

**PLANNING & ZONING COMMISSION**

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



**Sussex County**

DELAWARE  
sussexcountyde.gov  
302-855-7878 T  
302-854-5079 F  
JAMIE WHITEHOUSE, AICP  
DIRECTOR

**PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET**  
Planning Commission Public Hearing Date May 14, 2020.

Application: (CZ 1904) Dry Acres, LLC

Applicant: Jill A. Cicierski  
16808 Gravel Hill Road  
Milton, DE 19968

Owner: Dry Acres, LLC  
16973 Island Farm Lane  
Milton, DE 19968

Site Location: Located on the southwest corner of the intersection of U.S. Route 9 and Fisher Road (S.C.R. 262).

Current Zoning: Agricultural Residential (AR-1)

Proposed Zoning: Medium Commercial District (C-2)

Comprehensive Land Use Plan Reference: Low Density Area

Councilmatic District: Mr. Burton

School District: Cape Henlopen School District

Fire District: Milton Fire District

Sewer: Private, On-Site

Water: Private, On-Site

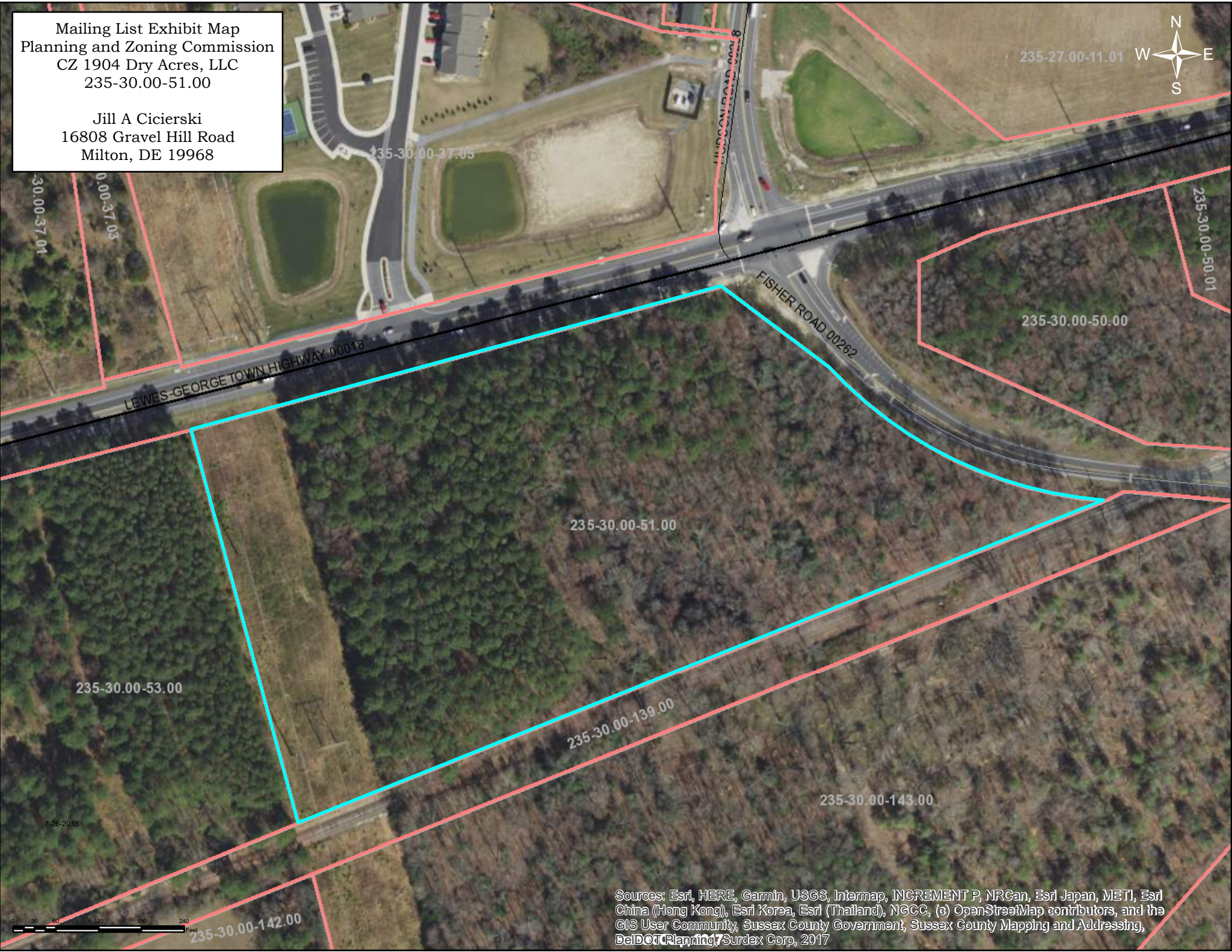
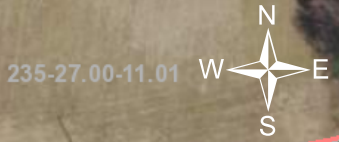
Site Area: 10.88 acres +/-

Tax Map ID.: 235-30.00-51.00



Mailing List Exhibit Map  
Planning and Zoning Commission  
CZ 1904 Dry Acres, LLC  
235-30.00-51.00

Jill A Cicierski  
16808 Gravel Hill Road  
Milton, DE 19968



Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), NGCC, (c) OpenStreetMap contributors, and the GIS User Community, Sussex County Government, Sussex County Mapping and Addressing, DelDOT Planning, Surdex Corp, 2017



# Sussex County



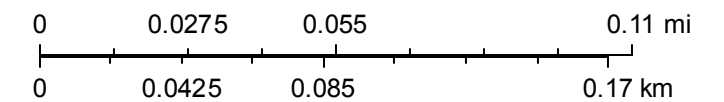
<b>PIN:</b>	235-30.00-51.00
<b>Owner Name</b>	DRY ACRES LLC
<b>Book</b>	3802
<b>Mailing Address</b>	16793 ISLAND FARM LN
<b>City</b>	MILTON
<b>State</b>	DE
<b>Description</b>	RD 18
<b>Description 2</b>	FX
<b>Description 3</b>	N/A
<b>Land Code</b>	

- polygonLayer**

  - Override 1
- polygonLayer**

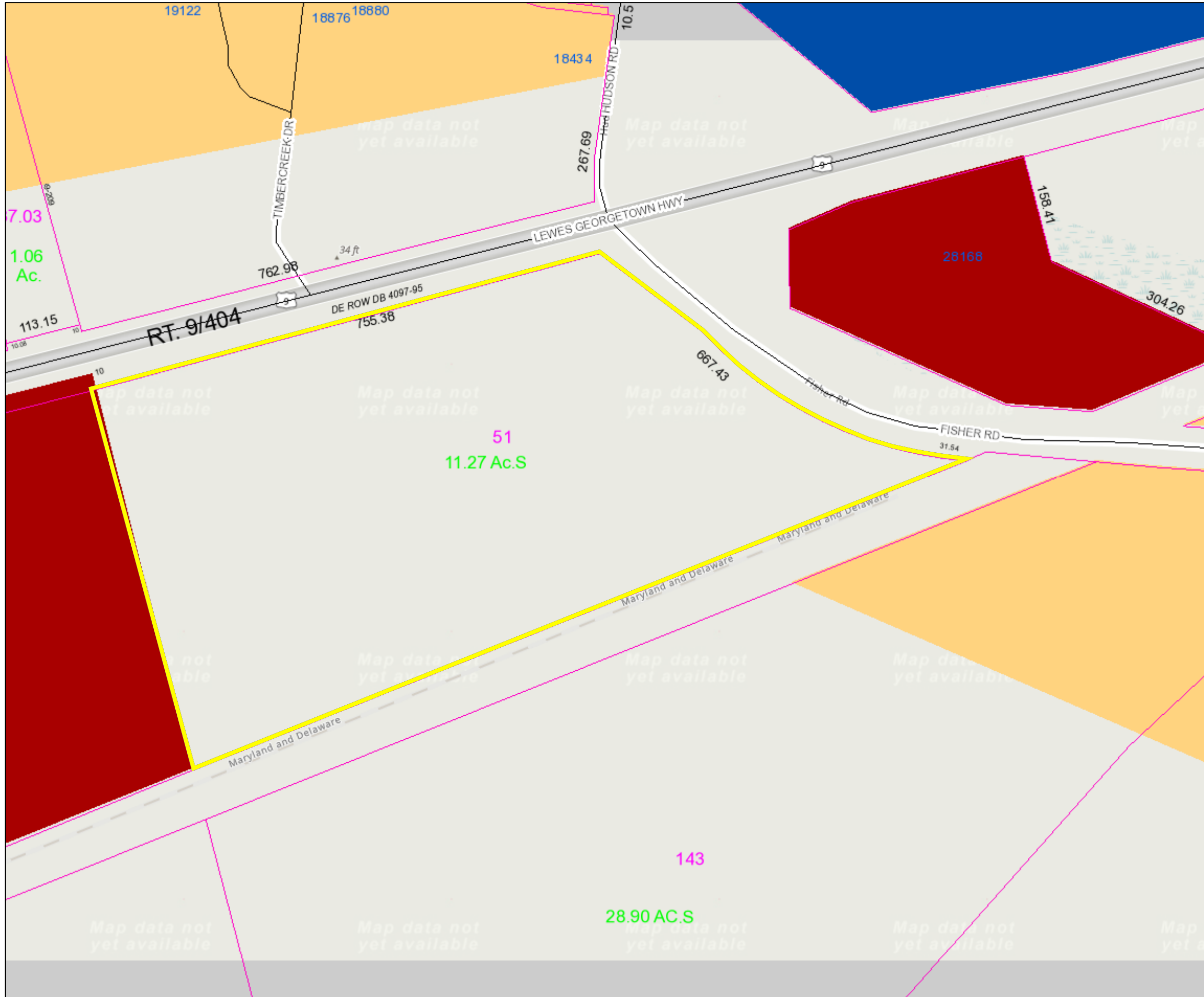
  - Override 1
  - Tax Parcels
  - 911 Address
  - Streets
  - County Boundaries

1:2,257





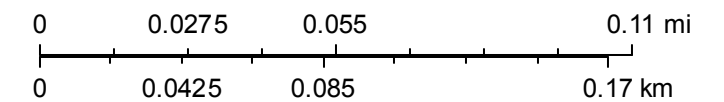
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Override 1
- polygonLayer  
Override 1
- Tax Parcels
- 911 Address
- Streets

1:2,257



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



**Sussex County**  
DELAWARE  
sussexcountyde.gov

## Memorandum

To: Sussex County Planning Commission Members  
From: Jamie Whitehouse, Director of Planning & Zoning  
CC: Vince Robertson, Assistant County Attorney and applicant  
Date: May 8, 2020  
RE: Staff Analysis for CZ 1904 Dry Acres, LLC (Jill Cicierski)

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This memo is to provide background and analysis for the Planning Commission to consider as a part of application CZ 1904 Dry Acres, LLC (Jill Cicierski) to be reviewed during the May 14, 2020 Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

Please note that this application was heard by the Commission at its meeting of January 23, 2020. To ensure that the all required noticing for the application has been undertaken, this application has been re-noticed and is being heard by the Commission again at its May 14, 2020 meeting.

The request is for a Change of Zone for parcel 235-30.00-51.00 to facilitate a change from the Agricultural Residential Zoning District (AR-1) to a Medium Commercial Zoning District (C-2) and is located on the southwest corner of the intersection of Lewes-Georgetown Hwy. (Rt. 9) and Fisher Rd. The size of the property is 10.88 acres +/-.

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

The parcels to the north and south are designated on the Future Land Use Map as "Low Density Areas". The surrounding land use to the east and west is designated "Existing Development Area". Low Density Areas primarily recognize businesses that support agricultural activities and the development of single-family homes. The focus of retail and office uses in Low Density Areas should be for providing convenience goods and services to nearby residents. It also recognizes that commercial uses should be limited in location, size, and hours of operation and that intense uses should be avoided. The Existing Development Area recognizes that a range of housing types and uses in the neighborhood business and commercial districts are permitted.

Table 4.5-2 "Zoning Districts Applicable to Future Land Use Categories" of the 2018 Sussex County Comprehensive Plan states that the Medium Commercial (C-2) Zoning District may be considered as appropriate in "Low Density" Areas.



The property is zoned AR-1 (Agricultural Residential District). The surrounding parcels are zoned both AR-1 (Agricultural Residential District) and CR-1 (Commercial Residential District).

Since 2011, there has been three (3) Change of Zone applications in the vicinity of the application site; including, Change of Zone No. 1773 which was approved for AR-1 to CR-1 by Sussex County Council on May 21, 2015, Change of Zone No. 1812 which was approved for AR-1 to CR-1 by Sussex County Council on February 23, 2017, and Change of Zone No. 1866 which was approved for AR-1 to I-1 by Sussex County Council on January 24, 2019.

Based on the analysis of the land use, surrounding zoning and uses, a change of zone to allow for a property zoned Medium Commercial (C-2), could be considered as being consistent with the land use, area zoning and surrounding uses.

File #: C21904  
201911187

## Planning & Zoning Commission Application Sussex County, Delaware

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

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

Conditional Use   
Zoning Map Amendment

**Site Address of Conditional Use/Zoning Map Amendment**

Southwest corner of the intersection of US Route 9 and Fisher Road (Sussex Road 262)

**Type of Conditional Use Requested:**

Tax Map #: 235-30.00-51.00 Size of Parcel(s): 10.88-11.27 acres

Current Zoning: AR-1 Proposed Zoning: C-2 Size of Building: Total 75,000sf

Land Use Classification: Low Density/Adjacent to Existing Developing Area/level 3 (Adj to level 2)

Water Provider: Artesian Sewer Provider: Artesian

**Applicant Information**

Applicant Name: Jill A. Cicierski  
Applicant Address: 16808 Gravel Hill Road  
City: Milton State: DE Zip Code: 19968  
Phone #: 302-841-2282 E-mail: allamericanbuildingconcepts@gmail.com

**Owner Information**

Owner Name: Dry Acres LLC  
Owner Address: 16973 Island Farm Lane  
City: Milton State: DE Zip Code: 19968  
Phone #: 302-438-5366 E-mail: thom500@yahoo.com

**Agent/Attorney/Engineer Information**

Agent/Attorney/Engineer Name: Mark H. Davidson  
Agent/Attorney/Engineer Address: Pennoni - 18972 Davidson Drive  
City: Milton State: DE Zip Code: 19968  
Phone #: 302-684-8030 E-mail: mdavidson@pennoni.com



# Check List for Sussex County Planning & Zoning Applications

The following shall be submitted with the application

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

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

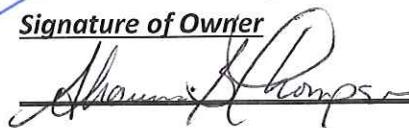
I also certify that I or an agent on my behalf shall attend all public hearing before the Planning and Zoning Commission and the Sussex County Council and any other hearing necessary for this application and that I will answer any questions to the best of my ability to respond to the present and future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

Signature of Applicant/Agent/Attorney

  
\_\_\_\_\_

Date: 9-30-19

Signature of Owner

  
\_\_\_\_\_

Date: 9/30/19

For office use only:

Date Submitted: 9/30/19

Fee: \$500.00 Check #: 1148

Staff accepting application: JN

Application & Case #: 201911187

Location of property: \_\_\_\_\_

Subdivision: \_\_\_\_\_

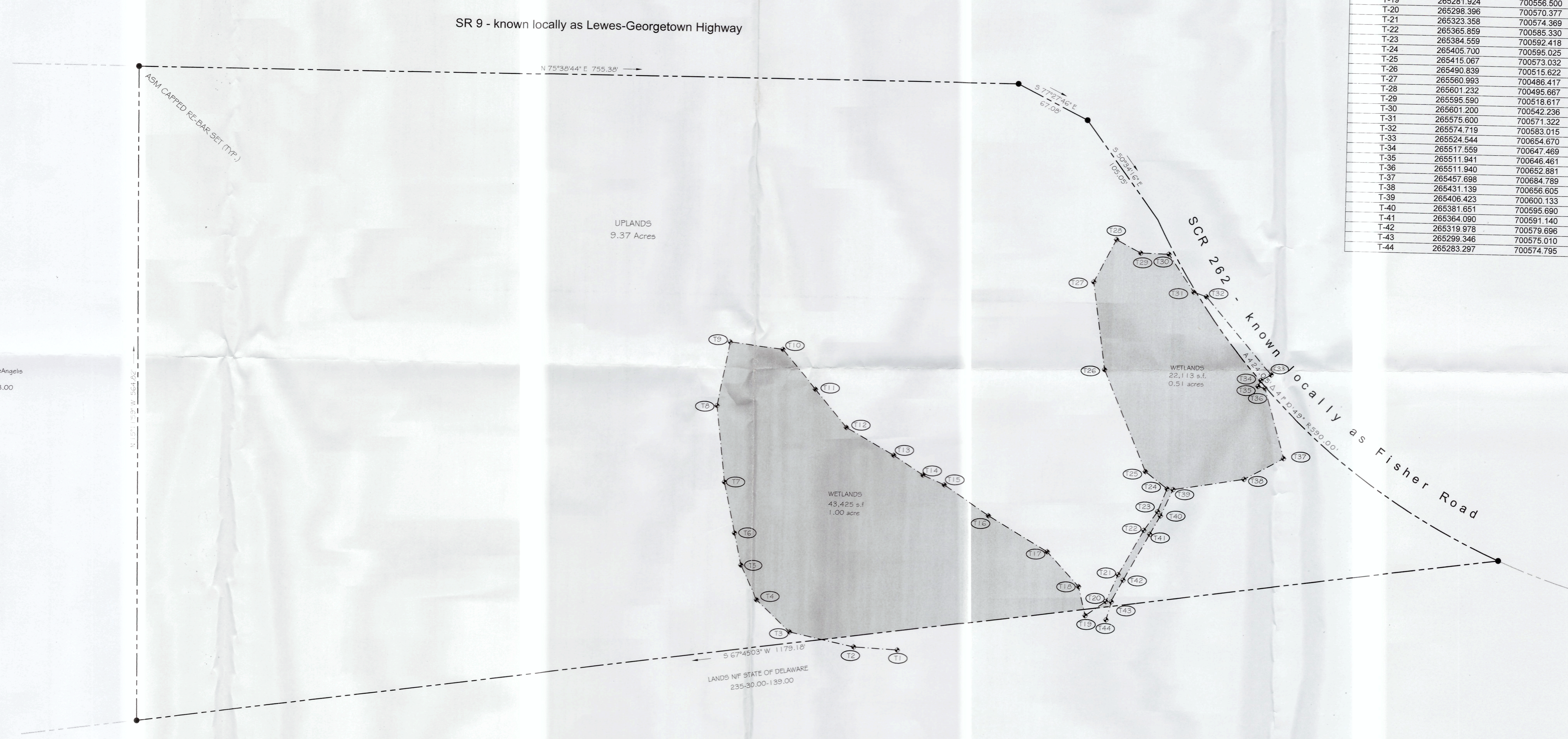
Date of PC Hearing: \_\_\_\_\_

Recommendation of PC Commission: \_\_\_\_\_

Date of CC Hearing: \_\_\_\_\_

Decision of CC: \_\_\_\_\_





WETLANDS COORDINATE POINTS		
Point	Northing	Easting
T-1	265209.749	700409.528
T-2	265202.251	700372.842
T-3	265199.803	700316.115
T-4	265218.730	700281.462
T-5	265243.378	700259.745
T-6	265268.452	700227.174
T-7	265308.711	700203.152
T-8	265370.714	700199.208
T-9	265427.261	700199.208
T-10	265433.360	700245.306
T-11	265407.431	700281.471
T-12	265382.538	700315.959
T-13	265370.457	700361.546
T-14	265360.722	700390.278
T-15	265357.536	700410.165
T-16	265342.064	700453.531
T-17	265325.798	700510.482
T-18	265304.300	700544.368
T-19	265281.924	700556.500
T-20	265298.396	700570.377
T-21	265323.358	700574.369
T-22	265365.859	700585.330
T-23	265384.559	700592.418
T-24	265405.700	700595.025
T-25	265415.067	700573.032
T-26	265490.839	700495.687
T-27	265560.993	700518.617
T-28	265601.232	700542.236
T-29	265595.590	700571.322
T-30	265601.200	700542.236
T-31	265575.600	700571.322
T-32	265574.719	700583.015
T-33	265524.544	700654.670
T-34	265517.559	700647.469
T-35	265511.941	700646.461
T-36	265511.940	700652.881
T-37	265457.698	700684.789
T-38	265431.139	700656.605
T-39	265406.423	700600.133
T-40	265381.651	700595.690
T-41	265364.090	700591.140
T-42	265319.978	700579.696
T-43	265299.346	700575.010
T-44	265283.297	700574.795

Lands n/f Ernest & Donna DeAngelo  
3026/066  
235-30.00-53.00

ASM CAPPED RE-BAR SET (TYP.)

SR 9 - known locally as Lewes-Georgetown Highway

UPLANDS  
9.37 Acres

WETLANDS  
43.425 ± 1.00 acres

WETLANDS  
22.113 ± 0.51 acres

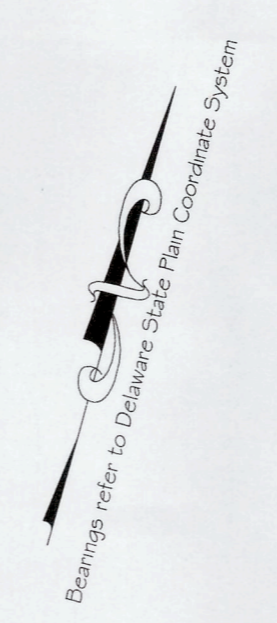
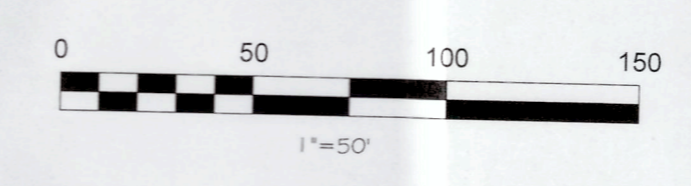
SCR 262 - known locally as Fisher Road

LANDS N/F STATE OF DELAWARE  
235-30.00-139.00

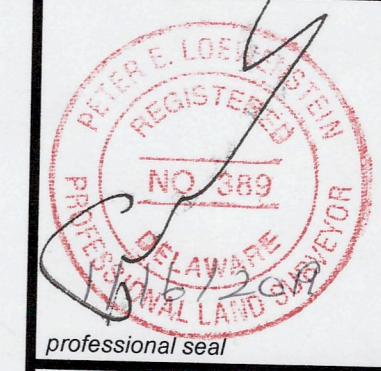
WETLAND DELINEATION CERTIFICATION

I, Theodore L. Mercer, Jr., Wetlands Delineator, do hereby state to the best of my professional judgement that the information contained within this report has been prepared with acceptable environmental research methods, is true and correct, and has been prepared in accordance with the U.S. ARMY CORPS OF ENGINEERS WETLANDS MANUAL (1987), the DNREC WETLANDS ACT OF 1973, and the regulations governing the use of subaqueous lands in accordance with the provisions of 7 DEL.7212.

Theodore L. Mercer, Jr., Wetlands Delineator \_\_\_\_\_ Date \_\_\_\_\_



ATLANTIC SURVEYING & MAPPING, L.L.C.  
P.O. BOX 247  
HARBESON, DE 19951  
PH. 302-684-2924



BOUNDARY SURVEY PLAN:  
Lands n/f Dry Acres LLC  
Broadkill Hundred, Sussex County, Delaware  
Deed Ref: 3802/102, TM 235-30.00-51.00

Project:

Revisions

Surveyed By: V. Welch, PLS  
Prepared By: P.E.L.  
Checked By: M.J.  
Project #: A181103  
Client: Dry Acres, LLC

No recorded or non-recorded rights-of-way, easements or other encumbrances affecting these lands have been provided to Compass Point Associates by the Client. No warranty as to title to any lands depicted hereon is explicitly or implicitly provided.

Date:  
12/14/2018

Scale:  
As Shown

# PLAZA NINE JILL A. CICIERSKI | DRY ACRES, LLC

CASE NO. CZ 1904

## ZONING MAP AMENDMENT FROM AR-1 TO C-2

**OWNER:**

Dry Acres, LLC  
16973 Island Farm Lane  
Milton, DE 19968

**DEVELOPER:**

Jill A. Cicierski  
16808 Gravel Hill Road  
Milton, DE 19968

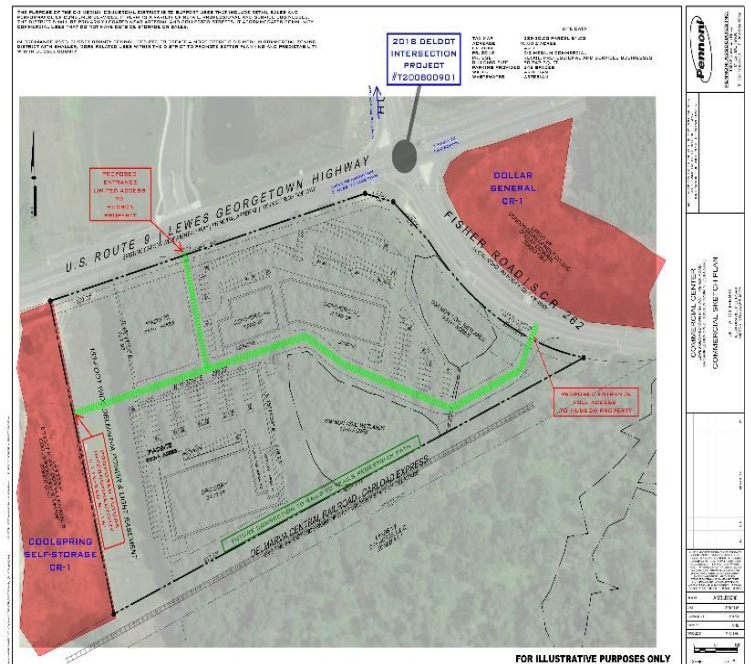
**PLANNER/ENGINEER/SURVEYOR:**

PENNONI  
18072 DAVIDSON DRIVE  
MILTON, DE 19968  
MARK H. DAVIDSON, PRINCIPAL LAND PLANNER  
ALAN DECKTOR, PE., ENV SP  
JOHN W. HAUPT, PLS

**ENVIRONMENTAL:**

PENNONI & ACCENT ENVIRONMENTAL  
WILLIAM J. GANGLOFF, PhD. PROFESSIONAL SOIL SCIENTIST

THEODORE L MERCER, JR.,  
WETLANDS DELINEATOR



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# Mark H. Davidson / Vice President

## Principal Land Planner/Office Director

### EDUCATION

University of Delaware; Civil Engineering, (1986-1990)

Land Surveying, Delaware Technical & Community College (1984-1986) and Wastewater Microbiology Diploma (1997)

Land Planning, Institute for Public Administration (2006)

### CERTIFICATIONS

DNREC Class A Percolation Tester & Class B Septic Designer, (DE #2418)

Sediment & Stormwater Management, Responsible Personnel, DE (#8760) and MD (#4914)

DNREC Certified Construction Reviewer: DE (#1270)

Delaware Notary

### TRAININGS

Hydrology, Delaware TR-20 (1993)

Reducing Flood Hazard in Coastal Development (1996)

Law for Managers/Supervisors (1999)

State and Federal Laws (2000)

Advanced Real Estate Law in Delaware (2002)

Land Conservation and Historic Preservation (2003)

Land Surveying Business Diploma (1998)

Project Manager Training I, Pennoni (2015)

### PROFESSIONAL AFFILIATIONS

National Onsite Wastewater Recycling Association

Delaware Onsite Wastewater Recycling Association

American Planning Association

American Institute of Certified Planners

### HONORS/AWARDS

Association of Professionals Philanthropy, Brandywine Chapter Fundraising Nominee (2014)

Notable Networker Award, BNI (2013)

### EXPERIENCE SUMMARY

Mark H. Davidson serves as Vice President of Pennoni and Office Director for our Southern Delaware, Milton Office. Mark also serves as the Principal Land Planner for Pennoni. He has over 33-years of past experience in Surveying, Engineering, Consulting, Construction and Land Planning. For 12-years he owned a professional engineering, surveying, land planning, environmental and consulting firm that provided professional consulting and design in land planning for residential, industrial, institutional, municipal and commercial applications to a wide range of clients in Delaware and Maryland. Mr. Davidson's project experience includes land development planning, surveying, engineering, environmental design and permitting; construction and project consulting, management and inspection; water resource consulting, management and inspection and municipal consulting, planning and inspection for residential, industrial, institutional, municipal and commercial applications.

Mark is a past director of the Delaware Onsite Wastewater Recycling Association as well as a member of the American Planning Association, American Institute of Certified Planners and has served in the past as a committee member of Delaware Low Impact Development Roundtable Committee, Delaware Pollution Control Strategy Committee, Delaware Sediment & Stormwater Regulatory Advisory Committee, and the Delaware Technical & Community College A/E Curriculum Committee. He was also nominated for the Brandywine Chapter Association of Fundraising Professionals Philanthropy Award and has won the BNI Notable Networker Award.

Along with all the experience and education stated and with many years of combined experience in Surveying, Engineering, Consulting and Land Planning, he has been responsible for providing consulting, layout and design in surveying, engineering and land planning for residential, industrial, institutional, municipal and commercial applications to a wide range of clients in Delaware, Maryland, Virginia and West Virginia. He has project managed, studied, planned, surveyed, designed and engineered sustainable, master-planned communities, commercial and urban redevelopment projects, and the public infrastructure that supports them.

Mark has provided nationwide land planning consulting services to a variety of clientele to help coordinate project startups as well as final construction consulting services when it came to commercial, residential, industrial, municipal, educational and community land planning. Provided additional consulting in civil/site engineering, stormwater management, erosion and sediment control, wastewater collection and disposal, transportation, and environmental. Market areas practiced; Delaware, Maryland, West Virginia, Virginia, North Carolina, South Carolina, North Dakota, Puerto Rico, Canada and Panama.

Additional Project experience includes cutting edge design and technology as well as value engineering to help clients through the ever-changing market including but not limited to solar voltaic and wind generation projects.

He was currently appointed by the Secretary of DNREC to serve 3-years on the On Site Septic Advisory Board for the State of Delaware.



File #: C21904

201911187

## Planning & Zoning Commission Application Sussex County, Delaware

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

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

Conditional Use

Zoning Map Amendment

**Site Address of Conditional Use/Zoning Map Amendment**

Southwest corner of the intersection of US Route 9 and Fisher Road (Sussex Road 262)

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Land Use Classification: Low Density/Adjacent to Existing Developing Area/level 3 (Adj to level 2)

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Phone #: 302-841-2282 E-mail: allamericanbuildingconcepts@gmail.com

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City: Milton State: DE Zip Code: 19968

Phone #: 302-438-5366 E-mail: thom500@yahoo.com

**Agent/Attorney/Engineer Information**

Agent/Attorney/Engineer Name: Mark H. Davidson

Agent/Attorney/Engineer Address: Pennoni - 18972 Davidson Drive

City: Milton State: DE Zip Code: 19968

Phone #: 302-684-8030 E-mail: mdavidson@pennoni.com



# Check List for Sussex County Planning & Zoning Applications

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- Completed Application**
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- PLUS Response Letter** (if required)

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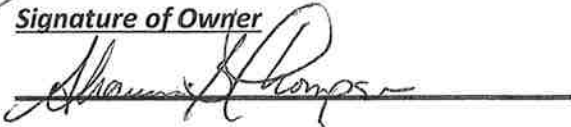
I also certify that I or an agent on my behalf shall attend all public hearing before the Planning and Zoning Commission and the Sussex County Council and any other hearing necessary for this application and that I will answer any questions to the best of my ability to respond to the present and future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

Signature of Applicant/Agent/Attorney



Date: 9-30-19

Signature of Owner



Date: 9/30/19

For office use only:

Date Submitted: 9/30/19

Fee: \$500.00 Check #: 1148

Staff accepting application: JN

Application & Case #: 201911187

Location of property: \_\_\_\_\_

Subdivision: \_\_\_\_\_

Date of PC Hearing: \_\_\_\_\_

Recommendation of PC Commission: \_\_\_\_\_

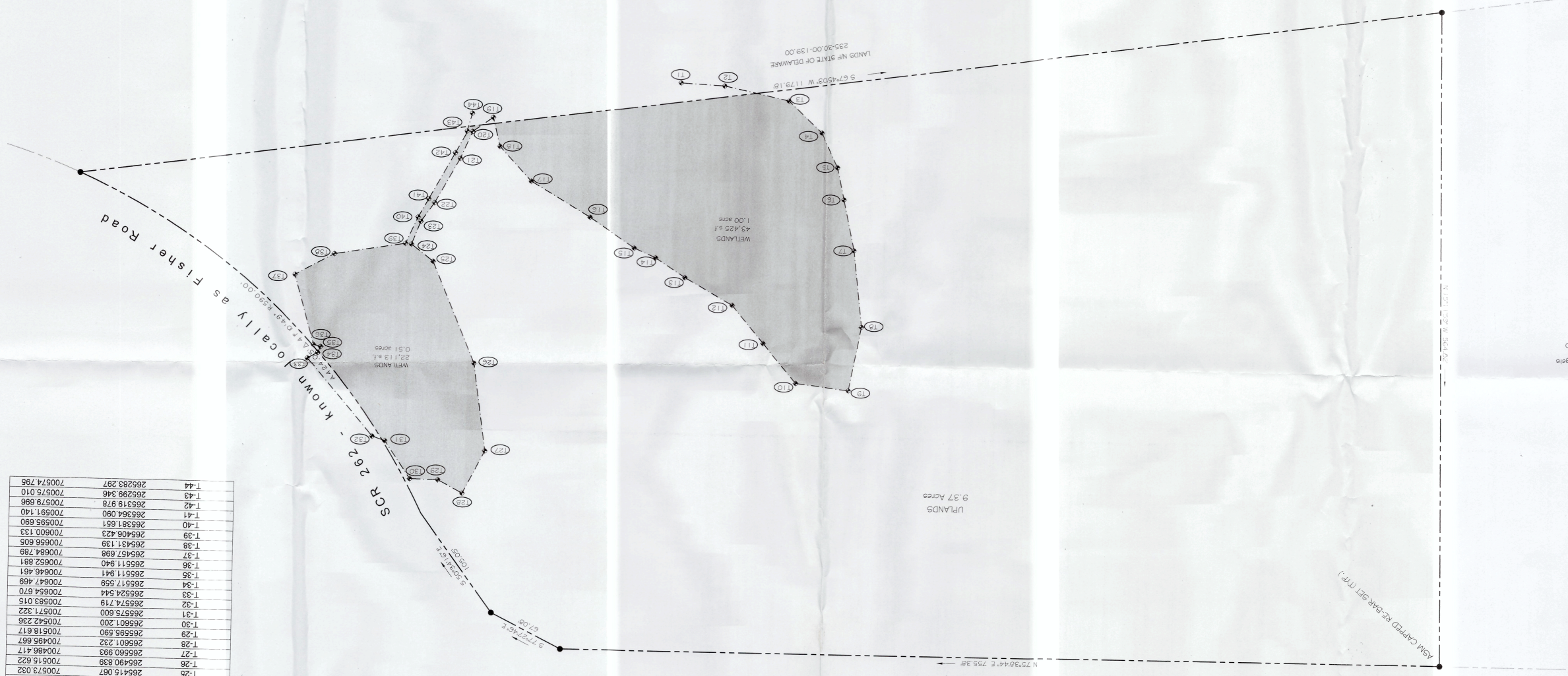
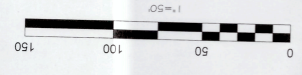
Date of CC Hearing: \_\_\_\_\_

Decision of CC: \_\_\_\_\_

I, Theodore L. Mercer, Jr., Wetlands Delineator, do hereby state to the best of my professional judgement that the information contained within this report has been prepared with acceptable environmental research methods, is true and correct, and has been prepared in accordance with the U.S. ARMY CORPS OF ENGINEERS WETLANDS MANUAL (1987), the DNREC WETLANDS ACT OF 1973, and the regulations governing the use of subaqueous lands in accordance with the provisions of 7 DEL.212.

Theodore L. Mercer, Jr., Wetlands Delineator  
Date

WETLAND DELINEATION CERTIFICATION



WETLANDS COORDINATE POINTS

Point	Northings	Eastings
T-1	265209.749	700409.528
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T-3	265199.803	700316.115
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T-9	265427.261	700199.208
T-10	265433.360	700245.306
T-11	265407.431	700281.471
T-12	265382.538	700315.959
T-13	265370.457	700361.546
T-14	265360.722	700390.278
T-15	265357.536	700410.165
T-16	265342.084	700453.531
T-17	265325.798	700510.482
T-18	265304.300	700544.368
T-19	265281.924	700554.600
T-20	265298.966	700570.577
T-21	265323.568	700574.369
T-22	265365.869	700685.330
T-23	265384.559	700682.418
T-24	265405.700	700696.025
T-25	265415.067	700573.032
T-26	265490.839	700515.622
T-27	265601.933	700486.477
T-28	265601.232	700486.477
T-29	265605.590	700486.477
T-30	265601.200	700486.477
T-31	265575.600	700571.322
T-32	265574.719	700583.015
T-33	265524.544	700654.670
T-34	265517.559	700647.469
T-35	265511.940	700652.881
T-36	265457.698	700684.789
T-37	265411.138	700656.605
T-38	265381.651	700600.133
T-39	265364.090	700591.140
T-40	265319.978	700579.666
T-41	265299.346	700575.010
T-42	265283.297	700574.795

Lands of  
Ernest & Donna Delapaglia  
3026056  
235-30-00-53.00

ASAP CAPRED REBAR SET (TRP)

SR 9 - known locally as Lewes-Georgetown Highway



Sheet 1 of 1  
Scale: As Shown  
Date: 12/14/2018  
No record or non-recorded right-of-way easements or other encumbrances affecting lands have been provided to Consultant. Please Associates by the Client. No warranty is made by any third parties herein as to the accuracy of any data provided explicitly or implicitly provided.  
Checked By: M.J.  
Project #: A181103  
Client: Dry Acres, LLC  
Prepared By: P.E.L.  
Surveyed By: V. Wach, PLS

Project:  
BOUNDARY SURVEY PLAN:  
Lands n/f Dry Acres LLC  
Broadkill Hundred, Sussex County, Delaware  
Deed Ref: 3802102, TM 235-30-00-51.00

Professional seal  
ATLANTIC SURVEYING & MAPPING, L.L.C.  
P. O. BOX 247  
HARRINGTON, DE 19951  
PH. 302-684-2924

## DESCRIPTION

The following is a Description of lands now or formerly of Dry Acres LLC, said lands being situate in Broadkill Hundred, Sussex County, Delaware and being bounded on the north by State Route 9 – known locally as, and hereafter referred to as Lewes-Georgetown Highway, on the east by Sussex County Route 262 – known locally as, and hereafter referred to as Fisher Road, on the south by lands now or formerly of the State of Delaware, and on the west by lands now or formerly of Ernest and Donna DeAngelis, said Dry Acres LLC and said lands being more particularly described as follows, to wit:

*BEGINNING*, for the purpose of this Description, at the common boundary corner of these lands and lands of Ernest and Donna DeAngelis, abovementioned, said Beginning point being on the southerly right of way line of the Lewes-Georgetown Highway, abovementioned; thence by and with the said southerly right of way line of the Lewes-Georgetown Highway North 75 degrees 38 minutes 44 seconds East 755.38 feet to a corner cut connecting the said southerly right of way line of the Lewes-Georgetown Highway with the westerly right of way line of Fisher Road, abovementioned; thence by and with said corner cut South 77 degrees 27 minutes 46 seconds East 67.08 feet; thence by and with said westerly right of way line of Fisher Road South 50 degrees 34 minutes 16 seconds East 105.05 feet; thence continuing with the said westerly right of way line of Fisher Road 424.05 feet by and with the arc of a curve to the left whose radius is 590.00 feet and whose central angle is 41 degrees 10 minutes 49 seconds, to lands now or formerly the State of Delaware, abovementioned; thence by and with said lands now or formerly of the State of Delaware South 67 degrees 45 minutes 03 seconds West 1179.18 feet to the common boundary corner of these lands and lands now or formerly of Ernest and Donna DeAngelis, abovementioned; thence by and with the common boundary line of these lands and said lands or formerly of Ernest and Donna DeAngelis North 51 degrees 11 minutes 59 seconds West 564.82 feet to the Beginning and containing 10.88 acres, more or less.

Project No.	T200800901
Tax Parcel No.	2-35-30.00-51.00
Project Parcel No.	10-R

STATE OF DELAWARE  
DEPARTMENT OF TRANSPORTATION  
REAL ESTATE SECTION

COPY

PURCHASE AGREEMENT

THIS PURCHASE AGREEMENT (hereinafter "Agreement") is made as of this offer day of June, 2012 by and between Dry Acres, LLC (hereinafter "Owner") and the Department of Transportation of the State of Delaware (hereinafter "DelDOT").

WHEREAS, DelDOT has a transportation public use project with a State Project No. of T200800901 and an F.A.P. Project No. of ESTP-S999(88) (hereinafter "Project"); and

WHEREAS, the Owner is vested with the fee simple title to the property required for the Project, said property is identified as Project Parcel No. 10-R on the Project's Plan Sheet No(s). 15, 16, 17, 18 and 34 and further as County Tax Parcel No. 2-35-30.00-51.00, with a street address of on the southwest corner of Lewes Georgetown Highway and Fisher Road (hereinafter "Property"); and

WHEREAS, DelDOT is an agency of the State of Delaware with the authority to acquire real property for use in transportation projects or programs through eminent domain proceedings; and

WHEREAS, DelDOT wishes to acquire a portion of the Parcel and, if unsuccessful in acquiring such portion by purchase, will institute condemnation proceedings to acquire such portion.

NOW THEREFORE, in consideration of the promises and mutual covenants herein contained, the Owner, his/her/its heirs, executors, administrators, successors or assigns, and DelDOT do agree as follows:

1. Owner hereby agrees to sell, and DelDOT agrees to purchase in fee simple, the Property consisting of the following: A Fee Acquisition 1 consisting of approximately 7,455.9515 square feet (0.1712 acres), Fee Acquisition 2 consisting of approximately 4,033.8566 square feet (0.0926 acres) and the underlying Fee of Existing Daylight Easement consisting of approximately 1,008.4857 square feet (0.0232 acres) and all damages incident thereto. This sale includes all rights, title and interest, if any, of the Owner in and to any land lying in the bed of any street, road or avenue opened or proposed to the centerline thereof.
2. DelDOT will pay to the Owner the sum of Ten Thousand Nine Hundred Dollars (\$10,900.00) as the full purchase price of the Property.



3. Final settlement for the purchase of the Property shall be held within ninety (90) days from the date of this Agreement. However, DelDOT reserves the right to extend the settlement date if additional time is needed, through no fault of DelDOT in order to obtain clear title to the Property under Paragraph 7 of this Agreement. The Owner shall receive notice of the time and place of settlement.
4. Any written notice shall be directed to the Owner at

16793 Island Farm Lane  
Milton, DE 19968  
Attn.: Shauna Thompson;  
Telephone: 302-684-3901

Any notice to be given to DelDOT will be mailed to:  
State of Delaware  
Department of Transportation  
Attention: Ida J. Parrett  
Real Estate Section  
P.O. Box 778  
Dover, Delaware 19903

All written notices shall be given by first class mail and shall be effective upon posting.

5. Municipal, county and school taxes will be prorated and paid at settlement when such proration equals \$20.00 or more. Water rent, sewer service and heating fuel will be prorated and paid only in cases where acquisition includes the structures serviced by such utilities and such proration equals \$20.00 or more.
6. In the event that the Property to be acquired is subject to a lease from the Owner to a third party, the Owner shall at the date of settlement deliver said Property free and clear of any leasehold interest, unless otherwise agreed in writing.
7. Good fee simple, marketable title shall be conveyed to the State of Delaware at DelDOT's expense. Title shall be free and clear of all liens or encumbrances of every description at or prior to settlement, unless otherwise agreed in writing. Owner represents and warrants to DelDOT that the Owner is the only fee simple title owner of the Property.
8. ~~If this Agreement is for the acquisition of land only, DelDOT shall have the right of immediate entry upon said land for the purpose of construction of a State highway. The Owner hereby waives the right to receive full payment prior to surrendering possession.~~
9. Possession of the Property shall be delivered by the Owner to DelDOT not later than the date of final settlement. All keys in the Owner's possession or under the Owner's control shall be delivered to DelDOT at settlement.
10. The Owner agrees to maintain the Property to be purchased hereunder in its condition as of the date of this Agreement, ordinary wear and tear excepted. DelDOT shall have the right to inspect the Property, including all improvements, fixtures, systems,

initial

machinery and equipment within 48 hours prior to settlement to determine that the Property is in the same condition as of the date of this Agreement. If there is a material change in the condition of any property being acquired, other than ordinary wear and tear, DeIDOT reserves the right to renegotiate the purchase price to reflect the change in condition, or to extend the settlement date for a reasonable period of time until the Owner has returned the property being acquired to its condition on the date of this Agreement.

11. Any loss or damage to the Property by fire, windstorm or other casualty prior to settlement shall be borne by the Owner. Risk of loss or damage to the Property shall pass to DeIDOT from the Owner at the time of final settlement or date of possession, whichever is earlier.
12. Owner shall not, during the terms of this Agreement, grant, convey, encumber or option the Property or any part thereof to any person, firm or association without the prior written consent of DeIDOT.
13. This Agreement shall constitute the entire contract between DeIDOT and the Owner, and no modification shall be binding on either party unless reduced to writing and signed by and on behalf of the Owner and by and on behalf of DeIDOT.
14. As used herein, the singular terms shall include the plural, and the plural terms shall include the singular; male shall include female.
15. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their heirs, executors, administrators, successors or assigns.

**[Signature Page Follows.]**

IN WITNESS WHEREOF, the parties hereunto have set his/her/its hands and seals the day and year first above written.

SIGNED, SEALED AND DELIVERED  
IN THE PRESENCE OF:

Dry Acres, LLC

Shawn Thompson  
Witness

Mark Bonk (SEAL)  
Mark Bonk, President

\_\_\_\_\_  
Witness

\_\_\_\_\_  
(SEAL)

\_\_\_\_\_  
Witness

\_\_\_\_\_  
(SEAL)

\_\_\_\_\_  
Witness

\_\_\_\_\_  
(SEAL)

**FOR DEPARTMENT OF TRANSPORTATION USE ONLY  
DO NOT WRITE BELOW THIS LINE**

**DEPARTMENT OF TRANSPORTATION**

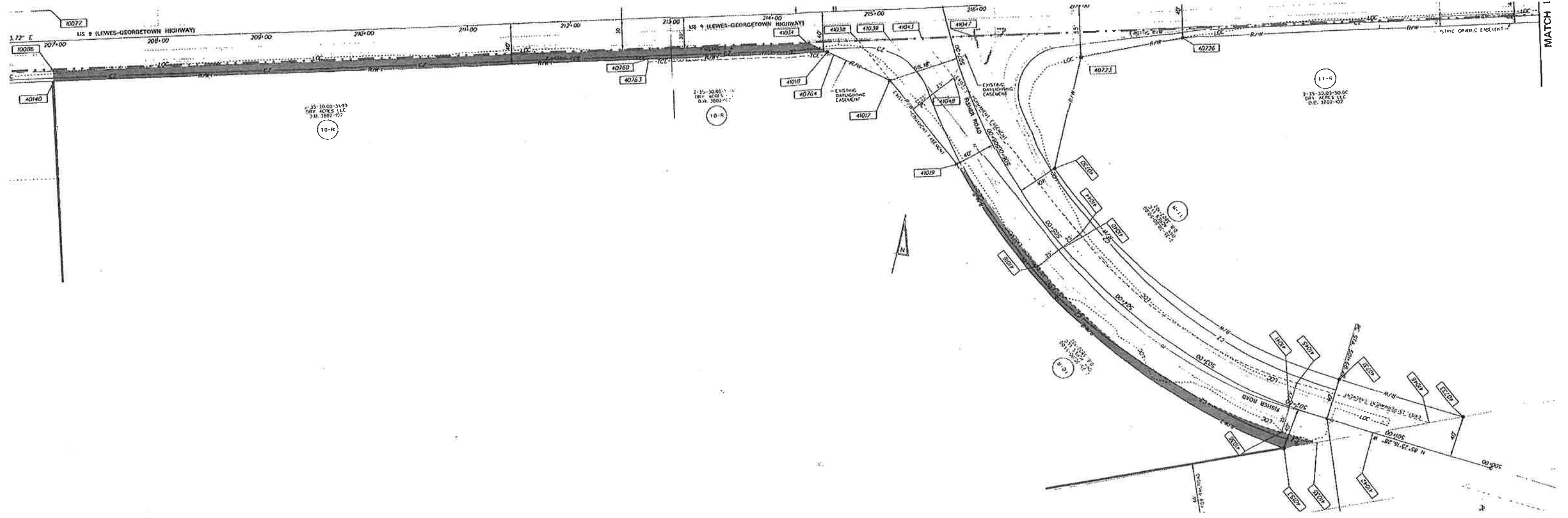
Approved this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_, A.D.

Lana Parrett  
Witness

BY: Ida J. Parrett (SEAL)

TITLE: Real Estate Representative

<b>HSIP SUSSEX COUNTY US 9 PROJECTS</b>	CONTRACT	BRIDGE NO.	<b>RIGHT OF WAY PLAN</b>	SHEET NO.
	T200800901			15
	COUNTY	DESIGNED BY: J.L.R.		TOTAL SHTS.
	SUSSEX	CHECKED BY: C.L.G.		41



ASSESSMENT NUMBER	OWNERSHIP OF RECORD	TYPE OF ACQUISITION	TITLE SOURCE	PARCEL AREA (ACRES)							
2-35-30.00-51.00	(10-R) DRY ACRES LLC	FEE 1	3802-102	42.400							
ALIGNMENT NUMBER & DESCRIPTION: 2 - US 9 (LEWES-GEORGETOWN HIGHWAY)											
PT. NO.	ALIGN. NO.	STATION	OFFSET *	NORTH	EAST	BEARING	DISTANCE	CHORD BEARING	CHORD LENGTH	ARC LENGTH	RADIUS **
40140	2	206+98.19	40.00	265221.1766	699646.7439						
10085	2	206+98.03	30.00	265530.8262	699644.1157	N 15°14'08.28" W	10.0012				
41034	2	214+33.85	30.00	265213.2497	700356.9568	N 75°38'43.72" E	735.8130				
41018	2	214+53.36	40.00	265708.4505	700378.5385	S 77°27'45.90" E	22.1089				
40140	2	206+98.19	40.00	265221.1766	699646.7439	S 75°38'43.72" W	755.3773				

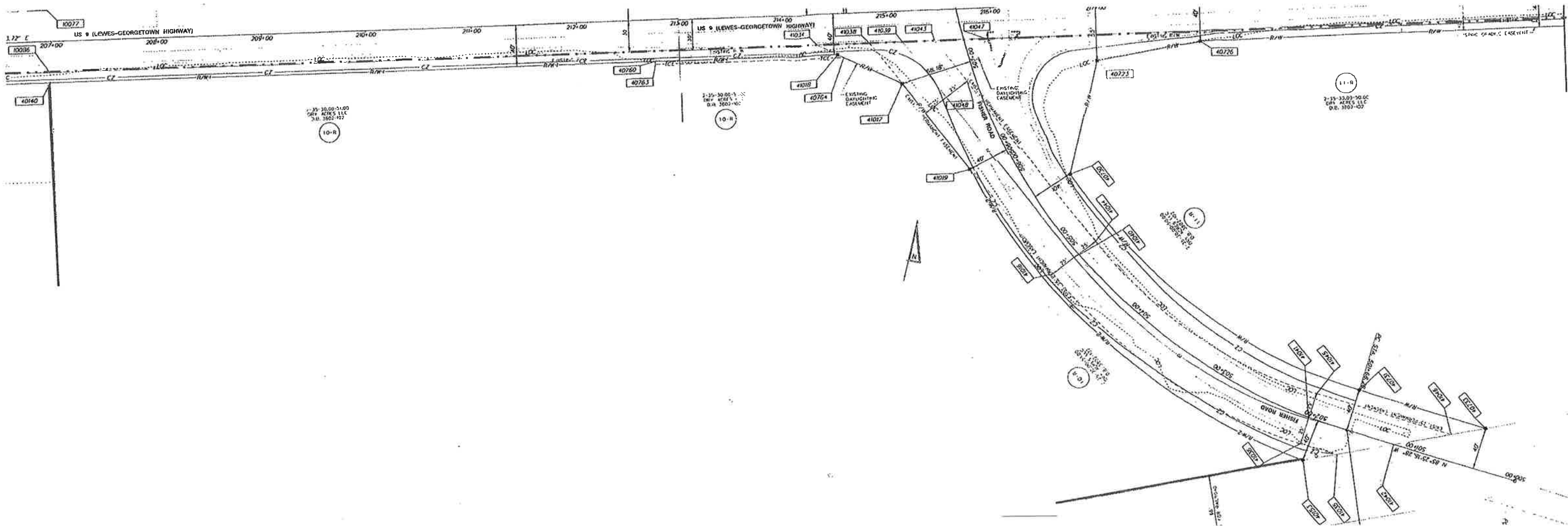
FIGURE 155 AREA = 7455.9515 SQ. FT. (0.1712 ACRES)

ASSESSMENT NUMBER	OWNERSHIP OF RECORD	TYPE OF ACQUISITION	TITLE SOURCE	PARCEL AREA (ACRES)							
2-35-30.00-51.00	(10-R) DRY ACRES LLC	FEE 2	3802-102	42.400							
ALIGNMENT NUMBER & DESCRIPTION: 5 - HUDSON/FISHER ROAD											
PT. NO.	ALIGN. NO.	STATION	OFFSET *	NORTH	EAST	BEARING	DISTANCE	CHORD BEARING	CHORD LENGTH	ARC LENGTH	RADIUS **
41019	5	506+05.51	-40.00	265627.1888	700525.1608	S 50°34'16.31" E	131.4555				
41016	5	504+82.02	-30.16	265543.6789	700626.6990	S 67°59'46.30" E	289.5151				-483.4001
41036	5	502+03.68	-26.19	265435.2069	700895.1256	S 85°25'16.94" E	34.8980				
41035	5	501+70.34	-25.00	265432.4211	700929.9122	S 67°46'18.48" W	31.5346				
40153	5	501+86.54	-40.00	265428.4917	700900.7211						
41019	5	506+05.51	-40.00	265627.1888	700525.1608	N 81°10'30.99" W	438.6735				599.0000

FIGURE 175 AREA = 4033.8566 SQ. FT. (0.0926 ACRES)

# EXHIBIT 1

<b>HSIP SUSSEX COUNTY US 9 PROJECTS</b>	CONTRACT	BRIDGE NO.	<b>RIGHT OF WAY PLAN</b>	SHEET NO.
	T200800901			15
	COUNTY	DESIGNED BY: J.L.R.		TOTAL SHTS.
	SUSSEX	CHECKED BY: C.L.G.		41



ASSESSMENT NUMBER	OWNERSHIP OF RECORD	TYPE OF ACQUISITION	TITLE SOURCE	PARCEL AREA (ACRES)							
2-35-30.00-51.00	(10-R) DRY ACRES LLC	EXDE	3802-102	42.400							
<b>ALIGNMENT NUMBER &amp; DESCRIPTION:</b> 2 - US 9 (LEWES-GEORGETOWN HIGHWAY), 5 - HUDSON/FISHER ROAD											
PT. NO.	ALIGN. NO.	STATION	OFFSET *	NORTH	EAST	BEARING	DISTANCE	CHORD BEARING	CHORD LENGTH	ARC LENGTH	RADIUS **
41034	2	214+33.85	30.00	265713.2497	700356.9568	N 75°38'43.72" E	50.0000				
41038	2	214+83.85	30.00	265725.6458	700405.3958	S 50°34'15.77" E	49.9999				
41017	5	506+97.78	-68.18	265693.8898	700444.0164	N 77°27'46.11" W	89.1862				
41034	2	214+33.85	30.00	265713.2497	700356.9568						
FIGURE 176 AREA = 1008.4857 SQ. FT. (0.0232 ACRES)											

## EXHIBIT 2



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

JENNIFER COHAN  
SECRETARY

April 5, 2019

Ms. Janelle Cornwell, Director  
Sussex County Planning & Zoning  
P.O. Box 417  
Georgetown, DE 19947

Dear Ms. Cornwell:

The Department has completed its review of a Service Level Evaluation Request for the **Jill Cicierski** rezoning application, which we received on March 11, 2019. This application is for an 11.27-acre parcel (Tax Parcel: 235-30.00-51.00). The subject land is located on the southwest corner of the intersection of US Route 9 and Fisher Road (Sussex Road 262). The subject land is currently zoned AR-1 (Agricultural Residential), and the applicant is seeking to rezone the land to C-3 (Heavy Commercial) to develop approximately 90,000 square feet of commercial space to include a business office, a retail plaza, a bank, and a restaurant.

Per the 2017 Delaware Vehicle Volume Summary, the annual average and summer average daily traffic volumes along the segment of US Route 9 where the subject land is located, which is from Delaware Route 5 and Delaware Route 1, are 14,696 and 18,914 vehicles per day, respectively. As the subject land also has frontage along Fisher Road, the annual average and summer average daily traffic volumes along that road segment, which is from Cool Spring Road (Sussex Road 290) to US Route 9, are 2,067 and 2,660 vehicles per day, respectively.

Our volume-based criteria for requiring a traffic impact study (TIS), addressed in Section 2.2.2.1 of the Development Coordination Manual, are that a development generates more than 500 trips per day or 50 trips during a weekly peak hour. While it seems that the above criteria could be met, we presently cannot predict the site's trip generation with enough accuracy to make a TIS useful. Thus, we recommend that this rezoning application be considered without a TIS and that the need for a TIS be evaluated when a subdivision or land development plan is proposed.



Ms. Janelle M. Cornwell  
Page 2 of 2  
April 5, 2019

Please contact Mr. Claudy Joinville, at (302) 760-2124, if you have questions concerning this correspondence.

Sincerely,



T. William Brockenbrough, Jr.  
County Coordinator  
Development Coordination

TWB:cjm

cc: Constance C. Holland, Coordinator, Cabinet Committee on State Planning Issues  
Jill Cicierski, Applicant  
J. Marc Coté, Assistant Director, Development Coordination  
Gemez Norwood, South District Public Works Manager, Maintenance and  
Operations  
Susanne Laws, Sussex County Subdivision Coordinator, Development Coordination  
Derek Sapp, Subdivision Manager, Development Coordination  
Brian Yates, Subdivision Manager, Development Coordination  
John Andrescavage, Subdivision Manager, Development Coordination  
Troy Brestel, Project Engineer, Development Coordination  
Claudy Joinville, Project Engineer, Development Coordination



**STATE OF DELAWARE  
EXECUTIVE DEPARTMENT  
OFFICE OF STATE PLANNING COORDINATION**

July 23, 2019

January 6, 2020

Ms. Constance C. Holland, AICP  
Director, Office of State Planning Coordination  
122 Martin Luther King, Jr. Blvd. South – Haslet Armory  
Dover, Delaware 19901

Jill A. Cicierski  
JC Reality, Inc.  
16808 Gravel Hill Road  
Milton, DE 19968

RE: PLUS review 2019-06-01; Plaza Nine

**ADDITIONAL PLUS REVIEW RESPONSE FOR PLAZA NINE (CICIERSKI) LANDS**

Dear Ms. Cicierski:

Dear Ms. Holland:

Thank you for meeting with State agency planners on June 26, 2019 to discuss the proposed plans for the Plaza Nine project. According to the information received you are seeking review of a site plan for a 90,000 square foot commercial center near the intersection of Route 9 and Fisher Road in Sussex County.

Pennoni is in receipt of your July 23, 2019 letter outlining the PLUS meeting that took place on June 26, 2019 with your office and several of the state agencies. We appreciate you accepting the application into the PLUS process and submit our response as an addition to the August 21, 2019 response provided to your office by the applicant, Ms. Jill Cicierski. The application you reviewed was for a rezoning to C-3 Heavy Commercial which is contrary at this time to how the 2019 Future Land Use Map has designated the use for this property. The Comprehensive Plan states that each land use proposal the County receives should be reviewed on its own merit to determine if the proposal is consistent and does not have a negative impact on the surrounding area or the County in general. The application submitted to the County is to rezone the property to C-2 Medium Commercial, which is an applicable zoning district per Table 4.5-2. Since the comprehensive plan is a guide for the future use of land, the County's official zoning map must be consistent with the uses and intensities of uses provided for in the Future Land Use Plan.

In Ordinance 2550, Sussex County Council desired to create a more specific C-2 Medium Commercial zoning district with smaller, more related uses within the District to promote better planning and predictability within Sussex County. The purpose of the C-2 Medium Commercial District is to support uses that include retail sales and performance of consumer services. It permits

122 Martin Luther King Jr. Blvd. South – Haslet Armory · Third Floor · Dover, DE 19901  
Phone (302)739-3090 · Fax (302) 739-5661 · [www.stateplanning.delaware.gov](http://www.stateplanning.delaware.gov)



a variety of retail, professional and service businesses. The district shall be primarily located near arterial and collector streets. It accommodates community commercial uses that do not have outside storage or sales.

Please note that changes to the plan, other than those suggested in this letter, could result in additional comments from the State. Additionally, these comments reflect only issues that are the responsibility of the agencies represented at the meeting. **The developers will also need to comply with any Federal, State, and local regulations regarding this property. We also note that as Sussex County is the governing authority over this land, the developers will need to comply with any and all regulations/restrictions set forth by the County.**

Understood.

### **Strategies for State Policies and Spending**

This project is located in Investment Level 3 according to the Strategies for State Policies and Spending. Investment Level 3 reflects areas where growth is anticipated by local, county, and state plans in the longer term future, or areas that may have environmental or other constraints to development. State investments may support future growth in these areas, but may have priorities for the near future. Level 3 area means there may be environmental concerns on or near the parcel and we would encourage you to design the site with respect for the environmental features which are present.

The 2015 Strategies for State Policies and Spending Map identifies the area as Investment Level 3. This area is intermingled within a fast-growing area within the county and is adjacent (just north of the property) to Level 2 areas. The priorities in the Level 3 Areas are for DelDOT to focus on regional movements between towns and other population centers. Developers and property owners will make local roadway improvements as development occurs. All infrastructure needs will be funded by the Developer. Additional public infrastructure that will benefit the community, such as, road improvements, utilities and access improvements will be paid for by the Developer. Consistent with the 2019 Comprehensive Plan's Future Land Use Chapter the County has considered the development along US 9 as a business corridor with a mix of residential and commercial uses that provide local residents with access to services they need. Local services would reduce travel to SR 1 for basic needs. The rezoning request is between US RT 9 and the Existing Railroad Tracks.

### **Code Requirements/Agency Permitting Requirements**

#### **Department of Transportation – Contact Bill Brockenbrough 760-2109**

- The proposed project is located or is adjacent to US Route 9/Lewes Georgetown Highway. This transportation corridor is part of the Federal Aid Primary Road System and is nominated as part of the Delaware Bayshore Byway Program. Accordingly, parts

of the subject development are subject to outdoor advertising regulations found in CFR 23 §131 and 17 Del. C. §1101-1120. Accordingly, the applicant should expect the following requirements or needs:

- No new billboards, variable message boards, or electronic changing message sign(s) anywhere within 660 feet of the closest right-of-way edge of Route 9.
- No off-premises advertising on the property for others within 660 feet of Route 9 e.g., displaying on-site the bank/financial institution funding the project or the contractor building the project.
- A standard Delaware Bayshore byway sign may be needed in public right ways as part of the entrance/development coordination review. Further needs would be determined during entrance plan submission and/or other applicable TIS studies.

For more information on the Byways program, please see

<http://deldot.maps.arcgis.com/apps/webappviewer/index.html?id=03d5049bc49041658cfecad5fd6ba8b9>.

The Property owner will work with DelDOT and the Bayshore Byway Program Committee in the development of the property.

- The site access on US Route 9 and on Fisher Road must be designed in accordance with DelDOT's Development Coordination Manual. A copy of the Manual is available at <http://www.deldot.gov/information/business/subdivisions/changes/index.shtml>.

Understood

- Per Section 2.2.2.1 of the Manual, Traffic Impact Studies (TIS) are warranted for developments generating more than 500 vehicle trip ends per day or 50 vehicle trip ends per hour in any hour of the day. If the County approves this rezoning, DelDOT will revisit the need for a TIS when a site plan is presented.

Understood

Preliminarily, however, DelDOT anticipates requiring the developer to provide a TIS for DelDOT's review and approval before receiving plan approvals. The purpose of a TIS is to identify off-site transportation improvements that the developer would be required to build or contribute toward. Without prejudging the results of the TIS, DelDOT anticipates requiring that the developer make improvements on Fisher Road and limit their access on US Route 9 to right turns in and out.

Will comply if requested during the design of the project.

- As necessary, in accordance with Section 3.2.5 and Figure 3.2.5-a of the Manual, DelDOT will require dedication of right-of-way along the site's frontage on both US Route 9 and Fisher Road. By this regulation, the dedication is to provide a minimum of 50 feet from the physical centerline of US Route 9 and 30 feet of right-of-way from the physical centerline of Fisher Road. The following right-of-way dedication note is required, **"An X-foot wide right-of-way is hereby dedicated to the State of Delaware, as per this plat."**

Additional right-of-way along both roadways was dedicated to DelDOT back in 2012. An additional dedication along US Route 9 is anticipated as part of the planning of the property.

- In accordance with Section 3.2.5.1.2 of the Manual, DelDOT will require the establishment of a 15-foot wide permanent easement across the property frontage on both roads. The location of the easement shall be outside the limits of the ultimate right-of-way. The easement area can be used as part of the open space calculation for the site. The following note is required, **"A 15-foot wide permanent easement is hereby established for the State of Delaware, as per this plat."**

Understood

- Section 3.5.4.2 of the Manual addresses requirements for shared-use paths and sidewalks. Referring to Section 3.5.4.2.A of the Manual, DelDOT may require developments in Level 3 and 4 Areas to install a sidewalk or Shared Use Path along their frontage. DelDOT anticipates requiring a Shared Use Path along US Route 9 and Fisher Road.

Understood

- Referring to Section 3.5.5 of the Manual, existing and proposed transit stops and associated facilities as required by the Delaware Transit Corporation (DTC) or DelDOT shall be shown on the Record Plan.

Understood

- In accordance with Section 5.2.9 of the Manual, the Auxiliary Lane Worksheet should be used to determine whether turning lanes are warranted at the site entrance, if a new entrance is proposed and how long the lanes should be at the existing entrances. The worksheet can be found at <http://www.deldot.gov/Business/subdivisions/index.shtml>. Because of the proximity of the Route 9 entrance to the Fisher Road intersection and the limited space available to accommodate westbound left turns into the site, DelDOT anticipates requiring that that movement be served by the Fisher Road entrance.

Will Comply

**State Historic Preservation Office – Contact Carlton Hall 736-7404**

- **There are no known archaeological sites, or known National Register-listed or eligible properties on the parcel.** However, the area has medium to high potential for prehistoric archaeological resources based on well drained soils adjacent to the wetlands on and near the project area. Therefore, the Delaware SHPO is recommending an archaeological survey of the project area.

Archeological Surveys were completed on several properties adjacent to this subject property as a part of the intersection improvements and additional property acquired for the intersection improvements. Nothing was found as a part of these surveys. This project is private, and no public investment is anticipated for the project. Rest assured that if any prehistoric archaeological resources are discovered during the planning, design and construction of the project, the developer will contact State Historic Preservation Office.

- If any project or development proceeds, the developer should be aware of the Unmarked Human Burials and Human Skeletal Remains Law (Del. C. Title 7, Ch. 54).

Understood

- If there is federal involvement, in the form of licenses, permits, or funds, the federal agency, often through its client, is responsible for complying with Section 106 of the National Historic Preservation Act (36 CFR 800) and must consider their project's effects on any known or potential cultural or historic resources. For further information on the Section 106 process please review the Advisory Council on Historic Preservation's website at: [www.achp.gov](http://www.achp.gov)

Understood

**Delaware State Fire Marshall's Office – Contact Duane Fox 259-7037**

At the time of formal submittal, the applicant shall provide; completed application, fee, and three sets of plans depicting the following in accordance with the Delaware State Fire Prevention Regulation (DSFPR):

**Fire Protection Water Requirements:**

- Water distribution system capable of delivering at least 1500 gpm for 2-hour duration, at 20-psi residual pressure is required. Fire hydrants with 800 feet spacing on centers.
- Where a water distribution system is proposed for mercantile sites, the infrastructure for fire protection water shall be provided, including the size of water mains for fire hydrants and sprinkler systems.

The project will connect to Artesian Water distribution system that is currently located along the frontage of this property.

Fire Protection Features:

- All structures over 10,000 sq. ft. aggregate will require automatic sprinkler protection installed.
- Buildings greater than 10,000 sq. ft. 3-stories or more, over 35 feet, or classified as High Hazard, are required to meet fire lane marking requirements
- Show Fire Department Connection location (Must be within 300 feet of fire hydrant), and detail as shown in the DSFPR.
- Show Fire Lanes and Sign Detail as shown in DSFPR

Accessibility

- All premises, which the fire department may be called upon to protect in case of fire, and which are not readily accessible from public roads, shall be provided with suitable gates and access roads, and fire lanes so that all buildings on the premises are accessible to fire apparatus.
- The use of speed bumps or other methods of traffic speed reduction must be in accordance with Department of Transportation requirements.
- The local Fire Chief, prior to any submission to our Agency, shall approve in writing the use of gates that limit fire department access into and out of the property.

Gas Piping and System Information:

- Provide type of fuel proposed, and show locations of bulk containers on plan.

Required Notes:

- Provide a note on the final plans submitted for review to read “ All fire lanes, fire hydrants, and fire department connections shall be marked in accordance with the Delaware State Fire Prevention Regulations”
- Proposed Use
- Alpha or Numerical Labels for each building/unit for sites with multiple buildings/units
- Square footage of each structure (Total of all Floors)
- National Fire Protection Association (NFPA) Construction Type
- Maximum Height of Buildings (including number of stories)
- Note indicating if building is to be sprinklered
- Name of Water Provider
- Letter from Water Provider approving the system layout
- Provide Lock Box Note (as detailed in DSFPR) if Building is to be sprinklered
- Provide Road Names, even for County Roads

## **Recommendations/Additional Information**

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

### **Department of Transportation – Contact Bill Brockenbrough 760-2109**

- DelDOT is in the process of converting the Georgetown to Lewes rail line to a bicycle and pedestrian trail. Construction is complete from Lewes to Log Cabin Hill Road. A future phase of construction would route the trail along the south edge of the subject development. If the developer would like to have direct access to the trail, DelDOT is willing to include it in their construction plans and build the access at State expense as part of the trail construction. If trail access would be of interest, DelDOT asks that the developer work with DelDOT's Bicycle and Pedestrian Coordinator, Mr. Anthony Aglio, to determine a mutually agreeable location. Mr. Aglio can be reached at (302) 760-2509 or [Anthony.Aglia@Delaware.gov](mailto:Anthony.Aglia@Delaware.gov).

**The applicant is working with DelDOT's Bicycle and Pedestrian Coordinator to have direct access to the trail.**

- Please be advised that the Standard General Notes have been updated and posted to the DelDOT website. Please begin using the new version and look for the revision date of March 21, 2019. The notes can be found at <https://www.deldot.gov/Business/subdivisions/>

**Noted**

### **Department of Natural Resources and Environmental Control – Contact Michael Tholstrup 735-3352**

#### **Forest Preservation**

- DNREC mapping indicates presence of forested wetlands which encompass a large portion of the subject parcel.

**A wetland delineation has been completed for the property and no disturbance to the wetlands will occur.**

#### **Recommendations:**

- The site plan should be designed to allow for the preservation of as much of this wooded area as feasible, with special consideration for preservation given to large, mature trees.

Leaving a forest intact is usually more beneficial to the existing wildlife and is preferred to clearing

**Noted**

- To reduce impacts to nesting birds and other wildlife species that utilize forests for breeding, we recommend that clearing not occur April 1st to July 31st.
- Contact the Division of Fish and Wildlife for assistance in identifying, preserving, and managing the mature forest on-site. For technical assistance or to schedule a site visit please contact Katie Kadlubar, [Kathryn.Kadlubar@delaware.gov](mailto:Kathryn.Kadlubar@delaware.gov).

### **Water Quality**

- DNREC mapping indicates presence of wetlands and hydric soils (Hurlock) which encompass a large portion of the subject parcel.
- Increased impervious cover from development and removal of forest cover will increase the potential for future flooding concerns.

Recommendations:

- Consider using pervious pavement/pavers in parking areas to help minimize impervious cover.
- To protect the function and integrity of wetlands, a minimum 100 foot buffer should be left intact around the perimeter.
- Avoid disturbance and filling of wetlands.

**Recommendations will be taken under advisement.**

### **Delaware State Fire Marshall's Office – Contact Duane Fox 259-7037**

- Preliminary meetings with fire protection specialists are encouraged prior to formal submittal. Please call for appointment. Applications and brochures can be downloaded from our website: [www.statefiremarshal.delaware.gov](http://www.statefiremarshal.delaware.gov), technical services link, plan review, applications or brochures.

**Will comply**

### **Delaware Area Rapid Transit (DART) – Contact: Jared Kauffman 576-6062**

- A shelter pad is needed. DART can specify a type as there is no sketch of the pedestrian pathway.

**A shelter pad is being planned for the project.**

- Sidewalk is needed to the stop across the street (stop ID 3390) with pedestrian pathway to stop ID 3390. Stop ID 3390 should be upgraded to a Type 2 12'x8' shelter pad.

### **Sussex County – Contact Rob Davis 302-855-7820**

- Sussex County does not expect to provide sanitary sewer service within the area proposed for commercial development. The Sussex County Engineering Department recommends the project receive wastewater service from a public utility as proposed.

Artesian has both water and sewer in front of the property that serves adjacent commercial properties as well extends to area residential communities. Private utility companies are considered a viable option for water and wastewater treatment in areas where County or municipal services are non-existent or unplanned. Artesian Wastewater Management, Inc. mainly provide water and sewer services for developments that are along Route 9 east of Georgetown CPCN's will be executed for both water and sewer for the property.

**Following receipt of this letter and upon filing of an application with the local jurisdiction, the applicant shall provide to the local jurisdiction and the Office of State Planning Coordination a written response to comments received as a result of the pre-application process, noting whether comments were incorporated into the project design or not and the reason therefore.**

Thank you for the opportunity to review this project. If you have any questions, please contact me at 302-739-3090.

Sincerely,

**PENNONI**

Constance C. Holland, AICP  
Director, Office of State Planning Coordination

**Mark H. Davidson, VP  
Principal Land Planner**

CC: Sussex County

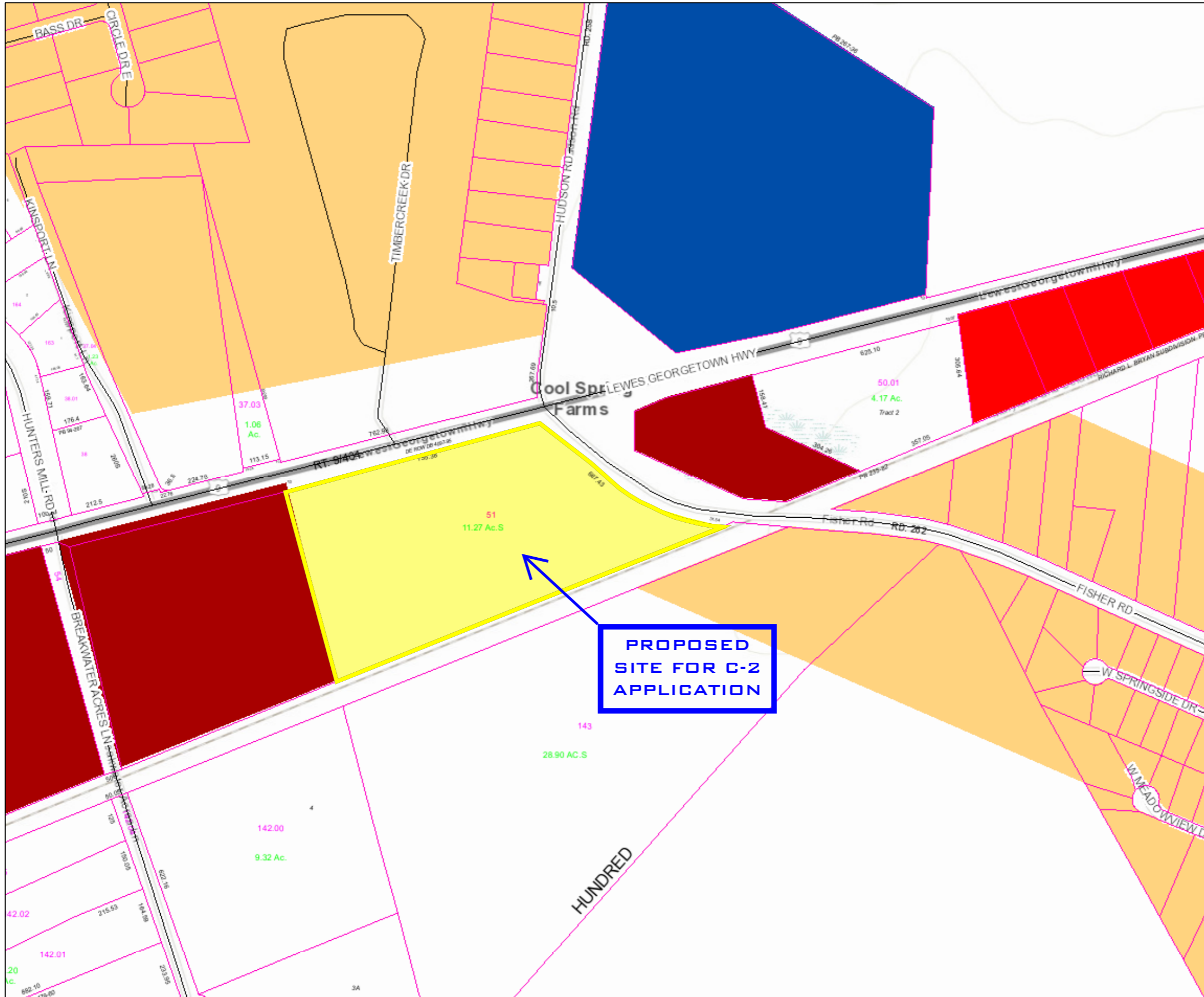
**Sussex County P&Z  
Commission & Council**





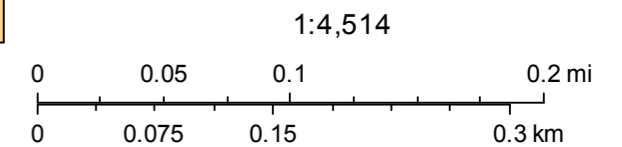


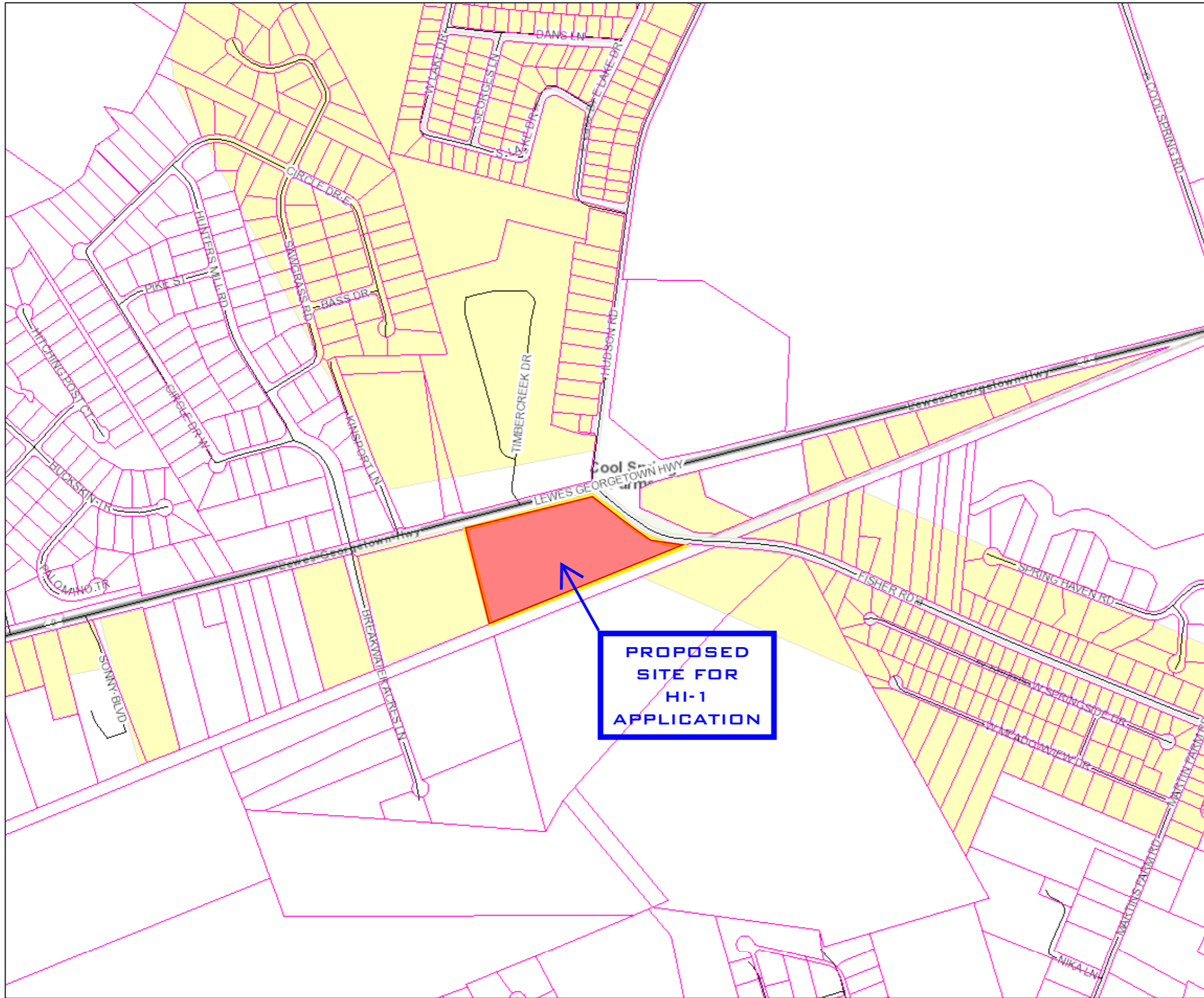
# Sussex County



<b>PIN:</b>	235-30.00-51.00
<b>Owner Name</b>	DRY ACRES LLC
<b>Book</b>	3802
<b>Mailing Address</b>	16793 ISLAND FARM LN
<b>City</b>	MILTON
<b>State</b>	DE
<b>Description</b>	RD 18
<b>Description 2</b>	FX
<b>Description 3</b>	
<b>Land Code</b>	

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





<b>PIN:</b>	235-30.00-51.00
<b>Owner Name</b>	DRY ACRES LLC
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<b>Description 2</b>	FX
<b>Description 3</b>	
<b>Land Code</b>	

- polygonLayer**
  - Override 1
- polygonLayer**
  - Override 1
- Tax Parcels
- Streets
- County Boundaries
- 2019 Future Land Use**
  - Low Density
  - Coastal Area
  - Commercial
  - Developing Area
  - Existing Development Area
  - Industrial
  - Municipalities
  - Town Center

1:9,028

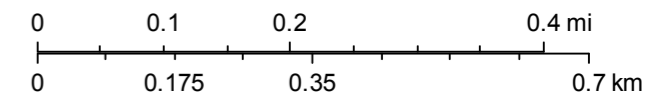






Figure 1 of 20.

20

2019 Aerial Image

Dry Acres, LLC

AMBLD19001





	Subject Parcel
	Other Tax Parcels



Figure 2 of 20.

20

2017 Orthophoto

Dry Acres, LLC

AMBLD19001



	Subject Parcel
	Other Tax Parcels



Figure 3 of 20.

20

2012 Orthophoto

Dry Acres, LLC

AMBLD19001



	Subject Parcel
	Other Tax Parcels



Figure 4 of 20.

4

2007 Orthophoto

Dry Acres, LLC

AMBLD19001



	Subject Parcel
	Other Tax Parcels





Figure 5 of 20.

5

2002 Orthophoto

Dry Acres, LLC

AMBLD19001



	Subject Parcel
	Other Tax Parcels



Figure 6 of 20.

6

1997 Orthophoto

Dry Acres, LLC

AMBLD19001





	Subject Parcel
	Other Tax Parcels



Figure 7 of 20.  7	1992 Orthophoto		
	Dry Acres, LLC		
	AMBLD19001		



Figure 8 of 20.

8

1968 Orthophoto

Dry Acres, LLC

AMBLD19001



	Subject Parcel
	Other Tax Parcels



Figure 9 of 20.

9

1961 Orthophoto

Dry Acres, LLC

AMBLD19001



	Subject Parcel
	Other Tax Parcels



Figure 10 of 20.

10

1954 Orthophoto

Dry Acres, LLC

AMBLD19001



	Subject Parcel
	Other Tax Parcels



Figure 11 of 20.

11

1937 Orthophoto

Dry Acres, LLC

AMBLD19001



	Subject Parcel
	Other Tax Parcels

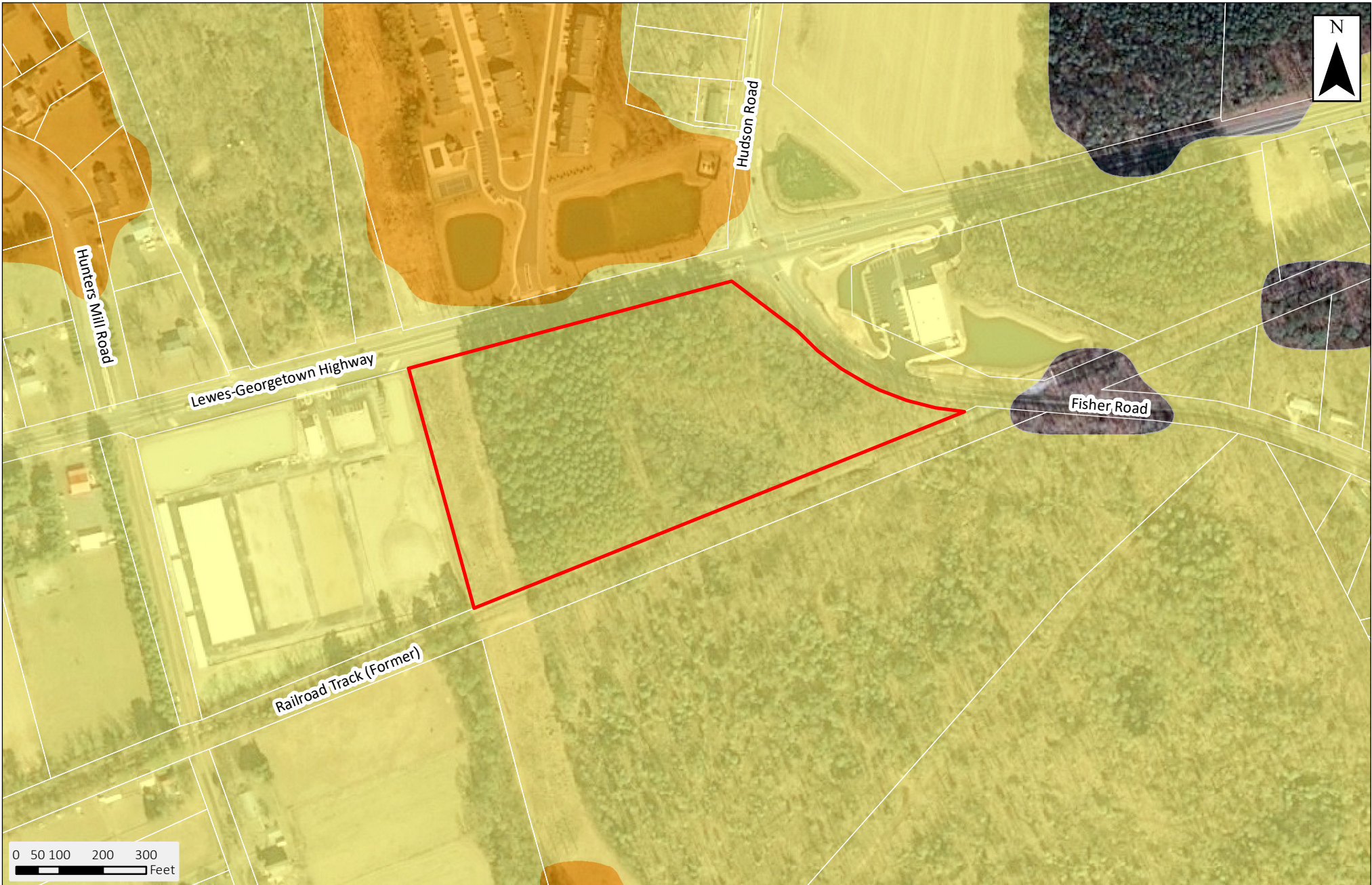


Figure 12 of 20.

12

2015 State Strategies & Investment Levels

Dry Acres, LLC  
 AMBLD19001





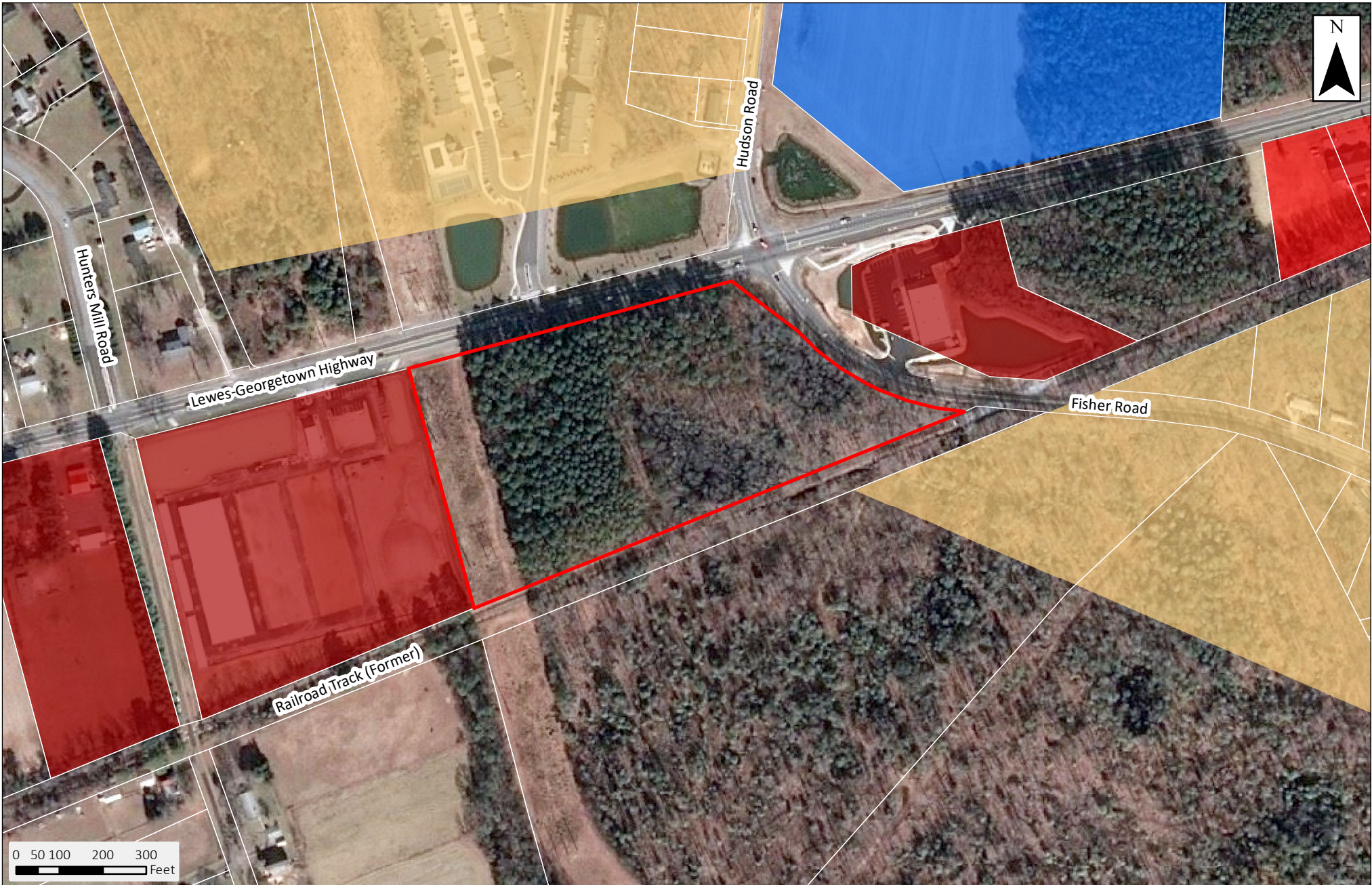


Figure 13 of 20.

13

### County Zoning Map

Dry Acres, LLC  
 AMBLD19001








	AR-1		C-1		I-1
	CR-1		GR		



Figure 14 of 20.

14

### 2012 Land Use/Land Cover

Dry Acres, LLC  
AMBLD19001



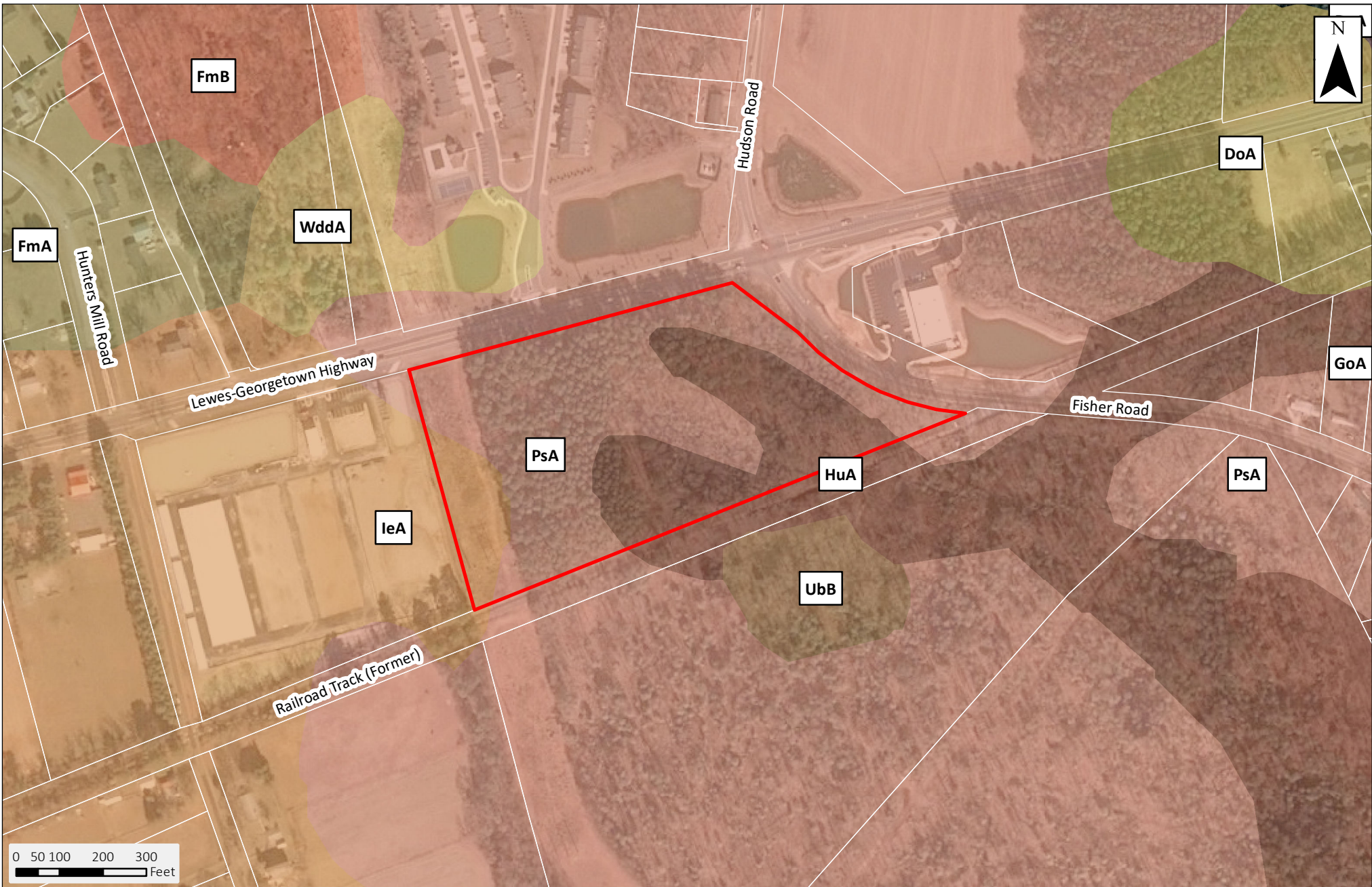


Figure 15 of 20.

15

### NRCS Soils Mapping

Dry Acres, LLC

AMBLD19001



Soil Types:

HuA - Hurlock loamy sand, Group A/D

IeA - Ingleside loamy sand, Group A

PsA - Pepperbox-Rosedale complex, Group A



Figure 16 of 20.

16

## State Wetlands Mapping

Dry Acres, LLC  
AMBLD19001



 DNREC Wetlands



Figure 17 of 20.

17

### FEMA Floodplain Mapping

Dry Acres, LLC

AMBLD19001



Zone X

Flood Map #10005C0310L (6/20/18)



Figure 18 of 20.  
18

### Groundwater Recharge Potential

Dry Acres, LLC  
AMBLD19001



- Good
- Fair
- Poor
- Water Area

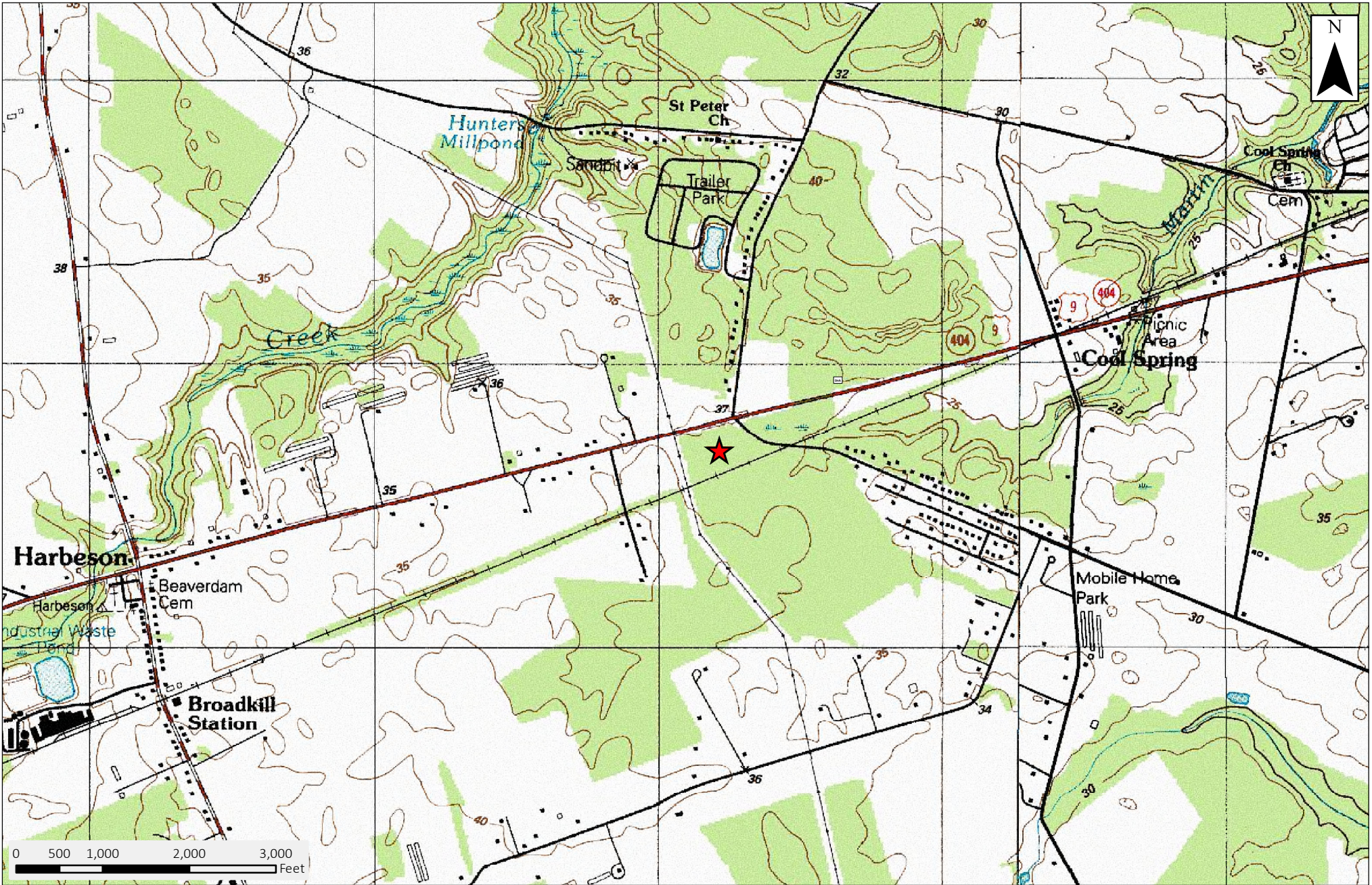


Figure 19 of 20.

19

USGS Topographic Map

Dry Acres, LLC

AMBLD19001



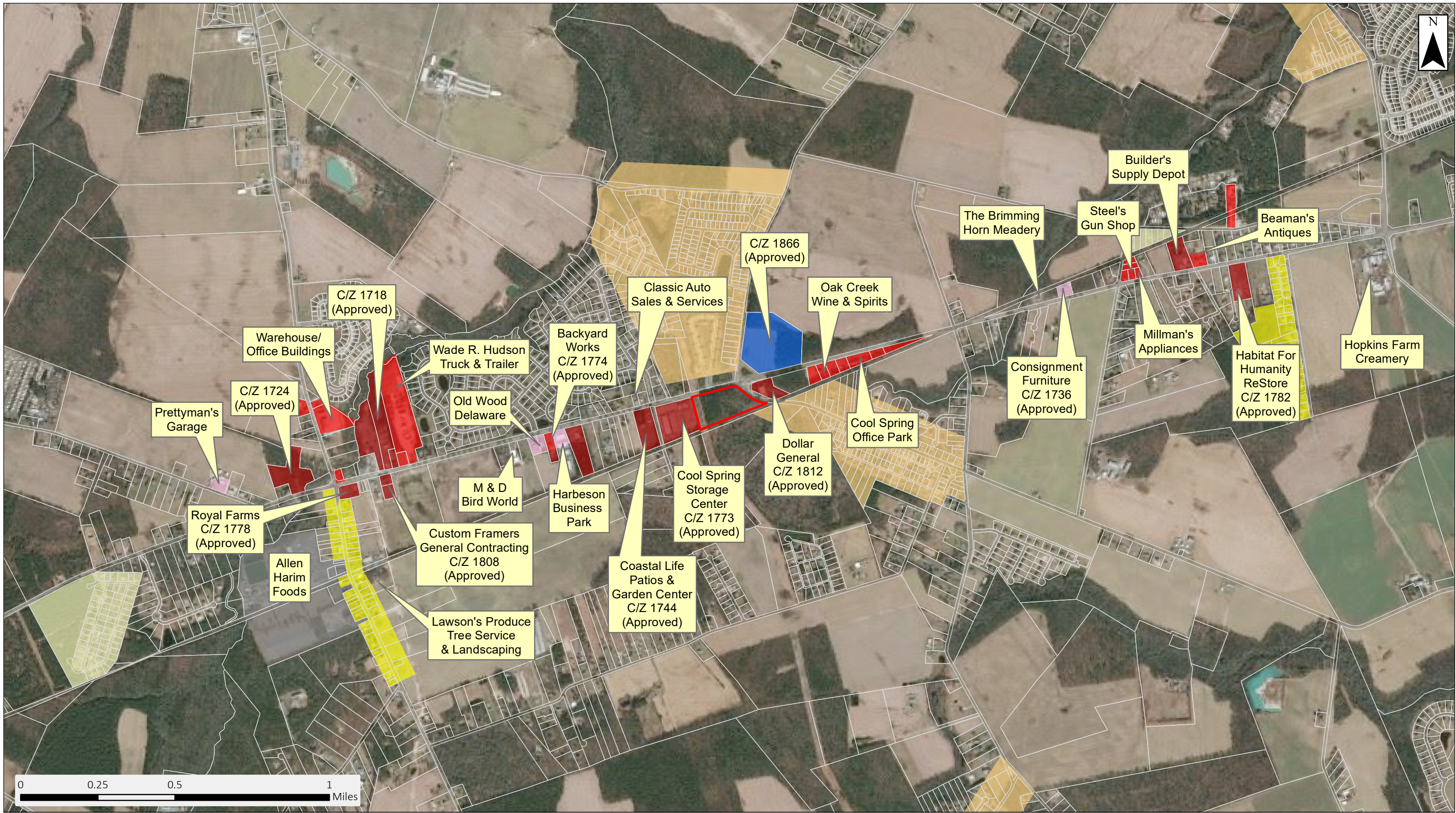


Figure 20 of 20.  
**20**  
**Area Commercial Uses**  
 Dry Acres, LLC  
 AMBLD19001

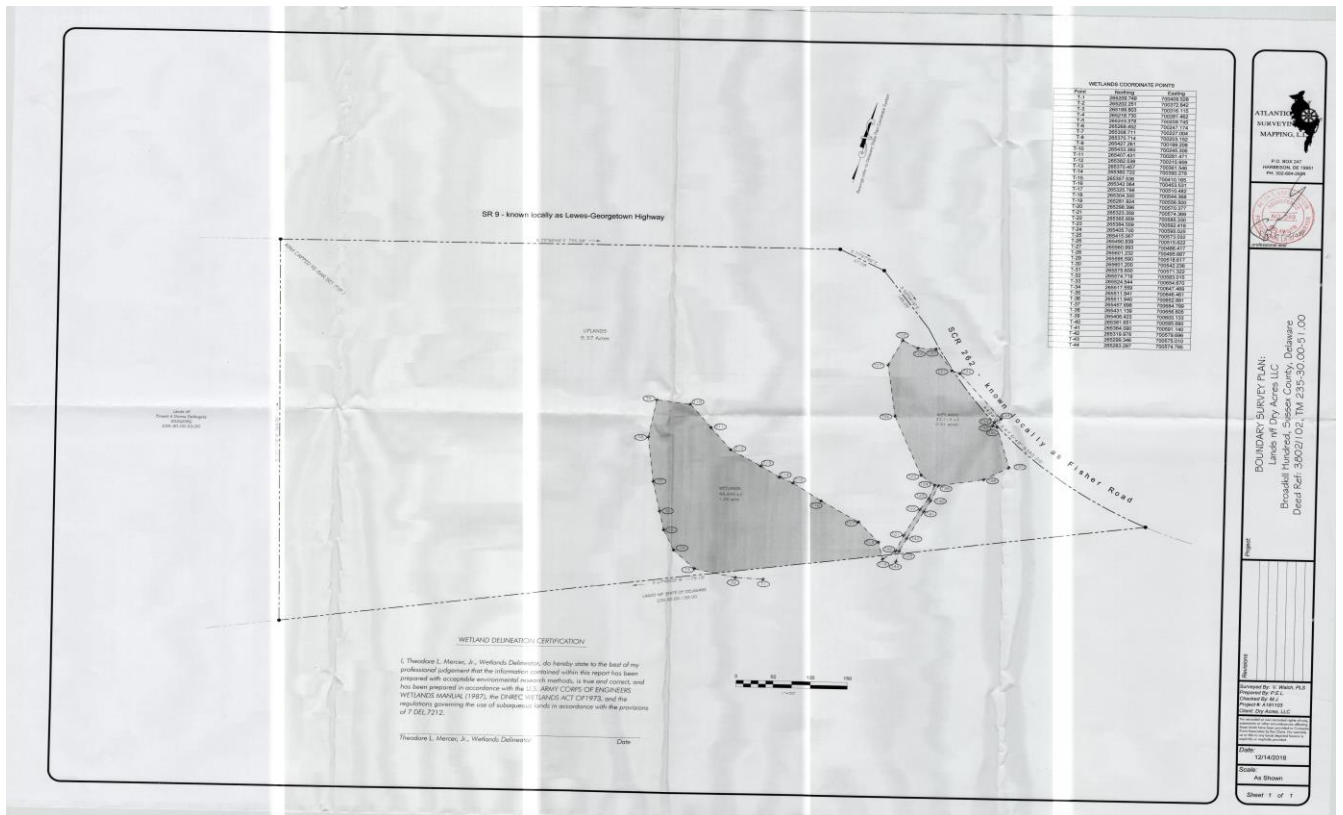


County Zoning	
AR-1	CR-1
GR	I-1
AR-2	C-1
HI-1	MR
B-1	



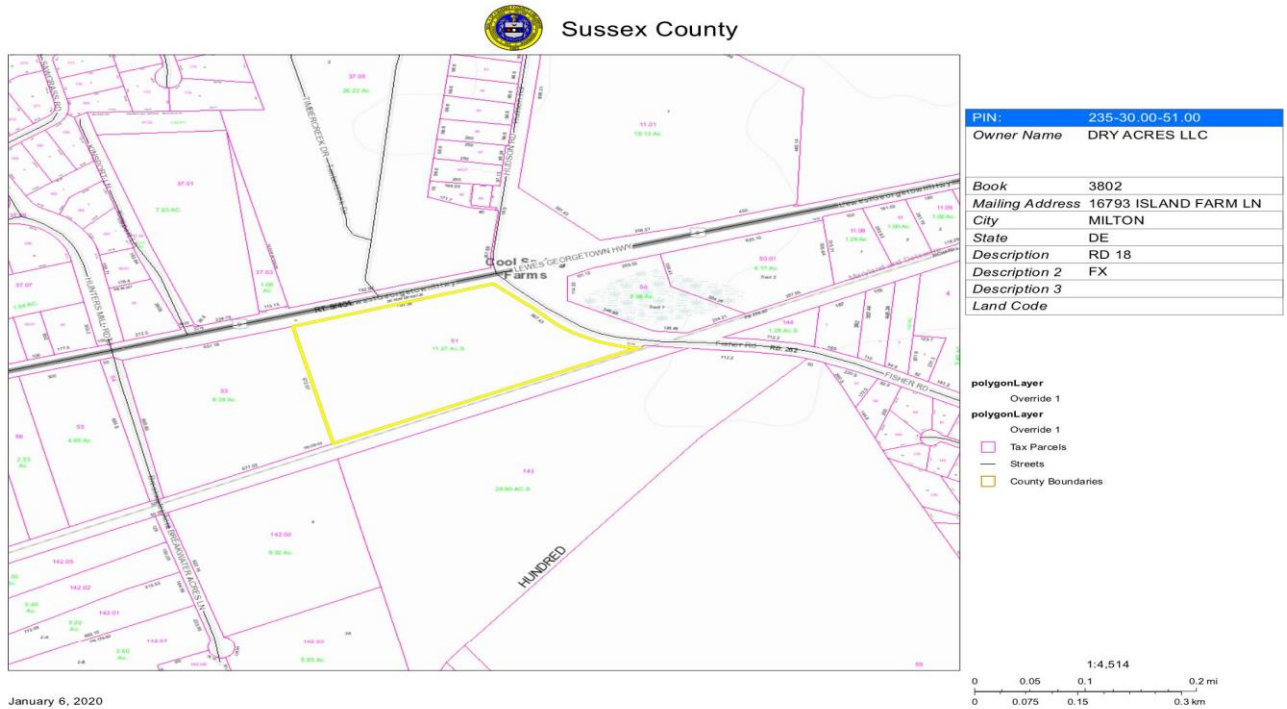
**JILL A. CICIERSKI | PLAZA NINE  
 DRY ACRES, LLC  
 CHANGE OF ZONE #1904  
 PROPOSED FINDINGS OF FACT**

1. This is an application to grant a rezoning of a portion of lands in a AR-1 Agricultural Residential District located on 10.88 acres, more or less in the Broadkill Hundred located on the south side of Lewes Georgetown Highway | U.S. Route 9 and west side of Fisher Road | Sussex County Route 262 to C-2, Medium Commercial District.



2. The property is under contract to be purchased by Jill C. Cicierski and will be assigned the name Plaza Nine.

3. The property is identified on the tax maps of the Sussex County Department of Finance as Tax Map No. 235-30.00 Parcel 51.00.

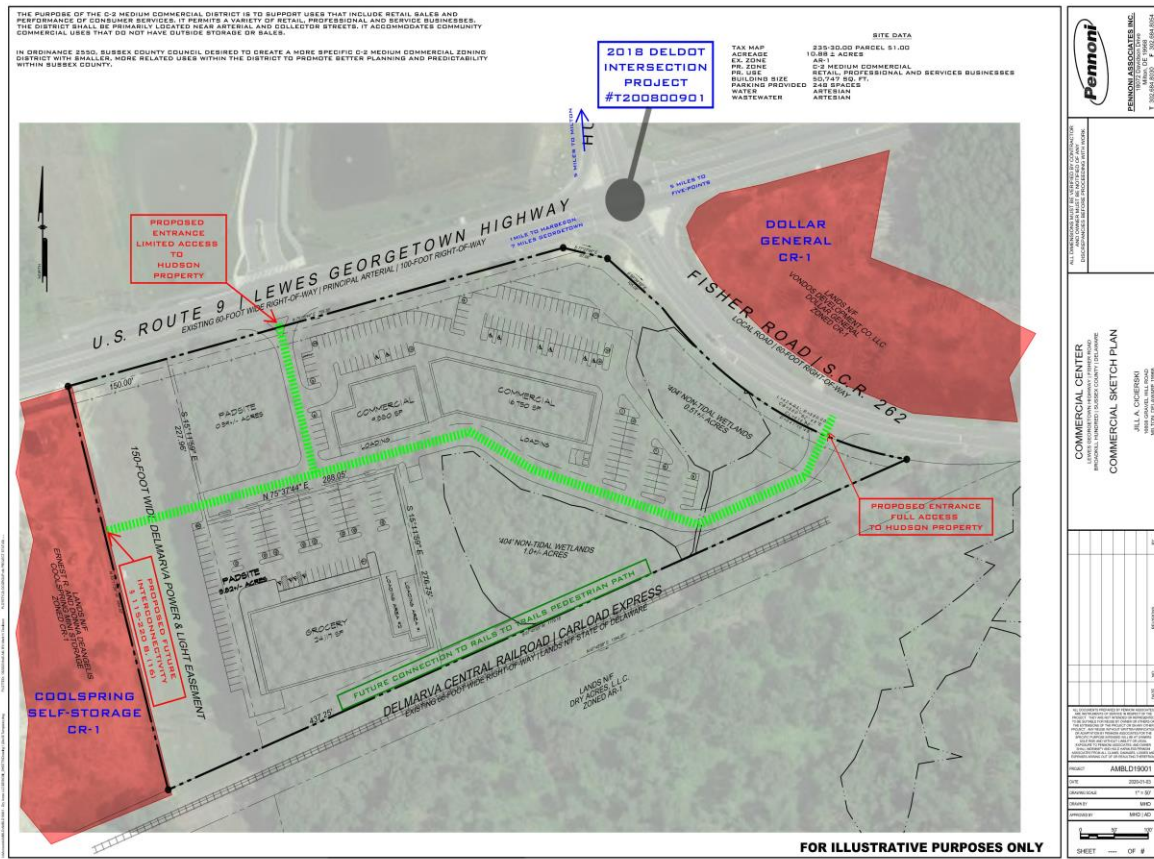


4. The properties are bordered on:
  - a. North US Route 9 a Principal Arterial; Shoreview Woods Development (96-Multi-Family Units);
  - b. South by Maryland Delaware Railroad (Future Rails to Trails Path) and other lands owned by Dry Acres, LLC – Zoned AR-1 and GR;
  - c. West with existing commercial uses such Coolspring Mini-Storage;
  - d. East with existing commercial uses such as Dollar General.

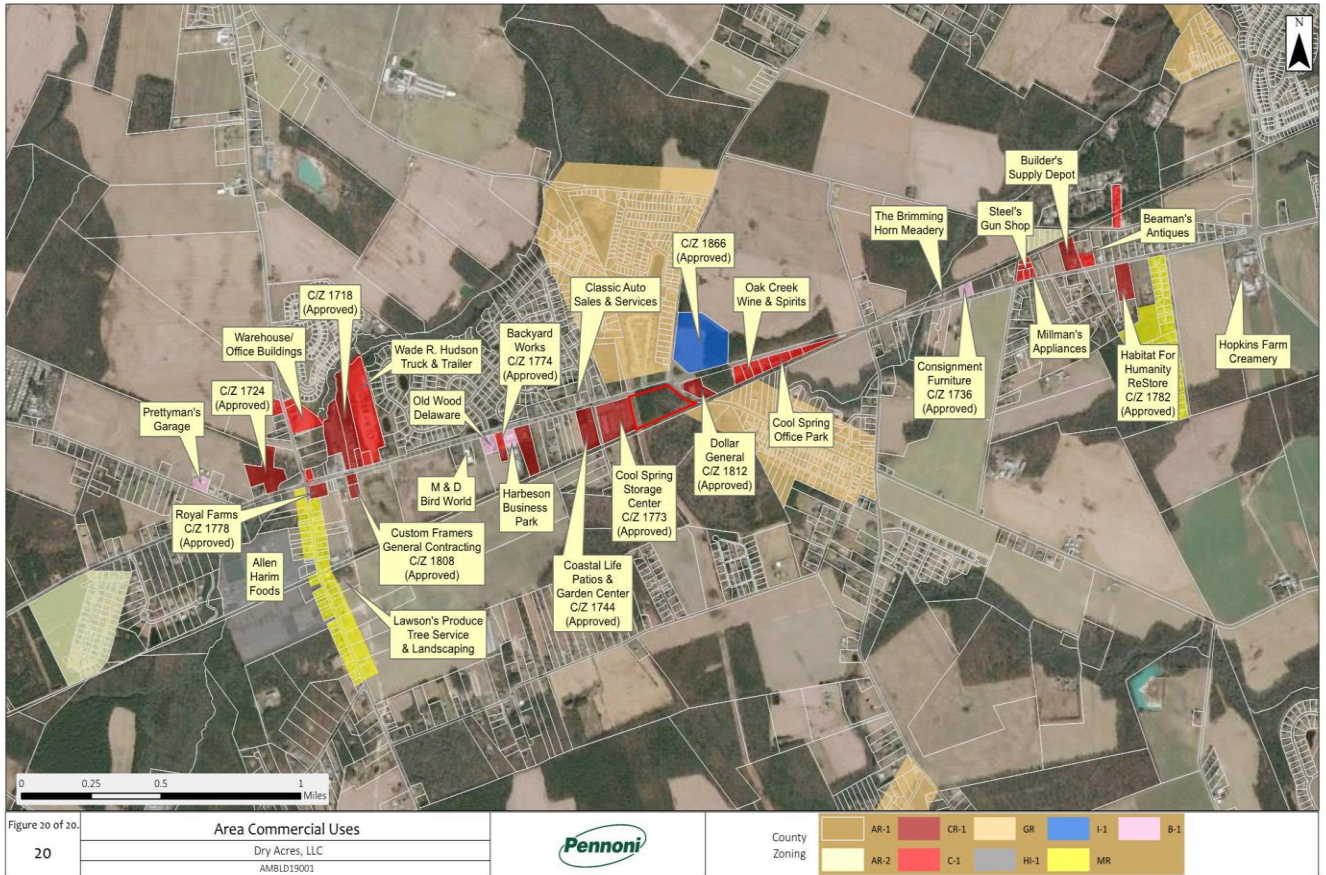


5. In Ordinance 2550, Sussex County Council desired to create a more specific C-2 Medium Commercial zoning district with smaller, more related uses within the District to promote better planning and predictability within Sussex County.
  
6. The purpose of the C-2 Medium Commercial District is to support uses that include retail sales and performance of consumer services. It permits a variety of retail, professional and service businesses. The district shall be primarily located near arterial and collector streets. It accommodates community commercial uses that do not have outside storage or sales.

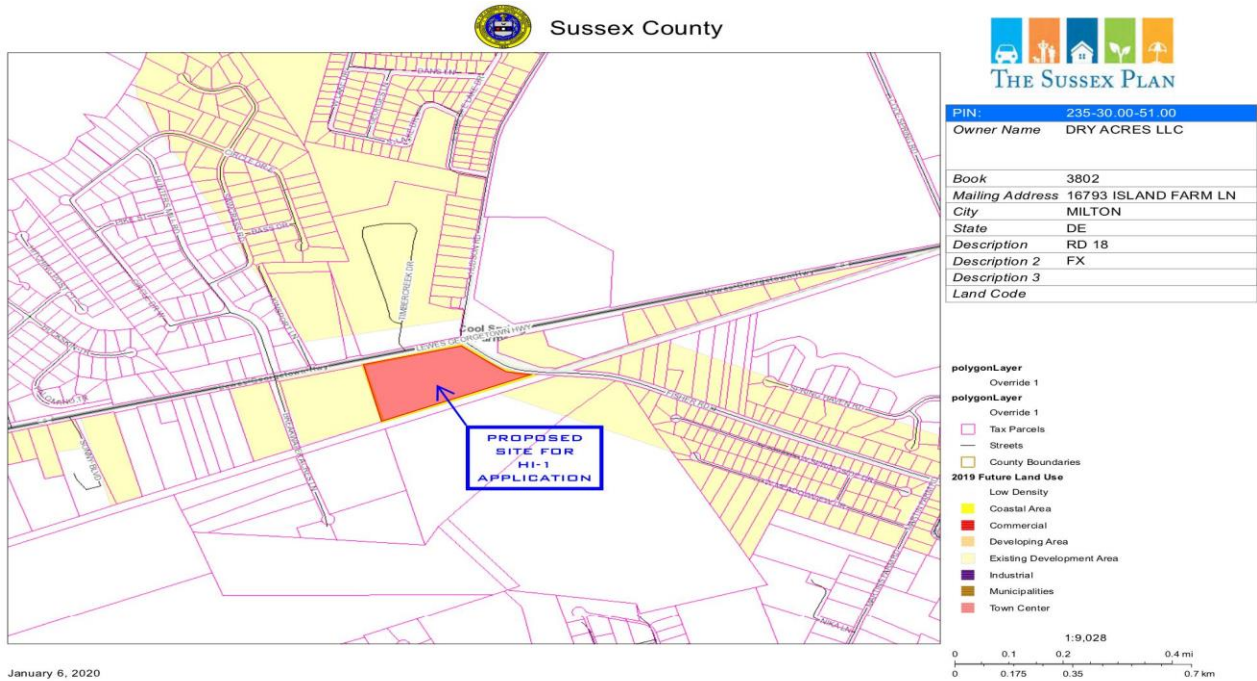
- The granting of this application for the C-2 commercial rezoning will allow Ms. Cicierski to create a shopping plaza constructed around a community retail plaza that will provide for the sale of convenience goods and personal services for the day-to-day living needs of nearby existing and future communities.



8. The proposed rezoning to C-2 for this property is in the vicinity of other commercial zoned property and uses and will not diminish or impair property values within the neighborhood; will not create a public nuisance; or result in an increase in public expenditures.



9. In the 2019 Sussex County Comprehensive Plan – the area for the proposed rezoning for this property is identified to be in a Low-Density and is currently surrounded by Existing Developing Areas.



January 6, 2020

The Sussex Plan suggests that each application should be reviewed on its own merit and does not have a negative impact on the surrounding area or the county in general. Some of the stated goals within the plan for new commercial zoning is to:

- a. Promote growth and development in areas where capital facilities and infrastructure are already available and adequate to support the growth - [Artesian has both water and sewer in front of the property that serves adjacent commercial properties as well extends to area residential communities];
- b. Promote commercial development in designated commercial, office, and industrial areas in a scale/intensity/distance appropriate to adjacent residential neighborhoods – [Previously stated, Ms. Cicierski wants to provide a commercial development that is part of the community and provides for goods

and services that are part of the community in scale. Additionally, the nearest residential development (Shoreview Woods Development) which is across the road as well as the Coolspring Developments further east on Fisher Road will benefit in that the subject property is not adjacent to their development but close enough to serve the residences with future services without them having to travel farther distances];

- c. Engage in planning that considers the efficient location of public services and infrastructure while establishing future public sewer service areas that will help preserve open space by promoting orderly growth rather than unplanned sprawl – [this property is located along US Route 9 with access to both Artesian water and sanitary sewer as well as access to a major roadway systems that’s east and west to Lewes and Georgetown. This property in this location with a commercial zoning, will prohibit any unplanned sprawl that the Comprehensive Plan is discouraging];
- d. Coordinate with DelDOT on road improvements and other transportation projects – [the property owners have already worked with DelDOT in the dedication of additional right-of-way along US RT 9 and Fisher Road that was part of the intersection improvements that was constructed back in 2018. The Developers will work with DelDOT to allow for a shared cross access easement within the property that will promote interconnection to adjacent properties. Although a TIS was not required as a part of this application, the Developers will have to provide future Transportation Improvements to the adjacent roadways during the future planning of the commercial development. In addition, future connection to the rails to trails pedestrian path along the existing railroad tracks along the rear of the property will be coordinated with DelDOT. DART Bus Shelter will be required for this project. Since US 9 is a principal arterial and an important freight corridor, setbacks will be increased to allow for future capacity in the form of additional right-of-way dedication; permanent easements and additional stormwater management setbacks. Intersections and commercial entrances will be consolidated to reduce access

points. Service roads through the properties will link local residents to commercial parking lots at the rear of the buildings. This would increase the aesthetic benefits to the community].

The focus of retail and office uses in Low Density Areas should be providing convenience goods and services to nearby residents which is what is being proposed for these properties. Commercial uses may be appropriate depending on surrounding uses. The surrounding uses are primarily commercial on the south side of US Route 9 with residential homes on the north side.

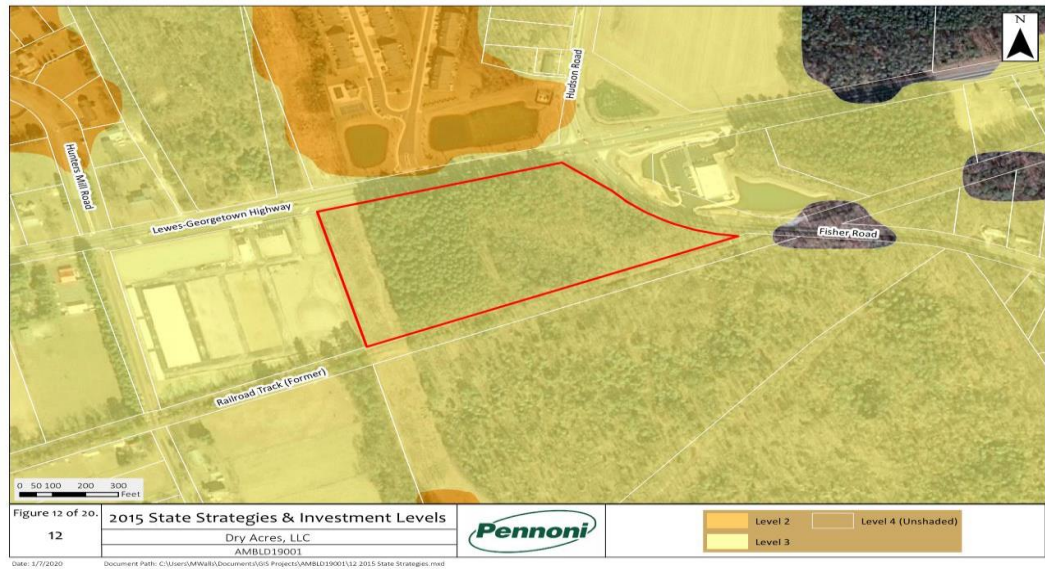
Consistent with the Comprehensive Plan's Future Land Use Chapter the County has considered the development along US 9 as a business corridor with a mix of residential and commercial uses that provide local residents with access to services they need. Local services would reduce travel to SR 1 for basic needs. Furthermore, the Sussex Plan promotes the US 9 vision to be tied to efforts to make the corridor multi-modal. Currently, the Georgetown to Lewes Rail Trail is being constructed by DelDOT in phases. Once completed, the trail will provide a pedestrian and bicycle path that is separated from car traffic. The trail will serve as both a recreational asset and a transportation option for commuters. Neighborhoods and businesses along the trail could see economic benefits from connecting to it. The plan presented provides for multi-modal access to RT 9 and Fisher Road as well as the existing railway at the rear of the property where the rail trail is being proposed.



Since the comprehensive plan is a guide for the future use of land, the County’s official zoning map must be consistent with the uses and intensities of uses provided for in the Future Land Use Plan. Table 4.5-2 is provided below to provide a tool for assisting with determining which zoning districts are applicable to each future land use category.

Table 4.5-2 Zoning Districts Applicable to Future Land Use Categories	
FUTURE LAND USE PLAN CATEGORY	APPLICABLE ZONING DISTRICT
RURAL AREAS	
Low Density	Agricultural Residential District (AR-1) Business Community District (B-2) Medium Commercial District (C-2) Marine District (M) Institutional District (I-1) New Zoning Districts

10. The 2015 Strategies for State Policies and Spending Map identifies the area as Investment Level 3. This area is intermingled within a fast-growing area within the county and is adjacent to Level 2 areas. The priorities in the Level 3 Areas are for DelDOT to focus on regional movements between towns and other population centers. Developers and property owners will make local roadway improvements as development occurs. All infrastructure needs will be funded by the Developer. Additional public infrastructure that will benefit the community, such as, road improvements and access improvements will be paid for by the Developer. When discussing the application with the Office of State Planning Coordination (OSPC) – The OSPC works to improve the coordination and effectiveness of land-use decisions made by state, county, and municipal governments. Though state policies can support growth in these areas, the state views these areas more in a long-term basis. It is here that the State will encourage the likes of master planning for the purpose of anticipating growth. The resources needed for applications such as this for rezoning to commercial are in place and available to the project.



11. Wetlands on the property have been delineated and will not be disturbed; the property is located in a Flood Zone X Unshaded; there are no historical or natural features on the property ; stormwater will be onsite and use Best Management Practices for handling stormwater runoff; the properties are not in any Groundwater Protection Zones;

Private utility companies are considered a viable option for water and wastewater treatment in areas where County or municipal services are non-existent or unplanned. Artesian Wastewater Management, Inc. mainly provide water and sewer services for developments that are along Route 9 east of Georgetown CPCN's will be executed for both water and sewer for the property.

Delmarva Power & Light Company has a 150-foot wide utility easement through the subject project that connects to major sub-station to the north of this property. These electric services will provide sufficient energy to this property, the area and beyond.

These properties are fortunate to have a natural gas transmission pipeline located along the property. It is owned and operated by Eastern Shore Natural Gas Company, a subsidiary of Chesapeake Utilities (Chesapeake).

Verizon and Comcast are the main telecommunication providers operating in this service area.

All of these utilities ensure quality growth of development by the planning and developing of infrastructure and services in the County to complement State and local planning efforts with adequate water, sewer, electricity, natural gas, and fiber optic infrastructure to the property.

12. The proposed rezoning meets the general purpose of the Zoning Ordinance being located in an appropriate location meeting the purpose of this district and the future land use plans, strategies and objectives of the comprehensive plan that promotes growth and development through community design, mobility, utilities, transportation and economic development in an area where a general mixture of commercial and service activity now exists, which is essential and desirable for the general convenience, orderly growth, prosperity and welfare of the County.