

## 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

### **PUBLIC NOTICE – BUDGET WORKSHOP**

Members of the Sussex County Council may attend a budget workshop scheduled on May 7, 2024 at 9:00 a.m. at the Sussex County Emergency Operations Center, 21911 Rudder Lane in Georgetown, Delaware.

A quorum of Members may be present resulting in a meeting of the Members, as defined by 29 Del. C. §10002.

An agenda for this meeting can be viewed below.

### **AGENDA**

**MAY 7, 2024**

**9:00 A.M.**

**Sussex County Emergency Operations Center, Georgetown, Delaware**

#### **Call to Order**

#### **Approval of Agenda**

#### **Todd Lawson, County Administrator**

1. FY2025 Budget Workshop
2. Open Discussion among the County Council, County Administrator and Staff

#### **Adjourn**

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

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

Agenda items may be considered out of sequence.



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SUSSEX COUNTY COUNCIL

AGENDA

May 7, 2024

**1:30 P.M.**

**AMENDED on May 3, 2024 at 1:15 p.m. \*\***

Call to Order

Approval of Agenda

Approval of Minutes - April 30, 2024

[Draft Minutes 043024](#)

Reading of Correspondence

Public Comments

Todd Lawson, County Administrator

1. Administrator's Report

Old Business

1. [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)**

[Old Business CU2386](#)



2. [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])

[Old Business CU2387](#)

3. [Conditional Use No. 2390 filed on behalf of Taylor Mill Road Solar 1, LLC](#)

**“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 79.59 ACRES, MORE OR LESS”** (property lying on the south side of Taylor Mill Road [S.C.R. 467B], the west side of Fire Tower Road [S.C.R. 479], and the east side of County Seat Highway [Rt. 9], at the intersection of County Seat Highway [Rt. 9] and Fire Tower Road [S.C.R. 467]) (911 Address: N/A) (Tax Map Parcel: 232-7.00-3.00 [p/o])

[Old Business CU2390](#)

4. [Conditional Use No. 2393 filed on behalf of Sunrise Solar, Inc.](#)

**“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR A SOLAR ARRAY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 134.61 ACRES, MORE OR LESS”** (property lying on the north and south sides of R & R Lane, approximately 0.38 mile west of BiState Boulevard [Rt. 13A]) (911 Address: 10198 R & R Lane, Delmar) (Tax Map Parcel: 532-6.00-8.00 [p/o])

[Old Business CU2393](#)

5. [Conditional Use No. 2447 filed on behalf of Elk Development, LLC](#)

**“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR SOLAR ARRAYS TO BE LOCATED ON CERTAIN PARCELS OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 51.83 ACRES, MORE OR LESS”** (properties lying on the east side of River Road [S.C.R. 490], at the intersection of Morgan Branch Road and River Road [S.C.R. 490]) (911 Addresses: N/A) (Tax Map Parcels: 132-1.00-5.00 [p/o] & 132-6.00-78.03)

[Old Business CU2447](#)

6. [Conditional Use No. 2456 filed on behalf of Elk Development, LLC](#)

**“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR SOLAR ARRAYS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 67.72 ACRES, MORE OR LESS”** (property lying on the north side of Oneals Road [S.C.R. 485], approximately 0.26 mile southwest of Seaford Road [Rt. 13A]) (911 Address: 28270 Oneals Road, Seaford) (Tax Map Parcel: 132-6.00-92.01)

[Old Business CU2456](#)

7. [Change of Zone No. 1997 filed on behalf of Waste Management of Delaware, Inc.](#)

**“AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-3 HEAVY COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 5.219 ACRES, MORE OR LESS”** property lying on the west side of Old Stage Road [S.C.R. 461], at the intersection of Old Stage Road [S.C.R. 461] and Trussum Pond Road [S.C.R. 462]) (911 Address: N/A) (Tax Map Parcel: 332-2.00-79.01)

[Old Business CZ1997](#)

8. [Conditional Use No. 2408 filed on behalf of Efren Fernando Acevedo](#)

**“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR A CAR DEALERSHIP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 1.06 ACRES MORE OR LESS”** (property lying on the west side of Bi State Boulevard [Rt. 13A], approximately 0.32 mile south of Dorothy Road [Rt. 64]) (911 Address: 34900 Bi State Boulevard, Delmar) (Tax Map Parcel: 532-6.00-42.00)

[Old Business CU2408](#)

9. [Conditional Use No. 2413 filed on behalf of Blue Hen Rental Company, LLC](#)

**“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN OUTDOOR VENUE FOR SEASONAL VENDORS AND SERVICES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 2.84 ACRES MORE OR LESS”** (property lying on the north side of Line Road [Rt. 54] and the east side of Old Stage Road [S.C.R. 68], at the intersection of Line Road [Rt. 54] and Old Stage Road [S.C.R. 68]) (911 Address: 38397 Old Stage Road, Delmar) (Tax Map Parcel: 532-20.00-107.01)

[Old Business CU2413](#)

10. [Conditional Use No. 2445 filed on behalf of Deihm's Trucking, Inc.](#)

**“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR TRUCK PARKING, STORAGE, & MAINTENANCE AND AN OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 5.06 ACRES, MORE OR LESS” (property lying on the west side of Old Hickory Road [S.C.R. 497], at the intersection of Old Hickory Road [S.C.R. 497] and White Pines Lane, approximately 250 ft. northwest of Sharptown Road [Rt. 24]) (911 Address: 33124, 7496 & 7506 Old Hickory Road, Laurel) (Tax Map Parcel: 432-11.00-40.03)**

[Old Business CU2445](#)

**Grant Requests**

1. **Lord Baltimore Elementary for Blue Ribbon Sign and T-Shirts**  
[Lord Baltimore Elementary](#)
2. **Delaware Community Foundation for Flags for Heroes 2024**  
[Delaware Community Foundation](#)
3. **History Book Festival Educational Outreach for their History Book Educational Outreach**  
[History Book Festival at Lewes Inc](#)

**Introduction of Proposed Zoning Ordinances**

[Ord Intros CU2427 CU2466 CU2455 CU2480 CU2496 CU2432 CZ2022](#)

**Council Members' Comments**

**Executive Session - Land Acquisition, Pending & Potential Litigation, Personnel & Job Applicants' Qualifications\*\* pursuant to 29 Del.C.§10004(b)**

**Possible action on Executive Session Items**

**Adjourn**

**\*\*Per 29 Del. C. §10004 (e) (5) and Attorney General Opinion No. 13-IB02, this agenda was amended to address a matter which arose after the initial posting of the agenda but before the start of the Council meeting.**

**-MEETING DETAILS-**

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

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

**Agenda items may be considered out of sequence.**

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

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

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

**To join the meeting via telephone, please dial:**

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

**Conference Code: 570176**

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

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

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

**A regularly scheduled meeting of the Sussex County Council was held on Tuesday, April 30, 2024, at 10:00 a.m., in Council Chambers, with the following present:**

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

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

**Call to  
Order**

**Mr. Vincent called the meeting to order.**

**M 201 24  
Approve  
Agenda**

**A Motion was made by Mr. Rieley, 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 April 16, 2024, were approved by consensus.**

**Correspond-  
ence**

**Mr. Moore reported that there was one letter received from Dry Dock Recovery thanking Council for their donation for a new HVAC system.**

**Mr. Schaeffer introduced Norman Jay Jones, Clerk of the Peace.**

**Public  
Comments**

**There were no public comments.**

**M 202 24  
Approve  
Consent  
Agenda**

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

**Use of Existing Wastewater Infrastructure Agreement – IUA-1140  
Cattail Villas, West Rehoboth Area**

**Use of Existing Wastewater Infrastructure Agreement- IUA-18 02 352  
Atlantic Auto Repair & Summer Salts 2, Millville Area**

**M 202 24  
Approve  
Consent  
Agenda  
(continued)**

**Proclamation Request – National Safe Boating Week**

**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 State Police Activity Report**

**The Delaware State police year-to-date activity report for March 2024 is attached listing the number of violent crime and property crime arrests, as well as total traffic charges and corresponding arrests. In addition, DUI and total vehicle crashes investigated are listed. In total, there were 190 troopers assigned to Sussex County for the month of March.**

**2. Sussex County Council FY 2025 Budget Workshop**

**On Tuesday, May 7<sup>th</sup>, the Sussex County Council will meet for its annual budget workshop. The Fiscal Year 2025 Budget Workshop will be held at 9:00 a.m. at the Sussex County Emergency Operations Center. Sussex County Council will hold an afternoon session following the budget workshop at 1:30 p.m. in County Council chambers. The next regularly scheduled Council meeting will be held on Tuesday, May 14<sup>th</sup>, at 10:00 a.m.**

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

**1<sup>st</sup> Quarter  
Employee  
Recognition  
Awards**

**Karen Brewington, Human Resources Director reported that there were 36 submissions received with nine winners being selected for the First Quarter Employee recognition awards. This quarter winners were Maria Pena Suarez from the Marriage Bureau, Dave Elliott, Nathan Hotsko and Bryan Murray from Facilities Management and Jennifer Norwood, Christin Scott, Michael Lowery, Lauren Devore, and Ann Lepore from the Planning & Zoning department.**

**Proposed  
Personnel  
Ordinance**

**Karen Brewington, Humans Resources Director presented a Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 29, ARTICLE I., § 29-3B. (1) OF THE CODE OF SUSSEX COUNTY TO ELIMINATE THE POSITIONS OF DEPARTMENT HEAD OF EMERGENCY OPERATIONS AND DEPARTMENT HEAD OF EMERGENCY MEDICAL SERVICES, AND TO CREATE THE NEW POSITION OF DEPARTMENT HEAD OF PUBLIC SAFETY” for**



**Council's consideration.**

**Introduction of Proposed Ordinance** Mr. Hudson introduced a Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 29, ARTICLE I., § 29-3B. (1) OF THE CODE OF SUSSEX COUNTY TO ELIMINATE THE POSITIONS OF DEPARTMENT HEAD OF EMERGENCY OPERATIONS AND DEPARTMENT HEAD OF EMERGENCY MEDICAL SERVICES, AND TO CREATE THE NEW POSITION OF DEPARTMENT HEAD OF PUBLIC SAFETY".

**Proposed Ordinance/ Warwick Park Phase I** Hans Medlarz, County Engineer, Ret. presented a Proposed Ordinance entitled "AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO \$1,225,000 OF GENERAL OBLIGATION BONDS OF SUSSEX COUNTY IN CONNECTION WITH THE WARWICK PARK PHASE I PROJECT AND AUTHORIZING ALL NECESSARY ACTIONS IN CONNECTION THEREWITH" for Council's consideration.

**Introduction of Proposed Ordinance** Mr. Rieley introduced a Proposed Ordinance entitled "AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO \$1,225,000 OF GENERAL OBLIGATION BONDS OF SUSSEX COUNTY IN CONNECTION WITH THE WARWICK PARK PHASE I PROJECT AND AUTHORIZING ALL NECESSARY ACTIONS IN CONNECTION THEREWITH".

**Cannon Road/CO No. 5** Hans Medlarz, County Engineer, Ret. presented change order no. 5 for Cannon Road – Inland Bays Road Drainage Improvements and Constructed Wetlands for Council's consideration.

**M 203 24 Approve CO No. 5/ Cannon Road** A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson that be it moved based upon the recommendation of the Sussex County Engineering Department that change order no. 5A and 5B for contract S22-05, Cannon Road/Inland Bays Road Drainage Improvements and constructed wetlands, be approved, increasing the contract amount by a not to exceed amount of \$11,400.00 and \$138,576.08, respectively.

**Motion Adopted:** 5 Yeas

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

**Long Neck Communi-ties** Hans Medlarz, County Engineer, Ret. presented change order no. 2 for Long Neck Communities for Council's consideration.

**M 204 24 Approve CO No. 2/Long Neck Communi-** A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer that be it moved based upon the recommendation of the Sussex County Engineering Department that change order no. 2 for contract S21-10, Long Neck Communities, be approved, for a non-compensatory time extension of 120 calendar days, contingent upon SRF concurrence.

- ties**                      **Motion Adopted:        5 Yeas**
- Vote by Roll Call:       Mrs. Green, Yea; Mr. Schaeffer, Yea;**  
                                 **Mr. Hudson, Yea; Mr. Rieley, Yea;**  
                                 **Mr. Vincent, Yea**
- Joy Beach**                **Hans Medlarz, County Engineer, Ret. presented change order no. 2 for Joy**  
**CO No. 2**                **Beach sewer expansion, phase I for Council’s consideration.**
- M 205 24**                **A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer that be it**  
**Approve CO**            **moved based upon the recommendation of the Sussex County Engineering**  
**No. 2/Joy**                **Department that change order no. 2 for contract S20-12, Joy Beach sewer**  
**Beach**                    **expansion, be approved, for a non-compensatory time extension of 226**  
                                 **calendar days total and a non-compensatory 90 calendar days contract**  
                                 **suspension for the summer months, contingent upon SRF concurrence.**
- Motion Adopted:        5 Yeas**
- Vote by Roll Call:       Mrs. Green, Yea; Mr. Schaeffer, Yea;**  
                                 **Mr. Hudson, Yea; Mr. Rieley, Yea;**  
                                 **Mr. Vincent, Yea**
- Wolfe Neck**              **Hans Medlarz, County Engineer, Ret. presented a recommendation to**  
**Regional**                **award for electrical construction and a recommendation to reject bids for**  
**WWF**                    **general construction for Wolfe Neck Regional WWF electrical service &**  
                                 **switchgear replacement for Council’s consideration.**
- M 206 24**                **A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer that be it**  
**Approve**                **moved based upon the recommendation of the Sussex County Engineering**  
**Electrical**                **Department that contract S24-09, Wolfe Neck Regional wastewater facility**  
**Construct-**                **electrical service & switchgear replacement – electrical construction, be**  
**ion/Wolfe**                **awarded to BW Electric, Inc., for their total bid amount of \$5,000,000.00.**  
**Neck**
- Motion Adopted:        5 Yeas**
- Vote by Roll Call:       Mrs. Green, Yea; Mr. Schaeffer, Yea;**  
                                 **Mr. Hudson, Yea; Mr. Rieley, Yea;**  
                                 **Mr. Vincent, Yea**
- M 207 24**                **A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson that be it**  
**Reject**                    **moved based upon the recommendation of the Sussex County Engineering**  
**General**                **and Finance Departments that the sole bid for contract S24-10, Wolfe Neck**  
**Construc-**                **regional wastewater facility electrical service & switchgear replacement –**  
**tion**                    **general construction, be rejected and to approve the solicitation of three**  
**Bids/Wolfe**                **proposals under an alternate delivery method.**  
**Neck**
- Motion Adopted:        5 Yeas**
- Vote by Roll Call:       Mrs. Green, Yea; Mr. Schaeffer, Yea;**

**Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Vincent, Yea**

**Old  
Business/  
CZ1992**

**Under Old Business, Mr. Whitehouse presented a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-2 MEDIUM COMMERCIAL DISTRICT FOR CERTAIN PARCELS OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 2.99 ACRES, MORE OR LESS” filed on behalf of Reed Properties, LLC.**

**The County Council held a Public Hearing on the application at its meeting of February 20, 2024. At the conclusion of the Public Hearing action on the application was deferred for further consideration.**

**M 208 24  
Adopt  
Ordinance  
No. 3001/  
CZ1992**

**A Motion was made by Mrs. Green, seconded by Mr. Schaeffer to Adopt Ordinance No. 3001 entitled “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 CERTAIN PARCELS OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 2.99 ACRES, MORE OR LESS” for the reasons given by the Planning & Zoning Commission as follows:**

- 1. C-2 Medium Commercial Zoning is designed to support retail sales and the performance of consumer services. It is intended to be located near arterial and collector roads.**
- 2. The Applicant’s property is 2.99 acres that is currently zoned AR-1 along Route 16 at the intersection with Route 30. Both of these roads are identified as “Major Collector” roads by DelDOT, and Route 30 is designated as a Truck Route by DelDOT. This intersection is an appropriate location for C-2 Zoning.**
- 3. The property is adjacent to property that is zoned C-1 and used in an industrial manner. It is approximately one mile from the Milton town limits. To the east on the opposite side of Route 30, the properties are zoned C-1, HR, and AR-1. Although the Applicant’s remaining land to the south is zoned AR-1, beyond that is a large parcel of land with rail service that is zoned HI-1 and contains a bulk-fuel plant, gasoline and diesel sales, and propane storage tanks. Across Route 16 is a 500-acre parcel that serves as part of the wastewater disposal area for Artesian Wastewater Management’s Sussex Regional Reclamation Facility. This is an appropriate location for C-2 zoning.**
- 4. The site is served by both central water and central sewer.**
- 5. C-2 Zoning at this location at this intersection will benefit nearby residents of Sussex County by providing a convenient location for the uses permitted in that Zone.**
- 6. There is no evidence that this rezoning will have an adverse impact on neighboring properties or area roadways.**
- 7. The site is in the “Low Density Area” according to the Sussex County**

**M 208 24  
Adopt  
Ordinance  
No. 3001/  
CZ1992  
(continued)**

**Land Use Plan and Future Land Use Map. C-2 Zoning is appropriate in the Low-Density Area according to the Plan.**

- 8. The proposed rezoning meets the general purpose of the Zoning Code by promoting the orderly growth, convenience, order prosperity, and welfare of the County.**
- 9. No parties appeared in opposition to the rezoning application.**
- 10. Any future use of the property will be subject to Site Plan review by the Sussex County Planning and Zoning Commission.**
- 11. For all of these reasons, the C-2 Zoning District is appropriate for this location.**

**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 209 24  
City of  
Seaford**

**A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer to give \$2,500 (\$2,500 from Mr. Vincent's Councilmanic Grant Account) to the City of Seaford for their Kiwanis Park Memorial renovation.**

**Motion Adopted: 5 Yeas**

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

**M 210 24  
Champions  
for  
Children's  
Mental  
Health, Inc.**

**A Motion was made by Mrs. Green, seconded by Mr. Hudson to give \$1,500 (\$1,500 from Mrs. Green's Councilmanic Grant Account) to Champions for Children's Mental Health, Inc. for their Community Resource and Training Center.**

**Motion Adopted: 5 Yeas**

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

**M 211 24  
Town of  
Laurel**

**A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to give \$1,500 (\$1,500 from Mr. Vincent's Councilmanic Grant Account) to the Town of Laurel for 4<sup>th</sup> of July fireworks display.**

**Motion Adopted: 5 Yeas**

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

**M 212 24  
Childrens  
Beach  
House, Inc.**

**A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to give \$5,000 (\$1,000 from Mr. Schaeffer’s Councilmanic Grant Account, \$2,500 from Countywide Youth Grant, \$500 from Mr. Vincent’s Councilmanic Grant Account and \$1,000 Mr. Hudson’s Councilmanic Grant Account) to Childrens Beach House, Inc. for their Youth Development program.**

**Motion Adopted: 5 Yeas**

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

**Proposed  
Ordinance  
Introducti-  
ons**

**Mr. Schaeffer introduced a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PROFESSIONAL OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.26 ACRE, MORE OR LESS” filed on behalf of Play It Safe, LLC.**

**Mr. Vincent introduced a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN EVENT VENUE TO BE LOCATED ON A 5.00 ACRE PORTION, MORE OR LESS, OF A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 140.12 ACRES, MORE OR LESS” filed on behalf of Chickberry Farms Events, LLC.**

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

**CC Member  
Comments**

**There were no Council Member comments.**

**M 213 24  
Go Into  
Executive  
Session**

**At 10:38 a.m., a Motion was made by Mr. Hudson, seconded by Mr. Rieley to go into Executive Session for the purpose of discussing matters related to land acquisition, personnel & job applicants’ qualifications.**

**Motion Adopted: 5 Yeas**

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

**Executive  
Session**

**At 10:42 a.m., an Executive Session of the Sussex County Council was held in the Basement Caucus Room to discuss matters related to land acquisition, personnel & job applicants’ qualifications. The Executive Session concluded at 11:54 a.m.**

**M 214 24  
Reconvene**

**At 11:58 a.m., a Motion was made by Mr. Hudson, seconded Mr. Schaeffer to come out of Executive Session back into Regular Session.**

**Motion Adopted: 5 Yeas**

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

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

**M 215 24 A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to go until  
Recess recess until 1:30 p.m. Public Hearings.**

**Motion Adopted: 5 Yeas**

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

**M 216 24 At 1:30 p.m., a Motion was made by Mr. Hudson, seconded by Mr.  
Reconvene Schaeffer to reconvene.**

**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/  
CU2430 A Public Hearing was held on a Proposed Ordinance entitled “AN  
ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN  
MR MEDIUM DENSITY RESIDENTIAL DISTRICT AND AN AR-1  
AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AUTO  
REPAIR SHOP TO BE LOCATED ON A CERTAIN PARCEL OF  
LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX  
COUNTY, CONTAINING 2.045 ACRES, MORE OR LESS” (property  
lying on the northeast side of the intersection of Armory Road [Rt. 20]  
and Murray Road [S.C.R. 355]) (911 Address: 30465 Armory Road,  
Frankford) (Tax Map Parcel: 433-1.00-7.00) filed on behalf of Mark  
Baull.**

**The Planning & Zoning Commission held a Public Hearing on the  
application on March 20, 2024. At the meeting of April 10, 2024, the  
Planning & Zoning Commission recommended approval of the  
application for the 5 reasons stated and subject to the 13 recommended  
conditions as outlined.**

**The Council found that Mr. Mark Baull, Applicant, spoke on behalf his  
Application. Mr. Baull stated that the Conditional Use Application is for  
an auto repair shop; that his intention is to do minor auto repair work;**

**Public  
Hearing/  
CU2430  
(continued)**

that there is a 30x40 building already on the site; that he will not be making any modifications; that the recommended conditions from the Planning & Zoning Commission were reviewed; that hours would be Monday through Friday 8:00 a.m. until 5:00 p.m.

There were no public comments.

The Public Hearing and public record were closed.

**M 217 24  
Adopt  
Ordinance  
No. 3002/  
CU2430**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer to Adopt Ordinance No. 3002 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR MEDIUM DENSITY RESIDENTIAL DISTRICT AND AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AUTO REPAIR SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 2.045 ACRES, MORE OR LESS" for the reasons and conditions given by the Planning & Zoning Commission as follows:

1. The proposed automobile repair facility is small, and with the conditions and stipulations placed upon it, it will not have an adverse impact on the neighboring properties or community. It is also small enough that it will not negatively impact traffic or nearby roadways.
2. The site is located in the Coastal Area according to the Sussex County Comprehensive Plan. This type of use is appropriate in this Area according to the Comprehensive Plan.
3. The Applicant lives on the site and the repairs will occur inside of a separate building on the site. The Applicant intends to keep the residential appearance of the property.
4. The use as an automotive repair facility is of a public or semi-public character and is desirable for the general convenience and welfare of the area.
5. No parties appeared in opposition to this application, and a neighbor testified in support of this application.
6. This recommendation for approval is subject to the following conditions and stipulations:
  - a. One lighted sign, not to exceed 32 square feet per side, shall be permitted.
  - b. Any security lighting shall be downward screened and shall be directed away from neighboring properties and roadways.
  - c. All repairs shall be performed indoors. No automobile parts shall be stored outside, and aside from vehicles with a current registration in the Applicant's name, no more than 10 cars shall be parked on the site.
  - d. No junked, unregistered or permanently inoperable vehicles or trailers shall be parked or stored on the site.
  - e. There shall not be any parking in the front yard setback.
  - f. The parking areas shall be shown on the Final Site Plan and

**M 217 24  
Adopt  
Ordinance  
No. 3002/  
CU2430  
(continued)**

- clearly marked on the site itself. Vehicles shall only be parked within these designated areas.
- g. No cars shall be sold on the property.**
  - h. All oils and other fluids shall be properly stored indoors in appropriate containers. The applicant shall also comply with all state and federal requirements for the disposal of these fluids.**
  - i. The site shall be subject to all DelDOT entrance and roadway requirements.**
  - j. The hours of operation shall be 8:00 a.m. through 5:00 p.m., Monday through Friday. There shall not be any Saturday or Sunday hours.**
  - k. This conditional use is on a property that is more than 2 acres in size and not all of it is intended to be used as part of the Applicant’s business. Therefore, the Final Site Plan shall clearly show the area of the Conditional Use and the remaining area of the property that is not part of the Conditional Use.**
  - l. Any violation of these conditions may be grounds for termination of this conditional use.**
  - m. The Final Site Plan shall be subject to the review and approval of the Planning and 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/  
CZ2013**

**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 C-3 HEAVY COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 11.92 ACRES, MORE OR LESS” (property lying on the east side of Sussex Highway [Rt. 13], approximately 650 ft. south of Iron Hill Road [S.C.R. 454A]) (911 Address: 36671 Sussex Highway, Delmar) (Tax Map Parcel: 532-13.00-84.00 [p/o]) filed on behalf of 4 Points Towing & Roadside, LLC.**

**The Planning & Zoning Commission held a Public Hearing on the application on March 20, 2024. At the meeting of April 10, 2024, the Planning & Zoning Commission recommended approval of the application for the 5 reasons as outlined.**

**The Council found that Mr. David Hutt, Esq., with Morris James, LLP, spoke on behalf of the Applicants; that also present was Mr. Doug Barry, with Pennoni Engineering. Mr. Hutt stated that the Application is a request to change the zone of a portion of their parcel from AR-1**



**Public  
Hearing/  
CZ2013  
(continued)**

**(Agricultural Residential) and C-1 (General Commercial) to C-3 (Heavy Commercial); that the parcel is 11.92 acres; that the application relates to the rear 10 acres as the front 1.6 acres are already zoned C-1; that the business is located within the busy industrial commercial and business corridor that exists on Sussex Highway; that if you drive south towards the DE/MD border, you would see a number of businesses and employers on both sides of Route 13; that this property is located on the eastern side of Route 13; that the Applicant bought the business in 2022; that the business provides towing, roadside assistance, and auto repair; that they have two locations, one being located in Camden, within Kent County and a location in Delmar, within Sussex County; that in 1969, CU538 was approved by County Council for this property to have a manufactured home as a model; that through Ordinance No. 788, the front portion of the property was rezoned in 1991; that the original conditional use Findings of Fact show that the site had been the subject of commercial and heavy industrial, non-conforming uses since 1959; that County Council adopted Ordinance No. 788 and that changed the designation of that front portion of the property approximately 1.6 acres from AR-1 (Agricultural Residential) to C-1 (General Commercial), which is no longer available to be assigned to a property; that when the Applicants purchased the property the conditional use that was already in place was limited to a small amount of square feet; that there is almost 12 acres in total that the Applicant's would like to utilize; that the Applicant's would like to keep the business primarily in the front where it currently is and utilize the rear for a self-storage area; that the surrounding areas of this property are industrial zoning and C-1 (General Commercial) which fits in with the plan for this site and the property lies within Investment Level 3 of the 2020 State Strategies Map, which is known as an area where growth is anticipated; that in Chapter 4 of the Comprehensive Plan, it discusses the basis of designating an area as a growth area; that the fourth bullet point states that the purpose of the Future Land Use Plan is to encourage tourism and other responsible commercial and industrial job providers to locate and invest in the County; that Route 13 is a place where you think of commercial and industrial job providers being located; that the developing area is described as a growth area where in selected areas and at appropriate intersections, commercial uses should be allowed, portions of the developing areas with good road access and few nearby homes should allow for business and industrial parks; that in table 4.5-2 in the Comprehensive Plan, it shows applicable zoning districts; that the C-3 heavy commercial district is an applicable zoning district within the developing area on the Future Land Use Map; that the C-3 zoning district purpose fits this application; that the zoning classifications along Route 13 were shown and discussed; that there are many businesses located along Route 13 in the area of this application; that this property is adjacent to the town boundary of Delmar; that the Town of Delmar Future Land Use Map has this area shaded in purple which is known as the employment/industrial office area; that on the County Zoning map, Old Stage Road is zoned for highway and regional commercial in the Town of Delmar; that if you travel north on Old State**

**Public  
Hearing/  
CZ2013  
(continued)**

Road, there is some C-1 zoning that exists; that the property meets the height area bulk requirements found in the Code; that there are no wetlands located on the property that would impact its use, but there are wetlands on the adjacent properties; that there was a formal Wetland Delineation performed as those wetlands run close to the boundary; that there may be buffering that needs to be provided; that the property is not located within a Flood Zone X, which is an area determined to be outside the 500 year floodplain; that there are no Chapter 89 Source Water Protection concerns, as this is not in the Wellhead Protection Area; that the potential for groundwater recharge is good and fair; that water would be provided by an onsite well and sanitary sewer services would be provided by an onsite wastewater treatment and disposal system; that there was a Service Level Evaluation Request (SLER) filed with DelDOT, which did identify the conceptual use of the property as a self-storage facility, and the Applicants have spent the last two years cleaning up the property from what it was, attempting to return it to the nature and character of the area surrounding this property.

Public comments were heard.

Mr. Alan Duncan spoke in opposition of the application; that he is a former employee of 4 Points Towing; that business is about character; that his life was put in danger at the job based on having guns; that he no longer works for them; that having guns on the property shows very little guard for the law and for the fear of his life.

The Public Hearing and public record were closed.

**M 218 24  
Adopt  
Ordinance  
No. 3003/  
CZ2013**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley to Adopt Ordinance No. 3003 entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-3 HEAVY COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 11.92 ACRES, MORE OR LESS” for the reasons given by the Planning & Zoning Commission as follows:

1. The entire property currently has two zoning designations. The area of the property that fronts along Route 13 is zoned C-1 while the remainder of the property to the rear is zoned AR-1. The Applicant seeks to convert the AR-1 area to the C-3 Zoning District.
2. This entire parcel has a history of commercial uses. In 1969, a conditional use was issued to allow the placement of a manufactured home on the property for use as a model home. Then in 1991 by C/U #981 and Ordinance #789, the site was approved for use as a truck and auto salvage yard. The Applicant has performed a substantial cleanup of the site from its prior use as a salvage yard. The C-3 zoning for the rear portion of the property is consistent with the prior intensive use of the property.

**M 218 24  
Adopt  
Ordinance  
No. 3003/  
CZ2013  
(continued)**

- 3. C-3 Heavy Commercial Zoning is designed to allow auto-oriented retail and service businesses that serve local and regional residents. Permitted Uses include retail uses, restaurants, offices and vehicle service stations. Although a number of uses are permitted, this Applicant intends to use the site for roadside services and auto repair.**
- 4. This property has frontage along Route 13. Route 13 is considered to be a Major Arterial Roadway according to DelDOT's roadway classification. This is the highest roadway classification issued by DelDOT and it is an appropriate location for C-3 Zoning.**
- 5. The parcel is in an area of Route 13 where there are a variety of zoning districts. This includes HI-1, C-1, CR-1, C-3 and several residential zoning districts. There are a number of intensive business, commercial, and industrial uses in the area as well. This rezoning is consistent with the surrounding zoning districts and uses.**
- 6. This property is located in the Developing Area according to the current Sussex County Land Use Plan. This proposed commercial zoning is appropriate in this Area according to the Plan.**
- 7. The site is basically surrounded by the municipal boundaries of Delmar. Delmar's Future Land Use Map shows this area as an "Employment/Industrial Office" Area. This rezoning is consistent with Delmar's nearby land use designations.**
- 8. The proposed rezoning meets the general purpose of the Zoning Code by promoting the orderly growth, convenience, order prosperity and welfare of the County.**
- 9. No parties appeared in opposition to this rezoning application.**
- 10. Any future use of the property will be subject to Site Plan review by the Sussex County Planning and Zoning Commission.**

**Motion Adopted: 5 Yeas**

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

**M 219 24  
Adjourn**

**A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to adjourn at 2:09 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.}*

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

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## Memorandum

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

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

CC: Everett Moore, County Attorney

Date: May 1, 2024

RE: County Council Report for C/U 2386 filed on behalf of Consolidated Edison Development, Inc.

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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).

The County Council held a public hearing on the application at its meeting on December 5, 2023. At the conclusion of the public hearing, action on the application was deferred for further consideration.

Below is a link to the County Council minutes of December 5, 2023.

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

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

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

**C/U 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**



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

**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.



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**Sussex County**

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## Memorandum

To: Sussex County Planning Commission Members  
From: Mr. Michael Lowrey, Planner III  
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant  
Date: May 26<sup>th</sup>, 2023  
RE: Staff Analysis for C/U 2386 Consolidated Edison Development Inc. (Cast Rite Drive)

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This memo is to provide background and analysis for the Planning Commission to consider as a part of Application C/U 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).

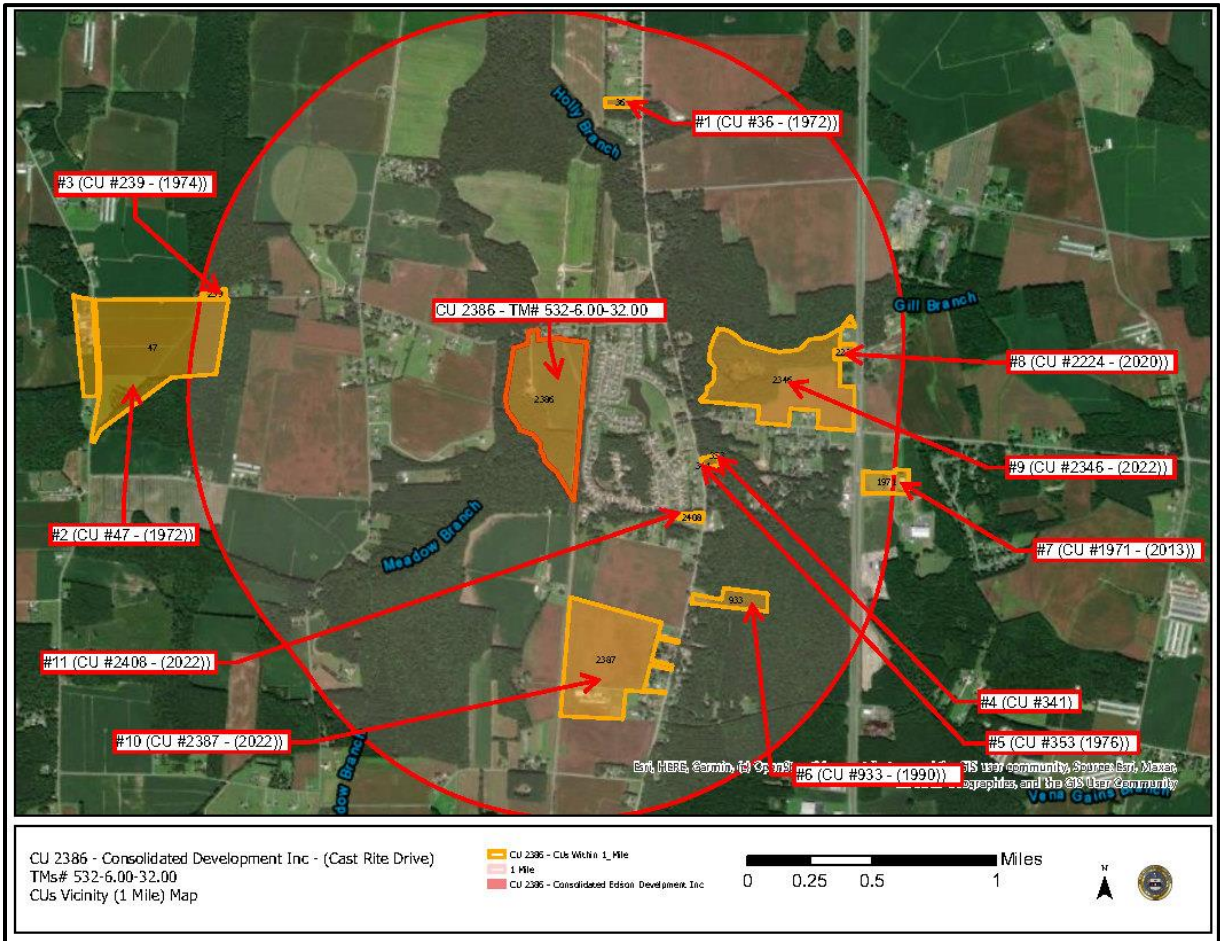
**Further Site Considerations:**

- **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.

<b>Conditional Use Applications</b>							
<b>(Within a 1-mile radius of the subject site)</b>							
<b>Item #</b>	<b>Application Number</b>	<b>Application Name</b>	<b>Zoning District</b>	<b>Proposed Use</b>	<b>CC Decision</b>	<b>CC Decision Date</b>	<b>Ordinance Number</b>
#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



**PLANNING & ZONING COMMISSION**

ROBERT C. WHEATLEY, CHAIRMAN  
KIM HOEY STEVENSON, VICE-CHAIRMAN  
R. KELLER HOPKINS  
J. BRUCE MEARS  
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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 28<sup>th</sup>, 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

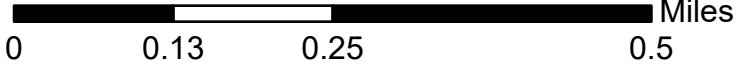


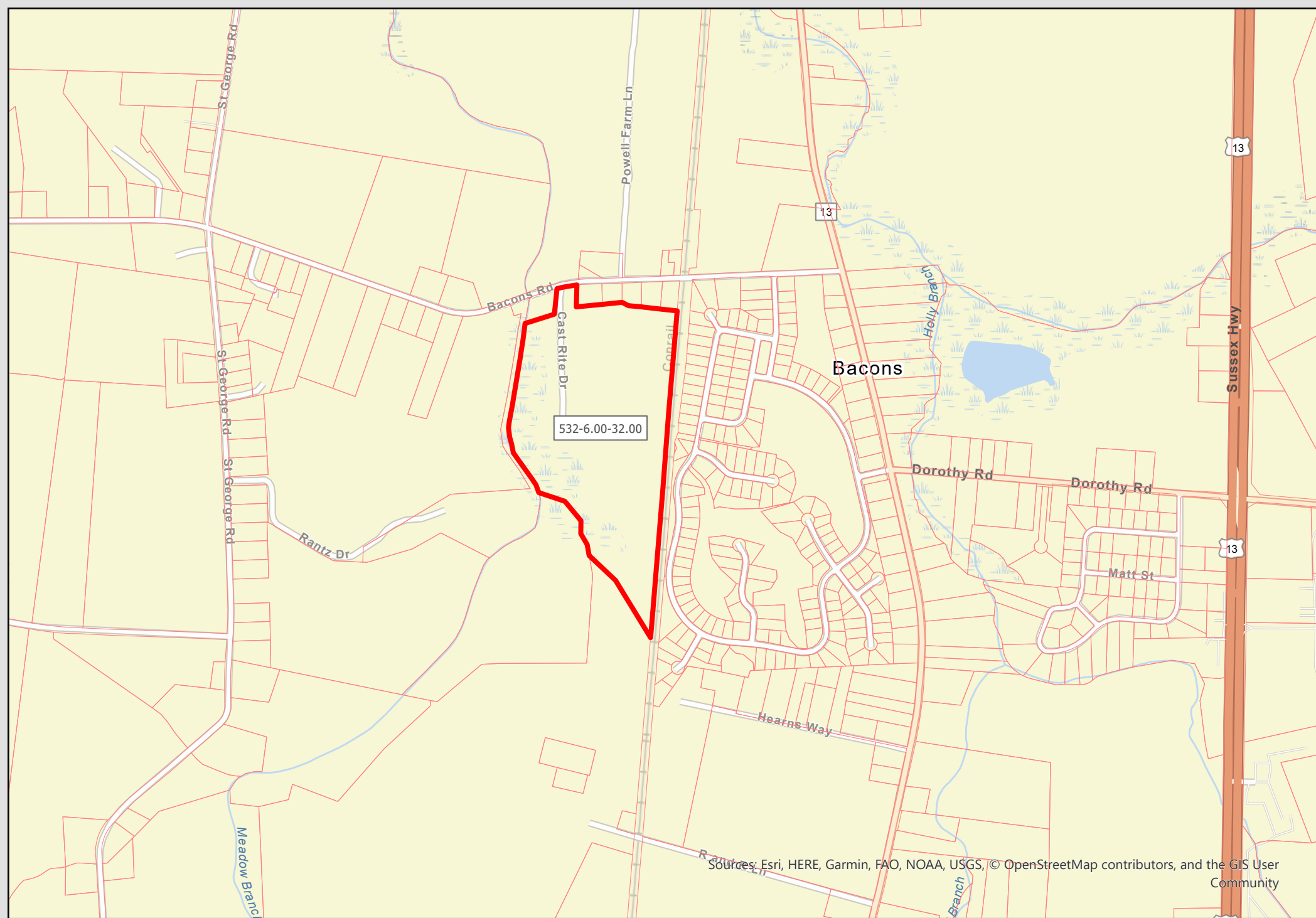


Source: Esri, Maxar, Earthstar Geographics, and the GIS User Community, Sources: Esri, HERE, Garmin, FAO, NOAA, USGS, © OpenStreetMap contributors, and the GIS User Community

CU 2386 - Consolidated Edison Development Inc.  
(Cast Rite Drive)  
Aerial Map

 CU 2386 - ConEd Dev Inc (Cast Rite Drive)


























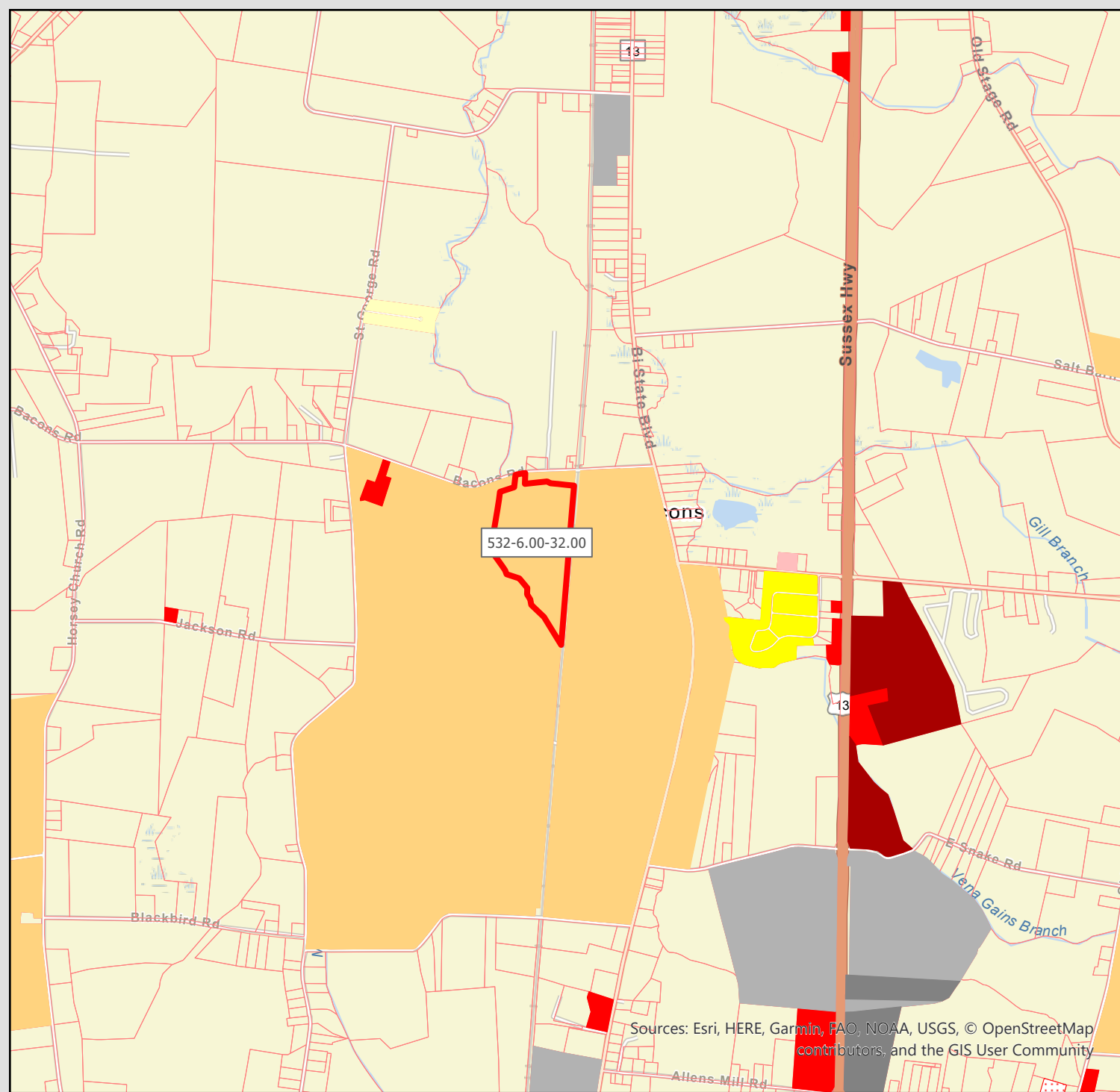
CU 2386 - Consolidated Edison Development Inc.  
(Cast Rite Drive)  
Street Map

 CU 2386 - ConEd Dev Inc (Cast Rite Drive)



## Zoning

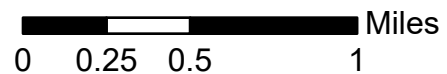
-  Agricultural Residential - AR-1
-  Agricultural Residential - AR-2
-  Medium Residential - MR
-  General Residential - GR
-  High Density Residential - HR-1
-  High Density Residential - HR-2
-  Vacation, Retire, Resident - VRP
-  Neighborhood Business - B-1
-  Neighborhood Business - B-2
-  Business 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)





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 30<sup>th</sup> 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**

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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: May 1, 2024

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).

The County Council held a public hearing on the application at its meeting on December 5, 2023. At the conclusion of the public hearing, action on the application was deferred for further consideration.

Below is a link to the County Council minutes of December 5, 2023.

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

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

[Minutes of the September 28, 2023, Planning & Zoning Commission Meeting](#)

### **C/U 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**



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

**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).

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**

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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 28<sup>th</sup>, 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  
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jamie.whitehouse@sussexcountyde.gov



**Sussex County**

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## Memorandum

To: Sussex County Planning and Zoning Commission Members  
From: Elliott Young, Planner I  
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant  
Date: September 20, 2023  
RE: Staff Analysis for CU 2387 Consolidated Edison Development, Inc.

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The purpose of this memo is to provide background and analysis for the Planning and Zoning Commission to consider as a part of Application CU 2387 (Consolidated Edison Development, Inc.) to be reviewed during the September 28<sup>th</sup>, 2023, Planning and Zoning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Conditional Use for Tax 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

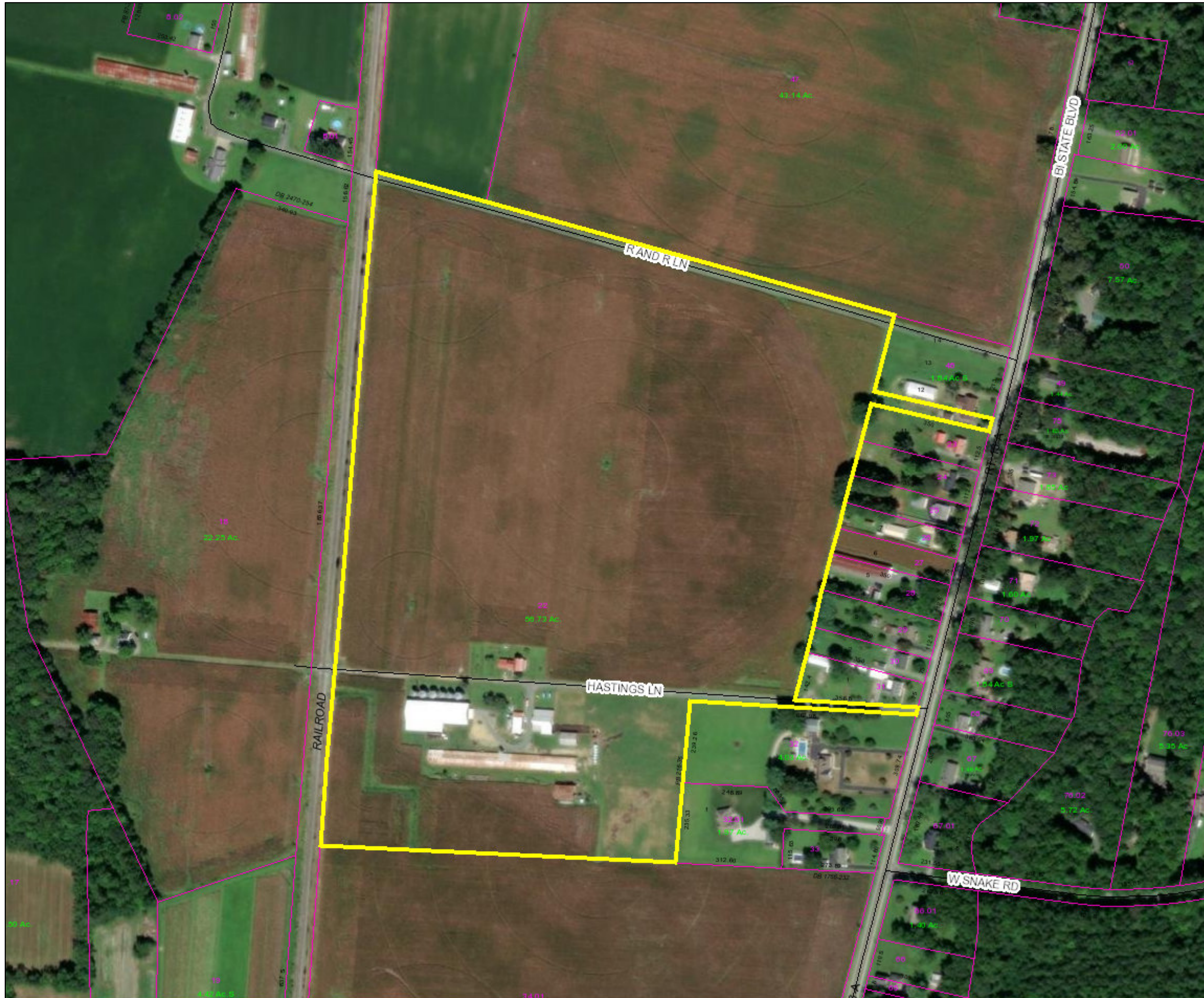
Although there have been multiple applications in this area, since 2011, there have been four (4) Conditional Use applications within a one (1) mile radius of the Application Site.

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.



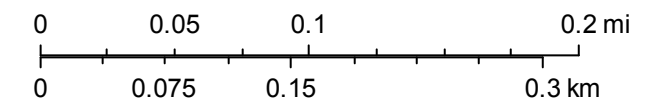
# Sussex County



<b>PIN:</b>	532-13.00-22.00	
<b>Owner Name</b>	AMMONS	RUFUS
	LESTER JR	
<b>Book</b>	3239	
<b>Mailing Address</b>	10311 HASTINGS LN	
<b>City</b>	DELMAR	
<b>State</b>	DE	
<b>Description</b>	HWY LAUREL TO DELMAR	
<b>Description 2</b>	N/A	
<b>Description 3</b>	N/A	
<b>Land Code</b>		

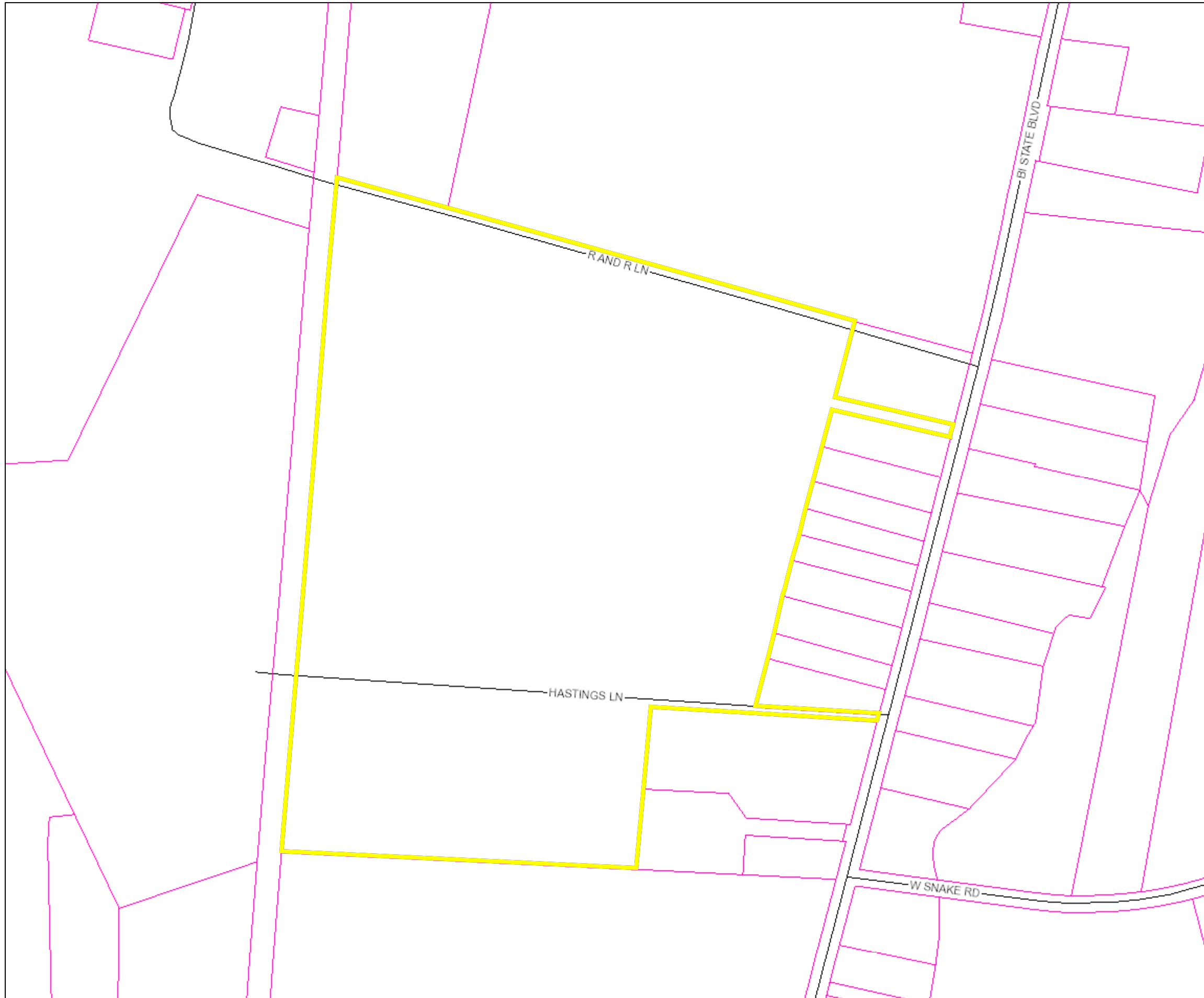
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- Override 1
- polygonLayer**
- Override 1
- Tax Parcels
- Streets
- County Boundaries

1:4,514





# Sussex County



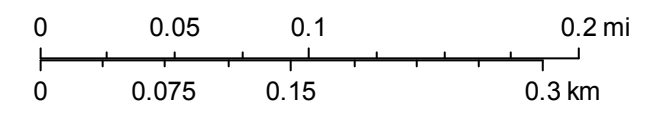
<b>PIN:</b>	532-13.00-22.00	
<b>Owner Name</b>	AMMONS	RUFUS
	LESTER JR	
<b>Book</b>	3239	
<b>Mailing Address</b>	10311 HASTINGS LN	
<b>City</b>	DELMAR	
<b>State</b>	DE	
<b>Description</b>	HWY LAUREL TO DELMAR	
<b>Description 2</b>	N/A	
<b>Description 3</b>	N/A	
<b>Land Code</b>		

- polygonLayer**

  - Override 1
- polygonLayer**

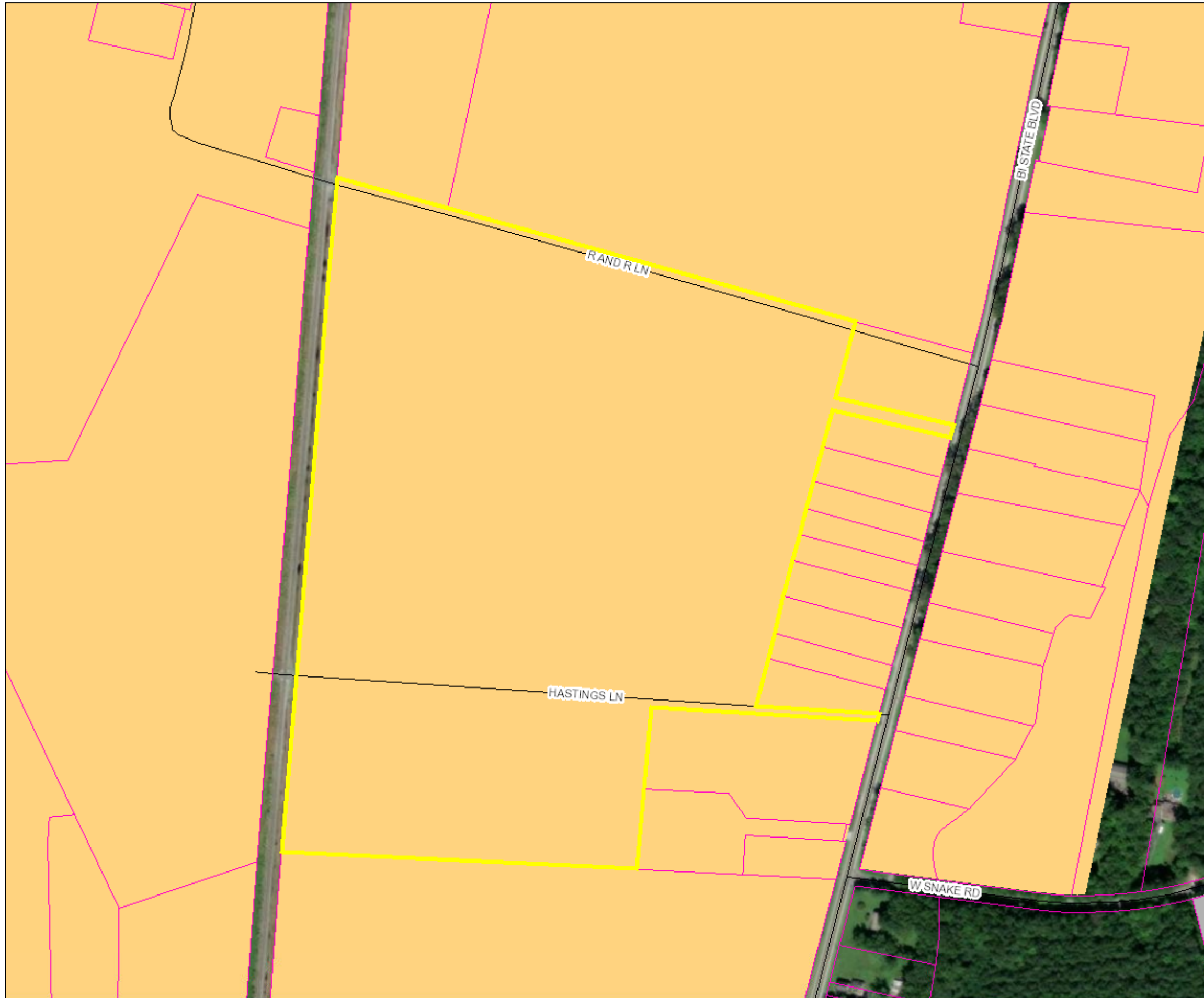
  - Override 1
- Tax Parcels
- Streets
- County Boundaries

1:4,514





# Sussex County



<b>PIN:</b>	532-13.00-22.00	
<b>Owner Name</b>	AMMONS LESTER JR	RUFUS
<b>Book</b>	3239	
<b>Mailing Address</b>	10311 HASTINGS LN	
<b>City</b>	DELMAR	
<b>State</b>	DE	
<b>Description</b>	HWY LAUREL TO DELMAR	
<b>Description 2</b>	N/A	
<b>Description 3</b>	N/A	
<b>Land Code</b>		

**polygonLayer**

Override 1

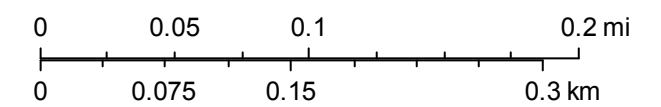
**polygonLayer**

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 30<sup>th</sup> 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.



## 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: May 1, 2024

RE: County Council Report for C/U 2390 filed on behalf of Taylor Mill Road Solar, LLC

---

The Planning and Zoning Department received an application (C/U 2390 filed on behalf of Taylor Mill Road Solar, LLC) for a solar farm to be located at Tax Parcel 232-7.00-3.00. The property is located on the south side of Taylor Mill Road (S.C.R. 467B), the west side of Fire Tower Road (S.C.R. 479), and the east side of County Seat Highway (Rt. 9), at the intersection of County Seat Highway (Rt. 9) and Fire Tower Road (S.C.R. 467)). The parcel size is 79.59 acres +/-.

The Planning & Zoning Commission held a Public Hearing on the application on October 26, 2023. At the meeting of October 26, 2023, the Planning & Zoning Commission recommended approval of the application for the 9 reasons and subject to the 10 recommended conditions as outlined within the motion (copied below).

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

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

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

Minutes of the October 26, 2023, Planning & Zoning Commission Meeting

In relation to the following six Conditional Use applications regarding solar array uses, Chairman Wheatley stated, *“Sussex County is fully aware of the benefits and operation of these community solar facilities at this point having seen and acted on so many of them. For that reason, the Commission will take that into account and presenters do not need to establish that. Instead, please focus on your specific property, the surrounding area,*



*and how your proposed solar facility may impact the surrounding area. The Commission will also take into account all of the written information that is already in the record on each of these applications.”*

**C/U 2390 Taylor Mill Road Solar 1, LLC**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 79.59 ACRES, MORE OR LESS.** The property is lying on the south side of Taylor Mill Road (S.C.R. 467B), the west side of Fire Tower Road (S.C.R. 479), and the east side of County Seat Highway (Rt. 9), at the intersection of County Seat Highway (Rt. 9) and Fire Tower Road (S.C.R. 467). 911 Address: N/A. Tax Map Parcel: 232-7.00-3.00 (p/o).

Mr. Whitehouse advised the Commission that submitted into the record were the Applicant’s Site Plan, the Applicant’s Exhibits, the DelDOT Service Level Evaluation Response, a letter received from the Sussex County Engineering Department Utility Planning Division, and the Staff Analysis. Mr. Whitehouse stated one letter in support had been received for the Application.

The Commission found that Ms. Claire Habel, with New Leaf Energy, spoke on behalf of the Applicant; that also present was Mr. Shawn Brandt, P.E. with New Leaf Energy, and Mr. Richard Roseberry, P.E. with Colliers Engineering & Design. Ms. Habel stated that in addition to Mr. Brandt and herself, Mr. Jett Dickey, P.E. with New Leaf Energy, had also played an integral part in the proposed Application, however, he unfortunately could not be present; that New Leaf Energy is a new name, however is not a new company; that New Leaf Energy stems from a company called Borrego Solar, who has been in business for 40 years; that New Leaf Energy split off from the company to be their own standalone development company; that New Leaf has tons of experience; that they have staff from all the same operations, and the only change is a new name, which does not mean they are new to the business.

Mr. Habel stated that the site is located outside of Laurel, across the crossroads of Rt. 9 and Taylor Mill Rd.; that Fire Town Rd. also encompasses the lot; that the site is located adjacent to the Laurel Fire Department Station Sycamore No. 2; that surrounding the site are mostly agricultural uses, such as chicken houses and farming, with some residential homes; that the property is owned by the Givens family; that it has been in their family for over 50 years; that the property is currently owned by Mr. Minos Givens, who did provide a letter of support and his motivation for wanting to lease his land for the use of solar; that the main points of interest for Mr. Givens was securing long term income for generations to come, and keeping the land in the Givens name, while still earning income, without the need for some other kind of development; that the site is just shy of 80 acres; that they are proposing to utilize just short of 20 acres of the entire site for the solar facility; that currently the land is being used for parking; that they intend to keep farming on the remaining parcel; that the proposed site is particularly beneficial for the use of solar; that not only is solar a great neighbor, as the use is quiet, it pays taxes and maintain good lawn maintenance; that this site is located adjacent to a fire house; that the site does have three phase powerlines located nearby, which is a necessity for the proposed project’s size; that the project will connect to the grid and transmit the energy to a substation; that the substation is also located nearby, being only two miles away; that there are no wetlands located on the site; that there were no existing conditions they needed to plan or design around; that the site is flat, dry and a perfect location for solar; that they had conducted neighbor engagement, where they



reached out to 16 adjacent neighbors; that these neighbors received written notice via FedEx; that she additionally made phone calls to those neighbors as well; that she was about to verbally speak to three neighbors, with one of the neighbors being Mr. Jeff Hill – Laurel Fire Chief; that the two residential neighbors she spoke with live along Taylor Mill Rd. with housing facing the proposed project; that both residential neighbors did not have any negative comments regarding the proposed project, and one of the neighbors submitted a letter of support, as they were pleased they had incorporated a vegetative buffer allowing them a more pleasant view from their windows. Ms. Habel requested Mr. Brandt to speak on the project design and compliance with the Ordinance.

Mr. Shawn Brandt, P.E. with New Leaf Energy spoke on behalf of the Application. Mr. Brandt stated the Conditional Use application was submitted in July 2022; that the project layout had changed some to accommodate compliance to the recently adopted Ordinance; that they have ensured all setback requirements have been met in the Ordinance; that they have added a vegetated buffer to completely surround the project; that they have been in communication with DelDOT; that they did receive DelDOT's Service Level Evaluation Response; that recently DelDOT questioned why the project entrance was proposed from Rt. 9; that they are in discussions to move the entrance to be off Fire Tower Rd., as it is the less busy road; that this relocation would be an easy design fix, however the current plan does not yet reflect that change as they are still in discussions with DelDOT, and the plan design meets all the buffer requirements, as well as the roadway, fence and lock requirements.

Ms. Habel presented to the Commission visual renderings, from various angles, to showcase what the viewshed might look like with the placement of the proposed solar facility and provided contact information for the Commission and the public's use.

Mr. Butler questioned the distance from the driveway to the solar arrays and if the entrance gate would have a knox box for emergency personnel.

Ms. Habel stated a knox box would be installed; that there would be 30 ft. between the driveway and the solar panels, and the plan had not yet been submitted to the State Fire Marshal's Office.

Mr. Robertson questioned if the remainder of the parcel would be farmed and if the point of connection would be with Delmarva Power.

Ms. Habel stated they intended to keep some agricultural activity on the remainder of the parcel, which is the reason they designed the project to be tucked back in a corner of the site and the point of connection will be with Delmarva Power.

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

Mr. Ronald Conaway spoke in opposition to the Application with concerns regarding runoff, chemical pollution from the runoff, the potential of an increase in the number of solar arrays in the future, and a potential decrease in his property value, and he questioned how the Application would benefit him.

Ms. Habel stated the project could benefit the surrounding residents; that the project is intended to be part of Delmarva Power's Community Solar Program; that the Community Solar Program is designed to increase access to clean energy and to provide cost savings to those who wish to subscribe to the program; that this program does require a customer to register or subscribe to a community

solar program, at no additional cost, to receive cost savings; that they estimate about 10% cost savings on the bill; that there are other utilities that have green programs where one pays an additional fee per month to say that their power comes from green energy; that the proposed project's program is not like those, as the program is subscribing to a power that is from a clean energy source and the public are welcome to contact them regarding subscription or with questions.

Mr. Rick Roseberry, P.E. with Colliers Engineering & Design stated there would be no mass grading performed on the property, and that the site would have a meadow mix to provide better ground cover, which would provide less runoff.

Mr. Shawn Donaway spoke in opposition to the Application with concerns regarding noise, the impact of his view, safety in relation to the location of the project, and the presence of bald eagles on the site.

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

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

Mr. Robertson stated he had prepared a motion, which he read into the record per Mr. Mears' request.

Mr. Mears moved that the Commission recommend approval of C/U 2390 Taylor Mill Road Solar, LLC for a solar farm in the AR-1 District based on the record made during the public hearing and for the following reasons:

1. The proposed facility is a public utility use under the Sussex County Zoning Code, and it meets the purposes of a Conditional Use because it has a public or semi-public character that is essential and desirable for the general convenience of 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 18.64 acres of a larger 79.5-acre parcel.
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. The proposed solar array is located outside of the Town of Laurel, next to one of Laurel's Fire Stations and agricultural uses. The land is designated as being within the "Low-Density Area" according to Sussex County's Future Land Use Map. This is an appropriate location for this solar array.
5. This Application generally complies with Ordinance No. 2920 regarding solar arrays. Therefore, specific conditions regarding its operation and screening are not necessary.
6. The solar array is located in an area that primarily consists of 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.
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. Based on the record there is no significant noise, glare, dust, or odor that will be generated by the facility.
9. The proposed use provides a renewable energy source that is a benefit to the residents and businesses of Sussex County.

10. This recommendation is subject to the 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 the 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 at 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 an emergency.
  - 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. No chemicals or herbicides shall be applied to the land where the solar arrays will be located.
  - 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 Mr. Mears, seconded by Mr. Collins and carried unanimously to recommend approval for C/U 2390 Taylor Mill Road Solar 1, LLC for the reasons and conditions stated in the motion. Motion carried 4-0.

Vote by roll call: 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, MRTPI, AICP  
DIRECTOR OF PLANNING & ZONING

**PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET**  
Planning Commission Public Hearing Date: October 26<sup>th</sup>, 2023

Application: CU 2390 Taylor Mill Road Solar 1, LLC

Applicant: Taylor Mill Road Solar 1, LLC  
55 Technology Drive, Suite 102  
Lowell, MA 01851

Owner: Minos Givens  
8266 93<sup>rd</sup> Ave.  
Vero Beach, FL 32967

Site Location: Located on the southeast corner of the intersection of Taylor Mill Road (S.C.R. 467) and County Seat Highway (Rt. 9)

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

Proposed Use: 20.23-Acre Solar Farm

Comprehensive Land Use Plan Reference: Low Density

Councilmanic District: Mr. Vincent

School District: Laurel School District

Fire District: Laurel Fire Department

Sewer: None

Water: None

Site Area: 79.59 acres +/- (20.23-acre portion being proposed for use)

Tax Map ID.: 232-7.00-3.00



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: Christin Scott, Planner II  
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant  
Date: October 19, 2023  
RE: Staff Analysis for CU 2390 Taylor Mill Road Solar 1, LLC

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The purpose of this memo is to provide background and analysis for the Planning and Zoning Commission to consider as a part of Application CU 2390 (Taylor Mill Road Solar 1, LLC) to be reviewed during the October 26<sup>th</sup>, 2023, Planning and Zoning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Conditional Use for Tax Parcel: 232-7.00-3.00 to allow for a solar array. The property is lying on the south side of Taylor Mill Road (S.C.R. 467), the west side of Fire Tower Road (S.C.R. 479), and the east side of County Seat Highway (Rt. 9) at the intersection of County Seat Highway (Rt. 9) and Fire Tower Road (S.C.R. 467). The applicant is applying 20.23-acres +/- out of 79.59-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." All adjoining parcels to the north, south, and west also have a Future Land Use Map designation of "Low Density." Adjoining properties to the west have a Future Land Use Map designation of "Developing Area."

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).

### Zoning Information

The subject property is zoned Agricultural Residential (AR-1) District. All adjacent properties to the north, south, east, and west of the subject parcels are also zoned Agricultural Residential (AR-1) District.

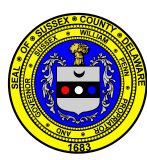


Existing Conditional Uses within the Vicinity of the Subject Property

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

CU	Applicant	Proposed Use	CC Decision Date	Ordinance No.
1879	Laurel Fire Dept., Inc.	Fire Substation		

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



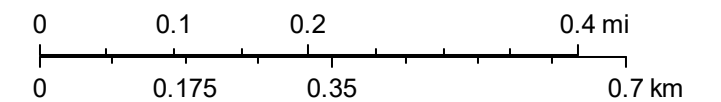
# Sussex County



<b>PIN:</b>	232-7.00-3.00
<b>Owner Name</b>	GIVENS MINOS E & NORMA C
<b>Book</b>	0
<b>Mailing Address</b>	8266 93RD AVE
<b>City</b>	VERO BEACH
<b>State</b>	FL
<b>Description</b>	SE LAUREL TO
<b>Description 2</b>	GEORGETOWN
<b>Description 3</b>	N/A
<b>Land Code</b>	

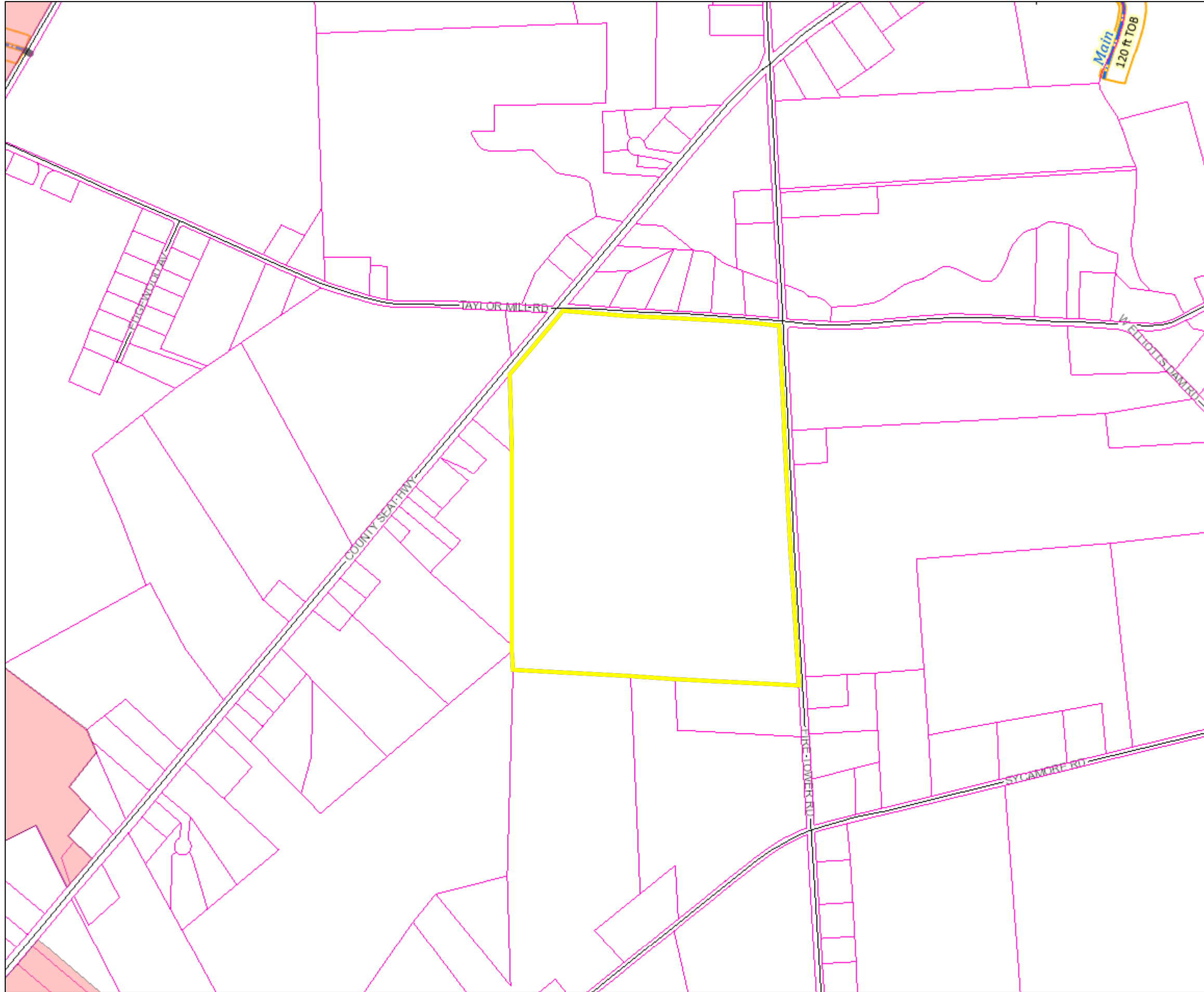
- Municipal Boundaries
- Tax Parcels
- Streets
- County Boundaries
- Pond Feature
- Special Access ROW
- Extent of Right-of-Way
- World Imagery
- Tax Ditch Segments**
- Tax Ditch Channel
- DelDOT Maintained
- HOA Maintained
- Pipe - DelDOT
- Pipe - Tax Ditch
- Pipe - Private
- Low Resolution 15m Imagery
- High Resolution 60cm Imagery
- High Resolution 30cm Imagery
- Citations
- 2.4m Resolution Metadata

1:9,028





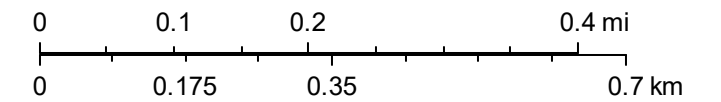
# Sussex County



<b>PIN:</b>	232-7.00-3.00
<b>Owner Name</b>	GIVENS MINOS E & NORMA C
<b>Book</b>	0
<b>Mailing Address</b>	8266 93RD AVE
<b>City</b>	VERO BEACH
<b>State</b>	FL
<b>Description</b>	SE LAUREL TO
<b>Description 2</b>	GEORGETOWN
<b>Description 3</b>	N/A
<b>Land Code</b>	

- Municipal Boundaries
- Tax Parcels
- Streets
- County Boundaries
- Tax Ditch Segments**
- Tax Ditch Channel
- DeIDOT Maintained
- HOA Maintained
- Pipe - DeIDOT
- Pipe - Tax Ditch
- Pipe - Private
- Pond Feature
- Special Access ROW
- Extent of Right-of-Way

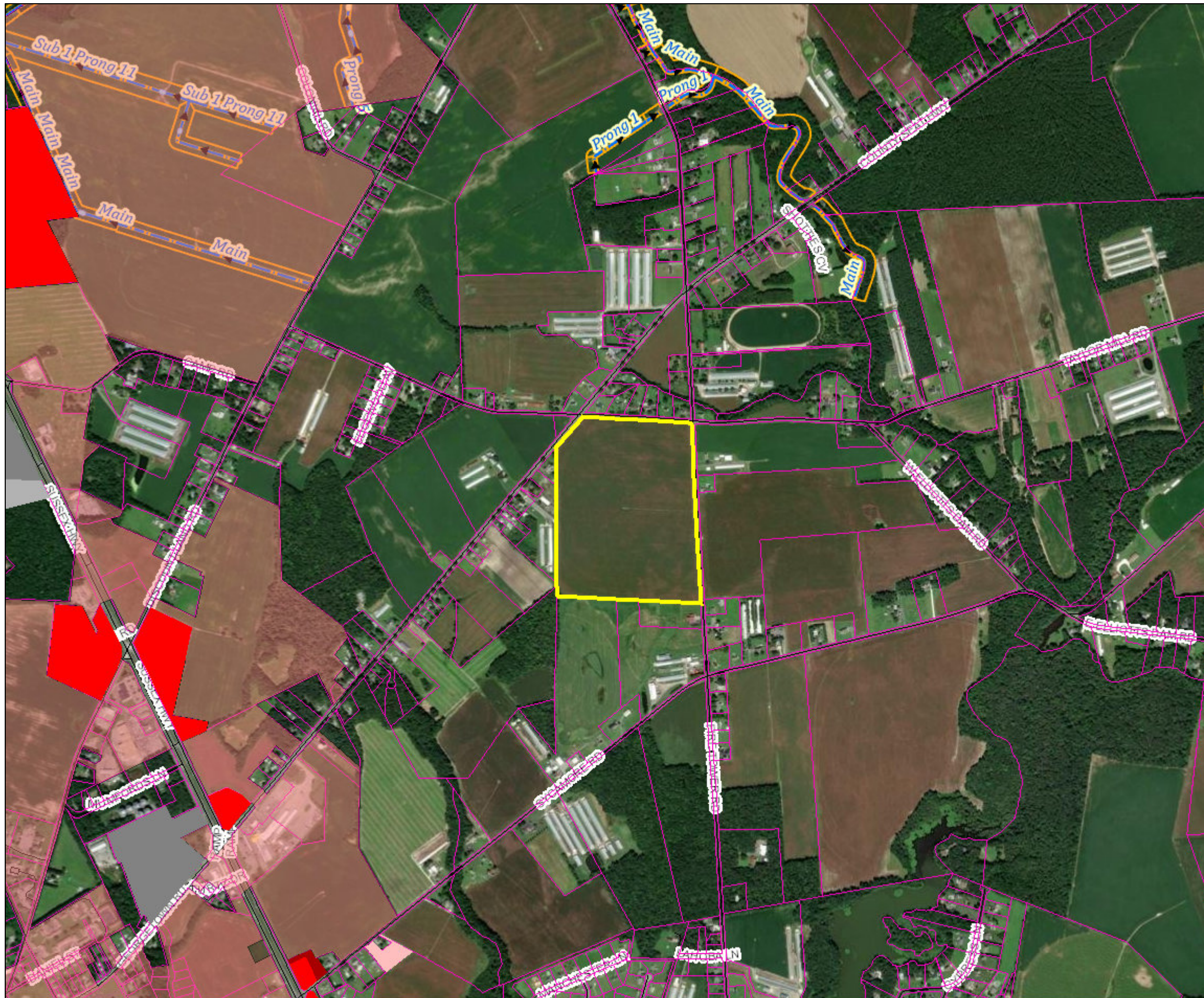
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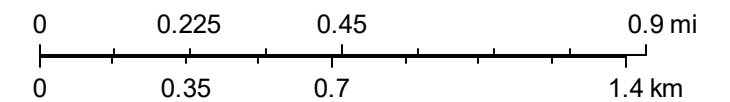
# Sussex County



<b>PIN:</b>	232-7.00-3.00
<b>Owner Name</b>	GIVENS MINOS E & NORMA C
<b>Book</b>	0
<b>Mailing Address</b>	8266 93RD AVE
<b>City</b>	VERO BEACH
<b>State</b>	FL
<b>Description</b>	SE LAUREL TO
<b>Description 2</b>	GEORGETOWN
<b>Description 3</b>	N/A
<b>Land Code</b>	

- |                           |                              |
|---------------------------|------------------------------|
| Municipal Boundaries      | Pond Feature                 |
| Tax Parcels               | Special Access ROW           |
| Streets                   | Extent of Right-of-Way       |
| County Boundaries         | World Imagery                |
| <b>Tax Ditch Segments</b> | Low Resolution 15m Imagery   |
| Tax Ditch Channel         | High Resolution 60cm Imagery |
| DelDOT Maintained         | High Resolution 30cm Imagery |
| HOA Maintained            | Citations                    |
| Pipe - DelDOT             | 4.8m Resolution Metadata     |
| Pipe - Tax Ditch          |                              |
| Pipe - Private            |                              |

1:18,056



Introduced: 02/21/23

Council District 1: Mr. Vincent  
Tax I.D. No.: 232-7.00-3.00  
911 Address: N/A

ORDINANCE NO. \_\_\_\_

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A 20.23-ACRE SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 79.59 ACRES, MORE OR LESS**

WHEREAS, on the 18<sup>th</sup> day of July 2022, a conditional use application, denominated Conditional Use No. 2390 was filed on behalf of Taylor Mill Road Solar 1, 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. 2390 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. 2390 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 south side of Taylor Mill Road (S.C.R. 467), the west side of Fire Tower Road (S.C.R. 479), and the east side of County Seat Highway (Rt. 9) at the intersection of County Seat Highway (Rt. 9) and Fire Tower Road (S.C.R. 467) and being more particularly described in the attached legal description prepared by Tunnell & Raysor, said parcel containing 79.59 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: May 3, 2024

RE: County Council Report for C/U 2393 filed on behalf of Sunrise Solar, Inc

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The Planning and Zoning Department received an application (C/U 2393 filed on behalf of Sunrise Solar, Inc.) for a solar array to be located at Tax Parcel 532-6.00-8.00. The property is located at 10198 R & R Lane, Delmar. The parcel size is 134.61 acres +/-.

The Planning & Zoning Commission held a Public Hearing on the application on October 26, 2023. At the meeting of October 26, 2023, the Planning & Zoning Commission recommended approval of the application for the 10 reasons and subject to the 9 recommended conditions as outlined within the motion (copied below).

Below are the minutes from the Planning & Zoning Commission meeting of October 26, 2023. The County Council held a Public Hearing at its meeting on December 12, 2023. At the conclusion of the Public Hearing, action on the application was deferred for further consideration.

Minutes of the October 26, 2023, Planning & Zoning Commission Meeting

In relation to the following six Conditional Use applications regarding solar array uses, Chairman Wheatley stated, *“Sussex County is fully aware of the benefits and operation of these community solar facilities at this point having seen and acted on so many of them. For that reason, the Commission will take that into account and presenters do not need to establish that. Instead, please focus on your specific property, the surrounding area, and how your proposed solar facility may impact the surrounding area. The Commission will also take into account all of the written information that is already in the record on each of these applications.”*

**C/U 2393 Sunrise Solar, Inc.**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR A SOLAR ARRAY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX**

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



**COUNTY, CONTAINING 134.61 ACRES, MORE OR LESS.** The property is lying on the north and south sides of R & R Lane, approximately 0.38 mile west of BiState Boulevard (Rt. 13A). 911 Address: 10198 R & R Lane, Delmar. Tax Map Parcel: 532-6.00-8.00 (p/o).

Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's Conceptual Site Plan, the Staff Analysis, a letter received from the Sussex County Engineering Department Utility Planning Division, and the DelDOT Service Level Evaluation Response. Mr. Whitehouse stated that no comments were received for the Application.

The Commission found that Mr. Julian Pellegrini, Project Engineer with the PELSA Company, Inc. spoke on behalf of the Applicant. Mr. Pellegrini stated that also present was a representative from the operations and management company, Standard Solar; that Standard Solar is owned by the well-known Brookfield Renewables, which has numerous solar projects in over 22 states across the Country; that additionally, there was a representative from Sunrise Solar present; that Sunrise Solar has worked alongside Standard Solar, and has 15 ongoing projects with them in Delaware currently; that the project proposes a 4.455-megawatt community solar field, which would be able to power about 390 homes; that the project will take access, with a gravel road, from an existing driveway on the property; that within the solar area, the property will be maintained by typical mowing operations or agrovoltaic farming, which involves sheep or other similar livestock to manage the grass height within the solar field, and the property would include a pollinator mix.

Mr. Robertson stated the total acreage of the parcel was 134 acres and he questioned the acreage that the solar project is proposed to be located on.

Mr. Pellegrini stated the solar project is proposed to be located on 22 acres (17%) of the entire parcel.

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

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

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

Mr. Robertson stated he had a prepared motion, which he read into the record per Mr. Mears' request.

Mr. Mears moved that the Commission recommend approval of C/U 2393 Sunrise Solar, LLC 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 of 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 22 acres of a larger 134.61-acre parcel.
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. The proposed solar array is located in a rural area, which is largely surrounded by tilled lands and forest. The land is designated as being within the “Existing Development Area” according to Sussex County’s Future Land Use Map. This is an appropriate location for this solar array.
5. This Application generally complies with Ordinance No. 2920 regarding solar arrays. Therefore, specific conditions regarding its operation and screening are not necessary.
6. The solar array is located in an area that primarily consists of 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.
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. Based on the record there is no significant noise, glare, dust, or odor that will be generated by the facility.
9. The proposed use provides a renewable energy source that is a benefit to the residents and businesses of Sussex County.
10. There was no opposition to this Application.
11. This recommendation is subject to the 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 the 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 at 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 an emergency.
  - 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. 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.
  - I. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.

Motion by Mr. Mears, seconded by Mr. Collins and carried unanimously to recommend approval of C/U 2393 Sunrise Solar, Inc. for the reasons and the conditions stated in the motion. Motion carried 4-0.

Vote by roll call: 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: October 26<sup>th</sup>, 2023

Application: CU 2393 Sunrise Solar, Inc.

Applicant: Sunrise Solar, Inc.  
6408 Church Hill Road  
Chestertown, MD 21620

Owner: Sunrise Land Eastern Shore, LLC  
P.O. Box 898  
Chestertown, MD 21620

Site Location: Lying on the west side of Bi State Boulevard (Rt. 13A) approximately 0.38-miles west of the intersection of Bi State Boulevard and R and R Lane.

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: Private Septic

Water: Private Well

Site Area: 14.73 acres +/- (p/o)

Tax Map ID: 532-6.00-8.00



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: October 19, 2023  
RE: Staff Analysis for CU 2393 Sunrise Solar, Inc.

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The purpose of this memo is to provide background and analysis for the Planning and Zoning Commission to consider as a part of Application CU 2393 (Sunrise Solar, Inc.) to be reviewed during the October 26<sup>th</sup>, 2023, Planning and Zoning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Conditional Use for Tax Parcel: 532-6.00-8.00 to allow for a solar array. The property is lying on the west side of R and R Lane a private road used to access the subject parcel, approximately 0.38-mile(s) west of the intersection of R and R Lane and Bi State Boulevard (Rt. 13A). The applicant is applying 14.73-acres +/- out of 134.61-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

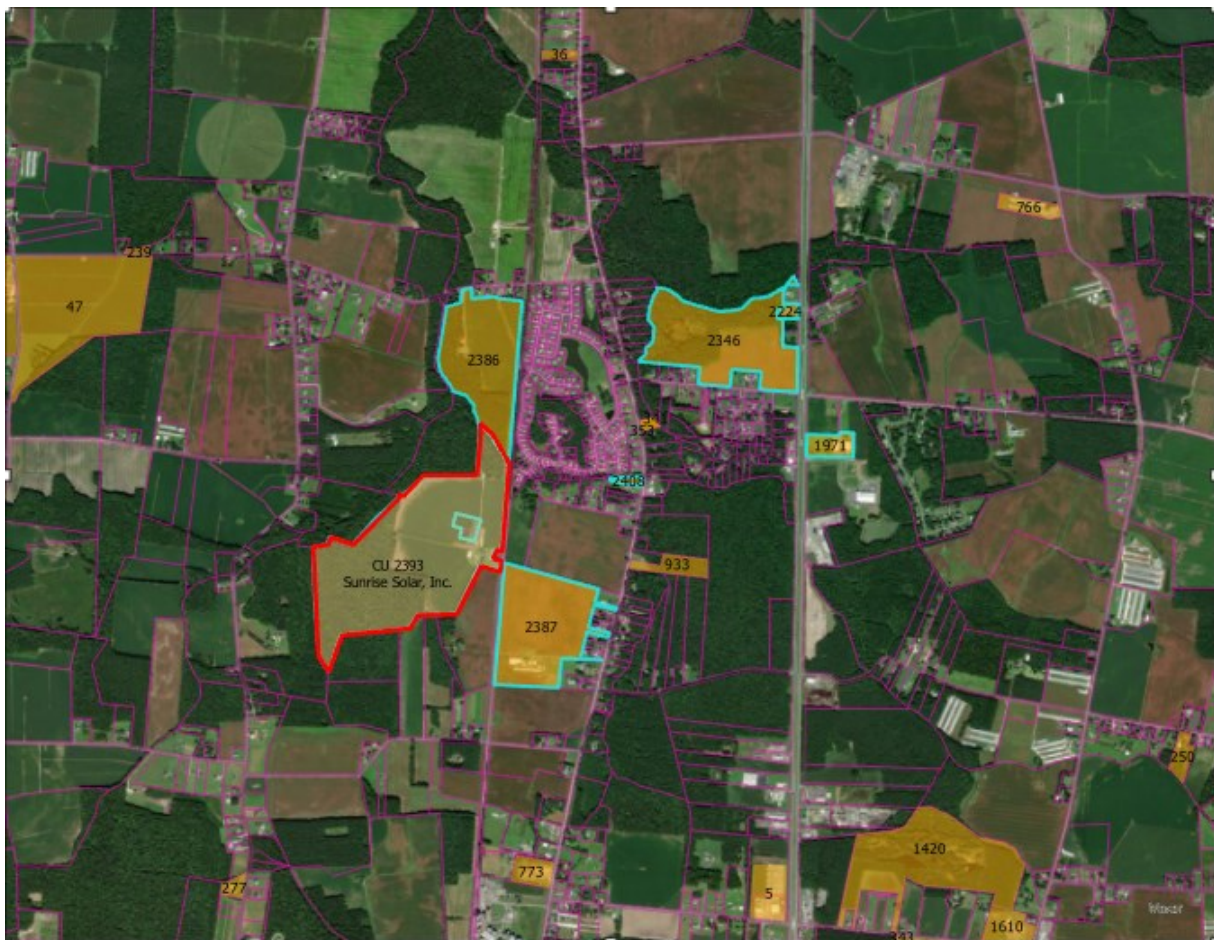
The subject property is zoned General Residential (GR) District. All adjacent properties to the north, south, east, and west of the subject parcels are also zoned General Residential (GR) District.



Existing Conditional Uses within the Vicinity of the Subject Property

Although there have been multiple applications in this area, since 2011, there have been six (6) 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
2224	Pamela Price	Real Estate Office	6/9/2020	2714
2346	TPE DE SU114, LLC	Community Solar Facility	6/20/2023	2932
2386	Consolidated Edison Development, Inc.	Solar Farm	N/A (CC hearing date 12/5/2023)	N/A
2387	Consolidated Edison Development, Inc.	Solar Farm	N/A (CC hearing date 12/5/2023)	N/A
2408	Efren Fernando Acevedo	Car Dealership	N/A	N/A

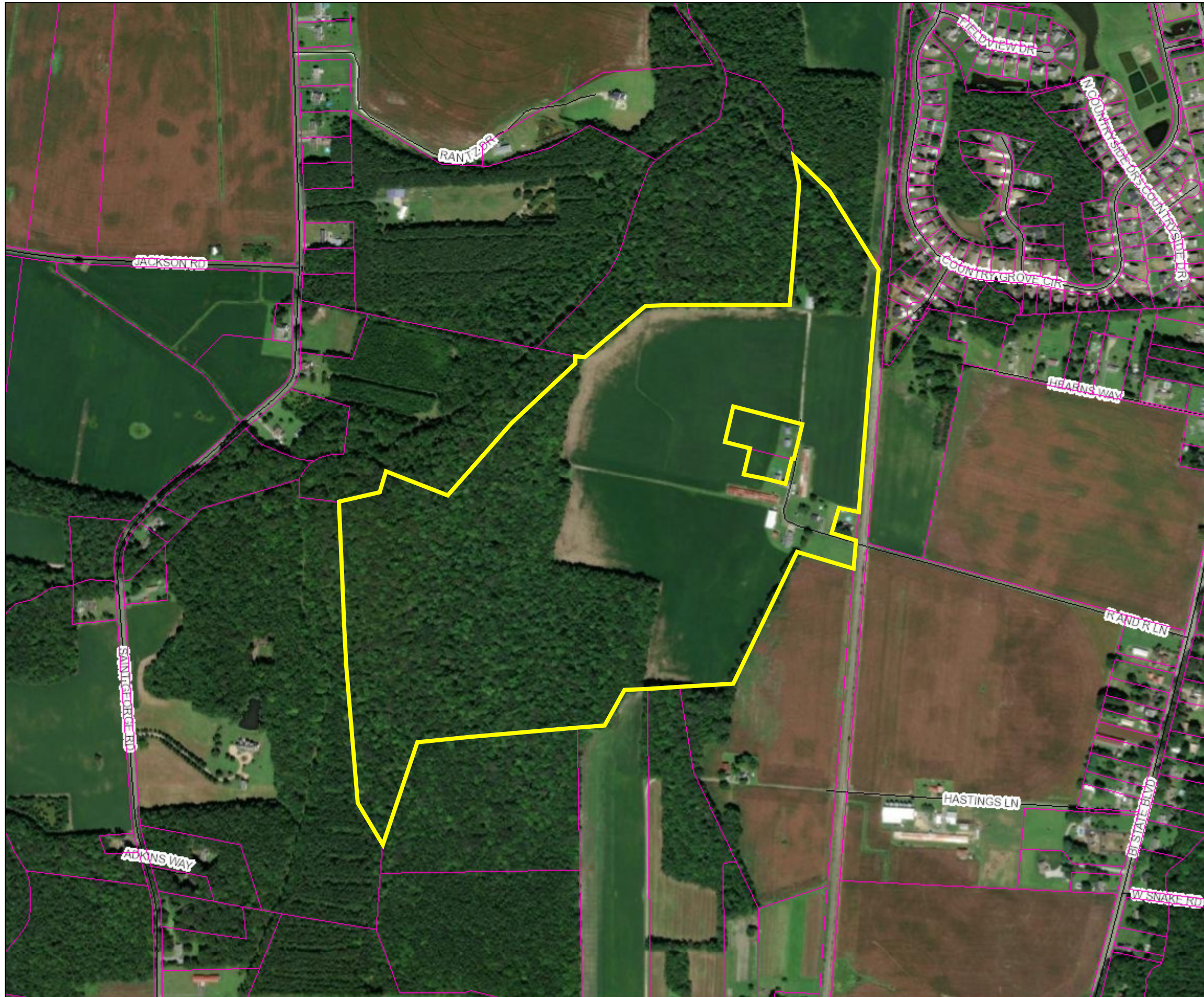




Based on the analysis provided, the Conditional Use to allow for a solar array in this location could be considered as being consistent with the surrounding land use, zoning, and uses, subject to considerations of scale and impact.



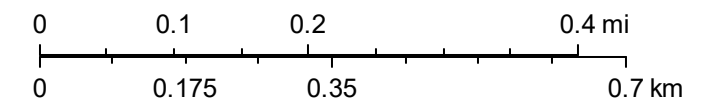
# Sussex County



<b>PIN:</b>	532-6.00-8.00	
<b>Owner Name</b>	SUNRISE LAND	EASTERN SHORE LLC
<b>Book</b>	5656	
<b>Mailing Address</b>	PO BOX 898	
<b>City</b>	CHESTERTOWN	
<b>State</b>	MD	
<b>Description</b>	W/PENN CENTRAL RR	
<b>Description 2</b>	2737' N/RD 503B	
<b>Description 3</b>	FX	
<b>Land Code</b>		

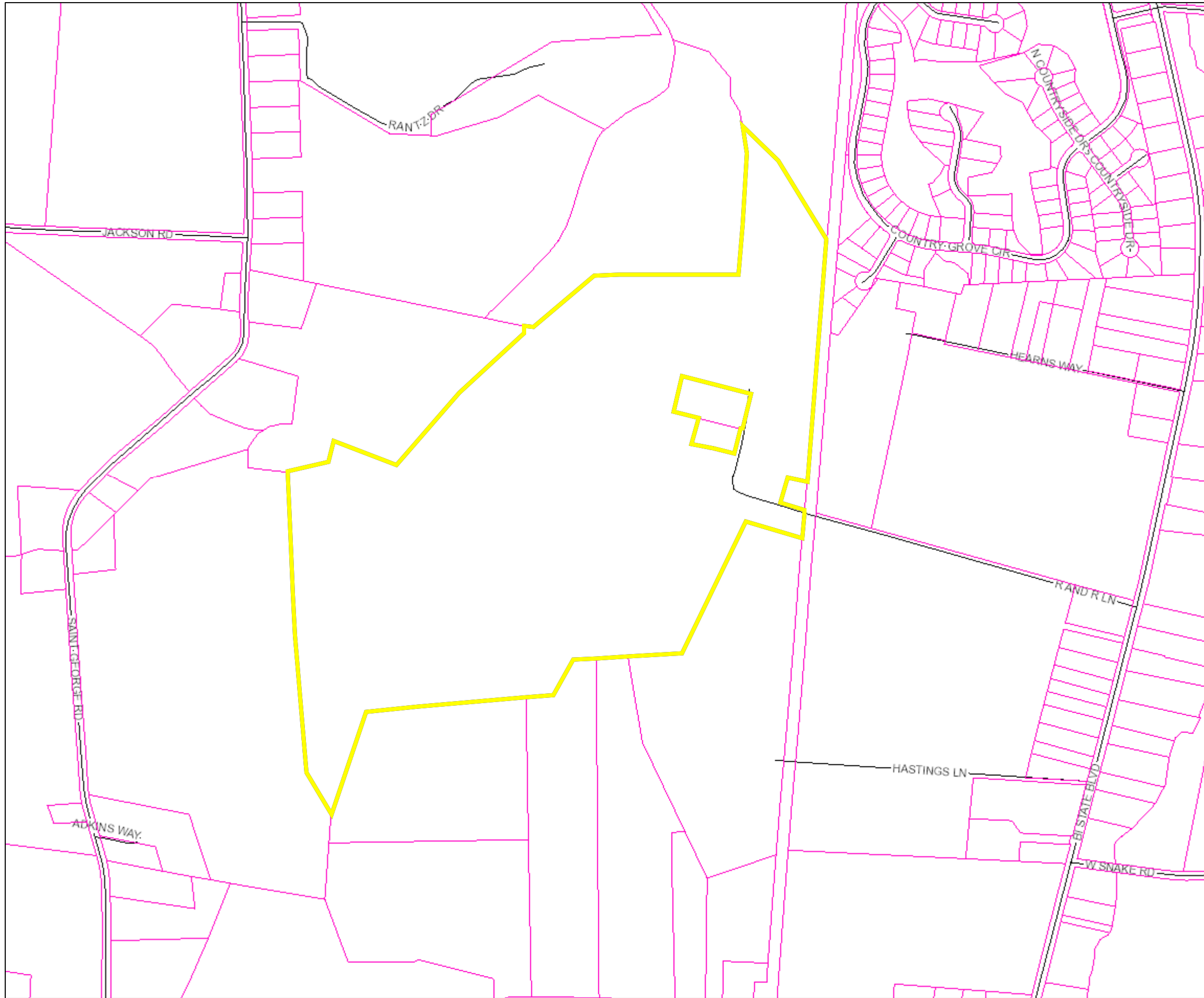
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- Override 1
- polygonLayer**
- Override 1
- Tax Parcels
- Streets
- County Boundaries

1:9,028





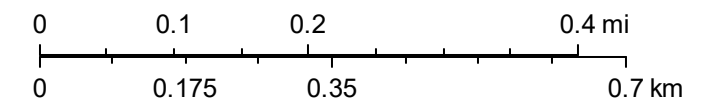
# Sussex County



<b>PIN:</b>	532-6.00-8.00	
<b>Owner Name</b>	SUNRISE	LAND EASTERN SHORE LLC
<b>Book</b>	5656	
<b>Mailing Address</b>	PO BOX 898	
<b>City</b>	CHESTERTOWN	
<b>State</b>	MD	
<b>Description</b>	W/PENN CENTRAL RR	
<b>Description 2</b>	2737' N/RD 503B	
<b>Description 3</b>	FX	
<b>Land Code</b>		

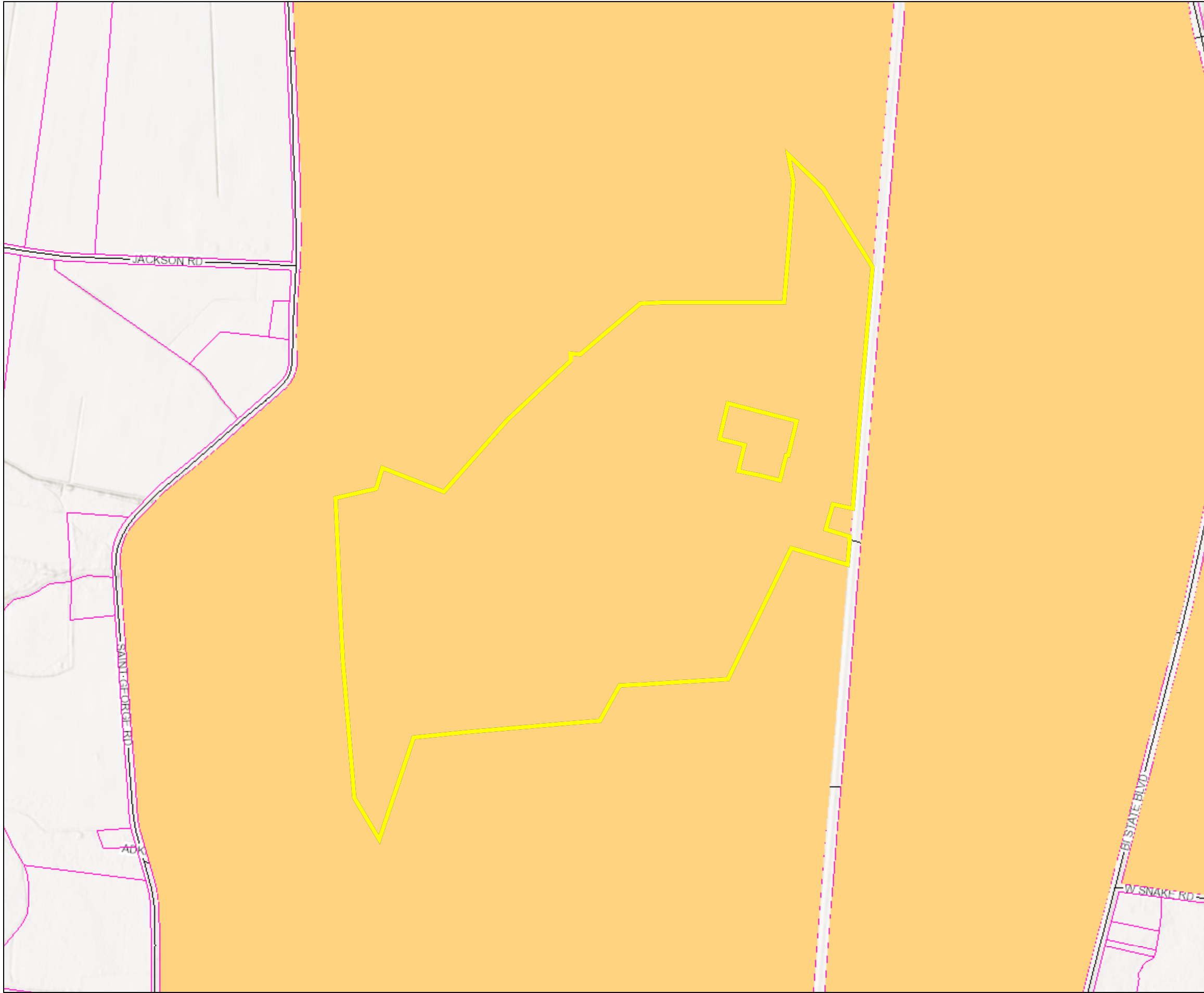
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  - Override 1
- polygonLayer
  - Override 1
  - Tax Parcels
  - Streets
  - County Boundaries

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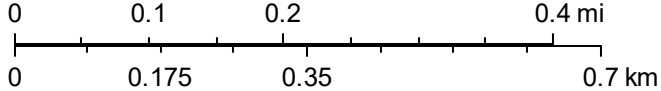
# Sussex County



<b>PIN:</b>	532-6.00-8.00	
<b>Owner Name</b>	SUNRISE	LAND EASTERN SHORE LLC
<b>Book</b>	5656	
<b>Mailing Address</b>	PO BOX 898	
<b>City</b>	CHESTERTOWN	
<b>State</b>	MD	
<b>Description</b>	W/PENN CENTRAL RR	
<b>Description 2</b>	2737' N/RD 503B	
<b>Description 3</b>	FX	
<b>Land Code</b>		

- Tax Parcels
- Streets
- County Boundaries
- World Hillshade

1:9,028



**Introduced: 10/10/23**

**Council District 1: Mr. Vincent  
Tax I.D. No.: 532-6.00-8.00 (p/o)  
911 Address: 10198 R & R Lane, Delmar**

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

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR A SOLAR ARRAY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 134.61 ACRES, MORE OR LESS**

**WHEREAS, on the 11<sup>th</sup> day of August 2022, a conditional use application, denominated Conditional Use No. 2393 was filed on behalf of Sunrise Solar, 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. 2393 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. 2393 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 R & R Lane, approximately 0.38 mile west of BiState Boulevard (Rt. 13A) and being more particularly described in the attached legal description prepared by The Pelsa Company, said parcel containing 14.73 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: May 3, 2024

RE: County Council Report for C/U 2447 filed on behalf of Elk Development, LLC

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The Planning and Zoning Department received an application (C/U 2447 filed on behalf of Elk Development, LLC) for solar arrays, to be located at Tax Parcels 132-1.00-5.00 and 132-6.00-78.03. The property is located on the east side of River Road (SCR 490), at the intersection of Morgan Branch Road and River Road SCR 490). The parcel size is 51.83 acres +/-

The Planning & Zoning Commission held a Public Hearing on the application on November 9, 2023. At the meeting of January, 24 2024, the Planning & Zoning Commission recommended approval of the application for the 9 reasons stated and subject to the 9 recommended conditions as outlined within the motion (copied below).

The County Council held a Public Hearing at its meeting on January 9, 2024. At the conclusion of the Public Hearing, action on the application was deferred for further consideration, and to receive the recommendation of the Planning & Zoning Commission. Below is a link to the approved minutes of the January 9, 2024, County Council meeting.

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

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

[Minutes of the November 9, 2023, Planning & Zoning Commission Meeting](#)

### **C/U 2447 Elk Development, LLC**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR SOLAR ARRAYS TO BE LOCATED ON CERTAIN PARCELS OF LAND LYING AND BEING IN BROAD CREEK**



**HUNDRED, SUSSEX COUNTY, CONTAINING 51.83 ACRES, MORE OR LESS.** The properties are lying on the east side of River Road (S.C.R. 490), at the intersection of Morgan Branch Road and River Road (S.C.R. 490). 911 Addresses: N/A Tax Map Parcels: 132-1.00-5.00 (p/o) & 132-6.00-78.03.

Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's Conceptual Site Plan, the Applicant's Exhibits, the DelDOT Service Level Evaluation Response, the Staff Analysis, and Applicant's Decommissioning Plan. Mr. Whitehouse advised the Commission that one mail return and no comment letters had been received for the Application.

The Commission found that Mr. James, Fuqua, Esq. with Fuqua, Willard & Schab, P.A. spoke on behalf of the Applicant, Elk Development, LLC; that also present were Mr. Seth Shafer, P.E. with Pivot Energy, and Mr. Edward Hastings, with Becker Morgan Group.

Mr. Fuqua requested the following information provided in the public hearing for C/U 2404 be incorporated into the record for C/U 2447 Elk Development, LLC. Mr. Fuqua stated an exhibit booklet was submitted for all four applications; that Elk Development, LLC is a division of Pivot Energy, Inc.; that Pivot Energy is a national company involved in the development of clean energy projects, such as on site solar facilities and small utility solar projects, which include community solar facilities; that Pivot Energy has financed and developed over 1,200 solar projects throughout the United States; that the current applications propose solar facilities as authorized, and in compliance with, the Delaware Law, which encourages a more decentralized and cleaner approach to power generation through community solar facilities; that the law provides that by subscribing to a community solar project, residential, business and educational users, who are utility customers can participate in renewable and sustainable energy production, with possible future energy costs; that the solar facilities involved in all four of the subject applications, it is anticipated that that upon final approval and required permitting, the site development and solar facility construction would take approximately four to six months to complete; that once completed and operational, the four facilities would have the following in common; that the solar array and equipment area would be enclosed in a seven foot high security fence with a gate and an emergency key box to accommodate emergency access; that one unlit sign, not exceeding 32 sq. ft. is requested; that the sign will identify the operator and the operator's contact information; that the facilities will consist of solar panel modules mounted on single axis trackers that will allow them to follow the path to the sun throughout the day; that the solar racking system itself utilizes drive steel posts or pile foundations, which anchor the racking system to the ground, and that results in minimal ground disturbance or impervious surface cover; that the solar inverters and other equipment will be located on concrete pads; that the power generated by the solar panels will be transferred to DP&L (Delmarva Power & Light grid by interconnection with the existing DP&L power lines; that the overall system and its design comply with the National Electrical Code and will be reviewed and approved by Delmarva Power & Light; that the solar array area itself will be seeded with a pollinator seed mix, which is slow growing, environmentally friendly ground cover; that there are no odors, dust, smoke, or heat associated with the solar operation; that the only sound is a minimal sound, which is a low hum from the inverters; that there is minimal to no glare from the solar panels, which are designed to absorb sunlight, not to reflect it; that there will be landscaping surrounding the fenced area, which will further shield the panels from view; that after construction is completed, traffic to the site would be minimal, as it would only be periodic equipment inspections and maintenance, as well as seasonal property maintenance and grass cuts; that there are no onsite employees, as the equipment is monitored remotely; that each application does have its own DelDOT Service Level Evaluation Response letter, which indicates that the traffic impact for all the

facilities would be diminutive; that there is no proposed or need for sewer, water or trash services for the facilities; that little impervious surface will be created by the facility; that any stormwater management for the sites will comply with the applicable State and County requirements; that as part of the Final Site Plan approval, a Decommissioning Plan will be provided to ensure that upon expiration of the lease, or early termination of the Conditional Use, all equipment and materials will be removed from the site and properly disposed of; that the site will be returned to a physical condition similar to its present state; that the plan also provides for financial security and a form acceptable to the County; that this will guarantee that the cost of the restoration will be available; that the actual estimated amount in terms of that security will be provided as part of the Final Site Plan review and approval process; that after termination of the use and restoration of the site, the land will revert back to its current condition as agricultural land; that solar facilities are permitted as an approved Conditional Use in both the AR-1 (Agricultural Residential) and GR (General Residential) Zoning Districts; that the purpose of a Conditional Use is to provide for a use that is of a public or semi-public character that is essential and desirable for the general convenience, and welfare of the County; that the Commission and County Council had previously determined that solar facilities are in accordance with the County's Comprehensive plan by promoting Goal 7.3 of the Comprehensive Plan, which encourages the use of renewable energy options, such as community solar facilities, and the use is authorized by the recent amendments to the State Law, relating to the development of community solar facilities for renewable energy protection.

Mr. Fuqua stated that specifically, C/U 2447 Elk Development LLC, is referred to as the "Morgan Branch" application; that the site is located south of Morgan Branch Dr., which is just off River Rd., west of Blades; that the site is comprised of approximately 51 acres; that approximately 40.7 acres are to be leased by the Applicant for a solar facility; that the land to the east and the south are mostly agricultural lands or are wooded; that to the west is the Hill N Dale subdivision; that the land to be leased is made up of agricultural land and woodlands; that the site is zoned AR-1 (Agricultural Residential); that the site is located within the Low Density area under the Future Land Use Map; that lands adjacent to the site are also located within the Low Density area; that access to the site will be from Morgan Branch Rd.; that the access would be a 16 ft. gravel drive, with a turn around next to two 8' x 20' equipment pads; that to the north and the east, the closest solar array would be 70.4 ft. from the property line; that to the west, adjacent to the Hill N Dale community, the closest solar array would be approximately 228 ft. from the closest dwelling in Hill N Dale; that there would be either a 25 ft. wide landscape buffer provided or an existing wooded buffer around the entire solar facility area; that to the north, there will be a new 25 ft. wide landscape buffer or it will consist of 25 ft. wide landscape of existing woodlands; that on the east, there will be a minimum 25 ft. wide landscape buffer in there area where there is currently existing field; that in this area, there is a small area of woods to be removed; that there will be a 50 ft. buffer of the existing trees to remain; that where there is currently open farm field, a 25 ft. landscape buffer will be placed in the areas where the woods exist, resulting in a total of a 50 ft. wide buffer comprised of both planted landscape and existing woodlands; that to the south, the 25 ft. landscape buffer would remain; that the proposed buffers are shown on the Site Plan; that the facility is anticipated to generate electrical power for the annual needs of approximately 850 residential customers, and proposed Conditions of Approval has previously been submitted for the Commission's consideration.

Mr. Collins questioned if the existing trees are proposed to remain for the entirety of the project.

Mr. Fuqua stated he assumed that would be made as a Condition of Approval for the project and would be reflected as such on the Final Site Plan.



The Commission found that one person spoke in support of, and people wished to speak in opposition to the Application.

Ms. Cathleen Simpler spoke in support of the Application. Ms. Simpler stated her father originally purchased the land 50 years ago; that both of her parents are well into their 80s and in declining health; that she and her brother currently care for them; that the farm historically was used to grow corn; that the farm historically was leased out; that their goal is to utilize the land to the maximum potential, while still keeping the land within the family; that they had considered subdivision of the property, however it was not feasible; that the use for solar will create a sustainable, long term revenue to help provide for their needs and she hopes the project will be an important part of Seaford for the next 40 years.

Ms. Billie Davenport spoke in opposition to the Application on behalf of herself and her husband, Mr. Eric Davenport, who was also in attendance. Ms. Davenport spoke with concerns regarding the negative impact the solar arrays will have on the beauty of the area, which is something the adjacent property owners have sought, the negative impacts on the wildlife, trees, the ecosystem, and the Nanticoke River, the negative impact on the health of adjacent property owners, as stated by the World Health Organization, the distance of the solar panels from residential homes and the negative impact from the noise and light generated by the project.

Mr. John Kissler spoke in opposition to the Application with concerns regarding the submitted Site Plan, the lack of buffering shown on the Site Plan, the negative impacts from electromagnetic radiation created by solar farms, negative impacts to native flora and fauna, filtering, drinking water, preventing erosion, preventing scenic and/or recreational benefits; that he felt solar projects should be regulated to commercial areas, and he was concerned about destruction of forest.

Mr. Gregory Fisher spoke in opposition to the Application with concerns regarding the public notice procedure for the Application, the proposed landscape buffer and the maintenance of the buffer, flooding and stormwater runoff, and the noise created by the inverter, which is to be located 150 ft from his home.

Mr. Frederick Cox, President of the Hill N Dale Homeowners Association spoke in opposition to the Application with concerns regarding the public notice procedure, the proposed buffer zones, the proposed fencing, and the ability to maintain the value of the current resident's property.

Mr. Ted (Edward) Hastings, with Becker Morgan group stated typically with stormwater management, when converting from a farm field to a solar array, the land is no longer to be used for crops; that typically a meadow mix is placed underneath, which changes the curve number; that meadow mixes reduces the curve number, which reduces the runoff from the site; that on the subject site, there are woods, which create an opposite effect; that there will be a balance on the site; that when this happens, they are required to follow the Sussex Conservation District's guidelines; that they are required to meet or reduce the runoff rates from the site pre-development to post-development; that the percentage of impervious surface is objective; that underneath the array will be a meadow; that one could argue the solar array is not impervious at all, only the post underneath it; that for stormwater management purposes, they are required to treat the solar array as impervious surface; that if they are unable to meet the runoff rates leaving the site, or have an increased amount of runoff, they will be required to place a facility on the site for stormwater management; that their requirements are held to all storm events, including a 100 Year Storm event, and there stormwater management is not required to make

the current conditions better, however, it is required not to make current conditions worse.

Mr. Young questioned if there would be access to the back end of the site, nearest to where the solar array would be placed, in the case an urgent situation arose, as he did not see provided access to the second parcel.

Mr. Ted (Edward) Hastings stated typically access is provided to the equipment on the site; that this is similar to a landscaper who would come to the site to maintain the grass; that they would use the access to the site, and use a small maintenance vehicle with adequate tires to drive throughout the whole site without issue; that there will not be a defined road per say, but there will be access to the array by the provided access, and there are no inverters located in that area, only solar array panels.

Mr. Eric Davenport spoke in opposition to the Application with concerns regarding what a safe distance from a solar array would be; that a safe distance is 1.2 miles; that he was concerned about the EMF (Electromagnetic Frequency Radiation) from a solar farm of the proposed size; that he was concerned of the negative impact to the view and the length of the lease.

Mr. Fuqua stated the standard lease with the Applicant is 20 years, with two potential 10-year extensions, resulting in a 40-year maximum lease, which is a standard time period for the industry; that he recognizes the confusion caused often by the terminology used; that he is aware of the information provided on the internet by the World Health Organization, which had been mentioned in previous solar applications; the large scale is a subjective term; that the size of the facility is not based on the average, it is based on the mega wattage, and how much energy is being produced, which determines the scale size; when the State of Delaware enacted Community Solar, they restricted the energy production, and he stated he had scientific material which he requested to submit for the record, which addresses the radiation and the electric current concerns.

Mr. Bryce Widdowson spoke in opposition to the Application with concerns regarding who would benefit from the produced energy.

Mr. Fuqua stated that the State of Delaware initiated as part of a bigger picture, getting all fossil fuels to provide more sustainable energy; that the law passed two years ago, allowing community systems, which are restricted on how large they can be, to be permitted as a subscription program that residents, businesses, and other utility consumer entities can subscribe to; that by doing so, the community solar project can benefit by providing a reduced electrical bill as they would be part of the community solar system; that the project would provide of a method of receiving the benefits of solar panels, without actually having solar panels on their roof; that subscribers would not pay, as it is free to subscribe; that only a limited amount of people can subscribe; and additionally, there is a requirement by law that 15% of the subscriptions must be provided to moderate or lower-income residents, which was an incentive when the program was established.

Mr. Seth Shafer with Pivot Energy stated that along with developing the property, they own and operate the facilities; that they have their own subscription in house; that from there they have third parties which help them obtain subscribers; that subscribers are not required to be relatively close to the project; that residents would only be required to be within the DP& L system; that he would be happy to contact the gentleman from the Homeowners Association of Hill N Dale to discuss this; that this application, as well as the following application, were scheduled earlier than anticipated; that they typically would have already held a community outreach meeting to address of some of these questions and concerns prior to the scheduled public hearing; that there local office is outside of

Baltimore, Maryland; that they have constructed several projects in Maryland; that this would be their first project in Delaware and he believed there is typically a 10% discount associated with a subscription.

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 2447 Elk Development, LLC. Motion by Ms. Wingate to defer for further consideration, leaving the record open to receive information from the Applicant, in the form of written comment, regarding the safety and operation of the pending solar array, which is to be submitted by the close of business on Friday, November 17, 2023; that the record subsequently being left open for 15 calendar days for the submission of written public comment regarding the submitted information, seconded by Mr. Collins and carried unanimously. Motion carried 4-0.

#### Minutes of the January 24, 2024, Planning & Zoning Commission Meeting

The Commission discussed the Application which had been deferred since November 9, 2023.

Ms. Wingate moved that the Commission recommend approval of C/U 2447, Elk Development, LLC, for a solar array 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. The solar array will be located on approximately 40.7 acres of a larger 51-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 will benefit residential, business, and municipal subscribers with lower power costs.
4. The proposed solar array is located on a parcel of land that is partially used for agricultural purposes and partly wooded. It is located at the rear of other land used for agricultural purposes, including poultry houses. Although there are residential properties to the south of this site, the arrays are at least 225 feet from the closest dwelling and the nearby properties will also be protected by the conditions set forth in the Code and in this recommendation.
5. The land is designated as being within the “Low Density Area” according to Sussex County’s Future Land Use Map; this is an appropriate location for a solar array.
6. This Application generally complies with Ordinance No. 2920 regarding solar arrays.
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. Based on the record there is no significant noise, glare, dust, or odor that will be generated by the facility.
9. The proposed use provides a renewable energy source that is a benefit to the residents and businesses of Sussex County.

10. This recommendation is subject to the 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. In addition, there was opposition from residential property owners immediately adjacent to the southern boundary of this facility about its impact upon the use and enjoyment of their properties and impacts upon their property values. For this reason, the solar arrays shall be separated at least 100 feet from these residential properties, and there shall be a landscaped buffer that is at least 50 feet wide along the common boundary with these residential properties. The landscaping shall include at least fifteen trees within every fifty linear feet of the buffer. Wherever trees exist within the buffer areas, they shall be preserved, and these non-disturbed forested areas shall be shown on the Final Site Plan. The Final Site Plan shall also include a landscape plan confirming these planting requirements.
  - 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.
  - 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. 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. 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.
  - I. 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 2447 Elk Development, LLC for the reasons and the conditions stated in the motion. Motion carried 4-0. Mr. Butler abstained.

Vote by roll call: Ms. Wingate – yea, Mr. Mears – yea, Mr. Collins – 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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JAMIE WHITEHOUSE, AICP, MRTPI  
DIRECTOR OF PLANNING & ZONING

**PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET**  
Planning Commission Public Hearing Date: November 9<sup>th</sup>, 2023

Application: CU 2447 Elk Development, LLC

Applicant: Elk Development, LLC  
c/o Robert McNeill  
6865 Deerpath Road, Suite 330  
Elkridge, MD 21075

Owner: David W. & Marlene M. Simpler IRR TR (Attn: Bud Simpler)  
7758 Morgan Branch Drive  
Seaford, DE 19973

Site Location: Lying on the east side of River Road (S.C.R. 490) at the intersection of Morgan Branch Road and River Road (S.C.R. 490)

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

Proposed Use: Solar array consisting of a photovoltaic electric generation facility.

Comprehensive Land Use Plan Reference: Low Density Area

Councilmanic District: Mr. Vincent

School District: Seaford School District

Fire District: Blades Fire Department

Sewer: N/A

Water: N/A

Site Area: 51.83 acres +/-

Tax Map ID(s): 132-1.00-5.00 & 132-6.00-78.03



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**Sussex County**

DELAWARE  
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## Memorandum

To: Sussex County Planning Commission Members  
From: Mr. Michael Lowrey, Planner III  
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant  
Date: October 31<sup>st</sup>, 2023  
RE: Staff Analysis for C/U 2447 Elk Development, LLC

---

This memo is to provide background and analysis for the Planning Commission to consider as a part of Application C/U 2447 Elk Development, LLC to be reviewed during the November 30<sup>th</sup>, 2023 Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

**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):** 132-1.00-5.00 & 132-6.00-78.03

**Proposal:** The request is for a Conditional Use for Tax Parcels 132-1.00-5.00 & 132-6.00-78.03 to allow for solar array on a parcels lying on the east side of River Road (S.C.R. 490) at the intersection of Morgan Branch Road and River Road (S.C.R. 490). The parcels are comprised of 51.83 acres +/-.

**Zoning:** The Parcels are zoned Agricultural Residential (AR-1) District. The adjacent parcels to the north of the subject property are Agricultural Residential (AR-1) District and General Residential (GR) District, parcels to the west are zoned Medium-Density Residential (MR) District, and Parcels to the south and east are within the Agricultural Residential (AR-1) District.

**Future Land Use Map Designation w/in Comprehensive Plan:** Coastal 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.” The properties to the north and west of the subject Parcel are categorized as “Developing Area”, and the parcels to the south and east are categorized “Low Density Area.”

As outlined in the 2018 Sussex County Comprehensive Plan, Low Density Areas are areas “Sussex County hopes to retain the rural environment and set aside significant open space” and where the



County “supports State and local land use policies that will preserve the value of farmland” (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.
- **Interconnectivity: N/A**
- **Transportation Improvement District (TID):** The parcels are not within the Henlopen Transportation Improvement District.
- **Forested Areas:** Forested areas exist across the northern and southern portions of Parcel # 5.00 and on the northern portion of Parcel #78.03.
- **Wetlands Buffers/Waterways:** The site appears to contain regulatory wetlands along the northern boundary of Parcel #5.00 on the portion of the Parcel lying north of Morgan Branch Drive.
- **Other Site Considerations (ie: Flood Zones, Tax Ditches, Groundwater Recharge Potential, etc.):** The property is located within Flood Zones AE along the northern boundary of Parcel #5.00 on the portion of the Parcel lying north of Morgan Branch Drive. There are areas of “Fair”, “Good”, “Poor”, and “Excellent” Groundwater Recharge Potential on the Parcels.

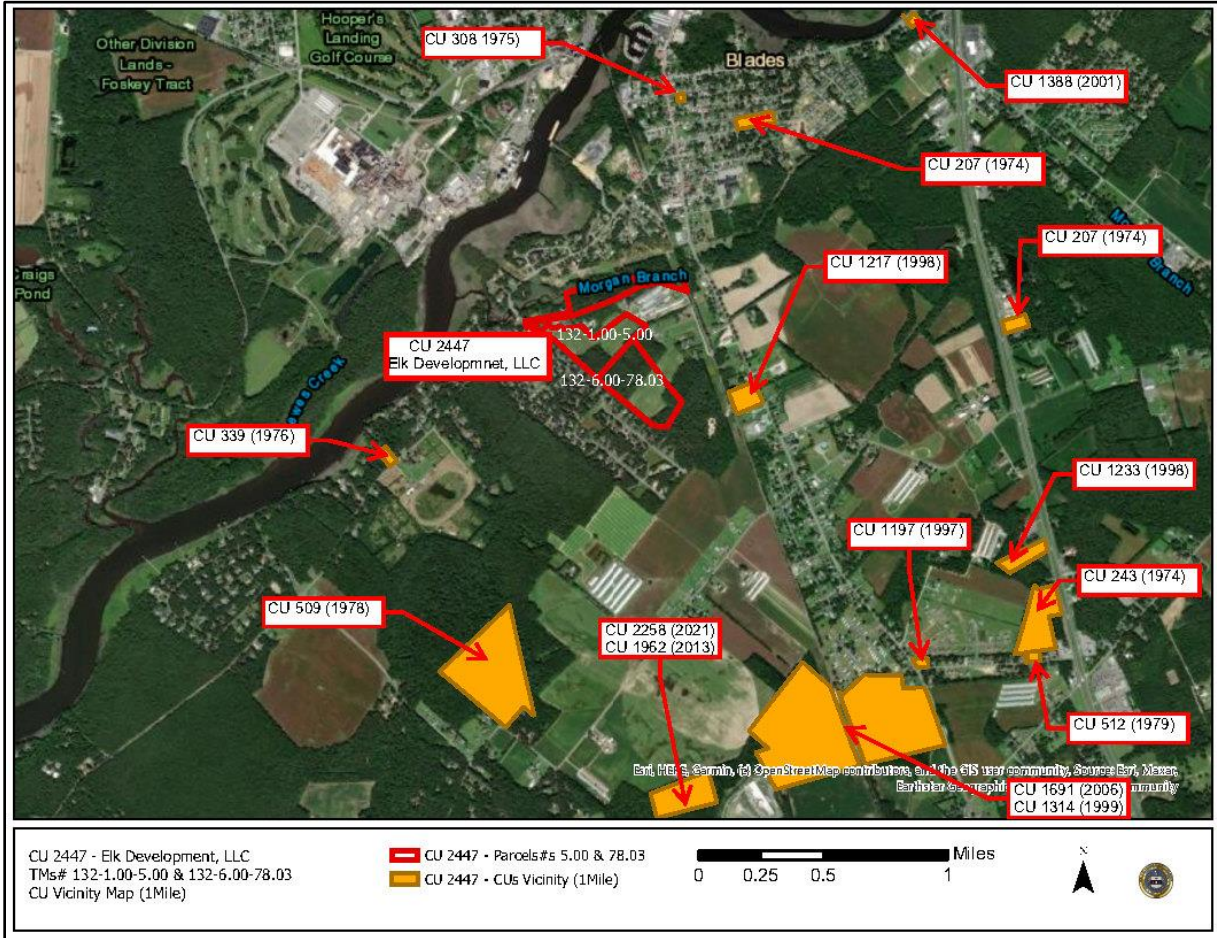
Based on the analysis of the land use, surrounding zoning and uses, a Conditional Use Application to allow for a solar array, subject to considerations of scale and impact, could be considered as being consistent with the land use, area zoning and surrounding uses.

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

<b>Conditional Use Applications</b>						
<b>(Within a 1-mile radius of the subject site)</b>						
<b>Application CU Number</b>	<b>Application Name</b>	<b>Zoning District</b>	<b>Proposed Use</b>	<b>CC Decision</b>	<b>CC Decision Date</b>	<b>Ordinance Number</b>
207	Blades Volunteer Fire Co	UR	Fire House	Approved	5/21/1974	N/A
210	US Plywood Division	AR-1	Warehouse & Wholesale Of Wood Products	Approved	5/21/1974	N/A
238	Betty Walmsley	AR-1	Ceramic Shop	Approved	10/15/1974	N/A
243	B&B Mobile Court Inc	AR-1	Extend Manufactured Home Park	Approved	11/12/1974	N/A
308	Elwood Waldridge	UR	Convert Fire House Into Auto Body Shop & 2 Apartments	Approved	12/9/1975	N/A
339	John Benson	AR-1	Office & Warehouse	Approved	4/27/1976	N/A
509	Aubrey Murray & Helen	AR-1	Signal Tower	Denied	12/19/1978	N/A
512	B & B Mobile Home Court Inc	AR-1	Extension Of Existing Manufactured Home Park	Approved	1/16/1979	N/A
1197	Harry & Sally Daisy	AR-1	Auto Repair Shop	Approved	9/23/1997	1176



1217	Trinity Land Company	AR-1	Warehousing, Light Manufacturing, Welding, Pre-Fab201 & Metal Duct	Approved	1/6/1998	1202
1233	Eddie French	AR-1	Plumbing & Heating Business	Approved	3/31/1998	1223
1314	Perdue-AgriRecycle LLC	AR-1	Micro-Nutrient Plant for Poultry Litter	Approved	12/21/1999	1354
1388	Advanced Motorsports Inc.	AR-1	Retail & Wholesale Racing Parts	Approved	3/27/2001	1439
1691	Perdue Farms AgriRecycle, LLC	AR-1	Amend/Pelletizing	Approved	7/25/2006	1865
2258	Bioenergy Development Group, LLC	AR-1	Amend CU 1314 To Permit Nutrient Recovery For Natural Gas And Electrical Generation	Approved	4/20/2021	2769

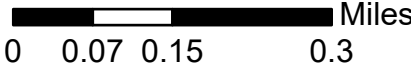




Esri, HERE, Garmin, (c) OpenStreetMap contributors, and the GIS user community, Source: Esri, Maxar, Earthstar Geographics, and the GIS User Community

CU 2447 - Elk Development, LLC  
TMs# 132-1.00-5.00 & 132-6.00-78.03  
Aerial Map

 CU 2447 - Parcels#s 5.00 & 78.03

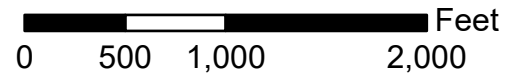


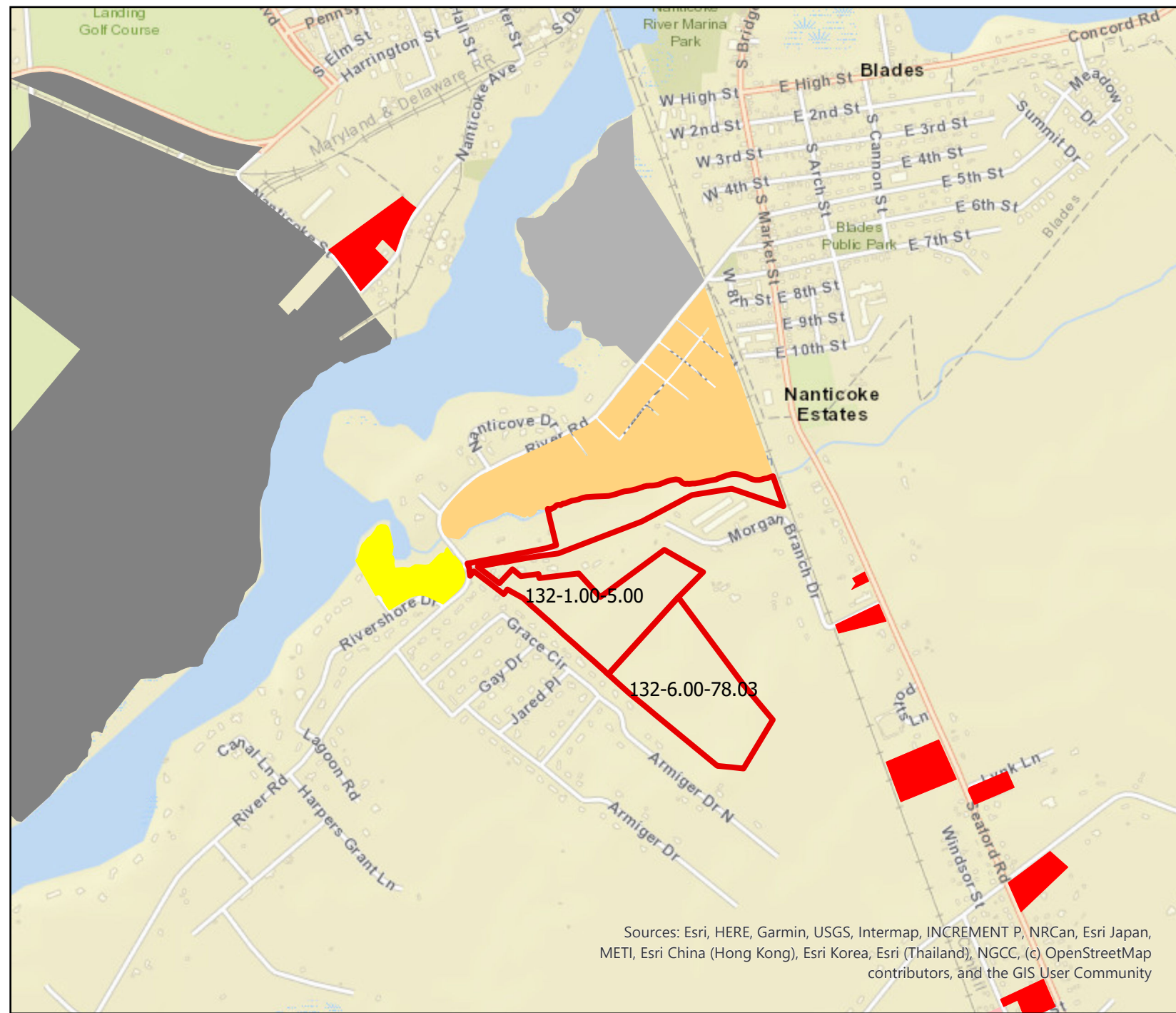


Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), NGCC, (c) OpenStreetMap contributors, and the GIS User Community

CU 2447 - Elk Development, LLC  
TMs# 132-1.00-5.00 & 132-6.00-78.03  
Streets Map

 CU 2447 - Parcels#s 5.00 & 78.03



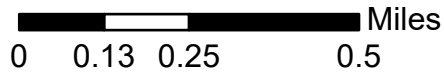


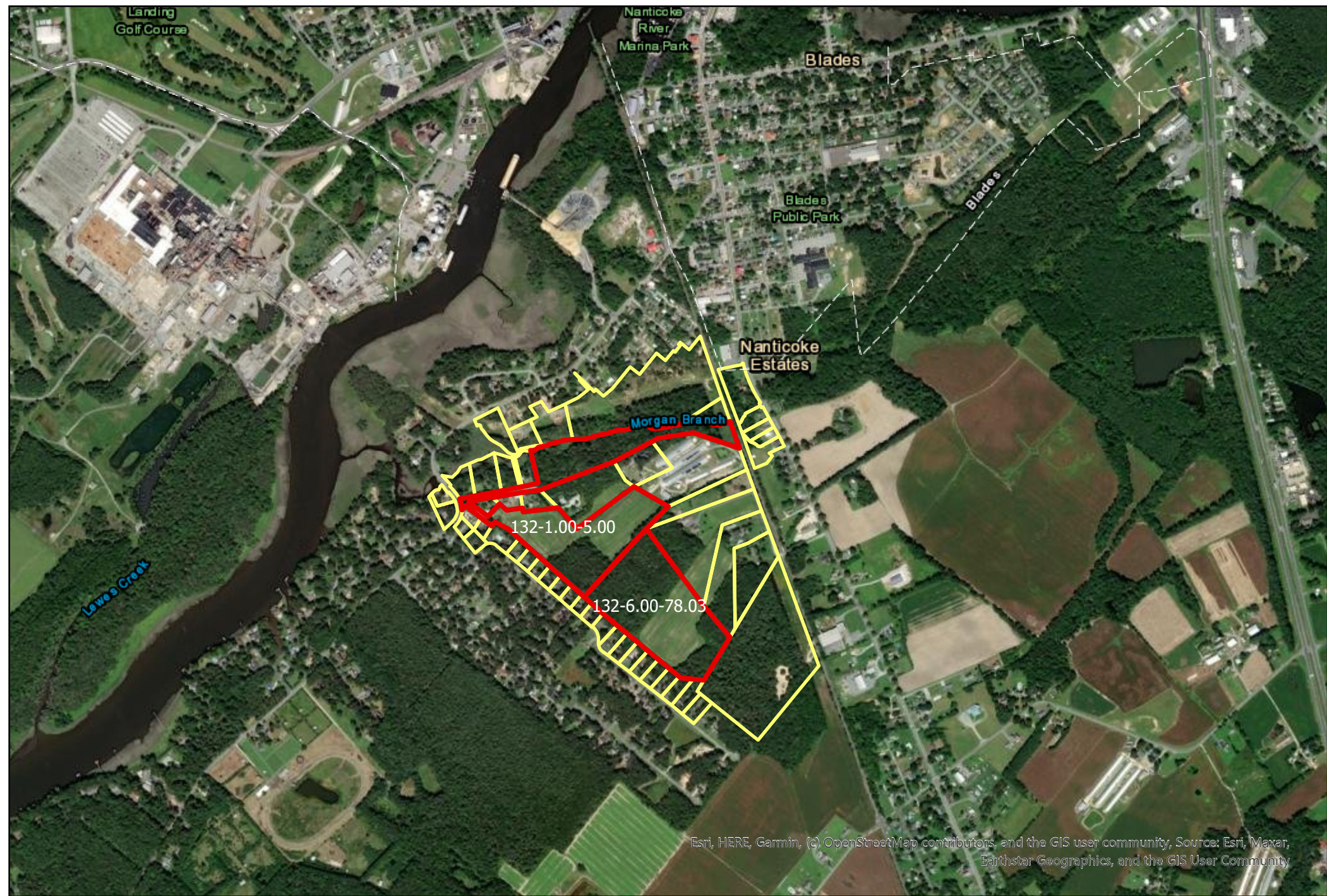
- ### Zoning
- Agricultural Residential - AR-1
  - Agricultural Residential - AR-2
  - Medium Residential - MR
  - General Residential - GR
  - High Density Residential - HR-1
  - High Density Residential - HR-2
  - Vacation, Retire, Resident - VRP
  - Neighborhood Business - B-1
  - Neighborhood Business - 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 2447 - Parcels#s 5.00 & 78.03

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 2447 - Elk Development, LLC  
 TMs# 132-1.00-5.00 & 132-6.00-78.03  
 Zoning Map



CU 2447 - Parcels#s 5.00 & 78.03

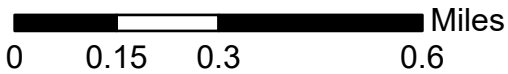




Esri, HERE, Garmin, (c) OpenStreetMap contributors, and the GIS user community, Source: Esri, Maxar, Earthstar Geographics, and the GIS User Community

CU 2447 - Elk Development, LLC  
 TMs# 132-1.00-5.00 & 132-6.00-78.03  
 Mailing List Map

 CU 2447 - Parcels#s 5.00 & 78.03  
 CU 2447 Mailing List Parcels



**Introduced: 10/17/23**

**Council District 1: Mr. Vincent**

**Tax I.D. No.: 132-1.00-5.00 (p/o) & 132-6.00-78.03**

**911 Address: N/A**

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

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR SOLAR ARRAYS TO BE LOCATED ON CERTAIN PARCELS OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 51.83 ACRES, MORE OR LESS**

**WHEREAS, on the 3<sup>rd</sup> day of May 2023, a Conditional Use Application, denominated Conditional Use No. 2447 was filed on behalf of Elk Development, 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. 2447 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. 2447 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 Broad Creek Hundred, Sussex County, Delaware, and lying on the east side of River Road (S.C.R. 490) at the intersection of Morgan Branch Road and River Road (S.C.R. 490), and being more particularly described in the attached legal description prepared by Pivot Energy, Inc., said parcels containing 51.83 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.**



## 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: May 3, 2024

RE: County Council Report for C/U 2456 filed on behalf of Elk Development, LLC

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The Planning and Zoning Department received an application (C/U 2456 filed on behalf of Elk Development, LLC) for solar arrays, to be located at Tax Parcel 132-6.00-92.01. The property is located at 28270 Oneals Road, Seaford. The parcel size is 67.72 acres +/-

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

The County Council held a Public Hearing at its meeting on January 9, 2024. At the conclusion of the Public Hearing, action on the application was deferred for further consideration. Below is a link to the approved minutes of the January 9, 2024, County Council meeting.

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

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

[Minutes of the November 9, 2023, Planning & Zoning Commission Meeting](#)

### **C/U 2456 Elk Development, LLC**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR SOLAR ARRAYS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 67.72 ACRES, MORE OR LESS.** The property is lying on the north side of Oneals Road (S.C.R. 485), approximately 0.26 mile southwest of





Seaford Road (Rt. 13A). 911 Address: 28270 Oneals Road, Seaford. Tax Map Parcel: 132-6.00-92.01.

Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's Conceptual Site Plan, the property's legal description, the DelDOT Service Level Evaluation Response, a letter from the Sussex County Engineering Department Utility Planning Division, the Staff Analysis, the Applicant's Exhibit Booklets, and the Applicant's Decommissioning Plan. Mr. Whitehouse advised the Commission that zero comments had been received for the Application.

The Commission found that Mr. James, Fuqua, Esq. with Fuqua, Willard & Schab, P.A. spoke on behalf of the Applicant, Elk Development, LLC; that also present were Mr. Seth Shafer, P.E. with Pivot Energy, and Mr. Edward Hastings, with Becker Morgan Group.

Mr. Fuqua requested the following information provided in the public hearing for C/U 2404 be incorporated into the record for C/U 2405 Elk Development, LLC. Mr. Fuqua stated an exhibit booklet was submitted for all four applications; that Elk Development, LLC is a division of Pivot Energy, Inc.; that Pivot Energy is a national company involved in the development of clean energy projects, such as on site solar facilities and small utility solar projects, which include community solar facilities; that Pivot Energy has financed and developed over 1,200 solar projects throughout the United States; that the current applications propose solar facilities as authorized, and in compliance with, the Delaware Law, which encourages a more decentralized and cleaner approach to power generation through community solar facilities; that the law provides that by subscribing to a community solar project, residential, business and educational users, who are utility customers can participate in renewable and sustainable energy production, with possible future energy costs; that the solar facilities involved in all four of the subject applications, it is anticipated that that upon final approval and required permitting, the site development and solar facility construction would take approximately four to six months to complete; that once completed and operational, the four facilities would have the following in common; that the solar array and equipment area would be enclosed in a seven foot high security fence with a gate and an emergency key box to accommodate emergency access; that one unlit sign, not exceeding 32 sq. ft. is requested; that the sign will identify the operator and the operator's contact information; that the facilities will consist of solar panel modules mounted on single axis trackers that will allow them to follow the path to the sun throughout the day; that the solar racking system itself utilizes drive steel posts or pile foundations, which anchor the racking system to the ground, and that results in minimal ground disturbance or impervious surface cover; that the solar inverters and other equipment will be located on concrete pads; that the power generated by the solar panels will be transferred to DP&L (Delmarva Power & Light grid by interconnection with the existing DP&L power lines; that the overall system and its design comply with the National Electrical Code and will be reviewed and approved by Delmarva Power & Light; that the solar array area itself will be seeded with a pollinator seed mix, which is slow growing, environmentally friendly ground cover; that there are no odors, dust, smoke, or heat associated with the solar operation; that the only sound is a minimal sound, which is a low hum from the inverters; that there is minimal to no glare from the solar panels, which are designed to absorb sunlight, not to reflect it; that there will be landscaping surrounding the fenced area, which will further shield the panels from view; that after construction is completed, traffic to the site would be minimal, as it would only be periodic equipment inspections and maintenance, as well as seasonal property maintenance and grass cuts; that there are no onsite employees, as the equipment is monitored remotely; that each application does have its own DelDOT Service Level Evaluation Response letter, which indicates that the traffic impact for all the facilities would be diminutive; that there is no proposed or need for sewer, water or trash services for the facilities; that little impervious surface will be created by the facility; that any stormwater

management for the sites will comply with the applicable State and County requirements; that as part of the Final Site Plan approval, a Decommissioning Plan will be provided to ensure that upon expiration of the lease, or early termination of the Conditional Use, all equipment and materials will be removed from the site and properly disposed of; that the site will be returned to a physical condition similar to its present state; that the plan also provides for financial security and a form acceptable to the County; that this will guarantee that the cost of the restoration will be available; that the actual estimated amount in terms of that security will be provided as part of the Final Site Plan review and approval process; that after termination of the use and restoration of the site, the land will revert back to its current condition as agricultural land; that solar facilities are permitted as an approved Conditional Use in both the AR-1 (Agricultural Residential) and GR (General Residential) Zoning Districts; that the purpose of a Conditional Use is to provide for a use that is of a public or semi-public character that is essential and desirable for the general convenience, and welfare of the County; that the Commission and County Council had previously determined that solar facilities are in accordance with the County's Comprehensive plan by promoting Goal 7.3 of the Comprehensive Plan, which encourages the use of renewable energy options, such as community solar facilities, and the use is authorized by the recent amendments to the State Law, relating to the development of community solar facilities for renewable energy protection.

Mr. Fuqua stated that specifically, C/U 2456 Elk Development LLC, is referred to as the "O'Neal's Road" Application; that that site is comprised of 67 acres; that the site is located on the northside of O'Neals Rd.; that the site is located south of Blades, being in closer proximity to Laurel; that approximately 35 acres of the site would be leased for the solar facility; that the land is currently owned by Javed Farm, LLC; that the leased portion of the site borders the new existing chicken houses, located on the southeast portion of the site; that along the eastern boundary is the location of the Conrail Railroad tracks; that to the north of the site is some wooded land and agricultural land; that to the west of the site is the location of the Bioenergy Innovation Center, which recycles organic waste from the poultry industry into renewable energy and nutrient rich compost; that the land to be leased as been in agricultural use; that the site is zoned AR-1 (Agricultural Residential); that the area is located within the Low Density area according to the Future Land Use Map; that the lands to the north and west are also zoned AR-1; that the land to the north and the west are designated within the Industrial Area according to the Future Land Use Map of the Comprehensive Plan; that the site's access will be from the existing site entrance off O'Neals Rd.; that the access will be a 16 ft. wide gravel drive, which would lead back into the middle of the solar array field, being adjacent to two 15' x 20' equipment pads; that the closest solar arrays are set back over 500 ft. from O'Neals Rd. and a minimum of 88 ft. from the closest property line; that there would be a 25 ft. landscape buffer along the southern, eastern and northern boundaries of the solar array area; that the buffer will extend around the northwest corner of the site; that the remaining portion of the western boundary is wooded and would remain as an existing wooded buffer; that the proposed buffers are shown on the Site Plan; that the facility is anticipated to generate electric power to serve the annual needs of almost 900 residential households and proposed Conditions of Approval were submitted for the Commission's consideration.

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

Mr. James Hoskins spoke in opposition to the Application with concerns regarding the proposed buffers, the potential of the buffers never being installed and the potential negative impacts on his property value.

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

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

Ms. Wingate moved that the Commission recommend approval of C/U 2456 Elk Development, LLC for a solar farm in the AR-1 District based on the record made during the public hearing and for the following reasons:

1. The proposed facility is a public utility use under the Sussex County Zoning Code, and it meets the purposes of a Conditional Use because it has a public or semi-public character that is essential and desirable for the general convenience and welfare of Sussex County residents.
2. This is an adaptive use of farmland that will preserve it from more intensive development. The solar array will be located on approximately 26 acres of a larger 67-acre parcel.
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. The proposed solar array is located adjacent to a railroad, and next to new chicken houses, with woods to the east. It is also next to the BioEnergy site, which recycles poultry waste. The closest array is located at least 500 feet from the county road. The land is also designated as being within the Low-Density Area, according to Sussex County's Future Land Use Map, and there are nearby Industrial Areas according to the map as well.
5. This Application generally complies with Ordinance No. 2920 regarding solar arrays. Therefore, specific conditions regarding its operation and screening are not necessary.
6. The solar array is located in an area that primarily consists of agricultural and industrial 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.
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. DelDOT has determined that the proposed Conditional Use would have a "Diminutive" impact on traffic.
8. Based on the record there is no significant noise, glare, dust, or odor that will be generated by the facility.
9. The proposed use provides a renewable energy source that is a benefit to the residents and businesses of Sussex County.
10. This recommendation is subject to the conditions set forth in Ordinance No. 2920 and the following additional conditions:
  - A. The use shall be for a ground-mounted solar array. 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 the Conditional Use.
  - C. All existing wooded buffers shall remain and shall be identified as non-disturbance areas on the Final Site Plan. Additional buffering shall be provided as shown on the Becker Morgan Group Site Plan, dated September 14, 2023, as submitted during the public hearing. In addition, 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 an emergency.
  - F. The location of all transformers, 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 by Best Management Practices.
  - H. 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.
  - I. 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. Collins and carried unanimously to recommend approval of C/U 2456 Elk Development, LLC for the reasons and the conditions stated in the motion. Motion carried 4-0.

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

**PLANNING & ZONING COMMISSION**

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



**Sussex County**

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JAMIE WHITEHOUSE  
DIRECTOR

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

Planning Commission Public Hearing Date: November 9<sup>th</sup>, 2023

**Application:** C/U 2456 Elk Development, LLC (Oneals Road)

**Applicant:** Elk Development, LLC (c/o Robert McNeil, Development Project Manager)  
6865 Deerpath Road, Suite 330  
Elkrdige, MD 21075

**Owner:** Javed Farm, LLC  
14214 Woodbridge Road  
Bridgeville, DE 19950

**Site Location:** The property is lying on the north side of Oneals Road (S.C.R. 485), approximately 0.26 mile southwest of Seaford Road (Route 13A) and is located at 28270 Oneals Road, Seaford.

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

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

**Proposed Use:** Construct a community solar array with equipment pad, access road, security fencing and landscaping.

**Future Land Use Map Designation:** Low Density Area

**Councilmanic District:** Mr. Vincent

**School District:** Seaford School District

**Fire District:** Blades Fire Company/District

**Sewer:** N/A

**Water:** N/A

**Site Area:** 67.72 acres +/-

**Tax Map IDs:** 132-6.00-92.01 (p/o)



JAMIE WHITEHOUSE, AICP MRTPI  
PLANNING & ZONING DIRECTOR  
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## Memorandum

To: Sussex County Planning and Zoning Commission Members  
From: Lauren DeVore, AICP Planner III  
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant  
Date: November 3<sup>rd</sup>, 2023  
RE: Staff Analysis for C/U 2456 Elk Development, LLC (Oneals 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 2456 Elk Development, LLC (Oneals Road) to be reviewed during the November 9<sup>th</sup>, 2023, Planning and Zoning Commission Meeting. This analysis should be included in the record of this Application and is subject to comments and information that may be presented during the public hearing.

The request is for a Conditional Use for Tax Parcel: 132-6.00-92.01 to allow for solar arrays to be located within an Agricultural Residential (AR-1) District. The property is lying on the north side of Oneals Road (S.C.R. 485), approximately 0.26 mile southwest of Seaford Road (Route 13A) at 28270 Oneals Road in Seaford, Delaware.

The Site Plan for the Application indicates that a 27.31 acre +/- portion of the site will be utilized for the solar arrays, which will be fenced, and that the same acreage (27.31 acres +/-) will be utilized for the Conditional Use Area (leased area) out of the larger 67.72 acre +/- parcel.

### Further Site Considerations

Staff note that the property is part of the Mount Zion Tax Ditch Area and contains a Tax Ditch ROW that runs into the western portion of the property of which the Right-Of-Way is measured 300-ft from the Top of Bank (TOB) of the Ditch on either side and 25-ft from "MT." The County's Online Mapping System notes that the Tax Ditch ROW was amended to this smaller ROW through Court Order Change #21.

The property is located within Flood Zone "X" – Areas determined to be outside the 1% annual chance flood zone and outside the 500-year floodplain. The County's Online Mapping System indicates that the property is not located within any Wellhead Protection Areas.

According to the Delaware Department of Natural Resources and Environmental Control's (DNREC's) Flood Planning Tool, the property is located within the Upper Nanticoke River Watershed, the Butler Mill Branch-Nanticoke River Subwatershed and has a Ground Elevation Height at the Parcel of approximately 30-35-ft. A Supplemental Map has been provided which details this information.

It should be noted that the property is not located within any established Transportation Improvement Districts (TIDs). DelDOT stated as part of the Service Level Evaluation Response that the project is anticipated to generate less than 50 vehicle trips per peak hour or 500 vehicle



trips per day, meaning that the project would have a diminutive impact within the context of the County's MOU with DelDOT.

### 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 Area." The property immediately to the east of the subject property and the property to the south on the opposite side of Oneals Road (S.C.E. 485) also have a Future Land Use Map designation of "Low Density Area." The Parcel is on the west side of the Norfolk Southern Rail Line.

As outlined in the 2018 Sussex County Comprehensive Plan, "The primary uses envisioned in Low Density Areas are agricultural activities and homes" (2018 Sussex County Comprehensive Plan, 4-19). The Plan further stipulates that, "Business development should be largely confined to businesses addressing the needs of these two uses" (2018 Sussex County Comprehensive Plan, 4-19).

The subject property is bordered on the west and north sides by Parcels which have a Future Land Use Map designation of "Industrial Area." Industrial Areas are "lands devoted to concentrations of larger industrial uses including heavier industry, light industry, warehousing, and flex space" (2018 Sussex County Comprehensive Plan, 4-17).

### Zoning Information

The subject property is zoned Agricultural Residential (AR-1) District. All adjacent properties to the south, north, east and west of the subject property are zoned Agricultural Residential (AR-1) District.

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

There is a single Parcel to the east at the intersection of Oneals Road (S.C.R. 485) and Seaford Road that is zoned General Commercial (C-1) District.

### Existing Conditional Uses within the Vicinity of the Subject Property

Although there have been multiple applications in this area, there have been seven (7) Conditional Use Applications within a 0.50-mile radius of the Application Site. All seven (7) of Applications were approved by the Sussex County Council.

Further information regarding these Applications may be found in the Supplemental Table provided on Page 3.






Conditional Use Applications (w/in a 0.50-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 1940	Phil DePenna	AR-1	Physical Training Studio and Gym	8/23/2012	Recommended Approval	9/11/2012	Approved	2276-A
C/U 1691	Perdue Farms AgriRecycle, LLC	AR-1	Amend/pelletizing	7/6/2006	Recommended Approval	7/25/2006	Approved	1865
C/U 1582	Duane & Danielle Musser	AR-1	Sign Shop Vehicle Lettering	1/6/2005	Recommended Approval	1/18/2005	Approved	1747
C/U 1483	Comcast, Inc.	AR-1	Electronic Equipment/Storage	3/13/2003	Recommended Approval	4/1/2003	Approved	1596
C/U 1314	Perdue-AgriRecycle, LLC	AR-1	Micro-nutrient plant for poultry litter	11/18/1999	Recommended Approval	12/21/1999	Approved	1354
C/U 1197	Harry & Sally Daisey	AR-1	Auto Repair Shop	8/28/1997	Recommended Denial	9/23/1997	Approved	1176
C/U 342	Ronald Hastings	AR-1	Extension of an Existing Manufactured Home Park	N/A	Approved	5/11/1976	Approved	N/A

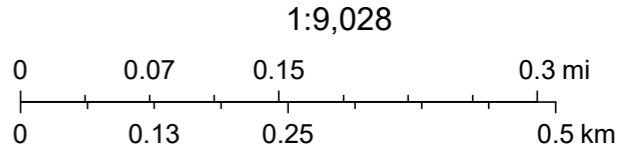
Based on the analysis provided, the Conditional Use to allow for solar arrays in this location could be considered as being consistent with the surrounding land use, zoning, and uses, subject to considerations of scale and impact.



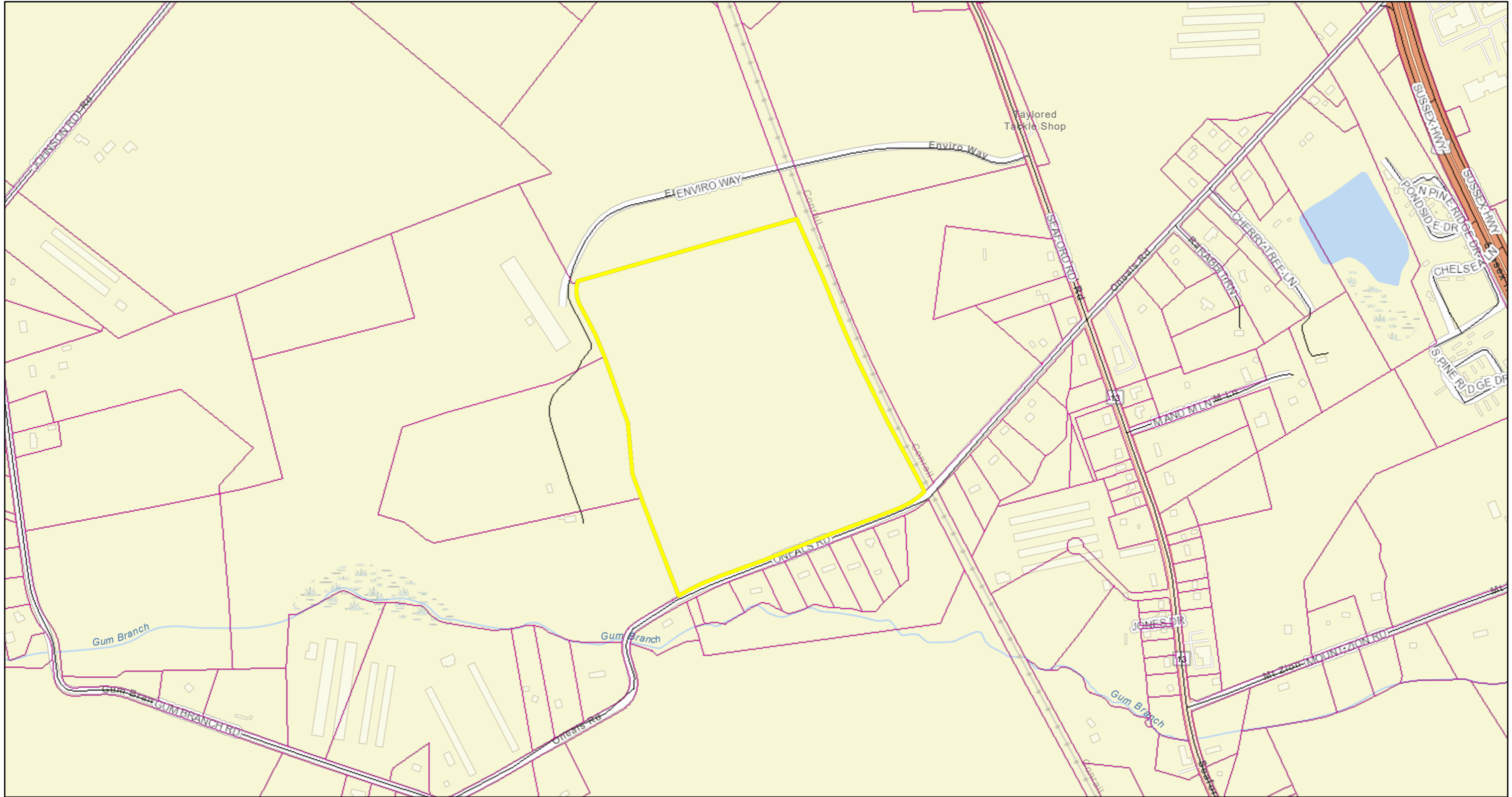
# Sussex County








- October 6, 2023
-  Override 1
-  Override 1
-  Tax Parcels
-  Streets
-  County Boundaries



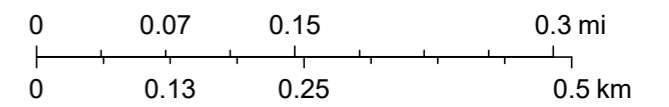
# Sussex County



October 6, 2023

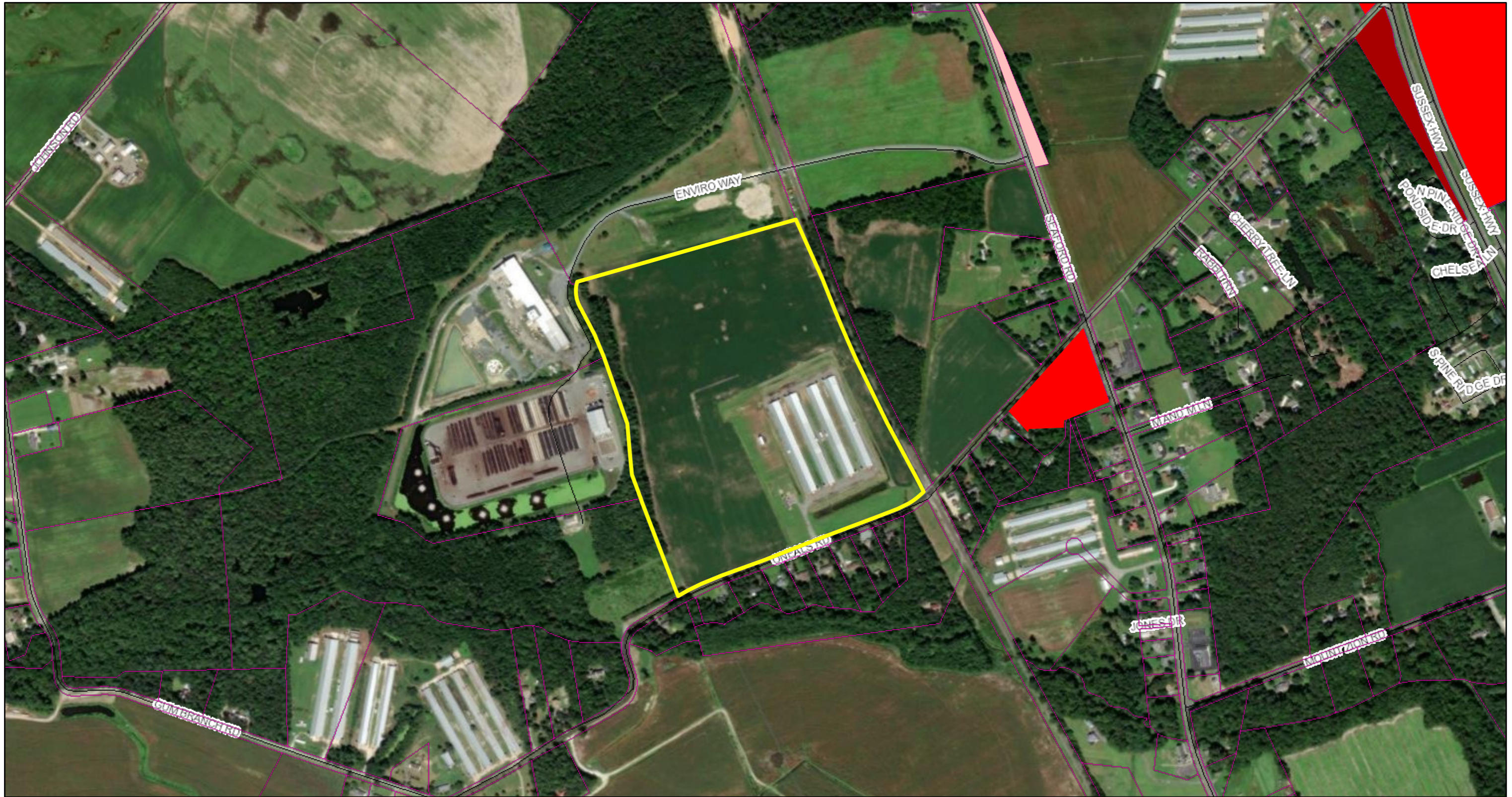
-  Override 1
-  Override 1
-  Tax Parcels
-  Streets
-  County Boundaries

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# Sussex County

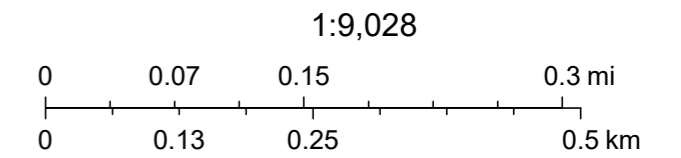


October 6, 2023

- polygonLayer
- Override 1
- Override 2
- Zoning
- General Commercial - C-1
- Commercial Residential - CR-1
- Tax Parcels
- Neighborhood Business - B-1

- County Boundaries
- World Imagery
- Low Resolution 15m Imagery
- Streets

- High Resolution 30cm Imagery
- Citations
- 2.4m Resolution Metadata
- High Resolution 60cm Imagery



Sussex County, Sussex County Government, Maxar

Introduced: 10/17/23

Council District 1: Mr. Vincent  
Tax I.D. No.: 132-6.00-92.01  
911 Address: 28270 Oneals Road, Seaford

ORDINANCE NO. \_\_\_\_

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR SOLAR ARRAYS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 67.72 ACRES, MORE OR LESS**

WHEREAS, on the 6<sup>th</sup> day of June 2023, a Conditional Use Application, denominated Conditional Use No. 2456 was filed on behalf of Elk Development, 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. 2456 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. 2456 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 Broad Creek Hundred, Sussex County, Delaware, and lying on the north side of Oneals Road (S.C.R. 485) approximately 0.26 mile southwest of Seaford Road (Rt. 13A), and being more particularly described in the attached legal description prepared by Bonnie M. Benson, P.A., said parcel containing 67.38 acres, more or less.

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

JAMIE WHITEHOUSE, AICP  
DIRECTOR OF PLANNING & ZONING  
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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: May 3, 2024

RE: County Council Report for C/Z 1997 filed on behalf of Waste Management of Delaware, Inc.

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The Planning and Zoning Department received an application (C/Z 1997 filed on behalf of Waste Management of Delaware, Inc.) for a change of zone from an AR-1 Agricultural Residential District to a C-3 Heavy Commercial District. The property is located at on the west side of Old Stage Road (SCR 461), at the intersection of Old Stage Road and Trussum Pond Road (SCR 462). The parcel size is 5.219 acres +/-

The Planning & Zoning Commission held a Public Hearing on the application on November 30, 2023. At the meeting of December 14, 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 on January 23, 2024, at the conclusion of the Public Hearing, action on the application was deferred for further consideration. Below is a link to the minutes of the County Council meeting of January 23, 2024.

[Link to the minutes of the January 23, 2024 County Council meeting](#)

Below are the minutes from the Planning & Zoning Commission meeting of November 30, 2023, and December 14, 2023.

Minutes of the November 30, 2023, Planning & Zoning Commission Meeting

**C/Z 1997 Waste Management of Delaware, Inc.**

**AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-3**



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

**HEAVY COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 5.219 ACRES, MORE OR LESS.** The property is lying on the west side of Old Stage Road (S.C.R. 461), at the intersection of Old Stage Road (S.C.R. 461) and Trussum Pond Road (S.C.R. 462). 911 Address: N/A. Tax Map Parcel: 332-2.00-79.01.

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

The Commission found that Mr. James A. Fuqua, Jr., Esq. with Fuqua, Willard & Schab, P.A. spoke on behalf of the Applicant, Waste Management of Delaware, Inc.; that also present was Mr. Max Dickman, Director of Real Estate for Waste Management. Mr. Fuqua stated there was an Exhibit packet submitted containing information for the Application; that the Application requests a rezoning of a 5.2-acre parcel that is located at the northwest corner of the intersection of Trussum Pond Rd. and Old Stage Rd.; that the Applicant is requesting a rezoning from AR-1 (Agricultural Residential) to C-3 (Heavy Commercial); that the parcel has road frontage on both roads; that the site is located a short distance east of Rt. 13, in the near by area of Johnny Janosik Furniture store; that the parcel is owned by Waste Management; that the site is adjacent to a 12 acre parcel that is also owned by Waste Management, which is located to the left of the chicken house; that the adjacent 12 acre parcel, Parcel 79.00, is zoned C-1 (General Commercial); that the property was purchased by Waste Management in 2018; that after Waste Management purchased Parcel 79.00, the existing commercial buildings on the site were converted into a waste management facility; that it is used for the maintenance and repair of the companies approximate 60 trucks as well as parking and storage of trucks, containers, and employee parking; that in addition, there are two, large self-storage buildings located there; that they are owned by Waste Management and is operated as trusts upon the self-storage; that a few years ago, the company was contacted by the property owner of Parcel 79.01, asking if they were interested in purchasing the property, and Waste Management subsequently purchased the property in October 2021; that company proceeded to remove the dwelling and the chicken houses; that a security fence was erected around the perimeter of the site; that there were no specific plans for the use of the site at that time other than for vehicle and container storage, as well as additional parking; that gradually, over time, the container began to be stored on Parcel 79.01, which created a natural expansion; that the problem was, the use for storage is not a permitted use as Parcel 79.01 is zoned AR-1 (Agricultural Residential); that they became aware of this when they received a Notice of Violation, which was issued on August 2022; that subsequently, the Applicant contacted him; that after reviewing the information he suggested the Applicant request a Change of Zone to C-3 (Heavy Commercial); that the Change of Zone request was filed 13 months ago; that the site is located in the nearby area of several commercial services and storage business uses that currently exist along Trussum Pond Rd, which includes the existing Waste Management facility; that most of the land located on the south side of Trussum Pond Rd. is zoned C-1 (General Commercial); that on the north side all the land, except for the subject parcel, is zoned C-1 (General Commercial) as well; that going through the intersection with Old Stage Rd. the area is zoned commercial; that due to the surrounding area, they believe the request to rezone the parcel to C-3 (Heavy Commercial) is an appropriate and reasonable extension of the existing commercial corridor running from Rt. 13 to Old Stage Rd.; that under the County's Comprehensive Plan, Parcel 79.01 is designated as being within the Developing Area according to the Future Land Use Map; that the Developing Area is one of the growth areas identified in the Comprehensive Plan; that the guidelines for the Developing Area state that commercial uses should

be permitted at appropriate locations in the developing area; that the large parcel directly across Trussum Pond Rd. from the site is not zoned commercial; that the parcel is zoned AR-1; that on the Future Land Use Map, that same parcel is designated as being within the Industrial Area; that they believe, according to the plan the site would be an appropriate place for industrial or warehouse type uses; that C-3 zoning is also recognized as an appropriate zoning designation in the developing area on that chart in the land use pan that gives the different zoning designations for that area, located on Page 424; that the Application was reviewed as part of the PLUS process; that the PLUS comments note that Parcel 79.01 is located within the State Investment Level 3, being a level where growth is anticipated; that the parcel is adjacent to commercially zoned land; that the request will be an expansion of an existing business already established in Sussex County; that the County's comments are included within the PLUS response, and confirm that the expansion of the existing Waste Management parking and storage onto Parcel 79.01 is a permitted use by right within the C-3 Zoning District; that the rezoning will permit the expansion of the Waste Management business, providing a service that benefits the general convenience and welfare of the County's residents; that the Applicant would have requested C-1 (General Commercial) zoning to remain consistent with the rest of the area; that as the Commission knows, the C-1 (General Commercial) Zoning District closed many years ago, and can no longer be used for rezoning; that the closest request to C-1 zoning is the now C-3 (Heavy Commercial) Zoning; that they believe the rezoning is appropriate based on the existing uses in the area, and the existing commercial zones in the corridor along Trussum Pond Rd; that the conformity of the C-3 (Heavy Commercial) zoning with the Comprehensive Plan and the Future Land Use Map; and the practical result that the zoning change would allow an existing business to expand; that he did request to submit proposed Findings of Fact and Conditions of Approval; that Waste Management apologies for placing the cart before the horse and for the reasons stated, request the Commission recommend approval of their rezoning Application.

The Commission found that Mr. Max Dickman spoke on behalf of the Application. Mr. Dickman stated that he would like to echo what Mr. Fuqua had stated; that he apologized for the violations that occurred on the site when it was purchased in 2021; that they knew they would eventually would have to go for a Conditional Use or a Change of Zone in order to achieve some of the things they wanted to do; that he believes the people who operate the site did not realize the difference between placing a few dumpsters would initiate a use they were not permitted to do, whereas if they eventually wanted to add more storage units or formally repave, those were things they believed would trigger the violations and that was their mistake; that it was simply that they did not understand the process; that they felt a Conditional Use would limit them with what they would like to do, which would still put them in the wrong zoning; that because of this, they felt a rezoning would be more appropriate to allow for the right zoning classification for what they are trying to achieve, and he does understand even with rezoning, development will require a permit, and they intend to obtain that.

The Commission found that there was no one who wished to speak in support of or in opposition to Application C/Z 1997 Waste Management of Delaware, Inc.

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

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

In relation to C/Z 1997 Waste Management of Delaware, Inc. Motion by Mr. Mears to defer action for further consideration, seconded by Mr. Collins and carried unanimously. Motion carried 4 - 0.

Minutes of the December 14, 2023, Planning & Zoning Commission Meeting

The Commission discussed the Application which had been deferred since November 30, 2023.

Mr. Mears moved that the Commission recommend approval of C/Z 1997 Waste Management of Delaware, Inc. for a change in zone from AR-1 to C-3 “Heavy Commercial” based upon the record made during the public hearing and for the following reasons:

1. C-3 (Heavy Commercial) Zoning is designed to allow auto-oriented retail and service businesses that serve local and regional residents. Permitted Uses include retail uses, restaurants, offices, and vehicle service stations.
2. This property is located along Trussum Pond Road a short distance from Route 13, one of the most heavily traveled roads in Sussex County. This is an appropriate location for C-3 Zoning.
3. The parcel is in an area where there are many business and commercial zonings and uses. All of the land on the north side of Trussum Pond Road from Route 13 to Old Stage Road except for this property is Zoned C-1. All the land on the south side of Trussum Pond Road is also Zoned C-1. This property should be rezoned to C-3 for consistency with the surrounding area.
4. The property is intended as an expansion of the Applicant’s uses that currently exist on its adjacent C-1 property just to the west of this site.
5. This property is located in the Developing Area according to the current Sussex County Land Use Plan. This proposed commercial zoning is appropriate in this Area according to the Plan.
6. The proposed rezoning meets the general purpose of the Zoning Code by promoting the orderly growth, convenience, order prosperity, and welfare of the County.
7. No parties appeared in opposition to this rezoning application.
8. Any future use of the property will be subject to Site Plan review by the Sussex County Planning and Zoning Commission.

Motion by Mr. Mears, seconded by Ms. Wingate and carried unanimously to recommend approval of C/Z 1997 Waste Management of Delaware, Inc. for the reasons and the conditions stated in the motion. Motion carried 4-0.

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



**PLANNING & ZONING COMMISSION**

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



**Sussex County**

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JAMIE WHITEHOUSE  
DIRECTOR

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

Planning Commission Public Hearing Date: November 30<sup>th</sup>, 2023

**Application:** C/Z 1997 Waste Management of Delaware, Inc.

**Applicant:** Waste Management of Delaware, Inc.  
11323 Trussum Pond Road  
Laurel, DE 19956

**Owner:** Waste Management of Delaware, Inc.  
11323 Trussum Pond Road  
Laurel, DE 19956

**Site Location:** The property is lying on the west side of Old Stage Road (S.C.R. 461) at the intersection of Old Stage Road (S.C.R. 461) and Trussum Pond Road (S.C.R. 462) in Laurel, Delaware.

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

**Proposed Zoning:** Heavy Commercial (C-3) District

**Future Land Use Map Designation:** Developing Area

**Councilmanic District:** Mr. Vincent

**School District:** Laurel School District

**Fire District:** Laurel Fire Company/District

**Sewer:** N/A

**Water:** N/A

**Site Area:** 5.219 acres +/-

**Tax Map ID:** 332-2.00-79.01



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**Sussex County**

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## Memorandum

To: Sussex County Planning Commission Members  
From: Ms. Lauren DeVore, AICP Planner III  
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant  
Date: November 22<sup>nd</sup>, 2023  
RE: Staff Analysis for C/Z 1997 Waste Management of Delaware, Inc.

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This memo is to provide background and analysis for the Planning Commission to consider as a part of the Application for Change of Zone No. 1997 Waste Management of Delaware, Inc. to be reviewed during the November 30<sup>th</sup>, 2023, Planning Commission Meeting. This analysis should be included in the record of this Application and is subject to comments and information that may be presented during the public hearing.

The request is for a Change of Zone for Tax Parcel ID: 332-2.00-79.01 from an Agricultural Residential (AR-1) District to a Heavy Commercial (C-3) District for proposed storage and employee parking for an adjacent waste management facility. The property is lying on the west side of Old Stage Road (S.C.R. 461) at the intersection of Old Stage Road (S.C.R. 461) and Trussum Pond Road (S.C.R. 462). The property consists of 5.219 acres more or less and is located at 32120 Old Stage Road in Laurel, Delaware.

### Further Site Considerations

Staff note that the property is not located within any established Transportation Improvement Districts (TIDs). The Delaware Department of Transportation (DelDOT) noted as part of the Service Level Evaluation Request that was issued that the anticipated traffic impact of this Change of Zone is considered to be diminutive in the context of their agreement with the County regarding land development coordination.

Additionally, staff note per the County's Online Mapping system that the property contains no Tax Ditches or related Tax Ditch Rights-Of-Way.

The County's Online Mapping System indicates that there are no wetlands currently present on the property. There is a very small segment of an existing Wellhead Protection Area which slightly encroaches into the northeastern portion of the property.

The property is located within Flood Zone "X"- Areas determined to be outside of the 1% annual chance flood and outside of the 500-year floodplain. The Delaware Department of Natural Resources and Environmental Control's (DNREC's) Flood Planning Tool indicates that the property is located within the Broad Creek Watershed and Little Creek-Broad Creek Subwatershed. The Flood Planning Tool also indicates that the approximate Ground Elevation Height at the Parcel is 25 to 30-ft.



## 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 “Developing Area.” The properties immediately to the north and west and also to the east on the opposite side of Old Stage Road (S.C.R. 461) also have a Future Land Use Map designation of “Developing Area.”

As outlined in Sussex County’s 2018 Comprehensive Plan “Developing Areas are newer, emerging growth areas that demonstrate the characteristics of developmental pressures” and “most of the proposed Developing Areas are adjacent to municipalities, within or adjacent to potential future annexation areas of a municipality, or adjacent to Town Centers” (2018 Sussex County Comprehensive Plan, 4-14). The Plan further notes that a “range of housing types are appropriate including single-family homes, townhouses and multifamily units” and that “in selected areas and at appropriate intersections, commercial uses should be allowed” (2018 Sussex County Comprehensive Plan, 4-14).

## Zoning Information

The subject property is currently zoned Agricultural Residential (AR-1) District. The property to the north of the site is also zoned Agricultural Residential (AR-1) District along with a few properties on the east side of Old Stage Road (S.C.R. 461). The property to the west of the subject property is zoned General Commercial (C-1) District. Several properties on the opposite side of Old Stage Road (S.C.R. 461) are zoned General Residential (GR) District.

Within the context of this Application, Table 4.5-2 “Zoning Districts Applicable to Future Land Use Categories” in the 2018 Sussex County Comprehensive Plan notes that the Heavy Commercial (C-3) District is an applicable Zoning District within the “Developing Area” Future Land Use Map Designation.

## Changes of Zone Applications within the Vicinity of the Subject Site

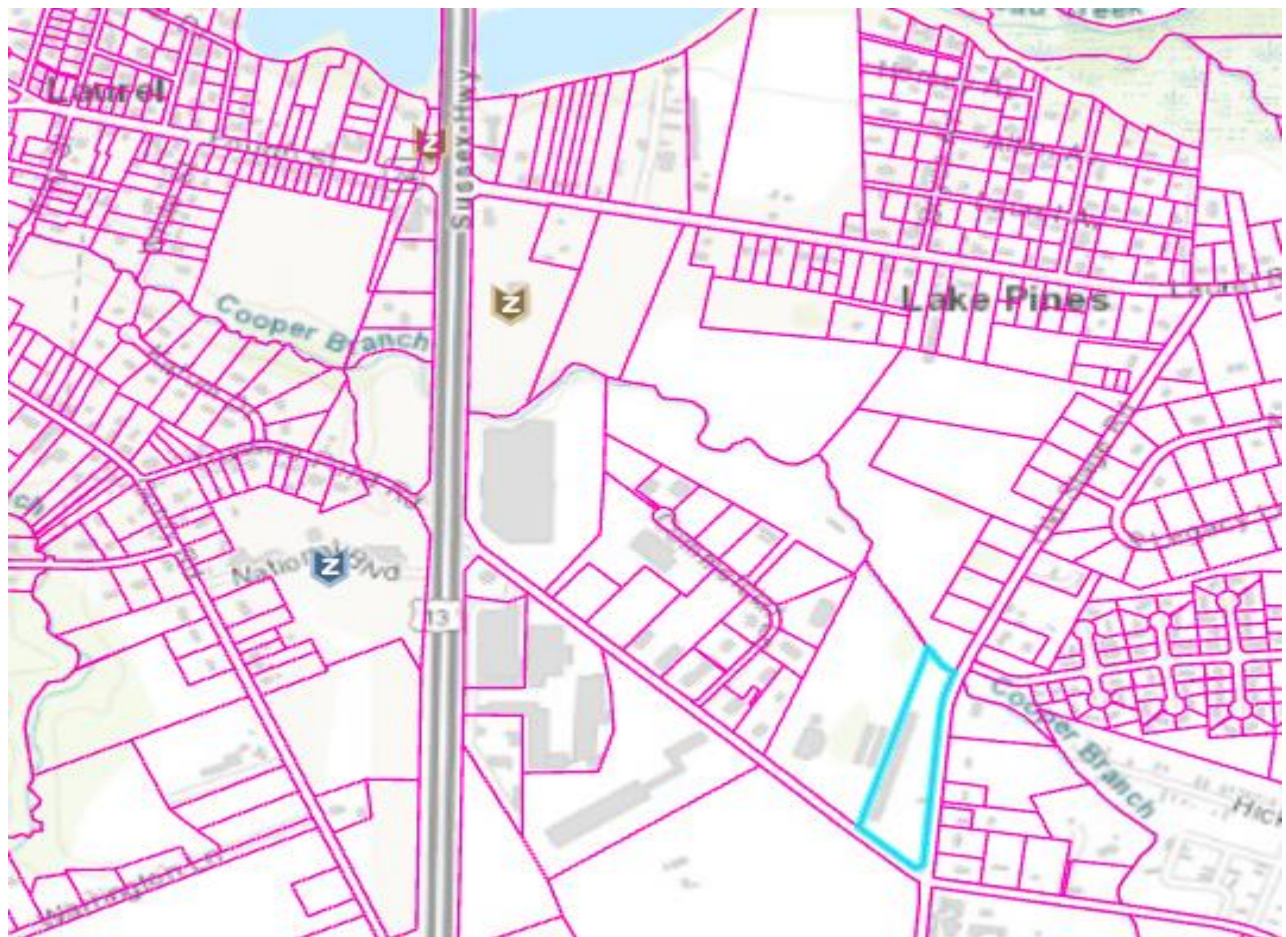
Staff confirms that there have been three (3) Change of Zone Application within a 1-mile radius of the Application Site. All three (3) of Applications were recommended approval by the Planning and Zoning Commission and were approved by the Sussex County Council.

Please find further information regarding these Application in the Table provided on Page 3 of this document as has a Supplemental Map showing the locations of the abovementioned Applications.

Based on the analysis of the land use, surrounding zoning and uses, a Change of Zone from Agricultural Residential (AR-1) District to Heavy Commercial (C-3) District for proposed storage and employee parking for an adjacent waste management facility, subject to considerations of scale and impact, could be considered as being consistent with the land use, area zoning and surrounding uses.

**Change of Zone Applications (w/in a 1.0-mile radius of the subject site)\***

Application Number	Applicant Name	Zoning	Proposed Zoning	P&Z Date	P&Z Recommendation	CC Date	CC Decision	Ordinance No.
C/Z 1730	Two Farms, Inc.	AR-1	CR-1	6/13/2013	Recommended Approval	6/25/2023	Approved	2312
C/Z 1739	Vance Phillips	AR-1	CR-1	1/15/2014	Recommended Approval	2/4/2014	Approved	2337
C/Z 1889	Air Fish Automotive	AR-1	C-3	8/22/2019	Recommended Approval	9/17/2019	Approved	2680



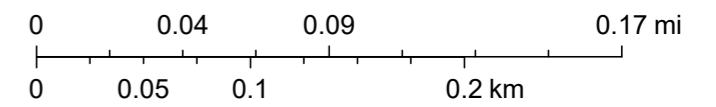
# Sussex County



October 31, 2023

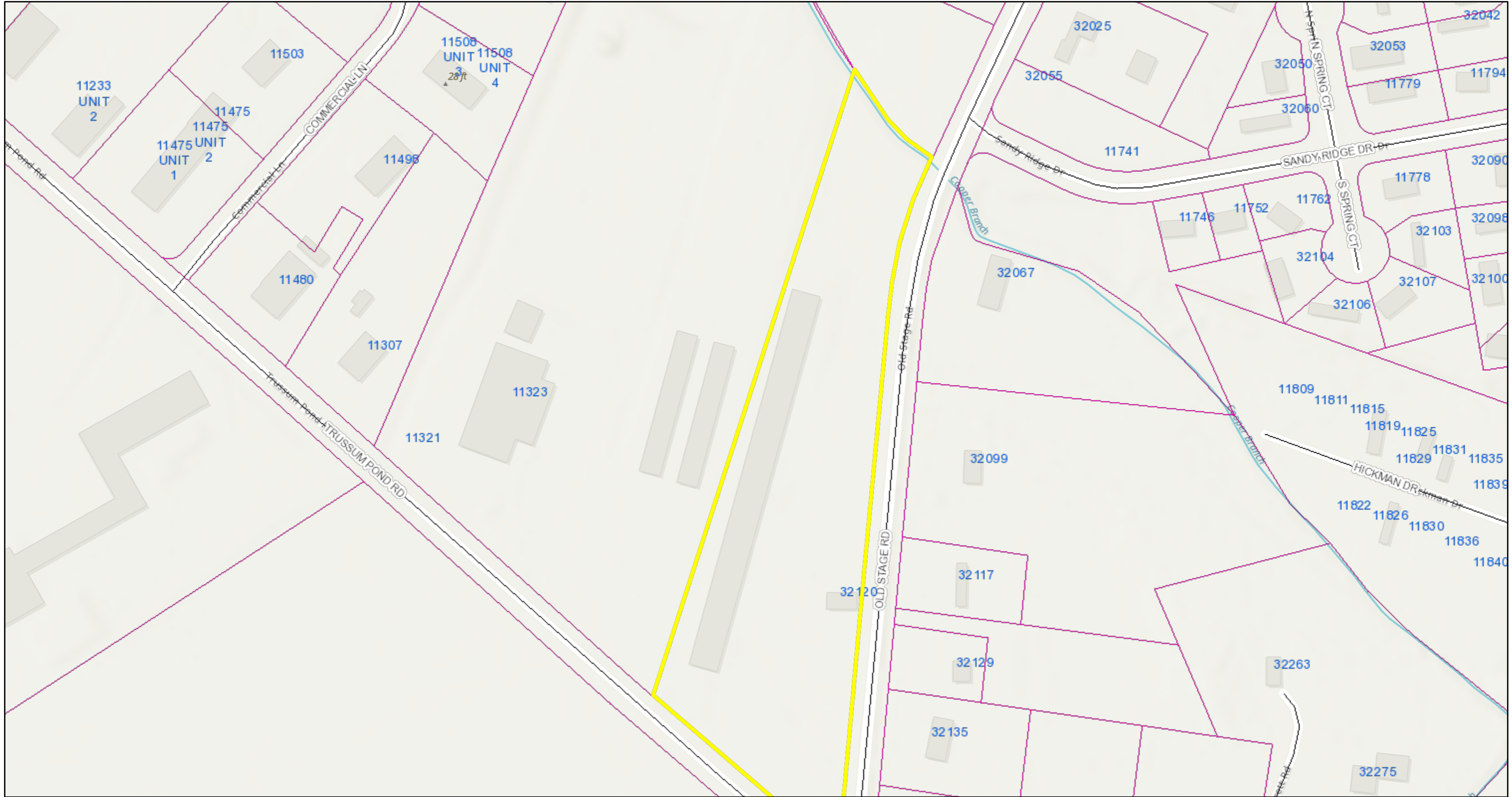
- Override 1
- Override 1
- Tax Parcels
- Streets
- County Boundaries

1:4,514



Delaware Department of Education, Wetland mapping is supported with funding provided by the Environmental Protection Agency., Delaware Geological Survey, U.S. Geological Survey, Delaware Public Service Commission, FEMA, DNREC, Division of Watershed Stewardship, Drainage Program, john.inkster@state.de.us, Sussex

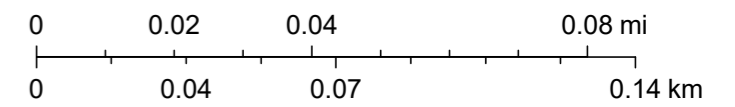
# Sussex County



October 31, 2023

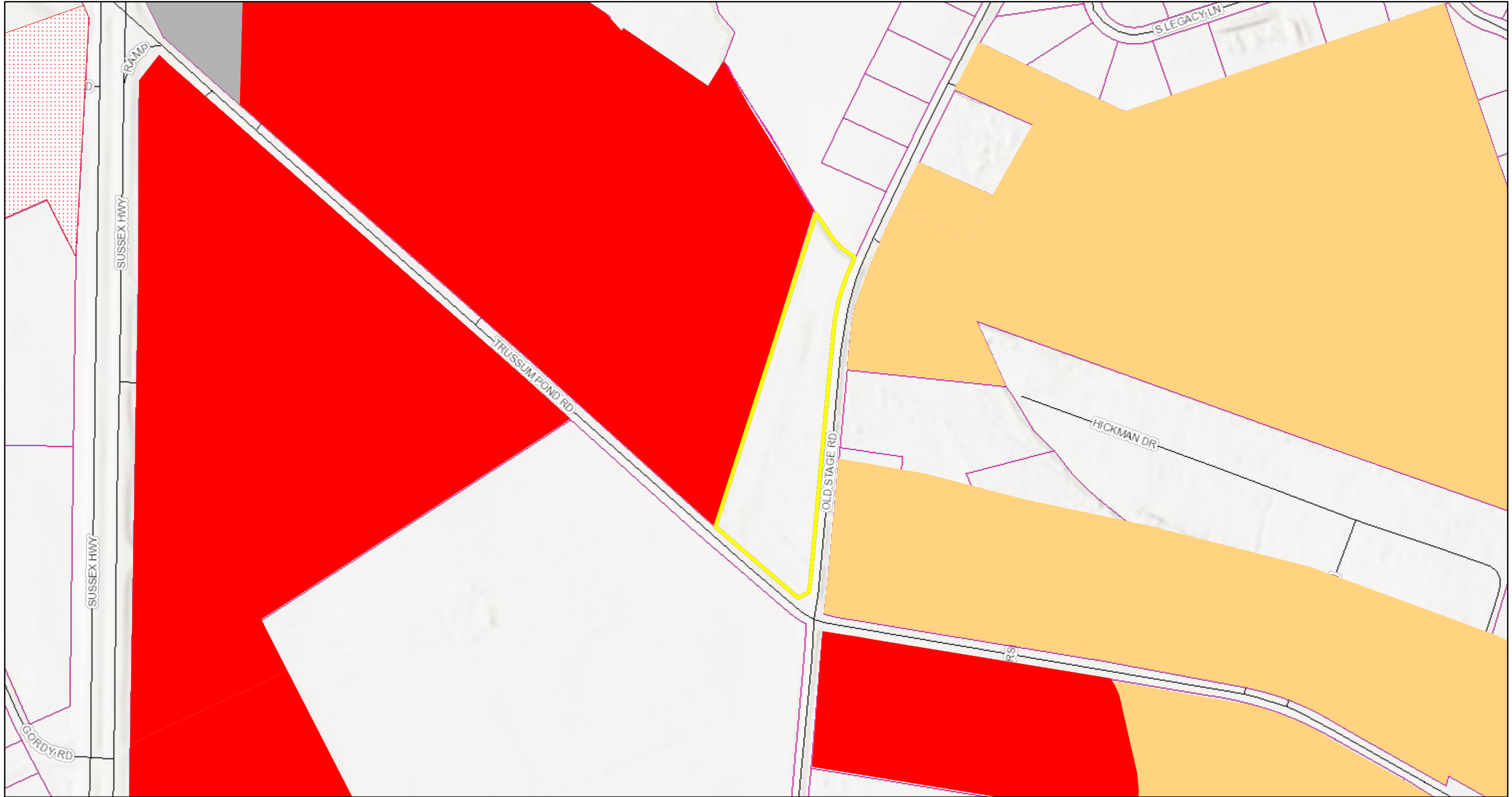
- Override 1
- Tax Parcels
- Streets
- Override 1
- 911 Address
- County Boundaries

1:2,257



Sources: Esri, Airbus DS, USGS, NGA, NASA, CGIAR, N Robinson, NCEAS, NLS, OS, NMA, Geodatastyrelsen, Rijkswaterstaat, GSA, Geoland, FEMA, Intermap and the GIS user community, Sussex County Government, Esri Community Maps Contributors, County of Sussex, DE, Delaware FirstMap, VGIN, © OpenStreetMap, Microsoft,

# Sussex County



October 31, 2023

polygonLayer

Override 1

Override 2

Zoning

General Residential - GR

General Commercial - C-1

General Commercial - C-3

Light Industrial - LI-2

Tax Parcels

Streets

County Boundaries

layer44

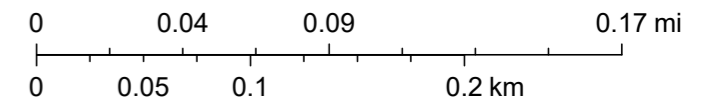
Red: Band\_1

Green: Band\_2

Blue: Band\_3

World Hillshade

1:4,514



Sources: Esri, Airbus DS, USGS, NGA, NASA, CGIAR, N Robinson, NCEAS, NLS, OS, NMA, Geodatastyrelsen, Rijkswaterstaat, GSA, Geoland, FEMA, Intermap and the GIS user community, Sussex County Government

Introduced: 3/28/23

Council District 1: Mr. Vincent  
Tax I.D. No.: 332-2.00-79.01  
911 Address: 32120 Old Stage Road, Laurel

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

**AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-3 HEAVY COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 5.219 ACRES, MORE OR LESS**

WHEREAS, on the 31<sup>st</sup> day of October, 2022, a zoning application, denominated Change of Zone No. 1997 was filed on behalf of Waste Management of Delaware 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 Change of Zone No. 1997 be \_\_\_\_\_; and

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

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

**Section 1.** That Chapter 115, Article II, Subsection 115-7, Code of Sussex County, be amended by deleting from the Comprehensive Zoning Map of Sussex County the zoning classification of [AR-1 Agricultural Residential District] and adding in lieu thereof the designation and C-3 Heavy 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 Little Creek Hundred, Sussex County, Delaware, and lying on the west side of Old Stage Road (S.C.R. 461) at the intersection of Old Stage Road (S.C.R. 461) and Trussum Pond Road (S.C.R. 462) and being more particularly described in the attached legal description prepared by Karins and Associates, Professional Land Surveyors said parcels containing 5.219 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: May 3, 2024

RE: County Council Report for C/U 2408 filed on behalf of Efren Fernando Acevedo

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The Planning and Zoning Department received an application (C/U 2408 filed on behalf of Efren Fernando Acevedo) for a car dealership, to be located at Tax Parcel 532-6.00-42.00. The property is located 34900 Bi State Boulevard, Delmar. The parcel size is 1.06 acres +/-

The Planning & Zoning Commission held a Public Hearing on the application on February 7, 2024. At the meeting of February 21, 2024, the Planning & Zoning Commission recommended approval of the application for the 4 reasons and subject to the 13 recommended conditions as outlined within the motion (copied below).

The County Council held a Public Hearing on the application at its meeting of March 12, 2024. At the conclusion of the Public Hearing, action on the application was deferred for further consideration. Below is a link to the minutes of the March 12, 2024, County Council meeting.

[Link to the Minutes of the March 12, 2024 County Council Meeting](#)

Below are the minutes from the Planning & Zoning Commission meetings of February 7, 2024, and February 21, 2024.

[Minutes of the February 7, 2024, Planning & Zoning Commission Meeting](#)

### **C/U 2408 Efren Fernando Acevedo**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR A CAR DEALERSHIP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 1.06 ACRES MORE OR LESS.** The property is



lying on the west side of Bi State Boulevard (Rt. 13A), approximately 0.32 mile south of Dorothy Road (Rt. 64). 911 Address: 34900 Bi State Boulevard, Delmar. Tax Map Parcel: 532-6.00-42.00

Mr. Whitehouse advised the Commission that submitted into the record were a copy of the DelDOT Service Level Evaluation Response, the Staff Analysis, and a copy of a response from the Sussex County Engineering Department Utility Planning Division. Mr. Whitehouse stated that two written comments were received for the Application and were included within the paperless packet.

The Commission found that Efrain Fernando Acevedo was present on behalf of his Application. Mr. Acevedo stated that he was requesting a Conditional Use to operate a small car dealership, of approximately 20 cars, on his property; that the hours of operation would be Monday through Friday 7:00 AM – 5:00 PM in the winter months and 7:00 PM in the summer months, Saturdays from 7:00 AM – 12:00 PM in the winter months, and 3:00 PM in the summer months; that there would only be two employees being his daughter and himself; that a small sign would be placed at the entrance to the property and a banner placed on the small shed used as an office, and that no mechanical work would be performed on the property with the exception of tire changes.

Mr. Mears asked where the vehicles for sale would be placed; that the site plan only provided 13 spots for the sale; that he was concerned that Mr. Acevedo may park vehicles all over the property and not just in the allotted spots.

Mr. Acevedo stated that he is only planning to have vehicles in the front area of the property.

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

Mrs. Kimberly Todd spoke in opposition to the Application with concerns that their backyard backs up to this property; that she is concerned about the traffic from a business being located adjacent to their backyard; that if Mr. Acevedo clears trees to accommodate the lot, the privacy between the properties would be compromised; that they would like to request that a privacy fence be added or the trees remain to keep that privacy that is there currently, and she had concern to the placement of perimeter fence around the car lot to keep people off of the neighboring properties if they are there to look at cars.

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 2408 Efrain Fernando Acevedo. Motion by Mr. Mears to defer action for further consideration, seconded by Ms. Wingate and carried unanimously. Motion carried 4-0.

Minutes of the February 21, 2024, Planning & Zoning Commission Meeting

The Commission discussed this application which has been deferred since February 7, 2024.

Mr. Mears moved that the Commission recommend approval of C/U 2408 Efren Fernando Acevedo for a car dealership based upon the record made at the public hearing and for the following reasons:

1. The Applicant proposes to redevelop this site with a small used car dealership.
2. There are other small business uses and home occupations in the general area. This small use is consistent with the area.
3. The use of a car sales facility at this location is of a public or semi-public character and is desirable for the general convenience and welfare of the area.
4. This use, with the conditions and stipulations placed upon it, will not adversely affect the neighborhood or area roadways.
5. This recommendation for approval is subject to the following conditions and stipulations:
  - A. One lighted sign shall be permitted. It shall not exceed 24 square feet in size.
  - B. Security lighting shall be downward screened and shall be directed away from neighboring properties and roadways.
  - C. Any dumpsters shall be screened from view of neighbors and roadways. The dumpster locations shall be shown on the Final Site Plan.
  - D. No repairs other than very basic maintenance like oil changes or tire replacements shall occur on this site.
  - E. No junked, unregistered, or permanently inoperable vehicles or trailers shall be stored on the site.
  - F. The site shall be subject to all DelDOT entrance and roadway requirements.
  - G. No vehicles shall be parked within the setback areas on the property. The Final site plan shall clearly show the areas designated for vehicle parking and display.
  - H. No more than 20 vehicles shall be located on the site at any one time. This includes all vehicles, such as the Applicant's personal vehicles, vehicles being stored or prepared for sale, or vehicles actively displayed for sale.
  - I. The Final Site Plan shall specifically show the area of this Conditional Use, which shall only extend from the front boundary to a line no farther than the existing outbuildings in the middle of the property. No vehicles shall be located outside of the Conditional Use area.
  - J. The entire boundary of the conditional use area other than the road frontage shall be fenced to screen the use from the neighboring properties. The location and type of fencing shall be shown on the Final Site Plan.
  - K. The hours of operation shall be from 9:00 am through 5:00 pm, Monday through Saturday. There shall not be any Sunday hours.
  - L. Failure to comply with these conditions of approval may result in a termination of this Conditional Use.
  - M. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Mr. Mears, seconded by Ms. Wingate and carried unanimously to recommend approval of C/U 2408 Efren Fernando Acevedo for the reasons and the conditions stated in the motion. Motion carried 5-0.

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

**PLANNING & ZONING COMMISSION**

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



**Sussex County**

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302-855-7878

JAMIE WHITEHOUSE, AICP MRTPI  
PLANNING & ZONING DIRECTOR

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

Planning Commission Public Hearing Date: February 7, 2024

Application: CU 2408 Efren Fernando Acevedo

Applicant: Efren Fernando Acevedo  
34900 Bi State Boulevard  
Delmar, DE 19940

Owner: Efren Fernando Acevedo  
34900 Bi State Boulevard  
Delmar, DE 19940

Site Location: Lying on the west side of Bi State Boulevard (Rt. 13A) approximately 0.32 mile south of Dorothy Road (Rt. 64).

Current Zoning: General Residential (GR) Zoning District

Proposed Use: Car Dealership

Comprehensive Land Use Plan Reference: Existing Development Area

Councilmanic District: Mr. Vincent

School District: Delmar School District

Fire District: Delmar Fire Department

Sewer: On-Site Septic

Water: On-Site Well

Site Area: 1.06 Acres +/-

Tax Map ID: 532-6.00-42.00



## PLANNING & ZONING COMMISSION

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



# Sussex County

DELAWARE  
SUSSEXCOUNTYDE.GOV  
302-855-7878

JAMIE WHITEHOUSE, AICP MRTPI  
PLANNING & ZONING DIRECTOR

## Memorandum

To: Sussex County Planning Commission Members  
From: Ann Lepore, Planner I  
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant  
Date: January 31, 2024  
RE: Staff Analysis for C/U 2408 – Efren Fernando Acevedo

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This memo is to provide background and analysis for the Planning Commission to consider as a part of Application C/U 2408 Efren Fernando Acevedo to be reviewed during the February 7, 2024, 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:** 532-6.00-42.00

**Proposal:** The request is for a Conditional Use for Tax Parcel 532-6.00-42.00 to allow for a Car Dealership on a parcel lying on the west side of Bi State Boulevard (Rt. 13A), approximately 0.32 mile south of Dorothy Road (Rt. 64). The parcel is comprised of 1.06 acres +/-.

**Zoning:** The Parcel is zoned General Residential (GR) District. The adjacent parcels to the east of the subject property across Bi State Boulevard are zoned General Residential (GR) District and parcels adjoining to the north, west, and south are zoned General Residential (GR) 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”. The properties surrounding the subject Parcel are also categorized as “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. (2018 Sussex County Comprehensive Plan, 4-16 & 17).

**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 parcels are not within the Henlopen Transportation Improvement District.
- **Forested Areas:** N/A
- **Wetlands Buffers/Waterways:** N/A
- **Other Site Considerations (ie: Flood Zones, Tax Ditches, Groundwater Recharge Potential, etc.):** N/A

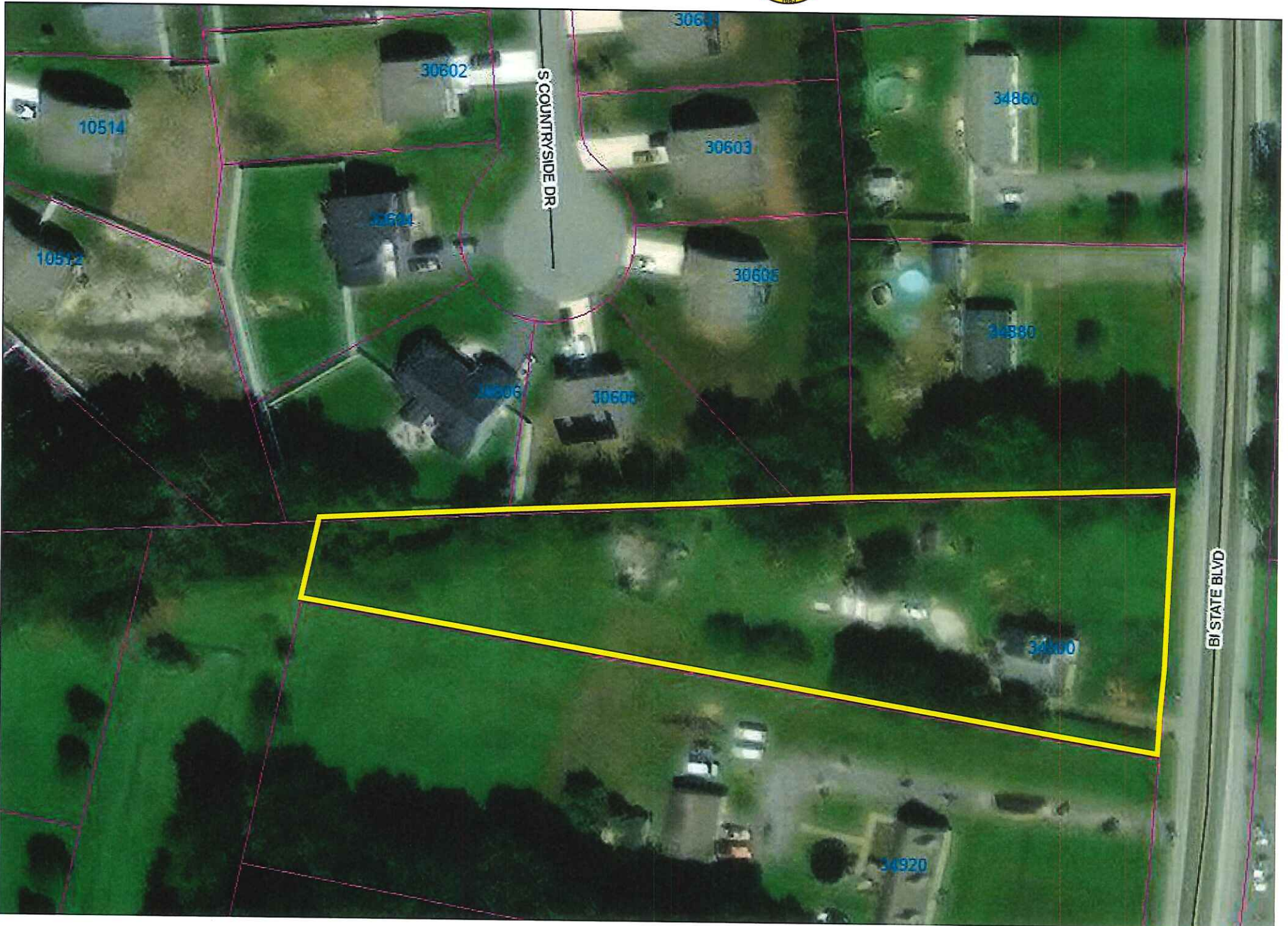
Based on the analysis of the land use, surrounding zoning and uses, a Conditional Use Application to allow for a Car Dealership, could be considered as being consistent with the land use, area zoning and surrounding uses.

**Existing Conditional Uses within the Vicinity of the Subject Site:** Since 2011, there has been four (4) Conditional Use applications within a 1-mile radius of the application site.

	<b>Conditional Use Applications (Within a 1-mile radius of the subject site)</b>					
<b>Application Number</b>	<b>Application Name</b>	<b>Zoning District</b>	<b>Proposed Use</b>	<b>CC Decision</b>	<b>CC Decision Date</b>	<b>Ordinance Number</b>
CU 2435	Wendell Whaley, Jr.	AR-1	Family Cemetery	Withdrawn		
CU 2387	Consolidate Edison Development, Inc.	GR	Solar Facility	Pending		
CU 2346	TPE DE SU114, LLC	AR-1	Solar Facility	Approved	6/20/2023	2932
CU 1971	Greg N. Johnson	AR-1	Countertop Manufacturing Business	Approved	12/3/2013	2329



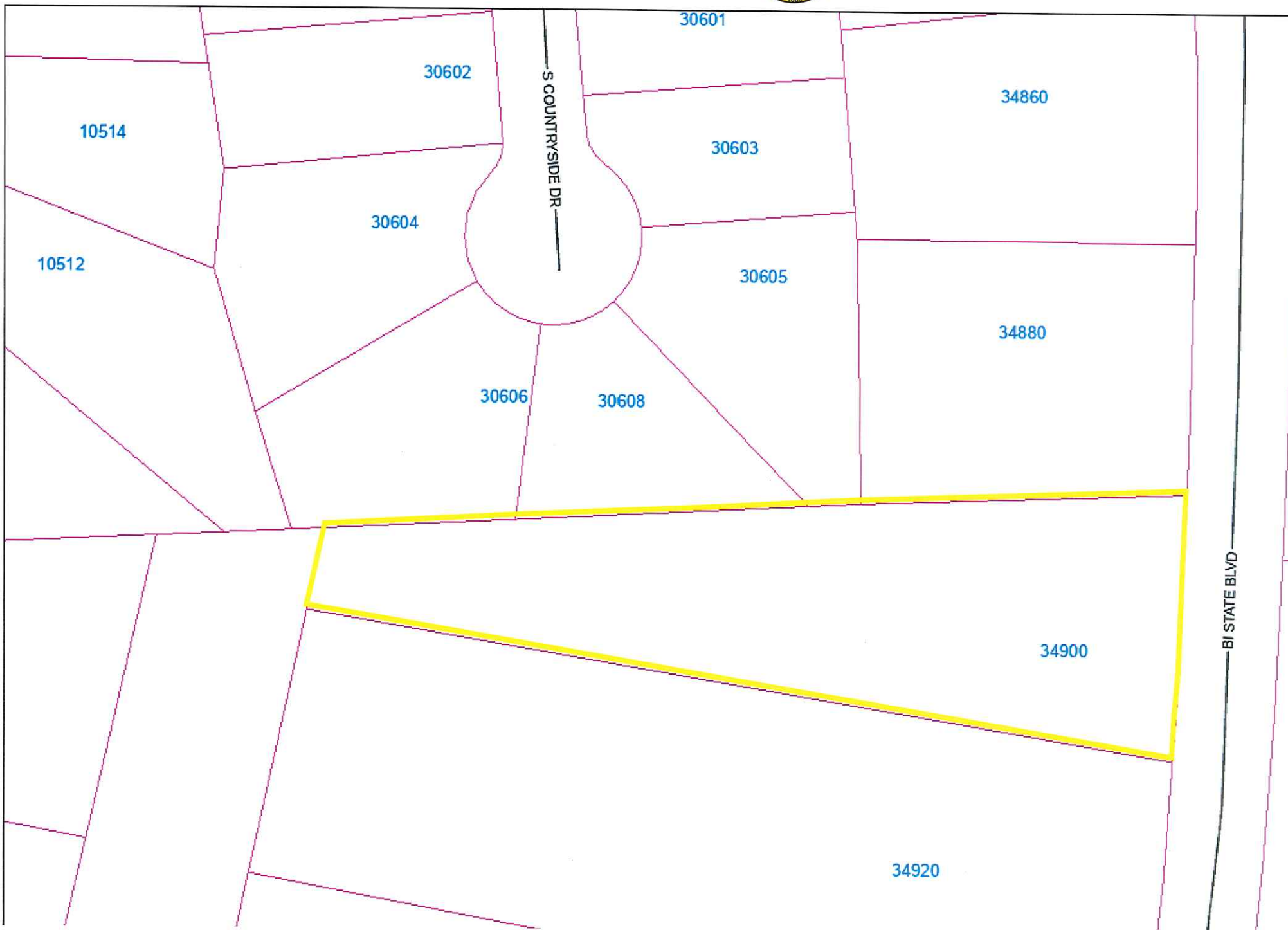
# Sussex County





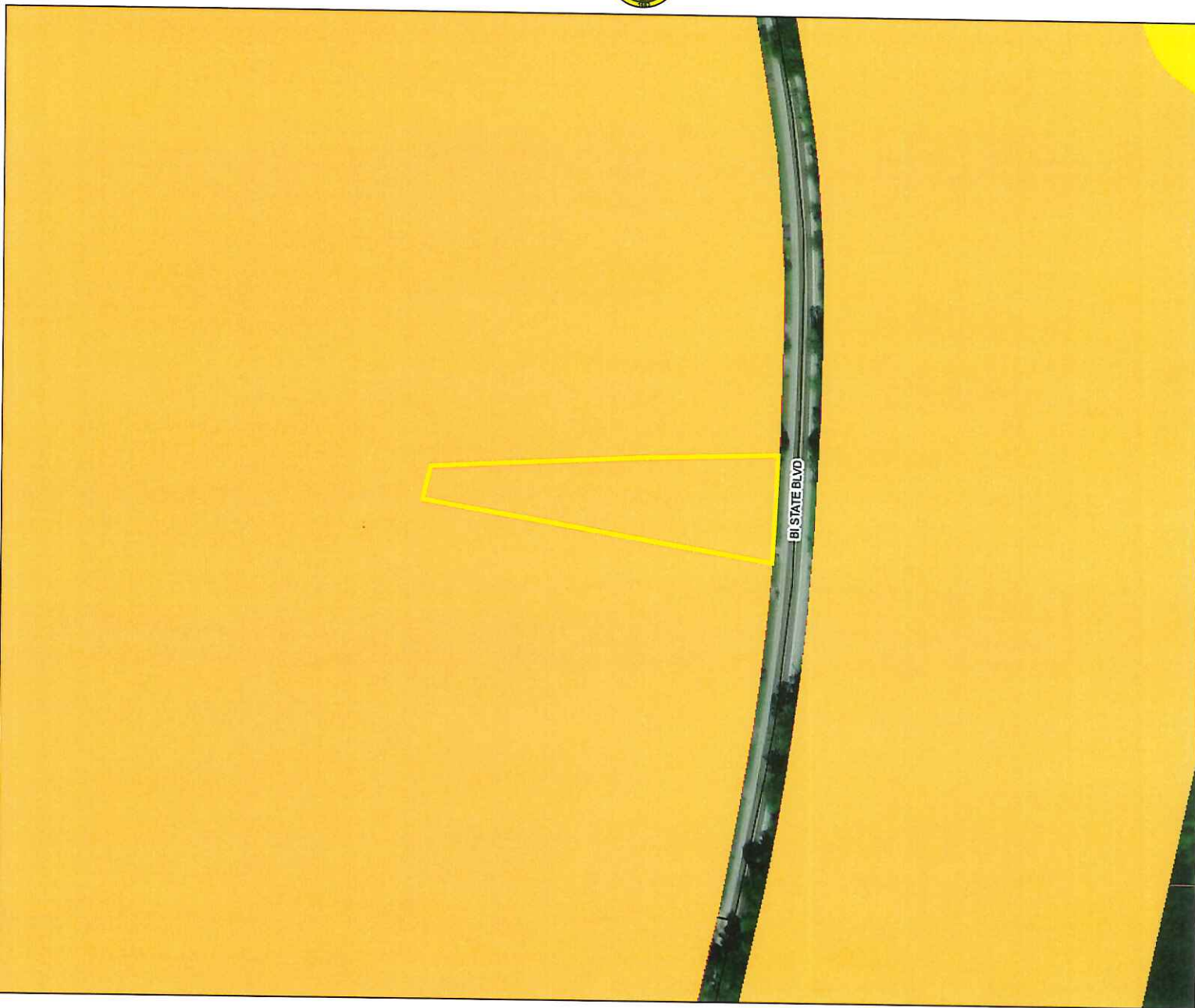


# Sussex County



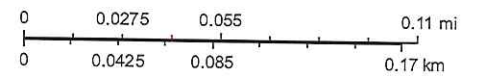


# Sussex County



<b>PIN:</b>	532-6.00-42.00	
<b>Owner Name</b>	ACEVEDO	EFREN FERNANDO
<b>Book</b>	5467	
<b>Mailing Address</b>	34900 BI STATE BLVD	
<b>City</b>	DELMAR	
<b>State</b>	DE	
<b>Description</b>	RD LAUREL TO DELMAR	
<b>Description 2</b>	N/A	
<b>Description 3</b>	N/A	
<b>Land Code</b>		

- Tax Parcels
- 911 Address
- Streets
- County Boundaries
- FEMA Flood Maps**
- A
- AE
- AE, FLOODWAY
- AO
- VE
- X, 0.2 PCT ANNUAL CHANCE FLOOD HAZARD
- World Imagery
- Low Resolution 15m Imagery
- High Resolution 60cm Imagery
- High Resolution 30cm Imagery
- Citations
- 60cm Resolution Metadata



Introduced: 6/27/23

Council District 1: Mr. Vincent  
Tax I.D. No. 532-6.00-42.00  
911 Address 34900 Bi State Blvd., Delmar

ORDINANCE NO. \_\_\_\_

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN GR GENERAL RESIDENTIAL DISTRICT FOR A CAR DEALERSHIP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 1.06 ACRES MORE OR LESS**

WHEREAS, on the 16<sup>th</sup> day of November 2022, a conditional use application, denominated Conditional Use No. 2408 was filed on behalf of Efren Fernando Acevedo; 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. 2408 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. 2408 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 Little Creek Hundred, Sussex County, Delaware, and lying on the west side of Bi State Boulevard (Rt. 13A) approximately 0.32 mile south of Dorothy Road (Rt. 64) and being more particularly described in the attached legal description prepared by Fuqua, Willard, Stevens & Schab, P.A. said parcels containing 1.02 ac., more or less.

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

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



**Sussex County**

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: May 3, 2024

RE: County Council Report for C/U 2413 filed on behalf of Blue Hen Rental Company, LLC

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The Planning and Zoning Department received an application (C/U 2413 filed on behalf of Blue Hen Rental Company, LLC) for an outdoor venue to be located at tax parcel 532-20.00-107.01. The property is located at 38397 Old Stage Road, Delmar. The parcel size is 2.84 acres +/-

The Planning & Zoning Commission held a Public Hearing on the application on February 21, 2024. At the meeting of March 20, 2024, the Planning & Zoning Commission recommended approval of the application for the 7 reasons stated and subject to the 10 recommended conditions as outlined within the motion (copied below).

The County Council held a Public Hearing on the application at its meeting of April 16, 2024. At the conclusion of the Public Hearing, action on the application was deferred for further consideration. Below is a link to the minutes of the April 16, 2024, County Council meeting.

[Link to the Minutes of the April 16, 2024, County Council Meeting](#)

Below are the minutes from the Planning & Zoning Commission meeting of February 21, 2024, and March 20, 2024.

[Minutes of the February 21, 2024, Planning & Zoning Commission Meeting](#)

### **C/U 2413 Blue Hen Rental Company, LLC**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN OUTDOOR VENUE FOR SEASONAL VENDORS AND SERVICES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY,**



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

**CONTAINING 2.84 ACRES MORE OR LESS.** The property is lying on the north side of Line Road (Rt. 54) and the east side of Old Stage Road (S.C.R. 68), at the intersection of Line Road (Rt. 54) and Old Stage Road (S.C.R. 68). 911 Address: 38397 Old Stage Road, Delmar. Tax Map Parcel: 532-20.00-107.01.

Mr. Whitehouse advised the Commission that submitted into the record were the Deed, the Applicant's Conceptual Site Plan, the Staff Analysis, and the DelDOT Service Level Evaluation Response. Mr. Whitehouse stated that six comments in support of the Application had been submitted.

The Commission found that Mr. Chad Lingenfelder, Esq., from the Smith firm spoke on behalf of the Applicant, Blue Hen Rental Company, LLC; that also present was Mr. Doug Marshall, a managing member of Blue Hen Rental Company, LLC. Mr. Lingenfelder stated that the application is for a conditional use of the property to have a farmers market, outdoor venue services and seasonal vendors; that the property is situated within the area of Delmar which is one of the fastest growing towns in the county and it holds dual purposes as it is in both the state of Delaware and the state of Maryland; that there is an old home situated on the property and with that there is a well that would be used primarily for the vendor services and to have portable toilets for the general public while in season; that the plan is to have a fabric canopy tent approximately 50 ft. x 80 ft., which would be a semi-permanent structure that could be taken down if needed, but yet strong enough to sustain winds and provide coverage for rain, snow or sleet; that there would be food trucks and vendors similar, with more festive from scratch vendors including a barbeque brick oven pizza; that the location of the property is along Rt. 54, which is a very busy intersection, but the plan is to make the entrance to the farmers market on Old Stage Rd. after talking it over with DelDOT; that in the letter from DelDOT the Impact Study as well as the preliminary approval for a small commercial entrance, would be on Old Stage Rd. and would not have any interference with Rt. 54 or the traffic patterns; that the ingress and egress for this venue would be on Old Stage Rd. as it was approved by DelDOT and that it would be a negligible impact on Old Stage Rd.

Mr. Doug Marshall spoke on behalf of Blue Hen Rental Company, LLC in regard to the application. Mr. Marshall stated that the plan is to have vendors and food trucks set up on weekends to give the locals things to do; that the structure would remain up year round with a concrete floor and have parking within the grass where they would place stone around it; that they would utilize the same parking area that was there last year for a produce stand since there is already drain footage there; that DelDOT recently reduced the speed limit on Rt. 54 in front of this property to 35 mph; that DelDOT provided a Letter of No Contention stating that putting the entrance on Old Stage Rd would be sufficient; that it is in the process of working with the Department of Health to utilize the well on the property for the food truck and vendors; that the market would be open Spring, Summer, and Fall and they would most likely close for the Winter; that there was a possibility of doing a Christmas market if the need is there; that they would request the Commission to not put a timeline restriction as a condition, but rather make it weather dependent; that the hours of operation would be 7:00 AM to 9:00 PM, in the hopes of possibly holding some performances from the local schools or church choirs under the tent.

Mr. Robertson informed the Applicant that their application does not allow for the introduction of music and performances as it is beyond the scope of the application; that if they want to do things of that nature then they could apply for a special event application in addition to the conditional use.

Mr. Chairman informed the Applicant that the Commission is very interested in the hours and plans for the actual market because the process for a conditional use gives great latitude in placing conditions, restrictions, and stipulations on the application; that the Commission would like to accommodate the Applicant to the best of their ability and make sure all avenues have been addressed; that a concern would be parking along Old Stage Rd. and that signage is placed to inform the public that there will be no parking there; that he would rather see it put in for a year-round usage rather than limit it to only the specified seasons or dates.

Mr. Mears asked the Applicant if he was interested in putting up a sign for the farmers market and if the sign would be lit; that if there would be lights throughout the property; that if there would be alcohol sales on the property and if there would be trash receptacles clearly stated on the Final Site Plan.

Mr. Marshall stated that eventually, the idea would be to put up a sign, that there would be lights throughout the property and that they would like the option to be able to sell alcohol without restrictions.

Mr. Robertson stated that they would need to coordinate with the Alcoholic Beverage Control Commission before acquiring any licenses to sell alcohol on the premises and that they should include the standard for parking within the conditional use for example, no parking within the setbacks.

The Commission found that there was no one present in support of or in opposition to the Application.

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

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

In relation to C/U 2413 Blue Hen Rental Company, LLC. Motion by Mr. Mears to defer action for further consideration, seconded by Ms. Wingate and carried unanimously. Motion carried 5-0.

#### Minutes of the March 20, 2024, Planning & Zoning Commission Meeting

The Commission discussed this application which has been deferred since February 21, 2024.

Mr. Mears moved that the Commission recommend approval of C/U 2413 Blue Hen Rental Company, LLC for seasonal vendors and services with similar activities based on the record made during the public hearing and for the following reasons:

1. This property is located very near the intersection of Route 13 and Line Road at Delmar, with all of the intensive commercial uses that exist there. It is also at the intersection of Old Stage Road and Line Road, and it is bounded on the north by existing C-1 property. This is an appropriate location for a conditional use such as this.
2. This use will be compatible with all of the other business and commercial uses in this immediate area.
3. The use is a benefit to the entire community, providing an outlet for local artisans, musicians, and other small businesses.

4. With the conditions imposed by the County, the use will not adversely affect neighboring properties, roadways, or traffic.
5. The use has a public or semi-public character that is a benefit to residents of nearby communities and Sussex County.
6. As part of this use, food service in the form of food trucks or similar temporary stands shall be permitted. Also, the service of alcoholic beverages shall be permitted, subject to the receipt of all required approvals from the Delaware Alcoholic Beverage Control Commission.
7. No parties appeared in opposition to this Application, and several letters were submitted in support of this application.
8. This recommendation is subject to the following conditions:
  - A. This use shall be limited to an outdoor marketplace, which may include food and beverage service and live music.
  - B. One lighted sign shall be permitted. It shall not exceed 32 square feet per side.
  - C. The hours of operation shall be limited to 7:00 am through 9:00 pm.
  - D. Any security lighting shall be screened so that it does not shine on neighboring properties or roadways.
  - E. The Applicant shall comply with all DelDOT requirements, including any entrance or roadway improvements.
  - F. There shall not be any dumping on the site. Also, no junk or unsold items shall accumulate outdoors on the site.
  - G. Any dumpsters associated with the use shall be screened from view from neighboring properties or roadways.
  - H. The Final Site Plan shall clearly show all parking areas and structures associated with the use as well as the areas set aside for the outdoor sales. There shall also be signage along the property frontage prohibiting parking along the state road right of ways.
  - I. Failure to comply with any of these conditions may be grounds for termination of the Conditional Use approval.
  - J. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Mr. Mears, seconded by Ms. Wingate and carried unanimously to recommend approval of C/U 2413 Blue Hen Rental Company, LLC for the reasons and the conditions stated in the motion. Motion carried 5-0.

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

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



**Sussex County**

DELAWARE  
sussexcountyde.gov

## Memorandum

To: Sussex County Planning Commission Members  
From: Mrs. Christin Scott, Planner III  
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant  
Date: February 14, 2024  
RE: Staff Analysis for C/U 2413 Blue Hen Rental Company, LLC

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This memo is to provide background and analysis for the Planning Commission to consider as a part of application C/U 2413 Blue Hen Rental Company, LLC to be reviewed during the February 21<sup>st</sup>, 2024, 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:** 532-20.00-107.01

**Proposal:** The request is for a Conditional Use for Tax Parcel 532-20.00-107.01 to allow for an outdoor venue for seasonal vendors and services. The property is located on the northeast side of the intersection of Line Road (Rt. 54) and Old Stage Road (S.C.R. 68). The parcel is comprised of a total area of 2.84 acres +/-.

**Zoning:** The Parcel is zoned Agricultural Residential (AR-1) District. The adjacent parcels to the east of the subject property are zoned Agricultural Residential (AR-1) District and parcels to the north are zoned General Commercial (C-1) District. Parcels across Old Stage Road are located within the town limits of Delmar and properties across Line Road are located within the state of Maryland.

**Future Land Use Map Designation w/in Comprehensive Plan:** Developing 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 “Developing Area.” The properties surrounding the subject Parcel are also categorized as “Developing Area” with properties across Old Stage Road being designated as “Municipalities.” Properties further east are designated as “Town Center.”

As outlined in the 2018 Sussex County Comprehensive Plan, the Developing Areas are newer, emerging growth areas that demonstrate the characteristics of developmental trends. Most of the proposed Developing Areas are adjacent to municipalities, within or adjacent to potential future





annexation areas of a municipality, or adjacent to Town Centers. – A range of housing types are appropriate in Developing Areas, including single family homes, townhouses, and multi-family units. In selected areas and at appropriate intersections, commercial uses should be allowed. A variety of office uses would be appropriate in many areas. Portions of the Developing Areas with good road access and few nearby homes should allow for business and industrial parks. Appropriate mixed-use development should also be allowed. In doing so, careful mixtures of homes with light commercial and institutional uses can be appropriate to provide for convenient services and to allow people to work close to home (Sussex County Comprehensive Plan, 4-14).

**Further Site Considerations:**

- **Density: N/A**
- **Open Space Provisions: N/A**
- **Agricultural Areas:** The site is not within the vicinity of active agricultural lands.
- **Interconnectivity: N/A**
- **Transportation Improvement District (TID):** The parcels are not within the Henlopen Transportation Improvement District.
- **Forested Areas: N/A**
- **Wetlands Buffers/Waterways:** There are no known wetlands or waterways located on the site.
- **Other Site Considerations (ie: Flood Zones, Tax Ditches, Groundwater Recharge Potential, etc.):** The property is not located within any Flood Zones. The Parcel is in an area of “Fair” Groundwater Recharge Potential. A Tax Ditch borders the east property line with a Tax Ditch Right of Way of 75-feet from the centerline of the ditch.

Based on the analysis of the land use, surrounding zoning and uses, a Conditional Use Application to allow for an outdoor venue for seasonal vendors and services, 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.

<p style="text-align: center;"><b>Conditional Use Applications</b>            (Within a 1.0-mile radius of the subject site)</p>						
Application Number	Application Name	Zoning District	Proposed Use	CC Decision	CC Decision Date	Ordinance Number
4	William J. Cathell	AR-1	Automobile Raceway	Approved	<Null>	<Null>
82	Houlihan Real Estate INC	AR-1	extension to existing manufactured home park	Approved	<Null>	<Null>
85	St. Stephens United Methodist Church	AR-1	extension to cemetary	Approved	<Null>	<Null>
88	Delmar Volunteer Fire Co	UB	fire house	Approved	<Null>	<Null>
114	Robert Baysinger	AR-1	extend manufactured home park	Approved	<Null>	<Null>
416	Granville Eskridge	AR-1	general store	Approved	<Null>	<Null>
525	Earl D Hudson	AR-1	beauty salon	Approved	<Null>	<Null>
82	Houlihan Real Estate INC	AR-1	extension to existing manufactured home park	Approved	<Null>	<Null>



CU 2413 Blue Hen Rentals  
CU Vicinity Map (1-Mile)  
TM#s 532-20.00-107.01

 CU 2413 - CUS Within 1-Mile  
 CU 2413 1-Mile Buffer  
 CU 2413 - Blue Hen Rentals

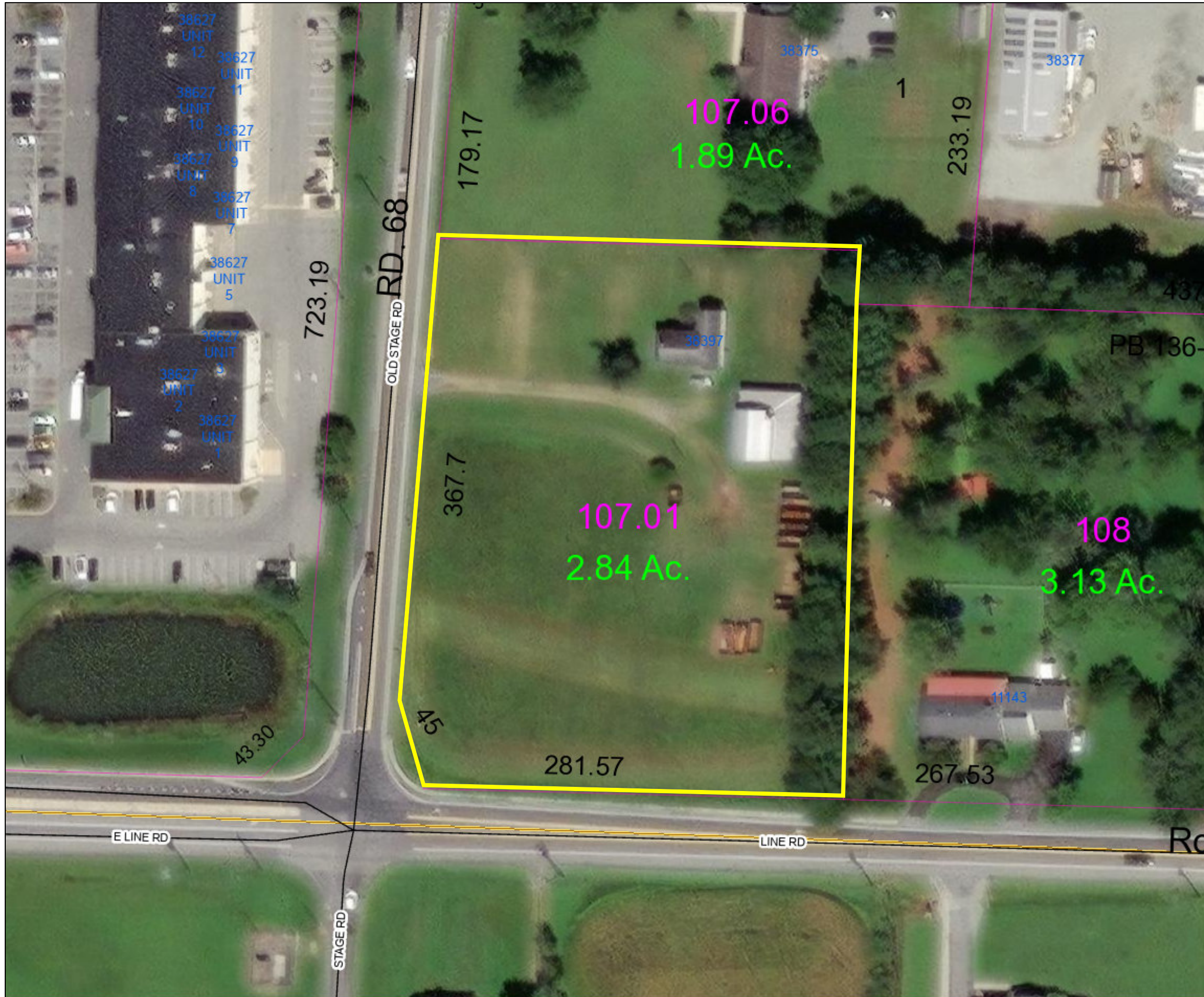
0 500 1,000 2,000 Feet

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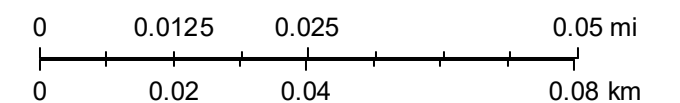
# Sussex County



<b>PIN:</b>	532-20.00-107.01
<b>Owner Name</b>	BLUE HEN RENTAL CO LLC
<b>Book</b>	5491
<b>Mailing Address</b>	PO BOX 3682
<b>City</b>	SALISBURY
<b>State</b>	MD
<b>Description</b>	N.E.INTERSECTION RTS
<b>Description 2</b>	419 68
<b>Description 3</b>	2.84 ACRES W/IMP
<b>Land Code</b>	

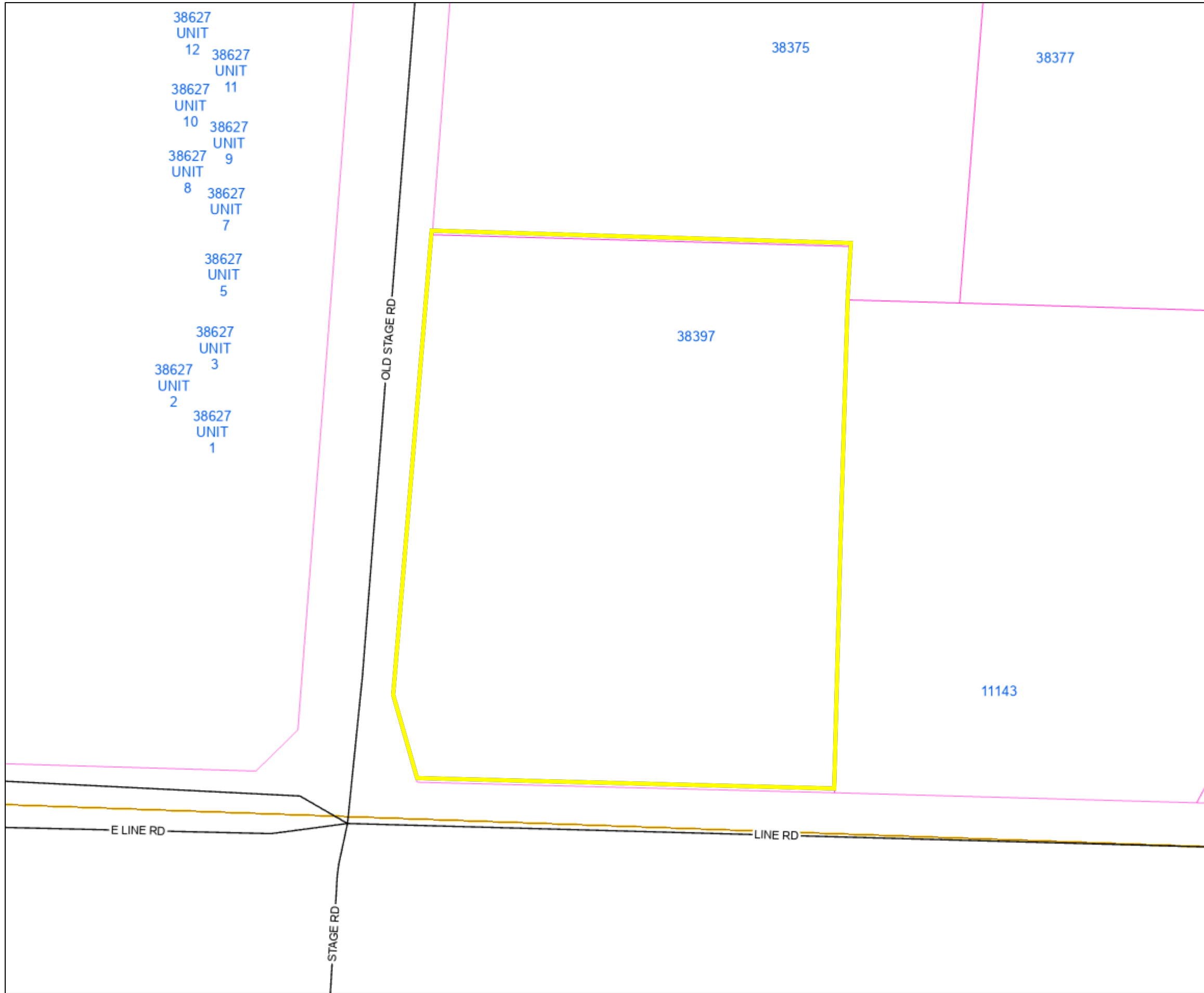
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- Override 1
- Tax Parcels
- 911 Address
- Streets
- County Boundaries

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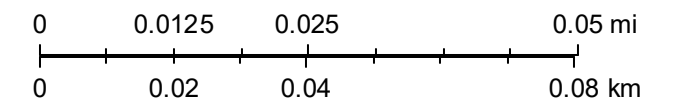
# Sussex County



<b>PIN:</b>	532-20.00-107.01
<b>Owner Name</b>	BLUE HEN RENTAL CO LLC
<b>Book</b>	5491
<b>Mailing Address</b>	PO BOX 3682
<b>City</b>	SALISBURY
<b>State</b>	MD
<b>Description</b>	N.E.INTERSECTION RTS
<b>Description 2</b>	419 68
<b>Description 3</b>	2.84 ACRES W/IMP
<b>Land Code</b>	

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

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# Sussex County

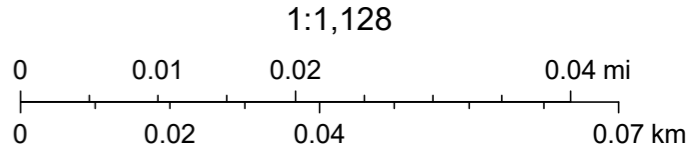


January 25, 2024

- |  |  |
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| <ul style="list-style-type: none"> <li><span style="border: 1px solid blue; display: inline-block; width: 15px; height: 10px; margin-right: 5px;"></span> Override 1</li> <li><span style="border: 1px solid yellow; display: inline-block; width: 15px; height: 10px; margin-right: 5px;"></span> Override 2</li> </ul> | <ul style="list-style-type: none"> <li><span style="background-color: red; display: inline-block; width: 15px; height: 10px; margin-right: 5px;"></span> C1: General Commercial</li> <li><span style="border: 1px solid pink; display: inline-block; width: 15px; height: 10px; margin-right: 5px;"></span> Tax Parcels</li> </ul> |
|--|--|
- 911 Address

- Streets
- County Boundaries
- World Imagery
- Low Resolution 15m Imagery

- High Resolution 60cm Imagery
- High Resolution 30cm Imagery
- Citations
- 30cm Resolution Metadata



Maxar, Microsoft, Sussex County Government, Sussex County Mapping and Addressing

Introduced: 1/30/24

Council District 1: Mr. Vincent  
Tax I.D. No. 532-20.00-107.01  
911 Address 38397 Old Stage Road, Delmar

ORDINANCE NO. \_\_\_\_

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN OUTDOOR VENUE FOR SEASONAL VENDORS AND SERVICES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 2.84 ACRES MORE OR LESS**

WHEREAS, on the 1<sup>st</sup> day of December 2022, a conditional use application, denominated Conditional Use No. 2413 was filed on behalf of Blue Hen Rental Company, 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. 2413 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. 2413 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 Little Creek Hundred, Sussex County, Delaware, and lying on the north side of Line Road (Rt. 54) and the east side of Old Stage Road (S.C.R. 68) at the intersection of Line Road (Rt. 54) and Old Stage Road (S.C.R. 68) and being more particularly described in the attached legal description prepared by The Smith Firm, LLC. said parcels containing 2.84 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: May 3, 2024

RE: County Council Report for C/U 2445 filed on behalf of Deihm's Trucking, Inc.

---

The Planning and Zoning Department received an application (C/U 2445 filed on behalf of Deihm's Trucking, Inc.) for truck parking, storage & maintenance, and an office, to be located at Tax Parcel 432-11.00-40.03. The property is located at 33124, 7496 & 7506 Old Hickory Road, Laurel. The parcel size is 5.06 acres +/-

The Planning & Zoning Commission held a Public Hearing on the application on February 21, 2024. At the meeting of March 20, 2024, the Planning & Zoning Commission recommended approval of the application for the 5 reasons stated and subject to the 13 recommended conditions as outlined within the motion (copied below).

The County Council held a Public Hearing on the application at its meeting of April 16, 2024. At the conclusion of the Public Hearing, action on the application was deferred for further consideration. Below is a link to the minutes of the April 16, 2024, County Council meeting.

[Link to the Minutes of the April 16, 2024, County Council Meeting](#)

Below are the minutes from the Planning & Zoning Commission meeting of February 21, 2024, and March 20, 2024.

[Minutes of the February 21, 2024, Planning & Zoning Commission Meeting](#)

### **C/U 2445 Deihm's Trucking, Inc.**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR TRUCK PARKING, STORAGE, & MAINTENANCE AND AN OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF**





**LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 5.06 ACRES, MORE OR LESS.** The property is lying on the west side of Old Hickory Road (S.C.R. 497), at the intersection of Old Hickory Road (S.C.R. 497) and White Pines Lane, approximately 250 ft. northwest of Sharptown Road (Rt. 24). 911 Address: 33124, 7496 & 7506 Old Hickory Road, Laurel. Tax Map Parcel: 432-11.00-40.03.

Mr. Whitehouse advised the Commission that submitted into the record were the Applicant’s Conceptual Site Plan, the Staff Analysis, and the DelDOT Service Level Evaluation Response. Mr. Whitehouse stated no comments were submitted for the Application.

The Commission found that Mr. Bryan Deihm spoke on behalf of his application; that also present was his wife, Ms. Amy Deihm. Mr. Deihm stated he is looking for a conditional use for his property as he runs a trash disposal company and needs to store his trucks here: that he has been in business since November 2022; that he has 88 employees and has several letters of support; that the business operates from approximately 3:00 AM until 11:00/12:00 PM for the trash trucks; that the larger dumpster trucks operate from 7:00 AM until about 5:00/6:00 PM; that there is nothing stored at the property as all dumpsters are usually brought in and back out to the streets right away; that no neighbors have complained about the business to him in regards to the noise or operations of the business; that his goal is to plant Evergreens or Green Giants this year along the property line; that when they purchased the property the realtor told them that there was a Conditional Use on the property and that they would need to reapply because once the conditions change (i.e.; sale or business change) it is required that a new conditional use application is applied for if they want to continue operating outside of the means of the current zone.

Mrs. Deihm stated that when they bought the property their real estate agent told them that the whole property was zoned commercial and it was not until they started calling the County did they found out that it was not zoned commercial, and that was how the whole process began; that the property consists of three addresses, one which is 33124 Old Hickory Lane is a rental property, and the other two in the back are where they are operating the Diehm’s Disposal Company.

Mr. Whitehouse stated that there was a previous conditional use (C/U 1486) on this property which was approved as Ordinance No. 1603 to allow the storage of race car parts and frames from 2003.

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

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

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

In relation to C/U 2445 Deihm’s Trucking, Inc. Motion by Mr. Mears to defer action for further consideration, seconded by Ms. Wingate and carried unanimously. Motion carried 5-0.

Minutes of the March 20, 2024, Planning & Zoning Commission Meeting

The Commission discussed this application which has been deferred since February 21, 2024.

Mr. Robertson read Mr. Mears' prepared motion per Mr. Mears' request.

Mr. Mears moved that the Commission recommend approval of C/U 2445 Deihm’s Trucking, Inc. for a truck parking, storage, and maintenance facility with an office based upon the record made at the public hearing and for the following reasons:

1. The proposed facility is small, and with the conditions and stipulations placed upon it, it will not have an adverse impact on the neighboring area. It is also small enough that it will not negatively impact traffic or nearby roadways.
2. The property previously had a small business conditional use approved for it. This use is consistent with the prior small-business use that has existed on the site.
3. The location is mostly surrounded by farms and other large tracts of land.
4. The Applicants live on the site and the Applicants intend to keep the residential appearance of the property.
5. No parties appeared in opposition to this application.
6. This recommendation for approval is subject to the following conditions and stipulations:
  - A. One unlighted sign shall be permitted. It shall not be larger than 32 square feet on each side.
  - B. Security lighting shall be shielded and downward screened and shall be directed away from neighboring properties and roadways.
  - C. Any dumpsters or roll-offs shall be screened from the view of neighbors and roadways. The dumpster and roll-off locations shall be shown on the Final Site Plan.
  - D. No junked, unregistered, or permanently inoperable vehicles, trucks or trailers shall be stored on the site.
  - E. There shall be no more than 20 trucks or trailers on the site at any time.
  - F. There shall not be any parking or storage in the front yard setback.
  - G. The parking and repair areas shall be shown on the Final Site Plan and clearly marked on the site itself. Vehicles, trucks, and trailers shall only be parked and worked on within these designated areas. All maintenance activities shall occur inside of a building on the site.
  - H. All oils and other fluids shall be properly stored indoors in appropriate containers. The applicant shall also comply with all state and federal requirements for the disposal of these fluids.
  - I. The site shall be subject to all DelDOT entrance and roadway requirements.
  - J. There shall be a vegetated buffer planted and maintained to screen the use from neighboring properties and roadways and to suppress noise. The location and details of this vegetated buffer shall be shown on the Final Site Plan.
  - K. This conditional use is on a property that is more than 4 acres in size, and not all of it is intended for use as part of the conditional use business. Therefore, the Final Site Plan shall clearly show the area set aside under the Conditional Use and the remaining portion of the property that is not part of the Conditional Use.
  - L. Any violation of these conditions may be grounds for termination of this conditional use.
  - M. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Mr. Mears, seconded by Ms. Wingate and carried unanimously to recommend approval of C/U 2445 Deihm’s Trucking, Inc. for the reasons and the conditions stated in the motion. Motion carried 5-0.

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

**PLANNING & ZONING COMMISSION**

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



**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: February 21, 2024

Application: CU 2445 Deihm's Trucking, Inc.

Applicant: Deihm's Trucking, Inc  
31479 Dogwood Lane  
Laurel, DE 19956

Owner: Deihm's Trucking, Inc  
31479 Dogwood Lane  
Laurel, DE 19956

Site Location: Located on the west side of Old Hickory Road (S.C.R. 497),  
approximately 325-feet north of the intersection of Old Hickory Road  
and Sharptown Road (Rt. 24).

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

Proposed Use: Truck Parking, Storage, and Office for Waste Company

Comprehensive Land  
Use Plan Reference: Low Density

Councilmanic  
District: Mr. Rieley

School District: Laurel School District

Fire District: Laurel Fire Co.

Sewer: On-site septic

Water: On-site well

Site Area: 5.06-acre(s) +/-

Tax Map ID.: 432-11.00-40.03



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: Ann Lepore, Planner I  
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant  
Date: January 23, 2024  
RE: Staff Analysis for CU 2445 Deihm's Trucking, Inc.

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The purpose of this memo is to provide background and analysis for the Planning and Zoning Commission to consider as a part of Application CU 2445 (Deihm's Trucking, Inc.) to be reviewed February 21, 2024, 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: 432-11.00-40.03 to allow for a waste company parking, storage, and maintenance of equipment and trucks, and for an office. The property is lying on the west side of Old Hickory Road (S.C.R. 497), approximately 325-feet north of the intersection of Old Hickory Road and Sharptown Road (Rt. 24). The applicant is applying for 5.06-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." The adjoining parcels to the north, south, west, and east across Old Hickory Road also have a Future Land Use Map designation of "Low Density."

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).

### Zoning Information

The subject property is zoned Agricultural Residential (AR-1) District. All adjacent properties to the north, south, west, and east across Old Hickory Road are also zoned Agricultural Residential (AR-1) District.

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



Existing Conditional Uses within the Vicinity of the Subject Property

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

Conditional Use No.	Applicant	Proposed Use	CC Decision Date	Ordinance No.
1869	John & Nicole Scott	Multi-Family	3/15/2011	N/A (Denied)



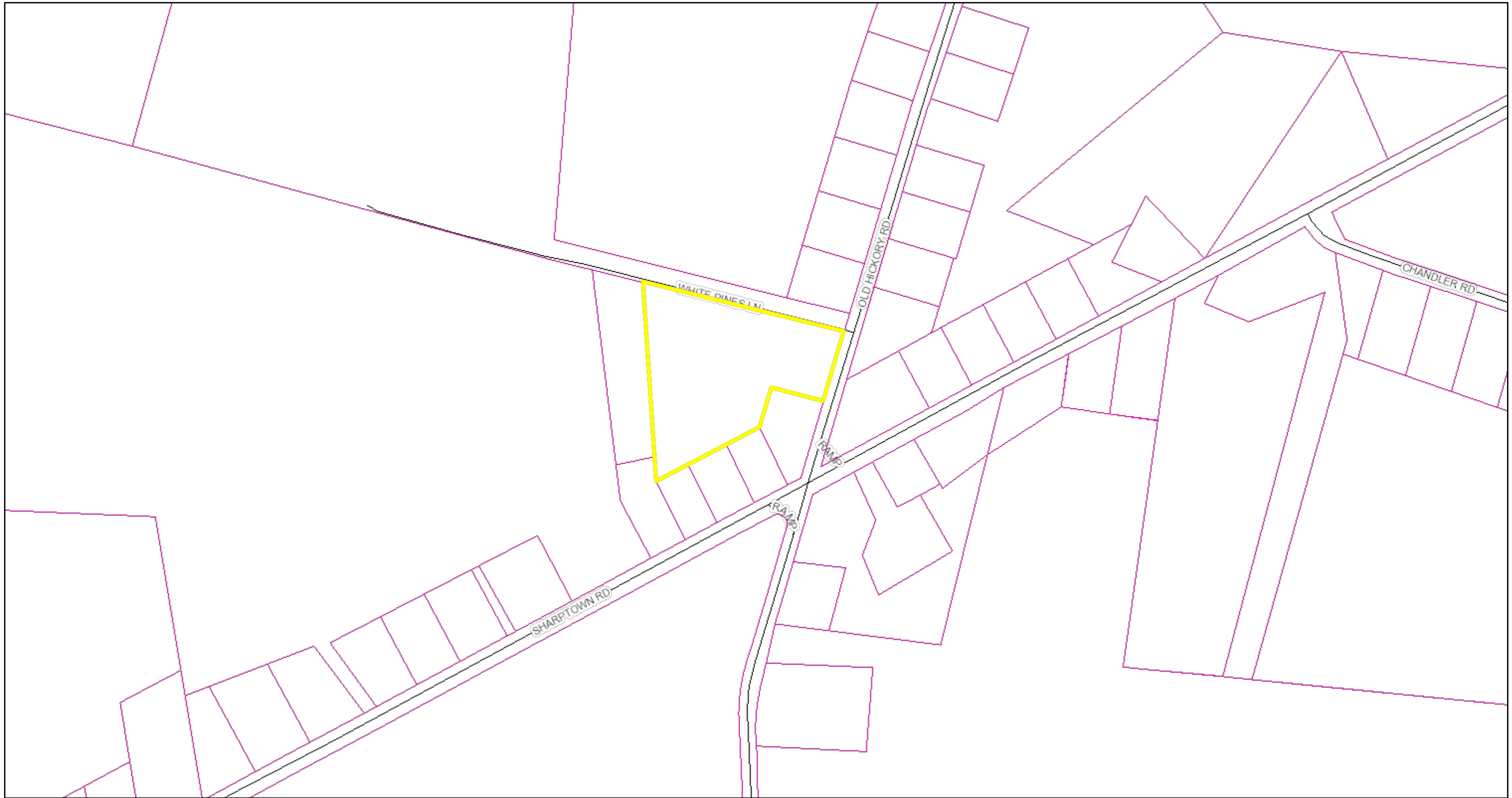
Site Considerations

- **Density:** N/A
- **Open Space Provisions:** N/A

- **Agricultural Areas:** This parcel is located near parcels that are actively used for agricultural purposes but does not adjoin the agricultural lands directly.
- **Interconnectivity:** N/A
- **Transportation Improvement District (TID):** N/A
- **Forested Areas:** N/A
- **Wetlands Buffers/Waterways:** N/A
- **Other Site Considerations (ie: Flood Zones, Tax Ditches, Groundwater Recharge Potential, etc.):** Parcel is located within the "X" Flood Zone. The parcel is located within an area of fair groundwater recharge.

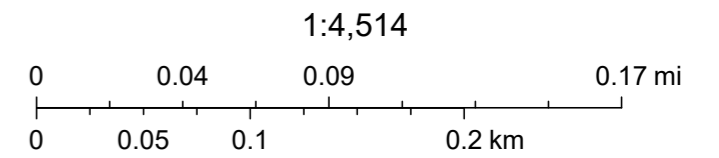
Based on the analysis provided, the Conditional Use to allow for a waste company with an office and storage for equipment and trucks in this location could be considered as being consistent with the surrounding land use, zoning, and uses, subject to considerations of scale and impact.

# Sussex County



November 6, 2023

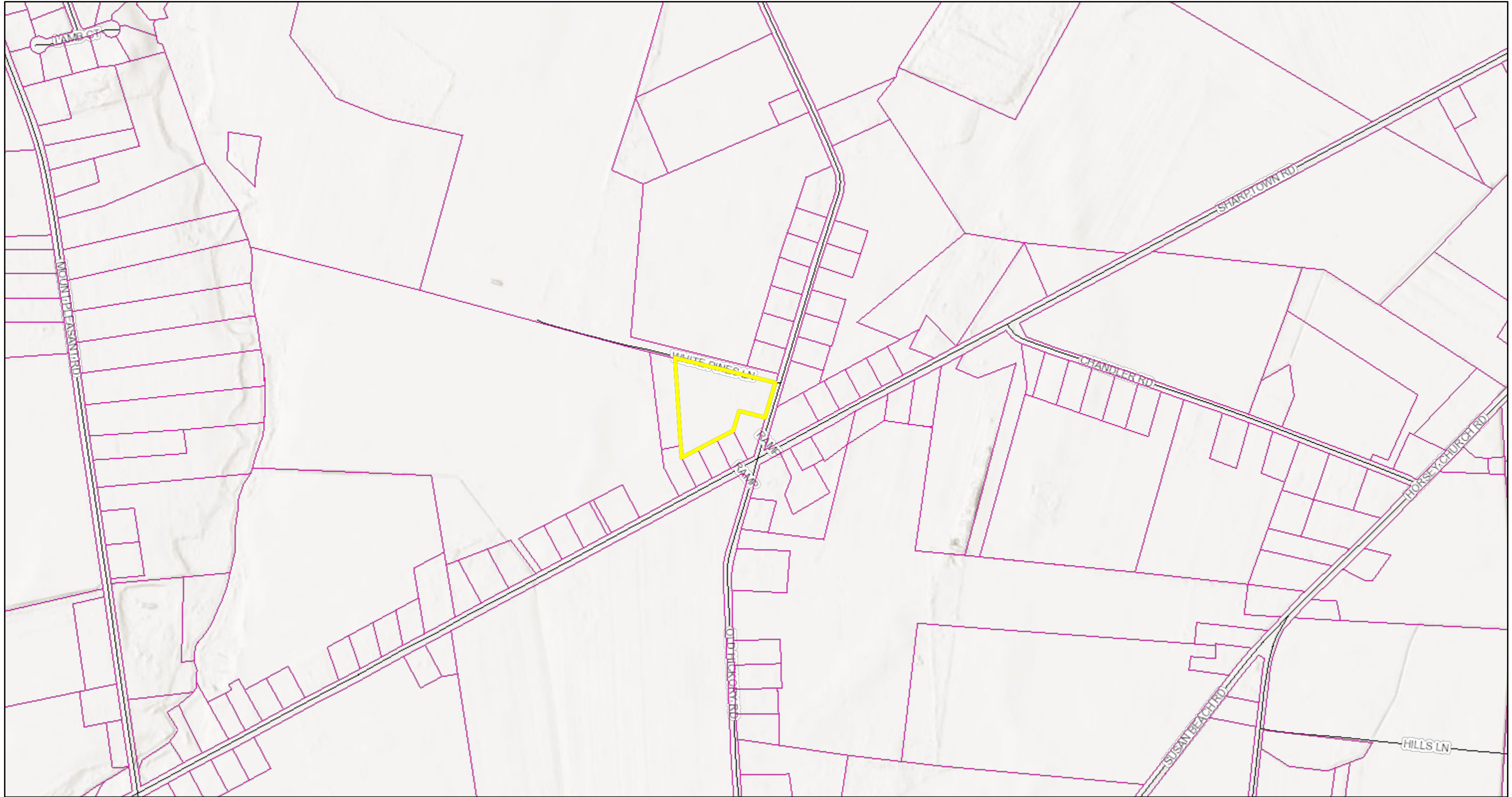
- |              |             |                   |               |
|--------------|-------------|-------------------|---------------|
| polygonLayer | Tax Parcels | County Boundaries | Green: Band_2 |
| Override 1   | Streets     | layer47           | Blue: Band_3  |
| Override 2   |             | Red: Band_1       |               |



Sussex County Government



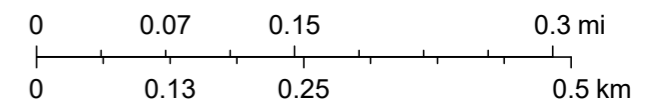
# Sussex County



November 6, 2023

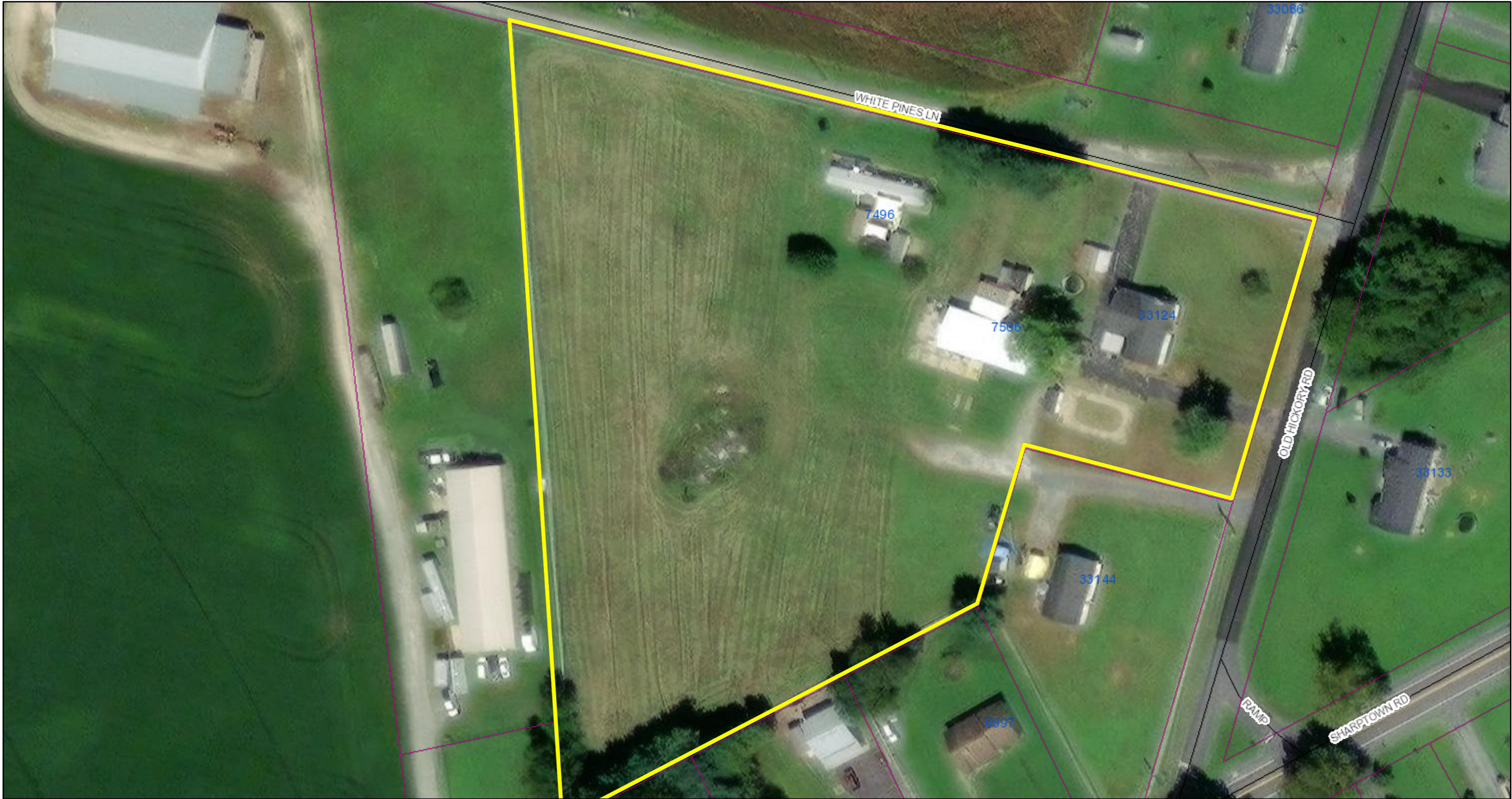
- |              |                   |               |                 |
|--------------|-------------------|---------------|-----------------|
| polygonLayer | Tax Parcels       | layer46       | Blue: Band_3    |
| Override 1   | Streets           | Red: Band_1   | World Hillshade |
| Override 2   | County Boundaries | Green: Band_2 |                 |

1:9,028



Esri, NASA, NGA, USGS, FEMA, Sussex County Government

# Sussex County

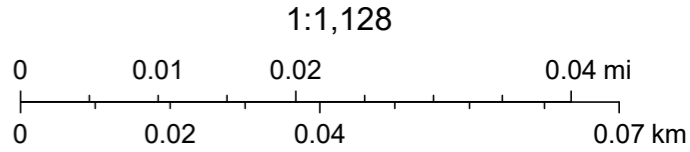


November 6, 2023

- polygonLayer
- Override 1
- Override 2
- Tax Parcels
- 911 Address

- Streets
- County Boundaries
- World Imagery
- Low Resolution 15m Imagery

- High Resolution 60cm Imagery
- High Resolution 30cm Imagery
- Citations
- 30cm Resolution Metadata



Maxar, Microsoft, Sussex County Government

Introduced: 1/30/24

Council District 1: Mr. Vincent  
Tax I.D. No.: 432-11.00-40.03  
911 Address: 33124 Old Hickory Road, Laurel

ORDINANCE NO. \_\_\_\_

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR TRUCK PARKING, STORAGE, & MAINTENANCE AND AN OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 5.06 ACRES, MORE OR LESS**

WHEREAS, on the 14<sup>th</sup> day of April 2023, a Conditional Use Application, denominated Conditional Use No. 2445 was filed on behalf of Deihm's Trucking Inc.; 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. 2445 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. 2445 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 west side of Old Hickory Road (S.C.R. 497) at the intersection of Old Hickory Road (S.C.R. 497) and White Pines Lane approximately 250 ft. northeast of Sharptown Road (Rt. 24) and being more particularly described in the attached legal description prepared by Haller & Hudson, said parcel containing 5.06 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.

**From:** notifications=d3forms.com@mg.d3forms.com on behalf of Sussex County DE <notifications@d3forms.com>  
**Sent:** Monday, April 22, 2024 9:39 AM  
**To:** Casey Hall  
**Subject:** Form submission from: Council Grant Form

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**Council Grant Form**

**Legal Name of Agency/Organization** Lord Baltimore Elementary

**Project Name** Blue Ribbon Sign and Tee Shirts

**Federal Tax ID** 51-6000279

**Non-Profit** Yes

**Does your organization or its parent organization have a religious affiliation? (If yes, fill out Section 3B.)** No

**Organization's Mission** We are trying to raise enough money to purchase tee shirts for every student plus put a new sign in front of the school recognizing us as a National Blue Ribbon School. We were honored with this award this year and are very proud of our accomplishments for this. The cost for both is \$3200.00. That you for your consideration on this. Anything you could donate would greatly be appreciated.

**Address** 120 Atlantic Ave.

**City** Ocean View

<b>State</b>	Delaware
<b>Zip Code</b>	19970
<b>Contact Person</b>	Ronna M. Cobb
<b>Contact Phone Number</b>	3024625777 302-537-2700
<b>Contact Email Address</b>	<a href="mailto:ronna.cobb@irsd.k12.de.us">ronna.cobb@irsd.k12.de.us</a>
<b>Total Funding Request</b>	total amount is \$3200.00 but whatever you could give would be a help.
<b>Has your organization received other grant funds from Sussex County Government in the last year?</b>	No
<b>If YES, how much was received in the last 12 months?</b>	N/A
<b>Are you seeking other sources of funding other than Sussex County Council?</b>	Yes
<b>If YES, approximately what percentage of the project's funding does the Council grant represent?</b>	40
<b>Program Category (choose all that apply)</b>	Educational

<b>Primary Beneficiary Category</b>	Other
<b>Beneficiary Category Other</b>	School
<b>Approximately the total number of Sussex County Beneficiaries served, or expected to be served, annually by this program</b>	600
<b>Scope</b>	We are seeking funding to purchase 600 plus tee shirts for every student, plus a new sign in front of our school to recognize us as a National Blue Ribbon School. We were honored with this award this year. We are very proud of our accomplishment and would like to display it.
<b>Please enter the current support your organization receives for this project (not entire organization revenue if not applicable to request)</b>	0.00
<b>Description</b>	sign
<b>Amount</b>	2,450.00
<b>Description</b>	tee shirts
<b>Amount</b>	6,505.00
<b>TOTAL EXPENDITURES</b>	8,955.00

**TOTAL DEFICIT FOR  
PROJECT OR  
ORGANIZATION** -8,955.00

**Name of Organization** Lord Baltimore Elementary

**Applicant/Authorized  
Official** Ronna Cobb

**Date** 04/22/2024

**Affidavit  
Acknowledgement** Yes

**From:** notifications=d3forms.com@mg.d3forms.com on behalf of Sussex County DE  
 <notifications@d3forms.com>  
**Sent:** Monday, April 8, 2024 10:33 AM  
**To:** Casey Hall  
**Subject:** Form submission from: Council Grant Form

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<b>Council Grant Form</b>	
<b>Legal Name of Agency/Organization</b>	<del>Georgetown-Millsboro Rotary Club</del> Delaware Community Foundation. ✓
<b>Project Name</b>	Flags for Heroes 2024
<b>Federal Tax ID</b>	22-2804785 ✓
<b>Non-Profit</b>	Yes
<b>Does your organization or its parent organization have a religious affiliation? (If yes, fill out Section 3B.)</b>	No
<b>Organization's Mission</b>	The Georgetown-Millsboro Rotary Club provides a variety of projects, programs and services to benefit the people of the Georgetown and Millsboro areas.
<b>Address</b>	Post Office Box 164
<b>City</b>	Georgetown
<b>State</b>	DE
<b>Zip Code</b>	19947



<b>Contact Person</b>	Marlene Elliott Brown
<b>Contact Title</b>	Member
<b>Contact Phone Number</b>	13022701078
<b>Contact Email Address</b>	<a href="mailto:marleneelliottbrown07@gmail.com">marleneelliottbrown07@gmail.com</a>
<b>Total Funding Request</b>	\$1,000
<b>Has your organization received other grant funds from Sussex County Government in the last year?</b>	Yes
<b>If YES, how much was received in the last 12 months?</b>	1000
<b>Are you seeking other sources of funding other than Sussex County Council?</b>	Yes
<b>If YES, approximately what percentage of the project's funding does the Council grant represent?</b>	3
<b>Program Category (choose all that apply)</b>	Other
<b>Program Category Other</b>	Patriotic

<b>Primary Beneficiary Category</b>	Other
<b>Beneficiary Category Other</b>	Veterans/Community Needs
<b>Approximately the total number of Sussex County Beneficiaries served, or expected to be served, annually by this program</b>	500
<b>Scope</b>	<p data-bbox="602 751 1377 1098">For the 11<sup>th</sup> year, the Georgetown-Millsboro Rotary Club will display over 500 American flags in honor of veterans, military members, first responders and frontline workers. The flags will be displayed in 6 locations in Georgetown and Millsboro. The complete display is featured for Memorial Day week and a smaller display for Independence Day and Veterans Day. We also have added Delaware flags to the display and fly those for Delaware Day also.</p> <p data-bbox="602 1150 1377 1602">Over the last 11 years, the Rotary Club has raised over \$175,000 in honor of these heroes who give selflessly to our community, our county and our country. Last year's proceeds allowed the Rotary Club to return over \$20,000 to our community to support the work of numerous community organizations. Beneficiaries of the 2023 program included First State Community Action, United Church for meals at Shepherds Place, CHEER, the Center for Inland Bays, Christian Storehouse, Philadelphia Arms, the Georgetown Public Library, La Esperanza, Love, Inc., Delmarva Community Wellnet, and Polio Plus.</p> <p data-bbox="602 1654 1377 1896">The donations for this project are handled by the Delaware Community Foundation. Therefore, checks are payable to the Foundation and noted for the Georgetown-Millsboro Rotary Club Flags for Heroes Project. The Foundation's tax ID number is listed on this application. Donors and sponsors are recognized on signs at the flag displays, on</p>

social media, in print and at a Sponsors luncheon that is held at a later date.

It is our privilege to pause and honor those who have done so much for all of us, both near and far. The Rotary Club wants to express our sincere appreciation for the County's support of this project that receives such a wonderful response from the community as flags are unfurled across Georgetown and Millsboro. The funds also allow the Club to support several worthy organizations each year in the work they are doing to serve our communities. We would respectfully ask for your continued support of this project.

**Please enter the current support your organization receives for this project (not entire organization revenue if not applicable to request)** 28,500.00

**Description** Newspaper Insert and Signs

**Amount** 2,500.00

**Description** Community Grants and Contributions

**Amount** 25,500.00

**Description** Apreciation Event

**Amount** 800.00

**Description** Flag Replacement

**Amount** 500.00

**Description** Insurance

**Amount** 600.00

**TOTAL EXPENDITURES** 29,900.00

**TOTAL DEFICIT FOR  
PROJECT OR  
ORGANIZATION** -1,400.00

**Name of Organization** Georgetown-Millsboro Rotary Club

**Applicant/Authorized  
Official** Marlene Elliott Brown

**Date** 04/08/2024

**Affidavit  
Acknowledgement** Yes

yes 4/25  
Schaeffer

**Casey Hall**

**From:** notifications=d3forms.com@mg.d3forms.com on behalf of Sussex County DE <notifications@d3forms.com>  
**Sent:** Thursday, April 25, 2024 2:20 PM  
**To:** Casey Hall  
**Subject:** Form submission from: Council Grant Form

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**Council Grant Form**

<b>Legal Name of Agency/Organization</b>	History Book Festival at Lewes Inc. ✓
<b>Project Name</b>	History Book Festival Educational Outreach
<b>Federal Tax ID</b>	931988427 ✓
<b>Non-Profit</b>	Yes
<b>Does your organization or its parent organization have a religious affiliation? (If yes, fill out Section 3B.)</b>	No
<b>Organization's Mission</b>	We believe in the power of history, literature, and civil dialog to change the future for the better.
<b>Address</b>	P.O. Box 512
<b>Address 2</b>	205 Second Street
<b>City</b>	Lewes
<b>State</b>	DE
<b>Zip Code</b>	19958

<b>Contact Person</b>	Jen Mason
<b>Contact Title</b>	Board Chair
<b>Contact Phone Number</b>	302-228-7488
<b>Contact Email Address</b>	<a href="mailto:board@historybookfestival.org">board@historybookfestival.org</a>
<b>Total Funding Request</b>	\$5,000
<b>Has your organization received other grant funds from Sussex County Government in the last year?</b>	No
<b>If YES, how much was received in the last 12 months?</b>	N/A
<b>Are you seeking other sources of funding other than Sussex County Council?</b>	Yes
<b>If YES, approximately what percentage of the project's funding does the Council grant represent?</b>	20
<b>Program Category (choose all that apply)</b>	Cultural Educational
<b>Primary Beneficiary Category</b>	Youth

**Approximately the total number of Sussex County Beneficiaries served, or expected to be served, annually by this program**

2500

**Scope**

The nation's only book festival dedicated to history happens here in Sussex County each September: the History Book Festival (HBF). Notable authors/historians come to southern Delaware to share their stories with the public. HBF authors visit schools across Sussex County to share their stories on the Friday & Monday bookending the festival. We have partnered with schools in the Woodbridge, Indian River,\* Sussex Tech, and Cape districts, and we are continuously working to expand our reach.

Programs are shaped to meet the schools' needs and have included readings, writing workshops, poetry workshops, drama workshops, student media interviews, open discussions, and presentations - all encourage Q&A between students/authors. Audiences vary from a single classroom to an entire grade or entire school assembly, with HBF providing books for classrooms/libraries and/or students as the schools prefer.

The expenses related to HBF educational outreach are the books and the author logistics (housing/transportation). We hope to add a staff position to manage this growing program next year. HBF authors are not paid honoraria for these events.

HBF spends so much energy, time, and resources bringing these world-class authors to southern Delaware, and we want to maximize the benefit of that effort for our entire community. We have secured funding for the additional author logistics and a portion of the books needed for this program. We would be grateful if the Sussex County Council supported an additional \$5,000 for more books for students.

The benefits of kids reading history and meeting authors are manifold. Here are a few:

- "If history were taught in the form of stories, it would never be forgotten," said Rudyard Kipling. This quote is at the heart of HBF. History is too-often taught as a dry set of facts to remember, often with little narrative/context to hold it together and in people's minds. We believe that if people know history and are able to talk about it together – especially the trickier bits – then our common civic and human ties are strengthened.

- One of administrators at Phillis Wheatley elementary let us know much they appreciated having an African American author in to talk with their students, who are predominantly African American. "It is hard to get people to come all the way down here," she said. "And to have an author who is so relatable for our students is huge for us. Having the books from HBF to revisit the story and its lessons with our students was a big bonus." HBF is committed to bringing our authors into schools throughout Sussex County, and to supplying books for classrooms/students.

- The reading specialist at North Georgetown Elementary reported that their second grade classes were thrilled to have a story/books about the building of the Brooklyn Bridge as they entered into their multi-disciplinary unit to build their own bridges. Second graders lined up for over 30 minutes to ask science, history, art, and writing questions of the author/illustrator after she told them about the background of the book they'd just read in class.

- Ada Ferrer, winner of the Pulitzer Prize in History for Cuba: An American History, chatted with AP History students at Cape Henlopen High School about her book and her work as a historian. Each student received a copy of the book and had an opportunity to chat with Ada as they got it signed. What stood out from that event was how Ada drew the kids out, getting them to share the many things they'd been learning about American history and helping them weave the strands into a comprehensible and relatable picture.

- HBF author Steve Inskeep spent almost three hours at Woodbridge High School, speaking with over 70 AP history and journalism students about his new book on Lincoln and what it teaches us about bridging gaps in divided times. HBF provided each student with a copy of Steve's book, and



he chatted with each student as he signed them all. In addition, Steve did an amazing podcast with a group of 9th grade students: [podcasters.spotify.com/pod/show/harry-brake/episodes/Woodbridge-Highs-Podcast-with-NPR-Journalist--author--and-2023-History-Book-Festival-Keynote-Speaker--Steve-Inskeep-e2a9t0j/a-aaets4g](https://podcasters.spotify.com/pod/show/harry-brake/episodes/Woodbridge-Highs-Podcast-with-NPR-Journalist--author--and-2023-History-Book-Festival-Keynote-Speaker--Steve-Inskeep-e2a9t0j/a-aaets4g).

- We could go on with more stories from the past eight years, but these represent a nice cross-section.

- HBF's tagline is "Find Your Place in History." We believe that every kid's life and personal history is just as important as the next - we want them to know that history belongs to them. We also want to foster in them a sense of curiosity and confidence about reading history, so that they can be better prepared to face and form the future.

**Please enter the current support your organization receives for this project (not entire organization revenue if not applicable to request)** 20,000.00

**Description** Books

**Amount** 20,000.00

**Description** Author housing

**Amount** 5,000.00

**Amount** 0.00

**TOTAL EXPENDITURES** 25,000.00

**TOTAL DEFICIT FOR PROJECT OR ORGANIZATION** -5,000.00

**Name of Organization** History Book Festival

**Applicant/Authorized  
Official** Jen Mason

**Date** 04/25/2024

**Affidavit  
Acknowledgement** Yes

To Be Introduced: 5/7/24

Council District 5: Mr. Rieley  
Tax I.D. No.: 234-6.00-66.00  
911 Address: N/A

ORDINANCE NO. \_\_\_\_

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A LANDSCAPING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 8.51 ACRES, MORE OR LESS**

WHEREAS, on the 13<sup>th</sup> day of March 2023, a conditional use application, denominated Conditional Use No. 2427 was filed on behalf of Joshua L. Wharton; 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. 2427 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. 2427 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 at the end of Alma's Way approximately 0.25 mile east of Wil King Road (S.C.R. 288) and being more particularly described in the attached legal description prepared by Smith O'Donnell Feinberg & Berl, LLP, said parcel containing 8.51 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: 5/7/24

Council District 4: Mr. Hudson  
Tax I.D. No.: 533-17.00-11.10  
911 Address: N/A

ORDINANCE NO. \_\_\_\_

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR BOAT REPAIR & STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 5.54 ACRES, MORE OR LESS**

WHEREAS, on the 17<sup>th</sup> day of July 2023, a Conditional Use Application, denominated Conditional Use No. 2466 was filed on behalf of Albert Fanelli Living Trust 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. 2466 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. 2466 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 east side of Bethany Road (Rt. 17) approximately 580 ft. southwest of Polly Branch Road (S.C.R. 386) and being more particularly described in the attached legal description prepared by Tunnell & Raysor, P.A., said parcel containing 5.54 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: 5/7/24

Council District 2: Mrs. Green  
Tax I.D. No.: 530-5.00-3.02  
911 Address: 11217 Sussex Highway, Greenwood

ORDINANCE NO. \_\_\_\_

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A TIRE AND BRAKE SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 10.96 ACRES, MORE OR LESS**

WHEREAS, on the 31<sup>st</sup> day of May 2023, a Conditional Use Application, denominated Conditional Use No. 2455 was filed on behalf of James L. Sturgis; 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. 2455 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. 2455 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 east side of Sussex Highway (Rt. 13), approximately 0.36 mile north of Woodyard Road (S.C.R. 612) and being more particularly described in the attached legal description prepared by Tunnell & Raysor, P.A., said parcel containing 10.96 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.**

To Be Introduced: 5/7/24

Council District 5: Mr. Rieley  
Tax I.D. No.: 135-9.00-280.00  
911 Address: 18651 Downs Road, Georgetown

ORDINANCE NO. \_\_\_\_

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AUTO TIRE CENTER TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 1.0 ACRE, MORE OR LESS**

WHEREAS, on the 24<sup>th</sup> day of August 2023, a conditional use application, denominated Conditional Use No. 2480 was filed on behalf of DJ Tire Center, 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. 2480 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, Subsections 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2480 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 the east side of Downs Road (S.C.R. 243), approximately 0.45 mile northeast of Wilson Road (S.C.R. 244) and being more particularly described in the attached legal description prepared by Aleman Echevarria Attorneys at Law, said parcel containing 1.0 acre, 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: 5/7/24

Council District 2: Mrs. Green  
Tax I.D. No.: 235-25.00-45.02  
911 Address: 18112 Pettyjohn Road, Milton, DE 19968

ORDINANCE NO. \_\_\_\_

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL FOR LAWN MOWER, YARD, GARDEN EQUIPMENT ENGINE REPAIR SERVICES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 3.20 ACRES, MORE OR LESS**

WHEREAS, on the 22<sup>nd</sup> day of November 2023, a Conditional Use application, denominated Conditional Use No. 2496 was filed on behalf of Wade R. Hudson, Sr. & Jacqueline L. Hudson, TTEES; 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. 2496 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 V, Subsections 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2496 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 west side of Pettyjohn Road (S.C.R. 255), approximately 0.66 mile north of Prettyman Road (S.C.R. 254), and being more particularly described in the attached legal description prepared by David W. Baker, Esq., P.A., said parcel containing 3.20 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: 5/7/24

Council District 3: Mr. Schaeffer  
Tax I.D. No.: 334-12.00-181.03  
911 Address: 19747 Old Landing Road, Rehoboth Beach

ORDINANCE NO. \_\_\_\_

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A BEAUTY SALON TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.56 ACRE, MORE OR LESS**

WHEREAS, on the 27<sup>th</sup> day of March 2023, a conditional use application, denominated Conditional Use No. 2432 was filed on behalf of Simon Fares & Lorne Crawford.; 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. 2432 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. 2432 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 Old Landing Road (S.C.R. 274) approximately 0.28 mile south of of Warrington Road (S.C.R. 275) and being more particularly described in the attached legal description prepared by Dunlap, Holland, Eberly & Rich, P.A., said parcel containing 0.56 acre, 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: 5/7/24

Council District 5: Mr. Rieley  
Tax I.D. No.: 234-11.00-75.01 (p/o)  
911 Address: 30764 Conleys Chapel Road, Lewes

ORDINANCE NO. \_\_\_\_

**AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN MR MEDIUM-DENSITY RESIDENTIAL DISTRICT TO AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 2.26 ACRES, MORE OR LESS**

WHEREAS, on the 14<sup>th</sup> day of February 2024, a zoning application, denominated Change of Zone No. 2022 was filed on behalf of Holdren, 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 Change of Zone No. 2022 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 [MR Medium-Density Residential] and adding in lieu thereof the designation AR-1 Agricultural Residential 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 Conleys Chapel Road (S.C.R. 280B) and the east side of Tuckey Grove, approximately 0.2 mile east of Beaver Dam Road (Rt. 23), and being more particularly described in the attached legal description prepared by Ward & Taylor, LLC, said parcels containing 2.26 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.