

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



**Sussex County**

DELAWARE  
sussexcountyde.gov

## PLEASE NOTE

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



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

**PLANNING & ZONING COMMISSION**

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



**Sussex County**

DELAWARE  
sussexcountyde.gov  
302-855-7878 T  
302-854-5079 F  
JAMIE WHITEHOUSE, MRTPI, AICP  
DIRECTOR OF PLANNING & ZONING

**PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET**  
Planning Commission Public Hearing Date: April 28<sup>th</sup>, 2022

Application: CZ 1956 Jeffrey Behney

Applicant: Jeffrey Behney  
26179 Manor Way  
Georgetown, DE 11947

Owner: Lloyd Behney  
18 Ruth Street  
Selbyville, DE 19975

Site Location: 38531 Parker Road (S.C.R. 415), Millsboro. Lying on the east side of Parker Road, approximately 200-feet north of the intersection of E Line Road (S.C.R. 419) and Parker Road.

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

Proposed Zoning: Heavy Commercial (C-2) Zoning District

Comprehensive Land Use Plan Reference: Low Density

Councilmanic District: Mr. Vincent

School District: Indian River School District

Fire District: Selbyville Fire Company

Sewer: Septic

Water: Well

Site Area: 10.8 Acres +/-

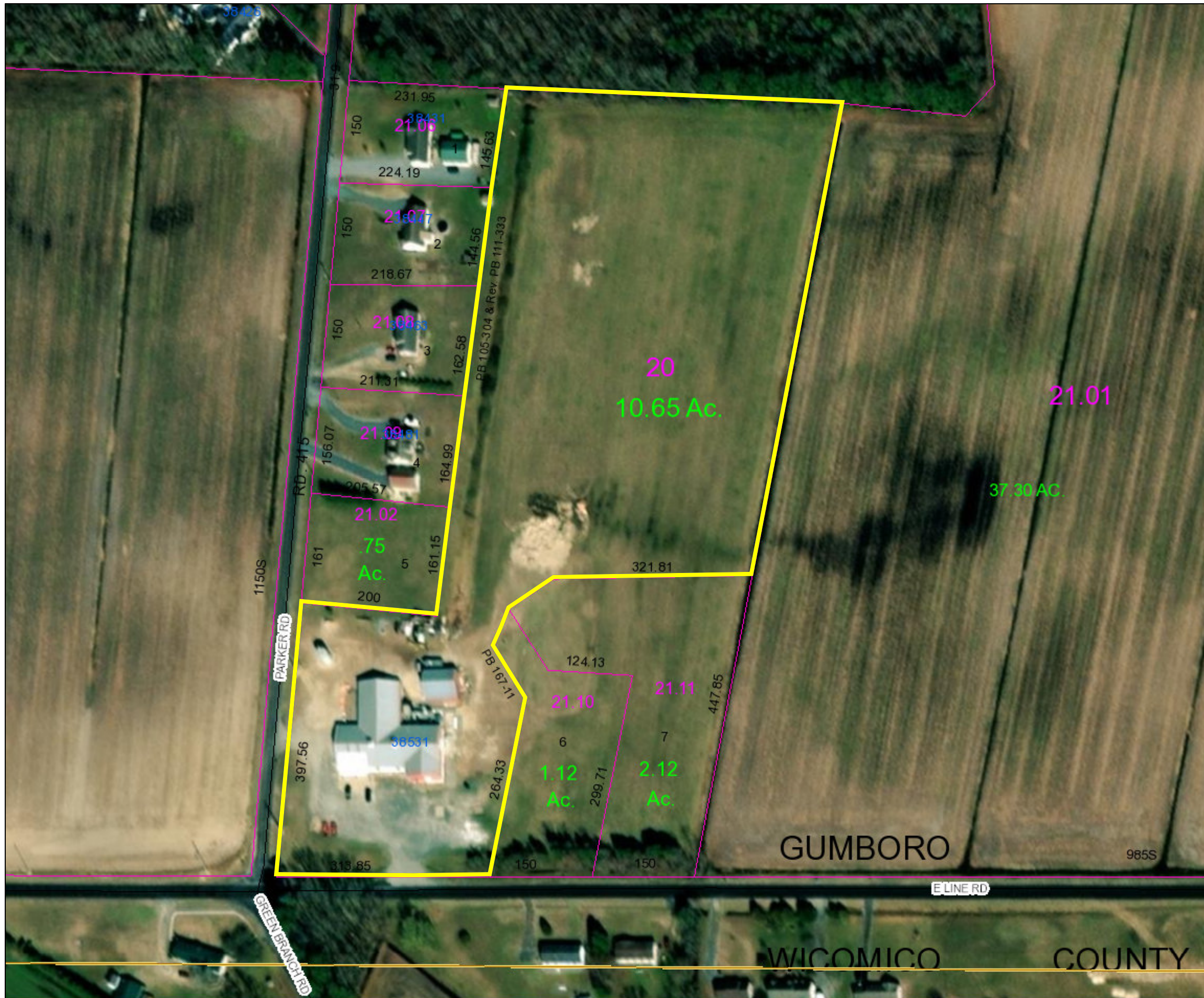
Tax Map ID.: 333-15.00-20.00







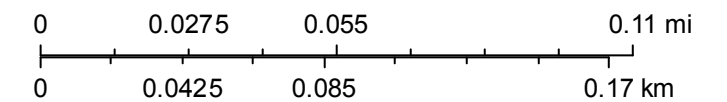
# Sussex County



<b>PIN:</b>	333-15.00-20.00
<b>Owner Name</b>	OVER THE HILL HOLDINGS LLC
<b>Book</b>	5076
<b>Mailing Address</b>	38531 PARKER RD
<b>City</b>	MILLSBORO
<b>State</b>	DE
<b>Description</b>	NE/RD 54
<b>Description 2</b>	RT 415
<b>Description 3</b>	N/A
<b>Land Code</b>	

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

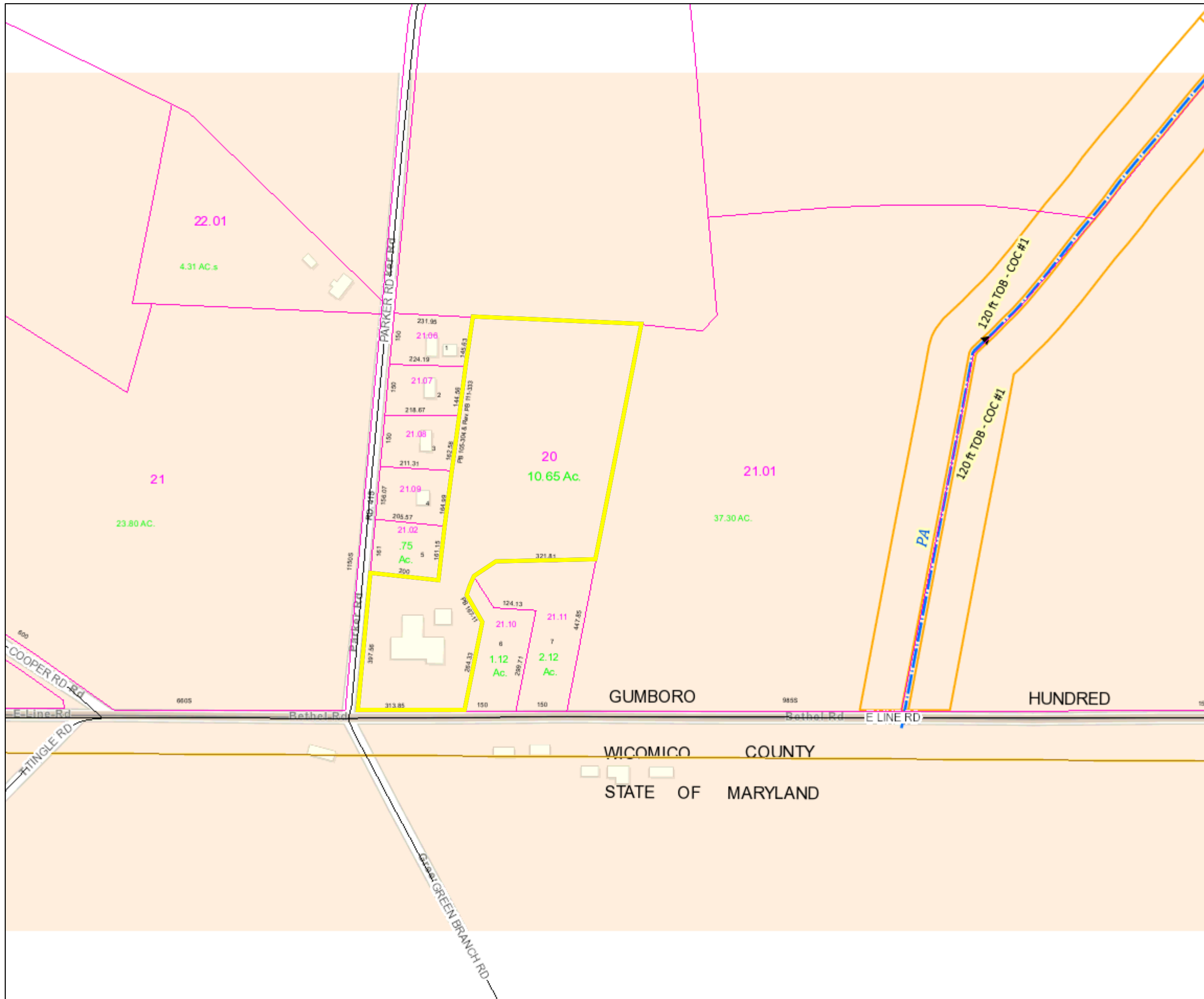
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# Sussex County



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<b>Owner Name</b>	OVER THE HILL HOLDINGS LLC
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- polygonLayer

Override 1
- polygonLayer

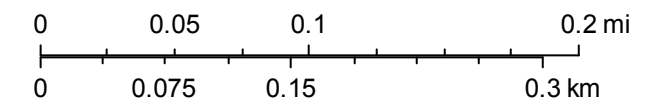
Override 1
- ⋯ Tax Parcels
- Streets

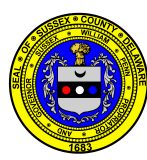
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HUNDRED

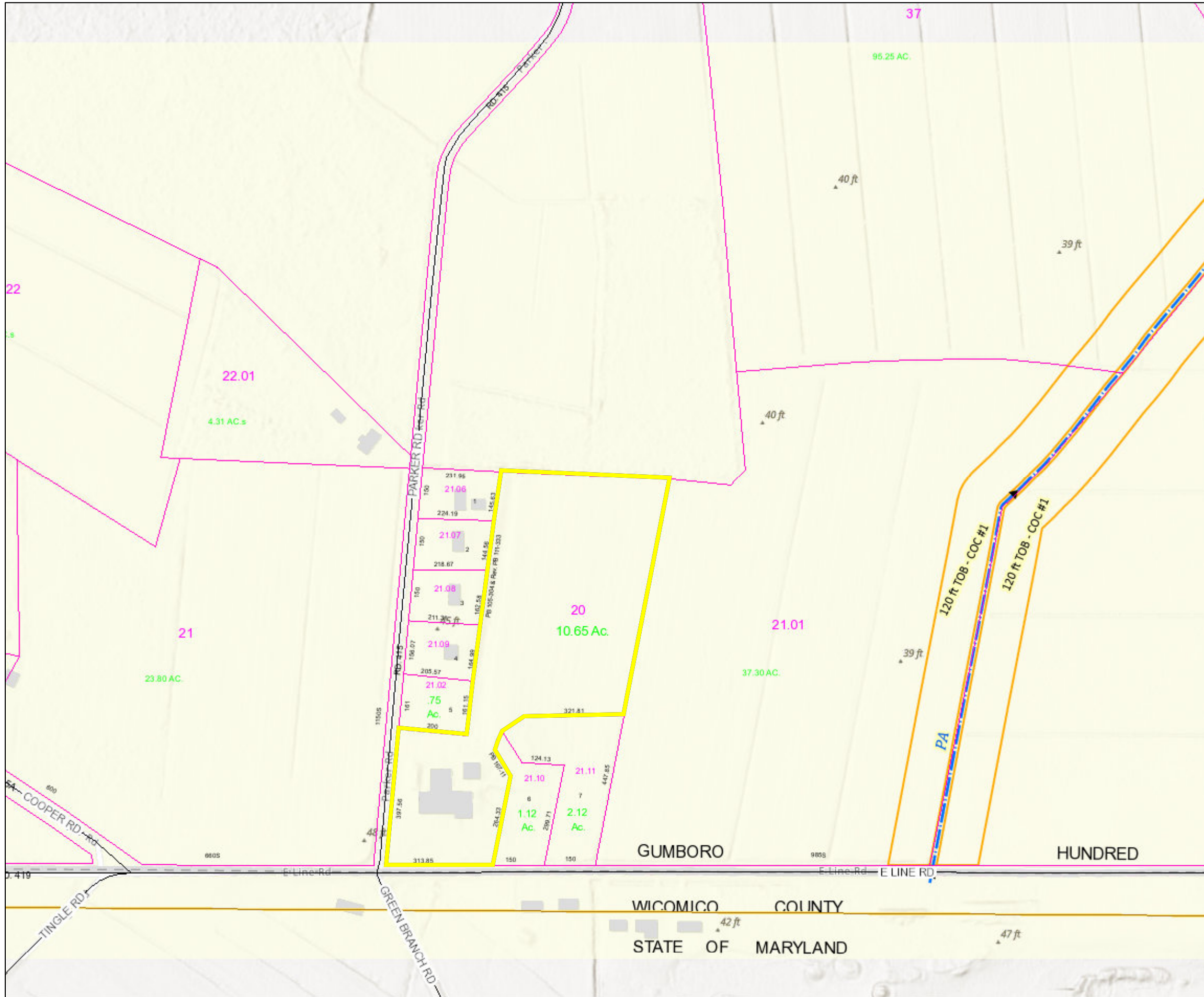
WICOMICO COUNTY  
STATE OF MARYLAND

1:4,514





# Sussex County



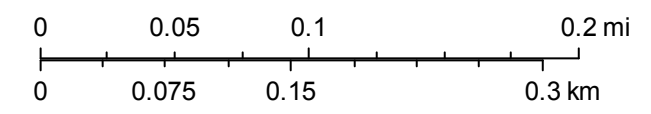
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<b>Description</b>	NE/RD 54
<b>Description 2</b>	RT 415
<b>Description 3</b>	N/A
<b>Land Code</b>	

- polygonLayer**

Override 1
- polygonLayer**

Override 1
- ⋯ Tax Parcels
- Streets

1:4,514



FULLNAME	Second_Owner_Name	MAILINGADD
BRASURE STEPHEN C		28413 FIRE TOWER RD
FAMIGLIETTI MICHAEL A & LIBRADA L	FAMIGLIETTI	38447 PARKER RD
MOORE FARMS INC		PO BOX 186
MOORE JOSEPH A JR & MALINDA R	MOORE	38431 PARKER RD
OVER THE HILL HOLDINGS LLC		38531 PARKER RD
POWELL WILLIAM	STEPHANIE POWELL	38481 PARKER RD
SOUTH SHORE PROVISIONS LLC		38531 PARKER RD
TOLLIVER JOHNNY L JR & RENEE	TURLINGTON-TOLLIVER	38463 PARKER RD
VILLARI JOSEPH	VILLARI CHRISTINE	1420 AVENEL DR.
VILLARI SALVATORE	VILLARI DONNA	315 OAK AVENUE

CITY	STATE	ZIPCODE
LAUREL	DE	19956
MILLSBORO	DE	19966
MILLSBORO	DE	19966
MILLSBORO	DE	19966
MILLSBORO	DE	19966
MILLSBORO	DE	19966
MILLSBORO	DE	19966
MILLSBORO	DE	19966
WILMINGTON	NC	28411
WOODBURY HEIGHTS	NJ	8097

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## Memorandum

To: Sussex County Planning Commission Members  
From: Elliott Young, Planner I  
CC: Vince Robertson, Assistant County Attorney, and applicant  
Date: April 20, 2022  
RE: Staff Analysis for CZ 1956 Jeffrey Behney

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This memo is to provide background and analysis for the Planning Commission to consider as a part of application CZ 1956 Jeffrey Behney to be reviewed during the April 28, 2022, Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Change of Zone for part of Tax Parcel 333-15.00-20.00 to allow for a change of zone from an Agricultural Residential (AR-1) Zoning District to a Medium Commercial (C-2) Zoning District. The property is lying on the east side of Parker Road (S.C.R. 415), approximately 200-feet north of the intersection of E Line Road (S.C.R. 419) and Parker Road.

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

As outlined in the 2018 Sussex County Comprehensive Plan, Low Density areas are intended to support agricultural uses and low-density single-family housing. Specifically, the Comprehensive Plan states that single family homes have a density of up to two dwelling units to the acre. It is envisioned that the Low-Density Areas allow for businesses that support nearby residents and the agricultural economy. More intense commercial uses could be limited in scale and impact. While residential growth is expected, the Comprehensive Plan intends for the rural landscape to be maintained and for farmland to be preserved in select locations.

The parcel is zoned Agricultural Residential (AR-1). Adjacent parcels to the north, east, and west are also zoned Agricultural Residential (AR-1) Zoning District. The properties to the south on the other side of E Line Road are across the Delaware-Maryland border and are out of Sussex Counties jurisdiction.

The 2018 Sussex County Comprehensive Plan outlines Zoning Districts by their applicability to each Future Land Use category. Under Table 4.5-2 "Zoning Districts Applicable to Future Land Use Categories," the Medium Commercial (C-2) Zoning District is listed as an applicable zoning district in the Low-Density Area.





Since 2011, there have been zero (0) Change of Zone applications within a 1-mile radius of the application site.

Based on the analysis of the land use, surrounding zoning and uses, a Change of Zone from an Agricultural Residential Zoning District (AR-1) to a Medium Commercial Zoning District (C-2) could be considered as being consistent with the land use, based on the size, scale, zoning and surrounding uses.

File #: C21956  
20213841

## 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**

38531 Parker Road, Millsboro DE. 19966

**Type of Conditional Use Requested:**

Tax Map #: 333-15.00-20.00 Size of Parcel(s): 10.8 Acres

Current Zoning: AR-1 Proposed Zoning: C-2 Size of Building: 15,000 sq ft

Land Use Classification: Indoor Gun Range

Water Provider: Well Sewer Provider: Septic Tank

**Applicant Information**

Applicant Name: Jeffrey Behney  
Applicant Address: 26179 Mc.01 Way  
City: Georgetown State: DE. Zip Code: 19947  
Phone #: 302-841-2814 E-mail: jeff@range-time.com

**Owner Information**

Owner Name: Lloyd Behney  
Owner Address: 18 Ruthe Street  
City: Selbyville State: DE. Zip Code: 19975  
Phone #: 302-841-2020 E-mail: Lloyd@range-time.com

**Agent/Attorney/Engineer Information**

Agent/Attorney/Engineer Name: Mike Smith  
Agent/Attorney/Engineer Address: 8866 Riverside Dr.  
City: Seaford State: DE. Zip Code: 19973  
Phone #: 302-875-5595 E-mail: \_\_\_\_\_



# Check List for Sussex County Planning & Zoning Applications

The following shall be submitted with the application

**Completed Application**

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

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

**Provide Fee \$500.00**

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

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

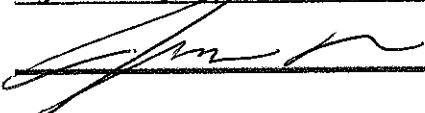
**DeIDOT Service Level Evaluation Request Response**

**PLUS Response Letter** (if required)

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.

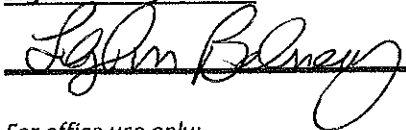
I also certify that I or an agent on my behalf shall attend all public hearing before the Planning and Zoning Commission and the Sussex County Council and any other hearing necessary for this application and that I will answer any questions to the best of my ability to respond to the present and future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

**Signature of Applicant/Agent/Attorney**

  
\_\_\_\_\_

Date: 09/13/2021

**Signature of Owner**

  
\_\_\_\_\_

Date: 9-13-21

**For office use only:**

Date Submitted: \_\_\_\_\_

Fee: \$500.00 Check #: \_\_\_\_\_

Staff accepting application: \_\_\_\_\_

Application & Case #: \_\_\_\_\_

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

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

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

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

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

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



0

TM #3-33-15.00-20.00  
PREPARED BY & RETURN TO:  
The Smith Firm, LLC  
8866 Riverside Dr.  
Seaford, DE 19973  
File No. S19-185/

*This Deed* made this 13<sup>th</sup> day of June, 2019,

- BETWEEN -

LLOYD M. BEHNEY and DEBRA E. BEHNEY, parties of the first part,

- AND -

OVER THE HILL HOLDINGS, LLC, a Delaware limited liability company, of 38531 Parker Road, Millsboro, DE 19966, party of the second part.

**WITNESSETH:** That the said parties of the first part, for and in consideration of the sum of **One and 00/100 Dollars (\$1.00)**, lawful money of the United States of America, the receipt whereof is hereby acknowledged, hereby grant and convey unto the party of the second part, and its successors and assigns, in fee simple, the following described lands, situate, lying and being in Sussex County, State of Delaware:

ALL that certain lot, piece and parcel of land situate, lying and being in Gumboro Hundred, Sussex County, State of Delaware, consisting of 10.5464 acres of land with improvements thereon as shown on plot of lands entitled "Conditional Use Plan for Glass Investment Properties, LLC" dated November 28, 2011 of record in the Office of the Recorder of Deeds, in and for Sussex County, Delaware in Plot Book 174, page 49, and being more particularly described as follows, to wit:

BEGINNING at an iron pipe (to be set) on the easterly right of way of S.C.R. #415 (Parker Road) (50' right of 0way), said iron pipe (to be set) being a common

boundary for this land and for Lot 5; thence by and with aforesaid Lot 5 South 75°10'54" East 200.04 feet to an iron pipe (to be set); thence turning and running by and with a common boundary for this land and Lot 5 North 16°15'55" East 161.15 feet to an iron pipe (found); thence continuing on with Lot 4 North 16°15'55" East 164.99 feet to an iron pipe (found); thence continuing on with Lot 3 North 16°38'05" East 162.58 feet to an iron pipe (found); thence continuing on with Lot 2 North 16°39'56" East 144.56 feet to an iron pipe (found); thence continuing on with Lot 1 North 17°27'16" East 135.63 feet to an iron pipe (found); thence continuing on North 17°27'16" East 10.00 feet to a point lying in the center of ditch; thence turning and running by and with the centerline of ditch and lands now or formerly of Helen & Stephen Smith South 77°59'55" East 492.14 feet to a point in centerline of ditch; thence turning and running by and with a common boundary for this land, center of ditch and for lands now or formerly of Moore Farm, Inc. South 19°57'27" West 603.27 feet to a point; thence continuing on South 19°54'25" West 92.61 feet to a point; thence turning and running by and with a common boundary for this land and for Lot 7 North 80°53'25" West 321.81 feet to an iron pipe (to be set); thence turning and running with Lot 7 South 56°17'00" West 78.96 feet to an iron pipe (to be set); thence turning and running by and with a common boundary for this land and for Lot 6 South 21°54'43" West 59.32 feet to an iron pipe (to be set); thence turning and running with Lot 6 South 31°17'19" East 90.26 feet to an iron pipe to be set; thence turning and running by and with Lot 6 South 19°54'25" West 264.33 feet to an iron pipe (to be set); thence turning and running by and with the northerly right of way of DE #54 Bethel Road (60' right of way) North 80°53'20" West 313.85 feet to an iron pipe (to be set); thence turning and running by and with the easterly right of way of S.C.R. #415 Parker Road (50' right of way) North 14°18'20" East 397.55 feet home to the place of beginning.

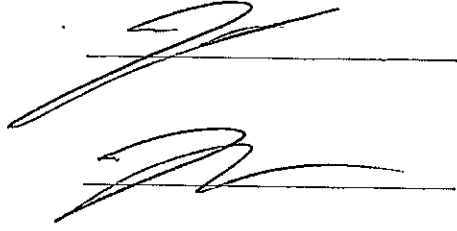
BEING the same lands conveyed to Lloyd M. Behney and Debra E. Behney from Lloyd & Scott, LLC, by Deed dated October 5, 2018, recorded in the Office of the Recorder of Deeds in and for Sussex County, Delaware, on October 16, 2018, in Deed Book 4963, Page 273.

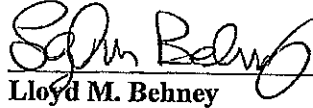
**SUBJECT** to any and all restrictions, reservations, conditions, easements and agreements of record in the Office of the Recorder of Deeds in and for Sussex County, Delaware.

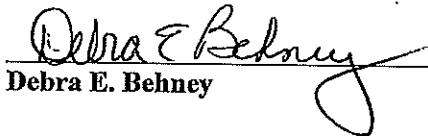
PURSUANT TO 25 Del. C., Section 135, the grantor and grantee hereunder do hereby acknowledge that the parcel or parcels conveyed hereunder, or a portion of same, may be subject to a tax ditch right of way and/or assessment, or a tax lagoon right of way and/or assessment pursuant to an Order of the Superior Court of the State of Delaware, in and for Sussex County, Delaware dated January 4, 2007, and recorded in the Office of the Recorder of Deeds in and for Sussex County, Delaware in Book 4, page 91; and pursuant to an Order of the Superior Court of the State of Delaware, in and for Sussex County, Delaware dated March 12, 2009 and recorded in the Office of the Recorder of Deeds in and for Sussex County, Delaware in Book 4, page 296.

IN WITNESS WHEREOF, the parties of the first part have hereunto set their hands and seals the day and year first above written.

Signed, Sealed and Delivered  
in the presence of:



 (SEAL)  
Lloyd M. Behney

 (SEAL)  
Debra E. Behney

STATE OF DELAWARE, COUNTY OF SUSSEX: to-wit

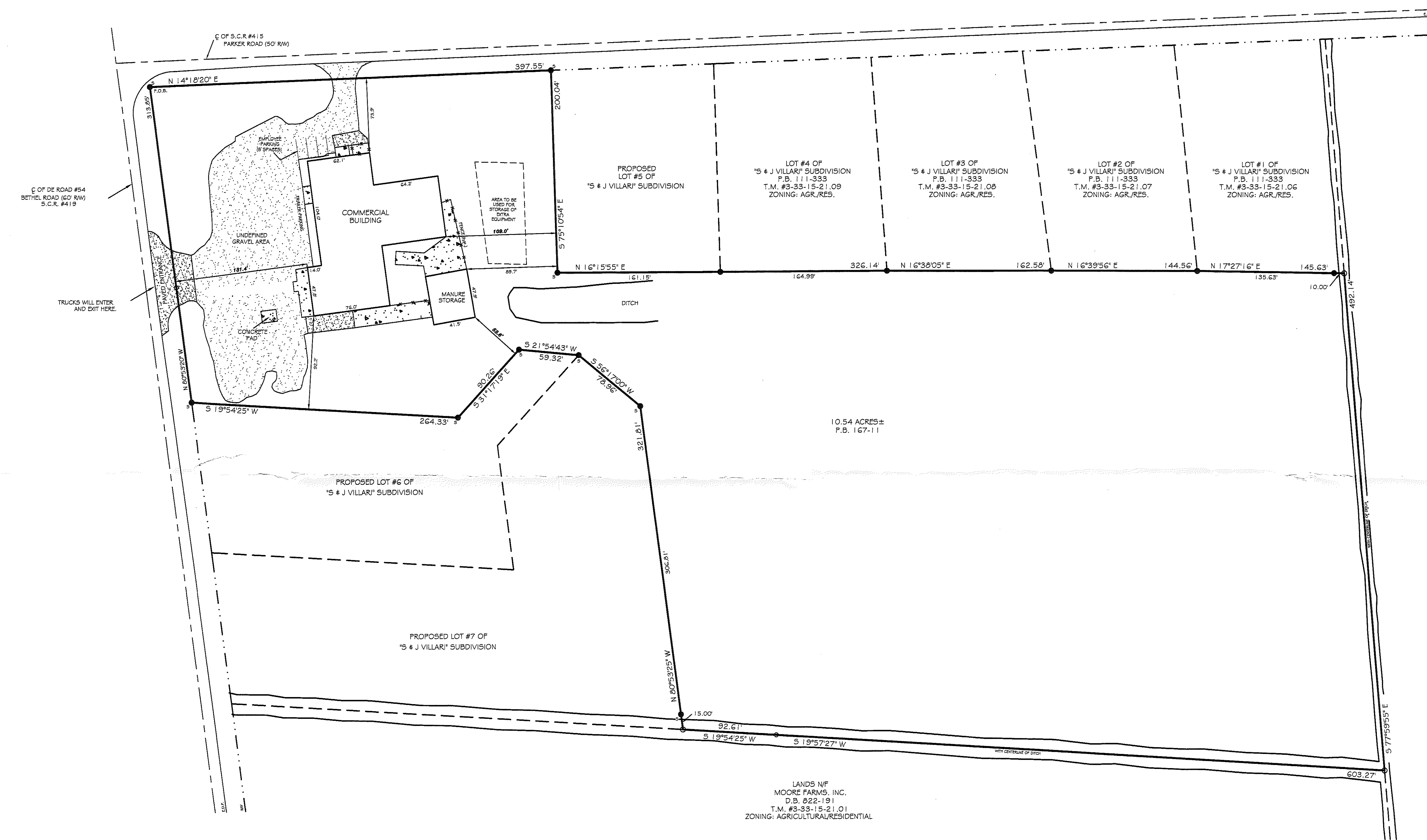
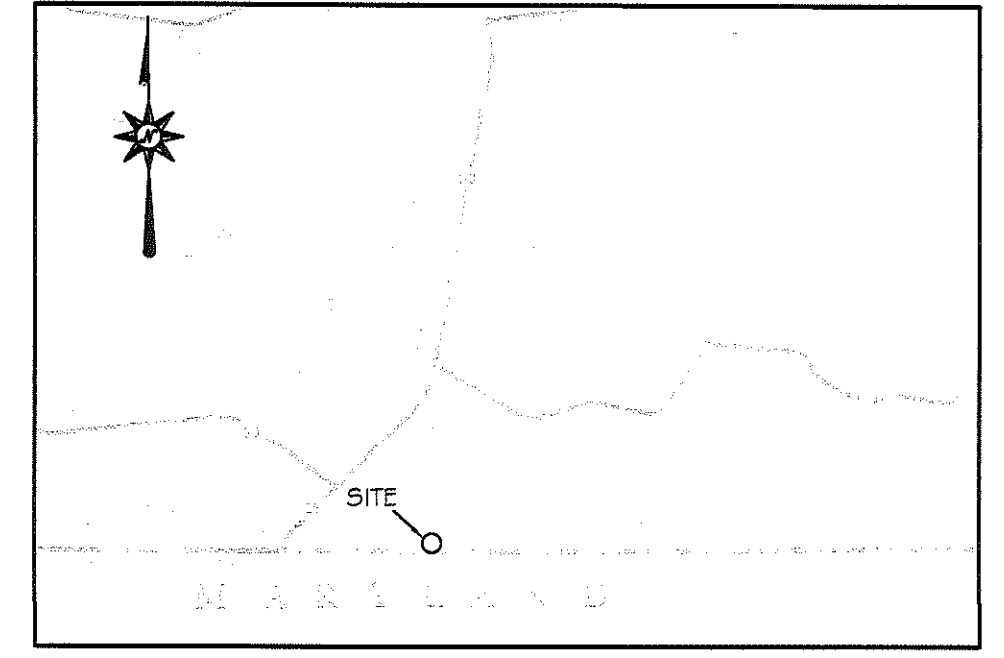
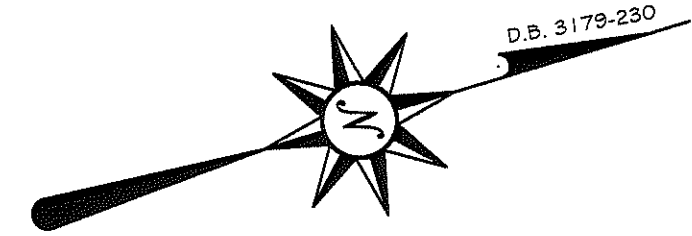
BE IT REMEMBERED, that on June 13, 2019, personally came before me, the subscriber, Lloyd M. Behney and Debra E. Behney, parties of the first part to this Indenture, known to me personally to be such, and acknowledged this Indenture to be their act and deed.

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

MICHAEL R. SMITH  
Attorney - Bar #4916  
Admitted to Delaware Bar: 12/15/2006  
Notary  
Uniform Law on Notarial Acts  
Pursuant to 29 Del. C., Sec 4323(3)

  
Notary Public  
My Commission Expires: \_\_\_\_\_





LOCATION MAP  
SCALE: 1" = 1 MILE

LANDS N/P  
HELEN & STEPHEN SMITH  
D.B. 2037-136  
T.M. #3-33-15-21.02  
ZONING: AGRICULTURAL/RESIDENTIAL

DATA COLUMN  
T.M. #333-15.00-20.00.  
PRESENT OWNER: OVER THE HILL HOLDINGS LLC  
38531 PARKER ROAD  
MILLSBORO, DE 19966  
ZONING: PRESENT ZONING IS AGRICULTURAL/RESIDENTIAL.  
PROPOSED ZONING IS C-2 COMMERCIAL  
AREA: THE TOTAL AREA OF THE PROPERTY IS 10.54± ACRES

LANDS N/P  
MOORE FARMS, INC.  
D.B. 822-191  
T.M. #3-33-15-21.01  
ZONING: AGRICULTURAL/RESIDENTIAL

BOUNDARY SURVEY FOR LANDS OF  
**DELMARVA ARMORY**  
38531 PARKER ROAD, MILLSBORO, DE 19966

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

**MILLER LEWIS, INC.**  
LAND SURVEYING  
1560 MIDDLEFORD RD.  
SEAFORD, DELAWARE 19773  
PH: 302-629-8895 FAX: 302-629-2391

TOWN	COUNTY
GUMBORO	SUSSEX
STATE	DRAWN BY
DELAWARE	SMS
REF.	FILE
D.B. 507G-179	DELMARVA ARMORY 3-33-15-21.02 & 20

SURVEY CLASS: SUBURBAN

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

TO: **Jamie Whitehouse**

REVIEWER: **Chris Calio**

DATE: **4/4/2022**

APPLICATION: **CZ 1956 Jeffrey Behney**

APPLICANT: **Jeffrey Behney**

FILE NO: **WS-4.06**

TAX MAP &  
PARCEL(S): **333-15.00-20.00**

LOCATION: **38531 Parker Road (SCR 415), Millsboro. Lying on the east side of Parker Road, approximately 200' north of the intersection of E. Line Road (SCR 419) and Parker Road.**

NO. OF UNITS: **Upzone from AR-1 to C-2 (Heavy Commercial)**

GROSS  
ACREAGE: **10.8**

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

**SEWER:**

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

(6). Is the project capable of being annexed into a Sussex County sanitary sewer district? **No**

Attached is a copy of the Policy for Extending District Boundaries in a Sussex County Water and/or Sanitary Sewer District.

(7). Is project adjacent to the Unified Sewer District? **No**

(8). Comments: **Click or tap here to enter text.**

(9). Is a Sewer System Concept Evaluation required? **Not at this time**

(10). Is a Use of Existing Infrastructure Agreement Required? **Not at this time**

(11). **All residential roads must meet or exceed Sussex County minimum design standards.**

UTILITY PLANNING & DESIGN REVIEW APPROVAL:

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

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





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

NICOLE MAJESKI  
SECRETARY

September 14, 2021

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

Dear Mr. Whitehouse:

The Department has completed its review of a Service Level Evaluation Request for the **Jeffrey Behney** proposed land use application, which we received on August 31, 2021. This application is for an approximately 10.65- acre parcel (Tax Parcel: 333-15.00-20.00). The subject land is located on the northeast corner of Bethel Road (Sussex Road 419) and Parker Road (Sussex Road 415). The subject land is currently zoned AR-1 (Agriculture Residential) with a proposed zoning of C-2 (Medium Commercial) for a 15,000 S.F. indoor range and retail.

Per the 2019 Delaware Vehicle Volume Summary, the annual average daily traffic volume along Bethel Road from Hudson Road (Sussex Road 418) to Millsboro Road (State Route 26), is 597 vehicles per day. The annual average daily traffic volume along Parker Road is 181 vehicles per day.

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

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



Mr. Jamie Whitehouse  
Page 2 of 2  
September 14, 2021

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

Sincerely,



T. William Brockenbrough, Jr.  
County Coordinator  
Development Coordination

TWB:afm

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