



Village/Town of Mount Kisco Building Department
104 Main Street
Mount Kisco, New York 10549
Ph. (914) 864-0019-fax (914) 864-1085

M E M O R A N D U M

TO: Honorable Chairs and
Members of the Mount Kisco Planning Board

FROM: Peter J. Miley, Building Inspector *PJM*

SUBJECT: 61 Smith Properties, LLC
61 Smith Avenue, SBL 80.41-1-7

DATE: March 27, 2023

61 Smith Avenue received site plan approval on April 25, 1963 for a mixed-use occupancy (professional offices on the first and second floor, and a residential dwelling on the third floor), two accessory structures, and upper and lower parking areas. Today, the existing site does not conform to the approved site plan of record.

Your board recently received memos from the Village Planner and Engineer. So not to be redundant, the focus of this memo is the comparison of the 4/25/63 approval v. proposed, their differences – and to identify if any variances will be required.

The subject property is in the OC Cottage Office District. NOTE* Previously approved site plan included/required ten (10) parking spaces, four (4) of the spaces were in two garages. Six (6) of the spaces were located on the east side of the building (upper parking area never constructed).

Proposed site plan includes most of the parking in the rear of the property (six spaces in the northwest corner of the rear yard, space No. 7 to be in the northeast garage (NOTE* garage previously located in the northwest corner has been removed), space No. 8 in the east side yard setback and buffer, and space No's 9 and 10 are along the retaining wall center to east of the property in the macadam parking area.

We recommend that space No. 8 be shifted in front of the garage space No. 7 and taken out of the setback and buffer. In addition, an additional space can be restored inside of the garage (left space) – and with the addition of the ADA space (space No. 11 not used as part of the calculation) this will bring the site into compliance with today's parking requirement.

See required variances on next page.

Variances Required

1. Chapter 110. Zoning Article III. District Regulations § 110-22. OC Cottage Office District. C. Development regulations (2) (c) Maximum development coverage permitted is 60%. Proposed is 61.24 % and therefore, a 1.24% a maximum development coverage variance is required.
2. Chapter 110. Zoning Article IV. Off-Street Parking and Loading Regulations § 110-28. Off-street parking. H. Additional regulations for residential lots. The following additional regulations shall apply to the CD, RS-12, RS-9, RS-6, RT-6, RM-10, RM-29, PRD, and OC Districts and to nonconforming residential lots in commercial districts: (4) No parking of any vehicle shall be permitted, except in any driveway, in the area: (a) In the front and side yard distance setbacks required for the zone in which such building is located; (b) Within 10 feet of the rear property line. Proposed, spaces 1 thru 5 are located closer than the minimum 10 ft requirement from the rear property line and space No. 8 is located within the 10 ft side yard setback. Therefore, a variance thereby permitting the location(s) of each space to be located as described is required.
3. 110 Attachment 1 Village/Town of Mount Kisco Parking Facility Standards D. Width of Aisle required is 24 ft., proposed is 22 ft. 8 in., therefore a 1 ft. 4 in. Width of Aisle variance is required.

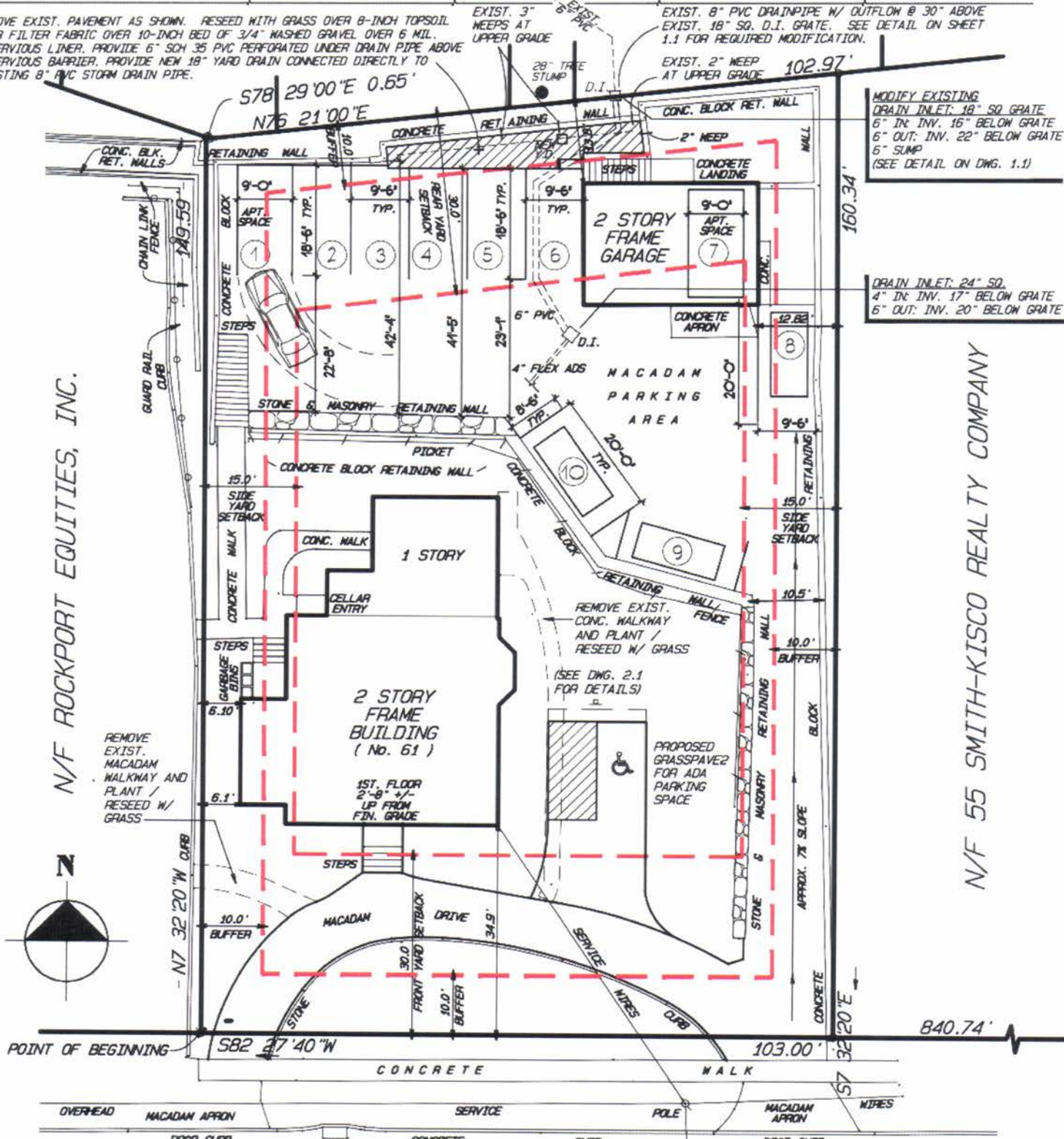
NOTE: ALL EXISTING OFF-SITE DRAINAGE HAS BEEN IN EXISTENCE FOR MANY YEARS. ALL DRAINAGE FLOWS FROM EAST TO WEST AND SERVES NUMEROUS PROPERTIES. RESIDENCES ON SOUTH SIDE OF GREGORY AVE. DRAINAGE LOCATED AT REAR / SOUTH SIDE OF LOTS. MOST LOTS SLOPED AND / OR CONNECTED TO EXISTING DRAINAGE CULVERT / WETLANDS AT REAR OF PROPERTIES.

REMOVE EXIST. PAVEMENT AS SHOWN. RESEED WITH GRASS OVER 8-INCH TOPSOIL OVER FILTER FABRIC OVER 10-INCH BED OF 3/4" WASHED GRAVEL OVER 6 MIL. IMPERVIOUS LINER. PROVIDE 6" SCH 35 PVC PERFORATED UNDER DRAIN PIPE ABOVE IMPERVIOUS BARRIER. PROVIDE NEW 18" YARD DRAIN CONNECTED DIRECTLY TO EXISTING 8" PVC STORM DRAIN PIPE.

EXIST. 3" WEEPS AT UPPER GRADE
EXIST. 8" PVC DRAINPIPE W/ OUTFLOW @ 30" ABOVE
EXIST. 18" SQ. D.I. GRATE. SEE DETAIL ON SHEET 1.1 FOR REQUIRED MODIFICATION.
EXIST. 2" WEEP AT UPPER GRADE

MODIFY EXISTING DRAIN INLET: 18" SQ GRATE
6" IN. INV. 16" BELOW GRATE
6" OUT. INV. 22" BELOW GRATE
6" SLUMP (SEE DETAIL ON DWG. 1.1)

DRAIN INLET: 24" SQ.
4" IN. INV. 17" BELOW GRATE
6" OUT. INV. 20" BELOW GRATE



PROPOSED AMENDED SITE PLAN

SCALE: 1" = 20'-0"

(PARKING LAYOUT INDICATED BY THE HELMES GROUP ARCHITECTS, LLP USING SURVEY INFORMATION PREPARED BY H. STANLEY JOHNSON LAST DATED 11-28-2005.)

PREVIOUS SITE PLAN AS REFERENCED IN 3/27/23 DENIAL MEMO FROM BUILDING DEPARTMENT



THE HELMES GROUP, LLP

ARCHITECTURE • ENGINEERING
PROJECT MANAGEMENT

RECEIVED

AUG 04 2023

Zoning Board of Appeals
Village/Town of Mount Kisco

August 4, 2023

Hand Delivered

& Via Email: mrusso@mountkisco.ny.gov

Wayne Spector, Chair
Village/Town of Mt. Kisco - Zoning Board of Appeals
104 Main Street
Mt. Kisco, NY 10549

Project: 61 Smith Avenue, Mount Kisco, NY (Owner: 61 Smith Properties LLC)
Existing Mixed-Use 2-1/2 Story Wood-Frame Building containing Offices on
First & Second Floor Levels with 2-Bedroom Apartment on Third Floor Level

Subject: Application for Variances

Dear Chair Spector & Members of the Board:

On behalf of 61 Smith Properties LLC, the Owner and Applicant for the above subject property, we are making an Application to the Zoning Board of Appeals for three (3) Area Variances in order to obtain an Amended Site Plan Approval from the Planning Board.

It was brought to our attention by Peter Miley, the Building Inspector, that the Site Plan Approval granted back on April 25, 1963, roughly 60 years ago, was never implemented. Furthermore, what was actually constructed is entirely different than what was approved on the original 1963 Site Plan. As a result, the Planning Board has required that we submit an Amended Site Plan such that Site Plan Approval can be granted to legalize this property.

We have already appeared before the Planning Board on several occasions and believe we are close to receiving their approval. However, before they can take action, they have required that the Owner make an Application to the Zoning Board of Appeals for three (3) required Area Variances.

Based on the above, enclosed herewith please find nine (9) complete copies plus one (1) original of the following information in support of this Application for the Requested Variances from the Zoning Board of Appeals:

- Village of Mt. Kisco Zoning Board Application, dated 8/3/23
- Zoning Board Application Fee of \$500
- Zoning Board Submission Checklist
- Journal News Order for Legal Notices
- Affidavit of Mailing
- Public Notice
- Revision to State Zoning Laws
- Denial Memorandum from Building Inspector dated 3/27/23
- Previous Site Plan Referenced in Building Inspector's Denial Memorandum
- Deed to Property
- Map & List of Property Owners within 300-feet of subject property
- Drawings all last dated 3/28/23 as prepared by The Helmes Group, LLP consisting of the following:
 - Drawing 1.0 – Property Survey, Site Plans, Zoning Information & Reference Photographs
 - Drawing 1.1 – Site Drainage Calculations & Proposed Modifications to Existing Drainage Structure
 - Drawing 2.0 – Proposed Site Lighting & Landscape Plans
 - Drawing 2.1 – Proposed Handicap Accessible Parking Area and Related Details
- A secure link has been emailed to Michele Russo, Zoning Board Secretary, with all of the above information in digital PDF format

The following is in support of the three (3) requested Area Variances:

I. Description of Property

The applicant owns the property which is located in the OC (Cottage Office District) in the Village/Town of Mount Kisco. As per the attached Memorandum from Peter J. Miley, Building Inspector, to the members of the Mount Kisco Planning Board dated March 27th, 2023, the existing Site does not conform to the Site Plan on record which was originally approved by the Village of Mount Kisco on April 25th, 1963.

Based on the above, we have included a copy of the Original Approved 1963 Site Plan on the Drawings in order to compare with the Proposed Site Plan. The Proposed Site Plan indicates most of what exists today, with the exception of several enhancements as indicated.

II. Variances Requested

The Building Inspector, Peter J. Miley, has determined that three (3) Area Variances are required as follows:

1. Chapter 110. Zoning Article III. District Regulations §110-22. OC Cottage Office District C. Development regulations (2) (c) Maximum development coverage permitted is 60%. The proposed Site Plan is 61.24% and therefore, a 1.24% maximum development coverage variance is required. (It shall be noted that the previous Approved 1963 Site Plan had a slightly greater Development coverage of 1.27%.)
2. Chapter 110. Zoning Article IV. Off-Street Parking and Loading Regulations §110-28. Off-street parking. H. Additional regulations for residential lots. The following additional regulations shall apply to the CD, RS-12, RS-9, RS-6, RT-6, RM-10, RM-29, PRD, and OC Districts and to nonconforming residential lots in commercial districts: (4) No parking of any vehicle shall be permitted, except in any driveway, in the area: (a) In the front and side yard distance setbacks required for the zone in which such building is located; and (b) Within 10 feet of the rear property line.

Proposed parking spaces 1 thru 5 (currently labeled as 9 thru 5) are located closer than the minimum 10-ft requirement from the rear property line and space 9 is located closer than the minimum 10-ft requirement from the side property line. Therefore, a variance is needed to permit the locations of parking spaces 9 thru 5 to be located as indicated. (i.e., for spaces 9 thru 5, the actual setback ranges from approximately 4-feet to 10-feet which would result in a variance needed for an encroachment ranging from approximately 6-feet to 0-feet as indicated. For space 9, the actual setback is approximately 4-feet which would result in a variance needed for an encroachment of approximately 6-feet as indicated.

3. Chapter 110 Attachment 1 - Village/Town of Mount Kisco Parking Facility Standards D. Required Width of a Parking Lot Aisle is 24-feet., yet the proposed is 22-foot 8-inches or 22.67-feet. Therefore, a variance of 1-foot 4-inches or 1.33-feet is required. (It shall be noted that the previous Approved 1963 Site Plan had an aisle width of less than 8-feet, which was not practical.)

III. Reasons to Grant the Requested Variances

New Town Law, Section 267- b (3) and Village Law, Section 7-712 (b) (3) establish a new statutory process for the granting of Area Variances.

“When an Applicant requests an Area Variance, the new law requires the Board of Appeals to balance two elements: The benefit to the Applicant from the Variance, and the detriment to the health, safety and welfare of the community or neighborhood, that would occur if the Variance was to be granted.”

The provision set forth five (5) factors for the Board to consider in balancing these interests. These five (5) factors are outlined below along with the Applicant’s reasons for granting the Variances.

(1) Whether an undesirable change will be produced in the character of the neighborhood or whether a detriment to nearby properties will be created by the granting of the variances.

Granting the requested Development Area Variance will NOT create an undesirable change in the character of the neighborhood or a detriment to nearby properties. In fact, the Original April 25, 1963 Approved Site Plan permitted a total of 61.27% Development Coverage, which is 1.27% over the maximum permitted. However, since the site was not developed as per the approved plan, we are proposing the removal of some of the existing asphalt and concrete sidewalks to bring the total development coverage down to 61.24% which results in a variance requested for a 1.24% increase in Development Coverage. This increase is minimal and granting the variance would reduce the development coverage from the 1963 Approved Site Plan and will restore paved areas back to grass/lawn for a more aesthetically pleasing appearance.

Granting the requested Parking Setback Variance for parking spaces 1 thru 5 (currently labeled as 9 thru 5) at the rear of the property which fall within the 10-foot rear and side yard buffers will NOT create an undesirable change in the character of the neighborhood or a detriment to nearby properties. In fact, the original 1963 Approved Site Plan permitted a 1-story concrete block garage set back only 3.16–feet from the rear and 1.57-feet from the 10-foot required buffer areas.

However, since the property was not developed as per the 1963 Approved Site Plan, the concrete block garage was either never constructed or was demolished in exchange for the open-air parking spaces which are located within the 10-foot side and rear buffers by varying degrees. In addition, the west retaining wall visually hides the outdoor parking space within the buffer from the adjoining neighbor.

We are proposing improvements to the south side of the north retaining wall by creating a grass/lawn area at the top of the existing concrete retaining wall. Creation of the landscape buffer will replace a portion of the asphalt pavement with grass. Ultimately, the proposed parking layout is a significant improvement from what was previously approved back in 1963.

Granting the requested Parking Aisle Width Variance for the rear parking lot proposed at 22'-8" in width in lieu of the required 24-foot-wide parking lot aisle will NOT create an undesirable change in the character of the neighborhood or be a detriment to nearby properties. The hardship is that the existing retaining walls dictate the space available. However, with only five (5) parking spaces involved, and minimal traffic, the slightly reduced Aisle Width is safe and fully functional.

It shall also be noted that the original 1963 Approved Site Plan had parking lot aisle widths varying from approximately 8-feet to 19-feet, far less than what is currently proposed.

(2) Whether the benefit sought by the applicant can be achieved by some feasible method other than a variance.

This project has been reviewed with the Village of Mount Kisco Planning Board and their professional consultants on several occasions in an effort to provide the best possible parking layout for this property. In addition, all other site improvements have been reviewed in an effort to make the site as compliant as possible, including development coverage, parking requirements, landscaping, site lighting, etc. However, the proposed Site Plan cannot be approved by the Planning Board without the three (3) requested variances.

(3) Whether the requested area variance is substantial.

The requested Development Area Variance is NOT substantial. The development coverage variance is 1.24% (which equates to 198 square feet) higher than the maximum permitted 60%. We are reducing the as-built site development coverage by removing sections of the concrete sidewalk and asphalt pavement. Bringing the coverage down from the 63.21% that currently exists to 61.24%. Or from the previous 1963 Approved Site Plan of 61.27% down to 61.24%.

The requested Parking Setback Variance is NOT substantial. The existing site retaining walls and the placement of the surrounding existing buildings actually serve to visually screen the proposed parking from the street and the adjoining neighbors.

The requested Parking Aisle Width Variance is NOT substantial. The request 1'-4" less than the required 24'-0" wide parking aisle width is still safe and functional. The 22'-8" wide aisle can still be accessible for vehicles up to SUV size as shown with the turning radius indicated on the Proposed Site Plan.

(4) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

The proposed variances will NOT have an adverse effect or impact on the physical or environmental conditions in the neighborhood. We have proposed improvements to better address all site and zoning requirements by the Village of Mount Kisco. We have proposed more landscaping and reduced the amount of impervious surface. In fact, with recommendations from the Village/Town Engineer, we have also proposed additional measures to improve the existing storm drainage system which can accommodate a 50-year storm event.

(5) Whether the alleged difficulty was self-created (this will not necessarily preclude the granting of the area variance).

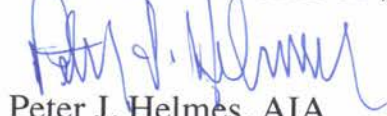
Here, the difficulty was NOT self-created as the property has pre-existed and has been in operation for many years. The current request for the three (3) variances arose from attempting to bring the existing site conditions into compliance or as close to compliance as possible with the Village/Town of Mount Kisco Ordinances and Regulations.

If possible, we would like to be placed on the agenda to appear before the Village / Town of Mt. Kisco Zoning Board of Appeals at the next available meeting. We will look forward to making a presentation at that time.

I trust you will find this Application to be complete, however, if you have any questions or require any additional information, please do not hesitate to contact me.

Respectfully submitted,

THE HELMES GROUP, LLP



Peter J. Helmes, AIA
Architect / Partner

PJH:LAS

cc: Barbara Banks-Schwam, Member - 61 Smith Properties LLC

Enclosures (As outlined in the above letter)

WP2023/20

RECEIVED

Date: _____

Case No.: 2BA 23-7

AUG 04 2023

Fee: _____

Date Filed: _____

Zoning Board of Appeals
Village/Town of Mount Kisco

Village/Town of Mount Kisco
Municipal Building
104 Main Street, Mt. Kisco, NY 10549

**Zoning Board of Appeals
Application**

Appellant: 61 Smith Properties LLC - Attn: Barbara Banks-Schwam, Member

Address: 61 Smith Avenue, Mount Kisco NY 10549

Address of subject property (if different): _____

Appellant's relationship to subject property: X Owner _____ Lessee _____ Other _____

Property owner (if different): _____

Address: _____

TO THE CHAIRMAN, ZONING BOARD OF APPEALS: An appeal is hereby taken from the decision of the Building Inspector, Mr. Peter Miley dated March 27, 2023. Application is hereby made for the following:

X Variation or _____ Interpretation of Section Chapter 110 of the Code of the Village/Town of Mount Kisco, Zoning Articles III, IV & Parking Standards D

to permit the: _____ Erection; X Alteration; _____ Conversion; _____ Maintenance of Site Plan for 61 Smith Avenue, Mount Kisco, NY

_____ in accordance with plans filed on (date) April 25, 1963 for Property ID # 61 Smith Ave. located in the OC Zoning District. The subject premises is situated on the North side of (street) Smith Avenue in the Village/Town of Mount Kisco, County of Westchester, NY.

Does property face on two different public streets? Yes/No No
(If on two streets, give both street names) _____

Type of Variance sought: _____ Use X Area _____

Is the appellant before the Planning Board of the Village of Mount Kisco with regard to this property? Yes

Is there an approved site plan for this property? Yes in connection with a _____ Proposed or X Existing building; erected (yr.) 1963

Size of Lot: 103.00 feet wide 149.59 feet deep Area 15,947 SF

Size of Building: at street level 42 feet wide 54 feet deep

Height of building: 30 Feet Present use of building: Office & Residential

Does this building contain a nonconforming use? No Please identify and explain: _____

Is this building classified as a non-complying use? No Please identify and explain: _____

Has any previous application or appeal been filed with this Board for these premises?
Yes/No? Unknown - It is assumed that a previous Application was filed in 1963 - to be verified by ZBA.

Was a variance ever granted for this property? _____ If so, please identify and explain:
Unknown - to be verified by ZBA

Are there any violations pending against this property? No If so, please identify and explain: _____

Has a Work Stop Order or Appearance Ticket been served relative to this matter?
____ Yes or X No Date of Issue: _____

Have you inquired of the Village Clerk whether there is a petition pending to change the subject zoning district or regulations? No

I submit the following attached documents, drawings, photographs and any other items listed as evidence and support and to be part of this application:

The following items **MUST** be submitted:

- a) Attached hereto is a copy of the order or decision (Notice of Denial) issued by the Building Inspector or duly authorized administrative official issued on March 27, 2023 upon which this application is based.
- b) Copy of notice to the administrative official that I have appealed, setting forth the grounds of appeal and have requested the application to be scheduled for a public hearing.
- c) A typewritten statement of the principal points (facts and circumstances) on which I base my application with a description of the proposed work.
- d) Ten (10) sets of site plans, plat or as-built survey drawings professionally signed and sealed (as may be required).
- e) A block diagram with street names, block and lot numbers, and street frontage showing all property affected within 300' of the subject property, with a North point of the compass indicated.
- f) A full list of names and addresses of the owners of all property shown on the above noted block diagram that lie within or tangent to the 300' radius from the subject property.
- g) A copy of the Public Notice for the public hearing of this application.
- h) A sworn Affidavit of Mailing, duly notarized, that a true copy of said Public Notice has been sent by mail to all property owners within 300 feet of this premises at least 10 days prior to the public hearing.

NOTE: APPLICANT MUST CAUSE A TRUE COPY OF THE PUBLIC NOTICE TO BE PUBLISHED IN THE OFFICIAL NEWSPAPER OF THE VILLAGE AT LEAST 15 DAYS PRIOR TO THE PUBLIC HEARING.

- i) A true copy of the filed deed and/or signed lease or contract for the use of the subject property.
- *j) At least two sets of unmounted photographs, 4" by 6" in size, showing actual conditions on both sides of street, between intersecting streets. Print street names and mark premises in question.
- *k) A floor plan of the subject building with all the necessary measurements.
- *l) A longitudinal section of the subject building and heights marked thereon as well as front elevations.

*** Optional - As Needed**

I hereby depose & say that all the above statements and the statements contained in the papers submitted herewith are true.

(Appellant to sign here)

Sworn to before me this day of: August 2, 2023

Notary Public, Sarah Kooluris, County, NY

Westchester

Sarah Koolaris

SARAH L. KOOLURIS
NOTARY PUBLIC, STATE OF NEW YORK
Registration No. 01KO6185807
Qualified in Westchester County
Commission Expires April 21, 2024

[TO BE COMPLETED IF APPELLANT IS NOT THE PROPERTY OWNER IN FEE]

State of New York }
County of Westchester } ss

Being duly sworn, deposes and say that he resides at _____ in the County of Westchester, in the State of New York, that he is the owner in fee of all that certain lot, piece or parcel of land situated, lying and being in the Village of Mount Kisco, County of Westchester aforesaid and known and designated as number _____ and that he hereby authorized _____ to make the annexed application in his behalf and that the statements contained in said application are true.

Not Applicable

(sign here)

RECEIVED

AUG 16 2023

Zoning Board of Appeals
Village/Town of Mount Kisco

AFFIDAVIT OF MAILING

STATE OF NEW YORK

}

COUNTY OF WESTCHESTER

}SS.:

}

Barbara Banks-Schwam being duly sworn, deposes and says:

I reside at 523 East 14th Street, NY, NY 10009

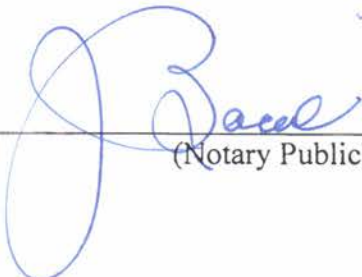
On August 9 20 23 I served a notice of hearing, a copy of which is attached hereto and labeled Exhibit A, upon persons whose names are listed in a schedule of property owners within 300 feet of the subject property identified in this notice. A copy of this schedule of property owners' names is attached hereto and labeled Exhibit B.

I placed a true copy of such notice in a postage paid property addressed wrapper addressed to the addresses set forth in Exhibit B, in a post office or official depository under the exclusive care and custody of the United States Post Office, within the County of Westchester.



Sworn to before me on this

9th day of August 20 23

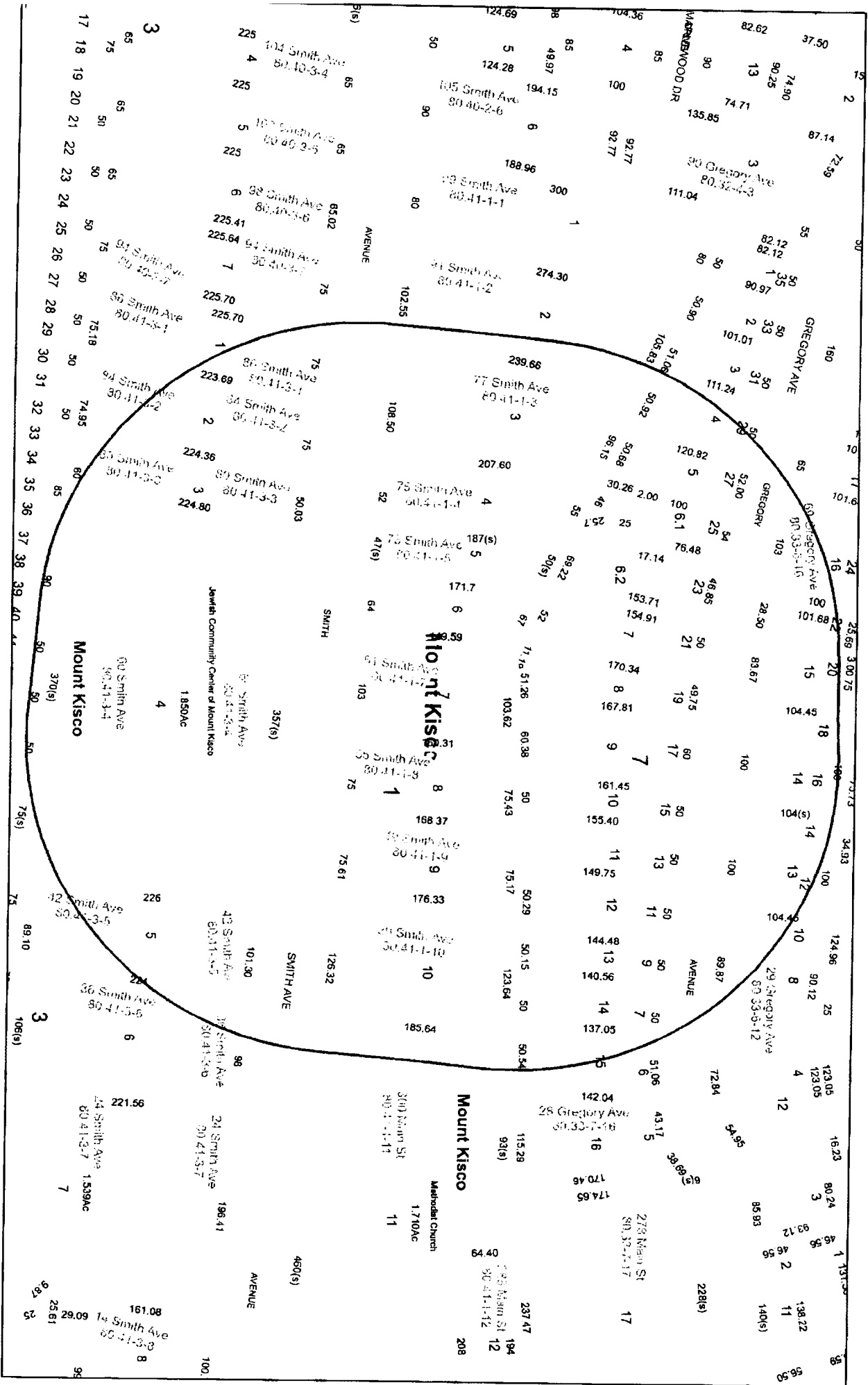

(Notary Public)

Jessica Bacal
Notary Public, State of New York
Reg. No. 02BA4865927
Qualified in Westchester County
Commission Expires 07/07/2026

Exhibit B.

OWNERNAME	PROADDRESS	PROPTY	PROZIP	PROPRINTKEY	C/O	Mailing Address	City	State	Zip
74 Gregory LLC	76 Gregory Ave	MOUNT KISCO	10549	80.33-7-4	Amvel LLC	28 Cowdy Street	Yonkers	NY	10701
Lopez, Edison	68 Gregory Ave	MOUNT KISCO	10549	80.33-7-6-1		85 Manchester Drive	Mt. Kisco	NY	10549
Pudding Pie LLC	66 Gregory Ave	MOUNT KISCO	10549	80.33-7-6-2	C/O Nazar Massouh	8 Cole Drive	Armonk	NY	10504
Bell Torch Inc	Moore Ave	MOUNT KISCO	10549	80.41-3-25	M. Heller Dir of Operations	60 Smith Ave	Mt. Kisco	NY	10549
Albanese Antonio	60 Gregory Ave	MOUNT KISCO	10549	80.33-7-8		55 Cottage Terrace	Bedford Hills	NY	10507
Bell Torch, Inc.	60 Smith Ave	MOUNT KISCO	10549	80.41-3-4	M. Heller Dir of Operations	60 Smith Ave	Mt. Kisco	NY	10549
Carbone, Elaine E	84 Smith Ave	MOUNT KISCO	10549	80.41-3-2					
Stonecipher Peter J	70 Gregory Ave	MOUNT KISCO	10549	80.33-7-5					
Bell Torch, Inc.	80 Smith Ave	MOUNT KISCO	10549	80.41-3-3	M. Heller Dir of Operations	60 Smith Ave	Mt. Kisco	NY	10549
Mt. Kisco Properties, LLC	39 Smith Ave	MOUNT KISCO	10549	80.41-1-10		401 South Water St	Newburgh	NY	12553
Ardon, Anibal J	73 Gregory Ave	MOUNT KISCO	10549	80.33-6-17		PO Box 882	Mt. Kisco	NY	10549
Valvano Nancy	79 Moore Ave	MOUNT KISCO	10549	80.41-3-24		75 Moore Ave	Mt. Kisco	NY	10549
49 Smith Avenue, LLC	49 Smith Ave	MOUNT KISCO	10549	80.41-1-9					
Moran, Mary M	30 Gregory Ave	MOUNT KISCO	10549	80.33-7-15		77 Willets Ave	Mt. Kisco	NY	10549
36 Smith Avenue Owners LLC	36 Smith Ave	MOUNT KISCO	10549	80.41-3-6					
77 Smith Avenue Mt. Kisco LLC	77 Smith Ave	MOUNT KISCO	10549	80.41-1-3	Gus Levy-Lexington Ave Properties	PO Box 367	Mt. Kisco	NY	10549
Dudon Michael J	73 Smith Ave	MOUNT KISCO	10549	80.41-1-5		112 North Salem Rd	Cross River	NY	10518
Valvano, Rosario	67 Moore Ave	MOUNT KISCO	10549	80.41-3-22		4 West Street	Mt. Kisco	NY	10549
Hamish & Trothwood LLC	55 Smith Ave	MOUNT KISCO	10549	80.41-1-8					
Minchella Nelson A	36 Gregory Ave	MOUNT KISCO	10549	80.33-7-13					
Gregory Associates LLC	55 Gregory Ave	MOUNT KISCO	10549	80.33-6-15		30 Emery Street	Mt. Kisco	NY	10549
Gonzalez Diego	78 Gregory Ave	MOUNT KISCO	10549	80.33-7-3					
Valvano Joseph	71 Moore Ave	MOUNT KISCO	10549	80.41-3-23		25 Birch Drive	Mt. Kisco	NY	10549
EBS Inc	63 Moore Ave	MOUNT KISCO	10549	80.41-3-21		81 Myersville Rd	Chatham	NJ	07928
Carbone, Elaine	86 Smith Ave	MOUNT KISCO	10549	80.41-3-1	C/O Lisa Carbone Alzun	145 Croton Ave	Mt. Kisco	NY	10549
Lopez Gerardo	64 Gregory Ave	MOUNT KISCO	10549	80.33-7-7					
61 Smith Properties LLC	61 Smith Ave	MOUNT KISCO	10549	80.41-1-7	NA				
Pickard Brian R	40 Gregory Ave	MOUNT KISCO	10549	80.33-7-12					
Moran, Margaret	34 Gregory Ave	MOUNT KISCO	10549	80.33-7-14					
Methodist Church	300 Main St	MOUNT KISCO	10549	80.41-1-11					
Rogliano Joseph	69 Gregory Ave	MOUNT KISCO	10549	80.33-6-16		31 Bellaw Ave	Eastchester	NY	10709
Woodfield Prop. Mt Kisco LLC	94 Smith Ave	MOUNT KISCO	10549	80.40-3-7					
Kisco Smith LLC	75 Smith Ave	MOUNT KISCO	10549	80.41-1-4	David Wroclawski	75 Smith Ave	Mt. Kisco	NY	10549
Camille&Diego Buettist 4-29-19	93 Moore Ave	MOUNT KISCO	10549	80.41-3-26		115 Bolis Street	Mt. Kisco	NY	10549
Smith Ave Zapsen, LLC	71 Smith Ave	MOUNT KISCO	10549	80.41-1-6					
Giuseppe Valvano Irrev Trust	52 Gregory Ave	MOUNT KISCO	10549	80.33-7-9		25 Birch Drive	Mt. Kisco	NY	10549
Boiero Francesco	48 Gregory Ave	MOUNT KISCO	10549	80.33-7-10					
A & M Putnam LLC	44 Gregory Ave	MOUNT KISCO	10549	80.33-7-11	Adan Villeda	52 Heather Drive	Malhospac	NY	10541
Miyazaki Shuya	51 Gregory Ave	MOUNT KISCO	10549	80.33-6-14					
Lana Joseph	29 Gregory Ave	MOUNT KISCO	10549	80.33-6-12					
PPM Real Estate, NY, LLC	91 Smith Ave	MOUNT KISCO	10549	80.41-1-2					
Carbone, Lucy A	42 Smith Ave	MOUNT KISCO	10549	80.41-3-5	C/O Lucy Carbone	27 Grandview Drive	Mt. Kisco	NY	10549
Montesdeoca, Rosa E	45 Gregory Ave	MOUNT KISCO	10549	80.33-6-13		11 Archer Road	Malhospac	NY	10541

61 Smith Ave. ID: 80.41-1-7 (Mount Kisco)



July 31, 2023

Tax parcel data was provided by local municipality. This map is generated as a public service to Westchester County residents for general information and planning purposes only, and should not be relied upon as a sole informational source. The County of Westchester hereby disclaims any liability from the use of this GIS mapping system by any person or entity. Tax parcel boundaries represent approximate property line location and should NOT be interpreted as or used in lieu of a survey or property boundary description. Property descriptions must be obtained from surveys or deeds. For more information please contact local municipality assessor's office.

1:1,500

0 70 140 280
ft

Westchester County GIS

<http://giswww.westchester.gov>

Michaelian Office Building
148 Marine Avenue Rm 214
White Plains, New York 10601

EXHIBIT "A"

PUBLIC NOTICE

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the Village/Town of Mount Kisco, New York will hold a Public Hearing on the 19th day of September 2023 at the Municipal Building, Mount Kisco, New York, beginning at 7:00 PM pursuant to the Zoning Ordinance on the Appeal of 61 Smith Properties LLC - Attn: Barbara Banks-Schwam, Member
(Name of Applicant)
61 Smith Avenue, Mount Kisco NY 10549
(Address of Applicant)

from the decision of Peter J. Miley, Building Inspector, dated March 27, 2023
(Date of Denial Letter)
denying the application dated to permit the Proposed Development Coverage, Parking within Setbacks and Parking Lot Aisle Width

The property involved is known as 61 Smith Avenue, Mount Kisco NY 10549
(Address of Property)

and described on the Village Tax Map as Section 80.41 Block 1 Lot 7
and is located on the North side of Smith Avenue in a
east/west/n/s (Street Name)

OC Zoning District. Said Appeal is being made to obtain a
variance from Section(s) Chapter 110, Articles III, IV & Parking Facility Standards D
(Identify specific zoning code section number(s))

Code of the Village/Town of Mount Kisco, which requires Variance on Development Coverage, Parking within Setbacks & Parking Facility Dimensional Standards,
for Parking Lot Aisle Width.

Wayne Spector, Chair
Zoning Board of Appeals
Village/Town of Mount Kisco



**AFFIDAVIT OF PUBLICATION
FROM**

RECEIVED

AUG 16 2023

**State of Wisconsin
County of Brown, ss.:**

**Zoning Board of Appeals
Village/Town of Mount Kisco**

On the 10 day of August in the year 2023, before me, the undersigned, a Notary Public in and for said State, personally appeared Linda Tett, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed, the instrument.

Linda Tett being duly sworn says that he/she is the principal clerk of **THE JOURNAL NEWS**, a newspaper published in the County of Westchester and the State of New York, and the notice of which the annexed is a printed copy, on the editions dated :

**Zone:
Westchester**

**Run Dates:
08/10/2023**

Linda Tett
Signature

Sworn to before me, this 10 day of August, 2023

[Signature]
Notary Public. State of Wisconsin. County of Brown

8.25.23

My commission expires

Legend:

WESTCHESTER:

Amawalk, Ardsley, Ardsley on Hudson, Armonk, Baldwin Place, Bedford, Bedford Hills, Brewster, Briarcliff Manor, Bronxville, Buchanan, Carmel, Chappaqua, Cold Spring, Crompond, Cross River, Croton Falls, Croton on Hudson, Dobbs Ferry, Eastchester, Elmsford, Garrison, Goldens Bridge, Granite Springs, Greenburg, Harrison, Hartsdale, Hastings, Hastings on Hudson, Hawthorne, Irvington, Jefferson Valley, Katonah, Lake Peekskill, Larchmont, Lincolnville, Mahopac, Mahopac Falls, Mamaroneck, Millwood, Mohegan Lake, Montrose, Mount Kisco, Mount Vernon, New Rochelle, North Salem, Ossining, Patterson, Peekskill, Pelham, Pleasantville, Port Chester, Pound Ridge, Purchase, Purdys, Putnam Valley, Rye, Scarsdale, Shenorock, Shrub Oak, Somers, South Salem, Tarrytown, Thornwood, Tuckahoe, Valhalla, Verplanck, Waccabuc, White Plains, Yorktown Heights, Yonkers

ROCKLAND:

Blauvelt, Congers, Garnerville, Haverstraw, Hillburn, Monsey, Nanuet, New City, Nyack, Orangeburg, Palisades, Pearl River, Piermont, Pomona, Sloatsburg, Sparkill, Spring Valley, Stony Point, Suffern, Tallman, Tappan, Thiells, Tomkins Cove, Valley Cottage, West Haverstraw, West Nyack

Ad Number: 0005792709

MARIAH VERHAGEN
Notary Public
State of Wisconsin

PUBLIC NOTICE

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the Village/Town of Mount Kisco, New York will hold a Public Hearing on the 19th day of September, 2023 at the Municipal Building, Mount Kisco, New York, beginning at 7:00 PM pursuant to the Zoning Ordinance on the Appeal of 61 Smith Properties LLC - Attn: Barbara Banks-Schwam, Member, 61 Smith Avenue, Mount Kisco, NY 10549 from the decision of Peter J. Miley, Building Inspector, dated March 27, 2023 denying the application dated to permit the Proposed Development Coverage, Parking within Setbacks and Parking Lot Aisle Width. The property involved is known as 61 Smith Avenue, Mount Kisco NY 10549 and described on the Village Tax Map as Section 80.41 Block 1 Lot 7 and is located on the North side of Smith Avenue in a OC Zoning District. Said Appeal is being made to obtain a variance from Section Chapter 110, Articles III, IV & Parking Facility Standards D Code of the Village/Town of Mount Kisco, which requires Variance on Development Coverage, Parking within Setbacks & Parking Facility Dimensional Standards, for Parking Lot Aisle Width.

Wayne Spector, Chair
Zoning Board of Appeals
Village/Town of Mount Kisco
5792709

61 Smith

State of New York)
) ss:
County of Westchester)

AFFIDAVIT OF POSTING

Gilmar Palacios Chin, being duly sworn, says that on the 11th day of September 2023, he conspicuously fastened up and posted in seven public places, in the Village/Town of Mount Kisco, County of Westchester, a printed notice of which the annexed is a true copy, to Wit: ---

Municipal Building –
104 Main Street

_____X_____

Public Library
100 Main Street

_____X_____

Fox Center

_____X_____

Justice Court – Green Street
40 Green Street

_____X_____

Mt. Kisco Ambulance Corp
310 Lexington Ave

_____X_____

Carpenter Avenue Community House
200 Carpenter Avenue


_____X_____

Leonard Park Multi Purpose Bldg

_____X_____



Gilmar Palacios Chin

Sworn to before me this 11th day of September 2023


Notary Public

MICHELLE K. RUSSO
NOTARY PUBLIC-STATE OF NEW YORK
No. 01RU6313298
Qualified in Putnam County
My Commission Expires 10-20-2026



460100061DED1

Control Number
460100061

Instrument Type
DED



WESTCHESTER COUNTY RECORDING AND ENDORSEMENT PAGE
(THIS PAGE FORMS PART OF THE INSTRUMENT)
***** DO NOT REMOVE *****

THE FOLLOWING INSTRUMENT WAS ENDORSED FOR THE RECORD AS FOLLOWS:

TYPE OF INSTRUMENT: DED - DEED

FEE PAGES: 5 TOTAL PAGES: 5

RECORDING FEES

STATUTORY CHARGE	\$6.00
RECORDING CHARGE	\$15.00
RECORD MGT. FUND	\$19.00
RP 5217	\$165.00
TP-584	\$5.00
CROSS REFERENCE	\$0.00
MISCELLANEOUS	\$0.00
TOTAL FEES PAID	\$210.00

TRANSFER TAXES

CONSIDERATION	\$0.00
TAX PAID	\$0.00
TRANSFER TAX #	7472

MORTGAGE TAXES

MORTGAGE DATE	
MORTGAGE AMOUNT	\$0.00
EXEMPT	
COUNTY TAX	\$0.00
YONKERS TAX	\$0.00
BASIC	\$0.00
ADDITIONAL	\$0.00
MTA	\$0.00
SPECIAL	\$0.00
TOTAL PAID	\$0.00

SERIAL NUMBER:
DWELLING:

RECORDING DATE: 1/27/2006
TIME: 09:02:00

THE PROPERTY IS SITUATED IN
WESTCHESTER COUNTY, NEW YORK IN THE:
TOWN OF MT. KISCO

WITNESS MY HAND AND OFFICIAL SEAL

TIMOTHY C. IDONI
WESTCHESTER COUNTY CLERK

Record & Return to:
BANKS CURRAN SCHWAM & SQUIRRELL
61 SMITH AVE

MT KISCO, NY 10549

THIS INDENTURE, made the 23rd day of December, in the year 2005
BETWEEN WILLIAM F. BANKS, As Executor, of The Estate of **THERESE C. BANKS**, and **BARBARA BANKS SCHWAM**

residing at 61 Smith Avenue, Mount Kisco, New York 10549

as executor of the last will and testament of **THERESE C. BANKS**, late of Bedford, New York, deceased, party of the first part, and 61 SMITH PROPERTIES, LLC, with offices at 61 Smith Avenue, Mount Kisco, New York 10549 party of the second part,

WITNESSETH, that the party of the first part, to whom letters testamentary were issued by the Surrogate's Court of the State of New York for the County of Westchester on December 18, 1996, and by virtue of the power and authority given in and by said last will and testament, and in consideration of

TEN AND 00/100----- (\$10.00) dollars, paid by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or successors and assigns of the party of the second part forever,

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the SCHEDULE "A" ATTACHED HERETO AND MADE A PART HEREOF.

TOGETHER with all right, title and interest, if any, of the party of the first part of, in and to any streets and roads abutting the above-described premises to the center lines thereof;

TOGETHER with the appurtenances, and also all the estate which the said decedent had at the time of decedent's death in said premises, and also the estate therein, which the party of the first part has or has power to convey or dispose of, whether individually, or by virtue of said will or otherwise;

TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.

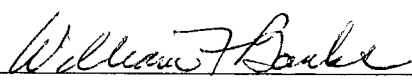
AND the party of the first part covenants that the party of the first part has not done or suffered anything whereby the said premises have been incumbered in any way whatever, except as aforesaid.

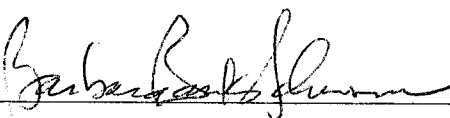
AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above written.

IN PRESENCE OF:


WILLIAM F. BANKS, EXECUTOR


BARBARA BANKS SCHWAM

ACKNOWLEDGEMENT TAKEN IN NEW YORK STATE

State of New York, County of WESTCHESTER, ss:

On the 28 day of DECEMBER in the year 2005, before me, the undersigned, personally appeared WILLIAM F. BANKS

, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.



DAVID J. SQUIRRELL
Notary Public, State of New York
No. 02SQ6037472
Qualified in Westchester County
Commission Expires: February 16, 2006

ACKNOWLEDGEMENT BY SUBSCRIBING WITNESS
TAKEN IN NEW YORK STATE

State of New York, County of , ss:

On the day of in the year , before me, the undersigned, a Notary Public in and for said State, personally appeared , the

subscribing witness to the foregoing instrument, with whom I am personally acquainted, who, being by me duly sworn, did depose and say that he/she/they reside(s) in

(if the place of residence is in a city, include the street and street number if any, thereof); that he/she/they know(s)

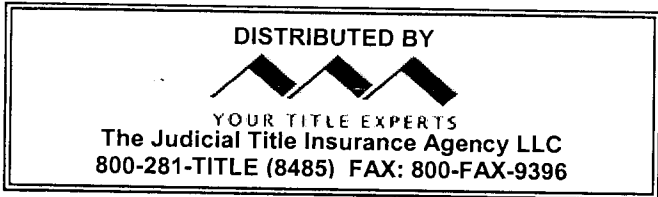
to be the individual described in and who executed the foregoing instrument; that said subscribing witness was present and saw said

execute the same; and that said witness at the same time subscribed his/her/their name(s) as a witness thereto

Executors Deed

Title No.

WILLIAM F. BANKS, As Executor of the Estate of Therese C.
Banks, BARBARA BANKS SCHWAM
TO
61 SMITH PROPERTIES, LLC

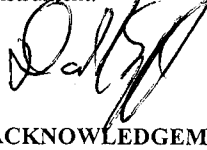


ACKNOWLEDGEMENT TAKEN IN NEW YORK STATE

State of New York, County of WESTCHESTER, ss:

On the 28 day of DECEMBER in the year 2005, before me, the undersigned, personally appeared BARBARA BANKS SCHWAM

, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.



DAVID J. SQUIRRELL
Notary Public, State of New York
No. 02SQ6037472
Qualified in Westchester County
Commission Expires: February 16, 2006

ACKNOWLEDGEMENT TAKEN OUTSIDE NEW YORK
STATE

*State of , County of , ss:

*(Or insert District of Columbia, Territory, Possession or Foreign County)

On the day of in the year , before me the undersigned personally appeared

Personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), that by his/her/their signature(s) on the instrument, the individual(s) or the person upon behalf of which the individual(s) acted, executed the instrument, and that such individual make such appearance before the undersigned in the

(add the city or political subdivision and the state or country or other place the acknowledgement was taken).

SECTION: 80.41-1-7

BLOCK:

LOT:

COUNTY OR TOWN: WESTCHESTER

RETURN BY MAIL TO:

BANKS, CURRAN, SCHWAM & SQUIRRELL, LLP
61 SMITH AVENUE
MOUNT KISCO, NEW YORK 10549

SCHEDULE "A"

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the Village of Mount Kisco, Town of ~~New Castle~~ ^{Mount Kisco}, County of Westchester and State of New York, and known and designated as Lot No. 3 on a map entitled, "Map of houses, lots and villa plots at Union Park, Mount Kisco, N.Y., sold at auction by Eugene Archer, referee, March 29, 1880", and filed in the office of the Register of the County of Westchester (now County Clerk's Office, Division of Land Records), April 28, 1880, in Volume 6 of Maps, Page 3, and which lot is more particularly bounded and described as follows:

BEGINNING at a point on the northerly side of Smith Avenue adjoining and now or formerly of Angelo and Julia DeCunzo (formerly John Mackey), and which point is distant 840.74 feet westerly as measured along the northerly side of Smith Avenue from the corner formed by the westerly side of East Main Street and the northerly side of Smith Avenue; thence running in a northerly direction along said lands of DeCunzo, North 7° 32' 20" West 149.59 feet to the southerly line of Lot No. 21 as shown on a certain map entitled, "Burbank, Cushman & Myers", which map is filed in the aforesaid office as Map #41-17; thence running in an easterly direction along the southerly side of said Lot No. 21 and Lots 19 and 17 as shown on said last mentioned map the following courses and distances; South 78° 29' 0" East .65 feet and North 76° 21' 0" East 102.97 feet to a point and lands now or formerly of Milla S. Robertson; thence running in a southeasterly direction along said lands of Robertson, South 7° 32' 20", East 160.34 feet to the northerly side of Smith Avenue; thence running in a westerly direction along the northerly side of Smith Avenue, South 82° 27' 40" West 103.00 feet to the point and place of beginning.

PREVIOUSLY APPROVED SITE PLAN
SCALE: 1" = 20'-0"
(AS PER PLANNING BOARD RESOLUTION DATED 4/25/63 YET NEVER
CONSTRUCTED.)

Via E-Mail

January 19, 2023

Mr. Peter Helmes AIA
The Helmes Group, LLP
184 Katonah Ave
Katonah, NY 10536-2112Re: Site Plan - Drainage
61 Smith Properties, LLC
61 Smith Avenue
Mt. Kisco, NY

Dear Mr. Helmes:

At your request Bibbo Associates, LLP has analyzed the drainage tributary to a 6-inch diameter outlet pipe (which connects to an existing 8-inch outlet pipe) located through a wall at the rear of the property.

The tributary area was taken as the whole property from the street line to the rear wall. HydroCAD 2017 was utilized to check the flow of a 50-year storm (7.64" of rain) with the following input:

Area = 14,511 s.f.
Curve Number = 93
Time of Concentration = 9.4 min.

The analysis resulted in a flow of 1.9 cfs. passing through the 6-inch diameter pipe at approximately 95% depth of pipe (see analysis enclosed).

In conclusion the existing 6-inch diameter pipe is sufficient to pass the 50-year storm event.

This is adequately sized for this project.

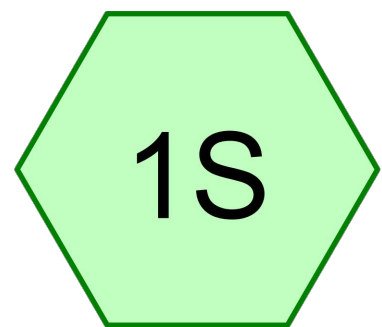
Please do not hesitate to call with any questions or require anything further.

Very truly yours,

Timothy S. Allen, P.E.

TSA/mme
Enclosure
cc: B. Banks-Schwam
File

Site Design • Environmental

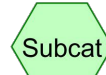
Mill Pond Offices • 293 Route 100 • Suite 203 • Somers, New York 10589
Phone: 914.277.5805 • Fax: 914.277.8210
Website: www.bibboassociates.com • E-mail: bibbo@bibboassociates.com

Post



2R

Pipe

Routing Diagram for Banks - Smith Ave
Prepared by Bibbo Associates, Printed 10/25/2022
HydroCAD® 10.00-20 s/n 02226 © 2017 HydroCAD Software Solutions LLCBanks - Smith Ave rainfall 24-hr S0P 50-yr Rainfall=7.74"
Prepared by Bibbo Associates Printed 10/25/2022
HydroCAD® 10.00-20 s/n 02226 © 2017 HydroCAD Software Solutions LLC Page 2

Summary for Subcatchment 1S: Post

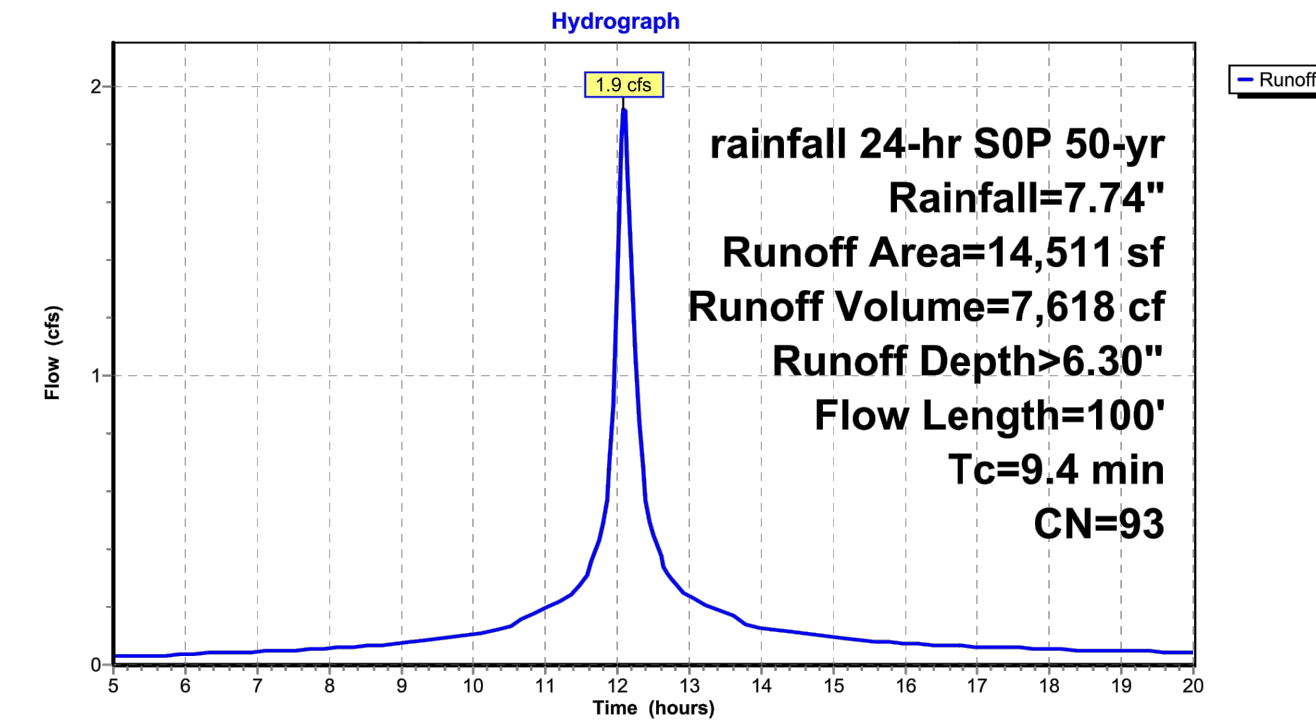
Runoff = 1.9 cfs @ 12.09 hrs, Volume= 7,618 cf, Depth> 6.30"

Runoff by SCS TR-20 method, UH=SCS, Weighted-CN, Time Span= 5.00-20.00 hrs, dt= 0.05 hrs
rainfall 24-hr S0P 50-yr Rainfall=7.74"

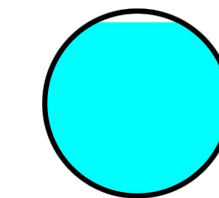
Area (sf)	CN	Description
4,170	80	>75% Grass cover, Good, HSG D
10,341	98	Impervious
14,511	93	Weighted Average
4,170		28.74% Pervious Area
10,341		71.26% Impervious Area

Tc (min)	Length (feet)	Slope (ft/ft)	Velocity (ft/sec)	Capacity (cfs)	Description
9.0	60	0.0083	0.11		Sheet Flow, Grass: Short n= 0.150 P2= 3.41"
0.4	40	0.0500	1.71		Sheet Flow, Smooth surfaces n= 0.011 P2= 3.41"
9.4	100	Total			

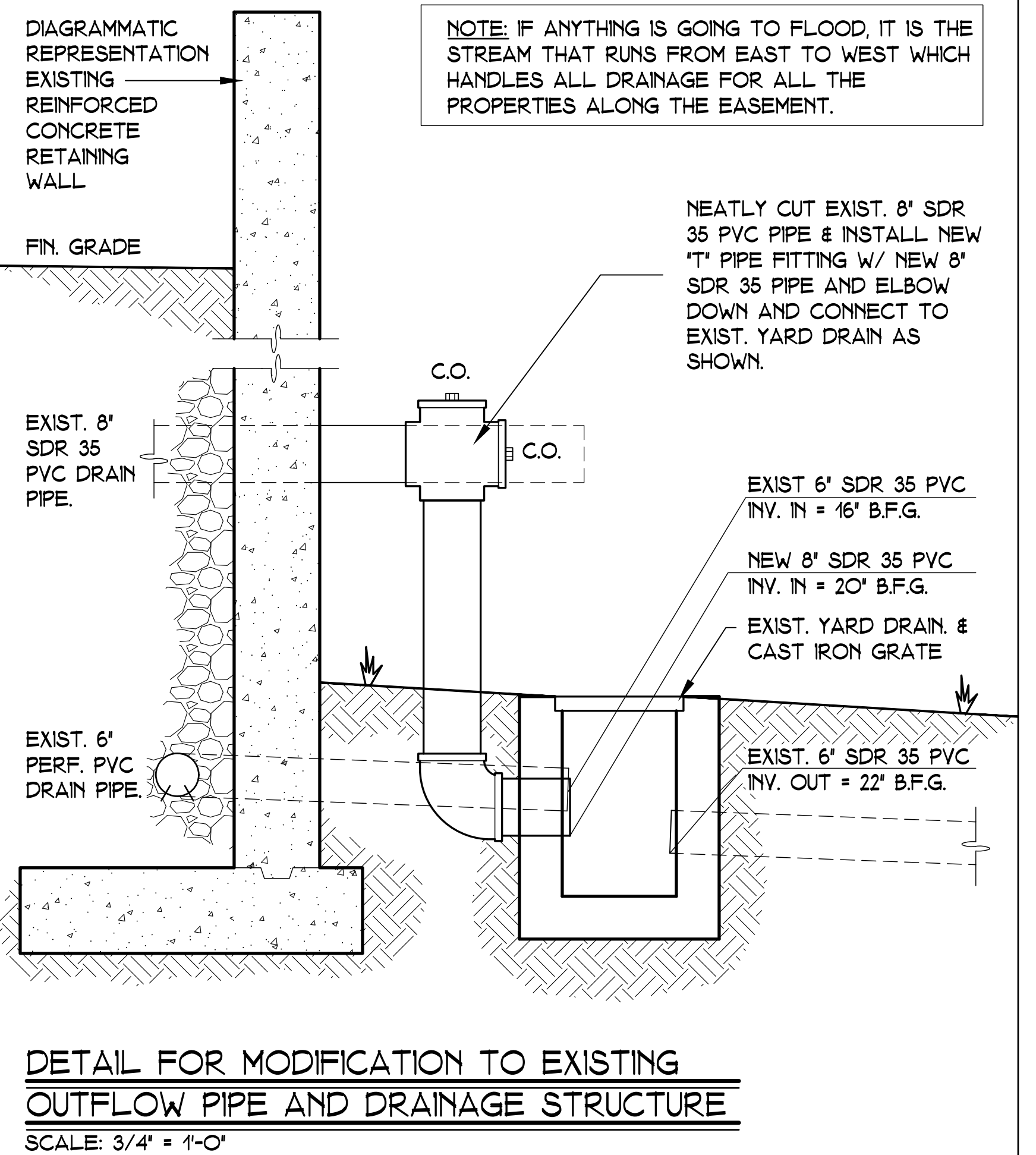
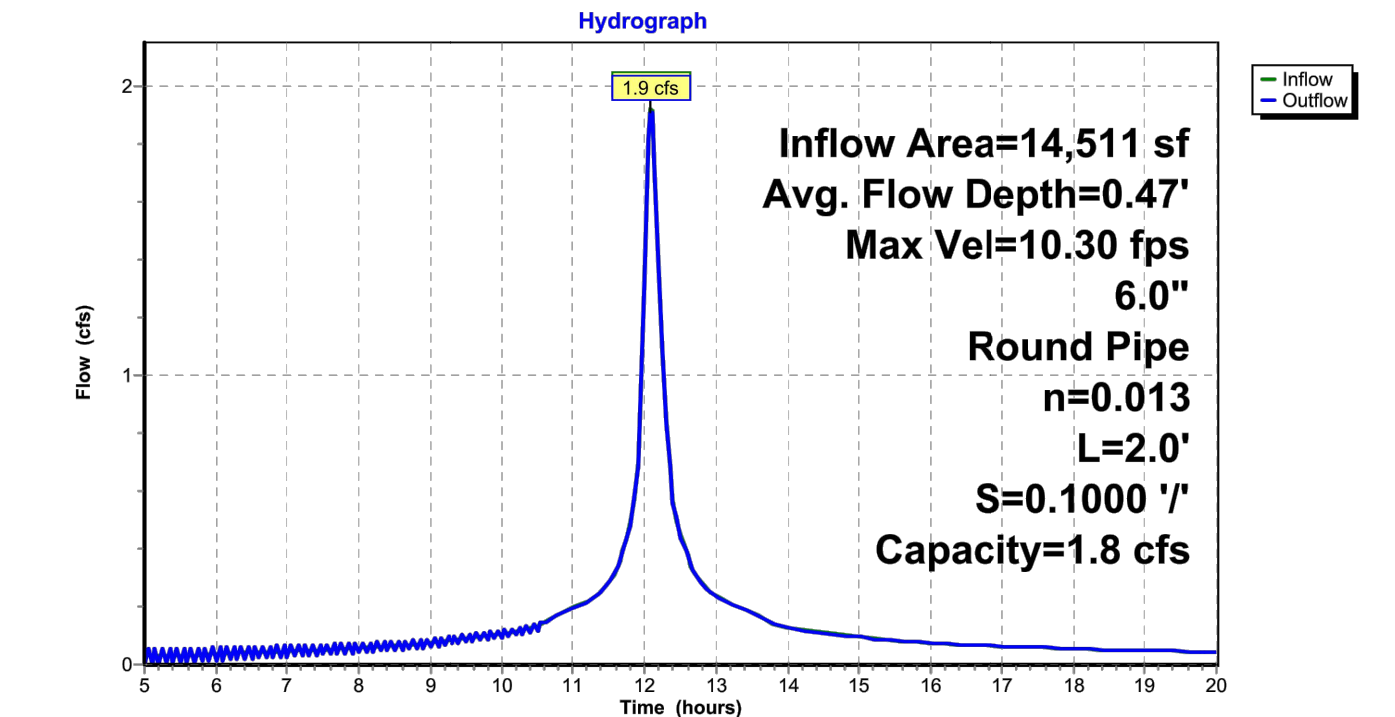
Subcatchment 1S: Post

Banks - Smith Ave rainfall 24-hr S0P 50-yr Rainfall=7.74"
Prepared by Bibbo Associates Printed 10/25/2022
HydroCAD® 10.00-20 s/n 02226 © 2017 HydroCAD Software Solutions LLC Page 3

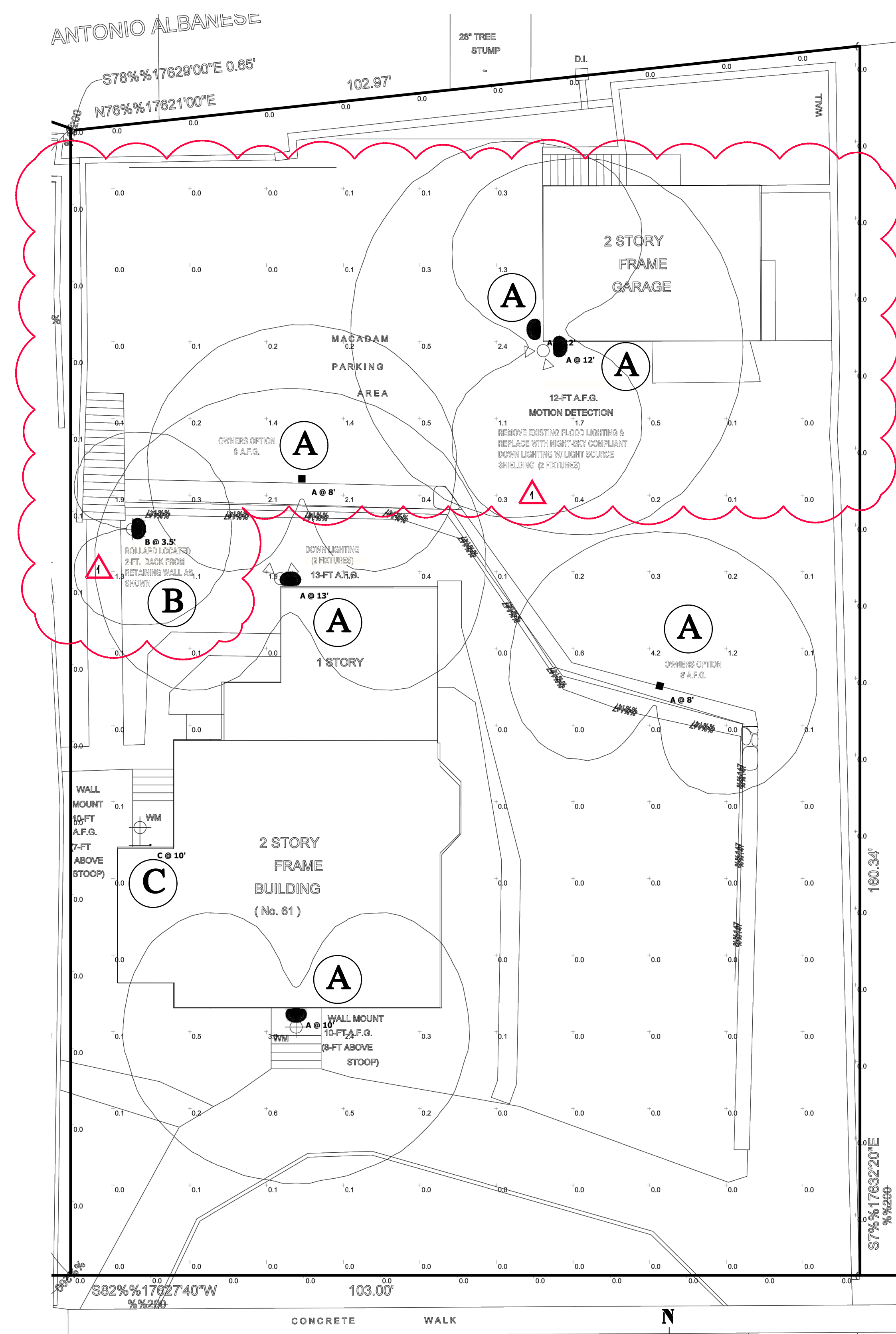
Summary for Reach 2R: Pipe

Inflow Area = 14,511 sf, 71.26% Impervious, Inflow Depth > 6.30" for 50-yr event
Inflow = 1.9 cfs @ 12.09 hrs, Volume= 7,618 cf
Outflow = 1.9 cfs @ 12.09 hrs, Volume= 7,615 cf, Atten= 1%, Lag= 0.0 minRouting by Stor-Ind+Trans method, Time Span= 5.00-20.00 hrs, dt= 0.05 hrs
Max. Velocity= 10.30 fps, Min. Travel Time= 0.0 min
Avg. Velocity = 4.78 fps, Avg. Travel Time= 0.0 minPeak Storage= 0 cf @ 12.09 hrs
Average Depth at Peak Storage= 0.47"
Bank-Full Depth= 0.50' Flow Area= 0.2 sf, Capacity= 1.8 cfs6.0" Round Pipe
n= 0.013 Corrugated PE, smooth interior
Length= 2.0' Slope= 0.1000 '1'
Inlet Invert= 0.20', Outlet Invert= 0.00'

Reach 2R: Pipe



ISSUE DATES:	CODE COMPLIANT THIRD FLOOR APARTMENT FOR EXISTING BUILDING for: 61 SMITH PROPERTIES LLC.		
	61 SMITH AVENUE	MT. KISCO, NY.	
	SITE DRAINAGE CALCULATIONS & PROPOSED MODIFICATIONS TO EXISTING DRAINAGE STRUCTURE SCALE: AS INDICATED		DRAWN BY: NED CHECKED BY: PUH
	THE HELMES GROUP, LLP ARCHITECTURE • ENGINEERING PROJECT MANAGEMENT 184 KATONAH AVENUE, KATONAH, NY 10536 TEL: (914) 232-4633 FAX: (914) 232-0768 EMAIL: thg@thehelmesgroup.com		DRAWING NO.: 1.1
1-24-23 PLANNING BD. COMMENTS VILLAGE CONSULTANTS			



SITE LIGHTING & PHOTOMETRIC PLAN

SCALE: 1" = 10'-0"

SURVEY INFORMATION PREPARED BY H. STANLEY JOHNSON LAST DATED 11-28-2005
PHOTOMETRIC DATA AS PREPARED BY ANDREW ZETTERSTROM, ACUTY BRANDS LIGHTING, INC.

Statistics

Description	Symbol	Avg	Max	Min	Max/Min	Avg/Min
Property Line	+	0.0 fc	0.1 fc	0.0 fc	N/A	N/A
Site	+	0.4 fc	4.2 fc	0.0 fc	N/A	N/A

Schedule						
Symbol	Label	Image	Quantity	Manufacturer	Catalog Number	Description
A			4	Lithonia Lighting	ARC2 LED P1 40K	ARC2 LED P1 40K LED with P1 Performance Package 4000K
B			1	Cyclone Lighting	TRB-FGF-3-15W-3K	Trike bollard
C			1	Lumins Canada Inc.	SQ500-L135NR-R9	Syrinx Square 5



ARC2 LED Architectural Wall Luminaire

Specifications

Depth (D1): 9.25"
Depth (D2): 7.5"
Height: 5"
Width: 14"
Weight: 11 lbs (without options)

Introduction

The Lithonia Lighting ARC2 LED wall-mounted luminaires provide both architectural styling and visually comfortable illumination while providing the high energy savings and low initial costs for quick financial payback.

ARC2 delivers up to 6,500 lumens with a soft, non-pixelated light source, creating a visually comfortable environment. It offers integrated emergency battery backup options, including an 8W cold temperature option, making it suitable for pedestrian scale applications in any environment.

Specifications

Feature	Standard	Option
Depth (D1)	9.25"	9.25"
Depth (D2)	7.5"	7.5"
Height	5"	5"
Width	14"	14"
Weight	11 lbs	11 lbs

ARC LED Family Overview


Feature	Standard	Option
Depth (D1)	9.25"	9.25"
Depth (D2)	7.5"	7.5"
Height	5"	5"
Width	14"	14"
Weight	11 lbs	11 lbs

Ordering Information

EXAMPLE: ARC2 LED P2 40K MVOLT PE DDBXD

Series	Package	Color Temperature	Voltage	Options	Finish	
ARC2 LED	P1	1,500 Lumens	30K	3000K	MVOLT	4000K
	P2	2,000 Lumens	40K	4000K	347	4000K
	P3	3,000 Lumens	50K	5000K	5000K	5000K
	P4	4,000 Lumens	60K	6000K	6000K	6000K
	P5	6,000 Lumens	70K	7000K	7000K	7000K

WALL MOUNTED FIXTURE TYPE (A)



Trike TRB Approval - Trike TRB

Project: 61 Smith Ave
Qty: 1 Luminaire: TRB FGF 3 15 3K 120-277-XX-TX

Head Module

One cast A356 aluminum cap mechanically assembled by two anti-vandal screws to the optical module. These two screws allow quick and easy access.

The head module is mechanically assembled on the base module with a twist-lock mechanism and provides access to the driver module. The head module is mechanically assembled on the base module and secured by one temper-proof screw.

Base Module: Tube 5" (12.7cm) Ø made of 6061-T6 aluminum alloy. An A356 aluminum collar is welded to the tube and allows the head module to be mechanically secured with one screw. The whole module is mechanically fastened to the anchor plate with four screws.

Bolt Circle: Recommended installation at 3 1/2" (9cm) Ø. Available from 3 1/4" to 3 1/2" (8cm to 9cm) Ø.

Anchor Bolts: Supplied by Cyclone: 3/8" Ø x 12" (Ø+3), 4 galvanized anchor bolts, 8 nuts and 8 washers for leveling.

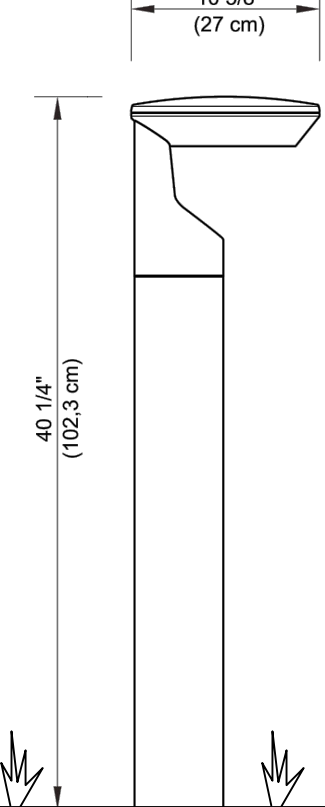
Optical Module: The cast A356 aluminum heat sink is optimized to minimize the temperature of the LEDs, increasing their longevity and efficiency. The lens module is mechanically assembled for easy replacement. A flat Frosted Tempered Glass (FGF) lens is attached to a cast aluminum frame. The optics is fully IP67 thanks to the EPDM gasket. The high efficiency LED circuit is mechanically assembled on the heat sink. The lifetime of the LEDs is 100,000 hours. It is based on the LM-80 test and extrapolated with TM-21. This data is calculated when 50% of the LEDs produce 70% of their initial luminous flux (L70). The minimum color rendering index (CRI) is 70. The lenses are made of acrylic and designed to illuminate only where needed while achieving excellent uniformity with maximum spacing. Produces 0% uplight. The type according to IES.

Driver Module: The self-adjusting Class 2 (20 to 40V) driver is removable without tools.

Primary Voltage of 120 Volts, 50/60Hz, THD max 20%. The high power factor is of 98%. The operating temperature is from -40°F (-40°C) to 130°F (50°C). Complies with RoHS. Assembled with quick-disconnect connectors. Complete with 10kV tripartite overvoltage protection for live, neutral and ground lines according to IEEE / ANSI C62.41 2002 C. The driver offers 0-10 Volts output.

Wiring / Hardware: Type TEV 14-7, 12" (30cm) minimum exceeding luminaire. All electrical connections between the modules are provided with quick-disconnect connectors for easy maintenance. All outside accessible hardware is stainless steel.


Color: Textured or Smooth (SM) finish. The application of durable polyester powder coating meets AAMA 2604 requirements (5 years at all weather conditions). The finish meets ASTM G7, B117, D1654 and D2247 standards for salt spray and moisture. Cyclone recommends a textured finish for this product.



Weight: 17 lbs / 8 kg

PROVIDE PRECAST OR POURED CONCRETE PIER FOOTING MIN. 8" DIA. BY 3-FT. DEEP WITH ANCHOR BOLTS AS PER MFG. RECOMMENDATIONS.

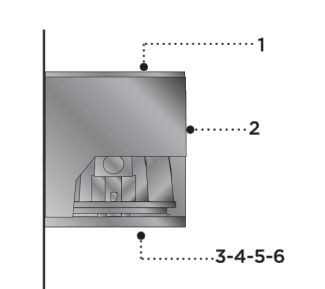
BOLLARD LIGHT FIXTURE TYPE (B)



SQ500 SERIES SYRINX SQUARE - LED WALL UP OR DOWN LIGHT

TYPE: QUANTITY: PROJECT:

CATALOG NUMBER: FIXTURE SUFFIX REFLECTOR VOLTAGE FINISH OPTION OPTION OPTION



1. Aluminum top cover.
2. Extruded aluminum housing.
3. Fully sealed cast aluminum up or down light assembly (for uplight position, select "UP" from options).
4. Sealed cast aluminum lens frame.
5. Clear tempered glass lens.
6. Faceted specular aluminum reflector.

All stainless steel hardware.

MATERIALS

Syrinx Square LED is made of corrosion resistant 356 aluminum alloy with a copper (Cu) content of less than 0.1%. The main housing is made of stainless extruded aluminum, with an internally sealed LED light module designed for optimal heat dissipation and lighting performance.

Syrinx Square LED SQ500 series is offered standard with 220 optic. See options section for alternate selection.

ELECTRICAL DRIVER

Standard driver is 0-10V dimming-ready (dim to 10%) with: 100-277 multi-volt compatibility (50-60Hz), operating temperature range of -30°C/-22°F to 55°C/131°F, output over voltage protection, output over current protection and output short circuit protection with auto-recovery.

LED

Standard 4000K/80CRI. Optional 2700K, 3000K & 3500K. Optional Amber LED for turtle sensitive areas. Wavelengths: 384.5nm to 597nm.

LIFE

>55,000hrs L70_B (based on IESNA TM-21 Test Method and LM-80 data). Up to 95,000hrs L70_B (calculated projection from LM-80 data).

FINISH

Five-stage preparation process includes preheating of cast aluminum parts for air extraction. Polyester powder coating is applied through an electrostatic process, and oven cured for long term finish.

WALL MOUNTED FIXTURE TYPE (C)



LANDSCAPE REFERENCE PHOTOGRAPHS

NO SCALE

Chapter 110. Zoning

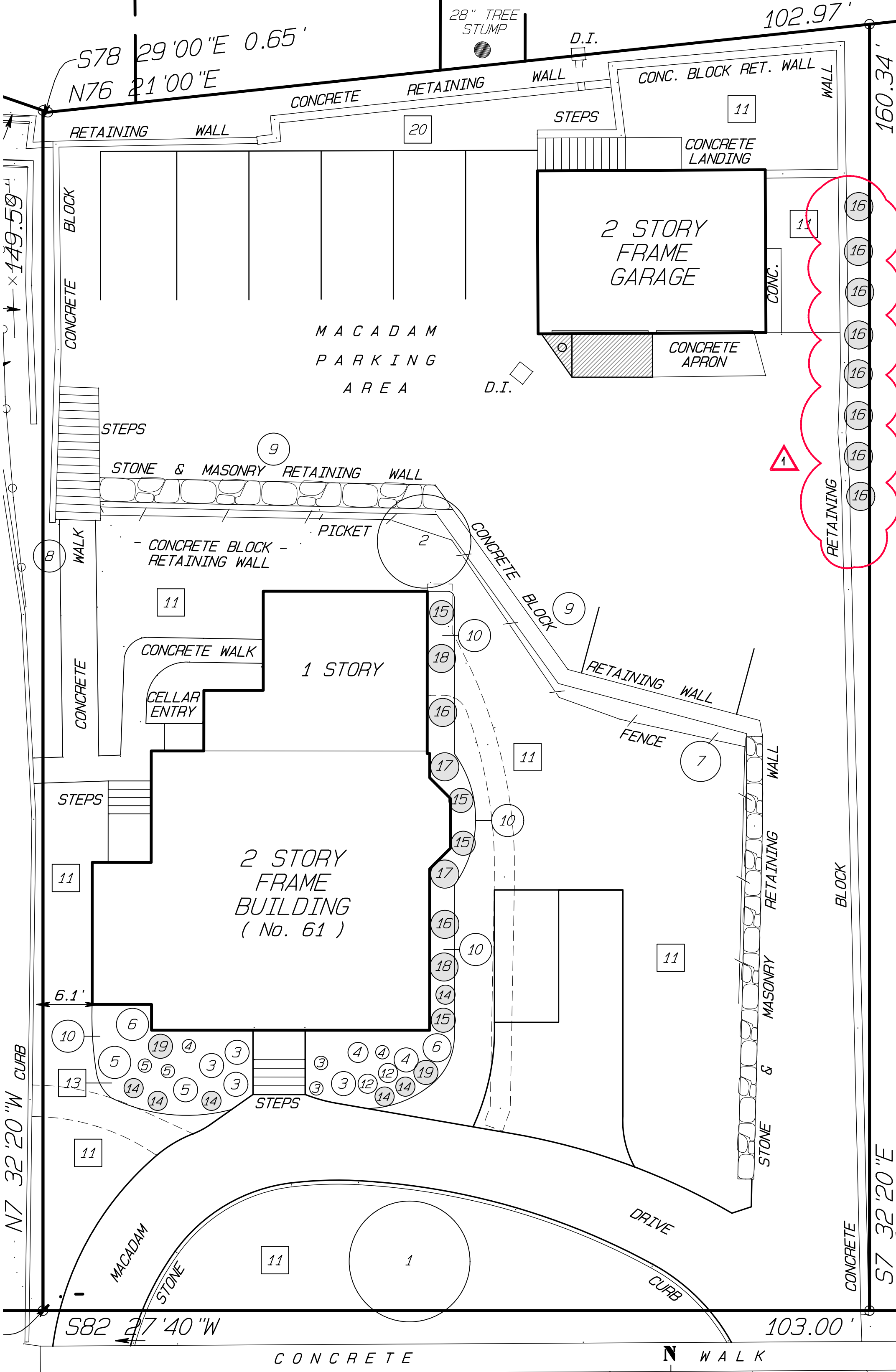
Article V. Supplementary Regulations

§ 110-32. Supplementary landscaping and illumination regulations.

C. Illumination.

[Amended 4-21-2003 by L.L. No. 2-2003]

- Purpose and intent. The Village Board of Trustees hereby finds that the regulation of outdoor lighting in the Village of Mount Kisco is necessary to prevent misdirected or excessive artificial light, caused by inappropriate or misaligned light fixtures that produce glare, light trespass, and/or unnecessary sky glow; and also that such regulation is necessary to discourage the waste of electricity and to improve or maintain night-time public safety, utility and security.
- Light trespass. All new light fixtures, except street lighting, shall be designed, installed and maintained to prevent light trespass, as specified below:
 - At the lot lines of the subject property, illumination from the light fixtures shall not exceed 0.1 footcandle on residentially zoned property or 0.5 footcandle on nonresidentially zoned property, measured in a vertical plane.
 - Outdoor light fixtures shall be directed so that there will be no objectionable direct light emissions, and light fixtures near adjacent property may require additional shielding devices to prevent light trespass.



LANDSCAPE PLAN

SCALE: 1" = 10'-0"

SURVEY INFORMATION PREPARED BY H. STANLEY JOHNSON LAST DATED 11-28-2005.

LANDSCAPE SCHEDULE				
KEY#	QTY.	COMMON NAME	SIZE	REMARKS
1	EXIST.	OAK TREE	48" DIA	EXISTING
2	EXIST.	OAK TREE	14" DIA	EXISTING
3	EXIST.	HOLLY BUSH	18"-36" DIA X 36" H	EXISTING
4	EXIST.	PURPLE AZALEA	20"-42" DIA X 36" H	EXISTING
5	EXIST.	BARBERRY SHRUB	20"-32" DIA X 36" H	EXISTING
6	EXIST.	DARK GREEN ARBORVITAE	42"-48" DIA X 12-16 FT. H	EXISTING
7	EXIST.	RHODODENDRON	60" DIA X 7 FT. H	EXISTING
8	EXIST.	LILAC TREE (ASSUMED TREE TYPE)	48" DIA X 8 FT. H	EXISTING
9	EXIST.	IVY	---	EXISTING
10	---	PLANTING BED	---	EDGE ALL PLANTING BEDS, WEED AND MULCH WITH SWEET PEAT (DARK BROWN MULCH)
11	EXIST.	GRASS	---	EXISTING & SEED ALL DISTURBED AREAS
12	EXIST.	HYACINTH	1 - GALLON	EXISTING
13	EXIST.	PACHYSANDRA	---	EXISTING
14	6	DAY LILLYS - STELLA D'ORO	1 GALLON	NEW PLANTING
15	4	PENNISETUM ALOPECUROIDES (GRASS) PLANT	2 TO 3 FOOT	NEW PLANTING
16	10	BOXWOOD - GREEN MOUNTAIN	18 - 24 INCHES	NEW PLANTING
17	2	HYDRANGEA BUSH (PINK)	5 - GALLON	NEW PLANTING
18	2	HYDRANGEA BUSH (BLUE)	5 - GALLON	NEW PLANTING
19	2	AZALEA	3 - GALLON	NEW PLANTING
20	---	NEW GRASS	---	NEW PLANTING

ISSUE DATES:

61 SMITH AVENUE

3-20-23 PLANNING BOARD COMMENTS
4-24-23 REV. PER SITE MTG. W/ VILLAGE CONSULTANTS
7-5-23
6-15-23
12-10-21
6-30-21
3-11-21

CODE COMPLIANT THIRD FLOOR APARTMENT FOR EXISTING BUILDING FOR:

61 SMITH PROPERTIES LLC.

PROPOSED SITE LIGHTING & LANDSCAPE PLANS
SCALE: AS INDICATED

THE HELMES GROUP, LLP
ARCHITECTURE • ENGINEERING
PROJECT MANAGEMENT
184 KATONAH AVENUE, KATONAH, NY 10536
TEL: (914) 232-4633 FAX: (914) 232-0768
EMAIL: thg@thehelmesgroup.com

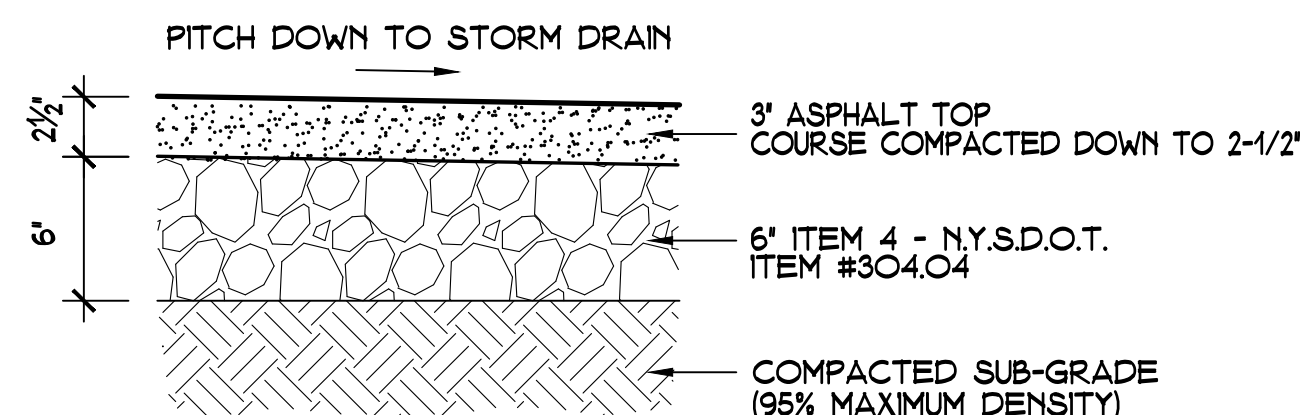
MT. KISCO, NY.

DRAWN BY: NED
CHECKED BY: PUH
DRAWING NO.: 2.0

SCOPE OF WORK FOR NEW GRASSPAVE2 POROUS GRASS PAVER SYSTEM FOR NEW HANDICAP ACCESSIBLE PARKING AREA

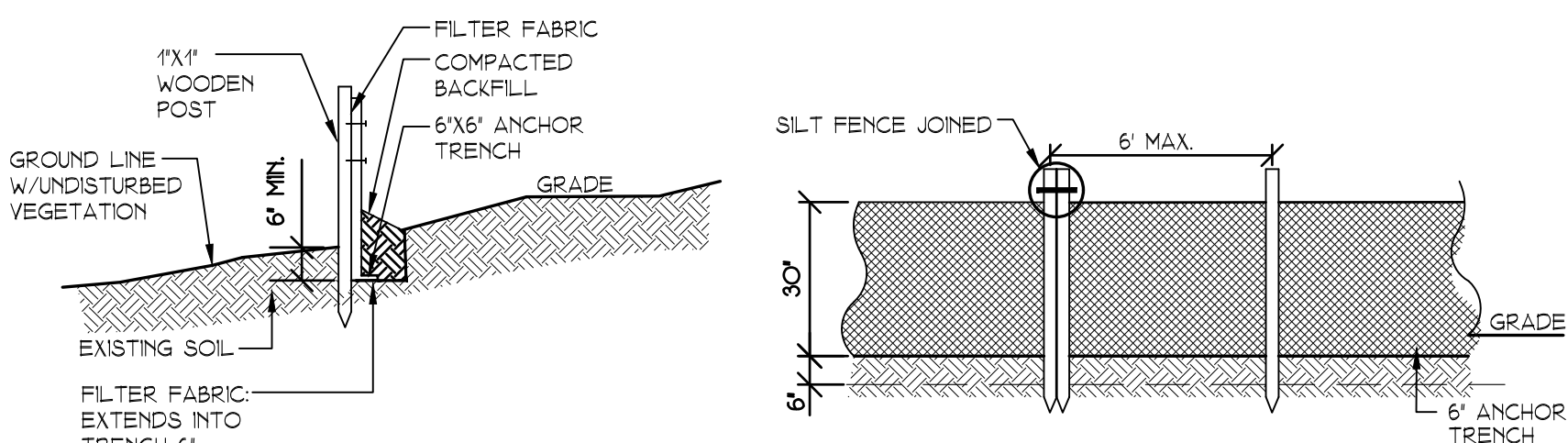
SEQUENCE OF CONSTRUCTION

1. VERIFY LOCATION OF ALL UNDERGROUND UTILITIES AND OVERHEAD ELECTRIC WIRES PRIOR TO STARTING CONSTRUCTION. THIS INCLUDES, BUT IS NOT NECESSARILY LIMITED TO UNDERGROUND FUEL TANKS, PIPING, UNDERGROUND WATER LINES, UNDERGROUND ELECTRICAL FOR ANY SITE LIGHTING, ETC. EXTREME CARE SHALL BE TAKEN TO PREVENT DAMAGE TO OR DISTURBANCE OF THESE ITEMS.
2. PROVIDE PORT-A-JON TOILET DURING CONSTRUCTION.
3. PROVIDE HAYBALES AND/OR SILT FENCE AS REQUIRED PRIOR TO THE START OF ANY EARTHWORK DISTURBANCE AND MAINTAIN UNTIL PERMANENT VEGETATION HAS BEEN ESTABLISHED. (SEE SILT FENCE DETAIL ON THIS SHEET)
4. STOCKPILES OF SOIL SHALL BE RINGED WITH SILT FENCE OR HAYBALES AND COVERED WITH TARPS. OTHERWISE, ALL EXCESS MATERIAL SHALL BE PROPERLY DISPOSED OF OFF-SITE.
5. REMOVE EXISTING CONCRETE AND/OR ASPHALT SIDEWALKS ALONG EAST AND WEST SIDES OF BUILDING WHERE INDICATED AND SUPPLEMENT WITH TOPSOIL AS NEEDED.
6. REMOVE EXISTING TOPSOIL AND INSTALL NEW PERMEABLE GRASSPAVE2 (POROUS GRASS PAVER SYSTEM) FOR NEW HANDICAP ACCESSIBLE PARKING AREA. (SEE DETAIL ON THIS SHEET) PROVIDE FLUSH BELGUM BLOCK CURB AT PERIMETER OF HANDICAP ACCESSIBLE AREA.
7. PROVIDE AND INSTALL RESERVED PARKING SIGN ON 2-1/2" DIAMETER SCH 40 GALVANIZED PIPE POST. SIGN TO STATE RESERVED PARKING WITH HANDICAP SYMBOL (SEE DETAIL ON THIS SHEET).
8. UPON COMPLETION OF CONSTRUCTION, REMOVE ALL EXCESS TOPSOIL, RESTORE AND REPLANT ALL DISTURBED AREAS WITH GRASS SEED, MULCH WITH STRAW TO STABILIZE. IN LIEU OF PLANTING GRASS SEED, SITE CONTRACTOR TO PROVIDE ADD/ALTERNATE PRICE FOR INSTALLING SOD IN LIEU OF GRASS SEED.)



TYPICAL PAVEMENT DETAIL FOR ANY REQUIRED PAVEMENT PATCHING OR REPAIRS.

SCALE: N.T.S.

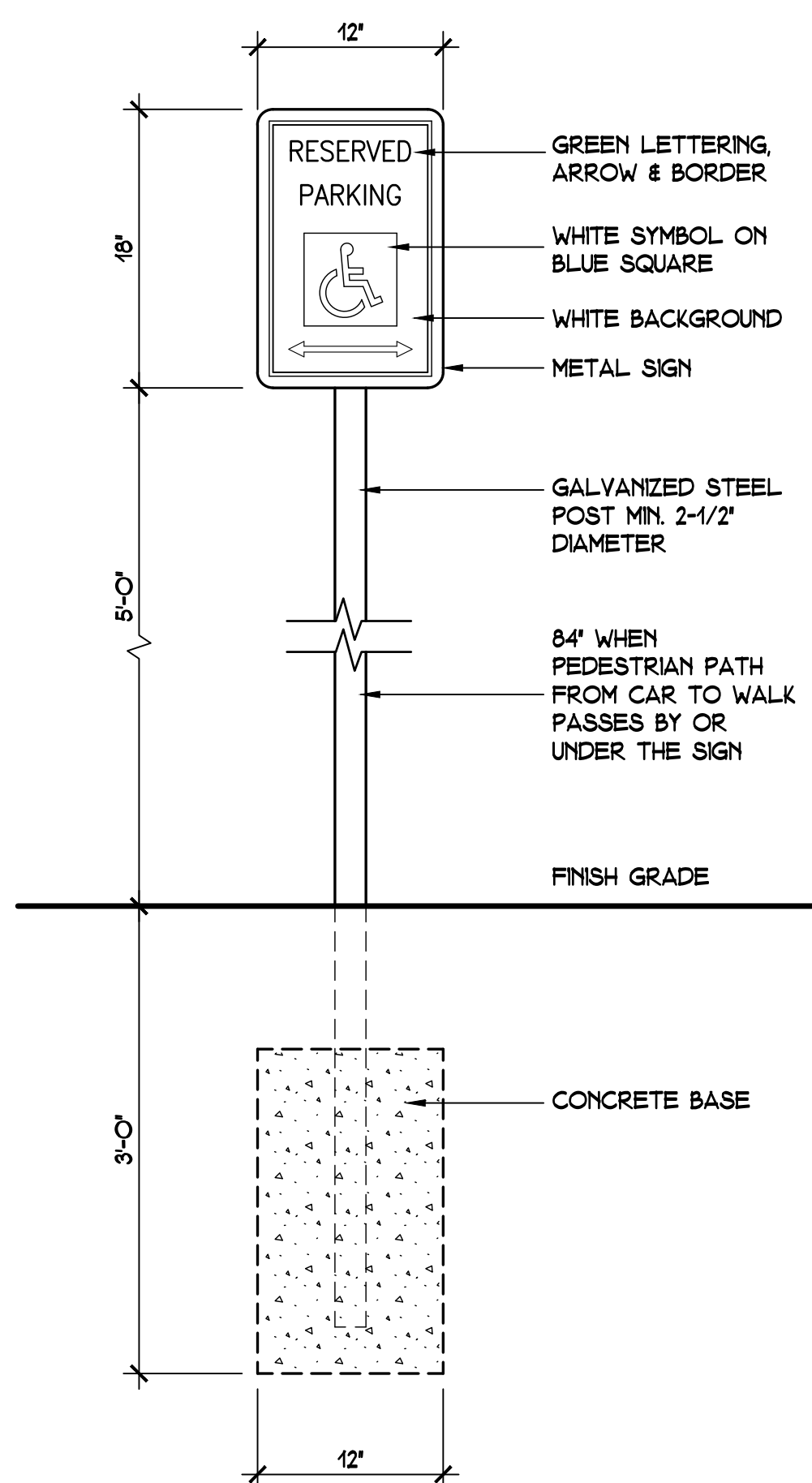


SILT FENCE DETAIL

N.T.S.

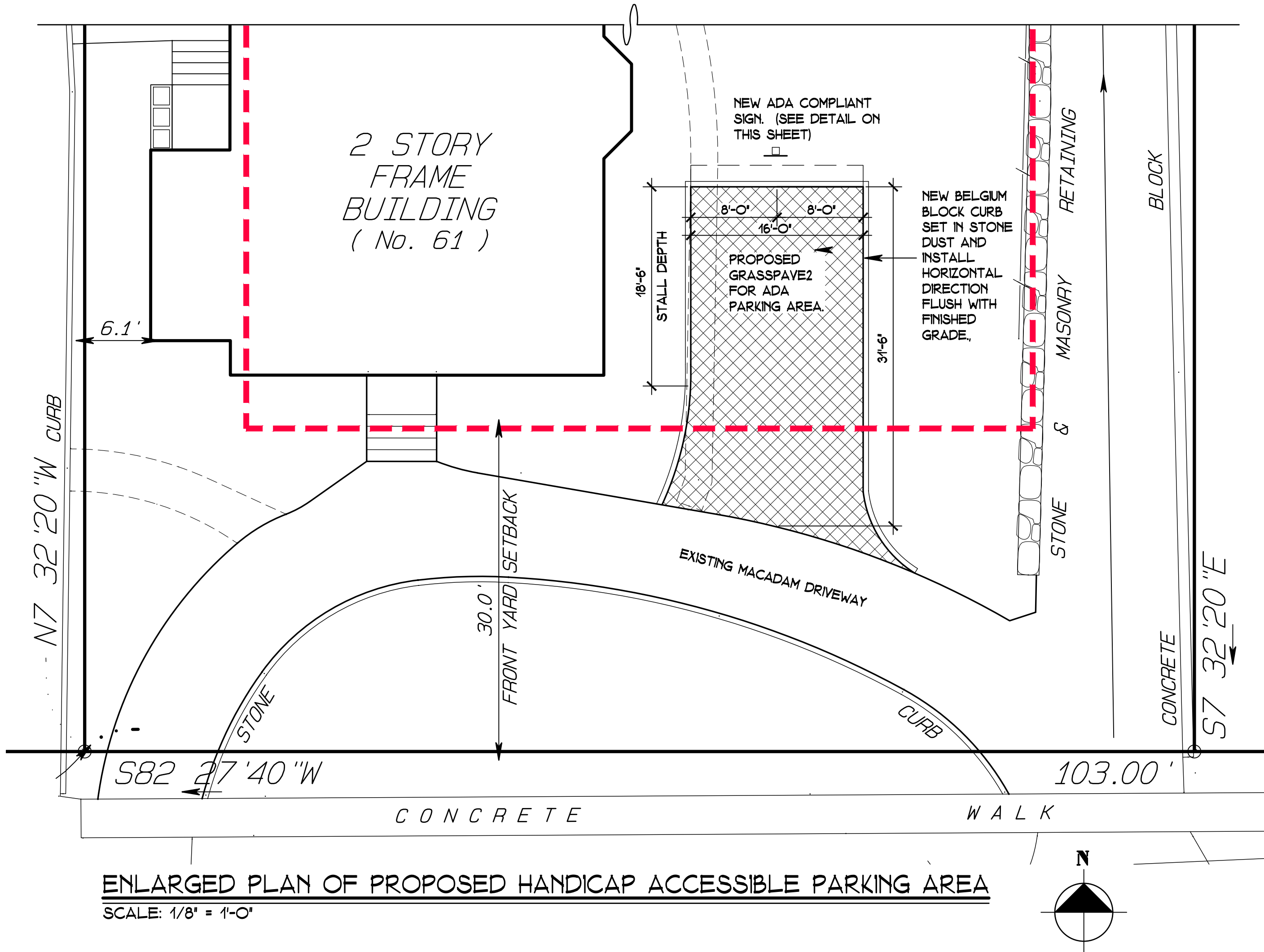
SILT FENCE DETAIL

N.T.S.



SIGN DETAIL FOR HANDICAP PARKING AREA

SCALE: 1" = 1'-0"

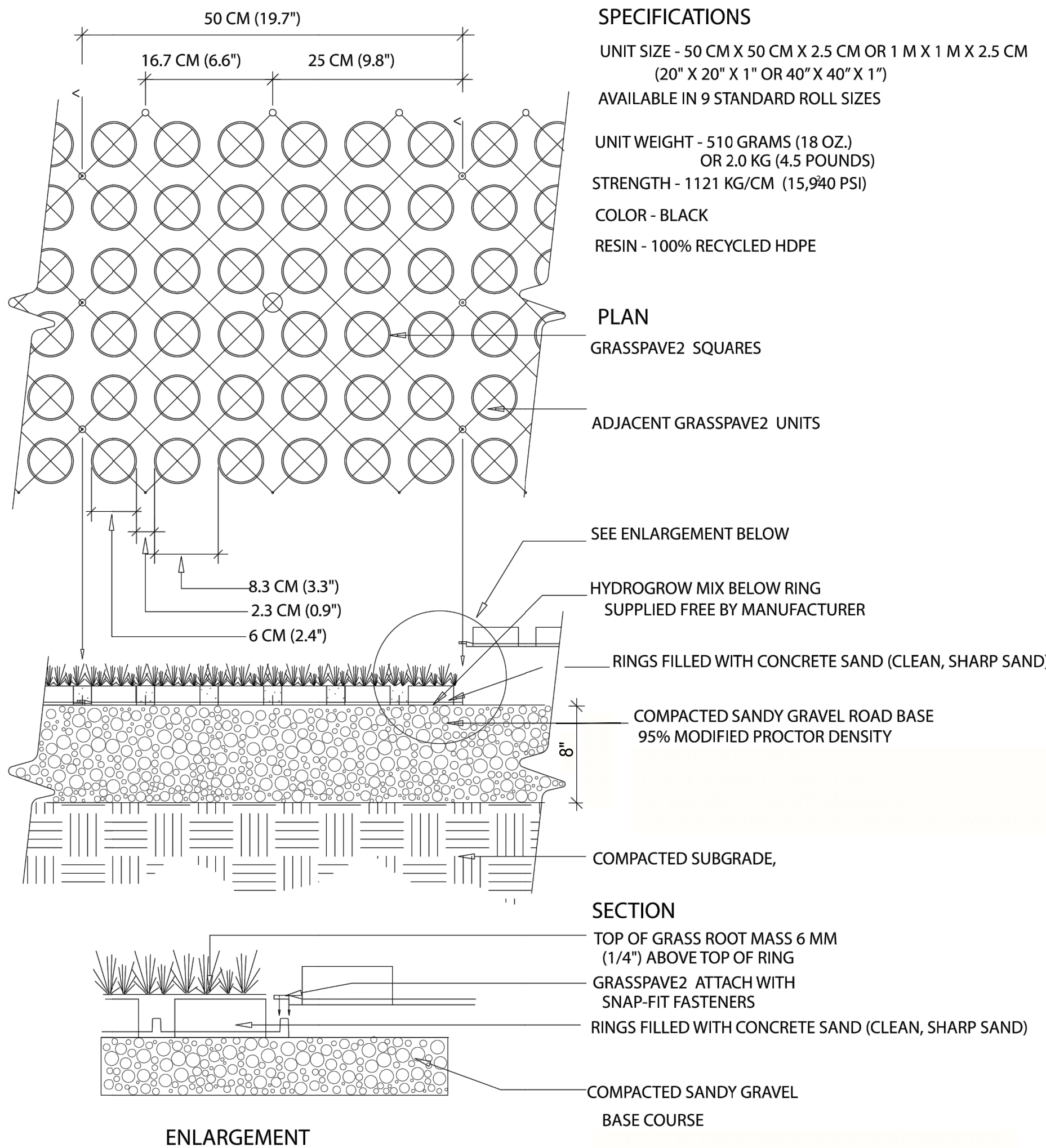


SCOPE OF WORK FOR CONTRACTOR PRICING

1. SAW-CUT AND REMOVE EXISTING SECTION OF PARKING LOT AT NORTH END OF REAR PARKING LOT. REMOVE ASPHALT SECTION AND REPLACE AS PER NOTE ON PROPOSED SITE PLAN. (SEE DRAWING 1.0) SITE CONTRACTOR TO PROVIDE ADD ALTERNATE PRICE FOR INSTALLING SOD IN LIEU OF GRASS SEED.
2. SAW-CUT EXISTING 8-INCH PVC PIPE OUTFLOW ABOVE EXISTING YARD DRAIN AT NORTH END OF PROPERTY. PROVIDE 1" CONNECTION WITH CLEANOUTS AND EXTEND DRAIN PIPE DOWN TO CREATE NEW UNDERGROUND CONNECTION TO EXISTING YARD DRAIN AS SHOWN IN DETAIL ON DRAWING 1.1.
3. REMOVE 9-INCHES DEPTH OF EXISTING TOPSOIL AT WEST SIDE OF HOUSE AND INSTALL NEW PERMEABLE GRASSPAVE2 (POROUS GRASS PAVER SYSTEM) FOR NEW HANDICAP ACCESSIBLE PARKING AREA. (APPROXIMATELY 562 SQUARE FEET. SEE GRASSPAVE2 DETAIL AND SITE PLAN LAYOUT ON THIS SHEET) PROVIDE AN 8-INCH BASE COURSE OF A COMPACTED SANDY GRAVEL ROAD BASE OVER A COMPACTED SUB-GRADE. SAND / GRAVEL BASE MUST CONFORM TO MANUFACTURERS SPECIFICATIONS. LAYOUT ROLL OF 1-INCH THICK OF GRASSPAVE2 WITH RING SIDE UP OVER BASE COURSE WITH HYDROGROW MIX AND LEVEL. APPLY 2-INCH LAYER OF SOD ROOT SIDE DOWN OVER GRASSPAVE2 MAT. WET BOTTOM OF SOD AND HAND TAMP UNTIL ROOTS ARE PRESSED INTO THE SAND BASE THEN WETTED AGAIN. (SEE MANUFACTURERS INSTALLATION SPECIFICATION) PROVIDE FLUSH BELGUM BLOCK CURB SET INTO STONE DUST AT PERIMETER OF GRASS PAVE HANDICAP ACCESSIBLE PARKING AREA. PROVIDE 'RESERVED PARKING' SIGN WITH 2-1/2" DIAMETER GALVANIZED STEEL POST AT CENTER OF NORTH END HANDICAP AREA. (SEE DETAIL ON DRAWING 2.1 FOR SIGN INSTALLATION)
4. REMOVE EXISTING ASPHALT WALKWAY CONNECTING THE ADJACENT PROPERTY ON THE WEST TO THE FRONT DRIVEWAY. REMOVE EXISTING CONCRETE WALKWAY ON THE EAST / SIDE OF THE BUILDING. REPLACE WITH TOPSOIL AND PLANT GRASS SEED AND MULCH WITH STRAW TO STABILIZE. IN LIEU OF PLANTING GRASS SEED, SITE CONTRACTOR TO PROVIDE ADD ALTERNATE PRICE FOR INSTALLING SOD IN LIEU OF GRASS SEED.
5. PROVIDE ALL LANDSCAPE PLANTINGS AS INDICATED ON THE LANDSCAPING PLAN ON DRAWING 2.0

TYPICAL GRASSPAVE2 DETAIL

CHOOSE THIS PRODUCT FOR REINFORCING GRASS WEARING SURFACES



TYPICAL GRASSPAVE2 DETAIL

CHOOSE THIS PRODUCT FOR REINFORCING GRASS WEARING SURFACES



16265 E. 33RD DR., SUITE 20
AURORA, COLORADO 80011
800-233-1510 OR 303-233-8383
FAX: 800-233-1522 OR
303-233-8282
www.invisiblestructures.com
rev. 1/18



SUPPORT CENTER

Frequently Asked Questions

Is Grasspave2 ADA compliant?

Absolutely. Grasspave2 and Gravelpave2 were the first, and continue to be one of the only ADA compliant porous pavers. For a link to our ASTM testing results for Grasspave2 click here.

Project Gallery



Grasspave2 grass permeable parking bays on the perimeter of the parking lot. Gravelpave2 drive aisles was placed for higher traffic frequency.



Grass provides an attractive area and a functional parking lot.

ISSUE DATES:		CODE COMPLIANT THIRD FLOOR APARTMENT FOR EXISTING BUILDING FOR:	
		61 SMITH PROPERTIES LLC.	
		61 SMITH AVENUE	MT. KISCO, NY.
		PROPOSED HANDICAP ACCESSIBLE PARKING AREA AND RELATED DETAILS	
		SCALE: AS INDICATED	
		DRAWN BY: NED	
		CHECKED BY: PUH	
		DRAWING NO.:	
		2.1	

September 5, 2023

By Hand Delivery and Email

Hon. Wayne Spector
Chair of the Village/Town of Mount Kisco Zoning Board of Appeals
and Members of the ZBA
104 Main Street
Mount Kisco, NY 10549

**Re: Simone Healthcare Development LLC
154-162 East Main Street (“Property”)
Application for Interpretation and Area Variance**

Dear Chair Spector and Members of the ZBA:

Our firm, together with Studio Architecture, represents Simone Healthcare Development LLC (“Applicant”), the contract vendee of the approximately 1-acre property commonly known as the Party City/Modell’s site, located along East Main Street in the CB-1 Zoning District. The Applicant, an entity of the Simone Development Companies, has been designing, building, financing, and managing successful medical office and healthcare facilities for some of the New York Metropolitan Area’s largest and most prestigious hospitals and medical practices for the past 25+ years.¹

The Applicant requests placement on the ZBA’s September 19th meeting agenda for a discussion about its proposal to adaptively re-use the existing retail building as a medical office – most likely a traditional “by-appointment” multi-specialty medical office. There would probably be some period during which the Applicant would use the building for a mix of retail (Party City or another retail tenant) and medical office.

Introduction

As background, under the Village Code, a professional office greater than 8,000 sf is allowed by Special Permit in the CB-1 District, subject to the condition that the office cannot be located on the ground floor of a building. *See* Village Code § 110-15B(2)(d).

¹ Simone Development Companies is a privately held, full-service real estate investment company specializing in the acquisition and development of healthcare, commercial, industrial, retail and residential real estate in the tri-state area.

Thus, in addition to a Special Permit and other approvals required from the Planning Board, this proposal also requires a variance from the ZBA to permit medical office on the ground floor. The Building Inspector opined in a Memorandum to the Planning Board, dated August 4, 2023, that “both levels appear to be on the ground floor.” Under this view, a variance would be needed for the entire building. Moreover, following the Applicant’s concept discussion before the Planning Board on August 8th, a question was raised during a pre-application conference with Village Staff on August 22nd about what type of variance is required.

Accordingly, we submit this Application both for an Interpretation that an area variance is required to vary Section 110-15B(2)(d) because doing so would not change the essential character of the CB-1 District, and for an Area Variance to permit a professional medical office on the two ground floors of the building at the Property.² Given upcoming due diligence deadlines in the purchase contract, the Applicant looks forward to appearing before the ZBA on September 19th to begin to receive your feedback on the proposal and this Application. Enclosed is a ZBA Application, together with the required materials and fee. We have included the same Conceptual Site Plan package (prepared by Studio Architecture), which we submitted to the Planning Board.

As described below, a new medical office use in what has been a partially vacant retail building would be a positive addition to the Village’s downtown. Unlike traditional business offices, a medical office is uniquely positioned to *compliment and support existing retail* establishments. This proposal would repurpose this building while supporting other local businesses, provide a new, attractive sidewalk connection, and improve the aesthetic appeal of Main Street. The benefit to the Applicant – and the Village – would far outweigh any perceived detriment to the community.

Project Description

Based upon its experience and preliminary discussions with potential medical tenants for this location, the Applicant anticipates that the medical use would consist of traditional “by-appointment” offices that do not accept a large volume of walk-ins. This ensures that patient traffic and parking demand is spread consistently throughout the day rather than only at the peak dining and shopping hours. The Applicant also expects that the hours of operation would be approximately 8:30am to 6pm, Monday-Friday, with reduced hours on Saturday and closed on Sunday, and that there would be approximately 25 to 35 employees. The precise hours of operation and number of employees will be better known once tenants are selected.

The Applicant is committed to making sure the building adds to the aesthetics of Main Street. For example, the Applicant would aim to locate appropriate elements, such as a reception/waiting area, just off the street so that all views into the building would not need to be blocked for privacy. Enclosed is a streetscape rendering that depicts an improved aesthetic design of the front of the building.

² The Applicant reserves its rights with respect to the issue of which portion of the building constitutes a ground floor.

The Applicant is also committed to installing a new sidewalk along the rear parking lot similar in style to the Village's recent improvements along the adjacent parking lot. This stretch of new sidewalk would include similar decorative features to provide a consistent appearance between the Village's sidewalk in the parking lot and the sidewalk along Green Street, enhancing the pedestrian experience. The design details would be worked out during the site plan process.

With respect to parking, we refer the Board to the parking tables on the Site Plan (Drawing A-100) that show the parking requirements based on the formulas in the Code for both a mixed-use occupancy and exclusively medical office. As shown on the Survey, there are 50 existing, off-street spaces in the parking lot on the site (48 + 2 handicap; the formal site plan application will show improvements to comply with ADA accessibility requirements). This lot is owned by the site owner, and leased to the Village pursuant to a Lease Agreement that currently runs through 2035.

Questions about parking, including the relevance of the Lease Agreement with respect to satisfying the Code's off-street parking requirements, came up during the Planning Board meeting and in recent discussions with Staff. We will discuss this too with the ZBA. In the Applicant's view, any actual parking demand in excess of 50 spaces would be satisfied by visitors using the adjacent public lots and through shared parking in the Village's downtown.

Another question that came up during the Planning Board meeting concerned the Village's historical preference for retail on the ground floor (and hence the special permit condition that offices are not permitted on the ground floor in the CB-1 District). In the Applicant's experience, *medical office compliments and supports retail use*.

This is especially true in a downtown area because patients (and those persons who take patients to their appointments) will often spend time before or after (or even during) an appointment to patronize the local shops and restaurants. And, unlike a business office, when employees go out for lunch or run errands typically during their lunch hour, medical office visitors come and go throughout the entire day. Over the past several years, the Applicant has seen a number of retail centers be repositioned as mixed-use centers with a large component dedicated to healthcare. Both healthcare and retail seek locations that are easily accessible and are located within strong demographic areas. Another advantage is that patrons often walk between retail and medical uses in the same vehicular trip – known as “internal trip capture” – thereby helping to reduce any potential traffic and parking impacts.

Request For Interpretation That An Area Variance Is Required

An “area variance” provides relief from “dimensional or *physical requirements* of the applicable zoning regulations.” N.Y. Village Law § 7-712(1)(b) (emphasis added). The Court of Appeals has explained that “an area variance involves *no change in the essential character* of the zoned district.” *Wilcox v. Zoning Bd. of Appeals of Yonkers*, 270 N.Y.S.2d 569, 571 (1966) (emphasis added). In contrast, a “use variance” permits the “use of land for a purpose which is otherwise *not allowed or is prohibited* by the applicable zoning regulations.” *Id.* § 7-712(1)(a) (emphasis added).

An area variance is appropriate here because Section 110-15B(2)(d) of the Village Code *expressly allows* by Special Permit a professional office greater than 8,000 sf in a CB-1 District, subject only to the physical requirement that the office not be located on a ground floor. Critically, an office is not prohibited at this specific location altogether. This provision concerns where within a particular building an office may operate, not where within the overall zoning district (or Village) an office is allowed. Offices are contemplated and allowed on floors other than the ground floor. Depending upon the height of a building, the Code allows for the possibility that an office would be the predominant use in a single building. Therefore, varying this condition would not change the essential character of the overall CB-1 District, and any such variance would be properly characterized as an area variance.

Moreover, N.Y. Village Law allows an applicant to apply to a zoning board for an area variance from special permit conditions. N.Y. Village Law § 7-725-b(3). We will address with the ZBA during the hearing the relevant statute and case law on variances from special permit conditions.

Accordingly, the ZBA should render an Interpretation that an area variance is the correct relief from Section 110-15B(2)(d) of the Village Code.

ZBA Should Grant An Area Variance

After issuing the requested Interpretation, the ZBA should grant an area variance based on the 5-factor balancing test under N.Y. Village Law Section 7-712-b.

First, there would not be an undesirable change in the character of the neighborhood or a detriment to nearby properties. As described above, the project would take advantage of the natural synergies between retail and medical use. A new medical office at this key location in the Village would help fill a vacancy and sustain a vibrant downtown, while not detracting from the downtown's traditional retail feel. We will share other examples where a medical office successfully integrated with surrounding retail and restaurant uses.

Second, there is no feasible alternative. Under the Building Inspector's current position, the entire building constitutes a ground floor, which means that any medical office would require a variance. And the Applicant's proven business model for a medical office requires ultimately the entire building to be occupied for office use.

Third, while the Applicant seeks a 100% variance (assuming that the entire building is classified as a ground floor), New York courts have held that simply relying upon the percentage deviation alone does not suffice in evaluating a variance application. The actual impact a requested variance would have on the surrounding community is critical to the overall analysis.³ For the

³ See, e.g., *Wambold v. Southampton Zoning Bd. of Appeals*, 140 A.D.3d 891, 893 (2d Dep't 2016) ("While we agree with the petitioner that the proposed variance was substantial, there was no evidence that the granting of the variance would have an undesirable effect on the character of the neighborhood,

reasons in this letter, the requested variance would not have a significant adverse impact on the surrounding community or the environment.

Fourth, there would not be an adverse impact on the environment. The adaptive reuse nature of this project avoids all the traditional impacts associated with new construction. The building would maintain its current footprint and massing. The physical environment would *improve* due to the new proposed sidewalk.

Fifth, to the extent the alleged hardship is deemed self-created, such a determination does not preclude the granting of the requested variance under N.Y. State Village Law.

Conclusion

For all these reasons, Simone Healthcare urges the ZBA to grant the requested relief. A favorable determination would allow the revitalization of a partially vacant building at a prominent location in the Village, together with all the other public benefits described above.

Thank you for the Board's attention.

Respectfully submitted,

ZARIN & STEINMETZ LLP

By: Brad Schwartz

Brad Schwartz

Kasey Brenner

cc: Whitney Singleton, Esq.
Peter J. Miley, Building Inspector
Jan K. Johannessen, AICP
Anthony Oliveri, PE
Megan M. Guy, Simone, Senior VP of Development
Umberto Annunziata, Simone, Development Manager
Chris Rafaelli, Studio Architecture, DPC, Principal

adversely impact physical and environmental conditions, or otherwise result in a detriment to the health, safety, and welfare of the neighborhood or community.”).

Date: _____

Case No.: _____

Fee: _____

Date Filed: _____

Village/Town of Mount Kisco
Municipal Building
104 Main Street, Mt. Kisco, NY 10549

Zoning Board of Appeals
Application

Appellant: Simone Healthcare Development LLC

Address: 1250 Waters Place PH1, Bronx, NY 10461

Address of subject property (if different): 154-162 East Main Street

Appellant's relationship to subject property: _____ Owner _____ Lessee X Other **Contract Vendee**

Property owner (if different): SL Mount Kisco LLC, Grobman Mt. Kisco LLC & M&M Mt. Kisco, LLC

Address: 720 East Palisade Ave, Suite 203, Englewood Cliffs, New Jersey 07632; 474 Fulton Ave, Hempstead, NY 11550; & 26 Harbor Park Drive, Port Washington, NY 11050

TO THE CHAIRMAN, ZONING BOARD OF APPEALS: An appeal is hereby taken
from the decision of the Building Inspector, N/A

dated _____. Application is hereby made for the following:

~~Area~~ Variation ~~of~~ **Zoning** Interpretation of Section 110-15B(2)(d)
of the Code of the Village/Town of Mount Kisco,

to permit the: _____ Erection; _____ Alteration; X Conversion; _____ Maintenance
of ground floor retail space into ground floor medical office space.

_____ in accordance with plans filed on (date) 9/1/23

for Property ID # 80.25-2-9 located in the CB-1 Zoning District.

The subject premises is situated on the west side of (street) East Main Street

_____ in the Village/Town of Mount Kisco, County of Westchester, NY.

Does property face on two different public streets? Yes/No _____

(If on two streets, give both street names) Green Street & East Main Street

Type of Variance sought: _____ Use X Area

Is the appellant before the Planning Board of the Village of Mount Kisco with regard to this property? yes

Is there an approved site plan for this property? _____ in connection with a
X Proposed or _____ Existing building; erected (yr.) _____

Size of Lot: _____ feet wide _____ feet deep Area 43,471 s.f.

Size of Building: at street level _____ feet wide _____ feet deep

Height of building: 1-Story Present use of building: Retail/Vacant i

Does this building contain a nonconforming use? No Please identify and explain: _____

Is this building classified as a non-complying use? No Please identify and explain: _____

Has any previous application or appeal been filed with this Board for these premises?
Yes/No? No

Was a variance ever granted for this property? No If so, please identify and explain: _____

Are there any violations pending against this property? No If so, please identify and explain: _____

Has a Work Stop Order or Appearance Ticket been served relative to this matter?
____ Yes or X No Date of Issue: _____

Have you inquired of the Village Clerk whether there is a petition pending to change the subject zoning district or regulations? No

I submit the following attached documents, drawings, photographs and any other items listed as evidence and support and to be part of this application:

The following items **MUST** be submitted:

- a) Attached hereto is a copy of the order or decision (Notice of Denial) issued by the Building Inspector or duly authorized administrative official issued on N/A upon which this application is based.
- b) Copy of notice to the administrative official that I have appealed, setting forth the grounds of appeal and have requested the application to be scheduled for a public hearing.
- c) A typewritten statement of the principal points (facts and circumstances) on which I base my application with a description of the proposed work.
- d) Ten (10) sets of site plans, plat or as-built survey drawings professionally signed and sealed (as may be required).
- e) A block diagram with street names, block and lot numbers, and street frontage showing all property affected within 300' of the subject property, with a North point of the compass indicated.
- f) A full list of names and addresses of the owners of all property shown on the above noted block diagram that lie within or tangent to the 300' radius from the subject property.
- g) A copy of the Public Notice for the public hearing of this application.
- h) A sworn Affidavit of Mailing, duly notarized, that a true copy of said Public Notice has been sent by mail to all property owners within 300 feet of this premises at least 10 days prior to the public hearing.

NOTE: APPLICANT MUST CAUSE A TRUE COPY OF THE PUBLIC NOTICE TO BE PUBLISHED IN THE OFFICIAL NEWSPAPER OF THE VILLAGE AT LEAST 15 DAYS PRIOR TO THE PUBLIC HEARING.

- i) A true copy of the filed deed and/or signed lease or contract for the use of the subject property.
- *j) At least two sets of unmounted photographs, 4" by 6" in size, showing actual conditions on both sides of street, between intersecting streets. Print street names and mark premises in question.
- *k) A floor plan of the subject building with all the necessary measurements.
- *l) A longitudinal section of the subject building and heights marked thereon as well as front elevations.

*** Optional - As Needed**

I hereby depose & say that all the above statements and the statements contained in the papers submitted herewith are true.

(Appellant to sign here)

Sworn to before me this day of: _____, 20____

Notary Public, _____, County, NY

[TO BE COMPLETED IF APPELLANT IS NOT THE PROPERTY OWNER IN FEE]

State of New Jersey }

County of ~~Westchester~~ }

ss Bergen

720 E. Palisade Ave. #203,

Being duly sworn, deposes and say that he resides at Englewood Cliffs, NJ 07632 in the

County of ~~Westchester~~, in the State of New York, that he is an owner in fee of all that

certain lot, piece or parcel of land situated, lying and being in the Village of Mount

Kisco, County of Westchester aforesaid and known and designated as number

154-162 East Main St and that he hereby authorized _____ to make

the annexed application in his behalf and that the statements contained in said application are true.

Simone Healthcare
Development LLC

SC MOUNT KISCO LLC

Stephen Lerner
(sign here)

By: STEPHEN LERNER

ITS: MANAGER

(Appellant to sign here)

Notary Public, _____, County, NY

x

By: Richard Grobman
Its: Manager

The Office of the Westchester County Clerk: This page is part of the instrument; the County Clerk will rely on the information provided on this page for purposes of indexing this instrument. To the best of submitter's knowledge, the information contained on this Recording and Endorsement Cover Page is consistent with the information contained in the attached document.



551883575DED002B

Westchester County Recording & Endorsement Page

Submitter Information

Name: Times Square Abstract LLC Phone: (585) 270-8396
Address 1: 45 Exchange Street Fax: (585) 815-0395
Address 2: Suite 529 Email: john@timesquareabstract.com
City/State/Zip: Rochester NY 14614 Reference for Submitter: TSA14-6338

Document Details

Control Number: **551883575** Document Type: **Deed (DED)**
Package ID: 2015070700266001002 Document Page Count: **4** Total Page Count: **6**

Parties

☒ Additional Parties on Continuation page

1st PARTY

2nd PARTY

1: GCCFC 2007-GG11 KISCO RETAIL LLC - Other 1: GROBMAN MT KISCO LLC - Other
2: GREENWICH CAPITAL COMMERCIAL FUNDING CORP - Other 2: M&M MT KISCO LLC - Other

Property

☐ Additional Properties on Continuation page

Street Address: 162 EAST MAIN ST Tax Designation: 80.25-2-9
City/Town: MOUNT KISCO Village:

Cross- References

☐ Additional Cross-Refs on Continuation page

1: 2: 3: 4:

Supporting Documents

1: RP-5217 2: TP-584

Recording Fees

Statutory Recording Fee: \$40.00
Page Fee: \$25.00
Cross-Reference Fee: \$0.00
Mortgage Affidavit Filing Fee: \$0.00
RP-5217 Filing Fee: \$250.00
TP-584 Filing Fee: \$5.00
Total Recording Fees Paid: **\$320.00**

Mortgage Taxes

Document Date:
Mortgage Amount:

Basic: \$0.00
Westchester: \$0.00
Additional: \$0.00
MTA: \$0.00
Special: \$0.00
Yonkers: \$0.00
Total Mortgage Tax: **\$0.00**

Transfer Taxes

Consideration: \$6,250,000.00
Transfer Tax: \$25,000.00
Mansion Tax: \$0.00
Transfer Tax Number: 14119

Dwelling Type: Exempt: ☐
Serial #:

RECORDED IN THE OFFICE OF THE WESTCHESTER COUNTY CLERK



Recorded: 07/17/2015 at 02:54 PM
Control Number: **551883575**
Witness my hand and official seal

Timothy C. Idoni

Timothy C. Idoni
Westchester County Clerk

Record and Return To

☐ Pick-up at County Clerk's office

Times Square Abstract, LLC
45 Exchange Boulevard
Suite 529
Rochester, NY 14614
Attn: John Ciccolone

The Office of the Westchester County Clerk: This page is part of the instrument; the County Clerk will rely on the information provided on this page for purposes of indexing this instrument. To the best of submitter's knowledge, the information contained on this Recording and Endorsement Cover Page is consistent with the information contained in the attached document.

551883575DED002B

Westchester County Recording & Endorsement Page

Document Details

Control Number:	551883575	Document Type:	Deed (DED)		
Package ID:	2015070700266001002	Document Page Count:	4	Total Page Count:	6

1st PARTY Addendum

2nd PARTY Addendum

SL MOUNT KISCO LLC

Other

BARGAIN AND SALE DEED WITH COVENANTS
AGAINST GRANTOR'S ACTS

THIS INDENTURE, made effective as of June ²⁹, 2015 between **GCCFC 2007-GG11 KISCO RETAIL, LLC**, a Delaware limited liability company ("**Grantor**"), whose address is c/o LNR Partners, LLC, 1601 Washington Avenue, Suite 700, Miami Beach, Florida 33139, in favor of **SL MOUNT KISCO LLC** (f/k/a LGM Mount Kisco LLC), a Delaware limited liability company ("**Lerner**") whose address is c/o Lerner Properties LLC, 720 E. Palisade Avenue, Suite 203, Englewood Cliffs, New Jersey 07632, **GROBMAN MT. KISCO LLC**, a New York limited liability company, ("**Grobman**") whose address is 474 Fulton Avenue, Hempstead, New York 11550, and **M&M MT. KISCO, LLC**, a New York limited liability company ("**M&M**") whose address is 498 Seventh Avenue, 20th Floor, New York, New York 10017, as tenants in common ("**Grantee**"):

WITNESSETH THAT:

Grantor, for and in consideration of the sum of Ten and No/100 U.S. Dollars (\$10.00), lawful money of the United States of America, and other good and valuable consideration, to it in hand paid by Grantee, at or before the unsealing and delivery of these presents, the receipt of which is hereby acknowledged, has granted, bargained, sold, aliened, remised, released, conveyed and confirmed and by these presents does grant, bargain, sell, alien, remise, release, convey and confirm an undivided twenty-five percent (25%) interest to Lerner, an undivided twenty-five percent (25%) interest to Grobman and an undivided fifty percent (50%) interest to M&M and their successors and assigns forever, the parcel of land, situate, lying and being in the County of Westchester, State of New York, and more particularly described on the attached **Exhibit A** (the "**Property**").

Being the same premises known as 162 East Main Street Mount Kisco, New York, Westchester County, Tax Parcel No. 80.25-2-9 and conveyed to Grantor by deed recorded on August 29, 2014 under Control Number 542393201.

TOGETHER with all right, title and interest, if any, of Grantor, in and to any streets and roads abutting the Property to the center lines thereof; **TOGETHER** with the appurtenances and all the estate and rights of Grantor in and to said Property.

TO HAVE AND TO HOLD the Property herein granted unto Grantee, the heirs or successors, and assigns of Grantee forever.

AND Grantor covenants that Grantor has not done or suffered anything whereby the Property has been encumbered in any way however, except as aforesaid.

AND Grantor in compliance with Section 13 of the Lien Law, covenants that Grantor will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvements and will apply the same first to the payment of the cost of the improvements before using any part of the total of the same for any other purpose.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

Grantor has caused these presents to be executed the day and year first above written.

Witnesses:

GCCFC 2007-GG11 KISCO RETAIL, LLC, a
Delaware limited liability company

By: LNR Partners, LLC, a Florida limited
liability company, its manager

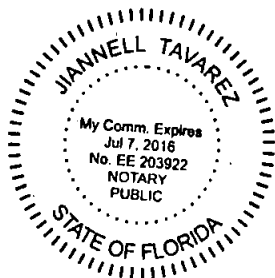
Signature: [Signature]
Print Name: Keith Edwards

By: [Signature]
Name: Steven D. Ferreira
Title: Vice President

Signature: [Signature]
Print Name: Jiannell Tavarez

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE) SS.

On June 23, 2015, before me, the undersigned, personally appeared Steven D. Ferreira VP,
personally known to me or proved to me on the basis of satisfactory evidence to be the individual
whose name is subscribed to the within instrument and acknowledged to me that he executed the
same in his capacity, that by his signature on the instrument, the individual or the person upon
behalf of which the individual acted, executed the instrument, and that such individual made
such appearance before the undersigned in the City of Miami, the County of Miami-Dade and the
State of Florida.



Notary Public [Signature]
Print Name: Jiannell Tavarez
Serial No. (if any): EE203922

After recording,
return to:

~~Kramer Levin Naftalis & Frankel LLP~~
1177 Avenue of the Americas
New York, New York 10036
Attn: James P. Godman, Esq.

Times Square Abstract, LLC
45 Exchange Blvd, Ste 529
Rochester, NY 14614

EXHIBIT A

LEGAL DESCRIPTION

ALL THAT CERTAIN PLOT, PIECE OR PARCEL OF LAND TOGETHER WITH THE BUILDINGS AND IMPROVEMENTS ERECTED THEREON, SITUATE, LYING AND BEING IN THE VILLAGE AND TOWN OF MOUNT KISCO, COUNTY OF WESTCHESTER AND STATE OF NEW YORK, BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHERLY SIDE OF GREEN STREET, AS WIDENED, AT THE SOUTHWESTERLY END OF THE CURVE HAVING A RADIUS OF 27.46 FEET, A CENTRAL ANGLE OF $96^{\circ} 32' 06''$ AND A LENGTH OF 46.27 FEET CONNECTING THE WESTERLY SIDE OF EAST MAIN STREET, AS NOW LAID OUT AND WIDENED, AND THE SAID NORTHERLY SIDE OF GREEN STREET, AS WIDENED;

RUNNING THENCE ALONG THE SAID NORTHERLY SIDE OF GREEN STREET, NORTH $80^{\circ} 46'$ WEST, 264.25 FEET TO THE EASTERLY SIDE OF LANDS NOW OR FORMERLY OF THE VILLAGE OF MOUNT KISCO;

THENCE ALONG THE LAND OF THE SAID VILLAGE, NORTH $7^{\circ} 53' 10''$ EAST, A DISTANCE OF 42.38 FEET AND NORTH $6^{\circ} 10' 30''$ EAST, A DISTANCE OF 84.90 FEET TO A CORNER;

THENCE ALONG THE SOUTHERLY SIDE OF LANDS OF SAID VILLAGE, NORTH $85^{\circ} 42' 40''$ EAST, A DISTANCE OF 115.35 FEET TO THE SOUTHERLY SIDE OF SAID LANDS OF MARY D'OSSONE;

THENCE ALONG THE SOUTHERLY SIDE OF SAID LANDS OF MARY D'OSSONE, NORTH $85^{\circ} 07' 40''$ EAST, A DISTANCE OF 138.38 FEET TO THE AFORESAID WESTERLY SIDE OF EAST MAIN STREET AS NOW LAID OUT AND WIDENED;

THENCE ALONG THE SAID WESTERLY SIDE OF EAST MAIN STREET, SOUTH $7^{\circ} 26' 40''$ EAST, A DISTANCE OF 112.20 FEET TO A POINT OF CURVE;

THENCE SOUTHERLY STILL ALONG THE SAID WESTERLY SIDE OF EAST MAIN STREET, ON A CURVE TO THE LEFT HAVING A RADIUS OF 410.00 FEET AND A CENTRAL ANGLE OF $7^{\circ} 25' 35''$ A DISTANCE OF 53.14 TO A POINT OF REVERSE CURVATURE; AND

THENCE SOUTHWESTERLY ON A CURVE TO THE RIGHT HAVING A RADIUS OF 27.46 FEET AND A CENTRAL ANGLE OF $96^{\circ} 32' 06''$ A DISTANCE OF 46.27 FEET TO THE NORTHERLY SIDE OF GREEN STREET AS WIDENED AT THE POINT OR PLACE OF BEGINNING.

Village of Mount Kisco
WIN-MF LLC
104 Main St
Mt Kisco, NY 10549

77 S Moger Partners LLC
WIN-MF LLC
77-91 S Moger
Mt Kisco, NY 10549

Village Of Mount Kisco
104 Main St
Mt Kisco, NY 10549

Village of Mount Kisco
104 Main St
Mt Kisco, NY 10549

Matgn Realty LLC
Gjelosh Vukaj
515 Route 6 N
Mahopac, NY 10541

KH Realty II LLC
130 Main Street
Mount Kisco, NY 10549

Coast to Coast Industries, LLC
122 McLain St
Bedford Corners, NY 10549

Village of Mount Kisco
104 Main St
Mt Kisco, NY 105494811

Martabano Realty Corp
Attn: MRE Mgmt. Corp.
27 Radio Circle Dr Ste 200
Mount Kisco, NY 105492639

SL Mount Kisco LLC
Grobman Mt Kisco LLC
720 E Palisade Ave Ste 203
Englewood Cliffs, NJ 07632

175 Main St of Mount Kisco LLC
16 Lawrence St
Mt Kisco, NY 10549

Hudson Riley, LLC
700 Old Post Rd
Bedford, NY 10506

165 Yellow Jersey LLC
c/o Sterling Properties
77 Tarrytown Rd Ste 1E
White Plains, NY 10607

Main Street Prime Properties
c/o Laurie Mulholland
10 Overlook Rd
Ardsley, NY 10502

159 East Main St. Assoc. LLC
c/o 159 E Main St Assoc., LLC
509 Central Park Ave
Scarsdale, NY 10583

153 Main Street MK Holdings LL
c/o Gary Bakshy
57 Orland St
Milford, CT 06460

145-147 Main Street LLC
c/o Joe Fedele
5 Edgewood Dr
Katonah, NY 10536

Gradsons LLC
Mirash Dedvukaj
180 Stonehill Rd
Bedford, NY 10506

Gradsons LLC
Mirash Dedvukaj
180 Stonehill Rd
Bedford, NY 10506

ALB Main St LLC
c/o Antonio Bueti
40 New Castle Dr
Mt Kisco, NY 10549

125-131 Central Main Realty Co
Attn: Nicola & Filomena Morell
21 Sulgrave Rd
Scarsdale, NY 10583

Goldbaum, Martin
Goldbaum Sally
49 The Ter
Katonah, NY 105362017

Finch Gary
Wellons Jennifer
28 Oakridge Rd
Mt Kisco, NY 10549

Cabrera Rilma
32 Oakridge Rd
Mt Kisco, NY 10549

Boyko Yaroslav
Lypchuk Vasyil
34 Oakridge Rd
Mt Kisco, NY 10549

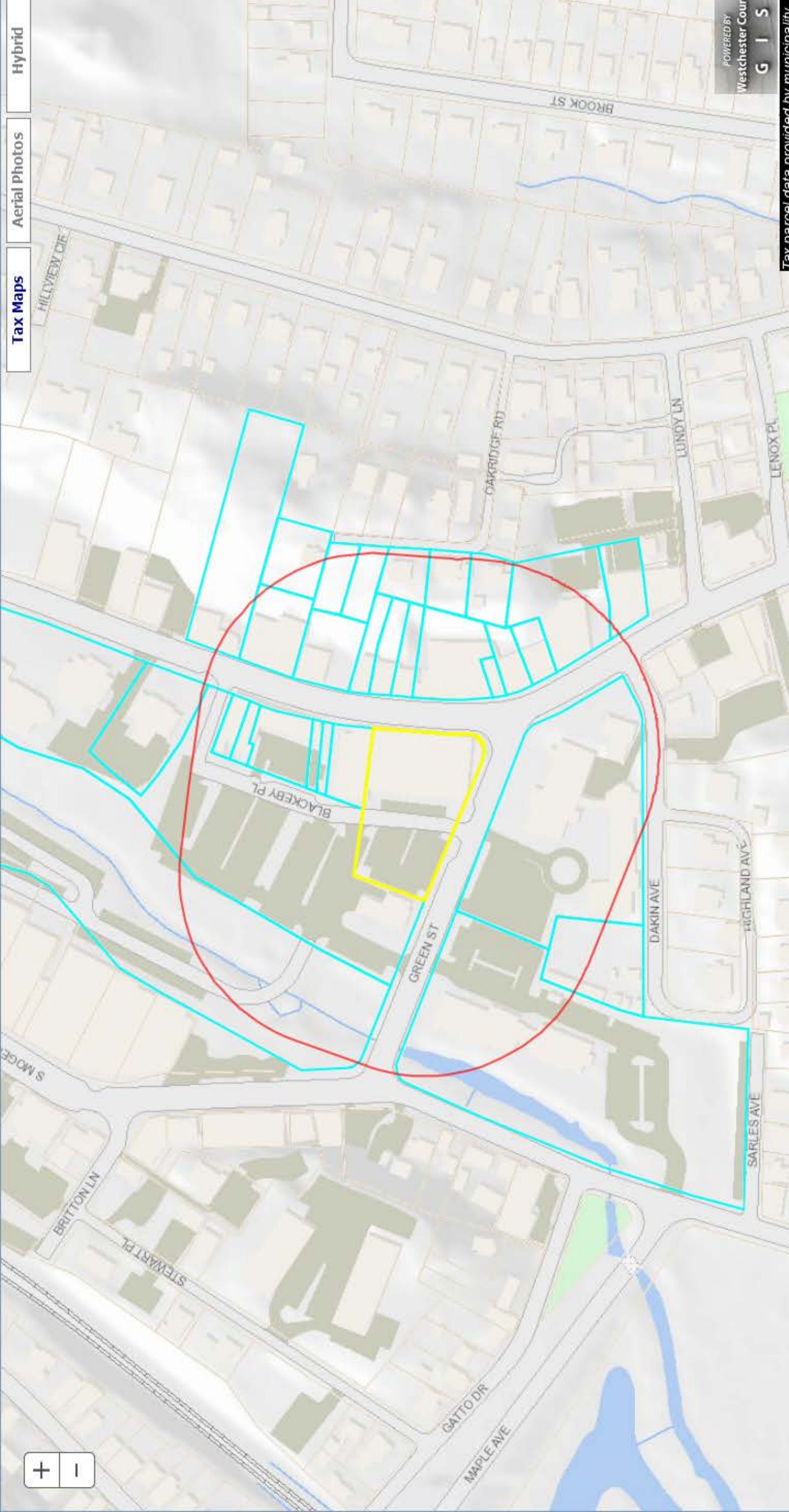
Tiber Enterprises Corp
27 Manchester Dr
Mount Kisco, NY 10549

Pinnetti, Stuart
27 Manchester Dr
Mount Kisco, NY 10549

Pinnetti Nicholas
27 Manchester Dr
Mount Kisco, NY 10549

St Francis Church
Main St
Mt Kisco, NY 10549

Dakin, James R
47 Dakin Ave
Mt Kisco, NY 10549



PUBLIC NOTICE

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the Village/Town of Mount Kisco, New York will hold a Public Hearing on the 19th day of September, 2023 at the Municipal Building, Mount Kisco, New York, beginning at 7:00 PM pursuant to the Zoning Ordinance on the Application for an Interpretation and Appeal of

Simone Healthcare Development LLC

1250 Waters Place PH1, Bronx, NY 10461

The property involved is known as 154-162 East Main Street and described on the Village Tax Map as Section 80.25 Block 2 Lot 9 and is located on the west side of East Main Street in a CB-1 Zoning District. Said Application for an Interpretation is being made to obtain a determination that an area variance is required to vary Section 110-15B(2)(d) of the Code of the Village/Town of Mount Kisco (“Village Code”), which states that a professional office cannot be located on the ground floor of a building. Said Appeal is being made to obtain an area variance from Section 110-15B(2)(d) of the Village Code to permit a professional office on the ground floor of the building located at the referenced property.

Wayne Spector, Chair
Zoning Board of Appeals
Village/Town of Mount Kisco

AFFIDAVIT OF MAILING

STATE OF NEW YORK

}

}SS.:

COUNTY OF WESTCHESTER

}

Tracy A. Russo being duly sworn, deposes and says:

work
I reside at **Zarin & Steinmetz LLP, 81 Main St., Ste 415, White Plains, NY 10601**

On September 7, 2023 I served a notice of hearing, a copy of which is attached hereto and labeled Exhibit A, upon persons whose names are listed in a schedule of property owners within 300 feet of the subject property identified in this notice. A copy of this schedule of property owners' names is attached hereto and labeled Exhibit B. I placed a true copy of such notice in a postage paid property addressed wrapper addressed to the addresses set forth in Exhibit B, in a post office or official depository under the exclusive care and custody of the United States Post Office, within the County of Westchester.

Tracy A. Russo

Sworn to before me on this

7th day of **September** 20 **23**

Laurie M. Smith
(Notary Public)

LAURA MCMAHON
NOTARY PUBLIC, STATE OF NEW YORK
NO. 01MC6017348
QUALIFIED IN ROCKLAND COUNTY
COMMISSION EXPIRES 12/14/2026

Exhibit "A"

PUBLIC NOTICE

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the Village/Town of Mount Kisco, New York will hold a Public Hearing on the 19th day of September, 2023 at the Municipal Building, Mount Kisco, New York, beginning at 7:00 PM pursuant to the Zoning Ordinance on the Application for an Interpretation and Appeal of

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Wayne Spector, Chair
Zoning Board of Appeals
Village/Town of Mount Kisco

Exhibit "B"

Village of Mount Kisco
WIN-MF LLC
104 Main St
Mt Kisco, NY 10549

77 S Moger Partners LLC
WIN-MF LLC
77-91 S Moger
Mt Kisco, NY 10549

Village Of Mount Kisco
104 Main St
Mt Kisco, NY 10549

Village of Mount Kisco
104 Main St Dup
Mt Kisco, NY 10549

Matgn Realty LLC
Gjelosh Vukaj
515 Route 6 N
Mahopac, NY 10541

KH Realty II LLC
130 Main Street
Mount Kisco, NY 10549

Coast to Coast Industries, LLC
122 McLain St
Bedford Corners, NY 10549

Village of Mount Kisco
104 Main St Dup
Mt Kisco, NY 105494811

Martabano Realty Corp
Attn: MRE Mgmt. Corp.
27 Radio Circle Dr Ste 200
Mount Kisco, NY 105492639

SL Mount Kisco LLC
Grobman Mt Kisco LLC
720 E Palisade Ave Ste 203
Englewood Cliffs, NJ 07632

175 Main St of Mount Kisco LLC
16 Lawrence St
Mt Kisco, NY 10549

Hudson Riley, LLC
700 Old Post Rd
Bedford, NY 10506

165 Yellow Jersey LLC
c/o Sterling Properties
77 Tarrytown Rd Ste 1E
White Plains, NY 10607

Main Street Prime Properties
c/o Laurie Mulholland
10 Overlook Rd
Ardsley, NY 10502

159 East Main St. Assoc. LLC
c/o 159 E Main St Assoc., LLC
509 Central Park Ave
Scarsdale, NY 10583

153 Main Street MK Holdings LL
c/o Gary Bakshy
57 Orland St
Milford, CT 06460

145-147 Main Street LLC
c/o Joe Fedele
5 Edgewood Dr
Katonah, NY 10536

Gradsons LLC
Mirash Dedvukaj
180 Stonehill Rd
Bedford, NY 10506

Gradsons LLC
Mirash Dedvukaj
180 Stonehill Rd
Bedford, NY 10506

ALB Main St LLC
c/o Antonio Bueti
40 New Castle Dr
Mt Kisco, NY 10549

125-131 Central Main Realty Co
Attn: Nicola & Filomena Morell
21 Sulgrave Rd
Scarsdale, NY 10583

Goldbaum, Martin
Goldbaum Sally
49 The Ter
Katonah, NY 105362017

Finch Gary
Wellons Jennifer
28 Oakridge Rd
Mt Kisco, NY 10549

Cabrera Rilma
32 Oakridge Rd
Mt Kisco, NY 10549

Boyko Yaroslav
Lypchuk Vasyil
34 Oakridge Rd
Mt Kisco, NY 10549

Tiber Enterprises Corp
27 Manchester Dr
Mount Kisco, NY 10549

Pinnetti, Stuart
27 Manchester Dr
Mount Kisco, NY 10549

Pinnetti Nicholas
27 Manchester Dr
Mount Kisco, NY 10549

St Francis Church
Main St
Mt Kisco, NY 10549

Dakin, James R
47 Dakin Ave
Mt Kisco, NY 10549

State of New York)
) ss:
 County of Westchester)

AFFIDAVIT OF POSTING

Gilmar Palacios Chin, being duly sworn, says that on the 11th day of September 2023, he conspicuously fastened up and posted in seven public places, in the Village/Town of Mount Kisco, County of Westchester, a printed notice of which the annexed is a true copy, to Wit: ---

Municipal Building –
 104 Main Street

X

Public Library
 100 Main Street

X

Fox Center

X

Justice Court – Green Street
 40 Green Street

X

Mt. Kisco Ambulance Corp
 310 Lexington Ave

X

Carpenter Avenue Community House
 200 Carpenter Avenue

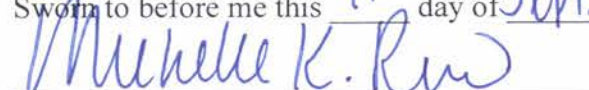
X

Leonard Park Multi Purpose Bldg

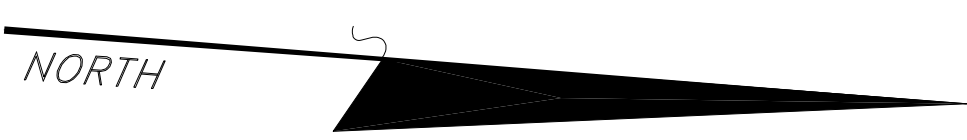
X


 Gilmar Palacios Chin

Sworn to before me this 11th day of September 2023


 Notary Public

MICHELLE K. RUSSO
 NOTARY PUBLIC-STATE OF NEW YORK
 No. 01RU6313298
 Qualified in Putnam County
 My Commission Expires 10-20-2026



SITE MAP
(NO SCALE)

DESCRIPTION OF TAX LOT 9:

ALL that certain plot, piece or parcel of land, situate, lying and being in the Village and Town of Mount Kisco, County of Westchester and State of New York, bounded and described as follows:
BEGINNING at a point on the northerly side of Green Street, as widened, at the southwesterly end of the curve having a radius of 27.46 feet, a central angle of 96 degrees 32 minutes 06 seconds and a length of 46.27 feet connecting the westerly side of East Main Street, as now laid out and widened, and the said northerly side of Green Street, as widened;
RUNNING THENCE along the said northerly side of Green Street, North 80 degrees 46 minutes West, 264.25 feet to the easterly side of lands now or formerly of the Village of Mount Kisco;
THENCE along the land of the said Village, North 7 degrees 53 minutes 10 seconds East, a distance of 42.38 feet and North 6 degrees 10 minutes 30 seconds East, a distance of 84.90 feet to a corner;
THENCE along the southerly side of lands of said Village, North 85 degrees 42 minutes 40 seconds East, a distance of 115.35 feet to the southerly side of said lands of Mary D'Ossone;
THENCE along the southerly side of said lands of Mary D'Ossone, North 85 degrees 07 minutes 40 seconds East, a distance of 138.38 feet to the aforesaid westerly side of East Main Street as now laid out and widened;
THENCE along the said westerly side of East Main Street, South 7 degrees 26 minutes 40 seconds East, a distance of 112.20 feet to a point of curve;
THENCE southerly still along the said westerly side of East Main Street, on a curve to the left having a radius of 410.00 feet and a central angle of 7 degrees 25 minutes 35 seconds a distance of 53.14 to a point of reverse curvature; and
THENCE southwesterly on a curve to the right having a radius of 27.46 feet and a central angle of 96 degrees 32 minutes 06 seconds a distance of 46.27 feet to the northerly side of Green Street as widened at the point or place of BEGINNING.

(1) The attached map or plat of survey (the "Survey Map") of the real property ("surveyed property") specifically described in First American Title Insurance Company title commitment No. BTA-82333, effective 04/08/2023 (the "Title Commitment") is based on a field survey made on May 18, 2023, by me or directly under my supervision in accordance with the 2021 Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys as adopted by the American Land Title Association and the National Society of Professional Surveyors (the "2021 ALTA/ACSM Survey Requirements") and includes Items 2, 3, 4, 6(a)(b), 7(b)(1), 8, 9, 10(a), 11, 13, 16, 17, 18, 19 & 20 of Table A thereto.

(2) This Survey Map is made pursuant to the Measurement Standards for ALTA/ACSM Land Title Surveys as set forth in the 2021 ALTA/ACSM Survey Requirements:

(3) To the best of my professional knowledge, information and belief, except as otherwise shown on the Survey Map:

(4) This Survey Map correctly represents the facts found at the time of the survey;

(5) There are no discrepancies between the boundary lines of the surveyed property as shown on this Survey Map and as described in the legal description presented in the Title Commitment;

(6) The boundary line dimensions as shown on the Survey Map form a mathematically closed figure within the allowable Relative Positional Precision for measurements controlling land boundaries of ALTA/ACSM Land Title Surveys which are part of the 2021 ALTA/ACSM Survey Requirements;

(7) The boundary lines of the surveyed property are contiguous with the boundary lines of all adjoining streets, highways, rights of way and easements, public or private, as described in their most recent respective legal descriptions of record;

(8) Except as otherwise noted in the Survey Map, if the surveyed property consists of two or more parcels there are no gaps or spaces between those parcels; and

The undersigned understands and agrees that the parties to whom this certification is addressed will be relying upon this Survey Map for accuracy with respect to the surveyed property.

By: Stephen F. Moppe, L.S.
Professional Seal

FIRST AMERICAN TITLE INSURANCE COMPANY
COMMITMENT BTA-82333 (EFFECTIVE: 4/08/2023)

EXCEPTIONS FROM SCHEDULE "B": NONE.

ZONING REQUIREMENTS:
ZONE "CB-1"

- MINIMUM FRONT YARD - 0'
- MINIMUM SIDE YARD - 0'
- MINIMUM REAR YARD - 0'
- MAX. BUILDING HEIGHT - 3 STORIES OR 40'
- MAX. BUILDING COVERAGE - 90%
- MINIMUM DEVELOPMENT COVERAGE - 100%

- NOTES:
- 1.) PARCEL AREA= 43,471 S.F. (0.998 AC.)
 - 2.) BUILDING FOOTPRINT= 17,614 SF
 - 3.) PARCEL LOCATED IN CB-1 (COMMERCIAL) ZONE.
 - 4.) 48 EXISTING "OFF STREET" PARKING SPACES + 2 HANDICAP.
 - 5.) THERE WAS NO OBSERVED EVIDENCE OF ANY "WASTE DUMPING" OR "LAND-FILLING" ON SUBJECT PREMISES
 - 6.) THERE WAS NO EVIDENCE OF "WETLANDS" ON SUBJECT PREMISES.
 - 7.) THE SUBJECT PROPERTY HAS AN ADDRESS OF 154 E. MAIN STREET MOUNT KISCO, WESTCHESTER COUNTY, NEW YORK.
 - 8.) THERE WAS NO EVIDENCE OF EARTH WORK, BUILDING CONSTRUCTION, BUILDING ADDITIONS OR STREET/SIDEWALK/RIGHT-OF-WAY CONSTRUCTION CURRENTLY IN PROGRESS.

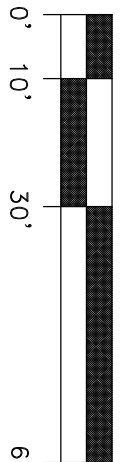
TO: St. Mount Kisco LLC (f/k/a LGM Mount Kisco LLC), et al.; First American Title Insurance Company; Benchmark Title Agency

This is to certify that this map or plat and the survey on which it is based were made in accordance with the 2021 Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys, jointly established and adopted by ALTA and NSPS, and includes Items 2, 3, 4, 6(a)(b), 7(b)(1), 8, 9, 10(a), 11(a), 13, 16, 17, 18, 19 & 20 of Table A thereto.

The survey was performed on the ground

Date: 09/30/2022

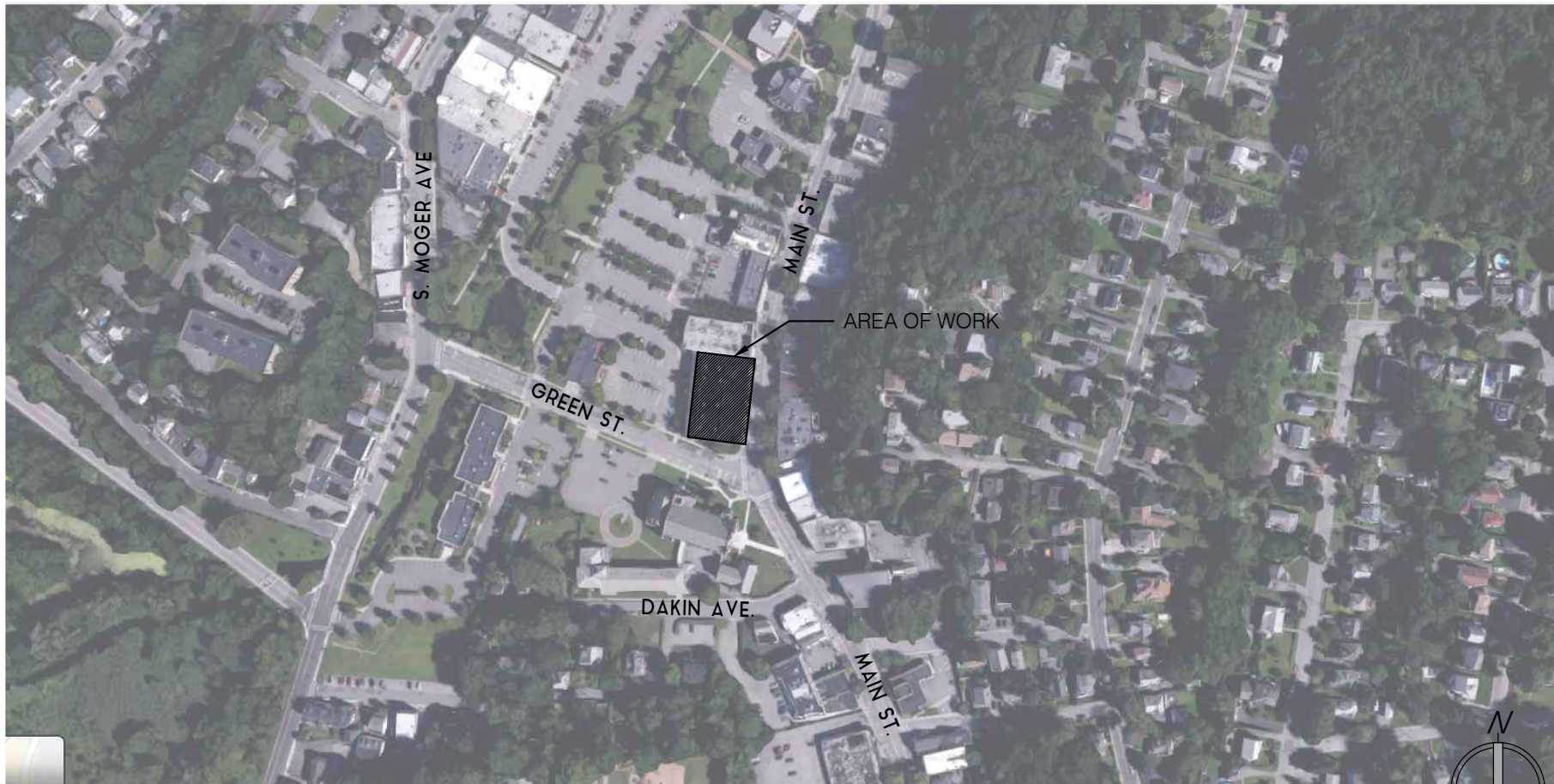
STEPHEN F. MOPPE, L.S. / IV LTD. #50539



GRAPHIC SCALE - 1" = 30'

LEGEND	
●	GAS VALVE
⊠	MANHOLE
□	LIGHT
➔	SIGN
⊞	LIGHT POST
⊞	WATER VALVE
⊞	CAMERA
⊞	DRAIN
⊞	ELECTRIC BOX
⊞	UTILITY POLE

ALTA/ACSM TITLE SURVEY	
FOR	
#154-162 E. MAIN STREET	
LOT 9, BLOCK 2, SECTION 80.25	
MT. KISCO, WESTCHESTER CO., NY	
STEPHEN F. MOPPE, L.S.	SCALE: 1" = 30'
LICENSED PROFESSIONAL LAND SURVEYOR	DATE: MAY 18, 2023
111 ROUTE 303 - TAPPAN, NY 10983	FILE NO: 7174-23
NY LIC. NO. 50539	TITLE NO: BTA-82333



KEY PLAN
SCALE:..NTS

LERNER PROPERTIES
720 E. PALISADE AVENUE SUITE 203,
ENGLEWOOD CLIFFS, NY 07632

JASON LERNER

(201) 567 - 6200

jlerner@lernerproperties.com

PROPERTY OWNER

SIMONE HEALTHCARE DEVELOPMENT L.L.C.
1250 WATERS PLACE PH1
BRONX, NY 10461

UMBERTO ANNUNZIATA

(718) 215 - 3000

uannunziata@simdev.com

APPLICANT

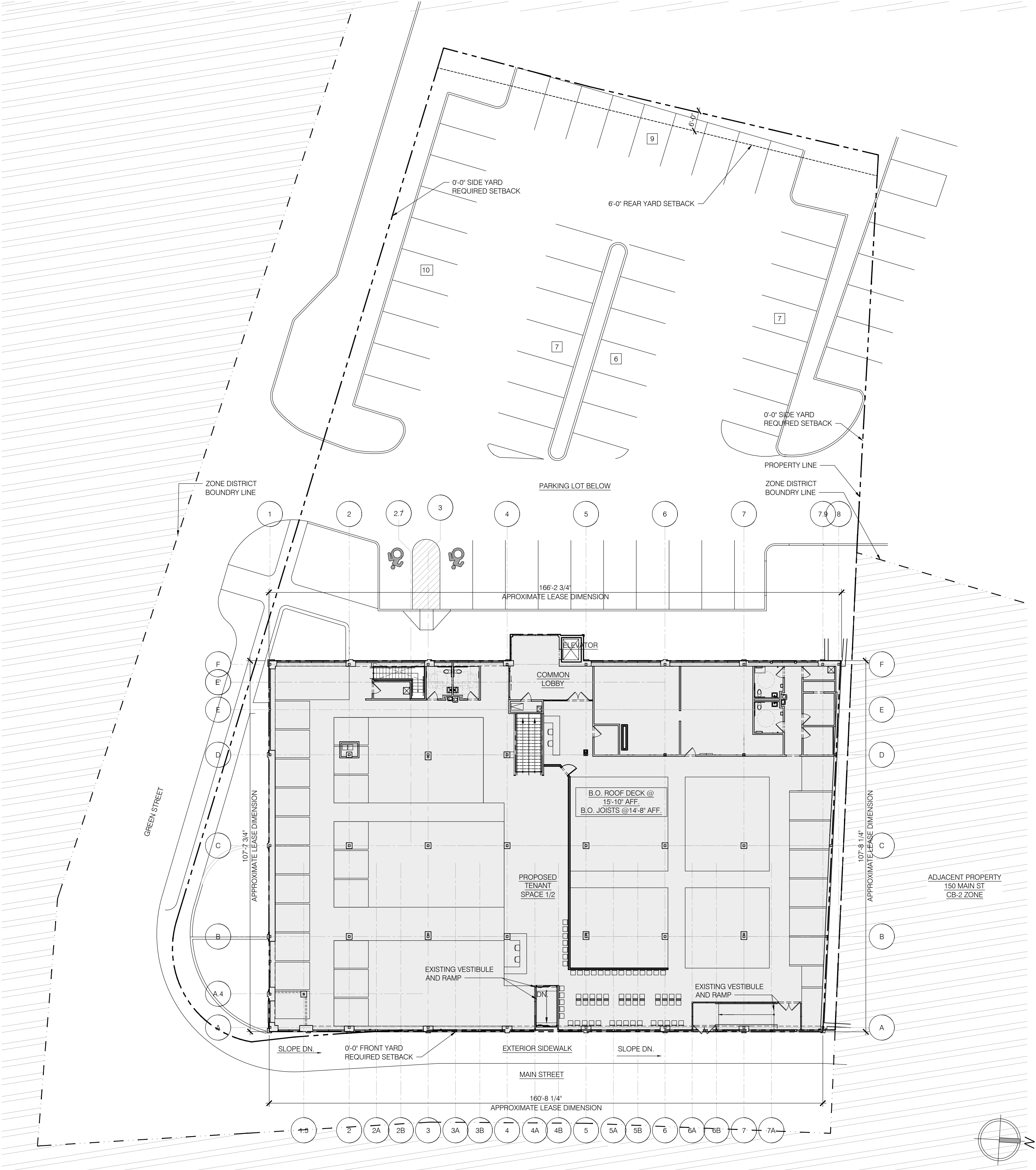
STUDIO ARCHITECTURE, DPC
297 KNOLLWOOD ROAD, SUITE 209
WHITE PLAINS, NY 10607

CHRIS RAFFAELLI

(914) 266 - 8930

chrisr@studio-arch.net

ARCHITECT



GROUND LEVEL FLOOR PLAN
SCALE: 1/16" = 1'-0"

THIS DRAWING AND THE IDEAS AND DESIGNS INCORPORATED HEREWITH IS THE PROPERTY OF STUDIO ARCHITECTURE, DPC AND MAY NOT BE COPIED OR REPRODUCED WITHOUT THEIR PERMISSION. THIS DRAWING IS INTENDED FOR THE USE SOLELY FOR THE PROJECT DESCRIBED AND SHALL NOT BE USED FOR ANY OTHER PURPOSE. IT IS A VIOLATION OF THE LAW TO ALTER THESE DRAWINGS IN ANY WAY UNLESS ACTING UNDER THE DIRECTION OF A LICENSED ARCHITECT, AND IF ALTERED THE ALTERING ARCHITECT SHALL AFFIX THEIR SEAL AND NOTATION "ALTERED BY" FOLLOWED BY THEIR SIGNATURE AND DATE OF THE ALTERATION

2023-07-18 ISSUED FOR PLANNING BOARD SUBMISSION

162 EAST MAIN STREET
SPACE 1 AND 2
162 EAST MAIN STREET
MT KISCO, NY 10549

DATE: 07/18/2023
JOB NUMBER: 23032.01
SCALE: AS NOTED
DRAWN BY: DJ

LOWER LEVEL
PLAN

LAYOUT 2.0

A100
SCHEMATIC DESIGN

PARKING CALCULATION CHART					
ZONING	BUILDING	CB-1			
	PARKING LOT	CB-1			
	SPACE	USE	EXISTING SF	REQUIREMENT SPACES/SF	EXISTING REQUIRED SPACES
EXISTING	GROUND LEVEL	RETAIL - GENERAL	17,294 SQFT	NOT REQUIRED**	0
	LOWER LEVEL	RETAIL - GENERAL	4,651 SQFT	1 PER 200 SF OF GROSS FLOOR AREA	23
	TOTAL EXISTING DEMAND FOR PARKING SPACES				23
	SPACE	USE	PROPOSED SF	REQUIREMENT SPACES/SF	REQUIRED SPACES
PROPOSED	SPACE 1 GROUND LEVEL	MEDICAL	8,066 SQFT	1 PER 200 SF	40
	SPACE 1 LOWER LEVEL		2,445 SQFT	1 PER 200 SF	12
	SPACE 2 GROUND LEVEL	RETAIL- GENERAL	9,322 SQFT	NOT REQUIRED**	0
	SPACE 2 LOWER LEVEL		2,200 SQFT	1 PER 200 SF OF GROSS FLOOR AREA	11
	TOTAL REQUIRED PARKING SPACES OF PROPOSED USE				63
TOTAL ONSITE EXISTING PARKING SPACES*					50

*ADDITIONAL PARKING DEMAND SATISFIED PURSUANT TO VILLAGE LEASE

** SECTION 110-28(K)(3)(a) OFF STREET PARKING FOR STREET LEVEL LAND USES (FIRST FLOOR) WITHIN THE CB-1 DISTRICT SHALL NOT BE REQUIRED

MIXED USE - PARKING CALCULATION

ZONING DATA					TAX ID: 80.25-2.9
DISTRICT	CB-1				110-15 C.(1) MAX BUILDING COVERAGE 90%
PROPOSED	SPACE	USE	PROPOSED SF	MAXIMUM ALLOWED SQFT OF GROSS FLOOR AREA	
	GROUND LEVEL	MEDICAL	17,494 SQFT	PERMITTED USE*	
	LOWER LEVEL	MEDICAL	4,651 SQFT	AREA VARIANCE REQUIRED	

*SPECIAL PERMIT REQUIRED DUE TO AREA BEING > 8,000 SQFT

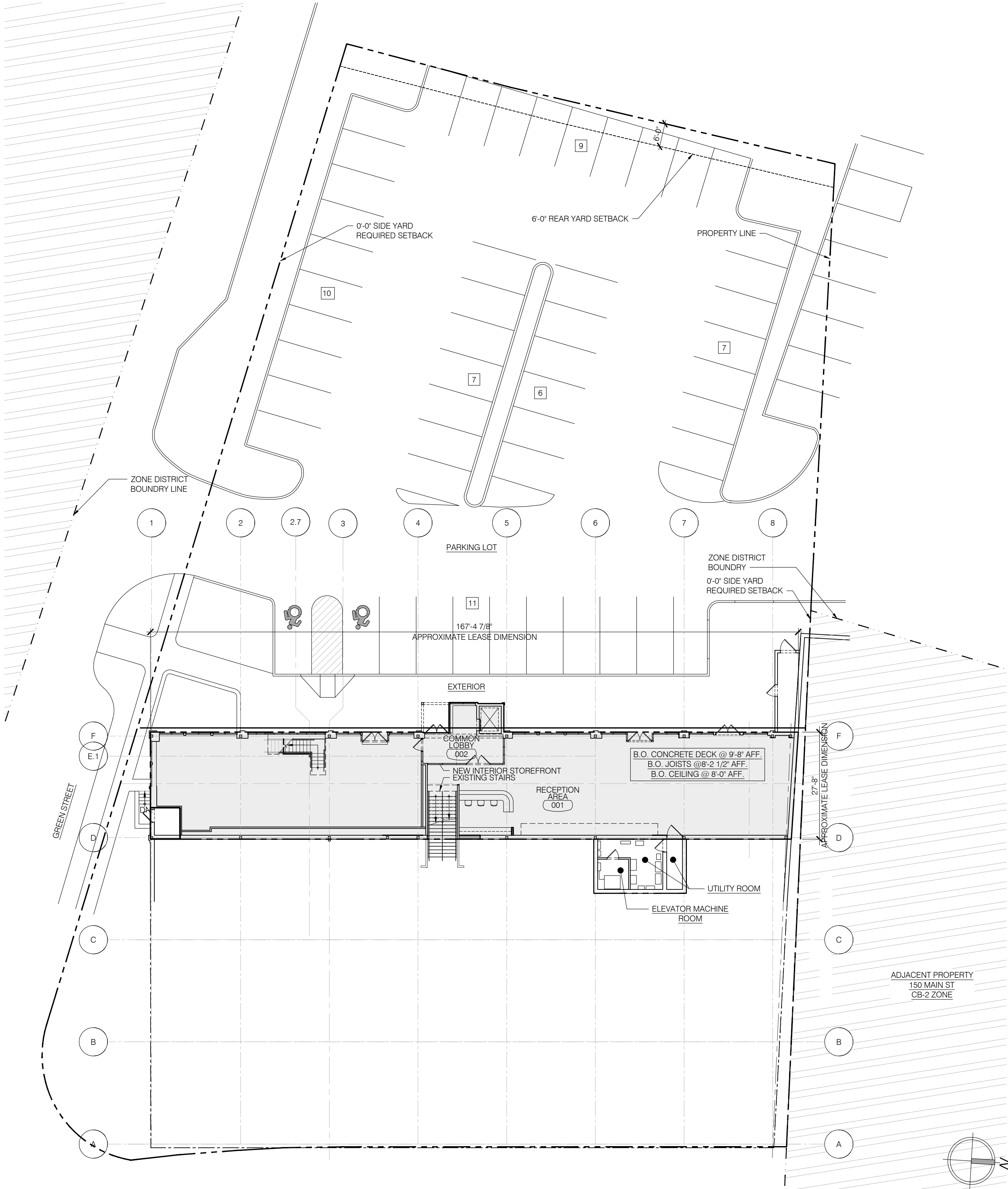
ZONING DATA

PARKING CALCULATION CHART					
ZONING	BUILDING	CB-1			
	PARKING LOT	CB-1			
	SPACE	USE	EXISTING SF	REQUIREMENT SPACES/SF	EXISTING REQUIRED SPACES
EXISTING	GROUND LEVEL	RETAIL - GENERAL	17,294 SQFT	NOT REQUIRED**	0
	LOWER LEVEL	RETAIL - GENERAL	4,651 SQFT	1 PER 200 SF OF GROSS FLOOR AREA	23
	TOTAL EXISTING DEMAND FOR PARKING SPACES				0
	SPACE	USE	PROPOSED SF	REQUIREMENT SPACES/SF	REQUIRED SPACES
PROPOSED	GROUND LEVEL	MEDICAL	17,494 SQFT	1 PER 200 SF	88
	LOWER LEVEL	MEDICAL	4,651 SQFT	1 PER 200 SF	23
	TOTAL REQUIRED PARKING SPACES OF PROPOSED USE				111
TOTAL ONSITE EXISTING PARKING SPACES*					50

*ADDITIONAL PARKING DEMAND SATISFIED PURSUANT TO VILLAGE LEASE

** SECTION 110-28(K)(3)(a) OFF STREET PARKING FOR STREET LEVEL LAND USES (FIRST FLOOR) WITHIN THE CB-1 DISTRICT SHALL NOT BE REQUIRED

MEDICAL USE - PARKING CALCULATION



LOWER LEVEL PLAN

SCALE: 1/8" = 1'-0"

162 EAST MAIN STREET
SPACE 1 AND 2
162 EAST MAIN STREET
MT KISCO, NY 10549

DATE:	07/18/2023
JOB NUMBER:	23032.01
SCALE:	AS NOTED
DRAWN BY:	DJ

STREET
RENDERING

LAYOUT 2.0

R002

SCHEMATIC DESIGN



EXISTING STREET VIEW



STREET RENDERING

[illegible]

162 EAST MAIN STREET
SPACE 1 AND 2
162 EAST MAIN STREET
MT KISCO, NY 10549

DATE:	07/18/2023
JOB NUMBER:	23032.01
SCALE:	AS NOTED
DRAWN BY:	DJ

LAYOUT 2.0

R003

SCHEMATIC DESIGN



162 EAST MAIN STREET

SPACE 1 AND 2

162 EAST MAIN STREET
MT KISCO, NY 10549

DATE:	07/18/2023
JOB NUMBER:	23032.01
SCALE:	AS NOTED
DRAWN BY:	DJ

STREET RENDERING

LAYOUT 2.0

R001

SCHEMATIC DESIGN



445 Hamilton Avenue, 14th Floor
White Plains, New York 10601
T 914 761 1300
F 914 761 5372
cuddyfeder.com

Maximillian R. Mahalek
mmahalek@cuddyfeder.com

August 28, 2023

BY EMAIL & OVERNIGHT MAIL

Chair Wayne Spector and
Members of the Zoning Board of Appeals
Town/Village of Mount Kisco
104 Main Street
Mount Kisco, NY 10549

Re: Rivera Toyota Redevelopment – 353 N Bedford Rd LLC
Area Variance Re-Approval Application
353 North Bedford Road, Mount Kisco, NY (SBL: 69.43-2-3)

Dear Chair Spector and Members of the Zoning Board of Appeals:

On behalf of 353 N Bedford Rd LLC, the owner of 353 North Bedford Road (SBL: 69.43-2-3) (the “Premises”), we respectfully submit this letter and enclosed materials requesting re-approval of the area variance relief granted by the Village/Town of Mount Kisco Zoning Board of Appeals (“ZBA”) on September 21, 2021 and October 18, 2022. Enclosed as **Exhibit A** is the ZBA application form requesting re-approval of the area variance relief. A copy of the ZBA Resolutions in the Matter of the Application of Rivera Auto Group, Inc. (Case No. ZBA 21-14) stamped by the Mount Kisco Village/Town Clerk on October 25, 2021 and December 5, 2022 (“Area Variance Approval Resolutions”) are enclosed as **Exhibit B**.

Variance Re-Approvals Requested:

On June 29, 2021, Rivera Auto Group, Inc. submitted an application to the ZBA requesting an interpretation and area variance relief related to the proposed demolition of the existing restaurant building at the Premises and the construction of a new two-story automobile service facility. The approved automobile service center at the Premises will support the existing Rivera Toyota automotive sales and services location at 325 North Bedford Road, as well as Rivera Toyota’s existing off-site vehicle service location at 255 Kisco Avenue, which will cease operations shortly. Enclosed with this letter is a copy of the initial June 29, 2021 submission to the ZBA supporting the original request for the following area variance relief:

1. A variance from the requirement that no driveway to or from any commercial garage, gasoline station or motor vehicle repair shop shall be within 1,000 feet of any other such use, as set forth in Village/Town Code Section 110-30(G)(1).

Distance from same use:

Required	Proposed	Variance Needed
1,000 ft	22 ft	978 ft

2. A variance from the requirement that no trash compactor, dumpster, or other large trash container shall be located or project nearer to any street line or side lot line than does the principal structure on the lot, as set forth in Village/Town Code Section 110-30(D) and 110-31(G)(1) together.

Placement of dumpster closer to side-yard property line than principal structure:

Required	Proposed	Variance Needed
Prohibited	Allowed	Allowed

It is important to note that there are no changed circumstances to the design drawings since the original variances were granted that would impact the variances.¹

This request to re-approve the area variance relief is submitted to allow time for the Applicant to secure a building permit and commence construction of its proposed automobile service facility at the Premises. Since the October 18, 2022 area variance re-approval, the Applicant has been actively working towards obtaining a building permit. Rivera Toyota obtained its site plan and special use permit approvals from the Planning Board on December 14, 2021 for the proposed automobile service use at the Premises, as reflected in the Planning Board Resolution enclosed as **Exhibit C**. The site plan and special use permit approvals were thereafter extended for 6 months by the Planning Board at its January 10, 2023 and June 13, 2023 meetings.

The Applicant is continuing to work towards beginning construction though a building permit. On June 8, 2023, the Applicant's Stormwater Pollution Prevention Plan was approved by the DEP. As a part of this approval, the DEP required that a storm drain be run through adjacent properties to the north. The Applicant is in the process of obtaining proof of the requisite easements to achieve this, which the Applicant understands is required to be submitted to the Village/Town before the Village/Town signs the MS4 and a Building Permit can be issued. The DEP's Approval is enclosed at **Exhibit F**. Meanwhile, on August 7, 2023, the Applicant received a DOT Highway Work Permit, enclosed at **Exhibit G**.

As there have been no changes to the design considered by the ZBA in September of 2021 which would change the requested variances, the Applicant submits that this application is substantially similar in all relevant respects to the previously approved application. As such, it is respectfully requested that the ZBA re-approve the herein requested area variance relief.

In support of this Application, please find 10 copies of this letter with the following attachments:

Exhibit A: Village/Town of Mount Kisco Zoning Board of Appeals Application;

¹ The Site Plan and associated drawings have been updated to respond to comments from the New York State Department of Environmental Protection ("DEP") and New York State Department of Transportation ("DOT") as a part of their respective reviews. However, these comments do not impact the extent of the variances requested and previously approved.

- Exhibit B:** Zoning Board of Appeals Resolution in the Matter of the Application of Rivera Auto Group, Inc. (Case No. ZBA 21-14) stamped by the Mount Kisco Village/Town Clerk on October 25, 2021 and December 5, 2022;
- Exhibit C:** Planning Board Resolution – Negative Declaration of Significance, Steep Slopes Permit, Special Use Permit, and Site Plan Approval – Rivera Toyota – 353 North Bedford Road – dated December 14, 2021 (signed February 8, 2022 and filed with the Village/Town Clerk on February 10, 2022);
- Exhibit D:** Bargain and Sale Deed from William T. Martabano to 353 N Bedford Rd LLC recorded in the Office of the Westchester County Clerk on February 16, 2022;
- Exhibit E:** Short Environmental Assessment Form;
- Exhibit F:** New York City Department of Environmental Protection Stormwater Pollution Prevention Plan Approval; and
- Exhibit G:** New York State Department of Transportation Highway Work Permit.

Also enclosed is a check in the amount of \$750 made payable to the Village/Town of Mount Kisco representing the area variance fee for commercial applications and 10 copies of the following materials:

- Engineering Site Plan of Proposed Redevelopment at 353 North Bedford Road prepared by DTS Provident Design Engineering, LLP, last updated May 1, 2023 (Page C-101);
- Architectural Site Plan for the Proposed Redevelopment at 353 North Bedford Road prepared by Bryan Zelnik Architect, PC, last updated November 28, 2022 (Page A-101.00); and
- Topographic Survey of Property prepared for 353 N Bedford Rd LLC prepared by H. Stanley Johnson and Company Land Surveyors, P.C., last revised March 8, 2021.

The Applicant also resubmits 10 copies of the initial June 29, 2021 area variance application packet in support of the previously approved area variance relief along with the following attachments:

- Exhibit A:** Village/Town of Mount Kisco Zoning Board of Appeals Application;
- Exhibit B:** Village/Town of Mount Kisco Building Inspector Memorandum June 17, 2021;
- Exhibit C:** Short Environmental Assessment Form;
- Exhibit D:** 353 North Bedford Road Deed from Martabano Company to William T. Martabano dated July 25, 1984 recorded in the Office of the Westchester County Clerk Land Records Departments at Liber 7948, Page 307;
- Exhibit E:** Rivera Toyota Business Plan;
- Exhibit F:** Map and Mailing List of Property Owners within 300' of the Premises;
- Exhibit G:** Zoning Board of Appeals of the Village/Town of Mount Kisco Case No. ZBA 13-12 Resolution for 343 North Bedford Road (SBL 69.51-1-1) dated April 22, 2015; and



8/28/2023
Page 4

Exhibit H: Map of Existing Automotive Uses.

For all the reasons set forth herein and in the accompanying documents, it is respectfully submitted that this application to re-approve the area variances be granted in its entirety. The Applicant looks forward to appearing at the next available ZBA meeting for the public hearing and to answer any questions the ZBA may have on this matter. In the meantime, should the ZBA or Village/Town Staff have any questions or comments regarding the forgoing, please do not hesitate to contact the undersigned.

Thank you for your courtesy and attention to this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Max', written over a horizontal line.

Maximilian R. Mahalek
Enclosures

cc: Peter J. Miley, Village/Town Building Inspector
Client
Bryan Zelnik Architect, PC
Provident Design Engineering PLLC
Anthony B. Gioffre III, Esq.

EXHIBIT A

Date: _____

Case No.: _____

Fee: _____

Date Filed: _____

Village/Town of Mount Kisco
Municipal Building
104 Main Street, Mt. Kisco, NY 10549

Zoning Board of Appeals
Application

Appellant: 353 N Bedford Rd LLC (c/o Ken Hicks)

Address: 325 N Bedford Road, Mount Kisco, NY 10549

Address of subject property (if different): 353 N Bedford Road, Mount Kisco, NY 10549

Appellant's relationship to subject property: X Owner _____ Lessee _____ Other _____

Property owner (if different): _____

Address: _____

TO THE CHAIRMAN, ZONING BOARD OF APPEALS: An appeal is hereby taken from the decision of the Building Inspector, Peter J. Miley's Memorandum dated June 17, 2021. Application is hereby made for the following:

X Variation or _____ Interpretation of Section 110-30.G(1); 110-30.D(1); & 110-31.G(1) of the Code of the Village/Town of Mount Kisco,

to permit the: X Erection; _____ Alteration; _____ Conversion; _____ Maintenance of the relocation automobile repair shop-service facility in support of the existing Rivera Toyota Sales location at 325 North Bedford Road.

_____ in accordance with plans filed on (date) April 6, 2021 (revised May 1, 2023 per DOT and DEP)

for Property ID # 69.43-2-3 located in the CL Zoning District.

The subject premises is situated on the Westerly side of (street) North Bedford Road in the Village/Town of Mount Kisco, County of Westchester, NY.

Does property face on two different public streets? Yes/No No

(If on two streets, give both street names) _____

Type of Variance sought: _____ Use X Area

Is the appellant before the Planning Board of the Village of Mount Kisco with regard to this property? Yes

Is there an approved site plan for this property? Yes in connection with a
X Proposed or _____ Existing building; erected (yr.) _____

Size of Lot: 160 feet wide 222 feet deep Area 35,367 s/f

Size of Building: at street level 83 feet wide 128 feet deep

Height of building: 2 stories/25'3" Present use of building: Restaurant Building to be demolished

Does this building contain a nonconforming use? No Please identify and explain: _____

Is this building classified as a non-complying use? No Please identify and explain: _____

Has any previous application or appeal been filed with this Board for these premises?
Yes/No? Yes

Was a variance ever granted for this property? Yes If so, please identify and explain:
A variance was granted on September 21, 2021 and extended October 18, 2022

Are there any violations pending against this property? No If so, please identify and explain: _____

Has a Work Stop Order or Appearance Ticket been served relative to this matter?
____ Yes or X No Date of Issue: _____

Have you inquired of the Village Clerk whether there is a petition pending to change the subject zoning district or regulations? No

I submit the following attached documents, drawings, photographs and any other items listed as evidence and support and to be part of this application:

The following items **MUST** be submitted:

- a) Attached hereto is a copy of the order or decision (Notice of Denial) issued by the Building Inspector or duly authorized administrative official issued on July 17, 2021 upon which this application is based.
- b) Copy of notice to the administrative official that I have appealed, setting forth the grounds of appeal and have requested the application to be scheduled for a public hearing.
- c) A typewritten statement of the principal points (facts and circumstances) on which I base my application with a description of the proposed work.
- d) Ten (10) sets of site plans, plat or as-built survey drawings professionally signed and sealed (as may be required).
- e) A block diagram with street names, block and lot numbers, and street frontage showing all property affected within 300' of the subject property, with a North point of the compass indicated.
- f) A full list of names and addresses of the owners of all property shown on the above noted block diagram that lie within or tangent to the 300' radius from the subject property.
- g) A copy of the Public Notice for the public hearing of this application.
- h) A sworn Affidavit of Mailing, duly notarized, that a true copy of said Public Notice has been sent by mail to all property owners within 300 feet of this premises at least 10 days prior to the public hearing.

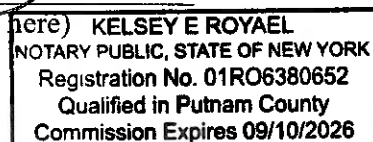
NOTE: APPLICANT MUST CAUSE A TRUE COPY OF THE PUBLIC NOTICE TO BE PUBLISHED IN THE OFFICIAL NEWSPAPER OF THE VILLAGE AT LEAST 15 DAYS PRIOR TO THE PUBLIC HEARING.

- i) A true copy of the filed deed and/or signed lease or contract for the use of the subject property.
- *j) At least two sets of unmounted photographs, 4" by 6" in size, showing actual conditions on both sides of street, between intersecting streets. Print street names and mark premises in question.
- *k) A floor plan of the subject building with all the necessary measurements.
- *l) A longitudinal section of the subject building and heights marked thereon as well as front elevations.

*** Optional - As Needed**

I hereby depose & say that all the above statements and the statements contained in the papers submitted herewith are true.

(Appellant to sign here)



Sworn to before me this day of: August 23, 2023

Notary Public, Putnam, County, NY

Kelsey Royael

[TO BE COMPLETED IF APPELLANT IS NOT THE PROPERTY OWNER IN FEE]

State of New York }
County of Westchester } ss

Being duly sworn, deposes and say that he resides at _____ in the County of Westchester, in the State of New York, that he is the owner in fee of all that certain lot, piece or parcel of land situated, lying and being in the Village of Mount Kisco, County of Westchester aforesaid and known and designated as number _____ and that he hereby authorized _____ to make the annexed application in his behalf and that the statements contained in said application are true.

(sign here)

PUBLIC NOTICE

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the Village/Town of Mount Kisco, New York will hold a Public Hearing on the 19th day of September 2023 at the Municipal Building, Mount Kisco, New York, beginning at 7:00 PM pursuant to the Zoning Ordinance on the Appeal of

353 N Bedford Rd LLC (c/o Ken Hicks)

(Name of Applicant)

325 N Bedford Road, Mount Kisco, NY

(Address of Applicant)

from the decision of Peter J. Miley, Building Inspector, dated June 17, 2021 Memorandum
(Date of Denial Letter)
denying the application dated to permit the automobile repair shop.
(Proposed Work)

The property involved is known as 353 N Bedford Road, Mount Kisco, NY
(Address of Property)

and described on the Village Tax Map as Section 69.43 Block 2 Lot 3

and is located on the Westerly side of N Bedford Road in a
east/west/n/s (Street Name)

CL Zoning District. Said Appeal is being made to obtain a

variance from Section(s) 110-30.G(1); 110-30.D(1); & 110-31.G(1) of the
(Identify specific zoning code section number(s))

Code of the Village/Town of Mount Kisco, which requires _____
the proposed automobile repair use to be situated no less than 1000' from a similar use and that the proposed dumpster enclosure be located no closer to the side lot line than the principal building.

Wayne Spector, Chair
Zoning Board of Appeals
Village/Town of Mount Kisco



Village/Town of Mount Kisco Building Department
104 Main Street
Mount Kisco, New York 10549
Ph. (914) 864-0019-fax (914) 864-1085

MEMORANDUM

TO: Honorable Acting Chairman John Bainlardi
and Members of the Planning Board

FROM: Peter J. Miley, Building Inspector

SUBJECT: Automobile Repair Shop – Service Facility

DATE: June 17, 2021

The Property

353 North Bedford Road is a 36,367 sf (0.81 acre) lot located in the CL Limited Commercial Zoning District that is situated just north and adjacent to the Town Bus Company. The existing property includes a one – story “frame & stucco” building (former Westchester Burger) that is proposed to be demolished.

Pursuant to Chapter 110. Zoning, Article III. District Regulations, § 110-19. CL Limited Commercial District B. Permitted uses. (2) Special permit uses. Gasoline stations, automotive and equipment service and automobile repair shops, are subject to the requirements set forth in Chapter 110. Zoning Article V. Supplementary Regulations § 110-30. Supplementary use regulations G. Gasoline stations, commercial garages and motor vehicle repair shops.

The Project

Proposed includes the redevelopment of the site, a new building, 39 parking spaces, improved drainage. The building will be used to repair and service vehicles in connection with Rivera Toyota located 2 properties south, 325 N. Bedford Rd. The proposed building is a 10,216 sf structure that will include (8) service bays, 3,700 sf of administrative office space, an enclosed customer drop-off with room for six cars, and a 1,200 sf area to store car parts.

Zoning

1. Pursuant to Chapter 110. Zoning Article V. Supplementary Regulations § 110-30. Supplementary use regulations D. Trash compactors, dumpsters and other large trash containers. (1) The compactor, dumpster or container shall be located no closer to the property lines than is permitted for an accessory structure in said district. G. Accessory

structures. (1) No accessory structure, except a sign for which a permit, pursuant to Chapter 89 of this Code, has been granted and which is erected pursuant to a site plan approved by the Planning Board, shall be located or project nearer to any street line or side lot line than does the principal structure on the lot.

- a. Variance No. 1: Proposed dumpster enclosure is located in the west, rear – left corner of the property and is closer to the side lot-line than the proposed structure and therefore; a variance to locate a dumpster enclosure closer to the side lot-line than is the principle building is required.
2. Gasoline stations, commercial garages and motor vehicle repair shops. (1) No driveway to or from any commercial garage, gasoline station or motor vehicle repair shop shall be within 1,000 feet of any other such use or within 200 feet of the boundary line of any residential district or of any school, church, park, playground, hospital, public library, institution for dependents or children or any place of public assembly or restaurant designed for the simultaneous use of 100 persons or more, regardless of the district where either premises are located.
 - b. Variance No. 2: Proposed is located just north of Town Bus, a vehicle repair garage. Relief from this section is required. A variance to place a motor vehicle repair shop within 1000 ft. of another is required. Applicant shall provide actual distance from the driveway, to the closest repair shop.

Buffer Requirements

1. The front drive aisle parallel to the building and N. Bedford Rd. is located within the 20 ft. buffer requirement by 1.5 ft., unless waived by the Planning Board, a 1.5 ft. buffer variance will be required.

Pursuant to Chapter 110. Zoning Article V. Supplementary Regulations § 110-32. Supplementary landscaping and illumination regulations. B. Waiver of buffer requirements. Upon determination by the Planning Board that all or part of a required buffer area is not necessary for an individual site development, due to factors such as abutting land uses or topography, or if an alternative method of screening a property is proposed through earth berms, landscaping and other such treatments, the Board may modify or waive such buffer requirements, provided that the intensity of development on the subject site is not increased by the modification or waiver.

Steep Slopes Permit Required

1. Retaining walls that exceed 60 feet are proposed within the steep, to very steep slopes located at the rear of the property. Pursuant to Chapter 110. Zoning Article V. Supplementary Regulations Natural resources protection regulations.

Standards for development approval. In denying, granting, or granting with modifications any application for a steep slopes permit, the Planning Board shall consider the consistency of the proposed activity with the following standards:

[1] Disturbance and construction activities on very steep slopes shall not be permitted unless there is no viable alternative.

[2] Disturbance of areas with steep slopes shall be in conformance with the following provisions:

[b] The terracing of building sites shall be kept to an absolute minimum. The construction of retaining walls greater than six feet in height or 60 feet in length shall not be permitted unless there is no viable alternative.

Comments

1. The Building Department defers to the Village Planner for landscaping and lighting.
2. The Building Department defers to the Village Engineer for Steep Slopes requirements, retainage, and all impervious and drainage.

Town/Village Approvals Required

1. Planning Approval – site plan approval
2. Special permit issued by the Planning Board
3. Steep Slopes Permit
4. Zoning Board Approval
5. Architectural Review Board
6. Property is located in the Designated Village Main Street Area, DEP approval is required
7. Building Department

EXHIBIT B

OCT 25 2021

Mount Kisco
Office of the Village Clerk

**Zoning Board of Appeals
of the Village/Town of Mount Kisco**
-----X

In the Matter of the Application of
Rivera Auto Group, Inc.

Case No.: ZBA 21-14

-----X

1. Location of Property:

Property ID: 69.43-2-3

353 North Bedford Road

2. Description of Request:

The application proposes the demolition of the existing restaurant building and constructing a new two-story 12,616 square foot automobile repair facility with proposed dumpster enclosure located in the west, rear-left corner of the property, closer to the side lot-line than the proposed principal structure.

Village Code Section 110-30(G)(1) requires that no driveway to or from any commercial garage, gasoline station or motor vehicle repair shop shall be within 1,000 feet of any other such use or within 200 feet of the boundary line of any residential district or of any school, church, park, playground, hospital, public library, institution for dependents or children or any place of public assembly or restaurant designed for the simultaneous use of 100 persons or more, regardless of the district where either premises are located. The proposed use is located 22 feet away from the nearest same use, Town Bus – a vehicle repair garage, therefore necessitating one (1) variance of 978 feet from the required 1,000-foot distance from similar use requirement under the Village Zoning Code.

Village Code Section 110-30(D) and 110-31(G)(1) together require that no trash compactor, dumpster, or other large trash container shall be located or project nearer to any street line or side lot-line than does the principal structure on the lot. The proposed dumpster is located in the side yard and closer to the side-yard property line than the proposed principal structure. As such, one (1) variance is required for the placement of the dumpster closer to the side-yard property line than the principal building.

3. Zoning of Property:

CL – Limited Commercial District.

[NO FURTHER TEXT ON THIS PAGE]

4. **Variances/Interpretations Requested:**

1. A variance from the requirement that no driveway to or from any commercial garage, gasoline station or motor vehicle repair shop shall be within 1,000 feet of any other such use, as set forth in Village Code Section 110-30(G)(1).

	<u>Required</u>	<u>Proposed</u>	<u>Variance Needed</u>
Distance from Same Use	1,000 ft	22 ft	978 ft

2. A variance from the requirement that no trash compactor, dumpster, or other large trash container shall be located or project nearer to any street line or side lot line than does the principal structure on the lot, as set forth in Village Code Section 110-30(D) and 110-31(G)(1) together.

	<u>Required</u>	<u>Proposed</u>	<u>Variance Needed</u>
Placement of Dumpster Closer to Side-Yard Property Line than Principal Structure	Prohibited	Allowed	Allowed

5. **Date of Public Hearing:** July 20, 2021, September 21, 2021
Date of Action: September 21, 2021,

6. **Comments Received at the Public Hearing.**

Ken Hicks in favor of Applicant

7. **Documents Submitted with the Application:**

- Zoning Board of Appeals Application, Dated 06/25/2021
- Memorandum from Peter J. Miley, Building Inspector, to Planning Board, Dated 06/17/2021
- Letter to Zoning Board of Appeals with Principal Points from Cuddy and Feder LLP, Dated 06/29/2021
- Full list of names for mailing
- Copy of map of properties within 300 Feet
- Copy of Public Notice
- Affidavit of Mailing, Dated 07/08/2021
- Affidavit of Publication, Dated 07/05/2021
- Affidavit of Posting, Dated 07/14/2021
- Plans from Provident Design Engineering
- Fees Paid

8. **SEQRA Determination:**

The subject application constitutes a Type II action pursuant to NYCRR 617.5(c) (12) (“granting of an individual setback for a lot line variance(s). Accordingly, the action has been statutorily determined to not have a significant affect on the environment and is not subject to review under Environmental Conservation Law, Article VIII.

9. **Decision:** APPROVED

10. **Basis for Decision of ZBA:**

Under the statutorily enumerated criteria and based upon a review of the entire record, including testimony, submissions, maps, records and all other documentary proof, the ZBA has determined that the benefit to the applicant outweighed any detriments to the community or neighborhood. Specifically, the Board determined (1) that the granted variance will not produce an undesirable change in the character of the neighborhood as the neighborhood is commercial in nature and contains many car dealerships; (2) that the benefits sought by the applicants could not be achieved by a feasible method other than a variance based upon the existing condition as the dealership is situated on a hillside; (3) that the variance is not substantial; (4) that will be no adverse impact on the environment; and (5) that while the alleged difficulty was self-created, it is not fatal to the application as it does not outweigh the other factors favoring the variances as set forth above.

11. **Conditions of Approvals.**

- 1) The variance is solely for the plans presented, reviewed and considered by the Zoning Board.
- 2) The approval shall not constitute any authorization for any other or further encroachments into any setback, including along the same plane.
- 3) There shall be no signage or advertising except as expressly authorized by applicable boards.
- 4) Nothing herein shall be construed to permit any disturbance to any adjoining landowner’s property.

[NO FURTHER TEXT ON THIS PAGE]

12. Vote: BY ORDER OF THE BOARD OF APPEALS

Motion to approve by: Mr. Spector

Seconded by: Mr. Alfano

Vote: Mr. Spector: Aye
Mr. Hoyt: Aye
Mr. Weiss: Aye
Mr. Alfano: Aye
Chair Boxer: Aye

RESOLUTION EXECUTED: September ____, 2021
Mount Kisco, New York

ZONING BOARD OF APPEALS
Village/Town of Mount Kisco

By: 
HAROLD BOXER, CHAIRMAN

RECEIVED

DEC - 5 2022

Mount Kisco
Office of the Village Clerk

**Zoning Board of Appeals
of the Village/Town of Mount Kisco**
-----X

In the Matter of the Application of
Rivera Auto Group, Inc.

Case No.: ZBA 21-14

-----X

1. **Location of Property:**

Property ID: 69.43-2-3

353 North Bedford Road

2. **Description of Request:**

This application was approved by resolution dated September 21, 2021. Applicant seeks re-approval of the original application:

3. **Zoning of Property:**

CL – Limited Commercial District.

4. **Variances/Interpretations Requested:**

[SEE ATTACHED RESOLUTION DATED SEPTEMBER 21, 2021]:

1. A variance from the requirement that no driveway to or from any commercial garage, gasoline station or motor vehicle repair shop shall be within 1,000 feet of any other such use, as set forth in Village Code Section 110-30(G)(1).

	<u>Required</u>	<u>Proposed</u>	<u>Variance Needed</u>
Distance from Same Use	1,000 ft	22 ft	978 ft

2. A variance from the requirement that no trash compactor, dumpster, or other large trash container shall be located or project nearer to any street line or side lot line than does the principal structure on the lot, as set forth in Village Code Section 110-30(D) and 110-31(G)(1) together.

	<u>Required</u>	<u>Proposed</u>	<u>Variance Needed</u>
Placement of Dumpster Closer to Side-Yard Property Line than Principal Structure	Prohibited	Allowed	Allowed

5. Date of Public Hearing: October 18, 2022
Date of Action: October 18, 2022

6. Comments Received at the Public Hearing.

NONE

7. Documents Submitted with the Application:

- Zoning Board of Appeals Application, Dated 08/26/2022
- Copy of Zoning Board of Appeals September 21, 2021 Resolution, Stamped Received on 10/25/2021
- Planning Board Resolution, Dated 12/14/2021
- Copy of Deed, Received 10/06/2022
- Copy of Short Environmental Assessment Form, Received 10/06/2022
- Affidavit of Mailing, Received 10/06/2022
- Affidavit of Publication, Received 10/14/2022
- Affidavit of Posting, Received 10/14/2022
- Site Plan from DTS Provident, Received 10/06/2022
- Fees Paid

8. SEORA Determination:

[SEE ATTACHED RESOLUTION DATED SEPTEMBER 21, 2021]

9. Decision:

[SEE ATTACHED RESOLUTION DATED SEPTEMBER 21, 2021]

10. Basis for Decision of ZBA:

[SEE ATTACHED RESOLUTION DATED SEPTEMBER 21, 2021]

11. Conditions of Approvals.

- 1) The variance is solely for the plans presented, reviewed and considered by the Zoning Board.
- 2) The approval shall not constitute any authorization for any other or further encroachments into any setback, including along the same plane.
- 3) There shall be no signage or advertising except as expressly authorized by applicable boards.

4) Nothing herein shall be construed to permit any disturbance to any adjoining landowner's property.

12. **Vote:** BY ORDER OF THE BOARD OF APPEALS

Motion to approve by:	Mr. Ms. Broth	Vote: Mr. Hoyt:	AYE
		Mr. Weise:	AYE
Seconded by:	Mr. Alfano	Mr. Alfano:	AYE
		Ms. Broth:	AYE
		Chair Spector:	ABSENT

RESOLUTION EXECUTED: ¹²⁻⁵~~October~~ ____, 2022
Mount Kisco, New York

ZONING BOARD OF APPEALS
Village/Town of Mount Kisco

By: 
GEORGE HOYT ACTING CHAIR

Wayne Spector, Chair

EXHIBIT C

FEB 10 2021

Mount Kisco
Office of the Village Clerk**PLANNING BOARD RESOLUTION
VILLAGE OF MOUNT KISCO****NEGATIVE DECLARATION OF SIGNIFICANCE
STEEP SLOPES PERMIT
SPECIAL USE PERMIT
SITE PLAN APPROVAL****RIVERA TOYOTA
353 NORTH BEDFORD ROAD****Section 69.43, Block 2, Lot 3
Cal # PB2020-0414
December 14, 2021**

WHEREAS, the subject property is owned by William T. Martabano, consists of ± 0.81 acre of land and is located at 353 North Bedford Road, within the Limited Commercial (CL) Zoning District ("the subject property"); and

WHEREAS, the subject property is identified on the Village/Town Tax Rolls as Section 69.43, Block 2, Lot 3 and is located on the westerly side of North Bedford Road; and

WHEREAS, the subject property is currently developed with an existing one (1) story restaurant building and associated parking; and

WHEREAS, Rivera Auto Group, Inc. ("the applicant"), is proposing to demolish the existing building and construct a new, $\pm 12,672$ s.f., two (2) story automobile service and repair shop for Toyota; the service building is proposed to include eight (8) service bays, a customer drop-off area, customer service areas, and interior parts storage ("the proposed action"); and

WHEREAS, motor vehicle service is allowable within the underlying zoning district, subject to the issuance of a Special Use Permit and compliance with special use requirements, subject to Article V, Section 110-30 F. of the Zoning Code; and

WHEREAS, the subject property will only be used for the service and repair of automobiles and no storage or sales of new or used vehicles will occur at this location; and

WHEREAS, the applicant has stated that no vehicles will be unloaded or loaded on the subject property or within any public right-of-way; the applicant has stated that it will utilize an off-site

location (site undetermined at this time) for the loading and unloading of vehicles and that vehicles will be individually driven to the site for service; and

WHEREAS, reference is made to a plan entitled 353 Service Facility Plans Proposed (Drawing No. A-101.00), prepared by Bryan Zelnick, dated (last revised) November 18, 2021; and

WHEREAS, the subject property is currently served by two (2) driveways on North Bedford Road and access easement near the northwest corner of the lot; and

WHEREAS, modification to the driveway entrances and work within the right-of-way will require a Highway Work Permit from the New York State Department of Transportation (NYSDOT); and

WHEREAS, the proposed action will result in steep slopes disturbance and a Steep Slopes Permit is required by the Planning Board; and

WHEREAS, the applicant is proposing a retaining wall at the rear of the property within regulated slopes that is higher and longer than what is permitted by Section 110-33.1 A. (c) [2] [b], requiring a waiver from the Planning Board to accommodate the safety and needs for circulation on the site; and

WHEREAS, the applicant is proposing a minor encroachment into the front landscape buffer area (20 feet required/18.4 feet proposed) and the applicant has requested a waiver from the Planning Board in this regard; and

WHEREAS, the subject property is located within the New York East of Hudson Watershed and proposed land disturbance exceeds 5,000 square feet; coverage under New York State Department of Environmental Conservation (NYSDEC) SPDES General Permit for Stormwater Discharges from Construction Activity (GP-0-20-001) is required; and

WHEREAS, the applicant is proposing the installation of new impervious surfaces within a mapped Designated Main Street areas and New York City Department of Environmental Protection (NYCDEP) Stormwater Pollution Prevention Plan (SWPPP) approval is required; and

WHEREAS, reference is made to a Stormwater Pollution Prevention Plan (SWPPP) prepared by Provident Design Engineering, dated September 7, 2021; and

WHEREAS, reference is made to a Traffic Study prepared by Provident Design Engineering, dated September 1, 2021; and

WHEREAS, the application was referred to the Westchester County Planning Board in accordance with Section 239-m of the General Municipal Law and the Planning Board has considered the County's comments; and

WHEREAS, certain area variance were granted by the Zoning Board of Appeals and the Zoning Board's resolution was filed with the Village Clerk on October 25, 2021; and

WHEREAS, reference is made to the Survey of Property and Topographic Survey, prepared by H. Stanley Johnson and Company Land Surveyors, P.C, last revised March 8, 2021; and

WHEREAS, the Planning Board conducted a duly noticed public hearing which was opened on November 9, 2021 and adjourned to and closed on December 14, 2021, at which time all interested parties were afforded an opportunity to be heard.

NOW, THEREFORE, BE IT RESOLVED THAT, the proposed action has been determined to be an Unlisted Action, pursuant to the New York State Environmental Quality Review Act (SEQRA), 6 NYCRR Part 617 and a coordinated review has been ongoing with the Planning Board acting as Lead Agency; and

BE IT FURTHER RESOLVED THAT, the Planning Board has compared the proposed action with the Criteria for Determining Significance in 6 NYCRR 617.7(c) and determined that the proposed action will not have a significant adverse impact on the environment; and

BE IT FURTHER RESOLVED THAT, the Planning Board has considered all reasonably related long-term, short-term, direct, indirect, and cumulative environmental effects associated with the proposed action including other simultaneous or subsequent actions; and

BE IT FURTHER RESOLVED THAT, the Planning Board hereby issues the attached Negative Declaration of Significance; and

BE IT FURTHER RESOLVED THAT, the Planning Board hereby grants a Special Use Permit, Site Plan Approval and a Steep Slopes Permit and approves the following plans (hereafter referred to as "the approved plans"), subject to the below conditions:

The following plans, prepared by Provident Design Engineering, last revised 11/23/2021:

- Site Plan (Drawing No. C-101)
- Removals Plan (Drawing No. C-102)
- Striping and Sign Plan (Drawing No. C-201)
- Grading & Utility Plan (Drawing No. C-301)
- Sections (Drawing No. 302)
- Erosion Control Plan (Drawing No. 401)
- Details (Drawing No. C-501)
- Details (Drawing No. C-502)
- Details (Drawing No. C-503)
- Stormwater Management Details (Drawing No. C-504)
- Steep Slopes Plan (Drawing No. C-103)

The following plan, prepared by Imbiano Quigley Landscape Architects, Last revised 10/18/2021

- Tree Preservation Planting Plan & Details (Drawing L-1)

The following plans, prepared by Bryan Zelnick, dated (last revised) November 24, 2021:

- 353 Service Facility Plans Proposed (Drawing No. A-101.00)
- Service Lighting Plan (Drawing No. LT-101.00)

BE IT FURTHER RESOLVED THAT, unless extended by the Planning Board, construction shall commence within six (6) months of the date of this Resolution and all conditions contained herein shall be satisfied within one (1) year of commencement of construction.

Conditions to be Satisfied Prior to the Signing of the Approved Plans:

1. Prior to the signing of the approved plans, it is the applicant's responsibility to identify and secure any and all necessary permits/approvals from outside agencies having jurisdiction over the proposed action. Copies of outside agency permits/approvals shall be submitted to the Planning Board and the Building Department. In the event that such permit(s) require modification to the plans approved herein, a determination shall be made by the Building Inspector and Village Engineer as to whether the modification(s) is substantive and should be returned to the Planning Board for review. The following outside agency permits/approvals have been identified by the applicant:
 - Architectural Review Board (ARB) – Building and Signage
 - New York City Department of Environmental Protection (NYDEP) -Stormwater Pollution Prevention Plan (SWPPP)
 - New York State Department of Transportation (NYSDOT) –Highway Work Permit
 - NYSDEC SPDES General Permit for Stormwater Discharges from Construction Activity (to be obtained prior to the commencement of work).
2. The owner/applicant shall satisfactorily address any outstanding comments provided by the Building Inspector, Village Attorney, Village Engineer, and/or Village Planner.
3. The lighting plan shall be revised to the satisfaction of the Village Planner; all notes and details shall be legible.
4. The Business Plan/Statement of Use shall be revised to explain the transportation of vehicles between the subject property and the Toyota's proposed facility located at 325 North Bedford Road. The document shall be prepared to the satisfaction of the Building Inspector and Village Planner.

5. All applicable application fees and fees associated with professional legal, engineering and planning consultation shall be paid for by the owner/applicant.
6. The applicant shall submit a "check set" (4 copies) of the approved plans prepared in final form and in accordance with the conditions of this Resolution, for review by Village staff.
7. The approved plans shall be revised to conform to the above conditions and to the satisfaction of Village staff. The applicant shall submit four (4) original copies of the approved plans, signed, and sealed by the design professional, for final review by Village staff and for signature by Village staff and the Planning Board Chairman. All plans shall have a common revision date.

Conditions to be Satisfied Prior to the Issuance of a Building Permit:

8. The owner/applicant shall satisfy the above conditions and the approved plans shall be signed by Village staff and the Planning Board Chairman.

Conditions to be Satisfied Prior to Commencement of Any Work:

9. The applicant shall obtain a Building Permit. A Building Permit shall not be issued until the Approved Plans have been signed by the Village staff and the Planning Board Chairman.
10. The applicant shall submit a schedule for all earthwork and land disturbance to the Village Engineer for approval. The applicant shall notify the Village Engineer and Building Inspector at least 72 hours in advance of any site disturbance.
11. Before commencement of any land disturbance, placing construction equipment on-site or actual construction, the subject property must be staked out by a NYS Licensed Land Surveyor, as determined necessary by the Village Engineer.
12. A pre-construction meeting shall be conducted with the applicant, contractor, Building Inspector, Village Planner and Village Engineer.

Conditions to be Satisfied During Construction:

13. The Village Engineer and Village Planner shall have the right to inspect the property during construction.
14. All construction activities shall be performed during the times permitted under the Village Code. The Village Engineer and Village Planner shall have the right to inspect the property during construction, the cost of which shall be paid for by the applicant.

Conditions to be Satisfied Prior to the Issuance of a Certificate of Occupancy:

15. A backflow preventer device(s) shall be installed to the satisfaction of the Village Engineer and Building Inspector, as required.
16. There shall be no Final Certificate of Occupancy issued, until there is full compliance with the plans approved herein and all conditions of this Resolution.
17. Prior to the issuance of a Final Certificate of Occupancy, an as-built survey, signed and sealed by a NYS Licensed Land Surveyor and demonstrating compliance with the approved plans shall be submitted. This survey shall include parking spaces and shall be prepared to the satisfaction of the Village Engineer.
18. A final site inspection shall be completed by the Building Inspector, Village Engineer and Village Planner.
19. All applicable application fees and fees associated with professional legal, engineering and planning consultation shall be paid for by the applicant.

Other Conditions:

20. All WHEREAS clauses contained within the body of this Resolution shall be deemed incorporated as conditions of approval, as if fully set forth herein.
21. The Planning Board is to retain original jurisdiction.
22. The applicant shall comply with Article V of the Zoning Code, Section 110-30F.
23. There shall be no outside service of vehicles.
24. There shall be no rental or sales of new or used vehicles on premises.
25. No parking or storage of vehicles shall occur between the front of the building and the street.
26. There shall be no loading or unloading of vehicles or trucks on the subject property or within any public street.
27. The loading and unloading of vehicles shall occur at a compliant off-site location (off-site location is undetermined at this time). The off-site location shall be secured by the applicant and disclosed to the Planning Board and Building Inspector. The off-site location shall be fully approved by any applicable agencies having jurisdiction (if any) and shall be operational prior to the issuance of a Certificate of Occupancy for the subject facility. The applicant shall demonstrate ownership or its lease to utilize the off-site location and shall

be responsible for notifying the Planning Board should the off-site location change in the future.

28. There shall be no storage or display of vehicles on the subject property until issuance of a Certificate of Occupancy.
29. All proposed exterior light fixtures shall be dimmable and illuminance levels shall be reduced by 30% after business hours.
30. All exterior light fixtures shall be non-adjustable and installed so as to be directed downward toward the ground; adjustable light fixture brackets and flood lights are not permitted.
31. All signage, including within windows, shall be fully compliant with Chapter 89 of the Village Code. No signs, lights or other materials or devices, except as approved and detailed on the approved plans, shall be permitted to be supported, hung, flown, or otherwise attached to site buildings, structures or the site grounds.
32. No interior televisions or illuminated signs shall be left on during non-business hours, which would be visible from the public street.
33. Landscaping shall be maintained for the life of the facility and in accordance with the approved landscaping plan. The applicant shall be responsible for any re-grading, replanting, or irrigation necessary to ensure that the landscaping is installed and maintained in accordance with the approved plan. In the event that landscaping is not maintained to the satisfaction of the Village Engineer and/or Building Inspector, the Village Engineer and/or Building Inspector shall notify the applicant in writing of the violation.
34. The proposed operation shall comply with the Statement of Use as submitted by the applicant. To the extent that information contained with the Statement of Use differs from that contained within this Resolution, this Resolution shall govern.
35. No change of use, no demising of space, and no expansion or intensification of use shall be permitted without Planning Board approval.
36. Failure to comply with any of the aforesaid conditions shall constitute a violation of site plan approval and shall subject the applicant to prosecution, penalties and/or permit revocations pursuant to applicable law. Deviation from any such approvals may render this site plan, special permit or certificates of occupancy issued in conjunction therewith, null and void.

ADOPTION OF RESOLUTION

WHEREUPON, the Resolution herein was declared adopted by the Planning Board of the Village of Mount Kisco as follows:

The motion was moved by: William Polese

The motion was seconded by: Michael McGuirk

The vote was as follows:

MICHAEL BONFORTE	X
WILLIAM POLESE	X
CRYSTAL PICKARD	X
BARBARA ROPPOLO	X
MICHAEL MCGUIRK	X

	
Michael Bonforte, Chairman	December 14, 2021

EXHIBIT **D**

The Office of the Westchester County Clerk: This page is part of the instrument; the County Clerk will rely on the information provided on this page for purposes of indexing this instrument. To the best of submitter's knowledge, the information contained on this Recording and Endorsement Cover Page is consistent with the information contained in the attached document.



612373592DED0022

Westchester County Recording & Endorsement Page

Submitter Information

Name: Robin Schemitsch Phone: 914-395-2285
Address 1: 7 Dempsey Place Fax: 914-395-1028
Address 2: Email: PostClosing@recordandreturn.com
City/State/Zip: Eastchester NY 10709 Reference for Submitter: RR-W-42606-21 PD

Document Details

Control Number: **612373592** Document Type: **Deed (DED)**
Package ID: 2021082500283001002 Document Page Count: **7** Total Page Count: **8**

Parties

☐ Additional Parties on Continuation page

1st PARTY

1: MARTABANO WILLIAM T - Individual
2:

2nd PARTY

1: 353 N BEDFORD RD LLC - Other
2:

Property

☐ Additional Properties on Continuation page

Street Address: 353 NORTH BEDFORD ROAD Tax Designation: 69.43-2-3
City/Town: MOUNT KISCO Village:

Cross- References

☐ Additional Cross-Refs on Continuation page

1: 2: 3: 4:

Supporting Documents

1: RP-5217 2: TP-584

Recording Fees

Statutory Recording Fee: \$40.00
Page Fee: \$40.00
Cross-Reference Fee: \$0.00
Mortgage Affidavit Filing Fee: \$0.00
RP-5217 Filing Fee: \$250.00
TP-584 Filing Fee: \$5.00
RPL 291 Notice Fee: \$0.00
Total Recording Fees Paid: **\$335.00**

Transfer Taxes

Consideration: \$1,900,000.00
Transfer Tax: \$7,600.00
Mansion Tax: \$0.00
Transfer Tax Number: 10377

Mortgage Taxes

Document Date:
Mortgage Amount:

Basic: \$0.00
Westchester: \$0.00
Additional: \$0.00
MTA: \$0.00
Special: \$0.00
Yonkers: \$0.00
Total Mortgage Tax: **\$0.00**

Dwelling Type: Exempt: ☐
Serial #:

RECORDED IN THE OFFICE OF THE WESTCHESTER COUNTY CLERK



Recorded: 02/16/2022 at 01:57 PM
Control Number: **612373592**
Witness my hand and official seal

Timothy C. Idoni

Timothy C. Idoni
Westchester County Clerk

Record and Return To

☐ Pick-up at County Clerk's office

**RECORD AND RETURN TITLE AGENCY
7 DEMPSEY PLACE**

EASTCHESTER , NY 10709

CONSULT YOUR LAWYER BEFORE SIGNING THIS INSTRUMENT - THIS INSTRUMENT SHOULD BE USED BY LAWYERS ONLY

THIS INDENTURE, made the ^{As of} 13TH day of September, in the year 2021

BETWEEN WILLIAM T. MARTABANO, having an address of 658 10 Broad Street, Pawling, New York 12564, party of the first part, and

353 N BEDFORD RD LLC, having an address of 325 North Bedford Road, Mount Kisco, New York 10549, party of the second part,

WITNESSETH, that the party of the first part, in consideration of Ten (\$10.00) 00/100 Dollars and other good and valuable consideration paid by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or successors and assigns of the party of the second part forever,

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the Village and Town of Mount Kisco, County of Westchester and State of New York and being bounded and described according to Schedule A attached hereto and made a part hereof.

Being the same premises as was acquired by the Grantor herein by deed from Martabano Company f/k/a William Martabano Company dated July 25, 1984 and recorded August 13, 1994 in Liber 7984, Page 307 in the Office of the Westchester County Clerk but less and excepting the parcel conveyed by deed recorded May 19, 2000 in Control 401060104 in the Office of the Westchester County Clerk.

TOGETHER with all right, title and interest, if any, of the party of the first part in and to any streets and roads abutting the above described premises to the center lines thereof;

TOGETHER with the appurtenances and all the estate and rights of the party of the first part in and to said premises;

TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, the heirs and successors and assigns of the party of the second part forever.

AND the party of the first part covenants that the party of the first part has not done or suffered anything whereby the said premises has been encumbered in any way whatever, except as aforesaid.

AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to received such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvements and will apply the same first to the payment of the cost of the improvements before using any part of the total of the same for any other purpose. The word "party" shall be construed as if it reads "parties" whenever the sense of this indenture so requires.

***Record and Return Title Agency, Inc.
Old Republic Title Insurance Company***

Title Number: **RR-W-42606-21**

SCHEDULE A DESCRIPTION

PARCEL 1

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the Village and Town of Mount Kisco, County of Westchester and State of New York, being more particularly bounded and described as follows:

BEGINNING at a point on the northwesterly boundary line of North Bedford Road (Route 117), as widened, where the same is intersected by the division line between property now or formerly belonging to DeSilva Ice and Fuel Co., Inc. on the southwest and the premises herein described on the northeast;

RUNNING THENCE in a northwesterly direction along said division line, North 48 degrees 21 minutes 50 seconds West, 122.80 feet to a point;

THENCE in a northeasterly direction along the southeasterly boundary line of property now or formerly belonging to William Martabano Company, North 41 degrees 38 minutes 10 seconds East, 160.00 feet to a point;

THENCE in a southeasterly direction along the southwesterly boundary line of property now or formerly belonging to G. Acquisition Co., Inc., South 48 degrees 21 minutes 50 seconds East, 120.32 feet to the northwesterly boundary line of North Bedford Road (Route 117), as widened;

THENCE in a southwesterly direction along the same, South 40 degrees 44 minutes 50 West, 160.03 feet to the point or place of BEGINNING.

PARCEL 2

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the Village and Town of Mount Kisco, County of Westchester and State of New York, being more particularly bounded and described as follows:

BEGINNING at a point on the southerly side of the land now or formerly of the General Electric Pension Trust and the southerly side of a 50 foot easement for ingress and egress from North Bedford Road, to the herein described property, where the northeast corner of the herein described property adjoins the northwest corner of the land now or formerly of Saraband Properties Inc.; said point of beginning is further described as being 1118.16 feet, as measured southerly along the westerly side of North Bedford Road, from the southerly side of the highway, known as Norm Avenue; and

Record and Return Title Agency, Inc.
Old Republic Title Insurance Company

Title Number: **RR-W-42606-21**

North 52 degrees 54 minutes 00 seconds West, 119.14 feet, as measured westerly along the division line of the land of Saraband Properties, Inc. and the General Electric Pension Trust Easement;

THENCE southerly along the land of Saraband Properties, Inc. and the land now or formerly of J.R. W. and A. Martabano;

South 41 degrees 38 minutes 10 seconds West, 250.59 feet to the land now or formerly of DeSilva Ice and Fuel Company, Inc.;

THENCE westerly along the north side of DeSilva Ice and Fuel Company, Inc.;

North 48 degrees 21 minutes 50 seconds West, 100.00 feet to the land now or formerly of General Electric Pension Trust;

THENCE northerly along the land now or formerly of General Electric Pension Trust, North 41 degrees 38 minutes 10 seconds East, 242.67 feet to other lands of the General Electric Pension Trust and the southerly side of the aforesaid easement;

THENCE easterly along the land of General Electric Pension Trust and the southerly side of the aforesaid easement;

South 52 degrees 54 minutes 00 seconds East, 100.32 feet to the land of the Saraband Properties, Inc. and the point or place of BEGINNING.

TOGETHER with an easement or right-of-way in common with others, adjoining the northerly line of the said parcel and the northerly line of Saraband Properties, Inc., for ingress and egress 50 feet in width, over the land of the General Electric Pension Trust from the westerly side of North Bedford Road to the westerly line of the parcel herein described;

LESS THAN AND EXCEPTING THE FOLLOWING EXCEPTED PARCEL:

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the Village and Town of Mount Kisco, County of Westchester and State of New York, being more particularly bounded and described as follows:

BEGINNING at a point on the division line between property now or formerly belonging to John A. Martabano on the southeast and property now or formerly belonging to William T. Martabano, on the southeast, said point being distant, North 48 degrees 21 minutes 50 seconds West, 120.32 feet as measured in a northwesterly direction along said division line from its intersection with the northerly boundary line of North Bedford Road (Route 117);

RUNNING THENCE in a northwesterly direction through other property now or formerly belonging to William T. Martabano, North 48 degrees 21 minutes 50 West, 100.00 feet to a point;

Record and Return Title Agency, Inc.
Old Republic Title Insurance Company

Title Number: **RR-W-42606-21**

THENCE in a northeasterly and southeasterly direction along the southeasterly and southwesterly boundary line of property now or formerly belonging to American Property Investors, North 41 degrees 38 minutes 10 seconds East, 82.67 feet and South 52 degrees 54 minutes 00 seconds East, 100.32 feet to a point;

THENCE in a southwesterly direction along the northwesterly boundary line of property now or formerly belonging to John A. Martabano, South 41 degrees 38 minutes 10 seconds West, 90.59 feet to the point or place of BEGINNING.

SUBJECT to a 22 foot wide Access Easement crossing through the above described premises being more particularly bounded and described as follows:

BEGINNING at a point on the southwesterly boundary line of the above described premises, said point being distant, North 48 degrees 21 minutes 50 seconds West, 49.01 feet as measured in a northwesterly direction along said boundary line from the point of beginning of the premises above described;

RUNNING THENCE in a northwesterly, northeasterly, southeasterly and southwesterly direction, North 48 degrees 21 minutes 50 seconds West, 22.00 feet, North 41 degrees 38 minutes 10 seconds East, 84.96 feet, South 52 degrees 54 minutes 00 seconds East, 22.07 feet and South 41 degrees 38 minutes 10 seconds West, 86.70 feet to the point or place of BEGINNING.

TOGETHER with an easement or right-of-way in common with others, adjoining the northeasterly line of the said parcel and the northeasterly line of property now or formerly belonging to John A. Martabano, for ingress and egress 50 feet in width, over the land now or formerly belonging to American Property Investors, from the northwesterly side of North Bedford Road, to the northwesterly line of the parcel herein described.

PARCEL 1 AND 2 WHEN TAKEN TOGETHER, AND LESS THAN THE EXCEPTED PARCEL, BEING DESCRIBED ACCORDING TO A SURVEY MADE BY H. STANLEY JOHNSON AND COMPANY LAND SURVEYORS, P.C. DATED JANUARY 27, 2021 AS FOLLOWS:

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the Village and Town of Mount Kisco, County of Westchester and State of New York, known and designated as "Section 69.43 Block Lot 3 N/F William T. Martabano" and "Parcel A" on a certain map entitled "Lot Line Change prepared for William T. Martabano, suited in the Village and Town of Mount Kisco, Westchester County, New York" made by H. Stanley Johnson and Company Land Surveyors, P.C., and filed on September 9, 1999 in the Office of the County Clerk of Westchester County, Division of Land Records as Filed Map No. 26419, and being more particularly bounded and described as follows:

BEGINNING at a point on the northwesterly boundary line of North Bedford Road (NYS Route 117), as widened, where the same is intersected by the division line between land now or formerly of 343 Bedford Realty, LLC on the southwest and the premises herein described on the northeast;

***Record and Return Title Agency, Inc.
Old Republic Title Insurance Company***

Title Number: **RR-W-42606-21**

RUNNING THENCE in a northwesterly direction along said division line, North 48 degrees 21 minutes 50 seconds West, 222.80 feet to a point on land now or formerly of DP 21 LLC;

THENCE along said lands now or formerly of DP 21 LLC, North 41 degrees 38 minutes 10 seconds East, 160.00 feet per deed and Filed Map No. 26419 (160.01 feet per Survey) to land now or formerly of John A. Martabano Trust No. 1;

THENCE along said land now or formerly of John A. Martabano Trust No. 1, South 48 degrees 21 minutes 50 seconds East, 220.32 feet to the northwesterly boundary line of North Bedford Road (NYS Route 117), as widened;

THENCE along the northwesterly boundary line of North Bedford Road (NYS Route 117), as widened, South 40 degrees 44 minutes 50 seconds West, 160.03 feet to the point or place of BEGINNING.

TOGETHER WITH a 22 foot wide Access Easement crossing through the EXCEPTED PARCEL being more particularly bounded and described as follows:

BEGINNING at a point on the southwesterly boundary line of the EXCEPTED PARCEL, said point being distant, North 48 degrees 21 minutes 50 seconds West, 49.01 feet as measured in a northwesterly direction along said boundary line from the point of beginning of the EXCEPTED PARCEL;

RUNNING THENCE in a northwesterly, northeasterly, southeasterly and southwesterly direction, North 48 degrees 21 minutes 50 seconds West, 22.00 feet, North 41 degrees 38 minutes 10 seconds East, 84.96 feet, South 52 degrees 54 minutes 00 seconds East, 22.07 feet and South 41 degrees 38 minutes 10 seconds West, 86.70 feet to the point or place of BEGINNING.

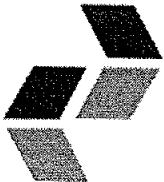
IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above written.


WILLIAM T. MARTABANO

Premises conveyed:

T/O: Mount Kisco
V/O: Mount Kisco
County: Westchester
Section: 69.43
Block: 2
Lot: 3

Record and Return:



Record and Return Title Agency, Inc.
7 Dempsey Place
Eastchester, NY 10709

RECORDED AT THE REQUEST OF
RECORD & RETURN TITLE AGENCY
TITLE# RR-W-42600-21
THRU: ☐ AMT ☐ FA ☒ ORT
☐ STIC ☐ STG

STATE OF NEW YORK)

ss.:

COUNTY OF WESTCHESTER)

On the 30th day of August in the year 2021 before me, the undersigned, a Notary Public in and for the State of New York, personally appeared WILLIAM T. MARTABANO personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Carlo Nero

Notary Public Shall Sign Here

Place Notary Stamp Here

CARLO NERO
NOTARY PUBLIC-STATE OF NEW YORK
NO. 01NE6179490
QUALIFIED IN WESTCHESTER COUNTY
MY COMMISSION EXPIRES 02-04-2028

EXHIBIT **E**

Short Environmental Assessment Form

Part 1 - Project Information


Instructions for Completing

Part 1 – Project Information. The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

Part 1 – Project and Sponsor Information			
Name of Action or Project: Rivera Toyota New Service Facility			
Project Location (describe, and attach a location map): 353 N Bedford Road, Mount Kisco, NY			
Brief Description of Proposed Action: The project will consist of the demolition of the existing building and the construction of a new Toyota Service Facility. The new service facility will have 8 service bays and a 6 spaces in the service lanes. The proposed building will have a gross floor area of 12,616 s.f. and a coverage of 10,216 s.f. A total of 27 exterior parking spaces will be provided plus 8 spaces in the service bays and 6 spaces in the enclosed customer drop off area. The total on-site parking spaces provided will be 41 spaces. The total number of required parking spaces is 39.			
Name of Applicant or Sponsor: Ken Hicks, Rivera Toyota		Telephone: 914-666-5181 E-Mail: khicks@riveratoyota.com	
Address: 325 N Bedford Road			
City/PO: Mount Kisco		State: New York	Zip Code: 10549
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.		NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other government Agency? If Yes, list agency(s) name and permit or approval:		NO <input type="checkbox"/>	YES <input checked="" type="checkbox"/>
3. a. Total acreage of the site of the proposed action?		0.812 acres	
b. Total acreage to be physically disturbed?		0.725 acres	
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?		0.812 acres	
4. Check all land uses that occur on, are adjoining or near the proposed action:			
5. <input checked="" type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input checked="" type="checkbox"/> Commercial <input type="checkbox"/> Residential (suburban) <input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other(Specify): <input type="checkbox"/> Parkland			

5. Is the proposed action,	NO	YES	N/A
a. A permitted use under the zoning regulations?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Consistent with the adopted comprehensive plan?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	NO <input type="checkbox"/>	YES <input checked="" type="checkbox"/>	
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area? Name:Geographic Area Overlaying Aquifer, Reason:Exceptional or unique character, Agency:Bedford, Town of, If Yes, identify: Date:11-3-84 The Site and adjoining lots are not located within the mapped limits of the CEA (see DECInfo Map)	NO <input type="checkbox"/>	YES <input checked="" type="checkbox"/>	
8. a. Will the proposed action result in a substantial increase in traffic above present levels?	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>	
b. Are public transportation services available at or near the site of the proposed action?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
c. Are any pedestrian accommodations or bicycle routes available on or near the site of the proposed action?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
9. Does the proposed action meet or exceed the state energy code requirements? If the proposed action will exceed requirements, describe design features and technologies: _____ _____	NO <input type="checkbox"/>	YES <input checked="" type="checkbox"/>	
10. Will the proposed action connect to an existing public/private water supply? If No, describe method for providing potable water: _____ _____	NO <input type="checkbox"/>	YES <input checked="" type="checkbox"/>	
11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: _____ _____	NO <input type="checkbox"/>	YES <input checked="" type="checkbox"/>	
12. a. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places? b. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory?	NO <input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	YES <input type="checkbox"/> <input type="checkbox"/>	
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency? b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody? If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____ _____ _____	NO <input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	YES <input type="checkbox"/> <input type="checkbox"/>	

14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply: <input type="checkbox"/> Shoreline <input type="checkbox"/> Forest <input type="checkbox"/> Agricultural/grasslands <input type="checkbox"/> Early mid-successional <input type="checkbox"/> Wetland <input checked="" type="checkbox"/> Urban <input type="checkbox"/> Suburban		
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
16. Is the project site located in the 100-year flood plan?	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes,	NO	YES
a. Will storm water discharges flow to adjacent properties?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
If Yes, briefly describe: _____ _____		
18. Does the proposed action include construction or other activities that would result in the impoundment of water or other liquids (e.g., retention pond, waste lagoon, dam)? If Yes, explain the purpose and size of the impoundment: _____	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe: _____	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe: _____	NO	YES
	<input type="checkbox"/>	<input checked="" type="checkbox"/>
There are no remediation actions on the subject property or an adjoining property (see attached DECInfo mapper)		
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE		
Applicant/sponsor/name: Maximillian R. Mahalek	Date: 8/28/23	
Signature: 	Title: Attorney for Applicant	

PRINT FORM

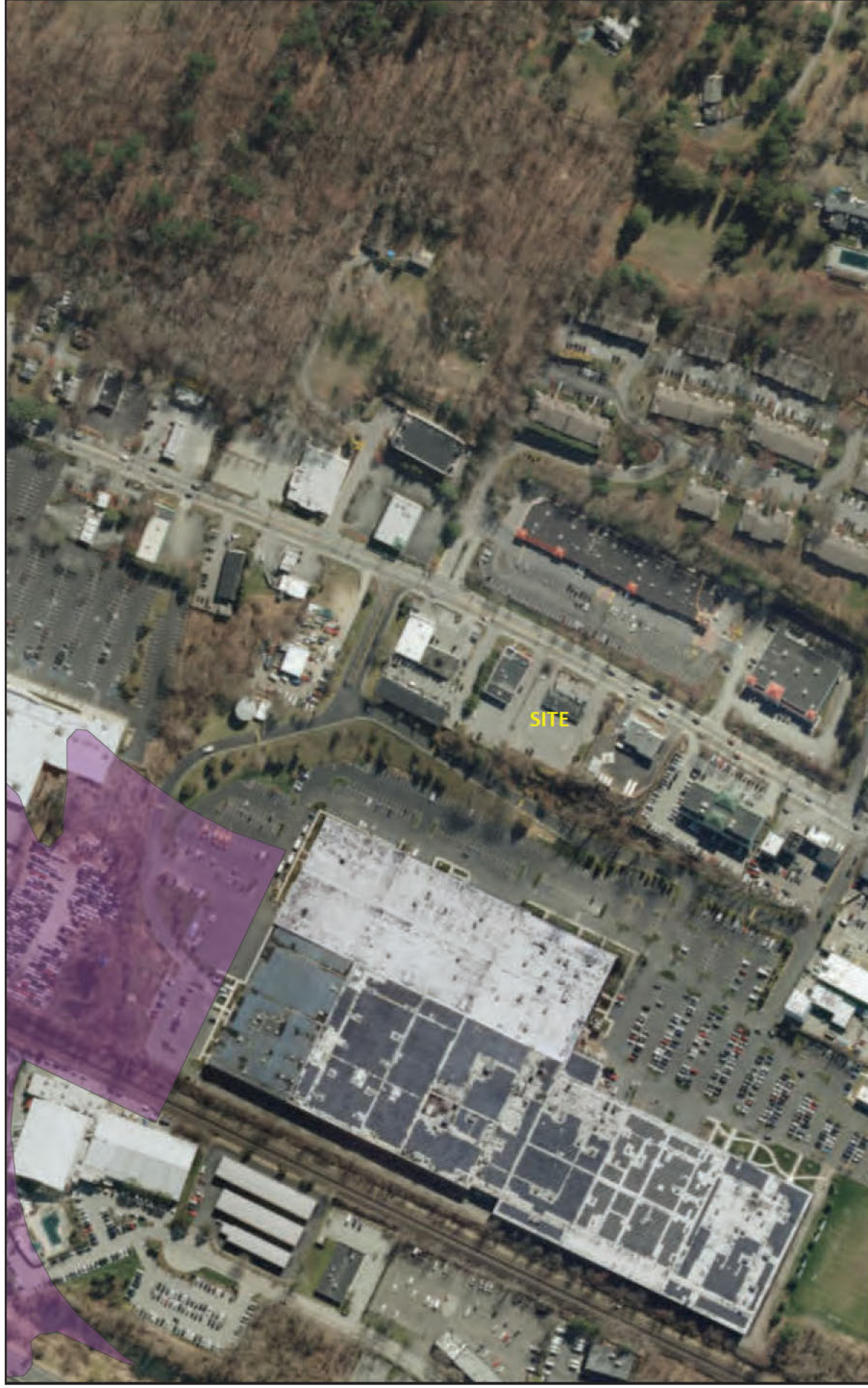


Disclaimer: The EAF Mapper is a screening tool intended to assist project sponsors and reviewing agencies in preparing an environmental assessment form (EAF). Not all questions asked in the EAF are answered by the EAF Mapper. Additional information on any EAF question can be obtained by consulting the EAF Workbooks. Although the EAF Mapper provides the most up-to-date digital data available to DEC, you may also need to contact local or other data sources in order to obtain data not provided by the Mapper. Digital data is not a substitute for agency determinations.



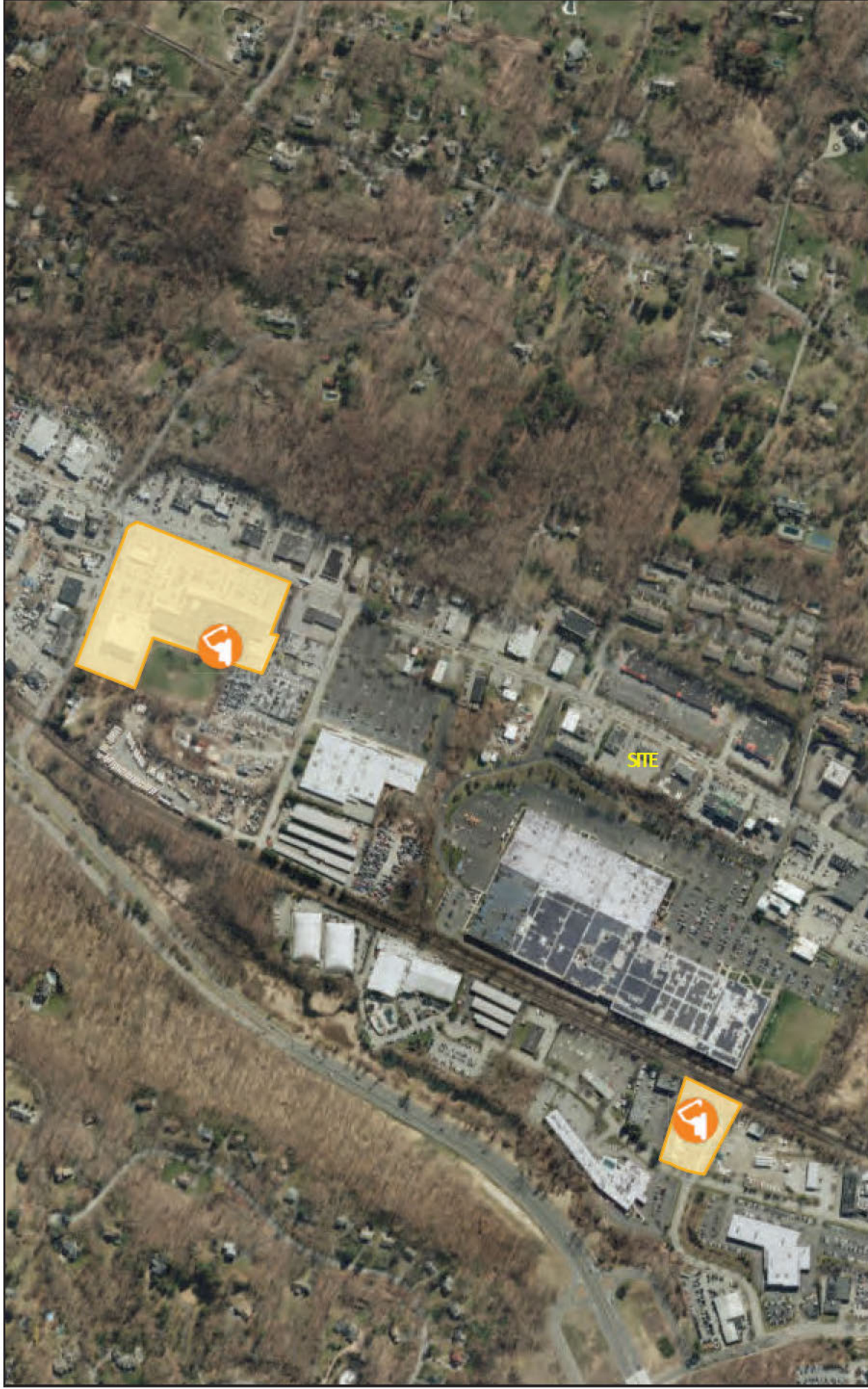
Part 1 / Question 7 [Critical Environmental Area]	Yes
Part 1 / Question 7 [Critical Environmental Area - Identify]	Name:Geographic Area Overlaying Aquifer, Reason:Exceptional or unique character, Agency:Bedford, Town of, Date:11-3-84
Part 1 / Question 12a [National or State Register of Historic Places or State Eligible Sites]	No
Part 1 / Question 12b [Archeological Sites]	No
Part 1 / Question 13a [Wetlands or Other Regulated Waterbodies]	No
Part 1 / Question 15 [Threatened or Endangered Animal]	No
Part 1 / Question 16 [100 Year Flood Plain]	No
Part 1 / Question 20 [Remediation Site]	Yes

CEA Geographic Area Overlaying Aquifer



February 3, 2021

1:4,514
0 0.03 0.06 0.11 mi
0 0.04 0.09 0.18 km
Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community
Author: Provident Design Engineering
Not a legal document



February 3, 2021

1:9,028
0 0.05 0.1 0.15 0.2 mi
0 0.07 0.15 0.3 km

Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

Author: Provident Design Engineering
Not a legal document

EXHIBIT **F**



New York City Department of Environmental Protection

STORMWATER POLLUTION PREVENTION PLAN DETERMINATION

Pursuant to the authority granted under:

Article 11 of the New York State Public Health Law.

Rules and Regulations for The Protection from Contamination, Degradation and Pollution of The New York City Water Supply and Its Sources, 15 RCNY Chapter 18, 10 NYCRR Part 128.

New York City Department of Environmental Protection (DEP) makes the following determination with respect to the stormwater pollution prevention plan (SWPPP) described below:

Name of Project: Rivera Toyota Service Facility

Location: 353 North Bedford Road
Tax Map ID: 69.46-2-3
Village of Mount Kisco, Westchester County, New York

Owner: Rivera Toyota/Mr. Ken Hicks

Address: 325 North Bedford Road
Mount Kisco, NY 10549

Drainage Basin: New Croton Reservoir

General Description:

The project site is located on a 0.82-acre tract of land located on the northwesterly side of North Bedford Road in the Village of Mount Kisco, Westchester County, New York. The site, located at 353 N. Bedford Road, currently consists of a single-story masonry building with a driveway and a parking lot. The subject parcel is identified as Sheet 69.46, Block 2, Lot 3 on the Village of Mount Kisco Tax Maps in the commercial district. The project falls in the Designated Main Street Area (DMSA) and requires a Stormwater Pollution Prevention Plan (SWPPP) per Section §18-39(b)(4)(x) of the *Rules and Regulations for the protection from Contamination, Degradation and Pollution of the New York City Supply and its Sources* (Watershed Regulations).

The project proposes the demolition of the existing building and infrastructure on the site and the construction of a new building, reconstruction of the driveways, and parking area. The runoff from the proposed building will be collected and treated using an underground storage and infiltration system.

STORMWATER POLLUTION PREVENTION PLAN DETERMINATION

Rivera Toyota Service Facility
Mount Kisco, New York

June 8, 2023

Page 2 of 6

Construction of the proposed project will disturb approximately 34,126 square feet of land (0.78 acres) with an increase in the new impervious area of approximately 637 square feet. Additional improvements such as sidewalks are proposed in areas which are already impervious.

The Stormwater Pollution Prevention Plan (SWPPP) shall be implemented in accordance with the submitted set of plans and report titled "Stormwater Pollution Prevention Plan prepared for Rivera Toyota New Service Facility, 353 North Bedford Road, Town/Village of Mount Kisco, Westchester County, New York", dated September 6, 2022, last revised May 1, 2023, prepared by DTS Provident Design Engineering, LLP. (See appendix A).

Date of site inspection:

March 2022

(XX) Approved

() Denied

Conditions of Approval:

This approval is granted with the following conditions:

- The regulated activity must be conducted in compliance with the plans as approved, listed in Appendix A, all applicable accepted standards, and all applicable laws, rules, and regulations.
- Any alteration or modification of the SWPPP must be approved by DEP prior to implementation; DEP may opt to issue an amended SWPPP Determination.
- The applicant must schedule a pre-construction conference prior to the start of construction. Present at the meeting should be the applicant, the design engineer, the general contractor, and DEP staff.
- The applicant must notify DEP at least forty-eight (48) hours prior to the commencement of construction activity so that DEP may schedule compliance inspections.
- All erosion and sediment controls must be properly installed and maintained until the site has been stabilized and the risk of erosion eliminated. Final stabilization is defined in the General Permit as all soil disturbing activities at the site have been completed, and that a uniform perennial vegetative cover with a density of 80% cover for the area has been established or equivalent stabilization measures (such as the use of mulches or geotextiles) have been employed.
- At the completion of the project, the applicant is required to submit as-built drawings for all stormwater management, runoff reduction and water quality facilities.
- The stormwater management and water quality facilities must be maintained in accordance with the maintenance schedule included in the SWPPP as approved by DEP.

STORMWATER POLLUTION PREVENTION PLAN DETERMINATION

Rivera Toyota Service Facility
Mount Kisco, New York

June 8, 2023

Page 3 of 6

- This approval shall expire and thereafter be null and void unless construction is completed within Five (5) years of the date of issuance or within any extended period of time approved by DEP upon good cause shown.
- In the event that the material submitted is inaccurate or misleading, this approval is not valid, and construction of this project is in violation of DEP regulations.
- Failure to comply with any of the conditions of this approval is a violation of this approval and the *Rules and Regulations for The Protection from Contamination, Degradation and Pollution of The New York City Water Supply and Its Sources*.
- A copy of the approved plans and determination should be maintained for record, and a copy must be available for inspection at the construction site.
- DEP shall be provided access to the project site during the construction phase for monitoring and inspection purposes.
- This approval and all conditions of the approval are binding on the owner of the property where the facility is to be located. Any references to the “applicant” in this approval or in any conditions of this approval shall be deemed to refer to the owner of such property.
- If the applicant sells or otherwise transfers title of **Rivera Toyota Service Facility** before all construction planned for the property is completed and the site is stabilized, the applicant shall require the new owner (“Buyer”) to comply with the SWPPP approved by the New York City Department of Environmental Protection on June 8, 2023 including, but not limited to, conservation easements, negative covenants, all provisions relating to erosion and sediment control during construction and to all maintenance of the stormwater management facilities once construction is complete. In particular, the applicant shall provide the Buyer with a copy of the SWPPP and shall cause the following real covenants and restrictions to be recorded with the deed for **Rivera Toyota Service Facility** with the following provisions:
 - (1) Buyer hereby acknowledges, covenants, warrants, and represents that he/she shall install and maintain any and all erosion controls and stormwater management facilities on the premises in accordance with the SWPPP, such SWPPP being attached hereto as Exhibit ____.
 - (2) Buyer’s installation and maintenance of the erosion control and stormwater management facilities shall be for the benefit of the City of New York as well as for the owners of **Rivera Toyota Service Facility**.
 - (3) Buyer’s obligation to install and maintain any and all erosion controls and stormwater management facilities on the premises in accordance with the attached SWPPP shall be perpetual, shall run with the land, and shall be binding on Buyer’s heirs, successors, and assigns.
 - (4) Buyer hereby covenants, warrants and represents that any lease, mortgage, subdivision, or other transfer of **Rivera Toyota Service Facility** SWPPP, or any

STORMWATER POLLUTION PREVENTION PLAN DETERMINATION

Rivera Toyota Service Facility
Mount Kisco, New York

June 8, 2023
Page 4 of 6

interest therein, shall be subject to the restrictive covenants contained herein pertaining to the installation and maintenance of erosion control and stormwater management facilities, and any deed, mortgage, or other instrument of conveyance shall specifically refer to the attached SWPPP and shall specifically state that the interest thereby conveyed is subject to covenants and restrictions contained herein.

- Prior to conveying title to **Rivera Toyota Service Facility**, the applicant shall submit to the New York City Department of Environmental Protection a proposed deed containing the aforementioned real covenants and restrictions.

Date: June 8, 2023

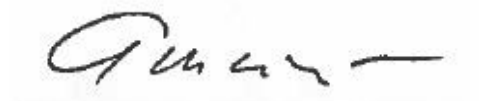
Rivera Toyota Service Facility
353 North Bedford Road, Mount Kisco, NY 10549
Tax Map ID: 69.43-2-3
New Croton Reservoir Drainage Basin
DEP Log # 2021-CNC-0768-SP.1

Determination made by:



Matthew Giannetta, CPSWQ
Chief
Regulatory & Engineering Programs Division

Recommended for Approval:



Andreea A. Oncioiu
Associate Project Manager III
Regulatory & Engineering Programs

EXHIBIT **G**

PERM 42 (09/09)

**State of New York
Department of Transportation
Highway Work Permit**

**Permit No.: 20230898417****Date Issued: 08/07/2023**

Project ID No.:

Expiration Date: 10/24/2024

***Permittee 1:**

RIVERA TOYOTA OF MT. KISCO

325 N. BEDFORD ROAD

MT. KISCO, NY 10549

Emergency Contact: MIKE MALENA

Emergency Number: 631-559-6864

***Permittee 2:**

FORMATION CONCRETE GENERAL CONSTRUCTION, INC.

325 N. BEDFORD ROAD

MOUNT KISCO, NY 10549

Emergency Contact:

MICHAEL MALENA

Emergency Number:

631-559-6864

Under the provisions of the Highway Law or Vehicle & Traffic Law, permission is hereby granted to the permittee to:

REDEVELOPMENT PROJECT FOR NEW CAR SERVICE CENTER CONSISTING OF (1) FULL ACCESS DRIVEWAY ENTRANCE AND EXIT, (1) ENTER ONLY TO THE SERVICE/VALET DROP OFF AREA, APPROX. 80 LF OF CONCRETE SIDEWALK, (1) 2 INCH WATER SERVICE CONNECTION, (1) 4 INCH SANITARY SEWER CONNECTION, AND (1) TEMPORARY ELECTRIC SERVICE CONNECTION AT 353 N. BEDFORD ROAD (NY ROUTE 117) IN MOUNT KISCO. ** 5' MIN. COVER OVER UTILITIES IN ROADWAY. 3' MIN. COVER OVER UTILITIES IN SIDEWALK/GRASS AREA.***FINAL PAVEMENT SURFACE COURSE RESTORATION SHALL INCLUDE A 1.5" MILL AND OVERLAY EXTENDING 25' ON EACH SIDE OF TRENCH PER NYSDOT STANDARDS AND SPECIFICATIONS FOR UTILITY CUTS IN ROADWAY. PRE-PAVE MEETING REQUIRED WITH NYSDOT TO DETERMINE FINAL LIMITS OF FINAL PAVEMENT RESTORATION.***SIDEWALK DAMAGED DUE TO INSTALLATION SHALL BE REPLACED IN FULL PANEL SEGMENTS AND IN ACCORDANCE WITH ADA REGULATIONS AND NYSDOT STANDARDS AND SPECIFICATIONS.***TRAFFIC CONTROL IS THE RESPONSIBILITY OF THE APPLICANT AND SHALL BE PROVIDED IN ACCORDANCE WITH LATEST MUTCD AND NYSDOT STANDARDS AND SPECIFICATION. THIS INCLUDES BUT IS NOT LIMITED TO SIGN PLACEMENT AND SPACING OF SIGNS.***AN ADA ACCESSIBLE PEDESTRIAN ROUTE AND/OR SIGNED PEDESTRIAN DETOUR SHALL BE PROVIDE THROUGHOUT CONSTRUCTION UNTIL THE NEW SIDEWALK IS COMPLETE AND OPEN TO THE PUBLIC.***ALL CONSTRUCTED SIDEWALK IS REQUIRED TO BE CERTIFIED IN COMPLIANCE WITH ADA BY A NY PROFESSIONAL ENGINEER PRIOR TO PERMIT CLOSEOUT***A FINAL INSPECTION AND APPROVAL BY NYSDOT PRIOR TO PERMIT CLOSEOUT**

THE PERMITTEE IS RESPONSIBLE FOR TEMPORARY TRAFFIC CONTROL IN ACCORDANCE WITH THE CURRENT NATIONAL MANUAL OF UNIFORM TRAFFIC CONTROL DEVICES AND THE NYS SUPPLEMENT. ANYONE WORKING WITHIN THE HIGHWAY RIGHT-OF-WAY SHALL WEAR HIGH-VISIBILITY APPAREL MEETING THE CURRENT ANSI 107 CLASS II OR CLASS III (AT NIGHT) STANDARDS AND A HARD HAT MEETING THE CURRENT ANSI/ISEA Z89.1 TYPE 1, CLASS C OR IF WORKING WITHIN CLOSE PROXIMITY TO ELECTRICAL POWER LINE, CLASS E OR G.

County	Municipality	State Hwy	State Route	Beg Ref	End Ref
WESTCHESTER	MOUNT KISCO	1533	117	117 87011119	117 87011121

as set forth and represented in the attached application at the particular location or areas, or over the routes as stated therein, if required; and pursuant to the conditions and regulations general or special, and methods of performing work, if any; all of which are set forth in the application and form of this permit. See additional conditions on PAGE 2.

THIS PERMIT IS ISSUED BASED ON ALL LOCAL, STATE, AND FEDERAL REQUIREMENTS BEING SATISFIED.

Dated at: Poughkeepsie **Date Signed:** 08/07/2023 **Commissioner of Transportation** **By:** Gerald Charleston

IMPORTANT:

THIS PERMIT, WITH APPLICATION AND DRAWING (OR COPIES THEREOF) ATTACHED, SHALL BE PLACED IN THE HANDS OF THE CONTRACTOR BEFORE ANY WORK BEGINS. THE HIGHWAY WORK PERMIT SHALL BE AVAILABLE AT THE SITE DURING CONSTRUCTION.

BEFORE WORK IS STARTED AND UPON ITS COMPLETION, THE PERMITTEE ABSOLUTELY MUST NOTIFY:

Giselle Vagnini, Resident Engineer 914-232-3060

"UPON COMPLETION OF WORK", SECOND TO LAST PAGE, MUST BE COMPLETED, SIGNED BY THE PERMITTEE, AND DELIVERED TO THE RESIDENT ENGINEER.

The issuing authority reserves the right to suspend or revoke this permit at its discretion without a hearing or the necessity of showing cause, either before or during the operations authorized.

The Permittee will cause an approved copy of the application to be and remain attached hereto until all work under the permit is satisfactorily completed, in accordance with the terms of the attached application. All damaged or disturbed areas resulting from work performed pursuant to this permit will be repaired to the satisfaction of the Department of Transportation.

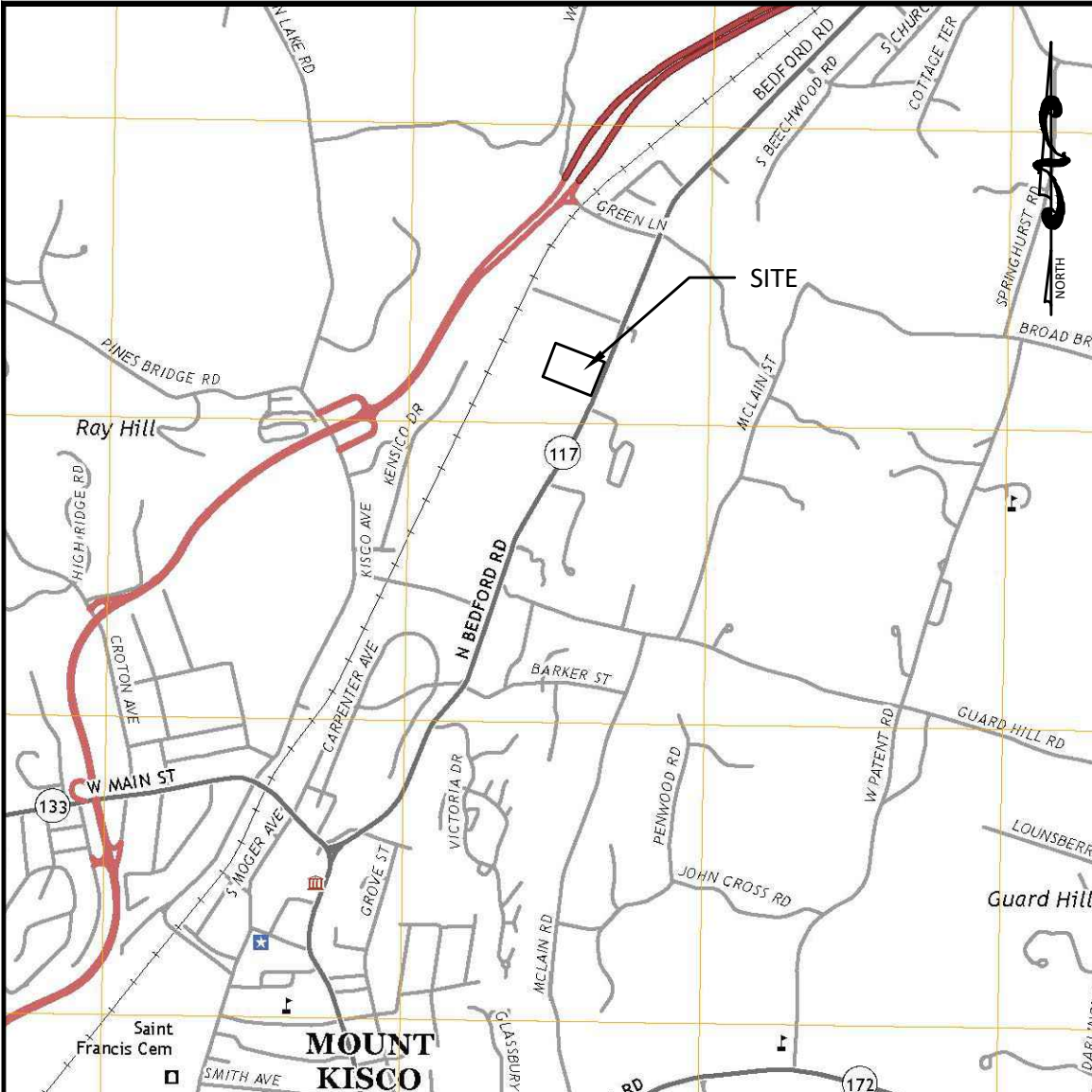
*** Upon completion of the work within the state highway right-of-way authorized by the work permit, the person, firm, corporation, municipality, or state department or agency, and his/her or its successors in interest, shall be responsible for the maintenance and repair of such work or portion of such work as set forth within the terms and conditions of the work permit.**

Permit Fee : \$550.00
Insurance Fee: \$0.00
Total Fees: \$550.00
Amt Rec'd 1: \$550.00 Check Num: 23169 Check Date: 19-JUN-23
App 1 Bond #: 100033295 App 1 Bond Amt: \$100,000.00
UOF: App 1: No App 2: No

Attachments and additional requirements to this Highway Work Permit include:

PERM 33 - Highway Work Permit Application for Non_Utility Work	Perm33- COM Commercial Access Highway Work Permit Application and Checklist				
	PERM 41-1d - Method of Performing Work within the State Right of Way	PERM 36 - Attachment to Permit - Consultant Inspection Agreement	PERM 50 - Inspection and/or Supervision Payment Agreement for Highway Work Permits	Plans signed and stamped by a Licensed PE	01- pe064262 MAY- 23

END OF ATTACHMENTS

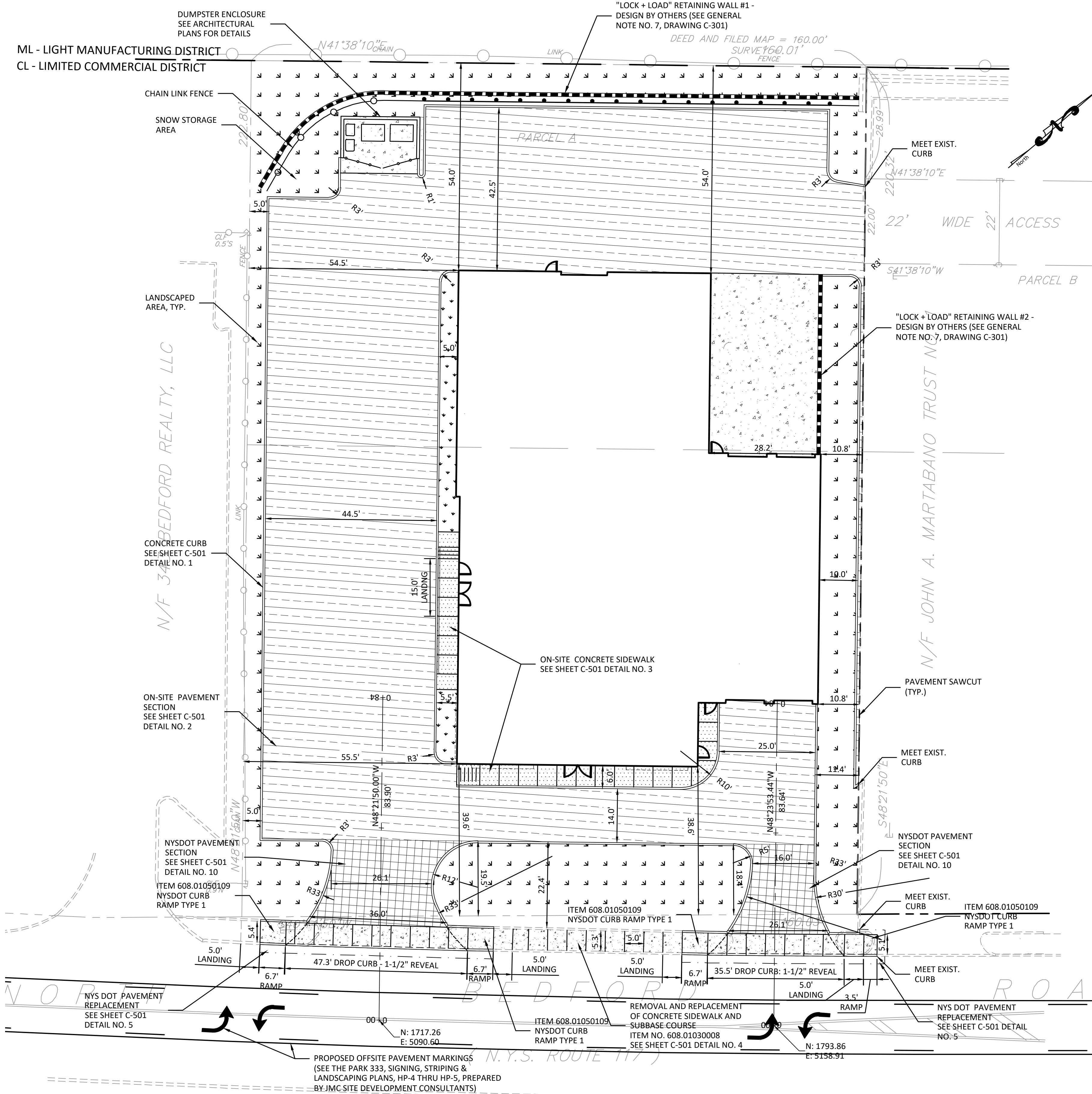


LOCATION MAP
SCALE: NTS

Zoning Compliance Chart			
Section/Block/Lot	Tax Map ID 69.43-2-3		
Zoning District	CL Limited Commercial District		
Use:	Automobile Repair Shop - Special Permit Use		
Zoning Requirement	Required/Permitted	Proposed	Comments
Minimum Net lot area (sq. ft.)	10,000	35,452	Conforms
Minimum Net lot area (acres)		0.814	Conforms
Maximum Building Coverage, %	30%	28.7%	Conforms
Maximum Building Coverage, S.F.	10,610	10,171	Conforms
Maximum Development Coverage, %	80.0%	80.0%	Conforms
Maximum Development Coverage, S.F.	28,362	28,362	Conforms
Gross Floor Area, S.F.	N/A	12,672	Conforms
First Floor		10,171	
Second Floor		2,501	
Minimum Lot Width (Feet)	100	N/C	Conforms
Maximum Building Height			
Stories	2-1/2	2	Conforms
Feet	35	25'-3"	Conforms
Minimum Building Setbacks Non Residential District			
Front (feet)	20	38.6	Conforms
Rear (feet)	10	54.0	Conforms
Side (feet)	10	11.0	Conforms
Buffer Non Residential Lot			
Front (feet)	20	18.4	Waiver
Rear (feet)	5	5.0	Conforms
Side (feet)	5	5.0	Conforms
Angle of Parking, degrees	90	90	Conforms
Width of Stall, Feet	9'-6"	9'-6"	Conforms
Depth of Stall, Feet	18'-6"	18'-6"	Conforms
Width of Aisle, Feet	24	24	Conforms
No. of Parking Spaces	39	42	Conforms
Off-Street Loading	1	1	Conforms
Retaining walls			
Height (ft.)	6	12	Waiver Requested
Length (Ft.)	60	165	Waiver Requested
Very Steep Slopes (25% or Greater)	> 500 S.F.	2,230 S.F.	Waiver Requested

Required Off-Street Parking Calculation				
Use	Minimum Number of Spaces	Quantity	Unit	No. Spaces
Service bay or work station	3 Spaces per Service Bay/Work Station	8	Each	24.0
Office/Administration	1 space per 300 square feet	3,700	S.F.	12.3
Storage	1 space per 500 square feet	1,200	S.F.	2.4
Total Number of Spaces Required =				38.7
Total Number of Spaces Required =				39
Total Number of Spaces Proposed =				42

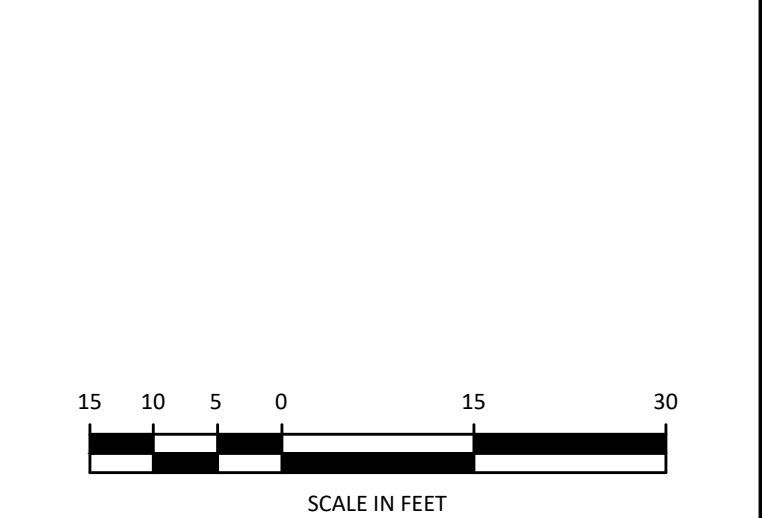
NOTE:
THE SITE IS NOT LOCATED WITHIN THE BOUNDARIES OF A 100-YR FLOODPLAIN.



LIST OF DRAWINGS		
DWG NO.	TITLE	SHEET
C-101	SITE PLAN	1 OF 12
C-102	REMOVALS PLAN	2 OF 12
C-103	STEEP SLOPES PLAN	3 OF 12
C-201	STRIPING & SIGN PLAN	4 OF 12
C-301	GRADING & UTILITY PLAN	5 OF 12
C-302	SECTIONS	6 OF 12
C-303	PROFILES	7 OF 12
C-401	EROSION CONTROL PLAN	8 OF 12
C-501	DETAILS	9 OF 12
C-502	DETAILS	10 OF 12
C-503	DETAILS	11 OF 12
C-504	STORMWATER MANAGEMENT DETAILS	12 OF 12

NO.	REVISION	DATE
	CONCEPTUAL SITE PLAN	04/06/2021
	SITE PLAN APPROVAL SUBMISSION	9/7/2021
1	SITE PLAN APPROVAL SECOND SUBMISSION	10/19/2021
2	GENERAL REVISIONS	11/23/2021
3	REVISED PER NYSDOT COMMENTS	06/23/2022
4	GENERAL SWM REVISIONS	09/06/2022
5	REVISED PER NYCDEP COMMENTS	05/01/2023

SITE PLAN LEGEND	
	PROPERTY LINE
	EXISTING BUILDING LINE
	PROPOSED BUILDING LINE
	SETBACK/YARD LINE
	EXISTING CURB
	PROPOSED CONC. CURB
	PROPOSED DROP CURB
	PROPOSED EDGE OF PAVEMENT
	PROPOSED CONCRETE SIDEWALK
	PROPOSED CONCRETE PAD
	PROPOSED CURB RAMP
	PROPOSED RETAINING WALL
	PROPOSED GUIDERAIL
	ZONE BOUNDARY
	PARKING AREA PAVEMENT
	NYS DOT PAVEMENT SECTION



Bryan Zelnik Architect, P.C.
101 West 12th Street, 8P
NYC NY 10011
Tel: (212) 367-9969
Email: bza@att.net

Rivera Toyota of Mt. Kisco (J-Etc Corp)
Dealer No. 31185
325 N. Bedford Road
Mt. Kisco, NY 10549
Tel: (914) 666-5181
Email: amuscarella@riveratoyota.com

Martabano William T
10 Broad St
PO Box 658
Pawling, NY 12564

DTS • PROVIDENT
Intelligent Land Use
DTS Provident Design Engineering, LLP
One North Broadway White Plains, NY 10601
P: 914-428.0010
F: 914-428.0017

Under New York State Education Law Article 145
(Engineering), Section 7209 (2), It Is A Violation Of This Law
For Any Person, Unless Acting Under The Direction Of A
Licensed Professional Engineer, To Alter This Document

© DTS Provident Design Engineering, LLP
Certificate Of Authorization #0017846

RIVERA TOYOTA
New Service Facility
353 North Bedford Road
Mount Kisco, NY 10549
Tax Map ID 69.43-2-3

TITLE:
SITE PLAN

Scale: 1"=15'	
Date: 04/06/2021	
Drawn By: JLM	
Checked By: RPP	
Project No.: 21-005	
Sheet No.: 1 of 12	
Dwg. No.: C-101	

CONSTRUCTION LEGEND:

--- EXISTING WALL TO BE REMOVED
--- EXISTING WALL TO REMAIN
--- NEW WALL CONSTRUCTION

FA BLDG HARDWIRED STROBE
SMOKE/CO DETECTOR

○ EXTERIOR DOORS

⬡ EXTERIOR WINDOWS

□ GLASS

△ INTERIOR WINDOWS

○ INTERIOR DOORS

⊗ Key Plan

⬢ CEILING / WALL MOUNTED,
TWIN EMERGENCY LIGHTS

⬢ EXIT SIGN - CEILING / WALL MOUNTED,
TWIN EMERGENCY LIGHTS

NOTES:

11	
10	
9	
8	
7	11/28/2022 REISSUE FOR BID
6	8/11/2022 REISSUE FOR BID
5	7/27/2022 REISSUE FOR BID
4	6/27/2022 ISSUE FOR BID
3	11/10/20 ISSUE FOR PD CONCEPT
2	10/30/20 ISSUE FOR REVIEW 2
1	10/28/20 ISSUE FOR REVIEW 1
#	DATE ISSUE

PROJECT

RIVERA TOYOTA
DEALER No. 31185
353 N BEDFORD RD
MT KISCO, NY 10549
NEW YORK REGION

353 SERVICE FACILITY
FIRST FLOOR PLANS
CONSTRUCTION

DATE: 11-11-20

PROJECT #: 2443

DRAWING BY: BZ

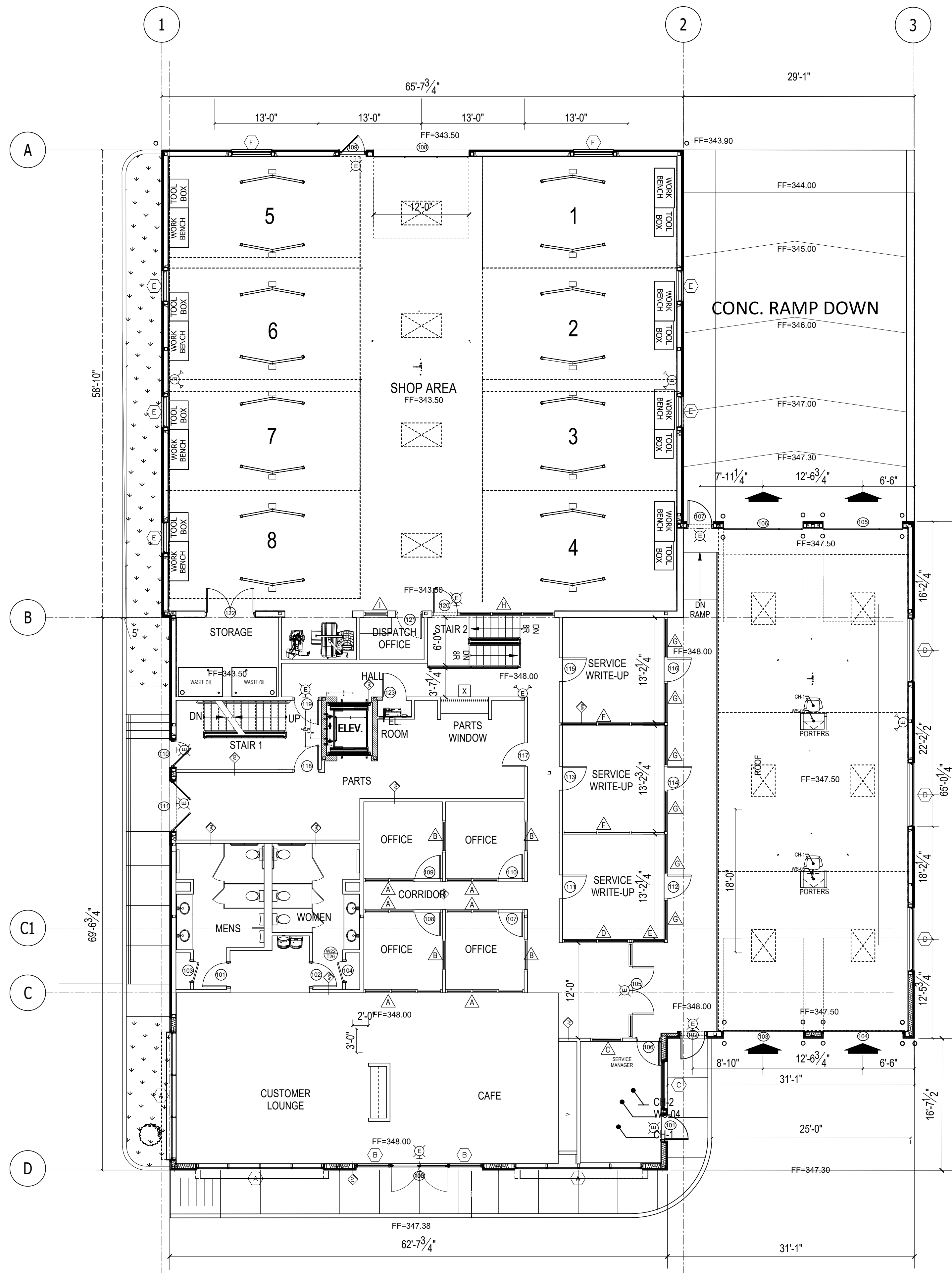
CHK BY: BZ

DWG NO.:

A-101.00

CADD NO. 2443

7 OF 28



1 PROPOSED - STREET LEVEL PLAN

1/8"=1'-0"

GENERAL CONSTRUCTION NOTES:

- ALL WORK SHALL MEET OR EXCEED THE LATEST REQUIREMENTS OF THE STATE OF NY BLDG CODE AND ALL NATIONAL, STATE, COUNTY, MUNICIPAL AND OTHER AUTHORITIES EXERCISING JURISDICTION OVER CONSTRUCTION WORK AT THE PROJECT, INCLUDING THE NATIONAL BOARD OF FIRE UNDERWRITERS, THE NATIONAL ELECTRIC CODE.
- ALL PLUMBING WORK SHALL CONFORM TO THE STATE OF NY BUILDING CODE.
- ARCHITECT TO APPROVE CHALKED WALL LAYOUTS PRIOR TO CONSTRUCTION.
- BEFORE SUBMITTING PROPOSAL, BIDDERS SHALL CAREFULLY EXAMINE FIELD CONDITIONS AND CONTRACT DRAWINGS OF ALL TRADES. SUBMISSION OF PROPOSAL WILL BE CONSTRUED AS EVIDENCE THAT A REQUIRED EXAMINATION HAS BEEN MADE; LATER CLAIMS FOR EXTRA LABOR, EQUIPMENT AND MATERIAL REQUIRED DUE TO DIFFICULTIES WHICH COULD HAVE BEEN FORESEEN WILL NOT BE RECOGNIZED OR APPROVED.
- CONTRACTORS TO VERIFY ALL GOVERNING DIMENSIONS IN THE BUILDING. ANY DISCREPANCIES BETWEEN FIELD DIMENSIONS AND CONTRACT DOCUMENTS TO BE BROUGHT TO ARCHITECTS ATTENTION PRIOR TO CONSTRUCTION OR FABRICATION.
- CONTRACTOR TO SUBMIT CONSTRUCTION SCHEDULE TO ARCHITECT.
- CONTRACTOR SHALL DISPOSE ALL DEBRIS IN A LEGAL AND PROPER MANNER.
- CONTRACTOR TO PROVIDE ADEQUATE SHORING AND BRACING AS REQUIRED.
- REPLACE ANY FIREPROOFING DAMAGED OR REMOVED DURING DEMOLITION PHASE.
- CONTRACTOR TO VERIFY HOURS OF WORK AND RULES GOVERNING HOURS OF OPERATIONS OF FREIGHT ELEVATOR. VERIFY INSURANCE LIMITS NEEDED.
- CONTRACTOR TO COORDINATE WORK WITH OTHER SUBS INVOLVED
- SEE STRUCTURAL DWGS FOR DIMENSIONS, DETAILS, SECTIONS ETC

IBC 2018 -

1006.3.3(2) (E100-15 AS) COMMON PATH OF EGRESS TRAVEL. That portion of the exit access travel distance measured from the most remote point within a story of each room, area or space to that point where the occupants have separate and distinct access to two exits or exit access doorways.

(E16-15 AM, E17-15 AS) 1006.2.1 Egress based on occupant load and common path of egress travel distance. Two exits or exit access doorways from any space shall be provided where the design occupant load or the common path of egress travel distance exceeds the values listed in Table 1006.2.1. The cumulative occupant load from adjacent rooms, areas or spaces shall be determined in accordance with Section 1004.2.

Exceptions:

1. The number of exits from foyers, lobbies, vestibules or similar spaces need not be based on cumulative occupant loads for areas discharging through such spaces, but the capacity of the exits from such spaces shall be based on applicable cumulative occupant loads.

(E17-15 AS, G133-15 AM) TABLE 1006.2.1

SPACES WITH **ONE EXIT OR EXIT ACCESS DOORWAY**

MAXIMUM COMMON PATH OF EGRESS TRAVEL DISTANCE (feet) SPACES WITH ONE EXIT OR EXIT ACCESS DOORWAY

OCCUPANCY	MAX OCCUP LOAD OF SPACE	W/OUT SPRINKLER SYSTEM(feet)	W SPRINKLER SYSTEM(feet)
B	49	100	75

(E29-15 AS)1006.3.2(2) 1006.3.3(2)

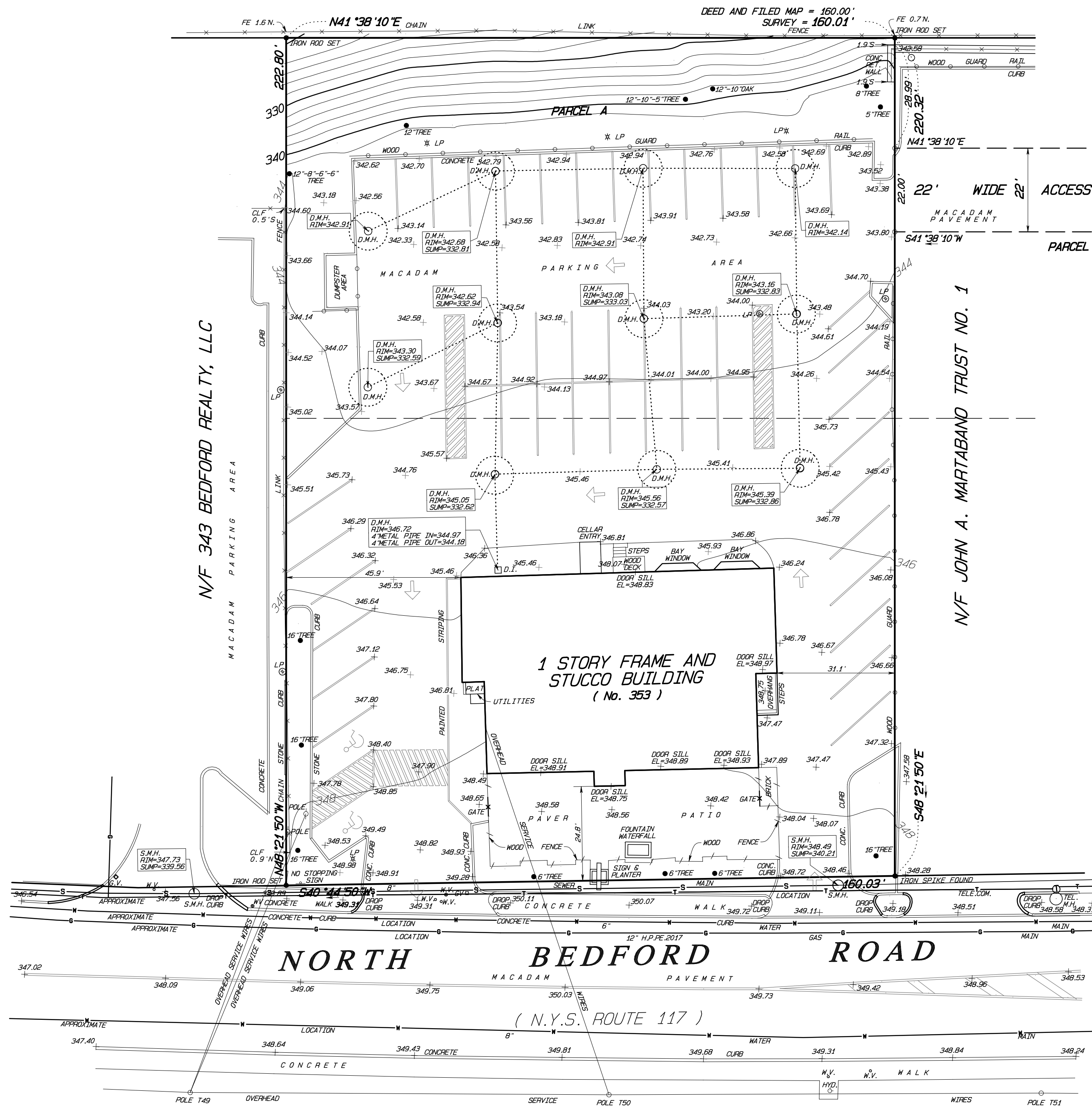
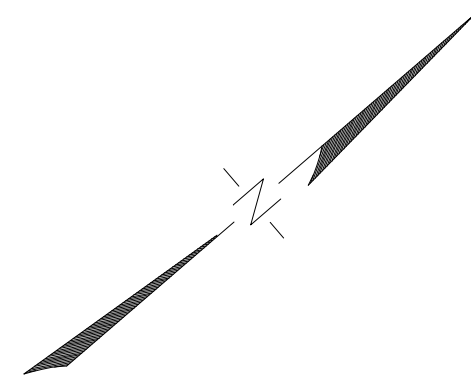
STORIES WITH **ONE EXIT** OR ACCESS TO ONE EXIT FOR OTHER OCCUPANCIES

STORY	OCCUPANCY	MAX. OCCUP LOAD PER STORY	MAX. COMMON PATH OF EGRESS TRAVEL DIST(feet)
First story above or below grade plane	B,S	29	75

Second story
above grade
plane

DOORS: #110, 120, 122, 200, 201, 208, 210, 211 WILL ALL REQUIRE SELF CLOSING DOOR HARDWARE WITH DOORS AND TO RECEIVE 60 MINUTES GLASS- SEE NOTE

N/F DP 21 LLC



Notes:

- 1) Elevations shown hereon are in accordance with NAVD88 Datum.
- 2) Additional underground easements, utilities or structures, etc. other than those shown hereon may be encountered.
- 3) The subsurface information shown hereon, if any, is not guaranteed as to accuracy or completeness and should be verified by the contractor before any excavation.
- 4) The approximate location of underground utilities are from information provided by Con Edison.

Area = 35,452 S.F. or 0.814 Acres

Tax Identification: Section 69.43 Block 2 Lot 3.

Deed reference: Liber 7948 Page 307.

In accordance with the existing Code of Practice for Land Surveys as adopted by The New York State Association of Professional Land Surveyors, Inc.

Unauthorized alteration or addition to a survey map bearing a Licensed Land Surveyor's seal is a violation of Section 7209, Subdivision 2 of the New York State Education Law.

All certifications are valid for this map and copies thereof only if said map or copies bear the impressed seal of the surveyor whose signature appears hereon.

The location of underground improvements or encroachments hereon, if any exist, are not certified or shown.

TOPOGRAPHIC
SURVEY OF PROPERTY
PREPARED FOR

353 N. BEDFORD Rd LLC

Being Parcel A and Section 69.43 Block 2 Lot 3 as shown on a certain map entitled "Lot Line Change Prepared For William T. Martabano, Etc." Said map filed in the Westchester County Clerk's Office, Division of Land Records September 9, 1999 as Map No. 26419.

SITUATE IN THE
VILLAGE AND TOWN OF MOUNT KISCO
WESTCHESTER COUNTY, NEW YORK

SCALE: 1" = 20'

SURVEY BROUGHT TO DATE: MARCH 1, 2021
MAP REVISED: MARCH 8, 2021
SURVEYED: JANUARY 27, 2021
MAP PREPARED: JANUARY 29, 2021



BY: *Robert S. Johnson*
NEW YORK STATE LICENSED LAND SURVEYOR NO. 50037
ROBERT S. JOHNSON, P.L.S.

H. STANLEY JOHNSON AND COMPANY
LAND SURVEYORS, P.C.
42 SMITH AVENUE P.O. BOX 93
MT. KISCO, N.Y. 10549
TEL. 914-241-3872
FAX. 914-241-0438

REF.: F79-089

PREPARED BY: SMS CHECKED BY: RSJ

JOB NO. F84-029.06



445 Hamilton Avenue, 14th Floor
White Plains, New York 10601
T 914 761 1300
F 914 761 5372
cuddyfeder.com

Anthony B. Gioffre III
agioffre@cuddyfeder.com

June 29, 2021

BY HAND DELIVERY
AND E-MAIL

Chairperson Harold Boxer and
Members of the Zoning Board of Appeals
104 Main Street
Mount Kisco, New York 10549

Re: Rivera Toyota Redevelopment – Rivera Auto Group, Inc.
Area Variance Application
353 North Bedford Road, Mount Kisco, NY (SBL: 69.43-2-3)

Dear Chairperson Boxer and Members of the Zoning Board of Appeals:

On behalf of Rivera Auto Group, Inc. (the “Applicant”), the contract-vendee of 353 North Bedford Road (SBL: 69.43-2-3) (the “Premises”) in the Village/Town of Mount Kisco (“Mount Kisco”), we respectfully submit this letter and referenced enclosures to the Mount Kisco Zoning Board of Appeals (“ZBA”) in support of an Application for an interpretation and/or area variance relief for the proposed redevelopment of the Premises with a new 12,616 s/f Rivera Toyota vehicle service location (the “Proposed Redevelopment”). **The proposed service center will support** the existing Rivera Toyota automotive sales and services location at 325 North Bedford Road and replace **Toyota’s existing off-site** vehicle service location at 227 & 255 Kisco Avenue, which will cease operation when the lease expires in 2023.

The Premises

The Premises is a 35,367 s/f (0.81 acre) lot that is currently improved with a one-story restaurant building, which has operated since approximately 1997. The Premises is classified within Mount Kisco’s **Limited Commercial (“CL”) District, which permits** gasoline stations, automotive and equipment rental, and automobile repair shops as a special permit use subject to additional requirements.¹

The Premises is located on the westerly side of North Bedford Road in the northern portion of Mount Kisco. The lot has frontage and dual driveway access on North Bedford Road. A distance

¹ Mount Kisco Zoning Code (“Zoning Code”) § 110-19.B(2)(c).



6/29/21

Page 2

of approximately 200' and one tax lot, 343 North Bedford Road, which is currently used by the Towne Bus Corporation for outdoor bus parking and service, separates the Premises from the existing Rivera Toyota sales location at 325 North Bedford Road.

The Premises is bounded on the northwest by The Park at 333 North Bedford Road, which is classified in the Light Manufacturing ("ML") District and developed with family recreation facilities, membership clubs, and other commercial/retail uses. The Premises is bounded on the north and south as well as across North Bedford Road by properties classified in the CL District and improved with commercial uses, including several automobile repair and maintenance uses.

The Proposed 353 North Bedford Road Redevelopment

The Proposed Redevelopment includes demolishing the existing restaurant building and constructing a new two story, 12,616 s/f automobile repair shop, which will replace Rivera Toyota's existing service location from 227 & 255 Kisco Avenue. The new service location will be located closer to the existing Rivera Toyota motor vehicle sales use at the nearby 325 North Bedford Road and will include 8 service bays/workstations, an enclosed customer drop-off port, improved customer service areas, and approximately 1,200 s/f of interior parts storage. The new service location will not include any sales of vehicles.

On June 6, 2021, the Applicant submitted a conceptual Site Plan Application and Special Permit Application to the Mount Kisco Planning Board ("Planning Board"). As detailed therein, service customers will enter the site through either the northern driveway or southern driveway along North Bedford Road and proceed to the proposed drop-off area on the northside of the building. Vehicles will enter through the North Bedford side of the building after which their vehicles will be handed over to a Toyota employee at the drop-off port. The Toyota employee will drive the vehicles to the service bay located at the rear of the building. Customers can remain on-site in one of the new indoor waiting areas. Customers may also walk to the existing 325 North Bedford Road showroom located approximately 200' to the south or to one of the several other nearby businesses. Once the vehicle service is complete, vehicles will be driven by an employee out of the service bay, travel counterclockwise around the building and back into the enclosed customer drop-off area. This site circulation can be accommodated entirely on-site due to the proposed drive aisle at the front of the building. Vehicles will be returned to customers inside the enclosed drop-off area and customers will be directed to leave the site using the southern driveway onto North Bedford Road or using the existing easement providing access to the private road located



6/29/21

Page 3

north of the adjacent 363 North Bedford Road property.²

The building will be setback approximately 38.6' from North Bedford Road with a new one-way drive aisle area in front of the building and a vegetated buffer extending 18.6' from the property line. The façade of the building will be designed similar to the renovated 325 North Bedford Road showroom location including large windows into the customer area, silver and gray metal cladding, and new Toyota signage. The Premises will have driveway access on North Bedford Road located on the northern and southern sides of the buildings. The northern access will be an entrance only while the southern driveway will be an entrance and exit. 28 exterior, at-grade parking spaces will be provided along the southern and western property lines in addition to the 14 interior bay and customer drop-off parking spaces. The dumpster enclosure is proposed in the **rear of the property located 25' from the southern (side) lot line and 15' from the western (rear) lot line.**

Following the June 6th Site Plan and Special Permit submission, the Mount Kisco Building Inspector ("Building Inspector") issued a Memorandum dated June 17, 2021 ("June Memorandum") indicating that the Proposed Redevelopment requires the Applicant to obtain area variance relief from the ZBA relating to the location of the proposed dumpster enclosure and the proximity of the proposed use to similar uses. See Exhibit B.

For the reasons set forth in detail below, the Applicant respectfully requests that the ZBA interpret Zoning Code Sections 110-30.D(1) and 110-31.G(1) to mean that the dumpster enclosure either may be located anywhere on the Premises where a principal structure is permitted or the dumpster enclosure may be located anywhere a principal structure is permitted on the Premises

² The amended site design and circulation pattern necessitates the disturbance of approximately 2,230 s/f of very steep slopes at the rear of the property. This disturbance is necessary due to the existing lot area and dimensions which limit the buildable area. The proposed steep slope disturbance will require a steep slopes permit from the Mount Kisco Planning Board. The Applicant is also requesting waivers from the **Planning Board for the proposed retaining wall height (12' where 6' maximum is permitted) and length (165' proposed where 60' maximum is permitted).** The proposed waivers are necessary to accommodate the safe site circulation, adequate building size, and sufficient parking as set forth above. The Applicant has also requested a waiver from the **Planning Board for the front buffer to permit an 18.6' buffer where a 20' buffer is required.** While the landscaped area is in fact approximately 20' from the curb line, the waiver is requested because the Zoning Code requires that the buffer be calculated from the property line which is **18.6' from the edge of the buffer. The Premises will appear to provide the requisite buffer and the requested waiver is appropriate in this instance.** The Planning Board provided favorable feedback on the requested waivers and overall site plan and use during its June 22, 2021 conceptual review.



6/29/21

Page 4

so long as it is not located closer to a property line than the principal structure. In the alternative, should the ZBA find that the dumpster enclosure location does not conform to the Zoning Code, the Applicant respectfully requests that the ZBA grant area variance relief for the proposed location of the dumpster enclosure.

Additionally, the Applicant respectfully requests that the ZBA grant area variance relief relating **to the new service location's proximity to similar uses pursuant to Zoning Code Section 110-30.G(1).**

INTERPRETATION REQUESTED:

New York State Village Law Section 7-712-b(1), New York State Town Law Section 267-b(1), and Zoning Code Section 110-43 provide the ZBA with the authority to reverse, affirm, or modify, wholly or partly, any order, requirement, decision, interpretation, or determination of the Building Inspector as in its opinion ought to have been made. The Applicant requests that the **ZBA modify the Building Inspector's determination in the June Memorandum to eliminate any need for area variance relief relating to the dumpster enclosure.**

The Applicant requests that this Board issue an interpretation affirming that a dumpster enclosure complies with the requirements of the Zoning Code if it (1) meets the setback requirements for a principal structure; and/or (2) is located farther away from a side lot line than the principal structure. Pursuant to Zoning Code Section 110-30.D(1), dumpster enclosures must **be "located no closer to the property lines than is permitted for an accessory structure."** Accessory structures cannot be located "nearer to any street line or side lot line than does the principal structure on the lot."³ A street line is the "dividing line between a lot and a street" while a side lot line is "[a]ny lot line which is not a front lot line or a rear lot line."⁴ These provisions, read together, establish that a dumpster enclosure may not be located closer to the front and side property lines than what is permitted for a principal structure on that property. The dumpster enclosure is located behind the new service building, towards the rear of the property, so the front lot line is not at issue. In the CL District, side lot lines for a principal structure require a 10-foot setback.⁵ The dumpster enclosure is proposed to be set **back approximately 25' from the side lot line**, thus conforming with the 10-foot side lot line setback for a principal structure on the Premises and removing any need for an area variance.

³ Zoning Code § 110-31.G(1).

⁴ Zoning Code § 110-59.

⁵ Zoning Code § 110-19.C(5).



6/29/21

Page 5

Alternatively, if the aforementioned Zoning Code provisions are read to establish that a dumpster enclosure may not be nearer to a side lot line than the proposed principal structure itself, an area variance remains unnecessary. The Zoning Code fails to state that a side lot line calculation must be taken from the same lot line. **Here, the new service location's nearest point to any site lot line will be 11' from the northern (side) lot line. At its nearest point to a side lot line, the dumpster enclosure will be located 25' from the southern (side) lot line. The dumpster enclosure is therefore no closer to its nearest side lot line than the principal building is to its nearest side lot line. The dumpster enclosure location thus complies with Zoning Code Sections 110-30.D(1) and 110-31.G(1).**

It is well established that “...zoning codes, being in derogation of the common law, must be strictly construed against the enacting municipality and in favor of the property owner.”⁶ Thus, to the extent that this Board finds the Zoning Code is not explicit or ambiguous on calculating side lot distance for dumpster enclosures and their principal structures, the Zoning Code must be interpreted in favor of the Applicant and an area variance must be deemed unnecessary for the dumpster enclosure.

AREA VARIANCE RELIEF REQUESTED:

The Applicant is requesting that the ZBA grant area variance relief from Section 110-30.G(1) of the Mount Kisco Zoning Code as detailed below. In the event that the ZBA does not grant the above requested interpretation, the Applicant also submits the alternative request for area variance relief from Section 110-30.D(1).

- *§ 110-30.G(1): Gasoline stations, commercial garages and motor vehicle repair shops. (1) No driveway to or from any commercial garage, gasoline station or motor vehicle repair shop shall be within 1,000 feet of any other such use or within 200 feet of the boundary line of any residential district or of any school, church, park, playground, hospital, public library, institution for dependents or children or any place of public assembly or restaurant designed for the simultaneous use of 100 persons or more, regardless of the district where either premises are located. An area variance is requested to allow the proposed driveway location for this use to be located 22' from the nearest similar use.*
- *§ 110-30.D(1): Trash compactors, dumpsters and other large trash containers. The compactor, dumpster or other large trash container shall be located no closer to the*

⁶ *Baker v. Town of Islip Zoning Bd. of Appeals*, 20 A.D.3d 522, 523 (2d Dep't 2005); see also *Allen v. Adami*, 39 N.Y.2d 275 (1976).



6/29/21
Page 6

*property lines than is permitted for an accessory structure in said district.*⁷ If this Board interprets the Zoning Code in a manner that differs from the above interpretation request, the Applicant requests an area variance **of 29.9' in order** to locate the dumpster enclosure **25' from the southern (side) lot line where the principal building is 54.4' from the southern (side) lot line.**

AREA VARIANCE STANDARDS:

New York State Village Law Section 7-712-b(3)(b) and New York State Town Law Section 267-b(3)(b) provide that a ZBA shall consider the benefit to the Applicant if the area variance is granted as weighed against the detriment to the health, safety, and welfare of the neighborhood or community by such grant.

In executing this balancing test, New York State Village and Town Law direct that the ZBA shall consider:

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
2. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
3. Whether the requested area variance is substantial;
4. Whether the proposed [area] variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
5. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals, but shall not necessarily preclude the granting of the area variance.

The five area variance factors set forth in these provisions and outlined above are a tool for the ZBA to use in determining whether to grant the requested relief. It is important to note that no single factor is determinative in assessing an area variance application. For the following reasons and based on the evidence in the record, we respectfully submit that upon balancing the area

⁷ Mount Kisco Zoning Code § 110-31.G(1): No accessory structure, except a sign . . . shall be located or project nearer to any street line or side lot line than does the principal structure on the lot.



6/29/21

Page 7

variance criteria, the granting of the requested area variance relief is warranted.

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.

The granting of the requested area variance relief will not produce any undesirable change in the character of the neighborhood or detriment to nearby properties. The Proposed Redevelopment presents an aesthetic improvement over the present conditions by replacing the existing restaurant building with a new Toyota service location designed to match the updated Toyota sales location at 325 North Bedford Road. The new service location will improve the neighborhood by relocating the existing Toyota service operations closer to the sales location, which will provide an overall benefit to the community in the form of economic development, increased maneuverability between the two sites, and overall business promotion along North Bedford Road. The existing Toyota sales location and proposed service location maintain the commercial character of the neighborhood and do not present any operations that would be a detriment to the motor vehicle repair location at the adjacent 343 North or any other nearby properties.

The variance relief to locate the proposed use within 1,000' of a similar use will not create any undesirable change to the character of the neighborhood or create a detriment to nearby properties. The North Bedford Road corridor is currently developed with several similar commercial garages and motor vehicle repair shops and other automotive-related uses. See Exhibit H - Map of Existing Automobile Uses. Indeed, there is established precedent **supporting granting the area variance to automobile repair shops that are located within 1,000'** of the same use.⁸ In 2015, the Towne Bus Corporation located adjacent to the property at 343 North Bedford Road obtained a variance to circumvent this distance requirement. See Exhibit G - Zoning Board of Appeals of the Village/Town of Mount Kisco Case No. ZBA 13-12 Resolution for 343 North Bedford Road (SBL 69.51-1-1) dated April 22, 2015.

By prohibiting similar uses within 1,000' of each other, the Zoning Code is not protecting the character of the neighborhood, it is causing such uses to be haphazardly dispersed throughout Mount Kisco. It is respectfully submitted that the community would benefit more from these uses being directed to an area of Mount Kisco where such uses already exist rather than directing them elsewhere throughout the community. The Proposed Redevelopment is not introducing a new use

⁸ See Knight v. Amelkin, 150 A.D.2d 528, 541 N.Y.S.2d 435 (2d Dept. 1989) (highlighting that a Board has an obligation to treat like cases, alike, and thus, to either follow precedent set in previous cases or explain why the latter case is being treated differently).



6/29/21

Page 8

to this area. **Of note, Toyota's service location is presently operating a few blocks away from the Premises at its existing 227-255 Kisco Avenue location. It will not create any increased business competition in the immediate vicinity since Toyota's service location is simply being relocated from its current location and Toyota's service location will be limited to Toyota vehicles that would otherwise be serviced at the existing location.**

The CL District permits "Motor vehicle sales, rentals, service and storage" uses as special permit uses which includes "repairs and service accessory to any motor vehicle sales or rental facility...provided that all work is performed within a totally enclosed building."⁹ The new service location would be permitted as an accessory use to the existing Rivera Toyota sales location but for the one existing site separating the two lots. Thus, it is not out of character with the neighborhood but rather an acceptable supporting use to the existing uses in the area. In addition, the Premises will not operate as a gasoline station nor will there be any canopy between the building and North Bedford Road. All repair and service work will occur within the interior service area at the rear of the building. No damaged vehicles or vehicle parts will be stored outside of the building.

Relocating the vehicle service location closer to the existing sales showroom location at 325 North Bedford will in fact be an improvement to the community. Any staff or customers travelling between the existing sales location and the service location must now drive several blocks between the two sites. This new service location will eliminate most of the distance between the sales and service locations which will effectively remove cars from the surrounding roadways. This new location will allow the two sites to better share resources and also permits customers and employees to walk from one site to another. Finally, this new location will provide an overall better customer experience and support the continued success of the sales location and nearby business due to better pedestrian presence.

The dumpster enclosure location will similarly not create any undesirable change to the community or adverse impact to nearby properties. The dumpster enclosure is proposed at the rear of the property along the southern lot line. This location is required to provide suitable access for the refuse collection vehicles while maintaining onsite parking. The enclosure will be **approximately 25' from the southern (side) property line and 15' from the western (rear) property line** and it will have limited visibility from North Bedford Road due to the downward sloping grade of the Premises.

⁹ Mount Kisco Code §§ 110-30.F & 110-30.F(1).



6/29/21

Page 9

Indeed, the new dumpster enclosure location will improve the existing site **conditions**. **The site's** existing dumpster enclosure location is nonconforming in that it is located much nearer to the property line than the existing building. The dumpster enclosure **area is currently 10' from the** southern (side) lot line. The Proposed Redevelopment will improve the existing conditions and benefit nearby properties by locating the dumpster enclosure further from North Bedford Road and the existing paved parking area to the south.

Accordingly, the Applicant respectfully submits that the proposed conditions that are the subject of this Application are not out of character with the neighborhood and create no undesirable change to the community and this factor weighs in favor of the ZBA granting the requested variance relief.

2. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance.

New York State Town Law Section 267-b(3)(b)(2) and Village Law Section 7-712-B(3)(b)(2) require the ZBA to **consider “whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance.”** The range of appropriate alternatives is limited by two standards: first, the alternative must still provide the benefit sought by the applicant and, second, it must be feasible for the applicant to pursue. A ZBA may not deny a variance and attempt to relegate an applicant to an alternative design that is a **“profound departure” from, or substantially costlier** than, the design proposed in the variance.¹⁰

The Applicant seeks approval from the ZBA to permit the Applicant's relocated vehicle service use from its current location at 227-255 Kisco Avenue to the Premises. The proposed use is currently operated several blocks away but must find a suitable relocation space nearby since its existing lease is set to expire in 2023. The proposed service location must remain within close proximity to the sales use at 325 North Bedford Road since the two uses typically operate in conjunction with one another. Relatedly, reducing the distance that vehicles need to travel between the two sites will reduce overall traffic impacts compared to another service location further from the existing sales location. Since the existing sales location at 325 North Bedford is well established in this area of Mount Kisco and there are a number of similar nearby uses, the Applicant has no

¹⁰ Corporation of Presiding Bishop of Church of Jesus Christ of Latter Day Saints v. ZBA of Town/Village of Harrison, 296 A.D.2d 460 (2d Dep't 2002). See also, Baker v. Brownlie, 248 A.D.2d 527 (2d Dep't 1998) and Salkin, New York Zoning Law & Practice § 29:36 Administrative Relief from Zoning Regulations: Variances.



6/29/21

Page 10

feasible alternatives to accommodate this proposed use at this site other than to seek area variance relief.

There are similarly no feasible alternatives to the proposed location of the dumpster enclosure. The dumpster enclosure is proposed to be located at the rear corner of the property along the southern (side) lot line. This location allows the dumpster enclosure to be accessible from North Bedford Road while not interfering with or otherwise limiting proposed parking or onsite circulation. Thus, no suitable alternatives exist to the proposed dumpster enclosure location. Insofar as the ZBA determines that area variance relief is required for the proposed dumpster enclosure, it is respectfully submitted that there are no feasible alternatives and the area variance relief sought is therefore the only feasible options that the Applicant can pursue.

3. Whether the requested variance is substantial.

It is respectfully submitted that upon consideration of the facts and circumstances in this situation, the requested area variances are not substantial. The substantiality of a variance cannot be judged solely on a comparison of the percentage deviation from the mandated requirements of the Zoning Code.¹¹ Indeed, the overall effect of granting the relief is the appropriate inquiry.¹² The ZBA must therefore consider the surrounding neighborhood and nearby lots when determining whether the Application is substantial. When viewed in the totality of the circumstances, locating an automobile repair shop on the Premises will not adversely impact neighboring properties because nearby property owners operate similar business and the use is a permitted special permit use in the CL District. This proposed use would also be permitted as an accessory use at the nearby Toyota sales location or any other nearby automobile sales locations within the CL District without regard for the special use criteria.

¹¹ Aydelott v. Town of Bedford Zoning Bd. of Appeals, N.Y.L.J. June 25, 2003, p. 21, col. 4 (Sup. Ct. 2003) (“**consideration of this percentage deviation alone, taken in a vacuum, is not an adequate indicator of the substantiality [and] a large deviation can have little or no impact depending on the circumstances of the variance application.**”).

¹² Lodge Hotel v. Town of Erwin Zoning Bd. of Appeals, 2007 WL 5649523 No. 94817 (Jan. 24, 2007) at *5, **affirmed**, 43 A.D.3d 1447, 843 N.Y.S.2d 744 (4th Dep’t 2007) (“**[s]ubstantiality cannot be judged in the abstract; rather, the totality of relevant circumstances must be evaluated in determining whether the variance sought is, in actuality, a substantial one.**”). See also Friends of Shawangunks, Inc. v. Zoning Bd. of Appeals of Town of Gardiner, 56 A.D.3d 883 (3d Dept. 2008) (although variances were substantial, the ZBA properly determined area variances will not have a substantial impact on the community); Schaller v. New Paltz Zoning Bd. of Appeals, 108 A.D.3d 821 (3d Dept. 2013) (upholding ZBA determination that an area variance was not substantial when compared to nearby buildings).



6/29/21

Page 11

Likewise, the proposed dumpster enclosure location will not create any additional impact on the surrounding properties, as it will have limited visibility from North Bedford Road due to the downward sloping grade of the Premises and has been located in a manner that allows for improved onsite circulation for customers and trash carting vehicles.

To the extent that the ZBA may believe otherwise, we respectfully remind the ZBA that the mere fact that a variance is deemed **“substantial”, or fails to meet any of the other factors, does not** preclude granting an area variance based on the application of the overall balancing test.¹³

4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

The requested variance relief will not have an adverse effect or impact on the physical or environmental conditions of the neighborhood or community. The Premises as well as the neighborhood is currently mostly built out and developed with impervious surfaces which include commercial buildings and paved parking areas and roadways. The Applicant proposes to raze the existing restaurant building and replace it with a smaller vehicle service building. The Proposed Development includes a minimal increase in overall development coverage from 27,419.35 s/f (77.5%) to 27,778.46 (78.54%). The proposed development coverage complies with the maximum permitted 28,294 s/f (80%) and an increase of only 359.11 s/f. Additional landscaped buffers will be provided along the eastern (front) lot lines and northern (side) lot lines. Any disturbance of steep slopes in the rear of the property is limited to what is necessary to improve onsite circulation and is not out of the character with the area or expected to create any adverse environmental impacts.

The area variance relief requested from the ZBA constitutes a Type II Action under the State **Environmental Quality Review Act (“SEQRA”) which is found to categorically not have significant** adverse environmental impacts on the environment.¹⁴ Notwithstanding, a Short Environmental **Assessment Form (“EAF”) has been included in this application and is annexed hereto as Exhibit C.**

¹³ See Church of Jesus Christ of Latter Day Saints v. ZBA of Town/Village of Harrison, 296 A.D.2d 460 (2d Dept. 2002) (determination that a request that was determined “substantial” did not excuse Zoning Board of Appeals from applying the overall balancing test).

¹⁴ 6 NYCRR § 617.5(c)(16) “Granting of individual setback and lot line variances and adjustments.”



6/29/21
Page 12

5. *Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals, but shall not necessarily preclude the granting of the area variance.*

The need for the area variance relief requested herein is not self-created but is instead the result **of the Zoning Code's permitted uses and the existing** conditions of the Premises. As was previously noted, automobile repair shops are a permitted special use in the CL District and several such uses exist in close proximity to the Premises. The dumpster enclosure location is a result of the site constraints and need for safe onsite circulation and sufficient parking. Therefore, **it is respectfully submitted that the Applicant's request for area variance relief here is not self-**created. To the extent that the ZBA may believe otherwise, we respectfully remind the ZBA that this factor is not dispositive to the overall balancing test pursuant to New York State Village Law Section 7-712-b(3)(b)(5) and New York State Town Law Section 267-b(3)(b)(5).

CONCLUSION:

For the reasons set forth above, and as will be further discussed at the public hearing on this matter, the Applicant requests that the interpretation and/or area variance relief be granted to allow the proposed construction of the automobile repair shop on the Premises. The Applicant respectfully submits that the proposed new service location conforms with the existing neighborhood. The benefit to the Applicant of approving the requested relief outweighs any conceivable harm to the community. The proposed relief is the minimum variance relief that meet **the Applicant's needs and at the same time fully protect the character of the neighborhood and** health, safety, and welfare of the community.

In support of this application, please find enclosed 12 copies of the instant letter with the following documents:

- Exhibit A: Village/Town of Mount Kisco Zoning Board of Appeals Application;
- Exhibit B: Village/Town of Mount Kisco Building Inspector Memorandum June 17, 2021;
- Exhibit C: Short Environmental Assessment Form;
- Exhibit D: 353 North Bedford Road Deed from Martabano Company to William T. Martabano dated July 25, 1984 recorded in the Office of the Westchester County Clerk Land Records Departments at Liber 7948, Page 307;
- Exhibit E: Rivera Toyota Business Plan;
- Exhibit F: Map and Mailing List of **Property Owners within 300' of the Premises;**



6/29/21
Page 13

- Exhibit G: Zoning Board of Appeals of the Village/Town of Mount Kisco Case No. ZBA 13-12 Resolution for 343 North Bedford Road (SBL 69.51-1-1) dated April 22, 2015; and
- Exhibit H: Map of Existing Automotive Uses.

Also enclosed are 12 copies the following materials:

- Engineering Sketch Plans of Proposed Redevelopment at 353 North Bedford Road (SK-101) prepared by Provident Design Engineering PLLC dated June 2, 2021;
- Site Plans for the Proposed Redevelopment at 353 North Bedford Road (SP-100.00; A-200.00; & A-201.00) prepared by Bryan Zelnik Architect, PC last updated June 2, 2021; and
- Topographic Survey of Property prepared for 353 N. Bedford Rd LLC prepared by H. Stanley Johnson and Company Land Surveyors, P.C. last revised March 8, 2021; and

The Applicant also encloses two checks made payable to the Village/Town of Mount Kisco: one in the amount of \$750 representing the area variance application filing fee for commercial properties and one in the amount of \$500 representing the interpretation application filing fee for commercial properties.

For all of the reasons set forth herein and in the accompanying documents, it is respectfully submitted that this application for interpretation and area variance relief should be granted in its entirety. The Applicant looks forward to appearing at the July 20, 2021 ZBA meeting to answer any questions you may have regarding this matter. In the meantime, should the ZBA or Village/Town Staff have any questions or comments regarding the foregoing, please do not hesitate to contact me.

Very truly yours,

Anthony B. Gioffre III

Anthony B. Gioffre III

cc: Peter J. Miley, Village/Town Building Inspector
Client
Bryan Zelnik Architect, PC
Provident Design Engineering PLLC

EXHIBIT A

Date: _____

Case No.: _____

Fee: _____

Date Filed: _____

Village/Town of Mount Kisco
Municipal Building
104 Main Street, Mt. Kisco, NY 10549

Zoning Board of Appeals
Application

Appellant: Rivera Auto Group, Inc. (c/o Alex Muscarella)

Address: 325 N Bedford Road, Mount Kisco, NY 10549

Address of subject property (if different): 353 N Bedford Road, Mount Kisco, NY 10549

Appellant's relationship to subject property: _____ Owner _____ Lessee x Other _____

Property owner (if different): William T. Martabano

Address: 54 South Beechwood Road, Bedford Hills, NY

TO THE CHAIRMAN, ZONING BOARD OF APPEALS: An appeal is hereby taken from the decision of the Building Inspector, Peter J. Miley's Memorandum dated June 17, 2021. Application is hereby made for the following:

x Variation or x Interpretation of Section 110-30.G(1); 110-30.D(1); & 110-31.G(1) of the Code of the Village/Town of Mount Kisco,

to permit the: x Erection; _____ Alteration; _____ Conversion; _____ Maintenance of the relocated automobile repair shop-service facility in support of the existing Rivera Toyota Sales location at 325 North Bedford Road

_____ in accordance with plans filed on (date) April 6, 2021

for Property ID # 69.43-2-3 located in the _____ Zoning District.

The subject premises is situated on the Westerly side of (street) North Bedford Road _____ in the Village/Town of Mount Kisco, County of Westchester, NY.

Does property face on two different public streets? Yes/No No

(If on two streets, give both street names) _____

Type of Variance sought: _____ Use x Area _____

Is the appellant before the Planning Board of the Village of Mount Kisco with regard to this property? Yes

Is there an approved site plan for this property? Yes in connection with a
X Proposed or _____ Existing building; erected (yr.) _____

Size of Lot: 160 feet wide 222 feet deep Area 35,367 s/f

Size of Building: at street level 83 feet wide 128 feet deep

Height of building: 2 stories/25'3" Present use of building: Restaurant Building
to be demolished

Does this building contain a nonconforming use? No Please identify and explain: _____

Is this building classified as a non-complying use? No Please identify and explain: _____

Has any previous application or appeal been filed with this Board for these premises?
Yes/No? No

Was a variance ever granted for this property? No If so, please identify and explain: _____

Are there any violations pending against this property? No If so, please identify and explain: _____

Has a Work Stop Order or Appearance Ticket been served relative to this matter?
____ Yes or No No Date of Issue: _____

Have you inquired of the Village Clerk whether there is a petition pending to change the subject zoning district or regulations? No

I submit the following attached documents, drawings, photographs and any other items listed as evidence and support and to be part of this application:

The following items **MUST** be submitted:

- a) Attached hereto is a copy of the order or decision (Notice of Denial) issued by the Building Inspector or duly authorized administrative official issued on July 17, 2021 upon which this application is based. Memorandum
- b) Copy of notice to the administrative official that I have appealed, setting forth the grounds of appeal and have requested the application to be scheduled for a public hearing.
- c) A typewritten statement of the principal points (facts and circumstances) on which I base my application with a description of the proposed work.
- d) Ten (10) sets of site plans, plat or as-built survey drawings professionally signed and sealed (as may be required).
- e) A block diagram with street names, block and lot numbers, and street frontage showing all property affected within 300' of the subject property, with a North point of the compass indicated.
- f) A full list of names and addresses of the owners of all property shown on the above noted block diagram that lie within or tangent to the 300' radius from the subject property.
- g) A copy of the Public Notice for the public hearing of this application.
- h) A sworn Affidavit of Mailing, duly notarized, that a true copy of said Public Notice has been sent by mail to all property owners within 300 feet of this premises at least 10 days prior to the public hearing.

NOTE: APPLICANT MUST CAUSE A TRUE COPY OF THE PUBLIC NOTICE TO BE PUBLISHED IN THE OFFICIAL NEWSPAPER OF THE VILLAGE AT LEAST 15 DAYS PRIOR TO THE PUBLIC HEARING.

- i) A true copy of the filed deed and/or signed lease or contract for the use of the subject property.
- *j) At least two sets of unmounted photographs, 4" by 6" in size, showing actual conditions on both sides of street, between intersecting streets. Print street names and mark premises in question.
- *k) A floor plan of the subject building with all the necessary measurements.
- *l) A longitudinal section of the subject building and heights marked thereon as well as front elevations.

*** Optional - As Needed**

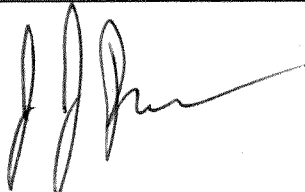
I hereby depose & say that all the above statements and the statements contained in the papers submitted herewith are true.


(Appellant to sign here)

Sworn to before me this day of: 25, 2021

Notary Public, Westchester, County, NY


JOHN J. POMPONIO JR.
Notary Public, State of New York
No. 01PO6015239
Qualified in Westchester County
Term Expires October 26, 2022



[TO BE COMPLETED IF APPELLANT IS NOT THE PROPERTY OWNER IN FEE]

State of New York }
County of Westchester } ss

Being duly sworn, deposes and say that he resides at 353 N Bedford Road in the County of Westchester, in the State of New York, that he is the owner in fee of all that certain lot, piece or parcel of land situated, lying and being in the Village of Mount Kisco, County of Westchester aforesaid and known and designated as number 69.43-2-3 and that he hereby authorized Alex Muscarella to make the annexed application in his behalf and that the statements contained in said application are true.


(sign here)

CL

PUBLIC NOTICE

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the Village/Town of Mount Kisco, New York will hold a Public Hearing on the 20th day of July 2021 at the Municipal Building, Mount Kisco, New York, beginning at 7:00 PM pursuant to the Zoning Ordinance on the Appeal of

Rivera Auto Group, Inc. (c/o Alex Muscarella)

(Name of Applicant)

325 N Bedford Road, Mount Kisco, NY

(Address of Applicant)

from the decision of Peter J. Miley, Building Inspector, dated June 17, 2021 Memorandum
(Date of Denial Letter)
denying the application dated to permit the automobile repair shop.
(Proposed Work)

The property involved is known as 353 N Bedford Road, Mount Kisco, NY
(Address of Property)

and described on the Village Tax Map as Section 69.43 Block 2 Lot 3

and is located on the Westerly side of North Bedford Road in a
east/west/n/s (Street Name)

CL Zoning District. Said Appeal is being made to obtain a

variance from Section(s) 110-30.G(1); 110-30.D(1); & 110-31.G(1) of the
(Identify specific zoning code section number(s))

Code of the Village/Town of Mount Kisco, which requires the proposed automobile repair use to be situated no less than 1000' from a similar use and that the proposed dumpster enclosure be located no closer to the side lot line than the principal building

Harold Boxer, Chair
Zoning Board of Appeals
Village/Town of Mount Kisco

EXHIBIT B



Village/Town of Mount Kisco Building Department
104 Main Street
Mount Kisco, New York 10549
Ph. (914) 864-0019-fax (914) 864-1085

MEMORANDUM

TO: Honorable Acting Chairman John Bainlardi
and Members of the Planning Board

FROM: Peter J. Miley, Building Inspector

SUBJECT: Automobile Repair Shop – Service Facility

DATE: June 17, 2021

The Property

353 North Bedford Road is a 36,367 sf (0.81 acre) lot located in the CL Limited Commercial Zoning District that is situated just north and adjacent to the Town Bus Company. The existing property includes a one – story “frame & stucco” building (former Westchester Burger) that is proposed to be demolished.

Pursuant to Chapter 110. Zoning, Article III. District Regulations, § 110-19. CL Limited Commercial District B. Permitted uses. (2) Special permit uses. Gasoline stations, automotive and equipment service and automobile repair shops, are subject to the requirements set forth in Chapter 110. Zoning Article V. Supplementary Regulations § 110-30. Supplementary use regulations G. Gasoline stations, commercial garages and motor vehicle repair shops.

The Project

Proposed includes the redevelopment of the site, a new building, 39 parking spaces, improved drainage. The building will be used to repair and service vehicles in connection with Rivera Toyota located 2 properties south, 325 N. Bedford Rd. The proposed building is a 10,216 sf structure that will include (8) service bays, 3,700 sf of administrative office space, an enclosed customer drop-off with room for six cars, and a 1,200 sf area to store car parts.

Zoning

1. Pursuant to Chapter 110. Zoning Article V. Supplementary Regulations § 110-30. Supplementary use regulations D. Trash compactors, dumpsters and other large trash containers. (1) The compactor, dumpster or container shall be located no closer to the property lines than is permitted for an accessory structure in said district. G. Accessory

structures. (1) No accessory structure, except a sign for which a permit, pursuant to Chapter 89 of this Code, has been granted and which is erected pursuant to a site plan approved by the Planning Board, shall be located or project nearer to any street line or side lot line than does the principal structure on the lot.

- a. Variance No. 1: Proposed dumpster enclosure is located in the west, rear – left corner of the property and is closer to the side lot-line than the proposed structure and therefore; a variance to locate a dumpster enclosure closer to the side lot-line than is the principle building is required.
2. Gasoline stations, commercial garages and motor vehicle repair shops. (1) No driveway to or from any commercial garage, gasoline station or motor vehicle repair shop shall be within 1,000 feet of any other such use or within 200 feet of the boundary line of any residential district or of any school, church, park, playground, hospital, public library, institution for dependents or children or any place of public assembly or restaurant designed for the simultaneous use of 100 persons or more, regardless of the district where either premises are located.
 - b. Variance No. 2: Proposed is located just north of Town Bus, a vehicle repair garage. Relief from this section is required. A variance to place a motor vehicle repair shop within 1000 ft. of another is required. Applicant shall provide actual distance from the driveway, to the closest repair shop.

Buffer Requirements

1. The front drive aisle parallel to the building and N. Bedford Rd. is located within the 20 ft. buffer requirement by 1.5 ft., unless waived by the Planning Board, a 1.5 ft. buffer variance will be required.

Pursuant to Chapter 110. Zoning Article V. Supplementary Regulations § 110-32. Supplementary landscaping and illumination regulations. B. Waiver of buffer requirements. Upon determination by the Planning Board that all or part of a required buffer area is not necessary for an individual site development, due to factors such as abutting land uses or topography, or if an alternative method of screening a property is proposed through earth berms, landscaping and other such treatments, the Board may modify or waive such buffer requirements, provided that the intensity of development on the subject site is not increased by the modification or waiver.

Steep Slopes Permit Required

1. Retaining walls that exceed 60 feet are proposed within the steep, to very steep slopes located at the rear of the property. Pursuant to Chapter 110. Zoning Article V. Supplementary Regulations Natural resources protection regulations.

Standards for development approval. In denying, granting, or granting with modifications any application for a steep slopes permit, the Planning Board shall consider the consistency of the proposed activity with the following standards:

[1] Disturbance and construction activities on very steep slopes shall not be permitted unless there is no viable alternative.

[2] Disturbance of areas with steep slopes shall be in conformance with the following provisions:

[b] The terracing of building sites shall be kept to an absolute minimum. The construction of retaining walls greater than six feet in height or 60 feet in length shall not be permitted unless there is no viable alternative.

Comments

1. The Building Department defers to the Village Planner for landscaping and lighting.
2. The Building Department defers to the Village Engineer for Steep Slopes requirements, retainage, and all impervious and drainage.

Town/Village Approvals Required

1. Planning Approval – site plan approval
2. Special permit issued by the Planning Board
3. Steep Slopes Permit
4. Zoning Board Approval
5. Architectural Review Board
6. Property is located in the Designated Village Main Street Area, DEP approval is required
7. Building Department

EXHIBIT C

Short Environmental Assessment Form

Part 1 - Project Information

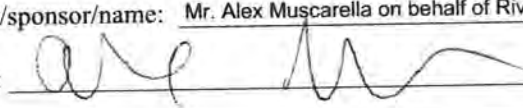
Instructions for Completing

Part 1 – Project Information. The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

Part 1 – Project and Sponsor Information			
Name of Action or Project: Rivera Toyota New Service Facility			
Project Location (describe, and attach a location map): 353 N Bedford Road, Mount Kisco, NY			
Brief Description of Proposed Action: The project will consist of the demolition of the existing building and the construction of a new Toyota Service Facility. The new service facility will have 8 service bays and a 6 spaces in the service lanes. The proposed building will have a gross floor area of 12,616 s.f. and a coverage of 10,216 s.f. A total of 27 exterior parking spaces will be provided plus 8 spaces in the service bays and 6 spaces in the enclosed customer drop off area. The total on-site parking spaces provided will be 41 spaces. The total number of required parking spaces is 39.			
Name of Applicant or Sponsor: Rivera Auto Group, Inc (c/o Alex Muscarella)		Telephone: (914) 666-5181 E-Mail: amuscarella@riveratoyota.com	
Address: 325 N Bedford Road			
City/PO: Mount Kisco		State: New York	Zip Code: 10549
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.		NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other government Agency? If Yes, list agency(s) name and permit or approval:		NO <input type="checkbox"/>	YES <input checked="" type="checkbox"/>
3. a. Total acreage of the site of the proposed action?		0.812 acres	
b. Total acreage to be physically disturbed?		0.725 acres	
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?		0.812 acres	
4. Check all land uses that occur on, are adjoining or near the proposed action:			
5. <input checked="" type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input checked="" type="checkbox"/> Commercial <input type="checkbox"/> Residential (suburban) <input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other(Specify): <input type="checkbox"/> Parkland			

5. Is the proposed action,	NO	YES	N/A
a. A permitted use under the zoning regulations?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Consistent with the adopted comprehensive plan?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	NO <input type="checkbox"/>	YES <input checked="" type="checkbox"/>	
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area? Name:Geographic Area Overlaying Aquifer, Reason:Exceptional or unique character, Agency:Bedford, Town of, If Yes, identify: Date:11-3-84 The Site and adjoining lots are not located within the mapped limits of the CEA (see DECInfo Map)	NO <input type="checkbox"/>	YES <input checked="" type="checkbox"/>	
8. a. Will the proposed action result in a substantial increase in traffic above present levels?	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>	
b. Are public transportation services available at or near the site of the proposed action?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
c. Are any pedestrian accommodations or bicycle routes available on or near the site of the proposed action?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
9. Does the proposed action meet or exceed the state energy code requirements? If the proposed action will exceed requirements, describe design features and technologies: _____ _____	NO <input type="checkbox"/>	YES <input checked="" type="checkbox"/>	
10. Will the proposed action connect to an existing public/private water supply? If No, describe method for providing potable water: _____ _____	NO <input type="checkbox"/>	YES <input checked="" type="checkbox"/>	
11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: _____ _____	NO <input type="checkbox"/>	YES <input checked="" type="checkbox"/>	
12. a. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places?	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>	
b. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency?	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>	
b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____ _____ _____			

14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply: <input type="checkbox"/> Shoreline <input type="checkbox"/> Forest <input type="checkbox"/> Agricultural/grasslands <input type="checkbox"/> Early mid-successional <input type="checkbox"/> Wetland <input checked="" type="checkbox"/> Urban <input type="checkbox"/> Suburban		
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
16. Is the project site located in the 100-year flood plan?	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes,	NO	YES
a. Will storm water discharges flow to adjacent properties?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
If Yes, briefly describe: _____ _____		
18. Does the proposed action include construction or other activities that would result in the impoundment of water or other liquids (e.g., retention pond, waste lagoon, dam)? If Yes, explain the purpose and size of the impoundment: _____ Subsurface storm water detention system	NO	YES
	<input type="checkbox"/>	<input checked="" type="checkbox"/>
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe: _____ _____	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe: _____ There are no remediation actions on the subject property or an adjoining property (see attached DECInfo mapper)	NO	YES
	<input type="checkbox"/>	<input checked="" type="checkbox"/>
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE Applicant/sponsor/name: <u>Mr. Alex Muscarella on behalf of Rivera Auto Group, Inc.</u> Date: <u>4/5/21</u> Signature: <u></u> Title: <u>Partner</u>		

PRINT FORM



Disclaimer: The EAF Mapper is a screening tool intended to assist project sponsors and reviewing agencies in preparing an environmental assessment form (EAF). Not all questions asked in the EAF are answered by the EAF Mapper. Additional information on any EAF question can be obtained by consulting the EAF Workbooks. Although the EAF Mapper provides the most up-to-date digital data available to DEC, you may also need to contact local or other data sources in order to obtain data not provided by the Mapper. Digital data is not a substitute for agency determinations.



Part 1 / Question 7 [Critical Environmental Area]	Yes
Part 1 / Question 7 [Critical Environmental Area - Identify]	Name:Geographic Area Overlaying Aquifer, Reason:Exceptional or unique character, Agency:Bedford, Town of, Date:11-3-84
Part 1 / Question 12a [National or State Register of Historic Places or State Eligible Sites]	No
Part 1 / Question 12b [Archeological Sites]	No
Part 1 / Question 13a [Wetlands or Other Regulated Waterbodies]	No
Part 1 / Question 15 [Threatened or Endangered Animal]	No
Part 1 / Question 16 [100 Year Flood Plain]	No
Part 1 / Question 20 [Remediation Site]	Yes

CEA Geographic Area Overlaying Aquifer



February 3, 2021

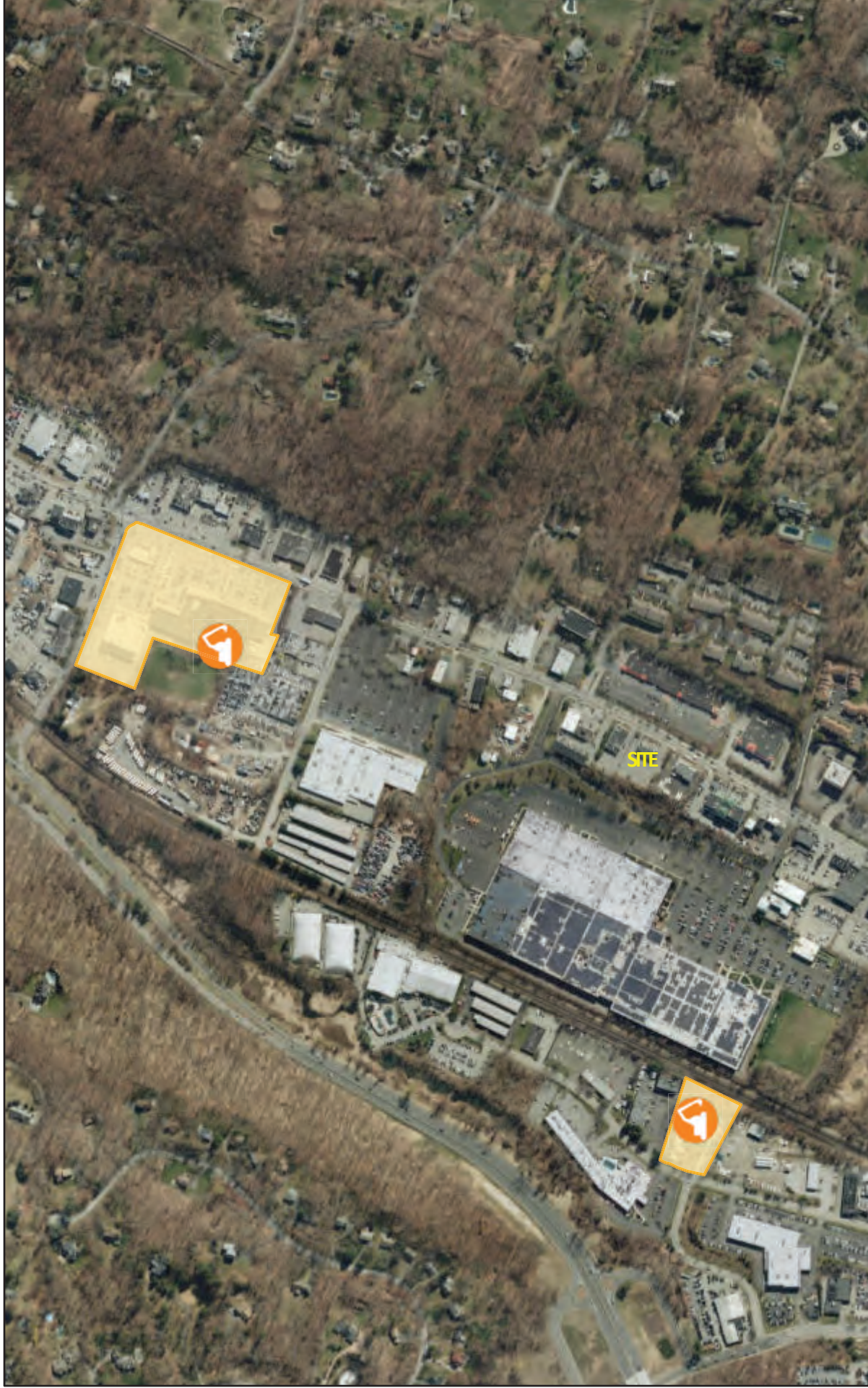
1:4,514

0 0.03 0.06 0.11 mi

0 0.04 0.09 0.18 km

Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

Author: Provident Design Engineering
Not a legal document



February 3, 2021

1:9,028

0 0.05 0.1 0.2 mi

0 0.07 0.15 0.3 km

Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

Author: Provident Design Engineering
Not a legal document

EXHIBIT D



S04984226

CONSULT YOUR LAWYER BEFORE SIGNING THIS INSTRUMENT—THIS INSTRUMENT SHOULD BE USED BY LAWYERS ONLY.

THIS INDENTURE, made the 25th day of July, nineteen hundred and eighty-four

BETWEEN MARTABANO COMPANY, a New York Limited Partnership, formerly known as William Martabano Company, having its principal address at 54 South Beechwood Road, Bedford Hills, New York 10507, whose General Partner is William V. Martabano, residing at 54 South Beechwood Road, Bedford Hills, New York 10507, and whose Limited Partners consist of Valerio M. Martabano, residing at 55 Succabone Road, Bedford Hills, New York 10507; John A. Martabano, residing at 8075 Woodpecker Trail, Jacksonville, Florida 32216, Patricia Macaulay residing at 46 Grandview Drive, Mt. Kisco, New York 10549 and William T. Martabano, residing at 54 South Beechwood Road, Bedford Hills, New York 10507

party of the first party, and

WILLIAM T. MARTABANO, RESIDING AT 54 South Beechwood Road, Bedford Hills, New York

party of the second part,

WITNESSETH, that the party of the first part, in consideration of TEN AND NO/100-----

----- dollars,
and other good and valuable consideration
lawful money of the United States, paid

by the party of the second part, does hereby grant and release unto the party of the second part, their heirs or successors and assigns of the party of the second part forever.

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the Village and Town of Mt. Kisco, County of Westchester, State of New York more particularly described on Schedule A annexed hereto and made a part hereof.

SCHEDULE "A"

PARCEL 1

BEGINNING at a point on the northwesterly boundary line of North Bedford Road (Route 117), as widened, where the same is intersected by the division line between property now or formerly belonging to DeSilva Ice and Fuel Co., Inc. on the southwest and the premises herein described on the northeast, running thence in a northwesterly direction along said division line North 48°21'50" West 122.80 feet to a point, thence in a northeasterly direction along the southeasterly boundary line of property now or formerly belonging to William Martabano Company North 41°38'10" East 160.00 feet to a point, thence in a southeasterly direction along the southwesterly boundary line of property now or formerly belonging to G. Acquisition Co., Inc. South 48°21'50" East 120.32 feet to the northwesterly boundary line of North Bedford Road (Route 117), as widened, thence in a southwesterly direction along the same South 40°44'50" West 160.03 feet to the point or place of beginning, containing 19,449 square feet or 0.446 acres.

SUBJECT TO THE FOLLOWING:

- A. Rights of tenants, if any
- B. Any state of facts which an accurate survey might show.

The within described premises are known on the tax assessment map of the Village of Mt. Kisco, as Section 15, Sheet 3, Lot 13-V.

PARCEL 2

BEGINNING at a point on the southerly side of the land now or formerly of the General Electric Pension Trust, and the southerly side of a 50 foot easement for ingress and egress from North Bedford Road, to the herein described property, where the northeast corner of the herein described property adjoins the northwest corner of the land now or formerly of Saraband Properties, Inc.; said point of beginning is further described as being 1118.16 feet, as measured southerly along the westerly side of North Bedford Road, from the southerly side of the highway, known as Norm Avenue and

north 52°54'00" west 119.14 feet, as measured westerly along the division line of the land of Saraband Properties, Inc., and the General Electric Pension Trust easement;

thence southerly along the land of Saraband Properties, Inc., and the land now or formerly of J.R., W. and A. Martabano,

south 41°38'10" west 250.59 feet, to the land now or formerly of DeSilva Ice and Fuel Company, Inc.;

thence westerly along the north side of DeSilva Ice and Fuel Company, Inc.,

north 48°21'50" west 100.00 feet, to the land now or formerly of General Electric Pension Trust;

thence northerly along the land now or formerly of General Electric Pension Trust

north 41°38'10" east 242.67 feet, to other lands of the General Electric Pension Trust, and the southerly side of

the aforesaid easement;

thence easterly along the land of General Electric Pension Trust, and the southerly side of the aforesaid easement; south 52°54'00" east 100.32 feet, to the land of the Saraband Properties, Inc., and the point or place of BEGINNING.

TOGETHER with an easement or right of way in common with others, adjoining the northerly line of the said parcel, and the northerly line of Saraband Properties, Inc., for ingress and egress 50 feet in width, over the land of the General Electric Pension Trust, from the westerly side of North Bedford Road, to the westerly line of the parcel herein described.

SUBJECT to the following:

- A. Any state of facts an accurate survey might show.
- B. Rights of tenants, if any.

The within described premises are known on the tax assessment map of the Village of Mt. Kisco as Section 15, Sheet 3, Lot 13-15 and p/o 13-5 (ROW).

TOGETHER with all right, title and interest, if any, of the party of the first part in and to any streets and roads abutting the above described premises to the center lines thereof,

TOGETHER with the appurtenances and all the estate and rights of the party of the first part in and to said premises,

TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.

AND the party of the first part, in compliance with Section 13' of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the costs of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

AND the party of the first part covenants as follows:

FIRST.—That said party of the first part is seized of the said premises in fee simple, and has good right to convey the same;

SECOND.—That the party of the second part shall quietly enjoy the said premises;

THIRD.—That the said premises are free from incumbrances, except as aforesaid;

FOURTH.—That the party of the first part will execute or procure any further necessary assurance of the title to said premises;

FIFTH.—That said party of the first part will forever warrant the title to said premises.

The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above written.

General Partner

IN PRESENCE OF:

William V. Martabano
WILLIAM V. MARTABANO

Limited Partners

Valerio M. Martabano
VALERIO M. MARTABANO

John A. Martabano
JOHN A. MARTABANO

Patricia Macaulay
PATRICIA MACAULAY

William T. Martabano
WILLIAM T. MARTABANO

STATE OF FLORIDA :
COUNTY OF DUVAL : SS.:

On this 25th day of July 1984, before me personally came JOHN A. MARTABANO to me known to be one of the persons who executed the foregoing instrument, who being duly sworn by me did depose and say that he is a Limited Partner of Martabano Company, a New York Limited Partnership, and that he executed the foregoing instrument on behalf of said Partnership and acknowledged to me that he executed the same for the uses and purposes therein mentioned.

Notary Public
My Comm. Expires March 30, 1986

James Buchanan
NOTARY PUBLIC

STATE OF NEW YORK :
COUNTY OF NEW YORK : SS.:

On this 27th day of July 1984, before me personally came VALERIO MARTABANO, WILLIAM T. MARTABANO and PATRICIA MACAULAY to me known to be three of the persons who executed the foregoing instrument, who being duly sworn by me did depose and say that they are Limited Partners of Martabano Company, a New York Limited Partnership, and that they executed the foregoing instrument on behalf of said Partnership and acknowledged to me that they executed the same for the uses and purposes therein mentioned.

Freda Krin
NOTARY PUBLIC

STATE OF NEW YORK :
COUNTY OF NEW YORK : SS.:

On this 27th day of July 1984, before me personally came WILLIAM MARTABANO, to me known to be one of the persons who executed the foregoing instrument, who being duly sworn by me did depose and say that he is the General Partner of Martabano Company, a New York Limited Partnership, and that he executed the foregoing instrument on behalf of said Partnership and acknowledged to me that he executed the same for the uses and purposes therein mentioned.

Freda Krin
NOTARY PUBLIC

FREDA KRIM
NOTARY PUBLIC, State of New York
No. 24-4685200
Qualified in Kings County
Commission Expires March 30, 1986

Warranty Deed
WITH FULL COVENANTS
TITLE NO. ACI-47788

SECTION 15
BLOCK 3
LOT 13 13-15
COUNTY OR TOWN

TO

Recorded At Request of The Title Guarantee Company
RETURN BY MAIL TO:

STANDARD FORM OF NEW YORK BOARD OF TITLE UNDERWRITERS
Distributed by
THE TITLE GUARANTEE COMPANY
TGC

STROOCK + STROOCK + LAVAN
7 HANOVER SQUARE
NEW YORK, N.Y. 10004
ATTN: JULIUS H. SHERMAN
Zip No. ES

RESERVE THIS SPACE FOR USE OF RECORDING OFFICE

The Title Guarantee Company

State's Ctg.	Rec'd's Ctg.	Filing Ctg.	Cross Ref'd	Chk./Receipt	Total	Returned
WESTCHESTER COUNTY CLERK'S OFFICE						



WESTCHESTER COUNTY CLERK

LAND RECORDS DIVISION

RECORDING PAGE

Type of Instrument <u>DED</u>	Rec. Tax Rcvd. _____	<u>Municipalities</u>
Statutory Charge <u>5-</u>	Serial No. _____	02 BEDFORD
Recording Charge <u>15-</u>	ANDREW J. SPANO	06 CORTLANDT
Filing Charge <u>1-</u>	Westchester County Clerk	09 EASTCHESTER
Cross Reference _____		11 GREENBURGH
Cert./Receipt _____	Exempt Yes <input type="checkbox"/> No <input type="checkbox"/>	12 HARRISON
	Mortgage Amt. _____	16 LEWISBORO
TOTAL.....		17 MAMARONECK
EXMD. <u>21-</u>		19 MT. KISCO
Transfer Tax Stamps Attached		20 MT. PLEASANT
AMT. \$ <u>none</u> DATE <u>8-13-84</u>		21 MT. VERNON
		22 NEW CASTLE
		23 NEW ROCHELLE
		24 NORTH CASTLE
		26 NORTH SALEM
		28 OSSINING
		30 PEEKSKILL
		31 PELHAM
		35 POUND RIDGE
		36 RYE CITY
		37 RYE TOWN
		38 SCARSDALE
		39 SOMERS
		42 WHITE PLAINS
		43 YONKERS
		44 YORKTOWN

Terminal No. <u>8422165019</u>	Trans. Fees. No. <u>49003</u>	Date Ret'd. _____
--------------------------------	-------------------------------	-------------------

RECEIVED
 330
 REAL ESTATE
 AUG 13 1984
 TRANSFER TAX
 WESTCHESTER
 COUNTY

RECEIVED
 WESTCHESTER COUNTY CLERK
 1984 AUG 13 PM 1:59

08208001 08/13/84CPA

21.00

The foregoing instrument was endorsed for record as follows:

The property affected by this instrument is situate in the ☒ Town ☐ City
 of MT. KISCO County of Westchester, N.Y. A true copy of the
 original DEED recorded in the Division of Land Records
 of the County Clerk's Office of Westchester County on AUG. 13, 1984 at 1:59 P. M.
LIBER 7948 PAGE 307 IN THE BOOK OF DEEDS
 Witness my hand and Official Seal

Andrew J. Spano
 Andrew J. Spano
 County Clerk

EXHIBIT E

Toyota Rivera – Business & Operations Plan – 325 & 353 North Bedford Road

Rivera Auto Group, Inc. (“Rivera Toyota” or the “Applicant”) is the owner of 325 North Bedford Road (SBL: 69.51-1-2) (“325 NBR”) and contract-vendee of 353 North Bedford Road (SBL: 69.43-2-3) (“353 NBR”) in the Village/Town of Mount Kisco (“Mount Kisco”). This Business and Operations Plans is respectfully submitted in furtherance of the site plan review for the proposed renovations to its automobile sales location at 325 NBR and the site plan and special permit application for the redevelopment of 353 NBR with the Applicant’s new motor vehicle service.

Current Operations

Rivera Toyota has operated its motor vehicle sales and services facility use at the two-story, 21,745 s/f building located at 325 NBR since 2015. Rivera Toyota has maintained a lease at 227 & 255 Kisco Avenue where it provides additional off-site vehicle servicing, sales, and storage. 227 & 255 Kisco Avenue are improved with two buildings with an approximate floor area of 24,841 s/f. Rivera Toyota’s sales center maintains business hours between 9am-8pm Monday through Thursday, 9am-6pm Friday and Saturday, and 11am-5pm on Sundays. Its service center’s business hours are from 8am-6pm Monday through Friday, 8am to 6pm on Saturdays, and is closed on Sundays. Rivera Toyota employs approximately 65 people in positions such as management, sales, and service technicians.

The vehicle inventory is spread between 325 NBR and the Kisco Avenue location. The inventory includes approximately 105 new and 50 used vehicles for sale at any given time. The existing service operations occur exclusively at 227 & 255 Kisco Avenue. Available services include typical maintenance such as oil changes, tire repair, and brakes as well as other major mechanical work such as engine and transmission repairs. Toyota Rivera services approximately 40-50 vehicles per day. The Applicant’s lease with the owner of 227 & 255 Kisco Avenue is scheduled to expire in 2023. Rivera Toyota must find an alternative service location near its established sales location at 325 NBR.

Proposed Improvements and Operations

Rivera Toyota is proposing to renovate the façade and interior floor plans at 325 NBR and to redevelop the 353 NBR with its relocated service location. 325 NBR and 353 NBR are located on the westerly side of North Bedford Road in the northern portion of the Village/Town of Mount Kisco. The two lots each have frontage and driveway access on North Bedford Road. The two lots are separated by one tax lot, 343 North Bedford Road, which is currently used by a school bus company for outdoor bus parking.

325 North Bedford Road

325 NBR is an existing 1.23 acre (53,429 s/f) parcel improved with the 21,745 s/f structure which has supported the Rivera Toyota motor vehicle sales since 2015. The existing structure currently includes approximately street level and lower level showroom space with sales workstations and offices. The existing grade of 325 NBR slopes downward away from North Bedford Road allowing the showroom/sales area to be located at street level.

New and used cars will continue to be displayed and sold at 325 NBR. New inventory will be unloaded and stored at a separate location (which has yet to be determined). No unloading of vehicles will be done at 325 NBR or on North Bedford Road itself. Vehicles

will be driven to 325 NBR from the unidentified off-site location on an as-needed basis. A new service location will be located at the rear, lower level of the building. The services offered at 325 NBR include longer term repairs compared to the routine services provided at the proposed 353 NBR. The grade of 325 NBR currently slopes downward away from North Bedford Road resulting in the lower level to be below the grade level of the street.

This location is supported by up to 27 employees on a given day. Typical staff at 325 NBR include 10 sales representatives, 3 sales managers, 2 finance managers, 2 porters, 4 office staff members, and 3 to 6 technicians.

The Applicant proposes exterior renovations to the façade of the building which includes a new customer entrance portal, signage, and aluminum metal cladding façade. Rivera Toyota also proposes the addition of two roll-up glass doors for customer vehicle pick-ups on the North Bedford Road façade. No vehicle servicing will occur in the front two vehicle pick-up bays. The interior of the building will incorporate a new showroom floor plan and layout with sales offices and workstations. The lower-level service area will include 12 service bays accessed from the rear of the building through two separate garage doors. The Applicant does not propose any increase to the size of the building footprint, floor area, or height. The only site work proposed is associated with the new customer entry portal though there will be no changes to the existing grade, development coverage, or building coverage.

353 North Bedford Road

Toyota Rivera is the contract-vendee for the purchase of 353 NBR which it proposes to redevelop as its new off-site service location. 353 NBR is an approximately 0.81 acre (35,367 s/f) lot currently improved with an existing restaurant building. The Applicant proposes to demolish the existing restaurant building and construct a new two story, 12,616 s/f automobile repair shop. The building will have a footprint of approximately 10,216 s/f. The Proposed Development will support the relocation of Rivera Toyota's existing service location at 227 & 255 Kisco Avenue which is operating under lease scheduled to expire in 2023. The new service location will place the service center closer to the Rivera Toyota motor vehicle sales and sales location at the nearby 325 NBR. The new service center will include 8 service bays/workstations accessible from the rear of the building, an enclosed customer drop-off service drive, improved customer service areas, and approximately 1,200 s/f of interior parts storage. No vehicle sales will occur at 353 NBR. Services at 353 NBR include routine vehicle maintenance such as oil changes, brake, and tire rotations/replacements.

Toyota expects approximately 15 employees at this site on a given day. This staff includes 4 service advisors, 1 service manager, 2 support staffmembers, 1 parts manager, 1 parts counter, 1 parts supportmember, and 5 technicians.

The building will be setback approximately 38.6' from North Bedford Road with a new one-way drive aisle in front of the building and a vegetated buffer extending 18.6' from the property line. The façade of the building will reflect the renovated 325 NBR showroom and service location including large windows into the customer area, aluminum metal cladding, and Toyota signage. The Premises will have two driveway accesses on North Bedford Road: one on the northern side of the building and one on the southern sides of the building. The northern access will be an entrance only while the southern driveway will be an entrance and exit. 28 exterior at-grade parking will be provided along the southern and western

property lines plus 14 interior parking spaces within the customer drop-off area and service bays.

Clients will schedule service appointments and arrive at 353 NBR on their designated date and time. Clients will enter the site through either the northern or southern driveway and drive directly into the proposed drop-off port. Customer vehicles will be handed over to Toyota employees within the drop-off port who will then exit the rear of the drop-off port and take the vehicle directly to its designated service bay. Customers can remain on-site in one of the new interior customer waiting areas while their vehicle is being worked on. Customers may also walk to the existing 325 North Bedford Road showroom located approximately 200' to the south or to one of the several nearby businesses in the vicinity.

Once service is complete, vehicles will be brought back to the customer drop-off port by a Toyota employee who will turn the vehicle back over to the customers inside the enclosed drop-off port. Rivera Toyota employees and attendants will direct departing customers out the proposed roll-up doors on the rear of the building. Departing vehicles can turn left out of the drop-off port and depart the site using the southern driveway onto North Bedford Road or turn right out of the drop-off port and depart by way of the access easement across the property to the north.

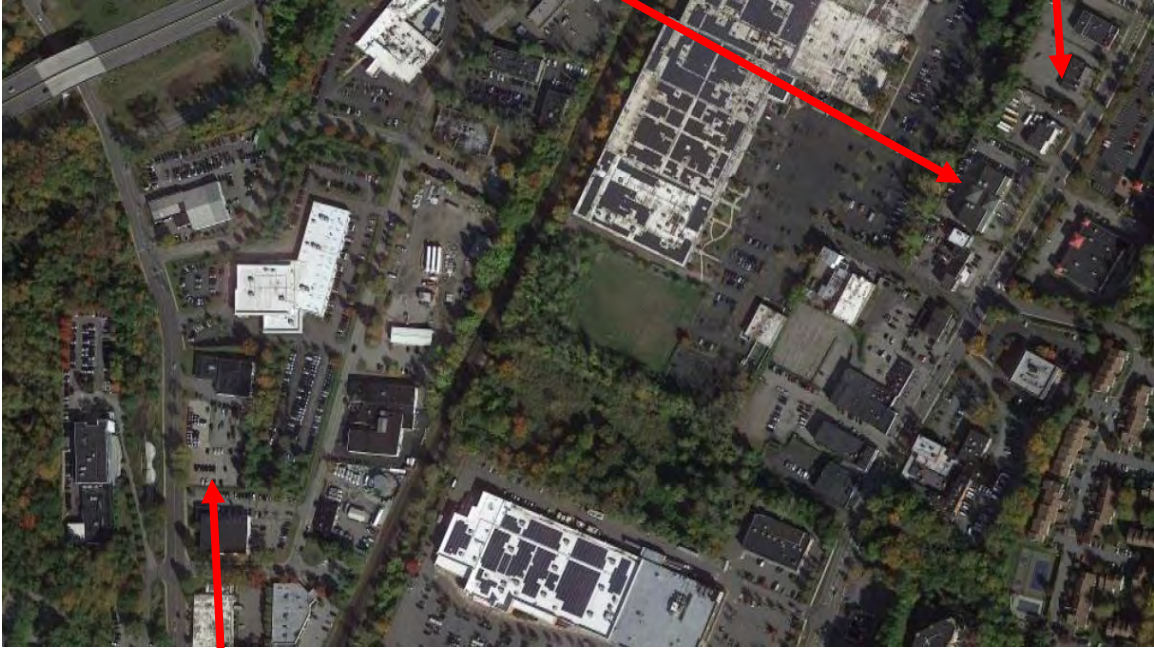
Toyota's operations at 353 NBR and 325 NBR is expected to service approximately 40-50 vehicles a day. This is similar to the service operations at the existing 227 & 255 Kisco Avenue location. The service and sales hours location will not be changed from the current operations.

Toyota also maintains approximately 10 loaner vehicles for customer use. When not out on loan, these vehicles will be parked at 325 NBR and 353 NBR. No more than 5 loaner vehicles are expected to be parked at either site at any given time. Toyota's business model also includes a vehicle rental program. However, Rivera Toyota's rental program is not actively pursued as part of its business model and equates to an estimate 1% of the Rivera Toyota's gross revenue. Rivera Toyota has no current plans to expand this rental program.

Area Map

325 North Bedford Road

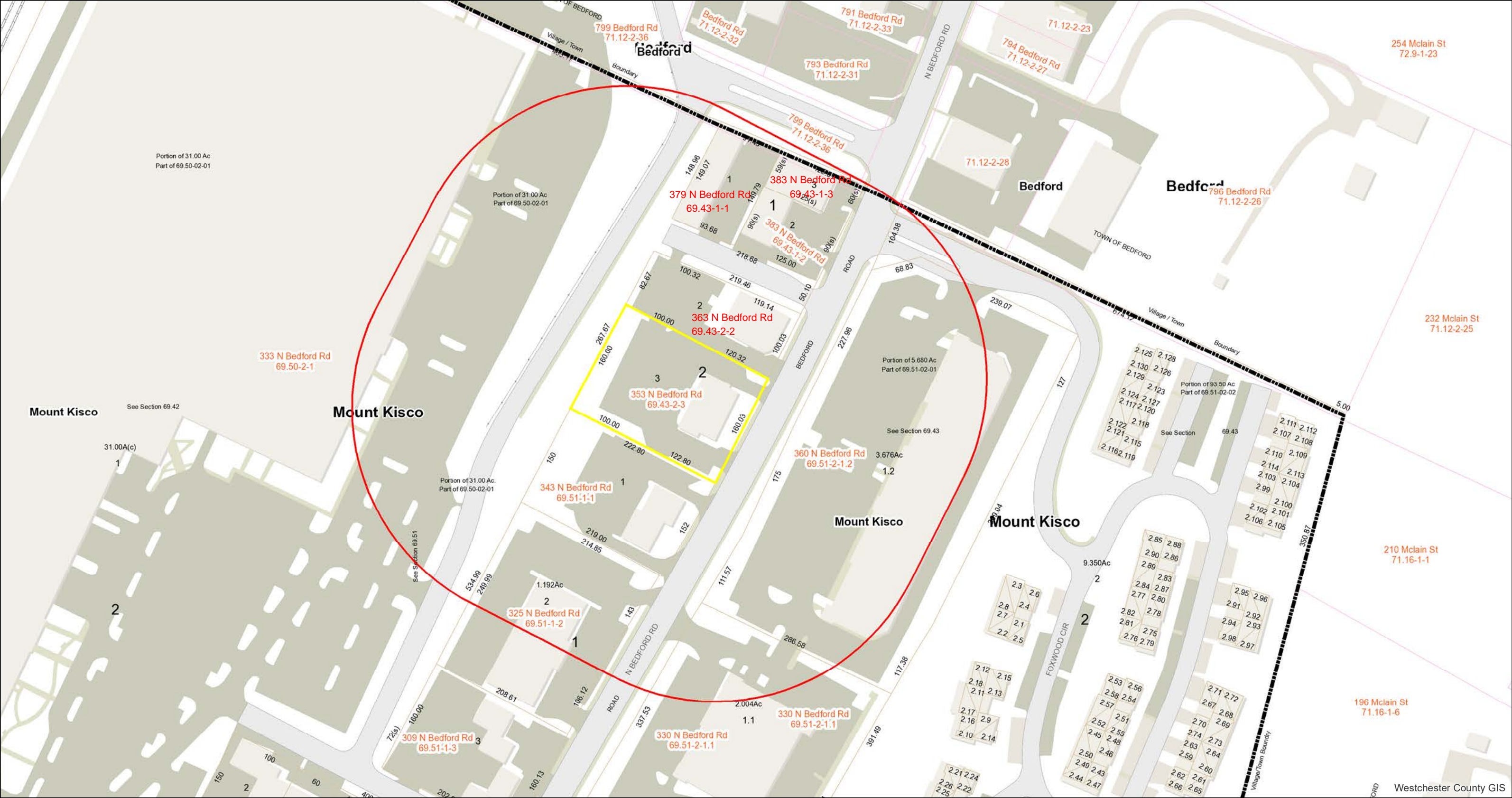
353 North Bedford Road



227-255 Kisco Avenue

EXHIBIT F

353 N Bedford Rd. ID: 69.43-2-3 (Mount Kisco)



June 24, 2021

Tax parcel data was provided by local municipality. This map is generated as a public service to Westchester County residents for general information and planning purposes only, and should not be relied upon as a sole informational source. The County of Westchester hereby disclaims any liability from the use of this GIS mapping system by any person or entity. Tax parcel boundaries represent approximate property line location and should NOT be interpreted as or used in lieu of a survey or property boundary description. Property descriptions must be obtained from surveys or deeds. For more information please contact local municipality assessor's office.

300' Radius List									
PROPPRINTKEY	OWNERNAME	c/o	PROPADDRESS	PROPCITY	PROPZIP	Mailing address	City	State	Zip
69.51-1-2	325 N Bedford Rd LLC		325 N Bedford Rd	Mount Kisco	10549	325 N Bedford Rd	Mount Kisco	NY	10549
69.51-2-1.1	WDL Realty LLC	Attn: The Donald Zucker Co	330 N Bedford Rd	Mount Kisco	10549	101 W 55th St	NY	NY	10019
69.51-2-1.2	Townsend St Associates L.P.	c/o Mosbacher Properties	360 N Bedford Rd	Mount Kisco	10549	18 E 48 St 19th Floor	NY	NY	10017
69.43-1-1	383 No Bedford Rd Corp	Attn: MDC	379 N Bedford Rd	Mount Kisco	10549	27 Radio Circle Drive	Mt. Kisco	NY	10549
69.43-1-2	Philar Realty Co	Attn: DP 102 LLC	383 N Bedford Rd	Mount Kisco	10549	333 N Bedford Rd	Mt. Kisco	NY	10549
69.43-1-3	Philar Realty Co	Attn: DP 102 LLC	383 N Bedford Rd	Mount Kisco	10549	333 N Bedford Rd	Mt. Kisco	NY	10549
69.50-2-1	DP 21 LLC	c/o Diamond Properties	333 N Bedford Rd	Mount Kisco	10549	333 N Bedford Rd	Mt. Kisco	NY	10549
69.51-1-1	343 Bedford Realty, LLC		343 N Bedford Rd	Mount Kisco	10549	75 Commercial St.	Plainview	NY	11803
69.43-2-3	Martabano William T		353 N Bedford Rd	Mount Kisco	10549	PO Box 658	Pawling	NY	12564
69.43-2-2	John A. Martabano Trust No. 1		363 N Bedford Rd	Mount Kisco	10549	5515 Lake Ridge Dr	Brighton	MI	48116
71.12-2-36	DP 21 LLC	attn: Diamond Properties	799 Bedford Rd	Bedford	10507	333 N Bedford Rd Ste 145	Mt. Kisco	NY	10549

EXHIBIT G

**Zoning Board of Appeals
of the Village/Town of Mount Kisco**
-----X



In the Matter of the Application of

Case No.: ZBA 13-12

343 Bedford Realty LLC (Towne Bus Corp.)
-----X

1. Location of Property:

343 North Bedford Road

Property ID:

Tax ID #69.51-1-1

2. Description of Request:

The application proposes to demolish the existing building on site and construct a new building and 14,000 gallon bulk storage fuel tank to provide service, inspections and fueling of school buses within the Bedford School District fleet, with no vehicle storage, body work or repair work (other than maintenance) being performed.

3. Zoning of Property:

CL – Limited Commercial District

4. Variance Requested:

A variance from Village Code Section 110-30(G)(1), prohibiting any driveway to or from any commercial garage, gasoline station or motor vehicle repair shop from being within 1,000 feet of any other such use or within 200 feet of the boundary line of any residential district or of any school, church, park, playground, hospital, public library, institution for dependents or children or any place of public assembly or restaurant designed for the simultaneous use of 100 persons or more, regardless of the district where either premises are located.

- 5. Date of Public Hearing:** November 19, 2013 and February 25, 2015
Date of Action: April 22, 2015

6. Comments Received at the Public Hearing.

None

7. **Documents Submitted with the Application:**

- Zoning Board of Appeals Application, received 11/4/13
- Letter from Charles V. Martabano, dated 10/30/13
- Letter from Charles V. Martabano, dated 11/4/13
- Letter from Charles V. Martabano containing Principal Points, dated 11/4/13
- Letter from Robert Melillo, Assistant Building Inspector, dated 9/6/13
- Photographs of Subject Premises, received 11/4/13
- List of Existing Fuel Tank Locations, received 11/4/13
- Copy of Bargain and Sale Deed from DeSilva Ice & Fuel to 343 Bedford Realty LLC, dated 12/31/12, received 11/4/13
 - Site Plan Layout & Landscaping Plan, prepared by John Meyer Consulting, dated 6/4/13
 - Existing Conditions Plan, prepared by John Meyer Consulting, dated 6/4/13
- Copy of Public Notice submitted to the Journal News, received 11/4/13
- Fees Paid
- Affidavit of Publication, dated 11/6/13
- Affidavit of Mailing, dated 11/12/13
- Memorandum from Planning Board, dated April 15, 2015

8. **SEORA Determination:**

A Conditioned Negative Declaration was issued by the Lead Agency, Mount Kisco Planning Board, in connection with its site plan and special use permit review September 9, 2014.

9. **Decision:** AREA VARIANCE CONDITIONALLY GRANTED

10. **Basis for Decision of ZBA:**

Under the statutorily enumerated criteria and based upon a review of the entire record including testimony, submissions, maps, records and all other documentary proof, the ZBA has determined that the benefit to the applicant outweighs the detriment to the health, safety and welfare of the neighborhood or community. Specifically, the Board makes the following findings:

- (1) No undesirable change will result in the character of the neighborhood, nor will a detriment to neighboring properties ensue, as the proposed building represents an aesthetic enhancement over the existing dilapidated condition and the applicant has proposed a limited scope of operations to mitigate any traffic, visual, noise or other adverse impacts typically associated with Gasoline stations, commercial garages and motor vehicle repair shops. The proposed activities shall have no vehicle storage, limited servicing, and fueling functions during off-peak traffic hours. There is no associated public use or access to the site since the Applicant seeks to limit operations solely for the Bedford School District Fleet.
- (2) The Board finds that the Applicant that benefit sought by the applicant cannot possibly be achieved *at this site* by a method other than the proposed variance. While it is entirely possible that other locations can satisfy the separation requirements (or at least come closer to compliance), the feasibility of such complying sites is questionable in that they will likely cause greater traffic impacts by virtue of the distance needed to be travelled from the existing bus depot and existing van storage area to such alternate location. The proposed site is presently within the existing traffic patterns/routes of the Bedford Central School District, leading to more efficient traffic patterns;
- (3) The Board finds the separation variance to be substantial. The Applicant needs virtually a 100% variance from both the 200 foot separation from the adjoining restaurant and the 1,000 foot separation from other variance from multiple commercial garages, gasoline stations and motor vehicle repair shops. However, raw numbers are not dispositive and in this particular application the Board believes that its finding warrants further explanation. Often, "a small deviation can have a substantial impact or a large deviation can have little or no impact depending on the circumstances of the variance application." *Aydelott v. Town of Bedford Zoning Board of Appeals*, 6/25/03, N.Y.L.J. 21 (col. 4). While a variance seeking 100% variance from separation requirements is mathematically substantial, this Board also recognizes that substantiality cannot be judged in the abstract; rather, the totality of relevant circumstances must be evaluated to determine whether the variance sought is, in actuality, substantial. The actual impact, not percentage deviation, is the proper area of inquiry for this Board. Here, the degree of relief is substantial in that it is immediately next door to a restaurant with noise, odor, traffic and vibration having the potential to impair a dining experience. However, it is not necessarily as substantial as it may appear at first blush since the site has historically (but not presently) been a utilized as a fueling/repair use. At the time that the restaurant use and other automotive uses were initiated at their respective locations, this site operated legally operated as a fueling station and garage. This historical perspective somewhat tempers the substantiality finding, making it less compelling in this Board's overall analysis.

Also, as represented by the Applicant, the long-standing storage site for Bedford Central School District's busses is only a few hundred feet down the road and the vehicles for the Bedford Central School district already pass in front of the subject site on a daily basis, thereby adding no additional traffic counts to the existing Route 117 corridor. Thus, the variance is not as substantial in that, as proposed, the project will not generate any significant new, additional or different traffic impact.

(4) No adverse impacts on the physical and environmental conditions in the neighborhood will result from the granting of the requested variance. Parenthetically, the granting of the variance will actually facilitate environmental remediation. Although the review is under the permitting authority of other agencies, the Applicant has removed ten (10) Bulk Petroleum Storage tanks totaling 140,000 gallons, remediated contaminated soil and will be demolishing the existing building for further clean up. The use requested to be approved will encompass a new building with only 14,000 gallons of fuel storage, both built to current standards, and incorporating appropriate safeguards. Additionally, the Applicant has proposed and will be required to install a stormwater plan which has been designed to remediate any presently existing run-off onto down-gradient properties.

(5) The alleged hardship was self-created. The Applicant offers no proof that the zoning provision from which it seeks relief did not exist at the time of its purchase. Any applicant who acquires property by purchase is charged with constructive notice of the site's existing conditions and the applicable zoning regulations. However, as set forth in New York State Village Law §7-712-b (3)(b)(5), a self-created hardship is merely a factor to be considered by the Board and is not in itself determinative of or fatal to an area variance application.

11. Conditions of Approval:

1. The foregoing recitals (§§ 1-10) are incorporated herein as if set forth at length, including, but not limited to, the material determinations that (a) the site shall be limited to a 14,000 gallon bulk storage fuel tank, (b) the site shall be redeveloped with the building design referenced in the application, (c) providing service, inspections and fueling only for school buses and vans within the unique scope represented by the Applicant*, (d) have no vehicle storage,

* The Zoning Board's determination was heavily predicated upon multiple representations by the Applicant that the site was already within the existing traffic patterns for the Bedford School District fleet, thereby resulting in no additional impacts to the traffic corridor. While these factors weighed significantly in this Board determination to grant this variance, the ultimate determination as to whether another school district could be substituted for the Bedford Central District without adverse traffic impacts is more appropriately vested with the Planning Board during the Special Use Permit and Site Plan process. Although this Board is not conditioning this approval on the site servicing the Bedford Central School District in perpetuity, this condition shall be read to require further special use permit application, review and approval before any changes in the school district being serviced, or scope or level of intensity set forth herein.

washing, body work or repair work (other than general maintenance), and shall result in no noise, vibration, odor or other disturbances to neighboring property owners or tenants;

2. All other conditions imposed by Planning Board's resolution governing this site's permits for Site Plan approval and Special Use Permit under Chapter 110 of the Code of the Village/Town of Mount Kisco shall be deemed incorporated herein by reference. In no event shall any other board's approval or condition be deemed a waiver of any condition imposed in this variance, nor shall this Board's approval preclude any other permitting authority from imposing different or more stringent requirements;
3. This variance shall be solely applicable to the plans referenced herein, except as same may be subsequently modified by the Planning Board. All construction shall be in accordance with the plans and both the uses and intensity of use shall not exceed that which was represented in the Applicant's submittals and in this resolution. Moreover, nothing herein shall be construed to relieve the applicant of any other area or use limitations set forth in the Village Code or approval from any other board. Any deviation from the variance and its conditions may subject this determination to reversal, modification or annulment pursuant to Village Law §7-712-a 12.
4. This variance shall expire should the applicant not commence and diligently pursue construction within 12 months of the date of this approval. Should an extension be necessary, application shall be timely pursued and the extension secured prior to expiration.
5. This variance was principally granted due to the restricted access and limited scope of operations represented by the Applicant, including no vehicle storage, only limited maintenance work, off-peak fueling and only employees under the supervision and control of the Applicant being the sole persons entering the site. No vehicles of any type, including but not limited to vehicles awaiting service or awaiting pick-up, shall be stored outside overnight. Notwithstanding the immediately foregoing restriction vehicles awaiting service, in the process of being serviced or awaiting pick-up may be stored *inside* the garage bay where the work is to be performed, and not more than 2 such vehicles may be placed immediately behind the garage bays *outside* the building provided the vehicles are completely screened from view from any portion of the public right-of-way (NYS Route 117). Notwithstanding the fact that this variance runs with the land, its application shall be restricted to the specific operational plan represented in the application and may not be continued by a commercial garage or fueling station whose operational aspects would differ from the scope represented and/or approved herein;

6. No vehicles shall be permitted to idle, during fueling or servicing.
7. The pedestrian ramps being proposed at the corner radius' of both the entrance and exit to the facility shall be redesigned in a fashion acceptable to the Planning Board and no vehicle in excess of forty (40') shall be allowed onto the site.
8. Consistent with Village Code §110-1(H) and the Applicants representations that it has the ability to control all traffic into and out of the site, Applicant shall be responsible for scheduling timing and routes so as to prevent any truck or van traffic from impeding northbound or southbound traffic on NYS Route 117. This shall not be deemed to preclude or circumscribe the Planning Board from implementing any additional measures that it may deem appropriate.
9. No more than 20 vehicles shall be fueled on-site per day.
10. No more than nine (9) vehicles shall be brought to the site for service/inspection per day.
11. The on-site fueling of school busses shall only be conducted between the hours of 11pm and 7:30 am.
12. For purposes of this resolution, the term van shall mean school vehicles less than twenty-two (22') feet in length, and busses shall be defined as school vehicles of twenty-two (22') feet in length or greater. Vans and busses shall collectively constitute *vehicles*.
13. No more than three (3) fuel deliveries to the site shall be conducted per week which shall be delivered between the hours of 7 pm and 6 am via a single-axle fuel delivery truck.
14. No sales or rentals of vehicles shall be permitted.
15. All work shall be carried on indoors.
16. The site shall be secured and screened in a fashion deemed appropriate by the Planning Board.
17. The conditions herein shall be deemed continued conditions of approval and shall apply equally to the owner and tenant in the event that they are or become distinct;

12. **Vote: BY ORDER OF THE BOARD OF APPEALS**

Motion to approved by: Ms. Richards

Seconded by: Ms. Simon

Vote:	Mr. Boxer	AYE
	Ms. Richards	AYE
	Mr. Guyder	AYE
	Ms. Simon	AYE
	Chairman Rose	AYE

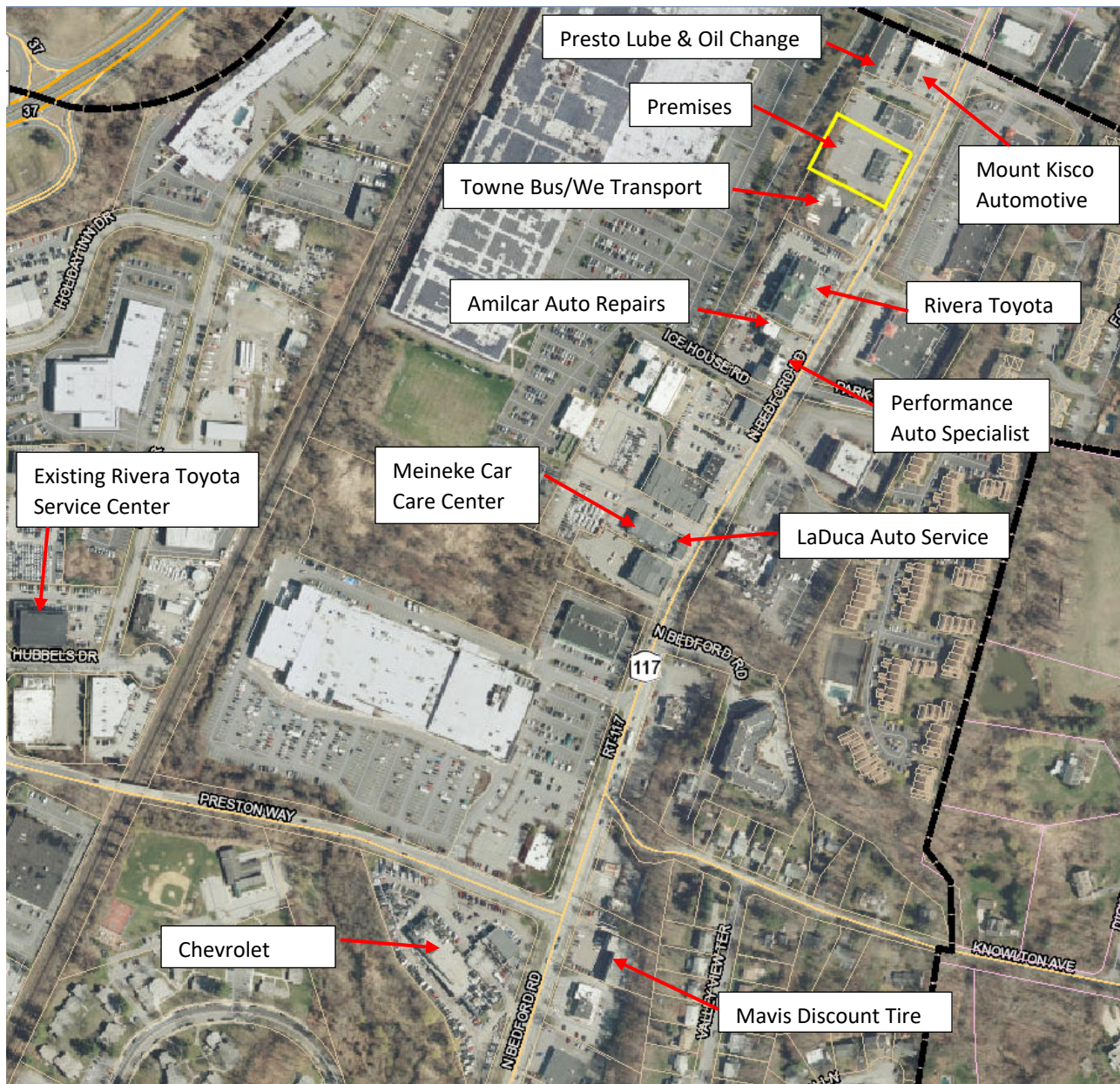
RESOLUTION EXECUTED: April 22, 2015
Mount Kisco, New York

ZONING BOARD OF APPEALS
Village/Town of Mount Kisco

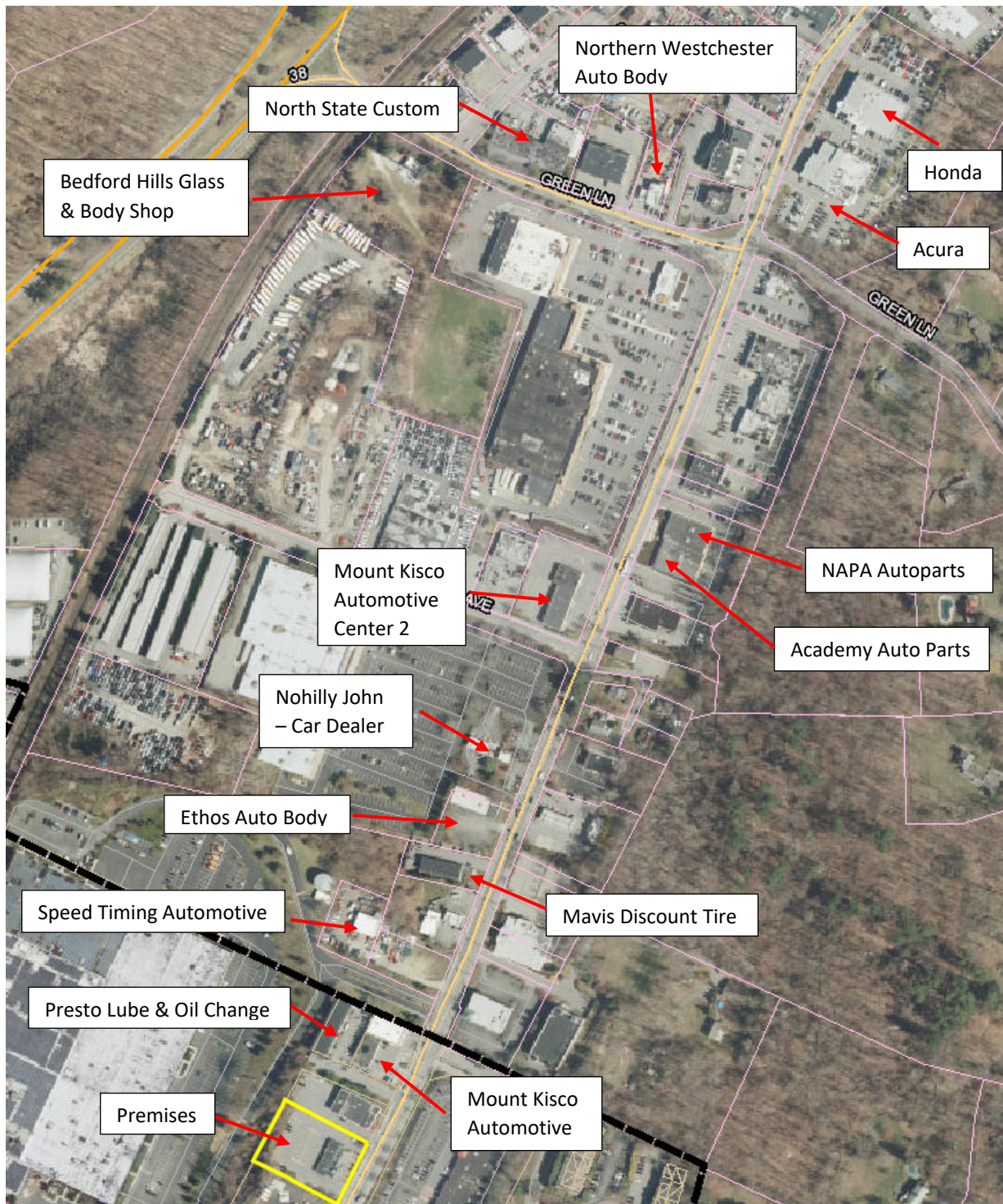
By: 
DONALD W. ROSE, CHAIRMAN

EXHIBIT H

South of the Premises



North of the Premises*



*= North of the dashed boundary line is the Town of Bedford.



445 Hamilton Avenue, 14th Floor
White Plains, New York 10601
T 914 761 1300
F 914 761 5372
cuddyfeder.com

September 7, 2023

By Email and Federal Express

Chair Wayne Spector and
Members of the Zoning Board of Appeals
Town/Village of Mount Kisco
Village Hall
104 Main Street
Mt. Kisco, New York 10549

Re: Rivera Toyota Redevelopment – 353 N Bedford Rd LLC
Area Variance Re-Approval Application
Premises: 353 North Bedford Road, Mount Kisco, NY (SBL: 69.43-2-3)

Dear Chair Spector and Members of the Zoning Board of Appeals:

On behalf of 353 N Bedford Rd LLC, enclosed please find an Affidavit of Mailing evidencing the first-class mailing completed on September 5, 2023 of the annexed Public Notice to all property owners within 300 feet of the property lines of the subject Premises, as set forth on the annexed list and map. The list was prepared by using the Village of Mt. Kisco Assessment Records and the parcels that lie within the Town of Bedford, prepared by using the Town of Bedford Assessment Records.

Also enclosed please find a copy of the confirmation proof of Publication from the Journal News evidencing that the legal notice was published on September 3, 2023, for the scheduled Zoning Board of Appeals September 19, 2023 hearing. Upon receipt of the original Affidavit of Publication from the Journal News and any returned envelopes, we will promptly forward same.

Please incorporate the enclosed documents as part of the official record of the proceeding. Thank you in advance for your time and attention to the within.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'Riddar Nget', is written over the typed name.

Riddar Nget
Paralegal

Enclosures

cc: Anthony B. Gioffre III, Esq.
Maximillian Mahalek, Esq.

AFFIDAVIT OF MAILING

STATE OF NEW YORK }
 }SS.:
COUNTY OF WESTCHESTER }

_____ Riddar Nget _____ being duly sworn, deposes and says:

I reside at Danbury, Connecticut

On September 5 20 23 I served a notice of hearing, a copy of which is attached hereto and labeled Exhibit A, upon persons whose names are listed in a schedule of property owners within 300 feet of the subject property identified in this notice. A copy of this schedule of property owners' names is attached hereto and labeled Exhibit B. I placed a true copy of such notice in a postage paid property addressed wrapper addressed to the addresses set forth in Exhibit B, in a post office or official depository under the exclusive care and custody of the United States Post Office, within the County of Westchester.



Riddar Nget, Paralegal

Sworn to before me on this

 7th day of September 20 23



(Notary Public)

MEYLING NUNEZ
NOTARY PUBLIC-STATE OF NEW YORK
No. 01NU0009619
Qualified in Westchester County
My Commission Expires 06-14-2027

PUBLIC NOTICE

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the Village/Town of
Mount Kisco, New York will hold a Public Hearing on the 19th day of
September 20 23 at the Municipal Building, Mount Kisco, New York,

beginning at 7:00 PM pursuant to the Zoning Ordinance on the Appeal of

353 N Bedford Rd LLC (c/o Ken Hicks)

(Name of Applicant)

325 N Bedford Road, Mount Kisco, NY

(Address of Applicant)

from the decision of Peter J. Miley, Building Inspector, dated June 17, 2021 Memorandum

(Date of Denial Letter)

denying the application dated to permit the automobile repair shop.

(Proposed Work)

The property involved is known as 353 N Bedford Road, Mount Kisco, NY

(Address of Property)

and described on the Village Tax Map as Section 69.43 Block 2 Lot 3

and is located on the Westerly side of N Bedford Road in a

east/west/n/s

(Street Name)

CL Zoning District. Said Appeal is being made to obtain a

variance from Section(s) 110-30.G(1); 110-30.D(1); & 110-31.G(1) of the

(Identify specific zoning code section number(s))

Code of the Village/Town of Mount Kisco, which requires the proposed driveway servicing
any automobile repair use to be situated no less than 1000' from a similar use and that the
proposed dumpster enclosure be located no closer to the side lot line than the principal building.

Wayne Spector, Chair
Zoning Board of Appeals
Village/Town of Mount Kisco

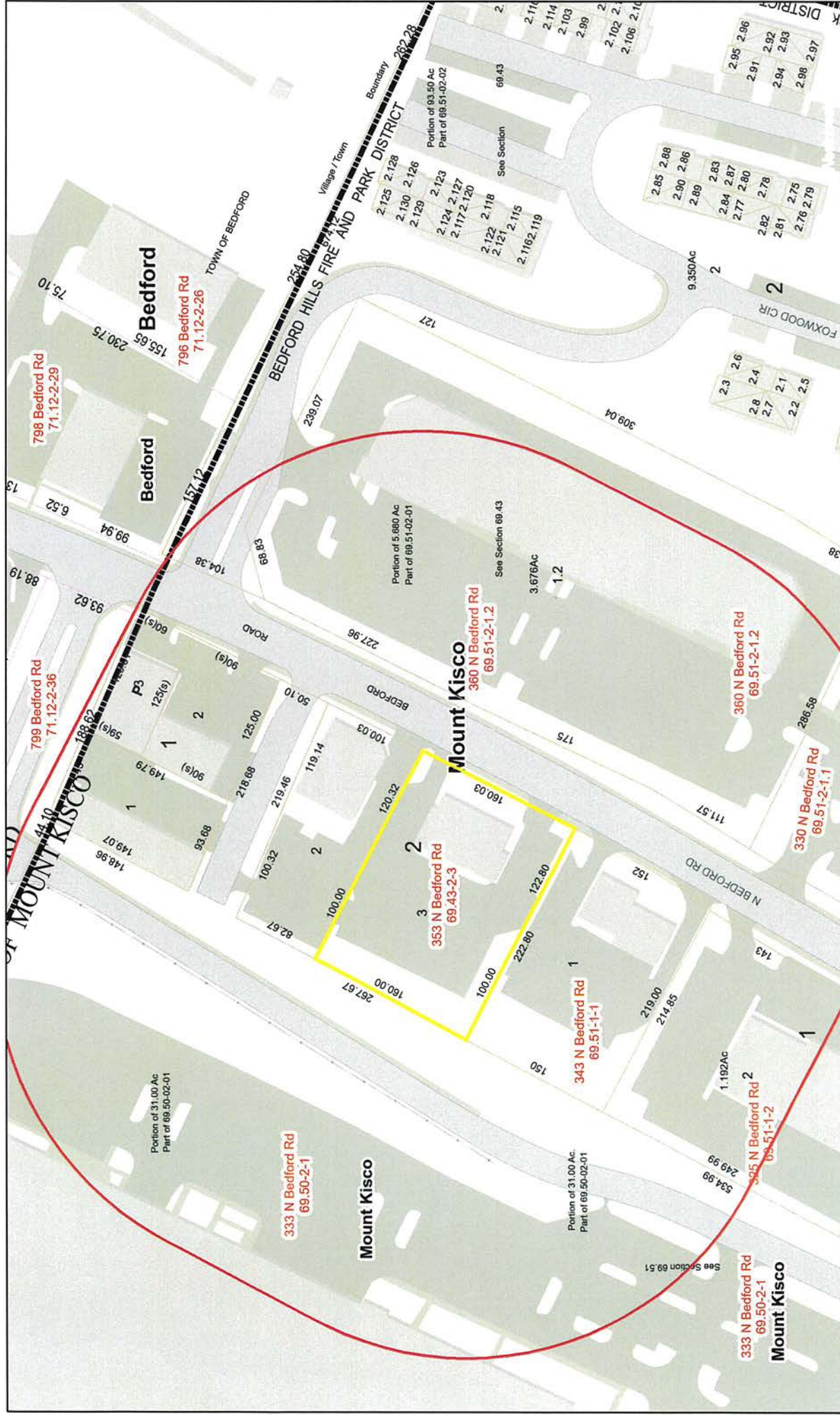
Exhibit A

300' Radius Property Owner's List

SBL	OWNER NAME	MAILING ADDRESS	CITY	STATE	ZIP
69.51-2-1.2	Townsend St Associates L.P.	c/o Mosbacher Properties	New York	NY	10017
69.43-1-2	Philar Realty Co	Attn: DP 102 LLC	Mount Kisco	NY	10549
69.43-1-1	383 No Bedford Rd Corp	Attn: MDC	Mt Kisco	NY	10549
69.43-1-3	Philar Realty Co		Mt Kisco	NY	10549
69.51-1-1	343 Bedford Realty, LLC		Plainview	NY	11803
69.51-2-1.1	WDL Realty LLC	Attn: The Donald Zucker Co	New York	NY	10019
69.50-2-1	DP 21 LLC	c/o Diamond Properties	Hicksville	NY	11802
69.43-2-2	John A. Martabano Trust No. 1		Brighton	MI	48116
69.51-1-2	325 N Bedford Rd LLC		Mount Kisco	NY	10549
69.43-2-3	353 N Bedford Rd LLC		Mount Kisco	NY	10549
71.12-2-29	DGAM 800 LLC	Att: Debra Heinrich	Bedford	NY	10506
71.12-2-36	DP 21 LLC	attn: Diamond Properties	Mt Kisco	NY	10549
	Town of Bedford	Town Clerk	Bedford Hills	NY	10507
	Westchester County Department of Planning	Municipal Referrals	White Plains	NY	10601

Exhibit B

353 N Bedford Rd. ID: 69.43-2-3 (Mount Kisco)



September 19, 2022

1:1,500

Tax parcel data was provided by local municipality. This map is generated as a public service to Westchester County residents for general information and planning purposes only, and should not be relied upon as a sole informational source. The County of Westchester hereby disclaims any liability from the use of this GIS mapping system by any person or entity. Tax parcel boundaries represent approximate property line location and should NOT be interpreted as or used in lieu of a survey or property boundary description. Property descriptions must be obtained from surveys or deeds. For more information please contact local municipality assessor's office.

Westchester County GIS
GTS
<http://giswww.westchestergov.com>
Michaelian Office Building
148 Martine Avenue Rm 214
White Plains, New York 10601



**Classified Ad Receipt
(For Info Only - NOT A BILL)**

Customer: CUDDY FEDDER ACCOUNTING DPT

Ad No.: 0005815551

Address: 445 HAMILTON AVE STE 1400
WHITE PLAINS NY 10601
USA

Pymt Method Credit Card

Order AMOUNT \$122.00

Zone: TJN-Westchester

Run Times: 1

No. of Affidavits: 1

Run Dates: 09/03/23

Text of Ad:

PUBLIC NOTICE

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the Village/Town of Mount Kisco, New York will hold a Public Hearing on the 19th day of September 2023 at the Municipal Building, Mount Kisco, New York, beginning at 7:00 PM on the Appeal of 353 N Bedford Road LLC (c/o Ken Hicks), 353 N. Bedford Road, Mount Kisco, New York, from the decision of Peter J. Miley, Building Inspector, dated June 17, 2021 (in his memorandum) denying the application to permit the automobile repair shop.

The property involved is known as 353 N. Bedford Road, Mount Kisco, New York, and described on the Village Tax Map as Section 69.43, Block 2, Lot 3 and is located on the Westerly side of North Bedford Road in a CL Zoning District. Said Appeal is being made for reapproval of the area variance relief from Section(s) 110-30.G(1), 110-30.D(1) and 110-31.G(1) of the Code of the Village/Town of Mount Kisco, which requires the proposed driveway servicing any automobile repair use to be situated no less than 1000' from a similar use and that the proposed dumpster enclosure be located no closer to the side lot line than the principal building.

Copies of the Application are available to be viewed at Village/Town Hall.

Wayne Spector, Chair
Zoning Board of Appeals
Village/Town of Mount Kisco

0005815551

ZBA Application



Westchester Municipal Referrals
148 Martine Avenue Suite #432
White Plains, NY 10601

FIRST-CLASS



US POSTAGE PAID PITNEY BOWES
ZIP 10601 \$ 000.63⁰
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0008026832 SEP. 05. 2023



Town of Bedford
Town Clerk
321 Bedford Road
Bedford Hills, NY 10507

FIRST-CLASS



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ZIP 10601 \$ 000.63⁰
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0008026832 SEP. 05. 2023



DP 21 LLC
attn: Diamond Properties
333 N Bedford Rd Ste 145
Mt Kisco, NY 10549

FIRST-CLASS



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0008026832 SEP. 05. 2023



DGAM 800 LLC
Att: Debra Heinrich
9 Train Band Rd
Bedford, NY 10506

FIRST-CLASS

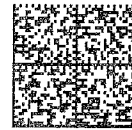


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0008026832 SEP. 05. 2023



353 N Bedford Rd LLC
325 N Bedford Rd
Mount Kisco, NY 10549

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0008026832 SEP. 05. 2023



325 N Bedford Rd LLC
325 N Bedford Rd
Mount Kisco, NY 10549

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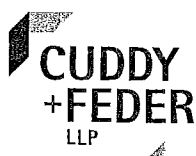


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John A. Martabano Trust No. 1
5515 Lake Ridge Dr
Brighton, MI 48116



FIRST-CLASS



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ZIP 10601 \$ 000.63⁰
02 7W
0008026832 SEP. 05. 2023

DP 21 LLC
c/o Diamond Properties
PO Box 1493
Hicksville, NY 11802

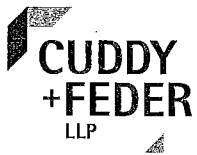


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US POSTAGE[®] PITNEY BOWES
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0008026832 SEP. 05. 2023

WDL Realty LLC
Attn: The Donald Zucker Co
101 W 55th St
New York, NY 10019



343 Bedford Realty, LLC
75 Commercial St
Plainview, NY 11803

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Philar Realty Co
333 N Bedford Rd
Mt Kisco, NY 10549

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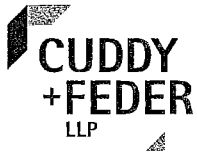


383 No Bedford Rd Corp
Attn: MDC
27 Radio Circle Dr
Mt Kisco, NY 10549

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Philar Realty Co
Attn: DP 102 LLC
333 N Bedford Rd
Mount Kisco, NY 10549

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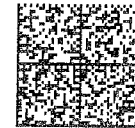


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0008026832 SEP. 05. 2023



Townsend St Associates L.P.
c/o Mosbacher Properties
18 E 48 St 19Flr
New York, NY 10017

FIRST-CLASS



US POSTAGE IMPITNEY BOWES
ZIP 10601 \$ 000.63⁰
02 7W
0008026832 SEP. 05. 2023

State of New York)
) ss:
County of Westchester)

AFFIDAVIT OF POSTING

Gilmar Palacios Chin, being duly sworn, says that on the 14th day of September 2023, he conspicuously fastened up and posted in seven public places, in the Village/Town of Mount Kisco, County of Westchester, a printed notice of which the annexed is a true copy, to Wit: ---

Municipal Building –
104 Main Street

_____X_____

Public Library
100 Main Street

_____X_____

Fox Center

_____X_____

Justice Court – Green Street
40 Green Street

_____X_____

Mt. Kisco Ambulance Corp
310 Lexington Ave

_____X_____

Carpenter Avenue Community House
200 Carpenter Avenue

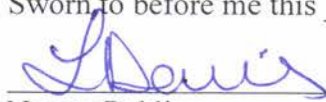
_____X_____

Leonard Park Multi Purpose Bldg

_____X_____


Gilmar Palacios Chin

Sworn to before me this 14th day of Sept 2023


Notary Public

LIZETTE A DAVIS
NOTARY PUBLIC, STATE OF NEW YORK
Registration No. 01DA6442037
Qualified in Dutchess County
Commission Expires OCTOBER 11, 2024