

## BOARD OF ADJUSTMENT

JOHN WILLIAMSON, CHAIRMAN  
KEVIN E. CARSON  
JEFF CHORMAN  
JOHN T. HASTINGS  
JORDAN WARFEL



# Sussex County

DELAWARE  
sussexcountyde.gov

(302) 855-7878

## AGENDA

November 1, 2021

6:00 P.M.

**PLEASE REVIEW MEETING INSTRUCTIONS AT THE BOTTOM OF THE AGENDA\*\***

### Call to Order

### Pledge of Allegiance

### Approval of Agenda

### Approval of Minutes for September 13, 2021

### Approval of Finding of Facts for September 13, 2021

### Old Business

### Public Hearings

**Case No. 12619 – Sawmill Woods, LLC** seeks a variance from the side yard setback requirement for a proposed dwelling (Sections 115-25 and 115-183 of the Sussex County Zoning Code). The property is located on the east side of Holly Oak Drive within the Sawmill Woods Subdivision. 911 Address: 23591 Holly Oak Drive, Milton Zoning District: AR-1. Tax Parcel: 235-24.00-243.00

**Case No. 12620 – Michael G. Nechupas & Dawn M. Nechupas** seek a variance from the side yard setback requirements for a proposed dwelling (Sections 115-25 and 115-182 of the Sussex County Zoning Code). The property is located at the intersection of Bayview West and Captains Lane within the Bayview Estates Subdivision. 911 Address: N/A Zoning District: AR-1. Tax Parcel: 533-19.00-227.00

**Case No. 12621 – Michele A. Mosley** seeks a special use exception to operate a daycare facility (Sections 115-32 and 115-210 of the Sussex County Zoning Code). The property is located at the west side of S. Mayhew Drive within the Cedar Creek Estates Subdivision. 911 Address: 9268 S. Mayhew Drive, Lincoln. Zoning District: MR. Tax Map: 230-13.00-268.00



COUNTY ADMINISTRATIVE OFFICES  
2 THE CIRCLE | PO BOX 417  
GEORGETOWN, DELAWARE 19947

**Case No. 12622 – Evergreene Homes** seeks variances from the front yard setback requirement for a proposed dwelling (Sections 115-34 and 115-182 of the Sussex County Zoning Code). The property is located on the west side of Maple Lane within the Keenwick Subdivision. 911 Address: 38356 Maple Lane, Lot 41, Selbyville. Zoning District: MR. Tax Parcel: 533-19.16-37.00 (Lot 41)

**Case No. 12623 – Evergreene Homes** seeks variances from the front yard setback requirement for a proposed dwelling (Sections 115-34 and 115-182 of the Sussex County Zoning Code). The property is located on the west side of Maple Lane within the Keenwick Subdivision. 911 Address: N/A Zoning District: MR. Tax Parcel: 533-19.16-37.01 (Lot 42)

**Case No. 12624 – Cellco Partnership d/b/a Verizon Wireless** seeks a special use exception to place a telecommunications tower (Sections 115-23, 115-194.2 and 115-210 of the Sussex County Zoning Code). The property is located on the west side of Camp Arrowhead Rd. approximately 1.2 miles south of Angola Rd. 911 Address: 23182 Camp Arrowhead Rd., Lewes. Zoning District: AR-1. Tax Parcel: 234-18.00-26.00

**Case No. 12625 – Robert & Sarah Murphy** seek a variance from the separation distance requirement between units for a proposed structure (Sections 115-25, 115-172, and 115-185 of the Sussex County Zoning Code). The property is located on the south side of River Road within the Pot-Nets Bayside Manufactured Home Park. 911 Address: 34171 River Road, Millsboro. Zoning District: AR-1. Tax Parcel: 234-30.00-2.00-51528

### **Additional Business**

Consideration, Discussion, and Possible Vote on Request for Rehearing for case 12257 – Lands of Key Properties Group, LLC

2022 Board of Adjustment Meeting Schedule

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-MEETING DETAILS-

In accordance with 29 Del. C. §10004(e)(2), this Agenda was posted on October 25, 2021 at 4:30 p.m. and at least seven (7) days in advance of the meeting.

The Agenda was prepared by the Director of Planning and Zoning and is subject to change to include the additional or deletion of items, including Executive Sessions, which arise at the time of the meeting.

Agenda items may be considered out of sequence.

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

The County is required to provide a dial-in number for the public to comment during the appropriate time of the meeting. **Note, the on-line stream experiences a 30-second delay.** Any person who dials in should listen to the teleconference audio to avoid the on-line stream delay.

To join the meeting via telephone, please dial:

**Conference Number: 1 302 394 5036**

**Conference Code: 570176**

Members of the public joining the meeting on the telephone will be provided an opportunity to make comments for those items under public hearings on this agenda.

The Board of Adjustment meeting materials, including the “packet” are electronically accessible on the County’s website at: <https://sussexcountye.gov/agendas-minutes/board-of-adjustment>

If any member of the public would like to submit comments electronically, these may be sent to [pandz@sussexcountye.gov](mailto:pandz@sussexcountye.gov). All comments are encouraged to be submitted by 4:30 P.M. on Thursday, October 28, 2021

####



**Board of Adjustment 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

Case # 12619  
Hearing Date 11/1/21  
202113246

RECEIVED

SEP 08 2021

SUSSEX COUNTY  
PLANNING & ZONING

**Type of Application: (please check all applicable)**

Variance ☒

Special Use Exception ☐

Administrative Variance ☐

Appeal ☐

Existing Condition ☐

Proposed ☒

Code Reference (office use only)

115-25 115-183

**Site Address of Variance/Special Use Exception:**

23591 HOLLY OAK DRIVE, MILTON, DE. 19968

**Variance/Special Use Exception/Appeal Requested:**

REDUCTION OF SIDE SETBACK DISTANCE FROM 15' TO 5.4'

**Tax Map #:** 235-24.00-243.00

**Property Zoning:** AR-1

**Applicant Information**

Applicant Name: ASHBURN HOMES, INC.

Applicant Address: 872A WALKER RD.

City DOVER State DE Zip: 19904

Applicant Phone #: (302) 677-1940 Applicant e-mail: jordanashburn@me.com

**Owner Information**

Owner Name: SAWMILL WOODS, LLC

Owner Address: 872A WALKER RD.

City DOVER State DE Zip: 19904 Purchase Date: 3/23/18

Owner Phone #: (302) 677-1940 Owner e-mail: jordanashburn@me.com

**Agent/Attorney Information**


Agent/Attorney Name: MILLER-LEWIS, INC.

Agent/Attorney Address: 1560 MIDDLEFORD RD.

City SEAFORD State DE Zip: 19973

Agent/Attorney Phone #: (302) 629-9895 Agent/Attorney e-mail: dottiemorris@millerlewisinc.com

**Signature of Owner/Agent/Attorney**

 745

Date: 8/31/21



**Criteria for a Variance:** (Please provide a written statement regarding each criteria).

*You shall demonstrate to the Board of Adjustment that the property meets all of the following criteria for a Variance to be granted.*

*In granting any variance the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of the Zoning Ordinance or Code. The Board is empowered in no case, however, to grant a variance in the use of land or structures thereon.*

**1. Uniqueness of property:**

That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property and that the exceptional practical difficulty is due to such conditions and not to circumstances or conditions generally created by the provisions of the Zoning Ordinance or Code in the neighborhood or district in which the property is located.

The subject lot is unusual in the way it is configured because the wetlands line was used for the property line. There is a wetlands point which greatly incumbers the buildable area. This necessitates the reduction of the setback distance.

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**2. Cannot otherwise be developed:**

That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the Zoning Ordinance or Code and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.

The subject lot can not accomodate a home unless the setback distance is reduced at this one area.

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**3. Not created by the applicant:**

That such exceptional practical difficulty has not been created by the appellant.

The subject lot was created prior to the purchase by the current owner and was not created by the current owner.

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**4. Will not alter the essential character of the neighborhood:**

That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located and nor substantially or permanently impair the appropriate use of development of adjacent property, nor be detrimental to the public welfare.

The home proposed is in character with the other homes in the neighborhood and as such will maintain the overall astetics of the neighborhood.

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**5. Minimum variance:**

That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.

The requested variance represents the minimum required distance to afford relief and provides required front and left side setback distances.

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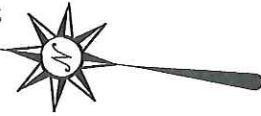


AZ Review Copy

T.M. #235-24.00-243.00

S 08°45'52" E  
40.84'  
LANDS N/F  
BRUCE MCKINNY (FOR LIFE)  
3067-30

P.B. 255-16



WETLAND LINE TABLE

LINE	BEARING	DISTANCE
L1	S 41°34'47" W	47.42'
L2	S 63°39'38" W	25.10'
L3	S 43°39'22" W	28.57'
L4	S 63°01'24" W	44.92'
L5	S 26°44'54" W	33.46'
L6	S 61°45'12" W	26.32'
L7	N 45°47'42" W	29.37'
L8	N 62°18'44" W	24.11'
L9	S 49°30'21" W	26.20'
L10	S 37°32'24" E	20.96'
L11	S 67°36'29" E	17.39'
L12	S 14°15'20" E	33.16'
L13	S 42°41'46" E	23.82'
L14	S 15°37'13" E	26.30'

9.6' Var from  
15' side yard

HUA will comply  
w/ Code

LOT #9

CURVE "A"  
R=50.00'  
Δ=85°20'48"  
A=74.48'  
C=67.78'  
B=N 13°24'22" W

CURVE "B"  
R=25.00'  
Δ=48°11'50"  
A=21.03'  
C=20.42'  
B=N 31°59'43" W

HOLLY OAK DRIVE (50' RM)

- IRON PIPE (FOUND)
- IRON PIPE (TO BE SET)
- POINT

SEE PLOT BOOK 255 PAGE 16 FOR EASEMENT  
RESERVATIONS. THIS SURVEY AND PLAT DOES NOT  
VERIFY THE EXISTENCE OR NON-EXISTENCE OF  
RIGHTS-OF-WAY OR EASEMENTS CROSSING THIS  
PROPERTY OTHER THAN THOSE SHOWN.  
NO TITLE SEARCH PROVIDED OR STIPULATED.

I, STEPHEN M. SELLERS 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.

STEPHEN M. SELLERS  
REGISTERED  
2/31/2021  
DATE  
STEPHEN M. SELLERS PLS 566  
SURVEY CLASS: SUBURBAN

## BOUNDARY SURVEY FOR ASHBURN HOMES INCORPORATED

23591 HOLLY OAK DRIVE, MILTON, DE. 19968  
LOT #8 OF "SAWMILL WOODS" SUBDIVISION  
BROADKILL HUNDRED SUSSEX COUNTY  
STATE OF DELAWARE  
SCALE 1" = 60' AUGUST 31, 2021

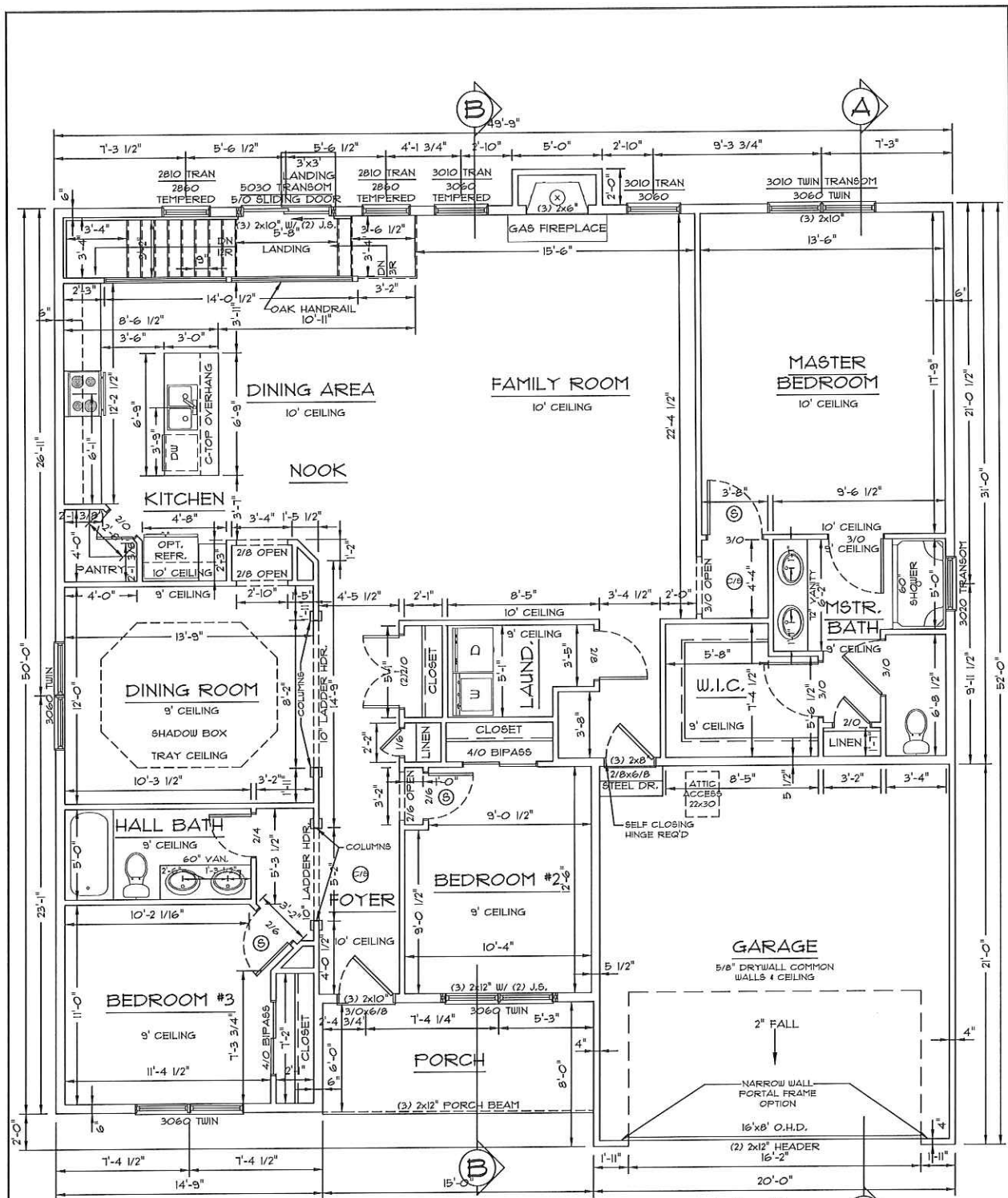
PREPARED BY:

PH: 302-629-9895  
FAX: 302-629-2391

**MILNER  
LEWIS, INC.** LAND SURVEYING

1560 MIDDLEFORD RD.

• SEAFORD, DE. 19973



# LEWES FIRST FLOOR PLAN - BASEMENT (ELEVATION 1) (FRONT ENTRY)



FIRST FLOOR 2022 SQ. FT.

GARAGE 416 SQ. FT.  
PORCH 90 SQ. FT.

(C) CARBON MONOXIDE / SMOKE ALARM

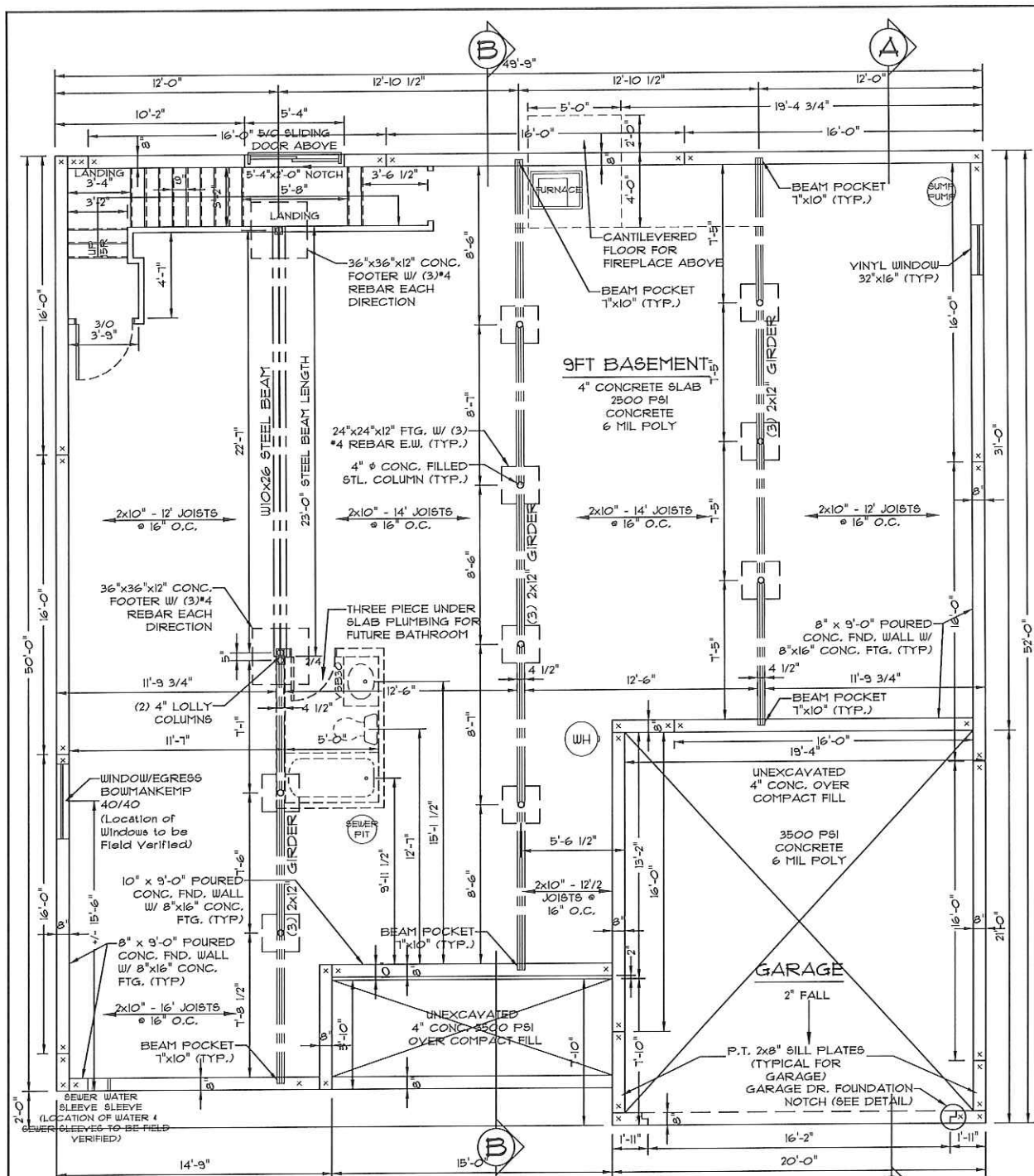
NOTE: 2x6" EXTERIOR WALLS @ 16" O.C. &  
(2) 2x10" HEADERS UNLESS OTHERWISE NOTED

PAGE NO. <b>F2</b>	PROJECT <b>STUDIOS</b>	ROBERT & DONNA SMITH	
	DRAWING NO. <b>FIRST FLOOR PLAN</b>	SAWMILL WOODS LOT #8 23591 HOLLY OAK DRIVE MILTON, DE 19368	
	SALES PERSON.	COUNTY	SUSSEX

 <b>ASHBURN HOMES</b>	ASHBURN HOMES INCORPORATED 872 WALKER RD., SUITE A DOVER, DE 19904 OFFICE: (302) 671-1940 FAX: (302) 671-1872 WWW.ASHBURNHOMES.COM		

DWG #	DATE	REVISIONS	BY
DRAWN BY: A.S.		DATE: 1.12.2021	CHECKED BY: A.S.





# LEWES FOUNDATION PLAN - 9FT BASEMENT (ELEVATION 1) (FRONT ENTRY)

BASEMENT 2029 SQ. FT.

**NOTE: 9FT HIGH  
BASEMENT WALLS**

BASEMENT SLAB CONC. = 23.75 CU. YD.  
GARAGE SLAB CONC. = 5 CU. YD.

↑  
**FRONT**

NOTE: SILL PLATE ANCHORS MUST BE NOT MORE THAN 12" FROM CORNERS OR LESS THAN 3 1/2" FROM THE END OF EACH PLATE AND A MAXIMUM OF 6'-0" ON CENTER (OR MANUF. SPACS IF STRAPS) PER R403.1.6

NOTE: LOLLY COLUMNS TO BE ANCHORED TO BEAMS/GIRDERS PER R404.1.3.2

NOTE: LOCATION OF CUT OUT, POCKETS, SLEEVES AND WINDOWS OR VENTS TO BE FIELD VERIFIED.  
NOTE: 5% OF FLOOR AREA IN CFM'S FOR SUPPLY AIR & TRANSFER GRILL.

NOTE: FOR CONDITIONED CRAWLSPACE, NO VENT IS NEEDED.

NOTE: 4" PERFORATED FRENCH DRAIN AROUND INSIDE OF FOOTER PERIMETER BELOW 2" CONCRETE SLAB.

NOTE: 6 MIL POLY VAPOR BARRIER BELOW 2" CONCRETE SLAB

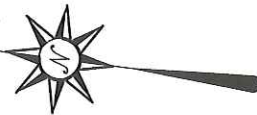
<b>II</b> DRAWING NO. FOUNDATION PLAN	PROJECT NO. LOT		ROBERT & DONNA SMITH SAWMILL WOODS LOT #8 23591 HOLLY OAK DRIVE MILTON, DE 19368		<b>ASHBURN HOMES</b> ASHBURN HOMES INCORPORATED 872 WALKER RD., SUITE A DOVER, DE 19904 OFFICE: (302) 671-1940 FAX: (302) 671-1872 WWW.ASHBURNHOMES.COM	DWG #	DATE	REVISIONS	BY
	SALES PERSON	COUNTY: SUSSEX	DRAWN BY: A.S.	DATE: 7.12.2021		SCALE: 3/16" = 1'-0"	CHECKED BY: A.S.		

S 08°45'52" E  
40.84'

LANDS N/F  
BRUCE MCKINNY (FOR LIFE)  
3067-30

T.M. #235-24.00-243.00

P.B. 255-16



WETLAND LINE TABLE

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P.O.B.

HOLLY OAK DRIVE (50' R/W)

- IRON PIPE (FOUND)
- <sup>S</sup> IRON PIPE (TO BE SET)
- POINT

SEE PLOT BOOK 255 PAGE 16 FOR EASEMENT RESERVATIONS. THIS SURVEY AND PLAT DOES NOT VERIFY THE EXISTENCE OR NON-EXISTENCE OF RIGHTS-OF-WAY OR EASEMENTS CROSSING THIS PROPERTY OTHER THAN THOSE SHOWN. NO TITLE SEARCH PROVIDED OR STIPULATED.

I, STEPHEN M. SELLERS 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.

STEPHEN M. SELLERS  
REGISTERED  
2/31/2021  
DATE  
STEPHEN M. SELLERS PLS 566  
SURVEY CLASS: SUBURBAN

## BOUNDARY SURVEY FOR ASHBURN HOMES INCORPORATED

23591 HOLLY OAK DRIVE, MILTON, DE. 19968  
LOT #8 OF "SAWMILL WOODS" SUBDIVISION  
BROADKILL HUNDRED SUSSEX COUNTY  
STATE OF DELAWARE  
SCALE 1" = 60' AUGUST 31, 2021

PREPARED BY:

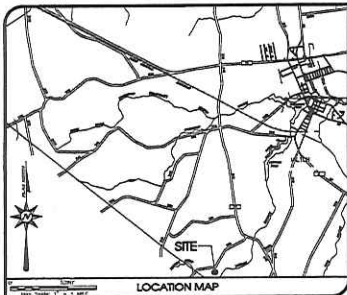
PH: 302-629-9895  
FAX: 302-629-2391

**MILLER**  
**LEWIS, INC.** LAND SURVEYING

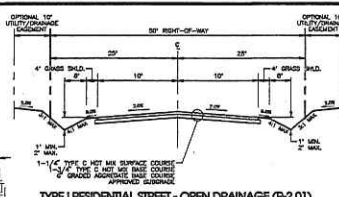
1560 MIDDLEFORD RD.

• SEAFORD, DE. 19973





- PLAN LEGEND**
- SUBMITTAL CONTOUR (1' INTERVAL)
  - WATER COURSE (BY HYDRA)
  - DRAINING STORM SEWER PIPING
  - DRAINING SOIL SERIES LIMITS
  - DRAINING TREE LINE
  - EXISTING WETLANDS LIMITS
  - DRAINING PROPERTY BOUNDARY
  - PROPOSED LOT LINE
  - PROPOSED BUILDING RESTRICTION LINE
  - PROPOSED TREE LINE
  - IRON PIPE PILING (I.P.P.)
  - IRON PIPE PILING (I.P.P.)
  - CONCRETE MONUMENT FOUND (CMF)



**SITE DATA AND ZONING SCHEDULE**

EXISTING SITE USE: WOODS LOT WITH SINGLE FAMILY DWELLING (4.1 LOT - 2.01 ZONE)

ZONING DISTRICT: R-2.01

REQUIREMENTS: PROVIDER

MINIMUM LOT AREA: 32,670 S.F.

MINIMUM LOT WIDTH: 100 FT.

MINIMUM LOT DEPTH: 100 FT.

MINIMUM SETBACKS: 30 FT.

MINIMUM BUILDING HEIGHT: 42 FT.

SEWER SERVICE: INDIVIDUAL SEPTIC SYSTEMS

WATER SERVICE: INDIVIDUAL WELLS

OWNER / DEVELOPER: EASTERN SHORE BROTHERS, L.L.C.

ADDRESS: 1111 SUSSEX COUNTY ROAD #252, SUSSEX, NJ 08085

**CURVE TABLE**

LINE	RADIUS	ARC	CHORD BEARING	CHORD
C1	25.00'	18.35'	84°21'21"	18.34'
C2	25.00'	43.89'	84°21'21"	38.44'
C3	25.00'	71.83'	84°21'21"	62.41'
C4	25.00'	74.48'	84°21'21"	62.78'
C5	25.00'	35.61'	84°21'21"	34.89'
C6	25.00'	42.20'	84°21'21"	38.21'
C7	25.00'	68.80'	84°21'21"	63.34'
C8	25.00'	30.21'	84°21'21"	28.21'
C9	25.00'	34.49'	84°21'21"	31.07'

**WETLANDS TABLE**

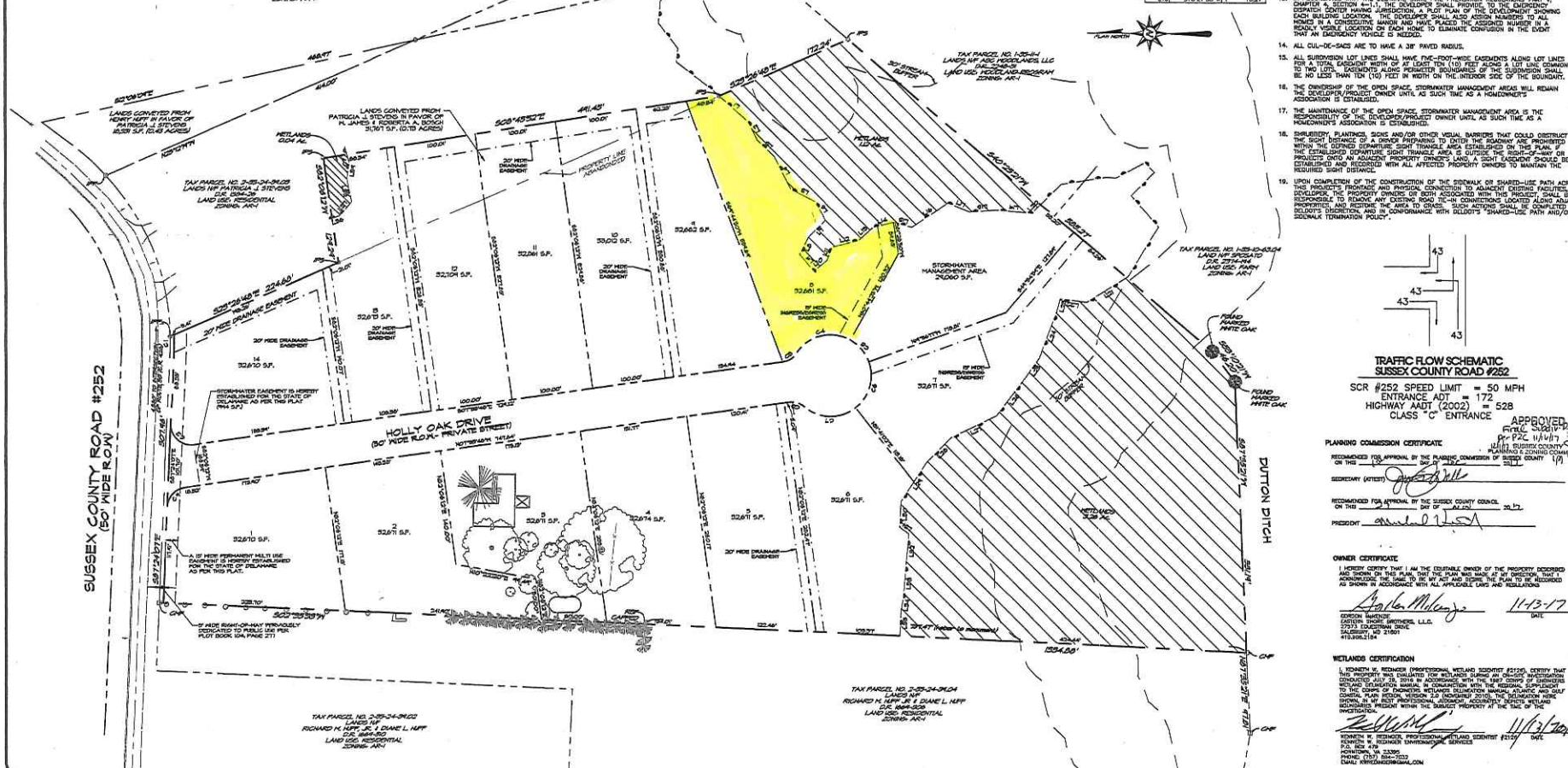
LINE	BEARING	DISTANCE
L1	N47°34'21"E	47.42'
L2	N47°34'21"E	32.12'
L3	N47°34'21"E	28.21'
L4	N47°34'21"E	44.21'
L5	N47°34'21"E	33.43'
L6	N47°34'21"E	28.21'
L7	N47°34'21"E	38.21'
L8	N47°34'21"E	24.11'
L9	N47°34'21"E	20.49'
L10	N47°34'21"E	17.38'
L11	N47°34'21"E	31.18'
L12	N47°34'21"E	23.21'
L13	N47°34'21"E	28.21'
L14	N47°34'21"E	28.21'
L15	N47°34'21"E	23.21'
L16	N47°34'21"E	23.21'
L17	N47°34'21"E	23.21'
L18	N47°34'21"E	23.21'
L19	N47°34'21"E	23.21'
L20	N47°34'21"E	23.21'
L21	N47°34'21"E	23.21'
L22	N47°34'21"E	23.21'
L23	N47°34'21"E	23.21'
L24	N47°34'21"E	23.21'
L25	N47°34'21"E	23.21'
L26	N47°34'21"E	23.21'
L27	N47°34'21"E	23.21'
L28	N47°34'21"E	23.21'
L29	N47°34'21"E	23.21'
L30	N47°34'21"E	23.21'
L31	N47°34'21"E	23.21'
L32	N47°34'21"E	23.21'
L33	N47°34'21"E	23.21'
L34	N47°34'21"E	23.21'
L35	N47°34'21"E	23.21'
L36	N47°34'21"E	23.21'
L37	N47°34'21"E	23.21'
L38	N47°34'21"E	23.21'
L39	N47°34'21"E	23.21'
L40	N47°34'21"E	23.21'

- GENERAL NOTES**
- THE PROJECT SITE IS KNOWN AS "SANDWICH WOODS" (T.P. 2-35-24, PARCEL 38.01), AND IS LOCATED AT THE SOUTH SIDE OF SUSSEX COUNTY ROAD #252, NEAR MOUNTAIN, DELAWARE.
  - A TOPOGRAPHIC AND OUTBOUND SURVEY HAS BEEN PERFORMED FOR THIS SITE BY ARCHER ENGINEERING, INC. TOPOGRAPHY IS BASED ON AN ASSIGNED SYSTEM.
  - ALL PROPOSED ROADS SHOWN ARE PRIVATE AND ARE TO BE MAINTAINED BY THE DEVELOPER. SUCH TIME AS A HOMEOWNERS ASSOCIATION CAN PROVIDE FOR SAID MAINTENANCE.
  - ALL PROPOSED STORMWATER MANAGEMENT FACILITIES ARE TO BE MAINTAINED BY THE DEVELOPER. SUCH TIME AS A HOMEOWNERS ASSOCIATION CAN PROVIDE FOR SAID MAINTENANCE.
  - ALL SUBDIVISION LOTS SHALL BE ACCESSIBLE FROM THE INTERIOR SUBDIVISION STREETS ONLY. NO DIRECT ACCESS TO SUSSEX COUNTY ROAD #252 SHALL BE POINTED.
  - THE CONTRACTOR SHALL ASSURE THAT ALL NECESSARY PERMITS AND APPROVALS HAVE BEEN OBTAINED PRIOR TO COMMENCEMENT OF ANY SITE CONSTRUCTION ACTIVITIES.
  - ALL CONTRACTORS WORKING ON THIS PROJECT SHALL COMPLY WITH THE REQUIREMENTS OF THE DELAWARE DESIGN AND SEWERAGE CONTROL ACT, 1987.
  - CONSTRUCTION MATERIALS AND PROCEDURES SHALL FOLLOW DELAWARE DEPARTMENT OF TRANSPORTATION SPECIFICATIONS AND STANDARD DRAWINGS (LATEST EDITION).
  - EXISTING SURFACE UTILITIES INFORMATION INDICATED IS BASED UPON VISUAL FIELD SURVEY AND RECORD DRAWINGS. NO SUCH INFORMATION CONCERNING THE LOCATION OF UTILITY LINES, ETC. SHALL BE OBTAINED PRIOR TO CONSTRUCTION. THE INFORMATION PROVIDED IS REPRESENTATIVE OF SURFACE CONDITIONS. THERE IS NO GUARANTEE OF ANY INFORMATION. THE DEVELOPER SHALL BE RESPONSIBLE FOR OBTAINING ANY INFORMATION FROM ANY OTHER SOURCE. THE DEVELOPER SHALL BE RESPONSIBLE FOR OBTAINING ANY INFORMATION FROM ANY OTHER SOURCE. THE DEVELOPER SHALL BE RESPONSIBLE FOR OBTAINING ANY INFORMATION FROM ANY OTHER SOURCE.
  - BASED ON THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) FLOOD INSURANCE RATE MAP (FIRM) 17003-01-01, THE PROJECT SITE IS LOCATED WITHIN A 100-YEAR FLOOD ZONE. THIS PROPERTY IS IN A "ZONE X" - UNDESIGNED WHICH IS AN AREA DETERMINED TO BE OUTSIDE OF THE 100-YEAR FLOOD ZONE.
  - ALL FIRE LINES, FIRE HYDRANTS AND FIRE DEPARTMENT CONNECTIONS SHALL BE MAINTAINED IN ACCORDANCE WITH THE DELAWARE STATE FIRE DEPARTMENT CONNECTIONS ACT, 1987.
  - IN ACCORDANCE WITH THE DELAWARE STATE FIRE PREVENTION REGULATIONS PART V, CHAPTER 4, SECTION 4.1.1, THE DEVELOPER SHALL PROVIDE TO THE EMERGENCY RESPONSE CENTER (ERC) A COPY OF THIS PLAN OF THE PROJECT SHOWING EACH BUILDING LOCATION. THE DEVELOPER SHALL ALSO ADVISE MEMBERS TO ALL HOMES IN A SUBDIVISION OF ANY HOME PLACED IN THE SUBDIVISION. THE DEVELOPER SHALL BE RESPONSIBLE FOR OBTAINING ANY INFORMATION FROM ANY OTHER SOURCE. THE DEVELOPER SHALL BE RESPONSIBLE FOR OBTAINING ANY INFORMATION FROM ANY OTHER SOURCE.
  - UPON COMPLETION OF THE CONSTRUCTION OF THE SIGNALS OR SHARED-USE PATH ACROSS THIS PROPERTY, THE DEVELOPER SHALL PROVIDE TO THE EMERGENCY RESPONSE CENTER (ERC) A COPY OF THIS PLAN OF THE PROJECT SHOWING EACH BUILDING LOCATION. THE DEVELOPER SHALL ALSO ADVISE MEMBERS TO ALL HOMES IN A SUBDIVISION OF ANY HOME PLACED IN THE SUBDIVISION. THE DEVELOPER SHALL BE RESPONSIBLE FOR OBTAINING ANY INFORMATION FROM ANY OTHER SOURCE. THE DEVELOPER SHALL BE RESPONSIBLE FOR OBTAINING ANY INFORMATION FROM ANY OTHER SOURCE.

**AREA TABLE**

AREA	ACRES
TOTAL PROPERTY AREA	18.84 ACRES
TOTAL UPLAND AREA	13.82 ACRES
TOTAL WETLAND AREA	4.42 ACRES

Record of Deeds  
10/21/19  
Doc 84-2917 11/17/19  
Sussex County  
Doc. Surcharge Paid



**TRAFFIC FLOW SCHEMATIC**  
SUSSEX COUNTY ROAD #252  
SCR #252 SPEED LIMIT = 50 MPH  
ENTRANCE ADT = 172  
HIGHWAY ADT (2002) = 528  
CLASS "C" ENTRANCE

**PLANNING COMMISSION CERTIFICATE**  
RECOMMENDED FOR APPROVAL BY THE PLANNING COMMISSION OF SUSSEX COUNTY, NJ  
ON THIS 11/13/17 AT 11:13 AM  
BY: [Signature]  
PRESIDENT

**OWNER CERTIFICATE**  
I HEREBY CERTIFY THAT I AM THE CO-OWNERS OF THE PROPERTY DESCRIBED HEREIN AND THAT I HAVE READ AND UNDERSTAND THE PLAN AND THE REQUIREMENTS OF THE DELAWARE STATE FIRE DEPARTMENT CONNECTIONS ACT, 1987, AND THE DELAWARE STATE FIRE PREVENTION REGULATIONS PART V, CHAPTER 4, SECTION 4.1.1. I HAVE OBTAINED ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES. I HAVE OBTAINED ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES. I HAVE OBTAINED ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES.

**WETLANDS CERTIFICATION**  
I HEREBY CERTIFY THAT I AM THE CO-OWNERS OF THE PROPERTY DESCRIBED HEREIN AND THAT I HAVE READ AND UNDERSTAND THE PLAN AND THE REQUIREMENTS OF THE DELAWARE STATE FIRE DEPARTMENT CONNECTIONS ACT, 1987, AND THE DELAWARE STATE FIRE PREVENTION REGULATIONS PART V, CHAPTER 4, SECTION 4.1.1. I HAVE OBTAINED ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES. I HAVE OBTAINED ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES. I HAVE OBTAINED ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES.

**REVISIONS**

NO.	DATE	DESCRIPTION
1	11/13/17	ISSUED FOR PERMIT

**APPROVED**  
[Signature]  
11/13/17

**RECORD PLAN**  
SAVILL WOODS  
BOOKED & INDEXED - SUSSEX COUNTY - CLERK  
KIRCHER ENGINEERING, INC.  
CONSULTING ENGINEERS & SURVEYORS  
1000 N. 10TH STREET, SUITE 200  
PO BOX 1000  
SUSSEX, NJ 08085  
TEL: 609-884-1000  
FAX: 609-884-1001  
WWW.KIRCHERENGINEERING.COM

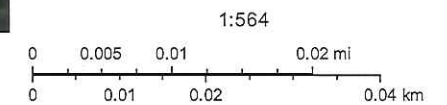
**JOB NO.** 15-100700  
**PLAN DATE** Nov. 13, 2015  
**SHEET NO.** R1





PIN:	235-24.00-243.00	
Owner Name	SAWMILL LLC	WOODS
Book	4861	
Mailing Address	872A WALKER RD	
City	DOVER	
State	DE	
Description	SAWMILL WOODS	
Description 2	LOT 8	
Description 3	N/A	
Land Code		

polygonLayer  
Override 1  
polygonLayer  
Override 1  
Tax Parcels  
911 Address  
Streets



**Board of Adjustment 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

Case # 12620  
Hearing Date 11/1  
202113502

**Type of Application: (please check all applicable)**

Variance ☒

Special Use Exception ☐

Administrative Variance ☐

Appeal ☐

Existing Condition ☐

Proposed ☒

Code Reference (office use only)

115-25 115-183

**Site Address of Variance/Special Use Exception:**

Bayview Estates, Bayview West, Lot 44, Selbyville, DE 19975 (corner of Bayview West & Captains Lane)

**Variance/Special Use Exception/Appeal Requested:**

5' variance changing side yard setback from 15' to 10'

**Tax Map #:** 533-19.00-227.00

**Property Zoning:** AR-1

**Applicant Information**

Applicant Name: Michael G Nechupas & Dawn M Nechupas (father/daughter)

Applicant Address: 4 Steeplechase Circle

City Aston State PA Zip: 19014

Applicant Phone #: (610) 425-1339 Applicant e-mail: exit3500@gmail.com / utum0311@gmail.com

**Owner Information**

Owner Name: Michael G Nechupas & Dawn M Nechupas (father/daughter)

Owner Address: 4 Steeplechase Circle

City Aston State PA Zip: 19014 Purchase Date: 6/29/21

Owner Phone #: (610) 425-1339 Owner e-mail: exit3500@gmail.com / utum0311@gmail.com

**Agent/Attorney Information**

Agent/Attorney Name: \_\_\_\_\_

Agent/Attorney Address: \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip: \_\_\_\_\_

Agent/Attorney Phone #: \_\_\_\_\_ Agent/Attorney e-mail: \_\_\_\_\_

**Signature of Owner/Agent/Attorney**

Michael G Nechupas

Date: 9/13/21





**Criteria for a Variance:** (Please provide a written statement regarding each criteria).

*You shall demonstrate to the Board of Adjustment that the property meets all of the following criteria for a Variance to be granted.*

*In granting any variance the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of the Zoning Ordinance or Code. The Board is empowered in no case, however, to grant a variance in the use of land or structures thereon.*

**1. Uniqueness of property:**

That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property and that the exceptional practical difficulty is due to such conditions and not to circumstances or conditions generally created by the provisions of the Zoning Ordinance or Code in the neighborhood or district in which the property is located.

Property is on an angle due to roadway (Captains Lane) and the rear property line is in the lagoon.

---

**2. Cannot otherwise be developed:**

That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the Zoning Ordinance or Code and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.

Angle of property reduces the width of the home. The 5' variance is needed for the possibility of a reasonable sized modest house.

---

**3. Not created by the applicant:**

That such exceptional practical difficulty has not been created by the appellant.

Not created by applicant.

---

**4. Will not alter the essential character of the neighborhood:**

That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located and nor substantially or permanently impair the appropriate use of development of adjacent property, nor be detrimental to the public welfare.

Variance will not alter the essential character of the neighborhood as there are homes in the neighborhood built on a 10' setbacks as per the community by laws.

---

**5. Minimum variance:**

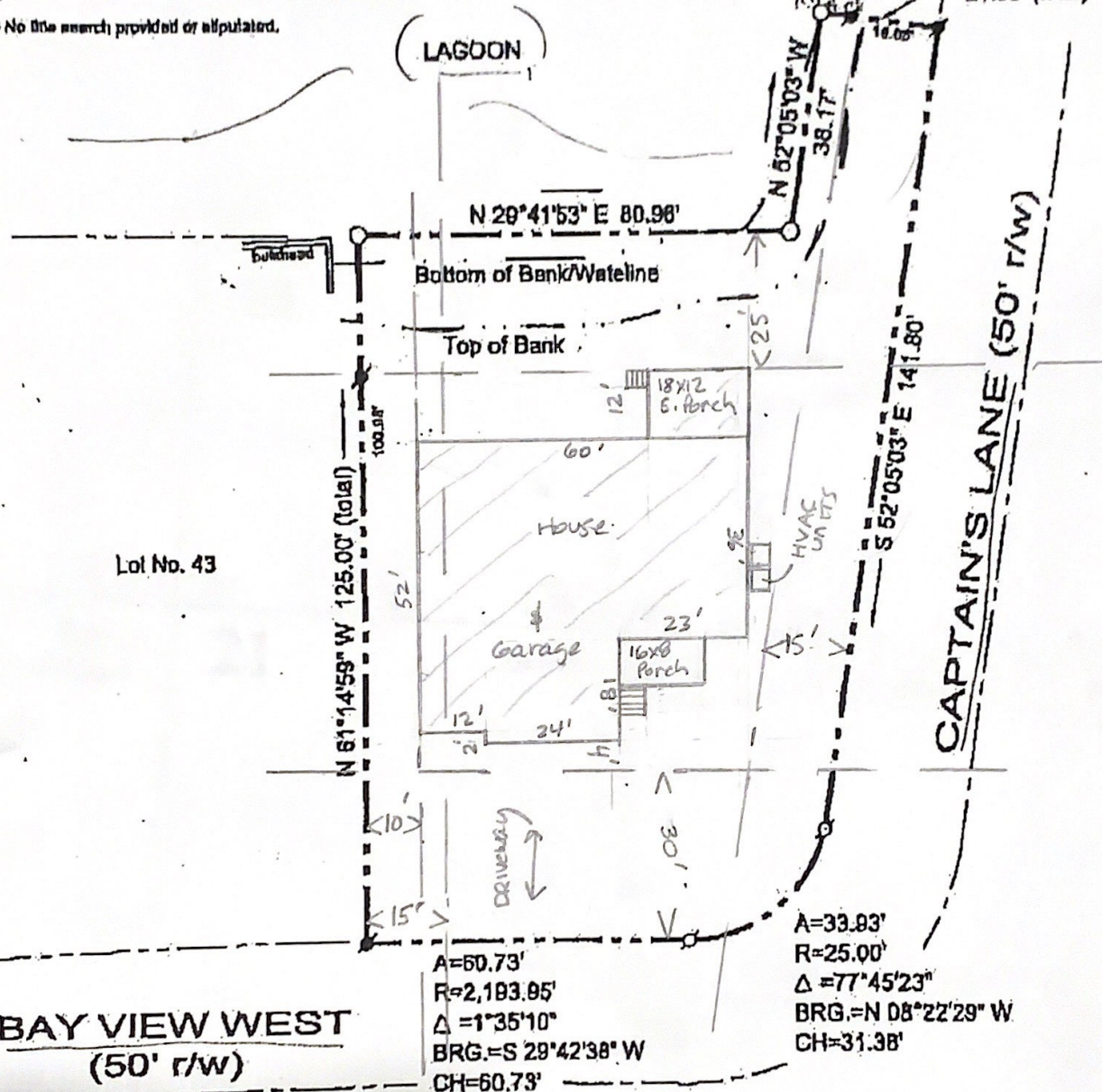
That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.

Request 5' variance changing side yard setback from 15' to 10'.



**NOTES:**

- This plat and survey does not verify the existence or nonexistence of right-of-ways and/or easements pertaining to this property.
- No line search provided or stipulated.



- 5/8" REBAR (FD)
- 5/8" REBAR (SET)
- POINT

SCALE: 1"=30'

AREA: 12,275 SQ.FT.

TAX MAP NO. 5-33-19-227

5-33-19-227

Lands of ALBERT GRANT,  
TRUSTEE. Being known as LOT NO.  
44, BLOCK 3, BAY VIEW ESTATES.  
Ref: Plat Book 15, Page 8.

**FIRM INFORMATION:**  
100028-0585-J  
JANUARY 06, 2005  
ZONE: 'AE', B.F.E.= 6'  
& "X" SHADED

CLASS "B" SURVEY  
BEAL

HUNDRED: BALTIMORE

COUNTY: SUSSEX

STATE OF DELAWARE

DATE OF ORIGINAL: 08.08.12

DRAWN BY: N. HARRELL

**SIMPLER  
SURVEYING  
& ASSOCIATE, INC.**

32486 POWELL FARM ROAD, FRANKFORD, DE 19945

www.delaware3surveyor.com

PHONE: (302) 539-7873 FAX: (302) 539-4336

P.L.S. 711



#2

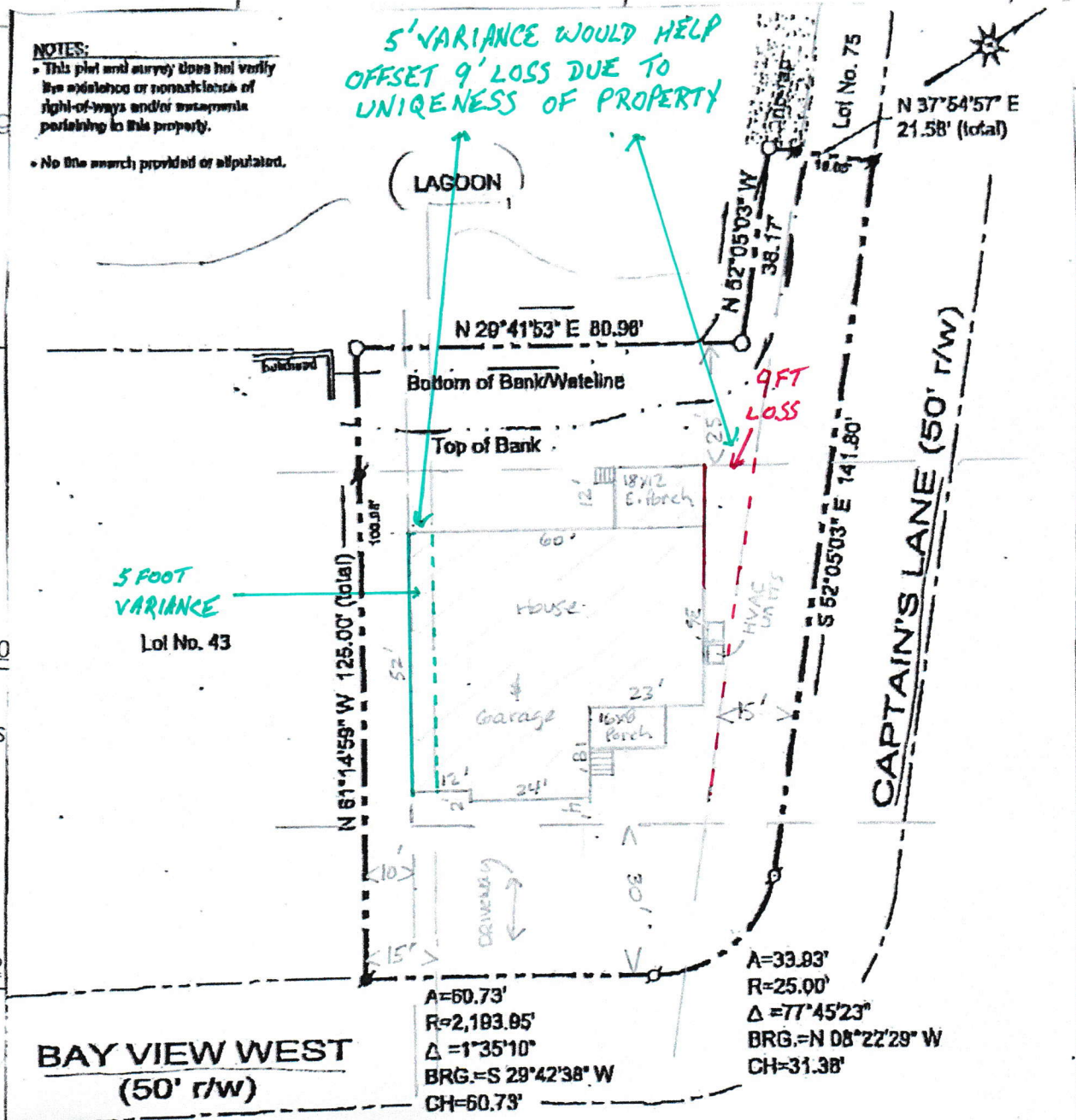
**NOTES:**

- This plat and survey does not verify the existence or nonexistence of right-of-ways and/or easements pertaining to this property.
- No title search provided or stipulated.

5' VARIANCE WOULD HELP  
OFFSET 9' LOSS DUE TO  
UNIQUENESS OF PROPERTY

5 FOOT  
VARIANCE

9 FT  
LOSS



- 5/8" REBAR (FD)
- 5/8" REBAR (SET)
- POINT

SCALE: 1"=30'

AREA: 12,276 SQ.FT.

TAX MAP NO. 5-33-19-227

5-33-19-227

HUNDRED: BALTIMORE

COUNTY: SUSSEX

STATE OF DELAWARE

DATE OF ORIGINAL: 08.08.12

DRAWN BY: N. HARRELL

Lands of ALBERT GRANT,  
TRUSTEE. Being known as LOT NO.  
44, BLOCK 3, BAY VIEW ESTATES.  
Ref: Plat Book 15, Page 8.

**SIMPLER  
SURVEYING  
& ASSOCIATE, INC.**  
32486 POWELL FARM ROAD, FRANKFORD, DE 19945  
www.delawaresurveyor.com  
PHONE: (302) 339-7873 FAX: (302) 599-4336

**FIRM INFORMATION:**  
100028 - 0685 - J  
JANUARY 06, 2005  
ZONE: "AE", B.F.E.= 5'  
& "X" SHADED

CLASS "B" SURVEY

SEAL  
  
08-9-12  
P.L.E. 711

**Bayview Estates Property Owners Association, Inc.**  
38675 Seagull Road  
Selbyville, Delaware 19975  
302-436-8166

Ref; New Construction Side Lot Setback

September 6, 2021

Mr. Michael Nechupas,

Bayview Estates Property Owner's Association, Inc., Amended and Restated Declaration of Reservations, Restrictions, and Easements (dated August 2009) do allow for a side lot setback variance of 10 feet. This is stated in Section II. – Setbacks and Building Lines, subparagraph 2.

"All buildings shall be subject to the setbacks from the front property line required by the county in which they are erected. In addition no building shall be erected nearer than twenty-five (25') feet to the low mean tide line of any waterway or nearer than ten (10') feet to the lot side line."

Please be advised, the Association will not approve a variance associated with the twenty-five (25') feet setback of any waterway.

  
Regards,

James Flynn President Bayview Estates POA, Inc.



To: Sussex County Planning & Zoning Department

Re: Bayview Estates, Bayview West, Lot 44

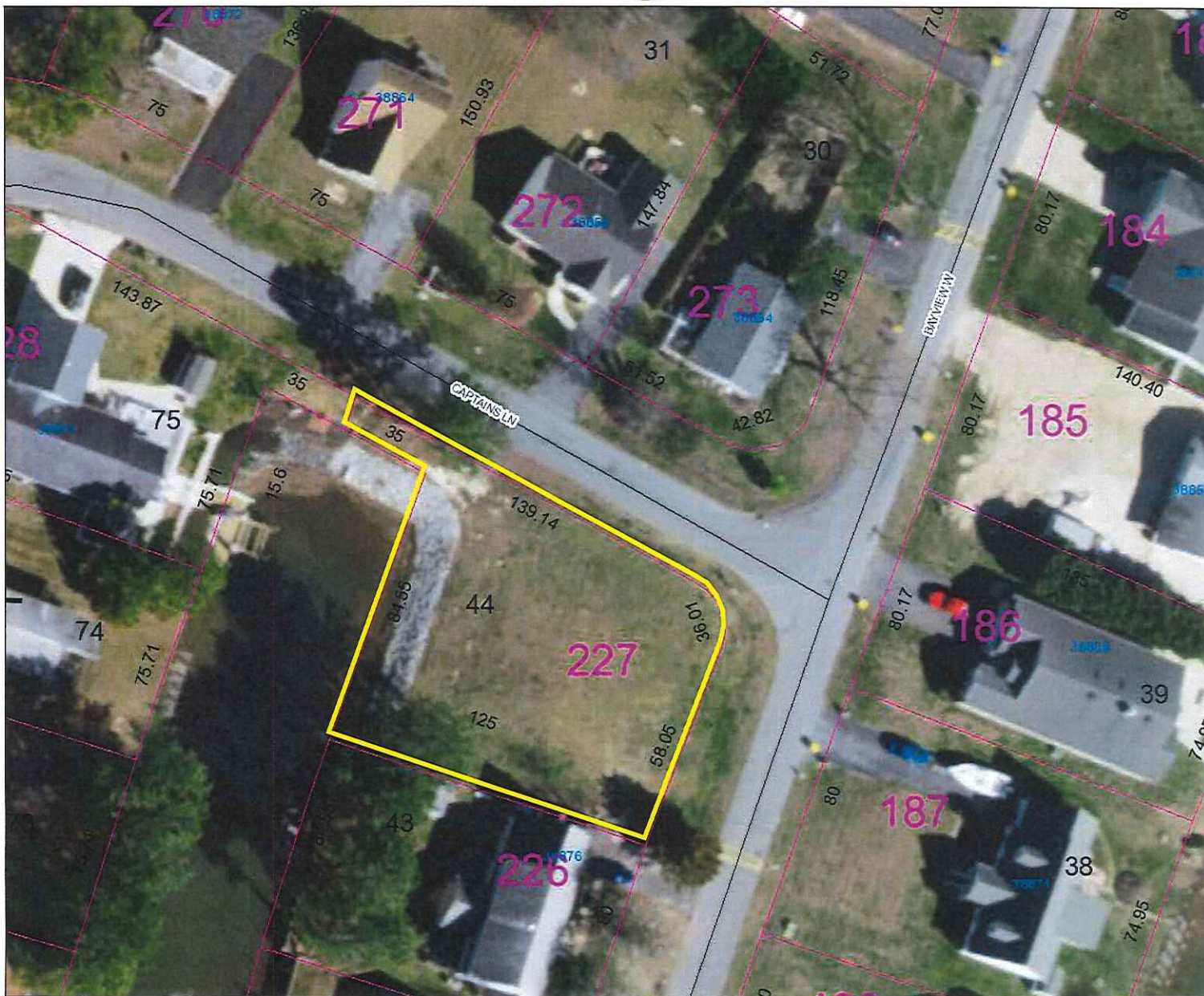
I live at 38876 Bayview West, Bayview Estates, Selbyville, DE, next to lot 44. I have no objections of a new home being built next door to my house with a 10 foot setback required by our HOA as it would not alter the character of the neighborhood or affect my property in anyway.

Thank You,

Tom Reilly 4<sup>TH</sup>  
38876 BAYVIEW WEST  
SELBYVILLE, DE 19975  
410-960-3270

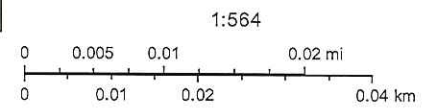


# Sussex County



PIN:	533-19.00-227.00
Owner Name	NECHUPAS DAWN M
Book	5500
Mailing Address	4 STEEPLECHASE CIR
City	ASTON
State	PA
Description	BAYVIEW ESTATES
Description 2	LOT 44 BLK 3
Description 3	N/A
Land Code	

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









**Board of Adjustment 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

Case # 12621  
Hearing Date 11/1  
202113582

**Type of Application: (please check all applicable)**

Variance ☐  
Special Use Exception ☒  
Administrative Variance ☐  
Appeal ☐

Existing Condition ☐  
Proposed ☒  
Code Reference (office use only)  
115-32 115-210

**Site Address of Variance/Special Use Exception:**

9268 S. Mayhew Dr, Lincoln De 19946

**Variance/Special Use Exception/Appeal Requested:**

DAYCARE FOR 12 CHILDREN

**Tax Map #:** 230-13.00-268.00

**Property Zoning:** Resident MR

**Applicant Information**

Applicant Name: Michele A. Mosley  
Applicant Address: 38 Hightide Dr  
City Frederica State DE Zip: 19946  
Applicant Phone #: (302) 503-1029 Applicant e-mail: michelemosley1@gmail.com

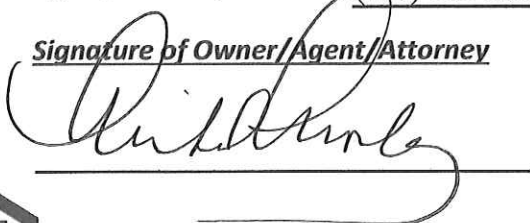
**Owner Information**

Owner Name: Michele A. Mosley  
Owner Address: 38 Hightide Dr  
City Frederica State DE Zip: 19946 Purchase Date: 7/13/19  
Owner Phone #: \_\_\_\_\_ Owner e-mail: \_\_\_\_\_

**Agent/Attorney Information**

Agent/Attorney Name: Michele A. Mosley  
Agent/Attorney Address: 38 Hightide Dr  
City Frederica State De Zip: 19946  
Agent/Attorney Phone #: (302) 503-1029 Agent/Attorney e-mail: michelemosley1@gmail.com

**Signature of Owner/Agent/Attorney**



Date: 9/13/21



**Criteria for a Special Use Exception:** (Please provide a written statement regarding each criteria)

*You shall demonstrate to the Board of Adjustment that the property meets all of the following criteria for a Special Use Exception to be granted.*

1. Such exception will not substantially affect adversely the uses of adjacent and neighboring property.

This will be Daycare offered to all seeking Child care. There will be appearance upgrades to the exterior of the property. this will enhance the community.

---

2. Any other requirements which apply to a specific type of special use exception as required by the Sussex County Code. (Ex. Time limitations – 5 year maximum)

None

---

**Basis for Appeal:** (Please provide a written statement regarding reason for appeal)

This daycare is being placed in residential Community

---







property Line

---24Ft---





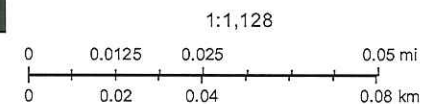


# Sussex County



PIN:	230-13.00-268.00
Owner Name	ANDREWS MICHELLE A
Book	2686
Mailing Address	9268 S MAYHEW DR
City	LINCOLN
State	DE
Description	CEDAR CREEK ESTATES
Description 2	LOT 93A
Description 3	SEC III SPEC COMM LIEN
Land Code	

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



Board of Adjustment 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

Case # 12622  
Hearing Date 11/1  
202113950

Type of Application: (please check all applicable)

Variance ☒

Special Use Exception ☐

Administrative Variance ☐

Appeal ☐

Existing Condition ☐

Proposed ☐

Code Reference (office use only)

115-34

115-182

Site Address of Variance/Special Use Exception:

Lot #41 Maple Lane Selbyville, DE 19975

Variance/Special Use Exception/Appeal Requested:

Reduce front setBack to 25'

Tax Map #: S33-19.16-37.00 (lot #41) Property Zoning: MR

Applicant Information

Applicant Name: Evergreen Homes  
Applicant Address: 33176 Coastal Hwy Unit 3  
City Bethany Beach State DE Zip: 19930  
Applicant Phone #: 703-466-5413 Applicant e-mail: Lei@evergreenhomes.com

Owner Information

Owner Name: "same as applicant"  
Owner Address: \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip: \_\_\_\_\_ Purchase Date: \_\_\_\_\_  
Owner Phone #: \_\_\_\_\_ Owner e-mail: \_\_\_\_\_

Agent/Attorney Information

Agent/Attorney Name: \_\_\_\_\_  
Agent/Attorney Address: \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip: \_\_\_\_\_  
Agent/Attorney Phone #: \_\_\_\_\_ Agent/Attorney e-mail: \_\_\_\_\_

Signature of Owner/Agent/Attorney

[Signature]

Date: 9/15/21





**Criteria for a Variance:** (Please provide a written statement regarding each criteria).

*You shall demonstrate to the Board of Adjustment that the property meets all of the following criteria for a Variance to be granted.*

*In granting any variance the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of the Zoning Ordinance or Code. The Board is empowered in no case, however, to grant a variance in the use of land or structures thereon.*

1. Uniqueness of property:

That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property and that the exceptional practical difficulty is due to such conditions and not to circumstances or conditions generally created by the provisions of the Zoning Ordinance or Code in the neighborhood or district in which the property is located.

2. Cannot otherwise be developed:

That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the Zoning Ordinance or Code and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.

*HOA drives 20' rear set back (indeed) which is more than Sussex County standard  
a 5' front setback reduction to 25' will offset this irregularity*

3. Not created by the applicant:

That such exceptional practical difficulty has not been created by the appellant.

*House has already been modified to maximum extent and still requires 5' additional front space to fit*

4. Will not alter the essential character of the neighborhood:

That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located and nor substantially or permanently impair the appropriate use of development of adjacent property, nor be detrimental to the public welfare.

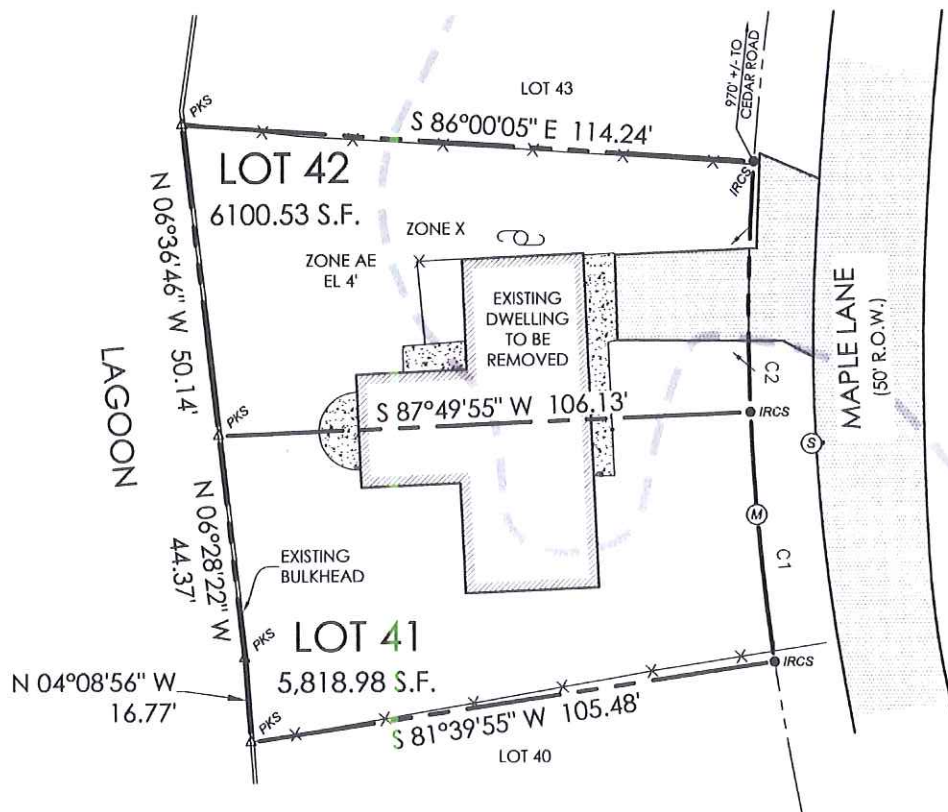
*Purchased lot with these existing dimensions + set backs*

5. Minimum variance:

That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.

*Other homes in this neighborhood already exist with a 25' front set back  
HOA front setback is also 25'*

*a minimum 5' variance with maximum floor plan modifications is  
minimum required for home to fit on lot*



## GENERAL NOTES

1. OWNER: ELMA C MCCABE HEIRS  
CARE OF TROY L.C. MCCABE  
35723 COLMAN AVE.  
SELBYVILLE, DE
2. TAX REF.: 533-19.16-37.00
3. DEED REF.: 616/478
4. PLAT REF.: 6/42
5. SITE AREA: LOT 41 = 5818.98 SF  
LOT 42 = 6100.53 SF
6. SETBACKS: 30' FRONT/ 5' SIDE/5' REAR
7. BASED UPON F.E.M.A. FLOOD INSURANCE RATE MAP NUMBER 10005C0654K, PANEL 654 OF 660, WITH AN EFFECTIVE DATE OF 3/16/2015, THIS SITE IS LOCATED WITHIN FLOOD ZONE AE (EL 4) AND ZONE X 0.2% ANNUAL CHANCE FLOOD HAZARD, AREAS OF 1% ANNUAL CHANCE FLOOD WITH AVERAGE DEPTH LESS THAN ONE FOOT OR WITH DRAINAGE AREAS OF LESS THAN ONE SQUARE MILE
8. ZONED: MR
9. IMPERVIOUS AREA = 2,976 SF +/-

LEGEND	
IRON ROD & CAP SET	● IRCS
PK NAIL SET	△ PKS
FENCE LINE	— X —
SANITARY MANHOLE	(S)
WATER MANHOLE	(M)
UTILITY POLE	⊕
FLOOD ZONE	⊖

## CURVE TABLE

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING
C1	464.87'	49.76'	49.74'	N 05°15'05" W
C2	464.87'	49.76'	49.74'	S 00°54'55" W

## SURVEYOR'S STATEMENT

I, STEVEN W. FULLER, HEREBY STATE THAT I AM A PROFESSIONAL LAND SURVEYOR IN THE STATE OF DELAWARE AND THAT, TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF, THE SURVEY SHOWN AND DESCRIBED HEREON IS TRUE AND CORRECT TO THE ACCURACY REQUIRED BY ACCEPTED SURVEYING STANDARDS FOR AN URBAN CLASS SURVEY AND THAT THE MONUMENTS AND MARKERS SHOWN HEREON AS EXISTING ACTUALLY EXIST AND THAT THEIR POSITIONS ARE ACCURATELY SHOWN.

SOLUTIONS IPEM, LLC  
by STEVEN W. FULLER, AGENT

STEVEN W. FULLER  
REGISTERED  
No. 823  
PROFESSIONAL LAND SURVEYOR  
DELAWARE

*Steven W. Fuller* 9/8/2021  
STEVEN W. FULLER DATE  
PROFESSIONAL LAND SURVEYOR DE NO. 823



**solutions**

Integrated Planning  
Engineering & Management, LLC

**Fuller Hall**  
& ASSOCIATES, INC.  
A Wholly Owned Subsidiary

303 N. Bedford St.  
Georgetown, DE 19947  
T. 302.297.9215  
www.solutionsipem.com  
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Drawn by: WPW

Job No. 321052

LOT LINE REINSTATEMENT PLAN  
LOTS 41 & 42  
MAPLE LANE  
KEEN WIK - SUBDIVISION No. 5  
BALTIMORE HUNDRED, SUSSEX COUNTY, DELAWARE

Scale: 1" = 30'

Date: 09/07/21

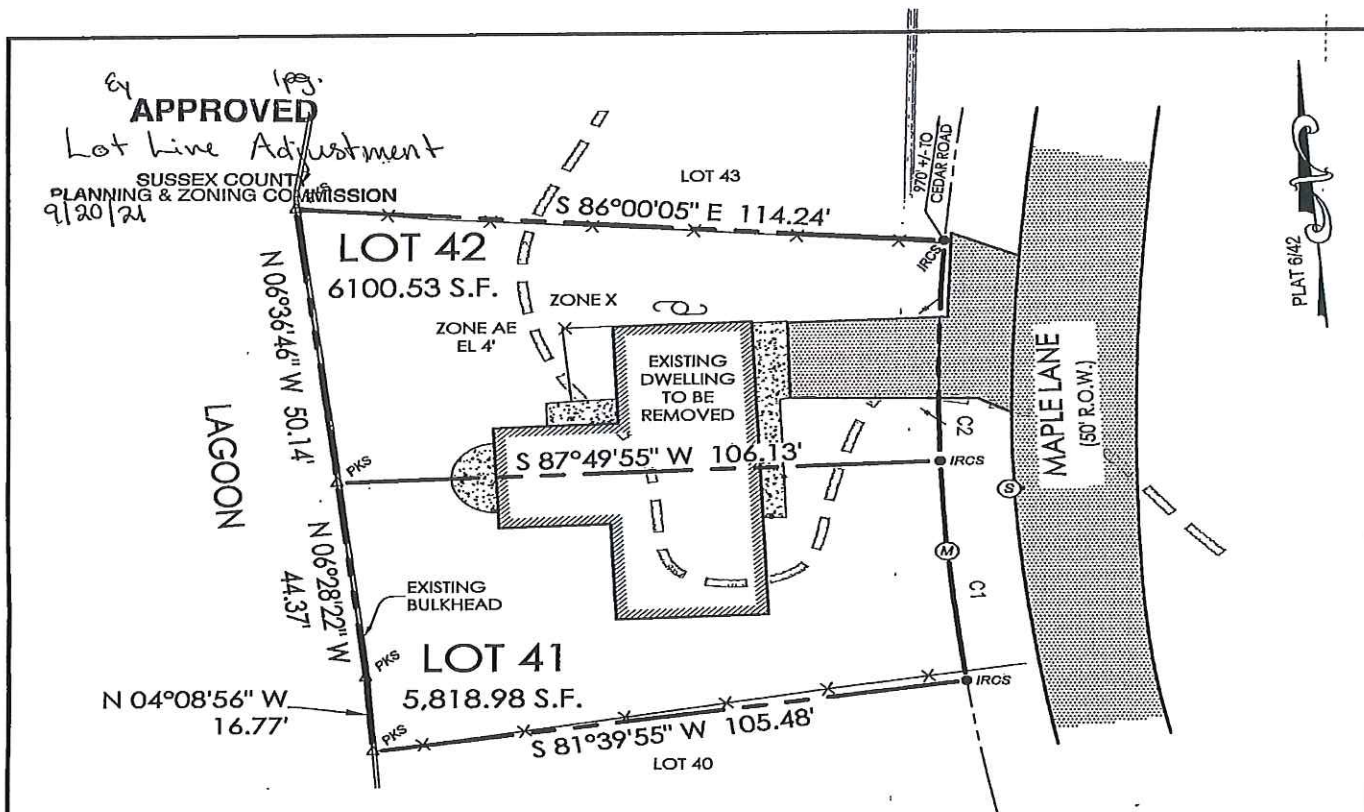
Sheet 1 of 1



Document# 2021000058449 BK: 350 PG: 48

Recorder of Deeds, Scott Dailey On 9/20/2021 at 9:18:38 AM Sussex County, DE

Doc Surcharge Paid

**GENERAL NOTES**

- OWNER: ELMA C MCCABE HEIRS  
CARE OF TROY L.C. MCCABE  
35723 COLMAN AVE.  
SELBYVILLE, DE
- TAX REF.: 533-19.16-37.00
- DEED REF.: 616/478
- PLAT REF.: 6/42
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- ZONED: MR
- IMPERVIOUS AREA = 2,976 SF +/-

LEGEND	
IRON ROD & CAP SET	● IRCS
PK NAIL SET	△ PKS
FENCE LINE	— X —
SANITARY MANHOLE	⊙
WATER MANHOLE	⊙
UTILITY POLE	⊙
FLOOD ZONE	—

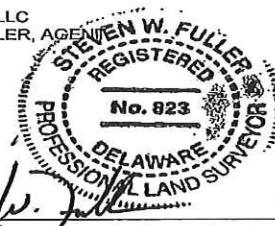
**CURVE TABLE**

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING
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C2	464.87'	49.76'	49.74'	S 00°54'55" W

**SURVEYOR'S STATEMENT**

I, STEVEN W. FULLER, HEREBY STATE THAT I AM A PROFESSIONAL LAND SURVEYOR IN THE STATE OF DELAWARE AND THAT, TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF, THE SURVEY SHOWN AND DESCRIBED HEREON IS TRUE AND CORRECT TO THE ACCURACY REQUIRED BY ACCEPTED SURVEYING STANDARDS FOR AN URBAN CLASS SURVEY AND THAT THE MONUMENTS AND MARKERS SHOWN HEREON AS EXISTING ACTUALLY EXIST AND THAT THEIR POSITIONS ARE ACCURATELY SHOWN.

SOLUTIONS IPEM, LLC  
by STEVEN W. FULLER, AGENT



STEVEN W. FULLER  
PROFESSIONAL LAND SURVEYOR DE NO. 823

9/8/2021  
DATE



**solutions**  
Integrated Planning  
Engineering & Management, LLC

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Georgetown, DE 19947  
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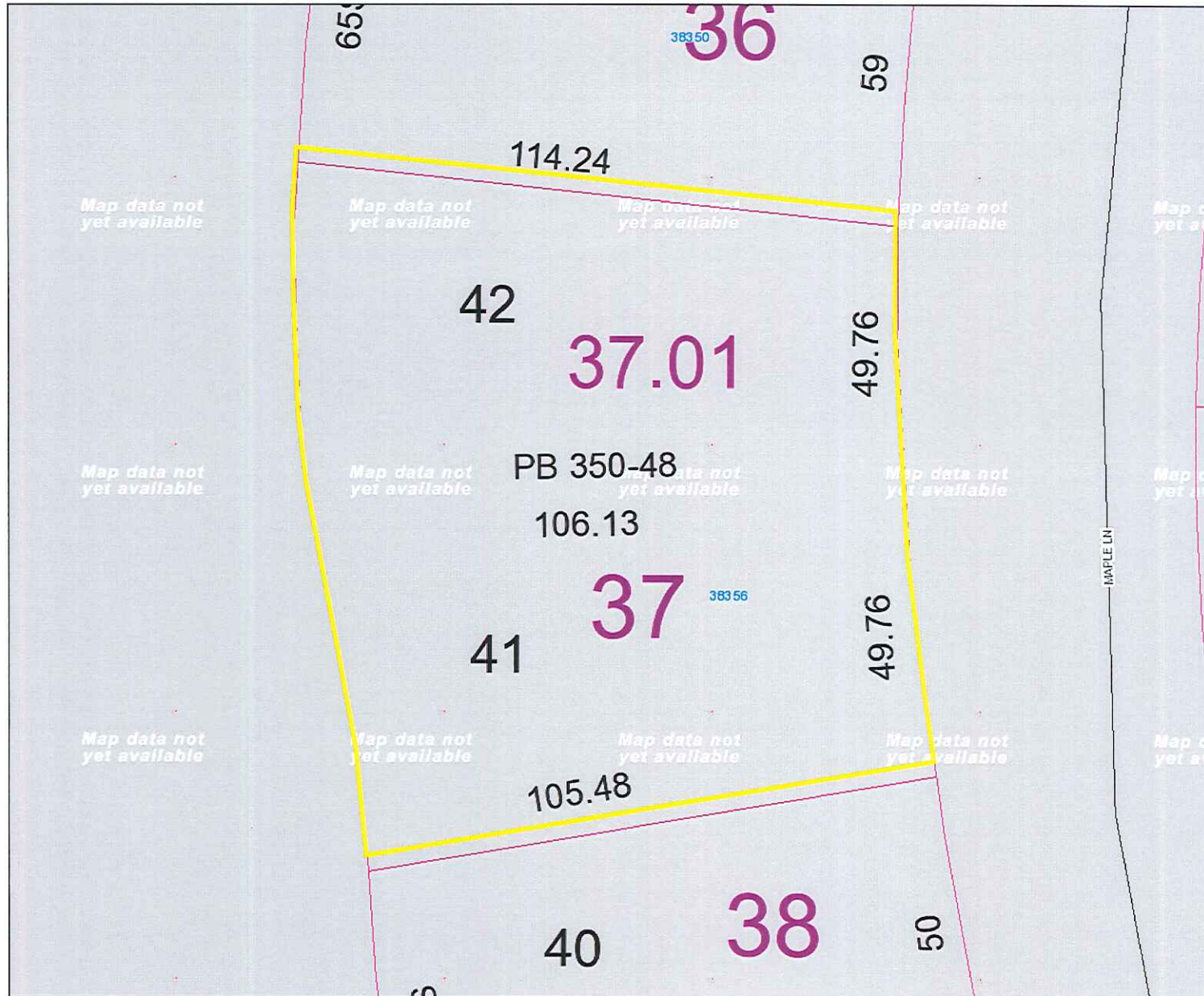
Drawn by: WPW  
Job No. S21052

LOT LINE REINSTATEMENT PLAN  
LOTS 41 & 42  
MAPLE LANE  
KEEN WIK - SUBDIVISION No. 5  
BALTIMORE HUNDRED, SUSSEX COUNTY, DELAWARE

Scale: 1" = 30'

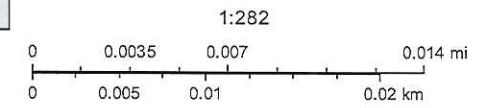
Date: 09/07/21

Sheet 1 of 1



PIN:	533-19.16-37.00
Owner Name	EVERGEENE COMPANIES LLC THE
Book	5531
Mailing Address	3684 CENTERVIEW DR SU
City	CHANTILLY
State	VA
Description	KEENWIK
Description 2	LOTS 41 42 SUB 5
Description 3	W/MAPLE LN
Land Code	

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









*Joanne P. McGehrin*  
11608 Bonaventure Drive  
Upper Marlboro, MD 20774-8806  
(240) 997-1407

*Oppose*

RECEIVED

October 15, 2021

OCT 18 2021

SUSSEX COUNTY  
PLANNING & ZONING

Planning and Zoning Department  
County Administration Office  
Building 2 The Circle  
Georgetown, DE 19947

Re: Case Number 12622 – Request for Variance

To whom it may concern

We are OPPOSED to variance from front yard set back requirement requested by Evergreene Homes for proposed dwelling (Sections 115-34 and 115-182 of the Sussex County Zoning Code) for property located on the west side of Maple Lane Keenwick Subdivision, Address 38356 Maple Lane, Selbyville. Zoning District: MR. Tax Parcel 533-19.16-37.00 (Lot 41)

Thank you,



Joanne P. McGehrin



Thomas E. Page



Michael S. Page

Property owners of 38334 Maple Lane, Selbyville, DE 19975

To Sussex County Board of Adjustment  
Planning and Zoning Department  
2 The Circle  
Georgetown, DE  
19947

From Stephen P. Lamphier  
38363 Maple La.  
Selbyville, DE  
19975

Re Case #12622

I wish to express my opposition to the above named requested front yard setback variance. I and my neighbors have purchased and built residences in reliance on the existing set back requirements.

A variance would negatively impact sightlines and off street parking availability.

I feel that future construction should conform to the existing zoning requirements and not deviate from the rules that have always regulated our community setbacks.

Thank you for your attention to this matter.

  
Stephen P. Lamphier  
301-606-5745  
spl20882@yahoo.com

RECEIVED

OCT 25 2021

SUSSEX COUNTY  
PLANNING & ZONING

To: Planning and zoning Department  
Sussex County Board of Adjustment  
2 The Circle  
Georgetown, DE  
19947

From: Caroline Lamphier  
22341 Rolling Hill La.  
Laytonsville, MD  
20882

38363 Maple La.  
Selbyville, DE  
19975

Re: Case #12622

Dear Sir/Madam

In response to the application for a variance from the front yard setback requirement, Case #12622,

I wish to express my opposition to this variance.

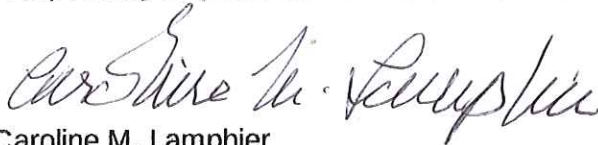
My Maple La. address is across from the requested variance.

I am concerned that any reduction in the area available for off street parking in front of the above named property will negatively impact the already problematic on street parking situation during seasonal increased demand.

There are summer days when the overflow on street parking on Maple Ln. impedes traffic and obstructs the view of oncoming traffic.

I feel that it is important to have as much off street parking in front of residences as possible and that any reduction to that availability is ill advised.

I respectfully request that this variance be denied.



Caroline M. Lamphier  
301-253-8885  
linlamphier@yahoo.com

RECEIVED

OCT 25 2021

SUSSEX COUNTY  
PLANNING & ZONING



**Board of Adjustment 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

Case # 12623  
Hearing Date 11/1  
202113952

Type of Application: (please check all applicable)

Variance ☒

Special Use Exception ☐

Administrative Variance ☐

Appeal ☐

Existing Condition ☐

Proposed ☐

Code Reference (office use only)

115-34 115-182

Site Address of Variance/Special Use Exception:

Lot #42 Maple Lane Selbyville, DE 19975

Variance/Special Use Exception/Appeal Requested:

Reduce front set back to 25'

Tax Map #: 533-19.16-37.00 (lot #42) Property Zoning: MR

**Applicant Information**

Applicant Name: Evergreen Homes

Applicant Address: 33176 Coastal Hwy Unit 3

City Bethany Beach State DE Zip: 19930

Applicant Phone #: 703-406-5413 Applicant e-mail: leci@evergreenhomes.com

**Owner Information**

Owner Name: "Same as applicant"

Owner Address: \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip: \_\_\_\_\_ Purchase Date: \_\_\_\_\_

Owner Phone #: \_\_\_\_\_ Owner e-mail: \_\_\_\_\_

**Agent/Attorney Information**

Agent/Attorney Name: \_\_\_\_\_

Agent/Attorney Address: \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip: \_\_\_\_\_

Agent/Attorney Phone #: \_\_\_\_\_ Agent/Attorney e-mail: \_\_\_\_\_

**Signature of Owner/Agent/Attorney**

[Signature]

Date: 9/15/21



**Criteria for a Variance:** (Please provide a written statement regarding each criteria).

You shall demonstrate to the Board of Adjustment that the property meets all of the following criteria for a Variance to be granted.

In granting any variance the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of the Zoning Ordinance or Code. The Board is empowered in no case, however, to grant a variance in the use of land or structures thereon.

1. Uniqueness of property:

That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property and that the exceptional practical difficulty is due to such conditions and not to circumstances or conditions generally created by the provisions of the Zoning Ordinance or Code in the neighborhood or district in which the property is located.

2. Cannot otherwise be developed: HOA drives 40' rear set back (indeed) which is more than Sussex County standard  
That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the Zoning Ordinance or Code and that the authorization of a variance is therefore necessary to enable the reasonable use of the property. a 5' front setback reduction to 25' will offset this irregularity

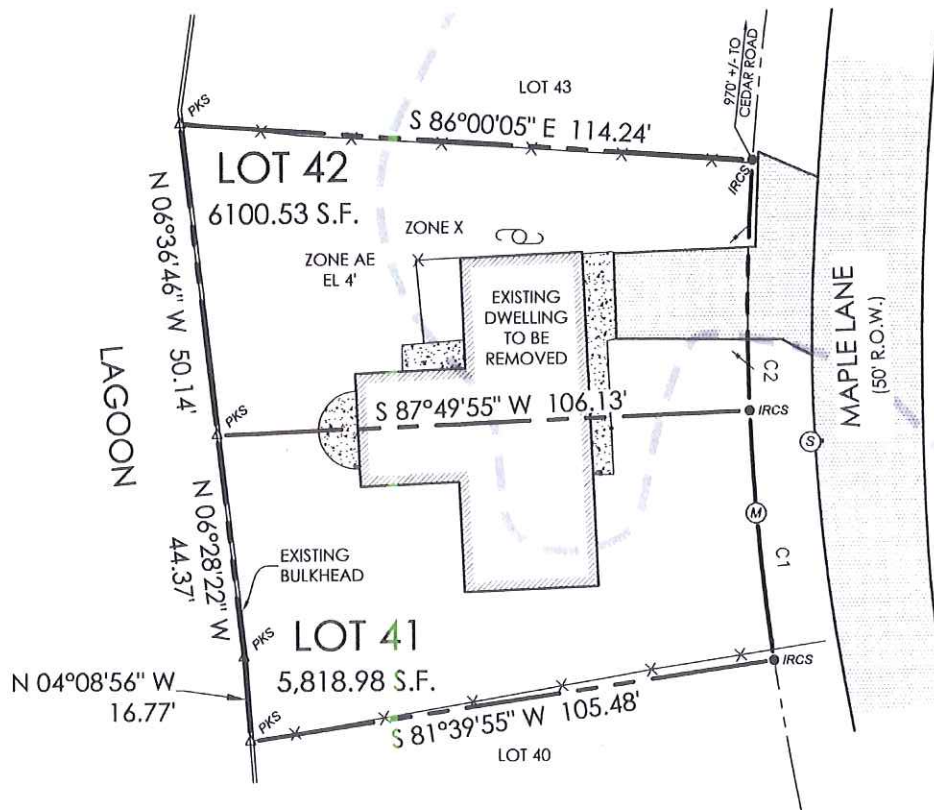
3. Not created by the applicant: House has already been modified to maximum extent and still requires 5' additional front space to fit  
That such exceptional practical difficulty has not been created by the appellant.

4. Will not alter the essential character of the neighborhood: Purchased lot with these existing dimensions + set backs  
That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located and nor substantially or permanently impair the appropriate use of development of adjacent property, nor be detrimental to the public welfare.

5. Minimum variance: Other homes in this neighborhood already exist with a 25' front set back  
That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue. HOA front setback is also 25'

a minimum 5' variance with maximum floor plan modifications is  
Minimum required for home to fit on lot





PLAT 6142

## GENERAL NOTES

- OWNER: ELMA C MCCABE HEIRS  
CARE OF TROY L.C. MCCABE  
35723 COLMAN AVE.  
SELBYVILLE, DE
- TAX REF.: 533-19.16-37.00
- DEED REF.: 616/478
- PLAT REF.: 6/42
- SITE AREA: LOT 41 = 5818.98 SF  
LOT 42 = 6100.53 SF
- SETBACKS: 30' FRONT/ 5' SIDE/5' REAR
- BASED UPON F.E.M.A. FLOOD INSURANCE RATE MAP NUMBER 10005C0654K, PANEL 654 OF 660, WITH AN EFFECTIVE DATE OF 3/16/2015, THIS SITE IS LOCATED WITHIN FLOOD ZONE AE (EL 4') AND ZONE X 0.2% ANNUAL CHANCE FLOOD HAZARD, AREAS OF 1% ANNUAL CHANCE FLOOD WITH AVERAGE DEPTH LESS THAN ONE FOOT OR WITH DRAINAGE AREAS OF LESS THAN ONE SQUARE MILE
- ZONED: MR
- IMPERVIOUS AREA = 2,976 SF +/-

LEGEND	
IRON ROD & CAP SET	● IRCS
PK NAIL SET	△ PKS
FENCE LINE	— X —
SANITARY MANHOLE	(S)
WATER MANHOLE	(M)
UTILITY POLE	⌋
FLOOD ZONE	

## CURVE TABLE

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING
C1	464.87'	49.76'	49.74'	N 05°15'05" W
C2	464.87'	49.76'	49.74'	S 00°54'55" W

## SURVEYOR'S STATEMENT

I, STEVEN W. FULLER, HEREBY STATE THAT I AM A PROFESSIONAL LAND SURVEYOR IN THE STATE OF DELAWARE AND THAT, TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF, THE SURVEY SHOWN AND DESCRIBED HEREON IS TRUE AND CORRECT TO THE ACCURACY REQUIRED BY ACCEPTED SURVEYING STANDARDS FOR AN URBAN CLASS SURVEY AND THAT THE MONUMENTS AND MARKERS SHOWN HEREON AS EXISTING ACTUALLY EXIST AND THAT THEIR POSITIONS ARE ACCURATELY SHOWN.

SOLUTIONS IPEM, LLC  
by STEVEN W. FULLER, AGENT

STEVEN W. FULLER  
REGISTERED  
No. 823  
PROFESSIONAL LAND SURVEYOR  
DELAWARE

STEVEN W. FULLER  
PROFESSIONAL LAND SURVEYOR DE NO. 823

9/8/2021  
DATE



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Drawn by: WPW

Job No. S21052

LOT LINE REINSTATEMENT PLAN  
LOTS 41 & 42  
MAPLE LANE  
KEEN WIK - SUBDIVISION No. 5  
BALTIMORE HUNDRED, SUSSEX COUNTY, DELAWARE

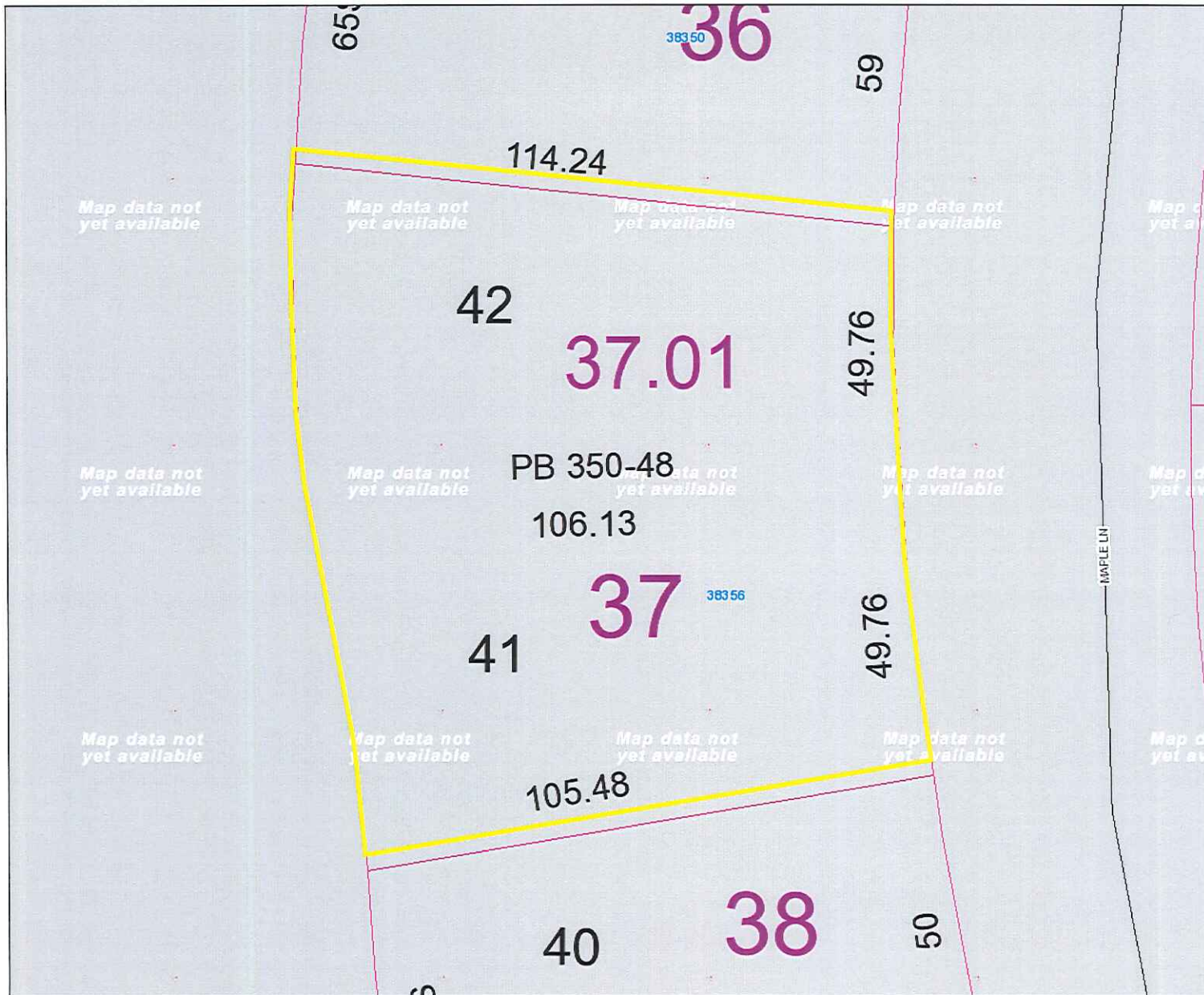
Scale: 1" = 30'

Date: 09/07/21

Sheet 1 of 1

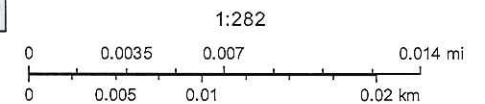


# Sussex County

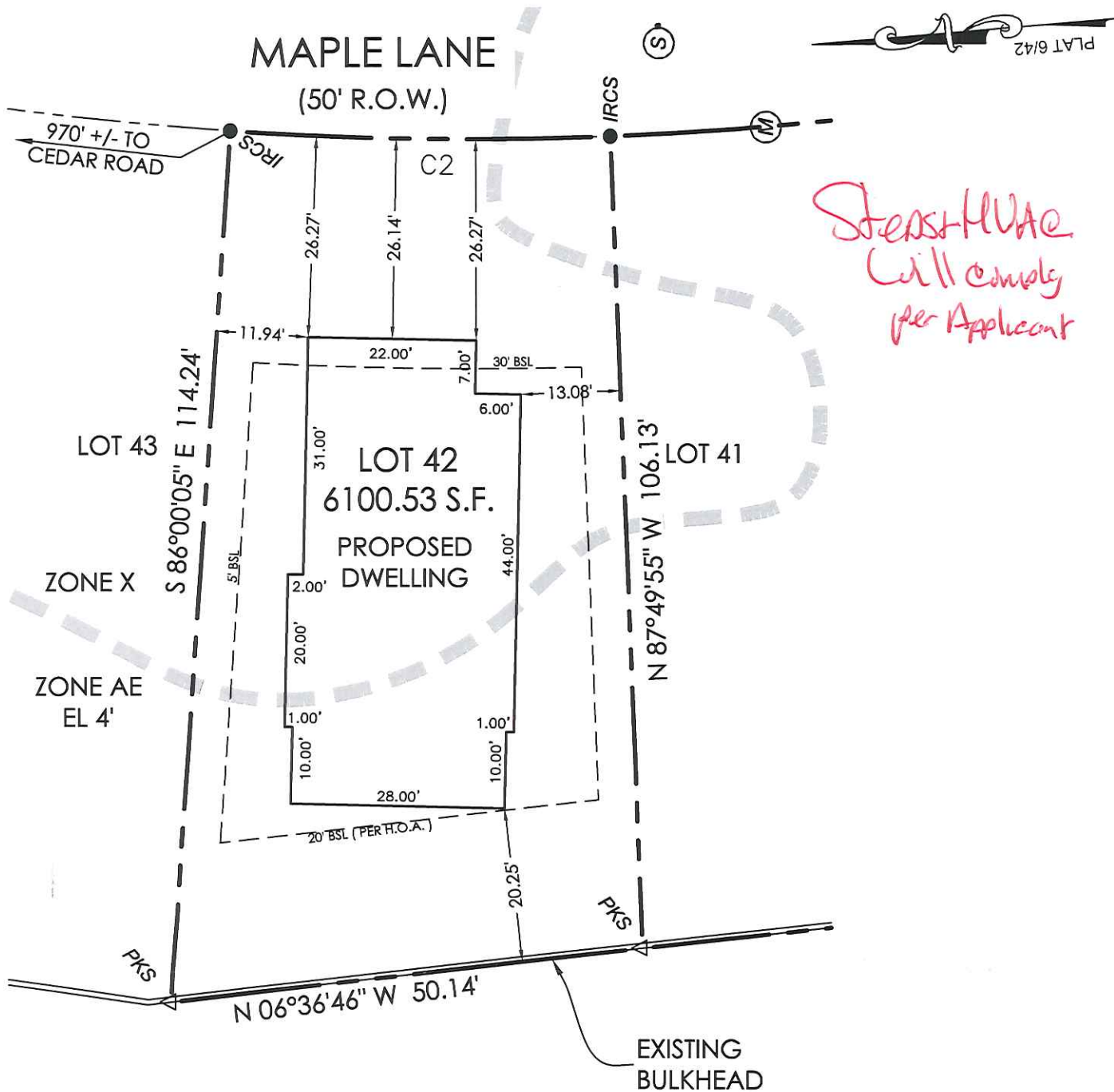


PIN:	533-19.16-37.00
Owner Name	EVERGEENE COMPANIES LLC THE
Book	5531
Mailing Address	3684 CENTERVIEW DR SU
City	CHANTILLY
State	VA
Description	KEENWIK
Description 2	LOTS 41 42 SUB 5
Description 3	W/MAPLE LN
Land Code	

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







## LAGOON

### GENERAL NOTES

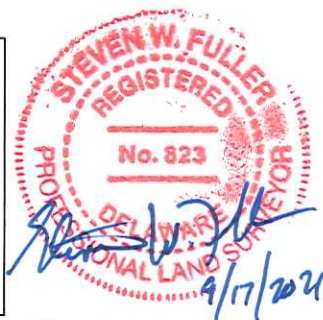
1. OWNER: ELMA C MCCABE HEIRS  
CARE OF TROY L.C. MCCABE  
35723 COLMAN AVE.  
SELBYVILLE, DE
2. TAX REF. : 533-19.16-37.00
3. DEED REF. : 616/478
4. PLAT REF. : 6/42
5. SITE AREA: LOT 42 = 6100.53 SF
6. SETBACKS: 30' FRONT/ 5' SIDE/5' REAR
7. BASED UPON F.E.M.A. FLOOD INSURANCE RATE  
MAP NUMBER 10005C0654K, PANEL 654 OF 660,  
WITH AN EFFECTIVE DATE OF 3/16/2015, THIS SITE IS  
LOCATED WITHIN FLOOD ZONE AE (EL 4) AND ZONE  
X 0.2% ANNUAL CHANCE FLOOD HAZARD, AREAS  
OF 1% ANNUAL CHANCE FLOOD WITH AVERAGE  
DEPTH LESS THAN ONE FOOT OR WITH DRAINAGE  
AREAS OF LESS THAN ONE SQUARE MILE
8. ZONED: MR
9. IMPERVIOUS AREA = 2,976 SF +/-

### CURVE TABLE

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING
C2	464.87'	49.76'	49.74'	S 00°54'55" W

#### LEGEND

IRON ROD & CAP SET	● IRCS
PK NAIL SET	△ PKS
FENCE LINE	
SANITARY MANHOLE	(S)
WATER MANHOLE	(M)
UTILITY POLE	⊕
FLOOD ZONE	---



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Drawn by: WPW

Job No. S21052

VARIANCE EXHIBIT DRAWING

LOT 42

MAPLE LANE

KEEN WIK - SUBDIVISION No. 5

BALTIMORE HUNDRED, SUSSEX COUNTY, DELAWARE

Scale: 1" = 20'

Date: 09/07/21

Sheet 1 of 1

*Joanne P. McGehrin*  
11608 Bonaventure Drive  
Upper Marlboro, MD 20774-8806  
(240) 997-1407

*Oppose*

October 15, 2021

Planning and Zoning Department  
County Administration Office  
Building 2 The Circle  
Georgetown, DE 19947

RECEIVED  
OCT 18 2021  
SUSSEX COUNTY  
PLANNING & ZONING

Re: Case Number 12623 – Request for Variance

To whom it may concern

We are OPPOSED to variance from front yard set back requirement requested by Evergreene Homes for proposed dwelling (Sections 115-34 and 115-182 of the Sussex County Zoning Code) for property located on the west side of Maple Lane Keenwick Subdivision, 911 Address N/A Zoning District: MR. Tax Parcel 533-19.16-37.01 (Lot 42)

Thank you,

*Joanne P. McGehrin*

Joanne P. McGehrin

*Thomas E. Page*

Thomas E. Page

*Michael S. Page*

Michael S. Page

Property owners of 38334 Maple Lane, Selbyville, DE 19975



**Board of Adjustment 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

Case # 12624  
Hearing Date 11/11  
20213960  
RECEIVED

SEP 22 2021

SUSSEX COUNTY  
PLANNING & ZONING

**Type of Application: (please check all applicable)**

Variance ☐  
Special Use Exception ☒  
Administrative Variance ☐  
Appeal ☐

Existing Condition ☐  
Proposed ☒  
Code Reference (office use only)

115-23 115-1942  
115-210

**Site Address of Variance/Special Use Exception:**

23182 Camp Arrowhead Road, Lewes, DE

**Variance/Special Use Exception/Appeal Requested:**

A Special Use Exception to permit the construction of a 148 foot tall commercial communications monopole (153' to top of lightning rod)

**Tax Map #:** 2-34-18.00-26.00

**Property Zoning:** AR-1

**Applicant Information**

Applicant Name: Cellco Partnership d/b/a Verizon Wireless  
Applicant Address: 512 Township Line Road, Building 2, Floor 3  
City Blue Bell State PA Zip: 19422  
Applicant Phone #: (267) 253-2762 Applicant e-mail: smanchel@watinc.net

**Owner Information**

Owner Name: Rehoboth Beach Conservancy, LLC  
Owner Address: 1207 Delaware Avenue  
City Wilmington State DE Zip: 19806 Purchase Date: 12/11/07  
Owner Phone #: (302) 593-6683 Owner e-mail: astrine@i-realty.com

**Agent/Attorney Information**

Agent/Attorney Name: John E. Tracey  
Agent/Attorney Address: 1000 N. King Street  
City Wilmington State DE Zip: 19801  
Agent/Attorney Phone #: (302) 571-6740 Agent/Attorney e-mail: jtracey@ycst.com

**Signature of Owner/Agent/Attorney**



Date: 9/20/21



**Criteria for a Variance:** (Please provide a written statement regarding each criteria).

*You shall demonstrate to the Board of Adjustment that the property meets all of the following criteria for a Variance to be granted.*

*In granting any variance the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of the Zoning Ordinance or Code. The Board is empowered in no case, however, to grant a variance in the use of land or structures thereon.*

1. Uniqueness of property:

That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property and that the exceptional practical difficulty is due to such conditions and not to circumstances or conditions generally created by the provisions of the Zoning Ordinance or Code in the neighborhood or district in which the property is located.

---

2. Cannot otherwise be developed:

That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the Zoning Ordinance or Code and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.

---

3. Not created by the applicant:

That such exceptional practical difficulty has not been created by the appellant.

---

4. Will not alter the essential character of the neighborhood:

That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located and nor substantially or permanently impair the appropriate use of development of adjacent property, nor be detrimental to the public welfare.

---

5. Minimum variance:

That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.



**Criteria for a Special Use Exception:** (Please provide a written statement regarding each criteria)

*You shall demonstrate to the Board of Adjustment that the property meets all of the following criteria for a Special Use Exception to be granted.*

1. Such exception will not substantially affect adversely the uses of adjacent and neighboring property.

See submitted materials

---

2. Any other requirements which apply to a specific type of special use exception as required by the Sussex County Code. (Ex. Time limitations – 5 year maximum)

---

**Basis for Appeal:** (Please provide a written statement regarding reason for appeal)

---

## Check List for Applications

The following shall be submitted with the application

- ☒ • **Completed Application**
- ☐ • **Provide a survey of the property (Variance)**
  - Survey shall show the location of building(s), building setbacks, stairs, deck, etc.
  - Survey shall show distances from property lines to buildings, stairs, deck, etc.
  - Survey shall be signed and sealed by a Licensed Surveyor.
- ☒ • **Provide a Site Plan or survey of the property (Special Use Exception)**
- ☒ • **Provide Fee \$400.00**
- ☒ • **Provide written response to criteria for Variance or Special Use Exception** (may be on a separate document if not enough room on the form)
- ☐ • **Copy of Receipt (staff)**
- ☒ • **Optional - Additional information for the Board to consider** (ex. photos, letters from neighbors, etc.)
- ☐ • **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 Hearing for the application.**

*\*Please be advised that the decision of the Board of Adjustment is only final when the written decision is filed with the Board's secretary. To determine whether the written decision has been filed, you may call the Planning & Zoning Department at 302-855-7878. The written decision is generally completed within thirty (30) to sixty (60) days following the Board's vote on the application or appeal. Please include the case number when calling about the decision.*

*\*Please be advised that any action taken in reliance of the Board's decision prior to the filing of the written decision and the expiration of any applicable appeal period is taken at the Property Owner's Risk.*

The undersigned acknowledges that that he or she has read the application completely and that if the appellant / applicant is unable to convince the Board that the standards for granting relief have been met, the appeal / application will be denied.

Signature of Owner/Agent/Attorney



Date: 9/20/21

For office use only:

Date Submitted: 9/21/21

Fee: \$400.00 Check #:

Staff accepting application:

Application & Case #: 2021B996

Location of property:

Subdivision:

Lot#:

Block#:

Date of Hearing: 11/1

Decision of Board:



BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: CELLCO PARTNERSHIP d/b/a VERIZON WIRELESS

(Case No. 12226)

A hearing was held after due notice on November 5, 2018. The Board members present were: Mr. Dale Callaway, Ms. Ellen Magee, Mr. Bruce Mears, Mr. John Mills, and Mr. Brent Workman.

Nature of the Proceedings

This is an application for a special use exception to place a telecommunications tower.

Findings of Fact

The Board found that the Applicant is seeking a special use exception to place a telecommunications tower on the property. This application pertains to certain real properties located on the west side of Camp Arrowhead Road, approximately 1.2 miles south of Angola Road (911 Address: 23182 Camp Arrowhead Road, Lewes) said properties being identified as Sussex County Tax Map Parcel Number 2-34-18.00-26.00.

1. The Board was given copies of the Application, a portion of the tax map of the area, an aerial photograph of the Property, a notice from the Federal Communications Commission, a deed to the Property, reports dated July 30, 2018, from Andrew Petersohn, and a site plan of the Property dated August 22, 2018.
2. The Board found that the Office of Planning and Zoning received one (1) letter in support and three (3) letters in opposition to the Application.
3. The Board found that Andrew Petersohn and Sean Saxe were sworn in to testify about the Application. John Tracey, Esquire, presented the case on behalf of the Applicant. Mr. Tracey also submitted real property valuation studies to the Board.
4. The Board found that Mr. Tracey stated that the Applicant proposes to erect a telecommunications tower. The tower will meet all setback and lighting requirements and no variances will be needed. The tower will also meet all FCC regulations.
5. The Board found that Mr. Tracey stated that the telecommunications tower will not interfere with any radio transmissions in the area.
6. The Board found that Mr. Tracey stated that the Applicant has looked at all properties within a two-mile radius and only found one other property about a mile and a half northwest where a tower could be collocated but that property was too far from the needed service area and was also too close to another telecommunications tower.
7. The Board found that Mr. Tracey stated that trees will screen the tower from neighboring properties and no trees will be removed from the property.
8. The Board found that Mr. Tracey stated that the community of West Bay is located nearby and is owned by owners of this site.
9. The Board found that Mr. Tracey stated that neighbors are looking forward to better communication service in the area.
10. The Board found that Mr. Tracey stated that the tower is designed to collapse on itself and that, even if the tower collapsed, it will not fall on neighboring lands other than lands owned by the State of Delaware.
11. The Board found that Mr. Tracey stated that the tower will not substantially affect adversely the uses of adjacent and neighboring properties.
12. The Board found that Mr. Petersohn and Mr. Saxe affirmed the statements made by Mr. Tracey as true and correct.
13. The Board found that Mr. Tracey stated that the tower will have no adverse impact on real estate values and the noise and traffic associated with the tower will be minimal.

14. The Board found that no parties appeared in support of or in opposition to the Application.
15. Based on the findings above and the testimony and evidence presented at the public hearing and the public record, which the Board weighed and considered, the Board determined that the application met the standards for granting a special use exception because the telecommunication tower will not substantially affect adversely the uses of neighboring and adjacent properties. The findings below further support the Board's decision to approve the Application.
  - a. The Property is a parcel consisting of approximately 12.17 acres. This site is a large site and can easily accommodate the tower.
  - b. The Applicant demonstrated that the proposed tower will not emit any noise or smell and that the radio frequency emissions will be well below the maximum emissions permitted under federal regulations.
  - c. The proposed tower will fill a gap in coverage in the Applicant's cell phone service and should enhance the service in the areas around the tower which would benefit neighboring and adjacent properties.
  - d. The Applicant submitted a market study which demonstrates that the tower will not substantially affect adversely the values of neighboring and adjacent properties. Opposition merely presented speculative and unsubstantiated concerns about the effect of the tower on property values.
  - e. The opposition complained about the aesthetic effect of the tower but the Board is convinced that the tower will be largely surrounded by trees and will be screened from view from most properties. The visual impact of the tower should, thus, be minimal and should not rise to the level of creating a substantial adverse impact on neighboring and adjacent properties.
  - f. The opposition raised speculative concerns about the impact of radio frequency waves but the Applicant submitted credible reports demonstrating that the tower will not interfere with radio frequency and that the tower will emit radio frequency at levels well below the maximum level set forth by the federal government. The Board was not convinced that the radio frequency emitted from the tower would substantially affect adversely the uses of neighboring and adjacent properties.
  - g. No evidence was presented which convinced the Board that the tower would have a substantial adverse effect on neighboring and adjacent properties.
16. The Applicant also demonstrated that it met the requirements under Sussex County Code Section § 115-194.2 for a telecommunications tower. The Applicant submitted appropriate documentation demonstrating compliance with § 115-194.2.
  - a. The Applicant submitted documentation showing that existing structures within a two (2) mile radius of the Property were unavailable for collocation.
  - b. The Applicant substantiated a need for the tower on the Property. Testimony presented by the Applicant demonstrated that the proposed tower will help fill a gap and coverage which has arisen.
  - c. The Applicant demonstrated that the proposed tower will be designed to accommodate at least two (2) additional PCS / cellular platforms.
  - d. The proposed tower will be set back from adjoining property lines by a minimum of one-third (1/3) the height of the tower.
  - e. Pad sites, ground equipment structures, and guy wires shall be surrounded by a minimum six (6) feet tall fence as shown on the documentation submitted by the Applicant.
  - f. The Applicant demonstrated that the tower shall have warning lights which will meet all applicable requirements of the Federal Communications Commission and the Federal Aviation Administration



The Board granted the special use exception application finding that it met the standards for granting a special use exception.

Decision of the Board

Upon motion duly made and seconded, the special use exception application was approved. The Board Members in favor were Mr. Dale Callaway, Ms. Ellen Magee, Mr. Bruce Mears, Mr. John Mills, and Mr. Brent Workman. No Board Member voted against the Motion to approve the special use exception application.

BOARD OF ADJUSTMENT  
OF SUSSEX COUNTY



John Mills  
Chairman

If the use is not established within two (2) years from the date below the application becomes void:

Date January 8, 2019.

**YOUNG  
CONAWAY**

**WILMINGTON**  
RODNEY SQUARE

**NEW YORK**  
ROCKEFELLER CENTER

**John E. Tracey**  
P 302.571.6740  
F 302.576.3382  
jtracey@ycst.com

September 20, 2021

**VIA HAND DELIVERY**

RECEIVED

SEP 22 2021

SUSSEX COUNTY  
PLANNING & ZONING

Mr. Jamie Whitehouse, AICP  
Sussex County Department of Planning  
2 The Circle  
P.O. Box 589  
Georgetown, DE 19947

Re: Cellco Partnership d/b/a Verizon Wireless; Tax Parcel No. 234-18.00-  
26.00 (DOV Horse Island)

Dear Mr. Whitehouse:

I write to resubmit the application for a special use exception for the above-referenced property. While this application was previously approved (see attached), construction was unable to commence prior to the expiration of the two-year approval period.

Enclosed please find the completed "Board of Adjustment Application" and \$400.00 application fee on behalf of Cellco Partnership d/b/a Verizon Wireless ("Cellco"). Cellco is seeking to locate a new 150-foot tall telecommunications tower, including a 5-foot tall lightning rod, west of Camp Aarowhead Road, south of the City of Lewes. In addition to establishing better coverage for Verizon Wireless in this area, the tower would be designed to accommodate at least two (2) additional carriers as required by the Sussex County Code.

In order to construct this tower in the desired location I understand that Cellco requires a special use exception from the County's Board of Adjustment. As the proposed tower includes the Code-mandated lighting and is designed to meet the required setbacks and not to exceed the mandated height for this zoning district, it is believed no variances are needed for the structure or the enclosure.

Along with the application, enclosed are five copies of the site plan and the RF reports for the tower. As you will note, the RF Reports include the before and after coverage maps for the area, as well as the availability (or lack thereof) of tall structures within two (2) miles of the proposed location.

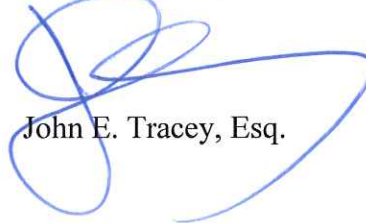
**Young Conaway Stargatt & Taylor, LLP**  
Rodney Square | 1000 North King Street | Wilmington, DE 19801  
P 302.571.6600 F 302.571.1253 YoungConaway.com



Young Conaway Stargatt & Taylor, LLP  
Mr. Jamie Whitehouse  
September 20, 2021  
Page 2

As always, should you need any further information or have any questions, please feel free to contact me at (302) 571-6740.

Sincerely yours,

A handwritten signature in blue ink, consisting of a large, stylized 'J' followed by a series of loops and a long horizontal stroke.

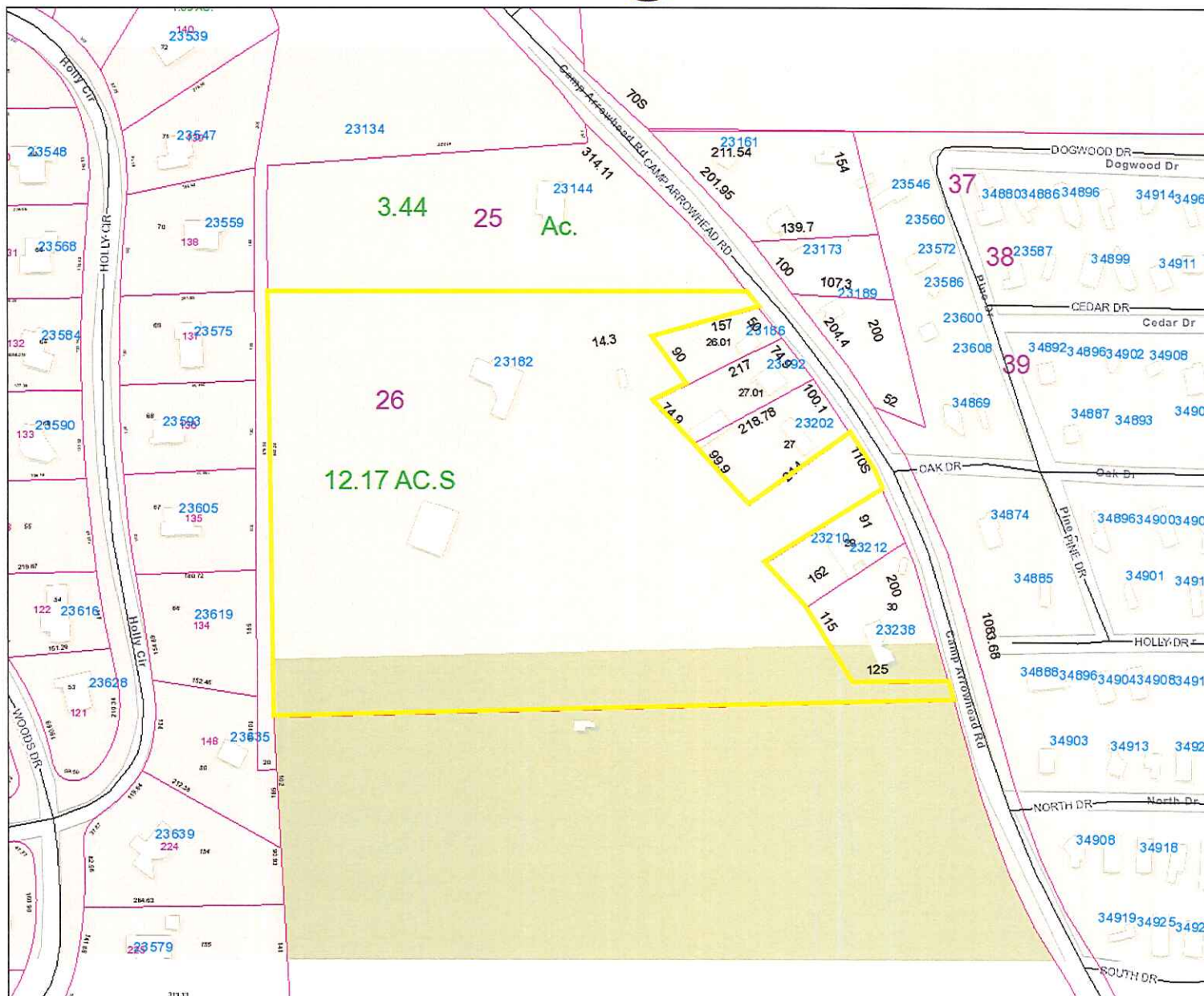
John E. Tracey, Esq.

Enclosures

cc: Ms. Sue Manchel (via e-mail and w/o enclosures)  
Andrew Petersohn, P.E. (via e-mail and w/o enclosures)

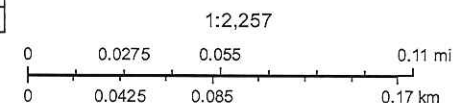


# Sussex County



PIN:	234-18.00-26.00	
Owner Name	REHOBOTH BAY	CONSERVANCY LLC
Book	2744	
Mailing Address	PO BOX 139	
City	ROCKLAND	
State	DE	
Description	W/RT 279	
Description 2	S/RT 277	
Description 3	N/A	
Land Code		

polygonLayer  
Override 1  
polygonLayer  
Override 1  
Tax Parcels  
911 Address  
Streets





PO Box 165  
Fairview Village, PA 19409  
Phone: 610.304.2024  
Fax: 610.584.5387  
[info@dBmEng.com](mailto:info@dBmEng.com)



September 13, 2021  
Sue Manchel  
Site Acquisition  
Verizon Wireless  
512 East Township Line Road  
Blue Bell, PA 19422

**Subject: Radio Frequency Design Analysis**  
**Proposed Wireless Facility:**  
**"HORSE ISLAND"**  
**Camp Arrowhead Road**  
**Lewes, DE 19958**  
**Latitude: N 38° 39' 47.2" (NAD 83)**  
**Longitude: W 75° 08' 39.7" (NAD 83)**  
**31.8' AMSL**

RECEIVED  
SEP 22 2021  
SUSSEX COUNTY  
PLANNING & ZONING

Ms. Manchel:

I have received and executed the request that I perform an independent evaluation and design review for the Verizon Wireless telecommunications facility proposed at the above referenced coordinates. The intention of this study is to provide an objective, professional opinion regarding the proposed facility from a Radio Frequency design perspective. Specifically, how the site complements the existing network and what coverage and capacity objectives it fulfills. As a registered Professional Engineer, I am bound by a code of ethics to hold paramount the safety, health, and welfare of the public. All statements and calculations offered herein are made in an objective and truthful manner pursuant to that code.

#### Summary of Findings

In my professional opinion, the proposed facility is extremely well suited to provide enhanced wireless service to portions of Eastern Sussex County that currently suffer from inadequate capacity and coverage; particularly, Angola Neck. The proposed facility is the only feasible alternative that will satisfy the design objective of this search ring. The design, location, and proposed antenna height are the least intrusive means of providing adequate service for Verizon Wireless subscribers in the targeted geography. The proposed antenna height is the absolute minimum acceptable in order to achieve a high percentage of the site's design goals.

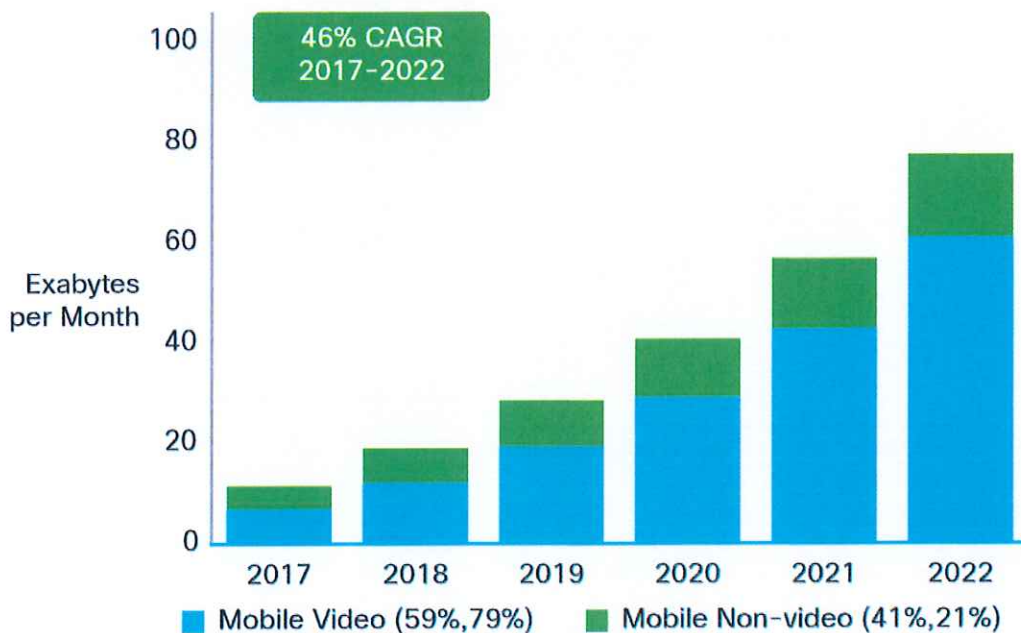
Sincerely,

Andrew M. Petersohn, P.E.  
Registered Professional Engineer  
Delaware license number 14438



## Network Capacity

The Verizon Wireless facilities currently serving the geography targeted for capacity offload have reached their data capacity upper-limit “ceiling”; **particularly during the summer months**. Spurred on by smart-phones, tablets, data cards, and the various applications and content available, an exponential growth in data use over the past few years has left providers, equipment manufacturers, and the FCC looking for solutions and radio spectrum to address the demand. As illustrated below, Cisco has recently predicted a 46% compound annual growth rate for global mobile data traffic between 2017 and 2022 resulting in an anticipated seven (7) fold increase in traffic during that time frame. Because Verizon Wireless can only broadcast and receive in the bands for which they are licensed, there is a finite amount of data throughput that can be supported even using the most modern equipment offered by base-station manufacturers. The traffic demand in the area has already begun to overrun the available resources particularly during peak times of day. Without proper action, the data growth trend will result in a significant degradation in customer experience including services that affect public safety.





### Existing Verizon Wireless Service

Currently, Verizon has four (4) existing sites in the area immediately surrounding the proposed facility. The existing sites would be the first-tier neighbors for the proposed facility. This facility will offload the traffic that is currently overburdening the existing facilities. In particular, the northerly facing sector of the “Long Neck” site which is trending toward perpetual exhaustion. Additionally, the proposed site will provide improved in-building coverage in the surrounding area.

Name	Structure Type	Structure Height (ft)	Street Address
MARSHTOWN	Monopole	160	21194 John Williams Highway
LONG NECK	Monopole	135	34818 Church Lane
HOODS ISLANDS	Monopole	150	24832 John J. Williams Hwy
ANGOLA	Guyed	415	25061 Cannon Road

The best-server coverage footprint areas from the above existing facilities are illustrated below in figure 1. As illustrated, the grey best server areas covering much of Angola Neck are being provided by distant “Long Neck” site. The proposed facility is designed to provide capacity offload for that sector and enhanced coverage to these areas.

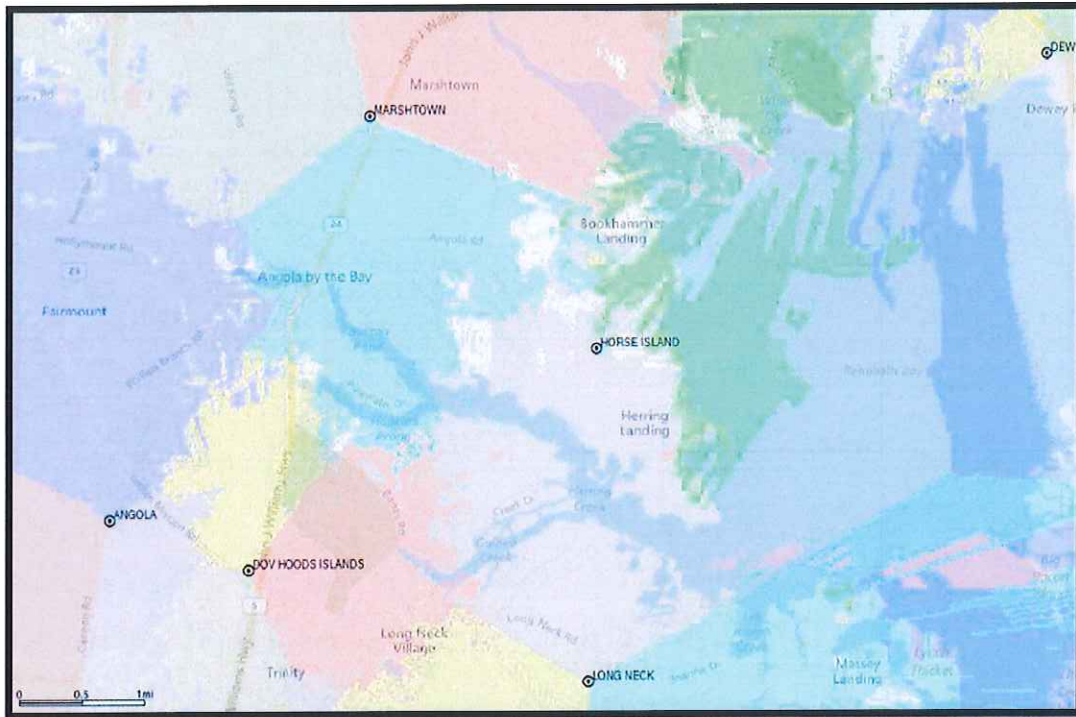


Figure 1 – Existing Coverage

PO Box 165  
Fairview Village, PA 19409  
Phone: 610.304.2024  
Fax: 610.584.5387  
[info@dBmEng.com](mailto:info@dBmEng.com)



### Proposed Verizon Wireless Capacity Upgrade

The existing sites detailed above are currently under-serving portions of Angola Neck from a capacity perspective. Experience dictates that to effectively provide adequate service in a capacity starved area, a telecommunications facility must be located as close to the subscriber density as possible. Following this tenet ensures the two most important design criteria for this environment are met: First, that there is a single dominant facility that serves as much of the area as possible and second that there is adequate signal strength to penetrate the building materials typically found in an area of high subscriber density. As illustrated by the proposed site's dominant service area (figure 2 below), the new facility will provide an effective capacity offload while providing in-building coverage to the general area. Verizon Wireless mobile devices in the newly shaded coverage areas will be served by the proposed facility when engaged in data-activity allowing the facility to reduce the data traffic load on the nearby sites. Any decrease in the height of the proposed facility will decrease the offload area and diminish the effectiveness of the proposed site.

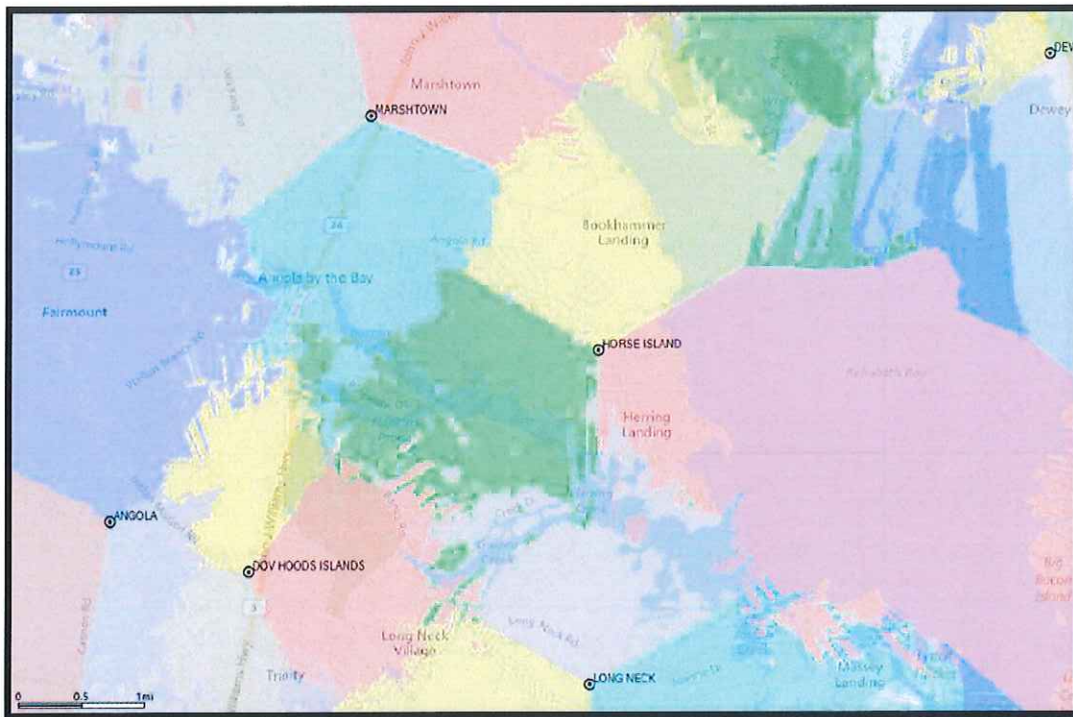


Figure 2 – Proposed Capacity Offload

PO Box 165  
Fairview Village, PA 19409  
Phone: 610.304.2024  
Fax: 610.584.5387  
[info@dBmEng.com](mailto:info@dBmEng.com)





### **Reliable Service**

The term “reliable” is used to describe areas where a Verizon Wireless subscriber has the ability to place, receive, and maintain a phone call. Additionally, the concept of reliable service extends beyond just voice communication; access to the data network with a high probability of success and adequate throughput is now a pre-requisite to reliable service. Without adequate capacity, there cannot be reliable service as users attempting to access the network through an overburdened facility will be rejected until such time that resources become available. When the network is not dimensioned properly, delays in network availability become as detrimental to the user experience as coverage gaps as both will result in a denial of service to the customer. Reliable service provided from a facility is affected by many factors including surrounding topography, clutter types, foliage, and subscriber loading during the site’s hour of heaviest use, its “busy hour”. Because the network must maintain reliability under all conditions, these factors are taken into consideration when designing a new facility. Currently, busy hour exhaustion of the site serving the area targeted for improvement represents a potential for voice and data service interruptions that may impact public safety. If left unaddressed, the busy hour exhaustion will become increasingly prevalent as subscriber demand continues to increase resulting in exhaustion for greater periods of the day. Eventually, the network resources in the area will be in a state of chronic exhaustion with subscribers consistently experiencing call blocks, data session rejections, and unacceptable data throughput rates. This includes 911 emergency calls and public safety related data requests such as an officer’s ability to process a license plate or driving record during a traffic stop.

### **Wireless Substitution**

According to the CDC<sup>1</sup> 61.3% of adults and 70.3% of children lived in wireless-only households during the second half of 2019. *The increase in the prevalence of adults living in wireless-only households—from 56.0% in 2018 to 60.2% in 2019—is a continuation of the increasing trend that has been seen over time.* Four in five adults aged 25–29 (81.7%) and aged 30–34 (81.1%), and three in four adults renting their homes (75.5%), were wireless-only adults. As wireless substitution continues to spread, availability of in-building wireless service, both data and voice, becomes increasingly important.

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<sup>1</sup> <https://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless202009-508.pdf>

### **Emergency Services Implications**

Wireless devices are widely used by municipal emergency services for voice and data services including those that impact public safety. Additionally enhanced 911 (E911) services, which allow a mobile caller to be located by the dispatch center, are dependent on an adequate service level to provide help in an emergency. It is estimated that approximately 70% of 911 calls originate from mobile devices<sup>2</sup>. In the service challenged areas, an unreliable level of wireless service could, in many cases, negatively affect the ability of an individual in need of emergency services who is dialing 911.

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<sup>2</sup> <https://transition.fcc.gov/cgb/consumerfacts/wireless911srv.pdf>

**PO Box 165**  
**Fairview Village, PA 19409**  
**Phone: 610.304.2024**  
**Fax: 610.584.5387**  
**[info@dBmEng.com](mailto:info@dBmEng.com)**





### **Technical Parameters of Consideration**

The above calculations were based on the equipment configuration information furnished by representatives of Verizon Wireless. Specifically, for this installation, Verizon Wireless plans to install up to twelve (12) panel style antennas arranged in three sectors with azimuths evenly spaced in the horizontal plane with respect to true north. The antenna centerline height is planned at 142' above ground level. Transmitting through these antennas will be four (4) LTE transmit paths in the 700 MHz band (per sector) at a cumulative maximum of 160 watts, up to four (4) LTE transmit paths in the 1900 MHz band (per sector) at a cumulative maximum of 160 watts, up to four (4) LTE and / or 5GNR transmit paths in the 850 MHz band (per sector) at a cumulative maximum of 160 watts, up to eight (8) LTE transmit paths in the 2100 MHz band (per sector) at a cumulative maximum of 160 watts, up to four (4) LTE transmit paths in the 3500 MHz CBRS band (per sector) at a cumulative maximum of 20 watts, and up to sixty-four (64) 5GNR transmit paths in the 3700 MHz band (per sector) at a cumulative maximum of 53 dBm radio power.

---

**PO Box 165**  
**Fairview Village, PA 19409**  
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**Fax: 610.584.5387**  
**[info@dBmEng.com](mailto:info@dBmEng.com)**



## DECLARATION OF ENGINEER

Andrew M. Petersohn, P.E., hereby states that he is a graduate telecommunications consulting engineer possessing Master and Bachelor Degrees in Electrical Engineering from Lehigh University (2005 and 1999, respectively). His corporation, dBm Engineering, P.C., has been retained by representatives of Verizon Wireless to perform a radio frequency design analysis for a proposed telecommunications facility.

Mr. Petersohn also asserts that the calculations and/or measurements described in this report were made personally and in a truthful and objective manner. Mr. Petersohn is a Registered Professional Engineer licensed in Pennsylvania, Delaware, Maryland, Virginia, New York, Florida and New Jersey. He has over two decades of engineering experience in the field of wireless communications. Mr. Petersohn is an active member of the National Society of Professional Engineers (NSPE) and the Pennsylvania Society of Professional Engineers (PSPE). Mr. Petersohn further states that all facts and statements contained in the foregoing document are true and accurate to the best of his knowledge. He believes, under penalty of perjury, the foregoing to be correct.



Andrew M. Petersohn, P.E.  
Registered Professional Engineer  
Delaware license number 14438



Executed this the 13<sup>th</sup> day of September, 2021.

PO Box 165  
Fairview Village, PA 19409  
Phone: 610.304.2024  
Fax: 610.584.5387  
[info@dBmEng.com](mailto:info@dBmEng.com)





PO Box 165  
Fairview Village, PA 19409  
Phone: 610.304.2024  
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[info@dBmEng.com](mailto:info@dBmEng.com)



September 13, 2021  
Sue Manchel  
Site Acquisition  
Verizon Wireless  
512 East Township Line Road  
Blue Bell, PA 19422

**Subject: Two-Mile Inventory  
"HORSE ISLAND"  
Camp Arrowhead Road  
Lewes, DE 19958  
Latitude: N 38° 39' 47.2" (NAD 83)  
Longitude: W 75° 08' 39.7" (NAD 83)  
31.8' AMSL**

RECEIVED  
SEP 22 2021  
SUSSEX COUNTY  
PLANNING & ZONING

Ms. Manchel:

I have received and executed your request that I compile an inventory of existing tall structures located within two miles of the proposed tower at the above referenced location. As a registered Professional Engineer, I am bound by a code of ethics to hold paramount the safety, health, and welfare of the public. All statements and calculations offered herein are made in an objective and truthful manner pursuant to that code.

#### Summary of Findings

The following map illustration accurately accounts for all known existing tall structures near the proposed tower at the above referenced location. As illustrated, there exists only one known tall structures within two (2) miles of the proposed tower; a water tank roughly 1.4 miles northwest of the proposed facility. Unfortunately, use of this facility will not satisfy Verizon's network improvement objectives for the area so it cannot be used as a satisfactory antenna support structure.

Sincerely,

A handwritten signature in blue ink, appearing to read "Andrew M. Petersohn", written over a circular blue professional engineer seal.

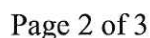
Andrew M. Petersohn, P.E.  
Registered Professional Engineer  
Delaware license number 14438



The map shows the coastal area of Rehoboth Beach, Delaware. Key features include:

- Proposed Monopole:** Marked with a black dot and labeled "Proposed Monopole X" near West Bay Park.
- 150 Guyed Tower:** Marked with a blue dot and labeled "150 Guyed Tower X" near the intersection of John J. Williams Highway and Highway 24.
- Water Bodies:** Rehoboth Bay to the east and various smaller ponds and creeks.
- Roads:** Major roads include John J. Williams Highway, Highway 24, and Highway 22. Other roads shown include Beaver Dam Rd, Conleys Chapel Rd, Dorman Rd, Angola Rd, Bookhammer Landing Rd, Camp Arrowhead Rd, West Bay Park Rd, Ben Robins Landing, John Marsh Landing, Green Ln, Pond Rd, Crab Alley W, Crab Alley E, Long Neck Rd, and Main St.
- Landmarks:** Bookhammer Landing, Ben Robins Landing, John Marsh Landing, Herring Landing, and various smaller islands and points.
- Scale:** A scale bar at the top right indicates distances in miles (0, 0.5, 1.0, 1.5, 2.0).

**PO Box 165**  
**Fairview Village, PA 19409**  
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**Fax: 610.584.5387**  
**[info@dBmEng.com](mailto:info@dBmEng.com)**





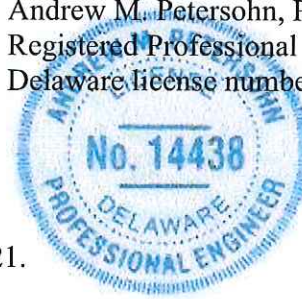
## DECLARATION OF ENGINEER

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Andrew M. Petersohn, P.E.  
Registered Professional Engineer  
Delaware license number 14438



Executed this the 13<sup>th</sup> day of September, 2021.

PO Box 165  
Fairview Village, PA 19409  
Phone: 610.304.2024  
Fax: 610.584.5387  
[info@dBmEng.com](mailto:info@dBmEng.com)



PO Box 165  
Fairview Village, PA 19409  
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[info@dBmEng.com](mailto:info@dBmEng.com)



September 13, 2021  
Sue Manchel  
Site Acquisition  
Verizon Wireless  
512 East Township Line Road  
Blue Bell, PA 19422

RECEIVED

**Subject: Electromagnetic Exposure Analysis**  
**"HORSE ISLAND"**  
**Camp Arrowhead Road**  
**Lewes, DE 19958**  
**Latitude: N 38° 39' 47.2" (NAD 83)**  
**Longitude: W 75° 08' 39.7" (NAD 83)**  
**31.8' AMSL**

SEP 22 2021

SUSSEX COUNTY  
PLANNING & ZONING

Ms. Manchel:

I have received and executed your request that I perform an independent evaluation and certification of the anticipated radio-frequency exposure levels for the Verizon Wireless telecommunications facility on the structure proposed at the above referenced coordinates. The intention of this study is to verify compliance with Federal Communications Commission (hereafter "FCC") guidelines for human exposure limits to radio-frequency electromagnetic fields as per FCC Code of Federal Regulation 47 CFR 1.1307 and 1.1310. As a registered Professional Engineer, I am bound by a code of ethics to hold paramount the safety, health, and welfare of the public. All statements and calculations offered herein are made in an objective and truthful manner pursuant to that code.

#### **Summary of Findings**

The maximum exposure to radio-frequency emissions from the proposed Verizon Wireless facility will be far below FCC exposure limits. **Using upper limit assumptions for the Verizon Wireless equipment configuration, the cumulative radio-frequency exposure levels would be less than 1.5% of the applicable FCC standard at all locations of public access.** The following charts specifically illustrate the anticipated exposure levels in areas surrounding the facility. All exposure levels have been calculated using the methods prescribed in FCC Office of Engineering and Technology (OET) Bulletin 65 "Evaluating Compliance with FCC Guidelines for Human Exposure to Radio-frequency Electromagnetic Fields". These upper-limit conditions include maximum traffic loading, significant antenna down-tilt, maximum pattern gain, and constructive interference from ground reflection. Additionally, signal attenuation due to environmental clutter such as buildings, trees, and roadways has been ignored which will overestimate actual power densities.



### **Applicability of the National Telecommunications Act of 1996**

This Act states that “no state or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio-frequency emissions to the extent that such facilities comply with the (Federal Communications) Commission’s regulations concerning such emissions”. As indicated above, this proposed facility will be in full compliance with the FCC’s emissions standards and as such is beyond regulation in that regard.

### **Technical Parameters of Consideration**

The calculation results presented are based on the equipment configuration information furnished by representatives of Verizon Wireless. Specifically, for this installation, Verizon Wireless plans to install up to twelve (12) panel style antennas arranged in three sectors with azimuths evenly spaced in the horizontal plane with respect to true north. The antenna centerline height is planned at 142’ above ground level. Transmitting through these antennas will be four (4) LTE transmit paths in the 700 MHz band (per sector) at a cumulative maximum of 160 watts, up to four (4) LTE transmit paths in the 1900 MHz band (per sector) at a cumulative maximum of 160 watts, up to four (4) LTE and / or 5G NR transmit paths in the 850 MHz band (per sector) at a cumulative maximum of 160 watts, up to eight (8) LTE transmit paths in the 2100 MHz band (per sector) at a cumulative maximum of 160 watts, up to four (4) LTE transmit paths in the 3500 MHz CBRS band (per sector) at a cumulative maximum of 20 watts, and up to sixty-four (64) 5G NR transmit paths in the 3700 MHz band (per sector) at a cumulative maximum of 53 dBm radio power.

### **Co-location of Other Wireless Providers**

In an attempt to halt the proliferation of telecommunications structures and preserve as much of their natural landscape as possible many municipalities have adopted telecommunications ordinances that specifically require new structures to accommodate additional wireless providers from a structural standpoint. **From the standpoint of radio-frequency exposure**, the installation of the proposed Verizon Wireless equipment would in no way preclude the use of this facility by other providers.

---

PO Box 165  
Fairview Village, PA 19409  
Phone: 610.304.2024  
Fax: 610.584.5387  
[info@dBmEng.com](mailto:info@dBmEng.com)



### **Background Information**

In 1985, the FCC first adopted guidelines to be used for evaluating human exposure to RF emissions. The FCC revised and updated these guidelines on August 1, 1996, as a result of a rule-making proceeding initiated in 1993. The new guidelines incorporate limits for Maximum Permissible Exposure (MPE) in terms of electric and magnetic field strength and power density for transmitters operating at frequencies between 300 kHz and 100 GHz.

The FCC's MPE limits are based on exposure limits recommended by the National Council on Radiation Protection and Measurements (NCRP) and, over a wide range of frequencies, the exposure limits were developed by the Institute of Electrical and Electronics Engineers, Inc., (IEEE) and adopted by the American National Standards Institute (ANSI) to replace the 1982 ANSI guidelines. Limits for localized absorption are based on recommendations of both ANSI/IEEE and NCRP.

The FCC's limits, and the NCRP and ANSI/IEEE limits on which they are based, are derived from exposure criteria quantified in terms of specific absorption rate (SAR). The basis for these limits is a whole-body averaged SAR threshold level of 4 watts per kilogram (4 W/kg), as averaged over the entire mass of the body, above which expert organizations have determined that potentially hazardous exposures may occur. The MPE limits are derived by incorporating safety factors that lead, in some cases, to limits that are more conservative than the limits originally adopted by the FCC in 1985. Where more conservative limits exist, they do not arise from a fundamental change in the RF safety criteria for whole-body averaged SAR, but from a precautionary desire to protect subgroups of the general population who, potentially, may be more at risk.

The FCC exposure limits are also based on data showing that the human body absorbs RF energy at some frequencies more efficiently than at others. The most restrictive limits occur in the frequency range of 30-300 MHz where whole-body absorption of RF energy by human beings is most efficient. At other frequencies, whole-body absorption is less efficient, and consequently, the MPE limits are less restrictive.

MPE limits are defined in terms of power density (units of milliwatts per centimeter squared:  $\text{mW}/\text{cm}^2$ ), electric field strength (units of volts per meter:  $\text{V}/\text{m}$ ) and magnetic field strength (units of amperes per meter:  $\text{A}/\text{m}$ ). The far-field of a transmitting antenna is where the electric field vector (E), the magnetic field vector (H), and the direction of propagation can be considered to be all mutually orthogonal ("plane-wave" conditions).

Occupational / controlled exposure limits apply to situations in which persons are exposed as a consequence of their employment and in which those persons who are exposed have been made fully aware of the potential for exposure and can exercise control over their exposure. Occupational/controlled exposure limits also apply where exposure is of a transient nature as a result of incidental passage through a location where exposure levels

---

**PO Box 165**  
**Fairview Village, PA 19409**  
**Phone: 610.304.2024**  
**Fax: 610.584.5387**  
**info@dBmEng.com**





may be above general population/uncontrolled limits, as long as the exposed person has been made fully aware of the potential for exposure and can exercise control over his or her exposure by leaving the area or by some other appropriate means.

General population / uncontrolled exposure limits apply to situations in which the general public may be exposed or in which persons who are exposed as a consequence of their employment may not be made fully aware of the potential for exposure or cannot exercise control over their exposure. Therefore, members of the general public would always be considered under this category when exposure is not employment-related, for example, in the case of a telecommunications tower that exposes persons in a nearby residential area. **In the case of this study, the general population exposure limits have been applied as they are the more conservative set of standards.**

---

PO Box 165  
Fairview Village, PA 19409  
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[info@dBmEng.com](mailto:info@dBmEng.com)



**Additional Remarks**

The radio-frequency emission levels from Verizon Wireless and other communications base stations are similar to that of other two-way communications systems like those used by police, fire and ambulance personnel. In contrast, commercial broadcast systems like television and radio often transmit at power levels ten times greater or more than the systems discussed above. The FCC exposure limits already include a significant margin of safety. Continuous exposure at 100% of FCC limit is considered by the scientific community to be just as safe as continuous exposure at 1% of FCC limit.

The biological effects on humans of non-ionizing radio-frequency exposure have been studied extensively now for decades. There have been thousands of reports produced by government agencies, universities, and private research groups that support the standards adopted by the FCC. **To date, there have been no credible studies conducted whose results showed evidence of any adverse health effects at the applicable FCC exposure limits.**

Sincerely,



Andrew M. Petersohn, P.E.  
Registered Professional Engineer  
Delaware license number 14438



---

PO Box 165  
Fairview Village, PA 19409  
Phone: 610.304.2024  
Fax: 610.584.5387  
[info@dBmEng.com](mailto:info@dBmEng.com)





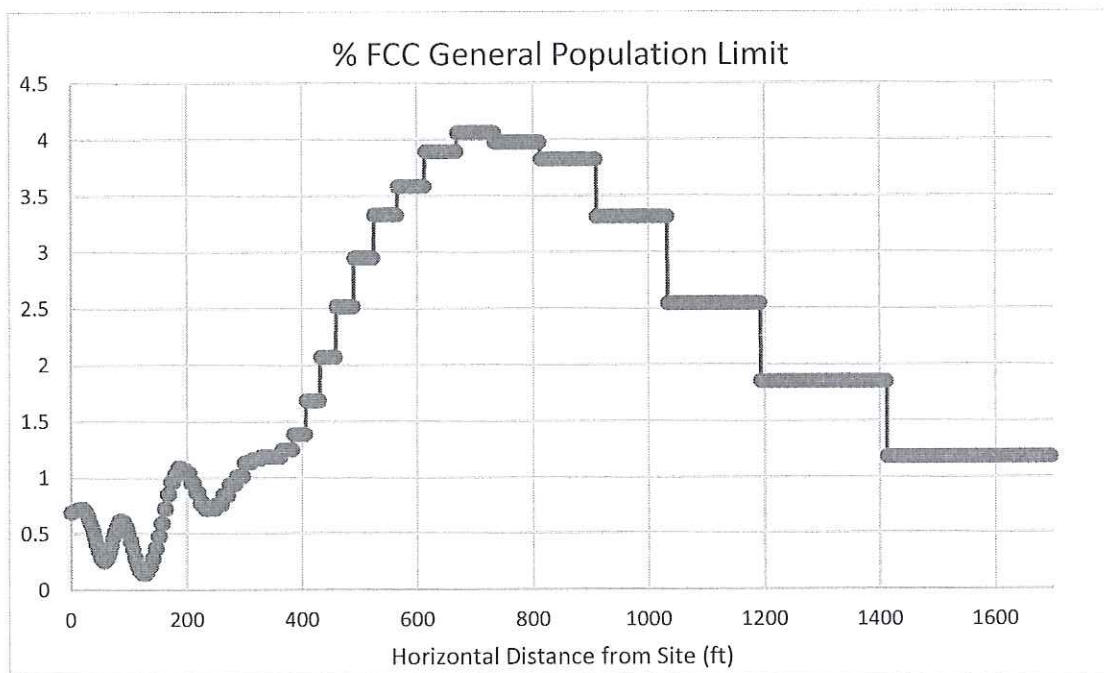


Figure-1 – calculated cumulative exposure level surrounding the proposed telecommunications facility expressed in percentage of the applicable FCC standard

PO Box 165  
 Fairview Village, PA 19409  
 Phone: 610.304.2024  
 Fax: 610.584.5387  
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Horizontal Distance from Facility (Ft.)	Relative Height Above Ground (Ft.)	Maximum Power Density $\mu\text{W}/\text{cm}^2$ (micro-watts per square centimeter)							% of FCC Limit							Cumulative % of FCC limit across all bands
		700 MHz	850 MHz	1900 MHz	2100 MHz	3500 MHz	3700 MHz	28 GHz	700 MHz	850 MHz	1900 MHz	2100 MHz	3500 MHz	3700 MHz	28 GHz	
0	6	0.19	0	0.04	0	0.13	6.48	NA	0.04	0	0.004	0	0.013	0.648	NA	0.705
300	6	0.93	0.91	0.09	0.09	0.15	7.54	NA	0.2	0.16	0.009	0.009	0.015	0.754	NA	1.147
600	6	4.02	4.76	0.34	0.12	0.37	18.36	NA	0.86	0.84	0.034	0.012	0.037	1.836	NA	3.619
1320 (1/4 mi.)	6	0.37	0.51	1.23	1.32	0.29	14.33	NA	0.08	0.09	0.123	0.132	0.029	1.433	NA	1.887
<b>FCC Exposure Limits for General Population (<math>\mu\text{W}/\text{cm}^2</math>)</b>		<b>467</b>	<b>567</b>	<b>1000</b>	<b>1000</b>	<b>1000</b>	<b>1000</b>	<b>1000</b>								

Figure-2 – sample calculated exposure levels near the proposed telecommunications facility



## DECLARATION OF ENGINEER

Andrew M. Petersohn, P.E., hereby states that he is a graduate telecommunications consulting engineer possessing Master and Bachelor Degrees in Electrical Engineering from Lehigh University (2005 and 1999, respectively). His corporation, dBm Engineering, P.C., has been retained by representatives of Verizon Wireless to perform an electromagnetic emissions analysis for a proposed telecommunications facility.

Mr. Petersohn also asserts that the calculations and/or measurements described in this report were made personally and in a truthful and objective manner. Mr. Petersohn is a Registered Professional Engineer licensed in Pennsylvania, Delaware, Maryland, Virginia, New York, Florida and New Jersey. He has over two decades of engineering experience in the field of wireless communications. Mr. Petersohn is an active member of the National Society of Professional Engineers (NSPE) and the Pennsylvania Society of Professional Engineers (PSPE). Mr. Petersohn further states that all facts and statements contained in the foregoing document are true and accurate to the best of his knowledge. He believes, under penalty of perjury, the foregoing to be correct.



Andrew M. Petersohn, P.E.  
Registered Professional Engineer  
Delaware license number 14438



Executed this the 13<sup>th</sup> day of September, 2021.

PO Box 165  
Fairview Village, PA 19409  
Phone: 610.304.2024  
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September 13, 2021  
Sue Manchel  
Site Acquisition  
Verizon Wireless  
512 East Township Line Road  
Blue Bell, PA 19422

RECEIVED

SEP 22 2021

SUSSEX COUNTY  
PLANNING & ZONING

**Subject: Interference Analysis**  
**Proposed Telecommunications Facility:**  
**"HORSE ISLAND"**  
**Camp Arrowhead Road**  
**Lewes, DE 19958**  
**Latitude: N 38° 39' 47.2" (NAD 83)**  
**Longitude: W 75° 08' 39.7" (NAD 83)**  
**31.8' AMSL**

Ms. Manchel:

I have received and executed the request that I perform an independent evaluation of the potential for harmful interference generated by the proposed Verizon Wireless telecommunications facility at the location referenced above. The intention of this study is to determine if the manifestation of harmful interference is a viable concern through the close examination of the radio frequency (hereafter RF) parameters of the installation. As a registered professional engineer, I am bound by a code of ethics to hold paramount the safety, health, and welfare of the public. All statements and calculations offered herein are made in an objective and truthful manner pursuant to that code.

#### Summary of Findings

After close examination of the details of this proposal, it is my professional opinion that **no potential exists for the manifestation of harmful interference** as a result of the proposed Verizon Wireless telecommunications facility. My findings indicate that Verizon Wireless will be operating in full compliance with all applicable standards as outlined in their Federal Communications Commission licensure.

Sincerely,

Andrew M. Petersohn, P.E.  
Registered Professional Engineer  
Delaware license number 14438





## Licensure Discussion

Verizon Wireless is bound by its Federal Communications Commission (hereafter FCC) licensure to transmit only the specific frequencies and power levels for which they are licensed. In Sussex County, Delaware these licenses include the 'B' Cellular Band, the 'E' and 'F' PCS band, the 'A', 'B', and 'J' AWS bands, the upper 'C' 700 MHz band, portions of the "UU" (28 GHz) bands, and portions of the 3.7 GHz 'C' band licenses. Other communication facilities and services such as emergency responders, television broadcasting, AM/FM broadcasting, mobile to mobile radios, and home electronics operate at different frequencies, once again, allocated by the FCC. For this reason, the manifestation of **direct**, harmful interference is precluded by virtue of Verizon Wireless being the only entity licensed to utilize these specifically defined portions of the RF spectrum. As such, there will be no direct, significant radio frequency emissions that fall into any band other than that for which Verizon Wireless is licensed. However, when non-linear elements (such as amplifiers) are introduced in the RF path the possibility exists for **indirect** interference caused by harmonic and inter-modulated frequency emissions that may fall outside the licensed spectrum. Due to the fact that the harmonic and inter-modulated output of Cellular and PCS transmitters is extremely low (as required by FCC type approval), this only becomes a concern when there are multiple telecommunication installations in close proximity to one another. This problem is easily avoided by insuring adequate vertical separation (roughly 10') when service providers co-locate on a structure. In this specific installation, the point is moot as Verizon is the only service provider currently proposing use of the rooftop. **In the unlikely event that future radio frequency interference is reported, it is Verizon Wireless policy to identify and mitigate any interference issues as quickly as possible.**

## Facility Discussion

According to the information supplied by representatives of Verizon Wireless the proposed design for this facility includes a total of up to twelve (12) panel style antennas arranged in three sectors with azimuths evenly spaced in the horizontal plane with respect to true north. The antenna centerline height is planned at 142' above ground level. Transmitting through these antennas will be four (4) LTE transmit paths in the 700 MHz band (per sector) at a cumulative maximum of 160 watts, up to four (4) LTE transmit paths in the 1900 MHz band (per sector) at a cumulative maximum of 160 watts, up to four (4) LTE and / or 5GNR transmit paths in the 850 MHz band (per sector) at a cumulative maximum of 160 watts, up to eight (8) LTE transmit paths in the 2100 MHz band (per sector) at a cumulative maximum of 160 watts, up to four (4) LTE transmit paths in the 3500 MHz CBRS band (per sector) at a cumulative maximum of 20 watts, and up to sixty-four (64) 5GNR transmit paths in the 3700 MHz band (per sector) at a cumulative maximum of 53 dBm radio power.

---

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### **Additional Remarks**

The radio frequency emission levels from Verizon Wireless and other PCS and Cellular communications base stations are similar to that of other two-way communications systems such as those used by police, fire and ambulance personnel. In contrast, commercial broadcast systems such as television and radio often transmit at power levels ten times greater or more than the systems discussed above. Due to the relatively low power output, the potential for harmful interference is greatly reduced as the harmonic and inter-modulated emissions are typically in the noise floor of most receivers when only a few hundred feet away.

---

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## DECLARATION OF ENGINEER

Andrew M. Petersohn, P.E., hereby states that he is a graduate telecommunications consulting engineer possessing Master and Bachelor Degrees in Electrical Engineering from Lehigh University (2005 and 1999, respectively). His corporation, dBm Engineering, P.C., has been retained by representatives of Verizon Wireless to perform an interference analysis for a proposed telecommunications facility.

Mr. Petersohn asserts that the calculations and/or measurements described in this report were made personally and in a truthful and objective manner. Mr. Petersohn is a Registered Professional Engineer licensed in Pennsylvania, Delaware, Maryland, Virginia, New York, Florida and New Jersey. He has over two decades of engineering experience in the field of wireless communications. Mr. Petersohn is an active member of the National Society of Professional Engineers (NSPE) and the Pennsylvania Society of Professional Engineers (PSPE). Mr. Petersohn further states that all facts and statements contained in the foregoing document are true and accurate to the best of his knowledge. He believes, under penalty of perjury, the foregoing to be correct.



Andrew M. Petersohn, P.E.  
Registered Professional Engineer  
Delaware license number 14438



Executed this the 13<sup>th</sup> day of September, 2021

PO Box 165  
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September 13, 2021  
Sue Manchel  
Site Acquisition  
Verizon Wireless  
512 Township Line Road  
Blue Bell, PA 19422

**Subject: FAA Notice Criteria Tool Screening  
Proposed Verizon Wireless Facility:  
"HORSE ISLAND"  
Camp Arrowhead Road  
Lewes, DE 19958  
Latitude: N 38° 39' 47.2" (NAD 83)  
Longitude: W 75° 08' 39.7" (NAD 83)  
31.8' AMSL**

RECEIVED  
SEP 22 2021  
SUSSEX COUNTY  
PLANNING & ZONING

Ms. Manchel:

I have received and executed the request that I perform an independent screening analysis of the proposed telecommunications facility at the above referenced coordinates. The intention of this study is to verify compliance with Federal Aviation Administration's (hereafter "FAA") guidelines for notice requirement as per Federal Aviation Regulation. As a registered Professional Engineer, I am bound by a code of ethics to hold paramount the safety, health, and welfare of the public. All statements and calculations offered herein are made in an objective and truthful manner pursuant to that code.

#### Summary of Findings

Based on the coordinates, ground elevation, and total structure height supplied by representatives of Verizon Wireless, this proposed facility will not exceed any standard of subpart C of 14 CFR Part 77 so **lighting and / or marking of the facility will not be required**. Filing with the FAA of form 7460-1 "Notice of Proposed Construction" **is not required**. The FAA Criteria Notice Tool results are attached.

Sincerely,

Andrew M. Petersohn, P.E.  
Registered Professional Engineer  
Delaware license number 14438





The requirements for filing with the Federal Aviation Administration for proposed structures vary based on a number of factors: height, proximity to an airport, location, and frequencies emitted from the structure, etc. For more details, please reference CFR Title 14 Part 77.9.

You must file with the FAA at least 45 days prior to construction if:

- your structure will exceed 200ft above ground level
- your structure will be in proximity to an airport and will exceed the slope ratio
- your structure involves construction of a traverseway (i.e. highway, railroad, waterway etc...) and once adjusted upward with the appropriate vertical distance would exceed a standard of 77.9(a) or (b)
- your structure will emit frequencies, and does not meet the conditions of the FAA Co-location Policy
- your structure will be in an instrument approach area and might exceed part 77 Subpart C
- your proposed structure will be in proximity to a navigation facility and may impact the assurance of navigation signal reception
- your structure will be on an airport or heliport
- filing has been requested by the FAA

If you require additional information regarding the filing requirements for your structure, please identify and contact the appropriate FAA representative using the Air Traffic Areas of Responsibility map for Off Airport construction, or contact the FAA Airports Region / District Office for On Airport construction.

The tool below will assist in applying Part 77 Notice Criteria.

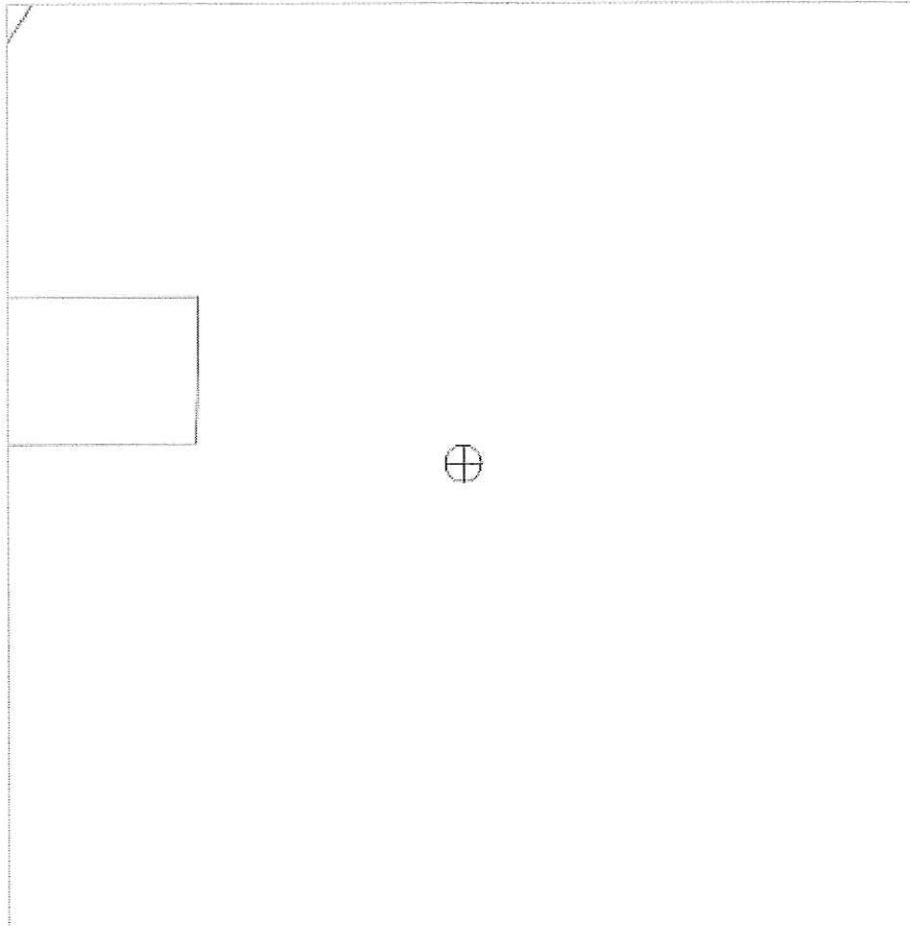
Latitude:	38	Deg	39	M	47.2	S	N	▼
Longitude:	75	Deg	8	M	39.7	S	W	▼
Horizontal Datum:	NAD83 ▼							
Site Elevation (SE):	32	(nearest foot)						
Structure Height :	150	(nearest foot)						
Traverseway:	No Traverseway ▼ (Additional height is added to certain structures under 77.9(c)) User can increase the default height adjustment for Traverseway, Private Roadway and Waterway							
Is structure on airport:	<input checked="" type="radio"/> No <input type="radio"/> Yes							
<b>Submit</b>								

PO Box 165  
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### Results

You do not exceed Notice Criteria.



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Phone: 610.304.2024  
Fax: 610.584.5387  
[info@dBmEng.com](mailto:info@dBmEng.com)



## DECLARATION OF ENGINEER

Andrew M. Petersohn, P.E., hereby states that he is a graduate telecommunications consulting engineer possessing Master and Bachelor Degrees in Electrical Engineering from Lehigh University (2005 and 1999, respectively). His corporation, dBm Engineering, P.C., has been retained by representatives of Verizon Wireless to perform a Federal Aviation Administration screening analysis for a proposed telecommunications facility.

Mr. Petersohn also asserts that the calculations and/or measurements described in this report were made personally and in a truthful and objective manner. Mr. Petersohn is a Registered Professional Engineer licensed in Pennsylvania, Delaware, Maryland, Virginia, New York, Florida and New Jersey. He has over two decades of engineering experience in the field of wireless communications. Mr. Petersohn is an active member of the National Society of Professional Engineers (NSPE) and the Pennsylvania Society of Professional Engineers (PSPE). Mr. Petersohn further states that all facts and statements contained in the foregoing document are true and accurate to the best of his knowledge. He believes, under penalty of perjury, the foregoing to be correct.



Andrew M. Petersohn, P.E.  
Registered Professional Engineer  
Delaware license number 14438



Executed this the 13<sup>th</sup> day of September, 2021

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Fairview Village, PA 19409  
Phone: 610.304.2024  
Fax: 610.584.5387  
[info@dBmEng.com](mailto:info@dBmEng.com)





## PROJECT NOTES

- SITE INFORMATION OBTAINED FROM THE FOLLOWING:
  - LIMITED FIELD OBSERVATIONS BY MASER CONSULTING ON 04/03/18.
  - A TOPOGRAPHIC SURVEY ENTITLED "CELL SITE SURVEY DOV HORSE ISLAND" PREPARED BY MASER CONSULTING OF MT. LAUREL, NJ LAST REVISED 06/05/18.
- THE CONTRACTOR SHALL COMPLY WITH ALL APPLICABLE CODES, ORDINANCES, LAWS AND REGULATIONS OF ALL MUNICIPALITIES, UTILITY COMPANIES OR OTHER PUBLIC/GOVERNING AUTHORITIES.
- THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL PERMITS AND INSPECTIONS THAT MAY BE REQUIRED BY ANY FEDERAL, STATE, COUNTY OR MUNICIPAL AUTHORITIES.
- THE CONTRACTOR SHALL NOTIFY THE CONSTRUCTION MANAGER, IN WRITING, OF ANY CONFLICTS, ERRORS OR OMISSIONS PRIOR TO THE SUBMISSION OF BIDS OR PERFORMANCE OF WORK.
- THE CONTRACTOR SHALL BE RESPONSIBLE FOR PROTECTING ALL EXISTING SITE IMPROVEMENTS PRIOR TO COMMENCING CONSTRUCTION. THE CONTRACTOR SHALL REPAIR ANY DAMAGE AS A RESULT OF CONSTRUCTION OF THIS FACILITY AT THE CONTRACTOR'S EXPENSE TO THE SATISFACTION OF THE OWNER.
- THE SCOPE OF WORK FOR THIS PROJECT SHALL INCLUDE PROVIDING ALL MATERIALS, EQUIPMENT AND LABOR REQUIRED TO COMPLETE THIS PROJECT. ALL EQUIPMENT SHALL BE INSTALLED IN ACCORDANCE WITH MANUFACTURER'S RECOMMENDATIONS.
- THE CONTRACTOR SHALL VISIT THE PROJECT SITE PRIOR TO SUBMITTING THE BID TO VERIFY THAT THE PROJECT CAN BE CONSTRUCTED IN ACCORDANCE WITH THE CONTRACT DOCUMENTS AND CONSTRUCTION DRAWINGS.
- THE CONTRACTOR SHALL VERIFY ALL EXISTING DIMENSIONS AND CONDITIONS PRIOR TO COMMENCING ANY WORK. ALL DIMENSIONS OF EXISTING CONSTRUCTION SHOWN ON THESE DRAWINGS MUST BE VERIFIED. THE CONTRACTOR SHALL NOTIFY THE CONSTRUCTION MANAGER OF ANY DISCREPANCIES PRIOR TO ORDERING MATERIAL OR PROCEEDING WITH CONSTRUCTION.
- SINCE THE CELL SITE MAY BE ACTIVE, ALL SAFETY PRECAUTIONS MUST BE TAKEN WHEN WORKING AROUND HIGH LEVELS OF ELECTROMAGNETIC RADIATION. EQUIPMENT SHOULD BE SHUTDOWN PRIOR TO PERFORMING ANY WORK THAT COULD EXPOSE THE WORKERS TO DANGER. PERSONAL RF EXPOSURE MONITORS ARE REQUIRED TO BE WORN TO ALERT OF ANY POTENTIALLY DANGEROUS EXPOSURE LEVELS.
- THE PROPOSED FACILITY WILL CAUSE AN INSIGNIFICANT OR "DE-MINIMUS" INCREASE IN STORM WATER RUNOFF, THEREFORE, NO DRAINAGE STRUCTURES ARE PROPOSED.
- NO NOISE, SMOKE, DUST OR ODOR WILL RESULT FROM THIS FACILITY AS TO CAUSE A NUISANCE.
- THE FACILITY IS UNMANNED AND NOT FOR HUMAN HABITATION (NO HANDICAP ACCESS IS REQUIRED).
- THE FACILITY DOES NOT REQUIRE POTABLE WATER OR SANITARY SERVICE.
- CONTRACTOR SHALL VERIFY ANTENNA ELEVATION AND AZIMUTHS WITH RF ENGINEERING PRIOR TO INSTALLATION.
- THE TOWER, MOUNTS AND ANTENNAS SHALL BE DESIGNED TO MEET EIA/TIA-222-G AS PER IBC REQUIREMENTS.
- ALL STRUCTURAL ELEMENTS SHALL BE HOT DIPPED GALVANIZED STEEL.
- CONTRACTOR MUST FIELD LOCATE ALL EXISTING UNDERGROUND UTILITIES PRIOR TO ANY EXCAVATION.
- CONSTRUCTION SHALL NOT COMMENCE UNTIL COMPLETION OF A PASSING STRUCTURAL ANALYSIS CERTIFIED BY A LICENSED PROFESSIONAL ENGINEER. THE STRUCTURAL ANALYSIS IS TO BE PERFORMED BY OTHERS.

## COPYRIGHT © 2021 MASER CONSULTING ALL RIGHTS RESERVED

THIS DRAWING AND ALL THE INFORMATION CONTAINED HEREIN IS AUTHORIZED FOR USE ONLY BY THE PARTY FOR WHOM THE WORK WAS CONTRACTED OR TO WHOM IT IS CERTIFIED. THIS DRAWING MAY NOT BE COPIED, REUSED, DISCLOSED, DISTRIBUTED OR RELIED UPON FOR ANY OTHER PURPOSE WITHOUT THE EXPRESS WRITTEN CONSENT OF MASER CONSULTING.

### Owner's Certification

I, the undersigned, certify that all land clearing, construction and development shall be done pursuant to the approved standard plan and that responsible personnel (i.e., Blue Card Holder) involved in the land disturbance will have a Certification of Training prior to initiation of the project, at a DNREC sponsored or approved training course for the control of erosion and sediment during construction. In addition, I grant the DNREC Sediment and Stormwater Program and/or the relevant Delegated Agency the right to conduct on-site reviews."

By: \_\_\_\_\_ Date: \_\_\_\_\_

Title: \_\_\_\_\_

### Owner's Certification

I hereby certify that I am the owner of the property described and shown on this plan and we consent to the plan's preparation. I acknowledge that the same to be my act and desire that the plan be recorded according to law.

By: \_\_\_\_\_ Date: \_\_\_\_\_

Title: \_\_\_\_\_

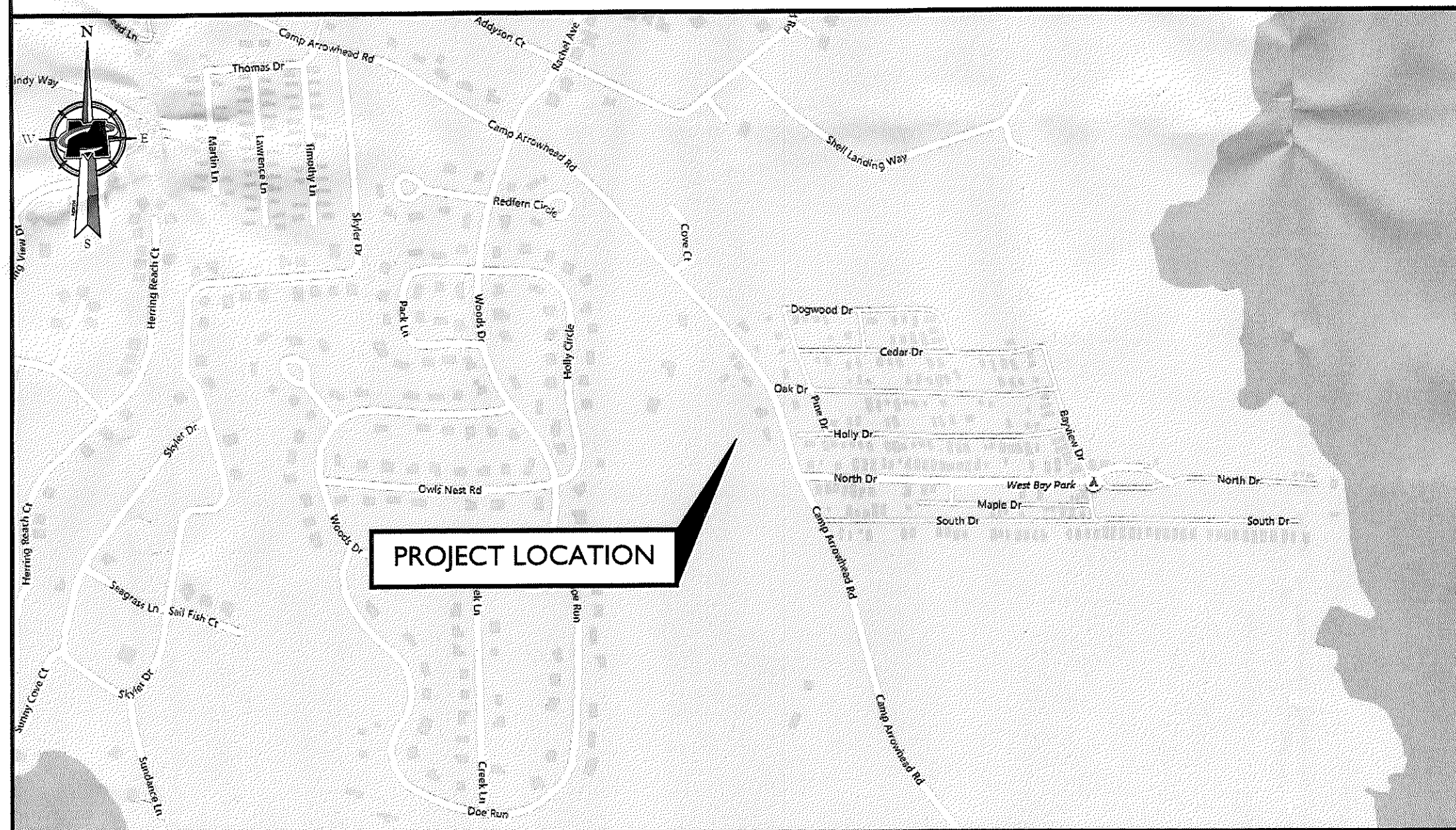
### Engineer's Certification

I, Michael P. Cleary, hereby certify that I am a registered Professional Engineer in the State of Delaware, that the information shown hereon has been prepared under my supervision and to my best knowledge and belief represents good engineering practices as required by the applicable laws of the State of Delaware.

Date \_\_\_\_\_ Signature \_\_\_\_\_

Title \_\_\_\_\_

## VICINITY MAP



## CODE COMPLIANCE

ALL WORK AND MATERIALS SHALL BE PERFORMED AND INSTALLED IN ACCORDANCE WITH THE CURRENT EDITIONS OF THE FOLLOWING CODES AS ADOPTED BY THE LOCAL GOVERNING AUTHORITIES. NOTHING IN THESE PLANS IS TO BE CONSTRUED TO PERMIT WORK NOT CONFORMING TO THE LATEST EDITIONS OF THE FOLLOWING CODES.

- 2012 INTERNATIONAL BUILDING CODE
- NFPA 70, NATIONAL ELECTRICAL CODE, 2014
- DELAWARE STATE FIRE PREVENTION REGULATIONS 2015
- AMERICAN INSTITUTE OF STEEL CONSTRUCTION 360-10
- AMERICAN CONCRETE INSTITUTE
- TIA-222-H
- TIA 607 FOR GROUNDING
- INSTITUTE FOR ELECTRICAL AND ELECTRONICS ENGINEERS 81 IEEE C2 LATEST EDITION
- TELCORDIA GR-1275
- ANSI T1.311
- PROPOSED USE: UNMANNED TELECOM FACILITY
- HANDICAP REQUIREMENTS: FACILITY IS UNMANNED AND NOT FOR HUMAN HABITATION. HANDICAPPED ACCESS NOT REQUIRED.
- CONSTRUCTION TYPE: IIB
- USE GROUP: U

# verizon

## SITE NAME: DOV HORSE ISLAND

## CAMP ARROWHEAD ROAD

## LEWES, DE 19958

## SUSSEX COUNTY

## PROJECT INFORMATION

### SITE INFORMATION

LATITUDE: N 39° 39' 47.2" (NAD 83)  
LONGITUDE: W 75° 08' 39.7" (NAD 83)  
GROUND ELEVATION: 31.8± AMSL (NAVD 88)  
COUNTY: SUSSEX COUNTY  
ZONING DISTRICT: AR-1 - AGRICULTURAL RESIDENTIAL  
APN: 234-18.00-26.00  
LOT SIZE: 10.659 ACRES

### APPLICANT

COMPANY: CELLCO PARTNERSHIP d/b/a  
VERIZON WIRELESS  
ADDRESS: 512 TOWNSHIP LINE ROAD,  
BUILDING 2, FLOOR 3  
CITY, STATE, ZIP: BLUE BELL, PA 19422

### PROPERTY OWNER

COMPANY: REHOBOTH BEACH CONSERVANCY, LLC  
ADDRESS: 1207 DELAWARE AVENUE  
CITY, STATE, ZIP: WILMINGTON, DE 19806

### SITE ACQUISITION

COMPANY: WIRELESS ACCESS TECHNOLOGIES, INC  
CONTACT: SUE MANCHEL  
PHONE: (267) 253-2762

### CONSTRUCTION MANAGER

COMPANY: CELLCO PARTNERSHIP d/b/a  
VERIZON WIRELESS  
ADDRESS: 512 TOWNSHIP LINE ROAD,  
BUILDING 2, FLOOR 3  
CITY, STATE, ZIP: BLUE BELL, PA 19422  
CONTACT: MARK LYNCH  
PHONE: (610) 608-6101

### ENGINEER

COMPANY: MASER CONSULTING  
ADDRESS: 2000 MIDLAND DRIVE, SUITE 100  
CITY, STATE, ZIP: MT. LAUREL, NJ 08054  
CONTACT: MATT GRAUBART, P.E.  
PHONE: (856) 797-0412  
E-MAIL: MATTHEW.GRAUBART@COLLIERSENGINEERING.COM

## LOCATION INFORMATION

### POWER PROVIDER:

NAME: DELAWARE ELECTRIC COOPERATIVE  
PHONE: (855) 332-9090

### TELEPHONE PROVIDER:

NAME: VERIZON  
PHONE: 1-(800) VERIZON

### POLICE:

NAME: DELAWARE STATE POLICE: TROOP 7  
ADDRESS: 18006 COASTAL HIGHWAY  
CITY, STATE, ZIP: LEWES, DE 19958  
PHONE: (302) 644-5020

### FIRE:

NAME: LEWES/REHOBOTH BEACH FIRE STATION #3  
ADDRESS: 21194 JOHN J. WILLIAMS HIGHWAY  
CITY, STATE, ZIP: LEWES, DE 19958  
PHONE: (302) 945-8286

IN CASE OF EMERGENCY, CALL 9-1-1

## SHEET INDEX

SHEET	DESCRIPTION
T-1	TITLE SHEET
C-1	GENERAL NOTES
C-2	ZONING INFORMATION
C-3	SITE PLAN AND PROJECT NOTES
C-4	SOIL EROSION AND SEDIMENT CONTROL PLAN
C-5	COMPOUND PLAN
C-6	ELEVATION VIEW AND ANTENNA PLAN
A-1	CONSTRUCTION DETAILS
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A-3	CONSTRUCTION DETAILS
A-4	CONSTRUCTION DETAILS
A-5	CONSTRUCTION DETAILS
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A-9	CONSTRUCTION DETAILS
A-10	CONSTRUCTION DETAILS
E-1	UTILITY PLAN
E-2	ELECTRICAL NOTES AND PANEL SCHEDULE
E-3	ELECTRICAL RISER DIAGRAM
G-1	GROUNDING PLAN
G-2	GROUNDING DETAILS
G-3	GROUNDING RISER DIAGRAM



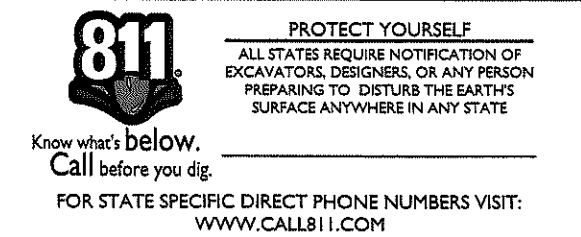
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■ Marmora, NJ ■ Albany, NY ■ Philadelphia, PA  
■ Mt. Arlington, NJ ■ Chatsworth Ridge, NY ■ Columbia, MD  
■ Mt. Laurel, NJ ■ Newburgh, NY ■ Tampa, FL  
State of D.E. Certificate of Authorization: 2840

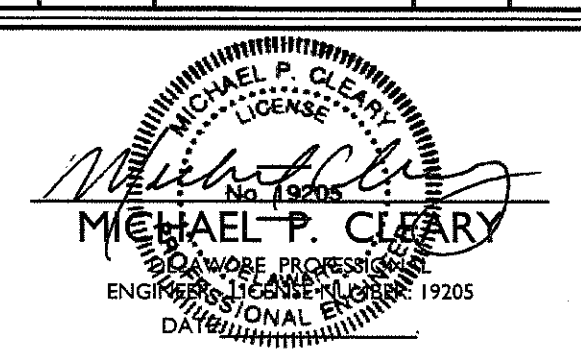
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# verizon

CELLCO PARTNERSHIP d/b/a  
VERIZON WIRELESS  
512 TOWNSHIP LINE ROAD  
BUILDING 2, FLOOR 3  
BLUE BELL, PA 19422



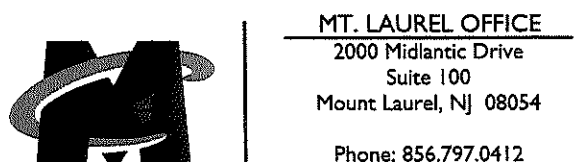
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AS SHOWN		18960034A		
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-	-	-	-	
-	-	-	-	
-	-	-	-	
-	-	-	-	
3	09/14/21	FOR CONSTRUCTION	AF MEG	
2	07/03/19	FOR CONSTRUCTION	MEG MPC	
1	02/06/19	FOR CONSTRUCTION	SLM MPC	
0	12/14/18	ISSUED FOR PERMIT	SLM MEG	
A	12/13/18	ISSUED FOR REVIEW	AF MEG	
REV	DATE	DESCRIPTION	DRAWN BY	CHECKED BY



IT IS A VIOLATION OF LAW FOR ANY PERSON, UNLESS THEY ARE ACTING UNDER THE DIRECTION OF THE RESPONSIBLE LICENSED PROFESSIONAL ENGINEER, TO ALTER THIS DOCUMENT.

### SITE NAME:

DOV HORSE ISLAND  
CAMP ARROWHEAD ROAD  
LEWES, DE 19958  
SUSSEX COUNTY



SHEET TITLE:  
TITLE SHEET

SHEET NUMBER:  
T-1



GENERAL NOTES:

1. THE PLAN SHOWS SOME SUBSURFACE STRUCTURES, ABOVE-GROUND STRUCTURES AND/OR OTHER FEATURES FROM FIELD MEASUREMENTS AND RECORD MAPPING, EXACT LOCATION OF WHICH MAY VARY FROM THE LOCATION INDICATED. IN PARTICULAR THE CONTRACTOR IS WARNED THAT THE EXACT LOCATION OF SUCH EXISTING FEATURES IN THE AREA MAY BE DIFFERENT FROM THAT SHOWN OR MAY NOT BE SHOWN, AND IT SHALL BE THE CONTRACTOR'S RESPONSIBILITY TO PROCEED WITH GREATEST CARE IN EXECUTING ANY WORK.
2. CONTRACTOR SHALL CONTACT A SUBSURFACE UTILITY LOCATOR FOR LOCATION OF EXISTING UTILITIES PRIOR TO COMMENCEMENT OF ANY CONSTRUCTION ACTIVITIES. CONTRACTOR SHALL VERIFY EXISTING UTILITY LOCATIONS BY TEST PIT AS NECESSARY. LOCATION OF UTILITIES SHOWN ON THIS PLAN ARE APPROXIMATE AND FOR PLANNING PURPOSES ONLY.
3. NOTIFY THE STATE SPECIFIC ONE CALL SYSTEM 72 HOURS PRIOR TO ANY EARTH MOVING ACTIVITIES.
4. THE LOCATIONS OF EXISTING UNDERGROUND UTILITIES ARE SHOWN IN AN APPROXIMATE WAY ONLY AND HAVE NOT BEEN INDEPENDENTLY VERIFIED BY THE OWNER OR ITS REPRESENTATIVE. THE CONTRACTOR SHALL DETERMINE THE EXACT LOCATION OF ALL EXISTING UTILITIES BEFORE COMMENCING WORK, AND AGREES TO BE FULLY RESPONSIBLE FOR ANY AND ALL DAMAGES WHICH MIGHT BE OCCASIONED BY THE CONTRACTOR'S FAILURE TO EXACTLY LOCATE AND PRESERVE ANY AND ALL UNDERGROUND UTILITIES.
5. THE ENGINEER SHALL BE NOTIFIED IN WRITING OF ANY CONDITIONS THAT VARY FROM THOSE SHOWN ON THE PLANS. THE CONTRACTOR'S WORK SHALL NOT VARY FROM THE PLANS WITHOUT THE EXPRESSED APPROVAL OF THE ENGINEER.
6. WORK SHALL COMPLY WITH CURRENT ISSUES OF ALL APPLICABLE STATE AND LOCAL CODES, ORDINANCES, AND REGULATIONS, THE LATEST EDITION THEREOF.
7. CONTRACTOR SHALL SECURE ALL NECESSARY PERMITS FOR THIS PROJECT FROM ALL APPLICABLE GOVERNMENTAL AGENCIES. THE BUILDING PERMIT HAS BEEN APPLIED FOR BY VERIZON AND WILL BE PICKED UP BY THE CONTRACTOR AT THE PERMITS OFFICE.
8. ANY PERMITS WHICH MUST BE OBTAINED SHALL BE THE CONTRACTOR'S RESPONSIBILITY. THE CONTRACTOR SHALL BE RESPONSIBLE FOR ABIDING BY ALL CONDITIONS AND REQUIREMENTS OF THE PERMITS.
9. THE ENGINEER HAS NOT CONDUCTED, NOR DOES IT INTEND TO CONDUCT ANY INVESTIGATION TO DETERMINE THE PRESENCE OF ANY HAZARDOUS MATERIAL INCLUDING BUT NOT LIMITED TO ASBESTOS, LEAD PAINT, AND PCB'S WITHIN THE CONFINES OF THIS PROJECT. THE ENGINEER WILL NOT ACCEPT ANY RESPONSIBILITY FOR THE ABATEMENT OR RESULTING CLAIMS FOR DAMAGES OR LOSSES AS A RESULT OF THE PRESENCE OF HAZARDOUS MATERIALS. IF EVIDENCE OF HAZARDOUS MATERIALS IS DISCOVERED, SUSPEND WORK AS REQUIRED BY GOVERNING STATUTES, AND NOTIFY VERIZON REPRESENTATIVE. DO NOT PROCEED WITH WORK UNTIL INSTRUCTED BY VERIZON REPRESENTATIVE.
10. ALL MATERIAL FURNISHED UNDER THIS CONTRACT SHALL BE NEW UNLESS NOTED OTHERWISE. ALL WORK SHALL BE GUARANTEED AGAINST DEFECTS IN MATERIAL AND WORKMANSHIP FOR A PERIOD OF TWELVE MONTHS FOLLOWING SUBSTANTIAL COMPLETION OF PROJECT OR AS SPECIFIED. THE CONTRACTOR SHALL REPAIR OR REPLACE AT HIS EXPENSE ALL WORK THAT MAY DEVELOP DEFECTS IN MATERIALS OR WORKMANSHIP WITHIN THE WARRANTY PERIOD.
11. THE GENERAL CONTRACTOR AND EACH SUBCONTRACTOR ARE TO BE RESPONSIBLE FOR VERIFYING EXISTING SITE CONDITIONS AND DIMENSIONS AND THE LOCATION OF BURIED UTILITIES AT THE JOB SITE PRIOR TO THE COMMENCEMENT OF WORK. NOTIFICATION MARKING TO BE DONE BY THE STATE SPECIFIC ONE CALL SYSTEM. NO CLAIMS FOR EXTRA COMPENSATION FOR WORK RESULTING FROM CONFLICTS AND OMISSIONS WHICH COULD HAVE BEEN DISCOVERED BY FIELD VERIFICATION AND INSPECTION, WHETHER INDICATED ON THE CONTRACT DOCUMENTS OR NOT, WILL BE ENTERTAINED OR PAID.
12. FOLLOW MANUFACTURERS' PRINTED SPECIFICATION AND INSTRUCTIONS EXCEPT WHERE SPECIFIED OR INDICATED ON CONTRACT DOCUMENTS. COMPLY WITH THE MOST STRINGENT INSTRUCTIONS.
13. THE CONTRACTOR SHALL VERIFY AND COORDINATE SIZE AND LOCATION OF ALL OPENINGS FOR STRUCTURAL, MECHANICAL, ELECTRICAL, PLUMBING, CIVIL, AND/OR ARCHITECTURAL WORK.
14. THE CONTRACTOR SHALL VERIFY THAT THERE ARE NO CONFLICTS AMONG THE LOCATIONS OF ANY MECHANICAL, ELECTRICAL, PLUMBING, OR STRUCTURAL ELEMENTS, AND THAT ALL REQUIRED CLEARANCES AND CONSTRUCTION TOLERANCES FOR INSTALLATION AND MAINTENANCE ARE PROVIDED. NOTIFY VERIZON REPRESENTATIVE OF ANY CONFLICTS. VERIZON REPRESENTATIVE RESERVES THE RIGHT TO MAKE MINOR MODIFICATIONS TO THE DESIGN WITHOUT ALTERING THE CONTRACT PRICE.
15. DO NOT SCALE DRAWINGS. DIMENSIONS ARE EITHER TO THE FACE OF FINISHED ELEMENTS OR TO THE CENTER LINE OF ELEMENTS, UNLESS NOTED OTHERWISE. CRITICAL DIMENSIONS SHALL BE CONFIRMED WITH SITE MEASUREMENTS. VERIFY WITH VERIZON REPRESENTATIVE AS APPLICABLE.
16. THE CONTRACTOR IS RESPONSIBLE FOR DAILY CLEAN UP OF SITE AND REMOVAL AND DISPOSAL OF ALL CONSTRUCTION DEBRIS. AT THE COMPLETION OF THE PROJECT THE CONTRACTOR SHALL THOROUGHLY CLEAN THE BUILDING SITE AND ANY OTHER SURROUNDING AREAS TO THE SATISFACTION OF VERIZON AND THE LANDLORD.
17. THE CONTRACTOR IS RESPONSIBLE FOR ADEQUATELY BRACING AND PROTECTING ALL WORK DURING CONSTRUCTION AGAINST DAMAGE, BREAKAGE COLLAPSE, ETC., ACCORDING TO APPLICABLE CODES, STANDARDS, AND GOOD CONSTRUCTION PRACTICES.
18. ALL WORK SHALL BE DONE IN STRICT COMPLIANCE WITH ALL APPLICABLE NATIONAL (OSHA), STATE AND LOCAL CODES, STANDARDS, ORDINANCES, RULES AND REGULATIONS.
19. THE CONTRACTOR WILL BE HELD RESPONSIBLE FOR DAMAGES TO THE EXISTING FACILITY AND INSTALLATION RESULTING FROM CONSTRUCTION AND GENERAL NEGLIGENCE. REPAIR ALL DAMAGES AND RESTORE FACILITY AND INSTALLATIONS TO THE SATISFACTION OF VERIZON AND LANDLORD AT NO EXTRA CHARGE. NOTIFY VERIZON REPRESENTATIVE AND TOWER OWNER OF ANY SUCH DAMAGES PROMPTLY. REPAIR TO 100% SATISFACTION IMMEDIATELY.
20. WHERE ONE DETAIL IS SHOWN FOR ONE CONDITION, UNLESS NOTED OTHERWISE, IT SHALL APPLY FOR ALL LIKE OR SIMILAR CONDITIONS, EVEN THOUGH NOT SPECIFICALLY MARKED ON THE DRAWINGS.
21. WHERE NEW PAVING, CONCRETE SIDEWALKS, OR PATHS MEET EXISTING CONSTRUCTION, THE CONTRACTOR SHALL MATCH THE EXISTING PITCH, GRADE, AND ELEVATION TO MAINTAIN CONTINUITY AND A SMOOTH TRANSITION.
22. VERIZON REPRESENTATIVE IS RESPONSIBLE FOR APPLYING FOR COMMERCIAL POWER CONNECTION. CONTRACTOR IS RESPONSIBLE FOR COORDINATION OF UTILITY INSPECTIONS AND POWER COMPANY INSTALLATION. THE GENERAL CONTRACTOR IS REQUIRED TO KEEP ALL DOCUMENTATION RECEIVED FROM THE POWER COMPANY, WRITTEN AND VERBAL DISCUSSIONS WITH THE POWER COMPANY, ETC.

23. VERIZON REPRESENTATIVE SHALL OBTAIN WRITTEN CONFIRMATION OF THE EXPECTED DATE OF COMPLETION OF THE POWER CONNECTION FROM THE POWER COMPANY. CONTRACTOR WILL PROVIDE TEMPORARY POWER FOR CONSTRUCTION. GENERAL CONTRACTOR AND HIS SUBCONTRACTORS ARE NOT ALLOWED TO CONNECT TO ANY EXISTING UTILITIES ON THE SITE.
24. DRAWINGS FORMING THIS SET ARE COMPLIMENTARY AND MUST BE READ AS ONE TOTAL DOCUMENT. DRAWINGS AND SPECIFICATIONS ARE THE PROPERTY OF VERIZON. THESE DRAWINGS WERE PREPARED TO BE SUBMITTED TO GOVERNMENTAL BUILDING AUTHORITIES FOR REVIEW FOR COMPLIANCE WITH APPLICABLE CODES. IT IS THE SOLE RESPONSIBILITY OF THE CONTRACTOR TO EXECUTE CONSTRUCTION INDICATED HEREIN ACCORDING TO APPLICABLE BUILDING CODES.
25. IF THE CONTRACTOR OR SUBCONTRACTOR FINDS IT NECESSARY TO DEVIATE FROM ORIGINAL APPROVED PLANS, IT IS THE CONTRACTOR'S AND THE SUBCONTRACTOR'S RESPONSIBILITY TO PROVIDE VERIZON REPRESENTATIVE THE PROPOSED CHANGES FOR VERIZON REPRESENTATIVE TO REVIEW AND APPROVE PRIOR TO PROCEEDING WITH SUCH CHANGES. IN ADDITION, THE CONTRACTOR AND SUBCONTRACTORS SHALL BE RESPONSIBLE FOR PROCURING ALL NECESSARY APPROVALS FROM THE BUILDING AUTHORITIES FOR THE PROPOSED CHANGES PRIOR TO PROCEEDING WITH THE REVISED WORK. THE CONTRACTOR AND SUBCONTRACTORS ARE RESPONSIBLE FOR PROCURING ALL NECESSARY INSPECTIONS AND APPROVALS FROM BUILDING AUTHORITIES DURING THE EXECUTION OF THE WORK.
26. THESE CONSTRUCTION DOCUMENTS AND SPECIFICATIONS SHALL BE INTERPRETED TO BE A MINIMUM ACCEPTABLE STANDARD FOR CONSTRUCTION. THESE DOCUMENTS SHALL NOT RELIEVE THE CONTRACTOR, SUBCONTRACTOR, AND/OR SUPPLIER/MANUFACTURER FROM PROVIDING A COMPLETE AND CORRECT INSTALLATION SHOULD ADDITIONAL ITEMS AND DETAILS BE REQUIRED FOR PROPER AND SAFE INSTALLATION.
27. THESE CONTRACT DOCUMENTS AND SPECIFICATIONS DO NOT CREATE A CONTRACTUAL RELATIONSHIP OF ANY KIND BETWEEN VERIZON REPRESENTATIVE AND THE CONTRACTOR.
28. THE SCOPE OF WORK SHALL INCLUDE FURNISHING ALL MATERIALS, EQUIPMENT, AND LABOR DEEMED NECESSARY TO COMPLETE THE WORK/PROJECT DESCRIBED HEREIN.
29. THE CONTRACTOR SHALL OBTAIN AUTHORIZATION FROM VERIZON REPRESENTATIVE TO PROCEED WITH CONSTRUCTION PRIOR TO STARTING WORK ON ANY ITEM NOT CLEARLY DEFINED BY THE CONSTRUCTION DRAWINGS/CONTRACT DOCUMENTS.
30. THE CONTRACTOR SHALL SUPERVISE AND DIRECT THE PROJECT DESCRIBED HEREIN. THE CONTRACTOR SHALL BE SOLELY RESPONSIBLE FOR ALL THE CONSTRUCTION MEANS, METHODS, TECHNIQUES, SEQUENCES, AND PROCEDURES AND FOR COORDINATING ALL PORTIONS OF THE WORK UNDER CONTRACT.
31. THE CONTRACTOR SHALL MAKE NECESSARY PROVISIONS TO PROTECT AND MAINTAIN EXISTING CONDITIONS, EASEMENTS, PAVEMENTS, CURBING, ETC. DURING CONSTRUCTION. UPON COMPLETION OF WORK, THE CONTRACTOR SHALL REPAIR ANY DAMAGE THAT MAY HAVE OCCURRED DUE TO CONSTRUCTION ON OR ABOUT THE PROPERTY.
32. THE CONTRACTOR SHALL MAINTAIN ALL TRAFFIC IN ALL AREAS IN ACCORDANCE WITH THE STATE'S DOT STANDARDS FOR TRAFFIC CONTROL.
33. THE CONTRACTOR SHALL NOTIFY THE VERIZON REPRESENTATIVE WHERE A CONFLICT OCCURS ON ANY OF THE CONTRACT DOCUMENTS. THE CONTRACTOR IS NOT TO ORDER MATERIAL OR CONSTRUCT ANY PORTION OF THE WORK THAT IS IN CONFLICT UNTIL IT IS RESOLVED BY THE VERIZON REPRESENTATIVE.
34. CONTRACTOR TO PROVIDE TEMPORARY TOILET FACILITIES FOR DURATION OF PROJECT.
35. CONTRACTOR SHALL COORDINATE ALL UTILITY CONNECTIONS WITH APPROPRIATE UTILITY OWNERS.
36. IN ANY EXCAVATED AREA, BACKFILL WILL BE PLACED WITH DRY MATERIAL FREE OF ROCK OR STONES LARGER THAN 1", IN 12" LIFTS, COMPACTED TO 95% DRY DENSITY. ALL DISTURBED AREAS TO BE RESTORED TO MATCH SURROUNDING CONDITIONS.
37. THESE PLANS ARE NOT FOR RECORDATION OR CONVEYANCE.
38. EXISTING PAVEMENT AND OTHER SURFACES DISTURBED BY CONTRACTOR (WHICH ARE NOT TO BE REMOVED) SHALL BE REPAIRED TO PRE-CONSTRUCTION CONDITIONS BY THE CONTRACTOR.
39. DAMAGE TO UTILITIES OR PROPERTY OF OTHERS BY THE CONTRACTOR DURING CONSTRUCTION SHALL BE REPAIRED TO PRE-CONSTRUCTION CONDITIONS BY THE CONTRACTOR.
40. CONTRACTOR TO PROVIDE THREADED CAPS ON FUTURE CONDUIT.
41. CONTRACTOR TO PROVIDE RUBBER CAPS ON ALL KINDORF OR UNISTRUT.

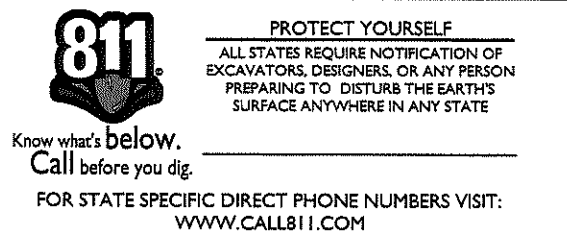


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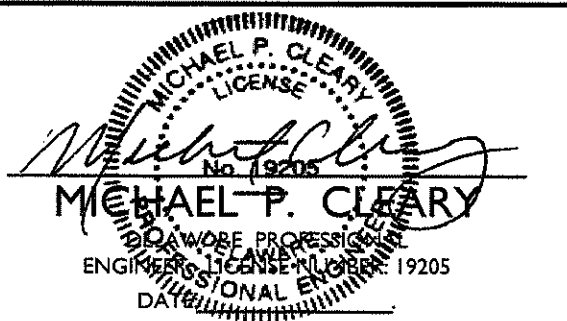


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VERIZON WIRELESS  
512 TOWNSHIP LINE ROAD  
BUILDING 2, FLOOR 3  
BLUE BELL, PA 19422



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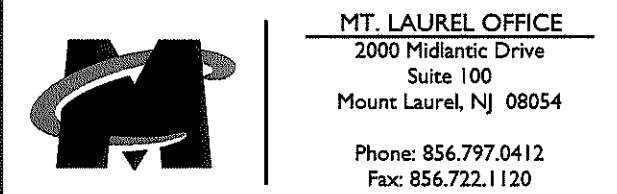
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A	12/13/18	ISSUED FOR REVIEW	AF	MEG	
REV	DATE	DESCRIPTION	DRAWN BY	CHECKED BY	



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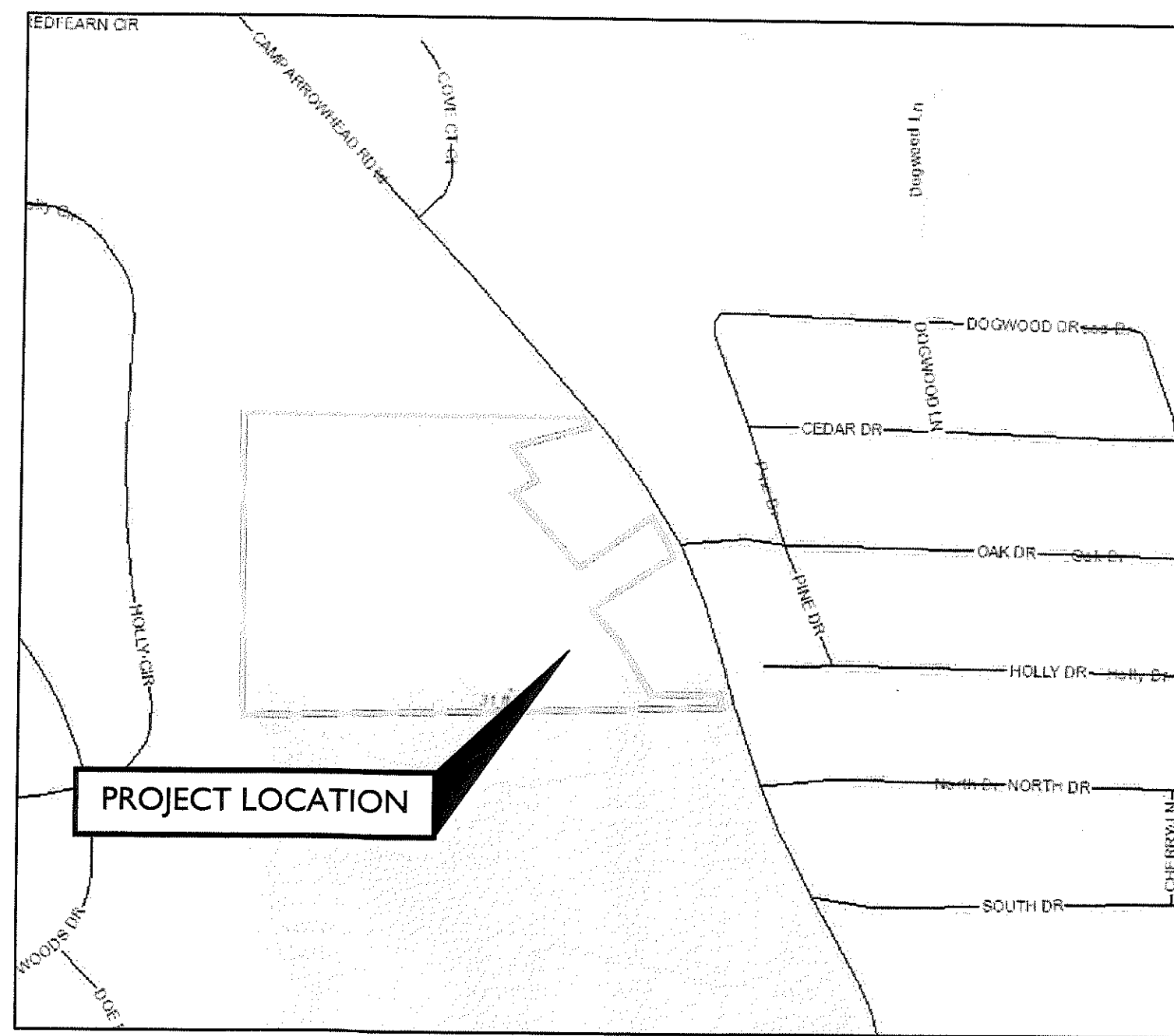
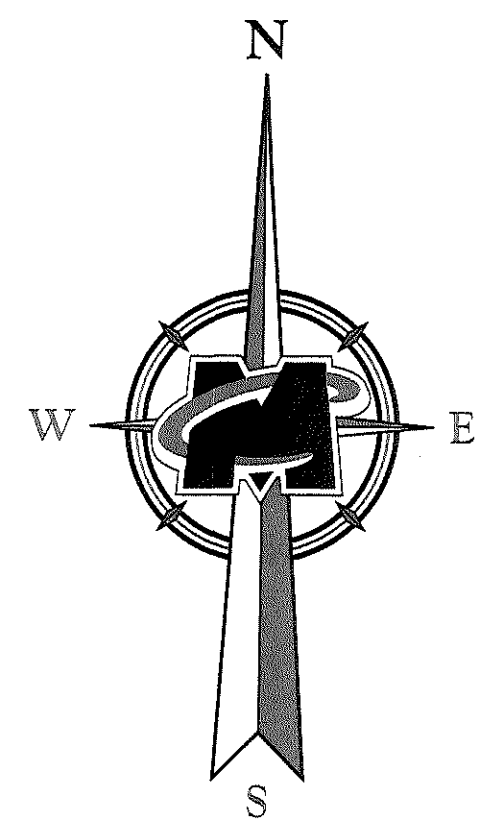
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SUSSEX COUNTY



SHEET TITLE:  
GENERAL NOTES

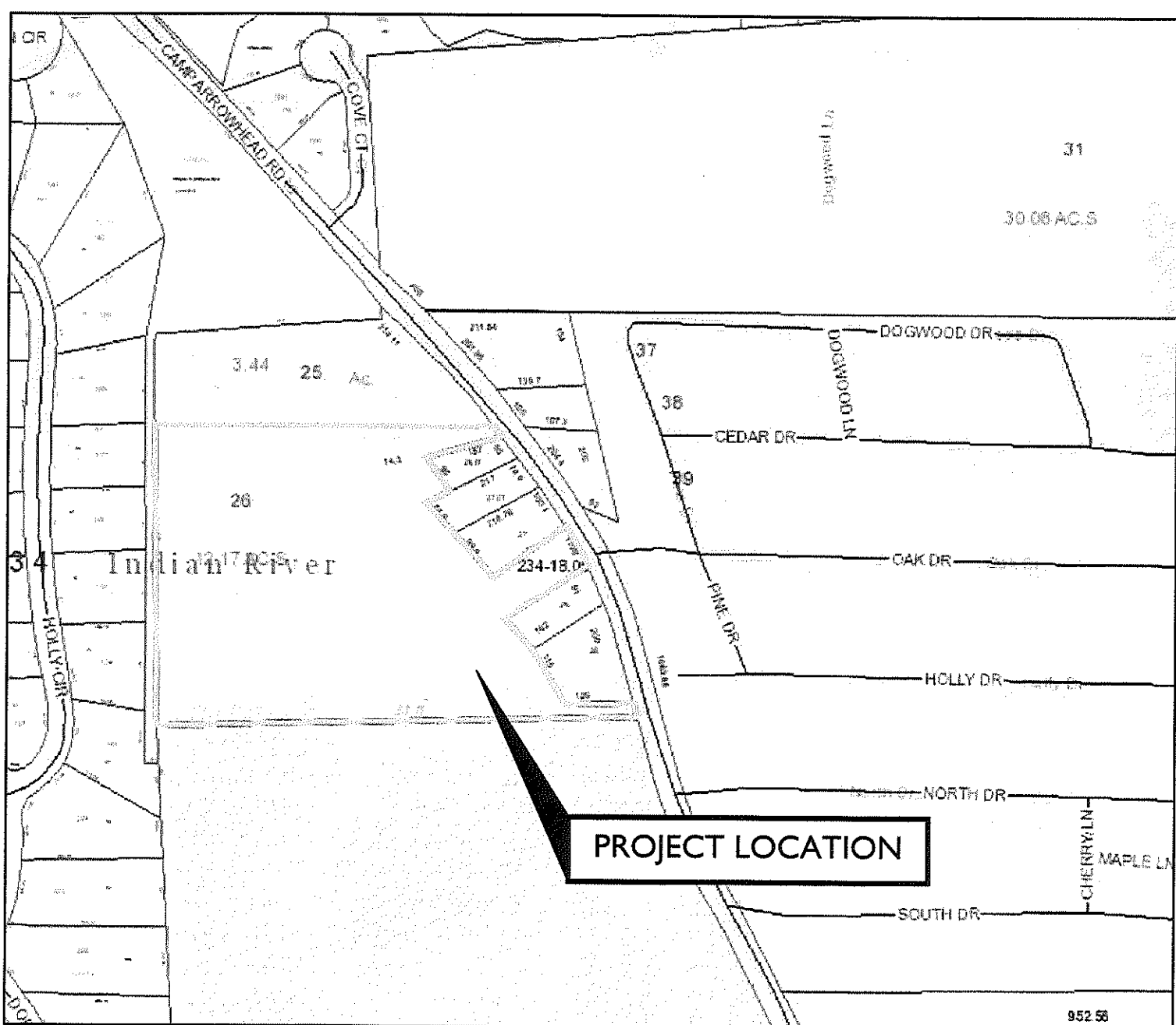
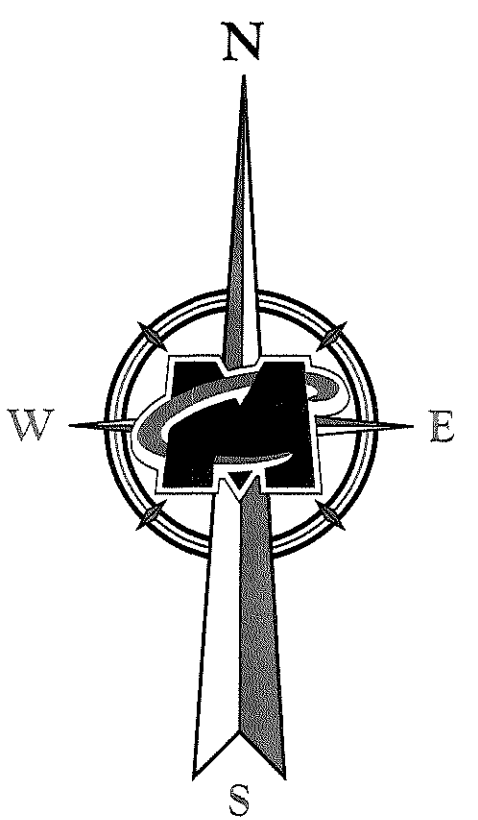
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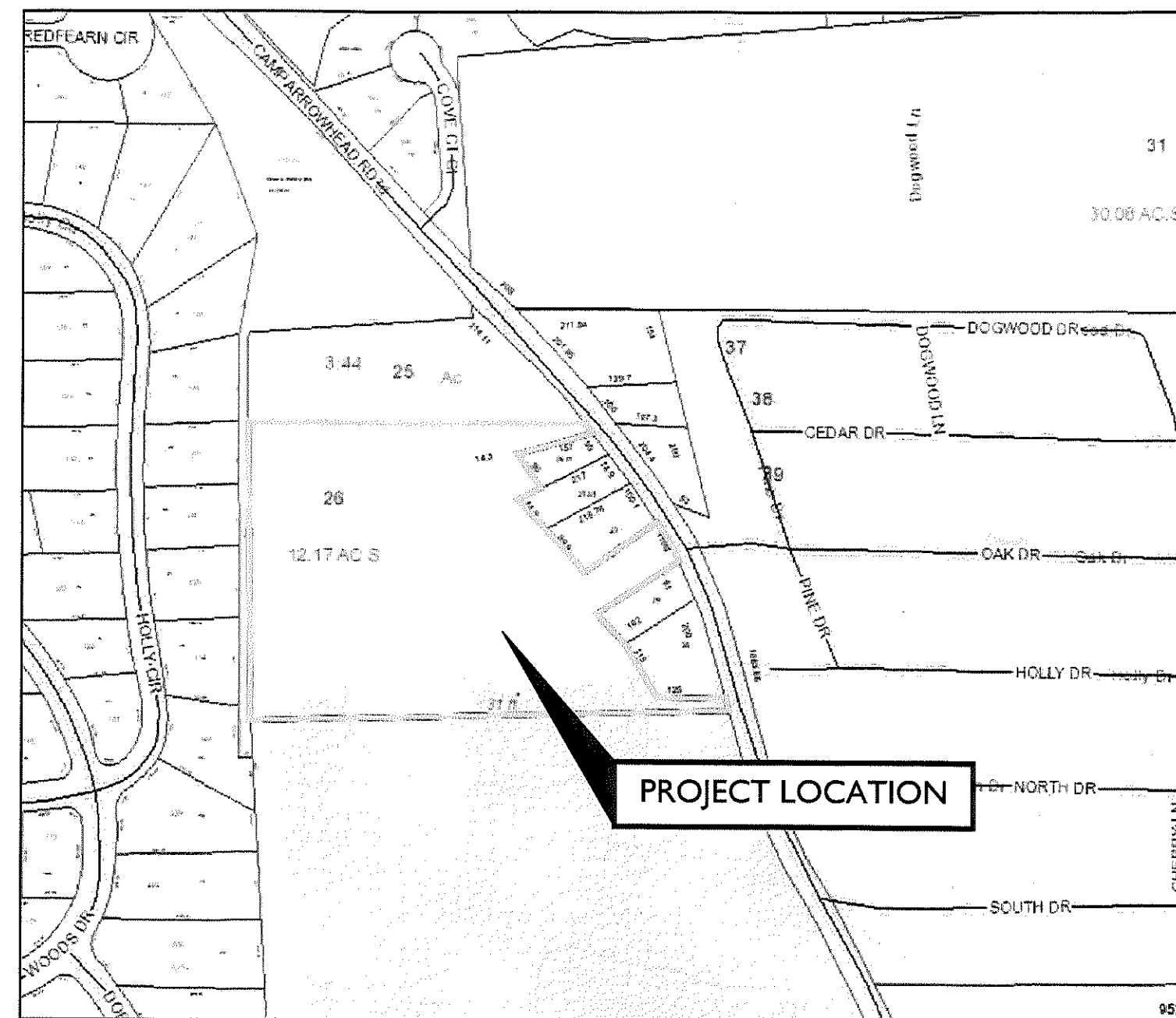
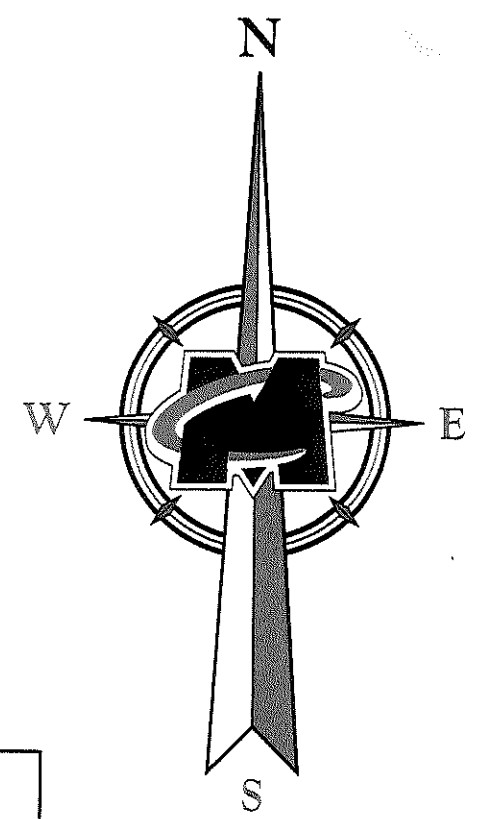
ZONING MAP

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(SCALE: 1" = 800' FOR 11"X17")



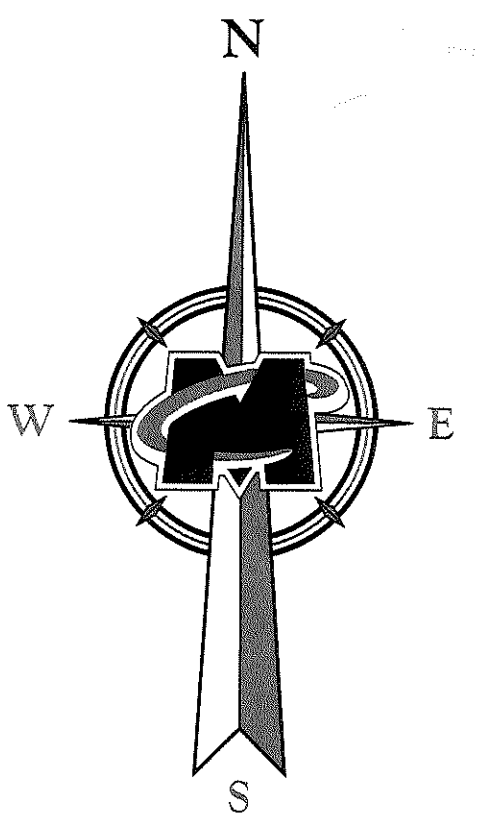
TAX DITCH MAP

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TAX MAP

SCALE: 1" = 400' FOR 22"X34"  
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WETLANDS MAP

SCALE: 1" = 400' FOR 22"X34"  
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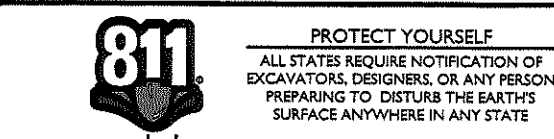
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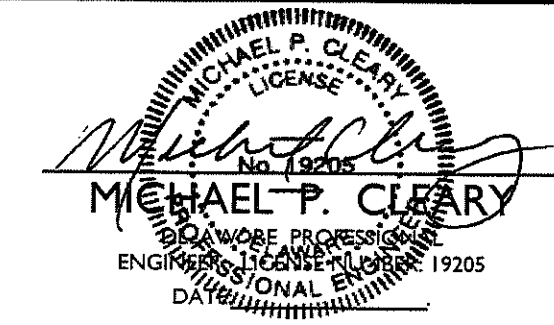


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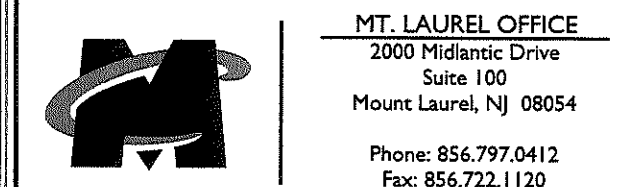
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SITE NAME:

DOV HORSE ISLAND  
CAMP ARROWHEAD ROAD  
LEWES, DE 19958  
SUSSEX COUNTY



MT. LAUREL OFFICE  
2000 Millstone Drive  
Suite 100  
Mount Laurel, NJ 08054  
Phone: 856.797.0412  
Fax: 856.722.1120

SHEET TITLE:  
ZONING INFORMATION

SHEET NUMBER:  
C-2



## NOTES:

- THIS PROPOSAL IS FOR AN UNMANNED TELECOMMUNICATIONS FACILITY CONSISTING OF THE PLACEMENT OF PANEL ANTENNAS ON A PROPOSED MONOPOLE AND EQUIPMENT CABINETS ON A PROPOSED CONCRETE PAD WITH CANOPY, AN OUTDOOR STANDBY GENERATOR, AND ASSOCIATED APPURTENANCES WITHIN A PROPOSED FENCED COMPOUND.
- EXTERIOR SIGNS ARE NOT PROPOSED EXCEPT AS REQUIRED BY THE FCC
- TOTAL AREA OF DISTURBANCE UNDER THIS PROPOSAL: 3,600± S.F.
- RUBBISH, STUMPS, DEBRIS, STICKS, STONES AND OTHER REFUSE SHALL BE REMOVED FROM THE SITE AND DISPOSED OF LEGALLY.
- CONTRACTOR SHALL CONTACT STATE SPECIFIC ONE CALL SYSTEM THREE WORKING DAYS PRIOR TO ANY EARTH MOVING ACTIVITIES.
- POWER TO THE FACILITY WILL BE MONITORED BY A SEPARATE METER.
- THE PROPOSED FACILITY WILL CAUSE ONLY AN INSIGNIFICANT ("DE MINIMUS") INCREASE IN STORMWATER RUNOFF, THEREFORE, NO DRAINAGE STRUCTURES ARE PROPOSED.
- SUBCONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL PERMITS & INSPECTIONS REQUIRED FOR CONSTRUCTION.
- SUBCONTRACTOR SHALL DETERMINE EXACT ROUTE OF ANY UNDERGROUND CONDUIT, IF REQUIRED.
- ACCORDING TO THE FEMA FLOOD INSURANCE RATE MAP OF SUSSEX COUNTY, DE (ALL JURISDICTIONS), MAP 10005C0342K, PANEL 342 OF 660, DATED 03/16/2015 ALL PROPOSED IMPROVEMENTS ARE LOCATED WITHIN ZONE X - AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN.
- TOTAL ACREAGE WITHIN STREETS/RIGHT-OF-WAY IS 0 ACRES.
- THIS PROJECT WILL NOT REQUIRE STREETS OR PROPERTY TO BE DEDICATED FOR PUBLIC USE.
- THIS PROJECT WILL NOT REQUIRE PERMANENT MONUMENTS.
- THREE (1) EXISTING PERMANENT MONUMENTS WERE LOCATED ON THIS PROPERTY AND ZERO (0) WERE PLACED.
- THE PROPOSED INSTALLATION IS NOT LOCATED WITHIN THE GROWTH ZONE.
- THE NEAREST INTERSECTION IS LOCATED AT THE CORNER OF CAMP ARROWHEAD ROAD AND OAK DRIVE, WHICH IS 30± FEET FROM THE PROPOSED ACCESS DRIVE.
- HORIZONTAL DATUM: NAD83 DE STATE PLANE COORDINATE SYSTEM  
VERTICAL DATUM: NAVD88 ARE BASED ON KEYNET SOLUTION  
COORDINATES: U.S. SURVEY FEET  
BENCHMARK #1 N 241924.37 E 7341703.34 ELEV.=10.60  
BENCHMARK #2 N 241621.38 E 733891.02 ELEV.=32.18
- THE PROPOSED INSTALLATION WILL GENERATE ONE (1) VEHICLE TRIP FOR ROUTINE MAINTENANCE EVERY FOUR (4) TO SIX (6) WEEKS.

## LEGEND:

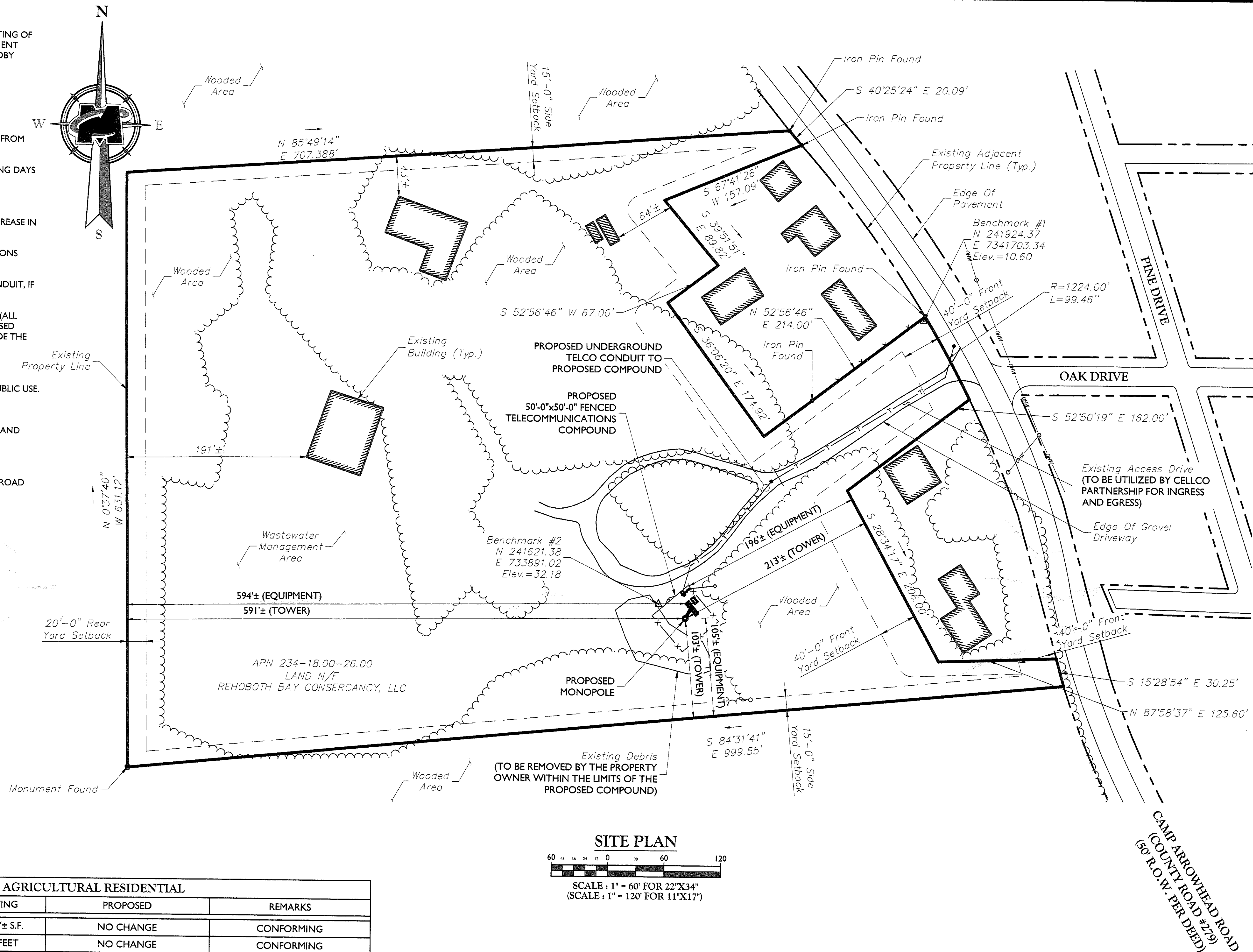
	PROPERTY LINE
	ADJACENT PROPERTY LINE
	SETBACK LINE
	PROPOSED FENCE
	EXISTING STRUCTURE
	EXISTING TREELINE
	EXISTING OVERHEAD WIRES
	PROPOSED UNDERGROUND ELECTRIC CONDUIT
	PROPOSED UNDERGROUND TELCO CONDUIT
	LIGHT LINEWEIGHT INDICATES EXISTING FACILITIES
	HEAVY LINEWEIGHT INDICATES PROPOSED FACILITIES
	PROPOSED UNDERGROUND UTILITIES

BULK STANDARDS FOR AR-1 - AGRICULTURAL RESIDENTIAL				
DESCRIPTION	REQUIRED	EXISTING	PROPOSED	REMARKS
MINIMUM LOT AREA	32,670 S.F.	464,297± S.F.	NO CHANGE	CONFORMING
MINIMUM LOT WIDTH	100 FEET	633± FEET	NO CHANGE	CONFORMING
MINIMUM LOT DEPTH	100 FEET	575± FEET	NO CHANGE	CONFORMING
			EQUIPMENT MONOPOLE	
MINIMUM FRONT YARD SETBACK	40 FEET	64± FEET	196± FEET	213± FEET CONFORMING
MINIMUM SIDE YARD SETBACK	15 FEET	43± FEET	105± FEET	103± FEET CONFORMING
MINIMUM REAR YARD SETBACK	20 FEET	191± FEET	594± FEET	591± FEET CONFORMING
MAXIMUM BUILDING HEIGHT	42 FEET	<42 FEET	10± FEET	CONFORMING
BULK STANDARDS FOR COMMERCIAL COMMUNICATIONS TOWERS AND ANTENNAS (SECTION 115-194.2)				
DESCRIPTION	REQUIRED	EXISTING	PROPOSED	REMARKS
SETBACK FROM PROPERTY LINE	50 FEET*	N/A	103± FEET	CONFORMING
MINIMUM FENCE HEIGHT	6 FEET	N/A	6 FEET W/ 1 FOOT BARBED WIRE	CONFORMING

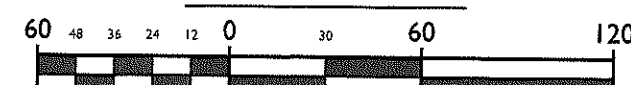
\* TOWER SETBACK TO EQUAL 1/3 OF TOWER HEIGHT. (150/3 = 50')

## ZONING NOTE:

ANY NEW FREESTANDING COMMERCIAL COMMUNICATIONS TOWER OR ANTENNA OR MONOPOLE IN ANY RESIDENTIAL DISTRICT REQUIRES A MINIMUM OF ONE ACRE AND SHALL REQUIRE A SPECIAL EXCEPTION AS PER SECTION 115-194.2A COMMUNICATIONS TOWERS AND ANTENNAS, CHAPTER 115, SUSSEX COUNTY ZONING CODE.



## SITE PLAN

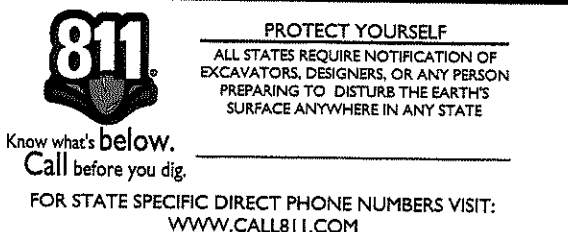
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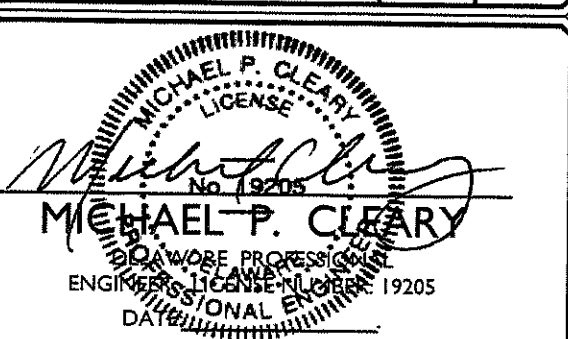
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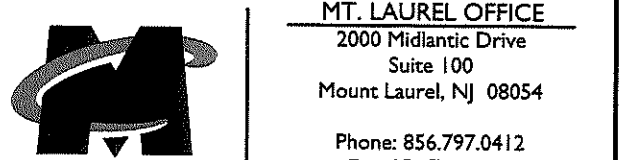
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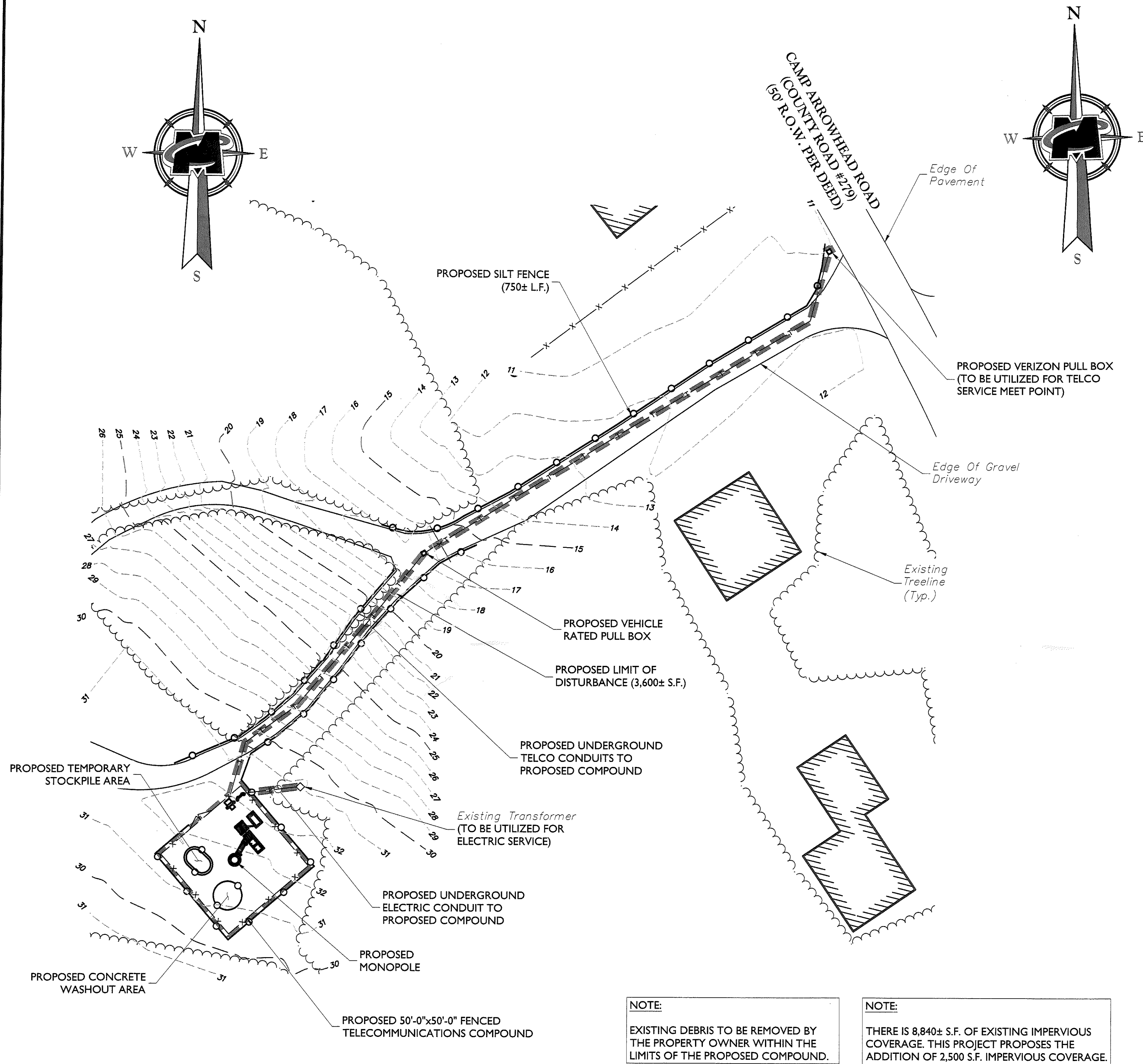


SHEET TITLE:  
SITE PLAN AND  
PROJECT NOTES

SHEET NUMBER:  
C-3



Vertical: 11/10/2017 11:00 AM (C:\Users\mclary\Documents\11100001.dwg) By: MCLARY



- LEGEND:**
- LIMIT OF DISTURBANCE
  - PROPOSED SILT FENCE
  - PROPOSED FENCE LINE
  - 140--- MAJOR CONTOUR
  - 139--- MINOR CONTOUR

**SOIL EROSION AND SEDIMENT CONTROL PLAN**

SCALE : 1" = 30' FOR 22"X35"  
(SCALE : 1" = 60' FOR 11"X17")

**NOTE:**  
EXISTING DEBRIS TO BE REMOVED BY THE PROPERTY OWNER WITHIN THE LIMITS OF THE PROPOSED COMPOUND.

**NOTE:**  
THERE IS 8,840± S.F. OF EXISTING IMPERVIOUS COVERAGE. THIS PROJECT PROPOSES THE ADDITION OF 2,500 S.F. IMPERVIOUS COVERAGE.



**SOILS MAP**

SCALE : 1" = 100' FOR 22"X34"  
(SCALE : 1" = 200' FOR 11"X17")

### Map Unit Legend

Map Unit Symbol	Map Unit Name	Acres in AOI	Percent of AOI
AsA	Askecksy loamy sand, 0 to 2 percent slopes	1.5	4.6%
HpB	Henlopen loamy sand, 2 to 5 percent slopes	18.9	57.2%
RuB	Rundlint loamy sand, 2 to 5 percent slopes	12.6	38.2%
<b>Totals for Area of Interest</b>		<b>32.9</b>	<b>100.0%</b>

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**MICHAEL P. CLARY**  
Professional Engineer  
No. 15405  
Date: 11/10/2017

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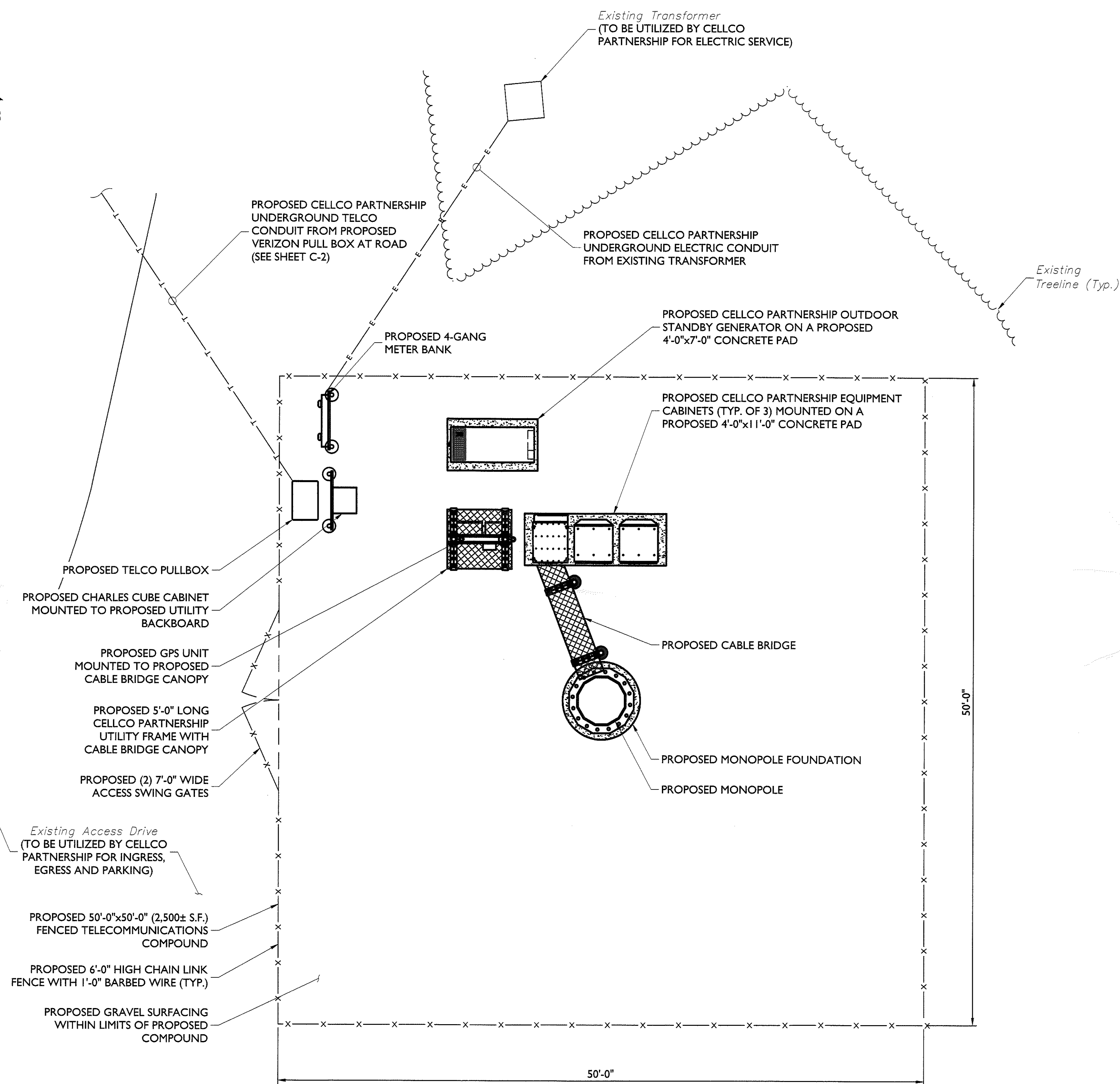
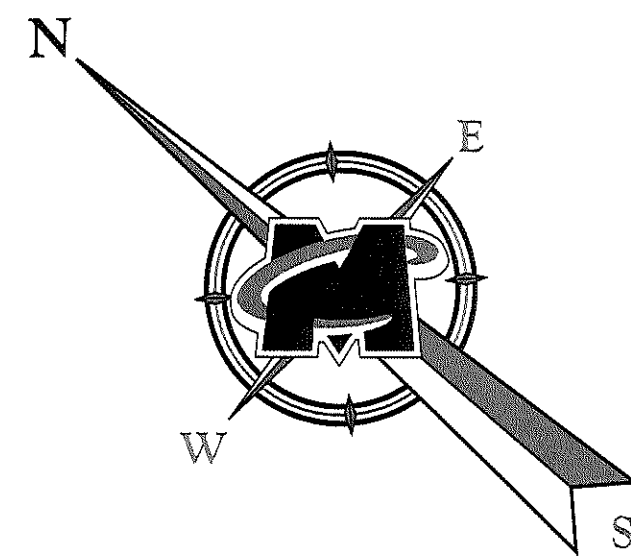
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**SOIL EROSION AND SEDIMENT CONTROL PLAN**

**SHEET NUMBER:**  
C-4





- LEGEND**
- x—x— Existing Chain Link Fence
  - Existing Features
  - PROPOSED FEATURES
  - T/E — PROPOSED UNDERGROUND ELECTRIC/TELCO UTILITY LINES
  - T — PROPOSED UNDERGROUND TELEPHONE/TELCO UTILITY LINE
  - E — PROPOSED UNDERGROUND ELECTRIC UTILITY LINE

**COMPOUND PLAN**

5 4 3 2 1 0 1 2 3 4 5 10

SCALE : 1" = 5' FOR 22"x34"  
(SCALE : 1" = 10' FOR 11"x17")

**NOTE:**

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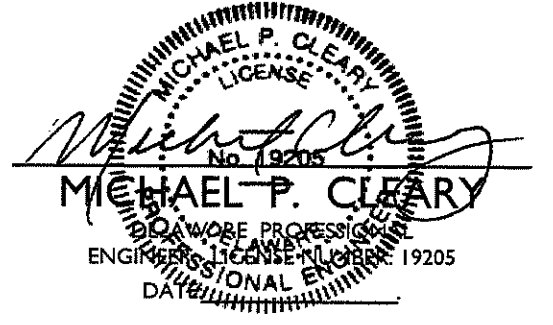
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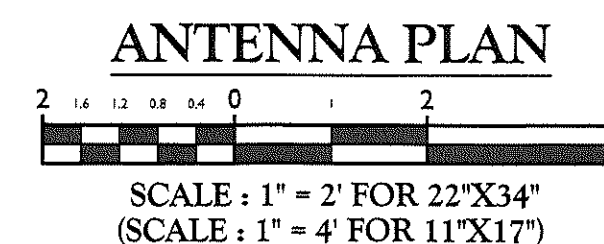
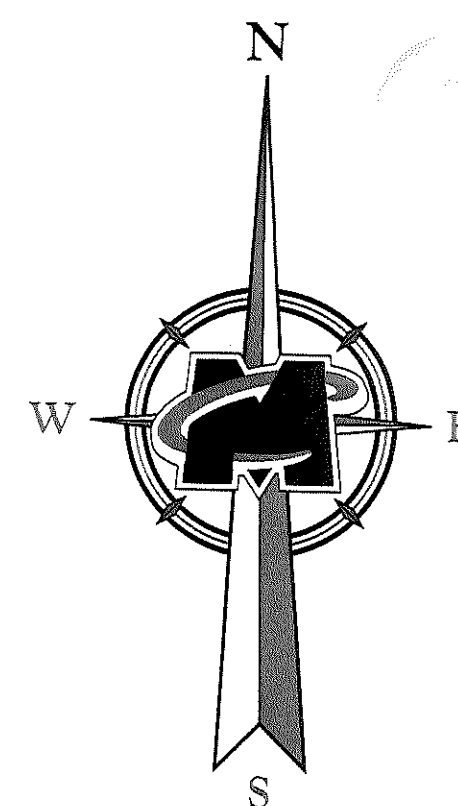
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SHEET TITLE:  
**COMPOUND PLAN**

SHEET NUMBER:  
**C-5**



**ELEVATION VIEW**

SCALE : 1" = 10' FOR 22"X34"  
(SCALE : 1" = 20' FOR 11"X17")

Dr. Patricia H. Davis, DVM, MS, DACVP, DACVIM, DACVIM (Neurology)



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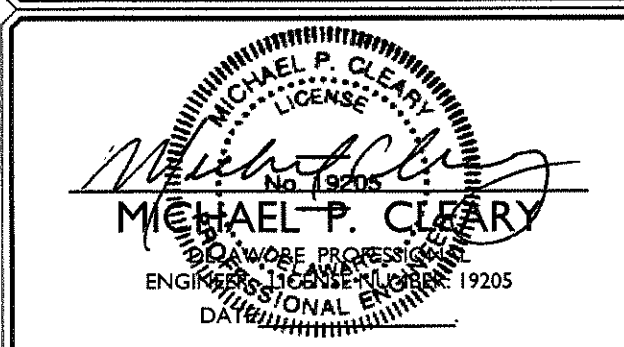


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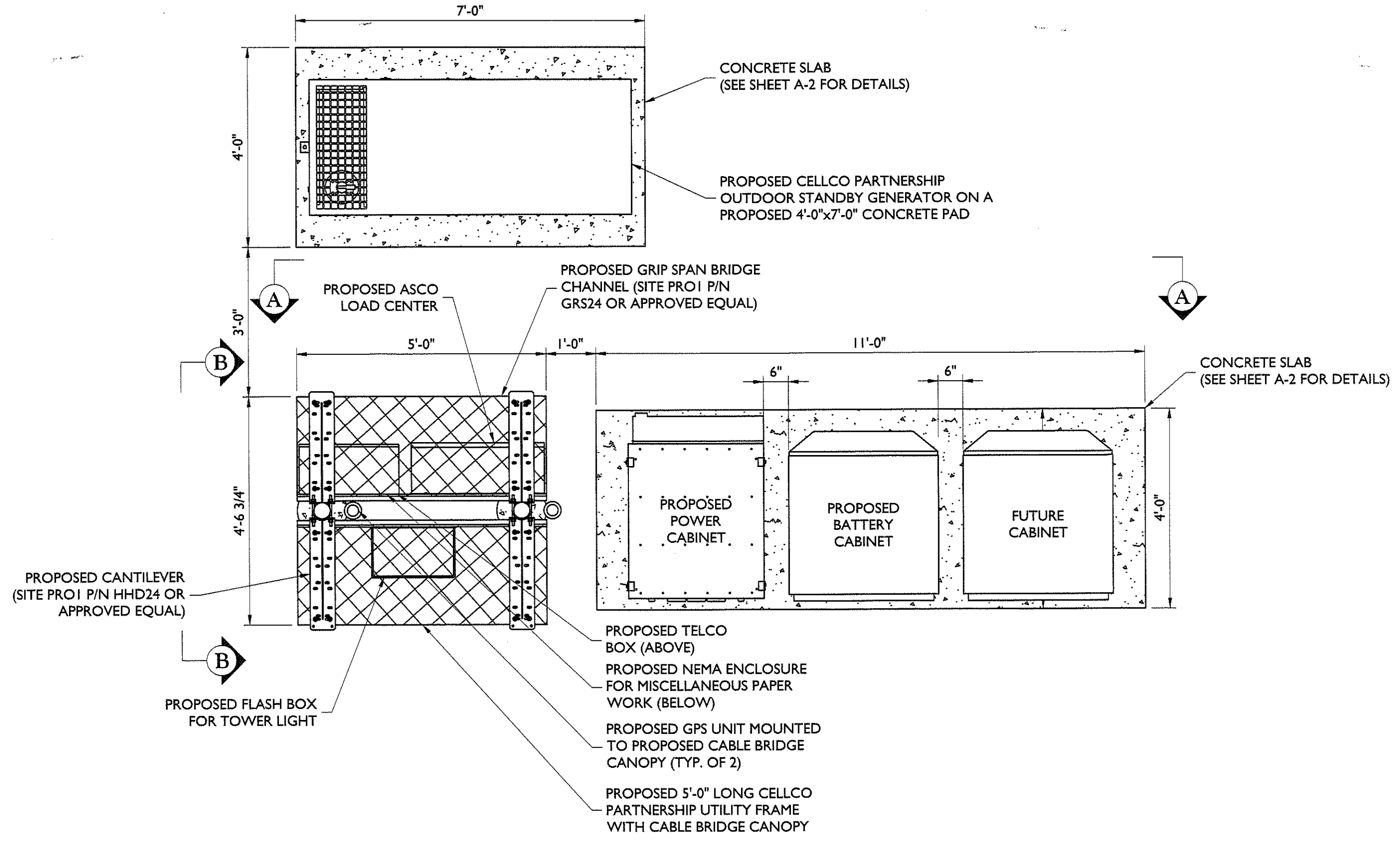
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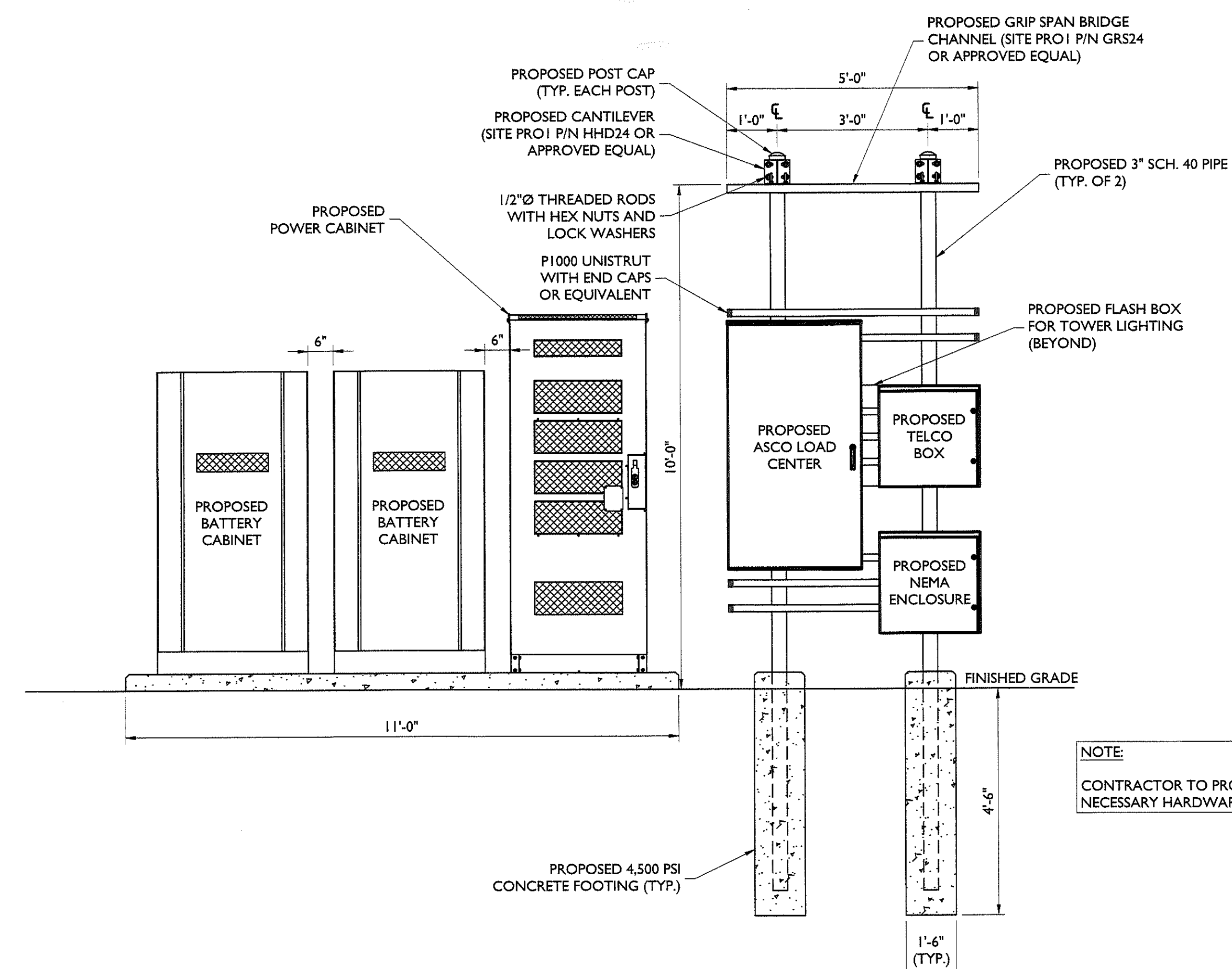
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**EQUIPMENT LAYOUT**

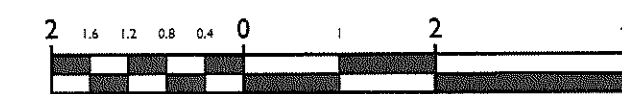


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 (SCALE : 1" = 4' FOR 11"X17")

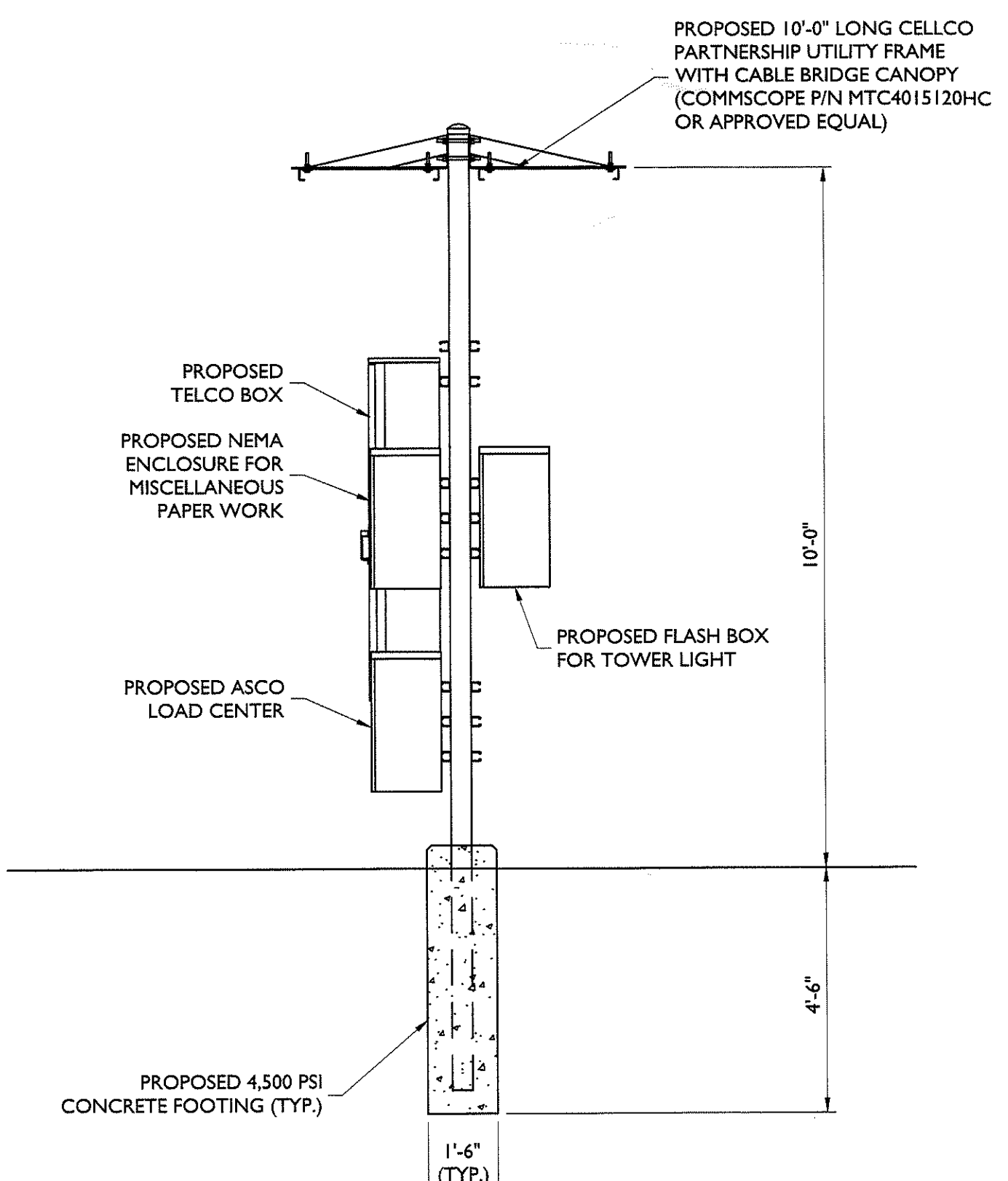


NOTE:  
 CONTRACTOR TO PROVIDE ALL NECESSARY HARDWARE.

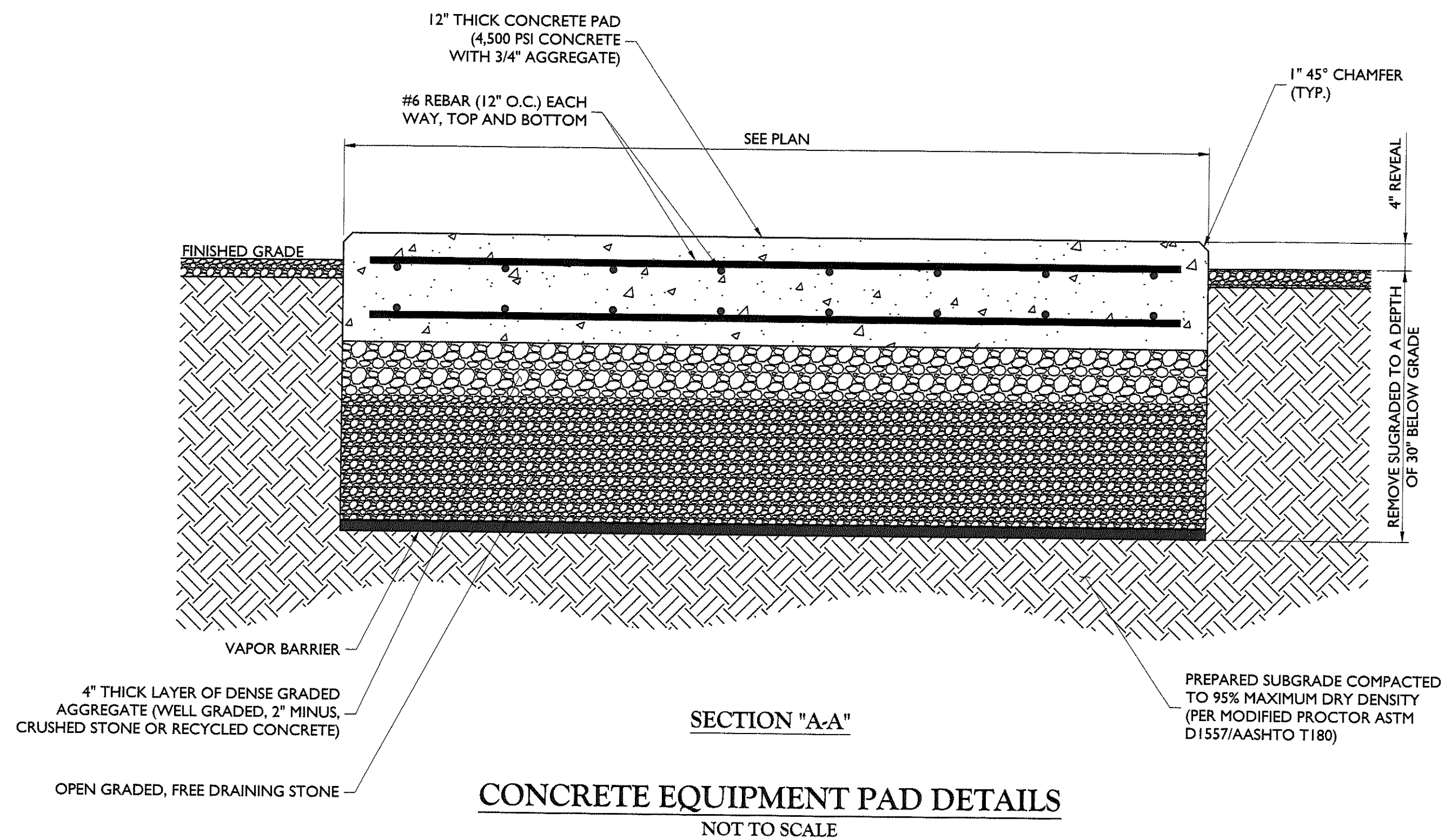
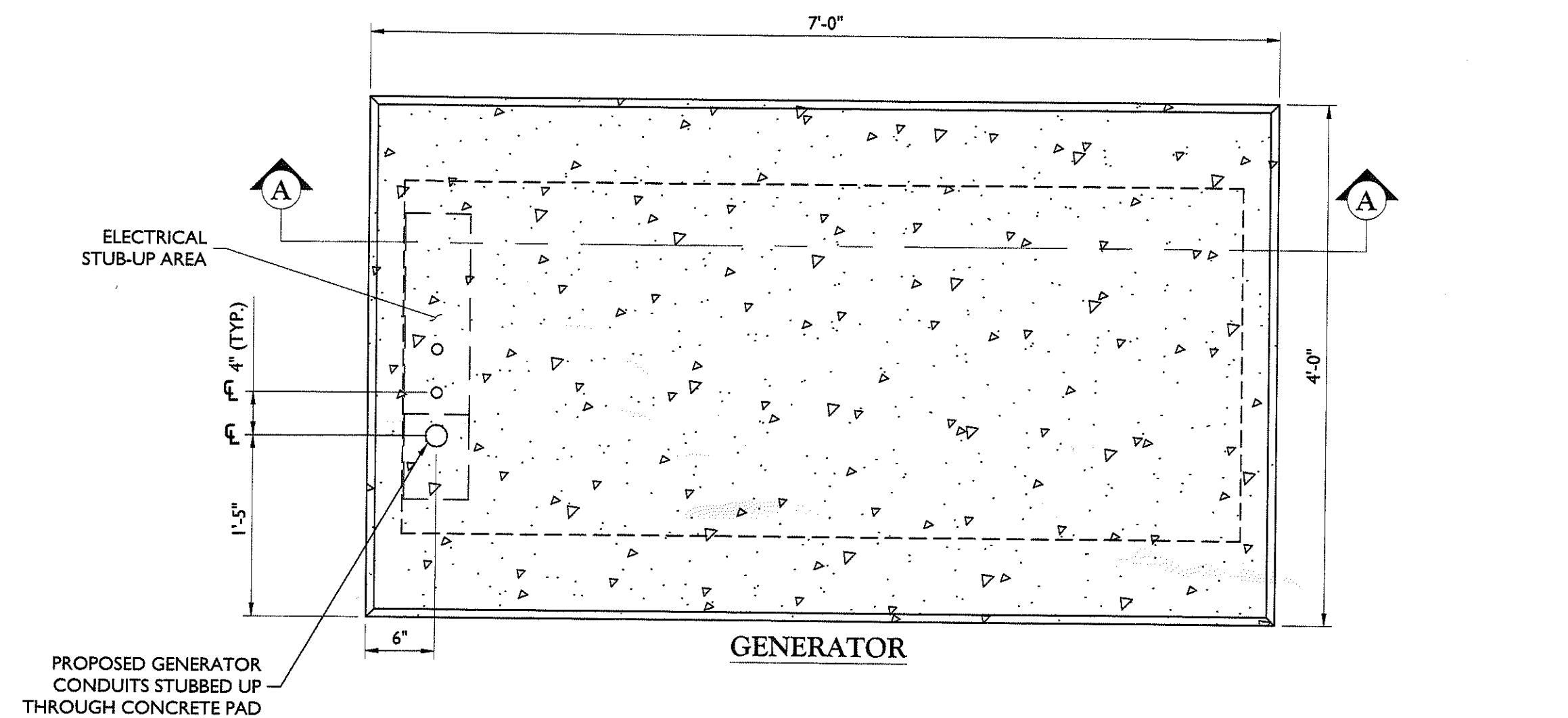
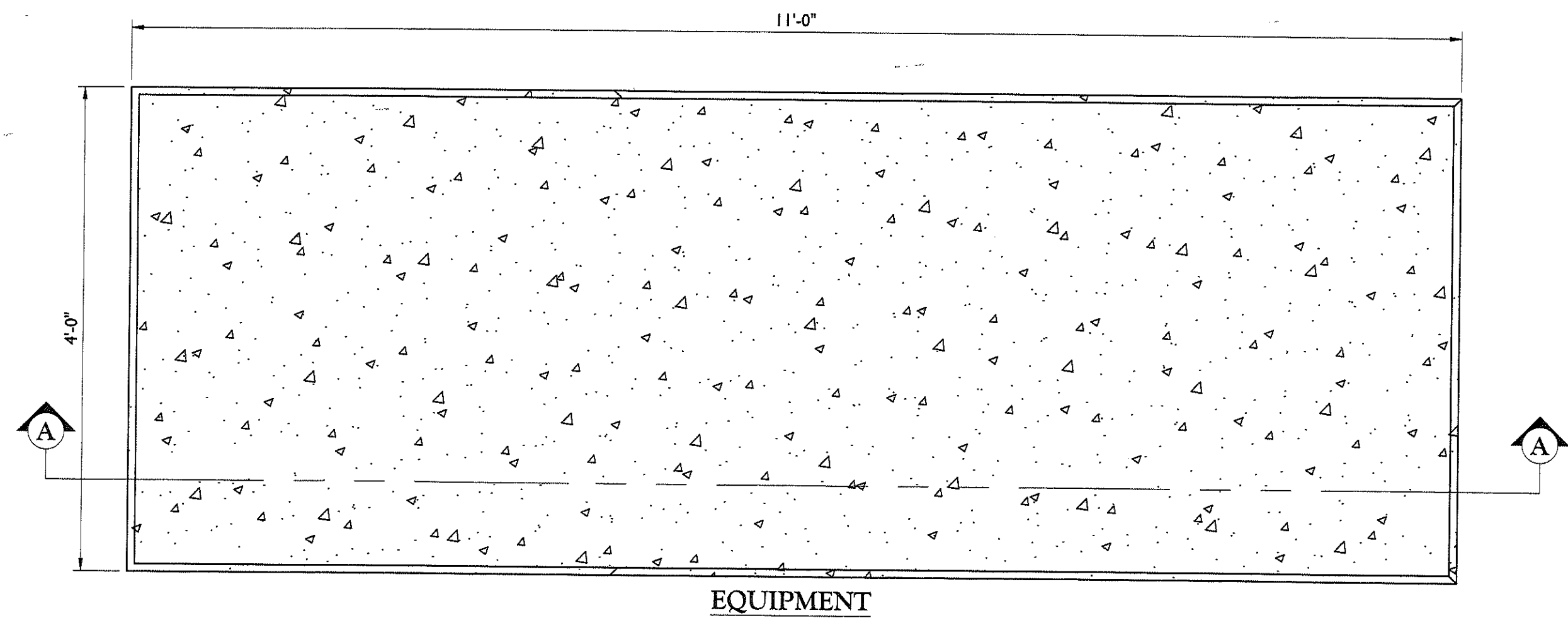
**EQUIPMENT SECTION VIEWS**



SCALE : 1" = 2' FOR 22"X34"  
 (SCALE : 1" = 4' FOR 11"X17")



**SECTION B-B**



## CONCRETE NOTES:

### DESIGN INFORMATION:

- ALL CONCRETE WORK SHALL BE IN ACCORDANCE WITH THE ACI 301, ACI 318, ACI 336A, ASTM A184, ASTM A185 AND THE DESIGN & CONSTRUCTION SPECIFICATION FOR CAST-IN-PLACE CONCRETE.
- THE DESIGN SHALL CONFORM TO THE INTERNATIONAL BUILDING CODE AS SHOWN ON SHEET T-1.

### EARTHWORK:

- FOUNDATIONS HAVE BEEN DESIGNED TO BEAR ON (UNDISTURBED RESIDUAL SOILS/COMPACTED STRUCTURAL FILL), CAPABLE OF SAFELY SUPPORTING AN ALLOWABLE BEARING PRESSURE OF 1,500 PSF. IF FOUNDATION CONDITIONS PROVE UNACCEPTABLE AT ELEVATIONS SHOWN, EXCAVATION SHALL BE CARRIED DEEPER AND SHALL BE BACKFILLED WITH LEAN CONCRETE TO PLAN FOOTING BOTTOM, OR REDISIGN OF FOUNDATIONS WILL BE REQUIRED AT THE DIRECTION OF THE ENGINEER.
- DESIGN FURNISH AND INSTALL TEMPORARY SHEETING, SHORING, AND DRAINAGE TO MAINTAIN THE EXCAVATION AND PROTECT SURROUNDING STRUCTURES AND UTILITIES.
- THOROUGHLY COMPACT ALL BOTTOM OF FOOTINGS PRIOR TO PLACING ANY CONCRETE.

### CONCRETE:

#### 1. FORMWORK

- CONCRETE CONSTRUCTION SHALL CONFORM TO "SPECIFICATIONS FOR STRUCTURAL CONCRETE FOR BUILDINGS." (ACI 301-89).
- FORMWORK SHALL CONFORM TO ACI 301 "SPECIFICATIONS FOR STRUCTURAL CONCRETE FOR BUILDINGS"

#### 2. REINFORCEMENT

- REINFORCING STEEL ASTM A615, GRADE 60, WELDED WIRE ASTM A185 (FLAT SHEET), LAPS 40 BAR DIAMETERS UNLESS NOTED. BARS SHALL BE SECURELY HELD IN ACCURATE POSITION BY SUITABLE ACCESSORIES, TIE BARS, SUPPORT BARS, ETC. HOOK LENGTHS SHALL BE 12 BAR DIAMETERS.
- CONCRETE COVER FOR REINFORCING BARS SHALL BE AS FOLLOWS, UNLESS OTHERWISE NOTED.

2.b.1. FOOTINGS AND SLABS CAST AGAINST GROUND	3"
2.b.2. CONCRETE TO BE IN CONTACT WITH GROUND OR WEATHER AT BARS GREATER THAN 5"	2"
2.b.3. AT BARS #5 OR LESS	1 1/2"
2.b.4. CONCRETE NOT TO BE EXPOSED TO GROUND OR WEATHER BEAMS, GIRDERS, AND COLUMNS	1 1/2"
2.b.5. SLABS AND WALLS	3/4"

#### 2.c. CAST IN PLACE CONCRETE

- MINIMUM 28 DAY CYLINDER STRENGTH AND MAXIMUM SLUMP, PRIOR TO ADDITION F SUPER PLASTICIZERS, AS FOLLOWS:

2.c.1.1. CLASS I FOOTINGS	4500 PSI	3"
2.c.1.2. CLASS III INTERIOR ELEVATED SLABS AND WALLS	4500 PSI	4"
2.c.1.3. CLASS V OTHER WORK	4500 PSI	4"
2.c.1.4. CLASS VI LEAN CONCRETE FOR OVEREXCAVATION OF FOUNDATIONS	4500 PSI	N/A
- MIX DESIGN TO BE IN ACCORDANCE WITH ACI 318, CHAPTER 5. NO CALCIUM CHLORIDE ADMIXTURE CONTAINING CHLORIDES SHALL BE USED IN ANY CONCRETE
- COARSE AGGREGATE FOR NORMAL WIEIGHT CONCRETE SHALL CONFORM TO ASTM C33 SIZE #57. COARSE AGGREGATE FOR LIGHTWEIGHT CONCRETE SHALL CONFORM TO ASTM C330 GRADED 3/4" TO 1 1/4".
- COLD WEATHER PLACEMENT SHALL COMPLY WITH ACI 306.1
- HOT WEATHER PLACEMENT SHALL COMPLY WITH ACI 305 R.
- CHAMFER ALL EXPOSED EDGES 3/4"
- THE MAXIMUM TEMPERATURE OF ALL CONCRETE AT DELIVERY TO THE SITE SHALL BE 85°F
- TOTAL DELIVERY TIME SHALL BE LESS THAN 75 MINUTES.



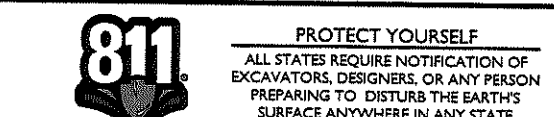
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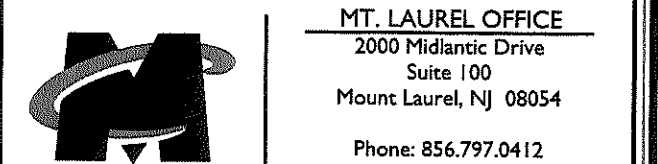
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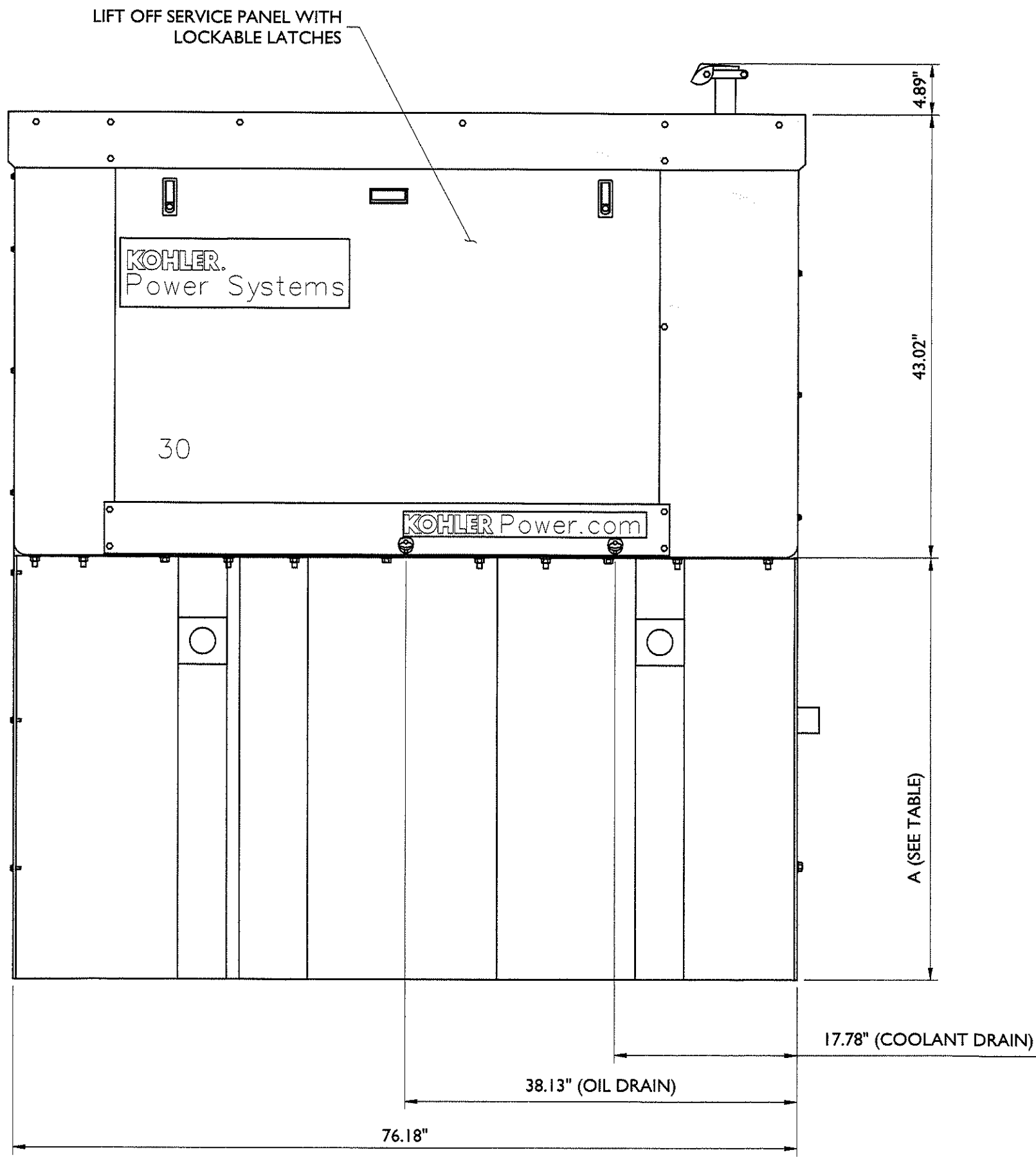
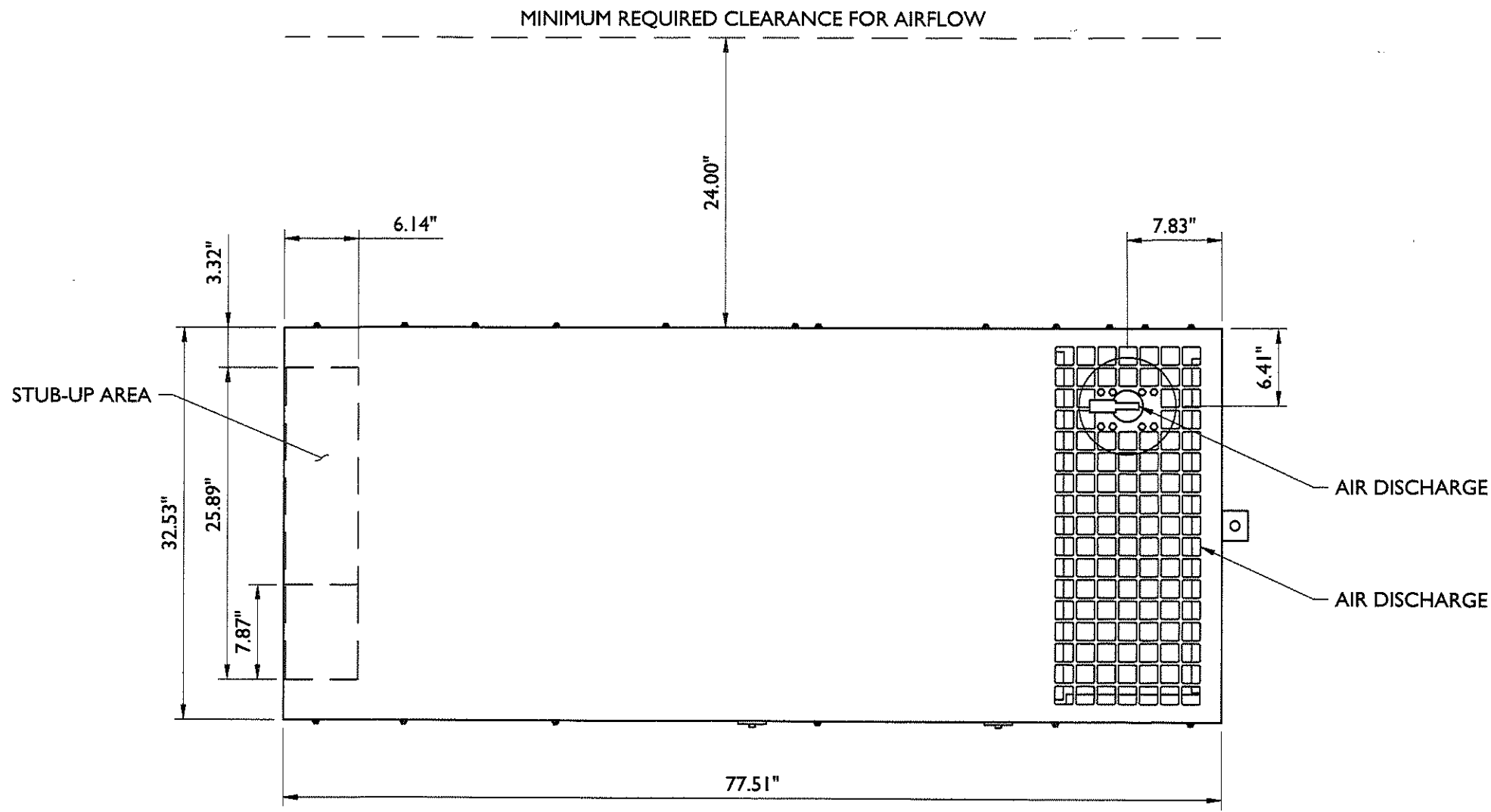
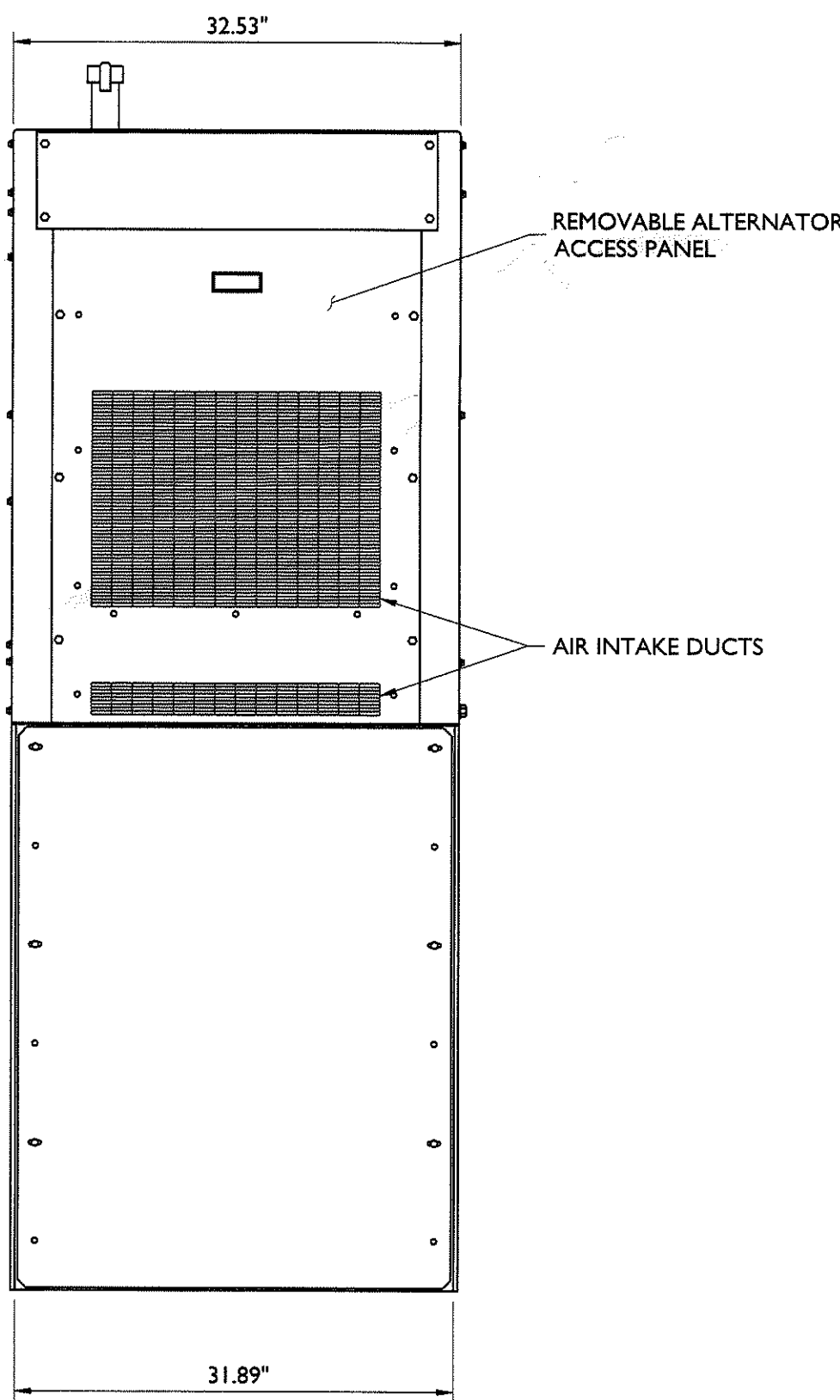
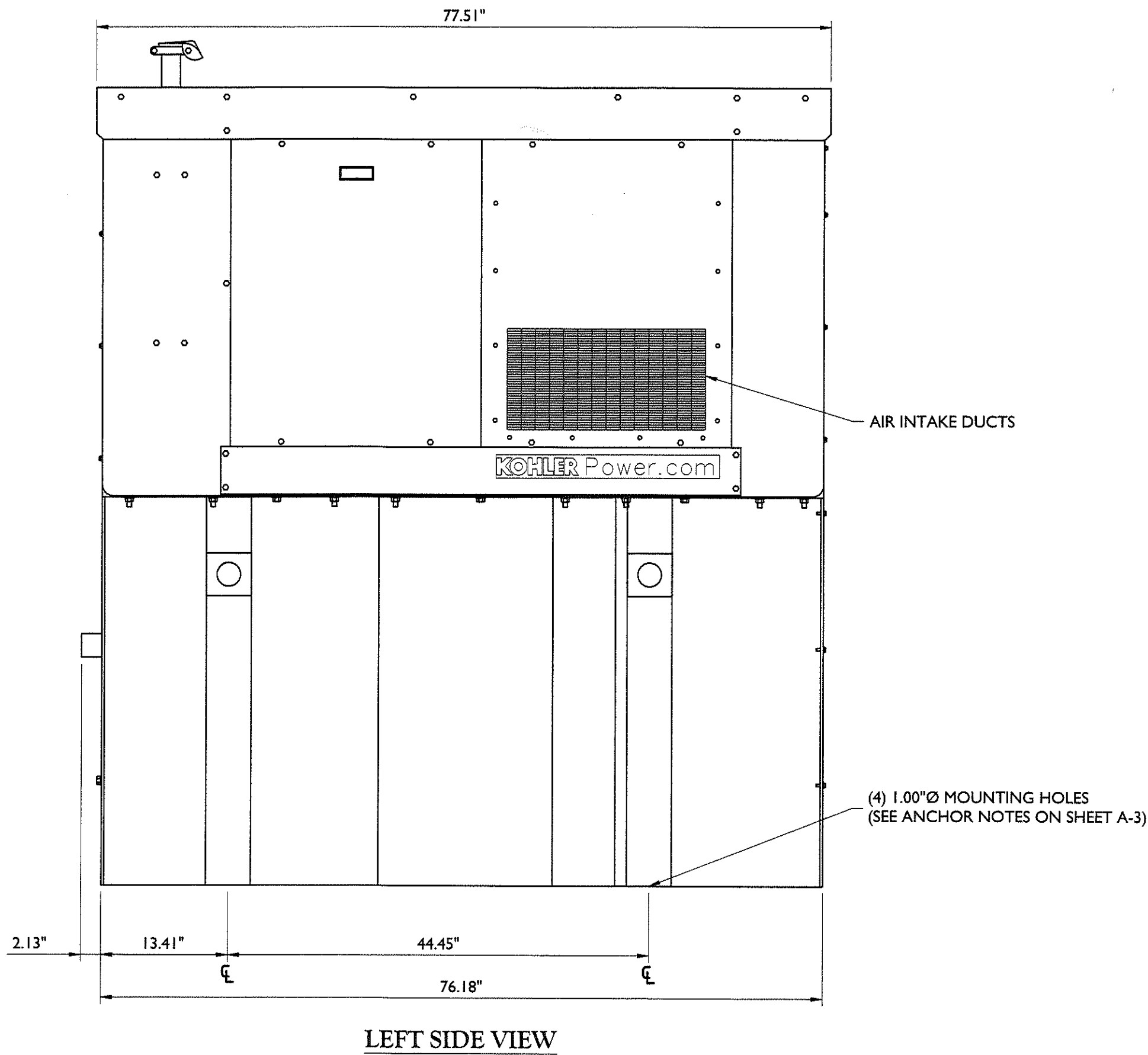
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- NOTES:
1. THE RIGHT SIDE OF THE GENERATOR IS SERVICE ACCESSIBLE.
  2. 6 AMP BATTERY CHARGER.
  3. 120VAC ENGINE BLOCK HEATER.
  4. GENERATOR MUST BE GROUNDED.
  5. SOUND ATTENUATED ENCLOSURE STANDARD WITH GENERATOR.
  6. MUST ALLOW FREE FLOW OF DISCHARGE AIR AND EXHAUST.
  7. MUST ALLOW FREE FLOW OF AIR INTAKE.
  8. EASY ACCESS SERVICE PANEL IS LOCATED ON THE RIGHT SIDE OF THE GENERATOR ONLY.
  9. BASE TANK REQUIRES ALL STUB-UPS TO BE IN THE REAR TANK STUB-UP AREA.
  10. SEE TABLE FOR SUB-BASE FUEL TANK CAPACITY.
  11. TANK EQUIPPED WITH FIRE SAFETY VALVE ON FUEL SUPPLY LINE.
  12. IT IS THE RESPONSIBILITY OF THE INSTALLATION TECHNICIAN TO ENSURE THAT THE GENERATOR INSTALLATION COMPLIES WITH ALL APPLICABLE CODES, STANDARDS AND REGULATIONS.
  13. GENERATOR IS INSTALLED ON UL-142 RATE DOUBLE WALL SUB-BASE FUEL TANK.

GENSET	TANK P/N	TANK HEIGHT (A)	DESCRIPTION	ASSEMBLY WEIGHT
20REOZK	GM97093-MA1	32.0"	SKID/TANK, 148 GAL	1,823 LBS
20REOZK	GM97093-MA2	41.0"	SKID/TANK, 203 GAL	1,968 LBS
20REOZK	GM97093-MA3	15.0"	SKID/TANK, 53 GAL	1,557 LBS
20REOZK	GM97093-MA4	27.0"	SKID/TANK, 120 GAL	1,745 LBS
30REOZK	GM97093-MA1	32.0"	SKID/TANK, 148 GAL	1,969 LBS
30REOZK	GM97093-MA2	41.0"	SKID/TANK, 203 GAL	2,114 LBS
30REOZK	GM97093-MA3	15.0"	SKID/TANK, 53 GAL	1,703 LBS
30REOZK	GM97093-MA4	27.0"	SKID/TANK, 120 GAL	1,745 LBS



**DIESEL SOUND ENCLOSURE  
WITH LIFT OFF PANEL**  
**30kW KOHLER DIESEL GENERATOR DETAIL**  
NOT TO SCALE

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**MICHAEL P. CLEAR**  
No. 19205  
Professional Engineer  
DATE 01/11/2011

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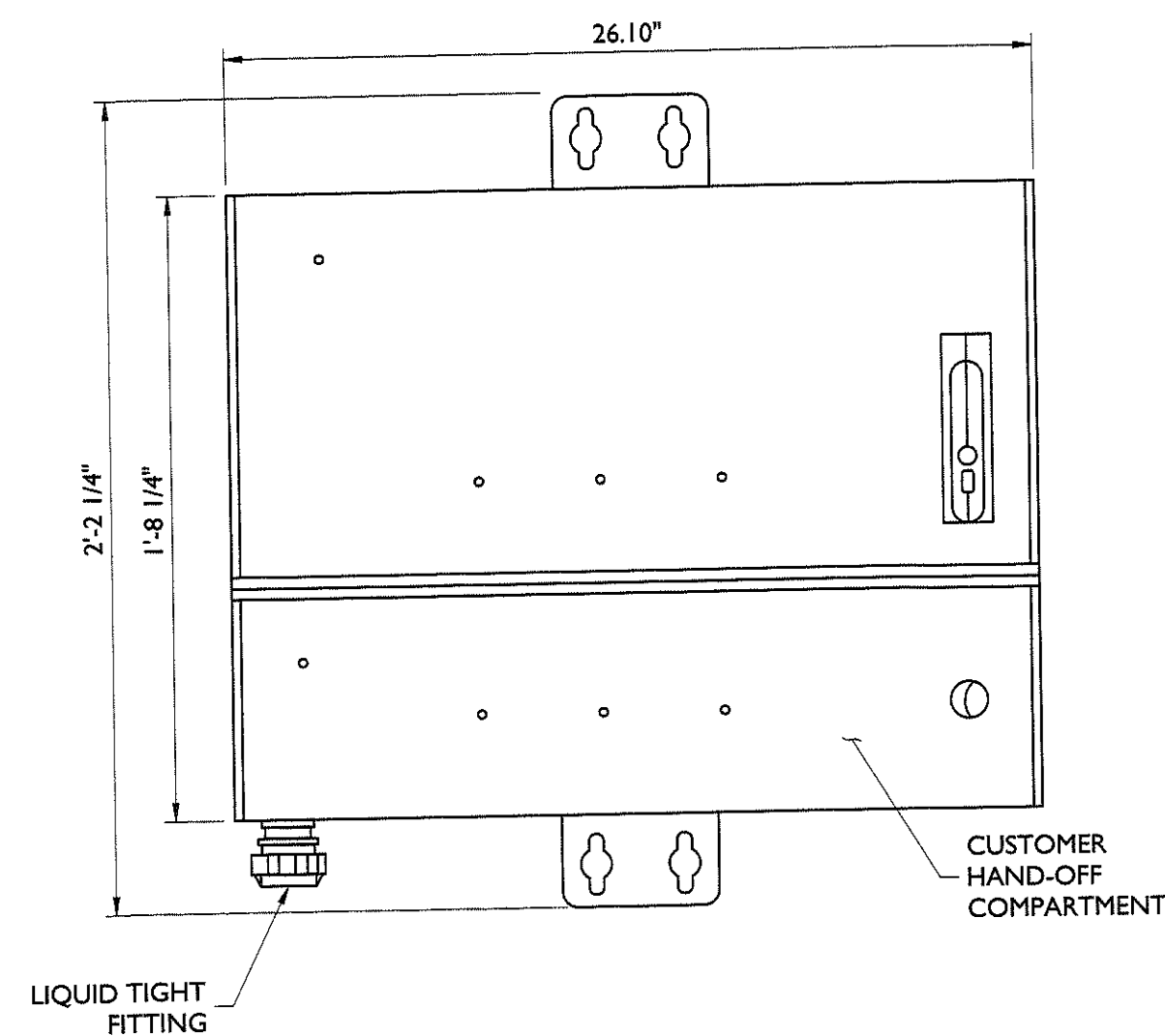
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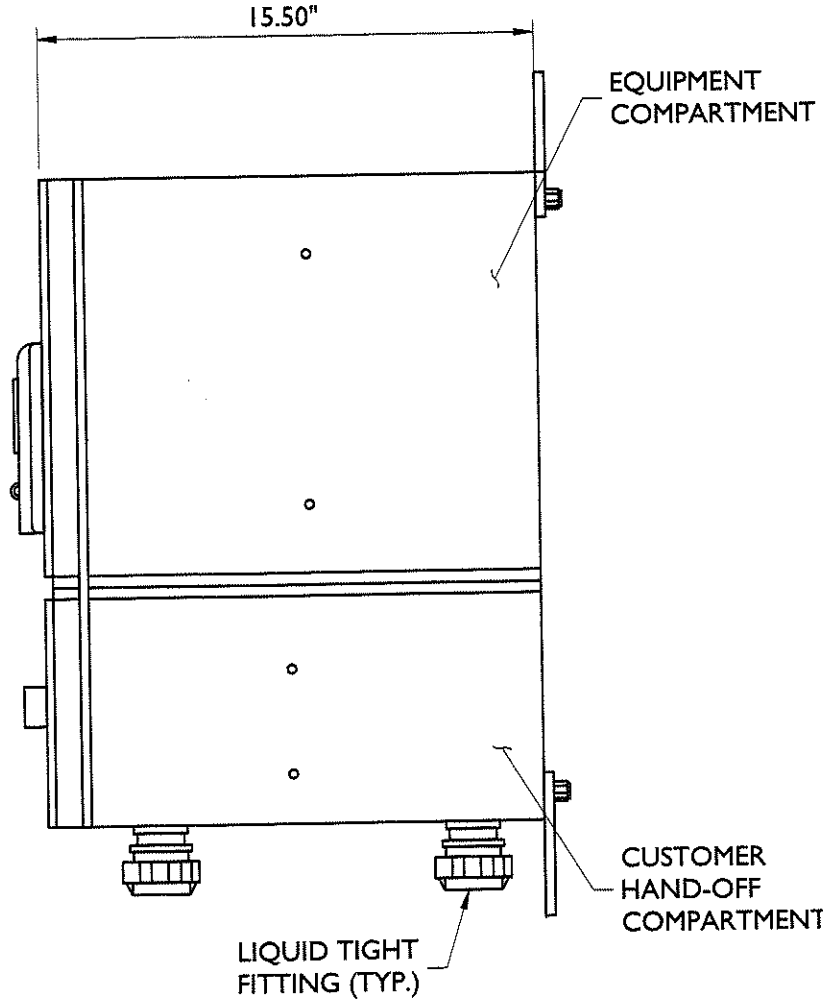
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Mount Laurel, NJ 08054  
Phone: 856.797.0412  
Fax: 856.722.1120

CONSTRUCTION DETAILS

A-3

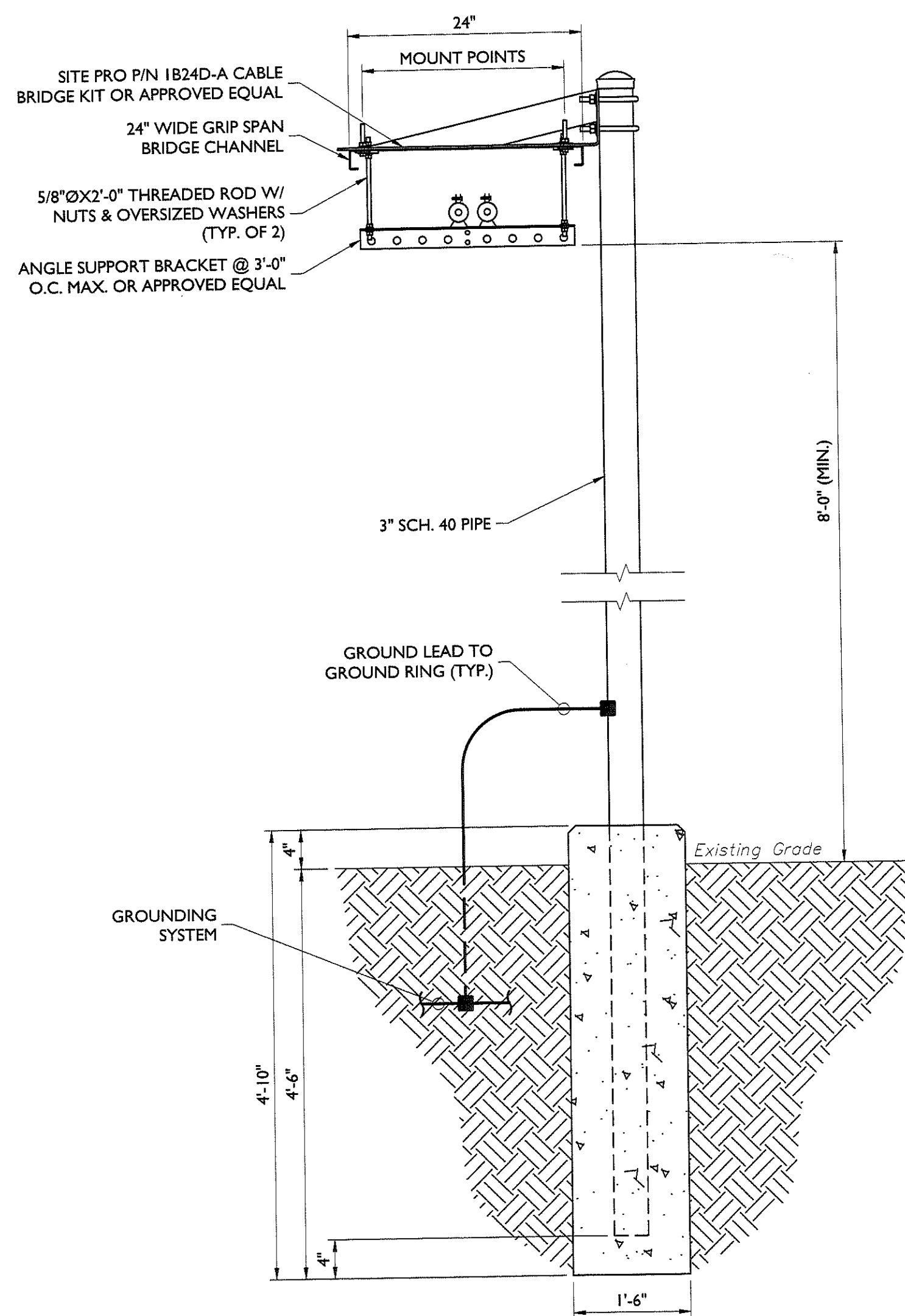


ELEVATION VIEW

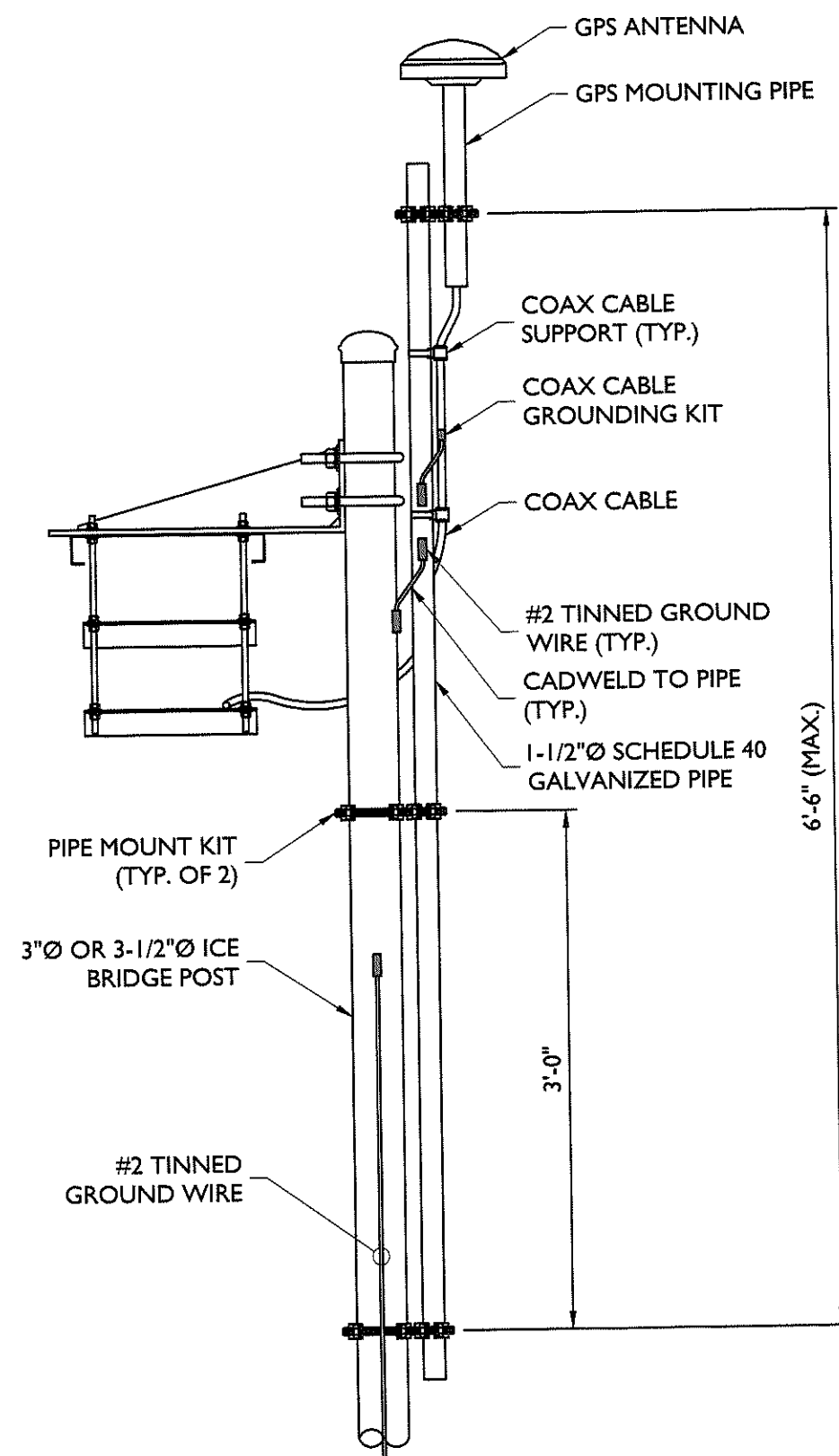


SIDE VIEW

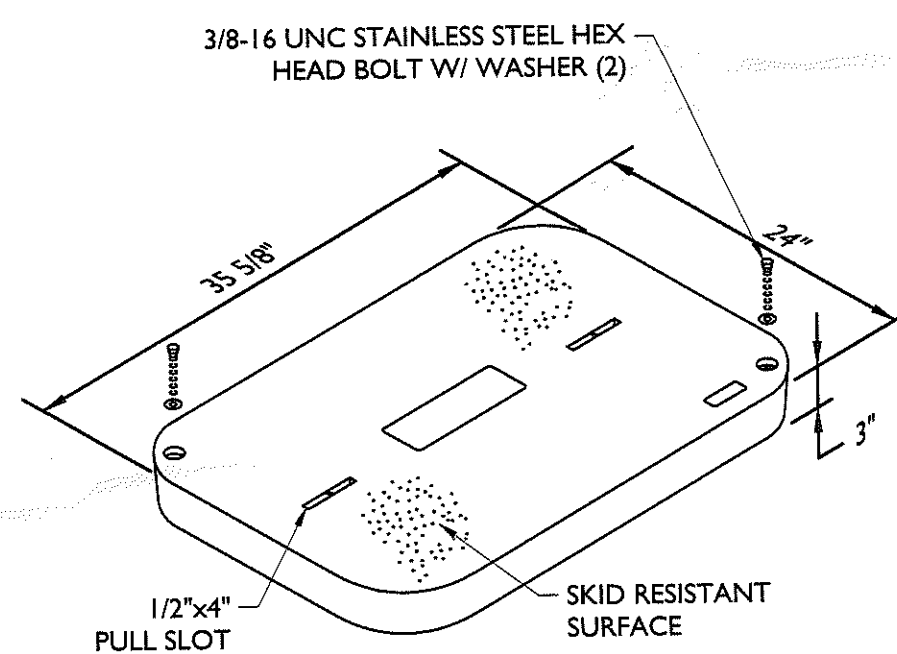
**CHARLES INDUSTRIES RL2000A CUBE**  
NOT TO SCALE



**CABLE BRIDGE DETAIL**  
NOT TO SCALE

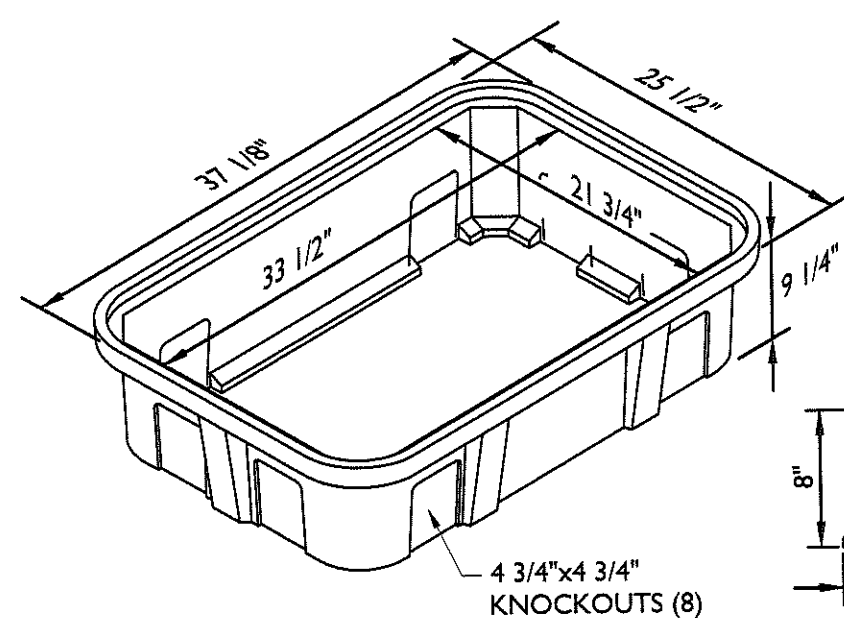


**GPS MOUNTING DETAIL**  
NOT TO SCALE

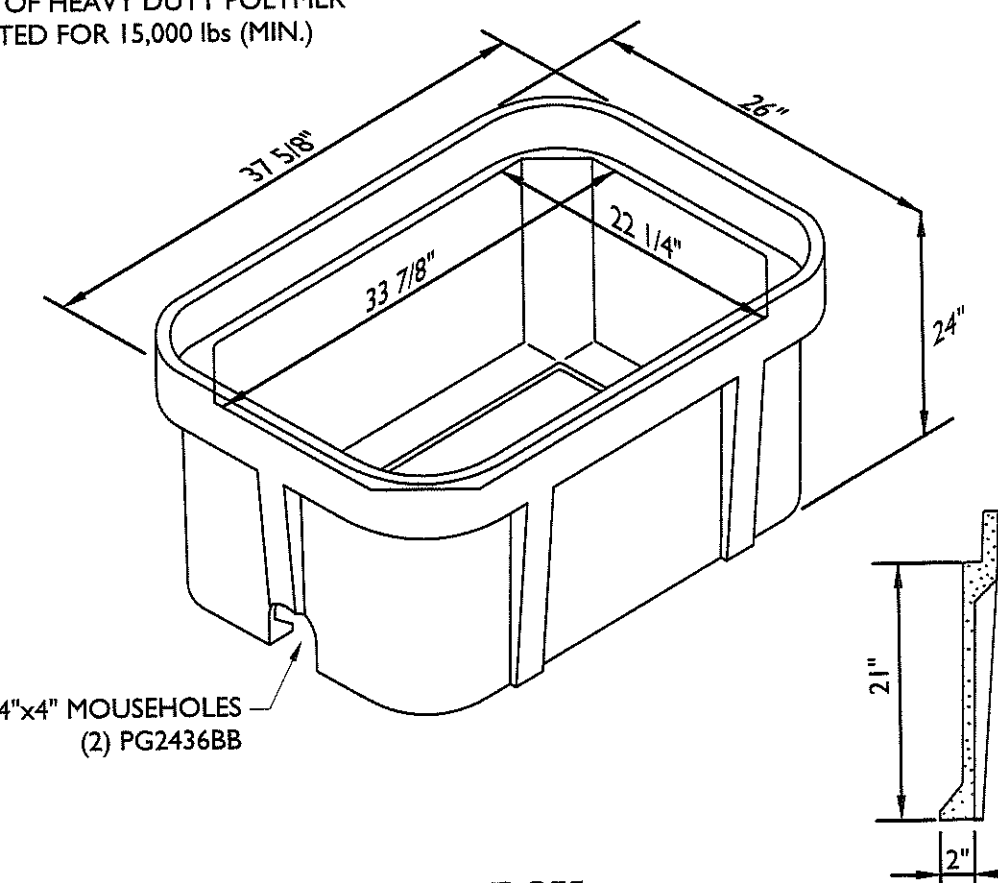


**COVER**

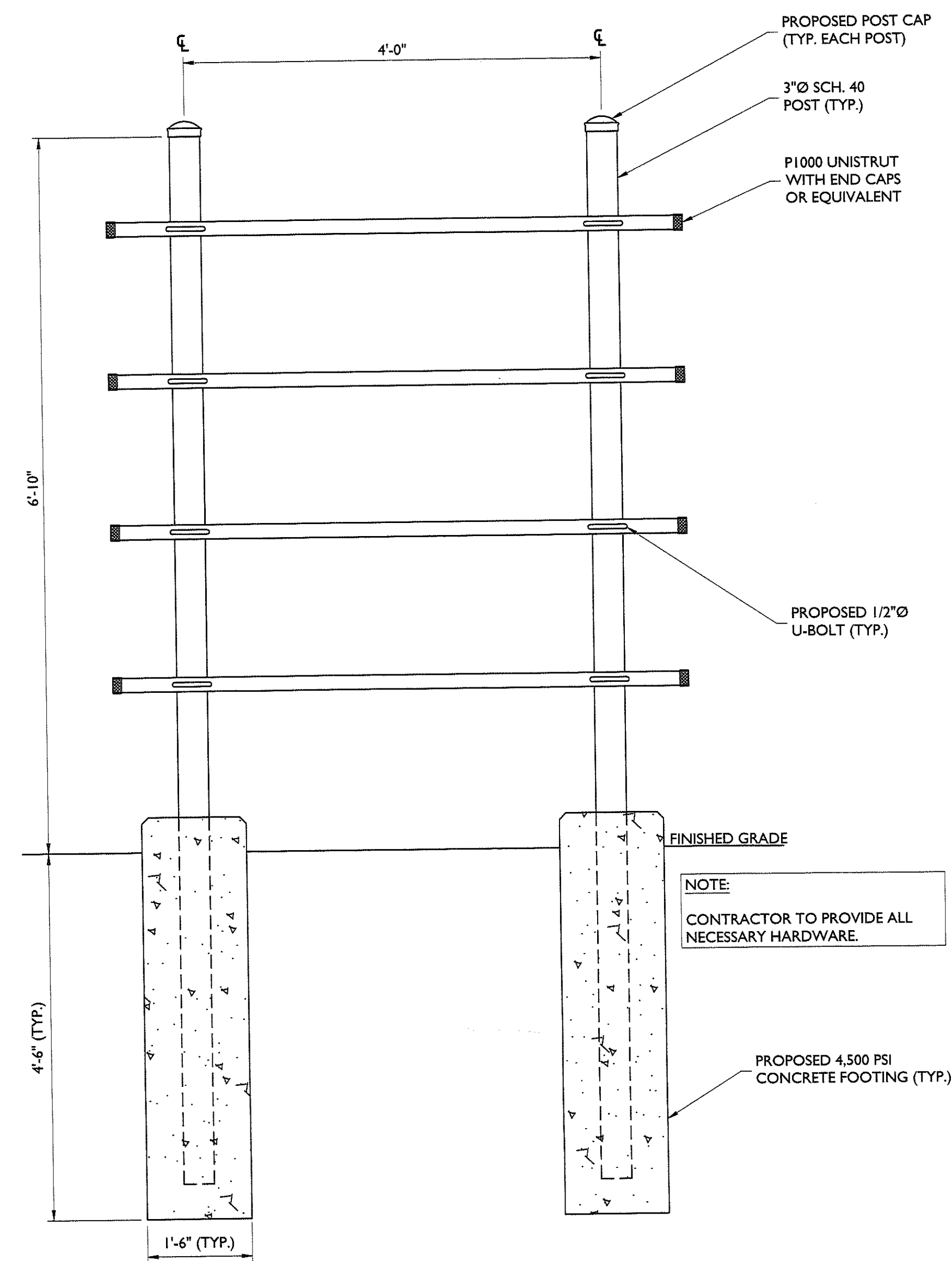
- NOTE:
- COVER TO BE MADE OF HEAVY DUTY POLYMER CONCRETE AND RATED FOR 15,000 lbs (MIN.)



**EXTENSION**



**PULL BOX DETAIL**  
NOT TO SCALE



**BACKBOARD DETAIL**  
NOT TO SCALE

NOTE:  
CONTRACTOR TO PROVIDE ALL NECESSARY HARDWARE.

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**verizon**

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VERIZON WIRELESS  
512 TOWNSHIP LINE ROAD  
BUILDING 2, FLOOR 3  
BLUE BELL, PA 19422

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SCALE:		JOB NUMBER:		
AS SHOWN		18960034A		
3	09/14/21	FOR CONSTRUCTION	AF	MEG
2	07/03/19	FOR CONSTRUCTION	MEG	MEG
1	02/06/19	FOR CONSTRUCTION	SLM	MEG
0	12/14/18	ISSUED FOR PERMIT	SLM	MEG
A	12/13/18	ISSUED FOR REVIEW	AF	MEG
REV.	DATE	DESCRIPTION	DRAWN BY	CHECKED BY

**MICHAEL P. CLEARY**  
Professional Engineer  
No. 19205  
DATE: 12/13/18

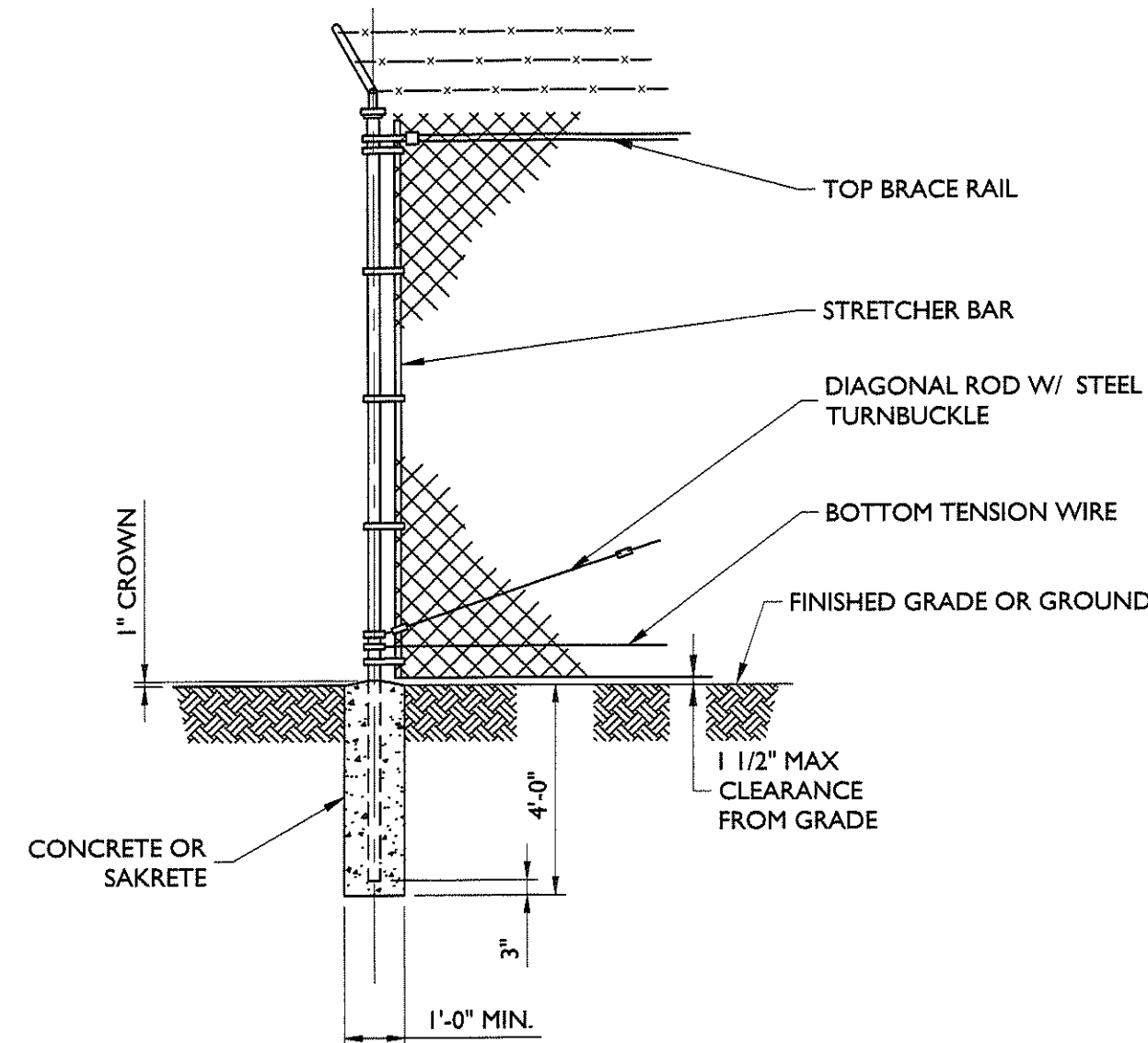
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**SITE NAME:**  
  
**DOV HORSE ISLAND**  
CAMP ARROWHEAD ROAD  
LEWES, DE 19958  
SUSSEX COUNTY

**MT. LAUREL OFFICE**  
2000 Midantic Drive  
Suite 100  
Mount Laurel, NJ 08054  
Phone: 856.797.0412  
Fax: 856.723.1120

SHEET TITLE:  
**CONSTRUCTION DETAILS**  
SHEET NUMBER:  
**A-4**

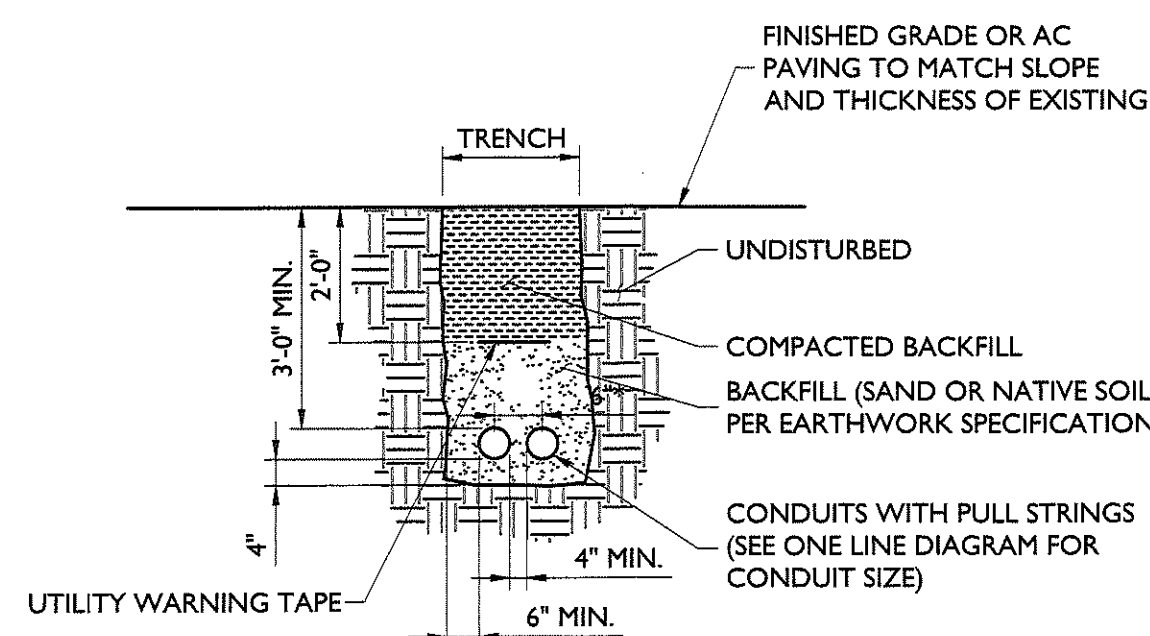




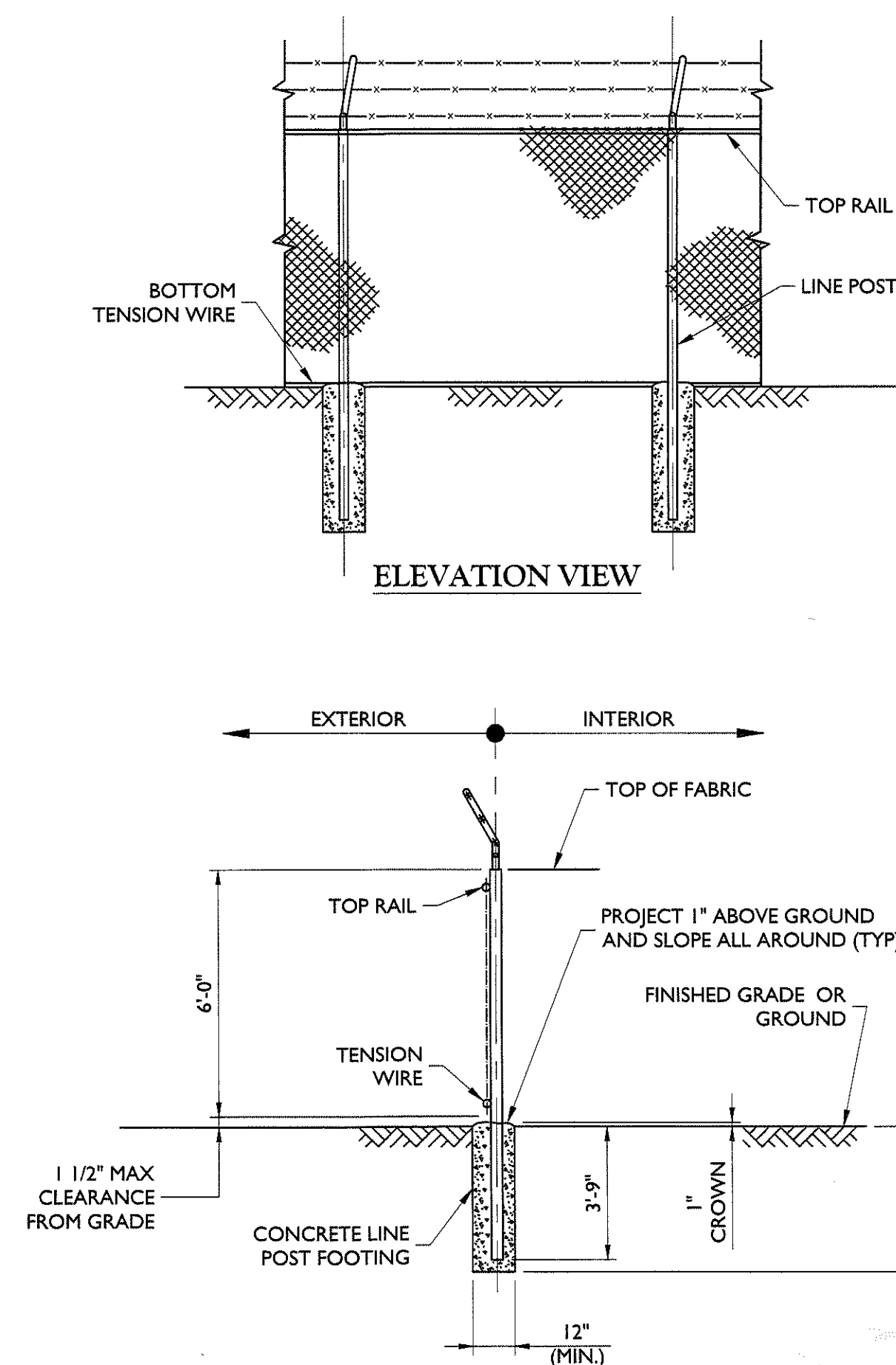
**WOVEN WIRE CORNER,  
GATE, END, OR PULL POST**  
NOT TO SCALE

**FENCE NOTES:**

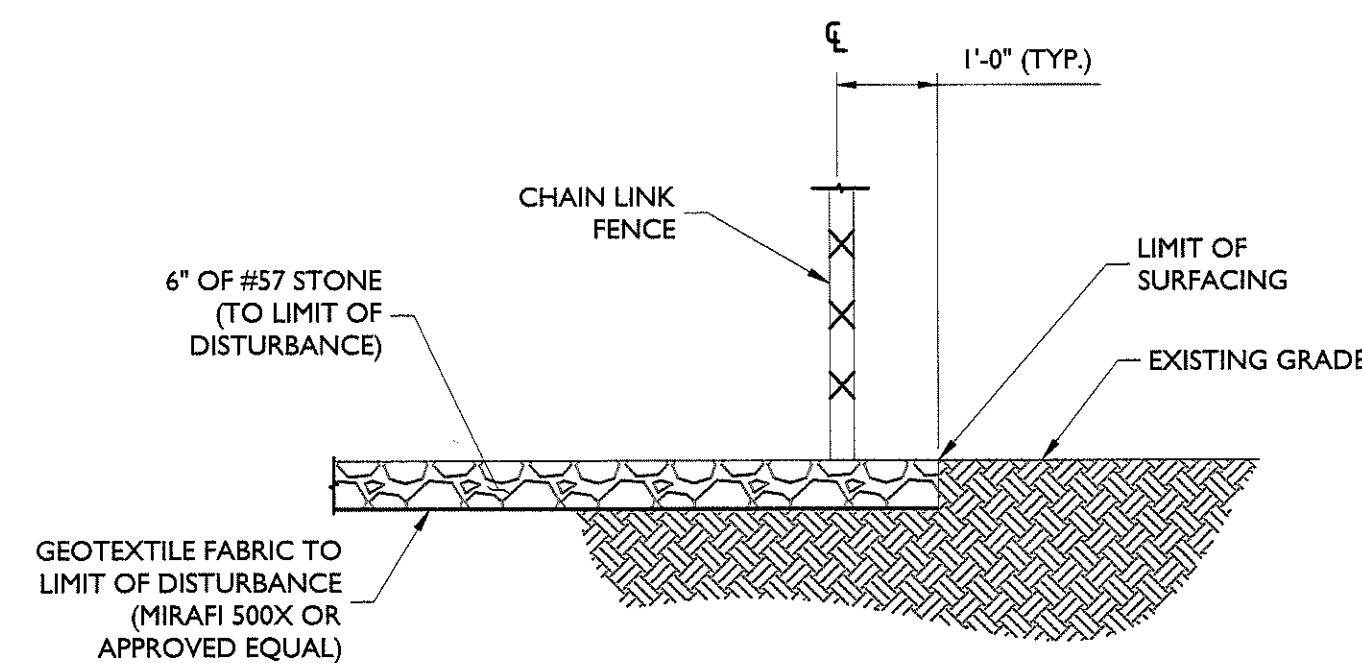
1. GATE POST, CORNER, TERMINAL OR PULL POST SHALL BE 3"Ø SCHEDULE 40 FOR GATE WIDTHS UP THROUGH 7 FEET OR 14 FEET FOR DOUBLE SWING GATE PER ASTM-F1083.
2. LINE POST: 2-3/8"Ø SCHEDULE 40 PIPE PER ASTM-F1083.
3. GATE FRAME: 1 1/2"Ø SCHEDULE 40 PIPE PER ASTM-F1083.
4. TOP RAIL & BRACE RAIL: 1 1/4"Ø SCHEDULE 40 PIPE PER ASTM-F1083.
5. FABRIC: 9 GA. CORE WIRE SIZE 2" MESH, CONFORMING TO ASTM-A392 CLASS I.
6. TIE WIRE: MINIMUM 11 GA GALVANIZED STEEL INSTALL A SINGLE WRAP TIE WIRE AT POSTS AND RAILS AT MAX. 24" INTERVALS. INSTALL HOG RINGS ON TENSION WIRE AT 24" INTERVALS.
7. TENSION WIRE: 7 GA. GALVANIZED STEEL.
8. BARBED WIRE: 3 STRANDS OF DOUBLE STRANDED 12-1/2 GAUGE TWISTED WIRE, 4 PT. BARBS SPACED ON APPROXIMATELY 5" CENTERS.
9. GATE LATCH: 1-3/8" O.D. PLUNGER ROD W/ MUSHROOM TYPE CATCH AND LOCK.
10. LOCAL ORDINANCE FOR BARBED WIRE PERMIT SHALL GOVERN INSTALLATION.
11. HEIGHT = 6'-0" VERTICAL DIMENSION WITH 1'-0" BARBED WIRE.
12. ALL WORK SHALL CONFORM WITH THE PROJECT SPECIFICATIONS.
13. GREEN PRIVACY SLATS TO BE PROVIDED WHERE NOTED ON THE PLANS.



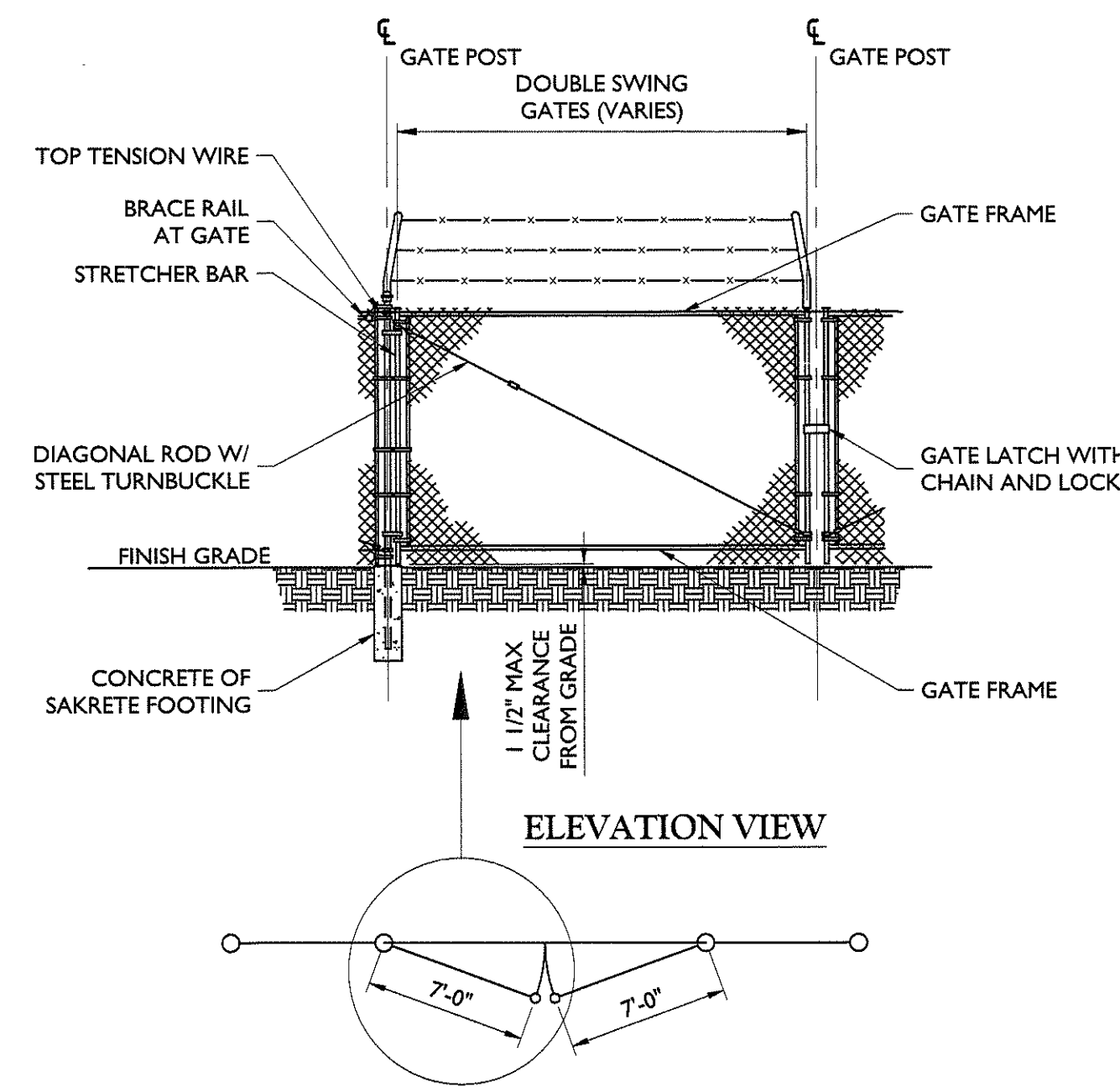
**UTILITY CONDUIT RUN**  
NOT TO SCALE



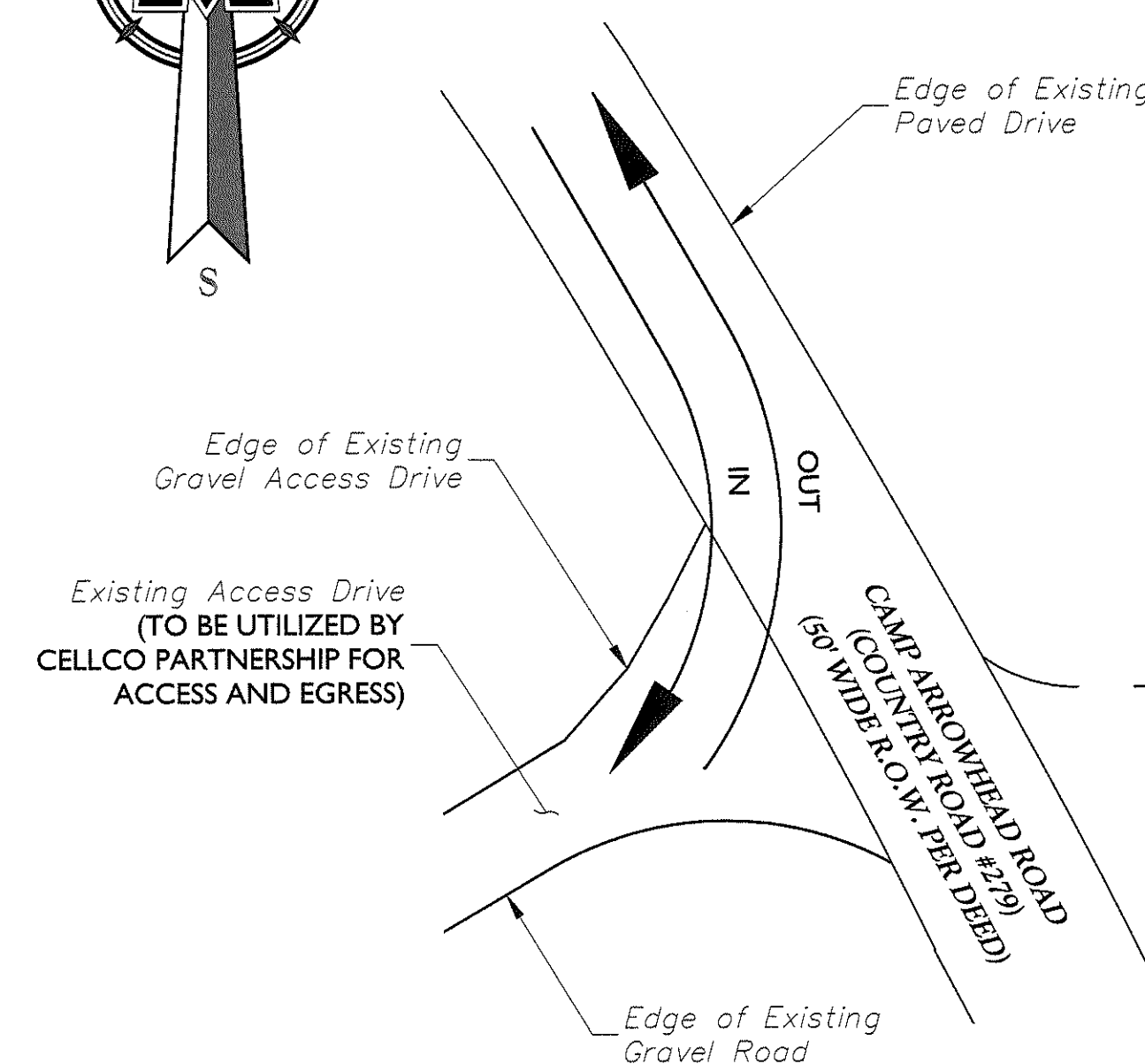
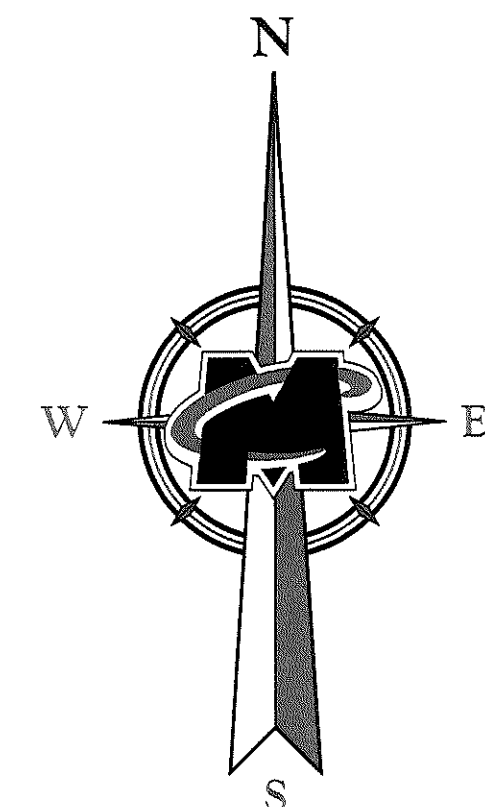
**SECTION VIEW**  
**WOVEN WIRE FENCE DETAIL**  
NOT TO SCALE



**COMPOUND SURFACING**  
NOT TO SCALE



**WOVEN WIRE SWING GATE, DOUBLE**  
NOT TO SCALE



**TRIP GENERATION /  
DISTRIBUTION DIAGRAM**

SCALE: 1" = 20' FOR 22"X34"  
(SCALE: 1" = 40' FOR 11"X17")



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■ Mt. Laurel, NJ ■ Newburgh, NY ■ Tampa, FL

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VERIZON WIRELESS  
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BLUE BELL, PA 19422



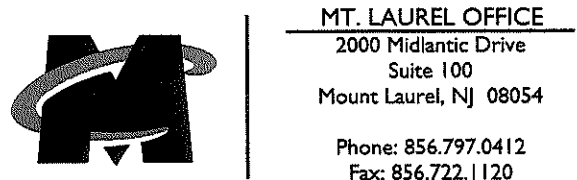
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AS SHOWN		18960034A		
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3	09/14/21	FOR CONSTRUCTION	AF MEG	
2	07/03/19	FOR CONSTRUCTION	MEG MPC	
1	02/06/19	FOR CONSTRUCTION	SLM MPC	
0	12/14/18	ISSUED FOR PERMIT	SLM MEG	
A	12/13/18	ISSUED FOR REVIEW	AF MEG	
REV	DATE	DESCRIPTION	DRAWN BY	CHECKED BY



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**SITE NAME:**

DOV HORSE ISLAND  
CAMP ARROWHEAD ROAD  
LEWES, DE 19958  
SUSSEX COUNTY



SHEET TITLE:  
**CONSTRUCTION  
DETAILS**

SHEET NUMBER:  
**A-5**

**Board of Adjustment 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

Case # 12625  
Hearing Date 11/1  
2021/4/3/8

**Type of Application: (please check all applicable)**

Variance ☒  
Special Use Exception ☐  
Administrative Variance ☐  
Appeal ☐

Existing Condition ☐  
Proposed ☒  
Code Reference (office use only)  
115-25 115-172  
115-185

**Site Address of Variance/Special Use Exception:**

34171 River Rd. Pot Nets Bayside Millsboro, DE  
**Variance/Special Use Exception/Appeal Requested:** 19966

Separation distance between units

**Tax Map #:** 234-30-00-2.00-51528

**Property Zoning:** AR-1

**Applicant Information**

Applicant Name: Robert & Sarah Murphy  
Applicant Address: 34171 River Rd.  
City Millsboro State DE Zip: 19966  
Applicant Phone #: 302-945-7704 Applicant e-mail: mrphybet@aol.com

**Owner Information**

Owner Name: Same  
Owner Address: \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip: \_\_\_\_\_ Purchase Date: \_\_\_\_\_  
Owner Phone #: \_\_\_\_\_ Owner e-mail: \_\_\_\_\_

**Agent/Attorney Information**

Agent/Attorney Name: N/A  
Agent/Attorney Address: \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip: \_\_\_\_\_  
Agent/Attorney Phone #: \_\_\_\_\_ Agent/Attorney e-mail: \_\_\_\_\_

**Signature of Owner/Agent/Attorney**

Sarah C. Murphy Date: 9-28-2021





**Criteria for a Variance:** (Please provide a written statement regarding each criteria).

You shall demonstrate to the Board of Adjustment that the property meets all of the following criteria for a Variance to be granted.

In granting any variance the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of the Zoning Ordinance or Code. The Board is empowered in no case, however, to grant a variance in the use of land or structures thereon.

**1. Uniqueness of property:**

That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property and that the exceptional practical difficulty is due to such conditions and not to circumstances or conditions generally created by the provisions of the Zoning Ordinance or Code in the neighborhood or district in which the property is located.

*The home is on a FEMA set.*

*This is a manufactured home on water in planned community.*

**2. Cannot otherwise be developed:**

That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the Zoning Ordinance or Code and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.

*Due to 10 ft. property line between homes we will need to put pad concrete pad on or close to property line.*

**3. Not created by the applicant:**

That such exceptional practical difficulty has not been created by the appellant.

*Due to Robert's current disability we need to install a lift.*

**4. Will not alter the essential character of the neighborhood:**

That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located and nor substantially or permanently impair the appropriate use of development of adjacent property, nor be detrimental to the public welfare.

*with the installation of the lift we will be able to remove the 62' ramp.*

**5. Minimum variance:**

That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.

*this lift will be removed as the disability is corrected.*



# Sussex County

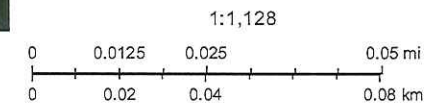


PIN:	234-30.00-2.00	
Owner Name	POT-NETS	BAYSIDE LLC
Book	0	
Mailing Address	34026 ANNAS WAY UNIT 1	
City	MILLSBORO	
State	DE	
Description	GIS TIEBACK	
Description 2	DUMMY ACCOUNT	
Description 3		
Land Code		

polyonLayer  
Override 1

polyonLayer  
Override 1

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





# Morris James LLP

David C. Hutt  
302.856.0018  
dhutt@morrisjames.com

August 26, 2021

**VIA: Hand Delivery**

Jamie Whitehouse, Director  
Sussex County Planning & Zoning Office  
2 The Circle PO Box 417  
Georgetown, DE 19947

RE: Key Properties Group, LLC  
Variance Application No. 12557

Dear Mr. Whitehouse:

I represent Key Properties Group, LLC regarding the above-referenced variance application. Enclosed with this letter please find Key Properties Group, LLC's Motion for Re-Hearing regarding Variance Application No. 12557.

I have also enclosed one (1) original of the Motion for Re-Hearing and I am happy to provide additional bound copies at your request.

Very truly yours,

MORRIS JAMES LLP

  
David C. Hutt, Esquire

Enc.

Cc: James P. Sharp, Esq. (via email)

RECEIVED

AUG 27 2021

SUSSEX COUNTY  
PLANNING & ZONING

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

RECEIVED

IN RE: :  
: Case No. 12557  
KEY PROPERTIES GROUP, LLC :

AUG 27 2021

SUSSEX COUNTY  
PLANNING & ZONING

**MOTION FOR RE-HEARING**

NOW COMES the Applicant, Key Properties Group, LLC (hereinafter "Applicant" or "KPG"), by and through its attorneys, Morris James LLP, and moves the Board of Adjustment for Sussex County (hereinafter the "Board") for an order setting the above-captioned motion for a rehearing, for the following reasons:

1. This motion results from an appeal from the Board's decision dated August 16, 2017 to partially deny Applicant's variance requests.

2. KPG's application (the "Application") relates to two existing parcels of property owned by the Applicant that have been combined to create one large parcel (the "Property"). The Application also relates to a portion of a neighboring parcel that is subject to a Lease with Option to Purchase Agreement (the "Agreement") between the Applicant and a neighboring residential community that the Applicant intends to use for additional parking. A true and correct copy of the Application is attached as Exhibit A.

3. The Property contains two buildings that have been in existence for decades. The Applicant intends to renovate both existing buildings and use them as a joint restaurant operation. The larger existing building will consist of a year-round Italian restaurant and the smaller existing building will serve as a seasonal outdoor happy hour/bar/lounge area.

4. The Application seeks almost identical variances regarding the front yard setback and landscape buffer requirement in the Combined Highway Corridor Overlay Zone for the two existing buildings.



5. The public hearing before the Board occurred on May 17, 2021. After the public hearing the case was tabled to the Board's next regular meeting. A true and correct copy of the May 17, 2021 public hearing transcript is attached hereto as Exhibit B.

6. The Board deliberated and issued its oral decision on June 7, 2021 (the "Board's Deliberation"). A true and correct copy of the June 7, 2021 deliberation transcript is attached hereto as Exhibit C.

7. The Board's Decision dated August 16, 2021 (the "Board's Decision") approved the corridor variance and front yard setback variance for the larger existing building on the Property but denied the variance requests for the smaller existing building. A true and correct copy of the Board's Decision is attached hereto as Exhibit D.

8. During the Board's Deliberation, the Board stated that the unique condition and exceptional difficulty for granting the variances for the larger building were because it was "existing."<sup>1</sup> The Board then stated that "the addition to the smaller building do not meet any of these criteria."<sup>2</sup> However, there was un rebutted testimony and the Board's Decision found that the smaller building was an "existing" building constructed prior to the existence of a Zoning Code in Sussex County.<sup>3</sup> It appears there was a misunderstanding as to the nature, history and use of the smaller building.

9. Even though the Board approved the almost identical variance for the larger existing building, the Board's Decision stated that the variance requests relating to the smaller existing building were not the minimum variances necessary to afford relief and that approving

---

<sup>1</sup> Exhibit C, p. 8 at 9-10 and 20-22.

<sup>2</sup> *Id.*

<sup>3</sup> Exhibit B, p. 10 at 5-11.

the variances for the smaller existing building on the Property would overdevelop the Property and make the use of the Property “excessive.”<sup>4</sup>

10. The denied variances are necessary in order to utilize two of the existing buildings as a restaurant (a permitted use) and it is the Applicant’s position that several pertinent facts surrounding the Application, discussed at the public hearing and taken into consideration by the Board were inaccurate and misconstrued.

11. Rule 18 of The Rules of Procedure of the Board of Adjustment of Sussex County, Delaware states that the Board may rehear a matter for the following reasons:

- (1) Mistake, inadvertent surprise or excusable neglect.
- (2) Newly discovered evidence which by due diligence could not have been discovered at the time of the original hearing.
- (3) Fraud, misrepresentation or other misconduct of an adverse party.

*Rules of Procedure of the Board of Adjustment of Sussex County, Rule 18.*

12. Applicant requests a rehearing based upon “mistake, inadvertent surprise or excusable neglect.”<sup>5</sup>

13. The Board’s Decision is based on several mistakes of fact or surprising matters and Applicant seeks a rehearing to clarify the factual misunderstandings between the Applicant and the Board.

14. First, the Board’s Decision stated that the variance requests pertaining to the smaller existing building do not represent the minimum variances necessary to afford relief because the Property would “overdevelop the Property.”<sup>6</sup> However, the building is existing and the Applicant

---

<sup>4</sup> Exhibit D at ¶ 46(k).

<sup>5</sup> *Rules of Procedure of the Board of Adjustment of Sussex County, Rule 18(1).*

<sup>6</sup> Exhibit D at ¶ 46(n).



could find no mention of over-development during the discussion at the public hearing or the Board's Deliberation.<sup>7</sup>

15. Second, the Board's Decision mistakenly characterized the Applicant's Agreement with the Villas at Bay Crossing as a "purported"<sup>8</sup> lease and *sua sponte* questioned the legality of a valid Agreement entered into by consenting parties (Applicant and the Villas at Bay Crossing Condominium).<sup>9</sup>

16. The Board's Decision expressed concern that the parking spaces provided by the Agreement would not be available to the Applicant because the Agreement was not a valid legal document.<sup>10</sup> The Decision then stated "if all of the variances were granted, the Applicant could build two restaurants and hope that there were no issues with the Lease."<sup>11</sup>

17. While the Board heard testimony in opposition from one resident of the Villas at Bay Crossing Condominium regarding alleged issues with the Agreement, the fact is that the Applicant and the Villas at Bay Crossing Condominium consented to a valid agreement from which they both benefit (whereby the Applicant gains parking spaces and the Condominium receives income for excess parking spaces). The Board did not hear from a member of the Condominium's Board of Directors or other individual authorized to speak on behalf of the Condominium challenging the validity of or otherwise questioning the Lease's enforceability.

18. The Board also based its Decision on the perceived lack of parking that will be available at the Property and proposed that the Applicant remove the smaller building on Parel 74

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<sup>7</sup> Exhibit D at ¶ 46(n).

<sup>8</sup> *Id.* at ¶46(c).

<sup>9</sup> *Id.* at ¶46(c-d).

<sup>10</sup> *Id.*

<sup>11</sup> *Id.* at ¶ 46(d).

in order to accommodate parking.<sup>12</sup> This statement mistakenly implies that the Applicant would be able to develop parking within the front yard setback where the small, pre-existing building is located.

19. The Board's Decision also overlooked the Applicant's plans to accommodate alternative modes of transportation to the Property. Not only did the Applicant testify that it plans to incentivize its customers to use Ubers/taxis or public transportation,<sup>13</sup> the Revised Commercial Site Plan states that the Applicant intends to utilize Uber/taxis and the Lewes Park and Ride in order to provide access to the proposed restaurant and the site plans include a covered structure for pick-up/drop-off at the larger building.<sup>14</sup> This pick-up/drop-off ability also supports the Applicant's plan to include COVID-friendly alternative dining options (*i.e.*, takeout, delivery, outdoor dining).

20. In addition, there was not a variance request pending relating to parking. The testimony before the Board was that if the variance requests were successful, the Applicant would seek a waiver for parking during the site plan review process in front of the Planning Commission.

21. Finally, during the May 2021 public hearing, Counsel for the Board raised the issue of whether the steps at the front of the building would need to be included in the variance application because they extended past the front of the building.<sup>15</sup> While Counsel for the Board expressed his concern that the steps would require an additional variance application, the Board's

---

<sup>12</sup> Exhibit D at ¶ 46(i) and (m).

<sup>13</sup> Exhibit B, p. 20 at 2-9.

<sup>14</sup> Exhibit A, *see* Revised Commercial Site Plan attached with the Board of Adjustment Application.

<sup>15</sup> Exhibit B, p. 29 at 9-24.



Deliberation and the Board's Decision never address the issue of the steps and whether they are required to be included in the variance application.

22. The mistakes or inadvertent surprises arose from (1) the intense scrutiny of the intended (and permitted) use of the Property which may have resulted in the Board Decision's new characterization of the proposed plan as "overdevelopment," (2) the legal analysis or review of the lease agreement with the adjacent property owner, (3) the Board's emphasis on parking relating to the lease and the existing, smaller building, and (4) the status of the front steps of the building and how they are impacted by the granted variance.

23. This was a complex application for many reasons, including, but not limited to, there were multiple variance applications, multiple tax parcels, a previously approved variance application, an existing building permit and approved site plan, structures that existed prior to the Zoning Code, an agreement with neighbors, and questions about whether the application included all of the variances necessary (front steps for the larger building).

24. Not only was the Applicant surprised at these items, it appeared the Board had its own outstanding questions as there was discussion and an initial motion the night of the public hearing to keep the public record open for additional information.<sup>16</sup> In addition, the night of the Board's Deliberation, there was an additional series of questions and a Board member questioned if the record was still open.<sup>17</sup>

25. Due to the complexity of this case, the unresolved factual questions referenced during the public hearing and the lingering question about the front yard steps, it may be difficult to precisely classify whether it was a "mistake, inadvertent surprise or excusable neglect;"

---

<sup>16</sup> Exhibit B, p. 44 at 9-12.

<sup>17</sup> Exhibit C, p. 7 at 3-4.

however, it was clear, even from the Board's own discussion during the public hearing and the deliberation, that matters required additional information or further clarification.

WHEREFORE, Key Properties Group, LLC respectfully requests that the Board establish a date for a rehearing of its appeal from the Board's decision dated August 16, 2021.

**MORRIS JAMES, LLP**

By: 

David C. Hutt, Esquire (#4037)  
Michelle G. Bounds, Esquire (#6547)  
107 W. Market Street, P.O. Box 690  
Georgetown, DE 19947  
(302) 856-0018  
Dhutt@morrisjames.com  
Mbounds@morrisjames.com  
*Attorneys for Applicant*  
*Key Properties Group, LLC*

Dated: August 26, 2021



# **EXHIBIT A**

**Board of Adjustment 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

Case # 12557  
Hearing Date MAY 17  
202103651

Type of Application: (please check all applicable)

Variance ☒  
Special Use Exception ☐  
Administrative Variance ☐  
Appeal ☐

Existing Condition ☒  
Proposed ☒  
Code Reference (office use only)  
115-80 115-182  
115-194-1

Site Address of Variance/Special Use Exception:

18315 Coastal Highway, Lewes, DE 19958

Variance/Special Use Exception/Appeal Requested:

1. The Owner is seeking a variance from section 115-82.B. Depth of Front Yard. Request a reduction of 27.28 feet from the required 60 foot front yard setback to 32.72 feet which is the setbacks of the existing buildings on the properties. Both properties will ultimately be combined. Parcels 74.00 & 75.00 only.
2. Request a variance from the provisions of Section 115 194.1 E (3) Combined Highway Corridor Overlay Zone for the required 20 foot landscaped buffer. A 5-foot variance is requested to reduce buffer to 15 feet. Parcels 74.00, 75.00 & p/o 70.01

Tax Map #: 334-6.00 Parcels 74.00, 75.00 & P/O 70.01

Property Zoning: C-1

**Applicant Information**

Applicant Name: Elmer G. Fannin  
Applicant Address: 610 Marshall Street  
City Milford State DE Zip: 19963  
Applicant Phone #: (302) 265-2257 Applicant e-mail: elmerfannin@countrylifehomes.com

**Owner Information**

Owner Name: Key Properties Group, LLC (c/o Elmer G. Fannin)  
Owner Address: 610 Marshall Street  
City Milford State DE Zip: 19963 Purchase Date: \_\_\_\_\_  
Owner Phone #: (302) 265-2257 Owner e-mail: elmerfannin@countrylifehomes.com

**Agent/Attorney Information**

Agent/Attorney Name: Mark H Davidson | Pennoni  
Agent/Attorney Address: 18072 Davidson Drive  
City Milton State DE Zip: 19968  
Agent/Attorney Phone #: (302) 684-6207 Agent/Attorney e-mail: mdavidson@pennoni.com

**Signature of Owner/Agent/Attorney**



RECEIVED

Date: 4/20/21



APR 22 2021  
SUSSEX COUNTY  
PLANNING & ZONING





**Criteria for a Variance:** (Please provide a written statement regarding each criteria).

*You shall demonstrate to the Board of Adjustment that the property meets all of the following criteria for a Variance to be granted.*

*In granting any variance the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of the Zoning Ordinance or Code. The Board is empowered in no case, however, to grant a variance in the use of land or structures thereon.*

**1. Uniqueness of property:**

That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property and that the exceptional practical difficulty is due to such conditions and not to circumstances or conditions generally created by the provisions of the Zoning Ordinance or Code in the neighborhood or district in which the property is located.

"See Attached"

---

**2. Cannot otherwise be developed:**

That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the Zoning Ordinance or Code and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.

"See Attached"

---

**3. Not created by the applicant:**

That such exceptional practical difficulty has not been created by the appellant.

"See Attached"

---

**4. Will not alter the essential character of the neighborhood:**

That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located and nor substantially or permanently impair the appropriate use of development of adjacent property, nor be detrimental to the public welfare.

"See Attached"

---

**5. Minimum variance:**

That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.

"See Attached"

---



18072 Davidson Drive  
Milton, DE 19968  
T: 302-684-8030  
F: 302-684-8054

[www.pennoni.com](http://www.pennoni.com)

April 20, 2021

**CRITERIA FOR VARIANCE  
FOR  
TAX MAP 334-6.00 PARCELS 74.00 & 75.00 and PORTION OF PARCEL 70.01**

**1. Uniqueness of property:**

That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property and that the exceptional practical difficulty is due to such conditions and not to circumstances or conditions generally created by the provisions of the Zoning Ordinance or Code in the neighborhood or district in which the property is located.

**PARCELS 74.00 & 75.00**

1. THE UNIQUE CONDITION OF THIS SITE IS THAT THE BUILDING IS EXISTING AND WAS CONSTRUCTED IN 1948, WHICH PREDATES NOT ONLY THE SUSSEX COUNTY INTERIM ZONING ORDINANCE IN 1968 BUT THE ADOPTION OF THE CHCOZ ON JANUARY 30, 1996 AND THEREFORE IS A PRE-EXISTING NON-CONFORMING BUILDING. THE BUILDINGS WERE ONCE SINGLE-FAMILY RESIDENCES. THE BUILDING ON PARCEL 75.00 WAS CONVERTED TO PROFESSIONAL OFFICE SPACE BACK IN THE 1990'S. SINGLE FAMILY DWELLINGS ALONG COASTAL HIGHWAY (DE ROUTE ONE) CORRIDOR HAVE DIMINISHED GIVEN THE NATURE OF THE AREA, USES, TRAFFIC AND ZONING OF PROPERTIES. THE PARCELS MINIMAL SITE AREAS AND RELATIVELY SHALLOW DEPTHS OF 116.50' FOR PARCEL 74.00 AND 160.00' FOR PARCEL 75.00 MINIMIZE THE ABILITY TO DEVELOP THE PROPERTY WITH A USE CUSTOMARY TO THE PARCEL'S C-1 ZONING WHILE STILL PROVIDING THE REQUIRED PARKING, LOADING, LANDSCAPE BUFFERS, STORMWATER MANAGEMENT, ETC. AND WITH THE EXPANSION OF THE HIGHWAY RIGHT-OF-WAY OVER THE YEARS HAS A SETBACK FROM THE EXISTING RIGHT-OF-WAY OF 32.72' FOR PARCEL 74.00 AND 32.77' FOR PARCEL 75.00. THE COMBINED REQUEST FOR VARIANCE IS FOR 27.28-FEET.

**PARCELS 74.00, 75.00 & PORTION OF 70.01**

2. THE UNIQUE PHYSICAL CIRCUMSTANCE OF THE PROPERTIES IS THE SHALLOWSNESS OF THE PARCELS AT 116.50' FOR PARCEL 74.00 AND 160.00' FOR PARCEL 75.00 AND THE CONNECTION OF PORTION OF PARCEL 70.01 (WITH LIMITED WIDTH) TO PARCELS 74.00 AND 75.00 FOR PARKING ALONG WITH THE DEDICATION OF 15-FEET TO DELDOT FOR A PERMANENT EASEMENT CREATES LIMITED SPACE FOR HANDLING ADDITIONAL DRAINAGE AND UTILITY PLACEMENT FOR THE REUSE AND REDEVELOPMENT OF THE EXISTING BUILDINGS UNDER CURRENT C-1 PERMITTED USES. PROVIDING A 15-FOOT LANDSCAPE BUFFER FOR THE COMBINED HIGHWAY OVERLAY ZONE ACROSS ALL THREE PARCELS WILL PROVIDE UNIFORMITY AND WILL STILL MEET THE INTENT OF THE CODE.



**2. Cannot otherwise be developed:**

That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the Zoning Ordinance or Code and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.

**PARCELS 74.00 & 75.00**

1. APPROXIMATELY 28-FEET OF THE BUILDING WOULD HAVE TO BE DEMOLISHED TO BRING THE BUILDINGS INTO COMFORMITY WITH THE 60-FOOT FRONT YARD SETBACK. THE INTENT OF THIS PLAN IS TO RENOVATE AND USE THE EXISTING STRUCTURE AS PART OF A NEW RESTAURANT AS PERMITTED UNDER THE PARCEL'S C-1 ZONING. WITHOUT THE REQUESTED VARIANCE, THE PARCEL'S MINIMAL AREA AND DEPTH (160 FEET) LIMITS THE ABILITY TO PROVIDE THE NECESSARY BUILDING, PARKING, LOADING, LANDSCAPE BUFFERS, AND STORMWATER MANAGEMENT WHILE STILL ENABLING A REASONABLE USE OF THE PROPERTY.

**PARCELS 74.00, 75.00 & PORTION OF 70.01**

2. IN ORDER TO PROVIDE SUFFICIENT PARKING, ADDITIONAL DRAINAGE AND PLACEMENT OF UTILITIES AS WELL AS SAFE ACCESS AND TURNING MOVEMENTS FOR VEHICULAR TRAFFIC, THE 5-FOOT VARIANCE FROM THE CHCOZ BUFFER IS NECESSARY TO DEVELOP THE PROPERTY THAT CONFORMS TO THE ZONING ORDINANCE.

**3. Not created by the applicant:**

That such exceptional practical difficulty has not been created by the appellant.

**PARCELS 74.00 & 75.00**

1. THE BUILDINGS WERE PURCHASED BY THE APPELLANT AND THE BUILDING ON PARCEL 75.00 WAS RENOVATED IN THE PAST TO BE USED FOR PROFESSIONAL OFFICE AS ALLOWED UNDER THE C-1 ZONING ORDINANCE. THE APPELLANT WANTS TO USE BOTH EXISTING BUILDINGS FOR A RESTAURANT THAT IS ALSO ALLOWED UNDER THE C-1 ZONING ORDINANCE.

**PARCELS 74.00, 75.00 & PORTION OF 70.01**

2. THE APPLICANT HAS REDESIGNED THE SITE TO REMOVE PARKING SPACES OUTSIDE OF THE FRONT YARD SETBACK AND HAS ELIMINATED TWO ADDITIONAL COMMERCIAL ENTRANCES BE REMOVED TO CREATE ONE SINGLE ENTRANCE TO PROVIDE SAFE ACCESS AND TURNING MOVEMENTS WITHIN THE PROPERTIES. IN SO DOING, DELDOT HAS REQUIRED THAT THE APPLICANT DEDICATE 15-FEET OF HIS ENTIRE ROAD FRONTAGE TO A PERMANENT EASEMNTN FOR DELDOTS UNFORSEEN USE IN THE FUTURE. THIS LEAVES LIMITED SPACE ALONG THE FRONT OF THE PROPERTIES TO PROVIDE FOR ADDITIONAL DRAIANGE AND UTILITIES.

4. Will not alter the essential character of the neighborhood:

That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located and nor substantially or permanently impair the appropriate use of development of adjacent property, nor be detrimental to the public welfare

**PARCELS 74.00 & 75.00**

1. THE SUBJECT PROPERTIES WERE GRANTED A VARIANCE FOR THE FRONT YARD SETBACK (CASE#11883) ON NOVEMBER 21, 2017. THE BUILDING WAS THE SUBJECT OF A COMMERCIAL SITE PLAN APPROVAL, APPLICATION #S-17-08, BY THE SUSSEX PLANNING & ZONING COMMISSION ON JANUARY 11TH, 2019 FOR A PROPOSED RESTAURANT USE, WHICH IS CURRENTLY UNDER CONSTRUCTION. THE ADJACENT PARCELS TO THE NORTH AND SOUTH ARE COMMERCIAL USES AND WERE CONSTRUCTED AFTER THE BUILDING HAD BEEN CONVERTED TO A PROFESSIONAL OFFICE BACK IN THE 90'S. OTHER STRUCTURES LOCATED ALONG COASTAL HIGHWAY WITH SIMILAR FRONT SETBACKS HAVE BEEN CONVERTED TO COMMERCIAL USES.

**PARCELS 74.00, 75.00 & PORTION OF 70.01**

2. THERE IS SUFFICIENT ROOM TO PROVIDE FOR THE NECESSARY LANDSCAPING REQUIRED WITHIN 15-FEET THAT WILL ALSO MEET DELDOT REQUIREMENTS AND THEREFORE WILL EXCEED THE LANDSCAPING THAT IS CURRENTLY LOCATED ON ADJACENT PARCELS.

5. Minimum variance:

That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.

**PARCELS 74.00 & 75.00**

1. THE SITE PLANS SUBMITTED WITH THIS APPLICATION SHOWS THE MINIMUM VARIANCE NEEDED FOR THE FRONT SETBACK REDUCTION OF THE EXISTING BUILDINGS. NO IMPROVEMENTS TO THE BUILDING WILL BE REQUESTED TO INTRUDE WITHIN THE EXISTING SETBACK SHOWN.

**PARCELS 74.00, 75.00 & PORTION OF 70.01**

2. THE SITE PLANS SUBMITTED ALONG WITH THE LANDSCAPE PLAN CONCEPT PLANS TO BE SUBMITTED AT THE HEARING WILL SHOW THAT A 5-FOOT VARIANCE IS THE MINIMUM NECESSARY TO PROVIDE THE REQUIRED LANDSCAPING THAT WILL PRESERVE AND ENHANCE THE AESTHETIC AND VISUAL CHARACTER OF THE PROPOSED RESTAURANTS ALONG COASTAL HIGHWAY.



 COPY

## LEASE WITH OPTION TO PURCHASE

Lease agreement made this 23 day of July, 2020, between VILLAS AT BAY CROSSING of Lewes, Delaware ("Landlord") and KEY PROPERTIES GROUP, LLC, of Milford, Delaware ("Tenant").

For the payment of rent as provided herein and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, Landlord and Tenant do now agree as follows:

WHEREAS, Landlord is the sole owner of the property being leased and Tenant, which is Sussex County Tax Map Parcel 334-6.00-70.01P/O, and Tenant and a related company (Country Life Homes, Inc) are the owners of the two adjacent properties lying on the southeasterly side and fronting on Coastal highway, said parcels being Sussex County Tax Map Parcels 334-6.00-74.00 (Key Properties Group, LLC) and Parcel 75.00 (Country Life Homes, Inc.), all of which are zoned C-1 (General Commercial) on the Sussex County Zoning Map; and

WHEREAS, on January 1, 2020, Landlord and Tenant entered into a Purchase and Sale Agreement under which the property herein being leased to Tenant was to be legally removed from the Declaration Plan for the Villas at Bay Crossing Condominium prior to being sold to Tenant and said agreement shall, upon the execution of this lease, be terminated and the deposit money refunded to Tenant; and

WHEREAS, under the Delaware Unit Property Act, which is the governing law applicable to the Villas at Bay Crossing Condominium, property that is dedicated as part of a condominium is owned in common by all of the unit owners and requires the unanimous consent of all of the owners before it can be removed from the condominium plan and sold to a third party; and

WHEREAS, although a substantial majority of the condominium unit owners have consented to the removal and sale of the property to Tenant, unanimous consent was not obtained and the parties hereto have agreed to the property being leased to Tenant until such time and unanimous consent can be obtained and, if said consent is not obtainable, to the long term lease of the property to Tenant, as provided for herein.

### SECTION ONE GRANT OF LEASE

Landlord leases to Tenant and Tenant leases from Landlord all that certain parcel of real estate located on the easterly side of State Route 1, also known as Coastal Highway, said parcel being identified as Sussex County Tax Map Parcel 334-6.00-70.01 P/O and being as depicted on a Survey of Lands to be conveyed to Country Life Homes, Inc., prepared for Landlord by Merestone Consultants, Inc. and attached hereto as EXHIBIT A and hereafter referred to as the "Property".

**BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY**  
**IN RE: KEY PROPERTIES GROUP, LLC / COUNTRY LIFE HOMES, INC.**

**(Case No. 11883)**

A hearing was held after due notice on November 21, 2016. The Board members present were: Mr. Dale Callaway, Mr. John Mills, Mr. Jeff Hudson, Mr. Norman Rickard, and Mr. Brent Workman.

Nature of the Proceedings

This is an application for a variance from the front yard setback and combined corridor overlay zone buffer requirements.

Findings of Fact

The Board found that the Applicant is seeking a variance of 27.26 feet from the sixty (60) feet front yard setback requirement for an existing building and a variance of ten (10) feet from the twenty (20) feet combined corridor overlay zone buffer requirement. This application pertains to certain real property located on the east side of Coastal Highway (Route 1) approximately 251 feet north of Bay Crossing Boulevard (911 Address: 18315 & 18327 Coastal Highway, Lewes); said property being identified as Sussex County Tax Map Parcel Number 3-34-6.00-74.00 & 75.00.

1. The Board was given copies of the Application, a restaurant development site plan dated October 21, 2016, aerial photographs of the Property, and a portion of the tax map.
2. The Board found that the Office of Planning & Zoning received no correspondence in support of or in opposition to the Application.
3. The Board found that Carlton Savage was sworn in to testify about the Application.
4. The Board found that Mr. Savage testified that he is the design engineer for the project.
5. The Board found that Mr. Savage testified that the Property consists of two (2) lots and there is an existing dwelling and office building on the properties.
6. The Board found that Mr. Savage testified that the Applicant plans to renovate the existing office building and convert it to a restaurant. Additions to the building will be made to the rear and the existing dwelling will be demolished. There are no changes being made to the front of the building or property.
7. The Board found that Mr. Savage testified that a restaurant is a permitted use in a C-1 zoning district.
8. The Board found that Mr. Savage testified that the development will reduce the number of entrances to the site from three entrances to one entrance.
9. The Board found that Mr. Savage testified that the Property is unique because the building existed prior to the adoption of the ordinance creating the Combined Highway Corridor Overlay Zone.
10. The Board found that Mr. Savage testified that the Property is oddly shaped as it is only 160 feet deep but is 239 feet wide.
11. The Board found that Mr. Savage testified that the shallowness of the lot leaves very few options for development.
12. The Board found that Mr. Savage testified that the Property cannot be developed in strict conformity with the Sussex County Zoning Code. Approximately 28 feet of the existing building would have to be demolished to bring the Property into compliance.
13. The Board found that Mr. Savage testified that the reduction of the buffer requirement will provide enough space for parking, drive aisles, and landscaping.



14. The Board found that Mr. Savage testified that the exceptional practical difficulty was not created by the Applicant.
15. The Board found that Mr. Savage testified that parking currently exists within the twenty (20) feet buffer zone.
16. The Board found that Mr. Savage testified that the existing character of the neighborhood consists of commercial businesses.
17. The Board found that Mr. Savage testified that the variances will not alter the character of the neighborhood. There are other structures to the north and south of the Property with similar setbacks.
18. The Board found that Mr. Savage testified that there will be ten (10) feet of landscaping in the buffer area.
19. The Board found that Mr. Savage testified that the variances requested are the minimum variances necessary to afford relief.
20. The Board found that Mr. Savage testified that reducing the buffer zone allows the Applicant to meet the required parking and drive aisles for the proposed use.
21. The Board found that Mr. Savage testified that the Delaware Department of Transportation ("DelDOT") has expanded the right-of-way over the years, including the expansion of sidewalks in the area.
22. The Board found that no parties appeared in support of or in opposition to the Application.
23. Based on the findings above and the testimony and evidence presented at the public hearing and the public record, which the Board found credible, persuasive, and un rebutted, the Board determined that the application met the standards for granting a variance. The findings below further support the Board's decision to approve the Application.
  - a. The Property is unique because it is an oddly shaped commercial property in the Combined Corridor Overlay Zone. The Property is wide but shallow. The shallowness of the Property has posed a particular challenge for the Applicant, who seeks to redevelop the Property. The Applicant seeks to demolish an existing dwelling, which also encroaches into the front yard setback area, and to expand the existing office building towards the rear yard in order to use the Property for a restaurant. A restaurant is a permitted use in this zoning district. The shallowness of the Property has created an exceptional practical difficulty for the Applicant because the Property is not deep enough to accommodate the parking and drive aisles necessary for the proposed restaurant. Similarly, the unique conditions of the Property have posed a challenge for the Applicant who seeks to retain the existing office building in its location while expanding within the rear yard setback area. The office building encroaches into the front yard setback area and will not further encroach into the front yard setback area. Undisputed testimony also indicates that, over the years, DelDOT has taken additional right-of-way areas in the front yard, thereby reducing the size of the front yard. The Board finds that the unique physical conditions of the Property have created an exceptional practical difficulty for the Applicant who seeks to redevelop the Property.
  - b. Due to the uniqueness of the Property and the situation, the Property cannot be developed in strict conformity with the Sussex County Zoning Code. The Applicant seeks to redevelop the Property by removing an existing dwelling and to expand an existing office building within the setback areas in order to convert the office building to a restaurant. The building, however, already encroaches into the front yard setback area and, due to the unique conditions of the Property, the Applicant cannot meet the necessary parking requirements while also meeting the buffer zone requirements. The Board is convinced that the variances are necessary to enable the reasonable use

of the Property as the variances will allow the Applicant to redevelop the Property into a restaurant. The Board is convinced that the shape and location of this restaurant are reasonable, which is confirmed when reviewing the survey provided by the Applicant. The Board notes that the Applicant will also demolish an existing dwelling and reduce the number of entrances on the Property as part of the redevelopment.

- c. The exceptional practical difficulty was not created by the Applicant. The Applicant did not place the existing office building on the Property. Rather, that building has been on the Property for many years and its location predates the enactment of the Combined Corridor Overlay Zone ordinance. The Applicant also did not create the odd depth of the Property, which has created a small building envelope. This small building envelope was further limited by the takings by DelDOT for additional right-of-way space along Route 1. These conditions have limited the space where the Applicant can place parking and drive aisles for the proposed restaurant. Notably, the parking spaces cannot fit within the building envelope even though another structure on the Property will be demolished. The unique situation and physical conditions of the Property have created the exceptional practical difficulty for the Applicant.
- d. The variances will not alter the essential character of the neighborhood nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare. The office building will encroach no further into the front yard setback area than it already does and the other structure on the Property (which also encroaches into the front yard setback area) will be demolished. The unrebutted testimony confirms that other commercial businesses in the area are similarly situated from Route 1 and that the proposed redevelopment will be consistent with those properties. The Board is also convinced that encroachment into the buffer zone will not alter the character of the neighborhood. Parking already exists in the buffer zone and, while the Applicant plans to have parking spaces in the buffer zone, the Applicant will plant ten (10) feet of landscaping in the front yard. This landscaping will be an improvement for the Property. The Board also notes that the proposed redevelopment will reduce the number of entrances from the Property to Route 1. Furthermore, no evidence was presented which would indicate that the variances would somehow alter the essential character of the neighborhood or be detrimental to the public welfare.
- e. The variances sought are the minimum variances necessary to afford relief and the variances requested represent the least modifications possible of the regulations at issue. The Applicant has demonstrated that the variances sought will allow the Applicant to retain an existing office building and to redevelop the Property for a restaurant. The building will encroach no farther into the front yard setback than the existing building does and the Applicant will plant as much landscaping in the buffer zone as possible while still meeting the parking requirements for the site.

The Board granted the variance application finding that it met the standards for granting a variance.

#### Decision of the Board

Upon motion duly made and seconded, the variance application was approved. The Board Members in favor were Mr. Dale Callaway, Mr. Jeff Hudson, Mr. John Mills,



Mr. Norman Rickard, and Mr. Brent Workman. No Board Member voted against the Motion to approve the variance application.

BOARD OF ADJUSTMENT  
OF SUSSEX COUNTY

  
Dale Callaway  
Chairman

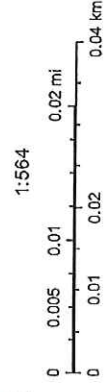
If the use is not established within one (1)  
year from the date below the application  
becomes void.

Date 2/7/2017

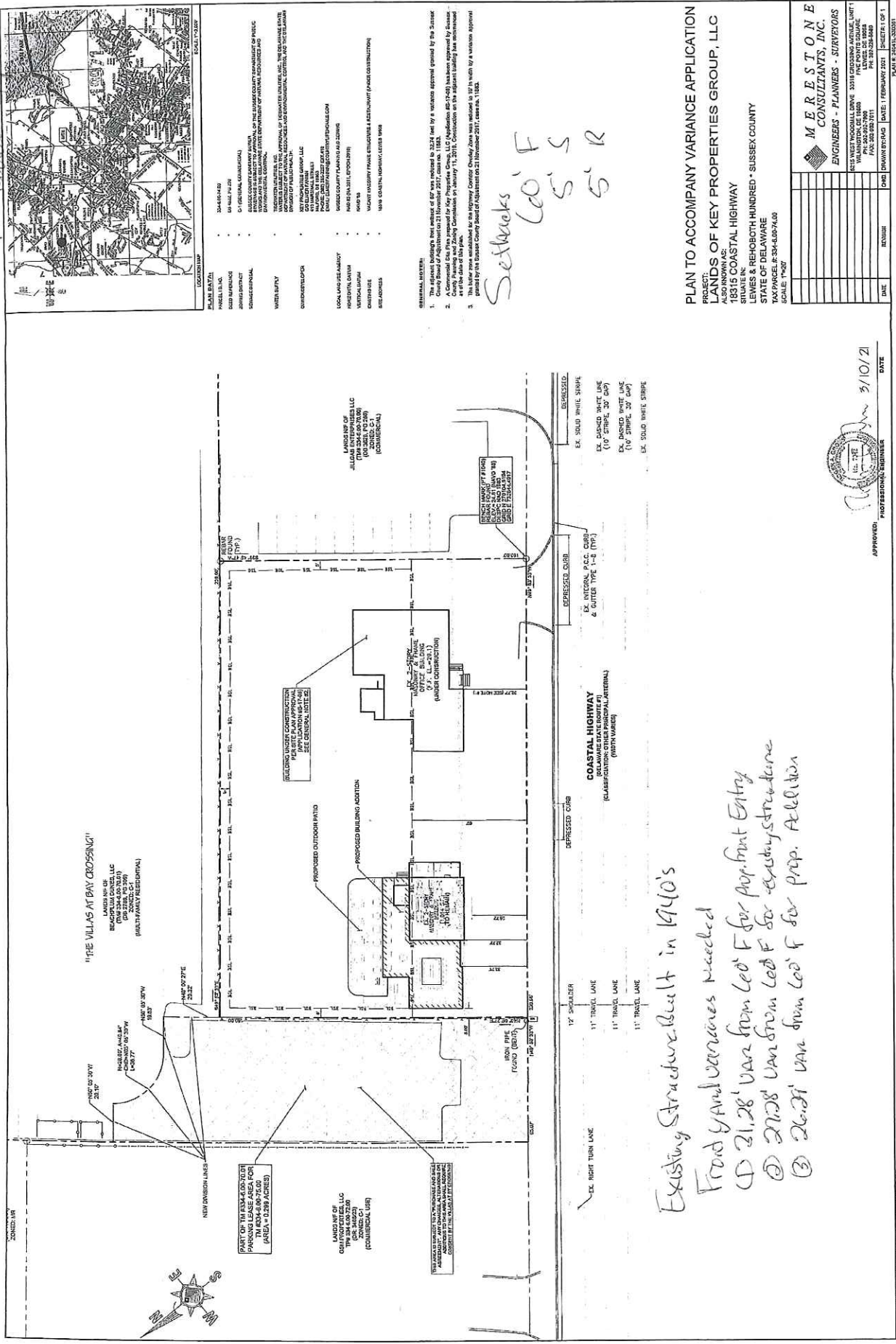


PIN:	334-6.00-74.00
Owner Name	KEY PROPERTIES GROUP LLC
Book	4522
Mailing Address	610 MARSHALL ST
City	MILFORD
State	DE
Description	RD WESCOATS COR
Description 2	TO REHOBOTH
Description 3	LOT W/IMP
Land Code	

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









## LANDS OF KEY PROPERTIES GROUP, LLC

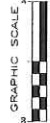
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**NBC NEWS REPORT OF THE INTP GENERATION**

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SUSSEX COUNTY \* STATE OF DELAWARE



EXISTING CONDITIONS FROM SHEET 2 OF 3

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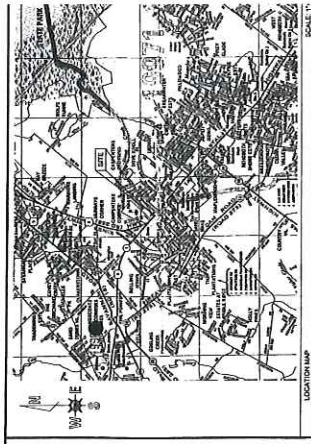
ROGER A. GROSS, P.E. (DELAWARE REG. NO. 17942)  
 INTEREST CONSULTANTS, INC.  
 3545 CROSSINGWAY DRIVE, SUITE 1  
 LOVELY, DELAWARE 19956  
 PHONE: (302) 254-5890

DATE \_\_\_\_\_

ELMER FANNIN  
KEY PROPERTIES GROUP, LLC  
810 MARSHALL STREET  
MELFORD, DE 19963  
PHONE: (302) 265-2257 EXT. 115

Map of the study area showing the intersection of Coastal Highway and Delaware Route 1. The map includes a north arrow, a scale bar (0 to 1 mile), and labels for "SITE" and "DELAWARE ROUTE 1". A legend indicates that the solid line represents the "TRANSFER OF TRAFFIC FROM ROUTE 1 TO COASTAL HIGHWAY" and the dashed line represents the "TRANSFER OF TRAFFIC FROM COASTAL HIGHWAY TO ROUTE 1". The map also shows the "ADT (A.M. PEAK HOUR) P.M. PEAK HOUR" for each direction of travel.



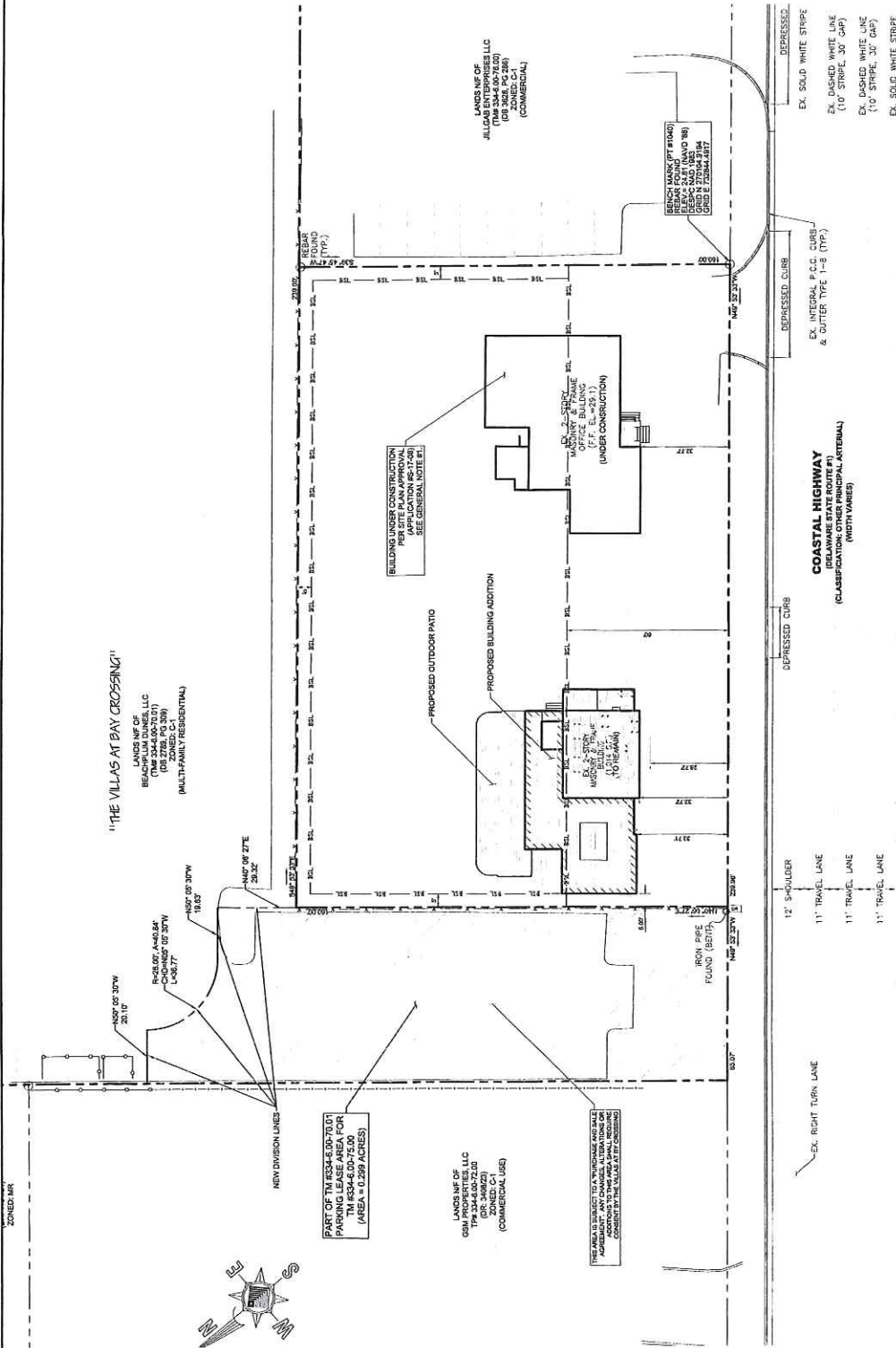


**PLAN DATA**

PARCEL ID. NO.	344-00-71.00
DEED REFERENCE	DB 4322, PG 320
ZONING DISTRICT	C-1 (GENERAL COMMERCIAL)
SEWER DISPOSAL	SUSSEX COUNTY SANITARY SERVICE WORKS AND THE DELAWARE STATE DEPARTMENT OF PUBLIC HEALTH
WATER SUPPLY	TRIUMPH UTILITIES, INC. WATER IS SUBJECT TO THE APPROVAL OF TRIUMPH UTILITIES, INC., THE DELAWARE DIVISION OF PUBLIC HEALTH
OWNER/DEVELOPER	KEY PROPERTIES GROUP, LLC 1010 MARSHALL STREET DOVER, DE 19901 PHONE: (302) 232-2222 FAX: (302) 232-2222 WWW.KEYPROPERTIESGROUP.COM
LOCAL LAND USE AGENCY	SUSSEX COUNTY PLANNING AND ZONING
HORIZONTAL DATUM	NAD 83 (N 1983) (FED 83)
VERTICAL CURVE	NAD 83
EXTERNAL USE	VACANT MACHINERY FRAME STRUCTURE & RESTAURANT (UNDER CONSTRUCTION)
DATE	10/11/2021

**GENERAL NOTES**

1. A Commercial City Plan prepared for Key Properties Group, LLC (Application No. 21-001) has been approved by the County Planning and Zoning Commission on January 11, 2021. Construction on the subject building has commenced as of the date of this plan.



**PLAN TO ACCOMPANY VARIANCE APPLICATION**

**PROJECT:**  
LANDS OF KEY PROPERTIES GROUP, LLC  
18315 COASTAL HIGHWAY  
SITUATE IN:  
LEWES & REHOBOTH HUNDRED • SUSSEX COUNTY  
STATE OF DELAWARE  
TAX PARCEL #: 344-00-71.00  
SCALE: 1"=50'

DATE	4/20/21
APPROVED	PROFESSIONAL ENGINEER
DATE	4/20/21
REVISION	
CHG	DRAWN BY: JAG DATE: 1 FEBRUARY 2021 SHEET: 1/1

**MERESTO CONSULTANTS, INC.**  
ENGINEERS • PLANNERS • SURVEYORS

3515 WEST BROADWAY DRIVE, 3515 DELEWARE AVE  
FARMINGTON, CT 06030  
PHONE: (860) 676-7900  
FAX: (860) 676-7911  
WWW.MERESTOCONSULTANTS.COM





# Board of Adjustment 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

Case # 12558  
Hearing Date 5/17

202103710

### Type of Application: (please check all applicable)

Variance ☒  
Special Use Exception ☐  
Administrative Variance ☐  
Appeal ☐

Existing Condition ☒  
Proposed ☒  
Code Reference (office use only)  
115-80 115-183

### Site Address of Variance/Special Use Exception:

19724 Coastal Highway, Rehoboth Beach, DE 19971

### Variance/Special Use Exception/Appeal Requested:

Reduction on Rear Setback restriction

side 4.7' var from 5' side yard for existing bldg  
Requesting 4.5' var from 5' side yard for prop. Addition & existing bldg

Tax Map #: 334-13.00-319.01

Property Zoning: C-1

### Applicant Information

Applicant Name: Sequance Properties, LLC  
Applicant Address: 45 Wanoma Circle  
City Rehoboth Beach State DE Zip: 19971  
Applicant Phone #: \_\_\_\_\_ Applicant e-mail: \_\_\_\_\_

### Owner Information

Owner Name: Sequance Properties, LLC  
Owner Address: 45 Wanoma Circle  
City Rehoboth Beach State DE Zip: 19971 Purchase Date: \_\_\_\_\_  
Owner Phone #: \_\_\_\_\_ Owner e-mail: \_\_\_\_\_

### Agent/Attorney Information

Agent/Attorney Name: Moonlight Architecture, Inc.  
Agent/Attorney Address: 29003 Lewes Georgetown Highway  
City Lewes State DE Zip: 19958  
Agent/Attorney Phone #: (302) 645-9361 Agent/Attorney e-mail: freddy@moonlightarch.com

### Signature of Owner/Agent/Attorney

Attorney

Date: 03/11/2021



# **EXHIBIT B**



## 1 SUSSEX COUNTY BOARD OF ADJUSTMENT

2 STATE OF DELAWARE

3  
4  
5 MAY 17, 20216  
7 RE: Case Number 125578  
9  
10 APPEARANCES:

11 On behalf of Sussex County Board of Adjustment:

12 JOHN WILLIAMSON, Chairman

13 JEFF CHORMAN, Member

14 JOHN T. HASTINGS, Member

15 DR. KEVIN CARSON, Member.

16 JAMES SHARP, Esq., Asst. County Attorney

17 JENNIFER NORWOOD, P&amp;Z Manager

18 NICK TORRANCE, Planner I

19 ANN LEPORE, Recording Secretary

20  
21 On behalf of the Applicant:

22 Pennoni Associates

23 BY: MARK DAVIDSON, Land Planner

24  
25 FIRST STATE REPORTING SERVICE

(302) 424-4541

Pamela C. Herrmann, RPR

P.O. Box 99

Milford, Delaware 19963

1 CHAIRMAN WILLIAMSON: Next case.

2 MR. TORRANCE: Case number 12557,  
3 Key Properties Group, LLC, Elmer G. Fannin, seeks  
4 variances from the front yard setback requirements  
5 and the landscape buffer requirement in the  
6 Combined Highway Corridor Overlay Zone for  
7 existing and proposed structures, Section 115-82,  
8 115-182 and 115-194.1 of the Sussex County Zoning  
9 Code.

10 The property is located on the  
11 northeast side of Coastal Highway, Route 1,  
12 approximately 546 feet southeast of Kings Highway.  
13 911 address 18315, 18321 and 18327 Coastal  
14 Highway, and 34670, 34673, 34677, 34682, 34703,  
15 34704 Villa Circle, Lewes.

16 The Zoning District is C-1, General  
17 Commercial, and the tax parcels are District 334  
18 Map 6.00, Parcels 74.00, 75.00 and 70.01, a  
19 portion of it.

20 Staff would note that Case Number  
21 11883 was approved on November 21, 2016 for a  
22 variance of 27.26 feet from the 60-foot front yard  
23 setback, and a 10-foot reduction in the buffer  
24 requirements in the Combined Highway Corridor  
25 Overlay Zone; that approval has since lapsed.



1 They are seeking that same 27.26 foot front  
2 setback variance from the 60-foot front yard  
3 setback for that original building, and then a new  
4 building with a proposed variances of 31.28 feet  
5 from the 60-foot front for a proposed entry,  
6 27.28 feet variance from the 60-foot front for  
7 existing structure, 26.29 feet from the 60-foot  
8 front for a proposed addition, and a 5-foot  
9 variance from the 20-foot landscape buffer  
10 requirement in the Combined Highway Corridor  
11 Overlay Zone. There are zero letters of support,  
12 one letter of opposition, and two mail returns.

13 CHAIRMAN WILLIAMSON: Is the  
14 Applicant present?

15 MR. TORRANCE: State your name and  
16 address for the record.

17 MARK DAVIDSON: Mark Davidson 18072  
18 Davidson Drive, Milton, Delaware 19968  
19 WHEREUPON:

20 MARK DAVIDSON,  
21 having first been duly sworn by Mr. Sharp, thereupon  
22 testified upon his oath as follows:

23 MR. DAVIDSON: Good evening.

24 CHAIRMAN WILLIAMSON: Good evening.

25 MR. DAVIDSON: For the record, my name

1 is Mark Davidson, I'm a Principal Land Planner with  
2 Pennoni Associates. I'm here this evening  
3 representing the Applicant, Mr. Elmer Fannin, who is  
4 the owner of Key Properties, LLC, which is the owners  
5 of Parcels 74 and 75.

6 The project team for the purposes of  
7 the documents that have been submitted for this  
8 application tonight are Merestone Consultants, who are  
9 the engineers and surveyors for the project, and  
10 Design Delmarva who are the architects for the  
11 project.

12 The properties are located on the  
13 northeast side of Coastal Highway, just south of Kings  
14 Highway outside of Lewes, Delaware. And as was  
15 introduced, the properties are currently zoned C-1,  
16 General Commercial, under the Zoning Code.

17 Mr. Fannin is proposing to use and  
18 renovate the existing buildings on both properties as  
19 restaurants. The properties are broken up into three  
20 parcels at this time: The first parcel being parcel  
21 74 which is approximately -- parcel 74 is this located  
22 right here, it's approximately 0.33 acres in size, and  
23 it has approximate dimensions of 125 feet along the  
24 frontage of Coastal Highway and 116-and-a-half feet  
25 back.



1           The second parcel is parcel 75, it is  
2 approximately .55 acres. There's approximately  
3 30 feet -- this property, parcel 75 kind of wraps  
4 around parcel 74 at this time. There's approximately  
5 30 feet here on the north side of parcel 74, there's  
6 approximately about 105 feet along the frontage, and  
7 it's about 160 feet deep, and the total frontage --  
8 the total width in the back is approximately 239 feet.

9           And then the third parcel is a portion  
10 of 70.01 which is owned by The Villas at Bay Crossing,  
11 which Mr. Fannin has executed an agreement to lease  
12 with the option to purchase approximately .3 acres of  
13 the land for use as parking for the restaurants. And  
14 that property is highlighted right here and,  
15 currently, it's existing parking for The Villas at Bay  
16 Crossing; they found that they have had excess of  
17 parking within their condominium, so they have agreed  
18 to lease with the purchase -- with the option to  
19 purchase. And I submitted a front page to that with  
20 the application for the hearing, and I understand  
21 that -- I do have a full copy here I can submit as  
22 part of the record. (Unintelligible)

23           That's the full lease option there with  
24 the purchase, and it kind of explains how Mr. Fannin  
25 has the right to use the property for parking for his

1 proposed uses. During site planning and after the  
2 purchase of parcel 70.01 from Bay Crossing, the  
3 properties will be combined into one property.

4 Mr. Fannin is asking for two variances  
5 this evening: The first variance being sought is from  
6 Section 115-82(b) depth of the required front yard  
7 setback of 60 feet. And the second variance is from  
8 the provisions of Section 115-194.1(e)3, Combined  
9 Highway Corridor Overlay Zone for the required 20-foot  
10 landscape buffer.

11 As was introduced in the beginning,  
12 this property was the subject of a previous Board of  
13 Adjustment approval, Case Number 11883 back in  
14 November of 2016 for essentially the same two variance  
15 requests; the front yard and the 20-foot Highway  
16 Corridor Overlay Zone. Back then, the request was for  
17 the larger building that's located on parcel 75,  
18 seeking the minimum variance from the front yard  
19 setback, as the smaller building on 74 was going to be  
20 demolished at that time.

21 The second variance that is part of  
22 that case was 10 feet from the required 20 foot  
23 Highway Corridor Overlay Zone buffer. The smaller  
24 building was going to be demolished at that time in  
25 order to accommodate for additional parking for the



1 larger building that was going to be proposed as the  
2 restaurant.

3 Mr. Fannin did seek final approvals  
4 from the agencies, he has had building permits for the  
5 buildings, and for the larger building on parcel 75  
6 and the limited building permit for the cosmetic  
7 upgrades for the smaller building on 74.

8 Construction and improvements have been  
9 being made to both buildings on the site. And this  
10 application -- or this property was kind of -- was  
11 subject to a little bit of confusion because he was  
12 issued building permits, he did get final site plan  
13 approval for the use on the property, but at the time  
14 I believe the variance did expire. So he has begun  
15 construction out there, and we're here to clean up  
16 these variances if you see that they are favorable at  
17 this time.

18 Again, as I previously stated, since  
19 the time of the first variance approval, Mr. Fannin  
20 has worked out a lease to use and purchase a small  
21 portion of the adjacent property from The Villas at  
22 Bay Crossing to use for parking for the restaurants;  
23 this has allowed him to convert the smaller building  
24 on parcel 74 to a restaurant as well.

25 Mr. Fannin is proposing an Italian

1 restaurant, where the main restaurant would be used  
2 for dining in, and the smaller building would be used  
3 as a happy-hour style restaurant with outside seating,  
4 as well as open-air seating within the building.

5 So the main building he's projecting,  
6 it will be inside dining, casual dining on the inside  
7 of that building, but because of what the affects of  
8 what we've been going through with the pandemic, he  
9 figured that having an outside seating venue for his  
10 restaurant was necessary, so keeping the smaller  
11 building and adding onto it with outdoor seating, he's  
12 going to add a patio. As you can see on the site plan  
13 that I have submitted here, there is -- there's got to  
14 be -- that's the patio out back here.

15 There is an addition that he's going to  
16 add onto the existing house, but that's going to be an  
17 open-air building that he's going to have with garage  
18 doors; that way, he can open up the doors and be able  
19 to sort of -- it will be inside, but it will be  
20 outside-type of dining.

21 There will only be one kitchen for the  
22 property, and that would be in the main building. All  
23 food prep services and everything else would be done  
24 in the main building. And the smaller building,  
25 again, it will be for outdoor dining and sort of like



1 a happy-hour lounge-type of feel that will compliment  
2 the Italian restaurant in the main building.

3 The variances again we are seeking  
4 tonight are for the front yard setback for both the  
5 buildings, as well as a smaller reduction of the  
6 20-foot Highway Corridor Overlay Zone that was asked  
7 for from the first variance.

8 So I'm going to start with the front  
9 yard setback. The two existing buildings along  
10 Coastal Highway are close to the same setback;  
11 32.72 feet for the smaller building on parcel 74, and  
12 32.77 feet for the larger building on parcel 75;  
13 there's only a difference of about 5-hundredths of a  
14 foot, which is about five-eighths inches.

15 The variance request was to be for  
16 27.28 feet for both buildings, but it appears that  
17 since we do have two separate buildings with two  
18 different setbacks, we are asking for two different  
19 setbacks or two different variances for each one of  
20 the buildings. So the building on parcel 74, we are  
21 asking for 27.28 feet; and then the building on parcel  
22 75, we are asking for 27.23 feet in order to keep to  
23 the minimum variance for the properties.

24 With that, and I submitted for the  
25 record a separate set for the criteria for the

1 variances. So I'm going to go through the criteria  
2 for the variances just for parcels 74 and 75 as it  
3 pertains to the front yard setback.

4 So there's the uniqueness of the  
5 property. The unique condition of this site is that  
6 the buildings are existing, and they were constructed  
7 back in the '40s and '50s, which predates not only the  
8 Sussex County Zoning Ordinance in 1968, but the  
9 adoption of the Corridor Highway Capacity Overlay Zone  
10 back in January 30th of 1996 and, therefore, is  
11 considered a pre-existing nonconforming building.

12 The buildings were once single-family  
13 residences. The building on parcel 75 was converted  
14 to a professional office, which was Mr. Fannin's  
15 Country Life Homes back in the early 1990s. Single  
16 family dwellings along Coastal Highway, Delaware  
17 Route 1 corridor, have diminished, given the nature of  
18 the area, the uses, the traffic, and zoning of  
19 properties.

20 The parcels' minimum site areas of  
21 relatively shallow depths of 116.5 for parcel 74, and  
22 160 for parcel 75 minimize the ability to develop the  
23 property with a use customary to the parcels' C-1  
24 zoning while still providing the required parking,  
25 loading, landscape buffers, storm water management, et



1 cetera. And with the expansion of the highway  
2 right-of-way over the years, has a setback from the  
3 existing right-of-way of 32.72 for parcel 74, and  
4 32.77 for parcel 75.

5 Number two, cannot otherwise be  
6 developed. Approximately 28 feet of the buildings  
7 would have to be demolished to bring the buildings  
8 into conformity; that would pretty much eliminate the  
9 entire building on parcel 74.

10 The intent of this plan is to renovate  
11 and use the existing structures as part of a new  
12 restaurant as permitted under the parcels' C-1 zoning.  
13 Without the requested variance, the parcel's minimum  
14 area and depth of 160 feet limits the ability to  
15 provide the necessary building, parking, loading, and  
16 landscape buffers, and storm water management, while  
17 still enabling a reasonable use of the property.

18 Number three, not created by the  
19 Applicant. The buildings were purchased by the  
20 Applicant, and the building on parcel 75 was renovated  
21 in the past to be used for a professional office as  
22 allowed under the C-1 zoning ordinance. The Applicant  
23 wants to use both existing buildings for a restaurant  
24 that is also allowed under the C-1 zoning ordinance.

25 Will not alter the essential character

1 of the neighborhood. On this exhibit here, you can  
2 see where Mr. Fannin's properties are, as well as the  
3 parcel that he's purchasing from Bay Crossing. Just  
4 south of the property, two parcels down, there's the  
5 existing Kitchen and Bath, and you can see how that  
6 building, it was an existing residential dwelling at  
7 one time and converted into a commercial use, all  
8 under the C-1 zoning code, and how it's been converted  
9 to commercial.

10 Then I showed two buildings across the  
11 street which is part of the American Cedar and  
12 Millwork; again, houses converted into commercial  
13 uses, sitting very close to the Coastal Highway. So  
14 we don't feel that the -- this proposed uses of the  
15 restaurants will not alter the character of the  
16 neighborhood.

17 Again, the subject properties were  
18 granted a variance from the front yard setback back in  
19 November 21, 2016. The building was the subject of a  
20 commercial site plan approval Application S-1708 by  
21 Planning and Zoning on January 11, 2019 for the  
22 proposed restaurant use, which is currently, again,  
23 under construction.

24 Minimum variance. The site plan  
25 submitted with the application shows the minimum

1 variance needed for the front setback reduction of the  
2 existing buildings. No improvements to the buildings  
3 will be requested to encroach within the existing  
4 setbacks shown.

5 The next variance we are seeking is  
6 five feet from the 20-foot Combined Highway Corridor  
7 Overlay Zone, which is described as a landscape buffer  
8 along the frontage of the property. Again, the  
9 previous variance was for 10 feet, so we've been able  
10 to capture back 5 feet, and now we're only asking for  
11 5 feet for the variance this time.

12 The purpose of the Combined Highway  
13 Corridor Overlay Zoning District is to provide for the  
14 continued and efficient use of existing roadways and  
15 emergency evacuation routes, to preserve and enhance  
16 the esthetic and visual character of land use  
17 contiguous to those roadways, and to provide for  
18 orderly development in Sussex County.

19 The requirements and guidelines  
20 contained in the chapter are to encourage a positive  
21 visual experience of development of land along the  
22 corridors, and provide safe access and turning  
23 movements for vehicular and pedestrian traffic,  
24 especially during an emergency evacuation.

25 The properties are designed with only



1 one entrance, which has been approved by Del-DOT and  
2 is under construction at this time. The existing  
3 commercial property used to have three entrances, so  
4 two entrances were abandoned and now all three  
5 properties will have one entrance for the entire site.

6 There is a pedestrian sidewalk along  
7 the entire frontage for the property. The 5-foot  
8 reduction will allow for the site to accommodate  
9 additional utility extensions within the property, as  
10 well as additional drainage features along the  
11 frontage of the property to help control storm water  
12 runoff.

13 The 15-foot Highway Corridor Overlay  
14 Zone will also coincide with the 15-foot permanent  
15 easement that has been dedicated to the State of  
16 Delaware. And I show on this exhibit here how Del-DOT  
17 has required a 15-foot permanent easement across the  
18 frontage, and then the 20-foot Corridor Overlay Zone  
19 shares that easement with Del-DOT's permanent  
20 easement.

21 They have no -- Del-DOT hasn't  
22 signified what they need that easement for but,  
23 nonetheless, on every project now within the State of  
24 Delaware when you're doing a project, you have to  
25 dedicate a 15-foot permanent easement across the

1 frontage of your property.

2           The plantings within the 15-foot  
3 easement buffer will adhere to not only Section 115,  
4 195.1(e)6, landscape requirements of the County Code,  
5 but also the Del-DOT roadside vegetation concept and  
6 planning manual which Del-DOT allows within their  
7 15-foot permanent easement.

8           I have brought with me and I'll submit  
9 for the record, I didn't print out all 90 pages of  
10 Del-DOT's planning requirements, but I did print  
11 Appendix B. Appendix B outlines pretty much the types  
12 of plants that are allowed within their 15-foot  
13 permanent easement, and the size of the plantings,  
14 which all will meet the minimum requirements that are  
15 spelled out in the County Code for landscaping within  
16 the Highway Corridor Overlay Zone.

17           So the criteria for the variance for  
18 all three parcels as it pertains to the combined  
19 Highway Corridor Overlay Zone, the uniqueness of the  
20 property. The unique physical circumstance of the  
21 property is the shallowness of the parcel 116.50 for  
22 parcel 74, and 160 for parcel 75, and the connection  
23 of the portion of parcel 70.01 with the limited width  
24 of parcel 74 and 75 for parking along the dedication  
25 of the 15-foot to the Del-DOT for a permanent easement

1 creates limited space for handling additional drainage  
2 and utility placement.

3               So the additional 5 feet will allow the  
4 property to be able to provide for the additional  
5 runoff. Some of the runoff that is being handled  
6 within the property comes in through the entrance and  
7 will work its way along the frontage of the property  
8 here. And as you will see, in between this property  
9 here, there's quite a -- there's no parking within --  
10 in front of these -- in front of these buildings. So  
11 this will all be grass, green area and, thus, will be  
12 able to handle the storm water runoff coming in from  
13 the entrance, off the sidewalk, and through the  
14 property.

15               Cannot otherwise be developed. In  
16 order to provide sufficient parking, additional  
17 drainage, and placement of utilities, as well as safe  
18 access and turning movements for vehicular traffic,  
19 the 5-foot variance from the Corridor Highway Capacity  
20 Overlay Zone buffer is necessary to develop the  
21 property that conforms to the zoning ordinance.

22               Not created by the Applicant. The  
23 Applicant has redesigned the site to remove parking  
24 spaces outside of the front yard setbacks in front of  
25 both the buildings, and has eliminated two additional



1 commercial entrances to create one single entrance to  
2 provide safe access and turning movements within the  
3 properties.

4 In so doing, Del-DOT has required that  
5 the Applicant dedicate 15 feet of his entire road  
6 frontage to the permanent easement for Del-DOT's  
7 unforeseen use in the future. This leaves limited  
8 space along the front of the properties to provide  
9 for, again, the additional drainage and the utilities.

10 Will not alter the essential character  
11 of the neighborhood. There's sufficient room to  
12 provide for the necessary landscaping required within  
13 the 15 feet that will also meet the requirements and  
14 therefore will exceed the landscaping that is  
15 currently located on the adjacent parcels.

16 In my previous application when  
17 granting -- when we were granted the 10 foot, we were  
18 able to get the landscaping to work within the 10-foot  
19 wide, so this additional 5 feet, we definitely can get  
20 the required landscaping to work along this 15-foot  
21 Corridor Overlay along the entire frontage.

22 The site plan submitted along with the  
23 landscape plan concept submitted tonight will show  
24 that the 5-foot variance is the minimum necessary to  
25 provide the required landscaping that will preserve

1 and enhance the esthetics and the visual character of  
2 the proposed restaurants along the Coastal Highway.

3 And with that, with my presentation  
4 and a couple of handouts that I have for the  
5 record, that's my presentation for tonight. I'm  
6 glad to answer any questions.

7 CHAIRMAN WILLIAMSON: Any  
8 questions?

9 Yes, sir.

10 BOARD MEMBER: The number of  
11 parking spaces that we have two structures that  
12 would -- and I'm going to say 74, the small  
13 building -- the number of -- and maybe it's a  
14 question for the County, I don't know. I mean  
15 there's, in terms of occupancy, are the parking  
16 spaces that you're planning for, I would assume,  
17 is the correct number necessary for the occupancy  
18 that is planned?

19 MR. DAVIDSON: Well, the goal here  
20 is to get back in front of Planning and Zoning.  
21 Because Under 115-164, Planning and Zoning can  
22 grant a waiver of the parking requirements if they  
23 see that it's not necessary to have that many  
24 parking spaces.

25 There are 79 parking spaces

1 proposed for the two uses of the site. So -- but  
2 before they can get back before the Planning  
3 Commission to ask for that, they had to -- they  
4 were redirected to this body to seek the variances  
5 that we are requesting for tonight.

6 BOARD MEMBER: What's the  
7 anticipated occupancy of both building?

8 MR. DAVIDSON: There's -- the  
9 anticipated occupancy of both buildings requires  
10 that the parking spaces be around 107.

11 Now, I can tell you that the way  
12 Mr. Fannin is setting up this restaurant is, on  
13 the site plan, I don't know if I can go to the  
14 site plan -- he's got (unintelligible) coming out  
15 front here. His idea of this restaurant came from  
16 his many times down in Florida where they have  
17 restaurants that are set up with using Uber and  
18 alternate transportation to get to the site.

19 So that's his concept for this, is  
20 being able to use -- he's setting his restaurant  
21 up and, again, given wherever we land after, you  
22 know, all these restrictions are lifted and  
23 everything for the pandemic, you know, to go, you  
24 know, take out and to go. And his ability to  
25 be -- he wants to try -- he states that 30 percent



1 of a lot of the restaurants that he is setting  
2 this up after, they all use alternative motives  
3 for transportation such as Uber, Lyft. Even the  
4 DART system, he's going to promote using the Park  
5 and Ride, and he's going to have certain specials  
6 and things like that that are going to cater to  
7 the Park and Ride so people can park in Lewes at  
8 the new Park and Ride facility there and be able  
9 to get to his restaurant. So he's working all  
10 that out and, again, those are -- that's something  
11 that he's going to be presenting before the  
12 Planning and Zoning Commission.

13 BOARD MEMBER: So given those  
14 comments, and with folks being dropped off and  
15 then picked up, a percentage --

16 MR. DAVIDSON: Yes.

17 BOARD MEMBER: -- and according to  
18 the plan that you have where we have a single  
19 entrance to the property, so then if I'm looking  
20 at your diagram correctly, then, when you come  
21 into the property, you would bear to the right,  
22 looks to be a driveway --

23 MR. DAVIDSON: That's correct, yes.

24 BOARD MEMBER: -- that would come?  
25 And then those vehicles would then have to pull

1 some type of a U-ey in order to come back out?

2 MR. DAVIDSON: Sure, yes. And  
3 there's plenty of room there to be able to make a  
4 U-turn to come back out of the site.

5 DR. CARSON: Early in your  
6 presentation, you also stated that the kitchen  
7 facilities or the food prep area would be in the  
8 larger building, 75?

9 MR. DAVIDSON: That is correct.

10 DR. CARSON: And that the building  
11 on the left, 74, would have an open-air type of a  
12 concept, and so I'm assuming that orders would be  
13 placed and that personnel are going to be coming  
14 from the building on the right to the building on  
15 the left, is that correct?

16 MR. DAVIDSON: As it was explained  
17 to me, yes, that's the concept that he's going  
18 with, yes.

19 DR. CARSON: Okay. Is there -- so  
20 here's what I'm envisioning: I'm envisioning  
21 people pulling in, being dropped off, cars coming  
22 in, and a wait staff coming across from right to  
23 left and from left to right, from a vehicular  
24 standpoint.

25 MR. DAVIDSON: Again, I believe the

1 majority of the way it was explained that the  
2 smaller building is going to be more of a  
3 bar/lounge happy-hour type setup, not a lot of  
4 food service is going to be provided there, more  
5 of a lounge area. What food service he is going  
6 to provide is going to be very limited; I don't  
7 know if you're talking -- you know, I'm not sure  
8 what type of food you're talking about.

9 DR. CARSON: I don't either.

10 MR. DAVIDSON: But nothing that's  
11 going to be -- it's not going to be the same menu  
12 or the same style of food that will be offered in  
13 the main restaurant. So it's more of being able  
14 to -- because there's limited area within the  
15 larger building to be able to do outdoor dining of  
16 any kind and to be able to offer this open air  
17 type to be able to cater to whatever happens in  
18 the future but that's ...

19 DR. CARSON: Okay, so if I'm  
20 hearing you correctly, then you don't foresee wait  
21 staff going from the building on the right to the  
22 building on the left?

23 MR. DAVIDSON: I don't think it  
24 will be wait staff, no.

25 DR. CARSON: Okay, thank you.





1 having trouble with that in my mind.

2 MR. DAVIDSON: And, again, not  
3 understanding the food service business and how  
4 this is going to operate.

5 BOARD MEMBER: Me either.

6 MR. DAVIDSON: I was just under the  
7 understanding that that's, because he was trying  
8 to create some kind of an open environment for  
9 people who now just want to sit outside and want  
10 to be able to sit out in open air dining or open  
11 air atmosphere, there's not enough room within the  
12 existing building there to be able to create it,  
13 with a kitchen, a dish washing area.

14 It might have limited food prep  
15 area and, again, what that means, I have -- again,  
16 that's -- Mr. Fannin didn't share with me the menu  
17 he was looking at, he didn't share with me -- he  
18 talked about possibly, you know, just as you say,  
19 appetizer foods, and how you prepare those, I  
20 don't know, but it will not be a full kitchen is  
21 what he did state.

22 Anything big and anything that has  
23 to do with that would be done over -- and I really  
24 don't foresee a lot of back and forth. If he can  
25 do something limited within the existing building

1 that he's got, he probably will; I don't know if  
2 that's nachos, if it's some kind of fried food.  
3 He can do a couple of friers, you don't have to  
4 have a kitchen to do a couple of friers and do a  
5 couple of fried type appetizers, microwaves,  
6 very --

7 BOARD MEMBER: That's all he could  
8 do.

9 MR. DAVIDSON: Yeah, very limited,  
10 small type kitchen. But it's not going to be a  
11 full kitchen because there's just not enough room  
12 when you have to provide the required amount of  
13 bathrooms, you know, per the Code, and then you've  
14 got to bring that building up to Code, it's a very  
15 small building.

16 BOARD MEMBER: Okay, thank you.

17 BOARD MEMBER: For both buildings  
18 the existing buildings, I just want to understand  
19 this kind of for the record; you are going no  
20 closer with the additions than what is already  
21 there with the existing --

22 MR. DAVIDSON: That is correct.

23 BOARD MEMBER: -- is that correct?

24 MR. DAVIDSON: That is correct.

25 BOARD MEMBER: Good evening. Do



1 you know whether he has talked yet to whichever  
2 agency in the State licenses restaurants to see  
3 their thoughts about this plan?

4 MR. DAVIDSON: That would probably  
5 be the Board of Health.

6 BOARD MEMBER: Yeah.

7 MR. DAVIDSON: And he would have to  
8 address those -- he would have to address the  
9 Board of Health prior to -- he did get a building  
10 permit, so I imagine he did get his Board of  
11 Health approval for the restaurant. So I would  
12 think that -- I'm working on a couple of  
13 restaurants right now myself, and I know we have  
14 to go to the Board of Health to get the approval  
15 prior to getting our -- prior to Building Code  
16 giving us our approval, we have to get a Board of  
17 Health approval, so ...

18 BOARD MEMBER: Thank you.

19 CHAIRMAN WILLIAMSON: Any other  
20 questions? Mr. Sharp?

21 MR. SHARP: Thank you,  
22 Mr. Chairman.

23 Looking at this, you said there was  
24 79 spaces?

25 MR. DAVIDSON: Yes.

1 MR. SHARP: Now, are those spaces  
2 all on 74 and 75, or do those include the ones on  
3 70.01?

4 MR. DAVIDSON: 70.01 as well.

5 MR. SHARP: And I haven't seen it,  
6 but I think your representation was that your  
7 client has a lease option basically to buy that?

8 MR. DAVIDSON: That is correct,  
9 yes.

10 MR. SHARP: Okay. Is it his  
11 anticipation that he would purchase that before  
12 these buildings are complete?

13 MR. DAVIDSON: I believe he is  
14 under the assumption -- he told me that he is --  
15 it appears instead of -- his option was to lease  
16 it year to year, but evidently it's changed to the  
17 fact now that he is purchasing that piece of  
18 property next door. Yeah, so prior to occupancy  
19 of that building, he would probably own all three  
20 parcels at that time.

21 MR. SHARP: When is this proposed  
22 to go to Planning and Zoning?

23 MR. DAVIDSON: That, I'm not sure  
24 of. As soon as I guess if the -- once a decision  
25 here is made, I believe it will most likely be

1 scheduled.

2 MR. SHARP: The 15-foot easement to  
3 Del-DOT, has that already been taken?

4 MR. DAVIDSON: It is on the site  
5 plan that has been approved for the property, yes.

6 MR. SHARP: So in looking at the  
7 document you gave us, the one with green on it,  
8 there's a property line there, then it says -- and  
9 it's just tough to read, is that 15-foot?

10 MR. DAVIDSON: Yes, that's ...

11 MR. SHARP: Okay. So is that going  
12 to be a permanent easement or is that going to be  
13 deeded over to --

14 MR. DAVIDSON: No, it's a permanent  
15 easement.

16 MR. SHARP: Okay, all right. So it  
17 will still be your land, but they just have the  
18 right-of-way over it?

19 MR. DAVIDSON: That's correct, yes.

20 MR. SHARP: All right. So the  
21 variance is going to be from beyond where that  
22 15-foot is, is that right? So like we're not --  
23 we're not going from where the 15-foot easement  
24 is, it's the setback that you're going to be  
25 looking at from the road or from the --



1 MR. DAVIDSON: From the road,  
2 correct. The 15-foot is from -- will be within  
3 that 15-foot permanent easement.

4 MR. SHARP: And then from your  
5 front property line, I think you testified that  
6 there's a sidewalk between that and the road?

7 MR. DAVIDSON: That is correct,  
8 yes.

9 MR. SHARP: All right. And I think  
10 you had -- there's some steps to the front of the  
11 building, I saw some; I think you would need  
12 variances for those also because they appear to  
13 project a little further from the dwelling  
14 (unintelligible).

15 MR. DAVIDSON: As I recall, the  
16 Code reads that as long as it's not covered, it  
17 may project within the setback.

18 MR. SHARP: Well, once it goes  
19 beyond what the setback -- because you're allowed  
20 to project I think it's 5 feet. Once you've gone  
21 and the building is beyond that, you don't get the  
22 5 foot projection anymore, you're going beyond  
23 what is permitted. So we would need variances for  
24 those also.

25 And I guess just to make sure I'm

1 clear on the record, I think you talked about this  
2 before. When the Applicant came before the Board  
3 a couple years ago in 2016, the dwelling on I  
4 guess the south side of the property, southeast  
5 side of the property, that was going to be built I  
6 think in a similar fashion to what's proposed  
7 here, correct?

8 MR. DAVIDSON: Yes.

9 MR. SHARP: But the line to -- the  
10 building, I should say, to the north side of the  
11 property was not going to be there. But I think  
12 what you're saying is now you've got the parking  
13 on the adjacent property now, so that's kind of  
14 why you're able to save that little bit?

15 MR. DAVIDSON: That's correct, yes.

16 MR. SHARP: I have no further  
17 questions, thank you.

18 CHAIRMAN WILLIAMSON: Anything  
19 further from the Board?

20 Is there anyone present that is in  
21 favor of this application?

22 (No audible response.)

23 CHAIRMAN WILLIAMSON: Is there  
24 anyone present who is in opposition of this  
25 application?

1 (Unintelligible)

2 CHAIRMAN WILLIAMSON: Would you  
3 like to speak?

4 (Unintelligible)

5 CHAIRMAN WILLIAMSON: Just one  
6 second here.

7 GARY JANOSKE: May I take off my mask?

8 CHAIRMAN WILLIAMSON: Yes, sir.

9 GARY JANOSKE: Thank you very much.  
10 Good evening. And thank you very much all of you  
11 for letting me address you.

12 MR. SHARP: Can you state your name  
13 and address for the record?

14 GARY JANOSKE: My name is Gary  
15 Janoske.

16 MR. SHARP: Address?

17 GARY JANOSKE: Mailing address is  
18 5012 Morning Star Drive, Dayton, Maryland.

19 WHEREUPON:

20 GARY JANOSKE,  
21 having first been duly sworn/affirmed by  
22 Mr. Sharp, Esq., thereupon testified upon his oath as  
23 follows Thank you all for letting me address you. I  
24 live at -- I have owned the property at 3467 Villa Bay  
25 Circle, and that connects directly to this property.



1 I have a couple things that I think I heard tonight  
2 that aren't quite correct.

3 The property does not have a  
4 document signed for to buy the property.  
5 According to everybody at Villa Bay, it is -- if  
6 any one owner objects to that property sale, it  
7 cannot be sold. When the vote was taken back in  
8 May, June, July of 2020, I opposed that, along  
9 with five or six of my other co-owners, so it  
10 cannot be sold as it is right now, and our main  
11 objection was price.

12 A long-term lease could be  
13 developed, but it would have to be developed by  
14 the board of our condos. I don't know whether  
15 they're in the working of that or not, this is the  
16 first time I've seen this draft in this thing.

17 Some of the variances that you  
18 granted back in 2016, I either wasn't notified --  
19 it doesn't make any difference if I was notified,  
20 I did not come to the meeting; I would have  
21 opposed it at that time. Now I am opposing this  
22 because setbacks are for the common good of the  
23 general public, safety, and esthetics. I think  
24 this will take away from our neighborhood.

25 And definitely I would be opposed

1 to their outside dining. And I'm afraid somewhere  
2 along the line, if they're parking on the part of  
3 Villas of Bay Crossing, that they would come --  
4 they would be driving through our neighborhood;  
5 that would be a big obstacle for us. There's no  
6 barrier from that parking lot into our entrance.  
7 There are children in there, many people, I would  
8 think that would be one thing.

9 I'm opposed to the variance. They  
10 got a variance in 2016, didn't move on it, and now  
11 it's expired. This -- these variances will not be  
12 including the one building, but also a second  
13 building variance. And I think it should be  
14 either more explored, a greater explanation to the  
15 neighborhood and then also to the Board.

16 And I thank you for your time. Any  
17 questions for me?

18 CHAIRMAN WILLIAMSON: Questions for  
19 the gentleman?

20 (No audible response.)

21 GARY JANOSKE: If I can make one  
22 other statement. This gentleman on the far left,  
23 Jeff, I understand your concern about going back  
24 and forth about in the parking lot. And I'm not  
25 against restaurants, I always like a nice

1 restaurant, and it would be -- you know, as long  
2 as it -- public safety and esthetics of the  
3 neighborhood. Any other questions for me?

4 BOARD MEMBER: Sir, just so I'm  
5 clear where you live, you're directly behind the  
6 proposed parcel or what's proposed?

7 GARY JANOSKE: Okay, yes, sir. If  
8 you go right there where the lake is.

9 BOARD MEMBER: Okay.

10 GARY JANOSKE: It's that right  
11 there, I own that building, a part of that  
12 building.

13 BOARD MEMBER: I see.

14 GARY JANOSKE: It's probably like  
15 condos in that building, might be six.

16 BOARD MEMBER: Okay.

17 GARY JANOSKE: Mine is 504. It's a  
18 lovely community.

19 BOARD MEMBER: Are those other  
20 condos right there even closer on Village Circle?

21 GARY JANOSKE: They are even  
22 closer, yes, sir.

23 BOARD MEMBER: Do you have an  
24 approximation of how far that would be from the  
25 back of that?



1                   GARY JANOSKE: Okay, let's see,  
2 I'll do my estimating. A parking space is  
3 probably like 20 feet, 40 feet -- maybe 60 feet.  
4 I'm saying one parking spot for a car, about  
5 20 feet long, that's my guess.

6                   BOARD MEMBER: I understand your  
7 concern here because I'm not seeing that in  
8 looking at them both together.

9                   GARY JANOSKE: Well, if you  
10 understand the outside venue, that that may be  
11 exposed. And if you give them that variance, they  
12 won't have to come back to anybody. At least have  
13 some kind of body regulating, that's all I'm  
14 asking.

15                  CHAIRMAN WILLIAMSON: Any other  
16 questions?

17                   (No audible response).

18                  CHAIRMAN WILLIAMSON: Thank you,  
19 sir.

20                  GARY JANOSKE: Thank you all very  
21 much for allowing me to address you. You all have  
22 a great day.

23                  CHAIRMAN WILLIAMSON: You, too,  
24 bye.

25                   If we can have the Applicant come

1 back up real quick. Hearing what this gentleman  
2 just said, would you have any response to that?

3 MR. DAVIDSON: As far as I know --  
4 well, in relationship to the lease and the  
5 purchase to buy; in the lease it talks about that  
6 the lease can be renewed it sounds like to me  
7 every year until the -- until my client, the  
8 Applicant, can purchase the property. It does  
9 give the figures within the lease on how much the  
10 yearly lease is versus what he would pay for the  
11 property.

12 Mr. Fannin did explain to me that  
13 he was contacted by the homeowners association,  
14 maybe the president of the condo association, and  
15 was expressed the interest that they would like to  
16 go ahead and sell that, and so he did share with  
17 me that he was in the process of possibly  
18 purchasing that property.

19 As far as connection to the  
20 property, the property is connected through a  
21 drive aisle. The site plan that I have submitted  
22 does show that the parking spaces will be  
23 connected to parcel 74 and 75, so there will be  
24 straight access through.

25 As far as connection to the Bay --

1 to the Bay Crossing property, it does still show  
2 that there is cross access to their parking, to  
3 their facility in the back. Somewhat like I  
4 believe just south of this property, Bethany  
5 Blues; in order to get into Bethany Blues, there  
6 is a cross-access easement, and there is a  
7 connection from the Bay Crossing entrance into  
8 Bethany Blues.

9               So but the primary access to our  
10 site is from our property. And you would have to  
11 go past our property, you would have to go into  
12 Bay Crossing to be able to circumnavigate through,  
13 and I don't think -- I think people would want to  
14 get to the property as quickly as possible rather  
15 than try to go through any type of a development  
16 to get to that property.

17               I can't attest to what they  
18 determined at a board of -- at one of their board  
19 meetings as to the right to be able to -- to use  
20 the parking spaces or not.

21               That building in the back is  
22 probably I would say about 70 to 80 feet back. He  
23 is correct, the parking spaces are 20 feet long,  
24 the drive aisle is 25 feet. There is some --  
25 there is a small little grass buffer between the



1 back of our property and their first parking  
2 space, and of course they have probably a 10-foot  
3 setback, so it's probably around 70 -- around 70,  
4 75 feet from the back.

5 Again, the concept of the  
6 restaurant belongs to Mr. Fannin, that's his  
7 ideas, it's the way he wants to set up the use of  
8 his restaurant. He's the only one that's going to  
9 tell whether he's going to be successful or not to  
10 be able to offer the open air part of it that's  
11 connected.

12 He did state, and I did fail to say  
13 this in my presentation, the open air part is  
14 seasonal; it will be a seasonal part of his plan  
15 to utilize the property. It's not going to be a  
16 year-around affair for the smaller building on 74,  
17 so -- but the larger building will be year-around  
18 and it will be a year-around Italian restaurant.

19 So I think that addresses  
20 everything he had stated.

21 CHAIRMAN WILLIAMSON: Any other  
22 questions? Mr. Sharp, any questions?

23 MR. SHARP: I have none, although  
24 just an observation. I've got the lease with the  
25 option to purchase in front of me, and it has an

1 initial lease term that began July 1st of last  
2 year, and it says it shall expire on June 30,  
3 2025, and then, I quote, "If landlord has not  
4 obtained unit owner consents required to remove  
5 the property from the condominium plan of The  
6 Villas of Bay Crossing in the initial term of this  
7 lease, the lease shall continue thereafter until  
8 the property has been legally removed from the  
9 condominium and sold." That's what it actually  
10 says in there. I've never quite seen something  
11 like that, but I'll reserve further comment on it,  
12 but that's what it says.

13 I do note, Mr. Davidson, also that  
14 the copy that we have has a significant amount of  
15 typos, looks like maybe it was a transposing type  
16 issue, looks like some font type issues, so  
17 there's some just kind of throughout, so I don't  
18 know if that's something original on there or  
19 perhaps we can have try to redact the copies that  
20 I have. Because there's a significant amount of  
21 what appears to be perhaps a formatting type  
22 issue.

23 MR. DAVIDSON: I can hand you -- it  
24 doesn't look like -- it must have been on a --  
25 must have been a copying issue, so I can --





1 further.

2 CHAIRMAN WILLIAMSON: Sir, just  
3 give us a second here.

4 MR. DAVIDSON: Okay.

5 CHAIRMAN WILLIAMSON: Give me a  
6 minute here.

7 GARY JANOSKE: Thank you again for  
8 letting me come up. A copy of that lease, the  
9 front page was in the pamphlets; can I get a copy  
10 of that if it was presented that we're talking  
11 about?

12 MR. SHARP: Sure, you certainly  
13 can, it's submitted in the public record. What we  
14 have initially done, the copy he initially gave us  
15 has typos, we pulled out (unintelligible).

16 GARY JANOSKE: Like I said, in the  
17 pamphlet, the paper we have, there's only one  
18 page.

19 MR. SHARP: Well, that's all that  
20 was submitted at that time.

21 GARY JANOSKE: Okay. So can I get  
22 a copy of that?

23 MR. SHARP: I'm sure staff can get  
24 you a copy.

25 GARY JANOSKE: Thank you. Thank

1 you very much, sorry to bother you.

2 CHAIRMAN WILLIAMSON: Is there  
3 anyone else present that is in opposition of this  
4 application? Operator?

5 STAFF: If there is anyone on the  
6 line in favor or opposition to this application,  
7 please dial 5 star.

8 (No audible response).

9 STAFF: Again, if anyone on the  
10 line is in favor of or in opposition to this  
11 application, please dial 5 star.

12 (No audible response)

13 STAFF: At this time, there are no  
14 pending comments.

15 CHAIRMAN WILLIAMSON: Thank you.  
16 Are there any further questions?

17 BOARD MEMBER: I have a question  
18 for Counsel. Is it possible to make the variance  
19 conditional on purchase of the property?

20 MR. SHARP: You could do that.  
21 Now, the thing I think that's a challenge here,  
22 just based on looking at that lease with an option  
23 to purchase, is that there's some requirements --  
24 I don't have -- I'm not privy to the condo  
25 documents and what their regulations are, so I

1 don't know if and when they're able to execute a  
2 contract for that.

3                   What we have right now is a lease  
4 with an option to purchase that seems to be in  
5 perpetuity, and I think that poses some questions  
6 there. I think what you could do is you could  
7 condition it upon final site plan approval,  
8 including approval of any parking plan, and  
9 perhaps that it be effective so long as there's  
10 parking available on that parcel 70.01, in  
11 whatever fashion, whether it's an easement, a  
12 lease, or a purchase, I think you could do that.

13                   But to put it contingent on the  
14 purchase of that, that may be a challenge just  
15 because we have a two-year limitation on our  
16 decisions, and just reading the documents, I don't  
17 know if that would be consummated within that  
18 period of time.

19                   BOARD MEMBER: Okay.

20                   CHAIRMAN WILLIAMSON: No further  
21 questions? I will close the public hearing and  
22 entertain a motion.

23                   Do we need some more time to think  
24 about it?

25                   BOARD MEMBER: Has anything been



1 scheduled for the Planning and Zoning Commission  
2 on this case?

3 MS. NORWOOD: I'm sorry, what was  
4 that?

5 BOARD MEMBER: I said is anything  
6 scheduled with --

7 MS. NORWOOD: No, not at this time  
8 that would be pending.

9 BOARD MEMBER: Is it possible that  
10 we could leave the record open so that for the  
11 possibility of the owner of the property coming  
12 and testifying for us?

13 MR. SHARP: You could do that. We  
14 would probably want to leave it open just in  
15 general then, so that way any opposition or  
16 supporters would also have a similar chance to  
17 testify, strictly based on whatever the  
18 Applicant's testimony would be.

19 DR. CARSON: Mr. Chairman, I make a  
20 motion that we table case number 12557, and that  
21 the record be left open.

22 MR. SHARP: So we would not be  
23 tabling it then, because that would mean the  
24 record would be closed. You would be leaving the  
25 record open and rescheduling it for a hearing, you

1 know, whatever date.

2 DR. CARSON: Then I make a motion  
3 to table case number 12557.

4 MR. SHARP: And leave the record  
5 closed?

6 DR. CARSON: And leave the record  
7 closed.

8 MR. CHORMAN: Second.

9 CHAIRMAN WILLIAMSON: Motion and  
10 second. Mr. Warfel?

11 MR. WARFEL: Nay.

12 CHAIRMAN WILLIAMSON: Mr. Chorman?

13 MR. CHORMAN: Aye.

14 CHAIRMAN WILLIAMSON: Dr. Carson?

15 DR. CARSON: Aye.

16 CHAIRMAN WILLIAMSON: And aye, too.  
17 So with a vote of three to one, Case Number 12557  
18 has been tabled to our next meeting that would be  
19 June 7th.

20 MR. SHARP: And what that means for  
21 both the Applicant and the opposition is that the  
22 record is closed, the Board will not entertain any  
23 additional comments or submission but it will be  
24 on the agenda as Old Business in order to discuss  
25 and vote on the application.

1 CHAIRMAN WILLIAMSON: We're going  
2 to take a five-minute recess.

3 (Whereupon, Case Number 12557 was  
4 adjourned.)

5 - - - - -

6  
7 C E R T I F I C A T E

8  
9 STATE OF DELAWARE )

10 )

11 KENT COUNTY )

12  
13 I, Pamela C. Herrmann, Registered  
14 Professional Reporter and Notary Public, do hereby  
15 certify the foregoing pages were taken from the  
16 official recordings made and maintained by the Sussex  
17 County Board of Adjustment; that the testimony was  
18 stenographically reported by me and thereafter reduced  
19 to typewriting under my personal supervision; that I  
20 am neither of counsel nor kin to parties in said  
21 action nor interested in the outcome thereof.

22 WITNESS my hand this 21<sup>st</sup> day of

23 Aug, 2021.

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FIRST STATE REPORTING SERVICE (302) 424-4541  
Pamela C. Herrmann, RPR  
P.O. Box 99 Milford, Delaware 19963



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# **EXHIBIT C**

## 1 SUSSEX COUNTY BOARD OF ADJUSTMENT

2 STATE OF DELAWARE

3  
4  
5 JUNE 7, 20216  
7 RE: OLD BUSINESS Case Number 125578  
9  
10 APPEARANCES:

11 On behalf of Sussex County Board of Adjustment:

12 JOHN WILLIAMSON, Chairman

13 JEFF CHORMAN, Member

14 JOHN T. HASTINGS, Member

15 JORDAN WARFEL, Member

16 DR. KEVIN CARSON, Member.

17 JAMES SHARP, ESQ., Asst. County Attorney.

18 JENNIFER NORWOOD, P&amp;Z Manager

19 ANN LEPORE, Recording

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25 FIRST STATE REPORTING SERVICE

(302) 424-4541

Pamela C. Herrmann, RPR

P.O. Box 99

Milford, Delaware 19963

1 BOARD MEMBER: Question for  
2 Mr. Sharp, are we onto the case yet?

3 MR. SHARP: Yes. Key Properties  
4 Group, Old Business item. I don't know if  
5 Ms. Norwood needs to read the --

6 MS. NORWOOD: You want me to read  
7 it?

8 MR. SHARP: Yeah, might as well.

9 MS. NORWOOD: Case Number 12557,  
10 Key Properties Group, LLC, Elmer G. Fannin, seek  
11 variances from the front yard setback requirements  
12 and the landscape buffer requirement in the  
13 Combined Highway Corridor Overlay Zone for  
14 existing and proposed structures, Section 115-182,  
15 Section 115-182 -- actually, I just said that  
16 twice -- 115-82, 115-194.1 of the Sussex County  
17 Zoning Code.

18 The property is located on the  
19 northeast side of Coastal Highway, Route 1,  
20 approximately 546 feet southeast of Kings Highway.  
21 The 911 address is 18315, 18321, 18327 Coastal  
22 Highway, and 34670, 34673, 34677, 34682, 34703,  
23 34704 Villa Circle, Lewes. The Zoning District is  
24 C-1. The Tax Parcels are District 334, Map 6.00,  
25 Parcel 74.00 Parcel 75.00 and a portion of 70.01.



1 CHAIRMAN WILLIAMSON: Mr. Warfel  
2 had a question for you.

3 MR. WARFEL: Yes. So the Board had  
4 previously approved variances for the larger  
5 structure, is that correct?

6 MR. SHARP: That's correct.

7 MR. WARFEL: Yeah.

8 MR. SHARP: And that approval had  
9 expired because they did not construct or do the  
10 improvements within the period of time; they had a  
11 year at that point.

12 MR. WARFEL: Correct. So could  
13 we -- can we or could I make a motion that we only  
14 approve the variances for the larger building and  
15 not for the smaller?

16 MR. SHARP: Yes.

17 MR. WARFEL: Okay.

18 MR. SHARP: You have the ability to  
19 approve in part and deny in part what they're  
20 seeking. Now, I will note that there are some  
21 differences, I believe, between that application  
22 and this one. I believe the size of the Combined  
23 Corridor Highway Overlay Zone is different; is  
24 that correct, Ms. Norwood?

25 MS. NORWOOD: Yes, I believe that

1 was correct.

2 MR. SHARP: I apologize, I don't  
3 have the numbers right at my fingertips, but I do  
4 recall that there was a difference between what  
5 the '16 approval was and the current case.

6 BOARD MEMBER: There is a lot to  
7 this one.

8 CHAIRMAN WILLIAMSON: Mr. Hastings,  
9 you weren't present; did you have a chance to  
10 hear --

11 MR. HASTINGS: No, I will not be  
12 voting.

13 CHAIRMAN WILLIAMSON: You will be  
14 recusing yourself.

15 MR. WARFEL: So the entrance to the  
16 back is between those two buildings, to those  
17 apartments there in the back, am I correct on  
18 that? It doesn't hundred percent show it.

19 MR. SHARP: I don't think that's  
20 the case.

21 MR. WARFEL: Okay.

22 BOARD MEMBER: I had some confusion  
23 with that, too, because I felt like the gentleman  
24 who was for the opposition stated that.

25 MR. SHARP: Well, I think -- I

1 think there's a couple things to remember here.  
2 So there's three different tax parcels at issue.  
3 You have the one where there's the we'll call it  
4 the larger restaurant proposed, and that's the  
5 same building that received variances in '16. But  
6 it was also at that time understood that the other  
7 building was going to be removed; that building is  
8 now going to remain, that is on a different  
9 parcel, yet, what they're proposing would  
10 eliminate that lot line so it would be one larger  
11 parcel, still two buildings.

12                   The parcel to the north and I guess  
13 it wraps around a bit, that is the one that is  
14 owned by The Villas at Bay Crossing or that HOA,  
15 whatever holding entity it is, and that's the one  
16 that there is the lease agreement with that has an  
17 option to buy. I question -- it's an oddly  
18 written document, I'll put it to you that way,  
19 when I looked at it. Be that as it may, there  
20 does appear to be something that's been executed  
21 that would give this land owner the right to use  
22 the parking areas on that one. I know there's a  
23 lot to unpack on this one.

24                   MR. CHORMAN: So where do those  
25 people in the back enter and exit? And I see



1 maybe it's not there, but I was just --

2 MR. SHARP: Well, I think -- I  
3 think the people in the back -- so, and,  
4 Mr. Chorman, I'm looking at the document that was  
5 provided by Pennoni and also the aerial. So that  
6 parking area that is to the north does not appear  
7 to have a direct access onto Route 1.

8 MR. CHORMAN: Okay.

9 MR. SHARP: So I'm going to surmise  
10 that those folks have an entrance probably from  
11 further south as you go down by Bethany Blues,  
12 because that would appear to be how they access  
13 it. Because when we look at the current aerials,  
14 there is no shown --

15 MR. CHORMAN: Sure.

16 MR. SHARP: -- connection access  
17 there. I know that one of the things Mr. Davidson  
18 had pointed out was that there would be, as  
19 proposed, they would be eliminating a couple  
20 parking spaces on the property to the north to  
21 provide a drive aisle to access that parking area.  
22 So I don't think there's any kind of easement over  
23 this property's land by The Villas at Bay  
24 Crossing.

25 MR. CHORMAN: Okay.

1 MR. SHARP: What rights they have  
2 on the parking area, I don't know for sure.

3 BOARD MEMBER: So at this point,  
4 the record --

5 MR. SHARP: The record's closed,  
6 yep.

7 BOARD MEMBER: It's going to be  
8 Touch of Italy, is that correct?

9 MR. SHARP: I don't know that he  
10 said the name of it, but I think he did mention  
11 that it was an Italian restaurant.

12 BOARD MEMBER: I think that was a  
13 different application, the Touch of Italy, yeah.

14 BOARD MEMBER: Okay.

15 MS. NORWOOD: The previous request  
16 from the buffer was asking for -- I just had it,  
17 hold on, I'm sorry -- they were asking for a 10  
18 foot from the 20 that we granted prior; this time  
19 they're asking only for 5 foot from --

20 MR. SHARP: I thought there was a  
21 reduction.

22 MS. NORWOOD: Yeah.

23 CHAIRMAN WILLIAMSON: Any other  
24 comments or questions?

25 (No audible response.)

The Board will entertain a motion.

MR. WARFEL: Mr. Chairman, I move that we approve in part and deny in part Case Number 12557 for Key -- yes, Key Properties Group, LLC for the requested variances only for the larger building and not for the smaller building, pending a written -- final written decision based upon the record majoring public hearing and for the following reasons: The existing -- larger building is existing, which is the unique condition and the exceptional difficulties due to that condition. Due to the physical circumstances or conditions, there's no possibility the property can be developed in strict conformity, the variances are necessary to enable reasonable use, the exceptional practical difficulty was not created by the Applicant, the variance will not alter the essential character of the neighborhood, and it's the minimum necessary to afford relief, and because the other variances for the smaller building and the addition to the smaller building do not meet any of these criteria.

CHAIRMAN WILLIAMSON: So that is an approval for the larger building and a denial for the smaller building?



1 MR. WARFEL: Correct.

2 DR. CARSON: Second.

3 CHAIRMAN WILLIAMSON: A motion and  
4 a second. Mr. Hastings -- oh, sorry.  
5 Mr. Chorman?

6 MR. HASTINGS: Mr. Hastings is  
7 recusing himself.

8 CHAIRMAN WILLIAMSON: Mr. Chorman?

9 MR. CHORMAN: Aye, for the reasons  
10 stated.

11 CHAIRMAN WILLIAMSON: Dr. Carson?

12 DR. CARSON: Aye, for the reasons  
13 stated.

14 CHAIRMAN WILLIAMSON: Mr. Warfel?

15 MR. WARFEL: Aye, for my reasons.

16 CHAIRMAN WILLIAMSON: And aye, too,  
17 for those reasons. So with a vote of four to  
18 zero, Case Number 12557 has been approved in part  
19 and denied in part.

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## C E R T I F I C A T E

STATE OF DELAWARE )

)

KENT COUNTY )

I, Pamela C. Herrmann, Registered

Professional Reporter and Notary Public, do hereby  
certify the foregoing pages were taken from the  
official online audio recordings made and maintained  
by Sussex County Board of Adjustment; that the  
proceedings were stenographically reported by me via  
online audio, and thereafter reduced to typewriting  
under my personal supervision; that I am neither of  
counsel nor kin to parties in said action nor  
interested in the outcome thereof.

WITNESS my hand this 21<sup>st</sup> day ofAug

, 2021.



Pamela C. Herrmann  
Registered Professional Reporter  
and Notary Public

FIRST STATE REPORTING SERVICE

(302) 424-4541

Pamela C. Herrmann, RPR

P.O. Box 99

Milford, Delaware 19963





<b>F</b> four [1] 9/17 front [1] 2/11 further [1] 6/11	LEPORE [1] 1/15 Lewes [1] 2/23 like [1] 4/23 line [1] 5/10 LLC [2] 2/10 8/5 located [1] 2/18 look [1] 6/13 looked [1] 5/19 looking [1] 6/4 lot [3] 4/6 5/10 5/23	outcome [1] 10/16 over [1] 6/22 Overlay [2] 2/13 3/23 owned [1] 5/14 owner [1] 5/21
<b>G</b> gentleman [1] 4/23 give [1] 5/21 go [1] 6/11 going [4] 5/7 5/8 6/9 7/7 granted [1] 7/18 Group [3] 2/4 2/10 8/4 guess [1] 5/12	<b>M</b> made [1] 10/10 maintained [1] 10/10 majoring [1] 8/8 make [1] 3/13 Manager [1] 1/15 Map [1] 2/24 may [1] 5/19 maybe [1] 6/1 me [2] 2/6 10/12 meet [1] 8/22 Member [4] 1/12 1/12 1/13 1/13 mention [1] 7/10 might [1] 2/8 minimum [1] 8/19 motion [3] 3/13 8/1 9/3 move [1] 8/2 Mr. [11] Mr. Chairman [1] 8/2 Mr. Chorman [3] 6/4 9/5 9/8 Mr. Davidson [1] 6/17 Mr. Hastings [3] 4/8 9/4 9/6 Mr. Sharp [1] 2/2 Mr. Warfel [2] 3/1 9/14 Ms [2] 2/5 3/24 my [4] 4/3 9/15 10/14 10/17	<b>P</b> pages [1] 10/9 Pamela [2] 10/7 10/20 parcel [5] 2/25 2/25 5/9 5/11 5/12 parcels [2] 2/24 5/2 parking [5] 5/22 6/6 6/20 6/21 7/2 part [6] 3/19 3/19 8/3 8/3 9/18 9/19 parties [1] 10/15 pending [1] 8/7 Pennoni [1] 6/5 people [2] 5/25 6/3 percent [1] 4/18 period [1] 3/10 personal [1] 10/14 physical [1] 8/12 point [2] 3/11 7/3 pointed [1] 6/18 portion [1] 2/25 possibility [1] 8/13 practical [1] 8/16 present [1] 4/9 previous [1] 7/15 previously [1] 3/4 prior [1] 7/18 probably [1] 6/10 proceedings [1] 10/12 Professional [2] 10/8 10/21 Properties [3] 2/3 2/10 8/4 property [3] 2/18 6/20 8/13 property's [1] 6/23 proposed [3] 2/14 5/4 6/19 proposing [1] 5/9 provide [1] 6/21 provided [1] 6/5 public [3] 8/8 10/8 10/21 put [1] 5/18
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<b>J</b> JAMES [1] 1/14 JEFF [1] 1/12 JENNIFER [1] 1/15 JOHN [2] 1/11 1/12 JORDAN [1] 1/13 JUNE [1] 1/5 just [3] 2/15 6/1 7/16		
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<b>L</b> land [2] 5/21 6/23 landscape [1] 2/12 larger [7] 3/4 3/14 5/4 5/10 8/6 8/9 8/24 lease [1] 5/16		

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# **EXHIBIT D**



BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: KEY PROPERTIES GROUP, LLC

(ELMER G. FANNIN)

(Case No. 12557)

A public hearing was held after due notice on May 17, 2021. The Board members present were: Dr. Kevin Carson, Mr. Jeff Chorman, Mr. Jordan Warfel, and Mr. John Williamson.

Nature of the Proceedings

This is an application for variances from the front yard setback requirements and the landscape buffer requirement in the Combined Highway Corridor Overlay Zone (CHCOZ) for existing and proposed structures.

Findings of Fact

The Board found that the Applicant is requesting the following variances: 1) a variance of 27.3 feet from the sixty (60) feet front yard setback requirement for the original building on Parcel 75.00; 2) a variance of 31.28 feet from the sixty (60) feet front yard setback requirement for a proposed front entry on a smaller existing building on Parcel 74.00; 3) a variance of 27.28 feet from the sixty (60) feet front yard setback requirement for an existing building on Parcel 74.00; 4) a variance of 26.29 feet from the sixty (60) feet front yard setback requirement for a proposed addition to the building on Parcel 74.00; and 5) a variance of 5 feet from the twenty (20) feet landscape buffer requirement in the Combined Highway Corridor Overlay Zone for Parcels 74.00 and 75.00. This application pertains to certain real located on the northeast side of Coastal Highway (Route 1) approximately 546 feet southeast of Kings Highway (911 Address: 18315, 18321, 18327 Coastal Highway and 34670, 34673, 34677, 34682, 34703, 34704 Villa Circle, Lewes); said property being identified as Sussex County Tax Map Parcel Number 334-6.00-74.00, 75.00 & 70.01 (Portion of). After a public hearing, the Board made the following findings of fact:

1. The Board was given copies of the Application, an aerial photograph of the Property, a survey of the Property dated March 10, 2021, findings of fact for Case No. 11883, a site plan dated April 20, 2021, a Power Point presentation, a restaurant development site plan dated October 24, 2016, a letter in opposition to the Application, and a portion of the tax map of the area.
2. The Board found that the Office of Planning & Zoning received no correspondence in support of and one letter in opposition to the Application.
3. The Board found that Mark Davidson, who is an engineer with Merestone Consultants, was sworn in to give testimony about the Application. Mr. Davidson submitted a lease-option agreement to the Board to review.
4. The Board found that Mr. Davidson testified that the properties are located on the northeast side of Coastal Highway just south of Kings Highway outside of Lewes and the properties are zoned General Commercial (C-1).
5. The Board found that Mr. Davidson testified that the properties are broken up into the following three parcels: 1) Parcel 74 which consists of approximately 0.33 acres with 125 feet of frontage along Coastal Highway and is 116.5 feet deep, 2) Parcel 75 which consists of approximately 0.55 acres with 105 feet of frontage along Coastal Highway and is 160 feet deep and wraps around the rear of Parcel 74, and the total length of the rear of the lot is approximately 230 feet, and 3) a portion of Parcel 70.01

which is owned by the Villas at Bay Crossing. According to Mr. Davidson, the Applicant intends to combine all three parcels into one property.

6. The Board found that Mr. Davidson testified that the Applicant is proposing to renovate and use the existing buildings on both properties as restaurants.
7. The Board found that Mr. Davidson testified that the Applicant has a lease with the option to purchase a portion of Parcel 70.01 (which consists of approximately 0.3 acres) to use as parking for the restaurants.
8. The Board found that Mr. Davidson testified that the Villas at Bay Crossing Condominium Association has excess parking spaces and has agreed to lease this portion of their property (Parcel 70.01) to the Applicant.
9. The Board found that Mr. Davidson testified that this property was the subject of a previous Board application, which was heard in November 2016 for similar requests involving the larger building on Parcel 75 and a plan to demolish the smaller building on Parcel 74. He noted that the demolition of the smaller building, as proposed on the prior application, was to accommodate for parking for the larger building but the lease with Villas at Bay Crossing now provides that additional parking.
10. The Board found that Mr. Davidson testified that the prior variance approval expired.
11. The Board found that Mr. Davidson testified that the Applicant applied for and received permits for the improvements to both buildings and that construction has begun at the site.
12. The Board found that Mr. Davidson testified that the Applicant is proposing to use the larger building for an Italian restaurant where the main restaurant will be used for dining and the smaller building would be used for a happy hour style restaurant with outdoor seating. He noted that food would be prepared in the larger building.
13. The Board found that Mr. Davidson testified that the buildings will need similar front yard setback variances.
14. The Board found that Mr. Davidson testified that the unique condition of this site is that the building is existing and was constructed in 1948 and predates Sussex County Zoning Code and the adoption of the CHCOZ.
15. The Board found that Mr. Davidson testified that the buildings were previously residences but that single-family dwellings have diminished along the Coastal Highway corridor given the nature of the area, uses, traffic, and zoning of properties.
16. The Board found that Mr. Davidson testified that the building on Parcel 75 was used as an office in the 1990s.
17. The Board found that Mr. Davidson testified that the parcels are small and have relatively shallow depths.
18. The Board found that Mr. Davidson testified that the lots will be subject to parking, loading, and stormwater management requirements.
19. The Board found that Mr. Davidson testified that the properties are unique due to the shallowness of the lots, the connection of portion of Parcel 70.01 for parking, and the dedication of 15 feet to DeIDOT for a permanent easement, and that these conditions create limited space for handling additional drainage and utility placement for the reuse and redevelopment of the existing buildings.
20. The Board found that Mr. Davidson testified that, because of the physical circumstances or conditions, there is no possibility that the Property can be developed in strict conformity with the provisions of the Zoning Ordinance because approximately 28 feet of the building would have to be demolished in order to bring it into conformity.
21. The Board found that Mr. Davidson testified that, in order to provide sufficient parking, additional drainage, and utilities, the 5 foot variance from the CHCOZ is necessary.
22. The Board found that Mr. Davidson testified that the Applicant meets DeIDOT requirements regarding landscaping within the easement area.



23. The Board found that Mr. Davidson testified that the variances are necessary to enable the reasonable use of the Property.
24. The Board found that Mr. Davidson testified that the buildings were on the lots when the Applicant purchased the Property.
25. The Board found that Mr. Davidson testified that the Applicant wants to use both buildings as restaurants, which are permitted uses in the C-1 zoning district.
26. The Board found that Mr. Davidson testified that the requested variances will not alter the essential character of the neighborhood as the subject properties were granted variances for the front yard setback and from the CHCOZ buffer on November 21, 2017 (Case No. 11883).
27. The Board found that Mr. Davidson testified that the building has received site plan approval by the Sussex County Planning & Zoning Commission for the proposed restaurant use.
28. The Board found that Mr. Davidson testified that there are houses that have been converted into commercial uses in the immediate area.
29. The Board found that Mr. Davidson testified that these are the minimum variances needed for the front yard setback for the existing buildings.
30. The Board found that Mr. Davidson testified that a 5 foot variance from the CHCOZ is the minimum necessary to provide the required landscaping that will preserve and enhance the aesthetic character of the proposed restaurants along Coastal Highway.
31. The Board found that Mr. Davidson testified that there are 107 parking spaces required by Code and 79 parking spaces being provided (which includes the spaces on Parcel 70.01). He noted that the Applicant can request a reduction in parking from the Planning and Zoning Commission.
32. The Board found that Mr. Davidson testified that the concept is that patrons can use Uber and public transportation to get to the restaurant.
33. The Board found that Mr. Davidson testified that there will be one kitchen to serve both buildings but there will not be much food service in the smaller building as it will not have a large kitchen. According to Mr. Davidson, the Applicant does not foresee wait staff traveling between the two buildings. He anticipates that outdoor seating will be seasonal.
34. The Board found that Mr. Davidson testified that, to the south, there is a professional office building and, to the north, there is Lazy Susan's restaurant and some offices.
35. The Board found that Mr. Davidson testified that the smaller building is proposed to be retained since the Applicant has secured parking on an adjacent lot. This proposal differs from the prior application approved in 2017.
36. The Board found that Mr. Gary Janoske was sworn in to give testimony in opposition to the Application.
37. The Board found that Mr. Janoske testified that he lives on adjacent property and that he and several other nearby property owners oppose the Application.
38. The Board found that Mr. Janoske testified that, if any owner in the Villas at Bay Crossing objects to the sale as part of Parcel 70.01, then it cannot be sold.
39. The Board found that Mr. Janoske testified, had he had the opportunity in 2016, he would have opposed the original request for a variance.
40. The Board found that Mr. Janoske testified he is opposed because setbacks are for the common good of the public, safety, and aesthetics and he believes the Applicant's proposal will take away from the neighborhood.
41. The Board found that Mr. Janoske testified he is opposed to the outdoor dining.
42. The Board found that Mr. Janoske testified he has concerns that patrons for the restaurant would be driving through the development at Villas of Bay Crossing.
43. The Board found that Mr. Davidson testified that the lease can continue yearly until the sale can be completed.



44. The Board found that Mr. Davidson testified that the parking spaces on Parcel 70.01 will be connected to Parcels 74 and 75 and that patrons would not have to drive through the Villas of Bay Crossing to access the parking.
45. The Board tabled the Application until June 7, 2021, at which time the Board discussed and voted on the Application.
46. Based on the findings above and the testimony and evidence presented at the public hearing and the public record, which the Board weighed and considered, the Board determined that the application for the variances for the building on Parcel 75.00 and the Combined Highway Corridor Overlay Zone met the standards for granting a variance but that the variances for the building on Parcel 74.00 failed to meet the standards for granting a variance. The findings below further support the Board's decision to approve the Application in part and to deny the Application in part.
  - a. The Applicant is the owner of two parcels (Parcel 74.00 and Parcel 75.00) which have been developed with buildings prior to the enactment of the Sussex County Zoning Code. The Applicant seeks to renovate and expand those buildings and to repurpose the buildings as restaurants. In doing so, the Applicant proposes to combine those parcels into one lot. The Applicant also has a purported lease agreement with the owner of Parcel 70.01 to use a portion of that lot for parking related to the restaurants.
  - b. The Board previously granted a variance in 2016 for similar variances for renovations to the building on Parcel 75.00. At that time, the Applicant presented that the building on Parcel 74.00 would be demolished and the space for the building on Parcel 74.00 would be used for parking. The Applicant, however, did not establish the use within one year of that approval and the Board's previous approval expired; a point which the Applicant readily acknowledges.
  - c. The proposal before the Board in this Application is separate and distinct from the Applicant's prior application as it results in additional land area of Parcel 74.00 and 75.00 being developed with restaurants, outdoor seating, and related improvements such as parking and loading areas. The Applicant presented a purported lease option agreement ("the Lease") with the owner of Parcel 70.01 which would allow the Applicant to use the parking spaces on Parcel 70.01.
  - d. The Lease is unusual as it recognizes that the Applicant would need to obtain unanimous consent of the owners in the Villas at Bay Crossing in order to purchase the leased portion of Parcel 70.01. As such, the initial term of the Lease is for only five (5) years but the Lease contains a clause that the Lease "shall continue thereafter until the property has been legally removed from the condominium and sold to Tenant." The Board questions the legality of this clause as it appears to violate the rules against perpetuities since there is no set date when the Applicant is required to purchase the leased area or when the Applicant's right to purchase expires. Moreover, opposition testified that unanimous consent to the sale was not available at this point. While the Applicant does not seek variances for Parcel 70.01, the Applicant has clearly designed Parcels 74.00 and 75.00 based on the assumption that the Applicant has rights to use Parcel 70.01. The Board notes that the Board's prior approval in 2016 was based on the Applicant's then-representation that the building on Parcel 74.00 would be removed because parking would be needed for the renovated building on Parcel 75.00. Now the Applicant has based its current design plan on shifting that parking to Parcel 70.01 through this unusual lease agreement. The Board has concerns about this shift in parking due to the uncertainty and questionable legality of the Lease. If all of the variances were granted, the Applicant could build two restaurants and

hope that there would be no issues with the Lease. The Board also has concerns that the renovation of both buildings and the proposed use of both buildings will increase the need for parking as opposed to simply improving one of the buildings for a restaurant. In essence, the Applicant's proposal overdevelops the Property. The Board further notes that the Applicant's engineer testified that the proposed parking (including the parking on Parcel 70.01) falls well short of the County's parking regulations. Notably, a significant amount of the total proposed parking will be located on Parcel 70.01.

- e. That being said, the Board found that the variances for the building on Parcel 75.00 met the standards for granting a variance provided that the structures of Parcel 74.00 are removed. This decision is in line with the Board's previous decision on an application for similar relief for that building granted on February 6, 2017. The Board also grants variances from the Combined Highway Corridor Overlay Zone. The Board, however, denies the variances for the Building on Parcel 74.00.
- f. Since Parcels 74.00 and 75.00 are proposed to be combined into one parcel, the Board simply refers to those to parcels collectively hereafter as "the Property."
- g. The Property is unique because it is an oddly shaped commercial property in the Combined Highway Corridor Overlay Zone. The Property is wide but shallow and the shallowness of the Property has posed a particular challenge for the Applicant, who seeks to redevelop the Property. The Applicant seeks to renovate and expand the existing building on Parcel 75.00 for use as a restaurant, which is a permitted use. The shallowness of the Property has created an exceptional practical difficulty and unnecessary hardship for the Applicant because the Property is not deep enough to accommodate the parking and drive aisles necessary for the proposed restaurant. Similarly, the unique conditions of the Property have posed a challenge for the Applicant who seeks to retain the existing building on Parcel 75.00 in its location while expanding within the rear yard setback area. The building encroaches into the front yard setback and will not farther encroach into the setback area as part of this development. Undisputed testimony also indicates that, over the years, DelDOT has taken additional right-of-way areas in the front yard, thereby reducing the size of the front yard as well. The Board finds that the unique physical conditions of the Property have created an unnecessary hardship and exceptional practical difficulty for the Applicant who seeks to redevelop the Property.
- h. The unnecessary hardship and exceptional practical difficulty are not being created by the provisions of the Sussex County Zoning Code.
- i. Due to the uniqueness of the Property and the situation, the Property cannot be developed in strict conformity with the Sussex County Zoning Code. The Property has unique conditions and the buildable area thereof is limited due to these conditions. The building on Parcel 75.00 was placed on the lot many years ago prior to the enactment of the Sussex County Zoning Code. The Applicant seeks to redevelop the Property by expanding that building within the building envelope for use as a restaurant. The building, however, already encroaches into the setback area and due, the unique conditions of the Property, the Applicant cannot meet the buffer zone requirements. The Board is convinced that the variances related to the development of Parcel 75.00 are necessary to enable reasonable use thereof as it will allow the Applicant to redevelop the entire Property into a restaurant and parking area. The Board is convinced that the size and shape of the restaurant on Parcel 75.00 are reasonable, which is confirmed when reviewing the survey



provided by the Applicant (provided, however, that the building on Parcel 74.00 be removed). That being said, the Board is not convinced that retaining both structures on the Property is necessary to enable reasonable use of the Property. The lots are being combined and the proposed renovation and expansion of the building on Parcel 75.00 alone will provide the Applicant with reasonable use of the Property. Space on Parcel 74.00 will be needed for uses related to the restaurant such as parking. The Applicant, however, seeks to retain 2 buildings on the Property rather than remove one structure (as was originally proposed in 2016). The Board was not convinced that the retention and expansion of the building Parcel 74.00 is necessary for the Applicant to reasonably use the Property. Rather, the variances for the building on Parcel 75.00 and the Combined Highway Corridor Overlay Zone are necessary to enable reasonable use of the Property; albeit perhaps not the Applicant's preferred use of the Property.

- j. As it pertains to the building on Parcel 75.00, the exceptional practical difficulty and unnecessary hardship were not created by the Applicant. The Applicant did not place the existing building on Parcel 75.00. Rather, that building has been on the Property for many years and its location predates the enactment of the Combined Highway Corridor Overlay Zone ordinance. The Applicant also did not create the odd depth of the Property, which has created a small building envelope. This small building envelope was further limited by DelDOT takings for additional right-of-way space along Route 1. These conditions have limited where the Applicant can place parking and drive aisles for the proposed restaurant on the Property.
- k. That being said, the Board finds that, by attempting to develop the Property with two buildings, the Applicant has exacerbated and created an exceptional practical difficulty. The Applicant will be combining Parcels 74.00 and 75.00 into one lot yet wants to keep and expand both buildings. The Board finds this proposal to be excessive. The Board was not convinced that the variance requests for both buildings were the product of a *need*. Instead, those variance requests appear to be the product of a *want* as the Applicant seeks to renovate and expand both buildings as proposed for purposes of convenience, profit, and / or caprice. In this respect, the Applicant has thus created its own exceptional practical difficulty by proposing to renovate and expand both buildings.
- l. In light of the above, provided that the Applicant removes the building on Parcel 74.00, the Board believes that the Applicant can satisfy that the overall Property is unique and that those unique conditions have created an exceptional practical difficulty and unnecessary hardship which allows for the retention and expansion of the building on Parcel 75.00 as proposed.
- m. Provided that the building on Parcel 74.00 is removed, the variances related to the building on Parcel 75.00 and the Combined Highway Corridor Overlay Zone will not alter the essential character of the neighborhood nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare. The Board is convinced that the variances for the structure on Parcel 75.00 will have no effect on the character of the neighborhood. The building has been on the Property for many years and the structure will encroach no farther into the front yard setback area than it currently does. This finding, of course, assumes that the building on Parcel 74.00 will be removed. A neighbor expressed concern about the impact of parking if both buildings were renovated and expanded as proposed and the Board shares that concern since the Applicant is not an owner of Parcel 70.01 and the overall development of the Property hinges on being able to use a portion of Parcel



70.01 for parking indefinitely. Without the parking on Parcel 70.01, the Property would be woefully short of meeting the County's parking requirements and, even with the parking on Parcel 70.01, the Applicant will still fall short of meeting the County's parking requirements. If, however, the building on Parcel 74.00 is removed, additional space for parking will be available and it would also reduce the need for parking because there will only be one building used for patrons rather than two buildings. Such development would also be consistent with what was proposed in 2016 by the Applicant. Regarding the buffer zone requirements, the Board finds that the encroachment into the buffer zone will not alter the character of the neighborhood as the Applicant proposes to add additional landscaping to that area which should improve the Property.

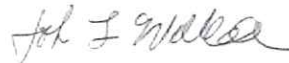
- n. The variances sought related to the building on Parcel 75.00 and the Combined Highway Corridor Overlay Zone are the minimum variances necessary to afford relief and the variances requested for Parcel 75.00 and the Combined Highway Corridor Overlay Zone requirements represent the least modifications possible of the regulations at issue. The Applicant has demonstrated that those variances will allow the Applicant to reasonably renovate and expand the existing building on Parcel 75.00 for use as a restaurant. The expansion will be within the building envelope as well. Notably, the building will encroach no farther into the setback area than the existing building and the Applicant will plant landscaping in the buffer zone. The Board notes, however, that the variances sought for Parcel 74.00 do not represent the minimum variances to afford relief. As previously discussed, if the Property is developed as proposed, the Property will be improved by two restaurants, which are larger than the current buildings existing on the site. This development would result in significantly reduced parking even though the use has intensified for the Property and effectively would overdevelop the Property. The renovation and expansion of the building on Parcel 75.00 combined with the removal of the building on Parcel 74.00, however, allows the Applicant to reasonably develop the Property while minimizing the need for variances. The Board notes that the Applicant previously made this request and demonstrated that such a development could work. The Board is not inclined to permit additional encroachments into the setback area when the Applicant has previously shown that it can reasonably develop the Property with fewer encroachments.
- o. The condition or situation of the Property and the intended use of the Property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the Sussex County Zoning Code.

The Board granted the variance application for the variances related to the building on Parcel 75.00 and the buffer zone requirements but denied the variances related to the building on Parcel 74.00.

Decision of the Board

Upon motion duly made and seconded, the variance application was approved in part and denied in part. The Board Members in favor of the motion were Dr. Kevin Carson, Mr. Jeffrey Chorman, Mr. Jordan Warfel, Mr. John Williamson. No Board Member voted against the motion to approve the Application in part and to deny the Application in part. Mr. Travis Hastings did not participate in the discussion or vote on this Application.

BOARD OF ADJUSTMENT  
OF SUSSEX COUNTY



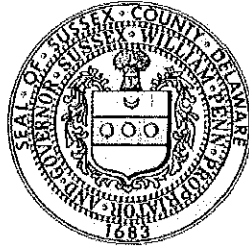
John Williamson  
Chair

If the use is not established within two (2)  
years from the date below the application  
becomes void.

Date August 16, 2021.

JAMIE WHITEHOUSE, AICP  
PLANNING & ZONING DIRECTOR  
(302) 855-7878

Jamie.whitehouse@sussexcountype.gov



**Sussex County**

DELAWARE  
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## BOARD OF ADJUSTMENT

### PUBLIC HEARING DATES 2022

January 3, 2022  
January 24, 2022  
February 7, 2022  
February 21, 2022  
March 7, 2022  
March 21, 2022  
April 4, 2022  
April 18, 2022  
May 2, 2022  
May 16, 2022  
June 6, 2022  
June 27, 2022  
July 11, 2022  
July 18, 2022  
August 1, 2022  
August 15, 2022  
September 12, 2022  
September 19, 2022  
October 3, 2022  
October 17, 2022  
November 7, 2022  
November 21, 2022  
December 12, 2022  
December 19, 2022



COUNTY ADMINISTRATIVE OFFICES  
2 THE CIRCLE | PO BOX 417  
GEORGETOWN, DELAWARE 19947



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



**Sussex County**

DELAWARE  
sussexcountye.gov

September 22, 2021

Mr. Gary Janoske  
5012 Morning Star Drive  
Dayton, MD 21036

Dear Gary Janoske:

This letter is to inform you that a request for rehearing of Case No. 12557 – Lands of Key Properties, LLC has been submitted to our office. This letter is to provide you with a copy of the request and give you an opportunity to respond. There will be no testimony heard at the meeting of November 1, 2021. The Board of Adjustment will consider the request for a rehearing based on the written information submitted. If you wish to submit information for the Board of Adjustment members to consider, please submit it to me no later than the close of business on October 8, 2021.

Should you have any questions regarding this letter, please feel free to contact me.

Sincerely,

Ann Lepore  
Planning Technician  
Planning & Zoning Dept.  
[Ann.lepore@sussexcountye.gov](mailto:Ann.lepore@sussexcountye.gov)  
302-855-7878

Encl.



COUNTY ADMINISTRATIVE OFFICES  
2 THE CIRCLE | PO BOX 417  
GEORGETOWN, DELAWARE 19947