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Sussex County

DELAWARE
sussexcountyde.gov

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

PLANNING & ZONING COMMISSION

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



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JAMIE WHITEHOUSE, AICP, MRTPI
DIRECTOR OF PLANNING & ZONING

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET
Planning Commission Public Hearing Date: July 14th, 2022

Application: C/U 2300 MRBP, LLC

Applicant: MRBP, LLC
5973 Smithy’s Lane
Salisbury, MD 21801

Owner: MRBP, LLC
5973 Smithy’s Lane
Salisbury, MD 21801

Site Location: Lying on the southwest side of McCary Road (S.C.R. 385), approximately 857 feet south of Frankford School Road (S.C.R. 92).

Current Zoning: Agricultural Residential (AR-1) District

Proposed Use: Borrow Pit

Comprehensive Land Use Plan Reference: Coastal Area

Councilmanic District: Mr. Hudson

School District: Indian River School District

Fire District: Roxana Fire Department

Sewer: Sussex County

Water: Artesian

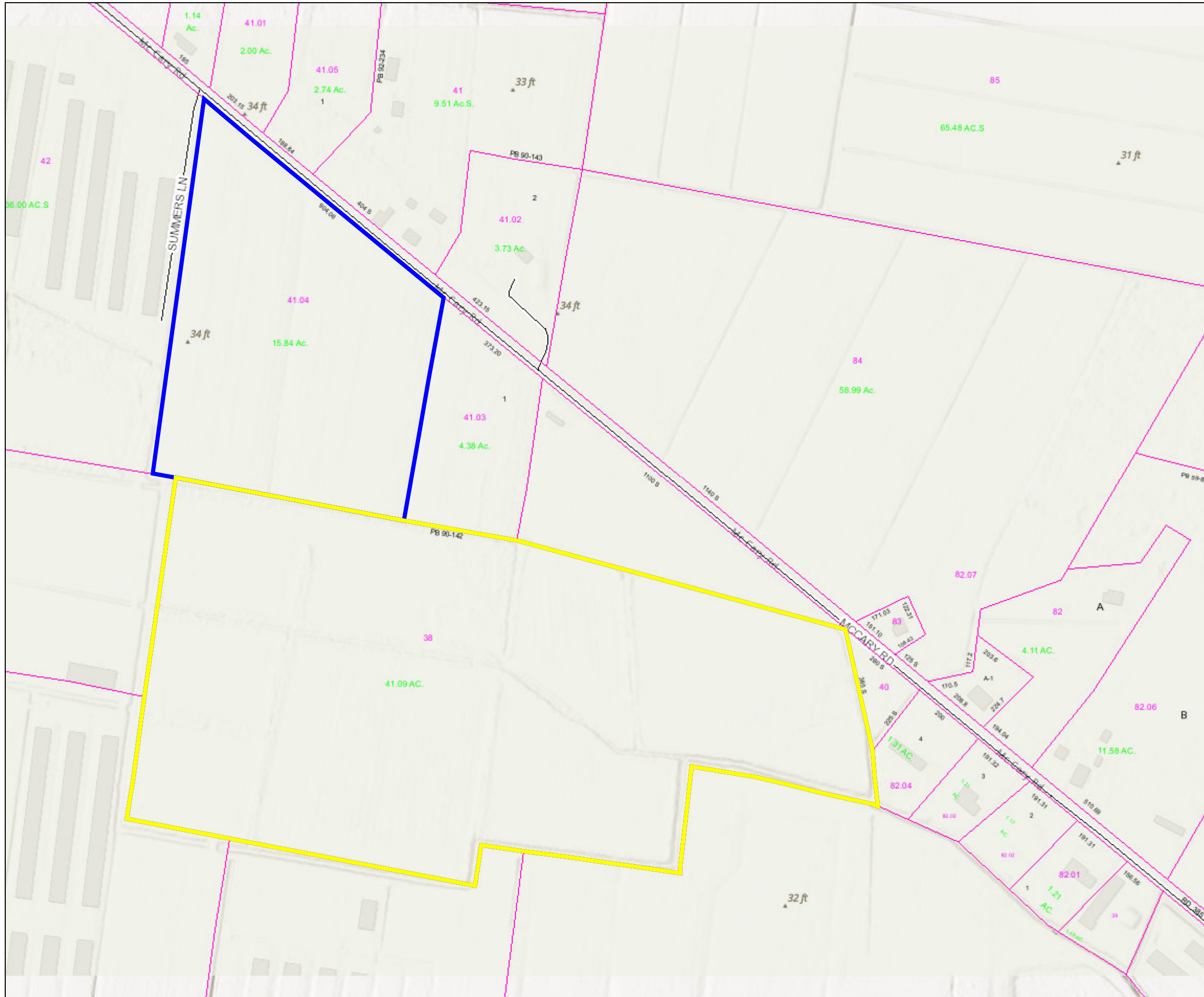
Site Area: 56.93 acres +/- (per County’s online map)
56.71 acres +/- (as indicated on Application)

Tax Map IDs.: 533-5.00-38.00 & 41.04





Sussex County



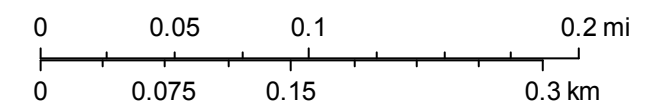
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Owner Name	MRBP LLC
Book	5447
Mailing Address	5973 SMITHYS LN
City	SALISBURY
State	MD
Description	SW/RT 385
Description 2	
Description 3	
Land Code	

- polygonLayer**

 - Override 1
- polygonLayer**

 - Override 1
- Tax Parcels
- Streets
- County Boundaries

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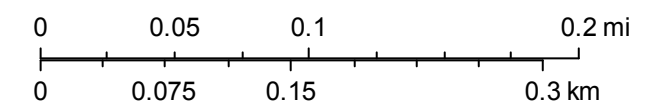
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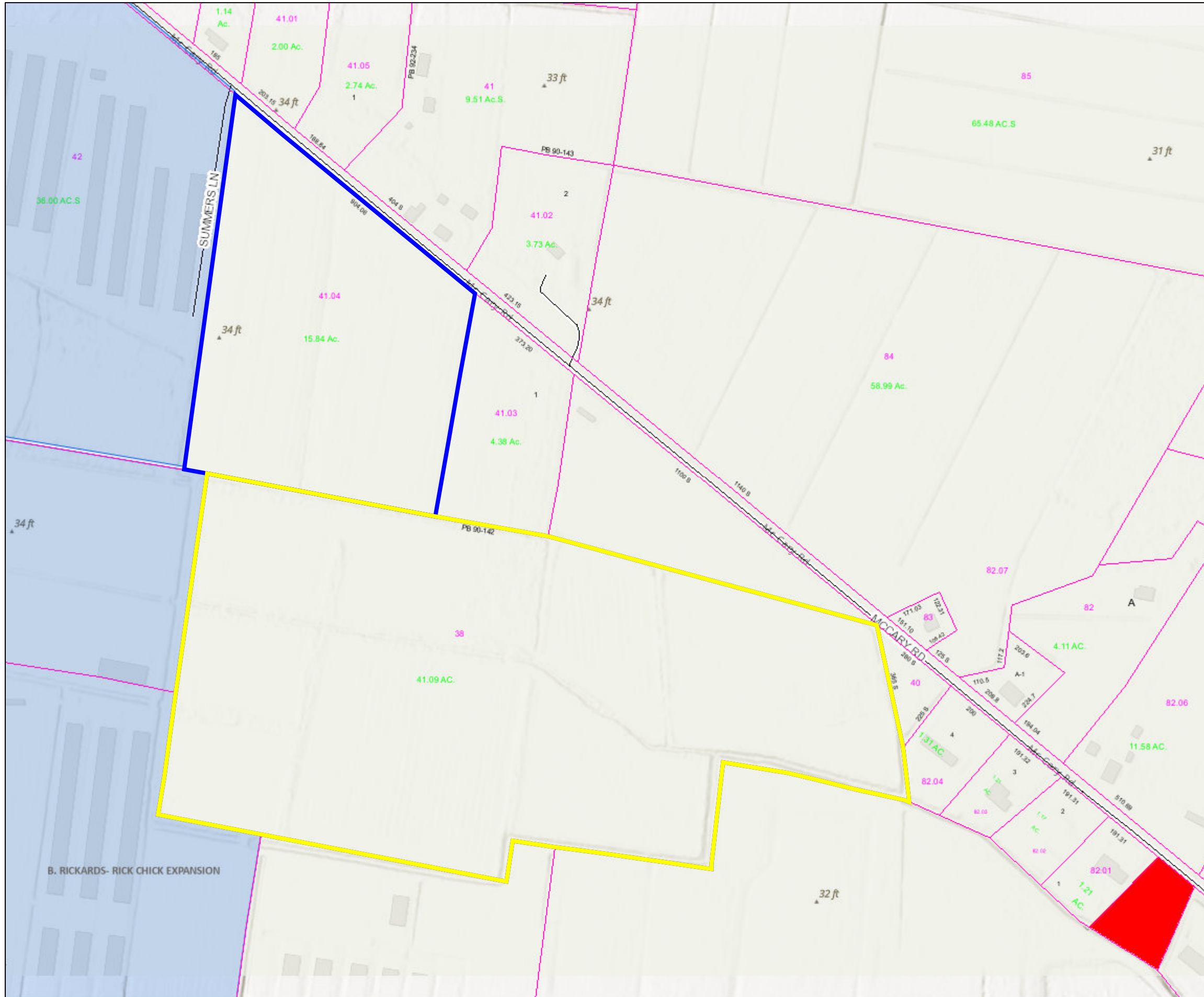
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Sussex County



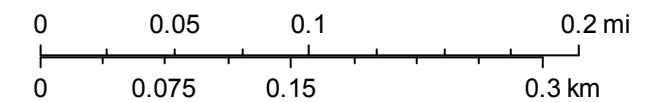
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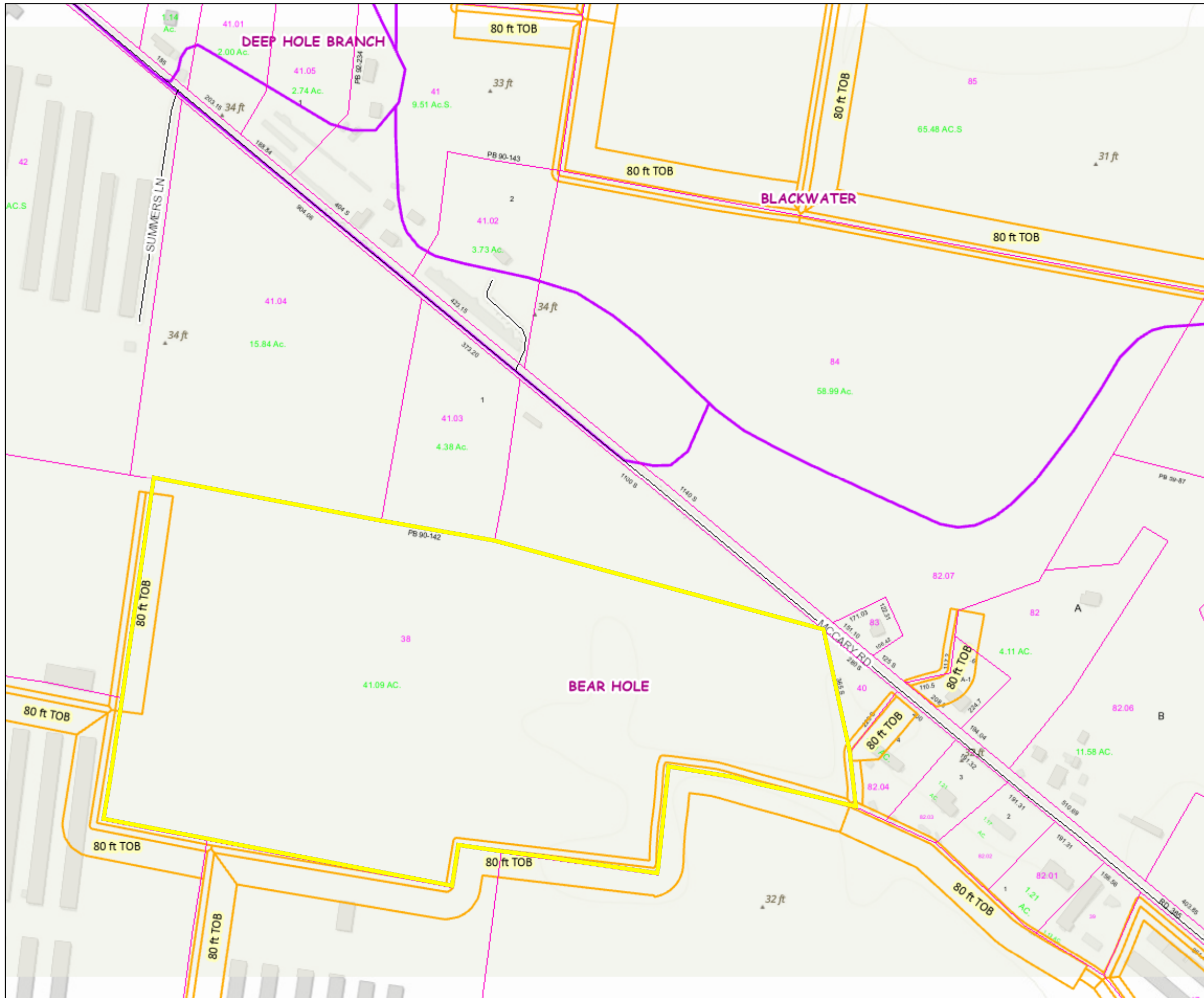
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- Streets

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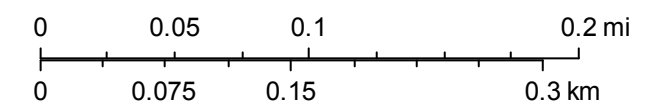
Sussex County



PIN:	533-5.00-38.00
Owner Name	MRBP LLC
Book	5447
Mailing Address	5973 SMITHYS LN
City	SALISBURY
State	MD
Description	SW/RT 385
Description 2	N/A
Description 3	N/A
Land Code	

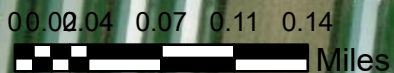
- polygonLayer**
 - Override 1
- polygonLayer**
 - Override 1
- Tax Parcels
- Streets
- County Boundaries
- Flood Zones 2018**
 - 0.2 PCT ANNUAL CHANCE FLOOD HAZARD
 - A
 - AE
 - AO
 - OPEN WATER
 - VE
 - Extent of Right-of-Way
 - Approx. Watershed Boundary

1:4,514





C/U 2300 MRBP, LLC
Location Map
(NOTE: Buffer enclosing 210 feet of Subject Site)



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Memorandum

To: Sussex County Planning Commission Members
From: Ms. Lauren DeVore, Planner III
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant
Date: June 13, 2022
RE: Staff Analysis for C/U 2300 MRBP, LLC

This memo is to provide background and analysis for the Planning Commission to consider as a part of application C/U 2300 MRBP, LLC to be reviewed during the July 14, 2022, Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Conditional Use for Tax Parcels 533-5.00-38.00 and 41.04 to allow for a borrow pit operation and other ancillary related uses. The property is lying on the southwest side of McCary Road (S.C.R. 385), approximately 857 feet south of Frankford School Road (S.C.R. 92). The property consists of 56.93 acres +/-.

Further Site Considerations

County records indicate that there is a Tax Ditch located on the property (specifically on parcel 38.00) which spans the entire perimeter of this parcel known as the Bear Hole Tax Ditch. There is a related Tax Ditch right-of-way on the property as well which runs along the western, southern and eastern side of the property. The Tax Ditch ROW is measured 80-ft from the Top of Bank (TOB) of the tax ditch.

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

The property is located within Flood Zone "X" – Areas determined to be outside of the 100-year Floodplain.

Agency Comments Received

In accordance with §115-172(D) of the Sussex County Code, the project plans were sent to the Sussex County Technical Advisory Committee (TAC) for purposes of agency review and receipt of agency review comments. All comments received have been collated and included in the Commission's packet this evening.

Comprehensive Plan Analysis

The 2018 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be developed. As part of the Comprehensive Plan, a Future Land Use Map is included to help determine how land should be zoned to ensure responsible development. The Future Land Use map in the plan indicates that the subject property has land use designation



of Coastal Area.” All surrounding properties to the north, south, east and west of the subject site contain the Future Land Use Map designation of “Coastal Area.”

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

Zoning Information

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

The property (to include both Tax Parcels) is zoned Agricultural Residential (AR-1) District. The adjacent parcels to the north, south, west and east of subject property are zoned Agricultural Residential (AR-1) District. The properties to the north on the opposite side of McCary Road (S.C.R. 385) are also zoned Agricultural Residential (AR-1) District.

It should be noted that there is a single parcel to the southeast that is zoned General Commercial (C-1).

Existing Conditional Uses within the Vicinity of the Subject Site

Since 1970, there have been three (3) Conditional Use applications within a 0.25-mile radius of the application site. The first application is for C/U 1468 Lane M. Brown to allow for a playing area for paintball games within an Agricultural Residential (AR-1) District. The Planning and Zoning Commission recommended approval for the use at their meeting of Thursday, November 14, 2002. The Sussex County Council approved the use at their meeting of Tuesday, December 10, 2002 and the change was adopted through Ordinance No. 1575. The second application is for C/U 2256 Jerry Meiklejohn, LLC to allow for hardscaping, outdoor living construction and commercial business within an Agricultural Residential (AR-1) District. The Planning and Zoning Commission recommended approval for the use at their meeting of August 12, 2021. The Sussex County Council approved the use at their meeting of Tuesday, August 31, 2021 and the change was adopted through Ordinance No. 2796. The third application is for C/U 2288 Broom Solar Partners to allow for a solar farm to be located within an Agricultural Residential (AR-1) District. The Planning and Zoning Commission recommended approval for the use at their meeting of Thursday, March 10, 2022. The Sussex County Council approved the use at their meeting of Tuesday, March 22, 2022 and the change was adopted through Ordinance No. 2841.

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

Conditional Use Applications (w/in a 0.25 mile radius of the subject site)*								
Application Number	Application Name	Current Zoning	Proposed Use	P&Z Decision	P&Z Decision Date	CC Decision	CC Decision Date	Ordinance Number
C/U 1468	Lane M. Brown	AR-1	Playing Area for Paintball Games	Recommended Approval	11/14/2002	Approved	12/10/2002	1575
C/U 2256	Jerry Micklejohn, LLC	AR-1	Hardscaping, outdoor living construction & commercial business	Recommended Approval	11/12/2021	Approved	8/31/2021	2796
C/U 2288	Broom Solar Partners	AR-1	Solar Farm	Recommended Approval	3/10/2022	Approved	3/22/2022	2841

File #: CU 2300
Application # 202110673

Planning & Zoning Commission Application Sussex County, Delaware

Sussex County Planning & Zoning Department
2 The Circle (P.O. Box 417) Georgetown, DE 19947
302-855-7878 ph. 302-854-5079 fax

Type of Application: (please check applicable)

Conditional Use

Zoning Map Amendment

Site Address of Conditional Use/Zoning Map Amendment

McCary Road, Frankford, DE

Type of Conditional Use Requested:

Borrow Pit Operation.

Tax Map #: 533-5.00-38.00 & 533-5.00-41.04

Size of Parcel(s): 56.71 +/-

Current Zoning: AR-1

Proposed Zoning: AR-1

Size of Building: N/A

Land Use Classification: Agricultural

Water Provider: Artesian

Sewer Provider: Sussex County

Applicant Information

Applicant Name: MRBP, LLC

Applicant Address: 5973 Smithy's Lane

City: Salisbury

State: MD

Zip Code: 21801

Phone #: (410) 251-9568

E-mail: lmyrick@gmbnet.com

Owner Information

Owner Name: MRBP, LLC

Owner Address: 5973 Smithy's Lane

City: Salisbury

State: MD

Zip Code: 21801

Phone #: (410) 251-9568

E-mail: lmyrick@gmbnet.com

Agent/Attorney/Engineer Information

Agent/Attorney/Engineer Name: George, Miles & Buhr, LLC - Stephen L. Marsh

Agent/Attorney/Engineer Address: 206 West Main Street

City: Salisbury

State: MD

Zip Code: 21801

Phone #: (410) 742-3115

E-mail: smarsh@gmbnet.com



Check List for Sussex County Planning & Zoning Applications

The following shall be submitted with the application

- ✓ **Completed Application**
- ✓ **Provide eight (8) copies of the Site Plan or Survey of the property**
 - Survey shall show the location of existing or proposed building(s), building setbacks, parking area, proposed entrance location, etc.
 - Provide a PDF of Plans (may be e-mailed to a staff member)
 - Deed or Legal description
- ✓ **Provide Fee \$500.00**
- ✓ **Optional - Additional information for the Commission/Council to consider** (ex. architectural elevations, photos, exhibit books, etc.) If provided submit 8 copies and they shall be submitted a minimum of ten (10) days prior to the Planning Commission meeting.
- ✓ **Please be aware that Public Notice will be sent to property owners within 200 feet of the subject site and County staff will come out to the subject site, take photos and place a sign on the site stating the date and time of the Public Hearings for the application.**
- ✓ **DeIDOT Service Level Evaluation Request Response**
- ___ **PLUS Response Letter** (if required) Awaiting Responses.

The undersigned hereby certifies that the forms, exhibits, and statements contained in any papers or plans submitted as a part of this application are true and correct.

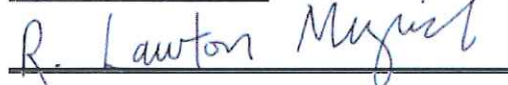
I also certify that I or an agent on my behalf shall attend all public hearing before the Planning and Zoning Commission and the Sussex County Council and any other hearing necessary for this application and that I will answer any questions to the best of my ability to respond to the present and future needs, the health, safety, morals, convenience, order, prosperity, and general welfare of the inhabitants of Sussex County, Delaware.

Signature of Applicant/Agent/Attorney



Date: 6/28/2021

Signature of Owner



Date: 6/28/2021

For office use only:

Date Submitted: 7/16/21

Fee: \$500.00 Check #: 1037

Staff accepting application: _____

Application & Case #: 202110673

Location of property: _____

Subdivision: _____

Date of PC Hearing: _____

Recommendation of PC Commission: _____

Date of CC Hearing: _____

Decision of CC: _____



STATE OF DELAWARE
DEPARTMENT OF TRANSPORTATION
800 BAY ROAD
P.O. BOX 778
DOVER, DELAWARE 19903

NICOLE MAJESKI
SECRETARY

July 12, 2021

Mr. Jamie Whitehouse, Director
Sussex County Planning & Zoning
P.O. Box 417
Georgetown, DE 19947

Dear Mr. Whitehouse:

The Department has completed its review of a Service Level Evaluation Request for the **MRBP, LLC** proposed land use application, which we received on June 28, 2021. This application is for an approximately 56.93-acre assemblage of parcels (Tax Parcels: 533-5.00-38.00 and 41.04). Both parcels are located on the southwest side of McCary Road (Sussex Road 385). The subject land is currently zoned AR-1 (Agriculture Residential) and the applicant seeks a conditional use approval to operate a Borrow Pit.

Per the 2019 Delaware Vehicle Volume Summary, the annual average daily traffic volume along McCary Road is 385.

Based on our review, we estimate that the above land use will generate fewer than 50 vehicle trips per day. This number of trips is below DeIDOT's minimum warrants for determining that a Traffic Impact Study (TIS) should be required for a particular development. DeIDOT's regulations specify the minimum TIS warrants as 50 vehicle trips in any hour and/or 500 vehicle trips per day. Because the proposed land use would generate fewer than 50 vehicle trips per day, we consider the development's traffic impact to be **diminutive** in the context of our agreement with the County regarding land development coordination and we do not recommend that the applicant be required to perform a TIS for the subject application. DeIDOT's description of this application as diminutive with regard to warranting a TIS does not mean that it is diminutive in other respects. We recommend that the applicant not be required to perform a TIS for the subject application.

If the County approves this application, the applicant should be reminded that DeIDOT requires compliance with State regulations regarding plan approvals and entrance permits, whether or not a TIS is required.



Mr. Jamie Whitehouse

Page 2 of 2

July 12, 2021

Please contact Ms. Annamaria Furmato, at (302) 760-2710, if you have questions concerning this correspondence.

Sincerely,



T. William Brockenbrough, Jr.

County Coordinator

Development Coordination

TWB:afm

cc: MRBP, LLC, Applicant
Russell Warrington, Sussex County Planning & Zoning
David Edgell, Coordinator, Cabinet Committee on State Planning Issues
Todd Sammons, Assistant Director, Development Coordination
Scott Rust, South District Public Works Manager, Maintenance & Operations
Steve McCabe, Sussex County Review Coordinator, Development Coordination
Derek Sapp, Subdivision Manager, Development Coordination
Kevin Hickman, Subdivision Manager, Development Coordination
Brian Yates, Subdivision Manager, Development Coordination
John Andrescavage, Subdivision Manager, Development Coordination
James Argo, South District Project Reviewer, Maintenance & Operations
Troy Brestel, Project Engineer, Development Coordination
Claudy Joinville, Project Engineer, Development Coordination
Annamaria Furmato, Project Engineer, Development Coordination

**SUSSEX COUNTY ENGINEERING DEPARTMENT
UTILITY PLANNING & DESIGN REVIEW DIVISION
C/U & C/Z COMMENTS**

TO: **Jamie Whitehouse**

REVIEWER: **Chris Calio**

DATE: **6/22/2022**

APPLICATION: **CU 2300 MRBP, LLC**

APPLICANT: **MRBP, LLC**

FILE NO: **ROX-1.01**

TAX MAP &
PARCEL(S): **533-5.00-38.00 & 41.04**

LOCATION: **Lying on the southwest side of McCary Road (SCR 385),
approximately 857 feet south of Frankford School Rd. (SCR 92)**

NO. OF UNITS: **Establish a borrow pit**

GROSS
ACREAGE: **56.71**

SYSTEM DESIGN ASSUMPTION, MAXIMUM NO. OF UNITS/ACRE: **2**

SEWER:

- (1). Is the project in a County operated and maintained sanitary sewer and/or water district?
Yes No
- a. If yes, see question (2).
b. If no, see question (7).
- (2). Which County Tier Area is project in? **Tier 4**
- (3). Is wastewater capacity available for the project? **N/A** If not, what capacity is available? **N/A**.
- (4). Is a Construction Agreement required? **No** If yes, contact Utility Engineering at (302) 855-7717.
- (5). Are there any System Connection Charge (SCC) credits for the project? **N/A** If yes, how many? **N/A**. Is it likely that additional SCCs will be required? **N/A** If yes, the current System Connection Charge Rate is **Unified \$6,600.00** per EDU. Please contact **N/A** at **302-855-7719** for additional information on charges.

- (6). Is the project capable of being annexed into a Sussex County sanitary sewer district? **N/A**
- Attached is a copy of the Policy for Extending District Boundaries in a Sussex County Water and/or Sanitary Sewer District.
- (7). Is project adjacent to the Unified Sewer District? **No**
- (8). Comments: **The proposed Conditional Use is not located in an area where the Sussex County Engineering Department has a schedule to provide sanitary sewer service.**
- (9). Is a Sewer System Concept Evaluation required? **Not at this time**
- (10). Is a Use of Existing Infrastructure Agreement Required? **Not at this time**
- (11). **All residential roads must meet or exceed Sussex County minimum design standards.**

UTILITY PLANNING & DESIGN REVIEW APPROVAL:



John J. Ashman
Sr. Manager of Utility Planning & Design Review

Xc: Hans M. Medlarz, P.E.
Lisa Walls
No Permit Tech Assigned



GEORGE, MILES & BUHR, LLC

■ ■ ■ ■

ARCHITECTS
ENGINEERS

206 WEST MAIN STREET
SALISBURY, MD 21801
PH: 410.742.3115
PH: 800.789.4462
FAX: 410.548.5790

SALISBURY
BALTIMORE
SEAFORD

www.gmbnet.com

■ ■ ■ ■

June 29, 2022

Delaware Office of State Planning
122 William Street
Dover, DE 19901

Attn: Mr. David Edgell, AICP
Director

Re: Response to PLUS Review Comments
McCary Borrow Pit
PLUS Review – 2021-08-12
GMB # R210109

Dear Mr. Edgell:

Please accept this letter as the formal response to the Office of State Planning Coordination PLUS review comments dated, September 22, 2021, for the above referenced project. The original State Agency comments are included below with our responses highlighted in red and italicized.

Sincerely,

Stephen L. Marsh, P. E.
Sr. Vice President
East Region Director of Operations

SLM/cl

cc: MRBP, LLC
Attn: Mr. Lawton Myrick

JAMES H. WILLEY, JR., P.E.
PETER A. BOZICK, JR., P.E.
CHARLES M. O'DONNELL, III, P.E.
A. REGGIE MARINER, JR., P.E.
JAMES C. HOAGESON, P.E.
STEPHEN L. MARSH, P.E.
DAVID A. VANDERBEEK, P.E.
ROLAND E. HOLLAND, P.E.
JASON M. LYTLE, P.E.
CHRIS B. DERBYSHIRE, P.E.
MORGAN H. HELFRICH, AIA
KATHERINE J. MCALLISTER, P.E.
W. MARK GARDOCKY, P.E.
ANDREW J. LYONS, JR., P.E.

JUDY A. SCHWARTZ, P.E.
W. BRICE FOXWELL, P.E.

JOHN E. BURNSWORTH, P.E.
VINCENT A. LUCIANI, P.E.
AUTUMN J. WILLIS
CHRISTOPHER J. PFEIFER, P.E.

Strategies for State Policies and Spending

This project is located in Investment Level 3 according to the Strategies for State Policies and Spending. Investment Level 3 reflects areas where growth is anticipated by local, county, and state plans in the longer-term future, or areas that may have environmental or other constraints to development. State investments may support future growth in these areas but may have other priorities for the near future.

The Office of State Planning has no objections to the development of this property provided it meets the codes and criteria of Sussex County, but we do encourage you to work with State agencies to address any concerns noted in this letter.

Comment noted. We will comply with all environmental concerns outlined by State agencies during the review process.

Code Requirements/Agency Permitting Requirements

Department of Transportation – Contact Bill Brockenbrough 760-2109

- The site access on McCary Road (Sussex Road 385) must be, and in fact has been, designed in accordance with DelDOT's Development Coordination Manual, which is available at <http://www.deldot.gov/Business/subdivisions/index.shtml?dc=changes>. DelDOT approved the entrance plan on April 6, 2021, under its Small Commercial Entrance process.

Comment noted. Due to a delay in scheduling the Public Hearing, the approval will expire before the project begins. We will work with DeIDOT to renew the current approved entrance design as necessary.

Department of Natural Resources and Environmental Control – Beth Krumrine 735-3480

Concerns Identified Within the Development Footprint

Tax Ditches

Prong 10, Sub 11 of Prong 10, and Sub 9 of Prong 10 of the Bear Hole Tax Ditch lie on the southern, western, and eastern portions of the site within the Bear Hole Tax Ditch Watershed. Tax ditches are man-made channels created to move normal water flow off agricultural lands. These channels have associated tax ditch Rights-of-Way (ROW) that are utilized for access as well as sediment and debris disposal during maintenance. Tax Ditch ROWs vary by channel size and location. Sub 11 of Prong 10 has an 80-foot to Top of Bank (TOB) ROW extending into the project boundary, with no ROWs along Prong 10 and Sub 9 of Prong 10.

- Contact the DNREC Drainage Program to discuss the on-site tax ditch ROWs prior to the project application meeting with the appropriate plan review agency

for construction stormwater management.

- To reduce or change existing Tax Ditch ROWs, or eliminate certain stretches from the Tax Ditch, a Court Order Change must be submitted by the DNREC Drainage Program. The associated Land Development Project Review Request form is attached, as well as the aerial drainage map.

Contact: DNREC Drainage Program at (302) 855-1930.

Website: <https://dnrec.alpha.delaware.gov/drainage-stormwater/>

Tax Ditch Mapper: de.gov/taxditchmap

We anticipate requesting a Court Order Change for the reduction in Tax Ditch Right of Ways. We will follow the requirements of the DNREC Drainage Program during this process. We have submitted a letter and sketch plan to DNREC for their review.

Wetlands

Maps from the Statewide Wetlands Mapping Project indicate the presence of non-tidal riverine wetlands overlapping the existing ditching system across the site. The application indicates that wetlands delineation is currently underway.

- Federal permits from the U.S. Army Corps of Engineers may be necessary if dredge or fill is proposed in non-tidal wetlands or streams. Permits or authorizations from the U.S. Army Corps of Engineers are required for fill of non-tidal wetlands. In certain cases, permits from the US Army Corps of Engineers triggers additional certifications from DNREC (Coastal Zone Federal Consistency Certification and 401 Water Quality Certification). If wetlands exist on the site, work with the U.S. Army Corps of Engineers to determine the appropriate permitting requirements.

Federal Contact: U.S. Army Corps of Engineers (Dover Office) at (267) 240-5278.

Website: <https://www.nap.usace.army.mil/Missions/Regulatory/Contacts/>

State Contact: DNREC Wetlands and Subaqueous Lands Section at (302) 739-9943.

Website: <https://dnrec.alpha.delaware.gov/water/wetlands-subaqueous/>

We will work with DNREC and the USACOE to obtain all necessary permits for any disturbance to non-tidal regulated wetlands or waters. Regulated waters subject to the Corps of Engineers jurisdiction appear to be limited to tax ditch channels which are being avoided. Although, we do not anticipate any wetland impacts based on the proposed borrow pit design.

Stormwater Management

This application proposes greater than 5000 square feet of land disturbing activities, therefore, this project will be subject to Delaware's *Sediment and Stormwater Regulations*.

- A Sediment and Stormwater Plan must be developed, then approved by the appropriate plan review agency prior to any land disturbing activity taking place on the site. For this project, the plan review agency is the Sussex Conservation District.
- Additionally, to address federal requirements, construction activities that exceed 1.0 acre of land disturbance require Construction General Permit coverage through submittal of an electronic Notice of Intent for Stormwater Discharges Associated with Construction Activity. This form must be submitted electronically (<https://apps.dnrec.delaware.gov/enoi/>, select Construction Stormwater General Permit) to the DNREC Division of Watershed Stewardship, along with the \$195 fee.
- Schedule a project application meeting with the appropriate plan review agency prior to moving forward with the stormwater and site design. As part of this process, you must submit a Stormwater Assessment Study.

Plan review agency contact: [Sussex Conservation District](#) at (302) 856-2105 or (302) 856-7219. Website: <https://www.sussexconservation.org/>

General stormwater contact: DNREC Sediment and Stormwater Program at (302) 739-9921. E-mail: DNREC.Stormwater@delaware.gov.
Website: <https://dnrec.alpha.delaware.gov/watershed-stewardship/sediment-stormwater/>

We will work with SCD and DNREC to address all Stormwater Management requirements. We have submitted the Pre-Application Meeting Stormwater Assessment Study (SAS) Checklist to the Sussex Conservation District.

Water Quality (Pollution Control Strategies)

This site lies within the Inland Bays Watershed. Surface water quality in this watershed does not meet State Water Quality Standards and a Pollution Control Strategy is in place for this watershed.

- Consult with the appropriate plan review agency (Sussex Conservation District) to determine if stricter stormwater management standards may apply for development projects due to the Pollution Control Strategy. More information about Pollution Control Strategies can be found at the following website: <https://dnrec.alpha.delaware.gov/watershed-stewardship/assessment/tributary-action-teams/>

Contact: DNREC Division of Watershed Stewardship's Watershed Assessment Section at (302) 739-9939. <https://dnrec.alpha.delaware.gov/watershed-stewardship/>

We will work with SCD and DNREC to address all Stormwater Management requirements. The project will be approved through the Sussex Conservation District and by default will meet the Pollution Control Strategies.

State Historic Preservation Office – Contact Carlton Hall 736-7400

- There is low potential for prehistoric archaeological resources on this parcel. There are no known National Register listed or eligible properties or archaeological sites on this parcel or within a half-mile radius. The parcel is not within favorable distance of historic water sources, and soils are poorly drained.
- There is a moderate to high potential for historic archaeological resources on this parcel. Historic topographic and aerial maps show some buildings in the wooded area in the middle of the parcel that there no later than 1901 and demolished between 1968 and 1993. There is an additional building along the eastern edge of the parcel that was constructed between 1926 and 1937 and demolished between 1968 and 1992. There is a possibility of historic field scatter in the agricultural fields. The Delaware SHPO is recommending Phase I archaeological survey prior to any ground disturbance.
- If any project or development proceeds, the developer should be aware of the Unmarked Human Burials and Human Skeletal Remains Law (Del. C. Title 7, Ch. 54), which is currently being revised
- If there is federal involvement, in the form of licenses, permits, or funds, the federal agency, often through its client, is responsible for complying with Section 106 of the National Historic Preservation Act (36 CFR 800) and must consider their project's effects on any known or potential cultural or historic resources. For further information on the Section 106 process please review the Advisory Council on Historic Preservation's website at: www.achp.gov

Comments noted. We will notify SHPO if any archaeological resources are discovered during site work.

Department of Agriculture – Contact: Milton Melendez 698-4534

- The proposed project is adjacent to a property protected through the State's Agricultural Lands Preservation Program (B. Rickards Rick Chick Expansion of the Gum District S-95-03-003-A Parcel 533-10.00-44.00, 533-5.00-37.00, 533-5.00-42.00). Therefore, the activities conducted on this preserved property are protected by the agricultural use protections outlined in Title 3, Del. C., Chapter 9. These protections effect adjoining developing properties. The 300 foot notification requirement affects all new deeds in a subdivision located in whole or part within 300 feet of an Agricultural District/Easement. Please take note of these restrictions as follows:

§ 910. Agricultural use protections.

(a) Normal agricultural uses and activities conducted in a lawful manner are preferred and priority uses and activities in Agricultural Preservation

Districts. In order to establish and maintain a preference and priority for such normal agricultural uses and activities and avert and negate complaints arising from normal noise, dust, manure and other odors, the use of agricultural chemicals and nighttime farm operations, land use adjacent to Agricultural Preservation Districts shall be subject to the following restrictions:

(1) For any new subdivision development located in whole or in part within 300 feet of the boundary of an Agricultural Preservation District, the owner of the development shall provide in the deed restrictions and any leases or agreements of sale for any residential lot or dwelling unit the following notice:

This property is located in the vicinity of an established Agricultural Preservation District in which normal agricultural uses and activities have been afforded the highest priority use status. It can be anticipated that such agricultural uses and activities may now or in the future involve noise, dust, manure and other odors, the use of agricultural chemicals and nighttime farm operations. The use and enjoyment of this property is expressly conditioned on acceptance of any annoyance or inconvenience which may result from such normal agricultural uses and activities."

(2) For any new subdivision development located in whole or in part within 50 feet of the boundary of an Agricultural Preservation District, no improvement requiring an occupancy approval shall be constructed within 50 feet of the boundary of the Agricultural Preservation District.

(b) Normal agricultural uses and activities conducted in accordance with good husbandry and best management practices in Agricultural Preservation Districts shall be deemed protected actions and not subject to any claim or complaint of nuisance, including any such claims under any existing or future county or municipal code or ordinance. In the event a formal complaint alleging nuisance related to normal agricultural uses and activities is filed against an owner of lands located in an Agricultural Preservation District, such owner, upon prevailing in any such action, shall be entitled to recover reasonably incurred costs and expenses related to the defense of any such action, including reasonable attorney's fees (68 Del. Laws, c. 118, § 2.).

- In addition, if any wells are to be installed, Section 4.01(A)(2) of the Delaware Regulations Governing the Construction and Use of Wells will apply. This regulation states:

(2) For any parcel, lot, or subdivision created or recorded within fifty (50) feet of, or within the boundaries of, an Agricultural Lands Preservation District (as defined in Title 3, Del. C., Chapter 9); all wells constructed on

such parcels shall be located a minimum of fifty (50) feet from any boundary of the Agricultural Lands Preservation District. This requirement does not apply to parcels recorded prior to the implementation date of these Regulations. However, it is recommended that all wells be placed the maximum distance possible from lands which are or have been used for the production of crops which have been subjected to the application of land applied federally regulated chemicals.

Comments noted. We don't anticipate disturbing any agricultural activities in adjacent or nearby properties.

Recommendations/Additional Information

This section includes a list of site-specific suggestions that are intended to enhance the project. These suggestions have been generated by the State Agencies based on their expertise and subject area knowledge. **These suggestions do not represent State code requirements.** They are offered here in order to provide proactive ideas to help the applicant enhance the site design, and it is hoped (**but in no way required**) that the applicant will open a dialogue with the relevant agencies to discuss how the suggestions can benefit the project.

Department of Natural Resources and Environmental Control – Beth Krumrine 735-3480

Tax Ditches

- All existing ditches on the property should be evaluated for function and cleaned, if needed, prior to the construction of the project.
- Environmental permits or exemptions may be required by the County Conservation District (Standard Plan), the DNREC Sediment and Stormwater Program (eNOI/NOT), Army Corp of Engineers, and/or DNREC Wetlands and Subaqueous Lands Section prior to clearing and/or excavating ditch channels.

Contact: DNREC Drainage Program at (302) 855-1930.

Website: <https://dnrec.alpha.delaware.gov/drainage-stormwater/>

Tax Ditch Mapper: de.gov/taxditchmap

We will work with DNREC throughout the process.

Wetlands

- Do not disturb wetland areas. Wetlands are a critical part of our natural environment. They reduce the impacts of flooding, absorb pollutants, and improve water quality. Wetlands provide habitat for animals and plants and many contain a wide diversity of life, supporting plants and animals that are found nowhere else.
- If wetlands or subaqueous permits will be needed, schedule a meeting with the DNREC Joint Permit Processing (JPP) service. JPP assists wetland permit

applicants with the necessary state and federal permitting procedures and requirements. To schedule a meeting with the JPP committee, please contact the DNREC Division of Water's Wetlands and Subaqueous Lands Section at (302) 739-9943.

Federal Contact: U.S. Army Corps of Engineers (Dover Office) at (267) 240-5278.
Website: <https://www.nap.usace.army.mil/Missions/Regulatory/Contacts/>

State Contact: DNREC Wetlands and Subaqueous Lands Section at (302) 739-9943.
Website: <https://dnrec.alpha.delaware.gov/water/wetlands-subaqueous/>

Any disturbance to wetlands would be minor in nature and/or because the wetlands are isolated. We will seek permits for any necessary wetlands' disturbance. Although, we do not anticipate any wetland impacts based on the proposed borrow pit design.

Forest Removal

- The preliminary plan proposes the elimination of 4.3 of 10.9 acres of forest on the site.
- Removing forested areas for development should be avoided to the greatest extent possible. Forests filter water for improved water quality, provide habitat for wildlife, absorb nutrients, infiltrate stormwater, moderate temperatures, and store atmospheric carbon which would otherwise contribute to climate change.
- To reduce impacts to nesting birds and other wildlife species that utilize forests for breeding, it is recommended that tree clearing not occur from April 1st to July 31st. Likewise, avoid mowing open space areas and grass filter strips during the same timeframe, as various species of birds utilize these areas for nesting sites.

Contact: DNREC Wildlife Species Conservation & Research Program at (302) 735-3600.
Website: <https://dnrec.alpha.delaware.gov/water/groundwater/septic-systems/>

We are removing areas of trees that form hedgerows along existing agriculture ditches in the interior of the site. It is our intent to plant a wooded buffer along the perimeter of the site in those areas that are not currently wooded. The wooded area will actually increase from 10.89 acres to 12.73 acres during this process.

Stormwater Management

- Where the site and soil conditions allow, integrate runoff reduction techniques including infiltration basins, bioretention (rain gardens), filter strips, and pavers to encourage on-site stormwater infiltration and reduce runoff.
- For improved stormwater management, preserve existing trees, wetlands, and passive open space.

Plan review agency contact: [Sussex Conservation District](https://www.sussexconservation.org/) at (302) 856-2105 or (302) 856-7219. Website: <https://www.sussexconservation.org/>

General stormwater contact: DNREC Sediment and Stormwater Program at (302) 739-9921. E-mail: DNREC.Stormwater@delaware.gov.
Website: <https://dnrec.alpha.delaware.gov/watershed-stewardship/sediment-stormwater/>

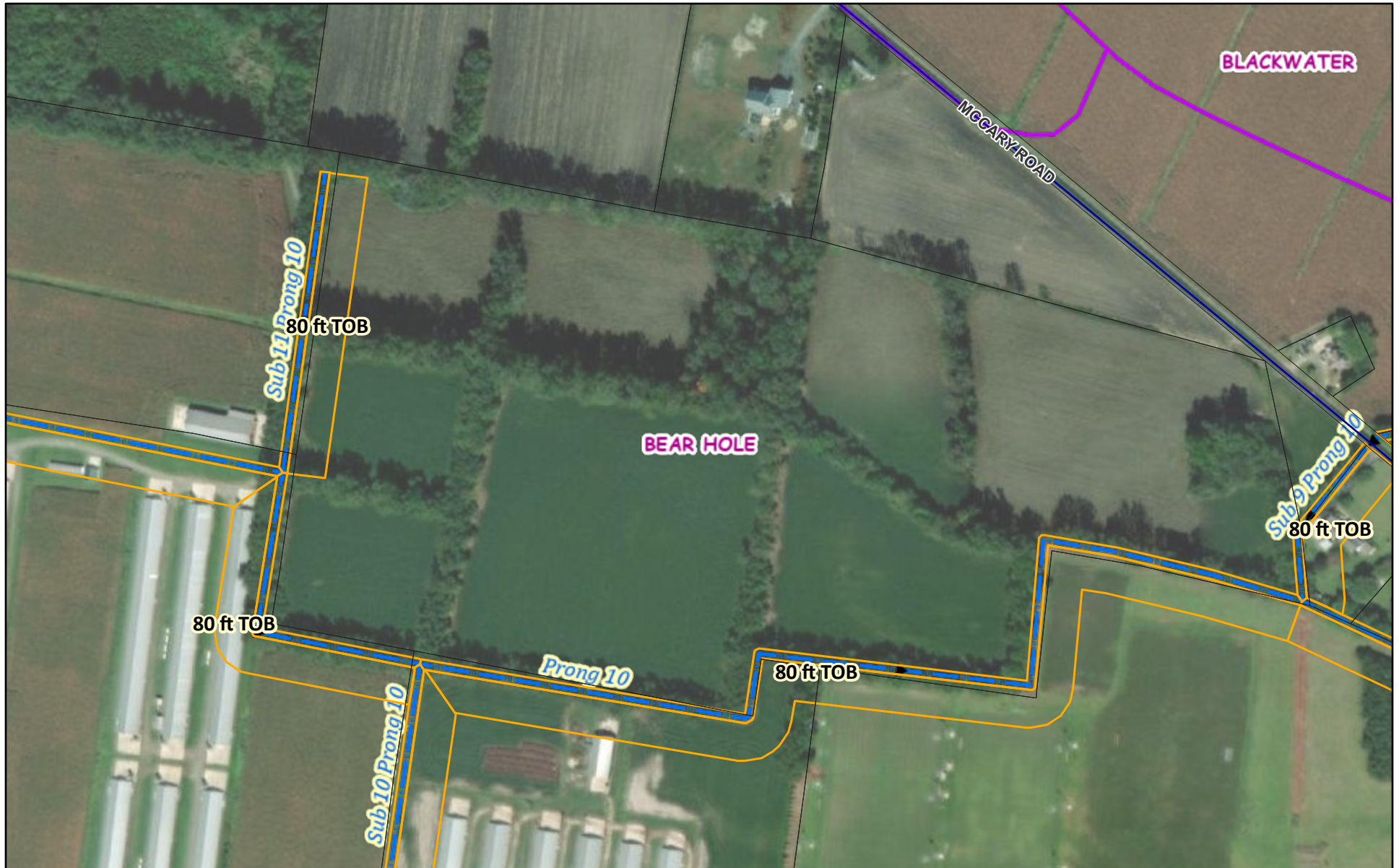
We will work with SCD and DNREC to address all Stormwater Management requirements. We have submitted the Pre-Application Meeting Stormwater Assessment Study (SAS) Checklist to the Sussex Conservation District.

Department of Agriculture – Contact: Milton Melendez 698-4534

- The Department of Agriculture strongly encourages the developer to work with the Department's Forestry Section during the design and implementation of the project to plant an effective forested buffer between the proposed project and existing preserved properties. It is important that suitable tree species be selected and planted to create an effective mitigation barrier between the proposed burrow pit and the existing agricultural operation enrolled in the Agricultural Lands Preservation Program.

We are proposing the use of Native Species within the planted buffer. We are happy to work with the Department of Agriculture to implement their recommendations.

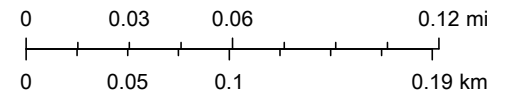
Bear Hole Tax Ditch Web Map - Proposed C/U 2300-MRBP, LLC



8/3/2021, 2:25:03 PM

1:4,514

- DE_Roadways_Main - CENTER LINE
- DE_StateParcels - Sussex
- Extent of Right-of-Way
- Approx. Watershed Boundary
- Tax Ditch Segments
- ▶ Tax Ditch Channel
- Municipalities
- Communities
- State and County Boundaries



Delaware Office of State Planning Coordination, DNREC, Division of

DNREC, Division of Watershed Stewardship, Drainage Program

These maps do not replace the official documents on file in the Prothonotary's Office, and are not to be used for engineering purposes.

Lauren DeVore

From: Dickerson, Troy <TDickerson@delaware.coop>
Sent: Thursday, July 29, 2021 11:28 AM
To: Lauren DeVore
Subject: RE: Conditional Use (C/U 2300) - MRBP, LLC - Borrow Pit Application

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Lauren,

After review of the plan, this is within our service territory and we have no objection to the project.

Thanks!

Troy W. Dickerson, P.E.
Assistant V.P. of Engineering
Voice: (302) 349-3125
Cell: (302) 535-9048
Fax: (302) 349-5891
tdickerson@delaware.coop



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From: Lauren DeVore <lauren.devore@sussexcountyde.gov>
Sent: Thursday, July 29, 2021 11:11 AM
To: Krumrine, Beth (DNREC) <Beth.Krumrine@delaware.gov>; Brad Hawkes <bhawkes@sussexcountyde.gov>; Chris Calio <ccalio@sussexcountyde.gov>; ddetrick@chpk.com; dholden@chpk.com; C. Daniel Parsons <dparsons@sussexcountyde.gov>; duane.fox@delaware.gov; james.sullivan@delaware.gov; Cinelli, Jennifer (DelDOT) <jennifer.cinelli@delaware.gov>; jessica.watson@sussexconservation.org; John J. Ashman <jashman@sussexcountyde.gov>; john.hayes@delaware.gov; john.kennel@delaware.gov; john.martin@delaware.gov; kate.fleming@delaware.gov; kgabbard@chpk.com; megan.crystal@delaware.gov; Tholstrup, Michael S. (DNREC) <Michael.Tholstrup@delaware.gov>; Susan Isaacs <sisaaacs@sussexcountyde.gov>; subdivision@delaware.gov; Dickerson, Troy <TDickerson@delaware.coop>; Terri Dukes <tdukes@sussexcountyde.gov>; tgiroux@chpk.com; Vince Robertson <vrobertson@pgslegal.com>; jvandervort@chpk.com; Jordan T. Dickerson <jordan.dickerson@sussexcountyde.gov>; McCabe, R. Stephen (DelDOT) <Richard.McCabe@delaware.gov>
Subject: RE: Conditional Use (C/U 2300) - MRBP, LLC - Borrow Pit Application

Good Morning, All,

I do apologize as I forgot the attachment.

In the interim, please find the attached rendering for your review and comment. The Site Plan will be sent over shortly.

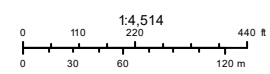


Delaware Flood Planning Tool

Location is **NOT WITHIN** the FEMA 100-year floodplain.



FEMA, Source: Esri, Maxar, Earthstar Geographics, and the GIS User Community



June 9, 2022

Effective Flood Hazard Areas

- A
- AE
- AE, FLOODWAY
- AO
- VE
- X, 0.2 PCT ANNUAL CHANCE FLOOD HAZARD
- Base Flood Elevation
- LiMWA
- Cross Sections
- Transect

Preliminary Flood Hazard

- A
- AE
- AE, FLOODWAY
- X, 0.2 PCT ANNUAL CHANCE FLOOD HAZARD

- ### Contours
- INDEX
 - DEPRESSION
 - - - HIDDEN
 - INTERVAL

Flood Zone (at Point): X
 FEMA Issued Flood Map: 10005C0630J
 Map Date: 1/6/2005
 Subwatershed (HUC12): Little Assawoman Bay
 Tax Parcel: 533-5.00-38.00

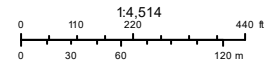


Delaware Flood Planning Tool

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Contours

- INDEX
- DEPRESSION
- HIDDEN
- INTERVAL

Flood Zone (at Point): X

FEMA Issued Flood Map: 10005C0630J

Map Date: 1/6/2005

Subwatershed (HUC12): Little Assawoman Bay

Tax Parcel: 533-5.00-41.04

Nick Torrance

From: Cullen, Kathleen M <kathleen_cullen@fws.gov>
Sent: Monday, August 30, 2021 9:47 AM
To: Planning and Zoning
Subject: FWS review of McCary Road Borrow Pit

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

Hi-

This email is regarding the Conditional Use Application for MRBP, LLC. There are no federally listed species at this location, so no further Section 7 consultation is needed. You can fill out the Online Certification Letter if further documentation is needed: <https://www.fws.gov/chesapeakebay/saving-wildlife/project-review/online-certification-letter.html>

Our office is currently teleworking for the foreseeable future, so there may be delays in mail pick up. For future projects, the fastest way to get a response is to submit through IPaC: <https://ecos.fws.gov/ipac/>. Please let me know if you have any questions!

Thank you,
Kathleen

Kathleen Cullen
U.S. Fish & Wildlife Service - Chesapeake Bay Field Office
177 Admiral Cochrane Dr., Annapolis MD, 21401
410-573-4579 - kathleen_cullen@fws.gov

Lauren DeVore

From: Fox, Duane T. (FireMarshal) <Duane.Fox@delaware.gov>
Sent: Thursday, July 29, 2021 8:50 AM
To: Lauren DeVore
Subject: RE: Conditional Use (C/U 2300) - MRBP, LLC - Borrow Pit Application

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The SFMO has no objection to Conditional Use. A formal site plan submittal will be required to be reviewed and approved by the DE State Fire Marshal's Office. The following link will provide them with process information and an application: <https://statefiremarshal.delaware.gov/technical-services/plan-review/site-plan-submittals/>

DUANE T. FOX, JR., CFPS, CFI, CFPE
ASST CHIEF, TECHNICAL SERVICES
DE STATE FIRE MARSHAL'S OFFICE
22705 PARK AVE, GEORGETOWN
302-856-5298

From: Lauren DeVore <lauren.devore@sussexcountyyde.gov>
Sent: Thursday, July 29, 2021 8:44 AM
To: Krumrine, Beth (DNREC) <Beth.Krumrine@delaware.gov>; Brad Hawkes <bhawkes@sussexcountyyde.gov>; Chris Calio <ccalio@sussexcountyyde.gov>; ddetrick@chpk.com; dholden@chpk.com; C. Daniel Parsons <dparsons@sussexcountyyde.gov>; Fox, Duane T. (FireMarshal) <Duane.Fox@delaware.gov>; Sullivan, James C. (DNREC) <James.Sullivan@delaware.gov>; Cinelli, Jennifer (DelDOT) <jennifer.cinelli@delaware.gov>; jessica.watson@sussexconservation.org; John J. Ashman <jashman@sussexcountyyde.gov>; john.hayes@delaware.gov; john.kennel@delaware.gov; john.martin@delaware.gov; kate.fleming@delaware.gov; kgabbard@chpk.com; megan.crystal@delaware.gov; Tholstrup, Michael S. (DNREC) <Michael.Tholstrup@delaware.gov>; Susan Isaacs <sisaacs@sussexcountyyde.gov>; Subdivision (MailBox Resources) <Subdivision@delaware.gov>; Laws, Susanne K (DelDOT) <Susanne.Laws@delaware.gov>; tdickerson@decoop.com; Terri Dukes <tdukes@sussexcountyyde.gov>; tgiroux@chpk.com; Vince Robertson <vrobertson@pgslegal.com>; jvandervort@chpk.com; Jordan T. Dickerson <jordan.dickerson@sussexcountyyde.gov>
Subject: Conditional Use (C/U 2300) - MRBP, LLC - Borrow Pit Application

Good Morning, Technical Advisory Committee Members,

The Sussex County Planning and Zoning Office has received an application for a Conditional Use for a borrow pit that requires review by the Sussex County Technical Advisory Committee. Please review the application and provide any written comments back to the Planning and Zoning Office within **45 days of the date of this memorandum (on or before September 13th, 2021)**.

C/U 2300 – MRBP, LLC – This is a Conditional Use Application for a proposed Borrow Pit operation to be conducted on two parcels of land containing 56.93 acres +/- . The properties are lying on the southwest side of McCary Road (S.C.R. 385), approximately 857 ft. south of Frankford School Road (S.C.R. 92). The plans are being sent under the provision of §115-172(B)(6)(d) of the Sussex County Code which allows the Commission to request that the site plan be reviewed by the Technical Advisory Committee. Tax Parcels: 533-5.00-38.00 & 41.04. Zoning: AR-1 (Agricultural Residential Zoning District). Property Owner: MRBP, LLC. Applicant: MRBP, LLC.

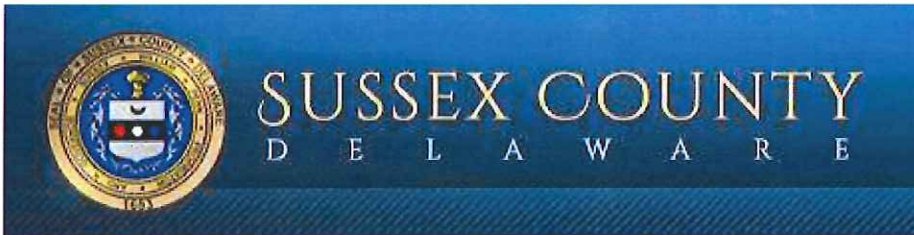
Please feel free to contact the office with any questions at (302)855-7878 during normal business hours 8:30AM – 4:30PM, Monday through Friday.

Best Regards,

-Lauren

Lauren DeVore

Planner III
Department of Planning and Zoning
P.O. Box 417
2 The Circle
Georgetown, DE 19947
(302)855-7878
8:30AM - 4:30PM



For more information, please see the [Sussex County Official Website](#).



GEORGE, MILES & BUHR, LLC



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ENGINEERS

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SALISBURY, MD 21801
PH: 410.742.3115
PH: 800.789.4462
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JAMES H. WILLEY, JR., P.E.
PETER A. BOZICK, JR., P.E.
CHARLES M. O'DONNELL, III, P.E.
A. REGGIE MARINER, JR., P.E.
JAMES C. HOAGESON, P.E.
STEPHEN L. MARSH, P.E.
DAVID A. VANDERBEEK, P.E.
ROLAND E. HOLLAND, P.E.
JASON M. LYTLE, P.E.
CHRIS B. DERBYSHIRE, P.E.
MORGAN H. HELFRICH, AIA
KATHERINE J. MCALLISTER, P.E.
W. MARK GARDOCKY, P.E.
ANDREW J. LYONS, JR., P.E.

JUDY A. SCHWARTZ, P.E.
W. BRICE FOXWELL, P.E.

JOHN E. BURNSWORTH, P.E.
VINCENT A. LUCIANI, P.E.
AUTUMN J. WILLIS
CHRISTOPHER J. PFEIFER, P.E.

June 15, 2022

Sussex County Planning & Zoning
2 The Circle
P.O. Box 417
Georgetown, DE 19947

Attn: Ms. Lauren DeVore
Planner III

Re: McCary Road Borrow Pit (MRBP LLC)
Proposed Surface Mine
Tax Map Number 533-5.00-38.00 & 41.04
GMB Project # 210109

Dear Ms. DeVore:

On behalf of MRBP LLC, please accept this Environmental Assessment and Public Facility Evaluation Report for Tax Map Numbers 533-5.00-38.00 and 41.04. This letter is in support of the Proposed Conditional Use application and Preliminary Site Plan submittal as encouraged by Sussex County Code Section 115-194.3. A copy of this letter report will also be included in the project binders. The Preliminary Site Plan and supporting documentation was originally submitted to Sussex County Department of Planning and Zoning on July 17, 2021.

Summary

MRBP LLC is seeking a Conditional Use permit to operate a surface mining borrow pit on the site, comprised of the two (2) tax parcels. The property is zoned AR and is in the Coastal Area along McCary Road near Roxana. The site is surrounded by Agricultural and Residential uses with River Soccer Club located to the south of the site. The total project area is 56.93 acres.

Stormwater Management (SWM) and Erosion and Sediment Control (ESC)

The stormwater management design will meet all current regulatory requirements. Some of the existing agricultural ditches will be integrated into the proposed pond basin. Overflow structures will be designed to flow into existing tax ditches that border the site. No offsite drainage will be adversely impacted.

Public Water Supply

No Public Water will be provided to the site.

Public Wastewater Collection, Treatment and Disposal

No Public Wastewater is required for this proposed use. There will be a port-a-potty on site for contractor use, which will be maintained regularly.

Traffic

A Small Commercial Entrance Plan was approved by DeIDOT on April 06, 2021. This approval expired after one year, but we feel confident that a renewal can be obtained because no changes to the original application are anticipated. Final entrance design at McCary Road will be coordinated within DeIDOT rules and regulations and will be reviewed and approved by DeIDOT.

Threatened/Endangered Species

There are no known threatened or endangered species on the site.

Tidal/Non-tidal Wetlands

Environmental Resources, Inc. (ERI) performed a site investigation in early 2021. The investigation was in accordance with the three-parameter approach evaluating soils, hydrology, and vegetation outlined in the 1987 Corps of Engineers Wetlands Delineation Manual and associated guidance. Wetland boundaries are still being field verified. ERI has advised GMB that the proposed plan avoids impacts to any potential wetland area. There are no State regulated wetlands or tidal wetlands on this property. A wetland report and plan will be submitted to the Philadelphia District Corps of Engineers. We do not anticipate any impacts to federally regulated wetlands.

Non-tidal Waters & Drainage Features

The property contains man-made drainage channels that drain into an existing Tax Ditch Network. Impacts to drainage channels on the perimeter of the project have been avoided in order to maintain drainage conditions on adjacent properties. Impacts to the channels within the Beaver Dam Tax Ditch system have also been avoided. ERI advised that Prong 10 of the Tax Ditch Network is the only channel potentially regulated by the Corps of Engineers.

Provision of Open Space

No public open space is anticipated at this time or during the operation of the proposed borrow pit. A wooded buffer will be planted in those areas that do not currently contain existing wooded vegetation and a gate will be installed to control access.

Provisions for Public and Private Infrastructure

There is no Public or Private infrastructure anticipated for this site.

Economic and Recreational Benefits

As land development continues throughout Sussex County, sources of sand for structural fill will be required. Due to the site's proximity to growing residential areas, it is more economically viable to truck sand from McCary Road than other pits which are further away. A borrow pit operation will facilitate employment opportunities for the operation of the excavation equipment as well as the truck drivers that haul the material offsite. Furthermore, providing a fill source closer to development activity will also reduce environmental by reducing vehicle miles traveled, area of impact, and emissions.

Regarding Recreational Benefits, it is under consideration to sell or donate the future expired borrow pit and surrounding parcel to the Sussex County Land Trust for use as a public park. This would serve the County as a whole and the families that travel to

play soccer at the River Soccer Complex adjacent to the site. This is being studied, but no committable time frame is appropriate at this time.

Historic or Cultural Resources

If any unmarked graves or human remains are found during construction, the developer will stop work and contact the State's Historic Preservation Office (SHPO) immediately. SHPO comments note in the PLUS comments that historic archaeological potential is low. In the event any other unknown historic or archeological resource should be found on the site located within a Section 106 permit area as determined by the Corps of Engineers or other federal permitting agency, the developer will conduct all necessary investigations as required by the Natural Historic Preservation Act of 1966, Section 106 Provisions.

Conformance with Current Sussex County Comprehensive Plan

The project is located within the State Level 3 Investment Area and falls within the Coastal Area, which is designated as a growth area per the Sussex County Comprehensive Plan. Coincidentally, preservation of natural resources is strongly encouraged in the Coastal Area. As such, the proposed project is consistent with the Comprehensive Plan.

Per Section 2.3 - IMPLICATIONS OF POPULATION GROWTH

More public recreation land, recreation facilities, and open space. As the Sussex County population increases and diversifies, expectations and demands for more parks, recreational opportunities, and outdoor activities are likely to grow. At the same time, increases in personal leisure time and leisure time activities for active retirees have generated growing interests in new sports, both active and passive. Young people of school age now participate in multiple sports including baseball, basketball, lacrosse, and soccer. Many Sussex County seniors and retirees have expressed their growing interest in active lifestyles demanding amenities such as sidewalks, trails, and pickleball courts. Outdoor enthusiasts of all ages with interests in camping, hiking, and kayaking are looking for access to woodlands, waterways, and other natural areas.

We are considering working the Sussex County Land Trust or other State and Local agencies to explore the creation of a public park for active and passive recreation. This complies with section 5.4.5 of the Comprehensive Plan – whereby “State agencies have endeavored to identify and help preserve Delaware’s “green infrastructure”, which DNREC describes as a network of natural areas, parks, conservation areas, and working lands with conservation value that contribute to the health and quality of life in Delaware.”

Per Section 6.7 of the Comprehensive Plan:

Goal 6.1: Enhance the quality of life of County residents and visitors by sustaining and encouraging recreation and open space opportunities in the County.

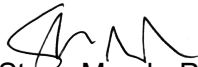
Objective 6.1.1 Continue the County’s role in parks, recreation, and open space planning in Sussex County.

Conclusion

The proposed borrow pit is consistent with the County's Comprehensive Land Use Plan. The site's proximity to other development in the area makes it appropriate for the proposed use. Environmental impacts will be minimized by the use of best management practices for stormwater treatment, conservation of existing wetlands and wooded areas, establishment of and preservation of wooded buffer areas, and enhancement of drainage channels. The economic benefits of the permit fees, increased tax revenue, and long-term jobs associated with this community addition are to be expected. The chances for a successful project, ensuring these jobs and economic benefits, are increased due to the success of the existing communities in the area and the minimal infrastructure investment required. MRBP looks forward to working with Sussex County to implement the proposed surface mining operation, which will be integrated into the surrounding community and existing natural environment.

Please feel free to contact me with any questions.

Sincerely,



Steve Marsh, P.E.
Sr. Vice President
East Region Director of Operations

SLM/cl

Enclosures: One (1) copy of the Preliminary Site Plan

cc: MRBP LLC
Attn: R. Lawton Myrick

Proposed Conditions of Approval – MRBP (July 12, 2022 edits)

1. The applicant shall comply with all the requirements set forth in Section 115-172B of the Sussex County Zoning Ordinance.
2. The applicant shall comply with all State and County Erosion and Sediment Control Regulations:
 - 2.1 The project shall meet or exceed Stormwater Management system regulations set forth by the Sussex Conservation District and DNREC through a combination of Best Management Practices and Best available technologies.
 - 2.2 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.
3. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission prior to commencement of operations.
4. If approved, this Conditional Use shall terminate upon the expiration of thirty (30) years from the date of adoption.
5. The operation of the Borrow Pit shall be controlled to provide reasonable protection to surrounding properties as follows:
 - 5.1 The Borrow Pit shall be at least 200 feet from any dwelling on property of other ownership.
 - 5.2 A 100-foot Vegetation/Forested Buffer shall be maintained along that portion of the site which abuts County Road 385 (McCary Road) Right-of-way. Existing vegetation and trees within the buffer area between the property line and the perimeter shall remain undisturbed.
 - 5.3 A 50-foot Vegetation/Forested buffer shall be maintained along all other perimeter property lines within the site. Existing vegetation between the property lines and the perimeter shall remain undisturbed.
 - 5.4 A water truck will be available to control dust from interior trucking traffic when conditions require.
6. Hours of operation of trucking activities shall be from 8:00 am to 6:00 pm Monday through Friday, and 8:00 am to 2:00 pm on Saturday. There shall be no trucking activities on Sunday.
7. Entrance improvements required by Delaware Department of Transportation in connection with this land use will be completed by the applicant.
8. The Borrow Pit entrance shall have a fenced gate, which shall be secured when the operation is closed.
9. No materials will be stored on any access roads or with any buffer areas.
10. Fuel shall be stored in storage tanks with confinement areas as required by the Department of Natural Resources and Environmental Control (DNREC) and the Office of the State Fire Marshall.
11. The proposed pit will have 4:1 side slopes down to a 10-foot level bench that will be approximately near or 1 foot below the static water surface. Below the water level, the borrow pit shall have 3:1 slopes. The Depth of the proposed borrow pit will not exceed 40 feet.
12. No stumps, branches, debris or similar items will be buried on the site. Tree stumps and branches may be used in the final pond design for enhanced fish structure.
13. Reclamation plans shall indicate finished grading, seeding, and planting schedules designed to create a pleasing appearance. Reclamation will be completed in phases as excavation operations in a section are completed. Applicant will notify the Planning & Zoning Department in writing on

or about April 1st of each year as to the status of the reclamation and reclamation plans for the following year.

14. The 57.03 acre parcel shall be divided into three (3) phases of 19 acres each. Phase two will not be started until 75% of Phase one is completed. Phase three will not be started until 75% of Phase two is completed. The total excavated area shall not exceed 40 acres.
15. The Dredge may operate 24 hours per day, but no front-end loaders, backhoes, or other construction equipment with safety buzzers will operate before 8:00 am or after 6:00 pm.
16. The entrance to the Borrow Pit shall be from County Road 385 (McCary Road).
17. Any dewatering activities will remain on site.
18. Five (5) years after the start of digging, the Planning and Zoning Department shall perform an inspection of the site and shall request written comments from all appropriate State agencies so that the Planning and Zoning Commission can review the comments to verify compliance with all then-existing regulations.

CONDITIONAL USE #1741
CONDITIONS OF APPROVAL

- NO MATERIALS MAY BE BROUGHT FROM OFF THE SITE FOR PROCESSING, MIXING OR SIMILAR PURPOSES.
- THE OPERATION OF THE BORROW PIT SHALL BE CONTROLLED TO PROVIDE REASONABLE PROTECTION SURROUNDING PROPERTIES AS FOLLOWS:
 - A 100 FOOT VEGETATION/FORESTED BUFFER SHALL BE MAINTAINED ALONG THAT PORTION OF THE SITE WHICH ADJUTS THE COUNTRY ROAD 385 (McCARY ROAD) RIGHT-OF-WAY. EXISTING VEGETATION AND TREES WITHIN THE BUFFER AREA BETWEEN THE PROPERTY LINE AND THE PERIMETER SHALL REMAIN UNDISTURBED.
 - A 50 FOOT VEGETATION/FORESTED BUFFER SHALL BE MAINTAINED ALONG ALL OTHER PERIMETER PROPERTY LINES WITHIN THE SITE. EXISTING VEGETATION BETWEEN THE PROPERTY LINES AND THE PERIMETER SHALL REMAIN UNDISTURBED.
 - A WATER TRUCK WILL BE AVAILABLE TO CONTROL DUST FROM INTERIOR TRUCKING TRAFFIC WHEN CONDITIONS REQUIRE.
- HOURS OF OPERATION OF TRUCKING ACTIVITIES SHALL BE FROM 7:30 A.M. TO 5:30 P.M., MONDAY THROUGH FRIDAY, AND 8:00 A.M. TO 2:00 P.M. ON SATURDAY. THERE SHALL BE NO TRUCKING ACTIVITIES ON SUNDAY.
- ENTRANCE IMPROVEMENTS REQUIRED BY THE DELAWARE DEPARTMENT OF TRANSPORTATION IN CONNECTION WITH THIS LAND USE WILL BE COMPLETED BY THE APPLICANT.
- THE BORROW PIT ENTRANCE SHALL HAVE A FENCED GATE, WHICH SHALL BE SECURED WHEN THE OPERATION IS CLOSED.
- NO MATERIALS WILL BE STORED ON ANY ACCESS ROADS OR WITHIN ANY BUFFER AREAS.
- SIGNAGE WILL BE PLACED AT APPROPRIATE LOCATIONS TO DESIGNATE PIT AREAS.
- FUEL SHALL BE STORED IN STORAGE TANKS WITH CONFINEMENT AREAS AS REQUIRED BY THE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL (DNREC) AND THE OFFICE OF THE STATE FIRE MARSHAL.
- NO STUMPS, BRANCHES, DEBRIS OR SIMILAR ITEMS WILL BE BURIED ON THE SITE.
- A FINAL SITE PLAN SHALL BE REVIEWED AND APPROVED BY THE PLANNING AND ZONING COMMISSION PRIOR TO COMMENCEMENT OF OPERATIONS.
- BEFORE ANY EXCAVATION OPERATIONS BEGIN, A COMPLETE ENVIRONMENTAL IMPACT STUDY AS DEFINED IN CONNECTION WITH ORDINANCE NO. 1310 WILL BE CONDUCTED AND PRESENTED WITH THE FINAL SITE PLAN.
- OWNER SHALL COMPLY WITH ALL STATE AND COUNTY EROSION AND SEDIMENT CONTROL REGULATIONS.
- RECLAMATION PLANS SHALL INDICATE FINISHED GRADING, SEEDING, AND PLANTING SCHEDULES DESIGNED TO CREATE A PLEASING APPEARANCE. RECLAMATION WILL BE COMPLETED IN PHASES AS EXCAVATION OPERATIONS IN A SECTION ARE COMPLETED. APPLICANT WILL NOTIFY THE PLANNING AND ZONING DEPARTMENT IN WRITING ON OR ABOUT APRIL 1ST OF EACH YEAR AS TO THE STATUS OF THE RECLAMATION AND RECLAMATION PLANS FOR THE FOLLOWING YEAR.
- THE 56.71 ACRE PARCEL SHALL BE DIVIDED INTO THREE (3) PHASES OF 19 ACRES EACH. PHASE TWO WILL NOT BE STARTED UNTIL 75% OF PHASE ONE IS COMPLETED. PHASE THREE WILL NOT BE STARTED UNTIL 75% OF PHASE TWO IS COMPLETED. THE EXCAVATED AREA SHALL NOT EXCEED 37 ACRES.
- THE DREDGE MAY OPERATE 24 HOURS PER DAY, BUT NO FRONT-END LOADERS, BACKHOES, OR OTHER CONSTRUCTION EQUIPMENT WITH SAFETY BUZZERS WILL OPERATE AFTER 5:30 P.M.
- THE ENTRANCE TO THE BORROW PIT SHALL BE FROM CR 385 (McCARY ROAD).
- NO DEWATERING ACTIVITIES WILL OCCUR ON SITE.
- THE APPLICANT SHALL DELAY THE SALE OF MATERIALS FROM OFF-SITE UNTIL NOVEMBER 15, 2021.
- NO HAULING OF MATERIALS SHALL OCCUR FROM THE SITE PRIOR TO NOVEMBER 15, 2021.
- FIVE (5) YEARS AFTER THE START OF DIGGING, THE PLANNING AND ZONING DEPARTMENT SHALL PERFORM AN INSPECTION OF THE SITE, AND SHALL REQUEST WRITTEN COMMENTS FROM ALL APPROPRIATE STATE AGENCIES SO THAT THE PLANNING AND ZONING COMMISSION CAN REVIEW THE COMMENTS TO VERIFY COMPLIANCE WITH ALL THEN-EXISTING REGULATIONS.
- OWNER SHALL BE RESPONSIBLE FOR MONITORING GROUND WATER QUALITY. SPECIFICALLY, OWNER SHALL INSTALL THREE WELLS, ONE ABOVE THE EXCAVATION, AND TWO BELOW THE EXCAVATION. MONITORING SHALL BE PERFORMED BY A LICENSED GEOLOGIST, AND THE RESULTS FILED ON AN ANNUAL BASIS WITH SUSSEX COUNTY AND THE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL (DNREC). OWNER SHALL BE RESPONSIBLE FOR ALL COSTS ASSOCIATED WITH THE WATER QUALITY MONITORING. OWNER SHALL ALSO BE RESPONSIBLE FOR THE COST OF CORRECTING ANY ADVERSE IMPACTS ON WATER QUALITY WHICH MAY BE OCCASIONED BY THE EXCAVATION OPERATION. NECESSARY REMEDIATION SHALL BE DETERMINED BY SUSSEX COUNTY, WITH GUIDANCE FROM THE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL.

McCARY ROAD BORROW PIT

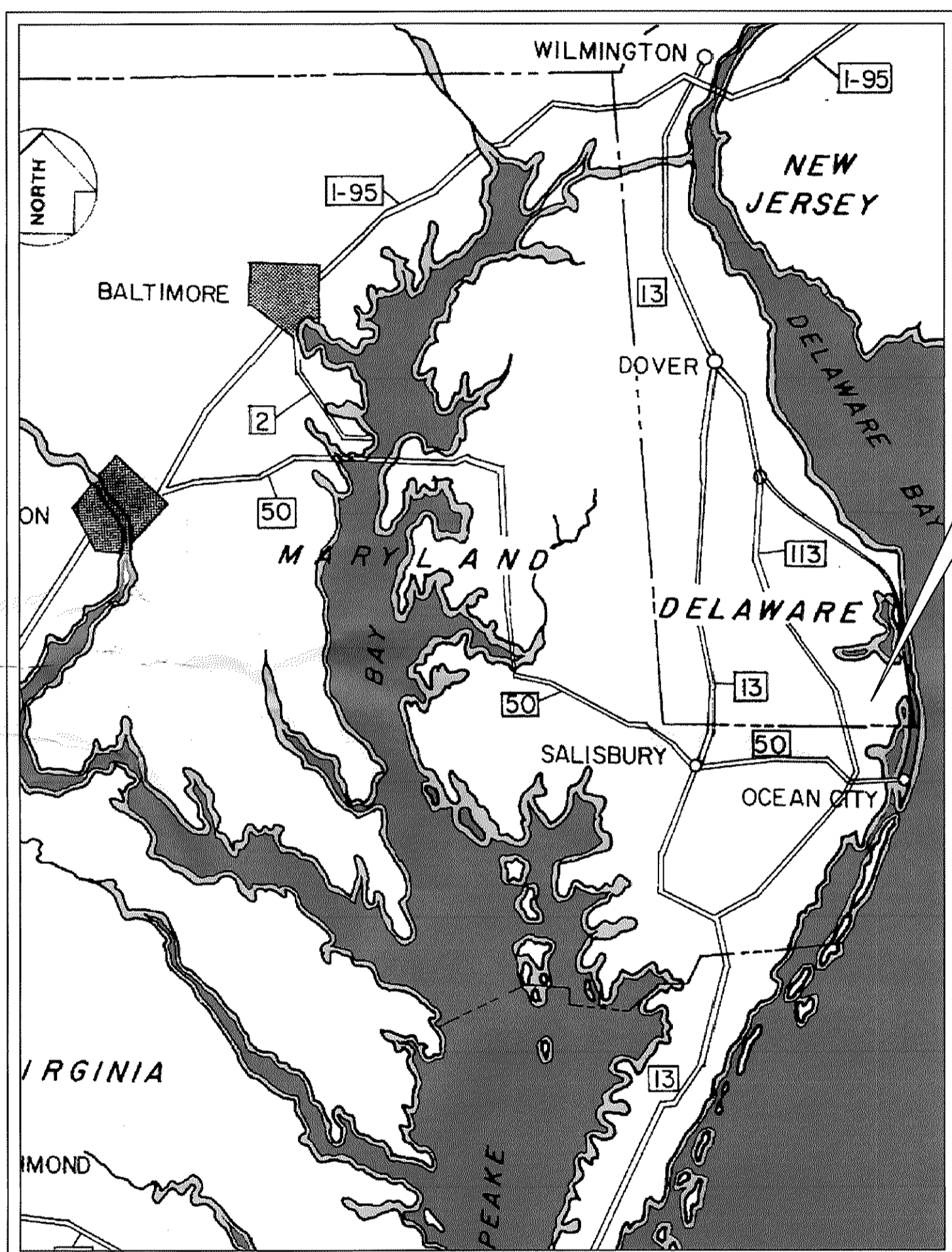
SUSSEX COUNTY, DELAWARE

PRELIMINARY SITE PLAN

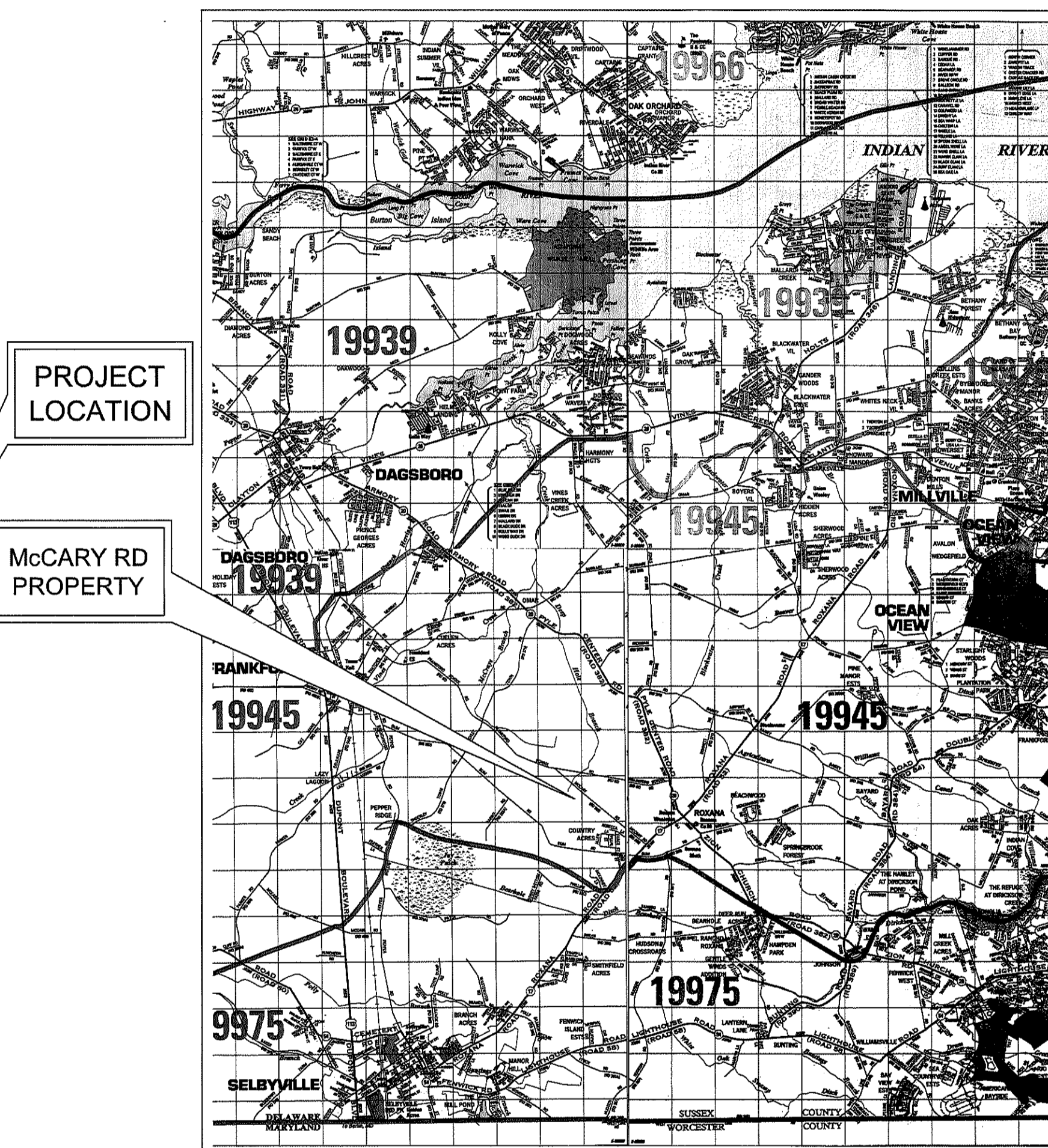
CONDITIONAL USE

PARCELS 533-5.00-38.00 & 41.04

GMB NO. 210109



VICINITY MAP
SCALE: 1" = 20 MILES



LOCATION MAP
SCALE: 1" = 2000'

PROJECT LOCATION

McCARY RD PROPERTY

LIST OF DRAWINGS

- | | |
|--------|-----------------------|
| PSP1.0 | COVER SHEET |
| PSP2.0 | EXISTING CONDITIONS |
| PSP3.0 | PRELIMINARY SITE PLAN |
| PSP4.0 | SITE PLAN RENDERING |



GEORGE, MILES & BUHR, LLC
ARCHITECTS & ENGINEERS
SALISBURY • BALTIMORE • SEAFORD
206 WEST MAIN STREET
SALISBURY, MARYLAND 21801
410-742-3115, FAX 410-548-9790
www.gmbnet.com

JULY 2021

CONSULTANT TEAM

OWNER/APPLICANT: MRBP, LLC
5973 SMITHY'S LANE
SALISBURY, MD 21801
CONTACT: R. LAWTON MYRICK
410-251-9568

CIVIL ENGINEER: GEORGE, MILES & BUHR, LLC
206 WEST MAIN STREET
SALISBURY, MARYLAND 21801
CONTACT: STEPHEN L. MARSH, P.E.
410-742-3115

SITE DATA:

TAX MAP #: TM ID 533-5.00-38.00
DEED REFERENCE: BOOK 5447 PAGE 327
PARCEL AREA: 41.09 ACRES
TAX MAP #: TM ID 533-5.00-41.04
DEED REFERENCE: BOOK 5447 PAGE 327
PARCEL AREA: 15.84 ACRES
PRESENT ZONING CLASSIFICATION: AR-1
PRESENT USE: AGRICULTURAL
PROPOSED ZONING CLASSIFICATION: AR-1 CONDITIONAL USE

PROPOSED USE: CONDITIONAL USE - BORROW PIT OPERATION
LAND USE APPROVAL AUTHORITY: SUSSEX COUNTY

TOTAL LAND AREA: ±56.93 ACRES
NON TIDAL WETLANDS: ±0.18 (7,920 SF)
TIDAL WETLANDS: ±0.00
TOTAL DISTURBED AREA: ±36.77

FLOOD INFORMATION:
SPECIAL FLOOD HAZARD AREA ZONE X PER FEMA MAPS:
10005C0630J DATED JANUARY 6, 2005 &
10005C0635K DATED MARCH 16, 2015.

REQUIRED PLANTED BUFFER ALONG ROAD FRONTAGE: 100'
REQUIRED PLANTED BUFFER ALONG REMAINING BOUNDARY: 50'

ENGINEER'S CERTIFICATION:

I, STEPHEN L. MARSH, P.E. HEREBY CERTIFY THAT I AM A REGISTERED ENGINEER IN THE STATE OF DELAWARE, THAT THE INFORMATION SHOWN HERE HAS BEEN PREPARED UNDER MY SUPERVISION AND TO THE BEST OF MY KNOWLEDGE AND BELIEVE REPRESENTS GOOD ENGINEERING PRACTICES AS REQUIRED BY THE APPLICABLE LAWS OF THE STATE OF DELAWARE.

STEPHEN L. MARSH, P.E. DATE
GEORGE, MILES, & BUHR, LLC.
206 W. MAIN STREET
SALISBURY, MD 21801

OWNER / DEVELOPER'S CERTIFICATION:

I HEREBY CERTIFY THAT I AM THE OWNER OF THE PROPERTY DESCRIBED AND SHOWN ON THIS PLAN AND THAT THE PLAN WAS MADE AT MY DIRECTION. IT IS MY DESIRE TO HAVE THE PLAN DEVELOPED AS SHOWN AND IN ACCORDANCE WITH ALL APPLICABLE LAWS AND REGULATIONS.

R. LAWTON MYRICK DATE
MRBP, LLC.

PRINTS ISSUED FOR:
REVIEW

DATE

NO.	REVISIONS

MCCARY ROAD BORROW PIT
SUSSEX COUNTY, DELAWARE

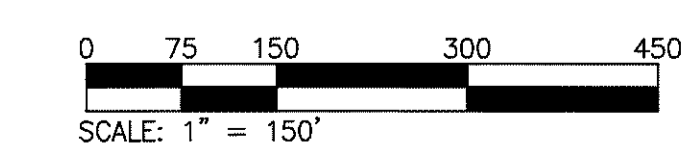
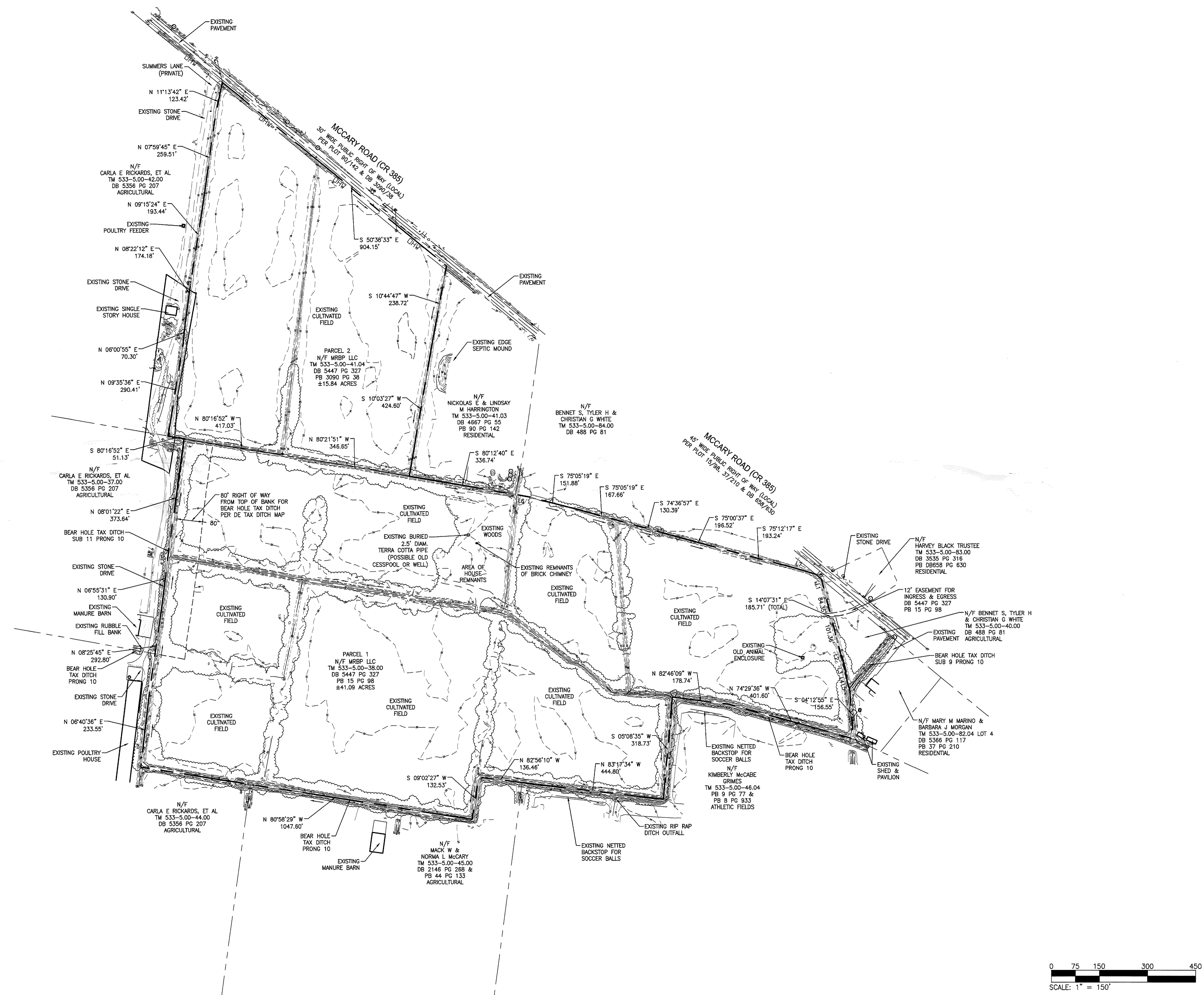
GMB
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206 WEST MAIN STREET
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410-742-3115, FAX 410-548-9790
www.gmbnet.com

MCCARY ROAD BORROW PIT
SUSSEX COUNTY, DELAWARE

COVER SHEET
FILE COPY

SCALE : AS SHOWN SHEET NO.
DESIGN BY : RLM
DRAWN BY : RLM
CHECKED BY :
GMB FILE : 210109
DATE : JUL 2021
PSP1.0

PLT - 10/11/2021	200 PAGES (1 Sheet)
DES - 10/11/2021	200 PAGES (1 Sheet)
CHK - 10/11/2021	200 PAGES (1 Sheet)
APP - 10/11/2021	200 PAGES (1 Sheet)
REV - 10/11/2021	200 PAGES (1 Sheet)
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REV - 10/11/2021	200 PAGES (1 Sheet)



PRINTS ISSUED FOR: REVIEW	
DATE	
REVISIONS	
NO.	

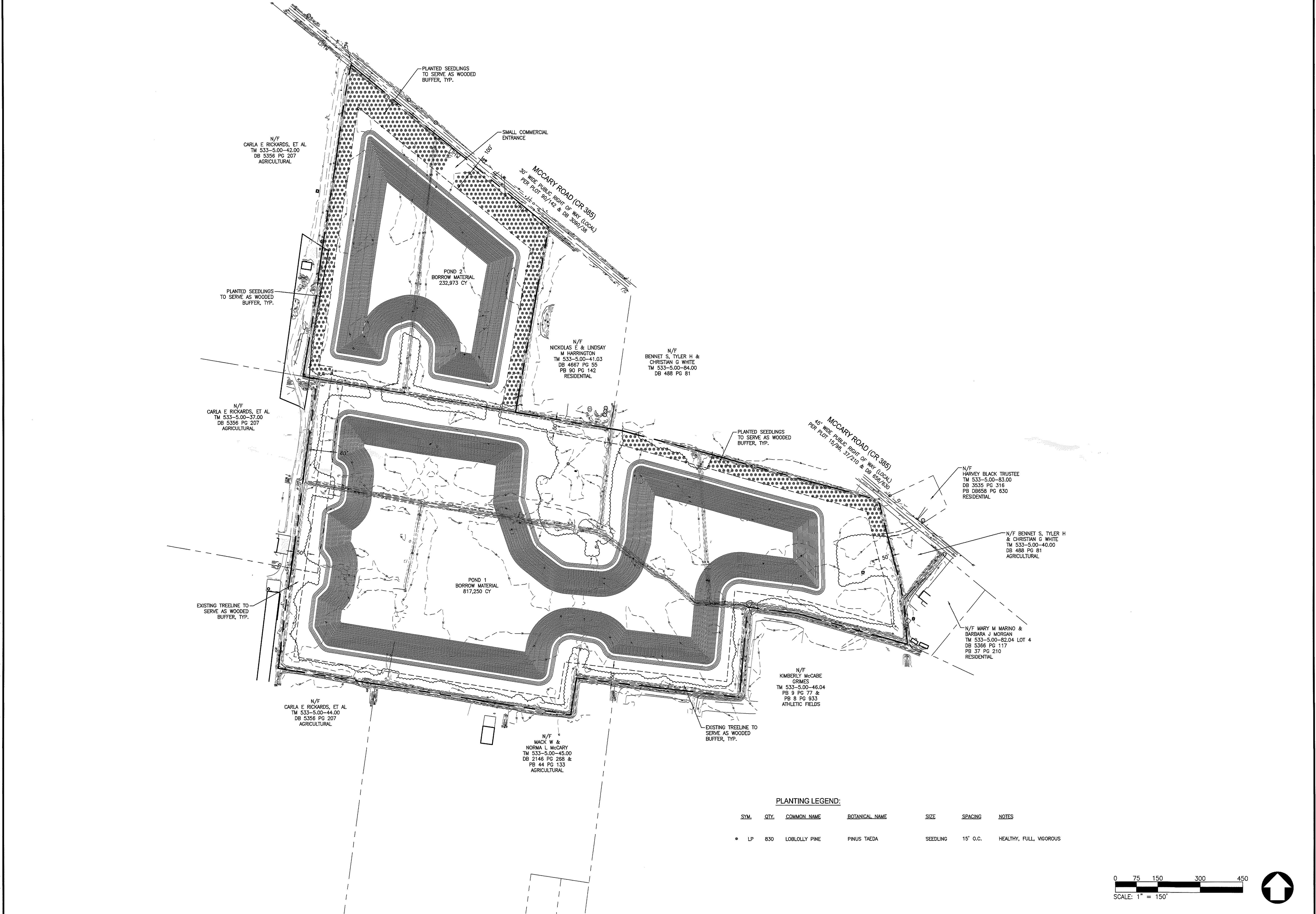
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 ARCHITECTS & ENGINEERS
 SALISBURY · BALTIMORE · SEAFORD
 206 WEST MAIN STREET
 SALISBURY, MARYLAND 21801
 410-742-3115, FAX 410-546-9790
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MCCARY ROAD BORROW PIT
 SUSSEX COUNTY, DELAWARE

EXISTING CONDITIONS

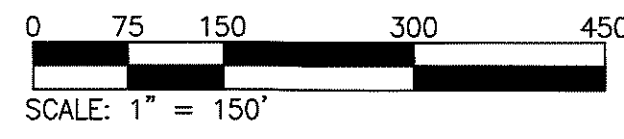
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DESIGN BY : RLM	PSP2.0
DRAWN BY : RLM	
CHECKED BY :	
GMB FILE : 210109	
DATE : JUL 2021	

PCN-RED 200 INCHES (50mm)	PCN-YELLOW 207 INCHES (52mm)	PCN-BLACK 207 INCHES (52mm)	PCN-BLUE 200 INCHES (50mm)	PCN-MAGENTA 207 INCHES (52mm)	POST-WHITE 230 INCHES (58mm)
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PLANTING LEGEND:

SYM.	QTY.	COMMON NAME	BOTANICAL NAME	SIZE	SPACING	NOTES
• LP	830	LOBLOLLY PINE	PINUS TAEDA	SEEDLING	15' O.C.	HEALTHY, FULL VIGOROUS



PRINTS ISSUED FOR REVIEW	
NO.	DATE
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**MCCARY ROAD BORROW PIT
 SUSSEX COUNTY, DELAWARE**

PROPOSED SITE PLAN

SCALE : 1" = 150'	SHEET NO.
DESIGN BY : RLM	PSP3.0
DRAWN BY : RLM	
CHECKED BY :	
GMB FILE : 210109	
DATE : JUL 2021	

- PEN: RED 1/8" INCHES (3.18mm)
- PEN: BLUE 1/8" INCHES (3.18mm)
- PEN: GREEN 1/8" INCHES (3.18mm)
- PEN: YELLOW 1/8" INCHES (3.18mm)
- PEN: MAGENTA 1/8" INCHES (3.18mm)
- PEN: WHITE 1/8" INCHES (3.18mm)



PLANTING LEGEND:

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◦ LP	830	LOBLOLLY PINE	PINUS TAEDA	SEEDLING	15' O.C.	HEALTHY, FULL, VIGOROUS

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PRESENT USE: AGRICULTURAL
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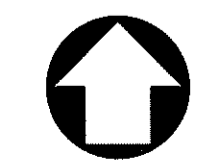
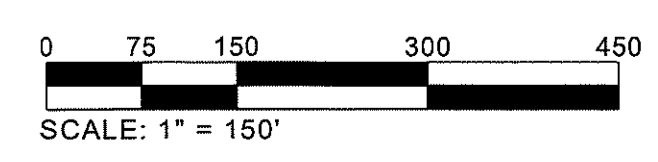
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PRINTS ISSUED FOR:	
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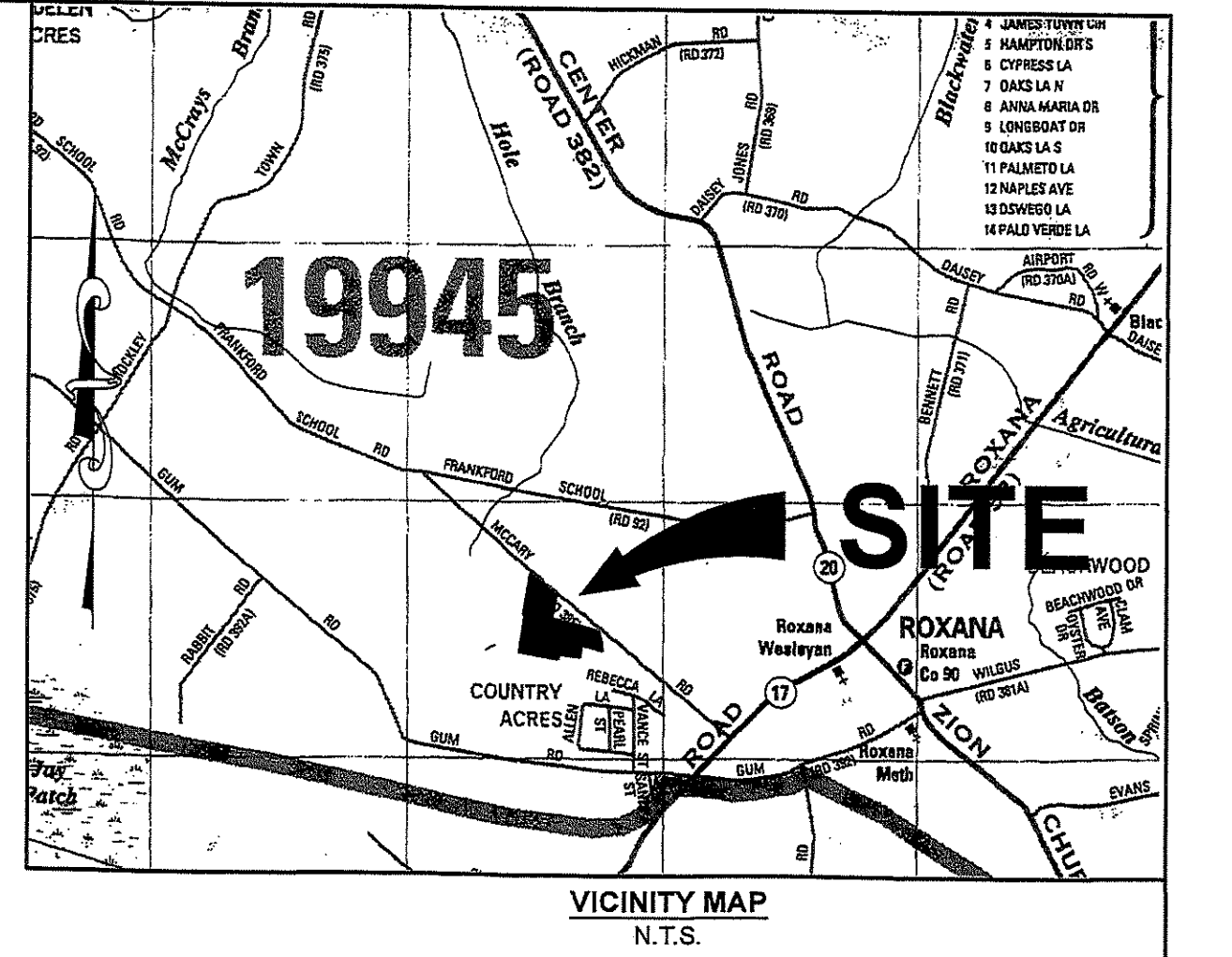
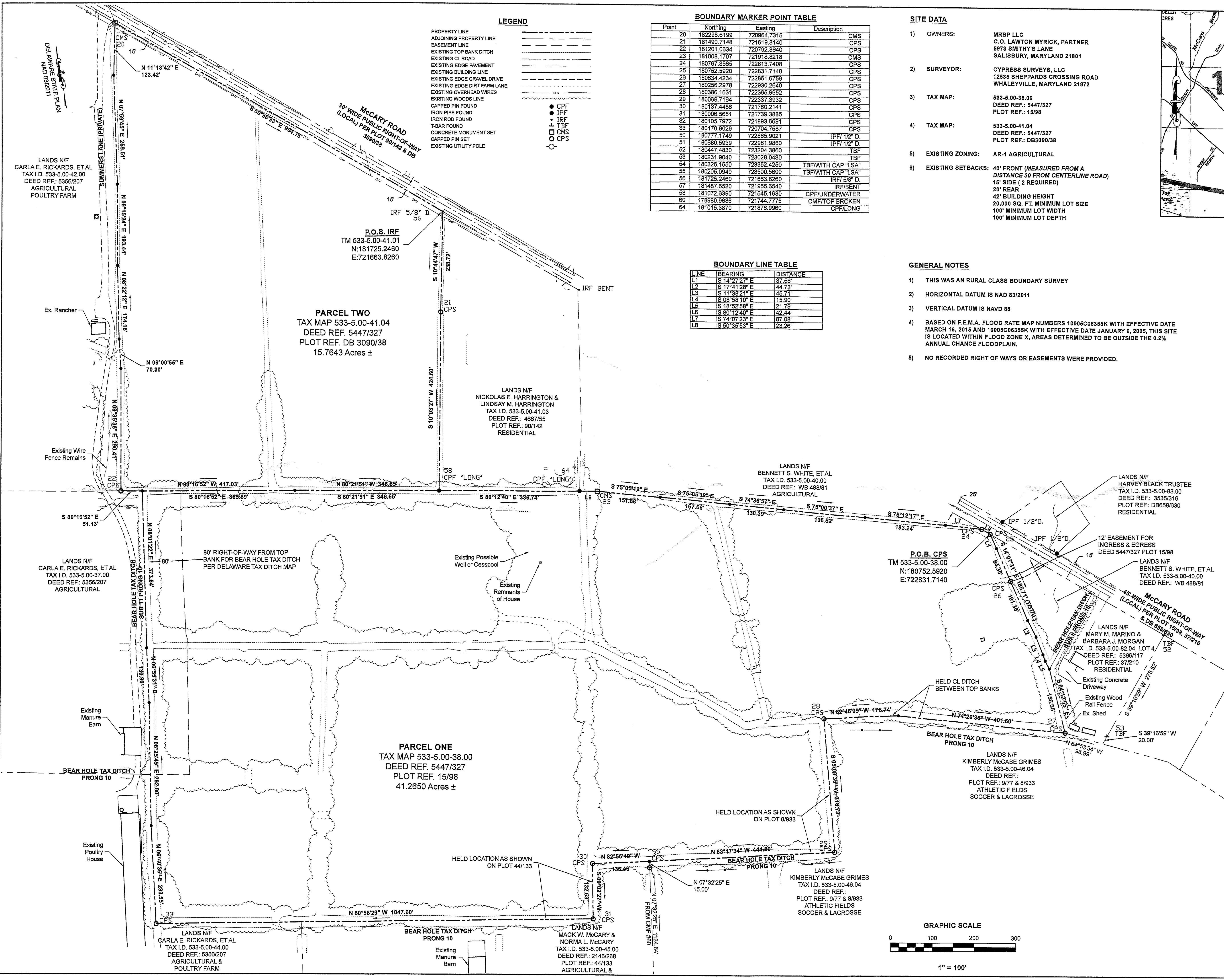
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**MCCARY ROAD BORROW PIT
SUSSEX COUNTY, DELAWARE**

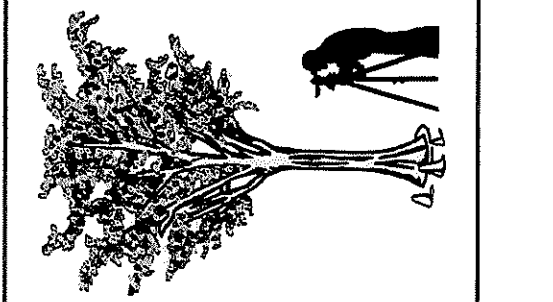
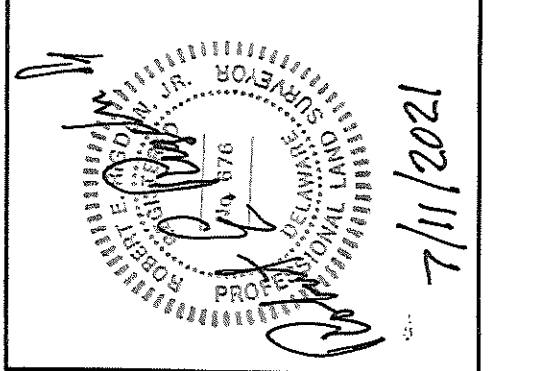
**PROPOSED SITE
PLAN RENDERING**



SCALE : 1" = 150'	SHEET NO.
DESIGN BY : RLM	PSP4.0
DRAWN BY : RLM	
CHECKED BY :	
GMB FILE : 210109	
DATE : JUL 2021	



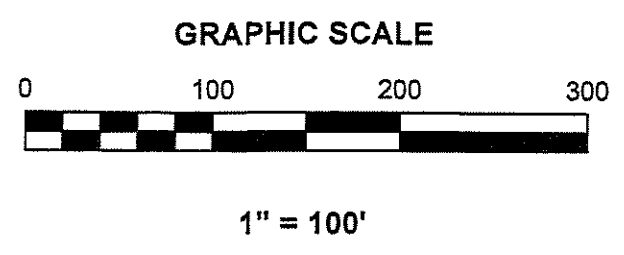
- SITE DATA**
- OWNERS:** MRBP LLC
C.O. LAWTON MYRICK, PARTNER
5973 SMITHY'S LANE
SALISBURY, MARYLAND 21801
 - SURVEYOR:** CYPRESS SURVEYS, LLC
12535 SHEPPARDS CROSSING ROAD
WHALEYVILLE, MARYLAND 21872
 - TAX MAP:** 533-5.00-38.00
DEED REF: 5447/327
PLOT REF: 15/98
 - TAX MAP:** 533-5.00-41.04
DEED REF: 5447/327
PLOT REF: DB3090/38
 - EXISTING ZONING:** AR-1 AGRICULTURAL
 - EXISTING SETBACKS:** 40' FRONT (MEASURED FROM A DISTANCE 30' FROM CENTERLINE ROAD)
15' SIDE (2 REQUIRED)
20' REAR
42' BUILDING HEIGHT
20,000 SQ. FT. MINIMUM LOT SIZE
100' MINIMUM LOT WIDTH
100' MINIMUM LOT DEPTH



Cypress Surveys, LLC
 ROBERT E. RIGDON, JR.
 REGISTERED LAND SURVEYOR
 12535 SHEPPARDS CROSSING ROAD
 WHALEYVILLE, MARYLAND 21872
 443-614-2031
 rrigdon@cypressurveys.com

DATE: 7/11/2021
 SCALE: 1" = 100'
 PROJECT NO.: 2021-1-13
 SHEET: 1 OF 1
 DRAWN BY: REER
 APPROVED BY:

BOUNDARY SURVEY PLAN
 LANDS OF
MRBP, LLC
 BALTIMORE HUNDRED
 TAX I.D. NUMBERS 533-5.00-38.00 & 533-5.00-41.04
 SUSSEX COUNTY, DELAWARE





McCary Road Borrow Pit

Parcels 533-5.00-38.00 & 41.04
Conditional Use #2300

County Council - Public Hearing Information Packet



August 23, 2022
GMB Project No. 210109

GMB

GEORGE, MILES & BUHR, LLC

ARCHITECTS/ENGINEERS

206 WEST MAIN STREET
SALISBURY, MD 21801
410.742.3115

SALISBURY/BALTIMORE/SEAFORD



**MCCARY ROAD BORROW PIT
TAX MAP 533-5.00-38.00 & 41.04
Conditional Use #2300**

**INFORMATION FOR PUBLIC RECORD
County Council - August 23, 2022**

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2. PLANNING & ZONING

- *Sussex County Conditional Use Application*
 - Letter to Planning & Zoning, dated 7/16/2021
 - Conditional Use Application
 - MRBP Proposed Conditions of Approval

- *Environmental Assessment / Public Facility Evaluation, dated 6/15/2022*
 - *Preliminary Site Plan – with updated proposed zoning Conditions*

3. PRELIMINARY LAND USE SERVICE (PLUS)

- PLUS Application, dated 6/29/2021
- PLUS Response Letter, dated 6/29/2022

4. SITE SPECIFIC MAPS, PLANS AND DOCUMENTATION

- List of Adjoining Property Owners
- Deed
- Zoning Map
- Soils Map
- Flood Zone Map
- Wetlands & Tax Ditch Map
- Survey

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- DeIDOT Service Level Evaluation Response, dated 7/12/2021

6. THREATENED AND ENDANGERED SPECIES

- Environmental Resources, Inc., Letter, dated 6/30/2022

EXECUTIVE SUMMARY

McCary Road Borrow Pit
Conditional Use 2300
EXECUTIVE SUMMARY

MRBP LLC is seeking a Conditional Use for Tax Map Parcels **533-5.00-38.00** and **533-5.00-41.04** as a Surface Mining / Borrow Pit operation.

The parcels are zoned AR and lie in the Coastal Area.

Parcel 38.00 is 41.27 acres & **Parcel 41.04** is 15.76 acres.

The combined 57.03 acres site is located along McCary Road near Roxana, Delaware.

The site is surrounded by existing Agricultural and Residential uses.

River Soccer Club is an adjacent property to the southeast.

A Small Commercial entrance will be located along McCary Road.

No public water or sewer is needed for the operation of the borrow pit.

Stormwater management will meet the requirements of Sussex Conservation District.

Disturbance is generally contained to the center of the site.

A 100' planted buffer is required along the road frontage and a 50' wooded buffer is required for all other site boundaries.

An Environmental Assessment, and responses to the PLUS comments are included in the project binder.

PLANNING & ZONING



GEORGE, MILES & BUHR, LLC

■ ■ ■ ■

ARCHITECTS
ENGINEERS

206 WEST MAIN STREET
SALISBURY, MD 21801
PH: 410.742.3115
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BALTIMORE
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■ ■ ■ ■

JAMES H. WILLEY, JR., P.E.
PETER A. BOZICK, JR., P.E.
JUDY A. SCHWARTZ, P.E.
CHARLES M. O'DONNELL, III, P.E.
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AUTUMN J. WILLIS
CHRISTOPHER J. PFEIFER, P.E.

July 16, 2021

Ms. Lauren DeVore
Sussex County Planning & Zoning Department
2 The Circle
Georgetown, DE 19947

Re: McCary Road Borrow Pit
Tax Map Parcel 533-5.00-38.00 & 533-5.00-41.04
Conditional Use
GMB Project 210109

Dear Ms. DeVore:

Enclosed please find a Conditional Use Application and supporting documentation for the McCary Road Borrow Pit project. The property owner, MRBP, LLC intends to develop the property along McCary Road, Frankford, DE (Tax Map Parcel 533-5.00-38.00 & 533-5.00-41.04), as a borrow pit operation. The total project area is 56.71± acres.

The parcel is currently zoned AR-1. There are approximately 10.9± forested acres presently on-site and 4.36± are proposed to be removed. There is approximately 0.18 acres of non-tidal wetlands per State Wetlands GIS data. The Wetlands will be field delineated in the Fall, after crops are harvested. We do not believe there will be impacts to jurisdictional wetlands, other than a potential ditch crossing for vehicular access to the interior of the site. Any disturbance will be permitted per the Army Corps of Engineers and DNREC guidelines.

Please note we have submitted the Service Evaluation Request on 6/24/2021 and are awaiting response from DeIDOT. However, we have enclosed a copy of the DeIDOT Small Commercial Entrance Approval Letter, dated 4/6/2021 for the project.

We will submit the appropriate number of copies for the Planning Commission Public Hearing upon your review and approval. If you should have any questions, or comments, please feel free to contact me by telephone at (410) 742-3115 or by e-mail at smarsh@gmbnet.com.

Sincerely,

Stephen L. Marsh, P.E.
Sr. Vice President

SLM/cl

Enclosures

**Planning & Zoning Commission Application
Sussex County, Delaware**

Sussex County Planning & Zoning Department
2 The Circle (P.O. Box 417) Georgetown, DE 19947
302-855-7878 ph. 302-854-5079 fax

Type of Application: (please check applicable)

- Conditional Use
- Zoning Map Amendment

Site Address of Conditional Use/Zoning Map Amendment

Type of Conditional Use Requested:

Tax Map #: _____ **Size of Parcel(s):** _____
Current Zoning: _____ **Proposed Zoning:** _____ **Size of Building:** _____

Land Use Classification:

Water Provider: _____ **Sewer Provider:** _____

Applicant Information

Applicant Name: _____
Applicant Address: _____
City: _____ State: _____ Zip Code: _____
Phone #: _____ E-mail: _____

Owner Information

Owner Name: _____
Owner Address: _____
City: _____ State: _____ Zip Code: _____
Phone #: _____ E-mail: _____

Agent/Attorney/Engineer Information

Agent/Attorney/Engineer Name: _____
Agent/Attorney/Engineer Address: _____
City: _____ State: _____ Zip Code: _____
Phone #: _____ E-mail: _____



Check List for Sussex County Planning & Zoning Applications

The following shall be submitted with the application

Completed Application

Provide eight (8) copies of the Site Plan or Survey of the property

- Survey shall show the location of existing or proposed building(s), building setbacks, parking area, proposed entrance location, etc.
- Provide a PDF of Plans (may be e-mailed to a staff member)
- Deed or Legal description

Provide Fee \$500.00

Optional - Additional information for the Commission/Council to consider (ex. architectural elevations, photos, exhibit books, etc.) If provided submit 8 copies and they shall be submitted a minimum of ten (10) days prior to the Planning Commission meeting.

Please be aware that Public Notice will be sent to property owners within 200 feet of the subject site and County staff will come out to the subject site, take photos and place a sign on the site stating the date and time of the Public Hearings for the application.


DeIDOT Service Level Evaluation Request Response

PLUS Response Letter (if required) Awaiting Responses.

The undersigned hereby certifies that the forms, exhibits, and statements contained in any papers or plans submitted as a part of this application are true and correct.

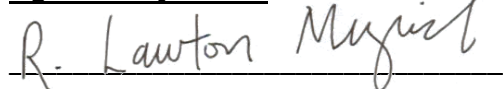
I also certify that I or an agent on my behalf shall attend all public hearing before the Planning and Zoning Commission and the Sussex County Council and any other hearing necessary for this application and that I will answer any questions to the best of my ability to respond to the present and future needs, the health, safety, morals, convenience, order, prosperity, and general welfare of the inhabitants of Sussex County, Delaware.

Signature of Applicant/Agent/Attorney



Date: 6/28/2021

Signature of Owner



Date: 6/28/2021

For office use only:

Date Submitted: _____ Fee: \$500.00 Check #: _____
Staff accepting application: _____ Application & Case #: _____
Location of property: _____

Subdivision: _____
Date of PC Hearing: _____ Recommendation of PC Commission: _____
Date of CC Hearing: _____ Decision of CC: _____

Conditions of Approval – MRBP

1. The applicant shall comply with all of the requirements set forth in **Section 115-172B** of the Sussex County Zoning Ordinance.
2. The applicant shall comply with all State and County Erosion and Sediment Control Regulations:
 - 2.1 The project shall meet or exceed Stormwater Management system regulations set forth by the Sussex Conservation District and DNREC through a combination of Best Management Practices and Best available technologies.
 - 2.2 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.
3. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission prior to commencement of operations.
4. If approved, this Conditional Use shall terminate upon the expiration of thirty (30) years from the date of adoption.
If approved, this Conditional Use shall terminate upon the expiration of fifteen (15) years from the date of adoption.
5. No materials may be brought from off the site for processing, mixing or similar purposes.
No materials may be brought from off the site for processing, mixing or similar purposes. Exception: screened topsoil is allowed to be brought to the site for future reclamation purposes.
6. The operation of the Borrow Pit shall be controlled to provide reasonable protection to surrounding properties as follows:
 - 6.1 The Borrow Pit shall be at least 200 feet from any dwelling on property of other ownership.
 - 6.2 A 100-foot Vegetation/Forested Buffer shall be maintained along that portion of the site which abuts County Road 385 (McCary Road) Right-of-way. Existing vegetation and trees within the buffer area between the property line and the perimeter shall remain undisturbed.
 - 6.3 A 50-foot Vegetation/Forested buffer shall be maintained along all other perimeter property lines within the site. Existing vegetation between the property lines and the perimeter shall remain undisturbed.
 - 6.4 A water truck will be available to control dust from interior trucking traffic when conditions require.
7. Hours of operation of trucking activities shall be from 8:00 am to 6:00 pm Monday through Friday, and 8:00 am to 2:00 pm on Saturday. There shall be no trucking activities on Sunday.
Hours of operation of trucking activities shall be from 7:00 am to 6:00 pm Monday through Friday. There shall be no trucking activities on Saturday or Sunday.
8. Entrance improvements required by Delaware Department of Transportation in connection with this land use will be completed by the applicant.
9. The Borrow Pit entrance shall have a fenced gate, which shall be secured when the operation is closed.
10. No materials will be stored on any access roads or with any buffer areas.
11. Fuel shall be stored in storage tanks with confinement areas as required by the Department of Natural Resources and Environmental Control (DNREC) and the Office of the State Fire Marshall.

12. The proposed pit will have 4:1 side slopes down to a 10-foot level bench that will be approximately near or 1 foot below the static water surface. Below the water level, the borrow pit shall have 3:1 slopes. The Depth of the proposed borrow pit will not exceed 40 feet.
13. No stumps, branches, debris, or similar items will be buried on the site. Tree stumps and branches may be used in the final pond design for enhanced fish structure.
14. Before any excavation operations begin, a complete environmental impact study as defined in connection with any approved ordinance will be conducted and presented with the Final Site Plan.
15. Owner shall comply with all State and County Erosion and Sediment Control regulations.
16. Reclamation plans shall indicate finished grading, seeding, and planting schedules designed to create a pleasing appearance. Reclamation will be completed in phases as excavation operations in a section are completed. Applicant will notify the Planning & Zoning Department in writing on or about April 1st of each year as to the status of the reclamation and reclamation plans for the following year.
17. The 57.03-acre parcel shall be divided into three (3) phases of 19 acres each. Phase two will not be started until 75% of Phase one is completed. Phase three will not be started until 75% of Phase two is completed. The total excavated area shall not exceed 40 acres.
18. The Dredge may operate 24 hours per day, but no front-end loaders, backhoes, or other construction equipment with safety buzzers will operate after 5:30 pm.
The Dredge, nor any heavy equipment with safety buzzers will operate after 5:30 pm.
19. The entrance to the Borrow Pit shall be from County Road 385 (McCary Road).
20. Any dewatering activities will remain on site.
21. The applicant shall delay the sale of materials from on-site until October 1st, 2022.
22. No hauling of materials shall occur from the site prior to October 1st, 2022.
23. Five (5) years after the start of digging, the Planning and Zoning Department shall perform an inspection of the site and shall request written comments from all appropriate State agencies so that the Planning and Zoning Commission can review the comments to verify compliance with all then-existing regulations.
24. Owner shall be responsible for monitoring ground water quality. Specifically, Owner shall install three wells, one above the excavation, and two below the excavation. Monitoring shall be performed by a licensed Geologist, and the results filed on an annual basis with Sussex County and the Department of Natural Resources and Environmental Control (DNREC). Owner shall be responsible for all costs associated with the water quality monitoring. Owner shall also be responsible for the cost of correcting any adverse impacts on water quality which may be occasioned by the excavation operation. Necessary remediation shall be determined by Sussex County, with guidance from DNREC.



GEORGE, MILES & BUHR, LLC



ARCHITECTS
ENGINEERS

206 WEST MAIN STREET
SALISBURY, MD 21801
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June 15, 2022

Sussex County Planning & Zoning
2 The Circle
P.O. Box 417
Georgetown, DE 19947

Attn: Ms. Lauren DeVore
Planner III

Re: McCary Road Borrow Pit (MRBP LLC)
Proposed Surface Mine
Tax Map Number 533-5.00-38.00 & 41.04
GMB Project # 210109

Dear Ms. DeVore:

On behalf of MRBP LLC, please accept this Environmental Assessment and Public Facility Evaluation Report for Tax Map Numbers 533-5.00-38.00 and 41.04. This letter is in support of the Proposed Conditional Use application and Preliminary Site Plan submittal as encouraged by Sussex County Code Section 115-194.3. A copy of this letter report will also be included in the project binders. The Preliminary Site Plan and supporting documentation was originally submitted to Sussex County Department of Planning and Zoning on July 17, 2021.

Summary

MRBP LLC is seeking a Conditional Use permit to operate a surface mining borrow pit on the site, comprised of the two (2) tax parcels. The property is zoned AR and is in the Coastal Area along McCary Road near Roxana. The site is surrounded by Agricultural and Residential uses with River Soccer Club located to the south of the site. The total project area is 56.93 acres.

Stormwater Management (SWM) and Erosion and Sediment Control (ESC)

The stormwater management design will meet all current regulatory requirements. Some of the existing agricultural ditches will be integrated into the proposed pond basin. Overflow structures will be designed to flow into existing tax ditches that border the site. No offsite drainage will be adversely impacted.

Public Water Supply

No Public Water will be provided to the site.

Public Wastewater Collection, Treatment and Disposal

No Public Wastewater is required for this proposed use. There will be a port-a-potty on site for contractor use, which will be maintained regularly.

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CHRISTOPHER J. PFEIFER, P.E.

Traffic

A Small Commercial Entrance Plan was approved by DeIDOT on April 06, 2021. This approval expired after one year, but we feel confident that a renewal can be obtained because no changes to the original application are anticipated. Final entrance design at McCary Road will be coordinated within DeIDOT rules and regulations and will be reviewed and approved by DeIDOT.

Threatened/Endangered Species

There are no known threatened or endangered species on the site.

Tidal/Non-tidal Wetlands

Environmental Resources, Inc. (ERI) performed a site investigation in early 2021. The investigation was in accordance with the three-parameter approach evaluating soils, hydrology, and vegetation outlined in the 1987 Corps of Engineers Wetlands Delineation Manual and associated guidance. Wetland boundaries are still being field verified. ERI has advised GMB that the proposed plan avoids impacts to any potential wetland area. There are no State regulated wetlands or tidal wetlands on this property. A wetland report and plan will be submitted to the Philadelphia District Corps of Engineers. We do not anticipate any impacts to federally regulated wetlands.

Non-tidal Waters & Drainage Features

The property contains man-made drainage channels that drain into an existing Tax Ditch Network. Impacts to drainage channels on the perimeter of the project have been avoided in order to maintain drainage conditions on adjacent properties. Impacts to the channels within the Beaver Dam Tax Ditch system have also been avoided. ERI advised that Prong 10 of the Tax Ditch Network is the only channel potentially regulated by the Corps of Engineers.

Provision of Open Space

No public open space is anticipated at this time or during the operation of the proposed borrow pit. A wooded buffer will be planted in those areas that do not currently contain existing wooded vegetation and a gate will be installed to control access.

Provisions for Public and Private Infrastructure

There is no Public or Private infrastructure anticipated for this site.

Economic and Recreational Benefits

As land development continues throughout Sussex County, sources of sand for structural fill will be required. Due to the site's proximity to growing residential areas, it is more economically viable to truck sand from McCary Road than other pits which are further away. A borrow pit operation will facilitate employment opportunities for the operation of the excavation equipment as well as the truck drivers that haul the material offsite. Furthermore, providing a fill source closer to development activity will also reduce environmental by reducing vehicle miles traveled, area of impact, and emissions.

Regarding Recreational Benefits, it is under consideration to sell or donate the future expired borrow pit and surrounding parcel to the Sussex County Land Trust for use as a public park. This would serve the County as a whole and the families that travel to

play soccer at the River Soccer Complex adjacent to the site. This is being studied, but no committable time frame is appropriate at this time.

Historic or Cultural Resources

If any unmarked graves or human remains are found during construction, the developer will stop work and contact the State's Historic Preservation Office (SHPO) immediately. SHPO comments note in the PLUS comments that historic archaeological potential is low. In the event any other unknown historic or archeological resource should be found on the site located within a Section 106 permit area as determined by the Corps of Engineers or other federal permitting agency, the developer will conduct all necessary investigations as required by the Natural Historic Preservation Act of 1966, Section 106 Provisions.

Conformance with Current Sussex County Comprehensive Plan

The project is located within the State Level 3 Investment Area and falls within the Coastal Area, which is designated as a growth area per the Sussex County Comprehensive Plan. Coincidentally, preservation of natural resources is strongly encouraged in the Coastal Area. As such, the proposed project is consistent with the Comprehensive Plan.

Per Section 2.3 - IMPLICATIONS OF POPULATION GROWTH

More public recreation land, recreation facilities, and open space. As the Sussex County population increases and diversifies, expectations and demands for more parks, recreational opportunities, and outdoor activities are likely to grow. At the same time, increases in personal leisure time and leisure time activities for active retirees have generated growing interests in new sports, both active and passive. Young people of school age now participate in multiple sports including baseball, basketball, lacrosse, and soccer. Many Sussex County seniors and retirees have expressed their growing interest in active lifestyles demanding amenities such as sidewalks, trails, and pickleball courts. Outdoor enthusiasts of all ages with interests in camping, hiking, and kayaking are looking for access to woodlands, waterways, and other natural areas.

We are considering working the Sussex County Land Trust or other State and Local agencies to explore the creation of a public park for active and passive recreation. This complies with section 5.4.5 of the Comprehensive Plan – whereby “State agencies have endeavored to identify and help preserve Delaware’s “green infrastructure”, which DNREC describes as a network of natural areas, parks, conservation areas, and working lands with conservation value that contribute to the health and quality of life in Delaware.”

Per Section 6.7 of the Comprehensive Plan:

Goal 6.1: Enhance the quality of life of County residents and visitors by sustaining and encouraging recreation and open space opportunities in the County.

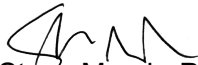
Objective 6.1.1 Continue the County’s role in parks, recreation, and open space planning in Sussex County.

Conclusion

The proposed borrow pit is consistent with the County's Comprehensive Land Use Plan. The site's proximity to other development in the area makes it appropriate for the proposed use. Environmental impacts will be minimized by the use of best management practices for stormwater treatment, conservation of existing wetlands and wooded areas, establishment of and preservation of wooded buffer areas, and enhancement of drainage channels. The economic benefits of the permit fees, increased tax revenue, and long-term jobs associated with this community addition are to be expected. The chances for a successful project, ensuring these jobs and economic benefits, are increased due to the success of the existing communities in the area and the minimal infrastructure investment required. MRBP looks forward to working with Sussex County to implement the proposed surface mining operation, which will be integrated into the surrounding community and existing natural environment.

Please feel free to contact me with any questions.

Sincerely,



Steve Marsh, P.E.
Sr. Vice President
East Region Director of Operations

SLM/cl

Enclosures: One (1) copy of the Preliminary Site Plan

cc: MRBP LLC
Attn: R. Lawton Myrick

CONDITIONAL USE #2300
PROPOSED CONDITIONS OF APPROVAL

1. THE APPLICANT SHALL COMPLY WITH ALL OF THE REQUIREMENTS SET FORTH IN SECTION 115-172B OF THE SUSSEX COUNTY ZONING ORDINANCE.
2. THE APPLICANT SHALL COMPLY WITH ALL STATE AND COUNTY EROSION AND SEDIMENT CONTROL REGULATIONS:
 - 2.1. THE PROJECT SHALL MEET OR EXCEED STORMWATER MANAGEMENT SYSTEM REGULATIONS SET FORTH BY THE SUSSEX CONSERVATION DISTRICT AND DIRECT THROUGH A COMBINATION OF BEST MANAGEMENT PRACTICES AND BEST AVAILABLE TECHNOLOGIES.
 - 2.2. 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.
3. THE FINAL SITE PLAN SHALL BE SUBJECT TO THE REVIEW AND APPROVAL OF THE PLANNING AND ZONING COMMISSION PRIOR TO COMMENCEMENT OF OPERATIONS.
4. IF APPROVED, THIS CONDITIONAL USE SHALL TERMINATE UPON THE EXPIRATION OF FIFTEEN (15) YEARS FROM THE DATE OF ADOPTION.
5. NO MATERIALS MAY BE BROUGHT FROM OFF THE SITE FOR PROCESSING, MIXING OR SIMILAR PURPOSES, EXCEPT FOR SCREENED TOPSOIL FOR FUTURE RECLAMATION PURPOSES.
6. THE OPERATION OF THE BORROW PIT SHALL BE CONTROLLED TO PROVIDE REASONABLE PROTECTION SURROUNDING PROPERTIES AS FOLLOWS:
 - 6.1. THE BORROW PIT SHALL BE AT LEAST 200 FEET FROM ANY DWELLING ON PROPERTY OF OTHER OWNERSHIP.
 - 6.2. A 100 FOOT VEGETATION/FORESTED BUFFER SHALL BE MAINTAINED ALONG THAT PORTION OF THE SITE WHICH ADJUTS THE COUNTRY ROAD 385 (McCARY ROAD) RIGHT-OF-WAY. EXISTING VEGETATION AND TREES WITHIN THE BUFFER AREA BETWEEN THE PROPERTY LINE AND THE PERIMETER SHALL REMAIN UNDISTURBED.
 - 6.3. A 50 FOOT VEGETATION/FORESTED BUFFER SHALL BE MAINTAINED ALONG ALL OTHER PERIMETER PROPERTY LINES WITHIN THE SITE. EXISTING VEGETATION BETWEEN THE PROPERTY LINES AND THE PERIMETER SHALL REMAIN UNDISTURBED.
 - 6.4. A WATER TRUCK WILL BE AVAILABLE TO CONTROL DUST FROM INTERIOR TRUCKING TRAFFIC WHEN CONDITIONS REQUIRE.
7. HOURS OF OPERATION OF TRUCKING ACTIVITIES SHALL BE FROM 7:00 A.M. TO 6:00 P.M. MONDAY THROUGH FRIDAY. THERE SHALL BE NO TRUCKING ACTIVITIES ON SATURDAY OR SUNDAY.
8. ENTRANCE IMPROVEMENTS REQUIRED BY THE DELAWARE DEPARTMENT OF TRANSPORTATION IN CONNECTION WITH THIS LAND USE WILL BE COMPLETED BY THE APPLICANT.
9. THE BORROW PIT ENTRANCE SHALL HAVE A FENCED GATE, WHICH SHALL BE SECURED WHEN THE OPERATION IS CLOSED.
10. NO MATERIALS WILL BE STORED ON ANY ACCESS ROADS OR WITHIN ANY BUFFER AREAS.
11. FUEL SHALL BE STORED IN STORAGE TANKS WITH CONFINEMENT AREAS AS REQUIRED BY THE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL (DNREC) AND THE OFFICE OF THE STATE FIRE MARSHAL.
12. THE PROPOSED PIT WILL HAVE 4:1 SIDE SLOPES DOWN TO A 10 FOOT LEVEL BENCH THAT WILL BE APPROXIMATELY NEAR OR 1 FOOT BELOW THE STATIC WATER SURFACE. BELOW THE WATER LEVEL, THE BORROW PIT SHALL HAVE 3:1 SLOPES. THE DEPTH OF THE PROPOSED BORROW PIT WILL NOT EXCEED 40 FEET.
13. NO STUMPS, BRANCHES, DEBRIS OR SIMILAR ITEMS WILL BE BURIED ON THE SITE. TREE STUMPS AND BRANCHES MAY BE USED IN THE FINAL POND DESIGN FOR ENHANCED FISH STRUCTURE.
14. BEFORE ANY EXCAVATION OPERATIONS BEGIN, A COMPLETE ENVIRONMENTAL IMPACT STUDY AS DEFINED IN CONNECTION WITH ANY APPROVED ORDINANCE WILL BE CONDUCTED AND PRESENTED WITH THE FINAL SITE PLAN.
15. OWNER SHALL COMPLY WITH ALL STATE AND COUNTY EROSION AND SEDIMENT CONTROL REGULATIONS.
16. RECLAMATION PLANS SHALL INDICATE FINISHED GRADING, SEEDING, AND PLANTING SCHEDULES DESIGNED TO CREATE A PLEASING APPEARANCE. RECLAMATION WILL BE COMPLETED IN PHASES AS EXCAVATION OPERATIONS IN A SECTION ARE COMPLETED. APPLICANT WILL NOTIFY THE PLANNING AND ZONING DEPARTMENT IN WRITING ON OR ABOUT APRIL 1ST OF EACH YEAR AS TO THE STATUS OF THE RECLAMATION AND RECLAMATION PLANS FOR THE FOLLOWING YEAR.
17. THE 57.03 ACRE PARCEL SHALL BE DIVIDED INTO THREE (3) PHASES OF 19 ACRES EACH. PHASE TWO WILL NOT BE STARTED UNTIL 75% OF PHASE ONE IS COMPLETED. PHASE THREE WILL NOT BE STARTED UNTIL 75% OF PHASE TWO IS COMPLETED. THE TOTAL EXCAVATED AREA SHALL NOT EXCEED 40 ACRES.
18. THE DREDGE NOR ANY HEAVY EQUIPMENT SUCH AS FRONT-END LOADERS, BACKHOES, OR OTHER CONSTRUCTION EQUIPMENT WITH SAFETY BUZZERS WILL OPERATE AFTER 5:30 P.M.
19. THE ENTRANCE TO THE BORROW PIT SHALL BE FROM CR 385 (McCARY ROAD).
20. ANY DEWATERING ACTIVITIES WILL REMAIN ON SITE.
21. THE APPLICANT SHALL DELAY THE SALE OF MATERIALS FROM OFF-SITE UNTIL OCTOBER 1ST, 2022.
22. NO HAULING OF MATERIALS SHALL OCCUR FROM THE SITE PRIOR TO OCTOBER 1ST, 2022.
23. FIVE (5) YEARS AFTER THE START OF DIGGING, THE PLANNING AND ZONING DEPARTMENT SHALL PERFORM AN INSPECTION OF THE SITE, AND SHALL REQUEST WRITTEN COMMENTS FROM ALL APPROPRIATE STATE AGENCIES SO THAT THE PLANNING AND ZONING COMMISSION CAN REVIEW THE COMMENTS TO VERIFY COMPLIANCE WITH ALL THEN-EXISTING REGULATIONS.
24. OWNER SHALL BE RESPONSIBLE FOR MONITORING GROUND WATER QUALITY. SPECIFICALLY, OWNER SHALL INSTALL THREE WELLS, ONE ABOVE THE EXCAVATION, AND TWO BELOW THE EXCAVATION. MONITORING SHALL BE PERFORMED BY A LICENSED GEOLOGIST, AND THE RESULTS FILED ON AN ANNUAL BASIS WITH SUSSEX COUNTY AND THE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL (DNREC). OWNER SHALL BE RESPONSIBLE FOR ALL COSTS ASSOCIATED WITH THE WATER QUALITY MONITORING. OWNER SHALL ALSO BE RESPONSIBLE FOR THE COST OF CORRECTING ANY ADVERSE IMPACTS ON WATER QUALITY WHICH MAY BE OCCASIONED BY THE EXCAVATION OPERATION. NECESSARY REMEDIATION SHALL BE DETERMINED BY SUSSEX COUNTY, WITH GUIDANCE FROM THE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL (DNREC)

McCARY ROAD BORROW PIT

SUSSEX COUNTY, DELAWARE

PRELIMINARY SITE PLAN

CONDITIONAL USE #2300

PARCELS 533-5.00-38.00 & 41.04

GMB NO. 210109

CONSULTANT TEAM

OWNER/APPLICANT: MRBP, LLC
5973 SMITHY'S LANE
SALISBURY, MD 21801
CONTACT: R. LAWTON MYRICK
410-251-9568

CIVIL ENGINEER: GEORGE MILES & BUHR, LLC
206 WEST MAIN STREET
SALISBURY, MARYLAND 21801
CONTACT: STEPHEN L. MARSH, P.E.
410-742-3115

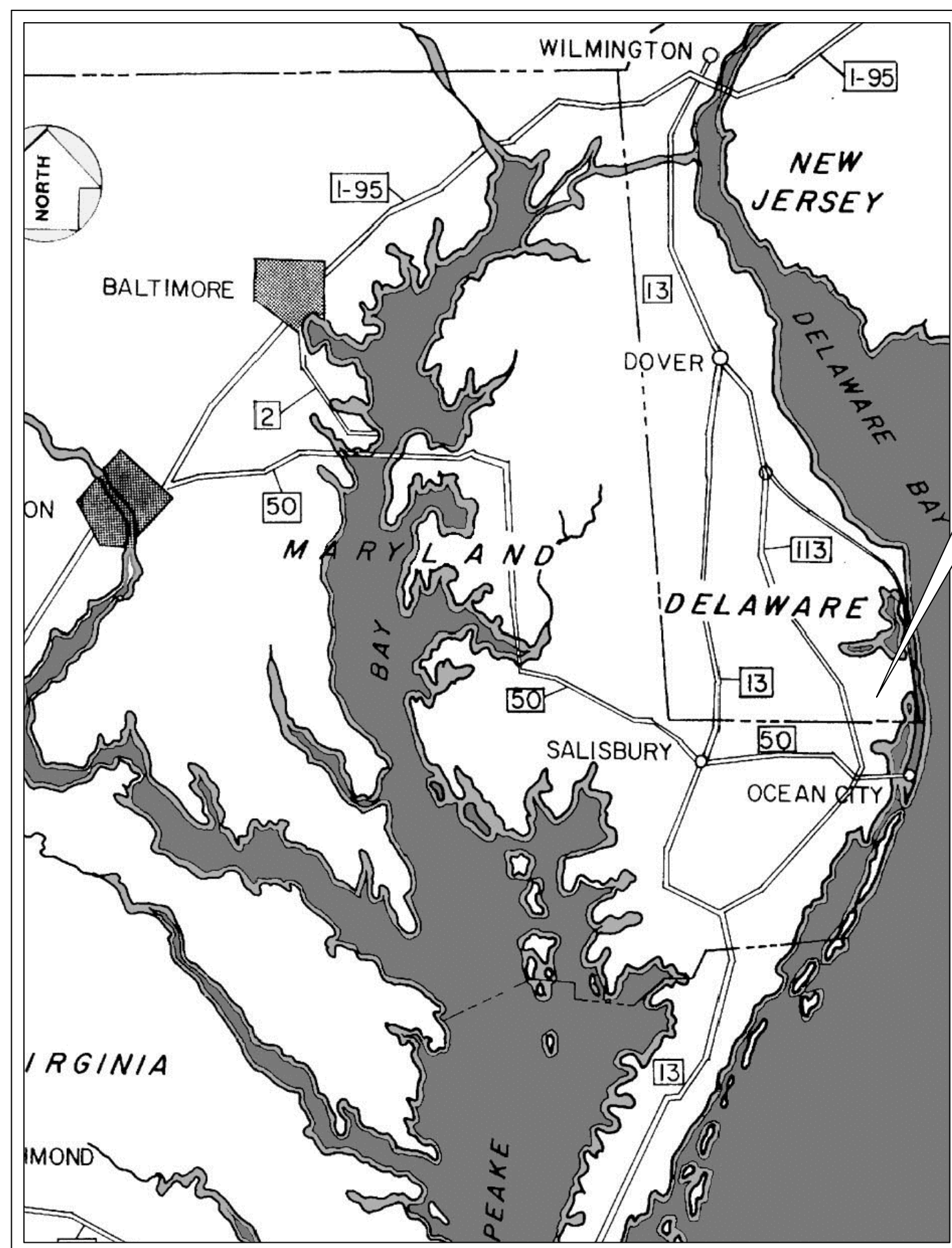
SITE DATA:

TAX MAP #: TM ID 533-5.00-38.00
DEED REFERENCE: BOOK 5447 PAGE 327
PARCEL AREA: 41.265 ACRES
TAX MAP #: TM ID 533-5.00-41.04
DEED REFERENCE: BOOK 5447 PAGE 327
PARCEL AREA: 15.764 ACRES
PRESENT ZONING CLASSIFICATION: AR-1
PRESENT USE: AGRICULTURAL
PROPOSED ZONING CLASSIFICATION: AR-1 CONDITIONAL USE
PROPOSED USE: CONDITIONAL USE - BORROW PIT OPERATION
LAND USE APPROVAL AUTHORITY: SUSSEX COUNTY

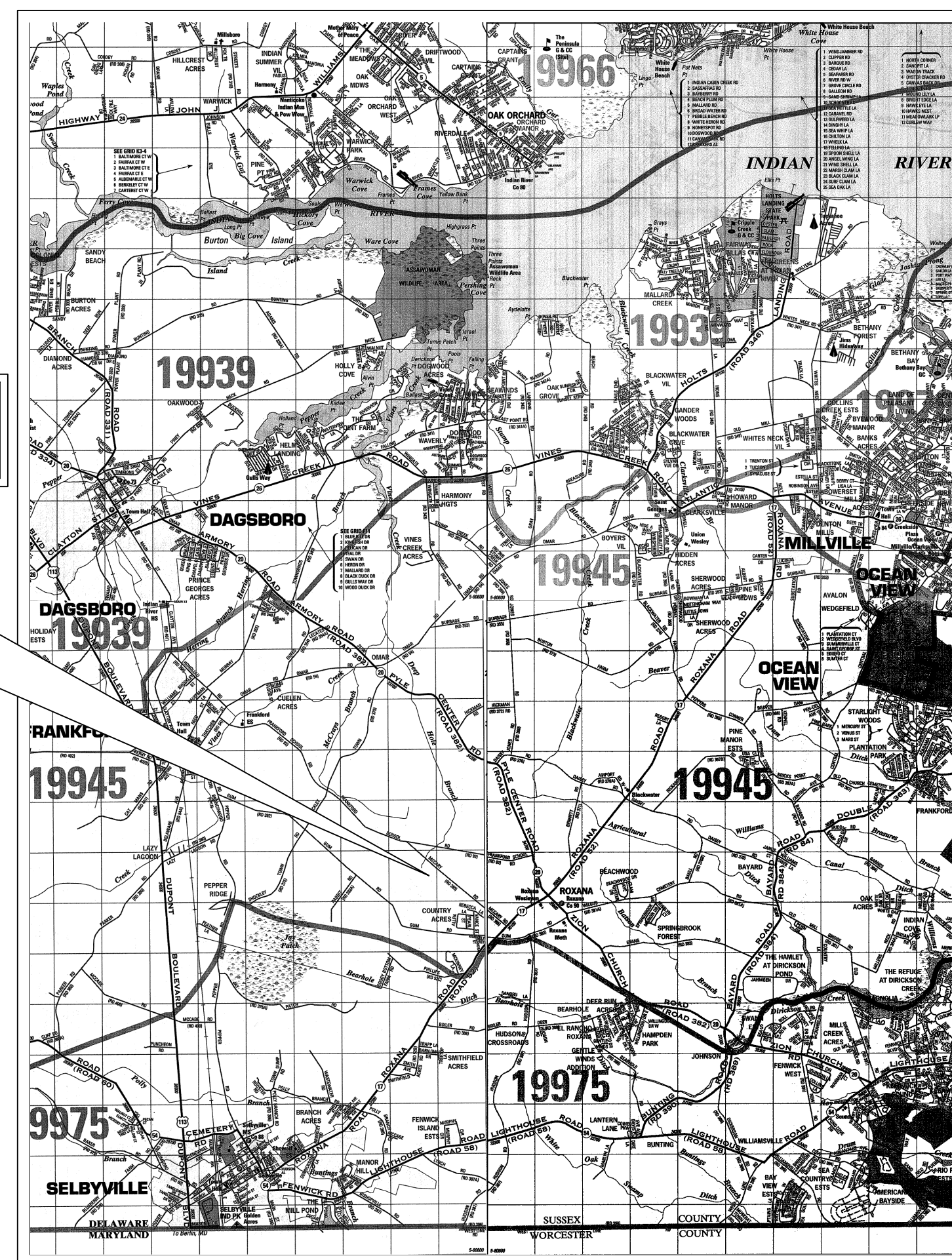
ACRES
TOTAL LAND AREA: ±57.029
NON TIDAL WETLANDS: ±0.18 (7,920 SF)
TIDAL WETLANDS: ±0.00
TOTAL DISTURBED AREA: ±38.00

FLOOD INFORMATION:
SPECIAL FLOOD HAZARD AREA ZONE X PER FEMA MAPS:
10050C0630J DATED JANUARY 6, 2005 &
10050C0635K DATED MARCH 16, 2015.

REQUIRED PLANTED BUFFER ALONG ROAD FRONTAGE: 100'
REQUIRED PLANTED BUFFER ALONG REMAINING BOUNDARY: 50'



VICINITY MAP
SCALE: 1" = 20 MILES



LOCATION MAP
SCALE: 1" = 2000'

LIST OF DRAWINGS

- | | |
|--------|-----------------------|
| PSP1.0 | COVER SHEET |
| PSP2.0 | EXISTING CONDITIONS |
| PSP3.0 | PRELIMINARY SITE PLAN |
| PSP4.0 | SITE PLAN RENDERING |



GEORGE, MILES & BUHR, LLC
ARCHITECTS & ENGINEERS
SALISBURY • BALTIMORE • SEAFORD
206 WEST MAIN STREET
SALISBURY, MARYLAND 21801
410-742-3115, FAX 410-548-5790
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AUG 2022

WETLANDS CERTIFICATION:

EDWARD M. LAUNAY, PWS, STATE THAT THE BOUNDARIES OF WATERS OF THE UNITED STATES INCLUDING WETLANDS SUBJECT TO THE CORPS OF ENGINEERS REGULATORY PROGRAM DELINEATED UPON THIS PLAN HAVE BEEN DETERMINED USING MY PROFESSIONAL JUDGEMENT IN ACCORDANCE WITH THE 1987 CORPS OF ENGINEERS WETLANDS DELINEATION MANUAL, REGULATIONS AND SUPPLEMENTAL GUIDANCE (33 CFR 328.3-(j)(8), WATERS OF THE U.S. DEFINITION/CECW-OR, 10-7-1991, QUESTIONS AND ANSWERS ON THE 1987 COE MANUAL/CECW-OR, 9-26-1990, RGL 90-7/CECW-OR, 3-6-1992, CLARIFICATION AND INTERPRETATION OF THE 1987 MANUAL). THIS DELINEATION HAS NOT BEEN CONDUCTED FOR USDA PROGRAM OR AGRICULTURAL PURPOSES. DNREC STATE REGULATED WETLANDS HAVE BEEN IDENTIFIED IN ACCORDANCE WITH DNREC WETLAND MAP NOS. X & XX SUSSEX COUNTY.

EDWARD M. LAUNAY, PWS NO. 875 DATE
SOCIETY OF WETLAND SCIENTISTS
CORPS OF ENGINEERS
CERTIFIED WETLAND DELINEATOR WDCP93MD0510036B

ENGINEER'S CERTIFICATION:

I, STEPHEN L. MARSH, P.E. HEREBY CERTIFY THAT I AM A REGISTERED ENGINEER IN THE STATE OF DELAWARE, THAT THE INFORMATION SHOWN HERE HAS BEEN PREPARED UNDER MY SUPERVISION AND TO THE BEST OF MY KNOWLEDGE AND BELIEVE REPRESENTS GOOD ENGINEERING PRACTICES AS REQUIRED BY THE APPLICABLE LAWS OF THE STATE OF DELAWARE.

STEPHEN L. MARSH, P.E. DATE
GEORGE, MILES, & BUHR, LLC.
206 W. MAIN STREET
SALISBURY, MD 21801

OWNER / DEVELOPER'S CERTIFICATION:

I HEREBY CERTIFY THAT I AM THE OWNER OF THE PROPERTY DESCRIBED AND SHOWN ON THIS PLAN AND THAT THE PLAN WAS MADE AT MY DIRECTION. IT IS MY DESIRE TO HAVE THE PLAN DEVELOPED AS SHOWN AND IN ACCORDANCE WITH ALL APPLICABLE LAWS AND REGULATIONS.

R. LAWTON MYRICK DATE
MRBP, LLC.

PRINTS ISSUED FOR:
REVIEW

DATE	REVISIONS	NO.

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MCCARY ROAD BORROW PIT
SUSSEX COUNTY, DELAWARE

COVER SHEET

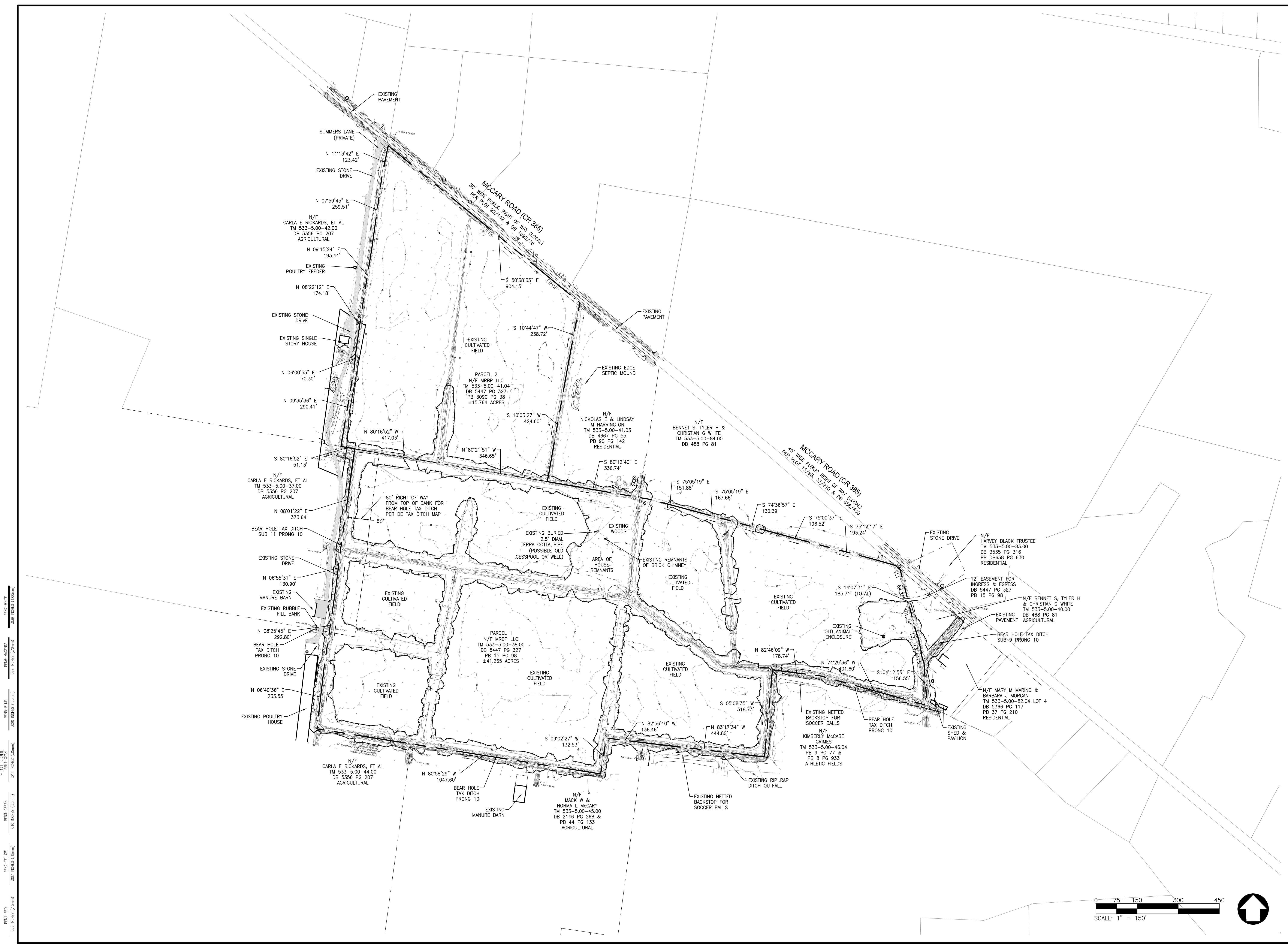
SCALE: AS SHOWN	SHEET NO.
DESIGN BY: RLM	PSP1.0
DRAWN BY: RLM	
CHECKED BY:	
GMB FILE: 210109	
DATE: AUG 2022	

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MCCARY ROAD BORROW PIT
 SUSSEX COUNTY, DELAWARE

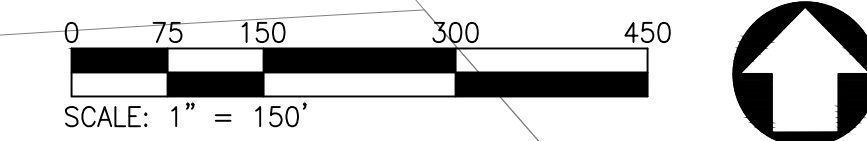
**EXISTING
 CONDITIONS**

SCALE : 1" = 150'	SHEET NO.
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DRAWN BY : RLM	
CHECKED BY :	
GMB FILE : 210109	
DATE : AUG 2022	

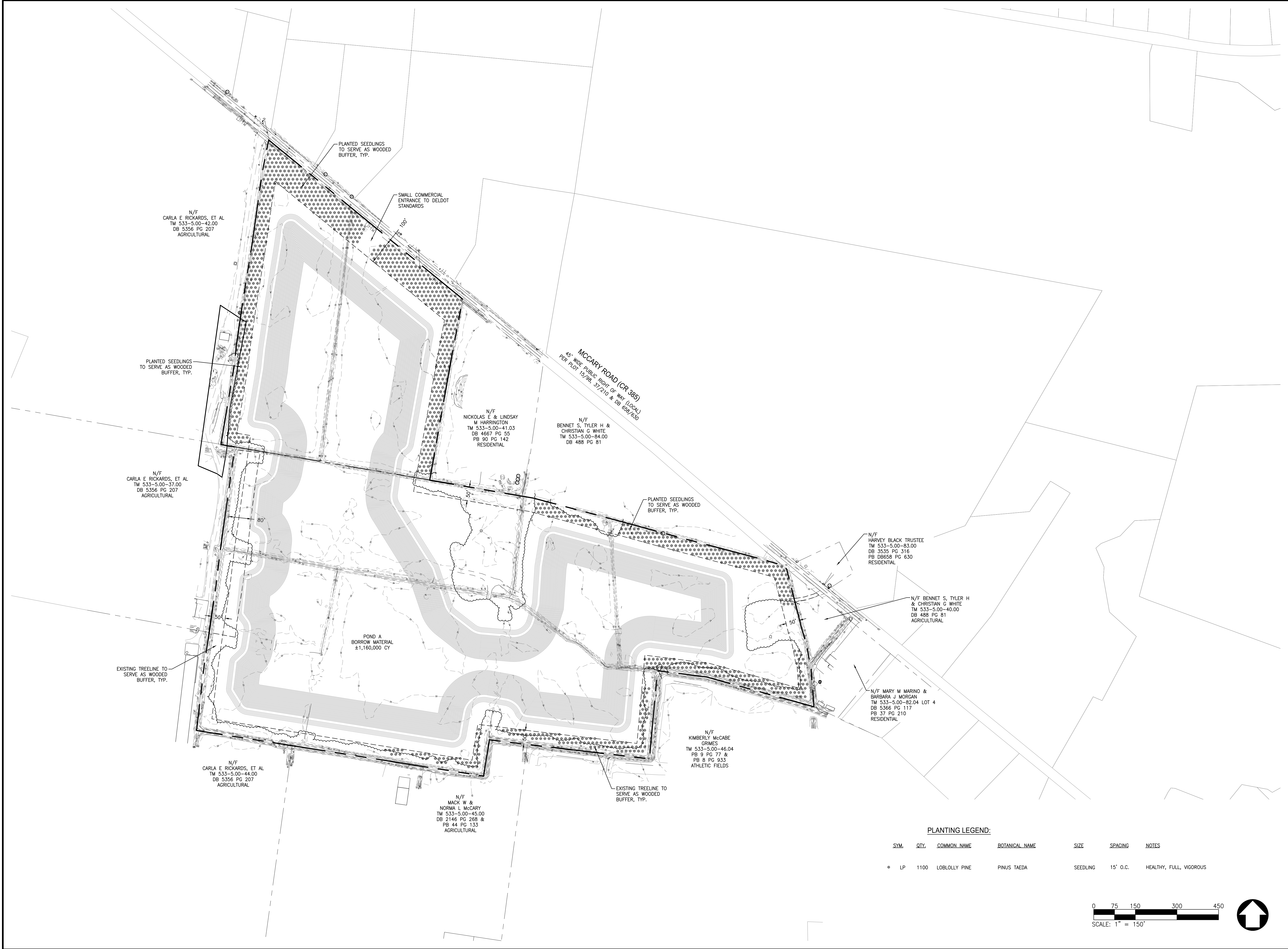


C:\Projects\2021\210109_McCary_Borrow_Pit\Drawings\Working Sets\Preliminary Site Plan\PS2.0 EXISTING CONDITIONS.dwg, 11/11/2019, Lorian Myrick

PEN-RED	0.01 INCHES (1.0mm)	PEN-YELLOW	0.01 INCHES (1.0mm)
0.01 INCHES (1.0mm)		PEN-GREEN	0.01 INCHES (1.0mm)
PEN-BLUE	0.01 INCHES (1.0mm)	PEN-CYAN	0.01 INCHES (1.0mm)
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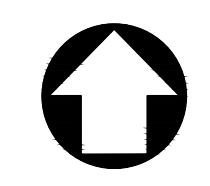
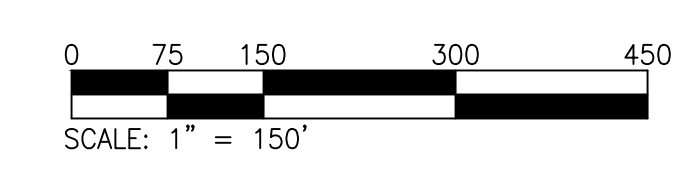


PEN1-RED	0.01 INCHES (1.0mm)
PEN2-YELLOW	0.01 INCHES (1.0mm)
PEN3-GREEN	0.01 INCHES (1.0mm)
PEN4-CYAN	0.01 INCHES (1.0mm)
PEN5-BLUE	0.01 INCHES (1.0mm)
PEN6-MAGENTA	0.01 INCHES (1.0mm)
PEN7-BLACK	0.01 INCHES (1.0mm)



PLANTING LEGEND:

SYM.	QTY.	COMMON NAME	BOTANICAL NAME	SIZE	SPACING	NOTES
● LP	1100	LOBLOLLY PINE	PINUS TAEDA	SEEDLING	15' O.C.	HEALTHY, FULL, VIGOROUS



PRINTS ISSUED FOR REVIEW

DATE	REVISIONS	NO.

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MCCARY ROAD BORROW PIT
 SUSSEX COUNTY, DELAWARE

PROPOSED SITE PLAN

SCALE : 1" = 150'	SHEET NO.
DESIGN BY : RLM	PSP3.0
DRAWN BY : RLM	
CHECKED BY :	
GMB FILE : 210109	
DATE : AUG 2022	© COPYRIGHT 2022 GEORGE, MILES & BUHR, LLC



CONSULTANT TEAM

OWNER/APPLICANT: MRBP, LLC
5973 SMITHY'S LANE
SALISBURY, MD 21801
CONTACT: R. LAWTON MYRICK
410-251-9568

CIVIL ENGINEER: GEORGE, MILES & BUHR, LLC
206 WEST MAIN STREET
SALISBURY, MARYLAND 21801
CONTACT: STEPHEN L. MARSH, P.E.
410-742-3115

SITE DATA:

TAX MAP #: TM ID 533-5.00-38.00
DEED REFERENCE: BOOK 5447 PAGE 327
PARCEL AREA: 41.285 ACRES
TAX MAP #: TM ID 533-5.00-41.04
DEED REFERENCE: BOOK 5447 PAGE 327
PARCEL AREA: 15.764 ACRES
PRESENT ZONING CLASSIFICATION: AR-1
PRESENT USE: AGRICULTURAL
PROPOSED ZONING CLASSIFICATION: AR-1 CONDITIONAL USE
PROPOSED USE: CONDITIONAL USE - BORROW PIT OPERATION
LAND USE APPROVAL AUTHORITY: SUSSEX COUNTY

ACRES

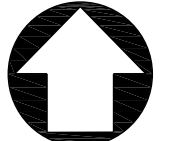
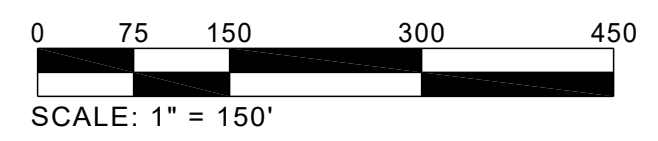
TOTAL LAND AREA: ±57.029
NON TIDAL WETLANDS: ±0.18 (7,920 SF)
TIDAL WETLANDS: ±0.00
TOTAL DISTURBED AREA: ±38.00

FLOOD INFORMATION:
SPECIAL FLOOD HAZARD AREA ZONE X PER FEMA MAPS:
10005C0630J DATED JANUARY 6, 2005 &
10005C0635K DATED MARCH 16, 2015.

REQUIRED PLANTED BUFFER ALONG ROAD FRONTAGE: 100'
REQUIRED PLANTED BUFFER ALONG REMAINING BOUNDARY: 50'

PLANTING LEGEND:

SYM	QTY	COMMON NAME	BOTANICAL NAME	SIZE	SPACING	NOTES
● LP	1100	LOBLOLLY PINE	Pinus taeda	SEEDLING	15' O.C.	HEALTHY, FULL, VIGOROUS



PRINTS ISSUED FOR: REVIEW

DATE	REVISIONS	NO.

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**MCCARY ROAD BORROW PIT
SUSSEX COUNTY, DELAWARE**

**PROPOSED SITE
PLAN RENDERING**

SCALE: 1" = 150'	SHEET NO.
DESIGN BY: RLM	PSP4.0
DRAWN BY: RLM	
CHECKED BY: .	
GMB FILE: 210109	
DATE: AUG 2022	

PEN:RED	PEN:GREEN	PEN:YELLOW	PEN:WHITE
008 INCHES (18mm)	010 INCHES (25mm)	007 INCHES (18mm)	009 INCHES (10mm)
PLOT CODE	PLOT CODE	PLOT CODE	PLOT CODE
014 INCHES (36mm)	020 INCHES (50mm)	027 INCHES (70mm)	028 INCHES (70mm)

- PEN/RED 008 INCHES (18mm)
- PEN/YELLOW 007 INCHES (18mm)
- PEN/GREEN 010 INCHES (25mm)
- PEN/WHITE 009 INCHES (100mm)
- PLT CODE P14 INCHES (35mm)
- PLT CODE P15 INCHES (35mm)
- PLT CODE P16 INCHES (35mm)
- PLT CODE P17 INCHES (35mm)
- PEN/BLUE 020 INCHES (50mm)
- PEN/MAGENTA 027 INCHES (70mm)



PRINTS ISSUED FOR: DRAWINGS STAGE	
NO.	DATE
<div data-bbox="2777 766 2990 1042" data-label="Text"> <p style="font-size: 8px; margin: 0;"> GEORGE, MILES & BUHR, LLC ARCHITECTS & ENGINEERS <small>SALISBURY • BALTIMORE • SEAFORD</small> 206 WEST MAIN STREET SALISBURY, MARYLAND 21801 <small>410-742-3116 • FAX 410-548-5790</small> <small>www.gmbnet.com</small> </p> </div>	
<div data-bbox="2838 1103 2929 1492" data-label="Text"> <p>McCARY ROAD BORROW PIT SUSSEX COUNTY, DELAWARE</p> </div>	
<div data-bbox="2777 1778 2990 1829" data-label="Text"> <p>AERIAL OVERLAY</p> </div>	
SCALE 1" = 120'	SHEET NO.
DESIGN BY RLM	2f
DRAWN BY RLM	
CHECKED BY	
GMB FILE 210109	
DATE AUG 2022	

PRELIMINARY LAND USE SERVICE (PLUS)

Preliminary Land Use Service (PLUS) Delaware State Planning Coordination 122 Martin Luther King Jr. Blvd., South • Dover, DE 19901 • Phone: 302-739-3090 • Fax: 302-739-5661			
Purpose of PLUS - -The PLUS process is intended to provide consolidated State comments regarding the proposed project. The Applicant is encouraged to submit the application during the concept stages of planning as this process often offers recommendations for changes to the plan. The application should be submitted after the pre-application meeting with the local jurisdiction but before formal application is made.			
Please complete this PLUS application in its entirety. All questions <u>must</u> be answered. If a question is unknown at this time or not applicable, please explain. Unanswered questions on this form could lead to delays in scheduling your review. This form will enable the state staff to review the project <u>before</u> the scheduled meeting and to have beneficial information available for the applicant and/or developer at the time of review. If you need assistance or clarification, please call the State Planning Office at (302) 739-3090.			
PLUS Number (to be completed by OSPC): _____ Investment Level Per Strategies for State Policies and Spending (to be determined by OSPC): _____			
1. Project Title/Name: McCary Road Borrow Pit			
2. Location (please be specific): McCary Road, Frankford, DE			
3. Parcel Identification # 533-5.00-38.00 & 533-5.00-41.04		4. County or Local Jurisdiction Name: where project is located: Sussex	
5. If contiguous to a municipality, are you seeking annexation:			
6. Owner's Name: MRBP, LLC			
Address: 5973 Smithy's Lane			
City: Salisbury	State: MD	Zip: 21801	
Phone: 410-251-9568	Fax:	Email: lmyrick@gmbnet.com	
7. Equitable Owner/Developer (This Person is required to attend the PLUS meeting): MRBP, LLC - Lawton Myrick			
Address: 5973 Smithy's Lane			
City: Salisbury	State: MD	Zip: 21801	
Phone: 410-251-9568	Fax:	Email: lmyrick@gmbnet.com	
8. Project Designer/Engineer: George, Miles & Buhr, LLC - Stephen L. Marsh			
Address: 206 West Main Street			
City: Salisbury	State: MD	Zip: 21801	
Phone: 4107423115	Fax:	Email: smarsh@gmbnet.com	
9. Please Designate a Contact Person, including phone number, for this Project: Lawton Myrick, 410-251-9568			

Information Regarding Site:	
10. Type of Review: <input type="checkbox"/> Rezoning, if not in compliance with certified comprehensive plan <input checked="" type="checkbox"/> Site Plan Review <input type="checkbox"/> Subdivision	
11. Brief Explanation of Project being reviewed: Borrow Pit Operation If this property has been the subject of a previous LUPA or PLUS review, please provide the name(s) and date(s) of those applications.	
12. Area of Project (Acres +/-): 56.71 Number of Residential Units: 0 Commercial square footage: 0	
13. Present Zoning: AR-1	14. Proposed Zoning: AR-1 Conditional Use
15. Present Use: Agricultural	16. Proposed Use: Borrow Pit
17. Water: <input type="checkbox"/> Central (Community system) <input type="checkbox"/> Individual On-Site <input type="checkbox"/> Public (Utility) N/A Service Provider Name:	
Will a new public well be located on the site? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
18. Wastewater: <input type="checkbox"/> Central (Community system) <input type="checkbox"/> Individual On-Site <input type="checkbox"/> Public (Utility) N/A Service Provider Name:	
Will a new community wastewater system be located on this site? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
19. If residential, describe style and market segment you plan to target (Example- Age restricted): N/A	
20. Environmental impacts: How many forested acres are presently on-site? 10.90 How many forested acres will be removed? 4.36 To your knowledge, are there any wetlands, as defined by the U.S. Army Corps of Engineers or the Department of Natural Resources and Environmental Control, on the site? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Are the wetlands: <input type="checkbox"/> Tidal Acres: <input checked="" type="checkbox"/> Non-tidal Acres: 0.18 (7920 SF) If "Yes", have the wetlands been delineated? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No (in process) Has the Army Corps of Engineers signed off on the delineation? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Will the wetlands be directly impacted and/or do you anticipate the need for wetland permits? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If "Yes", describe the impacts: How close do you anticipate ground disturbance to wetlands, streams, wells, or waterbodies? <u>Outside 50' from wetlands.</u>	
21. Does this activity encroach on or impact any tax ditch, public ditch, or private ditch (ditch that directs water off-site)? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Overflow outfall to tax ditch.	
22. List the proposed method(s) of stormwater management for the site: The borrow pit will retain runoff from operations on site.	
23. Is open space proposed? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If "Yes," how much? 56.71 Acres: What is the intended use of the open space (for example, active recreation, passive recreation, stormwater management, wildlife habitat, historical or archeological protection)? active, passive recreation & wildlife habitat after borrow pit operations are complete.	
24. Are you considering dedicating any land for community use (e.g., police, fire, school)? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <small>*considering donating land for community park after borrow pit operation.</small>	

25. Please estimate How many vehicle trips will this project generate on an average weekday? A trip is a vehicle entering or exiting. If traffic is seasonal, assume peak season: 205 peak season.

What percentage of those trips will be trucks, excluding vans and pick-up trucks? 95% dump truck traffic.

26. Will the project connect to state maintained roads? Yes No

27. Please list any locations where this project physically could be connected to existing or future development on adjacent lands and indicate your willingness to discuss making these connections. Pedestrian trail connecting to River Soccer Complex.

28. Are there existing sidewalks? Yes No; bike paths Yes No
Are there proposed sidewalks? Yes No; bike paths Yes No

Is there an opportunity to connect to a larger bike, pedestrian, or transit network? Yes No Pedestrian trail connecting to River Soccer Complex.

29. To your knowledge, is this site in the vicinity of any known historic/cultural resources or sites? Yes No

Has this site been evaluated for historic and/or cultural resources? Yes No

Would you be open to a site evaluation by the State Historic Preservation Office? Yes No

30. To promote an accurate review of your parcel's features, would you permit a State agency site visit? Yes No
Person to contact to arrange visit: _____ phone number: _____

31. Are any federal permits, licensing, or funding anticipated? Yes No

I hereby certify that the information on this application is complete, true and correct, to the best of my knowledge.

R. Lawton Myzick
Signature of property owner

6/29/2021
Date

[Signature]
Signature of Person completing form
(If different than property owner)

6/29/2021
Date

Signed application must be received before application is scheduled for PLUS review.

This form should be returned to the Office of State Planning electronically at plus@state.de.us along with an electronic copy of any site plans and development plans for this site. Site Plans, drawings, and location maps should be submitted as image files (JPEG, GIF, TIF, etc.) or as PDF files. GIS data sets and CAD drawings may also be submitted. If electronic copy of the plan is not available, contact The Office of State Planning Coordination at (302) 739-3090 for further instructions. A signed copy should be forwarded to the Office of State Planning, 122 William Penn Street, Dover, DE 19901. Thank you for this input. Your request will be researched thoroughly. Please be sure to note the contact person so we may schedule your request in a timely manner.



GEORGE, MILES & BUHR, LLC

■ ■ ■ ■

ARCHITECTS
ENGINEERS

206 WEST MAIN STREET
SALISBURY, MD 21801
PH: 410.742.3115
PH: 800.789.4462
FAX: 410.548.5790

SALISBURY
BALTIMORE
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■ ■ ■ ■

June 29, 2022

Delaware Office of State Planning
122 William Street
Dover, DE 19901

Attn: Mr. David Edgell, AICP
Director

Re: Response to PLUS Review Comments
McCary Borrow Pit
PLUS Review – 2021-08-12
GMB # R210109

Dear Mr. Edgell:

Please accept this letter as the formal response to the Office of State Planning Coordination PLUS review comments dated, September 22, 2021, for the above referenced project. The original State Agency comments are included below with our responses highlighted in red and italicized.

Sincerely,

Stephen L. Marsh, P. E.
Sr. Vice President
East Region Director of Operations

SLM/cl

cc: MRBP, LLC
Attn: Mr. Lawton Myrick

JAMES H. WILLEY, JR., P.E.
PETER A. BOZICK, JR., P.E.
CHARLES M. O'DONNELL, III, P.E.
A. REGGIE MARINER, JR., P.E.
JAMES C. HOAGESON, P.E.
STEPHEN L. MARSH, P.E.
DAVID A. VANDERBEEK, P.E.
ROLAND E. HOLLAND, P.E.
JASON M. LYTLE, P.E.
CHRIS B. DERBYSHIRE, P.E.
MORGAN H. HELFRICH, AIA
KATHERINE J. MCALLISTER, P.E.
W. MARK GARDOCKY, P.E.
ANDREW J. LYONS, JR., P.E.

JUDY A. SCHWARTZ, P.E.
W. BRICE FOXWELL, P.E.

JOHN E. BURNSWORTH, P.E.
VINCENT A. LUCIANI, P.E.
AUTUMN J. WILLIS
CHRISTOPHER J. PFEIFER, P.E.

Strategies for State Policies and Spending

This project is located in Investment Level 3 according to the Strategies for State Policies and Spending. Investment Level 3 reflects areas where growth is anticipated by local, county, and state plans in the longer-term future, or areas that may have environmental or other constraints to development. State investments may support future growth in these areas but may have other priorities for the near future.

The Office of State Planning has no objections to the development of this property provided it meets the codes and criteria of Sussex County, but we do encourage you to work with State agencies to address any concerns noted in this letter.

Comment noted. We will comply with all environmental concerns outlined by State agencies during the review process.

Code Requirements/Agency Permitting Requirements

Department of Transportation – Contact Bill Brockenbrough 760-2109

- The site access on McCary Road (Sussex Road 385) must be, and in fact has been, designed in accordance with DelDOT's Development Coordination Manual, which is available at <http://www.deldot.gov/Business/subdivisions/index.shtml?dc=changes>. DelDOT approved the entrance plan on April 6, 2021, under its Small Commercial Entrance process.

Comment noted. Due to a delay in scheduling the Public Hearing, the approval will expire before the project begins. We will work with DeIDOT to renew the current approved entrance design as necessary.

Department of Natural Resources and Environmental Control – Beth Krumrine 735-3480

Concerns Identified Within the Development Footprint

Tax Ditches

Prong 10, Sub 11 of Prong 10, and Sub 9 of Prong 10 of the Bear Hole Tax Ditch lie on the southern, western, and eastern portions of the site within the Bear Hole Tax Ditch Watershed. Tax ditches are man-made channels created to move normal water flow off agricultural lands. These channels have associated tax ditch Rights-of-Way (ROW) that are utilized for access as well as sediment and debris disposal during maintenance. Tax Ditch ROWs vary by channel size and location. Sub 11 of Prong 10 has an 80-foot to Top of Bank (TOB) ROW extending into the project boundary, with no ROWs along Prong 10 and Sub 9 of Prong 10.

- Contact the DNREC Drainage Program to discuss the on-site tax ditch ROWs prior to the project application meeting with the appropriate plan review agency

for construction stormwater management.

- To reduce or change existing Tax Ditch ROWs, or eliminate certain stretches from the Tax Ditch, a Court Order Change must be submitted by the DNREC Drainage Program. The associated Land Development Project Review Request form is attached, as well as the aerial drainage map.

Contact: DNREC Drainage Program at (302) 855-1930.

Website: <https://dnrec.alpha.delaware.gov/drainage-stormwater/>

Tax Ditch Mapper: de.gov/taxditchmap

We anticipate requesting a Court Order Change for the reduction in Tax Ditch Right of Ways. We will follow the requirements of the DNREC Drainage Program during this process. We have submitted a letter and sketch plan to DNREC for their review.

Wetlands

Maps from the Statewide Wetlands Mapping Project indicate the presence of non-tidal riverine wetlands overlapping the existing ditching system across the site. The application indicates that wetlands delineation is currently underway.

- Federal permits from the U.S. Army Corps of Engineers may be necessary if dredge or fill is proposed in non-tidal wetlands or streams. Permits or authorizations from the U.S. Army Corps of Engineers are required for fill of non-tidal wetlands. In certain cases, permits from the US Army Corps of Engineers triggers additional certifications from DNREC (Coastal Zone Federal Consistency Certification and 401 Water Quality Certification). If wetlands exist on the site, work with the U.S. Army Corps of Engineers to determine the appropriate permitting requirements.

Federal Contact: U.S. Army Corps of Engineers (Dover Office) at (267) 240-5278.

Website: <https://www.nap.usace.army.mil/Missions/Regulatory/Contacts/>

State Contact: DNREC Wetlands and Subaqueous Lands Section at (302) 739-9943.

Website: <https://dnrec.alpha.delaware.gov/water/wetlands-subaqueous/>

We will work with DNREC and the USACOE to obtain all necessary permits for any disturbance to non-tidal regulated wetlands or waters. Regulated waters subject to the Corps of Engineers jurisdiction appear to be limited to tax ditch channels which are being avoided. Although, we do not anticipate any wetland impacts based on the proposed borrow pit design.

Stormwater Management

This application proposes greater than 5000 square feet of land disturbing activities, therefore, this project will be subject to Delaware's *Sediment and Stormwater Regulations*.

- A Sediment and Stormwater Plan must be developed, then approved by the appropriate plan review agency prior to any land disturbing activity taking place on the site. For this project, the plan review agency is the Sussex Conservation District.
- Additionally, to address federal requirements, construction activities that exceed 1.0 acre of land disturbance require Construction General Permit coverage through submittal of an electronic Notice of Intent for Stormwater Discharges Associated with Construction Activity. This form must be submitted electronically (<https://apps.dnrec.delaware.gov/enoi/>, select Construction Stormwater General Permit) to the DNREC Division of Watershed Stewardship, along with the \$195 fee.
- Schedule a project application meeting with the appropriate plan review agency prior to moving forward with the stormwater and site design. As part of this process, you must submit a Stormwater Assessment Study.

Plan review agency contact: [Sussex Conservation District](#) at (302) 856-2105 or (302) 856-7219. Website: <https://www.sussexconservation.org/>

General stormwater contact: DNREC Sediment and Stormwater Program at (302) 739-9921. E-mail: DNREC.Stormwater@delaware.gov.
Website: <https://dnrec.alpha.delaware.gov/watershed-stewardship/sediment-stormwater/>

We will work with SCD and DNREC to address all Stormwater Management requirements. We have submitted the Pre-Application Meeting Stormwater Assessment Study (SAS) Checklist to the Sussex Conservation District.

Water Quality (Pollution Control Strategies)

This site lies within the Inland Bays Watershed. Surface water quality in this watershed does not meet State Water Quality Standards and a Pollution Control Strategy is in place for this watershed.

- Consult with the appropriate plan review agency (Sussex Conservation District) to determine if stricter stormwater management standards may apply for development projects due to the Pollution Control Strategy. More information about Pollution Control Strategies can be found at the following website: <https://dnrec.alpha.delaware.gov/watershed-stewardship/assessment/tributary-action-teams/>

Contact: DNREC Division of Watershed Stewardship's Watershed Assessment Section at (302) 739-9939. <https://dnrec.alpha.delaware.gov/watershed-stewardship/>

We will work with SCD and DNREC to address all Stormwater Management requirements. The project will be approved through the Sussex Conservation District and by default will meet the Pollution Control Strategies.

State Historic Preservation Office – Contact Carlton Hall 736-7400

- There is low potential for prehistoric archaeological resources on this parcel. There are no known National Register listed or eligible properties or archaeological sites on this parcel or within a half-mile radius. The parcel is not within favorable distance of historic water sources, and soils are poorly drained.
- There is a moderate to high potential for historic archaeological resources on this parcel. Historic topographic and aerial maps show some buildings in the wooded area in the middle of the parcel that there no later than 1901 and demolished between 1968 and 1993. There is an additional building along the eastern edge of the parcel that was constructed between 1926 and 1937 and demolished between 1968 and 1992. There is a possibility of historic field scatter in the agricultural fields. The Delaware SHPO is recommending Phase I archaeological survey prior to any ground disturbance.
- If any project or development proceeds, the developer should be aware of the Unmarked Human Burials and Human Skeletal Remains Law (Del. C. Title 7, Ch. 54), which is currently being revised
- If there is federal involvement, in the form of licenses, permits, or funds, the federal agency, often through its client, is responsible for complying with Section 106 of the National Historic Preservation Act (36 CFR 800) and must consider their project's effects on any known or potential cultural or historic resources. For further information on the Section 106 process please review the Advisory Council on Historic Preservation's website at: www.achp.gov

Comments noted. We will notify SHPO if any archaeological resources are discovered during site work.

Department of Agriculture – Contact: Milton Melendez 698-4534

- The proposed project is adjacent to a property protected through the State's Agricultural Lands Preservation Program (B. Rickards Rick Chick Expansion of the Gum District S-95-03-003-A Parcel 533-10.00-44.00, 533-5.00-37.00, 533-5.00-42.00). Therefore, the activities conducted on this preserved property are protected by the agricultural use protections outlined in Title 3, Del. C., Chapter 9. These protections effect adjoining developing properties. The 300 foot notification requirement affects all new deeds in a subdivision located in whole or part within 300 feet of an Agricultural District/Easement. Please take note of these restrictions as follows:

§ 910. Agricultural use protections.

(a) Normal agricultural uses and activities conducted in a lawful manner are preferred and priority uses and activities in Agricultural Preservation

Districts. In order to establish and maintain a preference and priority for such normal agricultural uses and activities and avert and negate complaints arising from normal noise, dust, manure and other odors, the use of agricultural chemicals and nighttime farm operations, land use adjacent to Agricultural Preservation Districts shall be subject to the following restrictions:

(1) For any new subdivision development located in whole or in part within 300 feet of the boundary of an Agricultural Preservation District, the owner of the development shall provide in the deed restrictions and any leases or agreements of sale for any residential lot or dwelling unit the following notice:

This property is located in the vicinity of an established Agricultural Preservation District in which normal agricultural uses and activities have been afforded the highest priority use status. It can be anticipated that such agricultural uses and activities may now or in the future involve noise, dust, manure and other odors, the use of agricultural chemicals and nighttime farm operations. The use and enjoyment of this property is expressly conditioned on acceptance of any annoyance or inconvenience which may result from such normal agricultural uses and activities."

(2) For any new subdivision development located in whole or in part within 50 feet of the boundary of an Agricultural Preservation District, no improvement requiring an occupancy approval shall be constructed within 50 feet of the boundary of the Agricultural Preservation District.

(b) Normal agricultural uses and activities conducted in accordance with good husbandry and best management practices in Agricultural Preservation Districts shall be deemed protected actions and not subject to any claim or complaint of nuisance, including any such claims under any existing or future county or municipal code or ordinance. In the event a formal complaint alleging nuisance related to normal agricultural uses and activities is filed against an owner of lands located in an Agricultural Preservation District, such owner, upon prevailing in any such action, shall be entitled to recover reasonably incurred costs and expenses related to the defense of any such action, including reasonable attorney's fees (68 Del. Laws, c. 118, § 2.).

- In addition, if any wells are to be installed, Section 4.01(A)(2) of the Delaware Regulations Governing the Construction and Use of Wells will apply. This regulation states:

(2) For any parcel, lot, or subdivision created or recorded within fifty (50) feet of, or within the boundaries of, an Agricultural Lands Preservation District (as defined in Title 3, Del. C., Chapter 9); all wells constructed on

such parcels shall be located a minimum of fifty (50) feet from any boundary of the Agricultural Lands Preservation District. This requirement does not apply to parcels recorded prior to the implementation date of these Regulations. However, it is recommended that all wells be placed the maximum distance possible from lands which are or have been used for the production of crops which have been subjected to the application of land applied federally regulated chemicals.

Comments noted. We don't anticipate disturbing any agricultural activities in adjacent or nearby properties.

Recommendations/Additional Information

This section includes a list of site-specific suggestions that are intended to enhance the project. These suggestions have been generated by the State Agencies based on their expertise and subject area knowledge. **These suggestions do not represent State code requirements.** They are offered here in order to provide proactive ideas to help the applicant enhance the site design, and it is hoped (**but in no way required**) that the applicant will open a dialogue with the relevant agencies to discuss how the suggestions can benefit the project.

Department of Natural Resources and Environmental Control – Beth Krumrine 735-3480

Tax Ditches

- All existing ditches on the property should be evaluated for function and cleaned, if needed, prior to the construction of the project.
- Environmental permits or exemptions may be required by the County Conservation District (Standard Plan), the DNREC Sediment and Stormwater Program (eNOI/NOT), Army Corp of Engineers, and/or DNREC Wetlands and Subaqueous Lands Section prior to clearing and/or excavating ditch channels.

Contact: DNREC Drainage Program at (302) 855-1930.

Website: <https://dnrec.alpha.delaware.gov/drainage-stormwater/>

Tax Ditch Mapper: de.gov/taxditchmap

We will work with DNREC throughout the process.

Wetlands

- Do not disturb wetland areas. Wetlands are a critical part of our natural environment. They reduce the impacts of flooding, absorb pollutants, and improve water quality. Wetlands provide habitat for animals and plants and many contain a wide diversity of life, supporting plants and animals that are found nowhere else.
- If wetlands or subaqueous permits will be needed, schedule a meeting with the DNREC Joint Permit Processing (JPP) service. JPP assists wetland permit

applicants with the necessary state and federal permitting procedures and requirements. To schedule a meeting with the JPP committee, please contact the DNREC Division of Water's Wetlands and Subaqueous Lands Section at (302) 739-9943.

Federal Contact: U.S. Army Corps of Engineers (Dover Office) at (267) 240-5278.
Website: <https://www.nap.usace.army.mil/Missions/Regulatory/Contacts/>

State Contact: DNREC Wetlands and Subaqueous Lands Section at (302) 739-9943.
Website: <https://dnrec.alpha.delaware.gov/water/wetlands-subaqueous/>

Any disturbance to wetlands would be minor in nature and/or because the wetlands are isolated. We will seek permits for any necessary wetlands' disturbance. Although, we do not anticipate any wetland impacts based on the proposed borrow pit design.

Forest Removal

- The preliminary plan proposes the elimination of 4.3 of 10.9 acres of forest on the site.
- Removing forested areas for development should be avoided to the greatest extent possible. Forests filter water for improved water quality, provide habitat for wildlife, absorb nutrients, infiltrate stormwater, moderate temperatures, and store atmospheric carbon which would otherwise contribute to climate change.
- To reduce impacts to nesting birds and other wildlife species that utilize forests for breeding, it is recommended that tree clearing not occur from April 1st to July 31st. Likewise, avoid mowing open space areas and grass filter strips during the same timeframe, as various species of birds utilize these areas for nesting sites.

Contact: DNREC Wildlife Species Conservation & Research Program at (302) 735-3600.
Website: <https://dnrec.alpha.delaware.gov/water/groundwater/septic-systems/>

We are removing areas of trees that form hedgerows along existing agriculture ditches in the interior of the site. It is our intent to plant a wooded buffer along the perimeter of the site in those areas that are not currently wooded. The wooded area will actually increase from 10.89 acres to 12.73 acres during this process.

Stormwater Management

- Where the site and soil conditions allow, integrate runoff reduction techniques including infiltration basins, bioretention (rain gardens), filter strips, and pavers to encourage on-site stormwater infiltration and reduce runoff.
- For improved stormwater management, preserve existing trees, wetlands, and passive open space.

Plan review agency contact: [Sussex Conservation District](https://www.sussexconservation.org/) at (302) 856-2105 or (302) 856-7219. Website: <https://www.sussexconservation.org/>

General stormwater contact: DNREC Sediment and Stormwater Program at (302) 739-9921. E-mail: DNREC.Stormwater@delaware.gov.
Website: <https://dnrec.alpha.delaware.gov/watershed-stewardship/sediment-stormwater/>

We will work with SCD and DNREC to address all Stormwater Management requirements. We have submitted the Pre-Application Meeting Stormwater Assessment Study (SAS) Checklist to the Sussex Conservation District.

Department of Agriculture – Contact: Milton Melendez 698-4534

- The Department of Agriculture strongly encourages the developer to work with the Department's Forestry Section during the design and implementation of the project to plant an effective forested buffer between the proposed project and existing preserved properties. It is important that suitable tree species be selected and planted to create an effective mitigation barrier between the proposed burrow pit and the existing agricultural operation enrolled in the Agricultural Lands Preservation Program.

We are proposing the use of Native Species within the planted buffer. We are happy to work with the Department of Agriculture to implement their recommendations.

SITE SPECIFIC MAPS, PLANS AND DOCUMENTATION

McCary Road Borrow Pit – Adjacent Owner Information:

TM 533-5.00-37.00, 42.00 & 44.00 (DB 5356 PG 207)

Carla E. & Andrew Willey Rickards, Adam & Jacob Willey
26470 Nine Foot Rd - Dagsboro, DE 19939

TM 533-5.00-41.03 (DB 4667 PG 55)

Nickolas E. & Lindsay M. Harrington
3 Whipperwill Ct. - Selbyville, DE 19975

TM 533-5.00-40.00 & 84.00 (DB 488 PG 81)

Bennett S. White, Tyler H. White & Christian G. White
20009 Lockwood Chapel Rd - Dover, DE 19904

TM 533-5.00-82.04 (DB 5366 PG 117)

Mary M. Marino & Barbara J. Morgan
32408 McCary Rd - Frankford, DE 19945

TM 533-10.00-46.04 (DB 0 PG 0)

Kimberly McCabe Grimes & Rebecca Grimes Mais
9 East Atlantic St. – Fenwick Island, DE 19944

TM 533-10.00-45.00 (DB 2146 PG 268)

Mack W. & Norma L. McCary
32570 McCary Road – Frankford, DE 19945

TAX MAP NO. 5-33-5.00-38.00 and 41.04
PREPARED BY/RETURN TO:
Scott and Shuman, P.A.
33292 Coastal Highway, Suite 3
Bethany Beach, DE 19930
File No. 21-14728/CA

DEED

THIS DEED is made as of the 16th day of April, 2021, between, **M.D.P. Partners LLC**, of 12417 Ocean Gateway #25, Ocean City, MD 21842, party of the first part, and **MRBP LLC, a Delaware limited liability company**, of 5973 Smithy's Lane, Salisbury, MD 21801, party of the second part.

WITNESSETH, that the said party of the first part, for and in consideration of the sum of Ten Dollars (\$10.00), lawful money of the United States of America, the receipt whereof is hereby acknowledged, hereby grants and conveys unto the said party of the second part, its successors and/or assigns in fee simple, the following-described lands, situate, lying and being in **Sussex County**, State of Delaware:

TAX MAP NUMBER: 5-33-5.00-38.00:

ALL that certain tract, piece or parcel of land situate, lying and being in Baltimore Hundred, Sussex County, Delaware, lying on the northwesterly right-of-way line of County Route 385 and adjoining lands now or formerly of Howard E. White, Howard Smith, Donald H. Evans, Harold Marvel, Everett B. Stevens, Brasford Service Corp., Edward Jones, and Janice White, and being more particularly described as follows, to wit: BEGINNING at a point situate on the northwesterly line of County Road 385, said point being a corner for the lands herein and lands now or formerly of Howard E. White; thence along and with the line of the lands herein and lands now or formerly Howard E. White through the center of a ditch, North 65°-15'-46" West for a distance of 971.27 feet to a point; thence along and with the line of the lands herein and lands now or formerly of Howard Smith, through the center of a ditch, the following two courses and distances: (1) North 70°-18'-15" West for a distance of 410.53 feet to a point; (2) North 70°-43'-15" West for a distance of 636.04 feet to a point, said point being a corner for the lands herein and lands now or formerly

TAX MAP NO. 5-33-5.00-38.00 and 41.04
PREPARED BY/RETURN TO:
Scott and Shuman, P.A.
33292 Coastal Highway, Suite 3
Bethany Beach, DE 19930
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TAX MAP NUMBER: 5-33-5.00-38.00:

ALL that certain tract, piece or parcel of land situate, lying and being in Baltimore Hundred, Sussex County, Delaware, lying on the northwesterly right-of-way line of County Route 385 and adjoining lands now or formerly of Howard E. White, Howard Smith, Donald H. Evans, Harold Marvel, Everett B. Stevens, Brasford Service Corp., Edward Jones, and Janice White, and being more particularly described as follows, to wit: BEGINNING at a point situate on the northwesterly line of County Road 385, said point being a corner for the lands herein and lands now or formerly of Howard E. White; thence along and with the line of the lands herein and lands now or formerly Howard E. White through the center of a ditch, North 65°-15'-46" West for a distance of 971.27 feet to a point; thence along and with the line of the lands herein and lands now or formerly of Howard Smith, through the center of a ditch, the following two courses and distances: (1) North 70°-18'-15" West for a distance of 410.53 feet to a point; (2) North 70°-43'-15" West for a distance of 636.04 feet to a point, said point being a corner for the lands herein and lands now or formerly

of Donald H. Evans and being along the line of lands of Howard Smith; thence turning and running along and with the line of the lands herein and lands now or formerly of Donald H. Evans, through the center of a ditch, South 17°-51'-08" West for a distance of 684.06 feet to a point; thence along and with the line of the lands herein and lands now or formerly of Harold Marvel, through the center of a ditch, South 16°-19'-26" West for a distance of 344.46 feet to a point; thence turning and running along and with the line of the lands herein and lands now or formerly of Harold Marvel and lands now or formerly of Everett B. Stevens, through the center of a ditch South 71°-19'-39" East for a distance of 1,047.60 feet to a point; thence turning and running along and with the line of the lands herein and lands now or formerly of Everett B. Stevens, through the center of a ditch, North 16°-28'-36" East for a distance of 131.27 feet to a point; thence turning and running along and with the line of the lands herein and lands now or formerly of Everett B. Stevens and lands now or formerly of Brasford Service Corp., through the center of a ditch, South 72°-55'-12" East for a distance of 582.86 feet to an iron axle; thence turning and running along and with the line of lands herein and lands now or formerly of Brasford Service Corp., through the center of a ditch, the following three courses and distances: (1) North 15°-02'-12" East for a distance of 318.70 feet to an iron axle; (2) thence turning and running South 72°-02'-16" East for a distance of 17050 feet to a point; (3) South 64°-59'-44" East for a distance of 398.31 feet to a point; thence turning and running along and with the line of land herein, lands now or formerly of Edward Jones and lands now or formerly of Janice White, through the center of a ditch, North 03°-09'-48" East for a distance of 274.94 feet to a point; thence along and with the line of the lands herein and lands now or formerly of Janice White, through the center of a ditch, North 04°-17'-38" West for a distance of 229.24 feet to a point situate on the Northwesterly right-of-way line of County Route 385; thence along and with the line of the lands herein and the Northwesterly right-of-way line of County Route 385 North 40°-40'-08" West for a distance of 23.26 feet to a point, being the point and place of beginning, and said to contain 41.087 acres of land more or less, together with all improvements thereon. The description herein was derived from a survey prepared by J.J. McCann, Inc, Registered Surveyors, on August 31, 1978, entitled "Lands of Elmer C. & Marian B. Murray" of record in Plot Book 13, Page 98.

TOGETHER WITH a twelve (12) foot easement for egress and ingress from County Route 385 to the above described land.

TAX MAP NUMBER: 5-33-5.00-41.04:

ALL that certain piece or parcel of land lying and being situate in Baltimore Hundred, Sussex County, Delaware, and more particularly described according to a Survey prepared by Charles L. Coffman II, Land Surveying, dated December 17, 2004, as follows, to wit:

BEGINNING at a point situate on the southerly right-of-way of County Road #385 (30 R/W), said point being a corner of these lands and lands N/F Rickards; thence by and with these lands and the southerly right-of-way of County Road #385, South 42 degrees 07 minutes 04 seconds East, 904.06' to a point; thence a corner for these lands and lands N/F Hall; thence by and with these lands and lands N/F Hall and centerline of a ditch, the following two courses and distances: (1) South 19 degrees 16 minutes 47 seconds West, 238.90' to a point; and (2) South 18 degrees 35 minutes 32 seconds West, 424.60' to an iron rod, being a corner of these lands, lands N/F Hall, and on line of lands N/F Bachelder; thence by and with these lands and lands N/F Bachelder, North 73 degrees 21 minutes 50 seconds West, 765.79' to a point, being a corner of these lands, lands N/F Rickards & Timmons, and lands N/F Rickards; thence by and with these lands and lands N/F Rickards and centerline of a ditch, North 17 degrees 34 minutes 16 seconds East, 1118.73' to the point and place of beginning, containing 15.84 acres, more or less, as shown on said Survey.

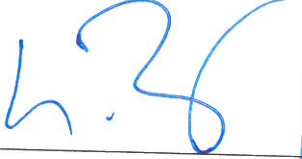
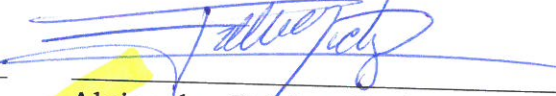
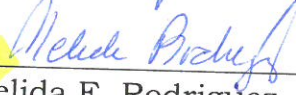
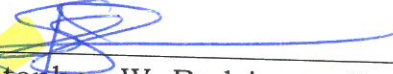
BEING the same lands conveyed to M.D.P. Partners LLC by Corrective Deed of Delmar Plumbing said Deed dated March 11, 2021, as filed for record in the Office of the Recorder of Deeds, in and for Sussex County, at Georgetown, Delaware in Deed Book 5425, Page 130.

THIS CONVEYANCE IS FURTHER SUBJECT TO any and all restrictions, reservations, conditions, easements and agreements of record in the Office of the Recorder of Deeds in and for Sussex County, at Georgetown, Delaware.

IN WITNESS WHEREOF, the said party of the first part has hereunto set
its Hands and Seals the 16th day of April, 2021.

WITNESS:

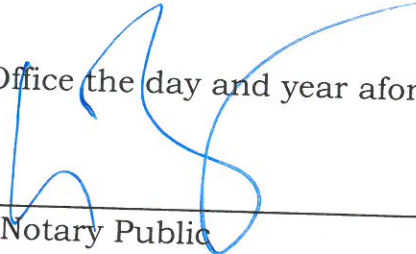
M.D.P. Partners LLC

	 (SEAL) Alejandro Fabian Rodriguez, Partner
	 (SEAL) Nelida E. Rodriguez, Partner
	 (SEAL) Stephen W. Rodriguez, Partner

STATE OF DELAWARE :
 : SS.
 COUNTY OF SUSSEX :

BE IT REMEMBERED, that on this 16th day of April, 2021, personally
came before me, the Subscriber, a Notary Public for the State and County
aforesaid, Alejandro Fabian Rodriguez, Nelida E. Rodriguez, and Stephen W.
Rodriguez, Partners, M.D.P. Partners LLC, parties to this Deed, known to me
personally to be such, and acknowledged this Deed to be their act and deed
and the act and deed of said Corporation.

GIVEN under my Hand and Seal of Office the day and year aforesaid.



 Notary Public

My commission expires: n/a

[Notary Seal]

K. WILLIAM SCOTT
 NOTARIAL OFFICER PURSUANT TO
 29 DEL. CODE SECT. 4323
 ATTORNEY AT LAW
 DELAWARE



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PRINTS ISSUED FOR:

NO.	REVISIONS	DATE

EMB
 GEORGE, MILES, & BUHR, LLC
 ARCHITECTS & ENGINEERS
 208 WEST MAIN STREET
 SALESURY, MARYLAND 21801
 410-742-2115 FAX 410-544-5790
www.gemba.com

**MCCARY ROAD
 BORROW PIT**
 Sussex County, Delaware

ZONING

General Commercial - C-1
 Agricultural Residential - AR-1
 Site Boundary

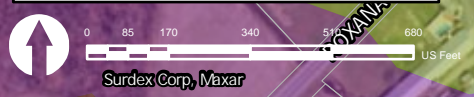
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 0 85 170 340 510 680 850 US Feet
 Surdex Corp, Maxar

SCALE	1"=400'	SHEET NO.	
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CREATED BY	KLacomp		4c
CHECKED BY			
GMB FILE	210109		
DATE	8/11/2022		

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State Parcels	Hurlock
Soils Sussex County	Klej
Askecksy	Mullica
Berryland	Mullica-Berryland
Hammonton	Site Boundary



PRINTS ISSUED FOR:	
DATE	
NO.	
REVISIONS	

EMB
 GEORGE, MILES, & BUHR, LLC
 ARCHITECTS & ENGINEERS
 208 WEST MAIN STREET
 SALESURY, MARYLAND 21801
 410-742-2115 FAX 410-548-2780
 www.gemb.com

McCARY ROAD BORROW PIT

Sussex County, Delaware

SOILS

SCALE 1"=400'
 PCS DEB3F SHEET NO.
 CREATED BY kLacompn 4d
 CHECKED BY
 GMB FILE 210109
 DATE 8/11/2022

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GUM

FRANKFORD SCHOOL

MCCARY

Legend:

- State Parcels
- Flood Zone X
- Site Boundary

North Arrow
Scale: 0 85 170 340 510 680 US Feet
Surdex Corp, Maxar

PRINTS ISSUED FOR:

NO.	REVISIONS	DATE

GMB
GEORGE, MILES, & BUHR, LLC
ARCHITECTS & ENGINEERS
208 WEST MAIN STREET
SALISBURY, MARYLAND 21801
410-742-2115, FAX: 410-544-5790
www.gmbnet.com

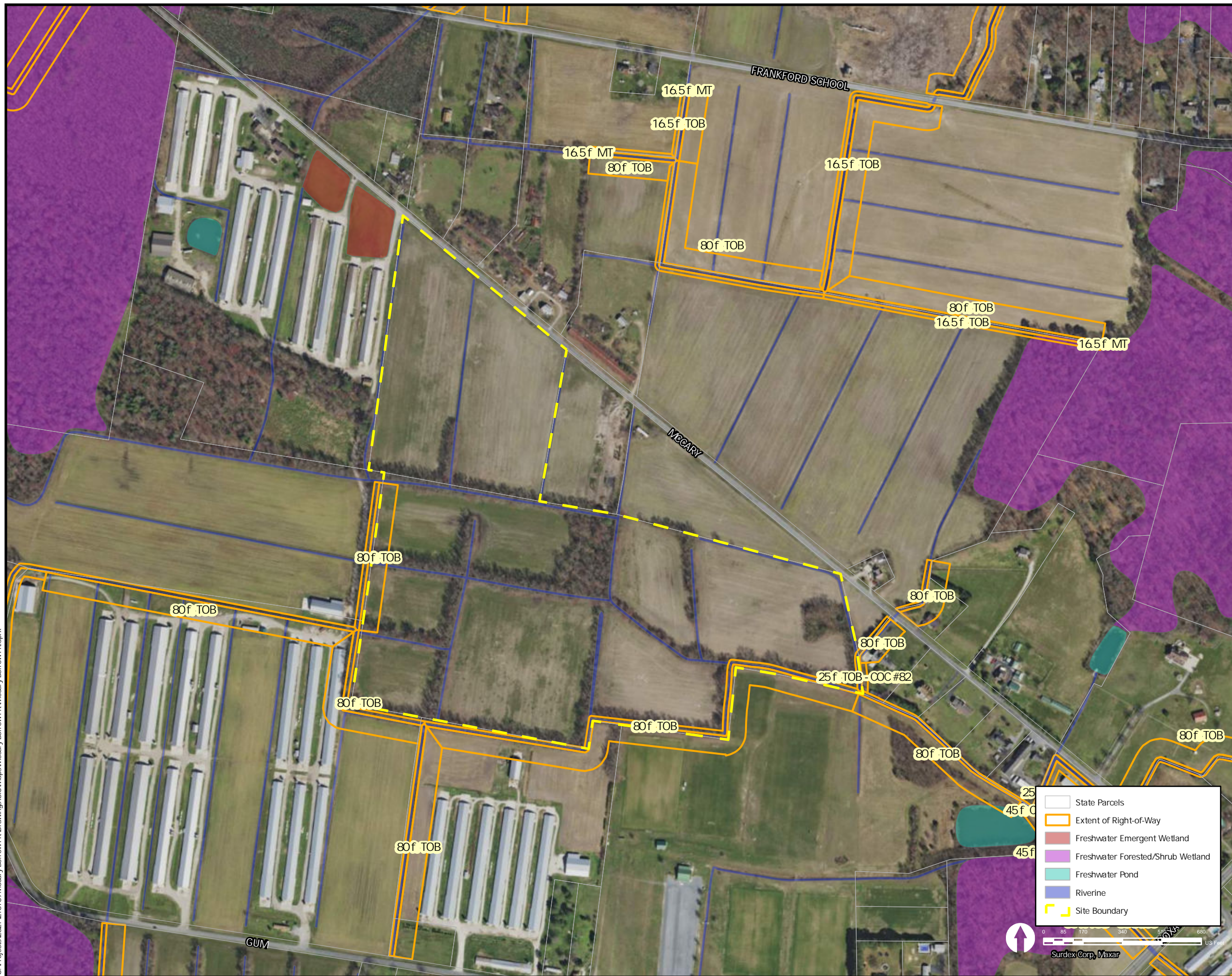
**McCARY ROAD
BORROW PIT**
Sussex County, Delaware

FLOOD ZONE

SCALE 1"=400'	SHEET NO.
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GMB FILE 210109	
DATE 8/11/2022	

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- State Parcels
- Extent of Right-of-Way
- Freshwater Emergent Wetland
- Freshwater Forested/Shrub Wetland
- Freshwater Pond
- Riverine
- Site Boundary

Scale: 1"=400'

PCS: DEB3F

CREATED BY: kLacompt

CHECKED BY: GMB

GMB FILE: 210109

DATE: 8/11/2022

Surdex Corp, Maxar

PRINTS ISSUED FOR:

NO.	REVISIONS	DATE

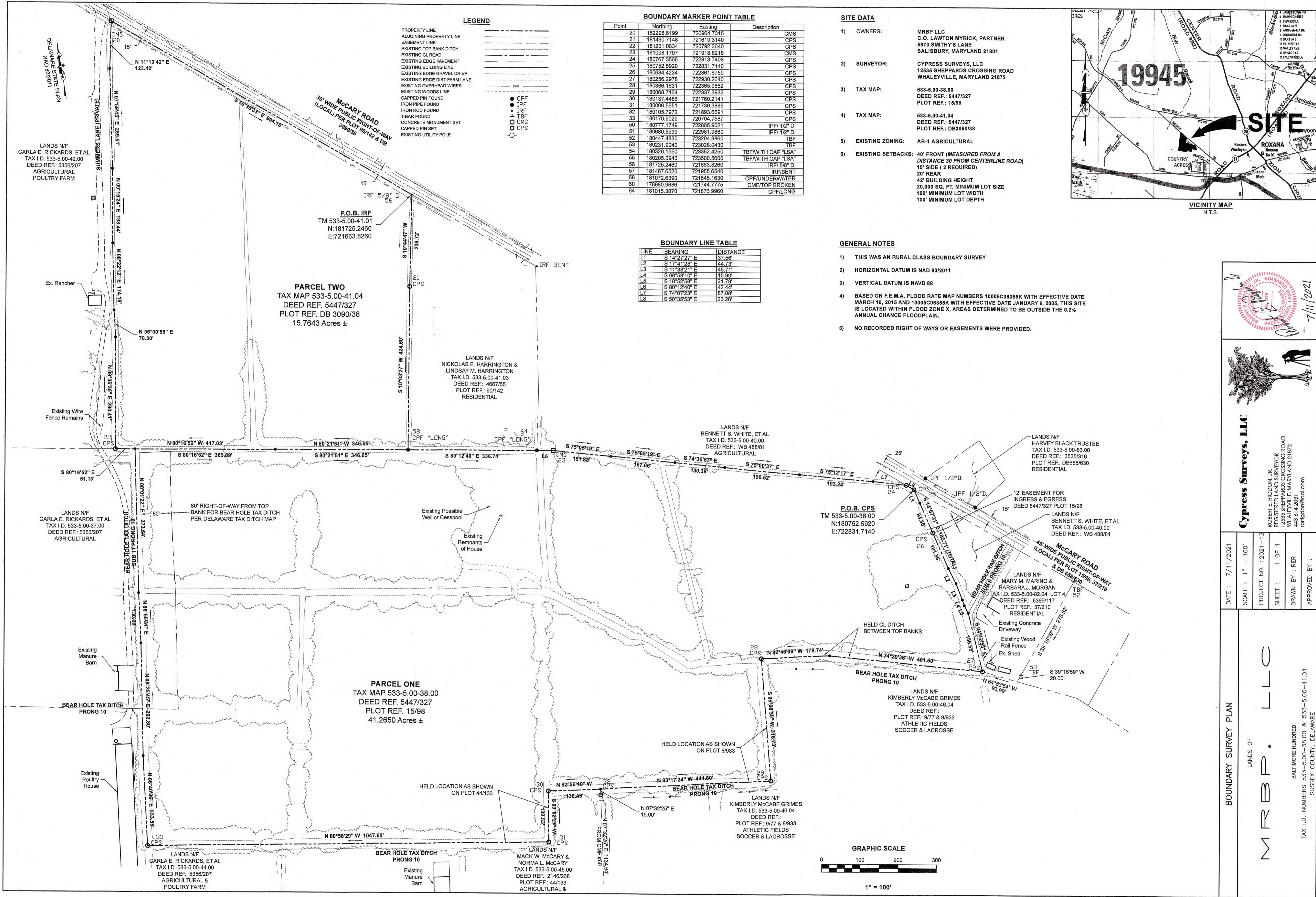
GMB
 GEORGE, MILES, & BUHR, LLC
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 208 WEST MAIN STREET
 SALESURY, MARYLAND 21801
 410-742-2115 FAX 410-564-2790
 www.gmbnet.com

**MCCARY ROAD
 BORROW PIT**
 Sussex County, Delaware

**WETLANDS AND
 TAX DITCH**

SCALE: 1"=400'	SHEET NO.:
PCS: DEB3F	4f
CREATED BY: kLacompt	
CHECKED BY: GMB	
GMB FILE: 210109	
DATE: 8/11/2022	

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LEGEND

- PROPERTY LINE
- ADJOINING PROPERTY LINE
- EASEMENT LINE
- EXISTING TOP BANK DITCH
- EXISTING CL ROAD
- EXISTING EDGE PAVEMENT
- EXISTING BUILDING LINE
- EXISTING EDGE GRAVEL DRIVE
- EXISTING EDGE DIRT FARM LANE
- EXISTING OVERHEAD WIRES
- EXISTING WOODS LINE
- CAPPED PIN FOUND
- IRON PIPE FOUND
- IRON ROD FOUND
- T-BAR FOUND
- CONCRETE MONUMENT SET
- CAPPED PIN SET
- EXISTING UTILITY POLE

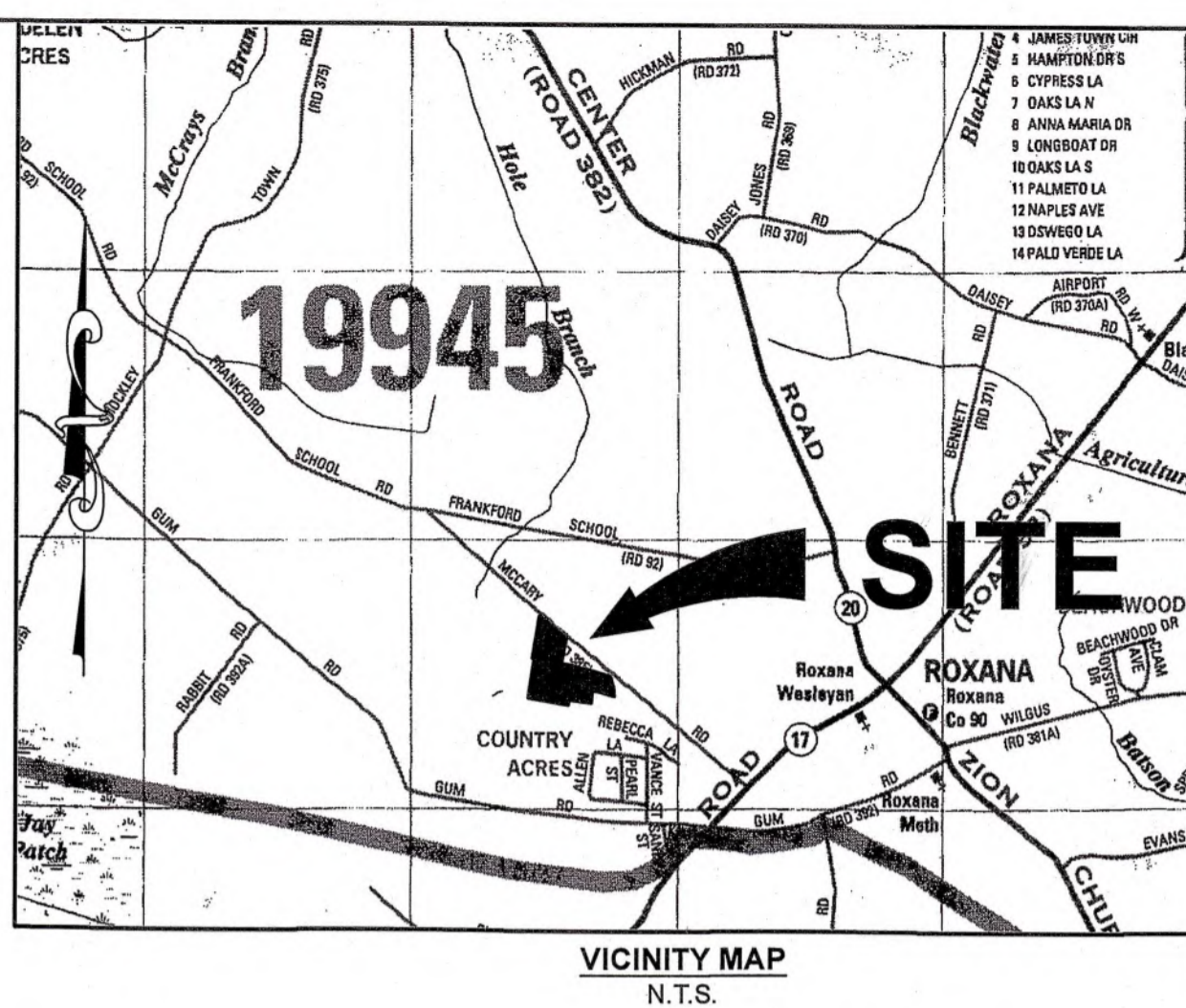
BOUNDARY MARKER POINT TABLE

Point	Northing	Easting	Description
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21	181493.7148	721819.3140	CPS
22	181201.0834	720792.3840	CPS
23	181008.1707	721818.8218	CMS
24	180787.3565	722813.7408	CPS
25	180752.5920	722831.7140	CPS
26	180634.4234	722861.6759	CPS
27	180256.2978	722930.2640	CPS
28	180386.1631	722365.9652	CPS
29	180068.7164	722337.3932	CPS
30	180137.4488	721760.2141	CPS
31	180006.6851	721739.3885	CPS
32	180105.7972	721893.6891	CPS
33	180170.9029	720704.7587	CPS
50	180777.1749	722865.9021	IPF/1/2" D.
51	180680.5939	722881.9860	IPF/1/2" D.
52	180447.4830	723204.3860	TBF
53	180231.9040	723028.0430	TBF
54	180326.1650	723352.4250	TBF/WITH CAP "LSA"
55	180205.0940	723500.5600	TBF/WITH CAP "LSA"
56	181725.2480	721663.8260	IRF/5/8" D.
57	181487.6520	721956.6540	IRF/BENT
58	181072.6390	721545.1630	CPF/UNDERWATER
60	178980.9888	721744.7775	CMF/TOP BROKEN
64	181015.3870	721876.9960	CPF/LONG

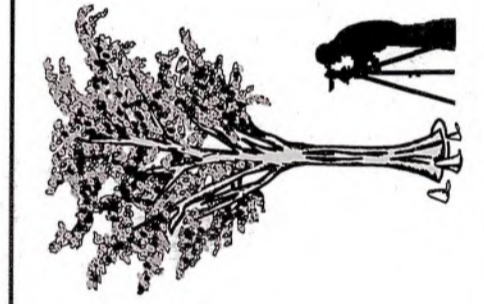
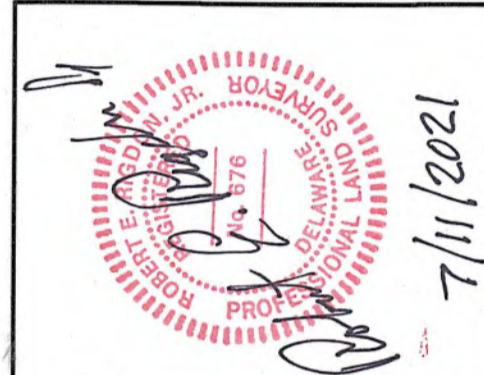
BOUNDARY LINE TABLE

LINE	BEARING	DISTANCE
L1	S 14°27'27" E	37.56'
L2	S 17°41'28" E	44.73'
L3	S 11°38'21" E	45.71'
L4	S 08°58'10" E	15.90'
L5	S 18°52'58" E	21.79'
L6	S 80°12'40" E	42.44'
L7	S 74°07'23" E	87.08'
L8	S 50°35'53" E	23.26'

- SITE DATA**
- OWNERS: MRBP LLC
C.O. LAWTON MYRICK, PARTNER
5973 SMITH'S LANE
SALISBURY, MARYLAND 21801
 - SURVEYOR: CYPRESS SURVEYS, LLC
12635 SHEPPARDS CROSSING ROAD
WHALEYVILLE, MARYLAND 21872
 - TAX MAP: 533-5.00-38.00
DEED REF.: 5447/327
PLOT REF.: 15/98
 - TAX MAP: 533-5.00-41.04
DEED REF.: 5447/327
PLOT REF.: DB3090/38
 - EXISTING ZONING: AR-1 AGRICULTURAL
 - EXISTING SETBACKS: 40' FRONT (MEASURED FROM A DISTANCE 30' FROM CENTERLINE ROAD)
15' SIDE (2 REQUIRED)
20' REAR
42' BUILDING HEIGHT
20,000 SQ. FT. MINIMUM LOT SIZE
100' MINIMUM LOT WIDTH
100' MINIMUM LOT DEPTH



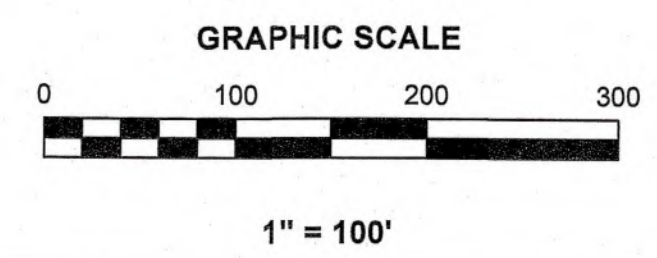
- GENERAL NOTES**
- THIS WAS AN RURAL CLASS BOUNDARY SURVEY
 - HORIZONTAL DATUM IS NAD 83/2011
 - VERTICAL DATUM IS NAVD 88
 - BASED ON F.E.M.A. FLOOD RATE MAP NUMBERS 10005C06356K WITH EFFECTIVE DATE MARCH 16, 2015 AND 10005C06356K WITH EFFECTIVE DATE JANUARY 6, 2005, THIS SITE IS LOCATED WITHIN FLOOD ZONE X, AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN.
 - NO RECORDED RIGHT OF WAYS OR EASEMENTS WERE PROVIDED.



Cypress Surveys, LLC
ROBERT E. RIGDON, JR.
REGISTERED LAND SURVEYOR
12355 SHEPPARDS CROSSING ROAD
WHALEYVILLE, MARYLAND 21872
443-614-2031
rprigdon@aol.com

DATE: 7/11/2021
SCALE: 1" = 100'
PROJECT NO.: 2021-1-3
SHEET: 1 OF 1
DRAWN BY: RER
APPROVED BY:

BOUNDARY SURVEY PLAN
LANDS OF
MRBP, LLC
BALTIMORE HUNDRED
TAX I.D. NUMBERS 533-5.00-38.00 & 533-5.00-41.04
SUSSEX COUNTY, DELAWARE



TRAFFIC



STATE OF DELAWARE
DEPARTMENT OF TRANSPORTATION
800 BAY ROAD
P.O. Box 778
DOVER, DELAWARE 19903

NICOLE MAJESKI
SECRETARY

April 06, 2021

Mr. Bill Conway
Century Engineering, Inc
4134 North DuPont Highway
Dover, Delaware 19901

**SUBJECT: Small Commercial Entrance Plan Approval Letter
McCary Rd Borrow Pit**
Tax Parcel #533-5.00-38.00, 533-5.00-41.04
SCR00385-MCCARY ROAD
Baltimore Hundred, Sussex County

Dear Mr. Conway:

The Delaware Department of Transportation (DelDOT) has reviewed your request, dated January 25, 2021, requesting a new Small Commercial Entrance. We have determined that this project is eligible and have issued an approved Entrance Plan dated April 06, 2021. This plan approval shall be valid for a period of **one (1) year**. If an entrance permit has not been obtained within one year, then the project must be resubmitted for review and approval.

The applicant acknowledges and accepts additional requirements may need to be constructed in the State of Delaware Right-of-Way to promote the safety and functionality of the applicants' new commercial entrance facility. These changes may be addressed as 'field changes' and could include but are not limited to the following items: sign relocation or placement, striping removal, additional striping, additional paving/repairs and additional transportation facility repairs or upgrades. Further the applicant agrees to adhere to all Maintenance of Traffic requirements that will be outlined in the Pre-Construction meeting.

This letter does not authorize the commencement of entrance construction. The following items will be required prior to the permit being issued. A pre-construction meeting may be required as determined by the South District Public Works office.

1. A copy of the Site Plan which is consistent with the DelDOT "General Conformity" stamped plan.
2. Three (3) copies of the approved entrance plans.
3. Completed permit application.



McCary Rd Borrow Pit
Mr. Conway
Page 2
April 06, 2021

4. Executed agreements (i.e. construction, signal, letter).
5. An itemized construction cost estimate (only for entrance improvements).
6. A 150% security for the entrance improvements based upon an approved itemized construction cost estimate and W-9 form (if providing escrow).
7. A letter of source of materials, work schedule, list of subcontractors, emergency telephone numbers and names of contact persons.

Please contact the South District Public Works office (302) 853-1340 concerning any questions you may have relative to the aforementioned required items.

Sincerely,



R. Stephen McCabe
Sussex County Review Coordinator
Development Coordination

cc: Lawton Myrick, Lawton Myrick
Jamie Whitehouse, Sussex County Planning & Zoning Commission
Rusty Warrington, Sussex County Planning & Zoning
Jessica L. Watson, Sussex Conservation District
Matt Schlitter, South District Public Works Engineer
Scott Rust, South District Public Work Manager
James Argo, South District Project Reviewer
William Kirsch, South District Entrance Permit Supervisor
Jerry Nagyiski, Safety Officer Supervisor
Kerry Yost, Traffic Calming & Subdivision Relations Manager
Jennifer Pinkerton, Chief Materials & Research Engineer
Linda Osiecki, Pedestrian Coordinator
John Fiori, Bicycle Coordinator
Mark Galipo, Traffic Development Coordination Engineer
Tim Phillips, Maintenance Support Manager
Dan Thompson, Safety Officer North District
Jared Kauffman, DTC Planner
James Kelley, JMT

McCary Rd Borrow Pit

Mr. Conway

Page 3

April 06, 2021

Wendy L. Polasko, Subdivision Engineer
Kevin Hickman, Sussex County Reviewer



STATE OF DELAWARE
DEPARTMENT OF TRANSPORTATION
800 BAY ROAD
P.O. BOX 778
DOVER, DELAWARE 19903

NICOLE MAJESKI
SECRETARY

July 12, 2021

Mr. Jamie Whitehouse, Director
Sussex County Planning & Zoning
P.O. Box 417
Georgetown, DE 19947

Dear Mr. Whitehouse:

The Department has completed its review of a Service Level Evaluation Request for the **MRBP, LLC** proposed land use application, which we received on June 28, 2021. This application is for an approximately 56.93-acre assemblage of parcels (Tax Parcels: 533-5.00-38.00 and 41.04). Both parcels are located on the southwest side of McCary Road (Sussex Road 385). The subject land is currently zoned AR-1 (Agriculture Residential) and the applicant seeks a conditional use approval to operate a Borrow Pit.

Per the 2019 Delaware Vehicle Volume Summary, the annual average daily traffic volume along McCary Road is 385.

Based on our review, we estimate that the above land use will generate fewer than 50 vehicle trips per day. This number of trips is below DeIDOT's minimum warrants for determining that a Traffic Impact Study (TIS) should be required for a particular development. DeIDOT's regulations specify the minimum TIS warrants as 50 vehicle trips in any hour and/or 500 vehicle trips per day. Because the proposed land use would generate fewer than 50 vehicle trips per day, we consider the development's traffic impact to be **diminutive** in the context of our agreement with the County regarding land development coordination and we do not recommend that the applicant be required to perform a TIS for the subject application. DeIDOT's description of this application as diminutive with regard to warranting a TIS does not mean that it is diminutive in other respects. We recommend that the applicant not be required to perform a TIS for the subject application.

If the County approves this application, the applicant should be reminded that DeIDOT requires compliance with State regulations regarding plan approvals and entrance permits, whether or not a TIS is required.



Mr. Jamie Whitehouse

Page 2 of 2

July 12, 2021

Please contact Ms. Annamaria Furmato, at (302) 760-2710, if you have questions concerning this correspondence.

Sincerely,



T. William Brockenbrough, Jr.

County Coordinator

Development Coordination

TWB:afm

cc: MRBP, LLC, Applicant
Russell Warrington, Sussex County Planning & Zoning
David Edgell, Coordinator, Cabinet Committee on State Planning Issues
Todd Sammons, Assistant Director, Development Coordination
Scott Rust, South District Public Works Manager, Maintenance & Operations
Steve McCabe, Sussex County Review Coordinator, Development Coordination
Derek Sapp, Subdivision Manager, Development Coordination
Kevin Hickman, Subdivision Manager, Development Coordination
Brian Yates, Subdivision Manager, Development Coordination
John Andrescavage, Subdivision Manager, Development Coordination
James Argo, South District Project Reviewer, Maintenance & Operations
Troy Brestel, Project Engineer, Development Coordination
Claudy Joinville, Project Engineer, Development Coordination
Annamaria Furmato, Project Engineer, Development Coordination

THREATENED AND ENDANGERED SPECIES

June 30, 2022

ERI Project No. 0989#1083

Mr. Jamie Whitehouse, Director
Planning and Zoning Department
Sussex County Administrative Department
2 The Circle
Georgetown, DE 19947

Mr. Steve Marsh,
George, Miles & Buhr
206 West Main Street
Salisbury, MD 21801

**RE: McCary Road Borrow Pit Site, MRBP, LLC.
Environmental Review for Wildlife Habitat and Wetland Considerations
Tax Map No.: 533-5.00-58.00 & 41.04 (57.03 Acres)
Baltimore Hundred, Sussex County, Delaware**

Dear Mr. Whitehouse and Mr. Marsh,

Environmental Resources, Inc. (ERI) has investigated this 57.03 acre property for the presence of any wildlife habitats supporting state or federally listed species of concern. ERI has also investigated the property for any state or federally regulated wetlands or waters. A borrow pit facility is being proposed on the interior portion of the site.

ERI consulted with the U.S. Fish and Wildlife Service (Service) with respect to the occurrence of any federally listed threatened or endangered species or their critical habitats subject to the Endangered Species Act of 1973 (ESA). In their letter of June 30, 2022, the Service concluded that there are no records of any federally listed threatened or endangered species on this property (see attached). This confirms the results of observations ERI conducted on this property.

I do want to mention that the USFWS letter did provide information that a proposed candidate species, the Monarch Butterfly (*Danaus plexippus*) has been designated throughout the entire project vicinity. This species has no critical habitats designated and it is not yet listed as a protected species. In addition, this is a transitory species which has very specific habitat requirements which include an abundance of milkweed to be present on a property. The required vegetation does not occur on the subject site as the field areas proposed for development are active agricultural lands.

During the PLUS Review conducted by the Office of State Planning for this project, DNREC's Division of Fish and Wildlife provided no comments about any state rare species within this project area.

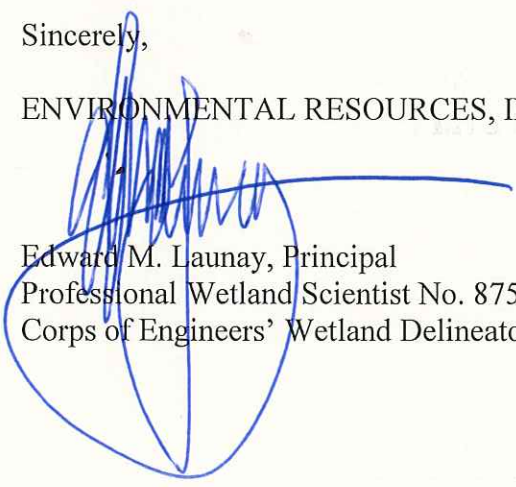
The project site consists largely of upland agricultural fields. The field areas are divided internally by a network of man made drainage channels. Drainage channels are also found along much of the property perimeter. The channels along the west and south sides of the site area part of the Bearhole Tax Ditch system (Prong 10, Sub 11 – Prong 10 and Sub 9 – Prong 10). The drainage channels on the property with the possible exception of Prong 10 do not drain or connect offsite wetland areas to downstream navigable waters and as such they are not regulated waters by the U.S. Army Corps of Engineers or Delaware Department of Natural Resources and Environmental Control (DNREC) as subaqueous lands. Due to the depth and seasonal flow of the perimeter tax ditches (Prong 10 & Sub 11-Prong 10), are channels that may be a waters subject to regulation by the Corps of Engineers. However, the project as designed has avoided impacts to all perimeter channels including all tax ditches. The watershed area of the tax ditches and other drainage channels on this site is limited. All of the tax ditches and channels on this site have only seasonal flow at best. No perennial streams or channels are present and under current Sussex County Code, there are no buffers that apply.

The project also avoided a small wood lot area in the central portion of Parcel 38.00 along it's northerly property line where a minor area of nontidal wetlands may possibly occur. Therefore, as designed the project will have no impact on any potentially regulated waters or wetlands subject to the Corps of Engineers Regulatory Program. DNREC regulated wetlands do not occur in the project vicinity.

Upon review of this report, I am available at your convenience should you have any comments or concerns.

Sincerely,

ENVIRONMENTAL RESOURCES, INC.



Edward M. Launay, Principal
Professional Wetland Scientist No. 875, Society of Wetland Scientists
Corps of Engineers' Wetland Delineator Certification No. WDCP93MD0510036B



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Chesapeake Bay Ecological Services Field Office
177 Admiral Cochrane Drive
Annapolis, MD 21401-7307
Phone: (410) 573-4599 Fax: (410) 266-9127



In Reply Refer To:
Project Code: 2022-0059676
Project Name: McCary Road Borrow Pit

June 30, 2022

Subject: List of threatened and endangered species that may occur in your proposed project location or may be affected by your proposed project

To Whom It May Concern:

The enclosed species list identifies threatened, endangered, proposed and candidate species, as well as proposed and final designated critical habitat, that may occur within the boundary of your proposed project and/or may be affected by your proposed project. The species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*).

New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list. Please feel free to contact us if you need more current information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, the accuracy of this species list should be verified after 90 days. This verification can be completed formally or informally as desired. The Service recommends that verification be completed by visiting the ECOS-IPaC website at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through the ECOS-IPaC system by completing the same process used to receive the enclosed list.

The purpose of the Act is to provide a means whereby threatened and endangered species and the ecosystems upon which they depend may be conserved. Under sections 7(a)(1) and 7(a)(2) of the Act and its implementing regulations (50 CFR 402 *et seq.*), Federal agencies are required to utilize their authorities to carry out programs for the conservation of threatened and endangered species and to determine whether projects may affect threatened and endangered species and/or designated critical habitat.

A Biological Assessment is required for construction projects (or other undertakings having similar physical impacts) that are major Federal actions significantly affecting the quality of the human environment as defined in the National Environmental Policy Act (42 U.S.C. 4332(2)(c)). For projects other than major construction activities, the Service suggests that a biological

evaluation similar to a Biological Assessment be prepared to determine whether the project may affect listed or proposed species and/or designated or proposed critical habitat. Recommended contents of a Biological Assessment are described at 50 CFR 402.12.

If a Federal agency determines, based on the Biological Assessment or biological evaluation, that listed species and/or designated critical habitat may be affected by the proposed project, the agency is required to consult with the Service pursuant to 50 CFR 402. In addition, the Service recommends that candidate species, proposed species and proposed critical habitat be addressed within the consultation. More information on the regulations and procedures for section 7 consultation, including the role of permit or license applicants, can be found in the "Endangered Species Consultation Handbook" at:

<http://www.fws.gov/endangered/esa-library/pdf/TOC-GLOS.PDF>

Migratory Birds: In addition to responsibilities to protect threatened and endangered species under the Endangered Species Act (ESA), there are additional responsibilities under the Migratory Bird Treaty Act (MBTA) and the Bald and Golden Eagle Protection Act (BGEPA) to protect native birds from project-related impacts. Any activity, intentional or unintentional, resulting in take of migratory birds, including eagles, is prohibited unless otherwise permitted by the U.S. Fish and Wildlife Service (50 C.F.R. Sec. 10.12 and 16 U.S.C. Sec. 668(a)). For more information regarding these Acts see <https://www.fws.gov/birds/policies-and-regulations.php>.

The MBTA has no provision for allowing take of migratory birds that may be unintentionally killed or injured by otherwise lawful activities. It is the responsibility of the project proponent to comply with these Acts by identifying potential impacts to migratory birds and eagles within applicable NEPA documents (when there is a federal nexus) or a Bird/Eagle Conservation Plan (when there is no federal nexus). Proponents should implement conservation measures to avoid or minimize the production of project-related stressors or minimize the exposure of birds and their resources to the project-related stressors. For more information on avian stressors and recommended conservation measures see <https://www.fws.gov/birds/bird-enthusiasts/threats-to-birds.php>.

In addition to MBTA and BGEPA, Executive Order 13186: *Responsibilities of Federal Agencies to Protect Migratory Birds*, obligates all Federal agencies that engage in or authorize activities that might affect migratory birds, to minimize those effects and encourage conservation measures that will improve bird populations. Executive Order 13186 provides for the protection of both migratory birds and migratory bird habitat. For information regarding the implementation of Executive Order 13186, please visit <https://www.fws.gov/birds/policies-and-regulations/executive-orders/e0-13186.php>.

We appreciate your concern for threatened and endangered species. The Service encourages Federal agencies to include conservation of threatened and endangered species into their project planning to further the purposes of the Act. Please include the Consultation Code in the header of this letter with any request for consultation or correspondence about your project that you submit to our office.

Attachment(s):

- Official Species List
- USFWS National Wildlife Refuges and Fish Hatcheries
- Wetlands

Official Species List

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

This species list is provided by:

Chesapeake Bay Ecological Services Field Office

177 Admiral Cochrane Drive

Annapolis, MD 21401-7307

(410) 573-4599

Project Summary

Project Code: 2022-0059676
Event Code: None
Project Name: McCary Road Borrow Pit
Project Type: Surface Extraction - Non Energy Materials
Project Description: Develop a borrow pit in uplands.
Project Location:

Approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@38.4972316,-75.18818386369415,14z>



Counties: Sussex County, Delaware

Endangered Species Act Species

There is a total of 1 threatened, endangered, or candidate species on this species list.

Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species. Note that 1 of these species should be considered only under certain conditions.

IPaC does not display listed species or critical habitats under the sole jurisdiction of NOAA Fisheries¹, as USFWS does not have the authority to speak on behalf of NOAA and the Department of Commerce.

See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area under this office's jurisdiction. Please contact the designated FWS office if you have questions.

-
1. [NOAA Fisheries](#), also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

Insects

NAME	STATUS
Monarch Butterfly <i>Danaus plexippus</i> No critical habitat has been designated for this species. This species only needs to be considered under the following conditions: <ul style="list-style-type: none"> ▪ The monarch is a candidate species and not yet listed or proposed for listing. There are generally no section 7 requirements for candidate species (FAQ found here: https://www.fws.gov/savethemonarch/FAQ-Section7.html). Species profile: https://ecos.fws.gov/ecp/species/9743	Candidate

Critical habitats

THERE ARE NO CRITICAL HABITATS WITHIN YOUR PROJECT AREA UNDER THIS OFFICE'S JURISDICTION.

USFWS National Wildlife Refuge Lands And Fish Hatcheries

Any activity proposed on lands managed by the [National Wildlife Refuge](#) system must undergo a 'Compatibility Determination' conducted by the Refuge. Please contact the individual Refuges to discuss any questions or concerns.

THERE ARE NO REFUGE LANDS OR FISH HATCHERIES WITHIN YOUR PROJECT AREA.

Wetlands

Impacts to [NWI wetlands](#) and other aquatic habitats may be subject to regulation under Section 404 of the Clean Water Act, or other State/Federal statutes.

For more information please contact the Regulatory Program of the local [U.S. Army Corps of Engineers District](#).

Please note that the NWI data being shown may be out of date. We are currently working to update our NWI data set. We recommend you verify these results with a site visit to determine the actual extent of wetlands on site.

WETLAND INFORMATION WAS NOT AVAILABLE WHEN THIS SPECIES LIST WAS GENERATED. PLEASE VISIT [HTTPS://WWW.FWS.GOV/WETLANDS/DATA/MAPPER.HTML](https://www.fws.gov/wetlands/data/mapper.html) OR CONTACT THE FIELD OFFICE FOR FURTHER INFORMATION.

IPaC User Contact Information

Agency: Environmental Resources Inc.

Name: Edward Launay

Address: PO Box 169

City: Selbyville

State: DE

Zip: 19975

Email: elaunay@ericonsultants.com

Phone: 3024369637

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



Sussex County

DELAWARE
sussexcountyde.gov

PLEASE NOTE

This paperless packet is published on the County's website for convenience purposes, and only includes information received up to the close of business on the day before a public hearing. Documents received after this, or documents submitted during the public hearing are not uploaded to the Paperless Packet. The legal record is the paper record maintained in the Offices of the Planning & Zoning Department.



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

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 14th, 2022

Application: CU 2301 Jason Tedesco

Applicant: Jason Tedesco
27 Indian Hill Lane
Ocean View, Delaware 19970

Owner: Jason and Laura Tedesco
27 Indian Hill Lane
Ocean View, Delaware 19970

Site Location: West side of Roxana Road (S.C.R. 52), 0.23 mile south of the intersection of the intersection of Powell Farm Road (S.C.R. 365) and Peppers Corner Road (S.C.R. 365)

Current Zoning: Agricultural Residential (AR-1) District

Proposed Use: Landscaping Business

Comprehensive Land Use Plan Reference: Coastal Area

Councilmanic District: Mr. Hudson

School District: Indian Rive School District

Fire District: Roxana Fire Co.

Sewer: On-site Septic System

Water: On-site Well

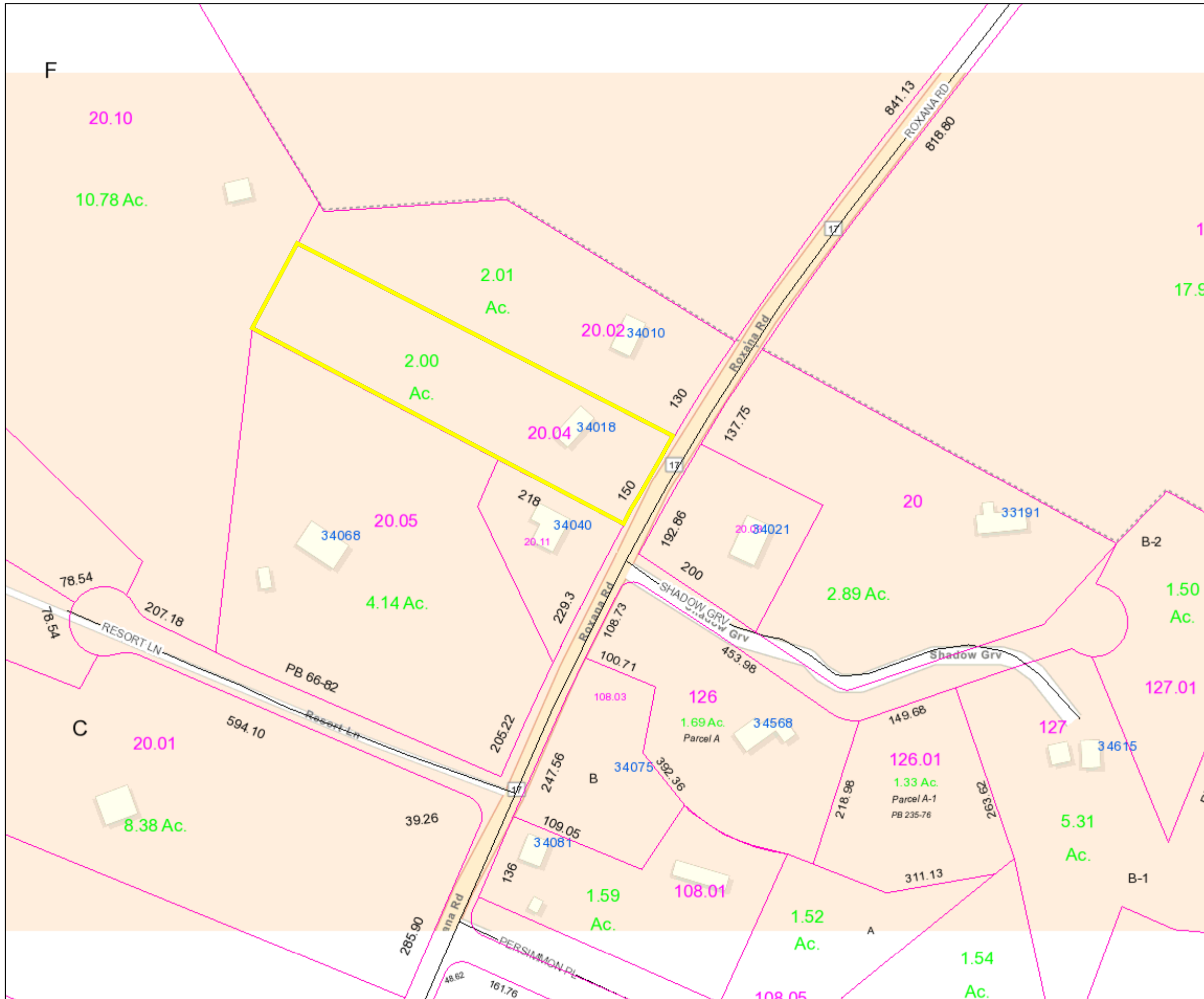
Site Area: 2.00 acres +/-

Tax Map ID: 134-15.00-20.04



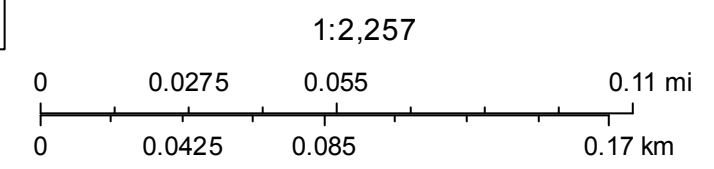


Sussex County

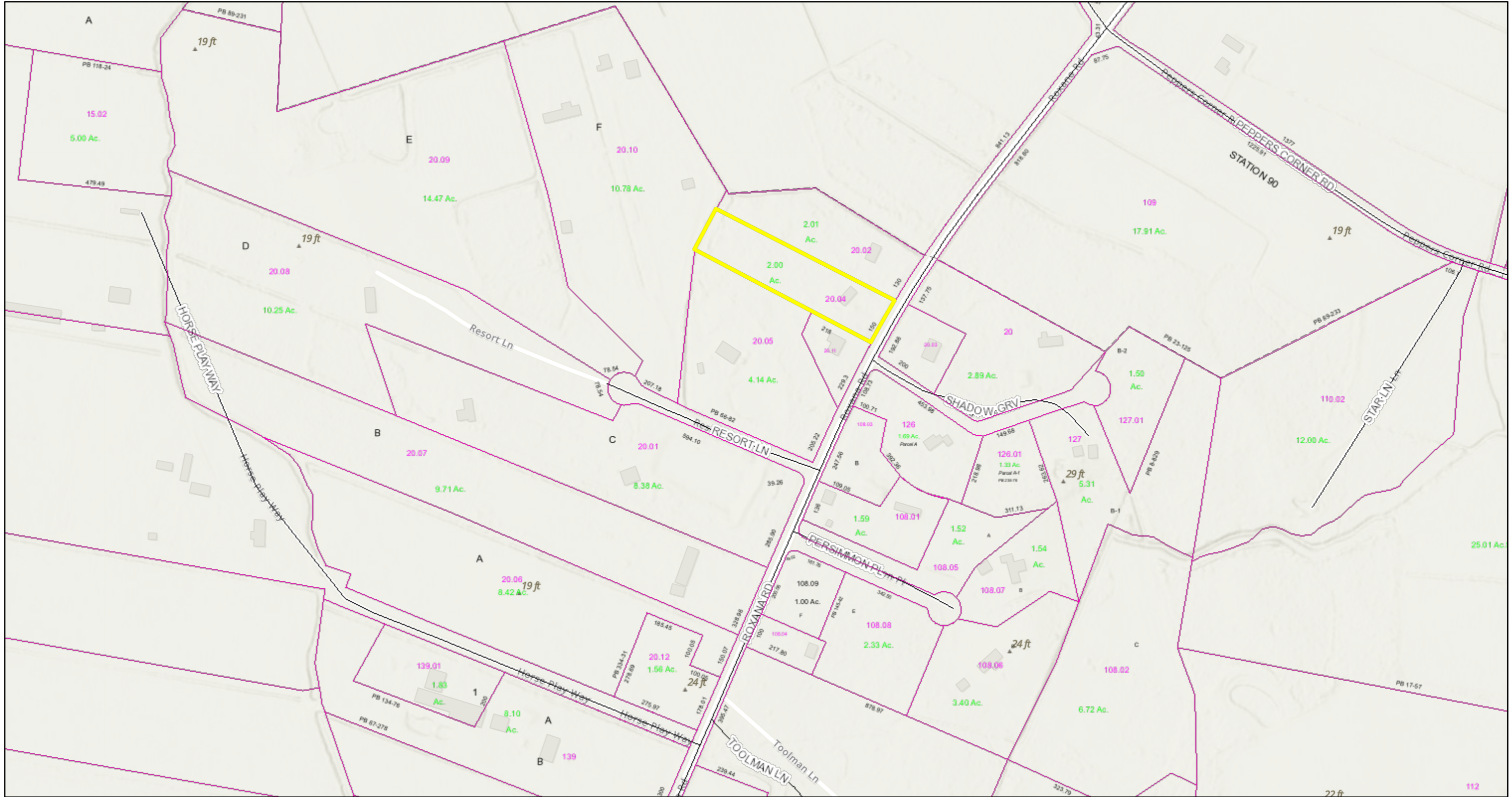


PIN:	134-15.00-20.04
Owner Name	TEDESCO JASON
Book	4673
Mailing Address	27 INDIAN HILL LANE
City	OCEAN VIEW
State	DE
Description	W/RT 17
Description 2	N/A
Description 3	N/A
Land Code	

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



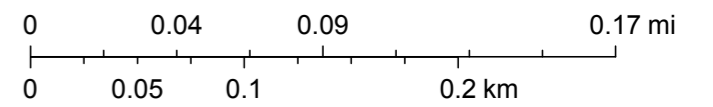
Sussex County



June 16, 2022

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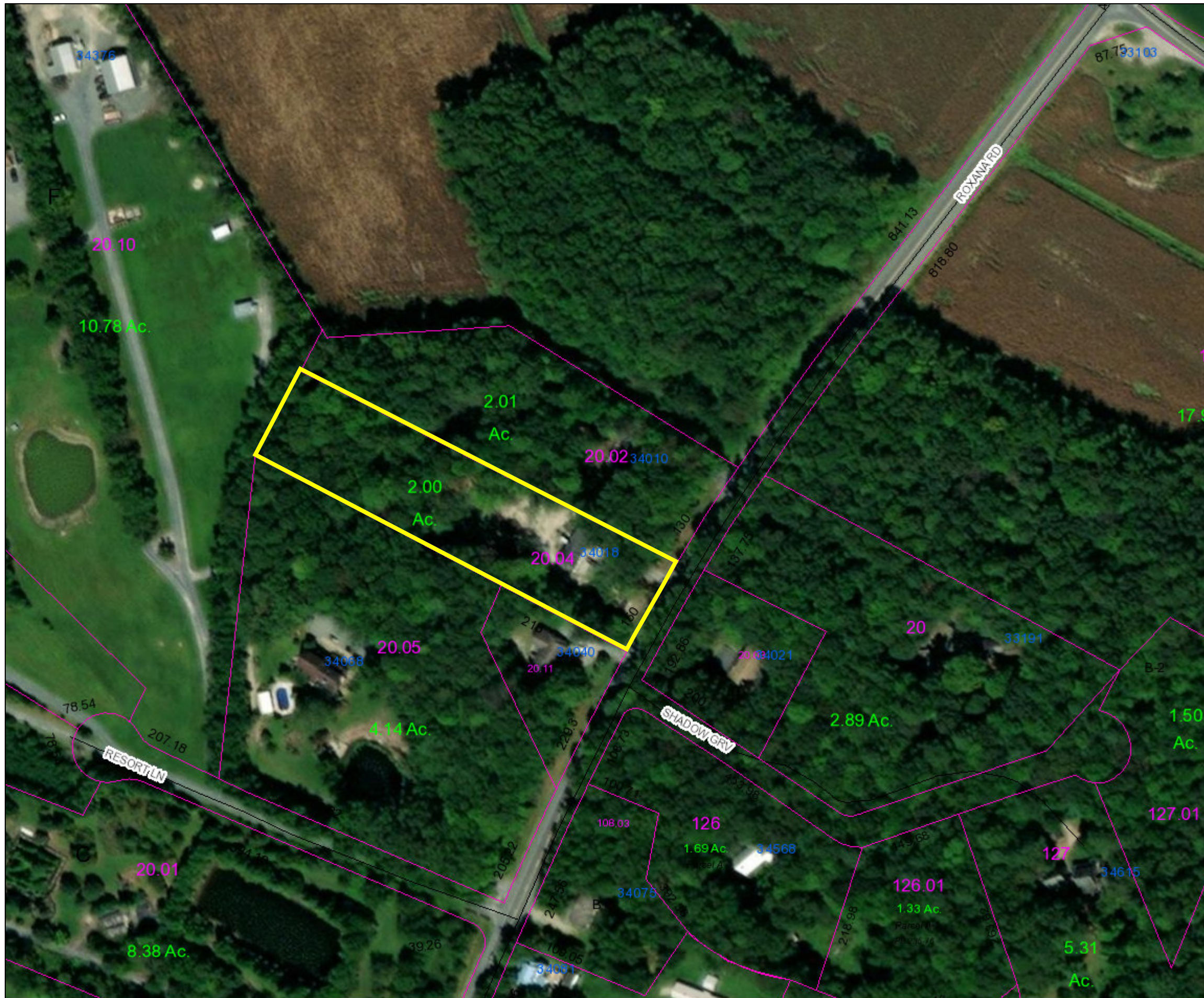
- | | | | | |
|---------------------------------|----------------------------------|-----------------------------|-------------------------------|-------------------------|
| Override 1 | Agricultural Residential - AR-2 | Neighborhood Business - B-1 | General Commercial - C-4 | Light Industrial - LI-2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



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



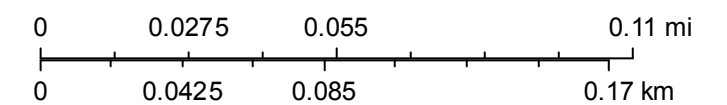
Sussex County



PIN:	134-15.00-20.04
Owner Name	TEDESCO JASON
Book	4673
Mailing Address	27 INDIAN HILL LANE
City	OCEAN VIEW
State	DE
Description	W/RT 17
Description 2	N/A
Description 3	N/A
Land Code	

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

1:2,257



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: Ms. Lauren DeVore, Planner III, AICP, on behalf of Mr. Chase Phillips, Planner II
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant
Date: July 7, 2022
RE: Staff Analysis for C/U 2301 Jason Tedesco

This memo is to provide background and analysis for the Planning Commission to consider as a part of application C/U 2301 Jason Tedesco to be reviewed during the July 14, 2022, Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Conditional Use for Tax Parcels 134-15.00-20.04 to allow for a landscaping business including related storage of equipment and materials to be located within an Agricultural Residential (AR-1) District. The property is lying on the west side of Roxana Road (S.C.R. 17), approximately 0.23 mile south of the intersection of Powell Farm Road (S.C.R. 365) and Peppers Corner Road (S.C.R. 365). The property is located at 34018 Roxanna Road in Frankford and consists of 2.00 acres +/-.

Further Site Considerations

County records indicate that there are no Tax Ditch or Tax Ditch rights-of-way (ROWs) on the property. The property is located within the overall area of the Beaver Dam Canal Tax Ditch.

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

The property is located within Flood Zone "X" – Areas determined to be outside of the 100-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 Coastal Area." All surrounding properties to the north, south, east and west of the subject site contain the Future Land Use Map designation of "Coastal Area."

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



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

The lands just beyond the adjacent parcel to the northeast of the subject site contain the Future Land Use Map Designation of “Municipalities” as these lands are located within the incorporated town limits of the Town of Millville.

Zoning Information

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

The property is zoned Agricultural Residential (AR-1) District. The adjacent parcels to the north, south, west, and east of subject property are zoned Agricultural Residential (AR-1) District. The properties to the south on the opposite side of Roxana Road (Route 17) are also zoned Agricultural Residential (AR-1) District.

It should be noted that there is a single parcel to the southwest that is zoned Neighborhood Business (B-1) District.

Existing Conditional Uses within the Vicinity of the Subject Site

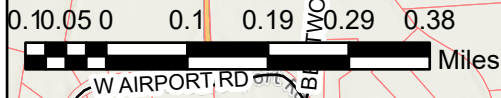
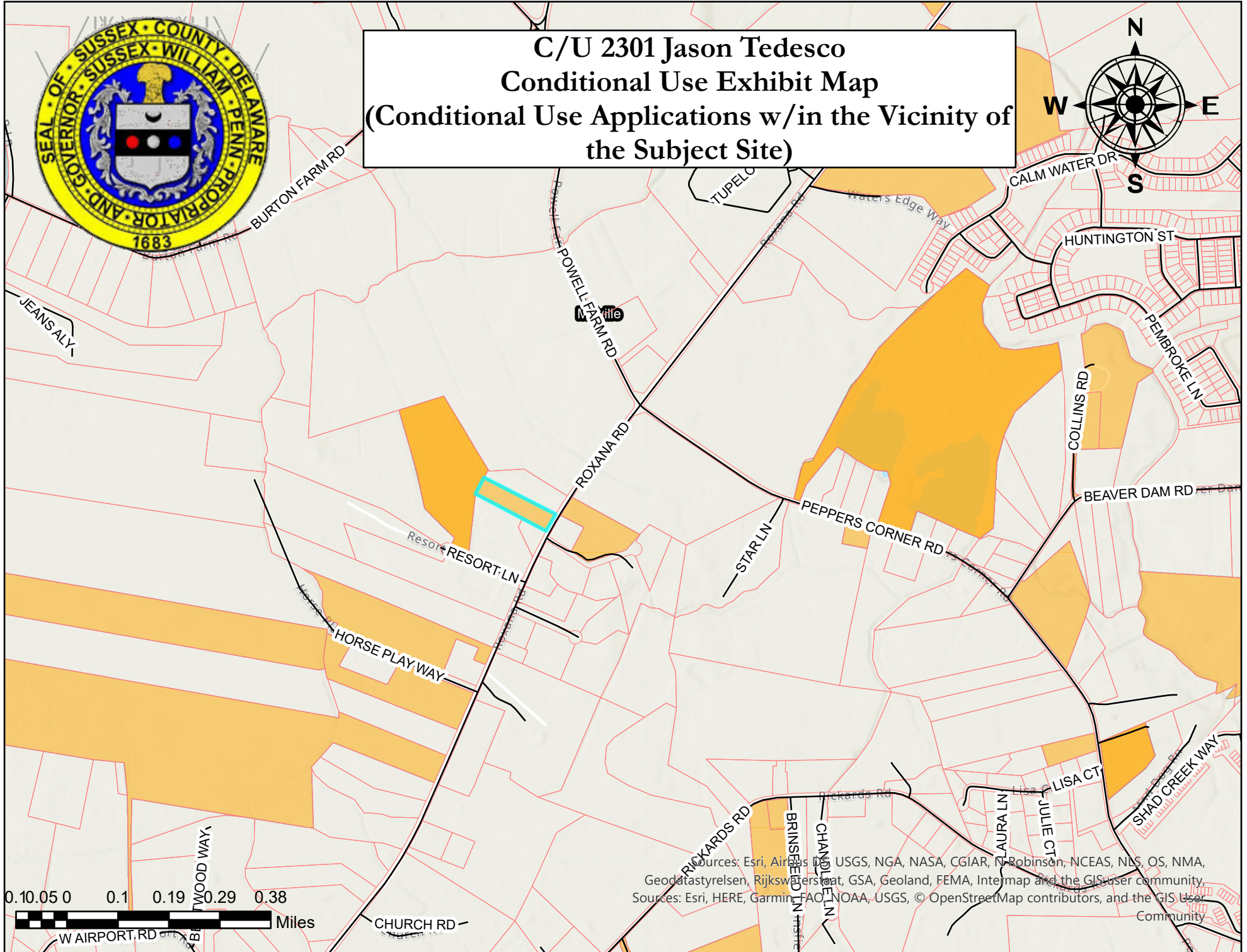
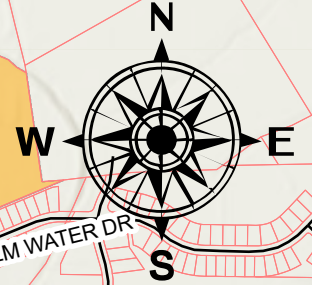
Since 1970, there have been three (3) Conditional Use applications within a 0.25-mile radius of the application site. The first application is for C/U 163 Dogwood Inc. to allow for a fish pond to be established within an Agricultural Residential (AR-1) District. The Sussex County Council approved the use at their meeting of Tuesday, November 6, 1973. The second application is for C/U 1432 Fredrick J. Winward to allow for a landscaping business and equipment storage within an Agricultural Residential (AR-1) District. The Planning and Zoning Commission recommended approval for the use at their meeting of Thursday, January 10, 2002. The Sussex County Council approved the use at their meeting of Tuesday, January 29, 2002, and the change was adopted through Ordinance No. 1519. The third application is for C/U 2293 Ronald E. & Candice M. Gray to allow for an indoor/outdoor storage facility to be located within an Agricultural Residential (AR-1) District. The Planning and Zoning Commission recommended approval for the use at their meeting of Thursday, June 9, 2022. The Sussex County Council approved the use at their meeting of Tuesday, June 14, 2022.

Based on the analysis of the land use, surrounding zoning and uses, the Conditional Use to allow for a landscaping business including storage of trucks, trailers, plants, equipment, etc. in this location, subject to considerations of scale and impact, could be considered as being consistent with the land use, area zoning and surrounding uses.

Conditional Use Applications (w/in a 0.25 mile radius of the subject site)*								
Application Number	Application Name	Current Zoning	Proposed Use	P&Z Decision	P&Z Decision Date	CC Decision	CC Decision Date	Ordinance Number
C/U 163	Dogwood, Inc.	AR-1	Fish Pond	N/A	N/A	Approved	11/6/1973	N/A
C/U 1432	Fredrick J. Winward	AR-1	Landscaping Business & Equipment Storage	Recommended Approval	1/10/2002	Approved	1/29/2002	1519
C/U 2293	Ronald E. & Candice M. Gray	AR-1	Indoor/Outdoor Storage Facility	Recommended Approval	6/9/2022	Aprproved	6/14/2022	N/A



**C/U 2301 Jason Tedesco
Conditional Use Exhibit Map
(Conditional Use Applications w/in the Vicinity of
the Subject Site)**



Sources: Esri, Airphoto, USGS, NGA, NASA, CGIAR, Robinson, NCEAS, NLS, OS, NMA, Geodatastyrelsen, Rijkswaterstaat, GSA, Geoland, FEMA, Intermap and the GIS user community.
Sources: Esri, HERE, Garmin, FAO, NOAA, USGS, © OpenStreetMap contributors, and the GIS User Community

File #: CU 2301
20211186

Planning & Zoning Commission Application Sussex County, Delaware

Sussex County Planning & Zoning Department
2 The Circle (P.O. Box 417) Georgetown, DE 19947
302-855-7878 ph. 302-854-5079 fax

RECEIVED

JUL 26 2021

SUSSEX COUNTY
PLANNING & ZONING

Type of Application: (please check applicable)

Conditional Use

Zoning Map Amendment

Site Address of Conditional Use/Zoning Map Amendment

34018 Roxanna Rd, Frankford, DE 19945

Type of Conditional Use Requested:

Landscape company storage for trucks, trailers, plants, equipment, etc.

Tax Map #: 134-15.00-20.04

Size of Parcel(s): 2 acres

Current Zoning: AR-1

Proposed Zoning: Conditional Use

Size of Building: dwelling - 1400 sqft
pole building - 40x60x12

Land Use Classification: Residential/Agricultural

Water Provider: well

Sewer Provider: septic

Applicant Information

Applicant Name: Jason Tedesco

Applicant Address: 27 Indian Hill Ln

City: Ocean View

State: DE

Zip Code: 19970

Phone #: 302-344-1441

E-mail: bethanyblooms@aol.com

Owner Information

Owner Name: Jason and Laura Tedesco

Owner Address: 27 Indian Hill Ln

City: Ocean View

State: DE

Zip Code: 19970

Phone #: 302-344-1441

E-mail: bethanyblooms@aol.com

Agent/Attorney/Engineer Information

Agent/Attorney/Engineer Name: N/A

Agent/Attorney/Engineer Address: _____

City: _____

State: _____

Zip Code: _____

Phone #: _____

E-mail: _____



Check List for Sussex County Planning & Zoning Applications

The following shall be submitted with the application

Completed Application

Provide eight (8) copies of the Site Plan or Survey of the property

- Survey shall show the location of existing or proposed building(s), building setbacks, parking area, proposed entrance location, etc.
- Provide a PDF of Plans (may be e-mailed to a staff member)
- Deed or Legal description

Provide Fee \$500.00

Optional - Additional information for the Commission/Council to consider (ex. architectural elevations, photos, exhibit books, etc.) If provided submit 8 copies and they shall be submitted a minimum of ten (10) days prior to the Planning Commission meeting.

Please be aware that Public Notice will be sent to property owners within 200 feet of the subject site and County staff will come out to the subject site, take photos and place a sign on the site stating the date and time of the Public Hearings for the application.

DelDOT Service Level Evaluation Request Response

PLUS Response Letter (if required)

The undersigned hereby certifies that the forms, exhibits, and statements contained in any papers or plans submitted as a part of this application are true and correct.

I also certify that I or an agent on my behalf shall attend all public hearing before the Planning and Zoning Commission and the Sussex County Council and any other hearing necessary for this application and that I will answer any questions to the best of my ability to respond to the present and future needs, the health, safety, morals, convenience, order, prosperity, and general welfare of the inhabitants of Sussex County, Delaware.

Signature of Applicant/Agent/Attorney



Date: April 26, 2021

RECEIVED

Signature of Owner



Date: April 26, 2021

JUL 26 2021

SUSSEX COUNTY
PLANNING & ZONING

For office use only:

Date Submitted: _____

Fee: \$500.00 Check #: _____

Staff accepting application: _____

Application & Case #: _____

Location of property: _____

Subdivision: _____

Date of PC Hearing: _____

Recommendation of PC Commission: _____

Date of CC Hearing: _____

Decision of CC: _____



STATE OF DELAWARE
DEPARTMENT OF TRANSPORTATION
800 BAY ROAD
P.O. BOX 77B
DOVER, DELAWARE 19903

NICOLE MAJESKI
SECRETARY

March 24, 2021

Mr. Jamie Whitehouse, Director
Sussex County Planning & Zoning
P.O. Box 417
Georgetown, DE 19947

Dear Mr. Whitehouse:

The Department has completed its review of a Service Level Evaluation Request for the **Jason Tedesco** proposed land use application, which we received on March 19, 2021. This application is for an approximately 2.00- acre parcel (Tax Parcel: 134-15.00-20.04). The subject land is located northwest of Roxana Road (Sussex Road 52) about 0.1 mi north of the intersection with Resort Lane. The subject land is currently zoned AR- 1 (Agricultural Residential) and the applicant seeks a conditional use approval for a landscaping business and the storage of landscaping vehicles, equipment and supplies.

Per the 2019 Delaware Vehicle Volume Summary, the annual average daily traffic volume along Roxana Road (Sussex Road 52), from Daisey Road (Sussex Road 370) to Atlantic Avenue (Sussex Road 26), is 4,780 vehicles per day.

Based on our review, we estimate that the above land use will generate fewer than 50 vehicle trips per day. This number of trips is below DelDOT's minimum warrants for determining that a Traffic Impact Study (TIS) should be required for a particular development. DelDOT's regulations specify the minimum TIS warrants as 50 vehicle trips in any hour and/or 500 vehicle trips per day. Because the proposed land use would generate fewer than 50 vehicle trips per day, we consider the development's traffic impact to be **diminutive** in the context of our agreement with the County regarding land development coordination and we do not recommend that the applicant be required to perform a TIS for the subject application. DelDOT's description of this application as diminutive with regard to warranting a TIS does not mean that it is diminutive in other respects. We recommend that the applicant not be required to perform a TIS for the subject application.

If the County approves this application, the applicant should be reminded that DelDOT requires compliance with State regulations regarding plan approvals and entrance permits, whether or not a TIS is required.



Mr. Jamie Whitehouse
Page 2 of 2
March 24, 2021

Please contact Ms. Annamaria Furmato, at (302) 760-2710, if you have questions concerning this correspondence.

Sincerely,



T. William Brockenbrough, Jr.
County Coordinator
Development Coordination

TWB:aff
Enclosure

cc: Jason Tedesco, Applicant
Russell Warrington, Sussex County Planning & Zoning
Constance C. Holland, Coordinator, Cabinet Committee on State Planning Issues
Todd Sammons, Assistant Director, Development Coordination
Scott Rust, South District Public Works Manager, Maintenance & Operations
Steve McCabe, Sussex County Review Coordinator, Development Coordination
Derek Sapp, Subdivision Manager, Development Coordination
Kevin Hickman, Subdivision Manager, Development Coordination
Brian Yates, Subdivision Manager, Development Coordination
John Andrescavage, Subdivision Manager, Development Coordination
James Argo, South District Project Reviewer, Maintenance & Operations
Troy Brestel, Project Engineer, Development Coordination
Claudy Joinville, Project Engineer, Development Coordination
Annamaria Furmato, Project Engineer, Development Coordination

**SUSSEX COUNTY ENGINEERING DEPARTMENT
UTILITY PLANNING & DESIGN REVIEW DIVISION
C/U & C/Z COMMENTS**

TO: **Jamie Whitehouse**

REVIEWER: **Chris Calio**

DATE: **6/22/2022**

APPLICATION: **CU 2301 Jason Tedesco**

APPLICANT: **Jason and Laura Tedesco**

FILE NO: **ROX-1.01**

TAX MAP &
PARCEL(S): **134-15.00-20.04**

LOCATION: **Lying on the west side of Roxana Road (SCR 52), 0.23 mile south of the intersection of Powell Farm Road (SCR 365) and Peppers Corner Road (SCR 365)**

NO. OF UNITS: **Establish a landscaping business**

GROSS
ACREAGE: **2.00**

SYSTEM DESIGN ASSUMPTION, MAXIMUM NO. OF UNITS/ACRE: **2**

SEWER:

- (1). Is the project in a County operated and maintained sanitary sewer and/or water district?
Yes No
- a. If yes, see question (2).
b. If no, see question (7).
- (2). Which County Tier Area is project in? **Tier 4**
- (3). Is wastewater capacity available for the project? **N/A** If not, what capacity is available? **N/A**.
- (4). Is a Construction Agreement required? **No** If yes, contact Utility Engineering at (302) 855-7717.
- (5). Are there any System Connection Charge (SCC) credits for the project? **No** If yes, how many? **N/A**. Is it likely that additional SCCs will be required? **N/A** If yes, the current System Connection Charge Rate is **Unified \$6,600.00** per EDU. Please contact **Choose an item**. at **302-855-7719** for additional information on charges.

- (6). Is the project capable of being annexed into a Sussex County sanitary sewer district? **No**
- Attached is a copy of the Policy for Extending District Boundaries in a Sussex County Water and/or Sanitary Sewer District.
- (7). Is project adjacent to the Unified Sewer District? **No**
- (8). Comments: **The proposed Conditional Use is not in an area where the Sussex County Engineering Department has a schedule to provide sanitary sewer service.**
- (9). Is a Sewer System Concept Evaluation required? **Not at this time**
- (10). Is a Use of Existing Infrastructure Agreement Required? **Not at this time**
- (11). **All residential roads must meet or exceed Sussex County minimum design standards.**

UTILITY PLANNING & DESIGN REVIEW APPROVAL:



John J. Ashman
Sr. Manager of Utility Planning & Design Review

Xc: Hans M. Medlarz, P.E.
Lisa Walls
Choose an item.

NOTES:

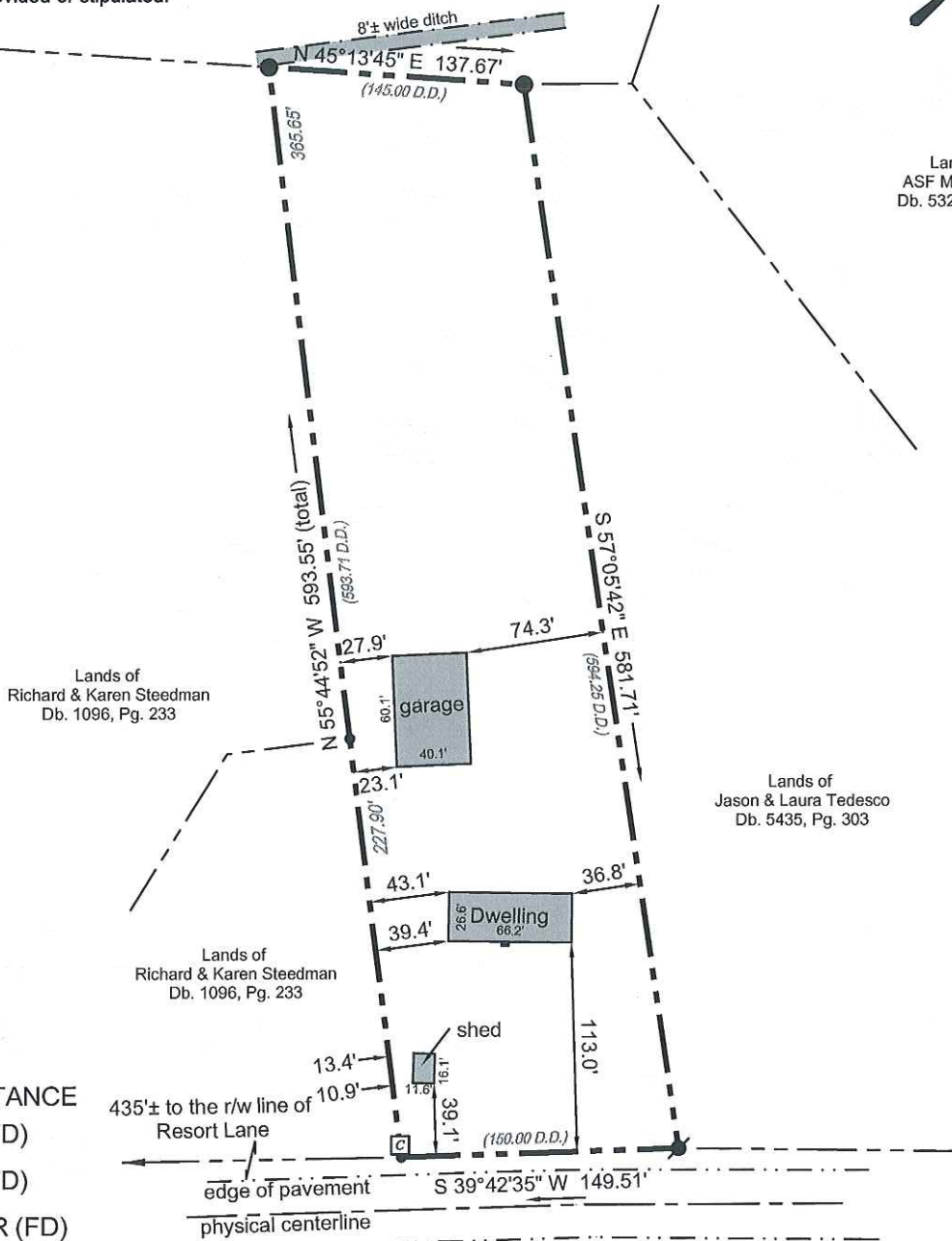
• Other than shown, this plat and survey does not verify the existence or nonexistence of right-of-ways and/or easements pertaining to this property. Including but not limited to Tax Ditch Easements.

• No title search provided or stipulated.

Lands of
Fred & Patricia Winward
Db. 2029, Pg. 330



Lands of
ASF MBTS, LLC
Db. 5320, Pg. 273



Lands of
Richard & Karen Steedman
Db. 1096, Pg. 233

Lands of
Jason & Laura Tedesco
Db. 5435, Pg. 303

Lands of
Richard & Karen Steedman
Db. 1096, Pg. 233

(D.D.) DEED DISTANCE

- 1/2" PIPE (FD)
- 3/4" PIPE (FD)
- ⊗ 5/8" RE-BAR (FD)

☐ CABLE BOX

SCALE: 1"=100'

AREA: 1.9121 ACRES

TAX MAP NO. 1-34-15-20.04

ROXANA ROAD
(60' r/w)

Lands of JASON TEDESCO
and LAURA TEDESCO.

FIRM INFORMATION:

100029 - 0495 - K
MARCH 16, 2015
ZONE: "X", Non-Shaded
CLASS "B" SURVEY

HUNDRED: BALTIMORE
COUNTY: SUSSEX
STATE OF DELAWARE
DATE OF ORIGINAL: 06-07-2021
DRAWN BY: MICHAEL LOVELAND

SIMPLER SURVEYING & ASSOCIATE, INC.
 32486 POWELL FARM ROAD, FRANKFORD, DE 19945
 www.delawaresurveyor.com
 PHONE: (302) 539-7873 FAX: (302) 539-4336



I, Gregory M. Hook, registered as a Professional Land Surveyor in the State of Delaware, hereby state that the information shown on this plan has been prepared under my supervision and meets the standards of practice as established by the State of Delaware Board of Professional Land Surveyors. Any changes to the property conditions, improvements, boundary or property corners after the date shown hereon shall necessitate a new review and certification for any official or legal use.

NOTES:

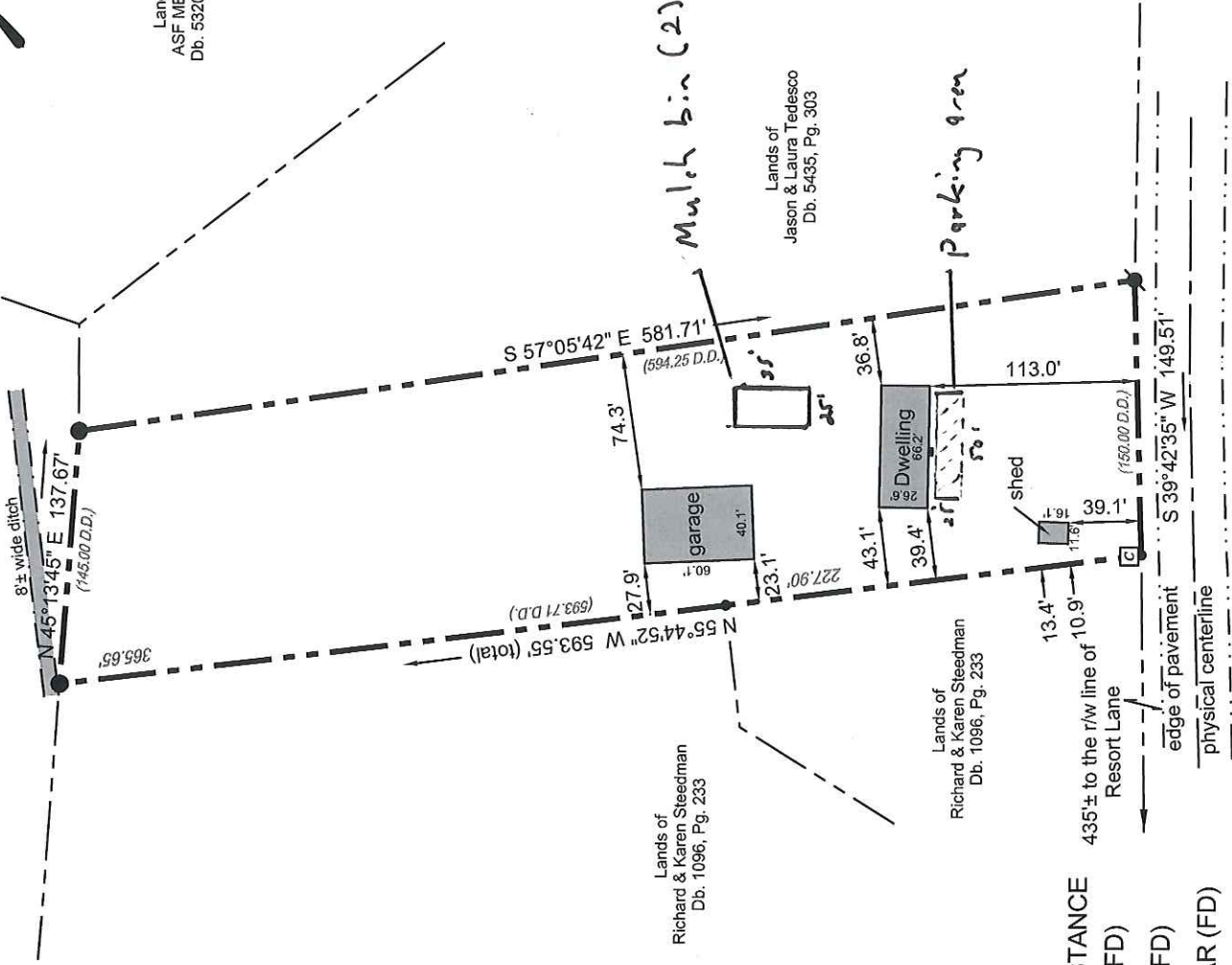
• Other than shown, this plat and survey does not verify the existence or nonexistence of right-of-ways and/or easements pertaining to this property. Including but not limited to Tax Ditch Easements.

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Fred & Patricia Winward
Db. 2029, Pg. 330

Lands of
ASF MBTS, LLC
Db. 5320, Pg. 273



- (D.D.) DEED DISTANCE
- 1/2" PIPE (FD)
 - 3/4" PIPE (FD)
 - 5/8" RE-BAR (FD)

CABLE BOX
SCALE: 1"=100'

AREA: 1.9121 ACRES
TAX MAP NO. 1-34-15-20.04

Lands of JASON TEDESCO
and LAURA TEDESCO.

HUNDRED: BALTIMORE
COUNTY: SUSSEX
STATE OF DELAWARE
DATE OF ORIGINAL: 06-07-2021
DRAWN BY: MICHAEL LOVELAND

FIRM INFORMATION:
100029 - 0495 - K
MARCH 16, 2015
ZONE: "X", Non-Shaded
CLASS "B" SURVEY

SEAL

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32486 POWELL FARM ROAD, FRANKFORD, DE 19945
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JAMIE WHITEHOUSE, AICP
DIRECTOR OF PLANNING & ZONING
(302) 855-7878 T
(302) 854-5079 F
jamie.whitehouse@sussexcountyde.gov



Sussex County

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PLEASE NOTE

This paperless packet is published on the County's website for convenience purposes, and only includes information received up to the close of business on the day before a public hearing. Documents received after this, or documents submitted during the public hearing are not uploaded to the Paperless Packet. The legal record is the paper record maintained in the Offices of the Planning & Zoning Department.



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

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 14th, 2022

Application: CU 2303 Antonia Lopez

Applicant: Antonia Lopez
34911 S Branchwood Pl
Frankford, DE 19945

Owner: Antonia Lopez
34911 S Branchwood Pl
Frankford, DE 19945

Site Location: Lying on the northwest side of Jersey Road (S.C.R. 305), approximately 500-feet southwest of the three-way intersection of John J. Williams Highway (Rt. 24), Hollyville Road (S.C.R. 305) and Jersey Road (S.C.R. 305).

Current Zoning: Agricultural Residential (AR-1) District

Proposed Use: Food Truck Business

Comprehensive Land Use Plan Reference: Developing Area

Councilmanic District: Mr. Rieley

School District: Sussex Central School District

Fire District: Millsboro Fire Co.

Sewer: Central Sewer System

Water: Central Water System

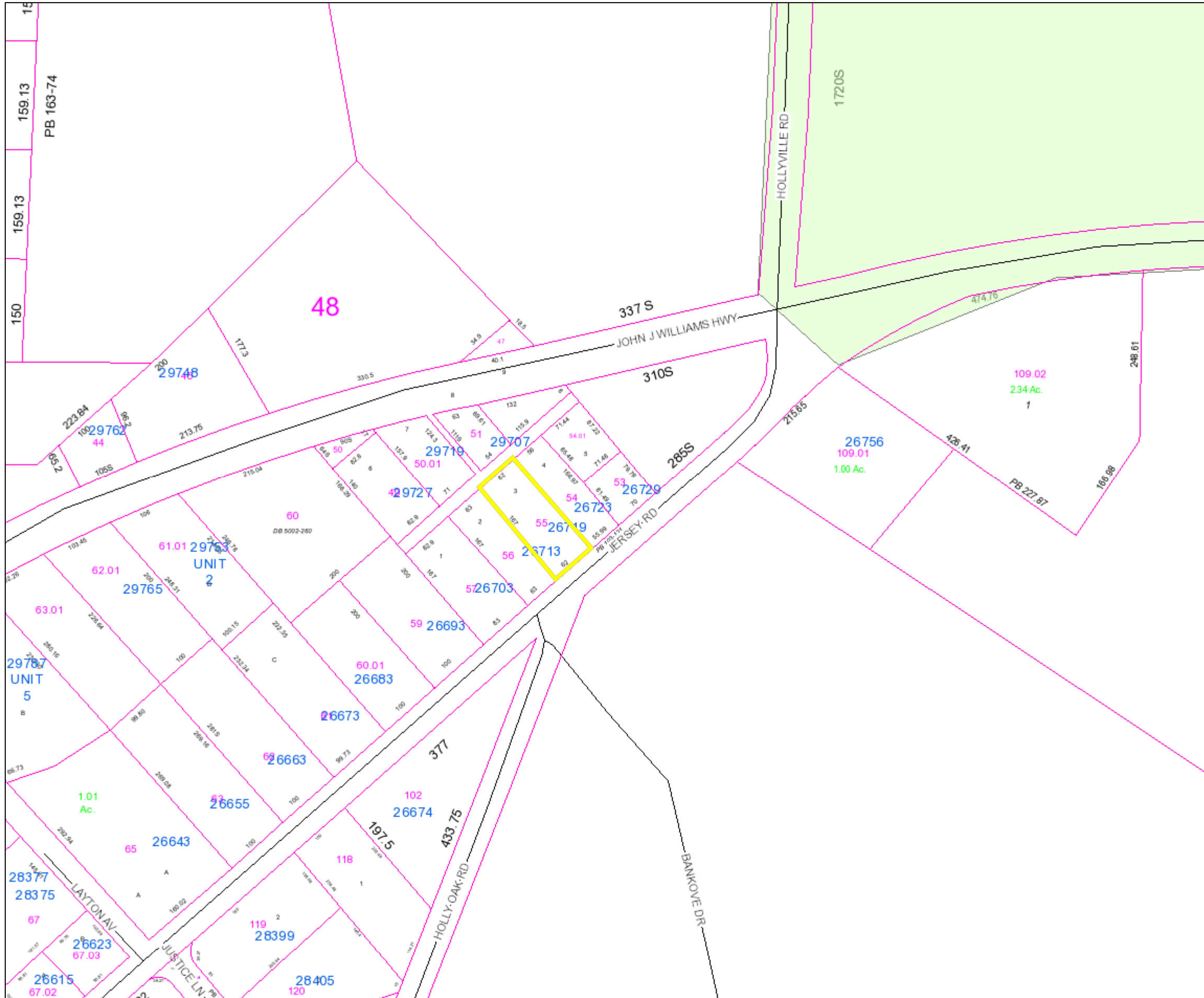
Site Area: 0.237 acres +/-

Tax Map IDs.: 234-32.00-55.00





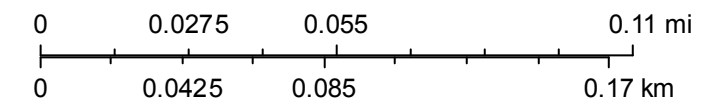
Sussex County



PIN:	234-32.00-55.00	
Owner Name	VICENTE GARCIA	MARIO GARCIA
Book	4706	
Mailing Address	34911 S BRANCHWOOD PL	
City	FRANKFORD	
State	DE	
Description	N/MILLSBOROOAK	
Description 2	ORCHARD	
Description 3	LOT 3	
Land Code		

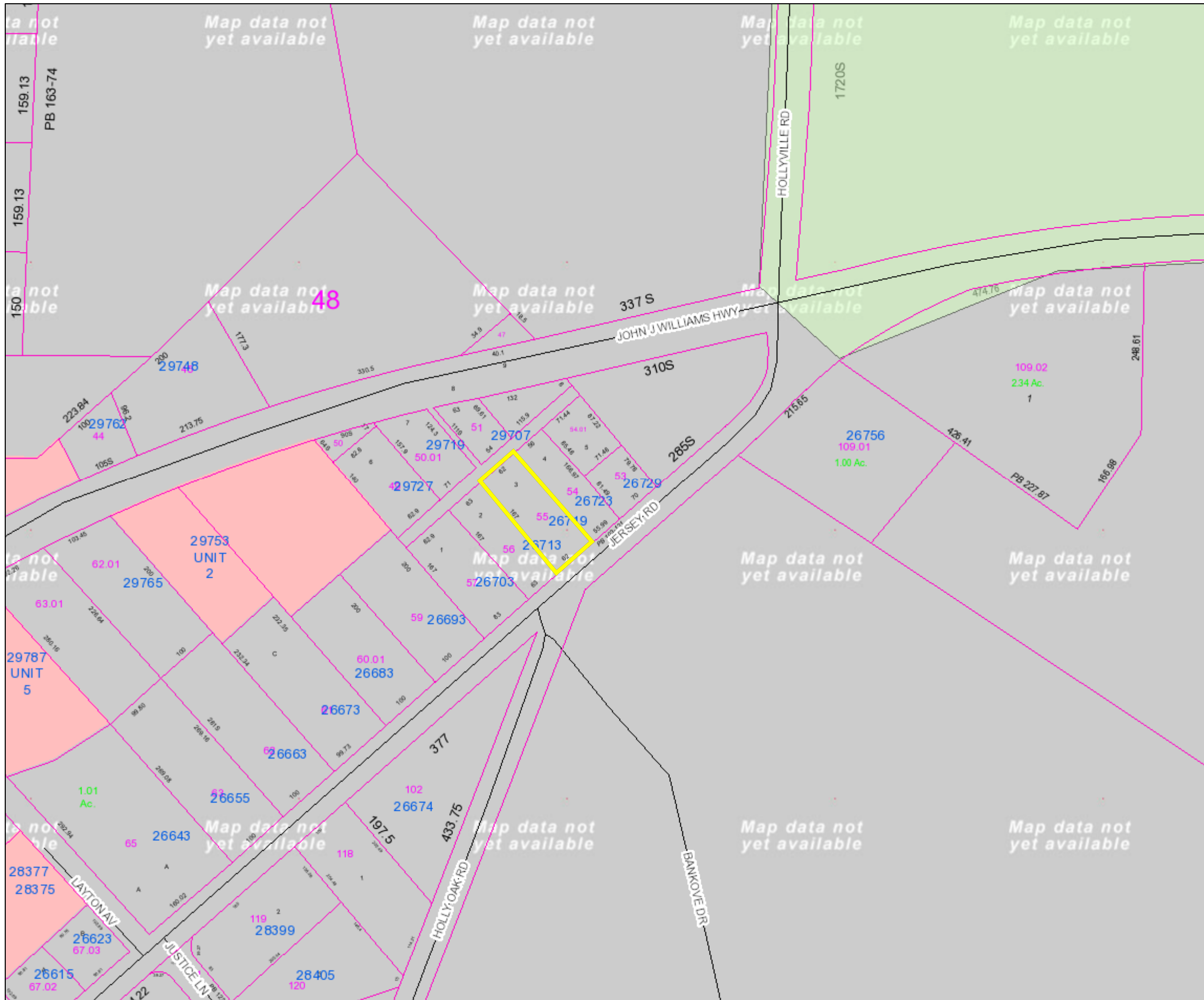
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- Override 1
- polygonLayer**
- Override 1
- Tax Parcels
- 911 Address
- Streets
- County Boundaries
- Sewer Tiers**
- Tier 1 - Sussex County Unified Sanitary Sewer District
- Tier 2 - Sussex County Planning Area
- Tier 3 - Coordinated CPCN Areas
- Tier 4 - System Optional Areas
- Tier 5 - Regulated On-site Area

1:2,257





Sussex County



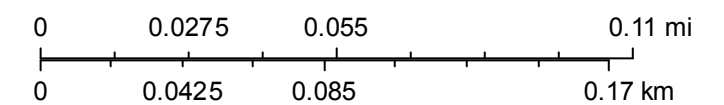
PIN:	234-32.00-55.00	
Owner Name	VICENTE GARCIA	MARIO
Book	4706	
Mailing Address	34911 S BRANCHWOOD PL	
City	FRANKFORD	
State	DE	
Description	N/MILLSBOROOAK	
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Description 3	LOT 3	
Land Code		

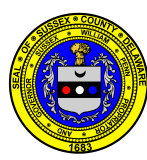
- polygonLayer**

 - Override 1
- polygonLayer**

 - Override 1
 - ⋯ Tax Parcels
 - 911 Address
 - Streets

1:2,257





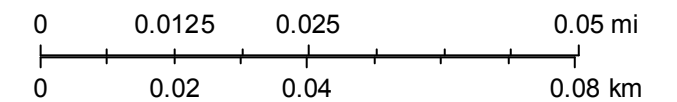
Sussex County



PIN:	234-32.00-55.00	
Owner Name	VICENTE GARCIA	MARIO GARCIA
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Mailing Address	34911 S BRANCHWOOD PL	
City	FRANKFORD	
State	DE	
Description	N/MILLSBOROOAK	
Description 2	ORCHARD	
Description 3	LOT 3	
Land Code		

- polygonLayer**
- Override 1
- polygonLayer**
- Override 1
 - Tax Parcels
 - 911 Address
 - Streets
 - County Boundaries
- Sewer Tiers**
- Tier 1 - Sussex County Unified Sanitary Sewer District
 - Tier 2 - Sussex County Planning Area
 - Tier 3 - Coordinated CPCN Areas
 - Tier 4 - System Optional Areas
 - Tier 5 - Regulated On-site Area

1:1,128



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 and Zoning Commission Members
From: Mr. Elliott Young, Planner I
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant
Date: July 5th, 2022
RE: Staff Analysis for CU 2303 Antonia Lopez Lopez

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 2303 Antonia Lopez Lopez to be reviewed during the July 14th, 2022, 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: 234-32.00-55.00, to allow for a food truck business, to be located at 26719 Jersey Road Millsboro, Delaware. The property is lying on the northwest side of Jersey Road (S.C.R. 305), approximately 500 feet southwest of the intersection of John J Williams Highway (Rt. 24), Hollyville Road (S.C.R. 305) and Jersey Road (S.C.R. 305). The parcel consists of 0.24 acres +/-.

Comprehensive Plan Analysis

The 2018 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be developed. As part of the Comprehensive Plan, a Future Land Use Map is included to help determine how land should be zoned to ensure responsible development. The Future Land Use Map in the plan indicates that the parcel has a designation of “Developing Area.” The adjoining parcels to the north, west, and east also have a Future Land Use Map designation of “Developing Area.” The parcels to the south, across Jersey Road (S.C.R. 305) also have a Future Land Use Map designation of “Developing Area.”

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).

Zoning Information



The subject property is zoned Agricultural Residential (AR-1) District. All adjacent properties to the north, west, and east of the subject property are zoned Agricultural Residential (AR-1) District. The parcels to the south of the subject property, on the opposite side of Jersey Road (S.C.R. 305), are also zoned Agricultural Residential (AR-1) District.

Existing Conditional Uses within the Vicinity of the Subject Property

Since 2011, there has been one (1) Conditional Use application within a one (1) mile radius of the application site. This application was Conditional Use No. 1977 for Matthew Favinger to allow for a doctor's office to be permitted within an Agricultural Residential (AR-1) Zoning District. This application was approved by the Sussex County Council on Tuesday, January 7th, 2014; and this change was adopted through Ordinance No. 2333.

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

Planning & Zoning Commission Application Sussex County, Delaware

Sussex County Planning & Zoning Department
2 The Circle (P.O. Box 417) Georgetown, DE 19947
302-855-7878 ph. 302-854-5079 fax

Type of Application: (please check applicable)

Conditional Use Food
Zoning Map Amendment _____

Site Address of Conditional Use/Zoning Map Amendment

26719 jersey Rd Millsboro PE 19966

Type of Conditional Use Requested:

Food Binder

Tax Map #: 2-34-32.00 55.00 Size of Parcel(s): 68 X 120 feet

Current Zoning: _____ Proposed Zoning: _____ Size of Building: 8 x 24

Land Use Classification: _____

Water Provider: water Sewer Provider: _____

Applicant Information

Applicant Name: Antonia Lopez Lopez
Applicant Address: 34911 S Branchwood Pl
City: Frankford State: DE Zip Code: 19945
Phone #: 302 567 88 58 E-mail: MarioSGenerao@gmail.com

Owner Information

Owner Name: Antonia Lopez Lopez
Owner Address: 34911 S Branchwood Pl
City: Frankford State: DE Zip Code: 19945
Phone #: 302 567 88 58 E-mail: _____

Agent/Attorney/Engineer Information

Agent/Attorney/Engineer Name: _____
Agent/Attorney/Engineer Address: _____
City: _____ State: _____ Zip Code: _____
Phone #: _____ E-mail: _____



Check List for Sussex County Planning & Zoning Applications

The following shall be submitted with the application

___ Completed Application

___ Provide eight (8) copies of the Site Plan or Survey of the property

- o Survey shall show the location of existing or proposed building(s), building setbacks, parking area, proposed entrance location, etc.
- o Provide a PDF of Plans (may be e-mailed to a staff member)
- o Deed or Legal description

___ Provide Fee \$500.00

___ Optional - Additional information for the Commission/Council to consider (ex. architectural elevations, photos, exhibit books, etc.) If provided submit 8 copies and they shall be submitted a minimum of ten (10) days prior to the Planning Commission meeting.

___ Please be aware that Public Notice will be sent to property owners within 200 feet of the subject site and County staff will come out to the subject site, take photos and place a sign on the site stating the date and time of the Public Hearings for the application.

___ DeIDOT Service Level Evaluation Request Response

___ PLUS Response Letter (if required)

The undersigned hereby certifies that the forms, exhibits, and statements contained in any papers or plans submitted as a part of this application are true and correct.

I also certify that I or an agent on my behalf shall attend all public hearing before the Planning and Zoning Commission and the Sussex County Council and any other hearing necessary for this application and that I will answer any questions to the best of my ability to respond to the present and future needs, the health, safety, morals, convenience, order, prosperity, and general welfare of the inhabitants of Sussex County, Delaware:

Signature of Applicant/Agent/Attorney

_____ Date: _____

Signature of Owner

Maria Garcia Vicente Date: 07 27-21

For office use only:

Date Submitted: _____ Fee: \$500.00 Check #: _____
Staff accepting application: _____ Application & Case #: _____
Location of property: _____

Subdivision: _____
Date of PC Hearing: _____ Recommendation of PC Commission: _____
Date of CC Hearing: _____ Decision of CC: _____

Mailing List Application Form

For Applications requiring a Public Hearing in Sussex County

Please fill out this form and return it with your application. As a part of your application a Public Hearing is required. The property owners within 200' of the site of the application will be notified. Staff will notify the property owners.

Application Information:

Site Address: 26719 Jersey Road Millsboro DE 19966

Parcel #: _____

Site Address: _____

Parcel #: _____

Applicant Name: Marie Patricia Vicente

Owner Name: Marie Patricia Vicente

Type of Application:

Conditional Use: Food Vendor

Change of Zone: _____

Subdivision: _____

Board of Adjustment: _____

Date Submitted: 07-27-21

For office use only:

Date of Public Hearing: _____

File #: _____

Date list created: _____

Date letters mailed: _____

List created by: _____

Letters sent by: _____

Planning & Zoning Project Contact List

Applicant Information

Applicant Name: Marid Pariza Vicente
Applicant Address: 26719 Jersey Road off
City: Millsboro State: DE Zip: 19966
Phone #: 302-567-78-13 E-mail: Maridosgeneral@gmail.com

Owner Information

Owner Name: Marid Pariza Vicente
Owner Address: 34911 3 Branch wood PL
City: Frankford State: DE Zip: 19945
Phone #: 302 567 78-13 E-mail: Marid Pariza

Engineer/Surveyor Information

Engineer/Surveyor Name: _____
Engineer/Surveyor Address: _____
City: _____ State: _____ Zip: _____
Phone #: _____ E-mail: _____

Agent/Attorney Information

Agent/Attorney Name: _____
Agent/Attorney Address: _____
City: _____ State: _____ Zip: _____
Phone #: _____ E-mail: _____

Other

Name: _____
Address: _____
City: _____ State: _____ Zip: _____
Phone #: _____ E-mail: _____





STATE OF DELAWARE
DEPARTMENT OF TRANSPORTATION
800 BAY ROAD
P.O. BOX 778
DOVER, DELAWARE 19903

NICOLE MAJESKI
SECRETARY

July 19, 2021

Mr. Jamie Whitehouse, Director
Sussex County Planning & Zoning
P.O. Box 417
Georgetown, DE 19947

Dear Mr. Whitehouse:

The Department has completed its review of a Service Level Evaluation Request for the **Mario Vicente** proposed land use application, which we received on July 14, 2021. This application is for an approximately 0.24-acre parcel (Tax Parcel: 234-32.00-55.00). The subject land is located on the north side of the intersection of Jersey Road (Sussex Road 305) and Holly Oak Road. The subject land is currently zoned AR-1 (Agriculture Residential) and the applicant seeks a conditional use approval to operate as a food vendor.

Per the 2019 Delaware Vehicle Volume Summary, the annual average daily traffic volume along Jersey Road from John J. Williams Highway (Delaware Route 24) to Mount Joy Road (Sussex Road 297) is 3,448 vehicles per day. This road segment includes the south end of Hollyville Road and our records do not show where along traffic was counted.

Based on our review, we estimate that the above land use will generate fewer than 50 vehicle trips in any hour and fewer than 500 vehicle trips per day. These numbers of trips are DelDOT's minimum warrants for determining that a Traffic Impact Study (TIS) should be required for a particular development. Because the proposed land use would not meet these warrants, we consider the development's traffic impact to be **negligible** in the context of our agreement with the County regarding land development coordination and we do not recommend that the applicant be required to perform a TIS for the subject application. DelDOT's description of this application as negligible with regard to warranting a TIS does not mean that it is negligible in other respects. We recommend that the applicant not be required to perform a TIS for the subject application.

If the County approves this application, the applicant should be reminded that DelDOT requires compliance with State regulations regarding plan approvals and entrance permits, whether or not a TIS is required.



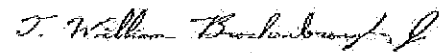
Mr. Jamie Whitehouse

Page 2 of 2

July 19, 2021

Please contact Ms. Annamaria Furrato, at (302) 760-2710, if you have questions concerning this correspondence.

Sincerely,



T. William Brockenbrough, Jr.
County Coordinator
Development Coordination

TWB:afm

cc: Mario Vicente, Applicant
Russell Warrington, Sussex County Planning & Zoning
David Edgell, Coordinator, Cabinet Committee on State Planning Issues
Todd Sammons, Assistant Director, Development Coordination
Scott Rust, South District Public Works Manager, Maintenance & Operations
Steve McCabe, Sussex County Review Coordinator, Development Coordination
Derek Sapp, Subdivision Manager, Development Coordination
Kevin Hickman, Subdivision Manager, Development Coordination
Brian Yates, Subdivision Manager, Development Coordination
John Andrescavage, Subdivision Manager, Development Coordination
James Argo, South District Project Reviewer, Maintenance & Operations
Troy Brestel, Project Engineer, Development Coordination
Claudy Joinville, Project Engineer, Development Coordination
Annamaria Furrato, Project Engineer, Development Coordination

**SUSSEX COUNTY ENGINEERING DEPARTMENT
UTILITY PLANNING & DESIGN REVIEW DIVISION
C/U & C/Z COMMENTS**

TO: **Jamie Whitehouse**

REVIEWER: **Chris Calio**

DATE: **6/22/2022**

APPLICATION: **CU 2303 Antonia Lopez**

APPLICANT: **Antonia Lopez**

FILE NO: **NCPA-5.03**

TAX MAP &
PARCEL(S): **234-32.00-55.00**

LOCATION: **Lying on the northwest side of Jersey Road (SCR 305), approximately 500-feet southwest of the three-way intersection of John J. Williams Highway (Rt. 24), Hollyville Road (SCR 305) and Jersey Road (SCR 305).**

NO. OF UNITS: **Establish a food truck business**

GROSS
ACREAGE: **0.237**

SYSTEM DESIGN ASSUMPTION, MAXIMUM NO. OF UNITS/ACRE: **2**

SEWER:

(1). Is the project in a County operated and maintained sanitary sewer and/or water district?

Yes

No

a. If yes, see question (2).

b. If no, see question (7).

(2). Which County Tier Area is project in? **Municipal Growth & annexation Area**

(3). Is wastewater capacity available for the project? **N/A** If not, what capacity is available? **N/A**.

(4). Is a Construction Agreement required? **No** If yes, contact Utility Engineering at (302) 855-7717.

(5). Are there any System Connection Charge (SCC) credits for the project? **No** If yes, how many? **N/A**. Is it likely that additional SCCs will be required? **N/A** If yes, the current System Connection Charge Rate is **Unified \$6,600.00** per EDU. Please contact **N/A** at **302-855-7719** for additional information on charges.

- (6). Is the project capable of being annexed into a Sussex County sanitary sewer district? **N/A**
- Attached is a copy of the Policy for Extending District Boundaries in a Sussex County Water and/or Sanitary Sewer District.
- (7). Is project adjacent to the Unified Sewer District? **No**
- (8). Comments: **The proposed Conditional Use is located in the Growth and Annexation Area of the Town of Millsboro. Contact the Town concerning the availability of central sewer and water service.**
- (9). Is a Sewer System Concept Evaluation required? **Not at this time**
- (10). Is a Use of Existing Infrastructure Agreement Required? **Not at this time**
- (11). **All residential roads must meet or exceed Sussex County minimum design standards.**

UTILITY PLANNING & DESIGN REVIEW APPROVAL:



John J. Ashman
Sr. Manager of Utility Planning & Design Review

Xc: Hans M. Medlarz, P.E.
Lisa Walls
No Permit Tech Assigned

234-32.00-50.01

234-32.00-51.00

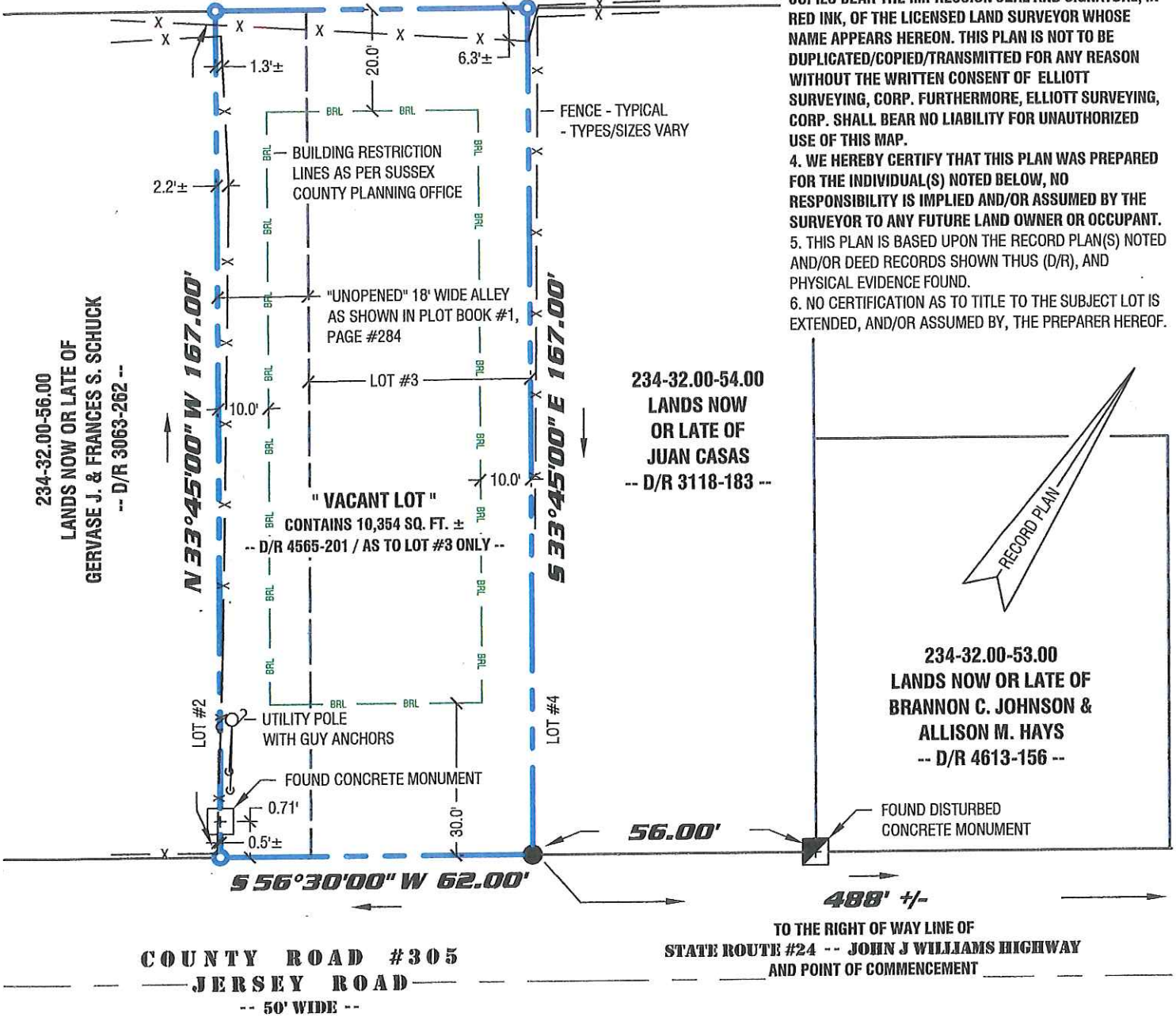
234-32.00-52.00

18' WIDE ALLEY

N 56°30'00" E 62.00'

GENERAL NOTES:

- IMPROVEMENTS ARE LOCATED AS SHOWN. IMPROVEMENT DIMENSIONS ARE SHOWN FOR CONFORMITY PURPOSES ONLY; ANY OTHER USE OF SAID DIMENSIONS SHALL BE AT THE RISK OF THE USER(S). ELLIOTT SURVEYING, CORP. SHALL BEAR NO LIABILITY OF MISUSE OF SAID DIMENSIONS.
- LOT SHOWN IS SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.
- ALL CERTIFICATIONS HEREON ARE VALID FOR THIS PLAN AND COPIES THEREOF, ONLY IF SAID PLAN AND COPIES BEAR THE IMPRESSION SEAL AND SIGNATURE, IN RED INK, OF THE LICENSED LAND SURVEYOR WHOSE NAME APPEARS HEREON. THIS PLAN IS NOT TO BE DUPLICATED/COPIED/TRANSMITTED FOR ANY REASON WITHOUT THE WRITTEN CONSENT OF ELLIOTT SURVEYING, CORP. FURTHERMORE, ELLIOTT SURVEYING, CORP. SHALL BEAR NO LIABILITY FOR UNAUTHORIZED USE OF THIS MAP.
- WE HEREBY CERTIFY THAT THIS PLAN WAS PREPARED FOR THE INDIVIDUAL(S) NOTED BELOW, NO RESPONSIBILITY IS IMPLIED AND/OR ASSUMED BY THE SURVEYOR TO ANY FUTURE LAND OWNER OR OCCUPANT.
- THIS PLAN IS BASED UPON THE RECORD PLAN(S) NOTED AND/OR DEED RECORDS SHOWN THUS (D/R), AND PHYSICAL EVIDENCE FOUND.
- NO CERTIFICATION AS TO TITLE TO THE SUBJECT LOT IS EXTENDED, AND/OR ASSUMED BY, THE PREPARER HEREOF.



234-32.00-56.00
 LANDS NOW OR LATE OF
 GERVAISE J. & FRANCES S. SCHUCK
 -- D/R 3063-262 --

234-32.00-54.00
 LANDS NOW
 OR LATE OF
 JUAN CASAS
 -- D/R 3118-183 --

234-32.00-53.00
 LANDS NOW OR LATE OF
 BRANNON C. JOHNSON &
 ALLISON M. HAYS
 -- D/R 4613-156 --

COUNTY ROAD #305
 JERSEY ROAD
 -- 50' WIDE --

TO THE RIGHT OF WAY LINE OF
 STATE ROUTE #24 -- JOHN J WILLIAMS HIGHWAY
 AND POINT OF COMMENCEMENT

OWNER / DEVELOPER
 BOUNDARY SURVEY PLAN OF PROPERTY PREPARED FOR
MARIO GARCIA VICENTE & ANTONIA LOPEZ LOPEZ
 SUBDIVISION LANDS OF FRANK W. CORDREY - ALL OF LOT #3 AND PART OF 18' ALLEY
 PLOT BOOK #1, PAGE #284
 TAX PARCEL ID #: 234-32.00-55.00
 INDIAN RIVER HUNDRED
 SUSSEX COUNTY, DELAWARE

CLASS "B" SURVEY			
DRAWN BY: NIK PATEL	CHECKED BY: W. A. ELLIOTT	DATE OF FLD WRK: MAR-2017	DATE CRHS SET: N/A
FIELD BOOK: N/A	CONTRACT #: VICENTE 26719	SITE COMP FILE: jersey_rd[1]	
SCALE: 1"=30'	DATE OF PLAN: 02-APR-17	REVISIONS:	
		A	
		B	

SURVEYOR

 332 AUDREY LANE SMYRNA, DELAWARE 19977
 PHONE #: 302-678-8115 FAX #: 302-678-8255

Amy Hollis

From: webmaster@sussexcountyde.gov on behalf of Sussex County DE
<webmaster@sussexcountyde.gov>
Sent: Tuesday, July 12, 2022 6:56 PM
To: Planning and Zoning
Subject: Submission from: Planning & Zoning Commission contact form

RECIPIENTS: Jamie Whitehouse

Submitted on Tuesday, July 12, 2022 - 6:55pm

Name: Paul L Betts

Email address: d4kksa@gmail.com

Phone number: 13025304273

Subject: ca # C/U 2303 food truck jersey rd millsboro de

Message: i am sending this for my mother who lives on jersey rd. we do not think this is a good use for this residential area due to the fact that there is not adequate parking for such vehicles on this road. in addition, this road is not equipped to handle any more over flow traffic from route 24, speed limits are already not adhered to. thank you for your consideration to our concerns. (alice betts)



302.855.7878

Planning + Zoning Hearing July 14, 2022 5:00 pm

Sussex County Council Hearing Aug 23, 2022 1:30 pm

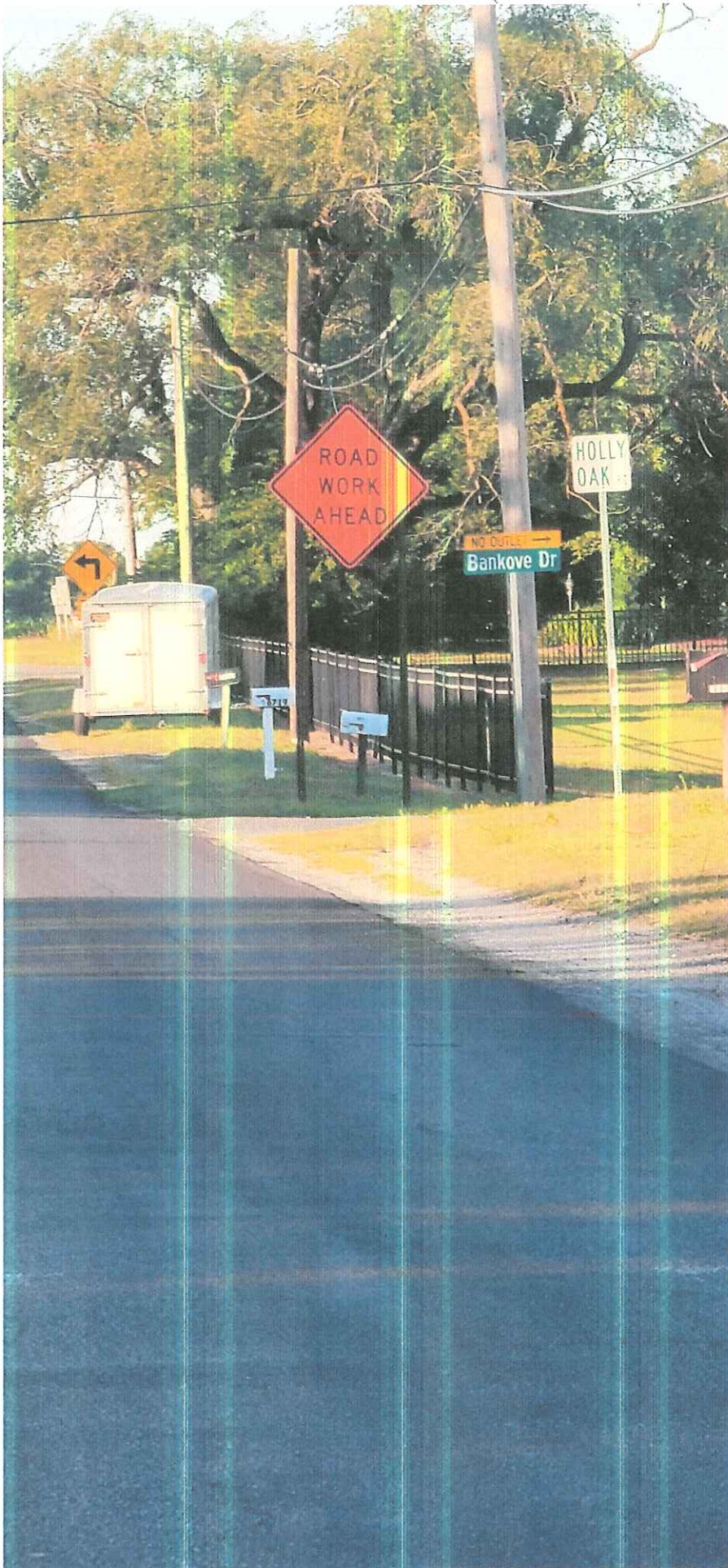
- Antonia Lopez Lopez
- Case : Clu 2303
- Seeking Conditional Use of Land in : AR-1
Agricultural / Residential
- Zoning District for : A Food Truck Business



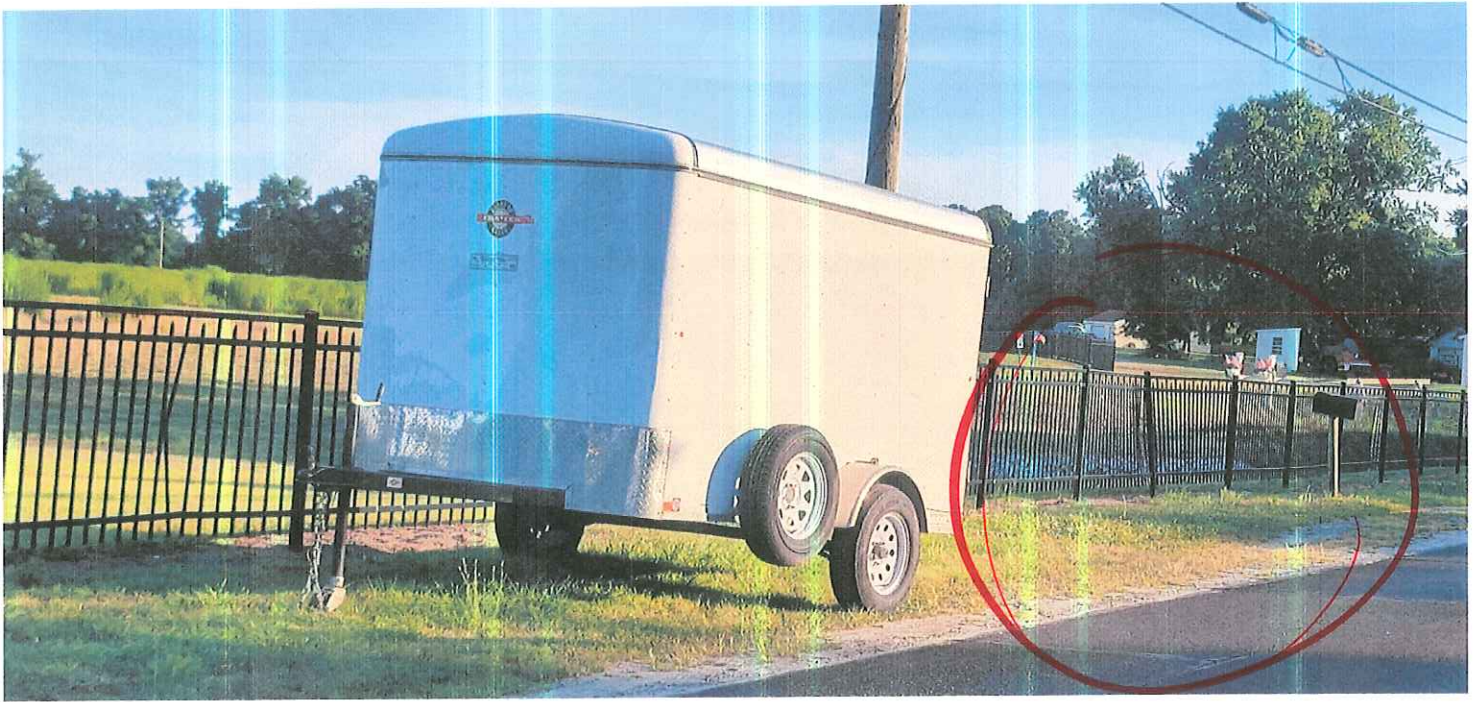












- Fence was backed up
into w/ former Renter
- Fence Damaged
 - Mail box Also Damaged
 - Former Renter Replaced

















