

**TO:** Township of Hardyston, Planning Board

**FROM:** Leigh Fleming, PP, AICP

**RE:** Eastern Concrete Materials, Inc.  
Scenic Lake Road and Route 23  
Block 14, Lots 4, 5, 6.01, 7, 14, 15, 20 and 22.01  
*Preliminary & Final Site Plan, Minor Subdivision, Conditional Use*

**DATE:** April 9, 2020 – Revised October 3, 2020

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As requested, we have reviewed the following application materials:

- Land Use Application including Schedule A Checklist, Administrative Checklist, and List of ancillary approvals, and owner disclosure, received by Township, March 5, 2020; Resubmission received August 18, 2020;
- Proposed Minor Subdivision, Block 14, Lots 7, 15, and 22.01, prepared by Boswell Engineering, dated November 2019, consisting of 4 sheets; no revision date;
- Soil Erosion and Sediment Control Plan, Block 14, Lots 7, 15, and 22.01, prepared by Boswell Engineering, dated February 2020, consisting of 9 sheets;
- Site Plan, Block 14, Lots 7, 15, and 22.01, prepared by Boswell Engineering, dated December 2019, consisting of 9 sheets; and
- Survey, Block 14, Lots 7 and 22.01, prepared by Boswell Engineering, dated December 20, 2019, consisting of 4 sheets;
- Correspondence from applicant's engineer, Boswell Engineering, dated August 7, 2020, received August 18, 2020;
- Stormwater Pollution Prevention Plan, prepared by Compliance Plus Services, Inc., dated July 2018;
- New Jersey Department of Environmental Protection Authorization to Discharge R13-Mining and Quarrying Activity Stormwater General Permit for Hamburg Quarry, Dated April 1, 2007;

Lots 6.01, 7, 15, and a portion of Lot 22.01 are located in the I-3 Industrial/Quarry Zone District. § 185-26.C permits quarries as a conditional use. Conditional Use applications appear before the Planning Board when all conditions are met and are heard by the Zoning Board of Adjustment if at least one condition is not met. At this time, the applicant has provided written statements from the applicant's professionals stating the application meets all requirements of the conditional use.

**Further, the applicant has maintained that they will fully comply with all conditional use requirements. See the "Conditional Use Requirements" and the "Planning Comments Item 3"**

**sections of this report for additional information related to the conditional use requirements. At this time the submitted plans do not indicate whether all conditional use requirements have been met. The application is incomplete.**

**The Planning Board may request supplemental materials to confirm the satisfaction of these conditions. Should the Planning Board determine that at least one of the conditions has not been met, the application will have to be transferred to the Zoning Board of Adjustment.**

### **Site History**

The applicant's site has been part of multiple Township of Hardyston Planning documents. The 2019 Township of Hardyston Master Plan Reexamination Report recommended the creation of the I-3 zone and permitting quarrying as a conditional use in this zone. The Plan recommended rezoning Block 14, Lots 6.01, 7, and 15 to the newly created I-3 Zone. The Master Plan Reexamination Report also included Lot 22.01 in Block 14, which at that time was zoned as Commercial Recreation (C-R), and proposed that the property be subdivided. The southern portion was recommended to be rezoned into the OSGU: Open Space/Government Use Zone, while the northern portion was recommended to be rezoned to the new I-3 Industrial Zone.

The Township rezoned the aforementioned parcels through the adoption of Ordinance 2019-11 on August 28, 2019 which is reflected in the Township's updated Zone Map dated August 2019.

The subdivision and conditional use application before the Board is the next step in this process.

### **Property Description & Zoning**

The overall property noted in the application consists of eight contiguous parcels identified as Block 14, Lots 4, 5, 6.01, 7, 14, 15, 20 and 22.01 and has a combined area of approximately 550.48 acres.

The quarry owns properties identified as Block 14, Lots 4, 5, 14, and 20 which are not part of the quarry operation itself, and therefore are not subject to the preliminary and final site plan and conditional use application. Lots 4 and 5 which are in the MIDD5 – Minimum Impact Development Zone District; Lot 14 which is in the B-1 Neighborhood Business Zone District; and Lot 20 which is in the CR – Commercial Recreation Zone District.

It is recommended that the applicant remove Lots 4, 5, and 20 from the submitted application since these parcels are not part of the I-3 - Industrial/Quarry Zone District and no quarrying is proposed in these areas. While Lot 14 is also not in the I-3 - Industrial/Quarry Zone District and the application currently indicates no quarrying is proposed, it is recommended Lot 14 remain in the

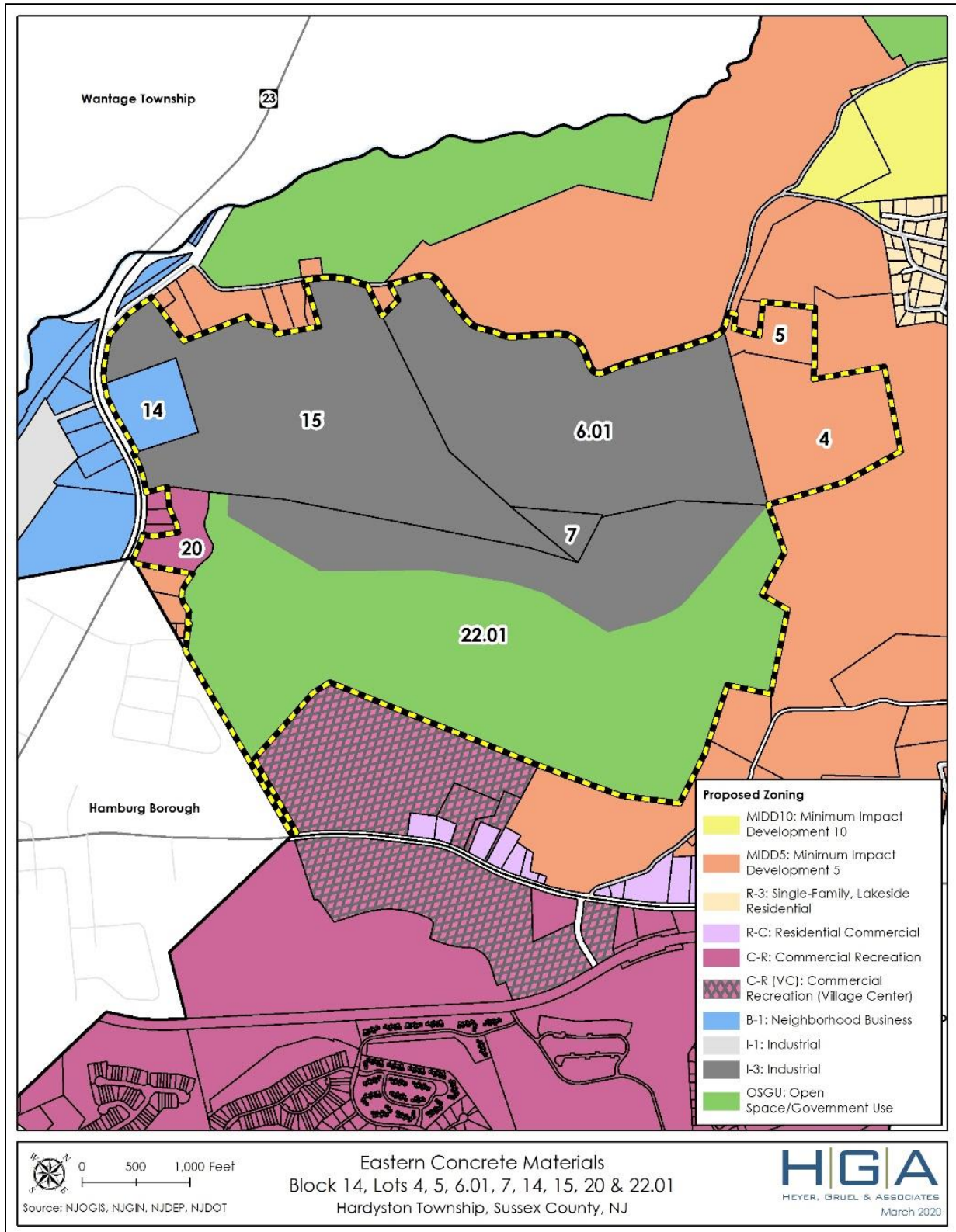
application because remnants from previous quarrying activities exist within the lot and the lot has not been rehabilitated.

The subject site of this application consists of four properties which are located in two separate zone districts. Lots 6.01, 7, and 15 are located in the I-3 - Industrial/Quarry Zone District; and Lot 22.01 is split-zoned. The northern portion of Lot 22.01 is located in the I-3 – Industrial/Quarry Zone District and the southern portion is located in the OSGU – Open Space Government Use Zone District. The combined area of the application site is approximately 489.69 acres.

The site has frontage along Route 23 and Scenic Lake Road and abuts the Hamburg Borough municipal border. There are existing residential uses located to the west of the property with frontage along Scenic Lake Drive. The site is an existing quarry operation.

Quarries are permitted as a conditional use in the I-3 – Industrial/Quarry Zone District.

A map depicting the zoning of the site is shown on the following page:



**Project Proposal**

The applicant is seeking minor subdivision approval for Block 14, Lots 7, and 22.01. The applicant is proposing to subdivide Lot 22.01, which is split zoned between the I-3 Industrial/Quarry and OSGU – Open Space Government Use Zone District, to eliminate the split zoned condition of Lot 22.01, and furthering a recommendation of Hardyston’s 2019 Master Plan Reexamination Report. The northern portion of existing Lot 22.01, which is located within the I-3 Industrial/Quarry and existing Lot 7 would be then be consolidated with Lots 6.01 and Lot 15.

The remaining portion of 22.01 which is south of the proposed subdivision line, would then be entirely located within the OSGU – Open Space Government Use Zone District.

In addition to the minor subdivision approval, the applicant is seeking conditional use and preliminary and final site plan approval for the new consolidated lot. Existing Lot 7 and the northern portion of existing Lot 22.01 would be combined and the quarry operation expanded.

The existing quarry operations that are located on Lots 6.01 and 15 are proposed to remain unchanged. The applicant is proposing a 15-foot-wide access road which would connect to an existing driveway located on Lot 15 and then travel along the proposed subdivision line. Additionally, the applicant is proposing additional trees along the new consolidated Lot’s boundary with Lots 4 and 5.

<b>Bulk Requirements for the I-3 Industrial/Quarry Zone Block 14, Lots 6.01, 7, 15 and northern portion of Lot 22.01</b>				
	<b>Required</b>	<b>Existing</b>	<b>Proposed</b>	<b>Variance</b>
Minimum Lot Area	3 acres	0	299 acres (13,025,946.8 SF)*	No
Minimum Lot Width	200'	1,350'	1,350'	No
Minimum Front Yard Setback*	75'	1,000'	1,000'	No
Minimum Side Yard Setback (each)	40'	500'	500'	No
Minimum Rear Yard Setback	50'	5,000'	5,000'	No
Maximum Impervious Lot Coverage	50%	1%	1%	No
Maximum Height	40'	40'	40'	No
Minimum Distance Between Quarry Operation and Exterior Property Line	50'	50'	50'	No
Minimum Distance Between Processing Facility and Residence*	100'	600'	600'	No

\*The applicant stated the proposed area is 2,986,673.6 square feet, however, that is the combined area of existing Lot 7 and the I-3 portion of Lot 22.01. It appears the intention is to merge this area with existing Lots 15 and 6.01, creating one consolidated Lot. The applicant shall clarify which properties the new consolidated lot will consist of and the proposed area shall be updated to reflect the total area of the entire consolidated lot.

\*\*Setbacks/buffer areas have not been clearly delineated on plans.

Uses permitted in the OSGU Open Space Governmental Use Zone are specified in §185-102. The applicant has not provided information relating to use for the southern portion of 22.01.

<b>Bulk Requirements for Open Space Governmental Use Zone Block 14, southern portion of Lot 22.01</b>			
	<b>Required</b>	<b>Proposed</b>	<b>Variance</b>
Minimum Lot Area	25 acres	190.8 acres (8,312,915.1 SF)	No
Minimum Front Yard Setback	300'	22.19'	<b>YES</b>
Minimum Side Yard Setback	200'	783.32'	No
Minimum Rear Yard Setback	300'	151.56'	<b>YES</b>
Maximum Impervious Lot Coverage	5%	0%	No
Maximum Height	2 ½ stories/35'	0'	No

The applicant lists that 41 parking spaces are provided on the site which satisfies the 29 parking space requirement, however, due to the nature of a quarry these spaces are not depicted on the site plan. The applicant shall provide testimony addressing the parking requirements of the site.

**Conditional Use Requirements**

Quarries are a permitted conditional use the I-3 Industrial Quarry Zone and are subject to the condition in §185-58.DD:

1. There shall be a minimum of 50 feet between any quarry operation and exterior property line. The applicant depicts a 50-foot distance from the exterior property line on the plans. The limits of the quarry operation are labeled as the lot lines; therefore, it is unclear if the

- requirement is met. Additionally an access road is depicted within the 50-foot distance from the exterior property line.
2. Full buffering and a landscaping plan which would include a minimum of 50 feet of planted deciduous and evergreen trees between any quarry operation and exterior property lines where the minimum one-hundred-foot buffer is required to be maintained. Aerial imagery indicates there is a planted area within the property line which borders the residences located to the west of the quarry. The applicant shall provide confirmation that the existing planted area is 50 feet deep or depict proposed supplemental plantings on the site plan.
  3. The maximum height of any structure, machinery or stockpile shall not exceed 40 feet. Correspondence dated August 7, 2020 states no structures or stockpiles exceed 40 feet.
  4. No operation of the processing facilities shall be carried out within 100 feet of a residence. The site plan depicts a 100-foot buffer along the rear property lines of the residences along Scenic Lake Road. The limits of the quarry operation are labeled as the lot lines; therefore, it is unclear if the requirement is met.
  5. All processing facilities shall operate only between the hours of 7:00 a.m. and 7:00 p.m. The site plan and correspondence dated August 7, 2020 state operating hours are limited to between 7:00 a.m. and 7:00 p.m..
  6. The maximum noise level measured at the property line [shall] not exceed the standards set forth in N.J.A.C. 7:29. Correspondence states the operation meets all state noise level requirements.
  7. Expansion of an existing quarrying operation shall require the creation of public or private contiguous open space equal to a minimum of 2.5 times the additional quarry acreage. 2.5 times the proposed expansion yields 171.4 acres, the proposed area of Lot 22.01 to remain in the OSGU Zone is 190.8 acres.
  8. An application for a conditional use shall include a plan for the rehabilitation and reuse of the site demonstrating that the site has a viable and realistic reuse after the site is exhausted of material. The application includes a reuse plan depicting warehousing on the site.
  9. A conditional use application for a proposed quarry operation or expansion of an existing quarry shall include all requirements stipulated in §138-7 of Chapter 138, Quarrying. The applicant has stated that all existing drainage, parking, lighting, signage, and traffic



circulation will remain and are not proposed to change. The applicant has submitted a Stormwater Pollution Prevention Plan and current NJDEP Permits.

- a. In reviewing a conditional use application for a proposed quarry operation, the Planning Board shall give careful consideration to the usual items of site plan review, including drainage, impact on adjacent uses, impact on subsurface water, landscaping, parking, lighting, signs, traffic and circulation and safety. The applicant has requested a waiver for some of these items since the site is currently operating as a quarry and conditions are not proposed to change. The applicant has submitted a Stormwater Pollution Prevention Plan and current NJDEP Permits.
- b. The board shall consider factors noted in §138-7 in approving a conditional use, the Planning Board may attach reasonable conditions to assure safety, minimize adverse impacts and ensure that the quarry operation meets the intent of Chapter 138, Quarrying, and the Master Plan of the Township. These conditions may include, but are not limited to, landscaping and buffering, fences and other safety devices, access restricted to county, state or major Township roads and rehabilitation and restoration measures to be implemented during the quarry operation. The Planning Board shall give careful consideration to a proposed re-use plan which would indicate the extent and phasing of the quarry operation in a manner which would allow the reuse of the property for its zoned purpose. The applicant has submitted a reuse plan of the site.

### **VariANCES Required**

There are no bulk variances associated with the quarry operation. The following variances are required for the proposed Open Space Governmental Use Parcel only:

- **§185-103.A(2) Minimum Front Yard Setback** - Whereas the Open Space Governmental Use Zone Requires a 300-foot front yard setback and 22.19 feet is provided.
- **§185-103.A(4) Minimum Rear Yard Setback** - Whereas the Open Space Governmental Use Zone Requires a 300-foot rear yard setback and 151.56 feet is provided.

### **Waivers Requested**

1. Building Plans showing Elevations – The applicant has stated that this item is not applicable. As no new buildings are proposed our office takes no exception to the granting of this waiver.



2. Affordable Housing Compliance Plan - The applicant has stated that this item is not applicable. Our office takes no exception to the granting of this waiver since no improvements are proposed.
3. Confirmation of Proposed Lot Numbers - The applicant has stated that this item is not applicable. Our office takes no exception to the granting of this waiver. Any new lot numbering which is the result of the proposed subdivision is subject to approval by Hardyston's Tax Assessor.
4. Storm Sewer, Sanitary Sewer and Water Plans and Profiles - The applicant has stated that this item is not applicable. Our office defers to the Board Engineer.
5. Construction Cost Estimate (Preliminary and Final Site Plan) - The applicant has stated that this item is not applicable. Our office defers to the Board Engineer.

## **Planning Comments**

### *Variance Relief*

1. The bulk schedule for the proposed lot to be located in the OSGU – Open Space Governmental Use Zone indicates that the applicant requires two (2) “c” variances for minimum front yard and minimum rear yard setbacks. The applicant has not submitted site plans for this proposed parcel; therefore, this office cannot confirm the required variance relief. The overall site plan indicates that there are some structures located on the site which may be existing non-conformities. The applicant shall provide testimony about these existing structures, their location, and if they are still in use or can be removed.
2. C Variances: The applicant requires c-variance for relief minimum front yard and minimum rear yard setbacks for the **OSGU – Open Space Government Use Zone District**. The applicant shall provide variance testimony that demonstrates how the request for relief may be granted based on one of the standards provided in the MLUL at N.J.S.A. 40:55D-70c:
  - a. Positive criteria: There are two types of c variances – the **c(1) hardship** and the **c(2) flexible variance**.
    - i. The c(1) “hardship” criteria states that a “hardship” will occur if the variance is not granted. The hardship relates to the physical or topographical features of the property and cannot relate to financial or personal hardship. Hardship relating to the property can include:
      1. Narrowness, shallowness, or irregular shape

2. An exceptional topographic condition
3. Other unique conditions or features affecting the property
  - ii. The c(2) flexible variance, or “broad c,” requires a finding that the proposed variance relief further the purposes of the MLUL and that the benefits of granting the variance will substantially outweigh any detriments.
- b. Negative Criteria: The applicant must satisfy the two-prong test of the negative criteria:
  - i. The variance can be granted without substantial detriment to the public good; and
  - ii. The variance can be granted without causing substantial detriment to the zone plan.

The applicant's testimony regarding the negative criteria should address any potential impacts that the proposed variances may have on the surrounding area, as well as how the proposed development is consistent with, or in potential conflict with, both the zoning ordinance and the Township's Master Plan.

#### *Conditional Use*

3. Based on the applicant's submission it appears that the project meets the conditional use requirements, however, supplemental information needs to be provided to confirm that all conditions have been met.
  - a. The submitted subdivision plan labeled the limits of the existing quarrying operation; however, the labels are contiguous with the lot lines of Lots 15 and 6.01. These markers help the Board and the Board's professionals understand which properties are involved in the quarrying operation, but it not representative of the limits of the actual quarrying operation.
  - b. Conditional use requirements for this zone include setbacks based on the limits of the actual quarrying. The applicant depicts a 50-foot setback from all of the property lines but it is unclear if the quarry operation is within the setback limits or not. The applicant shall revise their plans to reflect the limits of where the quarrying will take place to ensure that the 50-foot setback requirement from external property lines is being met.
  - c. The Plans show a 100-foot setback from the external property line for the entire proposed consolidated lot. A 100-foot buffer is only required where the property

- abuts a residence. The applicant shall amend the application to only show the 100 feet where required to avoid confusion regarding whether or not the project meets the setback requirements.
- d. Where the 100-foot buffer to residences is required there shall be a 50-foot landscape buffer. The plans show a 100-foot setback from the external property line along these residential uses, but the 100-foot setback crosses over existing holes from the quarrying operation. The applicant shall demonstrate the depth of the existing wooded area inside the external property line which borders these residential uses to demonstrate the 50-foot buffer is existing and how it will be supplemented if necessary. The applicant shall provide additional testimony to if this area will be further quarried.
  - e. The site plan labels the 50-foot landscape buffer within the 50-foot setback, along the proposed subdivision line, however, there is a 15-foot-wide proposed road within this area. The applicant is not required to provide a 50-foot buffer in this area as this portion of the property abuts the OSGU Zone District and not a residence. The applicant shall update the plan to clarify that this area will contain a road and not trees.
  - f. Noise levels measured at the property line shall not exceed the standards set forth in N.J.A.C. 7:29. The applicant shall provide information related to recorded and projected noise levels at property lines.

*General Site Plan*

4. The applicant shall provide testimony about the proposed use of the southern portion of existing Lot 22.01 to confirm compliance with permitted uses in the OSGU – Open Space Government Use Zone District.
5. The applicant is proposing to subdivide existing Lot 22.01 along the existing zone line. The plans are unclear about the consolidation of the I3 – Industrial/Quarry zone portion of 22.01 and Lot 7 with existing Lots 6.01 and 15. The Plan lists the proposed lot area resulting from the subdivision as 2,986,673.6 square feet, which only represents the area of the I-3 portion of Lot 22.01 and Lot 7. There is e-mail correspondence from the applicant with the Tax Assessor stating that Lot 7 and the I-3 portion of Lot 22.01 will be transferred to Lots 6.01 and 15. The applicant shall clarify the proposed property transfer and consolidation, and update the proposed area in the bulk schedule accordingly.

6. The applicant has indicated on the Site Plan cover sheet that there are 41 parking spaces. By nature of the use, parking spaces are not striped as there is no formal paved parking lot. The applicant shall provide testimony to the provided parking.
7. The applicant depicts additional trees to be installed along the lot line Lot 6.01 shares with neighboring Lots 4 and 5. Is the purpose of this landscaping to provide a buffer to the adjacent residential area in the MIDD5 – Minimum Impact Development 5 Zone? The applicant shall provide testimony to confirm.
  - a. The applicant shall provide additional testimony to why trees are proposed along the aforementioned lot line and not along the property's boundary with the residential lots which border the property to the west and front on Scenic Lake Road.
8. The applicant has not provided any information related to lighting and is requesting a waiver because no changes are proposed. The applicant shall provide testimony to the existing lighting on the site, including lighting attached to any machinery. The applicant shall further clarify if the lighting is proposed to be moved throughout the site or remain stationary. Will the lighting on the site operate outside of business hours?
9. Per one of the conditional use requirements, the applicant submitted a Site Reuse Plan. The Site Reuse Plan on Sheet 17 of the Site Plan depicts a proposed driveway which connects to Route 23, and the construction of seventeen (17) warehouses on the site. The proposed limit of development is based upon the area of the site once it has been exhausted of materials per the 10-year Excavation Plan.
  - a. The applicant shall provide testimony about how realistic this potential reuse is. Will the site be able to be fully graded to accommodate these warehouses? What will be the grade change and slope from Route 23 to the “base” of the site where the proposed warehouses will be located?
  - b. The applicant shall provide testimony to the viability of utilities for these proposed warehouses including electric and wastewater. Modern warehouses have become increasingly automated and have higher infrastructure demands.
10. Lot numbering is subject to review and approval by the Township Tax Assessor prior to the filing of any approved subdivision and lot consolidation.
11. The applicant is responsible for acquiring all necessary approvals, including but not limited to, Soil Conservation District, NJDEP, County Planning Board.



**Aerial Map of Property**

