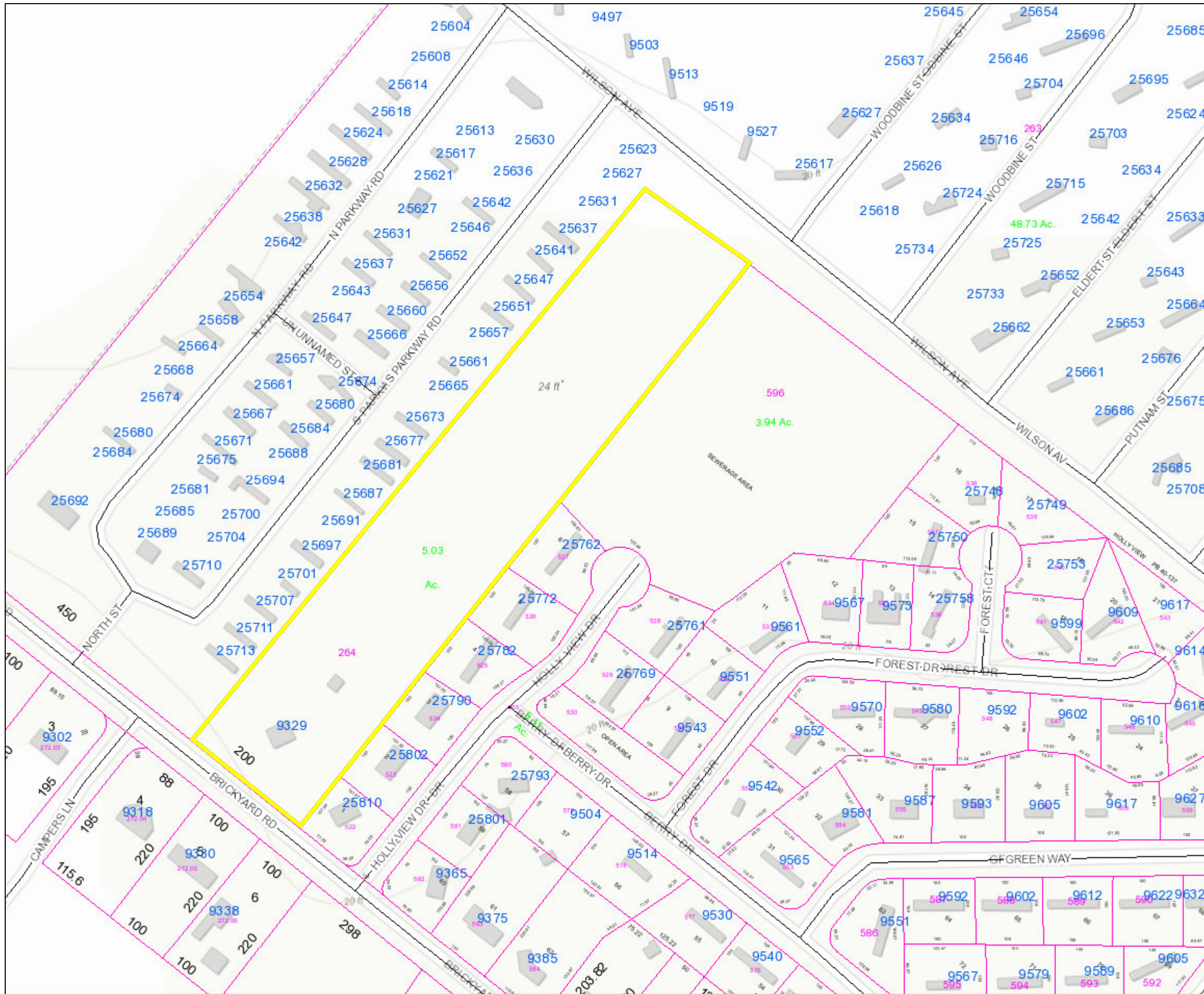
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- Override 1
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- Override 1
- Tax Parcels
- 911 Address
- Streets
- County Boundaries

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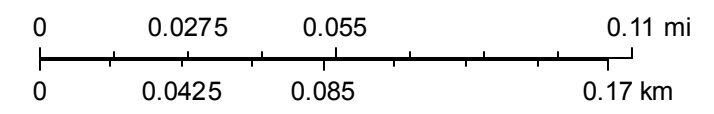
Sussex County



PIN:	132-2.00-264.00	
Owner Name	BRICKYARD	APTS LLC
Book	5105	
Mailing Address	1080 PITTSFORD VICTOR P	
City	PITTSFORD	
State	NY	
Description	STATE RD 481	
Description 2	N/A	
Description 3	N/A	
Land Code		

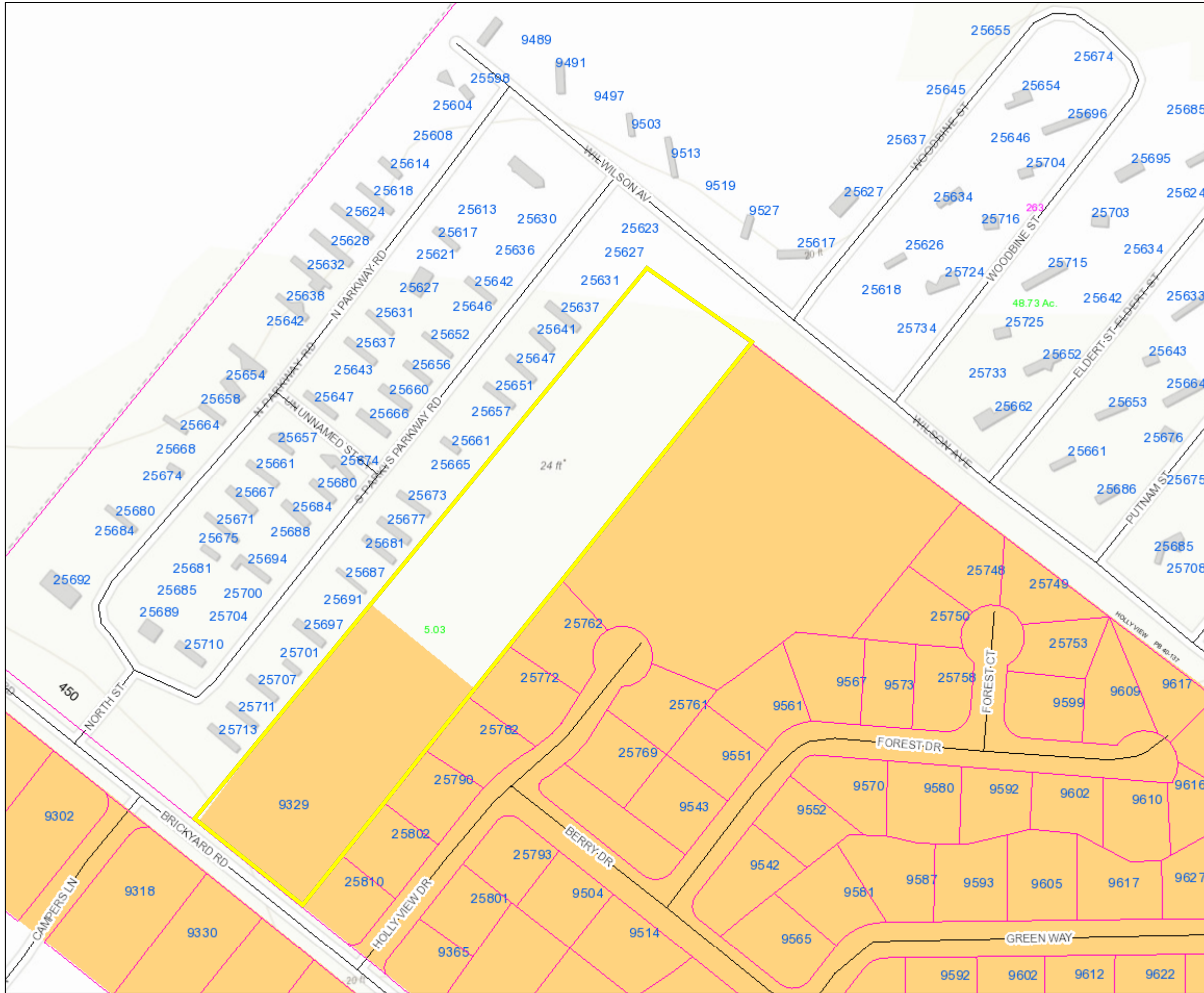
- polygonLayer**
- Override 1
- polygonLayer**
- Override 1
- Tax Parcels
- 911 Address
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1:2,257





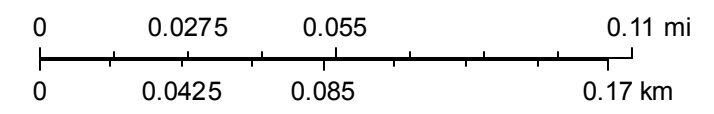
Sussex County



PIN:	132-2.00-264.00	
Owner Name	BRICKYARD	APTS LLC
Book	5105	
Mailing Address	1080 PITTSFORD VICTOR P	
City	PITTSFORD	
State	NY	
Description	STATE RD 481	
Description 2	N/A	
Description 3	N/A	
Land Code		

- polygonLayer**
- Override 1
- polygonLayer**
- Override 1
- Tax Parcels
- 911 Address
- Streets

1:2,257



Introduced 01/07/20

**Council District No. 1 – Vincent
Tax I.D. No. 132-2.00-264.00
911 Address: 9329 Brickyard Road, Seaford**

ORDINANCE NO. ____

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A GR GENERAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 3.093 ACRES, MORE OR LESS

WHEREAS, on the 26th day of November 2019, a zoning application, denominated Change of Zone No. 1910, was filed on behalf of Brickyard Apartments, LLC; and

WHEREAS, on the ____ day of _____ 2020, 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. 1910 be _____; and

WHEREAS, on the ____ day of _____ 2020, 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 of GR General 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 parcel of land lying and being situate in Broad Creek Hundred, Sussex County, Delaware, and lying on the northwest side of Brickyard Road approximately 0.3 miles southeast of Sussex Highway (Route 13) and being more particularly described in the attached legal description prepared by Miller Lewis, Inc., said parcel containing 3.093 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
(302) 854-5079 F
jamie.whitehouse@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: December 29, 2023

RE: County Council Report for C/U 2212 filed on behalf of Brickyard Apartments, LLC

The Planning and Zoning Department received an application (C/U 2212 filed on behalf of Brickyard Apartments, LLC) for a Conditional Use for parcel 132-2.00-264.00 to allow for multi-family (48 apartments) at 9329 Brickyard Rd, Seaford. The property is within the General Residential (GR) Zoning District. The parcel size is 5.05 acres.

The Planning and Zoning Commission held a public hearing on January 7, 2021. At the meeting of January 21, 2021, the Commission recommended approval of the application for the 7 reasons and 14 recommended conditions outlined within the motion (included below).

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

[Minutes of the February 9, 2021, County Council Meeting](#)

Below are the minutes from the Planning & Zoning Commission meetings of January 7, 2021, and January 21, 2021

[Minutes of the January 7, 2021, Planning & Zoning Commission Meeting](#)

C/U 2212 – Brickyard Apartments, LLC

An Ordinance to grant a Conditional Use of land in a GR General Residential District for multi-family (48 apartments) to be located on a certain parcel of land lying and being in Broad Creek Hundred, Sussex County, containing 5.05 acres, more or less. The property is lying on the northwest side of Brickyard Road, approximately 0.3 miles southeast of Sussex Highway (Rt. 13).



911 Address: 9329 Brickyard Road, Seaford. Tax Parcel: 132-2.00-264.00

Mr. Whitehouse advised the Commission that submitted into the record for CU 2212 is a copy of the Applicant's site plan, a copy of the staff analysis, a copy of the DelDOT service level evaluation response, a copy of the Applicant's exhibit book, comments from the Sussex County Engineering Department Utility Planning Division and comments from DelDOT. Mr. Whitehouse noted that one letter of support and one mail return have been received.

The Commission found that Mr. John Paradee, Esq. was present on behalf of the Applicant, Brickyard Apartments, LLC.; that also present are Project Designer, Sherry Hockstedler from George Miles and Buhr and Billy Betts, Brickyard Apartments, LLC.; that a portion of the property is currently zoned GR; that this request is for a Change of Zone to allow for uniform zoning of GR and a Conditional Use for 48 apartments; that there would be a total of 12 buildings; that six buildings would have four one-bedroom apartments and six buildings with four two-bedroom apartments; that GR zoning designation is consistent with the prevailing uses and character of the neighborhood; that split-zoning is disfavored; that as Staff has noted that the approval would be consistent with the land use, area and surrounding uses; that the approval of this Application would help advance with the County's long standing goal of providing opportunities for affordable housing in the area; that the Office of State Planning Coordination is supportive; that there are letters of no objection from Sussex Conservation District and the DelDOT; and that there are no letters of objection.

Mr. Hopkins asked for the square footage of the apartments.

Ms. Hockstedler stated that the one-bedroom apartment buildings are 4,430 gross sf and the two-bedroom apartment buildings are 5,906 gross sf.

Ms. Stevenson asked if the development would meet Sussex County parking requirements.

Mr. Whitehouse stated that two parking spaces would be required for each unit with additional requirements for any units with more than three bedrooms.

Mr. Paradee stated that the parking requirements would be met.

Ms. Stevenson asked about the water and sewer connections.

Ms. Hockstedler stated that this development has an agreement to connect to the water treatment facility at Mobile Gardens which is to the north of the subject property.

Ms. Suzanne Laws, Engineer with DelDOT gave comments on this Application by teleconference. Ms. Laws stated that this Application received a letter of no objection from DelDOT on January 13, 2020 and plans were approved on February 12, 2020.

The Commission found that no one spoke in favor of or in opposition to the Application. Upon there being no further questions, Chairman Wheatley closed the public hearing for this application.

At the conclusion of the Public Hearings, the Commission discussed the Applications.

In relation to Application C/U 2212 Brickyard Apartments, LLC., motion by Ms. Wingate to defer action for further consideration, seconded by Ms. Stevenson, and carried unanimously. Motion carried 5-0.

Minutes of the January 21, 2021 Planning & Zoning Commission Meeting

The Commission discussed this application which has been deferred since January 7, 2021.

Ms. Wingate moved that the Commission recommend approval of C/U 2212 for Brickyard Apartments, LLC for multi-family (48 Apartments) based upon the record made during the public hearing and for the following reasons:

1. The Applicant is seeking a Conditional Use to develop a residential rental apartment complex with 48 units. These units will be located in six buildings containing four, one-bedroom apartments, and six buildings with four, two-bedroom apartments.
2. Upon the favorable action of County Council, the site will be entirely located within the Developing Area according to the Sussex County Comprehensive Plan. In this Area a wide range of housing types can be appropriate, including multi-family units such as what the Applicant has proposed here.
3. The proposed development creates rental housing at an appropriate density in an area served by central sewer and water which is near major roads, shopping and centers of employment.
4. The proposed density of this project is appropriate for this location since it is surrounded by other residential developments. Also, it is in close proximity to Route 13 and the City of Seaford.
5. There is a demand for rental housing including more affordable types of rental housing in this area of Sussex County.
6. The Sussex County Council declared in Chapter 72, Section 18 of the County Ordinances, that it was the public policy of the County to:
 - a. Encourage the creation of a full range of housing choices, conveniently located in suitable living environments, for all incomes, ages and family sizes.
 - b. Encourage the production of affordable rental units to meet the existing and anticipated future employment needs in the County.
 - c. Assure that affordable rental units are dispersed throughout the County consistent with the Comprehensive Plan.
 - d. Encourage developments in Growth Areas as defined within the County's most current comprehensive plan and Areas of Opportunity as defined by the Delaware State Housing Authority to include a minimum percentage of affordable rental units on public water and sewer systems.The proposed development is in accordance with this stated County Public Policy.
7. With conditions imposed, the Conditional Use meets the purpose of the Zoning Code and Comprehensive Plan in that it promotes the orderly growth, convenience, order, prosperity, and welfare of the County and its residents.
8. This recommendation is subject to the following conditions:
 - a. There shall be no more than 48 units within this apartment development consisting of six buildings containing four, one-bedroom apartments, and six buildings with four, two-

- bedroom apartments.
- b. All entrances, intersections, interconnections, roadways and multi-modal improvements required by DelDOT shall be completed in accordance with DelDOT's requirements.
- c. The Conditional Use shall be served by central sewer.
- d. The Conditional Use shall be served by central water.
- e. 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 in a manner that is consistent with Best Management Practices.
- f. Interior street design shall meet or exceed Sussex County's street design requirements. There shall also be sidewalks on at least one side of all streets within the Conditional Use and the sidewalk design shall take into account the location of a school bus stop.
- g. The developer shall coordinate with the Seaford School District about the location of a centralized school bus stop within the development. If requested by the Seaford School District, a school bus stop shall be provided. The location of the bus stop area shall be shown on the Final Site Plan.
- h. Road naming and addressing shall be subject to the review and approval of Sussex County Mapping and Addressing Departments.
- i. Construction activities, including sitework and deliveries, shall only occur between 7:30 am and 7:00 pm Monday through Friday, and 8:00 am through 5:00 pm on Saturdays.
- j. There shall be an on-site management office within the Community.
- k. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.
- l. The Applicant or its assigns shall be responsible for the maintenance of interior drives and parking areas, buildings, buffers, stormwater management, amenities and all open space.
- m. This recommendation is contingent on Sussex County Council approving the amendment of the Future Land Use Map so that this entire parcel is identified as being within the Development Area.
- n. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Ms. Wingate, seconded by Ms. Stevenson and carried unanimously to recommend approval of CU 2212 Brickyard Apartments, LLC for the reasons and conditions stated in the motion. Motion carried 5 – 0.

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, MRTPI, AICP
DIRECTOR OF PLANNING & ZONING

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET

Planning Commission Public Hearing Date: January 7th, 2021

Application: CU 2212 Brickyard Apartments, LLC

Applicant: KDM Development, LLC
25713 South Parkway Road
Seaford, DE 19973

Owner: Brickyard Apartments, LLC
1080 Pittsford Victor Road
Suite 202
Pittsford, NY 14534

Site Location: 9329 Brickyard Road, Seaford, DE. The property is on the northwest side of Brickyard Road, approximately 0.3 mile southeast of Sussex Highway (Route 13).

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

Proposed Use: 48 Apartments (Multi-family units)

Comprehensive Land Use Plan Reference: Low Density & Existing Development Area

Councilmanic District: Mr. Vincent

School District: Seaford School District

Fire District: Blades Fire Department

Sewer: Public – Mobile Gardens Public Water System

Water: Public – Mobile Gardens Wastewater Treatment Facility

Site Area: 5.03 acres +/-

Tax Map ID.: 132-2.00-264.00



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: Lauren DeVore, Planner III
CC: Vince Robertson, Assistant County Attorney and applicant
Date: December 21, 2020
RE: Staff Analysis for CU 2212 Brickyard Apartments, LLC

This memo is to provide background and analysis for the Planning Commission to consider as a part of application CU 2212 Brickyard Apartments, LLC to be reviewed during the January 7, 2021 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 Conditional Use for Tax Parcel 132-2.00-264.00 to allow for multifamily (48 apartments). The parcel is located on the northwest side of Brickyard Road (Route 481) approximately 0.3 mile southeast of Sussex Highway (Route 13). The parcel contains 5.05 acres +/-.

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 has a split land use designation of "Existing Development Area" and "Low Density Area." The properties to the south also have the land use designation of Existing Development Areas.

Existing Development Areas consist primarily of existing residential development under the current General Residential and Medium Density Residential Zoning Districts, as well as some commercial uses. The Existing Development Area permits a full range of housing types which are appropriate in these residential areas, including single-family homes, townhouses, and multi-family units.

The primary uses envisioned in Low Density Areas are agricultural activities and homes. Business development should be largely confined to businesses addressing the needs of these two uses. More intense commercial uses should be avoided in these areas. The properties to the north and northwest of the subject property also have the land use designation of Low Density.

The subject property is split-zoned Agricultural Residential (AR-1) and General Residential (GR). The property to the south as well as the properties on the opposite (western) side of Brickyard Road (Route 481) are zoned General Residential. The properties to the north and northwest of the subject site are zoned Agricultural Residential (AR-1).

Since 2011, there has been one Conditional Use application within a 2-mile radius of the application site. This application was Conditional Use No. 1945 to allow for a small storage facility to be located



in an AR-1 Zoning District. The application was approved by the Sussex County Council on January 15, 2013 and adopted through Ordinance No. 2287.

It is noted that there is a pending Ordinance to revise the Future Land Use Map to change a portion of the parcel's Future Land Use designation from the Low Density Area to the Developing Area. Based on the analysis of the land use, surrounding zoning and uses, the Conditional use to allow for a multifamily apartment community, subject to considerations of scale and impact, could be considered as being consistent with the land use, area zoning and surrounding uses.



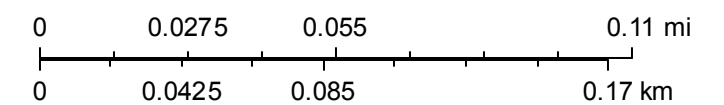
Sussex County



PIN:	132-2.00-264.00	
Owner Name	BRICKYARD	APTS LLC
Book	5105	
Mailing Address	1080 PITTSFORD VICTOR P	
City	PITTSFORD	
State	NY	
Description	STATE RD 481	
Description 2	N/A	
Description 3	N/A	
Land Code		

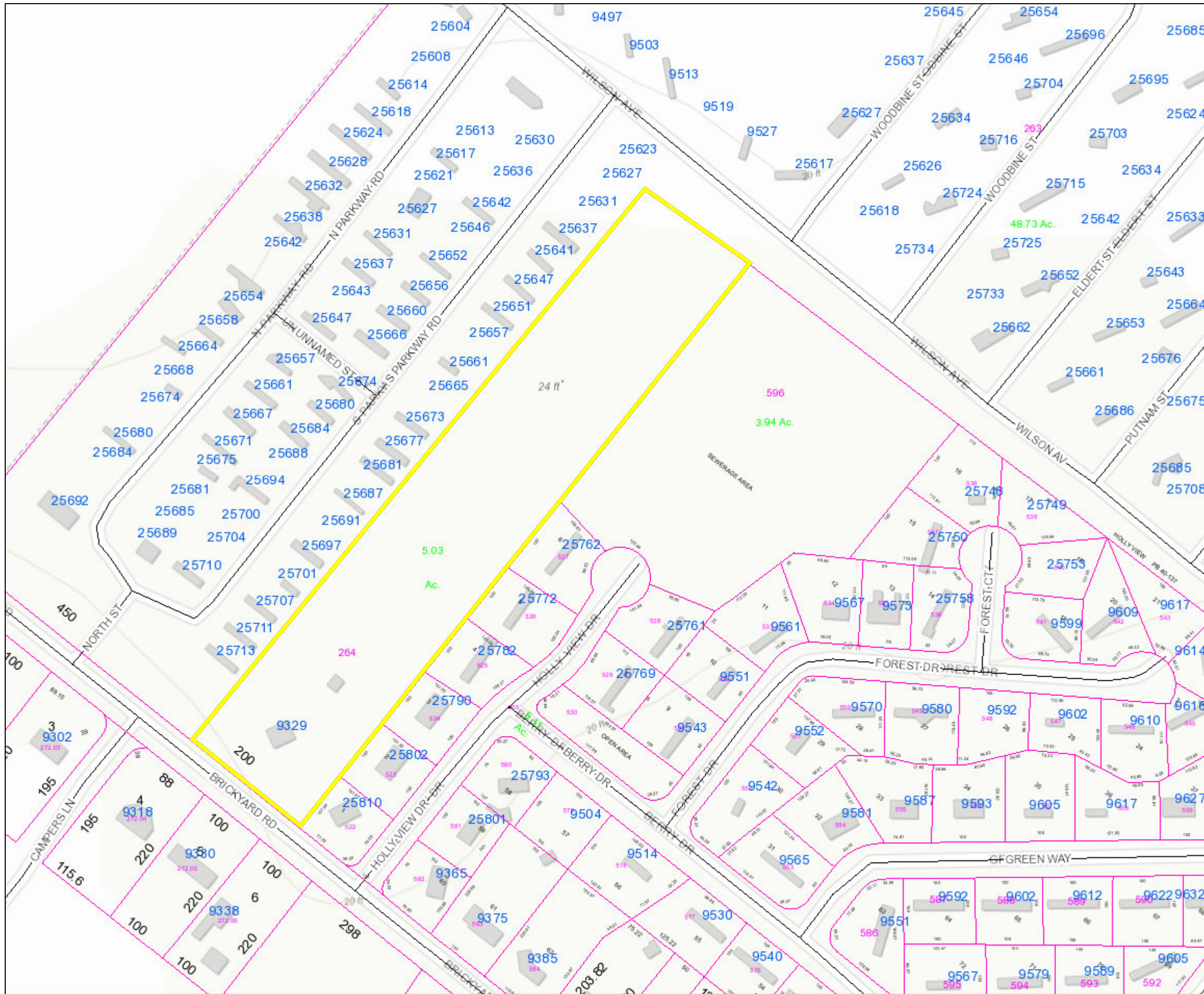
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- 911 Address
- Streets
- County Boundaries

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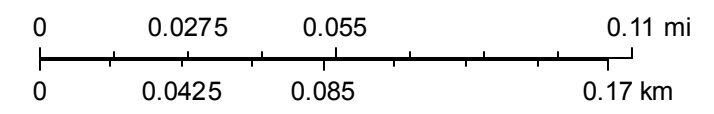
Sussex County



PIN:	132-2.00-264.00	
Owner Name	BRICKYARD	APTS LLC
Book	5105	
Mailing Address	1080 PITTSFORD VICTOR P	
City	PITTSFORD	
State	NY	
Description	STATE RD 481	
Description 2	N/A	
Description 3	N/A	
Land Code		

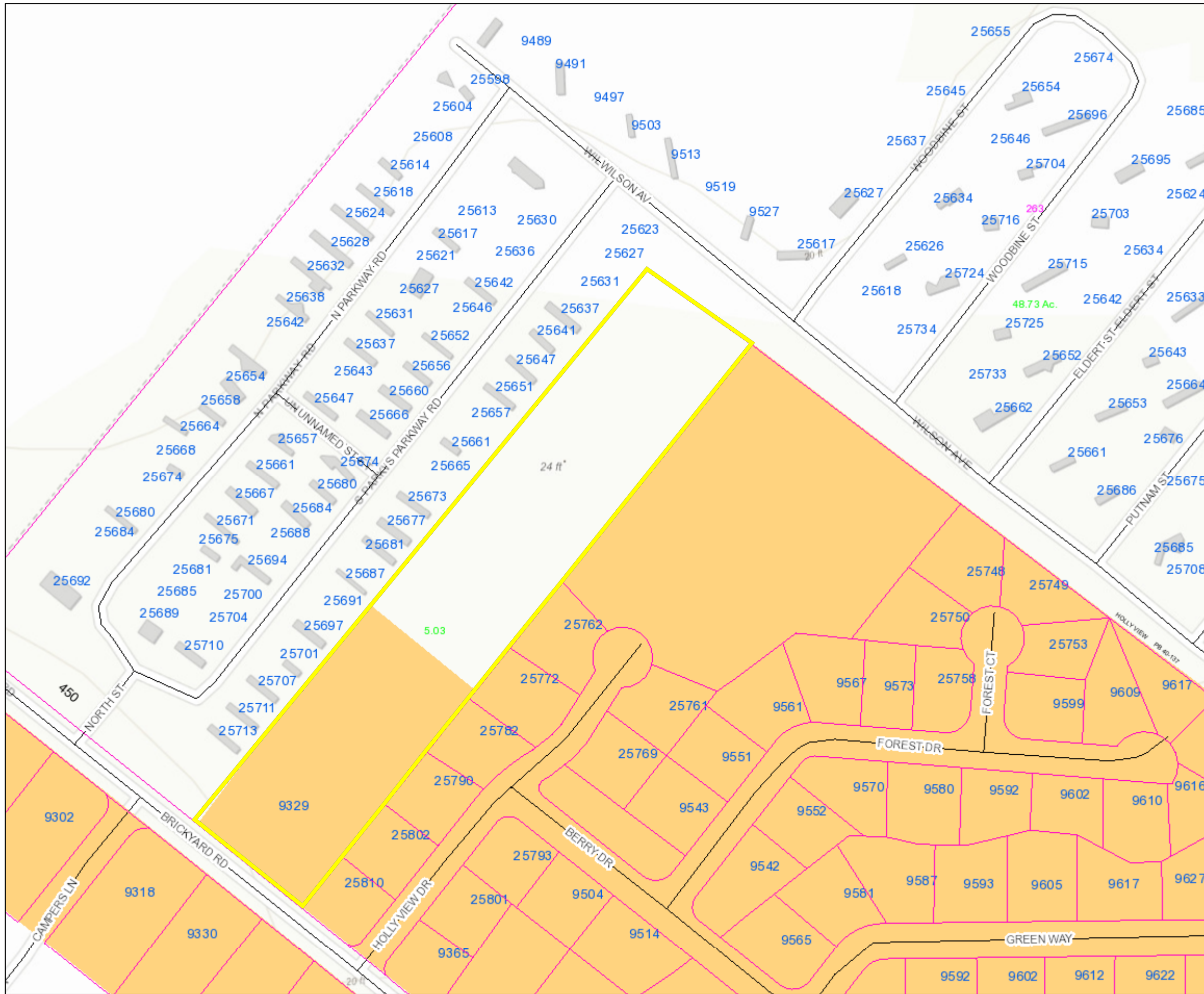
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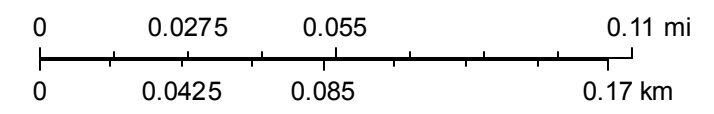
Sussex County



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City	PITTSFORD	
State	NY	
Description	STATE RD 481	
Description 2	N/A	
Description 3	N/A	
Land Code		

- polygonLayer**
- Override 1
- polygonLayer**
- Override 1
- Tax Parcels
- 911 Address
- Streets

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Introduced 01/07/20

**Council District No. 1 – Vincent
Tax I.D. No. 132-2.00-264.00
911 Address: 9329 Brickyard Road, Seaford**

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY (48 APARTMENTS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 5.05 ACRES, MORE OR LESS

WHEREAS, on the 26th day of November 2019, a conditional use application, denominated Conditional Use No. 2212, was filed on behalf of Brickyard Apartments, LLC; and

WHEREAS, on the ____ day of _____ 2020, 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. 2212 be _____; and

WHEREAS, on the ____ day of _____ 2020, 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. 2212 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 northwest side of Brickyard Road approximately 0.3 miles southeast of Sussex Highway (Route 13) and being more particularly described in the attached legal description prepared by Morgenstern DeVoesick PLLC, said parcel containing 5.05 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: November 29, 2023

RE: County Council Old Business Report for Ordinance No. 22-08 relating to the Future Land Use Map Element of the Comprehensive Plan

On September 13, 2022, the Planning & Zoning Department received an application requesting an amendment to the Future Land Use Map element of the Comprehensive Plan. The request was to amend the area designation of Tax Parcel No. 135-11.00-65.00 from the Low-Density Area to the Existing Development Area. The property is located at on the north side of Lewes Georgetown Highway (Rt. 9) approximately 620 feet northeast of Gravel Hill Road (Rt. 30). The parcel size is 9.72 acres +/-.

On September 30, 2022, an Ordinance was introduced by the County Council to consider the requested amendment.

The Planning & Zoning Commission held a Public Hearing on the application on December 8, 2022. At the meeting of January 12, 2023, the Planning & Zoning Commission recommended denial of the application for the 7 reasons stated as outlined within the motion (copied below).

The County Council held a Public Hearing on the Ordinance at its meeting of February 7, 2023. At the conclusion of the Public Hearing, action on the application was deferred for further consideration. At this time, the Planning & Zoning Department has not obtained PLUS comments for the proposed amendment to the Comprehensive Plan.

[Minutes of the February 7, 2023. County Council Meeting](#)

Below are the minutes from the Planning & Zoning Commission meetings of December 8, 2022 and January 12, 2023.



Minutes of the December 8, 2022 Planning & Zoning Commission Meeting

Chairman Wheatley announced that the following cases Ord. 22-08, C/Z 1959 Charles E. Turner, Jr., and C/U 2320 Charles E. Turner, Jr. are related applications, and that the Applicant has requested that they make one presentation. Chairman Wheatley noted that each Application will be voted on separately.

ORD 22-08

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

Mr. Whitehouse stated that specifically the request is to amend the area designation on the Future Land Use Map from a Low-Density Area to the Existing Development Area.

Mr. Whitehouse advised the Commission that submitted into the record for all three applications are a copy of the draft ordinance, a copy of the Applicant's exhibits, a copy of the DelDOT Service Level Evaluation Response, for the CZ and CU applications – there are copies of the staff analysis, a copy of the Applicant's PLUS submittal, a copy of the Applicant's proposed conditions of approval for the Conditional Use application, a copy of the Applicant's conceptual site plan, a copy of the deed for the property, a copy of written comments received from DNREC Watershed Stewardship, a letter received from Artesian Resources, and a copy of a letter from Sussex County Engineering Department Utility Planning Division. Mr. Whitehouse noted that there were no comments received for any of the three applications.

The Commission found that Ms. Mackenzie Peet, Esq. was present on behalf of the Applicant, Mr. Charles Turner; that also present are Mr. Turner and Mr. Roger Gross, P.E. with Merestone Consultants; that the existing property is 9.72 acres and is the present location of Silver Oaks Trailer Park; that this area is adjacent to the open space within the Hawthorne Community and the location of the former Burns Pet Store; that to the rear of the property is a tax ditch prong; that across the road are some residential homes and some property that was rezoned to B-1 (Neighborhood Business District) which is owned by Two Farms, Inc.; that the existing Silver Oaks Trailer Park was established on April 6, 1966 and was approved for 38 mobile home lots in 1970; that today there are eleven (11) mobile home lots on the site; that all existing mobile home owners have been notified of Mr. Turner's plan to develop the site; that the property is currently zoned AR-1 (Agricultural Residential District); that the properties adjacent to the subject property are also zoned AR-1; that along Route 9 there is a mixture of zoning districts mainly C-1, AR-1 and some B-1; that further out there are some MR, CR-1, and HI-1 zoning districts; that the Future Land Use Designation presently is Low-Density Area and is surrounded by properties designated as Commercial Area and Industrial Area; that the project is located in Investment Level IV and the Land Use Map amendment is scheduled before PLUS on December 21, 2022; that PLUS comments will be responded to before the County Council public hearing; that with respect to the Future Land Use Map request the property is currently designated as a Low-Density Area; that the Low Density Area is considered to be a rural area; that as of 2018, all lands designated as Low Density Areas are also zoned AR-1 which permit single-family detached lots; that Ordinance 22-08 seeks to amend the Future Land Use Map from Low Density to and Existing Development Area – a growth area; that Chapter 4 of the Comprehensive Plan explains that this area consists of primarily existing residential developments similar to this one presently under General

Residential or Medium Residential zoning districts and some commercial uses; that these areas are scattered throughout the County and often times next to Low Density Areas; that the land use history of the property is relevant in that this property was permitted as a Mobile Home Park and approved for 38 lots as reflected in Exhibit B in the record; that this property has been an existing residential development since 1966; that the established Mobile Home Park predated Sussex County Code and this property should have been designated as an Existing Development Area; that this area permits a full range of housing types; that the proposed use is consistent with the Existing Development Area; that there are Existing Development Area in the vicinity of the subject property close to Route 9 and Route 5; that infrastructure is already in the area and central water and sewer are encouraged for the Existing Development Area; that sewer and water will be provided by Artesian; and that the applicable zoning districts in the Existing Development Area include MR and would be consistent with the Land Use change.

Chairman Wheatley asked for Clarification about the additional 8 units approved by Board of Adjustment.

Ms. Peet stated that the Mobile Home Park was originally approved for 38 units, however, only 21 were developed and the BOA Case 116 was for an additional 8 units which brought the total to 29 units.

Ms. Peet stated that the Applicant's second request is CZ 1959 to rezone the property from AR-1 to MR to ultimately develop 42 multi-family units; that the MR district provides for medium density residential development in areas which are or are expected to become generally urban in character where sanitary sewer and public water may or may not be available at the time of construction; that as previously discussed, there is availability here; that although AR-1 permits low-density multi-family through the pursuit of a Conditional Use application but the Applicant wishes to rezone to MR which permits the medium density residential to allow for 42 multi-family units; that the proposed rezoning is compatible with the surrounding land uses which includes a mix of residential, business, and commercial uses nearby; that there are other multi-family residential units nearby including Weston Willows Apartment Complex, Azelea Woods single-family subdivision, and Hawthorne subdivision; that Table II shows the bulk requirements for multi-family units must meet the same height, area and bulk requirements; that this is relevant considering the C-1 zoning district near the property; that there were three change of zone applications approved within a mile of this site; and that Table 4.5-2 Title Zoning Districts applicable to Future Land Use Categories confirms that the MR district is an applicable district in the Existing Development Area.

Ms. Peet stated that the final request is CU 2320 for a Conditional Use of land in an MR zoning district for the development of 42 multi-family units; that the proposed multi-family development will be accessed off of Route 9; that the proposed density for the development is 4.36 units per acre which is less than the permitted density in MR; that there are eight (8) buildings proposed and each building contains between 3 and 6 units; that there is also a community building and pool amenity proposed; that 6.4 acres or 66.7% of the site to remain as open space subject to final site engineering; that there will be 92 parking spaces which exceed the 84 required spaces; that the non-tidal wetlands will remain undisturbed; that stormwater management will be in accordance with local and state regulations; that water and sewer will be served by Artesian; that the increase in traffic on area roadways will be analyzed and approved by DelDOT; that preliminarily the response to the Service Level Evaluation Request state that the impact is considered to be negligible; that section 115-31 of the Code concerning multi-family units confirms that these units may be permitted as conditional uses subject to other provisions

in the Code; that the proposed use is in compliance with all Code requirements including section 115-188 of the Code; that if the Future Land Use Amendment is adopted then the proposed use will be compliant and consistent with the Comprehensive Development Plan; that the Planning and Zoning office memorandum confirms that there have been three conditional use applications near this property; that proposed conditions of approval have been submitted into the record; and that for all these reasons the request is compatible with the surrounding uses and County Code.

Mr. Whitehouse asked about the PLUS submittal.

Ms. Peet stated that the application will go to PLUS on December 21, 2022, and that the Applicant is aware that the PLUS response is required before the County Council public hearing.

The Commission found that there was no one present who wished to speak in favor of or in opposition to this application.

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

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

In relation to Ordinance 22-08. Motion by Mr. Mears to defer action for further consideration, seconded by Mr. Hopkins and carried unanimously. Motion carried 3-0.

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

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

Ms. Stevenson moved that the Commission recommend denial of an Ordinance 22-08 to amend the Future Land Use Map of the Comprehensive Plan in relation to Tax Parcel 135-11.00-65.00 based upon the record made during the public hearing and for the following reasons:

1. This Ordinance seeks to amend the Future Land Use Map within the Sussex County Comprehensive Plan from its current land use designation as a “Low-Density Area” to an “Existing Development Area”. The property that is the subject of this Ordinance is Sussex County Tax Map and Parcel # 135-11.00-39.00.
2. The “Existing Development Area” is designated in the Comprehensive Plan for “existing residential development under the current General Residential and Medium Residential zoning districts, as well as some commercial uses.” The Plan further states that “this particular classification is simply being used to identify these existing scattered zoning areas that have no direct relation to their surrounding zoning and/or the Future Land Use Map.” The Plan emphasizes that this Area should only be used for existing GR or MR-zoned properties. This property is currently zoned AR-1, which is not permitted within the “Existing Development Area” designation. The current “Low-Density Area” designation is consistent with the land’s existing AR-1 zoning.
3. The Comprehensive Plan also reiterates that the Existing Development Area is limited to existing GR and MR land by providing that, “There is no intention to expand this land use classification.”
4. Here, the land in question is currently zoned AR-1, not GR or MR. Although the applicant has also applied to amend the zoning to MR so that a multi-family conditional use can be

developed on the property, this possible future zoning and use is not consistent with the intent of the “Existing Development Area”, which is to provide a designation for existing GR or MR land scattered throughout the County. Again, the “Existing Development Area” designation is not intended to accommodate future rezoning of land in the County.

5. There is no dispute that the property is currently developed as a small, manufactured home park that has been in existence for decades. However, it is situated upon land that is zoned AR-1 and it was never rezoned to GR. As a result, it is a legally non-conforming manufactured home park. In other words, it is grandfathered as a manufactured home park on AR-1 zoned land.
6. Because this land is not currently zoned GR General Residential or MR Medium Density Residential, and because the Comprehensive Plan states that “There is no intention to expand this land use classification”, this requested Map Amendment to add a new “Existing Development Area” on AR-1 land is not appropriate.
7. For all of these reasons, the proposed Map Amendment in Ordinance #22-08 should be denied.

Motion by Ms. Stevenson, seconded by Ms. Wingate and carried unanimously to recommend denial of Ordinance 20-08 for the reasons and conditions stated in the Motion. Motion carried 4-0.

The vote by roll call: Ms. Stevenson - yea, Mr. Hopkins - yea, Ms. Wingate - yea, Chairman Wheatley - yea

Introduced: 9/30/22

Council District 5: Mr. Rieley
Tax I.D. No. 135-11.00-65.00

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCEL 135-11.00-65.00.

WHEREAS, on September 13th, 2022, the Sussex County Planning and Zoning Office received an application for a Comprehensive Plan Amendment Request to amend the Future Land Use Map element of the Comprehensive Plan to change the Area designation of a portion of Sussex County Parcel No. 135-11.00-65.00 from the Low Density Area to the Existing Development Area; and

WHEREAS, the Parcel approximating 9.63 acres of land, lying and being within Georgetown Hundred, and located on the north side of Lewes Georgetown Highway (Route 1), approximately 600 feet northeast of the intersection of Gravel Hill Road (Route 30) and Lewes Georgetown Highway.

WHEREAS, The Property is designated as being within the Low Density Area as set forth in the Future Land Use Map identified as Figure 4.5-1 in the 2018 Comprehensive Plan for Sussex County.

WHEREAS, Sussex County Council desires to adopt this Ordinance amending the Future Land Use Map of the Plan with minor amendments; and

WHEREAS, in accordance with the required process for public hearings on Ordinances such as this one, both Sussex County Council and the Sussex County Planning & Zoning Commission will hold public hearings on this Ordinance, but limited in scope to this specific proposed amendment to the Future Land Use Map contained in the Plan.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. The Future Land Use Map identified as Figure 4.5-1 of the Sussex County Comprehensive Plan is hereby amended to change the area designation of Sussex County Parcel No. 135-11.00-65.00 from the Low Density Area to the Existing Development Area. The entirety of Sussex County Parcel No. 135-11.00-65.00 so changed is identified in Exhibit A, attached hereto, and incorporated herein.

Section 2. This Ordinance shall also take effect following its adoption by majority vote of all members of the County Council of Sussex County, Delaware, and upon certification by the State of 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: November 29, 2023

RE: County Council Report for C/Z 1959 filed on behalf of Charles E. Turner, Jr.

The Planning and Zoning Department received an application (C/Z 1959 filed on behalf of Charles E. Turner, Jr.) for a Change of Zone for parcel 135-11.00-65.00 from an AR-1 Agricultural Residential Zoning District to an MR Medium Density Residential Zoning District. The property is located at on the north side of Lewes Georgetown Highway (Rt. 9) approximately 620 feet northeast of Gravel Hill Road (Rt. 30). The parcel size is 9.72 acres +/-.

The Planning & Zoning Commission held a Public Hearing on the application on December 8, 2022. At the meeting of January 12, 2023, the Planning & Zoning Commission recommended denial of the application for the 5 reasons stated as outlined within the motion (copied below).

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

[Minutes of the February 7, 2023. County Council Meeting](#)

Below are the minutes from the Planning & Zoning Commission meetings of December 8, 2022, and January 12, 2023.

[Minutes of the December 8, 2022, Planning & Zoning Commission Meeting](#)

C/Z 1959 Charles E. Turner Jr.

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR MEDIUM RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING



AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 9.72 ACRES, MORE OR LESS. The property is located on the north side of Lewes Georgetown Highway (Rt. 9), approximately 620 feet northeast of Gravel Hill Road (Rt. 30). 911 Address: N/A Tax Parcel: 135-11.00-65.00.

Mr. Whitehouse advised the Commission that submitted into the record for all three applications are a copy of the draft ordinance, a copy of the Applicant's exhibits, a copy of the DelDOT Service Level Evaluation Response, for the CZ and CU applications – there are copies of the staff analysis, a copy of the Applicant's PLUS submittal, a copy of the Applicant's proposed conditions of approval for the Conditional Use application, a copy of the Applicant's conceptual site plan, a copy of the deed for the property, a copy of written comments received from DNREC Watershed Stewardship, a letter received from Artesian Resources, and a copy of a letter from Sussex County Engineering Department Utility Planning Division. Mr. Whitehouse noted that there were no comments received for any of the three applications.

The Commission found that Ms. Mackenzie Peet, Esq. was present on behalf of the Applicant, Mr. Charles Turner; that also present are Mr. Turner and Mr. Roger Gross, P.E. with Merestone Consultants; that the existing property is 9.72 acres and is the present location of Silver Oaks Trailer Park; that this area is adjacent to the open space within the Hawthorne Community and the location of the former Burns Pet Store; that to the rear of the property is a tax ditch prong; that across the road are some residential homes and some property that was rezoned to B-1 (Neighborhood Business District) which is owned by Two Farms, Inc.; that the existing Silver Oaks Trailer Park was established on April 6, 1966 and was approved for 38 mobile home lots in 1970; that today there are eleven (11) mobile home lots on the site; that all existing mobile home owners have been notified of Mr. Turner's plan to develop the site; that the property is currently zoned AR-1 (Agricultural Residential District); that the properties adjacent to the subject property are also zoned AR-1; that along Route 9 there is a mixture of zoning districts mainly C-1, AR-1 and some B-1; that further out there are some MR, CR-1, and HI-1 zoning districts; that the Future Land Use Designation presently is Low-Density Area and is surrounded by properties designated as Commercial Area and Industrial Area; that the project is located in Investment Level IV and the Land Use Map amendment is scheduled before PLUS on December 21, 2022; that PLUS comments will be responded to before the County Council public hearing; that with respect to the Future Land Use Map request the property is currently designated as a Low-Density Area; that the Low Density Area is considered to be a rural area; that as of 2018, all lands designated as Low Density Areas are also zoned AR-1 which permit single-family detached lots; that Ordinance 22-08 seeks to amend the Future Land Use Map from Low Density to and Existing Development Area – a growth area; that Chapter 4 of the Comprehensive Plan explains that this area consists of primarily existing residential developments similar to this one presently under General Residential or Medium Residential zoning districts and some commercial uses; that these areas are scattered throughout the County and often times next to Low Density Areas; that the land use history of the property is relevant in that this property was permitted as a Mobile Home Park and approved for 38 lots as reflected in Exhibit B in the record; that this property has been an existing residential development since 1966; that the established Mobile Home Park predated Sussex County Code and this property should have been designated as an Existing Development Area; that this area permits a full range of housing types; that the proposed use is consistent with the Existing Development Area; that there are Existing Development Area in the vicinity of the subject property close to Route 9 and Route 5; that infrastructure is already in the area and central water and sewer are encouraged for the Existing Development Area; that sewer and water will be provided by Artesian; and that the applicable

zoning districts in the Existing Development Area include MR and would be consistent with the Land Use change.

Chairman Wheatley asked for Clarification about the additional 8 units approved by Board of Adjustment.

Ms. Peet stated that the Mobile Home Park was originally approved for 38 units, however, only 21 were developed and the BOA Case 116 was for an additional 8 units which brought the total to 29 units.

Ms. Peet stated that the Applicant's second request is CZ 1959 to rezone the property from AR-1 to MR to ultimately develop 42 multi-family units; that the MR district provides for medium density residential development in areas which are or are expected to become generally urban in character where sanitary sewer and public water may or may not be available at the time of construction; that as previously discussed, there is availability here; that although AR-1 permits low-density multi-family through the pursuit of a Conditional Use application but the Applicant wishes to rezone to MR which permits the medium density residential to allow for 42 multi-family units; that the proposed rezoning is compatible with the surrounding land uses which includes a mix of residential, business, and commercial uses nearby; that there are other multi-family residential units nearby including Weston Willows Apartment Complex, Azelea Woods single-family subdivision, and Hawthorne subdivision; that Table II shows the bulk requirements for multi-family units must meet the same height, area and bulk requirements; that this is relevant considering the C-1 zoning district near the property; that there were three change of zone applications approved within a mile of this site; and that Table 4.5-2 Title Zoning Districts applicable to Future Land Use Categories confirms that the MR district is an applicable district in the Existing Development Area.

Ms. Peet stated that the final request is CU 2320 for a Conditional Use of land in an MR zoning district for the development of 42 multi-family units; that the proposed multi-family development will be accessed off of Route 9; that the proposed density for the development is 4.36 units per acre which is less than the permitted density in MR; that there are eight (8) buildings proposed and each building contains between 3 and 6 units; that there is also a community building and pool amenity proposed; that 6.4 acres or 66.7% of the site to remain as open space subject to final site engineering; that there will be 92 parking spaces which exceed the 84 required spaces; that the non-tidal wetlands will remain undisturbed; that stormwater management will be in accordance with local and state regulations; that water and sewer will be served by Artesian; that the increase in traffic on area roadways will be analyzed and approved by DelDOT; that preliminarily the response to the Service Level Evaluation Request state that the impact is considered to be negligible; that section 115-31 of the Code concerning multi-family units confirms that these units may be permitted as conditional uses subject to other provisions in the Code; that the proposed use is in compliance with all Code requirements including section 115-188 of the Code; that if the Future Land Use Amendment is adopted then the proposed use will be compliant and consistent with the Comprehensive Development Plan; that the Planning and Zoning office memorandum confirms that there have been three conditional use applications near this property; that proposed conditions of approval have been submitted into the record; and that for all these reasons the request is compatible with the surrounding uses and County Code.

Mr. Whitehouse asked about the PLUS submittal.

Ms. Peet stated that the application will go to PLUS on December 21, 2022, and that the Applicant is aware that the PLUS response is required before the County Council public hearing.

The Commission found that there was no one present who wished to speak in favor of or in opposition to this application.

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

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

In relation to C/Z 1959 Charles E. Turner, Jr. Motion by Mr. Mears to defer action for further consideration, seconded by Mr. Hopkins and carried unanimously. Motion carried 3-0.

Minutes of the January 12, 2022, Planning & Zoning Commission Meeting

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

Ms. Stevenson moved that the Commission recommend denial of C/Z 1959 Charles E. Turner Jr. for a Change in Zone from AR-1 Agricultural Residential District to MR Medium Residential District based upon the record made during the public hearing and for the following reasons:

1. This property is also the subject of a request to amend the Future Land Use Map within the Sussex County Comprehensive Plan from its current designation as a “Low-Density Area” to a new “Existing Development Area” designation. The Commission has recommended denial of that change to the Future Land Use Map.
2. Under the current “Low-Density Area” designation, a change to MR Medium Density Residential Zoning is not appropriate according to Table 4.5-2 of the Future Land Use Element of the Comprehensive Plan. The property is also surrounded by land with the Low-Density Area Designation.
3. There is no other land with an MR zoning classification in the vicinity of this property. In addition to the inconsistency with the Future Land Use Map, a rezoning of this property to MR would be inconsistent with the zoning and use of the surrounding area.
4. While there is some commercially zoned land in the area, that is primarily oriented to the Route 9/Gravel Hill Road intersection and Route 9 leading to Georgetown. There is no commercially zoned land in the immediate area of this property, particularly the northeast quadrant of the intersection.
5. For all of these reasons, it is not appropriate to rezone this property to an MR Medium Density Residential Zoning District.

Motion by Ms. Stevenson, seconded by Ms. Wingate and carried unanimously to recommend denial of C/Z 1959 Charles E. Turner, Jr. for the reasons and conditions stated in the Motion. Motion carried 4-0.

The vote by roll call: Ms. Stevenson - yea, Mr. Hopkins - yea, Ms. Wingate - 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, MRTPI, AICP
DIRECTOR OF PLANNING & ZONING

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET
Planning Commission Public Hearing Date: December 8th, 2022

Application: CZ 1959 Charles E. Turner, Jr.

Applicant: Charles E. Turner, Jr.
29762 Oliver Wolcott Drive
Millsboro, DE 19966

Owner: Charles E. Turner, Jr.
29762 Oliver Wolcott Drive
Millsboro, DE 19966

Site Location: Located on the north side of Lewes Georgetown Highway (Route 9), approximately 600-feet northeast of the intersection of Lewes Georgetown Highway and Gravel Hill Road (Route 30).

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

Proposed Use: Multi-family Dwellings

Comprehensive Land Use Plan Reference: Low Density (Pending change to Existing Development Area)

Councilmanic District: Mr. Rieley (Following Redistricting)

School District: Sussex Central School District

Fire District: Georgetown Fire Department

Sewer: Artesian Wastewater Management

Water: Artesian Water

Site Area: 9.72 ac. +/-

Tax Map ID.: 135-11.00-65.00



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: Elliott Young, Planner I
CC: Vince Robertson, Assistant County Attorney, and applicant
Date: November 28, 2022
RE: Staff Analysis for CZ 1959 Charles E. Turner

This memo is to provide background and analysis for the Planning Commission to consider as a part of application CZ 1959 Charles E. Turner to be reviewed during the December 8, 2022, 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 135-11.00-65.00 to allow for a change of zone from an Agricultural Residential (AR-1) District to a Medium Density Residential (MR) District. The property is lying on the north side of Lewes Georgetown Highway (Rt. 9) approximately 600-feet northeast of the intersection of Lewes Georgetown Highway and Gravel Hill Road (Rt. 30). The parcel to be rezoned contains 9.72 acres +/-.

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 has a land use designation of "Existing Developing Area". The properties to the north, east and west have the land use designation of "Low Density Area". The properties to the south across Lewes Georgetown Highway (Rt. 9) have the land use designations of "Low Density Area".

As outlined in the 2018 Sussex County Comprehensive Plan, Existing Development Area consists of primarily of existing residential development under the current General Residential and Medium Density Residential zoning districts, as well as some commercial uses. These areas are scattered throughout the County. These areas are surrounded by Low Density Areas, and this classification is simply being used to identify these existing scattered zoning areas that have no direct relation to their surrounding zoning and/or the Future Land Use Map. The full range of housing types allowed in the existing underlying zoning districts are appropriate in these residential areas, including single-family homes, townhouses, and multi-family units. Non-residential development consists of uses found in the neighborhood business districts and commercial districts.

The property is zoned Agricultural Residential (AR-1) Zoning District. Adjacent parcels to the north, east, and west are zoned Agricultural Residential (AR-1) Zoning District. The properties to the south across Lewes Georgetown Highway are zoned Agricultural Residential (AR-1) Zoning District and Neighborhood Business (B-1) Zoning District.

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



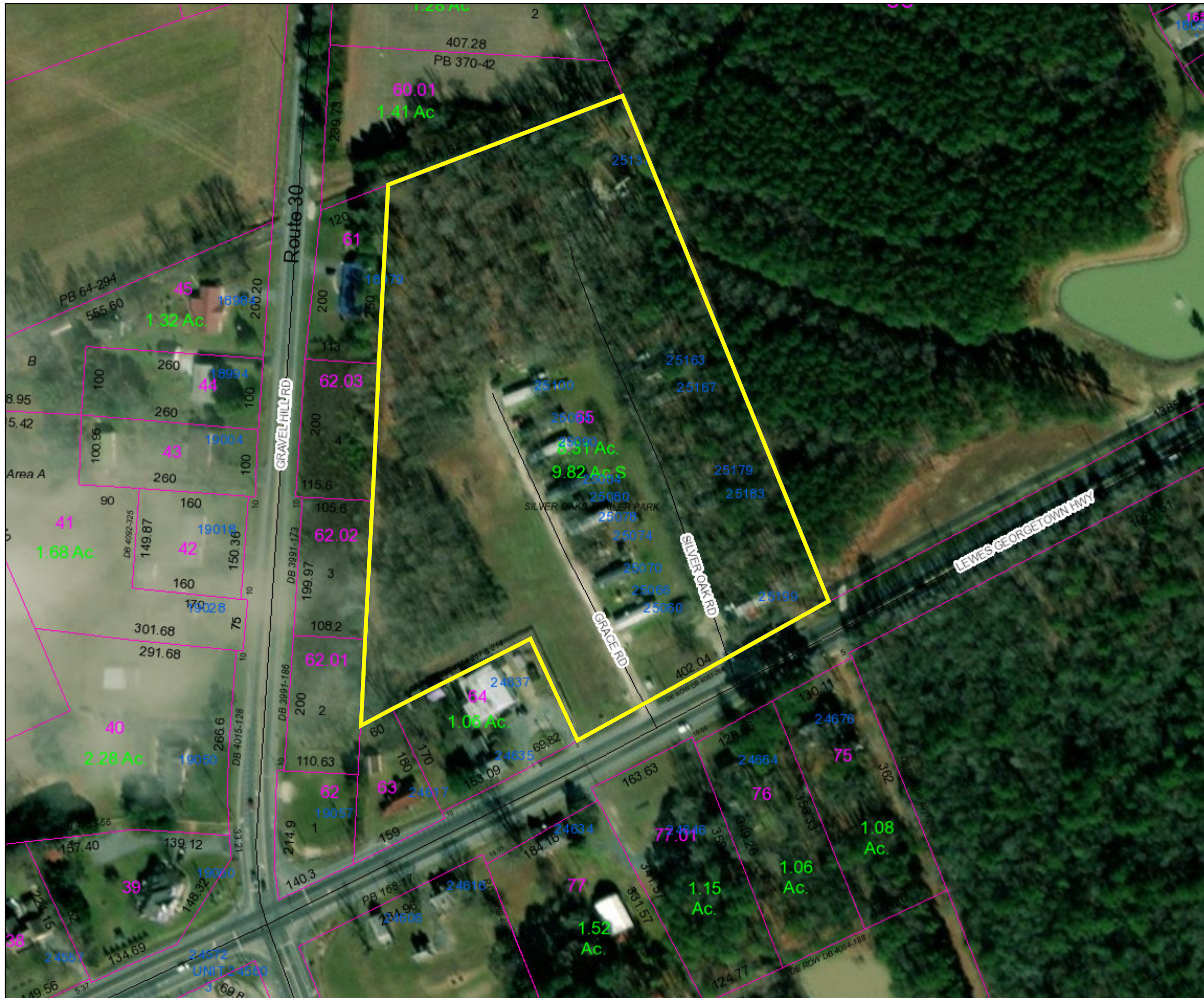
Use Categories,” the Medium Residential Zoning District (MR) is listed as an applicable zoning district in the “Existing Development Area.” This is contingent upon the approval of FLUM Ord. 22-08.

Since 2011, there has been three (3) Change of Zone applications within a 1-mile radius of the application site. The First application being, Change of Zone No. 1838 for a change of zone from AR-1 (Agricultural Residential) to B-1 (Neighborhood Business). This application was approved by the County Council at their meeting of January 1st, 2018, and was adopted through ordinance 2539. The Second Application was Change of Zone No. 1902 for a change of zone from CR-1 (Commercial Residential) to HI-1 (Heavy Industrial). This application was approved by the County Council at their meeting of February 18th, 2020, and was adopted through ordinance 2708. The third and last application was Change of Zone No. 1944 for a change of zone from AR-1 (Agricultural Residential) to C-2 (Medium Commercial).

Based on the analysis of the land use, surrounding zoning and uses, a Change of Zone from an Agricultural Residential Zoning District (AR-1) to a Medium Density Residential (MR) Zoning District could be considered as being consistent with the land use, based on size and scale, with area zoning and surrounding uses.



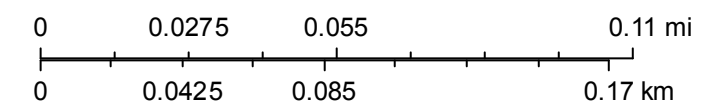
Sussex County



PIN:	135-11.00-65.00
Owner Name	TURNER CHARLES E JR
Book	0
Mailing Address	29762 OLIVER WOLCOTT D
City	MILLSBORO
State	DE
Description	GIS TIEBACK
Description 2	DUMMY ACCOUNT
Description 3	
Land Code	

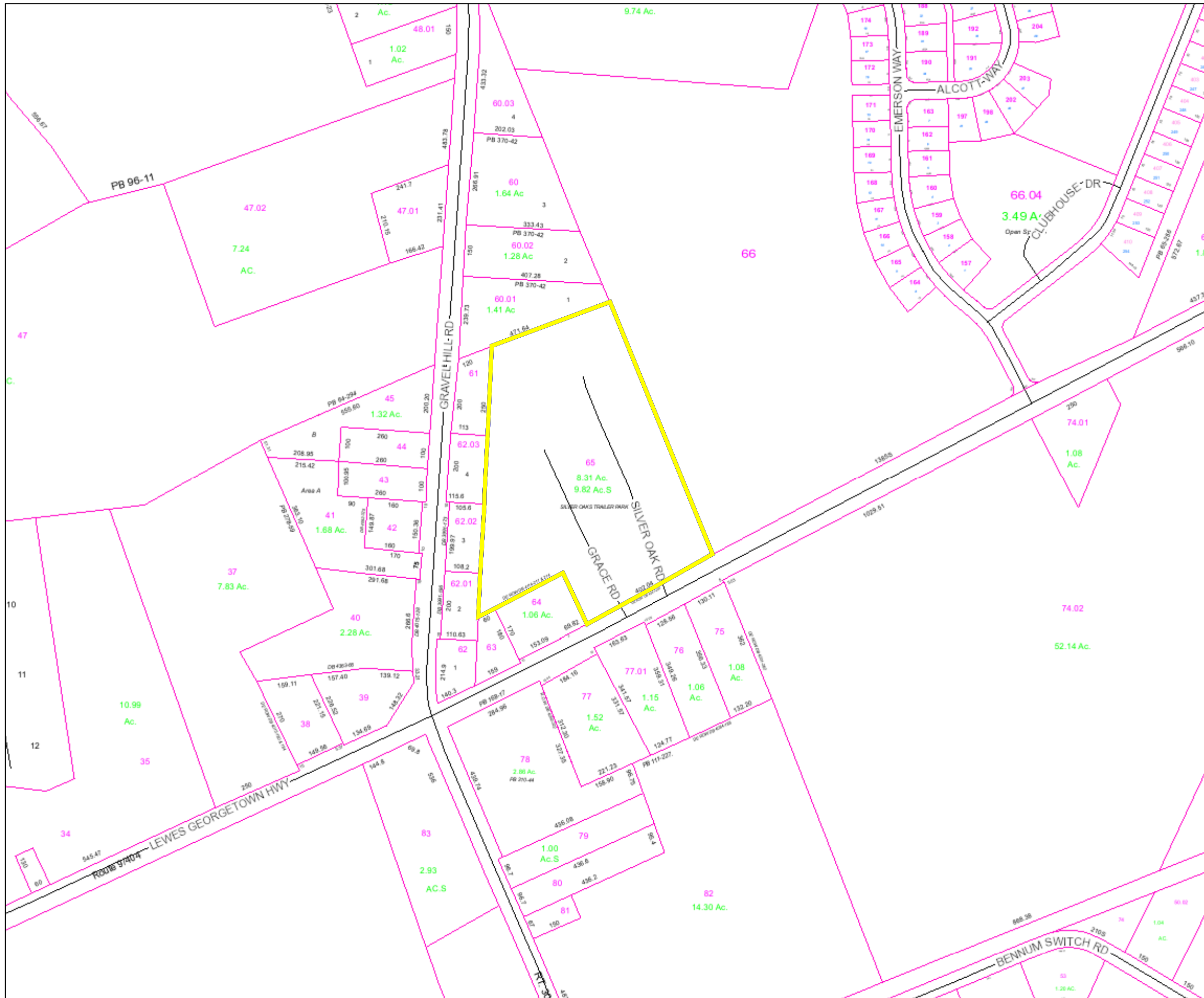
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- Override 1
- ⋮ Tax Parcels
- 911 Address
- Streets
- County Boundaries
- Flood Zones 2018**
- 0.2 PCT ANNUAL CHANCE FLOOD HAZARD
- A
- AE
- AO
- OPEN WATER
- VE
- Well Head Protection Areas

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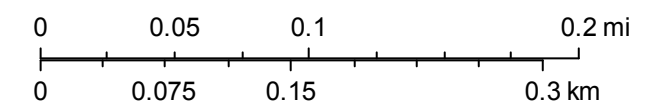
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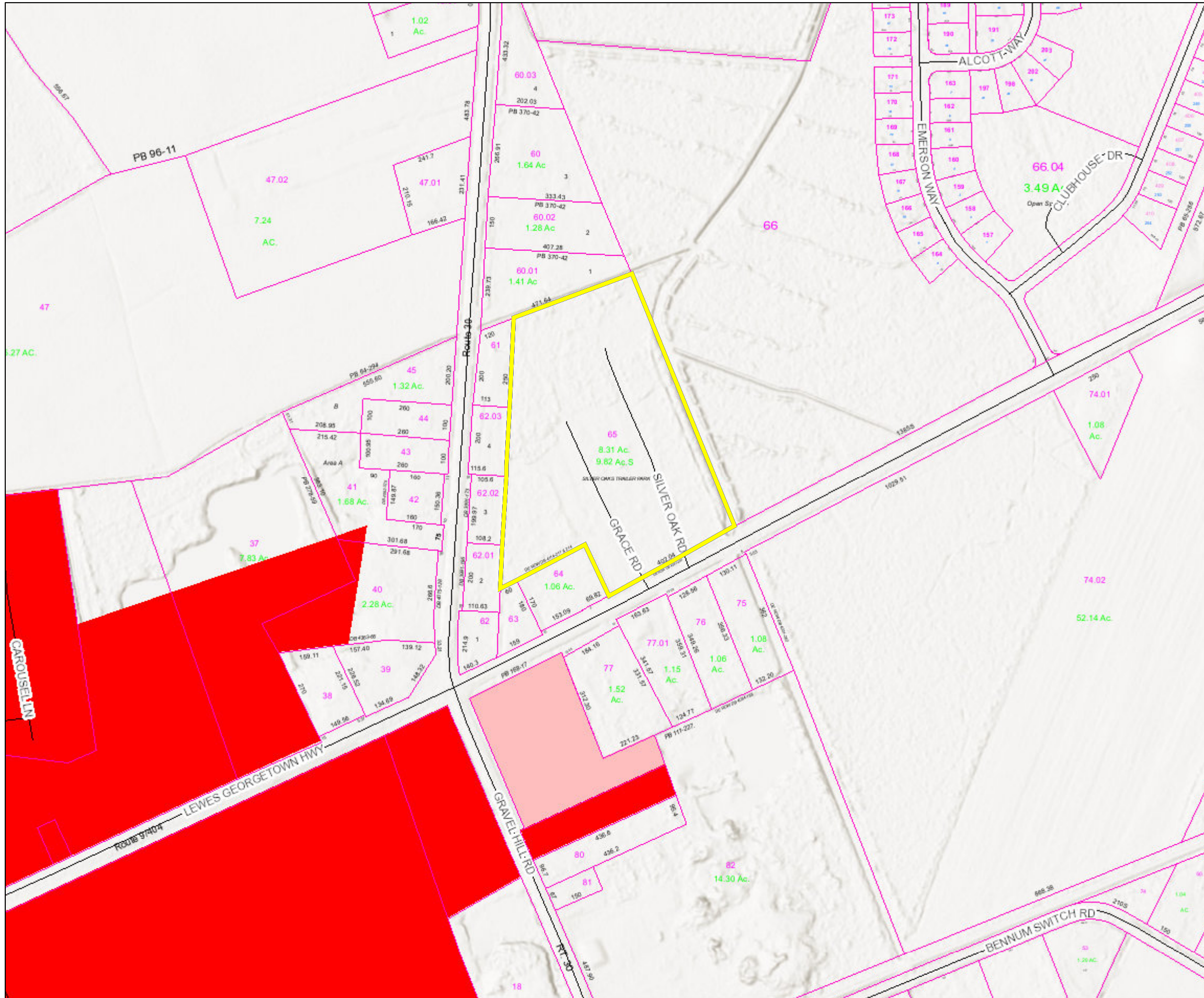
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Override 1
- Tax Parcels
- Streets
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- A
- AE
- AO
- OPEN WATER
- VE
- Well Head Protection Areas

1:4,514





Sussex County



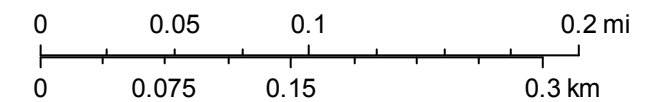
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Owner Name	TURNER CHARLES E JR
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Description 2	DUMMY ACCOUNT
Description 3	
Land Code	

- polygonLayer**

Override 1
- polygonLayer**

Override 1
- Tax Parcels
- Streets

1:4,514



Introduced: 01/25/22
Council District 3: Mr. Schaeffer

ORDINANCE NO. ____

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

WHEREAS, on the 20th day of October 2021, a zoning application, denominated Change of Zone No. 1959 was filed on behalf of Charles E. Turner, Jr.; and

WHEREAS, on the ____ day of _____ 2022, 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. 1959 be _____; and

WHEREAS, on the ____ day of _____ 2022, 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 MR Medium Residential Zoning District 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 Georgetown Hundred, Sussex County, Delaware, and lying on the northside of Lewes Georgetown (Rt. 9) approximately 620 feet northeast of Gravel Hill Road (Rt. 30) and being more particularly described in the attached legal description prepared by Richard F. Rago, Esquire, said parcel containing 9.72 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: November 29, 2023

RE: County Council Report for C/U 2320 filed on behalf of Charles E. Turner, Jr.

The Planning and Zoning Department received an application (C/U 2320 filed on behalf of Charles E. Turner, Jr.) for a Conditional Use for parcel 135-11.00-65.00 for multi-family dwellings (42 Units). The property is located at on the north side of Lewes Georgetown Highway (Rt. 9) approximately 620 feet northeast of Gravel Hill Road (Rt. 30). The parcel size is 9.72 acres +/-.

The Planning & Zoning Commission held a Public Hearing on the application on December 8, 2022. At the meeting of January 12, 2023, the Planning & Zoning Commission recommended denial of the application for the 3 reasons stated as outlined within the motion (copied below).

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

Below are the minutes from the Planning & Zoning Commission meetings of December 8, 2022, and January 12, 2023.

Minutes of the November 3, 2022, Planning & Zoning Commission Meeting

C/U 2320 Charles E. Turner Jr.

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



Mr. Whitehouse advised the Commission that submitted into the record for all three applications are a copy of the draft ordinance, a copy of the Applicant's exhibits, a copy of the DelDOT Service Level Evaluation Response, for the CZ and CU applications – there are copies of the staff analysis, a copy of the Applicant's PLUS submittal, a copy of the Applicant's proposed conditions of approval for the Conditional Use application, a copy of the Applicant's conceptual site plan, a copy of the deed for the property, a copy of written comments received from DNREC Watershed Stewardship, a letter received from Artesian Resources, and a copy of a letter from Sussex County Engineering Department Utility Planning Division. Mr. Whitehouse noted that there were no comments received for any of the three applications.

The Commission found that Ms. Mackenzie Peet, Esq. was present on behalf of the Applicant, Mr. Charles Turner; that also present are Mr. Turner and Mr. Roger Gross, P.E. with Merestone Consultants; that the existing property is 9.72 acres and is the present location of Silver Oaks Trailer Park; that this area is adjacent to the open space within the Hawthorne Community and the location of the former Burns Pet Store; that to the rear of the property is a tax ditch prong; that across the road are some residential homes and some property that was rezoned to B-1 (Neighborhood Business District) which is owned by Two Farms, Inc.; that the existing Silver Oaks Trailer Park was established on April 6, 1966 and was approved for 38 mobile home lots in 1970; that today there are eleven (11) mobile home lots on the site; that all existing mobile home owners have been notified of Mr. Turner's plan to develop the site; that the property is currently zoned AR-1 (Agricultural Residential District); that the properties adjacent to the subject property are also zoned AR-1; that along Route 9 there is a mixture of zoning districts mainly C-1, AR-1 and some B-1; that further out there are some MR, CR-1, and HI-1 zoning districts; that the Future Land Use Designation presently is Low-Density Area and is surrounded by properties designated as Commercial Area and Industrial Area; that the project is located in Investment Level IV and the Land Use Map amendment is scheduled before PLUS on December 21, 2022; that PLUS comments will be responded to before the County Council public hearing; that with respect to the Future Land Use Map request the property is currently designated as a Low-Density Area; that the Low Density Area is considered to be a rural area; that as of 2018, all lands designated as Low Density Areas are also zoned AR-1 which permit single-family detached lots; that Ordinance 22-08 seeks to amend the Future Land Use Map from Low Density to an Existing Development Area – a growth area; that Chapter 4 of the Comprehensive Plan explains that this area consists of primarily existing residential developments similar to this one presently under General Residential or Medium Residential zoning districts and some commercial uses; that these areas are scattered throughout the County and often times next to Low Density Areas; that the land use history of the property is relevant in that this property was permitted as a Mobile Home Park and approved for 38 lots as reflected in Exhibit B in the record; that this property has been an existing residential development since 1966; that the established Mobile Home Park predated Sussex County Code and this property should have been designated as an Existing Development Area; that this area permits a full range of housing types; that the proposed use is consistent with the Existing Development Area; that there are Existing Development Area in the vicinity of the subject property close to Route 9 and Route 5; that infrastructure is already in the area and central water and sewer are encouraged for the Existing Development Area; that sewer and water will be provided by Artesian; and that the applicable zoning districts in the Existing Development Area include MR and would be consistent with the Land Use change.

Chairman Wheatley asked for Clarification about the additional 8 units approved by Board of Adjustment.

Ms. Peet stated that the Mobile Home Park was originally approved for 38 units, however, only 21 were developed and the BOA Case 116 was for an additional 8 units which brought the total to 29 units.

Ms. Peet stated that the Applicant's second request is CZ 1959 to rezone the property from AR-1 to MR to ultimately develop 42 multi-family units; that the MR district provides for medium density residential development in areas which are or are expected to become generally urban in character where sanitary sewer and public water may or may not be available at the time of construction; that as previously discussed, there is availability here; that although AR-1 permits low-density multi-family through the pursuit of a Conditional Use application but the Applicant wishes to rezone to MR which permits the medium density residential to allow for 42 multi-family units; that the proposed rezoning is compatible with the surrounding land uses which includes a mix of residential, business, and commercial uses nearby; that there are other multi-family residential units nearby including Weston Willows Apartment Complex, Azelea Woods single-family subdivision, and Hawthorne subdivision; that Table II shows the bulk requirements for multi-family units must meet the same height, area and bulk requirements; that this is relevant considering the C-1 zoning district near the property; that there were three change of zone applications approved within a mile of this site; and that Table 4.5-2 Title Zoning Districts applicable to Future Land Use Categories confirms that the MR district is an applicable district in the Existing Development Area.

Ms. Peet stated that the final request is CU 2320 for a Conditional Use of land in an MR zoning district for the development of 42 multi-family units; that the proposed multi-family development will be accessed off of Route 9; that the proposed density for the development is 4.36 units per acre which is less than the permitted density in MR; that there are eight (8) buildings proposed and each building contains between 3 and 6 units; that there is also a community building and pool amenity proposed; that 6.4 acres or 66.7% of the site to remain as open space subject to final site engineering; that there will be 92 parking spaces which exceed the 84 required spaces; that the non-tidal wetlands will remain undisturbed; that stormwater management will be in accordance with local and state regulations; that water and sewer will be served by Artesian; that the increase in traffic on area roadways will be analyzed and approved by DelDOT; that preliminarily the response to the Service Level Evaluation Request state that the impact is considered to be negligible; that section 115-31 of the Code concerning multi-family units confirms that these units may be permitted as conditional uses subject to other provisions in the Code; that the proposed use is in compliance with all Code requirements including section 115-188 of the Code; that if the Future Land Use Amendment is adopted then the proposed use will be compliant and consistent with the Comprehensive Development Plan; that the Planning and Zoning office memorandum confirms that there have been three conditional use applications near this property; that proposed conditions of approval have been submitted into the record; and that for all these reasons the request is compatible with the surrounding uses and County Code.

Mr. Whitehouse asked about the PLUS submittal.

Ms. Peet stated that the application will go to PLUS on December 21, 2022, and that the Applicant is aware that the PLUS response is required before the County Council public hearing.

The Commission found that there was no one present who wished to speak in favor of or in opposition to this application.

Upon there being no further questions, Chairman Wheatley closed the public hearings. At the conclusion of the public hearings, the Commission discussed the Applications.

In relation to C/U 2320 Charles E. Turner, Jr. Motion by Mr. Mears to defer action for further consideration, seconded by Mr. Hopkins and carried unanimously. Motion carried 3-0.

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

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

Ms. Stevenson moved that the Commission recommend denial of C/U 2320 Charles E. Turner Jr. for a Conditional Use for Multi-family Dwellings (42 Units) based upon the record made during the public hearing and for the following reasons:

1. This application is for a property that is the subject of a change to the Future Land Use Map from its current “Low-Density Area” designation to a new “Existing Development Area” designation and a Change in Zone from its existing AR-1 zoning to MR zoning. The Commission has recommended that both of these changes be denied.
2. The Rezoning and the Future Land Use Map amendment are necessary to accomplish the multi-family conditional use for 42 units that is the subject of this application.
3. Because the Commission has recommended a denial of both the Map Amendment and the Rezoning, the Commission must recommend a denial of this Conditional Use.

Motion by Ms. Stevenson, seconded by Ms. Wingate and carried unanimously to recommend denial of C/U 2320 Charles E. Turner, Jr. for the reasons and conditions stated in the Motion. Motion carried 4-0.

The vote by roll call: Ms. Stevenson - yea, Mr. Hopkins - yea, Ms. Wingate - 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



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JAMIE WHITEHOUSE, MRTPI, AICP
DIRECTOR OF PLANNING & ZONING

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET
Planning Commission Public Hearing Date: December 8th, 2022

Application: CU 2320 Charles E. Turner, Jr.

Applicant: Charles E. Turner, Jr.
29762 Oliver Wolcott Drive
Millsboro, DE 19966

Owner: Charles E. Turner, Jr.
29762 Oliver Wolcott Drive
Millsboro, DE 19966

Site Location: Located on the north side of Lewes Georgetown Highway (Route 9), approximately 600-feet northeast of the intersection of Lewes Georgetown Highway and Gravel Hill Road (Route 30).

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

Proposed Use: Multi-family Dwellings

Comprehensive Land Use Plan Reference: Existing Development Area (Pending FLUM Ord. 22-08)

Councilmanic District: Mr. Rieley (Following Redistricting)

School District: Sussex Central School District

Fire District: Georgetown Fire Department

Sewer: Artesian Wastewater Magement

Water: Artesian Water

Site Area: 9.72 ac. +/-

Tax Map ID.: 135-11.00-65.00



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: Elliott Young, Planner I
CC: Vince Robertson, Assistant County Attorney and applicant
Date: November 28th, 2022
RE: Staff Analysis for CU 2320 Charles E. Turner

This memo is to provide background and analysis for the Planning Commission to consider as a part of application CU 23320 Charles E. Turner to be reviewed during the December 8, 2022, 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 Conditional Use for Tax Parcel: 135-11.00-65.00, to allow for forty-two (42) multi-family units to be located off the north side of Lewes Georgetown Highway (Rt. 9). The property is lying on the north side of Lewes Georgetown Highway, approximately 600-feet northeast of the intersection of Lewes Georgetown Highway and Gravel Road (Rt. 30).

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 subject property has a land use designation of "Existing Developing Area". The properties to the north, east and west have the land use designation of "Low Density Area". The properties to the south across Lewes Georgetown Highway (Rt. 9) have the land use designations of "Low Density Area".

As outlined in the 2018 Sussex County Comprehensive Plan, Existing Development Area consists of primarily of existing residential development under the current General Residential and Medium Density Residential zoning districts, as well as some commercial uses. These areas are scattered throughout the County. These areas are surrounded by Low Density Areas, and this classification is simply being used to identify these existing scattered zoning areas that have no direct relation to their surrounding zoning and/or the Future Land Use Map. The full range of housing types allowed in the existing underlying zoning districts are appropriate in these residential areas, including single-family homes, townhouses, and multi-family units. Non-residential development consists of uses found in the neighborhood business districts and commercial districts.

The property is zoned Medium Density Residential (MR) contingent on a change of zone application from Agricultural Residential (AR-1) to Medium Density Residential (MR) (CZ 1959).

Since 2011, there has been three (3) Conditional Use application within a 1-mile radius of the application site. The first application was for Conditional Use No. 2162 to allow for a paving construction business with an office and equipment storage. The application was recommended approval by the Planning and Zoning Commission at their meeting of Thursday, February 14, 2019.

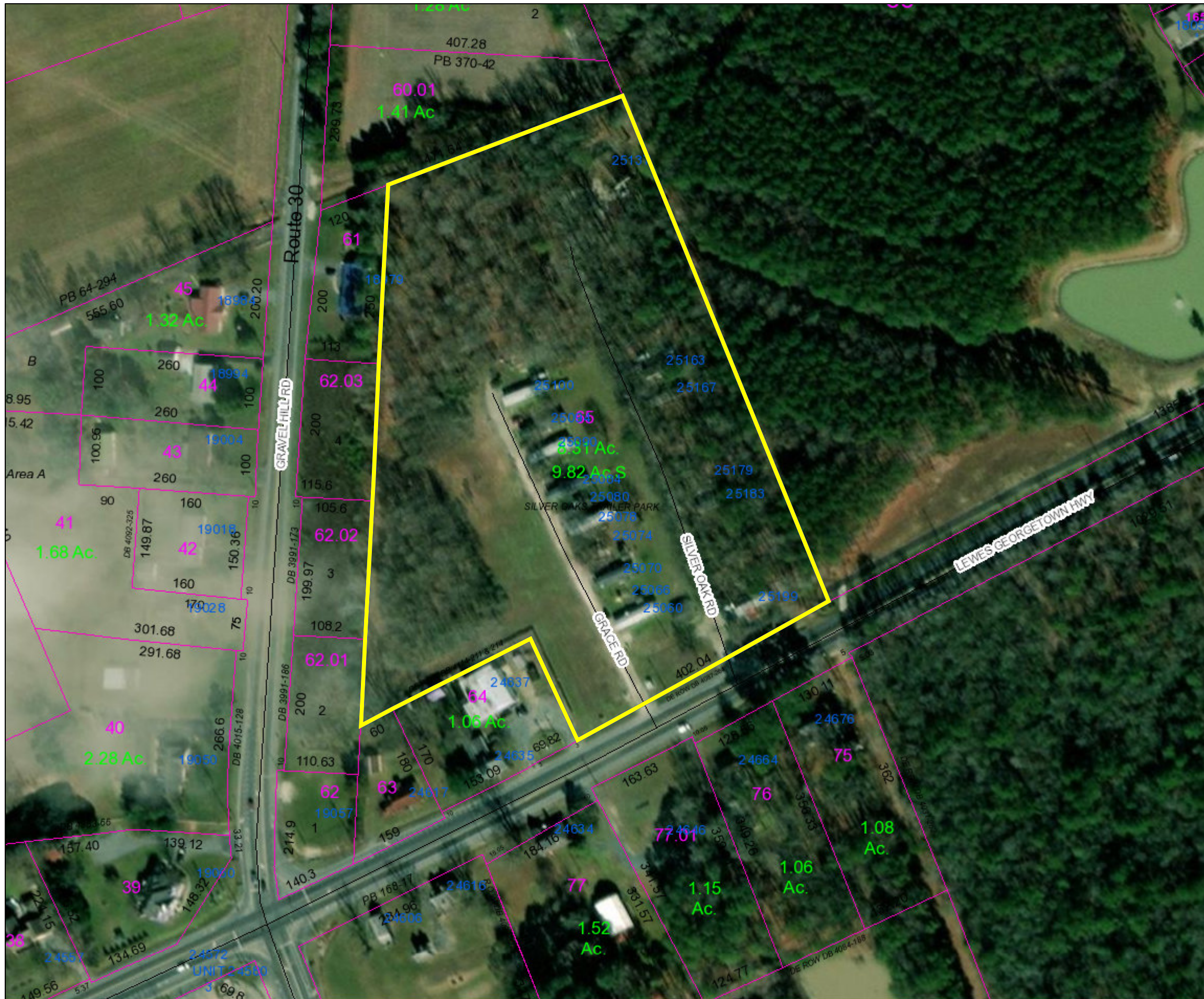


The application was approved by the Sussex County Council at their meeting of Tuesday, March 26, 2019, and the use was adopted through Ordinance No. 2641. The second application was for Conditional Use No. 2343 to allow for a solar farm to be located on the parcel. This application has an upcoming Commission hearing date for December 15, 2022. The third and last application is for Conditional Use No. 2371 to allow for a business plaza to include warehouses and office buildings. This application is schedule to be heard by the Commission on February 23, 2022.

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



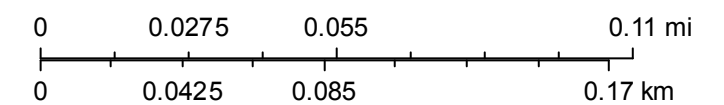
Sussex County



PIN:	135-11.00-65.00
Owner Name	TURNER CHARLES E JR
Book	0
Mailing Address	29762 OLIVER WOLCOTT D
City	MILLSBORO
State	DE
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Description 2	DUMMY ACCOUNT
Description 3	
Land Code	

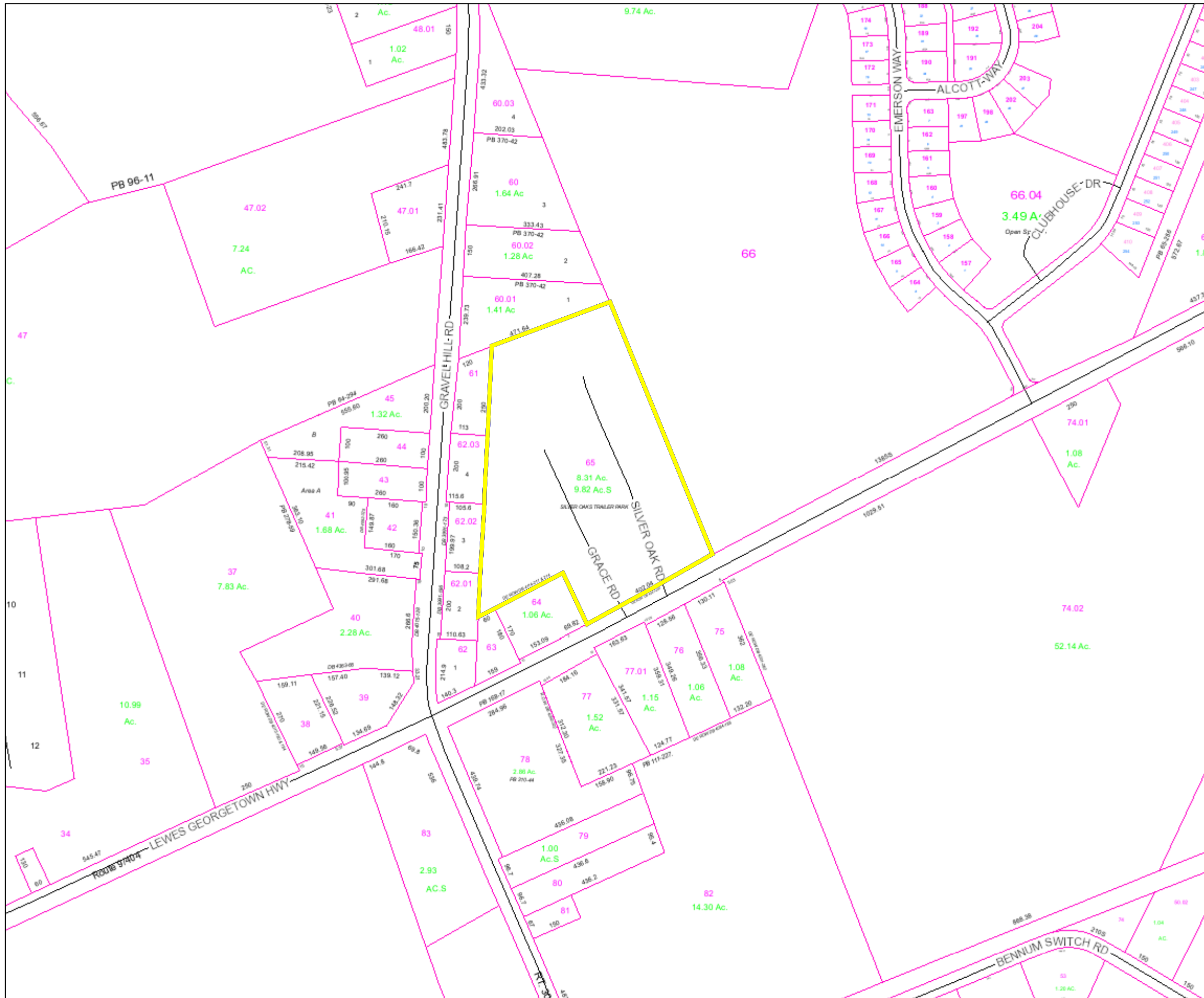
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- Streets
- County Boundaries
- Flood Zones 2018**
- 0.2 PCT ANNUAL CHANCE FLOOD HAZARD
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- AE
- AO
- OPEN WATER
- VE
- Well Head Protection Areas

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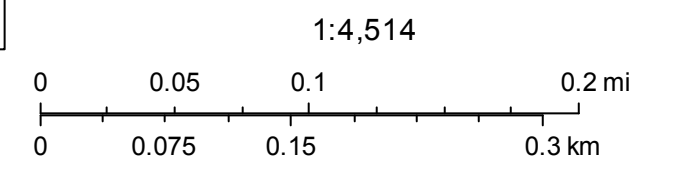


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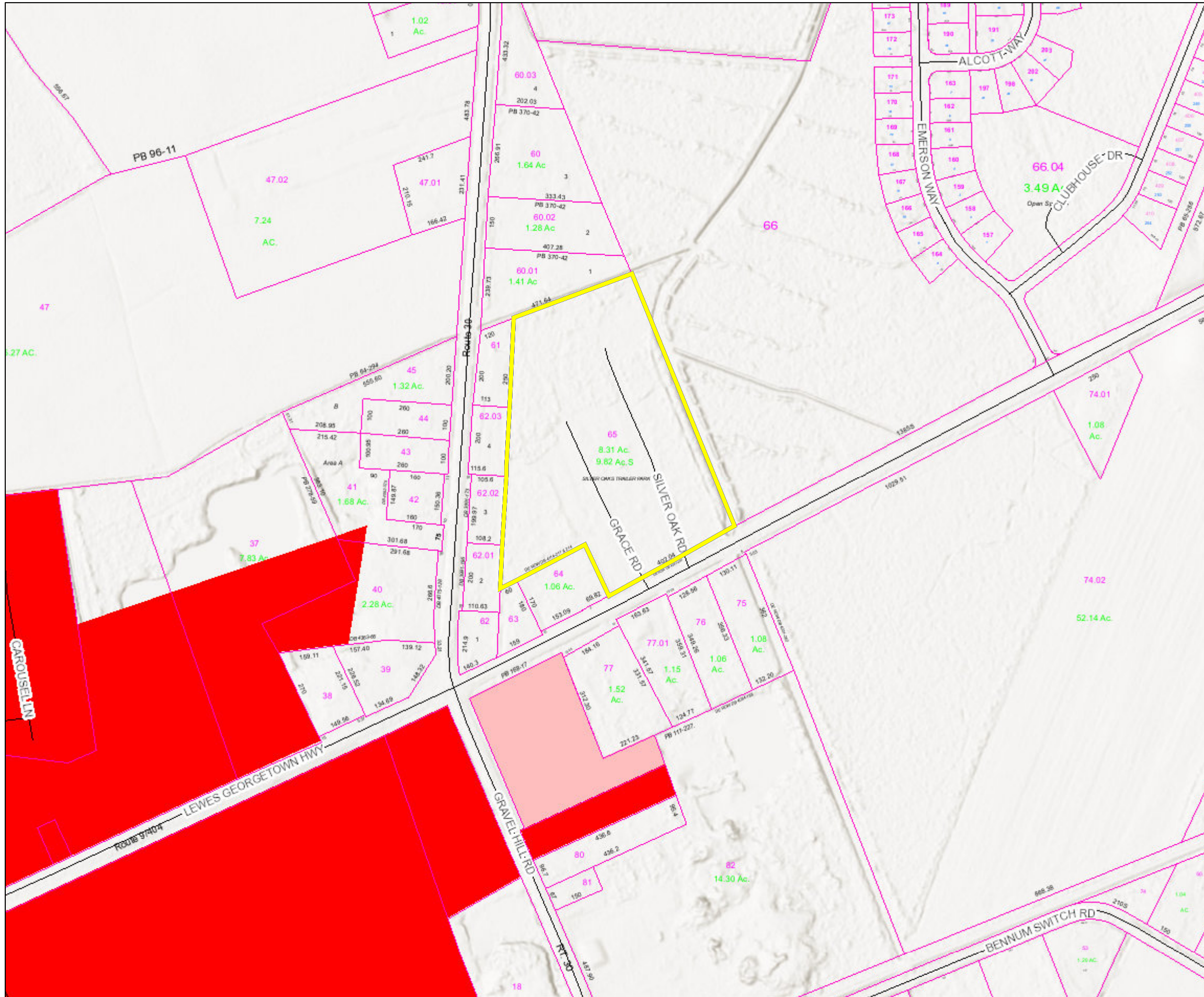
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Sussex County



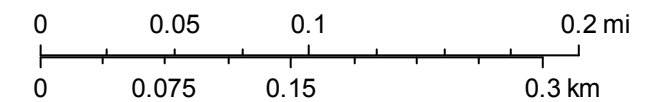
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Land Code	

- polygonLayer**

Override 1
- polygonLayer**

Override 1
- Tax Parcels
- Streets

1:4,514



Introduced 01/11/22

**Council District 3 - Schaeffer
Tax I.D. No. 135-11.00-65.00
911 Addresses: None Available**

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLINGS (42 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 9.72 ACRES, MORE OR LESS

WHEREAS, on the 20th of October 2021, a conditional use application, denominated Conditional Use No. 2320 was filed on behalf of Charles E. Turner, Jr.; and

WHEREAS, on the ____ day of _____ 2022, 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. 2320 be _____; and

WHEREAS, on the ____ day of _____ 2022, 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 115, Subsection 115-31, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2320 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 Georgetown Hundred, Sussex County, Delaware, and lying on the Northwest side of Lewes Georgetown Highway (Route 9) approximately 620 feet northeast of Gravel Hill Road (Route 30) and being more particularly described in the attached legal description prepared by Richard F. Rago, Esquire, said parcel containing 9.72 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: November 30, 2023

RE: County Council Report for C/Z 1979 filed on behalf of JG Townsend Jr. & Co.

The Planning and Zoning Department received an application (C/Z 1979 filed on behalf of JG Townsend Jr. & Co.) for a Change of Zone of parcel 335-12.00-3.00 from an AR-1 Agricultural Residential Zoning District to an MR Medium Residential Zoning District. The property is located at 1667 Kings Highway, Lewes. The parcel size is 25.56 acres +/-

The Planning & Zoning Commission held a Public Hearing on the application on May 25, 2023. At the meeting of June 22, 2023, the Planning & Zoning Commission recommended approval of the application for the 8 reasons as outlined within the motion (copied below).

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

[Link to the Minutes of the June 27, 2023, County Council Meeting](#)

Below are the minutes from the Planning & Zoning Commission meeting of May 25, 2023.

[Minutes of the May 25, 2023, Planning & Zoning Commission Meeting](#)

Chairman Wheatley approved the request to combine the public hearings for C/Z 1979 J.G. Townsend Jr. & Co. and C/U 2359 J.G. Townsend Jr. & Co. as the property was the subject of both applications.



C/Z 1979 J.G. Townsend Jr. & Co.

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AN MR MEDIUM RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 25.56 ACRES, MORE OR LESS. The property is lying on the east side of Kings Highway (Rt. 9) and Gills Neck Road (S.C.R. 267), at the intersection of Kings Highway (Rt. 9) and Gills Neck Road (S.C.R. 267). 911 Address: 16673 Kings Highway, Lewes. Tax Map Parcel: 335-12.00-3.00 (p/o).

Mr. Whitehouse advised the Commission that submitted into the record were the DelDOT Service Level Evaluation Response, a copy of the Applicant's Conceptual Site Plan, the Applicant's exhibits, Staff Analysis, a letter from the Sussex County Engineering Department Utility Planning Division, the Environmental Assessment and the Public Facility Evaluation Report. Mr. Whitehouse stated two written comments had been received for the Application.

The Commission found that Mr. David Hutt, Esq., with Morris James, LLP, spoke on behalf of the property owner, J.G. Townsend Jr. & Co., and the Applicant, Jack Lingo Asset Management; that also present were Mr. Nick Hammonds and Mr. Ryan Mitchell with Jack Lingo Asset Management, Mr. Ring Lardner, Professional Engineer with Davis, Bowen & Friedel, Inc. (DBF), Mr. Cliff Mumford, and Mr. Steve Cahill, Professional Geologist with Verdantas, who prepared the submitted Environmental Assessment Report. Mr. Hutt stated that not only are the Application's compliant with the Code, consistent with the Comprehensive Plan, consistent with the nature and character of the area, but they also fit neatly into, what he referred to as the "Master Plan"; that he understood Sussex County currently does not have a Master Plan District; that the property fits neatly into the mold of what can happen when there is a singular property owner for a property over decades; that good land use planning place the most intense uses and the highest densities along major highway; that this was the planning perspective used when designing the Applications; that the most intense uses are located along Kings Hwy.; that nearest to Wolfe Pointe, Wolfe Runne and Hawkseye, are the locations of larger lots and less dense areas; that having a singular property owner allows a long-term master plan vision for better land use planning, as well as, the property owner is able to coordinate other things, such as storm management; that there are shared stormwater management ponds between Senators and Governors; that proposed stormwater management ponds will be shared between Governors and the subject project; that similarly, this provides an opportunity for interconnectivity between all of the various subdivisions and plans as they come along; that Mr. Lardner will speak on the Master Plan, how the site will be accessed and how access will be afforded to Governors through the project; that the intersection of Kings Hwy. and Gills Neck Rd. is well known, as it is a route into Lewes, to the Cape May Lewes Ferry, and an entrance to Cape Henlopen High School; that Crooked Hammock, the future commercial Village Center, the Cape Henlopen Medical Center, the Mitchell's Corner commercial project, the Mitchell's Corner residential project; Lane Builders and Big Oyster are located within the nearby area of the site; that additionally, the Cape Henlopen High School, Governors, Senators, Hawkseye, The Moorings, Breakwater, Admirals Chase and the bike trail are in the nearby area of the site; that the total acreages is a little over 65 acres; that in the State Planning Coordination's PLUS response to the Application, it was stated that according to the 2020 State Strategies Map, the property is located within Investment Level 1; that Investment Level 1 reflects areas that are already developed in an urban or suburban fashion, where infrastructure is existing and/or readily available, and where future redevelopment or infill projects are expected and encouraged by State policy; that the site is where the State expects and encourages growth to occur; that according to the 2045 Future Land Use Map within the Comprehensive Plan, the site is located within the Coastal Area, being one

of the County's seven growth areas; that currently the site is located within the AR-1 (Agricultural Residential) Zoning District; that the current Change of Zone application seeks to change the zone from AR-1 to MR (Medium-Density Residential); that located between the subject site and Kings Hwy is and Area of B-1 (Neighborhood Business), being the location for the Village Center commercial area; that there was a Conditional Use approval granted for the Cape Henlopen Medical Center to operate at the intersection of Gills Neck Rd. and Kings Hwy.; that on the other side of that area is an area zoned for C-2 (Medium Commercial), anticipated to be another similar medical center with professional offices; that there are many areas for residential being the location of the Mitchell's Corner residential project, The Moorings, Breakwater and Admirals Chase; that there are other nearby areas zoned for C-1 (General Commercial) and C-3 (Heavy Commercial); that the subject Applications request to change the zone of 25.5 acres of the total 65 acres from AR-1 (Agricultural Residential) to MR (Medium-Density Residential); that this request would leave approximately 27.8 +/- acres of AR-1 zoned property to be located on the opposite side of Stockley Blvd.; that the balance of the site, being 11.6 acres, is already zoned B-1 (Neighborhood Business), and he requested Mr. Ring Lardner to review the Application's compliance with the Code, the technical features and site plan design.

The Commission found Mr. Ring Lardner, Professional Engineer with Davis, Bowne & Friedel, Inc. spoke on behalf of the Applications. Mr. Lardner stated in 1992 the area was mostly farm fields, with corn crops and pivots; that as of last year, the area had grown into various developments previously described by Mr. Hutt; that the site consists of 65.5 acres total; that the proposed cottages would be located on 25.56 acres of the total acres; that the site is located along Gills Neck Rd, located to the north.; that the Village Center Commercial use is located to the east; that Stockley Blvd. is located to the south, as part of the whole village center and its interconnection into Governors, which has already been planned, stubbed and installed; that Governors is located to the west of the site; that further to the east is Kings Hwy., which is classified as a principal arterial road per DelDOT's Functional Classification Map; that furthermore, Kings Hwy. is defined as a major arterial roadway as per No. 7 of the definition found in Chapter 115, Section 4 of the County Code; that Gills Neck Rd. is classified as a local road per DelDOT; that the proposed cottages will continue the development of Gills Neck Rd. or the corridor as first contemplated decades ago, with the construction of larger communities being Wolfe Pointe, Wolfe Runne, Hawkseye, Showfield, as well as smaller, more dense housing options such as, Breakwater, Senators, Governors and the proposed Village Cottages; that this will ultimately lead to the Village Center, which will provide shopping options to the corridor in the form of a 75,000 sq. ft. neighborhood center; that other developments along Gills Neck Rd. include Admirals Chase, The Moorings and the Mitchell's Corner residential project; that the project was further defined as Governors was designed as there is a lot of shared infrastructure with Governors; that all of this was planned together to develop vehicular and pedestrian interconnectivity; that Architect Union Studio drew up the initial layout to highlight the unique design approved used for the site and submitted as Exhibit 20; that the Village Center cottages is a neighborhood of 102 compact cottage scale homes, organized around the principles of New Urbanism, which is a philosophy seeking to encourage community interaction, human scale, and walkability in our neighborhoods; that the homes have been carefully cited to help create a series of intimate pedestrian focused neighborhoods, linked by walkways and characterized by common greens and car-free planted courtyards; that each of the neighborhoods within the plan is comprised of 10 to 16 homes, organized around unique and varied courts and park-like edges; that in this way, the overall population of 102 cottages is experienced more as a collection of smaller pocket neighborhoods, where neighbors know one another, and a sense of community is fostered; that parking is accessed from discrete rear lanes, which are carefully corralled, so it does not impinge on the human scale of the plan; that there cars are allowed, they are tucked discreetly to the rear, between units, and shielded from common area spaces; that this allows

for vehicle accommodation, but the neighborhood experience is primarily a place to walk; that walkways link up and lead from one pocket neighborhood to another, linking all of the neighborhoods to the community building and to the retail village beyond; that sidewalks will connect everything together; that the homes will range from one to three bedrooms; that the homes will range from 1,000 sq. ft. to 1,500 sq. ft.; that homes will have a small side or rear yard patio, as well as a front porch looking out to a common green or pedestrian right of way; that the individual units are arranged to nest with one another; that the floor plans are being arranged so that living spaces on one unit are never adjacent or visible to the living spaces of another unit; that simple roof forms and tight one slated building envelopes will allow the future possibility of efficient deployment of solar panels and very low net energy usage; that aesthetically, the neighborhood design drew inspiration from coastal styles prevalent in the Mid-Atlantic states, with simple, traditional forms, clad and clapboard, with shingle and painted trim; that although the project is technically considered a multi-family project, they felt that parking should be based on single-family requirements, being two spaces per unit, in lieu of the multi-family requirement, which allows two spaces per unit and a reduction in parking after the first 50 units; that additionally, the cottages will not have more than three bedrooms and therefore extra parking would not apply for the four-bedroom and larger units; that based on the project calculations, 204 parking spaces are required; that the plan provides 240 parking spaces; the proposed density, based on project area is 3.99 units per acre; that the project proposes a total impervious area, including buildings, streets and sidewalks is 9.67 acres (38%) of the project area; that a minimum of 2,000 sq. ft. clubhouse, with a minimum 1,000 sq. ft. water surface area pool is planned for the middle of the project area; that Street A, Street C and Stockley Blvd. will be designed to Sussex County standards; that parking lanes A, B, C, D, E & G are designed to be narrow at 20-ft wide, to provide off street parking for each block and not under the jurisdiction of Sussex County; that stormwater management will be provided via the existing ponds constructed by the developer of Governors, and being one of the first shared infrastructures; that when Governors was designed, the ponds were designed to account for the full build out of the total 65 acres; that it was approved by Sussex Conservation District; that they assigned curved numbers of commercial uses and townhouses, to allow for planning of any potential uses; that all storm management has been pre-approved, with the only remaining requirement is to validate the drainage areas for planning approval; that no additional stormwater management will be required for the cottages; that a Shared Maintenance Agreement was submitted as Exhibit 9 in the booklet; that the agreement is written such that currently Governors is responsible for 100% of the pond maintenance until the first building permit is issued within the Village Center commercial area or the Village Cottages, at which time, J.G. Townsend will be responsible for 72% of all maintenance costs of the shared ponds; that they are requesting a waiver from providing a forested buffer between Governors and the Village Cottages; that they requested a similar waiver for Governors, which was approved, because the property line bisects the ponds and lands; that there is sufficient separation between the projects as previously mentioned; that Governors and the Village Cottages are separated by two large stormwater ponds; that the closest cottage is 70 ft. to the property line and 130 ft. to the nearest townhouse unit; that Governors landscaping will be provided between the two properties of the green space to help separate, but not screen, them; that the pump station is proposed to be shared with Governors; that the sewer pump station was also designed for the full build out of the site; that the project area does not contain flood plains or wetlands; that a site investigation was performed by Mr. Edward Launay, with Environmental Resources Inc. and a division of DBF, Inc., noted in Exhibit 11; that the exhibit demonstrates that the project is located within uplands and does not include federally listed, threatened or endangered species, or critical habitats, including the habitat for the monarch butterfly; that a large portion of the project area, being approximately 18.9 acres, is located within the Wellhead Protection Area, with approximately 81% impervious coverage, therefore the project must comply with Chapter 89 of the

Sussex County Code; that the Wellhead Protection Area is the well field for the City of Lewes Board of Public Works; that the parcel was previously studied as part of the Village Center commercial rezoning in 2017; that the adjacent Mitchell's Corner also completed an Environmental Assessment Report for their impact on the Wellhead area; that studies found both projects exceeded their requirements for compliance with the County Code; that Verdantas was hired to provide an Environmental Assessment Report; that Mr. Steve Cahill, Geologist was the author of all three reports; that as part of the application process, they met with Mr. Hans Medlarz, Sussex County Engineer, to discuss the project's compliance; that the only requirement for the project is compliance with the Water Climatic Budget, which they have met; that the full report and budget can be found in Exhibits 7 & 8; that his office met with the City of Lewes Board of Public Works; that currently, Lewes Board of Public Works had not shared any objections to the proposed applications; that the project is located within the Sussex County Unified Sewer District; that the project will be served by a gravity sewer system to the Governors pump station; that the property will be served by Delaware Electric Cooperative for electric, Chesapeake Utilities for natural gas, and Tidewater Utilities for water; that all utility companies have provided a Willing and Able Letter, located within Exhibits 13 through 16; that a DelDOT Service Level Evaluation Response and Public Facility Report was submitted, which state the impact of the project is minor and may generate between 50 and 200 peak hour trips or 502,000 daily trips; that the project was part of their larger Traffic Impact Study (TIS), being first contemplated in 2007, which generated a letter agreement in 2009, for all the projects being Showfield, Governors, Senators and The Village Center; that the project was also included as a committed development in the Mitchell's Corner Traffic Impact Study; that the project is part of an ongoing Village Center Operational Analysis, which is part of the commercial; that DelDOT is designing Kings Hwy. to be dualized from Dartmouth Rd. intersection to the city limits; that the configuration of that road include signals or roundabouts, and any other unknown decisions by DelDOT; that the proposed cottages will tie into the interim improvements that will be completed by the Mitchell's Corner project; that the interim improvements include, dualizing Kings Hwy. from the northern portion of the Cape Henlopen High School down to Clay Rd., and modifying Gills Neck Rd. to include dual left-turn lanes onto Gills Neck Rd.; that Village Cottages will also tie into the Clay Rd., Kings Hwy., and Stockley Blvd. improvements and that signal modification, including auxiliary lanes in all four directions; that all of the improvements are designed with the project's traffic accounted for in the design; that the Applicant met with select individuals of the Lewes Byways Committee, as they are committed to working with them on the shared use path, landscaping and fencing; that they are currently awaiting decisions for DelDOT regarding the frontage along Kings Hwy.; that the project was reviewed by PLUS on December 15, 2021; that a copy of the PLUS comments and the Applicant responses were submitted as Exhibit 12; that the comments were general in nature stating that they would comply with all regulatory requirements; that his office prepared the Environmental Assessment and Public Facility Evaluation Report in accordance with the Chapter 115, Section 194.3 of the County Code; that the new responses were submitted in Exhibit 10; that the project has analyzed all aspects of the respective items and all mitigation measures are consistent with the Comprehensive Plan; that the project is integrated into the existing terrain and surrounding landscape; that the site does not contain wetlands or floodplains; that proposed buffers are provided to screen objectionable features; that the plan prevents pollution of surface and groundwater; that the plan provides for safety of vehicular and pedestrian improvements; that the plan mitigates the effect on area roadways and public transportation and the project is compatible with other area land uses.

Mr. Hutt stated he had already discussed the plans compliance and the reasoning for the Application's requests; that the MR District is to provide for medium-density residential development in areas which are expected to become generally urban in character, where sanitary sewer and public water supply

may or may not be available at the time of construction; that when looking at the aerial imagery, the site has certainly become a more urban or semi-urban character; that public water and sewer area available to the site; that multi-family dwellings are permitted as a Conditional Use in the MR (Medium-Density) Residential Zoning District, which is the reasoning for the Conditional Use Application; that Conditional Uses are uses that are generally of a public or semi-public character, being essential and desirable for the general convenience and welfare, but because of the nature of the use and the importance of the relationship to the Comprehensive Plan and possible impact on neighboring properties, it requires the exercise of planning judgement on location and site plan review; that housing has routinely been found to be of public or semi-public character, certainly being essential and desirable for the County; that within the Comprehensive Plan it states that in the Coastal Area, medium and higher densities are appropriate where there is central water and sewer, where there is a significant number of commercial uses and employment centers, where the project is in keeping with the character of the area, and where it is situated along a main road, or being located at or near a major intersection; that every criteria item has been met by the proposed Application; that Table 4.5-2 indicates the zoning districts appropriated and which Future Land Use Map categories; that MR (Medium-Density Residential) is an appropriate zoning district in the Coastal Area, as reflected on Table 4.5-2; that there are a number of townhomes, duplexes and other multi-family uses that currently exist in the area; that there are assisted living facilities, which is a multi-family type use, existing in the area; that immediately adjacent to the site is the townhome section of Governors; that there was correspondence submitted expressing concerns regarding the proposed density of the project, and the ability for the project to fit between the Village Center Commercial Area and the townhome portion of Governor's community; that he had began his presentation with an aerial map outlining several surrounding communities and commercial uses in the area; that Dutchman's Harvest, located within the City of Lewes, has a density of 17.7 unit per acre; that Harbor Town Square has a density of 11.9 units per acre; that Woods Edge is 11 units per acre; that Savannah East Apartments at 11 units per acre; that Jefferson Apartments is 9.8 units per acre; that The Moorings, formally known as Cadbury, has a density of 6.4 units per acre; that the Mitchell Corner project, being located directly across Gills Neck Rd. from the site, has a density of 6.2 units per acre; that Henlopen Gardens is 5.5 units per acre; that Governors is 3.6 units per acre; that Beach Plum Dunes is 3.2 units per acre; that Bay Breeze Estates is 3 units to the acre; that the proposed plan is consistent with the Zoning Map and the MR Zoning classifications, as well as the zoning within the municipal limits of the City of Lewes; that there are a number of multifamily uses, all with densities great than the proposed project; that there are existing MR zoned areas within the immediate area, being located directly across the street, down Gills Neck Rd., back to Admirals Chase, along Kings Hwy and Beach Plum Dunes; that the site's immediate neighbor to the northeast is Governors, which is zoned AR-1, with a density of 3.6 units per acre; that due to the concern expressed regarding the composition density difference of the project in relation to Governors, he requested DBF, Inc. to overlay 25 acres on the immediately adjacent Governors site; that when that was done, the 25 acres included 139 units, which created a density of 5.4 units to the acre, being more dense than the proposed Villages Cottages; that the Villages Cottages are just under 4 units per acre; that additionally he requested DBF, Inc. to perform the same analysis and overlay on the single-family home section of Governors, resulting in a density of 3.6 units per acre; that this goes back to good land use planning, where more intense and dense uses are located closer to Kings Hwy, decreasing further along Gills Neck Rd.; that the design of the community was purposeful; that good land use principles and shared infrastructure were the themes that guided the project into fruition; that Governors is currently paying for the shared stormwater management; that as proposed, as soon as a building permit is pulled for either the commercial area or the cottages, the numbers shift dramatically; that at that time, 70% will be maintained by the subject 65 acre property, and the Governors share of the maintenance decreases significantly; that there were concerns raised regarding interconnectivity

from the Village Center Commercial Area to the Village Center Cottages, and then to the Governors community; that Mr. Lardner had indicated, the interconnectivity had been the master plan from the outset of development; that the Delaware Uniform Common Interest Ownership Act require sellers to provide seller disclosures; that the sellers disclosure did provide notice that Stockley Blvd would be an entrance for the future development of the 65 acre parcel; that various comments of concern were raised regarding traffic; that Mr. Lardner previously indicated the traffic impact had been studied numerous times; that the projects have always been consideration in the studies performed; that no one can control DelDOT, or the pace at which DelDOT completes the improvements along Kings Hwy.; that the Village Center, regardless of what portion is developed first, will be required to be make the improvements previously mentioned by Mr. Lardner, particularly at Clay Rd. and Stockley Blvd., creating a four-way intersection; that additionally, significant improvements will be coming to Kings Hwy in the near future, as the Mitchell's Corner project comes into fruition; that there are interim improvements which have been discussed and reviewed; that they are currently in the process of being approved by DelDOT for those interim improvements; that it is important to remember that, all of the projects, beginning with Wolfe Pointe, Wolfe Runne, Hawkseye, Senators, Governors and the Village Center Commercial Site, all arose from the same fields that existed between Kings Hwy, Gills Neck Rd. and the canal; that these fields have been under the same ownership, and carefully developed throughout time; that essentially, the proposed application is an infill project between the residential area of Governors and the Village Center Commercial Site; that he trusted with the various professional reports and the presentation made, the Commission would agree that the Application is consistent with the County's Code, the Comprehensive Plan, and the character of the area; that he presented to the Commission renderings of the envisioned courtyard areas for the proposed community; that there is nothing wrong with townhomes and duplexes, however, the developer put time, effort and thought into providing the proposed style of units, which is different than anything else currently existing along Gills Neck Rd. or frankly, almost anywhere within Sussex County; that he hoped the Commission would agree that having an alternate way to have units available, through a courtyard type plan, is good for the streetscape and land use plan for Sussex County; that the Applicant requests the Commission recommend approval of the change of zone request from AR-1 to MR (Medium-Density Residential), as well as the Conditional Use request for 102 multifamily units for the site; that he requested to submit proposed Findings and Conditions for each Application; that in proposed Condition F, for C/U 2356, relates to the parking areas; that with favorable recommendation, the Commission typically imposes a condition requiring streets to meet or exceed the County's street design requirements; that the proposed parking areas are not considered streets, therefore, are not required to comply with Sussex County standards; that Condition J states the required minimum square footage of water surface for the pool and clubhouse areas; that Condition L is related to the Chapter 89 requirements; that in the project book materials, there is an email exchange between Mr. Medlarz and Mr. Lardner, regarding certain requirements of the site plan; that the requirements will apply whether it is the Village Center Commercial Area or the Village Center Cottages; that one of the requirements is that the Engineering Department will review the construction plans, and will review the Water Climatic Budget; that there is a note of prohibition relating to rooftop air conditioning system components that would require intermittent unit blowdown and proposed Condition N states that Saturday construction hours would only be permitted from October 1st through April 30th, which aligns with the timing DelDOT allows construction to be performed in those areas.

Ms. Stevenson stated her only concern related to compliance with the Byways and despite not being within the Commission's purview, she suggested consideration be given to noise reduction as the buildings are located close together.

Ms. Wingate requested confirmation of the required parking total is 204 spaces and the provided parking total for the project is 240 spaces and questioned if the access to the parking area will allow for fire trucks and emergency vehicles.

Mr. Lardner stated Ms. Wingate was correct; that the plan provides for 240 spaces in excess of the required 204 spaces; that Street C is a 24 ft. wide car path, with parking on either side; that the parking lanes are 20 ft. wide, which allows the ability for fire trucks to pass through the parking lane.

Mr. Mears stated he had no questions but stated that he did love to coastal cottage courtyard theme, as it is something different.

The Commission found three people in the room and two people by teleconference commented on the Applications.

Mr. Ken Rehfuss spoke in support but proposed questions about the Application. Mr. Rehfuss stated he thought the cottage concept is great, as there are existing townhouses and duplexes located across the street; that he still had confusion relating to the service lane that backs up to the commercial area; that he assumed it is a pathway to provide for interconnectivity; that he questioned the proposed type of screening; that he is a developer in Washington; that many times, there is a different type of screening required when dealing with commercial uses versus residential; that he felt everything looked appealing and he stated he was a big advocate of the project.

Mr. Lardner stated the road was a service road to provide service to the commercial area; that the parking lanes will tie into the service road to finish connectivity, and avoid a dead end; that they are still working on the screening for both projects; that the screening of both projects are being designed together so that one project's screening does not adversely impact the other; that there will be screening to protect the views from commercial with the residential; that all of the screening details will be forthcoming as the design of the commercial area comes forward; that should Commission and County Council grant approval, all of the screening would be integrated and designed together, to allow the projects to be harmonious with each other.

Mr. Robertson questioned the location of the B-1 area and mentioned that it would all be reviewed during the site plan review process.

Mr. Michael Wolfe spoke in support of the Applications. Mr. Wolfe stated he is a member of the Condominium Association Board for Governors; that the Executive Board of the Governors Condominium Association had submitted a letter around May 15th, which he requested to read to the Commission; that the letter stated, *“this proposed community lies adjacent to the Governors community, and will share boundaries, common areas, ponds, and streets. While we are not opposed to the new development, we have several concerns regarding the proposed plan. Our primary concern is the proposed street interconnectivity planned with the Governors’ private streets. As proposed, the street interconnectivity will lead to additional traffic within Governors since it almost certainly will be used as a cut-through from Gills Neck Rd. for non-residents. We propose limiting the interconnectivity to emergency traffic, bikes, and pedestrians through the use of gates or other means. Second, Governors has entered into a pond-sharing agreement with J.G. Townsend, that covers the cost of the maintenance electricity to run the pond’s fountains. The agreement will need to be reviewed in light of the plan for the proposed development. Next, the proposed plans for the Village Center Residential Community outlined the property line on the boundary with Governors. When the Governors Executive Board transitioned from the developer, plans for the new community had not yet been*

published. We request that a new survey be completed to confirm that the true boundary lines between the two communities. Fourth, we would like to better understand the developer's plan to buffer the trees to the common space that separates Governors from the Village Center. Other than the ponds in the open space, the design plan shows little in the way of trees between the two communities. Governors wish to remain its own standalone community and not appear to be part of the new Village Center. We request that the common area bordering our communities have ample trees and shrubbery to mitigate noise and help differentiate the two communities. Fifth, since the developer of the proposed community and Governors are the same, it appears there is an attempt to share common space with the new development. We request the developer install similar fencing and/or signage at the new development entrance that matches the Gills Neck Rd. entrance. This would help differentiate the two communities and indicate to people trying to pass through, so they know they have entered a new community. We'd also like to raise concern over the density of the new complex on such a small piece of property and the lack of open space within the community. This area is already lacking parks and open space for recreation. Next, we have concerns that the complex is associated with or tied into a new retail center on Kings Hwy. border. We feel plans should be completed and approved before a new residential section is approved. Lastly, improvements are required on Kings Hwy. to accommodate the increased traffic from other developments currently being built. We request the impact of those projects is addressed before additional traffic is added to the existing problem.”; that he personally had concerns relating to interconnectivity; that he listened to the discussion and the statements made that notice was provided within the documents; that he had reviewed all the documents; that he believes it is a true statement, though it was a very short little blurb; that interconnectivity is subjective; that interconnectivity can mean all types of vehicles are permitted through, or it could also mean interconnectivity is limited to what is practical and safe; that he felt it more appropriate for the interconnectivity to be minimized to only allow emergency vehicles, pedestrian traffic, and bicycles; that this will limit Amazon trucks from flying through, which is unsafe for children on their bikes and scooters and he felt the interconnectivity posed a safety concern.

Mr. Edward Rush spoke with questions regarding the Applications. Mr. Rush stated he also is a member of the Executive Board of the Governors Condominium Association; that he is a retired Fire Chief, who had been in the fire service for over 40 years; that he understood there was a performed traffic study, as part of the Environmental Assessment; that where he previously came from, they had a system of rating roads, and he questioned if there is a similar system in place in Sussex County; that he questioned the road rating for Gills Neck Rd. before and after development; that he had concerns regarding the accessibility of fire apparatus to the parking areas, as the access to the parking is a unique layout; that he felt 20 ft. from the end of one parking space to another is extremely tight for fire apparatus movement; that he is a member of the Lewes Fire Company, and he does not look forward to driving a fire truck in the community as it is proposed; that he questioned the estimated price range or targeted market for the cottages; that he is the Delaware Advocate for the National Fallen Firefighters Foundation – Everyone Goes Home Program; that they push hard for the placement of residential sprinkler; that in the past week, a home in Lewes was destroyed by fire; that had the house been located within Governors, at least three to four houses would have burned due to their close proximity to each other and he requested the Commission impose a condition requiring residential sprinklers be placed in the units.

Mr. Robertson stated there is a rating system for the roads, and it is contained in the traffic data, and it is more complex than just the rating of the roads, as every specific movement on an intersection is also rated.

Chairman Wheatley stated the entrance is 24 ft. and it is 20 ft. in the parking area; that the price range and targeted market for the projects were beyond the scope of the Commission; that sprinkler system requirements exceed the Commission's authority, as it is more of a Building Code requirement; that

the Commission cannot require something that is not dictated in the County Code and the Applications will be present before County Council, who do have the authority to impose the condition.

Mr. Lardner stated he did not have the traffic study in front of him, but he recalled the existing condition of Gills Neck Rd. and Kings Hwy. is a Level of Service F, per the latest Traffic Operational Analysis (TOA) he had seen; that beyond Level F it does not degrade anymore; that the classification of F relates to a time delay to get through an intersection; that with the dualization and improvements, it does improve the rating to a Level of Service D, with interim improvements and the rating will stay as a Level D when DelDOT improvements on Kings Hwy is completed.

Mr. Paul Capriolo spoke by teleconference in opposition to the Application. Mr. Capriolo expressed his concerns regarding overcrowding, the proposed density, traffic congestion, infrastructure, interconnectivity, the erosion of the charm, character and scenic views of the area, the environment and wildlife habitats, the impact on the local ecosystem, preservation of open space and impacts on the water.

Ms. Stevenson stated that donations can be made to Sussex County Land Trust, as they purchase land to preserve it.

Mr. Greg Rutler spoke by teleconference in opposition to the Application. Mr. Rutler stated he agreed with all the points and concerns expressed by Mr. Capriolo, and additionally, he had concerns regarding stormwater management and stormwater treatment.

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

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

In relation to C/Z 1979 J.G. Townsend Jr. & Co. Motion by Ms. Stevenson to defer action for further consideration, seconded by Ms. Wingate and carried unanimously. Motion carried 5-0.

Minutes of the June 22, 2023, Planning & Zoning Commission Meeting

The Commission discussed the Application which had been deferred since May 25, 2023.

Ms. Stevenson moved that we recommend approval of C/Z 1979 J.G. Townsend, Jr. & Co., 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 housing in an area which is expected to become urban in character and where central water and sewer is available.
2. The stated purpose of the MR District is satisfied for this site. Both central water and central sewer will be available. It is also in an area with a more urban character since it is near the City of Lewes, in the vicinity of a high school campus, and near various businesses. There is also other MR-Zoned land in the area. This rezoning is consistent with other zoning and land uses in the area.

3. The proposed MR Zoning meets the purpose of the Zoning Ordinance in that it promotes the orderly growth of the County in an appropriate location.
4. The site is located within the Coastal Area according to the Sussex County Comprehensive Plan. MR Zoning is appropriate in this Area according to the Plan.
5. The intended use of this property will be to allow the development of it with multi-family residential units. This is an appropriate use for this location given its surroundings.
6. The Comprehensive Plan suggests that higher densities such as those permitted in the MR District can be appropriate where there is water and sewer available, there are appropriate roadways to handle the density, and there are nearby commercial or employment centers. All of those factors are satisfied with regard to this application.
7. DelDOT has stated that the proposed rezoning to MR will have a “minor” impact upon local area roadways. In addition, the overall traffic in the area has recently been studied through Traffic Impact Studies and Traffic Operations Analyses for other nearby properties. These studies take into account this proposed rezoning as well as DelDOT’s “US9, Kings Highway, Dartmouth Drive to Freeman Highway (DelDOT Contract No. T202212901)”.
8. For all of these reasons, MR zoning is appropriate for this site.

Motion by Ms. Stevenson, seconded by Ms. Wingate and carried unanimously to recommend approval of C/Z 1979 J.G. Townsend, Jr. & Co., for the reasons stated in the motion. Motion carried 5-0.

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

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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: May 25th, 2023

Application: CZ 1979 J. G. Townsend Jr. & Co.

Applicant: Jack Lingo Asset Management, LLC
246 Rehoboth Avenue
Rehoboth Beach, DE 19971

Owner: J. G. Townsend Jr. & Co.
P.O. Box 430
Georgetown, DE 19947

Site Location: Lying on the east side of Kings Highway (Rt. 9) and Gills Neck Road (S.C.R. 267) at the intersection of Kings Highway (Rt. 9) and Gills Neck Road (S.C.R. 267)

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

Proposed Zoning: Medium Residential (MR) Zoning District

Proposed Use: 102 Multi-Family Units

Comprehensive Land Use Plan Reference: Coastal Area

Councilmanic District: Mr. Schaeffer

School District: Cape Henlopen School District

Fire District: Lewes Fire Company

Sewer: Sussex County

Water: Tidewater Utilities

Site Area: 25.56 acre +/-

Tax Map ID: 335-12.00-3.00 (p/o)



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 Commission Members
From: Mrs. Christin Scott, Planner II
CC: Mr. Vince Robertson, Assistant County Attorney, and applicant
Date: May 18th, 2023
RE: Staff Analysis for C/Z 1979 J.G. Townsend, Jr. & Co.

This memo is to provide background and analysis for the Planning Commission to consider as a part of application C/Z 1979 J.G. Townsend, Jr. & Co. to be reviewed during the May 25th, 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 335-12.00-3.00 (p/o) to change the zoning from an Agricultural Residential (AR-1) Zoning District to a Medium Density Residential (MR) Zoning District. The property is lying on the east side of Kings Highway (Rt. 9) and Gills Neck Road (S.C.R. 267), at the intersection of Kings Highway (Rt. 9) and Gills Neck Road (S.C.R. 267). The parcel consists of 25.56 acres +/-.

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 subject property has land use designation of "Coastal Area." The properties to the north, south, east, and west all have a land use designation of "Coastal Area" with properties to the northwest, across Kings Highway, having a land use designation of "Commercial Area."

As outlined in the 2018 Sussex County Comprehensive Plan, Coastal Areas are areas that can accommodate development provided that special environmental concerns are addressed. A range of housing types should be permitted in Coastal Areas, including single-family homes, townhouses, and multi-family units. Retail and office uses are appropriate, but larger shopping centers and office parks should be confined to selected locations with access along arterial roads. Appropriate mixed-use development should all be allowed. In doing so, careful mixtures of homes with light commercial, office and institutional uses can be appropriate to provide for convenient services and to allow people to work close to home. Major new industrial uses are not proposed in these areas. (Sussex County Comprehensive Plan, 4-15).

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) Zoning District is listed as an Applicable Zoning District within the "Coastal Area" (Sussex County Comprehensive Plan, 4-25).



Zoning Information

The property is split zoned Agricultural Residential (AR-1) District and Neighborhood Business (B-1) Zoning District. The adjacent parcels to the east and west of the subject property are zoned Agricultural Residential (AR-1) District. The properties located to the northeast of the subject site, across Gills Neck Road, are zoned Medium Residential (MR-1) Zoning District. A few parcels south, north, and west of the site are zoned General Commercial (C-1), Medium Commercial (C-2), and Neighborhood Business (B-1) Zoning Districts.

Existing Conditional Use Applications within the Vicinity of the Subject Site

Since 2011, there have been seven (7) Change of Zone applications within a one (1) mile radius of the application site. A data table has been provided below.

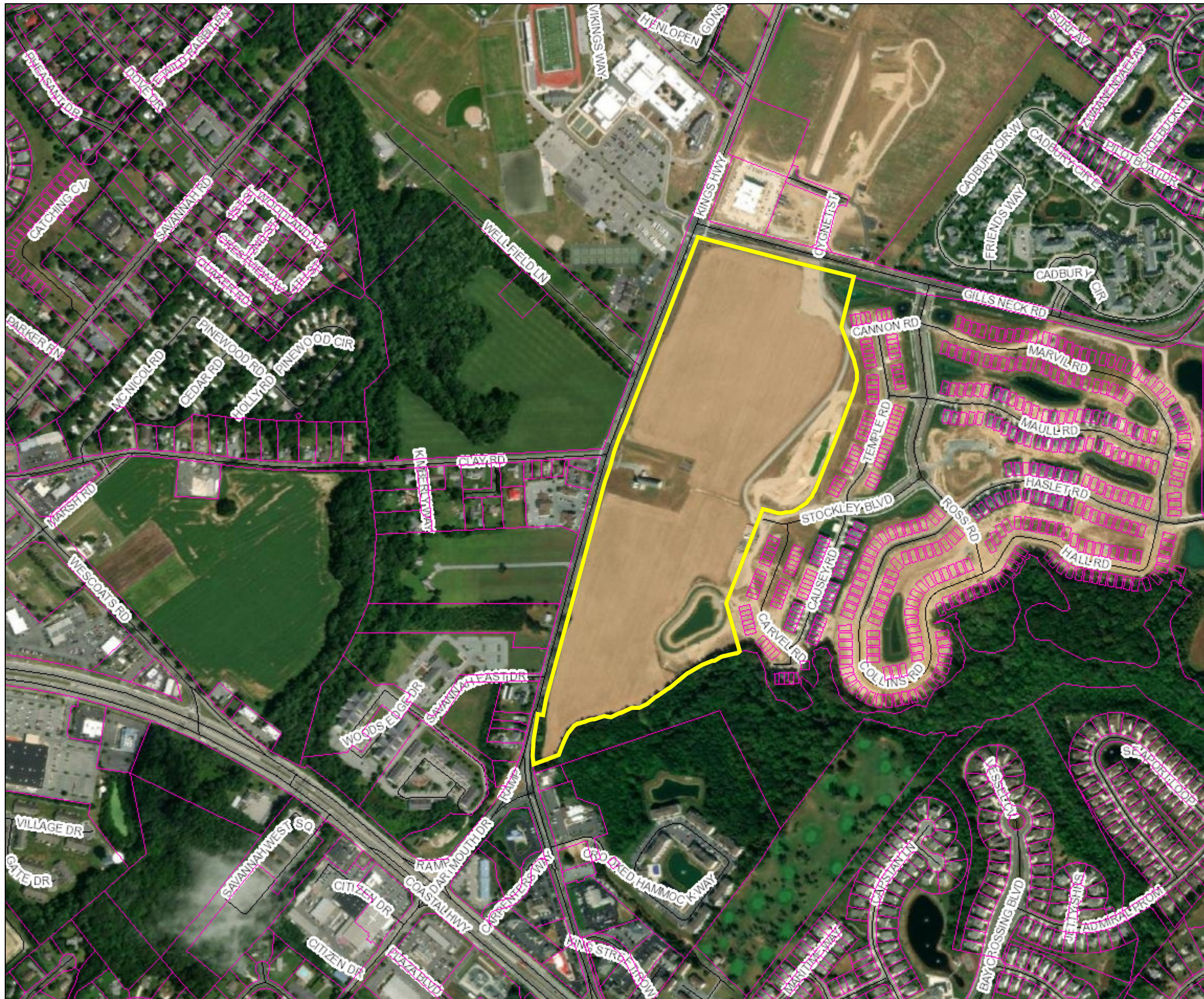
Based on this analysis, a Change of Zone from Agricultural Residential (AR-1) District to Medium Density Residential (MR) District could be considered as being consistent with the land use, area zoning and surrounding uses.

Change of Zone Number	Tax Parcel #	APPLICANT	911 Address or Road Name	Current Zoning	Proposed Zoning	CC Decision	CC Decision Date
1802	335-12.00-3.00	J.G. Townsend Jr. & Co.	Gills Neck Road & Kings Hwy	AR-1	B-1	Approved	12/13/2016
1876	335-12.06-1.00	Robert & Deborah Reed	1525 Savannah Rd.	AR-1	MR	Approved	6/18/2019
1857	335-8.18-28.00	Elizabeth Ann Burkhardt	1500 Savannah Rd.	AR-1	B-2	Denied	10/23/2018
1912	334-6.00-58.00	Beach and Bay LLC	16816 & 16820 Kings Hwy	AR-1	C-2	Approved	7/14/2020
1818	334-6.00-497.08	Ocean Highway, LLC	34130 Citizens Dr., Lewes	AR-1	CR-1	Approved	5/23/2017
1851	335-8.00-44.00	The Evergreen Companies, LLC	16386 Gills Neck Rd.	AR-1	MR	Approved	8/14/2018

1832	334- 6.00- 511.00	MDI Investment Group, LLC (C/O Doug Compher)	17645 Shady Rd. & N/A	AR-1	MR	Approved	3/20/2018
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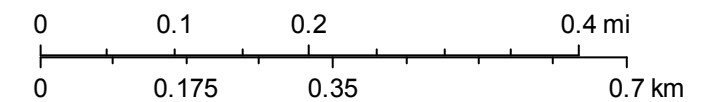
Sussex County



PIN:	335-12.00-3.00
Owner Name	JG TOWNSEND JR CO
Book	361
Mailing Address	PO BOX 430
City	GEORGETOWN
State	DE
Description	E/KINGS HWY
Description 2	S/GILLS NECK RD
Description 3	RESIDUAL LANDS
Land Code	

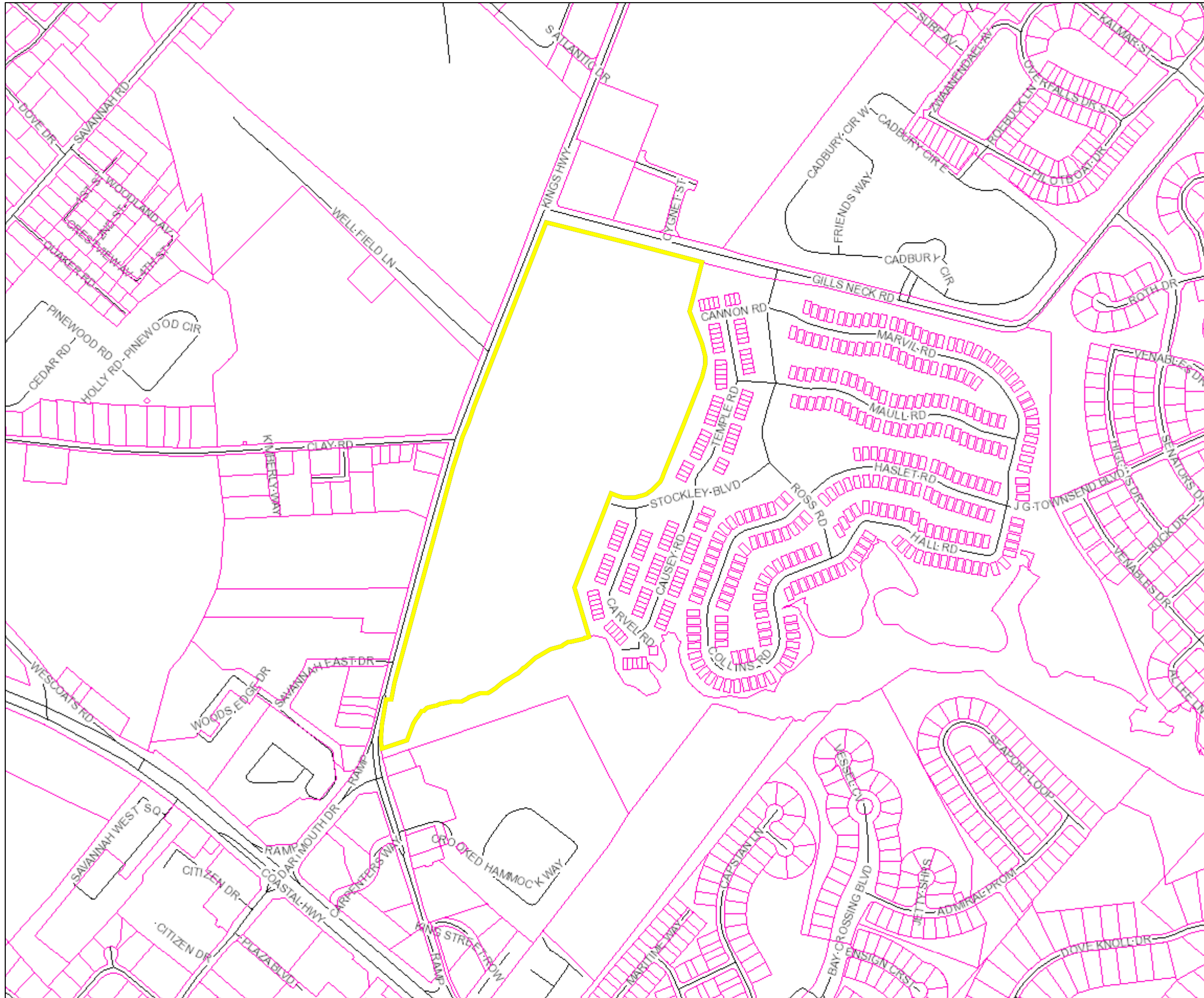
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- Override 1
- Tax Parcels
- Streets
- County Boundaries

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Sussex County



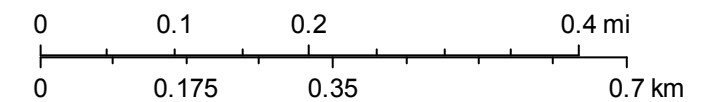
PIN:	335-12.00-3.00
Owner Name	JG TOWNSEND JR CO
Book	361
Mailing Address	PO BOX 430
City	GEORGETOWN
State	DE
Description	E/KINGS HWY
Description 2	S/GILLS NECK RD
Description 3	RESIDUAL LANDS
Land Code	

- polygonLayer**

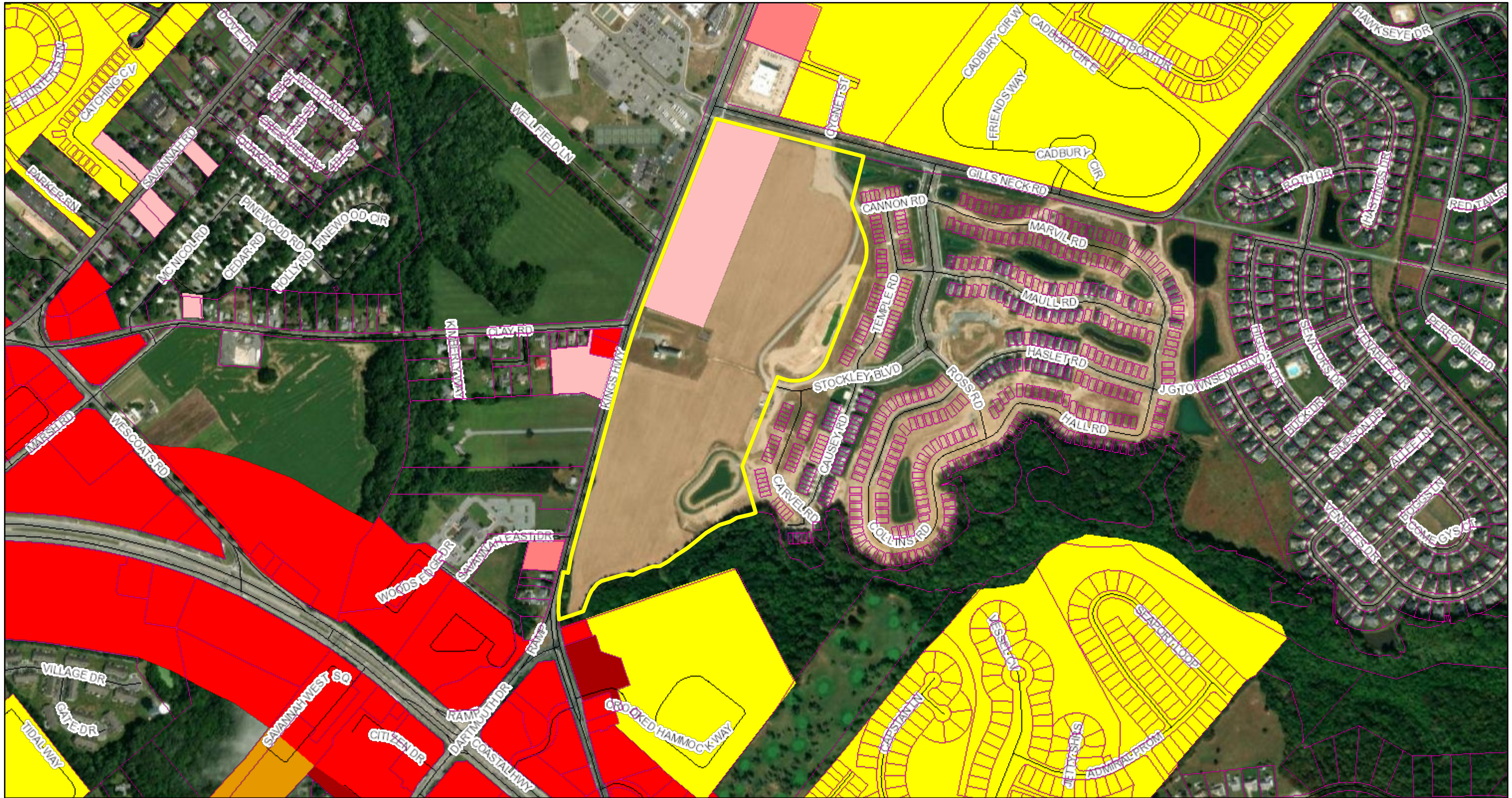
 - Override 1
- polygonLayer**

 - Override 1
 - Tax Parcels
 - Streets
 - County Boundaries

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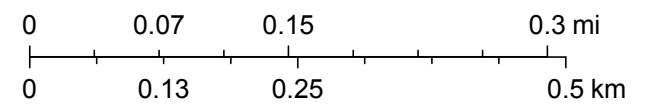
Sussex County



February 7, 2023

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|---------------------------------|----------------------------------|-----------------------------|-------------------------------|-------------------------|
| 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 | |



Sussex County, Sussex County Government, Maxar

Introduced: 08/23/22

Council District 3: Mr. Schaeffer
Tax I.D. No.: 335-12.00-3.00 (p/o)
911 Address: 16673 Kings Highway, Lewes.

ORDINANCE NO. ____

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AN MR MEDIUM RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 25.56 ACRES, MORE OR LESS

WHEREAS, on the 22nd day of March 2022, a zoning application, denominated Change of Zone No. 1979 was filed on behalf of J.G. Townsend Jr. & Co.; and

WHEREAS, on the ____ day of _____ 2022, 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. 1979 be _____; and

WHEREAS, on the ____ day of _____ 2022, 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 [Agricultural Residential District] and adding in lieu thereof the designation Medium 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 parcel of land lying and being situate in Lewes & Rehoboth Hundred, Sussex County, Delaware, and lying on the east side of Kings Highway (Rt. 9) and on the south side of Gills Neck Road (S.C.R. 267) at the intersection of Kings Highway (Rt. 9) and Gills Neck Road (S.C.R. 267) and being more particularly described in the attached legal description prepared by Davis, Bowen & Friedel, Inc., said parcel containing 25.56 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: November 30, 2023

RE: County Council Report for C/U 2359 filed on behalf of JG Townsend Jr. & Co.

The Planning and Zoning Department received an application (C/U 2359 filed on behalf of JG Townsend Jr. & Co.) for multi-family (102 units) on parcel 335-12.00-3.00. The property is located at 1667 Kings Highway, Lewes. The parcel size is 25.56 acres +/-

The Planning & Zoning Commission held a Public Hearing on the application on May 25, 2023. At the meeting of June 22, 2023, the Planning & Zoning Commission recommended approval of the application for the 8 reasons and 17 recommended conditions as outlined within the motion (copied below).

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

[Link to the Minutes of the June 27, 2023, County Council Meeting](#)

Below are the minutes from the Planning & Zoning Commission meeting of May 25, 2023 and June 22, 2023.

[Minutes of the May 25, 2023, Planning & Zoning Commission Meeting](#)

Chairman Wheatley approved the request to combine the public hearings for C/Z 1979 J.G. Townsend Jr. & Co. and C/U 2359 J.G. Townsend Jr. & Co. as the property was the subject of both applications.



C/U 2359 J.G. Townsend Jr. & Co.

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR (MEDIUM RESIDENTIAL DISTRICT) FOR MULTI-FAMILY (102 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 25.56 ACRES, MORE OR LESS. The property is lying on the east side of Kings Highway (Rt.9) and the south side of Gills Neck Road (S.C.R. 267), at the intersection of Kings Highway (Rt. 9) and Gills Neck Road (S.C.R. 267). 911 Address: 16673 Kings Highway, Lewes. Tax Map Parcel: 335-12.00-3.00 (p/o).

Mr. Whitehouse advised the Commission that submitted into the record were the DelDOT Service Level Evaluation Response, a copy of the Applicant's Conceptual Site Plan, the Applicant's exhibits, Staff Analysis, a letter from the Sussex County Engineering Department Utility Planning Division, the Environmental Assessment and Public Facility Evaluation Report, and a copy of the Applicant's Wellhead Protection Area responses. Mr. Whitehouse stated nine written responses had been received for the Application.

The Commission found that Mr. David Hutt, Esq., with Morris James, LLP, spoke on behalf of the property owner, J.G. Townsend Jr. & Co., and the Applicant, Jack Lingo Asset Management; that also present were Mr. Nick Hammonds and Mr. Ryan Mitchell with Jack Lingo Asset Management, Mr. Ring Lardner, Professional Engineer with Davis, Bowen & Friedel, Inc. (DBF), Mr. Cliff Mumford, and Mr. Steve Cahill, Professional Geologist with Verdantas, who prepared the submitted Environmental Assessment Report. Mr. Hutt stated that not only are the Application's compliant with the Code, consistent with the Comprehensive Plan, consistent with the nature and character of the area, but they also fit neatly into, what he referred to as the "Master Plan"; that he understood Sussex County currently does not have a Master Plan District; that the property fits neatly into the mold of what can happen when there is a singular property owner for a property over decades; that good land use planning place the most intense uses and the highest densities along major highway; that this was the planning perspective used when designing the Applications; that the most intense uses are located along Kings Hwy.; that nearest to Wolfe Pointe, Wolfe Runne and Hawkseye, are the locations of larger lots and less dense areas; that having a singular property owner allows a long-term master plan vision for better land use planning, as well as, the property owner is able to coordinate other things, such as storm management; that there are shared stormwater management ponds between Senators and Governors; that proposed stormwater management ponds will be shared between Governors and the subject project; that similarly, this provides an opportunity for interconnectivity between all of the various subdivisions and plans as they come along; that Mr. Lardner will speak on the Master Plan, how the site will be accessed and how access will be afforded to Governors through the project; that the intersection of Kings Hwy. and Gills Neck Rd. is well known, as it is a route into Lewes, to the Cape May Lewes Ferry, and an entrance to Cape Henlopen High School; that Crooked Hammock, the future commercial Village Center, the Cape Henlopen Medical Center, the Mitchell's Corner commercial project, the Mitchell's Corner residential project; Lane Builders and Big Oyster are located within the nearby area of the site; that additionally, the Cape Henlopen High School, Governors, Senators, Hawkseye, The Moorings, Breakwater, Admirals Chase and the bike trail are in the nearby area of the site; that the total acreages is a little over 65 acres; that in the State Planning Coordination's PLUS response to the Application, it was stated that according to the 2020 State Strategies Map, the property is located within Investment Level 1; that Investment Level 1 reflects areas that are already developed in an urban or suburban fashion, where infrastructure is existing and/or readily available, and where future redevelopment or infill projects are expected and encouraged by State policy; that the site is where the State expects and encourages growth to occur; that according to the 2045 Future

Land Use Map within the Comprehensive Plan, the site is located within the Coastal Area, being one of the County's seven growth areas; that currently the site is located within the AR-1 (Agricultural Residential) Zoning District; that the current Change of Zone application seeks to change the zone from AR-1 to MR (Medium-Density Residential); that located between the subject site and Kings Hwy is and Area of B-1 (Neighborhood Business), being the location for the Village Center commercial area; that there was a Conditional Use approval granted for the Cape Henlopen Medical Center to operate at the intersection of Gills Neck Rd. and Kings Hwy.; that on the other side of that area is an area zoned for C-2 (Medium Commercial), anticipated to be another similar medical center with professional offices; that there are many areas for residential being the location of the Mitchell's Corner residential project, The Moorings, Breakwater and Admirals Chase; that there are other nearby areas zoned for C-1 (General Commercial) and C-3 (Heavy Commercial); that the subject Applications request to change the zone of 25.5 acres of the total 65 acres from AR-1 (Agricultural Residential) to MR (Medium-Density Residential); that this request would leave approximately 27.8 +/- acres of AR-1 zoned property to be located on the opposite side of Stockley Blvd.; that the balance of the site, being 11.6 acres, is already zoned B-1 (Neighborhood Business), and he requested Mr. Ring Lardner to review the Application's compliance with the Code, the technical features and site plan design.

The Commission found Mr. Ring Lardner, Professional Engineer with Davis, Bowne & Friedel, Inc. spoke on behalf of the Applications. Mr. Lardner stated in 1992 the area was mostly farm fields, with corn crops and pivots; that as of last year, the area had grown into various developments previously described by Mr. Hutt; that the site consists of 65.5 acres total; that the proposed cottages would be located on 25.56 acres of the total acres; that the site is located along Gills Neck Rd, located to the north.; that the Village Center Commercial use is located to the east; that Stockley Blvd. is located to the south, as part of the whole village center and its interconnection into Governors, which has already been planned, stubbed and installed; that Governors is located to the west of the site; that further to the east is Kings Hwy., which is classified as a principal arterial road per DelDOT's Functional Classification Map; that furthermore, Kings Hwy. is defined as a major arterial roadway as per No. 7 of the definition found in Chapter 115, Section 4 of the County Code; that Gills Neck Rd. is classified as a local road per DelDOT; that the proposed cottages will continue the development of Gills Neck Rd. or the corridor as first contemplated decades ago, with the construction of larger communities being Wolfe Pointe, Wolfe Runne, Hawkseye, Showfield, as well as smaller, more dense housing options such as, Breakwater, Senators, Governors and the proposed Village Cottages; that this will ultimately lead to the Village Center, which will provide shopping options to the corridor in the form of a 75,000 sq. ft. neighborhood center; that other developments along Gills Neck Rd. include Admirals Chase, The Moorings and the Mitchell's Corner residential project; that the project was further defined as Governors was designed as there is a lot of shared infrastructure with Governors; that all of this was planned together to develop vehicular and pedestrian interconnectivity; that Architect Union Studio drew up the initial layout to highlight the unique design approved used for the site and submitted as Exhibit 20; that the Village Center cottages is a neighborhood of 102 compact cottage scale homes, organized around the principles of New Urbanism, which is a philosophy seeking to encourage community interaction, human scale, and walkability in our neighborhoods; that the homes have been carefully cited to help create a series of intimate pedestrian focused neighborhoods, linked by walkways and characterized by common greens and car-free planted courtyards; that each of the neighborhoods within the plan is comprised of 10 to 16 homes, organized around unique and varied courts and park-like edges; that in this way, the overall population of 102 cottages is experienced more as a collection of smaller pocket neighborhoods, where neighbors know one another, and a sense of community is fostered; that parking is accessed from discrete rear lanes, which are carefully corralled, so it does not impinge on the human scale of the plan; that there cars are allowed, they are

tucked discreetly to the rear, between units, and shielded from common area spaces; that this allows for vehicle accommodation, but the neighborhood experience is primarily a place to walk; that walkways link up and lead from one pocket neighborhood to another, linking all of the neighborhoods to the community building and to the retail village beyond; that sidewalks will connect everything together; that the homes will range from one to three bedrooms; that the homes will range from 1,000 sq. ft. to 1,500 sq. ft.; that homes will have a small side or rear yard patio, as well as a front porch looking out to a common green or pedestrian right of way; that the individual units are arranged to nest with one another; that the floor plans are being arranged so that living spaces on one unit are never adjacent or visible to the living spaces of another unit; that simple roof forms and tight one slated building envelopes will allow the future possibility of efficient deployment of solar panels and very low net energy usage; that aesthetically, the neighborhood design drew inspiration from coastal styles prevalent in the Mid-Atlantic states, with simple, traditional forms, clad and clapboard, with shingle and painted trim; that although the project is technically considered a multi-family project, they felt that parking should be based on single-family requirements, being two spaces per unit, in lieu of the multi-family requirement, which allows two spaces per unit and a reduction in parking after the first 50 units; that additionally, the cottages will not have more than three bedrooms and therefore extra parking would not apply for the four-bedroom and larger units; that based on the project calculations, 204 parking spaces are required; that the plan provides 240 parking spaces; the proposed density, based on project area is 3.99 units per acre; that the project proposes a total impervious area, including buildings, streets and sidewalks is 9.67 acres (38%) of the project area; that a minimum of 2,000 sq. ft. clubhouse, with a minimum 1,000 sq. ft. water surface area pool is planned for the middle of the project area; that Street A, Street C and Stockley Blvd. will be designed to Sussex County standards; that parking lanes A, B, C, D, E & G are designed to be narrow at 20-ft wide, to provide off street parking for each block and not under the jurisdiction of Sussex County; that stormwater management will be provided via the existing ponds constructed by the developer of Governors, and being one of the first shared infrastructures; that when Governors was designed, the ponds were designed to account for the full build out of the total 65 acres; that it was approved by Sussex Conservation District; that they assigned curved numbers of commercial uses and townhouses, to allow for planning of any potential uses; that all storm management has been pre-approved, with the only remaining requirement is to validate the drainage areas for planning approval; that no additional stormwater management will be required for the cottages; that a Shared Maintenance Agreement was submitted as Exhibit 9 in the booklet; that the agreement is written such that currently Governors is responsible for 100% of the pond maintenance until the first building permit is issued within the Village Center commercial area or the Village Cottages, at which time, J.G. Townsend will be responsible for 72% of all maintenance costs of the shared ponds; that they are requesting a waiver from providing a forested buffer between Governors and the Village Cottages; that they requested a similar waiver for Governors, which was approved, because the property line bisects the ponds and lands; that there is sufficient separation between the projects as previously mentioned; that Governors and the Village Cottages are separated by two large stormwater ponds; that the closest cottage is 70 ft. to the property line and 130 ft. to the nearest townhouse unit; that Governors landscaping will be provided between the two properties of the green space to help separate, but not screen, them; that the pump station is proposed to be shared with Governors; that the sewer pump station was also designed for the full build out of the site; that the project area does not contain flood plains or wetlands; that a site investigation was performed by Mr. Edward Launay, with Environmental Resources Inc. and a division of DBF, Inc., noted in Exhibit 11; that the exhibit demonstrates that the project is located within uplands and does not include federally listed, threatened or endangered species, or critical habitats, including the habitat for the monarch butterfly; that a large portion of the project area, being approximately 18.9 acres, is located within the Wellhead Protection Area, with

approximately 81% impervious coverage, therefore the project must comply with Chapter 89 of the Sussex County Code; that the Wellhead Protection Area is the well field for the City of Lewes Board of Public Works; that the parcel was previously studied as part of the Village Center commercial rezoning in 2017; that the adjacent Mitchell's Corner also completed an Environmental Assessment Report for their impact on the Wellhead area; that studies found both projects exceeded their requirements for compliance with the County Code; that Verdantas was hired to provide an Environmental Assessment Report; that Mr. Steve Cahill, Geologist was the author of all three reports; that as part of the application process, they met with Mr. Hans Medlarz, Sussex County Engineer, to discuss the project's compliance; that the only requirement for the project is compliance with the Water Climatic Budget, which they have met; that the full report and budget can be found in Exhibits 7 & 8; that his office met with the City of Lewes Board of Public Works; that currently, Lewes Board of Public Works had not shared any objections to the proposed applications; that the project is located within the Sussex County Unified Sewer District; that the project will be served by a gravity sewer system to the Governors pump station; that the property will be served by Delaware Electric Cooperative for electric, Chesapeake Utilities for natural gas, and Tidewater Utilities for water; that all utility companies have provided a Willing and Able Letter, located within Exhibits 13 through 16; that a DelDOT Service Level Evaluation Response and Public Facility Report was submitted, which state the impact of the project is minor and may generate between 50 and 200 peak hour trips or 502,000 daily trips; that the project was part of their larger Traffic Impact Study (TIS), being first contemplated in 2007, which generated a letter agreement in 2009, for all the projects being Showfield, Governors, Senators and The Village Center; that the project was also included as a committed development in the Mitchell's Corner Traffic Impact Study; that the project is part of an ongoing Village Center Operational Analysis, which is part of the commercial; that DelDOT is designing Kings Hwy. to be dualized from Dartmouth Rd. intersection to the city limits; that the configuration of that road include signals or roundabouts, and any other unknown decisions by DelDOT; that the proposed cottages will tie into the interim improvements that will be completed by the Mitchell's Corner project; that the interim improvements include, dualizing Kings Hwy. from the northern portion of the Cape Henlopen High School down to Clay Rd., and modifying Gills Neck Rd. to include dual left-turn lanes onto Gills Neck Rd.; that Village Cottages will also tie into the Clay Rd., Kings Hwy., and Stockley Blvd. improvements and that signal modification, including auxiliary lanes in all four directions; that all of the improvements are designed with the project's traffic accounted for in the design; that the Applicant met with select individuals of the Lewes Byways Committee, as they are committed to working with them on the shared use path, landscaping and fencing; that they are currently awaiting decisions for DelDOT regarding the frontage along Kings Hwy.; that the project was reviewed by PLUS on December 15, 2021; that a copy of the PLUS comments and the Applicant responses were submitted as Exhibit 12; that the comments were general in nature stating that they would comply with all regulatory requirements; that his office prepared the Environmental Assessment and Public Facility Evaluation Report in accordance with the Chapter 115, Section 194.3 of the County Code; that the new responses were submitted in Exhibit 10; that the project has analyzed all aspects of the respective items and all mitigation measures are consistent with the Comprehensive Plan; that the project is integrated into the existing terrain and surrounding landscape; that the site does not contain wetlands or floodplains; that proposed buffers are provided to screen objectionable features; that the plan prevents pollution of surface and groundwater; that the plan provides for safety of vehicular and pedestrian improvements; that the plan mitigates the effect on area roadways and public transportation and the project is compatible – with other area land uses.

Mr. Hutt stated he had already discussed the plans compliance and the reasoning for the Application's requests; that the MR District is to provide for medium-density residential development in areas which

are expected to become generally urban in character, where sanitary sewer and public water supply may or may not be available at the time of construction; that when looking at the aerial imagery, the site has certainly become a more urban or semi-urban character; that public water and sewer area available to the site; that multi-family dwellings are permitted as a Conditional Use in the MR (Medium-Density) Residential Zoning District, which is the reasoning for the Conditional Use Application; that Conditional Uses are uses that are generally of a public or semi-public character, being essential and desirable for the general convenience and welfare, but because of the nature of the use and the importance of the relationship to the Comprehensive Plan and possible impact on neighboring properties, it requires the exercise of planning judgement on location and site plan review; that housing has routinely been found to be of public or semi-public character, certainly being essential and desirable for the County; that within the Comprehensive Plan it states that in the Coastal Area, medium and higher densities are appropriate where there is central water and sewer, where there is a significant number of commercial uses and employment centers, where the project is in keeping with the character of the area, and where it is situated along a main road, or being located at or near a major intersection; that every criteria item has been met by the proposed Application; that Table 4.5-2 indicates the zoning districts appropriated and which Future Land Use Map categories; that MR (Medium-Density Residential) is an appropriate zoning district in the Coastal Area, as reflected on Table 4.5-2; that there are a number of townhomes, duplexes and other multi-family uses that currently exist in the area; that there are assisted living facilities, which is a multi-family type use, existing in the area; that immediately adjacent to the site is the townhome section of Governors; that there was correspondence submitted expressing concerns regarding the proposed density of the project, and the ability for the project to fit between the Village Center Commercial Area and the townhome portion of Governor's community; that he had began his presentation with an aerial map outlining several surrounding communities and commercial uses in the area; that Dutchman's Harvest, located within the City of Lewes, has a density of 17.7 unit per acre; that Harbor Town Square has a density of 11.9 units per acre; that Woods Edge is 11 units per acre; that Savannah East Apartments at 11 units per acre; that Jefferson Apartments is 9.8 units per acre; that The Moorings, formally known as Cadbury, has a density of 6.4 units per acre; that the Mitchell Corner project, being located directly across Gills Neck Rd. from the site, has a density of 6.2 units per acre; that Henlopen Gardens is 5.5 units per acre; that Governors is 3.6 units per acre; that Beach Plum Dunes is 3.2 units per acre; that Bay Breeze Estates is 3 units to the acre; that the proposed plan is consistent with the Zoning Map and the MR Zoning classifications, as well as the zoning within the municipal limits of the City of Lewes; that there are a number of multifamily uses, all with densities great than the proposed project; that there are existing MR zoned areas within the immediate area, being located directly across the street, down Gills Neck Rd., back to Admirals Chase, along Kings Hwy and Beach Plum Dunes; that the site's immediate neighbor to the northeast is Governors, which is zoned AR-1, with a density of 3.6 units per acre; that due to the concern expressed regarding the composition density difference of the project in relation to Governors, he requested DBF, Inc. to overlay 25 acres on the immediately adjacent Governors site; that when that was done, the 25 acres included 139 units, which created a density of 5.4 units to the acre, being more dense than the proposed Villages Cottages; that the Villages Cottages are just under 4 units per acre; that additionally he requested DBF, Inc. to perform the same analysis and overlay on the single-family home section of Governors, resulting in a density of 3.6 units per acre; that this goes back to good land use planning, where more intense and dense uses are located closer to Kings Hwy, decreasing further along Gills Neck Rd.; that the design of the community was purposeful; that good land use principles and shared infrastructure were the themes that guided the project into fruition; that Governors is currently paying for the shared stormwater management; that as proposed, as soon as a building permit is pulled for either the commercial area or the cottages, the numbers shift dramatically; that at that time, 70% will be maintained by the subject 65 acre property, and the Governors share of

the maintenance decreases significantly; that there were concerns raised regarding interconnectivity from the Village Center Commercial Area to the Village Center Cottages, and then to the Governors community; that Mr. Lardner had indicated, the interconnectivity had been the master plan from the outset of development; that the Delaware Uniform Common Interest Ownership Act require sellers to provide seller disclosures; that the sellers disclosure did provide notice that Stockley Blvd would be an entrance for the future development of the 65 acre parcel; that various comments of concern were raised regarding traffic; that Mr. Lardner previously indicated the traffic impact had been studied numerous times; that the projects have always been consideration in the studies performed; that no one can control DelDOT, or the pace at which DelDOT completes the improvements along Kings Hwy.; that the Village Center, regardless of what portion is developed first, will be required to be make the improvements previously mentioned by Mr. Lardner, particularly at Clay Rd. and Stockley Blvd., creating a four-way intersection; that additionally, significant improvements will be coming to Kings Hwy in the near future, as the Mitchell's Corner project comes into fruition; that there are interim improvements which have been discussed and reviewed; that they are currently in the process of being approved by DelDOT for those interim improvements; that it is important to remember that, all of the projects, beginning with Wolfe Pointe, Wolfe Runne, Hawkseye, Senators, Governors and the Village Center Commercial Site, all arose from the same fields that existed between Kings Hwy, Gills Neck Rd. and the canal; that these fields have been under the same ownership, and carefully developed throughout time; that essentially, the proposed application is an infill project between the residential area of Governors and the Village Center Commercial Site; that he trusted with the various professional reports and the presentation made, the Commission would agree that the Application is consistent with the County's Code, the Comprehensive Plan, and the character of the area; that he presented to the Commission renderings of the envisioned courtyard areas for the proposed community; that there is nothing wrong with townhomes and duplexes, however, the developer put time, effort and thought into providing the proposed style of units, which is different than anything else currently existing along Gills Neck Rd. or frankly, almost anywhere within Sussex County; that he hoped the Commission would agree that having an alternate way to have units available, through a courtyard type plan, is good for the streetscape and land use plan for Sussex County; that the Applicant requests the Commission recommend approval of the change of zone request from AR-1 to MR (Medium-Density Residential), as well as the Conditional Use request for 102 multifamily units for the site; that he requested to submit proposed Findings and Conditions for each Application; that in proposed Condition F, for C/U 2356, relates to the parking areas; that with favorable recommendation, the Commission typically imposes a condition requiring streets to meet or exceed the County's street design requirements; that the proposed parking areas are not considered streets, therefore, are not required to comply with Sussex County standards; that Condition J states the required minimum square footage of water surface for the pool and clubhouse areas; that Condition L is related to the Chapter 89 requirements; that in the project book materials, there is an email exchange between Mr. Medlarz and Mr. Lardner, regarding certain requirements of the site plan; that the requirements will apply whether it is the Village Center Commercial Area or the Village Center Cottages; that one of the requirements is that the Engineering Department will review the construction plans, and will review the Water Climatic Budget; that there is a note of prohibition relating to rooftop air conditioning system components that would require intermittent unit blowdown and proposed Condition N states that Saturday construction hours would only be permitted from October 1st through April 30th, which aligns with the timing DelDOT allows construction to be performed in those areas.

Ms. Stevenson stated her only concern related to compliance with the Byways and despite not being within the Commission's purview, she suggested consideration be given to noise reduction as the buildings are located close together.

Ms. Wingate requested confirmation of the required parking total is 204 spaces and the provided parking total for the project is 240 spaces and questioned if the access to the parking area will allow for fire trucks and emergency vehicles.

Mr. Lardner stated Ms. Wingate was correct; that the plan provides for 240 spaces in excess of the required 204 spaces; that Street C is a 24 ft. wide car path, with parking on either side; that the parking lanes are 20 ft. wide, which allows the ability for fire trucks to pass through the parking lane.

Mr. Mears stated he had no questions but stated that he did love to coastal cottage courtyard theme, as it is something different.

The Commission found three people in the room and two people by teleconference commented on the Applications.

Mr. Ken Rehfuss spoke in support but proposed questions about the Application. Mr. Rehfuss stated he thought the cottage concept is great, as there are existing townhouses and duplexes located across the street; that he still had confusion relating to the service lane that backs up to the commercial area; that he assumed it is a pathway to provide for interconnectivity; that he questioned the proposed type of screening; that he is a developer in Washington; that many times, there is a different type of screening required when dealing with commercial uses versus residential; that he felt everything looked appealing and he stated he was a big advocate of the project.

Mr. Lardner stated the road was a service road to provide service to the commercial area; that the parking lanes will tie into the service road to finish connectivity, and avoid a dead end; that they are still working on the screening for both projects; that the screening of both projects are being designed together so that one project's screening does not adversely impact the other; that there will be screening to protect the views from commercial with the residential; that all of the screening details will be forthcoming as the design of the commercial area comes forward; that should Commission and County Council grant approval, all of the screening would be integrated and designed together, to allow the projects to be harmonious with each other.

Mr. Robertson questioned the location of the B-1 area and mentioned that it would all be reviewed during the site plan review process.

Mr. Michael Wolfe spoke in support of the Applications. Mr. Wolfe stated he is a member of the Condominium Association Board for Governors; that the Executive Board of the Governors Condominium Association had submitted a letter around May 15th, which he requested to read to the Commission; that the letter stated, *"this proposed community lies adjacent to the Governors community, and will share boundaries, common areas, ponds, and streets. While we are not opposed to the new development, we have several concerns regarding the proposed plan. Our primary concern is the proposed street interconnectivity planned with the Governors' private streets. As proposed, the street interconnectivity will lead to additional traffic within Governors since it almost certainly will be used as a cut-through from Gills Neck Rd. for non-residents. We propose limiting the interconnectivity to emergency traffic, bikes, and pedestrians through the use of gates or other means. Second, Governors has entered into a pond-sharing agreement with J.G. Townsend, that covers the cost of the maintenance electricity to run*

the pond's fountains. The agreement will need to be reviewed in light of the plan for the proposed development. Next, the proposed plans for the Village Center Residential Community outlined the property line on the boundary with Governors. When the Governors Executive Board transitioned from the developer, plans for the new community had not yet been published. We request that a new survey be completed to confirm that the true boundary lines between the two communities. Fourth, we would like to better understand the developer's plan to buffer the trees to the common space that separates Governors from the Village Center. Other than the ponds in the open space, the design plan shows little in the way of trees between the two communities. Governors wish to remain its own standalone community and not appear to be part of the new Village Center. We request that the common area bordering our communities have ample trees and shrubbery to mitigate noise and help differentiate the two communities. Fifth, since the developer of the proposed community and Governors are the same, it appears there is an attempt to share common space with the new development. We request the developer install similar fencing and/or signage at the new development entrance that matches the Gills Neck Rd. entrance. This would help differentiate the two communities and indicate to people trying to pass through, so they know they have entered a new community. We'd also like to raise concern over the density of the new complex on such a small piece of property and the lack of open space within the community. This area is already lacking parks and open space for recreation. Next, we have concerns that the complex is associated with or tied into a new retail center on Kings Hwy. border. We feel plans should be completed and approved before a new residential section is approved. Lastly, improvements are required on Kings Hwy. to accommodate the increased traffic from other developments currently being built. We request the impact of those projects is addressed before additional traffic is added to the existing problem.”; that he personally had concerns relating to interconnectivity; that he listened to the discussion and the statements made that notice was provided within the documents; that he had reviewed all the documents; that he believes it is a true statement, though it was a very short little blurb; that interconnectivity is subjective; that interconnectivity can mean all types of vehicles are permitted through, or it could also mean interconnectivity is limited to what is practical and safe; that he felt it more appropriate for the interconnectivity to be minimized to only allow emergency vehicles, pedestrian traffic, and bicycles; that this will limit Amazon trucks from flying through, which is unsafe for children on their bikes and scooters and he felt the interconnectivity posed a safety concern.

Mr. Edward Rush spoke with questions regarding the Applications. Mr. Rush stated he also is a member of the Executive Board of the Governors Condominium Association; that he is a retired Fire Chief, who had been in the fire service for over 40 years; that he understood there was a performed traffic study, as part of the Environmental Assessment; that where he previously came from, they had a system of rating roads, and he questioned if there is a similar system in place in Sussex County; that he questioned the road rating for Gills Neck Rd. before and after development; that he had concerns regarding the accessibility of fire apparatus to the parking areas, as the access to the parking is a unique layout; that he felt 20 ft. from the end of one parking space to another is extremely tight for fire apparatus movement; that he is a member of the Lewes Fire Company, and he does not look forward to driving a fire truck in the community as it is proposed; that he questioned the estimated price range or targeted market for the cottages; that he is the Delaware Advocate for the National Fallen Firefighters Foundation – Everyone Goes Home Program; that they push hard for the placement of residential sprinkler; that in the past week, a home in Lewes was destroyed by fire; that had the house been located within Governors, at least three to four houses would have burned due to their close proximity to each other and he requested the Commission impose a condition requiring residential sprinklers be placed in the units.

Mr. Robertson stated there is a rating system for the roads, and it is contained in the traffic data, and it is more complex than just the rating of the roads, as every specific movement on an intersection is also rated.

Chairman Wheatley stated the entrance is 24 ft. and it is 20 ft. in the parking area; that the price range and targeted market for the projects were beyond the scope of the Commission; that sprinkler system requirements exceed the Commission's authority, as it is more of a Building Code requirement; that the Commission cannot require something that is not dictated in the County Code and the Applications will be present before County Council, who do have the authority to impose the condition.

Mr. Lardner stated he did not have the traffic study in front of him, but he recalled the existing condition of Gills Neck Rd. and Kings Hwy. is a Level of Service F, per the latest Traffic Operational Analysis (TOA) he had seen; that beyond Level F it does not degrade anymore; that the classification of F relates to a time delay to get through an intersection; that with the dualization and improvements, it does improve the rating to a Level of Service D, with interim improvements and the rating will stay as a Level D when DelDOT improvements on Kings Hwy is completed.

Mr. Paul Capriolo spoke by teleconference in opposition to the Application. Mr. Capriolo expressed his concerns regarding overcrowding, the proposed density, traffic congestion, infrastructure, interconnectivity, the erosion of the charm, character and scenic views of the area, the environment and wildlife habitats, the impact on the local ecosystem, preservation of open space and impacts on the water.

Ms. Stevenson stated that donations can be made to Sussex County Land Trust, as they purchase land to preserve it.

Mr. Greg Rutler spoke by teleconference in opposition to the Application. Mr. Rutler stated he agreed with all the points and concerns expressed by Mr. Capriolo, and additionally, he had concerns regarding stormwater management and stormwater treatment.

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

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

In relation to C/U 2359 J.G. Townsend Jr. & Co. Motion by Ms. Stevenson to defer action for further consideration, seconded by Mr. Hopkins and carried unanimously. Motion carried 5-0.

Minutes of the June 22, 2023, Planning & Zoning Commission Meeting

C/U 2359 J.G. Townsend Jr. & Co.

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR (MEDIUM RESIDENTIAL DISTRICT) FOR MULTI-FAMILY (102 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 25.56 ACRES, MORE OR LESS. The property is lying on the east side of Kings Highway (Rt.9) and the south side of Gills Neck Road (S.C.R. 267), at the intersection of Kings Highway (Rt. 9) and Gills Neck Road (S.C.R. 267). 911 Address: 16673 Kings Highway, Lewes. Tax Map Parcel: 335-12.00-3.00 (p/o).

The Commission discussed the Application which had been deferred since May 25, 2023.

Ms. Stevenson moved that the Commission recommend approval of CU 2359 J.G. Townsend, Jr. & Co., for 102 Multi-Family Units based upon the record made during the public hearing and for the following reasons:

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

DelDOT shall be completed by the applicant in accordance with DelDOT's determination.

- C. The recreational amenities shall include cottage courts, pocket parks, green area, and a central amenity area, including a pool with at least 10,000 square feet of surface area, and a community center/clubhouse of at least 2,000 square feet in size. These amenities shall be completed within the development as follows:
 - i. The Community Center/Clubhouse and pool shall be completed on or before the 60th residential building permit; and
 - ii. The other amenities shall be completed as the adjacent dwellings are completed.
- D. Central sewer shall be provided to the development by Sussex County. The developer shall comply with all requirements and specifications of the Sussex County Engineering Department.
- E. The development shall be served by a central water system providing adequate drinking water and fire protection as required by applicable regulations.
- F. Stormwater management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements, and the project shall utilize Best Management Practices to construct and maintain these fixtures. The Final Site Plan shall contain the approval of the Sussex Conservation District.
- G. Interior street design shall comply with or exceed Sussex County standards. However, the Sussex County Street design standards shall not apply to the parking lanes within the development.
- H. This project is interconnected with the adjacent commercial areas facing King's Highway as well as the Governor's community which is itself interconnected with the Senator's Community. This interconnection is part of the larger plan for the residential development of King's Highway and Gill's Neck Road. This interconnectivity is important and necessary for safe vehicular and pedestrian movement within the developments to provide a means of access to and from them in addition to use Gill's Neck Road. This interconnectivity has been part of the developer's Master Plan for this entire area, and it has been shown and approved by Sussex County at each stage of development along Gills Neck Road. Therefore, once construction is completed this interconnectivity must remain open to all vehicular traffic at all times without obstruction.
- I. Road naming and addressing shall be subject to the review and approval of the Sussex County Geographic Information Office.
- J. The Applicant shall consult with the local school district's transportation manager to determine if a school bus stop is appropriate. If it is, the location of such a bus stop shall be shown on the Final Site Plan.
- K. Construction, site work, and deliveries shall only occur on the site between the hours of 7:00 a.m. through 6:00 p.m. Monday through Friday and on Saturdays between October 1 and April 30th. No Sunday hours are permitted. A 24-inch by 36-inch "NOTICE" sign confirming these hours in English and Spanish shall be prominently displayed at the site entrance during construction.
- L. The Final Site Plan shall include a landscape plan for the development showing the proposed tree and shrub landscape design for the community including the transitional landscaping used to screen the common boundary between this development and

Governors. No buffering shall be required along the stormwater ponds shared with the adjacent Governor’s community. The Landscape Plan shall identify all “Limits of Disturbance” within the site and these “Limits of Disturbance” shall be clearly marked on the site itself.

- M. The Applicant shall form a Condominium Association that shall be responsible for the maintenance of all interior roadways and parking areas, buildings, buffers, stormwater management areas, recreational amenities, and open space.
- N. All lighting on the site shall be shielded and downward screened so that it does not shine on neighboring properties or roadways.
- O. The development shall comply with the requirements of Chapter 89 of the Sussex County Code and the following notes shall be included within the Final Site Plan to ensure the long-term viability of the Wellhead Protection Area:

“During construction document plan review, the Applicant/ Developer shall provide verification to the Sussex County Engineering Department that the post-development recharge exceeds the pre-development volume as calculated within the Water Climatic Budget. Additional recharge may be required if the side slop infiltration in the existing stormwater management ponds do not meet this requirement.”

“Rooftop air conditioning system components requiring intermittent unit blowdown are prohibited within the cottages project. The recorded condominium declaration for the cottages shall include this prohibition.”

- P. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.
- Q. The Final Site Plan shall depict or note these conditions of approval and it shall be subject to the review and approval of the Sussex Planning & Zoning Commission.

Motion by Ms. Stevenson, seconded by Ms. Wingate and carried unanimously to recommend approval of C/U 2359 J.G. Townsend, Jr. & Co., for the reasons and conditions stated in the motion. Motion carried 5-0.

Vote by roll call: Mr. Hopkins – yea, Ms. Stevenson – yea, Ms. Wingate – yea, Mr. Mears – 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: May 25th, 2023

Application: CU 2359 J. G. Townsend Jr. & Co.

Applicant: Jack Lingo Asset Management, LLC
246 Rehoboth Avenue
Rehoboth Beach, DE 19971

Owner: J. G. Townsend Jr. & Co.
P.O. Box 430
Georgetown, DE 19947

Site Location: Lying on the east side of Kings Highway (Rt. 9) and Gills Neck Road (S.C.R. 267) at the intersection of Kings Highway (Rt. 9) and Gills Neck Road (S.C.R. 267)

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

Proposed Zoning: Medium Residential (MR) Zoning District

Proposed Use: 102 Multi-Family Units

Comprehensive Land Use Plan Reference: Coastal Area

Councilmanic District: Mr. Schaeffer

School District: Cape Henlopen School District

Fire District: Lewes Fire Company

Sewer: Sussex County

Water: Tidewater Utilities

Site Area: 25.56 acre +/-

Tax Map ID: 335-12.00-3.00 (p/o)



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



Sussex County

DELAWARE
sussexcountype.gov

Memorandum

To: Sussex County Planning Commission Members
From: Mrs. Christin Scott, Planner II
CC: Mr. Vince Robertson, Assistant County Attorney, and applicant
Date: May 18th, 2023
RE: Staff Analysis for C/U 2359 J.G. Townsend, Jr. & Co.

This memo is to provide background and analysis for the Planning Commission to consider as a part of application C/U 2359 J.G. Townsend, Jr. & Co. to be reviewed during the May 25th, 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 Tax Parcel 335-12.00-3.00 (p/o) to allow for a Conditional Use for one-hundred and two (102) Multi-Family Dwelling Units. The property is lying on the east side of Kings Highway (Rt. 9) and Gills Neck Road (S.C.R. 267), at the intersection of Kings Highway (Rt. 9) and Gills Neck Road (S.C.R. 267). The parcel consists of 25.56 acres +/-.

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 subject property has land use designation of "Coastal Area." The properties to the north, south, east, and west all have a land use designation of "Coastal Area" with properties to the northwest, across Kings Highway, having a land use designation of "Commercial Area."

As outlined in the 2018 Sussex County Comprehensive Plan, Coastal Areas are areas that can accommodate development provided that special environmental concerns are addressed. A range of housing types should be permitted in Coastal Areas, including single-family homes, townhouses, and multi-family units. Retail and office uses are appropriate, but larger shopping centers and office parks should be confined to selected locations with access along arterial roads. Appropriate mixed-use development should all be allowed. In doing so, careful mixtures of homes with light commercial, office and institutional uses can be appropriate to provide for convenient services and to allow people to work close to home. Major new industrial uses are not proposed in these areas. (Sussex County Comprehensive Plan, 4-15).

Zoning Information

The property is split zoned Agricultural Residential (AR-1) District and Neighborhood Business (B-1) Zoning District. The adjacent parcels to the east and west of the subject property are zoned Agricultural Residential (AR-1) District. The properties located to the northeast of the subject site, across Gills Neck Road, are zoned Medium Residential (MR-1) Zoning District. A few parcels



south, north, and west of the site are zoned General Commercial (C-1), Medium Commercial (C-2), and Neighborhood Business (B-1) Zoning Districts.

Existing Conditional Use Applications within the Vicinity of the Subject Site

Since 2011, there have been thirty-two (32) Conditional Use applications within a one (1) mile radius of the application site. A data table has been provided below.

Based on this analysis, a Conditional Use for one-hundred and two (102) Multi-Family Dwelling Units could be considered as being consistent with the land use, area zoning and surrounding uses.

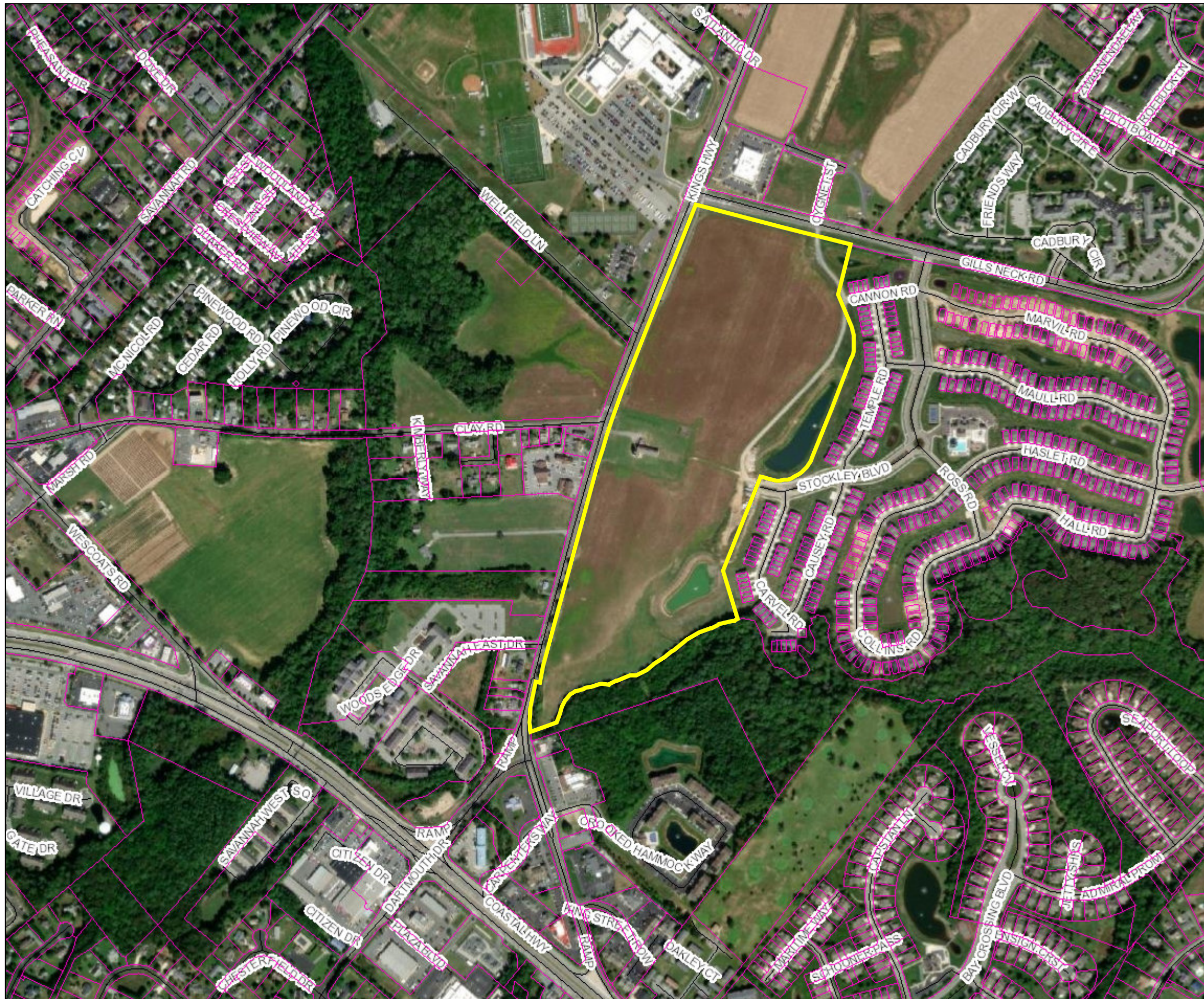
Conditional Use Number	Tax Parcel #	APPLICANT	911 Address or Road Name	Proposed Use	CC Decision Date	CC Decision
2352	334-6.00-504.02	CB Lewes, LLC	Coastal Tide - Tidal Way, Lewes	Multi-family (30 units)	6/14/2022	Approved
2334	335-8.00-37.00	Henlopen Properties, LLC	Kings Hwy & Gills Neck Rd	Multi-family	7/26/2022	Approved
2327	334-12.00-7.00	Howard L. Ritter & Sons, Inc.	33508 Ritter Lake Rd	Expansion of a non-conforming borrow pit	1/24/2023	Approved
2316	334-6.00-511.02	Lighthouse Construction, Inc.	17611 Shady Rd	Office Building	9/27/2022	Approved
2313	335-12.06-49.00	John Ford	1528 Savannah Rd	Realty Office	9/20/2022	Approved
2281	334-12.00-7.00	Susan Riter	Ritter Lake Dr	Borrow Pit	6/8/2021	Withdrawn
2264	335-8.18-15.00	Laudan Investments, LLC	1302 & 1305 Svannah Rd	General Office Use	11/16/2021	Approved
2262	334-6.00-686.00	Matthew Hete	34360 Postal Lane	Multi-family (4-units)	11/16/2021	Approved
2261	334-6.00-515.00	What Is Your Voice, Inc.	17583 Shady Road	Use Existing Garage for Office uses and one-story pole building for rental storage facilities (4 units) in connection w/ Applicant's non-profit corporation	9/14/2021	Approved
2252	334-12.00-2.00	Delaware Electric Co-Op	Cedar Grove Rd	Substation	7/13/2021	Approved

2237	334-12.00-55.01	Sam Warrington II	Postal Ln	Outside Boat & RV Storage	12/1/2020	Approved
2209	334-6.00-686.00	Matthew C. Hete	34360 Postal Ln	Multi-Family (14 Units)	7/28/2020	Denied
2181	335-8.00-37.00	Mitchell Family, LLC	Kings Hwy.	Multi-family (209)	<Null>	<Null>
2169	335-12.06-1.00	Robert & Debora Reed	1525 Savannah Rd.	Multi-family	6/18/2019	Approved
2160	335-12.06-3.00	Procino, Wells, and Woodland, P.A.	1519 Savannah Rd.	Professional Office	3/19/2019	Approved
2159	335-8.18-28.00	Elisabeth Ann Burkhardt	1500 Savannah Rd.	professional office	1/15/2019	Approved
2137	335-12.06-50.00	John W. Ford	1530 Savannah Rd.	professional offices	7/31/2018	Approved
2136	335-8.18-4.00	Christine Degnon	1409 Savannah Rd.	medical offices	10/23/2018	Approved
2134	335-8.00-44.00	The Evergreen Companies, LLC (Admirals Chase)	16386 Gills Neck Rd.	multifamily	8/14/2018	Approved
2133	335-8.14-47.00	Dr. Laima Anthaney and Dr. Michael Cahoon	1200 Savannah Rd.	professional office	7/31/2018	Approved
2132	335-12.06-58.00	Dorothy Darley	33995 Clay Rd.	Hair Studio	7/31/2018	Approved
2116	335-8.18-2.00	William and Stacey Smith	1501 Savannah Rd.	professional offices	3/20/2018	Approved

2112	335-8.00-37.01	Mitchell Family Limited Partnership	SE corner of Kings Hwy. and Gills Neck Rd.	medical office and ancillary medical uses	3/20/2018	Approved
2109	335-8.14-49.00	Quakertown Wellness Center	1204 Savannah Rd.	Holistic Health Center with massage, acupuncture and chiropractor	1/9/2018	Approved
2106	334-6.00-511.00	MDI Investment Group, LLC (C/O Doug Compher)	17645 Shady Rd. & N/A	multi-family (52 townhouses)	3/20/2018	Approved
2074	335-12.06-1.00	Quail Valley 1525, LLC (Midway Fitness)	1523 Savannah Rd	Commercial use as a Therapy and Fitness Center	8/8/2017	Denied
2073	334-6.00-496.00	Delmarva Power & Light Co.	18200 Coastal Hwy., Lewes	Expansion to an existing electrical station	3/7/2017	Approved
2069	335-12.06-58.00	Rudolph Joseph Johnson	34001 Clay Rd	Workout Studio	4/25/2017	Approved
2064	335-12.05-4.00	R & K Partners	1537 Savannah Rd., Lewes	medical offices	3/7/2017	Approved
1974	335-12.06-7.00	Sara Kay I. Phillips	Route 9B (Savannah Road)	Hair Salon	1/14/2014	Approved
1912	335-8.18-30.00	Wm. A. Bell & Kathleen M. Sperl-Bell	Savannarh Road	Professional Office	11/8/2011	Approved
1868	335-12.00-1.10	Old Towne Pointe, L.L.C.	N Village Main Blvd	pharmacy/community service	5/24/2011	Approved



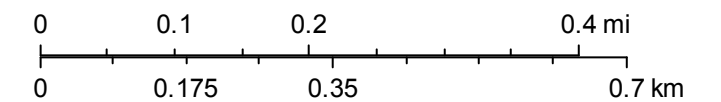
Sussex County



PIN:	335-12.00-3.00
Owner Name	JG TOWNSEND JR CO
Book	361
Mailing Address	PO BOX 430
City	GEORGETOWN
State	DE
Description	E/KINGS HWY
Description 2	S/GILLS NECK RD
Description 3	RESIDUAL LANDS
Land Code	

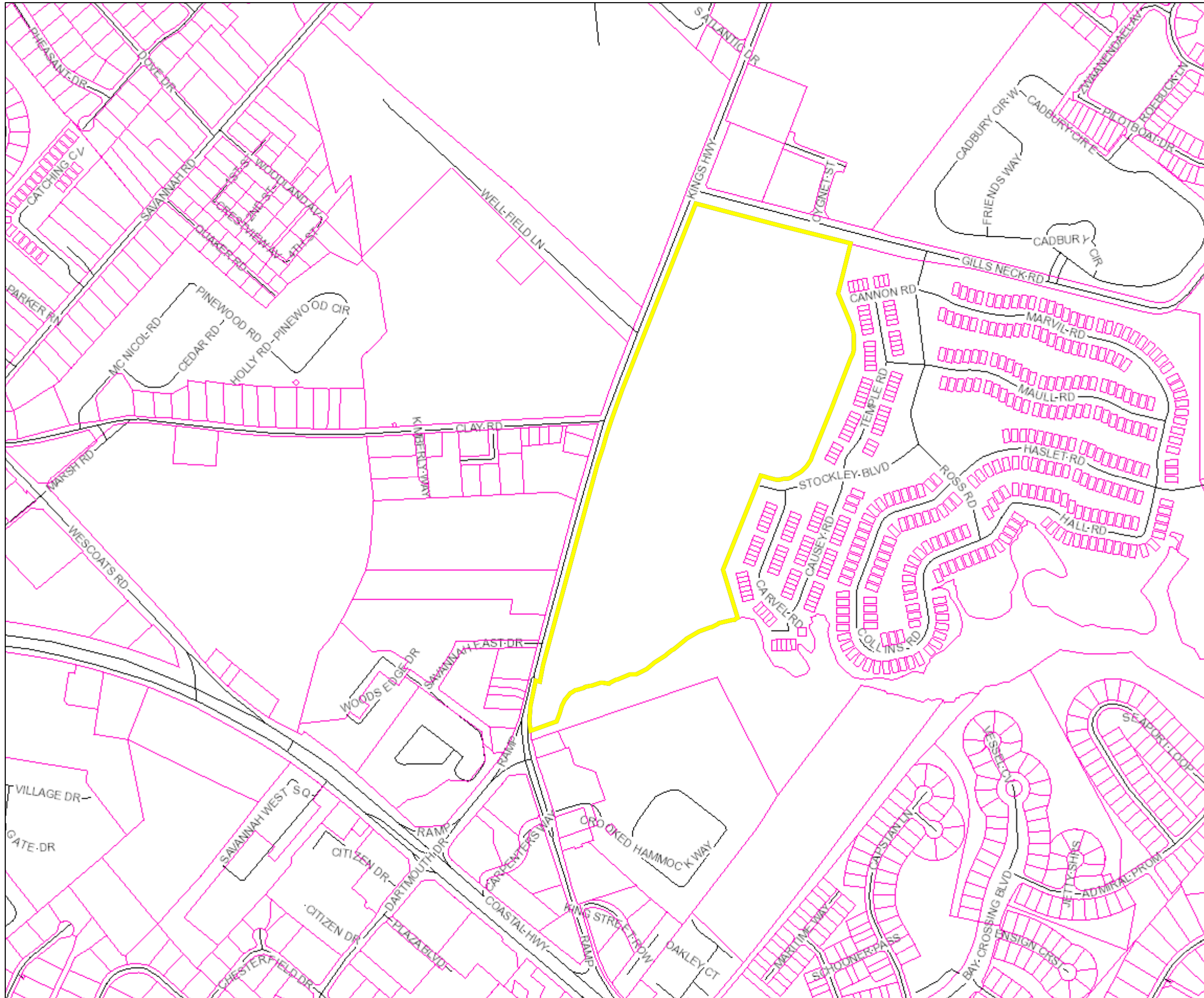
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- Override 1
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- Override 1
- Tax Parcels
- Streets
- County Boundaries

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Sussex County



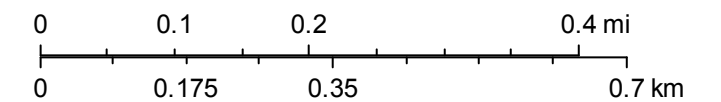
PIN:	335-12.00-3.00
Owner Name	JG TOWNSEND JR CO
Book	361
Mailing Address	PO BOX 430
City	GEORGETOWN
State	DE
Description	E/KINGS HWY
Description 2	S/GILLS NECK RD
Description 3	RESIDUAL LANDS
Land Code	

- polygonLayer**

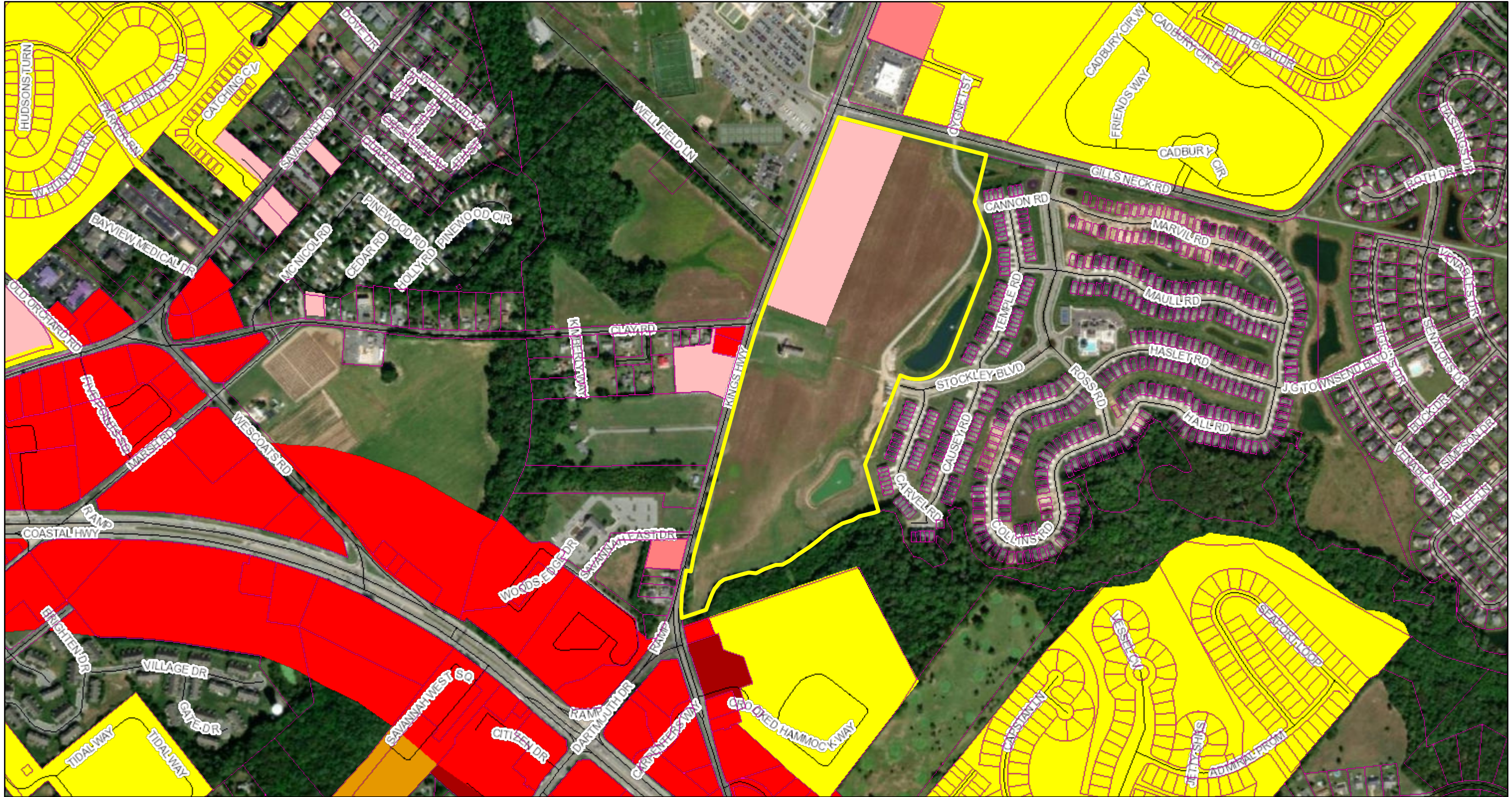
 - Override 1
- polygonLayer**

 - Override 1
- ⋯ Tax Parcels
- Streets
- ⋯ County Boundaries

1:9,028



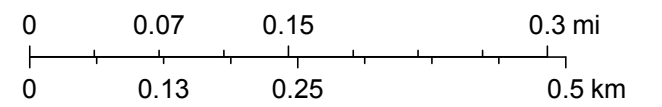
Sussex County



April 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 | |



Sussex County, Sussex County Government, Maxar

Introduced: 08/23/22

**Council District 3: Mr. Schaeffer
Tax I.D. No.: 335-12.00-3.00 (p/o)
911 Address: 16673 Kings Highway, Lewes.**

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR (MEDIUM RESIDENTIAL DISTRICT) FOR MULTI-FAMILY (102 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 25.56 ACRES, MORE OR LESS

WHEREAS, on the 22nd day of March 2022, a conditional use application, denominated Conditional Use No. 2359 was filed on behalf of J.G. Townsend Jr. & Co.; and

WHEREAS, on the ____ day of _____ 2022, 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. 2359 be _____; and

WHEREAS, on the ____ day of _____ 2022, 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. 2359 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 Lewes & Rehoboth Hundred, Sussex County, Delaware, and lying on the east side of Kings Highway (Rt. 9) and on the south side of Gills Neck Road (S.C.R. 267) at the intersection of Kings Highway (Rt. 9) and Gills Neck Road (S.C.R. 267) and being more particularly described in the attached legal description prepared by Davis, Bowen & Friedel, Inc., said parcel containing 25.56 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.

SCHAEFFER.
YES. 11/20

Casey Hall

From: notifications=d3forms.com@mg.d3forms.com on behalf of Sussex County DE <notifications@d3forms.com>
Sent: Wednesday, November 8, 2023 11:55 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

Legal Name of Agency/Organization	Law Enforcement United, <i>INC.</i>
Project Name	Road to Hope 2024 ✓
Federal Tax ID	27-0743821
Non-Profit	Yes
Does your organization or its parent organization have a religious affiliation? (If yes, fill out Section 3B.)	No
Organization's Mission	Raise public awareness of law enforcement officers (and survivors) who have died in the line of duty. LE United provides monetary support for Concerns of Police Survivors (COPS) Officer Down Memorial Page, that includes K9 partners and Spirit of Blue Foundation (Police protective and safety equipment). The annual bicycling program is entirely volunteer and after administration and logistics programs benefit direct funding. These monies provide for annual camp programs that confront the trauma (and support emotional health and trauma recovery) of youth and teen survivors. The "Officer Down" program ensures no fallen officer is ever forgotten with a professional and

current digital memorial platform that includes my fallen grand-father who died in the line of duty in 1939 serving Lewes PD and also Sussex Co as a constable. Youth survivors in Delaware have been to many annual summer camp programs made possible by LE United, managed by COPS, They were so well taken care of in their journey over their fallen trooper father, they are active in COPS and adult camp programs today.

Address 11 Iowa Avenue
City Lewes
State Delaware
Zip Code 19958
Contact Person JuneRose Futcher
Contact Title Survivor LE United Member
Contact Phone Number JuneRose Futcher
Contact Email Address jrfdelaware@gmail.com

Total Funding Request

1000

Has your organization received other grant funds from Sussex County Government in the last year?

No

If YES, how much was received in the last 12 months?

N/A

Are you seeking other sources of funding other than Sussex County Council? Yes

If YES, approximately what percentage of the project's funding does the Council grant represent? 50

Program Category (choose all that apply) Cultural
Other

Program Category Other Law enforcement fallen awareness, community programs initiatives and Delaware history

Primary Beneficiary Category Other

Beneficiary Category Other Family of fallen, safety for law enforcement, support initiatives for survivors, minor children

Approximately the total number of Sussex County Beneficiaries served, or expected to be served, annually by this program 200

Scope The annual bicycling program across many states is a tremendously significant tour (separated from the Police Unity Tour to promise the greatest financial impact) and being entirely volunteer managed and operated yields the highest possible monies to support the affiliated law enforcement programs. Where survivors of all fallen are recognized and supported in national,, regional and state services, Descendant survivors like myself are also welcomed, valued, credentialed and able to participate and

benefit from COPS especially.

I was invited to join LE United in the New Jersey Road to Hope bicycling 2024 across NJ, DE, MD and Washington, DC over 250 miles in May 2024.

This tour will be my 10th bicycle ride and having surpassed thousand miles, I aim to ride a thousand more miles while I have fitness and many supporters from my home state of Delaware. We need support that provides logistics, accommodations, provisions and security during the miles on our bicycles. Additional community support enables me to train, maintain specialized custom bicycle and travel expenses. When operations is accounted and complete, these vital law enforcement programs are supported. Sussex County Council offer of generous support has enabled me to remember my fallen grand-father, family and Delaware history in law enforcement for several years. While we operate programs in DE Concerns of Police Survivors, or ride in DE Law Enforcement bicycling from Wilmington to Dewey Beach, or united in a peleton of two thousand bicyclists riding to the national police wall,

I am grateful for Sussex County and honored and privileged to represent my home county and state as a direct descendant of a fallen officer in law enforcement, Charles W. Futcher, End of Watch, 8.13.1939. Together as a Delaware community, we remember our fallen, we remember our family and we will never forget. Thank you for standing with me as Sussex County. Sincerely, JuneRose "JR" Futcher, Grand-daughter Survivor, CW Futcher, Lewes PD 8.13.193

Please enter the current support your organization receives for this project (not entire organization revenue if not applicable to request)

0.00

Description Ride financial requirement

Amount 1,750.00

Description registration

Amount 75.00

TOTAL EXPENDITURES 1,825.00

**TOTAL DEFICIT FOR
PROJECT OR
ORGANIZATION** -1,825.00

Name of Organization Law Enforcement United

**Applicant/Authorized
Official** JuneRose Futcher, LE United member

Date 11/08/2023

**Affidavit
Acknowledgement** Yes

Casey Hall

From: junerose JR Futchter <jrfdelaware@gmail.com>
Sent: Wednesday, November 8, 2023 1:44 PM
To: Casey Hall
Subject: Law Enforcement United -Road to Hope 2024 grant application

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.

Casey;

You will see the grant application for my role as a bicyclist representing Sussex Co in 2024.

We have been in touch when over previous grant programs and thank you for always being helpful.

I still have a little challenge with the dollar line items and "deficit" concept.

Also, when I enter total the number changes to zero from 2,400.

Please reach out if I got this right or not!

Also, I will like to get on council agenda to present gifts from Concerns of Police Survivors and take photographs. Shall I reach out to Chip G?

Thank you!

JR

302-645-8829

JuneRose Futchter

VINCENT.
YES. 11/20

Casey Hall

From: notifications=d3forms.com@mg.d3forms.com on behalf of Sussex County DE <notifications@d3forms.com>
Sent: Sunday, November 12, 2023 4:37 PM
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

Legal Name of Agency/Organization

Good Samaritan Aid Organization, Inc. ✓

Project Name

Annual Christmas Food Basket and Gift/Toy Outreach

Federal Tax ID

51-0303717 ✓

Non-Profit

Yes

Does your organization or its parent organization have a religious affiliation? (If yes, fill out Section 3B.)

No

Organization's Mission

Good Samaritan Aid Organization, Inc. (Good Sam) is a non-profit organization delivering financial assistance and food and clothing resources to those individuals and families living in the Laurel DE and Delmar DE communities who are financially disadvantaged. Monetary assistance referrals from The DE State Service Center in Laurel are satisfied by utilizing funds raised through donations and sales of donated items in Good Sam's thrift stores. The organization also sponsors an annual Christmas food basket and toy/gift delivery to families and senior citizens who are referred by local schools, churches, civic and service organizations. The money donated by Sussex County Council will be used to

purchase toys, gifts and Food Lion gift cards for the Christmas outreach.

Address P. O. Box 643
Address 2 115 West Market Street
City Laurel
State DE
Zip Code 19956-0330
Contact Person Melinda Tingle
Contact Title President
Contact Phone Number 302/875-0355 (my office)
Contact Email Address mtingle57@comcast.net

Total Funding Request

1000.00

Has your organization received other grant funds from Sussex County Government in the last year?

Yes

If YES, how much was received in the last 12 months?

1000

Are you seeking other sources of funding other than Sussex County Council?

Yes

If YES, approximately what percentage of the project's funding does the Council grant represent?

12

Program Category (choose all that apply)

Other

Primary Beneficiary Category

Low to Moderate Income

Approximately the total number of Sussex County Beneficiaries served, or expected to be served, annually by this program

750

Scope

The annual Christmas food basket and toy/gift outreach is structured to ensure that all families in the Laurel DE school district enjoy the Christmas holiday. We deliver food baskets and toys/gifts to families and senior citizens who are referred by school nurses, local churches, local service and civic organizations and community members. Additionally, referred families receive a Food Lion gift card to shop for Christmas dinner items and they may shop in the Good Sam thrift stores for clothing items for the entire family. The schools in our community qualify for the federal free lunch program which confirms the true need within the * Laurel School District. The elderly population is also underserved, and Good Sam provides food assistance for those individuals referred to the outreach. Good Sam is staffed with volunteers only, and the annual Christmas outreach is an event that has stood the test of time for 30+ years.

Please enter the current support your

8,000.00

organization receives
for this project (not
entire organization
revenue if not
applicable to request)

Description Food Lion Gift Cards

Amount 17,000.00

Description Toys/gifts purchased

Amount 5,000.00

TOTAL EXPENDITURES 22,000.00

**TOTAL DEFICIT FOR
PROJECT OR
ORGANIZATION** -14,000.00

Name of Organization Good Samaritan Aid Organization, Inc.

**Applicant/Authorized
Official** Melinda R. Tingle, President

Date 11/12/2023

**Affidavit
Acknowledgement** Yes

VINCENT.
YES. 11/20

Casey Hall

From: notifications=d3forms.com@mg.d3forms.com on behalf of Sussex County DE <notifications@d3forms.com>
Sent: Friday, November 10, 2023 2:55 PM
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

Legal Name of Agency/Organization	BLADES POLICE DEPT ✓
Project Name	SECURITY CAMERAS AND SHELF FOR MONITOR
Federal Tax ID	51-6001393
Non-Profit	Yes
Does your organization or its parent organization have a religious affiliation? (If yes, fill out Section 3B.)	No
Organization's Mission	OUR MISSION IS TO BE SECURED IN THE BUILDING AND HAVE THE POLICE CARS THAT ARE PARKED IN THE LOT ARE SECURED. WE HAVE NO WAY OF KNOWING WHO IS COMING UP TO THE DOOR. THE CAMERAS WILL BE POSITIONED TO VIEW THE DOOR AND THE PARKING LOT. WE WILL ALSO HAVE THE CAMERAS HOOKED UP TO A MONITOR AND THAT WILL LET US KNOW WHO IS COMING TO THE DOOR. THE ADMIN IS ALONE IN THE BUILDING AND CAN'T SEE OUT THE DOOR. NEED SECURITY AND THE CAMERAS AND MONITOR WILL HELP ALOT.
Address	20 WEST 4TH ST

City	BLADES
State	Delaware
Zip Code	19973
Contact Person	Lori Lynch
Contact Title	ADMIN ASSISTANT FOR BLADES PD
Contact Phone Number	3026297329
Contact Email Address	loretta.lynch@cj.state.de.us
Total Funding Request	550.00
Has your organization received other grant funds from Sussex County Government in the last year?	Yes
If YES, how much was received in the last 12 months?	750.00
Are you seeking other sources of funding other than Sussex County Council?	No
If YES, approximately what percentage of the project's funding does the Council grant represent?	N/A

Program Category (choose all that apply)	Infrastructure Other
Program Category Other	SECURITY FOR PD DEPT
Primary Beneficiary Category	Other
Beneficiary Category Other	POLICE DEPT'
Approximately the total number of Sussex County Beneficiaries served, or expected to be served, annually by this program	00000
Scope	THE BLADES PD NEEDS SECURITY CAMERAS ON THE OUTSIDE OF THE POLICE STATION. WE HAVE POLICE CARS PARKED IN THE BACK OF THE BUILDING AND NEED TO BE ABLE TO SEE WHAT IS GOING ON. WILL HAVE A MONITOR HOOKED UP TO THE CAMERAS SO THAT THE CHIEF AND ADMIN CAN SEE WHO IS COMING UP TO THE DOOR AND KEEP AN EYE ON THE CARS.
Please enter the current support your organization receives for this project (not entire organization revenue if not applicable to request)	0.00
Description	AOSU SOLAR SECURITY CAMERAS WIRELESS 4 PK
Amount	400.00

Description	KUAIYU FLOATING TV SHELF CORNER
Amount	150.00
TOTAL EXPENDITURES	550.00
TOTAL DEFICIT FOR PROJECT OR ORGANIZATION	-550.00
Name of Organization	BLADES POLICE DEPT
Applicant/Authorized Official	CHIEF MARTIN WILLEY
Date	11/10/2023
Affidavit Acknowledgement	Yes

To Be Introduced: 12/5/23

Council District 4: Mr. Hudson
Tax I.D. No. 134-12.00-74.01
911 Address 31434 Railway Rd., Ocean View

ORDINANCE NO. ____

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

WHEREAS, on the 20th day of October 2022, a conditional use application, denominated Conditional Use No. 2401 was filed on behalf of OA Sundance Club, 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. 2401 be _____; and

WHEREAS, on the ____ day of _____ 2024, 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. 2401 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 Baltimore Hundred, Sussex County, Delaware, and lying on northeast corner of Old Mill Road (S.C.R. 349) and the southwest corner Railway Road (S.C.R. 350) at the intersection of Railway Road (S.C.R. 350) and Old Mill Road (S.C.R. 349) and being more particularly described in the attached legal descriptions prepared by Pennoni Associates Inc., said parcel containing 48.36 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.

To Be Introduced: 12/5/23

Council District 4: Mr. Hudson
Tax I.D. No.: 234-29.00-263.12 (p/o)
911 Address: 31507 Oak Orchard Road, Millsboro

ORDINANCE NO. ____

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-2 MEDIUM COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 4.7 ACRES, MORE OR LESS

WHEREAS, on the 30th day of January 2023, a zoning application, denominated Change of Zone No. 2006 was filed on behalf of Mahmut Yilmaz; and

WHEREAS, on the ____ day of _____ 2024, 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. 2006 be _____; and

WHEREAS, on the ____ day of _____ 2024, 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 C-2 Medium Commercial District 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 northeast side of John J. Williams Highway (Rt. 24) and the north side of Oak Orchard Road (Rt. 5) at the intersection of John J. Williams Highway (Rt. 24) and Oak Orchard Road (Rt. 5) and being more particularly described in the attached legal description prepared by The Pelsa Company, said parcel containing 2.00 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.

To Be Introduced: 12/5/23

Council District 4: Mr. Hudson
Tax I.D. No.: 533-6.00-30.00
911 Address: 35160 Roxana Road, Frankford

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AMEND THE CONDITIONS OF APPROVAL FOR CONDITIONAL USE NO. 1713 (ORDINANCE NO. 1961) TO ALLOW FOR AN ADDITIONAL BUILDING TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.28 ACRES, MORE OR LESS

WHEREAS, on the 14th day of March 2023, a conditional use application, denominated Conditional Use No. 2428 was filed on behalf of TN Hitch, LLC.; and

WHEREAS, on the ____ day of _____ 2024, 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. 2428 be _____; and

WHEREAS, on the ____ day of _____ 2024, 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. 2428 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 Baltimore Hundred, Sussex County, Delaware, and lying on the north side of Roxana Road (Rt. 17) approximately 177 feet southwest of Pyle Center Road (Rt. 20) and being more particularly described in the attached legal description prepared by Tomasetti Law, LLC., said parcel containing 1.28 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.

To Be ReIntroduced: 12/5/23

Council District 5: Mr. Rieley
Tax I.D. No.: 233-5.00-132.00 (portion of)
911 Address: 26614 Handy Road, Millsboro

ORDINANCE NO. ____

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A GR GENERAL RESIDENTIAL DISTRICT TO A C-2 MEDIUM COMMERCIAL DISTRICT FOR A PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 1.11 ACRES, MORE OR LESS

WHEREAS, on the 4th day of November 2022, a zoning application, denominated Change of Zone No. 1999 was filed on behalf of Horacio Paxtor; and

WHEREAS, on the ____ day of _____ 2024, 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. 1999 be _____; and

WHEREAS, on the ____ day of _____ 2024, 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 [GR General Residential] and adding in lieu thereof the designation and C-2 Medium Commercial 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 Dagsboro Hundred, Sussex County, Delaware, and lying on south side of Handy Road (S.C.R. 337) approximately 545 ft. northwest of DuPont Boulevard (Rt. 113) and being more particularly described in the attached legal descriptions prepared by Tunnell & Raysor, P.A., said parcels containing 1.11 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.

ENGINEERING DEPARTMENT

HANS M. MEDLARZ
COUNTY ENGINEER

(302) 855-7370 T
(302) 854-5391 F

hans.medlarz@sussexcountycle.gov



Sussex County
DELAWARE
sussexcountycle.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
Gina A. Jennings, MPA, MBA, Finance Director

DATE: December 5, 2023

RE: *Lochwood Community Area Expansion of the Unified Sanitary Sewer District Approval of USDA/RD Supplemental Funding Offer*

On August 2, 2018, the Lochwood Property Owners Association requested a presentation from the engineering department on estimated costs for providing central County sewer service at their annual community meeting on October 27, 2018. At that meeting, the majority of the members present, requested the County distribute a polling letter to all property owners. The responses to the polling letter being favorable the Engineering Department conducted a public hearing on September 7, 2019. The results from the public hearing were presented to County Council on September 17, 2019, and Council voted to extend the Sussex County Unified Sanitary Sewer District to include the Lochwood Community.

In April of 2022 the Engineering Department finalized the Preliminary Engineering Report and the Environmental Information Documents required for submittal of the funding application to USDA – Rural Development. On May 14, 2020, these Documents were combined with the overall funding application prepared by the Finance Department and filed with USDA/Rural Development, Rural Utility Service for approximately \$8,440,000. On May 21, 2021, the County accepted the letter of conditions and on May 24, 2021, the obligating documents associated in the loan amount of \$4,723,000 and \$3,717,000 of grant funding were issued.

On June 15, 2021, Council approved the USDA Loan Resolution and introduced the associated debt ordinance authorizing the issuance of up to \$4,287,000 of general obligation bonds which was approved on July 13, 2021, after a public hearing.

The project was initially advertised in the spring of 2023, but all bids were significantly higher than the available funding. Therefore, Council rejected all bids on May 16, 2023 and authorized the rebid in two Contracts A & B.

Invitations for the Re-Bid were advertised and on July 25, 2023, Council awarded Contract A to Lindstrom Excavating, Inc. but rejected the only bid for Contract B instead authorizing the pursuit of a pre-purchase agreement for the equipment. After the \$417,000.00 purchase order for the AirVac equipment was issued on August 15, 2023, the Engineering Department requested a change order for the building and equipment installation from Lindstrom Excavating, the lowest bidder on Contract A.

On September 26, 2023, Council approved Change Order No. 1 for Lindstrom Excavating for the vacuum building which allowed the Engineering & Finance Department to submit a supplemental funding request to USDA/Rural Development for \$844,000.00.

On September 27, 2023, the County accepted the letter of conditions and on the following day USDA/RD issued the obligating documents associated in the loan amount of \$464,000 and \$380,000 of grant funding were issued. The associated debt ordinance was introduced on November 7, 2023.

The Finance and Engineering Departments recommend adoption of the associated debt ordinance authorizing the issuance of up to \$464,000 of general obligation bonds of Sussex County in connection with the construction and equipping of the Lochwood Expansion of the Unified Sanitary Sewer District. In addition, the Departments recommend approval of the USDA Loan Resolution as well as the Grant Agreement.



ORDINANCE NO. ____

AN ORDINANCE TO AMEND ORDINANCE NO. 2787 TO AUTHORIZE THE ISSUANCE OF UP TO A TOTAL OF \$5,187,000 OF GENERAL OBLIGATION BONDS OF SUSSEX COUNTY TO COVER THE INCREASED COSTS OF THE CONSTRUCTION AND EQUIPPING OF AN EXTENSION OF SANITARY SEWER SERVICES TO LOCHWOOD AND AUTHORIZING ALL NECESSARY ACTIONS IN CONNECTION THEREWITH

WHEREAS, pursuant to Title 9, Delaware Code, Section 7001(a) Sussex County (the “County”) has “all powers which, under the Constitution of the State, it would be competent for the General Assembly to grant by specific enumeration, and which are not denied by statute” (the “Home Rule Power”);

WHEREAS, acting pursuant to its Home Rule Power, and pursuant to Title 9, Delaware Code, Chapters 65 and 67, the County has authorized the design, construction and equipping of an extension of sanitary sewer services to Lochwood (the “Project”);

WHEREAS, pursuant to Title 9, Delaware Code, Section 6706, the County is authorized to issue its bonds and to pledge its full faith and credit thereto, to finance the cost of any object, program or purpose for which the County is authorized to raise, appropriate or expend money under Chapter 67 of Title 9; and

WHEREAS, the County has previously authorized the amount of \$4,723,000 and requires additional funding due to increased construction costs of the Project and desires to increase the loan in the amount by \$464,000 to fund the increased construction costs of the Project; and

WHEREAS, acting pursuant to the aforesaid authority, the County desires to authorize the issuance of general obligations of the County in one or more series in the total amount of \$5,187,000 to finance the costs of the Project and for the other purposes described herein.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS (AT LEAST FOUR FIFTHS OF THE MEMBERS OF COUNCIL CONCURRING HEREIN):

Section 1. Amount and Purpose of the Bonds. Acting pursuant to Title 9, Delaware Code, Chapters 65 and 67, Sussex County shall issue its negotiable general obligations in the maximum aggregate principal amount not to exceed \$[4,723,000]5,187,000 (the [“]“Bonds[”]”) to finance or reimburse the County for a portion of the cost of the design, construction and equipping of the Project.

The monies raised from the sale of the Bonds (including the investment earnings thereon) after the payment of the costs of issuance, shall be held in one or more Project accounts and shall be expended only for the purposes authorized herein or as may otherwise be authorized by subsequent action by County Council. Authorized purposes include the costs of planning, constructing, acquiring and equipping the Project or any portion thereof;

interest on the Bonds and any interim financing during the construction period and for a period of up to one year following the estimated date of completion; the reasonable costs of issuance of the Bonds and any interim financing; the repayment of temporary loans incurred with respect to the Project; and the reimbursement of authorized costs previously expended by the County from other funds.

Section 2. Security for the Bonds. The principal, interest and premium, if any, on the Bonds may be paid by ad valorem taxes on all real property subject to taxation by the County without limitation as to rate or amount, except as limited by Title 9, Delaware Code Section 8002 (c). Pursuant to Title 9, Delaware Code, Section 6706, the full faith and credit of the County is pledged to such payment. The Bonds shall contain a recital that they are issued pursuant to Title 9, Delaware Code, Chapter 67, which recital shall be conclusive evidence of their validity and of the regularity of their issuance. While the Bonds are backed by the County[']s full faith and credit, it is expected that the debt service will be paid from revenues of the Lochwood extension.

Section 3. Terms of the Bonds. The Bonds shall be sold at such prices and upon such other terms and conditions consistent with the provisions of this Ordinance and otherwise as the County Administrator shall determine to be in the best interests of the County. The Bonds shall bear interest at such rate or rates and shall mature in such amounts and at such times, but not exceeding 40 years from the date of issue of the Bonds, and shall be subject to redemption, as the County Administrator shall determine. The Bonds may be issued in one or more series with differing rates or other terms.

Section 4. Sale of the Bonds. The Bonds may be issued in one or more series and shall be sold in one or more public sales or private negotiated transactions upon such terms and conditions as the County Administrator shall determine shall be in the best interest of the County. It is anticipated that the Bonds will be sold to the United States of America, Rural Utilities Service (or any successor agency).

Section 5. Details of the Bonds. The County Administrator is authorized to determine the details of the Bonds including the following: the date or dates of the Bonds; provisions for either serial or term bonds; sinking fund or other reserve fund requirements; due dates of the interest thereon; the form of the Bonds; the denominations and designations of the Bonds; registration, conversion and transfer provisions; provisions for the receipt, deposit and investment of the proceeds of the Bonds; provisions for the replacement of lost, stolen, mutilated or destroyed Bonds; and provisions for issuing uncertificated obligations and all procedures appropriate for the establishment of a system of issuing uncertificated debt. The Bonds shall be executed by the manual or facsimile signature of the County Administrator, shall contain an impression of the County seal or a facsimile thereof and shall be attested by the manual signature of the County Clerk. The County Administrator shall determine the form of the Bonds.

Section 6. Debt Limit. It is hereby determined and certified, as of the effective date hereof, that the issuance of the Bonds is within the legal debt limit of the County.

Section 7. Further Action. The President of the County Council, the County Administrator, the Finance Director and the County Clerk are authorized and directed to take such other action on behalf of the County, as may be necessary or desirable to effect the adoption of this Ordinance and the issuance and sale of the Bonds and to provide for their security and to carry out the intent of this Ordinance, including the publication of notices and advertisements and the execution and delivery of customary closing certificates.

Section 8. Effective Date. This Ordinance shall become effective immediately upon its passage. The County Clerk is hereby directed to publish a notice of the adoption hereof in accordance with Section 7002(m)(2) of Title 9 of the Delaware Code, as amended.

SYNOPSIS:

Ordinance No. 2787 authorized the issuance of up to \$4,723,000 of Sussex County General Obligation Bonds in order to finance or reimburse the County for a portion of the costs for the design, construction and equipping of an extension of sanitary sewer services to Lochwood (the "Project"). The County requires additional funding due to increased construction costs of the Project. The County seeks to amend Ordinance No. 2787 to increase the loan amount by \$464,000 for a total of \$5,187,000 to fund the increased construction costs of the Project.

Deleted text is in brackets. Additional text is italicized.

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. ____ ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE _____ DAY OF _____, 2023.

**Tracy Torbert
Clerk of the Council**

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: November 30, 2023

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

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).

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 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.



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

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

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 28th, 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



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sussexcountyde.gov

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 28th, 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



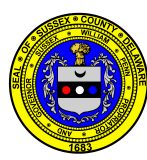
C-1 (General Commercial) zoning district, the C-3 (Heavy Commercial) zoning district, and the B-1 (Neighborhood Business) zoning district.

Existing Conditional Uses within the Vicinity of the Subject Property

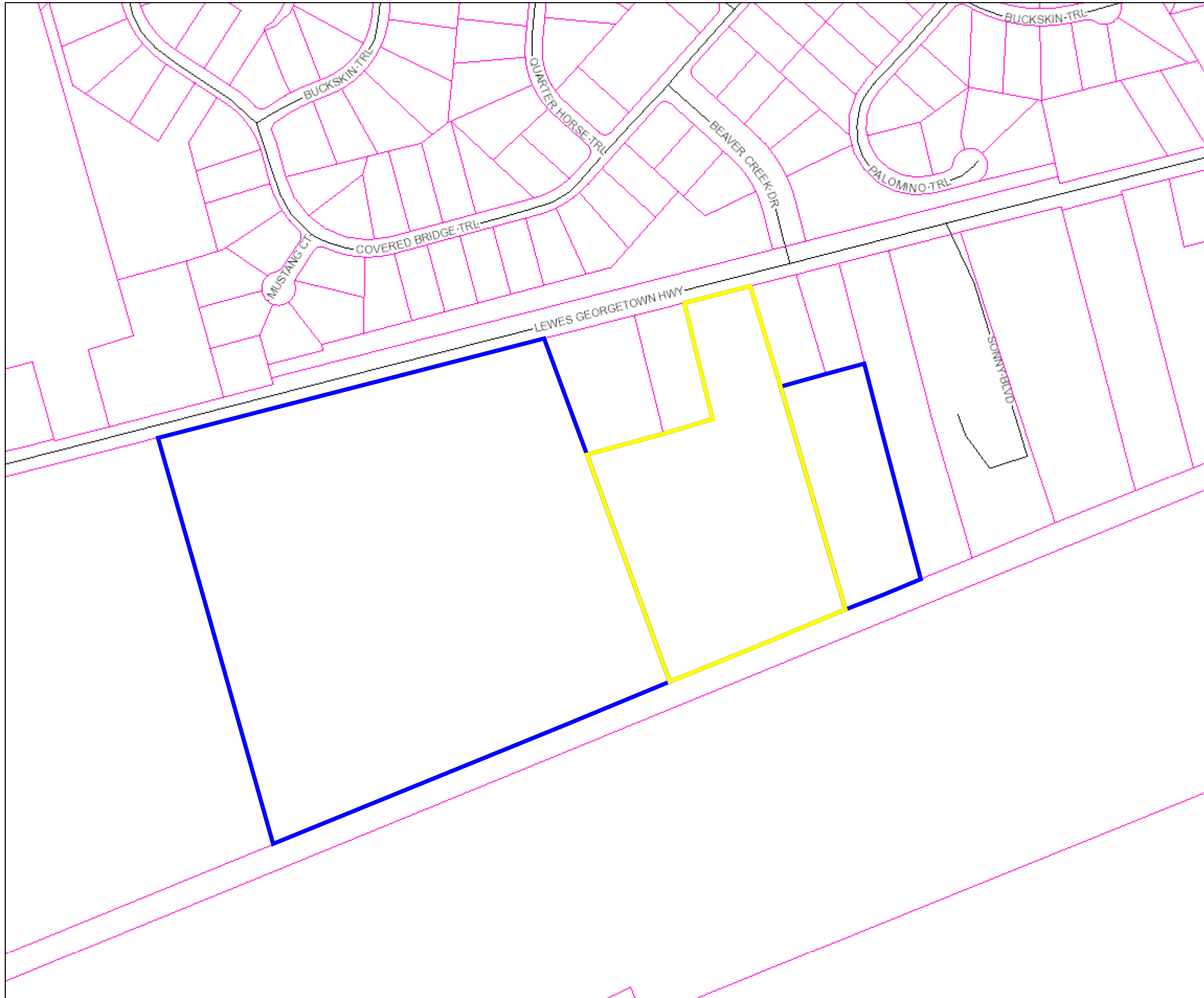
Although there have been multiple applications in this area, since 2011, there have been six (6) Conditional Use applications within a one (1) mile radius of the Application Site.

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



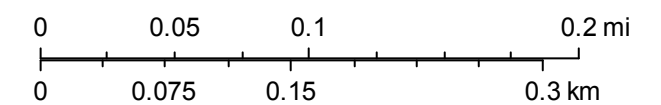
PIN:	235-30.00-58.06
Owner Name	MARTIN TERRI L
Book	3601
Mailing Address	26772 LEWES GEORGETOWN HWY
City	HARBESON
State	DE
Description	S/RT 9
Description 2	3150'E/JCT RT 9 5
Description 3	FX
Land Code	

- polygonLayer**

 - Override 1
- polygonLayer**

 - Override 1
- Tax Parcels
- Streets
- County Boundaries

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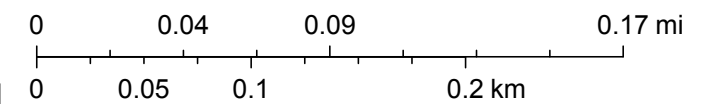
Sussex County



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 | |
| 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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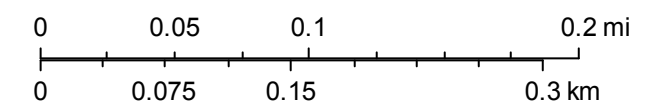
Sussex County



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

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

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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 29th 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
(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: November 30, 2023

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 (SCR 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).

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 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.



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

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.

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



Sussex County

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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 26th, 2023
RE: Staff Analysis for C/U 2382 Consolidated Edison Dev. (Kendale Road)

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.

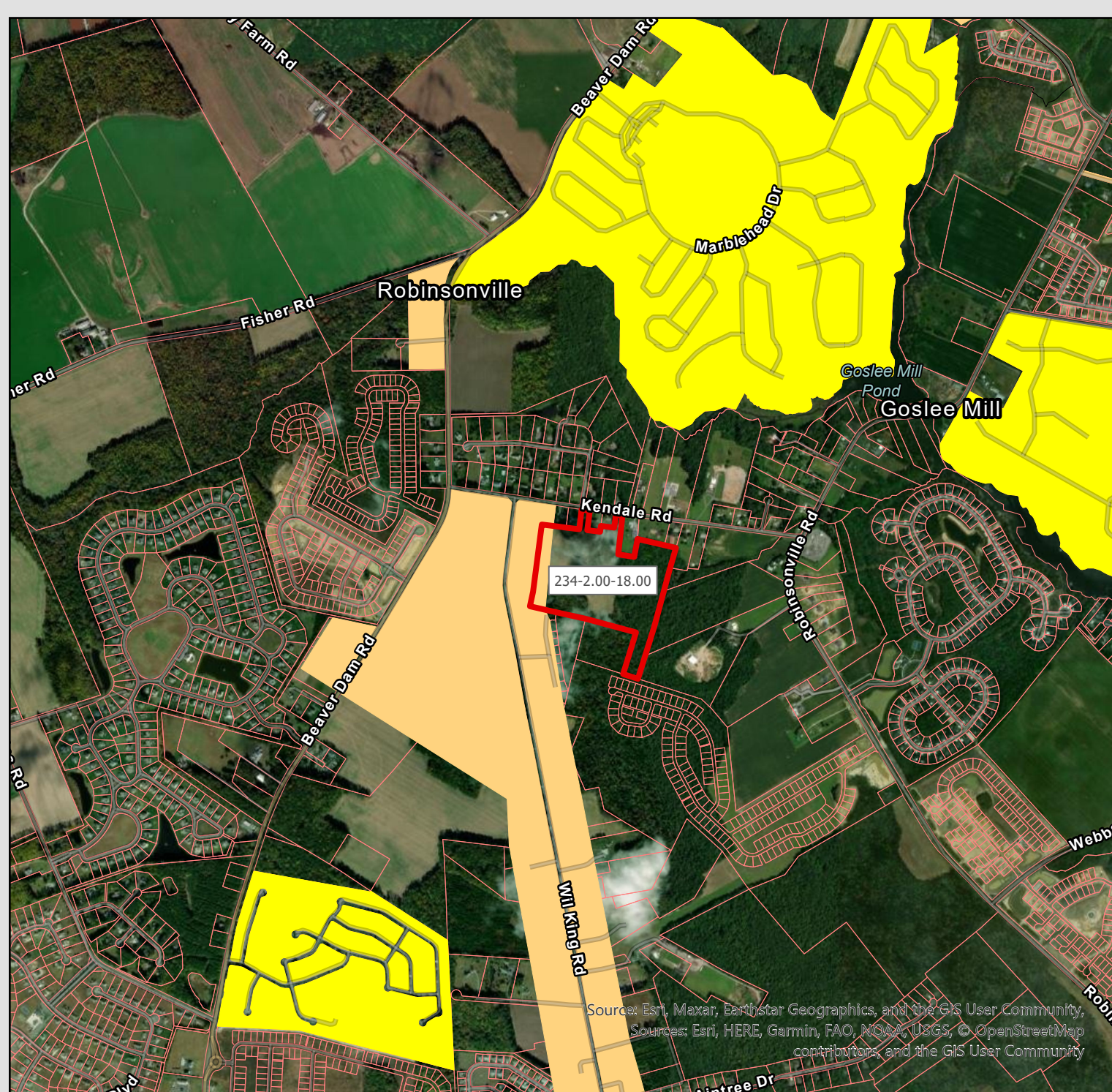
Based on the analysis of the land use, surrounding zoning and uses, a Conditional Use Application to allow for a solar array, subject to considerations of scale and impact, could be considered as being consistent with the land use, area zoning and surrounding uses.

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.

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

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

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



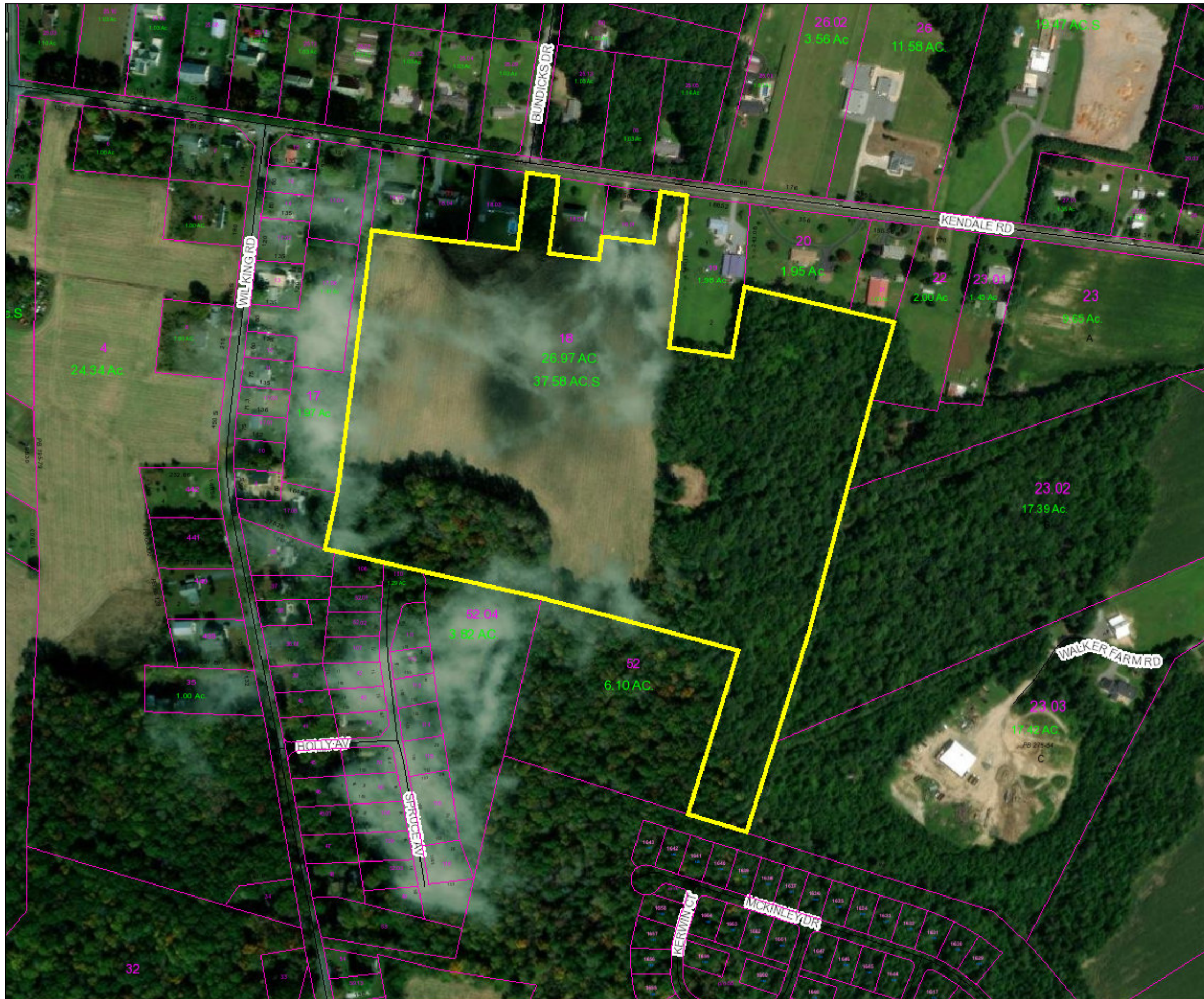
- CU 2382 ConEd (Kendale Rd)**
- Zoning**
- Agricultural Residential - AR-1
 - Agricultural Residential - AR-2
 - Medium Residential - MR
 - General Residential - GR
 - High Density Residential - HR-1
 - High Density Residential - HR-2
 - Vacation, Retire, Resident - VRP
 - Neighborhood Business - B-1
 - 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

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





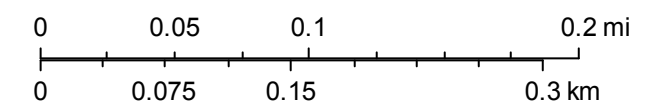
Sussex County



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

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

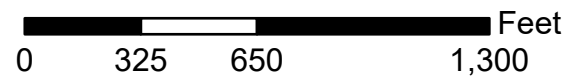
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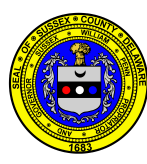




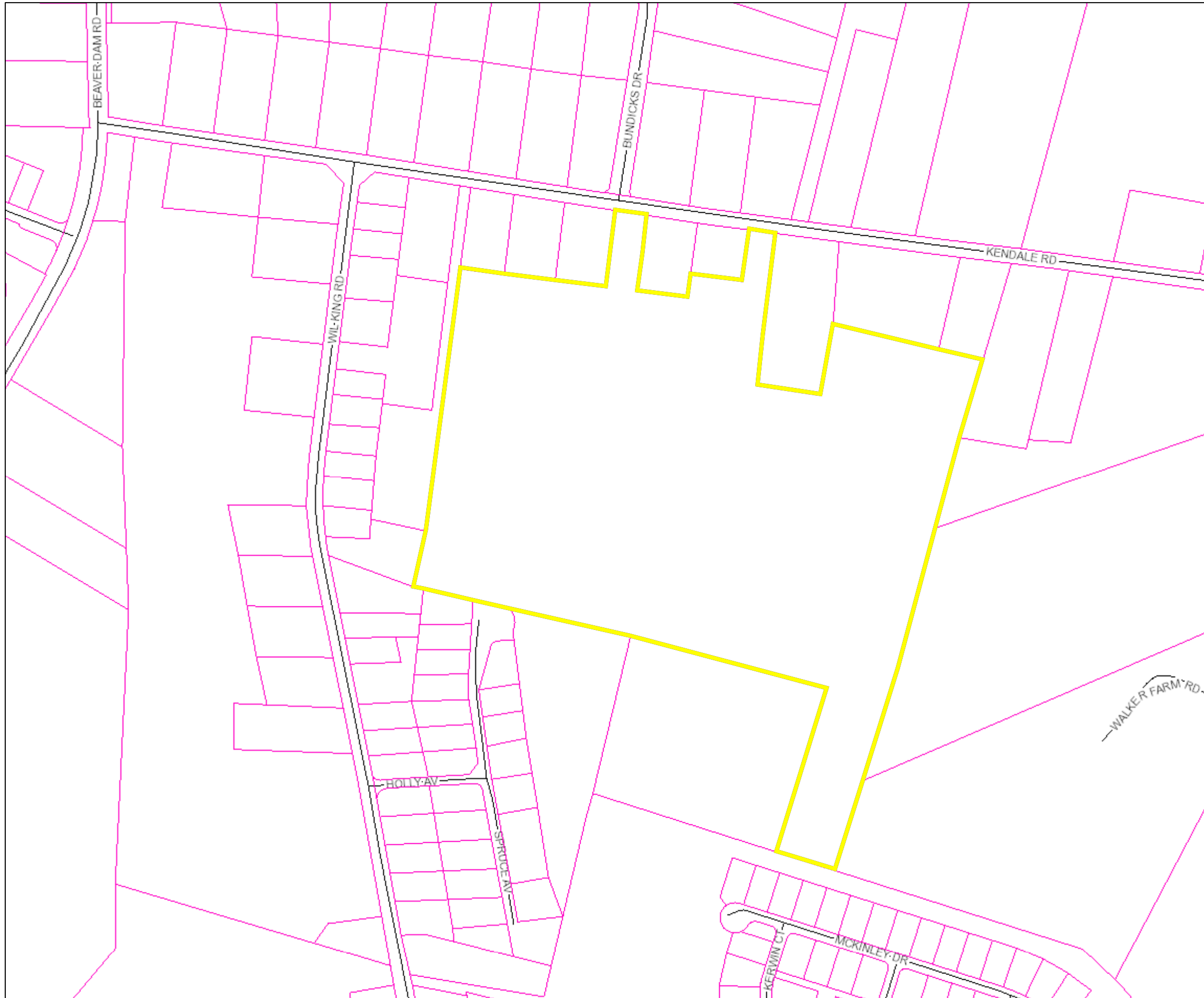
CU 2382 - Consolidated Edison Development Inc.
(Kendale Road)
Aerial Map

 CU 2382 Consolidated Edison Development Inc





Sussex County



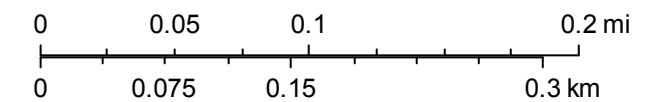
PIN:	234-2.00-18.00
Owner Name	STREET GARCIEL G
Book	0
Mailing Address	27186 CARPENTER RD
City	MILTON
State	DE
Description	S/RT 287
Description 2	280'E/RT 288
Description 3	26.97 AC
Land Code	

- polygonLayer**

 - Override 1
- polygonLayer**

 - Override 1
- ⋯ Tax Parcels
- Streets
- ⋯ County Boundaries

1:4,514



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 29th 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.

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: November 30, 2023

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).

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).



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

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

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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: 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



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: May 26th, 2023
RE: Staff Analysis for C/U 2383 Consolidated Edison Dev. (Woodland Ferry Road)

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).

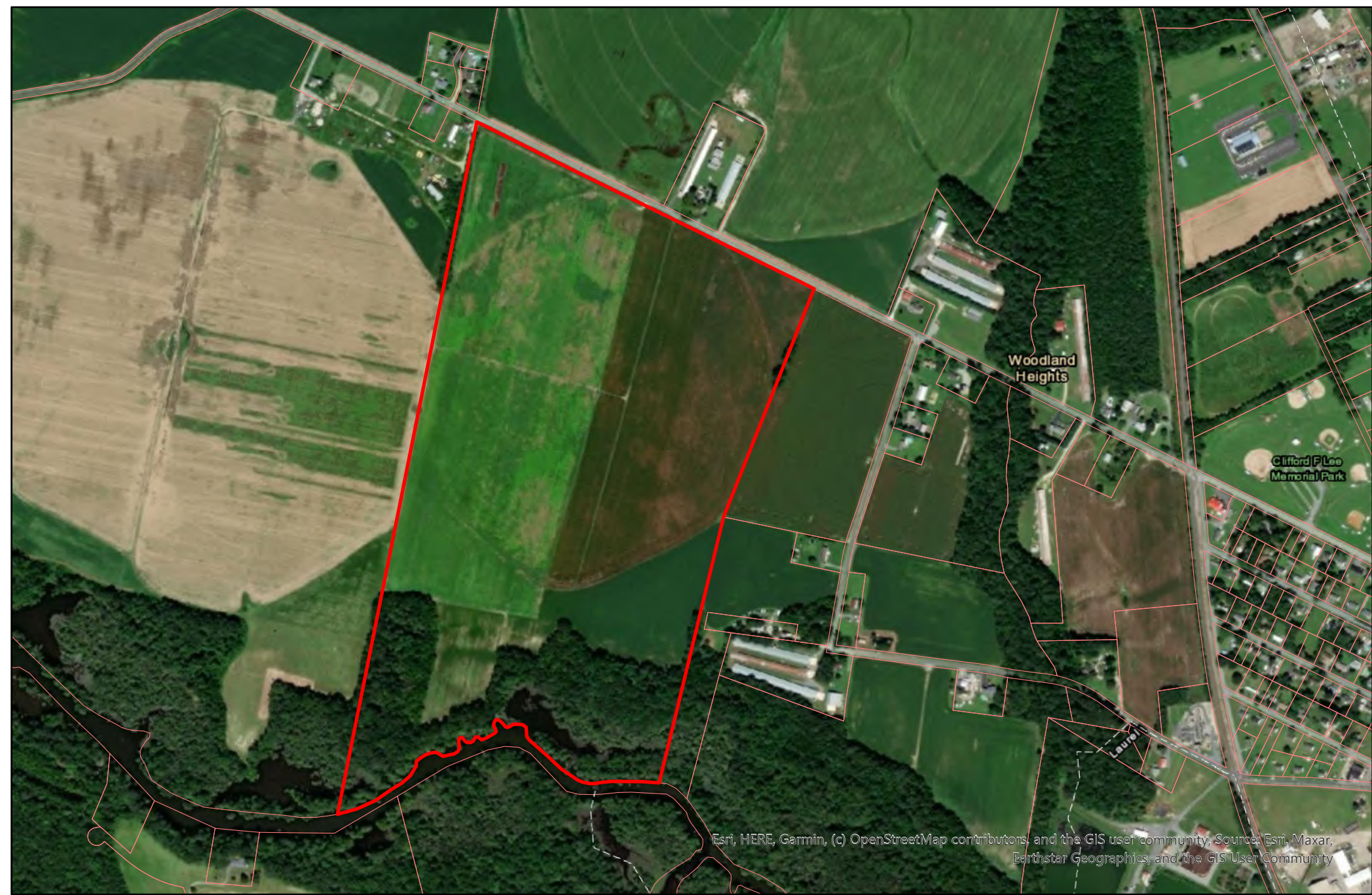
Further Site Considerations:

- **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.

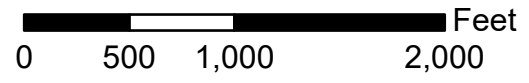
Existing Conditional Uses within the Vicinity of the Subject Site: A Data Table and Supplemental Map have been supplied which provide further background regarding the approval status of Applications in the area, including the location of all other Conditional Use Applications that are less than 1 mile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


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




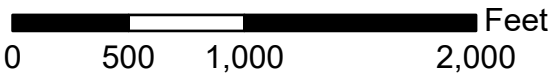
CU 2383
TM# 232-12.00-4.00






















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



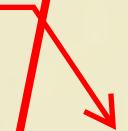
CU 2383 Consolidated Edison Development Inc.
(Woodland Ferry Road)
Street Map

 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

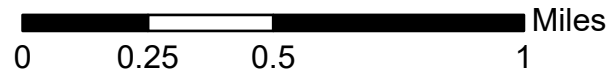
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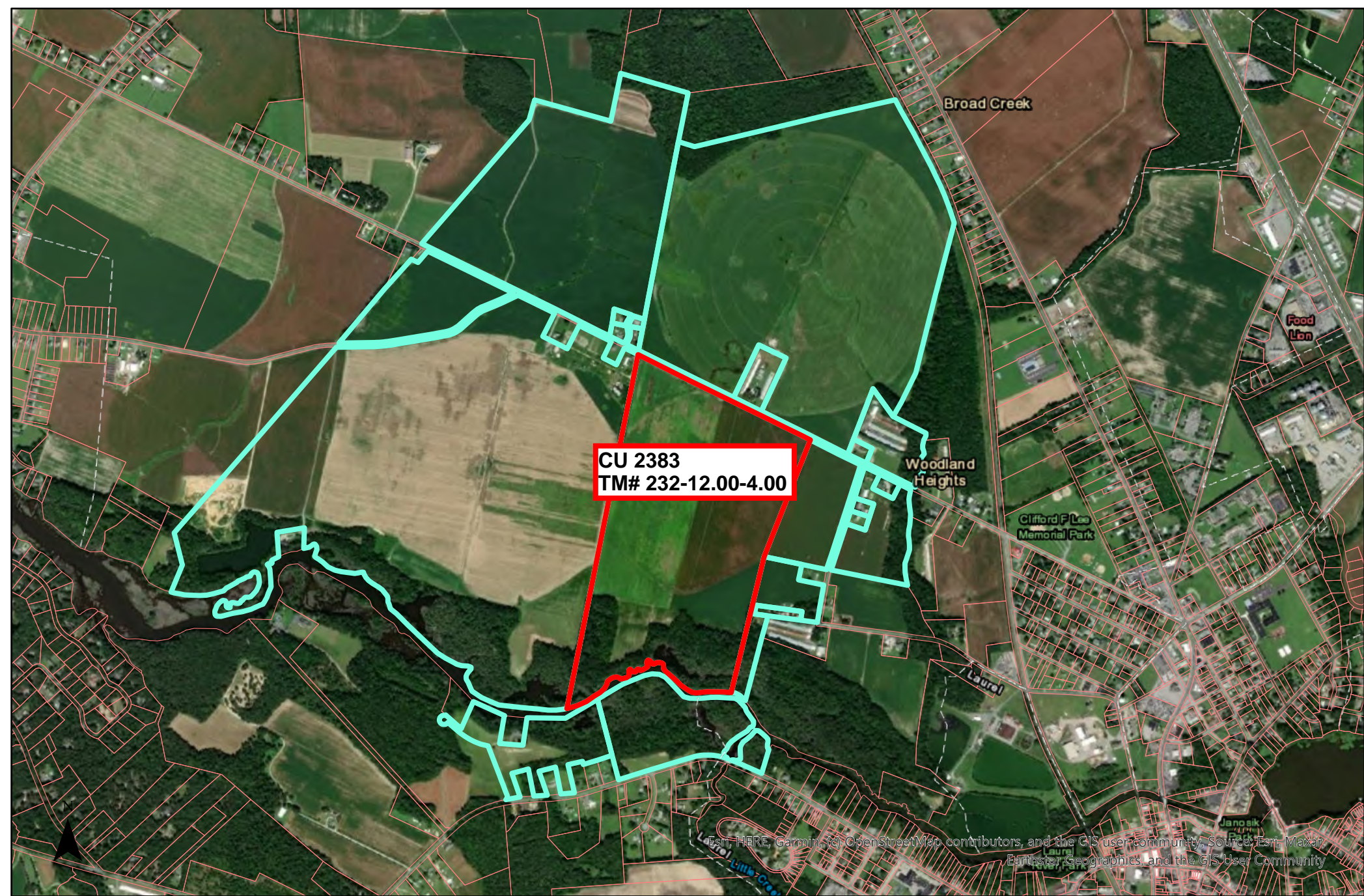


Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), NGCC, (c) OpenStreetMap contributors and the GIS User Community, Sussex County

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

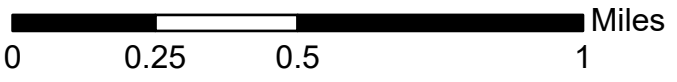
 CU 2383 Consolidated Edison Dev. Inc. - TM# 232-12.00-4.00

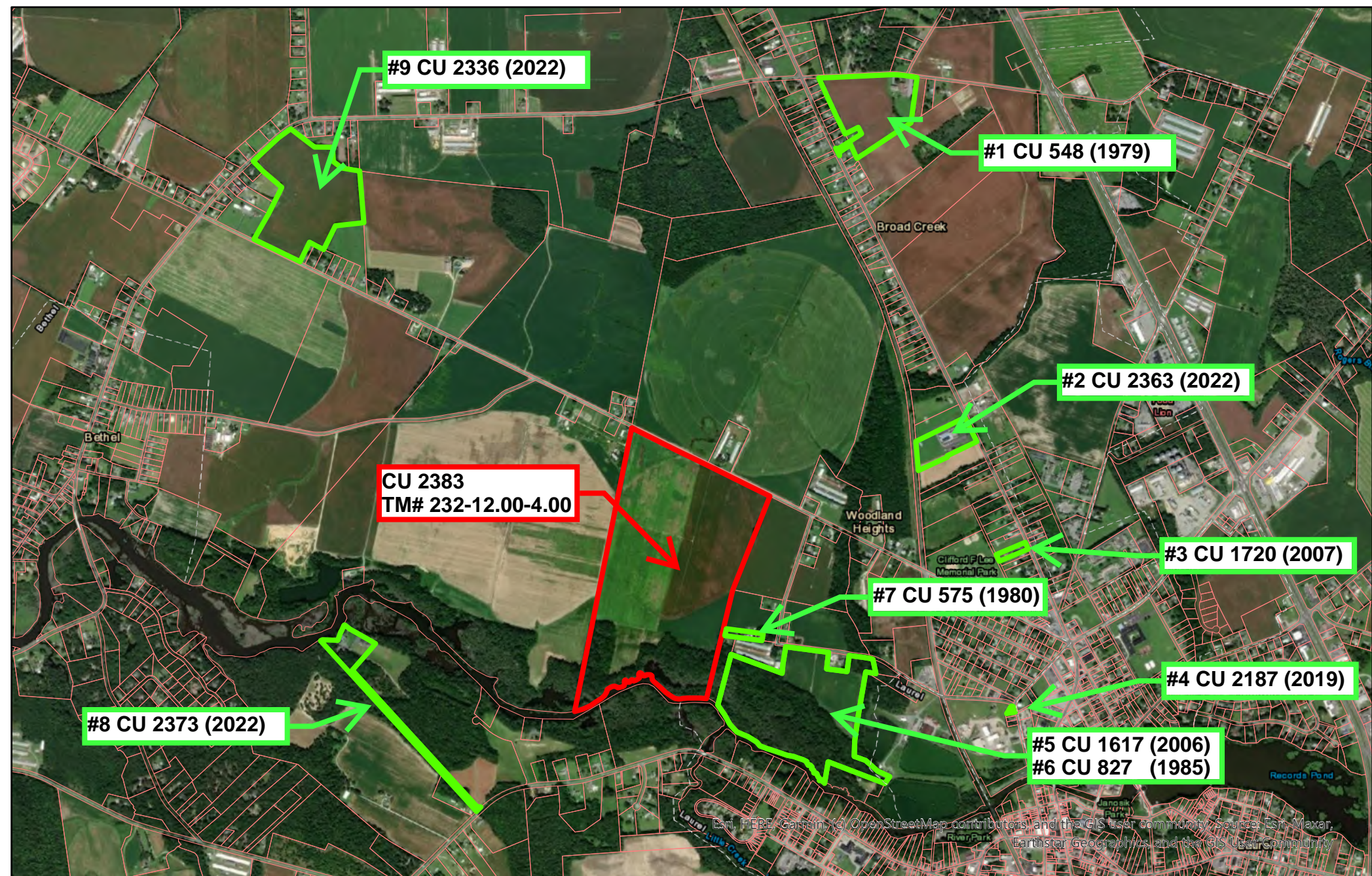




**CU 2383 Consolidated Edison Development Inc.
(Woodland Ferry Road)
Mailing List Map**

— CU 2383 Consolidated Edison Dev. Inc. - TM# 232-12.00-4.00
— CU 2383 Mailing List Parcels





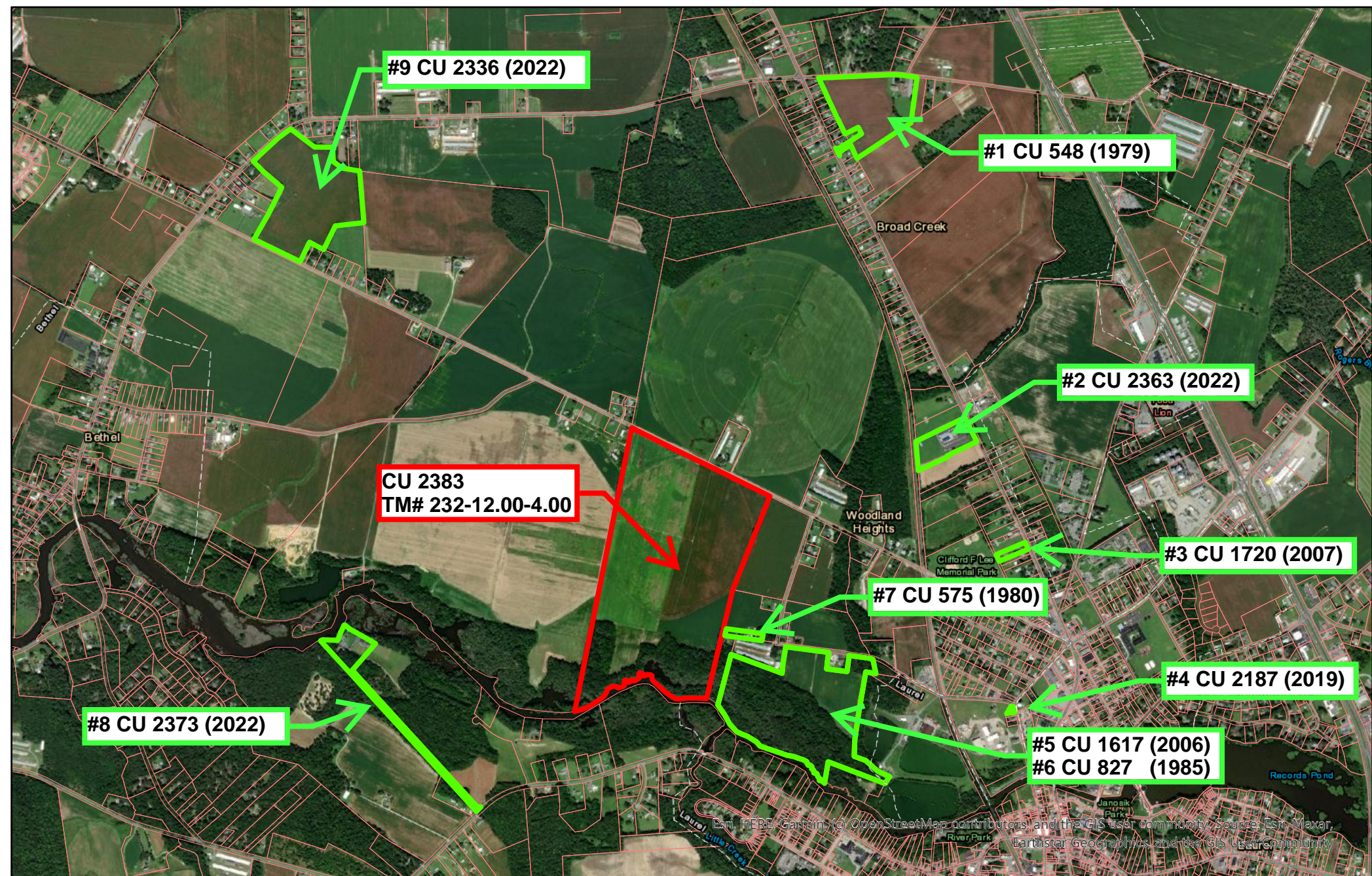
**CU 2383 Consolidated Edison Development Inc.
(Woodland Ferry Road)
Conditional Use Applications Within 1-Mile Map**

0 0.25 0.5 1 Miles

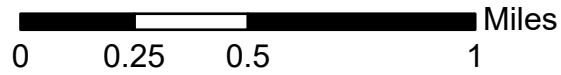
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CU 2383 Consolidated Edison Dev. Inc. - TM# 232-12.00-4.00

CU 2383 CUs Within 1-Mile



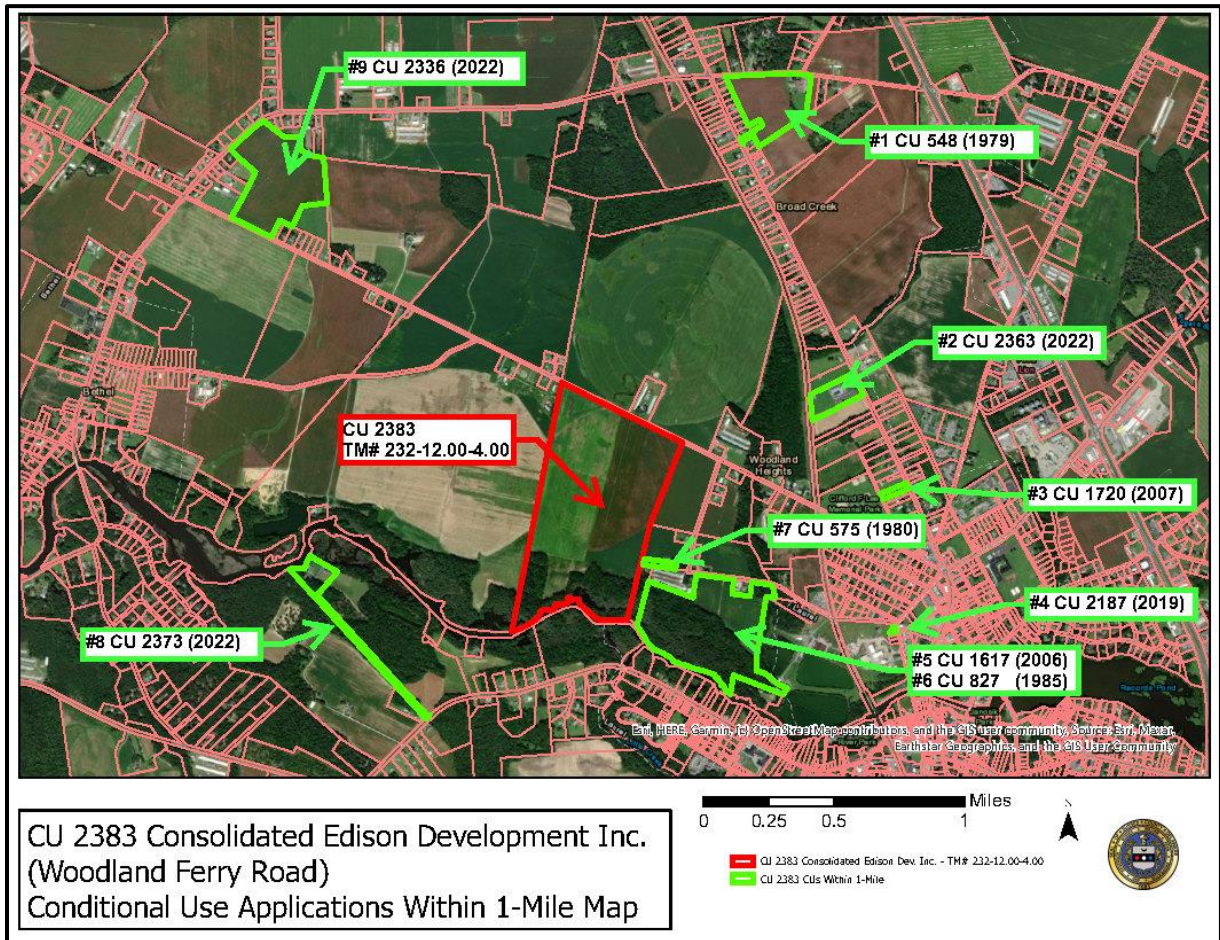
Esri, HERE, Garmin, © OpenStreetMap contributors, and the GIS user community. Source: Esri, Maxar, Earthstar Geographics, and the GIS User Community



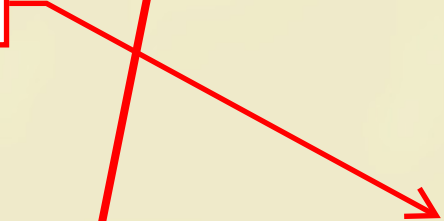
- █ CU 2383 Consolidated Edison Dev. Inc. - TM# 232-12.00-4.00
- █ CU 2383 CUs Within 1-Mile

**CU 2383 Consolidated Edison Development Inc.
(Woodland Ferry Road)
Conditional Use Applications Within 1-Mile Map**

#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




CU 2383
TM# 232-12.00-4.00

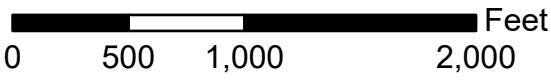


Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), NGCC, (c) OpenStreetMap contributors, and the GIS User Community

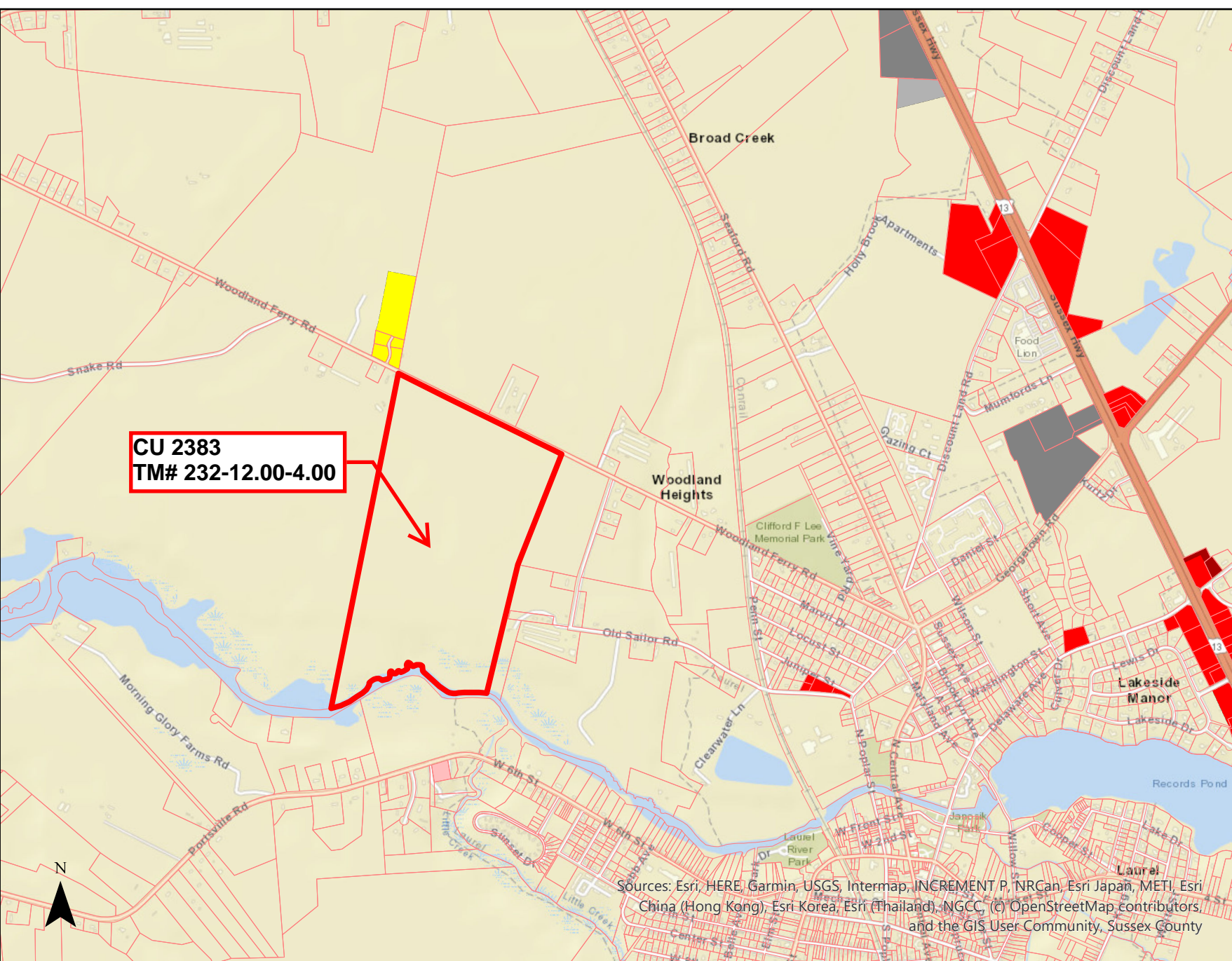


CU 2383 Consolidated Edison Development Inc.
(Woodland Ferry Road)
Street Map

 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

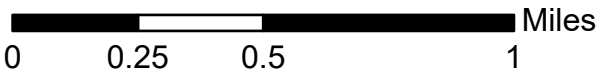


CU 2383
TM# 232-12.00-4.00

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 29th 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.

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: November 30, 2023

RE: County Council Report for C/U 2384 filed on behalf of Consolidated Edison Development, Inc.

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).

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).



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

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.

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 28th, 2023

Application: CU 2384 Consolidated Edison Development Inc. (South Main Street)

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

Owner: Karen L. Walls
18374 S. Main Street
Bridgeville, DE 19933

Site Location: Lying on the southwest side of South Main Street (Rt. 13A) approximately 380 feet north of the intersection of South Main Street (Rt. 13A) and Rifle Range Road (S.C.R. 545)

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

Proposed Use: Solar Farm consisting of photovoltaic electric generation facility on a (19.61) acre portion of the parcel.

Comprehensive Land Use Plan Reference: Developing Area

Councilmanic District: Mrs. Green

School District: Woodbridge School District

Fire District: Bridgeville Fire Department

Sewer: N/A

Water: N/A

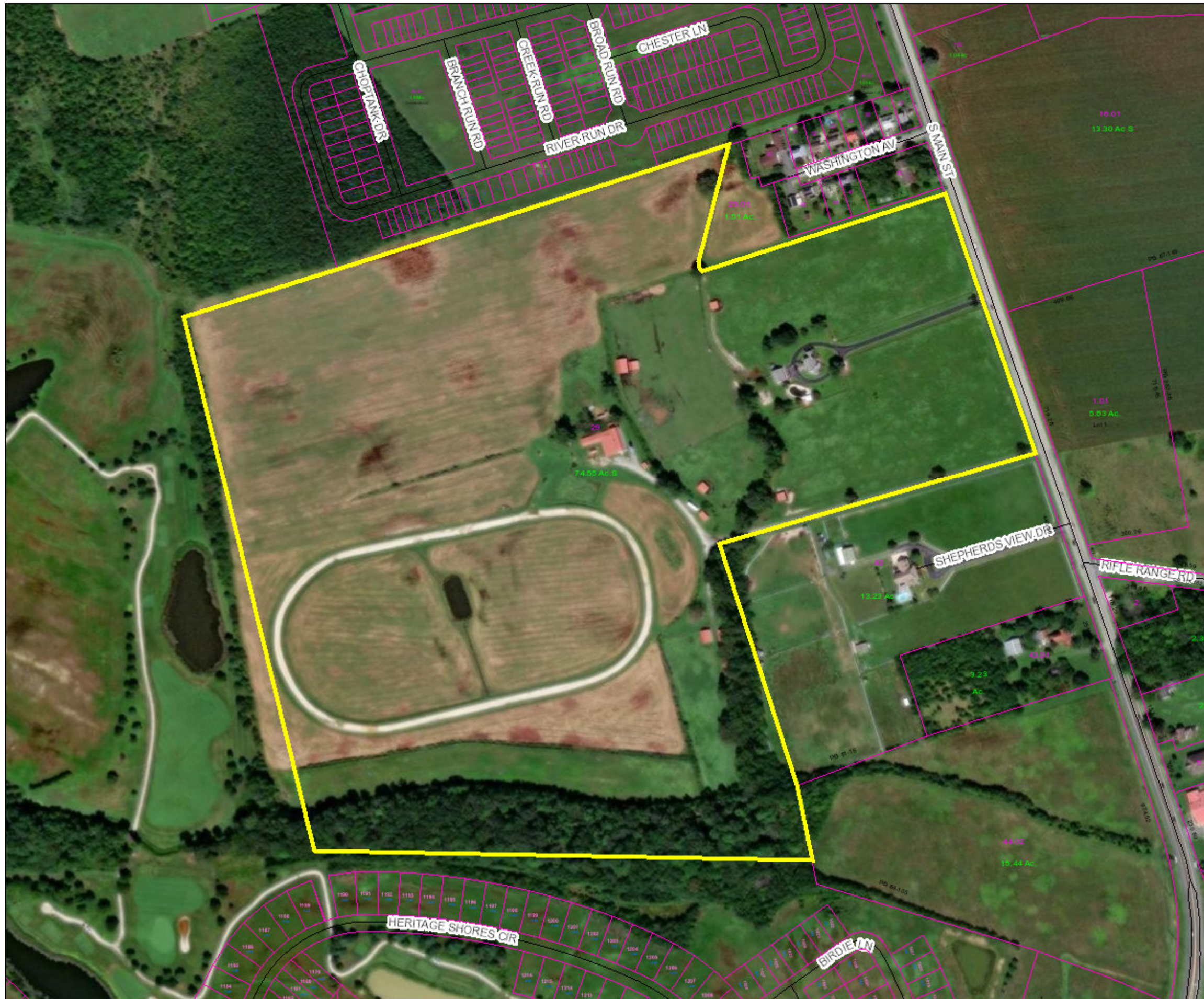
Site Area: 74.96 acres +/- (p/o 19.61 acres +/-)

Tax Map ID: 131-14.00-29.00





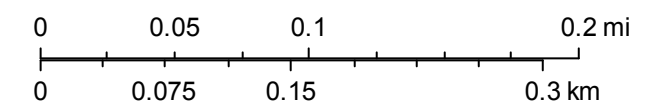
Sussex County



PIN:	131-14.00-29.00
Owner Name	WALLS KAREN L
Book	2297
Mailing Address	18374 S MAIN ST
City	BRIDGEVILLE
State	DE
Description	BRIDGEVILLESEAFORD
Description 2	W/RT 13A 400'
Description 3	N/RT 545
Land Code	

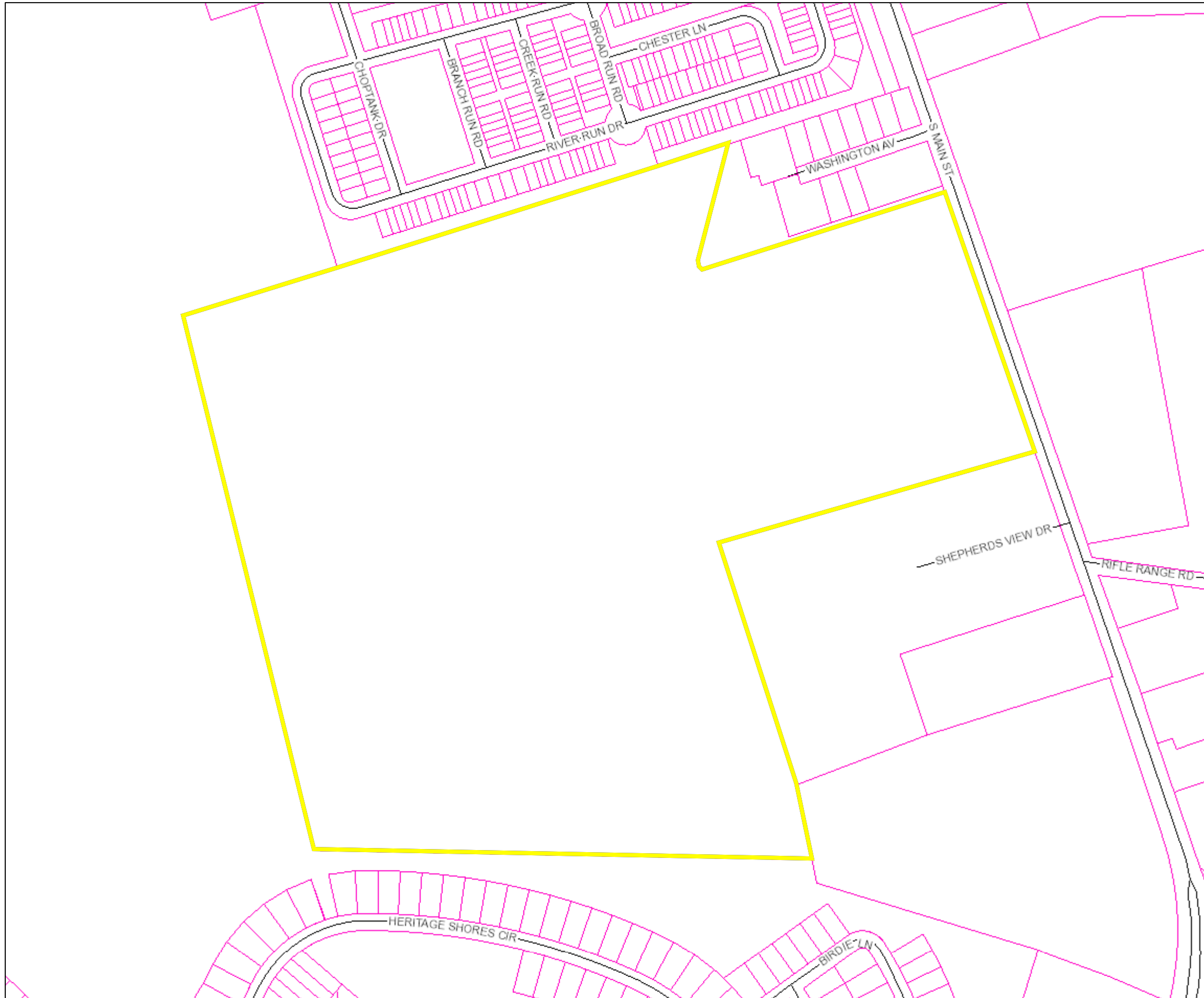
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- Override 1
- Tax Parcels
- Streets
- County Boundaries

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Sussex County



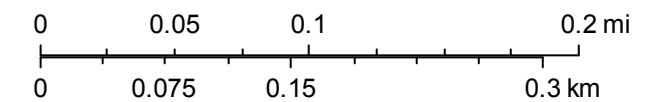
PIN:	131-14.00-29.00
Owner Name	WALLS KAREN L
Book	2297
Mailing Address	18374 S MAIN ST
City	BRIDGEVILLE
State	DE
Description	BRIDGEVILLESEAFORD
Description 2	W/RT 13A 400'
Description 3	N/RT 545
Land Code	

- polygonLayer**

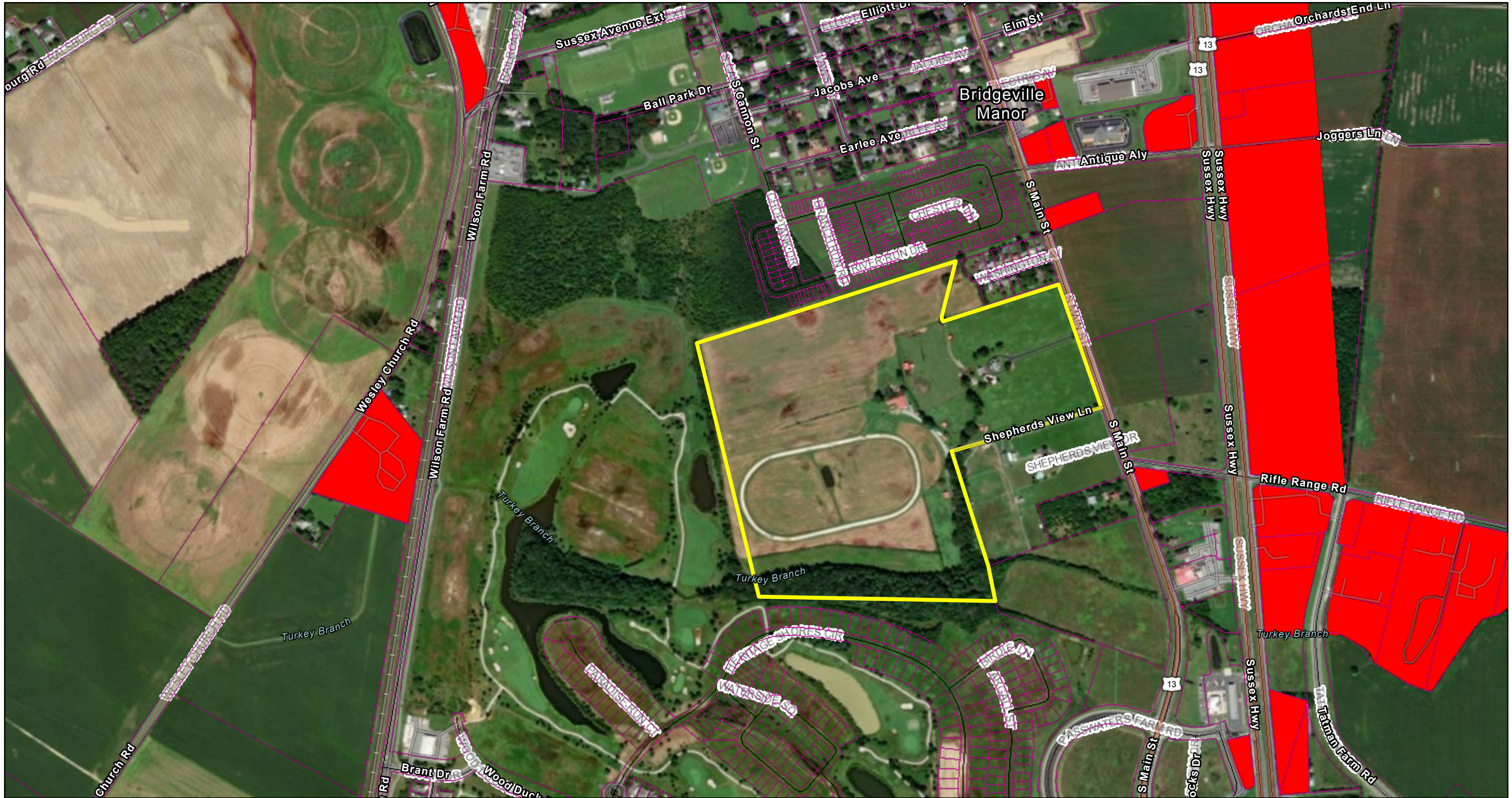
 - Override 1
- polygonLayer**

 - Override 1
- Tax Parcels
- Streets
- County Boundaries

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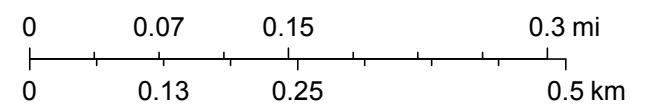
Sussex County



August 25, 2023

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- | | | | | |
|---------------------------------|----------------------------------|-----------------------------|-------------------------------|-------------------------|
| 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 30th 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: November 30, 2023

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).

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 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.



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

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 60th 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



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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 28th, 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



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



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Memorandum

To: Sussex County Planning and Zoning Commission Members
From: Ms. Lauren DeVore, AICP, Planner III
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant
Date: September 25th, 2023
RE: Staff Analysis for C/U 2385 Consolidated Edison Development, Inc. (West Line Road)

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 2385 Consolidated Edison Development, Inc. (West Line Road) to be reviewed during the September 28th, 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 Parcel 532-19.00-57.00 to allow for a proposed solar farm. Specifically, the Application is for the installation and operation of a solar farm consisting of photovoltaic electric generation facility. The property is located on the north side of West Line Road (S.C.R. 512), approximately 0.67 mile west of Delmar Road (Route 54). The solar farm will be included on a 17.45 acre +/- portion of the 29.45 acre +/- parcel.

Site Considerations

The DelDOT Service Level Evaluation Response indicates that the proposed use will generate fewer than 50 vehicle trips per day and will have a diminutive impact in the context of DelDOT's established Memorandum of Understanding (MOU) with the County.

It should be further noted that the subject property is not located within any established Transportation Improvement Districts. Staff also confirm that no Tax Ditches or related Tax Ditch Rights-Of-Way (ROW) appear to be present on the property, nor do any wetlands appear to exist on the property based on available data hosted on the County's Online Mapping System.

Additionally, the County's Online Mapping System confirms that the site is located within Flood Zone "X" – Areas determined to be outside the 1% annual chance flood and outside the 500-year floodplain. DNREC's Flood Planning Tool also indicates that the Parcel is located outside of the FEMA 100-year floodplain, is within the Wicomico River Watershed and North Prong Wicomico River Subwatershed and that the estimated Ground Elevation Height at the Parcel is anywhere from 44 to 48 feet.

A Supplemental Map has been provided which shows this information as provided through DNREC's Flood Planning Tool.



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 the Growth Area Future Land Use Map Designation of “Developing Area.” The subject property and surrounding area on both sides of Delmar Road (Route 54) contain a Future Land Use Map Designation of “Developing Area.”

As outlined in the 2018 Sussex County Comprehensive Plan, “Developing Areas are newer, emerging growth areas that demonstrate the characteristics of developmental pressures” and are “adjacent to municipalities within or adjacent to potential future annexation areas of a municipality” (2018 Sussex County Comprehensive Plan, 4-14). The proposal is in proximity to and approximately 0.57 mile west of the Town of Delmar.

The properties on the opposite side of Old Racetrack Road to the west are within the Rural Area Future Land Use Map Designation of “Low Density” Area. The Plan notes that, “The primary uses envisioned in Low Density Areas are agricultural activities and homes” (2018 Sussex County Comprehensive Plan, 4-19).

Zoning Information

The property contains the rural zoning classification of General Residential (GR) District.

Table 4.5-2 “Zoning Districts Applicable to Future Land Use Categories” in the 2018 Sussex County Comprehensive Plan notes that the General Residential District is an applicable Zoning District within the “Developing Area” Future Land Use Map Designation.

The properties immediately to the west of the subject property and including five (5) parcels located on the north side of Delmar Road are also zoned General Residential District.

The adjacent Parcels that are located on and adjoin the easternmost side of the subject property are zoned Agricultural Residential (AR-1) District.

Existing Conditional Uses within the Vicinity of the Subject Property

Since 1970, there have been seven (7) Conditional Uses within an approximate mile radius of the Application site. Of these Applications, six (6) were approved by Sussex County Council and one (1) remains pending.

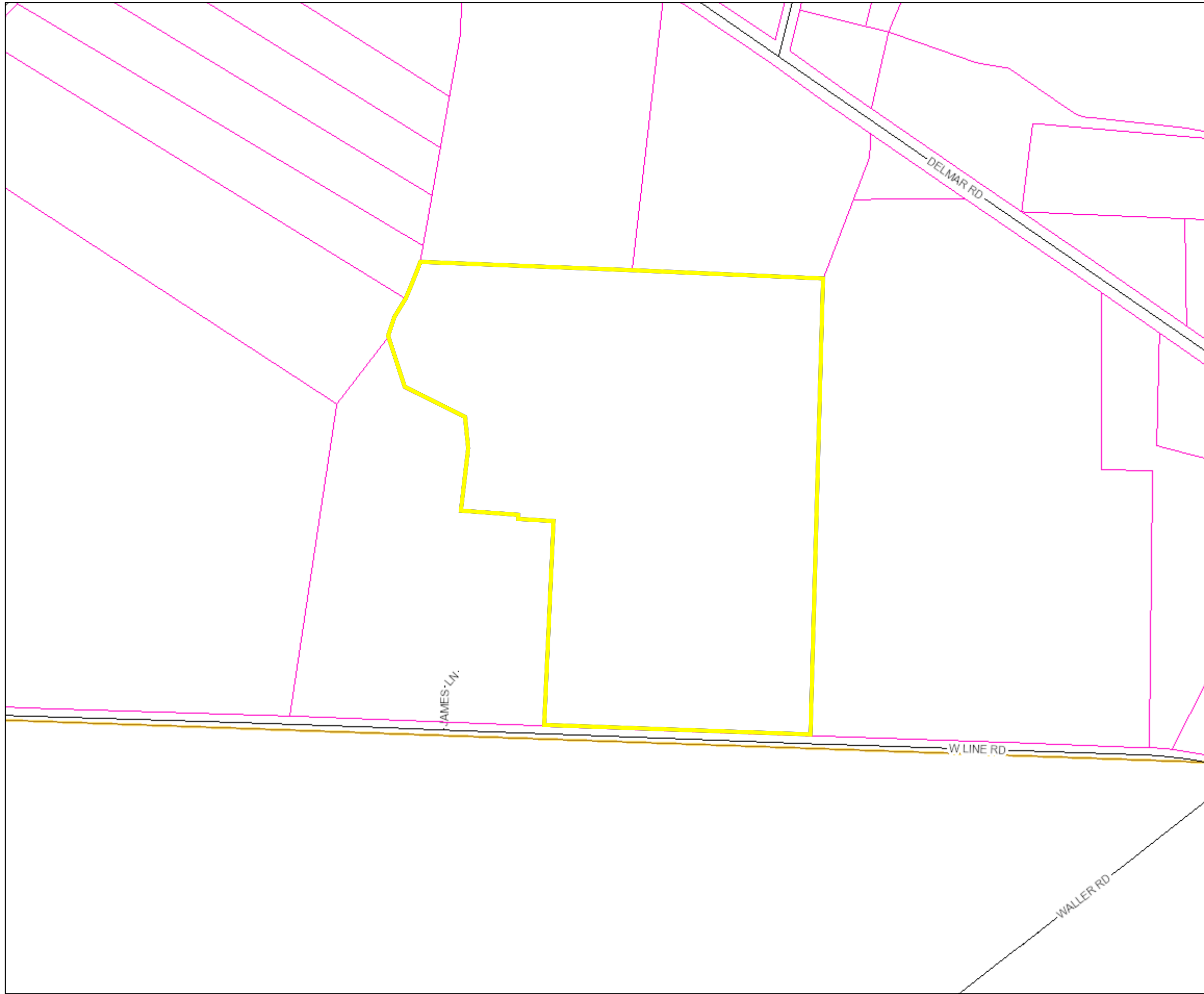
A Supplemental Table has been provided which contains further information regarding the abovementioned Conditional Use Applications which are located within a 1-mile radius of the Application site.

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

Conditional Use Applications (w/in a 1-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 80	Woodrow Humphries	GR	Car Sales Lot	N/A	N/A	9/26/1972	Approved	_
C/U 590	Daniel L. Ward	AR-1	Repair Shop	_	_	_	Approved	_
C/U 610	Richard Lyman Sr. & Kathryn Lyman	AR-1	Antique Shop	_	_	1/6/1981	Approved	_
C/U 2041	Scott Randall Witzke	AR-1	Retail Auto Sales	2/11/2016	Recommended Approval	6/7/2016	Approved	2450
C/U 2128	Larry Martin	AR-1	Auto Repair Shop	6/14/2018	Recommended Approval	10/23/2018	Approved	2607
C/U 2254	Richard L. Jr. & Kelsey R. Dickerson Tighman	GR	Auto Glass Tinting Shop	7/8/2021	Recommended Approval	8/10/2021	Approved	2794
C/U 2354	Sussex CSG 1, LLC	AR-1	Solar Farm	5/25/2023	Recommended Approval	6/6/2023	Deferred	



Sussex County



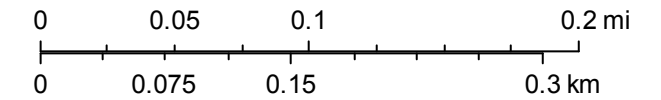
PIN:	532-19.00-57.00
Owner Name	JAMES WILLIAM J TTEE REV TR
Book	5857
Mailing Address	38712 JAMES LN
City	DELMAR
State	DE
Description	N/RT 512
Description 2	E/RT 502
Description 3	N/A
Land Code	

- polygonLayer**

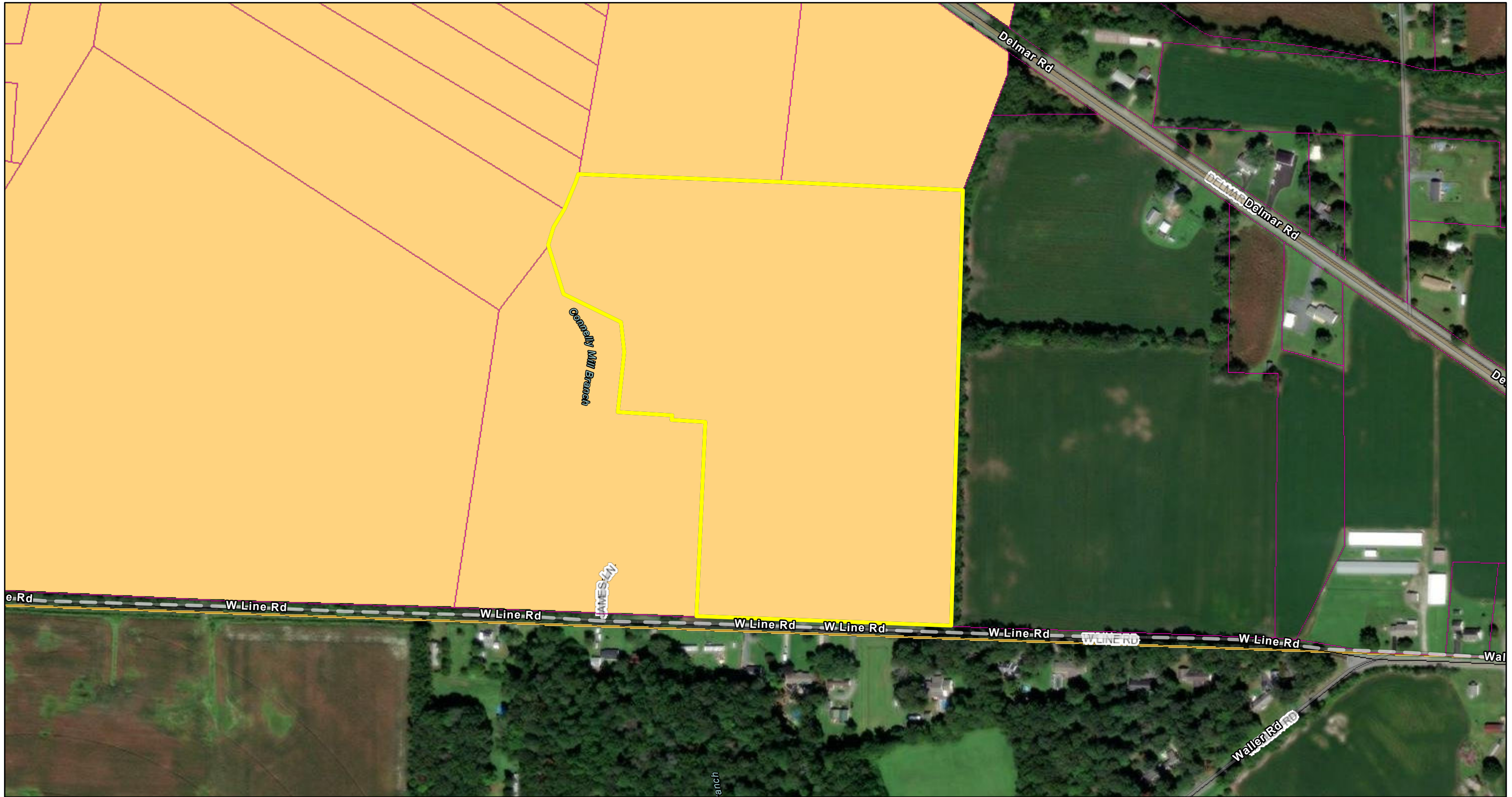
 - Override 1
- polylineLayer**

 - Override 1
- Tax Parcels
- Streets
- County Boundaries

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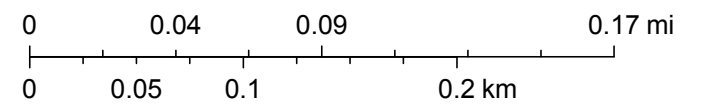
Sussex County



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 | |
| 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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Sussex County, Sussex County Government, Maxar, Esri Community Maps Contributors, County of Sussex, DE, Delaware FirstMap, VGIN, © OpenStreetMap, Microsoft, Esri, HERE, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, EPA, NPS, US Census Bureau, USDA

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 30th 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.



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: November 30, 2023

RE: County Council Report for C/U 2386 filed on behalf of Consolidated Edison Development, Inc.

The Planning and Zoning Department received an application (C/U 2386 filed on behalf of Consolidated Edison Development, Inc.) for a solar farm (array) on parcel 532-6.00-32.00. The property is located at 35204, Delmar. The parcel size is 53.89 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).

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 2386 Consolidated Edison Development, Inc.

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR A SOLAR FARM ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 53.891 ACRES, MORE OR LESS. The property is lying on the east and west side of Cast Rite Drive on the south side of Bacons Road (S.C.R. 515), approximately 0.39 mile west of Country Walk. 911 Address: 35204 Cast Rite Drive, Delmar. Tax Map Parcel: 532-6.00-32.00.

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 2386 is the Delmar C project located at 35204 Cast Rite Drive in Delmar, Delaware; that for the purpose of this public hearing he requested that the testimony presented in connection with the public hearing for C/U 2381, including the introductions and attributes 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 24.53 acres of an overall 53.89 acre property; that the setback is approximately 350 ft. from Bacons Road with access by a 20 ft. gravel driveway; that the site is mainly undeveloped except for a single-family dwelling occupied by the landowner; that there are portions of wooded areas with wetlands to the western side of the property and all development is outside of the wetlands; that the site is owned by Robert Blaney; that Mr. Blaney was present earlier but has left; that he asked that the following statement be entered into the record on his behalf,

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

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 2386.

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 2386 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 2386 Consolidated Edison Development, Inc. for a solar farm in the GR-District based on the record made during the public hearing and for the following reasons:

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

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

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

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

PLANNING & ZONING COMMISSION

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



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JAMIE WHITEHOUSE, AICP, MRTPI
DIRECTOR OF PLANNING & ZONING

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET
Planning Commission Public Hearing Date: September 28th, 2023

Application: CU 2386 Consolidated Edison Development Inc. (Cast Rite Drive)

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

Owner: Robert Blaney
P.O Box 3
Eaton Center, NH 03832

Site Location: Lying on the south side of Bacons Road (S.C.R. 515) approximately (0.4) miles west of Bi State Boulevard (Route 13).

Current Zoning: General Residential (GR) Zoning District

Proposed Use: Solar arrays for a photovoltaic electric generation facility.

Comprehensive Land
Use Plan Reference: Existing Development Area

Councilmanic
District: Mr. Vincent

School District: Delmar School District

Fire District: Laurel Fire Department

Sewer: N/A

Water: N/A

Site Area: 53.88 acres +/-

Tax Map ID: 532-6.00-32.00



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



Sussex County

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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: May 26th, 2023
RE: Staff Analysis for C/U 2386 Consolidated Edison Development Inc. (Cast Rite Drive)

This memo is to provide background and analysis for the Planning Commission to consider as a part of Application C/U 2386 Consolidated Edison Development Inc. (Cast Rite Drive) 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 532-6.00-32.00 to allow for a solar array facility. The site is lying on the east and west side of Cast Rite Drive on the south side of Bacons Road (S.C.R. 515), approximately 0.39 miles west of Country Walk. The improvements are proposed on a (23.356) acre portion of the parcel which is comprised of a total of 53.891 acres +/-

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

Future Land Use Map Designation w/in Comprehensive Plan: Existing Development 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 Growth Area and has a land use designation of "Existing Development Area." All surrounding properties to the south, east, and west of the subject site contain the Future Land Use Map designation of "Existing Development Area" with parcels to the north classified as "Low Density Area."

As outlined in the 2018 Sussex County Comprehensive Plan, Existing Development Areas consist of "primarily of existing residential development under the current General Residential and Medium Density Residential zoning districts, as well as some commercial uses" and notes "non-



residential development consists of uses found in the neighborhood business districts and commercial districts “(Sussex County Comprehensive Plan, 4-16, 4-17). The “Low Density” Area to the north 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).

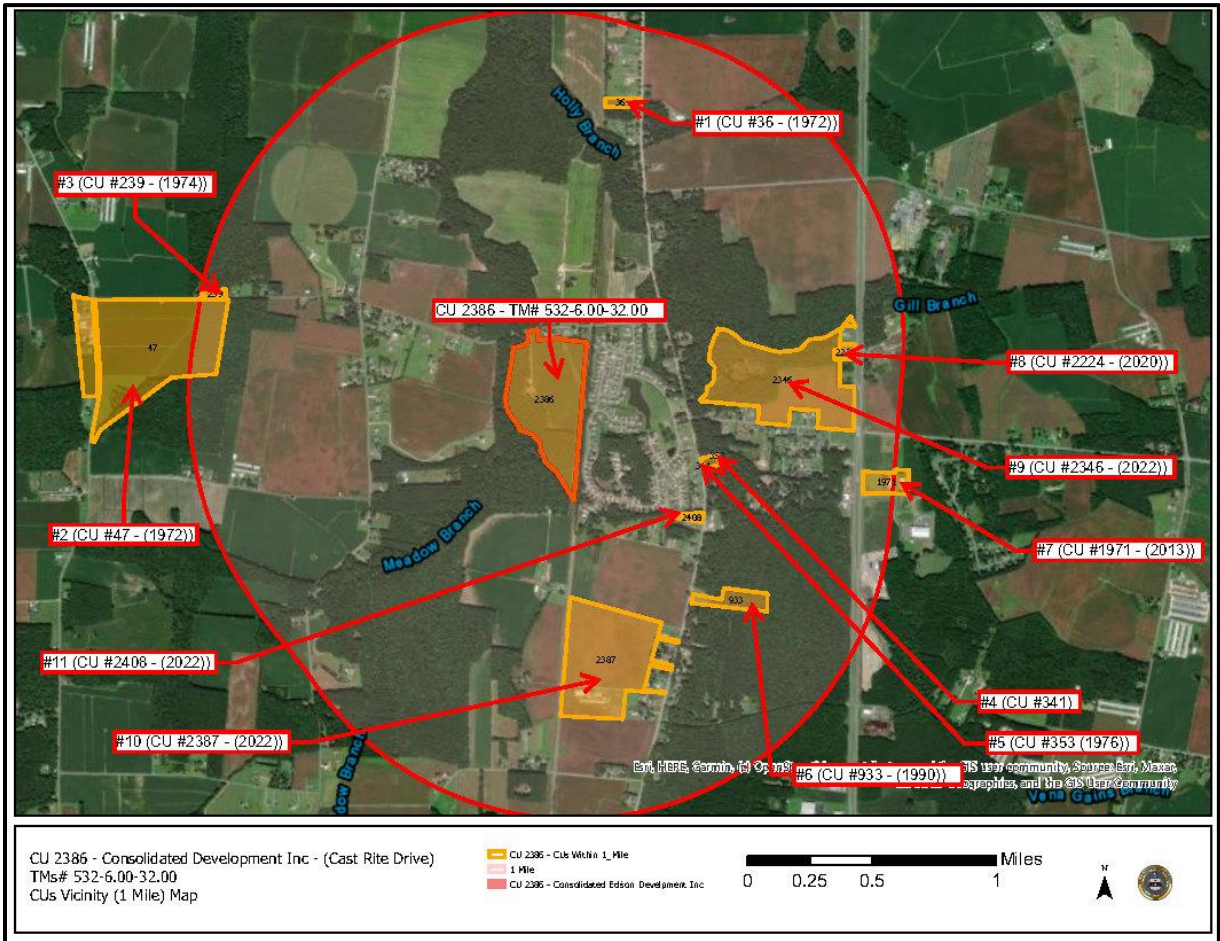
Further Site Considerations:

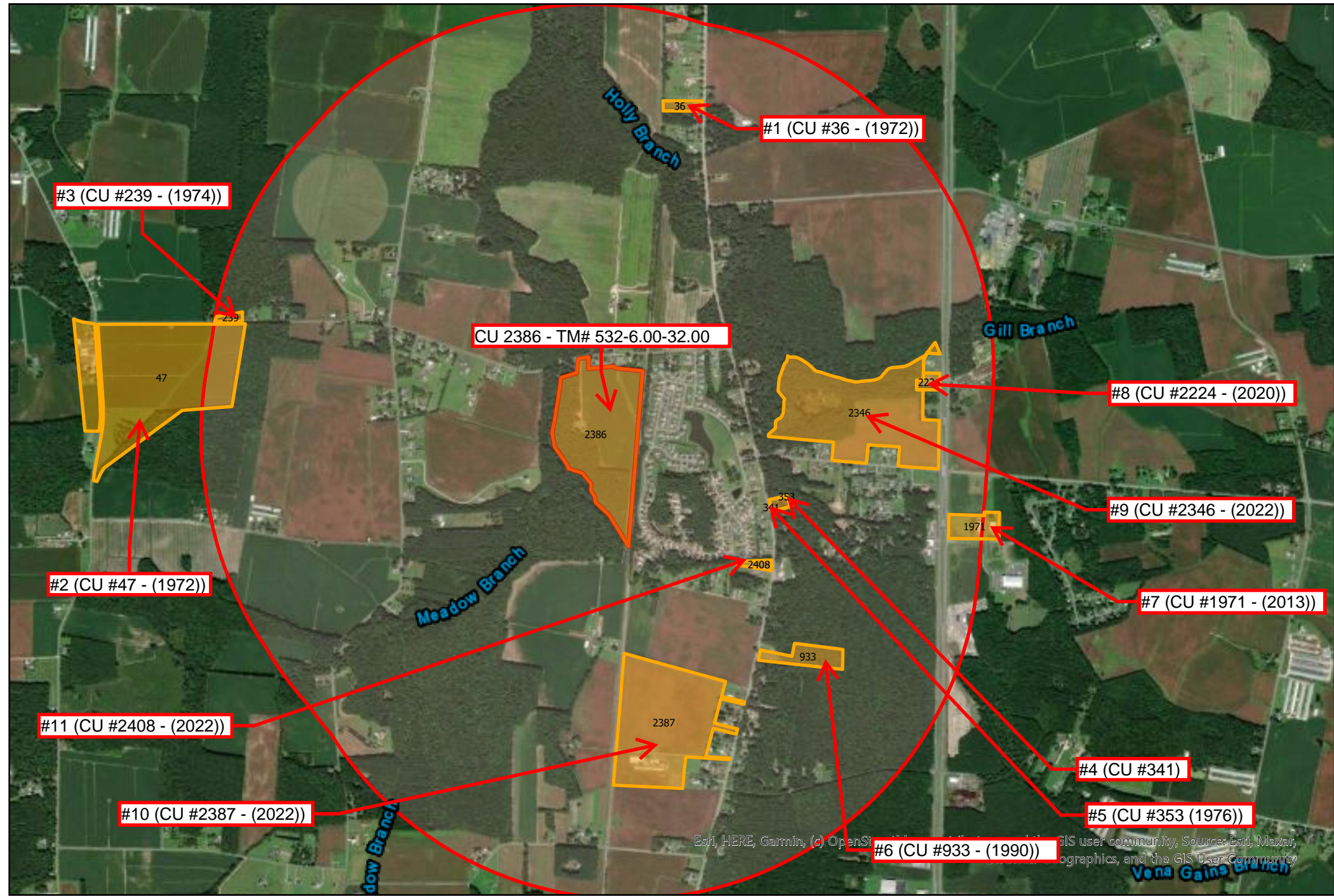
- **Density:** N/A
- **Open Space Provisions:** N/A
- **Agricultural Areas:** The site is within the vicinity of active agricultural lands. The Powell Farm Agricultural Preservation District Easement borders the parcel immediately to the north across Bacons Road.
- **Interconnectivity:** N/A
- **Transportation 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 a portion of the forested area at the south portion of the site is to be removed.
- **Wetlands Buffers/Waterways:** Non-tidal wetlands are present at the southwest portion of the Parcel with all of the proposed improvements outside of the wetland resources.
- **Other Site Considerations (ie: Flood Zones, Tax Ditches, Groundwater Recharge Potential, etc.):** Portions of the Parcel on the western boundary are located within Flood Zone AE and the site is 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.

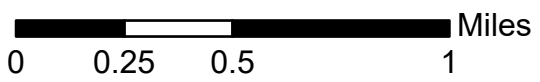
Conditional Use Applications							
(Within a 1-mile radius of the subject site)							
Item #	Application	Application	Zoning	Proposed	CC	CC	Ordinance
Attached	Number	Name	District	Use	Decision	Decision	Number
Map						Date	
#1	CU# 36	Walter L Green Enterprises	AR-1	Manufactured Home Park	Approved	1/10/1072	N/A
#2	CU# 47	Clarke M Hastings	AR-1	Butcher Shop	Approved	3/21/1972	N/A
#3	CU# 239	Smiley W Hastings SR	AR-1	Automobile Repair Shop	Approved	10/15/1974	N/A
#4	CU# 341	Wilson Sturgis	GR	Auto Repair	Withdrawn	N/A	N/A
#5	CU# 353	Wilson Sturgis & Joanne	GR	Shop For Automotive Repair, Painting, Body And Fender Repair	Approved	6/1/1976	N/A
#6	CU# 933	Victor H. Laws, Sr., R&W Contractors	AR-1	Office/Storage/Parking Contractor	Denied	5/29/1990	N/A
#7	CU# 1971	Greg N. Johnson	AR-1	Countertop Manufacturing Business	Approved	12/3/2013	2329
#8	CU# 2224	Pamela Price	AR-1	Real Estate Office	Approved	6/9/2020	2714
#9	CU# 2346	TPE DE SU114, LLC	AR-1	Community Solar Facility	Approved	6/20/2023	2932
#10	CU# 2387	Consolidated Ed Dev, Inc.	GR	Solar Farm	Pending	N/A	N/A
#11	CU# 2408	Efren Fernando Acevedo	GR	Car Dealership	Pending	N/A	N/A

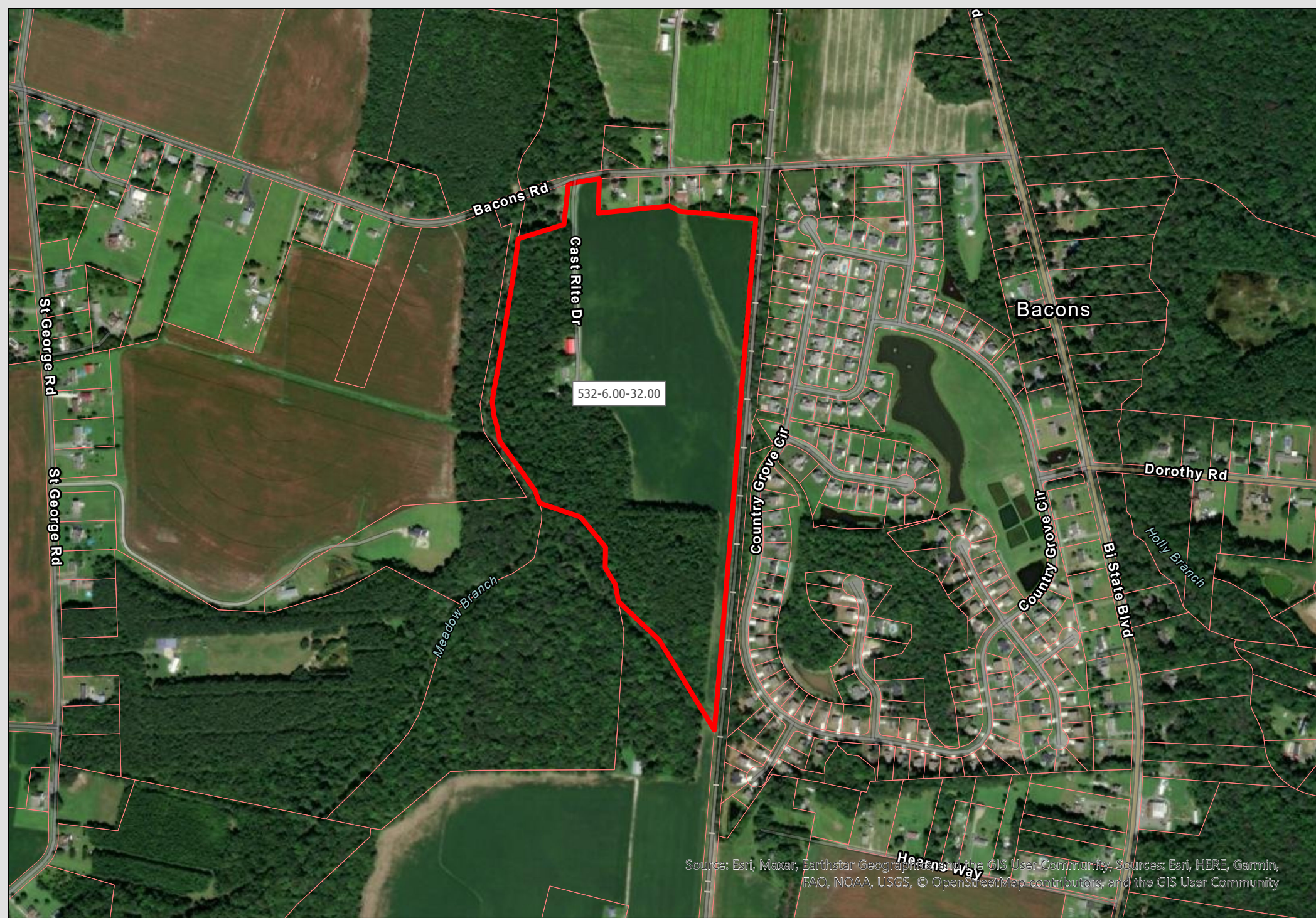




CU 2386 - Consolidated Development Inc - (Cast Rite Drive)
 TMs# 532-6.00-32.00
 CUs Vicinity (1 Mile) Map

- CU 2386 - CUs Within 1_Mile
- 1 Mile
- CU 2386 - Consolidated Edison Development Inc

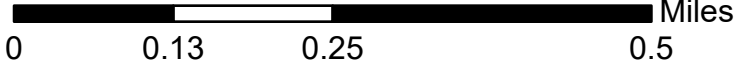


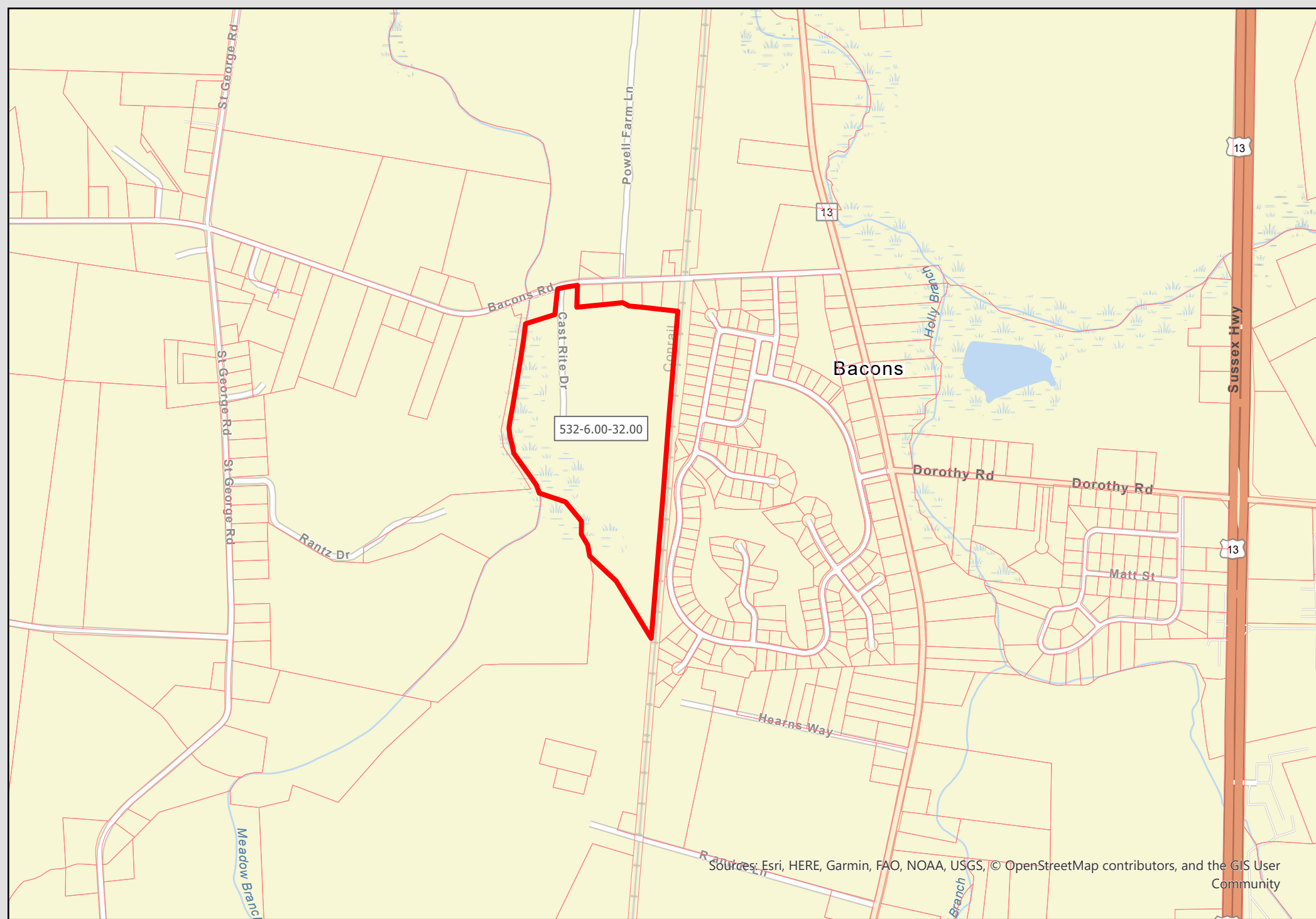


Source: Esri, Maxar, Earthstar Geographics, and the GIS User Community, Sources: Esri, HERE, Garmin, FAO, NOAA, USGS, © OpenStreetMap contributors, and the GIS User Community

CU 2386 - Consolidated Edison Development Inc.
(Cast Rite Drive)
Aerial Map

 CU 2386 - ConEd Dev Inc (Cast Rite Drive)


























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

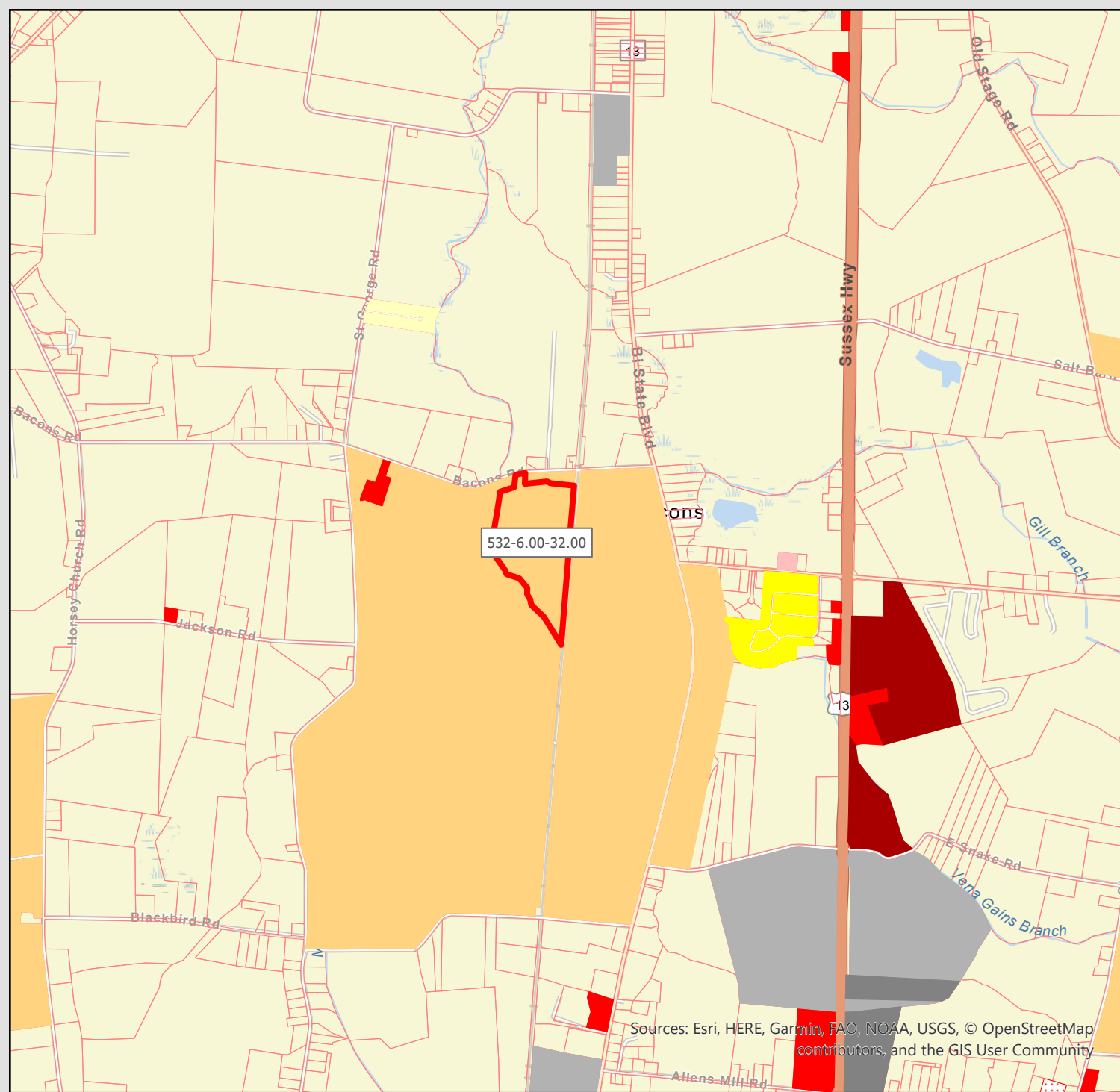
CU 2386 - Consolidated Edison Development Inc.
(Cast Rite Drive)
Street Map

 CU 2386 - ConEd Dev Inc (Cast Rite Drive)



Zoning

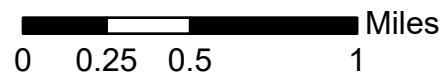
-  Agricultural Residential - AR-1
-  Agricultural Residential - AR-2
-  Medium Residential - MR
-  General Residential - GR
-  High Density Residential - HR-1
-  High Density Residential - HR-2
-  Vacation, Retire, Resident - VRP
-  Neighborhood Business - B-1
-  Neighborhood Business - B-2
-  Business 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, HERE, Garmin, FAO, NOAA, USGS, © OpenStreetMap contributors, and the GIS User Community

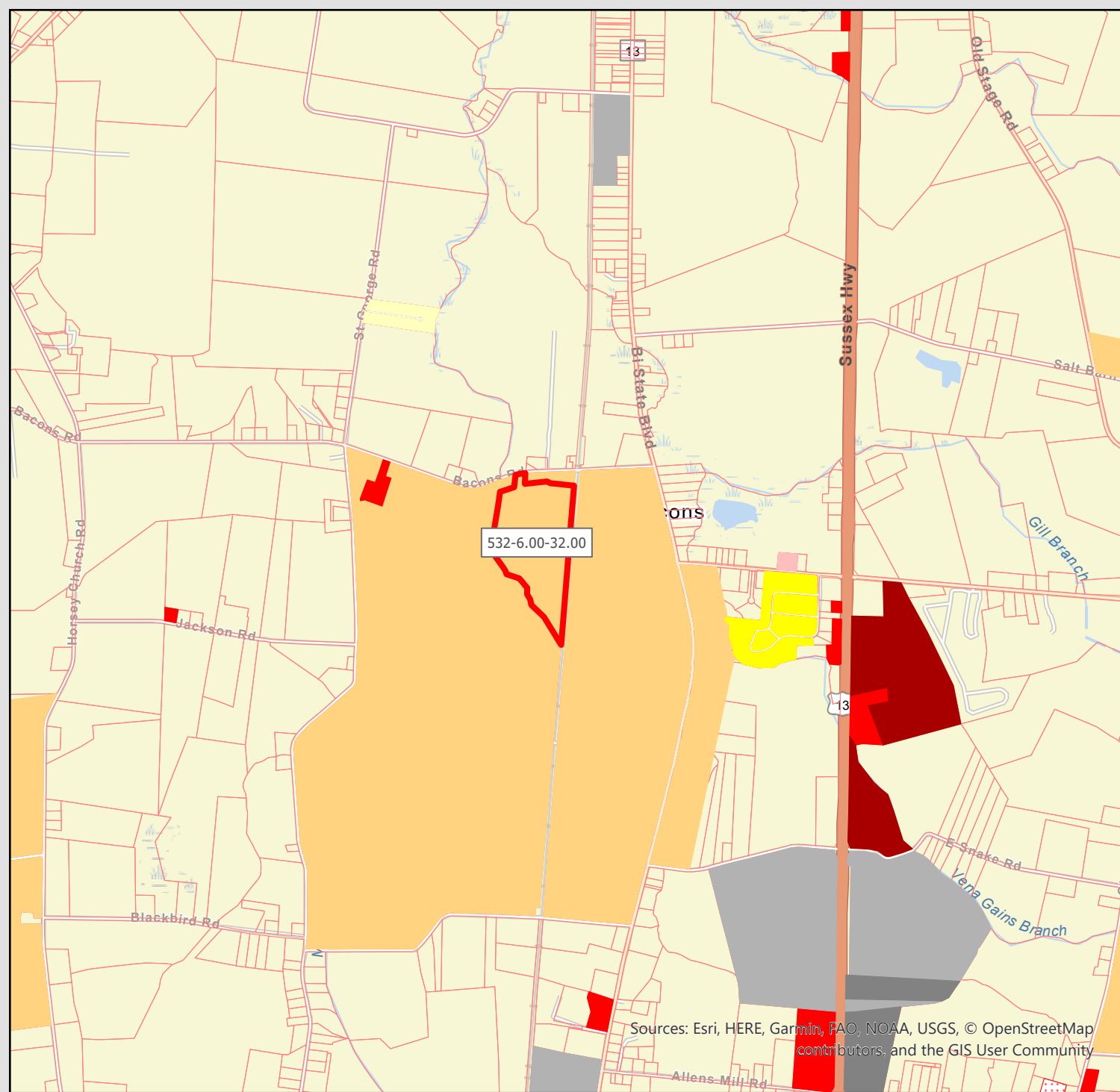
CU 2386 - Consolidated Edison Development Inc.
 (Cast Rite Drive)
 Zoning Map

 CU 2386 - ConEd Dev Inc (Cast Rite Drive)



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

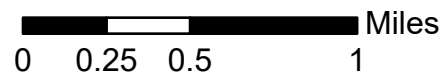


CU 2386 - Consolidated Edison Development Inc.

(Cast Rite Drive)

Zoning Map

 CU 2386 - ConEd Dev Inc (Cast Rite Drive)



Reintroduced: 8/29/23

Council District 1: Mr. Vincent
Tax I.D. No.: 532-6.00-32.00
911 Address: 35204 Cast Rite Drive, Delmar

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR A SOLAR FARM ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 53.891 ACRES, MORE OR LESS

WHEREAS, on the 30th day of June 2022, a conditional use application, denominated Conditional Use No. 2386 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. 2386 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. 2386 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 east and west side of Cast Rite Drive on the south side of Bacons Road (S.C.R. 515), approximately 0.39 miles west of Country Walk and being more particularly described in the attached legal description prepared by Robert W. Telschow Jr., containing 53.891 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: November 30, 2023

RE: County Council Report for C/U 2387 filed on behalf of Consolidated Edison Development, Inc.

The Planning and Zoning Department received an application (C/U 2387 filed on behalf of Consolidated Edison Development, Inc.) for a solar farm (array) on parcel 532-13.00-22.00. The property is located at 10311 Hastings Lane, Delmar. The parcel size is 17.04 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 10 reasons and 11 recommended conditions as outlined within the motion (copied below).

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 2387 Consolidated Edison Development, Inc.

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



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

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 2387 is the Delmar D project located at 10311 Hastings Lane in Delmar, Delaware; that for the purpose of this public hearing he requested that the testimony presented in connection with the public hearing for C/U 2381, including the introductions and attributes that these seven projects have in common be entered into this record; that the specifics of this site are shown on the site plan and the lease area/conditional use area is 16.97 acres of an overall 54.49 acre property; that the setback is approximately 410 ft. with access by a 20 ft. gravel driveway; that the site is undeveloped and currently used as part of the family farm; that there are no wetlands on the property; that the site is owned by Rufus Lester (Skip) Ammons and his wife Charlotte Ammons who live on the property with their daughter and son-in-law who operate the farm and farm seed and equipment business at this location; that Mr. Ammons is present this evening; and that the Ammons family asked that he read the following statement into the record on their behalf,

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

Mr. Shanahan stated that before he closed on this and the six other conditional use applications, he would like to take the opportunity to thank Director Jamie Whitehouse and Planner Michael Lowrey for their guidance and assistance with these applications and the processes over the last 15 months; and that is has been appreciated.

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

There were no questions from Commission members.

Mr. Robertson noted that the last three applications are zoned General Residential which is the highest density, however, all of them are in farmland which asks the question, why was this land zoned General Residential?

Mr. Wheatley stated that the Commission has seen several solar arrays that have been approved by County Council but has yet to see site plans submitted for approval. He asked if the plans are speculative and unsure if they will be chosen by the power company to put a solar array on each one of these sites and not necessarily Con Edison, but the industry in general.

Mr. Shanahan stated that with regard to the industry, there are a lot of “developers” who once the Delaware legislation was approved became land prospectors with the idea of getting as many sites as possible; that they will never develop them, but then will approach Con Edison; that Con Edison and RWE are not in the speculation business; that most of their projects that are permitted are constructed and operated; that he cannot guarantee that it will happen in Delaware; that all of these sites are vetted with a solar site assessment; that an interconnection study is also conducted; that by the time it comes before the Commission, Con Edison is fairly certain that it will be interconnected; and that he has worked in a number of states but he has never worked with a company that is as difficult and as slow as Delmarva Power.

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

Ms. Wingate made a motion to reopen the public hearing to allow for public input, seconded by Mr. Collins. Motion carried 4-0

The Commission found that there was no one present who wished to speak in favor of C/U 2387.

The Commission found that Mr. Steve Harrison spoke in opposition to the application. Mr. Harrison stated that his neighbor, Frank Messick was present that evening but had to leave and left a list of questions regarding the location of the power line, transformers, etc., and asked if this was part of this hearing.

Chairman Wheatley said that it may be that the Applicant must get approval for the land use first and then they have to submit a preliminary site plan which would show the location of transformers and power lines.

Mr. Harrison stated that he lives across the street from the subject property; that he and his wife have lived there for 43 years; that he doesn't want to look out his window and see a solar farm; that he wants to see a corn field or deer grazing in the field; and that he is unsure what a solar farm would do to property values.

Mr. Websly Darbouze, Engineer with Colliers Engineering & Design stated that the site has two proposed transformer pads where all the electrical equipment will be and that is shown on the concept plan.

Mr. Robertson asked how close the transformer pad is to the neighboring dwelling.

Mr. Darbouze stated that it is approximately 50 ft. from the dwelling on the adjoining property.

Chairman Wheatley stated that the Commission does have the right to set conditions and that they may request that the transformer be set further away from the neighboring dwelling.

The Commission found that Ms. Sheree Hammerer spoke in opposition to the application. Ms. Hammerer stated that when she looks out between her neighbor's homes she can see agriculture fields, deer, and trains; that her family has lived in Sussex County since the late 1600s; that her father built her house and she was born and raised there; that after her parents died, she and her husband bought the house and reside there now; that it is not anything against the Ammons family but that she does not want to look out from her property and see a solar farm; and that there are about 10 houses who

will have this in their back yard.

Ms. Wingate asked if it would make a difference to the opposition if there was a condition for a woven fence to be placed on the subject property.

Ms. Hammerer stated that she was not sure because she likes to be able to look across the fields.

Mr. Collins asked if a landscaped buffer would make a difference.

Ms. Hammerer stated that it may matter to the homes that back up to the proposed solar farm; that she also had concerns about radiation or buzzing noise from the solar panels; that she has concerns about the animals in the fields; that it seems like farmlands are being taken for developments or projects like this; and that although she can't speak for her neighbors she is sure they would appreciate it if there was something done about the glare and the panels moving up and down.

The Commission found that Mr. Vincent Hammerer spoke in opposition to the application. Mr. Hammerer stated that he noted there were a lot of impact studies done but none on the property values of the area and how property values will be affected; that he thinks property values will be impacted and will the County reassess for tax purposes if that happens; that the picture shown is misleading as it does not show the dwellings in close proximity to this proposed solar farm; that he noted except the Bridgeville application, the other applications that were presented this evening had very few dwellings in close proximity to the subject sites; and that his wife's family has lived in Sussex County since the 1600s which should be taken into account when making a decision.

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

In relation to C/U 2387 Consolidated Edison Development, Inc. Motion by Ms. Wingate to defer action for further consideration, seconded by Mr. Collins 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 2387 Consolidated Edison Development, Inc. for a solar farm in the GR-District based on the record made during the public hearing and for the following reasons:

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

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

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

- I. There shall be a 30-foot-wide buffer of planted vegetation along the eastern, western, and southern boundary of the array area. These areas shall be clearly shown on the Final Site Plan. The Final Site Plan shall include a landscape plan showing the proposed tree and shrub landscape design in the buffer area.
- J. The Final Site Plan shall include a Decommissioning Plan that includes financial security to ensure that funds are available for decommissioning and removal of the solar farm in its entirety throughout the life of the Conditional Use.
- K. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.

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

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

PLANNING & ZONING COMMISSION

ROBERT C. WHEATLEY, CHAIRMAN
SCOTT COLLINS
BRIAN BUTLER
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 28th, 2023

Application: CU 2387 Consolidated Edison Development, Inc. (Hastings Lane)

Applicant: Consolidated Edison Development, Inc (c/o Joe Shanahan)
100 Summit Lake Drive
Valhalla, NY 10595

Owner: Ammons Rufus Lester Jr. & Charlotte Hastings Ammons
26772 Lewes Georgetown Highway
Harbeson, DE 19951

Site Location: Lying on the north and south side of Hasting Lane approximately 0.37-
miles north of Old Crow Road (S.C.R. 503B).

Current Zoning: General Residential (GR) Zoning District

Proposed Use: Solar Farm

Comprehensive Land
Use Plan Reference: Existing Development Area

Councilmanic
District: Mr. Vincent

School District: Delmar School District

Fire District: Delmar Fire Co.

Sewer: N/A

Water: N/A

Site Area: 17.04 acres +/- (p/o)

Tax Map ID: 532-13.00-22.00



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



Sussex County

DELAWARE
sussexcountyde.gov

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 2387 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 2387 (Consolidated Edison Development, Inc.) to be reviewed during the September 28th, 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 Parcel: 532-13.00-22.00 to allow for a solar array farm. The property is lying on the west side of Bi State Boulevard (Rt. 13A), approximately 475-foot north of the intersection of W Snake Road (S.C.R. 452) and Bi State Boulevard. The applicant is applying 17.04 -acres +/- out of 54.49-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 "Existing Development Area." All adjoining parcels to the north, south, east, and west also have a Future Land Use Map designation of "Existing Development Area."

As outlined in the 2018 Sussex County Comprehensive Plan, Existing Development Area consists of primarily of existing residential development under the current General Residential and Medium Density Residential zoning districts, as well as some commercial uses. These areas are scattered throughout the County. These areas are surrounded by Low Density Areas, and this classification is simply being used to identify these existing scattered zoning areas that have no direct relation to their surrounding zoning and/or the Future Land Use Map. The full range of housing types allowed in the existing underlying zoning districts are appropriate in these residential areas, including single-family homes, townhouses, and multi-family units. Non-residential development consists of uses found in the neighborhood business districts and commercial districts.

Zoning Information

The subject property is zoned General Residential (GR) District. All adjacent properties to the north, south, east, and west of the subject parcels are also zoned General Residential (GR) District.



Existing Conditional Uses within the Vicinity of the Subject Property

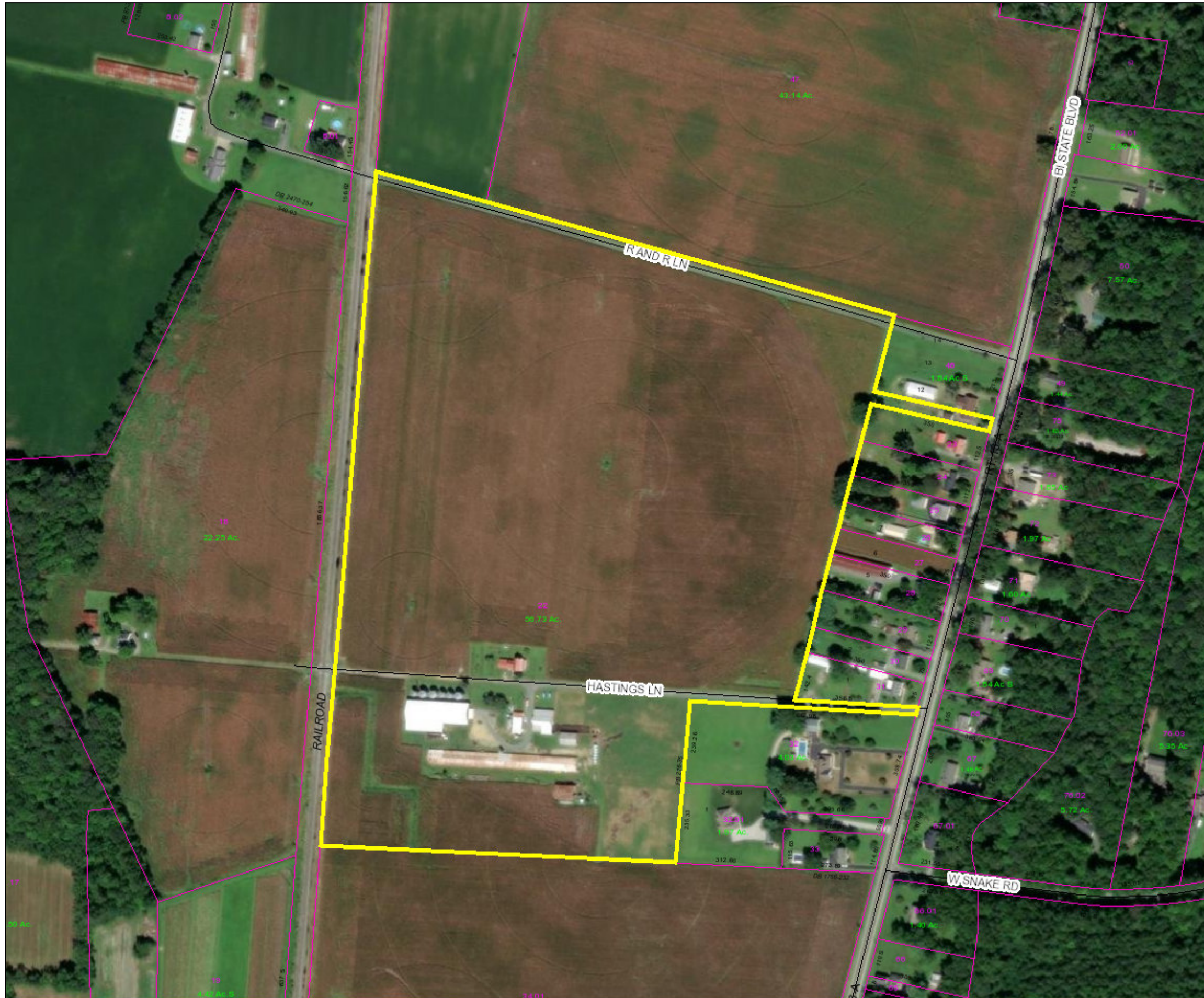
Although there have been multiple applications in this area, since 2011, there have been four (4) Conditional Use applications within a one (1) mile radius of the Application Site.

CU	Applicant	Proposed Use	CC Decision Date	Ordinance No.
1971	Greg N. Johnson	Countertop Manufacturing Business	12/3/2013	2329
2346	TPE DE SU 114, LLC	Solar Farm	6/20/2023	2932
2386	Consolidated Edison Development, Inc.	Solar Farm	N/A (Public hearing with P&Z Commission on 9/28/2023)	N/A (Public hearing with P&Z Commission on 9/28/2023)
2408	Efren Fernando Acevedo	Car Dealership	N/A (No public hearing has been scheduled yet)	N/A (No public hearing has been scheduled yet)

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.



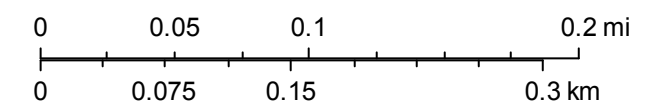
Sussex County



PIN:	532-13.00-22.00	
Owner Name	AMMONS	RUFUS
	LESTER JR	
Book	3239	
Mailing Address	10311 HASTINGS LN	
City	DELMAR	
State	DE	
Description	HWY LAUREL TO DELMAR	
Description 2	N/A	
Description 3	N/A	
Land Code		

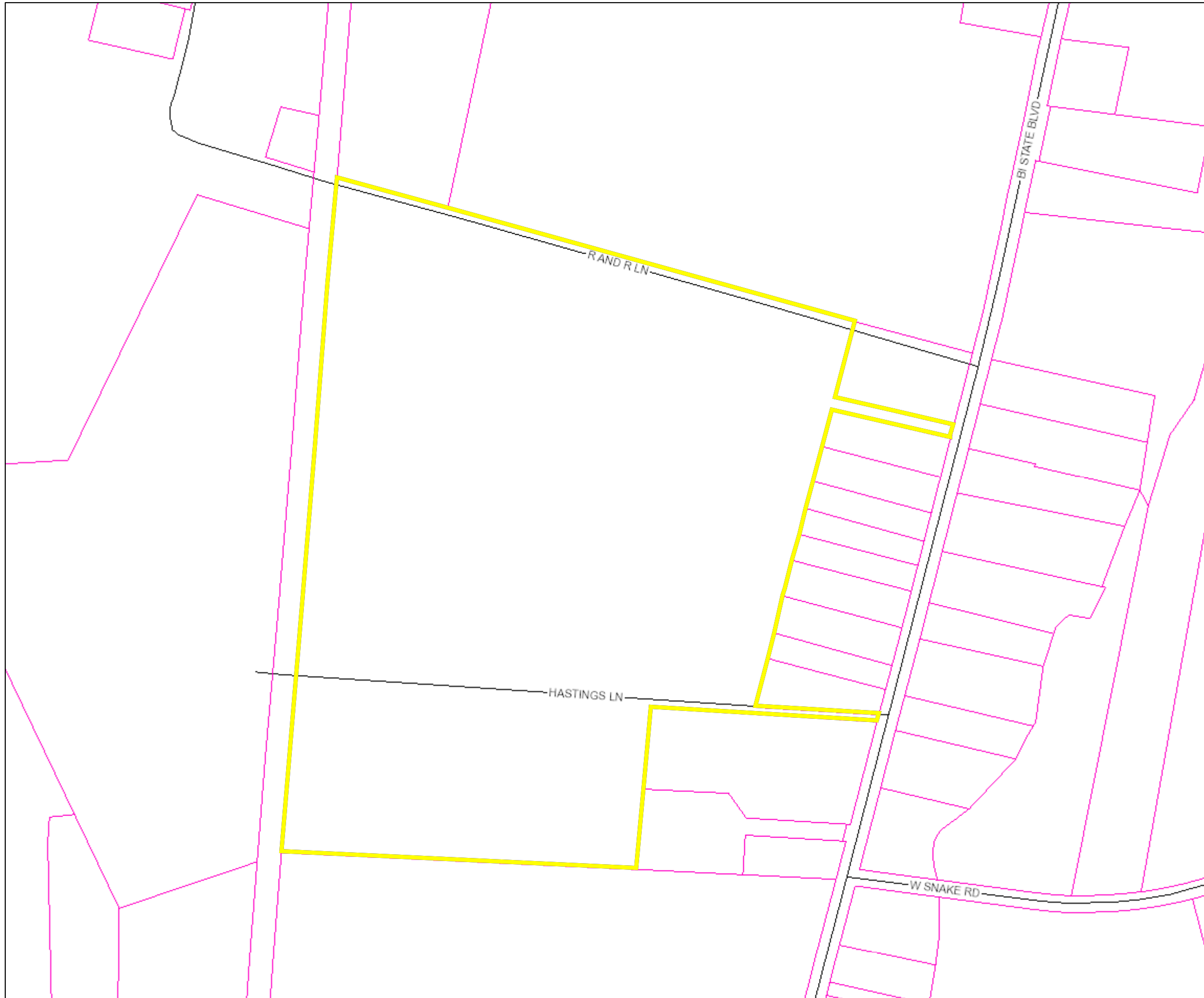
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- Override 1
- Tax Parcels
- Streets
- County Boundaries

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Sussex County



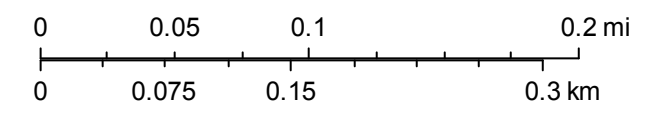
PIN:	532-13.00-22.00	
Owner Name	AMMONS	RUFUS
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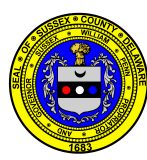
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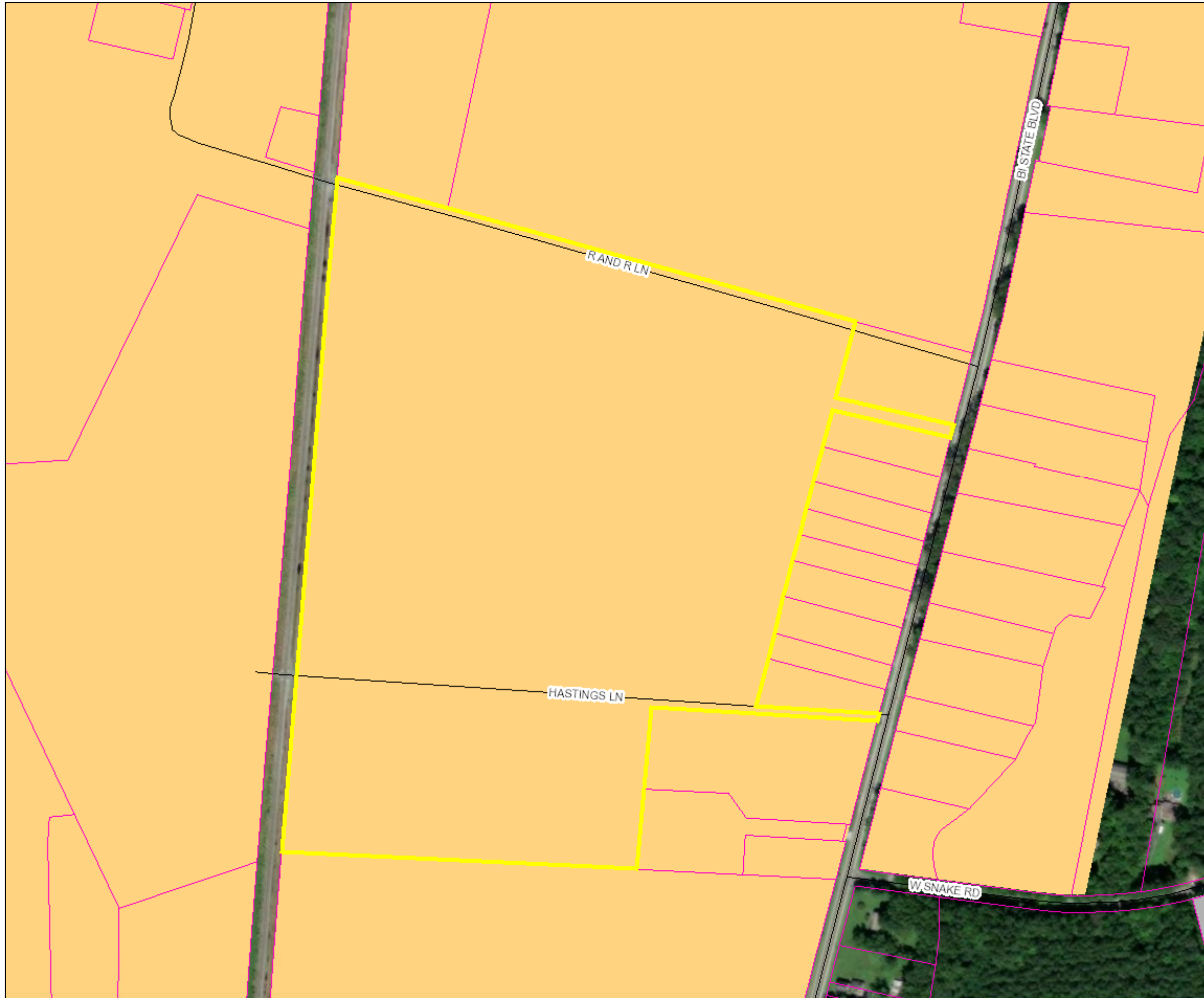
 - Override 1
- Tax Parcels
- Streets
- County Boundaries

1:4,514





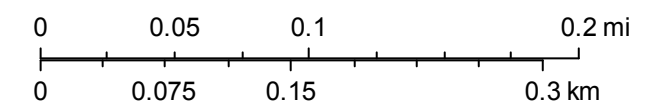
Sussex County



PIN:	532-13.00-22.00	
Owner Name	AMMONS LESTER JR	RUFUS
Book	3239	
Mailing Address	10311 HASTINGS LN	
City	DELMAR	
State	DE	
Description	HWY LAUREL TO DELMAR	
Description 2	N/A	
Description 3	N/A	
Land Code		

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

1:4,514



Introduced: 02/21/23

Council District 1: Mr. Vincent
Tax I.D. No.: 532-13.00-22.00 (portion of)
911 Address: 10311 Hastings Lane, Delmar

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 17.04 ACRES, MORE OR LESS

WHEREAS, on the 30th day of June 2022, a conditional use application, denominated Conditional Use No. 2387 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. 2387 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. 2387 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 and south side of Hastings Lane and the west side of BiState Boulevard (Rt. 13A), approximately 0.37 mile north of Old Crow Road (S.C.R. 503B) and being more particularly described in the attached Engineered Site Plans prepared by, Eric Redding, P.E. said parcel (portion of) containing 17.04 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.