

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, FEBRUARY 6, 2024

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, February 6, 2024, 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

Call to Order

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

Mr. Vincent called the meeting to order.

**M 056 24
Approve
Agenda**

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

Motion Adopted: 5 Yeas

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

Minutes

The minutes from January 30, 2024, were approved by consensus.

**Corre-
spondence**

There was no correspondence.

Public comments were heard:

**Public
Comments**

Ms. Tish Galu spoke about affordable and workforce housing in Sussex County.

Mr. John Collier spoke about the TID in Milton.

Mr. Mike Helwich spoke about Chapel Branch apartments.

Mr. Paul Riger spoke about the districts for Planning & Zoning Commission members.

Food Drive Recognition Mr. Lawson recognized those that participated in the Caroling on the Circle Food Drive effort and thanked everyone that volunteered and contributed.

Public Hearing/CDBG A Public Hearing was held for the 2024 Community Development Block Grant application, to be submitted to the Delaware State Housing Authority. The Community Development Block Grant (CDBG) is a federal grant from the Department of HUD to the Delaware State Housing Authority (DSHA). Kent and Sussex Counties compete for funding by making application to DSHA.

Brandy Nauman, Director of Sussex County Community Development & Housing, reported that the guidelines dictate the use of the funding. The funding is used mostly for owner-occupied housing rehabilitation. Rehabilitation includes roofing, doors, windows, electrical, plumbing and energy upgrades. In order to qualify, a home must be owner-occupied, primary residence of the owners, low to moderate income household (80% of AMI or below), the home must be insured or insurable, County taxes and utilities must be current. Mrs. Nauman explained that a lien is placed on every property that receives assistance regardless of the age of the beneficiary. A ten-year zero interest pro-rated lien is placed on the property dependent on how much funding is provided.

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

Mr. Mike Jones, Rehabilitation Program Coordinator reported that project and labor costs have increased. In addition, there is another type of licensing that every contractor has to have in order to deal with the County. This is something that is new that is located online and needs to be completed every year. Mr. Jones stated that it has been a real struggle with the contractors to keep and retain this license. Mrs. Nauman added that this license is for federal funding; anyone that is dealing with federal funds is required to be registered. Mr. Jones shared pictures of some projects that have recently been completed through the program.

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

Mr. Jones stated that Sussex County's application will consist of projects in the County within Rural communities and municipalities. He reported that staff has met with all the municipalities who have asked for the County's assistance to make application to the DSHA, and that the Department has held Public Hearings in all of the municipalities listed which consisted of 11 towns that accepted. He added that many towns are now getting a waiting list for those that are in need for the program.

There were no public comments.

The Public Hearing and public record were closed.

**M 057 24
Adopt
Resolution
No. 001 24**

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to Adopt Resolution No. R 001 24 entitled “AFFIRMATIVELY FURTHERING FAIR HOUSING”.

Motion Adopted: 5 Yeas

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

**M 058 24
Adopt
Resolution
No. 002 24**

A Motion was made by Mr. Schaeffer, seconded by Mr. Rieley to Adopt Resolution No. R 002 24 entitled “AUTHORIZATION TO SUBMIT APPLICATIONS”.

Motion Adopted: 5 Yeas

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

**Delaware
Department
of
Transport-
ation**

Mr. Whitehouse reminded Council that in 2020, the Council adopted and created its first Transportation Improvement District which was the Henlopen TID.

Ms. Sarah Coakley from Delaware Department of Transportation provided Council an update on Transportation Improvement Districts.

Ms. Coakley explained that a transportation improvement district is a geographic area that local government and DelDOT have agreed to do more comprehensive and detailed planning. She then reviewed the benefits of creating a TID which are area comprehensive infrastructure planning, TID projects advance in DelDOT’s CTP quicker, TID fees stay local, equitable treatment of competing developers, known costs for developers and expedited development reviews.

Ms. Coakley reviewed the basics of the Henlopen TID that was established in 2020, after more than 3 years of planning and coordination with Sussex County. It is approximately 24 square miles which is the largest in operation. There is approximately \$311 million in projects, with developers contributing about 24%. There are about 1/3 of the projects in current and proposed CTPs. Currently, there are twenty-two agreements signed and recorded with property owner/developers which is up 8 from last year. In addition, there are 9 developer agreements in process. There is approximately \$1,060,000 in developer contributions collected. There is another \$341,000 in developer right-of-way dedication or construction

**Delaware
Department
of
Transportation
(continued)**

commitments.

Ms. Coakley reported that the update has been completed to evaluate the by-right land use/density changes since 2018 and it was agreed to do an update in 2023. The 2045 traffic projections from the original TID study were used with the addition of land use information and trip generation. In addition, the 2045 traffic analysis with additional development using Synchro TIA was ran.

Ms. Coakley provided status updates on Henlopen TID Improvements:

- **Airport Road Extension, Old Landing Road to SR24: PE underway.**
- **US9 widening, Old Vine Road to US 1: PE underway.**
- **Old Landing Road and Warrington Road intersection: PE underway, project on hold temporarily.**
- **Plantations Road: Phase 1 under construction, Phase 2 in design.**
- **Shady Road and Postal Lane improvements: added to out years of FY23-FY28 CTP (Preliminary Engineering to begin in FY2028).**
- **Mulberry Knoll Road Extension from Cedar Grove Road to US9: added to out years of FY23-FY28 CTP (Preliminary Engineering to begin in FY2028).**
- **US9 widening, Old Vine Road to Dairy Farm Road: proposed FY25-FY30 CTP, PD in FY27 and FY28.**
- **SR24 between Love Creek Bridge and Indian Mission Road: proposed FY25-FY30 CTP, PD in FY28 and FY29.**

Ms. Coakley noted that there is a TID dashboard that is located on the DelDOT website. With the feature, you can zoom in on each TID and click on the improvements to show the status.

Mr. Whitehouse shared information related to the Roxana TID boundaries and land use forecast were then shown.

Mr. Rieley questioned how this impacts areas that are designated as Investment Level 4. Mr. Whitehouse replied that the study has factored in parcels that are known to have wetlands on the parcel and those parcels have been discounted or reduced the number. Mr. Whitehouse added that this is a preliminary analysis.

Mr. Schaeffer asked if municipalities were near the TID area and if they were consulted on their vision. Mr. Whitehouse stated that they have tried their best to draw the boundaries around municipalities.

The next steps for the Roxana TID are for DelDOT to collect updated traffic counts, model traffic impacts of land use forecast, DelDOT and the County to agree on the list of needed TID improvements, conduct public outreach and finalize the Infrastructure Fee Program and Monitoring program.

**Delaware
Department
of
Transport-
ation
(continued)**

The Milton TID boundaries and land use forecast were shown. Currently, the existing TID agreement is between the Town and DelDOT, as such only parcels in Town limits will be able to participate. All parcels in the Town's growth area may not seek or be approved for annexation.

Mr. Rieley stated that there is large development coming down Route 9 with the development of Cool Spring. He noted that the plans calls for the widening of Route 9 out to Dairy Farm Road in the 2025–2030-time frame. Ms. Coakley stated that it would be a planning study for the improvement; not construction. Mr. Rieley added that there is another development in the works across from the Social Security office. So, there are two major developments that are proposed and working their way through the process currently that are within a few miles of each other. In addition, Hudson Road will border this development that is substandard for the amount of traffic that is being proposed. Cave Neck Road is also probably going to be substandard because there are additional developments that are being proposed along that area. Mr. Rieley stated that this area is blowing up and he does not want to create a nightmare. Mr. Whitehouse replied that staff is preparing public hearings for the two applications that Mr. Rieley mentioned. Beyond that process, there is a Coastal Corridor study that staff is working on in conjunction with DelDOT that may have some recommendations that may affect future decision making.

Ms. Coakley noted that the land use forecast is presently based on higher potential zoning categories of Town zoning. If the County joins efforts, the TID requirements would be clearer for property owners/developers; the County would get more of a say in prioritization of TID improvements.

**Adminis-
trator's
Report**

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

1. Projects Receiving Substantial Completion

Per the attached Engineering Department Fact Sheets, the following projects have received Substantial Completion: Millville By the Sea – Model Court 5A effective January 11th; Heritage Shores Circle Pump Station & Force Main and Heritage Shores – Phase 4F (PQ) (Construction Record) effective January 24th ; Sloan Family Property effective January 25th; Walden (formerly Burton's Pond) – Phase 7 (Construction Record) and The Estuary – Phase 4B (Construction Record) effective January 29th; and Scenic Harbor (formerly Estates at Mulberry Knoll & Scenic Manor) – Phase 1 (Construction Record) effective January 30th.

2. Council Meeting Schedule

A reminder that Council will not meet on Tuesday, February 13th. The next monthly regularly scheduled Council meeting will be held on Tuesday, February 20th, at 10:00 a.m.

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

**Ordinance
Related to
Marijuana
Establish-
ments**

Vince Robertson, Assistant County Attorney presented an Ordinance Related to Marijuana Establishments. Mr. Robertson reported that a meeting was held with himself and Mr. Lawson with Commissioner Coupe, newly appointed Marijuana Commissioner for the State of Delaware.

Mr. Robertson discussed House Bill No. 2 which had an effective date of July 5, 2023. It created the OMC, authorized 125 business licenses, established rules & regulations regarding the regulations, established a 15% sales tax and created an implementation timeline. It also established that the municipalities in Sussex County can prohibit marijuana establishments within their municipal borders. On the other hand, it said that the Counties cannot prohibit marijuana within their borders.

Mr. Robertson reviewed the state agency positions that were created for this department. He then reviewed the timeline for implementation, July 5, 2024, the regulations should be adopted. In September of 2024, licenses should start to be accepted and in October of 2024, licenses will start to be issued. Mr. Robertson noted that part of the process to apply for a license is that you need zoning from Sussex County.

Mr. Rieley questioned if it would be more appropriate to make them a conditional use and give future Council's more discretion in approving where these facilities go rather than them being by-right.

Mr. Robertson stated that effectively, the marijuana would be grown indoors or in a greenhouse. Photos were shown of a prior industrial building that was turned into a manufacturing facility. The retail distance requirements were discussed. These include:

- No retail marijuana store shall be located within three miles of any municipal boundary.**
- No retail marijuana store shall be located within three miles of any other Retail Marijuana Store.**
- No retail marijuana store shall be located within three miles of any church, school, college, or substance abuse treatment facility as defined under §2203 of Title 16 of the Delaware Code.**
- Retail Marijuana Stores may only operate between the hours of 7:00 a.m. and 9:00 p.m.**

Mr. Robertson reported that the appropriate zoning districts where cultivation, manufacturing and test would be a permitted use were AR-1. C-

Ordinance Related to Marijuana Establishments (continued) 1, CR-1, C-3, LI-1, CI-2, and HI-1. He added that for C-3, Heavy Commercial District, it would be permitted with a Conditional Use. It would also depend on if they were going into somewhere that is already zoned C-3, if not, they would have to request a rezoning along with a Conditional Use which would include hearing before P&Z Commission and County Council.

Introduction of Proposed Ordinance Mr. Rieley introduced a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 115, ARTICLES I, IV, XI, XIA, XIC, XIII, XIV, AND XV, AND XXV, SECTIONS 115-4, 115-20, 115-77, 115-83.2, 115-83.18, 115-83.19A, 115-94, 115-102 AND 115-194.6 TO REGULATE MARIJUANA ESTABLISHMENTS IN SUSSEX COUNTY.

SC WRF & RB WTP Capital Hans Medlarz, County Engineer presented GHD Amendment 24, change order no. 26 for project C19-17 and change order no. 32 for project C19-11 for Council’s consideration.

M 059 24 Approve GHD Amendment 24 A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, that be it moved, based upon the recommendation of the Sussex County Engineering Department and Finance Department, that Amendment No. 24 in the base engineering contract with GHD, Inc., be approved in the amount not to exceed \$900,000.00, for construction engineering and programing services for the SCRWF treatment upgrade no. 3 and RBWTP CIP upgrade phase 2 projects.

Motion Adopted: 5 Yeas

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

M 060 24 Approve CO No. 26/ Project C19-17 A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, that be it moved based upon the recommendation of the Sussex County Engineering Department, that change order no. 26 for contract C19-17, SCRWF treatment process upgrade no. 3 & RBWTP capital improvement program, phase 2 – electrical construction, be approved, for an increase of \$9,636.87.

Motion Adopted: 5 Yeas

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

M 061 24 Approve CO No. 32/ Project C19-11 A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, that be it moved based upon the recommendation of the Sussex County Engineering Department, that change order no. 32 for contract C19-11, South Coastal WRF treatment process upgrade no. 3 & Rehoboth Beach WTP capital improvement program, phase 2 – general construction, be approved

increasing the contract by \$16,608.23.

Motion Adopted: 5 Yeas

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

**Award
Recommend
/Project
C19-11**

Mark Parker, Assistant County Engineer presented a recommendation to award for Paramedic Station 103 for Council's consideration.

**M 062 24
Approve
Award
Recommen-
dation**

A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer, that be it moved based upon the recommendation of the Sussex County Engineering Department, that the low bid for Paramedic Station 103 in the amount of \$1,812,700.00 be awarded to The Whayland Company.

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/
CZ1996**

Under Old Business, Jamie Whitehouse, Planning & Zoning Director presented a Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR CERTAIN PARCELS OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 51.23 ACRES, MORE OR LESS" filed on behalf of McKee Builders, LLC.

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

**M 063 24
Adopt
Ordinance
No. 2978/
CZ1996**

A Motion was made by Mr. Hudson, seconded by Mrs. Green to Adopt Ordinance No. 2978 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR CERTAIN PARCELS OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 51.23 ACRES, MORE OR LESS" for the reasons given by the Planning & Zoning Commission as follows:

- 1. This Application seeks a change in zone from AR-1 to MR. The purpose of the MR zone is to provide medium-density housing in an area that is expected to become urban in character and where central water and sewer are available.**
- 2. The stated purpose of the MR District is satisfied for this site. Both**

**M 063 24
Adopt
Ordinance
No. 2978/
CZ1996
(continued)**

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

Motion Adopted: 5 Yeas

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

**Old
Business/
CU2402**

Under Old Business, Jamie Whitehouse, Planning & 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 (174 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 51.23 ACRES, MORE OR LESS” filed on behalf of McKee Builders, LLC.

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

**M 064 24
Adopt
Ordinance
No. 2979/
CU2402**

A Motion was made by Mr. Hudson, seconded by Mrs. Green to Adopt Ordinance No. 2979 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY (174 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 51.23 ACRES, MORE OR LESS” for the reasons and conditions given by the Planning & Zoning Commission as follows:

**M 064 24
Adopt
Ordinance
No. 2979/
CU2402
(continued)**

1. **The purpose of the MR zone is to provide housing in an area that is expected to become urban in character and where central water and sewer are available. This conditional use application for multi-family units is in compliance with the purposes of the MR zone.**
2. **This site is located along Central Avenue, where other residential and commercial properties were developed, including other GR, MR, and C-1 zoning and development. The site is also in close proximity to the Town of Ocean View.**
3. **A satisfactory Environmental Assessment and Public Facilities Evaluation Report was submitted by the Applicant and is part of the record for this Application.**
4. **The proposed multi-family conditional use meets the purpose of the Zoning Ordinance in that it promotes the orderly growth of the County in an appropriate location.**
5. **The proposed use is consistent with the County's Comprehensive Land Use Plan. It is in the Coastal Area according to the Plan, which is a Growth Area. The Plan states that medium and higher densities can be appropriate where, like here, there are features such as central water and sewer and nearby commercial uses and employment centers. The Plan also states that a range of housing types should be permitted in the Coastal Area, including single-family homes, townhouses, and multifamily units.**
6. **No parties appeared in opposition to this Application and there is no evidence that this project will adversely affect the neighboring properties, area roadways, or community facilities.**
7. **Non-tidal wetland buffers will be provided and approximately 97% of the woods on the site will be permanently preserved. Also, approximately 29.78 acres or 58.1% of the site will remain as open space.**
8. **All entrance and road improvements will be constructed as directed by DelDOT.**
9. **The project will be served by central water and central sewer.**
10. **This recommendation is subject to the following conditions:**
 - a. **There shall be no more than 174 Units within the development.**
 - b. **Approximately 29.78 acres or 58.1% of the site shall remain as open space.**
 - c. **All entrances, intersections, roadways, and multimodal improvements required by DelDOT shall be completed by the applicant in accordance with DelDOT's determination.**
 - d. **All recreational amenities including the pool, deck, clubhouse, and dog park shall be completed in accordance with the Sussex County Zoning Code.**
 - e. **Central sewer shall be provided to the development. The developer shall comply with all requirements and specifications of the Sussex County Engineering Department.**
 - f. **The development shall be served by a central water system providing adequate drinking water and fire protection as required by applicable regulations.**
 - g. **Approximately 97% of the existing woodlands on the site shall be**

**M 064 24
Adopt
Ordinance
No. 2979/
CU2402
(continued)**

- preserved. These areas shall be marked on the Final Site Plan clearly as “Non-Disturbance Areas” on the site itself.
- h. Stormwater management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements, and the project shall utilize Best Management Practices to construct and maintain these fixtures. The Final Site Plan shall contain the approval of the Sussex Conservation District.**
 - i. Interior street design shall comply with or exceed Sussex County standards.**
 - j. Road naming and addressing shall be subject to the review and approval of the Sussex County Geographic Information Department.**
 - k. The developer shall consult with the local school district’s transportation manager to determine if a school bus stop is necessary. If it is, the location of the bus stop shall be shown on the Final Site Plan.**
 - l. Construction, site work, and deliveries shall only occur on the site between the hours of 7:30 a.m. through 7:00 p.m., Monday through Friday, and between 8:00 a.m. and 2:00 p.m. on Saturdays. No Sunday hours are permitted. A 24-inch by 36-inch “NOTICE” sign confirming these hours in English and Spanish shall be prominently displayed at the site entrance during construction.**
 - m. The Final Site Plan shall include a landscape plan for the development showing the proposed tree and shrub landscape design, including the buffer areas. The landscape plan shall identify all “Limits of Disturbance” within the site and these “Limits of Disturbance” shall be clearly marked on the site itself. The landscape plan shall also include a planting schedule for all buffer areas.**
 - n. The Applicant shall form a Homeowners or Condominium Association that shall be responsible for the maintenance of all interior roadways and parking areas, buildings, buffers, stormwater management areas, recreational amenities, and open space.**
 - o. All lighting on the site shall be downward screened so that it does not shine on neighboring properties or roadways.**
 - p. The recorded Final Site Plan and recorded condominium documents (including the Declaration Plan) shall state that hunting activities exist on nearby properties.**
 - q. There is a Tax Ditch with Tax Ditch Easements that runs through this site. The developer shall verify that it is in compliance with all existing or modified Tax Ditch easements and other requirements.**
 - r. The Final Site Plan shall depict or note these conditions of approval and it shall be subject to the review and approval of the Sussex Planning & Zoning Commission.**

Motion Adopted: 5 Yeas

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

**Old
Business/
CU2381**

Under Old Business, Jamie Whitehouse, Planning & Zoning Director presented 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 PORTION OF CERTAIN PARCELS OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 43.27 ACRES, MORE OR LESS” filed on behalf of Consolidated Edison Development, Inc.

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

**M 065 24
Add
Condition L**

A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer to Condition L to read: Notwithstanding the submitted conceptual site plan, the final site plan shall contain the following conditions:

- **The solar panels, solar farm, or solar array area shall be surrounded by a landscaped buffer strip of open space a minimum of 100 feet from any street lines and a minimum distance of 50 feet from all property lines;**
- **The solar panels, solar farm, or solar array area shall be 200 feet from any dwelling; and**
- **Any transformers or similar equipment and structures shall be centrally located on the site and shall be at least 200 feet from any dwelling.**

Motion Adopted: 5 Yeas

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

**M 066 24
Adopt
Ordinance
No. 2980/
CU2381**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson to Adopt Ordinance No. 2980 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 PORTION OF CERTAIN PARCELS OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 43.27 ACRES, MORE OR LESS” for the reasons and conditions given by the Planning & Zoning Commission as follows and amended by this Council:

1. **The proposed facility is a public utility use under the Sussex County Zoning Code, and it meets the purposes of a Conditional Use because it has a public or semi-public character that is essential and desirable for the general convenience and welfare of Sussex County residents.**
2. **This is an adaptive use of farmland that will preserve it from more**

**M 066 24
Adopt
Ordinance
No. 2980/
CU2381
(continued)**

- intensive development. The solar array will be located on approximately 25.8 acres of a larger 43.27-acre tract.
3. The proposed facility promotes Goal 7.3 of the Sussex County Comprehensive Plan which encourages the use of renewable energy options such as solar arrays. This solar array will benefit residential, business, and municipal subscribers with lower power costs.
 4. This Application was submitted prior to the adoption of Ordinance No. 2920 regarding solar arrays. However, with the conditions imposed as part of these recommendations, it complies with many parts of that Ordinance.
 5. The property is located along Route 9 and backs up to a railroad. The solar array is set back several hundred feet from the boundary with Route 9. It is in an area where other farmland and businesses exist. With the conditions imposed in this recommendation, the proposed use will not have any adverse impact on area properties.
 6. The proposed solar generation facility will not result in any noticeable increase in traffic on area roadways. There are no regular employees at the site, only periodic visits for inspections, maintenance, or repair of the solar panels.
 7. The Applicant has included a Decommissioning Plan in the record for when their solar array is no longer in use.
 8. Based on the record there is no significant noise, glare, dust, or odor that will be generated by the facility.
 9. There will be a buffer of planted vegetation along the boundary of the solar array area facing Route 9 and at the rear of the adjacent properties that front along Route 9 as well as the eastern boundary of the array area to screen it from view.
 10. The proposed use provides a renewable energy source that is a benefit to the residents and businesses of Sussex County.
 11. There was no opposition to this Application.
 12. This recommendation is subject to the following conditions:
 - a. The use shall be for ground-mounted solar arrays. No other types of electric generation shall be permitted at the site.
 - b. The Final Site Plan shall clearly show the limits of the Conditional Use area for this solar array as well as the remaining acreage that is not part of this Conditional Use.
 - c. Any lighting on the facility shall only consist of perimeter lighting needed for security purposes. Any lighting shall be downward screened so that it does not shine on neighboring properties or roadways.
 - d. One unlit sign, not to exceed 32 square feet in size, shall be permitted. The sign shall identify the operator of the solar farm and shall provide contact information in case of emergency.
 - e. The site shall be secured by gated fencing with interwoven screening and a “Knox Box” or similar device to accommodate emergency access by the local fire company or other emergency responders. The fence line and type of screening shall be shown on the Final Site Plan.
 - f. The location of all transformers or similar equipment or structures

**M 066 24
Adopt
Ordinance
No. 2980/
CU2381
(continued)**

- shall be along the railroad right of way as shown on the Final Site Plan.
- g. The entire site, including the area outside the fence, shall be maintained so that it does not become overgrown.**
 - h. Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with all applicable State and County requirements. These facilities shall be operated using Best Management Practices.**
 - i. There shall be a 30-foot-wide buffer of planted vegetation along the boundary of the solar array facing Route 9 and at the rear of the adjacent properties facing Route 9 as well as the eastern boundary of this site. These areas shall be clearly shown on the Final Site Plan. The Final Site Plan shall include a landscape plan showing the proposed tree and shrub landscape design in the buffer area.**
 - j. The Final Site Plan shall include a Decommissioning Plan that includes a financial security to ensure that funds are available for decommissioning and removal of the solar farm in its entirety throughout the life of the Conditional Use.**
 - k. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.**
 - l. Notwithstanding the submitted conceptual site plan, the final site plan shall contain the following conditions:**
 - The solar panels, solar farm, or solar array area shall be surrounded by a landscaped buffer strip of open space a minimum of 100 feet from any street lines and a minimum distance of 50 feet from all property lines;**
 - The solar panels, solar farm, or solar array area shall be 200 feet from any dwelling; and**
 - Any transformers or similar equipment and structures shall be centrally located on the site and shall be at least 200 feet from any dwelling.**

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/
CU2382**

Under Old Business, Jamie Whitehouse, Planning & Zoning Director presented a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND A GR GENERAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 37.04 ACRES, MORE OR LESS” filed on behalf of Consolidated Edison Development, Inc.

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

**M 067 24
Add
Condition
K/CU2382**

A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer to add Condition K to read: Notwithstanding the submitted conceptual site plan, the final site plan shall contain the following conditions:

- The solar panel, solar farm or solar array shall be surrounded by a landscape buffer strip of open space a minimum of 100 feet from any street lines and a minimum distance of 50 feet from all property lines;
- The solar panel, solar farm or solar array shall be 200 feet from any dwelling; and
- Any transformers or similar equipment, and structures shall be centrally located on the site and shall be at least 200 feet from any dwelling.

Motion Adopted: 5 Yeas

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

**M 068 24
Adopt
Ordinance
No. 2981/
CU2382**

A Motion was made by Mr. Schaeffer, seconded by Mr. Rieley to Adopt Ordinance No. 2981 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND A GR GENERAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 37.04 ACRES, MORE OR LESS" for the reasons and conditions given by the Planning & Zoning Commission as follows and as amended by this Council:

1. The proposed facility is a public utility use under the Sussex County Zoning Code, and it meets the purposes of a Conditional Use because it has a public or semi-public character that is essential and desirable for the general convenience and welfare of Sussex County residents.
2. This is an adaptive use of farmland that will preserve it from more intensive development. The solar array will be located on approximately 21.6 acres of a larger 37.04-acre tract.
3. The proposed facility promotes Goal 7.3 of the Sussex County Comprehensive Plan which encourages the use of renewable energy options such as solar arrays. This solar array will benefit residential, business, and municipal subscribers with lower power costs.
4. This Application was submitted prior to the adoption of Ordinance No. 2920 regarding solar arrays. However, with the recommended conditions it complies with many parts of that Ordinance.
5. With the conditions imposed in this recommendation, the proposed use will not have any adverse impact on the neighborhood.

**M 068 24
Adopt
Ordinance
No. 2981/
CU2382
(continued)**

6. The proposed solar generation facility will not result in any noticeable increase in traffic on area roadways. There are no regular employees at the site, only periodic visits for inspections, maintenance, or repair of the solar panels.
7. The array area is set back from Kendale Road by more than 200 feet. Also, the solar array is largely in the open areas of this property, and it is largely surrounded by existing forest.
8. The Applicant has included a Decommissioning Plan in the record for when their solar array is no longer in use.
9. Based on the record there is no significant noise, glare, dust, or odor that will be generated by the facility.
10. The proposed use provides a renewable energy source that is a benefit to the residents and businesses of Sussex County.
11. There was no opposition to this Application.
12. This recommendation is subject to the following conditions:
 - a. The use shall be for ground-mounted solar arrays. No other types of electric generation shall be permitted at the site.
 - b. The Final Site Plan shall clearly show the limits of the Conditional Use area for this solar array as well as the remaining acreage that is not part of this Conditional Use and the undisturbed forested areas.
 - c. Any lighting on the facility shall only consist of perimeter lighting needed for security purposes. Any lighting shall be downward screened so that it does not shine on neighboring properties or roadways.
 - d. One unlit sign, not to exceed 32 square feet in size, shall be permitted. The sign shall identify the operator of the solar farm and shall provide contact information in case of emergency.
 - e. The site shall be secured by gated fencing with interwoven screening and a “Knox Box” or similar device to accommodate emergency access by the local fire company or other emergency responders. The fence line and type of screening shall be shown on the Final Site Plan.
 - f. The location of all transformers or similar equipment or structures shall be shown on the Final Site Plan.
 - g. The entire site, including the area outside the fence, shall be maintained so that it does not become overgrown.
 - h. Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with all applicable State and County requirements. These facilities shall be operated using Best Management Practices.
 - i. The Final Site Plan shall include a Decommissioning Plan that includes a financial security to ensure that funds are available for decommissioning and removal of the solar farm in its entirety throughout the life of the Conditional Use.
 - j. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.
 - k. Notwithstanding the submitted conceptual site plan, the final site plan shall contain the following conditions:
 - The solar panel, solar farm or solar array shall be

M 068 24
Adopt
Ordinance
No. 2981/
CU2382
(continued)

surrounded by a landscape buffer strip of open space a minimum of 100 feet from any street lines and a minimum distance of 50 feet from all property lines;

- The solar panel, solar farm or solar array shall be 200 feet from any dwelling and;
- Any transformers or similar equipment, and structures shall be centrally located on the site and shall be at least 200 feet from any dwelling.

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/
CU2383

Under Old Business, Jamie Whitehouse, Director of Planning & Zoning presented 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 30.1 ACRE PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 143.09 ACRES, MORE OR LESS” filed on behalf of Consolidated Edison Development, Inc.

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

M 069 24
Adopt
Ordinance
No. 2982/
CU2383

A Motion was made by Mr. Rieley, seconded by Mr. Hudson to Adopt Ordinance No. 2982 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 30.1 ACRE PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 143.09 ACRES, MORE OR LESS” for the reasons and conditions given by the Planning & Zoning Commission as follows:

- 1. The proposed facility is a public utility use under the Sussex County Zoning Code, and it meets the purposes of a Conditional Use because it has a public or semi-public character that is essential and desirable for the general convenience and welfare of Sussex County residents.**
- 2. This is an adaptive use of farmland that will preserve it from more intensive development. The solar array will be located on approximately 30.1 acres of a larger 143.09-acre tract.**
- 3. The proposed facility promotes Goal 7.3 of the Sussex County Comprehensive Plan which encourages the use of renewable energy options such as solar arrays. This solar array will benefit residential, business, and municipal subscribers with lower power costs.**

**M 069 24
Adopt
Ordinance
No. 2982/
CU2383
(continued)**

4. **This Application was submitted prior to the adoption of Ordinance No. 2920 regarding solar arrays. However, with the recommended conditions it complies with many parts of that Ordinance.**
5. **The proposed solar array is located on an underperforming part of the property owners' farm. The soils in this location are very sandy and nearly impossible to irrigate. This use will keep the property in the farming and preserve it from more intensive development.**
6. **With the conditions imposed in this recommendation, the proposed use will not have any adverse impact on the neighborhood. The solar array is also approximately 1,500 feet from the nearest roadway.**
7. **The proposed solar generation facility will not result in any noticeable increase in traffic on area roadways. There are no regular employees at the site, only periodic visits for inspections, maintenance, or repair of the solar panels.**
8. **The Applicant has included a Decommissioning Plan in the record for when their solar array is no longer in use.**
9. **Based on the record there is no significant noise, glare, dust, or odor that will be generated by the facility.**
10. **Because this solar array is within the property owners' larger agricultural landholdings and farming operations, no buffer is necessary.**
11. **The proposed use provides a renewable energy source that is a benefit to the residents and businesses of Sussex County.**
12. **There was no opposition to this Application.**
13. **This recommendation is subject to the following conditions:**
 - a. **The use shall be for ground-mounted solar arrays. No other types of electric generation shall be permitted at the site.**
 - b. **The Final Site Plan shall clearly show the limits of the Conditional Use area for this solar array as well as the remaining acreage that is not part of this Conditional Use.**
 - c. **Any lighting on the facility shall only consist of perimeter lighting needed for security purposes. Any lighting shall be downward screened so that it does not shine on neighboring properties or roadways.**
 - d. **One unlit sign, not to exceed 32 square feet in size, shall be permitted. The sign shall identify the operator of the solar farm and shall provide contact information in case of emergency.**
 - e. **The site shall be secured by gated fencing and a "Knox Box" or similar device to accommodate emergency access by the local fire company or other emergency responders. The fence line shall be shown on the Final Site Plan.**
 - f. **The location of all transformers or similar equipment or structures shall be shown on the Final Site Plan.**
 - g. **The entire site, including the area outside the fence, shall be maintained so that it does not become overgrown.**
 - h. **Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with all applicable State and County requirements. These facilities shall be operated using Best Management Practices.**

**M 069 24
Adopt
Ordinance
No. 2982/
CU2383
(continued)**

- i. The Final Site Plan shall include a Decommissioning Plan that includes a financial security to ensure that funds are available for decommissioning and removal of the solar farm in its entirety throughout the life of the Conditional Use.**
- j. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.**

Motion Adopted: 5 Yeas

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

**Old
Business/
CU2384**

Under Old Business, Jamie Whitehouse, Planning & Zoning Director presented a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURALRESIDENTIAL DISTRICT FOR A SOLAR FARM ON A 19.61 ACRE, PORTION, MORE OR LESS, OF A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 74.96 ACRES, MORE OR LESS” filed on behalf of Consolidated Edison Development, Inc.

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

**M 070 24
Amend
Condition I/
CU2384**

A Motion was made by Mrs. Green, seconded by Mr. Schaeffer, to amend Condition I to read Notwithstanding the submitted conceptual site plan, the final site plan shall contain the following conditions:

- The solar panel, solar farm or solar array shall be surrounded by a landscape buffer strip of open space a minimum of 100 feet from any street lines and a minimum distance of 50 feet from all property lines;**
- The solar panel, solar farm or solar array shall be 200 feet from any dwelling; and**
- Any transformers or similar equipment and structures shall be centrally located on the site and shall be at least 200 feet from any dwelling.**

Motion Adopted: 5 Yeas

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

**M 071 24
Adopt
Ordinance
No. 2983/**

A Motion was made by Mrs. Green, seconded by Mr. Hudson to Adopt Ordinance No. 2983 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURALRESIDENTIAL DISTRICT FOR A SOLAR FARM ON

CU2384

A 19.61 ACRE, PORTION, MORE OR LESS, OF A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 74.96 ACRES, MORE OR LESS” for the reasons and conditions given by the Planning & Zoning Commission as follows and as amended by this Council:

- 1. The proposed facility is a public utility use under the Sussex County Zoning Code, and it meets the purposes of a Conditional Use because it has a public or semi-public character that is essential and desirable for the general convenience and welfare of Sussex County residents.**
- 2. This is an adaptive use of farmland that will preserve it from more intensive development. The solar array will be located on approximately 18.74 acres of a larger 74.96-acre tract.**
- 3. The proposed facility promotes Goal 7.3 of the Sussex County Comprehensive Plan which encourages the use of renewable energy options such as solar arrays. There was testimony that this solar array would benefit residential, business, and municipal subscribers with lower power costs.**
- 4. This Application was submitted prior to the adoption of Ordinance No. 2920 regarding solar arrays. However, with the recommended conditions it will comply with many parts of this Ordinance.**
- 5. With the conditions imposed in this recommendation, the proposed use will not have any adverse impact on the neighborhood.**
- 6. The property owners have stated that they owned this property for more than 70 years, farming it since 1973 and training racehorses. They are no longer training the horses, and this use will keep the land in the family and prevent it from being developed with a more intensive use.**
- 7. The proposed solar generation facility will not result in any noticeable increase in traffic on area roadways. There are no regular employees at the site, only periodic visits for inspections, maintenance, or repair of the solar panels.**
- 8. The Applicant has included a Decommissioning Plan in the record for when their solar array is no longer in use.**
- 9. Based on the record there is no significant noise, glare, dust, or odor that will be generated by the facility.**
- 10. There will be a buffer of planted vegetation along the northern boundary of this site to screen it from the view of the houses under construction on the adjacent property.**
- 11. The proposed use provides a renewable energy source that is a benefit to the residents and businesses of Sussex County.**
- 12. This recommendation is subject to the following conditions:**
 - a. The use shall be for ground-mounted solar arrays. No other types of electric generation shall be permitted at the site.**
 - b. The Final Site Plan shall clearly show the limits of the Conditional Use area for this solar array as well as the remaining acreage that is not part of this Conditional Use.**
 - c. Any lighting on the facility shall only consist of perimeter lighting needed for security purposes. Any lighting shall be downward**

**M 071 24
Adopt
Ordinance
No. 2983/
CU2384
(continued)**

- screened so that it does not shine on neighboring properties or roadways.
- d. One unlit sign, not to exceed 32 square feet in size, shall be permitted. The sign shall identify the operator of the solar farm and shall provide contact information in case of emergency.
 - e. The site shall be secured by gated fencing with interwoven screening and a “Knox Box” or similar device to accommodate emergency access by the local fire company or other emergency responders. The fence line and type of screening shall be shown on the Final Site Plan.
 - f. All transformers or similar equipment or structures shall be centrally located within the solar array, and they shall be shown on the Final Site Plan.
 - g. The entire site, including the area outside the fence, shall be maintained so that it does not become overgrown.
 - h. Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with all applicable State and County requirements. These facilities shall be operated using Best Management Practices.
 - i. Notwithstanding the submitted conceptual site plan, the final site plan shall contain the following conditions: The solar panel, solar farm or solar array shall be surrounded by a landscape buffer strip of open space a minimum of 100 feet from any street lines and a minimum distance of 50 feet from all property lines. The solar panel, solar farm or solar array shall be 200 feet from any dwelling and any transformers or similar equipment, and structures shall be centrally located on the site and shall be at least 200 feet from any dwelling.
 - j. The Final Site Plan shall include a Decommissioning Plan that includes a financial security to ensure that funds are available for decommissioning and removal of the solar farm in its entirety throughout the life of the Conditional Use.
 - k. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.

Motion Adopted: 5 Yeas

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

**Old
Business/
CU2385**

Under Old Business, Jamie Whitehouse, Director of Planning & Zoning presented a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR A SOLAR FARM ON A 17.45 ACRE PORTION, MORE OR LESS, OF A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 29.45 ACRES, MORE OR LESS” filed on behalf of Consolidated Edison Development, Inc.

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

**M 072 24
Adopt
Ordinance
No. 2984/
CU2385**

A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer to Adopt Ordinance No. 2984 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR A SOLAR FARM ON A 17.45 ACRE PORTION, MORE OR LESS, OF A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 29.45 ACRES, MORE OR LESS” for the reasons and conditions given by the Planning & Zoning Commission as follows:

1. The proposed facility is a public utility use under the Sussex County Zoning Code, and it meets the purposes of a Conditional Use because it has a public or semi-public character that is essential and desirable for the general convenience and welfare of Sussex County residents.
2. This is an adaptive use of farmland that will preserve it from more intensive development. The solar array will be located on approximately 17.45 acres of a larger 29.45-acre tract.
3. The proposed facility promotes Goal 7.3 of the Sussex County Comprehensive Plan which encourages the use of renewable energy options such as solar arrays. There was testimony that this solar array would benefit residential, business, and municipal subscribers with lower power costs.
4. This Application was submitted prior to the adoption of Ordinance No. 2920 regarding solar arrays. However, with the recommendations it will comply with many parts of that Ordinance.
5. The solar array area is set back from the nearest road, and with the conditions imposed in this recommendation, the proposed use will not have any adverse impact on the neighborhood.
6. The proposed solar generation facility will not result in any noticeable increase in traffic on area roadways. There are no regular employees at the site, only periodic visits for inspections, maintenance, or repair of the solar panels.
7. The Applicant has included a Decommissioning Plan in the record for when their solar array is no longer in use.
8. Based on the record there is no significant noise, glare, dust, or odor that will be generated by the facility.
9. There will be a buffer of planted vegetation along the southern boundary of this site along with the boundary between the array area and the adjacent Tax Map Parcel No. 532-19.00-58.00 where no vegetation currently exists to screen it from view.
10. The proposed use provides a renewable energy source that is a benefit to the residents and businesses of Sussex County.
11. There was no opposition to this Application.
12. This recommendation is subject to the following conditions:
 - a. The use shall be for ground-mounted solar arrays. No other types of

**M 072 24
Adopt
Ordinance
No. 2984/
CU2385
(continued)**

- electric generation shall be permitted at the site.
- b. The Final Site Plan shall clearly show the limits of the Conditional Use area for this solar array as well as the remaining acreage that is not part of this Conditional Use.
- c. Any lighting on the facility shall only consist of perimeter lighting needed for security purposes. Any lighting shall be downward screened so that it does not shine on neighboring properties or roadways.
- d. One unlit sign, not to exceed 32 square feet in size, shall be permitted. The sign shall identify the operator of the solar farm and shall provide contact information in case of emergency.
- e. The site shall be secured by gated fencing with interwoven screening and a “Knox Box” or similar device to accommodate emergency access by the local fire company or other emergency responders. The fence line and type of screening shall be shown on the Final Site Plan.
- f. The location of all transformers or similar equipment or structures shall be centrally located within the array area and shall be shown on the Final Site Plan.
- g. The entire site, including the area outside the fence, shall be maintained so that it does not become overgrown.
- h. Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with all applicable State and County requirements. These facilities shall be operated using Best Management Practices.
- i. There shall be a 30-foot-wide buffer of planted vegetation along the southern boundary of this array area along with the boundary between the array and the adjacent parcel #532-19.00-58.00 where no vegetation currently exists. These areas shall be clearly shown on the Final Site Plan. The Final Site Plan shall include a landscape plan showing the proposed tree and shrub landscape design in the buffer area.
- j. The Final Site Plan shall include a Decommissioning Plan that includes a financial security to ensure that funds are available for decommissioning and removal of the solar farm in its entirety throughout the life of the Conditional Use.
- k. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.

Motion 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 a grant request for Council’s consideration.

**M 073 24
Laurel**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson to give \$4,000 (\$3,000 from Mr. Vincent’s Councilmanic Grant Account and \$1,000 from

Historical Society **Mr. Rieley's Councilmanic Grant Account) to the Laurel Historical Society for Restoration of Hitchens Homestead.**

Motion Adopted: 5 Yeas

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

Ord. Intros **There were no Ordinances for introduction.**

CC Member Comments **There were no Council Member comments.**

M 074 24 **At 12:03 p.m., A Motion was made by Mr. Hudson, seconded by Mr. Rieley to go into Executive Session for the purpose of discussing matters related to land acquisition.**

Go Into Executive Session

Motion Adopted: 5 Yeas

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

Executive Session **At 12:04 p.m., an Executive Session of the Sussex County Council was held in the Council Chambers to discuss matters related to land acquisition. The Executive Session concluded at 12:17 p.m.**

M 075 24 **At 12:20 p.m., a Motion was made by Mr. Hudson, seconded by Mr. Schaeffer to come out of Executive Session back into Regular Session.**

Reconvene

Motion Adopted: 5 Yeas

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

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

M 076 24 **A Motion was made by Mr. Hudson, seconded by Mr. Rieley to adjourn at 12:20 p.m.**

Adjourn

Motion Adopted: 5 Yeas

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

Respectfully submitted,

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

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