

Sussex County Council Public/Media Packet

**MEETING:
February 21, 2023**

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**Sussex County Council
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Georgetown, DE 19947
(302) 855-7743**

COUNTY COUNCIL

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



Sussex County

DELAWARE
sussexcountyde.gov
(302) 855-7743

SUSSEX COUNTY COUNCIL

A G E N D A

FEBRUARY 21, 2023

10:00 A.M.

Call to Order

Approval of Agenda

Approval of Minutes – February 7, 2023

Reading of Correspondence

Public Comments

Todd Lawson, County Administrator

1. Consideration of the Bay Beach Association Charter
2. Consideration of a MOU with Office of Management and Budget related to the State Family Courthouse Parking Garage MOU
3. Administrator's Report

Karen Brewington, Human Resources Director

1. First Quarter Employee Recognition Awards

Hans Medlarz, County Engineer

1. FY 2022 General Labor & Equipment Contract, Project 22-01
 - A. George & Lynch – Bid Package A, FY 23 Change Order No. 1



2. Delivery of Seed and Chemical, Project M23-06

A. FY 23 Contract Award

Old Business

Change of Zone No. 1969 filed on behalf of Ron Sutton

“AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR MEDIUM RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 14.45 ACRES, MORE OR LESS” (property lying on the southeast side of Central Avenue [Rt. 84] approximately 0.17-mile northeast of the intersection of Peppers Corner Road [S.C.R. 365] and Central Avenue [Rt. 84]) (911 Address: 34667 Central Avenue, Frankford) (Tax Parcel: 134-19.00-24.00)

Conditional Use No. 2339 filed on behalf of Ron Sutton

“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM RESIDENTIAL DISTRICT FOR MULTI-FAMILY (60 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 14.45 ACRES, MORE OR LESS” (property lying on the southeast side of Central Avenue [Rt. 84], approximately 0.17-mile northeast of the intersection of Peppers Corner Road [S.C.R. 365] and Central Avenue [Rt. 84]) (911 Address: 34667 Central Avenue, Frankford) (Tax Parcel: 134-19.00-24.00)

Grant Requests

- 1. Paul Kares Inc. for their Concert for Kids program**
- 2. Ocean View Historical Society for reconstruction of their Tunnell West Preservation project**
- 3. Ocean Waves Quilt Guild, Inc. for The Fabric of Life Quilt Show**
- 4. Developing Artist Collaboration for a HVAC emergency**
- 5. Tether Foundation for their Camp Abilities Delaware program**

Introduction of Proposed Zoning Ordinances

Council Members’ Comments

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

Possible action on Executive Session items

1:30 p.m. Public Hearings

Conditional Use No. 2342 filed on behalf of Turning Point Energy - TPE DE SU07, LLC

“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 27.5 ACRES, MORE OR LESS” (property lying on the west side of Elks Road [Rt. 46] approximately 0.50 mile west of the intersection of Elks Road [Rt. 46] and Sussex Highway [Rt. 13]) (911 Address: N/A) (Tax Parcel: 331-1.00-15.01 [p/o])

Conditional Use No. 2343 filed on behalf of Turning Point Energy – TPE DE SU163, LLC

“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 25.00 ACRES, MORE OR LESS” (property lying on the west side of Gravel Hill Road [S.C.R. 248] approximately 0.37 mile south of the intersection of Gravel Hill Road [S.C.R. 248] and Lewes Georgetown Highway [Rt. 9]) (911 Address: N/A) (Tax Parcel: 135-11.00-48.00 [p/o])

Conditional Use No. 2344 filed on behalf of Turning Point Energy – TPE DE SU113, LLC

“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A 35-ACRE SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 35.58 ACRES, MORE OR LESS” (property lying on both the east and west side of East Trap Pond Road [S.C.R. 62], approximately 0.4 mile north of Substation Road [S.C.R. 518], with solar panels to be located on the east side of East Trap Pond Road [S.C.R. 62]) (911 Address: N/A) (Tax Parcel: 135-22.00-23.00 [p/o])

Adjourn

-MEETING DETAILS-

In accordance with 29 Del.C. §10004(e)(2), this Agenda was posted on February 14, 2023 at 4:15 p.m. and at least seven (7) days in advance of the meeting.

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

Agenda items may be considered out of sequence.

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

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

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

To join the meeting via telephone, please dial:

Conference Number: 1-302-394-5036
Conference Code: 570176

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

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

##

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, FEBRUARY 7, 2023

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, February 7, 2023, at 10:00 a.m., in Council Chambers, with the following present:

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

Call to Order

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

Mr. Vincent called the meeting to order.

**M 063 23
Approve
Agenda**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley, 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 January 31, 2023, were approved by consensus.

**Corre-
spondence**

There was no correspondence.

**Public
Comments**

Public comments were heard, and the following people spoke:

Ms. Jill Hicks spoke about the need to amend the Cluster Subdivision Code.

Mr. Jeff Simmons spoke about the Sussex County Zoning Code and the Cluster Development Ordinance.

**Board of
Assessment
Review App.**

Mr. Lawson reported that a reappointment of Mrs. Julie Rigby is needed to the Board of Assessment Review. This board sits in the review of assessment calculations that are done annually.

M 064 23 **A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson, that be it moved that the Sussex County Council reappoints Mrs. Julie Rigby to the Board of of Sussex County Board of Assessment Review effectively immediately for a term of five years or until February 2030.**

Assessment Review Appointment **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. Project Receiving Substantial Completion

Per the attached Engineering Department Fact Sheet, Chase Oaks – Phase 2 (Construction Record) received Substantial Completion on February 2nd.

2. Council Meeting Schedule

A reminder that Council will not meet on Tuesday, February 14th. The next regularly scheduled Council meeting will be held on Tuesday, February 21st, at 10:00 a.m.

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

Permission to Prepare & Post Notices/Newdale Acres Extension Into SCUSSD **John Ashman, Director of Utility Planning and Design Review presented a request to prepare and post notices for Newdale Acres Extension Annexation into the Sussex County Unified Sanitary Sewer District. The Engineering Department received a request from the owners/developers of parcel 230-31.00-31.00 along Route 113 and adjacent to their existing project of Newdale Acres. The parcel was annexed into the Town of Ellendale; Sussex County provides the sanitary sewer for the Town. The parcel is located in the Tier 2 Area for sewer service. The project will be responsible for System Connection Charges of \$6,600 per EDU based on current rates.**

M 065 23 **A Motion made by Mrs. Green, seconded by Mr. Schaeffer, be it moved by the Sussex County Council that the Sussex County Engineering Department Prepare & Post Notices/ Newdale Acres is authorized to prepare and post notices for the Newdale Acres Expansion of the Sussex County Unified Sanitary Sewer District to include parcel 230-31.00-31.00 as presented.**

Motion Adopted: 5 Yeas

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

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

EMS Public Safety Building/CO No. 21 Hans Medlarz, County Engineer presented Change Order No. 21 for EMS Public Safety Building – Project C19-04 for Council’s consideration. Mr. Medlarz reviewed the items that were included in the Change Order.

M 066 23 Approve CO No. 21/EMS Public Safety Building A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, be it moved based on the recommendation of the Sussex County Engineering Department, that Change Order No. 21, for Contract C19-04, Sussex County Public Safety Building be approved, for an increase of \$40,127.15.

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/CDBG Program A Public Hearing was held for the 2023 Community Development Block Grant application, to be submitted to the Delaware State Housing Authority. The Community Development Block Grant (CDBG) is a federal grant from the Department of HUD to the Delaware State Housing Authority (DSHA). Kent and Sussex Counties compete for the funding by making application to DSHA.

Brandy Nauman, Director of Sussex County Community Development & Housing, reported that the guidelines dictate the use of the funding. The funding is used mostly for owner-occupied housing rehabilitation. Rehabilitations include roofing, doors, windows, electrical, plumbing upgrades and energy upgrades. In order to qualify, a home must be owner-occupied, primary residence of the owner, low to moderate income household (80% of AMI or below), the home must be insured or insurable, County taxes and utilities must be current. Mrs. Nauman explained that a lien is placed on every property that receives assistance regardless of the age of the beneficiary. For anything less than \$15,000, a five-year, zero percent pre-rated lien is placed on the property, for anything \$15,000 to \$40,000 of funding, a ten-year zero interest pro-rated lien is placed on the property.

Mrs. Nauman reviewed the current income guidelines for program eligibility. Mrs. Nauman reviewed the funding that has been spent and noted that County Council provided an additional \$250,000 to assist with emergency repairs.

Mr. Mike Jones, Rehabilitation Program Coordinator shared what has been completed to date in the current fiscal year. In addition, he discussed contractors as well as the delays and price increases that they are experiencing. Mr. Jones shared pictures of some projects that have been completed.

**Public Hearing/
CDBG Program
(continued)**

Mrs. Nauman reviewed what was being completed with the federal dollars that are being received. She noted that individuals with disabilities, those over 65 and low-income households are prioritized.

Mrs. Nauman stated that Sussex County’s application will consist of projects in the County in rural communities and in municipalities. She reported that staff has met with all the municipalities who have asked for the County’s assistance to make application to the DSHA, and that the Department has held Public Hearings in all of the municipalities listed and the projects presented represent their requests.

Mrs. Nauman reported that the total program activity cost is \$1.7M; the state has allowed the County to seek \$250,000 in administration which would have to be matched. Therefore, the total program cost would be \$2.3M.

There were no public comments.

The Public Hearing and public record were closed.

**M 067 23
Adopt
Resolution
R 006 23/
Affirmativ-
ely
Furthering
Fair
Housing**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, to Adopt Resolution No. R 006 23 entitled “AFFIRMATIVELY FURTHERING FAIR HOUSING”.

Motion Adopted: 5 Yeas
Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea

**M 068 23
Adopt
Resolution R
007 23/
Authoriza-
tion to
Submit
Applications**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer to Adopt Resolution No. R 007 23 entitled “AUTHORIZATION TO SUBMIT APPLICATIONS”.

Motion Adopted: 5 Yeas
Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea

**Master Plan
Ordinance
Discussion**

Jamie Whitehouse, Planning and Zoning Director presented a Proposed Ordinance entitled “AN ORDINANCE TO DELETE CHAPTER 115, ARTICLE XVII VACATION RETIREMENT – RESIDENTIAL PARK DISTRICT SECTIONS 115-132 THROUGH 115-140 IN ITS ENTIRETY AND TO INSERT ARTICLE XVII MASTER PLAN ZONE, SECTIONS 115-132 THROUGH 115-140 IN ITS PLACE”.

Vince Robertson, Assistant County Attorney discussed the updates that have been completed to the Ordinance since the last presentation. He noted

Master Plan Ordinance Discussion (continued) that one of the requirements of a MPZ is that 20% of all multi-family dwellings shall be set aside as SCR units governed by Chapter 72. Mr. Robertson advised that the Ordinance would need to go through PLUS.

Mr. Schaeffer questioned line 447 which states “the plan shall include a Master Transportation Plan approved by DelDOT”. He asked if that would give DelDOT the authority to shut this down without their approval. Mr. Robertson replied that the intention was to avoid DelDOT shutting it down. He added that the language can be changed if desired.

Introduction of Proposed Ordinance/MPZ Mr. Hudson introduced a Proposed Ordinance entitled “AN ORDINANCE TO DELETE CHAPTER 115, ARTICLE XVII VACATION RETIREMENT – RESIDENTIAL PARK DISTRICT SECTIONS 115-132 THROUGH 115-140 IN ITS ENTIRETY AND TO INSERT ARTICLE XVII MASTER PLAN ZONE, SECTIONS 115-132 THROUGH 115-140 IN ITS PLACE”.

Solar Farm CU Ordinance Discussion Jamie Whitehouse, Planning and Zoning Director presented a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 115, ARTICLE XXIV, SECTION 115-172 AND ARTICLE XXV, SECTION 115-194.5 TO ADD PROVISIONS FOR SPECIAL REQUIREMENTS FOR SOLAR FARM CONDITIONAL USES”.

Mr. Robertson reported that recently, there has been many solar farm applications come through the process. It has been discussed to codify the conditions that have been imposing on the solar farm applications. He added that there is a standard set of conditions.

Introduction of Proposed Ordinance/Solar Farms CU Mr. Schaeffer introduced a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 115, ARTICLE XXIV, SECTION 115-172 AND ARTICLE XXV, SECTION 115-194.5 TO ADD PROVISIONS FOR SPECIAL REQUIREMENTS FOR SOLAR FARM CONDITIONAL USES”.

Demonstration/Document System Jamie Whitehouse, Planning and Zoning Director provided a demonstration of the new document management software.

Introduction of Proposed Ordinances Mr. Vincent introduced a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR A SOLAR FARM ON A 17.45 ACRE PORTION, MORE OR LESS, OF A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 29.45 ACRES, MORE OR LESS” filed on behalf of Consolidated Edison Development, Inc.

Mr. Hudson introduced a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO

BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 28.81 ACRES, MORE OR LESS” filed on behalf of Dagsboro Thorogoods Solar 1, LLC

Mr. Rieley introduced a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 15.97 ACRES, MORE OR LESS” filed on behalf of Lewes Saddle Ridge Solar 1, LLC

The Proposed Ordinance will be advertised for Public Hearings.

**Council
Member
Comments**

Mrs. Green commented that in the last week, the issue and topic of Ethics and Code of Conduct form as it relates to Council members has been discussed. She added that she has made the public statement that she chose not to sign the form. The reason for her not signing the form was because it came from the HR department. It is her position that it needs to come from the County Council; that it would either be an Ordinance or a vote that would come from the Council. Mrs. Green stated that she has no conflicts of interest, and she will answer to the constituents in her district. If it is brought back to Council for a vote, then, she will sign the form.

Mr. Vincent commented that the request for this document came from County Council, not Administration or HR. It was after a meeting was held a few years ago with the same presenter that presented last week. It was requested that they develop some kind of form which Council was in support of. Until now, all of Council have signed that document which is the same form that Mrs. Green signed last year. Mr. Vincent explained that this request came from the County Council to Administration and HR to develop the form which was all agreed to at that time.

Mr. Hudson commented about forested buffers; he believes that it is time to look further into this and get some teeth into it.

Mr. Rieley agreed with Mr. Hudson’s comments. He added that he was outraged by what was shared this morning by Mrs. Hicks. If what was shared is not a violation of the Ordinance, then the Ordinance is not what he envisioned to be when it was passed. He added that he would like to see the loopholes closed and get it done quickly.

Mr. Vincent commented that recently, a gentleman in the County was in a container of sand up to his shoulders. All of the emergency operations department, EOC, fire, EMS, County services and technical rescue team were on site. It was a six-hour operation to remove that gentleman who is now recovering.

M 069 23 **At 11:01 a.m., a Motion was made by Mr. Hudson, seconded by Mrs. Green to recess the Regular Session, and go into Executive Session for the purpose of discussing matters relating to land acquisition.**
Go Into
Executive
Session

Motion Adopted: 5 Yeas

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

Executive **At 11:06 a.m., an Executive Session of the Sussex County Council was held**
Session **in the Basement Caucus Room to discuss matters relating to land**
acquisition. The Executive Session concluded at 11:42 a.m.

M 070 23 **At 11:44 a.m., a Motion was made by Mr. Hudson, seconded by Mrs. Green,**
Reconvene **to come out of Executive Session and reconvene the Regular Session.**

Motion Adopted: 4 Yeas, 1 Absent

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

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

M 071 23 **A Motion was made by Mr. Hudson, seconded by Mr. Rieley to recess until**
Recess **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 072 23 **At 1:30 p.m., a Motion was made by Mr. Schaeffer, seconded by Mr. Rieley**
Reconvene **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 **A Public Hearing was held on a Proposed Ordinance entitled “AN**
Hearing/ **ORDINANCE TO AMEND THE FUTURE LANDS USE MAP OF THE**
Ord. No. 22- **COMPREHENSIVE PLAN IN RELATION TO TAX PARCEL 135-11.00-**
08/CZ1959/ **65.00” (property is located on the north side of Lewes Georgetown Highway**

CU2320

[Rt. 9], approximately 620 feet northeast of Gravel Hill Road [Rt. 30]) (911 Address: N/A) (Tax Parcel: 135-11.00-65.00)

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

(See the minutes of the Planning & Zoning Commission dated December 8, 2022 and January 12, 2023.)

Mr. Jamie Whitehouse, Planning and Zoning Director, presented the application.

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

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

(See the minutes of the Planning & Zoning Commission dated December 8, 2022 and January 12, 2023.)

Mr. Jamie Whitehouse, Planning and Zoning Director, presented the application.

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

The Planning & Zoning Commission held a Public Hearing on the application on December 8, 2022. At the meeting of January 12, 2023, the

**Public
Hearing/
Ord. No. 22-
08/CZ1959/
CU2320
(continued)**

Planning & Zoning Commission recommended denial of the application for the 3 reasons stated as outlined.

(See the minutes of the Planning & Zoning Commission dated December 8, 2022 and January 12, 2023.)

Mr. Jamie Whitehouse, Planning and Zoning Director, presented the application.

The Council found that Ms. Mackenzie Peet, Esq. was present on behalf of the Applicant, Mr. Charles Turner; that Mr. Turner was also present; that in light of the Commission's recommendation for denial for all three applications, she intends to present each application in a consolidated but detailed manner; that in addition to reviewing the Commission's decision, that was inconsistent with the record made and included reasons and support of their decision that were inaccurate and misstated what the Sussex County Comprehensive Plan states; that a transcript was prepared of Commissioner Hoey-Stevenson's motion to recommend denial that was seconded by Commissioner Wingate; that the motion was recommended for denial by a vote of 4-0 by Commissioners Hoey-Stevenson, Wingate, Hopkins and Wheatley; that Commissioner Mears was absent; that a copy of the transcript, a copy of the decision and a noted and highlighted section of Section 4-16 of the Comprehensive Plan and Future Land Chapter that concerns the existing development area was submitted in the record; that the applicant has three requests; that the existing property is 9.72 acres and is the present location of Silver Oaks Trailer Park; that this area is adjacent to the open space within the Hawthorne Community; that to the rear of the property is a tax ditch prong; that on the other side of the property, is a property that is subject to a Conditional Use where the Burns Pet Store was previously located; that across the road are some residential homes and some property that was rezoned to B-1 (Neighborhood Business District) which is owned by Two Farms, Inc.; that the existing Silver Oaks Trailer Park was established on April 6, 1966 as confirmed by a notice that was included in the packet specifically as Exhibit B; that she clarified and explained the purpose of the notice; that the purpose of the notice was to inform the then Planning and Zoning Commission of the existing Silver Oak mobile park that had 38 mobile home lots approved; that 21 of the lots had been occupied as of 1970; that the Board of Adjustment had historically approved an expansion of the park by eight additional lots; that today there are eleven (11) mobile home lots on the site; that all existing mobile home owners leasing land have been notified of Mr. Turner's plan to develop the site; that the property is currently zoned AR-1 (Agricultural Residential District); that the properties adjacent to the subject property are also zoned AR-1; that along Route 9 there is a mixture of zoning districts mainly C-1, AR-1 and some B-1; that the Future Land Use Designation presently is Low-Density Area and is surrounded by properties designated as Commercial Area and Industrial Area; that the project is located in Investment Level IV; that the Cabinet Committee on State planning issues through the Office of State Planning Coordination developed the first

**Public
Hearing/
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CU2320
(continued)**

Delaware Strategies for State polices and Spending Maps in 1999 to be updated every five years; that the most recent update was completed in 2020; that the State Strategies were designed to help the committee guide State investment decisions and serve as a frame work for coordinating plans and actions of local government; that Chapter 4 of the Comprehensive Plan explains that State Strategies for State polices and spending map classifies four different investment level areas; that the four investment levels clarify the State’s policies and priorities for the expenditure of State funds on infrastructure; that the Comprehensive Plan states that policy and the spending map are not parcel based and are not a land use plan; that with respect to the Future Land Use Map request the property is currently designated as a Low-Density Area; that the Low Density Area is considered to be a rural area; that as of 2018, all lands designated as Low Density Areas are also zoned AR-1; that AR-1, B-2, C-2, M, I-1 and new zoning districts are considered to be consistent in that designation and classification; that Section 4.4.3 of the plan details the permitted uses and visions in that area; that those uses include agricultural and residential uses as well as development that is largely confined to businesses addressing the needs of agricultural and residential uses; that Ordinance 22-08 seeks to amend the Future Land Use Map from Low Density to and Existing Development Area—a growth area; that Chapter 4 of the Comprehensive Plan explains that this area consists of primarily existing residential developments similar to this one presently under General Residential or Medium Residential zoning districts and some commercial uses; that these areas are scattered throughout the County and often times next to Low Density Areas; that the land use history of the property is relevant in that this property was permitted as a Mobile Home Park and approved for 38 lots; that this property has been an existing residential development since 1966; that it is the belief that the property should have been designated as an Existing Development Area because of its past and current use; that this area permits a full range of housing types including single-family homes, townhomes and multi-family units; that non-residential developments consists of uses found in the neighborhood business districts and commercial districts which is relevant considering the property is zoned C-1 and commercial right near the site; that the proposed use is consistent with the Existing Development Area; that as an existing mobile home development and a proposed multi-family development; that there are Existing Development Area in the vicinity of the subject property close to Route 9 and Route 5; that infrastructure is already in the area and central water and sewer are encouraged for the Existing Development Area; that sewer and water will be provided by Artesian; that a will serve letter from Artesian was submitted; that the applicable zoning districts in the Existing Development Area include MR and GR as well as some commercial areas and would be consistent with the Land Use change; that the application was presented to PLUS on December 21, 2022; that the Applicant responded and specifically the Applicant’s engineer to each comment on January 23, 2023; that in that comment, the State noted specifically that rezonings and development applications have increased along Route 9; that they stated that the cumulative effects of continuing to review and approve rezonings

**Public
Hearing/
Ord. No. 22-
08/CZ1959/
CU2320
(continued)**

and land use development proposals outside of planned growth areas will have long term negative impacts on the State and County both physically and environmentally because infrastructure and services to support these developments are not planned for the areas; that this comment suggests that the state is making a more general comment about development in Investment Level 4 areas rather than a project specific comment; that the property is near commercial and residential developments and has access to existing infrastructure as stated; that the Applicant's second request is CZ1959 to rezone the property from AR-1 to MR to ultimately develop 42 multi-family units; that the MR district provides for medium density residential development in areas which are or are expected to become generally urban in character where sanitary sewer and public water may or may not be available at the time of construction; that AR-1 permits low-density multi-family through the pursuit of a Conditional Use application but the Applicant wishes to rezone to MR which permits the medium density residential to allow for the development of 42 multi-family units at a density of 4.36 units per acre; that the proposed rezoning is compatible with the surrounding land uses which includes a mix of residential, business, and commercial uses nearby; that there are other multi-family residential units nearby including Weston Willows Apartment Complex (287 units apartment complex on 27 acres), Azelea Woods single-family subdivision, Hawthorne subdivision, Windsor Reserve which was just recently approved for another 100 single family lots and Deerwood Subdivision; that Table II shows the bulk requirements for multi-family units must meet the same height, area and bulk requirements; that this is relevant considering the C-1 zoning district near the property; that there were three change of zone applications approved within a mile of this site; that CZ1838 from AR-1 to B-1 for the Two Farms property; that CZ1902 CR-1 to HI-1, that applicant noted on the record where Magee Plumbing, AP Croll Sons and Peninsula Paving; that the third use was CZ1944 that amended a AR-1 district to a C-2 district for the executive lawn property management to expand its landscaping business; that the Planning and Zoning Memorandum also concludes that the intended development could be considered consistent with surrounding land uses; that Table 4.5-2 Title Zoning Districts applicable to Future Land Use Categories confirms that the MR district is an applicable district in the Existing Development Area; that the final request is CU 2320 for a Conditional Use of land in a MR zoning district for the development of 42 multi-family units; that the purpose of Section 115-171 on Conditional Uses states that it provides for certain uses which cannot be well adjusted to their environment in particular locations with full protection offered to surrounding properties by rigid application of the district regulations; that these uses are generally of a public or semi-public character and are essential and desirable for the general convenience and welfare but because of the nature of the use, the importance of the relationship to the Comprehensive Plan and possible impact not only on neighboring properties but on a large section of the County require the exercise of planning judgment on location and site plan; that the proposed multi-family development will be accessed off of Route 9; that the proposed density for the development is 4.36 dwelling units per acre subject to a

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(continued)

rezoning and Future Land Use Map change; that there are eight (8) buildings proposed and each building contains between 3 to 6 units each; that there is also a community building and pool amenity is proposed; that 6.43 acres or 66.7% of the site to remain as open space subject to final site engineering; that adjacent developments that were developed as single-family homes would be required per code under the AR-1 district to meet 30% open space requirement in Cluster Subdivision; that there will be 92 parking spaces which exceed the 84 required spaces; that the non-tidal wetlands will remain undisturbed; that stormwater management will be in accordance with local and state regulations; that water and sewer will be served by Artesian; that the increase in traffic on area roadways will be analyzed, reviewed and approved by DelDOT; that preliminarily the response to the Service Level Evaluation Request state that the impact is considered to be negligible; that the developer will work with DelDOT to develop an entrance plan; that it is intended to eliminate one existing entrance and provide a continuation of the shared use path from the Hawthorne development; that the developer intends to work with DART to provide the requested shelter pad and bus pull off area; that section 115-31 of the Code concerning multi-family units confirms that these units may be permitted as conditional uses subject to the provisions in the Code; that the proposed use is in compliance with all Code requirements; that if the Future Land Use Amendment is adopted then the proposed use will be compliant and consistent with the Comprehensive Plan update; that on December 8, 2022, the Commissioners heard these applications for the first time; that at the December 8, 2022 meeting, there were three Commissioners present, Chairman Wheatley, Commissioners Hopkins and Mears; that Commissioners Hoey-Stevenson and Wingate were absent; that during that meeting, none of the Commissioners present asked any questions at the conclusion of the presentation to the applicant that would even remotely suggested a recommendation for denial was forthcoming; that there were no opposition and it was a complete and total surprise that there was a recommendation and a vote of 4-0 for denial; that the record suggests that the Commission considered that this property may have been missed as a property that should have been appropriately classified as an existing development area; that specifically during the discussion of the three applications, Commissioner Hopkins asked staff a question trying to figure out why this property as an existing development was not designated as GR to match what was there; that Chairman Wheatley said that he had the same question and specifically said “since the 60s, there has been an approval and for 38 units, you would have thought that someone may have noticed that but apparently we did not”; that in response, Commissioner Hopkins states “and we see this happen more in your neck of the woods, if you look at the zoning map, there are all of these oddball GR spots that don’t seem to tie in with anything but then because they have been manufactured home parks or whatever, they have been there forever and they established them from day one as GR zoning, it’s just, you know, interesting why this one never was”; that Commissioner Hopkins even went on to say that this property seems like an “outlier”; that Ms. Peet agrees that it is an outlier because the property should have been classified as an

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(continued)**

existing development area for all of the reasons stated and should not have been designated as a low density area or zoned AR-1; that on January 12, 2023, Commissioner Hoey-Stevenson motioned to deny the Future Land Use Map Amendment which resulted in the other applications being recommended for denial as well; that Ms. Peet discussed Commissioner Hoey-Stevenson's motion; that in the motion, Commissioner Hoey-Stevenson stated "the existing development area is designated in the Comprehensive Plan for existing residential development under the current general residential and medium residential zoning districts as well as some commercial uses"; that is undisputed and agreed upon; that the Commissioner goes on to say "the plan further states that this particular classification is simply being used to identify these existing scattered zoning areas that have no direct relationship to their surrounding zoning and/or Future Land Use Map"; that the Comprehensive Plan states the existing development areas are scattered and are surrounded by low-density areas; that significantly, this description of existing development areas is consistent with the Silver Oaks trailer park use for reasons stated; that the Commissioner continued stating "the plan emphasizes that this area should only be used for existing GR or MR-zoned properties"; that this misquotes the plan; that the plan as written states that the existing development area consist primarily of existing residential development under current GR and MR zoning district as well as some commercial uses; that the existing development area is not only used for GR and MR zoned properties as directly quoted in the plan, the existing development area primarily includes existing residential developments under current GR and MR zoning districts as well as commercial uses; that the reasons in support of the motion continued to rely on this misquoted section of the plan; that in fact, the Commissioner goes on to say that the Comprehensive Plan also reiterates the Existing Development Area is limited to existing GR and MR land by providing that, there is no intention to expand this land use classification; that it may be true that there is no intention to expand this land use classification, but, there is nothing against expanding this classification especially when it appears that this property should have been classified as an existing development area based on its use historically since 1966; that the Commissioner added "There is no dispute that the property is currently developed as a small, manufactured home park that has been in existence for decades, however, it is situated upon land that is zoned AR-1 and it was never rezoned to GR"; that the property could not be rezoned to GR without a Future Land Use Map amendment like the one being presented and a rezoning request; that the Commissioner emphasized that the existing mobile home park is a legally non-conforming use as a reason in support of her motion; that even if that it is true, that does not mean that the property could not be designated as a existing development area as requested; that there is a property in a local municipality that does not have a certified Comprehensive Plan for a related use; that the property is the Rehoboth Art League in the municipality of Henlopen Acres; that the community has its first Comprehensive Plan in 2004; that it performed its first Comprehensive Plan review in 2012; that the primary reason that plan was not certified concerned the art league's non-conforming use; that the

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(continued)**

issue is that the art league wanted to be rezoned to a cultural district from an existing residential district; that the town wanted the art league to remain as a residential use; that in 2014, Ms. Constance Holland, the then Director of State Planning confirmed that she could not send the current plan to the Governor with the art league remaining as a residentially zoned district; that Ms. Holland recommended that the art league property be rezoned because of its current use; that this is an example of the State Planning Office looking at property and not certifying a Comprehensive Plan because of a municipality's decision to maintain a property zoning district that was inconsistent with the current zoning district in light of the properties past legally non-conforming use; that the State's position on the art league had everything to do with the current and future intended use of the art league; that because Henlopen Acres decided to keep the property as a legally non-conforming use zoned residentially and not zoned to a use consistent with its current and intended future use, its plan in part was not certified; that similarly, Mr. Turner's property operates as a legally non-conforming use in a AR-1 zoning district and a low density Future Land Use classification; that the Art League property was intended to not be rezoned, it is being argued here that it seems that the property has been overlooked when designating the property as a AR-1 district and low density area; that there is nothing in the record to the contrary to suggest that there was any actual intent to leave the property zoned AR-1 and to classify the property as low density; that it is her position that Mr. Turner's property should have been designated to a classification and zoned in a manner consistent with its past and current use that is operated on the site since 1966; that she reminded the Council that on the record, Commissioner Hopkins and Chairman Wheatley suggested that this may have been missed; that there is no substantial evidence on the record contrary to support the Commission's reasons for denying the Future Land Use Map Amendment, associated rezoning and conditional use request; that it is the applicant's position that the paper and spoken record overwhelming suggests that the property should have been classified as an existing development area; that the requested Future Land Use Amendment would correct what appears to be based on the record an oversight; that in looking at the Future Land Use Map Amendment request, the applicant encourages this Council to review all of the materials presented today and take its time in reviewing those materials and considered the intended use (a 42 unit multi-family unit); that it is only four more units than the approved thirty-eight units for a legally non-conforming use that has been there for nearly 60 years; that it is proposed adjacent to and in the immediate vicinity of other single family and multi family units as well as other commercial uses with almost 67% of the site designated as open space and with access to public water and sewer on Route 9 that would be consistent with the Comprehensive Plan's direction for possible development of the Route 9 corridor as a business corridor with a mix of residential and commercial uses; that in addition to contributing to the plans goal of reducing access points from the number of entrances from two to one; that this intended development will compliment Route 9 growth and offer another option for housing for present and future residents who may desire to not purchase a

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(continued)**

single-family home or may not be able to afford the same; that the applicant requests that the Council approve the Future Land Use Amendment, the requested rezoning from AR-1 to MR and the proposed 42 unit multi-family unit development; that a discussion was held regarding an underground plume of a chemical called PCE (tetrachloroethylene); that it is Ms. Pete's understanding that the pollution originated at the campground years ago; that there are monitoring sites currently placed on Hawthorne; that it is on DNREC's radar.

Public comments were heard.

Ms. Susan Barra spoke in opposition of the application. Ms. Barra stated that there has been a lot of development on Route 9; that she questioned if neighbors are notified when development occurs; that Mr. Whitehouse explained that postcard notifications are sent out to all property owners within 200 feet of the parcel boundary; that notices are done in local newspapers and physical postings on done on the site itself; that it is also displayed on the County's website; that she has lived there a little over six years; that it can take 15 to 20 minutes to get in and out of her community; that the traffic from Route 30 to Route 9 backs up past Hawthorne.

Mr. Chris Stuchlik spoke in opposition of the application. Mr. Stucklik stated that he owns land near the proposed site; that he is speaking on behalf of other nearby land areas; that he has concerns with the site plan that seems to eliminate the wooded area on the western edge of 135-11.00-65.00; that he also has concerns with noise and outdoor/street lighting; that there is a concern for a significant negative impact on the prospective value of the parcels.

The Public Hearing and public record were closed.

**M 073 23
Defer
Action/
FLUM Ord.
22-08**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson to defer action on a Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCEL 135-11.00-65.00"

Motion Adopted: 5 Yeas

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

**M 074 23
Defer
Action/
CZ1959**

A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer to defer action on a Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR MEDIUM RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 9.72 ACRES, MORE OR LESS"

Motion Adopted: 5 Yeas

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

**M 075 23
Defer
Action/
CU2320**

A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer to defer action on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLINGS (42 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 9.72 ACRES, MORE OR LESS”

Motion Adopted: 5 Yeas

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

**M 076 23
Adjourn**

A Motion was made by Mr., Hudson seconded by Mr. Rieley to adjourn at 2:22 p.m.

Motion Adopted: 5 Yeas

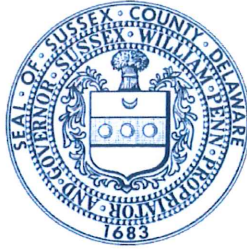
**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

Respectfully submitted,

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

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


TODD F. LAWSON
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Sussex County
DELAWARE
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Memorandum

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

FROM: Todd F. Lawson 
County Administrator

RE: **BAY BEACH ASSOCIATION CHARTER**

DATE: February 17, 2023

During Tuesday's meeting, Council is scheduled to review and approve the Bay Beach Association (BBA) Charter. A copy of the Charter is attached.

The BBA is an organization representing the Delaware Bay coastal communities in Kent and Sussex counties. The BBA was formed to advocate on behalf of its members to preserve and protect the unique character of the Delaware Bay shoreline by focusing on the preservation of the coastal ecosystems.

Recall, BBA representatives made a presentation to the County Council during its January 10th meeting and subsequently, County Council approved an MOU with the BBA during its January 31st meeting.

The BBA Charter codifies the establishment of the organization and outlines its roles and responsibilities. Kent and Sussex Counties along with the Towns of Bowers Beach, Lewes, and Slaughter Beach represent the voting members within the Charter. The BBA's objective is to work to see the implementation of the newly passed WRDA legislation and the specific initiatives designed to assist the Delaware coastal regions.

I will review the Charter details during Tuesday's meeting. Please let me know if you have any questions.





Bay Beach Association (BBA)

CHARTER

Article I

Name and Type of Organization: The name shall be Bay Beach Association (BBA), which shall exist and operate as an unincorporated nonprofit association.

Article II

Purpose: BBA's principal purpose shall be to advocate for and on behalf of its members to promote and protect the general welfare and common interests of its members.

Article III

Mission Statement: The BBA was formed to collectively preserve and protect the unique character of the Delaware Bay coast by focusing on the preservation of coastal ecosystems that are at risk due to sea level rise, more frequent coastal storms, wildfires, and saltwater intrusion. BBA's ongoing mission shall be: to advocate on behalf of the coastal communities to address a long-standing lack of funding dedicated to the renourishment of the Delaware Bay beaches and the maintenance of navigable waterways; to work to ensure that the BBA's member communities become more resilient, and that infrastructure such as drinking water and wastewater systems are better fortified to protect against storm surges; to speak with a singular voice when needed at the federal, state, and local levels regarding issues specific to the Delaware Bay coastal communities; and to advocate for the preservation of the cornerstones of Delaware's economy – agriculture and tourism.

Article IV

Membership Eligibility: BBA shall represent eight (8) southern Delaware coastal communities. Three (3) of these communities are incorporated: Lewes, Slaughter Beach, and Bowers Beach. The remaining six (6) communities of Broadkill, Prime Hook, South Bowers, Kitts Hummock, Woodland and Pickering Beach, which are unincorporated, shall be officially

represented by delegates from Kent County and Sussex County.

Lewes, Slaughter Beach, Bowers Beach, Kent County, and Sussex County shall constitute the voting members of the BBA. Broadkill, Prime Hook, South Bowers, Kitts Hummock, Woodland Beach, Pickering Beach, Bombay Hook National Wildlife Refuge and Prime Hook National Wildlife Refuge shall be classified as associate members. The associate members shall not be permitted to vote on matters before the BBA; however, their participation and input shall be vital to the ongoing mission of the BBA. For purposes of the remainder of this Charter, the term “members” shall refer only to voting members.

Article V

Funding: Membership in BBA shall be without fee. Assessments for consultant and administrative services shall be approved in advance by the unanimous vote of the members.

Article VI

Delegates: Each member shall designate one principal delegate to attend BBA meetings and to vote on behalf of the member it represents. The principal delegate may designate one alternate who, in the absence of the primary delegate, shall be able to vote. Meetings of the full membership shall be held at least annually. Other meetings may be held at the time or times set by the President. Members may participate in meetings via phone or any audiovisual method ensuring that the member can hear and be heard.

Article VII

Voting: Each member shall be entitled to one vote. A simple majority vote of the members shall decide any issue.

Article VIII

Officers: The officers of BBA shall be a President, Vice-President, and Secretary-Treasurer.

Article IX

Election and Term of Officers: Officers shall be elected from among the delegates nominated from the floor. Election of each candidate for each of the three offices shall be by an affirmative vote of a simple majority of the members. Each officer shall serve for a term of one year. Successor officers shall be elected in the same manner and for the same term, normally at the April meeting each year. Officers shall serve without compensation. In the event of a vacancy in office, such vacancy shall be filled by a vote of members at the next regular meeting or at a special meeting called for that purpose.

Article X

Duties of Officers: The President shall be the chief executive officer of BBA. He or she shall preside at all meetings of BBA, sign all documents, checks, papers and correspondence of BBA, see that all orders and resolutions of the members are carried out, appoint committees, and perform such other duties as are usually attached to the office of President.

The Vice-President shall have all the powers and perform all the duties of the President in his or her absence or disability and shall perform such other duties as may be prescribed from time to time by the President.

The Secretary-Treasurer shall keep a record of the proceedings of all BBA meetings and present those minutes at the following meeting, give prior notice of such meetings to all members and other interested parties, and handle all correspondence. The Secretary-Treasurer shall also be the custodian of all funds of BBA and shall promptly deposit and keep such funds in a local bank or savings institution in the name of BBA. Checks or drafts on the account shall require the signature of the President and the Secretary-Treasurer. He or she shall keep a full and accurate account of all receipts and disbursements on forms and in books customarily used for such purposes, keep vouchers for all disbursements and present a financial report at all regular meetings and an annual report at the end of each calendar year.

Financial statements shall be presented using cash basis accounting and an informal audit shall be made annually by a member other than the Secretary-Treasurer.

Article XI

Amendment of Charter: This Charter may be amended at any regular meeting of BBA or at any special meeting called for that purpose by the affirmative vote of a simple majority of the members.

IN WITNESS WHEREOF, the parties hereunto have caused this Charter to be executed and made effective as of the date signed.

KENT COUNTY, DELAWARE:

SUSSEX COUNTY, DELAWARE:

Signature and Title

Signature and Title

DATE: _____

DATE: _____

CITY OF LEWES, DELAWARE:

TOWN OF SLAUGHTER BEACH, DE:

Signature and Title

Signature and Title

DATE: _____

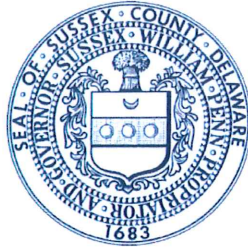
DATE: _____

TOWN OF BOWERS BEACH, DE:

Signature and Title

DATE: _____


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Sussex County
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Memorandum

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

FROM: Todd F. Lawson
County Administrator 

RE: **MEMORANDUM OF UNDERSTANDING WITH THE STATE OF DELAWARE RELATED TO THE SUSSEX COUNTY FAMILY COURTHOUSE PARKING GARAGE**

DATE: February 17, 2023

During Tuesday's meeting, Council is scheduled to review and approve a Memorandum of Understanding (MOU) between the County and the State of Delaware, Office of Management and Budget (OMB) for the project commonly referred to as the Sussex County Family Courthouse Parking Garage. A copy of the MOU is attached.

This MOU endorses conversations that have taken place with State officials dating back several years with the goal of working with the State to construct the new courthouse and garage in downtown Georgetown. Those conversations progressed to actual agreements between the County and the State which allowed the State to proceed with its plans to locate the new facility in the downtown area.

As part of said agreement, in 2021 the Council agreed to sell four (4) parcels to the State on East Pine Street and East Market Street where the courthouse and garage are to be built. Next, the State agreed to sell the JP Annex Property, if the County opts to buy it, when the State has vacated the Annex Building. And last, the State agreed to reserve 100 parking spaces in the new parking garage in return for the County's contribution.

In summary, this MOU outlines the roles and responsibilities for the State and County through the construction and operation of the parking garage. The State will be responsible for the design, construction, and financial management of the parking



garage project. The State estimates the cost of the parking garage and associated work to be in the twenty million (\$20.0M) dollars “ballpark.” The County will contribute one million (\$1.0M) dollars to the State near the beginning of construction and an additional one million (\$1.0M) dollars to the State upon substantial completion. In return, the State will provide the County with 100 dedicated parking spaces in the garage. In addition, once the garage is in use, the County will agree to contribute one-quarter (25%) of the on-going overhead of the garage and towards the future capital improvement fund. The maintenance and improvement fund agreements will be forth coming upon completion of the garage.

I will review the MOU details during Tuesday’s meeting. Please let me know if you have any questions.

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (MOU) is between **Sussex County** and the **Office of Management and Budget, Division of Facilities Management (DFM)** effective January 25, 2023. When referring collectively, Sussex County and the Division of Facilities are referred to as the “Parties”.

The purpose of this Memorandum of Understanding is to outline the respective roles and responsibilities of the State of Delaware and Sussex County pertaining to the Sussex County Family Courthouse Parking Garage (“Parking Garage”) for the Sussex County Courthouse project (“Project”).

Based on the Parties’ discussions, Sussex County has agreed that it would contribute Two Million Dollars (\$2,000,000) towards the construction of the Parking Garage in return for the exclusive right to occupy one hundred (100) parking spaces within the Parking Garage. In addition, the State would be responsible for the A/E design, construction, and installation phases of the Project. Upon completion of the Sussex County Family Courthouse Project, the State can elect to operate and maintain the entire Parking Garage.

IT IS MUTUALLY AGREED BY THE PARTIES HERETO THAT:

- A. The purpose of this MOU is solely to complete the Project’s A/E design, construction, and installation phases and to outline the guidelines for future operations, maintenance, and other identifiable expenses associated with the Parking Garage.
- B. Division of Facilities Management will:
 - a. Contract with an appropriate vendor to perform the architecture and engineering design services, construction, and the installation services for the Project. As required, the various Project vendors will provide DFM the cost estimates for the A/E design, construction, and installation phase.
 - b. Provide construction status updates to Sussex County throughout the Project as such updates become available.
 - c. Assume sole responsibility for all the financial management of the Project expenses, including contracts, purchase orders, change orders and invoices.
 - d. Maintain the daily operations, maintenance expenses, and future capital needs expenses through either a third-party parking garage vendor on contract or through DFM directly.
- C. Sussex County will:
 - a. Pay to DFM a One Million Dollars (\$1,000,000) contribution for construction of the Parking Garage within thirty (30) days of receiving from DFM written notice of DFM’s acceptance of the Project vendors’ bids.
 - b. Pay to DFM One Million Dollars (\$1,000,000) upon substantial completion of the Parking Garage.
 - c. Pay one-quarter (25%) of the yearly maintenance expenses and operations of the Parking Garage.

- d. Pay annually one-quarter (25%) towards a Cap X fund for future major Capital Improvement repairs/replacements.

Project Procedures and Implementation:

All correspondence, reports, invoices, and inquiries associated with the content of the Parking Garage Project shall be directed to Jennifer Coverdale, Director of Facilities Management/OMB.

The undersigned agrees to the following provisions outlined in this MOU.

Jennifer Coverdale
Director of Facilities Management

DATE

Sussex County agrees to disburse funds for the Parking Garage project in accordance with the rules and procedures outlined in this MOU.

Michael H. Vincent
President, County Council

DATE

ENGINEERING DEPARTMENT

HANS M. MEDLARZ
COUNTY ENGINEER

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Sussex County

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Memorandum

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

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

RE: ***FY 2022 General Labor & Equipment Contract, Project 22-01***
A. George & Lynch, Inc. – Bid Package A - FY 23 Change Order No. 1

DATE: February 21, 2023

Before FY 2017, Sussex County followed a traditional design, bid, and build approach. However, the increased major capital project load associated with aging infrastructure required a more efficient delivery system. In response, Sussex County developed a competitively selected time and material, best value bid process.

The first General Labor & Equipment Contract was awarded to George & Lynch, Inc., on June 21, 2016, and it was renewed on June 13, 2017, for an additional one-year period based on performance. It was re-advertised in the spring of 2018 again using the “best value” approach and an option for two (2) additional one-year periods at the same unit prices. On April 24, 2018, Council awarded the FY 2019 General Labor & Equipment Contract to George & Lynch, Inc.; on June 11, 2019, Council approved the first one-year contract extension through June 30, 2020, and on May 19, 2020, Council exercised the final one-year extension option.

The current FY 2022 General Labor & Equipment Contract was structured on the actual hours spent on labor and equipment over the immediately preceding 12-months and after public advertisement, three (3) bids were received. During evaluation of the weighted factors, it was determined that some submission of the schedule and response times appeared to be not justifiable, and verification could pose liability exposure to the County. Hence, County Council rejected all bids and authorized a rebid.

The Engineering Department divided the anticipated task list into two bid packages. Bid Package A contained standard utility work items while Bid Package B contained specialized functions such horizontal drilling as well as jacking and boring. The project was readvertised and on July 2, 2021, bids were received from JJID, Inc. and George & Lynch, Inc.



On July 13, 2021, County Council awarded Bid Package B to George & Lynch, Inc. in the amount of \$1,140,617.00 and Bid Package A jointly in the amount of \$2,250,000, to both companies. In the course of FY22, a significant number of scope items were accomplished mostly under the George & Lynch, Inc. Bid Package A. In addition to several emergencies, Pump Station No.4 in Dewey Beach, the oldest pump station in the system, experienced significant equipment failures forcing an accelerated schedule of the major rebuilding effort originally estimated at over \$2.0 million. Therefore, Council approved Change Order No. 1 increasing George & Lynch, Inc.’s award amount by \$1.75 million on March 29, 2022. Subsequently, additional crews were assigned to the Pump Station No. 4 project and several emergencies had to be addressed. Therefore, Council approved the FY22 balancing Change Order No. 2 in the amount of \$600,000.00 on May 24, 2022

During FY22 JJID, Inc. was mainly active in the 100+ acres agricultural “south” field regrading effort at the Inland Bays RWF with suitable material import exceeding \$700,000. Council approved Change Order No.1 increasing JJID, Inc.’s award amount by \$0.5 million on March 29, 2022. During the remainder of FY22 the focus shifted to leveling South Field and South Hettie Field. For this effort, additional crews and equipment were mobilized and on May 24, 2022, Council approved the FY22 balancing Change Order No. 2 in the amount of \$650,000.00. Construction of both contracts crossed over fiscal year lines and the Finance Department internally closed out the FY22 Council approved amounts.

Year one of the three-year General Labor & Equipment Contract expired on July 1, 2022. It allows for two (2) one-year extensions at the County’s discretion and with the contractors’ performance satisfactory Council awarded the first one-year extension on May 24, 2022 for the budgeted capital projects for the Environmental Services Division and the Coastal Airport through July 1, 2023 as follows:

- Bid Package A to JJID, Inc. in the amount of \$2,000,000.00
- Bid Package A to George & Lynch, Inc in the amount of 2,500,000.00
- Bid Package B to George & Lynch, Inc. in the amount of \$1,500,000.00

The mid fiscal year financial review revealed that almost 90% of George & Lynch’s Bid Package A funding has been invoiced. The major cost drivers have been the following projects:

1.)	Georgetown water & sewer interconnections	\$800k
2.)	West Rehoboth PS 204 full rebuild	\$460k
3.)	Dewey Beach PS 4 completion	\$450k
4.)	Bethany Beach PS 43 full rebuild	\$350k
5.)	Emergency Work	\$120k
	Sub-Total mid-FY23	\$2.18M

The Engineering Department does not believe that the entire scope currently carried on the FY23 project list will be completed before June 30, 2023. The large, remaining contract scope items are allocated to the following projects:

- 1.) Oak Crest Farms & Chapel Green community system conversions \$1.7M

2.) Bethany Beach PS 43 full rebuild completion	\$400k
3.) Dewey Beach PS 4 electrical & generator	\$200k
4.) Georgetown water & sewer interconnections	\$200k
5.) Millville by the Sea PS 293 modifications	<u>\$150k</u>
Sub-Total remainder of FY23	\$2.65M

The community system conversions will carry over into FY24 and analyzing the previous monthly invoices of George & Lynch we concluded that they could complete approximately \$400k per month under current staffing. Based on the past performance and the amounts estimated in the second half of the fiscal year, the Department recommends FY23 Change Order No.1 for George & Lynch, Inc.'s Bid Package A in the not to exceed amount of \$2,400,000.00.



**SUSSEX COUNTY
CHANGE ORDER REQUEST**

A. ADMINISTRATIVE:

1. Project Name: **FY 2022 G&L General Labor & Equipment Contract**
2. Sussex County Project No. 22-01
3. Change Order No. FY 23 1 – Bid Package A
4. Date Change Order Initiated - 2/21/22
5.
 - a. Original Contract Sum \$2,500,000.00
 - b. Net Change by Previous Change Orders \$ 0
 - c. Contract Sum Prior to Change Order \$2,500,000.00
 - d. Requested Change \$2,400,000.00
 - e. Net Change (No. of days) _____
 - f. New Contract Amount \$4,900,000.00
6. Contact Person: Hans Medlarz, P.E.
Telephone No. (302) 855-7718

B. REASON FOR CHANGE ORDER (CHECK ONE)

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

- 6. Factors Affecting Time of Completion
- 7. Other (explain below):

C. BRIEF DESCRIPTION OF CHANGE ORDER:
Funding for completion of the scope items schedule for FY 23.

D. JUSTIFICATION FOR CHANGE ORDER INCLUDED?

Yes No

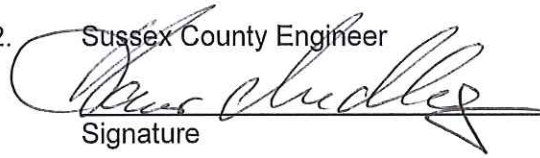
E. APPROVALS

1. George & Lynch, Inc., Contractor

 2/13/2023
Signature Date

Preston Ayars
Representative's Name in Block Letters

2. Sussex County Engineer

 2/13/2023
Signature Date

3. Sussex County Council President

Signature Date

ENGINEERING DEPARTMENT

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



Sussex County

DELAWARE
sussexcountyde.gov

HANS M. MEDLARZ, P.E.
COUNTY ENGINEER

Memorandum

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

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

RE: ***Delivery of Seed & Chemicals, Project M23-06***
A. FY 23 Contract Award

DATE: February 21, 2023

The County continues to successfully perform agricultural activities at the Wolfe Neck and Inland Bays' Regional Wastewater Facility's irrigated lands with inhouse staff. This approach has significantly reduced the loss of irrigation days due to scheduling conflicts with required agricultural activities.

The costs for the purchase and delivery of seed and chemicals associated with farming rises to the procurement threshold for material purchases. Therefore, a two (2) year contract was first publicly advertised in 2017 with Council awarding the contract on September 19, 2017 to the low bidder, Growmark FS, LLC, in the first year FY18 amount of \$81,766.46.00.

On June 4, 2019, Council approved re-establishing a base contract for FY20 & 21 with Growmark FS, LLC for bid items 1,2 & 4-6 in the aggregate amount of \$77,150.50 per year.

On February 2, 2021, a change order was presented for the Environmental Services Division to perform farming operations at the Inland Bays Facility. Council approved Change Order No. 1 in the amount of \$111,828.80 for a new contract total of \$188,979.30 per year for the remainder of the contract term, ending June 30, 2022. However, a changeover in chemical and seed vendors mid-growing season is detrimental to farming operations. Therefore, Council extended the contract on February 22, 2022 through December 31, 2022, to allow for the new contract bid to be advertised during the off season and to establish calendar year contracts.



To re-establish a base contract for FY23 & 24, with all potential farming necessities as an option, invitations to bid were advertised in two (2) newspapers, viewable on the Sussex County website, and directly sent to businesses on the Department's supplier list. Under this solicitation, the Department broke out basic services of seed delivery and labor for chemical applications in Bid Schedule A and the purchase of chemicals under Bid Schedule B. The purchase under Schedule B established a worst case scenario cost ceiling, but actual purchases of the various chemicals are expected to come in at a significantly lower cost.

On January 30, 2023, bids for the Delivery of Seed and Chemical, Project M23-06 were due and one (1) bid was received. The Engineering Department recommends award of the project to Growmark FS, LLC for bid schedules A & B in the combined, not to exceed amount of **\$420,845.50 per year** for FY23 & 24.

Revised Bid Form 1/11/23

Schedule A – Furnish and Deliver Seed and Apply Chemical Application

Item	Description	Estimated Quantity	\$/unit	Total Price
1	RoundUp ready Corn Seed, 112- day, good under water 24,000 seed population	200 Bags	\$ 250 ⁰⁰	\$50,000 ⁰⁰
2	Roundup ready Soybeans, 150,000 seed population Mid group cat 1/3, good under water	600 Bags	\$55 ⁰⁰	\$33,000 ⁰⁰
3	Cover Crop Bin run Barley bulk seed mix	2,600 bushels	\$9 ⁰⁰	\$23,400 ⁰⁰
4	HiBoy seeding of Cover Crop	525 acres	\$10 ⁰⁰	\$5,250 ⁰⁰
5	Supply & spread Potash	525 acres	\$10 ⁰⁰ /acre \$660 ⁰⁰ /Ton	\$5,250 ⁰⁰ \$259,875 ⁰⁰ \$312,375⁰⁰
5	Soybeans - apply Premerge after planting & two (2) subsequent weed control applications during growing season, labor & equip. only	525 Acres	1 st \$46 ¹² 2 nd \$46 ³⁸ 3 rd \$49 ⁹¹	\$24,218 ⁰⁰ \$24,349 ⁵⁰ \$26,202 ⁷⁵ \$74,765 ²⁵
6	Corn - apply Premerge after planting & two (2) subsequent weed control applications during growing season, labor & equip. only	525 Acres	1 st \$43 ⁵⁹ 2 nd \$28 ⁰²	\$22,884 ⁷⁵ \$15,025 ⁵⁰ \$37,910 ²⁵
				39,375 ⁰⁰ Total
				Total
				Total

Total Bid A

\$ 255,563.⁰⁰

Schedule B – Furnish & deliver Chemicals (Application covered under Schedule A)

Item	Description	Estimated Quantity	\$/unit	Total Price
1	Broadaxe XC	125 gallons	\$ 88 ⁶⁰	\$11,075 ⁰⁰
2	Enlist One or Duo	275 gallons	\$ 69 ⁰⁰	\$18,975 ⁰⁰
3	Roundup Powermax 3	1,000 gallons	\$ 60 ⁰⁰	\$60,000 ⁰⁰
4	Spray-grade Sulfate	3,200 Pounds	\$ 1. ⁰⁰	\$3,200 ⁰⁰

Revised Bid Form 1/11/23

5	FS Max Supreme	100 gallons	\$ 23 ⁰⁰	\$ 2300 ⁰⁰
6	Infantry 4L	140 gallons	\$ 24 ⁵⁰	\$ 3430 ⁰⁰
7	Cadet	25 gallons	\$ 341 ⁰⁰	\$ 8525 ⁰⁰
8	Medal II	25 gallons	\$ 91 ⁴⁰	\$ 2285 ⁰⁰
9	Sotrion	25 gallons	\$ 156 ⁰⁰	\$ 3900 ⁰⁰
10	Cavalry	25 gallons	\$ 149 ²⁰	\$ 3742 ⁵⁰
11	Halex GT	25 gallons	\$ 57 ⁷⁰	\$ 1442 ⁵⁰
12	Trivapro	25 gallons	\$ 185 ⁶⁰	\$ 4640 ⁰⁰
13	Lexar EZ	400 gallons	\$ 39 ⁰⁰	\$ 15,600 ⁰⁰
14	Harness Xtra 5.6	275 gallons	\$ 48 ⁹⁰	\$ 13,447 ⁵⁰
15	Basagran	25 gallons	\$ 75 ⁶⁰	\$ 1890 ⁰⁰
16	Bifenthrine	25 gallons	\$ 136 ⁵⁰	\$ 3262 ⁵⁰
17	Besiege	25 gallons	\$ 279 ⁷⁰	\$ 6992 ⁵⁰
18	Prowl H2O	25 gallons	\$ 23 ⁰⁰	\$ 575 ⁰⁰

Total Bid B
 \$ 165,282.⁵⁰

*The price shall remain firm for the duration of the contract including any extensions, and shall be all inclusive, including but not limited to the cost of the seed and chemical, delivery charges, and any other taxes and fees.

Revised Bid Form 1/11/23

Dated:

(If an Individual, Partnership, or Non-Incorporated Organization)

Name of Business: _____

Signature of Bidder: _____

By: _____

Business Address: _____

Names and
Address of
Members

(If a corporation)

Name of Business: GROWMARK FS LLC

Signature of Bidder: 

By: Lance Wyatt

Business Address: 308 NE Front St
Milford, DE 19963

Incorporated under the
laws of the State of:

Delaware

Name President Mark Orr

(Address) 1701 Towanda Ave Bloomington IL

Name Secretary William Covey

(Address) 1701 Towanda Ave Bloomington IL

Name Treasurer Karmy Kays

(Address) 1701 Towanda Ave Bloomington IL

Affix Corporate Seal
and Acknowledge
All Addenda

ADDENDUM NO.1

DELIVERY OF SEED AND CHEMICAL

January 11, 2023

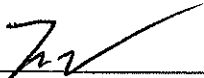
The Bidder acknowledges receipt of the following Addendum:

Specifications

Replace the bid form (pages 6-9) with the attached, revised bid form.

RESPECTFULLY ACKNOWLEDGED:

FIRM: GROWMARK FS LLC

SIGNATURE: 

TITLE: Mgr. Financial Planning & Analysis

DATE: 1/17/23

Note: This form must be executed and included in the bid package

CERTIFICATION OF BIDDER

This is to certify that the undersigned Bidder, _____ on the _____ day of _____, 20____, for Sussex County Project M23-06 entitled "Delivery of Seed and Chemical" the following:

1. This Bid is genuine and not made in the interest of or on behalf of any undisclosed individual or entity and is not submitted in conformity with any collusive agreement or rules of any group, association, organization or corporation;
2. Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham bid;
3. Bidder has not solicited or induced any individual or entity to refrain from bidding; and
4. Bidder has not engaged in corrupt, fraudulent, collusive or coercive practices in competing for the Contract. For the purposes of this Paragraph:
 - a. "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the bidding process;
 - b. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process to the detriment of Owner, (b) to establish bid prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;
 - c. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish bid prices at artificial, non-competitive levels; and
 - d. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

CORPORATE SEAL

Signature of Bidder

[Handwritten Signature]

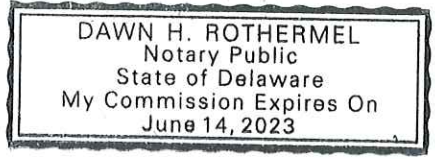
BY: GROWMARK FS LLC
Lence Wyatt Mgr. Finance

Attest: *Ricky TARMAN*
Secretary Witness

Sworn and subscribed before me this 17th day of January, 2023

My commission expires 6/14/23

Dawn H Rothermel
Notary Public




**CERTIFICATION REGARDING COMPLIANCE
WITH EQUAL OPPORTUNITY REQUIREMENTS**

During the performance of this contract, the Supplier agrees as follows:

1. The Supplier will not discriminate against any employee or applicant for employment because of race, creed, color, sex, sexual orientation, gender identity or national origin. The contractor will take positive steps to ensure that applicants are employed and that employees are treated during employment without regard to their race, creed, color, sex, sexual orientation, gender identity or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Supplier agrees to post in conspicuous places available to employees and applicants for employment notices to be provided by the contracting agency setting forth this nondiscrimination clause.
2. The Supplier will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, sex, sexual orientation, gender identity or national origin.

Dated: 1/17/2023

GROWMARK FS LLC Name of Company

 Signature of Bidder/Prospective Supplier

Lance Wyatt Mgr. Financial Name & Title of Signing Official

308 NE Front St Business Address

Milford DE 19967

Seal

BID BOND

TO ACCOMPANY PROPOSAL
(Not necessary if security is used)

KNOW ALL MEN BY THESE PRESENTS That: _____
_____ in the County of _____ and State of _____
_____ as **Principal**, and _____ in the
County of _____ and State of _____ as **Surety**, legally authorized to do
business in the State of Delaware, are held and firmly unto Sussex County (**Owner**) in the sum
of _____ Dollars (\$ _____
_____), or 10% percent not to exceed _____
_____ Dollars (\$ _____) of amount of bid on Sussex County Project
M23-06, **Delivery of Seed and Chemical**, to be paid to the **Owner** for the use and benefit of
Owner for which payment well and truly to be made, we do bind ourselves, our and each of our
heirs, executors, administrators, and successors, jointly and severally for and in the whole firmly
by these presents.

NOW THE CONDITION OF THIS OBLIGATION IS SUCH That if the above bounden
Principal who has submitted to the **Owner** a certain proposal to enter into this contract for the
furnishing of certain material and/or services within the **State**, shall be awarded this Contract,
and if said **Principal** shall well and truly enter into and execute this Contract as may be required
by the terms of this Contract and approved by the **Owner** this Contract to be entered into within
twenty days after the date of official notice of the award thereof in accordance with the terms of
said proposal, then this obligation shall be void or else to be and remain in full force and virtue.

Sealed with _____ seal and dated this _____ day of _____ in the year of our
Lord two thousand and _____ (20____).

SEALED, AND DELIVERED IN THE
Presence of

GROWMARK FS LLC
Name of Bidder (Organization)

Corporate
Seal

By:

[Signature]
Authorized Signature

Attest _____

Mgr. Financial
Title

Name of Surety

Witness: _____

By:

Title

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



Sussex County

DELAWARE
sussexcountyde.gov

Memorandum

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

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

CC: Everett Moore, County Attorney

Date: February 17, 2023

RE: County Council Old Business Report for C/Z 1969 filed on behalf of Ron Sutton

The Planning and Zoning Department received an application (C/Z 1969 filed on behalf of Ron Sutton) for a Change of Zone of parcel 134-19.00-24.00 from the AR-1 Agricultural Residential Zoning District to an MR Medium Density Residential Zoning District. The property is located at 34667 Central Avenue, Frankford. The parcel size is 14.45 acres +/-.

The Planning & Zoning Commission held a Public Hearing on the application on November 3, 2022. At the meeting of November 17, 2022, the Planning & Zoning Commission recommended approval of the application for the 8 reasons as outlined within the motion (copied below).

The County Council held a Public Hearing on the application at its meeting of January 10, 2023. At the conclusion of the Public Hearing, a motion was made and passed to defer action on the application for further consideration. The application was discussed at the County Council meeting of January 24, 2023 and a motion was made and passed to defer action on the application for further consideration.

Below are the minutes from the Planning & Zoning Commission meetings of November 3, 2022 and November 17, 2022.

[Minutes of the November 3, 2022 Planning & Zoning Commission Meeting](#)

C/Z 1969 Ron Sutton

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



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

BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 14.45 ACRES, MORE OR LESS. The property is lying on the southeast side of Central Avenue (Rt. 84), approximately 0.17-mile northeast of the intersection of Peppers Corner Road (S.C.R. 365) and Central Avenue (Rt. 84). 911 Address: 34667 Central Avenue, Frankford. Tax Parcels: 134-19.00-24.00.

Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's Exhibit Booklet, Conceptual Site Plan, Staff Analysis, a letter from the Sussex County Engineering Department Utility Planning Division, DelDOT Service Level Evaluation Response, and the PLUS comments. Mr. Whitehouse advised the Commission that one letter in support and one letter in opposition were received for the Application.

The Commission found that Ms. Mackenzie Peet, Esq. with Baird Mandalas Brockstedt Federico & Cardea, spoke on behalf of the Applicant and Developer, Gulfstream Development, LLC; that also present was Mr. Ron Sutton, P.E. with Civil Engineering Associates, LLC, and Mr. Alan Ruble, the Developer's Project Manager; that the project is known as the Wilson Property; that the Applicant proposes to rezone the property from AR-1 (Agricultural Residential) to MR (Medium-Density Residential), in addition to a Conditional Use request for 60 townhome lots; that the property currently consists of a single-family dwelling, gazebo, barn and gravel driveway; that the property consists of 14.45-acres, located on the southeast side of Central Avenue; that the property is near the intersection of Peppers Corner Rd. and Central Avenue; that the property is located in the vicinity of a number of residential developments, which include, single-family and multi-family townhome developments; that they consider the duplex option a positive option, being different from single-family homes; that they feel the townhome option may be a more affordable option; that the Applicant did submit an Exhibit Booklet for each Application, which included the Applicant's land use applications, a list of property owners within 200-ft. of the site, as well as property and deed information, confirming the property is presently owned by Ms. Peggy Toomey and Mr. Ronald Wilson, that the exhibit confirms the developer is the equitable owner of the property, under contract to purchase, subject to granted land use approvals; that the Exhibit Booklets also included a copy of State Strategies for Policies and Spending Map and Sussex County Future Land Use Map; that these maps confirm the property to be located within Investment Level 3 and the Coastal Area; that additionally, aerial maps, a record plan for the adjacent Sycamore Chase community, relevant sections of the Zoning Code, Application Preliminary Plan, staff review and PLUS review, the Coastal Area and Environmental Assessment and Public Facility Evaluation Report, were included within the Exhibit Booklets; that the Coastal Area is a designated Growth Area; that Growth Areas generally includes areas on the southeastern side of Sussex County; that this area was previously referred to as Environmentally Sensitive Development Area; that the proposed townhome development is permitted within the Coastal Area; that the project is consistent with the Comprehensive Plan; that the plan complies with all Coastal Area requirements of §115-194.3; that the project is located within Investment Level 3, where growth is anticipated by local, County and State future plans; that §115-194.3 requires that the Applicant submit an Environmental Assessment, Public Facility Report and sketch plan for the proposed project, as it proposes over 50 dwelling units; that Civil Engineering Associates, LLC prepared the required assessment and report; that the assessment does meet all of the Code requirements, addressing each requirement point by point; that the property is currently zoned AR-1 (Agricultural Residential); that properties immediately adjacent to the subject property are also zoned AR-1; that the property located

across the street from the property is zoned C-1 (General Commercial); that nearby properties are zoned AR-1 (Agricultural Residential), MR (Medium-Density Residential) and C-1 (General Commercial); that the MR Zoning provides for medium-density residential development, in areas that are, or are expected to become, generally urban in character, where sanitary sewer and public water supply may or may not be available at the time of construction, where churches, recreational facilities and accessory uses may be necessary and compatible with residential surroundings; that the proposed rezoning is compatible with surrounding residential land uses, inclusive of multi-family dwellings; that Table 2 for Height, Area and Bulk Code requirements, confirms that multi-family units, located within MR Zoning are subject to similar height, area and bulk requirements of the nearby commercially zoned property; that the proposed rezoning from AR-1 to MR is consistent with the Comprehensive Plan and Future Land Use Map; that the Coastal Area is a region which is most desirable new housing, as it permits a range of housing types, including townhome units as proposed; that medium and higher density, between four to 12 units per acre, is appropriate and supported within the Coastal Area, where there is central sewer, access and proximity to nearby commercial uses and employment centers, where the use is compatible with the character of the area, where located along a main road, or located at or near a major intersection and where there is an adequate level of service; that central water will be provided by Artesian; that central sewer is anticipated to be provided by Sussex County; that there is access and proximity to nearby commercial uses and employment centers; that the use is compatible with the character of the area in the immediate vicinity, with other medium density residential developments; that Table 4.5-2 for Zoning Districts Applicable to Future Land Use Categories confirms that a Medium-Density Residential Districts is an applicable zoning district within the Coastal Area; that for the reasons stated the proposed re-zoning from AR-1 to MR is compatible with surrounding land uses, compliant with the Zoning Code, and consistent with the Comprehensive Plan and Future Land Use Map; that the Applicant seeks a Conditional Use for the development of 60 townhome units, subject to the approval of the Change of Zone request from AR-1 to MR; that the proposal is specifically for 30 duplexes and individual townhome unit lots; that the amenities will include a pool and bath house; that the proposed use is consistent with the Comprehensive Plan; that nearby properties, in all directions, are also located within the Coastal Area; that medium and higher density is appropriate within the Coastal Areas; that the memorandum prepared by the Planning & Zoning staff confirmed that a Conditional Use was approved nearby which allowed for 135 townhome units; that the nearby areas are consistent with the land use the developer is trying to accomplish; that §115-188 for Townhomes and Multi-Family Dwellings, provide that each multi-family dwelling unit must comply with the minimum lot area per dwelling unit specification and the table of district regulations reflected in Article 20; that the dwelling units of a multi-family dwelling unit may be separated in ownership, if separate utilities are provided; that dwelling units on individual lots of a townhome, may be held in separate ownership, subject that all separate lots, for all dwelling units within the building, are created at the same time, compliance with the Subdivision Ordinance and require separate utility systems be provided; that the proposed development has taken into consideration and complies with all items listed within Chapter 99-9C of the Code; that the subject property currently consists of active agriculture fields, with an existing residential dwelling and outbuildings located to the northcentral portion of the property; that former chicken houses exist across Central Avenue; that the Sycamore Chase subdivision is located to the south; that the Woodlands subdivision is located to the east; that the project is in the vicinity of other residential developments, which include The Estuary, Forest Landing and Plantation Park; that the property is

surrounded by an existing landscape buffer along the project's border, which will be maintained; that the required 20-ft. landscape buffer will also be provided; that there will be a minimal use of wetlands; that wetlands were delineated, which discovered .08-acre of wetlands exist on the site; that no disturbance is proposed to the wetland area; that there are no known existing natural or historical features on the site; that the project will comply with the Code's open space requirements; that the proposed open space is well above the 10% open space requirement; that 36.3%, or 5.2-acres, of open space is proposed for the project; that the existing dwelling and associated driveway will be removed; that tree and soil removal will be kept at a minimum to what is necessary to construct the development; that efforts will be made to preserve the existing vegetation; that if preservation of vegetation is not possible where significant vegetation exists, vegetative planting is proposed in compliance with the Code requirements; that water will be provided by Artesian; that sanitary sewer will be provided by Sussex County; that surface and groundwater pollution will be prevented by an onsite stormwater management system; that the proposed layout of internal roads consist of 12-ft. wide travel lanes, which will be designed in accordance with Sussex County and DelDOT standards; that it is anticipated that property values within the surrounding areas will remain the same or increase in value; that the proposed subdivision will not adversely impact adjacent properties; that no negative impacts are anticipated to the school district, public buildings or the community; that the project is anticipated to generate 413 vehicle trips daily; that based upon the 2021 DelDOT Traffic Count, Central Avenue currently carries an average of 2,900 annual and daily vehicles; that therefore it is not anticipated the project will cause any major adverse traffic impacts; that the proposed use is compatible with other surrounding land uses; that the project is not anticipated to have any impact on any area waterways and subject to the Change of Zone and Conditional Use request approvals, the proposed project will comply with all MR District, Coastal Area, and Subdivision Code requirements.

Ms. Wingate questioned if there was any proposal for emergency access to the property and she suggested placing a landscape buffer along Central Avenue.

Mr. Ron Sutton stated emergency access at the dead-end road, along Central Avenue was not intended for the project, however, they could provide emergency access in that area if the Commission required it.

The Commission found there was no one present in the room or by teleconference who wished to speak in support or opposition to C/Z 1969 and C/U 2339 Ron Sutton.

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

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

In relation to C/Z 1969 Ron Sutton. Motion by Mr. Mears to defer action for further consideration, seconded by Mr. Hopkins and carried unanimously. Motion carried 3-0.

In relation to C/U 2339 Ron Sutton. Motion by Mr. Mears to defer action for further consideration, seconded by Mr. Hopkins and carried unanimously. Motion carried 3-0.

Minutes of the November 17, 2022 Planning & Zoning Commission Meeting

The Commission discussed the Application which had been deferred since November 3, 2022.

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

Mr. Mears moved that the Commission recommend approval of C/Z 1969 Ron Sutton, for a Change in Zone from AR-1 to MR based upon the record made during the public hearing and for the following reasons:

1. This application seeks a Change in Zone from AR-1 to MR. The purpose of the MR zone is to provide housing in an area which is expected to become urban in character and where central water and sewer are available.
2. The stated purpose of the MR District is satisfied for this site. Both central water and central sewer will be available.
3. The proposed MR Zoning meets the purpose of the Zoning Ordinance in that it promotes the orderly growth of the County in an appropriate location.
4. The property is in the vicinity of a commercially zoned parcel and there are GR-zoned properties in the general area. In the case of the C-1 Zoning, a wide variety of commercial uses are permitted, and that District also allows residential development of up to 12 units an acre. This rezoning is consistent with other zoning and land uses in the area.
5. The site is located within the Coastal Area according to the Sussex County Comprehensive Plan. MR Zoning is appropriate in this Area according to the Plan.
6. The Comprehensive Plan suggests that higher densities such as those permitted in the MR District can be appropriate where there is water and sewer available, there are appropriate roadways to handle the density, and there are nearby commercial or employment centers. All of those factors are satisfied with regard to this application.
7. There is a letter in support of this Application in the record from a neighboring property owner stating that the change to MR zoning is appropriate for this parcel of land.
8. For all of these reasons, MR zoning is appropriate for this site.

Motion by Mr. Mears, seconded by Ms. Wingate and carried unanimously to recommend approval of C/Z 1969 Ron Sutton for the reasons and conditions stated in the motion. Motion carried 4-0. Ms. Stevenson abstained.

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

PLANNING & ZONING COMMISSION

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



Sussex County

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

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET
Planning Commission Public Hearing Date: November 3rd, 2022

Application: C/Z 1969 Ron Sutton

Applicant: Ron Sutton
55 W. Main Street
Middletown, DE 19709

Owner: Gulfstream Development, LLC
27 Atlantic Avenue
Ocean View, DE 19970

Site Location: Located on the southeast side of Central Avenue (Rt. 84), approximately 0.17-mile northeast of the intersection of Peppers Corner Road (S.C.R. 365 and Central Avenue (Rt. 84)

Current Zoning: AR-1 Agricultural Residential District

Proposed Zoning: MR Medium Residential District

Comprehensive Land Use Plan Reference: Coastal Area

Councilmanic District: Mr. Hudson

School District: Indian River School District

Fire District: Millville Fire Company

Sewer: Sussex County

Water: Tidewater

Site Area: 14.45 acres +/-

Tax Map ID.: 134-19.00-24.00



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



Sussex County

DELAWARE
sussexcountyde.gov

Memorandum

To: Sussex County Planning Commission Members
From: Christin Scott, Planner II
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant
Date: October 27, 2022
RE: Staff Analysis for C/Z 1969 Ron Sutton

This memo is to provide background and analysis for the Planning Commission to consider as a part of application C/Z 1969 Ron Sutton to be reviewed during the November 3rd, 2022, Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Change of Zone for Tax Parcel 134-19.00-24.00 to allow for a change of zone from an Agricultural Residential District (AR-1) to a Medium Density Residential District (MR). The property is lying on the southeast side of Central Avenue (Rt. 84), approximately 0.17-mile northeast of the intersection of Peppers Corner Road (S.C.R. 365) and Central Avenue (Rt. 84). The property consists of 14.45 acres +/-.

Comprehensive Plan Analysis

The 2018 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be developed. As part of the Comprehensive Plan, a Future Land Use Map is included to help determine how land should be zoned to ensure responsible development. The Future Land Use map in the plan indicates that the subject property has a land use designation of "Coastal Area." All surrounding properties to the north, south, east, and west of the subject site contain the Future Land Use Map designation of "Coastal Area."

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

Zoning Information

The 2018 Sussex County Comprehensive Plan outlines Zoning Districts by their applicability to each Future Land Use category. Under Table 4.5-2 "Zoning Districts Applicable to Future Land Use Categories," the Medium Density Residential (MR) District is listed as an Applicable Zoning District within the "Coastal Area." (Sussex County Comprehensive Plan, 4-25).



The adjacent parcels to the south, west and east of subject property are zoned Agricultural Residential (AR-1) District. The property immediately to the northwest of the subject property is zoned General Commercial (C-1) District. It should also be noted that a single parcel to the south is zoned Neighborhood Business (B-1) District.

The properties further east and north on the opposite side of Old Church Cemetery Road (S.C.R. 367) and Lizard Hill Road (367A) are zoned General Residential (GR) District.

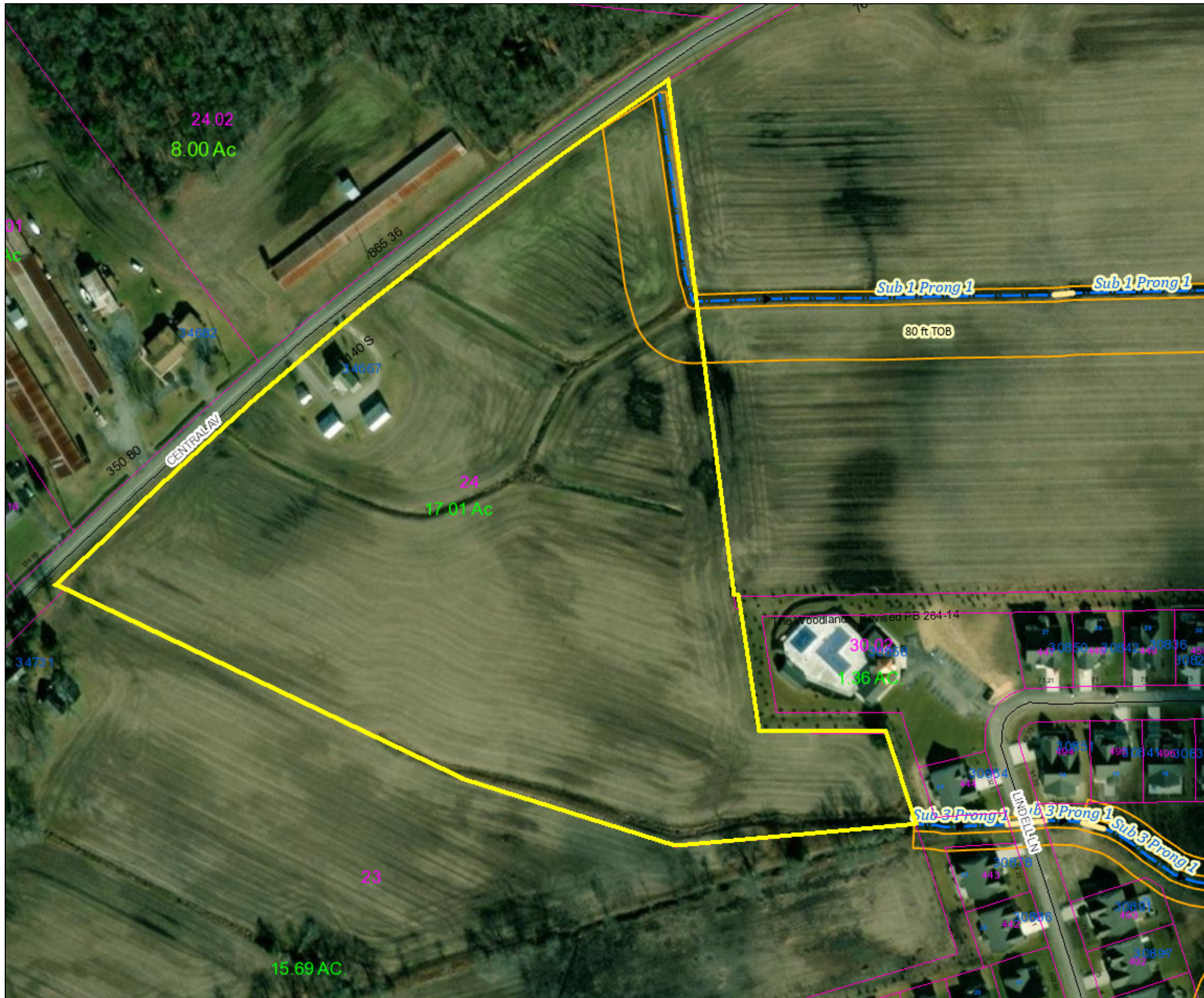
Existing Change of Zones within the Vicinity of the Subject Site

Since 2011, there has been three (3) Change of Zone applications within a 1-mile radius of the application site. Change of Zone No. 1761 for a change of zone from a General Commercial (C-1) District to an Agricultural Residential (AR-1) District, which was approved by the Sussex County Council at their meeting of Tuesday, November 18, 2014, through Ordinance No. 2373. Change of Zone No. 1841 for a change of zone from an Agricultural Residential (AR-1) District to a Neighborhood Business (B-1) District, which was denied by the Sussex County Council at their meeting of Tuesday, February 20, 2018. Change of Zone No. 1925 for a change of zone from an Agricultural Residential (AR-1) District to a Business Community (B-2) District, which was approved by the Sussex County Council at their meeting of Tuesday, November 10, 2020, through Ordinance No. 2753.

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



Sussex County



PIN:	134-19.00-24.00
Owner Name	TOOMEY PEGGY W
Book	5453
Mailing Address	36003 BURBAGE RD
City	FRANKFORD
State	DE
Description	HWY BAYARD TO
Description 2	OCEAN VIEW
Description 3	FX
Land Code	

polygonLayer

Override 1

polygonLayer

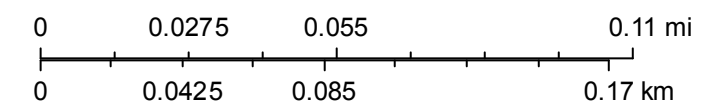
Override 1

- Tax Parcels
- 911 Address
- Streets
- County Boundaries

Flood Zones 2018

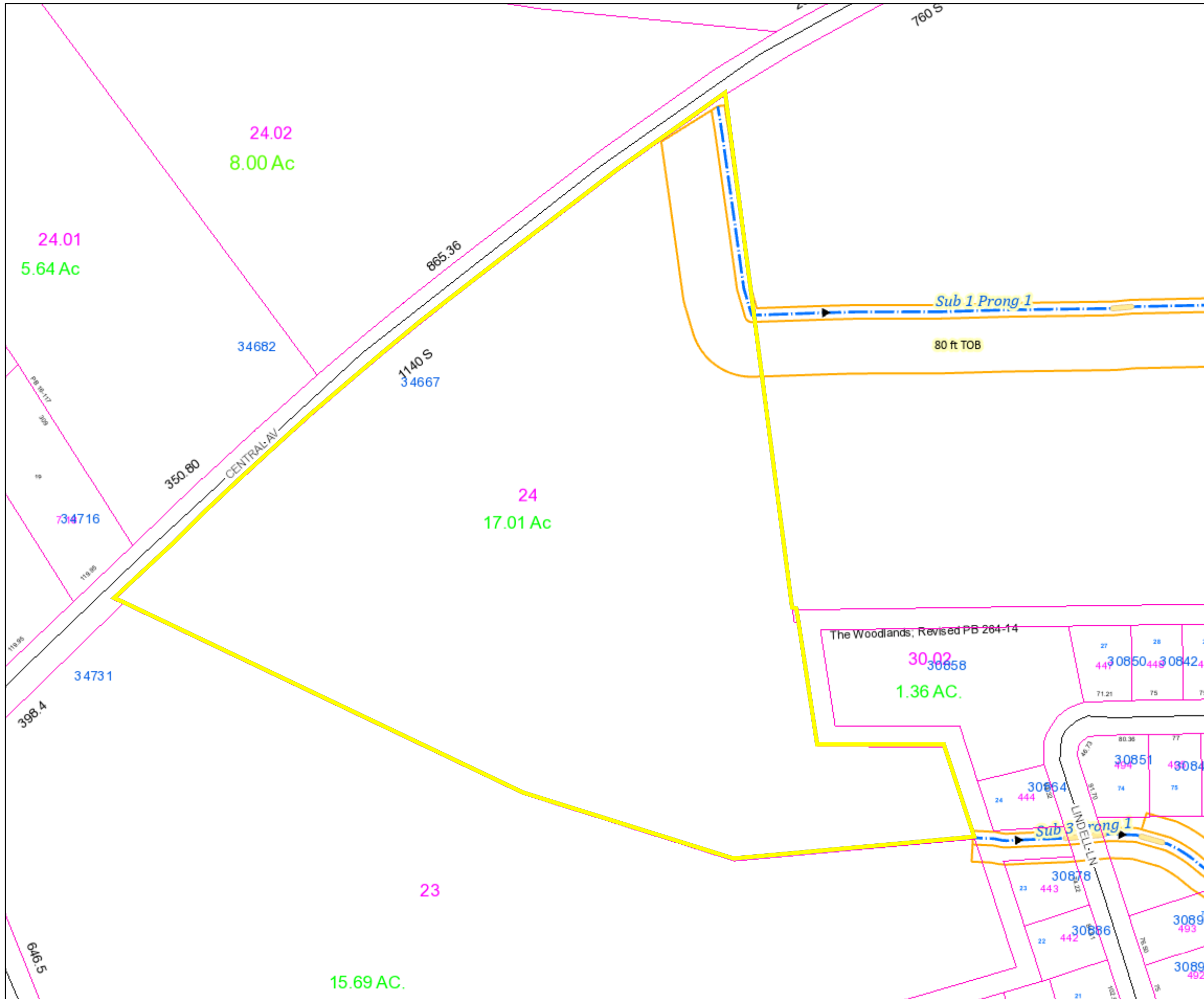
- 0.2 PCT ANNUAL CHANCE FLOOD HAZARD
- A
- AE
- AO
- OPEN WATER
- VE

1:2,257





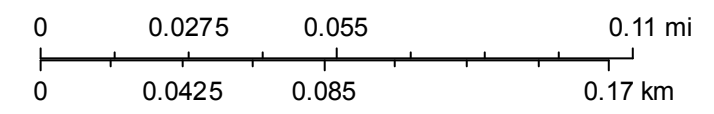
Sussex County

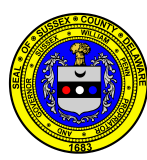


PIN:	134-19.00-24.00
Owner Name	TOOMEY PEGGY W
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Description	HWY BAYARD TO
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Description 3	FX
Land Code	

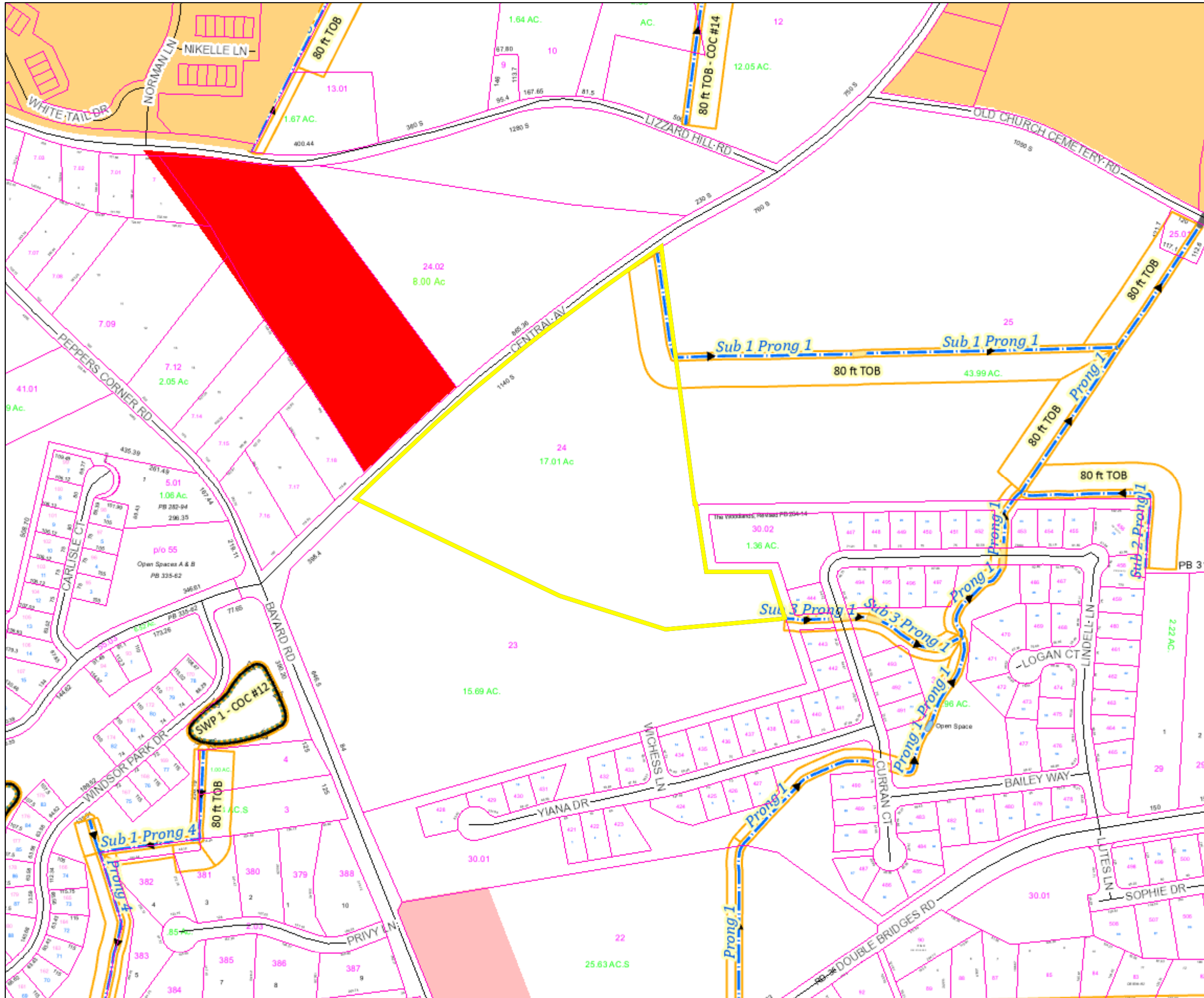
- polygonLayer
 - Override 1
- polygonLayer
 - Override 1
- Tax Parcels
- 911 Address
- Streets
- County Boundaries
- Flood Zones 2018
 - 0.2 PCT ANNUAL CHANCE FLOOD HAZARD
 - A
 - AE
 - AO
 - OPEN WATER
 - VE

1:2,257





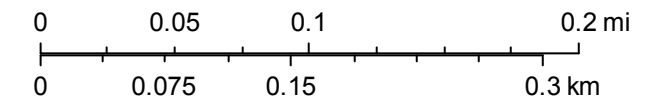
Sussex County



PIN:	134-19.00-24.00
Owner Name	TOOMEY PEGGY W
Book	5453
Mailing Address	36003 BURBAGE RD
City	FRANKFORD
State	DE
Description	HWY BAYARD TO
Description 2	OCEAN VIEW
Description 3	FX
Land Code	

- polygonLayer
 Override 1
- polygonLayer
 Override 1
- Tax Parcels
- Streets

1:4,514



Introduced: 04/26/22

Council District 4: Mr. Hudson
Tax I.D. No. 134-19.00-24.00
911 Address: 34667 Central Avenue, Frankford

ORDINANCE NO. ____

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR MEDIUM RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 14.45 ACRES, MORE OR LESS

WHEREAS, on the 11th day of January 2022, a zoning application, denominated Change of Zone No. 1969 was filed on behalf of Ron Sutton; and

WHEREAS, on the ____ day of _____ 2022, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Change of Zone No. 1969 be _____; and

WHEREAS, on the ____ day of _____ 2022, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County has determined, based on the findings of facts, that said change of zone is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County,

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

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

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land lying and being situate in Baltimore Hundred, Sussex County, Delaware, and lying on the southeast side of Central Avenue (Rt. 84), approximately 0.17-mile northeast of the intersection of Peppers Corner Road (S.C.R. 365) and Central Avenue (Rt. 84) and being more particularly described in the attached legal description prepared by W. Edinger, said parcel containing 14.45 ac., more or less.

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



Memorandum

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

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

CC: Everett Moore, County Attorney

Date: February 17, 2023

RE: County Council Old Business Report for C/U 2339 filed on behalf of Ron Sutton

The Planning and Zoning Department received an application (C/U 2339 filed on behalf of Ron Sutton) for a Conditional Use for parcel 134-19.00-24.00 for multi-family (60 units). The property is located at 34667 Central Avenue, Frankford. The parcel size is 14.45 acres +/-.

The Planning & Zoning Commission held a Public Hearing on the application on November 3, 2022. At the meeting of November 17, 2022, the Planning & Zoning Commission recommended approval of the application for the 9 reasons stated and subject to the 17 recommended conditions as outlined within the motion (copied below).

The County Council held a Public Hearing on January 10, 2023 and deferred. Below are the minutes from the Planning & Zoning Commission meetings of November 3, 2022 and November 17, 2022.

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

C/U 2339 Ron Sutton

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM RESIDENTIAL DISTRICT FOR MULTI-FAMILY (60 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 14.45 ACRES, MORE OR LESS. The property is lying on the southeast side of Central Avenue (Rt. 84), approximately 0.17-mile northeast of the intersection of Peppers Corner Road (S.C.R. 365) and Central Avenue (Rt. 84). 911 Address: 34667 Central Avenue, Frankford. Tax Parcels: 134-19.00-24.00.



Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's Exhibit Booklet, Conceptual Site Plan, Staff Analysis, a letter from the Sussex County Engineering Department Utility Planning Division, and the PLUS comments. Mr. Whitehouse advised the Commission that one letter in opposition was received for the Application.

The Commission found that Ms. Mackenzie Peet, Esq. with Baird Mandalas Brockstedt Federico & Cardea, spoke on behalf of the Applicant and Developer, Gulfstream Development, LLC; that also present was Mr. Ron Sutton, P.E. with Civil Engineering Associates, LLC, and Mr. Alan Ruble, the Developer's Project Manager; that the project is known as the Wilson Property; that the Applicant proposes to rezone the property from AR-1 (Agricultural Residential) to MR (Medium-Density Residential), in addition to a Conditional Use request for 60 townhome lots; that the property currently consists of a single-family dwelling, gazebo, barn and gravel driveway; that the property consists of 14.45-acres, located on the southeast side of Central Avenue; that the property is near the intersection of Peppers Corner Rd. and Central Avenue; that the property is located in the vicinity of a number of residential developments, which include, single-family and multi-family townhome developments; that they consider the duplex option a positive option, being different from single-family homes; that they feel the townhome option may be a more affordable option; that the Applicant did submit an Exhibit Booklet for each Application, which included the Applicant's land use applications, a list of property owners within 200-ft. of the site, as well as property and deed information, confirming the property is presently owned by Ms. Peggy Toomey and Mr. Ronald Wilson, that the exhibit confirms the developer is the equitable owner of the property, under contract to purchase, subject to granted land use approvals; that the Exhibit Booklets also included a copy of State Strategies for Policies and Spending Map and Sussex County Future Land Use Map; that these maps confirm the property to be located within Investment Level 3 and the Coastal Area; that additionally, aerial maps, a record plan for the adjacent Sycamore Chase community, relevant sections of the Zoning Code, Application Preliminary Plan, staff review and PLUS review, the Coastal Area and Environmental Assessment and Public Facility Evaluation Report, were included within the Exhibit Booklets; that the Coastal Area is a designated Growth Area; that Growth Areas generally includes areas on the southeastern side of Sussex County; that this area was previously referred to as Environmentally Sensitive Development Area; that the proposed townhome development is permitted within the Coastal Area; that the project is consistent with the Comprehensive Plan; that the plan complies with all Coastal Area requirements of §115-194.3; that the project is located within Investment Level 3, where growth is anticipated by local, County and State future plans; that §115-194.3 requires that the Applicant submit an Environmental Assessment, Public Facility Report and sketch plan for the proposed project, as it proposes over 50 dwelling units; that Civil Engineering Associates, LLC prepared the required assessment and report; that the assessment does meet all of the Code requirements, addressing each requirement point by point; that the property is currently zoned AR-1 (Agricultural Residential); that properties immediately adjacent to the subject property are also zoned AR-1; that the property located across the street from the property is zoned C-1 (General Commercial); that nearby properties are zoned AR-1 (Agricultural Residential), MR (Medium-Density Residential) and C-1 (General Commercial); that the MR Zoning provides for medium-density residential development, in areas that are, or are expected to become, generally urban in character, where sanity sewer and public water supply may or may not be available at the time of construction, where churches, recreational facilities and accessory uses may be necessary and compatible with residential surroundings; that the proposed rezoning is compatible with surrounding residential land uses, inclusive of multi-family dwellings; that

Table 2 for Height, Area and Bulk Code requirements, confirms that multi-family units, located within MR Zoning are subject to similar height, area and bulk requirements of the nearby commercially zoned property; that the proposed rezoning from AR-1 to MR is consistent with the Comprehensive Plan and Future Land Use Map; that the Coastal Area is a region which is most desirable new housing, as it permits a range of housing types, including townhome units as proposed; that medium and higher density, between four to 12 units per acre, is appropriate and supported within the Coastal Area, where there is central sewer, access and proximity to nearby commercial uses and employment centers, where the use is compatible with the character of the area, where located along a main road, or located at or near a major intersection and where there is an adequate level of service; that central water will be provided by Artesian; that central sewer is anticipated to be provided by Sussex County; that there is access and proximity to nearby commercial uses and employment centers; that the use is compatible with the character of the area in the immediate vicinity, with other medium density residential developments; that Table 4.5-2 for Zoning Districts Applicable to Future Land Use Categories confirms that a Medium-Density Residential Districts is an applicable zoning district within the Coastal Area; that for the reasons stated the proposed re-zoning from AR-1 to MR is compatible with surrounding land uses, compliant with the Zoning Code, and consistent with the Comprehensive Plan and Future Land Use Map; that the Applicant seeks a Conditional Use for the development of 60 townhome units, subject to the approval of the Change of Zone request from AR-1 to MR; that the proposal is specifically for 30 duplexes and individual townhome unit lots; that the amenities will include a pool and bath house; that the proposed use is consistent with the Comprehensive Plan; that nearby properties, in all directions, are also located within the Coastal Area; that medium and higher density is appropriate within the Coastal Areas; that the memorandum prepared by the Planning & Zoning staff confirmed that a Conditional Use was approved nearby which allowed for 135 townhome units; that the nearby areas are consistent with the land use the developer is trying to accomplish; that §115-188 for Townhomes and Muti-Family Dwellings, provide that each multi-family dwelling unit must comply with the minimum lot area per dwelling unit specification and the table of district regulations reflected in Article 20; that the dwelling units of a multi-family dwelling unit may be separated in ownership, if separate utilities are provided; that dwelling units on individual lots of a townhome, may be held in separate ownership, subject that all separate lots, for all dwelling units within the building, are created at the same time, compliance with the Subdivision Ordinance and require separate utility systems be provided; that the proposed development has taken into consideration and complies with all items listed within Chapter 99-9C of the Code; that the subject property currently consists of active agriculture fields, with an existing residential dwelling and outbuildings located to the northcentral portion of the property; that former chicken houses exist across Central Avenue; that the Sycamore Chase subdivision is located to the south; that the Woodlands subdivision is located to the east; that the project is in the vicinity of other residential developments, which include The Estuary, Forest Landing and Plantation Park; that the property is surrounded by an existing landscape buffer along the project's border, which will be maintained; that the required 20-ft. landscape buffer will also be provided; that there will be a minimal use of wetlands; that wetlands were delineated, which discovered .08-acre of wetlands exist on the site; that no disturbance is proposed to the wetland area; that there are no known existing natural or historical features on the site; that the project will comply with the Code's open space requirements; that the proposed open space is well above the 10% open space requirement; that 36.3%, or 5.2-acres, of open space is proposed for the project; that the existing dwelling and associated driveway will be removed;

that tree and soil removal will be kept at a minimum to what is necessary to construct the development; that efforts will be made to preserve the existing vegetation; that if preservation of vegetation is not possible where significant vegetation exists, vegetative planting is proposed in compliance with the Code requirements; that water will be provided by Artesian; that sanitary sewer will be provided by Sussex County; that surface and groundwater pollution will be prevented by an onsite stormwater management system; that the proposed layout of internal roads consist of 12-ft. wide travel lanes, which will be designed in accordance with Sussex County and DelDOT standards; that it is anticipated that property values within the surrounding areas will remain the same or increase in value; that the proposed subdivision will not adversely impact adjacent properties; that no negative impacts are anticipated to the school district, public buildings or the community; that the project is anticipated to generate 413 vehicle trips daily; that based upon the 2021 DelDOT Traffic Count, Central Avenue currently carries an average of 2,900 annual and daily vehicles; that therefore it is not anticipated the project will cause any major adverse traffic impacts; that the proposed use is compatible with other surrounding land uses; that the project is not anticipated to have any impact on any area waterways and subject to the Change of Zone and Conditional Use request approvals, the proposed project will comply with all MR District, Coastal Area, and Subdivision Code requirements.

Ms. Wingate questioned if there was any proposal for emergency access to the property and she suggested placing a landscape buffer along Central Avenue.

Mr. Ron Sutton stated emergency access at the dead-end road, along Central Avenue was not intended for the project, however, they could provide emergency access in that area if the Commission required it.

The Commission found there was no one present in the room or by teleconference who wished to speak in support or opposition to C/Z 1969 and C/U 2339 Ron Sutton.

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

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

In relation to C/Z 1969 Ron Sutton. Motion by Mr. Mears to defer action for further consideration, seconded by Mr. Hopkins and carried unanimously. Motion carried 3-0.

In relation to C/U 2339 Ron Sutton. Motion by Mr. Mears to defer action for further consideration, seconded by Mr. Hopkins and carried unanimously. Motion carried 3-0.

Draft Minutes of the November 17, 2022 Planning & Zoning Commission Meeting

The Commission discussed the Application which had been deferred since November 3, 2022.

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

Mr. Mears moved that the Commission recommend approval of C/U 2339 Ron Sutton for 60 Multi-Family Units in an MR Medium-Density Residential District based on the record made during the public hearing and for the following reasons:

1. This application seeks the approval of 60 multi-family structures on approximately 14.45 acres. The units will be duplex-style units with individual lots.
2. The property is in an area where a variety of development has generally occurred. There is commercially zoned land across the street and there are properties with GR zoning and townhomes in the area.
3. The site is in the Coastal Area according to the Sussex County Comprehensive Plan. This type of development is appropriate in this Area according to the Plan, which states that “a range of housing types” are acceptable here, including medium and high densities when a site is near commercial areas, is served by central water and sewer, where the use is in keeping with the character of the area and other similar factors. These types of considerations exist with regard to this site.
4. An Environmental Assessment and Public Facility Report” was submitted by the Applicant in support of this project.
5. Approximately 5.25 acres or 36.3% of the site will remain as open space, which exceeds the minimum Code requirement for this project.
6. The proposed development will not have an adverse impact on the neighboring properties or community.
7. The project will not have an adverse impact on traffic or roadways.
8. The development will be served by central sewer provided by Sussex County.
9. The development will be served by central water.
10. This recommendation is subject to the following conditions:
 - a. The maximum number of residential units shall be 60.
 - b. The developer and then the condominium association shall be responsible for the perpetual maintenance of the development roadways, buffers, stormwater management facilities, erosion, and sedimentation control facilities, and other common areas.
 - c. All entrance, intersection, roadway, and multi-modal improvements shall be completed by the developer in accordance with all DelDOT requirements
 - d. The project shall be served by Sussex County sewer. The developer shall comply with all Sussex County Engineering Department requirements including any offsite upgrades necessary to provide service to the project.
 - e. The project shall be served by central water to provide drinking water and fire protection.
 - f. There shall be a vegetated or forested buffer of at least 20 feet in width along the perimeter of this development adjacent to lands of other ownership and 30 feet in width along the adjacent Agricultural property that is currently farmed. This buffer shall utilize existing forest or similar vegetation if it exists in the buffer area. Where trees currently exist in the buffer area, stump removal or construction activities that disturb the existing grade of the area within the buffer shall be prohibited. All silt fencing shall be located along the interior limit of the buffer area (the edge of the buffer nearest the interior development) and the Final Site Plan shall identify the “Limit of Disturbance” to prevent disturbance of the buffer area.
 - g. Construction activities, including site work and deliveries, shall only occur between 7:30 am and 7:00 pm Monday through Friday, and between 8:00 am and 2:00 pm on Saturdays. There shall be no construction activities at the site on Sundays. A 24-inch by 36-inch “NOTICE” sign in English and Spanish confirming these hours shall be prominently displayed at all entrances to the site during construction.

- h. Street naming and addressing shall be subject to the review and approval of the County Geographic Information Office.
- i. The Final Site Plan shall contain the approval of the Sussex County Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.
- j. The Amenities on this site shall include a pool and bath house. These amenities shall be constructed and open to use by the residents of this community on or before the issuance of the 30th residential Building Permit.
- k. Any streetlights shall be downward screened so that they do not shine on neighboring properties or roadways.
- l. The interior street design shall meet or exceed Sussex County's Street design requirements, and there shall be sidewalks on at least one side of all streets.
- m. If requested by the local school district, a school bus stop shall be provided. The location of the bus stop shall be shown on the Final Site Plan
- n. In addition to the main entrance onto Central Avenue, there shall be a second point of vehicular access to Central Avenue for emergency use only. The location and details of this emergency access shall be shown on the Final Site Plan.
- o. The Final Site Plan shall include a Grading Plan for the site. No building permits shall be issued until an individual lot grading plan has been supplied to and approved by Sussex County. No certificate of occupancy shall be issued until a grading certificate is submitted to the Building Code Department demonstrating general conformity with the individual site grading plan.
- p. Failure to comply with any of these conditions may be grounds for termination of the Conditional Use approval.
- q. 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 2339 Ron Sutton for the reasons and conditions stated in the motion. Motion carried 4-0. Ms. Stevenson abstained.

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

PLANNING & ZONING COMMISSION

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



Sussex County

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JAMIE WHITEHOUSE, MRTPI, AICP
DIRECTOR OF PLANNING & ZONING

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET
Planning Commission Public Hearing Date: November 3rd, 2022

Application: C/U 2339 Ron Sutton

Applicant: Ron Sutton
55 W. Main Street
Middletown, DE 19709

Owner: Gulfstream Development, LLC
27 Atlantic Avenue
Ocean View, DE 19970

Site Location: Located on the southeast side of Central Avenue (Rt. 84), approximately 0.17-mile northeast of the intersection of Peppers Corner Road (S.C.R. 365 and Central Avenue (Rt. 84)

Current Zoning: Medium Residential (MR) District

Proposed Use: Multi-Family (60 Units)

Comprehensive Land Use Plan Reference: Coastal Area

Councilmanic District: Mr. Hudson

School District: Indian River School District

Fire District: Millville Fire Department

Sewer: Sussex County

Water: Tidewater

Site Area: 14.45 acres +/-

Tax Map ID: 134-19.00-24.00



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



Sussex County

DELAWARE
sussexcountyde.gov

Memorandum

To: Sussex County Planning Commission Members
From: Mrs. Christin Scott, Planner II
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant
Date: October 27, 2022
RE: Staff Analysis for C/U 2339 Ron Sutton

This memo is to provide background and analysis for the Planning Commission to consider as a part of application C/U 2339 Ron Sutton to be reviewed during the November 3rd, 2022, Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Conditional Use for Tax Parcel 134-19.00-24.00 to allow for Multi-Family (60 Units). The property is lying on the southeast side of Central Avenue (RT. 84), approximately 0.17-mile northeast of the intersection of Peppers Corner Road (S.C.R. 365) and Central Avenue (Rt. 84). The property consists of 14.45 acres +/-.

Further Site Considerations

County records indicate that there is a Tax Ditch and related Tax Ditch Rights-of-Way (ROW) located on the property. The Tax Ditch is located on the east side with a Tax Ditch Right-of-Way of 80-ft from the top of bank.

The property is not located within any established Transportation Improvement District (TID).

The property is located within Flood Zone "X" – Areas determined to be outside of the 0.2 Percent Annual Chance Flood Zone.

Comprehensive Plan Analysis

The 2018 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be developed. As part of the Comprehensive Plan, a Future Land Use Map is included to help determine how land should be zoned to ensure responsible development. The Future Land Use map in the plan indicates that the subject property has a land use designation of "Coastal Area." All surrounding properties to the north, south, east and west of the subject site contain the Future Land Use Map designation of "Coastal Area."

As outlined in the 2018 Sussex County Comprehensive Plan, Coastal Areas are areas that can accommodate development provided that special environmental concerns are addressed. A range of housing types should be permitted in Coastal Areas, including single-family homes, townhouses, and multi-family units. Retail and office uses are appropriate, but larger shopping centers and office parks should be confined to selected locations with access along arterial roads. Appropriate mixed-



use development should all be allowed. In doing so, careful mixtures of homes with light commercial, office and institutional uses can be appropriate to provide for convenient services and to allow people to work close to home. Major new industrial uses are not proposed in these areas. (Sussex County Comprehensive Plan, 4-15).

Zoning Information

The 2018 Sussex County Comprehensive Plan outlines Zoning Districts by their applicability to each Future Land Use category. Under Table 4.5-2 “Zoning Districts Applicable to Future Land Use Categories,” the Agricultural Residential (AR-1) District is listed as an Applicable Zoning District within the “Coastal Area.” (Sussex County Comprehensive Plan, 4-25).

The adjacent parcels to the south, west and east of subject property are zoned Agricultural Residential (AR-1) District. The property immediately to the northwest of the subject property is zoned General Commercial (C-1) District. It should also be noted that a single parcel to the south is zoned Neighborhood Business (B-1) District.

The properties further east and north on the opposite side of Old Church Cemetery Road (S.C.R. 367) and Lizard Hill Road (367A) are zoned General Residential (GR) District.

Existing Conditional Uses within the Vicinity of the Subject Site

Since 2011, there have been three (3) Conditional Use applications within a 1.0-mile radius of the application site. The first application is for C/U 1896 Timothy S. Miller to allow for mulch & boat/RV Storage which was approved by the Sussex County Council at their meeting of Tuesday, August 2, 2011, and the change was adopted through Ordinance No. 2206. The second application is for C/U 2095 Sposato Investments, LLC to amend conditions of approval for a landscape business which was denied by the Sussex County Council at their meeting of Tuesday, September 19, 2017. The third application is for C/U 2142 RH Orr, LLC to allow for Multi-Family (135 Townhouses) which was approved by the Sussex County Council at their meeting of Tuesday, November 13, 2018, through Ordinance No. 2612.

Based on the analysis of the land use, surrounding zoning and uses, the Conditional Use to allow for Multi-Family (60 Units), subject to considerations of scale and impact, could be considered as being consistent with the land use, area zoning and surrounding uses.



Sussex County



PIN:	134-19.00-24.00
Owner Name	TOOMEY PEGGY W
Book	5453
Mailing Address	36003 BURBAGE RD
City	FRANKFORD
State	DE
Description	HWY BAYARD TO
Description 2	OCEAN VIEW
Description 3	FX
Land Code	

polygonLayer

Override 1

polygonLayer

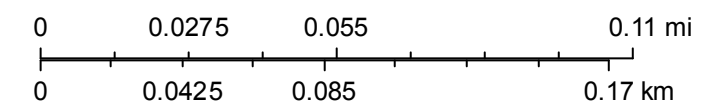
Override 1

- Tax Parcels
- 911 Address
- Streets
- County Boundaries

Flood Zones 2018

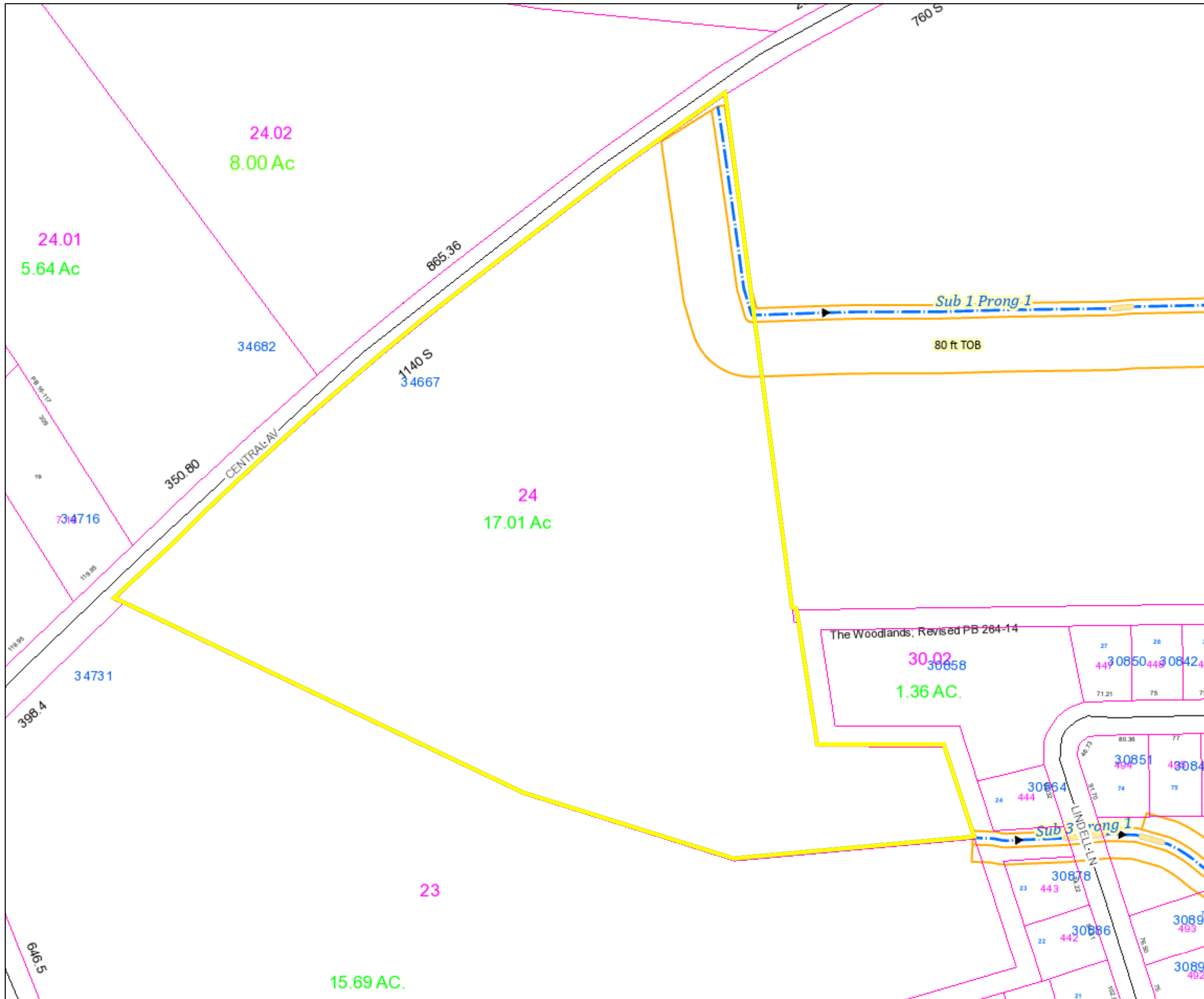
- 0.2 PCT ANNUAL CHANCE FLOOD HAZARD
- A
- AE
- AO
- OPEN WATER
- VE

1:2,257





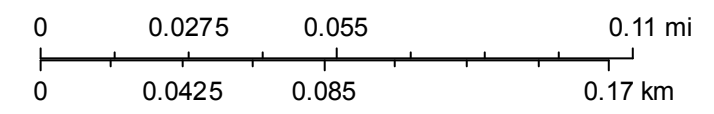
Sussex County



PIN:	134-19.00-24.00
Owner Name	TOOMEY PEGGY W
Book	5453
Mailing Address	36003 BURBAGE RD
City	FRANKFORD
State	DE
Description	HWY BAYARD TO
Description 2	OCEAN VIEW
Description 3	FX
Land Code	

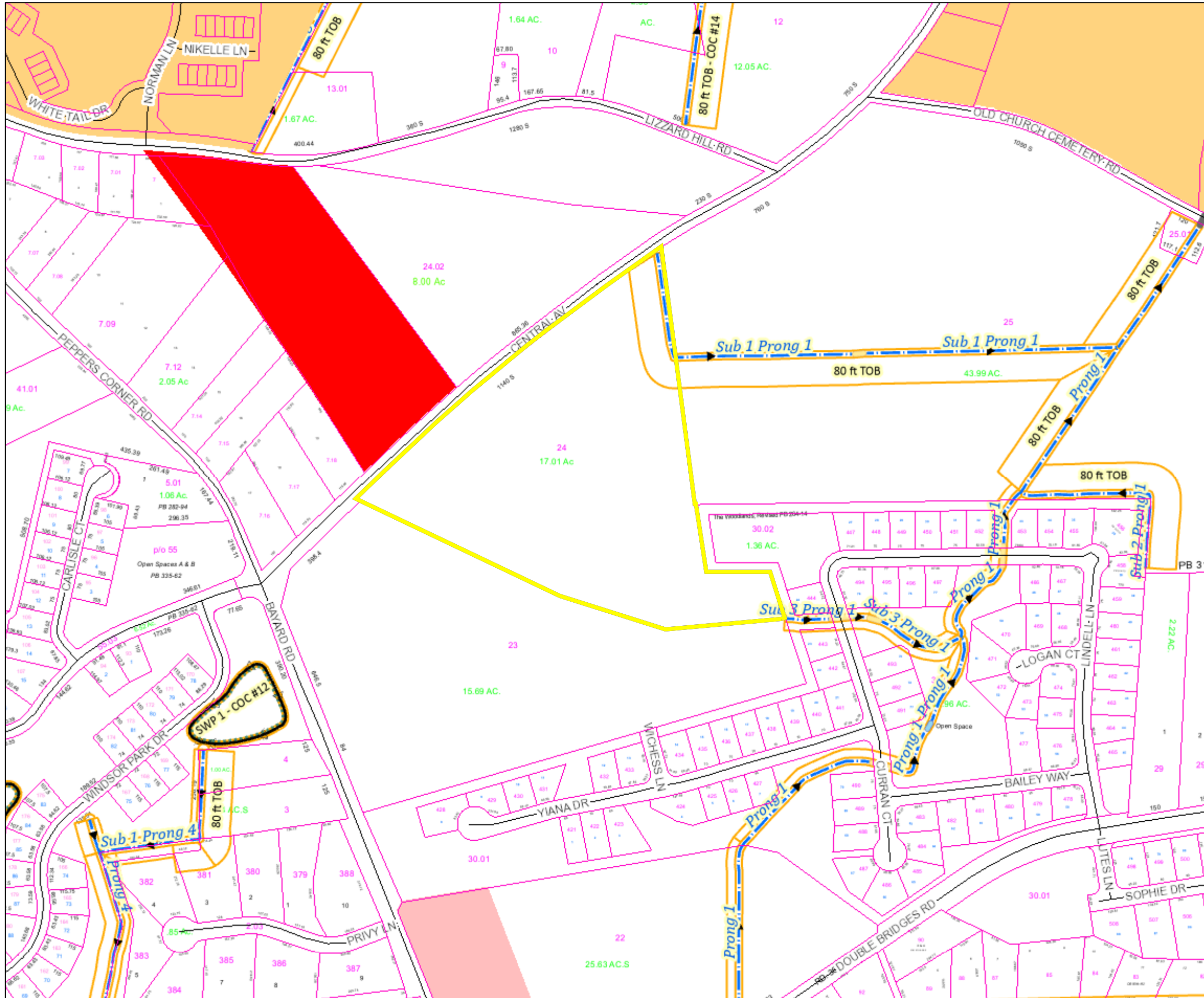
- polygonLayer**
 - Override 1
- polygonLayer**
 - Override 1
- Tax Parcels
- 911 Address
- Streets
- County Boundaries
- Flood Zones 2018**
 - 0.2 PCT ANNUAL CHANCE FLOOD HAZARD
 - A
 - AE
 - AO
 - OPEN WATER
 - VE

1:2,257





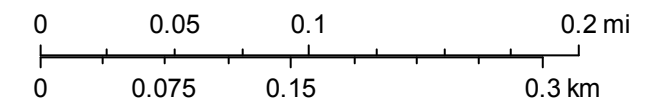
Sussex County



PIN:	134-19.00-24.00
Owner Name	TOOMEY PEGGY W
Book	5453
Mailing Address	36003 BURBAGE RD
City	FRANKFORD
State	DE
Description	HWY BAYARD TO
Description 2	OCEAN VIEW
Description 3	FX
Land Code	

- polygonLayer
 Override 1
- polygonLayer
 Override 1
- Tax Parcels
- Streets

1:4,514



Introduced: 4/26/22

Council District 4: Mr. Hudson
Tax I.D. No. 134-19.00-24.00
911 Address 34667 Central Avenue, Frankford

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM RESIDENTIAL DISTRICT FOR MULTI-FAMILY (60 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 14.45 ACRES, MORE OR LESS

WHEREAS, on the 11th day of January 2022, a conditional use application, denominated Conditional Use No. 2339 was filed on behalf of Ron Sutton; and

WHEREAS, on the ____ day of _____ 2022, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2339 be _____; and

WHEREAS, on the ____ day of _____ 2022, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County determined, based on the findings of facts, that said conditional use is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and that the conditional use is for the general convenience and welfare of the inhabitants of Sussex County.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article V, Subsection 115-31, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2339 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 southeast side of Central Avenue (Rt. 84), approximately 0.17-mile northeast of the intersection of Peppers Corner Road (S.C.R. 365) and Central Avenue (Rt. 84) and being more particularly described in the attached legal description prepared by W. W. Edinger, said parcel containing 14.45 acres, more or less.

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

Schaeffer.
YES. 2.3.23

Council Grant Form

Legal Name of Agency/Organization

Paul Kares Inc ✓

Project Name

Concert for the Kids

Federal Tax ID

85-1333696 ✓

Non-Profit

Yes

Does your organization or its parent organization have a religious affiliation? (If yes, fill out Section 3B.)

No

Organization's Mission

Paul Kares is a 501(c)(3) nonprofit organization dedicated to encouraging and educating children who show interest and passion for the culinary and musical arts. Paul Kares' mission is to support these young artists by providing them with the confidence, training and tools to pursue careers in their chosen artistic field.

Paul Kares hosts fundraising events and solicits donations throughout the year to raise awareness and funds to enable us to fulfill our goal of assisting children who need financial support to attend educational seminars, workshops and classes in their chosen field or to purchase musical instruments and culinary/kitchen tools and equipment.

Paul Kares works with schools throughout Sussex County and organizations like the Children's Beach House to identify qualified candidates who may become future recipients of Paul Kares scholarships and other financial awards. We especially look to support children who are from low-to-moderate income circumstances.

Paul Kares also is concerned with immediate needs of the lower income members of our community and contributes to efforts to feed the homeless alongside Jim Martin's "Shepherd's Office" in Georgetown, DE by donating food and money to those in need.

Address 32882 Cedar Grove Road

Address 2

City Lewes

State Delaware

Zip Code 19958

Contact Person Michael Whitehouse

Contact Title Executive Director

Contact Phone Number 203 241-7979

Contact Email Address michael@paulkaresde.org

Total Funding Request \$2,000

Has your organization received other grant funds from Sussex County Government in the last year? No

If YES, how much was received in the last 12 months?

N/A

Are you seeking other sources of funding other than Sussex County Council?

Yes

If YES, approximately what percentage of the project's funding does the Council grant represent?

10

Program Category (choose all that apply)

Educational

Program Category Other

Primary Beneficiary Category

Youth

Beneficiary Category Other

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

100

Scope

Paul Kares, Inc. is hosting a charity fundraising event - "The Concert for the Kids" on April 30th at the Milton Theatre, in

Milton, DE.

We are hosting this charity fundraising event to raise awareness and funds for Paul Kares to help us fulfill our goal of assisting children who are in need of financial support to attend educational seminars, workshops, and classes in their chosen field and/ or to purchase musical instruments and culinary/ kitchen tools and equipment. Children from Sussex County public schools will be among the performers at the Concert.

The money raised will help us address a problem and need of children and families in Sussex County who are looking for financial support to help pay for classes, workshops, training and equipment and/ or instruments for their children pursuing careers in the culinary, hospitality and entertainment fields.

Recently, (December 2022) Paul Kares awarded a grant of \$3,000 to the Cape Henlopen High School Jazz Band to help support the band's (20+ students) travel expenses to a northeast music competition that they were juried into and selected to attend - one of only 2 high school jazz bands to be invited throughout the entire northeast United States. We wish to continue to make many more such awards, especially to support children who are from low to moderate income family circumstances.

Additionally we've raised - and committed - funding of \$4,000 to pay for a Deltech student (and apprentice chef) to attend a Deltech culinary course on Italian food and cuisine to be held in Sorrento and Rome this Spring.

The amount of money raised at our "Concert for the Kids" will determine the number of students and families that Paul Kares can assist in the coming year.

**Religious
Components**

Please enter the current support your organization receives for this project (not entire organization revenue if not applicable to request) 8,000.00

Description Food & Beverage

Amount 8,500.00

Description Theatre Rental

Amount 1,200.00

Description Entertainment (Musicians)

Amount 3,000.00

Description Guest Chefs

Amount 1,000.00

Description Graphic Design/ Printing

Amount 1,200.00

Description Personnel/ Staff

Amount 2,500.00

Description Marketing/ Communications (including advertizing)

Amount 1,700.00

Description

Amount**TOTAL EXPENDITURES** 19,100.00**TOTAL DEFICIT FOR
PROJECT OR
ORGANIZATION** -11,100.00**Name of Organization** Paul Kares Inc**Applicant/Authorized
Official** Michael Whitehouse**Date** 01/25/2023**Affidavit
Acknowledgement** Yes

If you feel this is not a valid submission please log into D3Forms to update this submissions status.
Please feel free to email clientservices@d3corp.com with any questions.

Casey Hall

From: Paul Kares <michael@paulkaresde.org>
Sent: Tuesday, January 31, 2023 5:31 PM
To: Casey Hall
Subject: Re: Non-Profit grant program

CAUTION: This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

Hello Casey,

Thank you for your note. Currently the children taking part in Paul Kares' programs are from the Cape Henlopen School district.

We appreciate your following up on our application.

Kind Regards,

Michael Whitehouse

Michael Whitehouse
Executive Director
Paul Kares, Inc
(203) 241-7979

On Jan 31, 2023, at 8:42 AM, Casey Hall <casey.hall@sussexcountyde.gov> wrote:

Good morning.

Sussex County is in receipt of you your Councilmanic grant request for Paul Kares Inc. Can you please provide which School District(s) in Sussex County the children taking part in your program are from so we can send the request to the right council member for consideration.

Thank you,

Casey Hall

Casey Hall, Clerk III
Administration | Sussex County Government
P.O. Box 589 | 2 The Circle | Georgetown, DE 19947
Tel: 302.855.7743 x7937 Fax: 302.855.7749

HUDSON.
2.3.23. - Yes.

Council Grant Form

Legal Name of Agency/Organization	Ocean View Historical Society ✓
Project Name	Tunnell West Preservation Project
Federal Tax ID	26-1719840 ✓
Non-Profit	Yes
Does your organization or its parent organization have a religious affiliation? (If yes, fill out Section 3B.)	No
Organization's Mission	To preserve, interpret, and collect the history of Ocean View and the surrounding Baltimore Hundred area, sharing our past with all surrounding communities, both visitors and locals.
Address	39 Central Avenue
Address 2	PO B0x 576
City	Ocean View
State	DE
Zip Code	19970
Contact Person	Barbara Slavin
Contact Title	President

Contact Phone Number 302-593-8814

Contact Email Address ovhsociety@gmail.com

Total Funding Request \$10,000

Has your organization received other grant funds from Sussex County Government in the last year? No

If YES, how much was received in the last 12 months? N/A

Are you seeking other sources of funding other than Sussex County Council? No

If YES, approximately what percentage of the project's funding does the Council grant represent? N/A

Program Category (choose all that apply) Cultural, Other

Program Category Other Deterioration of 1860 house siding

Primary Beneficiary Category Other

Beneficiary Category Other Educational

Approximately the total number of Sussex County Beneficiaries served, or expected to be served, annually by this program 1500

Scope The Tunnell West House, built c. 1860, was built as a tenant farmer's dwelling. It is part of the Historic Village in Ocean View which is composed of an 1889 post office, a two seater outhouse, a replica of Cecile Steele's original chicken house (where the broiler chicken industry originated), and a replica of the 1800's Hall's Store as was the name of the town until 1889. The Town of Ocean View is the official owner of the property, but the Historical Society leases it from them. The exterior of the House has been deteriorating to the point where all the siding needs to be replaced with a more durable product, such as Hardie Plank. The Village has been visited by over 1500 people - both locals and visitors - and was the initial host of a Smithsonian Exhibit in September through November of 2022.

Religious Components

Please enter the current support your organization receives for this project (not 0.00

entire organization
revenue if not
applicable to request)

Description Re-Construction

Amount 40,000.00

Description

Amount

Description

Amount

Description

Amount

Description

Amount

Description

Amount

Description

Amount

Description

Amount

TOTAL EXPENDITURES 40,000.00

**TOTAL DEFICIT FOR
PROJECT OR
ORGANIZATION** -40,000.00

Name of Organization Ocean View Historical Society

**Applicant/Authorized
Official** Barbara Slavin

Date 02/01/2023

**Affidavit
Acknowledgement** Yes

If you feel this is not a valid submission please log into D3Forms to update this submissions status.
Please feel free to email clientservices@d3corp.com with any questions.

Schaeffer.
Yes 2/7

Council Grant Form

Legal Name of Agency/Organization	Ocean Waves Quilt Guild Inc ✓
Project Name	The Fabric of Life Quilt Show
Federal Tax ID	52-2079625 ✓
Non-Profit	Yes
Does your organization or its parent organization have a religious affiliation? (If yes, fill out Section 3B.)	No
Organization's Mission	Education and Community Service Work
Address	P.O. Box 63
Address 2	
City	Lewes
State	DE
Zip Code	19966
Contact Person	Lana Powell
Contact Title	Funding / Sponsor Chair

Contact Phone Number 3022360494

Contact Email Address lanamcarl@aol.com

Total Funding Request 2,000

Has your organization received other grant funds from Sussex County Government in the last year? No

If YES, how much was received in the last 12 months? N/A

Are you seeking other sources of funding other than Sussex County Council? Yes

If YES, approximately what percentage of the project's funding does the Council grant represent? 4

Program Category (choose all that apply) Cultural, Educational, Health and Human Services

Program Category Other

Primary Beneficiary Category Other

Beneficiary Category Other ALL of the ABOVE categories

Approximately the total number of Sussex County Beneficiaries served, or expected to be served, annually by this program 1500

Scope For 25 years we prepare needed items for over 35 local orgs. including hospitals, nursing homes, Habitat for Humanity, Veterans Quilts, Breast Cancer pillows, Pillowcases for infusion centers & dialysis centers, Teddy Bears for families of the fallen coming to Dover, Kody's Kids, Homeless high school children Cape Henlopen, Sussex Women's Shelters, Little Sisters of the Poor, Burial gowns for infants at our hospitals from wedding dresses, and Delaware Hospice, just to name a few. We expect over 2,000 visitors to Georgetown Sussex Academy for our show 4/13-15/23, providing support to our local community partners for housing and dining.

Religious Components

Please enter the current support your organization receives for this project (not entire organization revenue if not applicable to request) 19,950.00

Description School Rent for Show

Amount 12,000.00

Description Display Pipe & Drape

Amount 19,500.00

Description Printing

Amount 3,000.00

Description Judges

Amount 1,750.00

Description Speaker

Amount 3,000.00

Description Ads

Amount 1,000.00

Description supplies, ribbons,

Amount 2,000.00

Description Insurance

Amount 500.00

TOTAL EXPENDITURES 42,750.00

**TOTAL DEFICIT FOR
PROJECT OR
ORGANIZATION** -22,800.00

Name of Organization Ocean Waves Quilt Guild Inc

**Applicant/Authorized
Official** Lana Powell

Date 01/31/2023

**Affidavit
Acknowledgement** Yes

If you feel this is not a valid submission please log into D3Forms to update this submissions status.
Please feel free to email clientservices@d3corp.com with any questions.

Schaeffer.
yes 2/7

Council Grant Form

Legal Name of Agency/Organization Developing Artist Collaboration ✓

Project Name HVAC Emergency

Federal Tax ID 821214176 ✓

Non-Profit Yes

Does your organization or its parent organization have a religious affiliation? (If yes, fill out Section 3B.)

No

Organization's Mission

It is the mission of DAC to transform the lives of Artists through education, peer connection, and opportunities to grow personally and professionally to achieve the next level of their creative journey. DAC is an Artist First Movement. We help Artists nurture their passions in a sustainable way by providing career development, peer connection, and opportunities to show and connect with the community. We believe this model can empower Artists to build profitable and fulfilling careers.

Address 37401 Malloy St.

Address 2

City Rehoboth Beach

State DE

Zip Code 1991

Contact Person	Leah Beach
Contact Title	Founder
Contact Phone Number	302-212-9798
Contact Email Address	leah@developingarts.org
Total Funding Request	\$5000.00
Has your organization received other grant funds from Sussex County Government in the last year?	Yes
If YES, how much was received in the last 12 months?	2500.00
Are you seeking other sources of funding other than Sussex County Council?	No
If YES, approximately what percentage of the project's funding does the Council grant represent?	N/A
Program Category (choose all that apply)	Other

Program Category Capital Exepense
Other

Primary Beneficiary Category Other

Beneficiary Category
Other

Approximately the total number of Sussex County Beneficiaries served, or expected to be served, annually by this program 23

Scope

We currently have a facility located in Rehoboth Beach that is a communal studio space for local working Artists. This space serves as a workspace as well as personal studios for Artists that do not have access to one at home. We also conduct Artist gatherings, group meetings, and operations for our organization out of this space. The lease agreement that we have holds us responsible for any repairs and maintenance on the building. The building has a boiler system to heat the upstairs of the building as well as a HVAC system to heat part of the building where the communal activities and Art studios are. We have not used the boiler in a year and discovered there was a leak on a valve which has caused the boiler to fall through the sub-floor and have a mold issue. The boiler is over 60 years old and does not work. We need the boiler removed, mold removed, and floor repaired for health and safety.

During routine maintenance it was confirmed that the HVAC system is leaking coolant and requires a \$4985.00 fix. Our electric bills during the Winter months are well over \$1000.00 which is explained by the HVAC system not working properly due to the coolant leak. We are looking at

spending nearly \$6,500.00 unexpectedly to get this space up and running to fulfill our mission. The verbiage in our lease agreement binds us to these fixes, which we have had reviewed by a lawyer.

We are hoping for financial support from Sussex County Council to help with the burden of this cost on the organization. We have been facing a challenges with our cash flow and the financial burden of this unexpected expense affects all of our programming right now.

**Religious
Components**

**Please enter the
current support your
organization receives
for this project (not
entire organization
revenue if not
applicable to request)** 0.00

Description Removal of Boiler

Amount 800.00

Description Flooring Fix, Mold Removal

Amount 900.00

Description Thermostat Replacement

Amount 469.00

Description HVAC Coolant Leak Inspection

Amount 2,000.00

Description HVAC Coolant Leak Fix & Refill

Amount 2,331.00

Description

Amount

Description

Amount

Description

Amount

TOTAL EXPENDITURES 6,500.00

**TOTAL DEFICIT FOR
PROJECT OR
ORGANIZATION** -6,500.00

Name of Organization Developing Artist Collaboration

**Applicant/Authorized
Official** Leah Beach

Date 01/27/2023

Affidavit Yes

Acknowledgement

If you feel this is not a valid submission please log into D3Forms to update this submissions status.
Please feel free to email clientservices@d3corp.com with any questions.

Vincent.
Yes. 2/7

Council Grant Form

Legal Name of Agency/Organization Tether Foundation ✓

Project Name Camp Abilities Delaware

Federal Tax ID 84-3603778 ✓

Non-Profit Yes

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

Organization's Mission Tether Foundation is a registered 501c3 organization that advocates for individuals who are blind and visually impaired in the local community through health, sport, and physical activity programming, including Camp Abilities Delaware sports camp for youth with visual impairments. Tether Foundation also provides consultation services for summer camps and community recreation programs that wish to include youth with visual impairments.

Address 424 Roseanna Ave

Address 2

City Wilmington

State DE

Zip Code 19803

Contact Person Shawn Musgrove

Contact Title Board of Director

Contact Phone Number 3022450978

Contact Email Address brailletcher@comcast.net

Total Funding Request 6000

Has your organization received other grant funds from Sussex County Government in the last year? No

If YES, how much was received in the last 12 months? N/A

Are you seeking other sources of funding other than Sussex County Council? No

If YES, approximately what percentage of the project's funding does the Council grant represent? N/A

Program Category (choose all that apply) Educational, Health and Human Services

Program Category
Other

Primary Beneficiary Category Disability & Special Needs

Beneficiary Category
Other

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

10

Scope

Camp Abilities Delaware is an educational sports camp for children ages 7-17 who are blind or have low vision located in Newark, DE. Camp Abilities Delaware is an overnight camp experience that introduces children to a variety of sports, including cross-country running, field events, golf, 5-a-side, soccer, team building, lacrosse, beep kickball, rugby, football, boating, and dance. The purpose of the camp is to empower children to be physically active, improve their overall health and wellness, encourage them to make food choices that support an active lifestyle, and develop their confidence and self-esteem through sport and physical activity. Children receive one-on-one instruction during all physical activities and events. Camp is to athletes offered free of charge. All children with visual impairments from across the state of Delaware are invited to come at this time we have 5 -10 children from Sussex County who plan on attending.

Religious Components

Please enter the current support your organization receives for this project (not entire organization revenue if not applicable to request) 0.00

Description Insurance, Administrative

Amount 1,000.00

Description Housing

Amount 8,798.00

Description Meals

Amount 11,695.00

Description Background Checks

Amount 1,820.00

Description Facilities

Amount 3,000.00

Description Salary

Amount 4,800.00

Description Equipment

Amount 1,000.00

Description	Clothing
Amount	550.00
TOTAL EXPENDITURES	32,663.00
TOTAL DEFICIT FOR PROJECT OR ORGANIZATION	-32,663.00
Name of Organization	Tether Foundation
Applicant/Authorized Official	Shawn Musgrove
Date	01/26/2023
Affidavit Acknowledgement	Yes


If you feel this is not a valid submission please log into D3Forms to update this submissions status.
Please feel free to email clientservices@d3corp.com with any questions.

Casey Hall

From: Shawn <brailletcher@comcast.net>
Sent: Monday, January 30, 2023 10:56 AM
To: Casey Hall
Subject: Re: Non-Profit grant program

CAUTION: This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

We have students from Laurel, Rehoboth, Oceanview, Georgetown, and Millsboro who are attending.

Shawn 

From: Casey Hall <casey.hall@sussexcountysde.gov>
Sent: Monday, January 30, 2023 9:30 AM
To: brailletcher@comcast.net <brailletcher@comcast.net>
Subject: Non-Profit grant program

Good morning.

Sussex County is in receipt of you your Councilmanic grant request for Camp Abilities Delaware. Can you please provide which area of Sussex County the children taking part in your program are from so we can send the request to the right council member for consideration.

Thank you,

Casey Hall

Casey Hall, Clerk III
Administration | Sussex County Government
P.O. Box 589 | 2 The Circle | Georgetown, DE 19947
Tel: 302.855.7743 x7937 Fax: 302.855.7749

To Be 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 18th 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.

To Be Introduced: 02/21/23

Council District 1: Mr. Vincent
Tax I.D. No.: 532-13.00-22.00 (portion of)
911 Address: 10311 Hastings Lane, Delmar

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 17.04 ACRES, MORE OR LESS

WHEREAS, on the 30th day of June 2022, a conditional use application, denominated Conditional Use No. 2387 was filed on behalf of Consolidated Edison Development, Inc.; and

WHEREAS, on the ____ day of _____ 2023, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2387 be _____; and

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

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article VI, Subsection 115-39, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2387 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land, lying and being situate in Little Creek Hundred, Sussex County, Delaware, and lying on the north and south side of Hastings Lane and the west side of BiState Boulevard (Rt. 13A), approximately 0.37 mile north of Old Crow Road (S.C.R. 503B) and being more particularly described in the attached Engineered Site Plans prepared by, Eric Redding, P.E. said parcel (portion of) containing 17.04 acres, more or less.

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

To Be Introduced: 02/21/23

Council District 2: Mrs. Green
Tax I.D. No.: 131-14.00-29.00 (portion of)
911 Address: 18374 South Main Street, Bridgeville

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM ON A 19.61 ACRE, PORTION, MORE OR LESS, OF A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 74.96 ACRES, MORE OR LESS

WHEREAS, on the 30th day of June 2022, a conditional use application, denominated Conditional Use No. 2384 was filed on behalf of Consolidated Edison Development, Inc.; and

WHEREAS, on the ____ day of _____ 2023, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2384 be _____; and

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

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2384 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land, lying and being situate in Northwest Fork Hundred, Sussex County, Delaware, and lying on the west side of South Main Street (Rt. 13A) approximately 380 feet north of Rifle Range Road (S.C.R. 545) and being more particularly described in the attached legal description prepared by David W. Baker, Esq., said parcel containing 74.96 acres, more or less.

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

Council District 2: Mrs. Green
Tax I.D. No.: 230-15.00-3.00
911 Address: 9242 Daniels Road, Lincoln

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT AND A C-1 GENERAL COMMERCIAL DISTRICT FOR AUTO STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 0.91 ACRE, MORE OR LESS

WHEREAS, on the 9th day of January 2023, a conditional use application, denominated Conditional Use No. 2420 was filed on behalf of Vance Daniels; 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. 2420 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, Subsections 115-37 and 115-79, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2420 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 Cedar Creek Hundred, Sussex County, Delaware, and lying on west side of Daniels Road (S.C.R. 215A), approximately 480 ft. south of Coastal Highway (Rt. 1), and being more particularly described in the attached legal description prepared by Kenneth M. Hillman, said parcel containing 0.91 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: 02/21/23

Council District 3: Mr. Schaeffer
Tax I.D. No.: 235-8.00-39.00 (P/O)
911 Address: N/A

ORDINANCE NO. ____

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENIAL DISTRICT TO A C-3 HEAVY COMMERCIAL DISTRICT FOR A PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 64.85 ACRES, MORE OR LESS

WHEREAS, on the 21st day of September, 2022, a zoning application, denominated Change of Zone No. 1993 was filed on behalf of Ocean One Holdings, LLC; and

WHEREAS, on the ____ day of _____ 2023, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Change of Zone No. 1993 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] and adding in lieu thereof the designation 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 parcel of land lying and being situate in Broadkill Hundred, Sussex County, Delaware, and lying on the west side of Coastal Highway (Rt. 1) and the southeast side of Broadkill Road (Rt. 16) at the intersection of Coastal Highway (Rt. 1) and Broadkill Road (Rt. 16) and being more particularly described in the attached legal description prepared by Baird Mandalas Brockstedt, LLC., said parcels containing 64.85 ac., more or less.

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

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



Sussex County

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Memorandum

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

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

CC: Everett Moore, County Attorney

Date: February 17, 2023

RE: County Council Report for C/U 2342 filed on behalf of Turning Point Energy – TPE DE SU07, LLC

The Planning and Zoning Department received an application (C/U 2342 filed on behalf of Turning Point Energy – TPE DE SU07, LLC) for a Conditional Use for parcel 331-1.00-15.01 for a solar farm. The property is located on the west side of Elks Road (Rt. 46) approximately 0.5 miles west of Sussex Highway (Rt.13). The parcel size is 27.50 acres +/-.

The Planning & Zoning Commission held a Public Hearing on the application on December 15, 2022. At the meeting of January 12, 2023, the Planning & Zoning Commission recommended approval of the application for the 8 reasons stated and subject to the 10 recommended conditions as outlined within the motion (copied below).

Below are the minutes from the Planning & Zoning Commission meetings of December 15, 2022, and January 12, 2023.

Minutes of the December 15, 2022, Planning & Zoning Commission Meeting

C/U 2342 Turning Point Energy - TPE DE SU07, LLC

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 27.5 ACRES, MORE OR LESS. The property is lying on the west side of Elks Road (Rt. 46) approximately 0.50 miles west of the intersection of Elks Road (Rt. 46) and Sussex Highway (Rt. 13). 911 Address: N/A. Tax Parcel: 331-1.00-15.01 (p/o).



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

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

The Commission found that Mr. Jon Falkowski spoke on behalf of the Application; that he is a civil engineer with Becker Morgan Group; that also present was Mr. Jordan Belknap, with Turning Point Energy as the Applicant TPE DE SU107; that the property is located within Seaford, being just south of Bridgeville; that the property is located off Cannon Rd., along Elks Rd.; that the property is approximately 108 acre parcel; that only 27.5 acres, to the north of the 108 acres is being requested for Conditional Use; that the site has existing access by a gravel road; that the gravel road also serves Bakers Farm and two residents located to the south of the property; that the solar array will only be located to the north of the site, within the requested Conditional Use area; that the project will create no increase in traffic; that the project will create no odors, dust, gas, smoke or fumes; that there will be little to no noise from the project inverters, other than a slight humming; that the hum can no longer be heard from a few feet away from the inverters; that all inverters will be placed away from adjacent residences; that they did perform a glare study for the project; that the glare study confirmed there were no glare impacts to the neighbors; that the performed glare study was very conservative as the study did not account for any buffering or landscaping for the property; that the project proposes a pollinator mix be planted; that they will seek sediment and stormwater approval from Sussex Conservation District; that the change in land cover from the existing agricultural use to the pollinator mix will help the reduce of runoff; that they propose eight foot fencing be place around the entire perimeter of the array; that the fencing will have gates and Knox Box for emergency personnel; that a community outreach meeting was held for the project; that project mailers were sent out to all residents listed on the Sussex County mailing list for the public hearing; that Mr. Belknap did attend the community outreach meeting on December 7, 2022, at the Bridgeville Public Library; that they did submit their proposed decommissioning plan; that at the end of the solar arrays useful life, the arrays will be decommissioned; that the property will then return to its existing agricultural use and they did submit Findings of Fact and proposed conditions for the project.

The Commission found that Mr. Jordan Belknap spoke on behalf of the Application; that he is the Director of Development for Turning Point Energy; the Turning Point Energy is an energy developer, where the core business is focused on bringing financial, environmental and community value to all projects; that they achieve this by developing community solar projects; that they also make charitable commitment and donations for every project; that community solar is a model where a solar farm can be constructed, which allow residents, businesses and municipalities to sign up as subscribers to a solar farm; that subscribers pay for their subscription; that the subscription generates a credit which is received on the subscribers electric bill; that the amount, size and cost of the subscription is modeled with the energy consumption that the subscriber has at their residence or business; that cost of the credit is of greater value than the subscription; that they can develop an effective solar farm, at an effective scale, at an effective cost, which allow to pass the savings on to the residents of Sussex County, who are customers of Delmarva Power; that community solar is especially appealing to low incoming housing, renters, condominiums, mobile homes, businesses and residences that do not have a suitable roof for the placement of solar panels; that these residents can participate in renewable energy economy, save money, without impacting the infrastructure of their buildings; that the project will not create any long term increase in traffic; that the arrays sit quietly; that the arrays are monitored remotely; that there is a four to six month construction window that will create increased traffic; that after the construction window passes, the property may see a vehicle every few months for the

property and/or equipment maintenance; that they will not be using goats or sheep for maintenance; that they are proposing to use a low growth pollinator mix; that the low growth pollinator mix will allow for a nice environment for the birds and bees; that the pollinator mix will not grow very high, which allows for more time between property maintenance visits; that the distributed energy eases the burden on the transmission system; that power is generated where it is locally consumed which is beneficial for the grid; that they have a 25 year lease options for the subject property, with five year extensions; that the proposed use will not be a permanent transformation of the land; that the project will not require new roads; that the project will not impact the local water and sewer systems; that there is no basic impact to the County's infrastructure; that they work with Delmarva Power; that Delmarva Power studies their facilities, informing them of any required upgrades necessary for connection and Delmarva Power make the required upgrades along the public right-of-way to connect the facility.

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

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

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

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

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

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

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

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

The Commission found that Mr. Philip Everton spoke in support of the Application; that he owns property to the rear of the subject site; that the site is located along a peninsula, which takes over the majority of Hearn's Pond; that there is no direct view of the subject area, other than a few spots where

the landscaping has openings; that he travels the road daily; that upon his daily travels he is unable to see the pond; that there is not a direct view to the area being proposed for the solar arrays; that the property has been in his family for generations; that he and his family are very protective of the coastline around the pond; that other than the small amount of people who hunt once to twice a year, no other people visit the property other than deliver trucks; that the property is one of the only non-irrigated fields in the area; that he believed the hidden location of the property protected both Turning Point Energy's interest, as well as adjacent properties to the site; that he feels the impact of the project is low and he is excited to move renewable energy forward with the proposed project.

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

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

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

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

In relation to C/U 2342 Turning Point Energy – TPE DE SU07, LLC. Motion by Mr. Hopkins to defer action for further consideration, seconded by Ms. Stevenson and carried unanimously. Motion carried 4-0.

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

The Commission discussed the Application which had been deferred since December 15, 2022.

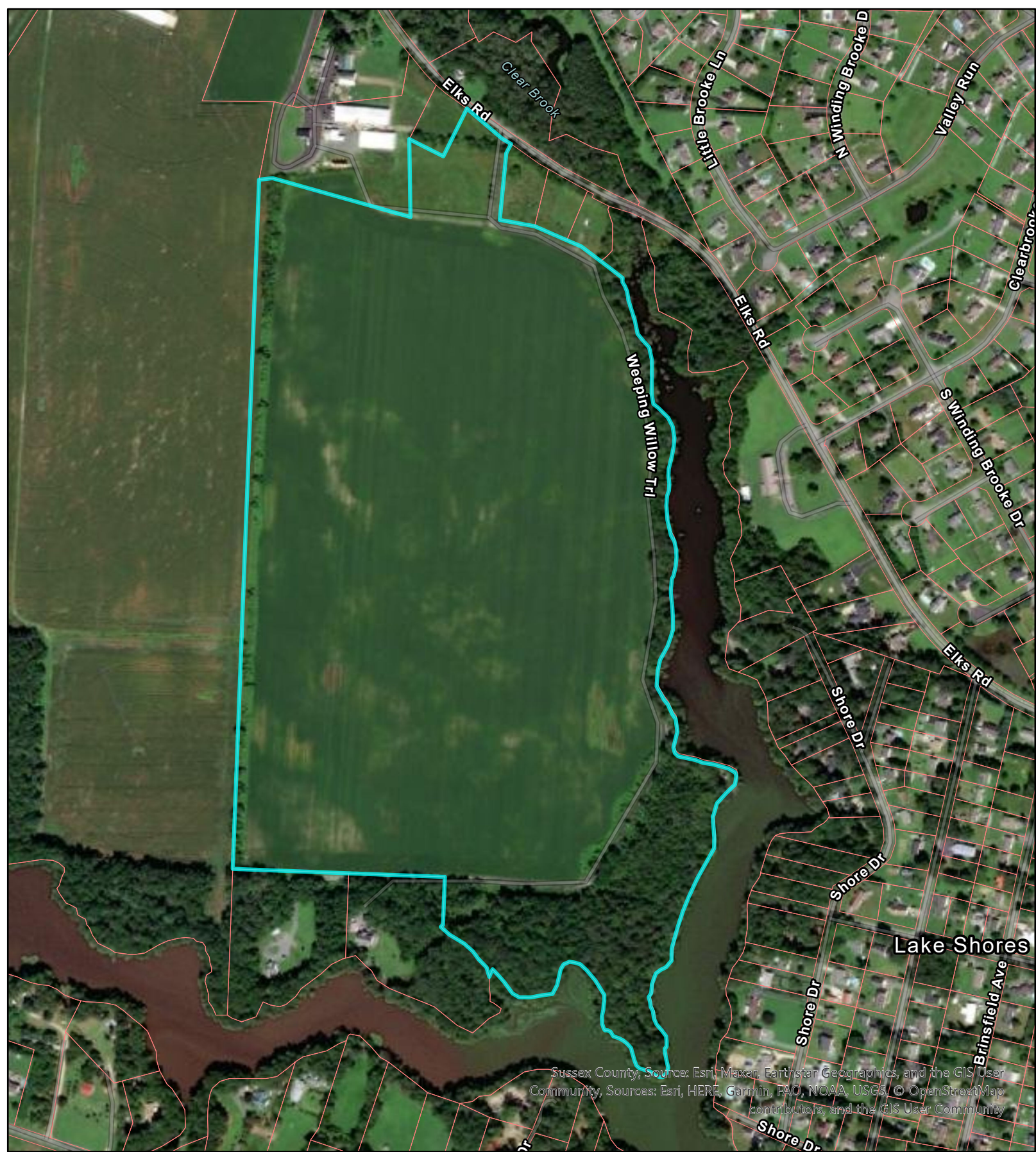
Mr. Hopkins moved that the Commission recommend approval of C/U 2342 Turning Point Energy - TPE DE SU07, LLC for a Conditional Use for a Solar Farm based upon the record made during the public hearing and for the following reasons:

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 farm will be located on 27.5 acres of a larger 107.75-acre farm.
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 farms. There was testimony that this solar farm will benefit residential, business, and municipal subscribers with lower power costs.
4. With the conditions imposed in this recommendation, the proposed use will not have any adverse impact on the neighboring or adjacent properties and there are no homes in close proximity to this site. In addition, there is information and data in the record from an appraiser that solar facilities do not have a negative impact upon adjacent property values.
5. The proposed solar generation facility will not result in any noticeable increase in traffic on area roadways. There are no regular employees at the site, only periodic visits for inspections, maintenance, or repair of the solar panels.
6. Based upon the testimony in the record, it is evident that no significant noise, dust, or

- odor will be generated by the facility.
7. There will be a buffer of existing vegetation along the east and west sides of this site to screen the view of the solar farm from the nearby residential properties while allowing the solar arrays to function properly.
 8. The proposed use provides a renewable energy source that is a benefit to the residents and businesses of Sussex County.
 9. This recommendation is subject to the following conditions:
 - a. The use shall be for a ground-mounted solar farm. No other types of electric generation shall be permitted at the site.
 - b. Any lighting on the facility shall only consist of perimeter lighting needed for security purposes. All lighting shall be downward screened so that it does not shine on neighboring properties or roadways.
 - c. One unlighted sign, not to exceed 32 square feet in size, shall be permitted. The sign shall identify the operator of the solar farm and shall provide contact information in case of emergency.
 - d. The site shall be secured by fencing with a gate with a “Knox Box” or similar device to accommodate emergency access by the local fire company or other emergency responders. The fence line shall be shown on the Final Site Plan.
 - e. Any transformers or similar equipment, or structures shall be centrally located on the site away from any nearby residential uses. The location of these structures and equipment shall be shown on the Final Site Plan.
 - f. The entire site, including the area outside the fence, shall be maintained so that it does not become overgrown.
 - g. Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with all applicable State and County requirements. These facilities shall be operated using Best Management Practices.
 - h. There shall be a vegetated buffer of existing vegetation along the eastern and western sides of the solar area. These buffer areas shall be clearly shown on the Final Site Plan. These buffers shall screen solar arrays while allowing the solar arrays to function properly.
 - i. The Final Site Plan shall identify 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 and Zoning Commission.

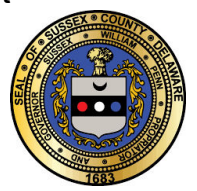
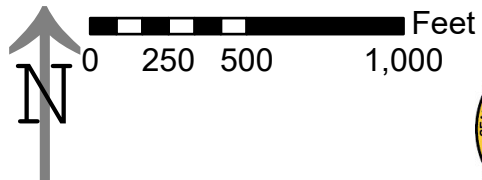
Motion by Mr. Hopkins, seconded by Ms. Stevenson and carried unanimously to recommend approval of C/U 2342 Turning Point Energy - TPE DE SU07, LLC for the reasons and conditions stated in the Motion. Motion carried 4-0.

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



Sussex County, 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 2342 TPE DE SU07, LLC
Aerial Map
TP#331-1.00-15.01
Planning Commission Hearing Date: December 15, 2022



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: December 15th, 2022

Application: CU 2342 Turning Point Energy - TPE DE SU07, LLC (Elks Rd)

Applicant: TPE DE SU07, LLC c/o Adam Beal
3720 South Dalia Street
Denver, CO 80237

Owner: Michael R. & Rosemary V. Everton
8578 Elks Road
Seaford, DE 19973

Site Location: Lying on the south side of Elks Road (S.C.R. 46) about 1,300 feet south of the intersection of Elks Road (S.C.R. 46) and Cannon Road (Route 18) and on the west side of Weeping Willow Trail.

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

Proposed Use: Solar Farm consisting of photovoltaic electric generation facility on approximately 60 acres of the parcel.

Comprehensive Land Use Plan Reference: Developing Area

Councilmanic District: Ms. Green

School District: Seaford School District

Fire District: Seaford Fire Department

Sewer: N/A

Water: N/A

Site Area: 104.48 acres +/- (p/o 60 acres +/-)

Tax Map ID: 331-1.00-15.01



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 Commission Members
From: Mr. Michael Lowrey, Planner III
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant
Date: November 9, 2022
RE: Staff Analysis for C/U 2342 - TPE DE SU07, LLC (Elks Rd)

This memo is to provide background and analysis for the Planning Commission to consider as a part of application C/U 2342 - TPE DE SU07, LLC (Elks Rd) to be reviewed during the December 15th, 2022, Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Conditional Use for Tax Parcel: 331-1.00-15.01 to allow for a solar farm consisting of a photovoltaic electric generation facility on approximately 60 acres of the parcel. The property is located on the south side of Elks Road (S.C.R. 46) about 1,300 feet south of the intersection of Elks Road (S.C.R. 46) and Cannon Road (Route 18) and on the west side of Weeping Willow Trail. The parcel is comprised of a total area of 104.48 acres +/-.

Comprehensive Plan Analysis

The 2018 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be developed. As part of the Comprehensive Plan, a Future Land Use Map is included to help determine how land should be zoned to ensure responsible development. The Future Land Use Map in the plan indicates that the parcel has a designation of “Developing Area”. The adjacent parcels surrounding the subject property are categorized under the Future Land Use Map designation of “Developing Area” as well. The closest alternative Future Land Use Map areas include a corridor of areas designated “Commercial Areas” to the east of the site along the Sussex Highway (Route 13) corridor.

As outlined within the 2018 Sussex County Comprehensive Plan, Developing Areas are “newer, emerging growth areas that demonstrate the characteristics of developmental pressures” (Sussex County Comprehensive Plan, 4-14). The primary uses envisioned in Developing Areas are homes with commercial, office, and business or industrial park uses in “appropriate” or “selected” areas with “good road access” and “few nearby homes” (Sussex County Comprehensive Plan, 4-14).

Zoning Information

The subject properties are zoned Agricultural Residential (AR-1) District. The adjacent properties on both sides of Elks Road (S.C.R. 46) are zoned Agricultural Residential (AR-1) District. The adjacent properties to the south and west of the subject parcel are also zoned Agricultural Residential (AR-1) District.



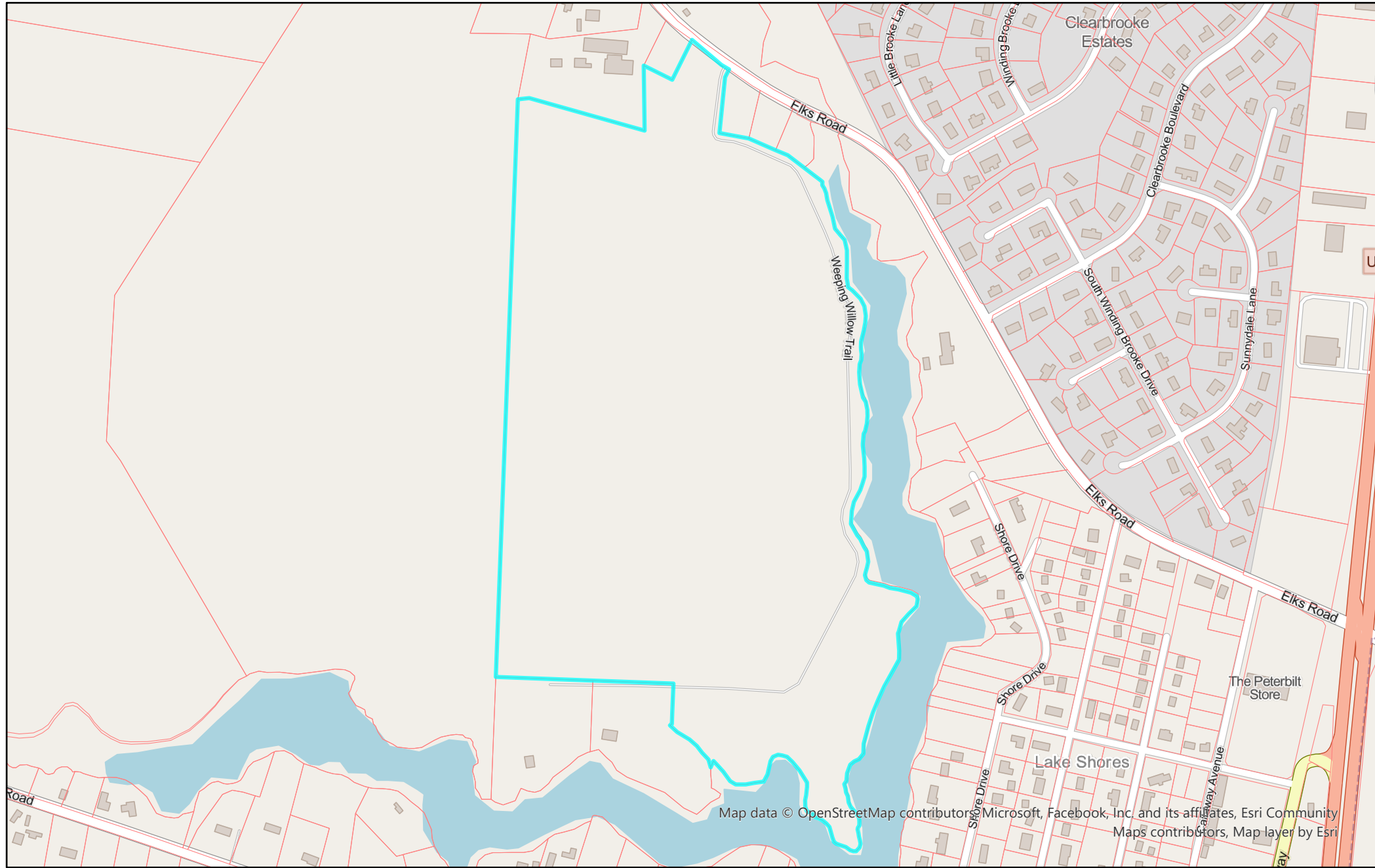
Existing Conditional Uses within the Vicinity of the Subject Site

Since 1970, there have been fourteen (14) Conditional Use applications within less than a 1-mile radius of the application site.

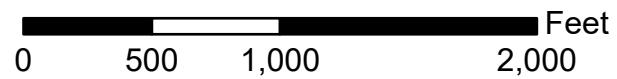
Conditional Use Applications							
(Within a 1.0-mile radius of the subject site)							
Item # on Attached Map	Application Number	Application Name	Zoning District	Proposed Use	CC Decision	CC Decision Date	Ordinance Number
1	CU 1783	Allen's Hatchery, Inc.	AR-1	Railroad Loop	Approved	5/13/2008	1969
2	CU 240	David Boyd	AR-1	Automobile Repair Shop	Approved	11/17/1974	N/A
3	CU 15	James Higgins	AR-1	Beauty Salon	Approved	7/13/1971	N/A
4	CU 772	Canon Mennonite Church	AR-1	Cemetery	Approved	1/10/1984	N/A
5	CU 2226	Jonathan E. & Karen M. Hearn	AR-1	Event Venue	Approved	9/29/2020	2742
6	CU 219	Baker Chemical Equipment Co Inc	AR-1	Addition To Existing Storage & Office Bldg	Approved	7/16/1974	N/A
7	CU 103	B.P.O. Elks No. 2458	AR-1	Private Lodge & Connected Activities	Approved	03/20/1973	N/A

8	CU 1186	State of Delaware	AR-1	450 ft radio tower	Denied	12/30/1997	N/A
9	CU 2030	Doug Sherman / Sherman Heating Oil	AR-1	Propane and oil storage tanks	Approved	11/3/2015	2423
10	CU 384	B.C.L. Inc	C-1	Cocktail Lounge Addition	Withdrawn	N/A	N/A
11	CU 2364	Seaford Community Energy Initiative, LLC	AR-1	Community Solar Facility	Pending	N/A	N/A
12	CU 1516	Michael & Heather Kirby	AR-1	Auto Detailing	Denied	01/13/2004	N/A
13	CU 2295	Bones & Sons Heating and Air	AR-1	Heating and Air Business	Approved	07/12/2022	2870
14	CU726	Jacob E. Borders	AR-1	Office & Storage	Denied	05/31/1983	N/A

Based on the analysis of the land use, surrounding zoning and uses, the Conditional Use to allow for the placement of a photovoltaic electric generation facility in this location, subject to considerations of scale and impact, could be considered as being consistent with the land use, area zoning and surrounding uses.
























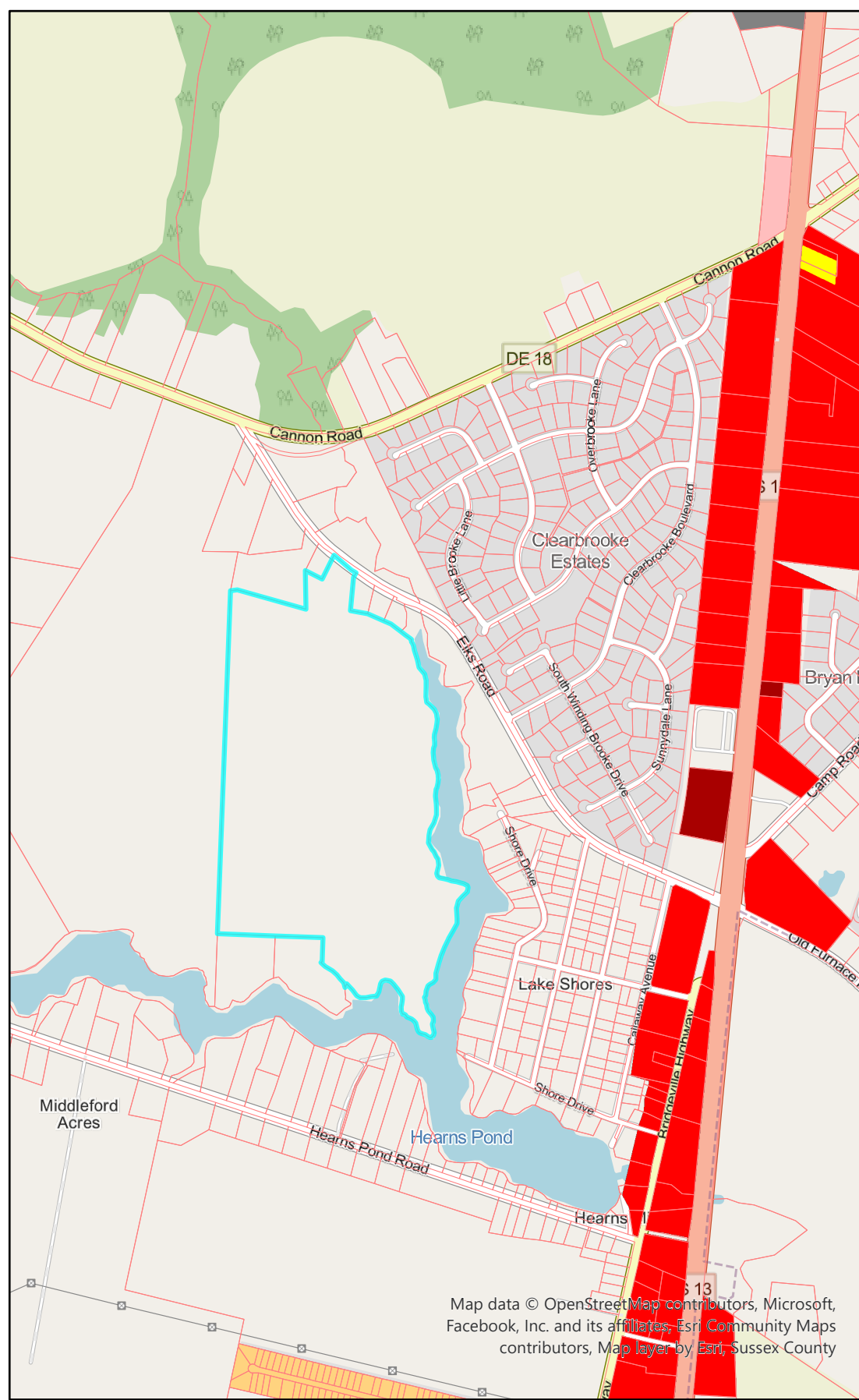
CU 2342 TPE DE SU07, LLC
Street Map
TP#331-1.00-15.01
Planning Commission Hearing Date: December 15, 2022



Zoning

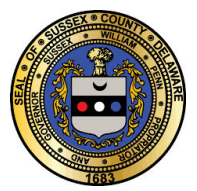
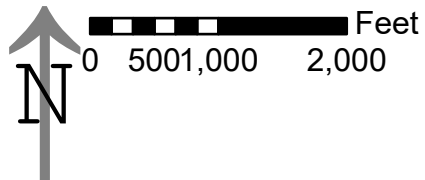
Zoning

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



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CU 2342 TPE DE SU07, LLC
 Zoning Map
 TP#331-1.00-15.01
 Planning Commission Hearing Date: December 15, 2022



Introduced: 05/17/2022

Council District Mrs. Green
Tax I.D. No. 331-1.00-15.01 (Portion of)
911 Address N/A

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 27.5 ACRES, MORE OR LESS

WHEREAS, on the 18th day of January 2022, a conditional use application, denominated Conditional Use No. 2342 was filed on behalf of TPE DE SU07, LLC; and

WHEREAS, on the ____ day of _____ 2022, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2342 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. 2342 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

A PORTION of that certain tract, piece or parcel of land, lying and being situate in Seaford Hundred, Sussex County, Delaware, and lying on the west side of Elks Road (Route 46) approximately 0.50 miles west of the intersection of Elks Road (Route 46) and Sussex Highway (Rt. 13) and being more particularly described in the attached legal description prepared by Becker Morgan, said parcel containing 27.5 acres, more or less.

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



Memorandum

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

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

CC: Everett Moore, County Attorney

Date: February 17, 2023

RE: County Council Report for C/U 2343 filed on behalf of Turning Point Energy – TPE DE SU163, LLC

The Planning and Zoning Department received an application (C/U 2343 filed on behalf of Turning Point Energy – TPE DE SU163, LLC) for a Conditional Use for parcel 135-11.00-48.00 for a solar farm. The property is located on the west side of Gravel Hill Road (SCR 248) approximately 0.37 mile north of the intersection of Gravel Hill Road and Lewes Georgetown Highway (Rt.9). The parcel size is 25.00 acres +/-.

The Planning & Zoning Commission held a Public Hearing on the application on December 15, 2022. At the meeting of January 12, 2023, the Planning & Zoning Commission recommended approval of the application for the 8 reasons stated and subject to the 10 recommended conditions as outlined within the motion (copied below).

Below are the minutes from the Planning & Zoning Commission meetings of December 15, 2022, and January 12, 2023.

Minutes of the December 15, 2022, Planning & Zoning Commission Meeting

C/U 2343 Turning Point Energy - TPE DE SU163, LLC

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 25.00 ACRES, MORE OR LESS. The property is lying on the west side of Gravel Hill Road (S.C.R. 248) approximately 0.37 mile north of the intersection of Gravel Hill Road (S.C.R. 248) and Lewes Georgetown Highway (Rt. 9). 911 Address: N/A. Tax Parcel: 135-11.00-48.00 (p/o).



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

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

The Commission found that Mr. Jon Falkowski spoke on behalf of the Application; that he is a civil engineer with Becker Morgan Group; that also present was Mr. Jordan Belknap, with Turning Point Energy as the Applicant TPE DE SU163; that the site is located within Georgetown; that the property is currently being used for agricultural propose within the AR-1 (Agricultural Residential) Zoning District); that the site is located off Gravel Hill Rd., being just north of Rt. 9, near Harbeson; that the property consist of 39.5 acres; that the area requested for the Conditional Use is located to the south, consisting of 25 acres; that the solar array is a tracker ground mounted system; that the project does propose an extensive landscape buffer as it is adjacent to residents surrounding the project; that they propose a 25-ft. wide landscape buffer, consisting of 12 deciduous trees and 15 scrubs per 100 feet; that the landscape buffer will shield from the residents located along Gravel Hill Rd.; that they also propose a landscape buffer along the northside perimeter, as they are aware that construction recently began for Azalea Woods; that Azalea Woods is a 66 lot subdivision that is currently underway; that the project will create no increase in traffic; that the project will create no odors, dust, gas, smoke or fumes; that there will be little to no noise from the project inverters, other than a slight humming; that the hum can no longer be heard from a few feet away from the inverters; that all inverters will be placed away from adjacent residences; that they did perform a glare study for the project; that the glare study confirmed there were no glare impacts to the neighbors; that the performed glare study was very conservative as the study did not account for any buffering or landscaping for the property; that the project proposes a pollinator mix be planted; that they will seek sediment and stormwater approval from Sussex Conservation District; that the change in land cover from the existing agricultural use to the pollinator mix will help the reduce of runoff; that they propose a seven to eight foot chain link fence, with necessary gates and Knox Box for emergency personnel; ; that a community outreach meeting was held for the project; that project mailers were sent out to all residents listed on the Sussex County mailing list for the public hearing; that Mr. Belknap did attend the community outreach meeting on December 5, 2022, at the Cheer Center; that they did submit their proposed decommissioning plan; that at the end of the solar arrays useful life of 25 years, the arrays will be decommissioned; that the property will then return to its existing agricultural use and they did submit Findings of Fact and proposed conditions for the project; that the proposed use is a public utility under the Code; that they believe it meets the purposes of a Conditional Use as it is of a public character, as well as desirable for the general convenience and welfare of the residents of Sussex County; that the proposed use does meet the goals of the Comprehensive Plan, which encourages the use of renewable energy and the proposed use does not have any impact to adjacent neighbors due to the proffered buffering, fencing, minimal noise or impact on traffic.

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

Mr. Belkamp stated the program is specific to the public utility of Delmarva Power; that the solar project must be located within the utility territory as the subscriber; that any Delmarva Power

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

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

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

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

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

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

In relation to C/U 2343 Turning Point Energy – TPE DE SU163, LLC. Motion by Ms. Stevenson to defer action for further consideration, seconded by Mr. Hopkins and carried unanimously. Motion carried 4-0.

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

The Commission discussed the Application which had been deferred since December 15, 2022.

Ms. Wingate moved that the Commission recommend approval of C/U 2343 Turning Point Energy - TPE DE SU163, LLC for a Conditional Use for a Solar Farm based upon 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. It will be located on a part of a larger 41.08-acre farm.
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 farms. There was testimony that this solar farm will benefit residential, business, and municipal subscribers with lower

- power costs.
4. With the conditions imposed in this recommendation, the proposed use will not have any adverse impact on the neighboring or adjacent properties. In addition, there is information and data in the record from an appraiser that solar facilities do not have a negative impact upon adjacent property values.
 5. The proposed solar generation facility will not result in any noticeable increase in traffic on area roadways. There are no regular employees at the site, only periodic visits for inspections, maintenance, or repair of the solar panels.
 6. Based upon the testimony in the record, it is evident that no significant noise, dust, or odor will be generated by the facility.
 7. There will be a 25-foot-wide landscaped buffer to screen the view of the solar farm from the nearby residential properties while allowing the solar arrays to function properly.
 8. The proposed use provides a renewable energy source that is a benefit to the residents and businesses of Sussex County.
 9. This recommendation is subject to the following conditions:
 - a. The use shall be for a ground-mounted solar farm. No other types of electric generation shall be permitted at the site.
 - b. Any lighting on the facility shall only consist of perimeter lighting needed for security purposes. All lighting shall be downward screened so that it does not shine on neighboring properties or roadways.
 - c. One unlighted sign, not to exceed 32 square feet in size, shall be permitted. The sign shall identify the operator of the solar farm and shall provide contact information in case of emergency.
 - d. The site shall be secured by fencing with a gate with a “Knox Box” or similar device to accommodate emergency access by the local fire company or other emergency responders. The fence line shall be shown on the Final Site Plan.
 - e. Any transformers or similar equipment or structures shall be centrally located on the site away from any nearby residential uses. The location of these structures and equipment shall be shown on the Final Site Plan.
 - f. The entire site, including the area outside the fence, shall be maintained so that it does not become overgrown.
 - g. Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with all applicable State and County requirements. These facilities shall be operated using Best Management Practices.
 - h. There shall be a vegetated buffer that is at least 25 feet wide planted with deciduous and evergreen trees and shrubs around the perimeter of the solar arrays wherever there is not an existing vegetated buffer. These buffers shall screen solar arrays while allowing the solar arrays to function properly. This buffer area, with specifications about the type and location of the plantings, shall be shown on the Final Site Plan.
 - i. The Final Site Plan shall identify 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 and Zoning Commission.

Motion by Ms. Wingate, seconded by Mr. Hopkins and carried unanimously to recommend approval of C/U 2343 Turning Point Energy - TPE DE SU113, LLC for the reasons and conditions stated in the Motion. Motion carried 4-0.

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

PLANNING & ZONING COMMISSION

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



Sussex County

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

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET
Planning Commission Public Hearing Date: December 15th, 2022

Application: CU 2343 Turning Point Energy - TPE DE SU163, LLC (Gravel Hill Road)

Applicant: TPE DE SU163, LLC c/o Adam Beal
3720 South Dalia Street
Denver, CO 80237

Owner: Lisa A. Jester
18117 Petty John Road
Milton, DE 19968

Site Location: Lying on the west side of Gravel Hill Road (S.C.R. 248) approximately 0.37-miles northeast of the intersection of Gravel Hill Road and Lewes Georgetown Highway (Route 9).

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

Proposed Use: Solar Farm consisting of photovoltaic electric generation facility on approximately 25-acres of the parcel.

Comprehensive Land Use Plan Reference: Low Density

Councilmanic District: Mr. Rieley

School District: Cape Henlopen School District

Fire District: Georgetown Fire Department

Sewer: N/A

Water: N/A

Site Area: 41.08 acres +/- (p/o 25 acres +/-)

Tax Map ID: 135-11.00-48.00



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



Sussex County

DELAWARE
sussexcountyde.gov

Memorandum

To: Sussex County Planning Commission Members
From: Elliott Young, Planner I
CC: Vince Robertson, Assistant County Attorney, and applicant
Date: December 7th, 2022
RE: Staff Analysis for CU 2343 TPE DE SU163, LLC

This memo is to provide background and analysis for the Planning Commission to consider as a part of application CU 2343 TPE DE SU163, LLC to be reviewed during the December 15th, 2022, Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Conditional Use for Tax Parcel 135-11.00-48.00 to allow for a Conditional Use of land in an Agricultural Residential (AR-1) Zoning District for a solar farm. The parcel is located on the west side of Grave Hill Road. (Rt. 30) in Milton, Delaware. The size of the property is approximately 39.69 acres +/-.

Comprehensive Plan Analysis

The 2018 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be developed. As part of the Comprehensive Plan, a Future Land Use Map is included to help determine how land should be zoned to ensure responsible development. The Future Land Use Map in the plan indicates that the parcel has a designation of "Low Density." The adjacent parcels to the north, south and west of the subject property, also have the Future Land Use Map designation of "Low Density" with properties on the opposite side of Gravel Hill Road (Route 30) also designated as "Low Density."

As outlined within the 2018 Sussex County Comprehensive Plan, Low Density Areas are areas zoned Agricultural Residential (AR-1). The Plan notes that retail and office use in Low Density Areas should be focused on providing "convenience goods and services to nearby residents" as well as indicating that the commercial uses "should be limited in their location, size, and hours of operation." (Sussex County Comprehensive Plan, 4-19) The Plan notes that these policy guidelines are provided to "maintain the rural landscape" in Low Density Areas (Sussex County Comprehensive Plan, 4-18).

Zoning Information

The property is zoned AR-1 (Agricultural Residential Zoning District). The adjoining and surrounding properties located to the north, south, east, and west are all zoned AR-1 (Agricultural Residential Zoning District).



Existing Conditional Uses within the Vicinity of the Subject Site

Since 2011, there has been three (3) Conditional Use applications within a 1-mile radius of the application site. The first application was for Conditional Use No. 2162 to allow for a paving construction business with an office and equipment storage. The application was recommended approval by the Planning and Zoning Commission at their meeting of Thursday, February 14, 2019. The application was approved by the Sussex County Council at their meeting of Tuesday, March 26, 2019, and the use was adopted through Ordinance No. 2641. The second application was for Conditional Use No. 2320 to allow for multi-family structures to be allowed in an MR zoned district (pending CZ 1959). This application has an upcoming Commission hearing date for December 8, 2022. The third and last application is for Conditional Use No. 2371 to allow for a business plaza to include warehouses and office buildings. This application is schedule to be heard by the Commission on February 23, 2022.

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



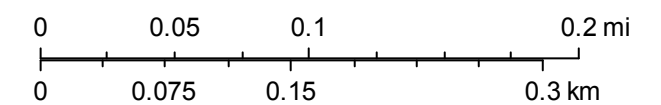
Sussex County



PIN:	135-11.00-48.00
Owner Name	JESTER LISA A
Book	3452
Mailing Address	18117 PETTYJOHN RD
City	MILTON
State	DE
Description	SW/SIDE RT 30
Description 2	421' SE/RD 255
Description 3	N/A
Land Code	

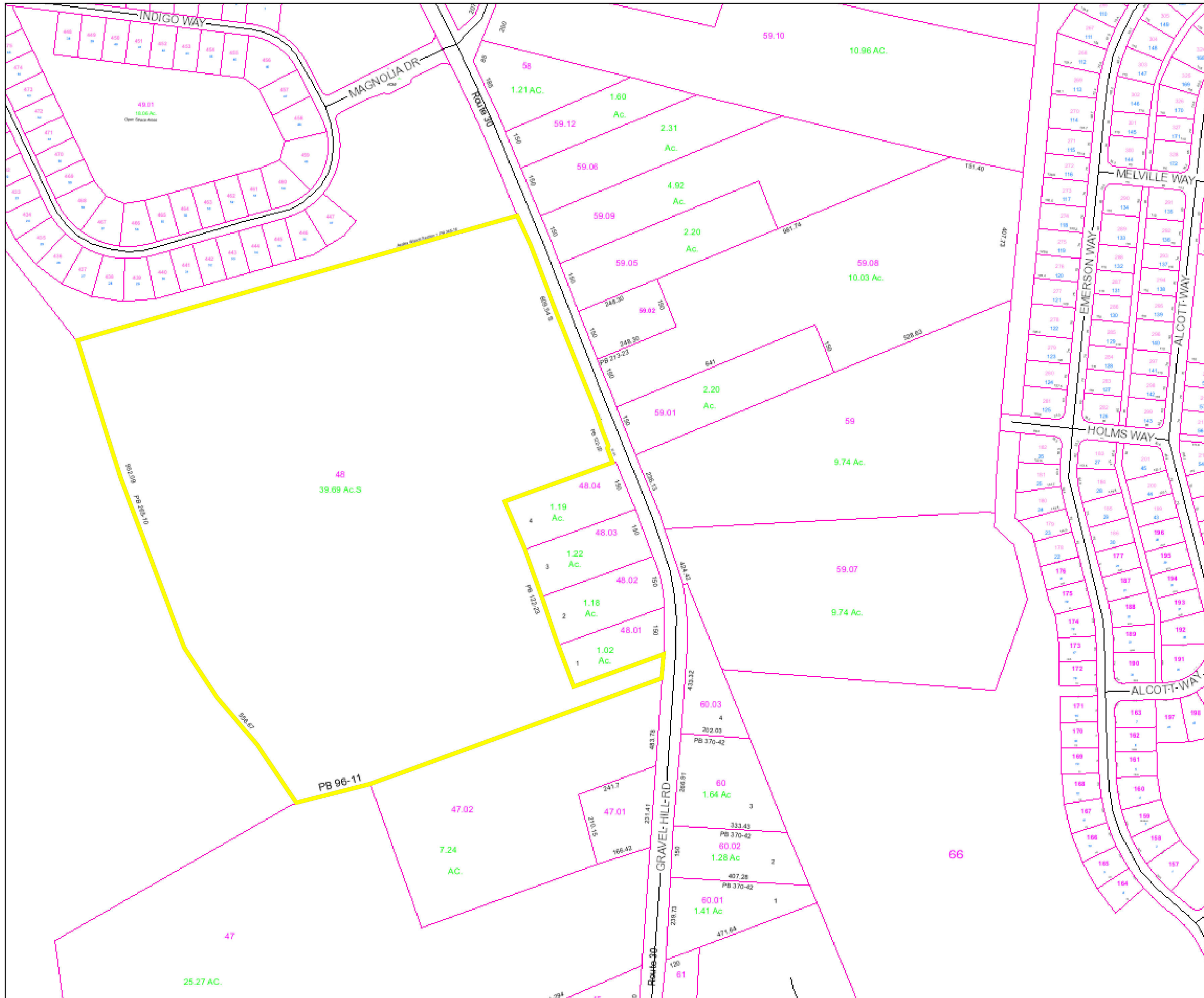
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- Tax Parcels
- Streets
- County Boundaries

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Sussex County

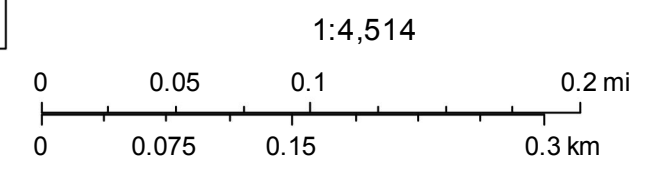


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- polygonLayer**

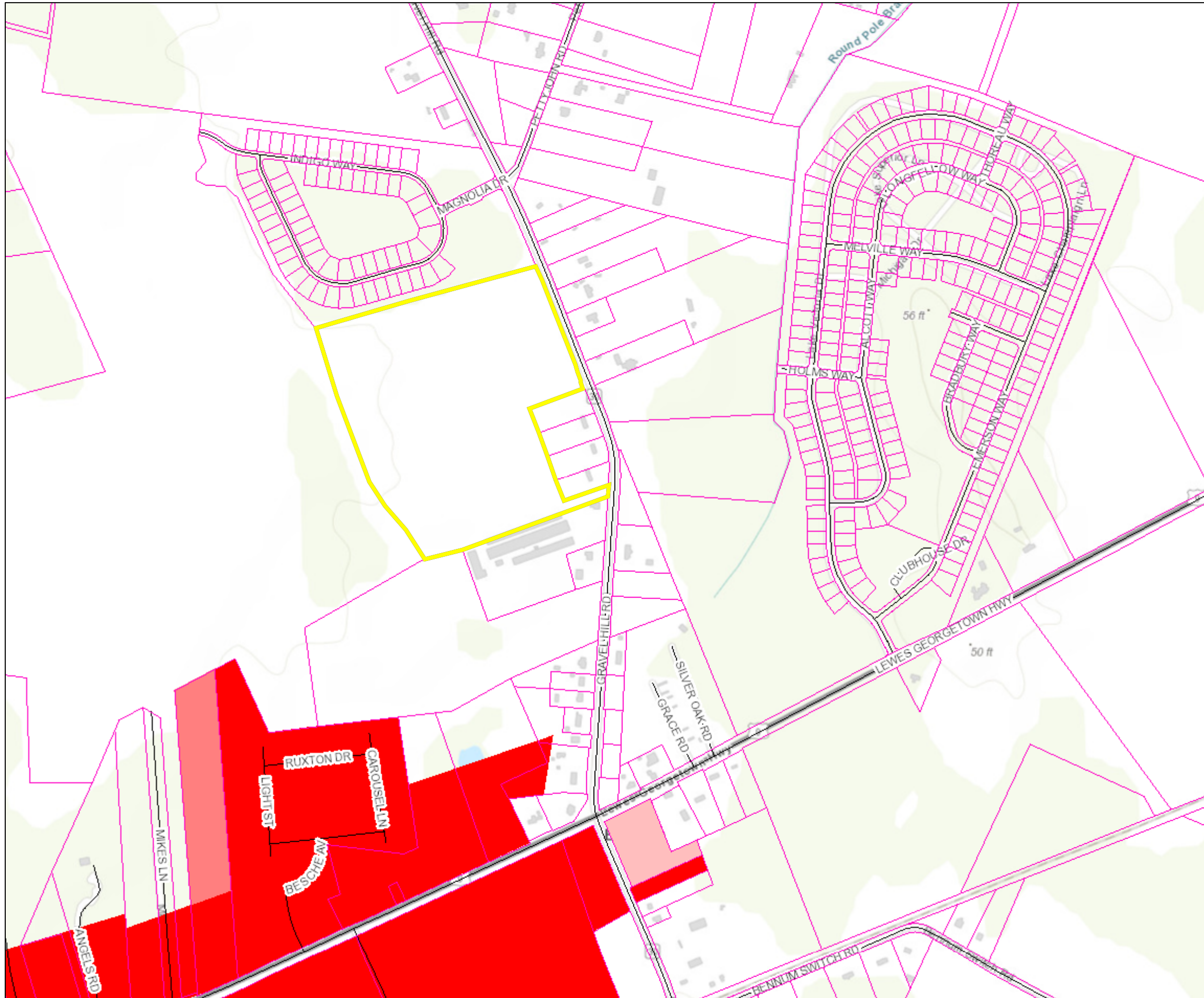
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 - Override 1
 - Tax Parcels
 - Streets
 - County Boundaries





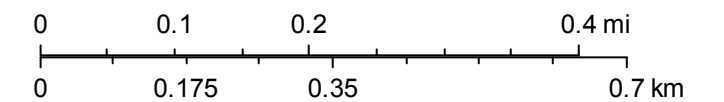
Sussex County



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Description 3	N/A
Land Code	

- polygonLayer
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- polygonLayer
 Override 1
- Tax Parcels
- Streets

1:9,028



Council District: Mr. Rieley
Tax I.D. No. 135-11.00-48.00
911 Address: N/A

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 25.00 ACRES, MORE OR LESS

WHEREAS, on the 18th day of January 2022, a conditional use application, denominated Conditional Use No. 2343 was filed on behalf of Turning Point Energy, LLC; and

WHEREAS, on the ____ day of _____ 2022, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2343 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 115, Subsections 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2343 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece, or parcel of land, lying and being situate in Georgetown Hundred, Sussex County, Delaware, and lying on the west side of Gravel Hill Road (S.C.R. 248) approximately 0.37-miles north of the intersection of Lewes Georgetown Highway (Rt. 9) and Gravel Hill Road, and being more particularly described in the attached legal description prepared by Becker Morgan Group, Inc., said parcel containing 25.00 acres, more or less

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

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



Sussex County

DELAWARE
sussexcountyde.gov

Memorandum

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

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

CC: Everett Moore, County Attorney

Date: February 17, 2023

RE: County Council Report for C/U 2344 filed on behalf of Turning Point Energy – TPE DE SU113, LLC

The Planning and Zoning Department received an application (C/U 2344 filed on behalf of Turning Point Energy – TPE DE SU113, LLC) for a Conditional Use for parcel 135-22.00-23.00 for a solar farm. The property is located on both the east and west side of East Trap Pond Road (SCR 62), approximately 0.4 mile north of Substation Road (SCR 518), with solar panels to be located on the east side of East Trap Pond Road. The parcel size is 35.58 acres +/-.

The Planning & Zoning Commission held a Public Hearing on the application on December 15, 2022. At the meeting of January 12, 2023, the Planning & Zoning Commission recommended approval of the application for the 9 reasons stated and subject to the 10 recommended conditions as outlined within the motion (copied below).

Below are the minutes from the Planning & Zoning Commission meetings of December 15, 2022, and January 12, 2023.

Minutes of the December 15, 2022, Planning & Zoning Commission Meeting

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

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A 35-ACRE SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 35.58 ACRES, MORE OR LESS. The property is lying on both the east and west sides of East Trap Pond Road (S.C.R. 62), approximately 0.4 mile north of Substation Road (S.C.R. 518), with solar panels to be located on the east side of East Trap Pond Road (S.C.R. 62). 911 Address: N/A. Tax Parcel: 135-22.00-23.00 (p/o).



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

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

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

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

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

prospects of renewable energy and having discussions about renewable energy for the future with their students.

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

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

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

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

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

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

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

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

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

The Commission discussed the Application which had been deferred since December 15, 2022.

Ms. Wingate moved that the Commission recommend approval of C/U 2344 Turning Point Energy - TPE DE SU113, LLC for a Conditional Use for a Solar Farm based upon the record made during the public hearing and for the following reasons:

1. The proposed facility is a public utility use under the Sussex County Zoning Code, and it meets the purposes of a Conditional Use because it has a public or semi-public character that is essential and desirable for the general convenience and welfare of Sussex County residents.

2. This is an adaptive use of farmland that will preserve it from more intensive development.
3. The proposed facility promotes Goal 7.3 of the Sussex County Comprehensive Plan which encourages the use of renewable energy options such as solar farms. There was testimony that this solar farm will benefit residential, business, and municipal subscribers with lower power costs.
4. This site is immediately adjacent to an existing solar farm. This is an appropriate location for an additional solar facility.
5. With the conditions imposed in this recommendation, the proposed use will not have any adverse impact on the neighboring or adjacent properties. In addition, there was information and data in the record from an appraiser that solar facilities do not have a negative impact upon adjacent property values.
6. The proposed solar generation facility will not result in any noticeable increase in traffic on area roadways. There are no regular employees at the site, only periodic visits for inspections, maintenance, or repair of the solar panels.
7. Based upon the testimony in the record, it is evident that no significant noise, dust, or odor will be generated by the facility.
8. There will be a buffer along the western, northern, and eastern boundaries of the site (basically everywhere but the common boundary of this site with the existing solar farm to the south) to screen the view of the solar farm from the nearby properties while allowing the solar arrays to function properly.
9. The proposed use provides a renewable energy source that is a benefit to the residents and businesses of Sussex County.
10. This recommendation is subject to the following conditions:
 - a. The use shall be for a ground-mounted solar farm. No other types of electric generation shall be permitted at the site.
 - b. Any lighting on the facility shall only consist of perimeter lighting needed for security purposes. All lighting shall be downward screened so that it does not shine on neighboring properties or roadways.
 - c. One unlighted sign, not to exceed 32 square feet in size, shall be permitted. The sign shall identify the operator of the solar farm and shall provide contact information in case of emergency.
 - d. The site shall be secured by fencing with a gate with a “Knox Box” or similar device to accommodate emergency access by the local fire company or other emergency responders. The fence line shall be shown on the Final Site Plan.
 - e. Any transformers or similar equipment or structures shall be centrally located on the site away from any nearby residential uses. The location of these structures and equipment shall be shown on the Final Site Plan.
 - f. The entire site, including the area outside the fence, shall be maintained so that it does not become overgrown.
 - g. Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with all applicable State and County requirements. These facilities shall be operated using Best Management Practices.
 - h. There shall be a vegetated buffer along the western, northern, and eastern boundaries of the site (basically everywhere but the common boundary of this site with the existing solar farm to the south) that is at least 25 feet wide and planted with deciduous and evergreen trees and shrubs wherever there is not existing similar vegetation in the buffer area. These buffers shall screen solar arrays while allowing the solar arrays to

function properly.

- i. The Final Site Plan shall identify 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 and Zoning Commission.

Motion by Ms. Wingate, seconded by Ms. Stevenson and carried unanimously to recommend approval of C/U 2344 Turning Point Energy - TPE DE SU163, LLC for the reasons and conditions stated in the Motion. Motion carried 4-0.

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

PLANNING & ZONING COMMISSION

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



Sussex County

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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: December 15th, 2022

Application: CU 2344 Turning Point Energy

Applicant: TPE DE SU113, LLC c/o Adam Beal
3720 South Dalia Street
Denver, CO 80237

Owner: Heritage Lands, LLC
P.O. Box 103
Rehoboth Beach, Delaware 19971

Site Location: Southeast side of East Trap Pond Road (S.C.R. 62), approximately 1,770 feet north of Substation Road (S.C.R. 518)

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

Proposed Use: Solar Farm consisting of photovoltaic electric generation facility on approximately 25-acres of the parcel.

Comprehensive Land Use Plan Reference: Developing Area

Councilmanic District: Mr. Rieley

School District: Indian River School District

Fire District: Georgetown Fire Department

Sewer: N/A

Water: N/A

Site Area: Portion of parcel for solar farm use – 35.01 acres +/-

Tax Map ID: 135-22.00-23.00



JAMIE WHITEHOUSE, AICP MRTPI
PLANNING & ZONING DIRECTOR
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Sussex County

DELAWARE
sussexcountyde.gov

Memorandum

To: Sussex County Planning Commission Members
From: Mr. Chase Phillips, Planner II
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant
Date: November 9, 2022
RE: Staff Analysis for C/U 2344 - TPE DE SU113, LLC

This memo provides background and an analysis for the Planning and Zoning Commission to consider as a part of application C/U 2344 (TPE DE SU113, LLC) during the December 15th, 2022, Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Conditional Use to allow for a solar farm to be established on a 35-acre portion of the subject Tax Parcel of 135-22.00-23.00. The property is located on the southeast side of East Trap Pond Road (S.C.R. 62) in Georgetown. The site is proposed to be located on a tax parcel that is comprised of two tracts with each tract being on separate sides of East Trap Pond Road. The subject tract of land is 35.58 acres, and 35 acres is proposed to be dedicated to solar panel use.

Comprehensive Plan Analysis

The 2018 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be governed in a community over a long period of time. As part of the Comprehensive Plan, a Future Land Use Map is included to help determine how land could be developed. The Future Land Use Map in the plan indicates that the parcel has a designation of "Developing Area." The adjacent parcels surrounding the subject property are categorized under the Future Land Use Map designation of Developing Area as well.

As outlined within the 2018 Sussex County Comprehensive Plan, Developing Areas are "newer, emerging growth areas that demonstrate the characteristics of developmental pressures" (Sussex County Comprehensive Plan, 4-14). The primary uses envisioned in Developing Areas are homes with commercial, office, and business or industrial park uses in appropriate or selected areas with good road access and few nearby homes (Sussex County Comprehensive Plan, 4-14).

Zoning and Surrounding Land Use.

The subject property is within the Agricultural Residential (AR-1) Zoning District. All adjacent properties are also located within the AR-1 District, except for one parcel to the north that is within the Neighborhood Business (B-1) Zoning District.

Staff note that the parcel to the south is currently utilized as a solar farm. Other adjacent parcels are either in active agriculture, utilized for single family housing, or both.

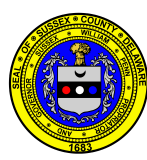


Existing Conditional Uses within the Vicinity of the Subject Site

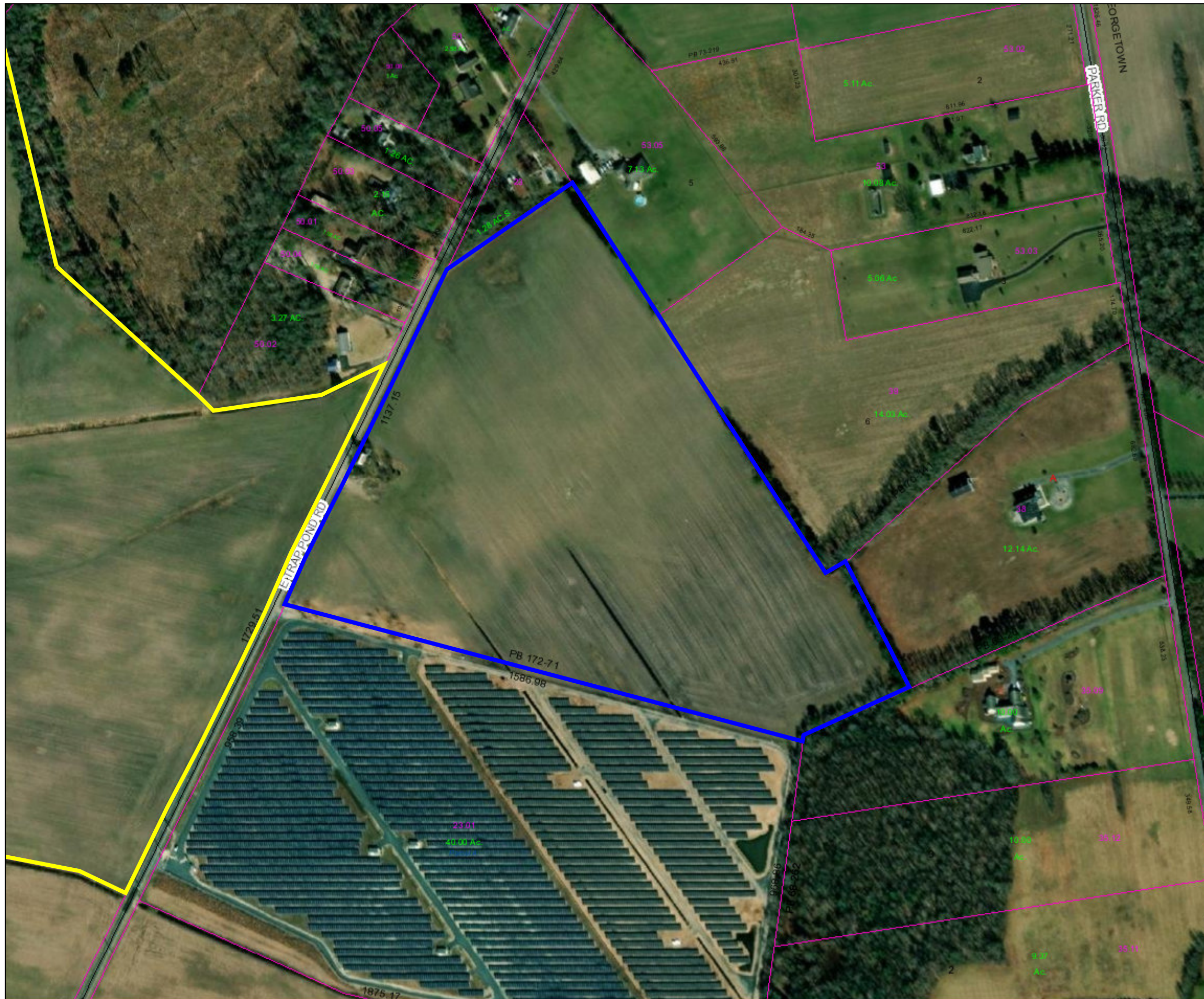
Since 1970, there have been five (5) Conditional Use applications within a 1-mile radius of the application site. A table below summarizes each of these Conditional Uses.

<u>CU #/ Year</u>	<u>Tax Parcel</u>	<u>Use</u>	<u>Decision</u>	<u>Ordinance #</u>
CU 331 / 1976	135-19.00-23.07	Auto Body Shop	Approved	N/A
CU 1623 / 2005	135-19.00-22.00	Electrical Contracting Business	Approved	1801
CU 535 / 1979	135-19.00-23.00	Used Car Sales	Approved	N/A
CU 1228 / 1998	135-22.00-20.01	Auto Repair Shop	Approved	1218
CU 1027 / 1993	133-1.00-8.01	Minor Automotive Repair	Approved	880

Based on the analysis provided, a Conditional Use to allow for the establishment of a solar farm in this location could be considered as consistent with the surrounding land uses, zoning, and environment.



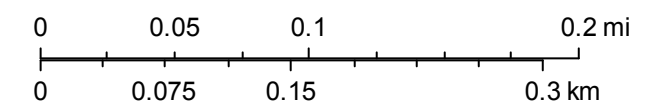
Sussex County



PIN:	135-22.00-23.00	
Owner Name	HERITAGE	LANDS
	LLC	
Book	3415	
Mailing Address	PO BOX 103	
City	REHOBOTH BEACH	
State	DE	
Description	SE/RT 9	
Description 2	840' NE/RD 518	
Description 3	N/A	
Land Code		

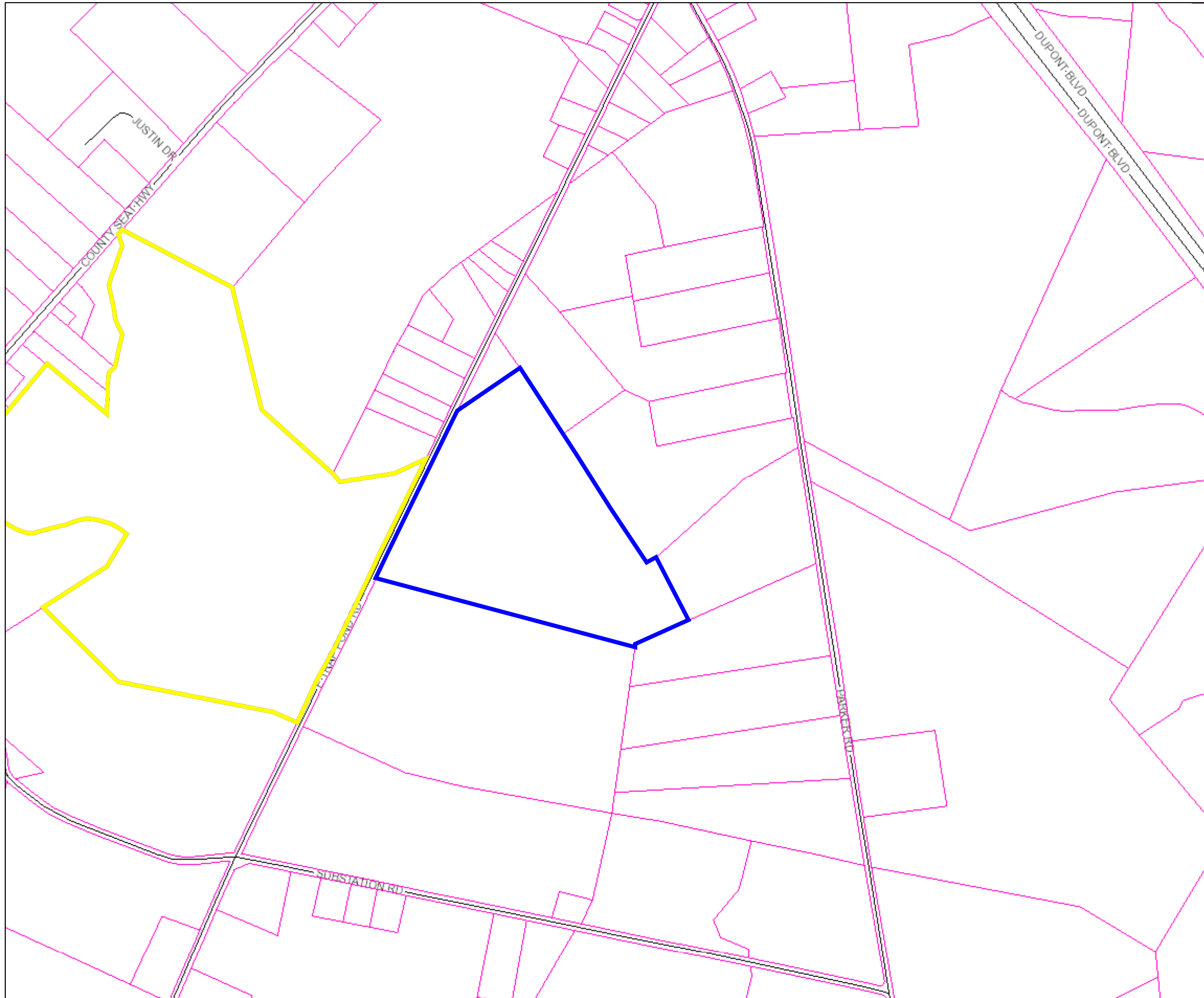
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- Override 1
- Tax Parcels
- Streets
- Fire Districts
- DOE School Districts

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Sussex County



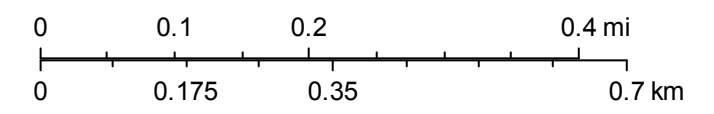
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- polygonLayer**

Override 1
- polygonLayer**

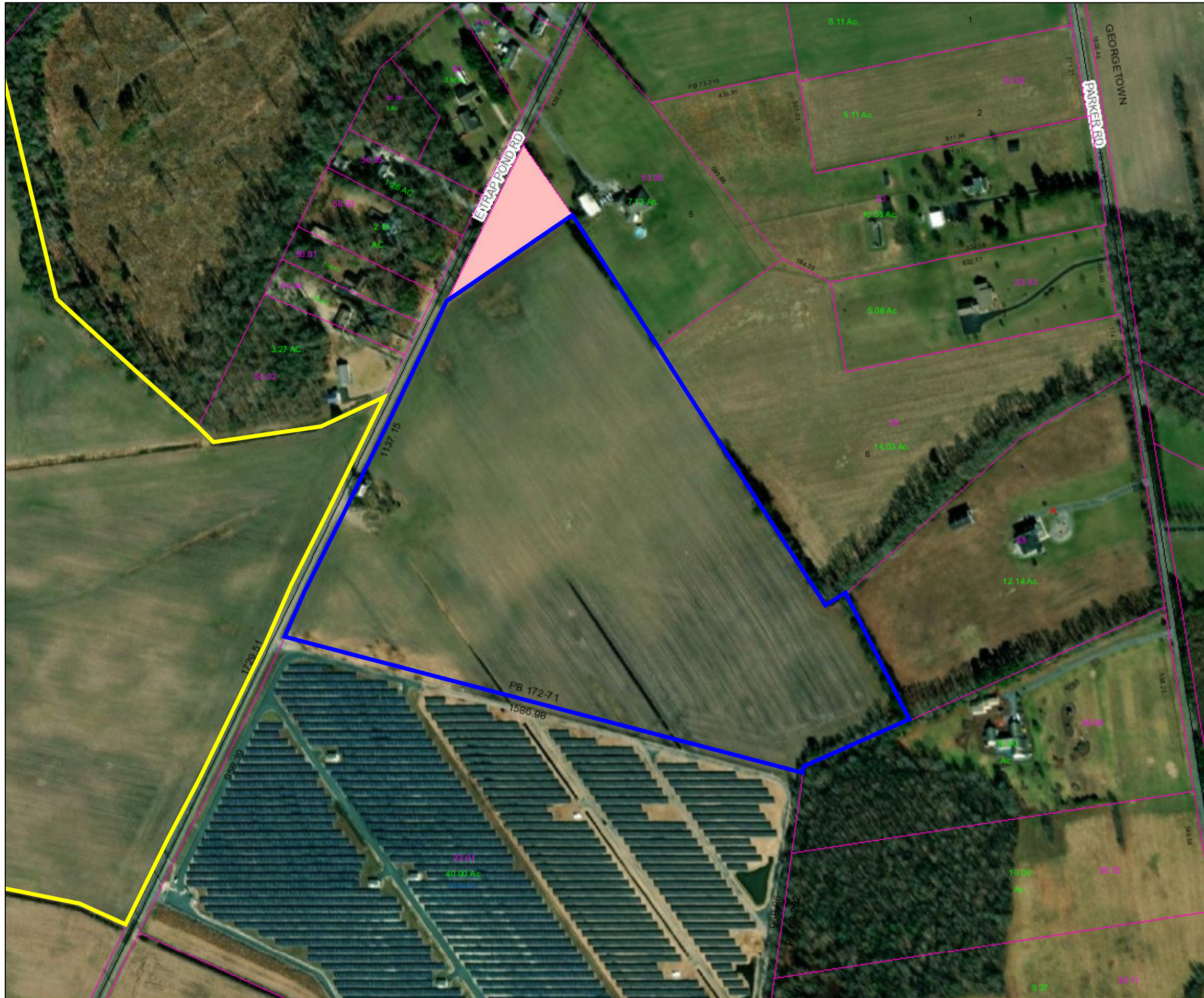
Override 1
- Tax Parcels
- Streets
- Fire Districts
- DOE School Districts

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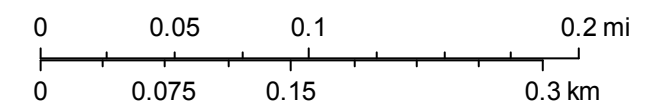
Sussex County



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Land Code		

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

1:4,514



Introduced: 05/10/2022

Council District: Mr. Rieley
Tax I.D. No. 135-22.00-23.00 (p/o)
911 Address: N/A

ORDINANCE NO. ____

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

WHEREAS, on the 13th day of January 2022, a conditional use application, denominated Conditional Use No. 2344 was filed on behalf of Turning Point Energy, LLC- TPE DE SU113, LLC; and

WHEREAS, on the ____ day of _____ 2022, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2344 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 115, Subsections 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2344 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece, or parcel of land, lying and being situate in Georgetown Hundred, Sussex County, Delaware, and lying on both the east and west sides of East Trap Pond Road (S.C.R. 62) approximately 0.4 mile north of Substation Road (S.C.R. 518), with the solar panels located on the east side of East Trap Pond Road (S.C.R. 62) and being more particularly described in the attached legal description prepared by Becker Morgan Group, Inc., said parcel containing 35.58 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.