



STATE OF DELAWARE  
EXECUTIVE DEPARTMENT  
OFFICE OF MANAGEMENT AND BUDGET  
STATE PLANNING COORDINATION

March 23, 2007

Mr. Robert Ball  
321 Fox Chase Road  
Felton, De 19943

RE: PLUS review – PLUS 2007-02-01; Bob's Canine Property

Dear Mr. Ball:

Thank you for meeting with State agency planners on February 28, 2007 to discuss the proposed plans for the Bob's Canine Academy property to be located at 243 S. DuPont Highway, south of Harrington.

According to the information received, you are seeking a rezoning of 2.00 acres from AR to C-4 for an unknown commercial use. According to the PLUS application you are seeking a rezoning through Kent County and intend on selling the property for an unknown commercial use once it is rezoned.

This proposal is located in Investment Level 4 according to the Strategies for State Policies and Spending, and is outside the growth zone according to the Kent County Comprehensive Plan. **The comments in this letter are technical, and are not intended to suggest that the State supports this development proposal. This letter does not in any way suggest or imply that you may receive or may be entitled to permits or other approvals necessary to construct the development you indicate or any subdivision thereof on these lands.**

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. Any new development on this property will need to comply with any Federal, State and local regulations regarding this property. We also note that as Kent 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.

The following are a complete list of comments received by State agencies:

**Office of State Planning Coordination – Contact: David Edgell 739-3090**

This project represents a major land development that will result in a commercial use in an Investment Level 4 area according to the *Strategies for State Policies and Spending*. This project is also located outside the growth zone according to Kent County's certified comprehensive plan. Investment Level 4 indicates where State investments will support agricultural preservation, natural resource protection, and the continuation of the rural nature of these areas. New development activities and suburban development are not supported in Investment Level 4. These areas are comprised of prime agricultural lands and environmentally sensitive wetlands and wildlife habitats, which should be, and in many cases have been preserved.

From a fiscal responsibility perspective, development of this site is likewise inappropriate. The cost of providing services to development in rural areas is an inefficient and wasteful use of the State's fiscal resources. The project as proposed has the potential to bring a commercial use to an area where the State has no plans to invest in infrastructure upgrades or additional services. The commercial activities and employees will need access to services and infrastructure such as police and transportation. To provide some examples, the State government funds 100 percent of roads and paratransit services, and the cost of police protection in the unincorporated portion of Kent County where this development is proposed. Over the longer term, the unseen negative ramifications of this development will become even more evident as the community matures and the cost of maintaining infrastructure and providing services increases.

Because the development is inconsistent with the *Strategies for State Policies and Spending*, the State is opposed to this proposed rezoning.

**Division of Historical and Cultural Affairs – Contact: Alice Guerrant 739-5685**

The Division of Historical and Cultural Affairs opposes this rezoning to commercial use in Level 4. This will further adversely affect the historic agricultural landscape in this area. The parcel contains an early-20<sup>th</sup>-century, concrete block house (K-4679), which does not appear to be eligible for the National Register of Historic Places. There is a moderate potential for a prehistoric-period archaeological site here, although existing development has probably already partially disturbed any site. There is already sufficient

landscaping around the parcel to prevent any visual intrusions on the adjacent agricultural landscape

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

- 1) The subject land is adjacent to US Route 13, and is therefore subject to DelDOT's Corridor Capacity Preservation Program. The main goal of the Program is to maintain the capacity of the existing highway. According to the Office of State Planning Coordination's *Strategies for State Policies and Spending* document, the property is located within a Level 4 Investment Area. In such areas, State policies encourage preservation of the open space, agricultural lands, natural habitats and forestlands that are typically found in such areas.

In a letter dated January 25, 2007, our CCPP manager, Mr. Charles Altevogt, stated that an entrance to serve the current use of the property, or similar uses, was acceptable. He also stated that any use that would generate more than 100 trips per day would not be acceptable.

What may not be clear from Mr. Altevogt's letter is that any significantly different use of the property would require a new entrance application and permit. The project manager for subdivision and entrance reviews in Kent County, Mr. Brad Herb, examined the current situation with regard to access and has identified a safety issue regarding the current entrance location. Specifically, vehicles exit the site too close to the crossover that is located opposite the south property line; the weaving maneuver they must make to reach that crossover would be too abrupt. Accordingly, if a new entrance application and permit were needed, the applicant would likely need to move the crossover just mentioned to a point north of the site entrance. As necessary, Mr. Altevogt may be reached at (302) 760-2124 and Mr. Herb may be reached at (302) 266-9600.

- 2) Regarding the proposed rezoning, as discussed above, DelDOT would not permit an entrance for a use that is expected to generate more than 100 trips per day. While they respect the County's authority to zone land as it finds appropriate, zoning a property for commercial use when it is limited to 100 trips per day could create a false expectation for potential buyers. DelDOT would recommend that the County not do that. At a minimum, the rezoning should specify the restriction that has been identified.

**The Department of Natural Resources and Environmental Control – Contact:  
Kevin Coyle 739-9071**

**Investment Level 4 Policy Statement**

This project is proposed for an Investment Level 4 area as defined by the *Strategies for State Policies and Spending* and is also located outside of a designated growth area in the relevant municipal and county certified comprehensive plans. According to the *Strategies* this project is inappropriate in this location. In Investment Level 4 areas, the State's investments and policies, from DNREC's perspective, should retain the rural landscape and preserve open spaces and farmlands. Open space investments should emphasize the protection of critical natural habitat and wildlife to support a diversity of species, and the protection of present and future water supplies. Open space investments should also provide for recreational activities, while helping to define growth areas. Additional state investments in water and wastewater systems should be limited to existing or imminent public health, safety or environmental risks only, with little provision for additional capacity to accommodate further development.

With continued development in Investment Level 4 areas, the State will have a difficult, if not impossible, time attaining water quality (e.g., TMDLs) and air quality (e.g., non-attainment areas for ozone and fine particulates) goals. Present and future investments in green infrastructure, as defined in Governor Minner's Executive Order No. 61, will be threatened. DNREC strongly supports new development in and around existing towns and municipalities and in areas designated as growth zones in certified Comprehensive Plans. DNREC encourages the use of transfer of development rights where this growth management tool is available.

This particular development certainly compromises the integrity of the State Strategies and the preservation goals inherent in many of DNREC's programs. While mitigating measures such as conservation design, central wastewater systems instead of individual on-site septic systems, and other best management practices may help mitigate impacts from this project, not doing the project at all is the best avenue for avoiding negative impacts. As such, this project will receive no financial, technical or other support of any kind from DNREC. Any required permits or other authorizations for this project shall be considered in light of the project's conflict with our State growth strategies.

**Water Supply**

The project information sheets state that an individual on-site well will be used to provide water for the proposed project. DNREC records indicate that the project is not located in an area where public water service is available. The Division of Water Resources will

consider applications for the construction of on-site wells provided the wells can be constructed and located in compliance with all requirements of the Regulations Governing the Construction and Use of Wells. A well construction permit must be obtained prior to constructing any wells.

Should dewatering points be needed during any phase of construction, a dewatering well construction permit must be obtained from the Water Supply Section prior to construction of the well points. In addition, a water allocation permit will be needed if the pumping rate will exceed 50,000 gallons per day at any time during operation.

All well permit applications must be prepared and signed by licensed water well contractors, and only licensed well drillers may construct the wells. Please factor in the necessary time for processing the well permit applications into the construction schedule. Dewatering well permit applications typically take approximately four weeks to process, which allows the necessary time for technical review and advertising.

Should you have any questions concerning these comments, please contact Rick Rios at 302-739-9944.

### **Sediment and Erosion Control/Stormwater Management**

A detailed sediment and stormwater plan will be required prior to any land disturbing activity taking place on the site greater than 5,000 square feet. The plan review and approval as well as construction inspection will be coordinated through Kent Conservation District. Contact Jared Adkins, Program Manager, at (302) 741-2600, ext. 3, for details regarding submittal requirements and fees.

A Notice of Intent (NOI) for Stormwater Discharges Associated with Construction Activity must be submitted to DNREC Division of Soil and Water Conservation along with the \$195 NOI fee prior to plan approval.

Applying practices to mimic the pre-development hydrology on the site, promote recharge, maximize the use of existing natural features on the site, and limit the reliance on structural stormwater components, such as maintaining open spaces, should be considered in the overall design of the project as a stormwater management technique. Green Technology BMPs must be given first consideration for stormwater quality management. Each stormwater management facility should have an adequate outlet for release of stormwater.

It is strongly recommended that you contact the reviewing agency to schedule a preliminary meeting to discuss the sediment and erosion control and stormwater

management components of the plan. The site topography, soils mapping, pre- and post-development runoff, and proposed method(s) and location(s) of stormwater management should be brought to the meeting for discussion.

A portion of the Bright Haines Tax Ditch pong is located on the North property line of the site, which has existing tax ditch rights-of-way. All conflicts within the rights-of-way must be resolved and all right-a-ways must be shown on the plan. The applicant is encouraged to work with the DNREC Drainage Program and the Bright Haines Tax Ditch Association to resolve any issues of tax ditch right-of-way or maintenance concerns. Contact Robert Enright with the DNREC Drainage Program at (302) 739-9921.

### **Drainage**

1. The proposed plan is located within the watersheds of the Marshyhope Tax Ditch and the Bright-Haines Tax Ditch. Sub 4 of Prong 10 of the Farmington Prong of the Bright-Haines Tax Ditch is located on the north side of the property. The Bright-Haines Tax Ditch has an established tax ditch right-of-way extending out 76 feet from the centerline of the tax ditch. Do not place anything permanent, such as structures, paved parking areas, or permanent stockpiles, within the tax ditch right-of-way.
2. Trees and shrubs planted within drainage easements should be spaced to allow for mechanized drainage maintenance or the reconstruction of drainage conveyances.
3. If this property is to be subdivided, have all drainage easements / tax ditch right-of-way recorded on deeds and place restrictions on obstructions within the easements to ensure access for periodic maintenance or future re-construction. Future property owners may not be aware of a drainage easement/tax ditch right-of-way on their property if the easement is only on the record plan. However, by recording the drainage easement on the deed, the second owner, and any subsequent owner of the property, will be fully aware of the drainage easement / tax ditch right-of-way on their property.

For questions or clarifications, please contact Jim Sullivan at 739-9921.

### **State Fire Marshal's Office – Contact: John Rudd 739-4394**

These comments are intended for informational use only and do not constitute any type of approval from the Delaware State Fire Marshal's Office. 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):

There was mention at the PLUS meeting that there may be consideration to placing a 60' by 60' or 80' by 80' building on site. If that is the case, at the time of formal submittal, the applicant shall provide a completed application, fee, and three sets of plans depicting the following in accordance with the Delaware State Fire Prevention Regulation:

- a. **Fire Protection Water Requirements:**
  - Since the structures of the complex are proposed to be served by individual on-site wells (No Central or Public Water System within 1000' of property), set back and separation requirements will apply.
  
- b. **Fire Protection Features:**
  - For commercial buildings greater than 5000 sqft, a fire alarm signaling system which is monitored off-site is required
  - For commercial buildings greater than 10,000 sqft Class B (2-hour rated) fire barriers are required to subdivide buildings into areas of 10,000 sqft or less
  - Buildings greater than 10,000 sqft, 3-stories or more, over 35 feet, or classified as High Hazard, are required to meet fire lane marking requirements
  
- c. **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.
  - Fire department access shall be provided in such a manner so that fire apparatus will be able to locate within 100 ft. of the front door.
  - 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 development or property.
  
- d. **Gas Piping and System Information:**
  - Provide type of fuel proposed, and show locations of bulk containers on plan.

e. **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)
- Provide Road Names, even for County Roads

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.delawarestatefiremarshal.com](http://www.delawarestatefiremarshal.com), technical services link, plan review, applications or brochures.

**Department of Agriculture - Contact: Scott Blaier 698-4500**

The proposed rezoning request is in an area designated as Investment Level 4 under the *Strategies for State Policies and Spending*. The *Strategies* do not support this type of zoning in this area. The intent of this plan is to preserve the agricultural lands, forestlands, recreational uses, and open spaces that are preferred uses in Level 4 areas. The Department of Agriculture opposes development which conflicts with the preferred land uses, making it more difficult for agriculture and forestry to succeed, and increases the cost to the public for services and facilities.

The Delaware Department of Agriculture supports growth which expands and builds on existing urban areas and growth zones in approved State, county and local plans. Where additional land preservation can occur through the use of transfer of development rights, and other land use measures, we will support these efforts and work with developers to implement these measures. If this project is approved we will work with the developers to minimize impacts to the agricultural and forestry industries.

**Public Service Commission - Contact: Andrea Maucher 739-4247**

Any expansion of natural gas or installation of a closed propane system must fall within Pipeline Safety guidelines. Contact: Malak Michael at (302) 739-4247.

**Department of Education – Contact: John Marinucci 739-4658**

This proposed project is on the line of the Lake Forest and Woodbridge School Districts. This is a commercial/industrial rezoning request with no apparent impact on educational infrastructure, capacity or demand. The DOE has no objections or comments regarding this commercial/industrial rezoning proposal.

**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,

A handwritten signature in cursive script that reads "Constance C. Holland".

Constance C. Holland, AICP  
Director

CC: Kent County



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

CAROLANN WICKS, P.E.  
SECRETARY

January 25, 2007

Mr. Ralph Hoag  
President  
Projects Unlimited, Inc.  
108 East Water Street  
Dover, DE 19901

Dear Mr. Hoag:

Thank you for the helpful information you provided after our meeting. I am writing to you in response to the rezoning inquiry you sent concerning your client who currently owns/operates Bob's Canine Academy. The subject 1.67 acre property is **Kent County tax parcel MN00-193.00-01-13.00**, which is located on the southbound lanes of US 13, about 2500 feet north of Andrewsville Road in Farmington, DE (see enclosure). The stated purpose is to explore a potential rezoning to commercial in anticipation of selling. Not stated is the current zoning, however, according to Kent County mapping the property is within a large AR (ag-residential) area.

I have also reviewed the request in accordance with the policy guidelines for the Corridor Capacity Preservation Program (CCPP). According to the *Strategies for State Policies and Spending* by the State Office of Planning Coordination, this location is well within a Level 4 investment area, where rural characteristics are intended to be preserved. The use as a canine academy or closely related use appears to be in keeping with this goal, and its traffic impact directly to the corridor is minimal. Therefore, an entrance to serve the current business is acceptable. I might add that DeIDOT Central District records dating to 1999 do not indicate existence of an approved commercial entrance for the current use. Please contact the Central District Permit Office at 760-2433 for questions on the application process.

Regarding the intent to seek commercial zoning, with respect to the CCPP, *if* the property were to be rezoned as intended, then any use that would expand the traffic volume beyond existing would not be acceptable, not to exceed 100 trips/day.

If you have any questions concerning this response, please contact me at 760-2124.

Sincerely,

A. Charles Altevogt  
Program Manager,  
Development Coordination

ACA:km  
Enclosure

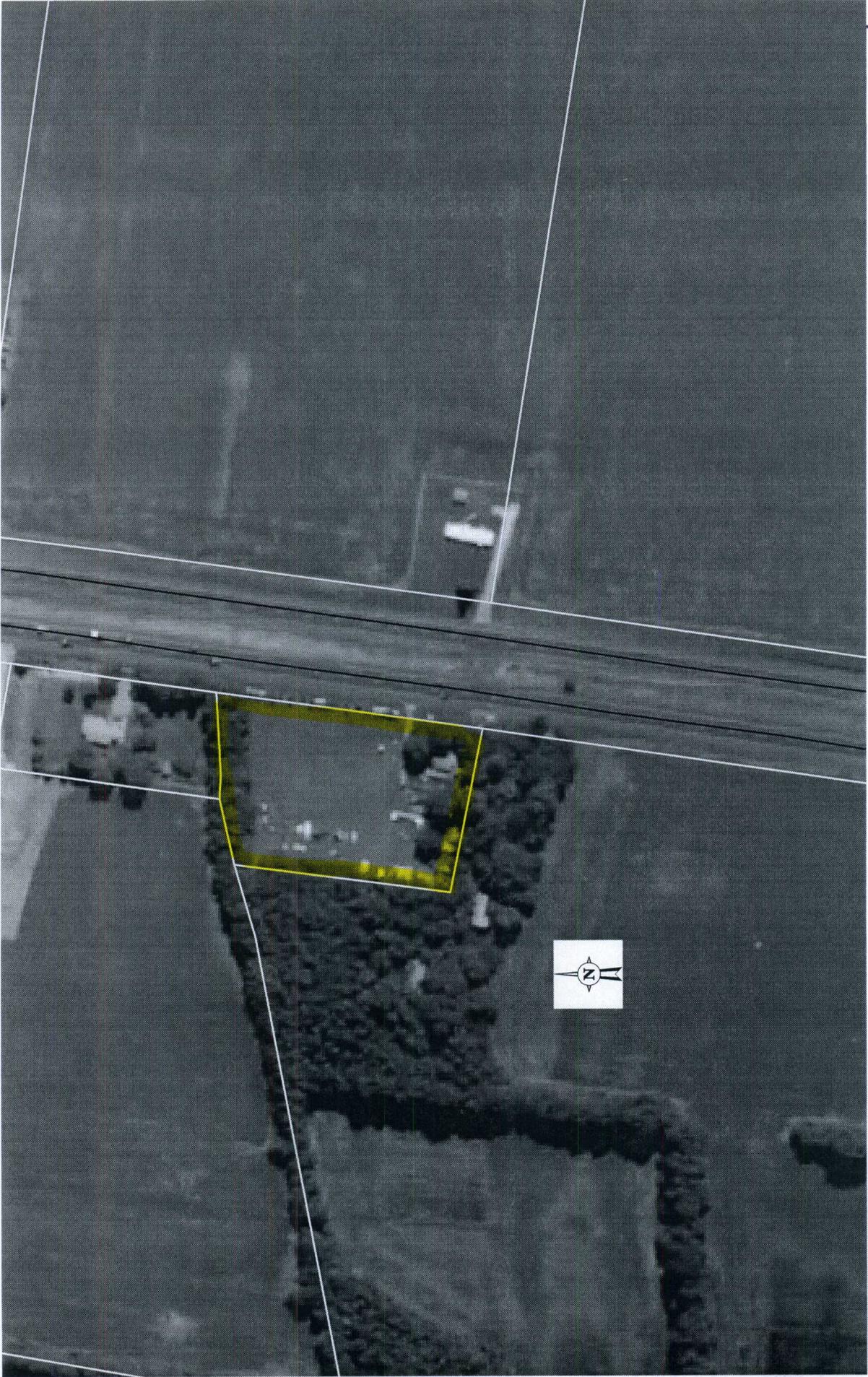
cc: Jill Usilton, Administrative Specialist, Central District  
Todd Sammons, Project engineer, Development Coordination  
Bob's Canine Academy, Inc., Owner





MAN00-193,00-01-13.00  
BAROSA PROPERTY (BOB'S CANINE ACADEMY)

FARMINGTON



2006 Aerial

MAN 00 - 193.00 - 01 - 13.00  
BARGOSA PROPERTY 1.67 acres

NORTH AZIMUTH BASED ON  
D/R X/46/81

WARREN J. MULLER  
A/21/446

ARLEEN TAYLOR JERREAD  
L/19/82

JUNANNE M. MEYER  
F/45/233

COUNTY ROAD 61  
ANDREWVILLE ROAD

I. PIN FOUND

287.11'

I. PIPE FOUND

N 16°00'00"E → 300.17'  
(TOTAL)

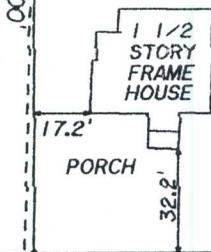
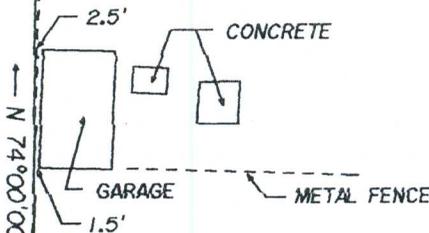
WIRE FENCE

C/L DITCH

1.674 ACRES +/-

S 86°00'00"E →

230.03'



0.44  
MILES  
+/-

RAIL FENCE

← S 16°00'00"W 348.00'

U.S. ROUTE 13  
SOUTH DUPONT HIGHWAY

POINT OF BEGINNING  
COMMENCING POINT

*Level 4 investment area.*

BUYER:  
ROBERT BALL

THE ACCURACY OF THIS SURVEY  
EXCEEDS THE MINIMUM STANDARDS  
FOR A CLASS "B" SURVEY.

I CERTIFY THAT THE IMPROVEMENTS  
INDICATED HEREON ARE LOCATED  
AS SHOWN.

**ROBERT L. LARIMORE**  
**PROFESSIONAL LAND SURVEYOR**

REGISTERED  
ROBERT L. LARIMORE  
P. NO. 3592  
DELAWARE

MN-00-193.00-01-13.00-000

LUIS BARBOSA	
CARMEN BARBOSA	
MISPILLION HUNDRED	
KENT COUNTY, DELAWARE	
ROBERT L. LARIMORE LAND SURVEYOR WYOMING, DE.	1" = 60' 10-20-98 B48A-64