



Sussex County Council Public/Media Packet

**MEETING:
August 29, 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

AUGUST 29, 2023

10:00 A.M.

Call to Order

Approval of Agenda

Approval of Minutes – August 15, 2023

Reading of Correspondence

Public Comments

Presentation – Mark Isaacs, Director, Carvel Research and Education Center

Todd Lawson, County Administrator

1. Administrator's Report

Gina Jennings, Finance Director

1. Delaware Transit Reimbursement Program Request

Karen Brewington, Human Resource Director

1. Third Quarter Shining Star Awards



Mark Parker, Assistant County Engineer

1. Delaware Coastal Business Park Improvements, Project A21-11
 - A. Change Order No. 4
2. Solitude on White Creek
 - A. Bond Recall

Old Business

Conditional Use No. 2364 filed on behalf of Seaford Community Energy Initiative, 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 26.72 ACRE PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 40.97 ACRES, MORE OR LESS” (property lying on the east side of Conrail Road [S.C.R. 546] approximately 0.71 mile south of Hearn's Pond Road [S.C.R. 544]) (911 Address: N/A) (Tax Map Parcel: 331-3.00-138.00)

Conditional Use No. 2365 filed on behalf of Frankford Community Energy Initiative II, LLC

“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A C-1 GENERAL COMMERCIAL DISTRICT AND AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 42.95 ACRES, MORE OR LESS” (property lying on the east side of DuPont Boulevard [Rt. 113], approximately 250 feet south of Lazy Lagoon Road [S.C.R. 380]) (911 Address: N/A) (Tax Map Parcel: 533-4.00-23.00)

Conditional Use No. 2353 filed on behalf of Sussex CSG 2, 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 14.64 ACRE PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 28.09 ACRES, MORE OR LESS” (properties lying on the south side of Gum Tree Road [S.C.R. 405], the west side of DuPont Boulevard [Rt. 113], and the north side of Blueberry Lane [S.C.R. 402]) (911 Address: N/A) (Tax Map Parcels: 433-6.00-18.00, 20.00 & 26.00)

Grant Requests

- 1. Friends of Cape Henlopen State Park for their Borrow-a-bike program**
- 2. Rehoboth Concert Band for their 12th concert season**
- 3. Urban Youth Golf Program Association for their Sussex County expansion**
- 4. Delaware Seaside Railroad Club, Inc. for their annual Georgetown Library holiday display**
- 5. New Coverdale Outreach Mission Inc. for Back-to-School supplies**
- 6. West Rehoboth Community Land Trust for their Low-Income Housing Support**

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. 2415 filed on behalf of Delaware Electric Coop (c/o Troy Dickerson)

“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN ELECTRICAL SUBSTATION TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 37.7482 ACRES MORE OR LESS” (property lying on the west side of Reynolds Road [S.C.R. 233], approximately 0.26 mile north of Zion Church Road [S.C.R. 235]) (911 Address: 12872 Reynolds Road, Milton) (Tax Map Parcel: 235-8.00-2.00)

Change of Zone No. 1985 filed on behalf of Love Creek Acquisition, LLC

“AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A M MARINE DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 5.1 ACRES, MORE OR LESS” (properties lying on the south side of John J. Williams Highway [Rt. 24], approximately 0.26-mile(s) northeast of Camp Arrowhead Road) (911 Address: 20565 & 20581 John J. Williams Highway, Lewes) (Tax Map Parcel: 234-7.00-111.00 & 112.00)

Change of Zone No. 1987 filed on behalf of Longview Jefferson Creek, LLC

“AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN MR-RPC MEDIUM DENSITY RESIDENTIAL – RESIDENTIAL PLANNED COMMUNITY DISTRICT TO AN MR-RPC MEDIUM DENSITY RESIDENTIAL – RESIDENTIAL PLANNED COMMUNITY DISTRICT TO AMEND CONDITIONS OF APPROVAL FOR CHANGE OF ZONE NO. 1557 (ORDINANCE NO. 1763) FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 63.71 ACRES, MORE OR LESS” (property lying on the southeast side of Double Bridges Road [S.C.R. 363], approximately 0.32 mile southwest of Muddy Neck Road [S.C.R. 361]) (911 Address: N/A) (Tax Map Parcel: 134-17.00-39.00)

Adjourn

-MEETING DETAILS-

In accordance with 29 Del.C. §10004(e)(2), this Agenda was posted on August 22, 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, AUGUST 15, 2023

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, August 15, 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

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

**Call to
Order**

Mr. Vincent called the meeting to order.

**M 387 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 August 1, 2023, were approved by consensus.

**Corre-
spondence**

Mr. Moore reported a letter was received from the Mispillion Performance Series thanking Council for their support.

**Public
Comments**

Public comments were heard.

Mr. Peter Tedesco spoke about interconnectivity from the perspective of a HOA resident.

Mr. Paul Reiger spoke about Board of Adjustment and Planning and Zoning Commission vacancies.

**M 388 23
Approve
Consent
Agenda**

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

Use of Existing Sewer Infrastructure Agreement, IUA-1013-1

Suncrest (Marsh Homestead), Angola Neck Area

Motion Adopted: 5 Yeas

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

Presentation /United Way of Delaware A presentation was given by Ms. Sarah Carter from the United Way of Delaware. Ms. Carter provided an update to Council and information about the services that the United Way of Delaware provide to residents.

BOA Reappointment Mr. Lawson reported that a reappointment is required for District 4 for Board of Adjustment.

M 389 23 Approve BOA Reappointment/Williamson A Motion was made by Mr. Hudson, seconded by Mr. Rieley, that be it moved Sussex County Council approves the reappointment of John Williamson to the Sussex County Board of Adjustment effective immediately until such time as the term expires in June 2026.

Motion Adopted: 5 Yeas

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

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

- 1. Project Receiving Substantial Completion**

Per the attached Engineering Department Fact Sheets Atlantic East (FKA Ribera-Hall Subdivision, Salt Cedars & Terrapin Island) received Substantial Completion effective July 28th.

- 2. Council Meeting Schedule**

A reminder that Council will not meet on Tuesday, August 22nd. The next regularly scheduled Council meeting will be held on Tuesday, August 29th at 10:00 a.m.

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

Parallel Taxiway B/Task Order 4 Robert Bryant, Airport Manager presented a request for approval for work associated with construction of a new parallel taxiway bravo – Phase 1 for Council's consideration. Mr. Bryant reported that the project will be completed in phases over a six-year period.

**M 390 23
Approve
Taxiway B/
Task Order
4**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley, that be it moved based upon the recommendation of the Sussex County Engineering Department that the Sussex County Council approves execution of the Delta Airport Consultants, Inc. Task Order No. 4 for work associated with the design through bidding of the construction Parallel Taxiway Bravo Phase 1 project in the total fee of \$445,000.

Motion Adopted: 5 Yeas

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

**Starlight
Meadows
Rd Improve-
ments**

Mark Parker, Assistant County Engineer presented a Resolution for Starlight Meadows Road Improvements for Council's consideration. Mr. Parker reported that the Resolution outlines the official acceptance of the Starlight Meadows into the program. In addition, the information in the packet includes the estimated cost, establishes a date, time, and location for the election and appoints a judge for the election.

**M 391 23
Adopt
Resolution
No. R 015
23/Starlight
Meadows**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, to Adopt Resolution No. R 015 23 entitled "A RESOLUTION ESTABLISHING A DATE, TIME, PLACE AND JUDGE FOR AN ELECTION TO BE HELD TO CONSIDER THE STARLIGHT MEADOWS CHAPTER 96 SUSSEX COMMUNITY IMPROVEMENTS PROJECT".

Motion Adopted: 5 Yeas

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

**CADD
Support
Services**

Mark Parker, Assistant County Engineer presented Amendment No. 9 – CADD support services for the 2019 miscellaneous engineering base contract with Davis, Bowen & Friedel, Inc. for Council's consideration.

**M 392 23
Approve
CADD
Support
services**

A Motion was made by Mr. Schaeffer, seconded by Mr. Rieley, that be it moved based upon the recommendation of the Sussex County Engineering Department that Amendment No. 9 to the 2019 Miscellaneous Engineering Base Agreement with Davis, Bowen and Friedel be approved in the amount not to exceed \$50,000.00 for CAD support on an as-needed basis.

Motion Adopted: 5 Yeas

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

CO No. 2/

Hans Medlarz, County Engineer presented close out change order no. 2 for

Project No. 22-01 **FY2022 general labor and equipment contract with George & Lynch for Council's consideration.**

M 393 23 **A Motion was made by Mr. Hudson, seconded by Mr. Rieley, that be it**
Approve CO **moved based upon the recommendation of the Sussex County Engineering**
No. 2/ **Department, that FY23 close out change order no. 2 for George and**
Project No. **Lynch's contract 22-01 FY22 general labor and equipment be approved**
22-01 **which increases the contract amount by \$454,846.74 for a new total of**
 \$5,354,846.74.

Motion Adopted: 5 Yeas

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

GHD **Hans Medlarz, County Engineer presented an award for advanced**
Admend- **electrical design and expansion of study scope to include option 3c for Wolfe**
ment/Wolfe **Neck RWF professional services for Council's consideration.**
Neck

M 394 23 **A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer, that be it**
Approve **moved based upon the recommendation of the Sussex County Engineering**
GHD **Department and the Finance Department that Amendment Nos. 22 and 23**
Admend- **to the base engineering contract with GHD, Inc. be approved in the not to**
ment/Wolfe **exceed amounts of \$427,138.72 and \$95,000.00 respectively for electrical**
Neck **design and expansion of the long-range study to include option 3c utilizing**
 ARPA funding.

Motion Adopted: 5 Yeas

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

Wolfe **Hans Medlarz, County Engineer presented amendment no. 2 with George,**
Runne/Am- **Miles & Buhr for the Wolfe Runne sewer expansion project for Council's**
end No. 2 **consideration.**

M 395 23 **A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson, that be it**
Approve **moved based upon the recommendation of the Sussex County Engineering**
Amendment **Department that amendment no. 2 to the Wolfe Runne sewer expansion**
No. 2/Wolfe **agreement with George, Miles and Buhr be approved in the amount not-to-**
Runne **exceed \$325,188.00 for redesign and construction related services**
 contingent upon USDA concurrence.

Motion Adopted: 5 Yeas

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

Mr. Vincent, Yea

**WSUSD/
CO No. 5 &
Substantial
Completion**

Hans Medlarz, County Engineer presented change order no. 5 and substantial completion for segment D for contract 5 for the Western Sussex Unified Sewer District for Council's consideration.

**M 396 23
Approve CO
No. 5 &
Substantial
Completion/
WSUSD**

A Motion was made by Mrs. Green, seconded by Mr. Hudson, that based on the recommendation of the Sussex County Engineering Department, that change order 5 for contract S19-29, Western Sussex Unified Sewer District, Segment D be approved, for a decrease of \$32,236.00 and that substantial completion be granted effected July 21, 2023, with any held retainage released in accordance with the contract documents, contingent upon SRF concurrence.

Motion Adopted: 5 Yeas

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

**Old
Business/
CU2400**

Under Old Business, Jamie Whitehouse, Planning and Zoning Director presented a Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLINGS (5 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.4 ACRES, MORE OR LESS" filed on behalf of Kent Walston.

On August 1, 2023, Council deferred action for further consideration at the conclusion of the Public Hearing.

**M 397 23
Adopt
Ordinance
No. 2947/
CU2400**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley to Adopt Ordinance No. 2947 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLINGS (5 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.4 ACRES, MORE OR LESS" for the reasons and conditions given by the Planning and Zoning Commission as follows:

- 1. 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. This Conditional Use application, along the border with the Town of Bethany Beach where central water and sewer is available, complies with the purposes of the MR zone.**
- 2. The property is in the vicinity of other residential housing types including single-family homes, townhomes, and other multi-family development. This Conditional Use is consistent with other zoning**

**M 397 23
Adopt
Ordinance
No. 2947/
CU2400
(continued)**

- and development in the area.
3. **DelDOT has reviewed the proposed project and has determined that the development’s traffic impact will be “diminutive”. This development will also be required to comply with all roadway and entrance improvements mandated by DelDOT.**
 4. **This small multi-family conditional use meets the purpose of the Zoning Code since it promotes the orderly growth of the County in an appropriate location.**
 5. **The proposed use is consistent with the County’s Comprehensive Land Use Plan. It is in the Coastal Area according to the Plan, which is a Growth Area. The Plan states that medium and higher densities can be appropriate where, like here, there are features such as central water and sewer, nearby commercial uses, and employment centers. The Plan also states that a range of housing types should be permitted in the Coastal Area, including single-family homes, townhouses, and multifamily units.**
 6. **There is no evidence that this project will adversely affect the neighboring properties, area roadways, or community facilities.**
 7. **This recommendation is subject to the following conditions:**
 - a. **There shall be no more than five (5) Units within the development.**
 - b. **All entrances, intersections, roadways, and multimodal improvements required by DelDOT shall be completed by the Applicant in accordance with DelDOT’s determination.**
 - c. **Central sewer shall be provided to the development by Sussex County. The Developer shall comply with all requirements and specifications of the Sussex County Engineering Department.**
 - d. **The development shall be served by a central water system providing adequate drinking water and fire protection.**
 - e. **Stormwater management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements, and the project shall utilize Best Management Practices to construct and maintain these fixtures. The Final Site Plan shall contain the approval of the Sussex Conservation District.**
 - f. **Interior street design shall comply with or exceed Sussex County standards.**
 - g. **Road naming and addressing shall be subject to the review and approval of the Sussex County Geographic Information Office.**
 - h. **The trash receptacles shall be standard roll-out residential containers assigned to each unit. They shall be stored in an enclosed area. No dumpsters shall be permitted.**
 - i. **Construction, site work, and deliveries shall only occur on the site between the hours of 7:00 a.m. through 5:30 p.m., Monday through Friday, and between 7:00 a.m. and 4:00 p.m. on Saturdays from October 1st through May 15th of each year. No Sunday hours are permitted. A 24-inch by 36-inch “NOTICE” sign confirming these hours in English and Spanish shall be prominently displayed at the site entrance during construction.**
 - j. **A 20-foot-wide undisturbed forested buffer shall be installed along**

**M 397 23
Adopt
Ordinance
No. 2947/
CU2400
(continued)**

the perimeter of the development adjacent to Bethany Proper. This buffer area shall utilize existing trees and other vegetation to the fullest extent, with infill planting as needed to comply with the buffer requirements in Section 99-5 of the Sussex County Code in that location.

- k. The Final Site Plan shall include a landscape plan for the development showing the forested areas to be preserved, the proposed tree and shrub landscape design, and the buffer areas. The existing trees and other vegetation that will not be disturbed shall be clearly shown on the Final Site Plan and marked on the site itself so that they are not disturbed during construction.
- l. The Applicant shall form a Condominium Association that shall be responsible for the maintenance of all interior roadways and parking areas, buildings, buffers, stormwater management areas, and open space.
- m. All lighting on the site shall be shielded and downward screened so that it does not shine on neighboring properties or roadways.
- n. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.
- o. The Final Site Plan shall depict or note these Conditions of Approval and it shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.
- p. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.

Motion Adopted: 5 Yeas

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

**Grant
Requests**

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

**M 398 23
American
Cancer
Society, Inc.**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson to give \$1,500 (\$300 from all Council Members Councilmanic Grant Account) to American Cancer Society, Inc. for their Relay for Life of Sussex County.

Motion Adopted: 5 Yeas

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

**M 399 23
Western
Sussex
Chamber of
Commerce**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson to give \$1,000 (\$1,000 from Mr. Vincent's Councilmanic Grant Account) to Western Sussex Chamber of Commerce for their 11th Annual Broad Creek Bike and Brew.

Motion Adopted: 5 Yeas

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

**M 400 23
West Side
New
Beginnings,
Inc.**

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to give \$1,700 (\$1,700 from Mr. Schaeffer's Councilmanic Grant Account) to West Side New Beginnings, Inc. for Project Safety Street Lights.

Motion Adopted: 5 Yeas

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

**M 401 23
Shoes That
Fit**

A Motion was made by Mrs. Green, seconded by Mr. Hudson to give \$1,500 (\$1,000 from Mr. Hudson's Councilmanic Grant Account and \$500 from Mrs. Green's Councilmanic Grant Account) to Shoes That Fit for their Sussex County back to school program.

Motion Adopted: 5 Yeas

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

**M 402 23
Clear Space
Theatre
Company**

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to give \$1,000 (\$1,000 from Mr. Schaeffer's Councilmanic Grant Account) to Clear Space Theatre Company for their Art Institute.

Motion Adopted: 5 Yeas

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

**M 403 23
Delaware
Botanic
Gardens,
Inc.**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley to give \$4,000 (\$2,500 from Mr. Hudson's Councilmanic Grant Account, \$1,000 from Mr. Rieley's Councilmanic Grant Account and \$500 from Mr. Vincent's Councilmanic Grant Account) to Delaware Botanic Gardens, Inc. for their Annual Fundraising dinner.

Motion Adopted: 5 Yeas

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

**M 404 23
Delaware
State
College**

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to give \$1,000 (\$500 from Mr. Schaeffer’s Councilmanic Grant Account and \$500 from Mr. Hudson’s Councilmanic Grant Account) to Delaware State College Alumni Association for their Band to the Beach program.

Motion Adopted: 5 Yeas

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

**Introduction
of Proposed
Ordinances**

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 MODIFICATION OF CONDITIONS OF APPROVAL RELATING TO CONDITIONAL USE NO. 1018 TO MODIFY BUILDING SIZE LIMITATIONS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 0.915 ACRE MORE OR LESS” filed on behalf of Nanticoke Indian Association.

Mrs. Green introduced a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO MODIFY CONDITIONAL USE NO. 1094 (ORDINANCE 998) TO ALLOW FOR THE ADDITION OF TWO WAREHOUSES, IN ADDITION TO THE RETAIL SALE OF WHOLESALE NURSERY PRODUCTS, FARM PRODUCTS, FERTILIZERS, POTS, GARDENING EQUIPMENT AND ETC., TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 5.01 ACRES, MORE OR LESS” filed on behalf of Garden Estates, Inc.

Mr. Rieley introduced a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A GR GENERAL RESIDENTIAL DISTRICT TO A C-2 MEDIUM COMMERCIAL DISTRICT FOR A PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 1.34 ACRES, MORE OR LESS” filed on behalf of Horacio Paxtor.

The Proposed Ordinances will be advertised for a Public Hearing.

**Council
Member
Comments**

There were no Council Member comments.

**M 405 23
Go into
Executive
Session**

At 11:08 a.m., a Motion was made by Mr. Hudson, seconded by Mr. Rieley to recess the Regular Session, and go into Executive Session to discuss matters relating to pending/potential litigation.

Motion Adopted: 5 Yeas

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

Executive Session At 11:15 a.m., an Executive Session of the Sussex County Council was held in the Basement Caucus for the purpose of discussing matters relating to pending/potential litigation. The Executive Session concluded at 11:46 a.m.

M 406 23 Reconvene At 11:50 a.m., a Motion was made by Mr. Hudson, seconded by Mr. Rieley to come out of Executive Session back into Regular Session.

Motion Adopted: 5 Yeas

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

M 407 23 Approve Pending Litigation 2023-B A Motion was made by Mr. Rieley, seconded by Mr. Hudson to approve an agreement that would resolve any potential litigation matter identified as 2023-B.

Motion Adopted: 5 Yeas

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

M 408 23 Recess A Motion was made by Mr. Rieley, seconded by Mr. Hudson to recess until 1:30 p.m. Public Hearings.

Motion Adopted: 5 Yeas

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

M 409 23 Reconvene At 1:31 p.m., a Motion was made by Mr. Hudson, seconded by Mr. Rieley, to come out of recess and reconvene the Regular Session.

Motion Adopted: 5 Yeas

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

Public Hearing/ Long Neck A Public Hearing was held on a Proposed Ordinance entitled "AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO \$2,036,840 OF GENERAL OBLIGATION BOND OF SUSSEX COUNTY IN

**Communit-
ies**

CONNECTION WITH INCREASED COSTS ASSOCIATED WITH THE LONG NECK COMMUNITIES SEPTIC ELIMINATION PROJECT AND AUTHORIZING ALL NECESSARY ACTIONS IN CONNECTION THEREWITH”.

Mr. Medlarz provided a summary of the history of the project.

There were no public comments.

The Public Hearing and public record were closed.

**M 410 23
Amend
Language**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer to change the language from Bonds to Bond.

Motion Adopted: 5 Yeas

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

**M 411 23
Adopt
Ordinance
No. 2948/
Long Neck
Communit-
ies**

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to Adopt Ordinance No. 2948 entitled “AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO \$2,036,840 OF GENERAL OBLIGATION BOND OF SUSSEX COUNTY IN CONNECTION WITH INCREASED COSTS ASSOCIATED WITH THE LONG NECK COMMUNITIES SEPTIC ELIMINATION PROJECT AND AUTHORIZING ALL NECESSARY ACTIONS IN CONNECTION THEREWITH”.

Motion Adopted: 5 Yeas

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

Rules

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

**Public
Hearing/
CU2364**

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A 26.72 ACRE PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 40.97 ACRES, MORE OR LESS” (property lying on the east side of Conrail Road [S.C.R. 546] approximately 0.71 mile south of Hearn's Pond Road [S.C.R. 544]) (911 Address: N/A) (Tax Map Parcel: 331-3.00-138.00)

**Public
Hearing/**

The Planning & Zoning Commission held a Public Hearing on the Proposed Ordinance on July 13, 2023. At the meeting of July 27, 2023, the Planning & Zoning Commission recommended approval of the Application for the 11

**CU2364
(continued)**

reasons and the 11 recommended conditions as outlined.

Jamie Whitehouse, Planning and Zoning Director presented the Proposed Ordinance.

The Council found that Mr. Jon Falkowski, with Becker Morgan Group, Inc., presented on behalf of the Applicant; that also present was Mr. Michael Redding with ECA Solar.

Mr. Falkowski stated the property for C/U 2364 Seaford Community Energy Initiative, LLC is located north of the City of Seaford, along Conrail Rd.; that the property is 40.97 acres; that the area proposed for the Conditional Use, being the location of the solar arrays, consists of approximately 26.72 acres; that the property is zoned AR-1 (Agricultural Residential); that the site is currently utilized for agricultural use; that the proposed Conditional Use is for utility solar; that they have provided landscape buffers around the property; that there is one area where they did not provide a landscape buffer, as there is already an existing landscape hedge row; that they did provide landscaping around the residential properties located at the front; that they did not provide landscaping in the back of the property, as that area is within the existing Delmarva Power easement located along that portion of the boundary line; that the application was filed in April 2022; that the application submission was made prior to the adoption of Ordinance No. 2920, being the recent Ordinance adopted by the County regarding solar projects; that both solar applications do generally comply with the new Ordinance requirements; that within the newly adopted Solar Ordinance, there is a distance requirement of 200 ft. between adjacent dwellings and the nearest solar panel; that for the subject application, they are slightly off meeting the 200 ft. distance requirement in one particular area; that within that area the nearest point of distance is 184 ft; that the application was submitted prior to the adoption of Ordinance No. 2920, and due to this, they would request the 184 ft. proposed distance be permitted; that the reason for the encroachment is due to their efforts to save the existing tree on the site, by pushing the location of the solar panels away from the tree; that there will be perimeter fencing, which will have Knox Box access for the Fire Marshal; that access is proposed from Conrail Rd.; that the application is for a community solar facility, which is a ground mounted, three megawatt, tracking system; that these types of solar projects do not generate traffic other than a couple maintenance visits per month; that the project is a renewable energy resource, which create no odors, gas, smoke or fumes; that the project will create low noise, which will mostly come from the power inverters; that the inverters are to be centrally located in the facility, which is a requirement within the new Solar Ordinance; that stormwater runoff tends to be reduced as the land is moved from an agricultural activity to the placement of pollinator grasses and plantings across the facility; that they propose a 25 ft. landscape buffer and that the project will include a Decommissioning Plan and bonding to provide financial assurance of the project.

Public

**Hearing/
CU2364
(continued)**

The Council found that Mr. Michael Redding came forward to speak on the Application; that he is from ECA Solar, however, he is also representing the applicant; that ECA's main business is the development of community solar projects; that they have several projects in Delaware that are currently in development; that these two projects will be a part of the community energy program in Delaware; that this allows power to be exported to the Delmarva grid; that then it can be used by residents and businesses that can benefit from that power; that the program also requires to set aside a portion of the power for low to moderate income residents so that they can benefit; that a mailer was completed to the community; that two responses were received; that it was addressed that the back lane will not be used for this project; that the main access will be from Conrail Road.

Mr. Vincent pointed out that anyone that is a Delmarva Power customer can buy the energy from this grid.

Mr. Falkowski shared pictures of the proposed project; that the solar facility is a public utility use under the County Code; that the project meets the purpose of a Conditional Use in that it is of public or semi-public character, it is essential and desirable for the general community and welfare of the County; that the proposed facility promotes the Goal 7.3 of the Sussex County Comprehensive Plan, which encourages the use of renewable energy options, such as solar farms; that the proposed use will not have an impact on neighboring property by providing adequate landscape buffering and fencing; that the facility will not generate increased traffic on area roadways; that there are no regular employees at the site; that there will only be periodic visits for maintenance; that the project will not generate noise, dust, or odors; that the project is in general conformance with the newly adopted Solar Ordinance No. 2920, other than the one exception previously discussed.

There were no public comments.

The Public Hearing and public record were closed.

**M 412 23
Defer
Action/
CU2364**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson to defer action on a Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A 26.72 ACRE PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 40.97 ACRES, MORE OR LESS".

Motion Adopted: 5 Yeas

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

Public
Hearing/
CU2365

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A C-1 GENERAL COMMERCIAL DISTRICT AND AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 42.95 ACRES, MORE OR LESS” (property lying on the east side of DuPont Boulevard [Rt. 113], approximately 250 feet south of Lazy Lagoon Road [S.C.R. 380]) (911 Address: N/A) (Tax Map Parcel: 533-4.00-23.00) filed on behalf of Frankford Community Energy Initiative II, LLC.

The Planning & Zoning Commission held a Public Hearing on the application on July 13, 2023. At the meeting of July 27, 2023, the Planning & Zoning Commission recommended approval of the application for the 11 reasons and subject to the 12 recommended conditions as outlined.

Jamie Whitehouse, Planning and Zoning Director presented the application.

The Council found that Mr. Jon Falkowski, with Becker Morgan Group, Inc., presented on behalf of the Applicant; that also present was Mr. Michael Redding with ECA Solar.

Mr. Falkowski stated the property for C/U 2365 Frankford Community Energy Initiative II, LLC, is located just south of Frankford, along Rt. 113; that the total area of the site consists of 42.95 acres; that the Conditional Use area consists of 17.68 acres; that the property has split zoning being, C-1 (General Commercial) and AR-1 (Agricultural Residential); that the C-1 zoning runs along the front portion of site; that the property also falls within the CHCOZ (Combined Highway Corridor Overlay Zone); that the property does contain some existing forest; that the property is a combination of agricultural open land, and some existing woods; that the wooded area is approximately 31.85 acres; that they proposed to clear approximately 15.47 acres of the total 48.6 acres of woods; that there is a small area of wetlands located in the middle of the site; that the wetland area consists of approximately 1,000 sq. ft.; that they have received a permit issued from the Army Corp of Engineers to fill the area, as it was an isolated wetland area; that he believed there was some debate regarding if the area would still be considered a wetland, but nonetheless, they have obtained a permit; that the project will have some mitigation areas around the perimeter of the property that consist of some pollinator gardens and habitat supplements which were part of the permit; that this area is reflected in dark green color, surrounding the property on the rendering; that in this area, the woods will be cut down, however, the stumps will remain; that there is a 25 feet buffer proposed; that the proposed Conditional Use is for utility solar; that both applications were filed in April 2022; that the applications submissions were made prior to the adoption of Ordinance No. 2920, being the recent Ordinance adopted by the County regarding solar projects; that this solar application does comply with all of the requirements set forth in the newly adopted Solar Ordinance; that

Public

Hearing/
CU2365
(continued)

the application is for a community solar facility, which is a ground mounted, three megawatt, tracking system; that these types of solar projects do not generate traffic other than a couple maintenance visits per month; that the project is a renewable energy resource, which create no odors, gas, smoke or fumes; that the project will create low noise, which will mostly come from the power inverters; that the inverters are to be centrally located in the facility, which is a requirement within the new Solar Ordinance; that stormwater runoff tends to be reduced as the land is moved from an agricultural activity to the placement of pollinator grasses and plantings across the facility; that they propose a 25 ft. landscape buffer and perimeter fencing, which will have Knox Box access for the Fire Marshal; that the project will include a Decommissioning Plan and bonding to provide financial assurance of the project; that the solar facility is a public utility use under the County Code; that the project meets the purpose of a Conditional Use in that it is of public or semi-public character, it is essential and desirable for the general community and welfare of the County; that the proposed facility promotes the Goal 7.3 of the Sussex County Comprehensive Plan, which encourages the use of renewable energy options, such as solar farms; that the proposed use will not have an impact on neighboring property with provided adequate landscape buffering and fencing; that the facility will not generate increased traffic on area roadways; that there are no regular employees at the site; that there will only be periodic visits for maintenance; that the project will not generate noise, dust, or odors; that the project is in general conformance with the newly adopted Solar Ordinance No. 2920.

The Council found that Mr. Michael Redding came forward to speak on the Application; that he is from ECA Solar, however, he is also representing the applicant; that ECA main business is the development of community solar projects; that they have several projects in Delaware that are currently in development; that these two projects will be a part of the community energy program in Delaware; that allows power to be exported to the Delmarva grid; that then it can be used by residents and businesses that can benefit from that power; that the program also requires to set aside a portion of the power for low to moderate income residents so that they can benefit.

There were no public comments.

The Public Hearing and public record were closed.

M 413 23
Defer
Action/
CU2365

A Motion was made by Mr. Hudson, seconded by Mr. Rieley to defer action on a Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A C-1 GENERAL COMMERCIAL DISTRICT AND AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 42.95 ACRES, MORE OR LESS" (property lying on the east side of DuPont Boulevard [Rt. 113], approximately 250 feet south of Lazy Lagoon Road [S.C.R. 380]) (911 Address: N/A) (Tax Map Parcel: 533-4.00-23.00).

M 413 23

**Defer
Action/
CU2365**

Motion Adopted: 5 Yeas

(continued)

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

**Public
Hearing/
CZ1989**

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-2 MEDIUM COMMERCIAL DISTRICT FOR A 2.47 ACRE PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 5.42 ACRES, MORE OR LESS” (property lying on the northwest side of County Seat Highway [Rt. 9], approximately 0.85 mile southwest of DuPont Boulevard [Rt. 113]) (911 Address: 19724 Justin Drive, Georgetown) (Tax Map Parcel: 135-19.00-23.03 [p/o]) filed on behalf of Ferando Robles

The Planning & Zoning Commission held a Public Hearing on the application on July 13, 2023. At the meeting of July 23, 2023, the Planning & Zoning Commission recommended denial of the application for the 7 reasons as outlined.

Jamie Whitehouse, Planning and Zoning Director presented the application.

The Council found that Mr. Mark Davidson, Principal Land Planner with Pennoni Associates, presented on behalf of the Applicant; that also present were Mr. Eric Wall, Registered Landscape Architect and Project Manager with Pennoni Associates, and Mr. Fernando Robles, who presented on behalf of the Robles family; that the application is a request to amend the Comprehensive Zoning Map of Sussex County for a property currently located within the AR-1 (Agricultural Residential) Zoning District of Georgetown; that the property is located on the northside of County Seat Hwy (Delaware Rt. 28) (U.S. Rt. 9); that the property is located 4,300 ft. west of DuPont Blvd (U.S. 113); that the request is to rezone a 2.47 acre portion of the total 5.42 acre property, from AR-1 (Agricultural Residential) to C-2 (Medium Commercial); that the property has been owned by the Robles family since 2007, being approximately 16 years; that the Robles currently reside on the property, as well as, own a large farm property across the road; that the Robles family have their residential home and equestrian activities located toward the rear of the property; that the property is bordered on the south by County Seat Highway, which is considered a minor arterial highway; that the property is bordered on the north, east and west by lands zoned AR-1 (Agricultural Residential); that the adjacent lands to the north and west do have Conditional Uses, with one Conditional Use being for a used automotive business; that there is a landscape business and livestock company located near the property; that across the street are two parcels owned by churches;

Public

Hearing/
CZ1989
(continued)

that the adjacent AR-1 to the east is used for agricultural and residential purposes; that Planning and Zoning recommended a denial of this Application; that they stated seven reasons why this was not appropriate for this property; that these lands are located within a growth area for Sussex County, and within the Future Annexation Area for the Town of Georgetown; that commercial is starting to move into this direction from the Town of Georgetown; that one of the reasons of denial mentioned was that C-2 (Medium Commercial) is designed to support retail sales and performance of consumer sales intended to be near arterial and collector roads; that a main concern was the uncertainty what may be constructed on site when rezoned; that in Ordinance 2550, Sussex County stated the desire to create more specific C-2 (Medium Commercial) Zoning District, with smaller, more related uses within the district, to promote better planning and predictability within Sussex County that the purpose of the C-2 (Medium Commercial) district is to support uses that include retail sales and performance of consumer services; that the C-2 District permits a variety of retail, professional and service businesses; that the district shall be primarily located near arterial and collector streets, accommodating community and commercial uses that do not have outside sales or storage; that during those presentations for the Ordinance, it talked about the smaller style; that in the 2019 Sussex County Comprehensive Plan, the area of the proposed rezoning is identified as a Developing Area; that one of the other reasons stated was that there are no other commercially zoned properties in the immediate area of this property; that this would be an isolated area of spot zoning; that the Comprehensive Plan states that this is the right zoning category for the developing area; that the Comprehensive Plan states that the County has authority over these types of zoning classifications; that Table 4.5-2 is provided as a tool for assisting with and determining which zoning districts are applicable to each Future Land Use Category; that under Table 4.5-2 for the Developing Area, C-2 (Medium Commercial) Zoning is an applicable district within that area; that Mr. Davidson believes that this is not spot zoning; that a zoning designation being requested is part of the developing area.

Mr. Vincent noted that the change was made in 2017; that it occurred because prior to that, there was only one zoning commercial in the entire County. The Council desired for it to be narrowed down to smaller things; that the public commented that once the zoning is changed, there are many things that can be done. Anything that is authorized in C-2 can go there once the zoning is changed.

Mr. Davidson stated that specific limitations were placed on the C-2 zoning code that allowed it to stay at a small, lesser intense use when developing on that piece of property; that the approval of the rezoning request to C-2 will allow the Robles to relocate their family business, El Gran Charro, to a portion of their family lands on a particular stretch along County Seat Hwy.; that they desire to expand their existing restaurant, which is currently located at the College Park Shopping Center in Georgetown, which is more familiarly known as the Walmart Shopping Center; that the Robles have outgrown their

Public

**Hearing/
CZ1989
(continued)**

current area in the shopping center; that they desire to create a quality restaurant that will focus on the customers for the nearby, existing and future communities; that a site plan was done to allow the family to expand their restaurant to approximately 6,000 square feet and keep the farming activity in the back without having to rezone the entire parcel; that the Robles are looking to grow their restaurant on their family land; that they believe that using the front part of this property will better serve their purposes; that the property is in the Georgetown CPC for all utilities; that once the utilities migrate out to this property, they will connect and annex in; that the majority of their land, including the large farm area across the street are located within the future annexation area; that the existing entrance is already in place; that the entire parcel is in the Developing Area and could support a higher, more intense zoning such as C-3 or C-4; that the desire of the Robles family is to expand their restaurant with a C-2 zoning; that the existing concrete pad on the site is where the building will be placed; that the parking lot will be pushed back away from the road; that the stormwater pond is located in the front of the property; that improvements will need to be made by the Robles family as requested by DeDOT; that the PZ Commission mentioned there could be all of types of permitted uses; that the C-2 is a much lesser intense use; that the uses with the size and restrictions would restrict any higher intense use; that the PZ Commission thought that a Conditional Use was more appropriate; that back in 2017, all of the Conditional Uses that were occurring were trying to get cleaned up; that a C-2 zoning district was established to help; that in a Conditional Use, it states that it provides for certain uses that cannot be well adjusted to their environment in particular locations; that based on the C-2 zoning and based on the requirements that you can place in a development area along arterial and collector roads; that there will be water and sewer; that water is planned to extend out to this area in the future; that it was also stated that the PZ Commission was not satisfied with the proposed isolated commercial rezoning in this location; that C-2 was designed to be near arterial roads; that nobody came out in opposition against this application; that a letter of support was received from an adjacent neighbor; that the Future Land Use Map shows that this application does meet the requirements of No. 6 of the reasons of denial given by the PZ Commission; that the future of the Future Land Use Map identifies those areas where this type of zoning is to occur; that the Robles family would like to expand their business that is currently within the Town of Georgetown; that under the Comprehensive Plan, it talks about developing areas with good road access and few nearby homes should allow for commercial uses; that there are no large developments near this property; that according to the 2020 State Strategies for Policies and Spending, the property is within Investment Level 2.

Public comments were heard.

Mr. Nathan Zimmerman spoke in favor of the application. He is a life-long resident of Sussex County; that the restaurant is this family's life and he felt compelled to speak in favor of this application.

The Public Hearing and public hearing were closed.

**M 414 23
Defer
Action/
CZ1989**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson 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 C-2 MEDIUM COMMERCIAL DISTRICT FOR A 2.47 ACRE PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 5.42 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 415 23
Adjourn**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley to adjourn at 2:43 p.m.

Respectfully submitted,

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

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

GINA A. JENNINGS, MBA, MPA
FINANCE DIRECTOR
(302) 855-7741 T
(302) 855-7749 F
gjennings@sussexcountype.gov



Sussex County
DELAWARE
sussexcountype.gov

MEMORANDUM:

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

FROM: Gina A. Jennings
Finance Director/COO

RE: **DELAWARE TRANSIT CORPORATION FUNDING BUDGET**

DATE: August 25, 2023

As in the past, DART, a division of DelDOT, has allocated \$796,868, for funding of transportation expenses for various senior centers in Sussex County. This amount is the same as last year. The County's responsibility is to approve a recommended funding amount for Fiscal Year 2024 as per State law. This process is an allocation of State grant funds to various senior agencies for transportation purposes. Because the funding level has not changed, the recommended funding for each agency has not changed:

Nanticoke Senior Center	\$ 44,962
Indian River Senior Center	2,100
Laurel Senior Center	99,083
Lewes Senior Center	27,123
Cape Henlopen Senior Center	43,066
CHEER, Inc.	<u>580,534</u>
TOTAL	\$796,868

Attached is a spreadsheet displaying the history of allocations, the requested amount, and the recommended allocation. Copies of each agency's request are also attached. At the August 29th County Council meeting, I will be asking for your approval to allocate these State funds to these various agencies. Please feel free to contact me if you have any questions.

Attachments

pc: Mr. Todd F. Lawson

	Approved FY 2013	Approved FY 2014	Approved FY 2015	Approved FY 2016	Approved FY 2017	Approved FY 2018	Approved FY 2019	Approved FY 2020	Approved FY 2021	Approved FY 2022	Approved FY 2023	Recommended FY 2024	<i>Requested FY 2024</i>
Cape Henlopen Senior Center	43,066	43,066	43,066	43,066	43,066	43,065	43,065	43,065	43,066	43,066	43,066	43,066	48,196
CHEER, Inc.	580,534	580,534	580,534	580,534	580,534	580,525	580,525	580,525	580,534	580,534	580,534	580,534	718,400
Indian River Senior Center	2,100	2,100	2,100	2,100	2,100	2,100	2,100	2,100	2,100	2,100	2,100	2,100	28,000
Lewes Senior Center	27,120	27,120	27,120	27,120	27,120	27,120	27,120	27,120	27,120	27,123	27,123	27,123	52,900
Laurel Senior Center	99,083	99,083	99,083	99,083	99,083	99,081	99,081	99,081	99,083	99,083	99,083	99,083	105,083
Nanticoke Senior Center	44,959	44,959	44,959	44,959	44,959	44,959	44,959	44,959	44,959	44,962	44,962	44,962	48,366
	796,862	796,862	796,862	796,862	796,862	796,850	796,850	796,850	796,862	796,868	796,868	796,868	1,000,945

APPENDIX A - PAGE 2 OF 2
Delaware Transit Corporation
Reimbursable Transportation Program
Proposed Program Description
FY '24
JULY 1, 2023 - JUNE 30, 2024

AGENCY'S NAME: Cape Henlopen Senior Center
 ADDRESS: 11 Christian Street Reh. DE 19971
 CONTACT PERSON: Linda Bonville
 TELEPHONE #: (302) 227-2055 EMAIL ADDRESS: Linda.chsc@aol.com

Expense Category	Agency Request	Expense amount by category - to equal approved apportionment
1. Client Transportation Expense		
a. Purchased Client Transportation	\$	\$
b. Personal Vehicle Reimbursement	\$	\$
c. Client Transportation Drivers	\$ 35,036	\$
d. Fuel, Oil and Fluids	\$ 7200	\$
e. Client Vehicle Maintenance	\$ 2000	\$
f. Client Vehicle Insurance	\$ 3000	\$
g. Client Transportation Misc. Expense	\$ 960	\$
2. Admin. Wages & Benefits (< 10% Total)	\$	\$
3. Overhead (< 2% Total)	\$	\$
4. Less Client Transportation Income	(\$)	(\$)
TOTAL	\$ 48,196.00	\$

Funding: Approved Sussex County Apportionment \$ _____

Linda Bonville
 Cape Henlopen Senior Center

1/10/2023
 Date

 John T. Sisson Date
 Chief Executive Officer

 Todd Lawson Date
 Sussex County Administrator

APPENDIX A - PAGE 2 OF 2
Delaware Transit Corporation
Reimbursable Transportation Program
Proposed Program Description
FY '24
JULY 1, 2023 - JUNE 30, 2024

AGENCY'S NAME: CHEER, Inc.

ADDRESS: 546 South Bedford Street, Georgetown, Delaware 19947

CONTACT PERSON: Kenneth S. Bock

TELEPHONE #: 302.515.3040 EMAIL ADDRESS: kbock@cheerde.com

Expense Category	Agency Request	Expense amount by category - to equal approved apportionment
1. Client Transportation Expense		
a. Purchased Client Transportation	\$ 25,000	\$
b. Personal Vehicle Reimbursement	\$ 2,400	\$
c. Client Transportation Drivers	\$ 396,000	\$
d. Fuel, Oil and Fluids	\$ 83,000	\$
e. Client Vehicle Maintenance	\$ 53,700	\$
f. Client Vehicle Insurance	\$ 40,300	\$
g. Client Transportation Misc. Expense	\$ 0	\$
2. Admin. Wages & Benefits (≤ 15% Total)	\$ 97,500	\$
3. Overhead (≤ 3% Total)	\$ 20,500	\$
4. Less Client Transportation Income	(\$)	(\$)
TOTAL	\$ 718,400	\$

Funding: Approved Sussex County Apportionment \$ _____



 CHEER, Inc.

2/1/2023

 Date

John T. Sisson Date
 Chief Executive Officer

Todd Lawson Date
 Sussex County Administrator

APPENDIX A - PAGE 2 OF 2
 Delaware Transit Corporation
 Reimbursable Transportation Program
 Proposed Program Description
 FY '24
 JULY 1, 2023 - JUNE 30, 2024

AGENCY'S NAME: Indian River Senior Center, Inc.
 ADDRESS: 214 Irons Ave., Millsboro, DE 19966
 CONTACT PERSON: Suzanne Gordon
 TELEPHONE #: 302-934-8839 EMAIL ADDRESS: indianriverseniorcenterinc@gmail.com

Expense Category	Agency Request	Expense amount by category - to equal approved apportionment
1. Client Transportation Expense		
a. Purchased Client Transportation	\$ 14,400	\$
b. Personal Vehicle Reimbursement	\$	\$
c. Client Transportation Drivers	\$ 1,750	\$
d. Fuel, Oil and Fluids	\$ 1,500	\$
e. Client Vehicle Maintenance	\$ 3,000	\$
f. Client Vehicle Insurance	\$ 4,000	\$
g. Client Transportation Misc. Expense	\$ 350	\$
2. Admin. Wages & Benefits (< 10% Total)	\$ 2,500	\$
3. Overhead (< 2% Total)	\$ 500	\$
4. Less Client Transportation Income	(\$)	(\$)
TOTAL	\$ 28,000	\$

Funding: Approved Sussex County Apportionment \$ _____

Suzanne M. Gordon
 Indian River Senior Center

02-01-2023
 Date

 John T. Sisson Date
 Chief Executive Officer

 Todd Lawson Date
 Sussex County Administrator

APPENDIX A - PAGE 2 OF 2
Delaware Transit Corporation
Reimbursable Transportation Program
Proposed Program Description
FY '24
JULY 1, 2023 - JUNE 30, 2024

AGENCY'S NAME Laurel Senior Center Inc.

ADDRESS: 113 N. Central Ave.- PO Box 64- Laurel, DE 19956

CONTACT PERSON: Penelope Duncan

TELEPHONE #: 302-875-2536

EMAIL ADDRESS: lsc5830@comcast.net

Expense Category	Agency Request	Expense amount by category - to equal approved apportionment
1. Client Transportation Expense		
a. Purchased Client Transportation	\$	\$
b. Personal Vehicle Reimbursement	\$	\$
c. Client Transportation Drivers	\$ 57000	\$
d. Fuel, Oil and Fluids	\$ 16564	\$
e. Client Vehicle Maintenance	\$ 5500	\$
f. Client Vehicle Insurance	\$ 14000	\$
g. Client Transportation Misc. Expense	\$ 1500	\$
2. Admin. Wages & Benefits (<= 10% Total)	\$ 10519	\$
3. Overhead (<= 2% Total)	\$	\$
4. Less Client Transportation Income	(\$)	(\$)
TOTAL	\$ 105083	\$

Funding: **Approved Sussex County Apportionment** \$ _____

Penelope Duncan

 Laurel Senior Center

 Date

 John T. Sisson Date
 Chief Executive Officer

 Todd Lawson Date
 Sussex County Administrator

APPENDIX A - PAGE 2 OF 2
 Delaware Transit Corporation
 Reimbursable Transportation Program
 Proposed Program Description
 FY '24

JULY 1, 2023 - JUNE 30, 2024

AGENCY'S NAME: Lewes Senior Activity Center
 ADDRESS: 32083 Janice Rd, Lewes, DE 19958
 CONTACT PERSON: Patricia Fleming
 TELEPHONE #: 302.645.9293 EMAIL ADDRESS: lewesseniorcenter@gmail.com

Expense Category	Agency Request	Expense amount by category - to equal approved apportionment
1. Client Transportation Expense		
a. Purchased Client Transportation	\$ 0	\$
b. Personal Vehicle Reimbursement	\$ 1,000	\$
c. Client Transportation Drivers	\$ 25,500	\$
d. Fuel, Oil and Fluids	\$ 7,000	\$
e. Client Vehicle Maintenance	\$ 3,500	\$
f. Client Vehicle Insurance	\$ 7,000	\$
g. Client Transportation Misc. Expense	\$ 400	\$
2. Admin. Wages & Benefits (<= 10% Total)	\$ 5,000	\$
3. Overhead (< 2% Total)	\$ 1,500	\$
4. Less Client Transportation Income	(\$ 2,000)	(\$)
TOTAL	\$ 52,900	\$

Funding: Approved Sussex County Apportionment \$ _____

Patricia M. Fleming
 Lewes Senior Center

1/24/2023
 Date

 John T. Sisson Date
 Chief Executive Officer

 Todd Lawson Date
 Sussex County Administrator

APPENDIX A -- PAGE 2 OF 2
 Delaware Transit Corporation
 Reimbursable Transportation Program
 Proposed Program Description
 FY'24
 JULY 1, 2023 – JUNE 30, 2024

AGENCY'S NAME: NANTICOKE SENIOR CENTER, INC.

ADDRESS: 1001 West Locust Street, P. O. Box 406 Seaford, DE 19973

CONTACT PERSON: Brenda Givens, Executive Director

TELEPHONE #: 302-629-4939 EMAIL ADDRESS: brenda.givens@nanticokeseniorcenter.com

Expense Category	Agency Request	Expense amount by Category – to equal Approved apportionment
1. Client Transportation Expense		
a. Purchased Client Transportation	\$ 0	\$
b. Personal Vehicle Reimbursement	\$ 686.00	\$
c. Client Transportation Drivers	\$31,153.00	\$
d. Fuel, Oils and Fluids	\$ 3519.00	\$
e. Client Vehicle Maintenance	\$1275.00	\$
f. Client Vehicle Insurance	\$ 4206.00	\$
g. Client Transportation Misc. Expense	\$ 637.00	\$
2. Admin, Wages & Benefits (≤ 10% Total)	\$ 5991.00	\$
3. Overhead (≥ 2% Total)	\$ 899.00	\$
4. Less Client Transportation Income	(\$0)	\$()
TOTAL	\$48366.00	

Funding: Approved Sussex County Apportionment \$ _____

Brenda Givens 15-23
 Ms. Brenda Givens Date
 Director of Operations, Nanticoke Senior Center, Inc.

 John T. Sisson Date
 Chief Financial Officer, DTC

 Todd Lawson Date
 Sussex County Administrator

ENGINEERING DEPARTMENT

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

(302) 855-7370 T
(302) 854-5391 F
mark.parker@sussexcountyde.gov



Sussex County

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

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

RE: *Delaware Coastal Business Park Improvements, Project A21-11*
A. Change Order No. 4

DATE: August 29, 2023

To support the alternative bid structure established for the T-Hanger Building Project A22-23, direct solicitation pricing was requested in February 2023 from three (3) reputable Site Contractors to cover the required site/utility support work for the project. The low price was submitted by A-Del Construction in the amount of \$319,990.00; A-Del Construction was the Contractor for our Delaware Coastal Business Park Improvements project and was still administratively active on the project. Council awarded the site/utility work to A-Del Construction as Change Order No. 3 on Project A21-11 for the above amount on March 21, 2023.

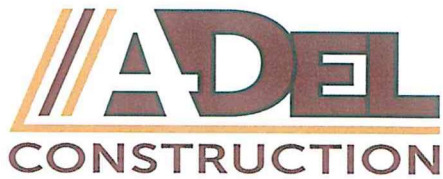
As part of the on-going site construction, it was identified that the scope of the required concrete restoration outside the limits of the poured T-Hanger slab needed to be expanded. The expanded scope can be attributed to the following items:

- 1) The T-Hanger slab needed to be raised a few inches due to field conditions, and this resulted in a need to extend the horizontal limits of concrete repair in order to achieve accommodable grades for aircraft to access the T-Hanger units.
- 2) Existing concrete joints and mid-slab sections were found to be in poor condition following exposure, thus resulting in an expansion of concrete restoration limits on all sides of the T-Hanger slab.
- 3) A small section of the adjacent hot-mix Taxilane needed to be removed and patched in order to accommodate trench drain installation and concrete forming.



- 4) Additional stone material was required under the concrete restoration areas due to variable thickness of concrete slabs encountered during excavation.
- 5) The Plans used for pricing lacked clarity on proper tie-in of new concrete to the existing concrete apron slabs, thus resulting in adding dowel and tie bars to the project scope.

The Engineering Department has reviewed the pricing from A-Del Construction for additional concrete restoration, which includes their concrete subcontractor, and recommends approval of Change Order No. 4 in the amount of \$56,970.00



August 16, 2023

J Mark Parker, P.E.
 Assistant County Engineer
 Sussex County Engineering Department
 O 302.855.7382
 C 302.212.6381
mark.parker@sussexcountyde.gov

**RE: Sussex County Airport, Georgetown, DE – Hanger – T Site Work –
 Change Order #1 Revision Drawings 8-10-2023
 A-Del Bid # 43P004**

Mr. Parker,

Based on the emailed conversations and sample drawings Sheet 1 of 1, dated August 10, 2023 by Sussex County Engineering Department, A-Del Construction is pleased to provide pricing per your request for the following Scop of Work:

- 1) Layout for additional concrete and asphalt removal/replacement
- 2) Supply and installation of Concrete as outlined within the proposed drawings and classified by attached proposal K.L.H proposal dated August 15, 2023
- 3) Asphalt patch and repair along Northern edge of new work
- 4) All stone sub base to be installed per unit prices as agreed previous on July 6, 2023 email conformation

PRICING:

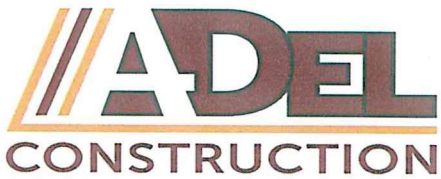
Work as listed per lump sum pay items;

Description	Quantity	Units	Unit Price	Bid Total
LAY OUT	1.000	LS	420	420.00
SAWCUTTING	1.000	LS	4850	4,850.00
DEMOLITION AND EXCAVATION	1.000	LS	8800	8,800.00
SUBCONTRACTOR - CONCRETE	1.000	LS	39400	39,400.00
ASPHALT PATCH	1.000	LS	3500	3,500.00
CHANGE ORDER #1				56,970.00

UNIT PRICES:

- | | |
|--|---------------|
| 1) SUPPLY AND INSTALL #57 STONE BASE | \$155.00/CY |
| 2) INSTALL #57 STONE BASE FROM EXISTING ONSITE SOURCE PILE | \$850.00/LS |
| 3) SHEET AND TRIM PROTECTION (IF NEEDED) | \$2,500.00/LS |

Additional days required **21 ea**



This Bid is based on the following Clarifications:

1. All crack sealing and caulking is excluded
2. All pricing is subject to review of approved drawings
3. Safety provisions for Airport equipment marking has been included
4. No wage rates are included.
5. All permits and inspections are obtained by others.
6. Excludes any and all flagging, engineering, inspections, permitting Asbuilt Fees and testing.
7. No time restrictions are included, normal workday is M-F 7:00 am to 4:00 pm.
8. Excludes any bond. This can be provided for an additional cost.
9. Excludes (other than specifically listed above) Building, Landscaping, topsoils, fencing, utilities and sod
10. Site to be graded to within +/- .1'.
11. CAD File with layout controls (set by others) to be provided to A-Del at no additional cost. All of A-Del's layout will be based on the control provided by others.
12. For bidding purposes all on-site fill is to be considered suitable for reuse without any special handling requirements. Undercutting and or stabilization of any unsuitable soils are excluded.
13. Environmental soil testing is excluded. Excavation, cleanup, disposal and transportation costs associated with encountering any contaminated/hazardous materials.
14. The employment of private utility locating services to mark the site of all unknown/known utilities is excluded. We have included calling MISS UTILITY ticketing which is required by law. Any test hole digging required to locate the elevations or location after MISS UTILITY mark out any utilities not shown on the drawings will be performed on a T&M basis.
15. Equipment and Asphalt will be adjusted based on Del DOT's fuel and liquid asphalt index(s) for increases of 15% or greater. (https://deldot.gov/Business/bids/index.shtml?dc=diesel_fuel) (Based on month to month changes)
16. All materials are subject to market changes as provided by vender quotes at time of purchase.
17. Payment of stored materials for the job required to protect pricing throughout the job.
18. Winter concrete work and snow removal is excluded.
19. Owner to provide escrow proof of funds and payment of stored materials for the job required to protect pricing throughout the job.
20. Quote valid for thirty (30) days.

Thank you for the opportunity, if you have any questions, please feel free to contact me at swhitt@a-del.com or direct at C: 443-880-3165.

Sincerely,

A-DEL CONSTRUCTION CO., INC.

A handwritten signature in blue ink, appearing to read "C. Scott Whitt", is written over the company name.

C. Scott Whitt
Estimator/Project Manager, A-Del Construction

Attachments: K.L.H. PROPOSAL DATE 8-15-2023



ATTACHMENT #1
A-DEL CO #1
8-16-2023

29099 STOCKLEY ROAD
MILTON, DELAWARE 19968

KEVINHENDERSHOT@KLHENTERPRISES.COM

PHONE: 302-245-0712

August 15, 2023

Mr. Scott Whitt
A-Del Construction
351 Salem Church Road
Newark, DE 19702

Ref: SUSSEX COUNTY AIRPORT – GEORGETOWN, DE – T HANGER – CO#1 REVISION #4

Mr. Whitt:

We are pleased to quote a price of **\$35,935.33** to furnish the additional scope of work as described in the final site plans for the above referenced project. This price is based on the following scope of work and the marked up site drawing dated 8/10/23 PROPOSED T-HANGER BUILDING CONCRETE RESTORATION with no separate specification.

- | | | | |
|----|--|----------|------------------------|
| 1. | ADD 3,736 SF of 6" thick concrete. | | \$8.50 per square foot |
| 2. | ADD 50 pieces of 3/4" x 18" smooth dowels @ 1'-6" on center. | | \$69.51 per each |
| 3. | ADD 56 pieces of 5/8" rebar x 30" long x 48" spacing. | | \$40.76 per each |
| 4. | DELETE 36 SF of Flared Area shown in Green | | <\$293.76> |
| 5. | DELETE Rebar at the trench drain | LUMP SUM | <\$509.00> |
| 6. | DELETE welded wire mesh from original bid | LUMP SUM | <\$776.00> |
| 7. | Furnish 4,000 psi air entrained concrete with no microfiber reinforcement. | | |
| 8. | 40 SF shown in Green labeled "REMOVED AT CONTRACTOR DISCRETION" was not included in our original contract price nor was there any work shown in this area on Sheet No. 1 of 1 Dated May 30, 2023. This drawing is issued by Sussex County Engineering Department and is titled T-Hanger Building – Fire Marshal Site Plan. | | |

ALTERNATE #1: Sheet and Trim Protection

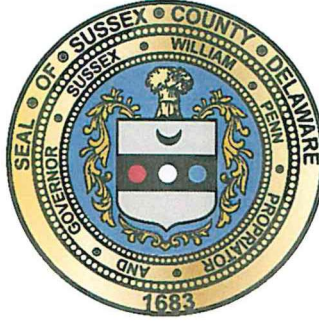
ADD \$2,500.00

This alternate will be made part of the contract if the county decides to move forward with trims and sheeting the building prior to the completion of this work and our original contract scope. Primary and secondary framing is acceptable to install at this time less the bottom girts around the perimeter of the building

Thank you for the opportunity to work with you on this project.

Sincerely,

Kevin L. Hendershot
President



**SUSSEX COUNTY
CHANGE ORDER REQUEST**

A. ADMINISTRATIVE:

1. Project Name: **Delaware Coastal Business Park Improvements**
2. Sussex County Project No. A21-11
3. Change Order No. 4
4. Date Change Order Initiated - 07/31/2023
5.
 - a. Original Contract Sum \$3,839,433.00
 - b. Net Change by Previous Change Orders \$ 458,619.00
 - c. Contract Sum Prior to Current Change Order \$4,298,052.00
 - d. Requested Change \$56,970.00
 - e. Net Change (No. of days) 0
 - f. New Contract Amount \$4,355,022.00
6. Contact Person: Mark Parker, P.E.
Telephone No. (302) 855-7382

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:**
Change in scope for concrete restoration.

D. **JUSTIFICATION FOR CHANGE ORDER INCLUDED?**
Yes No

E. **APPROVALS**

1. A-Del Construction, Contractor

C. Scott Whitt 8/25/2023
Signature Date

C. Scott Whitt, P.M.
Representative's Name in Block Letters

2. Sussex County Assistant Engineer

J. Mark Parker 08/25/2023
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

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sussexcountyde.gov

HANS M. MEDLARZ, P.E.
COUNTY ENGINEER

Memorandum

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

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

RE: *Solitudes on Whites Creek*
A. Authorization for Bond Recall

DATE: August 29, 2023

In 2017, County Council approved major changes to Chapter 99, Subdivision of Land in the County Code. Revised § 99-31, *Inspections; closeout procedures; fees*, addressed close out of subdivisions approved after the effective date of Ordinance No. 2489. The Department presented a list of subdivisions that had been inactive for a considerable time, had incomplete improvements or potential public safety concerns due to compromised infrastructure and on September 17, 2019 County Council authorized notification of the owners of the developments as follows:

1. Listed developments with potential safety concerns be provided notification to rectify concerns within ninety (90) days or be subject to redemption of the performance security upon separate approval by Council.
2. Listed developments with incomplete infrastructure and/or unresolved construction or drainage issues, be notified and provided one hundred and eighty (180) days to rectify the issues or be subject to withholding of building permits.
3. Listed developments with a large percentage of units sold and the developer with little or no remaining holdings, be notified and provided one hundred and eighty (180) days to rectify the issues or be subject to redemption of the performance security upon separate approval by Council.

The effort was initially hampered by the outbreak of the pandemic but in the last couple of years considerable progress has been made as documented in the attached update summary. However, Solitudes on White Creek located south of Clubhouse Road in Ocean View consisting of 119 single family lots in three phases met the requirements but missed the Council's 2019 authorization to initiate close out proceedings.



The Solitudes on White Creek construction plans received final approval on April 13, 2016. As per County records, all 119 lots have been sold, the last building permit was issued on January 4, 2021 and the last certificate of occupancy granted on June 28th of 2021.

The construction status for each phase is as follows:

Phase 1A Sewer, Agreement No. 623-1

- Agreement executed on June 21, 2016.
- Substantial road completion granted, and bond returned on April 18, 2017.
- County sewer has NOT been granted Final Acceptance.

Phase 1A (Lots - 1-11, 57-66 & 99-119) Roads, Agreement No. 623-2

- Agreement Executed and Notice to Proceed issued on June 8, 2016.
- Base Paving Installed on October 6, 2017.
- Pre final pavement inspection performed, and punch list compiled on October 29, 2021.
- Holding \$354,888.19 Road Bond No. LICX1166859 with Lexon Insurance Company.

Phase 1B (Lots - 23-31 & 67-98) Roads, Agreement No. 623-3

- Agreement Executed and Notice to Proceed issued March 17, 2017.
- Base Paving Installed on November 1, 2017.
- Pre final pavement inspection performed, and punch list compiled on October 29, 2021.
- Holding \$362,984.02 Road Bond No. 1161285 with Lexon Insurance Company.

Phase 2 (Lots - 12-22 & 32-56) Roads, Agreement No. 623-4

- Agreement Executed and Notice to Proceed issued on August 7, 2017.
- Base Paving installed on July 13, 2018.
- Pre final pavement inspection performed, and punch list compiled on October 29, 2021.
- Holding \$198,335.42 Road Bond No. 1156506 with Lexon Insurance Company.

The County Engineer reached out numerous times to the Developer for a status update and a firm schedule commitment. His latest response was received in April of 2023, later email went unanswered. Given the fact that home construction has been complete for over two (2) years and the that the developer failed to respond to inquiries the Department requests Council's authorization for the County Attorney to initiate a recall of all bonds and completion of the approved improvements under the General Labor and Equipment contract administered by the Engineering Department.

Sussex County Engineering Department Update of Subdision Close Out Proceedings

August 2023

Project Name	Owner	Total # of Units	Units Sold	SCD Bond Status	Close out Status
Canal Point	Canal Properties Development LLC	98	100%	Joint	In Close out
Dagsboro Trace	Dagsboro Trace LLC	25	100%	N/A	Working Towards Warranty
Canal Place aka Sunset Harbour	Insight at Sunset Harbour LLC	87	100%	Separate	In Close out
Green Bank Estates	Anthony V. Bright Family Trust	49	100%	Joint	Closed
Oakwood Village	Oakwood Village At Lewes LLC	115	100%	N/A	Closed
Red Mill Pond North	Sweet Briar LLC	343	100%	Separate	Closed
Sandy Cove Townhouse Community	Ocean View Land Development LLC	84	100%	Separate	Closed
White Creek Landing	Toll Brothers Inc	89	100%	Joint	Closed
Sterling Crossing	Old Landing Road Inc	140	100%	N/A	Warranty
The Cove at Sandy Landing	CasI LLC	23	100%	Separate	Closed
Cypress Point	Top Drawer LLC	72	100%	Separate	Closed
Nutters Grant (Apartments)	Delaware Property Investment	24	N/A	N/A	Warranty
Cedar Grove	Cedarcap LLC	25	100%	N/A	Closed
River Rock Run	Key Properties Group LLC	197	100%	Joint	Closed

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



Sussex County

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sussexcountyde.gov

Memorandum

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

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

CC: Everett Moore, County Attorney

Date: August 24, 2023

RE: County Council Report for C/U 2364 filed on behalf of Seaford Community Energy Initiative, LLC

The Planning and Zoning Department received an application (C/U 2364 filed on behalf of Seaford Community Energy Initiative, LLC) for a solar farm to be located at tax parcel 331-3.00-138.00. The property is located at on the east side of Conrail Road (SCR 546) approximately 0.71 mile south of Hearn's Pond Road. The parcel size is 26.72 acres +/-

The Planning & Zoning Commission held a Public Hearing on the application on July 13, 2023. At the meeting of July 27, 2023, the Planning & Zoning Commission recommended approval of the application for the 11 reasons stated and subject to the 11 recommended conditions as outlined within the motion (copied below).

On August 15, 2023, the County Council held a Public Hearing on the application. At the conclusion of the Public Hearing, action on the application was deferred for further consideration.

Below are the minutes from the Planning & Zoning Commission meeting of July 13, 2023 and July 27, 2023.

Minutes of the July 13, 2023, Planning & Zoning Commission Meeting

Chairman Wheatley stated the next two public hearings, C/U 2364 Seaford Community Energy Initiative, LLC and C/U 2365 Frankford Community Energy Initiative II, LLC, have the same Applicant, essentially being the same type of application, but in two different locations. Chairman Wheatley stated the Applicant had requested to consolidate the two applications into one presentation;



that the Commission would action on each application separately and granted the request to consolidate the presentations.

C/U 2364 Seaford Community Energy Initiative, 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 26.72 ACRE PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 40.97 ACRES, MORE OR LESS. The property is lying on the east side of Conrail Road (S.C.R. 546) approximately 0.71 mile south of Hearn's Pond Road (S.C.R. 544). 911 Address: N/A. Tax Map Parcel: 331-3.00-138.00.

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

The Commission found that Mr. Mike Riemann, with Becker Morgan Group, Inc., presented on behalf of the Applicant; that also present was Mr. Michael Redding with ECA Solar. Mr. Riemann stated the applications are under two different LLCs, however, ECA Solar is the Applicant for both Applications; that Becker Morgan Group was the engineer for both applications as well.

Mr. Riemann stated the property for C/U 2364 Seaford Community Energy Initiative, LLC is located north of the City of Seaford, along Conrail Rd.; that the property is approximately 41 acres; that the area proposed for the Conditional Use, being the location of the solar arrays, consists of approximately 26.72 acres; that the property is zoned AR-1 (Agricultural Residential); that the site is currently utilized for agricultural use; that the proposed Conditional Use is for utility solar; that both applications were filed in April 2022; that the applications submissions were made prior to the adoption of Ordinance No. 2920, being the recent Ordinance adopted by the County regarding solar projects; that both solar applications do generally comply with the new Ordinance requirements; that within the proposed solar array, the solar panels are shown in rows; that access is proposed from Conrail Rd.; that there will be a gravel road that comes up through the center of the site; that the property does have an existing power line easement with Delmarva Power; that the panels have been split to allow for the gravel access easement for Delmarva Power, as well as to avoid a large tree which they are attempting to maintain in its existing location; that they have provided landscape buffers around the property; that there is one area where they did not provide a landscape buffer, as there is already an existing landscape hedge row; that they did provide landscaping around the residential properties located at the front; that they did not provide landscaping in the back of the property, as that area is within the existing Delmarva Power easement located along that portion of the boundary line; that within the newly adopted Solar Ordinance, there is a distance requirement of 200 ft. between adjacent dwellings and the nearest solar panel; that for the subject application, they are slightly off meeting the 200 ft. distance requirement in one particular area; that within that area the nearest point of distance is 184 ft; that the application was submitted prior to the adoption of Ordinance No. 2920, and due to this, they would request the 184 ft. proposed distance be permitted; that the reason for the encroachment is due to their efforts to save the existing tree on the site, by pushing the location of the solar panels away from

the tree; that the entire perimeter of the solar array is fenced with an eight foot, not wire, fence; that some of the solar facilities seen are leased agreements; that with the subject application, ECA Solar has already purchased, and own the property; that the application is for a community solar facility, which is a ground mounted, three megawatt, tracking system; that these types of solar projects do not generate traffic other than a couple maintenance visits per month; that the project is a renewable energy resource, which create no odors, gas, smoke or fumes; that the project will create low noise, which will mostly come from the power inverters; that the inverters are to be centrally located in the facility, which is a requirement within the new Solar Ordinance; that stormwater runoff tends to be reduced as the land is moved from an agricultural activity to the placement of pollinator grasses and plantings across the facility; that they propose a 25 ft. landscape buffer and perimeter fencing, which will have Knox Box access for the Fire Marshal; that the project will include a Decommissioning Plan and bonding to provide financial assurance of the project; that the solar facility is a public utility use under the County Code; that the project meets the purpose of a Conditional Use in that it is of public or semi-public character, it is essential and desirable for the general community and welfare of the County; that the proposed facility promotes the Goal 7.3 of the Sussex County Comprehensive Plan, which encourages the use of renewable energy options, such as solar farms; that the proposed use will not have an impact on neighboring property by providing adequate landscape buffering and fencing; that the facility will not generate increased traffic on area roadways; that there are no regular employees at the site; that there will only be periodic visits for maintenance; that the project will not generate noise, dust, or odors; that the project is in general conformance with the newly adopted Solar Ordinance No. 2920, other than the one exception previously discussed; that submitted in the Exhibit Booklet there were property value studies provided; that the studies did not look at the two subject sites, however they did look at solar valuations and the impact on property values; that there have been a lot of studies done, which demonstrate that there are no negative impacts to surrounding property values, and with the proposed types of solar facilities, especially in rural areas, they did provide Findings of Facts and recommended Conditions of Approval for the Commission's review and consideration. Mr. Riemann presented the Commission with project renderings and visuals for reference.

Mr. Whitehouse advised the Commission that the Application is not required to be held to the provisions of the Solar Ordinance, as it was submitted prior to the Ordinance adoption, however, County Council does have the discretion and authority to impose conditions and requirements as they deem necessary.

The Commission found that Mr. Michael Redding, Director of Civil Engineering with ECA Solar, presented on behalf of Applicant. Mr. Redding stated ECA Solar's main purpose of business is community power and the development of community-powered solar facilities; that ECA Solar has been in business since 2013; that they have worked in fairly large regional areas from the northeast down through the Mid-Atlantic and out west; their main purpose is to bring community solar facilities to places like Delaware; that they currently have several facilities in development in Delaware; that the two subject applications will be part of the Community Power Program in Delaware, which allows for local businesses and residents to benefit from solar power at a reduced electric cost, and the program also requires ECA Solar to set aside a certain percentage for low to moderate income residents who can also benefit from the solar power.

Ms. Wingate questioned if there would be a hardship in removing some of the panels in an attempt to achieve the 200-ft. distance requirement.

Mr. Redding stated the design for the subject site is a tracker system; that a tracker system runs in a north and south direction; that these systems are more connected than other systems; that with the tracker system, it would be much more challenging to remove a couple of pieces because the system does not come apart in pieces.

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

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

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

In relation to C/U 2364 Seaford Community Energy Initiative, LLC. Motion by Mr. Mears to defer action for further consideration, seconded by Ms. Wingate and carried unanimously. Motion carried 4-0.

Minutes of the July 27, 2023, Planning & Zoning Commission Meeting

The Commission discussed the Application which had been deferred since July 13, 2023.

Mr. Mears moved that the Commission recommend approval of C/U 2364 Seaford Community Energy Initiative, LLC for a solar farm in the AR-1 District based on the record made during the public hearing and for the following reasons:

1. The proposed facility is a public utility use under the Sussex County Zoning Code, and it meets the purposes of a Conditional Use because it has a public or semi-public character that is essential and desirable for the general convenience and welfare of Sussex County residents.
2. This is an adaptive use of farmland that will preserve it from more intensive development. The solar farm will be located on approximately 26.72 acres of a larger 40.97-acre tract.
3. The proposed facility promotes Goal 7.3 of the Sussex County Comprehensive Plan which encourages the use of renewable energy options such as solar farms. There was testimony that this solar farm will benefit residential, business, and municipal subscribers with lower power costs.
4. Although the submission of this application pre-dated the adoption of Ordinance No. 2920 governing solar farms, this project generally complies with that ordinance as to buffers and setbacks.
5. With the conditions imposed in this recommendation including landscaped buffers, the proposed use will not have any adverse impact on the neighborhood.
6. The proposed solar generation facility will not result in any noticeable increase in traffic on area roadways. There are no regular employees at the site, only periodic visits for inspections, maintenance, or repair of the solar panels.
7. The Applicant has included a Decommissioning Plan in the record for when their solar farm is no longer in use.
8. Based on the record there is no significant noise, glare, dust, or odor that will be generated by the facility.

9. There will be a buffer of planted or retained vegetation along the northern, western, and southern sides of this site to screen the view of the solar farm while allowing the solar arrays to function properly.
10. The proposed use provides a renewable energy source that is a benefit to the residents and businesses of Sussex County.
11. There was no opposition to this Application.
12. This recommendation is subject to the following conditions:
 - A. The use shall be for a ground-mounted solar farm. No other types of electric generation shall be permitted at the site.
 - B. The Final Site Plan shall clearly show the limits of the Conditional Use area for this solar farm as well as the remaining acreage that is not part of this Conditional Use.
 - C. Any lighting on the facility shall only consist of perimeter lighting needed for security purposes. All lighting shall be downward screened so that it does not shine on neighboring properties or roadways.
 - D. One unlit sign, not to exceed 32 square feet in size, shall be permitted. The sign shall identify the operator of the solar farm and shall provide contact information in case of emergency.
 - E. The site shall be secured by gated fencing with interwoven screening and a “Knox Box” or similar device to accommodate emergency access by the local fire company or other emergency responders. The fence line shall be shown on the Final Site Plan.
 - F. The location of all transformers or similar equipment or structures shall be shown on the Final Site Plan.
 - G. The entire site, including the area outside the fence, shall be maintained so that it does not become overgrown.
 - H. Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with all applicable State and County requirements. These facilities shall be operated using Best Management Practices.
 - I. There shall be a 25-foot-wide buffer of planted vegetation along the northern, western, and southern 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 them to function properly. No buffering shall be required along the eastern boundary of the site adjacent to other lands that are being farmed. The Final Site Plan shall include a landscape plan showing the proposed tree and shrub landscape design in this buffer area.
 - J. 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.
 - K. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.

Motion by Mr. Mears, seconded by Ms. Wingate and carried unanimously to recommend approval of C/U 2364 Seaford Community Energy Initiative, LLC for the reasons and the conditions stated in the motion. Motion carried 4-0. Mr. Butler abstained.

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

PLANNING & ZONING COMMISSION

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



Sussex County

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JAMIE WHITEHOUSE, AICP, MRTPI
DIRECTOR OF PLANNING & ZONING

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET
Planning Commission Public Hearing Date: July 13, 2023

Application: CU 2364 Consolidated Edison Development Inc. (Woodland Ferry Road)

Applicant: Seaford Community Energy c/o Michael Redding P.E.
282 Moody Street #202
Waltham, MA 06379

Owner: Glenville Hollow Farms c/o Steven & Cynthia Yingling
4464 Glenville Road
Glen Rock, PA 17327

Site Location: Lying on the east side of Conrail Road (S.C.R. 546) approximately (0.67) miles south of the intersection of Conrail Road (S.C.R. 546) and Hearn's Pond Road (S.C.R. 544).

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

Proposed Use: Solar Farm consisting of photovoltaic electric generation facility on a (26.7189) acre portion of the parcel.

Comprehensive Land Use Plan Reference: Developing Area

Councilmanic District: Mr. Vincent

School District: Seaford School District

Fire District: Seaford Fire Department

Sewer: N/A

Water: N/A

Site Area: 40.97 acres +/- (p/o 26.7189 acres +/-)

Tax Map ID: 331-3.00-138.00



JAMIE WHITEHOUSE, AICP MRTPI
PLANNING & ZONING DIRECTOR
(302) 855-7878 T
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Sussex County

DELAWARE
sussexcountyde.gov

Memorandum

To: Sussex County Planning Commission Members
From: Mr. Michael Lowrey, Planner III
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant
Date: May 30th, 2023
RE: Staff Analysis for C/U 2364 Seaford Community Energy Initiative, LLC

This memo is to provide background and analysis for the Planning Commission to consider as a part of Application C/U 2364 Seaford Community Energy Initiative, LLC to be reviewed during the July 13th, 2023 Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

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

Tax Parcel ID(s): 331-3.00-138.00

Proposal: The request is for a Conditional Use for Tax Parcel 331-3.00-138.00 to allow for a solar farm on the site lying east side of Conrail Road (S.C.R. 546) approximately (0.71) miles south of Hearn's Pond Road (S.C.R. 544). The improvements are proposed on a (26.7189) acre portion of the parcel which is comprised of a total of 40.97 acres +/-

Zoning: The property is zoned Agricultural Residential (AR-1) District. The parcels on all sides of the subject property are zoned Agricultural Residential (AR-1) District.

Future Land Use Map Designation w/in Comprehensive Plan: Developing Area

Applicability to Comprehensive Plan: The 2018 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be developed. As part of the Comprehensive Plan, a Future Land Use Map is included to help determine how land should be zoned to ensure responsible development. The Future Land Use map in the plan indicates that the subject property is designated as a Growth Area and has a land use designation of "Developing Area." The properties to the north, south, and east of the subject site also contain the Future Land Use Map designation of "Developing Area" with the parcels to the west across Conrail Road (S.C.R. 546) designated as "Low Density Area."

The Comprehensive Plan notes that "Developing Areas" are emerging growth areas which "demonstrate the characteristics of developmental pressures," and are adjacent to municipalities, Town Centers, or future municipal annexation areas (2018 Sussex County Comprehensive Plan, 4-14). The Plan provides guidelines for future growth noting, "in selected areas and at appropriate



intersections, commercial uses should be allowed” in order to “provide for convenient services and to allow people to work close to home” (2018 Sussex County Comprehensive Plan, 4-14). The Plan also notes that “portions of the Developing Areas with good road access and few nearby homes should allow for business and industrial parks” (2018 Sussex County Comprehensive Plan, 4-14).

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

Further Site Considerations:

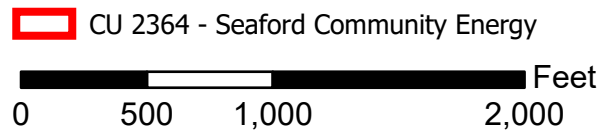
- **Density:** N/A
- **Open Space Provisions:** N/A
- **Agricultural Areas:** The site is within the vicinity of active agricultural lands.
- **Interconnectivity:** N/A
- **Transportation Improvement District (TID):** N/A
- **Forested Areas:** N/A
- **Wetlands Buffers/Waterways:** N/A
- **Other Site Considerations (ie: Flood Zones, Tax Ditches, Groundwater Recharge Potential, etc.):** The property is located within Flood Zone X and within areas of “Good” Groundwater Recharge Potential. The site is not located in a Wellhead Protection Area.

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

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

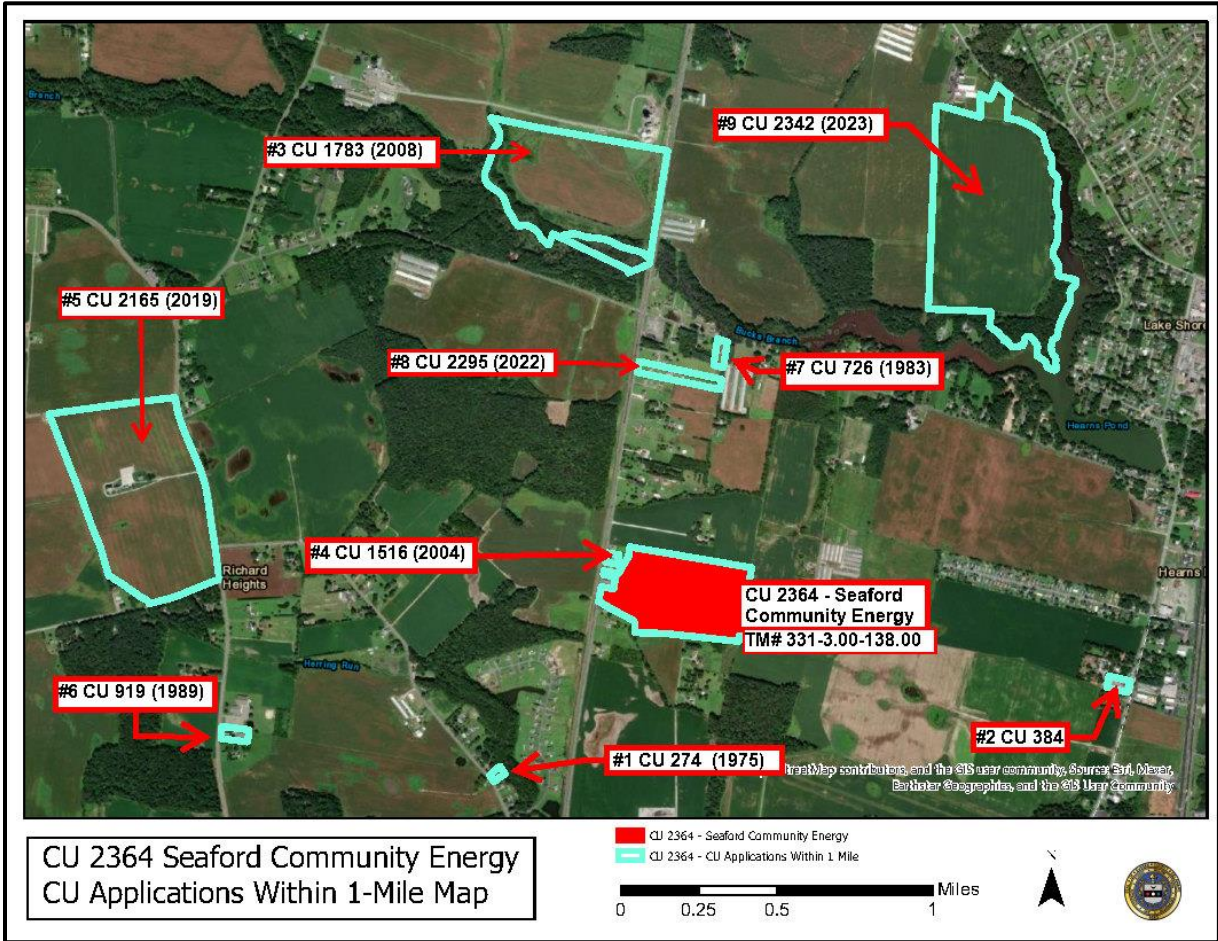


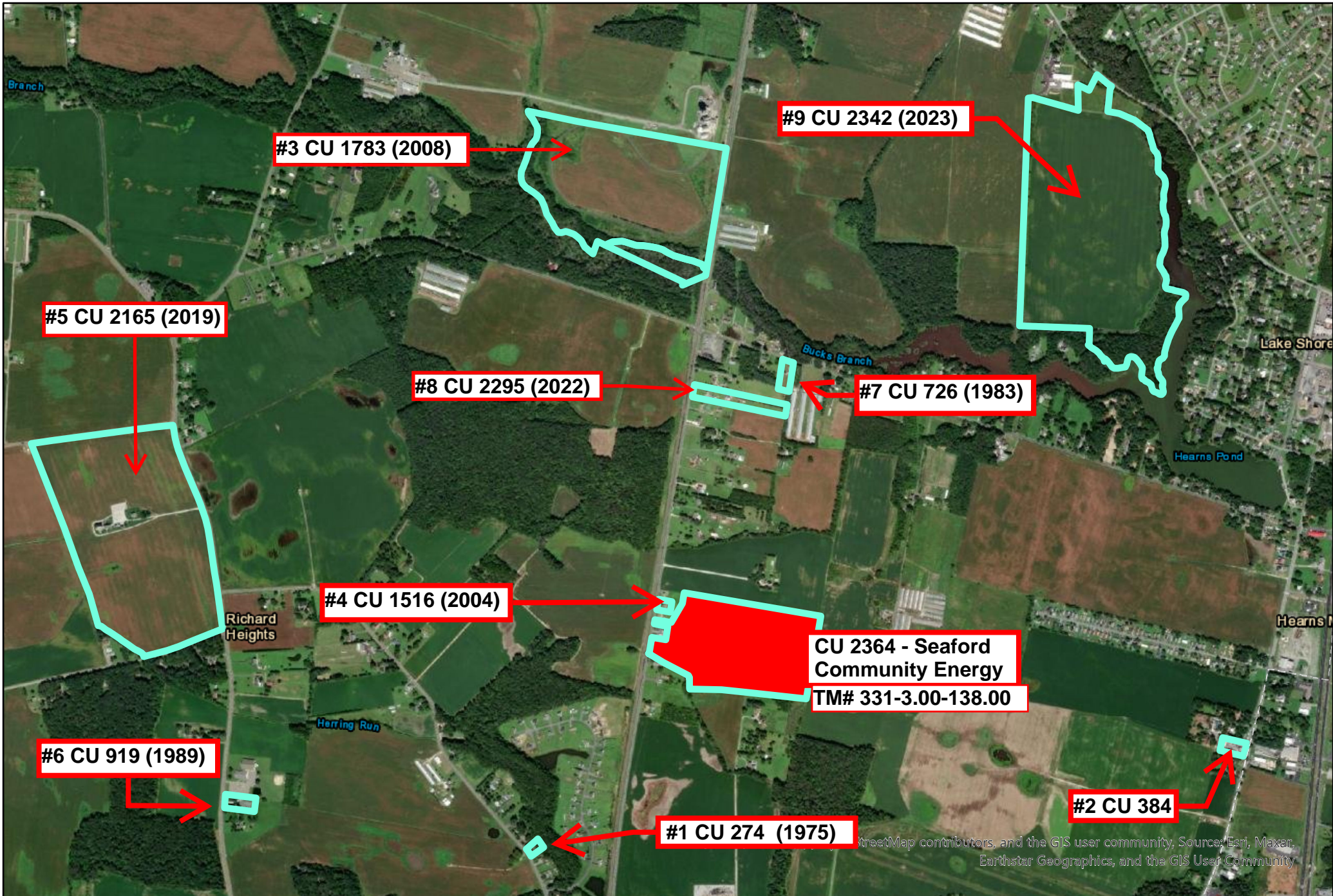
**CU 2364 Seaford Community Energy
Aerial Map**



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

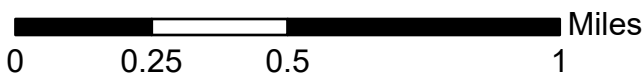
#9	<u>CU 2342</u>	Turning Point Energy	AR-1	Community Solar Facility	Approved	2/21/2023	2904
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CU 2364 Seaford Community Energy
CU Applications Within 1-Mile Map

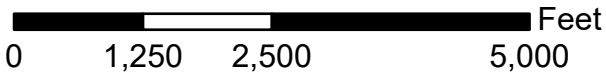
- CU 2364 - Seaford Community Energy
- CU 2364 - CU Applications Within 1 Mile

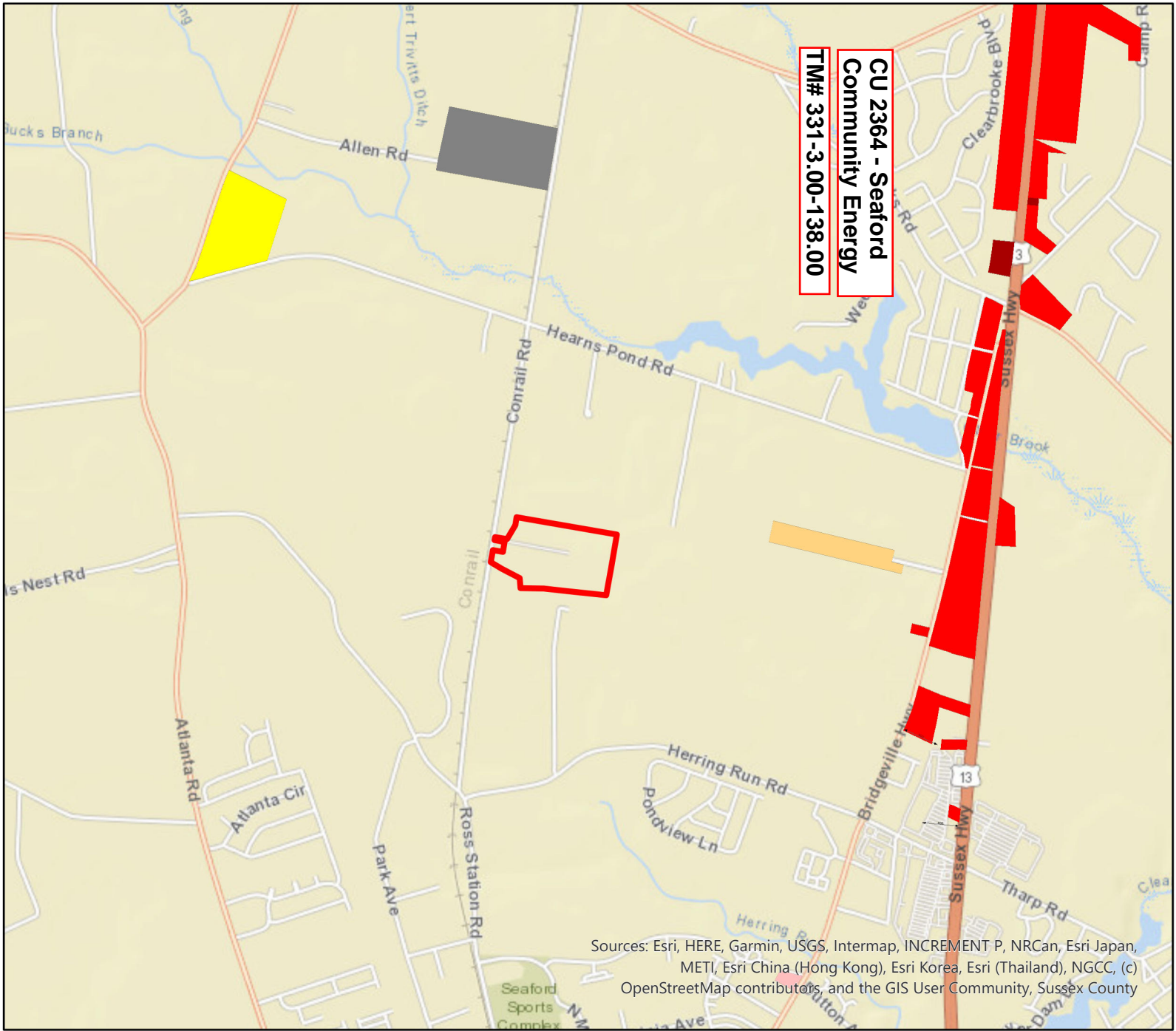




CU 2364 Seaford Community Energy Street Map

 CU 2364 - Seaford Community Energy



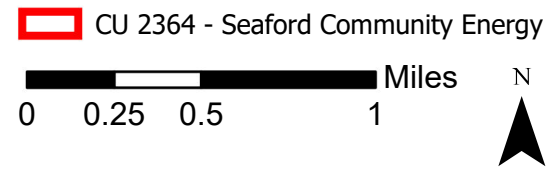


Zoning

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

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

CU 2364 Seaford Community Energy Zoning Map



To Be Introduced: 6/6/23

Council District 1: Mr. Vincent
Tax I.D. No. 331-3.00-138.00 (p/o)
911 Address N/A

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A 26.7189 ACRE PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 40.9655 ACRES, MORE OR LESS

WHEREAS, on the 11th day of April 2022, a conditional use application, denominated Conditional Use No. 2364 was filed on behalf of Seaford Community Energy Initiative, 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. 2364 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 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2364 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 Seaford Hundred, Sussex County, Delaware, and lying on the east side of Conrail Road (S.C.R. 546) approximately 0.71 mile south of Hearn's Pond Road (S.C.R. 544) and being more particularly described in the attached legal description prepared by Becker Morgan Group, Inc., said portion of the parcel containing 26.7189 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: August 24, 2023

RE: County Council Report for C/U 2365 filed on behalf of Frankford Community Energy Initiative II, LLC

The Planning and Zoning Department received an application (C/U 2365 filed on behalf of Frankford Community Energy Initiative II, LLC) for a solar farm to be located at tax parcel 533-4.00-23.00. The property is located on the east side of DuPont Boulevard (Rt. 113), approximately 250 feet south of Lazy Lagoon Road (SCR 380). The parcel size is 42.95 acres +/-

The Planning & Zoning Commission held a Public Hearing on the application on July 13, 2023. At the meeting of July 27, 2023, the Planning & Zoning Commission recommended approval of the application for the 11 reasons stated and subject to the 12 recommended conditions as outlined within the motion (copied below).

The County Council held a Public Hearing on the application at its meeting of August 15, 2023. At the conclusion of the Public Hearing, action on the application was deferred for further consideration.

Below are the minutes from the Planning & Zoning Commission meeting of July 13, 2023 and July 27, 2023.

Minutes of the July 13, 2023, Planning & Zoning Commission Meeting

Chairman Wheatley stated the next two public hearings, C/U 2364 Seaford Community Energy Initiative, LLC and C/U 2365 Frankford Community Energy Initiative II, LLC, have the same Applicant, essentially being the same type of application, but in two different locations. Chairman Wheatley stated the Applicant had requested to consolidate the two applications into one presentation; that the Commission would action on each application separately and granted the request to consolidate the presentations.



C/U 2365 Frankford Community Energy Initiative II, LLC

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A C-1 GENERAL COMMERCIAL DISTRICT AND AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 42.95 ACRES, MORE OR LESS. The property is lying on the east side of DuPont Boulevard (Rt. 113), approximately 250 feet south of Lazy Lagoon Road (S.C.R. 380). 911 Address: N/A. Tax Map Parcel: 533-4.00-23.00.

Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's Preliminary Site Plan, the Applicant's Exhibit Booklet, the Staff Analysis, a letter from the Sussex County Engineering Department Utility Planning Division, a letter received from Watershed Eco, LLC in relation to wetland delineation, and a copy of the DelDOT Service Level Evaluation Response. Mr. Whitehouse stated zero comments and two mail returns had been received for the Application.

The Commission found that Mr. Mike Riemann, with Becker Morgan Group, Inc., presented on behalf of the Applicant; that also present was Mr. Michael Redding with ECA Solar. Mr. Riemann stated the applications are under two different LLCs, however, ECA Solar is the Applicant for both Applications; that Becker Morgan Group was the engineer for both applications as well.

Mr. Riemann stated the property for C/U 2365 Frankford Community Energy Initiative II, LLC, is located just south of Frankford, along Rt. 113; that the total area of the site consists of 42.95 acres; that the Conditional Use area consists of 17.73 acres; that the property has split zoning being, C-1 (General Commercial) and AR-1 (Agricultural Residential); that the C-1 zoning runs along the front portion of site; that the property also falls within the CHCOZ (Combined Highway Corridor Overlay Zone); that the property does contain some existing forest; that the property is a combination of agricultural open land, and some existing woods; that the arrays are accessed by Rt. 113; that the wooded area is approximately 31.85 acres; that they proposed to clear approximately 15.47 acres of the total 48.6 acres of woods; that there is a small area of wetlands located in the middle of the site; that the wetland area consists of approximately 1,000 sq. ft.; that they have received a permit issued from the Army Corp of Engineers to fill the area, as it was an isolated wetland area; that he believed there was some debate regarding if the area would still be considered a wetland, but nonetheless, they have obtained a permit; that the project will have some mitigation areas around the perimeter of the property that consist of some pollinator gardens and habitat supplements which were part of the permit; that this area is reflected in dark green color, surrounding the property on the rendering; that in this area, the woods will be cut down, however, the stumps will remain; that this was required to ensure shading from the trees did not cause issues with the functionality of the arrays; that by leaving the stumps in the vegetation, it will allow the trees to come back, at which time the owner will maintain the tree at a consistent height of approximately 10 ft., which will still allow the facility to work properly; that additional landscape is provided along Rt. 113, and the adjacent residential property; that no additional landscaping is proposed in areas where the perimeter is already sufficiently screened from neighboring areas; that the project overview is the same as the previous application; that the proposed Conditional Use is for utility solar; that both applications were filed in April 2022; that the applications submissions were made prior to the adoption of Ordinance No. 2920, being the recent Ordinance adopted by the County regarding solar projects; that this solar application does comply with all of the requirements set forth in the newly adopted Solar Ordinance; that the application is for a community

solar facility, which is a ground mounted, three megawatt, tracking system; that these types of solar projects do not generate traffic other than a couple maintenance visits per month; that the project is a renewable energy resource, which create no odors, gas, smoke or fumes; that the project will create low noise, which will mostly come from the power inverters; that the inverters are to be centrally located in the facility, which is a requirement within the new Solar Ordinance; that stormwater runoff tends to be reduced as the land is moved from an agricultural activity to the placement of pollinator grasses and plantings across the facility; that they propose a 25 ft. landscape buffer and perimeter fencing, which will have Knox Box access for the Fire Marshal; that the project will include a Decommissioning Plan and bonding to provide financial assurance of the project; that the solar facility is a public utility use under the County Code; that the project meets the purpose of a Conditional Use in that it is of public or semi-public character, it is essential and desirable for the general community and welfare of the County; that the proposed facility promotes the Goal 7.3 of the Sussex County Comprehensive Plan, which encourages the use of renewable energy options, such as solar farms; that the proposed use will not have an impact on neighboring property with provided adequate landscape buffering and fencing; that the facility will not generate increased traffic on area roadways; that there are no regular employees at the site; that there will only be periodic visits for maintenance; that the project will not generate noise, dust, or odors; that the project is in general conformance with the newly adopted Solar Ordinance No. 2920, that submitted in the Exhibit Booklet there were property value studies provided; that the studies did not look at the two subject sites, however they did look at solar valuations and the impact on property values; that there have been a lot of studies done, which demonstrate there are no negative impacts to surrounding property values, and with the proposed types of solar facilities, especially in rural areas, they did provide Findings of Facts and recommended Conditions of Approval for the Commission's review and consideration. Mr. Riemann presented the Commission with project renderings and visuals for reference.

The Commission found that Mr. Michael Redding, Director of Civil Engineering with ECA Solar, presented on behalf of Applicant. Mr. Redding stated ECA Solar's main purpose of business is community power and the development of community-powered solar facilities; that ECA Solar has been in business since 2013; that they have worked in fairly large regional areas from the northeast down through the Mid-Atlantic and out west; their main purpose is to bring community solar facilities to places like Delaware; that they currently have several facilities in development in Delaware; that the two subject applications will be part of the Community Power Program in Delaware, which allows for local businesses and residents to benefit from solar power at a reduced electric cost, and the program also requires ECA Solar to set aside a certain percentage for low to moderate income residents who can also benefit from the solar power.

Mr. Mears questioned if the proposed eight-foot fence would require approval from the Sussex County Board of Adjustment.

Mr. Whitehouse stated the property is commercial, and the residential maximum height is seven feet, and he did not believe a variance would be required.

Ms. Wingate requested confirmation on the number of trees proposed to be cleared for the Frankford property.

Mr. Riemann stated they propose to clear 15.47 acres out of the 31.85 acres which make up the array area.

Mr. Robertson questioned the width of the area proposed for tree cutting and leaving of the stumps.

Mr. Riemann stated he believed the area to be approximately 100 feet.

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

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

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

In relation to C/U 2365 Frankford Community Energy Initiative II, LLC. Motion by Mr. Mears to defer action for further consideration, seconded by Ms. Wingate and carried unanimously. Motion carried 4-0.

Minutes of the July 27, 2023, Planning & Zoning Commission Meeting

The Commission discussed the Application which had been deferred since July 13, 2023.

Mr. Mears moved that the Commission recommend approval of C/U 2365 Frankford Community Energy Initiative II, LLC for a solar farm in the AR-1 and C-1 Districts based on the record made during the public hearing and for the following reasons:

1. The proposed facility is a public utility use under the Sussex County Zoning Code, and it meets the purposes of a Conditional Use because it has a public or semi-public character that is essential and desirable for the general convenience and welfare of Sussex County residents.
2. This is an adaptive use of farmland that will preserve it from more intensive development. The solar farm will be located on approximately 17.68 acres of a larger 42.95-acre tract.
3. The proposed facility promotes Goal 7.3 of the Sussex County Comprehensive Plan which encourages the use of renewable energy options such as solar farms. There was testimony that this solar farm will benefit residential, business, and municipal subscribers with lower power costs.
4. Although this Application was submitted prior to the adoption of Ordinance No. 2920 regarding solar farms, this proposed conditional use complies with the buffer and setback requirements of that Ordinance.
5. With the conditions imposed in this recommendation, the proposed use will not have any adverse impact on the neighborhood.
6. The proposed solar generation facility will not result in any noticeable increase in traffic on area roadways. There are no regular employees at the site, only periodic visits for inspections, maintenance, or repair of the solar panels.
7. The Applicant has included a Decommissioning Plan in the record for when their solar farm is no longer in use.
8. Based on the record there is no significant noise, glare, dust, or odor that will be generated by the facility.
9. There will be a buffer of planted vegetation along the boundary of this site facing Route 113 to screen it from view from the highway. In addition, there will be a 100-foot-wide cleared

area ~~between~~ [beyond] the perimeter fence that will remain in a natural state once trees are removed from this open space to allow the solar panels to function.

10. The proposed use provides a renewable energy source that is a benefit to the residents and businesses of Sussex County.
11. There was no opposition to this Application.
12. This recommendation is subject to the following conditions:
 - A. The use shall be for a ground-mounted solar farm. No other types of electric generation shall be permitted at the site.
 - B. The Final Site Plan shall clearly show the limits of the Conditional Use area for this solar farm as well as the remaining acreage that is not part of this Conditional Use. The site plan shall also clearly show the forested areas within the entire property that will remain undisturbed.
 - C. 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.
 - D. One unlit sign, not to exceed 32 square feet in size, shall be permitted. The sign shall identify the operator of the solar farm and shall provide contact information in case of emergency.
 - E. The site shall be secured by gated fencing with interwoven screening 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.
 - F. The location of all transformers or similar equipment or structures shall be shown on the Final Site Plan.
 - G. The entire site, including the area outside the fence, shall be maintained so that it does not become overgrown.
 - H. Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with all applicable State and County requirements. These facilities shall be operated using Best Management Practices.
 - I. There shall be a 25-foot-wide buffer of planted vegetation along the boundary of this site facing Route 113. These areas shall be clearly shown on the Final Site Plan. The Final Site Plan shall include a landscape plan showing the proposed tree and shrub landscape design in the buffer area.
 - J. In addition, there shall be a 100-foot-wide cleared area around the ~~remainder~~ [fenced perimeter] the of site.
 - K. 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.
 - L. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.

Motion by Mr. Mears, seconded by Ms. Wingate and carried unanimously to recommend approval for C/U 2365 Frankford Community Energy Initiative II, LLC for the reasons and conditions stated in the amended motion. Motion carried 4-0. Mr. Butler abstained.

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

PLANNING & ZONING COMMISSION

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



Sussex County

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JAMIE WHITEHOUSE, AICP, MRTPI
DIRECTOR OF PLANNING & ZONING

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET
Planning Commission Public Hearing Date: July 13, 2023

Application: CU 2365 Frankford Community Energy Initiative II LLC

Applicant: Frankford Community Energy Initiative II LLC c/o Michael Redding P.E.
282 Moody Street #202
Waltham, MA 06379

Owner: Robert B. Wilgus, Viola Hagberg, Edward B. Wilgus c/o Viola Hagberg
700 Mease Plaza
Dunedin, FL 34698

Site Location: Lying on the east side of DuPont Boulevard (Rt. 113), 300-ft south of the intersection of DuPont Boulevard (Rt. 113) and Lazy Lagoon Road (S.C.R. 380)

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

Proposed Use: Solar Farm consisting of photovoltaic electric generation facility

Comprehensive Land Use Plan Reference: Commercial Area & Developing Area

Councilmanic District: Mr. Hudson

School District: Indian River School District

Fire District: Frankford Fire Department

Sewer: N/A

Water: N/A

Site Area: 42.95 acres +/-

Tax Map ID: 533-4.00-23.00



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Sussex County

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Memorandum

To: Sussex County Planning and Zoning Commission Members
From: Mrs. Christin Scott, Planner II
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant
Date: July 5th, 2023
RE: Staff Analysis for C/U 2365 Frankford Community Energy Initiative II LLC

The purpose of this Memo is to provide background and analysis for the Planning and Zoning Commission to consider as a part of Application C/U 2365 Frankford Community Energy Initiative II LLC to be reviewed during the July 13th, 2023, Planning and Zoning Commission Meeting. This analysis should be included in the record of this Application and is subject to comments and information that may be presented during the public hearing.

The request is for a Conditional Use for Tax Parcel 533-4.00-23.00 to allow for a Solar Energy Facility to exist on a portion of the parcel containing 17.726-acres +/- . The property is located on the east side of DuPont Boulevard (Rt. 113), approximately 250-ft south of Lazy Lagoon Road (S.C.R. 380) in Frankford Delaware. The subject property contains 42.95-acres +/- .

Site Considerations

The DelDOT Service Level Evaluation Response indicates that the proposed use will generate fewer than 50 vehicle trips per day and that the development's traffic impact is considered "diminutive" in the context of DelDOT's agreement with the County regarding land development coordination. Therefore, no TIS is required for this proposal.

It should be further noted that the subject property is not located within any established Transportation Improvement Districts.

Additionally, the County's Online Mapping System confirms that the site is located within Flood Zone "X" – Areas determined to be outside the 1% annual chance flood and outside the 500-year floodplain.

Comprehensive Plan Analysis

The 2018 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be developed. As part of the Comprehensive Plan, a Future Land Use Map is included to help determine how land should be zoned to ensure responsible development. The Future Land Use map in the plan indicates that the subject property has land use designation of "Commercial" and "Developing Area." The properties to the south, east, and west (across Dupont Boulevard (Rt. 113)) all have a land use designation of "Developing Area" with properties to the north having a land use designation of "Commercial" and "Industrial."



As outlined within the 2018 Sussex County Comprehensive Plan, The Developing Areas are newer, emerging growth areas that demonstrate the characteristics of developmental trends. Most of the proposed Developing Areas are adjacent to municipalities, within or adjacent to potential future annexation areas of a municipality, or adjacent to Town Centers. – A range of housing types are appropriate in Developing Areas, including single family homes, townhouses, and multi-family units. In selected areas and at appropriate intersections, commercial uses should be allowed. A variety of office uses would be appropriate in many areas. Portions of the Developing Areas with good road access and few nearby homes should allow for business and industrial parks. Appropriate mixed-use development should also be allowed. In doing so, careful mixtures of homes with light commercial and institutional uses can be appropriate to provide for convenient services and to allow people to work close to home (Sussex County Comprehensive Plan, 4-14).

Commercial Areas include concentrations of retail and service uses that are mainly located along arterials, and highways. As opposed to small, traditional downtown areas that are often historic and pedestrian-friendly, Commercial Areas include commercial corridors, shopping centers, and other medium and large commercial vicinities geared towards vehicular traffic. In addition to primary shopping destinations, this area would also be the appropriate place to locate hotels, motels, car washes, auto dealerships, and other medium and larger scale commercial uses not primarily targeted to the residents of immediately adjacent residential areas. These more intense uses should be located along main roads or near major intersections. Institutional and commercial uses may be appropriate depending on surrounding uses. Mixed-use buildings may also be appropriate for these areas.

Zoning Information

The property contains the zoning classifications of General Commercial (C-1) District and Agricultural Residential (AR-1) District.

All lands to the east of the subject property are zoned General Residential (GR) District. Lands to the west (across DuPont Boulevard (Rt. 113)) are zoned General Commercial (C-1) District. Lands to the north are zoned General Commercial (C-1) District and Heavy Industrial (HI-1) District. All adjacent lands to the south of the subject site are zoned Agricultural Residential (AR-1) District.

Existing Conditional Uses within the Vicinity of the Subject Property

Since 2011, there have been two (2) Conditional Uses within a 1-mile radius of the Application site.

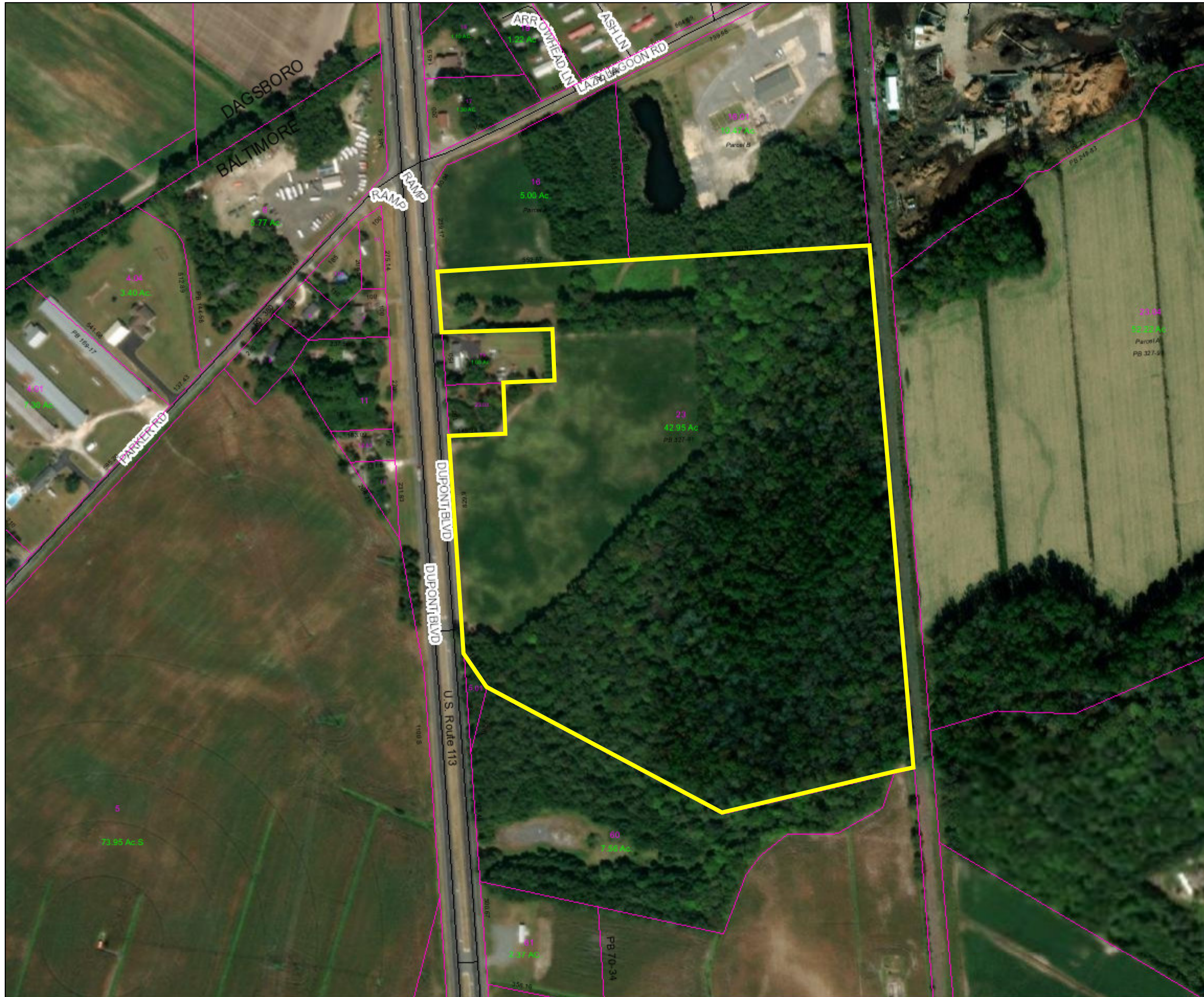
A Supplemental Table has been provided which contains further information regarding the abovementioned Conditional Use Applications which are located within a 1-mile radius of the Application site.

Based on the analysis provided, the Conditional Use to allow for a Solar Energy Facility, to exist on 17.726-acres +/-, in this location could be considered as being consistent with the surrounding land use, zoning, and uses, subject to consideration of scale and impact.

Conditional Use Number	Tax Parcel #	APPLICANT	Current Zoning	Proposed Use	CC Decision Date	CC Decision	Ordinance Number
2325	533-9.00-58.00	David Blank	AR-1	Campground	<Null>	Deferred	<Null>
1996	533-4.00-13.00	Hector Patraca Carmona	C-1	Food Vendor	10/28/2014	Approved	2375



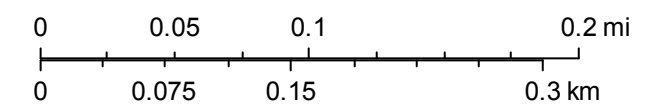
Sussex County



PIN:	533-4.00-23.00
Owner Name	GREENPATH DUPONT FRANKFORD LANDCO LLC
Book	5791
Mailing Address	PO BOX 13
City	OCEAN VIEW
State	DE
Description	E/DUPONT BLVD
Description 2	RESIDUAL LANDS
Description 3	FX
Land Code	

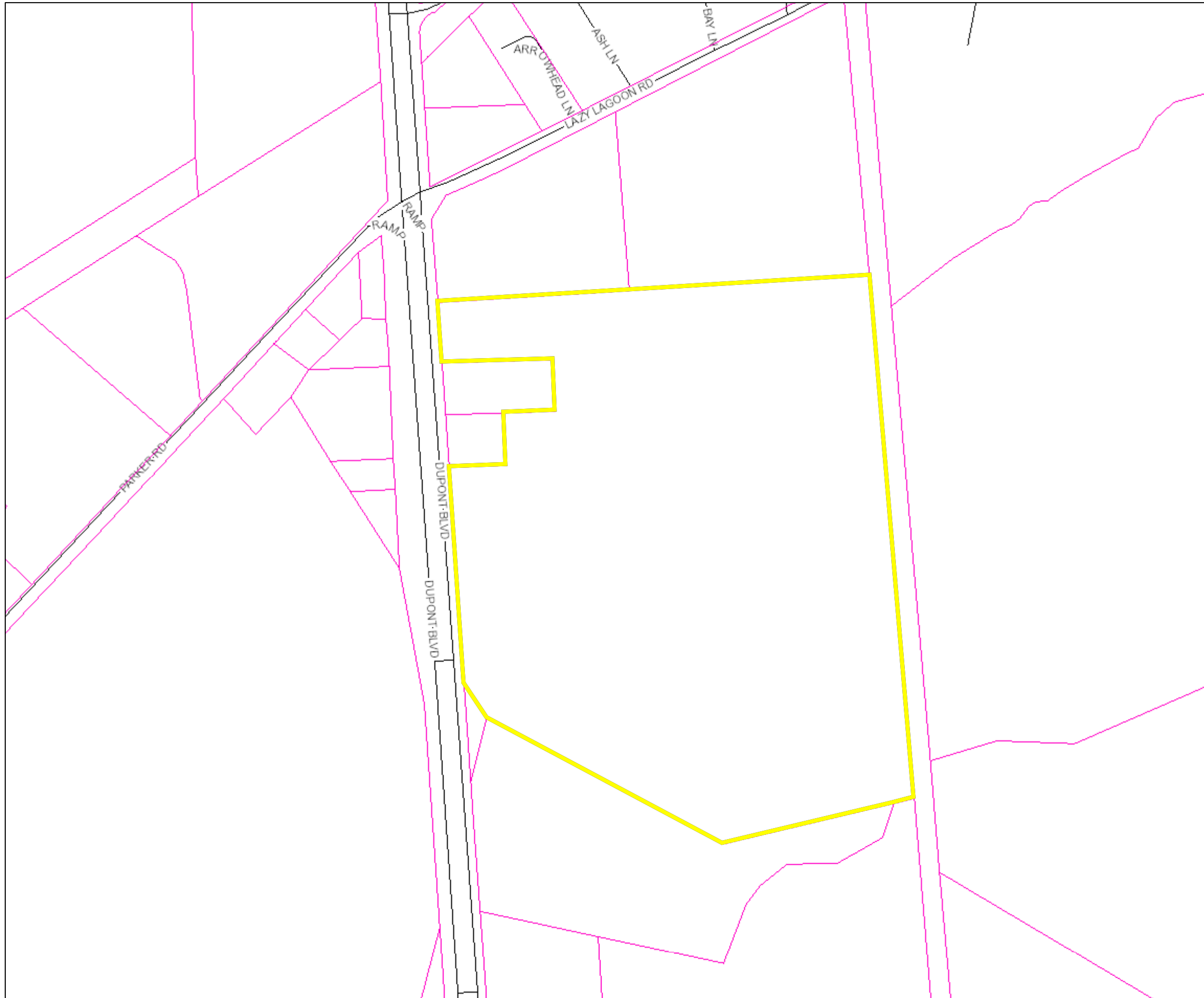
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Override 1
- polygonLayer**
Override 1
- Tax Parcels
- Streets
- County Boundaries

1:4,514





Sussex County



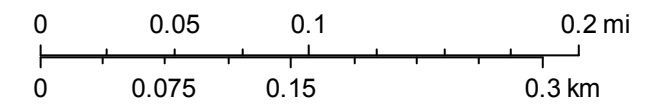
PIN:	533-4.00-23.00
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Book	5791
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City	OCEAN VIEW
State	DE
Description	E/DUPONT BLVD
Description 2	RESIDUAL LANDS
Description 3	FX
Land Code	

- polygonLayer**

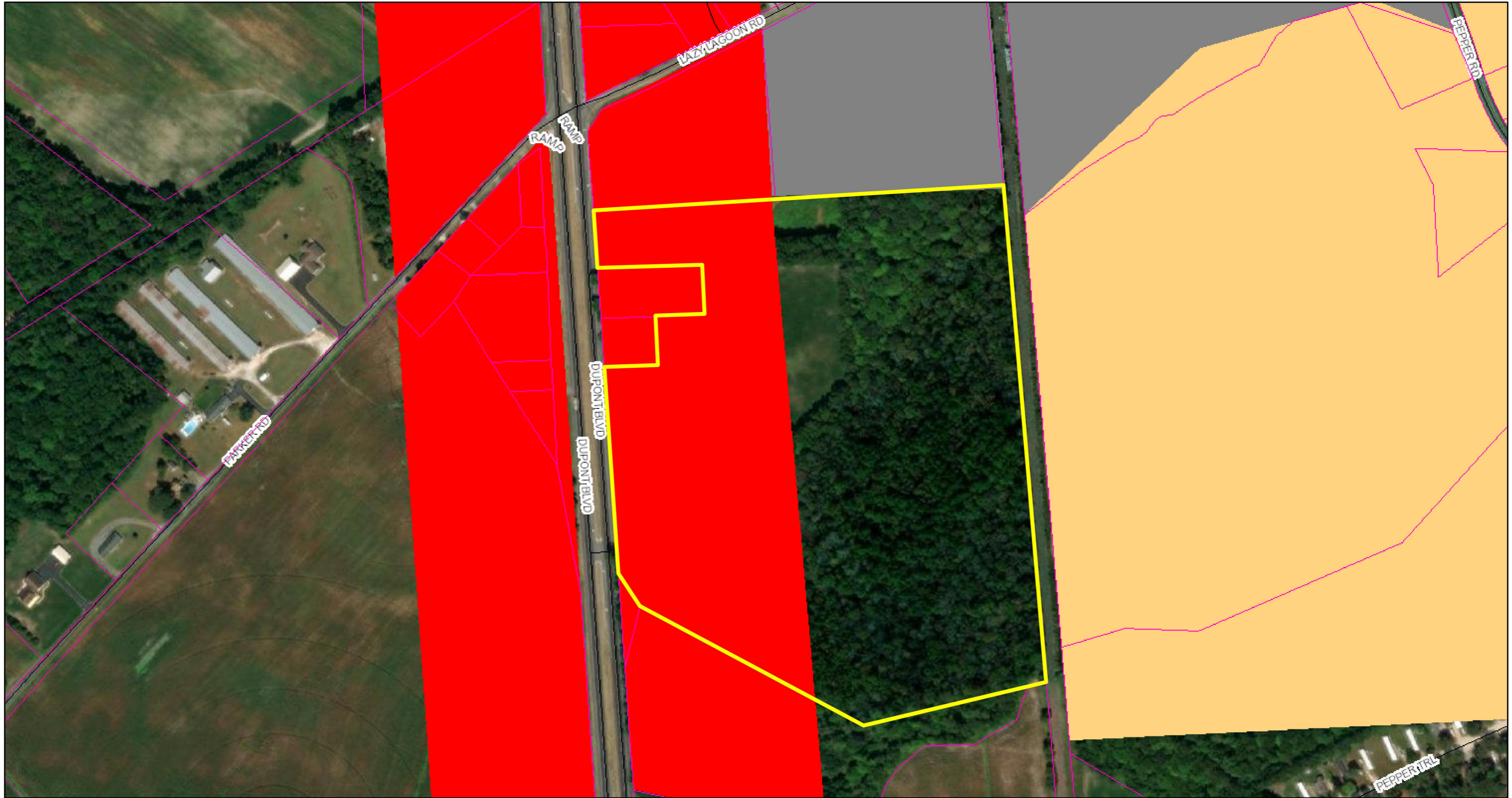
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- polygonLayer**

 - Override 1
- Tax Parcels
- Streets
- County Boundaries

1:4,514



Sussex County



June 12, 2023

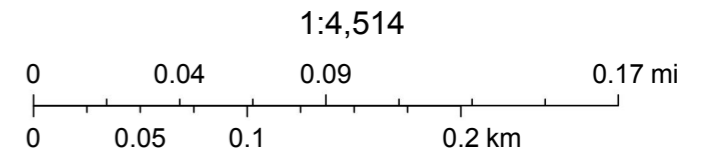
- Override 1
- Override 1
- Tax Parcels
- Streets
- Zoning
- Agricultural Residential - AR-1

- 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
- County Boundaries



Sussex County, Sussex County Government, Maxar

Introduced: 01/31/23

**Council District 4: Mr. Hudson
Tax I.D. No. 533-4.00-23.00
911 Address N/A**

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A C-1 GENERAL COMMERCIAL DISTRICT AND AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 42.95 ACRES, MORE OR LESS

WHEREAS, on the 11th day of April 2022, a conditional use application, denominated Conditional Use No. 2365 was filed on behalf of Frankford Community Energy Initiative II, 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. 2365 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, Articles XI and IV, Subsection 115-22 and 115-79, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2365 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land, lying and being situate in Baltimore Hundred, Sussex County, Delaware, and lying on the east side of Dupont Boulevard (Rt. 113), approximately 250 feet south of Lazy Lagoon Road (S.C.R. 380) and being more particularly described in the attached legal description prepared by Becker Morgan Group, Inc., said parcel containing 49.25 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.

PROPOSED

JAMIE WHITEHOUSE, AICP
DIRECTOR OF PLANNING & ZONING
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pandz@sussexcountyde.gov



Sussex County

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Memorandum

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

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

CC: Everett Moore, County Attorney

Date: August 29, 2023

RE: County Council Report for C/U 2353 filed on behalf of Sussex CSG 2, LLC

The Planning and Zoning Department received an application (C/U 2353 filed on behalf of Sussex CSG 2, LLC) for a Conditional Use for parcels 433-6.00-18.00, 20.00 & 26.00 for a solar farm. The property is located on the south side of Gum Tree Road (SCR 405), the west side of DuPont Boulevard (Rt. 113), and the north side of Blueberry Lane (SCR 402). The parcel size is 55.00 acres +/-.

The Planning & Zoning Commission held a Public Hearing on the application on May 11, 2023. At the meeting of May 25, 2023, the Planning & Zoning Commission recommended approval of the application for the 10 reasons stated and subject to the 11 recommended conditions as outlined within the motion (copied below).

The County Council held a Public Hearing on the application at its meeting on June 6, 2023. At the conclusion of the Public Hearing, action on the application was deferred for further consideration. Below is a link to the approved minutes of the June 6, 2023.

[Link to minutes of the June 6, 2023, County Council Meeting](#)

Below are the minutes from the Planning & Zoning Commission meetings of May 11, 2023, and May 25, 2023.

[Minutes of the May 11, 2023, Planning & Zoning Commission Meeting](#)

C/U 2353 Sussex CSG 2, LLC

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED



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

ON A 28.09 ACRE PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 55.00 ACRES, MORE OR LESS. The properties are lying on the south side of Gum Tree Road (S.C.R. 405), the west side of DuPont Boulevard (Rt. 113), and the north side of Blueberry Lane (S.C.R. 402). Address: N/A. Tax Map Parcels: 433-6.00-18.00, 20.00 & 26.00.

Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's Conceptual Site Plan, the Applicant's Exhibit Booklet, which includes a Wetland and Water Course Investigation Report, the Staff Analysis, the DelDOT Service Level Evaluation Response, and a response received from the Delaware Division of Fish and Wildlife. Mr. Whitehouse stated that zero comments had been received for the Application.

The Commission found that Mr. James Fuqua, Esq. with Fuqua, Willard & Schab, P.A., spoke on behalf of the Applicant. Mr. Fuqua stated also present were Mr. Kieran Siao on behalf of the Applicant and Mr. Alan Decktor of Pennoni Associates; that both this application and the following application are for solar fields, being filed by the same Applicant; that he requested to have the comments for the current Application be included into the record for the previous application, C/U 2354 Sussex CSG 1, LLC; that there was an exhibit booklet submitted into the record, containing information about the Application; that the applicant is owned by a company called Dimension Renewable Energy, who is a national company that focuses on community solar facilities and battery storage development; that Dimension operates many community facilities throughout the country; that he was first contacted by the company in October 2021; that the solar facilities Conditional Use applications were both filed in February 2022, being over 15 months ago; that at the time community solar facilities were fairly new to him and the Commission; that currently he believed the Commission had seen up to 10 solar field applications; that the frequent solar applications resulted in a Solar Ordinance which had recently been adopted; that he was notified within the past hour or two of an issue with the Application for the C/U 2353 site located in Frankford; that the Application and the staff analysis reference a parcel of land being 55 acres +/-; that the actual Conditional Use portion consists of 28 acres +/-; that the advertisement reflects a total site area of 28 acres +/-, with a Conditional Use portion of 14 acres +/-; that he was unsure where the 14 acres derived from; that he believed the number may have come from one of the three parcels which make up the entire property; that he would request to proceed with the presentation, unless staff felt the public hearing required readvertisement, and the public hearing date before County Council is scheduled for June 6, 2023.

Mr. Robertson questioned if the correct properties and road names were included in the advertisement and provided posted notification.

Mr. Fuqua stated the advertisement included the correct properties, the property address, and the yellow notice sign was posted on the correct property.

Mr. Whitehouse confirmed the advertisement included the correct parcel numbers and it was the acreage totals that are incorrect.

Ms. Stevenson questioned if all the adjacent property owners were notified.

Mr. Whitehouse stated that all adjacent property owners were provided notification by mail; that there were two acreage totals; that he would confirm the information and provide an update at the end of Mr. Fuqua's presentation.

Mr. Fuqua stated the application for C/U 2353 involves three different parcels; that the site contains approximately 54 acres of land; that the site is owned by Frankford Center, LLC; that the land is located just west of Frankford; that the site has road frontage on the south side of Gumtree Rd, being to the north; that the property is located to the west side of Rt. 113 and the north side of Blueberry Lane; that the Applicant is proposing to lease approximately 29.1 acres of the entire 54-acre site; that the leased portion of land would be located on the western portion of the property; that the lease term would be a 25-year lease, with two five year options to extend the lease, equaling a maximum of 35 years; that the Conditional Use area borders the remainder of the site to the north and the east; that to the west there is a tax ditch right of way and a Delmarva Power easement; that to the south there are several residential properties; that a portion of the 54 acres parcel, being the portion located within 500 ft. of Rt. 113, is zoned C-1 (General Commercial); that the remainder of the site is located within AR-1 (Agricultural Residential); that the entire Conditional Use portion would be within the AR-1 portion of the site; that under the Comprehensive Plan's Future Land Use Map, the commercial zoned land is designated as being commercial; that the AR-1 portion of land is designated part Town Center and part Developing Area; that the Conditional Use area is located within the Town Center and Developing Area designations; that within the Comprehensive Plan, Goal 7.3 encourages the use of renewable energy options, such as the community solar facilities being proposed; that the entrance is proposed from Gumtree Rd.; that the entrance will be designed and constructed per DelDOT's requirements; that there will be a gravel access road that extends along the western side of the solar array fields; that there would be one unlight sign at the entrance; that the sign will not exceed 32 sq. ft. on each side; that DelDOT indicated in the Service Level Evaluation Response that the traffic impact would be diminutive, and that no further studies were required; that it is anticipated that after the construction of the facility, traffic to the site would be limited to bi-annual equipment inspections, routine property maintenance, grass cutting and equipment repair when required; that there are no on-site employees; that all equipment is monitored remotely; that the solar array field would have a seven foot security fence around the perimeter; that there would be an emergency key box at the entrance for emergency responders; that the solar arrays will be ground mounted, flex track, solar panels; that other equipment will consist of inverters and transformers, which are to be located on two separate equipment pads; that the solar grounds will be seeded with a pollinator seed mix, providing a slow growing and environmentally friendly ground cover; that the southern boundary, nearest to the residences, would have landscape buffers; that the landscape buffers will be 30 ft. wide; that there is a section where the 30 ft. width does slim down to about 15 ft; that there are about three homes located within the 15 ft. buffer area; that the access road to those homes is located on the subject property, in the area the buffer would be located; that there is a Operation and Maintenance Plan included within the exhibit booklet, which provides details on how maintenance will be performed; that the site maintenance will consist of conventional mowing and trimming; that no animals are involved in maintenance for the site; that minimal sound is associated with the Application; that the proposed sound is a low hum created by the inverters; that a Glare Analysis was performed, which predicted no potential glare resulting from the panels; that no odors, dust, smoke, or heat are associated with the operation; that stormwater management would comply with all State and County requirements; that there will be no impact on sewer or water; that the solar facility is anticipated to generate 7.62 GW hours of electricity, which will power approximately 850 homes; that the facility would connect to the Delmarva Power grid at a location near the entrance on Gumtree Rd.; that it is anticipated that the productive life of the facility will about 30 to 35 years, which would correspond to the lease terms; that there is a Decommissioning Plan included in the exhibit booklet, which explains that upon the expiration of the lease or the earlier termination of the use, all equipment and materials would be removed from the site and properly disposed of; that the site would return to its current condition; that the Decommissioning Plan provides for a security in the form of a decommissioning

bond, to cover the cost of the restoration, if necessary; that the estimated cost in terms of the security bond will be provided as part of the Final Site Plan review, which would be reviewed by the Commission; that the proposed facility is authorized by and subject to the laws of the State of Delaware, specifically, Title 26 of the Delaware Code, which was the amendment to the law regulating community owned energy generating facilities and renewable energy; that the project will be operated in compliance with that statute, and he requested to submit proposed Findings and Conditions for the Application.

Ms. Wingate questioned if the fence is proposed around the entire perimeter of the property and what the fence would be made of.

Mr. Fuqua stated the fence is proposed to be a seven-foot, chain-link security fence, with emergency access at the gate.

Mr. Whitehouse advised the Commission that approximately 26 notifications were sent out by mail to neighboring properties, and he believed there was sufficient time to re-notice with new postcards ahead of the scheduled public hearing before the County Council.

The Commission found there was no one present in the room or 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 2353 Sussex CSG 2, LLC. Motion by Mr. Mears to defer action for further consideration, seconded by Ms. Wingate and carried unanimously. Motion carried 4-0.

Minutes of the May 25, 2023, Planning & Zoning Commission Meeting

The Commission discussed the Application which had been deferred since May 11, 2023.

Mr. Mears moved that the Commission recommend approval of C/U 2353 Sussex CSG2, LLC for a solar farm in the AR-1 District based on the record made during the public hearing and for the following reasons:

1. The proposed facility is a public utility use under the Sussex County Zoning Code, and it meets the purposes of a Conditional Use because it has a public or semi-public character that is essential and desirable for the general convenience and welfare of Sussex County residents.
2. This is an adaptive use of farmland that will preserve it from more intensive development. The solar farm will be located on approximately 28.09 acres of a larger 54-acre tract.
3. The proposed facility promotes Goal 7.3 of the Sussex County Comprehensive Plan which encourages the use of renewable energy options such as solar 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 including landscaped buffers, the proposed use will not have any adverse impact on the neighborhood.

5. The proposed solar generation facility will not result in any noticeable increase in traffic on area roadways. There are no regular employees at the site, only periodic visits for inspections, maintenance, or repair of the solar panels.
6. The Applicant has included a Decommissioning Plan in the record for when their solar farm is no longer in use.
7. Based on the record there is no significant noise, glare, dust, or odor that will be generated by the facility.
8. There will be a buffer of planted vegetation along the southern, southeastern, and southwestern 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.
9. The proposed use provides a renewable energy source that is a benefit to the residents and businesses of Sussex County.
10. There was no opposition to this Application.
11. This recommendation is subject to the following conditions:
 - A. The use shall be for ground-mounted solar farm. No other types of electric generation shall be permitted at the site.
 - B. The Final Site Plan shall clearly show the limits of the Conditional Use area for this solar farm as well as the remaining acreage that is not part of this Conditional Use.
 - C. Any lighting on the facility shall only consist of perimeter lighting needed for security purposes. All lighting shall be downward screened so that it does not shine on neighboring properties or roadways.
 - D. One unlit sign, not to exceed 32 square feet in size, shall be permitted. The sign shall identify the operator of the solar farm and shall provide contact information in case of emergency.
 - E. The site shall be secured by 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.
 - F. The location of all transformers or similar equipment or structures shall be shown on the Final Site Plan.
 - G. The entire site, including the area outside the fence, shall be maintained so that it does not become overgrown.
 - H. Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with all applicable State and County requirements. These facilities shall be operated using Best Management Practices.
 - I. There shall be a 25-foot-wide buffer of planted vegetation along the southern, southeastern, and southwestern 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. The Final Site Plan shall include a Landscape Plan showing the proposed tree and shrub landscape design in this buffer area. Areas where the 25-foot required buffer depth cannot be achieved shall be clearly shown on the Landscape Plan.
 - J. 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.
 - K. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.

Motion by Mr. Mears, seconded by Ms. Wingate and carried to recommend approval of C/U 2353 Sussex CSG 2, LLC for the reasons and the conditions stated in the motion. Motion carried 4-0. Mr. Hopkins abstained.

Vote by roll call: 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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302-854-5079 F
JAMIE WHITEHOUSE, AICP, MRTPI
DIRECTOR OF PLANNING & ZONING

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET
Planning Commission Public Hearing Date: May 11th, 2023

Application: CU 2353 Sussex SG 2, LLC

Applicant: Sussex CSG 2, LLC c/o Sam Youneszadeh
3280 Peachtree Road, NE 7th floor
Atlanta, GA 30305

Owner: Frankford Center, LLC
11708 Bowman Green Drive
Reston, VA 20190

Site Location: Lying on the south side of Gum Tree Road (S.C.R. 405), to the west side of Dupont Boulevard (Rt. 113) and the north side of Blueberry Lane (S.C.R. 402).

Current Zoning: Agricultural Residential (AR-1) Zoning District/General Commercial (C-1) Zoning District

Proposed Zoning: Agricultural Residential (AR-1) Zoning District/General Commercial (C-1) Zoning District

Proposed Use: Solar Farm

Comprehensive Land Use Plan Reference: Commercial, Developing Area and Town Center

Councilmanic District: Mr. Hudson

School District: Indian River School District

Fire District: Frankford Fire Co.

Sewer: N/A

Water: N/A

Site Area: 28.09 acres +/- (p/o)

Tax Map ID: 433-6.00-18.00, 20.00 & 26.00



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



Sussex County

DELAWARE
sussexcountyde.gov

Memorandum

To: Sussex County Planning and Zoning Commission Members
From: Elliott Young, Planner I
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant
Date: April 10, 2023
RE: Staff Analysis for CU 2353 Sussex CSG 2, LLC

The purpose of this memo is to provide background and analysis for the Planning and Zoning Commission to consider as a part of Application CU 2353 (Sussex CSG 2, LLC) to be reviewed during the May 11th, Planning and Zoning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Conditional Use for Tax Parcels: 433-6.00-18.00, 20.00 & 26.00 to allow for a Solar Farm. The property is lying on the south side of Gum Tree Road (S.C.R. 405, to the west side of Dupont Boulevard (Rt. 113) and the north side of Blueberry Lane (S.C.R. 402). The parcels contain 55.01-acres +/-, while the Conditional Use area contains 28.09-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 parcels 18.00 & 26.00 have a designation of "Developing Area" and parcel 20.00 has a designation of "Town Center." Parcels 18.00 & 20.00 have multiple comprehensive zonings (Commercial), but for the purpose of the Conditional Use application these areas of the parcels are not included in the application. Please see the Proposed Plan for reference.

As outlined in the 2018 Sussex County Comprehensive Plan, Town Center Areas are intended to support a range of housing types, including single-family homes, townhouses, and multi-family units. Commercial uses should serve the daily needs of residents, workers, and visitors. Retail and office use compatible with adjacent areas are appropriate. Institutional and commercial uses may be appropriate depending on surrounding uses. Some smaller scale, low-impact industrial operations may be appropriate, but larger industrial uses are proposed to be directed to General Industrial areas. Appropriate mixed-use development should also be allowed.

As outlined within the 2018 Sussex County Comprehensive Plan, The Developing Areas are newer, emerging growth areas that demonstrate the characteristics of developmental trends. Most of the proposed Developing Areas are adjacent to municipalities, within or adjacent to potential future annexation areas of a municipality, or adjacent to Town Centers. – A range of housing types are appropriate in Developing Areas, including single family homes, townhouses, and multi-family units. In selected areas and at appropriate intersections, commercial uses should be allowed. A variety of office uses would be appropriate in many areas. Portions of the Developing Areas with



good road access and few nearby homes should allow for business and industrial parks. Appropriate mixed-use development should also be allowed. In doing so, careful mixtures of homes with light commercial and institutional uses can be appropriate to provide for convenient services and to allow people to work close to home (Sussex County Comprehensive Plan, 4-14).

The adjoining parcels to the east also have a mix of Future Land Use Map designations, such as “Town Center” and “Commercial.” The parcels located south also have the Future Land Use Map Designation of “Developing Area.” The adjoining parcels to the west have the Future Land Use Map Designation of “Low Density” and the parcels located north across Gum Tree Road have the Future Land Use Map designation of Commercial.

Commercial Areas include concentrations of retail and service uses that are mainly located along arterials, and highways. As opposed to small, traditional downtown areas that are often historic and pedestrian-friendly, Commercial Areas include commercial corridors, shopping centers, and other medium and large commercial vicinities geared towards vehicular traffic. In addition to primary shopping destinations, this area would also be the appropriate place to locate hotels, motels, car washes, auto dealerships, and other medium and larger scale commercial uses not primarily targeted to the residents of immediately adjacent residential areas. These more intense uses should be located along main roads or near major intersections. Institutional and commercial uses may be appropriate depending on surrounding uses. Mixed-use buildings may also be appropriate for these areas.

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 subject properties have multiple zoning designations. Parcels 18.00 and 20.00 are dual zoned Agricultural Residential (AR-1) District, as well as General Commercial (C-1) District. Parcel 26.00 is zoned Agricultural Residential (AR-1).

All adjacent properties to the south and west of the subject property are zoned Agricultural Residential (AR-1) District. Most of the adjoining parcels to the east and the parcels to the north across Gum Tree Road (S.C.R. 402) are zoned General Commercial (C-1) District.

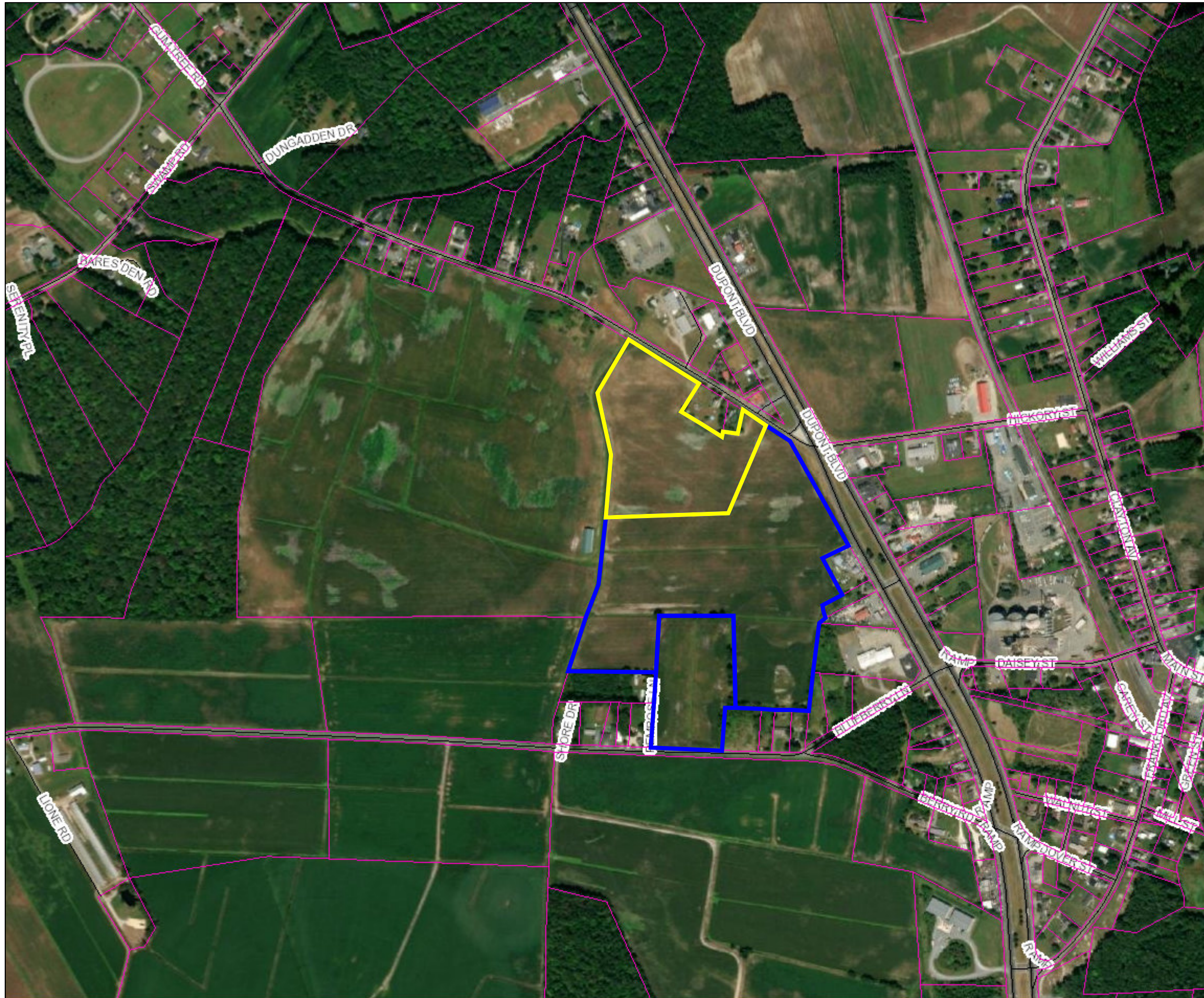
Existing Conditional Uses within the Vicinity of the Subject Property

Although historically there have been various other Conditional Use applications nearby, since 2011, there have been zero (0) Conditional Use applications within a one (1) mile radius of the application site.

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



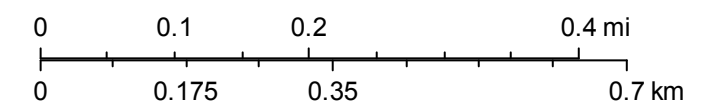
Sussex County



PIN:	433-6.00-18.00
Owner Name	FRANKFORD CENTER LLC
Book	4077
Mailing Address	11708 BOWMAN GREEN DR
City	RESTON
State	VA
Description	SW/RD 405
Description 2	NW/RT 13
Description 3	
Land Code	

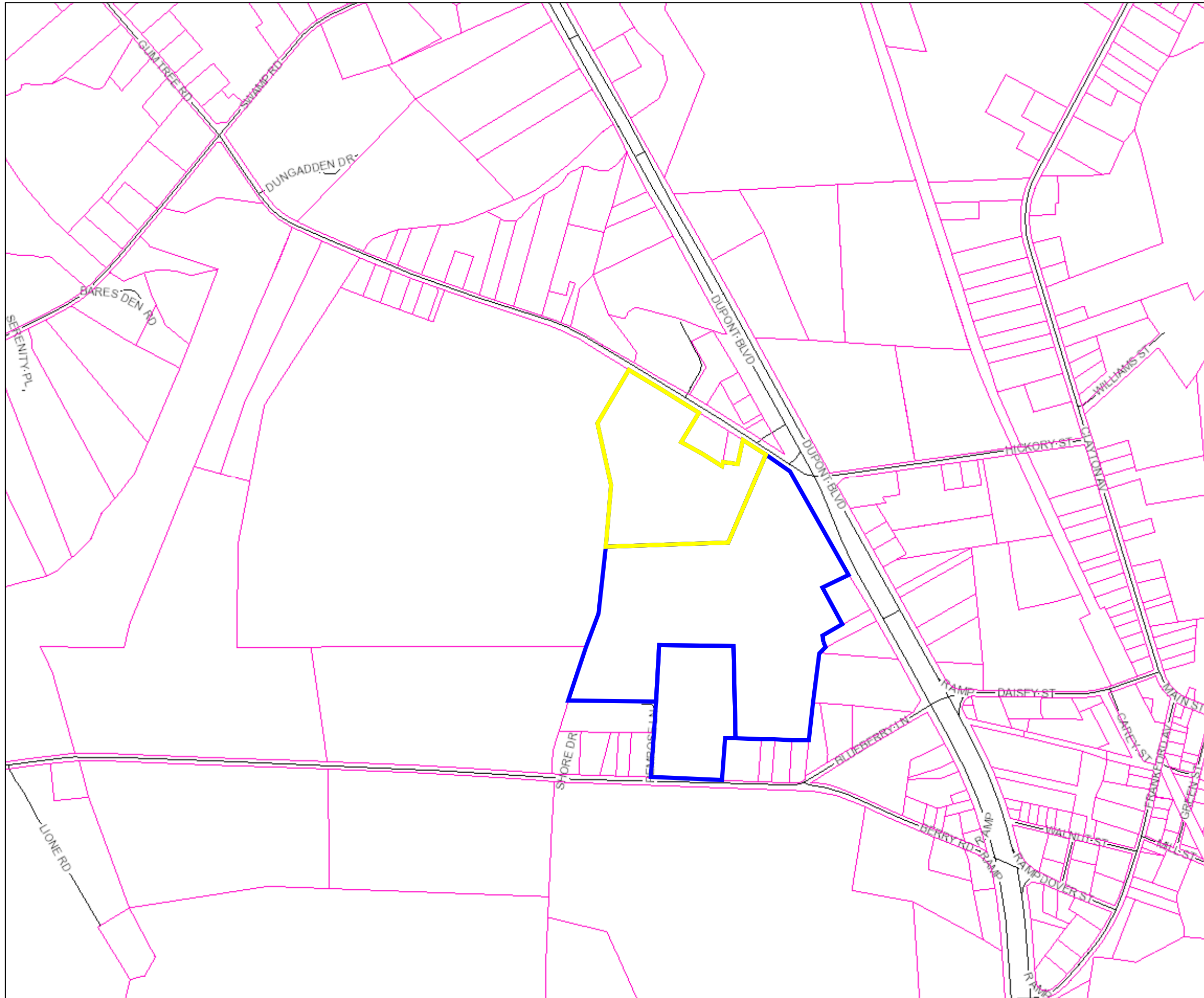
- polygonLayer**
- Override 1
- polygonLayer**
- Override 1
- Tax Parcels
- Streets
- County Boundaries

1:9,028





Sussex County



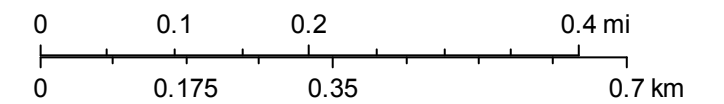
PIN:	433-6.00-18.00
Owner Name	FRANKFORD CENTER LLC
Book	4077
Mailing Address	11708 BOWMAN GREEN DR
City	RESTON
State	VA
Description	SW/RD 405
Description 2	NW/RT 13
Description 3	
Land Code	

- polygonLayer**

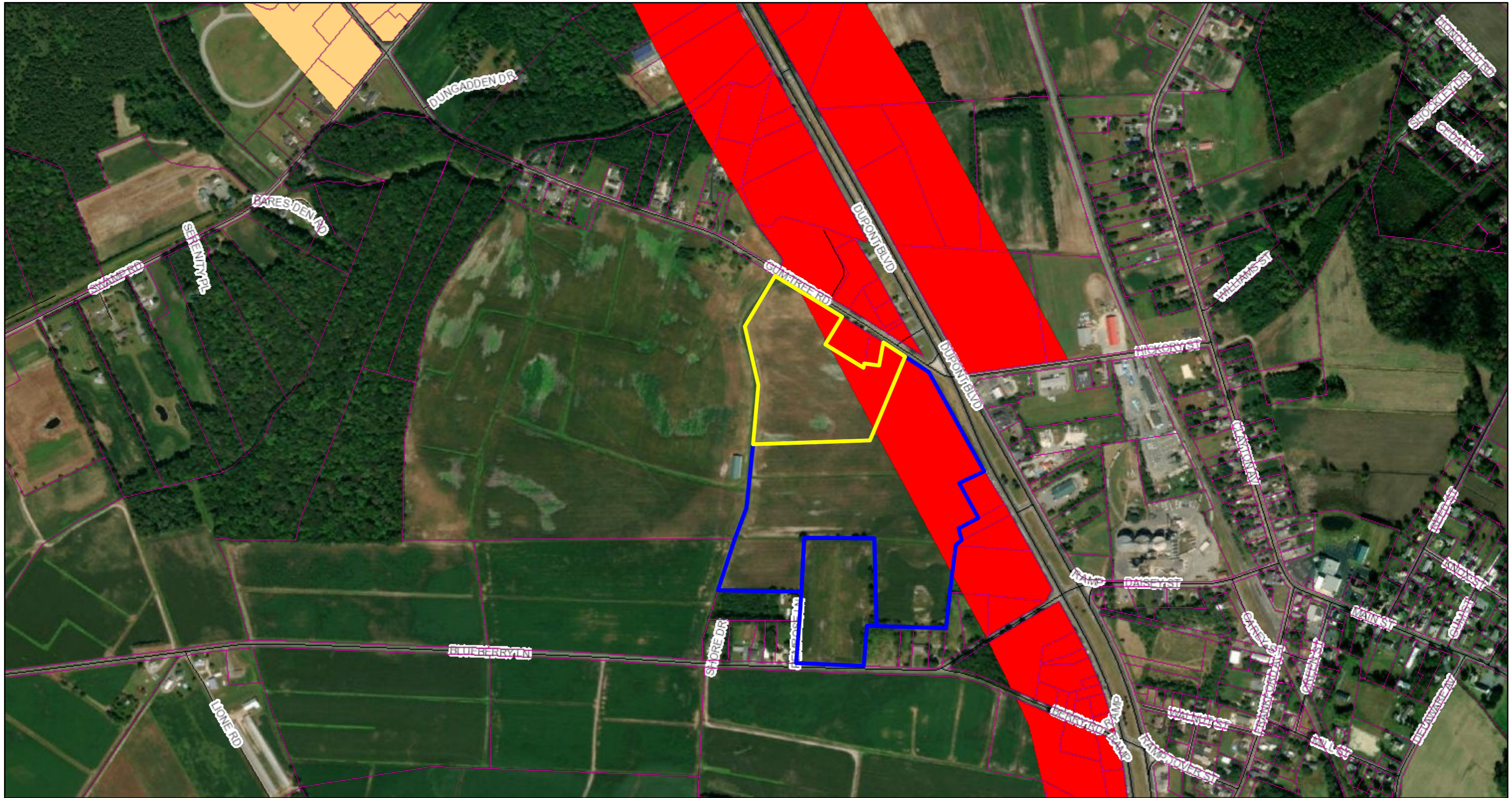
 - Override 1
- polygonLayer**

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

1:9,028

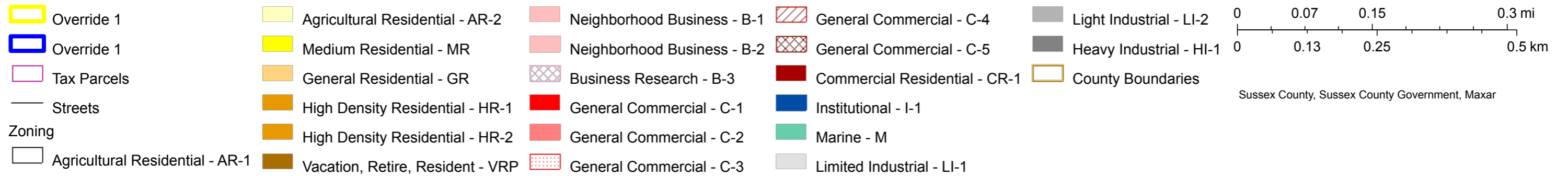


Sussex County



April 3, 2023

1:9,028



Sussex County, Sussex County Government, Maxar

To Be Introduced: 07/26/22

Council District 4: Mr. Hudson
Tax I.D. No.: 433-6.00-18.00, 20.00, & 26.00
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 14.64 ACRE PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 28.09 ACRES, MORE OR LESS

WHEREAS, on the 23rd day of February 2022, a conditional use application, denominated Conditional Use No. 2353 was filed on behalf of Sussex CSG 2, 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. 2353 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. 2353 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 Dagsboro Hundred, Sussex County, Delaware, and lying on south side of Gum Tree Road (S.C.R. 405), to the west side of DuPont Boulevard (Rt. 113), and the north side of Blueberry Lane (S.C.R. 402), and being more particularly described in the attached legal description prepared by Pennoni Associates Inc., said parcel containing 28.09 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. 8/10

Casey Hall

From: notifications=d3forms.com@mg.d3forms.com on behalf of Sussex County DE <notifications@d3forms.com>
Sent: Wednesday, August 9, 2023 2:54 PM
To: Casey Hall
Subject: Sussex County DE - Council Grant Form: Form has been submitted

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Council Grant Form

Legal Name of Agency/Organization Friends of Cape Henlopen State Park ✓

Project Name Borrow-a-Bike Program Kid's Trailer and Bike Helmets

Federal Tax ID 31-1655033 ✓

Non-Profit Yes

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

Organization's Mission The Friends of Cape Henlopen State Park's (FOCHSP) mission is to support and advocate for one of Sussex County's most unique public parks, Cape Henlopen State Park, and conduct fundraising for investments that support Park needs and enhance the visitor experience.

Address P.O. Box 132

City Nassau

State DE

Zip Code	19969
Contact Person	Ian M. Friedland
Contact Title	Member, Board of Directors
Contact Phone Number	302-947-1383
Contact Email Address	<u>friedlandian@verizon.net</u>
Total Funding Request	\$2,050.00
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	Environment, Outdoor Exercise

Primary Beneficiary Category	Other
Beneficiary Category Other	All adults and children
Approximately the total number of Sussex County Beneficiaries served, or expected to be served, annually by this program	5000
Scope	<p>One of the major activities of FOCHSP (other than fundraising for the Park and facilitating Park cleanups) is the Friends' borrow-a-bike program. This program provides free loaner bikes to families to explore the Park and Park trails. We have a fleet of 46 adult bikes, 13 kids' bikes, and three 2-children trailers. Recently, one of our trailers was severely damaged and is no longer usable, and will cost \$1,050 to replace. In addition, we will need to replace a number of bike helmets (mandatory for children under 18, optional but encouraged for adults) by the end of the year, costing around \$1,000. Last year, we provided bikes to more than 13,000 Park visitors. If a Councilmanic grant is not available, we'll need to draw down funds raised for the Park via other FOCHSP activities to cover these expenses.</p>
Please enter the current support your organization receives for this project (not entire organization revenue if not applicable to request)	0.00
Description	Burleigh Commercial Grade Bike Trailer
Amount	1,050.00

Description	Bike helmets (various sizes for children and adults)
Amount	1,000.00
TOTAL EXPENDITURES	2,050.00
TOTAL DEFICIT FOR PROJECT OR ORGANIZATION	-2,050.00
Name of Organization	Friends of Cape Henlopen State Park
Applicant/Authorized Official	Ian Friedland
Date	08/09/2023
Affidavit Acknowledgement	Yes

Schaeffer.
yes. 8/10

Casey Hall

From: notifications=d3forms.com@mg.d3forms.com on behalf of Sussex County DE
<notifications@d3forms.com>
Sent: Friday, August 4, 2023 3:00 PM
To: Casey Hall
Subject: Sussex County DE - Council Grant Form: Form has been submitted

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Council Grant Form

Legal Name of Agency/Organization	Rehoboth Concert Band Inc. ✓
Project Name	12th year concert season
Federal Tax ID	46-1034039 ✓
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 provide area instrumentalists opportunities to make beautiful music, whereby enriching community life.
Address	3 STAFFORD RD
City	Rehoboth Beach
State	DE
Zip Code	19971
Contact Person	Kay Creech

Contact Title Treasurer, Board of Directors

Contact Phone Number 7035989867

Contact Email Address kfcreech@yahoo.com

Total Funding Request \$1,200

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

Primary Beneficiary Category Elderly Persons (62 +)

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

1650

Scope

Rehoboth Concert Band (RCB) performs several outdoor concerts most years and a public address sound system is needed to amplify the band sound, the emcee of the concert, and the soloists, both instruments and vocalists. Most all of these concerts are community service performances, either by invitation or organized by the Board, where the Band does not receive any fee. The outdoor concerts that need amplification are usually in Sussex County parks, area neighborhoods on the green, and town parks. For example, RCB provides a free concert at Fort Miles in Cape Henlopen State Park each year on DE Defense Day for veterans and their family and friends— event is open to the entire public. RCB has also provided free concerts in Rehoboth Beach and other towns at church garden areas and parking lots. The Band has been borrowing a public address sound system in the past and needs to have its own sound system, one which is more portable, battery operated, and lighter in weight. The band will be playing 2 outdoor concerts in early October. This request is for \$1,200 which includes a battery-operated PA sound system with 4 microphoned, 4 mic stands, and a case. This system should be sufficient to amplify the emcee, soloists, and overall sound in an outdoor space that is relatively large. The system will also be used at rehearsals when needed and some indoor concerts where the venue does not provide any sound amplication.

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

0.00

revenue if not applicable to request)

Description Equipment, PA system

Amount 1,200.00

TOTAL EXPENDITURES 1,200.00

TOTAL DEFICIT FOR PROJECT OR ORGANIZATION -1,200.00

Name of Organization Rehoboth Concert Band

Applicant/Authorized Official Kay Creech

Date 08/04/2023

Affidavit Acknowledgement Yes

VINCENT
YES: 8/17.

Casey Hall

From: notifications@d3forms.com@mg.d3forms.com on behalf of Sussex County DE
<notifications@d3forms.com>
Sent: Tuesday, August 15, 2023 1:41 PM
To: Casey Hall
Subject: Sussex County DE - Council Grant Form: Form has been submitted

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Council Grant Form

Legal Name of Agency/Organization	First Tee - Delaware (Formerly Urban Youth Golf Program) Association.
Project Name	Sussex County Expansion
Federal Tax ID	33-1103722
Non-Profit	Yes
Does your organization or its parent organization have a religious affiliation? (If yes, fill out Section 3B.)	No
Organization's Mission	First Tee - Delaware is a youth development organization that uses golf as the vehicle to teach life skills and character enhancing values to kids. We enable kids & teens, ages 4 through 18, to build the strength of character that empowers them through a lifetime of new challenges.
Address	800 N Dupont Rd
City	Wilmington
State	DE

Zip Code	19807
Contact Person	Scott Allen
Contact Title	Senior Southern Delaware Coordinator
Contact Phone Number	703-871-9818
Contact Email Address	Scotttftde@gmail.com
Total Funding Request	1625
Has your organization received other grant funds from Sussex County Government in the last year?	No
If YES, how much was received in the last 12 months?	N/A
Are you seeking other sources of funding other than Sussex County Council?	Yes
If YES, approximately what percentage of the project's funding does the Council grant represent?	50
Program Category (choose all that apply)	Health and Human Services

Primary Beneficiary Category Youth

Approximately the total number of Sussex County Beneficiaries served, or expected to be served, annually by this program 1000

Scope

First Tee - Delaware reaches kids in three ways. Our Community program brings our life skills curriculum to local community centers. Our Life Skills on-course program brings our curriculum to eight Sussex County golf courses. Finally our School Program, the program that we are requesting support for, makes our golf and life skills curriculum a part of the PE curriculum in local elementary and middle schools. We are in over 50 schools in Delaware including 15 in Sussex County. Our request would allow First Tee to add two new School programs, at Sussex Academy and the Sussex Consortium's Sweet Brian facility.

With regard to the need for life skill programs, First Tee is working at their 150 chapters around the country to fill the character gap.

Character is what you bring to everything you do. It's what signifies to the world what's inside of you. It outlasts genius and talent, yet propels both. It's what we are admired for and remembered by. It's what transforms piercing words to inspire you forward rather than tear you down. And it's what allows you to walk away from failure determined, not defeated.

Yet a new study between First Tee and Harris polls finds that character is a lost value driven by a lack of regular opportunities to cultivate it.

For more information on the study please click here: firsttee.org/charactergap/

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

Description SNAG (Starting New at Golf Equipment

Amount 2,750.00

Description Lifetime Training for PE Teachers and new Teachers

Amount 500.00

TOTAL EXPENDITURES 3,250.00

TOTAL DEFICIT FOR PROJECT OR ORGANIZATION -3,250.00

Name of Organization First Tee - Delaware

Applicant/Authorized Official Scott Allen

Date 08/15/2023

Affidavit Acknowledgement Yes

HUDSON
YES. 8/17

Casey Hall

From: notifications=d3forms.com@mg.d3forms.com on behalf of Sussex County DE
<notifications@d3forms.com>
Sent: Thursday, August 10, 2023 12:36 PM
To: Casey Hall
Subject: Sussex County DE - Council Grant Form: Form has been submitted

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Council Grant Form

**Legal Name of
Agency/Organization**

Delaware Seaside Railroad Club and Museum
INC.

Project Name

Annual Georgetown Library Holiday display and ongoing
education programs

Federal Tax ID

20-5762923

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 educate the public on the hobby of Model Railroading
and perform workshops on the history of Model Railroading
and
Collectable toy trains.

Address

PO Box 479, Ocean View, DE 19970

Address 2

N Heron Drive

City

Ocean View

State	Delaware
Zip Code	19958
Contact Person	John Hodges
Contact Title	President
Contact Phone Number	3029451627
Contact Email Address	jchodges46@verizon.net
Total Funding Request	1800.00
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?	500.00
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)

Educational

Primary Beneficiary Category

Other

Beneficiary Category
Other

All Persons

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

1500

Scope

Our traditional display for the past 12 years at the Georgetown Public Library requires the set-up, maintenance and operation of 5 model train displays for four or five weekend display dates, and 4 separate week day display dates for Elementary School children and Special Needs groups to attend. The costs of maintenance and preparations of the displays and the parts and supplies needed puts a strain on our limited resources. We accept donations to may make a small contribution to offset our expenses.

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

0.00

Description

Transportation (Trailer costs)

Amount

125.00

Description Locomotives/rolling stock repairs and parts

Amount 700.00

Description Supplies (Repairs to scenery and tables)

Amount 200.00

Description Wiring and electric supplies

Amount 50.00

Description Printing of materials for handouts to guests

Amount 200.00

TOTAL EXPENDITURES 1,275.00

**TOTAL DEFICIT FOR
PROJECT OR
ORGANIZATION** -1,275.00

Name of Organization Delaware Seaside Railroad Club

**Applicant/Authorized
Official** John C Hodges

Date 08/10/2023

**Affidavit
Acknowledgement** Yes

Green.
yes. 8/22

Casey Hall

From: notifications=d3forms.com@mg.d3forms.com on behalf of Sussex County DE
<notifications@d3forms.com>
Sent: Friday, August 18, 2023 7:57 PM
To: Casey Hall
Subject: Sussex County DE - Council Grant Form: Form has been submitted

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Council Grant Form

Legal Name of Agency/Organization	New Coverdale Outreach Mission INC ✓
Project Name	Back to School supplies
Federal Tax ID	31-1695369 ✓
Non-Profit	Yes
Does your organization or its parent organization have a religious affiliation? (If yes, fill out Section 3B.)	Yes
Organization's Mission	Feed the Hungry ,Clothe the naked and Equip students with complete educational supplies
Address	22215 Coverdale Rd
City	Seaford
State	DE
Zip Code	19973
Contact Person	Diane Lofland

Contact Title	Executive Director
Contact Phone Number	302-629-3036
Contact Email Address	sabrinatlofland@yahoo.com
Total Funding Request	2000
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?	3000
Are you seeking other sources of funding other than Sussex County Council?	Yes
If YES, approximately what percentage of the project's funding does the Council grant represent?	50
Program Category (choose all that apply)	Educational
Primary Beneficiary Category	Low to Moderate Income

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

100

Scope

To help the underprivileged families through out the year such projects as 100+ children back to school supplies .

Religious Components

We (NCOM) feel this is our divine mission to feed the hungry, clothes the naked and to give hope (Educate) to helpless and direct the homeless to safe haven .

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

1,500.00

Description

Utilities

Amount

5,000.00

Description

Insurance

Amount

2,232.00

Description

Alarm System

Amount

300.00

Description

Purchasing school supplies

Amount

1,500.00

TOTAL EXPENDITURES

9,032.00

**TOTAL DEFICIT FOR
PROJECT OR
ORGANIZATION** -7,532.00

Name of Organization New Coverdale Outreach Mission

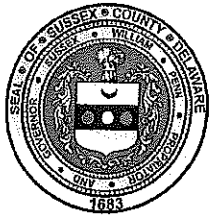
**Applicant/Authorized
Official** Diane Lofland

Date 08/18/2023

**Affidavit
Acknowledgement** Yes

SCHAEFFER.
wait 6/18.

7/11 agenda
pulled



SUSSEX COUNTY GOVERNMENT

GRANT APPLICATION

SECTION 1 APPLICANT INFORMATION

ORGANIZATION NAME: West Rehoboth Community Land Trust ✓

PROJECT NAME: Low Income Housing Support

FEDERAL TAX ID: 202477568 ✓ NON-PROFIT: YES NO

DOES YOUR ORGANIZATION OR ITS PARENT ORGANIZATION HAVE A RELIGIOUS AFFILIATION?
 YES NO *IF YES, FILL OUT SECTION 3B.

ORGANIZATION'S MISSION: WRCLT's mission is to provide and preserve affordable housing, combat community deterioration, and to hold land in trust for the long term benefit to low to moderate income individual living in West Rehoboth, a historical Sussex County black community.

ADDRESS: PO Box 633

Rehoboth Beach Delaware 19971
(CITY) (STATE) (ZIP)

CONTACT PERSON: Eleanor Marchtmon

TITLE: President

PHONE: 3022452759 EMAIL: bkchurchgirl@aol.com

TOTAL FUNDING REQUEST: \$4000

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

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

If you are asking for funding for building or building improvements, do you own the building in which the funding will be used for? YES NO

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

If YES, approximately what percentage of the project's funding does the Council grant represent? 10%

SECTION 2: PROGRAM DESCRIPTION

PROGRAM CATEGORY (choose all that apply)

- Fair Housing
- Infrastructure¹
- Health and Human Services
- Other
- Cultural
- Educational

BENEFICIARY CATEGORY

- Disability & Special Needs
- Elderly Persons
- Minority
- Victims of Domestic Violence
- Low to Moderate Income²
- Other
- Homeless
- Youth

BENEFICIARY NUMBER

Approximately the total number of Sussex County Beneficiaries served annually by this program:
30

SECTION 3: PROGRAM SCOPE

A. Briefly describe the program for which funds are being requested. The narrative should include the need or problem to be addressed in relation to the population to be served or the area to benefit.
WRCLT has purchased six lots in West Rehoboth to offset community gentrification and to preserve low-income housing in this historically black community. On two lots, we have four homes, which allows the land trust to provide decent housing to low-income families. The funds requested will be used to offset major maintenance and repair issues that we are not able to pass on the low-income families.

B. IF RELIGIOUS AFFILIATION WAS CONFIRMED ABOVE IN SECTION 1, PLEASE FILL OUT THE FOLLOWING SECTION. IF RELIGIOUS AFFILIATION WAS NOT CHECKED IN SECTION 1, THIS SECTION MAY BE LEFT BLANK.

A faith-based nonprofit organization is eligible to receive and apply for a grant on the same basis as other nonprofit organizations, with respect to programs which are eligible. In the selection of grantees, the County will not discriminate for or against an organization on the basis of the organization's religious characterization or affiliation. However, certain requests to utilize funding for programs with religious purposes may not be eligible due to constitutional principles of the United States and/or the State of Delaware.

Briefly describe the components of the program that involve religious purposes and the components that involve secular purposes, or non-religious purposes. If both non-religious and religious purposes are involved in the program, this narrative must include the specific actions that will be implemented in order to ensure that the funding is solely used for non-religious purposes and will not be used to advance or inhibit religious or faith-based activities.

After the awarded funds have been made, receipts of the non-religious purchases shall be submitted in accordance with Section 5 below before funds will be disbursed.

SECTION 4: BUDGET

REVENUE	
Please enter the current support your organization receives for this project (not entire organization revenue if not applicable to request)	
TOTAL REVENUES	26,500.00
EXPENDITURES	
Please enter the total projected budget for the project (not entire organization expense if not applicable to request). Example of expenditure items: PERSONNEL-one lump sum that would include benefits, OPERATING COSTS-supplies, equipment, rent/lease, insurance, printing telephone, CONSTRUCTION/ACQUISITION-acquisition, development, rehab hard cost, physical inspections, architectural engineering, permits and fees, insurance, appraisal. (Put amounts in as a negative)	
Rental Expenditures	-\$ 36,950.00
TOTAL EXPENDITURES	-\$ 36,950.00
TOTAL DEFICIT FOR PROJECT OR ORGANIZATION	-\$ 10,450.00

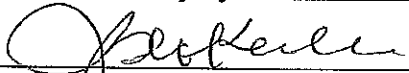
SECTION 5: STATEMENT OF ASSURANCES

If this grant application is awarded funding, the WRCLT - Housing agrees that:
(Name of Organization)

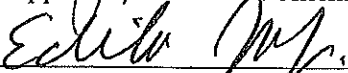
- 1) For non-religious organizations, all expenditures must have adequate documentation and must be expended within one (1) year of receipt of award funds. The funding awarded to the organization must be used in substantial conformity with the anticipated expenditures set forth in the submitted application. All accounting records and supporting documentation shall be available for inspection by Sussex County within thirty (30) days after the organization's expenditure of the awarded funding, or within one year after the receipt of the awarded funds, whichever first occurs.
- 2) For religious organizations, all accounting records and supporting documentation shall be provided for inspection by Sussex County after the award has been made by County Council but before the funding is released.
- 3) No person, on the basis of race, color, or national origin, should be excluded from participation in, be denied the benefit of, or be otherwise subjected to discrimination under the program or activity funded in whole or in part by these Grant funds.

SECTION 5: STATEMENT OF ASSURANCES (continued)

- 4) All information and statements in this application are accurate and complete to the best of my information and belief.
- 5) All funding will benefit only Sussex County residents.
- 6) All documents submitted by the applicant are defined as public documents and available for review under the Freedom of Information Act of the State of Delaware.
- 7) All funding will be used exclusively for secular purposes, i.e., non-religious purposes and shall not be used to advance or inhibit religious purposes.
- 8) **In the event that the awarded funding is used in violation of the requirements of this grant, the awarded funding shall be reimbursed to Sussex County within a timeframe designated by Sussex County by written notice.**



Applicant/Authorized Official Signature



Witness Signature

6/2/2023
Date

6/2/2023
Date

Completed application can be submitted by:

Email: gjennings@sussexcountyde.gov

Mail: Sussex County Government
Attention: Gina Jennings
PO Box 589
Georgetown, DE 19947

SUSSEX COUNTY COUNCIL NON-PROFIT GRANT PROGRAM
GUIDELINES FOR SUBMITTAL AND AFFIDAVIT OF UNDERSTANDING

The Sussex County Council makes available a limited amount of funding to non-profit organizations that serve the citizens of Sussex County. Each application for funding shall be evaluated by Sussex County administrative staff and shall be subject to final approval from Sussex County Council.

In the attached application, each organization must outline its intended uses for the awarded funding and provide a detailed breakdown of the expenses and costs for such uses. Any funding awarded to the organization must be used in substantial conformity with anticipated expenditures of the submitted application.

All expenditures must have adequate documentation and must be expended within one (1) year of award of funds.

For non-religious organizations, all accounting records and supporting documentation shall be available for inspection by Sussex County within thirty (30) days after the organization's expenditure of the awarded funding, or within one year after the receipt of the awarded funds, whichever first occurs.

For religious organizations, all accounting records and supporting documentation shall be provided for inspection by Sussex County after the award has been made by County Council but before funding is released. Grant is relinquished if supporting documentation is not provided within one year of County Council award.

Certain programs are not eligible for funding pursuant to United States Constitution and State of Delaware Constitution. Those constitutional principles prohibit the use of funding to advance or inhibit religious activities. By signing below, the organization acknowledges that the funding shall be used exclusively for secular purposes, i.e., non-religious purposes and shall not be used to advance or inhibit religious activities.

In the event that such funding is used in violation of the requirements and assurances contained in this grant application, the awarded funding shall be reimbursed to Sussex County within a timeframe designated by Sussex County by written notice.

I acknowledge and represent on behalf of the applicant organization that I have read and understand the above statements.

James Blakelee
Applicant/Authorized Official Signature

WRCLT Treasurer
Title

Eddie M.
Witness Signature

6/2/2023
Date

✓

1 **AN ORDINANCE TO AMEND CHAPTER 115, ARTICLE I, SECTION 115-**
2 **4 “DEFINITIONS” OF THE CODE OF SUSSEX COUNTY REGARDING**
3 **“YARD, FRONT” AND “YARD, REAR” OF THROUGH LOTS, AND**
4 **CHAPTER 115, SECTION 115-183 “SIDE AND REAR YARDS”**

5 WHEREAS, The Sussex County Zoning Code currently defines “Through Lots”,
6 but does not adequately define the area of such “Through Lot” that must be
7 considered the front or rear yard of such a lot; and

8 WHEREAS, As a result of the uncertainty in the Code as to Through Lots, they often
9 require a determination from the Sussex County Board of Adjustment; and

10 WHEREAS, As a result of the volume of Board of Adjustment applications resulting
11 from Through-Lots and the necessity to determine the front yard and rear yard of
12 them, Sussex County Council has determined that it is appropriate to amend the
13 Zoning Code of Sussex County to add clarity and uniformity to the treatment of
14 “Through Lots” and the determination of the front and rear yards within them; and

15 WHEREAS, this amendment protects the health, safety and welfare of Sussex
16 County and its residents by clarifying the Code of Sussex County as it pertains to
17 “Through Lots” and their front and rear yards.

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

19 **Section 1. The Code of Sussex County, Chapter 115, Section 115-4 “Definitions**
20 **and Word Usage”, “Yard, Front”, and “Yard, Rear” is amended by deleting**
21 **the language in brackets and inserting therein the italicized language:**

22 **§115-4 Definitions and Word Usage**

23 ...

24 **B.**

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

27 ...

28 **YARD, FRONT**

29 A yard extending between the side lot lines and being the minimum horizontal
30 distance between the street line, or other officially approved front line, and the main
31 building or any projections thereof. *Provided, however, that in the case of a Through*

32 *Lot, the required front yard adjacent to the street serving as the street address of the*
33 *lot shall function as the front yard.*

34 **YARD, REAR**

35 A yard extending across the rear of the lot between the side lot lines and measured
36 between the rear lot line and the rear of the main building or any projection, other
37 than steps, unenclosed porches, or entryways. *Provided, however, that in the case*
38 *of a Through Lot, the yard opposite from the street serving as the street address of*
39 *the lot shall function as the rear yard subject Sections 115-183 and 115-185 of this*
40 *Chapter.*

41

42 **Section 2. The Code of Sussex County, Chapter 115, Section 115-183 “Side and**
43 **Rear Yards” is amended by adding a new Subsection E therein as shown in the**
44 **italicized language:**

45

46 §115-183 Side and Rear Yards

47 . . .

48 *E. On all Through Lots, the yard opposite for the street serving as the street*
49 *address of the lot shall function as the rear yard and the rear yard of a through lot*
50 *shall be subject to the following requirements:*

51 *(1) Except for accessory buildings and structures subject to §115-*
52 *185 of this Article and which are 22 feet in height or less, the setback*
53 *requirement for the rear yard of a through lot shall be the same as the*
54 *setback requirement for the front yard of a through lot.*

55 *(2) The provisions of §115-183(c) of this Article do not apply to the*
56 *rear yard of a through lot. Open unenclosed decks, porches, platforms,*
57 *or steps not covered by a roof or canopy and which do not extend above*
58 *the first floor of the building may extend or project into the rear yard*
59 *of a through lot by no more than five feet.*

60 *(3) The provisions of §115-183(d) of this Article that reduce the rear*
61 *yard setback requirements shall not apply.*

62

To Be Introduced: 8/29/23

Council District 3: Mr. Schaeffer

Tax I.D. No.: 334-12.00-57.11

911 Address: N/A

ORDINANCE NO. ____

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A I-1 INSTITUTIONAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 12.44 ACRES, MORE OR LESS

WHEREAS, on the 16th day of June, 2023, a Zoning Application, denominated Change of Zone No. 2015 was filed on behalf of G&M Route 24, 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. 2015 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 I-1 Institutional District as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land lying and being situate in Lewes & Rehoboth Hundred, Sussex County, Delaware, and lying on the south side of Turquoise Lane and the east side of Healthy Way, approximately 900 ft. southeast of the intersection of John J. Williams Highway (Route 24) and Lexus Lane and being more particularly described in the attached Deed prepared by Smith, Henriksen, O'Donnell & Procino said parcel containing 12.44 ac., more or less.

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

To Be Introduced: 8/29/23

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

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND A GR GENERAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A PORTION OF CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 37.04 ACRES, MORE OR LESS

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

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

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

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

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

Section 2. The subject property is described as follows:

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

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

To Be Reintroduced: 8/29/23

Council District 1: Mr. Vincent
Tax I.D. No.: 532-6.00-32.00
911 Address: 35204 Cast Rite Drive, Delmar

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR A SOLAR FARM ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 53.891 ACRES, MORE OR LESS

WHEREAS, on the 30th day of June 2022, a conditional use application, denominated Conditional Use No. 2386 was filed on behalf of Consolidated Edison Development, Inc.; and

WHEREAS, on the ____ day of _____ 2023, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2386 be _____; and

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

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article VI, Subsection 115-39, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2386 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land, lying and being situate in Little Creek Hundred, Sussex County, Delaware, and lying on the east and west side of Cast Rite Drive on the south side of Bacons Road (S.C.R. 515), approximately 0.39 miles west of Country Walk and being more particularly described in the attached legal description prepared by Robert W. Telschow Jr., containing 53.891 acres, more or less.

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

To Be Introduced: 8/29/23

Council District 4: Mr. Hudson
Tax I.D. No. 134-17.07-190.00
911 Address: N/A

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR MEDIUM RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLINGS (6 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 0.614 ACRES, MORE OR LESS

WHEREAS, on the 23rd day of January 2023, a conditional use application, denominated Conditional Use No. 2424 was filed on behalf of Oceans Six; 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. 2424 be _____; and

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

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article V, Subsection 115-31, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2424 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece, or parcel of land, lying and being situate in Baltimore Hundred, Sussex County, Delaware, and lying on the east side of Coastal Highway, approximately 278 feet north of Jefferson Bridge Rd and being more particularly described in the attached legal description prepared by Joseph C. Raskauskas, P.A., said parcel containing 0.614 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: August 25, 2023

RE: County Council Report for C/U 2415 filed on behalf of Delaware Electric Co-Op C/O
Troy Dickerson

The Planning and Zoning Department received an application (C/U 2415 filed on behalf of Delaware Electric Co-op) for an electrical substation to be located at Tax Parcel 235-8.00-2.00. The property is located at 12872 Reynolds Road, Milton). The parcel size is 37.74 acres +/-

The Planning & Zoning Commission held a Public Hearing on the application on July 27, 2023. At the meeting of July 27, 2023, the Planning & Zoning Commission recommended approval of the application for the 4 reasons stated and subject to the 5 recommended conditions as outlined within the motion (copied below).

Below are the minutes from the Planning & Zoning Commission meeting of July 27, 2023.

Minutes of the July 27, 2023, Planning & Zoning Commission Meeting

C/U 2415 Delaware Electric Co-op (c/o Troy Dickerson)

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN ELECTRICAL SUBSTATION TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 37.7482 ACRES MORE OR LESS. The property is lying on the west side of Reynolds Road (S.C.R. 233), approximately 0.26 mile north of Zion Church Road (S.C.R. 235). 911 Address: 12872 Reynolds Road, Milton. Tax Map Parcel: 235-8.00-2.00.

Mr. Whitehouse advised the Commission that submitted into the record were the DelDOT Service Level Evaluation Response, the Staff Analysis, The Applicant's Site Plan, and a letter received from



the Sussex County Engineering Department Utility Planning Division. Mr. Whitehouse advised the Commission that no comments had been received for the Application.

The Commission found that Ms. Dana Dunphy, with Century Engineering, spoke on behalf of the Applicant. Ms. Dunphy stated she was the designer for the project; that the Applicant is proposing a substation be placed on the property for Delaware Electric Co-op (DEC); that property is located within AR-1 (Agricultural Residential); that within the AR-1 District, public utilities are permitted as a Conditional Use per the Code; that surrounding parcels are also located within the AR-1 (Agricultural Residential) Zoning District, operating as agricultural uses, with the exception of one parcel located in the front of the property along Reynolds Road, which is the location of a residential dwelling; that Delaware Electric Co-op will be purchasing the entire parcel, with the potential of allowing the remaining lands, not being used for the substation, to be used for agricultural purposes; that there will be a gravel substation, with access off Reynolds Road; that there will be wet ponds on the property, as infiltration did not work on the property; that some preliminary tests were performed; that they did have conversations with DelDOT; that they will obtain a utility entrance permit through DelDOT, and they are willing to work with the County and the nearby residents to make the project work.

Ms. Wingate questioned if any noise would be generated from the proposed substation.

Ms. Dunphy stated little to no noise would be generated, with only one truck per month visiting the site to perform required maintenance.

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

The Commission found that Mr. George Kershaw presented with a question. Mr. Kershaw requested to see the location of the project, specifically the area where Reynolds Road and Zion Church Road intersect.

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

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

Mr. Mears moved that the Commission recommend approval of C/U 2415 Delaware Electric Cooperative based on the record and for the following reasons:

1. The Conditional Use for an electrical substation is of a public nature, and it will promote the health, safety, and welfare of the residents of Sussex County.
2. The Co-op has stated that the substation is necessary to maintain and improve its electrical service to current and future residents of Sussex County.
3. The construction and use of an electrical substation on this site will not adversely affect neighboring properties or roadways.
4. No parties appeared in opposition to this application
5. This Conditional Use is subject to the following conditions:
 - A. The perimeter of the substation shall be fenced.
 - B. Two signs shall be permitted on the fencing around the property to identify the site and emergency contact information.

- C. Any security lighting shall be shielded and downward screened so that it does not shine on neighboring properties and County Roads.
- D. Landscaping shall be provided to screen the facility from adjacent properties and roadways.
- E. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Mr. Mears, seconded by Ms. Wingate and carried unanimously to recommend approval for C/U 2415 Delaware Electric Co-op (c/o Troy Dickerson) for the reasons and conditions stated in the motion. Motion carried 5-0.

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

Mr. Robertson returned to Council Chambers.

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: July 27, 2023

Application: CU 2415 (Delaware Electric Co-op: Troy Dickerson)

Applicant: Delaware Electric Co-op: Troy Dickerson
14198 Sussex Highway
Greenwood, Delaware 19950

Owner: Delaware Electric Co-op
14198 Sussex Highway
Greenwood, Delaware 19950

Site Location: West side of Reynolds Road (S.C.R. 233), approximately 0.26 mile north
of Zion Church Road (S.C.R. 235) in Milton

Current Zoning: Agricultural Residential (AR-1)

Proposed Use: Electric Substation

Comprehensive Land
Use Plan Reference: Low Density Area

Councilmanic
District: Mrs. Green

School District: Cape Henlopen School District

Fire District: Milton Fire Department

Sewer: N/A

Water: N/A

Site Area: 37.7482 acres +/-

Tax Map ID: 235-8.00-2.00



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



Sussex County

DELAWARE
sussexcountyde.gov

Memorandum

To: Sussex County Planning Commission Members
From: Mr. Chase Phillips, Planner II
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant
Date: June 27, 2023
RE: Staff Analysis for Conditional Use No. 2415 (Delaware Electric Co-op)

This memo provides background and an analysis for the Planning Commission to consider as a part of application CU 2415 – Delaware Electric Co-op: Troy Dickerson for the July 27th, 2023, Planning and Zoning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Conditional Use for an electrical substation. The property is identified as Tax Parcel 235-8.00-2.00 and is located at 12872 Reynolds Road in Milton. The property is on the west side of Reynolds Road (S.C.R. 233) and is approximately 0.26 mile north of Zion Church Road (S.C.R. 235). It is approximately 37.7482 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 the Rural Area Future Land Use Map Designation of “Low Density Area.” The surrounding and parcel which encompasses Parcel 94.02 on the north, south and east sides also has the Future Land Use Map Designation of “Low Density Area.”

As outlined in the 2018 Sussex County Comprehensive Plan, “The primary uses envisioned in Low Density Areas are agricultural activities and homes. Business development should be largely confined to businesses addressing the needs of these two uses. Industrial and agribusiness uses that support or depend on agriculture should be permitted. The focus of retail and office uses in Low Density Areas should be providing convenience goods and services to nearby residents” (2018 Sussex County Comprehensive Plan, 4-19). The proposal appears to address this area of providing convenience goods and services to nearby residents, which is consistent with the Comprehensive Plan.

Staff note that each property to the north, south, east, and west are within the Low Density Area.



Zoning Information

The property is zoned Agricultural Residential (AR-1) District. The adjacent parcels to the north, south, east, and west are also within the AR-1 District. This applies to the properties on the other side of Reynolds Road.

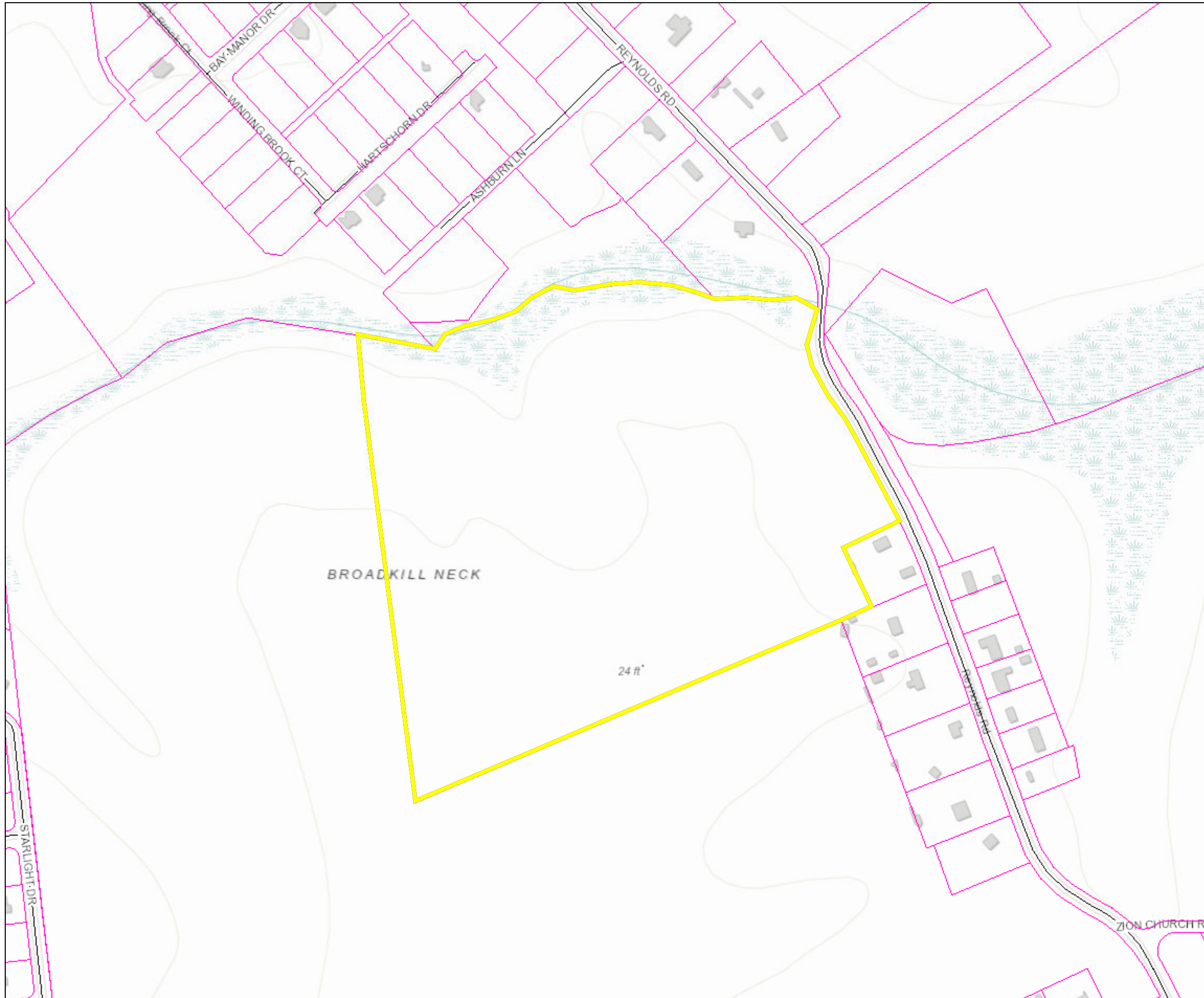
Existing Conditional Uses within the Vicinity of the Subject Site

Although there have been a number of Conditional Use Applications applied for in this area, since 2011, there have been zero (0) Conditional Use applications within a 1.00-mile radius of the application site.

Based on the analysis provided, the Conditional Use request for an electrical substation could be considered to be consistent with the surrounding land use, zoning, and environment.



Sussex County



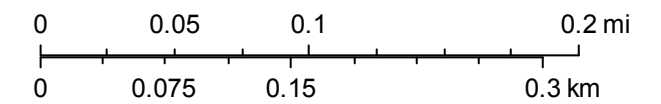
PIN:	235-8.00-2.00	
Owner Name	SYCAMORE	FARM DAIRY INC
Book	5151	
Mailing Address	24868 BROADKILL RD	
City	MILTON	
State	DE	
Description	E W/RT 233	
Description 2	1500'N/RT 235	
Description 3	N/A	
Land Code		

- polygonLayer**

 - Override 1
- polygonLayer**

 - Override 1
- Tax Parcels
- Streets

1:4,514





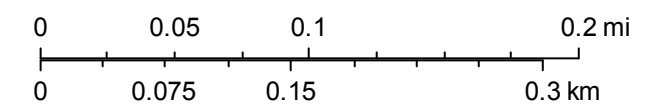
Sussex County



PIN:	235-8.00-2.00	
Owner Name	SYCAMORE	FARM
	DAIRY INC	
Book	5151	
Mailing Address	24868 BROADKILL RD	
City	MILTON	
State	DE	
Description	E W/RT 233	
Description 2	1500'N/RT 235	
Description 3	N/A	
Land Code		

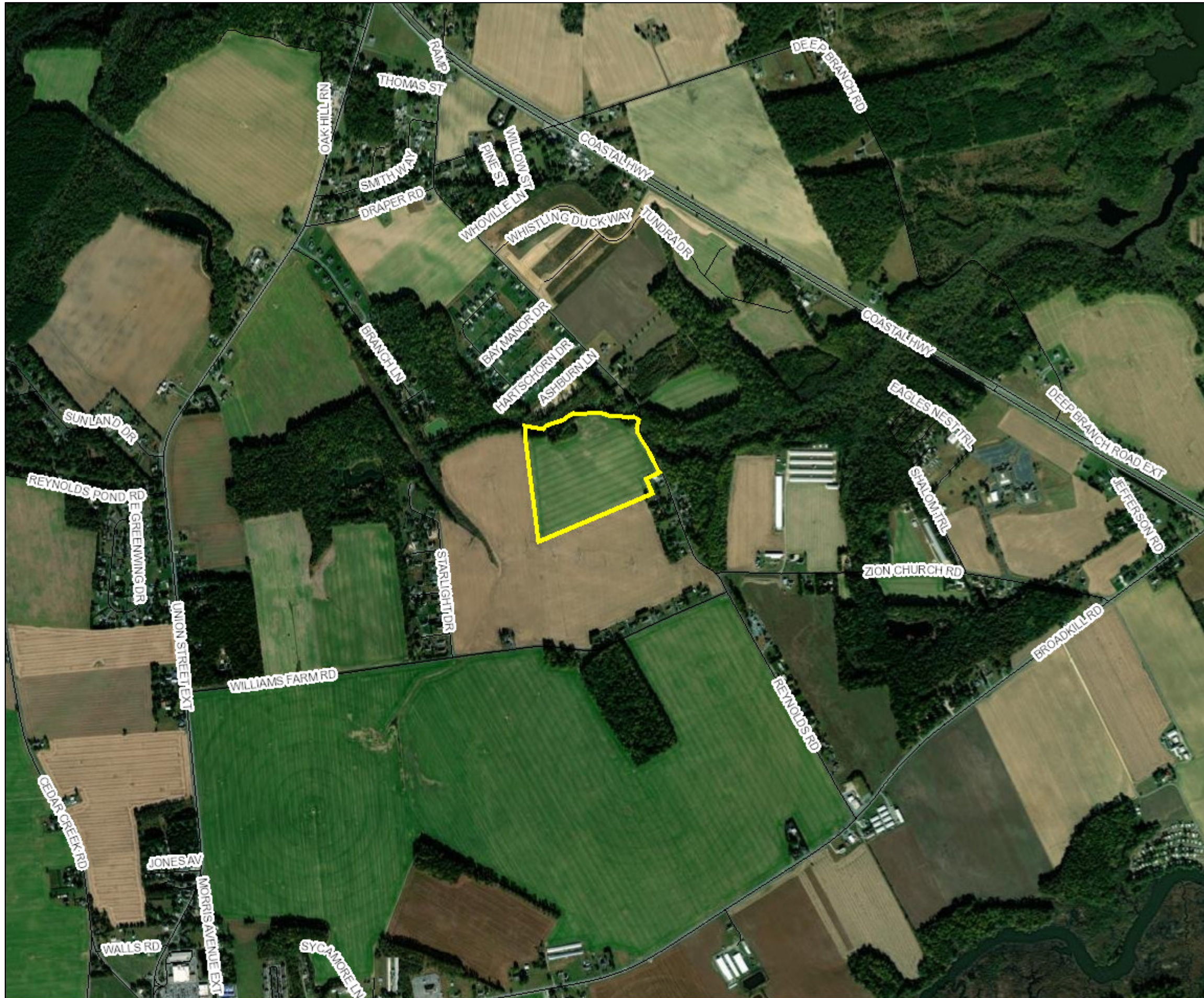
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- Override 1
- polygonLayer**
- Override 1
- Tax Parcels
- Streets
- County Boundaries

1:4,514





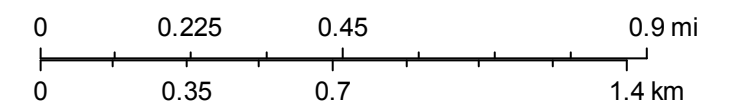
Sussex County



PIN:	235-8.00-2.00	
Owner Name	SYCAMORE	FARM
	DAIRY INC	
Book	5151	
Mailing Address	24868 BROADKILL RD	
City	MILTON	
State	DE	
Description	E W/RT 233	
Description 2	1500'N/RT 235	
Description 3	N/A	
Land Code		

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

1:18,056



Introduced: 7/11/23

Council District 2: Mrs. Green
Tax I.D. No. 235-8.00-2.00
911 Address: 12872 Reynolds Road, Milton

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN ELECTRICAL SUBSTATION TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 37.7482 ACRES MORE OR LESS

WHEREAS, on the 13th day of March 2023, a conditional use application, denominated Conditional Use No. 2415 was filed on behalf of Delaware Electric Coop: Troy Dickerson; 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. 2415 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. 2415 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcels of land lying and being situate in Broadkill Hundred, Sussex County, Delaware, and lying on the west side of Reynolds Road (S.C.R. 233), approximately 0.26 mile north of Zion Church Road (S.C.R. 235), and being more particularly described in the attached legal description prepared by Century Engineering, LLC, said parcels containing 37.7482 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: August 25, 2023

RE: County Council Report for C/Z 1985 filed on behalf of Love Creek Acquisition, LLC

The Planning and Zoning Department received an application (C/Z 1985 filed on behalf of Love Creek Acquisition, LLC) for a change of zone from an AR-1 Agricultural Residential District to a M Marine District for Tax Parcels 234-7.00-111.00 and 112.00. The property is located at 20565 & 20581 John J, Williams Highway, Lewes. The parcel size is 5.1 acres +/-

The Planning & Zoning Commission held a Public Hearing on the application on July 27, 2023. At the meeting of August 10, 2023, the Planning & Zoning Commission recommended approval of the application for the 10 reasons as outlined within the motion (copied below).

Below are the minutes from the Planning & Zoning Commission meeting of July 27, 2023, and August 10, 2023.

Minutes of the July 27, 2023, Planning & Zoning Commission Meeting

Mr. Wheatley recused himself from the next public hearing, appointing Ms. Wingate as Madam Chair, and left Council Chambers.

C/Z 1985 Love Creek Acquisition, LLC

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A M MARINE DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 5.1 ACRES, MORE OR LESS. The properties are lying on the south side of John J. Williams Highway (Rt. 24), approximately 0.26-mile(s) northeast of Camp Arrowhead Road. 911 Address: 20565 & 20581 John J. Williams Highway, Lewes. Tax Map Parcel: 234-7.00-111.00 & 112.00.



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

Mr. Whitehouse advised the Commission that submitted into the record were the property legal description, the Applicant's Record Plan, the Applicant's Project Booklet, the PLUS comments, the DelDOT Service Level Evaluation Response, and a letter from the Sussex County Engineering Department Utility Planning Division. Mr. Whitehouse stated one letter of support and one letter in opposition was received for the Application.

The Commission found that Mr. David Hutt, Esq. with Morris James, LLP spoke on behalf of the Applicant, Love Creek Acquisition, LLC; that also present was Mr. Joseph Calabro, Representative for the Applicant, and Mr. Alan Hill, Professional Engineer with Hillcrest Associates, Inc. Mr. Hutt stated the Application is very unique in some ways; that the Applicant is attempting to find the right zoning designation to accomplish an appropriate zoning designation for the area; that in his career, he had seen few places on the Sussex County Zoning Map designated as Marine District; that current request is for a Change in Zone from AR-1 (Agricultural Residential) to M (Marine) District; that the property is located within a very busy area of Sussex County, both commercially and residentially; that the property is located along Rt. 24, being John J. Williams Hwy; that the property located near Camp Arrowhead Road, which runs toward the Rehoboth Bay; that that property is located near Peddler's Village, Dollar General and a Valero gas station; that there are a number of residential uses and manufactured home communities currently existing along the southern side of Rt. 24; that the proposed property, along with the Residences at Rehoboth Bay and the Love Creek Marina are located along Love Creek itself; that there are additional residential uses located on the opposite side of the Love Creek Bridge as well; that historically, the property was used for boat and marine related storage; that presently, the property has been cleaned up by the Applicant; that the Application is comprised of two parcels that total 5.1 acres; that the Office of State Planning Coordination Map contains five level designations, being Level 1 going to Level 4 and an Out of Play designation; that the proposed 5.1 acres contain four of the five designations; that approximately half of the property is located within Level 2; that the remaining portion of the property is located within Level 3 and Level 4, with a wetland area being located within the Out of Play area; that the PLUS comments note that Investment Level 2 areas where State investments and policies should support and encourage a wide range of uses and densities; that investments should encourage departure from the typical single-family dwelling developments and promote a broader mix of housing types; that he requested to emphasize that it stated commercial sites encourage compact mixed use development where applicable; that the purpose of the Application is to request marine related industries with some multi-family housing, which fit the description of provided by the Office of State Planning Coordination; that the Office of State Planning Coordination had no objection to the Change of Zone request; that because the properties are located within Level 2 and Level 3 along Rt. 24, it is an appropriate location for the requested zoning classification; that the subject properties are located adjacent to property currently zoned as M (Marine); that other zoning districts located within the area are AR-1 (Agricultural Residential), B-1 (Neighborhood Business), C-1 (General Commercial), and MR (Medium-Density Residential) District; that the Future Land Use Map, located within the 2018 Comprehensive Plan, shows the properties as having a split designation between the Commercial Area and the Coastal Area, which are both known as two of the County's seven Growth Areas; that he did believe there to be a mapping area for the parcel across the street zoned as B-1; that the Comprehensive Plan described the uses within the Commercial Area to include concentrations of retail and services uses, services uses that are mainly located along arterials and highways; that mixed-use buildings may also be appropriate for these area; that similarly, the Coastal Area, being the rear half of the properties, are also located within a Growth Area according to the Comprehensive Plan; that the Comprehensive Plan states that within the Coastal Area a range of housing types should be permitted, including single-family homes, townhomes, and

multi-family units; that retail and offices uses are appropriate and mix-use development should also be allowed; that the surrounding area is primarily located within the Coastal Area, except for the commercial corridors along Rt. 24; that it is important to note that Rt. 24 designated by DelDOT as a Major Collector road, being appropriate for growth areas and commercial areas; that upon receiving a Change of Zone application, Planning & Zoning staff compare the requested zoning classification to Table 4.5-2 of the Comprehensive Plan, which identifies specific zoning districts that are applicable to Future Land Use Maps categories; that the Marine District does appear in both the Coastal Area and Commercial Area as an appropriate zoning district; that according to the Sussex County's Sewer Tier Map, public utilities are available to the site; that there is a tiny portion, located in the front corner of the property, located within the Well Head Protection Area; that within that area the project would have to comply with the requirements of Chapter 89; that the property is located within Flood Zone X, not being located within the 100 Year Floodplain, and AE Flood Zone; that there are wetlands located on the very rear of the property, which form a boundary between the property and adjacent property used for residential use; that a Service Level Evaluation request was filed with DelDOT for the application; that because the application was for a Change of Zone, DelDOT reported they did not have enough information to determine whether or not a Traffic Impact Study (TIS) would be required; that DelDOT did note, that it would be appropriate to request a Service Level Evaluation once a use is chosen, with a Site Plan or Subdivision Plan for DelDOT to review; that DelDOT additionally stated, the property is located within the Henlopen Transportation Improvement District (Henlopen TID); that the TID will require the Applicant to construct the entrance, but then submit a per unit or per square foot fee, depending on how the site plan was ultimately developed; that although a site plan is not necessarily relevant to a Change of Zone, the Applicant provided a concept of what could occur with a zoning change to Marine; that the Applicant intends to propose a mixed use; that there would be a building constructed with parking provided around it; that to the rear of the site there will be a marine shop for repairs, with marine storage around the building; that the Marine District is supported by the site's proximity to Love Creek and the Island Bays; that they carefully went through each of the Zoning Districts in the attempt to find a zoning that would allow for mixed-use, along with a bait and tackle store or a marine repair store, with some type of residential component as well; that those districts are few and far between; that the only other district that would permit the proposed use, would be C-4 which is intended for large scale commercial, and would not be an appropriate zoning designation for a 5.1 acre site; that the Marine District allows for a number of marine related uses, along with residential uses; that one complicating factor is the split designation on the Future Land Use Map; that when they began trying to align the various zoning districts with the Future Land Use Map categories, in the attempt to accomplish a project that has mixed-uses; that mixed-use is called out in the Comprehensive Plan and the State Strategies; that for the area, the concern is that anything permitted within the Marine District would be permitted on the property; that a permitted use within Marine would be multi-family dwellings, which would include townhomes, apartments, and any other non-single family dwelling; that the permission for multi-family leads to questions of density; that within the current zoning of AR-1, there can be a maximum of up to 12 units to an acre on the site through the Sussex County Rental program, which would be a multi-family, and would not require a public hearing; that it would only require Site Plan review; that when looking at uses that currently exists between the Love Creek Bridge and Camp Arrow Head Road, they are higher density uses; that nearby the property there is a manufactured home park, where there are at least 20 units on a little over two acres, which results in a density of 10 units to the acre; that similar densities carry forward as one continues to look down Rt. 24 towards Camp Arrowhead Road to where Peddler's Village is located; that the basis of the Application is to seek a zoning change to M (Marine) District, that with all the previously mentioned considerations, such as the intended use of the site, trying to carefully maneuver through the Comprehensive Plan and the various Zoning

Districts, that could afford the proposed type of opportunity at the site; that the letter in support was submitted by the Freedom Boat Club, who encapsulated well the vision and concept for the property; that the letter states there is an easement that exists along the property, extending back to Love Creek Arena; that this easement would allow for the movement of boats and boat trailers without the requirement to access John J Williams Highway, and this is another reason of why the proposed Marine zoning would help to complement the existing Marine zoning designation, as well as take part in Sussex County's wonderful resources, with respect to the Inland Bays and connecting waterways. Mr. Hutt requested to submit proposed Findings of Fact for the property.

Mr. Whitehouse stated there is an online paper copy in the Comprehensive Plan; that the digital version does contain irregularities and he would verify the information prior to the public hearing before County Council.

Mr. Collins stated he understood the Conceptual Site Plan is not being review currently, however, he questioned if interconnectivity is proposed between the sites, taking advantage of the existing easement, and he questioned how the Applicant would ensure that they would be good neighbors in the event they chose to develop more condominiums instead of boat storage.

Mr. Calabro stated that there is common ownership between the existing Marina owner and the applicant or equitable owner of the site; that the interconnectivity would be limited to boats and boat trailers being brought back and forth across the site; that there is not enough room to have a two-lane street; that the space is limited geographically, but there is enough area to be considered a driveway and/or cartway; that the Freedom Boat Club, would have the ability to bring boats over for boat service or boat storage, the could use the access without the requirement to access Rt. 24; that the maximum buildable height is 42 feet above base flood elevation, being the standard maximum height in most zoning districts; that Mr. Collins' point was well taken regarding the residential component; that their conceptual plan would have a mixed-use component to it; that the ground floor would be a bait & tackle retail shop, with apartments above it; that the rationale is very simple; that they want to provide the services to the existing marina, but in order to make the project work economically, they need to add some multifamily, so that the dollars and cents make sense, and the use for strictly marine services may not do well.

Mr. Robertson stated he understood the reasoning for the proposed project, and that there is common ownership with the adjacent property, located along the water; that he questioned why there is not one "Marina" [type] thing on that property, aside from boat slips that have existed for 40 years; that he questioned why the Commission should think that the proposed site would be developed with Marine uses, when the property, being zoned Marine for a long time, never did; that he stated it seems that the Application may be attempting to seek 12 units to the acre while avoiding the SCRPP (Sussex County Rental Program) and requested to know why the subject site is a better property for marine type uses than the property with the current zoning designation of Marine.

Mr. Hutt stated the Applicant could not seek a residential zoning classification in a commercial area on the Future Land Use Map, which was the biggest barrier they faced.

Mr. Mears questioned why the use could not have requested a Conditional Use approval, he questioned if the proposed site had direct water access, and he stated the site seemed like a very valuable property for the proposed use of marine repair.

Mr. Calabro stated the subject site does not have direct access to water.

Mr. Hutt stated the Applicant is confined by the Future Land Use Map, Table 4.5-2; that the Applicant is confined to the rules that have been created within the Comprehensive Plan; that there is not another zoning designation that allows the proposed use to occur, and it would be a very unique Conditional Use application at best; that the value of the property is the reasoning mixed-use is proposed; that he agreed that the sole use for marine repair would not be the highest or best use for the entire 5.1-acre site; that the issue was attempting to find a designation that allows for mixed-use and is allowed in both the commercial and coastal zoning areas, and Marine Zoning does allow for marine, commercial and multi-family uses.

Mr. Robertson questioned if the proposed use of a bait and tackle store and boat repairs would be permitted within the commercial zone areas.

Mr. Hutt stated that would encourage the Applicant to apply split zoning of the property, requiring the Applicant to place commercial within the front half and some other residential zoning for the rear of the property; that the split zoning is within the realm of possibilities; that the site is located along a major collector road; that the site will be served with public water a sewer, as it is located within the Growth Area; that considering these things, the site is an appropriate place for all of the things just described and being what the Comprehensive Plan shows.

Mr. Robertson questioned why the other property, with an existing zoning designation of Marine, was not developed for mixed-use; that he stated the property was developed strictly as condominiums, with the restaurant pad set up at the front; that it seemed as if everything being proposed, would have made more sense on the other property; that he made the hypothetical question, why the subject site should be rezoned to accommodate what should have been done on the other property, which was historically zoned Marine.

Mr. Calabro stated he understood where Mr. Robertson was coming from; that there is a long history for the property; that the other property is significantly larger; that the 59 boat slips are limited by the waterway; that to take the entire site for only marine uses would have been total overkill; that at that time, the Freedom Boat Club was not a tenant of theirs; the now, Freedom Boat Club is a tenant; that they have expressed interest in having a location close to one of their main facilities to be able to provide service and repairs; that they can only offer their word that their proposal is not a type of Trojan horse to get high density, and they are being genuine with their concept proposal.

Ms. Wingate stated the Commission does understand the proposed plan is just a concept; that she stated she liked the proposed concept; that the proposal of a marine repair shop next to the water makes sense, as the boats can be brought up for repair, worked on, and then be placed back out into the water; however, she did understand the real estate questions expressed by Mr. Mears as well.

Mr. Collins stated the proposed use would provide the opportunity to keep traffic off the road and to keep the pulling of boats onto and off a major highway.

Mr. Mears stated that most of the questions are generated by the zoning change and the idea of what could be permitted under Marine if the Application were to be approved.

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

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

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

In relation to C/Z 1985 Love Creek Acquisition, LLC. Motion by Mr. Collins to defer action for further consideration, seconded by Ms. Wingate and carried unanimously. Motion carried 4-0. Chairman Wheatley abstained.

Minutes of the August 10, 2023, Planning & Zoning Commission Meeting

The Commission discussed the Application which had been deferred since July 27th, 2023.

Mr. Collins moved that the Commission recommend approval of C/Z 1985 Love Creek Acquisition, LLC for a Change in Zone from an AR-1 Agricultural Residential District to an M – Marine District based upon the record made during the public hearing and for the following reasons:

1. The purpose of the M - Marine District is “to provide for and to preserve waterfront land in appropriate locations for commercial docking, waterfront sales, storage and repair of small boats, including out-of-water repairs, and for seafood packing and processing establishments, subject to applicable sanitation and processing laws and ordinances. Marinas, yacht clubs, and tourist-oriented services are permitted uses. Since land in the district is limited, construction of dwellings should be discouraged, but since marine development will be gradual, low-density residential uses are permitted.”
2. This site is adjacent to a property that is Zoned M – Marine that has been developed residentially and with boat docking facilities. The adjacent property has frontage on Love Creek and Route 24. This is a reasonable expansion of that existing M-Marine property.
3. In addition to the existing M-Marine zoned property next door, there are properties in the vicinity that are zoned C-1, B-1, and MR. This rezoning to M-Marine is consistent with the area uses and zoning.
4. The Applicant has stated that they intend to use the property for the purposes of the M-Marine District, including uses that may include boat storage and repairs, boat and marine equipment sales, bait, and tackle shops, and other similar uses. A restaurant or similar “tourist-oriented” service may also be developed on the site. All of these uses are appropriate within the M-Marine District.
5. There was support in the record from a marine service company that operates on the adjacent M-Marine land stating that the rezoning of this parcel would provide a suitable and convenient location for such things as boat storage and repairs to supplement that company’s operations along Love Creek.
6. In addition to its location next to existing M-Marine land, the property also has frontage along Route 24, which is classified as a “Major Collector” Road by DelDOT. This is an appropriate location for this rezoning.

7. The property is designated as both the Commercial Area and the Coastal Area according to the Sussex County Comprehensive Plan. The M-Marine zoning and the types of uses permitted in that zone are appropriate in both areas according to the Comprehensive Plan.
8. The property is served by central water and sewer, making this rezoning from AR-1 appropriate at this location.
9. Any future development of this property will still be subject to site plan review by the Sussex County Planning & Zoning Commission as well as all other agencies that have jurisdiction over it.
10. For all of these reasons, I move that we recommend approval of this rezoning to M-Marine.

Motion by Mr. Collins, seconded by Ms. Wingate and carried unanimously to recommend approval of C/Z 1985 Love Creek Acquisition, LLC, for the reasons stated in the motion. Motion carried 3-0. Chairman Wheatley abstained.

Vote by roll call: Ms. Wingate – yea, Mr. Collins – yea, Mr. Butler – 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: July 27th, 2023

Application: C/Z 1985 – Love Creek Acquisition

Applicant: Love Creek Acquisition, LLC (Attn: Joseph Calabro)
300 Delaware Avenue, Suite 1370
Wilmington, DE 19801

Owner: Charles M. Ash
20581 John J. Williams Highway
Lewes, DE 19958

Site Location: Lying on the southeast side of John J. Williams Highway (Rt. 24) approximately 0.26-mile(s) northeast of the intersection of John J. Williams Highway, Camp Arrowhead Road (S.C.R. 279), and Fairfield Road.

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

Proposed Zoning: Marine (M) Zoning District

Proposed Use: Boat Storage and other uses permitted within the Marine Zoning District

Comprehensive Land Use Plan Reference: Commercial/Coastal Area

Councilmanic District: Mr. Schaeffer

School District: Cape Henlopen School District

Fire District: Rehoboth Beach Fire Co.

Sewer: Sussex County (Sewer Tier 1)

Water: Tidewater Utilities, Inc.

Site Area: 5.1 acres +/-

Tax Map ID: 234-7.00-111.00 & 112.00



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Sussex County

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Memorandum

To: Sussex County Planning Commission Members
From: Elliott Young, Planner I
CC: Vince Robertson, Assistant County Attorney, and applicant
Date: July 19, 2023
RE: Staff Analysis for CZ 1985 Love Creek Acquisition

This memo is to provide background and analysis for the Planning Commission to consider as a part of application CZ 1985 Love Creek Acquisition to be reviewed during the July 27, 2023, Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Change of Zone for Tax Parcel 234-7.00-111.00 & 112.00 to allow for a change of zone from an Agricultural Residential (AR-1) District to a Marine (M) District. The properties are located on the southeast side of John J Williams Highway (Rt. 24) approximately 0.26-miles(s) northeast of the intersection of John J Williams Highway, Camp Arrowhead Road (S.C.R. 279) and Fairfield Road. The parcels to be rezoned contain 5.10-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 "Coastal Area" as well as "Commercial." The adjoining parcels to the east and west also have the split Future Land Use Map designation of "Coastal Area" and "Commercial". The adjoining parcels to the south have a Future Land Use Map designation of "Coastal Area."

As outlined within the 2018 Sussex County Comprehensive Plan, Coastal Areas are areas that can accommodate development provided 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 also 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.

Commercial Areas include concentrations of retail and service uses that are mainly located along arterials, and highways. As opposed to small, traditional downtown areas that are often historic and pedestrian-friendly, Commercial Areas include commercial corridors, shopping centers, and other medium and large commercial vicinities geared towards vehicular traffic. In addition to primary shopping destinations, this area would also be the appropriate place to locate hotels, motels, car washes, auto dealerships, and other medium and larger scale commercial uses not primarily targeted



to the residents of immediately adjacent residential areas. These more intense uses should be located along main roads or near major intersections. Institutional and commercial uses may be appropriate depending on surrounding uses. Mixed-use buildings may also be appropriate for these areas.

Zoning Information

The property is zoned Agricultural Residential (AR-1) Zoning District. Adjacent parcels to the west and south are also zoned Agricultural Residential (AR-1) Zoning District. The parcels to the north across John J Williams Highway are zoned Neighborhood Business (B-1) Zoning District as well as Agricultural Residential (AR-1) Zoning District. The Parcel adjoining to the east is zoned Marine (M) Zoning District.

The 2018 Sussex County Comprehensive Plan Outlines Zoning Districts by their applicability to each Future Land Use category. Under Table 4.5-2 “Zoning Districts Applicable to Future Land Use Categories,” the Marine Zoning District (M) is listed as an applicable zoning district in the “Coastal Area” as well as “Commercial” area.

Existing Change of Zone Applications within the Vicinity of the Subject Site

Since 2011, there have been five (5) Change of Zone applications within a one (1) mile radius of the application site.

Change of Zone No.	Applicant	Existing Zoning	Proposed Zoning	CC Decision	CC Decision Date	Ordinance No.
1725	Jack Lingo Asset Management	GR	CR-1	Denied	12/9/2014	N/A
1742	Seaside Communities, RDC, LLC	AR-1	MR-RPC	Approved	9/30/2014	2366
1800	Sussex Real Estate Partners, LLC	AR-1	MR-RPC	Withdrawn	N/A	N/A
1901	Mary and Victor Rico	AR-1	MR	Denied	2/18/2020	N/A
1949	J.G. Townsend Jr. & Co.	AR-1	MR	Denied	5/16/2023	N/A

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



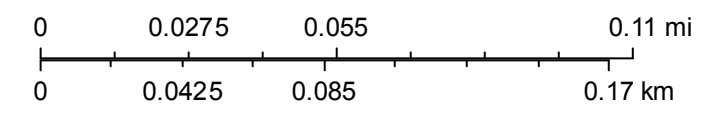
Sussex County



PIN:	234-7.00-111.00
Owner Name	ASH CHARLES M
Book	2864
Mailing Address	20581 JOHN J WILLIAMS HWY
City	LEWES
State	DE
Description	SE/RT 24
Description 2	N/A
Description 3	N/A
Land Code	

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

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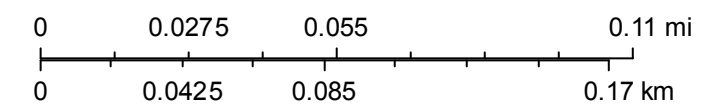
Sussex County



PIN:	234-7.00-112.00
Owner Name	ASH CHARLES M
Book	2255
Mailing Address	20581 JOHN J WILLIAMS H
City	LEWES
State	DE
Description	HWY LOVES CREEK TO
Description 2	MILLSBORO
Description 3	T37966
Land Code	

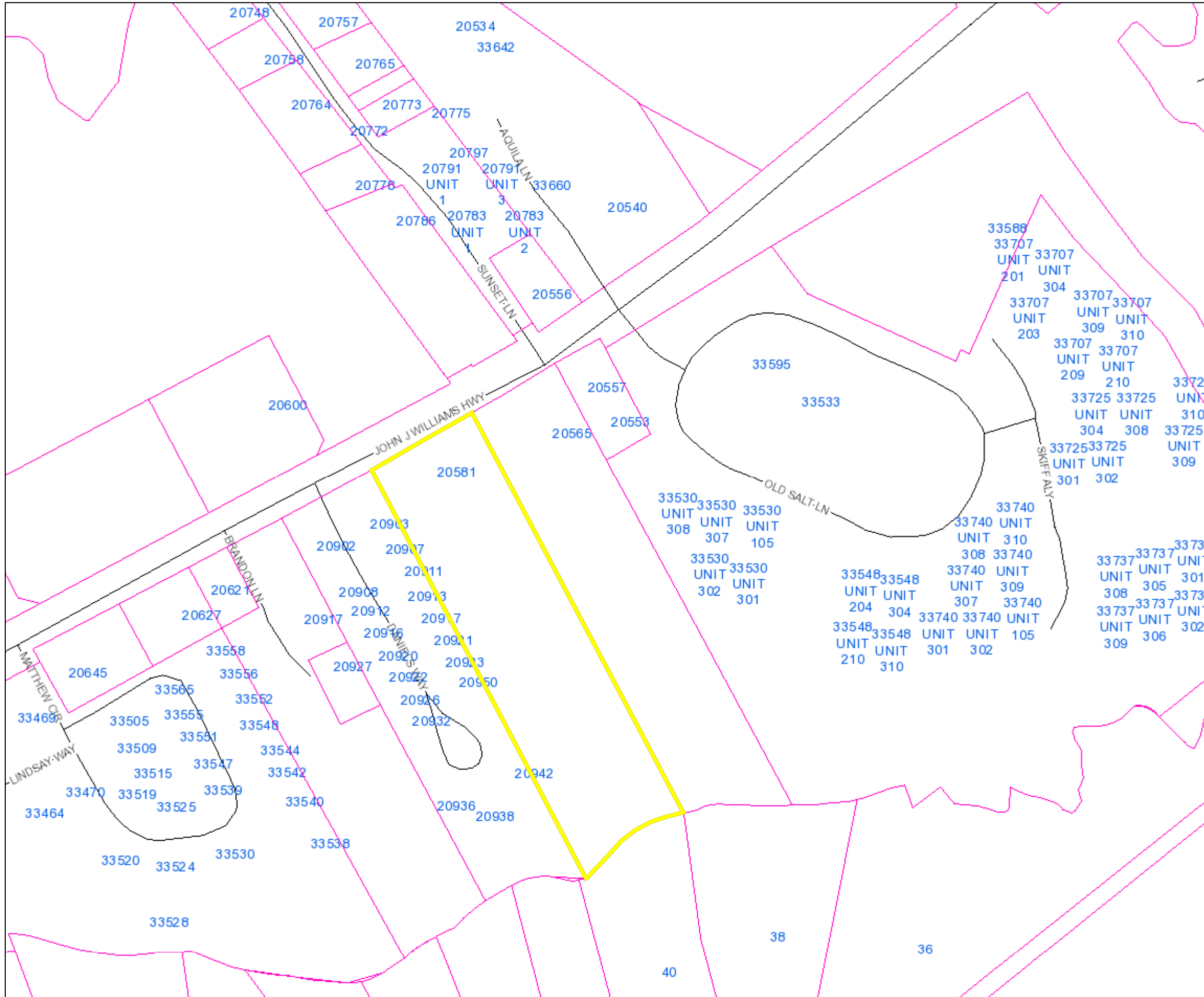
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- ⋯ Tax Parcels
- 911 Address
- Streets
- County Boundaries

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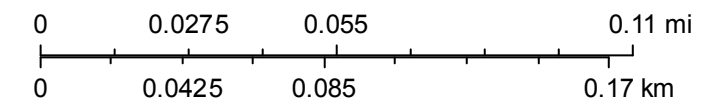
Sussex County



PIN:	234-7.00-111.00
Owner Name	ASH CHARLES M
Book	2864
Mailing Address	20581 JOHN J WILLIAMS HWY
City	LEWES
State	DE
Description	SE/RT 24
Description 2	
Description 3	
Land Code	

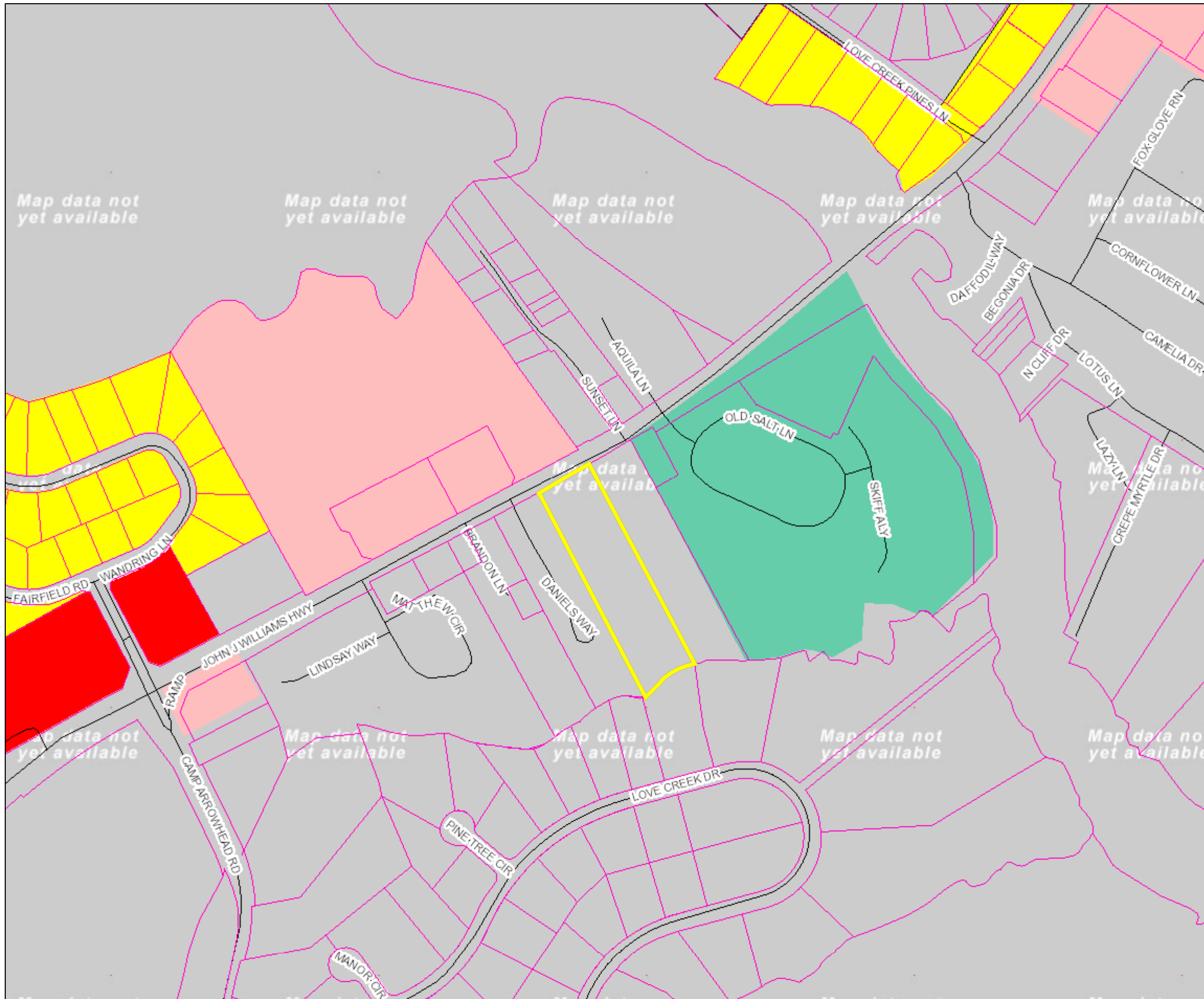
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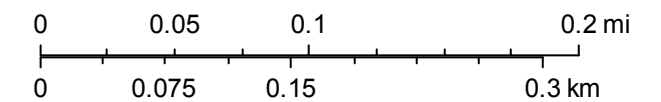
Sussex County



PIN:	234-7.00-111.00
Owner Name	ASH CHARLES M
Book	2864
Mailing Address	20581 JOHN J WILLIAMS HWY
City	LEWES
State	DE
Description	SE/RT 24
Description 2	
Description 3	
Land Code	

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

1:4,514



Introduced: 01/31/23

Council District 3: Mr. Schaeffer
Tax I.D. No. 234-7.00-111.00 & 112.00
911 Addresses: 20565 & 20581 John J. Williams Highway, Lewes

ORDINANCE NO. ____

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A M MARINE DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 5.1 ACRES, MORE OR LESS

WHEREAS, on the 29th day of April 2022, a zoning application, denominated Change of Zone No. 1985 was filed on behalf of Love Creek Acquisition, 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. 1985 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 [Agricultural Residential District] and adding in lieu thereof the designation Marine District as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land lying and being situate in Indian River Hundred, Sussex County, Delaware, and lying on the south side of John J. Williams Highway (Rt. 24) approximately 0.28 mile east of Camp Arrowhead Road and being more particularly described in the attached legal description prepared by Schab & Barnett, P.A. and James C. Reed, P.A., said parcel containing 5.1 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: August 25, 2023

RE: County Council Report for C/Z 1987 filed on behalf of Longview Jefferson Creek, LLC

The Planning and Zoning Department received an application (C/Z 1987 filed on behalf of Longview Jefferson Creek, LLC) for a change of zone from an MR-RPC to MR-RPC to amend conditions of approval for Tax Parcel 2134-17.00-39.00. The property is lying on the southeast side of Double Bridges Road (S.C.R. 363), approximately 0.32 mile southwest of Muddy Neck Road (S.C.R. 361). The parcel size is 63.71 acres +/-

The Planning & Zoning Commission held a Public Hearing on the application on July 27, 2023. At the meeting of July 27, 2023, the Planning & Zoning Commission recommended approval of the application for the 2 reasons as outlined within the motion (copied below).

Below are the minutes from the Planning & Zoning Commission meeting of July 27, 2023.

Minutes of the July 27, 2023, Planning & Zoning Commission Meeting

C/Z 1987 Longview Jefferson Creek, LLC

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN MR-RPC MEDIUM DENSITY RESIDENTIAL – RESIDENTIAL PLANNED COMMUNITY DISTRICT TO AN MR-RPC MEDIUM DENSITY RESIDENTIAL – RESIDENTIAL PLANNED COMMUNITY DISTRICT TO AMEND CONDITIONS OF APPROVAL FOR CHANGE OF ZONE NO. 1557 (ORDINANCE NO. 1763) FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 63.71 ACRES, MORE OR LESS. The property is lying on the southeast side of Double Bridges Road (S.C.R. 363), approximately 0.32 mile southwest of Muddy Neck Road (S.C.R. 361). 911 Address: N/A. Tax Map Parcel: 134-17.00-39.00.



Mr. Whitehouse advised the Commission that submitted into the record were the Staff Analysis, a letter from Sussex County Engineering Department Utility Planning Division, and a letter received from the Applicant. Mr. Whitehouse advised the Commission that zero comment letters had been received for the Application.

The Commission found that Mr. Gregory Dressel, President of the Jefferson Creek Community Association, spoke on behalf of the Association; that also present were the Vice President and the Treasurer of the Jefferson Creek Community Association, as well as the Property Manager through Seascope. Mr. Dressel stated that the Association requests that the Commission remove the conditioned requirement of the fence to border the property; that the fence would be required to be included within the community's Annual Reserve Study, resulting in increased expenses for the community, as well as the maintenance, and eventual replacement of the fence; that it has been 15 years since the original subdivision plans were submitted; that since that time, the area where the fence was to be installed has grown in with trees and thick underbrush; that installing a fence would require the removal of much of the existing ground cover; that the preservation of Jefferson Creek Owners Association, being good environmental stewards, pay thousands of dollars per year to maintain and preserve the ditches and swales; that the removal of vegetation would be detrimental to their plan that they currently have in place; that the fence borders a game preserve, where no future construction will occur, and serves as no purpose as a definition line to the adjoining property, and for the reasons stated, the Association requested that the Commission grant recommended approval of the request made through Longview, the Developer, on behalf of the Association, to waive the conditioned requirement of a fence.

Mr. Mears stated he had lived approximately a mile and a half from the site for 25 years; that driving by the site currently, one can see that the growth is full, providing a nice border; that installing a fence would shade the wetland, which he knows from his profession, is not a good idea; that installing a fence would stop wildlife from passing through and he confirmed that there is a game preserve located to the rear of the property.

Ms. Wingate stated that she agreed with Mr. Mears; that the growth is well established, and she questioned if the initial fence requirement came from the State.

Mr. Mears stated where there are wetlands, the Army Corp of Engineers are always encouraging not to shade the wetlands in any manner and the installation of a fence would shade the wetlands in the morning through mid-afternoon.

Mr. Dressel stated to his knowledge, the fence requirement did not initially come from the State.

Mr. Robertson recommended that should the Commission act favorably on the Application, part of the recommendation be that between the current public hearing and the public hearing before County Council, it be confirmed whether the fence was a State requirement or not and that in doing this, it will avoid any potential future issues with DNREC.

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

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

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

Mr. Robertson stated he had prepared a motion as requested by Mr. Mears and he read the motion into the record per Mr. Mears' request.

Mr. Mears moved that the Commission recommend approval of C/Z 1987 Longview Jefferson Creek, LLC, requesting to remove Condition No. 14 within Ordinance No. 1763 for C/Z 1557 regarding the installation requirement of a fence based on the record made and for the following reasons:

1. The fence no longer serves any purpose, and installation of a fence would be detrimental to the existing, fully-grown vegetation, and wildlife in the area.
2. This recommendation is subject to the following condition:
 - A. Staff shall investigate the record made from the original MR-RPC for C/Z 1157 (Ordinance No. 1763) to determine if the original condition was in response to a condition required by requested by the State, for the adjacent wildlife area.

Motion by Mr. Mears, seconded by Ms. Wingate and carried unanimously to recommend approval of C/Z 1987 Longview Jefferson Creek, LLC for the reasons and conditions stated in the motion. Motion carried 5-0.

Vote by roll call: Ms. Wingate – yea, Mr. Mears – yea, Mr. Collins – yea, 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: July 27th, 2023

Application: C/Z 1987 Longview Jefferson Creek, LLC

Applicant: Longview Jefferson Creek, LLC
1055 Westlakes Drive, Suite #170
Berwyn, PA 19312

Owner: Longview Jefferson Creek, LLC
1055 Westlakes Drive, Suite #170
Berwyn, PA 19312

Site Location: Lying on the southeast side of Double Bridges Road (S.C.R. 363), approximately 0.32 mile southwest of Muddy Neck Road (S.C.R. 361).

Current Zoning: Medium Residential – Residential Planned Community (MR-RPC)

Proposed Zoning: Medium Residential – Residential Planned Community (MR-RPC)

Proposed Use: Request to amend Conditions of Approval for C/Z 1557 (Ordinance No. 1763)

Comprehensive Land Use Plan Reference: Coastal Area

Councilmanic District: Mr. Hudson

School District: Indian River School District

Fire District: Millville Fire Co.

Sewer: Sussex County

Water: Tidewater Utilities, Inc.

Site Area: 63.71 acres +/-

Tax Map ID: 134-17.00-39.00



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: July 20, 2023
RE: Staff Analysis for C/Z 1987 Longview Jefferson Creek, LCC

This memo is to provide background and analysis for the Planning Commission to consider as a part of application C/Z 1987 Longview Jefferson Creek, LCC to be reviewed during the July 27th, 2023, Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Change of Zone for Tax Parcel: 134-17.00-39.00 from a Medium Density Residential – Residential Planned Community (MR-RPC) District to Medium Density Residential – Residential Planned Community (MR-RPC) District requesting to remove Condition #14 from Ordinance No. 1763. The property is located on the southeast side of Double Bridges Road (S.C.R. 363), approximately 0.32 mile southwest of Muddy Neck Road (S.C.R. 361) known as the Preserve at Jefferson Creek. The parcel is comprised of a total area of 63.71 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 Growth Area designation of “Coastal Area.” The adjacent parcels on all sides of the subject property have 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 subject parcel is zoned Medium Density Residential – Residential Planned Community (MR-RPC) District. The adjacent properties to the south and west of the property are zoned Agricultural



Residential (AR-1) District. Properties across Double Bridges Road to the north are also zoned Medium Density Residential (MR) District. Properties to the east are located within the Town Limits of South Bethany.

Changes of Zone Applications within the Vicinity of the Subject Site

Since 2011, there have been two (2) Change of Zones within a 1-mile radius of the Application site.

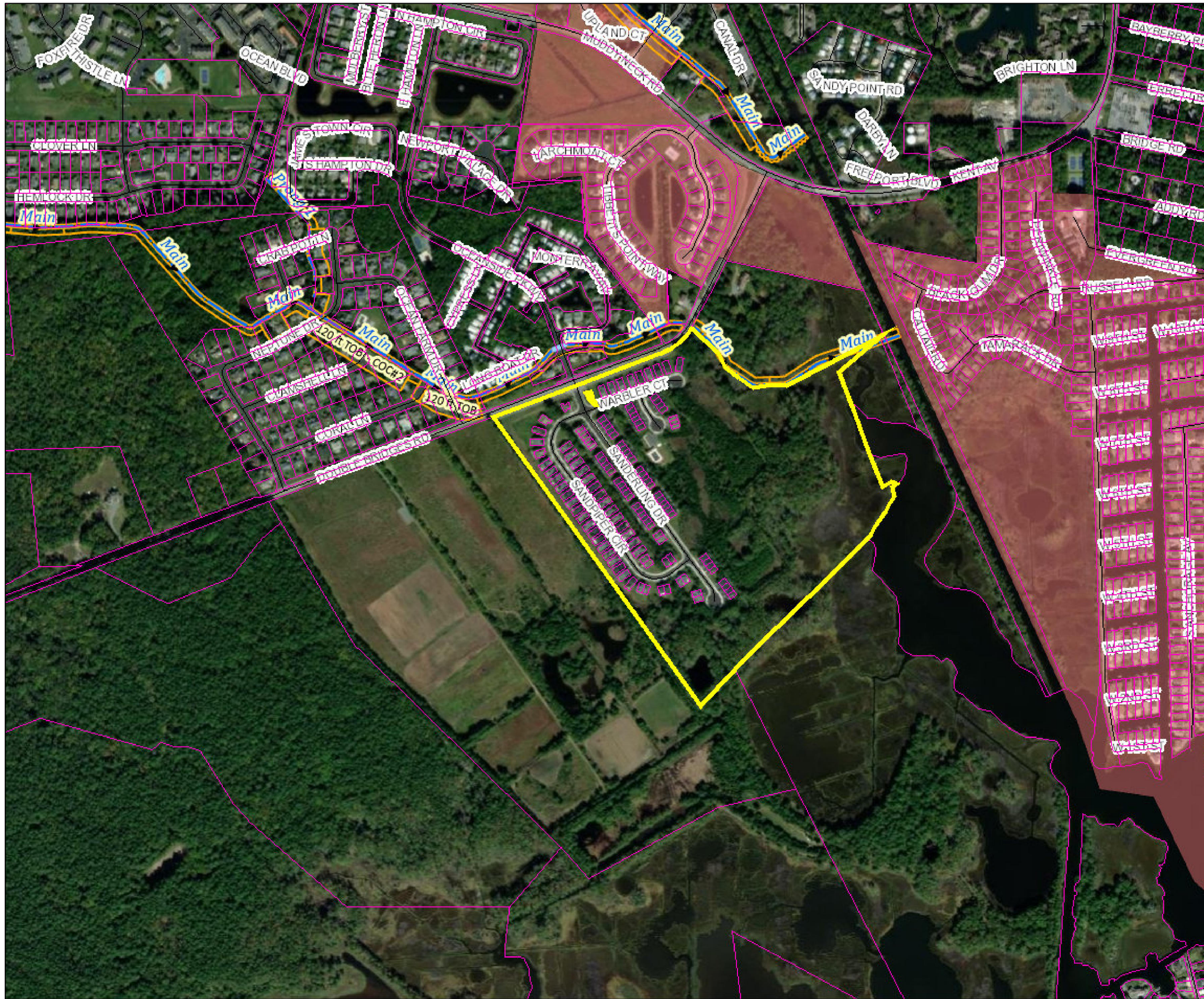
A Supplemental Table has been provided which contains further information regarding the abovementioned Conditional Use Applications which are located within a 1-mile radius of the Application site.

Based on the analysis of the land use, surrounding zoning and uses, a Change of Zone to request to remove Condition #14 of the Conditions of Approval, subject to considerations of scale and impact, could be considered as being consistent with the land use, area zoning and surrounding uses.

<p align="center">Change of Zone Applications (Within a 1.0-mile radius of the subject site)</p>						
Application Number	Application Name	Zoning District	Proposed Zoning	CC Decision	CC Decision Date	Ordinance Number
<u>CZ1931</u>	Lands of Lighthipe, LLC	AR-1	MR-RPC	Approved	10/26/2021	2807
<u>CZ 1768</u>	Convergence Communities	AR-1	MR-RPC	Approved	8/11/15	2411



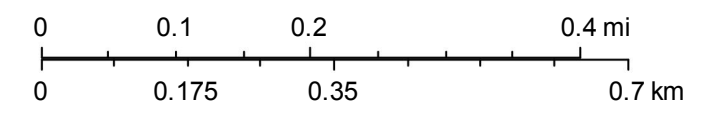
Sussex County

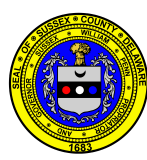


PIN:	134-17.00-39.00	
Owner Name	PRESERVE	AT JEFFERSON CREEK
Book	5738	
Mailing Address	17563 NASSAU COMMONS	
City	LEWES	
State	DE	
Description	THE PRESERVE AT JEFFERSON CREEK	
Description 2	N/A	
Description 3	*29.35 TAXABLE ACRES*	
Land Code		

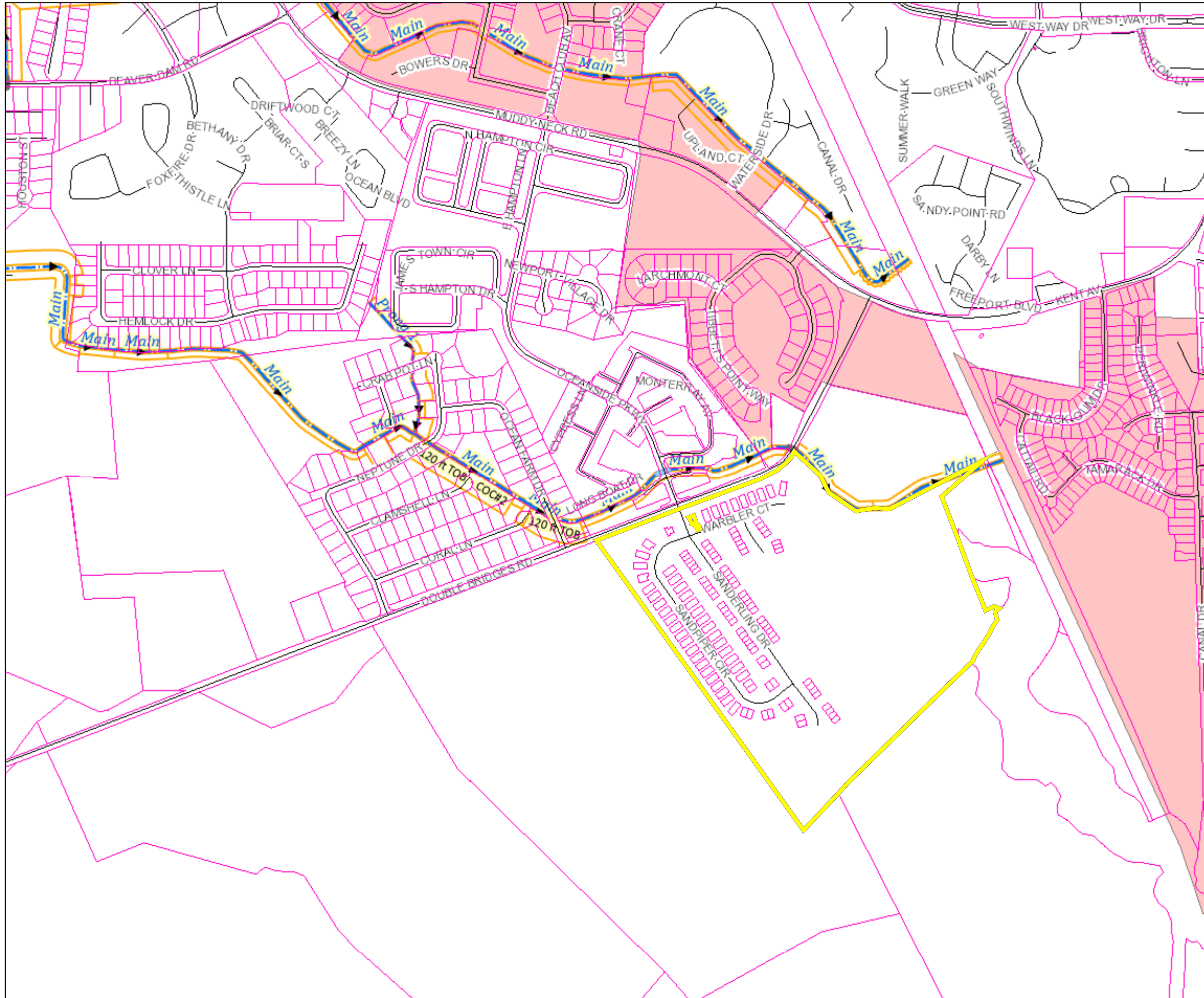
polygonLayer	—	HOA Maintained
Override 1	—	Pipe - DeIDOT
polygonLayer	—	Pipe - Tax Ditch
Override 1	—	Pipe - Private
•••	—	Pond Feature
—	—	Special Access ROW
—	—	Extent of Right-of-Way
—	—	Municipal Boundaries
—	—	TID
Tax Ditch Segments		
—		Tax Ditch Channel
—		DeIDOT Maintained

1:9,028





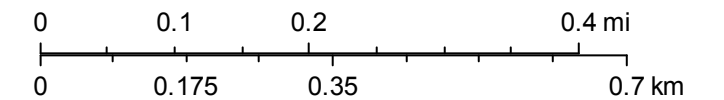
Sussex County



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State	DE
Description	THE PRESERVE AT JEFFERSON CREEK
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Description 3	*29.35 TAXABLE ACRES*
Land Code	

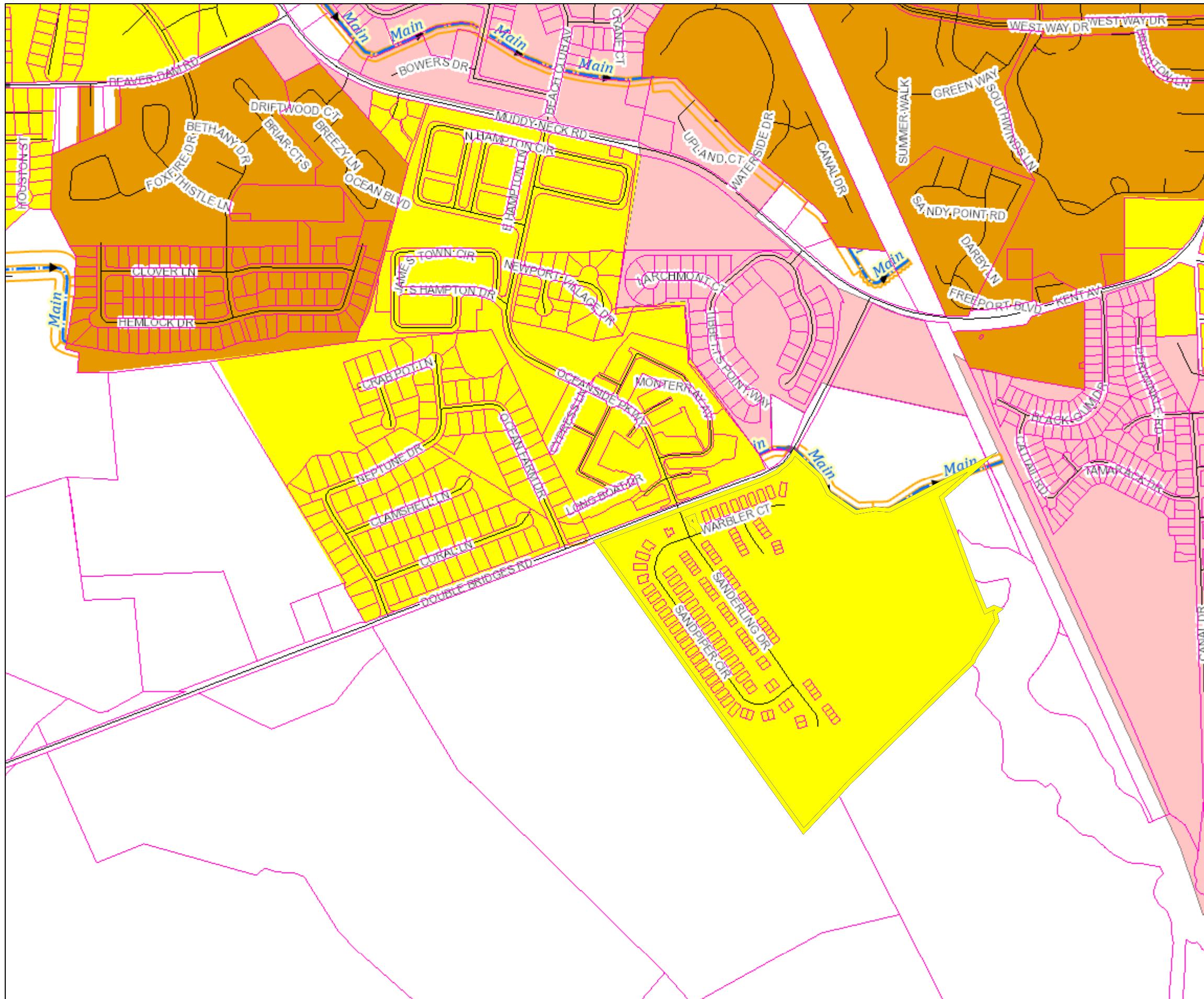
polygonLayer	— HOA Maintained
Override 1	— Pipe - DeIDOT
polygonLayer	— Pipe - Tax Ditch
Override 1	— Pipe - Private
⋯ Tax Parcels	— Pond Feature
— Streets	⊕ Special Access ROW
— County Boundaries	⋯ Extent of Right-of-Way
Tax Ditch Segments	— Municipal Boundaries
— Tax Ditch Channel	⋯ TID
— DeIDOT Maintained	

1:9,028





Sussex County



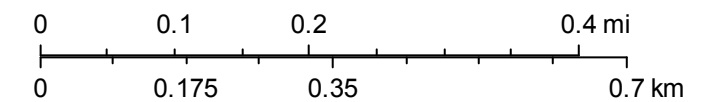
PIN:	134-17.00-39.00
Owner Name	PRESERVE AT JEFFERSON CREEK
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State	DE
Description	THE PRESERVE AT JEFFERSON CREEK
Description 2	N/A
Description 3	*29.35 TAXABLE ACRES*
Land Code	

- polygonLayer**

 - Override 1
- polygonLayer**

 - Override 1
- ⋯ Tax Parcels
- Streets

1:9,028



Introduced: 01/31/23

Council District 4: Mr. Hudson
Tax I.D. No.: 134-17.00-39.00
911 Address: N/A

ORDINANCE NO. ____

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN MR-RPC MEDIUM DENSITY RESIDENTIAL – RESIDENTIAL PLANNED COMMUNITY DISTRICT TO AN MR-RPC MEDIUM DENSITY RESIDENTIAL – RESIDENTIAL PLANNED COMMUNITY DISTRICT TO AMEND CONDITIONS OF APPROVAL FOR CHANGE OF ZONE NO. 1557 (ORDINANCE NO. 1763) FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 63.71 ACRES, MORE OR LESS

WHEREAS, on the 16th day of May 2022, a zoning application, denominated Change of Zone No. 1987 was filed on behalf of Longview Jefferson Creek, 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. 1987 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 [Medium Density Residential - Residential Planned Community District] and adding in lieu thereof the designation Medium Density Residential - Residential Planned Community 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 Double Bridges Road (S.C.R. 363) approximately 0.32 mile southwest of Muddy Neck Road (S.C.R. 361) known as The Preserve at Jefferson Creek, and being more particularly described in the attached legal description prepared by Davis, Bowen & Friedel, Inc. said parcel containing 63.71 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.