



C 2461-30

September 13, 2022

Laura Mensch, Regulatory Programs Director  
Delaware Coastal Management Program  
Delaware Department of Natural Resources and Environmental Control  
100 Water Street, Suite 7B  
Dover, Delaware 19904

**SUBJECT: COASTAL ZONE CONSISTENCY CERTIFICATION**

Dear Ms. Mensch:

I am submitting this completed Coastal Zone Management Act Federal Consistency Form including attachments on behalf of our client, the Todmorden Foundation. Our client owns the 0.83-acre subject property located at the 400 block of Bayard Avenue and Ferris Street between West 4th and West 5th streets in Wilmington, New Castle County, Delaware. The subject property was historically developed as high-density residential and remained in use from approximately 1920 to 2019 when the buildings were demolished. The proposed plan is to construct new high-density residential housing for low-income senior citizens.

No State-regulated or Federally-regulated tidal or non-tidal wetlands or subaqueous lands were affected by the historical land use or the proposed project, so the U.S. Army Corps of Engineers or the Delaware Department of Natural Resources & Environmental Control Wetlands Section were not contacted for permit-related issues.

No adjacent or nearby sites identified by the Delaware Cultural and Historic Resource Information System (CHRIS) will be affected by this project.

Please contact me if you have any questions or require additional information.

Sincerely,

A handwritten signature in blue ink that reads "Craig S. Smith". The signature is fluid and cursive.

Craig S. Smith, PWS  
Environmental Scientist

Attachments: Location Map  
NWI Map  
Historical & Cultural Resources Map  
FEMA Floodplain Map

Landmark Science & Engineering  
Corporate Headquarters

Christiana Executive Campus, 200 Continental Drive, Suite 400, Newark, DE 19713 | info@landmark-se.com | www.landmark-se.com  
Maryland Branch  
Aberdeen, Maryland | 410.939.2144

Corporate Headquarters  
Newark, Delaware | 302.323.9377



Initial Review: \_\_\_\_\_  
Updated On: \_\_\_\_\_  
Complete: \_\_\_\_\_  
Official Use Only

### Coastal Zone Management Act Federal Consistency Form

This document provides the Delaware Coastal Management Program (DCMP) with a Federal Consistency Determination or Certification for activities regulated under the Coastal Zone Management Act of 1972, as amended, and NOAA's Federal Consistency Regulations, 15 C.F.R. Part 930. Federal agencies and other applicants for federal consistency are not required to use this form; it is provided to applicants to facilitate the submission of a Consistency Determination or Consistency Certification. In addition, federal agencies and applicants are only required to provide the information required by NOAA's Federal Consistency Regulations.

<b>Project/Activity Name:</b>	Wilmington Flats Phase 5
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**I. Federal Agency or Non-Federal Applicant Contact Information:**

Contact Name/Title: Ian Rawhauser

Federal Agency Contractor Name (if applicable): \_\_\_\_\_

Federal Agency: Department of Housing and Urban Development  
(either the federal agency proposing an action or the federal agency issuing a federal license/permit or financial assistance to a non-federal applicant)

Mailing Address: 8 West King Street, Suite 821

City: Lancaster State: PA Zip Code: 17603

E-mail: IRawhauser@hdcweb.org Telephone #: 717-826-1606

**II. Federal Consistency Category:**

- Federal Activity or Development Project (15 C.F.R. Part 930, Subpart C)
- Outer Continental Shelf Activity (15 C.F.R. Part 930, Subpart E)
- Federal Financial Assistance (15 C.F.R. Part 930, Subpart F)
- Federal License or Permit Activity (15 C.F.R. Part 930, Subpart D)
- Federal License or Permit Activity which occurs wholly in another state (interstate consistency activities identified in DCMP's Policy document)

**III. Detailed Project Description (attach additional sheets if necessary):**

The proposed project (Phase 5) is to construct a new phase of high-density residential housing for seniors on the site where high-density residential housing was constructed circa 1020 and demolished in 2019. The 0.83-acre subject property is limited to the 400 block of Bayard Avenue and Ferris Street between West 4th and West 5th streets in Wilmington, Delaware, and is further identified as tax parcel 26-026.20.003.

**IV. General Analysis of Coastal Effects** (attach additional sheets if necessary):

Landmark Science & Engineering, Inc. has determined that the proposed "Wilmington Flats, Phase 5" complies with Delaware's approved coastal management program and will be conducted in a manner consistent with such program. The site is located over a mile from the nearest water body, which is Brandywine Creek. Therefore there should be no impacts on any coast.

**V. Detailed Analysis of Consistency with DCMP Enforceable Policies** (attach additional sheets if necessary):

**Policy 5.1: Wetlands Management**

No Waters of the U.S. including wetlands were encountered or observed on or near the subject property during the February 28, 2022 site investigation by Landmark Science & Engineering as part of the Phase I Environmental Site Assessment. According to the USDA Soil Survey, the subject property is underlain by Neshaminy-Urban land complex which is not considered a hydric soil. Neither the U.S Fish & Wildlife Service (USFWS) National Wetlands Inventory (NWI) map nor the Delaware State Wetlands Mapping program indicate waters or wetlands on or near the subject property. The USFWS IPaC report also confirmed that no wetlands were present on the subject property. For details, see the attached USDA soil survey map, NWI map, State wetlands map, and IPaC report excerpt.

**Policy 5.2: Beach Management**

No beaches are present on or adjacent to the subject property.

**Policy 5.3: Coastal Waters Management** (includes wells, water supply, and stormwater management. Attach additional sheets if necessary)

No streams, surface waters, or exceptional recreational or ecological significance (ERES waters) are present within the subject lot. Stormwater from the site goes to Stormtech infiltration basins on-site, with the remainder going to catch basins in the surrounding streets, and then to the City of Wilmington stormwater system. The majority of the subject property will be covered with buildings, but the remainder will be stabilized with maintained vegetation.

**Policy 5.4: Subaqueous Land and Coastal Strip Management**

The subject property is located within a high-density residential area and will remain in use as high-density residential. Thus, the proposed use of the lot is consistent with its current zoning. The project will not negatively affect Delaware's coastal strip or bays. No tidelands, submerged lands, or Subaqueous Lands are present within the subject lot. The project does not meet the qualifications of "heavy industrial" or "manufacturing" as defined in section 5.4.6-7 of the Delaware Coastal Management Program Policies. No operations will take place within the lot involving leasing for mineral development, seismic surveys, drilling, deepening or plugging back of any offshore oil or gas wells, dredging, or the contamination of the ocean or beaches.

**Policy 5.5: Public Lands Management**

Public lands are not present within the subject property.

**Policy 5.6: Natural Lands Management**

Natural preserves are not present within the subject property. The project site has been in high-density residential land use since circa 1920 and is surrounded by other existing high-density residential properties.

**Policy 5.7: Flood Hazard Areas Management**

Based upon flood insurance rate map (FIRM) number 10003C0065K dated January 22, 2020, the subject property is located in an area designated as "X" (unshaded) which is an area determined to be outside of the 500 year floodplain. The FEMA National Flood Hazard Layer Map is enclosed depicting that the subject lot is not located within a Flood Hazard Area.

**Policy 5.8: Port of Wilmington**

The subject property is located over two miles from the Port of Wilmington.

**Policy 5.9: Woodlands and Agricultural Lands Management**

The subject property was developed as a high-density residential parcel circa 1920. The original residential dwellings were razed in 2019 for safety purposes. Afterward, the subject property was graded and seeded. No woodlands or agricultural lands are situated on or near the subject property. The subject property will be landscaped in accordance to the current City of Wilmington current post-construction requirements to provide shade and greener spaces to residents upon completion.

**Policy 5.10: Historic and Cultural Areas Management**

The site has received a letter from Delaware SHPO stating that there are no concerns with the site, and can be provided upon request.

The enclosed Delaware State Cultural and Historical Resource Information System (CHRIS) map shows that no registered historic or cultural resources are located within the subject lot.

**Policy 5.11: Living Resources**

The subject property was developed as a high-density residential parcel circa 1920. The original residential dwellings were razed in 2019 for safety purposes. No woodlands or agricultural lands are situated on or near the subject property. The size and location of the subject property is insufficient to provide quality breeding habitat for mammals or any rare or endangered species. The subject property does not contain and is not adjacent to tidal waters, estuaries, coastal waters, harbors, or inlets. No wetlands or unique geologic features are present within the subject property.

**Policy 5.12 Mineral Resources Management**

Activities pertaining to the extraction and production of minerals will not be conducted within the subject property.

**Policy 5.13: State Owned Coastal Recreation and Conservation**

There are no state-owned coastal recreation or conservation areas within the subject property.

**Policy 5.14: Public Trust Doctrine**

Not applicable

**Policy 5.15: Energy Facilities**

The subject property is being developed for high-density residential use. No construction of a new petroleum refinery, deep-water port, off-shore or on shore pipeline, electric or solar power facility, gas plant, or nuclear power generator is being proposed in association with this project.

**Policy 5.16: Public Investment**

The project developer is requesting funding from the Department of Housing and Urban Development for the project. The funding will help provide much needed housing for low-income seniors in the city of Wilmington.

**Policy 5.17: Recreation and Tourism**

The subject property was developed as a high-density residential parcel circa 1920. The original residential dwellings were razed in 2019 for safety purposes. Afterward, the subject property was graded and seeded. The subject property is being developed for high-density residential use. There has been, and will be, no recreational or tourism use.

**Policy 5.18: National Defense and Aerospace Facilities**

The subject property was developed as a high-density residential parcel circa 1920. The original residential dwellings were razed in 2019 for safety purposes. Afterward, the subject property was graded and seeded. The subject property is being re-developed for high-density residential use. There are no national defense or aerospace facilities on or near the subject property.

**Policy 5.19: Transportation Facilities**

As part of the overall project a bus stop will be installed to improve public transportation. Further, new sidewalks will be constructed that connect to the existing sidewalk grid to promote pedestrian accessibility.

**Policy 5.20: Air Quality Management**

The subject property was developed as a high-density residential parcel circa 1920. The original residential dwellings were razed in 2019 for safety purposes. Afterward, the subject property was graded and seeded. The development will consist of high-density residential and will install updated electrical systems, heating systems, and insulation, to reduce energy use.

**Policy 5.21: Water Supply Management**

Neither groundwater nor surface water withdrawals will be conducted as a result of this project. The proposed project will be served by the City of Wilmington public utilities.

**Policy 5.22: Waste Disposal Management**

The proposed project will be served by the municipal sewer system and trash collection services.

**Policy 5.23: Development**

The subject property was developed as a high-density residential parcel circa 1920. The original residential dwellings were razed in 2019 for safety purposes. Afterward, the subject property was graded and seeded. The proposed project will consist of new high-density residential dwellings so there will be no net change in site use.

**Policy 5.24: Pollution Prevention**

As part of the overall project a bus stop will be installed to improve public transportation. The overall project has the potential to reduce overall vehicle traffic in the area. Modern electrical systems, heating systems, and insulation will be installed to reduce energy use.

**Policy 5.25: Coastal Management Coordination**

[Empty box for Coastal Management Coordination]

**VI. JPP and RAS Review** (Check all that apply):

Has the project been reviewed in a monthly Joint Permit Processing and/or Regulatory Advisory Service meeting?

JPP

RAS

None

\*If yes, provide the date of the meeting(s): \_\_\_\_\_

**VII. Statement of Certification/Determination and Signature** (Check one and sign below):


**FEDERAL AGENCY CONSISTENCY DETERMINATION.** Based upon the information, data, and analysis included herein, the federal agency, or its contracted agent, listed in (I) above, finds that this proposed activity is consistent to the maximum extent practicable with the enforceable policies of the Delaware Coastal Management Program.

OR

**FEDERAL AGENCY NEGATIVE DETERMINATION.** Based upon the information, data, and analysis included herein, the federal agency, or its contracted agent, listed in (I) above, finds that this proposed activity will not have any reasonably foreseeable effects on Delaware's coastal uses or resources (Negative Determination) and is therefore consistent with the enforceable policies of the Delaware Coastal Management Program.

OR

**NON-FEDERAL APPLICANT'S CONSISTENCY CERTIFICATION.** Based upon the information, data, and analysis included herein, the non-federal applicant for a federal license or permit, or state or local government agency applying for federal funding, listed in (I) above, finds that this proposed activity complies with the enforceable policies of the Delaware Coastal Management Program and will be conducted in a manner consistent with such program.

Signature:		
Printed Name:	Craig S. Smith	Date: Sept. 13, 2022

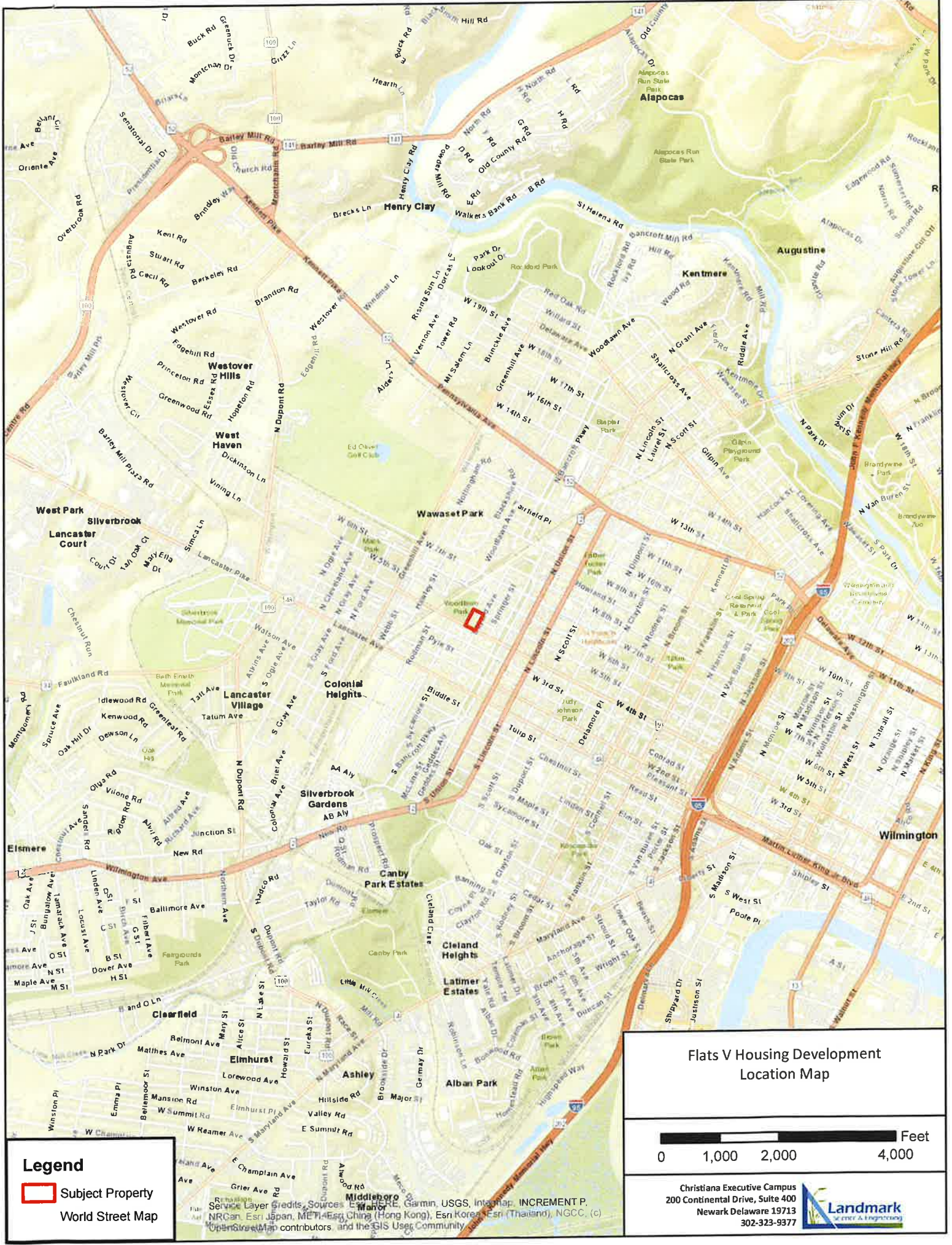
Pursuant to 15 C.F.R. Part 930, the Delaware Coastal Management Program must provide its concurrence with or objection to this consistency determination or consistency certification in accordance with the deadlines listed below. Concurrence will be presumed if the state's response is not received within the allowable timeframe.

**Federal Consistency Review Deadlines:**

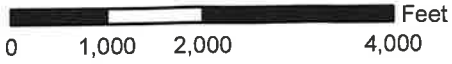
Federal Activity or Development Project (15 C.F.R. Part 930, Subpart C)	60 days with option to extend an additional 15 days or stay review (15 C.F.R. § 930.41)
Federal License or Permit (15 C.F.R. Part 930, Subpart D)	Six months, with a status letter at three months. The six month review period can be stayed by mutual agreement. (15 C.F.R. § 930.63)
Outer Continental Shelf Activity (15 C.F.R. Part 930, Subpart E)	Six months, with a status letter at three months. If three month status letter not issued, then concurrence presumed. The six month review period can be stayed by mutual agreement. (15 C.F.R. § 930.78)
Federal Financial Assistance to State or Local Governments (15 C.F.R. Part 930, Subpart F)	State Clearinghouse schedule

**OFFICIAL USE ONLY:**

Reviewed By:	Fed Con ID:	Date Received:
Public notice dates: _____ to _____	Comments Received: <input type="checkbox"/> NO <input type="checkbox"/> YES <i>[attach comments]</i>	
Decision type: <small>(obligations or conditions attach details)</small>	Decision Date: _____	



**Flats V Housing Development  
Location Map**



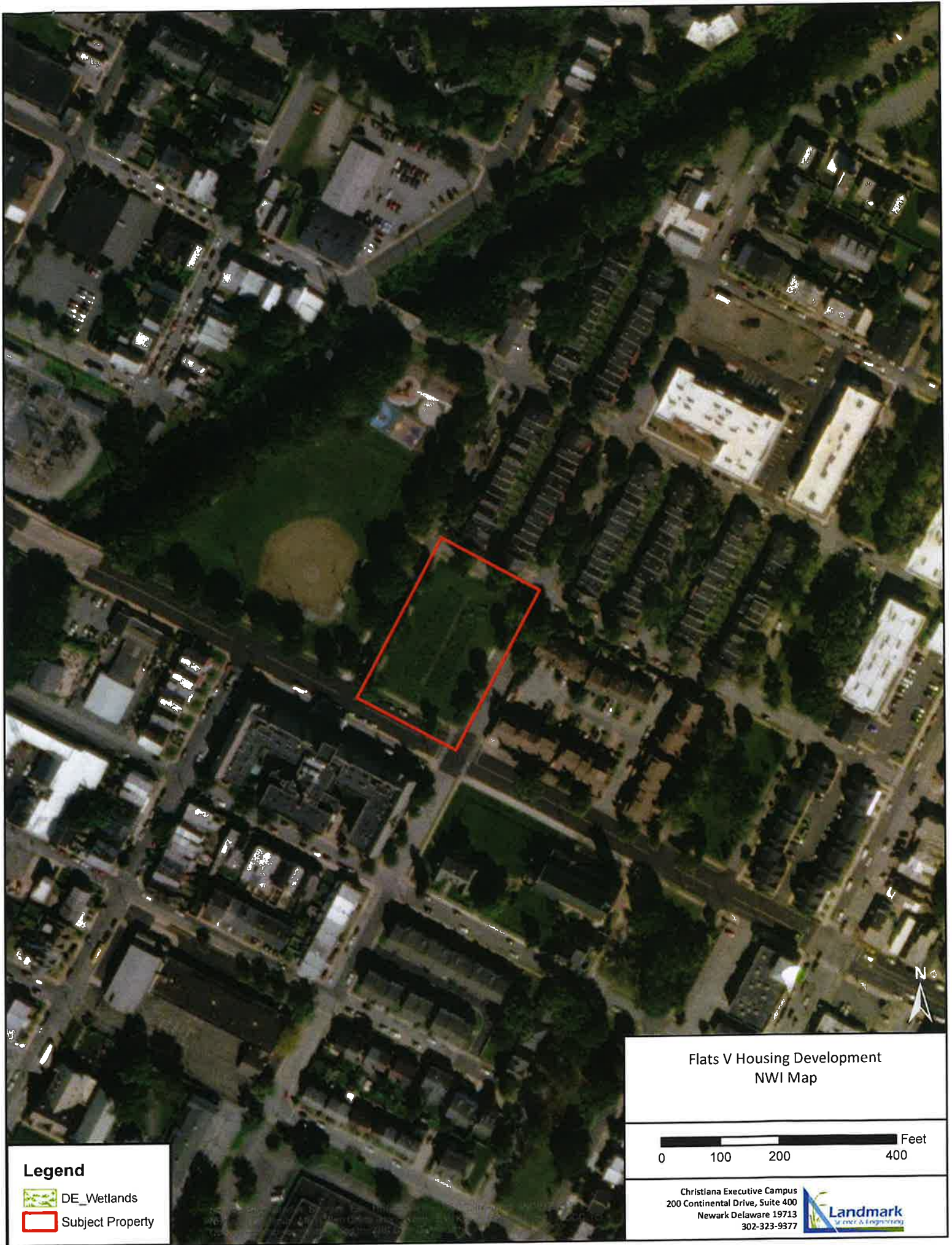
**Legend**  
 Subject Property  
 World Street Map

Christiana Executive Campus  
 200 Continental Drive, Suite 400  
 Newark Delaware 19713  
 302-323-9377

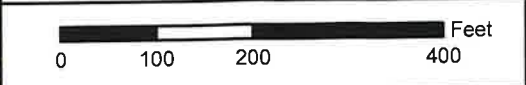


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Flats V Housing Development  
NWI Map

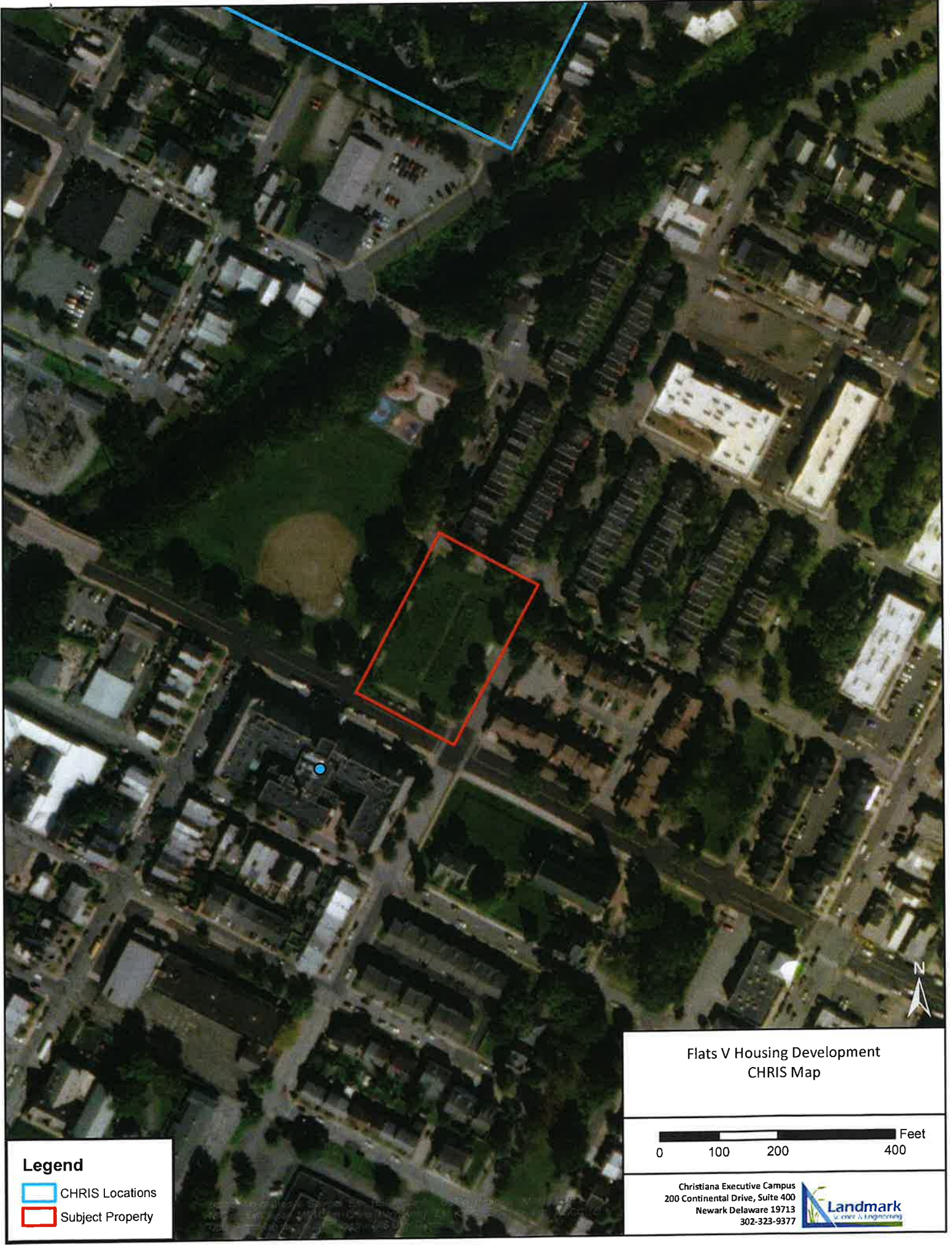


**Legend**

-  DE\_Wetlands
-  Subject Property

Christiana Executive Campus  
200 Continental Drive, Suite 400  
Newark Delaware 19713  
302-323-9377





Flats V Housing Development  
CHRIS Map

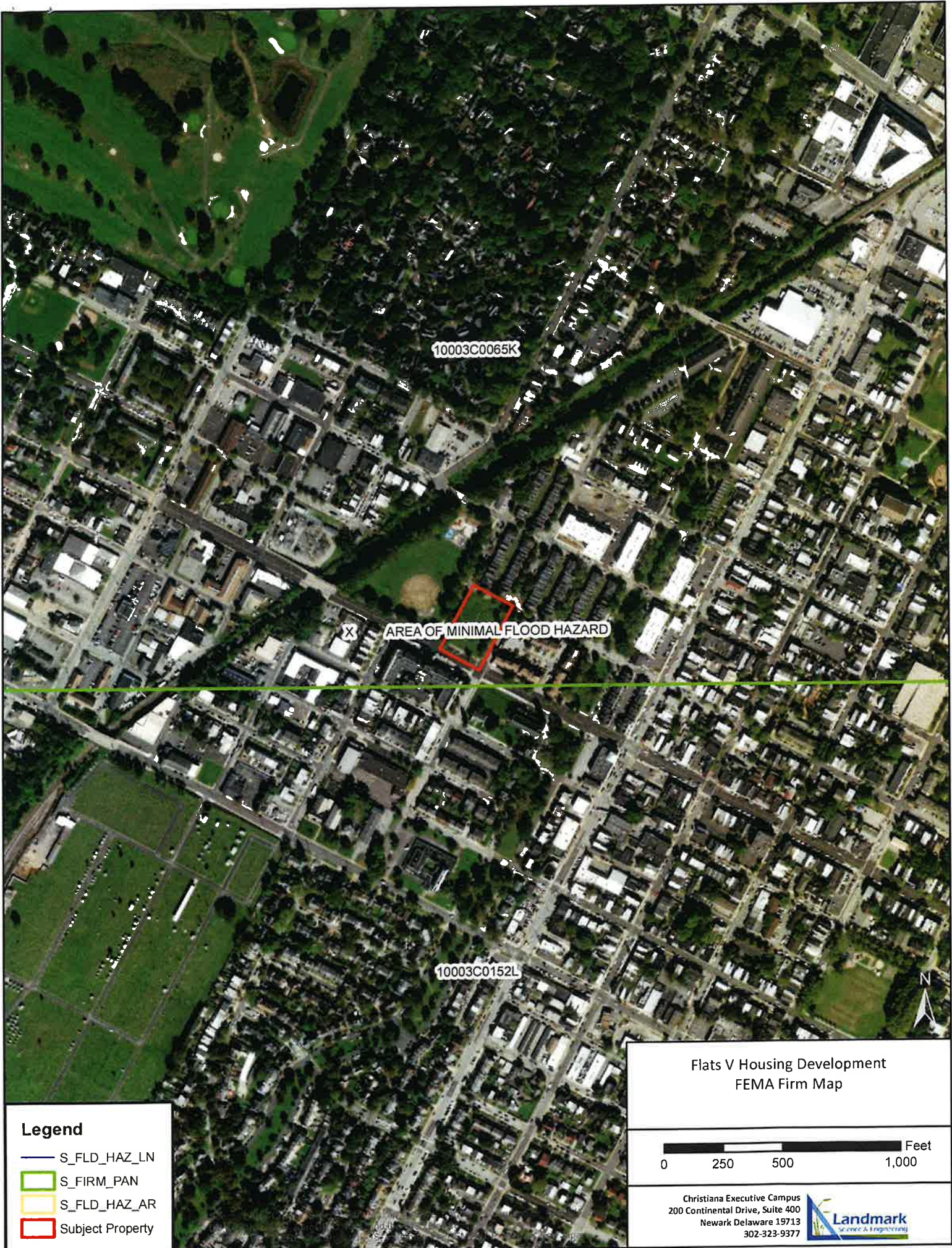


**Legend**

- CHRIS Locations
- Subject Property

Christiana Executive Campus  
200 Continental Drive, Suite 400  
Newark Delaware 19713  
302-323-9377





10003C0065K

10003C0152L

X

AREA OF MINIMAL FLOOD HAZARD

Flats V Housing Development  
FEMA Firm Map



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200 Continental Drive, Suite 400  
Newark Delaware 19713  
302-323-9377



Legend

-  S\_FLD\_HAZ\_LN
-  S\_FIRM\_PAN
-  S\_FLD\_HAZ\_AR
-  Subject Property